

# MEMORANDUM

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**TO:** VA WARN Member Utilities

**FROM:** Tim Mitchell, Chair  
VA WARN Committee

**DATE:** August 26, 2011

**RE:** Clarification of VA WARN Event Agreement (Mutual Aid Agreement Exhibit B) Sections 4.1 and 5.1 on Reimbursement of Workers' Compensation-Related Expenses

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The purpose of this memorandum is to address a question presented by a VA WARN Member Utility regarding the workers' compensation-related provisions of the VA WARN Mutual Aid Agreement and, in particular, Sections 4.1 and 5.1 of the Event Agreement form included as Exhibit B to the Mutual Aid Agreement.

As background, Section 4.1 of Exhibit B provides that the Requesting Utility shall reimburse the Assisting Utility for "costs of insuring for workers' compensation claims." Section 5.1 provides that "Each Utility shall be responsible for its own actions and those of its employees and is responsible for complying with the Virginia Workers' Compensation Act."

A self-insured Member Utility requested clarification of the financial responsibilities of Requesting and Assisting Utilities for workers' compensation claims under Sections 4.1 and 5.1. The question is whether the actual cost of potential workers' compensation claims (e.g., medical bills, wages, administrative costs) would be considered "costs of insuring for workers' compensation claims" and thus be reimbursable by the Requesting Utility.

In the development of the Mutual Aid Agreement, it was the intent of the VA WARN Committee to leave control of and responsibility for paying the Assisting Utility workers' compensation claims with the Assisting Utility. Only insurance premium costs were intended to be reimbursed by the Requesting Utility. Recoverable "costs of insuring" was intended to include insurance premiums, and exclude claims expenses such as lost wages, medical bills and administration.

For clarity, the VA WARN Committee has affirmed the above intent and interpretation and has approved the attached form of Addendum No. 1 to the Scope of Assistance (Event Agreement Attachment A). This Addendum No. 1 is considered an administrative clarification that does not require Member Utility governing body adoption. **Addendum No. 1 may be used by Member Utilities on an event-specific basis simply by attaching it to the Scope of Assistance established by the parties for a particular event.**

**VA WARN EVENT AGREEMENT ATTACHMENT A**  
**SCOPE OF ASSISTANCE**  
**August 26, 2011**

**ADDENDUM NO. 1**

**THIS ADDENDUM NO. 1** to the Scope of Assistance under this Event Agreement clarifies Sections 4.1 and 5.1 of the Event Agreement and shall govern the interpretation thereof.

1. Section 4.1 of the VA WARN Event Agreement provides: “During the Period of Assistance, the Assisting Utility shall continue to pay its employees according to its normal policies. The Requesting Utility shall reimburse the Assisting Utility for all direct and indirect payroll costs (including overtime) and expenses (including travel expenses, benefits, costs of insuring for workers’ compensation claims, and other expenses) incurred during the Period of Assistance, unless otherwise agreed and set forth by the parties in this Agreement.”

2. Section 5.1 of the VA WARN Event Agreement provides: “Each Utility shall be responsible for its own actions and those of its employees and is responsible for complying with the Virginia Workers’ Compensation Act.”

3. Section 4 of the Event Agreement provides: “The terms and conditions governing reimbursement for any assistance provided pursuant to this Agreement shall be in accordance with the following provisions and applicable VA WARN administrative procedures, unless otherwise agreed upon by the Requesting Utility and Assisting Utility and set forth in Attachment A hereto.” Attachment A is VA WARN’s standard Scope of Assistance form, which is completed on an event-specific basis by the Assisting Utility and accepted by the Requesting Utility.

4. The VA WARN Committee has issued the following interpretation of the above-referenced provisions of the Event Agreement: “The Assisting Utility retains control of and responsibility for paying claims filed by its employees under the Virginia Workers’ Compensation Act. The “costs of insuring for workers’ compensation claims,” for which the Requesting Utility shall reimburse the Assisting Utility under Event Agreement Section 4.1, include only the insurance premium costs incurred by the Assisting Utility to insure for workers’ compensation claims. The “costs of insuring for workers’ compensation claims” does not include any other workers’ compensation claims expenses such as employees’ lost wages, employees’ medical bills, or the employer’s administrative, legal or other costs.”

5. Pursuant to Section 4 of the Event Agreement, the parties to this Event Agreement hereby incorporate the interpretation set forth in paragraph 4 above as a provision of the event-specific Scope of Assistance.