

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 256**      Session of  
1985

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INTRODUCED BY LLOYD, KUKOVICH, TIGUE, DALEY, OLIVER, GREENWOOD,  
J. L. WRIGHT, HALUSKA, FREEMAN, TRELLO, REBER, D. R. WRIGHT,  
LINTON, MILLER, AFFLERBACH, CLARK, BLAUM, MORRIS, MRKONIC,  
PRATT, LUCYK, BALDWIN, PERZEL AND CAWLEY, FEBRUARY 6, 1985

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 22, 1986

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## AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, regulating outages at electric  
3 generating units.

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

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

8 § 1320. Outages of electric generating units.

9 (a) General rule.--Whenever an electric generating unit,  
10 determined by the commission to be a base load unit, is out of  
11 service for more than 120 consecutive days, a utility owning a  
12 share of that unit shall not be permitted to recover, through  
13 base rates, a sliding scale of rates, or by any other means, the  
14 excess energy costs incurred to generate or purchase replacement  
15 power occasioned by any portion of the outage which the  
16 commission determines to be unreasonable or imprudent. In making  
17 its determination under this subsection, the commission shall

1 consider, in addition to any other relevant evidence, whether  
2 the outage could have been shortened or avoided if the unit had  
3 been properly constructed, operated or maintained.

4 (b) Notice of outage.--Whenever an electric generating unit,  
5 determined by the commission to be a base load unit, is out of  
6 service for 45 consecutive days, any utility owning a share of  
7 that unit shall submit to the commission and the Office of  
8 Consumer Advocate a status report on that outage. The utility  
9 shall submit subsequent status reports on the outage to the  
10 commission and the Office of Consumer Advocate at least by the  
11 20th day of each subsequent month until the unit returns to  
12 service. If more than one utility owns a share in the electric  
13 generating unit, the commission may designate one utility to  
14 make the reports required by this subsection.

15 (c) Operation at less than reasonable level of generation.--  
16 Whenever the actual generation of an electric generating unit,  
17 determined by the commission to be a base load unit, is less  
18 than 50% of the unit's potential generation during any calendar  
19 year or other 12-month period specified by the commission, the  
20 commission, on its own motion or upon complaint, may initiate an  
21 investigation to determine a reasonable level of generation for  
22 that unit. In establishing rates as part of that investigation  
23 or in any subsequent proceeding, the commission shall not permit  
24 recovery of the excess energy costs incurred to generate or  
25 purchase replacement power occasioned by the failure of the unit  
26 to operate at or above such reasonable level of generation, if  
27 such failure is determined to be unreasonable or imprudent.

28 (d) Procedure.--In carrying out its powers and duties under  
29 this section, the commission may hold such hearings as it deems  
30 necessary. The utility shall have the burden of proof in any

1 proceeding under this section.

2 (e) Other powers and duties preserved.--This section shall  
3 not be construed to diminish the powers and duties of the  
4 commission under any other provision of law to reduce rates in  
5 the event of an outage of an electric generating unit,  
6 regardless of the duration of that outage. Except for subsection ←  
7 (b), this section shall not apply if the commission, acting  
8 under another provision of law, reduces the utility's rates on  
9 account of an outage or on account of operation at less than  
10 reasonable level of generation.

11 (f) Definition.--As used in this section, the term "excess  
12 energy costs" means the additional costs incurred to purchase or  
13 generate replacement power minus the fuel costs which would have  
14 been incurred to generate an equivalent amount of power from the  
15 affected base load unit.

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