

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 Section 9-210 and by adding Section 9-210.5 as follows:

6 (220 ILCS 5/9-210) (from Ch. 111 2/3, par. 9-210)

7 Sec. 9-210. (a) The Commission shall have power to
8 ascertain the value of the property of every public utility in
9 this State and every fact which in its judgment may or does
10 have any bearing on such value. In all proceedings before the
11 Commission, initiated by the Commission upon its own motion, or
12 initiated by an application of such public utility, in which
13 the value of the property of any public utility or utilities is
14 an issue, the burden of establishing such value shall be upon
15 such public utility or utilities. In making such valuation the
16 Commission may avail itself of any information, books,
17 documents, or records in the possession of any officer,
18 department or board of the State or any subdivision thereof.
19 The Commission shall have power to make revaluation from time
20 to time and also to ascertain the value of all new
21 construction, extensions, and additions to the property of
22 every public utility.

23 (b) For purposes of establishing the value of public

1 utility property, when determining rates or charges, or for any
2 other reason, the Commission may base its determination on the
3 original cost of such property.

4 (c) This Section does not apply to valuations of water or
5 sewer utilities under Section 9-210.5. This subsection (c) is
6 inoperative on and after June 1, 2017.

7 (Source: P.A. 84-617.)

8 (220 ILCS 5/9-210.5 new)

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

10 (a) In this Section:

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

12 (1) a public utility that regularly provides water
13 or sewer service to 6,000 or fewer customer
14 connections;

15 (2) a water district, including, but not limited
16 to, a public water district, water service district, or
17 surface water protection district, or a sewer district
18 of any kind established as a special district under the
19 laws of this State that regularly provides water or
20 sewer service to 7,500 or fewer customer connections;

21 (3) a waterworks system or sewerage system
22 established under the Township Code that regularly
23 provides water or sewer service to 7,500 or fewer
24 customer connections; or

25 (4) a water system or sewer system owned by a

1 municipality that regularly provides water or sewer
2 service to 7,500 or fewer customer connections; and

3 (5) any other entity that regularly provides water
4 or sewer service to 7,500 or fewer customer
5 connections.

6 "Large public utility" means an investor-owned public
7 utility that:

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

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

12 (3) provides safe and adequate service; and

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

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

18 "Utility service source" means the water or sewer
19 utility or large public utility from which the customer
20 receives its utility service type.

21 "Utility service type" means water utility service or
22 sewer utility service or water and sewer utility service.

23 "Prior rate case" means a large public utility's
24 general rate case resulting in the rates in effect for the
25 large public utility at the time it acquires the water or
26 sewer utility.

1 "Next rate case" means a large public utility's first
2 general rate case after the date the large public utility
3 acquires the water or sewer utility where the acquired
4 water or sewer utility's cost of service is considered as
5 part of determining the large public utility's resulting
6 rates.

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

24 (b) Notwithstanding any other provision of this Act, a
25 large public utility that acquires a water or sewer utility may
26 request that the Commission use, and, if so requested, the

1 Commission shall use, the procedures set forth under this
2 Section to establish the ratemaking rate base of that water or
3 sewer utility at the time when it is acquired by the large
4 public utility.

5 (c) If a large public utility elects the procedures under
6 this Section to establish the rate base of a water or sewer
7 utility that it is acquiring, then an appraisal shall be
8 performed. If the water or sewer utility being acquired and the
9 large public utility agree on one appraiser, then the appraisal
10 shall be performed by that jointly selected appraiser. If the
11 water or sewer utility being acquired and the large public
12 utility cannot agree on one appraiser, then the appraisal shall
13 be performed by 3 appraisers with the water or sewer utility
14 being acquired and the large public utility each appointing one
15 appraiser individually and those resulting 2 appraisers shall
16 together appoint an agreed-upon third appraiser. If the third
17 appraiser is not appointed within 30 days after the first 2
18 appraisers are appointed, then the manager of the Commission's
19 Water Department shall recommend the third appraiser to be
20 appointed. The manager of the Water Department shall provide
21 his or her recommendation for an appraiser within 30 days after
22 when he or she is officially notified of the failure of the 2
23 appraisers to agree upon a third appraiser, and the 2
24 appraisers shall promptly work to engage the recommended third
25 appraiser. If the appraiser or appraisers are unable to
26 negotiate reasonable engagement terms with the recommended

1 third appraiser within 15 days after the recommendation by the
2 manager of the Water Department, then the appraisers shall
3 notify the manager of the Water Department and the process
4 shall be repeated until a third appraiser is successfully
5 engaged. Each appraiser shall be a disinterested person
6 licensed as a State certified appraiser under the Real Estate
7 Appraiser Licensing Act of 2002.

8 The appraisers shall:

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

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

16 (3) engage one disinterested engineer who is licensed
17 in this State to prepare an assessment of the tangible
18 assets of the water or sewer utility, which is to be
19 incorporated into the appraisal under the cost approach;

20 (4) if the water or sewer utility is a public utility
21 that is regulated by the Commission, request from the
22 manager of the Accounting Department a list of investments
23 made by the water or sewer utility that had been disallowed
24 previously and that shall be excluded from the calculation
25 of the large public utility's rate base in its next rate
26 case;

1 (5) return their appraisal, in writing, to the water or
2 sewer utility and large public utility in a reasonable and
3 timely manner; and

4 (6) if the appraisers cannot agree on the engineer, as
5 described in paragraph (3) of this subsection (c), within
6 30 days after the appraisers are appointed, then the
7 Commission's manager of the Water Department shall
8 recommend the engineer which the appraiser or appraisers
9 should engage; the manager of the Water Department shall
10 provide his or her recommendation within 30 days after he
11 or she is officially notified of the appraiser or
12 appraisers failure to engage an engineer and the appraiser
13 or appraisers shall promptly work to engage the recommended
14 engineer; if the appraiser or appraisers are unable to
15 negotiate reasonable engagement terms with the recommended
16 engineer within 15 days after the recommendation by the
17 manager of the Water Department, then the appraisers shall
18 notify the manager of the Water Department and the process
19 shall be repeated until an engineer is successfully
20 engaged.

21 When 3 appraisers are required and in the event all 3
22 appointed appraisers cannot agree as to the appraised value of
23 the water or sewer utility, then an appraisal signed by 2 of
24 the appointed appraisers shall constitute a good and valid
25 appraisal. In this event, the third appraisal shall be
26 submitted to the Commission with the filing for approval of the

1 transaction. The Commission shall consider the third appraisal
2 in its determination of the rate base of the water or sewer
3 utility.

4 (d) The lesser of the purchase price or the appraised value
5 shall constitute the rate base associated with the water or
6 sewer utility as acquired by and incorporated into the rate
7 base of the district designated by the acquiring large public
8 utility under this Section, subject to any adjustments that the
9 Commission deems necessary to ensure such rate base reflects
10 prudent and useful investments in the provision of public
11 utility service. The reasonable transaction and closing costs
12 incurred by the large public utility shall be treated
13 consistent with the applicable accounting standards under this
14 Act. This rate base treatment shall not be deemed to violate
15 this Act, including, but not limited to, any Sections in
16 Articles VIII and IX of this Act that might be affected by this
17 Section. Without otherwise limiting the application of Section
18 7-204 or any other Article of this Act, any acquisition of a
19 water or sewer utility that affects the cumulative base rates
20 of the large public utility's existing ratepayers in the tariff
21 group into which the water or sewer utility is to be combined
22 by less than (1) 2.5% at the time of the acquisition for any
23 single acquisition completed under this Section or (2) 5% for
24 all acquisitions completed under this Section before the
25 Commission's final order in the next rate case shall not be
26 deemed to violate any other Article of this Act.

1 In the Commission's order that approves the large public
2 utility's acquisition of the water or sewer utility, the
3 Commission shall issue its decision establishing (1) the
4 ratemaking rate base of the water or sewer utility and (2) the
5 district or tariff group with which the water or sewer utility
6 shall be combined for ratemaking purposes.

7 (e) If the water or sewer utility being acquired is owned
8 by the State or any political subdivision thereof, then the
9 water or sewer utility must inform the public of the terms of
10 its acquisition by the large public utility by (1) holding a
11 public meeting prior to the acquisition and (2) causing to be
12 published, in a newspaper of general circulation in the area
13 that the water or sewer utility operates, a notice setting
14 forth the terms of its acquisition by the large public utility
15 and options that shall be available to assist customers to pay
16 their bills after the acquisition.

17 (f) The large public utility shall recommend the district
18 or tariff group of which the water or sewer utility shall, for
19 ratemaking purposes, become a part after the acquisition. The
20 Commission's recommended district or tariff group shall be
21 consistent with the large public utility's recommendation,
22 unless such recommendation can be shown to be contrary to the
23 public interest.

24 (g) From the date of acquisition until the date that new
25 rates are effective in the acquiring large public utility's
26 next rate case, the customers of the acquired water or sewer

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

25 (h) In the acquiring large public utility's next rate case,
26 the water or sewer utility and the district or tariff group

1 ordered by the Commission and their costs of service shall be
2 combined under the same rate tariff. This rate tariff shall be
3 based on allocation of costs of service of the acquired water
4 or sewer utility and the large public utility's district or
5 tariff group ordered by the Commission and utilizing a rate
6 design that does not distinguish among customers on the basis
7 of utility service source or type. This rate tariff shall not
8 be deemed to violate this Act including, but not limited to,
9 Section 9-101 of this Act.

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

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

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

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

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

1 or sewer utility.

2 (m) This Section is repealed on June 1, 2017.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.