
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1326 Session of
2015

INTRODUCED BY GODSHALL, MILLARD, PICKETT, ROZZI, HARHART,
KILLION, MURT, DAVIS AND EVANKOVICH, JUNE 11, 2015

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 11, 2015

AN ACT

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

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

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

9 § 1329. Valuation of acquired water and wastewater systems.

10 (a) Process to establish fair market value of selling
11 utility.--Upon agreement by both the acquiring public utility
12 and the selling utility, the following procedure shall be used
13 to determine the fair market value of the selling utility:

14 (1) Two utility valuation experts shall perform two
15 separate appraisals of the selling utility for the purpose of
16 establishing its fair market value.

17 (2) Each utility valuation expert shall determine fair
18 market value in compliance with the Uniform Standards of
19 Professional Appraisal Practice, employing the cost, market

1 and income approaches.

2 (3) Each utility valuation expert shall engage the
3 services of a licensed engineer to conduct an assessment of
4 the tangible assets of the selling utility. The assessment
5 shall be incorporated into the appraisal under the cost
6 approach required under paragraph (2).

7 (4) Each utility valuation expert shall provide the
8 completed appraisal to the acquiring public utility and
9 selling utility within 60 days of execution of the service
10 contract.

11 (b) Utility valuation experts.--

12 (1) The utility valuation experts required under
13 subsection (a) shall be selected as follows:

14 (i) one shall be selected by the acquiring public
15 utility; and

16 (ii) one shall be selected by the selling utility.

17 (2) The utility valuation experts shall not:

18 (i) derive any material financial benefit from the
19 sale of the selling utility other than fees for services
20 rendered; or

21 (ii) be an immediate family member of a director,
22 officer or employee of either the acquiring public
23 utility or selling utility within a 12-month period of
24 the date of hire to perform an appraisal.

25 (3) Fees paid to utility valuation experts may be
26 included in the transaction and closing costs associated with
27 acquisition by the acquiring utility, however, fees may not
28 exceed the greater of:

29 (i) thirty thousand dollars; or

30 (ii) five percent of the fair market value of the

1 selling utility.

2 (c) Ratemaking rate base.--The following apply:

3 (1) Upon entry of a commission order approving the
4 acquisition, the ratemaking rate base of the selling utility
5 shall be incorporated into the rate base of the acquiring
6 public utility.

7 (2) The ratemaking rate base of the selling utility
8 shall be the lesser of the purchase price negotiated by the
9 acquiring public utility and selling utility or the fair
10 market value of the selling utility.

11 (d) Commission approval.--The following apply:

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

18 (i) Copies of the two appraisals performed by the
19 utility valuation experts under subsection (a).

20 (ii) The purchase price of the selling utility as
21 agreed to by the acquiring public utility and selling
22 utility.

23 (iii) The recommended ratemaking rate base.

24 (iv) The transaction and closing costs incurred by
25 the acquiring public utility that will be included in its
26 rate base.

27 (v) A tariff containing the new rate or rate
28 division of the acquiring public utility that the selling
29 public utility will be incorporated into for
30 postacquisition ratemaking purposes.

1 (2) If the commission issues an order approving the
2 application for acquisition, the order shall include:

3 (i) The ratemaking rate base of the selling utility,
4 as determined under subsection (c).

5 (ii) The new rate that will be applicable to the
6 service territory acquired by the acquiring public
7 utility or the current rate division of the acquiring
8 public utility that will be applicable to the acquired
9 service territory, as agreed to by the acquiring public
10 utility and selling utility.

11 (3) Any rate recommended by the commission shall be
12 consistent with the rate recommendation provided under
13 paragraph (1)(v) unless it can be demonstrated that the
14 recommended rate will result in a rate increase to the
15 acquiring public utility's customers by 5% or more.

16 (4) The rate approved by the commission as part of its
17 approval of the application for acquisition shall remain in
18 effect until such time as new rates are approved for the
19 acquiring public utility as the result of a base rate case
20 proceeding before the commission. The acquiring public
21 utility may collect a distribution system improvement charge
22 during this time, as approved by the commission under this
23 chapter.

24 (5) The selling utility's cost of service shall be
25 incorporated into the revenue requirement of the acquiring
26 public utility either as part of the commission's order
27 approving the acquisition or as part of the acquiring
28 utility's next base rate case proceeding. The original source
29 of funding for any part of the water or sewer assets of the
30 selling public utility shall not be relevant to determining

1 the value of said assets.

2 (e) Postacquisition projects.--The following apply:

3 (1) Any postacquisition improvements made by the
4 acquiring public utility that are not eligible to be
5 collected through a distribution system improvement charge
6 shall be eligible for inclusion in allowance for funds used
7 during construction after the date the expense was incurred.

8 (2) An acquiring public utility may collect allowance
9 for funds used during construction, through rates, until the
10 improved asset has been in service for a period of four years
11 or until the asset is included in the acquiring public
12 utility's next base rate case, whichever is earlier.

13 (3) For ratemaking purposes, any postacquisition
14 improvements made to the selling utility's assets by the
15 acquiring public utility shall not be subject to depreciation
16 from the date the expense was incurred until such time as the
17 improved asset has been in service for a period of four years
18 or until the asset is included in the acquiring public
19 utility's next base rate case, whichever is earlier.

20 (f) Definitions.--The following words and phrases when used
21 in this section shall have the meanings given to them in this
22 section unless the context clearly indicates otherwise:

23 "Acquiring public utility." An investor-owned water or
24 wastewater public utility subject to regulation under this title
25 for a period of at least five years that is acquiring a selling
26 utility as the result of a voluntary arm's-length transaction
27 between the buyer and seller.

28 "Allowance of funds used during construction." An accounting
29 practice that recognizes the capital costs, including debt and
30 equity funds that are used to finance the construction costs of

1 an improvement to a selling utility's assets by an acquiring
2 public utility.

3 "Fair market value." The average of the two utility
4 valuation expert appraisals conducted under subsection (a)(1).

5 "Ratemaking rate base." The dollar value of a selling
6 utility which, for postacquisition ratemaking purposes, is
7 incorporated into the rate base of the acquiring public utility.

8 "Selling utility." A water or wastewater company located in
9 this Commonwealth, owned by a public utility, municipal
10 corporation or authority that is being purchased by an acquiring
11 public utility as the result of a voluntary arm's-length
12 transaction between the buyer and seller.

13 "Utility valuation expert." A person hired by an acquiring
14 public utility and selling utility for the purpose of conducting
15 an economic valuation of the selling utility to determine its
16 fair market value.

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