

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 352 Session of
1989

INTRODUCED BY STAIRS, LETTERMAN, DEMPSEY, CAWLEY, DALEY, HERMAN,
J. L. WRIGHT, ARGALL, BARLEY, TRELLO, MORRIS, J. TAYLOR,
WOZNIAK, HALUSKA, SEMMEL, BELARDI AND BELFANTI,
FEBRUARY 8, 1989

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 8, 1989

AN ACT

1 Providing for the production, distribution, conservation and
2 consumption of energy in the Commonwealth of Pennsylvania;
3 establishing the State Energy Commission and providing for
4 its powers and duties; transferring powers and duties of the
5 Governor's Energy Council and certain powers, duties and
6 agencies of the Department of Environmental Resources to the
7 State Energy Commission; providing for an energy master plan;
8 establishing the Division of Administrative Hearings within
9 the Office of Attorney General; providing penalties; and
10 making an appropriation.

11 The General Assembly hereby finds and declares that a secure,
12 stable and adequate supply of energy at reasonable prices is
13 vital to the economy of this Commonwealth and to the public
14 health, safety and welfare; that this Commonwealth is threatened
15 by the prospect of both short-term and long-term energy
16 shortages; that the existing dispersion of responsibilities with
17 respect to energy and energy-related matters among various State
18 departments, divisions, agencies and commissions inhibits
19 comprehensive and effective planning for our future energy
20 needs; and that the State government does not now possess either
21 sufficient information or adequate authority to provide for and

1 insure the wise and efficient production, distribution, use and
2 conservation of energy.

3 The General Assembly further finds that only an agency with
4 comprehensive powers can collect, collate and analyze the
5 information necessary to determine the amount of energy that is
6 or may be available; develop mechanisms to insure a fair and
7 equitable distribution of existing supplies; conduct the long-
8 term planning and management necessary to eliminate or alleviate
9 the potential adverse effects of a supply of energy insufficient
10 to meet legitimate needs or, from practices of production,
11 distribution and consumption, detrimental to the quality of life
12 or the environment; coordinate Pennsylvania's energy policies
13 and actions with Federal energy policies; and secure for
14 Pennsylvania the maximum amount of Federal funding available for
15 energy-related research, development and demonstration projects.

16 The General Assembly further finds that shortages of energy
17 have the potential at certain times and in certain places to so
18 seriously affect the public interest that it is necessary for
19 State government to possess emergency powers sufficient to
20 prevent or minimize health disasters and grave economic
21 disruptions which could occur during these times.

22 The General Assembly therefore declares it to be in the best
23 interest of the citizens of this Commonwealth to establish a
24 principal agency to coordinate authority, regulation and
25 planning by the Commonwealth in energy-related matters.

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4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 CHAPTER 1

7 PRELIMINARY PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the State Energy
10 Act.

11 Section 102. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Chairman." The chairman of the State Energy Commission.

16 "Commission." The State Energy Commission.

17 "Electrical energy." The energy produced as the result of
18 the generation of electricity in any manner.

19 "Energy." The capacity to do work or to produce heat, this
20 potential being transferred from any fuel or source whatsoever.

21 "Energy emergency." A condition of imminent danger to the
22 economic well-being, health, safety or welfare of the people of
23 this Commonwealth.

24 "Energy resource." Any substance or process used primarily
25 for its energy content or capacity for producing energy,
26 including, but not limited to, coal, crude oil, geothermal
27 energy, natural gas, nuclear energy, petroleum, petroleum
28 derivative, solar energy, synthetic natural gas or wind energy.

29 "Executive administrator" or "administrator." The executive
30 administrator of the State Energy Commission.

1 "Liquid fuel." Petroleum or any other liquid substance
2 capable of providing energy.

3 "Natural gas." A naturally occurring mixture of hydrocarbon
4 and hydrocarbon gases found in porous geological formations
5 beneath the earth's surface, often in association with
6 petroleum.

7 "Nonrenewable energy resource." Any substance the use of
8 which diminishes its availability or abundance, including, but
9 not limited to, coal, natural gas, petroleum or uranium.

10 "Person." Any individual, partnership, corporation, joint
11 venture, association, governmental subdivision, or public or
12 private organization of any character, including another entity,
13 other than a Federal agency.

14 "Renewable energy resource." Any method, process or
15 substance the use of which does not diminish its availability or
16 abundance, including, but not limited to, biomass conversion,
17 geothermal energy, solar energy, wind energy, wood or any type
18 of nuclear energy whereby more fuel is produced than is used.

19 "Utility." Any person who distributes, transports or
20 produces natural gas or electricity for use or consumption in
21 this Commonwealth.

22 CHAPTER 3

23 STATE ENERGY COMMISSION

24 Section 301. Establishment and composition.

25 (a) Establishment.--There is hereby established an
26 independent commission to be known as the State Energy
27 Commission.

28 (b) Composition.--The commission shall be composed of seven
29 members, as follows:

30 (1) Five members appointed by the Governor with the

1 advice and consent of two-thirds of the elected members of
2 the Senate. Each of these appointed members shall have at
3 least five years' experience in the areas of energy
4 development, engineering, research, education, production,
5 generation, distribution, regulation or similar energy areas
6 or a combination of at least three years' experience in the
7 aforementioned fields and at least two years' experience in
8 management, public administration, finance, accounting, law
9 or similar areas.

10 (2) One member appointed by the President pro tempore of
11 the Senate.

12 (3) One member appointed by the Speaker of the House of
13 Representatives.

14 (c) Terms.--Members shall serve a term of five years and
15 until their successors are appointed and confirmed.

16 Section 302. Meetings, quorum, etc.

17 (a) Meetings.--The commission shall meet at least six times
18 a year and shall also, from time to time, hold public hearings
19 to receive the views of the public. The commission may meet at
20 any time on call of the chairman or a majority of the members.

21 (b) Chairman.--Annually, at its first meeting, the
22 commission shall select a chairman and a secretary from among
23 its members.

24 (c) Quorum.--A quorum shall consist of a majority of the
25 members of the commission, including at least one of the members
26 appointed by either the President pro tempore of the Senate or
27 the Speaker of the House of Representatives. Any action taken by
28 the commission shall, however, require the affirmative votes of
29 at least four members.

30 (d) Vacancies.--Vacancies shall be filled in the same manner

1 as the original appointment was made and for the remainder of
2 the unexpired term. Vacancies occurring among members appointed
3 by the Governor while the Senate is not in session shall be
4 filled on an interim basis until the Senate next convenes, when
5 such appointee shall be confirmed.

6 (e) Expenses.--Members shall receive no compensation but
7 shall be entitled to reimbursement for all necessary and
8 reasonable expenses, in accordance with the rules of the
9 Executive Board.

10 Section 303. Secretary of Environmental Resources and Chairman
11 of Pennsylvania Public Utility Commission.

12 The Secretary of Environmental Resources and the Chairman of
13 the Pennsylvania Public Utility Commission, or their designees,
14 shall serve as ex officio, nonvoting members of the commission,
15 whose presence shall not be counted for a quorum or for voting
16 requirements.

17 Section 304. Organization.

18 Personnel of the commission shall be organized into an Office
19 of the Executive Administrator and three divisions. The
20 commission shall appoint as the head of each of the following
21 divisions, upon recommendation of the executive administrator, a
22 person knowledgeable and experienced in the area or areas for
23 which that division is responsible:

24 (1) Office of Administration.

25 (2) Office of Energy Policy and Programs.

26 (3) Office of Energy Planning and Evaluation.

27 Section 305. Divisions.

28 (a) Office of Executive Administrator.--

29 (1) The Office of the Executive Administrator is
30 responsible for the general administration and coordination

1 of the commission and its divisions.

2 (2) The commission shall appoint a Chief Counsel who
3 shall supply legal services to the commission.

4 (b) Office of Administration.--

5 (1) The Office of Administration shall be headed by a
6 Director of Administration, to be appointed by the commission
7 upon recommendation of the executive administrator. The
8 director shall report to and be directly responsible to the
9 executive administrator.

10 (2) The Office of Administration shall have
11 responsibility with regard to personnel and fiscal
12 management, information systems, office systems and services,
13 and other such responsibilities as may be assigned by the
14 executive administrator.

15 (c) Office of Energy Policy and Programs.--

16 (1) The Office of Energy Policy and Programs shall be
17 headed by a Director of Energy Policy and Programs, to be
18 appointed by the commission upon recommendation of the
19 executive administrator.

20 (2) The Office of Energy Policy and Programs shall have
21 responsibility with regard to intergovernmental affairs,
22 grants administration, nuclear issues and radiation
23 protection, mines and mineral resources, oil and gas
24 management, renewable and alternative technologies, energy
25 conservation programs, and other such responsibilities as may
26 be assigned by the executive administrator.

27 (d) Office of Energy Planning and Evaluation.--

28 (1) The Office of Energy Planning and Evaluation shall
29 be headed by a Director of Energy Planning and Evaluation, to
30 be appointed by the commission upon recommendation of the

1 executive administrator.

2 (2) The Office of Energy Planning and Evaluation shall
3 have responsibility with regard to regulatory affairs,
4 emergency preparedness, budget and program evaluation,
5 utility affairs, community relations and public information,
6 and other such responsibilities as may be assigned by the
7 executive administrator.

8 Section 306. Transfer of certain functions, powers and duties.

9 All functions, powers and duties now vested in the following
10 organizational units are hereby transferred and vested in the
11 commission:

12 (1) The Governor's Energy Council.

13 (2) The following bureaus of the Department of
14 Environmental Resources:

15 (i) Bureau of Abandoned Mine Reclamation.

16 (ii) Bureau of Deep Mine Safety.

17 (iii) Bureau of Mining and Reclamation.

18 (iv) Bureau of Oil and Gas Management.

19 (v) Bureau of Radiation Protection.

20 (3) The following boards and commissions of the
21 Department of Environmental Resources:

22 (i) Mining and Reclamation Advisory Board.

23 (ii) Anthracite Mine Inspectors' Examining Board.

24 (iii) Mine Inspectors' Examining Board for the
25 Bituminous Coal Mines of Pennsylvania.

26 (iv) Oil and Gas Conservation Commission.

27 Section 307. Executive administrator.

28 (a) Appointment.--The commission shall be administered by an
29 executive administrator who shall be appointed by the
30 commission. The executive administrator shall have at least five

1 years' experience in the field of energy development,
2 engineering, research, education, production, generation,
3 regulation or distribution and shall have experience in
4 management or administration. The executive administrator shall
5 serve at the will and pleasure of the commission. He may be
6 removed from office by a vote of not less than five members of
7 the commission, including at least one member appointed by
8 either the President pro tempore of the Senate or the Speaker of
9 the House of Representatives.

10 (b) Deputy administrator.--The executive administrator shall
11 appoint a deputy administrator. The deputy administrator shall
12 assume all responsibility and authority vested in the executive
13 administrator upon the absence of the executive administrator.
14 The deputy administrator will have specific responsibilities as
15 are assigned by the executive administrator.

16 Section 308. Powers and duties of executive administrator.

17 The executive administrator shall have the power and duty to:

18 (1) Administer, monitor and review the programs and
19 policies of the commission.

20 (2) Assure that all divisions of the commission fully
21 execute the separate duties and responsibilities assigned to
22 each and, with the approval of the commission, to reorganize
23 divisions and duties of the commission as necessary.

24 (3) Submit to the commission for approval all of the
25 major actions, programs and policies of the commission.

26 (4) Advise the commission, the Governor and the General
27 Assembly on State and Federal energy policies, practices,
28 programs and legislation.

29 (5) Make recommendations to the Governor and the General
30 Assembly for appropriate actions to be taken in an energy

1 emergency.

2 (6) Recommend energy policy to the commission, including
3 alternatives, for implementation in this Commonwealth.

4 (7) Maintain continuous liaison with energy suppliers,
5 distributors and other State and Federal agencies concerned
6 with energy-related matters.

7 (8) Assist other State agencies with specific energy
8 problems.

9 (9) Coordinate the State's activities with respect to
10 proposed energy projects by seeking to minimize economic and
11 environmental costs associated with energy production and
12 distribution.

13 (10) Recommend rules and regulations to the commission.

14 (11) Submit, with the approval of the commission,
15 proposed legislation for consideration by the General
16 Assembly.

17 (12) Enforce all contracts or agreements entered into by
18 the commission.

19 (13) Contract for and accept any gifts, grants, loans or
20 appropriations of funds or property, or financial or other
21 aid in any form from Federal energy-related agencies,
22 departments, or their successors or any other agency or
23 instrumentality of the Federal Government, or from the
24 Commonwealth or any agency, instrumentality or political
25 subdivision thereof, or from any other source for the use of
26 the commission; and to design and administer a grant program
27 in accordance with Federal and State laws and regulations.

28 (14) Receive applications for and recommend to the
29 commission grants from such other funds as are available,
30 including funds from State sources, and to establish

1 administrative practices for the accounting and monitoring of
2 the use of such funds according to State financial procedures
3 or additional safeguards which in the judgment of the
4 commission, may be advisable.

5 (15) Participate, in cooperation with the Attorney
6 General of the Commonwealth and other appropriate State
7 government entities, and in accordance with Federal law, in
8 Federal agency decisionmaking.

9 (16) Employ, on a temporary basis, such persons as are
10 necessary to effect the provisions of the commission.

11 (17) Issue orders to assure compliance with rules and
12 regulations, as approved.

13 Section 309. Powers and duties of commission.

14 The commission shall have the power and duty to:

15 (1) Serve as the central repository for collection of
16 energy information.

17 (2) Collect and analyze data relating to present and
18 future demands and resources for all forms of energy.

19 (3) Request all entities engaged in production,
20 distribution, transmission and storage of energy in any form
21 to submit pertinent energy data, not including certain
22 information deemed by the executive administrator to be
23 confidential in nature.

24 (4) Establish an energy information forecasting system.

25 (5) Design, implement and enforce a program for
26 conservation of energy in commercial, industrial and
27 residential facilities.

28 (6) Conduct and supervise a Statewide educational
29 program on energy conservation.

30 (7) Monitor energy prices and evaluate rate and price

1 policies.

2 (8) Conduct and supervise energy projects and programs.

3 (9) Distribute and expend funds made available for
4 research and programs.

5 (10) Enter into interstate compacts to carry out energy
6 research and planning with other states or the Federal
7 Government.

8 (11) Apply for, accept and expend grants-in-aid and
9 assistance for energy programs from private and public
10 sources.

11 (12) Require annual submission of energy utilization
12 reports and conservation plans by all Commonwealth
13 departments and agencies.

14 (13) Issue subpoenas and conduct hearings and
15 investigations.

16 (14) Administer Federal regulations as are applicable.

17 (15) Acquire, purchase, grant and contract for eminent
18 domain title to real property to demonstrate facilities for
19 improved energy efficiency.

20 (16) Construct and operate facilities which improve
21 energy efficiency.

22 (17) Contract with any other public agency or
23 corporation.

24 (18) Determine the effect of energy and fuel shortages
25 on consumers.

26 (19) Keep complete and accurate minutes of all hearings
27 held before the commission or any division of the agency.

28 (20) Develop an energy master plan for submission to the
29 Governor and the General Assembly.

30 (21) Develop an emergency allocation plan which

1 specifies actions to be taken in the event of an impending
2 serious shortage of energy that poses grave threats to the
3 public health, safety or welfare.

4 (22) Authorize the Governor to proclaim, if needed, a
5 state of energy emergency through executive order, which
6 shall remain in effect until the Governor declares through
7 subsequent order that the state of energy emergency has
8 terminated.

9 (23) Make and execute contracts or leases in the name of
10 the Commonwealth, with the approval of the Governor, and
11 enter into agreements with owners or lessees of property or
12 property rights located in the same areas as lands owned or
13 leased by the Commonwealth for the protection, preservation
14 or recovery of metallic or nonmetallic ore, oil, natural gas
15 or any other mineral deposits underlying these lands,
16 provided that the deposits are owned by the Commonwealth,
17 whenever it is determined by the commission that it would be
18 in the best interests of the Commonwealth to make such
19 disposition of the deposits. Any proposed contracts or leases
20 for the extraction or recovery of metallic or nonmetallic
21 ore, oil, natural gas or other minerals shall have been
22 published once a week for three consecutive weeks, in at
23 least two newspapers of general circulation in the locality
24 where the extraction or recovery is to be located, prior to
25 awarding such contract or lease. Such contract or lease shall
26 be awarded to the highest and best bidder capable for the
27 proper performance of the contract. However, where the
28 Commonwealth owns a fractional interest in the oil, natural
29 gas and other minerals, the requirement of competitive
30 bidding may be waived, and the commission may enter into a

1 contract to lease that fractional interest, with the approval
2 of the Governor and upon such terms and conditions as the
3 commission deems to be in the best interest of the
4 Commonwealth.

5 (24) Make and execute contracts or leases, in the name
6 of the Commonwealth, for the mining or removal of any
7 valuable minerals that may be found in State forests, or of
8 oil and gas beneath those waters of Lake Erie owned by the
9 Commonwealth, or of oil and gas beneath the land of Woodville
10 State Hospital owned by the Commonwealth, whenever it appears
11 to the satisfaction of the commission that it would be in the
12 best interests of the Commonwealth to make such disposition
13 of these materials. Any proposed contracts or leases of
14 valuable minerals exceeding \$1,000 in value shall be
15 advertised once a week for three weeks, in at least two
16 newspapers published nearest the locality indicated, in
17 advance of awarding such contract or lease. Such contracts or
18 leases may then be awarded to the highest and best bidder,
19 who shall give bond for the proper performance of the
20 contract as the commission designates. However, where the
21 Commonwealth owns a fractional interest in the oil, natural
22 gas and other minerals under State forest lands, the
23 requirement of competitive bidding may be waived, and the
24 commission may enter into a contract to lease that fractional
25 interest, with the approval of the Governor and upon such
26 terms and conditions as the commission deems to be in the
27 best interests of the Commonwealth.

28 (25) Enter into agreements to sell, lease or otherwise
29 dispose of any iron, coal, limestone, fire-clay, oil, gas and
30 other minerals, except sand and gravel and minerals deposited

1 in pools created by dams, that may be found in or beneath the
2 beds of navigable streams or bodies of water within this
3 Commonwealth and nonnavigable streams or bodies of water
4 where the beds thereof are owned by the Commonwealth, on such
5 terms and conditions as the commission deems to be in the
6 best interests of the Commonwealth. Nothing herein shall
7 authorize the interference with free navigation of these
8 streams or bodies of water or to undermine the bed thereof or
9 to interfere with the rights of any person or persons holding
10 property on the banks thereof.

11 (26) Enter into contracts:

12 (i) To implement the Abandoned Mine Reclamation
13 Program under Title IV of the Surface Mining Control and
14 Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C.
15 Section 1231 et seq.).

16 (ii) For the abatement and control work authorized
17 under the act of January 19, 1968 (1967 P.L.996, No.443),
18 known as The Land and Water Conservation and Reclamation
19 Act.

20 (iii) To reclaim abandoned surface mines as provided
21 for in the act of May 31, 1945 (P.L.1198, No.418), known
22 as the Surface Mining Conservation and Reclamation Act,
23 the act of September 24, 1968 (P.L.1040, No.318), known
24 as the Coal Refuse Disposal Control Act, and the act of
25 December 19, 1984 (P.L.1093, No.219), known as the
26 Noncoal Surface Mining Conservation and Reclamation Act.

27 (iv) To restore, repair or mitigate damages as
28 provided for in the act of April 27, 1966 (1st Sp.Sess.,
29 P.L.31, No.1), known as The Bituminous Mine Subsidence
30 and Land Conservation Act.

1 (v) To plug abandoned oil and gas wells as provided
2 for in the act of December 19, 1984 (P.L.1140, No.223),
3 known as the Oil and Gas Act.

4 In all cases in which the commission enters into a contract
5 and the other party to the contract is required to post a
6 bond or other acceptable security to be held to apply as a
7 credit against any unpaid balances or to carry out any
8 unfulfilled conditions, the moneys of these bonds or
9 securities shall accrue to the benefit of the commission
10 insofar as necessary to indemnify the commission and the
11 Commonwealth from all losses caused by failure of the
12 contracting party to fulfill any contract condition. Moneys
13 not required by the commission to pay unpaid balances or to
14 fulfill contract conditions shall accrue to the General Fund.
15 Where the contract was awarded under paragraph (25), the
16 excess moneys shall be deposited into the fund under which
17 the contract was authorized.

18 (27) Assure that the mining laws of this Commonwealth
19 are faithfully executed and, for that purpose, cause lawfully
20 qualified mine inspectors to enter, inspect and examine any
21 mine or colliery within this Commonwealth and the works and
22 machinery connected therewith.

23 (28) Give such aid and instruction to the mine
24 inspectors, from time to time, as may be calculated to
25 protect the health and promote the safety of all persons
26 employed in and about the mines. Subject to any inconsistent
27 provisions contained in this act, anthracite mine inspectors
28 and bituminous mine inspectors shall, respectively, under the
29 direction of the executive administrator, continue to
30 exercise the powers and perform the duties vested in and

1 imposed upon them by law.

2 (29) Make such examinations and investigations as may be
3 necessary to enable it to make recommendations upon any
4 matters pertaining to the general welfare of coal miners and
5 others connected with mining and the interests of mine owners
6 and operators in this Commonwealth.

7 (30) In those instances where such work is in the
8 interest of the public welfare, seal, close or backfill
9 abandoned deep or strip coal mines; plug abandoned oil and
10 gas wells, other than those governed by the Oil and Gas Act;
11 fill voids in abandoned coal mines; drill bore holes, dig
12 ditches or construct flumes which would relieve flooding or
13 hazardous conditions caused by mine water; and extinguish
14 fires in abandoned coal mines and in culm banks.

15 (31) Administer the laws and regulations of this
16 Commonwealth relating to the drilling and operation of oil
17 and gas wells and gas storage reservoirs.

18 (32) Administer the laws and regulations of this
19 Commonwealth which regulate:

20 (i) the construction, operation and maintenance of
21 dams, water obstructions or encroachments for hydraulic
22 and hydroelectric power;

23 (ii) stream-raising and steam condensation
24 reservoirs; and

25 (iii) any dam, impoundment, embankment and other
26 water obstruction and encroachment necessary for the
27 extraction, recovery or processing of metallic and
28 nonmetallic ore, oil, gas and other minerals.

29 (33) Formulate, adopt and promulgate such rules and
30 regulations necessary for the proper performance of the work

1 of the commission, and continue to exercise any power to
2 formulate, adopt and promulgate rules and regulations
3 relating to any matter within the jurisdiction of the
4 commission heretofore vested in the Environmental Quality
5 Board or other departments and boards. Any such rules or
6 regulations promulgated prior to the effective date of this
7 act shall be the rules and regulations of the commission
8 until such time as they are modified, repealed, suspended,
9 superseded or otherwise changed by the commission. Any rule,
10 regulation, policy or procedure pertaining to matters within
11 the jurisdiction of the commission in effect on the effective
12 date of this act shall be reviewed by the executive
13 administrator on the written request of a person
14 substantially affected by the rule, regulation, policy or
15 procedure. The executive administrator shall initiate a
16 review within 30 days of receipt of the request and issue a
17 decision in writing within 90 days of receipt of the request
18 to retain, modify or suspend, and the reasons therefor.

19 (34) Cooperate with all other Federal and State agencies
20 in carrying out its responsibilities.

21 Section 310. Energy master plan.

22 The commission shall prepare and, after public hearing,
23 adopt, within one year from the effective date of this act, an
24 energy master plan for a period of five years on the production,
25 distribution, consumption and conservation of energy in this
26 Commonwealth and shall submit the plan and any amendments
27 thereto to the Governor and the General Assembly.

28 Section 311. Emergency allocation plan.

29 The commission shall include, as part of the energy master
30 plan and in conjunction with the Pennsylvania Public Utility

1 Commission and the Pennsylvania Emergency Management Agency, an
2 emergency allocation plan. Such emergency plan shall include a
3 schedule of emergency energy curtailment based on a uniform
4 classification of energy consumers, specifying actions to be
5 taken in the event of an energy emergency, as proclaimed by the
6 Governor, and further specifying what actions an energy industry
7 and its customers are to take in the event of such emergency.

8 Section 312. Contingency plans.

9 The commission shall direct all Commonwealth agencies to
10 develop, subject to approval by the commission, contingency
11 plans for dealing with these emergencies. Those portions of such
12 emergency allocation plans or contingency plans specifically
13 pertaining to energy industries regulated by the Pennsylvania
14 Public Utility Commission shall be made available to the
15 commission in such time period as shall be directed.

16 CHAPTER 5

17 ADMINISTRATIVE HEARINGS

18 Section 501. Division of Administrative Hearings.

19 (a) Establishment.--There is hereby established the Division
20 of Administrative Hearings in the Office of Attorney General.

21 (b) Powers and duties.--

22 (1) The division shall have the power and its duties
23 shall be to hold hearings and issue adjudications under Title
24 2 of the Pennsylvania Consolidated Statutes (relating to
25 administrative law and procedure), on any decision or action
26 of the energy commission, including, but not limited to,
27 notice of violation, penalty assessment, order, permit,
28 license, or the whole or part of a rule or equivalent. A
29 decision or action shall be considered final when reduced to
30 writing, whether affirmative, negative, injunctive or

1 declaratory in form.

2 (2) The division shall exercise any power to hold
3 hearings and issue adjudications relating to any matter
4 within the jurisdiction of the commission which may
5 heretofore have been heard by the Environmental Hearing
6 Board.

7 Section 502. Appeals.

8 (a) General rule.--Anything in any law to the contrary
9 notwithstanding, any action of the commission may be taken
10 initially without regard to the provisions of Title 2 of the
11 Pennsylvania Consolidated Statutes (relating to administrative
12 law and procedure), but no such action of the commission
13 adversely affecting any person shall be final as to such person
14 until such person has had the opportunity to appeal such action
15 to the division. However, any such action shall be final as to
16 any person who had not perfected his appeal in the manner
17 hereinafter specified.

18 (b) Appeal not to act as supersedeas.--An appeal taken to
19 the division from a decision of the commission shall not act as
20 a supersedeas, but, upon cause shown and where the circumstances
21 require it, the commission of the board shall have the power to
22 grant a supersedeas.

23 Section 503. Rules and regulations.

24 Hearings of the division shall be conducted in accordance
25 with rules and regulations adopted by the Office of Attorney
26 General, and such rules and regulations shall include time
27 limits for the taking of appeals, procedures for the taking of
28 appeals, locations at which hearings shall be held and such
29 other rules and regulations as may be determined advisable.

30 Section 504. Hearing examiners.

1 financial interest which may be affected by this subsection.

2 (b) Oil and gas.--No employee of the commission performing
3 the function or duty of any oil or gas inspector shall act as a
4 manager, employee or agent of any oil-drilling or gas-drilling
5 operation or of any mining or mining operation, nor shall he be
6 interested in any pecuniary way in such operations in this
7 Commonwealth. Whoever knowingly violates the provisions of this
8 subsection commits a misdemeanor of the third degree and shall,
9 upon conviction, be sentenced to pay a fine of not more than
10 \$2,000 or to imprisonment for not more than one year, or both.
11 Rules and regulations shall be promulgated hereunder to
12 establish methods by which the provisions of this subsection
13 will be monitored and enforced by the commission, including, but
14 not limited to, appropriate provisions for the filing by such
15 employees and the review of statements and supplements thereto
16 concerning any financial interest which may be affected by this
17 subsection.

18 Section 702. Violations and penalties.

19 (a) Civil penalties for failure to provide information.--Any
20 person failing to provide energy information required by the
21 commission, other than information deemed to be confidential in
22 nature, shall be liable for a civil penalty of not more than
23 \$3,000 for each offense. If the violation is of a continuing
24 nature, each day during which it continues shall constitute an
25 additional and separate offense.

26 (b) Unlawful purchase.--Any person purchasing or attempting
27 to purchase energy supplies in violation of any rules,
28 regulations or orders issued hereunder constitutes a summary
29 offense.

30 (c) Violation of rules.--Any retail dealer who violates any

1 rules, regulations or orders issued hereunder commits a summary
2 offense.

3 (d) Violation by energy supplier.--Any distributor of any
4 other supplier of energy who violates any rules, regulations or
5 orders issued hereunder commits a misdemeanor of the first
6 degree.

7 (e) Suspension or revocation of license.--In addition to any
8 other penalties provided under this act or other statute, the
9 commission may recommend to the appropriate agency the
10 suspension or revocation of the license of any retail dealer,
11 gasoline jobber, wholesale dealer, distributor or supplier of
12 fuel who has violated this act or any rules, regulations or
13 orders issued under this act.

14 CHAPTER 21

15 MISCELLANEOUS PROVISIONS

16 Section 2101. Transfer provisions.

17 All personnel, allocations, appropriations, equipment, files,
18 records, contracts, agreements, obligations and other materials
19 which are used, employed or expended in connection with the
20 powers, duties or functions of the Governor's Energy Council,
21 the Bureau of Abandoned Mine Reclamation, the Bureau of Deep
22 Mine Safety, the Bureau of Mining and Reclamation, the Bureau of
23 Oil and Gas Management, the Bureau of Radiation Protection, the
24 Coal Mining and Reclamation Advisory Board, the Anthracite Mine
25 Inspectors' Examining Board, the Mine Inspectors' Examining
26 Board for the Bituminous Coal Mines and the Oil and Gas
27 Conservation Commission, are hereby transferred to the
28 commission with the same force and effect as if the
29 appropriations had been made to and said items had been the
30 property of the commission in the first instance, and as if said

1 contracts, agreements and obligations had been incurred or
2 entered into by the commission. The personnel, appropriations,
3 equipment and other items and material transferred by this
4 section shall include an appropriate portion of the general
5 administrative, overhead and supporting personnel,
6 appropriations, equipment and other material of the agencies and
7 shall also include, where applicable, Federal grants and funds
8 and other benefits from any Federal program. All personnel
9 transferred pursuant to this act shall retain any civil service
10 employment status assigned to the personnel.

11 Section 2102. Civil service.

12 In addition to the retention of civil service employment
13 status as pertaining to employees transferred to the commission,
14 all new positions in the commission shall be deemed to be
15 included in the list of positions set forth in section 3(d) of
16 the act of August 5, 1941 (P.L.752, No.286), known as the Civil
17 Service Act, and the provisions and benefits of that act shall
18 be applicable to all employees of the commission.

19 Section 2103. Construction of act.

20 (a) Curtailment plans.--Nothing set forth in this act shall
21 supersede any curtailment plans which are established and
22 approved by any Federal regulatory commission, the Pennsylvania
23 Public Utility Commission or any ordinance duly adopted by any
24 municipality or public gas system.

25 (b) Actions by DER.--All orders, permits, regulations,
26 decisions and other actions of the Department of Environmental
27 Resources, the Governor's Energy Council or any department,
28 board, commission or agency whose functions have been
29 transferred by this act to the commission shall remain in full
30 force and effect until modified, repealed, superseded or

1 otherwise changed by appropriate action of the commission.

2 (c) Jurisdiction of PUC and other agencies.--The commission
3 shall not have any authority to take any action affecting the
4 jurisdiction of the Pennsylvania Public Utility Commission or
5 any Federal administrative or regulatory agency. The executive
6 administrator, however, shall have the authority to appear
7 before the commission or any Federal administrative or
8 regulatory agency to provide information concerning State energy
9 policies.

10 Section 2104. Initial appointments.

11 The first members of the board appointed by the Governor
12 shall be appointed as follows: one for a term of one year, one
13 for a term of two years, one for a term of three years, one for
14 a term of four years and one for a term of five years.

15 Thereafter, all appointments, except the filling of vacancies,
16 shall be for five years. The first members appointed by the
17 President pro tempore of the Senate and the Speaker of the House
18 of Representatives shall be named to full five-year terms. All
19 initial appointments shall be made not later than January 1,
20 1989, and confirmed when the General Assembly convenes.

21 Section 2105. Staff availability.

22 At the direction of the administrator, the staff of the
23 commission may assist the staff of the Pennsylvania Energy
24 Development Authority and the Appalachian States Low-Level
25 Radioactive Waste Commission in energy-related matters.

26 Section 2106. Annual report.

27 The commission shall, promptly following the close of each
28 fiscal year, submit an annual report of its activities for the
29 preceding year to the Governor, to the appropriate committees or
30 joint committees of the General Assembly as designated by the

1 President pro tempore of the Senate and the Speaker of the House
2 of Representatives, and, upon request, to members of the General
3 Assembly. Each such report shall set forth a complete operating
4 and financial statement of the commission during each year. An
5 audit of the books and accounts of the commission shall be made
6 by the Auditor General, in accordance with the same methods and
7 schedule as apply to State departments.

8 Section 2107. Appropriation.

9 The sum of \$40,000,000, or as much thereof as may be
10 necessary, is hereby appropriated to the State Energy Commission
11 for the current fiscal period to carry out the provisions of
12 this act.

13 Section 2108. Repeals.

14 All acts and parts of acts are repealed insofar as they are
15 inconsistent with this act.

16 Section 2109. Sunset.

17 The State Energy Commission shall expire June 30, 1992, and
18 at the end of each ten-year period thereafter, unless extended
19 pursuant to the act of December 22, 1981 (P.L.508, No.142),
20 known as the Sunset Act.

21 Section 2110. Effective date.

22 This act shall take effect in 180 days.