

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1201 Session of
2007

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K. SMITH AND M. SMITH, MAY 24, 2007

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 24, 2007

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for the definition
3 of "public utility"; adding a definition of "micro-grid";
4 further providing for duties of electric distribution
5 companies; and providing for micro-grids.

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

8 Section 1. The definition of "public utility" in section 102
9 of Title 66 of the Pennsylvania Consolidated Statutes is amended
10 to read:

11 § 102. Definitions.

12 Subject to additional definitions contained in subsequent
13 provisions of this part which are applicable to specific
14 provisions of this part, the following words and phrases when
15 used in this part shall have, unless the context clearly
16 indicates otherwise, the meanings given to them in this section:

17 * * *

1 "Public utility."

2 (1) Any person or [corporations] corporation now or
3 hereafter owning or operating in this Commonwealth equipment
4 or facilities for:

5 (i) Producing, generating, transmitting,
6 distributing or furnishing natural or artificial gas,
7 electricity, or steam for the production of light, heat,
8 or power to or for the public for compensation.

9 (ii) Diverting, developing, pumping, impounding,
10 distributing, or furnishing water to or for the public
11 for compensation.

12 (iii) Transporting passengers or property as a
13 common carrier.

14 (iv) Use as a canal, turnpike, tunnel, bridge,
15 wharf, and the like for the public for compensation.

16 (v) Transporting or conveying natural or artificial
17 gas, crude oil, gasoline, or petroleum products,
18 materials for refrigeration, or oxygen or nitrogen, or
19 other fluid substance, by pipeline or conduit, for the
20 public for compensation.

21 (vi) Conveying or transmitting messages or
22 communications, except as set forth in paragraph (2)(iv),
23 by telephone or telegraph or domestic public land mobile
24 radio service including, but not limited to, point-to-
25 point microwave radio service for the public for
26 compensation.

27 (vii) Sewage collection, treatment, or disposal for
28 the public for compensation.

29 (viii) Providing limousine service in a county of
30 the second class pursuant to Subchapter B of Chapter 11

(relating to limousine service in counties of the second class).

(2) The term does not include:

(i) Any person or corporation, not otherwise a public utility, who or which furnishes service only to himself or itself.

(ii) Any bona fide cooperative association which furnishes service only to its stockholders or members on a nonprofit basis.

(iii) Any producer of natural gas not engaged in distributing such gas directly to the public for compensation.

(iv) Any person or corporation, not otherwise a public utility, who or which furnishes mobile domestic cellular radio telecommunications service.

(v) Any building or facility owner/operators who hold ownership over and manage the internal distribution system serving such building or facility and who supply electric power and other related electric power services to occupants of the building or facility.

(vi) Electric generation supplier companies, except for the limited purposes as described in sections 2809 (relating to requirements for electric generation suppliers) and 2810 (relating to revenue-neutral reconciliation).

(vii) Any person or corporation who or which furnishes natural gas produced from alternative sources, including, but not limited to, landfill gas, coal-mine methane or coal-bed methane and synthetic natural gas produced from the gasification of coal or other

1 feedstocks directly to no more than four customers. A
2 person or corporation who or which wishes to furnish
3 natural gas produced from alternative sources to more
4 than four customers and be excluded from this definition
5 must request approval from the commission. The commission
6 shall approve the request if the person or corporation
7 provides a private rather than a public service.

8 (viii) Micro-grids, as that term is defined by
9 section 2803 (relating to definitions).

10 (3) For the purposes of sections 2702 (relating to
11 construction, relocation, suspension and abolition of
12 crossings), 2703 (relating to ejectment in crossing cases)
13 and 2704 (relating to compensation for damages occasioned by
14 construction, relocation or abolition of crossings) and those
15 portions of sections 1501 (relating to character of service
16 and facilities), 1505 (relating to proper service and
17 facilities established on complaint; authority to order
18 conservation and load management programs) and 1508 (relating
19 to reports of accidents), as those sections or portions
20 thereof relate to safety only, a municipal authority or
21 transportation authority organized under the laws of this
22 Commonwealth shall be considered a public utility when it
23 owns or operates, for the carriage of passengers or goods by
24 rail, a line of railroad composed of lines formerly owned or
25 operated by the Pennsylvania Railroad, the Penn-Central
26 Transportation Company, the Reading Company or the
27 Consolidated Rail Corporation.

28 * * *

29 Section 2. Section 2803 of Title 66 is amended by adding a
30 definition to read:

1 § 2803. Definitions.

2 The following words and phrases when used in this chapter
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 * * *

6 "Micro-grid." A small power generation and distribution
7 network directly serving multiple consumers with the electric
8 generating facility located near or on the same site as the
9 consumers, that may be interconnected to the transmission and
10 distribution system and, if so, operates independently from it.

11 * * *

12 Section 3. Section 2807(e) of Title 66 is amended and the
13 section is amended by adding a subsection to read:

14 § 2807. Duties of electric distribution companies.

15 * * *

16 (e) Obligation to serve.--An electric distribution company's
17 obligation to provide electric service following implementation
18 of restructuring and the choice of alternative generation by a
19 customer is revised as follows:

20 (1) While an electric distribution company collects
21 either a competitive transition charge or an intangible
22 transition charge or until 100% of its customers have choice,
23 whichever is longer, the electric distribution company shall
24 continue to have the full obligation to serve, including the
25 connection of customers, the delivery of electric energy and
26 the production or acquisition of electric energy for
27 customers.

28 (2) At the end of the transition period, the commission
29 shall promulgate regulations to define the electric
30 distribution company's obligation to connect and deliver and

1 acquire electricity under paragraph (3) that will exist at
2 the end of the phase-in period.

3 (3) [If a customer contracts for electric energy and it
4 is not delivered or if a customer does not choose an
5 alternative electric generation supplier, the]

6 (i) The electric distribution company or commission-
7 approved alternative supplier shall acquire [electric
8 energy at prevailing market prices to serve that customer
9 and shall recover fully all reasonable costs.] a
10 portfolio of resources through one or more competitive
11 procurement processes approved by the commission to serve
12 customers who contract for electric energy and do not
13 receive it or to customers who do not choose an
14 alternative electric generation supplier, and shall
15 recover fully all reasonable costs. The competitive
16 procurement process or processes to secure electricity
17 shall be conducted by customer rate class as determined
18 and approved by the commission. The generation rates
19 procured by the competitive procurement process or
20 processes may not allow the cross-subsidization of one
21 customer rate class by another.

22 (ii) In addition to complying with the requirements
23 of the act of November 30, 2004 (P.L.1672, No.213), known
24 as the Alternative Energy Portfolio Standards Act, the
25 resource portfolio acquired pursuant to this paragraph
26 shall be designed to produce the lowest reasonable rates
27 on a long-term basis and shall reflect a diversity of
28 supply-side and demand-side resources, a diversity of
29 fuel types and a prudent mix of long-term, short-term and
30 spot-market purchases. A long-term contract shall be

1 permitted only for newly constructed or proposed to be
2 constructed alternative energy sources, as that term is
3 defined in section 2 of the Alternative Energy Portfolio
4 Standards Act, and new generation resources determined by
5 the commission to be required for reliability as set
6 forth in subparagraph (v).

7 (iii) An electric distribution company or
8 commission-approved alternative supplier may enter into a
9 long-term contract directly with a Tier I alternative
10 energy source, as that term is defined in section 2 of
11 the Alternative Energy Portfolio Standards Act, for
12 electricity, alternative energy credits, or both, without
13 engaging in a commission-approved competitive procurement
14 process. The costs associated with the contract must be
15 consistent with the average cost of Tier I alternative
16 energy credits in other jurisdictions of the PJM
17 Interconnection, L.L.C., regional transmission
18 organization or its successor, accounting for the effect
19 that public subsidies have on the price of the
20 alternative energy credit. The commission shall determine
21 when there is significant competition among Tier I
22 alternative energy sources that the acts authorized by
23 this subpart are no longer necessary.

24 (iv) An electric distribution company or commission-
25 approved alternative supplier shall enter into a contract
26 with energy efficiency and other demand-side resources,
27 instead of electric generation facilities, to meet any
28 increases in energy usage and peak demand so long as the
29 cost of energy efficiency and demand-side resources is
30 less than the cost of electric generation. To the extent

1 that electric generation is necessary to meet additional
2 load growth, the electric distribution company or
3 commission-approved alternative supplier shall make a
4 good faith effort to procure electricity from alternative
5 energy sources specified in the Alternative Energy
6 Portfolio Standards Act.

7 (v) An electric distribution company or commission-
8 approved alternative supplier may enter into a contract
9 approved by the commission to enable the construction of
10 new electric generation resources upon a determination by
11 the commission that new electric generation resources are
12 required to ensure reliability. The commission shall
13 ensure that a contract for new electric generation
14 resources are the lowest cost option for ensuring
15 reliability.

16 (vi) The portfolio of resources acquired pursuant to
17 this subsection shall be acquired separately for
18 residential customers, small business customers and large
19 customers as those customer classes are defined by the
20 commission for each electric distribution company or
21 commission-approved alternative supplier.

22 (vii) For the purposes of this paragraph "long-term
23 contract" shall be defined as a contract length of more
24 than three years. "Short-term contract" shall be defined
25 as a contract length of three years or less.

26 (4) If a customer that chooses an alternative supplier
27 and subsequently desires to return to the local distribution
28 company for generation service, the local distribution
29 company shall treat that customer exactly as it would any new
30 applicant for energy service.

1 (5) No later than January 1, 2011, an electric
2 distribution company or commission-approved alternative
3 supplier shall provide a rate that shall change no more
4 frequently than on an annual basis as the default option for
5 residential and small business customers.

6 (6) One year from the effective date of this paragraph
7 or at the end of the applicable generation rate cap period,
8 whichever is later, an electric distribution company and
9 commission-approved alternative supplier shall offer a time-
10 of-use pilot rate to residential and small business customers
11 voluntarily choosing to be part of the pilot program. An
12 electric distribution and commission-approved alternative
13 supplier shall provide to the commission a description of its
14 time-of-use pilot rate program and shall annually report on
15 the participation in the pilot program and the efficacy of
16 the pilot program in affecting energy demand and consumption.

17 (7) Within six years of the effective date of this
18 paragraph, an electric distribution company shall furnish its
19 customers with technology capable of allowing all customers
20 to participate in pricing programs that reflect time of use.
21 The electric distribution company may recover the net costs
22 associated with technology required to implement time-of-use
23 rates. Cost recovery shall reflect the operating cost savings
24 to the electric distribution company from the introduction of
25 technology to implement time-of-use rates. Customer
26 participation in time-of-use pricing shall be voluntary.

27 (8) By January 1, 2011, or at an electric distribution
28 company or commission-approved alternative supplier's next
29 default service offering, whichever is sooner, the electric
30 distribution company or commission-approved alternative

1 supplier may offer large customers any rate including, but
2 not limited to, a cost-based rate for any duration agreed
3 upon by the electric distribution company or commission-
4 approved alternative supplier and the large customer.
5 Contract rates entered into pursuant to this paragraph shall
6 be subject to review by the commission in order to ensure
7 that no costs related to the rates are borne by other
8 customers or customer classes.

9 (9) The commission shall require an electric
10 distribution company to offer customers the choice of
11 phasing-in over a period of up to three years any generation
12 rate increases resulting from the end of existing generation
13 rate caps which are approved by the commission.

14 (f) Retail electricity surcharge.--

15 (1) Each electric distribution company shall apply and
16 collect a charge of \$0.0005 per kWh for each kWh of retail
17 electricity sold in this Commonwealth and shall pay that
18 charge to the State Treasurer through the Department of
19 Revenue on a quarterly basis within 30 days after the close
20 of the quarter in which collected.

21 (2) Notwithstanding the provisions in paragraph (1), in
22 no event shall the annual payment from any single customer
23 exceed \$10,000.

24 (3) The State Treasurer shall transfer all funds
25 received pursuant to this subsection to the Energy
26 Development Fund within 30 days of receipt of the funds.

27 (4) The charge shall appear as a separate charge on the
28 distribution bill of each retail electricity customer. The
29 charge shall be applied beginning 90 days after the effective
30 date of this subsection and shall expire on the 30th

1 anniversary of the date it was first applied.

2 (5) Funds collected under this subsection shall be used
3 by the Pennsylvania Energy Development Authority,
4 Redevelopment Capital Assistance Program and the Ben Franklin
5 Technology Development Authority for the following purposes:

6 (i) To fulfill the obligations of a bond for
7 alternative energy projects, including:

8 (A) Funding for alternative and renewable energy
9 projects, including alternative and renewable
10 transportation fuels.

11 (B) Funding for the purchase of tradable
12 instruments, including, but not limited to,
13 alternative and renewable energy credits.

14 (C) Funding for demand-side management measures
15 for all customer classes, including, but not limited
16 to, energy efficiency building construction,
17 equipment and renovation.

18 (D) Rebates or grants for solar photovoltaic,
19 other solar electric or solar thermal installations.

20 (E) Production grants or rebates to solar
21 equipment manufacturers.

22 (F) Funding for weatherization and other usage
23 reduction measures for low-income electricity and
24 natural gas customers.

25 (G) To acquire, through purchase or otherwise,
26 hold, sell, transfer and redistribute electric power,
27 natural gas, liquid fuel, transportation fuel and any
28 other energy commodity.

29 (2) Reasonable administrative costs associated with
30 utilizing the funds.

1 Section 4. Title 66 is amended by adding a section to read:

2 § 2813. Micro-grids.

3 Customers may have their electricity supplied by micro-grids
4 subject to the following:

5 (1) A micro-grid shall be limited to four customers.
6 Micro-grids seeking to supply electricity to more than four
7 customers may be approved by the commission on a case-by-case
8 basis. The commission shall approve such requests if the
9 micro-grid, while serving more than four customers, provides
10 a private rather than a public service.

11 (2) The commission shall promulgate regulations on the
12 fees related to micro-grid interconnection, standby power and
13 other services related to the reliable and safe functioning
14 of micro-grids. Fees associated with this section shall be
15 the lowest cost necessary to ensure adequate system
16 reliability and safety.

17 (3) Micro-grids may sell power back to the electric
18 transmission and distribution system at the spot or hourly
19 wholesale price of electricity at the nearest appropriate
20 node that is part of the regional transmission organization.

21 Section 5. This act shall take effect immediately.