

March 5, 2024

Pennsylvania Public Utility Commission
400 North Street
Keystone Bldg.
Harrisburg, PA 17120

VIA E-FILING

Please accept the attached input to Docket number M-2016-2543193 the Tentative Supplemental Implementation Order concerning the Valuation of Acquired Municipal Water & Wastewater Systems - Act 12 of 2016 Implementation.

Thank you for the opportunity to provide comments.

Respectfully,

Peter Mrozinski
Co-Founder of Keep Water Affordable

Introduction

Act 12 incentivizes the sale of healthy municipal utilities. The large sum of money offered for public utilities has become the driving force in these sales. The need for system improvements and the ability of the municipality to meet those needs become at best secondary issues. You need only recognize that according to the Office of Consumer Advocate, none of the 22 sales, completed or in process, under Act 12 involved a distressed utility.

With this driving force, both the buying utility and the selling municipality are biased toward the sale, making them incapable of providing a fair cost/benefit tradeoff analysis. The public is left to fend for itself without the information and expertise to fully participate in the process.

Act 12 has failed and needs to be repealed. Recognizing the PUC lacks the legislative authority to repeal, it must focus its evaluation of a sale on the true benefit and costs to the community and prevent it from becoming a sale of convenience. The PUC must also assure the public has adequate information and the capability to provide meaningful input. The lasting effects of a utility sale are too great to be treated lightly.

Specific Comments

Public Hearings

The public hearings Mr. DeFrank discusses in his motion occur after the municipality and buying utility have reached agreement on a sale. Their goal is then to sell the idea to the public. Public input and participation are needed long before this stage of the process.

Total transparency is required. The public must be involved from the moment the municipality decides to consider a utility sale.

- The selling municipality must notify the public when it decides to seek buyers for the utility and hold a public meeting to explain and justify the reasons behind their decision. This meeting must include a neutral, qualified entity to explain the true pros and cons of utility privatization. (see Additional Comments below)
- The selling municipality must notify the public when bids have been received, detailing all bids.
- When a bid has been chosen, the selling municipality must hold a public meeting to explain why this bid was chosen and present a timeline for negotiation of a final APA.
- The negotiations must be truly transparent with regular updates to the public. No material can be deemed confidential and thus excluded from public scrutiny.

Prior to submission of a final APA to the PUC, additional public input must be required.

- At least two public hearings, with the opportunity for a ratepayer advocate to host at least one meeting.
- Detailed quantitative information and data concerning the impact of the sale must be provided to the public at least 30 days prior to the first public hearing. This should include access to all settlement discussions.
- Rate impact details as outlined below should also be made available to the public at least 30 days prior to the first public hearing.

Rate Impact Notice

The requirement to detail and communicate the stand-alone rate impact is important. This must be communicated to the public at least 30 days prior to the first public hearing. There must also be a written guarantee that this disclosed rate will not be exceeded at the first rate increase following closure of the sale.

Default Weights for Appraisals

Public utilities present a unique problem for appraisal. Particularly for the market approach to appraisal. Before the enactment of Act 12 the market price was the depreciated value. This should remain the estimate of the market approach segment of the valuation.

Reasonableness Review Ratio

Since Act 12 the driver of the sale has become the sale price. If indeed a sale is best for the community, its justification should stand on those merits. The commission can focus the sale process on its true merits, the infrastructure needs and the ability of the municipality to meet those needs, by setting the RRR at one for all future sales.

Additional Comments

- The public should be provided with a ratepayer advocate to represent their best interest. Perhaps this role could be filled by the OCA through its Outreach and Education Programs. In previous cases OCA involvement began only after the APA had been submitted to the PUC for approval. Earlier involvement would both serve the ratepayer better and potentially streamline the approval process.
- Any deviation allowed by the PUC from ALJ recommendations must be supported by quantifiable reasoning.
- All public meetings must be actively publicized by the selling municipality. The municipality must make every effort to reach out to the public with meeting details.

- All public meetings must be structured to allow and encourage open public discussion. The standard public meeting format to date consists of the purchasing utility and the selling municipality presenting the reasons of the sale, with ratepayers given strict time limits on input. This process is further complicated by the timing of the release of relevant information to ratepayers. Too often the ratepayer sees the details for the first time at the public meeting, allowing no time to understand the details and issues. This prevents any meaningful public input.