

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 20

Session of  
2009

INTRODUCED BY McCALL, EACHUS, GEORGE, BRENNAN, BUXTON, CARROLL,  
CALTAGIRONE, CASORIO, CONKLIN, CRUZ, DONATUCCI, FREEMAN,  
GODSHALL, HALUSKA, HANNA, HARKINS, KIRKLAND, KORTZ,  
MANDERINO, MANN, MICOZZIE, MUNDY, MUSTIO, M. O'BRIEN,  
O'NEILL, PAYTON, READSHAW, SANTARSIERO, SANTONI, SCAVELLO,  
SCHRODER, SHAPIRO, SIPTROTH, K. SMITH, SOLOBAY, SWANGER,  
J. TAYLOR, THOMAS, WHITE, YUDICHAK, JOSEPHS, HORNAMAN,  
JOHNSON, McILVAINE SMITH, MELIO, D. COSTA, CLYMER, BRIGGS,  
GABIG, HELM, KULA, BROOKS, HESS, YOUNGBLOOD, GALLOWAY,  
FRANKEL, BURNS, STABACK, BOYD, MURT, MAHONEY AND GEIST,  
MARCH 17, 2009

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 21, 2009

## AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, further providing for ~~the definition~~  
3 ~~of~~ DEFINITIONS; and providing for rate phase-in plans. ←

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

6 Section 1. Section 2803 of Title 66 of the Pennsylvania  
7 Consolidated Statutes is amended by adding ~~a definition~~ ←  
8 DEFINITIONS to read: ←

9 § 2803. Definitions.

10 The following words and phrases when used in this chapter  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 \* \* \*

1     "DEFERRED AMOUNTS." THE REASONABLE AND PRUDENT COSTS  
2     INCURRED BY AN ELECTRIC DISTRIBUTION COMPANY TO PROCURE POWER  
3     FOR ITS DEFAULT SERVICE OBLIGATION NOT RECOVERED IN CURRENT  
4     CUSTOMER RATES AND CREDITS PROVIDED TO CUSTOMERS WHO ELECT TO  
5     PARTICIPATE IN A PHASE-IN PLAN AND OBTAIN SERVICE FROM AN  
6     ELECTRIC GENERATION SUPPLIER, BOTH INCLUDING ALLOWABLE COSTS AS  
7     DEFINED UNDER STATEMENT OF FINANCIAL ACCOUNTING STANDARDS NO.  
8     71, ACCOUNTING FOR THE EFFECTS OF CERTAIN TYPES OF REGULATION  
9     (FINANCIAL ACCOUNTING STANDARDS BOARD, ISSUED DECEMBER 1982, AS  
10    AMENDED), PROVIDED THAT THE COST OF CAPITAL, FOR THE PURPOSES OF  
11    SECTION 2816 (RELATING TO RATE PHASE-IN PLANS), SHALL BE EQUAL  
12    TO THE RATE SPECIFIED UNDER SECTION 202 OF THE ACT OF JANUARY  
13    30, 1974 (P.L.13, NO.6), REFERRED TO AS THE LOAN INTEREST AND  
14    PROTECTION LAW.

15     \* \* \*

16     "Overall rate." The sum of all retail rates charged by an  
17     electric distribution company for electric service including all  
18     applicable riders and surcharges.

19     "PHASE-IN PLAN." A PLAN FILED WITH THE PENNSYLVANIA PUBLIC  
20     UTILITY COMMISSION BY AN ELECTRIC DISTRIBUTION COMPANY THAT  
21     PROVIDES THE CUSTOMER WITH THE OPTION TO PHASE IN ANY INITIAL  
22     INCREASE IN THE GENERATION RATE THAT MAY OCCUR UPON THE  
23     EXPIRATION OF THAT ELECTRIC DISTRIBUTION COMPANY'S GENERATION  
24     RATE CAP.

25     "PREPAYMENT PLAN." A PLAN FILED WITH THE PENNSYLVANIA PUBLIC  
26     UTILITY COMMISSION BY AN ELECTRIC DISTRIBUTION COMPANY THAT  
27     PROVIDES THE CUSTOMER WITH THE OPTION TO BEGIN THE PHASE-IN  
28     PERIOD PRIOR TO THE EXPIRATION OF THAT ELECTRIC DISTRIBUTION  
29     COMPANY'S GENERATION RATE CAP.

30     \* \* \*

Section 2. Title 66 is amended by adding a section to read:  
§ 2816. Rate phase-in plans.

(a) General rule.--Within 90 days of the effective date of this section, each electric distribution company SUBJECT TO A GENERATION RATE CAP AS DESCRIBED UNDER THIS CHAPTER AS OF DECEMBER 31, 2009, shall file a competitively neutral phase-in plan with the commission to provide residential and small commercial customers the option to phase in any initial increase in the price for generation service that may occur upon the expiration of the generation rate cap for such provider specified in section 2804(4) (relating to standards for restructuring of electric industry) or a restructuring plan in section 2806(f) (relating to implementation, pilot programs and performance-based rates) and ending no later than three years after such expiration date. Customer participation in any plan approved under this subsection shall be voluntary AND SHALL REQUIRE THE AFFIRMATIVE CONSENT OF THE CUSTOMER.

(b) Conditions.--Each phase-in plan shall be subject to commission approval and shall meet the following conditions:

(1) ~~Such~~ THE PHASE-IN plan shall offer a gradual transition to prices at the level permitted pursuant to a commission-approved procurement plan under section 2807(e) (3.1) (relating to duties of electric distribution companies) beginning on the expiration date of the generation rate cap for the provider.

(2) The PHASE-IN plan shall ensure that the annual percentage increase in the ~~overall~~ GENERATION rate charged to each customer class under the plan shall, IF GREATER THAN 10%, be phased in in three equal annual percentage increases, provided that the increase in any one year shall not exceed

1 ~~15%~~ 20% of the overall rate in effect for the customer class ←  
2 on the last day before the expiration of the generation rate  
3 caps during the three-year period specified in subsection  
4 (a). After appropriate notice and opportunity for hearing,  
5 the commission may provide for an additional three-year  
6 period for the recovery of deferred amounts under this  
7 section.

8 ~~(3) Such plan may offer the customer the option to begin~~ ←  
9 ~~the phase-in period prior to the expiration of the generation~~  
10 ~~rate cap~~ IN ADDITION TO THE PHASE-IN PLAN PROVIDED UNDER ←  
11 PARAGRAPH (2), AN ELECTRIC DISTRIBUTION COMPANY MAY OFFER  
12 CUSTOMERS THE OPTION TO PARTICIPATE IN A RATE INCREASE  
13 PREPAYMENT PLAN, provided that the customer accrues interest  
14 on any prepaid amount at a rate of AT LEAST 6% compounded ←  
15 annually. Customer participation in any plan approved under  
16 this subsection shall be voluntary AND SHALL REQUIRE THE ←  
17 AFFIRMATIVE CONSENT OF THE CUSTOMER.

18 ~~(4) Such~~ THE FOLLOWING SHALL APPLY: ←

19 (I) THE PHASE-IN plan shall specify the means of  
20 providing notice to customers of the option to  
21 participate in ~~such~~ THE plan on a voluntary basis. THE ←  
22 ELECTRIC DISTRIBUTION COMPANY SHALL PROVIDE NOTICE OF THE  
23 PHASE-IN PLAN IN AT LEAST FOUR BILLING STATEMENTS PRIOR  
24 TO THE EXPIRATION OF THE GENERATION RATE CAP. NOTICE  
25 SHALL ALSO BE POSTED ON THE ELECTRIC DISTRIBUTION  
26 COMPANY'S INTERNET WEBSITE. THE NOTICE SHALL INCLUDE ALL  
27 OF THE FOLLOWING:

28 (A) SPECIFIC INFORMATION ON THE PHASE-IN PLAN  
29 INCLUDING POTENTIAL BENEFITS AND COSTS WITH REGARD TO  
30 PARTICIPATING IN THE PLAN.

1                   (B) A FORM TO ELECT PARTICIPATION IN THE PHASE-  
2                   IN PLAN.

3                   (C) A TOLL-FREE TELEPHONE NUMBER TO ALLOW A  
4                   CUSTOMER TO ELECT PARTICIPATION IN THE PHASE-IN PLAN  
5                   BY TELEPHONE OR TO RECEIVE ADDITIONAL INFORMATION.

6                   (II) IN ORDER TO PARTICIPATE IN THE PHASE-IN PLAN,  
7                   THE CUSTOMER SHALL FILE A WRITTEN OR ELECTRONIC ELECTION  
8                   TO PARTICIPATE.

9                   (5) IN ORDER TO ENSURE COMPETITIVE NEUTRALITY, THE  
10                  PHASE-IN PLAN OR PREPAYMENT PLAN SHALL BE IMPLEMENTED THROUGH  
11                  NONBYPASSABLE CHARGES AND CREDITS ON CUSTOMER'S BILLS  
12                  SEPARATE FROM THE DEFAULT GENERATION CHARGE, AND THE PLANS  
13                  SHALL BE AVAILABLE TO CUSTOMERS WHETHER THE CUSTOMER CHOOSES  
14                  TO TAKE ELECTRIC GENERATION SERVICE FROM THE ELECTRIC  
15                  DISTRIBUTION COMPANY OR FROM AN ELECTRIC GENERATION SUPPLIER.

16                  (6) A CUSTOMER PARTICIPATING IN THE PHASE-IN PLAN CAN  
17                  ELECT TO WITHDRAW AT ANY TIME BY NOTIFYING THE ELECTRIC  
18                  DISTRIBUTION COMPANY BY FILING A WRITTEN OR ELECTRONIC  
19                  ELECTION TO WITHDRAW.

20                  (c) Recovery.--The default service provider shall be  
21                  eligible to fully recover the amount of the deferred payment ←  
22                  DEFERRED AMOUNTS resulting from a customer's participation in ←  
23                  the PHASE-IN plan from such customers by means of a ←  
24                  nonbypassable charge to such customers subject to the conditions  
25                  established in subsection (b). The charge shall be a  
26                  reconcilable automatic adjustment charge under section 1307  
27                  (relating to sliding scale of rates; adjustments), shall be  
28                  applied to participating customers on a customer class basis,  
29                  shall NOT be included in other charges on the electric ←  
30                  distribution company's bill and shall not appear as a separate ←

1 line item on the customer's bill. THE RECOVERY AUTHORIZED UNDER ←  
2 THIS SUBSECTION MAY NOT BE APPLIED TO CUSTOMERS WHO ARE NOT  
3 PARTICIPATING IN A PLAN UNDER THIS SECTION. Any plan approved by  
4 the commission shall be considered a new service offered for the  
5 first time under section ~~2804(f)(vi)~~. 2804(4)(VI). ←

6 (d) NOTICE AND COLLECTION OF DEFERRED PAYMENTS.-- ←

7 (1) THE DEFAULT SERVICE PROVIDER SHALL PROVIDE ADEQUATE  
8 NOTICE TO ALL CUSTOMERS PARTICIPATING IN THE PHASE-IN PLAN OF  
9 THE INTENT TO COLLECT DEFERRED AMOUNTS PROVIDED FOR IN  
10 SUBSECTION (C). THE DEFAULT SERVICE PROVIDER SHALL PROVIDE  
11 NOTICE AT LEAST 90 DAYS PRIOR TO COLLECTING SUCH DEFERRED  
12 AMOUNTS AND CONTINUE TO PROVIDE NOTICE AT 30-DAY INTERVALS  
13 THEREAFTER.

14 (2) THE DEFAULT SERVICE PROVIDER SHALL CHARGE A CUSTOMER  
15 FOR THE CURRENT BALANCE OF THE CUSTOMER'S DEFERRED AMOUNTS AT  
16 THE TIME THE CUSTOMER:

17 (I) LEAVES THE DEFAULT SERVICE PROVIDER'S SERVICE  
18 TERRITORY;

19 (II) ELECTS TO WITHDRAW FROM THE PHASE-IN PLAN AS  
20 PROVIDED UNDER SUBSECTION (B) (6); OR

21 (III) CHOOSES AN ELECTRIC GENERATION SUPPLIER FOR  
22 THEIR ELECTRIC GENERATION SERVICE.

23 (E) Deferred ~~costs~~ AMOUNTS.--The FOR PURPOSES OF THIS ←  
24 CHAPTER, THE commission shall permit such deferred ~~costs~~ AMOUNTS ←  
25 to be recorded for accounting purposes on an electric  
26 distribution company's books of account as a regulatory asset  
27 where the electric distribution company is the default service ←  
28 provider.

29 ~~(e)~~ (F) Credit.--In FOR CUSTOMERS PARTICIPATING IN A ←  
30 PREPAYMENT PLAN, IN the event a customer leaves the default

1 service provider's ~~system~~ SERVICE TERRITORY prior to the full  
2 distribution of amounts collected, a credit, WITH INTEREST, will  
3 be applied to the customer's final bill and any remainder, WITH  
4 INTEREST, shall be refunded to the customer.

5 ~~(f)~~ (G) Intangible transition property.--An electric  
6 distribution company's right to recover costs under an approved  
7 phase-in plan shall be deemed intangible transition property for  
8 purposes of section 2812 (relating to approval of transition  
9 bonds), but not for any other section of Chapter 28 (relating to  
10 restructuring of electric utility industry), and the commission  
11 is authorized to issue a qualified rate order under section 2812  
12 with respect to such costs and to issue such other orders and  
13 take such actions as may be necessary or proper for the electric  
14 distribution company to issue transition bonds, as provided in  
15 section 2812, secured by the electric distribution company's  
16 right to recover such costs.

17 Section 3. This act shall take effect immediately.