

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 881 Session of  
2015INTRODUCED BY BLAKE, FONTANA, SCAVELLO, BARTOLOTTA, STEFANO AND  
YUDICHAK, JUNE 12, 2015AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 17, 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

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

\* \* \*

"Public utility."

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

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

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

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

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

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

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

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

~~(viii) Providing limousine service in a county of the second class pursuant to Subchapter B of Chapter 11 (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) 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 ejectment 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 Section 3 2. This act shall take effect immediately.

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