



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB4929**

Introduced 2/18/2020, by Rep. David A. Welter

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-306

220 ILCS 5/9-201

220 ILCS 5/9-210.5

from Ch. 111 2/3, par. 9-201

Amends the Public Utilities Act. Provides that additional notice requirements apply for water or sewer utilities with greater than 2,500 total customers (rather than 15,000 total customers). Provides that such water or sewer utilities shall include in a separate bill insert the percentage change from the rate of the customer's previous bill to the rate of the customer's current bill. Provides that water utilities under the jurisdiction of the Illinois Commerce Commission shall not increase water and sewer rates by more than 2.5% annually. Provides that an acquisition of a water or sewer utility shall be paid for by shareholders and not existing ratepayers (rather than charging ratepayers in the tariff group into which the water or sewer utility is to be combined specific rates).

LRB101 19183 SPS 68646 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing  
5 Sections 8-306, 9-201, and 9-210.5 as follows:

6 (220 ILCS 5/8-306)

7 Sec. 8-306. Special provisions relating to water and sewer  
8 utilities.

9 (a) No later than 120 days after the effective date of this  
10 amendatory Act of the 94th General Assembly, the Commission  
11 shall prepare, make available to customers upon request, and  
12 post on its Internet web site information concerning the  
13 service obligations of water and sewer utilities and remedies  
14 that a customer may pursue for a violation of the customer's  
15 rights. The information shall specifically address the rights  
16 of a customer of a water or sewer utility in the following  
17 situations:

18 (1) The customer's water meter is replaced.

19 (2) The customer's bill increases by more than 50%  
20 within one billing period.

21 (3) The customer's water service is terminated.

22 (4) The customer wishes to complain after receiving a  
23 termination of service notice.

1           (5) The customer is unable to make payment on a billing  
2 statement.

3           (6) A rate is filed, including without limitation a  
4 surcharge or annual reconciliation filing, that will  
5 increase the amount billed to the customer.

6           (7) The customer is billed for services provided prior  
7 to the date covered by the billing statement.

8           (8) The customer is due to receive a credit.

9           Each billing statement issued by a water or sewer utility  
10 shall include an Internet web site address where the customer  
11 can view the information required under this subsection (a) and  
12 a telephone number that the customer may call to request a copy  
13 of the information.

14           (b) A water or sewer utility may discontinue service only  
15 after it has mailed or delivered by other means a written  
16 notice of discontinuance substantially in the form of Appendix  
17 A of 83 Ill. Adm. Code 280. The notice must include the  
18 Internet web site address where the customer can view the  
19 information required under subsection (a) and a telephone  
20 number that the customer may call to request a copy of the  
21 information. Any notice required to be delivered or mailed to a  
22 customer prior to discontinuance of service shall be delivered  
23 or mailed separately from any bill. Service shall not be  
24 discontinued until at least 5 days after delivery or 8 days  
25 after the mailing of this notice. Service shall not be  
26 discontinued and shall be restored if discontinued for the

1 reason which is the subject of a dispute or complaint during  
2 the pendency of informal or formal complaint procedures of the  
3 Illinois Commerce Commission under 83 Ill. Adm. Code 280.160 or  
4 280.170, where the customer has complied with those rules.  
5 Service shall not be discontinued and shall be restored if  
6 discontinued where a customer has established a deferred  
7 payment agreement pursuant to 83 Ill. Adm. Code 280.110 and has  
8 not defaulted on such agreement. Residential customers who are  
9 indebted to a utility for past due utility service shall have  
10 the opportunity to make arrangements with the utility to retire  
11 the debt by periodic payments, referred to as a deferred  
12 payment agreement, unless this customer has failed to make  
13 payment under such a plan during the past 12 months. The terms  
14 and conditions of a reasonable deferred payment agreement shall  
15 be determined by the utility after consideration of the  
16 following factors, based upon information available from  
17 current utility records or provided by the customer or  
18 applicant:

- 19 (1) size of the past due account;
- 20 (2) customer or applicant's ability to pay;
- 21 (3) customer or applicant's payment history;
- 22 (4) reason for the outstanding indebtedness; and
- 23 (5) any other relevant factors relating to the  
24 circumstances of the customer or applicant's service.

25 A residential customer shall pay a maximum of one-fourth of the  
26 amount past due and owing at the time of entering into the

1 deferred payment agreement, and the water or sewer utility  
2 shall allow a minimum of 2 months from the date of the  
3 agreement and a maximum of 12 months for payment to be made  
4 under a deferred payment agreement. Late payment charges may be  
5 assessed against the amount owing that is the subject of a  
6 deferred payment agreement.

7 (c) A water or sewer utility shall provide notice as  
8 required by subsection (a) of Section 9-201 after the filing of  
9 each information sheet under a purchased water surcharge,  
10 purchased sewage treatment surcharge, or qualifying  
11 infrastructure plant surcharge. The utility also shall post  
12 notice of the filing in accordance with the requirements of 83  
13 Ill. Adm. Code 255. Unless filed as part of a general rate  
14 increase, notice of the filing of a purchased water surcharge  
15 rider, purchased sewage treatment surcharge rider, or  
16 qualifying infrastructure plant surcharge rider also shall be  
17 given in the manner required by this subsection (c) for the  
18 filing of information sheets.

19 (d) Commission rules pertaining to formal and informal  
20 complaints against public utilities shall apply with full and  
21 equal force to water and sewer utilities and their customers,  
22 including provisions of 83 Ill. Adm. Code 280.170, and the  
23 Commission shall respond to each complaint by providing the  
24 consumer with a copy of the utility's response to the complaint  
25 and a copy of the Commission's review of the complaint and its  
26 findings. The Commission shall also provide the consumer with

1 all available options for recourse.

2 (e) Any refund shown on the billing statement of a customer  
3 of a water or sewer utility must be itemized and must state if  
4 the refund is an adjustment or credit.

5 (f) Water service for building construction purposes. At  
6 the request of any municipality or township within the service  
7 area of a public utility that provides water service to  
8 customers within the municipality or township, a public utility  
9 must (1) require all water service used for building  
10 construction purposes to be measured by meter and subject to  
11 approved rates and charges for metered water service and (2)  
12 prohibit the unauthorized use of water taken from hydrants or  
13 service lines installed at construction sites.

14 (g) Water meters.

15 (1) Periodic testing. Unless otherwise approved by the  
16 Commission, each service water meter shall be periodically  
17 inspected and tested in accordance with the schedule  
18 specified in 83 Ill. Adm. Code 600.340, or more frequently  
19 as the results may warrant, to insure that the meter  
20 accuracy is maintained within the limits set out in 83 Ill.  
21 Adm. Code 600.310.

22 (2) Meter tests requested by customer.

23 (A) Each utility furnishing metered water service  
24 shall, without charge, test the accuracy of any meter  
25 upon request by the customer served by such meter,  
26 provided that the meter in question has not been tested

1 by the utility or by the Commission within 2 years  
2 previous to such request. The customer or his or her  
3 representatives shall have the privilege of witnessing  
4 the test at the option of the customer. A written  
5 report, giving the results of the test, shall be made  
6 to the customer.

7 (B) When a meter that has been in service less than  
8 2 years since its last test is found to be accurate  
9 within the limits specified in 83 Ill. Adm. Code  
10 600.310, the customer shall pay a fee to the utility  
11 not to exceed the amounts specified in 83 Ill. Adm.  
12 Code 600.350(b). Fees for testing meters not included  
13 in this Section or so located that the cost will be out  
14 of proportion to the fee specified will be determined  
15 by the Commission upon receipt of a complete  
16 description of the case.

17 (3) Commission referee tests. Upon written application  
18 to the Commission by any customer, a test will be made of  
19 the customer's meter by a representative of the Commission.  
20 For such a test, a fee as provided for in subsection (g) (2)  
21 shall accompany the application. If the meter is found to  
22 be registering more than 1.5% fast on the average when  
23 tested as prescribed in 83 Ill. Adm. Code 600.310, the  
24 utility shall refund to the customer the amount of the fee.  
25 The utility shall in no way disturb the meter after a  
26 customer has made an application for a referee test until

1 authority to do so is given by the Commission or the  
2 customer in writing.

3 (h) Water and sewer utilities; low usage. Each public  
4 utility that provides water and sewer service must establish a  
5 unit sewer rate, subject to review by the Commission, that  
6 applies only to those customers who use less than 1,000 gallons  
7 of water in any billing period.

8 (i) Water and sewer utilities; separate meters. Each public  
9 utility that provides water and sewer service must offer  
10 separate rates for water and sewer service to any commercial or  
11 residential customer who uses separate meters to measure each  
12 of those services. In order for the separate rate to apply, a  
13 combination of meters must be used to measure the amount of  
14 water that reaches the sewer system and the amount of water  
15 that does not reach the sewer system.

16 (j) Each water or sewer public utility must disclose on  
17 each billing statement any amount billed that is for service  
18 provided prior to the date covered by the billing statement.  
19 The disclosure must include the dates for which the prior  
20 service is being billed. Each billing statement that includes  
21 an amount billed for service provided prior to the date covered  
22 by the billing statement must disclose the dates for which that  
23 amount is billed and must include a copy of the document  
24 created under subsection (a) and a statement of current  
25 Commission rules concerning unbilled or misbilled service.

26 (k) When the customer is due a refund resulting from



1 payment of an overcharge, the utility shall credit the customer  
2 in the amount of overpayment with interest from the date of  
3 overpayment by the customer. The rate for interest shall be at  
4 the appropriate rate determined by the Commission under 83 Ill.  
5 Adm. Code 280.70.

6 (l) Water and sewer public utilities; subcontractors. The  
7 Commission shall adopt rules for water and sewer public  
8 utilities to provide notice to the customers of the proper kind  
9 of identification that a subcontractor must present to the  
10 customer, to prohibit a subcontractor from soliciting or  
11 receiving payment of any kind for any service provided by the  
12 water or sewer public utility or the subcontractor, and to  
13 establish sanctions for violations.

14 (m) Water and sewer public utilities; unaccounted-for  
15 water. By December 31, 2006, each water public utility shall  
16 file tariffs with the Commission to establish the maximum  
17 percentage of unaccounted-for water that would be considered in  
18 the determination of any rates or surcharges. The rates or  
19 surcharges approved for a water public utility shall not  
20 include charges for unaccounted-for water in excess of this  
21 maximum percentage without well-documented support and  
22 justification for the Commission to consider in any request to  
23 recover charges in excess of the tariffed maximum percentage.

24 (n) Rate increases; public forums. When any public utility  
25 providing water or sewer service proposes a general rate  
26 increase, in addition to other notice requirements, the water

1 or sewer public utility must notify its customers of their  
2 right to request a public forum. A customer or group of  
3 customers must make written request to the Commission for a  
4 public forum and must also provide written notification of the  
5 request to the customer's municipal or, for unincorporated  
6 areas, township government. The Commission, at its discretion,  
7 may schedule the public forum. If it is determined that public  
8 forums are required for multiple municipalities or townships,  
9 the Commission shall schedule these public forums, in locations  
10 within approximately 45 minutes drive time of the  
11 municipalities or townships for which the public forums have  
12 been scheduled. The public utility must provide advance notice  
13 of 30 days for each public forum to the governing bodies of  
14 those units of local government affected by the increase. The  
15 day of each public forum shall be selected so as to encourage  
16 the greatest public participation. Each public forum will begin  
17 at 7:00 p.m. Reports and comments made during or as a result of  
18 each public forum must be made available to the hearing  
19 officials and reviewed when drafting a recommended or tentative  
20 decision, finding or order pursuant to Section 10-111 of this  
21 Act.

22 (o) Water utilities under the jurisdiction of the  
23 Commission shall not increase water and sewer rates by more  
24 than 2.5% annually. For purposes of this subsection (o),  
25 "rates" means the Commission-approved rates on January 1, 2020.

26 (Source: P.A. 94-950, eff. 6-27-06.)

1 (220 ILCS 5/9-201) (from Ch. 111 2/3, par. 9-201)

2 Sec. 9-201. (a) Unless the Commission otherwise orders, and  
3 except as otherwise provided in this Section, no change shall  
4 be made by any public utility in any rate or other charge or  
5 classification, or in any rule, regulation, practice or  
6 contract relating to or affecting any rate or other charge,  
7 classification or service, or in any privilege or facility,  
8 except after 45 days' notice to the Commission and to the  
9 public as herein provided. Such notice shall be given by filing  
10 with the Commission and keeping open for public inspection new  
11 schedules or supplements stating plainly the change or changes  
12 to be made in the schedule or schedules then in force, and the  
13 time when the change or changes will go into effect, and by  
14 publication in a newspaper of general circulation or such other  
15 notice to persons affected by such change as may be prescribed  
16 by rule of the Commission. The Commission, for good cause  
17 shown, may allow changes without requiring the 45 days' notice  
18 herein provided for, by an order specifying the changes so to  
19 be made and the time when they shall take effect and the manner  
20 in which they shall be filed and published.

21 When any change is proposed in any rate or other charge, or  
22 classification, or in any rule, regulation, practice, or  
23 contract relating to or affecting any rate or other charge,  
24 classification or service, or in any privilege or facility,  
25 such proposed change shall be plainly indicated on the new

1 schedule filed with the Commission, by some character to be  
2 designated by the Commission, immediately preceding or  
3 following the item.

4 When any public utility providing water or sewer service  
5 proposes any change in any rate or other charge, or  
6 classification, or in any rule, regulation, practice, or  
7 contract relating to or affecting any rate or other charge,  
8 classification or service, or in any privilege or facility,  
9 such utility shall, in addition to the other notice  
10 requirements of this Act, provide notice of such change to all  
11 customers potentially affected by including a notice and  
12 description of such change, and of Commission procedures for  
13 intervention, in the first bill sent to each such customer  
14 after the filing of the proposed change.

15 For water or sewer utilities with greater than 2,500 ~~15,000~~  
16 total customers, the following notice requirements are  
17 applicable, in addition to the other notice requirements of  
18 this Act:

19 (1) As a separate bill insert, an initial notice in the  
20 first bill sent to all customers potentially affected by  
21 the proposed change after the filing of the proposed change  
22 shall include:

23 (A) the approximate date when the change or changes  
24 shall go into effect assuming the Commission utilizes  
25 the 11-month process as described in this Section;

26 (B) a statement indicating that the estimated bill

1 impact may vary based on multiple factors, including,  
2 but not limited to, meter size, usage volume, and the  
3 fire protection district;

4 (C) the water or sewer utility's customer service  
5 number or other number as may be appropriate where an  
6 authorized agent of the water or sewer utility can  
7 explain how the proposed increase might impact an  
8 individual customer's bill;

9 (D) if the proposed change involves a change from a  
10 flat to a volumetric rate, an explanation of volumetric  
11 rate;

12 (E) a reference to the water or sewer utility's  
13 website where customers can find tips on water  
14 conservation; and

15 (F) for customers receiving both water and sewer  
16 service from a utility and if the customer has an  
17 option to install a separate meter for irrigation to  
18 mitigate sewer charges, an explanation of the water and  
19 sewer utility's and the customer's responsibilities  
20 for installation of a separate meter if such a change  
21 is approved.

22 (G) the percentage change from the rate of the  
23 customer's previous bill to the rate of the customer's  
24 current bill.

25 (2) A second notice to all customers shall be included  
26 on the first bill after the Commission suspends the tariffs

1 initiating the rate case.

2 (3) Final notice of such change shall be sent to all  
3 customers potentially affected by the proposed change by  
4 including information required under this paragraph (3)  
5 with the first bill after the effective date of the rates  
6 approved by the Final Order of the Commission in a rate  
7 case. The notice shall include the following:

8 (A) the date when the change or changes went into  
9 effect;

10 (B) the water or sewer utility's customer service  
11 number or other number as may be appropriate where an  
12 authorized agent of the water or sewer utility can  
13 explain how the proposed increase might impact an  
14 individual customer's bill;

15 (C) an explanation that usage shall now be charged  
16 at a volumetric rate rather than a flat rate, if  
17 applicable;

18 (D) a reference to the water or sewer utility's  
19 website where the customer can find tips on water  
20 conservation; and

21 (E) for customers receiving both water and sewer  
22 service from a utility and if the customer has an  
23 option to install a separate meter for irrigation to  
24 mitigate sewer charges, an explanation of the water and  
25 sewer utility's and the customer's responsibilities  
26 for installation of a separate meter if such a change

1 is approved.

2 (4) In each notice provided to a customer, the water or  
3 sewer utility shall include the phone number and website  
4 information for the Citizens Utility Board and the Consumer  
5 Services Division of the Commission with instructions on  
6 how to dispute or file a complaint relating to a rate  
7 increase.

8 (b) Whenever there shall be filed with the Commission any  
9 schedule stating an individual or joint rate or other charge,  
10 classification, contract, practice, rule or regulation, the  
11 Commission shall have power, and it is hereby given authority,  
12 either upon complaint or upon its own initiative without  
13 complaint, at once, and if it so orders, without answer or  
14 other formal pleadings by the interested public utility or  
15 utilities, but upon reasonable notice, to enter upon a hearing  
16 concerning the propriety of such rate or other charge,  
17 classification, contract, practice, rule or regulation, and  
18 pending the hearing and decision thereon, such rate or other  
19 charge, classification, contract, practice, rule or regulation  
20 shall not go into effect. The period of suspension of such rate  
21 or other charge, classification, contract, practice, rule or  
22 regulation shall not extend more than 105 days beyond the time  
23 when such rate or other charge, classification, contract,  
24 practice, rule or regulation would otherwise go into effect  
25 unless the Commission, in its discretion, extends the period of  
26 suspension for a further period not exceeding 6 months.

1 All rates or other charges, classifications, contracts,  
2 practices, rules or regulations not so suspended shall, on the  
3 expiration of 45 days from the time of filing the same with the  
4 Commission, or of such lesser time as the Commission may grant,  
5 go into effect and be the established and effective rates or  
6 other charges, classifications, contracts, practices, rules  
7 and regulations, subject to the power of the Commission, after  
8 a hearing had on its own motion or upon complaint, as herein  
9 provided, to alter or modify the same.

10 Within 30 days after such changes have been authorized by  
11 the Commission, copies of the new or revised schedules shall be  
12 posted or filed in accordance with the terms of Section 9-103  
13 of this Act, in such a manner that all changes shall be plainly  
14 indicated. The Commission shall incorporate into the period of  
15 suspension a review period of 4 business days during which the  
16 Commission may review and determine whether the new or revised  
17 schedules comply with the Commission's decision approving a  
18 change to the public utility's rates. Such review period shall  
19 not extend the suspension period by more than 2 days. Absent  
20 notification to the contrary within the 4 business day period,  
21 the new or revised schedules shall be deemed approved.

22 (c) If the Commission enters upon a hearing concerning the  
23 propriety of any proposed rate or other charge, classification,  
24 contract, practice, rule or regulation, the Commission shall  
25 establish the rates or other charges, classifications,  
26 contracts, practices, rules or regulations proposed, in whole



1 or in part, or others in lieu thereof, which it shall find to  
2 be just and reasonable. In such hearing, the burden of proof to  
3 establish the justness and reasonableness of the proposed rates  
4 or other charges, classifications, contracts, practices, rules  
5 or regulations, in whole and in part, shall be upon the  
6 utility. The utility, the staff of the Commission, the Attorney  
7 General, or any party to a proceeding initiated under this  
8 Section who has been granted intervenor status and submitted a  
9 post-hearing brief must be given the opportunity to present  
10 oral argument, if requested no later than the date for filing  
11 exceptions, on the propriety of any proposed rate or other  
12 charge, classification, contract, practice, rule, or  
13 regulation. No rate or other charge, classification, contract,  
14 practice, rule or regulation shall be found just and reasonable  
15 unless it is consistent with Sections of this Article.

16 (d) Except where compliance with Section 8-401 of this Act  
17 is of urgent and immediate concern, no representative of a  
18 public utility may discuss with a commissioner, commissioner's  
19 assistant, or administrative law judge in a non-public setting  
20 a planned filing for a general rate increase. If a public  
21 utility makes a filing under this Section, then no substantive  
22 communication by any such person with a commissioner,  
23 commissioner's assistant, or administrative law judge  
24 concerning the filing is permitted until a notice of hearing  
25 has been issued. After the notice of hearing has been issued,  
26 the only communications by any such person with a commissioner,

1 commissioner's assistant, or administrative law judge  
2 concerning the filing permitted are communications permitted  
3 under Section 10-103 of this Act. If any such communication  
4 does occur, then within 5 days of the docket being initiated  
5 all details relating to the communication shall be placed on  
6 the public record of the proceeding. The record shall include  
7 any materials, whether written, recorded, filmed, or graphic in  
8 nature, produced or reproduced on any media, used in connection  
9 with the communication. The record shall reflect the names of  
10 all persons who transmitted, received, or were otherwise  
11 involved in the communication, the duration of the  
12 communication, and whether the communication occurred in  
13 person or by other means. In the case of an oral communication,  
14 the record shall also reflect the location or locations of all  
15 persons involved in the communication and, if the communication  
16 occurred by telephone, the telephone numbers for the callers  
17 and recipients of the communication. A commissioner,  
18 commissioner's assistant, or administrative law judge who is  
19 involved in any such communication shall be recused from the  
20 affected proceeding. The Commission, or any commissioner or  
21 administrative law judge presiding over the proceeding shall,  
22 in the event of a violation of this Section, take action  
23 necessary to ensure that such violation does not prejudice any  
24 party or adversely affect the fairness of the proceedings  
25 including dismissing the affected proceeding. Nothing in this  
26 subsection (d) is intended to preclude otherwise allowable

1 updates on issues that may be indirectly related to a general  
2 rate case filing because cost recovery for the underlying  
3 activity may be requested. Such updates may include, without  
4 limitation, issues related to outages and restoration, credit  
5 ratings, security issuances, reliability, Federal Energy  
6 Regulatory Commission matters, Federal Communications  
7 Commission matters, regional reliability organizations,  
8 consumer education, or labor matters, provided that such  
9 updates may not include cost recovery in a planned rate case.

10 (Source: P.A. 100-840, eff. 8-13-18.)

11 (220 ILCS 5/9-210.5)

12 (Section scheduled to be repealed on June 1, 2028)

13 Sec. 9-210.5. Valuation of water and sewer utilities.

14 (a) In this Section:

15 "Disinterested" means that the person directly  
16 involved (1) is not a director, officer, or an employee of  
17 the large public utility or the water or sewer utility or  
18 its direct affiliates or subsidiaries for at least 12  
19 months before becoming engaged under this Section; (2)  
20 shall not derive a material financial benefit from the sale  
21 of the water or sewer utility other than fees for services  
22 rendered, and (3) shall not have a member of the person's  
23 immediate family, including a spouse, parents or spouse's  
24 parents, children or spouses of children, or siblings and  
25 their spouses or children, be a director, officer, or

1 employee of either the large public utility or water or  
2 sewer utility or the water or sewer utility or its direct  
3 affiliates or subsidiaries for at least 12 months before  
4 becoming engaged under this Section or receive a material  
5 financial benefit from the sale of the water or sewer  
6 utility other than fees for services rendered.

7 "District" means a service area of a large public  
8 utility whose customers are subject to the same rate  
9 tariff.

10 "Large public utility" means an investor-owned public  
11 utility that:

12 (1) is subject to regulation by the Illinois  
13 Commerce Commission under this Act;

14 (2) regularly provides water or sewer service to  
15 more than 30,000 customer connections;

16 (3) provides safe and adequate service; and

17 (4) is not a water or sewer utility as defined in  
18 this subsection (a).

19 "Next rate case" means a large public utility's first  
20 general rate case after the date the large public utility  
21 acquires the water or sewer utility where the acquired  
22 water or sewer utility's cost of service is considered as  
23 part of determining the large public utility's resulting  
24 rates.

25 "Prior rate case" means a large public utility's  
26 general rate case resulting in the rates in effect for the

1 large public utility at the time it acquires the water or  
2 sewer utility.

3 "Utility service source" means the water or sewer  
4 utility or large public utility from which the customer  
5 receives its utility service type.

6 "Utility service type" means water utility service or  
7 sewer utility service or water and sewer utility service.

8 "Water or sewer utility" means any of the following:

9 (1) a public utility that regularly provides water  
10 or sewer service to 6,000 or fewer customer  
11 connections;

12 (2) a water district, including, but not limited  
13 to, a public water district, water service district, or  
14 surface water protection district, or a sewer district  
15 of any kind established as a special district under the  
16 laws of this State that regularly provides water or  
17 sewer service;

18 (3) a waterworks system or sewerage system  
19 established under the Township Code that regularly  
20 provides water or sewer service; or

21 (4) a water system or sewer system owned by a  
22 municipality that regularly provides water or sewer  
23 service; and

24 (5) any other entity that is not a public utility  
25 that regularly provides water or sewer service.

26 (b) Notwithstanding any other provision of this Act, a

1 large public utility that acquires a water or sewer utility may  
2 request that the Commission use, and, if so requested, the  
3 Commission shall use, the procedures set forth under this  
4 Section to establish the ratemaking rate base of that water or  
5 sewer utility at the time when it is acquired by the large  
6 public utility.

7 (c) If a large public utility elects the procedures under  
8 this Section to establish the rate base of a water or sewer  
9 utility that it is acquiring, then 3 appraisals shall be  
10 performed. The average of these 3 appraisals shall represent  
11 the fair market value of the water or sewer utility that is  
12 being acquired. The appraisals shall be performed by 3  
13 appraisers approved by the Commission's Executive Director or  
14 designee and engaged by either the water or sewer utility being  
15 acquired or by the large public utility. Each appraiser shall  
16 be engaged on reasonable terms approved by the Commission. Each  
17 appraiser shall be a disinterested person licensed as a State  
18 certified general real estate appraiser under the Real Estate  
19 Appraiser Licensing Act of 2002.

20 Each appraiser shall:

21 (1) be sworn to determine the fair market value of the  
22 water or sewer utility by establishing the amount for which  
23 the water or sewer utility would be sold in a voluntary  
24 transaction between a willing buyer and willing seller  
25 under no obligation to buy or sell;

26 (2) determine fair market value in compliance with the

1 Uniform Standards of Professional Appraisal Practice;

2 (3) engage one disinterested engineer who is licensed  
3 in this State, and who may be the same engineer that is  
4 engaged by the other appraisers, to prepare an assessment  
5 of the tangible assets of the water or sewer utility, which  
6 is to be incorporated into the appraisal under the cost  
7 approach;

8 (4) request from the manager of the Accounting  
9 Department, if the water or sewer utility is a public  
10 utility that is regulated by the Commission, a list of  
11 investments made by the water or sewer utility that had  
12 been disallowed previously and that shall be excluded from  
13 the calculation of the large public utility's rate base in  
14 its next rate case; and

15 (5) return their appraisal, in writing, to the water or  
16 sewer utility and large public utility in a reasonable and  
17 timely manner.

18 If the appraiser cannot engage an engineer, as described in  
19 paragraph (3) of this subsection (c), within 30 days after the  
20 appraiser is engaged, then the Commission's Executive Director  
21 or designee shall recommend the engineer the appraiser should  
22 engage. The Commission's Executive Director or designee shall  
23 provide his or her recommendation within 30 days after he or  
24 she is officially notified of the appraiser's failure to engage  
25 an engineer and the appraiser shall promptly work to engage the  
26 recommended engineer. If the appraiser is unable to negotiate

1 reasonable engagement terms with the recommended engineer  
2 within 15 days after the recommendation by the Commission's  
3 Executive Director or designee, then the appraiser shall notify  
4 the Commission's Executive Director or designee and the process  
5 shall be repeated until an engineer is successfully engaged.

6 (d) The lesser of (i) the purchase price or (ii) the fair  
7 market value determined under subsection (c) of this Section  
8 shall constitute the rate base associated with the water or  
9 sewer utility as acquired by and incorporated into the rate  
10 base of the district designated by the acquiring large public  
11 utility under this Section, subject to any adjustments that the  
12 Commission deems necessary to ensure such rate base reflects  
13 prudent and useful investments in the provision of public  
14 utility service. The reasonable transaction and closing costs  
15 incurred by the large public utility shall be treated  
16 consistent with the applicable accounting standards under this  
17 Act. The total amount of all of the appraisers' fees to be  
18 included in the transaction and closing costs shall not exceed  
19 the greater of \$15,000 or 5% of the appraised value of the  
20 water or sewer utility being acquired. This rate base treatment  
21 shall not be deemed to violate this Act, including, but not  
22 limited to, any Sections in Articles VIII and IX of this Act  
23 that might be affected by this Section. Any acquisition of a  
24 water or sewer utility shall be paid for by shareholders and  
25 not existing ratepayers ~~that affects the cumulative base rates~~  
26 ~~of the large public utility's existing ratepayers in the tariff~~



1 ~~group into which the water or sewer utility is to be combined~~  
2 ~~by less than (1) 2.5% at the time of the acquisition for any~~  
3 ~~single acquisition completed under this Section or (2) 5% for~~  
4 ~~all acquisitions completed under this Section before the~~  
5 ~~Commission's final order in the next rate case shall not be~~  
6 ~~deemed to violate Section 7-204 or any other provision of this~~  
7 ~~Act.~~

8 In the Commission's order that approves the large public  
9 utility's acquisition of the water or sewer utility, the  
10 Commission shall issue its decision establishing (1) the  
11 ratemaking rate base of the water or sewer utility; (2) the  
12 district or tariff group with which the water or sewer utility  
13 shall be combined for ratemaking purposes, if such combination  
14 has been proposed by the large public utility; and (3) the  
15 rates to be charged to customers in the water or sewer utility.

16 (e) If the water or sewer utility being acquired is owned  
17 by the State or any political subdivision thereof, then the  
18 water or sewer utility must inform the public of the terms of  
19 its acquisition by the large public utility by (1) holding a  
20 public meeting prior to the acquisition and (2) causing to be  
21 published, in a newspaper of general circulation in the area  
22 that the water or sewer utility operates, a notice setting  
23 forth the terms of its acquisition by the large public utility  
24 and options that shall be available to assist customers to pay  
25 their bills after the acquisition.

26 (f) The large public utility may recommend the district or

1 tariff group of which the water or sewer utility shall, for  
2 ratemaking purposes, become a part after the acquisition, or  
3 may recommend a lesser rate for the water or sewer utility. If  
4 the large public utility recommends a lesser rate, it shall  
5 submit to the Commission its proposed rate schedule and the  
6 proposed final tariff group for the acquired water or sewer  
7 utility. The Commission's approved district or tariff group or  
8 rates shall be consistent with the large public utility's  
9 recommendation, unless such recommendation can be shown to be  
10 contrary to the public interest.

11 (g) From the date of acquisition until the date that new  
12 rates are effective in the acquiring large public utility's  
13 next rate case, the customers of the acquired water or sewer  
14 utility shall pay the approved then-existing rates of the  
15 district or tariff group as ordered by the Commission, or some  
16 lesser rates as recommended by the large public utility and  
17 approved by the Commission under subsection (f); provided,  
18 that, if the application of such rates of the large public  
19 utility to customers of the acquired water or sewer utility  
20 using 54,000 gallons annually results in an increase to the  
21 total annual bill of customers of the acquired water or sewer  
22 utility, exclusive of fire service or related charges, then the  
23 large public utility's rates charged to the customers of the  
24 acquired water or sewer utility shall be uniformly reduced, if  
25 any reduction is required, by the percent that results in the  
26 total annual bill, exclusive of fire services or related

1 charges, for the customers of the acquired water or sewer  
2 utility using 54,000 gallons being equal to 1.5% of the latest  
3 median household income as reported by the United States Census  
4 Bureau for the most applicable community or county. For each  
5 customer of the water or sewer utility with potable water usage  
6 values that cannot be reasonably obtained, a value of 4,500  
7 gallons per month shall be assigned. These rates shall not be  
8 deemed to violate this Act including, but not limited to,  
9 Section 9-101 and any other applicable Sections in Articles  
10 VIII and IX of this Act. The Commission shall issue its  
11 decision establishing the rates effective for the water or  
12 sewer utility immediately following an acquisition in its order  
13 approving the acquisition.

14 (h) In the acquiring large public utility's next rate case,  
15 the water or sewer utility and the district or tariff group  
16 ordered by the Commission and their costs of service may be  
17 combined under the same rate tariff. This rate tariff shall be  
18 based on allocation of costs of service of the acquired water  
19 or sewer utility and the large public utility's district or  
20 tariff group ordered by the Commission and utilizing a rate  
21 design that does not distinguish among customers on the basis  
22 of utility service source or type. This rate tariff shall not  
23 be deemed to violate this Act including, but not limited to,  
24 Section 9-101 of this Act. In the acquiring large public  
25 utility's 2 rate cases after an acquisition, but in no  
26 subsequent rate case, the large public utility may file a rate

1 tariff for a water or sewer utility acquired under this Section  
2 that establishes lesser rates than the district or tariff group  
3 into which the water or sewer utility is to be combined. Those  
4 lesser rates shall not be deemed to violate Section 7-204 or  
5 any other provision of this Act if they affect the cumulative  
6 base rates of the large public utility's existing rate payers  
7 in the district or tariff by less than 2.5%.

8 (i) Any post-acquisition improvements made by the large  
9 public utility in the water or sewer utility shall accrue a  
10 cost for financing set at the large public utility's determined  
11 rate for allowance for funds used during construction,  
12 inclusive of the debt, equity, and income tax gross up  
13 components, after the date on which the expenditure was  
14 incurred by the large public utility until the investment has  
15 been in service for a 4-year period or, if sooner, until the  
16 time the rates are implemented in the large public utility's  
17 next rate case.

18 Any post-acquisition improvements made by the large public  
19 utility in the water or sewer utility shall not be depreciated  
20 for ratemaking purposes from the date on which the expenditure  
21 was incurred by the large public utility until the investment  
22 has been in service for a 4-year period or, if sooner, until  
23 the time the rates are implemented in the large public  
24 utility's next rate case.

25 (j) This Section shall be exclusively applied to large  
26 public utilities in the voluntary and mutually agreeable

1 acquisition of water or sewer utilities. Any petitions filed  
2 with the Commission related to the acquisitions described in  
3 this Section, including petitions seeking approvals or  
4 certificates required by this Act, shall be deemed approved  
5 unless the Commission issues its final order within 11 months  
6 after the date the large public utility filed its initial  
7 petition. This Section shall only apply to utilities providing  
8 water or sewer service and shall not be construed in any manner  
9 to apply to electric corporations, natural gas corporations, or  
10 any other utility subject to this Act.

11 (k) Nothing in this Section shall prohibit a party from  
12 declining to proceed with an acquisition or be deemed as  
13 establishing the final purchase price of an acquisition.

14 (l) In the Commission's order that approves the large  
15 utility's acquisition of the water or sewer utility, the  
16 Commission shall address each aspect of the acquisition  
17 transaction for which approval is required under the Act.

18 (m) Any contractor or subcontractor that performs work on a  
19 water or sewer utility acquired by a large public utility under  
20 this Section shall be a responsible bidder as described in  
21 Section 30-22 of the Illinois Procurement Code. The contractor  
22 or subcontractor shall submit evidence of meeting the  
23 requirements to be a responsible bidder as described in Section  
24 30-22 to the water or sewer utility. Any new water or sewer  
25 facility built as a result of the acquisition shall require the  
26 contractor to enter into a project labor agreement. The large

1 public utility acquiring the water or sewer utility shall offer  
2 employee positions to qualified employees of the acquired water  
3 or sewer utility.

4 (n) This Section is repealed on June 1, 2028.

5 (Source: P.A. 100-751, eff. 8-10-18; 100-1151, eff. 6-1-19.)