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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 868 Session of  
2009

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INTRODUCED BY BOSCOLA, O'PAKE, FONTANA, HUGHES, WASHINGTON AND  
KITCHEN, MAY 27, 2009

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, MAY  
27, 2009

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, providing for the definition of  
3 "overall rate" and 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 to read:

8 § 2803. Definitions.

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

12 \* \* \*

13 "Overall rate." The sum of all retail rate schedule  
14 components including the generation and transmission charges  
15 charged by an electric distribution company or a competitive  
16 electric generating supplier for electric service and including  
17 all applicable riders and surcharges.

18 \* \* \*

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

3 (a) General rule.--Within 90 days of the effective date of  
4 this section, each electric distribution company shall file a  
5 competitively neutral phase-in plan with the commission to  
6 provide all customers in each customer class the option to phase  
7 in any initial increase in the price for generation service that  
8 may occur upon the expiration of the generation rate cap for  
9 such provider specified in section 2804(4) (relating to  
10 standards for restructuring of electric industry) or a  
11 restructuring plan in section 2806(f) (relating to  
12 implementation, pilot programs and performance-based rates) and  
13 ending no sooner than three years after such expiration date and  
14 no later than five years after such expiration date. Customer  
15 participation in any plan approved under this subsection shall  
16 be voluntary.

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

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

24 (2) The plan shall ensure that the annual percentage  
25 increase in the overall rate charged to each customer class  
26 under the plan shall be phased in in equal annual percentage  
27 increases, provided that the increase in any one year shall  
28 not exceed 10% of the overall rate in effect for the customer  
29 class on the last day before the expiration of the generation  
30 rate caps during the period specified in subsection (a).

1 After appropriate notice and opportunity for hearing, the  
2 commission may provide for an additional period of up to  
3 three years for the recovery of deferred amounts under this  
4 section.

5 (3) Such plan may offer the customer the option to begin  
6 the phase-in period prior to the expiration of the generation  
7 rate cap, provided that the customer accrues interest on any  
8 prepaid amount at a rate of no less than 6% compounded  
9 annually. Customer participation in any plan approved under  
10 this subsection shall be voluntary.

11 (4) In the event a customer leaves the default service  
12 provider's system prior to the full distribution of amounts  
13 collected, a credit will be applied to the customer's final  
14 bill and any remainder shall be refunded to the customer.

15 (5) Such plan shall specify the means of providing  
16 notice to customers of the option to participate in such plan  
17 on a voluntary basis.

18 (c) Recovery.--The default service provider shall be  
19 eligible to fully recover the amount of the deferred payment  
20 resulting from a customer's participation in the plan from such  
21 customers. The charge shall be a reconcilable automatic  
22 adjustment charge under section 1307 (relating to sliding scale  
23 of rates; adjustments), shall be applied to participating  
24 customers on a customer class basis, shall be included in other  
25 charges on the electric distribution company's bill and shall  
26 not appear as a separate line item on the customer's bill.

27 (d) Carrying charge not permitted.--The commission shall not  
28 permit any carrying charge or compounded annual interest to be  
29 applied by an electric distribution company to the deferred cost  
30 or deferred payments from such customers. Only the amount of the

1 deferred payment shall be eligible for recovery under  
2 subsections (b) and (c).

3 (e) Deferred costs.--The commission shall permit such  
4 deferred costs to be recorded for accounting purposes on an  
5 electric distribution company's books of account as a regulatory  
6 asset where the electric distribution company is the default  
7 service provider.

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

20 Section 3. The requirements of this act shall only apply to  
21 electric distribution companies that, as of the effective date  
22 of this act, are subject to a Pennsylvania Public Utility  
23 Commission-approved generation rate cap that was initiated under  
24 section 2804(4) (ii).

25 Section 4. This act shall take effect immediately.