

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 751 Session of 2019

INTRODUCED BY ROAE, TURZAI AND DELOZIER, MARCH 8, 2019

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 12, 2019

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)~~ 529(I) and 702 of <--  
7 Title 66 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.