

No. 2016-50

AN ACT

HB 1241

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

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

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

§ 102. Definitions.

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

\* \* \*

"Public utility."

(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

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

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

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

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

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

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

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

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

(2) The term does not include:

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

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

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

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

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

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

***(vii) Service as follows:***

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

***(I) the service provided is from a point within the boundaries of the resort's property and is provided to no more than 100 independently owned user premises for each type of service;***

***(II) the service is verified by the resort, in a form and manner prescribed by the commission, to be incidental to the supplier's primary resort business as evidenced by the gross annual revenues derived from each type of service provided to independently owned user premises being less than 1% of the annual gross revenues of the primary resort business;***

***(III) rates to independently owned user premises do not exceed the average of the rates for comparable service provided by two municipal corporations or municipal authorities or any combination of the two that are reasonably proximate to the resort or within the same county if rural;***

***(IV) service will not be terminated to any independently owned user premises in the resort, unless termination is requested by the user, is necessary due to nonpayment or to prevent misuse of the system by a user which impairs or jeopardizes service to other users and the resort, or if termination is directed by law, regulation or by a Federal or State agency or governmental body;***

***(V) the water and sewer service provided to the independently owned user premises is the same service that the resort owner provides to itself or its affiliates;***

***(VI) the resort adopts a resolution providing that it will not serve any additional independently owned user premises except if lawfully directed by any Federal or State agency or governmental body to protect public health and safety due to***

*an emergency such as contamination or failure of existing supply, and does not revoke or amend such resolution without first notifying the secretary of the commission in writing 30 days in advance of such proposed revocation or amendment; and*

*(VII) disputes between an independently owned user premises and the resort are resolved by the applicable court system.*

*(B) For purposes of this subparagraph:*

*(I) The term "resort" means a place or business visited primarily for leisure or vacation that offers or provides lodging, entertainment, hospitality, dining, recreational facilities or activities for guests, business conferees, members or residents.*

*(II) The term "independently owned user premises" means a structure not owned by the resort or its affiliates, including a structure intended to be used as a seasonal residence, served from a point within the boundaries of a resort and to which a resort owner or its affiliates provides water or sewer service.*

(3) For the purposes of sections 2702 (relating to construction, relocation, suspension and abolition of crossings), 2703 (relating to ejection in crossing cases) and 2704 (relating to compensation for damages occasioned by construction, relocation or abolition of crossings) and those portions of sections 1501 (relating to character of service and facilities), 1505 (relating to proper service and facilities established on complaint; ***authority to order conservation and load management programs***) and 1508 (relating to reports of accidents), as those sections or portions thereof relate to safety only, a municipal authority or transportation authority organized under the laws of this Commonwealth shall be considered a public utility when it owns or operates, for the carriage of passengers or goods by rail, a line of railroad composed of lines formerly owned or operated by the Pennsylvania Railroad, the Penn-Central Transportation Company, the Reading Company or the Consolidated Rail Corporation.

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

Section 3. This act shall take effect immediately.

APPROVED—The 23rd day of June, A.D. 2016

TOM WOLF