

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1241

Session of
1991

INTRODUCED BY DeWEESE, DALEY, LESCOVITZ, CAPPABIANCA, GIGLIOTTI, HALUSKA, TRELLO, BELARDI, PETRARCA, LEVDANSKY, HERMAN, STISH, MELIO, PESCI, LAUGHLIN, TRICH, KASUNIC, BILLOW, PISTELLA, ITKIN, D. R. WRIGHT, CORRIGAN, CIVERA, TANGRETTI, ROBINSON, JAROLIN, TELEK, COLAIZZO AND F. TAYLOR, APRIL 22, 1991

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 20, 1991

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for approval of utility
3 Clean Air Act implementation plans.

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 § 529. Clean Air Act implementation plans.

9 (a) ~~General rule~~ PHASE I COMPLIANCE.--On or before February <—
10 1, 1993, each public utility ~~which uses coal to generate~~ <—
11 ~~electricity~~ shall submit to the commission and may request
12 commission approval of a plan to bring its ~~system into~~ <—
13 ~~compliance with~~ GENERATING UNITS WHICH USE COAL TO GENERATE <—
14 ELECTRICITY INTO COMPLIANCE WITH THE PHASE I REQUIREMENTS OF
15 TITLE IV OF the Clean Air Act (Public Law 95-95, 42 U.S.C. §
16 ~~7401~~ 7651 et seq.). <—

1 (B) PHASE II COMPLIANCE.--ON OR BEFORE JANUARY 1, 1996, EACH <—
2 PUBLIC UTILITY SHALL SUBMIT TO THE COMMISSION AND MAY REQUEST
3 COMMISSION APPROVAL OF A PLAN TO BRING ITS GENERATING UNITS
4 WHICH USE COAL TO GENERATE ELECTRICITY INTO COMPLIANCE WITH THE
5 PHASE II REQUIREMENTS OF TITLE IV OF THE CLEAN AIR ACT.

6 ~~(b)~~ (C) Notice of plan.--At the same time it submits its <—
7 plan to the commission, the public utility shall provide a copy
8 of the plan to the Department of Environmental Resources, the
9 Consumer Advocate and the Small Business Advocate. For plans
10 submitted after the effective date of this section, the
11 commission shall cause notice of the utility's filing to be
12 published in the Pennsylvania Bulletin. The public utility shall
13 make available, upon request, a copy of the proposed plan to any
14 coal supplier with which it has a supply contract for more than
15 one year and to any collective bargaining representative for the
16 coal supplier.

17 ~~(c) Review by the commission. If the utility has requested~~ <—
18 ~~commission approval of its plan, the commission shall review the~~
19 ~~proposed plan on an expedited basis to determine if the~~
20 ~~utility's proposed compliance plan submitted under this section~~
21 ~~is in the public interest. After notice and opportunity for a~~
22 ~~hearing, the commission shall approve or disapprove the~~
23 ~~compliance plan within nine months after the plan is filed,~~
24 ~~provided that approval may be issued in whole or in part and may~~
25 ~~be subject to such limitations and qualifications as may be~~
26 ~~deemed necessary and in the public interest. The commission's~~
27 ~~decision shall establish that the utility's costs of compliance~~
28 ~~are recoverable costs of service, provided the costs are~~
29 ~~reasonable in amount and prudently incurred as determined in an~~
30 ~~appropriate rate or other proceeding. Such costs shall represent~~

~~1 investment in flue gas desulfurization devices, clean coal~~
~~2 technologies, or similar facilities designed to continue or~~
~~3 promote the use of coal, and shall qualify as nonrevenue~~
~~4 producing investment to improve environmental conditions under~~
~~5 section 1315 (relating to limitation on consideration of certain~~
~~6 costs for electric utilities). Any benefits to the utility~~
~~7 generated by the sale of allowances under the Clean Air Act~~
~~8 shall be flowed through to the utility's ratepayers. The utility~~
~~9 shall not be required to refile its plan or to seek additional~~
~~10 commission approvals concerning its plan unless the utility's~~
~~11 plan is significantly amended or revised.~~

12 (D) REVIEW BY COMMISSION.--

<—

13 (1) IF THE UTILITY HAS REQUESTED COMMISSION APPROVAL OF
14 ITS PLAN, THE COMMISSION SHALL REVIEW THE PROPOSED PLAN ON AN
15 EXPEDITED BASIS TO DETERMINE IF THE UTILITY'S PROPOSED
16 COMPLIANCE PLAN SUBMITTED UNDER THIS SECTION IS IN THE PUBLIC
17 INTEREST.

18 (2) AFTER NOTICE AND OPPORTUNITY FOR A HEARING, THE
19 COMMISSION SHALL APPROVE OR DISAPPROVE THE COMPLIANCE PLAN
20 WITHIN NINE MONTHS AFTER THE PLAN IS FILED, PROVIDED THAT
21 APPROVAL MAY BE IN WHOLE OR IN PART AND MAY BE SUBJECT TO
22 SUCH LIMITATIONS AND QUALIFICATIONS AS MAY BE DEEMED
23 NECESSARY AND IN THE PUBLIC INTEREST. THE COMMISSION'S
24 DECISION SHALL ESTABLISH THAT THE UTILITY'S COSTS OF
25 COMPLIANCE ARE RECOVERABLE COSTS OF SERVICE, PROVIDED THE
26 COSTS:

27 (I) ARE REASONABLE IN AMOUNT AND PRUDENTLY INCURRED
28 AS DETERMINED IN AN APPROPRIATE RATE OR OTHER PROCEEDING;
29 AND

30 (II) REPRESENT INVESTMENT IN FLUE GAS

1 DESULFURIZATION DEVICES, CLEAN COAL TECHNOLOGIES, OR
2 SIMILAR FACILITIES DESIGNED TO MAINTAIN OR PROMOTE THE
3 USE OF COAL, INCLUDING FACILITIES WHICH INTERMITTENTLY OR
4 SIMULTANEOUSLY BURN NATURAL GAS WITH COAL.

5 (3) COSTS ESTABLISHED AS RECOVERABLE UNDER PARAGRAPH (2)
6 SHALL QUALIFY AS NONREVENUE PRODUCING INVESTMENT TO IMPROVE
7 ENVIRONMENTAL CONDITIONS UNDER SECTION 1315 (RELATING TO
8 LIMITATION ON CONSIDERATION OF CERTAIN COSTS FOR ELECTRIC
9 UTILITIES), PROVIDED THAT ANY BENEFITS TO THE UTILITY
10 GENERATED BY THE SALE OF ALLOWANCES UNDER THE CLEAN AIR ACT
11 SHALL BE FLOWED THROUGH TO THE UTILITY'S RATEPAYERS.

12 (4) THE UTILITY SHALL NOT BE REQUIRED TO REFILE ITS PLAN
13 OR TO SEEK ADDITIONAL COMMISSION APPROVALS CONCERNING ITS
14 PLAN UNLESS THE UTILITY'S PLAN IS SIGNIFICANTLY AMENDED OR
15 REVISED.

16 ~~(d)~~ (E) Definition.--As used in this section, the term <—
17 "Clean Air Act" means Public Law 95-95, 42 U.S.C. § 7401 et seq.
18 and includes the Clean Air Act Amendments (Public Law 101-549,
19 104 Stat. 2399) approved November 15, 1990.

20 Section 2. This act shall take effect immediately.