

PUBLIC UTILITIES (66 PA.C.S.) - ALTERNATIVE RATEMAKING FOR
UTILITIES

Act of Jun. 28, 2018, P.L. 417, No. 58

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HB 1782

AN ACT

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in rates and distribution systems, providing for alternative ratemaking for utilities.

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

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

§ 1330. Alternative ratemaking for utilities.

(a) **Declaration of policy.--**The General Assembly finds and declares as follows:

(1) Innovations in utility operations and information technologies are creating new opportunities for all customers, and it is in the public interest for the commission to approve just and reasonable rates and rate mechanisms to facilitate customer access to these new opportunities while ensuring that utility infrastructure costs are reasonably allocated to and recovered from customers and market participants consistent with the use of the infrastructure.

(2) It is the policy of the Commonwealth that utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with the efficient consumption of utility service.

(b) **Alternative rate mechanisms.--**

(1) Notwithstanding any other provision of law, including, but not limited to, sections 2806.1(k)(2) (relating to energy efficiency and conservation program) and 2807(f)(4) (relating to duties of electric distribution companies), the commission may approve an application by a utility in a base rate proceeding to establish alternative rates and rate mechanisms, including, but not limited to, the following mechanisms:

- (i) decoupling mechanisms;
- (ii) performance-based rates;
- (iii) formula rates;
- (iv) multiyear rate plans; or

(v) rates based on a combination of more than one of the mechanisms in subparagraphs (i), (ii), (iii) and (iv) or other ratemaking mechanisms as provided under this chapter.

(2) An alternative rate mechanism established under this section may include rates under section 1307 (relating to sliding scale of rates; adjustments) or 1308 (relating to voluntary changes in rates) and may provide for recovery of returns on and return of capital investments or, in the case of city natural gas distribution operations, recovery under the cash flow ratemaking method.

(3) Capital costs and expenses recovered through alternative rates and rate mechanisms shall be reasonable and prudently incurred and used and useful in providing service. Nothing in this paragraph shall be construed to prohibit or limit the recovery of revenue, as appropriate, under a commission-approved performance-based rate plan.

(c) Customer notice.--

(1) A utility shall notify a customer of all of the following:

(i) The filing of an application under subsection (b)(1).

(ii) The commission's decision on the application.

(iii) A summary and, if applicable, a schedule of the rate adjustments that will occur as a result of the commission's approval of a utility application under subsection (b) and the effective date of the adjustments.

(iv) Any other information required by the commission by regulation or order.

(2) Notice shall be provided through customer bill inserts and posted on the utility's publicly accessible Internet website.

(d) Commission.--No later than six months after the effective date of this subsection, the commission, by regulation or order, shall prescribe the specific procedures for the approval of an application to establish alternative rates.

(e) Construction.--Nothing in this section shall be construed as limiting the existing ratemaking authority of the commission or be construed to invalidate or void any rate mechanisms approved by the commission prior to the effective date of this section.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Decoupling mechanism." As follows:

(1) A rate mechanism that reconciles authorized distribution rates or revenues for differences between the projected sales used to set rates and actual sales, which may include, but not be limited to, adjustments resulting from fluctuations in the number of customers served and other adjustments deemed appropriate by the commission.

(2) In the case of water and wastewater, a rate mechanism that adjusts or reconciles authorized rates or revenues for differences between sales used to set rates and actual sales, which may include, but not be limited to, adjustments resulting from fluctuations in the number of customers served and other adjustments deemed appropriate by the commission.

"Formula rates." Rates that are periodically adjusted based on a predetermined formula without the need for a full base rate proceeding.

"Multiyear rate plan." A rate mechanism under which the commission sets base rates and revenue requirements for a multiyear plan period and authorizes periodic changes in base rates, including, but not limited to, adjustments to account for inflation and capital investments without the necessity for base rate proceedings during the approved plan period.

"Performance-based rates." Rates that are set or adjusted based on a public utility's financial or operating performance. Such mechanisms can be part of, or in addition to, existing rate base/rate of return ratemaking or cash flow ratemaking method and may include capital costs and return thereon.

"Utility." As defined in section 1351 (relating to definitions).

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

APPROVED--The 28th day of June, A.D. 2018.

TOM WOLF