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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 435 Session of  
2021

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INTRODUCED BY MENSCH, BOSCOLA, ARGALL, BROWNE, AUMENT,  
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SANTARSIERO, STREET AND TARTAGLIONE, MARCH 18, 2021

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
MARCH 18, 2021

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in restructuring of electric utility  
3 industry, providing for transportation fueling infrastructure  
4 development.

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

7 Section 1. Title 66 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 2816. Transportation fueling infrastructure development.

10 (a) Findings and declarations.--The General Assembly finds  
11 and declares as follows:

12 (1) Rapid improvements in battery, fuel-cell, vehicle  
13 and equipment technologies are making electrified vehicles  
14 and equipment more competitive options for families,  
15 businesses, institutions and governmental organizations.

16 (2) Increased deployment of electric vehicles, equipment  
17 and infrastructure offers the opportunity to meet more of

1 this Commonwealth's transportation needs with Pennsylvania-  
2 based resources while reducing dependence on the importation  
3 of transportation fuels.

4 (3) Approximately 5.6 million Pennsylvanians live in  
5 counties that are classified as being in nonattainment status  
6 with Federal clean air requirements and increased deployment  
7 of electric transportation technologies can improve public  
8 health and support economic development.

9 (4) Deploying infrastructure to support transportation  
10 electrification will require coordinated planning of  
11 transportation systems and electric infrastructure networks.

12 (5) Pennsylvania is a large and diverse state, and  
13 planning for infrastructure investment should appropriately  
14 reflect differences in regions and communities.

15 (6) Natural gas and hydrogen vehicles and equipment  
16 offer additional opportunities to meet the Commonwealth's  
17 transportation needs while investing in new technologies and  
18 reducing environmental impacts.

19 (b) Transportation electrification opportunity assessment.--

20 In order to support economic development opportunities arising  
21 from new transportation technologies, including opportunities  
22 for hydrogen and other fuel cell electric vehicles supported by  
23 electrical infrastructure, the commission shall establish a goal  
24 for Statewide expansion of transportation electrification that  
25 is 50% above current market forecasts for December 31, 2030,  
26 based on existing governmental and private sector forecasts. The  
27 goal shall be established within 60 days of the effective date  
28 of this section. At the time the Statewide goal is established,  
29 the commission may also establish regional goals for each group  
30 of priority alternative transportation infrastructure counties

1 that are served, in whole or in part, by an electric  
2 distribution company.

3 (c) Commission guidelines.--No later than 180 days after the  
4 effective date of this section, the commission shall issue  
5 transportation electrification infrastructure development plan  
6 guidelines for electric distribution companies addressing the  
7 following:

8 (1) The establishment of an essential public access  
9 network, including utility-owned electric vehicle charging  
10 stations and third-party owned stations participating in a  
11 utility incentive program.

12 (2) The electrification of public transit, school bus,  
13 port, freight, rail and airport infrastructure and central  
14 charging facilities serving medium, heavy-duty and  
15 governmental fleets. For the purpose of this paragraph,  
16 infrastructure may include connective and inductive charging  
17 technologies and electric infrastructure supporting hydrogen-  
18 fueled vehicles and equipment.

19 (3) The deployment of third-party-owned electric vehicle  
20 charging stations.

21 (4) Requirements to ensure that electric distribution  
22 company development plans with utility-owned charging  
23 stations and incentive programs are implemented in a  
24 competitive and nondiscriminatory manner and shall not limit  
25 public access to charging stations owned by third parties not  
26 participating in utility incentive programs.

27 (5) Open standard communication protocols for electric  
28 vehicle charging stations and flexible payment options,  
29 including credit card or mobile payment options, to  
30 facilitate electric vehicle travel throughout this

1 Commonwealth.

2 (6) Policies to encourage the deployment of charging  
3 infrastructure for electric vehicles and equipment in  
4 disadvantaged communities and transit serving these  
5 communities.

6 (7) The procedures for approval of transportation  
7 electrification infrastructure development plans.

8 (d) Revised guidelines.--No later than one year before  
9 filing an updated transportation electrification infrastructure  
10 development plan required under subsection (j), the commission  
11 may issue revised guidelines to reflect technological  
12 developments and changes in market conditions.

13 (e) Transportation electrification infrastructure regional  
14 framework.--

15 (1) An electric distribution company serving one or more  
16 priority alternative transportation infrastructure counties  
17 shall contract with a qualifying independent transportation  
18 analyst to develop a transportation electrification  
19 infrastructure regional framework for those counties.

20 (2) The regional framework development process shall  
21 include representatives from the Department of  
22 Transportation, the Department of Environmental Protection,  
23 county and municipal governments of the priority alternative  
24 transportation infrastructure counties served by the electric  
25 distribution company, public transit organizations and the  
26 electric distribution company. Electric distribution  
27 companies shall invite representatives of regional planning  
28 commissions, school districts, representatives of low-income  
29 communities, owners of vehicle fleets, transportation network  
30 companies, nonprofit environmental organizations, experts in

1 transportation electrification charging infrastructure,  
2 manufacturers of transportation electrification equipment and  
3 other participants and stakeholders in the transportation  
4 electrification market to participate in the regional  
5 framework development process.

6 (3) If multiple electric distribution companies serve a  
7 single priority alternative transportation infrastructure  
8 county, the electric distribution companies may elect to  
9 collaborate on the selection of a qualifying independent  
10 transportation analyst for the county and allocate framework-  
11 related costs proportionally based upon the number of  
12 customers served in the county or by another mutually  
13 agreeable method. An electric distribution company serving  
14 less than 50,000 customers in a county is not required to  
15 participate in the development of the framework for that  
16 county.

17 (f) Transportation electrification infrastructure  
18 development plan.--

19 (1) An electric distribution company serving one or more  
20 priority alternative transportation infrastructure counties  
21 shall, consistent with the guidelines established under  
22 subsections (c) and (d), file a transportation  
23 electrification infrastructure development plan with the  
24 commission within one year of the establishment of a  
25 Statewide goal under subsection (b). The electric  
26 distribution company shall provide its transportation  
27 electrification infrastructure regional framework as part of  
28 the transportation electrification infrastructure development  
29 plan filing.

30 (2) The transportation electrification infrastructure

1 development plan shall describe the company's proposal to  
2 support deployment of the transportation electrification  
3 infrastructure reasonably necessary to achieve the applicable  
4 regional goal established in accordance with subsection (b)  
5 or, if no regional goal is established, the Statewide goal  
6 established in accordance with subsection (b) as applied to  
7 the priority alternative transportation infrastructure  
8 counties served by the electric distribution company. The  
9 transportation electrification infrastructure development  
10 plan shall include strategies to optimize the use of the  
11 electric distribution grid and provide opportunities for the  
12 reduction of electric charging costs for customers, including  
13 time-of-use, demand management and other innovative rates.

14 (3) Subject to the guidelines established under  
15 subsections (c) and (d), the transportation electrification  
16 infrastructure development plan may include transportation  
17 electrification charging stations owned and operated by the  
18 electric distribution company and third parties, incentives  
19 for customers and third-party charging station owners and  
20 customer education programs related to installing or using  
21 transportation electrification charging stations.

22 (g) Commission approval.--

23 (1) The commission shall, after reasonable notice and  
24 hearing and within 270 days of submission, approve or  
25 disapprove each transportation electrification infrastructure  
26 development plan filed under subsection (f).

27 (2) If the commission does not approve a plan, the  
28 commission shall describe in detail the reasons for  
29 disapproval and the electric distribution company shall have  
30 60 days to file a revised plan to address the deficiencies

1 identified by the commission.

2 (3) A revised plan shall be approved or disapproved by  
3 the commission within 60 days.

4 (h) Recovery.--

5 An electric distribution company may recover, in  
6 distribution rates established under section 1308 (relating  
7 to voluntary changes in rates) or 1330 (relating to  
8 alternative ratemaking for utilities), all reasonable and  
9 prudent costs incurred in the implementation of this section,  
10 including the costs of transportation electrification  
11 infrastructure regional frameworks and transportation  
12 electrification infrastructure development plans,  
13 transportation electrification infrastructure, including  
14 annual depreciation costs, capital costs over the life of  
15 transportation electrification charging technology and  
16 required distribution system upgrades, incentives and  
17 education provided in accordance with a transportation  
18 electrification infrastructure development plan approved  
19 under subsection (g). The commission may determine the  
20 appropriate rate structure and cost allocation for the just  
21 and reasonable recovery of prudently incurred costs, which  
22 may include any payments by customers related to a specific  
23 electric vehicle charging station or other transportation  
24 electrification infrastructure.

25 (i) Limitation on costs.--The total annual costs charged to  
26 customers by an electric distribution company in implementing  
27 this section may not exceed 0.25% of the total annual customer  
28 bill amount for an electric distribution company, excluding bill  
29 amounts for electric energy, for the most recent 12-month period  
30 ending December 31, 2021, or the test year upon which

1 distribution rates were established in the electric distribution  
2 company's most recent base distribution rate case proceeding.

3 (j) Additional regional frameworks and transportation  
4 electrification infrastructure development plans.--An electric  
5 distribution company shall contract for an update of the  
6 regional framework required under subsection (e) and file an  
7 updated transportation electrification infrastructure  
8 development plan required under subsection (f) after five years.

9 (k) Voluntary development of transportation electrification  
10 infrastructure development plans.--An electric distribution  
11 company may file a transportation electrification infrastructure  
12 development plan in accordance with this section for counties  
13 within the company's service territory that do not qualify as  
14 priority alternative transportation infrastructure counties. The  
15 approval timeline requirements of subsection (g) shall not apply  
16 to plans filed under this subsection. Plans filed under this  
17 subsection must include an affirmative written statement of  
18 support by the majority of the elected county representatives  
19 for any county included in the plan.

20 (l) Open access for public electric vehicle charging  
21 stations.--

22 (1) An electric vehicle operator who chooses to use a  
23 public electric vehicle charging station installed or  
24 operated with incentives authorized under a transportation  
25 electrification infrastructure development plan or by an  
26 electric distribution company shall not be required to enroll  
27 in a club, association or membership organization or pay a  
28 subscription fee as a condition to use the station. Nothing  
29 in this section shall prevent third-party owners and  
30 operators of electric vehicle charging stations that are

1 installed or operated without incentives authorized under a  
2 transportation electrification infrastructure development  
3 plan from including those stations in a subscription or  
4 membership network with variable rate structures.

5 (2) The owner or lessee of a publicly available parking  
6 space, with an electric vehicle charging station, may  
7 restrict the use of that parking space, including by limiting  
8 use to employees, customers and visitors of the business.

9 (3) The owner or operator of a public electric vehicle  
10 charging station installed or operated with incentives  
11 authorized under a transportation electrification  
12 infrastructure development plan or by an electric  
13 distribution company shall disclose the station's geographic  
14 location, hours of operation, charging level, hardware  
15 compatibility, schedule of fees, accepted methods of payment  
16 and the amount of network roaming charges for nonmembers, if  
17 any, on an ongoing basis to the commission, the Department of  
18 Revenue and the United States Department of Energy National  
19 Renewable Energy Laboratory.

20 (m) Publicly funded electric vehicle charging stations.--Any  
21 publicly funded electric vehicle charging station using electric  
22 distribution company ratepayer funds must use open standard  
23 communication protocols and be capable of being networked and  
24 submetered at the charging station or other on-site access  
25 location. A third-party-owned-and-operated electric vehicle  
26 charging station may not be subject to the requirements of this  
27 subsection solely because:

28 (1) the electric distribution company has completed or  
29 will complete a necessary line extension to provide  
30 distribution service to the station; or

1 (2) the station takes services under an electric vehicle  
2 incentive rate offered by the electric distribution company.

3 (n) Construction.--This section may not be construed to  
4 limit in any manner the establishment of third-party-owned-and-  
5 operated electric vehicle charging stations or establish  
6 commission jurisdiction to regulate third-party-owned-and-  
7 -operated electric vehicle charging stations that are  
8 established without ratepayer funds.

9 (o) Natural gas and propane-fueled transportation  
10 infrastructure assessment.--

11 (1) Within one year of the effective date of this  
12 section, the commission shall complete a Statewide assessment  
13 of current natural-gas-and-propane-fueled vehicle usage and  
14 fueling infrastructure in this Commonwealth. The assessment  
15 shall identify opportunities and goals for the expansion of  
16 natural-gas-and-propane-fueled vehicle usage and fueling  
17 infrastructure in this Commonwealth and make recommendations  
18 to the General Assembly to support the expansion.

19 (2) The assessment shall be posted on the commission's  
20 publicly accessible Internet website.

21 (p) Alternative fuels tax.--An electric distribution company  
22 or third party which owns an electric vehicle charging station  
23 shall be subject to the alternative fuels tax under 75 Pa.C.S. §  
24 9004 (relating to imposition of tax, exemptions and deductions).

25 (g) Penalties.--No electric distribution company shall be  
26 subject to penalties for failure to meet the applicable goal  
27 established under subsection (b).

28 (r) Definitions.--As used in this section, the following  
29 words and phrases shall have the meanings given to them in this  
30 subsection unless the context clearly indicates otherwise:

1 "Battery electric vehicle." A motor vehicle that is powered  
2 partly or solely by a battery that can be recharged wirelessly  
3 or by plugging it into an external source of electricity and  
4 which motor vehicle meets the applicable Federal and State  
5 safety standards for on-road vehicles.

6 "Electric infrastructure supporting hydrogen-fueled vehicles  
7 and equipment." Electric infrastructure and equipment used to  
8 produce hydrogen for hydrogen-fueled vehicles and equipment.

9 "Electric vehicle charging station." A facility or equipment  
10 designed to charge batteries within battery electric vehicles by  
11 permitting the transfer of electric energy to a battery or other  
12 storage device in a battery electric vehicle. The facilities and  
13 equipment may charge batteries through connective or inductive  
14 means. The term includes stations which provide hydrogen to  
15 fuel-cell electric vehicles.

16 "Essential public access network." A system of charging  
17 stations located on high-volume transportation corridors and in  
18 high-population density urbanized areas for the purpose of  
19 ensuring public-access charging in these areas.

20 "Priority alternative transportation infrastructure county."  
21 A county in this Commonwealth with at least 200,000 people that  
22 includes all or part of a metropolitan statistical area with a  
23 population of at least 500,000 people as defined by the United  
24 States Census Bureau.

25 "Public electric vehicle charging station." An electric  
26 vehicle charging station located at a publicly available parking  
27 space.

28 "Qualifying independent transportation analyst." A regional  
29 planning commission established in accordance with the laws of  
30 this Commonwealth or an independent analyst with demonstrated

1 expertise in transportation modeling and forecasting.

2 "Transportation electrification." The use of electricity  
3 from external sources of electrical power, including the  
4 electrical grid, for all or part of vehicles, vessels, trains,  
5 boats or other equipment that are mobile sources of air  
6 pollution and greenhouse gases and the related programs and  
7 charging and propulsion infrastructure investments to enable and  
8 encourage this use of electricity.

9 "Transportation electrification infrastructure regional  
10 framework." A framework that provides the following information  
11 for the priority alternative transportation infrastructure  
12 counties served by the electric distribution company:

13 (1) The extent of ownership, leasing and usage of  
14 battery electric vehicles, including heavy-duty battery  
15 electric vehicles, as well as projected ownership, leasing  
16 and usage through December 31, 2030, or 15 years after the  
17 effective date of this section, whichever is later.

18 (2) The extent of nonroad transportation electrification  
19 usage and transportation electrification charging  
20 infrastructure.

21 (3) The additional transportation electrification  
22 charging infrastructure that is reasonably necessary to  
23 achieve the applicable regional goal established in  
24 accordance with subsection (b) or, if no regional goal is  
25 established, the Statewide goal established in accordance  
26 with subsection (b) as applied to the priority alternative  
27 transportation infrastructure counties served by the electric  
28 distribution company.

29 (4) Recommendations regarding the geographic  
30 distribution and general specifications of transportation

1 electrification charging infrastructure identified in  
2 accordance with paragraph (3), including recommendations  
3 specific to the deployment of electric vehicle charging  
4 infrastructure to serve low-income communities, multiunit  
5 commercial, residential and mixed-use buildings and single-  
6 family residential homes.

7 Section 2. This act shall take effect in 60 days.