

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1926 Session of 2011

INTRODUCED BY PRESTON, GODSHALL, CALTAGIRONE, D. COSTA, DALEY,
GEORGE, GOODMAN, HORNAMAN, JOSEPHS, MAHONEY, MUNDY, MURPHY,
M. O'BRIEN, READSHAW, YOUNGBLOOD, METZGAR, HESS AND WHITE,
OCTOBER 24, 2011

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, DECEMBER 6, 2011

AN ACT

~~1 Amending Titles 15 (Corporations and Unincorporated~~ ←
~~2 Associations) and 66 (Public Utilities) of the Pennsylvania~~
~~3 Consolidated Statutes, further providing for the definition~~
~~4 of "public utility corporation" and for certain~~
~~5 appropriations by right of eminent domain prohibited.~~
6 AMENDING TITLES 15 (CORPORATIONS AND UNINCORPORATED ←
7 ASSOCIATIONS) AND 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA
8 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR THE DEFINITION
9 OF "PUBLIC UTILITY CORPORATION," FOR ADDITIONAL POWERS OF
10 CERTAIN PUBLIC UTILITY CORPORATIONS AND FOR CERTAIN
11 APPROPRIATIONS BY RIGHT OF EMINENT DOMAIN PROHIBITED.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. The definition of "public utility corporation" in~~ ←
15 ~~section 1103 of Title 15 of the Pennsylvania Consolidated~~
16 ~~Statutes is amended to read:~~
17 ~~§ 1103. Definitions.~~

18 ~~Subject to additional definitions contained in subsequent~~
19 ~~provisions of this subpart that are applicable to specific~~
20 ~~provisions of this subpart, the following words and phrases when~~
21 ~~used in this subpart shall have the meanings given to them in~~

1 ~~this section unless the context clearly indicates otherwise:~~

2 ~~* * *~~

3 ~~"Public utility corporation." Any domestic or foreign~~
4 ~~corporation for profit that:~~

5 ~~(1) is subject to regulation as a public utility by the~~
6 ~~Pennsylvania Public Utility Commission or an officer or~~
7 ~~agency of the United States; or~~

8 ~~(2) was subject to such regulation on December 31, 1980,~~
9 ~~or would have been so subject if it had been then existing.~~

10 ~~The term shall not include a natural gas pipeline corporation~~
11 ~~that is not regulated by the Pennsylvania Public Utility~~
12 ~~Commission or an officer or agency of the United States, or a~~
13 ~~natural gas gathering line corporation or its affiliates.~~

14 ~~* * *~~

15 ~~Section 2. Section 1104 of Title 66 is amended to read:~~
16 ~~§ 1104. Certain appropriations by right of eminent domain~~
17 ~~prohibited and eligibility for certificate.~~

18 ~~(a) Prohibition. Unless its power of eminent domain existed~~
19 ~~under prior law, no domestic public utility or foreign public~~
20 ~~utility authorized to do business in this Commonwealth shall~~
21 ~~exercise any power of eminent domain within this Commonwealth~~
22 ~~until it shall have received the certificate of public~~
23 ~~convenience required by section 1101 (relating to organization~~
24 ~~of public utilities and beginning of service).~~

25 ~~(b) Eligibility for certificate. The following shall not be~~
26 ~~eligible to receive a certificate of public convenience:~~

27 ~~(1) A natural gas pipeline corporation that is not~~
28 ~~regulated by the commission or an officer or agency of the~~
29 ~~United States.~~

30 ~~(2) A natural gas gathering line corporation or its~~

affiliates.

~~Section 3. This act shall take effect in 60 days.~~

SECTION 1. THE DEFINITION OF "PUBLIC UTILITY CORPORATION" IN
SECTION 1103 OF TITLE 15 OF THE PENNSYLVANIA CONSOLIDATED
STATUTES IS AMENDED TO READ:

§ 1103. DEFINITIONS.

SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
PROVISIONS OF THIS SUBPART THAT ARE APPLICABLE TO SPECIFIC
PROVISIONS OF THIS SUBPART, THE FOLLOWING WORDS AND PHRASES WHEN
USED IN THIS SUBPART SHALL HAVE THE MEANINGS GIVEN TO THEM IN
THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

* * *

"PUBLIC UTILITY CORPORATION." ANY DOMESTIC OR FOREIGN
CORPORATION FOR PROFIT THAT:

(1) IS SUBJECT TO REGULATION AS A PUBLIC UTILITY BY THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION [OR AN OFFICER OR
AGENCY OF THE UNITED STATES]; OR

(2) [WAS SUBJECT TO SUCH REGULATION ON DECEMBER 31,
1980, OR WOULD HAVE BEEN SO SUBJECT IF IT HAD BEEN THEN
EXISTING] IS SUBJECT TO REGULATION AS A PUBLIC UTILITY BY THE
FEDERAL COMMUNICATIONS COMMISSION OR THE FEDERAL ENERGY
REGULATORY COMMISSION.

* * *

SECTION 2. SECTION 1511(B) AND (C) OF TITLE 15 ARE AMENDED
TO READ:

§ 1511. ADDITIONAL POWERS OF CERTAIN PUBLIC UTILITY
CORPORATIONS.

* * *

(B) RESTRICTIONS.--THE POWERS CONFERRED BY SUBSECTION (A)
SHALL NOT BE EXERCISED:

1 (1) TO CONDEMN FOR THE PURPOSE OF CONSTRUCTING ANY
2 STREET RAILWAY, TRACKLESS-TROLLEY OMNIBUS, PETROLEUM OR
3 PETROLEUM PRODUCTS TRANSPORTATION OR AERIAL ELECTRIC
4 TRANSMISSION, AERIAL TELEPHONE OR AERIAL TELEGRAPH LINES:

5 (I) ANY DWELLING HOUSE OR, EXCEPT IN THE CASE OF ANY
6 CONDEMNATION FOR PETROLEUM OR PETROLEUM PRODUCTS
7 TRANSPORTATION LINES, ANY PART OF THE REASONABLE
8 CURTILAGE OF A DWELLING HOUSE WITHIN 100 METERS THEREFROM
9 AND NOT WITHIN THE LIMITS OF ANY STREET, HIGHWAY, WATER
10 OR OTHER PUBLIC WAY OR PLACE.

11 (II) ANY PLACE OF PUBLIC WORSHIP OR BURYING GROUND.

12 (2) TO CONDEMN ANY PLACE OF PUBLIC WORSHIP OR BURYING
13 GROUND FOR THE PURPOSE OF CONSTRUCTING ANY ELEVATED STREET
14 RAILWAY, SEWER OR UNDERGROUND STREET RAILWAY LINE.

15 (3) TO CONDEMN FOR THE PURPOSE OF THE GATHERING OF
16 NATURAL GAS BY PIPELINE.

17 (C) PUBLIC UTILITY COMMISSION APPROVAL.--THE POWERS
18 CONFERRED BY SUBSECTION (A) MAY BE EXERCISED TO CONDEMN PROPERTY
19 OUTSIDE THE LIMITS OF ANY STREET, HIGHWAY, WATER OR OTHER PUBLIC
20 WAY OR PLACE FOR THE PURPOSE OF ERECTING POLES OR RUNNING WIRES
21 OR OTHER AERIAL ELECTRIC, INTRASTATE AERIAL TELEPHONE OR
22 INTRASTATE AERIAL TELEGRAPH FACILITIES ONLY AFTER THE
23 PENNSYLVANIA PUBLIC UTILITY COMMISSION, UPON APPLICATION OF THE
24 PUBLIC UTILITY CORPORATION, HAS FOUND AND DETERMINED, AFTER
25 NOTICE AND OPPORTUNITY FOR HEARING, THAT THE SERVICE TO BE
26 FURNISHED BY THE CORPORATION THROUGH THE EXERCISE OF THOSE
27 POWERS IS NECESSARY OR PROPER FOR THE SERVICE, ACCOMMODATION,
28 CONVENIENCE OR SAFETY OF THE PUBLIC. THE POWER OF THE PUBLIC
29 UTILITY CORPORATION TO CONDEMN THE SUBJECT PROPERTY OR THE
30 PROCEDURE FOLLOWED BY IT SHALL NOT BE AN ISSUE IN THE COMMISSION

1 PROCEEDINGS HELD UNDER THIS SUBSECTION, AND NO COURT SHALL
2 ENTERTAIN ANY PROCEEDING QUESTIONING THE JURISDICTION OF THE
3 COMMISSION UNDER THIS SUBSECTION. A FINAL ORDER OF THE
4 COMMISSION APPROVING OR DENYING AN APPLICATION UNDER THIS
5 SUBSECTION, INCLUDING AN ORDER INVOLVING A QUESTION OF
6 JURISDICTION UNDER THIS SUBSECTION, MAY BE MADE THE SUBJECT OF
7 ANY APPEAL IN THE MANNER PROVIDED OR PRESCRIBED BY LAW. NOTHING
8 IN THIS SECTION SHALL PROHIBIT THE PENNSYLVANIA PUBLIC UTILITY
9 COMMISSION FROM IMPOSING CONDITIONS LIMITING THE EMINENT DOMAIN
10 POWER OF A PUBLIC UTILITY CORPORATION.

11 * * *

12 SECTION 3. SECTION 1104 OF TITLE 66 IS AMENDED TO READ:

13 § 1104. CERTAIN APPROPRIATIONS BY RIGHT OF EMINENT DOMAIN
14 PROHIBITED.

15 (A) PROHIBITION.--UNLESS ITS POWER OF EMINENT DOMAIN EXISTED
16 UNDER PRIOR LAW, NO DOMESTIC PUBLIC UTILITY OR FOREIGN PUBLIC
17 UTILITY AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH SHALL
18 EXERCISE ANY POWER OF EMINENT DOMAIN WITHIN THIS COMMONWEALTH
19 UNTIL IT SHALL HAVE RECEIVED THE CERTIFICATE OF PUBLIC
20 CONVENIENCE REQUIRED BY SECTION 1101 (RELATING TO ORGANIZATION
21 OF PUBLIC UTILITIES AND BEGINNING OF SERVICE).

22 (B) DEFINITION.--AS USED IN THIS SECTION, THE PHRASE
23 "DOMESTIC PUBLIC UTILITY OR FOREIGN PUBLIC UTILITY AUTHORIZED TO
24 DO BUSINESS IN THIS COMMONWEALTH" SHALL INCLUDE, BUT NOT BE
25 LIMITED TO, A PUBLIC UTILITY CORPORATION AS DEFINED IN 15
26 PA.C.S. § 1103 (RELATING TO DEFINITIONS).

27 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.