

JOHN A. LAWRENCE
STATE REPRESENTATIVE
13TH LEGISLATIVE DISTRICT



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

HARRISBURG OFFICE
P.O. BOX 202013
HARRISBURG, PA 17120
(717) 260-6117

JENNERSVILLE OFFICE
1 COMMERCE BLVD., SUITE 200
WEST GROVE, PA 19390
(610) 869-1602

Pennsylvania Public Utility Commission
Chairman Stephen DeFrank
400 North Street
Harrisburg, PA 17120

Re: Docket #M-2016-2543193 – Revisions to Guidelines for Section 1329 Acquisitions

March 15, 2024

Dear Chairman DeFrank –

I trust all is well.

I appreciate the opportunity to comment on proposed changes to the Public Utility Commission's procedures surrounding Title 66 Section 1329 applications. I would also like to commend the Commission for taking the initiative to review this process. I respectfully propose the following changes to the proposal put forward last month.

PUBLIC HEARINGS

With regard to public hearings, a requirement "to schedule and conduct at least two in-person public hearings prior to executing [an] asset purchase agreement" should be clarified.

The Commission proposes that: "These public hearings should address the proposed acquisition, describe the potential rate impacts, provide the opportunity for public comment and be held at [appropriate] venues..."

I believe that in addition to those rather vague required specifications, the Commission should add a specification that a representative of the Pennsylvania Office of Consumer Advocate ("OCA") be required to attend and present to the gathered audience. The OCA is uniquely qualified to weigh in on these matters and their viewpoint would be very valuable for consideration by local stakeholders.

The Commission suggests that the contemplated public hearings “may include a public meeting held by the municipal government in which the transaction is on the agenda as well as other meetings or open houses hosted by either the acquiring utility or selling utility.” This suggests that any of the following could satisfy the public meeting requirement:

- A meeting of the township board of supervisors (or borough council, city council, etc.) where the proposed acquisition is on the agenda
- A meeting of the township zoning hearing board (or historic commission, etc.) where the proposed acquisition is on the agenda
- A “meeting” or “open house” held by a municipal water/wastewater utility
- A “meeting” or “open house” held by an investor-owned utility company

These requirements are too broad and would benefit from further specificity. Allowing a meeting held by the acquiring utility (which may be a public-traded corporation that is not subject to the Pennsylvania Sunshine Act) to fulfill this requirement is particularly problematic. Also, the use of the term “open house” is very vague, and to my knowledge, is not generally used in law or regulation to describe hearings where important topics are discussed and deliberated.

I propose that the Commission clearly spell out what constitutes a public hearing under this provision, with a focus on a publicized municipal meeting subject to the Sunshine Act and the Right-To-Know law. The meeting should be held in a facility large enough to handle the anticipated crowd. Livestreaming should be available as well. Additionally, the meeting should be recorded and viewable on the municipality’s website.

Hearings are of little value if no one knows they are occurring. With regard to the advertising required for a public hearing, the proposed regulation includes a lengthy list of “examples of effective notice” for “direct outreach” to the potentially affected community. What is not clear is if the Commission would find a combination of these methods to be sufficient, or just one of the methods alone to be sufficient.

For example, one of the listed methods of “effective notice” is “posting (notice of the public hearing) in areas of high foot traffic.” If such notice was the exclusive notice of the hearing, it appears it would meet the requirement to provide sufficient “effective notice” under the proposal. In reality, it would really be hardly any notice at all. A posting in an area of high foot traffic might be a bulletin board near the entry of a

grocery store. Individuals walk by such bulletin boards all the time yet rarely stop to look at the dozens of notices posted at such locations. Relegating notice of a matter as important as the sale of a water or wastewater utility to a community bulletin board amongst notices of lost dogs and offers to sell used cars seems to trivialize the importance of the matter.

The Commission should clarify this language to ensure, at a minimum, that hearings are advertised online, in the newspaper, and through the mail to all affected ratepayers – at least two weeks prior to the proposed hearing. If, in addition, a notice is posted in an area of high foot traffic, then that is fine but certainly not sufficient by itself.

Accordingly, I respectfully propose that the Commission make it clear that “effective notice” include (at least) an advertisement in a newspaper of general circulation, a notice on the website of the affected municipality, and a mailing to affected ratepayers.

RATE IMPACT NOTICE

The Commission proposes three clauses that the acquiring utility and the selling entity would be “required to verify or declare under affidavit.”

I propose that the words “verify or” be removed, thus requiring all entities to declare the proposed Rate Impact Notice under affidavit.

In addition, the Rate Impact Notice should include language to clearly state that promises to “freeze rates” may be unenforceable.

The Rate Impact Notice should be available and discussed at the public hearings referenced above.

Affected ratepayers would find the Rate Impact Notice to be of more value if a comparison of potential outcomes was included, with a prediction of utility rates in two years and five years. Necessary upgrades or repairs to the affected utility should be included in the calculation. Such upgrades or repairs will eventually need to be completed whether the water/wastewater system remains under municipal ownership or corporate ownership.

I propose ratepayers be provided the following comparison on the Rate Impact Notice:

- Anticipated rates if the municipality retains ownership of the system and makes all necessary and prudent investments in the system
- Anticipated rates if the municipality sells the system to an investor-owned utility that then makes all necessary and prudent investments in the system

The OCA would likely be able to calculate such an analysis for the Rate Impact Notice.

I greatly appreciate your time and attention on this crucial topic for the Commonwealth and I also appreciate your willingness to receive my comments.

Kind Regards –



John Lawrence

State Representative
Commonwealth of Pennsylvania