

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 adding
5 Section 9-210.5 as follows:

6 (220 ILCS 5/9-210.5 new)

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

8 (a) In this Section:

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

1 financial benefit from the sale of the water or sewer
2 utility other than fees for services rendered.

3 "District" means a service area of a large public
4 utility whose customers are subject to the same rate
5 tariff.

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 "Next rate case" means a large public utility's first
16 general rate case after the date the large public utility
17 acquires the water or sewer utility where the acquired
18 water or sewer utility's cost of service is considered as
19 part of determining the large public utility's resulting
20 rates.

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

25 "Utility service source" means the water or sewer
26 utility or large public utility from which the customer

1 receives its utility service type.

2 "Utility service type" means water utility service or
3 sewer utility service or water and sewer utility service.

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

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

8 (2) a water district, including, but not limited
9 to, a public water district, water service district, or
10 surface water protection district, or a sewer district
11 of any kind established as a special district under the
12 laws of this State that regularly provides water or
13 sewer service to 7,500 or fewer customer connections;

14 (3) a waterworks system or sewerage system
15 established under the Township Code that regularly
16 provides water or sewer service to 7,500 or fewer
17 customer connections; or

18 (4) a water system or sewer system owned by a
19 municipality that regularly provides water or sewer
20 service to 7,500 or fewer customer connections; and

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

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 3 appraisals shall be
8 performed. The average of these 3 appraisals shall represent
9 the fair market value of the water or sewer utility that is
10 being acquired. The appraisals shall be performed by 3
11 appraisers selected by the Commission's water department
12 manager and engaged by either the water or sewer utility being
13 acquired or by the large public utility. The Commission's water
14 department manager shall select the appraisers within 30 days
15 after the water department manager is officially notified. Each
16 appraiser shall be engaged on reasonable terms approved by the
17 Commission. Each appraiser shall be a disinterested person
18 licensed as a State certified general real estate appraiser
19 under the Real Estate Appraiser Licensing Act of 2002.

20 Each appraiser shall:

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

26 (2) determine fair market value in compliance with the

1 Uniform Standards of Professional Appraisal Practice;

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

6 (4) if the water or sewer utility is a public utility
7 that is regulated by the Commission, request from the
8 manager of the Accounting Department a list of investments
9 made by the water or sewer utility that had been disallowed
10 previously and that shall be excluded from the calculation
11 of the large public utility's rate base in its next rate
12 case; and

13 (5) return their appraisal, in writing, to the water or
14 sewer utility and large public utility in a reasonable and
15 timely manner.

16 If the appraiser cannot engage an engineer, as described in
17 paragraph (3) of this subsection (c), within 30 days after the
18 appraiser is engaged, then the Commission's water department
19 manager shall recommend the engineer the appraiser should
20 engage. The Commission's water department manager shall
21 provide his or her recommendation within 30 days after he or
22 she is officially notified of the appraiser's failure to engage
23 an engineer and the appraiser shall promptly work to engage the
24 recommended engineer. If the appraiser is unable to negotiate
25 reasonable engagement terms with the recommended engineer
26 within 15 days after the recommendation by the Commission's

1 water department manager, then the appraiser shall notify the
2 Commission's water department manager and the process shall be
3 repeated until an engineer is successfully engaged.

4 (d) The lesser of (i) the purchase price or (ii) the fair
5 market value determined under subsection (c) of this Section
6 shall constitute the rate base associated with the water or
7 sewer utility as acquired by and incorporated into the rate
8 base of the district designated by the acquiring large public
9 utility under this Section, subject to any adjustments that the
10 Commission deems necessary to ensure such rate base reflects
11 prudent and useful investments in the provision of public
12 utility service. The reasonable transaction and closing costs
13 incurred by the large public utility shall be treated
14 consistent with the applicable accounting standards under this
15 Act. The amount of the appraiser's fees to be included in the
16 transaction and closing costs shall not exceed the greater of
17 \$15,000 or 5% of the appraised value of the water or sewer
18 utility being acquired. This rate base treatment shall not be
19 deemed to violate this Act, including, but not limited to, any
20 Sections in Articles VIII and IX of this Act that might be
21 affected by this Section. Any acquisition of a water or sewer
22 utility that affects the cumulative base rates of the large
23 public utility's existing ratepayers in the tariff group into
24 which the water or sewer utility is to be combined by less than
25 (1) 2.5% at the time of the acquisition for any single
26 acquisition completed under this Section or (2) 5% for all

1 acquisitions completed under this Section before the
2 Commission's final order in the next rate case shall not be
3 deemed to violate Section 7-204 or any other provision of this
4 Act.

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

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

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

1 public interest.

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

1 sewer utility immediately following an acquisition in its order
2 approving the acquisition.

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

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

24 Any post-acquisition improvements made by the large public
25 utility in the water or sewer utility shall not be depreciated
26 for ratemaking purposes from the date on which the expenditure

1 was incurred by the large public utility until the investment
2 has been in service for a 4-year period or, if sooner, until
3 the time the rates are implemented in the large public
4 utility's next rate case.

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

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

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

24 (m) Any contractor or subcontractor that performs work on a
25 water or sewer utility acquired by a large public utility under
26 this Section shall be a responsible bidder as described in

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

10 (n) This Section is repealed on June 1, 2018.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.