

476.84 Water, sanitary sewer, and storm water utilities — acquisitions — advance ratemaking.

1. **This section** applies to the acquisition of water, sanitary sewer, and storm water utilities by rate-regulated public utilities. **This section** does not apply to the acquisition of such utilities by non-rate-regulated entities described in **section 476.1, subsection 3**.

2. *a.* A public utility shall not acquire, in whole or in part, a water, sanitary sewer, or storm water utility with a purchase price of three million dollars or more from a non-rate-regulated entity described in **section 476.1, subsection 3**, unless the commission first approves the acquisition. In addition, if the utility to be acquired is a city utility, then the public utility shall not acquire the city utility until the city has first certified completion of the requirements of **sections 362.3, 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6**. A certified completion submitted pursuant to this paragraph shall contain an affirmation that the city that is the subject of the acquisition has timely and substantially complied in relation to the acquisition with the applicable provisions of **sections 362.3, 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6**.

b. If a water, sanitary sewer, or storm water utility that is the subject of an acquisition meets the requirements of paragraph “a”, then the acquiring public utility may apply to the commission, prior to the completion of the acquisition, for advance approval of a proposed initial tariff for providing service to customers of the acquired utility.

c. As part of its review of the proposed acquisition, the commission shall specify in advance, by order issued after a contested case proceeding, the ratemaking principles that will apply when the costs of the acquired utility are included in regulated rates. The lesser of the sale price or the fair market value of the acquired utility as established pursuant to **section 388.2A, subsection 2**, shall be used in determining the applicable ratemaking principles. In determining the applicable ratemaking principles, the commission shall not be limited to traditional ratemaking principles or traditional cost recovery mechanisms. Among the principles and mechanisms the commission may consider, the commission has the authority to approve ratemaking principles that provide for reasonable restrictions upon the ability of the public utility to seek an increase in specified regulated rates for a period of time after the acquisition takes place. The final order including the rate base and approving the acquisition shall consider reasonable and customary closing costs, the cost of appraisals, and regulatory and legal expenses incurred in connection with the acquisition.

d. In determining the applicable ratemaking principles, the commission shall find that the proposed acquisition will result in just and reasonable rates to all customers of the public utility, including but not limited to existing customers of the public utility. In making this finding, the commission may consider any factor it reasonably concludes may affect future rates, including but not limited to the price paid for the acquired utility and the projected cost of reasonable and prudent investments in the acquired utility in order to provide safe and reliable services and facilities to customers. The commission shall consider whether there are ratemaking principles that will result in just and reasonable rates to all customers in determining whether to approve or disapprove a proposed acquisition.

e. (1) In determining the applicable ratemaking principles, the commission shall require the public utility to submit a purchase agreement for the acquisition and shall find that the purchase agreement includes terms, conditions, requirements, and other provisions applicable to the system to be acquired that are in substantial compliance with the requirements in **sections 362.3, 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6**.

(2) The purchase agreement shall include a term allowing the parties thirty days, after final approval of the ratemaking principles, to terminate the purchase agreement without penalty.

f. If the acquisition involves a utility that is an at-risk system as defined in **section 455B.199D**, the commission shall issue a final order on an application for approval of the acquisition within one hundred twenty days from the filing of the application. For all other acquisitions, the commission shall issue an order within one hundred eighty days of the filing date of the application.

g. Upon the approval of a proposal for acquisition by commission order, the parties subject

to the acquisition shall have the option of either proceeding with such acquisition or not, subject to any termination provisions contained in the acquisition agreement.

h. Notwithstanding any provision of [this chapter](#) to the contrary, the ratemaking principles established by the commission pursuant to [this section](#) shall be binding with regard to the acquired utility in any subsequent rate proceeding.

[2018 Acts, ch 1024, §3](#); [2020 Acts, ch 1095, §2](#); [2024 Acts, ch 1026, §1](#); [2024 Acts, ch 1170, §369](#)

Code editor directive applied
Subsection 2 amended