

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1639

Session of  
1985

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SEPTEMBER 18, 1985

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 18, 1985

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## AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, further providing for the appointment,  
3 terms and qualifications of commissioners; providing for the  
4 Office of Trial Staff, the Office of Special Assistants and  
5 the Director of Operations and their powers and duties;  
6 further providing for procedures, reports, budget requests  
7 and audits; providing for management efficiency  
8 investigators; and reestablishing the Pennsylvania Public  
9 Utility Commission.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Sections 301(a) and (c), 306 and 308 of Title 66  
13 of the Pennsylvania Consolidated Statutes are amended to read:

14 § 301. Establishment, members, qualifications and chairman.

15 (a) Appointment and terms of members.--The Pennsylvania  
16 Public Utility Commission, established by the act of March 31,  
17 1937 (P.L.160, No.43), as an independent administrative  
18 commission, is hereby continued as such [and]. Prior to the  
19 third Tuesday in January of 1987, the commission shall consist  
20 of five members who shall be appointed by the Governor, by and

1 with the advice and consent of two-thirds of all the members of  
2 the Senate, for a term of ten years, provided that the term of  
3 any member appointed on or after the effective date of this  
4 amendatory act and prior to the third Tuesday in January of 1987  
5 shall expire on April 1, 1987. Beginning with any vacancies  
6 existing on the third Tuesday in January of 1987, and as terms  
7 expire thereafter, the commission shall consist of five members  
8 appointed by the Governor, by and with the advice and consent of  
9 two-thirds of all the members of the Senate, for a term of four  
10 years, provided that any member appointed to fill a vacancy  
11 which occurs after the third Tuesday in January of 1987 shall  
12 serve the balance of the term to which his predecessor had been  
13 appointed regardless of whether the balance is more or less than  
14 four years. The Governor may submit the nomination to the Senate  
15 within 60 days prior to the expiration of the term or the  
16 effective date of the resignation of the member whom the nominee  
17 would replace and shall submit that nomination no later than 90  
18 days after the expiration of the term or the effective date of  
19 the resignation. [No] A commissioner [upon the expiration of his  
20 term shall] may continue to hold office [until] for a period not  
21 to exceed six months beyond the expiration of his term if his  
22 successor [shall be] has not been duly appointed [or shall be]  
23 and qualified according to law.

24 \* \* \*

25 (c) Chairman.--A member designated by the Governor shall be  
26 the chairman of the commission [during such member's term of  
27 office] and shall serve as such at the pleasure of the Governor,  
28 provided that the chairman of the commission as of the third  
29 Tuesday in January of 1987 shall be entitled to continue serving  
30 as chairman for the balance of that member's term on the

1 commission unless otherwise removed in accordance with law. The  
2 chairman shall designate a member to serve as the vice chairman  
3 of the commission at the pleasure of the chairman. When present,  
4 the chairman shall preside at all meetings, but in his absence  
5 the vice chairman or a member, designated by the chairman, shall  
6 preside and shall exercise, for the time being, all the powers  
7 of the chairman. The chairman shall have such powers and duties  
8 as authorized by the commission as provided in section 331(b)  
9 (relating to powers of commission and administrative law  
10 judges).

11 \* \* \*

12 § 306. [Counsel] Office of Trial Staff.

13 (a) General rule.--The [office of chief counsel] Office of  
14 Trial Staff to the Pennsylvania Public Utility Commission is  
15 hereby created. The [chief counsel] Director of Trial Staff  
16 shall be appointed by the commission and hold office at its  
17 pleasure. The commission [may also from time to time appoint  
18 such assistant counsel to] shall assign a permanent staff of  
19 such legal, technical and other employees of the commission as  
20 may be required for the proper conduct of [its work. Assistant  
21 counsel] the work of the Office of Trial Staff. Employees  
22 assigned to the Office of Trial Staff shall be under the  
23 supervision of the Director of Trial Staff and shall not be  
24 assigned to any duties other than with the Office of Trial  
25 Staff. The commission may designate employees of the Office of  
26 Trial Staff to serve as deputies to the Director of Trial Staff.  
27 The Director of Trial Staff may recommend persons for  
28 consideration by the commission as employees under his  
29 supervision. The employees may be removed by the commission only  
30 for good cause. The compensation of the [counsel] Director of

1 Trial Staff and the employees under his supervision shall be  
2 fixed by the commission. [In accordance with the multifunction  
3 legal staff established in this part, such counsel shall attend  
4 the hearings before the commission or a commissioner, or a  
5 special agent or administrative law judge, and conduct the  
6 examination of witnesses and shall represent the commission upon  
7 appeals and other hearings in the courts of common pleas and in  
8 the Commonwealth and Supreme Courts, or other courts of this  
9 Commonwealth, or in any Federal court or agency and in actions  
10 instituted to recover penalties and to enforce regulations and  
11 orders of the commission. Such counsel shall conduct all  
12 mandamus, injunction and quo warranto proceedings at law or in  
13 equity, instituted for the enforcement of the regulations and  
14 orders of the commission, and shall perform such other  
15 professional duties as may be required by the commission.] The  
16 Director of Trial Staff shall report and be responsible directly  
17 to the commission provided that the Director of Trial Staff  
18 shall be responsible to the commission through the Director of  
19 Operations only for purposes of administrative matters.

20 (b) Power and duties.--

21 (1) The Office of Trial Staff shall be responsible for  
22 and shall assist in the development of, challenge of and  
23 representation on the record of all matters in the public  
24 interest in all commission proceedings except those involving  
25 transportation, safety, eminent domain, siting, service  
26 issues having no impact on rates, and ability to pay,  
27 provided that the Director of Trial Staff may petition the  
28 commission or may be directed by the commission to intervene  
29 to protect the public interest in any proceeding involving  
30 transportation, safety, eminent domain, siting, service and

1 ability to pay. To assist in carrying out his powers and  
2 duties under this section, the Director of Trial Staff shall  
3 supervise the activities of the Office of Trial Staff in all  
4 commission proceedings in which he participates. If the  
5 Director of Trial Staff determines that the initiation of a  
6 proceeding is necessary to protect the public interest, he  
7 shall request that the commission initiate the appropriate  
8 proceeding. When he participates in a commission proceeding,  
9 it shall be the duty and responsibility of the Director of  
10 Trial Staff to prosecute in that proceeding.

11 (2) In addition to any other responsibility conveyed  
12 upon it by the commission, the Office of Trial Staff shall  
13 submit a report to the commission recommending whether the  
14 commission should enter upon a hearing in order to  
15 investigate the justness and reasonableness of a tariff filed  
16 pursuant to section 1308 (relating to voluntary changes in  
17 rates), to suspend the effectiveness of such tariff, to allow  
18 such tariff to be suspended by operation of law or to allow  
19 temporary rates pursuant to section 1310 (relating to  
20 temporary rates). The report:

21 (i) shall recommend only the initial action which  
22 the commission should take and shall not contain an  
23 opinion as to the portion of a proposed rate increase  
24 which appears to be just and reasonable, unless the  
25 report includes a finding that the proposed rate increase  
26 appears to be just and reasonable in its entirety;

27 (ii) shall be released to the public if the report  
28 recommends that no hearings need to be held regarding the  
29 proposed tariff or that the proposed tariff should not be  
30 suspended, and may be released to the public in other

1 circumstances when, in the opinion of the commission,  
2 such release would be in the public interest;

3 (iii) shall be considered only as an indication of  
4 the Office of Trial Staff's opinion regarding whether  
5 there should be a hearing on the proposed tariff or  
6 whether the proposed tariff should be suspended; and

7 (iv) shall not be considered as evidence of the  
8 Office of Trial Staff's opinion regarding the justness  
9 and reasonableness of any proposed tariff in any  
10 subsequent commission proceeding.

11 (3) Except for the duties set out in paragraph (2),  
12 neither the Director of Trial Staff nor any employee whom the  
13 Director of Trial Staff supervises shall communicate with the  
14 commission, an administrative law judge or any other employee  
15 of the commission who is deciding or advising in the decision  
16 in an on-the-record proceeding, whether contested or  
17 uncontested, as defined in section 332(c) (relating to  
18 procedures in general), except through the practice and  
19 procedure available to all parties to commission proceedings.

20 § 308. Bureaus and offices.

21 (a) Enumeration.--There shall be established within the  
22 commission the following bureaus and functions:

23 (1) Law Bureau.

24 (2) Bureau of Conservation, Economics and Energy  
25 Planning.

26 (3) Bureau of Consumer Services.

27 (4) Office of Special Assistants.

28 (b) Law Bureau.--The Law Bureau shall be a multifunction  
29 legal staff, consisting of a prosecutory function [and], an  
30 advisory function, a representational function and an

1 enforcement function. [Prosecutory counsel shall be responsible  
2 for and shall assist in the development of, challenge of, and  
3 representation on the record of all matters in the public's  
4 interest. Advisory counsel] The Director of the Law Bureau shall  
5 be the chief counsel of the commission. The Law Bureau shall  
6 advise the commission on any and all matters. [The counsel shall  
7 appear on behalf of the commission in all courts of record and  
8 before district magistrates.] No counsel shall in the same case  
9 or a factually related case perform duties in the prosecutory  
10 and advisory functions, if such performance would represent a  
11 conflict of interest. The Law Bureau solely shall be responsible  
12 to represent the commission upon appeals and other hearings in  
13 the courts of common pleas and in the Commonwealth Court,  
14 Supreme Court or other courts of this Commonwealth or in any  
15 Federal court or agency and in actions instituted to recover  
16 penalties and to enforce regulations and orders of the  
17 commission. No member of the Law Bureau shall participate in any  
18 prosecutory function in any matter before the commission unless  
19 directed by the commission to do so in a proceeding involving  
20 transportation safety, eminent domain, siting, service or  
21 ability to pay or assist the Office of Trial Staff in carrying  
22 out its duties, nor shall it receive assistance from the Office  
23 of Trial Staff in the performance of its duties. Except as  
24 provided in this section, the Law Bureau may receive assistance  
25 from any other bureau or office of the commission as determined  
26 to be necessary.

27 (c) Bureau of Conservation, Economics and Energy Planning.--  
28 The Bureau of Conservation, Economics and Energy Planning shall  
29 conduct studies and research all matters within the commission's  
30 jurisdiction and advise the commission of the results thereof in

1 order to enable the commission to provide prospective regulation  
2 in the best interest of all parties concerned. Such studies and  
3 research shall include long range forecasting of energy needs  
4 and development; research into the use of new, efficient and  
5 economic methods of energy production; the review of the  
6 efficiency of the present generating systems operated within  
7 this Commonwealth; and the development of an effective program  
8 of energy conservation. The commission shall require all  
9 electric and gas public utilities subject to its jurisdiction to  
10 file with it an annual conservation report which shows the plans  
11 and progress achieved on programs of energy conservation. The  
12 commission shall, by rule, prescribe guidelines for the form and  
13 manner of such annual conservation report which report shall  
14 describe the current and proposed programs of each such utility  
15 designed to educate and encourage its customers in the optimum,  
16 effective and efficient use by them of electric and gas energy.  
17 The report shall include an accounting of the monetary and  
18 personnel resources actually or proposed to be expended or  
19 devoted to and the actual or anticipated results of such  
20 programs. The bureau shall review all proposals for electric and  
21 gas public utility plant expansion and shall submit for  
22 consideration of the commission its findings on what impact, if  
23 any, the electric and gas public utility plant expansion will  
24 have on rates charged by the public utility.

25 (d) Bureau of Consumer Services.--

26 (1) The Bureau of Consumer Services shall investigate <—  
27 and [have prepared replies to] issue final determinations on  
28 all informal consumer complaints and shall advise the  
29 commission as to the need for formal commission action on any  
30 matters brought to its attention by the complaints. Any party



1 may appeal a final determination issued by the Bureau of  
2 Consumer Services and seek review by an administrative law  
3 judge or special agent subject to the procedures in section  
4 335 (relating to initial decisions). The bureau shall on  
5 behalf of the commission keep records of all complaints  
6 received, the matter complained of, the utility involved, and  
7 the disposition thereof and shall at least annually report to  
8 the commission on such matters. The commission may take  
9 official notice of all complaints and the nature thereof in  
10 any proceeding before the commission in which the utility is  
11 a party. The commission shall adopt, publish and generally  
12 make available rules by which a consumer may make informal  
13 complaints. The bureau shall also assist and advise the  
14 commission on matters of safety compliance by public  
15 utilities.

16 (2) ANNUALLY ON OR BEFORE APRIL 15, THE BUREAU OF <—  
17 CONSUMER SERVICES SHALL SUBMIT A REPORT TO THE GOVERNOR AND  
18 TO THE BUSINESS AND COMMERCE COMMITTEE OF THE HOUSE AND THE  
19 COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE OF THE SENATE.  
20 THE REPORT SHALL COMPARE ALL NONRESIDENTIAL CATEGORIES OF  
21 RATEPAYERS FOR ALL ELECTRIC AND GAS PUBLIC UTILITIES SO THAT  
22 REASONABLY ACCURATE COMPARISONS OF RATES CAN BE MADE BETWEEN  
23 SIMILAR INDIVIDUALS OR GROUPS OF NONRESIDENTIAL RATEPAYERS  
24 RECEIVING SERVICES IN DIFFERENT SERVICE AREAS.

25 (e) Office of Special Assistants.--The Office of Special  
26 Assistants shall be a support staff which shall be responsible  
27 to assist in the preparation of commission orders and shall  
28 perform such other advisory duties as may be required of it by  
29 the commission. No member of the office shall participate in any  
30 prosecutory function in any matter before the commission. No

1 member of the office shall assist the Office of Trial Staff in  
2 carrying out its duties nor shall it receive assistance from the  
3 Office of Trial Staff in the performance of its duties. Except  
4 as provided in this section, the Office of Special Assistants  
5 may receive assistance from, or provide assistance to, any other  
6 bureau or office of the commission as determined to be  
7 necessary.

8 (f) Other bureaus and offices.--The commission shall  
9 establish such bureau or bureaus to perform such duties as the  
10 commission may prescribe regarding all matters respecting rates  
11 of public utilities and all matters respecting common carriers  
12 and contract carriers. The establishment of these bureaus shall  
13 not be construed to prohibit the commission from establishing  
14 any additional bureaus which the commission finds necessary to  
15 protect the interests of the people of this Commonwealth. The  
16 bureaus may perform such other duties not inconsistent with law  
17 as the commission [may] shall direct. The commission may appoint  
18 a director of operations who shall serve at the pleasure of the  
19 commission and shall be responsible for the day-to-day  
20 administration and operation of the bureaus and offices of the  
21 commission except that the director of operations shall have  
22 responsibility for the Office of Trial Staff only with regard to  
23 administrative matters.

24 [(f)] (g) Staff testimony.--Members of the staff of the  
25 commission, except for the Office of Special Assistants, shall  
26 appear and present testimony in any proceeding before the  
27 commission when called by the commission, the chief counsel, the  
28 Director of Trial Staff or any of the parties to the proceeding.  
29 In addition to any cross-examination by [counsel] the Office of  
30 Trial Staff as provided in section 306 (relating to [counsel])

1 Office of Trial Staff) or the chief counsel, any member of the  
2 commission staff who participates in the analysis, review and  
3 conclusions in any proceedings before the commission may, in the  
4 discretion of [commission counsel] the Office of Trial Staff or  
5 the chief counsel and with the consent of the presiding officer,  
6 cross-examine any witness presented by the parties to the  
7 proceeding at the public hearing.

8 Section 2. Title 66 is amended by adding a section to read:

9 § 321. Annual reports.

10 The commission shall annually transmit to the Governor and  
11 the General Assembly and shall make available to the public a  
12 report on the conduct of the commission. The report shall  
13 include, but shall not be limited to, a summary of all rate  
14 proceedings completed within the reporting period, the amount of  
15 the rate increase requested in each such proceeding, the amount  
16 of the request granted by the commission in each such  
17 proceeding, the percentage increase in rates requested and  
18 granted in each such proceeding as compared to the percentage  
19 increase requested and granted in the most recent similar  
20 proceeding for the affected utility prior to the reporting  
21 period, a summary of other significant regulatory issues which  
22 the commission resolved during the reporting period, a summary  
23 of significant orders and decisions of the commission and the  
24 courts of the Commonwealth during the reporting period relating  
25 to public utilities, a summary of significant anticipated issues  
26 by type of utility and a status report of any commission action  
27 regarding these issues, and a summary of the audits completed by  
28 the commission during the reporting period. In the annual report  
29 and at such other times as the commission determines, the  
30 commission shall make recommendations to the Governor and the

1 General Assembly which the commission believes to be necessary  
2 or desirable to protect the public interest.

3 Section 3. Sections 332(h), 333(d), 510(a), 515 and 516 of  
4 Title 66 are amended and a section is added to read:

5 § 332. Procedures in general.

6 \* \* \*

7 (h) Exceptions and appeal procedure.--Any party to a  
8 proceeding referred to an administrative law judge under section  
9 331(b) may file exceptions to the decision of the administrative  
10 law judge [within 15 days after such decision is issued] with  
11 the commission, in a form and manner and within the time to be  
12 prescribed by the commission. The [administrative law judge]  
13 commission shall rule upon such exceptions within [30] 90 days  
14 after filing. [Any party to the proceeding may appeal to the  
15 commission from the ruling of the administrative law judge on  
16 the exceptions within 15 days after such ruling is issued.] If  
17 no exceptions are filed [or if no appeal is taken from the  
18 ruling on the exceptions within 15 days after any such decision  
19 or ruling is issued], the decision [or ruling] shall become  
20 final, without further commission action, unless two or more  
21 commissioners within 15 days after the decision [or ruling on  
22 the exceptions] request that the commission review the decision  
23 and make such other order, within 90 days of such request, as it  
24 shall determine. [Prosecutory counsel of the Law Bureau] The  
25 Office of Trial Staff and the chief counsel shall be deemed to  
26 have automatic standing as a party to such proceeding and may  
27 file exceptions to any decision of the administrative law judge  
28 under this subsection.

29 § 333. Prehearing procedures.

30 \* \* \*

1 (d) Interrogatories.--Any party to a proceeding may serve  
2 written interrogatories upon any other party for purposes of  
3 discovering relevant, unprivileged information. A party served  
4 with interrogatories may, before the time prescribed either by  
5 commission rule or otherwise for answering the interrogatories,  
6 apply to the presiding officer for the holding of a prehearing  
7 conference for the mutual exchange of evidence exhibits and  
8 other information. Each interrogatory which requests information  
9 not previously supplied at a prehearing conference or hearing  
10 shall be answered separately and fully in writing under oath,  
11 unless it is objected to, in which event the reasons for the  
12 objections shall be stated in lieu of an answer. The party upon  
13 whom the interrogatories have been served shall serve a copy of  
14 the answers and objections within a reasonable time, unless  
15 otherwise specified, upon the party submitting the  
16 interrogatories. The party submitting the interrogatories may  
17 petition the presiding officer for an order compelling an answer  
18 to an interrogatory or interrogatories to which there has been  
19 an objection or other failure to answer. The commission shall  
20 designate an appropriate official, other than the Director of  
21 Trial Staff or any other employee of the Office of Trial Staff,  
22 on whom other parties to the proceeding may serve written  
23 interrogatories directed to the commission. That official shall  
24 arrange for agency personnel with knowledge of the facts to  
25 answer and sign the interrogatories on behalf of the commission.  
26 [The attorney or employee appearing on behalf of the commission  
27 in the proceeding shall have the authority to make and sign  
28 objections to interrogatories served upon the commission.]  
29 Interrogatories directed to the commission shall be allowed only  
30 upon an order of the commission based upon a specific finding

1 that the interrogating party is seeking significant,  
2 unprivileged information not discoverable by alternative means.  
3 When participating in a commission proceeding, the Office of  
4 Trial Staff shall be subject to the same rules of discovery  
5 applicable to any other party to the case.

6 \* \* \*

7 § 510. Assessment for regulatory expenses upon public  
8 utilities.

9 (a) Determination of assessment.--Before November 1 of each  
10 year, the commission shall estimate its total expenditures in  
11 the administration of this part for the fiscal year beginning  
12 July of the following year, which estimate shall not exceed  
13 three-tenths of 1% of the total gross intrastate operating  
14 revenues of the public utilities under its jurisdiction for the  
15 preceding calendar year. Such estimate shall be submitted to the  
16 Governor in accordance with section 610 of the act of April 9,  
17 1929 (P.L.177, No.175), known as "The Administrative Code of  
18 1929." At the same time the commission submits its estimate to  
19 the Governor, the commission shall also submit that estimate to  
20 the General Assembly. The commission or its designated  
21 representatives shall be afforded an opportunity to appear  
22 before the Governor and the Senate and House Appropriations  
23 Committees regarding their estimates. The commission shall  
24 subtract from the final estimate:

25 (1) The estimated fees to be collected pursuant to  
26 section 317 (relating to fees for services rendered by  
27 commission) during such fiscal year.

28 (2) The estimated balance of the appropriation,  
29 specified in section 511 (relating to disposition,  
30 appropriation and disbursement of assessments and fees), to

1 be carried over into such fiscal year from the preceding one.  
2 The remainder so determined, herein called the total assessment,  
3 shall be allocated to, and paid by, such public utilities in the  
4 manner prescribed. If the General Assembly fails to approve the  
5 commission's budget for the purposes of this part, by March [15]  
6 30, the commission shall assess public utilities on the basis of  
7 the last approved operating budget. At such time as the General  
8 Assembly approves the proposed budget the commission shall have  
9 the authority to make an adjustment in the assessments to  
10 reflect the approved budget. If, subsequent to the approval of  
11 the budget, the commission determines that a supplemental budget  
12 may be needed, the commission shall submit its request for that  
13 supplemental budget simultaneously to the Governor and the  
14 chairmen of the House and Senate Appropriations Committees.

15 \* \* \*

16 § 515. Construction cost of electric generating units.

17 (a) Submission of estimate.--No later than 30 days after  
18 construction of an electric generating unit is begun, either in  
19 this Commonwealth or in some other state, any public utility  
20 operating in this Commonwealth and owning any share in that unit  
21 shall submit to the commission an estimate of the cost of  
22 constructing that unit. If the public utility acquires ownership  
23 of any share in an electric generating unit which is under  
24 construction on the date of acquisition, the public utility  
25 shall, within 30 days of the date of acquisition, submit an  
26 estimate of the cost of constructing that unit which was  
27 formulated no later than 30 days from the beginning of  
28 construction.

29 ~~(b) Onsite auditors. From and after the beginning of~~  
30 ~~construction of an electric generating unit, the commission, or~~

<—

~~its designee, shall be present at the construction site on an ongoing basis for the purpose of obtaining oral or documentary evidence relevant to determining the necessity and propriety of any construction cost. The commission shall assess the utility or utilities operating in this Commonwealth and owning any share in that generating unit for the expense of having auditors present on the construction site as required by this subsection.~~

(B) AUDITOR IN CHARGE.--FOR EACH ELECTRIC GENERATING UNIT UNDER CONSTRUCTION WHICH FALLS UNDER THE PROVISIONS OF THIS SECTION, THE COMMISSION SHALL DESIGNATE AN AUDITOR IN CHARGE. IN ADDITION TO THE ACCESS TO EVIDENCE GRANTED BY THIS SECTION, EACH UTILITY HAVING A GENERATING UNIT UNDER CONSTRUCTION SHALL SUBMIT TO THE APPROPRIATE AUDITOR IN CHARGE COPIES OF ALL CONSTRUCTION WORK CHANGE ORDERS.

(c) Access to evidence.--From and after the beginning of construction of an electric generating unit, the commission, or [its designee] THE AUDITOR IN CHARGE, and the Consumer Advocate, or his designee, shall have reasonable access to the construction site and to any oral or documentary evidence relevant to determining the necessity and propriety of any construction cost. If a public utility objects to any request by the commission or THE AUDITOR IN CHARGE OR the Consumer Advocate, or [persons] THE PERSON designated by the [commission or the] Consumer Advocate, for access to the construction site or to any oral or documentary evidence, the objection shall be decided in the same manner as an on-the-record proceeding pursuant to Chapter 3 (relating to public utility commission). The affected public utility shall have the burden of proof in sustaining any such objection.

[(c)] (d) Definition.--As used in this section the term



1 "construction" includes any work performed on an electric  
2 generating unit which is expected to require the affected public  
3 utility to incur an aggregate of at least \$100,000,000 of  
4 expenses which, in accordance with generally accepted accounting  
5 principles, are capital expenses and not operating or  
6 maintenance expenses.

7 § 516. Audits of certain utilities.

8 (a) General rule.--The commission shall provide for audits  
9 of any electric, gas, telephone or water utility whose plant in  
10 service is valued at not less than \$10,000,000. The audits shall  
11 include an examination of management effectiveness and operating  
12 efficiency. The commission shall establish procedures for audits  
13 of the operations of utilities as provided in this section.  
14 Audits shall be conducted at least once every five years unless  
15 the commission finds that a specific audit is unnecessary, but  
16 in no event shall audits be conducted less than once every eight  
17 years. A summary of the audits mandated by this subsection shall  
18 be released to the public and a complete copy of the audits  
19 shall be provided to the Office of Trial Staff and the Office of  
20 Consumer Advocate.

21 ~~(b) Management efficiency investigator. In addition to the~~ <—  
22 ~~audits mandated by subsection (a), the commission shall appoint~~  
23 ~~a management efficiency investigator who shall be responsible~~  
24 ~~for examining the management effectiveness and operating~~  
25 ~~efficiency on an ongoing basis of all electric utilities with~~  
26 ~~total annual intrastate operating revenues of at least~~  
27 ~~\$40,000,000 and of all gas utilities with total annual~~  
28 ~~intrastate operating revenues of at least \$40,000,000, and such~~  
29 ~~other utilities as the commission may, from time to time,~~  
30 ~~direct. The management efficiency investigator shall designate~~

~~one member of his staff, or an independent contractor selected by the commission, to be responsible for each utility subject to this subsection. Such staff member or independent contractor shall be present on an ongoing basis at the facilities of the utility for which he is responsible. The management efficiency investigator shall provide an annual report to the commission, the Office of Trial Staff and the Office of Consumer Advocate detailing the findings of its investigations. All costs incurred by the management efficiency investigator, his staff and independent contractors in carrying out the provisions of this subsection shall be assessed against the utility in connection with which those costs are incurred.~~

(B) MANAGEMENT EFFICIENCY INVESTIGATIONS.--IN ADDITION TO THE AUDITS MANDATED BY SUBSECTION (A), THE COMMISSION SHALL APPOINT A MANAGEMENT EFFICIENCY INVESTIGATOR WHO SHALL PERIODICALLY EXAMINE THE MANAGEMENT EFFECTIVENESS AND OPERATING EFFICIENCY OF ALL UTILITIES REQUIRED TO BE AUDITED UNDER SUBSECTION (A) AND TO MONITOR THE UTILITY COMPANY RESPONSES TO THE AUDITS REQUIRED BY SUBSECTION (A). FOR THE PURPOSES OF CARRYING OUT THE PERIODIC AUDIT REQUIRED BY THIS SUBSECTION AND FOR CARRYING OUT THE MONITORING OF AUDITS REQUIRED BY SUBSECTION (A), THE COMMISSION IS HEREBY EMPOWERED TO DIRECT THE MANAGEMENT EFFICIENCY INVESTIGATOR TO CONDUCT SUCH INVESTIGATIONS THROUGH AND WITH TEAMS MADE UP OF COMMISSION STAFF AND/OR INDEPENDENT CONSULTING FIRMS; FURTHER, THE COMMISSION MAY DESIGNATE SPECIFIC ITEMS OF MANAGEMENT EFFECTIVENESS AND OPERATING EFFICIENCY TO BE INVESTIGATED. THE MANAGEMENT EFFICIENCY INVESTIGATOR SHALL PROVIDE AN ANNUAL REPORT TO THE COMMISSION, THE AFFECTED UTILITY, THE OFFICE OF TRIAL STAFF AND THE OFFICE OF CONSUMER ADVOCATE DETAILING THE FINDINGS OF ITS INVESTIGATIONS. ALL

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1 REASONABLE EXPENSES DIRECTLY RELATED TO THE MANAGEMENT  
2 EFFICIENCY INVESTIGATION ACTIVITIES OF INDEPENDENT CONSULTING  
3 FIRMS AT THE UTILITY, AS WELL AS THEIR PREPARATION AND  
4 PRESENTATION OF TESTIMONY IN ANY CONTESTED LITIGATION WHICH MAY  
5 BE UNDERTAKEN AS A RESULT OF THE FINDINGS, SHALL BE ASSESSED  
6 AGAINST THE UTILITY.

7 [(b)] (c) Use of independent auditing firms.--The commission  
8 may require an audit to be performed by an independent  
9 consulting firm. When the commission orders an audit to be  
10 performed by an independent consulting firm, the commission,  
11 after consultation with the audited utility, shall select the  
12 audit firm and require the audited utility to enter into a  
13 contract with the audit firm providing for payment of the audit  
14 firm by the utility. That contract shall require the audit firm  
15 to work under the direction of the commission.

16 [(c)] (d) Other powers of commission unaffected.--This  
17 section is not intended to alter or repeal any existing powers  
18 of the commission.

19 § 520 521. Expense reduction program.

<—

20 (a) Target.--The commission shall establish an expense  
21 reduction program for calendar year 1986 for all electric and  
22 gas utilities with total annual intrastate operating revenues of  
23 at least \$40,000,000 and for all telephone utilities with total  
24 annual intrastate operating revenues of at least \$9,000,000.

25 Utilities regulated by the commission pursuant to this  
26 subsection shall make every reasonable effort to achieve a  
27 REDUCE THEIR level of expenses, other than expenses associated  
28 with depreciation, fuel, collective bargaining agreements, and  
29 other categories of expense as determined by the commission, for  
30 the calendar year 1986 which represents at least a 5% reduction

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<—

~~in the actual level of such expenses, other than expenses  
associated with depreciation, fuel, collective bargaining  
agreements, and other categories of expense as determined by the  
commission, for the 1986 AS COMPARED TO calendar year 1985. The  
commission shall periodically review the expense reducing  
efforts undertaken by utilities pursuant to this subsection and  
shall take appropriate action in response to these efforts.~~

~~(b) Ongoing effort.--The commission may direct or permit any  
utility to take any lawful action not inconsistent with this  
title for the purpose of encouraging economies, efficiencies, or  
improvements which benefit the utility and its ratepayers. The  
commission may consider, in addition to all other relevant  
factors, the efficiency, effectiveness, and adequacy of service  
of each utility when determining just and reasonable rates  
pursuant to this title.~~

SECTION 4. SECTION 1308 OF TITLE 66 IS AMENDED BY ADDING A  
SUBSECTION TO READ:

§ 1308. VOLUNTARY CHANGES IN RATES.

\* \* \*

~~(D.2) EXTENDED SUSPENSION PERIOD FOR SUCCESSIVE FILINGS.--  
WHENEVER A PUBLIC UTILITY FILES A GENERAL RATE INCREASE REQUEST  
WITHIN NINE MONTHS AFTER THE COMMISSION HAS ENTERED AN ORDER  
GRANTING OR DENYING, IN WHOLE OR IN PART, A PRIOR GENERAL RATE  
INCREASE REQUEST, THE COMMISSION MAY SUSPEND SUCH RATE REQUEST  
FOR A PERIOD NOT TO EXCEED 16 MONTHS FROM THE TIME SUCH RATE  
WOULD OTHERWISE BECOME EFFECTIVE. EXCEPT AS STATED HEREIN  
REGARDING THE MAXIMUM LENGTH OF THE SUSPENSION PERIOD, ALL OTHER  
PROVISIONS OF THIS SECTION SHALL APPLY IN SUCH CASES.~~

\* \* \*

Section 4 5. Persons who are members of the Pennsylvania

1 Public Utility Commission on the effective date of this act  
2 shall serve until their current terms have expired.

3 Section ~~5~~ 6. All rules and regulations promulgated by the <—  
4 Pennsylvania Public Utility Commission shall remain in full  
5 force and effect until amended or repealed by the commission,  
6 provided that the commission shall immediately initiate action  
7 to repeal or amend any rule or regulation which is in conflict  
8 with the provisions of this act.

9 Section ~~6~~ 7. This act, with respect to the Pennsylvania <—  
10 Public Utility Commission, constitutes the legislation required  
11 to reestablish an agency pursuant to the act of December 22,  
12 1981 (P.L.508, No.142), known as the Sunset Act.

13 Section ~~7~~ 8. The Pennsylvania Public Utility Commission <—  
14 shall continue together with its statutory functions and duties  
15 until December 31, 1991, when it shall terminate and go out of  
16 existence unless reestablished or continued by the General  
17 Assembly for an additional five years. Evaluation and review,  
18 termination, reestablishment and continuation of the agency  
19 beyond December 31, 1991, and every fifth year thereafter, shall  
20 be conducted pursuant to the act of December 22, 1981 (P.L.508,  
21 No.142), known as the Sunset Act.

22 Section ~~8~~ 9. This act shall take effect January 1, 1986, or <—  
23 immediately, whichever is later.