

By Senator Torres

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1 A bill to be entitled
2 An act relating to valuations of acquired water and
3 wastewater systems; creating s. 367.0713, F.S.;
4 authorizing a public water or wastewater utility to
5 establish the rate base of an existing water or
6 wastewater system it acquires using the fair market
7 value of the utility; requiring the Public Service
8 Commission to maintain a list of utility valuation
9 experts; providing requirements for a determination of
10 fair market value and rate base value of a selling
11 utility; requiring an acquiring public utility to
12 provide the commission with certain documentation;
13 requiring the commission to make a determination
14 within a specified timeframe under certain
15 circumstances; requiring an order approving an
16 application to contain certain information; specifying
17 that the commission retains certain authority over the
18 acquired utility; providing applicability; requiring
19 the commission to adopt rules; providing an effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Section 367.0713, Florida Statutes, is created
25 to read:

26 367.0713 Valuation of acquired water and wastewater
27 systems.-

28 (1) ELECTION.-If a public water or wastewater utility
29 acquires an existing water or wastewater utility, the acquiring

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30 public utility may establish a rate base by using the fair
31 market value of the existing utility property instead of the
32 original cost.

33 (2) DETERMINATION OF FAIR MARKET VALUE.—

34 (a) The commission shall maintain a list of accredited,
35 impartial utility valuation experts.

36 (b) The fair market value of the selling utility must be
37 based on two separate valuations conducted by utility valuation
38 experts chosen from the list maintained pursuant to paragraph

39 (a). From that list, one expert shall be selected to represent
40 the acquiring public utility and one expert shall be selected to
41 represent the selling utility. In determining the fair market
42 value:

43 1. The utility valuation experts shall perform their duties
44 in compliance with the most recent version of the Uniform
45 Standards of Professional Appraisal Practice approved and
46 adopted by the Appraisal Standards Board of The Appraisal
47 Foundation, by employing cost, market, and income approaches to
48 the assessment of value;

49 2. The utility valuation experts shall consider an
50 assessment of the tangible assets of the selling utility which
51 is provided by a licensed professional engineer retained by the
52 acquiring public utility and the selling utility; and

53 3. The utility valuation experts may not consider the
54 original source of funding for any portion of the assets being
55 acquired.

56 (c) For rate-making purposes of this section, the fair
57 market value of a utility is the average of the two separate
58 required valuations determined under paragraph (b).

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59 (3) RATE BASE VALUE.—The rate base value of the selling
60 utility, which must be reflected in the acquiring public
61 utility's next general rate case for rate-making purposes, is
62 the lesser of the purchase price negotiated between the parties
63 to the sale or the fair market value plus reasonable fees and
64 costs. The fees and costs may include the fees of the utility
65 valuation experts required under subsection (2) and any
66 reasonable transaction and closing costs incurred by the
67 acquiring public utility.

68 (4) APPLICATION AND PROCEDURE.—The acquiring public utility
69 must provide the commission with all of the following
70 documentation in an application for a determination of the rate
71 base value of the selling utility:

72 (a) A copy of the valuations performed by the utility
73 valuation experts required under subsection (2).

74 (b) Any deficiencies identified by the engineering
75 assessment conducted pursuant to subparagraph (2)(b)2. and a 3-
76 year plan for prudent and necessary infrastructure improvements
77 by the acquiring public utility.

78 (c) The projected rate impact for the selling utility's
79 customers for the next 5 years.

80 (d) The fair market value according to the averaging of the
81 utility valuation experts' valuations.

82 (e) The assessment of tangible assets performed by a
83 licensed professional engineer under subparagraph (2)(b)2.

84 (f) The contract of sale.

85 (g) The estimated valuation fees and transaction and
86 closing costs incurred by the acquiring public utility.

87 (h) A tariff, including rates equal to the rates of the

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88 selling utility.

89 (5) FINAL ORDER.—If an application meets all the
90 requirements of subsection (4), the commission must issue a
91 final order approving or denying the application within 6 months
92 after the date the application was filed. An order approving an
93 application must indicate the rate base value of the acquired
94 utility for rate-making purposes in a manner consistent with
95 this section.

96 (6) COMMISSION'S AUTHORITY.—The commission retains its
97 authority under this chapter to set rates for the acquired
98 utility in future rate cases and has the discretion to classify
99 the acquired utility as a separate entity for rate-making
100 purposes, consistent with the public interest.

101 (7) APPLICABILITY.—This section applies exclusively to
102 utilities that regularly provide water and wastewater services
103 to more than 30,000 customer connections in the voluntary and
104 mutually agreeable acquisition of water or sewer utilities.

105 (8) RULES.—The commission shall adopt rules to implement
106 this section.

107 Section 2. This act shall take effect upon becoming a law.