

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 25

Special Session No. 1 of
2007-2008

INTRODUCED BY WAUGH, PUNT, GREENLEAF, MUSTO, COSTA, M. WHITE,
WOZNIAK, STOUT, MELLOW, ARMSTRONG, FOLMER, MADIGAN, ROBBINS,
SCARNATI, VANCE, REGOLA AND RHOADES, OCTOBER 16, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 7, 2008

AN ACT

1 Amending the act of November 30, 2004 (P.L.1672, No.213),
2 entitled, "An act providing for the sale of electric energy
3 generated from renewable and environmentally beneficial
4 sources, for the acquisition of electric energy generated
5 from renewable and environmentally beneficial sources by
6 electric distribution and supply companies and for the powers
7 and duties of the Pennsylvania Public Utility Commission,"
8 ~~further defining "alternative energy sources" and "Tier II~~ <—
9 ~~alternative energy source"; and further providing for~~
10 DEFINITIONS AND FOR alternative energy portfolio standards; <—
11 AND PROVIDING FOR A CARBON DIOXIDE SEQUESTRATION NETWORK.

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

14 Section 1. The definitions of "alternative energy ~~sources"~~ <—
15 SOURCES," "MUNICIPAL SOLID WASTE" and "Tier II alternative <—
16 energy source" in section 2 of the act of November 30, 2004
17 (P.L.1672, No.213), known as the Alternative Energy Portfolio
18 Standards Act, are amended AND THE SECTION IS AMENDED BY ADDING <—
19 DEFINITIONS to read:

20 Section 2. Definitions.

21 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Alternative energy sources." The term shall include the
5 following existing and new sources for the production of
6 electricity:

7 (1) Solar photovoltaic or other solar electric energy.

8 (2) Solar thermal energy.

9 (3) Wind power.

10 (4) Large-scale hydropower, which shall mean the
11 production of electric power by harnessing the hydroelectric
12 potential of moving water impoundments, including pumped
13 storage that does not meet the requirements of low-impact
14 hydropower under paragraph (5).

15 (5) Low-impact hydropower consisting of any technology
16 that produces electric power and that harnesses the
17 hydroelectric potential of moving water impoundments,

18 ~~provided THAT:~~ [PROVIDED] INCLUDING FACILITIES WHERE: <—

19 (I) THE HYDROPOWER SOURCE HAS A FEDERAL ENERGY
20 REGULATORY COMMISSION LICENSED CAPACITY OF 21 MEGAWATTS
21 OR LESS; AND

22 (II) THE LICENSE FOR THE HYDROPOWER SOURCE WAS
23 ISSUED BY THE FEDERAL ENERGY REGULATORY COMMISSION ON OR
24 PRIOR TO JANUARY 1, 1984, AND HELD ON JULY 1, 2007, IN
25 WHOLE OR IN PART BY A MUNICIPALITY LOCATED WHOLLY WITHIN
26 THIS COMMONWEALTH OR BY AN ELECTRIC COOPERATIVE
27 INCORPORATED IN THIS COMMONWEALTH; OR

28 (III) such incremental hydroelectric development:

29 [(i)] (A) does not adversely change existing <—
30 impacts to aquatic systems;

1 [(ii)] (B) meets the certification standards <—
2 established by the Low Impact Hydropower Institute
3 and American Rivers, Inc., or their successors;

4 [(iii)] (C) provides an adequate water flow for <—
5 protection of aquatic life and for safe and effective
6 fish passage;

7 [(iv)] (D) protects against erosion; and <—

8 [(v)] (E) protects cultural and historic <—
9 resources.

10 ~~Notwithstanding the provisions of subparagraph (ii), the term <—
11 "low impact hydropower" shall also include a hydroelectric
12 development which has a nameplate capacity of 21 megawatts or
13 less and has a license issued by the Federal Energy
14 Regulatory Commission for the hydropower source on or prior
15 to January 1, 1984, and was held in whole or in part by a
16 municipality located wholly within this Commonwealth or by an
17 electric cooperative wholly within this Commonwealth on July
18 1, 2007.~~

19 (6) Geothermal energy, which shall mean electricity
20 produced by extracting hot water or steam from geothermal
21 reserves in the earth's crust and supplied to steam turbines
22 that drive generators to produce electricity.

23 (7) Biomass energy, which shall mean the generation of
24 electricity utilizing the following:

25 (i) organic material from a plant that is grown for
26 the purpose of being used to produce electricity or is
27 protected by the Federal Conservation Reserve Program
28 (CRP) and provided further that crop production on CRP
29 lands does not prevent achievement of the water quality
30 protection, soil erosion prevention or wildlife

1 enhancement purposes for which the land was primarily set
2 aside; or

3 (ii) any solid nonhazardous, cellulosic waste
4 material that is segregated from other waste materials,
5 such as waste pallets, crates and landscape or right-of-
6 way tree trimmings or agricultural sources, including
7 orchard tree crops, vineyards, grain, legumes, [sugar]
8 sugars and other crop by-products or residues. Biomass
9 energy shall also mean the generation of electricity
10 utilizing by-products of the pulping process and wood
11 manufacturing process, including bark, wood chips,
12 sawdust and lignins in spent pulping liquors, provided
13 the electricity is generated within this Commonwealth.

14 (8) Biologically derived methane gas, which shall
15 include methane from the anaerobic digestion of organic
16 materials from yard waste, such as grass clippings and
17 leaves, food waste, animal waste and sewage sludge. The term
18 also includes landfill methane gas.

19 (9) Fuel cells, which shall mean any electrochemical
20 device that converts chemical energy in a hydrogen-rich fuel
21 directly into electricity, heat and water without combustion.

22 (10) Waste coal, which shall include the combustion of
23 waste coal in facilities in which the waste coal was disposed
24 or abandoned prior to July 31, 1982, or disposed of
25 thereafter in a permitted coal refuse disposal site
26 regardless of when disposed of, and used to generate
27 electricity, or such other waste coal combustion meeting
28 alternate eligibility requirements established by regulation.
29 Facilities combusting waste coal shall use at a minimum a
30 combined fluidized bed boiler and be outfitted with a

1 limestone injection system and a fabric filter particulate
2 removal system. Alternative energy credits shall be
3 calculated based upon the proportion of waste coal utilized
4 to produce electricity at the facility.

5 (11) Coal mine methane, which shall mean methane gas
6 emitting from abandoned or working coal mines.

7 (12) Demand-side management consisting of the management
8 of customer consumption of electricity or the demand for
9 electricity through the implementation of:

10 (i) energy efficiency technologies, management
11 practices or other strategies in residential, commercial,
12 institutional or government customers that reduce
13 electricity consumption by those customers;

14 (ii) load management or demand response
15 technologies, management practices or other strategies in
16 residential, commercial, industrial, institutional and
17 government customers that shift electric load from
18 periods of higher demand to periods of lower demand; or

19 (iii) industrial by-product technologies consisting
20 of the use of a by-product from an industrial process,
21 including the reuse of energy from exhaust gases or other
22 manufacturing by-products that are used in the direct
23 production of electricity at the facility of a customer.

24 (13) Distributed generation system, which shall mean the
25 small-scale power generation of electricity and useful
26 thermal energy.

27 * * *

28 (14) ADVANCED COAL COMBUSTION WITH LIMITED CARBON
29 EMISSIONS, WHICH MEANS THE PRODUCTION OF ELECTRIC POWER FROM
30 A GENERATION FACILITY THAT:

1 (I) IS FUELED BY COAL OR GAS DERIVED FROM AN
2 ADVANCED COAL GASIFICATION PLANT;

3 (II) CAPTURES, EITHER IN THE ADVANCED COAL
4 GASIFICATION PLANT OR IN THE ELECTRICAL GENERATION
5 FACILITY, AND SEQUESTERS AT LEAST THE FOLLOWING AMOUNT OF
6 ALL CARBON DIOXIDE PRODUCED:

7 (A) 20% IN THE FIRST THREE YEARS OF OPERATION;

8 (B) 40% IN YEARS FOUR THROUGH SIX OF OPERATION;

9 (C) 60% IN YEARS SEVEN THROUGH NINE OF
10 OPERATION;

11 (D) 90% IN YEAR TEN AND THEREAFTER; AND

12 (E) THE REQUIREMENT UNDER CLAUSE (D) SHALL BE
13 WAIVED IF COMMERCIALY PROVEN AND PROJECT FINANCEABLE
14 TECHNOLOGY IS NOT AVAILABLE; AND

15 (III) HAS BEEN DESIGNED TO ACCOMMODATE THE REQUIRED
16 ADDITIONAL PROCESSING EQUIPMENT TO PRODUCE POWER WITH A
17 MAXIMUM OF 1,000 POUNDS OF CARBON DIOXIDE EMISSIONS PER
18 MEGAWATT HOUR.

19 * * *

20 "CARBON DIOXIDE SEQUESTRATION NETWORK." A GEOLOGICAL
21 SUBSURFACE FORMATION SUCH AS A DEEP SALINE AQUIFER WITH SUITABLE
22 CAP ROCK, SEALING FAULTS AND ANTICLINES THAT ALLOW FOR THE
23 STORAGE OF CARBON DIOXIDE IN A SUPERCRITICAL PHASE, COMBINED
24 WITH A NETWORK OF COMPRESSION, DEHYDRATION AND LEAK DETECTION
25 MONITORING EQUIPMENT AND PIPELINES TO TRANSPORT CARBON DIOXIDE
26 CAPTURED BY AN ADVANCED COAL COMBUSTION WITH LIMITED CARBON
27 EMISSIONS PLANT TO AN UNDERGROUND STORAGE SITE. THE TERM SHALL
28 NOT INCLUDE USE OF THE CARBON DIOXIDE FOR ENHANCED OIL RECOVERY.

29 * * *

30 "ENHANCED OIL RECOVERY." THE USE OF CARBON DIOXIDE INJECTION

1 OR OTHER TECHNIQUES FOR INCREASING THE AMOUNT OF OIL THAT CAN BE
2 EXTRACTED FROM AN OIL FIELD.

3 * * *

4 "MUNICIPAL SOLID WASTE." THE TERM SHALL MEAN ENERGY FROM
5 NEW, EXPANDED AND EXISTING WASTE TO ENERGY FACILITIES WHICH THE
6 DEPARTMENT HAS DETERMINED ARE IN COMPLIANCE WITH CURRENT
7 ENVIRONMENTAL STANDARDS, INCLUDING, BUT NOT LIMITED TO, ALL
8 APPLICABLE REQUIREMENTS OF THE CLEAN AIR ACT (69 STAT. 322, 42
9 U.S.C. § 7401 ET SEQ.) AND ASSOCIATED PERMIT RESTRICTIONS AND
10 ALL APPLICABLE REQUIREMENTS OF THE ACT OF JULY 7, 1980 (P.L.380,
11 NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT.

12 * * *

13 "Tier II alternative energy source." Energy derived from:

- 14 (1) Waste coal.
15 (2) Distributed generation systems.
16 (3) Demand-side management.
17 (4) Large-scale hydropower.
18 (5) Municipal solid waste.
19 (6) Generation of electricity utilizing by-products of
20 the pulping process and wood manufacturing process, including
21 bark, wood chips, sawdust and lignin in spent pulping liquors
22 if the electricity is generated outside of this Commonwealth.

23 (6.1) ADVANCED COAL COMBUSTION WITH LIMITED CARBON <—
24 EMISSIONS.

25 (7) Integrated combined coal gasification technology.

26 * * *

27 Section 2. Section ~~3(b)~~ 3 of the act, amended July 17, 2007 <—
28 (P.L.114, No.35), is amended to read:

29 Section 3. Alternative energy portfolio standards.

30 * * *

1 (A) GENERAL COMPLIANCE AND COST RECOVERY.--

2 (1) FROM THE EFFECTIVE DATE OF THIS ACT THROUGH AND
3 INCLUDING THE 15TH YEAR AFTER ENACTMENT OF THIS ACT AND EACH
4 YEAR THEREAFTER, THE ELECTRIC ENERGY SOLD BY AN ELECTRIC
5 DISTRIBUTION COMPANY OR ELECTRIC GENERATION SUPPLIER TO
6 RETAIL ELECTRIC CUSTOMERS IN THIS COMMONWEALTH SHALL BE
7 COMPRISED OF ELECTRICITY GENERATED FROM ALTERNATIVE ENERGY
8 SOURCES AND IN THE PERCENTAGE AMOUNTS AS DESCRIBED UNDER
9 SUBSECTIONS (B) AND [(C)] (C.1).

10 (2) ELECTRIC DISTRIBUTION COMPANIES AND ELECTRIC
11 GENERATION SUPPLIERS SHALL SATISFY BOTH REQUIREMENTS SET
12 FORTH IN SUBSECTIONS (B) AND [(C)] (C.1), PROVIDED, HOWEVER,
13 THAT AN ELECTRIC DISTRIBUTION COMPANY OR AN ELECTRIC
14 GENERATION SUPPLIER SHALL BE EXCUSED FROM ITS OBLIGATIONS
15 UNDER THIS SECTION TO THE EXTENT THAT THE COMMISSION
16 DETERMINES THAT FORCE MAJEURE EXISTS.

17 (3) ALL COSTS FOR:

18 (I) THE PURCHASE OF ELECTRICITY GENERATED FROM
19 ALTERNATIVE ENERGY SOURCES, INCLUDING THE COSTS OF THE
20 REGIONAL TRANSMISSION ORGANIZATION, IN EXCESS OF THE
21 REGIONAL TRANSMISSION ORGANIZATION REAL-TIME LOCATIONAL
22 MARGINAL PRICING, OR ITS SUCCESSOR, AT THE DELIVERY POINT
23 OF THE ALTERNATIVE ENERGY SOURCE FOR THE ELECTRICAL
24 PRODUCTION OF THE ALTERNATIVE ENERGY SOURCES; AND

25 (II) PAYMENTS FOR ALTERNATIVE ENERGY CREDITS,
26 IN BOTH CASES THAT ARE VOLUNTARILY ACQUIRED BY AN ELECTRIC
27 DISTRIBUTION COMPANY DURING THE COST RECOVERY PERIOD ON
28 BEHALF OF ITS CUSTOMERS SHALL BE DEFERRED AS A REGULATORY
29 ASSET BY THE ELECTRIC DISTRIBUTION COMPANY AND FULLY
30 RECOVERED, WITH A RETURN ON THE UNAMORTIZED BALANCE, PURSUANT

1 TO AN AUTOMATIC ENERGY ADJUSTMENT CLAUSE UNDER 66 PA.C.S. §
2 1307 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS) AS A
3 COST OF GENERATION SUPPLY UNDER 66 PA.C.S. § 2807 (RELATING
4 TO DUTIES OF ELECTRIC DISTRIBUTION COMPANIES) IN THE FIRST
5 YEAR AFTER THE EXPIRATION OF ITS COST-RECOVERY PERIOD. AFTER
6 THE COST-RECOVERY PERIOD, ANY DIRECT OR INDIRECT COSTS FOR
7 THE PURCHASE BY ELECTRIC DISTRIBUTION OF RESOURCES TO COMPLY
8 WITH THIS SECTION, INCLUDING, BUT NOT LIMITED TO, THE
9 PURCHASE OF ELECTRICITY GENERATED FROM ALTERNATIVE ENERGY
10 SOURCES, PAYMENTS FOR ALTERNATIVE ENERGY CREDITS, COST OF
11 CREDITS BANKED, PAYMENTS TO ANY THIRD PARTY ADMINISTRATORS
12 FOR PERFORMANCE UNDER THIS ACT AND COSTS LEVIED BY A REGIONAL
13 TRANSMISSION ORGANIZATION TO ENSURE THAT ALTERNATIVE ENERGY
14 SOURCES ARE RELIABLE, SHALL BE RECOVERED ON A FULL AND
15 CURRENT BASIS PURSUANT TO AN AUTOMATIC ENERGY ADJUSTMENT
16 CLAUSE UNDER 66 PA.C.S. § 1307 AS A COST OF GENERATION SUPPLY
17 UNDER 66 PA.C.S. § 2807.

18 (b) Tier I and solar photovoltaic shares.--

19 (1) Two years after the effective date of this act, at
20 least 1.5% of the electric energy sold by an electric
21 distribution company or electric generation supplier to
22 retail electric customers in this Commonwealth shall be
23 generated from Tier I alternative energy sources. Except as
24 provided in this section, the minimum percentage of electric
25 energy required to be sold to retail electric customers from
26 alternative energy sources shall increase to 2% three years
27 after the effective date of this act. The minimum percentage
28 of electric energy required to be sold to retail electric
29 customers from alternative energy sources shall increase by
30 at least 0.5% each year so that at least 8% of the electric

1 energy sold by an electric distribution company or electric
2 generation supplier to retail electric customers in that
3 certificated territory in the 15th year after the effective
4 date of this subsection AND AT LEAST 10% OF THE ELECTRIC ←
5 ENERGY SOLD BY AN ELECTRIC DISTRIBUTION COMPANY OR ELECTRIC
6 GENERATION SUPPLIER TO RETAIL ELECTRIC CUSTOMERS IN THAT
7 CERTIFICATED TERRITORY IN THE 16TH YEAR AFTER THE EFFECTIVE
8 DATE OF THIS SUBSECTION is sold from Tier I alternative
9 energy resources.

10 ~~(1.1) In addition to any increase under paragraph (1),~~ ←
11 ~~the commission shall annually increase the percentage share~~
12 ~~of Tier I alternative energy sources required to be sold by~~
13 ~~an electric distribution company or electric generation~~
14 ~~supplier under paragraph (1), by an amount equal to the~~
15 ~~amount of additional Tier I alternative energy credits~~
16 ~~created under the provisions of the act adding this~~
17 ~~paragraph.~~

18 (1.1) THE COMMISSION SHALL AT LEAST QUARTERLY INCREASE ←
19 THE PERCENTAGE SHARE OF TIER I ALTERNATIVE ENERGY SOURCES
20 REQUIRED TO BE SOLD BY AN ELECTRIC DISTRIBUTION COMPANY OR
21 ELECTRIC GENERATION SUPPLIER UNDER PARAGRAPH (1) TO REFLECT
22 ANY NEW RESOURCES THAT QUALIFY AS A TIER I ALTERNATIVE ENERGY
23 SOURCE UNDER SUBPARAGRAPH (II) OF THE DEFINITION OF "BIOMASS
24 ENERGY" OR UNDER PARAGRAPH (5)(I) AND (II) OF THE DEFINITION
25 OF "LOW-IMPACT HYDROPOWER." NO NEW RESOURCE QUALIFYING UNDER
26 SUBPARAGRAPH (II) OF THE DEFINITION OF "BIOMASS ENERGY" OR
27 UNDER PARAGRAPH (5)(I) AND (II) OF THE DEFINITION OF "LOW-
28 IMPACT HYDROPOWER" SHALL BE ELIGIBLE TO GENERATE TIER I
29 ALTERNATIVE ENERGY CREDITS UNTIL THE COMMISSION HAS INCREASED
30 THE PERCENTAGE SHARE OF TIER I TO REFLECT THESE ADDITIONAL

1 RESOURCES.

2 (2) The total percentage of the electric energy sold by
3 an electric distribution company or electric generation
4 supplier to retail electric customers in this Commonwealth
5 that must be sold from solar photovoltaic technologies is:

6 (i) 0.0013% for June 1, 2006, through May 31, 2007.

7 (ii) 0.0030% for June 1, 2007, through May 31, 2008.

8 (iii) 0.0063% for June 1, 2008, through May 31,
9 2009.

10 (iv) 0.0120% for June 1, 2009, through May 31, 2010.

11 (v) 0.0203% for June 1, 2010, through May 31, 2011.

12 (vi) 0.0325% for June 1, 2011, through May 31, 2012.

13 (vii) 0.0510% for June 1, 2012, through May 31,
14 2013.

15 (viii) 0.0840% for June 1, 2013, through May 31,
16 2014.

17 (ix) 0.1440% for June 1, 2014, through May 31, 2015.

18 (x) ~~0.2500%~~ 0.3000% for June 1, 2015, through May <—
19 31, 2016.

20 (xi) ~~0.2933%~~ 0.4000% for June 1, 2016, through May <—
21 31, 2017.

22 (xii) ~~0.3400%~~ 0.6000% for June 1, 2017, through <—
23 May 31, 2018.

24 (xiii) ~~0.3900%~~ 0.7300% for June 1, 2018, through <—
25 May 31, 2019.

26 (xiv) ~~0.4433%~~ 0.8600% for June 1, 2019, through <—
27 May 31, 2020.

28 (xv) ~~0.5000%~~ 1.0000% for June 1, 2020, and <—
29 thereafter.

30 (3) Upon commencement of the beginning of the 6th

1 reporting year, the commission shall undertake a review of
2 the compliance by electric distribution companies and
3 electric generation suppliers with the requirements of this
4 act. The review shall also include the status of alternative
5 energy technologies within this Commonwealth and the capacity
6 to add additional alternative energy resources. The
7 commission shall use the results of this review to recommend
8 to the General Assembly additional compliance goals beyond
9 year 15. The commission shall work with the department in
10 evaluating the future alternative energy resource potential.

11 * * *

12 ~~Section 3. This act shall take effect in 60 days.~~

13 [(C) TIER II SHARE.--OF THE ELECTRICAL ENERGY REQUIRED TO BE
14 SOLD FROM ALTERNATIVE ENERGY SOURCES IDENTIFIED IN TIER II, THE
15 PERCENTAGE THAT MUST BE FROM THESE TECHNOLOGIES IS FOR:

- 16 (1) YEARS 1 THROUGH 4 - 4.2%.
- 17 (2) YEARS 5 THROUGH 9 - 6.2%.
- 18 (3) YEARS 10 THROUGH 14 - 8.2%.
- 19 (4) YEARS 15 AND THEREAFTER - 10.0%.]

20 (C.1) TIER II AND ADVANCED COAL COMBUSTION WITH LIMITED
21 CARBON EMISSIONS SHARES.--

22 (1) OF THE ELECTRICAL ENERGY REQUIRED TO BE SOLD FROM
23 ALTERNATIVE ENERGY SOURCES IDENTIFIED IN TIER II, THE
24 PERCENTAGE THAT MUST BE FROM THESE TECHNOLOGIES, OTHER THAN
25 FROM ADVANCED COAL COMBUSTION WITH LIMITED CARBON EMISSIONS,
26 IS FOR:

- 27 (I) YEARS 1 THROUGH 4 - 4.2%.
- 28 (II) YEARS 5 THROUGH 9 - 6.2%.
- 29 (III) YEAR 10 - 8.2%.

30 (2) COMMENCING IN YEAR 11 WITH THE REPORTING PERIOD

1 WHICH BEGINS JUNE 1, 2016, AND CONTINUING FOR EACH REPORTING
2 PERIOD THEREAFTER, THE TIER II REQUIREMENTS SHALL BE AS
3 FOLLOWS:

4 (I) YEARS 11 THROUGH 14 - 11.2%.

5 (II) YEAR 15 AND THEREAFTER - 13%.

6 (3) (I) THE TOTAL ELECTRIC ENERGY SOLD BY AN ELECTRIC
7 DISTRIBUTION COMPANY OR ELECTRIC GENERATION SUPPLIER TO
8 RETAIL ELECTRIC CUSTOMERS IN THIS COMMONWEALTH THAT MUST
9 BE SOLD FROM ADVANCED COAL COMBUSTION WITH LIMITED CARBON
10 EMISSIONS IS ALL OF THE ELECTRIC ENERGY AVAILABLE FROM
11 ADVANCED COAL COMBUSTION WITH LIMITED CARBON EMISSIONS UP
12 TO A MAXIMUM OF 3% OF THE TOTAL ELECTRIC ENERGY SOLD BY
13 AN ELECTRIC DISTRIBUTION COMPANY OR ELECTRIC GENERATION
14 SUPPLIER TO RETAIL ELECTRIC CUSTOMERS IN THIS
15 COMMONWEALTH FOR THE REPORTING PERIOD WHICH BEGINS JUNE
16 1, 2016, AND FOR EACH REPORTING PERIOD THEREAFTER
17 PURSUANT TO PARAGRAPH (2).

18 (II) IF AT ANY TIME ON OR AFTER JUNE 1, 2016, THE
19 NETWORK PROVIDED FOR UNDER SECTION 8.1 IS NOT AVAILABLE
20 TO RECEIVE CARBON DIOXIDE FOR SEQUESTRATION THROUGH NO
21 FAULT OF AN ADVANCED COAL COMBUSTION WITH LIMITED CARBON
22 EMISSIONS FACILITY, A FACILITY NEED NOT SEQUESTER CARBON
23 DIOXIDE IN ORDER TO GENERATE ALTERNATIVE ENERGY CREDITS
24 PROVIDED THE FACILITY DEMONSTRATES TO THE DEPARTMENT'S
25 SATISFACTION THAT THE FACILITY IS CAPABLE OF CAPTURING
26 THE AMOUNT OF CARBON DIOXIDE REQUIRED UNDER PARAGRAPH
27 (14)(II) OF THE DEFINITION OF "ALTERNATIVE ENERGY
28 SOURCES" IN SECTION 2.

29 (III) ON OR AFTER DECEMBER 31, 2016, IF THE
30 COMMISSION DETERMINES THAT CONSTRUCTION OF AN ADVANCED

1 COAL COMBUSTION WITH LIMITED CARBON EMISSIONS FACILITY
2 HAS NOT BEEN COMMENCED, THE DETERMINATION SHALL
3 CONSTITUTE FORCE MAJEURE, AND ELECTRIC DISTRIBUTION
4 COMPANIES AND ELECTRIC GENERATION SUPPLIERS SHALL BE
5 EXCUSED FROM ALL OR PART OF THEIR OBLIGATION UNDER THIS
6 PARAGRAPH, AS DETERMINED BY THE COMMISSION.

7 (4) UPON REVIEW AND APPROVAL OF THE COMMISSION, AN
8 ELECTRIC DISTRIBUTION COMPANY MAY ENTER INTO A LONG-TERM
9 CONTRACT OF UP TO 20 YEARS TO PURCHASE THE ENERGY, CAPACITY
10 OR ALTERNATIVE ENERGY CREDITS OF AN ADVANCED COAL COMBUSTION
11 WITH LIMITED CARBON EMISSIONS FACILITY. THE CONTRACT SHALL
12 PROVIDE FOR COST RECOVERY OF COSTS ASSOCIATED WITH CARBON
13 CAPTURE, INCLUDING, BUT NOT LIMITED TO, ANY FEES CHARGED BY
14 THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES UNDER
15 SECTION 8.1(B) WITH REGARD TO THE CARBON DIOXIDE
16 SEQUESTRATION NETWORK. THE COMMISSION MUST DETERMINE THAT THE
17 CONTRACT IS REASONABLE, TAKING INTO CONSIDERATION THE
18 FOLLOWING:

19 (I) THE PRICE OF THE RESOURCE PURCHASED;

20 (II) THE PRICE OF ALTERNATIVE ENERGY CREDITS,
21 PROVIDED THAT THE COST OF AN ALTERNATIVE ENERGY CREDIT
22 PURCHASED FROM ADVANCED COAL COMBUSTION WITH LIMITED
23 CARBON EMISSIONS SHALL NOT EXCEED \$45 PER MEGAWATT HOUR
24 (MWH); AND

25 (III) PRIOR TO THE EFFECTIVE DATE OF THE CONTRACT,
26 THE VALUE OF ANY CARBON EMISSION CREDITS OR OTHER CREDITS
27 THAT THE SELLER OBTAINS FROM THE RESOURCE; AND

28 (IV) AFTER THE EFFECTIVE DATE OF THE CONTRACT THE
29 VALUE OF ANY ADDITIONAL FEDERAL OR STATE CREDITS SHALL BE
30 REFLECTED IN THE PRICE OF THE RESOURCE IN A MANNER WHICH

1 RECOGNIZES SAVINGS TO CUSTOMERS AND DOES NOT REDUCE THE
2 ECONOMIC RETURN TO THE SELLER, PROVIDED, THAT THE SELLER
3 DEMONSTRATES THAT IT HAS MADE A COMMERCIALY REASONABLE
4 EFFORT TO DISTRIBUTE ANY ECONOMIC INCENTIVES IT HAS
5 REALIZED TO ELECTRIC DISTRIBUTION COMPANIES.

6 (D) EXEMPTION DURING COST-RECOVERY PERIOD.--COMPLIANCE WITH
7 SUBSECTIONS (A), (B) AND [(C)] (C.1) SHALL NOT BE REQUIRED FOR
8 ANY ELECTRIC DISTRIBUTION COMPANY THAT HAS NOT REACHED THE END
9 OF ITS COST-RECOVERY PERIOD OR FOR ELECTRIC GENERATION SUPPLIER
10 SALES IN THE SERVICE TERRITORY OF AN ELECTRIC DISTRIBUTION
11 COMPANY THAT HAS NOT REACHED THE END OF ITS COST-RECOVERY
12 PERIOD. AT THE CONCLUSION OF AN ELECTRIC DISTRIBUTION COMPANY'S
13 COST-RECOVERY PERIOD, THIS EXCEPTION SHALL NO LONGER APPLY, AND
14 COMPLIANCE SHALL BE REQUIRED AT THE PERCENTAGES IN EFFECT AT
15 THAT TIME. ELECTRIC DISTRIBUTION COMPANIES AND ELECTRIC
16 GENERATION SUPPLIERS WHOSE SALES ARE EXEMPTED UNDER THIS
17 SUBSECTION AND WHO VOLUNTARILY SELL ELECTRICITY GENERATED FROM
18 TIER I AND TIER II SOURCES DURING THE COST-RECOVERY PERIOD MAY
19 BANK CREDITS CONSISTENT WITH SUBSECTION (E)(7).

20 (E) ALTERNATIVE ENERGY CREDITS.--

21 (1) THE COMMISSION SHALL ESTABLISH AN ALTERNATIVE ENERGY
22 CREDITS PROGRAM AS NEEDED TO IMPLEMENT THIS ACT. THE
23 PROVISION OF SERVICES PURSUANT TO THIS SECTION SHALL BE
24 EXEMPT FROM THE COMPETITIVE PROCUREMENT PROCEDURES OF 62
25 PA.C.S. (RELATING TO PROCUREMENT).

26 (2) THE COMMISSION SHALL APPROVE AN INDEPENDENT ENTITY
27 TO SERVE AS THE ALTERNATIVE ENERGY CREDITS PROGRAM
28 ADMINISTRATOR. THE ADMINISTRATOR SHALL HAVE THOSE POWERS AND
29 DUTIES ASSIGNED BY COMMISSION REGULATIONS. SUCH POWERS AND
30 DUTIES SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

1 (I) TO CREATE AND ADMINISTER AN ALTERNATIVE ENERGY
2 CREDITS CERTIFICATION, TRACKING AND REPORTING PROGRAM.
3 THIS PROGRAM SHOULD INCLUDE, AT A MINIMUM, A PROCESS FOR
4 QUALIFYING ALTERNATIVE ENERGY SYSTEMS AND DETERMINING THE
5 MANNER CREDITS CAN BE CREATED, ACCOUNTED FOR, TRANSFERRED
6 AND RETIRED.

7 (II) TO SUBMIT REPORTS TO THE COMMISSION AT SUCH
8 TIMES AND IN SUCH MANNER AS THE COMMISSION SHALL DIRECT.

9 (3) ALL QUALIFYING ALTERNATIVE ENERGY SYSTEMS MUST
10 INCLUDE A QUALIFYING METER TO RECORD THE CUMULATIVE ELECTRIC
11 PRODUCTION TO VERIFY THE ADVANCED ENERGY CREDIT VALUE.
12 QUALIFYING METERS WILL BE APPROVED BY THE COMMISSION AS
13 DEFINED IN PARAGRAPH (4).

14 (4) (I) AN ELECTRIC DISTRIBUTION COMPANY OR ELECTRIC
15 GENERATION SUPPLIER SHALL COMPLY WITH THE APPLICABLE
16 REQUIREMENTS OF THIS SECTION BY PURCHASING SUFFICIENT
17 ALTERNATIVE ENERGY CREDITS AND SUBMITTING DOCUMENTATION
18 OF COMPLIANCE TO THE PROGRAM ADMINISTRATOR.

19 (II) FOR PURPOSES OF THIS SUBSECTION, ONE
20 ALTERNATIVE ENERGY CREDIT SHALL REPRESENT ONE MEGAWATT
21 HOUR OF QUALIFIED ALTERNATIVE ELECTRIC GENERATION,
22 WHETHER SELF-GENERATED, PURCHASED ALONG WITH THE ELECTRIC
23 COMMODITY OR SEPARATELY THROUGH A TRADABLE INSTRUMENT AND
24 OTHERWISE MEETING THE REQUIREMENTS OF COMMISSION
25 REGULATIONS AND THE PROGRAM ADMINISTRATOR.

26 (5) THE ALTERNATIVE ENERGY CREDITS PROGRAM SHALL INCLUDE
27 PROVISIONS REQUIRING A REPORTING PERIOD AS DEFINED IN SECTION
28 2 FOR ALL COVERED ENTITIES UNDER THIS ACT. THE ALTERNATIVE
29 ENERGY CREDITS PROGRAM SHALL ALSO INCLUDE A TRUE-UP PERIOD AS
30 DEFINED IN SECTION 2. THE TRUE-UP PERIOD SHALL PROVIDE

1 ENTITIES COVERED UNDER THIS ACT THE ABILITY TO OBTAIN THE
2 REQUIRED NUMBER OF ALTERNATIVE ENERGY CREDITS OR TO MAKE UP
3 ANY SHORTFALL OF THE ALTERNATIVE ENERGY CREDITS THEY MAY BE
4 REQUIRED TO OBTAIN TO COMPLY WITH THIS ACT. A FORCE MAJEURE
5 PROVISION SHALL ALSO BE PROVIDED FOR UNDER THE TRUE-UP PERIOD
6 PROVISIONS.

7 (6) AN ELECTRIC DISTRIBUTION COMPANY AND ELECTRIC
8 GENERATION SUPPLIER MAY BANK OR PLACE IN RESERVE ALTERNATIVE
9 ENERGY CREDITS PRODUCED IN ONE REPORTING YEAR FOR COMPLIANCE
10 IN EITHER OR BOTH OF THE TWO SUBSEQUENT REPORTING YEARS,
11 SUBJECT TO THE LIMITATIONS SET FORTH IN THIS SUBSECTION AND
12 PROVIDED THAT THE ELECTRIC DISTRIBUTION COMPANY AND ELECTRIC
13 GENERATION SUPPLIER ARE IN COMPLIANCE FOR ALL PREVIOUS
14 REPORTING YEARS. IN ADDITION, THE ELECTRIC DISTRIBUTION
15 COMPANY AND ELECTRIC GENERATION SUPPLIER SHALL DEMONSTRATE TO
16 THE SATISFACTION OF THE COMMISSION THAT SUCH CREDITS:

17 (I) WERE IN EXCESS OF THE ALTERNATIVE ENERGY CREDITS
18 NEEDED FOR COMPLIANCE IN THE YEAR IN WHICH THEY WERE
19 GENERATED AND THAT SUCH EXCESS CREDITS HAVE NOT
20 PREVIOUSLY BEEN USED FOR COMPLIANCE UNDER THIS ACT;

21 (II) WERE PRODUCED BY THE GENERATION OF ELECTRICAL
22 ENERGY BY ALTERNATIVE ENERGY SOURCES AND SOLD TO RETAIL
23 CUSTOMERS DURING THE YEAR IN WHICH THEY WERE GENERATED;
24 AND

25 (III) HAVE NOT OTHERWISE BEEN NOR WILL BE SOLD,
26 RETIRED, CLAIMED OR REPRESENTED AS PART OF SATISFYING
27 COMPLIANCE WITH ALTERNATIVE OR RENEWABLE ENERGY PORTFOLIO
28 STANDARDS IN OTHER STATES.

29 (7) AN ELECTRIC DISTRIBUTION COMPANY OR AN ELECTRIC
30 GENERATION SUPPLIER WITH SALES THAT ARE EXEMPTED UNDER

1 SUBSECTION (D) MAY BANK CREDITS FOR RETAIL SALES OF
2 ELECTRICITY GENERATED FROM TIER I AND TIER II SOURCES MADE
3 PRIOR TO THE END OF THE COST-RECOVERY PERIOD AND AFTER THE
4 EFFECTIVE DATE OF THIS ACT. BANKABLE CREDITS SHALL BE LIMITED
5 TO CREDITS ASSOCIATED WITH ELECTRICITY SOLD FROM TIER I AND
6 TIER II SOURCES DURING A REPORTING YEAR WHICH EXCEEDS THE
7 VOLUME OF SALES FROM SUCH SOURCES BY AN ELECTRIC DISTRIBUTION
8 COMPANY OR ELECTRIC GENERATION SUPPLIER DURING THE 12-MONTH
9 PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THIS ACT.
10 ALL CREDITS BANKED UNDER THIS SUBSECTION SHALL BE AVAILABLE
11 FOR COMPLIANCE WITH SUBSECTIONS (B) AND [(C)] (C.1) FOR NO
12 MORE THAN TWO REPORTING YEARS FOLLOWING THE CONCLUSION OF THE
13 COST-RECOVERY PERIOD.

14 (8) THE COMMISSION OR ITS DESIGNEE SHALL DEVELOP A
15 REGISTRY OF PERTINENT INFORMATION REGARDING ALL AVAILABLE
16 ALTERNATIVE ENERGY CREDITS, CREDIT TRANSACTIONS AMONG
17 ELECTRIC DISTRIBUTION COMPANIES AND ELECTRIC GENERATION
18 SUPPLIERS, THE NUMBER OF ALTERNATIVE ENERGY CREDITS SOLD OR
19 TRANSFERRED AND THE PRICE PAID FOR THE SALE OR TRANSFER OF
20 THE CREDITS. THE REGISTRY SHALL PROVIDE CURRENT INFORMATION
21 TO ELECTRIC DISTRIBUTION COMPANIES, ELECTRIC GENERATION
22 SUPPLIERS AND THE GENERAL PUBLIC ON THE STATUS OF ALTERNATIVE
23 ENERGY CREDITS CREATED, SOLD OR TRANSFERRED WITHIN THIS
24 COMMONWEALTH.

25 (9) THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE FEE ON
26 AN ALTERNATIVE ENERGY CREDIT TRANSACTION. THE AMOUNT OF THIS
27 FEE MAY NOT EXCEED THE ACTUAL DIRECT COST OF PROCESSING THE
28 TRANSACTION BY THE ALTERNATIVE ENERGY CREDITS ADMINISTRATOR.
29 THE COMMISSION IS AUTHORIZED TO UTILIZE UP TO 5% OF THE
30 ALTERNATIVE COMPLIANCE FEES GENERATED UNDER SUBSECTION (F)

1 FOR ADMINISTRATIVE EXPENSES DIRECTLY ASSOCIATED WITH THIS
2 ACT.

3 (10) THE COMMISSION SHALL ESTABLISH REGULATIONS
4 GOVERNING THE VERIFICATION AND TRACKING OF ENERGY EFFICIENCY
5 AND DEMAND-SIDE MANAGEMENT MEASURES PURSUANT TO THIS ACT,
6 WHICH SHALL INCLUDE BENEFITS TO ALL UTILITY CUSTOMER CLASSES.
7 WHEN DEVELOPING REGULATIONS, THE COMMISSION MUST GIVE
8 REASONABLE CONSIDERATION TO EXISTING AND PROPOSED REGULATIONS
9 AND RULES IN EXISTENCE IN THE REGIONAL TRANSMISSION
10 ORGANIZATIONS THAT MANAGE THE TRANSMISSION SYSTEM IN ANY PART
11 OF THIS COMMONWEALTH. ALL VERIFIED REDUCTIONS SHALL ACCRUE
12 CREDITS STARTING WITH THE PASSAGE OF THIS ACT.

13 (11) THE COMMISSION SHALL WITHIN 120 DAYS OF THE
14 EFFECTIVE DATE OF THIS ACT DEVELOP A DEPRECIATION SCHEDULE
15 FOR ALTERNATIVE ENERGY CREDITS CREATED THROUGH DEMAND-SIDE
16 MANAGEMENT, ENERGY EFFICIENCY AND LOAD MANAGEMENT
17 TECHNOLOGIES AND SHALL DEVELOP STANDARDS FOR TRACKING AND
18 VERIFYING SAVINGS FROM ENERGY EFFICIENCY, LOAD MANAGEMENT AND
19 DEMAND-SIDE MANAGEMENT MEASURES. THE COMMISSION SHALL ALLOW
20 FOR A 60-DAY PUBLIC COMMENT PERIOD AND SHALL ISSUE FINAL
21 STANDARDS WITHIN 30 DAYS OF THE CLOSE OF THE PUBLIC COMMENT
22 PERIOD.

23 (12) UNLESS A CONTRACTUAL PROVISION EXPLICITLY ASSIGNS
24 ALTERNATIVE ENERGY CREDITS IN A DIFFERENT MANNER, THE OWNER
25 OF THE ALTERNATIVE ENERGY SYSTEM OR A CUSTOMER-GENERATOR OWNS
26 ANY AND ALL ALTERNATIVE ENERGY CREDITS ASSOCIATED WITH OR
27 CREATED BY THE PRODUCTION OF ELECTRIC ENERGY BY SUCH FACILITY
28 OR CUSTOMER, AND THE OWNER OR CUSTOMER SHALL BE ENTITLED TO
29 SELL, TRANSFER OR TAKE ANY OTHER ACTION TO WHICH A LEGAL
30 OWNER OF PROPERTY IS ENTITLED TO TAKE WITH RESPECT TO THE

1 CREDITS.

2 (F) ALTERNATIVE COMPLIANCE PAYMENT.--

3 (1) AT THE END OF EACH PROGRAM YEAR, THE PROGRAM
4 ADMINISTRATOR SHALL PROVIDE A REPORT TO THE COMMISSION AND TO
5 EACH COVERED ELECTRIC DISTRIBUTION COMPANY SHOWING THEIR
6 STATUS LEVEL OF ALTERNATIVE ENERGY ACQUISITION.

7 (2) THE COMMISSION SHALL CONDUCT A REVIEW OF EACH
8 DETERMINATION MADE UNDER SUBSECTIONS (B) AND [(C)] (C.1). IF,
9 AFTER NOTICE AND HEARING, THE COMMISSION DETERMINES THAT AN
10 ELECTRIC DISTRIBUTION COMPANY OR ELECTRIC GENERATION SUPPLIER
11 HAS FAILED TO COMPLY WITH SUBSECTIONS (B) AND [(C)] (C.1),
12 THE COMMISSION SHALL IMPOSE AN ALTERNATIVE COMPLIANCE PAYMENT
13 ON THAT COMPANY OR SUPPLIER.

14 (3) THE ALTERNATIVE COMPLIANCE PAYMENT, WITH THE
15 EXCEPTION OF THE SOLAR PHOTOVOLTAIC SHARE COMPLIANCE
16 REQUIREMENT SET FORTH IN SUBSECTION (B)(2), SHALL BE \$45
17 TIMES THE NUMBER OF ADDITIONAL ALTERNATIVE ENERGY CREDITS
18 NEEDED IN ORDER TO COMPLY WITH SUBSECTION (B) OR [(C)] (C.1).

19 (4) THE ALTERNATIVE COMPLIANCE PAYMENT FOR THE SOLAR
20 PHOTOVOLTAIC SHARE SHALL BE 200% OF THE AVERAGE MARKET VALUE
21 OF SOLAR RENEWABLE ENERGY CREDITS SOLD DURING THE REPORTING
22 PERIOD WITHIN THE SERVICE REGION OF THE REGIONAL TRANSMISSION
23 ORGANIZATION, INCLUDING, WHERE APPLICABLE, THE LEVELIZED UP-
24 FRONT REBATES RECEIVED BY SELLERS OF SOLAR RENEWABLE ENERGY
25 CREDITS IN OTHER JURISDICTIONS IN THE PJM INTERCONNECTION,
26 L.L.C. TRANSMISSION ORGANIZATION (PJM) OR ITS SUCCESSOR.

27 (5) THE COMMISSION SHALL ESTABLISH A PROCESS TO PROVIDE
28 FOR, AT LEAST ANNUALLY, A REVIEW OF THE ALTERNATIVE ENERGY
29 MARKET WITHIN THIS COMMONWEALTH AND THE SERVICE TERRITORIES
30 OF THE REGIONAL TRANSMISSION ORGANIZATIONS THAT MANAGE THE

1 TRANSMISSION SYSTEM IN ANY PART OF THIS COMMONWEALTH. THE
2 COMMISSION WILL USE THE RESULTS OF THIS STUDY TO IDENTIFY ANY
3 NEEDED CHANGES TO THE COST ASSOCIATED WITH THE ALTERNATIVE
4 COMPLIANCE PAYMENT PROGRAM. IF THE COMMISSION FINDS THAT THE
5 COSTS ASSOCIATED WITH THE ALTERNATIVE COMPLIANCE PAYMENT
6 PROGRAM MUST BE CHANGED, THE COMMISSION SHALL PRESENT THESE
7 FINDINGS TO THE GENERAL ASSEMBLY FOR LEGISLATIVE ENACTMENT.

8 (G) TRANSFER TO SUSTAINABLE DEVELOPMENT FUNDS.--

9 (1) NOTWITHSTANDING THE PROVISIONS OF 66 PA.C.S. §§ 511
10 (RELATING TO DISPOSITION, APPROPRIATION AND DISBURSEMENT OF
11 ASSESSMENTS AND FEES) AND 3315 (RELATING TO DISPOSITION OF
12 FINES AND PENALTIES), ALTERNATIVE COMPLIANCE PAYMENTS IMPOSED
13 PURSUANT TO THIS ACT SHALL BE PAID INTO PENNSYLVANIA'S
14 SUSTAINABLE ENERGY FUNDS CREATED UNDER THE COMMISSION'S
15 RESTRUCTURING ORDERS UNDER 66 PA.C.S. CH. 28 (RELATING TO
16 RESTRUCTURING OF ELECTRIC UTILITY INDUSTRY). ALTERNATIVE
17 COMPLIANCE PAYMENTS SHALL BE PAID INTO A SPECIAL FUND OF THE
18 PENNSYLVANIA SUSTAINABLE ENERGY BOARD, ESTABLISHED BY THE
19 COMMISSION UNDER DOCKET M-00031715, AND MADE AVAILABLE TO THE
20 REGIONAL SUSTAINABLE ENERGY FUNDS UNDER PROCEDURES AND
21 GUIDELINES APPROVED BY THE PENNSYLVANIA ENERGY BOARD.

22 (2) THE ALTERNATIVE COMPLIANCE PAYMENTS SHALL BE
23 UTILIZED SOLELY FOR PROJECTS THAT WILL INCREASE THE AMOUNT OF
24 ELECTRIC ENERGY GENERATED FROM ALTERNATIVE ENERGY RESOURCES
25 FOR PURPOSES OF COMPLIANCE WITH SUBSECTIONS (B) AND [(C)]
26 (C.1).

27 (H) NONSEVERABILITY.--THE PROVISIONS OF SUBSECTION (A) ARE
28 DECLARED TO BE NONSEVERABLE. IF ANY PROVISION OF SUBSECTION (A)
29 IS HELD INVALID, THE REMAINING PROVISIONS OF THIS ACT SHALL BE
30 VOID.

1 SECTION 3. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

2 SECTION 8.1. CARBON DIOXIDE SEQUESTRATION NETWORK.

3 (A) ESTABLISHMENT.--THE COMMONWEALTH SHALL DEVELOP, OWN AND
4 OPERATE A CARBON DIOXIDE SEQUESTRATION NETWORK UTILIZING
5 APPROPRIATE GEOLOGICAL FORMATIONS ON COMMONWEALTH-OWNED OR OTHER
6 LANDS WHERE THE COMMONWEALTH HAS, OR ACQUIRES, THE RIGHT TO
7 STORE CARBON DIOXIDE. THE COMMONWEALTH-OWNED CARBON DIOXIDE
8 SEQUESTRATION NETWORK MAY ONLY BE UTILIZED TO STORE CARBON
9 DIOXIDE GENERATED WITHIN THIS COMMONWEALTH.

10 (B) COSTS.--THE DEPARTMENT OF CONSERVATION AND NATURAL
11 RESOURCES SHALL CHARGE REASONABLE FEES TO RECOVER THE TOTAL
12 COST, LESS ANY NONREIMBURSABLE FEDERAL FUNDING, OF ESTABLISHING,
13 CONSTRUCTING AND OPERATING THE CARBON DIOXIDE SEQUESTRATION
14 NETWORK. RECOVERABLE COSTS SHALL INCLUDE THE ACQUISITION OF LAND
15 OR OF THE RIGHT TO STORE CARBON DIOXIDE. COSTS SHALL BE
16 RECOVERED IN THE FORM OF FEES COLLECTED FROM ENTITIES THAT
17 TRANSPORT TO, DEPOSIT IN OR OTHERWISE UTILIZE THE CARBON DIOXIDE
18 SEQUESTRATION NETWORK.

19 (C) CARBON DIOXIDE SEQUESTRATION NETWORK STUDY.--

20 (1) IN ORDER TO FACILITATE THE REQUIREMENTS OF
21 SUBSECTION (A), SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS
22 OR OTHER FUNDING, THE DEPARTMENT OF CONSERVATION AND NATURAL
23 RESOURCES SHALL CONDUCT A CARBON DIOXIDE SEQUESTRATION
24 NETWORK STUDY TO IDENTIFY SUITABLE GEOLOGICAL FORMATIONS,
25 INCLUDING, BUT NOT LIMITED TO, SITES WITHIN OR IN PROXIMITY
26 TO THE MEDINA, TUSCARORA OR ORISKANY SANDSTONE FORMATIONS,
27 AND TO PROVIDE ESTIMATES OF CAPITAL REQUIREMENTS AND
28 EXPENDITURES, INCLUDING FEES, NECESSARY FOR ESTABLISHMENT OF
29 THE NETWORK. THE STUDY MAY BE UNDERTAKEN BY DEPARTMENT OF
30 CONSERVATION AND NATURAL RESOURCES PERSONNEL. ALL OR A

1 PORTION OF THE STUDY MAY BE CONDUCTED BY THE DEPARTMENT OF
2 CONSERVATION AND NATURAL RESOURCES PURSUANT TO 62 PA.C.S. PT.
3 I (RELATING TO COMMONWEALTH PROCUREMENT CODE).

4 (2) THE STUDY SHALL INCLUDE AN ASSESSMENT OF THE RISKS
5 ASSOCIATED WITH GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE IN
6 THE CARBON DIOXIDE SEQUESTRATION NETWORK. THE RISK ASSESSMENT
7 SHALL:

8 (I) TAKE INTO ACCOUNT EXISTING FEDERAL AND STATE
9 REGULATORY STANDARDS FOR SAFE GEOLOGIC STORAGE;

10 (II) INCLUDE, AT A MINIMUM, THOSE FACTORS OF
11 GEOLOGIC SEQUESTRATION CONTAINED IN THE UNITED STATES
12 ENVIRONMENTAL PROTECTION AGENCY'S VULNERABILITY
13 EVALUATION FRAMEWORK FOR GEOLOGIC SEQUESTRATION OF CARBON
14 DIOXIDE (EPA 430-R-08-009, DATED JULY 10, 2008); AND

15 (III) PROVIDE RECOMMENDATIONS FOR THE MINIMUM LEVEL
16 OF LIABILITY INSURANCE WHICH SHOULD BE CARRIED BY THE
17 OPERATOR OF THE CARBON DIOXIDE SEQUESTRATION NETWORK
18 WHILE THE NETWORK IS UNDER CONSTRUCTION AND DURING THE
19 FIRST FOUR YEARS OF OPERATION.

20 (3) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
21 SHALL COMPLETE THE STUDY REQUIRED BY PARAGRAPH (1) AND SUBMIT
22 A COPY OF THE COMPLETED STUDY TO THE GOVERNOR AND TO THE
23 CHAIRMAN AND MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES
24 AND ENERGY COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
25 MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY
26 COMMITTEE OF THE HOUSE OF REPRESENTATIVES NO LATER THAN JUNE
27 30, 2010. INTERIM REPORTS ON THE STATUS AND RESULTS OF THE
28 STUDY SHALL BE PROVIDED BY THE DEPARTMENT OF CONSERVATION AND
29 NATURAL RESOURCES TO THE GOVERNOR AND TO THE CHAIRMAN AND
30 MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY

1 COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY
2 CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE
3 OF THE HOUSE OF REPRESENTATIVES BY DECEMBER 31, 2008, AND
4 DECEMBER 31, 2009.

5 (D) PERMITTING AND INSURANCE REQUIREMENTS.--

6 (1) AS PART OF THE PERMITTING PROCESS, THE DEPARTMENT
7 SHALL REVIEW THE RISK ASSESSMENT AND GEOLOGIC SEQUESTRATION
8 REQUIREMENTS ASSOCIATED WITH A CARBON DIOXIDE SEQUESTRATION
9 NETWORK, INCLUDING, BUT NOT LIMITED TO, GEOLOGIC SITE
10 CHARACTERIZATION, MODELING AND VERIFICATION OF FLUID
11 MOVEMENT, CORRECTIVE ACTION, WELL CONSTRUCTION, OPERATION,
12 MECHANICAL INTEGRITY TESTING, MONITORING AND SITE CLOSURE. NO
13 CARBON DIOXIDE MAY BE ACCEPTED FOR SEQUESTRATION UNTIL ALL
14 APPLICABLE PERMITS HAVE BEEN APPROVED.

15 (2) THE OPERATOR OF A CARBON DIOXIDE SEQUESTRATION
16 NETWORK SHALL OBTAIN LIABILITY INSURANCE IN AT LEAST THE
17 MINIMUM AMOUNT RECOMMENDED IN THE RISK ASSESSMENT UNDER
18 SUBSECTION (C)(2)(III). AT LEAST SIX MONTHS PRIOR TO THE
19 COMMENCEMENT OF THE FIFTH YEAR OF OPERATION OF THE CARBON
20 DIOXIDE SEQUESTRATION NETWORK, THE OPERATOR SHALL OBTAIN A
21 NEW RISK ASSESSMENT WHICH INCLUDES RECOMMENDATIONS FOR THE
22 MINIMUM LEVEL OF LIABILITY INSURANCE WHICH SHOULD BE CARRIED
23 BY THE OPERATOR DURING THE FIFTH YEAR OF OPERATION. PRIOR TO
24 COMMENCEMENT OF THE FIFTH YEAR OF OPERATION, THE OPERATOR
25 SHALL OBTAIN LIABILITY INSURANCE IN AT LEAST THE MINIMUM
26 AMOUNT RECOMMENDED IN THE RISK ASSESSMENT. THEREAFTER, THE
27 OPERATOR SHALL HAVE A NEW RISK ASSESSMENT PREPARED
28 BIENNIALLY, WITH RECOMMENDATIONS FOR THE MINIMUM LEVEL OF
29 LIABILITY INSURANCE WHICH SHOULD BE CARRIED BY THE OPERATOR
30 DURING THE NEXT TWO YEARS OF OPERATION, AND SHALL OBTAIN

1 LIABILITY INSURANCE IN AT LEAST THE MINIMUM AMOUNT
2 RECOMMENDED IN THE RISK ASSESSMENT IN ORDER TO CONTINUE TO
3 OPERATE THE CARBON DIOXIDE SEQUESTRATION NETWORK. A COPY OF
4 EACH RISK ASSESSMENT AND PROOF OF INSURANCE SHALL BE PROVIDED
5 BY THE OPERATOR TO THE DEPARTMENT OF CONSERVATION AND NATURAL
6 RESOURCES, THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
7 ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE SENATE
8 AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE ENVIRONMENTAL
9 RESOURCES AND ENERGY COMMITTEE OF THE HOUSE OF
10 REPRESENTATIVES.

11 (E) TITLE TO CARBON DIOXIDE; IMMUNITY.--

12 (1) UPON TRANSPORTING CARBON DIOXIDE TO THE PROPERTY
13 LINE OF THE COMMONWEALTH-OWNED LANDS OR OTHER LANDS ON WHICH
14 THE COMMONWEALTH'S CARBON DIOXIDE SEQUESTRATION NETWORK IS
15 LOCATED, THE OWNER OF AN ADVANCED COAL COMBUSTION WITH
16 LIMITED CARBON EMISSIONS PLANT SHALL TRANSFER AND CONVEY AND
17 THE COMMONWEALTH SHALL ACCEPT AND RECEIVE ALL RIGHTS, TITLES
18 AND INTEREST IN AND TO AND ANY LIABILITIES ASSOCIATED WITH
19 THE CARBON DIOXIDE, INCLUDING ANY CURRENT OR FUTURE
20 ENVIRONMENTAL BENEFITS, MARKETING CLAIMS, TRADABLE CREDITS,
21 EMISSIONS ALLOCATIONS OR OFFSETS, VOLUNTARY OR COMPLIANCE-
22 BASED, ASSOCIATED THEREWITH, BUT NOT INCLUDING ALTERNATIVE
23 ENERGY CREDITS PROVIDED UNDER SECTION 3(E).

24 (2) UPON AND AFTER TRANSFER AND CONVEYANCE OF CARBON
25 DIOXIDE AS PROVIDED UNDER PARAGRAPH (1), THE OWNER OF AN
26 ADVANCED COAL COMBUSTION WITH LIMITED CARBON EMISSIONS PLANT
27 SHALL BE IMMUNE FROM ANY LIABILITIES WITH REGARD TO THE
28 STORAGE OF CARBON DIOXIDE WITHIN AND THE RELEASE, ESCAPE OR
29 MIGRATION OF CARBON DIOXIDE FROM THE COMMONWEALTH'S CARBON
30 DIOXIDE SEQUESTRATION NETWORK AND SUBSURFACE STORAGE SITE.

1 SECTION 8.2. SEVERABILITY.

2 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
3 THIS ACT OR ITS APPLICATION TO ANY INDIVIDUAL OR CIRCUMSTANCE IS
4 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
5 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
6 THE INVALID PROVISION OR APPLICATION.

7 SECTION 4. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

8 (1) THE ADDITION OF SECTION 8.1(C) OF THE ACT SHALL TAKE
9 EFFECT IMMEDIATELY.

10 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

11 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
12 DAYS.