

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 881 Session of
2015INTRODUCED BY BLAKE, FONTANA, SCAVELLO, BARTOLOTTA, STEFANO AND
YUDICHAK, JUNE 12, 2015SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, AS AMENDED, MARCH 15, 2016

AN ACT

1 ~~Amending Title 66 (Public Utilities) of the Pennsylvania~~ <--
2 ~~Consolidated Statutes, in general provisions, further~~
3 ~~providing for definitions.~~

4 AMENDING TITLE 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA <--
5 CONSOLIDATED STATUTES, IN GENERAL PROVISIONS, FURTHER
6 PROVIDING FOR THE DEFINITION OF "PUBLIC UTILITY."

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

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

12 ~~§ 102. Definitions.~~

13 ~~Subject to additional definitions contained in subsequent~~
14 ~~provisions of this part which are applicable to specific~~
15 ~~provisions of this part, the following words and phrases when~~
16 ~~used in this part shall have, unless the context clearly~~
17 ~~indicates otherwise, the meanings given to them in this section:~~

18 ~~* * *~~

19 ~~"Public utility."~~

1 ~~(1) Any person or corporations now or hereafter owning~~
2 ~~or operating in this Commonwealth equipment or facilities~~
3 ~~for:~~

4 ~~(i) Producing, generating, transmitting,~~
5 ~~distributing or furnishing natural or artificial gas,~~
6 ~~electricity, or steam for the production of light, heat,~~
7 ~~or power to or for the public for compensation.~~

8 ~~(ii) Diverting, developing, pumping, impounding,~~
9 ~~distributing, or furnishing water to or for the public~~
10 ~~for compensation.~~

11 ~~(iii) Transporting passengers or property as a~~
12 ~~common carrier.~~

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

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

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

26 ~~(vii) Sewage collection, treatment, or disposal for~~
27 ~~the public for compensation.~~

28 ~~(viii) Providing limousine service in a county of~~
29 ~~the second class pursuant to Subchapter B of Chapter 11~~
30 ~~(relating to limousine service in counties of the second~~

class).

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

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

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

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

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

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

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

~~(vii) Any water or sewer service provided to an independently owned user premises by a person or corporation that owns and operates, as a primary business, a resort where all of the following apply:~~

~~(A) The service provided is from a point within the boundaries of the resort's property and is to no~~

~~more than 100 independently owned user premises for each type of service.~~

~~(B) The service is verified by the resort, in a form and manner required by the commission, to be incidental to the supplier's primary resort business, as evidenced by the gross annual revenues derived from each type of service provided to independently owned user premises, being less than 1% of the gross annual revenues of the primary resort business.~~

~~(C) The rates to independently owned user premises do not exceed the average of the rates for comparable service provided by two municipal corporations or municipal authorities or any combination of the two that are reasonably proximate to the resort or within the same county if rural.~~

~~(D) The service will not be terminated to any independently owned user premises in the resort, unless termination:~~

~~(I) is requested by the user;~~

~~(II) is necessary due to nonpayment of rates;~~

~~(III) is necessary to prevent misuse of the system by a user which impairs or jeopardizes service to other users and the resort; or~~

~~(IV) is directed by law, regulation or by a Federal or State agency or governmental body.~~

~~(E) 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.~~

~~(F) 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 the resolution without first notifying the commission's secretary, in writing, 30 days in advance of such proposed revocation or amendment.~~

~~(G) For purposes of this subparagraph "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, guests, members or residents.~~

~~(H) For purposes of this subparagraph "independently owned user premises" means any structure not owned by the resort or its affiliates, including a structure intended to be used as a seasonal residence, located within the boundaries of a resort and to which a resort owner or its affiliates provide water or sewer service.~~

~~(viii) Any water or sewer service provided by a municipal corporation to user premises at a point beyond its corporate limits due to historical accident, necessity or absence of other water supply or sewer service, direction of a Federal or State agency or municipal body, where the municipal corporation, by resolution or ordinance, does all of the following:~~

1 ~~(A) Provides it will not, after the effective~~
2 ~~date of this clause, serve any additional user~~
3 ~~premises outside of its corporate boundaries except~~
4 ~~if lawfully directed by any Federal or State agency~~
5 ~~or governmental body to protect public health and~~
6 ~~safety due to an emergency, such as contamination or~~
7 ~~failure of existing supply.~~

8 ~~(B) Provides water or sewer to user premises~~
9 ~~beyond its corporate boundaries at the same rates and~~
10 ~~service as it does to user premises inside its~~
11 ~~corporate boundaries.~~

12 ~~(C) Provides it will not revoke or amend the~~
13 ~~resolution without prior commission approval.~~

14 ~~(3) For the purposes of sections 2702 (relating to~~
15 ~~construction, relocation, suspension and abolition of~~
16 ~~crossings), 2703 (relating to ejectment in crossing cases)~~
17 ~~and 2704 (relating to compensation for damages occasioned by~~
18 ~~construction, relocation or abolition of crossings) and those~~
19 ~~portions of sections 1501 (relating to character of service~~
20 ~~and facilities), 1505 (relating to proper service and~~
21 ~~facilities established on complaint) and 1508 (relating to~~
22 ~~reports of accidents), as those sections or portions thereof~~
23 ~~relate to safety only, a municipal authority or~~
24 ~~transportation authority organized under the laws of this~~
25 ~~Commonwealth shall be considered a public utility when it~~
26 ~~owns or operates, for the carriage of passengers or goods by~~
27 ~~rail, a line of railroad composed of lines formerly owned or~~
28 ~~operated by the Pennsylvania Railroad, the Penn Central~~
29 ~~Transportation Company, the Reading Company or the~~
30 ~~Consolidated Rail Corporation.~~

1 * * *

2 ~~Section 2. The amendment of the definition of "public~~
3 ~~utility" in 66 Pa.C.S. § 102 shall apply retroactively to~~
4 ~~January 1, 2009.~~

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

6 SECTION 1. THE DEFINITION OF "PUBLIC UTILITY" IN SECTION 102 <--
7 OF TITLE 66 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED
8 TO READ:

9 § 102. DEFINITIONS.

10 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
11 PROVISIONS OF THIS PART WHICH ARE APPLICABLE TO SPECIFIC
12 PROVISIONS OF THIS PART, THE FOLLOWING WORDS AND PHRASES WHEN
13 USED IN THIS PART SHALL HAVE, UNLESS THE CONTEXT CLEARLY
14 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

15 * * *

16 "PUBLIC UTILITY."

17 (1) ANY PERSON OR CORPORATIONS NOW OR HEREAFTER OWNING
18 OR OPERATING IN THIS COMMONWEALTH EQUIPMENT OR FACILITIES
19 FOR:

20 (I) PRODUCING, GENERATING, TRANSMITTING,
21 DISTRIBUTING OR FURNISHING NATURAL OR ARTIFICIAL GAS,
22 ELECTRICITY, OR STEAM FOR THE PRODUCTION OF LIGHT, HEAT,
23 OR POWER TO OR FOR THE PUBLIC FOR COMPENSATION.

24 (II) DIVERTING, DEVELOPING, PUMPING, IMPOUNDING,
25 DISTRIBUTING, OR FURNISHING WATER TO OR FOR THE PUBLIC
26 FOR COMPENSATION.

27 (III) TRANSPORTING PASSENGERS OR PROPERTY AS A
28 COMMON CARRIER.

29 (IV) USE AS A CANAL, TURNPIKE, TUNNEL, BRIDGE,
30 WHARF, AND THE LIKE FOR THE PUBLIC FOR COMPENSATION.

1 (V) TRANSPORTING OR CONVEYING NATURAL OR ARTIFICIAL
2 GAS, CRUDE OIL, GASOLINE, OR PETROLEUM PRODUCTS,
3 MATERIALS FOR REFRIGERATION, OR OXYGEN OR NITROGEN, OR
4 OTHER FLUID SUBSTANCE, BY PIPELINE OR CONDUIT, FOR THE
5 PUBLIC FOR COMPENSATION.

6 (VI) CONVEYING OR TRANSMITTING MESSAGES OR
7 COMMUNICATIONS, EXCEPT AS SET FORTH IN PARAGRAPH (2) (IV),
8 BY TELEPHONE OR TELEGRAPH OR DOMESTIC PUBLIC LAND MOBILE
9 RADIO SERVICE INCLUDING, BUT NOT LIMITED TO, POINT-TO-
10 POINT MICROWAVE RADIO SERVICE FOR THE PUBLIC FOR
11 COMPENSATION.

12 (VII) SEWAGE COLLECTION, TREATMENT, OR DISPOSAL FOR
13 THE PUBLIC FOR COMPENSATION.

14 (VIII) PROVIDING LIMOUSINE SERVICE IN A COUNTY OF
15 THE SECOND CLASS PURSUANT TO SUBCHAPTER B OF CHAPTER 11
16 (RELATING TO LIMOUSINE SERVICE IN COUNTIES OF THE SECOND
17 CLASS) .

18 (2) THE TERM DOES NOT INCLUDE:

19 (I) ANY PERSON OR CORPORATION, NOT OTHERWISE A
20 PUBLIC UTILITY, WHO OR WHICH FURNISHES SERVICE ONLY TO
21 HIMSELF OR ITSELF.

22 (II) ANY BONA FIDE COOPERATIVE ASSOCIATION WHICH
23 FURNISHES SERVICE ONLY TO ITS STOCKHOLDERS OR MEMBERS ON
24 A NONPROFIT BASIS.

25 (III) ANY PRODUCER OF NATURAL GAS NOT ENGAGED IN
26 DISTRIBUTING SUCH GAS DIRECTLY TO THE PUBLIC FOR
27 COMPENSATION.

28 (IV) ANY PERSON OR CORPORATION, NOT OTHERWISE A
29 PUBLIC UTILITY, WHO OR WHICH FURNISHES MOBILE DOMESTIC
30 CELLULAR RADIO TELECOMMUNICATIONS SERVICE.

1 (V) ANY BUILDING OR FACILITY OWNER/OPERATORS WHO
2 HOLD OWNERSHIP OVER AND MANAGE THE INTERNAL DISTRIBUTION
3 SYSTEM SERVING SUCH BUILDING OR FACILITY AND WHO SUPPLY
4 ELECTRIC POWER AND OTHER RELATED ELECTRIC POWER SERVICES
5 TO OCCUPANTS OF THE BUILDING OR FACILITY.

6 (VI) ELECTRIC GENERATION SUPPLIER COMPANIES, EXCEPT
7 FOR THE LIMITED PURPOSES AS DESCRIBED IN SECTIONS 2809
8 (RELATING TO REQUIREMENTS FOR ELECTRIC GENERATION
9 SUPPLIERS) AND 2810 (RELATING TO REVENUE-NEUTRAL
10 RECONCILIATION).

11 (VII) SERVICE AS FOLLOWS:

12 (A) ANY WATER OR SEWER SERVICE PROVIDED TO
13 INDEPENDENTLY OWNED USER PREMISES BY A PERSON OR
14 CORPORATION THAT OWNS AND OPERATES AS A PRIMARY
15 BUSINESS A RESORT WHERE:

16 (I) THE SERVICE PROVIDED IS FROM A POINT
17 WITHIN THE BOUNDARIES OF THE RESORT'S PROPERTY
18 AND IS PROVIDED TO NO MORE THAN 100 INDEPENDENTLY
19 OWNED USER PREMISES FOR EACH TYPE OF SERVICE;

20 (II) THE SERVICE IS VERIFIED BY THE RESORT,
21 IN A FORM AND MANNER PRESCRIBED BY THE
22 COMMISSION, TO BE INCIDENTAL TO THE SUPPLIER'S
23 PRIMARY RESORT BUSINESS AS EVIDENCED BY THE GROSS
24 ANNUAL REVENUES DERIVED FROM EACH TYPE OF SERVICE
25 PROVIDED TO INDEPENDENTLY OWNED USER PREMISES
26 BEING LESS THAN 1% OF THE ANNUAL GROSS REVENUES
27 OF THE PRIMARY RESORT BUSINESS;

28 (III) RATES TO INDEPENDENTLY OWNED USER
29 PREMISES DO NOT EXCEED THE AVERAGE OF THE RATES
30 FOR COMPARABLE SERVICE PROVIDED BY TWO MUNICIPAL

1 CORPORATIONS OR MUNICIPAL AUTHORITIES OR ANY
2 COMBINATION OF THE TWO THAT ARE REASONABLY
3 PROXIMATE TO THE RESORT OR WITHIN THE SAME COUNTY
4 IF RURAL;

5 (IV) SERVICE WILL NOT BE TERMINATED TO ANY
6 INDEPENDENTLY OWNED USER PREMISES IN THE RESORT,
7 UNLESS TERMINATION IS REQUESTED BY THE USER, IS
8 NECESSARY DUE TO NONPAYMENT OR TO PREVENT MISUSE
9 OF THE SYSTEM BY A USER WHICH IMPAIRS OR
10 JEOPARDIZES SERVICE TO OTHER USERS AND THE
11 RESORT, OR IF TERMINATION IS DIRECTED BY LAW,
12 REGULATION OR BY A FEDERAL OR STATE AGENCY OR
13 GOVERNMENTAL BODY;

14 (V) THE WATER AND SEWER SERVICE PROVIDED TO
15 THE INDEPENDENTLY OWNED USER PREMISES IS THE SAME
16 SERVICE THAT THE RESORT OWNER PROVIDES TO ITSELF
17 OR ITS AFFILIATES;

18 (VI) THE RESORT ADOPTS A RESOLUTION
19 PROVIDING THAT IT WILL NOT SERVE ANY ADDITIONAL
20 INDEPENDENTLY OWNED USER PREMISES EXCEPT IF
21 LAWFULLY DIRECTED BY ANY FEDERAL OR STATE AGENCY
22 OR GOVERNMENTAL BODY TO PROTECT PUBLIC HEALTH AND
23 SAFETY DUE TO AN EMERGENCY SUCH AS CONTAMINATION
24 OR FAILURE OF EXISTING SUPPLY, AND DOES NOT
25 REVOKE OR AMEND SUCH RESOLUTION WITHOUT FIRST
26 NOTIFYING THE SECRETARY OF THE COMMISSION IN
27 WRITING 30 DAYS IN ADVANCE OF SUCH PROPOSED
28 REVOCATION OR AMENDMENT; AND

29 (VII) DISPUTES BETWEEN AN INDEPENDENTLY
30 OWNED USER PREMISES AND THE RESORT ARE RESOLVED

1 BY THE APPLICABLE COURT SYSTEM.

2 (B) FOR PURPOSES OF THIS SUBPARAGRAPH:

3 (I) THE TERM "RESORT" MEANS A PLACE OR
4 BUSINESS VISITED, PRIMARILY FOR LEISURE OR
5 VACATION, THAT OFFERS OR PROVIDES LODGING,
6 ENTERTAINMENT, HOSPITALITY, DINING, RECREATIONAL
7 FACILITIES OR ACTIVITIES FOR GUESTS, BUSINESS
8 CONFEREES, MEMBERS OR RESIDENTS.

9 (II) THE TERM "INDEPENDENTLY OWNED USER
10 PREMISES" MEANS A STRUCTURE NOT OWNED BY THE
11 RESORT OR ITS AFFILIATES, INCLUDING A STRUCTURE
12 INTENDED TO BE USED AS A SEASONAL RESIDENCE,
13 SERVED FROM A POINT WITHIN THE BOUNDARIES OF A
14 RESORT AND TO WHICH A RESORT OWNER OR ITS
15 AFFILIATES PROVIDES WATER OR SEWER SERVICE.

16 (3) FOR THE PURPOSES OF SECTIONS 2702 (RELATING TO
17 CONSTRUCTION, RELOCATION, SUSPENSION AND ABOLITION OF
18 CROSSINGS), 2703 (RELATING TO EJECTMENT IN CROSSING CASES)
19 AND 2704 (RELATING TO COMPENSATION FOR DAMAGES OCCASIONED BY
20 CONSTRUCTION, RELOCATION OR ABOLITION OF CROSSINGS) AND THOSE
21 PORTIONS OF SECTIONS 1501 (RELATING TO CHARACTER OF SERVICE
22 AND FACILITIES), 1505 (RELATING TO PROPER SERVICE AND
23 FACILITIES ESTABLISHED ON COMPLAINT; AUTHORITY TO ORDER
24 CONSERVATION AND LOAD MANAGEMENT PROGRAMS) AND 1508 (RELATING
25 TO REPORTS OF ACCIDENTS), AS THOSE SECTIONS OR PORTIONS
26 THEREOF RELATE TO SAFETY ONLY, A MUNICIPAL AUTHORITY OR
27 TRANSPORTATION AUTHORITY ORGANIZED UNDER THE LAWS OF THIS
28 COMMONWEALTH SHALL BE CONSIDERED A PUBLIC UTILITY WHEN IT
29 OWNS OR OPERATES, FOR THE CARRIAGE OF PASSENGERS OR GOODS BY
30 RAIL, A LINE OF RAILROAD COMPOSED OF LINES FORMERLY OWNED OR

1 OPERATED BY THE PENNSYLVANIA RAILROAD, THE PENN-CENTRAL
2 TRANSPORTATION COMPANY, THE READING COMPANY OR THE
3 CONSOLIDATED RAIL CORPORATION.

4 * * *

5 SECTION 2. THIS ACT SHALL APPLY RETROACTIVELY TO JANUARY 1,
6 2009.

7 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.