

§1513. Divestiture of underperforming transmission and distribution utility

The commission shall initiate an adjudicatory proceeding, on its own motion or at the request of the Public Advocate, in accordance with this section to determine whether divestiture of an investor-owned transmission and distribution utility is warranted if the utility consistently fails to meet the service standards established in section 301, subsection 1-A, consistently fails to meet the requirements of section 301, subsection 1 or is unable to fulfill its statutory duties as a public utility because it is financially impaired. If, at the conclusion of the adjudicatory proceeding, the commission determines that divestiture of a transmission and distribution utility is warranted, the commission shall order divestiture of or by the utility in accordance with this section. [PL 2021, c. 702, §6 (NEW).]

1. Determination by the commission. The commission shall order the owner of the transmission and distribution utility to divest the utility if the acquisition of the utility from a qualified buyer:

A. Will result, over the long term, in net benefits to ratepayers in the form of lower rates or better service than the rates and service provided by the transmission and distribution utility; [PL 2021, c. 702, §6 (NEW).]

B. Is for a fair and reasonable purchase price negotiated by a qualified buyer and the transmission and distribution utility or as determined by the Superior Court in accordance with subsection 2; [PL 2021, c. 702, §6 (NEW).]

C. Demonstrates that the qualified buyer has sufficient financial and technical capability, expertise and experience to own and operate the utility and the ability to comply with all of the legal requirements, including but not limited to achievement of policies pursuant to Title 38, section 576-A and section 577, subsection 1, of a transmission and distribution utility; and [PL 2021, c. 702, §6 (NEW).]

D. Will benefit ratepayers as determined in accordance with section 708, subsection 2, paragraph C, subparagraph (2). [PL 2021, c. 702, §6 (NEW).]

[PL 2021, c. 702, §6 (NEW).]

2. Superior Court review. Notwithstanding any other provision of this Title, a transmission and distribution utility may apply by petition to the Superior Court of Kennebec County to determine a fair and reasonable price that provides just compensation for the sale of the transmission and distribution utility or its assets if the qualified buyer and transmission and distribution utility are unable to negotiate a price. The court shall hold a hearing on the petition in which the parties are permitted to present factual and expert testimony and other evidence concerning the value of the utility or its assets and shall render a decision. The decision of the Superior Court may be appealed to the Supreme Judicial Court sitting as the Law Court in the same manner as an appeal taken from a judgment of the Superior Court in a civil action.

[PL 2021, c. 702, §6 (NEW).]

3. More than one buyer. If more than one qualified buyer proposes to acquire the transmission and distribution utility or its assets, the commission shall order divestiture to the qualified buyer that will provide the greatest net benefits to ratepayers.

[PL 2021, c. 702, §6 (NEW).]

SECTION HISTORY

PL 2021, c. 702, §6 (NEW).

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