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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 627 Session of  
2023

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INTRODUCED BY LAWRENCE, CIRESI, GILLEN, HANBIDGE, MOUL,  
SHUSTERMAN AND C. WILLIAMS, AUGUST 30, 2023

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REFERRED TO COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY AND  
UTILITIES, AUGUST 30, 2023

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in rates and distribution systems,  
3 repealing provisions relating to valuation of acquired water  
4 and wastewater systems.

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

7 Section 1. Section 1329 of Title 66 of the Pennsylvania  
8 Consolidated Statutes is repealed:

9 [§ 1329. Valuation of acquired water and wastewater systems.

10 (a) Process to establish fair market value of selling  
11 utility.--Upon agreement by both the acquiring public utility or  
12 entity and the selling utility, the following procedure shall be  
13 used to determine the fair market value of the selling utility:

14 (1) The commission will maintain a list of utility  
15 valuation experts from which the acquiring public utility or  
16 entity and selling utility will choose.

17 (2) Two utility valuation experts shall perform two  
18 separate appraisals of the selling utility for the purpose of

1 establishing its fair market value.

2 (3) Each utility valuation expert shall determine fair  
3 market value in compliance with the Uniform Standards of  
4 Professional Appraisal Practice, employing the cost, market  
5 and income approaches.

6 (4) The acquiring public utility or entity and selling  
7 utility shall engage the services of the same licensed  
8 engineer to conduct an assessment of the tangible assets of  
9 the selling utility. The assessment shall be incorporated  
10 into the appraisal under the cost approach required under  
11 paragraph (3).

12 (5) Each utility valuation expert shall provide the  
13 completed appraisal to the acquiring public utility or entity  
14 and selling utility within 90 days of execution of the  
15 service contract.

16 (b) Utility valuation experts.--

17 (1) The utility valuation experts required under  
18 subsection (a) shall be selected as follows:

19 (i) one shall be selected by the acquiring public  
20 utility or entity; and

21 (ii) one shall be selected by the selling utility.

22 (2) The utility valuation experts shall not:

23 (i) derive any material financial benefit from the  
24 sale of the selling utility other than fees for services  
25 rendered; or

26 (ii) be an immediate family member of a director,  
27 officer or employee of either the acquiring public  
28 utility, entity or selling utility within a 12-month  
29 period of the date of hire to perform an appraisal.

30 (3) Fees paid to utility valuation experts may be

1 included in the transaction and closing costs associated with  
2 acquisition by the acquiring utility or entity. Fees eligible  
3 for inclusion may be of an amount not exceeding 5% of the  
4 fair market value of the selling utility or a fee approved by  
5 the commission.

6 (c) Ratemaking rate base.--The following apply:

7 (1) The ratemaking rate base of the selling utility  
8 shall be incorporated into the rate base of:

9 (i) the acquiring public utility during the  
10 acquiring public utility's next base rate case; or

11 (ii) the entity in its initial tariff filing.

12 (2) The ratemaking rate base of the selling utility  
13 shall be the lesser of the purchase price negotiated by the  
14 acquiring public utility or entity and selling utility or the  
15 fair market value of the selling utility.

16 (d) Acquisitions by public utility.--The following apply:

17 (1) If the acquiring public utility and selling utility  
18 agree to use the process outlined in subsection (a), the  
19 acquiring public utility shall include the following as an  
20 attachment to its application for commission approval of the  
21 acquisition filed pursuant to section 1102 (relating to  
22 enumeration of acts requiring certificate):

23 (i) Copies of the two appraisals performed by the  
24 utility valuation experts under subsection (a).

25 (ii) The purchase price of the selling utility as  
26 agreed to by the acquiring public utility and selling  
27 utility.

28 (iii) The ratemaking rate base determined pursuant  
29 to subsection (c) (2).

30 (iv) The transaction and closing costs incurred by

1 the acquiring public utility that will be included in its  
2 rate base.

3 (v) A tariff containing a rate equal to the existing  
4 rates of the selling utility at the time of the  
5 acquisition and a rate stabilization plan, if applicable  
6 to the acquisition.

7 (2) The commission shall issue a final order on an  
8 application submitted under this section within six months of  
9 the filing date of an application meeting the requirements of  
10 subsection (d) (1).

11 (3) If the commission issues an order approving the  
12 application for acquisition, the order shall include:

13 (i) The ratemaking rate base of the selling utility,  
14 as determined under subsection (c) (2).

15 (ii) Additional conditions of approval as may be  
16 required by the commission.

17 (4) The tariff submitted pursuant to subsection (d) (1)  
18 (v) shall remain in effect until such time as new rates are  
19 approved for the acquiring public utility as the result of a  
20 base rate case proceeding before the commission. The  
21 acquiring public utility may collect a distribution system  
22 improvement charge during this time, as approved by the  
23 commission under this chapter.

24 (5) The selling utility's cost of service shall be  
25 incorporated into the revenue requirement of the acquiring  
26 public utility as part of the acquiring utility's next base  
27 rate case proceeding. The original source of funding for any  
28 part of the water or sewer assets of the selling utility  
29 shall not be relevant to determine the value of said assets.

30 (e) Acquisitions by entity.--An entity shall provide all the

1 information required by subsection (d) (1) to the commission as  
2 an attachment to its application for a certificate of public  
3 convenience filed pursuant to section 1102.

4 (f) Postacquisition projects.--The following apply:

5 (1) An acquiring public utility's postacquisition  
6 improvements that are not included in a distribution  
7 improvement charge shall accrue allowance for funds used  
8 during construction after the date the cost was incurred  
9 until the asset has been in service for a period of four  
10 years or until the asset is included in the acquiring public  
11 utility's next base rate case, whichever is earlier.

12 (2) Depreciation on an acquiring public utility's  
13 postacquisition improvements that have not been included in  
14 the calculation of a distribution system improvement charge  
15 shall be deferred for book and ratemaking purposes.

16 (g) Definitions.--The following words and phrases when used  
17 in this section shall have the meanings given to them in this  
18 section unless the context clearly indicates otherwise:

19 "Acquiring public utility." A water or wastewater public  
20 utility subject to regulation under this title that is acquiring  
21 a selling utility as the result of a voluntary arm's-length  
22 transaction between the buyer and seller.

23 "Allowance of funds used during construction." An accounting  
24 practice that recognizes the capital costs, including debt and  
25 equity funds that are used to finance the construction costs of  
26 an improvement to a selling utility's assets by an acquiring  
27 public utility.

28 "Entity." A person, partnership or corporation that is  
29 acquiring a selling utility and has filed or whose affiliate has  
30 filed an application with the commission seeking public utility

1 status pursuant to section 1102.

2 "Fair market value." The average of the two utility  
3 valuation expert appraisals conducted under subsection (a)(2).

4 "Rate-making rate base." The dollar value of a selling  
5 utility which, for postacquisition rate-making purposes, is  
6 incorporated into the rate base of the acquiring public utility  
7 or entity.

8 "Rate stabilization plan." A plan that will hold rates  
9 constant or phase rates in over a period of time after the next  
10 base rate case.

11 "Selling utility." A water or wastewater company located in  
12 this Commonwealth, owned by a municipal corporation or authority  
13 that is being purchased by an acquiring public utility or entity  
14 as the result of a voluntary arm's-length transaction between  
15 the buyer and seller.

16 "Utility valuation expert." A person hired by an acquiring  
17 public utility and selling utility for the purpose of conducting  
18 an economic valuation of the selling utility to determine its  
19 fair market value.]

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