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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1639

Session of  
1985

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INTRODUCED BY LAUGHLIN, IRVIS, MANDERINO, LLOYD, BURNS, TRUMAN,  
D. R. WRIGHT, DEAL, KUKOVICH, VAN HORNE, DOMBROWSKI,  
COLAFELLA, VEON, DeLUCA, COHEN, COY, ITKIN, STEIGHNER AND  
FOX, SEPTEMBER 18, 1985

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SENATOR BELL, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, IN  
SENATE, AS AMENDED, APRIL 8, 1986

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, further providing for the appointment,  
3 terms, COMPENSATION and qualifications of AND RESTRICTIONS ON <—  
4 commissioners; providing for A DIRECTOR OF OPERATIONS, the <—  
5 Office of Trial Staff, the Office of Special Assistants and  
6 the Director of Operations and their powers and duties;  
7 further providing for procedures, reports, budget requests  
8 and audits; providing for management efficiency investigators  
9 and for fuel purchase audits; LIMITING RECOVERY OF CERTAIN <—  
10 EMPLOYEE MEETING EXPENSES; MAKING PROVISIONS FOR RETIREMENT  
11 OF ELECTRIC GENERATING UNITS AND OUTAGES OF ELECTRIC  
12 GENERATING UNITS; PROVIDING PROCEDURES RELATING TO NEW  
13 ELECTRIC GENERATING CAPACITY; restricting rate setting  
14 procedures of telephone companies; REQUIRING THAT CERTAIN <—  
15 DATA BE SUPPLIED BY ELECTRIC UTILITIES; FURTHER REGULATING  
16 THE RECOVERY OF ADVERTISING EXPENSES AND THE RECOVERY OF CLUB  
17 DUES; AUTHORIZING THE COMMISSION TO ORDER CONSERVATION AND  
18 LOAD MANAGEMENT; REGULATING COIN TELEPHONE SERVICE; and  
19 reestablishing the Pennsylvania Public Utility Commission.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. Sections 301(a), (b) ~~and (c)~~, (C) AND (E), 305, <—  
23 306 and 308 of Title 66 of the Pennsylvania Consolidated

24 Statutes are amended to read:

1 § 301. Establishment, members, qualifications and chairman.

2 (a) Appointment and terms of members.--The Pennsylvania  
3 Public Utility Commission, established by the act of March 31,  
4 1937 (P.L.160, No.43), as an independent administrative  
5 commission, is hereby continued as such [and]. Prior to the  
6 third Tuesday in January of 1987, the commission shall consist  
7 of five members who shall be appointed by the Governor, by and  
8 with the advice and consent of two-thirds of all the members of  
9 the Senate, for a term of ten years, provided that the term of  
10 any member appointed on or after the effective date of this  
11 amendatory act and prior to the third Tuesday in January of 1987  
12 shall expire on April 1, 1987. Beginning with any vacancies <—  
13 existing on the third Tuesday in January of 1987, and as terms  
14 expire thereafter, the commission shall consist of five members  
15 appointed by the Governor, by and with the advice and consent of  
16 a majority of all the members of the Senate, for a term of four  
17 years, provided that any member appointed to fill a vacancy  
18 which occurs after the third Tuesday in January of 1987 shall  
19 serve the balance of the term to which his predecessor had been  
20 appointed regardless of whether the balance is more or less than  
21 four years. VACANCIES ON APRIL 1, 1987, SHALL BE FILLED AS <—  
22 FOLLOWS: ONE TERM SHALL BE UNTIL APRIL 1, 1990, AND ONE TERM  
23 SHALL BE UNTIL APRIL 1, 1992. CONFIRMATION OF SUCH GUBERNATORIAL  
24 APPOINTEES SHALL BE BY A MAJORITY OF THE MEMBERS OF THE SENATE.  
25 IF OTHER VACANCIES OCCUR BETWEEN THE EFFECTIVE DATE OF THIS  
26 AMENDATORY ACT AND APRIL 1, 1987, THE TERM SHALL BE THE BALANCE  
27 OF THE TERM TO WHICH THE PREDECESSOR HAD BEEN APPOINTED.  
28 VACANCIES AFTER APRIL 1, 1987, SHALL BE FILLED FOR THE BALANCE  
29 OF THE TERM TO WHICH A PREDECESSOR HAD BEEN APPOINTED.  
30 THEREAFTER, THE COMMISSION SHALL CONSIST OF FIVE MEMBERS

1 APPOINTED BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF  
2 A MAJORITY OF THE MEMBERS OF THE SENATE, FOR A TERM OF SIX  
3 YEARS. The Governor may submit the nomination to the Senate  
4 within 60 days prior to the expiration of the term or the  
5 effective date of the resignation of the member whom the nominee  
6 would replace and shall submit that nomination no later than 90  
7 days after the expiration of the term or the effective date of  
8 the resignation. [No] A commissioner [upon the expiration of his  
9 term shall] may continue to hold office [until] for a period not  
10 to exceed six months beyond the expiration of his term if his  
11 successor [shall be] has not been duly appointed [or shall be]  
12 and qualified according to law.

13 (b) Qualifications and restrictions.--Each commissioner, at  
14 the time of his appointment and qualification, shall be a  
15 resident of this Commonwealth and shall have been a qualified  
16 elector therein for a period of at least one year next preceding  
17 his appointment, and shall also be not less than [30] 25 years  
18 of age. No person shall be appointed a member of the commission  
19 or hold any place, position or office under it, who occupies any  
20 official relation to any public utility or who holds any other  
21 appointive or elected office of the Commonwealth or any  
22 political subdivision thereof. Commencing July 1, 1977,  
23 commissioners shall devote full time to their official duties.  
24 No commissioner shall hold any office or position, the duties of  
25 which are incompatible with the duties of his office as  
26 commissioner, or be engaged in any business, employment or  
27 vocation, for which he shall receive any remuneration, except as  
28 provided in this chapter. No employee, appointee or official  
29 engaged in the service of or in any manner connected with, the  
30 commission shall hold any office or position, or be engaged in

1 any employment or vocation, the duties of which are incompatible  
2 with his employment in the service of or in connection with the  
3 work of the commission. No commissioner shall be paid or accept  
4 for any service connected with the office, any fee or emolument  
5 other than the salary and expenses provided by law. No  
6 commissioner shall participate in any hearing or proceeding in  
7 which he has any direct or indirect pecuniary interest. Within  
8 90 days of confirmation, each commissioner shall disclose, at  
9 that time and thereafter annually, the existence of all security  
10 holdings in any public utility or its affiliates held by such  
11 commissioner, his or her spouse and any minor or unemancipated  
12 children and must either divest or place in a blind trust such  
13 securities. As used in this part, blind trust means a trust over  
14 which neither the commissioners, their spouses, nor any minor or  
15 unemancipated children shall exercise any managerial control,  
16 and from which neither the commissioners, their spouses, nor any  
17 minor or unemancipated children shall receive any income from  
18 the trust during the commissioner's tenure of office. Such  
19 disclosure statement shall be filed with the secretary of the  
20 commission and shall be open to inspection by the public during  
21 the normal business hours of the commission during the tenure of  
22 the commissioner. Every commissioner, and every individual or  
23 official, employed or appointed to office under, in the service  
24 of, or in connection with, the work of the commission, is  
25 forbidden, directly or indirectly, to solicit or request from,  
26 or to suggest or recommend to any public utility, or to any  
27 officer, attorney, agent or employee thereof, the appointment of  
28 any individual to any office, place or position in, or the  
29 employment of any individual in any capacity by, such public  
30 utility. Every commissioner, every bureau OR OFFICE director and <—

1 every administrative law judge employed or appointed to office  
2 under, in the service of or in connection with the work of the  
3 commission, is prohibited from accepting employment with any  
4 public utility subject to the rules and regulations of the  
5 commission for a period of one year ~~as to bureau directors and~~ <—  
6 ~~administrative law judges, and five years as to commissioners,~~  
7 AND EVERY COMMISSIONER IS PROHIBITED FROM APPEARING BEFORE THE <—  
8 COMMISSION ON BEHALF OF ANY PUBLIC UTILITY SUBJECT TO THE RULES  
9 AND REGULATIONS OF THE COMMISSION FOR A PERIOD OF THREE YEARS,  
10 after terminating employment or service with the commission. If  
11 any person employed or appointed in the service of the  
12 commission violates any provision of this section, the  
13 commission shall forthwith remove him from the office or  
14 employment held by him.

15 (c) Chairman.--A member designated by the Governor shall be  
16 the chairman of the commission {during such member's term of <—  
17 office} ~~and shall serve as such at the pleasure of the Governor.~~ <—  
18 ~~Within 30 days of the effective date of this amendment to this~~  
19 ~~subsection, the Governor shall designate a chairman. Within 30~~  
20 ~~days following the third Tuesday in January 1987, and every four~~  
21 ~~years thereafter, the Governor shall designate a chairman. The~~  
22 ~~chairman shall designate a member to serve as the vice chairman~~  
23 ~~of the commission at the pleasure of the chairman.~~ OFFICE, <—  
24 EXCEPT THAT WITHIN 120 DAYS FOLLOWING THE THIRD TUESDAY IN  
25 JANUARY 1987, AND EVERY FOUR YEARS THEREAFTER, THE GOVERNOR  
26 SHALL DESIGNATE A CHAIRMAN. THE COMMISSIONERS SHALL ANNUALLY  
27 ELECT A MEMBER TO SERVE AS THE VICE CHAIRMAN OF THE COMMISSION.  
28 When present, the chairman shall preside at all meetings, but in  
29 his absence the vice chairman or a member, designated by the  
30 chairman, shall preside and shall exercise, for the time being,

1 all the powers of the chairman. The chairman shall have such  
2 powers and duties as authorized by the commission as provided in  
3 section 331(b) (relating to powers of commission and  
4 administrative law judges).

5 \* \* \*

6 (E) COMPENSATION.--EACH OF THE COMMISSIONERS SHALL RECEIVE <—  
7 AN ANNUAL SALARY OF [\$35,000, AS OF JANUARY 1, 1977, AND  
8 \$40,000, AS OF JANUARY 1, 1978] \$55,000, EXCEPT THE CHAIRMAN,  
9 WHO SHALL RECEIVE AN ANNUAL SALARY OF [\$37,500, AS OF JANUARY 1,  
10 1977, AND \$42,500, AS OF JANUARY 1, 1978] \$57,500.

11 § 305. [SECRETARY] DIRECTOR OF OPERATIONS, SECRETARY,  
12 EMPLOYEES AND CONSULTANTS.

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

20 [(A)] (B) SECRETARY.--THE COMMISSION MAY APPOINT AND FIX THE  
21 COMPENSATION OF A SECRETARY TO HOLD OFFICE AT ITS PLEASURE. THE  
22 SECRETARY SHALL HAVE SUCH POWERS AND SHALL PERFORM SUCH DUTIES  
23 NOT CONTRARY TO LAW AS THE COMMISSION SHALL PRESCRIBE. THE  
24 COMMISSION SHALL HAVE POWER AND AUTHORITY TO DESIGNATE, FROM  
25 TIME TO TIME, ONE OF ITS CLERKS TO PERFORM THE DUTIES OF THE  
26 SECRETARY DURING HIS ABSENCE, AND THE CLERK SO DESIGNATED SHALL  
27 POSSESS, FOR THE TIME SO DESIGNATED, THE POWERS OF THE SECRETARY  
28 OF THE COMMISSION.

29 [(B)] (C) EMPLOYEES AND CONSULTANTS.--THE COMMISSION MAY  
30 APPOINT, FIX THE COMPENSATION OF, AUTHORIZE AND DELEGATE SUCH

1 OFFICERS, CONSULTANTS, EXPERTS, ENGINEERS, STATISTICIANS,  
2 ACCOUNTANTS, INSPECTORS, CLERKS AND EMPLOYEES AS MAY BE  
3 APPROPRIATE FOR THE PROPER CONDUCT OF THE WORK OF THE  
4 COMMISSION. THE TOTAL COMPENSATION PAID TO CONSULTANTS IN ANY  
5 FISCAL YEAR SHALL NOT EXCEED 4% OF THE COMMISSION'S BUDGET. THE  
6 COMMISSION SHALL KEEP RECORDS OF THE NAMES OF EACH CONSULTANT,  
7 THE SERVICES PERFORMED FOR THE COMMISSION, AND THE AMOUNTS  
8 EXPENDED FOR EACH CONSULTANT'S SERVICES. THE COMMISSION SHALL  
9 SUBMIT THESE RECORDS AS A PART OF ITS ANNUAL BUDGET SUBMISSION.  
10 SUCH RECORDS SHALL BE A MATTER OF PUBLIC RECORD OPEN FOR  
11 INSPECTION AT THE OFFICE OF THE COMMISSION DURING THE NORMAL  
12 BUSINESS HOURS OF THE COMMISSION. THE COMMISSION SHALL  
13 ESTABLISH, AFTER CONSULTATION WITH THE CIVIL SERVICE COMMISSION,  
14 STANDARDIZED QUALIFICATIONS FOR EMPLOYMENT AND ADVANCEMENT, AND  
15 ALL TITLES, AND ESTABLISH DIFFERENT STANDARDS FOR DIFFERENT  
16 KINDS, GRADES, AND CLASSES OF SIMILAR WORK OR SERVICE. THE  
17 EMPLOYEES OF THE COMMISSION SHALL BE AFFORDED EMPLOYMENT  
18 SECURITY AS PROVIDED BY THE ACT OF AUGUST 5, 1941 (P.L.752,  
19 NO.286), KNOWN AS THE "CIVIL SERVICE ACT," OR THE APPROPRIATE  
20 COLLECTIVE BARGAINING AGREEMENT, WHICHEVER IS APPLICABLE, BUT  
21 THE COMMISSION SHALL SET THE SALARIES OF ALL EMPLOYEES IN  
22 ACCORDANCE WITH THE EMPLOYMENT STANDARDS ESTABLISHED UNDER THIS  
23 SECTION.

24 § 306. [Counsel] Office of Trial Staff.

25 (a) General rule.--The [office of chief counsel] Office of  
26 Trial Staff to the Pennsylvania Public Utility Commission is  
27 hereby created. The [chief counsel] Director of Trial Staff, WHO <—  
28 SHALL BE THE CHIEF PROSECUTOR OF THE COMMISSION, shall be  
29 appointed by the commission and hold office at its pleasure. The  
30 commission [may also from time to time appoint such assistant

1 counsel to] shall assign a permanent staff of such legal,  
2 technical and other employees of the commission as may be  
3 required for the proper conduct of [its work. Assistant counsel]  
4 the work of the Office of Trial Staff. Employees assigned to the  
5 Office of Trial Staff shall be under the supervision of the  
6 Director of Trial Staff and shall not be assigned to any duties  
7 other than with the Office of Trial Staff. The commission may  
8 designate employees of the Office of Trial Staff to serve as  
9 deputies to the Director of Trial Staff. The Director of Trial  
10 Staff may recommend persons for consideration by the commission  
11 as employees under his supervision. ~~The employees~~ [may be <—  
12 removed by the commission only for good cause. ] The compensation <—  
13 of the [counsel] Director of Trial Staff and the employees under  
14 his supervision shall be fixed by the commission. [In accordance  
15 with the multifunction legal staff established in this part,  
16 such counsel shall attend the hearings before the commission or  
17 a commissioner, or a special agent or administrative law judge,  
18 and conduct the examination of witnesses and shall represent the  
19 commission upon appeals and other hearings in the courts of  
20 common pleas and in the Commonwealth and Supreme Courts, or  
21 other courts of this Commonwealth, or in any Federal court or  
22 agency and in actions instituted to recover penalties and to  
23 enforce regulations and orders of the commission. Such counsel  
24 shall conduct all mandamus, injunction and quo warranto  
25 proceedings at law or in equity, instituted for the enforcement  
26 of the regulations and orders of the commission, and shall  
27 perform such other professional duties as may be required by the  
28 commission.] The Director of Trial Staff shall report and be  
29 responsible directly to the commission provided that the  
30 Director of Trial Staff shall be responsible to the commission

1 through the Director of Operations only for purposes of  
2 administrative matters.

3 (b) Power and duties.--

4 (1) The Office of Trial Staff shall be responsible for  
5 and shall assist in the development of, challenge of and  
6 representation on the record of all matters in the public  
7 interest in all commission proceedings except those involving  
8 transportation, safety, eminent domain, siting, service  
9 issues having no impact on rates, and ability to pay,  
10 provided that the Director of Trial Staff may petition the  
11 commission or may be directed by the commission to intervene  
12 to protect the public interest in any proceeding involving  
13 transportation, safety, eminent domain, siting, service  
14 ISSUES HAVING NO IMPACT ON RATES and ability to pay. To <—  
15 assist in carrying out his powers and duties under this  
16 section, the Director of Trial Staff shall supervise the  
17 activities of the Office of Trial Staff in all commission  
18 proceedings in which he participates. If the Director of  
19 Trial Staff ~~determines~~ IS OF THE OPINION that the initiation <—  
20 of a proceeding is necessary to protect the public interest,  
21 he shall request that the commission initiate the appropriate  
22 proceeding. When he participates in a commission proceeding,  
23 it shall be the duty and responsibility of the Director of  
24 Trial Staff to prosecute in that proceeding.

25 (2) In addition to any other responsibility conveyed  
26 upon it by the commission, the Office of Trial Staff shall  
27 submit a report to the commission recommending whether the  
28 commission should enter upon a hearing in order to  
29 investigate the justness and reasonableness of a tariff filed  
30 pursuant to section 1308 (relating to voluntary changes in

1 rates), to suspend the effectiveness of such tariff, to allow  
2 such tariff to be suspended by operation of law or to allow  
3 temporary rates pursuant to section 1310 (relating to  
4 temporary rates). The report:

5 (i) shall recommend only the initial action which  
6 the commission should take and shall not contain an  
7 opinion as to the portion of a proposed rate increase  
8 which appears to be just and reasonable, unless the  
9 report includes a finding that the proposed rate increase  
10 appears to be just and reasonable in its entirety;

11 (ii) shall be released to the public if the report  
12 recommends that no hearings need to be held regarding the  
13 proposed tariff or that the proposed tariff should not be  
14 suspended, and may be released to the public in other  
15 circumstances when, in the opinion of the commission,  
16 such release would be in the public interest;

17 (iii) shall be considered only as an indication of  
18 the Office of Trial Staff's opinion regarding whether  
19 there should be a hearing on the proposed tariff or  
20 whether the proposed tariff should be suspended; and

21 (iv) shall not be considered as evidence of the  
22 Office of Trial Staff's opinion regarding the justness  
23 and reasonableness of any proposed tariff in any  
24 subsequent commission proceeding.

25 (3) Except for the duties set out in paragraph (2),  
26 neither the Director of Trial Staff nor any employee whom the  
27 Director of Trial Staff supervises shall communicate with the  
28 commission, an administrative law judge or any other employee  
29 of the commission who is deciding or advising in the decision  
30 in an on-the-record proceeding, whether contested or

1 uncontested, as defined in section 332(c) (relating to  
2 procedures in general), except through the practice and  
3 procedure available to all parties to commission proceedings.

4 § 308. Bureaus and offices.

5 (a) Enumeration.--There shall be established within the  
6 commission the following bureaus and functions:

7 (1) Law Bureau.

8 (2) Bureau of Conservation, Economics and Energy  
9 Planning.

10 (3) Bureau of Consumer Services.

11 (4) Office of Special Assistants.

12 (b) Law Bureau.--The Law Bureau shall be a multifunction  
13 legal staff, consisting of a prosecutory function [and], an  
14 advisory function, a representational function and an  
15 enforcement function. [Prosecutory counsel shall be responsible  
16 for and shall assist in the development of, challenge of, and  
17 representation on the record of all matters in the public's  
18 interest. Advisory counsel] The Director of the Law Bureau shall  
19 be the chief counsel of the commission. THE COMMISSION MAY ALSO <—  
20 FROM TIME TO TIME APPOINT SUCH ASSISTANT COUNSEL TO THE  
21 COMMISSION AS MAY BE REQUIRED FOR THE PROPER CONDUCT OF THE WORK  
22 OF THE LAW BUREAU. ASSISTANT COUNSEL MAY BE REMOVED BY THE  
23 COMMISSION ONLY FOR GOOD CAUSE. The Law Bureau shall advise the  
24 commission on any and all matters. [The counsel shall appear on  
25 behalf of the commission in all courts of record and before  
26 district magistrates.] No counsel shall in the same case or a  
27 factually related case perform duties in the prosecutory and  
28 advisory functions, if such performance would represent a  
29 conflict of interest. The Law Bureau solely shall be responsible  
30 to represent the commission upon appeals and other hearings in

1 the courts of common pleas and in the Commonwealth Court,  
2 Supreme Court or other courts of this Commonwealth or in any  
3 Federal court or agency and in actions instituted to recover  
4 penalties and to enforce regulations and orders of the  
5 commission. No member of the Law Bureau shall participate in any  
6 prosecutory function in any matter before the commission unless  
7 directed by the commission to do so in a proceeding involving  
8 transportation, safety, eminent domain, siting, service ISSUES <—  
9 HAVING NO IMPACT ON RATES or ability to pay or assist the Office  
10 of Trial Staff in carrying out ~~its~~ duties, nor shall it <—  
11 THE  
12 DUTIES OF THE OFFICE OF TRIAL STAFF, NOR SHALL ANY MEMBER OF THE  
13 LAW BUREAU receive assistance from the Office of Trial Staff in  
14 the performance of ~~its~~ HIS duties. Except as provided in this <—  
15 section, the Law Bureau may receive assistance from any other  
16 bureau or office of the commission as determined to be  
17 necessary.

17 (c) Bureau of Conservation, Economics and Energy Planning.--  
18 The Bureau of Conservation, Economics and Energy Planning shall  
19 conduct studies and research all matters within the commission's  
20 jurisdiction and advise the commission of the results thereof in  
21 order to enable the commission to provide prospective regulation  
22 in the best interest of all parties concerned. Such studies and  
23 research shall include long range forecasting of energy needs  
24 and development; research into the use of new, efficient and  
25 economic methods of energy production; the review of the  
26 efficiency of the present generating systems operated within  
27 this Commonwealth; and the development of an effective program  
28 of energy conservation. The commission shall require all  
29 electric and gas public utilities subject to its jurisdiction to  
30 file with it an annual conservation report which shows the plans

1 and progress achieved on programs of energy conservation. The  
2 commission shall, by rule, prescribe guidelines for the form and  
3 manner of such annual conservation report which report shall  
4 describe the current and proposed programs of each such utility  
5 designed to educate and encourage its customers in the optimum,  
6 effective and efficient use by them of electric and gas energy.  
7 The report shall include an accounting of the monetary and  
8 personnel resources actually or proposed to be expended or  
9 devoted to and the actual or anticipated results of such  
10 programs. The bureau shall review all proposals for electric and  
11 gas public utility plant expansion and shall submit for  
12 consideration of the commission its findings on what impact, if  
13 any, the electric and gas public utility plant expansion will  
14 have on rates charged by the public utility.

15 (d) Bureau of Consumer Services.--

16 (1) The Bureau of Consumer Services shall investigate  
17 and [have prepared replies to] issue final determinations on  
18 all informal consumer complaints and shall advise the  
19 commission as to the need for formal commission action on any  
20 matters brought to its attention by the complaints. Any party  
21 may appeal a final determination issued by the Bureau of  
22 Consumer Services and seek review by an administrative law  
23 judge or special agent subject to the procedures in section  
24 335 (relating to initial decisions). The bureau shall on  
25 behalf of the commission keep records of all complaints  
26 received, the matter complained of, the utility involved, and  
27 the disposition thereof and shall at least annually report to  
28 the commission on such matters. The commission may take  
29 official notice of all complaints and the nature thereof in  
30 any proceeding before the commission in which the utility is

1 a party. The commission shall adopt, publish and generally  
2 make available rules by which a consumer may make informal  
3 complaints. The bureau shall also assist and advise the  
4 commission on matters of safety compliance by public  
5 utilities.

6 (2) Annually on or before April 15, the Bureau of <—  
7 Consumer Services COMMISSION shall submit a report to the <—  
8 Governor and to the Business and Commerce Committee of the  
9 House and the Community and Economic Development Committee of  
10 the Senate. The report shall compare all nonresidential  
11 categories of ratepayers for all electric and gas public  
12 utilities so that reasonably accurate comparisons of rates  
13 can be made between similar individuals or groups of  
14 nonresidential ratepayers receiving services in different  
15 service areas.

16 (e) Office of Special Assistants.--The Office of Special  
17 Assistants shall be a support staff which shall be responsible  
18 to assist in the preparation of commission orders and shall  
19 perform such other advisory duties as may be required of it by  
20 the commission. No member of the office OFFICE OF SPECIAL <—  
21 ASSISTANTS shall participate in any prosecutory function in any  
22 matter before the commission. No member of the office OFFICE OF <—  
23 SPECIAL ASSISTANTS shall assist the Office of Trial Staff in  
24 carrying out its duties nor shall it THE DUTIES OF THE OFFICE OF <—  
25 TRIAL STAFF, NOR SHALL ANY MEMBER OF THE OFFICE OF SPECIAL  
26 ASSISTANTS receive assistance from the Office of Trial Staff in  
27 the performance of its HIS duties. Except as provided in this <—  
28 section, the Office of Special Assistants may receive assistance  
29 from, or provide assistance to, any other bureau or office of  
30 the commission as determined to be necessary.

1        (f) Other bureaus and offices.--The commission shall  
2        establish such bureau or bureaus to perform such duties as the  
3        commission may prescribe regarding all matters respecting rates  
4        of public utilities and all matters respecting common carriers  
5        and contract carriers. The establishment of these bureaus shall  
6        not be construed to prohibit the commission from establishing  
7        any additional bureaus which the commission finds necessary to  
8        protect the interests of the people of this Commonwealth. The  
9        bureaus may perform such other duties not inconsistent with law  
10       as the commission ~~[may] shall~~ direct. ~~The commission may appoint~~ <—  
11       ~~a director of operations who shall serve at the pleasure of the~~  
12       ~~commission and shall be responsible for the day to day~~  
13       ~~administration and operation of the bureaus and offices of the~~  
14       ~~commission except that the director of operations shall have~~  
15       ~~responsibility for the Office of Trial Staff only with regard to~~  
16       ~~administrative matters.~~

17       ~~[(f)]~~ (g) Staff testimony.--Members of the staff of the  
18       commission, except for the Office of Special Assistants, shall  
19       appear and present testimony in any proceeding before the  
20       commission when called by the commission, the chief counsel, the  
21       Director of Trial Staff or any of the parties to the proceeding.  
22       In addition to any cross-examination by [counsel] the Office of  
23       Trial Staff as provided in section 306 (relating to [counsel]  
24       Office of Trial Staff) or the chief counsel, any member of the  
25       commission staff who participates in the analysis, review and  
26       conclusions in any proceedings before the commission may, in the  
27       discretion of [commission counsel] the Office of Trial Staff or  
28       the chief counsel and with the consent of the presiding officer,  
29       cross-examine any witness presented by the parties to the  
30       proceeding at the public hearing.

1       SECTION 2.   SECTION 319 OF TITLE 66 IS AMENDED BY ADDING A       <—  
2   SUBSECTION TO READ:

3   § 319.   CODE OF ETHICS.

4       \* \* \*

5       (D) MEETING LOGS.--EACH COMMISSIONER, HIS PERSONAL STAFF,  
6   BUREAU OR OFFICE DIRECTORS AND ADMINISTRATIVE LAW JUDGES SHALL  
7   CAUSE AN ENTRY TO BE MADE IN THE MEETING LOG WHICH REFLECTS ALL  
8   MEETINGS HELD WITH OUTSIDE PERSONS, THE SUBJECT MATTER OF WHICH  
9   IS IN ANY WAY RELATED TO THE COMMISSION AND ITS AFFAIRS. ENTRIES  
10 TO THE MEETING LOG SHALL BE TRANSMITTED TO THE COMMISSION  
11 SECRETARY ON A BIWEEKLY BASIS AND SHALL BE OPEN TO PUBLIC  
12 INSPECTION DURING NORMAL BUSINESS HOURS. AS USED IN THIS  
13 SUBSECTION, "MEETING LOG" MEANS A RECORD INDICATING THE DATE AND  
14 ATTENDANCE OF A COMMISSIONER OR OTHER STAFF WITH OUTSIDE  
15 PERSONS.

16       Section ~~2~~ 3.   Title 66 is amended by adding a section to       <—  
17 read:

18   § 321.   Annual reports.

19       The commission shall annually transmit to the Governor and  
20 the General Assembly and shall make available to the public a  
21 report on the conduct of the commission. The report shall  
22 include, but shall not be limited to, a summary of all rate  
23 proceedings completed within the reporting period, the amount of  
24 the rate increase requested in each such proceeding, the amount  
25 of the request granted by the commission in each such  
26 proceeding, the percentage increase in rates requested and  
27 granted in each such proceeding as compared to the percentage  
28 increase requested and granted in the most recent similar  
29 proceeding for the affected utility prior to the reporting  
30 period, a summary of other significant regulatory issues which

1 the commission resolved during the reporting period, a summary  
2 of significant orders and decisions of the commission and the  
3 courts of the Commonwealth during the reporting period relating  
4 to public utilities, a summary of significant anticipated issues  
5 by type of utility and a status report of any commission action  
6 regarding these issues, and a summary of the audits completed by  
7 the commission during the reporting period. In the annual report  
8 and at such other times as the commission determines, the  
9 commission shall make recommendations to the Governor and the  
10 General Assembly which the commission believes to be necessary  
11 or desirable to protect the public interest.

12 Section 3 4. Sections 331(D), 332(h), 333(d), 510(a), 515 <—  
13 and 516 of Title 66 are amended to read:

14 § 331. POWERS OF COMMISSION AND ADMINISTRATIVE LAW JUDGES. <—

15 \* \* \*

16 (D) AUTHORITY OF PRESIDING OFFICERS.--IN ADDITION TO ANY  
17 ADMINISTRATIVE RULES OF PROCEDURE CONTAINED IN THIS PART, THE  
18 COMMISSION MAY ADOPT AND PUBLISH SUCH ADDITIONAL RULES OF  
19 PROCEDURE AS ARE NOT INCONSISTENT WITH THIS PART. OFFICERS  
20 PRESIDING AT HEARINGS SHALL HAVE AUTHORITY SUBJECT TO THE  
21 PUBLISHED RULES OF THE COMMISSION AND WITHIN ITS POWERS, TO:

22 (1) ADMINISTER OATHS AND AFFIRMATIONS.

23 (2) ISSUE SUBPOENAS AUTHORIZED BY LAW.

24 (3) RULE UPON OFFERS OF PROOF AND RECEIVE RELEVANT  
25 EVIDENCE, TAKE OR CAUSE DEPOSITIONS TO BE TAKEN WHENEVER THE  
26 ENDS OF JUSTICE WOULD BE SERVED THEREBY.

27 (4) REGULATE THE COURSE OF THE HEARING.

28 (5) REQUIRE PERSONS REQUESTING TO MAKE A STATEMENT AT A  
29 PUBLIC INPUT HEARING TO STATE THEIR NAME, OCCUPATION AND  
30 PLACE OF EMPLOYMENT FOR THE RECORD.

1           [(5)] (6) HOLD CONFERENCES FOR SETTLEMENT OR  
2       SIMPLIFICATION OF THE ISSUES BY CONSENT OF THE PARTIES.

3           [(6)] (7) DISPOSE OF PROCEDURAL REQUESTS OR SIMILAR  
4       MATTERS.

5           [(7)] (8) MAKE DECISIONS OR RECOMMEND DECISIONS IN  
6       CONFORMITY WITHIN THIS PART.

7           [(8)] (9) TAKE ANY OTHER ACTION AUTHORIZED BY COMMISSION  
8       RULE.

9       \* \* \*

10 § 332. Procedures in general.

11       \* \* \*

12       (h) Exceptions and appeal procedure.--Any party to a  
13 proceeding referred to an administrative law judge under section  
14 331(b) may file exceptions to the decision of the administrative  
15 law judge [within 15 days after such decision is issued] with  
16 the commission, in a form and manner and within the time to be  
17 prescribed by the commission. The [administrative law judge]  
18 commission shall rule upon such exceptions within [30] 90 days  
19 after filing. [Any party to the proceeding may appeal to the  
20 commission from the ruling of the administrative law judge on  
21 the exceptions within 15 days after such ruling is issued.] If  
22 no exceptions are filed [or if no appeal is taken from the  
23 ruling on the exceptions within 15 days after any such decision  
24 or ruling is issued], the decision [or ruling] shall become  
25 final, without further commission action, unless two or more  
26 commissioners within 15 days after the decision [or ruling on  
27 the exceptions] request that the commission review the decision  
28 and make such other order, within 90 days of such request, as it  
29 shall determine. [Prosecutory counsel of the Law Bureau] The  
30 Office of Trial Staff and the chief counsel shall be deemed to

1 have automatic standing as a party to such proceeding and may  
2 file exceptions to any decision of the administrative law judge  
3 under this subsection.

4 § 333. Prehearing procedures.

5 \* \* \*

6 (d) Interrogatories.--Any party to a proceeding may serve  
7 written interrogatories upon any other party for purposes of  
8 discovering relevant, unprivileged information. A party served  
9 with interrogatories may, before the time prescribed either by  
10 commission rule or otherwise for answering the interrogatories,  
11 apply to the presiding officer for the holding of a prehearing  
12 conference for the mutual exchange of evidence exhibits and  
13 other information. Each interrogatory which requests information  
14 not previously supplied at a prehearing conference or hearing  
15 shall be answered separately and fully in writing under oath,  
16 unless it is objected to, in which event the reasons for the  
17 objections shall be stated in lieu of an answer. The party upon  
18 whom the interrogatories have been served shall serve a copy of  
19 the answers and objections within a reasonable time, unless  
20 otherwise specified, upon the party submitting the  
21 interrogatories. The party submitting the interrogatories may  
22 petition the presiding officer for an order compelling an answer  
23 to an interrogatory or interrogatories to which there has been  
24 an objection or other failure to answer. The commission shall  
25 designate an appropriate official, other than the Director of  
26 Trial Staff or any other employee of the Office of Trial Staff,  
27 on whom other parties to the proceeding may serve written  
28 interrogatories directed to the commission. That official shall  
29 arrange for agency personnel with knowledge of the facts to  
30 answer and sign the interrogatories on behalf of the commission.

1 [The attorney or employee appearing on behalf of the commission  
2 in the proceeding shall have the authority to make and sign  
3 objections to interrogatories served upon the commission.]  
4 Interrogatories directed to the commission shall be allowed only  
5 upon an order of the commission based upon a specific finding  
6 that the interrogating party is seeking significant,  
7 unprivileged information not discoverable by alternative means.  
8 When participating in a commission proceeding, the Office of  
9 Trial Staff shall be subject to the same rules of discovery  
10 applicable to any other party to the case.

11 \* \* \*

12 § 510. Assessment for regulatory expenses upon public  
13 utilities.

14 (a) Determination of assessment.--Before November 1 of each  
15 year, the commission shall estimate its total expenditures in  
16 the administration of this part for the fiscal year beginning  
17 July of the following year, which estimate shall not exceed  
18 three-tenths of 1% of the total gross intrastate operating  
19 revenues of the public utilities under its jurisdiction for the  
20 preceding calendar year. Such estimate shall be submitted to the  
21 Governor in accordance with section 610 of the act of April 9,  
22 1929 (P.L.177, No.175), known as "The Administrative Code of  
23 1929." At the same time the commission submits its estimate to  
24 the Governor, the commission shall also submit that estimate to  
25 the General Assembly. The commission or its designated  
26 representatives shall be afforded an opportunity to appear  
27 before the Governor and the Senate and House Appropriations  
28 Committees regarding their estimates. The commission shall  
29 subtract from the final estimate:

30 (1) The estimated fees to be collected pursuant to

1 section 317 (relating to fees for services rendered by  
2 commission) during such fiscal year.

3 (2) The estimated balance of the appropriation,  
4 specified in section 511 (relating to disposition,  
5 appropriation and disbursement of assessments and fees), to  
6 be carried over into such fiscal year from the preceding one.  
7 The remainder so determined, herein called the total assessment,  
8 shall be allocated to, and paid by, such public utilities in the  
9 manner prescribed. If the General Assembly fails to approve the  
10 commission's budget for the purposes of this part, by March [15]  
11 30, the commission shall assess public utilities on the basis of  
12 the last approved operating budget. At such time as the General  
13 Assembly approves the proposed budget the commission shall have  
14 the authority to make an adjustment in the assessments to  
15 reflect the approved budget. If, subsequent to the approval of  
16 the budget, the commission determines that a supplemental budget  
17 may be needed, the commission shall submit its request for that  
18 supplemental budget simultaneously to the Governor and the  
19 chairmen of the House and Senate Appropriations Committees.

20 \* \* \*

21 § 515. Construction cost of electric generating units.

22 (a) Submission of estimate.--No later than 30 days after  
23 construction of an electric generating unit is begun, either in  
24 this Commonwealth or in some other state, any public utility  
25 operating in this Commonwealth and owning any share in that unit  
26 shall submit to the commission an estimate of the cost of  
27 constructing that unit. If the public utility acquires ownership  
28 of any share in an electric generating unit which is under  
29 construction on the date of acquisition, the public utility  
30 shall, within 30 days of the date of acquisition, submit an

1 estimate of the cost of constructing that unit which was  
2 formulated no later than 30 days from the beginning of  
3 construction.

4 (b) Auditor in charge.--For each electric generating unit  
5 under construction which falls under the provisions of this  
6 section, the commission shall designate an auditor in charge. In  
7 addition to the access to evidence granted by this section, each  
8 utility having a generating unit under construction shall  
9 PROMPTLY submit to the appropriate auditor in charge copies of <—  
10 all construction work change orders. AND A DESCRIPTION OF ANY <—  
11 CHANGE WITH RESPECT TO CONSTRUCTION WHICH MAY BE EXPECTED TO  
12 RESULT IN SUBSTANTIAL VARIANCES IN THE CONSTRUCTION COST. A  
13 SUMMARY OF ALL OTHER CHANGES SHALL BE SUBMITTED TO THE  
14 COMMISSION AT SUCH REASONABLE TIMES AS THE COMMISSION SHALL  
15 REQUIRE.

16 (c) Access to evidence.--From and after the beginning of  
17 construction of an electric generating unit, the commission, or  
18 [its designee] the auditor in charge, and the Consumer Advocate,  
19 or his designee, shall have reasonable access to the  
20 construction site and to any oral or documentary evidence  
21 relevant to determining the necessity and propriety of any  
22 construction cost. If a public utility objects to any request by  
23 the commission or the auditor in charge or the Consumer  
24 Advocate, or [persons] the person designated by the [commission  
25 or the] Consumer Advocate, for access to the construction site  
26 or to any oral or documentary evidence, the objection shall be  
27 decided in the same manner as an on-the-record proceeding  
28 pursuant to Chapter 3 (relating to public utility commission).  
29 The affected public utility shall have the burden of proof in  
30 sustaining any such objection.

1        [(c)] (d) Definition.--As used in this section the term  
2 "construction" includes any work performed on an electric  
3 generating unit which is expected to require the affected public  
4 utility to incur an aggregate of at least \$100,000,000 of  
5 expenses which, in accordance with generally accepted accounting  
6 principles, are capital expenses and not operating or  
7 maintenance expenses.

8    § 516. Audits of certain utilities.

9        (a) General rule.--The commission shall provide for audits  
10 of any electric, gas, telephone or water utility whose plant in  
11 service is valued at not less than \$10,000,000. The audits shall  
12 include an examination of management effectiveness and operating  
13 efficiency. The commission shall establish procedures for audits  
14 of the operations of utilities as provided in this section.  
15 Audits shall be conducted at least once every five years unless  
16 the commission finds that a specific audit is unnecessary, but  
17 in no event shall audits be conducted less than once every eight  
18 years. A summary of the audits mandated by this subsection shall  
19 be released to the public and a complete copy of the audits  
20 shall be provided to the Office of Trial Staff and the Office of  
21 Consumer Advocate.

22        (b) Management efficiency investigations.--In addition to  
23 the audits mandated by subsection (a), the commission shall  
24 appoint a management efficiency investigator who shall  
25 periodically examine the management effectiveness and operating  
26 efficiency of all utilities required to be audited under  
27 subsection (a) and to monitor the utility company responses to  
28 the audits required by subsection (a). For the purposes of  
29 carrying out the periodic audit required by this subsection and  
30 for carrying out the monitoring of audits required by subsection

1 (a), the commission is hereby empowered to direct the management  
2 efficiency investigator to conduct such investigations through  
3 and with teams made up of commission staff and/or independent  
4 consulting firms; further, the commission may designate specific  
5 items of management effectiveness and operating efficiency to be  
6 investigated. The management efficiency investigator shall  
7 provide an annual report to the commission, the affected  
8 utility, the Office of Trial Staff and the Office of Consumer  
9 Advocate detailing the findings of its investigations. All <—  
10 ~~reasonable expenses directly related to the management~~  
11 ~~efficiency investigation activities of independent consulting~~  
12 ~~firms at the utility, as well as their preparation and~~  
13 ~~presentation of testimony in any contested litigation which may~~  
14 ~~be undertaken as a result of the findings, shall be assessed~~  
15 ~~against the utility.~~

16 [(b)] (c) Use of independent auditing firms.--The commission  
17 may require an audit UNDER SUBSECTION (A) OR (B) to be performed <—  
18 by an independent consulting firm. When the commission, UNDER <—  
19 EITHER SUBSECTION (A) OR (B), orders an audit to be performed by  
20 an independent consulting firm, the commission, after  
21 consultation with the audited utility, shall select the audit  
22 firm and require the audited utility to enter into a contract  
23 with the audit firm providing for payment of the audit firm by  
24 the utility. THE TERMS OF THE CONTRACT SHALL INCLUDE ALL <—  
25 REASONABLE EXPENSES DIRECTLY RELATED TO THE PERFORMANCE OF THE  
26 AUDIT OR TO THE MANAGEMENT EFFICIENCY INVESTIGATION ACTIVITIES  
27 OF INDEPENDENT CONSULTING FIRMS AT THE UTILITY, AS WELL AS THEIR  
28 PREPARATION AND PRESENTATION OF TESTIMONY IN ANY CONTESTED  
29 LITIGATION WHICH MAY BE UNDERTAKEN AS A RESULT OF THE AUDIT  
30 FINDINGS UNDER SUBSECTION (A) OR (B). That contract shall

1 require the audit firm to work under the direction of the  
2 commission.

3 [(c)] (d) Other powers of commission unaffected.--This  
4 section is not intended to alter or repeal any existing powers  
5 of the commission.

6 Section 4 5. Title 66 is amended by adding sections to read: <—  
7 § 521. Expense reduction program.

8 (a) Target.--The commission shall establish an expense  
9 reduction program for calendar year 1986 for all electric and  
10 gas utilities with total annual intrastate operating revenues of  
11 at least \$40,000,000 and for all telephone utilities with total  
12 annual intrastate operating revenues of at least \$9,000,000.  
13 Utilities regulated by the commission pursuant to this  
14 subsection shall make every reasonable effort to reduce their  
15 level of expenses, other than expenses associated with  
16 depreciation, fuel, collective bargaining agreements, and other  
17 categories of expense as determined by the commission, for the  
18 calendar year 1986 as compared to calendar year 1985. The  
19 commission shall periodically review the expense reducing  
20 efforts undertaken by utilities pursuant to this subsection and  
21 shall take appropriate action in response to these efforts.

22 (b) Ongoing effort.--The commission may direct or permit any  
23 utility to take any lawful action not inconsistent with this  
24 title for the purpose of encouraging economies, efficiencies, or  
25 improvements which benefit the utility and its ratepayers. The <—  
26 ~~commission may consider, in addition to all other relevant~~  
27 ~~factors, the efficiency, effectiveness, and adequacy of service~~  
28 ~~of each utility when determining just and reasonable rates~~  
29 ~~pursuant to this title.~~

30 § 522. Performance factor consideration.

1 ~~(a) Consideration of performance. In determining whether a~~ <—  
2 ~~utility has satisfied its burden of demonstrating that its rates~~  
3 ~~are just and reasonable, the commission shall consider, in~~  
4 ~~addition to all other relevant factors, such evidence in the~~  
5 ~~record indicating the efficiency, effectiveness and adequacy of~~  
6 ~~service of each utility.~~

7 (A) CONSIDERATIONS.--THE COMMISSION SHALL CONSIDER, IN <—  
8 ADDITION TO ALL OTHER RELEVANT EVIDENCE OF RECORD, THE  
9 EFFICIENCY, EFFECTIVENESS AND ADEQUACY OF SERVICE OF EACH  
10 UTILITY WHEN DETERMINING JUST AND REASONABLE RATES UNDER THIS  
11 TITLE. ON THE BASIS OF THE COMMISSION'S CONSIDERATION OF SUCH  
12 EVIDENCE, IT SHALL GIVE EFFECT TO THIS SECTION BY MAKING SUCH  
13 ADJUSTMENTS TO SPECIFIC COMPONENTS OF THE UTILITY'S CLAIMED COST  
14 OF SERVICE AS IT MAY DETERMINE TO BE PROPER AND APPROPRIATE. ANY  
15 ADJUSTMENT MADE UNDER THIS SECTION SHALL BE MADE ON THE BASIS OF  
16 SPECIFIC FINDINGS UPON EVIDENCE OF RECORD, WHICH FINDINGS SHALL  
17 BE SET FORTH EXPLICITLY, TOGETHER WITH THEIR UNDERLYING  
18 RATIONALE, IN THE FINAL ORDER OF THE COMMISSION.

19 (b) Fixed utilities.--As part of its duties pursuant to  
20 subsection (a), the commission shall set forth ~~factors~~ CRITERIA <—  
21 by which it will evaluate future fixed utility performance and  
22 in assessing the performance of a fixed utility pursuant to  
23 subsection (a), the commission shall consider specifically the  
24 following:

25 (1) Management effectiveness and operating efficiency as  
26 measured by an audit pursuant to section 516 (relating to  
27 audits of certain utilities) ~~or by other information~~ <—  
28 ~~available~~ TO THE EXTENT THAT THE AUDIT OR PORTIONS OF THE <—  
29 AUDIT HAVE BEEN PROPERLY INTRODUCED BY A PARTY INTO THE  
30 RECORD OF THE PROCEEDING IN ACCORDANCE WITH APPLICABLE RULES

1 OF EVIDENCE AND PROCEDURE.

2 (2) Action or failure to act pursuant to section 514  
3 (relating to use of coal) to upgrade capability to use coal  
4 for electric utilities.

5 (3) Efficiency and cost-effectiveness of generating  
6 capacity for electric utilities.

7 (4) Action or failure to act to encourage development of  
8 cost-effective energy supply alternatives such as  
9 conservation or load management, cogeneration or small power  
10 production for electric and gas utilities.

11 (5) Action or failure to act to encourage cost-effective  
12 conservation by customers of water utilities.

13 (6) Action or failure to act to contain costs of  
14 constructing new generating units consistent with sections  
15 515 (relating to construction cost of electric generating  
16 units) and 1308(f) (relating to voluntary changes in rates).

17 (7) Any other relevant and material evidence of  
18 ~~management effectiveness, operating efficiency~~ EFFICIENCY, <—  
19 EFFECTIVENESS and adequacy of service.

20 § 523. DATA TO BE SUPPLIED BY ELECTRIC UTILITIES. <—

21 (A) GENERAL RULE.--EFFECTIVE DECEMBER 31, 1987, EACH PUBLIC  
22 UTILITY PRODUCING, GENERATING, DISTRIBUTING OR FURNISHING  
23 ELECTRICITY SHALL SUBMIT ANNUALLY TO THE COMMISSION INFORMATION  
24 CONCERNING ITS FUTURE PLANS TO MEET ITS CUSTOMER DEMAND,  
25 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING DATA:

26 (1) A YEAR BY YEAR PROJECTION OF ELECTRICAL ENERGY USE  
27 AND ELECTRICAL ENERGY DEMAND FOR EACH OF THE NEXT 20 YEARS.  
28 THE FORECAST SHALL EXAMINE ALTERNATIVE SCENARIOS FOR DEMAND  
29 GROWTH AND SHALL BE DIVIDED INTO THE RESIDENTIAL, COMMERCIAL,  
30 INDUSTRIAL AND UTILITY SECTORS.

1       (2) A YEAR BY YEAR PROJECTION OF ALL AVAILABLE SOURCES  
2 OF SUPPLY FOR EACH OF THE NEXT 20 YEARS, INCLUDING, BUT NOT  
3 LIMITED TO, THE FOLLOWING:

4           (I) ELECTRIC GENERATING CAPACITY FROM CENTRALIZED  
5 POWER PLANTS OVER 25,000 KW INDICATING PLANNED ADDITIONS,  
6 RETIREMENTS, PURCHASES AND ALL OTHER EXPECTED CHANGES IN  
7 LEVELS OF GENERATING CAPACITY.

8           (II) THE PROJECTED UTILIZATION, AND THE POTENTIAL  
9 FOR ADDITIONAL UTILIZATION, OF COGENERATION AND  
10 NONCONVENTIONAL TECHNOLOGIES RELYING ON RENEWABLE ENERGY  
11 RESOURCES, INCLUDING, BUT NOT LIMITED TO, SOLAR, WIND,  
12 BIOMASS AND GEOTHERMAL AND OTHER SMALL POWER TECHNOLOGIES  
13 NOT ACCOUNTED FOR IN SUBPARAGRAPH (I). THE INFORMATION  
14 SHALL IDENTIFY SPECIFICALLY ANY SUCH CAPACITY THAT IS  
15 EXPECTED TO OR MAY BE AVAILABLE TO EACH UTILITY.

16       (3) A YEAR BY YEAR EXAMINATION OF THE POTENTIAL FOR  
17 PROMOTING AND ENSURING THE FULL UTILIZATION OF ALL PRACTICAL  
18 AND ECONOMICAL ENERGY CONSERVATION FOR THE NEXT 20 YEARS AND  
19 A DISCUSSION OF HOW EXISTING AND PLANNED UTILITY PROGRAMS DO  
20 OR DO NOT ADEQUATELY REACH THIS POTENTIAL. SUCH PROGRAMS  
21 SHOULD INCLUDE, BUT NOT BE LIMITED TO, EDUCATIONAL, AUDIT,  
22 LOAN, REBATE, THIRD-PARTY FINANCING AND LOAD MANAGEMENT  
23 EFFORTS TO SHIFT LOAD FROM PEAK TO OFF-PEAK PERIODS.

24       (4) AN EXPLANATION OF HOW THE UTILITY HAS INTEGRATED ALL  
25 DEMAND-SIDE AND SUPPLY-SIDE OPTIONS TO DERIVE A RESOURCE MIX  
26 TO MEET CUSTOMER DEMAND.

27       (5) A COMPARISON OF THE TOTAL ANNUAL COST TO CUSTOMERS  
28 AND TO THE COMPANY OF THE UTILITY'S PLAN TO MEET NEW DEMAND  
29 COMPARED WITH ALTERNATIVE PLANS FOR THE NEXT 20 YEARS.

30       (6) A DISCUSSION OF THE METHODOLOGIES, ASSUMPTIONS AND

1     DATA SOURCES USED TO DETERMINE THE PROJECTIONS AND ESTIMATES  
2     REQUIRED BY PARAGRAPHS (1), (2), (3 ), (4) AND (5).

3         (7) WITH RESPECT TO THE PLANNED CONSTRUCTION OF ANY NEW  
4     GENERATION OR PRODUCTION FACILITIES, THE UTILITY SHALL  
5     PROVIDE ALL OF THE FOLLOWING:

6             (I) A DISCUSSION OF PROPOSED AND ALTERNATIVE SITES  
7             FOR THE CONSTRUCTION AND OPERATION OF PLANNED FACILITIES  
8             AND AN ESTIMATE OF THE EFFECT ON ANNUAL COSTS OF EACH  
9             ALTERNATIVE CONSIDERED.

10            (II) A DISCUSSION OF THE TYPE OF FUEL AND METHOD OF  
11            GENERATION TO BE USED AT THE PROPOSED FACILITY AS WELL AS  
12            ALTERNATIVE TYPES OF FACILITIES STUDIED AND AN ESTIMATE  
13            OF THE EFFECT UPON ANNUAL COSTS OF THE VARIOUS  
14            ALTERNATIVE TYPES OF FACILITIES CONSIDERED.

15            (III) A DISCUSSION OF EXPECTED FINANCIAL IMPACTS AND  
16            REQUIREMENTS OF CONSTRUCTION AND OPERATION OF THE  
17            PROPOSED FACILITY, AS WELL AS ALTERNATIVE FACILITIES.

18            (IV) A DISCUSSION OF WHY ALL THE ALTERNATIVES  
19            CONSIDERED WERE REJECTED.

20     (B) REPORT.--THE COMMISSION SHALL PREPARE A REPORT  
21     SUMMARIZING AND DISCUSSING THE DATA PROVIDED PURSUANT TO  
22     SUBSECTION (A) AND ANNUALLY, ON OR BEFORE SEPTEMBER 1, SHALL  
23     SUBMIT THE REPORT TO THE GENERAL ASSEMBLY, THE GOVERNOR, THE  
24     OFFICE OF CONSUMER ADVOCATE AND EACH AFFECTED PUBLIC UTILITY.

25     (C) REGULATIONS.--THE COMMISSION SHALL PROMULGATE  
26     REGULATIONS TO ESTABLISH THE SPECIFIC FORMS AND METHODS OF  
27     REPORTING THE INFORMATION TO BE SUBMITTED PURSUANT TO SUBSECTION  
28     (A).

29     (D) EFFECT OF SUBMISSION OF INFORMATION.--NEITHER THE  
30     SUBMISSION TO THE COMMISSION OF THE INFORMATION REQUIRED BY

1 SUBSECTION (A) OR THE ISSUANCE BY THE COMMISSION OF A REPORT ON  
2 THE INFORMATION, OR ANYTHING CONTAINED IN SUCH REPORTS, OR ANY  
3 ACTION TAKEN BY THE COMMISSION AS A RESULT OF THE ISSUANCE OF  
4 SUCH REPORTS, SHALL BE CONSIDERED OR CONSTRUED AS APPROVAL OR  
5 ACCEPTANCE BY THE COMMISSION OF ANY OF THE PLANS, ASSUMPTIONS OR  
6 CALCULATIONS MADE BY THE PUBLIC UTILITY AND REFLECTED IN THE  
7 INFORMATION SUBMITTED.

8 § 524. RETIREMENT OF ELECTRIC GENERATING UNITS.

9 (A) REMOVAL FROM NORMAL OPERATION.--NO PUBLIC UTILITY SHALL  
10 DISCONTINUE AN ELECTRIC GENERATING UNIT FROM NORMAL OPERATION  
11 UNLESS IT HAS PETITIONED FOR AND OBTAINED THE APPROVAL OF THE  
12 COMMISSION. THE COMMISSION MAY, UPON ITS OWN MOTION OR UPON  
13 COMPLAINT, PROHIBIT A PUBLIC UTILITY FROM DISCONTINUING AN  
14 ELECTRIC GENERATING UNIT FROM NORMAL OPERATION IF THE COMMISSION  
15 DETERMINES THAT IT WOULD BE MORE COST-EFFECTIVE FOR THE  
16 UTILITY'S RATEPAYERS IF THE UNIT WERE TO REMAIN IN NORMAL  
17 OPERATION, EITHER WITH OR WITHOUT CAPITAL ADDITIONS OR OPERATING  
18 IMPROVEMENTS, THAN IF THE UTILITY WERE TO IMPLEMENT ITS PLAN FOR  
19 REPLACING THE POWER WHICH THE UNIT IS, OR COULD BE MADE, CAPABLE  
20 OF PRODUCING.

21 (B) RETURN TO NORMAL OPERATION.--THE COMMISSION MAY, UPON  
22 ITS OWN MOTION OR UPON COMPLAINT, ORDER A PUBLIC UTILITY TO  
23 RETURN AN ELECTRIC GENERATING UNIT TO NORMAL OPERATION IF THE  
24 COMMISSION DETERMINES THAT IT WOULD BE MORE COST-EFFECTIVE FOR  
25 THE UTILITY'S RATEPAYERS IF THE UNIT WERE TO BE RETURNED TO  
26 NORMAL OPERATION, WITH OR WITHOUT CAPITAL ADDITIONS OR OPERATING  
27 IMPROVEMENTS, THAN IF THE UTILITY WERE TO IMPLEMENT ITS PLAN FOR  
28 PROVIDING THE POWER WHICH THE UNIT IS, OR COULD BE MADE, CAPABLE  
29 OF PRODUCING.

30 (C) PROCEDURE.--THE COMMISSION MAY HOLD SUCH HEARINGS AS IT

1 DEEMS NECESSARY IN MAKING THE DETERMINATIONS REQUIRED BY  
2 SUBSECTION (A) OR (B). THE AFFECTED PUBLIC UTILITY SHALL HAVE  
3 THE BURDEN OF PROOF IN ANY PROCEEDING PURSUANT TO THIS SECTION.

4 (D) REGULATIONS.--THE COMMISSION MAY ADOPT SUCH REGULATIONS  
5 AS IT DEEMS NECESSARY TO CARRY OUT ITS POWERS AND DUTIES UNDER  
6 THIS SECTION.

7 (E) EXCLUSION.--THIS SECTION SHALL NOT APPLY TO A NUCLEAR  
8 GENERATING UNIT OR TO VARIATIONS IN OPERATION OF ELECTRIC  
9 GENERATING UNITS TO SATISFY ECONOMIC DISPATCH REQUIREMENTS OR TO  
10 MAINTAIN INTRASYSTEM OR INTERSYSTEM STABILITY.

11 (F) DEFINITION.--AS USED IN THIS SECTION THE TERM "NORMAL  
12 OPERATION" MEANS THE CONTINUING AVAILABILITY OF AN ELECTRIC  
13 GENERATING UNIT TO MEET CONSUMER DEMAND EXCEPT DURING:

14 (1) SCHEDULED OUTAGES FOR REPAIRS, TEST OR OTHER  
15 PROCEDURES ESSENTIAL TO THE UNIT'S FURTHER USE.

16 (2) UNSCHEDULED OUTAGES CAUSED BY THE UNIT'S PHYSICAL  
17 MALFUNCTIONING OR BREAKDOWN.

18 (3) REDUCED LEVELS OF GENERATION PENDING EXECUTION OF  
19 REPAIRS.

20 (4) REDUCED LEVELS OR COMPLETE CESSATION OF GENERATION,  
21 ON A TEMPORARY BASIS, BECAUSE OF DISRUPTIONS IN FUEL  
22 SUPPLIES, WASTE DISPOSAL OR COOLING WATER; OR BECAUSE OF  
23 COMPLIANCE WITH ENVIRONMENTAL PROTECTION LIMITATIONS OR  
24 CONSERVATION OF FUEL DURING PERIODS OF, OR IN ANTICIPATION  
25 OF, SCARCITY.

26 SECTION 6. SECTION 1316 OF TITLE 66 IS AMENDED TO READ:

27 § 1316. RECOVERY OF ADVERTISING EXPENSES.

28 (A) GENERAL RULE.--FOR PURPOSES OF RATE DETERMINATIONS, NO  
29 [GAS OR ELECTRIC] PUBLIC UTILITY MAY CHARGE TO ITS CONSUMERS AS  
30 A PERMISSIBLE OPERATING EXPENSE FOR RATEMAKING PURPOSES ANY

1 DIRECT OR INDIRECT EXPENDITURE BY THE UTILITY FOR POLITICAL  
2 ADVERTISING. THE COMMISSION SHALL ALSO DISALLOW AS OPERATING  
3 EXPENSE FOR RATEMAKING PURPOSES EXPENDITURES FOR OTHER  
4 ADVERTISING, UNLESS AND ONLY TO THE EXTENT THAT THE COMMISSION  
5 FINDS THAT SUCH ADVERTISING IS REASONABLE AND MEETS ONE OR MORE  
6 OF THE FOLLOWING CRITERIA:

7 (1) IS REQUIRED BY LAW OR REGULATION.

8 (2) IS IN SUPPORT OF THE ISSUANCE, MARKETING OR  
9 ACQUISITION OF SECURITIES OR OTHER FORMS OF FINANCING.

10 (3) ENCOURAGES ENERGY INDEPENDENCE BY PROMOTING THE WISE  
11 DEVELOPMENT AND USE OF DOMESTIC SOURCES OF COAL, OIL OR  
12 NATURAL GAS.

13 (4) PROVIDES IMPORTANT INFORMATION TO THE PUBLIC  
14 REGARDING SAFETY, RATE CHANGES, MEANS OF REDUCING USAGE OR  
15 BILLS, LOAD MANAGEMENT OR ENERGY CONSERVATION.

16 (5) IS FOR THE DIRECT BENEFIT OF RATEPAYERS.

17 (6) IS FOR THE PROMOTION OF COMMUNITY SERVICE OR  
18 ECONOMIC DEVELOPMENT.

19 (B) CHARGING EXPENSES TO STOCKHOLDERS.--ANY DIRECT OR  
20 INDIRECT EXPENDITURE BY [A GAS OR ELECTRIC UTILITY] PUBLIC  
21 UTILITIES FOR POLITICAL ADVERTISING, OR ANY OTHER ADVERTISING  
22 NOT MEETING THE CRITERIA SET FORTH IN SUBSECTION (A), SHALL BE  
23 CHARGED TO ITS STOCKHOLDERS AND SHALL NOT BE INCLUDED AS AN  
24 OPERATING EXPENSE FOR RATEMAKING PURPOSES.

25 (C) FILING OF INFORMATION AND MATERIALS.--WHENEVER A PUBLIC  
26 UTILITY PROPOSES A CHANGE IN RATES UNDER SECTION 1308 (RELATING  
27 TO VOLUNTARY CHANGES IN RATES), THE PUBLIC UTILITY SHALL FILE  
28 WITH THE COMMISSION A LISTING OF EACH TYPE OF ADVERTISING  
29 PREPARED, DISTRIBUTED OR PRESENTED BY THE PUBLIC UTILITY OR TO  
30 BE PREPARED, DISTRIBUTED OR PRESENTED BY THE PUBLIC UTILITY

1 DURING THE TEST YEAR UTILIZED BY THE PUBLIC UTILITY IN  
2 DISCHARGING ITS BURDEN OF PROOF, AND A LISTING OF EACH TYPE OF  
3 ADVERTISING PREPARED, DISTRIBUTED OR PRESENTED BY THE PUBLIC  
4 UTILITY DURING THE YEAR IMMEDIATELY PRECEDING THE TEST YEAR, AS  
5 WELL AS AN ACCOUNTING OF THE EXPENDITURES BY THE PUBLIC UTILITY  
6 FOR SUCH ADVERTISING, TO THE EXTENT SUCH ADVERTISING IS PROPOSED  
7 TO BE INCLUDED AS OPERATING EXPENSE FOR RATEMAKING PURPOSES. THE  
8 FILING REQUIREMENTS IMPOSED BY THIS SUBSECTION SHALL NOT BE  
9 CONSTRUED TO LIMIT THE RIGHT OF ANY PARTY TO DISCOVERY UNDER  
10 THIS OR ANY OTHER PROVISION OF LAW.

11        [(C)] (D) DEFINITION.--AS USED IN THIS SECTION THE TERM  
12 "POLITICAL ADVERTISING" MEANS ANY ADVERTISING FOR THE PURPOSE OF  
13 INFLUENCING PUBLIC OPINION WITH RESPECT TO ANY LEGISLATIVE,  
14 ADMINISTRATIVE ACTION OR CANDIDATE ELECTION OR WITH RESPECT TO  
15 ANY CONTROVERSIAL ISSUE TO BE DECIDED BY PUBLIC VOTING. THE TERM  
16 INCLUDES MONEY SPENT FOR LOBBYING BUT NOT MONEY SPENT FOR  
17 APPEARANCES BEFORE REGULATORY OR OTHER GOVERNMENTAL BODIES IN  
18 CONNECTION WITH A [GAS OR ELECTRIC] PUBLIC UTILITY'S EXISTING OR  
19 PROPOSED OPERATIONS.

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

21 § 1316.1. RECOVERY OF CLUB DUES.

<—

22 NO PUBLIC UTILITY MAY CHARGE TO ITS CUSTOMERS AS A  
23 PERMISSIBLE OPERATING EXPENSE FOR RATEMAKING PURPOSES MEMBERSHIP  
24 FEES, DUES OR CHARGES TO FRATERNAL, SOCIAL OR SPORTS CLUBS OR  
25 ORGANIZATIONS.

26        SECTION 8. SECTION 1319 OF TITLE 66 IS AMENDED TO READ:

27 § 1319. FINANCING OF ENERGY SUPPLY ALTERNATIVES.

28        (A) RECOVERY OF CERTAIN ADDITIONAL EXPENSES.--IF:

29        (1) A NATURAL GAS OR ELECTRIC PUBLIC UTILITY ELECTS TO  
30 ESTABLISH A CONSERVATION OR LOAD MANAGEMENT PROGRAM AND THAT

PROGRAM IS APPROVED BY THE COMMISSION AFTER A DETERMINATION  
BY THE COMMISSION THAT THE PROGRAM IS PRUDENT AND COST-  
EFFECTIVE[ , ] ; OR

(2) THE COMMISSION ORDERS A NATURAL GAS OR ELECTRIC  
PUBLIC UTILITY TO ESTABLISH A CONSERVATION OR LOAD MANAGEMENT  
PROGRAM THAT THE COMMISSION DETERMINES TO BE PRUDENT AND  
COST-EFFECTIVE;

THE COMMISSION SHALL ALLOW THE PUBLIC UTILITY TO RECOVER ALL  
PRUDENT AND REASONABLE COSTS ASSOCIATED WITH THE DEVELOPMENT,  
MANAGEMENT, FINANCING AND OPERATION OF THE PROGRAM, PROVIDED  
THAT SUCH PRUDENT AND REASONABLE COSTS SHALL BE RECOVERED ONLY  
IN ACCORDANCE WITH APPROPRIATE ACCOUNTING PRINCIPLES. NOTHING IN  
THIS SECTION SHALL PERMIT THE RECOVERY OF COSTS IN A MANNER  
PROHIBITED BY SECTION 1315 (RELATING TO LIMITATION ON  
CONSIDERATION OF CERTAIN COSTS FOR ELECTRIC UTILITIES). NOTHING  
IN THIS SECTION SHALL PERMIT THE RECOVERY OF THE COST OF  
PRODUCING, GENERATING, TRANSMITTING, DISTRIBUTING OR FURNISHING  
ELECTRICITY OR NATURAL GAS.

(B) OPTION FOR RECOVERY.--THE COMMISSION MAY CONSIDER  
ALLOWING THE RECOVERY OF THOSE COSTS PERMITTED TO BE RECOVERED  
BY SUBSECTION (A) THROUGH CHARGES TO THOSE PERSONS WHO ARE  
PARTICIPANTS IN THE FINANCING PROGRAM.

~~Section 5. Section 1301 of Title 66 is amended to read:~~ <—  
~~§ 1301. Rates to be just and reasonable.~~

~~(a) General rule. Every rate made, demanded, or received by  
any public utility, or by any two or more public utilities  
jointly, shall be just and reasonable, and in conformity with  
regulations or orders of the commission. Only public utility  
service being furnished or rendered by a municipal corporation,  
or by the operating agencies of any municipal corporation,~~

1 ~~beyond its corporate limits, shall be subject to regulation and~~  
2 ~~control by the commission as to rates, with the same force, and~~  
3 ~~in like manner, as if such service were rendered by a public~~  
4 ~~utility.~~

5 ~~(b) Telephone rates. A public utility may not determine~~  
6 ~~local residential telephone service rates on the basis of amount~~  
7 ~~of time that service is used.~~

8 ~~Section 6. Section 1308 of Title 66 is amended by adding a~~  
9 ~~subsection to read:~~

10 ~~§ 1308. Voluntary changes in rates.~~

11 ~~\* \* \*~~

12 ~~(d.2) Extended suspension period for successive filings.~~  
13 ~~Whenever a public utility files a general rate increase request~~  
14 ~~within nine months after the commission has entered an order~~  
15 ~~granting or denying, in whole or in part, a prior general rate~~  
16 ~~increase request, the commission may suspend such rate request~~  
17 ~~for a period not to exceed 16 months from the time such rate~~  
18 ~~would otherwise become effective. Except as stated herein~~  
19 ~~regarding the maximum length of the suspension period, all other~~  
20 ~~provisions of this section shall apply in such cases.~~

21 ~~\* \* \*~~

22 ~~Section 7 9. Title 66 is amended by adding a section~~

<—

23 ~~SECTIONS to read:~~

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24 ~~§ 1320. Fuel purchase audits by complaint.~~

25 ~~(1) Upon complaint, the commission shall conduct an~~  
26 ~~audit of an electric public utility's purchases of fuel for~~  
27 ~~generating purposes. Such an audit shall examine the~~  
28 ~~utility's fuel purchasing activities for the two years prior~~  
29 ~~to the date of such complaint, provided that:~~

30 ~~(i) The utility does its own testing or procures its~~

1       own analysis of its fuel.

2           (ii) The fuel cost of the utility for the most  
3       recently completed fiscal year exceeds that of the prior  
4       fiscal year by more than 5%.

5           (iii) The commission has not completed and made  
6       available to the public a fuel purchase audit of the  
7       utility in the past two years.

8       (2) This audit, which shall be completed within one year  
9       of the date of initiation of the complaint, shall include,  
10      but not be limited to, a comparison of unit price paid for  
11      fuel for generating purposes, considering such factors as  
12      ash, sulfur content, British thermal units, transportation  
13      costs and reliability of supply.

14      (3) The audit shall seek to determine whether the public  
15      utility's fuel purchasing procedures are conducted in such a  
16      manner as to result in the greatest benefit to the  
17      ratepayers.

18      (4) The commission's audit report shall contain  
19      recommendations as to methods by which the utility's fuel  
20      purchasing procedures can be adjusted so as to result in the  
21      greatest benefit to the ratepayers.

22      (5) The commission shall take the audit report into  
23      consideration at the utility's next request for a rate  
24      adjustment.

25      (6) Upon completion and release by the commission,  
26      copies of the audit report summary shall be mailed to every  
27      person who signed the complaint REQUESTS A COPY.

28   § 1321. RECOVERY OF CERTAIN EMPLOYEE MEETING EXPENSES.

29       NO PUBLIC UTILITY MAY CHARGE TO ITS CUSTOMERS AS A  
30       PERMISSIBLE OPERATING EXPENSE FOR RATEMAKING PURPOSES ANY

<—

1 PORTION OR PORTIONS OF THE DIRECT OR INDIRECT COSTS OF MEETINGS,  
2 CONFERENCES, SEMINARS OR OTHER EVENTS CONDUCTED BY THE UTILITY  
3 FOR ITS EMPLOYEES, MANAGERS OR DIRECTORS WHICH PORTION OR  
4 PORTIONS OF SUCH COSTS REPRESENT EXPENDITURES FOR ACTIVITIES OR  
5 ITEMS UNRELATED TO THE BUSINESS OR CIVIC PURPOSE OF THE EVENT,  
6 SUCH AS COSTS FOR ENTERTAINMENT, RECREATION, ATHLETIC  
7 ACTIVITIES, PERSONAL CLOTHING OR OTHER PERSONAL EFFECTS.

8 § 1322. OUTAGES OF ELECTRIC GENERATING UNITS.

9 (A) GENERAL RULE.--WHENEVER AN ELECTRIC GENERATING UNIT,  
10 DETERMINED BY THE COMMISSION TO BE A BASE LOAD UNIT, IS OUT OF  
11 SERVICE FOR MORE THAN 120 CONSECUTIVE DAYS, A UTILITY OWNING A  
12 SHARE OF THAT UNIT SHALL NOT BE PERMITTED TO RECOVER, THROUGH  
13 BASE RATES, A SLIDING SCALE OF RATES, OR BY ANY OTHER MEANS, THE  
14 EXCESS ENERGY COSTS INCURRED TO GENERATE OR PURCHASE REPLACEMENT  
15 POWER OCCASIONED BY ANY PORTION OF THE OUTAGE WHICH THE  
16 COMMISSION DETERMINES TO BE UNREASONABLE OR IMPRUDENT. IN MAKING  
17 ITS DETERMINATION UNDER THIS SUBSECTION, THE COMMISSION SHALL  
18 CONSIDER, IN ADDITION TO ANY OTHER RELEVANT EVIDENCE, WHETHER  
19 THE OUTAGE COULD HAVE BEEN SHORTENED OR AVOIDED IF THE UNIT HAD  
20 BEEN PROPERLY CONSTRUCTED, OPERATED OR MAINTAINED.

21 (B) NOTICE OF OUTAGE.--WHENEVER AN ELECTRIC GENERATING UNIT,  
22 DETERMINED BY THE COMMISSION TO BE A BASE LOAD UNIT, IS OUT OF  
23 SERVICE FOR 45 CONSECUTIVE DAYS, ANY UTILITY OWNING A SHARE OF  
24 THAT UNIT SHALL SUBMIT TO THE COMMISSION AND THE OFFICE OF  
25 CONSUMER ADVOCATE A STATUS REPORT ON THAT OUTAGE. THE UTILITY  
26 SHALL SUBMIT SUBSEQUENT STATUS REPORTS ON THE OUTAGE TO THE  
27 COMMISSION AND THE OFFICE OF CONSUMER ADVOCATE AT LEAST BY THE  
28 20TH DAY OF EACH SUBSEQUENT MONTH UNTIL THE UNIT RETURNS TO  
29 SERVICE. IF MORE THAN ONE UTILITY OWNS A SHARE IN THE ELECTRIC  
30 GENERATING UNIT, THE COMMISSION MAY DESIGNATE ONE UTILITY TO

1 MAKE THE REPORTS REQUIRED BY THIS SUBSECTION.

2 (C) OPERATION AT LESS THAN REASONABLE LEVEL OF GENERATION.--  
3 WHENEVER THE ACTUAL GENERATION OF AN ELECTRIC GENERATING UNIT,  
4 DETERMINED BY THE COMMISSION TO BE A BASE LOAD UNIT, IS LESS  
5 THAN 50% OF THE UNITS'S POTENTIAL GENERATION DURING ANY CALENDAR  
6 YEAR OR OTHER 12-MONTH PERIOD SPECIFIED BY THE COMMISSION, THE  
7 COMMISSION, ON ITS OWN MOTION OR UPON COMPLAINT, MAY INITIATE AN  
8 INVESTIGATION TO DETERMINE A REASONABLE LEVEL OF GENERATION FOR  
9 THAT UNIT. IN ESTABLISHING RATES AS PART OF THAT INVESTIGATION  
10 OR IN ANY SUBSEQUENT PROCEEDING, THE COMMISSION SHALL NOT PERMIT  
11 RECOVERY OF THE EXCESS ENERGY COSTS INCURRED TO GENERATE OR  
12 PURCHASE REPLACEMENT POWER OCCASIONED BY THE FAILURE OF THE UNIT  
13 TO OPERATE AT OR ABOVE SUCH REASONABLE LEVEL OF GENERATION, IF  
14 SUCH FAILURE IS DETERMINED TO BE UNREASONABLE OR IMPRUDENT.

15 (D) PROCEDURE.--IN CARRYING OUT ITS POWERS AND DUTIES UNDER  
16 THIS SECTION, THE COMMISSION MAY HOLD SUCH HEARINGS AS IT DEEMS  
17 NECESSARY. THE UTILITY SHALL HAVE THE BURDEN OF PROOF IN ANY  
18 PROCEEDING UNDER THIS SECTION.

19 (E) OTHER POWERS AND DUTIES PRESERVED.--THIS SECTION SHALL  
20 NOT BE CONSTRUED TO DIMINISH THE POWERS AND DUTIES OF THE  
21 COMMISSION UNDER ANY OTHER PROVISION OF LAW TO REDUCE RATES IN  
22 THE EVENT OF AN OUTAGE OF AN ELECTRIC GENERATING UNIT,  
23 REGARDLESS OF THE DURATION OF THAT OUTAGE.

24 (F) DEFINITION.--AS USED IN THIS SECTION THE TERM "EXCESS  
25 ENERGY COSTS" MEANS THE ADDITIONAL COSTS INCURRED TO PURCHASE OR  
26 GENERATE REPLACEMENT POWER MINUS THE FUEL COSTS WHICH WOULD HAVE  
27 BEEN INCURRED TO GENERATE AN EQUIVALENT AMOUNT OF POWER FROM THE  
28 AFFECTED BASE LOAD UNIT.

29 § 1323. PROCEDURES FOR NEW ELECTRIC GENERATING CAPACITY.

30 (A) EXCESS CAPACITY COSTS.--WHENEVER A PUBLIC UTILITY CLAIMS

1 THE COST OF AN ELECTRIC GENERATING UNIT, DETERMINED BY THE  
2 COMMISSION TO BE A BASE LOAD UNIT, IN ITS RATES FOR THE FIRST  
3 TIME, AND THE COMMISSION FINDS THAT THE NEW BASE LOAD GENERATING  
4 UNIT IS, IN WHOLE OR IN PART, EXCESS CAPACITY, AND THUS, NOT  
5 USED AND USEFUL, THE COMMISSION SHALL MAKE AN APPROPRIATE  
6 ADJUSTMENT EITHER TO THE UTILITY'S RETURN ON INVESTMENT OR TO  
7 THE UTILITY'S CLAIMED OPERATING AND MAINTENANCE EXPENSES AND  
8 DEPRECIATION, OR BOTH, UNTIL THE COMMISSION DETERMINES THAT THE  
9 UNIT, OR A PORTION THEREOF, IS NO LONGER EXCESS CAPACITY. FOR  
10 THE PURPOSE OF THIS SECTION, A NEW BASE LOAD GENERATING UNIT, OR  
11 A PORTION THEREOF, SHALL BE DETERMINED TO BE EXCESS CAPACITY  
12 UNLESS IT IS FOUND TO BE NEEDED TO MEET THE UTILITY'S CUSTOMER  
13 DEMAND PLUS A REASONABLE RESERVE MARGIN IN THE TEST YEAR OR IN  
14 THE YEAR FOLLOWING THE TEST YEAR, OR IF IT IS FOUND TO PRODUCE  
15 ECONOMIC BENEFITS WHICH EXCEED THE TOTAL ANNUAL COSTS OF THE  
16 PLANT IN THE TEST YEAR OR IN THE YEAR FOLLOWING THE TEST YEAR.

17 (B) NEW BASE LOAD PLANT OUTAGES SPECIAL RULE.--WHENEVER AN  
18 ELECTRIC GENERATING UNIT DETERMINED BY THE COMMISSION TO BE A  
19 BASE LOAD UNIT IS FIRST CLAIMED IN THE RATES OF A PUBLIC  
20 UTILITY, AND THE BASE LOAD UNIT IS OUT OF SERVICE AT THE TIME  
21 THAT THE COMMISSION MAKES ITS FINAL DECISION IN THE CASE IN  
22 WHICH THE UNIT'S COSTS ARE CLAIMED, THE COMMISSION SHALL MAKE  
23 EITHER OF THE FOLLOWING ADJUSTMENTS:

24 (1) EXCLUDE FROM THE UTILITY'S RATES ALL COSTS  
25 ASSOCIATED WITH THE UNIT; OR

26 (2) FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE FINAL  
27 DECISION, ORDER THAT THE UTILITY'S ENERGY COST RECOVERY  
28 PURSUANT TO SECTION 1307 (RELATING TO SLIDING SCALE OF RATES;  
29 ADJUSTMENTS), OR PURSUANT TO ANY OTHER SECTION OF THIS TITLE,  
30 SHALL BE CALCULATED AS IF THE NEW BASE LOAD UNIT HAD OPERATED

1 AND PRODUCED THE LEVEL OF ENERGY SAVINGS THAT THE UTILITY HAD  
2 ESTIMATED WOULD BE PRODUCED BY THE UNIT IN THE FIRST YEAR OF  
3 ITS OPERATION. THIS RULE SHALL APPLY EVEN IF THE NEW BASE  
4 LOAD UNIT HAD BEEN IN SERVICE DURING OR AT THE END OF THE  
5 FUTURE TEST YEAR USED IN THE PROCEEDING.

6 (C) EXCLUSION PURSUANT TO ANOTHER SECTION.--NOTHING IN  
7 SUBSECTION (A) OR (B) SHALL PRECLUDE THE COMMISSION FROM ALSO  
8 EXCLUDING THE COSTS OF ELECTRIC GENERATING PLANT AS EXCESS  
9 CAPACITY OR FOR ANY OTHER REASON PURSUANT TO SOME OTHER SECTION  
10 OF THIS TITLE.

11 § 1324. RESIDENTIAL TELEPHONE SERVICE RATES BASED ON DURATION  
12 OR DISTANCE OF CALL.

13 (A) REQUIRED CHARGING METHOD.--IN ADDITION TO ANY OTHER  
14 METHOD OF CHARGING OFFERED ON AN OPTIONAL BASIS, A  
15 TELECOMMUNICATIONS UTILITY PROVIDING LOCAL EXCHANGE TELEPHONE  
16 SERVICE TO RESIDENTIAL CUSTOMERS WITHIN A CERTIFIED EXCHANGE  
17 AREA MUST PROVIDE SERVICE WHICH CHARGES, FOR CALLS ORIGINATING  
18 AND TERMINATING WITHIN THE SAME LOCAL CALLING AREA, ON THE BASIS  
19 OF A FLAT MONTHLY FEE FOR ALL SUCH CALLS MADE.

20 (B) OPTIONS.--IF THE COMMISSION DETERMINES THAT A  
21 TELECOMMUNICATIONS UTILITY MAY OFFER TO RESIDENTIAL CUSTOMERS AN  
22 OPTIONAL METHOD OF CHARGING FOR CALLS ORIGINATING AND  
23 TERMINATING WITHIN THE SAME LOCAL CALLING AREA BASED IN WHOLE OR  
24 IN PART ON THE DURATION OR DISTANCE OF THE CALL, IT SHALL ALSO  
25 OFFER A RATE WHICH CHARGES FOR SUCH CALLS ONLY ON THE BASIS OF  
26 THE NUMBER OF CALLS MADE.

27 (C) RATE RELATIONSHIP.--IN ADDITION TO ANY OTHER  
28 REQUIREMENTS IMPOSED BY THIS TITLE, THE RATES FOR SERVICES  
29 REQUIRED OR PERMITTED PURSUANT TO SUBSECTIONS (A) AND (B) SHALL  
30 BE MAINTAINED AT JUST AND REASONABLE LEVELS IN COMPARISON TO ONE

1 ANOTHER.

2 (D) NONRESIDENTIAL RATES PURSUANT TO ANOTHER SECTION.--  
3 NOTHING IN THIS SECTION SHALL PRECLUDE THE COMMISSION FROM  
4 ESTABLISHING RATES FOR OTHER CLASSES OF TELEPHONE SERVICE BASED  
5 UPON ANOTHER SECTION OF THIS TITLE.

6 § 1325. LOCAL EXCHANGE SERVICE INCREASES; LIMITATION.

7 (A) GENERAL RULE.--IN ANY RATE PROCEEDING PURSUANT TO  
8 SECTION 1308 (RELATING TO VOLUNTARY CHANGES IN RATES), NO PUBLIC  
9 UTILITY SHALL BE GRANTED A PERCENTAGE INCREASE IN LOCAL EXCHANGE  
10 SERVICE UNLESS THAT PERCENTAGE INCREASE IS JUST AND REASONABLE.  
11 IN NO EVENT SHALL THE PUBLIC UTILITY BE GRANTED AN INCREASE IN  
12 LOCAL EXCHANGE RATES WHICH IS GREATER THAN THE OVERALL AVERAGE  
13 PERCENTAGE INCREASE IN TOTAL INTRASTATE REVENUES AUTHORIZED BY  
14 THE COMMISSION UNLESS THE UTILITY PROVES BY RECORD EVIDENCE THAT  
15 A GREATER PERCENTAGE INCREASE FOR LOCAL EXCHANGE SERVICE IS  
16 JUSTIFIED BASED UPON THE COST OF PROVIDING THAT SERVICE.

17 (B) GENERIC STUDIES PERMITTED.--THE COMMISSION, AFTER NOTICE  
18 AND HEARING, MAY PROMULGATE REGULATIONS SETTING FORTH  
19 APPROPRIATE METHODS OF CALCULATING THE STAND ALONE COSTS OF  
20 TELECOMMUNICATION SERVICES.

21 (C) DEFINITIONS.--AS USED IN THIS SECTION THE FOLLOWING  
22 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
23 SUBSECTION:

24 "COST OF PROVIDING LOCAL EXCHANGE SERVICE." THE DIRECT COST  
25 OF PROVIDING THE SERVICE PLUS A SHARE OF THE COSTS OF THE DIAL  
26 TONE LINE, ALLOCATED IN PROPORTION TO THE STAND ALONE COST OF  
27 EACH CLASS OF SERVICE WHICH UTILIZES THE DIAL TONE LINE.

28 "LOCAL EXCHANGE SERVICE." THE INTRASTATE CHARGE FOR ACCESS  
29 TO THE TELEPHONE NETWORK PLUS THE CHARGE FOR MAKING CALLS WHICH  
30 ORIGINATE AND TERMINATE WITHIN THE SAME CALLING AREA.

1 SECTION 10. SECTION 1505 OF TITLE 66 IS AMENDED TO READ:

2 § 1505. PROPER SERVICE AND FACILITIES ESTABLISHED ON COMPLAINT;  
3 AUTHORITY TO ORDER CONSERVATION AND LOAD MANAGEMENT  
4 PROGRAMS.

5 (A) GENERAL RULE.--WHENEVER THE COMMISSION, AFTER REASONABLE  
6 NOTICE AND HEARING, UPON ITS OWN MOTION OR UPON COMPLAINT, FINDS  
7 THAT THE SERVICE OR FACILITIES OF ANY PUBLIC UTILITY ARE  
8 UNREASONABLE, UNSAFE, INADEQUATE, INSUFFICIENT, OR UNREASONABLY  
9 DISCRIMINATORY, OR OTHERWISE IN VIOLATION OF THIS PART, THE  
10 COMMISSION SHALL DETERMINE AND PRESCRIBE, BY REGULATION OR  
11 ORDER, THE REASONABLE, SAFE, ADEQUATE, SUFFICIENT, SERVICE OR  
12 FACILITIES TO BE OBSERVED, FURNISHED, ENFORCED, OR EMPLOYED,  
13 INCLUDING ALL SUCH REPAIRS, CHANGES, ALTERATIONS, EXTENSIONS,  
14 SUBSTITUTIONS, OR IMPROVEMENTS IN FACILITIES AS SHALL BE  
15 REASONABLY NECESSARY AND PROPER FOR THE SAFETY, ACCOMMODATION,  
16 AND CONVENIENCE OF THE PUBLIC.

17 (B) AUTHORITY TO ORDER CONSERVATION AND LOAD MANAGEMENT.--IN  
18 DETERMINING OR PRESCRIBING SAFE, ADEQUATE AND SUFFICIENT  
19 SERVICES AND FACILITIES OF A PUBLIC UTILITY, THE COMMISSION MAY  
20 ORDER THE UTILITY TO ESTABLISH A CONSERVATION OR LOAD MANAGEMENT  
21 PROGRAM THAT THE COMMISSION DETERMINES TO BE PRUDENT AND COST-  
22 EFFECTIVE.

23 SECTION 11. CHAPTER 29 OF TITLE 66 IS AMENDED BY ADDING A  
24 SUBCHAPTER HEADING AND A SUBCHAPTER TO READ:

25 CHAPTER 29

26 TELEPHONE AND TELEGRAPH WIRES

27 SUBCHAPTER A

28 GENERAL PROVISIONS

29 \* \* \*

30 SUBCHAPTER B

1 REGULATION OF COIN TELEPHONE SERVICE

2 SEC.

3 2911. LEGISLATIVE FINDINGS AND DECLARATIONS.

4 2912. AVAILABILITY OF ADEQUATE COIN TELEPHONE SERVICE.

5 2913. MINIMUM SERVICE REQUIREMENT.

6 2914. ESTABLISHMENT OF JUST AND REASONABLE RATES.

7 2915. DUTY OF COMMISSION.

8 § 2911. LEGISLATIVE FINDINGS AND DECLARATIONS.

9 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

10 (1) IT IS IN THE PUBLIC INTEREST OF THE CITIZENS OF THIS  
11 COMMONWEALTH TO MAINTAIN AND PROMOTE THE AVAILABILITY AND  
12 AFFORDABILITY OF PUBLIC COIN TELEPHONE SERVICE.

13 (2) THE PUBLIC SAFETY, HEALTH AND WELFARE REQUIRES THAT  
14 PUBLIC COIN TELEPHONE STATIONS SHALL, EXCEPT IN EXTRAORDINARY  
15 CIRCUMSTANCES, HAVE THE CAPABILITY OF MAKING AND RECEIVING  
16 LOCAL AND TOLL CALLS IN ORDER TO PROVIDE ADEQUATE SERVICE.

17 § 2912. AVAILABILITY OF ADEQUATE COIN TELEPHONE SERVICE.

18 (A) GENERAL RULE.--ALL PUBLIC UTILITIES, AS DEFINED IN THIS  
19 CHAPTER, SHALL MAINTAIN A SUFFICIENT NUMBER OF PUBLIC COIN  
20 TELEPHONE STATIONS WITHIN ITS SERVICE TERRITORY TO PROVIDE  
21 ADEQUATE ACCESS TO EMERGENCY TELEPHONE SERVICE, TO ENSURE THAT  
22 THERE IS ADEQUATE ACCESS TO THE TELEPHONE NETWORK FOR  
23 INDIVIDUALS WHO DO NOT SUBSCRIBE TO TELEPHONE SERVICE AND FOR  
24 ANY OTHER PURPOSE DETERMINED TO BE APPROPRIATE BY THE  
25 COMMISSION.

26 (B) DEFINITION.--AS USED IN THIS SUBCHAPTER THE TERM "PUBLIC  
27 COIN TELEPHONE STATIONS" MEANS THOSE STATIONS WHICH ARE READILY  
28 ACCESSIBLE TO THE PUBLIC 24 HOURS PER DAY OR ARE DESIGNATED AS  
29 PUBLIC TELEPHONES PURSUANT TO TARIFFS APPROVED BY THE  
30 COMMISSION.

1 § 2913. MINIMUM SERVICE REQUIREMENT.

2 (A) GENERAL RULE.--ALL PUBLIC AND SEMIPUBLIC COIN TELEPHONE  
3 STATIONS MAINTAINED BY A PUBLIC UTILITY OR PROVIDED, MAINTAINED  
4 OR SOLD IN THIS COMMONWEALTH BY ANY OTHER PERSON, PARTNERSHIP,  
5 ASSOCIATION OR CORPORATION SHALL, EXCEPT IN EXTRAORDINARY  
6 CIRCUMSTANCES, PROVIDE TWO-WAY SERVICE. THE COMMISSION SHALL  
7 PERMIT PUBLIC COIN PHONES TO BE CONVERTED SO THAT THEY ARE  
8 TECHNICALLY CAPABLE OF PLACING, BUT NOT RECEIVING, CALLS ONLY  
9 WHEN SUCH CONVERSION IS NECESSARY TO PROTECT THE PUBLIC SAFETY,  
10 HEALTH AND WELFARE AND WOULD BE IN THE BEST INTERESTS OF THE  
11 PUBLIC.

12 (B) PUBLIC COIN TELEPHONE SERVICE BY NONPUBLIC UTILITIES.--  
13 NO PUBLIC UTILITY SHALL PROVIDE TELEPHONE SERVICE TO ANY PERSON,  
14 PARTNERSHIP, ASSOCIATION OR CORPORATION FOR THE PURPOSE OF  
15 PROVIDING PUBLIC COIN SERVICE UNLESS THE COIN TELEPHONE COMPLIES  
16 WITH SUBSECTION (A).

17 (C) DEFINITION.--AS USED IN THIS SECTION THE TERM "TWO-WAY  
18 SERVICE" MEANS THE TECHNICAL CAPABILITY TO PLACE AND RECEIVE  
19 LOCAL AND INTRASTATE TELEPHONE CALLS, THE CONSPICUOUS DISPLAY OF  
20 A TELEPHONE NUMBER AT WHICH THE PUBLIC COIN TELEPHONE CAN BE  
21 REACHED AND THE ABILITY TO RECOGNIZE WHEN A CALL IS INCOMING.

22 § 2914. ESTABLISHMENT OF JUST AND REASONABLE RATES.

23 THE COMMISSION SHALL ENSURE THAT ALL PUBLIC AND SEMIPUBLIC  
24 COIN TELEPHONE SERVICE RATES FOR LOCAL AND INTRASTATE CALLS ARE  
25 JUST AND REASONABLE.

26 § 2915. DUTY OF COMMISSION.

27 THE COMMISSION SHALL ENSURE THAT THE PROVISIONS OF THIS  
28 SUBCHAPTER ARE IMPLEMENTED BY ALL PUBLIC UTILITIES, COIN  
29 TELEPHONE STATION MANUFACTURERS, VENDORS, OWNERS AND LESSORS  
30 DOING BUSINESS IN THIS COMMONWEALTH. THE COMMISSION SHALL,

1    WITHIN 120 DAYS AFTER THE EFFECTIVE DATE OF THIS SUBCHAPTER,  
2    PROMULGATE REGULATIONS IMPLEMENTING THE PROVISIONS OF THIS  
3    SUBCHAPTER.

4       Section ~~8~~ 12.  Persons who are members of the Pennsylvania       <—  
5    Public Utility Commission on the effective date of this act  
6    shall serve until their current terms have expired, ~~provided~~       <—  
7    ~~that the Governor shall designate the chairman of the Public~~  
8    ~~Utility Commission within 30 days from the effective date of~~  
9    ~~this act.~~

10       Section ~~9~~ 13.  All rules and regulations promulgated by the       <—  
11    Pennsylvania Public Utility Commission shall remain in full  
12    force and effect until amended or repealed by the commission,  
13    provided that the commission shall immediately initiate action  
14    to repeal or amend any rule or regulation which is in conflict  
15    with the provisions of this act.

16       Section ~~10~~ 14.  This act, with respect to the Pennsylvania       <—  
17    Public Utility Commission, constitutes the legislation required  
18    to reestablish an agency pursuant to the act of December 22,  
19    1981 (P.L.508, No.142), known as the Sunset Act.

20       Section ~~11~~ 15.  The Pennsylvania Public Utility Commission       <—  
21    shall continue together with its statutory functions and duties  
22    until December 31, 1991, when it shall terminate and go out of  
23    existence unless reestablished or continued by the General  
24    Assembly for an additional ~~five~~ TEN years.  Evaluation and       <—  
25    review, termination, reestablishment and continuation of the  
26    agency beyond December 31, 1991, and every ~~fifth~~ TENTH year       <—  
27    thereafter, shall be conducted pursuant to the act of December  
28    22, 1981 (P.L.508, No.142), known as the Sunset Act.

29       Section ~~12~~ 16.  As much of the amendment to 66 Pa.C.S. §       <—  
30    301(a) as relates to the advice and consent of a majority of all

1 the members of the Senate shall apply on and after the third  
2 Tuesday of January 1987.

3 SECTION 17. SECTION 207.1(C)(2) OF THE ACT OF APRIL 9, 1929 <—  
4 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929, IS  
5 REPEALED TO THE EXTENT THAT IT REQUIRES A VOTE OF TWO-THIRDS OF  
6 THE MEMBERS ELECTED TO THE SENATE TO CONFIRM APPOINTMENTS TO THE  
7 PENNSYLVANIA PUBLIC UTILITY COMMISSION AS TO ANY VACANCIES  
8 EXISTING ON THE THIRD TUESDAY IN JANUARY 1987, AND AS TERMS  
9 EXPIRE THEREAFTER.

10 SECTION 18. THE AMENDMENT TO 66 PA.C.S. § 301(E) (RELATING  
11 TO ESTABLISHMENT, MEMBERS, QUALIFICATIONS AND CHAIRMAN)  
12 INCREASING THE COMPENSATION OF COMMISSIONERS SHALL ONLY APPLY TO  
13 MEMBERS APPOINTED OR REAPPOINTED ON OR AFTER THE EFFECTIVE DATE  
14 OF THIS ACT.

15 Section ~~13~~ 19. This act shall take effect ~~January 1, 1986,~~ <—  
16 ~~or immediately, whichever is later.~~ IMMEDIATELY. <—