

When a utility sale won't save the town (The math won't math)

A framework for municipal leaders weighing the sale of a distressed water or wastewater system.

Opinion



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This summer, the Borough of Shenandoah, a Schuylkill County community of roughly 5,000 in northeastern Pennsylvania, announced it would not sell its distressed wastewater system. Instead, it plans to rehabilitate the existing treatment plant, seek modification of a longstanding consent order requiring a new facility, and continue a forensic review of past operations.



Municipalities decline utility sales routinely. What makes this one worth broader attention is the math the borough put on the public record. A prospective acquirer valued the system at roughly \$1.5 million, while inherited obligations from an abandoned new-plant project alone exceed \$1.8 million — a \$1.2 million engineering and planning loan, about \$300,000 in outstanding engineering invoices, and a \$335,000 equipment

loan — with interest running at roughly \$250 per day. The estimated cost of the replacement plant required by the consent order has climbed from about \$25 million to nearly \$40 million.

Those numbers are Shenandoah's, but the shape of the decision — a system in distress, a buyer at the door, a consent order in force, and a community that cannot afford the regulator-preferred solution on its own — is one of the most common patterns I encounter, whether or not the engagement ultimately produces a sale. Officials facing a version of this decision must answer three questions first.

1. Will the sale retire the debt?

A utility sale's instinctive appeal is that it converts a liability into a check. In Pennsylvania, Act 12 (66 Pa. C.S. § 1329) has amplified that appeal by letting regulated acquirers include an acquired system's fair market value — not just its depreciated original cost — in rate base, which supports higher acquisition prices (and eventually higher rates). For some municipalities, the proceeds have retired legacy debt with room to spare and funded genuine reinvestment. For others, they have not.

The distinction lies in the math, not the mechanism. If the appraised or negotiated value materially exceeds the obligations attached to the system — bond debt, unpaid engineering invoices, deferred capital and pension and OPEB allocations — a sale can be transformative. If it does not, the transaction transfers the asset but leaves the debt with the taxpayers who own the borough, not the ratepayers who use the system. That is what Shenandoah's officials appear to have concluded: at \$1.5 million against obligations well in excess of it, the check would not close the gap, and residents would surrender ownership of a critical utility while still shouldering the debt behind it.

The most important pre-transaction exercise is not the valuation, but the debt-and-obligation stack: a verified inventory of every liability that would

survive the sale. Where a community has a prior sale to look back on, that experience is the most reliable evidence of how a new one will actually settle out. Shenandoah has that experience. In 2023, the borough sold its water authority — serving the same residents whose sewer service is now at issue — to Aqua Pennsylvania for \$12 million. The same purchaser later valued the sewer system at roughly \$1.5 million. After Aqua’s 2025 base rate case, typical residential water bills rose substantially. That kind of institutional memory is evidence, and officials should weigh it accordingly.

2. Can the consent order be modified?

Many systems reach the sale market precisely because they operate under a consent order — typically with the Pennsylvania Department of Environmental Protection (DEP), often with concurrent U.S. Environmental Protection Agency (EPA) oversight. Shenandoah’s order requires building a new treatment plant. The borough now proposes to substitute rehabilitation of the existing plant at substantially lower cost and has said it will meet with DEP and EPA to seek that modification.

A developed framework exists at both the federal and state level for evaluating such a request. EPA has published guidance for these negotiations, DEP applies a compatible analytical structure through its permit amendment process, and consent-order modifications are approved when a community can show that a cost-effective alternative achieves comparable, measurable environmental results. Such modifications are attainable, but only for communities that bring a package worthy of one.

Regulators do not grant modifications casually, and “we can’t afford it” is not, standing alone, persuasive. In my experience before DEP and, on multi-state matters, EPA, a credible modification package combines four elements:

- an engineering report showing the alternative achieves the same

water-quality and environmental outcome as the original remedy, with equivalent reliability over an equivalent design life; agencies will not accept “same objective, lower cost” unless the alternative is engineered and modeled to deliver it;

- a financial capability analysis in the form current federal guidance expects — residential and community-level impact metrics paired with a rigorous review of grants, low-interest loans, and other viable funding sources — showing the alternative is not merely cheaper but achievable within the community’s realistic funding capacity, with a rate path residents can bear;
- a compliance schedule with enforceable interim milestones and performance measures, giving the agency real leverage over what is typically a fifteen- to twenty-five-year timeline; and
- evidence of operational competence going forward — credentialed staffing, an asset management plan, and a governance record that gives the agency confidence the plan will be executed.

The fourth element is where distressed municipalities often stumble. Regulators evaluate the plan and the operator. Where a community is simultaneously conducting a forensic review of past operations, the strength of its go-forward operational and governance commitments becomes decisive. A rehabilitation plan is a promise; the agency needs a reason to believe it.

3. What are officials trading away?

Shenandoah framed the question in the language residents understand best: the quarterly bill. Officials estimated that residential sewer bills under private ownership could reach \$300 to \$350 per quarter — an estimate, as they noted, but a reasonable one given how Act 12 valuations flow into rate base. Rate impact is the most visible tradeoff in any utility sale, but rarely the only one that matters.

Officials evaluating a sale should weigh at least three categories that never show up on the purchase-price line:

- **Take the long view.** The right comparison is not “current municipal bill versus Year 1 acquirer bill.” It is the twenty- to thirty-year comparison between rates under continued municipal ownership with a realistic capital plan and rates under regulated ownership with the acquisition premium flowing through rate base over the life of the assets. Sometimes the acquirer curve is lower; sometimes it is not. Getting that right requires a proper financial model, not a napkin.
- **Local control and community accountability.** Rate cases before the Public Utility Commission are open but technical proceedings, and a small borough council’s practical influence over a large regulated utility differs sharply from the influence it holds over its own authority. That loss of control is not inherently bad — some systems are better run by well-capitalized regulated operators than by stretched borough staff — but it is real and should be traded consciously rather than absorbed as a side effect.
- **Environmental obligations that live on.** A sale transfers the operating permit and the physical plant, but not automatically every environmental liability. Historic contamination, unresolved consent-order milestones predating the sale, third-party service agreements with neighboring municipalities, and — often overlooked — the unfunded stormwater and MS4 obligations that stay with the municipality regardless of who owns the sewer system all require careful allocation in the purchase documents. Poorly negotiated allocations become the borough’s problem again the day after closing, often at the worst possible moment.

A tool, not a magic wand

I have represented municipalities and utilities selling water and sewer systems in transactions ranging from a few million dollars to well over

\$200 million, and municipalities protecting their interests when neighboring systems were being sold to someone else. The consistent lesson from both sides of the table: a utility sale is a tool, not a magic wand. It is the right tool when the numbers, the regulatory posture, and the community's long-term service needs align. It is the wrong tool when officials reach for it because the alternatives feel too hard, or because a headline valuation obscures the debt that will remain behind.

For Shenandoah, and for the many other municipalities quietly asking the same questions this year, the discipline is the same. Run the debt-and-obligation stack before the valuation. Engage DEP and EPA early on a modification package that can actually be executed — engineering, financing, enforceable milestones, and operational credibility in one envelope. And price any sale against a twenty-year view of what residents will pay and control, not the headline check at closing.

Shenandoah's announcement is not, by itself, a template. But the transparency with which the borough laid out its arithmetic — the debt, the interest clock, the buyer's number, the rehabilitation alternative — is a model other councils and boards facing the same choices would do well to imitate. Distressed-utility decisions are too consequential to make in the dark.



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