

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 256

Session of
1985

INTRODUCED BY LLOYD, KUKOVICH, TIGUE, DALEY, OLIVER, GREENWOOD,
J. L. WRIGHT, HALUSKA, FREEMAN, TRELLO, REBER, D. R. WRIGHT,
LINTON, MILLER, AFFLERBACH, CLARK, BLAUM, MORRIS, MRKONIC,
PRATT, LUCYK, BALDWIN, PERZEL AND CAWLEY, FEBRUARY 6, 1985

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 12, 1986

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, regulating ~~extraordinary~~ outages at <—
3 electric generating units.

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

6 Section 1. Title 66 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 ~~§ 1320. Extraordinary outages of electric generating units.~~ <—

9 ~~(a) General rule. Whenever an electric generating unit is~~
10 ~~out of service for more than 90 consecutive days for maintenance~~
11 ~~or refueling, no utility which owns any share in that unit may~~
12 ~~include in any rates established under this title:~~

13 ~~(1) Any amount by which the expense of purchasing~~
14 ~~replacement power for the period beginning at the end of~~
15 ~~those 90 days exceeds the operating expenses, return of~~
16 ~~capital and return on capital for that unit which would~~
17 ~~properly be included in rates if the unit were in service.~~

~~(2) Any amount in excess of the utility's reasonable and prudent expense of purchasing replacement power for the period beginning at the end of those 90 days.~~

~~(b) Other powers and duties preserved. This section shall not be construed to diminish the powers and duties of the commission under any other provision of law to reduce rates in the event of an outage of an electric generating unit.~~

§ 1320. OUTAGES OF ELECTRIC GENERATING UNITS.

(A) GENERAL RULE.--WHENEVER AN ELECTRIC GENERATING UNIT, DETERMINED BY THE COMMISSION TO BE A BASE LOAD UNIT, IS OUT OF SERVICE FOR MORE THAN 120 CONSECUTIVE DAYS, A UTILITY OWNING A SHARE OF THAT UNIT SHALL NOT BE PERMITTED TO RECOVER, THROUGH BASE RATES, A SLIDING SCALE OF RATES, OR BY ANY OTHER MEANS, THE EXCESS ENERGY COSTS INCURRED TO GENERATE OR PURCHASE REPLACEMENT POWER OCCASIONED BY ANY PORTION OF THE OUTAGE WHICH THE COMMISSION DETERMINES TO BE UNREASONABLE OR IMPRUDENT. IN MAKING ITS DETERMINATION UNDER THIS SUBSECTION, THE COMMISSION SHALL CONSIDER, IN ADDITION TO ANY OTHER RELEVANT EVIDENCE, WHETHER THE OUTAGE COULD HAVE BEEN SHORTENED OR AVOIDED IF THE UNIT HAD BEEN PROPERLY CONSTRUCTED, OPERATED OR MAINTAINED.

(B) NOTICE OF OUTAGE.--WHENEVER AN ELECTRIC GENERATING UNIT, DETERMINED BY THE COMMISSION TO BE A BASE LOAD UNIT, IS OUT OF SERVICE FOR 45 CONSECUTIVE DAYS, ANY UTILITY OWNING A SHARE OF THAT UNIT SHALL SUBMIT TO THE COMMISSION AND THE OFFICE OF CONSUMER ADVOCATE A STATUS REPORT ON THAT OUTAGE. THE UTILITY SHALL SUBMIT SUBSEQUENT STATUS REPORTS ON THE OUTAGE TO THE COMMISSION AND THE OFFICE OF CONSUMER ADVOCATE AT LEAST BY THE 20TH DAY OF EACH SUBSEQUENT MONTH UNTIL THE UNIT RETURNS TO SERVICE. IF MORE THAN ONE UTILITY OWNS A SHARE IN THE ELECTRIC GENERATING UNIT, THE COMMISSION MAY DESIGNATE ONE UTILITY TO

1 MAKE THE REPORTS REQUIRED BY THIS SUBSECTION.

2 (C) OPERATION AT LESS THAN REASONABLE LEVEL OF GENERATION.--
3 WHENEVER THE ACTUAL GENERATION OF AN ELECTRIC GENERATING UNIT,
4 DETERMINED BY THE COMMISSION TO BE A BASE LOAD UNIT, IS LESS
5 THAN 50% OF THE UNIT'S POTENTIAL GENERATION DURING ANY CALENDAR
6 YEAR OR OTHER 12-MONTH PERIOD SPECIFIED BY THE COMMISSION, THE
7 COMMISSION, ON ITS OWN MOTION OR UPON COMPLAINT, MAY INITIATE AN
8 INVESTIGATION TO DETERMINE A REASONABLE LEVEL OF GENERATION FOR
9 THAT UNIT. IN ESTABLISHING RATES AS PART OF THAT INVESTIGATION
10 OR IN ANY SUBSEQUENT PROCEEDING, THE COMMISSION SHALL NOT PERMIT
11 RECOVERY OF THE EXCESS ENERGY COSTS INCURRED TO GENERATE OR
12 PURCHASE REPLACEMENT POWER OCCASIONED BY THE FAILURE OF THE UNIT
13 TO OPERATE AT OR ABOVE SUCH REASONABLE LEVEL OF GENERATION, IF
14 SUCH FAILURE IS DETERMINED TO BE UNREASONABLE OR IMPRUDENT.

15 (D) PROCEDURE.--IN CARRYING OUT ITS POWERS AND DUTIES UNDER
16 THIS SECTION, THE COMMISSION MAY HOLD SUCH HEARINGS AS IT DEEMS
17 NECESSARY. THE UTILITY SHALL HAVE THE BURDEN OF PROOF IN ANY
18 PROCEEDING UNDER THIS SECTION.

19 (E) OTHER POWERS AND DUTIES PRESERVED.--THIS SECTION SHALL
20 NOT BE CONSTRUED TO DIMINISH THE POWERS AND DUTIES OF THE
21 COMMISSION UNDER ANY OTHER PROVISION OF LAW TO REDUCE RATES IN
22 THE EVENT OF AN OUTAGE OF AN ELECTRIC GENERATING UNIT,
23 REGARDLESS OF THE DURATION OF THAT OUTAGE. EXCEPT FOR SUBSECTION
24 (B), THIS SECTION SHALL NOT APPLY IF THE COMMISSION, ACTING
25 UNDER ANOTHER PROVISION OF LAW, REDUCES THE UTILITY'S RATES ON
26 ACCOUNT OF AN OUTAGE OR ON ACCOUNT OF OPERATION AT LESS THAN
27 REASONABLE LEVEL OF GENERATION.

28 (F) DEFINITION.--AS USED IN THIS SECTION, THE TERM "EXCESS
29 ENERGY COSTS" MEANS THE ADDITIONAL COSTS INCURRED TO PURCHASE OR
30 GENERATE REPLACEMENT POWER MINUS THE FUEL COSTS WHICH WOULD HAVE

- 1 BEEN INCURRED TO GENERATE AN EQUIVALENT AMOUNT OF POWER FROM THE
- 2 AFFECTED BASE LOAD UNIT.
- 3 Section 2. This act shall take effect in 60 days.