

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1103 Session of  
1977

INTRODUCED BY KURY, MELLOW, SWEENEY, SCANLON, ROMANELLI,  
McKINNEY, MESSINGER, BELL, ORLANDO, STOUT, JUBELIRER, MURRAY,  
GURZENDA, STAPLETON, DUFFIELD AND HOLL, SEPTEMBER 27, 1977

REFERRED TO CONSUMER AFFAIRS, SEPTEMBER 27, 1977

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, adding provisions relating to energy  
3 conservation and control.

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

Section 1. Part II of Title 66, act of November 25, 1970  
(P.L.707, No.230), known as the Pennsylvania Consolidated  
Statutes, is amended by adding a chapter to read:

TITLE 66

PUBLIC UTILITIES

Part

II. Other Provisions

PART II

OTHER PROVISIONS

Chapter

41. Energy Conservation and Control

CHAPTER 41

ENERGY CONSERVATION AND CONTROL

Subchapter

A. Preliminary Provisions

B. Pennsylvania Energy Council

1 C. Energy Information, Planning and Allocation

2 D. Violations and Penalties

3 SUBCHAPTER A

4 PRELIMINARY PROVISIONS

5 Sec.

6 4101. Short title of chapter.

7 4102. Definitions.

8 § 4101. Short title of chapter.

9 This chapter shall be known and may be cited as the "Energy  
10 Conservation and Control Law."

11 § 4102. Definitions.

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

15 "Council." The Pennsylvania Energy Council.

16 "Director." The director of the Pennsylvania Energy Council.

17 "Disaster." A man-made disaster, natural disaster or war-  
18 caused disaster.

19 "Distributor." A person who:

20 (1) imports into this Commonwealth fuels for use,  
21 distribution, storage or sale in this Commonwealth; or

22 (2) produces, refines, manufactures, blends or compounds  
23 fuels and sells, uses, stores or distributes fuels within  
24 this Commonwealth.

25 "Energy." Electricity however generated, fuels, petroleum  
26 products and gases.

27 "Energy facility." Any plant or operation which produces,  
28 converts, distributes or stores energy or converts one form of  
29 energy to another. The term does not include an operation  
30 conducted by a person acting only as a retail dealer.

1 "Energy industry." A person engaged in the exploration,  
2 extraction, transportation, transmission, refining, processing,  
3 generation, distribution, sale or storage of energy.

4 "Fuel." Coal, petroleum products, gases and nuclear fuel,  
5 including enriched uranium, U235 and U238, and plutonium, U239.

6 "Gases." Natural gas, methane, liquified natural gas,  
7 synthetic natural gas, coal gas and other manufactured gases.

8 "Man-made disaster." Any industrial, nuclear or  
9 transportation accident, explosion, conflagration, power  
10 failure, natural resource shortage or other condition, except  
11 enemy action, resulting from man-made causes, such as oil spills  
12 and other injurious environmental contamination, which threatens  
13 or causes damage to property, human suffering, hardship or loss  
14 of life.

15 "Natural disaster." Any hurricane, tornado, storm, flood,  
16 high water, wind-driven water, tidal wave, earthquake,  
17 landslide, mudslide, snowstorm, drought, fire, explosion or  
18 other catastrophe which results in damage to property, hardship,  
19 suffering or possible loss of life.

20 "Petroleum products." Includes motor gasoline, middle  
21 distillate oils, residual fuel oils, aviation fuel, propane,  
22 butane, natural gasoline, naphtha, gas oils, lubricating oils  
23 and any other similar or dissimilar liquid hydrocarbons.

24 "Purchase." Includes, in addition to its ordinary meaning,  
25 any acquisition of ownership or possession including but not  
26 limited to condemnation by eminent domain proceedings.

27 "Retail dealer." A person who engages in the business of  
28 selling fuels from a fixed location including but not limited to  
29 a service station, filling station, store or garage directly to  
30 the ultimate users of the fuel.

1 "Sale." Includes, in addition to its ordinary meaning, any  
2 exchange, gift, theft or other disposition. In cases where fuels  
3 are exchanged, given, stolen or otherwise disposed of, they  
4 shall be deemed to have been sold.

5 "War-caused disaster." Any condition following an attack  
6 upon the United States resulting in substantial damage to  
7 property or injury to persons in the United States caused by use  
8 of bombs, missiles, shellfire, nuclear, radiological, chemical  
9 or biological means, or other weapons or overt paramilitary  
10 actions, or other conditions such as sabotage.

11 "Wholesale dealer." A person who engages in the business of  
12 selling fuels to other persons who resell the fuel.

#### 13 SUBCHAPTER B

#### 14 PENNSYLVANIA ENERGY COUNCIL

15 Sec.

16 4111. Establishment of council.

17 4112. Organization of council.

18 4113. Powers and duties.

19 4114. Utilization of existing services and facilities.

20 4115. Access to facilities and records of energy industries.

21 4116. Subpoena and examination of witnesses and documents.

22 § 4111. Establishment of council.

23 There is hereby established the Pennsylvania Energy Council  
24 to assist in the direction, control and coordination of energy  
25 resources.

26 § 4112. Organization of council.

27 (a) Composition.--The council shall consist of the Governor  
28 ex officio, Lieutenant Governor, Adjutant General, Chairman of  
29 the Office of Emergency Preparedness, Chairman of the Public  
30 Utility Commission, Secretary of Environmental Resources,

1 Secretary of Transportation, Secretary of Community Affairs,  
2 President pro tempore of the Senate or his designee, Speaker of  
3 the House of Representatives or his designee and six citizens,  
4 to be appointed for terms of three years by the Governor by and  
5 with the advice and consent of a majority of the members elected  
6 to the Senate, at least two of whom shall be members of consumer  
7 or environmental groups, two of whom shall be elected municipal  
8 government officials and two of whom shall either be persons  
9 possessing knowledge and experience in the fields of oil, gas,  
10 coal or electricity or persons from the academic community who  
11 have expertise in energy related fields.

12 (b) Officers, quorum and meetings.--The Lieutenant Governor  
13 shall be the chairman and the council shall elect a vice  
14 chairman and secretary from the membership. Fifteen members of  
15 the council shall constitute a quorum. The council shall meet at  
16 the call of the chairman or a majority of its members.

17 (c) Employees and expenditures.--The council may employ a  
18 director and such technical, clerical, stenographic and other  
19 personnel, fix their compensation and may make such expenditures  
20 within the appropriation therefor or other funds made available  
21 to it as are necessary to carry out the purposes of this  
22 chapter.

23 (d) Compensation and expenses.--The members of the council  
24 shall serve without compensation but may be reimbursed for their  
25 actual and necessary traveling and other expenses incurred in  
26 connection with attendance upon meetings of the council.

27 (e) Offices, equipment and supplies.--The council shall be  
28 provided with appropriate office space, furniture, equipment,  
29 supplies, stationery and printing in the same manner as other  
30 Commonwealth agencies are supplied.

1 (f) Conflict of interest.--No person who is an official or  
2 employee of the council shall participate in any manner in any  
3 decision or action of the council wherein the official or  
4 employee has a direct or indirect financial interest.

5 (g) Applicability of other law.--The council shall be  
6 subject to the provisions of the act of April 9, 1929 (P.L.177,  
7 No.175), known as "The Administrative Code of 1929," except as  
8 in this part otherwise provided.

9 § 4113. Powers and duties.

10 The council shall:

11 (1) Be the central repository within this Commonwealth  
12 for the collection of energy information.

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

15 (3) Have authority to require any energy industry within  
16 this Commonwealth to submit such information as shall be  
17 required to carry out the provisions of this chapter  
18 including but not limited to information necessary for  
19 determining the impact of any construction or development on  
20 the production, distribution, consumption or conservation of  
21 energy within this Commonwealth.

22 (4) Establish an energy information system which will  
23 provide for the forecasting and publishing of anticipated  
24 energy shortages and which will provide all data necessary to  
25 insure a fair and equitable distribution of available energy,  
26 permit a more efficient and effective use of available energy  
27 and provide the basis for long-term planning related to  
28 energy needs.

29 (5) Design, implement and enforce a program for the  
30 conservation of energy which program shall include but not be

1 limited to commercial, industrial and residential areas and  
2 may provide for the evaluation of energy systems as they  
3 relate to lighting, heating, refrigeration, air conditioning,  
4 building design and operation, and appliance manufacturing  
5 and operation.

6 (6) Inform and educate the public about the ways in  
7 which energy can be conserved.

8 (7) Monitor prices charged for energy within this  
9 Commonwealth, evaluate policies governing the establishment  
10 of rates and prices for energy and make recommendations for  
11 necessary changes in these policies to other concerned  
12 Federal and Commonwealth agencies and to the General  
13 Assembly.

14 (8) Have authority to conduct and supervise research  
15 projects and programs for the purpose of increasing the  
16 efficiency of energy use, developing new sources of energy,  
17 evaluating energy conservation measures and meeting other  
18 goals consistent with the intent of this chapter.

19 (9) Have authority to distribute and expend funds made  
20 available for the purpose of research projects and programs.

21 (10) Have authority to enter into interstate compacts in  
22 order to carry out energy research and planning with other  
23 states or the Federal Government where appropriate.

24 (11) Have authority to apply for, accept and expend  
25 grants-in-aid and assistance from private and public sources  
26 for energy programs. Notwithstanding any other law to the  
27 contrary, the council is designated as the Commonwealth  
28 agency to apply for, receive and expend Federal and other  
29 funding made available to the Commonwealth for the purposes  
30 of this chapter.



1           (12) Have authority to adopt and promulgate rules and  
2 regulations necessary and proper to carry out the purposes of  
3 this chapter.

4           (13) Administer such regulations of agencies of the  
5 Federal Government as are applicable to the states including  
6 but not limited to state energy conservation plans.

7 § 4114. Utilization of existing services and facilities.

8       In order to avoid duplication of services and facilities, the  
9 council shall utilize the services and facilities of existing  
10 officers and agencies of the Commonwealth and the political  
11 subdivisions thereof. These officers and agencies shall  
12 cooperate with and extend their services and facilities to the  
13 council as it shall request.

14 § 4115. Access to facilities and records of energy industries.

15       The council shall have full power and authority whenever it  
16 shall deem it necessary or proper in carrying out any of the  
17 provisions of this chapter to enter upon the premises,  
18 buildings, machinery, system, plant or equipment and make any  
19 inspection, valuation, physical examination, inquiry or  
20 investigation of any and all plant and equipment, facilities,  
21 property and pertinent records, books, papers, memoranda,  
22 documents or effects whatsoever of any energy industry, and to  
23 hold any hearing for such purposes. In the exercise of these  
24 powers, the council may have access to and use any books,  
25 records or documents in the possession of any agency of the  
26 Commonwealth or any political subdivision thereof.

27 § 4116. Subpoena and examination of witnesses and documents.

28       (a) General rule.--The council shall have the power, in any  
29 part of this Commonwealth, to subpoena witnesses, administer  
30 oaths, examine witnesses or take such testimony, or compel the

1 production of such books, records, papers and documents as it  
2 may deem necessary or proper in and pertinent to any proceeding,  
3 investigation or hearing held or had by it and to do all  
4 necessary and proper things and acts in the lawful exercise of  
5 its powers or the performance of its duties.

6 (b) Fees for serving subpoena.--The fees for serving a  
7 subpoena shall be the same as those paid sheriffs for similar  
8 services.

9 (c) Penalty.--It is a summary offense for any individual  
10 subpoenaed to attend before the council, or its representative  
11 to fail to obey the command of the subpoena, or for any  
12 individual in attendance before the council or its  
13 representative to refuse to be sworn or to be examined, or to  
14 answer any relevant question, or to produce any relevant data,  
15 book, record, paper or document when ordered so to do by the  
16 council or its representative.

## 17 SUBCHAPTER C

### 18 ENERGY INFORMATION, PLANNING AND ALLOCATION

19 Sec.

20 4121. Periodic reports from energy industries.

21 4122. Utilization of previously supplied information.

22 4123. Master energy plan.

23 4124. Emergency energy allocation plan.

24 4125. Declaration by Governor of disaster emergency.

25 4126. Powers during disaster emergency.

26 § 4121. Periodic reports from energy industries.

27 (a) General rule.--The council shall adopt rules and  
28 regulations requiring the periodic reporting by energy  
29 industries of energy information which shall include but not be  
30 limited to the following:

(1) Electrical generating capacity in this Commonwealth; long-range plans for additions to that capacity; efficiency of electrical generation; price and cost factors in electrical generation; types and quantities of fuels used; projections of future demand, consumption of electricity by sectors; and times, duration and levels of peak demand.

(2) Petroleum refining capacity; amount and type of fuel produced; amount and type of fuel sold; interstate transfers of fuel; price and cost factors in refining, production and sale; long-term plans for alterations or additions to refining capacity; and location, amount and type of fuel storage.

(3) Storage capacity for gases; amount and end uses of gases sold; and price and cost factors in the sale and use of gases.

(4) Such other information as the council may determine necessary for carrying out the purposes of this chapter.

(b) Filing copies of reports to Federal agencies.--The council may require the energy industry or person to file with it a copy of any report filed by the energy industry or person with any Federal agency.

(c) Oath or affirmation.--All information submitted shall be under oath or affirmation when required by the council.

(d) Annual report analyzing information.--The council shall at least annually publish a report analyzing all energy information collected.

§ 4122. Utilization of previously supplied information.

In order to avoid duplication of reporting by the energy industry, the council shall utilize any information previously supplied to officers and agencies of this Commonwealth and

1 political subdivisions thereof. These officers and agencies  
2 shall cooperate with and supply to the council such information  
3 as the council shall request.

4 § 4123. Master energy plan.

5 The council shall prepare and, after public hearing, adopt a  
6 master plan for a period of ten years on the production,  
7 distribution, consumption and conservation of energy in this  
8 Commonwealth. The plan shall include long-term objectives but  
9 shall provide for the interim implementation of measures  
10 consistent with these objectives. The council may from time to  
11 time and after public hearing amend the master plan to maintain  
12 and keep the plan current. In preparing the master plan or any  
13 portion thereof or amendment thereto the council shall give due  
14 consideration to the energy needs and supplies in the several  
15 geographic areas of this Commonwealth and shall consult and  
16 cooperate with any Federal or Commonwealth agency having an  
17 interest in the production, distribution, consumption or  
18 conservation of energy.

19 § 4124. Emergency energy allocation plan.

20 The council shall prepare and adopt, in conjunction with the  
21 Public Utility Commission and the Office of Emergency  
22 Preparedness, an emergency allocation plan, including a schedule  
23 of emergency energy curtailment based on a uniform  
24 classification of energy customers, specifying actions to be  
25 taken in the event of an impending serious shortage of energy  
26 which poses grave threats to the public health, safety or  
27 welfare. The council shall direct all Commonwealth agencies to  
28 develop, subject to approval by the council, contingency plans  
29 for dealing with these emergencies.

30 § 4125. Declaration by Governor of disaster emergency.

1 (a) Responsibility to meet disasters.--The Governor is  
2 responsible for meeting the dangers to this Commonwealth and  
3 people presented by disasters.

4 (b) Executive orders, proclamations and regulations.--Under  
5 this chapter, the Governor may issue, amend and rescind  
6 executive orders, proclamations and regulations which shall have  
7 the force and effect of law.

8 (c) Declaration of disaster emergency.--A disaster emergency  
9 shall be declared by executive order or proclamation of the  
10 Governor upon finding that a disaster has occurred or that the  
11 occurrence or the threat of a disaster is imminent. The state of  
12 disaster emergency shall continue until the Governor finds that  
13 the threat or danger has passed or the disaster has been dealt  
14 with to the extent that emergency conditions no longer exist and  
15 terminates the state of disaster emergency by executive order or  
16 proclamation, but no state of disaster emergency may continue  
17 for longer than 30 days unless renewed by the Governor. The  
18 General Assembly by concurrent resolution may terminate a state  
19 of disaster emergency at any time. Thereupon, the Governor shall  
20 issue an executive order or proclamation ending the state of  
21 disaster emergency. All executive orders or proclamations issued  
22 under this subsection shall indicate the nature of the disaster,  
23 the area or areas threatened and the conditions which have  
24 brought the disaster about or which make possible termination of  
25 the state of disaster emergency. An executive order or  
26 proclamation shall be disseminated promptly by means calculated  
27 to bring its contents to the attention of the general public  
28 and, unless the circumstances attendant upon the disaster  
29 prevent or impede, shall be promptly filed with the council.

30 § 4126. Powers during disaster emergency.

1 (a) General rule.--The council is authorized, in the event  
2 of a disaster emergency as proclaimed by the Governor pursuant  
3 to section 4125 (relating to declaration by Governor of disaster  
4 emergency), to the extent not in conflict with applicable  
5 Federal law or regulation but notwithstanding any State or local  
6 law or contractual agreement, to:

7 (1) Order any person to reduce by a specified amount the  
8 use of any energy form; to make use of an alternate energy  
9 form, where possible; or to cease the use of any energy form.

10 (2) Order any person engaged in the distribution of any  
11 energy form to reduce or increase by a specified amount or to  
12 cease the distribution of the energy form; to distribute a  
13 specified amount and type of energy form to certain users as  
14 specified by the council; or to share supplies of any energy  
15 form with other distributors thereof.

16 (3) Establish priorities for the distribution of any  
17 energy form.

18 (4) Regulate and control the distribution and sale of  
19 any energy form by:

20 (i) Establishing such limitations, priorities or  
21 rationing procedures as shall be necessary to insure a  
22 fair and equitable distribution of available supplies.

23 (ii) Establishing minimum and maximum quantities to  
24 be sold to any purchaser.

25 (iii) Fixing the days and hours of access to retail  
26 dealers.

27 (iv) Compelling sales to members of the general  
28 public during times when a retail dealer is open for the  
29 sale of an energy form.

30 (v) Establishing methods for notifying the public by

1 flags, symbols or other appropriate means whether retail  
2 dealers are open and selling the subject energy form.

3 (5) Direct the heads of those Commonwealth agencies that  
4 were ordered to develop contingency plans pursuant to section  
5 4122 (utilization of previously supplied information) to  
6 implement the plans.

7 (6) Order the temporary closing of public or private  
8 facilities by class including but not limited to any  
9 business, school or sports facility.

10 (7) Adopt and promulgate such rules and regulations as  
11 are necessary and proper to carry out the purposes of this  
12 section.

13 (b) Power of Governor to suspend laws, etc.--During the  
14 existence of a disaster emergency, the Governor may order the  
15 suspension of any laws, rules, regulations or orders of any  
16 agency of the Commonwealth or any political subdivision which  
17 deal with or affect energy and which impede the ability of the  
18 Governor to alleviate or terminate a disaster emergency. Upon  
19 declaring a disaster emergency, the Governor may supersede any  
20 other such emergency powers.

21 (c) Review of orders of council.--Any aggrieved person, upon  
22 application to the council, shall be granted a review of whether  
23 the continuance of any order issued by the council pursuant to  
24 this section is unreasonable in light of then prevailing  
25 conditions of emergency.

26 (d) Compelling assistance from Commonwealth agencies.--  
27 During a disaster emergency the council may require any other  
28 Commonwealth agency to provide such information, assistance,  
29 resources and personnel as shall be necessary to discharge the  
30 functions and responsibilities of the council under this

1 chapter, rules and regulations adopted under this chapter or  
2 applicable Federal laws and regulations.

3 (e) Powers of Governor and council cumulative.--The powers  
4 granted to the Governor and the council under this section shall  
5 be in addition to and not in limitation of any emergency powers  
6 now or hereafter vested in the Governor, the council or any  
7 other Commonwealth agency pursuant to any other laws, including  
8 but not limited to any power now vested in the Public Utility  
9 Commission to require utility companies to allocate available  
10 supplies of energy.

#### 11 SUBCHAPTER D

#### 12 VIOLATIONS AND PENALTIES

13 Sec.

14 4131. Actions for injunctive relief.

15 4132. Civil penalties.

16 4133. Criminal penalties.

17 4134. Recommending license suspension or revocation.

18 § 4131. Actions for injunctive relief.

19 Upon a violation of this chapter or of any rules, regulations  
20 or orders issued under this chapter, the council may institute a  
21 civil action in the Commonwealth Court or in the court of common  
22 pleas of the judicial district in which the violation occurs for  
23 injunctive relief to restrain the violation and for such other  
24 relief as the court shall deem proper. Neither the institution  
25 of this action nor any of the proceedings therein shall relieve  
26 any party to the proceedings from other fines or penalties  
27 prescribed for the violation by this chapter or by any rule,  
28 regulation or order issued under this chapter.

29 § 4132. Civil penalties.

30 Any person who fails to provide energy information when so



1 required by the council shall be liable for a civil penalty of  
2 not more than \$3,000 for each offense. If the violation is of a  
3 continuing nature, each day during which it continues shall  
4 constitute an additional and separate offense.

5 § 4133. Criminal penalties.

6 (a) Purchasers.--Any person purchasing or attempting to  
7 purchase energy in violation of section 4123 (relating to master  
8 energy plan) or any rules, regulations or orders issued  
9 thereunder commits a summary offense.

10 (b) Retail dealers.--Any retail dealer who violates section  
11 4123 or any rules, regulations or orders issued thereunder  
12 commits a summary offense.

13 (c) Suppliers.--Any distributor or any other supplier of  
14 energy who violates any of the provisions of section 4123 or of  
15 any rules, regulations or orders issued thereunder commits a  
16 misdemeanor of the first degree.

17 § 4134. Recommending license suspension or revocation.

18 In addition to any other penalties provided under this  
19 chapter or other statute, the council may recommend to the  
20 appropriate agency the suspension or revocation of the license  
21 of any retail dealer, gasoline jobber, wholesale dealer,  
22 distributor or supplier of fuel who has violated this chapter or  
23 any rules, regulations or orders issued under this chapter.

24 Section 2. Governor's Energy Council abolished.

25 (a) General rule.--The Governor's Energy Council is hereby  
26 abolished and, except as otherwise provided by this act, all the  
27 functions, powers and duties of the existing Governor's Energy  
28 Council are hereby continued in the Pennsylvania Energy Council.

29 (b) Transfer of funds.--All appropriations, grants and other  
30 moneys available to the Governor's Energy Council are hereby

1 transferred to the Pennsylvania Energy Council created by this  
2 act and shall remain available for the objects and purposes for  
3 which appropriated, subject to any terms, restrictions,  
4 limitations or other requirements imposed by Federal or State  
5 law.

6 (c) Transfer of employees.--The employees of the Governor's  
7 Energy Council are hereby transferred to the Pennsylvania Energy  
8 Council. Nothing in this act shall be construed to deprive the  
9 employees of any rights or protections provided them by the  
10 civil service, pension or retirement laws of this Commonwealth.

11 (d) Transfer of property.--All files, books, papers,  
12 records, equipment and other property of the Governor's Energy  
13 Council are hereby transferred to the Pennsylvania Energy  
14 Council.

15 (e) Existing rules, regulations and orders.--The rules,  
16 regulations and orders of the Governor's Energy Council shall  
17 continue with full force and effect as the rules, regulations  
18 and orders of the Pennsylvania Energy Council until further  
19 amended or repealed.

20 (f) Construction of references.--Whenever in any law, rule,  
21 regulation, order, contract, document, judicial or  
22 administrative proceedings, or otherwise, reference is made to  
23 the Governor's Energy Council, the reference shall be considered  
24 to mean and refer to the Pennsylvania Energy Council.

### 25 Section 3. Expiration of Pennsylvania Energy Council.

26 (a) General rule.--Except as provided in subsection (b), the  
27 provisions of 66 Pa.C.S. Chap. 41 (relating to energy  
28 conservation and control) and the Pennsylvania Energy Council  
29 shall expire on June 30, 1978.

30 (b) Extension by General Assembly.--The General Assembly, by

1 concurrent resolution adopted prior to the then current  
2 expiration date, may extend the date of expiration for such  
3 additional period and for as many times as the General Assembly  
4 determines.

5 Section 4. Effective date.

6 This act shall take effect in 60 days.