

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2035

Session of
1978

INTRODUCED BY F. TAYLOR, B. F. O'BRIEN, SWEET, J. L. WRIGHT JR.,
BURNS, GOODMAN, FISHER, McCALL, LINCOLN, LEHR, GATSKI, ITKIN,
MISCEVICH, PRATT, YAHNER AND DeWEESE, JANUARY 31, 1978

REFERRED TO COMMITTEE ON MINES AND ENERGY MANAGEMENT,
JANUARY 31, 1978

AN ACT

1 Amending the act of May 28, 1937 (P.L.1053, No.286), entitled
2 "An act relating to the regulation of public utilities;
3 defining as public utilities certain corporations, companies,
4 associations, and persons; providing for the regulation of
5 public utilities, including, to a limited extent,
6 municipalities engaging in public utility business, by
7 prescribing, defining, and limiting their duties, powers, and
8 liabilities, and regulating the exercise, surrender or
9 abandonment of their powers, privileges, and franchises;
10 defining and regulating contract carriers by motor vehicle
11 and brokers in order to regulate effectively common carriers
12 by motor vehicle; conferring upon the Pennsylvania Public
13 Utility Commission the power and duty of supervising and
14 regulating persons, associations, companies, and
15 corporations, including, to a limited extent, municipal
16 corporations subject to this act, and administering the
17 provisions of this act; authorizing the commission to fix
18 temporary rates; placing the burden of proof on public
19 utilities to sustain their rates and certain other matters;
20 authorizing a permissive or mandatory sliding scale method of
21 regulating rates; providing for the supervision of financial
22 and contractual relations between public utilities and
23 affiliated interests, and supervision and regulation of
24 accounts and securities or obligations issued, assumed, or
25 kept by persons, associations, companies, corporations or
26 municipal corporations subject to this act; conferring upon
27 the commission power to vary, reform, or revise certain
28 contracts; conferring upon the commission the exclusive power
29 to regulate or order the construction, alteration,
30 relocation, protection, or abolition of crossings of
31 facilities of public utilities, and of such facilities by or

1 over public highways, to appropriate property for the
2 construction or improvement of such crossings, and to award
3 or apportion resultant costs and damages; authorizing owners
4 of such property to sue the Commonwealth for such damages;
5 providing for ejectment proceedings in connection with the
6 appropriation of property for crossings; conferring upon the
7 commission power to control and regulate budgets of public
8 utilities; imposing upon persons, associations, companies,
9 and corporations (except municipal corporations) subject to
10 regulation, the cost of administering this act; prescribing
11 and regulating practice and procedure before the commission
12 and procedure for review by the courts of commission action;
13 giving the court of common pleas of Dauphin County exclusive
14 original jurisdiction over certain proceedings; prescribing
15 penalties, fines, and imprisonment for violations of the
16 provisions of this act and regulations and orders of the
17 commission, and the procedure for enforcing such fines and
18 penalties; and repealing legislation supplied and superseded
19 by or inconsistent with this act," further providing for rate
20 adjustment for gas utilities.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 2, act of May 28, 1937 (P.L.1053,
24 No.286), known as the "Public Utility Law," is amended by adding
25 a clause to read:

26 Section 2. Definitions.--The following words, terms and
27 phrases shall have the meanings ascribed to them in this
28 section, unless the context clearly indicates otherwise:

29 * * *

30 (24) "Historic natural gas" means interstate natural gas
31 that is regulated by the appropriate Federal agency.

32 * * *

33 Section 2. Subsection (a) of section 307 of the act, is
34 amended to read:

35 Section 307. Sliding Scale of Rates.--(a) Any public
36 utility, except a common carrier, may establish a sliding scale
37 of rates or such other method for the automatic adjustment of
38 the rates of the public utility as shall provide a just and
39 reasonable return on the fair value of the property used and

1 useful in the public service, to be determined upon such
2 equitable or reasonable basis as shall provide such fair return:
3 Provided, That a tariff showing the scale of rates under such
4 arrangement is first filed with the commission, and such tariff,
5 and each rate set out therein, approved by it: Provided further,
6 That the cost of fuel used or purchased by any gas utility
7 company shall not be subject to automatic adjustment of the
8 rates but shall only be recoverable in accordance with section
9 308.1. The commission may revoke its approval at any time and
10 fix other rates for any such public utility if, after notice and
11 hearing, the commission finds the existing rates unjust or
12 unreasonable.

13 * * *

14 Section 3. The act is amended by adding a section to read:

15 Section 308.1. Gas Utility Fuel and Energy Cost Base Rate
16 Adjustments.--(a) After one hundred eighty days following the
17 effective date of this act, no gas utility company shall make
18 use of any method for the automatic adjustment of its rates to
19 reflect changes in its fuel and energy costs. All fuel and
20 energy costs and any associated gross receipts taxes recoverable
21 under any previously used method for automatically adjusting its
22 rates to reflect changes in fuel and energy costs shall
23 thereafter be reflected in its base rates.

24 (b) All contracts or agreements for the purchase of fuel by
25 a gas utility company must be approved by the commission. A copy
26 of any such proposed contract or agreement shall be submitted to
27 the commission for approval within sixty days of its proposed
28 effective date. Any such contract or agreement shall include a
29 provision that the approval of the commission is a condition
30 precedent to the contract or agreement having any legal force or

1 effect.

2 (c) The initial conversion period for each gas utility
3 company complying with the requirements of subsection (a) shall
4 be determined by the commission. All procedures for filing the
5 annual and interim revisions of said utility's base rate
6 schedule shall also be established by the commission, except as
7 specified herein. Each gas utility company shall file a plan by
8 which it proposes to amortize deferred energy costs accumulated
9 in deferred energy accounts from automatic adjustment clauses
10 used prior to the effective date of this act. Such plan shall be
11 filed no later than sixty days after the effective date of this
12 act. The commission shall accept such plan if it is found to be
13 reasonable.

14 (d) Any gas utility company shall be authorized to annually
15 adjust its base rates to reflect, to the extent not previously
16 incorporated into its base rates, its future anticipated
17 recoverable fuel and energy costs during such prospective
18 twelve-month period as the commission shall determine. The cost
19 of any new gas, other than historic natural gas, required to be
20 purchased to continue service to customers who otherwise would
21 have been subject to curtailed service without the purchase of
22 such gas, shall be allocable under this section to said
23 customers only.

24 (e) Prior to first making a base rate adjustment authorized
25 by this section, and approximately annually thereafter, said
26 utility shall file revisions of its base rate schedules. The
27 revised base rate schedules shall provide for increase or
28 decrease of the energy charge per m.c.f. specified in each such
29 schedule by such amounts as will provide, on an annual basis, an
30 aggregate increase or decrease in base rate revenues as will

equivalently reflect the amount of the estimated increase or decrease, for a prospective operative period of twelve months duration, of the gas utility's recoverable fuel and energy costs. The revised base rate schedules shall specify an effective date not less than ninety days following the day of their filing and shall include but not be limited to the following:

(1) The estimated volume of gas reserves on hand at the beginning of such twelve-month period together with the cost basis of such reserves;

(2) The estimated volume of all new gas to be purchased during such twelve-month period together with the estimated cost of such new gas;

(3) The estimated volume of new gas, other than historic natural gas, required to be purchased to continue service to customers who otherwise would be subject to curtailed service without the purchase of such gas together with the estimated cost of such gas;

(4) The estimated volume of gas to be supplied to customers who could receive continuous service without the purchase of new gas, other than historic natural gas;

(5) The estimated volume of gas to be supplied to customers who otherwise would be subject to curtailed service without the purchase of new gas, other than historic natural gas;

(6) The estimated average cost of fuel per m.c.f. to be supplied to customers who could receive continuous service without the purchase of new gas other than historic natural gas;
and

(7) The estimated average cost of fuel per m.c.f. to be supplied to customers who otherwise would be subject to

1 curtailed service without the purchase of new gas, other than
2 historic natural gas. Notice of a filing pursuant to this
3 section will be given in such a manner as shall be prescribed by
4 the commission and an opportunity for public review and comment
5 on such filing will be afforded on the day set by the
6 commission. The commission shall either approve, disapprove or
7 suspend such schedule within ninety days of its filing. However,
8 pursuant to this section, the commission may not suspend any
9 rate filed unless such rate represents a material increase over
10 the prior period. In such cases, the suspension period will be
11 limited to three months with prior rates remaining in effect
12 during this time.

13 (f) Currently effective base rate schedules of any gas
14 utility company may be revised on an interim basis prior to the
15 next ordinary annual revision authorized by this section. Such
16 an interim revision shall be made by the said utility subject to
17 review and approval by the commission or as ordered by the
18 commission, after hearing, when the utility or the commission
19 shall have reason to believe that the revenues estimated to be
20 finally produced, during the remainder of their current
21 operative period, by such currently effective base rate
22 schedules will result in a material over-collection or under-
23 collection, on the basis of the entire current operative period
24 of the commission's most recent estimate of the utility's
25 recoverable fuel and energy costs for the entire current
26 operative period: Provided, however, That the provisions of this
27 clause shall not apply to any estimated material over-collection
28 or under-collection resulting from an increase or decrease in
29 fuel costs which has not been approved by the appropriate
30 Federal regulatory agency. The commission shall adopt procedures

1 for reviewing and approving or disapproving such revised base
2 rate schedules within thirty days of their filing.

3 (g) The commission may order any such gas utility to refund
4 any portion of increased revenues received by it pursuant to
5 revisions of its base rate schedules authorized by this section.
6 Refunds shall bear interest at the average rate of interest
7 specified for residential mortgage lending by the Secretary of
8 Banking, in accordance with the act of January 30, 1974 (P.L.13,
9 No.6), referred to as the Loan Interest and Protection Law, for
10 the period or periods for which refunds are ordered.

11 (h) Any difference between the annual revenues collected by
12 a utility under this section and the actual energy costs
13 incurred by the utility during the twelve-month period will be
14 either refunded or charged to the utility's customers in a
15 manner prescribed by the commission. The commission is also
16 empowered to establish a policy of incentives and penalties
17 designed to encourage utilities to provide service at a minimum
18 cost.

19 (i) The commission shall conduct or cause to be conducted at
20 such times as it may order, but at least annually, an audit of
21 each gas utility company, which audit shall enable the
22 commission to determine the propriety and correctness of amounts
23 billed and collected under this section. Whoever shall perform
24 the audit shall be a person knowledgeable in the subject matter
25 encompassed within the operation of the automatic adjustment
26 clause. The auditors report shall be in a form and manner
27 directed by the commission.