

No. 2017-65

AN ACT

HB 1490

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in rates and distribution systems, further providing for rates to be just and reasonable; and providing for water and sewer authorities in cities of the second class.

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

Section 1. Section 1301 of Title 66 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1301. Rates to be just and reasonable.

*(a) Regulation.*—Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.

*(b) Municipal corporations.*—*In determining a just and reasonable rate furnished or rendered by a municipal corporation or by the operating agencies of a municipal corporation providing public utility water or wastewater service beyond its corporate limits, the commission shall employ an imputed capital structure of comparable public utilities providing water or wastewater service.*

Section 2. Title 66 is amended by adding a chapter to read:

**CHAPTER 32**  
**WATER AND SEWER AUTHORITIES**  
**IN CITIES OF THE**  
**SECOND CLASS**

*Sec.*

*3201. Definitions.*

*3202. Application of provisions of title.*

*3203. Prior tariffs.*

*3204. Tariff filing and compliance plan.*

*3205. Maintenance, repair and replacement of facilities and equipment.*

*3206. Duties of Office of Consumer Advocate and Office of Small Business Advocate.*

*3207. Commission assessment.*

*3208. Power of authority.*

*3209. Proprietary information of authority.*

*§ 3201. Definitions.*

*The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:*

*"Authority." A body politic or corporate established by a city of the second class, except a joint authority established by a city of the second class and a county of the second class, under 53 Pa.C.S. Ch. 56 (relating to municipal authorities), under the former act of June 28, 1935 (P.L.463, No.191), known as the Municipality Authorities Act of one thousand nine hundred and thirty-five, or under the former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, which owns or operates equipment or facilities for any of the following purposes:*

*(1) Diverting, developing, pumping, impounding, distributing or furnishing water to customers for compensation.*

*(2) Wastewater collection, conveyance, treatment or disposal to customers for compensation.*

*(3) Storm water collection, conveyance, treatment and disposal.*

§ 3202. *Application of provisions of title.*

*(a) Application.—The following apply:*

*(1) Beginning on April 1, 2018, unless otherwise provided in this chapter, the provisions of this title, except Chapters 11 (relating to certificates of public convenience) and 21 (relating to relations with affiliated interests), shall apply to an authority in the same manner as a public utility.*

*(2) Notwithstanding paragraph (1), section 1103 (relating to procedure to obtain certificates of public convenience) shall apply to an authority that seeks to acquire, construct or begin to operate any equipment, plant or other facility for the rendering of service beyond the areas served as of the effective date of this section.*

*(b) Exception.—Upon request of an authority, the commission may suspend or waive the applicability of any provision of this title to the authority, except for this section.*

§ 3203. *Prior tariffs.*

*(a) Service.—An authority shall continue to provide service to the authority's customers in accordance with a prior tariff until the effective date of a commission's order approving a new tariff. If the effective date of a commission's order approving a new tariff has been stayed by a court of competent jurisdiction, the prior tariff shall remain in effect until the stay has been dissolved.*

*(b) Disputes or conflicts.—In accordance with section 3208 (relating to power of authority), the commission shall resolve all disputes or conflicts arising under a prior tariff.*

*(c) Definition.—As used in this section, the term "prior tariff" shall mean the tariff, rate schedule and riders incorporated into the tariff, including the terms and conditions or other documents setting forth the rates and terms and conditions of service provided by an authority on the date the commission assumes jurisdiction over the authority.*

§ 3204. *Tariff filing and compliance plan.*

*(a) Filing.—An authority shall file a tariff and supporting data with the commission within 90 days of the effective date of this section. The*

*commission shall conduct a rate proceeding in accordance with the commission's procedures for tariff filings. To the extent practical, public hearings on the tariff filing shall be held within the boundaries of an authority.*

*(b) Compliance plan.—Within 180 days of the effective date of this section, an authority shall file a compliance plan with the commission which shall include provisions to bring an authority's existing information technology, accounting, billing, collection and other operating systems and procedures into compliance with the requirements applicable to jurisdictional water and wastewater utilities under this title and applicable rules, regulations and orders of the commission. The compliance plan shall also include a long-term infrastructure improvement plan in accordance with Subchapter B of Chapter 13 (relating to distribution systems).*

*(c) Commission review.—The commission shall review the compliance plan filed by an authority under subsection (b) and may order the authority to file a new or revised compliance plan if the compliance plan fails to adequately ensure and maintain the provision of adequate, efficient, safe, reliable and reasonable service.*

**§ 3205. Maintenance, repair and replacement of facilities and equipment.**

*(a) Authorization.—The commission may require an authority to maintain, repair and replace facilities and equipment used to provide services under this chapter to ensure that the equipment and facilities comply with section 1501 (relating to character of service and facilities).*

*(b) Petition.—An authority may petition the commission for the establishment of a distribution system improvement charge. An authority which establishes a distribution system improvement charge shall comply with all applicable requirements of Subchapter B of Chapter 13 (relating to distribution systems).*

**§ 3206. Duties of Office of Consumer Advocate and Office of Small Business Advocate.**

*(a) Office of Consumer Advocate.—The Office of Consumer Advocate shall represent the interests of consumers as a party, or otherwise participate for the purpose of representing the interests of consumers, in any matter properly before the commission relating to an authority.*

*(b) Office of Small Business Advocate.—The Office of Small Business Advocate shall represent the interests of consumers as a party, or otherwise participate for the purpose of representing the interests of small business consumers, in any matter properly before the commission relating to an authority.*

*(c) Authorization.—In addition to any other powers conferred upon the Office of Consumer Advocate or Office of Small Business Advocate, the Office of Consumer Advocate or Office of Small Business Advocate may represent an interest of consumers presented to it for consideration, in writing, by a substantial number of individuals who make, direct, use or are the recipients of a product or service provided by an authority.*

**§ 3207. Commission assessment.**

*(a) Sworn statement.—In order to allow the commission to carry out the commission's duties under this chapter, the chairperson, vice*

*chairperson or executive director of an authority shall file, within 30 days of the effective date of this section and on or before March 31 of each year thereafter, a sworn statement which specifies the authority's gross intrastate revenues for the immediately preceding calendar year in the same manner as required under section 510(b) (relating to assessment for regulatory expenses upon public utilities).*

*(b) Billing.—The commission shall make an estimate based on the gross intrastate revenues specified under subsection (a) in accordance with the procedures set forth in section 510(b) and shall impose an assessment on an authority based on the authority's proportional share of the commission's expenses relating to the commission's utility group in accordance with section 510(b). An authority shall pay an assessment on an annual basis in accordance with section 510.*

**§ 3208. Power of authority.**

*(a) Power.—Nothing in this chapter shall be construed to rescind or limit the power of a city of the second class to establish an authority or determine the powers and functions of an authority.*

*(b) Audits.—Nothing in this chapter shall be construed to limit or prevent a city official of a city of the second class from conducting audits and examinations of the financial affairs of an authority in accordance with the city official's duties.*

*(c) Securities of authority.—Notwithstanding any provision in this title to the contrary:*

*(1) The commission shall permit an authority to impose, charge or collect rates or charges as necessary to permit the authority to comply with its covenants to the holders of any bonds or other financial obligations.*

*(2) The commission may not require an authority to take action or omit taking any action under this title if the action or omission would have the effect of causing the interest on tax-exempt bonds or other financial obligations issued by the authority to be includable in the gross income of the holders of the bonds or other financial obligations for Federal income tax purposes.*

*(3) An authority may continue to issue bonds or other financial obligations on behalf of the authority under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) and as otherwise provided by law.*

**§ 3209. Proprietary information of authority.**

*Proprietary information, trade secrets and competitively sensitive information of an authority shall not be public records under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, and shall not be subject to mandatory public disclosure. Nothing in this chapter shall be construed to exempt an authority from providing information to the commission as specified under sections 501 (relating to general powers), 504 (relating to reports by public utilities), 505 (relating to duty to furnish information to commission; cooperation in valuing property) and 506 (relating to inspection of facilities and records) or any other provision of this title which requires information to be provided to the commission.*

Section 3. All acts or parts of acts are repealed insofar as they are inconsistent with this act.

Section 4. This act shall take effect immediately.

APPROVED—The 21st day of December, A.D. 2017

TOM WOLF