CHAPTER 9

APPROVAL OF STOCKS, BONDS AND NOTES BY PUBLIC UTILITIES COMMISSION

§901. Issuance of stocks, bonds and notes

Subject to the requirements of this chapter any public utility, organized and existing or incorporated under the laws of this State and doing business in the State, may issue stocks, bonds which may be secured by mortgages on its property, franchises or otherwise, notes or other evidences of indebtedness payable at periods of more than 12 months after the date of issuance, when necessary for: [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Acquisition of property. The acquisition of property to be used for the purpose of carrying out its corporate powers;
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Construction; facilities. The construction, completion, extension or improvement of its facilities;
[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Improvement; service. The improvement or maintenance of its service;
[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Refinancing. The discharge or lawful refunding of its obligations, including capital stock;
[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Reimbursement. Reimbursement of its treasury for money used for the acquisition of property, the construction, completion, extension or improvement of its facilities; for the discharge or lawful refunding of its obligations; and which actually were expended from income or from other money in the treasury of the corporation not secured by or obtained from the issue of stocks, bonds, notes or other evidences of indebtedness of the corporation; or
[PL 1987, c. 141, Pt. A, §6 (NEW).]

6. Other purposes. Any other lawful purpose.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

Notwithstanding any provision of law to the contrary, the requirements of this chapter do not apply to a consumer-owned water utility as defined in section 6101, subsection 1-A. [PL 2025, c. 110, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2023, c. 325, §2 (AMD). PL 2025, c. 110, §3 (AMD).

§902. Commission authorization required

1. Order authorizing issuance. No public utility may make an issuance as described in section 901, except as provided in section 906, unless it has made a written application, setting forth information the commission may require and has secured from the commission an order authorizing the issue and the amount of the issue and stating that in the opinion of the commission the proceeds of the issuance of the stocks, bonds, notes or other evidences of indebtedness are required in good faith for purposes enumerated in section 901.
[RR 2009, c. 2, §99 (COR).]

2. Matters which may be considered. In determining whether to grant its authorization, the commission may consider the reasonableness of the purpose or purposes for which the proceeds of the issue will be applied, other resources which the utility has available or may have available for those

purposes, the justness and reasonableness of the estimated cost to the utility of the issue and the effect of the issue upon the utility's capital structure. The commission's decision shall be in writing and shall contain findings setting forth the reasons for the decision.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Procedure upon application. For the purpose of enabling the commission to determine whether it shall issue an order in accordance with subsection 1, the commission shall make such inquiries for investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it determines important in enabling it to reach a determination. The commission may determine whether and in what manner notice of the application shall be given and whether a hearing should be held. In view of the public interest in the prompt resolution of questions affecting the issuance of securities by public utilities, in cases in which a hearing is held or the application is contested, the commission shall issue its final order within 60 days of the filing of the application or 30 days of the close of hearing on the application, whichever first occurs, unless the commission makes an affirmative determination that additional time is necessary for a proper resolution of issues concerning the application and, notwithstanding any other provisions of law, shall establish such accelerated notice periods, schedules and limitations on hearings as may be necessary in furtherance of the resolution of those issues.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Approval of issuance not to affect rate-making powers. No order of the commission authorizing the issue of stocks, bonds, notes or other evidences of indebtedness may limit or restrict the powers of the commission in determining and fixing any rate, fare, toll, charge, classification, schedule or joint rate as provided in this Title.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). RR 2009, c. 2, §99 (COR).

§903. Stocks sold at less than par value

Every order authorizing the issue of stock shall, if it authorizes sale at less than par value, specify a minimum price at which the shares are to be sold. Any shares of stock, issued in accordance with such an order, shall be fully paid stock and not liable to any further call or payment, even though it may have been authorized for sale at less than its par value. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§904. Approval of stocks authorized, but not issued

The commission may at the request of any public utility approve the issue of any stocks, bonds, notes or other evidences of indebtedness authorized, but not issued. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§905. Validity of securities issued pursuant to order of commission

Any stocks, bonds, notes or other evidences of indebtedness issued or sold pursuant to or in reliance on and in accordance with any order, authorization or decision of the commission pursuant to this chapter, and at least 5 business days after the date of the order, authorization or decision, shall be valid, binding and enforceable in accordance with their terms, including the terms of any agreement, instrument or document under or pursuant to which the stocks, bonds, notes or other evidences of indebtedness are issued, notwithstanding that the order, authorization or decision of the commission is

later vacated, modified or otherwise held to be wholly or partly invalid, whether by the commission upon a petition for rehearing or reopening, or otherwise, or by a court, unless operation of the order, authorization or decision of the commission has been stayed or suspended by the commission or a court of competent jurisdiction prior to the issuance of the stocks, bonds, notes or other evidences of indebtedness. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§906. Commission authorization not required

1. Property and service outside the State. Except as provided in subsection 2 for transmission and distribution utilities, notwithstanding any other provision of this chapter, a public utility is not required to apply to the commission for authority to issue stocks, bonds, notes or other evidences of indebtedness for the acquisition of property, for the purposes of carrying out its corporate powers, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service, outside the State.
[PL 1999, c. 398, Pt. A, §20 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

2. Exception: Transmission and distribution utilities. Notwithstanding subsection 1, this chapter applies to any domestic transmission and distribution utility acquiring and operating utility facilities outside the State for the purpose of serving customers within the State.
[PL 1999, c. 398, Pt. A, §20 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

3. Domestic electric utility.

[PL 1999, c. 398, Pt. A, §20 (RP); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1997, c. 710, §4 (AMD). PL 1999, c. 398, §A20 (AMD). PL 1999, c. 398, §§A104,105 (AFF).

§907. Municipal or quasi-municipal corporations

Without in any way restricting the general language of this chapter, this chapter shall be construed to authorize any municipal or quasi-municipal corporation referred to in this Title to issue, upon vote of its trustees or similar governing board, bonds, notes or other evidences of indebtedness for the purposes specified and subject to the approval of the commission. Notwithstanding the provisions of any legislative charter, the trustees or similar governing board of any such corporation may issue notes or other evidences of indebtedness payable at periods of less than 12 months after the date of issuance when necessary to carry out the purposes of the corporation, without securing authorization from the commission pursuant to this chapter. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§908. Additional requirements as to issuance

1. Commission's order recorded on utility's books. No public utility may issue any stocks, bonds, notes or other evidences of indebtedness, unless payable within one year from date of issuance, for money, property or services, in payment for them, either directly or indirectly, until the commission's authorizing order is recorded on the utility's books.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Commission consent for refund of indebtedness. No indebtedness may in whole or in part, directly or indirectly, be refunded by any issue of stocks or bonds or by any other evidence of indebtedness, running for more than 12 months, without the consent of the commission.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§909. Stock for organization purposes

Any public utility corporation at the time of its organization may issue for organization purposes, without the consent of the commission, not more than 6 shares of stock at par for cash or, if non-par stock, for the consideration of $100 per share, these shares when issued to be a part of the total capital issue. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§910. Consent required for change of capital or purposes

1. Change of capital. No public utility may without the consent of the commission:

A. Decrease its capital; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Declare any stock, bond or scrip dividend; or [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. Divide the proceeds of the sale of its own or any stock, bonds or scrip among stockholders. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Change of purpose. No change of purposes of a public utility, unless specifically chartered, becomes effective until:

A. Approved by the commission; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. A certificate of approval is filed with the Secretary of State within 20 days of the date it is approved. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§911. Approval of capital leases

No capital lease, entered into by a public utility for a term of more than 3 years, of property having a fair value the greater of $50,000 or 1% of the public utility's total long-term debt is valid without the written approval of the commission. The commission's procedure and standards governing approval shall be similar to those which apply to applications under sections 901 and 902. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§912. Exemption for certain telephone utilities

The provisions of this chapter do not apply to any telephone utility other than a provider of provider of last resort service. [PL 2011, c. 623, Pt. A, §15 (NEW).]

The commission may adopt by rule standards and procedures for granting exemptions to providers of provider of last resort service from all or specified portions of this chapter. Any exemption granted pursuant to the rule must be accompanied by a finding that the exemption is in the public interest. A utility granted an exemption pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules. [PL 2011, c. 623, Pt. A, §15 (AMD).]

For good cause, as defined by the commission by rule, the commission may revoke any exemption granted pursuant to this section. A revocation may be in whole or in part and may be specific to a single provider of provider of last resort service. [PL 2011, c. 623, Pt. A, §15 (AMD).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 623, Pt. A, §15 (AMD).]

SECTION HISTORY

PL 1997, c. 276, §2 (NEW). PL 1997, c. 276, §4 (AFF). PL 2001, c. 137, §5 (AMD). PL 2011, c. 623, Pt. A, §15 (AMD).

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