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THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 434 Session of  
1993

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INTRODUCED BY STAIRS, SEMMEL, TRELLO, TULLI, KASUNIC, GEIST AND  
CIVERA, MARCH 15, 1993

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REFERRED TO COMMITTEE ON CONSERVATION, MARCH 15, 1993

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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 Section 301. Establishment and composition.  
2 Section 302. Meetings, quorum, etc.  
3 Section 303. Secretary of Environmental Resources and Chairman  
4 of Pennsylvania Public Utility Commission.  
5 Section 304. Organization.  
6 Section 305. Divisions.  
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8 Section 307. Executive administrator.  
9 Section 308. Powers and duties of executive administrator.  
10 Section 309. Powers and duties of commission.  
11 Section 310. Energy master plan.  
12 Section 311. Emergency allocation plan.  
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15 Section 501. Division of Administrative Hearings.  
16 Section 502. Appeals.  
17 Section 503. Rules and regulations.  
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20 Chapter 7. Enforcement  
21 Section 701. Conflict of interest.  
22 Section 702. Violations and penalties.  
23 Chapter 21. Miscellaneous Provisions  
24 Section 2101. Transfer provisions.  
25 Section 2102. Civil service.  
26 Section 2103. Construction of act.  
27 Section 2104. Initial appointments.  
28 Section 2105. Staff availability.  
29 Section 2106. Annual report.  
30 Section 2107. Appropriation.

1 Section 2108. Repeals.

2 Section 2109. Expiration of act.

3 Section 2110. Effective date.

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 Federal and State 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 Federal and State 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 decision making.

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 the Federal Government or other  
7 states.

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 metallic or  
29 nonmetallic ore, oil, natural gas and other minerals, the  
30 requirement of competitive bidding may be waived, and the

1 commission may enter into a contract to lease that fractional  
2 interest, with the approval of the Governor and upon the  
3 terms and conditions as the commission deems to be in the  
4 best interest of the 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 metallic or  
22 nonmetallic ore, oil, natural gas and other minerals under  
23 State forest lands, the requirement of competitive bidding  
24 may be waived, and the commission may enter into a contract  
25 to lease that fractional interest, with the approval of the  
26 Governor and upon such terms and conditions as the commission  
27 deems to be in the 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 1201 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 rules and  
30 regulations as necessary for the proper performance of the

1 work 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 rule or regulation  
6 promulgated prior to the effective date of this act shall be  
7 the rules and regulations of the commission until they are  
8 modified, repealed, suspended, superseded or otherwise  
9 changed by the commission. Any rule, regulation, policy or  
10 procedure pertaining to matters within the jurisdiction of  
11 the commission in effect on the effective date of this act  
12 shall be reviewed by the executive administrator on the  
13 written request of a person substantially affected by the  
14 rule, regulation, policy or procedure. The executive  
15 administrator shall initiate a review within 30 days of  
16 receipt of the request and issue a decision in writing within  
17 90 days of receipt of the request to retain, modify or  
18 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. The 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 an 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 the  
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 the 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 2  
24 Pa.C.S. (relating to administrative law and procedure), on  
25 any decision or action of the energy commission, including,  
26 but not limited to, notice of violation, penalty assessment,  
27 order, permit, license, or the whole or part of a rule or  
28 equivalent. A decision or action shall be considered final  
29 when reduced to writing, whether affirmative, negative,  
30 injunctive or declaratory in form.

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

6 Section 502. Appeals.

7       (a) General rule.--Anything in any law to the contrary  
8       notwithstanding, any action of the commission may be taken  
9       initially without regard to the provisions of 2 Pa.C.S.

10      (relating to administrative law and procedure), but no action of  
11      the commission adversely affecting any person shall be final as  
12      to any person until that person has had the opportunity to  
13      appeal to the division. However, the action shall be final as to  
14      any person who had not perfected his appeal in the manner  
15      specified in this section.

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

21 Section 503. Rules and regulations.

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

28 Section 504. Hearing examiners.

29      The Attorney General shall employ hearing examiners who are  
30      knowledgeable about the laws of this Commonwealth and other

1 personnel as are necessary to assist these examiners. The number  
2 of examiners employed shall be sufficient to provide timely and  
3 expeditious hearings at each office of the commission.

4 Section 505. Subpoenas.

5 The division shall have the power to subpoena witnesses,  
6 records and papers; and, upon certification to it of failure to  
7 obey any subpoena, the Commonwealth Court is empowered, after  
8 hearing, to enter, when proper, an adjudication of contempt and  
9 such other order as the circumstances require.

10 CHAPTER 7

11 ENFORCEMENT

12 Section 701. Conflict of interest.

13 (a) Surface mining.--No employee of the commission  
14 performing any function or duty within the scope of activities  
15 covered by the Surface Mining Control and Reclamation Act of  
16 1977 (Public Law 95-87, 30 U.S.C. § 1201 et seq.) shall have a  
17 direct or indirect financial interest in any underground or  
18 surface coal mining operation as defined by this act. Whoever  
19 knowingly violates the provisions of this subsection commits a  
20 misdemeanor of the third degree and shall, upon conviction, be  
21 sentenced to pay a fine of not more than \$2,500 or to  
22 imprisonment for not more than one year, or both. Rules and  
23 regulations shall be promulgated hereunder to establish methods  
24 by which the provisions of this subsection will be monitored and  
25 enforced by the commission, including, but not limited to,  
26 appropriate provisions for the filing by employees and the  
27 review of statements and supplements thereto concerning any  
28 financial interest which may be affected by this subsection.

29 (b) Oil and gas.--No employee of the commission performing  
30 the function or duty of any oil or gas inspector shall act as a

1 manager, employee or agent of any oil-drilling or gas-drilling  
2 operation or of any mining or mining operation, nor shall he be  
3 interested in any pecuniary way in such operations in this  
4 Commonwealth. Whoever knowingly violates the provisions of this  
5 subsection commits a misdemeanor of the third degree and shall,  
6 upon conviction, be sentenced to pay a fine of not more than  
7 \$2,000 or to imprisonment for not more than one year, or both.  
8 Rules and regulations shall be promulgated to establish methods  
9 by which the provisions of this subsection shall be monitored  
10 and enforced by the commission, including, but not limited to,  
11 appropriate provisions for the filing by employees and the  
12 review of statements and supplements thereto concerning any  
13 financial interest which may be affected by this subsection.  
14 Section 702. Violations and penalties.

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

22 (b) Unlawful purchase.--Any person purchasing or attempting  
23 to purchase energy supplies in violation of any rules,  
24 regulations or orders issued hereunder constitutes a summary  
25 offense.

26 (c) Violation of rules.--Any retail dealer who violates any  
27 rules, regulations or orders issued hereunder commits a summary  
28 offense.

29 (d) Violation by energy supplier.--Any distributor of any  
30 other supplier of energy who violates any rules, regulations or

1 orders issued hereunder commits a misdemeanor of the first  
2 degree.

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

## 10 CHAPTER 21

### 11 MISCELLANEOUS PROVISIONS

#### 12 Section 2101. Transfer provisions.

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



1 administrative, overhead and supporting personnel,  
2 appropriations, equipment and other material of the agencies and  
3 shall also include, where applicable, Federal grants and funds  
4 and other benefits from any Federal program. All personnel  
5 transferred pursuant to this act shall retain any civil service  
6 employment status assigned to the personnel.

7 Section 2102. Civil service.

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

15 Section 2103. Construction of act.

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

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

28 (c) Jurisdiction of PUC and other agencies.--The commission  
29 shall not have any authority to take any action affecting the  
30 jurisdiction of the Pennsylvania Public Utility Commission or

1 any Federal administrative or regulatory agency. The executive  
2 administrator, however, shall have the authority to appear  
3 before the commission or any Federal administrative or  
4 regulatory agency to provide information concerning State energy  
5 policies.

6 Section 2104. Initial appointments.

7 The first members of the board appointed by the Governor  
8 shall be appointed as follows: one for a term of one year, one  
9 for a term of two years, one for a term of three years, one for  
10 a term of four years and one for a term of five years.

11 Thereafter, all appointments, except the filling of vacancies,  
12 shall be for five years. The first members appointed by the  
13 President pro tempore of the Senate and the Speaker of the House  
14 of Representatives shall be named to full five-year terms. All  
15 initial appointments shall be made not later than January 1,  
16 1994, and confirmed when the General Assembly convenes.

17 Section 2105. Staff availability.

18 At the direction of the administrator, the staff of the  
19 commission may assist the staff of the Pennsylvania Energy  
20 Development Authority and the Appalachian States Low-Level  
21 Radioactive Waste Commission in energy-related matters.

22 Section 2106. Annual report.

23 The commission shall, promptly following the close of each  
24 fiscal year, submit an annual report of its activities for the  
25 preceding year to the Governor, to the appropriate committees or  
26 joint committees of the General Assembly as designated by the  
27 President pro tempore of the Senate and the Speaker of the House  
28 of Representatives, and, upon request, to members of the General  
29 Assembly. Each report shall set forth a complete operating and  
30 financial statement of the commission during each year. An audit

1 of the books and accounts of the commission shall be made by the  
2 Auditor General, in accordance with the same methods and  
3 schedule as apply to State departments.

4 Section 2107. Appropriation.

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

9 Section 2108. Repeals.

10 All acts and parts of acts are repealed insofar as they are  
11 inconsistent with this act.

12 Section 2109. Expiration of act.

13 This act shall expire June 30, 2003, unless extended by the  
14 General Assembly.

15 Section 2110. Effective date.

16 This act shall take effect in 180 days.