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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1318** Session of  
2007

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INTRODUCED BY DePASQUALE, SCAVELLO, BELFANTI, CARROLL, CURRY,  
DALEY, DeWEESE, DONATUCCI, FRANKEL, FREEMAN, GEIST, GEORGE,  
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M. O'BRIEN, PETRONE, PRESTON, RAYMOND, READSHAW, SANTONI,  
SIPTROTH, SURRA, TANGRETTI, WALKO, YOUNGBLOOD, YUDICHAK AND  
CALTAGIRONE, MAY 18, 2007

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MAY 18, 2007

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AN ACT

1 Providing incentives for the use of waste, coal bed methane and  
2 coal mine methane for the production of electricity;  
3 establishing the Coal Waste Fund; providing for a tax credit;  
4 and prohibiting certain surface disposal of coal waste.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Coal Waste  
9 and Methane Green Power Act.

10 Section 2. Findings and declaration of policy.

11 (a) Findings.--The General Assembly finds and declares as  
12 follows:

13 (1) The accumulation and storage of waste coal on or  
14 within land situated in this Commonwealth can cause  
15 environmentally unsafe conditions that can create a danger to  
16 persons or property and degrade the air and water resources  
17 of this Commonwealth.

18 (2) Coal bed methane and coal mine methane, which must  
19 be vented from underground coal mines to protect the health  
20 and safety of miners, is a potential energy resource that is  
21 not being effectively utilized.

22 (3) Incentives are needed to encourage cleanup of lands  
23 impacted by coal waste accumulations and to encourage the use  
24 of existing and future state-of-the-art technology to use  
25 coal refuse to generate clean electricity.

26 (b) Policy.--It is the policy of the Commonwealth that  
27 electricity generated from the combustion of coal waste and up  
28 to an aggregate of 10% coal bed methane or coal mine methane in  
29 facilities that meet all applicable Federal and State air  
30 emission requirements shall be considered to be green power.

1 Section 3. Definitions.

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

5 "Coal bed methane." Methane gas that is extracted from an  
6 unmined coal seam.

7 "Coal mine methane." Methane gas that is extracted from the  
8 worked out areas of an underground coal mine.

9 "Coal waste." Reject material of no commercial value that is  
10 associated with or near coal seams, contains residual heat value  
11 greater than 1,500 BTUs and was discarded in the coal cleaning  
12 process or during mine development and subsequently placed on or  
13 within land situate in this Commonwealth.

14 "Department." The Department of Environmental Protection of  
15 the Commonwealth.

16 "Fund." The Coal Waste Fund established under section 6.

17 "Green power." Electricity generated from coal waste and up  
18 to an aggregate of 10% coal bed methane or coal mine methane.

19 "Green power facility." An electricity generating facility  
20 designated as a green power facility under section 4.

21 Section 4. Green power facility designation.

22 (a) Proposed facilities.--A proposed coal waste electricity  
23 generating facility shall be designated by the department as a  
24 green power facility if the facility is designed to utilize coal  
25 waste or coal waste and an aggregate of up to 10% coal bed  
26 methane and coal mine methane, based on heat input value, as  
27 fuel. The operating permit for such facility shall be  
28 conditioned to limit fuel sources to coal waste or coal waste  
29 and an aggregate of up to 10% coal bed methane or coal mine  
30 methane.

1 (b) Existing facilities.--An existing coal waste electricity  
2 generating facility shall be designated by the department as a  
3 green power facility if:

4 (1) The facility permittee commits to utilize coal waste  
5 or coal waste and an aggregate of up to 10% coal bed methane  
6 and coal mine methane, based on heat input value, as fuel.

7 (2) The operating permit for the facility is amended to  
8 be conditioned to limit fuel sources to coal waste or coal  
9 waste and an aggregate of up to 10% coal bed methane or coal  
10 mine methane.

11 (c) Heat values less than 1,500 BTUs.--In considering  
12 requests for designation of a facility as a green power  
13 facility, the department may not require that the facility  
14 utilize coal waste having a heat value of less than 1,500 BTUs.

15 (d) Quarterly reports.--The permittee of a green power  
16 facility shall submit quarterly reports to the department on the  
17 quantities and BTU heat value of the fuels used at the facility.

18 (e) Duration of designation.--The designation of a facility  
19 as a green power facility shall continue as long as the fuel  
20 sources on an annual basis are limited to coal waste and an  
21 aggregate of up to 10% of coal bed methane or coal mine methane.

22 Section 5. Reclamation of coal waste source areas.

23 Removal of coal waste from land in this Commonwealth and  
24 reclamation of such areas shall be authorized or permitted by  
25 the department consistent with the laws and regulations  
26 implemented by the department pertaining to such activities.

27 Section 6. Coal Waste Fund.

28 (a) Establishment.--One tenth of a cent for every kilowatt  
29 of electricity sold from a green power facility shall be paid to  
30 the State Treasurer for deposit in a special fund, separate and

1 apart from all other moneys in the State Treasury, to be known  
2 as the Coal Waste Fund.

3 (b) Use of fund.--Moneys of the fund shall be used by the  
4 department only for:

5 (1) Assisting operators in obtaining permits for and  
6 providing financial assurance for reclamation of coal waste  
7 source areas.

8 (2) Department contracts and grants for research and  
9 development for utilization of coal waste to generate clean  
10 electricity.

11 (3) Beneficial use of ash generated at green power  
12 facilities.

13 Section 7. Use of mine pool water.

14 To the extent economically feasible, green power facilities  
15 shall use water from mine pools.

16 Section 8. Renewable energy portfolio standards.

17 To the extent electricity generating facilities in this  
18 Commonwealth are required to include renewable energy in the  
19 electricity they offer for sale, the electricity generated at  
20 green power facilities shall qualify as renewable energy.

21 Section 9. Green power incentives.

22 A facility that is classified as "green power" for utilizing  
23 mining waste and cleanup of an environmental hazard may change  
24 competitive market rates for green power based on supply and  
25 demand and not established rates by the Pennsylvania Public  
26 Utility Commission.

27 Section 10. Coal waste green power tax credits.

28 Commercial consumers of electricity who purchase electricity  
29 generated at a green power facility shall be eligible to receive  
30 a tax credit in an amount of 3% of the value of the green energy

1 purchased.

2 Section 11. Utilization of tax credits.

3 Tax credits which a consumer of electricity generated at a  
4 green power facility shall receive, pursuant to section 10, may  
5 be used by the commercial consumer to offset any taxes imposed  
6 on the commercial consumer by the Commonwealth under the act of  
7 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
8 1971.

9 Section 12. Carryforward of tax credits.

10 Tax credits awarded pursuant to this act may be utilized by a  
11 commercial consumer in the tax return year earned and, to the  
12 extent not so utilized, may be carried over to subsequent tax  
13 years by the commercial consumer.

14 Section 13. Prohibition against surface disposal of coal waste.

15 No sooner than 15 years after the effective date of this act,  
16 the surface disposal of any coal waste with a heat value greater  
17 than 1,500 BTUs shall be prohibited, provided, however, that  
18 this prohibition shall not apply unless the coal waste, at the  
19 time it is created, can otherwise be economically utilized in a  
20 green power facility.

21 Section 14. Regulations.

22 The department shall have the power to adopt rules and  
23 regulations which may be required to implement the provisions of  
24 sections 1, 2, 3, 4, 5, 6, 7, 8, 9 and 13 and the Secretary of  
25 Revenue shall have the power to adopt rules and regulations  
26 which may be required to implement the provisions of sections  
27 10, 11 and 12.

28 Section 15. Effective date.

29 This act shall take effect immediately.