
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 798 Session of
2017

INTRODUCED BY DAVIS, V. BROWN, THOMAS, McNEILL, MILLARD,
D. COSTA AND MOUL, MARCH 10, 2017

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 10, 2017

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in general provisions, further
3 defining "public utility."

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

6 Section 1. The definition of "public utility" in section 102
7 of Title 66 of the Pennsylvania Consolidated Statutes, amended
8 June 23, 2016 (P.L.362, No.50) and November 4, 2016 (P.L.1180,
9 No.154), is amended to read:

10 § 102. Definitions.

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

16 * * *

17 "Public utility."

18 (1) Any person or corporations now or hereafter owning

1 or operating in this Commonwealth equipment or facilities
2 for:

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

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

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

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

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

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

25 (vii) Wastewater collection, treatment, or disposal
26 for the public for compensation.

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

1 (1.1) Any municipal corporation now or hereafter owning
2 or operating in this Commonwealth equipment or facilities
3 for:

4 (i) Diverting, developing, pumping, impounding,
5 distributing, or furnishing water to or for the public
6 for compensation.

7 (ii) Sewage collection, treatment, or disposal for
8 the public for compensation.

9 (2) The term does not include:

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

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

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

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

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

27 (vi) Electric generation supplier companies, except
28 for the limited purposes as described in sections 2809
29 (relating to requirements for electric generation
30 suppliers) and 2810 (relating to revenue-neutral

1 reconciliation).

2 (vii) Service as follows:

3 (A) Any water or sewer service provided to
4 independently owned user premises by a person or
5 corporation that owns and operates as a primary
6 business a resort where:

7 (I) the service provided is from a point
8 within the boundaries of the resort's property
9 and is provided to no more than 100 independently
10 owned user premises for each type of service;

11 (II) the service is verified by the resort,
12 in a form and manner prescribed by the
13 commission, to be incidental to the supplier's
14 primary resort business as evidenced by the gross
15 annual revenues derived from each type of service
16 provided to independently owned user premises
17 being less than 1% of the annual gross revenues
18 of the primary resort business;

19 (III) rates to independently owned user
20 premises do not exceed the average of the rates
21 for comparable service provided by two municipal
22 corporations or municipal authorities or any
23 combination of the two that are reasonably
24 proximate to the resort or within the same county
25 if rural;

26 (IV) service will not be terminated to any
27 independently owned user premises in the resort,
28 unless termination is requested by the user, is
29 necessary due to nonpayment or to prevent misuse
30 of the system by a user which impairs or

1 jeopardizes service to other users and the
2 resort, or if termination is directed by law,
3 regulation or by a Federal or State agency or
4 governmental body;

5 (V) the water and sewer service provided to
6 the independently owned user premises is the same
7 service that the resort owner provides to itself
8 or its affiliates;

9 (VI) the resort adopts a resolution
10 providing that it will not serve any additional
11 independently owned user premises except if
12 lawfully directed by any Federal or State agency
13 or governmental body to protect public health and
14 safety due to an emergency such as contamination
15 or failure of existing supply, and does not
16 revoke or amend such resolution without first
17 notifying the secretary of the commission in
18 writing 30 days in advance of such proposed
19 revocation or amendment; and

20 (VII) disputes between an independently
21 owned user premises and the resort are resolved
22 by the applicable court system.

23 (B) For purposes of this subparagraph:

24 (I) The term "resort" means a place or
25 business visited primarily for leisure or
26 vacation that offers or provides lodging,
27 entertainment, hospitality, dining, recreational
28 facilities or activities for guests, business
29 conferees, members or residents.

30 (II) The term "independently owned user

1 premises" means a structure not owned by the
2 resort or its affiliates, including a structure
3 intended to be used as a seasonal residence,
4 served from a point within the boundaries of a
5 resort and to which a resort owner or its
6 affiliates provides water or sewer service.

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

25 * * *

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