

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2200

Session of
2008

INTRODUCED BY GEORGE, McCALL, BELFANTI, CALTAGIRONE, CONKLIN,
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McILVAINE SMITH, YOUNGBLOOD AND FRANKEL, JANUARY 15, 2008

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, IN SENATE, RE-REPORTED AS AMENDED, OCTOBER 7, 2008

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, ~~providing for recovery of certain~~ <—
3 ~~labor relations expenses; further providing for definitions;~~
4 ~~providing for adoption of energy efficiency and demand-side~~
5 ~~response; and further providing for duties of electric~~
6 ~~distribution companies. FURTHER PROVIDING FOR DEFINITIONS;~~ <—
7 ~~PROVIDING FOR ENERGY EFFICIENCY AND CONSERVATION; FURTHER~~
8 ~~PROVIDING FOR DUTIES OF ELECTRIC DISTRIBUTION COMPANIES; AND~~
9 ~~PROVIDING FOR PROCUREMENT. FURTHER PROVIDING FOR DIRECTOR OF~~ <—
10 OPERATIONS, SECRETARY, EMPLOYEES AND CONSULTANTS; REPEALING
11 PROVISIONS RELATING TO OFFICE OF TRIAL STAFF; FURTHER
12 PROVIDING FOR BUREAUS AND OFFICES; PROVIDING FOR OTHER
13 BUREAUS, OFFICES AND POSITIONS; FURTHER PROVIDING FOR
14 ELECTRIC UTILITY DEFINITIONS; PROVIDING FOR ENERGY EFFICIENCY
15 AND CONSERVATION PROGRAM AND FOR ENERGY EFFICIENCY AND
16 CONSERVATION; FURTHER PROVIDING FOR DUTIES OF ELECTRIC
17 DISTRIBUTION COMPANIES AND FOR MARKET POWER REMEDIATION; AND
18 PROVIDING FOR PROCUREMENT, FOR ADDITIONAL ALTERNATIVE ENERGY
19 SOURCES AND FOR CARBON DIOXIDE SEQUESTRATION NETWORK.

20 THE GENERAL ASSEMBLY RECOGNIZES THE FOLLOWING PUBLIC POLICY

21 FINDINGS AND DECLARES THAT THE FOLLOWING OBJECTIVES OF THE

22 COMMONWEALTH ARE SERVED BY THIS ACT:

23 (1) THE HEALTH, SAFETY AND PROSPERITY OF ALL CITIZENS OF

1 THIS COMMONWEALTH ARE INHERENTLY DEPENDENT UPON THE
2 AVAILABILITY OF ADEQUATE, RELIABLE, AFFORDABLE, EFFICIENT AND
3 ENVIRONMENTALLY SUSTAINABLE ELECTRIC SERVICE AT THE LEAST
4 COST, TAKING INTO ACCOUNT ANY BENEFITS OF PRICE STABILITY,
5 OVER TIME AND THE IMPACT ON THE ENVIRONMENT.

6 (2) IT IS IN THE PUBLIC INTEREST TO ADOPT ENERGY
7 EFFICIENCY AND CONSERVATION MEASURES AND TO IMPLEMENT ENERGY
8 PROCUREMENT REQUIREMENTS DESIGNED TO ENSURE THAT ELECTRICITY
9 OBTAINED REDUCES THE POSSIBILITY OF ELECTRIC PRICE
10 INSTABILITY, PROMOTES ECONOMIC GROWTH AND ENSURES AFFORDABLE
11 AND AVAILABLE ELECTRIC SERVICE TO ALL RESIDENTS.

12 (3) IT IS IN THE PUBLIC INTEREST TO EXPAND THE USE OF
13 ALTERNATIVE ENERGY AND TO EXPLORE THE FEASIBILITY OF NEW
14 SOURCES OF ALTERNATIVE ENERGY TO PROVIDE ELECTRIC GENERATION
15 IN THIS COMMONWEALTH.

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

18 ~~Section 1. Title 66 of the Pennsylvania Consolidated~~
19 ~~Statutes is amended by adding a section to read:~~

20 ~~§ 1329. Recovery of certain labor relations expenses.~~

21 ~~No public utility may charge its customers as a permissible~~
22 ~~operating expense for ratemaking purposes any portion of the~~
23 ~~direct or indirect cost of meetings, publications, consultants,~~
24 ~~attorneys or other professional services and expenses associated~~
25 ~~with the utility's efforts to dissuade the employees of the~~
26 ~~utility, or the employees of any affiliated interest of the~~
27 ~~utility as defined in section 2101 (relating to definition of~~
28 ~~affiliated interest), from becoming or remaining a member in, or~~
29 ~~otherwise being represented by, any labor union.~~

30 ~~Section 2. Section 2803 of Title 66 is amended by adding~~

1 ~~definitions to read:~~

2 ~~§ 2803. Definitions.~~

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

6 ~~"Affiliated interest." As defined in section 2101 (relating~~
7 ~~to definition of affiliated interest).~~

8 ~~* * *~~

9 ~~"Cost effective." In relation to a program being evaluated,~~
10 ~~satisfaction of the total resource cost test.~~

11 ~~* * *~~

12 ~~"Demand-side response." Load management technologies,~~
13 ~~management practices or other strategies employed by retail~~
14 ~~customers that decrease peak electricity demand or shift demand~~
15 ~~from on-peak to off-peak periods provided that:~~

16 ~~(1) The measure is installed on or after the effective~~
17 ~~date of this section at the service location of a retail~~
18 ~~customer.~~

19 ~~(2) The measure reduces the peak demand or cost of~~
20 ~~energy by the retail customer.~~

21 ~~(3) The costs of the acquisition or installation of the~~
22 ~~measure are directly incurred in whole or in part by the~~
23 ~~electric distribution company.~~

24 ~~* * *~~

25 ~~"Energy efficiency." Technologies, management practices or~~
26 ~~other strategies or measures employed by retail customers that~~
27 ~~reduce electricity consumption provided that:~~

28 ~~(1) The measure is installed on or after the effective~~
29 ~~date of this definition at the service location of a retail~~
30 ~~customer.~~

~~(2) The measure reduces the consumption of energy by the retail customer.~~

~~(3) The costs of the acquisition or installation of the measure are directly incurred in whole or in part by the electric distribution company.~~

~~"Independent entity." An entity with no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company.~~

~~"Peak demand." The highest electrical requirement occurring during a specified period. For an electric distribution company, the term means the sum of the metered consumption for all retail customers over that period.~~

~~"Real-time price." A rate that directly reflects the different cost of energy during each hour.~~

~~* * *~~

~~"Smart meter technology." Technology, including, but not limited to, metering technology and network communications technology capable of bidirectional communication and that records electricity usage on at least an hourly basis, including related electric distribution system upgrades to enable the technology. The technology shall provide customers with direct access to and use of price and consumption information. The technology shall also:~~

~~(1) Directly provide customers with information on their hourly consumption.~~

~~(2) Enable time-of-use rates and real-time price programs.~~

~~(3) Effectively support the automatic control of the customer's electricity consumption by one or more of the following as selected by the customer:~~

~~(i) the customer;~~
~~(ii) the customer's utility; or~~
~~(iii) a third party engaged by the customer or the~~
~~customer's utility.~~

~~"Time-of-use rate." A rate that reflects the costs of~~
~~serving customers during different time periods, including off-~~
~~peak and on-peak periods, but not as frequently as each hour.~~

~~"Total resources cost test." A standard test that is met if,~~
~~over the effective life of the program, the avoided supply-side~~
~~monetary costs are greater than the monetary costs of the~~
~~demand-side programs borne by both the electric distribution~~
~~company and the participants.~~

~~* * *~~

~~Section 3. Title 66 is amended by adding a section to read:~~
~~§ 2806.1. Adoption of procedures encouraging energy efficiency~~
~~and demand-side response.~~

~~(a) Program. The commission shall develop a program to~~
~~provide for the implementation of cost-effective programs that~~
~~reduce energy demand and consumption within the service~~
~~territories of all electric distribution companies throughout~~
~~this Commonwealth. The program shall include, but is not limited~~
~~to, the following:~~

~~(1) Selecting a program administrator to develop and~~
~~oversee the delivery of energy efficiency and demand-side~~
~~response programs within the service territory of each~~
~~electric distribution company within this Commonwealth.~~

~~(2) Implementing the necessary administrative and~~
~~financial mechanisms that will enable the program~~
~~administrator to develop and oversee the provision of energy~~
~~efficiency and demand-side response programs within the~~

~~service territory of each electric distribution company within this Commonwealth, including the levying of assessments in accordance with sections 510 (relating to assessment for regulatory expenses upon public utilities), 1307 (relating to sliding scale of rates; adjustments) and 1308 (relating to voluntary changes in rates). The commission shall not approve or implement and shall not assess or charge to customers the costs of energy efficiency or demand-response programs to the extent that the costs of such programs exceed 2% of the total annual revenues of the electric distribution company from all sources, including default service generation revenues as of January 1, 2007. This funding limit shall not include amounts provided for by the low-income usage reduction programs established under regulations at 52 Pa. Code Ch. 58 (relating to residential low income usage reduction programs).~~

~~(3) Implementing the necessary administrative and financial mechanisms that facilitate a system of third-party entities to deliver all or portions of the energy efficiency and demand-side response programs within the service territory of each electric distribution company within this Commonwealth, including the levying of assessments in accordance with sections 510, 1307 and 1308. The commission may order the electric distribution company to pay the third-party entity for services rendered in an electric distribution company's respective service territory pursuant to this section. The electric distribution company may be a third-party entity.~~

~~(b) Selection of program administrator. -- The commission shall implement the following procedures when selecting a~~

1 ~~program administrator:~~

2 ~~(1) The commission shall prepare a request for proposals~~
3 ~~for a program administrator to provide for the development~~
4 ~~and delivery of the energy efficiency and demand-side~~
5 ~~response programs in the service territories of all electric~~
6 ~~distribution companies and shall make the request for~~
7 ~~proposals available for public comment.~~

8 ~~(2) The commission shall, within 60 days of the~~
9 ~~completion of the public comment period, issue the final~~
10 ~~request for proposals.~~

11 ~~(3) The commission shall, based on a competitive bid~~
12 ~~process, select an independent entity to serve as the energy~~
13 ~~efficiency and demand-side response program administrator.~~

14 ~~(4) The commission shall include as a part of its~~
15 ~~agreement with the program administrator a system of~~
16 ~~performance parameters and a financial mechanism that~~
17 ~~provides incentives for exceeding established performance~~
18 ~~parameters and penalties for third parties not meeting~~
19 ~~established performance parameters.~~

20 ~~(c) Powers and duties of program administrator.--The program~~
21 ~~administrator shall have powers and duties assigned by the~~
22 ~~commission. The powers and duties shall include, but not be~~
23 ~~limited to:~~

24 ~~(1) Soliciting through a competitive procurement process~~
25 ~~within each electric distribution company service territory a~~
26 ~~program of providing energy efficiency and demand-side~~
27 ~~response programs to residential, commercial and industrial~~
28 ~~customers utilizing third-party entities.~~

29 ~~(2) Ensuring that each proposal includes, but is not~~
30 ~~limited to:~~

~~(i) A clear delineation of how the program will be conducted.~~

~~(ii) The types of specific program measures to be offered.~~

~~(iii) The cost and benefit of each program to be offered.~~

~~(iv) A process for monitoring and verifying results, data collection and management procedures, program evaluation processes and financial management strategies.~~

~~(3) In its review of each proposal received:~~

~~(i) Taking into account the unique circumstances of each electric distribution company's service territory.~~

~~(ii) Finding that each program is cost effective and that the portfolio of programs is designed to provide every affected customer class with the opportunity to participate and benefit economically.~~

~~(iii) Determining the cost-effectiveness of energy efficiency and demand-side response measures using the total resource cost test.~~

~~(4) Recommending to the commission those entities best suited to provide energy efficiency and demand-side response programs within the service territory of each electric distribution company.~~

~~(5) In the event no qualified proposals are received that meet the required plan goals in an electric distribution company service territory to conduct the program activities:~~

~~(i) Issuing a subsequent request for proposals with plan goals that are reduced no more than necessary to obtain qualified proposals to provide program activities.~~

~~The lowered plan goals for energy efficiency and demand-~~

~~side response shall only be in effect for that year.~~

~~(ii) In subsequent years, utilizing the plan goals unless no qualified proposals are received to conduct the program activities that meet the plan goals, the program administrator shall issue a subsequent request for proposals in accordance with the procedures identified in this subparagraph.~~

~~(6) Executing agreements on behalf of the commission with the selected entity in each electric distribution company service territory to conduct the energy efficiency and demand-side response program. As part of these agreements the program administrator shall ensure that:~~

~~(i) The programs offered by the selected entity are provided equitably across all customer classes.~~

~~(ii) A clearly defined process for financial compensation for the entity delivering the program which is tied to defined goals for performance regarding program activities accomplished, energy cost savings on a per-customer basis and utility-wide basis and overall energy and peak demand reduction is established.~~

~~(iii) A system of incentives and penalties for performance of contractual activities above and below predetermined levels is in place.~~

~~(iv) There is a set contract term which may include an initial three-year term with renewal terms of varied length.~~

~~(7) Submitting reports to the commission at such times and in such manner as the commission directs.~~

~~(d) Commission review of recommendations. The commission shall review the recommendations made by the program~~

~~administrator regarding those entities best suited to provide energy efficiency and demand-side response programs within the service territory of each electric distribution company. The commission shall approve or disapprove the recommendations made by the program administrator.~~

~~(1) The commission review of the recommendations of the program administrator shall be limited to ensuring that:~~

~~(i) There is no evidence of fraud or market abuse.~~

~~(ii) Any costs entered into are borne by the appropriate parties and that costs, including the costs of subsection (c)(6)(iii) incentives, related to the provision of the contracted services are borne by the appropriate customer class.~~

~~(iii) There will be provided, in a cost-effective manner, a program that provides energy efficiency and demand-side response measures to all customer classes throughout the service territory of each electric distribution company.~~

~~(2) If the commission approves a third-party entity to conduct the program, the commission shall ensure the program administrator finalizes the agreement between the commission and the third-party entity selected to provide the program of energy efficiency and demand-side response.~~

~~(3) In the event the commission disapproves the recommendation of the program administrator, the commission shall provide a rationale for this decision and direct the program administrator on a course of action.~~

~~(e) Plan goals.—The program administrator shall ensure that each proposal submitted by a third-party entity to deliver a program of energy efficiency and demand-side response measures~~

~~includes meeting the following energy saving goals:~~

~~(1) The following relate to energy efficiency goals:~~

~~(i) By May 31, 2011, total annual deliveries to retail customers of electric distribution companies shall be reduced by a minimum of 1%. This load reduction shall be measured against the expected load forecasted by the commission for June 1, 2010, through May 31, 2011, based on load for the period June 1, 2007, through May 31, 2008, with provision made for weather adjustments and extraordinary load that the electric distribution company must serve. The commission shall determine and make public the forecasts to be used for each electric distribution company no later than August 31, 2008. The program administrator shall ensure that a third-party entity meets the goals contained in this section through the implementation of a program of energy efficiency measures throughout the service territory of the electric distribution company.~~

~~(ii) By May 31, 2013, total annual deliveries to retail customers of electric distribution companies shall be reduced by a minimum of 2.5%. This load reduction shall be measured against the expected load forecasted by the commission for June 1, 2012, through May 31, 2013, based on load for the period June 1, 2007, through May 31, 2008, with provision made for weather adjustments and extraordinary load that the electric distribution company must serve. The commission shall determine and make public the forecasts to be used for each electric distribution company no later than August 31, 2008. The program administrator shall ensure that a third-party~~

1 ~~entity meets the goals contained in this section through~~
2 ~~the implementation of a program of energy efficiency~~
3 ~~measures throughout the service territory of the electric~~
4 ~~distribution company.~~

5 ~~(iii) By November 30, 2013, the program~~
6 ~~administrator shall evaluate the costs and benefits of~~
7 ~~these energy efficiency and conservation programs. If the~~
8 ~~benefits have been shown to exceed the costs, consistent~~
9 ~~with the total resource cost test, the program~~
10 ~~administrator, in consultation with the commission, shall~~
11 ~~set additional, incremental energy efficiency and~~
12 ~~conservation goals for the period ending May 31, 2018.~~

13 ~~(iv) After May 31, 2018, the program administrator~~
14 ~~shall continue to evaluate the costs and benefits of~~
15 ~~efficiency and conservation measures and, in consultation~~
16 ~~with the commission, may adopt additional incremental~~
17 ~~load reduction standards for electric distribution~~
18 ~~companies.~~

19 ~~(2) The following relate to demand-side response~~
20 ~~measures:~~

21 ~~(i) Cost-effective demand-side response measures to~~
22 ~~reduce peak demand by a minimum of 4% in the 100 hours of~~
23 ~~highest demand with provision made for weather~~
24 ~~adjustments and extraordinary load that the electric~~
25 ~~distribution company must serve shall be implemented in~~
26 ~~each electric distribution company's service territory.~~
27 ~~This reduction will be measured against the electric~~
28 ~~distribution company's peak demand in the 100 hours of~~
29 ~~greatest demand for June 1, 2007, through May 31, 2008.~~
30 ~~The reductions shall be accomplished by May 31, 2012.~~

~~(ii) By November 30, 2012, the program administrator shall compare the total costs of these demand-side response measures to the total savings in energy and capacity costs to retail customers of this Commonwealth. If the benefits have been shown to exceed the costs, consistent with the total resource cost test, the commission shall order additional peak demand reductions for the 100 hours of greatest demand or an alternative measure adopted by the commission. The reductions shall be measured from the electric distribution company's peak demand for the period from June 1, 2011, through May 31, 2012. The mandated reductions shall be accomplished no later than May 31, 2017.~~

~~(iii) After May 31, 2017, the program administrator shall continue to evaluate the costs and benefits of demand-side response measures and may, in consultation with the commission, adopt additional incremental peak load reduction standards.~~

~~(f) Measurements and verification. The commission shall establish standards by which the program administrator submits to the commission an annual report, which includes that information relating to the actions and results of the energy efficiency and demand-side response programs undertaken within each electric distribution service territory by each third-party entity.~~

~~(1) The report shall include, but not be limited to:~~

~~(i) Documentation of program expenditures.~~

~~(ii) Measurement and verification of savings resulting from programs.~~

~~(iii) Evaluation of the cost-effectiveness of~~

~~expenditures.~~

~~(iv) Any other information the commission may
require pursuant to its rulemaking authority.~~

~~(2) The program administrator, upon consultation with
the commission, shall direct a third-party entity to modify
or terminate a particular energy efficiency or a demand-side
response program if, after an adequate period for
implementation of the program, the commission determines the
program is not sufficiently meeting its goals and purposes.~~

~~(3) In the event an energy efficiency or demand-side
response program is terminated, the program administrator
shall require the third-party entity to submit a revised
program describing the actions to be undertaken to either
offer a substitute program or increase the availability of
existing programs to make up for the effect of the terminated
program on its overall program goals.~~

~~(g) Responsibilities of electric distribution companies.---
Each electric distribution company that does not seek to be a
third-party entity shall:~~

~~(1) Cooperate with the program administrator as needed
in its efforts to competitively procure the services of a
third-party entity to provide an energy efficiency and
demand-side response program within the service territory of
the electric distribution company.~~

~~(2) Provide information necessary to effectively
facilitate the work of the selected third-party entity in
conducting the energy efficiency and demand-side response
program.~~

~~(3) Provide assistance as may be requested by the
program administrator in reviewing proposals from third-party~~

~~entities seeking to provide energy efficiency and demand-side response programs within their service territories.~~

~~(4) Provide assistance as may be requested by the program administrator to facilitate the successful execution of the contract agreement with the third-party entities to provide an energy efficiency and demand-side response program within their service territories.~~

~~(h) Recovery of administrative and program costs. An electric distribution company may fully recover all administrative costs, including, but not limited to, costs incurred under subsections (a)(3) and (g)(1), (2), (3) and (4), that the commission determines are prudently incurred and reasonable in amount pursuant to implementing a program to deliver cost-effective energy efficiency and demand-side response activities through a third-party entity. Program and administrative costs shall be recovered on a full and current basis by the electric distribution company from customers through a reconcilable automatic adjustment clause pursuant to section 1307. Energy efficiency and demand-side resource programs shall be deemed to be a new service offered for the first time under section 2804(4)(vi) (relating to standards for restructuring of electric industry).~~

~~(i) Reporting. The commission shall submit an annual report to the General Assembly describing the results of the programs implemented by each of the electric distribution companies, including, but not limited to:~~

~~(1) The costs, benefits and reductions in energy costs.~~

~~(2) Energy use by customer class within this Commonwealth.~~

~~(3) Reductions in overall peak demand and projections~~

~~toward complying with the overall target reduction goals of
this section.~~

~~(j) Definitions. For purposes of this section, the term
"electric distribution company" shall mean a public utility
providing facilities for the jurisdictional transmission and
distribution of electricity to 100,000 or more retail customers
in this Commonwealth.~~

~~Section 4. Section 2807(e) of Title 66 is amended by adding
a paragraph to read:~~

~~§ 2807. Duties of electric distribution companies.~~

~~* * *~~

~~(e) Obligation to serve. * * *~~

~~(6) (i) Within nine months after the effective date of
this paragraph, electric distribution companies shall
file a smart meter technology procurement and
installation plan with the commission for approval and
make the plan available for public comment for a minimum
of 30 days. The plan shall describe the smart meter
technologies the electric distribution company proposes
to install, how the smart meter technology meets the
requirements of this paragraph and how the smart meter
technology shall be installed according to this
paragraph. In addition, the plan shall ensure that all
smart meter technology installation and maintenance work
shall be performed by adequately trained and qualified
personnel and that, to the extent practical, such work
shall be offered initially to employees of the electric
distribution company.~~

~~(ii) Electric distribution companies shall furnish
smart meter technology to:~~

~~(A) Customers responsible for 40% of the distribution company's annual peak demand within four years after the effective date of this paragraph.~~

~~(B) Customers responsible for 75% of the distribution company's annual peak demand within six years after the effective date of this paragraph.~~

~~(C) One hundred percent of its customers within ten years after the effective date of this paragraph.~~

~~Electric distribution companies shall, with customer consent, make available electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services.~~

~~(iii) Electric distribution companies shall be permitted to recover all reasonable and prudent costs, as determined by the commission, of providing smart meter technology, including annual depreciation and capital costs over the life of the smart meter technology, that are incurred after the effective date of this paragraph, less all operating and capital costs savings realized by the electric distribution company from the introduction and use of the smart meter technology. An electric distribution company may, at its option, recover such smart meter technology costs:~~

~~(A) through base rates, including a deferral for future base rate recovery of current costs, with carrying charges equal to 6%; or~~

~~(B) on a full and current basis through a reconcilable automatic adjustment clause under section 1307 (relating to sliding scale of rates;~~

1 ~~adjustments).~~

2 ~~In no event shall lost or decreased revenues by an~~
3 ~~electric distribution company due to reduced electricity~~
4 ~~consumption or shifting energy demand be considered a~~
5 ~~cost of smart meter technology. Smart meter technology~~
6 ~~shall be deemed to be a new service offered for the first~~
7 ~~time under section 2804(4)(vi) (relating to standards for~~
8 ~~restructuring of electric industry).~~

9 ~~(iv) By January 1, 2010, or at the end of the~~
10 ~~applicable generation rate cap period, whichever is~~
11 ~~later, a default service provider shall submit to the~~
12 ~~commission one or more proposed time-of-use rates and a~~
13 ~~real-time price plan. The commission shall approve or~~
14 ~~modify the time-of-use rates and real-time price plan~~
15 ~~within six months of submittal. The default service~~
16 ~~provider shall offer commission-approved time-of-use~~
17 ~~rates and a real-time price plan to all residential and~~
18 ~~commercial customers that have been provided with smart~~
19 ~~meter technology within 60 days of installation of the~~
20 ~~smart meter technology or commission approval of the~~
21 ~~time-of-use rates and a real-time price plan, whichever~~
22 ~~is later. Customer participation in time-of-use rates or~~
23 ~~real-time pricing shall be voluntary and shall only be~~
24 ~~provided with the affirmative consent of the customer.~~
25 ~~The default service provider shall submit an annual~~
26 ~~report to the commission on the participation in the~~
27 ~~time-of-use and real-time price programs and the efficacy~~
28 ~~of the programs in affecting energy demand and~~
29 ~~consumption and the effect on wholesale market prices.~~

30 ~~(v) For purposes of this paragraph, the term~~

~~"electric distribution company" shall mean a public utility providing facilities for the jurisdictional transmission and distribution of electricity to 100,000 or more retail customers in this Commonwealth.~~

~~Section 5. This act shall take effect immediately.~~

~~SECTION 1. SECTION 2803 OF TITLE 66 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:~~

~~§ 2803. DEFINITIONS.~~

~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:~~

~~* * *~~

~~"BILATERAL CONTRACT." AN AGREEMENT, AS APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, REACHED BY TWO PARTIES, EACH ACTING IN ITS OWN INDEPENDENT SELF-INTEREST, AS A RESULT OF NEGOTIATIONS FREE OF UNDUE INFLUENCE, DURESS OR FAVORITISM, IN WHICH THE ELECTRIC ENERGY SUPPLIER AGREES TO SELL AND THE ELECTRIC DISTRIBUTION COMPANY AGREES TO BUY A QUANTITY OF ELECTRIC ENERGY AT A SPECIFIED PRICE FOR A SPECIFIED PERIOD OF TIME UNDER TERMS AGREED TO BY BOTH PARTIES, AND WHICH FOLLOWS A STANDARD INDUSTRY TEMPLATE WIDELY ACCEPTED IN THE INDUSTRY OR VARIATIONS THERETO ACCEPTED BY THE PARTIES. STANDARD INDUSTRY TEMPLATES MAY INCLUDE THE EEI MASTER AGREEMENT FOR PHYSICAL ENERGY PURCHASES AND SALES AND THE ISDA MASTER AGREEMENT FOR FINANCIAL ENERGY PURCHASES AND SALES.~~

~~* * *~~

~~"DEFAULT SERVICE PROVIDER." AN ELECTRIC DISTRIBUTION COMPANY WITHIN ITS CERTIFIED SERVICE TERRITORY OR AN ALTERNATIVE SUPPLIER APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION THAT PROVIDES GENERATION SERVICE TO RETAIL ELECTRIC CUSTOMERS~~

1 WHO:-

2 ~~(1) CONTRACT FOR ELECTRIC POWER, INCLUDING ENERGY AND~~
3 ~~CAPACITY, AND THE CHOSEN ELECTRIC GENERATION SUPPLIER DOES~~
4 ~~NOT SUPPLY THE SERVICE; OR~~

5 ~~(2) DO NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION~~
6 ~~SUPPLIER.~~

7 SECTION 2. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:-

8 ~~§ 2806.1. ENERGY EFFICIENCY AND CONSERVATION.~~

9 ~~(A) PROGRAM. THE COMMISSION SHALL ADOPT A PROGRAM TO~~
10 ~~REQUIRE ELECTRIC DISTRIBUTION COMPANIES TO ADOPT AND IMPLEMENT~~
11 ~~COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PLANS TO~~
12 ~~REDUCE ENERGY DEMAND AND CONSUMPTION WITHIN THE SERVICE~~
13 ~~TERRITORIES OF ALL ELECTRIC DISTRIBUTION COMPANIES IN THIS~~
14 ~~COMMONWEALTH. THE PROGRAM SHALL INCLUDE:-~~

15 ~~(1) PROCEDURES FOR THE APPROVAL OF PLANS SUBMITTED UNDER~~
16 ~~SUBSECTION (B).~~

17 ~~(2) A PLAN EVALUATION PROCESS INCLUDING A PROCESS TO~~
18 ~~MONITOR AND VERIFY DATA COLLECTION, QUALITY ASSURANCE AND~~
19 ~~RESULTS SUBMITTED.~~

20 ~~(3) AN ANALYSIS OF THE COST AND BENEFIT OF EACH PLAN~~
21 ~~SUBMITTED UNDER SUBSECTION (B) IN ACCORDANCE WITH A TOTAL~~
22 ~~RESOURCE COST TEST.~~

23 ~~(4) AN ANALYSIS OF HOW THE PROGRAM AND INDIVIDUAL PLANS~~
24 ~~WILL ENABLE EACH ELECTRIC DISTRIBUTION COMPANY TO ACHIEVE THE~~
25 ~~REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS~~
26 ~~(C) AND (D).~~

27 ~~(5) STANDARDS TO ENSURE THAT EACH PLAN INCLUDES A~~
28 ~~VARIETY OF ENERGY EFFICIENCY AND CONSERVATION MEASURES AND~~
29 ~~WILL PROVIDE THE MEASURES EQUITABLY TO ALL CLASSES OF~~
30 ~~CUSTOMERS.~~

1 ~~(6) PROCEDURES TO REVIEW ALL PROPOSED CONTRACTS PRIOR TO~~
2 ~~THE EXECUTION OF THE CONTRACT WITH THIRD-PARTY ENTITIES TO~~
3 ~~IMPLEMENT THE PLAN. THE COMMISSION MAY ORDER THE MODIFICATION~~
4 ~~OF A PROPOSED CONTRACT TO ENSURE THAT THE PLAN IS ADEQUATE.~~

5 ~~(7) PROCEDURES TO ENSURE COMPLIANCE WITH REQUIREMENTS~~
6 ~~FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).~~

7 ~~(8) A REQUIREMENT FOR THE PARTICIPATION OF THIRD-PARTY~~
8 ~~ENTITIES IN THE IMPLEMENTATION OF ALL OR PART OF A PLAN.~~

9 ~~(9) A PROCESS TO LINK REDUCTIONS IN CONSUMPTION TO THE~~
10 ~~COMPENSATION OF THIRD-PARTY ENTITIES.~~

11 ~~(10) PROCEDURES FOR THE LEVY OF ASSESSMENTS IN~~
12 ~~ACCORDANCE WITH SECTIONS 510 (RELATING TO ASSESSMENT FOR~~
13 ~~REGULATORY EXPENSES UPON PUBLIC UTILITIES) AND 1308 (RELATING~~
14 ~~TO VOLUNTARY CHANGES IN RATES) SUBJECT TO THE LIMITATIONS OF~~
15 ~~SUBSECTION (G) TO FUND PLANS FILED UNDER SUBSECTION (B)~~
16 ~~SUBJECT TO THE LIMITATIONS SET FORTH UNDER SUBSECTION (G).~~

17 ~~(B) DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.~~

18 ~~(1) (I) BY NOVEMBER 15, 2008, EACH ELECTRIC~~
19 ~~DISTRIBUTION COMPANY SHALL DEVELOP AND FILE AN ENERGY~~
20 ~~EFFICIENCY AND CONSERVATION PLAN WITH THE COMMISSION FOR~~
21 ~~APPROVAL TO MEET THE REQUIREMENTS OF SUBSECTION (A) AND~~
22 ~~THE REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER~~
23 ~~SUBSECTIONS (C) AND (D). THE PLAN SHALL BE IMPLEMENTED~~
24 ~~UPON APPROVAL BY THE COMMISSION AND SHALL COMPLY WITH ALL~~
25 ~~OF THE FOLLOWING:~~

26 ~~(A) INCLUDE SPECIFIC PROPOSALS TO IMPLEMENT~~
27 ~~ENERGY EFFICIENCY AND CONSERVATION MEASURES TO~~
28 ~~ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER~~
29 ~~SUBSECTIONS (C) AND (D).~~

30 ~~(B) A MINIMUM OF 10% OF THE REQUIRED REDUCTIONS~~

1 ~~IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D) SHALL BE~~
2 ~~OBTAINED FROM UNITS OF FEDERAL, STATE AND LOCAL~~
3 ~~GOVERNMENT, INCLUDING MUNICIPALITIES, SCHOOL~~
4 ~~DISTRICTS, INSTITUTIONS OF HIGHER EDUCATION AND~~
5 ~~NONPROFIT ENTITIES.~~

6 ~~(C) THE MANNER IN WHICH PERFORMANCE WILL BE~~
7 ~~MEASURED, VERIFIED AND EVALUATED.~~

8 ~~(D) THE MANNER IN WHICH THE PLAN WILL ACHIEVE~~
9 ~~THE REQUIREMENTS OF THE PROGRAM UNDER SUBSECTION (A)~~
10 ~~AND THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER~~
11 ~~SUBSECTIONS (C) AND (D).~~

12 ~~(E) INCLUDE A CONTRACT WITH ONE OR MORE THIRD-~~
13 ~~PARTY ENTITIES TO IMPLEMENT THE PLAN OR A PORTION OF~~
14 ~~THE PLAN AS APPROVED BY THE COMMISSION.~~

15 ~~(F) INCLUDE ESTIMATES OF THE COST OF~~
16 ~~IMPLEMENTATION OF THE ENERGY EFFICIENCY AND~~
17 ~~CONSERVATION MEASURES IN THE PLAN.~~

18 ~~(G) INCLUDE SPECIFIC ENERGY EFFICIENCY MEASURES~~
19 ~~FOR HOUSEHOLDS AT OR BELOW 150% OF THE FEDERAL~~
20 ~~POVERTY INCOME GUIDELINES. THE NUMBER OF MEASURES~~
21 ~~SHALL BE PROPORTIONATE TO THOSE HOUSEHOLDS' SHARE OF~~
22 ~~THE TOTAL ENERGY USAGE IN THIS COMMONWEALTH. THE~~
23 ~~ELECTRIC DISTRIBUTION COMPANY SHALL COORDINATE~~
24 ~~MEASURES UNDER THIS CLAUSE WITH OTHER PROGRAMS~~
25 ~~ADMINISTERED BY THE COMMISSION OR ANOTHER FEDERAL OR~~
26 ~~STATE AGENCY. THE EXPENDITURES OF AN ELECTRIC~~
27 ~~DISTRIBUTION COMPANY UNDER THIS CLAUSE SHALL BE IN~~
28 ~~ADDITION TO EXPENDITURES MADE UNDER 52 PA. CODE CH.~~
29 ~~58 (RELATING TO RESIDENTIAL LOW INCOME USAGE~~
30 ~~REDUCTION PROGRAMS).~~

~~(H) INCLUDE A PROPOSED COST-RECOVERY TARIFF
MECHANISM TO FUND THE ENERGY EFFICIENCY AND
CONSERVATION MEASURES AND TO ENSURE RECOVERY OF THE
PRUDENT AND REASONABLE COSTS OF THE PLAN AS APPROVED
BY THE COMMISSION.~~

~~(I) A DEMONSTRATION THAT THE PLAN IS COST-
EFFECTIVE USING A TOTAL RESOURCE COST TEST OR OTHER
COST-BENEFIT ANALYSIS APPROVED BY THE COMMISSION AND
PROVIDES A DIVERSE CROSS SECTION OF ALTERNATIVES FOR
CUSTOMERS OF ALL RATE CLASSES.~~

~~(J) REQUIRE AN ANNUAL INDEPENDENT EVALUATION OF
THE PERFORMANCE OF THE COST-EFFECTIVENESS OF THE PLAN
AND A FULL REVIEW OF THE FIVE-YEAR RESULTS OF THE
PLAN AND, TO THE EXTENT PRACTICABLE, HOW THE PLAN
WILL BE ADJUSTED ON A GOING-FORWARD BASIS AS A RESULT
OF THE EVALUATION.~~

~~(II) A NEW PLAN SHALL BE FILED WITH THE COMMISSION
EVERY FIVE YEARS OR AS OTHERWISE REQUIRED BY THE
COMMISSION. THE PLAN SHALL SET FORTH THE MANNER IN WHICH
THE COMPANY WILL MEET THE REQUIRED REDUCTIONS IN
CONSUMPTION UNDER SUBSECTIONS (C) AND (D).~~

~~(III) NO MORE THAN 2% OF FUNDS AVAILABLE TO
IMPLEMENT A PLAN UNDER THIS SUBSECTION SHALL BE ALLOCATED
FOR EXPERIMENTAL EQUIPMENT OR DEVICES.~~

~~(2) THE COMMISSION SHALL DIRECT AN ELECTRIC DISTRIBUTION
COMPANY TO MODIFY OR TERMINATE ANY PART OF A PLAN APPROVED
UNDER THIS SECTION IF, AFTER AN ADEQUATE PERIOD FOR
IMPLEMENTATION, THE COMMISSION DETERMINES THAT AN ENERGY
EFFICIENCY OR CONSERVATION MEASURE INCLUDED IN THE PLAN IS
NOT EFFECTIVE.~~

1 ~~(3) IF PART OF A PLAN IS MODIFIED OR TERMINATED UNDER~~
2 ~~PARAGRAPH (2), THE ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT~~
3 ~~A REVISED PLAN DESCRIBING ACTIONS TO BE TAKEN TO OFFER~~
4 ~~SUBSTITUTE MEASURES OR TO INCREASE THE AVAILABILITY OF~~
5 ~~EXISTING MEASURES IN THE PLAN TO ACHIEVE THE REQUIRED~~
6 ~~REDUCTIONS IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).~~
7 ~~(C) REDUCTIONS IN CONSUMPTION. EACH ELECTRIC DISTRIBUTION~~
8 ~~COMPANY SHALL REDUCE CONSUMPTION AS FOLLOWS:~~

9 ~~(1) BY MAY 31, 2011, EACH ELECTRIC DISTRIBUTION COMPANY~~
10 ~~SHALL REDUCE ITS TOTAL ANNUAL WEATHER-NORMALIZED DELIVERIES~~
11 ~~TO RETAIL CUSTOMERS BY A MINIMUM OF 1%. THE 1% LOAD REDUCTION~~
12 ~~IN CONSUMPTION SHALL BE MEASURED AGAINST THE ELECTRIC~~
13 ~~DISTRIBUTION COMPANY'S EXPECTED LOAD AS FORECASTED BY THE~~
14 ~~COMMISSION FOR JUNE 1, 2007 THROUGH MAY 31, 2008, WITH~~
15 ~~PROVISIONS MADE FOR WEATHER ADJUSTMENTS AND EXTRAORDINARY~~
16 ~~LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY MUST SERVE.~~

17 ~~(2) BY MAY 31, 2013, EACH ELECTRIC DISTRIBUTION COMPANY~~
18 ~~SHALL REDUCE ITS TOTAL ANNUAL WEATHER-NORMALIZED DELIVERIES~~
19 ~~TO RETAIL CUSTOMERS BY A MINIMUM OF 2.5%. THE 2.5% LOAD~~
20 ~~REDUCTION IN CONSUMPTION SHALL BE MEASURED AGAINST THE~~
21 ~~ELECTRIC DISTRIBUTION COMPANY'S EXPECTED LOAD AS FORECASTED~~
22 ~~BY THE COMMISSION FOR JUNE 1, 2007, THROUGH MAY 31, 2008,~~
23 ~~WITH PROVISION MADE FOR WEATHER ADJUSTMENTS AND EXTRAORDINARY~~
24 ~~LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY MUST SERVE.~~

25 ~~(3) BY NOVEMBER 30, 2013, THE COMMISSION SHALL EVALUATE~~
26 ~~THE COSTS AND BENEFITS OF THE PROGRAM ESTABLISHED UNDER~~
27 ~~SUBSECTION (A) AND ENERGY EFFICIENCY AND CONSERVATION PLANS~~
28 ~~SUBMITTED TO THE PROGRAM. THE EVALUATION SHALL BE CONSISTENT~~
29 ~~WITH A TOTAL RESOURCE COST TEST OR A COST VERSUS BENEFIT~~
30 ~~MEASUREMENT DETERMINED BY THE COMMISSION. IF THE COMMISSION~~

1 ~~DETERMINES THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS,~~
2 ~~THE COMMISSION SHALL ADOPT ADDITIONAL INCREMENTAL REQUIRED~~
3 ~~REDUCTIONS IN CONSUMPTION FOR THE PERIOD ENDING MAY 31, 2018.~~

4 ~~(4) AFTER MAY 31, 2018, THE COMMISSION SHALL CONTINUE TO~~
5 ~~EVALUATE THE COSTS AND BENEFITS OF THE PROGRAM ESTABLISHED~~
6 ~~UNDER SUBSECTION (A) AND ENERGY EFFICIENCY AND CONSERVATION~~
7 ~~PLANS APPROVED UNDER SUBSECTION (A). IF THE COMMISSION~~
8 ~~DETERMINES THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS,~~
9 ~~THE COMMISSION MAY REQUIRE AND APPROVE ADDITIONAL PLANS TO~~
10 ~~ACHIEVE INCREMENTAL REQUIREMENTS FOR REDUCTION IN CONSUMPTION~~
11 ~~FOR ELECTRIC DISTRIBUTION COMPANIES. EACH PLAN SHALL BE FOR A~~
12 ~~TERM NOT TO EXCEED FIVE YEARS.~~

13 ~~(D) PEAK DEMAND. EACH ELECTRIC DISTRIBUTION COMPANY SHALL~~
14 ~~IMPLEMENT ENERGY EFFICIENCY AND CONSERVATION MEASURES TO ACHIEVE~~
15 ~~THE FOLLOWING REDUCTIONS IN CONSUMPTION:~~

16 ~~(1) BY MAY 31, 2013, EACH ENERGY DISTRIBUTION COMPANY~~
17 ~~SHALL REDUCE ITS WEATHER-NORMALIZED DELIVERIES TO RETAIL~~
18 ~~CUSTOMERS BY A MINIMUM OF 4% IN THE 100 HOURS OF HIGHEST~~
19 ~~DEMAND. THE REDUCTION SHALL BE MEASURED AGAINST THE ELECTRIC~~
20 ~~DISTRIBUTION COMPANY'S PEAK DEMAND IN THE 100 HOURS OF~~
21 ~~GREATEST DEMAND FOR JUNE 1, 2007, THROUGH MAY 31, 2008.~~

22 ~~(2) BY NOVEMBER 30, 2013, THE COMMISSION SHALL COMPARE~~
23 ~~THE TOTAL COSTS OF ENERGY EFFICIENCY AND CONSERVATION PLANS~~
24 ~~IMPLEMENTED UNDER THIS SECTION TO THE TOTAL SAVINGS IN ENERGY~~
25 ~~AND CAPACITY COSTS TO RETAIL CUSTOMERS IN THIS COMMONWEALTH.~~
26 ~~IF THE COMMISSION DETERMINES THAT THE BENEFITS OF THE~~
27 ~~MEASURES EXCEED THE COSTS, THE COMMISSION SHALL SET~~
28 ~~ADDITIONAL INCREMENTAL REQUIREMENTS FOR REDUCTION IN PEAK~~
29 ~~DEMAND FOR THE 100 HOURS OF GREATEST DEMAND OR AN ALTERNATIVE~~
30 ~~REDUCTION APPROVED BY THE COMMISSION. REDUCTIONS IN~~

~~CONSUMPTION SHALL BE MEASURED FROM THE ELECTRIC DISTRIBUTION
COMPANY'S PEAK DEMAND FOR THE PERIOD FROM JUNE 1, 2011,
THROUGH MAY 31, 2012. THE REDUCTIONS IN CONSUMPTION REQUIRED
BY THE COMMISSION SHALL BE ACCOMPLISHED NO LATER THAN MAY 31,
2017.~~

~~(E) COMMISSION APPROVAL. THE COMMISSION SHALL APPROVE OR
DISAPPROVE A PLAN FILED UNDER SUBSECTION (B) WITHIN 120 DAYS OF
SUBMISSION. THE FOLLOWING SHALL APPLY TO AN ORDER DISAPPROVING A
PLAN:~~

~~(1) THE COMMISSION SHALL DESCRIBE IN DETAIL THE REASONS
FOR THE DISAPPROVAL.~~

~~(2) THE ELECTRIC DISTRIBUTION COMPANY SHALL HAVE 60 DAYS
TO FILE A REVISED PLAN TO ADDRESS THE DEFICIENCIES IDENTIFIED
BY THE COMMISSION.~~

~~(F) PENALTIES.~~

~~(1) THE FOLLOWING SHALL APPLY FOR FAILURE TO SUBMIT A
PLAN:~~

~~(I) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO
FILE A PLAN UNDER SUBSECTION (B) SHALL BE SUBJECT TO A
CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE PLAN IS
FILED.~~

~~(II) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO
FILE A REVISED PLAN UNDER SUBSECTION (E)(2) SHALL BE
SUBJECT TO A CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE
PLAN IS FILED.~~

~~(III) PENALTIES COLLECTED UNDER THIS PARAGRAPH SHALL
BE DEPOSITED IN THE LOW INCOME ELECTRIC CUSTOMER
ASSISTANCE PROGRAM OF THE ENERGY DISTRIBUTION COMPANY FOR
THE RESPECTIVE SERVICE TERRITORY.~~

~~(2) THE FOLLOWING SHALL APPLY TO AN ELECTRIC~~

~~DISTRIBUTION COMPANY THAT FAILS TO ACHIEVE THE REDUCTIONS IN
CONSUMPTION REQUIRED UNDER SUBSECTION (C) OR (D):~~

~~(I) THE ELECTRIC DISTRIBUTION COMPANY SHALL BE
SUBJECT TO A CIVIL PENALTY OF UP TO \$5,000,000 FOR
FAILURE TO ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION
UNDER SUBSECTION (C) OR (D). ANY PENALTY PAID BY AN
ELECTRIC DISTRIBUTION COMPANY UNDER THIS SUBPARAGRAPH
SHALL NOT BE RECOVERABLE FROM RATEPAYERS.~~

~~(II) IF AN ELECTRIC DISTRIBUTION COMPANY FAILS TO
ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER
SUBSECTION (C) OR (D) BY 2013, RESPONSIBILITY TO ACHIEVE
THE REDUCTIONS IN CONSUMPTION SHALL BE TRANSFERRED TO THE
COMMISSION. THE COMMISSION SHALL DO ALL OF THE FOLLOWING:~~

~~(A) IMPLEMENT A PLAN TO ACHIEVE THE REQUIRED
REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C) OR
(D).~~

~~(B) CONTRACT WITH THIRD-PARTY ENTITIES AS
NECESSARY TO IMPLEMENT ANY PORTION OF THE PLAN.~~

~~(III) THE PROVISIONS OF SUBPARAGRAPH (II) SHALL
APPLY IN EACH SUBSEQUENT FIVE-YEAR PERIOD IF THE ELECTRIC
DISTRIBUTION COMPANY FAILS TO ACHIEVE THE REDUCTION
STANDARDS UNDER SUBSECTION (C) OR (D).~~

~~(G) LIMITATION ON COSTS. THE TOTAL COST OF ANY PLAN
REQUIRED UNDER THIS SECTION SHALL NOT EXCEED 2% OF THE ELECTRIC
DISTRIBUTION COMPANY'S TOTAL ANNUAL REVENUE AS OF DECEMBER 31,
2006. NO MORE THAN 1% OF THE 2% OF THE COMPANY'S TOTAL ANNUAL
REVENUE MAY BE USED FOR THE ADMINISTRATIVE COSTS OF THE ELECTRIC
DISTRIBUTION COMPANY. THE LIMITATION UNDER THIS PARAGRAPH SHALL
NOT INCLUDE THE COST OF LOW-INCOME USAGE REDUCTION PROGRAMS
ESTABLISHED UNDER 52 PA. CODE CH. 58 (RELATING TO RESIDENTIAL~~

~~LOW INCOME USAGE REDUCTION PROGRAMS).~~

~~(H) REPORT. THE FOLLOWING SHALL APPLY:~~

~~(1) EACH ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSION RELATING TO THE RESULTS OF THE ENERGY EFFICIENCY AND CONSERVATION PLAN WITHIN THE ELECTRIC DISTRIBUTION SERVICE TERRITORY. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:~~

~~(I) DOCUMENTATION OF PROGRAM EXPENDITURES.~~

~~(II) MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS UNDER THE PLAN.~~

~~(III) EVALUATION OF THE COST-EFFECTIVENESS OF EXPENDITURES.~~

~~(IV) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.~~

~~(2) BEGINNING FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AND ANNUALLY THEREAFTER, THE COMMISSION SHALL SUBMIT A REPORT TO THE CONSUMER PROTECTION AND PROFESSIONAL LICENSURE COMMITTEE OF THE SENATE AND THE CONSUMER AFFAIRS COMMITTEE OF THE HOUSE OF REPRESENTATIVES.~~

~~(I) EXISTING FUNDING SOURCES. EACH ELECTRIC DISTRIBUTION COMPANY SHALL PROVIDE A LIST OF ALL ELIGIBLE FEDERAL AND STATE FUNDING PROGRAMS.~~

~~(J) RECOVERY. IN NO CASE SHALL DECREASED REVENUES OF AN ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ENERGY CONSUMPTION OR CHANGES IN ENERGY DEMAND BE CONSIDERED A RECOVERABLE COST.~~

~~(K) APPLICABILITY. THIS SECTION SHALL NOT APPLY TO AN ELECTRIC DISTRIBUTION COMPANY WITH FEWER THAN 100,000 CUSTOMERS.~~

~~(L) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:~~

~~"ELECTRIC DISTRIBUTION COMPANY TOTAL ANNUAL REVENUE."
AMOUNTS PAID TO THE ELECTRIC DISTRIBUTION COMPANY FOR
GENERATION, TRANSMISSION, DISTRIBUTION AND SURCHARGES BY RETAIL
CUSTOMERS.~~

~~"ENERGY EFFICIENCY AND CONSERVATION MEASURES."~~

~~(1) TECHNOLOGIES, MANAGEMENT PRACTICES OR OTHER MEASURES
EMPLOYED BY RETAIL CUSTOMERS THAT REDUCE ELECTRICITY
CONSUMPTION OR DEMAND IF ALL OF THE FOLLOWING APPLY:~~

~~(I) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE IS
INSTALLED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION
AT THE LOCATION OF A RETAIL CUSTOMER.~~

~~(II) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE
REDUCES CONSUMPTION OF ENERGY BY THE RETAIL CUSTOMER.~~

~~(III) THE COST OF THE ACQUISITION OR INSTALLATION OF
THE MEASURE IS DIRECTLY INCURRED IN WHOLE OR IN PART BY
THE ELECTRIC DISTRIBUTION COMPANY.~~

~~(2) ENERGY EFFICIENCY AND CONSERVATION MEASURES SHALL
INCLUDE SOLAR OR SOLAR PHOTOVOLTAIC PANELS, ENERGY EFFICIENT
WINDOWS AND DOORS, ENERGY EFFICIENT LIGHTING, INCLUDING EXIT
SIGN RETROFIT, HIGH BAY FLUORESCENT RETROFIT AND PEDESTRIAN
AND TRAFFIC SIGNAL CONVERSION, GEOTHERMAL HEATING,
INSULATION, AIR SEALING, REFLECTIVE ROOF COATINGS, ENERGY
EFFICIENT HEATING AND COOLING EQUIPMENT OR SYSTEMS AND ENERGY
EFFICIENT APPLIANCES AND OTHER TECHNOLOGIES, PRACTICES OR
MEASURES APPROVED BY THE COMMISSION.~~

~~"PEAK DEMAND." THE HIGHEST ELECTRICAL REQUIREMENT OCCURRING
DURING A SPECIFIED PERIOD. FOR AN ELECTRIC DISTRIBUTION COMPANY,
THE TERM SHALL MEAN THE SUM OF THE METERED CONSUMPTION FOR ALL
RETAIL CUSTOMERS OVER THAT PERIOD.~~

~~"QUALITY ASSURANCE." ALL OF THE FOLLOWING:~~

~~(1) THE AUDITING OF BUILDINGS, EQUIPMENT AND PROCESSES
TO DETERMINE THE COST-EFFECTIVENESS OF ENERGY EFFICIENCY AND
CONSERVATION MEASURES USING NATIONALLY RECOGNIZED TOOLS AND
CERTIFICATION PROGRAMS.~~

~~(2) INDEPENDENT INSPECTION OF COMPLETED ENERGY
EFFICIENCY AND CONSERVATION MEASURES COMPLETED BY THIRD-PARTY
ENTITIES TO EVALUATE THE QUALITY OF THE COMPLETED MEASURE.~~

~~"REAL-TIME PRICE." A RATE THAT DIRECTLY REFLECTS THE
DIFFERENT COST OF ENERGY DURING EACH HOUR.~~

~~"THIRD-PARTY ENTITY." AN ENTITY WITH NO DIRECT OR INDIRECT
OWNERSHIP, PARTNERSHIP OR OTHER AFFILIATED INTEREST WITH AN
ELECTRIC DISTRIBUTION COMPANY.~~

~~"TIME-OF-USE RATE." A RATE THAT REFLECTS THE COSTS OF
SERVING CUSTOMERS DURING DIFFERENT TIME PERIODS, INCLUDING OFF-
PEAK AND ON-PEAK PERIODS, BUT NOT AS FREQUENTLY AS EACH HOUR.~~

~~"TOTAL RESOURCE COST TEST." A STANDARD TEST THAT IS MET IF,
OVER THE EFFECTIVE LIFE OF EACH PLAN NOT TO EXCEED FIVE YEARS,
THE AVOIDED MONETARY COSTS OF SUPPLYING ELECTRICITY ARE GREATER
THAN THE MONETARY COSTS OF ENERGY EFFICIENCY MEASURES AND
CONSERVATION OF CONSUMPTION.~~

~~SECTION 3. SECTION 2807(E) OF TITLE 66 IS AMENDED AND THE
SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:~~

~~§ 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.~~

~~* * *~~

~~(E) OBLIGATION TO SERVE. [AN ELECTRIC DISTRIBUTION
COMPANY'S] A DEFAULT SERVICE PROVIDER'S OBLIGATION TO PROVIDE
ELECTRIC GENERATION SUPPLY SERVICE FOLLOWING [IMPLEMENTATION OF
RESTRUCTURING AND THE CHOICE OF ALTERNATIVE GENERATION BY A
CUSTOMER] THE EXPIRATION OF A GENERATION RATE CAP SPECIFIED
UNDER SECTION 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING~~

~~OF ELECTRIC INDUSTRY) OR A RESTRUCTURING PLAN UNDER SECTION
2806(F) (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND
PERFORMANCE-BASED RATES) IS REVISED AS FOLLOWS:~~

~~(1) WHILE AN ELECTRIC DISTRIBUTION COMPANY COLLECTS
EITHER A COMPETITIVE TRANSITION CHARGE OR AN INTANGIBLE
TRANSITION CHARGE OR UNTIL 100% OF ITS CUSTOMERS HAVE CHOICE,
WHICHEVER IS LONGER, THE ELECTRIC DISTRIBUTION COMPANY SHALL
CONTINUE TO HAVE THE FULL OBLIGATION TO SERVE, INCLUDING THE
CONNECTION OF CUSTOMERS, THE DELIVERY OF ELECTRIC ENERGY AND
THE PRODUCTION OR ACQUISITION OF ELECTRIC ENERGY FOR
CUSTOMERS.~~

~~[(2) AT THE END OF THE TRANSITION PERIOD, THE COMMISSION
SHALL PROMULGATE REGULATIONS TO DEFINE THE ELECTRIC
DISTRIBUTION COMPANY'S OBLIGATION TO CONNECT AND DELIVER AND
ACQUIRE ELECTRICITY UNDER PARAGRAPH (3) THAT WILL EXIST AT
THE END OF THE PHASE-IN PERIOD.~~

~~(3) IF A CUSTOMER CONTRACTS FOR ELECTRIC ENERGY AND IT
IS NOT DELIVERED OR IF A CUSTOMER DOES NOT CHOOSE AN
ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE ELECTRIC
DISTRIBUTION COMPANY OR COMMISSION-APPROVED ALTERNATIVE
SUPPLIER SHALL ACQUIRE ELECTRIC ENERGY AT PREVAILING MARKET
PRICES TO SERVE THAT CUSTOMER AND SHALL RECOVER FULLY ALL
REASONABLE COSTS.]~~

~~(3.1) (I) FOLLOWING THE EXPIRATION OF AN ELECTRIC
DISTRIBUTION COMPANY'S OBLIGATION TO PROVIDE ELECTRIC
GENERATION SUPPLY SERVICE TO RETAIL CUSTOMERS AT CAPPED
RATES, IF A CUSTOMER CONTRACTS FOR ELECTRIC GENERATION
SUPPLY SERVICE AND THE CHOSEN ELECTRIC GENERATION
SUPPLIER DOES NOT PROVIDE THE SERVICE OR IF A CUSTOMER
DOES NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION~~

~~SUPPLIER, THE DEFAULT SERVICE PROVIDER SHALL PROVIDE
ELECTRIC GENERATION SUPPLY SERVICE TO THAT CUSTOMER
PURSUANT TO A COMMISSION-APPROVED COMPETITIVE PROCUREMENT
PLAN. THE ELECTRIC POWER ACQUIRED SHALL BE PROCURED
THROUGH COMPETITIVE PROCUREMENT PROCESSES AND SHALL
INCLUDE ONE OR MORE OF THE FOLLOWING:~~

~~(A) AUCTIONS.~~

~~(B) REQUESTS FOR PROPOSAL.~~

~~(C) BILATERAL AGREEMENTS ENTERED INTO AT THE
SOLE DISCRETION OF THE DEFAULT SERVICE PROVIDER WHICH
SHALL BE AT PRICES WHICH ARE:~~

~~(I) NO GREATER THAN THE COST OF OBTAINING
GENERATION UNDER COMPARABLE TERMS IN THE
WHOLESALE MARKET, AS DETERMINED BY THE COMMISSION
AT THE TIME OF EXECUTION OF THE CONTRACT; OR~~

~~(II) CONSISTENT WITH A COMMISSION-APPROVED
COMPETITION PROCUREMENT PROCESS. ANY AGREEMENT
BETWEEN AFFILIATED PARTIES SHALL BE SUBJECT TO
REVIEW AND APPROVAL OF THE PENNSYLVANIA PUBLIC
UTILITY COMMISSION UNDER CHAPTER 21 (RELATING TO
RELATIONS WITH AFFILIATED INTERESTS). IN NO CASE
SHALL THE COST OF OBTAINING GENERATION FROM ANY
AFFILIATED INTEREST BE GREATER THAN THE COST OF
OBTAINING GENERATION UNDER COMPARABLE TERMS IN
THE WHOLESALE MARKET AT THE TIME OF EXECUTION OF
THE CONTRACT.~~

~~(II) THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO
ANY TYPE OF FUEL PURCHASED BY A DEFAULT SERVICE PROVIDER
TO PROVIDE ELECTRIC GENERATION SUPPLY SERVICE, INCLUDING
FUEL REQUIRED TO BE PURCHASED UNDER THE ACT OF NOVEMBER~~

~~30, 2004 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE
ENERGY PORTFOLIO STANDARDS ACT.~~

~~(3.2) THE ELECTRIC POWER PROCURED PURSUANT TO PARAGRAPH
(3.1) SHALL INCLUDE A PRUDENT MIX OF THE FOLLOWING:~~

~~(I) SPOT MARKET PURCHASES.~~

~~(II) SHORT-TERM CONTRACTS.~~

~~(III) LONG-TERM PURCHASE CONTRACTS, ENTERED INTO AS
A RESULT OF AN AUCTION, REQUEST FOR PROPOSAL OR BILATERAL
CONTRACT THAT IS FREE OF UNDUE INFLUENCE, DURESS OR
FAVORITISM, OF NOT LESS THAN THREE AND NOT MORE THAN 20
YEARS, UNLESS THE COMMISSION DETERMINES A LONGER TERM IS
NECESSARY FOR THE RELIABILITY IN THE ACQUISITION OF
GENERATION AND IT IS IN THE BEST INTEREST OF CONSUMERS TO
EXTEND THE TERM OF THE CONTRACT BEYOND 20 YEARS. THE
DEFAULT SERVICE PROVIDER SHALL HAVE SOLE DISCRETION TO
DETERMINE THE SOURCE, FUEL TYPE AND LENGTH OF CONTRACT.~~

~~(3.3) THE PRUDENT MIX OF CONTRACTS ENTERED INTO PURSUANT
TO PARAGRAPH (3.2) SHALL BE DESIGNED TO ENSURE:~~

~~(I) ADEQUATE AND RELIABLE SERVICE.~~

~~(II) THE LEAST COST TO CUSTOMERS OVER TIME.~~

~~(III) COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH~~

~~(3.1).~~

~~(3.4) THE DEFAULT SERVICE PROVIDER SHALL FILE A PLAN FOR
COMPETITIVE PROCUREMENT WITH THE COMMISSION AND OBTAIN
COMMISSION APPROVAL OF THE PLAN CONSIDERING THE STANDARDS IN
PARAGRAPHS (3.1), (3.2) AND (3.3) BEFORE THE COMPETITIVE
PROCESS IS IMPLEMENTED. THE COMMISSION SHALL HOLD HEARINGS AS
NECESSARY ON THE PROPOSED PLAN. IF THE COMMISSION FAILS TO
ISSUE A FINAL ORDER ON THE PLAN WITHIN NINE MONTHS OF THE
DATE THAT THE PLAN IS FILED, THE PLAN SHALL BE DEEMED TO BE~~

1 ~~APPROVED AND THE DEFAULT SERVICE PROVIDER MAY IMPLEMENT THE~~
2 ~~PLAN AS FILED. COSTS INCURRED THROUGH AN APPROVED COMPETITIVE~~
3 ~~PROCUREMENT PLAN SHALL BE DEEMED TO BE THE LEAST COST OVER~~
4 ~~TIME AS REQUIRED UNDER PARAGRAPH (3.3).~~

5 ~~(3.5) AT THE TIME THE COMMISSION EVALUATES THE PLAN AND~~
6 ~~PRIOR TO APPROVAL, IN DETERMINING IF THE DEFAULT ELECTRIC~~
7 ~~SERVICE PROVIDER'S PLAN OBTAINS GENERATION SUPPLY AT THE~~
8 ~~LEAST COST, THE COMMISSION SHALL CONSIDER THE DEFAULT SERVICE~~
9 ~~PROVIDER'S OBLIGATION TO PROVIDE ADEQUATE AND RELIABLE~~
10 ~~SERVICE TO THE CUSTOMERS AND THAT THE DEFAULT SERVICE~~
11 ~~PROVIDER HAS OBTAINED A PRUDENT MIX OF CONTRACTS TO OBTAIN~~
12 ~~LEAST COST ON LONG-TERM, SHORT-TERM AND SPOT MARKET BASIS AND~~
13 ~~SHALL MAKE SPECIFIC FINDINGS WHICH SHALL INCLUDE THE~~
14 ~~FOLLOWING:~~

15 ~~(I) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES~~
16 ~~PRUDENT STEPS NECESSARY TO NEGOTIATE FAVORABLE GENERATION~~
17 ~~SUPPLY CONTRACTS.~~

18 ~~(II) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES~~
19 ~~PRUDENT STEPS NECESSARY TO OBTAIN LEAST COST GENERATION~~
20 ~~SUPPLY CONTRACTS ON A LONG-TERM, SHORT-TERM AND SPOT~~
21 ~~MARKET BASIS.~~

22 ~~(III) NEITHER THE DEFAULT SERVICE PROVIDER NOR ITS~~
23 ~~AFFILIATED INTEREST HAS WITHHELD OR ASKED TO WITHHOLD~~
24 ~~FROM THE MARKET ANY GENERATION SUPPLY WHICH SHOULD HAVE~~
25 ~~BEEN UTILIZED AS PART OF THE LEAST COST PROCUREMENT~~
26 ~~POLICY.~~

27 ~~(3.6) NOTWITHSTANDING SECTIONS 508 (RELATING TO POWER OF~~
28 ~~COMMISSION TO VARY, REFORM AND REVISE CONTRACTS) AND 2102~~
29 ~~(RELATING TO APPROVAL OF CONTRACTS WITH AFFILIATED~~
30 ~~INTERESTS), THE COMMISSION SHALL NOT MODIFY CONTRACTS OR~~

~~DISALLOW COSTS ASSOCIATED WITH AN APPROVED PROCUREMENT
PROCESS WHEN IT HAS REVIEWED AND APPROVED THE RESULTS OF THE
PROCUREMENT.~~

~~(3.7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE
TO THE CONTRARY, THE COMMISSION MAY MODIFY CONTRACTS OR
DISALLOW COSTS WHEN THE PARTY SEEKING RECOVERY OF THE COSTS
IS AT FAULT ASSOCIATED WITH CONTRACTS ENTERED INTO PURSUANT
TO A COMMISSION-APPROVED PROCUREMENT PLAN IF THE COMMISSION
DETERMINES AFTER A HEARING THAT:~~

~~(I) THE CONTRACT HAS NOT BEEN IMPLEMENTED OR
APPROVED OR DOES NOT COMPLY WITH THE COMMISSION-APPROVED
PROCUREMENT PLAN; OR~~

~~(II) THERE HAS BEEN FRAUD, COLLUSION OR MARKET
MANIPULATION WITH REGARD TO THESE CONTRACTS.~~

~~(3.8) THE DEFAULT SERVICE PROVIDER SHALL HAVE THE RIGHT
TO RECOVER ON A FULL AND CURRENT BASIS, PURSUANT TO A
RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER SECTION 1307
(RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), ALL COSTS
INCURRED UNDER THIS SECTION AND A COMMISSION-APPROVED
COMPETITIVE PROCUREMENT PLAN.~~

~~(4) IF A CUSTOMER THAT CHOOSES AN ALTERNATIVE SUPPLIER
AND SUBSEQUENTLY DESIRES TO RETURN TO THE LOCAL DISTRIBUTION
COMPANY FOR GENERATION SERVICE, THE LOCAL DISTRIBUTION
COMPANY SHALL TREAT THAT CUSTOMER EXACTLY AS IT WOULD ANY NEW
APPLICANT FOR ENERGY SERVICE.~~

~~(5) (I) NOTWITHSTANDING PARAGRAPH [(3)] (3.1), THE
ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED
ALTERNATIVE SUPPLIER MAY, IN ITS SOLE DISCRETION, OFFER
LARGE CUSTOMERS WITH A PEAK DEMAND OF 15 MEGAWATTS OR
GREATER AT ONE METER AT A LOCATION IN ITS SERVICE~~

1 ~~TERRITORY ANY NEGOTIATED RATE FOR SERVICE AT ALL OF THE~~
2 ~~CUSTOMERS' LOCATIONS WITHIN THE SERVICE TERRITORY FOR ANY~~
3 ~~DURATION AGREED UPON BY THE ELECTRIC DISTRIBUTION COMPANY~~
4 ~~OR COMMISSION-APPROVED ALTERNATIVE SUPPLIER AND THE LARGE~~
5 ~~CUSTOMER. THE COMMISSION SHALL PERMIT, BUT SHALL NOT~~
6 ~~REQUIRE, AN ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-~~
7 ~~APPROVED ALTERNATIVE SUPPLIER TO PROVIDE SERVICE TO LARGE~~
8 ~~CUSTOMERS UNDER THIS PARAGRAPH. CONTRACT RATES ENTERED~~
9 ~~INTO UNDER THIS PARAGRAPH SHALL BE SUBJECT TO REVIEW BY~~
10 ~~THE COMMISSION IN ORDER TO ENSURE THAT ALL COSTS RELATED~~
11 ~~TO THE RATES ARE BORNE BY THE PARTIES TO THE CONTRACT AND~~
12 ~~THAT NO COSTS RELATED TO THE RATES ARE BORNE BY OTHER~~
13 ~~CUSTOMERS OR CUSTOMER CLASSES. IF NO COSTS RELATED TO THE~~
14 ~~RATES ARE BORNE BY OTHER CUSTOMERS OR CUSTOMER CLASSES,~~
15 ~~THE COMMISSION SHALL APPROVE THE CONTRACT WITHIN 90 DAYS~~
16 ~~OF ITS FILING, OR IT SHALL BE DEEMED APPROVED BY~~
17 ~~OPERATION OF LAW UPON EXPIRATION OF THE 90 DAYS.~~
18 ~~INFORMATION SUBMITTED UNDER THIS PARAGRAPH SHALL BE~~
19 ~~SUBJECT TO THE COMMISSION'S PROCEDURES FOR THE FILING OF~~
20 ~~CONFIDENTIAL AND PROPRIETARY INFORMATION.~~

21 ~~(II) FOR PURPOSES OF PROVIDING SERVICE UNDER THIS~~
22 ~~PARAGRAPH TO CUSTOMERS WITH A PEAK DEMAND OF 20 MEGAWATTS~~
23 ~~OR GREATER AT ONE METER AT A LOCATION WITHIN THAT~~
24 ~~DISTRIBUTION COMPANY'S SERVICE TERRITORY, AN ELECTRIC~~
25 ~~DISTRIBUTION COMPANY THAT HAS COMPLETED ITS RESTRUCTURING~~
26 ~~TRANSITION PERIOD AS OF THE EFFECTIVE DATE OF THIS~~
27 ~~PARAGRAPH MAY, IN ITS SOLE DISCRETION, ACQUIRE AN~~
28 ~~INTEREST IN A GENERATION FACILITY OR CONSTRUCT A~~
29 ~~GENERATION FACILITY SPECIFICALLY TO MEET THE ENERGY~~
30 ~~REQUIREMENTS OF THE CUSTOMERS, INCLUDING THE ELECTRIC~~

1 ~~REQUIREMENTS OF THE CUSTOMERS' OTHER BILLING LOCATIONS~~
2 ~~WITHIN ITS SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION~~
3 ~~COMPANY MUST COMMENCE CONSTRUCTION OF THE GENERATION~~
4 ~~FACILITY OR CONTRACT TO ACQUIRE THE GENERATION INTEREST~~
5 ~~WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS~~
6 ~~PARAGRAPH, EXCEPT THAT THE ELECTRIC DISTRIBUTION COMPANY~~
7 ~~MAY ADD TO THE GENERATION FACILITIES IT COMMENCED~~
8 ~~CONSTRUCTION OR CONTRACTED TO ACQUIRE AFTER THIS THREE-~~
9 ~~YEAR PERIOD TO SERVE ADDITIONAL LOAD OF CUSTOMERS FOR~~
10 ~~WHOM IT COMMENCED CONSTRUCTION OR CONTRACTED TO ACQUIRE~~
11 ~~GENERATION WITHIN THREE YEARS. NOTHING IN THIS PARAGRAPH~~
12 ~~REQUIRES OR AUTHORIZES THE COMMISSION TO REQUIRE AN~~
13 ~~ELECTRIC DISTRIBUTION COMPANY TO COMMENCE CONSTRUCTION OR~~
14 ~~ACQUIRE AN INTEREST IN A GENERATION FACILITY. THE~~
15 ~~ELECTRIC DISTRIBUTION COMPANY'S INTEREST IN THE~~
16 ~~GENERATION FACILITY IT BUILT OR CONTRACTED TO ACQUIRE~~
17 ~~SHALL BE NO LARGER THAN NECESSARY TO MEET PEAK DEMAND OF~~
18 ~~CUSTOMERS SERVED UNDER THIS SUBPARAGRAPH. DURING TIMES~~
19 ~~WHEN THE CUSTOMER'S DEMAND IS LESS THAN THE ELECTRIC~~
20 ~~DISTRIBUTION COMPANY'S GENERATION INTEREST, THE ELECTRIC~~
21 ~~DISTRIBUTION COMPANY MAY SELL EXCESS POWER ON THE~~
22 ~~WHOLESALE MARKET. AT NO TIME SHALL THE COSTS ASSOCIATED~~
23 ~~WITH THE GENERATING FACILITY INTERESTS BE INCLUDED IN~~
24 ~~RATE BASE OR OTHERWISE REFLECTED IN RATES. THE GENERATION~~
25 ~~FACILITY INTERESTS SHALL NOT BE COMMISSION-REGULATED~~
26 ~~ASSETS.~~

27 ~~(6) A DEFAULT SERVICE PLAN APPROVED BY THE COMMISSION~~
28 ~~PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN~~
29 ~~EFFECT THROUGH ITS APPROVED TERM. AT ITS SOLE DISCRETION, THE~~
30 ~~DEFAULT SERVICE PROVIDER MAY PROPOSE AMENDMENTS TO ITS~~

1 ~~APPROVED PLAN THAT ARE CONSISTENT WITH THIS SECTION, AND THE~~
2 ~~COMMISSION SHALL ISSUE A DECISION WHETHER TO APPROVE OR~~
3 ~~DISAPPROVE THE PROPOSED AMENDMENTS WITHIN NINE MONTHS OF THE~~
4 ~~DATE THAT THE AMENDMENTS ARE FILED. IF THE COMMISSION FAILS~~
5 ~~TO ISSUE A FINAL ORDER WITHIN NINE MONTHS, THE AMENDMENTS~~
6 ~~SHALL BE DEEMED TO BE APPROVED AND THE DEFAULT SERVICE~~
7 ~~PROVIDER MAY IMPLEMENT THE AMENDMENTS AS FILED.~~

8 ~~(7) THE DEFAULT SERVICE PROVIDER SHALL OFFER RESIDENTIAL~~
9 ~~AND SMALL BUSINESS CUSTOMERS A GENERATION SUPPLY SERVICE RATE~~
10 ~~THAT SHALL CHANGE NO MORE FREQUENTLY THAN ON A QUARTERLY~~
11 ~~BASIS. ALL DEFAULT SERVICE RATES SHALL BE REVIEWED BY THE~~
12 ~~COMMISSION TO ENSURE THAT THE COSTS OF PROVIDING SERVICE TO~~
13 ~~EACH CUSTOMER CLASS ARE NOT SUBSIDIZED BY ANY OTHER CLASS.~~

14 ~~(F) SMART METER TECHNOLOGY AND TIME OF USE RATES.~~

15 ~~(1) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS~~
16 ~~PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL FILE A SMART~~
17 ~~METER TECHNOLOGY PROCUREMENT AND INSTALLATION PLAN WITH THE~~
18 ~~COMMISSION FOR APPROVAL. THE PLAN SHALL DESCRIBE THE SMART~~
19 ~~METER TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES~~
20 ~~TO INSTALL IN ACCORDANCE WITH PARAGRAPH (2).~~

21 ~~(2) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH SMART~~
22 ~~METER TECHNOLOGY AS FOLLOWS:~~

23 ~~(I) UPON REQUEST TO A CUSTOMER THAT AGREES TO PAY~~
24 ~~THE COST OF THE SMART METER.~~

25 ~~(II) IN THE CONSTRUCTION OF A NEW RESIDENCE OR NEW~~
26 ~~BUILDING TO BE USED BY A COMMERCIAL CUSTOMER.~~

27 ~~(III) IN ACCORDANCE WITH A SCHEDULE OF REPLACEMENT~~
28 ~~OF FULL DEPRECIATION OF EXISTING METERS.~~

29 ~~(3) ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER~~
30 ~~CONSENT, MAKE AVAILABLE ELECTRONIC ACCESS TO CUSTOMER METER~~

1 ~~DATA TO THIRD PARTIES, INCLUDING ELECTRIC GENERATION~~
2 ~~SUPPLIERS AND PROVIDERS OF CONSERVATION AND LOAN MANAGEMENT~~
3 ~~SERVICES.~~

4 ~~(4) AN ELECTRIC DISTRIBUTION COMPANY SHALL NOT BE~~
5 ~~PERMITTED TO RECOVER THE COSTS, AS DETERMINED BY THE~~
6 ~~COMMISSION, OF PROVIDING SMART METER TECHNOLOGY UNDER~~
7 ~~PARAGRAPH (2).~~

8 ~~(5) IN NO EVENT SHALL LOST OR DECREASED REVENUES BY AN~~
9 ~~ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ELECTRICITY~~
10 ~~CONSUMPTION OR SHIFTING ENERGY DEMAND BE CONSIDERED A COST OF~~
11 ~~SMART METER TECHNOLOGY.~~

12 ~~(6) BY JANUARY 1, 2010, OR AT THE END OF THE APPLICABLE~~
13 ~~GENERATION RATE CAP PERIOD, WHICHEVER IS LATER, A DEFAULT~~
14 ~~SERVICE PROVIDER SHALL SUBMIT TO THE COMMISSION ONE OR MORE~~
15 ~~PROPOSED TIME-OF-USE RATES AND REAL-TIME PRICE PLANS. THE~~
16 ~~COMMISSION SHALL APPROVE OR MODIFY THE TIME-OF-USE RATES AND~~
17 ~~REAL-TIME PRICE PLAN WITHIN SIX MONTHS OF SUBMITTAL. THE~~
18 ~~DEFAULT SERVICE PROVIDER SHALL OFFER THE RATES AND REAL-TIME~~
19 ~~PRICE PLAN TO ALL RESIDENTIAL AND COMMERCIAL CUSTOMERS THAT~~
20 ~~HAVE BEEN PROVIDED WITH SMART METER TECHNOLOGY WITHIN 60 DAYS~~
21 ~~OF INSTALLATION OF THE SMART METER TECHNOLOGY OR COMMISSION~~
22 ~~APPROVAL OF THE TIME-OF-USE RATES AND REAL-TIME PRICE PLAN,~~
23 ~~WHICHEVER IS LATER. RESIDENTIAL OR COMMERCIAL CUSTOMERS MAY~~
24 ~~ELECT TO PARTICIPATE IN TIME-OF-USE RATES OR REAL-TIME~~
25 ~~PRICING. THE DEFAULT SERVICE PROVIDER SHALL SUBMIT AN ANNUAL~~
26 ~~REPORT TO THE COMMISSION ON THE PARTICIPATION IN THE TIME-OF-~~
27 ~~USE AND REAL-TIME PRICE PROGRAMS AND THE EFFICACY OF THE~~
28 ~~PROGRAMS IN AFFECTING ENERGY DEMAND AND CONSUMPTION AND THE~~
29 ~~EFFECT ON WHOLESALE MARKET PRICES.~~

30 ~~(7) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO~~

~~AN ELECTRIC DISTRIBUTION COMPANY WITH 100,000 OR FEWER
CUSTOMERS.~~

~~(G) DEFINITION. AS USED IN THIS SECTION, THE TERM "SMART
METER TECHNOLOGY" MEANS TECHNOLOGY, INCLUDING METERING
TECHNOLOGY AND NETWORK COMMUNICATIONS TECHNOLOGY CAPABLE OF
BIDIRECTIONAL COMMUNICATION, THAT RECORDS ELECTRICITY USAGE ON
AT LEAST AN HOURLY BASIS, INCLUDING RELATED ELECTRIC
DISTRIBUTION SYSTEM UPGRADES TO ENABLE THE TECHNOLOGY. THE
TECHNOLOGY SHALL PROVIDE CUSTOMERS WITH DIRECT ACCESS TO AND USE
OF PRICE AND CONSUMPTION INFORMATION. THE TECHNOLOGY SHALL ALSO:~~

~~(1) DIRECTLY PROVIDE CUSTOMERS WITH INFORMATION ON THEIR
HOURLY CONSUMPTION.~~

~~(2) ENABLE TIME-OF-USE RATES AND REAL-TIME PRICE
PROGRAMS.~~

~~(3) EFFECTIVELY SUPPORT THE AUTOMATIC CONTROL OF THE
CUSTOMER'S ELECTRICITY CONSUMPTION BY ONE OR MORE OF THE
FOLLOWING AS SELECTED BY THE CUSTOMER:~~

~~(I) THE CUSTOMER;~~

~~(II) THE CUSTOMER'S UTILITY; OR~~

~~(III) A THIRD PARTY ENGAGED BY THE CUSTOMER OR THE
CUSTOMER'S UTILITY.~~

~~(4) PROVIDE A MEANS TO OBTAIN REAL-TIME CONSUMPTION
INFORMATION FROM A METER SUCH AS AN INSTALLED PORT OR OUTPUT
FOR TRANSMITTING METER PULSE DATA EXTERNAL TO THE METER TO BE
USED BY THE CUSTOMER, THE ELECTRIC DISTRIBUTION COMPANY OR A
THIRD PARTY ENGAGED BY THE CUSTOMER IN THE ELECTRIC
DISTRIBUTION COMPANY.~~

~~SECTION 4. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:
§ 2813. PROCUREMENT OF POWER.~~

~~EXCEPT AS PROVIDED UNDER THE ACT OF NOVEMBER 30, 2004~~

1 ~~(P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO~~
2 ~~STANDARDS ACT, THE COMMISSION MAY NOT ORDER A DEFAULT SERVICE~~
3 ~~PROVIDER TO PROCURE POWER FROM A SPECIFIC GENERATION SUPPLIER,~~
4 ~~FROM A SPECIFIC GENERATION FUEL TYPE OR FROM NEW GENERATION~~
5 ~~ONLY.~~

6 ~~SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.~~

7 SECTION 1. SECTION 305(A) OF TITLE 66 OF THE PENNSYLVANIA
8 CONSOLIDATED STATUTES IS AMENDED TO READ:

9 § 305. DIRECTOR OF OPERATIONS, SECRETARY, EMPLOYEES AND
10 CONSULTANTS.

11 (A) DIRECTOR OF OPERATIONS.--THE COMMISSION MAY APPOINT A
12 DIRECTOR OF OPERATIONS WHO SHALL SERVE AT THE PLEASURE OF THE
13 COMMISSION AND SHALL BE RESPONSIBLE FOR THE DAY-TO-DAY
14 ADMINISTRATION AND OPERATION OF THE BUREAUS AND OFFICES OF THE
15 COMMISSION, EXCEPT THAT THE DIRECTOR OF OPERATIONS SHALL HAVE
16 RESPONSIBILITY FOR THE [OFFICE OF TRIAL STAFF] PROSECUTORIAL
17 FUNCTION ONLY WITH REGARD TO ADMINISTRATIVE MATTERS.

18 * * *

19 SECTION 1.1. SECTION 306 OF TITLE 66 IS REPEALED:

20 [§ 306. OFFICE OF TRIAL STAFF.

21 (A) GENERAL RULE.--THE OFFICE OF TRIAL STAFF TO THE
22 PENNSYLVANIA PUBLIC UTILITY COMMISSION IS HEREBY CREATED. THE
23 DIRECTOR OF TRIAL STAFF, WHO SHALL BE THE CHIEF PROSECUTOR OF
24 THE COMMISSION, SHALL BE APPOINTED BY THE COMMISSION AND HOLD
25 OFFICE AT ITS PLEASURE. THE COMMISSION SHALL ASSIGN A PERMANENT
26 STAFF OF SUCH LEGAL, TECHNICAL AND OTHER EMPLOYEES OF THE
27 COMMISSION AS MAY BE REQUIRED FOR THE PROPER CONDUCT OF THE WORK
28 OF THE OFFICE OF TRIAL STAFF. EMPLOYEES ASSIGNED TO THE OFFICE
29 OF TRIAL STAFF SHALL BE UNDER THE SUPERVISION OF THE DIRECTOR OF
30 TRIAL STAFF AND SHALL NOT BE ASSIGNED TO ANY DUTIES OTHER THAN

1 WITH THE OFFICE OF TRIAL STAFF, EXCEPT AS THE COMMISSION MAY ON
2 A TEMPORARY CASE-BY-CASE BASIS PERMIT WHERE THE PERFORMANCE OF
3 SUCH OTHER DUTIES WILL NOT REPRESENT, OR CREATE THE APPEARANCE
4 OF, A CONFLICT OF INTEREST. THE COMMISSION MAY DESIGNATE
5 EMPLOYEES OF THE OFFICE OF TRIAL STAFF TO SERVE AS DEPUTIES TO
6 THE DIRECTOR OF TRIAL STAFF. THE DIRECTOR OF TRIAL STAFF MAY
7 RECOMMEND PERSONS FOR CONSIDERATION BY THE COMMISSION AS
8 EMPLOYEES UNDER HIS SUPERVISION. ATTORNEYS ASSIGNED TO THE
9 OFFICE OF TRIAL STAFF MAY BE REMOVED BY THE COMMISSION ONLY FOR
10 GOOD CAUSE. THE COMPENSATION OF THE DIRECTOR OF TRIAL STAFF AND
11 THE EMPLOYEES UNDER HIS SUPERVISION SHALL BE FIXED BY THE
12 COMMISSION. THE DIRECTOR OF TRIAL STAFF SHALL REPORT AND BE
13 RESPONSIBLE DIRECTLY TO THE COMMISSION, PROVIDED THAT THE
14 DIRECTOR OF TRIAL STAFF SHALL BE RESPONSIBLE TO THE COMMISSION
15 THROUGH THE DIRECTOR OF OPERATIONS ONLY FOR PURPOSES OF
16 ADMINISTRATIVE MATTERS.

17 (B) POWER AND DUTIES.--

18 (1) THE OFFICE OF TRIAL STAFF SHALL BE RESPONSIBLE FOR
19 AND SHALL ASSIST IN THE DEVELOPMENT OF, CHALLENGE OF AND
20 REPRESENTATION ON THE RECORD OF ALL MATTERS IN THE PUBLIC
21 INTEREST IN ALL COMMISSION PROCEEDINGS EXCEPT THOSE INVOLVING
22 TRANSPORTATION, SAFETY, EMINENT DOMAIN, SITING, SERVICE
23 ISSUES HAVING NO IMPACT ON RATES AND ABILITY TO PAY, PROVIDED
24 THAT THE DIRECTOR OF TRIAL STAFF MAY PETITION THE COMMISSION
25 OR MAY BE DIRECTED BY THE COMMISSION TO INTERVENE TO PROTECT
26 THE PUBLIC INTEREST IN ANY PROCEEDING INVOLVING
27 TRANSPORTATION, SAFETY, EMINENT DOMAIN, SITING, SERVICE
28 ISSUES HAVING NO IMPACT ON RATES AND ABILITY TO PAY. TO
29 ASSIST IN CARRYING OUT HIS POWERS AND DUTIES UNDER THIS
30 SECTION, THE DIRECTOR OF TRIAL STAFF SHALL SUPERVISE THE

1 ACTIVITIES OF THE OFFICE OF TRIAL STAFF IN ALL COMMISSION
2 PROCEEDINGS IN WHICH HE PARTICIPATES. IF THE DIRECTOR OF
3 TRIAL STAFF IS OF THE OPINION THAT THE INITIATION OF A
4 PROCEEDING IS NECESSARY TO PROTECT THE PUBLIC INTEREST, HE
5 SHALL REQUEST THAT THE COMMISSION INITIATE THE APPROPRIATE
6 PROCEEDING. WHEN HE PARTICIPATES IN A COMMISSION PROCEEDING,
7 IT SHALL BE THE DUTY AND RESPONSIBILITY OF THE DIRECTOR OF
8 TRIAL STAFF TO PROSECUTE IN THAT PROCEEDING.

9 (2) IN ADDITION TO ANY OTHER RESPONSIBILITY CONVEYED
10 UPON IT BY THE COMMISSION, THE OFFICE OF TRIAL STAFF SHALL
11 SUBMIT A REPORT TO THE COMMISSION RECOMMENDING WHETHER THE
12 COMMISSION SHOULD ENTER UPON A HEARING IN ORDER TO
13 INVESTIGATE THE JUSTNESS AND REASONABLENESS OF A TARIFF FILED
14 PURSUANT TO SECTION 1308 (RELATING TO VOLUNTARY CHANGES IN
15 RATES), TO SUSPEND THE EFFECTIVENESS OF SUCH TARIFF, TO ALLOW
16 SUCH TARIFF TO BE SUSPENDED BY OPERATION OF LAW OR TO ALLOW
17 TEMPORARY RATES PURSUANT TO SECTION 1310 (RELATING TO
18 TEMPORARY RATES). THE REPORT:

19 (I) SHALL RECOMMEND ONLY THE INITIAL ACTION WHICH
20 THE COMMISSION SHOULD TAKE AND SHALL NOT CONTAIN AN
21 OPINION AS TO THE PORTION OF A PROPOSED RATE INCREASE
22 WHICH APPEARS TO BE JUST AND REASONABLE, UNLESS THE
23 REPORT INCLUDES A FINDING THAT THE PROPOSED RATE INCREASE
24 APPEARS TO BE JUST AND REASONABLE IN ITS ENTIRETY;

25 (II) SHALL BE RELEASED TO THE PUBLIC IF THE REPORT
26 RECOMMENDS THAT NO HEARINGS NEED TO BE HELD REGARDING THE
27 PROPOSED TARIFF OR THAT THE PROPOSED TARIFF SHOULD NOT BE
28 SUSPENDED, AND MAY BE RELEASED TO THE PUBLIC IN OTHER
29 CIRCUMSTANCES WHEN, IN THE OPINION OF THE COMMISSION,
30 SUCH RELEASE WOULD BE IN THE PUBLIC INTEREST;

(III) SHALL BE CONSIDERED ONLY AS AN INDICATION OF THE OFFICE OF TRIAL STAFF'S OPINION REGARDING WHETHER THERE SHOULD BE A HEARING ON THE PROPOSED TARIFF OR WHETHER THE PROPOSED TARIFF SHOULD BE SUSPENDED; AND

(IV) SHALL NOT BE CONSIDERED AS EVIDENCE OF THE OFFICE OF TRIAL STAFF'S OPINION REGARDING THE JUSTNESS AND REASONABLENESS OF ANY PROPOSED TARIFF IN ANY SUBSEQUENT COMMISSION PROCEEDING.

(3) EXCEPT FOR THE DUTIES SET OUT IN PARAGRAPH (2), NEITHER THE DIRECTOR OF TRIAL STAFF NOR ANY EMPLOYEE WHOM THE DIRECTOR OF TRIAL STAFF SUPERVISES SHALL COMMUNICATE WITH THE COMMISSION, AN ADMINISTRATIVE LAW JUDGE OR ANY OTHER EMPLOYEE OF THE COMMISSION WHO IS DECIDING OR ADVISING IN THE DECISION IN AN ON-THE-RECORD PROCEEDING, WHETHER CONTESTED OR UNCONTESTED, AS DEFINED IN SECTION 332(C) (RELATING TO PROCEDURES IN GENERAL), EXCEPT THROUGH THE PRACTICE AND PROCEDURE AVAILABLE TO ALL PARTIES TO COMMISSION PROCEEDINGS.]

SECTION 1.2. SECTION 308(A)(2) AND (4), (B), (C), (E), (F) AND (G) OF TITLE 66 ARE AMENDED TO READ:

§ 308. BUREAUS AND OFFICES.

(A) ENUMERATION.--THERE SHALL BE ESTABLISHED WITHIN THE COMMISSION THE FOLLOWING BUREAUS AND FUNCTIONS:

* * *

[(2) BUREAU OF CONSERVATION, ECONOMICS AND ENERGY PLANNING.]

* * *

[(4) OFFICE OF SPECIAL ASSISTANTS.]

(B) LAW BUREAU.--THE LAW BUREAU SHALL BE A MULTIFUNCTION LEGAL STAFF, CONSISTING OF A PROSECUTORY FUNCTION, AN ADVISORY

1 FUNCTION, A REPRESENTATIONAL FUNCTION AND AN ENFORCEMENT
2 FUNCTION. THE DIRECTOR OF THE LAW BUREAU SHALL BE THE CHIEF
3 COUNSEL OF THE COMMISSION AND SHALL SERVE AT THE PLEASURE OF THE
4 COMMISSION. THE COMMISSION MAY ALSO, FROM TIME TO TIME, APPOINT
5 SUCH ASSISTANT COUNSEL TO THE COMMISSION AS MAY BE REQUIRED FOR
6 THE PROPER CONDUCT OF THE WORK OF THE LAW BUREAU. ASSISTANT
7 COUNSEL MAY BE REMOVED BY THE COMMISSION ONLY FOR GOOD CAUSE.
8 THE LAW BUREAU SHALL ADVISE THE COMMISSION ON ANY AND ALL
9 MATTERS. NO COUNSEL SHALL IN THE SAME CASE OR A FACTUALLY
10 RELATED CASE PERFORM DUTIES IN THE PROSECUTORY AND ADVISORY
11 FUNCTIONS, IF SUCH PERFORMANCE WOULD REPRESENT A CONFLICT OF
12 INTEREST. EXCEPT FOR LITIGATION REFERRED TO THE ATTORNEY GENERAL
13 OR OTHER APPROPRIATE OUTSIDE COUNSEL, THE LAW BUREAU SOLELY
14 SHALL BE RESPONSIBLE TO REPRESENT THE COMMISSION UPON APPEALS
15 AND OTHER HEARINGS IN THE COURTS OF COMMON PLEAS AND IN THE
16 COMMONWEALTH COURT, SUPREME COURT OR OTHER COURTS OF THIS
17 COMMONWEALTH OR IN ANY FEDERAL COURT OR AGENCY AND IN ACTIONS
18 INSTITUTED TO RECOVER PENALTIES AND TO ENFORCE REGULATIONS AND
19 ORDERS OF THE COMMISSION. [NO MEMBER OF THE LAW BUREAU SHALL
20 PARTICIPATE IN ANY PROSECUTORY FUNCTION IN ANY MATTER] IF
21 NECESSARY TO PROTECT THE PUBLIC INTEREST, THE LAW BUREAU,
22 PURSUANT TO ITS PROSECUTORIAL FUNCTION, MAY INITIATE AND
23 PARTICIPATE IN PROCEEDINGS BEFORE THE COMMISSION UNLESS DIRECTED
24 BY THE COMMISSION TO DO SO IN A PROCEEDING INVOLVING
25 TRANSPORTATION, SAFETY, EMINENT DOMAIN, SITING, SERVICE ISSUES
26 HAVING NO IMPACT ON RATES OR ABILITY TO PAY OR ASSIST THE OFFICE
27 OF TRIAL STAFF IN CARRYING OUT THE DUTIES OF THE OFFICE OF TRIAL
28 STAFF, NOR SHALL ANY MEMBER OF THE LAW BUREAU RECEIVE ASSISTANCE
29 FROM THE OFFICE OF TRIAL STAFF IN THE PERFORMANCE OF HIS DUTIES.
30 EXCEPT AS PROVIDED IN THIS SECTION, THE LAW BUREAU MAY RECEIVE

1 ASSISTANCE FROM ANY OTHER BUREAU OR OFFICE OF THE COMMISSION AS
2 DETERMINED TO BE NECESSARY.

3 [(C) BUREAU OF CONSERVATION, ECONOMICS AND ENERGY
4 PLANNING.--THE BUREAU OF CONSERVATION, ECONOMICS AND ENERGY
5 PLANNING SHALL CONDUCT STUDIES AND RESEARCH ALL MATTERS WITHIN
6 THE COMMISSION'S JURISDICTION AND ADVISE THE COMMISSION OF THE
7 RESULTS THEREOF IN ORDER TO ENABLE THE COMMISSION TO PROVIDE
8 PROSPECTIVE REGULATION IN THE BEST INTEREST OF ALL PARTIES
9 CONCERNED. SUCH STUDIES AND RESEARCH SHALL INCLUDE LONG RANGE
10 FORECASTING OF ENERGY NEEDS AND DEVELOPMENT; RESEARCH INTO THE
11 USE OF NEW, EFFICIENT AND ECONOMIC METHODS OF ENERGY PRODUCTION;
12 THE REVIEW OF THE EFFICIENCY OF THE PRESENT GENERATING SYSTEMS
13 OPERATED WITHIN THIS COMMONWEALTH; AND THE DEVELOPMENT OF AN
14 EFFECTIVE PROGRAM OF ENERGY CONSERVATION. THE COMMISSION SHALL
15 REQUIRE ALL ELECTRIC AND GAS PUBLIC UTILITIES SUBJECT TO ITS
16 JURISDICTION TO FILE WITH IT AN ANNUAL CONSERVATION REPORT WHICH
17 SHOWS THE PLANS AND PROGRESS ACHIEVED ON PROGRAMS OF ENERGY
18 CONSERVATION. THE COMMISSION SHALL, BY RULE, PRESCRIBE
19 GUIDELINES FOR THE FORM AND MANNER OF SUCH ANNUAL CONSERVATION
20 REPORT WHICH REPORT SHALL DESCRIBE THE CURRENT AND PROPOSED
21 PROGRAMS OF EACH SUCH UTILITY DESIGNED TO EDUCATE AND ENCOURAGE
22 ITS CUSTOMERS IN THE OPTIMUM, EFFECTIVE AND EFFICIENT USE BY
23 THEM OF ELECTRIC AND GAS ENERGY. THE REPORT SHALL INCLUDE AN
24 ACCOUNTING OF THE MONETARY AND PERSONNEL RESOURCES ACTUALLY OR
25 PROPOSED TO BE EXPENDED OR DEVOTED TO AND THE ACTUAL OR
26 ANTICIPATED RESULTS OF SUCH PROGRAMS. THE BUREAU SHALL REVIEW
27 ALL PROPOSALS FOR ELECTRIC AND GAS PUBLIC UTILITY PLANT
28 EXPANSION AND SHALL SUBMIT FOR CONSIDERATION OF THE COMMISSION
29 ITS FINDINGS ON WHAT IMPACT, IF ANY, THE ELECTRIC AND GAS PUBLIC
30 UTILITY PLANT EXPANSION WILL HAVE ON RATES CHARGED BY THE PUBLIC

1 UTILITY.]

2 * * *

3 [(E) OFFICE OF SPECIAL ASSISTANTS.--THE OFFICE OF SPECIAL
4 ASSISTANTS SHALL BE A SUPPORT STAFF WHICH SHALL BE RESPONSIBLE
5 TO ASSIST IN THE PREPARATION OF COMMISSION ORDERS AND SHALL
6 PERFORM SUCH OTHER ADVISORY DUTIES AS MAY BE REQUIRED OF IT BY
7 THE COMMISSION. NO MEMBER OF THE OFFICE OF SPECIAL ASSISTANTS
8 SHALL PARTICIPATE IN ANY PROSECUTORY FUNCTION IN ANY MATTER
9 BEFORE THE COMMISSION. NO MEMBER OF THE OFFICE OF SPECIAL
10 ASSISTANTS SHALL ASSIST THE OFFICE OF TRIAL STAFF IN CARRYING
11 OUT THE DUTIES OF THE OFFICE OF TRIAL STAFF, NOR SHALL ANY
12 MEMBER OF THE OFFICE OF SPECIAL ASSISTANTS RECEIVE ASSISTANCE
13 FROM THE OFFICE OF TRIAL STAFF IN THE PERFORMANCE OF HIS DUTIES.
14 EXCEPT AS PROVIDED IN THIS SECTION, THE OFFICE OF SPECIAL
15 ASSISTANTS MAY RECEIVE ASSISTANCE FROM, OR PROVIDE ASSISTANCE
16 TO, ANY OTHER BUREAU OR OFFICE OF THE COMMISSION AS DETERMINED
17 TO BE NECESSARY.

18 (F) OTHER BUREAUS AND OFFICES.--THE COMMISSION SHALL
19 ESTABLISH SUCH BUREAU OR BUREAUS TO PERFORM SUCH DUTIES AS THE
20 COMMISSION MAY PRESCRIBE REGARDING ALL MATTERS RESPECTING RATES
21 OF PUBLIC UTILITIES AND ALL MATTERS RESPECTING COMMON CARRIERS
22 AND CONTRACT CARRIERS. THE ESTABLISHMENT OF THESE BUREAUS SHALL
23 NOT BE CONSTRUED TO PROHIBIT THE COMMISSION FROM ESTABLISHING
24 ANY ADDITIONAL BUREAUS WHICH THE COMMISSION FINDS NECESSARY TO
25 PROTECT THE INTERESTS OF THE PEOPLE OF THIS COMMONWEALTH. THE
26 BUREAUS MAY PERFORM SUCH OTHER DUTIES NOT INCONSISTENT WITH LAW
27 AS THE COMMISSION MAY DIRECT.

28 (G) STAFF TESTIMONY.--MEMBERS OF THE STAFF OF THE
29 COMMISSION, EXCEPT FOR THE OFFICE OF SPECIAL ASSISTANTS, SHALL
30 APPEAR AND PRESENT TESTIMONY IN ANY PROCEEDING BEFORE THE

1 COMMISSION WHEN CALLED BY THE COMMISSION, THE CHIEF COUNSEL, THE
2 DIRECTOR OF TRIAL STAFF OR ANY OF THE PARTIES TO THE PROCEEDING.
3 IN ADDITION TO ANY CROSS-EXAMINATION BY THE OFFICE OF TRIAL
4 STAFF AS PROVIDED IN SECTION 306 (RELATING TO OFFICE OF TRIAL
5 STAFF) OR THE CHIEF COUNSEL, ANY MEMBER OF THE COMMISSION STAFF
6 WHO PARTICIPATES IN THE ANALYSIS, REVIEW AND CONCLUSIONS IN ANY
7 PROCEEDINGS BEFORE THE COMMISSION MAY, IN THE DISCRETION OF THE
8 OFFICE OF TRIAL STAFF OR THE CHIEF COUNSEL AND WITH THE CONSENT
9 OF THE PRESIDING OFFICER, CROSS-EXAMINE ANY WITNESS PRESENTED BY
10 THE PARTIES TO THE PROCEEDING AT THE PUBLIC HEARING.]

11 SECTION 1.3. TITLE 66 IS AMENDED BY ADDING A SECTION TO
12 READ:

13 § 308.2. OTHER BUREAUS, OFFICES AND POSITIONS.

14 (A) ESTABLISHMENT OF OTHER BUREAUS, OFFICES AND POSITIONS.--
15 IN ADDITION TO THE SPECIFIC BUREAUS ESTABLISHED IN THIS PART,
16 THE COMMISSION MAY ESTABLISH OTHER BUREAUS, OFFICES AND
17 POSITIONS TO PERFORM THE FOLLOWING FUNCTIONS:

18 (1) REVIEW AND PROVIDE ADVICE REGARDING APPLICATIONS,
19 PETITIONS, TARIFF FILINGS AND OTHER MATTERS FILED WITH THE
20 COMMISSION.

21 (2) PROVIDE ADVICE, REVIEW EXCEPTIONS AND PREPARE ORDERS
22 REGARDING MATTERS TO BE ADJUDICATED.

23 (3) CONDUCT FINANCIAL REVIEWS, EARNINGS ANALYSES AND
24 OTHER FINANCIAL STUDIES.

25 (4) CONDUCT ECONOMIC RESEARCH, FORECASTING, ENERGY
26 CONSERVATION STUDIES, COST STUDIES AND OTHER ECONOMIC STUDIES
27 RELATED TO PUBLIC UTILITIES.

28 (5) MONITOR INDUSTRY MARKETS TO DETECT ANTICOMPETITIVE,
29 DISCRIMINATORY OR OTHER UNLAWFUL CONDUCT.

30 (6) INSURE ADEQUATE MAINTENANCE, SAFETY AND RELIABILITY

1 OF UTILITY NETWORKS.

2 (7) INSURE ADEQUATE SERVICE QUALITY, EFFICIENCY AND
3 AVAILABILITY AT JUST AND REASONABLE RATES.

4 (8) CONDUCT FINANCIAL, MANAGEMENT, OPERATIONAL AND
5 SPECIAL AUDITS.

6 (9) PROVIDE CONSUMER INFORMATION, CONSUMER PROTECTION
7 AND INFORMAL RESOLUTION OF COMPLAINTS.

8 (10) INSURE ADEQUATE SAFETY, INSURANCE, FITNESS AND
9 OTHER REQUIREMENTS RELEVANT TO TRANSPORTATION UTILITIES.

10 (11) TAKE APPROPRIATE ENFORCEMENT ACTIONS, INCLUDING
11 RATE PROCEEDINGS, SERVICE PROCEEDINGS AND ALLOCATION
12 PROCEEDINGS, NECESSARY TO INSURE COMPLIANCE WITH THIS TITLE,
13 COMMISSION REGULATIONS AND ORDERS.

14 (12) PERFORM OTHER FUNCTIONS THE COMMISSION DEEMS
15 NECESSARY FOR THE PROPER WORK OF THE COMMISSION.

16 (B) PROHIBITION ON COMMINGLING OF FUNCTIONS.--A COMMISSION
17 EMPLOYEE ENGAGED IN A PROSECUTORY FUNCTION MAY NOT, IN THAT
18 MATTER OR A FACTUALLY RELATED MATTER, PROVIDE ADVICE OR
19 ASSISTANCE TO A COMMISSION EMPLOYEE PERFORMING AN ADVISORY
20 FUNCTION AS TO THAT MATTER.

21 SECTION 1.4. SECTION 2803 OF TITLE 66 IS AMENDED BY ADDING
22 DEFINITIONS TO READ:

23 § 2803. DEFINITIONS.

24 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
25 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
26 CONTEXT CLEARLY INDICATES OTHERWISE:

27 * * *

28 "BILATERAL CONTRACT." AN AGREEMENT, AS APPROVED BY THE
29 PENNSYLVANIA PUBLIC UTILITY COMMISSION, REACHED BY TWO PARTIES,
30 EACH ACTING IN ITS OWN INDEPENDENT SELF-INTEREST, AS A RESULT OF

1 NEGOTIATIONS FREE OF UNDUE INFLUENCE, DURESS OR FAVORITISM, IN
2 WHICH THE ELECTRIC ENERGY SUPPLIER AGREES TO SELL AND THE
3 ELECTRIC DISTRIBUTION COMPANY AGREES TO BUY A QUANTITY OF
4 ELECTRIC ENERGY AT A SPECIFIED PRICE FOR A SPECIFIED PERIOD OF
5 TIME UNDER TERMS AGREED TO BY BOTH PARTIES, AND WHICH FOLLOWS A
6 STANDARD INDUSTRY TEMPLATE WIDELY ACCEPTED IN THE INDUSTRY OR
7 VARIATIONS THERETO ACCEPTED BY THE PARTIES. STANDARD INDUSTRY
8 TEMPLATES MAY INCLUDE THE EEI MASTER AGREEMENT FOR PHYSICAL
9 ENERGY PURCHASES AND SALES AND THE ISDA MASTER AGREEMENT FOR
10 FINANCIAL ENERGY PURCHASES AND SALES.

11 * * *

12 "DEFAULT SERVICE PROVIDER." AN ELECTRIC DISTRIBUTION COMPANY
13 WITHIN ITS CERTIFIED SERVICE TERRITORY OR AN ALTERNATIVE
14 SUPPLIER APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
15 THAT PROVIDES GENERATION SERVICE TO RETAIL ELECTRIC CUSTOMERS
16 WHO:

17 (1) CONTRACT FOR ELECTRIC POWER, INCLUDING ENERGY AND
18 CAPACITY, AND THE CHOSEN ELECTRIC GENERATION SUPPLIER DOES
19 NOT SUPPLY THE SERVICE; OR

20 (2) DO NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION
21 SUPPLIER.

22 * * *

23 SECTION 2. TITLE 66 IS AMENDED BY ADDING SECTIONS TO READ:
24 § 2806.1. ENERGY EFFICIENCY AND CONSERVATION PROGRAM.

25 (A) PROGRAM.--THE COMMISSION SHALL, BY JANUARY 15, 2009,
26 ADOPT AN ENERGY EFFICIENCY AND CONSERVATION PROGRAM TO REQUIRE
27 ELECTRIC DISTRIBUTION COMPANIES TO ADOPT AND IMPLEMENT COST-
28 EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PLANS TO REDUCE
29 ENERGY DEMAND AND CONSUMPTION WITHIN THE SERVICE TERRITORY OF
30 EACH ELECTRIC DISTRIBUTION COMPANY IN THIS COMMONWEALTH. THE

1 PROGRAM SHALL INCLUDE:

2 (1) PROCEDURES FOR THE APPROVAL OF PLANS SUBMITTED UNDER
3 SUBSECTION (B).

4 (2) AN EVALUATION PROCESS, INCLUDING A PROCESS TO
5 MONITOR AND VERIFY DATA COLLECTION, QUALITY ASSURANCE AND
6 RESULTS OF EACH PLAN AND THE PROGRAM.

7 (3) AN ANALYSIS OF THE COST AND BENEFIT OF EACH PLAN
8 SUBMITTED UNDER SUBSECTION (B) IN ACCORDANCE WITH A TOTAL
9 RESOURCE COST TEST APPROVED BY THE COMMISSION.

10 (4) AN ANALYSIS OF HOW THE PROGRAM AND INDIVIDUAL PLANS
11 WILL ENABLE EACH ELECTRIC DISTRIBUTION COMPANY TO ACHIEVE OR
12 EXCEED THE REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER
13 SUBSECTIONS (C) AND (D).

14 (5) STANDARDS TO ENSURE THAT EACH PLAN INCLUDES A
15 VARIETY OF ENERGY EFFICIENCY AND CONSERVATION MEASURES AND
16 WILL PROVIDE THE MEASURES EQUITABLY TO ALL CLASSES OF
17 CUSTOMERS.

18 (6) PROCEDURES TO MAKE RECOMMENDATIONS AS TO ADDITIONAL
19 MEASURES THAT WILL ENABLE AN ELECTRIC DISTRIBUTION COMPANY TO
20 IMPROVE ITS PLAN AND EXCEED THE REQUIRED REDUCTIONS IN
21 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

22 (7) PROCEDURES TO REQUIRE THAT ELECTRIC DISTRIBUTION
23 COMPANIES COMPETITIVELY BID ALL CONTRACTS WITH CONSERVATION
24 SERVICE PROVIDERS.

25 (8) PROCEDURES TO REVIEW ALL PROPOSED CONTRACTS PRIOR TO
26 THE EXECUTION OF THE CONTRACT WITH CONSERVATION SERVICE
27 PROVIDERS TO IMPLEMENT THE PLAN. THE COMMISSION MAY ORDER THE
28 MODIFICATION OF A PROPOSED CONTRACT TO ENSURE THAT THE PLAN
29 MEETS THE REQUIREMENTS FOR REDUCTION IN DEMAND AND
30 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

1 (9) PROCEDURES TO ENSURE COMPLIANCE WITH REQUIREMENTS
2 FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

3 (10) A REQUIREMENT FOR THE PARTICIPATION OF CONSERVATION
4 SERVICE PROVIDERS IN THE IMPLEMENTATION OF ALL OR PART OF A
5 PLAN.

6 (11) COST RECOVERY TO ENSURE THAT MEASURES APPROVED ARE
7 FINANCED BY THE SAME CUSTOMER CLASS THAT WILL RECEIVE THE
8 DIRECT ENERGY AND CONSERVATION BENEFITS.

9 (B) DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.--

10 (1) (I) BY JULY 1, 2009, EACH ELECTRIC DISTRIBUTION
11 COMPANY SHALL DEVELOP AND FILE AN ENERGY EFFICIENCY AND
12 CONSERVATION PLAN WITH THE COMMISSION FOR APPROVAL TO
13 MEET THE REQUIREMENTS OF SUBSECTION (A) AND THE
14 REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER
15 SUBSECTIONS (C) AND (D). THE PLAN SHALL BE IMPLEMENTED
16 UPON APPROVAL BY THE COMMISSION. THE FOLLOWING ARE THE
17 PLAN REQUIREMENTS:

18 (A) THE PLAN SHALL INCLUDE SPECIFIC PROPOSALS TO
19 IMPLEMENT ENERGY EFFICIENCY AND CONSERVATION MEASURES
20 TO ACHIEVE OR EXCEED THE REQUIRED REDUCTIONS IN
21 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

22 (B) A MINIMUM OF 10% OF THE REQUIRED REDUCTIONS
23 IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D) SHALL BE
24 OBTAINED FROM UNITS OF FEDERAL, STATE AND LOCAL
25 GOVERNMENT, INCLUDING MUNICIPALITIES, SCHOOL
26 DISTRICTS, INSTITUTIONS OF HIGHER EDUCATION AND
27 NONPROFIT ENTITIES.

28 (C) THE PLAN SHALL EXPLAIN HOW QUALITY ASSURANCE
29 AND PERFORMANCE WILL BE MEASURED, VERIFIED AND
30 EVALUATED.

1 (D) THE PLAN SHALL STATE THE MANNER IN WHICH THE
2 PLAN WILL ACHIEVE THE REQUIREMENTS OF THE PROGRAM
3 UNDER SUBSECTION (A) AND WILL ACHIEVE OR EXCEED THE
4 REQUIRED REDUCTIONS IN CONSUMPTION UNDER SUBSECTIONS
5 (C) AND (D).

6 (E) THE PLAN SHALL INCLUDE A CONTRACT WITH ONE
7 OR MORE CONSERVATION SERVICE PROVIDERS SELECTED BY
8 COMPETITIVE BID TO IMPLEMENT THE PLAN OR A PORTION OF
9 THE PLAN AS APPROVED BY THE COMMISSION.

10 (F) THE PLAN SHALL INCLUDE ESTIMATES OF THE COST
11 OF IMPLEMENTATION OF THE ENERGY EFFICIENCY AND
12 CONSERVATION MEASURES IN THE PLAN.

13 (G) THE PLAN SHALL INCLUDE SPECIFIC ENERGY
14 EFFICIENCY MEASURES FOR HOUSEHOLDS AT OR BELOW 150%
15 OF THE FEDERAL POVERTY INCOME GUIDELINES. THE NUMBER
16 OF MEASURES SHALL BE PROPORTIONATE TO THOSE
17 HOUSEHOLDS' SHARE OF THE TOTAL ENERGY USAGE IN THE
18 SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION COMPANY
19 SHALL COORDINATE MEASURES UNDER THIS CLAUSE WITH
20 OTHER PROGRAMS ADMINISTERED BY THE COMMISSION OR
21 ANOTHER FEDERAL OR STATE AGENCY. THE EXPENDITURES OF
22 AN ELECTRIC DISTRIBUTION COMPANY UNDER THIS CLAUSE
23 SHALL BE IN ADDITION TO EXPENDITURES MADE UNDER 52
24 PA. CODE CH. 58 (RELATING TO RESIDENTIAL LOW INCOME
25 USAGE REDUCTION PROGRAMS).

26 (H) THE PLAN SHALL INCLUDE A PROPOSED COST-
27 RECOVERY TARIFF MECHANISM, IN ACCORDANCE WITH SECTION
28 1307 (RELATING TO SLIDING SCALE OR RATES;
29 ADJUSTMENTS), TO FUND THE ENERGY EFFICIENCY AND
30 CONSERVATION MEASURES AND TO ENSURE FULL AND CURRENT

1 RECOVERY OF THE PRUDENT AND REASONABLE COSTS OF THE
2 PLAN, INCLUDING ADMINISTRATIVE COSTS, AS APPROVED BY
3 THE COMMISSION.

4 (I) THE ELECTRIC DISTRIBUTION COMPANY SHALL
5 DEMONSTRATE THAT THE PLAN IS COST-EFFECTIVE USING A
6 TOTAL RESOURCE COST TEST APPROVED BY THE COMMISSION
7 AND PROVIDES A DIVERSE CROSS SECTION OF ALTERNATIVES
8 FOR CUSTOMERS OF ALL RATE CLASSES.

9 (J) THE PLAN SHALL REQUIRE AN ANNUAL INDEPENDENT
10 EVALUATION OF ITS COST-EFFECTIVENESS AND A FULL
11 REVIEW OF THE RESULTS OF EACH FIVE-YEAR PLAN REQUIRED
12 UNDER SUBSECTION (C)(3) AND, TO THE EXTENT PRACTICAL,
13 HOW THE PLAN WILL BE ADJUSTED ON A GOING-FORWARD
14 BASIS AS A RESULT OF THE EVALUATION.

15 (K) THE PLAN SHALL INCLUDE AN ANALYSIS OF THE
16 ELECTRIC DISTRIBUTION COMPANY'S ADMINISTRATIVE COSTS.

17 (II) A NEW PLAN SHALL BE FILED WITH THE COMMISSION
18 EVERY FIVE YEARS OR AS OTHERWISE REQUIRED BY THE
19 COMMISSION. THE PLAN SHALL SET FORTH THE MANNER IN WHICH
20 THE COMPANY WILL MEET THE REQUIRED REDUCTIONS IN
21 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

22 (III) NO MORE THAN 2% OF FUNDS AVAILABLE TO
23 IMPLEMENT A PLAN UNDER THIS SUBSECTION SHALL BE ALLOCATED
24 FOR EXPERIMENTAL EQUIPMENT OR DEVICES.

25 (2) THE COMMISSION SHALL DIRECT AN ELECTRIC DISTRIBUTION
26 COMPANY TO MODIFY OR TERMINATE ANY PART OF A PLAN APPROVED
27 UNDER THIS SECTION IF, AFTER AN ADEQUATE PERIOD FOR
28 IMPLEMENTATION, THE COMMISSION DETERMINES THAT AN ENERGY
29 EFFICIENCY OR CONSERVATION MEASURE INCLUDED IN THE PLAN WILL
30 NOT ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION IN A COST-

1 EFFECTIVE MANNER UNDER SUBSECTIONS (C) AND (D).

2 (3) IF PART OF A PLAN IS MODIFIED OR TERMINATED UNDER
3 PARAGRAPH (2), THE ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT
4 A REVISED PLAN DESCRIBING ACTIONS TO BE TAKEN TO OFFER
5 SUBSTITUTE MEASURES OR TO INCREASE THE AVAILABILITY OF
6 EXISTING MEASURES IN THE PLAN TO ACHIEVE THE REQUIRED
7 REDUCTIONS IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

8 (C) REDUCTIONS IN CONSUMPTION.--THE PLANS ADOPTED UNDER
9 SUBSECTION (B) SHALL REDUCE ELECTRIC CONSUMPTION AS FOLLOWS:

10 (1) BY MAY 31, 2011, TOTAL ANNUAL WEATHER-NORMALIZED
11 CONSUMPTION OF THE RETAIL CUSTOMERS OF EACH ELECTRIC
12 DISTRIBUTION COMPANY SHALL BE REDUCED BY A MINIMUM OF 1%. THE
13 1% LOAD REDUCTION IN CONSUMPTION SHALL BE MEASURED AGAINST
14 THE ELECTRIC DISTRIBUTION COMPANY'S EXPECTED LOAD AS
15 FORECASTED BY THE COMMISSION FOR JUNE 1, 2009, THROUGH MAY
16 31, 2010, WITH PROVISIONS MADE FOR WEATHER ADJUSTMENTS AND
17 EXTRAORDINARY LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY
18 MUST SERVE.

19 (2) BY MAY 31, 2013, THE TOTAL ANNUAL WEATHER-NORMALIZED
20 CONSUMPTION OF THE RETAIL CUSTOMERS OF EACH ELECTRIC
21 DISTRIBUTION COMPANY SHALL BE REDUCED BY A MINIMUM OF 3%. THE
22 3% LOAD REDUCTION IN CONSUMPTION SHALL BE MEASURED AGAINST
23 THE ELECTRIC DISTRIBUTION COMPANY'S EXPECTED LOAD AS
24 FORECASTED BY THE COMMISSION FOR JUNE 1, 2009, THROUGH MAY
25 31, 2010, WITH PROVISION MADE FOR WEATHER ADJUSTMENTS AND
26 EXTRAORDINARY LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY
27 MUST SERVE.

28 (3) BY NOVEMBER 30, 2013, AND EVERY FIVE YEARS
29 THEREAFTER, THE COMMISSION SHALL EVALUATE THE COSTS AND
30 BENEFITS OF THE PROGRAM ESTABLISHED UNDER SUBSECTION (A) AND

1 OF APPROVED ENERGY EFFICIENCY AND CONSERVATION PLANS
2 SUBMITTED TO THE PROGRAM. THE EVALUATION SHALL BE CONSISTENT
3 WITH A TOTAL RESOURCE COST TEST OR A COST-BENEFIT ANALYSIS
4 DETERMINED BY THE COMMISSION. IF THE COMMISSION DETERMINES
5 THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS, THE
6 COMMISSION SHALL ADOPT ADDITIONAL REQUIRED INCREMENTAL
7 REDUCTIONS IN CONSUMPTION.

8 (D) PEAK DEMAND.--THE PLANS ADOPTED UNDER SUBSECTION (B)
9 SHALL REDUCE ELECTRIC DEMAND AS FOLLOWS:

10 (1) BY MAY 31, 2013, THE WEATHER-NORMALIZED DEMAND OF
11 THE RETAIL CUSTOMERS OF EACH ELECTRIC DISTRIBUTION COMPANY
12 SHALL BE REDUCED BY A MINIMUM OF 4.5% OF ANNUAL SYSTEM PEAK
13 DEMAND IN THE 100 HOURS OF HIGHEST DEMAND. THE REDUCTION
14 SHALL BE MEASURED AGAINST THE ELECTRIC DISTRIBUTION COMPANY'S
15 PEAK DEMAND FOR JUNE 1, 2007, THROUGH MAY 31, 2008.

16 (2) BY NOVEMBER 30, 2013, THE COMMISSION SHALL COMPARE
17 THE TOTAL COSTS OF ENERGY EFFICIENCY AND CONSERVATION PLANS
18 IMPLEMENTED UNDER THIS SECTION TO THE TOTAL SAVINGS IN ENERGY
19 AND CAPACITY COSTS TO RETAIL CUSTOMERS IN THIS COMMONWEALTH
20 OR OTHER COSTS DETERMINED BY THE COMMISSION. IF THE
21 COMMISSION DETERMINES THAT THE BENEFITS OF THE PLANS EXCEED
22 THE COSTS, THE COMMISSION SHALL SET ADDITIONAL INCREMENTAL
23 REQUIREMENTS FOR REDUCTION IN PEAK DEMAND FOR THE 100 HOURS
24 OF GREATEST DEMAND OR AN ALTERNATIVE REDUCTION APPROVED BY
25 THE COMMISSION. REDUCTIONS IN DEMAND SHALL BE MEASURED FROM
26 THE ELECTRIC DISTRIBUTION COMPANY'S PEAK DEMAND FOR THE
27 PERIOD FROM JUNE 1, 2011, THROUGH MAY 31, 2012. THE
28 REDUCTIONS IN CONSUMPTION REQUIRED BY THE COMMISSION SHALL BE
29 ACCOMPLISHED NO LATER THAN MAY 31, 2017.

30 (E) COMMISSION APPROVAL.--

1 (1) THE COMMISSION SHALL CONDUCT A PUBLIC HEARING ON
2 EACH PLAN AND ALLOW FOR THE SUBMISSION OF RECOMMENDATIONS BY
3 THE OFFICE OF CONSUMER ADVOCATE AND THE OFFICE OF SMALL
4 BUSINESS ADVOCATE AND BY MEMBERS OF THE PUBLIC AS TO HOW THE
5 ELECTRIC DISTRIBUTION COMPANY COULD IMPROVE ITS PLAN OR
6 EXCEED THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER
7 SUBSECTIONS (C) AND (D).

8 (2) THE COMMISSION SHALL APPROVE OR DISAPPROVE A PLAN
9 FILED UNDER SUBSECTION (B) WITHIN 120 DAYS OF SUBMISSION. THE
10 FOLLOWING SHALL APPLY TO AN ORDER DISAPPROVING A PLAN:

11 (I) THE COMMISSION SHALL DESCRIBE IN DETAIL THE
12 REASONS FOR THE DISAPPROVAL.

13 (II) THE ELECTRIC DISTRIBUTION COMPANY SHALL HAVE 60
14 DAYS TO FILE A REVISED PLAN TO ADDRESS THE DEFICIENCIES
15 IDENTIFIED BY THE COMMISSION. THE REVISED PLAN SHALL BE
16 APPROVED OR DISAPPROVED BY THE COMMISSION WITHIN 60 DAYS.

17 (F) PENALTIES.--

18 (1) THE FOLLOWING SHALL APPLY FOR FAILURE TO SUBMIT A
19 PLAN:

20 (I) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO
21 FILE A PLAN UNDER SUBSECTION (B) SHALL BE SUBJECT TO A
22 CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE PLAN IS
23 FILED.

24 (II) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO
25 FILE A REVISED PLAN UNDER SUBSECTION (E)(2)(II) SHALL BE
26 SUBJECT TO A CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE
27 PLAN IS FILED.

28 (III) PENALTIES COLLECTED UNDER THIS PARAGRAPH SHALL
29 BE DEPOSITED IN THE LOW-INCOME ELECTRIC CUSTOMER
30 ASSISTANCE PROGRAM OF THE ENERGY DISTRIBUTION COMPANY FOR

1 THE RESPECTIVE SERVICE TERRITORY.

2 (2) THE FOLLOWING SHALL APPLY TO AN ELECTRIC
3 DISTRIBUTION COMPANY THAT FAILS TO ACHIEVE THE REDUCTIONS IN
4 CONSUMPTION REQUIRED UNDER SUBSECTION (C) OR (D):

5 (I) THE ELECTRIC DISTRIBUTION COMPANY SHALL BE
6 SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$1,000,000 AND
7 NOT TO EXCEED \$20,000,000 FOR FAILURE TO ACHIEVE THE
8 REQUIRED REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C)
9 OR (D). ANY PENALTY PAID BY AN ELECTRIC DISTRIBUTION
10 COMPANY UNDER THIS SUBPARAGRAPH SHALL NOT BE RECOVERABLE
11 FROM RATEPAYERS.

12 (II) IF AN ELECTRIC DISTRIBUTION COMPANY FAILS TO
13 ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER
14 SUBSECTION (C) OR (D), RESPONSIBILITY TO ACHIEVE THE
15 REDUCTIONS IN CONSUMPTION SHALL BE TRANSFERRED TO THE
16 COMMISSION. THE COMMISSION SHALL DO ALL OF THE FOLLOWING:

17 (A) IMPLEMENT A PLAN TO ACHIEVE THE REQUIRED
18 REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C) OR
19 (D).

20 (B) CONTRACT WITH CONSERVATION SERVICE PROVIDERS
21 AS NECESSARY TO IMPLEMENT ANY PORTION OF THE PLAN.

22 (G) LIMITATION ON COSTS.--THE TOTAL COST OF ANY PLAN
23 REQUIRED UNDER THIS SECTION SHALL NOT EXCEED 2% OF THE ELECTRIC
24 DISTRIBUTION COMPANY'S TOTAL ANNUAL REVENUE AS OF DECEMBER 31,
25 2006. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO THE
26 COST OF LOW-INCOME USAGE REDUCTION PROGRAMS ESTABLISHED UNDER 52
27 PA. CODE CH. 58 (RELATING TO RESIDENTIAL LOW INCOME USAGE
28 REDUCTION PROGRAMS).

29 (H) COSTS.--THE COMMISSION SHALL RECOVER FROM ELECTRIC
30 DISTRIBUTION COMPANIES THE COSTS OF IMPLEMENTING THE PROGRAM

1 ESTABLISHED UNDER THIS SECTION.

2 (I) REPORT.--THE FOLLOWING SHALL APPLY:

3 (1) EACH ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT AN
4 ANNUAL REPORT TO THE COMMISSION RELATING TO THE RESULTS OF
5 THE ENERGY EFFICIENCY AND CONSERVATION PLAN WITHIN EACH
6 ELECTRIC DISTRIBUTION SERVICE TERRITORY. THE REPORT SHALL
7 INCLUDE ALL OF THE FOLLOWING:

8 (I) DOCUMENTATION OF PROGRAM EXPENDITURES.

9 (II) MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS
10 UNDER THE PLAN.

11 (III) EVALUATION OF THE COST-EFFECTIVENESS OF
12 EXPENDITURES.

13 (IV) ANY OTHER INFORMATION REQUIRED BY THE
14 COMMISSION.

15 (2) BEGINNING FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF
16 THIS SECTION AND ANNUALLY THEREAFTER, THE COMMISSION SHALL
17 SUBMIT A REPORT TO THE CONSUMER PROTECTION AND PROFESSIONAL
18 LICENSURE COMMITTEE OF THE SENATE AND THE CONSUMER AFFAIRS
19 COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

20 (J) EXISTING FUNDING SOURCES.--EACH ELECTRIC DISTRIBUTION
21 COMPANY SHALL, UPON REQUEST BY ANY PERSON, PROVIDE A LIST OF ALL
22 ELIGIBLE FEDERAL AND STATE FUNDING PROGRAMS AVAILABLE TO
23 RATEPAYERS FOR ENERGY EFFICIENCY AND CONSERVATION. THE LIST
24 SHALL BE POSTED ON THE ELECTRIC DISTRIBUTION COMPANY'S INTERNET
25 WEBSITE.

26 (K) RECOVERY.--

27 (1) AN ELECTRIC DISTRIBUTION COMPANY SHALL RECOVER ON A
28 FULL AND CURRENT BASIS FROM CUSTOMERS, THROUGH A RECONCILABLE
29 ADJUSTMENT CLAUSE UNDER SECTION 1307, ALL REASONABLE AND
30 PRUDENT COSTS INCURRED IN THE PROVISION OR MANAGEMENT OF A

1 PLAN PROVIDED UNDER THIS SECTION. THIS PARAGRAPH SHALL APPLY
2 TO ALL ELECTRIC DISTRIBUTION COMPANIES, INCLUDING ELECTRIC
3 DISTRIBUTION COMPANIES SUBJECT TO GENERATION OR OTHER RATE
4 CAPS.

5 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), DECREASED
6 REVENUES OF AN ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED
7 ENERGY CONSUMPTION OR CHANGES IN ENERGY DEMAND SHALL NOT BE A
8 RECOVERABLE COST UNDER A RECONCILABLE AUTOMATIC ADJUSTMENT
9 CLAUSE.

10 (3) DECREASED REVENUE AND REDUCED ENERGY CONSUMPTION MAY
11 BE REFLECTED IN REVENUE AND SALES DATA USED TO CALCULATE
12 RATES IN A DISTRIBUTION-BASE RATE PROCEEDING FILED BY AN
13 ELECTRIC DISTRIBUTION COMPANY UNDER SECTION 1308 (RELATING TO
14 VOLUNTARY CHANGES IN RATES).

15 (L) APPLICABILITY.--THIS SECTION SHALL NOT APPLY TO AN
16 ELECTRIC DISTRIBUTION COMPANY WITH FEWER THAN 100,000 CUSTOMERS.

17 (M) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
18 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
19 SUBSECTION:

20 "CONSERVATION SERVICE PROVIDER." AN ENTITY THAT PROVIDES
21 INFORMATION AND TECHNICAL ASSISTANCE ON MEASURES TO ENABLE A
22 PERSON TO INCREASE ENERGY EFFICIENCY OR REDUCE ENERGY
23 CONSUMPTION AND THAT HAS NO DIRECT OR INDIRECT OWNERSHIP,
24 PARTNERSHIP OR OTHER AFFILIATED INTEREST WITH AN ELECTRIC
25 DISTRIBUTION COMPANY.

26 "ELECTRIC DISTRIBUTION COMPANY TOTAL ANNUAL REVENUE."
27 AMOUNTS PAID TO THE ELECTRIC DISTRIBUTION COMPANY FOR
28 GENERATION, TRANSMISSION, DISTRIBUTION AND SURCHARGES BY RETAIL
29 CUSTOMERS.

30 "ENERGY EFFICIENCY AND CONSERVATION MEASURES."

1 (1) TECHNOLOGIES, MANAGEMENT PRACTICES OR OTHER MEASURES
2 EMPLOYED BY RETAIL CUSTOMERS THAT REDUCE ELECTRICITY
3 CONSUMPTION OR DEMAND IF ALL OF THE FOLLOWING APPLY:

4 (I) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE IS
5 INSTALLED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION
6 AT THE LOCATION OF A RETAIL CUSTOMER.

7 (II) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE
8 REDUCES CONSUMPTION OF ENERGY OR PEAK LOAD BY THE RETAIL
9 CUSTOMER.

10 (III) THE COST OF THE ACQUISITION OR INSTALLATION OF
11 THE MEASURE IS DIRECTLY INCURRED IN WHOLE OR IN PART BY
12 THE ELECTRIC DISTRIBUTION COMPANY.

13 (2) ENERGY EFFICIENCY AND CONSERVATION MEASURES SHALL
14 INCLUDE SOLAR OR SOLAR PHOTOVOLTAIC PANELS, ENERGY EFFICIENT
15 WINDOWS AND DOORS, ENERGY EFFICIENT LIGHTING, INCLUDING EXIT
16 SIGN RETROFIT, HIGH BAY FLUORESCENT RETROFIT AND PEDESTRIAN
17 AND TRAFFIC SIGNAL CONVERSION, GEOTHERMAL HEATING,
18 INSULATION, AIR SEALING, REFLECTIVE ROOF COATINGS, ENERGY
19 EFFICIENT HEATING AND COOLING EQUIPMENT OR SYSTEMS AND ENERGY
20 EFFICIENT APPLIANCES AND OTHER TECHNOLOGIES, PRACTICES OR
21 MEASURES APPROVED BY THE COMMISSION.

22 "PEAK DEMAND." THE HIGHEST ELECTRICAL REQUIREMENT OCCURRING
23 DURING A SPECIFIED PERIOD. FOR AN ELECTRIC DISTRIBUTION COMPANY,
24 THE TERM SHALL MEAN THE SUM OF THE METERED CONSUMPTION FOR ALL
25 RETAIL CUSTOMERS OVER THAT PERIOD.

26 "QUALITY ASSURANCE." ALL OF THE FOLLOWING:

27 (1) THE AUDITING OF BUILDINGS, EQUIPMENT AND PROCESSES
28 TO DETERMINE THE COST-EFFECTIVENESS OF ENERGY EFFICIENCY AND
29 CONSERVATION MEASURES USING NATIONALLY RECOGNIZED TOOLS AND
30 CERTIFICATION PROGRAMS.

1 (2) INDEPENDENT INSPECTION OF COMPLETED ENERGY
2 EFFICIENCY AND CONSERVATION MEASURES COMPLETED BY THIRD-PARTY
3 ENTITIES TO EVALUATE THE QUALITY OF THE COMPLETED MEASURE.

4 "REAL-TIME PRICE." A RATE THAT DIRECTLY REFLECTS THE
5 DIFFERENT COST OF ENERGY DURING EACH HOUR.

6 "TIME-OF-USE RATE." A RATE THAT REFLECTS THE COSTS OF
7 SERVING CUSTOMERS DURING DIFFERENT TIME PERIODS, INCLUDING OFF-
8 PEAK AND ON-PEAK PERIODS, BUT NOT AS FREQUENTLY AS EACH HOUR.

9 "TOTAL RESOURCE COST TEST." A STANDARD TEST THAT IS MET IF,
10 OVER THE EFFECTIVE LIFE OF EACH PLAN NOT TO EXCEED 15 YEARS, THE
11 NET PRESENT VALUE OF THE AVOIDED MONETARY COST OF SUPPLYING
12 ELECTRICITY IS GREATER THAN THE NET PRESENT VALUE OF THE
13 MONETARY COST OF ENERGY EFFICIENCY CONSERVATION MEASURES.

14 § 2806.2. ENERGY EFFICIENCY AND CONSERVATION.

15 (A) REGISTRY.--THE COMMISSION SHALL, BY MARCH 1, 2009,
16 ESTABLISH A REGISTRY OF APPROVED PERSONS QUALIFIED TO PROVIDE
17 CONSERVATION SERVICES TO ALL CLASSES OF CUSTOMERS. IN ORDER TO
18 BE INCLUDED IN THE REGISTRY, A CONSERVATION SERVICE PROVIDER
19 MUST MEET EXPERIENCE AND OTHER QUALIFICATIONS DETERMINED BY THE
20 COMMISSION.

21 (B) APPLICATION.--THE COMMISSION SHALL DEVELOP AN
22 APPLICATION FOR REGISTRATION UNDER SUBSECTION (A) AND MAY CHARGE
23 A REASONABLE REGISTRATION FEE.

24 SECTION 3. SECTION 2807(E) OF TITLE 66 IS AMENDED AND THE
25 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

26 § 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

27 * * *

28 (E) OBLIGATION TO SERVE.--[AN ELECTRIC DISTRIBUTION
29 COMPANY'S] A DEFAULT SERVICE PROVIDER'S OBLIGATION TO PROVIDE
30 ELECTRIC GENERATION SUPPLY SERVICE FOLLOWING [IMPLEMENTATION OF

1 RESTRUCTURING AND THE CHOICE OF ALTERNATIVE GENERATION BY A
2 CUSTOMER] THE EXPIRATION OF A GENERATION RATE CAP SPECIFIED
3 UNDER SECTION 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING
4 OF ELECTRIC INDUSTRY) OR A RESTRUCTURING PLAN UNDER SECTION
5 2806(F) (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND
6 PERFORMANCE-BASED RATES) IS REVISED AS FOLLOWS:

7 (1) WHILE AN ELECTRIC DISTRIBUTION COMPANY COLLECTS
8 EITHER A COMPETITIVE TRANSITION CHARGE OR AN INTANGIBLE
9 TRANSITION CHARGE OR UNTIL 100% OF ITS CUSTOMERS HAVE CHOICE,
10 WHICHEVER IS LONGER, THE ELECTRIC DISTRIBUTION COMPANY SHALL
11 CONTINUE TO HAVE THE FULL OBLIGATION TO SERVE, INCLUDING THE
12 CONNECTION OF CUSTOMERS, THE DELIVERY OF ELECTRIC ENERGY AND
13 THE PRODUCTION OR ACQUISITION OF ELECTRIC ENERGY FOR
14 CUSTOMERS.

15 [(2) AT THE END OF THE TRANSITION PERIOD, THE COMMISSION
16 SHALL PROMULGATE REGULATIONS TO DEFINE THE ELECTRIC
17 DISTRIBUTION COMPANY'S OBLIGATION TO CONNECT AND DELIVER AND
18 ACQUIRE ELECTRICITY UNDER PARAGRAPH (3) THAT WILL EXIST AT
19 THE END OF THE PHASE-IN PERIOD.

20 (3) IF A CUSTOMER CONTRACTS FOR ELECTRIC ENERGY AND IT
21 IS NOT DELIVERED OR IF A CUSTOMER DOES NOT CHOOSE AN
22 ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE ELECTRIC
23 DISTRIBUTION COMPANY OR COMMISSION-APPROVED ALTERNATIVE
24 SUPPLIER SHALL ACQUIRE ELECTRIC ENERGY AT PREVAILING MARKET
25 PRICES TO SERVE THAT CUSTOMER AND SHALL RECOVER FULLY ALL
26 REASONABLE COSTS.]

27 (3.1) FOLLOWING THE EXPIRATION OF AN ELECTRIC
28 DISTRIBUTION COMPANY'S OBLIGATION TO PROVIDE ELECTRIC
29 GENERATION SUPPLY SERVICE TO RETAIL CUSTOMERS AT CAPPED
30 RATES, IF A CUSTOMER CONTRACTS FOR ELECTRIC GENERATION SUPPLY

SERVICE AND THE CHOSEN ELECTRIC GENERATION SUPPLIER DOES NOT
PROVIDE THE SERVICE OR IF A CUSTOMER DOES NOT CHOOSE AN
ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE DEFAULT SERVICE
PROVIDER SHALL PROVIDE ELECTRIC GENERATION SUPPLY SERVICE TO
THAT CUSTOMER PURSUANT TO A COMMISSION-APPROVED COMPETITIVE
PROCUREMENT PLAN. THE ELECTRIC POWER ACQUIRED SHALL BE
PROCURED THROUGH COMPETITIVE PROCUREMENT PROCESSES AND SHALL
INCLUDE ONE OR MORE OF THE FOLLOWING:

(I) AUCTIONS.

(II) REQUESTS FOR PROPOSAL.

(III) BILATERAL AGREEMENTS ENTERED INTO AT THE SOLE
DISCRETION OF THE DEFAULT SERVICE PROVIDER WHICH SHALL BE
AT PRICES WHICH ARE:

(A) NO GREATER THAN THE COST OF OBTAINING
GENERATION UNDER COMPARABLE TERMS IN THE WHOLESALE
MARKET, AS DETERMINED BY THE COMMISSION AT THE TIME
OF EXECUTION OF THE CONTRACT; OR

(B) CONSISTENT WITH A COMMISSION-APPROVED
COMPETITION PROCUREMENT PROCESS. ANY AGREEMENT
BETWEEN AFFILIATED PARTIES SHALL BE SUBJECT TO REVIEW
AND APPROVAL OF THE PENNSYLVANIA PUBLIC UTILITY
COMMISSION UNDER CHAPTER 21 (RELATING TO RELATIONS
WITH AFFILIATED INTERESTS). IN NO CASE SHALL THE COST
OF OBTAINING GENERATION FROM ANY AFFILIATED INTEREST
BE GREATER THAN THE COST OF OBTAINING GENERATION
UNDER COMPARABLE TERMS IN THE WHOLESALE MARKET AT THE
TIME OF EXECUTION OF THE CONTRACT.

(3.2) THE ELECTRIC POWER PROCURED PURSUANT TO PARAGRAPH
(3.1) SHALL INCLUDE A PRUDENT MIX OF THE FOLLOWING:

(I) SPOT MARKET PURCHASES.

1 (II) SHORT-TERM CONTRACTS.

2 (III) LONG-TERM PURCHASE CONTRACTS, ENTERED INTO AS
3 A RESULT OF AN AUCTION, REQUEST FOR PROPOSAL OR BILATERAL
4 CONTRACT THAT IS FREE OF UNDUE INFLUENCE, DURESS OR
5 FAVORITISM, OF MORE THAN FOUR AND NOT MORE THAN 20 YEARS.
6 THE DEFAULT SERVICE PROVIDER SHALL HAVE SOLE DISCRETION
7 TO DETERMINE THE SOURCE AND FUEL TYPE. LONG-TERM PURCHASE
8 CONTRACTS UNDER THIS SUBPARAGRAPH MAY NOT CONSTITUTE MORE
9 THAN 25% OF THE DEFAULT SERVICE PROVIDER'S PROJECTED
10 DEFAULT SERVICE LOAD UNLESS THE COMMISSION, AFTER A
11 HEARING, DETERMINES FOR GOOD CAUSE THAT A GREATER PORTION
12 OF LOAD IS NECESSARY TO ACHIEVE LEAST COST PROCUREMENT.
13 THIS SUBPARAGRAPH SHALL NOT APPLY TO CONTRACTS EXECUTED
14 UNDER PARAGRAPH (5).

15 (3.3) THE COMMISSION MAY DETERMINE THAT A CONTRACT IS
16 REQUIRED TO BE EXTENDED FOR A LONGER TERM OF UP TO 20 YEARS,
17 IF THE EXTENSION IS NECESSARY TO ENSURE ADEQUATE AND RELIABLE
18 SERVICE AT LEAST COST TO CUSTOMERS OVER TIME.

19 (3.4) THE PRUDENT MIX OF CONTRACTS ENTERED INTO PURSUANT
20 TO PARAGRAPHS (3.2) AND (3.3) SHALL BE DESIGNED TO ENSURE:

21 (I) ADEQUATE AND RELIABLE SERVICE.

22 (II) THE LEAST COST TO CUSTOMERS OVER TIME.

23 (III) COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH
24 (3.1).

25 (3.5) EXCEPT AS SET FORTH IN PARAGRAPH (5)(II), THE
26 PROVISIONS OF THIS SECTION SHALL APPLY TO ANY TYPE OF ENERGY
27 PURCHASED BY A DEFAULT SERVICE PROVIDER TO PROVIDE ELECTRIC
28 GENERATION SUPPLY SERVICE, INCLUDING ENERGY OR ALTERNATIVE
29 ENERGY PORTFOLIO STANDARDS CREDITS REQUIRED TO BE PURCHASED
30 UNDER THE ACT OF NOVEMBER 30, 2004 (P.L.1672, NO.213), KNOWN

1 AS THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT. THE
2 COMMISSION SHALL APPLY PARAGRAPH (3.4) TO COMPARABLE TYPES OF
3 ENERGY SOURCES.

4 (3.6) THE DEFAULT SERVICE PROVIDER SHALL FILE A PLAN FOR
5 COMPETITIVE PROCUREMENT WITH THE COMMISSION AND OBTAIN
6 COMMISSION APPROVAL OF THE PLAN CONSIDERING THE STANDARDS IN
7 PARAGRAPHS (3.1), (3.2), (3.3) AND (3.4) BEFORE THE
8 COMPETITIVE PROCESS IS IMPLEMENTED. THE COMMISSION SHALL HOLD
9 HEARINGS AS NECESSARY ON THE PROPOSED PLAN. IF THE COMMISSION
10 FAILS TO ISSUE A FINAL ORDER ON THE PLAN WITHIN NINE MONTHS
11 OF THE DATE THAT THE PLAN IS FILED, THE PLAN SHALL BE DEEMED
12 TO BE APPROVED AND THE DEFAULT SERVICE PROVIDER MAY IMPLEMENT
13 THE PLAN AS FILED. COSTS INCURRED THROUGH AN APPROVED
14 COMPETITIVE PROCUREMENT PLAN SHALL BE DEEMED TO BE THE LEAST
15 COST OVER TIME AS REQUIRED UNDER PARAGRAPH (3.4)(II).

16 (3.7) AT THE TIME THE COMMISSION EVALUATES THE PLAN AND
17 PRIOR TO APPROVAL, IN DETERMINING IF THE DEFAULT ELECTRIC
18 SERVICE PROVIDER'S PLAN OBTAINS GENERATION SUPPLY AT THE
19 LEAST COST, THE COMMISSION SHALL CONSIDER THE DEFAULT SERVICE
20 PROVIDER'S OBLIGATION TO PROVIDE ADEQUATE AND RELIABLE
21 SERVICE TO CUSTOMERS AND THAT THE DEFAULT SERVICE PROVIDER
22 HAS OBTAINED A PRUDENT MIX OF CONTRACTS TO OBTAIN LEAST COST
23 ON A LONG-TERM, SHORT-TERM AND SPOT MARKET BASIS AND SHALL
24 MAKE SPECIFIC FINDINGS WHICH SHALL INCLUDE THE FOLLOWING:

25 (I) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES
26 PRUDENT STEPS NECESSARY TO NEGOTIATE FAVORABLE GENERATION
27 SUPPLY CONTRACTS.

28 (II) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES
29 PRUDENT STEPS NECESSARY TO OBTAIN LEAST COST GENERATION
30 SUPPLY CONTRACTS ON A LONG-TERM, SHORT-TERM AND SPOT

1 MARKET BASIS.

2 (III) NEITHER THE DEFAULT SERVICE PROVIDER NOR ITS
3 AFFILIATED INTEREST HAS WITHHELD FROM THE MARKET ANY
4 GENERATION SUPPLY IN A MANNER THAT VIOLATES FEDERAL LAW.

5 (3.8) NOTWITHSTANDING SECTIONS 508 (RELATING TO POWER OF
6 COMMISSION TO VARY, REFORM AND REVISE CONTRACTS) AND 2102
7 (RELATING TO APPROVAL OF CONTRACTS WITH AFFILIATED
8 INTERESTS), THE COMMISSION MAY MODIFY CONTRACTS OR DISALLOW
9 COSTS ONLY WHEN THE PARTY SEEKING RECOVERY OF THE COSTS OF A
10 PROCUREMENT PLAN IS, AFTER HEARING, FOUND TO BE AT FAULT FOR
11 THE FOLLOWING:

12 (I) NOT COMPLYING WITH THE COMMISSION-APPROVED
13 PROCUREMENT PLAN; OR

14 (II) THE COMMISSION OF FRAUD, COLLUSION OR MARKET
15 MANIPULATION WITH REGARD TO THESE CONTRACTS.

16 (3.9) THE DEFAULT SERVICE PROVIDER SHALL HAVE THE RIGHT
17 TO RECOVER ON A FULL AND CURRENT BASIS, PURSUANT TO A
18 RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER SECTION 1307
19 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), ALL
20 REASONABLE COSTS INCURRED UNDER THIS SECTION AND A
21 COMMISSION-APPROVED COMPETITIVE PROCUREMENT PLAN.

22 (4) IF A CUSTOMER THAT CHOOSES AN ALTERNATIVE SUPPLIER
23 AND SUBSEQUENTLY DESIRES TO RETURN TO THE LOCAL DISTRIBUTION
24 COMPANY FOR GENERATION SERVICE, THE LOCAL DISTRIBUTION
25 COMPANY SHALL TREAT THAT CUSTOMER EXACTLY AS IT WOULD ANY NEW
26 APPLICANT FOR ENERGY SERVICE.

27 (5) (I) NOTWITHSTANDING PARAGRAPH [(3)] (3.1), THE
28 ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED
29 ALTERNATIVE SUPPLIER MAY, IN ITS SOLE DISCRETION, OFFER
30 LARGE CUSTOMERS WITH A PEAK DEMAND OF 15 MEGAWATTS OR

1 GREATER AT ONE METER AT A LOCATION IN ITS SERVICE
2 TERRITORY ANY NEGOTIATED RATE FOR SERVICE AT ALL OF THE
3 CUSTOMERS' LOCATIONS WITHIN THE SERVICE TERRITORY FOR ANY
4 DURATION AGREED UPON BY THE ELECTRIC DISTRIBUTION COMPANY
5 OR COMMISSION-APPROVED ALTERNATIVE SUPPLIER AND THE LARGE
6 CUSTOMER. THE COMMISSION SHALL PERMIT, BUT SHALL NOT
7 REQUIRE, AN ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-
8 APPROVED ALTERNATIVE SUPPLIER TO PROVIDE SERVICE TO LARGE
9 CUSTOMERS UNDER THIS PARAGRAPH. CONTRACT RATES ENTERED
10 INTO UNDER THIS PARAGRAPH SHALL BE SUBJECT TO REVIEW BY
11 THE COMMISSION IN ORDER TO ENSURE THAT ALL COSTS RELATED
12 TO THE RATES ARE BORNE BY THE PARTIES TO THE CONTRACT AND
13 THAT NO COSTS RELATED TO THE RATES ARE BORNE BY OTHER
14 CUSTOMERS OR CUSTOMER CLASSES. IF NO COSTS RELATED TO THE
15 RATES ARE BORNE BY OTHER CUSTOMERS OR CUSTOMER CLASSES,
16 THE COMMISSION SHALL APPROVE THE CONTRACT WITHIN 90 DAYS
17 OF ITS FILING, OR IT SHALL BE DEEMED APPROVED BY
18 OPERATION OF LAW UPON EXPIRATION OF THE 90 DAYS.
19 INFORMATION SUBMITTED UNDER THIS PARAGRAPH SHALL BE
20 SUBJECT TO THE COMMISSION'S PROCEDURES FOR THE FILING OF
21 CONFIDENTIAL AND PROPRIETARY INFORMATION.

22 (II) FOR PURPOSES OF PROVIDING SERVICE UNDER THIS
23 PARAGRAPH TO CUSTOMERS WITH A PEAK DEMAND OF 20 MEGAWATTS
24 OR GREATER AT ONE METER AT A LOCATION WITHIN THAT
25 DISTRIBUTION COMPANY'S SERVICE TERRITORY, AN ELECTRIC
26 DISTRIBUTION COMPANY THAT HAS COMPLETED ITS RESTRUCTURING
27 TRANSITION PERIOD AS OF THE EFFECTIVE DATE OF THIS
28 PARAGRAPH MAY, IN ITS SOLE DISCRETION, ACQUIRE AN
29 INTEREST IN A GENERATION FACILITY OR CONSTRUCT A
30 GENERATION FACILITY SPECIFICALLY TO MEET THE ENERGY

1 REQUIREMENTS OF THE CUSTOMERS, INCLUDING THE ELECTRIC
2 REQUIREMENTS OF THE CUSTOMERS' OTHER BILLING LOCATIONS
3 WITHIN ITS SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION
4 COMPANY MUST COMMENCE CONSTRUCTION OF THE GENERATION
5 FACILITY OR CONTRACT TO ACQUIRE THE GENERATION INTEREST
6 WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS
7 PARAGRAPH, EXCEPT THAT THE ELECTRIC DISTRIBUTION COMPANY
8 MAY ADD TO THE GENERATION FACILITIES IT COMMENCED
9 CONSTRUCTION OR CONTRACTED TO ACQUIRE AFTER THIS THREE-
10 YEAR PERIOD TO SERVE ADDITIONAL LOAD OF CUSTOMERS FOR
11 WHOM IT COMMENCED CONSTRUCTION OR CONTRACTED TO ACQUIRE
12 GENERATION WITHIN THREE YEARS. NOTHING IN THIS PARAGRAPH
13 REQUIRES OR AUTHORIZES THE COMMISSION TO REQUIRE AN
14 ELECTRIC DISTRIBUTION COMPANY TO COMMENCE CONSTRUCTION OR
15 ACQUIRE AN INTEREST IN A GENERATION FACILITY. THE
16 ELECTRIC DISTRIBUTION COMPANY'S INTEREST IN THE
17 GENERATION FACILITY IT BUILT OR CONTRACTED TO ACQUIRE
18 SHALL BE NO LARGER THAN NECESSARY TO MEET PEAK DEMAND OF
19 CUSTOMERS SERVED UNDER THIS SUBPARAGRAPH. DURING TIMES
20 WHEN THE CUSTOMER'S DEMAND IS LESS THAN THE ELECTRIC
21 DISTRIBUTION COMPANY'S GENERATION INTEREST, THE ELECTRIC
22 DISTRIBUTION COMPANY MAY SELL EXCESS POWER ON THE
23 WHOLESALE MARKET. AT NO TIME SHALL THE COSTS ASSOCIATED
24 WITH THE GENERATING FACILITY INTERESTS BE INCLUDED IN
25 RATE BASE OR OTHERWISE REFLECTED IN RATES. THE GENERATION
26 FACILITY INTERESTS SHALL NOT BE COMMISSION-REGULATED
27 ASSETS.

28 (6) A DEFAULT SERVICE PLAN APPROVED BY THE COMMISSION
29 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN
30 EFFECT THROUGH ITS APPROVED TERM. AT ITS SOLE DISCRETION, THE

1 DEFAULT SERVICE PROVIDER MAY PROPOSE AMENDMENTS TO ITS
2 APPROVED PLAN THAT ARE CONSISTENT WITH THIS SECTION, AND THE
3 COMMISSION SHALL ISSUE A DECISION WHETHER TO APPROVE OR
4 DISAPPROVE THE PROPOSED AMENDMENTS WITHIN NINE MONTHS OF THE
5 DATE THAT THE AMENDMENTS ARE FILED. IF THE COMMISSION FAILS
6 TO ISSUE A FINAL ORDER WITHIN NINE MONTHS, THE AMENDMENTS
7 SHALL BE DEEMED TO BE APPROVED AND THE DEFAULT SERVICE
8 PROVIDER MAY IMPLEMENT THE AMENDMENTS AS FILED.

9 (7) THE DEFAULT SERVICE PROVIDER SHALL OFFER RESIDENTIAL
10 AND SMALL BUSINESS CUSTOMERS A GENERATION SUPPLY SERVICE RATE
11 THAT SHALL CHANGE NO MORE FREQUENTLY THAN ON A QUARTERLY
12 BASIS. ALL DEFAULT SERVICE RATES SHALL BE REVIEWED BY THE
13 COMMISSION TO ENSURE THAT THE COSTS OF PROVIDING SERVICE TO
14 EACH CUSTOMER CLASS ARE NOT SUBSIDIZED BY ANY OTHER CLASS.

15 (F) SMART METER TECHNOLOGY AND TIME OF USE RATES.--

16 (1) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS
17 PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL FILE A SMART
18 METER TECHNOLOGY PROCUREMENT AND INSTALLATION PLAN WITH THE
19 COMMISSION FOR APPROVAL. THE PLAN SHALL DESCRIBE THE SMART
20 METER TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES
21 TO INSTALL IN ACCORDANCE WITH PARAGRAPH (2).

22 (2) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH SMART
23 METER TECHNOLOGY AS FOLLOWS:

24 (I) UPON REQUEST FROM A CUSTOMER THAT AGREES TO PAY
25 THE COST OF THE SMART METER AT THE TIME OF THE REQUEST.

26 (II) IN NEW BUILDING CONSTRUCTION.

27 (III) IN ACCORDANCE WITH A DEPRECIATION SCHEDULE NOT
28 TO EXCEED 15 YEARS.

29 (3) ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER
30 CONSENT, MAKE AVAILABLE DIRECT METER ACCESS AND ELECTRONIC

1 ACCESS TO CUSTOMER METER DATA TO THIRD PARTIES, INCLUDING
2 ELECTRIC GENERATION SUPPLIERS AND PROVIDERS OF CONSERVATION
3 AND LOAD MANAGEMENT SERVICES.

4 (4) IN NO EVENT SHALL LOST OR DECREASED REVENUES BY AN
5 ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ELECTRICITY
6 CONSUMPTION OR SHIFTING ENERGY DEMAND BE CONSIDERED ANY OF
7 THE FOLLOWING:

8 (I) A COST OF SMART METER TECHNOLOGY RECOVERABLE
9 UNDER A RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER
10 SECTION 1307(B), EXCEPT THAT DECREASED REVENUES AND
11 REDUCED ENERGY CONSUMPTION MAY BE REFLECTED IN THE
12 REVENUE AND SALES DATA USED TO CALCULATE RATES IN A
13 DISTRIBUTION RATE BASE RATE PROCEEDING FILED UNDER
14 SECTION 1308 (RELATING TO VOLUNTARY CHANGE IN RATES).

15 (II) A RECOVERABLE COST.

16 (5) BY JANUARY 1, 2010, OR AT THE END OF THE APPLICABLE
17 GENERATION RATE CAP PERIOD, WHICHEVER IS LATER, A DEFAULT
18 SERVICE PROVIDER SHALL SUBMIT TO THE COMMISSION ONE OR MORE
19 PROPOSED TIME-OF-USE RATES AND REAL-TIME PRICE PLANS. THE
20 COMMISSION SHALL APPROVE OR MODIFY THE TIME-OF-USE RATES AND
21 REAL-TIME PRICE PLAN WITHIN SIX MONTHS OF SUBMITTAL. THE
22 DEFAULT SERVICE PROVIDER SHALL OFFER THE TIME-OF-USE RATES
23 AND REAL-TIME PRICE PLAN TO ALL CUSTOMERS THAT HAVE BEEN
24 PROVIDED WITH SMART METER TECHNOLOGY UNDER PARAGRAPH
25 (2)(III). RESIDENTIAL OR COMMERCIAL CUSTOMERS MAY ELECT TO
26 PARTICIPATE IN TIME-OF-USE RATES OR REAL-TIME PRICING. THE
27 DEFAULT SERVICE PROVIDER SHALL SUBMIT AN ANNUAL REPORT TO THE
28 PRICE PROGRAMS AND THE EFFICACY OF THE PROGRAMS IN AFFECTING
29 ENERGY DEMAND AND CONSUMPTION AND THE EFFECT ON WHOLESALE
30 MARKET PRICES.

1 (6) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO
2 AN ELECTRIC DISTRIBUTION COMPANY WITH 100,000 OR FEWER
3 CUSTOMERS.

4 (7) AN ELECTRIC DISTRIBUTION COMPANY MAY RECOVER
5 REASONABLE AND PRUDENT COSTS OF PROVIDING SMART METER
6 TECHNOLOGY UNDER PARAGRAPH (2)(II) AND (III), AS DETERMINED
7 BY THE COMMISSION. THIS PARAGRAPH INCLUDES ANNUAL
8 DEPRECIATION AND CAPITAL COSTS OVER THE LIFE OF THE SMART
9 METER TECHNOLOGY AND THE COST OF ANY SYSTEM UPGRADES THAT THE
10 ELECTRIC DISTRIBUTION COMPANY MAY REQUIRE TO ENABLE THE USE
11 OF THE SMART METER TECHNOLOGY WHICH ARE INCURRED AFTER THE
12 EFFECTIVE DATE OF THIS PARAGRAPH LESS OPERATING AND CAPITAL
13 COST SAVINGS REALIZED BY THE ELECTRIC DISTRIBUTION COMPANY
14 FROM THE INSTALLATION AND USE OF THE SMART METER TECHNOLOGY.
15 SMART METER TECHNOLOGY SHALL BE DEEMED TO BE A NEW SERVICE
16 OFFERED FOR THE FIRST TIME UNDER SECTION 2804(4)(VI). AN
17 ELECTRIC DISTRIBUTION COMPANY MAY RECOVER SMART METER
18 TECHNOLOGY COSTS:

19 (I) THROUGH BASE RATES, INCLUDING A DEFERRAL FOR
20 FUTURE BASE RATE RECOVERY OF CURRENT BASIS WITH CARRYING
21 CHARGE AS DETERMINED BY THE COMMISSION; OR

22 (II) ON A FULL AND CURRENT BASIS THROUGH A
23 RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER SECTION
24 1307.

25 (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "SMART
26 METER TECHNOLOGY" MEANS TECHNOLOGY, INCLUDING METERING
27 TECHNOLOGY AND NETWORK COMMUNICATIONS TECHNOLOGY CAPABLE OF
28 BIDIRECTIONAL COMMUNICATION, THAT RECORDS ELECTRICITY USAGE ON
29 AT LEAST AN HOURLY BASIS, INCLUDING RELATED ELECTRIC
30 DISTRIBUTION SYSTEM UPGRADES TO ENABLE THE TECHNOLOGY. THE

1 TECHNOLOGY SHALL PROVIDE CUSTOMERS WITH DIRECT ACCESS TO AND USE
2 OF PRICE AND CONSUMPTION INFORMATION. THE TECHNOLOGY SHALL ALSO:

3 (1) DIRECTLY PROVIDE CUSTOMERS WITH INFORMATION ON THEIR
4 HOURLY CONSUMPTION.

5 (2) ENABLE TIME-OF-USE RATES AND REAL-TIME PRICE
6 PROGRAMS.

7 (3) EFFECTIVELY SUPPORT THE AUTOMATIC CONTROL OF THE
8 CUSTOMER'S ELECTRICITY CONSUMPTION BY ONE OR MORE OF THE
9 FOLLOWING AS SELECTED BY THE CUSTOMER:

10 (I) THE CUSTOMER;

11 (II) THE CUSTOMER'S UTILITY; OR

12 (III) A THIRD PARTY ENGAGED BY THE CUSTOMER OR THE
13 CUSTOMER'S UTILITY.

14 SECTION 4. SECTION 2811 OF TITLE 66 IS AMENDED BY ADDING A
15 SUBSECTION TO READ:

16 § 2811. MARKET POWER REMEDIATION.

17 * * *

18 (E.1) MARKET MISCONDUCT.--

19 (1) IF AN ELECTRIC DISTRIBUTION COMPANY OR ANY OF ITS
20 AFFILIATED COMPANIES OR ANY COMPANY THAT AN ELECTRIC
21 DISTRIBUTION COMPANY HAS PURCHASED GENERATION FROM IS FOUND
22 GUILTY OF MARKET MANIPULATION, EXERCISING MARKET POWER OR
23 COLLUSION BY THE FEDERAL ENERGY REGULATORY COMMISSION OR ANY
24 FEDERAL OR STATE COURT OR, IF AN ELECTRIC DISTRIBUTION
25 COMPANY OR ANY ONE OF ITS AFFILIATED COMPANIES OR ANY COMPANY
26 THAT AN ELECTRIC DISTRIBUTION COMPANY HAS PURCHASED
27 GENERATION FROM SETTLES A CLAIM OF MARKET MANIPULATION,
28 EXERCISING MARKET POWER OR COLLUSION THAT IS BROUGHT BY A
29 REGIONAL TRANSMISSION OPERATOR'S MARKET MONITORING UNIT, THE
30 FEDERAL ENERGY REGULATORY COMMISSION OR ANOTHER ENTITY, THE

1 COMMISSION:

2 (I) SHALL DIRECT THE ELECTRIC DISTRIBUTION COMPANY
3 TO TAKE ANY AND ALL REASONABLE ACTION TO QUANTIFY THE
4 EFFECT OF THE MARKET MISCONDUCT UPON PENNSYLVANIA
5 RATEPAYERS.

6 (II) FOLLOWING PUBLIC HEARING ON THE MATTER AND A
7 FINDING OF PUBLIC INTEREST, MAY DIRECT THE ELECTRIC
8 DISTRIBUTION COMPANY TO TAKE ANY AND ALL REASONABLE LEGAL
9 ACTION, INCLUDING THE FILING OF A LAWSUIT AS MAY BE
10 NECESSARY, TO RECOVER THE QUANTIFIED DAMAGES WHICH SHALL
11 BE USED TO RECOMPENSE PENNSYLVANIA RATEPAYERS AFFECTED BY
12 THE MARKET MISCONDUCT.

13 (2) IF THE ELECTRIC DISTRIBUTION COMPANY FAILS TO PURSUE
14 REASONABLE ACTION TO QUANTIFY OR SEEK RECOVERY OF DAMAGES FOR
15 PENNSYLVANIA RATEPAYERS AFFECTED BY MARKET MANIPULATION, THE
16 EXERCISE OF MARKET POWER OR COLLUSION, THE COMMISSION IS
17 AUTHORIZED, FOLLOWING NOTICE AND AN OPPORTUNITY OF THE
18 ELECTRIC DISTRIBUTION COMPANY TO COMPLY OR CONTEST, TO ASSESS
19 A CIVIL PENALTY, WHICH SHALL NOT BE RECOVERED IN RATES, OF
20 NOT MORE THAN \$10,000 PER DAY FOR FAILURE OR NEGLECT TO OBEY
21 AN ORDER OF THE COMMISSION, THE CONTINUANCE OF THE FAILURE OR
22 NEGLECT BEING A SEPARATE OFFENSE.

23 (3) ANY MONETARY DAMAGES RECOVERED BY THE ELECTRIC
24 DISTRIBUTION COMPANY SHALL BE PAID TO AFFECTED PENNSYLVANIA
25 RATEPAYERS IN THE FORM OF A CREDIT TO THEIR ELECTRIC BILLS OR
26 AS REFUNDS.

27 (4) THE PROVISIONS OF THIS SUBSECTION SHALL BE HELD TO
28 BE IN ADDITION TO AND NOT IN SUBSTITUTION FOR OR LIMITATION
29 OF ANY OTHER PROVISIONS OF THIS TITLE.

30 * * *

SECTION 5. TITLE 66 IS AMENDED BY ADDING SECTIONS TO READ:

§ 2813. PROCUREMENT OF POWER.

EXCEPT AS PROVIDED UNDER THE ACT OF NOVEMBER 30, 2004
(P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO
STANDARDS ACT, THE COMMISSION MAY NOT ORDER A DEFAULT SERVICE
PROVIDER TO PROCURE POWER FROM A SPECIFIC GENERATION SUPPLIER,
FROM A SPECIFIC GENERATION FUEL TYPE OR FROM NEW GENERATION
ONLY.

§ 2814. ADDITIONAL ALTERNATIVE ENERGY SOURCES.

(A) ALTERNATIVE ENERGY SOURCES.--THE TERM "ALTERNATIVE
ENERGY SOURCES" AS DEFINED UNDER SECTION 2 OF THE ACT OF
NOVEMBER 30, 2004 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE
ENERGY PORTFOLIO STANDARDS ACT, SHALL ALSO INCLUDE LOW-IMPACT
HYDROPOWER CONSISTING OF ANY TECHNOLOGY THAT PRODUCES ELECTRIC
POWER AND THAT HARNESSSES THE HYDROELECTRIC POTENTIAL OF MOVING
WATER IMPOUNDMENTS IF ONE OF THE FOLLOWING APPLIES:

(1) (I) THE HYDROPOWER SOURCE HAS A FEDERAL ENERGY
REGULATORY COMMISSION LICENSED CAPACITY OF 21 MEGAWATTS
OR LESS; AND

(II) THE LICENSE FOR THE HYDROPOWER SOURCE WAS
ISSUED BY THE FEDERAL ENERGY REGULATORY COMMISSION ON OR
PRIOR TO JANUARY 1, 1984, AND HELD ON JULY 1, 2007, IN
WHOLE OR IN PART BY A MUNICIPALITY LOCATED WHOLLY WITHIN
THIS COMMONWEALTH OR BY AN ELECTRIC COOPERATIVE
INCORPORATED IN THIS COMMONWEALTH.

(2) THE INCREMENTAL HYDROELECTRIC DEVELOPMENT:

(I) DOES NOT ADVERSELY CHANGE EXISTING IMPACTS TO
AQUATIC SYSTEMS;

(II) MEETS THE CERTIFICATION STANDARDS ESTABLISHED
BY THE LOW IMPACT HYDROPOWER INSTITUTE AND AMERICAN

1 RIVERS, INC., OR THEIR SUCCESSORS;

2 (III) PROVIDES AN ADEQUATE WATER FLOW FOR PROTECTION
3 OF AQUATIC LIFE AND FOR SAFE AND EFFECTIVE FISH PASSAGE;

4 (IV) PROTECTS AGAINST EROSION; AND

5 (V) PROTECTS CULTURAL AND HISTORIC RESOURCES.

6 (B) BIOMASS.--THE TERM "BIOMASS ENERGY" AS DEFINED UNDER
7 SECTION 2 OF THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT
8 SHALL ALSO INCLUDE THE GENERATION OF ELECTRICITY UTILIZING BY-
9 PRODUCTS OF THE PULPING PROCESS AND WOOD MANUFACTURING PROCESS,
10 INCLUDING BARK, WOOD CHIPS, SAWDUST AND LIGNINS IN SPENT PULPING
11 LIQUORS. ELECTRICITY FROM BIOMASS ENERGY UNDER THIS SUBSECTION
12 GENERATED INSIDE THIS COMMONWEALTH SHALL BE ELIGIBLE AS A TIER I
13 ALTERNATIVE ENERGY SOURCE. ELECTRICITY FROM BIOMASS ENERGY UNDER
14 THIS SUBSECTION GENERATED OUTSIDE THIS COMMONWEALTH SHALL BE
15 ELIGIBLE AS A TIER II ALTERNATIVE ENERGY SOURCE.

16 (C) INCREASE IN TIER I.--THE COMMISSION SHALL AT LEAST
17 QUARTERLY INCREASE THE PERCENTAGE SHARE OF TIER I ALTERNATIVE
18 ENERGY SOURCES REQUIRED TO BE SOLD BY AN ELECTRIC DISTRIBUTION
19 COMPANY OR ELECTRIC GENERATION SUPPLIER UNDER SECTION 3(B)(1) OF
20 THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT TO REFLECT ANY
21 NEW BIOMASS ENERGY OR LOW-IMPACT HYDROPOWER RESOURCES THAT
22 QUALIFY AS A TIER I ALTERNATIVE ENERGY SOURCE UNDER THIS
23 SECTION. NO NEW RESOURCE QUALIFYING AS BIOMASS ENERGY OR LOW-
24 IMPACT HYDROPOWER UNDER THIS SECTION SHALL BE ELIGIBLE TO
25 GENERATE TIER I ALTERNATIVE ENERGY CREDITS UNTIL THE COMMISSION
26 HAS INCREASED THE PERCENTAGE SHARE OF TIER I TO REFLECT THESE
27 ADDITIONAL RESOURCES.

28 § 2815. CARBON DIOXIDE SEQUESTRATION NETWORK.

29 (A) ASSESSMENT.--

30 (1) BY APRIL 1, 2009, THE DEPARTMENT SHALL COMPLETE A

1 STUDY TO IDENTIFY SUITABLE GEOLOGICAL FORMATIONS, INCLUDING
2 SITES WITHIN OR IN PROXIMITY TO THE MEDINA, TUSCARORA OR
3 ORISKANY SANDSTONE FORMATION FOR THE LOCATION OF A STATE
4 NETWORK.

5 (2) BY JUNE 1, 2009, THE DEPARTMENT, IN CONSULTATION
6 WITH THE COMMISSION, SHALL HIRE ONE OR MORE INDEPENDENT
7 EXPERTS PURSUANT TO 62 PA.C.S. PT. I (RELATING TO
8 COMMONWEALTH PROCUREMENT CODE), AS NECESSARY, TO CONDUCT AN
9 ASSESSMENT OF THE FOLLOWING:

10 (I) ESTIMATES OF CAPITAL REQUIREMENTS AND
11 EXPENDITURES NECESSARY FOR THE ESTABLISHMENT, OPERATION
12 AND MAINTENANCE OF A STATE NETWORK.

13 (II) THE COLLECTION OF DATA TO ALLOW A SAFETY
14 ASSESSMENT.

15 (III) AN ASSESSMENT OF ALL POTENTIAL RISK TO
16 INDIVIDUALS, PROPERTY AND THE ENVIRONMENT ASSOCIATED WITH
17 THE GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE IN A STATE
18 NETWORK. THE ASSESSMENT, WHICH SHALL BE COMPLETED BY
19 OCTOBER 1, 2009, SHALL INCLUDE AN ANALYSIS OF THE
20 FOLLOWING:

21 (A) EXISTING FEDERAL AND STATE REGULATORY
22 STANDARDS FOR THE STORAGE OF CARBON DIOXIDE.

23 (B) FACTORS CONTAINED IN THE UNITED STATES
24 ENVIRONMENTAL PROTECTION AGENCY'S VULNERABILITY
25 EVALUATION FRAMEWORK FOR GEOLOGIC SEQUESTRATION OF
26 CARBON DIOXIDE (EPA 430-R-08-009, DATED JULY 10,
27 2008).

28 (C) THE DIFFERENT TYPES OF INSURANCE, BONDS,
29 OTHER INSTRUMENTS AND RECOMMENDED LEVELS OF INSURANCE
30 WHICH SHOULD BE CARRIED BY THE OPERATOR OF THE STATE

1 NETWORK DURING THE CONSTRUCTION AND OPERATION OF THE
2 STATE NETWORK.

3 (D) THE AVAILABILITY OF COMMERCIAL INSURANCE.

4 (E) MODELS FOR THE ESTABLISHMENT OF A
5 COMMONWEALTH FUND TO PROVIDE PROTECTION AGAINST RISK
6 TO BE FUNDED BY THE OPERATOR.

7 (B) TRANSMISSION OF STUDY AND ASSESSMENT. - -

8 (1) THE DEPARTMENT SHALL SUBMIT THE STUDY CONDUCTED
9 UNDER SUBSECTION (A)(1) TO THE GOVERNOR, THE CHAIRMAN AND
10 MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY
11 COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY CHAIRMAN
12 OF THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE
13 HOUSE OF REPRESENTATIVES AND THE DEPARTMENT NO LATER THAN MAY
14 1, 2009.

15 (2) THE INDEPENDENT EXPERT SHALL SUBMIT THE FINAL
16 ASSESSMENT UNDER SUBSECTION (A)(2) TO THE GOVERNOR, THE
17 CHAIRMAN AND MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES
18 AND ENERGY COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY
19 CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE
20 OF THE HOUSE OF REPRESENTATIVES AND THE DEPARTMENT NO LATER
21 THAN NOVEMBER 1, 2009.

22 (C) DEPARTMENT. - -THE FOLLOWING SHALL APPLY:

23 (1) THE DEPARTMENT SHALL REVIEW THE ASSESSMENT SUBMITTED
24 UNDER SUBSECTION (A)(2) AND ALL GEOLOGIC SEQUESTRATION
25 REQUIREMENTS ASSOCIATED WITH A STATE NETWORK, INCLUDING
26 GEOLOGICAL SITE CHARACTERIZATION, MODELING AND VERIFICATION
27 OF FLUID MOVEMENT, CORRECTIVE ACTION, WELL CONSTRUCTION,
28 OPERATION, MECHANICAL INTEGRITY TESTING, MONITORING AND SITE
29 CLOSURE.

30 (2) FOLLOWING THE REVIEW UNDER PARAGRAPH (1), THE

1 DEPARTMENT MAY CONDUCT A PILOT PROJECT TO DETERMINE THE
2 VIABILITY OF ESTABLISHING A STATE NETWORK IN THIS
3 COMMONWEALTH.

4 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
5 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
6 SUBSECTION:

7 "CARBON DIOXIDE SEQUESTRATION." THE STORAGE OF CARBON
8 DIOXIDE IN A SUPERCRITICAL PHASE WITHIN A GEOLOGICAL SUBSURFACE
9 FORMATION SUCH AS A DEEP SALINE AQUIFER WITH SUITABLE CAP ROCK,
10 SEALING FAULTS AND ANTICLINES THAT INCLUDES COMPRESSION,
11 DEHYDRATION AND LEAK DETECTION MONITORING EQUIPMENT AND
12 PIPELINES TO TRANSPORT CARBON DIOXIDE CAPTURED BY AN ADVANCED
13 COAL COMBUSTION WITH LIMITED CARBON EMISSIONS PLANT TO AN
14 UNDERGROUND STORAGE SITE. THE TERM SHALL NOT INCLUDE USE OF THE
15 CARBON DIOXIDE FOR ENHANCED OIL RECOVERY.

16 "DEPARTMENT." THE DEPARTMENT OF CONSERVATION AND NATURAL
17 RESOURCES OF THE COMMONWEALTH.

18 "STATE NETWORK." A CARBON DIOXIDE SEQUESTRATION NETWORK
19 ESTABLISHED ON LANDS OWNED BY THE COMMONWEALTH, OR LANDS ON
20 WHICH THE COMMONWEALTH HAS ACQUIRED THE RIGHT TO STORE CARBON
21 DIOXIDE, THAT HAVE BEEN DESIGNATED BY THE DEPARTMENT OF
22 CONSERVATION AND NATURAL RESOURCES FOR THE STORAGE OF CARBON
23 DIOXIDE.

24 SECTION 6. THIS ACT SHALL TAKE EFFECT IN 30 DAYS.