

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 838

Session of
1985

INTRODUCED BY GEORGE, KUKOVICH, IRVIS, WAMBACH, B. SMITH,
FREEMAN, BROUJOS, O'DONNELL, D. R. WRIGHT, COHEN, RYBAK,
MORRIS, LUCYK, SHOWERS, JAROLIN, LEVDANSKY, CAWLEY, KASUNIC,
STABACK, FEE, PISTELLA, LIVENGOD, LASHINGER, DeLUCA, PRATT,
MICHLOVIC, STEIGHNER, MRKONIC AND CAPPABIANCA, APRIL 10, 1985

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 10, 1985

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for audits of certain
3 utilities for the conversion of generating units from oil or
4 gas to coal and for the recovery of conversion costs, and for
5 the approval of the construction of generating units fueled
6 by nuclear energy, oil or natural gas.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 518 of Title 66 of the Pennsylvania
10 Consolidated Statutes, added December 21, 1984 (P.L.1240,
11 No.234) and December 21, 1984 (P.L.1270, No.241), is amended to
12 read:

13 § 518. Construction of electric generating units fueled by
14 nuclear energy.

15 (a) General rule.--Only upon the application of a public
16 utility and the approval of the application by the commission
17 shall it be lawful for the utility to begin the construction of
18 an electric generating unit fueled by nuclear energy.

1 (b) Restart.--Only upon application of a public utility and
2 the approval of the commission shall it be lawful to restart an
3 electric generating unit fueled by nuclear energy which is now
4 or has at any time in the past been shut down by order of the
5 Nuclear Regulatory Commission.

6 ~~[(b)]~~ (c) Review by commission.--Every application shall be
7 made to the commission in writing and shall be in the form and
8 contain the information the commission requires by its
9 regulations. The commission shall approve an application if,
10 after reasonable notice and hearing, the affected public utility
11 proves and the commission finds any of the following:

12 (1) There are no reasonably available sites on which a
13 unit or units of comparable capacity fueled by coal, a
14 synthetic derived in whole or in part from coal or a mixture
15 which includes coal or is derived in whole or in part from
16 coal could be operated in compliance with present and
17 reasonably anticipated environmental laws and regulations.

18 (2) There is a strong probability that construction and
19 subsequent operation of a unit or units of comparable
20 capacity fueled by coal, a synthetic derived in whole or in
21 part from coal or a mixture which includes coal or is derived
22 in whole or in part from coal would be more costly to
23 ratepayers over the useful life of the nonnuclear unit or
24 units than would construction and subsequent operation of the
25 unit proposed by the utility.

26 (d) Reprocessing of nuclear fuel rods.--No electric
27 generating unit fueled by nuclear energy requiring the
28 reprocessing of nuclear fuel rods shall be permitted to begin
29 construction or, if now or at any time in the past shut down by
30 order of the Nuclear Regulatory Commission, shall be permitted

1 to restart unless the Public Utility Commission certifies that
2 both of the following conditions are met:

3 (1) The commission finds that the United States, through
4 its authorized agency, has identified and approved, and there
5 exists a technology for the construction and operation of,
6 nuclear fuel rod reprocessing plants.

7 (2) The commission has reported its findings and the
8 reasons therefor pursuant to paragraph (1) to the General
9 Assembly. Such reports of findings shall be assigned to
10 appropriate policy committees for review. The commission may
11 proceed to certify nuclear fission thermal powerplants 100
12 legislative days after reporting its findings unless within
13 those 100 legislative days either house of the General
14 Assembly adopts by a majority vote of its members a
15 resolution disaffirming the findings of the commission made
16 pursuant to paragraph (1).

17 A resolution of disaffirmance shall set forth the reasons for
18 the action and shall provide, to the extent possible, guidance
19 to the commission as to an appropriate method of bringing the
20 commission's findings into conformance with paragraph (1). If a
21 disaffirming resolution is adopted, the commission shall
22 reexamine its original findings consistent with matters raised
23 in the resolution. On conclusion of its reexamination, the
24 commission shall reduce its findings to writing with the reasons
25 therefor and shall transmit them to the General Assembly. If the
26 findings are that the conditions of paragraph (1) have been met,
27 the commission may proceed to certify nuclear fission thermal
28 powerplants 100 legislative days after reporting its findings to
29 the General Assembly unless within those 100 legislative days
30 both houses of the General Assembly act by statute to declare

1 the findings void and take appropriate action. To allow
2 sufficient time for the General Assembly to act, the reports of
3 findings of the commission shall be submitted to the General
4 Assembly at least six calendar months prior to the adjournment
5 of the General Assembly sine die. The commission shall further
6 find, on a case-by-case basis, that facilities with adequate
7 capacity to reprocess nuclear fuel rods from a certified nuclear
8 facility or to store such fuel, if such storage is approved by
9 an authorized agency of the United States, are in actual
10 operation or will be in operation at the time the nuclear
11 facility requires the reprocessing or storage. Such storage of
12 fuel shall be in an offsite location to the extent necessary to
13 provide continuous onsite full core reserve storage capacity.

14 (e) High level nuclear wastes.--No electric generating unit
15 fueled by nuclear energy shall be permitted to begin
16 construction or, if now or at any time in the past shut down by
17 order of the Nuclear Regulatory Commission, shall be permitted
18 to restart unless the Public Utility Commission certifies that
19 both of the following conditions are met:

20 (1) The commission finds that there has been developed
21 and that the United States, through its authorized agency,
22 has approved and there exists a demonstrated technology or
23 means for the disposal of a high-level nuclear waste.

24 (2) The commission has reported its findings and the
25 reasons therefor pursuant to paragraph (1) to the General
26 Assembly. Reports of findings shall be assigned to
27 appropriate policy committees for review. The commission may
28 proceed to certify nuclear fission thermal powerplants 100
29 legislative days after reporting its findings unless within
30 those 100 legislative days either house of the General

1 Assembly adopts by a majority vote of its members a
2 resolution disaffirming the findings of the commission made
3 pursuant to paragraph (1).

4 A resolution of disaffirmance shall set forth the reasons for
5 the action and shall provide, to the extent possible, guidance
6 to the commission as to an appropriate method of bringing the
7 commission's conformance with paragraph (1). If a disaffirming
8 resolution is adopted, the commission shall reexamine its
9 original findings consistent with matters raised in the
10 resolution. On conclusion of its reexamination, the commission
11 shall reduce its findings to writing with the reasons therefor
12 and shall transmit them to the General Assembly. If the findings
13 are that the conditions of paragraph (1) have been met, the
14 commission may proceed to certify nuclear fission thermal
15 powerplants 100 legislative days after reporting its findings to
16 the General Assembly unless within those 100 legislative days
17 both houses of the General Assembly act by statute to declare
18 the findings void and take appropriate action. To allow
19 sufficient time for the General Assembly to act, the reports of
20 findings of the commission shall be submitted to the General
21 Assembly at least six calendar months prior to the adjournment
22 of the General Assembly sine die.

23 [(c)] (f) Environmental questions.--The commission may
24 certify to the Department of Environmental Resources any
25 question regarding the applicability of environmental laws and
26 regulations, when the question arises in a proceeding under this
27 section, and may incorporate the department's findings in its
28 decision.

29 [(d)] (g) Time limit on commission review.--If the
30 commission fails to approve or disapprove an application within

1 six months after the date on which the application is filed, it
2 shall be lawful for the affected utility to construct the
3 proposed electric generating unit as though the commission had
4 approved the application.

5 [(e)] (h) Capacity determinations.--This section does not
6 authorize the commission to review the affected public utility's
7 determination that there is a need to construct a new electric
8 generating unit of the capacity and by the inservice date
9 proposed by the utility and does not supersede a decision by the
10 commission under some other provision of law that there is, or
11 was, not a need to construct a new electric generating unit of
12 the capacity and by the inservice date proposed by the utility.

13 [(f)] (i) Mixture with oil or natural gas.--For the purposes
14 of this section, the phrase "mixture which includes coal or is
15 derived in whole or in part from coal" includes, but is not
16 limited to, both the intermittent and the simultaneous burning
17 of oil or natural gas with coal or a coal derivative if the
18 intermittent or simultaneous burning of oil or natural gas
19 would:

20 (1) lower the cost to the ratepayers of using coal or a
21 coal derivative; or

22 (2) enable coal or a coal derivative to be burned in
23 compliance with present and reasonably anticipated
24 environmental laws and regulations.

25 (j) Definition.--As used in this section the term
26 "technology or means for the disposal of high-level nuclear
27 waste" means a method for the permanent and terminal disposition
28 of high-level nuclear waste. It shall not necessarily require
29 that facilities for the application of such technology or means
30 be available at the time the commission makes its findings. Such

- 1 disposition shall not necessarily preclude the possibility of an
- 2 approved process for retrieval of such waste.
- 3 Section 2. This act shall take effect in 60 days.