

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1398 Session of 2021

INTRODUCED BY QUINN, HILL-EVANS, ROZZI, NEILSON, WEBSTER AND
CIRESI, MAY 14, 2021

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 14, 2021

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in restructuring of electric utility
3 industry, further providing for energy efficiency and
4 conservation program.

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

7 Section 1. Section 2806.1(b)(1)(i)(G) and (H), (f)(1)(i) and
8 (ii) and (2)(i), (g), (k) and (m) of Title 66 of the
9 Pennsylvania Consolidated Statutes are amended and the section
10 is amended by adding a subsection to read:

11 § 2806.1. Energy efficiency and conservation program.

12 * * *

13 (b) Duties of electric distribution companies.--

14 (1) (i) [By July 1, 2009, each] Each electric
15 distribution company shall develop and file an energy
16 efficiency and conservation plan with the commission for
17 approval to meet the requirements of subsection (a) and
18 the requirements for reduction in consumption under
19 subsections (c) and (d). The plan shall be implemented

1 upon approval by the commission. The following are the
2 plan requirements:

3 * * *

4 (G) The plan shall include specific energy
5 efficiency measures for households at or below [150%]
6 200% of the Federal poverty income guidelines. The
7 number of measures shall be proportionate to those
8 households' share of the total energy usage in the
9 service territory. The electric distribution company
10 shall coordinate measures under this clause with
11 other programs administered by the commission or
12 another Federal or State agency. The expenditures of
13 an electric distribution company under this clause
14 shall be in addition to expenditures made under 52
15 Pa. Code Ch. 58 (relating to residential low income
16 usage reduction programs).

17 (H) The plan shall include a proposed cost-
18 recovery tariff mechanism, in accordance with
19 [section 1307 (relating to sliding scale of rates;
20 adjustments)] subsection (k), to fund the energy
21 efficiency and conservation measures and to ensure
22 full and current recovery of the prudent and
23 reasonable costs of the plan, including
24 administrative costs, as approved by the commission.

25 * * *

26 (f) Penalties.--

27 (1) The following shall apply for failure to submit a
28 plan:

29 (i) An electric distribution company that fails to
30 file a plan under subsection (b) shall be subject to a

1 civil penalty of not more than \$100,000 per day until the
2 plan is filed.

3 (ii) An electric distribution company that fails to
4 file a revised plan under subsection (e)(2)(ii) shall be
5 subject to a civil penalty of not more than \$100,000 per
6 day until the plan is filed.

7 * * *

8 (2) The following shall apply to an electric
9 distribution company that fails to achieve the reductions in
10 consumption required under subsection (c) or (d):

11 (i) The electric distribution company shall be
12 subject to a civil penalty [not less than \$1,000,000 and
13 not to exceed \$20,000,000] not to exceed \$5,000,000 for
14 failure to achieve the required reductions in consumption
15 under subsection (c) or (d). Any penalty paid by an
16 electric distribution company under this subparagraph
17 shall not be recoverable from ratepayers.

18 * * *

19 [(g) Limitation on costs.--The total cost of any plan
20 required under this section shall not exceed 2% of the electric
21 distribution company's total annual revenue as of December 31,
22 2006. The provisions of this paragraph shall not apply to the
23 cost of low-income usage reduction programs established under 52
24 Pa. Code Ch. 58 (relating to residential low income usage
25 reduction programs).]

26 * * *

27 (k) Recovery.--

28 (1) An electric distribution company shall recover on a
29 full and current basis from customers, through a reconcilable
30 adjustment clause under section 1307, all reasonable and

1 prudent costs incurred in the provision or management of a
2 plan provided under this section. This paragraph shall apply
3 to all electric distribution companies, including electric
4 distribution companies subject to generation or other rate
5 caps.

6 [(2) Except as set forth in paragraph (3), decreased
7 revenues of an electric distribution company due to reduced
8 energy consumption or changes in energy demand shall not be a
9 recoverable cost under a reconcilable automatic adjustment
10 clause.]

11 (2.1) An electric distribution company may recover
12 decreased revenues due to reduced energy consumption or
13 changes in energy demand through a full revenue decoupling
14 mechanism. Upward rate adjustments as a result of a full
15 revenue duplicating mechanism may not be greater than 2% of
16 rates approved in the electric distribution company's most
17 recent base rate case.

18 (3) Decreased revenue and reduced energy consumption may
19 be reflected in revenue and sales data used to calculate
20 rates in a distribution-base rate proceeding filed by an
21 electric distribution company under section 1308 (relating to
22 voluntary changes in rates).

23 (k.1) Incentives.--An energy efficiency and conservation
24 plan filed by an electric distribution company under this
25 section may include a financial incentive mechanism for the
26 electric distribution company. Payment and design of a financial
27 incentive authorized in the plan is subject to the approval of
28 the commission. The total amount of a financial incentive shall
29 be based upon the achievement of energy savings and peak demand
30 reduction goals established by the commission and may not exceed

1 the lesser of the following amounts:

2 (1) ten percent of the net benefits experienced by the
3 electric distribution company's customers as a result of
4 implementation of the energy efficiency and conservation
5 plan; or

6 (2) eight percent of the electric distribution company's
7 actual expenditures on energy efficiency conservation
8 measures for the year.

9 * * *

10 (m) Definitions.--As used in this section, the following
11 words and phrases shall have the meanings given to them in this
12 subsection:

13 "Conservation service provider." An entity that provides
14 information and technical assistance on measures to enable a
15 person to increase energy efficiency or reduce energy
16 consumption and that has no direct or indirect ownership,
17 partnership or other affiliated interest with an electric
18 distribution company.

19 ["Electric distribution company total annual revenue."
20 Amounts paid to the electric distribution company for
21 generation, transmission, distribution and surcharges by retail
22 customers.]

23 "Energy efficiency and conservation measures."

24 (1) Technologies, management practices or other measures
25 employed by retail customers that reduce electricity
26 consumption or demand if all of the following apply:

27 (i) The technology, practice or other measure is
28 installed on or after the effective date of this section
29 at the location of a retail customer.

30 (ii) The technology, practice or other measure

1 reduces consumption of energy or peak load by the retail
2 customer.

3 (iii) The cost of the acquisition or installation of
4 the measure is directly incurred in whole or in part by
5 the electric distribution company.

6 (2) [Energy efficiency and conservation measures shall
7 include] The term includes solar or solar photovoltaic
8 panels, energy efficient windows and doors, energy efficient
9 lighting, including exit sign retrofit, high bay fluorescent
10 retrofit and pedestrian and traffic signal conversion,
11 geothermal heating, insulation, air sealing, reflective roof
12 coatings, energy efficient heating and cooling equipment or
13 systems and energy efficient appliances and other
14 technologies, practices or measures approved by the
15 commission.

16 (3) The term includes up to one-third of the energy
17 savings and reductions resulting from energy efficiency
18 building codes, provided that:

19 (i) The electric distribution utility played a
20 direct role in achieving the savings and reductions
21 through program implementation.

22 (ii) The savings and reductions are quantified and
23 reported through an independent measurement and
24 evaluation study.

25 (iii) The savings and reductions are commensurate
26 with the direct role that the affected utility played to
27 achieve the savings and reductions.

28 "Full revenue decoupling mechanism." A rate mechanism that
29 adjusts or reconciles authorized distribution rates or revenues
30 for differences, whether positive or negative, between revenues

1 approved in a base rate case and actual revenues sales used to
2 set rates and actual sales, including, but not limited to,
3 customer adjustments or other adjustments, such as collars or
4 caps, deemed appropriate by the commission.

5 "Peak demand." The highest electrical requirement occurring
6 during a specified period. For an electric distribution company,
7 the term shall mean the sum of the metered consumption for all
8 retail customers over that period.

9 "Quality assurance." All of the following:

10 (1) The auditing of buildings, equipment and processes
11 to determine the cost-effectiveness of energy efficiency and
12 conservation measures using nationally recognized tools and
13 certification programs.

14 (2) Independent inspection of completed energy
15 efficiency and conservation measures completed by third-party
16 entities to evaluate the quality of the completed measure.

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

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

22 "Total resource cost test." A standard test that is met if,
23 over the effective life of each plan not to exceed 15 years, the
24 net present value of the avoided [monetary] quantifiable cost of
25 supplying electricity is greater than the net present value of
26 the monetary cost of energy efficiency conservation measures.

27 Section 2. In addition to the requirement under 66 Pa.C.S. §
28 2806.1(b)(1)(ii), the commission may require an electric
29 distribution company to file a new plan which meets the
30 requirements of this act.

1 Section 3. This act shall take effect in 60 days.