



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4541**

Introduced 1/21/2022, 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).

LRB102 23678 SPS 32861 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  
2           billing 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)  
12          and a telephone number that the customer may call to request a  
13          copy 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  
22          a customer prior to discontinuance of service shall be  
23          delivered or mailed separately from any bill. Service shall  
24          not be discontinued until at least 5 days after delivery or 8  
25          days 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  
4 or 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  
8 has not defaulted on such agreement. Residential customers who  
9 are indebted to a utility for past due utility service shall  
10 have the opportunity to make arrangements with the utility to  
11 retire the debt by periodic payments, referred to as a  
12 deferred payment agreement, unless this customer has failed to  
13 make payment under such a plan during the past 12 months. The  
14 terms and conditions of a reasonable deferred payment  
15 agreement shall be determined by the utility after  
16 consideration of the following factors, based upon information  
17 available from current utility records or provided by the  
18 customer or 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  
26 the 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  
5 be 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  
9 of 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  
25 complaint and a copy of the Commission's review of the  
26 complaint and its findings. The Commission shall also provide

1 the consumer with all available options for recourse.

2 (e) Any refund shown on the billing statement of a  
3 customer of a water or sewer utility must be itemized and must  
4 state if 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  
9 utility 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  
21 Ill. 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

1 tested by the utility or by the Commission within 2  
2 years previous to such request. The customer or his or  
3 her representatives shall have the privilege of  
4 witnessing the test at the option of the customer. A  
5 written report, giving the results of the test, shall  
6 be made 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  
20 Commission. For such a test, a fee as provided for in  
21 subsection (g)(2) shall accompany the application. If the  
22 meter is found to be registering more than 1.5% fast on the  
23 average when tested as prescribed in 83 Ill. Adm. Code  
24 600.310, the utility shall refund to the customer the  
25 amount of the fee. The utility shall in no way disturb the  
26 meter after a customer has made an application for a

1 referee test until authority to do so is given by the  
2 Commission or the 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  
7 gallons of water in any billing period.

8 (i) Water and sewer utilities; separate meters. Each  
9 public utility that provides water and sewer service must  
10 offer separate rates for water and sewer service to any  
11 commercial or residential customer who uses separate meters to  
12 measure each of those services. In order for the separate rate  
13 to apply, a combination of meters must be used to measure the  
14 amount of water that reaches the sewer system and the amount of  
15 water 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  
22 covered by the billing statement must disclose the dates for  
23 which that amount is billed and must include a copy of the  
24 document created under subsection (a) and a statement of  
25 current Commission rules concerning unbilled or misbilled  
26 service.



1           (k) When the customer is due a refund resulting from  
2 payment of an overcharge, the utility shall credit the  
3 customer in the amount of overpayment with interest from the  
4 date of overpayment by the customer. The rate for interest  
5 shall be at the appropriate rate determined by the Commission  
6 under 83 Ill. Adm. Code 280.70.

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

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

25           (n) Rate increases; public forums. When any public utility  
26 providing water or sewer service proposes a general rate

1 increase, in addition to other notice requirements, the water  
2 or sewer public utility must notify its customers of their  
3 right to request a public forum. A customer or group of  
4 customers must make written request to the Commission for a  
5 public forum and must also provide written notification of the  
6 request to the customer's municipal or, for unincorporated  
7 areas, township government. The Commission, at its discretion,  
8 may schedule the public forum. If it is determined that public  
9 forums are required for multiple municipalities or townships,  
10 the Commission shall schedule these public forums, in  
11 locations within approximately 45 minutes drive time of the  
12 municipalities or townships for which the public forums have  
13 been scheduled. The public utility must provide advance notice  
14 of 30 days for each public forum to the governing bodies of  
15 those units of local government affected by the increase. The  
16 day of each public forum shall be selected so as to encourage  
17 the greatest public participation. Each public forum will  
18 begin at 7:00 p.m. Reports and comments made during or as a  
19 result of each public forum must be made available to the  
20 hearing officials and reviewed when drafting a recommended or  
21 tentative decision, finding or order pursuant to Section  
22 10-111 of this Act.

23 (o) Water utilities under the jurisdiction of the  
24 Commission shall not increase water and sewer rates by more  
25 than 2.5% annually. For purposes of this subsection, "rates"  
26 means the Commission-approved rates on January 1, 2022.

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

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

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

23 When any change is proposed in any rate or other charge, or  
24 classification, or in any rule, regulation, practice, or  
25 contract relating to or affecting any rate or other charge,

1 classification or service, or in any privilege or facility,  
2 such proposed change shall be plainly indicated on the new  
3 schedule filed with the Commission, by some character to be  
4 designated by the Commission, immediately preceding or  
5 following the item.

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

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

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

25 (A) the approximate date when the change or  
26 changes shall go into effect assuming the Commission

1 utilizes the 11-month process as described in this  
2 Section;

3 (B) a statement indicating that the estimated bill  
4 impact may vary based on multiple factors, including,  
5 but not limited to, meter size, usage volume, and the  
6 fire protection district;

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

12 (D) if the proposed change involves a change from  
13 a flat to a volumetric rate, an explanation of  
14 volumetric rate;

15 (E) a reference to the water or sewer utility's  
16 website where customers can find tips on water  
17 conservation; ~~and~~

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

25 (G) the percentage change from the rate of the  
26 customer's previous bill to the rate of the customer's

1           current bill.

2           (2) A second notice to all customers shall be included  
3           on the first bill after the Commission suspends the  
4           tariffs initiating the rate case.

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

11                 (A) the date when the change or changes went into  
12                 effect;

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

18                 (C) an explanation that usage shall now be charged  
19                 at a volumetric rate rather than a flat rate, if  
20                 applicable;

21                 (D) a reference to the water or sewer utility's  
22                 website where the customer can find tips on water  
23                 conservation; and

24                 (E) for customers receiving both water and sewer  
25                 service from a utility and if the customer has an  
26                 option to install a separate meter for irrigation to

1 mitigate sewer charges, an explanation of the water  
2 and sewer utility's and the customer's  
3 responsibilities for installation of a separate meter  
4 if such a change is approved.

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

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

1 practice, rule or regulation would otherwise go into effect  
2 unless the Commission, in its discretion, extends the period  
3 of suspension for a further period not exceeding 6 months.

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

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

26 (c) If the Commission enters upon a hearing concerning the



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

21 (d) Except where compliance with Section 8-401 of this Act  
22 is of urgent and immediate concern, no representative of a  
23 public utility may discuss with a commissioner, commissioner's  
24 assistant, or administrative law judge in a non-public setting  
25 a planned filing for a general rate increase. If a public  
26 utility makes a filing under this Section, then no substantive

1 communication by any such person with a commissioner,  
2 commissioner's assistant, or administrative law judge  
3 concerning the filing is permitted until a notice of hearing  
4 has been issued. After the notice of hearing has been issued,  
5 the only communications by any such person with a  
6 commissioner, commissioner's assistant, or administrative law  
7 judge concerning the filing permitted are communications  
8 permitted under Section 10-103 of this Act. If any such  
9 communication does occur, then within 5 days of the docket  
10 being initiated all details relating to the communication  
11 shall be placed on the public record of the proceeding. The  
12 record shall include any materials, whether written, recorded,  
13 filmed, or graphic in nature, produced or reproduced on any  
14 media, used in connection with the communication. The record  
15 shall reflect the names of all persons who transmitted,  
16 received, or were otherwise involved in the communication, the  
17 duration of the communication, and whether the communication  
18 occurred in person or by other means. In the case of an oral  
19 communication, the record shall also reflect the location or  
20 locations of all persons involved in the communication and, if  
21 the communication occurred by telephone, the telephone numbers  
22 for the callers and recipients of the communication. A  
23 commissioner, commissioner's assistant, or administrative law  
24 judge who is involved in any such communication shall be  
25 recused from the affected proceeding. The Commission, or any  
26 commissioner or administrative law judge presiding over the

1 proceeding shall, in the event of a violation of this Section,  
2 take action necessary to ensure that such violation does not  
3 prejudice any party or adversely affect the fairness of the  
4 proceedings including dismissing the affected proceeding.  
5 Nothing in this subsection (d) is intended to preclude  
6 otherwise allowable updates on issues that may be indirectly  
7 related to a general rate case filing because cost recovery  
8 for the underlying activity may be requested. Such updates may  
9 include, without limitation, issues related to outages and  
10 restoration, credit ratings, security issuances, reliability,  
11 Federal Energy Regulatory Commission matters, Federal  
12 Communications Commission matters, regional reliability  
13 organizations, consumer education, or labor matters, provided  
14 that such updates may not include cost recovery in a planned  
15 rate case.

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

17 (220 ILCS 5/9-210.5)

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

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

20 (a) In this Section:

21 "Disinterested" means that the person directly  
22 involved (1) is not a director, officer, or an employee of  
23 the large public utility or the water or sewer utility or  
24 its direct affiliates or subsidiaries for at least 12  
25 months before becoming engaged under this Section; (2)

1 shall not derive a material financial benefit from the  
2 sale of the water or sewer utility other than fees for  
3 services rendered, and (3) shall not have a member of the  
4 person's immediate family, including a spouse, parents or  
5 spouse's parents, children or spouses of children, or  
6 siblings and their spouses or children, be a director,  
7 officer, or employee of either the large public utility or  
8 water or sewer utility or the water or sewer utility or its  
9 direct affiliates or subsidiaries for at least 12 months  
10 before becoming engaged under this Section or receive a  
11 material financial benefit from the sale of the water or  
12 sewer utility other than fees for services rendered.

13 "District" means a service area of a large public  
14 utility whose customers are subject to the same rate  
15 tariff.

16 "Large public utility" means an investor-owned public  
17 utility that:

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

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

22 (3) provides safe and adequate service; and

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

25 "Next rate case" means a large public utility's first  
26 general rate case after the date the large public utility

1 acquires the water or sewer utility where the acquired  
2 water or sewer utility's cost of service is considered as  
3 part of determining the large public utility's resulting  
4 rates.

5 "Prior rate case" means a large public utility's  
6 general rate case resulting in the rates in effect for the  
7 large public utility at the time it acquires the water or  
8 sewer utility.

9 "Utility service source" means the water or sewer  
10 utility or large public utility from which the customer  
11 receives its utility service type.

12 "Utility service type" means water utility service or  
13 sewer utility service or water and sewer utility service.

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

15 (1) a public utility that regularly provides water  
16 or sewer service to 6,000 or fewer customer  
17 connections;

18 (2) a water district, including, but not limited  
19 to, a public water district, water service district,  
20 or surface water protection district, or a sewer  
21 district of any kind established as a special district  
22 under the laws of this State that regularly provides  
23 water or sewer service;

24 (3) a waterworks system or sewerage system  
25 established under the Township Code that regularly  
26 provides water or sewer service; or

1           (4) a water system or sewer system owned by a  
2           municipality that regularly provides water or sewer  
3           service; and

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

6           (b) Notwithstanding any other provision of this Act, a  
7           large public utility that acquires a water or sewer utility  
8           may request that the Commission use, and, if so requested, the  
9           Commission shall use, the procedures set forth under this  
10          Section to establish the ratemaking rate base of that water or  
11          sewer utility at the time when it is acquired by the large  
12          public utility.

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

26          Each appraiser shall:

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

6           (2) determine fair market value in compliance with the  
7 Uniform Standards of Professional Appraisal Practice;

8           (3) engage one disinterested engineer who is licensed  
9 in this State, and who may be the same engineer that is  
10 engaged by the other appraisers, to prepare an assessment  
11 of the tangible assets of the water or sewer utility,  
12 which is to be incorporated into the appraisal under the  
13 cost approach;

14           (4) request from the manager of the Accounting  
15 Department, if the water or sewer utility is a public  
16 utility that is regulated by the Commission, a list of  
17 investments made by the water or sewer utility that had  
18 been disallowed previously and that shall be excluded from  
19 the calculation of the large public utility's rate base in  
20 its next rate case; and

21           (5) return their appraisal, in writing, to the water  
22 or sewer utility and large public utility in a reasonable  
23 and timely manner.

24           If the appraiser cannot engage an engineer, as described  
25 in paragraph (3) of this subsection (c), within 30 days after  
26 the appraiser is engaged, then the Commission's Executive

1 Director or designee shall recommend the engineer the  
2 appraiser should engage. The Commission's Executive Director  
3 or designee shall provide his or her recommendation within 30  
4 days after he or she is officially notified of the appraiser's  
5 failure to engage an engineer and the appraiser shall promptly  
6 work to engage the recommended engineer. If the appraiser is  
7 unable to negotiate reasonable engagement terms with the  
8 recommended engineer within 15 days after the recommendation  
9 by the Commission's Executive Director or designee, then the  
10 appraiser shall notify the Commission's Executive Director or  
11 designee and the process shall be repeated until an engineer  
12 is successfully engaged.

13 (d) The lesser of (i) the purchase price or (ii) the fair  
14 market value determined under subsection (c) of this Section  
15 shall constitute the rate base associated with the water or  
16 sewer utility as acquired by and incorporated into the rate  
17 base of the district designated by the acquiring large public  
18 utility under this Section, subject to any adjustments that  
19 the Commission deems necessary to ensure such rate base  
20 reflects prudent and useful investments in the provision of  
21 public utility service. The reasonable transaction and closing  
22 costs incurred by the large public utility shall be treated  
23 consistent with the applicable accounting standards under this  
24 Act. The total amount of all of the appraisers' fees to be  
25 included in the transaction and closing costs shall not exceed  
26 the greater of \$15,000 or 5% of the appraised value of the



1 water or sewer utility being acquired. This rate base  
2 treatment shall not be deemed to violate this Act, including,  
3 but not limited to, any Sections in Articles VIII and IX of  
4 this Act that might be affected by this Section. Any  
5 acquisition of a water or sewer utility shall be paid for by  
6 shareholders and not existing ratepayers ~~that affects the~~  
7 ~~cumulative base rates of the large public utility's existing~~  
8 ~~ratepayers in the tariff group into which the water or sewer~~  
9 ~~utility is to be combined by less than (1) 2.5% at the time of~~  
10 ~~the acquisition for any single acquisition completed under~~  
11 ~~this Section or (2) 5% for all acquisitions completed under~~  
12 ~~this Section before the Commission's final order in the next~~  
13 ~~rate case shall not be deemed to violate Section 7-204 or any~~  
14 ~~other provision of this Act.~~

15 In the Commission's order that approves the large public  
16 utility's acquisition of the water or sewer utility, the  
17 Commission shall issue its decision establishing (1) the  
18 ratemaking rate base of the water or sewer utility; (2) the  
19 district or tariff group with which the water or sewer utility  
20 shall be combined for ratemaking purposes, if such combination  
21 has been proposed by the large public utility; and (3) the  
22 rates to be charged to customers in the water or sewer utility.

23 (e) If the water or sewer utility being acquired is owned  
24 by the State or any political subdivision thereof, then the  
25 water or sewer utility must inform the public of the terms of  
26 its acquisition by the large public utility by (1) holding a

1 public meeting prior to the acquisition and (2) causing to be  
2 published, in a newspaper of general circulation in the area  
3 that the water or sewer utility operates, a notice setting  
4 forth the terms of its acquisition by the large public utility  
5 and options that shall be available to assist customers to pay  
6 their bills after the acquisition.

7 (f) The large public utility may recommend the district or  
8 tariff group of which the water or sewer utility shall, for  
9 ratemaking purposes, become a part after the acquisition, or  
10 may recommend a lesser rate for the water or sewer utility. If  
11 the large public utility recommends a lesser rate, it shall  
12 submit to the Commission its proposed rate schedule and the  
13 proposed final tariff group for the acquired water or sewer  
14 utility. The Commission's approved district or tariff group or  
15 rates shall be consistent with the large public utility's  
16 recommendation, unless such recommendation can be shown to be  
17 contrary to the public interest.

18 (g) From the date of acquisition until the date that new  
19 rates are effective in the acquiring large public utility's  
20 next rate case, the customers of the acquired water or sewer  
21 utility shall pay the approved then-existing rates of the  
22 district or tariff group as ordered by the Commission, or some  
23 lesser rates as recommended by the large public utility and  
24 approved by the Commission under subsection (f); provided,  
25 that, if the application of such rates of the large public  
26 utility to customers of the acquired water or sewer utility

1 using 54,000 gallons annually results in an increase to the  
2 total annual bill of customers of the acquired water or sewer  
3 utility, exclusive of fire service or related charges, then  
4 the large public utility's rates charged to the customers of  
5 the acquired water or sewer utility shall be uniformly  
6 reduced, if any reduction is required, by the percent that  
7 results in the total annual bill, exclusive of fire services  
8 or related charges, for the customers of the acquired water or  
9 sewer utility using 54,000 gallons being equal to 1.5% of the  
10 latest median household income as reported by the United  
11 States Census Bureau for the most applicable community or  
12 county. For each customer of the water or sewer utility with  
13 potable water usage values that cannot be reasonably obtained,  
14 a value of 4,500 gallons per month shall be assigned. These  
15 rates shall not be deemed to violate this Act including, but  
16 not limited to, Section 9-101 and any other applicable  
17 Sections in Articles VIII and IX of this Act. The Commission  
18 shall issue its decision establishing the rates effective for  
19 the water or sewer utility immediately following an  
20 acquisition in its order approving the acquisition.

21 (h) In the acquiring large public utility's next rate  
22 case, the water or sewer utility and the district or tariff  
23 group ordered by the Commission and their costs of service may  
24 be combined under the same rate tariff. This rate tariff shall  
25 be based on allocation of costs of service of the acquired  
26 water or sewer utility and the large public utility's district

1 or tariff group ordered by the Commission and utilizing a rate  
2 design that does not distinguish among customers on the basis  
3 of utility service source or type. This rate tariff shall not  
4 be deemed to violate this Act including, but not limited to,  
5 Section 9-101 of this Act. In the acquiring large public  
6 utility's 2 rate cases after an acquisition, but in no  
7 subsequent rate case, the large public utility may file a rate  
8 tariff for a water or sewer utility acquired under this  
9 Section that establishes lesser rates than the district or  
10 tariff group into which the water or sewer utility is to be  
11 combined. Those lesser rates shall not be deemed to violate  
12 Section 7-204 or any other provision of this Act if they affect  
13 the cumulative base rates of the large public utility's  
14 existing rate payers in the district or tariff by less than  
15 2.5%.

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

26 Any post-acquisition improvements made by the large public

1 utility in the water or sewer utility shall not be depreciated  
2 for ratemaking purposes from the date on which the expenditure  
3 was incurred by the large public utility until the investment  
4 has been in service for a 4-year period or, if sooner, until  
5 the time the rates are implemented in the large public  
6 utility's next rate case.

7 (j) This Section shall be exclusively applied to large  
8 public utilities in the voluntary and mutually agreeable  
9 acquisition of water or sewer utilities. Any petitions filed  
10 with the Commission related to the acquisitions described in  
11 this Section, including petitions seeking approvals or  
12 certificates required by this Act, shall be deemed approved  
13 unless the Commission issues its final order within 11 months  
14 after the date the large public utility filed its initial  
15 petition. This Section shall only apply to utilities providing  
16 water or sewer service and shall not be construed in any manner  
17 to apply to electric corporations, natural gas corporations,  
18 or any other utility subject to this Act.

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

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

26 (m) Any contractor or subcontractor that performs work on

1 a water or sewer utility acquired by a large public utility  
2 under this Section shall be a responsible bidder as described  
3 in Section 30-22 of the Illinois Procurement Code. The  
4 contractor or subcontractor shall submit evidence of meeting  
5 the requirements to be a responsible bidder as described in  
6 Section 30-22 to the water or sewer utility. Any new water or  
7 sewer facility built as a result of the acquisition shall  
8 require the contractor to enter into a project labor  
9 agreement. The large public utility acquiring the water or  
10 sewer utility shall offer employee positions to qualified  
11 employees of the acquired water or sewer utility.

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

13 (Source: P.A. 102-149, eff. 1-1-22.)