

## CHAPTER 11

### AUTHORIZATION OF SALES, LEASES, AND MORTGAGES OF PROPERTY

#### §1101. Authorization required

**1. Utilities to secure authorization from the commission.** A public utility must secure an order of authorization from the commission before it may:

A. Sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or part of its property that is necessary or useful in the performance of its duties to the public, or any part of its property under construction for the performance of its duties to the public, or its franchises, permits or rights under them; [PL 1987, c. 490, Pt. B, §1 (AMD).]

B. Merge or consolidate its property, franchise or permits, or a part of them, with another public utility by any means, direct or indirect. [PL 1987, c. 141, Pt. A, §6 (NEW).]  
[PL 1987, c. 490, Pt. B, §1 (AMD).]

**2. Failure to secure commission authorization.** Every sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing it is void.  
[PL 1987, c. 141, Pt. A, §6 (NEW).]

**3. Utilities exclusively outside the State.** Nothing in this section applies to property, franchises, permits or rights of a utility owned and operated exclusively outside the State, unless the property, franchise, permits or rights are owned, operated or under construction with respect to the performance of the utility's duties to the public inside this State.  
[PL 1987, c. 490, Pt. B, §2 (AMD).]

**4. Exempt transactions.** Transactions involving utility property that do not materially affect the ability of a utility to perform its duties to the public do not require commission authorization under this section. The commission may certify transactions as not requiring authorization, either by rule or order.  
[PL 1995, c. 357, §1 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §§B1,B2 (AMD). PL 1995, c. 357, §1 (AMD).

#### §1102. Property not necessary or useful to a utility's duties

Nothing in section 1101 prevents the sale, lease or other disposition by a public utility of property, which is not necessary or useful in the performance of its duties to the public. As to any purchaser of the property in good faith for value, the sale of property by a public utility shall be conclusively presumed to have been of property which is not necessary or useful in the performance of its duties to the public. [PL 1987, c. 141, Pt. A, §6 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

#### §1103. Transfer of utility stock

The following provisions apply to the acquisition of utility stock by another utility: [PL 1987, c. 141, Pt. A, §6 (NEW).]

**1. Commission authorization.** No public utility may purchase, acquire, take or hold any part of the capital stock of any other public utility organized or existing under the laws of this State without the commission's authorization.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**2. Transfer of stock void.** Every assignment, transfer, contract or agreement for assignment or transfer of stock by or through a person or corporation or otherwise in violation of this section is void. No transfer that violates this section may be made on the books of a public utility.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**3. Acquiring additional stock.** Nothing in this section may be construed to prevent the holding of stock lawfully acquired prior to the effective date of Public Law 1913, chapter 129, section 38, as approved March 27, 1913, or to prevent the acquiring of additional stock by a public utility which owned on that date a majority of the stock of such other utility.

[PL 1987, c. 769, Pt. A, §194 (RPR).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §B3 (AMD). PL 1987, c. 769, §A194 (AMD).

#### §1104. Abandonment of property or service

**1. Commission approval.** No public utility may abandon all or part of its plant, property or system necessary or useful in the performance of its duties to the public, or discontinue the service which it is providing to the public by the use of such facilities, without first securing the commission's approval.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**2. Terms and conditions.** In granting its approval, the commission may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest. A public utility abandoning all or part of its plant, property or system or discontinuing service pursuant to authority granted by the commission under this section is deemed to have waived all objections to the terms, conditions or requirements imposed by the commission in that regard.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

#### §1105. Exemption for certain telephone utilities

**(REPEALED)**

#### SECTION HISTORY

PL 1997, c. 276, §3 (NEW). PL 1997, c. 276, §4 (AFF). PL 2001, c. 137, §6 (AMD). PL 2011, c. 623, Pt. C, §5 (RP).

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