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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1241 Session of  
2015

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INTRODUCED BY R. BROWN, ELLIS, GODSHALL, JOZWIAK, MILLARD,  
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MAY 28, 2015

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AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 24, 2015

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in general provisions, further  
3 providing for the definition of public utility.

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

6 Section 1. The definition of "public utility" in section 102  
7 of Title 66 of the Pennsylvania Consolidated Statutes is amended  
8 to read:

9 § 102. Definitions.

10 Subject to additional definitions contained in subsequent  
11 provisions of this part which are applicable to specific  
12 provisions of this part, the following words and phrases when  
13 used in this part shall have, unless the context clearly  
14 indicates otherwise, the meanings given to them in this section:

15 \* \* \*

16 "Public utility."

17 (1) Any person or corporations now or hereafter owning

1 or operating in this Commonwealth equipment or facilities  
2 for:

3 (i) Producing, generating, transmitting,  
4 distributing or furnishing natural or artificial gas,  
5 electricity, or steam for the production of light, heat,  
6 or power to or for the public for compensation.

7 (ii) Diverting, developing, pumping, impounding,  
8 distributing, or furnishing water to or for the public  
9 for compensation.

10 (iii) Transporting passengers or property as a  
11 common carrier.

12 (iv) Use as a canal, turnpike, tunnel, bridge,  
13 wharf, and the like for the public for compensation.

14 (v) Transporting or conveying natural or artificial  
15 gas, crude oil, gasoline, or petroleum products,  
16 materials for refrigeration, or oxygen or nitrogen, or  
17 other fluid substance, by pipeline or conduit, for the  
18 public for compensation.

19 (vi) Conveying or transmitting messages or  
20 communications, except as set forth in paragraph (2)(iv),  
21 by telephone or telegraph or domestic public land mobile  
22 radio service including, but not limited to, point-to-  
23 point microwave radio service for the public for  
24 compensation.

25 (vii) Sewage collection, treatment, or disposal for  
26 the public for compensation.

27 (viii) Providing limousine service in a county of  
28 the second class pursuant to Subchapter B of Chapter 11  
29 (relating to limousine service in counties of the second  
30 class).

1 (2) The term does not include:

2 (i) Any person or corporation, not otherwise a  
3 public utility, who or which furnishes service only to  
4 himself or itself.

5 (ii) Any bona fide cooperative association which  
6 furnishes service only to its stockholders or members on  
7 a nonprofit basis.

8 (iii) Any producer of natural gas not engaged in  
9 distributing such gas directly to the public for  
10 compensation.

11 (iv) Any person or corporation, not otherwise a  
12 public utility, who or which furnishes mobile domestic  
13 cellular radio telecommunications service.

14 (v) Any building or facility owner/operators who  
15 hold ownership over and manage the internal distribution  
16 system serving such building or facility and who supply  
17 electric power and other related electric power services  
18 to occupants of the building or facility.

19 (vi) Electric generation supplier companies, except  
20 for the limited purposes as described in sections 2809  
21 (relating to requirements for electric generation  
22 suppliers) and 2810 (relating to revenue-neutral  
23 reconciliation).

24 (vii) SERVICE AS FOLLOWS: ◀

25 (A) Any water or sewer service provided to ◀--  
26 independently owned user premises by a person or  
27 corporation that owns and operates as a primary  
28 business a resort where:

29 ~~(A)~~ (I) the service provided is from a point ◀--  
30 within the boundaries of the resort's property

1 and is provided to no more than 100 independently  
2 owned user premises for each type of service;

3 ~~(B)~~ (II) the service is verified by the <--  
4 resort, in a form and manner prescribed by the  
5 commission, to be incidental to the supplier's  
6 primary resort business as evidenced by the gross  
7 annual revenues derived from each type of service  
8 provided to independently owned user premises  
9 being less than 1% of the annual gross revenues  
10 of the primary resort business;

11 ~~(C)~~ (III) rates to independently owned user <--  
12 premises do not exceed the average of the rates  
13 for comparable service provided by two municipal  
14 corporations or municipal authorities or any  
15 combination of the two that are reasonably  
16 proximate to the resort or within the same county  
17 if rural;

18 ~~(D)~~ (IV) service will not be terminated to <--  
19 any independently owned user premises in the  
20 resort, unless termination is requested by the  
21 user, is necessary due to nonpayment or to  
22 prevent misuse of the system by a user which  
23 impairs or jeopardizes service to other users and  
24 the resort, or if termination is directed by law,  
25 regulation or by a Federal or State agency or  
26 governmental body;

27 ~~(E)~~ (V) the water and sewer service provided <--  
28 to the independently owned user premises is the  
29 same service that the resort owner provides to  
30 itself or its affiliates; and, <--

1           ~~(F)~~ (VI) the resort adopts a resolution <--  
2           providing that it will not serve any additional  
3           independently owned user premises except if  
4           lawfully directed by any Federal or State agency  
5           or governmental body to protect public health and  
6           safety due to an emergency such as contamination  
7           or failure of existing supply, and does not  
8           revoke or amend such resolution without first  
9           notifying the Secretary of the Commission in  
10          writing 30 days in advance of such proposed  
11          revocation or amendment. AND; <--

12           ~~(G)~~ (VII) DISPUTES BETWEEN AN INDEPENDENTLY <--  
13          OWNED USER PREMISES AND THE RESORT ARE RESOLVED  
14          BY THE APPLICABLE COURT SYSTEM.

15          ~~As used in this section, the following words and~~ <--  
16          ~~phrases shall have the meanings given to them in this~~  
17          ~~subparagraph unless the context clearly indicates~~  
18          ~~otherwise:~~

19          "Resort." — A

20           (B) FOR PURPOSES OF THIS SUBPARAGRAPH: <--

21           (I) THE TERM "RESORT" MEANS A place or  
22           business visited, primarily for leisure or  
23           vacation, that offers or provides lodging,  
24           entertainment, hospitality, dining, recreational  
25           facilities or activities for guests, business  
26           conferees, members or residents.

27           ~~"Independently owned user premises." — Any~~ <--

28           (II) THE TERM "INDEPENDENTLY OWNED USER <--  
29           PREMISES" MEANS A structure not owned by the ◀  
30           resort or its affiliates, including a structure

1 intended to be used as a seasonal residence,  
2 located SERVED FROM A POINT within the boundaries <--  
3 of a resort and to which a resort owner or its  
4 affiliates provides water or sewer service.

5 ~~(viii) Any water or sewer service provided by a <--~~  
6 ~~municipal corporation to user premises at a point beyond~~  
7 ~~its corporate limits due to historical accident,~~  
8 ~~necessity or absence of other water supply or sewer~~  
9 ~~service, direction of a Federal or State agency or~~  
10 ~~municipal body, where the municipal corporation by~~  
11 ~~resolution or ordinance:~~

12 ~~(A) provides it will not, after the effective~~  
13 ~~date of this paragraph, serve any additional user~~  
14 ~~premises outside of its corporate boundaries except~~  
15 ~~if lawfully directed by any Federal or State agency~~  
16 ~~or governmental body to protect public health and~~  
17 ~~safety due to an emergency such as contamination or~~  
18 ~~failure of existing supply;~~

19 ~~(B) provides water or sewer services to user~~  
20 ~~premises beyond its corporate boundaries at the same~~  
21 ~~rates and service as it does to user premises inside~~  
22 ~~its corporate boundaries; and~~

23 ~~(C) will not revoke or amend such resolution~~  
24 ~~without prior commission approval.~~

25 (3) For the purposes of sections 2702 (relating to  
26 construction, relocation, suspension and abolition of  
27 crossings), 2703 (relating to ejectment in crossing cases)  
28 and 2704 (relating to compensation for damages occasioned by  
29 construction, relocation or abolition of crossings) and those  
30 portions of sections 1501 (relating to character of service

1 and facilities), 1505 (relating to proper service and  
2 facilities established on complaint); authority to order  
3 conservation and load management programs and 1508 (relating  
4 to reports of accidents), as those sections or portions  
5 thereof relate to safety only, a municipal authority or  
6 transportation authority organized under the laws of this  
7 Commonwealth shall be considered a public utility when it  
8 owns or operates, for the carriage of passengers or goods by  
9 rail, a line of railroad composed of lines formerly owned or  
10 operated by the Pennsylvania Railroad, the Penn-Central  
11 Transportation Company, the Reading Company or the  
12 Consolidated Rail Corporation.

13 \* \* \*

14 Section 2. This act shall apply retroactively to January 1,  
15 2009.

16 Section 3. This act shall take effect immediately.