

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 34.
PUBLIC UTILITIES.

CHAPTER 10.
SALE AND MERGER OF UTILITIES.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE
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TABLE OF CONTENTS

§ 34-1001. Assignment of franchise; acquisition of stocks and bonds of competing utilities.

§ 34-1002. Antimerger law.[Repealed]

CHAPTER 10. SALE AND MERGER OF UTILITIES.

§ 34-1001. ASSIGNMENT OF FRANCHISE; ACQUISITION OF STOCKS AND BONDS OF COMPETING UTILITIES.

No franchise nor any right to or under any franchise to own or operate any public utility as defined in this subtitle or to use the tracks of any street railroad shall be assigned, transferred, or leased, nor shall any contract or agreement with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever unless the assignment, transfer, lease, contract, or agreement shall have been approved by the Commission in writing. The permission and approval of the Commission to the assignment, transfer, or lease of a franchise under this section shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture. It shall be unlawful for any street railroad corporation, gas company, electric company, telephone corporation, telegraph corporation, or other public utility corporation, directly or indirectly, to acquire the stock or bonds of any other corporation incorporated for or engaged in the same or similar business as it is, unless authorized in writing to do so by the Commission, and every contract, transfer, agreement for transfer or assignment of any such stock or bonds without such written authority shall be void and of no effect.

(Mar. 4, 1913, 37 Stat. 985, ch. 150, § 8, par. 54; May 9, 2000, D.C. Law 13-107, § 201(j), 47 DCR 1091; Mar. 16, 2005, D.C. Law 15-227, § 17(f), 51 DCR 10549.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-801.

1973 Ed., § 43-501.

Effect of Amendments

D.C. Law 13-107 substituted for "electric corporation" the phrase "electric company".

D.C. Law 15-227 substituted "gas company" for "gas corporation".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 7(e) of Prevention of Unauthorized Switching of Customer Natural Gas Accounts Temporary Act of 2001 (D.C. Law 14-13, July 10, 2001, law notification 48 DCR 6589).

Legislative History of Laws

Law 13-107, the "Retail Electric Competition and Consumer Protection Act of 1999," was introduced in Council and assigned Bill No. 13-284, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 7, 1999, and December 21, 1999, respectively. Signed by the Mayor on January 18, 2000, it was assigned Act No. 13-256 and transmitted to both Houses of Congress for its review. D.C. Law 13-107 became effective on May 9, 2000.

For Law 15-227, see notes following § 34-208.

§ 34-1002. ANTIMERGER LAW.[REPEALED]

(Mar. 4, 1913, 37 Stat. 1006, ch. 150, § 11; Mar. 4, 1925, 43 Stat. 1265, ch. 527, §§ 2, 3; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 588, Pub. L. 91-358, title I, § 168(a)(5); Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11703.)

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Miscellaneous Notes

Pub.L. 105-33, title XI, § 11703, Aug. 5, 1997, 111 Stat. 781, provides for the repeal of this section. Section 11721 of Pub.L. 105-33 provides:

Sec. 11721. EFFECTIVE DATE.

"Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title."

Prior to repeal, this section read:

"(a) It shall be unlawful for any foreign public utility corporation, or for any foreign or local holding corporation, or for any local street railroad corporation, gas corporation, electric corporation, telephone corporation, telegraph corporation, or any other local public utility corporation, directly or indirectly, to own, control, or hold or vote stock or bonds of any public utility corporation organized under any general incorporation law or special Act of the United States or authorized under any law of the United States to do business in the District of Columbia, except as heretofore or hereafter expressly authorized by Congress; and it shall be unlawful for any public utility corporation organized or authorized as aforesaid to sell or transfer any portion of its stock or bonds to any other public utility corporation or holding corporation whatsoever, unless heretofore or hereafter expressly authorized by Congress so to do; and every contract, transfer, agreement to transfer, or assignment by any said public utility corporation organized or authorized as aforesaid of any portion of its stock or bonds without such authority shall be utterly void and of no effect. The Superior Court of the District of Columbia, on application of the District of Columbia by its Mayor or attorney, or on application of the United States by its proper officer, or on application of any shareholder interested in any such corporations, shall have jurisdiction in equity to dissolve any public utility corporation organized under any general incorporation law or special act of the United States, or authorized under any law of the United States to do business in the District of Columbia, for violation of any of the provisions of this section or of their charters; and further, to require any foreign public utility corporation, or foreign or local holding corporation which owns, holds, or controls, or which shall hereafter own, hold, or control any such stock or bonds contrary to any of the provisions of this section, to sell or dispose of the same and to refrain from voting such stock or bonds: Provided, that in case the allegations in any bill filed in said court relate to the ownership of stock or bonds of a local corporation by any foreign corporation, then it must be shown to the satisfaction of the court that such ownership includes at least 20 per centum of the capital stock of the local corporation.

"(b) The inhibitions and restrictions contained in this section are hereby removed, so far and only so far, as they affect the acquisition by any corporation of the stocks or bonds of any of the corporations referred to in § 43-803 [1981 Ed.]: Provided, Congress reserves the right to alter, amend, or repeal this paragraph of this section.

"(c) The word 'foreign' when used in this section shall be construed to mean foreign to the District of Columbia, and the word 'local' when used in this section shall be construed to mean local in the District of Columbia.

"(d) Each provision of this section and every part of each provision is hereby declared to be an independent provision, and the holding of any provision or provisions, or part or parts thereof, to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other provision or part thereof."