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|  | **PENNSYLVANIA****PUBLIC UTILITY COMMISSION****Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held July 21, 2016  |
| Commissioners Present: |  |

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| Gladys M. Brown, Chairman  |  |
| Andrew G. Place, Vice Chairman |  |
| John F. Coleman, Jr.  |  |
| Robert F. Powelson |  |
|  David W. Sweet, Absent |  |
| Implementation of Section 1329of the Public Utility Code  | M-2016-2543193 |

**TENTATIVE IMPLEMENTATION ORDER**

**BY THE COMMISSION:**

On April 14, 2016, Governor Wolf signed into law Act 12 of 2016, which amended Chapter 13 of the Pennsylvania Public Utility Code (Code) by adding a new Section 1329 to the Code and which became effective June 13, 2016. 66 Pa. C.S. § 1329.

In particular, Section 1329 of the Code addresses the valuation of the assets of municipally or authority-owned water and wastewater systems that are acquired by investor-owned water and wastewater utilities or entities. For ratemaking purposes, the valuation will be the lesser of the fair market value or the negotiated purchase price. Section 1329 also allows the acquiring entity’s post-acquisition improvement costs not recovered through a distribution system improvement charge to be deferred for book and ratemaking purposes. This Tentative Implementation Order proposes the procedures and guidelines to address the application process and carry out the ratemaking provisions of Section 1329 and shall be in effect in the interim until a Final Implementation Order is issued.

**Background**

Throughout the Commonwealth, there are a number of water and wastewater systems owned by municipal corporations or authorities.  For these systems, sale to an investor-owned public utility or entity can facilitate necessary infrastructure improvements and ensure the continued provision of safe, reliable service to customers at reasonable rates.  However, current law dictated by 66 Pa. C.S. § 1311(b) of the Code relating to the valuation of utility property discourages these acquisitions because the value of the property is defined as the original cost of construction less accumulated depreciation rather than the acquisition cost. Systems that are greatly depreciated or that were constructed using grants or contributions in aid of construction could have valuations so low that sales of the systems would be less advantageous or could cause financial hardships to the municipal corporations and authorities.

 To remedy this situation, Section 1329 establishes an alternative process for ratemaking purposes for valuating certain water or wastewater systems. Section 1329 provides a process to determine the fair market value of a water or wastewater system of a municipality or authority that is acquired by a public utility or entity.

 As such, Section 1329 provides for significant changes in the way the Commission examines and approves acquisitions of municipal and authority systems. This Tentative Implementation Order proposes the procedures and guidelines necessary to begin implementation of Section 1329. We invite interested parties to provide comment on our tentative proposals and to offer additional recommendations worth consideration.

**Discussion**

 Section 1329 mitigates the risk that a utility will not be able to fully recover its investment when water and wastewater assets are acquired from a municipality or authority. Section 1329 enables a public utility or entity to utilize fair market valuation when acquiring water and wastewater systems located in the Commonwealth that are owned by a municipal corporation or authority. A fair market valuation is not tied to the original cost of construction minus the accumulated depreciation. Rather, a fair market valuation allows consideration of cost, market, and income approaches in valuing the system. Section 1329(a)(3). In sum, Section 1329 allows enhanced rate base adjustments based upon the lesser of fair market value of the acquired assets or the negotiated price. We shall address the subsections of Section 1329 *in seriatim.*

**Section 1329(a) – Process to establish fair market value of selling utility**

Section 1329(a) establishes a voluntary process whereby the acquiring public utility or entity (buyer) and the selling municipal corporation or authority (seller) may choose to have the fair market value of the assets established through independent appraisals conducted by a utility valuation expert (UVE).  Section 1329(g) limits the term “selling utility” to a Pennsylvania water or wastewater company owned by a municipal corporation or authority. Specifically, Section 1329(a) provides:

Upon agreement by both the acquiring public utility or entity and the selling utility, the following procedure shall be used to determine the fair market value of the selling utility:

 (1)  The commission will maintain a list of utility valuation experts from which the acquiring public utility or entity and selling utility will choose.

 (2)  Two utility valuation experts shall perform two separate appraisals of the selling utility for the purpose of establishing its fair market value.

 (3)  Each utility valuation expert shall determine fair market value in compliance with the Uniform Standards of Professional Appraisal Practice, employing the cost, market and income approaches.

 (4)  The acquiring public utility or entity and selling utility shall engage the services of the same licensed engineer to conduct an assessment of the tangible assets of the selling utility. The assessment shall be incorporated into the appraisal under the cost approach required under paragraph (3).

 (5)  Each utility valuation expert shall provide the completed appraisal to the acquiring public utility or entity and selling utility within 90 days of execution of the service contract.

 As stated previously, both the seller and buyer must agree to the fair market valuation procedure before it can be utilized. The Commission is directed to maintain a list of UVEs to be utilized by the buyer and the seller. The UVEs will each prepare an appraisal of the assets, and the average of those appraisals will be used as the fair market value of the asset. To this end, the Commission will invite interested persons and entities to file for consideration as a UVE, similar to our process for Conservation Service Providers.[[1]](#footnote-1) Via Secretarial Letter dated July 21, 2016, at this docket number, prospective UVEs are directed to complete the Application Form for Registration as a Utility Valuation Expert, which is attached to this Tentative Implementation Order and is available on the Commission’s website.

 To be included on the Commission’s registry, UVEs must establish their qualifications. Applicants must be able to demonstrate that they have the education and experience necessary for providing utility valuations. Applicants must also acknowledge a fiduciary duty to provide a thorough, objective, and fair valuation. Applicants will be expected to demonstrate compliance with Pennsylvania laws and to demonstrate their financial and technical fitness, such as professional licenses, technical certifications, and/or names of current or past clients with a description of dates and types of services provided by the Applicant,. In order to maintain a list of UVEs in good standing, the Commission will require applicants to renew their applications biennially. Consistent with the Commission’s treatment of the registry of Conservation Service Providers, we shall establish a fee of $125 for initial UVE applications and a fee of $25 for renewal and/or updates.

The two UVEs shall perform two separate appraisals of the selling utility for the purpose of establishing its fair market value. Each UVE shall determine fair market value in compliance with the Uniform Standards of Professional Appraisal Practice, employing the cost, market and income approaches.

In addition, the buyer and seller shall engage the services of the same licensed engineer to conduct an assessment of the tangible assets of the selling utility. Section 1329(a)(4). The assessment shall be incorporated into the appraisal under the cost approach. The engineer’s assessment must include the original cost, by year and major plant category, of used and useful plant in service and related accrued depreciation calculations pursuant to 66 Pa. C.S. § 1311.

Specifically, Section 1311(b) states:

**(b)  Method of valuation.--**The value of the property of the public utility included in the rate base shall be the original cost of the property when first devoted to the public service less the applicable accrued depreciation as such depreciation is determined by the commission.

The engineer’s assessment shall be developed in accordance with Commission procedures and practices that conform with the National Association of Regulatory Utility Commissioners System of Accounts for water and wastewater systems. The approach shall consider the following to establish the cost assessment:

* An inventory of the used and useful utility plant assets to be transferred.  Identify separately any utility plant that is held for future use.
* A list of all non-depreciable property such as land and rights-of-way.
* The inventory is to be developed from available records, maps, work orders, debt issue closing documents funding construction projects, and other sources to ensure an accurate listing of utility plant inventory by utility account.
* An estimate of years of construction or acquisition for the utility plant by year and account.
* The use of current prices restated as costs to the Original Cost price level including related accrued depreciation. Where cost data is not available, the use of appropriate cost trend indices in accordance with recognized industry practices.
* Costs for utility plant compiled by utility account by year of installation.
* A calculation of accumulated depreciation by estimated service life applicable for comparable utility plant.
* A report explaining the process for developing the cost assessment.

**Section 1329(b) – Utility valuation experts**

 Section 1329(b) provides guidelines for the selection and fees to be paid to the aforementioned UVEs. Section 1329(b) provides:

 (1)  The utility valuation experts required under subsection (a) shall be selected as follows:

(i)  one shall be selected by the acquiring public utility or entity; and

(ii)  one shall be selected by the selling utility.

(2)  The utility valuation experts shall not:

(i)  derive any material financial benefit from the sale of the selling utility other than fees for services rendered; or

(ii)  be an immediate family member of a director, officer or employee of either the acquiring public utility, entity or selling utility within a 12-month period of the date of hire to perform an appraisal.

 (3)  Fees paid to utility valuation experts may be included in the transaction and closing costs associated with acquisition by the acquiring utility or entity. Fees eligible for inclusion may be of an amount not exceeding 5% of the fair market value of the selling utility or a fee approved by the commission.

Important in this subsection is the UVEs’ fee limitation of 5% of the fair market value of the selling utility **or a fee approved by the Commission**. Applications will be required to contain ample justification both within the application itself as well as the direct testimony accompanying the application regarding how the UVEs’ fee was derived. The Administrative Law Judge will make a recommendation on the fee based upon the record as a part of the adjudication.

**Section 1329(c) – Ratemaking rate base**

 Section 1329(c) provides guidelines regarding the rate base of the selling utility and the acquiring utility/entity for ratemaking purposes. Generally, Section 1329(c) allows for the rate base of the selling utility to be incorporated into the rate base of the acquiring utility during the acquiring utility’s next rate base rate case or the initial tariff filing of an entity. Specifically, Section 1329(c) provides:

(1)  The ratemaking rate base of the selling utility shall be incorporated into the rate base of:

(i)  the acquiring public utility during the acquiring public utility’s next base rate case; or

(ii)  the entity in its initial tariff filing.

 (2)  The ratemaking rate base of the selling utility shall be the lesser of the purchase price negotiated by the acquiring public utility or entity and selling utility or the fair market value of the selling utility.

As stated above, the rate base to be incorporated will be the lesser of the purchase price or the fair market value of the seller. The acquiring entity need not be a public utility. Under Section 1329(g), a person, partnership or corporation that is not currently a public utility may acquire a selling utility if the entity or its affiliate has filed an application for a certificate of public convenience (CPC) with the Commission. The application for a CPC may be filed simultaneously but no later than the same day as the application for Section 1329 acquisition.[[2]](#footnote-2) Due to the compressed review period provided for the Section 1329 application, if a Section 1102 application is required, we strongly encourage that it be filed in advance of the Section 1329 application to the extent possible, and consolidated consideration will be given to the extent possible.

**Section 1329(d) –** **Acquisitions by public utility**

 Section 1329(d) provides guidelines on acquisitions by public utilities as well as guidelines on the critical attachment to the Section 1102 application.[[3]](#footnote-3) Once again, the acquiring public utility and the selling utility must agree to utilize the process outlined in the aforementioned Section 1329(a). Section 1329(d) provides:

(1)  If the acquiring public utility and selling utility agree to use the process outlined in subsection (a), the acquiring public utility shall include the following as an attachment to its application for commission approval of the acquisition filed pursuant to section 1102 (relating to enumeration of acts requiring certificate):

(i)  Copies of the two appraisals performed by the utility valuation experts under subsection (a).

(ii)  The purchase price of the selling utility as agreed to by the acquiring public utility and selling utility.

(iii)  The ratemaking rate base determined pursuant to subsection (c)(2).

(iv)  The transaction and closing costs incurred by the acquiring public utility that will be included in its rate base.

(v)  A tariff containing a rate equal to the existing rates of the selling utility at the time of the acquisition and a rate stabilization plan, if applicable to the acquisition.

(2)  The commission shall issue a final order on an application submitted under this section within six months of the filing date of an application meeting the requirements of subsection (d)(1).

(3)  If the commission issues an order approving the application for acquisition, the order shall include:

(i)  The ratemaking rate base of the selling utility, as determined under subsection (c)(2).

(ii)  Additional conditions of approval as may be required by the commission.

(4)  The tariff submitted pursuant to subsection (d)(1)(v) shall remain in effect until such time as new rates are approved for the acquiring public utility as the result of a base rate case proceeding before the commission. The acquiring public utility may collect a distribution system improvement charge during this time, as approved by the commission under this chapter.

(5)  The selling utility’s cost of service shall be incorporated into the revenue requirement of the acquiring public utility as part of the acquiring utility’s next base rate case proceeding. The original source of funding for any part of the water or sewer assets of the selling utility shall not be relevant to determine the value of said assets.

 Section 1329(d)(2) requires the Commission to issue a final order on an application submitted under Section 1329 within six months of the filing date of an application meeting the requirements of subsection (d)(1). For the Commission to meet the six-month deadline, normal time lines must be compressed. A table establishing the necessarily compressed time line is provided below.

Applications will not be accepted until they are shown to be complete. To assist applicants in the preparation of a full and complete filing, an Application Filing Checklist, which shall be attached to the completed application, may be found at the Commission’s website and is attached to this Tentative Implementation Order.[[4]](#footnote-4) Applications must be verified by an officer of the filing entity or entities pursuant to 52 Pa. Code § 1.36. Both the Application Filing Checklist and the previously discussed Application Form for Registration as a Utility Valuation Expert may be changed as the Commission deems necessary.

As noted on the Application Filing Checklist, applications are to contain the required two appraisals performed by separate UVEs and quantification of transaction and closing costs incurred by the acquiring public utility to be included in the rate base of the acquiring public utility. Section 1329(d)(1)(iv). Applications must address the plant in service and include a map of the service area. Applications must include information about the customers, utility plant in service, and the current safety, adequacy, reasonableness and efficiency of the system in accordance with the statutory requirements of Section 1501. 66 Pa. C.S. § 1501 .

Applications must address rates and provide a proposed tariff. Applications must address cost of service, including copies of the seller’s most recently audited financial statements. Applications must include proof of compliance with applicable design, construction, and operation standards of the Department of Environmental Protection and/or the county health department. Applications also shall include a copy of the signed Asset Purchase Agreement. Each of these items is necessary to enable the Commission to make an informed decision regarding the merits of the application.

In addition, due to the compressed six-month time frame for ruling on the application, written direct testimony must accompany the application. The testimony shall address and support the acquisition, the UVEs’ appraisals, the UVEs’ fee, and the purchase price. The testimony shall also describe the acquired system, explain the public interest served by the acquisition, and provide such other facts as may be relevant to the Commission’s consideration of the application.

Upon review of the Section 1329 application and staff’s determination that the filing is perfected and in full compliance with all items on the Application Filing Checklist, the Commission will notify the applicants of the actual accepted filing date, which will then commence the six-month time frame for the proceeding. Due process considerations require notification to the affected customers. When the application is published in a newspaper, the publication shall note that the period for filing protests shall be as soon as possible but no later than the last day of the protest period set forth in the *Pennsylvania Bulletin*. Accordingly, within seven (7) days of filing the application, the applicant shall file with the Commission: (1) proof of newspaper publication of the notification of the filing; and (2) a copy of the bill insert notifying the selling utility’s customers of the proposed acquisition. The Secretary may impose additional notice requirements as may be warranted.

**Section 1329(e) – Acquisitions by Entity**

Section 1329(e) relates to acquisitions by an entity. An entity, defined as a person, partnership or corporation, can acquire a selling utility if it has requested from the Commission public utility status pursuant to Section 1102. An affiliate of an entity can also request public utility status pursuant to Section 1102. Importantly, the entity or its affiliate must file the Section 1329 application as an attachment to a Section 1102 application seeking public utility status. Acquisition applications filed by entities that have not yet filed a Section 1102 application for public utility status will be considered incomplete and will not be accepted until a complete Section 1102 application has been received and accepted. If a Section 1102 application is required, we strongly encourage that it be filed in advance of the Section 1329 application to the extent possible, and consolidated consideration will be given to the extent possible. We also clarify that that the entity’s initial tariff filing should contain rates “equal to the existing rates of the selling utility at the time of the acquisition” consistent with Section 1329(d)(1)(v) and Section 1329(e).

We acknowledge that there is some ambiguity in Section 1329.  First, subsection (c)(1)(ii) could be construed to require that the “ratemaking rate base” be immediately incorporated into the entity’s initial rates.  However, subsections (e) and (d)(1)(v) could be construed together to require entities to file a tariff with rates equal to the existing rates of the selling utility. In the interest of equity, the Commission tentatively proposes that entities be required to file tariffs consistent with (d)(1)(v). This shall in no way inhibit the right of a newly certificated utility to incorporate the ratemaking rate base into its tariff via a Section 1308 proceeding.

The proponent of a rule or order in any Commission proceeding has the burden of proof, 66 Pa. C.S. § 332, and therefore, the applicant has the burden of proving that it is entitled to have the acquisition approved and must do so by a preponderance of the evidence, or evidence which is more convincing than the evidence presented by the other parties. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.3d 854 (1950); *Samuel J. Lansberry, Inc. v. Pa. Public Utility Commission*, 578 A.2d 600 (Pa. Cmwlth. 1990).

**Section 1329(f) – Post-acquisition projects**

Section 1329(f) addresses the parameters of post-acquisition project accounting for ratemaking purposes. Specifically, Section 1329(f) provides:

(1)  An acquiring public utility’s post-acquisition improvements that are not included in a distribution improvement charge shall accrue allowance for funds used during construction after the date the cost was incurred until the asset has been in service for a period of four years or until the asset is included in the acquiring public utility's next base rate case, whichever is earlier.

(2)  Depreciation on an acquiring public utility’s post-acquisition improvements that have not been included in the calculation of a distribution system improvement charge shall be deferred for book and ratemaking purposes.

In our view, any of the acquiring utility’s post-acquisition improvements that are not recovered through the distribution system improvement charge will be eligible for inclusion through an allowance for funds used during construction. The acquiring utility may accrue an allowance for funds used during construction until the asset has been in service for four years or until the asset is included in the acquiring utility’s next rate base case, whichever is earlier.[[5]](#footnote-5) Additionally, depreciation on the acquiring utility’s post-acquisition improvements that has not been included in the calculation of a distribution system improvement charge will be deferred for book and ratemaking purposes. The acquiring utility will be required to keep proper accounting in separately and appropriately recording these amounts in its business records.

**Section 1329(g) – Definitions**

Section 1329(g) provides the following definitions:

**“Acquiring public utility.”** A water or wastewater public utility subject to regulation under this title that is acquiring a selling utility as the result of a voluntary arm’s-length transaction between the buyer and seller.

**“Allowance of funds used during construction.”** An accounting practice that recognizes the capital costs, including debt and equity funds that are used to finance the construction costs of an improvement to a selling utility’s assets by an acquiring public utility.

**“Entity.”** A person, partnership or corporation that is acquiring a selling utility and has filed or whose affiliate has filed an application with the commission seeking public utility status pursuant to section 1102.

**“Fair market value.”** The average of the two utility valuation expert appraisals conducted under subsection (a) (2).

**“Ratemaking rate base.”** The dollar value of a selling utility which, for post-acquisition ratemaking purposes, is incorporated into the rate base of the acquiring public utility or entity.

**“Rate stabilization plan.”** A plan that will hold rates constant or phase rates in over a period of time after the next base rate case.

**“Selling utility.”** A water or wastewater company located in this Commonwealth, owned by a municipal corporation or authority that is being purchased by an acquiring public utility or entity as the result of a voluntary arm’s-length transaction between the buyer and seller.

**“Utility valuation expert.”** A person hired by an acquiring public utility and selling utility for the purpose of conducting an economic valuation of the selling utility to determine its fair market value.

**Time Line**

Due to the six-month time line required by Section 1329, normal time lines must be compressed. In an effort to allow more time for drafting briefs, the exception period necessarily must be shortened. The table below shows the time line the Commission intends to use as a guideline and assumes that the last public meeting before the six- month deadline is 15 days prior to that deadline. Actual time required may be slightly more or less depending upon applicable circumstances, such as the proximity of the filing date of the application and prehearing conference notice in the *Pennsylvania Bulletin*, the availability of hearing dates and the complexity/length of the hearing, the intervention of weekends and holidays, the availability of scheduled public meetings, and any unforeseen or other events that impact due consideration of the application within the six-month period.

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| **Application & Direct Testimony/Supporting Documentation Filed**  | **Model Timeline** |
|  |  |
| Application Accepted as Complete | Filing Date |
|  |  |
| Application and Prehearing Conference Notice Sent to Pennsylvania Bulletin | No Later than Day 5 |
|  |  |
| Proof of Newspaper Publication and Copy of Bill Insert Notification Protest are due no later than Day 32 | Day 7 |
|  |  |
| *Pennsylvania Bulletin* Publication | Day 16 |
|  |  |
| Protests Due | Day 32 |
|  |  |
| Prehearing Conference | Day 34 |
|  |  |
| Direct Testimony of Other parties  | Day 36 |
|  |  |
| Rebuttal Testimony | Day 41 |
|  |  |
| Surrebuttal Testimony | Day 44 |
|  |  |
| Evidentiary Hearings | Days 47 and 48 |
|  |  |
| Receipt of Transcript | Day 49 |
|  |  |
| Main Briefs and Reply Briefs | Day 50-79 |
|  |  |
| Close of record | Day 79 |
|  |  |
| ALJ Recommended Decision | Day 116 |
|  |  |
| Exceptions | Day 126 |
|  |  |
| Replies to Exceptions | Day 136 |
|  |  |
| Order Preparation, Commission consideration & action | Day 137-166 |
|  |  |
| Preparation and entry of Final Commission Order | Days 167-181 |
|  |  |
| End of six months deadline | Day 182 |

At the time of filing, the applicant shall cause a complete copy of the application with exhibits and supporting material to be served by registered or certified mail, return receipt requested, upon:

1. Each city, borough, town, township county and related planning office which is included, in whole or in part, in the proposed service area.
2. A water or wastewater utility, municipal corporation or authority which provides water or wastewater collection, treatment or disposal service to the public and whose service area abuts or is within 1 mile of the service area proposed in the application.
3. The statutory advocates and DEP’s central and applicable regional offices.

52 Pa. Code § 3.501(f).

 If proprietary information is included in the application, it shall be noted in the Application Filing Checklist. If a protective order is desired, it shall be requested prior to the filing of the application. The acquiring utility and other parties remain free, however, to exchange proprietary information at the outset of the proceeding pursuant to a non-disclosure agreement.

**Conclusion**

Section 1329 of the Code addresses the valuation of the assets of the water and wastewater systems of municipalities or authorities that are acquired by investor-owned water and wastewater utilities. For ratemaking purposes, the valuation will be the lesser of the fair market value or the negotiated purchase price. Section 1329 also allows the acquiring public utility’s post-acquisition improvement costs not recovered through a distribution system improvement charge to be deferred for book and ratemaking purposes. The purpose of this Tentative Implementation Order is to have provisional procedures and guidelines in place for the near term and to solicit public comment on these provisional procedures. Upon review of those comments, the Commission will issue a final implementation order addressing any necessary changes to the provisional procedures and guidelines.

The contact persons for this proceeding are Stanley E. Brown, stabrown@pa.gov, Assistant Counsel in the Commission’s Law Bureau, and Jani Tuzinski, jtuzinski@pa.gov, Manager-Water/Wastewater Section of the Commission’s Bureau of Technical Utility Services; **THEREFORE,**

**IT IS ORDERED:**

1. That procedures and guidelines for implementation of Section 1329, are tentatively adopted, as set forth herein.

2. That any interested party may submit comments regarding this Tentative Implementation Order within twenty (20) days of entry of this Order.

3. That all pleadings, comments, or other filings shall be filed in Microsoft Word-compatible format with the Commission’s Secretary Bureau at Docket No. M‑2016-2543193.

4. That a copy of this Tentative Implementation Order shall be published in the *Pennsylvania Bulletin* and posted on the Commission’s website at [www.puc.pa.](http://www.puc.pa.)gov.

5. That a copy of this Tentative Implementation Order be served on all jurisdictional water and wastewater companies, the National Association of Water Companies – Pennsylvania Chapter, the Pennsylvania State Association of Township Supervisors, the Pennsylvania State Association of Boroughs, the Pennsylvania Municipal Authorities Association, the Pennsylvania Rural Water Association, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.

**** **BY THE COMMISSION**

 Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: July 21, 2016

ORDER ENTERED: July 21, 2016

1. *See Implementation of Act 129 of 2008 Phase 2 – Registry of Conservation Service Providers*, Docket No. M-2008-2074154 (Tentative Order entered April 9, 2015) (Final Order entered May 8, 2015). [↑](#footnote-ref-1)
2. *See*, 66 Pa. C.S. § 1329(e). Filing requirements for obtaining a CPC as a water or wastewater public utility can be found at 52 Pa. Code § 3.501. The Commission has the necessary latitude to consolidate and concurrently adjudicate the Section 1102 CPC and Section 1329 Applications. *See also* 52 Pa. Code § 5.81 (consolidation of proceedings involving common question of law or fact). [↑](#footnote-ref-2)
3. A Section 1102 application is addressed under Section 1102 of the Code, 66 Pa. C.S. § 1102, and pertains to the enumeration of acts requiring a certificate. [↑](#footnote-ref-3)
4. The Application Filing Checklist – Water/Wastewater may be accessed from the Commissions website at <http://www.puc.state.pa.us/filing_resources/water_online_forms.aspx> and <http://www.puc.pa.gov/filing_resources/issues_laws_regulations/section1329_applications.aspx> as well as at this docket number. [↑](#footnote-ref-4)
5. We note that, upon issuance of a certificate of public convenience following a Section 1102 application, the “entity” will become a “public utility.” Therefore, the Commission believes that the same subsequent rate treatment applicable to an acquiring public utility in this section should apply to acquiring entities. [↑](#footnote-ref-5)