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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 751 Session of  
2019

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INTRODUCED BY ROAE AND TURZAI, MARCH 8, 2019

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 8, 2019

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in general provisions, further  
3 providing for definitions; in powers and duties, further  
4 providing for power of commission to order acquisition of  
5 small water and sewer utilities; in procedure on complaints,  
6 further providing for service of complaints on parties; and,  
7 in rates and distribution systems, further providing for  
8 computation of income tax expense for ratemaking purposes.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. The definition of "service line" in section 102  
12 of Title 66 of the Pennsylvania Consolidated Statutes is amended  
13 to read:

14 § 102. Definitions.

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

20 \* \* \*

21 "Service line." The pipe and appurtenances of the gas

1 utility, water utility or wastewater utility which connect any  
2 main with either the point of connection of a customer's service  
3 line or the meter of the public utility if the utility owns all  
4 the pipe and appurtenances between its main and meter.

5 \* \* \*

6 Section 2. Sections 529(a), (b) and (i) and 702 of Title 66  
7 are amended to read:

8 § 529. Power of commission to order acquisition of small water  
9 and sewer utilities.

10 (a) General rule.--The commission may order a capable public  
11 utility to acquire a small water or sewer utility if the  
12 commission, after notice and an opportunity to be heard,  
13 determines:

14 (1) that the small water or sewer utility is in  
15 violation of statutory or regulatory standards, including,  
16 but not limited to, the act of June 22, 1937 (P.L.1987,  
17 No.394), known as The Clean Streams Law, the act of January  
18 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania  
19 Sewage Facilities Act, and the act of May 1, 1984 (P.L.206,  
20 No.43), known as the Pennsylvania Safe Drinking Water Act,  
21 and the regulations adopted thereunder, which affect the  
22 safety, adequacy, efficiency or reasonableness of the service  
23 provided by the small water or sewer utility;

24 (2) that the small water or sewer utility has failed to  
25 comply, within a reasonable period of time, with any order of  
26 the Department of Environmental Resources or the commission  
27 concerning the safety, adequacy, efficiency or reasonableness  
28 of service, including, but not limited to, the availability  
29 of water, the potability of water, the palatability of water  
30 or the provision of water at adequate volume and pressure;

1 (3) that the small water or sewer utility cannot  
2 reasonably be expected to furnish and maintain adequate,  
3 efficient, safe and reasonable service and facilities in the  
4 future;

5 [(4) that alternatives to acquisition have been  
6 considered in accordance with subsection (b) and have been  
7 determined by the commission to be impractical or not  
8 economically feasible;]

9 (5) that the acquiring capable public utility is  
10 financially, managerially and technically capable of  
11 acquiring and operating the small water or sewer utility in  
12 compliance with applicable statutory and regulatory  
13 standards; and

14 (6) that the rates charged by the acquiring capable  
15 public utility to its preacquisition customers will not  
16 increase unreasonably because of the acquisition.

17 [(b) Alternatives to acquisition.--Before the commission may  
18 order the acquisition of a small water or sewer utility in  
19 accordance with subsection (a), the commission shall discuss  
20 with the small water or sewer utility, and shall give such  
21 utility a reasonable opportunity to investigate, alternatives to  
22 acquisition, including, but not limited to:

23 (1) The reorganization of the small water or sewer  
24 utility under new management.

25 (2) The entering of a contract with another public  
26 utility or a management or service company to operate the  
27 small water or sewer utility.

28 (3) The appointment of a receiver to assure the  
29 provision of adequate, efficient, safe and reasonable service  
30 and facilities to the public.

1 (4) The merger of the small water or sewer utility with  
2 one or more other public utilities.

3 (5) The acquisition of the small water or sewer utility  
4 by a municipality, a municipal authority or a cooperative.]

5 \* \* \*

6 (i) Burden of proof.--The [Law Bureau] Bureau of  
7 Investigation and Enforcement shall have the burden of  
8 establishing a prima facie case that the acquisition of the  
9 small water or sewer utility would be in the public interest and  
10 in compliance with the provisions of this section. Once the  
11 commission determines that a prima facie case has been  
12 established:

13 (1) the small water or sewer utility shall have the  
14 burden of proving its ability to render adequate, efficient,  
15 safe and reasonable service at just and reasonable rates; and

16 (2) a proximate public utility providing the same type  
17 of service as the small water or sewer utility shall have the  
18 opportunity and burden of proving its financial, managerial  
19 or technical inability to acquire and operate the small water  
20 or sewer utility.

21 \* \* \*

22 § 702. Service of complaints on parties.

23 Upon the filing of a complaint, the commission shall cause to  
24 be served upon each party named in the complaint a copy of the  
25 complaint and notice from the commission calling upon such party  
26 to satisfy the complaint, or to answer the same in writing,  
27 within such time as is specified by the commission in the  
28 notice. Service in all hearings, investigations and proceedings  
29 pending before the commission shall be made by registered or  
30 certified mail or by e-mail upon agreement by each party.

1 Section 3. Section 1301.1 of Title 66 is amended by adding a  
2 subsection to read:

3 § 1301.1. Computation of income tax expense for ratemaking  
4 purposes.

5 \* \* \*

6 (b.1) Taxable contributions.--A water or wastewater public  
7 utility shall be solely responsible for funding the income taxes  
8 on taxable contributions in aid of construction and customer  
9 advances for construction and shall record the income taxes the  
10 water or wastewater public utility pays in accumulated deferred  
11 income taxes for accounting and ratemaking purposes.

12 \* \* \*

13 Section 4. This act shall take effect in 60 days.