

## AMENDMENTS TO SENATE BILL NO. 805

Sponsor: SENATOR BOSCOLA

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1 Amend Bill, page 1, lines 7 through 18; page 2, lines 1  
2 through 30; page 3, lines 1 through 18; by striking out all of  
3 said lines on said pages and inserting

4 Section 1. Section 2806.1(a)(10), (b)(1) introductory  
5 paragraph and (i)(B) and (I), (c)(3), (d)(2), (f)(1)(i) and (ii)  
6 and (2)(i) and (ii) introductory paragraph and (A) and the  
7 definition of "conservation service provider" in subsection (m)  
8 of Title 66 of the Pennsylvania Consolidated Statutes are  
9 amended, subsection (m) is amended by adding a definition and  
10 the section is amended by adding subsections to read:

11 § 2806.1. Energy efficiency and conservation program.

12 (a) Program.--The commission shall, by January 15, 2009,  
13 adopt an energy efficiency and conservation program to require  
14 electric distribution companies to adopt and implement cost-  
15 effective energy efficiency and conservation plans to reduce  
16 energy demand and consumption within the service territory of  
17 each electric distribution company in this Commonwealth. The  
18 program shall include:

19 \* \* \*

20 (10) A requirement for the [participation] utilization  
21 of conservation service providers [in] to facilitate the  
22 implementation of all or part of a plan.

23 \* \* \*

24 (b) Duties of electric distribution companies.--

25 (1) The following apply:

26 (i) By July 1, 2009, each electric distribution  
27 company shall develop and file an energy efficiency and  
28 conservation plan with the commission for approval to  
29 meet the requirements of subsection (a) and the  
30 requirements for reduction in consumption under  
31 subsections (c) and (d). The plan shall be implemented  
32 upon approval by the commission. The following are the  
33 plan requirements:

34 \* \* \*

35 [(B) A minimum of 10% of the required reductions  
36 in consumption under subsections (c) and (d) shall be  
37 obtained from units of Federal, State and local

1 government, including municipalities, school  
2 districts, institutions of higher education and  
3 nonprofit entities.]

4 \* \* \*

5 (I) The electric distribution company shall  
6 demonstrate that the plan is cost effective using a  
7 total resource cost test approved by the commission  
8 and provides a diverse cross section of alternatives  
9 for participating customers of [all] rate classes  
10 included in the plan.

11 \* \* \*

12 (c) Reductions in consumption.--The plans adopted under  
13 subsection (b) shall reduce electric consumption as follows:

14 \* \* \*

15 (3) By November 30, 2013, [and every five years  
16 thereafter,] the commission shall evaluate the costs and  
17 benefits of the program established under subsection (a) and  
18 of approved energy efficiency and conservation plans  
19 submitted to the program. The evaluation shall be consistent  
20 with a total resource cost test or a cost-benefit analysis  
21 determined by the commission. If the commission determines  
22 that the benefits of the program exceed the costs, the  
23 commission shall adopt additional required incremental  
24 reductions in consumption. Following May 31, 2021, the term  
25 of a plan shall be determined by the commission but shall not  
26 exceed five years.

27 (c.1) Option.--

28 (1) Prior to each phase of implementation of the program  
29 beginning after May 31, 2021, by a date determined by the  
30 commission, a customer that is a member of a large commercial  
31 class or industrial class may opt to cease participation in  
32 the electric distribution company plan for all of the  
33 customer's eligible accounts. A customer that opts to cease  
34 participation in a plan under this paragraph shall remain  
35 opted out of the electric distribution company plan for all  
36 subsequent phases of implementation of the program unless and  
37 until the customer, by a date determined by the commission  
38 prior to implementation of a subsequent phase, opts to resume  
39 participation in the electric distribution company plan.

40 (2) A customer that opts out of a plan under paragraph  
41 (1):

42 (i) shall not be eligible to receive grants, rebates  
43 or other funding contained in the plan for the opt-out  
44 accounts during the applicable phase; and

45 (ii) shall not be required to pay a recovery under  
46 subsection (k) for the opt-out accounts during the  
47 applicable phase.

48 (3) By December 31, 2017, the commission shall establish  
49 guidelines to implement this subsection.

50 (c.2) Refund.--Any over collections or under collections  
51 from any customer classes shall be refunded or recovered, as

1 appropriate in accordance with the commission's implementation  
2 order for the subsequent phase.

3 (d) Peak demand.--The plans adopted under subsection (b)  
4 shall reduce electric demand as follows:

5 \* \* \*

6 (2) [By November 30, 2013, the commission shall compare  
7 the total costs of energy efficiency and conservation plans  
8 implemented under this section to the total savings in energy  
9 and capacity costs to retail customers in this Commonwealth  
10 or other costs determined by the commission. If the  
11 commission determines that the benefits of the plans exceed  
12 the costs, the commission shall set additional incremental  
13 requirements for reduction in peak demand for the 100 hours  
14 of greatest demand or an alternative reduction approved by  
15 the commission. Reductions in demand shall be measured from  
16 the electric distribution company's peak demand for the  
17 period from June 1, 2011, through May 31, 2012. The  
18 reductions in consumption required by the commission shall be  
19 accomplished no later than May 31, 2017.] The commission  
20 shall not mandate any peak demand reductions in any new plan  
21 implemented after May 31, 2021.

22 \* \* \*

23 (f) Penalties.--

24 (1) The following shall apply for failure to submit a  
25 plan:

26 (i) An electric distribution company that fails to  
27 file a plan under subsection (b) or (c.1)(2) shall be  
28 subject to a civil penalty of not more than \$100,000 per  
29 day until the plan is filed.

30 (ii) An electric distribution company that fails to  
31 file a revised plan under subsection (e)(2)(ii) shall be  
32 subject to a civil penalty of not more than \$100,000 per  
33 day until the plan is filed.

34 \* \* \*

35 (2) The following shall apply to an electric  
36 distribution company that fails to achieve the reductions in  
37 consumption required [under subsection (c) or (d)] by the  
38 commission under subsection (c):

39 (i) The electric distribution company shall be  
40 subject to a civil penalty [not less than \$1,000,000 and]  
41 not to exceed [\$20,000,000] \$5,000,000 for failure to  
42 achieve the [required] reductions in consumption [under  
43 subsection (c) or (d)] required by the commission under  
44 subsection (c). Any penalty paid by an electric  
45 distribution company under this subparagraph shall not be  
46 recoverable from ratepayers.

47 (ii) If an electric distribution company fails to  
48 achieve the [required] reductions in consumption [under  
49 subsection (c) or (d)] required by the commission under  
50 subsection (c), responsibility to achieve the reductions  
51 in consumption shall be transferred to the commission.

1 The commission shall do all of the following:  
2 (A) Implement a plan to achieve the [required]  
3 reductions in consumption [under subsection (c) or  
4 (d)] required by the commission under subsection (c).

5 \* \* \*

6 (m) Definitions.--As used in this section, the following  
7 words and phrases shall have the meanings given to them in this  
8 subsection:

9 "Conservation service provider." An entity that provides  
10 information and technical assistance on measures to enable a  
11 person to increase energy efficiency or reduce energy  
12 consumption [and that has no direct or indirect ownership,  
13 partnership or other affiliated interest with an electric  
14 distribution company].

15 \* \* \*

16 "Large commercial class or industrial class." The group of  
17 customers categorized as large commercial or as industrial by an  
18 electric distribution company in its original energy efficiency  
19 and conservation plan under subsection (b)(1)(i) or as filed in  
20 the company's tariff.

21 \* \* \*

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