

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 881 Session of 2015

INTRODUCED BY BLAKE, FONTANA, SCAVELLO, BARTOLOTTA, STEFANO AND YUDICHAK, JUNE 12, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 25, 2016

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in general provisions, further
3 providing for the definition of "public utility." <--
4 DEFINITIONS. <--

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The definition of "public utility" in section 102 <--
8 of Title 66 of the Pennsylvania Consolidated Statutes is amended
9 to read:

10 SECTION 1. PARAGRAPH (1) (VII) OF THE DEFINITION OF "PUBLIC <--
11 UTILITY" IN SECTION 102 OF TITLE 66 OF THE PENNSYLVANIA
12 CONSOLIDATED STATUTES, AMENDED JUNE 23, 2016 (P.L.362, NO.50),
13 IS AMENDED AND THE SECTION IS AMENDED BY ADDING A DEFINITION TO
14 READ:

15 § 102. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this part which are applicable to specific
18 provisions of this part, the following words and phrases when

1 used in this part shall have, unless the context clearly
2 indicates otherwise, the meanings given to them in this section:

3 * * *

4 "Public utility."

5 (1) Any person or corporations now or hereafter owning
6 or operating in this Commonwealth equipment or facilities
7 for:

8 ~~(i) Producing, generating, transmitting, <--~~
9 ~~distributing or furnishing natural or artificial gas,~~
10 ~~electricity, or steam for the production of light, heat,~~
11 ~~or power to or for the public for compensation.~~

12 ~~(ii) Diverting, developing, pumping, impounding,~~
13 ~~distributing, or furnishing water to or for the public~~
14 ~~for compensation.~~

15 ~~(iii) Transporting passengers or property as a~~
16 ~~common carrier.~~

17 ~~(iv) Use as a canal, turnpike, tunnel, bridge,~~
18 ~~wharf, and the like for the public for compensation.~~

19 ~~(v) Transporting or conveying natural or artificial~~
20 ~~gas, crude oil, gasoline, or petroleum products,~~
21 ~~materials for refrigeration, or oxygen or nitrogen, or~~
22 ~~other fluid substance, by pipeline or conduit, for the~~
23 ~~public for compensation.~~

24 ~~(vi) Conveying or transmitting messages or~~
25 ~~communications, except as set forth in paragraph (2) (iv),~~
26 ~~by telephone or telegraph or domestic public land mobile~~
27 ~~radio service including, but not limited to, point to~~
28 ~~point microwave radio service for the public for~~
29 ~~compensation.~~

30 * * * <--

1 (vii) ~~[Sewage] WASTEWATER collection, treatment, or~~ <--
2 disposal for the public for compensation.

3 ~~(viii) Providing limousine service in a county of~~ <--
4 ~~the second class pursuant to Subchapter B of Chapter 11~~
5 ~~(relating to limousine service in counties of the second~~
6 ~~class).~~

7 ~~(2) The term does not include:~~

8 ~~(i) Any person or corporation, not otherwise a~~
9 ~~public utility, who or which furnishes service only to~~
10 ~~himself or itself.~~

11 ~~(ii) Any bona fide cooperative association which~~
12 ~~furnishes service only to its stockholders or members on~~
13 ~~a nonprofit basis.~~

14 ~~(iii) Any producer of natural gas not engaged in~~
15 ~~distributing such gas directly to the public for~~
16 ~~compensation.~~

17 ~~(iv) Any person or corporation, not otherwise a~~
18 ~~public utility, who or which furnishes mobile domestic~~
19 ~~cellular radio telecommunications service.~~

20 ~~(v) Any building or facility owner/operators who~~
21 ~~hold ownership over and manage the internal distribution~~
22 ~~system serving such building or facility and who supply~~
23 ~~electric power and other related electric power services~~
24 ~~to occupants of the building or facility.~~

25 ~~(vi) Electric generation supplier companies, except~~
26 ~~for the limited purposes as described in sections 2809~~
27 ~~(relating to requirements for electric generation~~
28 ~~suppliers) and 2810 (relating to revenue neutral~~
29 ~~reconciliation).~~

30 ~~(vii) Service as follows:~~

1 ~~(A) Any water or sewer service provided to~~
2 ~~independently owned user premises by a person or~~
3 ~~corporation that owns and operates as a primary~~
4 ~~business a resort where:~~

5 ~~(I) the service provided is from a point~~
6 ~~within the boundaries of the resort's property~~
7 ~~and is provided to no more than 100 independently~~
8 ~~owned user premises for each type of service;~~

9 ~~(II) the service is verified by the resort,~~
10 ~~in a form and manner prescribed by the~~
11 ~~commission, to be incidental to the supplier's~~
12 ~~primary resort business as evidenced by the gross~~
13 ~~annual revenues derived from each type of service~~
14 ~~provided to independently owned user premises~~
15 ~~being less than 1% of the annual gross revenues~~
16 ~~of the primary resort business;~~

17 ~~(III) rates to independently owned user~~
18 ~~premises do not exceed the average of the rates~~
19 ~~for comparable service provided by two municipal~~
20 ~~corporations or municipal authorities or any~~
21 ~~combination of the two that are reasonably~~
22 ~~proximate to the resort or within the same county~~
23 ~~if rural;~~

24 ~~(IV) service will not be terminated to any~~
25 ~~independently owned user premises in the resort,~~
26 ~~unless termination is requested by the user, is~~
27 ~~necessary due to nonpayment or to prevent misuse~~
28 ~~of the system by a user which impairs or~~
29 ~~jeopardizes service to other users and the~~
30 ~~resort, or if termination is directed by law,~~

~~regulation or by a Federal or State agency or governmental body;~~

~~(V) the water and sewer service provided to the independently owned user premises is the same service that the resort owner provides to itself or its affiliates;~~

~~(VI) the resort adopts a resolution providing that it will not serve any additional independently owned user premises except if lawfully directed by any Federal or State agency or governmental body to protect public health and safety due to an emergency such as contamination or failure of existing supply, and does not revoke or amend such resolution without first notifying the Secretary of the Commission in writing 30 days in advance of such proposed revocation or amendment; and~~

~~(VII) disputes between an independently owned user premises and the resort are resolved by the applicable court system.~~

~~(B) For purposes of this subparagraph:~~

~~(I) The term "resort" means a place or business visited, primarily for leisure or vacation, that offers or provides lodging, entertainment, hospitality, dining, recreational facilities or activities for guests, business conferees, members or residents.~~

~~(II) The term "independently owned user premises" means a structure not owned by the resort or its affiliates, including a structure~~

~~intended to be used as a seasonal residence,
served from a point within the boundaries of a
resort and to which a resort owner or its
affiliates provides water or sewer service.~~

~~(3) For the purposes of sections 2702 (relating to
construction, relocation, suspension and abolition of
crossings), 2703 (relating to ejection in crossing cases)
and 2704 (relating to compensation for damages occasioned by
construction, relocation or abolition of crossings) and those
portions of sections 1501 (relating to character of service
and facilities), 1505 (relating to proper service and
facilities established on complaint; authority to order
conservation and load management programs) and 1508 (relating
to reports of accidents), as those sections or portions
thereof relate to safety only, a municipal authority or
transportation authority organized under the laws of this
Commonwealth shall be considered a public utility when it
owns or operates, for the carriage of passengers or goods by
rail, a line of railroad composed of lines formerly owned or
operated by the Pennsylvania Railroad, the Penn Central
Transportation Company, the Reading Company or the
Consolidated Rail Corporation.~~

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~~Section 2. This act shall apply retroactively to January 1,
2009.~~

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"WASTEWATER." ANY USED WATER AND WATER-CARRIED SOLIDS
COLLECTED OR CONVEYED BY A SEWER, INCLUDING:

(1) SEWAGE, AS DEFINED IN SECTION 2 OF THE ACT OF
JANUARY 24, 1966 (1965 P.L.1535, NO.537), KNOWN AS THE

1 PENNSYLVANIA SEWAGE FACILITIES ACT.

2 (2) INDUSTRIAL WASTE ORIGINATING FROM AN ESTABLISHMENT.
3 FOR THE PURPOSES OF THIS PARAGRAPH, THE TERMS "INDUSTRIAL
4 WASTE" AND "ESTABLISHMENT" SHALL BE AS DEFINED IN SECTION 1
5 OF THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE
6 CLEAN STREAMS LAW.

7 (3) INFILTRATION OR INFLOW INTO SEWERS.

8 (4) OTHER WATER CONTAINING SOLIDS OR POLLUTANTS.

9 (5) STORM WATER WHICH IS OR WILL BECOME MIXED WITH
10 WATERS DESCRIBED UNDER PARAGRAPH (1), (2), (3) OR (4) WITHIN
11 A COMBINED SEWER SYSTEM.

12 THE TERM DOES NOT INCLUDE STORM WATER COLLECTED IN A MUNICIPAL <--
13 SEPARATE STORM SEWER, AS THAT TERM IS DEFINED BY 40 CFR
14 122.26(B)(8) (RELATING TO STORM WATER DISCHARGES (APPLICABLE TO
15 STATE NPDES PROGRAMS, SEE § 123.25)), THAT DOES NOT FLOW INTO A
16 COMBINED SEWER SYSTEM.

17 Section 3 2. This act shall take effect immediately. <--