

Act 12 of 2016 Policy Hearing Written Testimony  
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At the time of voting to sell our sewer system to PA American Water, Towamencin had a sewer rate of \$450/year. PA American Water had a sewer rate of \$1272/year. Towamencin has a well-maintained sewer system that does not need work that would equate to triple rates. The fact that municipalities can make a decision that can triple cost to their residents for well less than triple benefits is unacceptable.

Annotated analysis as to why the Towamencin government study commission recommended prohibiting privatization is attached as an exhibit. Full privatization, and so-called fair market value legislation in particular, necessarily increases the cost of water and wastewater services much more than necessary due to purchase price recovery and added expenses that don't exist in the municipal model like high executive compensation. More than the costs, privatization is harmful to local democracy.

Hundreds of Towamencin residents showed up to meetings to demand the board of supervisors not approve a sale. The Board approved a sale twice, once to NextEra and a 2nd time to PA American Water after NextEra decided to exit the industry. Towamencin residents then took the extraordinary effort to exercise their constitutional right to adopt a home rule charter that prohibits the privatization of water, wastewater, and stormwater utilities. This effort included collecting 1000s of signatures, winning a ballot question to start a government study, winning a government study commission election, and finally winning a ballot question to adopt the home rule charter. Despite the clear message, the Towamencin Board of Supervisors has budgeted hundreds of thousands of taxpayer dollars to defend their decision in court.

Act 12 must be repealed and the time to do it is right now. The PUC is getting challenged in courts over these acquisitions and for the sake of judicial clarity there should be a moratorium on section 1329 acquisitions at least until Cicero vs the PUC is unappealable. American Water is coming up on its 3<sup>rd</sup> rate case since Act 12 was passed after hiking sewer rates by 75% since Act 12 was passed. On a community level, opposition to privatization has a broad coalition from dense boroughs like Conshohocken in Montgomery County to rural townships like Newberry in York County. Despite this broad opposition, there are very few ways citizens can stop these scams by statute. Legislators are also clearly getting duped with this false solution. When Aqua or American Water talk to their shareholders about fair market value, they don't mention water quality, they talk about growth and revenue. A slide from American Water's 3Q23 Earnings Conference Call is attached as an exhibit.

*Policy Proposals in addition to Act 12 repeal:*

### **Ratepayer Initiative**

I'm of the opinion that the public model is a better way to address infrastructure problems, but I would like to assuage the fear that municipalities wouldn't have private model options without Act 12. Title 66, Section 1327 is a perfectly functional water and wastewater valuation method. While there exists a way to permanently get rid of a public asset, there should also be a way for residents to initiate a referendum to stop such a proposal.

**Public consolidation**

Encouraging consolidation by geography or having multiple related utilities under one banner might be a good way to get some of the stated economies of scale benefits of privatization. A few municipal systems run water, wastewater, and stormwater utilities under one banner and billing system.

**Utility affordability**

There is no way to get around the fact that to upgrade infrastructure, we need to spend money. To avoid overburdening households more direct funding for water infrastructure projects would be beneficial. Setting up a state program similar to LIHWAP could also help struggling households.

**Public employee OSHA equivalents**

PA doesn't have OSHA equivalent standards for public employees, and it is worth considering protecting the workers of publicly owned utilities.

**Municipal Authorities**

Municipal authorities are the public solution to utility issues but the way they interact with the Public Utility Code could stand to be clarified.

As far as I can tell, PA law is clear that incorporating municipalities have the power to dissolve and sell municipal authorities. This is a big hole and counter to what seems to be the intent of the Municipal Authorities Act. Rate collecting municipal authorities should be legally independent enough from their incorporating municipality such that the municipality could not privatize or dissolve an authority without some extenuating circumstances and should always have the consent of the authority.

Similarly, there is no limit to a local council's ability to appoint themselves to municipal authority boards. In Adams Township, Butler County, there is a quorum of 3 supervisors on the 5 member municipal authority board. As far as I'm concerned, that authority functionally does not exist.

BCWSA and DELCORA both contended that they are within their rights to privatize themselves. BCWSA did not find out, courts have been deciding the DELCORA case for a few years now. Authorities should not be able to unilaterally shed their incorporating mandate by privatizing themselves. Privatization of a Municipal Authority should have the consent of all municipal governments with constituents who use the authority.

# American Water 3Q2023 Earnings Call Slide

