

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 995

Session of
1977

INTRODUCED BY KURY, MURRAY, ROSS, NOLAN, SWEENEY, MELLOW,
STAPLETON, MCKINNEY, GURZENDA, SCHAEFER, ORLANDO AND EARLY,
JUNE 28, 1977

SENATOR KURY, CONSUMER AFFAIRS, RE-REPORTED AS AMENDED,
APRIL 3, 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
32 over public highways, to appropriate property for the

1 construction or improvement of such crossings, and to award
2 or apportion resultant costs and damages; authorizing owners
3 of such property to sue the Commonwealth for such damages;
4 providing for ejectment proceedings in connection with the
5 appropriation of property for crossings; conferring upon the
6 commission power to control and regulate budgets of public
7 utilities; imposing upon persons, associations, companies,
8 and corporations (except municipal corporations) subject to
9 regulation, the cost of administering this act; prescribing
10 and regulating practice and procedure before the commission
11 and procedure for review by the courts of commission action;
12 giving the court of common pleas of Dauphin County exclusive
13 original jurisdiction over certain proceedings; prescribing
14 penalties, fines, and imprisonment for violations of the
15 provisions of this act and regulations and orders of the
16 commission, and the procedure for enforcing such fines and
17 penalties; and repealing legislation supplied and superseded
18 by or inconsistent with this act," removing the cost of fuel
19 adjustment from the sliding scale of rates for certain public
20 utilities; limiting the fuel cost adjustment for natural gas
21 and providing a preference for residential customers of
22 natural gas AND FOR A STUDY IN INCREMENTAL PRICING SYSTEMS <—
23 FOR NONHISTORIC NATURAL GAS AND SPECIAL PURCHASES OF NATURAL
24 GAS.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Subsection (a) of Section 307, act of May 28,
28 1937 (P.L.1053, No.286), known as the "Public Utility Law," is
29 amended AND A SUBSECTION IS ADDED to read: <—

30 Section 307. Sliding Scale of Rates.--(a) Any public
31 utility, except a common carrier, may establish a sliding scale
32 of rates or such other method for the automatic adjustment of
33 the rates of the public utility as shall provide a just and
34 reasonable return on the fair value of the property used and
35 useful in the public service, to be determined upon such
36 equitable or reasonable basis as shall provide such fair return:
37 Provided, That a tariff showing the scale of rates under such
38 arrangement is first filed with the commission, and such tariff,
39 and each rate set out therein, approved by it: Provided further,
40 That the cost of fuel or energy used or purchased by an electric
41 utility whose yearly revenues exceed two million five hundred

1 thousand dollars (\$2,500,000) shall be included in the basic <—
2 BASE rate SCHEDULES under the procedures described in section <—
3 308 HEREINAFTER and shall not be subject to a sliding scale of <—
4 rates or to automatic adjustments of the rate. The conversion
5 from an automatic fuel or energy adjustment clause to inclusion
6 of fuel and energy costs in the basic BASE rate SCHEDULES shall <—
7 be effectuated over a period of twelve months in accordance with <—
8 the rate making procedures of this act. BY SUCH UTILITY BY <—
9 FILING BASE RATE SCHEDULES REVISED TO INCORPORATE AT A FLAT RATE
10 THE PER KILOWATT-HOUR CHARGE PROVIDED BY THE ADJUSTMENT CLAUSE
11 WHICH WILL PROVIDE REVENUES, ON AN ANNUAL BASIS, FROM EACH
12 REVISED RATE SCHEDULE APPROXIMATELY EQUIVALENT TO THE REVENUES
13 PROVIDED BY EACH RATE SCHEDULE AND THE ADJUSTMENT CLAUSE DURING
14 ANY RECENT TWELVE-MONTH PERIOD ENDING NOT EARLIER THAN NINETY
15 DAYS PRECEDING SAID FILING; SUCH REVISED BASE RATE SCHEDULES
16 SHALL NOT BE SUBJECT TO SUSPENSION BUT SHALL BE SUBJECT TO THE
17 COMMISSION'S DETERMINATION OF ACCURACY AND SHALL BECOME
18 EFFECTIVE SIXTY DAYS SUBSEQUENT TO THE FILING. EACH ELECTRIC
19 UTILITY SEEKING TO INCORPORATE INTO THE REVISED BASE RATE
20 SCHEDULES ANY ACCUMULATED FUEL AND ENERGY COSTS WHICH WERE
21 UNRECOVERED BY THE AUTOMATIC CLAUSE AT THE TIME OF CONVERSION
22 SHALL AMORTIZE THESE COSTS IN THE MANNER AFORESAID OVER A PERIOD
23 OF AT LEAST FIVE YEARS. The commission may revoke its approval
24 at any time and fix other rates for any such public utility if,
25 after notice and hearing, the commission finds the existing
26 rates unjust or unreasonable.

27 * * *

28 (F) AN ELECTRIC UTILITY REQUIRED BY THE PROVISIONS OF <—
29 SUBSECTION (A) TO RECOVER FUEL AND ENERGY COSTS BY BASE RATE
30 SCHEDULES MAY, UPON PETITION TO THE COMMISSION, WHENEVER THE

1 ACTUAL COST OF FUEL EXCEEDS AT LEAST TEN PER CENTUM OF THAT
2 BEING RECOVERED IN BASE RATES FOR A PERIOD OF THREE OR MORE
3 MONTHS, SEEK SUPPLEMENTAL RATE RELIEF IN AN AMOUNT CALCULATED TO
4 PROVIDE REVENUES SUFFICIENT TO RECOVER FUEL AND ENERGY COSTS NOT
5 OTHERWISE RECOVERABLE BY THAT COMPONENT FIXED IN THE BASE RATE
6 SCHEDULES PURSUANT TO THE PROVISIONS OF SUBSECTION (A). THE
7 ELECTRIC UTILITY SHALL FILE WITH SUCH PETITION SUFFICIENT
8 TESTIMONY AND EXHIBITS TO PERMIT THE COMMISSION TO MAKE
9 APPROPRIATE FINDINGS ON THE PETITION. THE PUBLIC UTILITY SHALL
10 GIVE NOTICE OF THE PETITION TO ITS CUSTOMERS IN SUCH MANNER AS
11 THE COMMISSION IN ITS DISCRETION MAY DIRECT. THE COMMISSION
12 SHALL WITHIN SIXTY DAYS FROM THE DATE OF FILING OF THE PETITION
13 AND AFTER HEARING, BY ORDER SETTING FORTH ITS REASONS THEREFOR,
14 GRANT OR DENY, IN WHOLE OR IN PART, THE RELIEF REQUESTED. ABSENT
15 SUCH ORDER, THE PETITION SHALL BE DEEMED TO HAVE BEEN DENIED.
16 RATES ESTABLISHED PURSUANT TO THIS SUBSECTION SHALL NOT BE
17 DEEMED TO BE TEMPORARY RATES WITHIN THE MEANING OF THAT TERM AS
18 IT IS USED IN SECTION 310.

19 Section 2. The act is amended by adding sections to read:

20 Section 307.1. Limits on Fuel Cost Adjustment for Natural
21 Gas; INCREMENTAL PRICING SYSTEMS STUDY.--(a) The following <—
22 words and phrases when used in this section shall have, unless
23 the context clearly indicates otherwise, the meanings given to
24 them in this subsection:

25 "Fuel cost adjustment clause." A provision in the tariff of
26 a public utility that requires or allows the utility, pursuant
27 to section 307, to adjust the rates that it charges its
28 customers to reflect any corresponding fluctuation in the cost
29 to the utility of obtaining or manufacturing any of the natural
30 gas it sells without requiring the utility to first obtain rate

1 relief as otherwise required by this act.

2 "Natural gas." Natural gas, artificial gas, synthetic gas,
3 liquified natural gas or any mixture of natural, synthetic,
4 liquified and/or artificial gas.

5 "NONHISTORIC NATURAL GAS." NATURAL, LIQUIFIED, SYNTHETIC OR <—
6 ARTIFICIAL GAS SUPPLIES, OR SUCH PORTIONS THEREOF, WHICH ARE
7 RECEIVED, OBTAINED, OR MANUFACTURED BY AN INTERSTATE PIPELINE OR
8 A PUBLIC UTILITY AT AN IDENTIFIABLE COST IN EXCESS OF THE
9 REGULATED WELLHEAD PRICE FOR INTERSTATE NATURAL GAS AS MAY, FROM
10 TIME TO TIME, BE DETERMINED BY THE FEDERAL ENERGY REGULATORY
11 COMMISSION. SUCH SUPPLIES MAY INCLUDE, BUT ARE NOT LIMITED TO,
12 EMERGENCY PURCHASES AUTHORIZED BY THE FEDERAL ENERGY REGULATORY
13 COMMISSION, PURCHASES OF LIQUIFIED NATURAL GAS, SYNTHETIC
14 NATURAL GAS, INTRASTATE GAS ORIGINATING WITHIN PENNSYLVANIA, AND
15 ANY OTHER SOURCE OF PIPELINE QUALITY GAS WHICH IS INITIALLY
16 PURCHASED, REGARDLESS OF THE IDENTITY OR LOCATION OF THE
17 PURCHASER, AT A PRICE IN EXCESS OF THE THEN MOST CURRENT FEDERAL
18 ENERGY REGULATORY COMMISSION REGULATED INTERSTATE WELLHEAD RATE.
19 IN THE EVENT THAT THE PROVISIONS OF THE NATURAL GAS ACT (JUNE
20 21, 1938, 52 STAT. 833), PERMITTING THE REGULATION OF THE
21 WELLHEAD PRICE OF INTERSTATE GAS, ARE REPEALED OR OTHERWISE
22 RENDERED VOID AND OF NO EFFECT, NONHISTORIC NATURAL GAS SHALL
23 MEAN ANY NATURAL GAS INITIALLY PURCHASED AT A PRICE IN EXCESS OF
24 TWO DOLLARS/MCF OR THE THERMAL EQUIVALENT PRICE.

25 "Residential customer." Any urban, suburban or rural
26 customer of a natural gas utility insofar as their use of
27 natural gas is limited to heating and cooling of their
28 residence, cooking and providing for hot water.

29 "SPECIAL PURCHASE." ANY PURCHASE OF INTERSTATE OR INTRASTATE <—
30 NATURAL GAS, ANY PURCHASE OF LIQUIFIED NATURAL GAS AND ANY

1 PURCHASE OF SYNTHETIC NATURAL GAS OR PROPANE MADE BY A PUBLIC
2 UTILITY SUBJECT TO THE JURISDICTION OF THE PENNSYLVANIA PUBLIC
3 UTILITY COMMISSION AFTER THE EFFECTIVE DATE OF THIS ACT PROVIDED
4 THAT THE PURCHASE IS OF LESS THAN ONE YEAR'S DURATION AND THE
5 PRICE FOR THE PURCHASE IS IN EXCESS OF THE ESTABLISHED FEDERAL
6 ENERGY REGULATORY COMMISSION JURISDICTIONAL WELLHEAD INTERSTATE
7 RATE AT THE TIME OF SAID PURCHASE OR, IN THE EVENT THAT THE
8 WELLHEAD PRICING PROVISIONS OF THE NATURAL GAS ACT (JUNE 21,
9 1938, 52 STAT. 833) ARE REPEALED OR OTHERWISE RENDERED VOID AND
10 OF NO EFFECT, IN EXCESS OF TWO DOLLARS/MCF OR THE THERMAL
11 EQUIVALENT PRICE.

12 (b) No fuel cost adjustment clause shall allow, and no such
13 clause shall be interpreted to allow, a public utility to
14 recover any part of the cost of any quantity of natural gas in
15 excess of the total volume of gas passing through, and recorded
16 upon, its customers' meters for which the customer is billed. No
17 fuel cost adjustment clause shall allow and no such clause shall
18 be interpreted to allow a public utility to recover any part of
19 the cost of gas which is used by the utility, lost in
20 distribution or unaccounted for.

21 (C) WITHIN ONE YEAR OF THE DATE OF THIS ACT, THE COMMISSION <—
22 SHALL CAUSE A STUDY TO BE CONDUCTED, ANALYZING INCREMENTAL
23 PRICING SYSTEMS FOR NONHISTORIC NATURAL GAS AND SPECIAL
24 PURCHASES OF NONHISTORIC NATURAL GAS, AND EXPERIENCE WITH SUCH
25 SYSTEMS AND SPECIAL PURCHASES IN OTHER STATES AS OF THAT DATE,
26 THE FEASIBILITY OF ALTERNATIVE PLANS, AND THE ECONOMIC EFFECT OF
27 IMPLEMENTING SUCH PLANS IN PENNSYLVANIA AND SHALL ISSUE A
28 WRITTEN REPORT TO THE LEGISLATURE DETAILING THE RESULTS OF THEIR
29 STUDY.

30 Section 307.2. Preferences for Residential Customers of

1 Natural Gas.--The annual volume of natural gas of any public
2 utility that represents its present residential class of
3 customers and those individual residential customers who may, at
4 any given time, constitute that class, shall be afforded the
5 highest priority classification in whatever natural gas
6 curtailment plan that may, from time to time, be approved by the
7 commission. Except when necessary to prevent imminent threat to
8 life, health, safety or destruction of property, no residential
9 customer may be subjected to curtailment until all lower
10 priority customers have been fully curtailed.

11 Section 3. This act shall take effect immediately.