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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 97 Session of  
2021

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INTRODUCED BY LAWRENCE, CIRESI, DEASY, JAMES, B. MILLER, SAPPEY  
AND ZIMMERMAN, FEBRUARY 26, 2021

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 26, 2021

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in rates and distribution systems,  
3 further providing for valuation of acquired water and  
4 wastewater systems.

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

7 Section 1. Section 1329(d)(1) and (3) of Title 66 of the  
8 Pennsylvania Consolidated Statutes are amended and the section  
9 is amended by adding a subsection to read:

10 § 1329. Valuation of acquired water and wastewater systems.

11 \* \* \*

12 (d) Acquisitions by public utility.--The following apply:

13 (1) If the acquiring public utility and selling utility  
14 agree to use the process outlined in subsection (a), the  
15 acquiring public utility shall include the following as an  
16 attachment to its application for commission approval of the  
17 acquisition filed pursuant to section 1102 (relating to  
18 enumeration of acts requiring certificate):

19 (i) Copies of the two appraisals performed by the

1 utility valuation experts under subsection (a).

2 (ii) The purchase price of the selling utility as  
3 agreed to by the acquiring public utility and selling  
4 utility.

5 (iii) The ratemaking rate base determined pursuant  
6 to subsection (c) (2).

7 (iv) The transaction and closing costs incurred by  
8 the acquiring public utility that will be included in its  
9 rate base.

10 (v) A tariff containing a rate equal to the existing  
11 rates of the selling utility at the time of the  
12 acquisition and a rate stabilization plan, if applicable  
13 to the acquisition.

14 (vi) The results of the ratepayer referendum  
15 conducted under subsection (d.1).

16 \* \* \*

17 (3) The commission shall issue an order approving or  
18 disapproving the application for acquisition. If the results  
19 of the ratepayer referendum under subsection (d.1) show a  
20 majority of ratepayers disapprove of the proposed  
21 acquisition, the proposed acquisition shall be considered  
22 contrary to the public interest and the commission shall not  
23 approve the application for acquisition. If the commission  
24 issues an order approving the application for acquisition,  
25 the order shall include:

26 (i) The ratemaking rate base of the selling utility,  
27 as determined under subsection (c) (2).

28 (ii) Additional conditions of approval as may be  
29 required by the commission.

30 \* \* \*

1 (d.1) Ratepayer referendum.--A ratepayer referendum shall be  
2 conducted by a selling utility with a fair market value of  
3 \$1,000,000 or more. The following shall apply:

4 (1) Each ratepayer account shall be asked "do you  
5 approve the sale of (insert selling utility) to (insert  
6 acquiring public utility or entity) for the sum of (fair  
7 market value)?".

8 (2) At least 45 days before mailing a referendum ballot  
9 to each ratepayer account under paragraph (3), a selling  
10 utility shall notify each ratepayer account of the referendum  
11 via United States mail and place a full page advertisement in  
12 a newspaper of general circulation in the municipalities  
13 served by the selling utility and may additionally notify  
14 ratepayers of the referendum via electronic mail, a publicly  
15 accessible Internet website and any other method of  
16 communication. Each notice under this paragraph shall  
17 contain, in plain language, the maximum possible impact on a  
18 ratepayer account's utility rates, fees or surcharges as a  
19 result of the acquisition.

20 (3) The selling utility shall mail each ratepayer  
21 account, on a date determined by the selling utility, a  
22 referendum ballot in a clearly marked envelope and provide  
23 instructions on how a ratepayer may vote either via paper  
24 ballot or a secure publicly accessible Internet website. A  
25 failure to respond by a ratepayer account shall not be deemed  
26 an approval or acquiescence to the sale by the ratepayer.  
27 Each ballot under this paragraph shall contain, in plain  
28 language, the maximum possible impact on a ratepayer  
29 account's utility rates, fees or surcharges as a result of  
30 the acquisition. A failure to include the maximum possible

1 impact on a ratepayer account's utility rates, fees or  
2 surcharges on a ballot as required under the paragraph or the  
3 inclusion of inaccurate impact data on a ballot shall render  
4 the ballot insufficient for purposes of this subsection.

5 (4) The selling utility shall provide clear instructions  
6 as to the deadline by which ballots must be postmarked via  
7 United States mail or received via a secure publicly  
8 accessible Internet website, except that under no  
9 circumstances shall less than 30 days elapse between the date  
10 the ballots are mailed and the deadline.

11 \* \* \*

12 Section 2. This act shall take effect in 60 days.