

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 24

Session of
1989

INTRODUCED BY LLOYD, BATTISTO, D. R. WRIGHT, HALUSKA, GIGLIOTTI,
VEON, HASAY, E. Z. TAYLOR, KUKOVICH, VROON, CIVERA, BELFANTI,
TIGUE, S. H. SMITH, MERRY, DORR, SERAFINI, CAWLEY, STUBAN,
DISTLER, ITKIN AND COLAIZZO, JANUARY 18, 1989

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 18, 1989

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for rates.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Title 66 of the Pennsylvania Consolidated
6 Statutes is amended by adding a section to read:

7 § 1327. Acquisition of water and sewer utilities.

8 (a) Acquisition cost greater than depreciated original
9 cost.--If a public utility acquires property from another public
10 utility, a municipal corporation or a person at a cost which is
11 in excess of the original cost of the property when first
12 devoted to the public service less the applicable accrued
13 depreciation, that excess, or any portion thereof found by the
14 commission to be reasonable, may be included in the rate base of
15 the acquiring public utility, provided that the acquiring public
16 utility proves that:

17 (1) the property is used and useful in providing water

1 or sewer service;

2 (2) the public utility acquired the property from
3 another public utility, a municipal corporation or a person
4 which had 1,000 or fewer customer connections;

5 (3) the public utility, municipal corporation or person
6 from which the property was acquired was not, at the time of
7 acquisition, furnishing and maintaining adequate, efficient,
8 safe and reasonable service and facilities, evidence of which
9 shall include, but not be limited to, the following:

10 (i) violation of statutory or regulatory
11 requirements of the Department of Environmental Resources
12 or the commission concerning the safety, adequacy,
13 efficiency or reasonableness of service and facilities;

14 (ii) a finding by the commission of inadequate
15 financial, managerial or technical ability of the small
16 water or sewer utility;

17 (iii) a finding by the commission that there is a
18 present deficiency concerning the availability of water,
19 the palatability of water or the provision of water at
20 adequate volume and pressure; or

21 (iv) a finding by the commission that the small
22 water or sewer utility, because of necessary improvements
23 to its plant or distribution system, cannot reasonably be
24 expected to furnish and maintain adequate service to its
25 customers in the future at rates equal to or less than
26 those of the acquiring public utility;

27 (4) reasonable and prudent investments will be made to
28 assure that the customers served by the property will receive
29 adequate, efficient, safe and reasonable service;

30 (5) the public utility, municipal corporation or person

1 whose property is being acquired is in agreement with the
2 acquisition and the negotiations which led to the acquisition
3 were conducted at arm's length;

4 (6) the actual purchase price is reasonable;

5 (7) neither the acquiring nor the selling public
6 utility, municipal corporation or person is an affiliated
7 interest of the other;

8 (8) the rates charged by the acquiring public utility to
9 its preacquisition customers will not increase unreasonably
10 because of the acquisition; and

11 (9) the excess of the acquisition cost over the
12 depreciated original cost will be added to the rate base to
13 be amortized as an addition to expense over a reasonable
14 period of time with corresponding reductions in the rate
15 base.

16 (b) Procedure.--The commission, upon application by a public
17 utility, person or corporation which has agreed to acquire
18 property from another public utility, municipal corporation or
19 person, may approve an inclusion in rate base in accordance with
20 subsection (a) prior to the acquisition and prior to a
21 proceeding under this chapter to determine just and reasonable
22 rates if:

23 (1) the applicant has provided notice of the proposed
24 acquisition and any proposed increase in rates to the
25 customers served by the property to be acquired, in such form
26 and manner as the commission, by regulation, shall require;

27 (2) the applicant has provided notice to its customers,
28 in such form and manner as the commission, by regulation,
29 shall require, if the proposed acquisition would increase
30 rates to the acquiring public utility's customers;

1 (3) the applicant has provided notice of the application
2 to the Director of Trial Staff and the Consumer Advocate; and

3 (4) in addition to any other information required by the
4 commission, the application includes a full description of
5 the proposed acquisition and a plan for reasonable and
6 prudent investments to assure that the customers served by
7 the property to be acquired will receive adequate, efficient,
8 safe and reasonable service.

9 (c) Hearings.--The commission may hold such hearings on the
10 application as it deems necessary.

11 (d) Forfeiture.--Notwithstanding section 1309 (relating to
12 rates fixed on complaint; investigation of costs of production),
13 the commission, by regulation, shall provide for a utility to
14 remove the costs of acquisition from its rates and to refund any
15 revenues collected as a result of this section, plus interest,
16 which shall be the average rate of interest specified for
17 residential mortgage lending by the Secretary of Banking in
18 accordance with the act of January 30, 1974 (P.L.13, No.6),
19 referred to as the Loan Interest and Protection Law, during the
20 period or periods for which the commission orders refunds, if
21 the commission, after notice and hearings, determines that the
22 reasonable and prudent investments to be made in accordance with
23 this section have not been completed within a reasonable time.

24 (e) Acquisition cost lower than depreciated original cost.--
25 If a public utility acquires property from another public
26 utility, a municipal corporation or a person at a cost which is
27 lower than the original cost of the property when first devoted
28 to the public service less the applicable accrued depreciation
29 and the property is used and useful in providing water or sewer
30 service, that difference shall, absent matters of a substantial

1 public interest, be amortized as an addition to income over a
2 reasonable period of time or be passed through to the ratepayers
3 by such other methodology as the commission may direct. Notice
4 of the proposed treatment of an acquisition cost lower than
5 depreciated original cost shall be given to the Director of
6 Trial Staff and the Consumer Advocate.

7 (f) Reports.--The commission shall annually transmit to the
8 Governor and to the General Assembly and shall make available to
9 the public a report on the acquisition activity under this
10 title. Such report shall include, but not be limited to, the
11 number of small water or sewer public utilities, municipal
12 corporations or persons acquired by public utilities, and the
13 amounts of any rate increases or decreases sought and granted
14 due to the acquisition.

15 (g) Expiration.--This section shall expire in five years
16 unless extended by statute.

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