

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1952 Session of  
1987

INTRODUCED BY LLOYD, DeWEESE, J. L. WRIGHT, PETRARCA, BLACK,  
HALUSKA, ANGSTADT, DALEY, LUCYK, BELFANTI, MARKOSEK, OLASZ,  
LEVDANSKY AND KASUNIC, NOVEMBER 16, 1987

AS REPORTED FROM COMMITTEE ON MINES AND ENERGY MANAGEMENT, HOUSE  
OF REPRESENTATIVES, AS AMENDED, NOVEMBER 18, 1987

## AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, providing for ~~restrictions on rates~~ <—  
3 ~~for electricity purchased by utilities from certain~~  
4 ~~qualifying facilities.~~ THE PRICE A PUBLIC UTILITY SHALL PAY <—  
5 FOR ELECTRICITY GENERATED BY A QUALIFYING FACILITY THAT BURNS  
6 COAL MINED IN A FOREIGN COUNTRY.

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

9 Section 1. ~~Section 1501.1 of~~ Title 66 of the Pennsylvania <—  
10 Consolidated Statutes is amended BY ADDING A SECTION to read: <—

11 ~~§ 1501.1. [Certain utilities prohibited from using]~~ Use of <—  
12 foreign coal.

13 ~~(a) General rule. No public utility which provides~~  
14 ~~electricity or heat to a State owned facility shall:~~

15 ~~(1) use coal mined in a foreign country for the purpose~~  
16 ~~of generating electricity or providing heat; or~~

17 ~~(2) purchase electricity from a qualifying facility as~~  
18 ~~defined in 52 Pa. Code § 57.31 (relating to definitions) at a~~  
19 ~~rate which exceeds that required by the Public Utility~~

~~Regulatory Policies Act of 1978 (Public Law 95-617, 92 Stat. 3117) if the qualifying facility uses coal mined in a foreign country.~~

~~(b) Definition. As used in this section the phrase "State owned facility" means a building owned by the Commonwealth or any agency or authority of the Commonwealth.~~

§ 527.1. USE OF FOREIGN COAL BY QUALIFYING FACILITIES.

(A) LEGISLATIVE FINDINGS.--THE GENERAL ASSEMBLY HEREBY FINDS AS FOLLOWS:

(1) POTENTIAL QUALIFYING FACILITIES WHICH WOULD GENERATE ELECTRICITY FROM UNITED STATES ENERGY SOURCES ARE, AND WILL FOR THE FORESEEABLE FUTURE CONTINUE TO BE, ABLE TO MEET THE CAPACITY NEEDS OF PUBLIC UTILITIES IN THIS COMMONWEALTH.

(2) MANY OF THOSE QUALIFYING FACILITIES WOULD OFFER THE MULTIPLE BENEFITS OF SUPPLYING ELECTRICITY TO PENNSYLVANIA RATEPAYERS AT A REASONABLE PRICE, CREATING JOBS IN AREAS OF HIGH UNEMPLOYMENT IN THIS COMMONWEALTH AND HELPING TO CLEAN UP THIS COMMONWEALTH'S ENVIRONMENT.

(3) ALTHOUGH FEDERAL LAW PLACES A DUTY ON PUBLIC UTILITIES TO BUY ELECTRICITY GENERATED BY QUALIFYING FACILITIES, FEDERAL LAW DOES NOT DICTATE HOW THE PRICE PAID BY PUBLIC UTILITIES AND THE CHARGES TO RATEPAYERS FOR THAT ELECTRICITY ARE TO BE CALCULATED.

(4) THE ENERGY SOURCE USED BY A QUALIFYING FACILITY IS A SIGNIFICANT FACTOR IN DETERMINING IF A QUALIFYING FACILITY WOULD BE ABLE TO MEET ITS COMMITMENT TO SUPPLY ELECTRICITY TO A PUBLIC UTILITY AT A REASONABLE PRICE.

(5) COAL MINED IN A FOREIGN COUNTRY IS SUBJECT TO MAJOR SUPPLY INTERRUPTIONS, PRICE INCREASES AND QUALITY REDUCTIONS WHICH ARE UNPREDICTABLE AND WHICH MAY RESULT NOT ONLY FROM

1 MARKET FACTORS, BUT ALSO FROM FOREIGN POLICY DECISIONS OF THE  
2 UNITED STATES GOVERNMENT OR ONE OR MORE FOREIGN GOVERNMENTS  
3 OR FROM DOMESTIC POLICY CHANGES IN THE FOREIGN COUNTRY IN  
4 WHICH THE COAL IS MINED.

5 (6) IT IS MUCH EASIER FOR A PUBLIC UTILITY AND THE  
6 COMMISSION TO PREDICT THE RELIABILITY OF A QUALIFYING  
7 FACILITY AND THE REASONABLENESS OF THE PRICE OF THE  
8 ELECTRICITY TO BE SUPPLIED BY THAT QUALIFYING FACILITY IF  
9 UNITED STATES ENERGY SOURCES ARE TO BE USED THAN IF COAL  
10 MINED IN A FOREIGN COUNTRY IS TO BE USED.

11 (7) A QUALIFYING FACILITY WHICH WOULD BURN COAL MINED IN  
12 A FOREIGN COUNTRY IS TOO POTENTIALLY UNRELIABLE TO JUSTIFY A  
13 PUBLIC UTILITY IN FOREGOING ALTERNATIVE CAPACITY COMMITMENTS  
14 AND IN PAYING THE QUALIFYING FACILITY A PRICE WHICH INCLUDES  
15 ANY CAPACITY CREDIT.

16 (B) GENERAL RULE.--THE PRICE PAID BY A PUBLIC UTILITY TO A  
17 QUALIFYING FACILITY AND THE CHARGE IMPOSED ON THE UTILITY'S  
18 RATEPAYERS FOR ELECTRICITY GENERATED BY THAT QUALIFYING FACILITY  
19 SHALL NOT INCLUDE ANY CAPACITY CREDIT IF THAT QUALIFYING  
20 FACILITY BURNS COAL MINED IN A FOREIGN COUNTRY.

21 (C) DEFINITION.--FOR THE PURPOSES OF THIS SECTION,  
22 "QUALIFYING FACILITY" MEANS ANY COGENERATION FACILITY OR SMALL  
23 POWER PRODUCER WHICH IS A QUALIFYING FACILITY PURSUANT TO THE  
24 FEDERAL ENERGY REGULATORY COMMISSION'S GUIDELINES SET FORTH AT  
25 18 CFR §§ 292.101(B)(1) (RELATING TO DEFINITIONS) AND 292.203(A)  
26 AND (B) (RELATING TO GENERAL REQUIREMENTS FOR QUALIFICATION).

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