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THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL**  
**No. 1121** Session of  
1987

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INTRODUCED BY STAIRS, PETRARCA, HERMAN, GRUPPO, J. L. WRIGHT,  
ARTY, COLAFELLA, F. TAYLOR, HALUSKA, VAN HORNE, NAHILL,  
SCHEETZ, FISCHER, SEMMEL, PETRONE, D. W. SNYDER, HECKLER AND  
BLACK, APRIL 27, 1987

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REFERRED TO COMMITTEE ON MINES AND ENERGY MANAGEMENT,  
APRIL 27, 1987

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AN ACT

1 Providing for the production, distribution, conservation and  
2 consumption of energy in the Commonwealth of Pennsylvania;  
3 establishing the State Energy Commission and providing for  
4 its powers and duties; transferring powers and duties of the  
5 Governor's Energy Council and certain powers, duties and  
6 agencies of the Department of Environmental Resources to the  
7 State Energy Commission; providing for an energy master plan;  
8 establishing the Division of Administrative Hearings within  
9 the Office of Attorney General; providing penalties; and  
10 making an appropriation.

11 The General Assembly hereby finds and declares that a secure,  
12 stable and adequate supply of energy at reasonable prices is  
13 vital to the economy of this Commonwealth and to the public  
14 health, safety and welfare; that this Commonwealth is threatened  
15 by the prospect of both short-term and long-term energy  
16 shortages; that the existing dispersion of responsibilities with  
17 respect to energy and energy-related matters among various State  
18 departments, divisions, agencies and commissions inhibits  
19 comprehensive and effective planning for our future energy  
20 needs; and that the State government does not now possess either

1 sufficient information or adequate authority to provide for and  
2 insure the wise and efficient production, distribution, use and  
3 conservation of energy.

4 The General Assembly further finds that only an agency with  
5 comprehensive powers can collect, collate and analyze the  
6 information necessary to determine the amount of energy that is  
7 or may be available; develop mechanisms to insure a fair and  
8 equitable distribution of existing supplies; conduct the long-  
9 term planning and management necessary to eliminate or alleviate  
10 the potential adverse effects of a supply of energy insufficient  
11 to meet legitimate needs or, from practices of production,  
12 distribution and consumption, detrimental to the quality of life  
13 or the environment; coordinate Pennsylvania's energy policies  
14 and actions with Federal energy policies; and secure for  
15 Pennsylvania the maximum amount of Federal funding available for  
16 energy-related research, development and demonstration projects.

17 The General Assembly further finds that shortages of energy  
18 have the potential at certain times and in certain places to so  
19 seriously affect the public interest that it is necessary for  
20 State government to possess emergency powers sufficient to  
21 prevent or minimize health disasters and grave economic  
22 disruptions which could occur during these times.

23 The General Assembly therefore declares it to be in the best  
24 interest of the citizens of this Commonwealth to establish a  
25 principal agency to coordinate authority, regulation and  
26 planning by the Commonwealth in energy-related matters.

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

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the State Energy  
11 Act.

12 Section 102. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Chairman." The chairman of the commission.

17 "Commission." The State Energy Commission.

18 "Electrical energy." The energy produced as the result of  
19 the generation of electricity in any manner.

20 "Energy." The capacity to do work or to produce heat, this  
21 potential being transferred from any fuel or source whatsoever.

22 "Energy emergency." A condition of imminent danger to the  
23 economic well-being, health, safety or welfare of the people of  
24 this Commonwealth.

25 "Energy resource." Any substance or process used primarily  
26 for its energy content or capacity for producing energy,  
27 including, but not limited to, coal, crude oil, geothermal  
28 energy, natural gas, nuclear energy, petroleum, petroleum  
29 derivative, solar energy, synthetic natural gas or wind energy.

30 "Executive administrator" or "administrator." The executive

1 administrator of the commission.

2 "Liquid fuel." Petroleum or any other liquid substance  
3 capable of providing energy.

4 "Natural gas." A naturally occurring mixture of hydrocarbon  
5 and hydrocarbon gases found in porous geological formations  
6 beneath the earth's surface, often in association with  
7 petroleum.

8 "Nonrenewable energy resource." Any substance the use of  
9 which diminishes its availability or abundance, including, but  
10 not limited to, coal, natural gas, petroleum or uranium.

11 "Person." Any individual, partnership, corporation, joint  
12 venture, association, governmental subdivision, or public or  
13 private organization of any character, including another entity,  
14 other than a Federal agency.

15 "Renewable energy resource." Any method, process or  
16 substance the use of which does not diminish its availability or  
17 abundance, including, but not limited to, biomass conversion,  
18 geothermal energy, solar energy, wind energy, wood or any type  
19 of nuclear energy whereby more fuel is produced than is used.

20 "Utility." Any person who distributes, transports or  
21 produces natural gas or electricity for use or consumption in  
22 this Commonwealth.

### 23 CHAPTER 3

#### 24 STATE ENERGY COMMISSION

##### 25 Section 301. Establishment and composition.

26 (a) Establishment.--There is hereby established an  
27 independent commission to be known as the State Energy  
28 Commission.

29 (b) Composition.--The commission shall be composed of seven  
30 members, as follows:

1           (1) Five members appointed by the Governor with the  
2       advice and consent of two-thirds of the elected members of  
3       the Senate. Each of these appointed members shall have at  
4       least five years' experience in the areas of energy  
5       development, engineering, research, education, production,  
6       generation, distribution, regulation or similar energy areas  
7       or a combination of at least three years' experience in the  
8       aforementioned fields and at least two years' experience in  
9       management, public administration, finance, accounting, law  
10      or similar areas.

11          (2) One member appointed by the President pro tempore of  
12      the Senate.

13          (3) One member appointed by the Speaker of the House of  
14      Representatives.

15      (c) Terms.--Members shall serve a term of five years and  
16      until their successors are appointed and confirmed.

17      Section 302. Meetings, quorum, etc.

18      (a) Meetings.--The commission shall meet at least six times  
19      a year and shall also, from time to time, hold public hearings  
20      to receive the views of the public. The commission may meet at  
21      any time on call of the chairman or a majority of the members.

22      (b) Chairman.--Annually, at its first meeting, the  
23      commission shall select a chairman and a secretary from among  
24      its members.

25      (c) Quorum.--A quorum shall consist of a majority of the  
26      members of the commission, including at least one of the members  
27      appointed by either the President pro tempore of the Senate or  
28      the Speaker of the House of Representatives. Any action taken by  
29      the commission shall, however, require the affirmative votes of  
30      at least four members.

1 (d) Vacancies.--Vacancies shall be filled in the same manner  
2 as the original appointment was made and for the remainder of  
3 the unexpired term. Vacancies occurring among members appointed  
4 by the Governor while the Senate is not in session shall be  
5 filled on an interim basis until the Senate next convenes, when  
6 such appointee shall be confirmed.

7 (e) Expenses.--Members shall receive no compensation but  
8 shall be entitled to reimbursement for all necessary and  
9 reasonable expenses, in accordance with the rules of the  
10 Executive Board.

11 Section 303. Secretary of Environmental Resources and Chairman  
12 of Pennsylvania Public Utility Commission.

13 The Secretary of Environmental Resources and the Chairman of  
14 the Pennsylvania Public Utility Commission, or their designees,  
15 shall serve as ex officio, nonvoting members of the commission,  
16 whose presence shall not be counted for a quorum or for voting  
17 requirements.

18 Section 304. Organization.

19 Personnel of the commission shall be organized into an Office  
20 of the Executive Administrator and three divisions. The  
21 commission shall appoint as the head of each of the following  
22 divisions, upon recommendation of the executive administrator, a  
23 person knowledgeable and experienced in the area or areas for  
24 which that division is responsible:

25 (1) Office of Administration.

26 (2) Office of Energy Policy and Programs.

27 (3) Office of Energy Planning and Evaluation.

28 Section 305. Divisions.

29 (a) Office of Executive Administrator.--

30 (1) The Office of the Executive Administrator is

1 responsible for the general administration and coordination  
2 of the commission and its divisions.

3 (2) The commission shall appoint a Chief Counsel who  
4 shall supply legal services to the commission.

5 (b) Office of Administration.--

6 (1) The Office of Administration shall be headed by a  
7 Director of Administration, to be appointed by the commission  
8 upon recommendation of the executive administrator. The  
9 director shall report to and be directly responsible to the  
10 executive administrator.

11 (2) The Office of Administration shall have  
12 responsibility with regard to personnel and fiscal  
13 management, information systems, office systems and services,  
14 and other such responsibilities as may be assigned by the  
15 executive administrator.

16 (c) Office of Energy Policy and Programs.--

17 (1) The Office of Energy Policy and Programs shall be  
18 headed by a Director of Energy Policy and Programs, to be  
19 appointed by the commission upon recommendation of the  
20 executive administrator.

21 (2) The Office of Energy Policy and Programs shall have  
22 responsibility with regard to intergovernmental affairs,  
23 grants administration, nuclear issues and radiation  
24 protection, mines and mineral resources, oil and gas  
25 management, renewable and alternative technologies, energy  
26 conservation programs, and other such responsibilities as may  
27 be assigned by the executive administrator.

28 (d) Office of Energy Planning and Evaluation.--

29 (1) The Office of Energy Planning and Evaluation shall  
30 be headed by a Director of Energy Planning and Evaluation, to

1 be appointed by the commission upon recommendation of the  
2 executive administrator.

3 (2) The Office of Energy Planning and Evaluation shall  
4 have responsibility with regard to regulatory affairs,  
5 emergency preparedness, budget and program evaluation,  
6 utility affairs, community relations and public information,  
7 and other such responsibilities as may be assigned by the  
8 executive administrator.

9 Section 306. Transfer of certain functions, powers and duties.

10 All functions, powers and duties now vested in the following  
11 organizational units are hereby transferred and vested in the  
12 commission:

13 (1) The Governor's Energy Council.

14 (2) The following bureaus of the Department of  
15 Environmental Resources:

16 (i) Bureau of Abandoned Mine Reclamation.

17 (ii) Bureau of Deep Mine Safety.

18 (iii) Bureau of Mining and Reclamation.

19 (iv) Bureau of Oil and Gas Management.

20 (v) Bureau of Radiation Protection.

21 (3) The following boards and commissions of the  
22 Department of Environmental Resources:

23 (i) Coal Mining and Reclamation Advisory Board.

24 (ii) Anthracite Mine Inspectors' Examining Board.

25 (iii) Mine Inspectors' Examining Board for the  
26 Bituminous Coal Mines.

27 (iv) Oil and Gas Conservation Commission.

28 Section 307. Executive administrator.

29 (a) Appointment.--The commission shall be administered by an  
30 executive administrator who shall be appointed by the

1 commission. The executive administrator shall have at least five  
2 years' experience in the field of energy development,  
3 engineering, research, education, production, generation,  
4 regulation or distribution and shall have experience in  
5 management or administration. The executive administrator shall  
6 serve at the will and pleasure of the commission. He may be  
7 removed from office by a vote of not less than five members of  
8 the commission, including at least one member appointed by  
9 either the President pro tempore of the Senate or the Speaker of  
10 the House of Representatives.

11 (b) Deputy administrator.--The executive administrator shall  
12 appoint a deputy administrator. The deputy administrator shall  
13 assume all responsibility and authority vested in the executive  
14 administrator upon the absence of the executive administrator.  
15 The deputy administrator will have specific responsibilities as  
16 are assigned by the executive administrator.

17 Section 308. Powers and duties of executive administrator.

18 The executive administrator shall have the power and duty to:

19 (1) Administer, monitor and review the programs and  
20 policies of the commission.

21 (2) Assure that all divisions of the commission fully  
22 execute the separate duties and responsibilities assigned to  
23 each and, with the approval of the commission, to reorganize  
24 divisions and duties of the commission as necessary.

25 (3) Submit to the commission for approval all of the  
26 major actions, programs and policies of the commission.

27 (4) Advise the commission, the Governor and the General  
28 Assembly on State and Federal energy policies, practices,  
29 programs and legislation.

30 (5) Make recommendations to the Governor and the General

1 Assembly for appropriate actions to be taken in an energy  
2 emergency.

3 (6) Recommend energy policy to the commission, including  
4 alternatives, for implementation in this Commonwealth.

5 (7) Maintain continuous liaison with energy suppliers,  
6 distributors and other State and Federal agencies concerned  
7 with energy-related matters.

8 (8) Assist other State agencies with specific energy  
9 problems.

10 (9) Coordinate the State's activities with respect to  
11 proposed energy projects by seeking to minimize economic and  
12 environmental costs associated with energy production and  
13 distribution.

14 (10) Recommend rules and regulations to the commission.

15 (11) Submit, with the approval of the commission,  
16 proposed legislation for consideration by the General  
17 Assembly.

18 (12) Enforce all contracts or agreements entered into by  
19 the commission.

20 (13) Contract for and accept any gifts, grants, loans or  
21 appropriations of funds or property, or financial or other  
22 aid in any form from Federal energy-related agencies,  
23 departments, or their successors or any other agency or  
24 instrumentality of the Federal Government, or from the  
25 Commonwealth or any agency, instrumentality or political  
26 subdivision thereof, or from any other source for the use of  
27 the commission; and to design and administer a grant program  
28 in accordance with Federal and State laws and regulations.

29 (14) Receive applications for and recommend to the  
30 commission grants from such other funds as are available,

1 including funds from State sources, and to establish  
2 administrative practices for the accounting and monitoring of  
3 the use of such funds according to State financial procedures  
4 or additional safeguards which in the judgment of the  
5 commission, may be advisable.

6 (15) Participate, in cooperation with the Attorney  
7 General of the Commonwealth and other appropriate State  
8 government entities, and in accordance with Federal law, in  
9 Federal agency decisionmaking.

10 (16) Employ, on a temporary basis, such persons as are  
11 necessary to effect the provisions of the commission.

12 (17) Issue orders to assure compliance with rules and  
13 regulations, as approved.

14 Section 309. Powers and duties of commission.

15 The commission shall have the power and duty to:

16 (1) Serve as the central repository for collection of  
17 energy information.

18 (2) Collect and analyze data relating to present and  
19 future demands and resources for all forms of energy.

20 (3) Request all entities engaged in production,  
21 distribution, transmission and storage of energy in any form  
22 to submit pertinent energy data, not including certain  
23 information deemed by the executive administrator to be  
24 confidential in nature.

25 (4) Establish an energy information forecasting system.

26 (5) Design, implement and enforce a program for  
27 conservation of energy in commercial, industrial and  
28 residential facilities.

29 (6) Conduct and supervise a Statewide educational  
30 program on energy conservation.

1           (7) Monitor energy prices and evaluate rate and price  
2 policies.

3           (8) Conduct and supervise energy projects and programs.

4           (9) Distribute and expend funds made available for  
5 research and programs.

6           (10) Enter into interstate compacts to carry out energy  
7 research and planning with other states or the Federal  
8 Government.

9           (11) Apply for, accept and expend grants-in-aid and  
10 assistance for energy programs from private and public  
11 sources.

12          (12) Require annual submission of energy utilization  
13 reports and conservation plans by all Commonwealth  
14 departments and agencies.

15          (13) Issue subpoenas and conduct hearings and  
16 investigations.

17          (14) Administer Federal regulations as are applicable.

18          (15) Acquire, purchase, grant and contract for eminent  
19 domain title to real property to demonstrate facilities for  
20 improved energy efficiency.

21          (16) Construct and operate facilities which improve  
22 energy efficiency.

23          (17) Contract with any other public agency or  
24 corporation.

25          (18) Determine the effect of energy and fuel shortages  
26 on consumers.

27          (19) Keep complete and accurate minutes of all hearings  
28 held before the commission or any division of the agency.

29          (20) Develop an energy master plan for submission to the  
30 Governor and the General Assembly.

1           (21) Develop an emergency allocation plan which  
2 specifies actions to be taken in the event of an impending  
3 serious shortage of energy that poses grave threats to the  
4 public health, safety or welfare.

5           (22) Authorize the Governor to proclaim, if needed, a  
6 state of energy emergency through executive order, which  
7 shall remain in effect until the Governor declares through  
8 subsequent order that the state of energy emergency has  
9 terminated.

10          (23) Make and execute contracts or leases in the name of  
11 the Commonwealth, with the approval of the Governor, and  
12 enter into agreements with owners or lessees of property or  
13 property rights located in the same areas as lands owned or  
14 leased by the Commonwealth for the protection, preservation  
15 or recovery of metallic or nonmetallic ore, oil, natural gas  
16 or any other mineral deposits underlying these lands,  
17 provided that the deposits are owned by the Commonwealth,  
18 whenever it is determined by the commission that it would be  
19 for the best interests of the Commonwealth to make such  
20 disposition of the deposits. Any proposed contracts or leases  
21 for the extraction or recovery of metallic or nonmetallic  
22 ore, oil, natural gas or other minerals shall have been  
23 published once a week for three consecutive weeks, in at  
24 least two newspapers of general circulation in the locality  
25 where the extraction or recovery is to be located, prior to  
26 awarding such contract or lease. Such contract or lease shall  
27 be awarded to the highest and best bidder capable for the  
28 proper performance of the contract. However, where the  
29 Commonwealth owns a fractional interest in the oil, natural  
30 gas and other minerals, the requirement of competitive

1 bidding may be waived, and the commission may enter into a  
2 contract to lease that fractional interest, with the approval  
3 of the Governor and upon such terms and conditions as the  
4 commission deems to be in the best interest of the  
5 Commonwealth.

6 (24) Make and execute contracts or leases, in the name  
7 of the Commonwealth, for the mining or removal of any  
8 valuable minerals that may be found in State forests, or of  
9 oil and gas beneath those waters of Lake Erie owned by the  
10 Commonwealth, or of oil and gas beneath the land of Woodville  
11 State Hospital owned by the Commonwealth, whenever it appears  
12 to the satisfaction of the commission that it would be for  
13 the best interests of the Commonwealth to make such  
14 disposition of these materials. Any proposed contracts or  
15 leases of valuable minerals exceeding \$1,000 in value shall  
16 be advertised once a week for three weeks, in at least two  
17 newspapers published nearest the locality indicated, in  
18 advance of awarding such contract or lease. Such contracts or  
19 leases may then be awarded to the highest and best bidder,  
20 who shall give bond for the proper performance of the  
21 contract as the commission designates. However, where the  
22 Commonwealth owns a fractional interest in the oil, natural  
23 gas and other minerals under State forest lands, the  
24 requirement of competitive bidding may be waived, and the  
25 commission may enter into a contract to lease that fractional  
26 interest, with the approval of the Governor and upon such  
27 terms and conditions as the commission deems to be in the  
28 best interest of the Commonwealth.

29 (25) Enter into agreements to sell, lease or otherwise  
30 dispose of any iron, coal, limestone, fire-clay, oil, gas and

1 other minerals, except sand and gravel and minerals deposited  
2 in pools created by dams, that may be found in or beneath the  
3 beds of navigable streams or bodies of water within this  
4 Commonwealth and nonnavigable streams or bodies of water  
5 where the beds thereof are owned by the Commonwealth, on such  
6 terms and conditions as the commission deems to be in the  
7 best interest of the Commonwealth. Nothing herein shall  
8 authorize the interference with free navigation of these  
9 streams or bodies of water or to undermine the bed thereof or  
10 to interfere with the rights of any person or persons holding  
11 property on the banks thereof.

12 (26) Enter into contracts:

13 (i) To implement the Abandoned Mine Reclamation  
14 Program under Title IV of the Surface Mining Control and  
15 Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C.  
16 Section 1231 et seq.).

17 (ii) For the abatement and control work authorized  
18 under the act of January 19, 1968 (1967 P.L.996, No.443),  
19 known as The Land and Water Conservation and Reclamation  
20 Act.

21 (iii) To reclaim abandoned surface mines as provided  
22 for in the act of May 31, 1945 (P.L.1198, No.418), known  
23 as the Surface Mining Conservation and Reclamation Act,  
24 the act of September 24, 1968 (P.L.1040, No.318), known  
25 as the Coal Refuse Disposal Control Act, and the act of  
26 December 19, 1984 (P.L.1093, No.219), known as the  
27 Noncoal Surface Mining Conservation and Reclamation Act.

28 (iv) To restore, repair or mitigate damages as  
29 provided for in the act of April 27, 1966 (1st Sp.Sess.,  
30 P.L.31, No.1), known as The Bituminous Mine Subsidence

1           and Land Conservation Act.

2           (v) To plug abandoned oil and gas wells as provided  
3           for in the act of December 19, 1984 (P.L.1140, No.223),  
4           known as the Oil and Gas Act.

5       In all cases in which the commission enters into a contract  
6       and the other party to the contract is required to post a  
7       bond or other acceptable security to be held to apply as a  
8       credit against any unpaid balances or to carry out any  
9       unfulfilled conditions, the moneys of these bonds or  
10      securities shall accrue to the benefit of the commission  
11      insofar as necessary to indemnify the commission and the  
12      Commonwealth from all losses caused by failure of the  
13      contracting party to fulfill any contract condition. Moneys  
14      not required by the commission to pay unpaid balances or to  
15      fulfill contract conditions shall accrue to the General Fund.  
16      Where the contract was awarded under paragraph (25), the  
17      excess moneys shall be deposited into the fund under which  
18      the contract was authorized.

19      (27) Assure that the mining laws of this Commonwealth  
20      are faithfully executed and, for that purpose, cause lawfully  
21      qualified mine inspectors to enter, inspect and examine any  
22      mine or colliery within this Commonwealth and the works and  
23      machinery connected therewith.

24      (28) Give such aid and instruction to the mine  
25      inspectors, from time to time, as may be calculated to  
26      protect the health and promote the safety of all persons  
27      employed in and about the mines. Subject to any inconsistent  
28      provisions contained in this act, anthracite mine inspectors  
29      and bituminous mine inspectors shall, respectively, under the  
30      direction of the executive administrator, continue to

1 exercise the powers and perform the duties vested in and  
2 imposed upon them by law.

3 (29) Make such examinations and investigations as may be  
4 necessary to enable it to make recommendations upon any  
5 matters pertaining to the general welfare of coal miners and  
6 others connected with mining and the interests of mine owners  
7 and operators in this Commonwealth.

8 (30) In those instances where such work is in the  
9 interest of the public welfare, seal, close or backfill  
10 abandoned deep or strip coal mines; plug abandoned oil and  
11 gas wells, other than those governed by the Oil and Gas Act;  
12 fill voids in abandoned coal mines; drill bore holes, dig  
13 ditches or construct flumes which would relieve flooding or  
14 hazardous conditions caused by mine water; and extinguish  
15 fires in abandoned coal mines and in culm banks.

16 (31) Administer the laws and regulations of this  
17 Commonwealth relating to the drilling and operation of oil  
18 and gas wells and gas storage reservoirs.

19 (32) Administer the laws and regulations of this  
20 Commonwealth which regulate:

21 (i) the construction, operation and maintenance of  
22 dams, water obstructions or encroachments for hydraulic  
23 and hydroelectric power;

24 (ii) stream-raising and steam condensation  
25 reservoirs; and

26 (iii) any dam, impoundment, embankment and other  
27 water obstruction and encroachment necessary for the  
28 extraction, recovery or processing of metallic and  
29 nonmetallic ore, oil, gas and other minerals.

30 (33) Formulate, adopt and promulgate such rules and

1 regulations necessary for the proper performance of the work  
2 of the commission, and continue to exercise any power to  
3 formulate, adopt and promulgate rules and regulations  
4 relating to any matter within the jurisdiction of the  
5 commission heretofore vested in the Environmental Quality  
6 Board or other departments and boards. Any such rules or  
7 regulations promulgated prior to the effective date of this  
8 act shall be the rules and regulations of the commission  
9 until such time as they are modified, repealed, suspended,  
10 superseded or otherwise changed by the commission. Any rule,  
11 regulation, policy or procedure pertaining to matters within  
12 the jurisdiction of the commission in effect on the effective  
13 date of this act shall be reviewed by the executive  
14 administrator on the written request of a person  
15 substantially affected by the rule, regulation, policy or  
16 procedure. The executive administrator shall initiate a  
17 review within 30 days of receipt of the request and issue a  
18 decision in writing within 90 days of receipt of the request  
19 to retain, modify or suspend, and the reasons therefor.

20 (34) Cooperate with all other Federal and State agencies  
21 in carrying out its responsibilities.

22 Section 310. Energy master plan.

23 The commission shall prepare and, after public hearing,  
24 adopt, within one year from the effective date of this act, an  
25 energy master plan for a period of five years on the production,  
26 distribution, consumption and conservation of energy in this  
27 Commonwealth and shall submit the plan and any amendments  
28 thereto to the Governor and the General Assembly.

29 Section 311. Emergency allocation plan.

30 The commission shall include, as part of the energy master

1 plan and in conjunction with the Pennsylvania Public Utility  
2 Commission and the Pennsylvania Emergency Management Agency, an  
3 emergency allocation plan. Such emergency plan shall include a  
4 schedule of emergency energy curtailment based on a uniform  
5 classification of energy consumers, specifying actions to be  
6 taken in event of an energy emergency, as proclaimed by the  
7 Governor, and further specifying what actions an energy industry  
8 and its customers are to take in the event of such emergency.

9 Section 312. Contingency plans.

10 The commission shall direct all Commonwealth agencies to  
11 develop, subject to approval by the commission, contingency  
12 plans for dealing with these emergencies. Those portions of such  
13 emergency allocation plans or contingency plans specifically  
14 pertaining to energy industries regulated by the Pennsylvania  
15 Public Utility Commission shall be made available to the  
16 commission in such time period as shall be directed.

## 17 CHAPTER 5

### 18 ADMINISTRATIVE HEARINGS

19 Section 501. Division of Administrative Hearings.

20 (a) Establishment.--There is hereby established the Division  
21 of Administrative Hearings in the Office of Attorney General.

22 (b) Powers and duties.--

23 (1) The division shall have the power and its duties  
24 shall be to hold hearings and issue adjudications under Title  
25 2 of the Pennsylvania Consolidated Statutes (relating to  
26 administrative law and procedure), on any decision or action  
27 of the energy commission, including, but not limited to,  
28 notice of violation, penalty assessment, order, permit,  
29 license, or the whole or part of a rule or equivalent. A  
30 decision or action shall be considered final when reduced to

1 writing, whether affirmative, negative, injunctive or  
2 declaratory in form.

3 (2) The division shall exercise any power to hold  
4 hearings and issue adjudications relating to any matter  
5 within the jurisdiction of the commission which may  
6 heretofore have been heard by the Environmental Hearing  
7 Board.

8 Section 502. Appeals.

9 (a) General rule.--Anything in any law to the contrary  
10 notwithstanding, any action of the commission may be taken  
11 initially without regard to the provisions of Title 2 of the  
12 Pennsylvania Consolidated Statutes (relating to administrative  
13 law and procedure), but no such action of the commission  
14 adversely affecting any person shall be final as to such person  
15 until such person has had the opportunity to appeal such action  
16 to the division. However, any such action shall be final as to  
17 any person who had not perfected his appeal in the manner  
18 hereinafter specified.

19 (b) Appeal not to act as supersedeas.--An appeal taken to  
20 the division from a decision of the commission shall not act as  
21 a supersedeas, but, upon cause shown and where the circumstances  
22 require it, the commission of the board shall have the power to  
23 grant a supersedeas.

24 Section 503. Rules and regulations.

25 Hearings of the division shall be conducted in accordance  
26 with rules and regulations adopted by the Office of Attorney  
27 General, and such rules and regulations shall include time  
28 limits for the taking of appeals, procedures for the taking of  
29 appeals, locations at which hearings shall be held and such  
30 other rules and regulations as may be determined advisable.

1 Section 504. Hearing examiners.

2 The Attorney General shall employ hearing examiners who are  
3 knowledgeable about the laws of this Commonwealth and such other  
4 personnel as are necessary to perform the duties prescribed  
5 herein. The number of examiners employed shall be sufficient to  
6 provide timely and expeditious hearings at each office of the  
7 commission.

8 Section 505. Subpoenas.

9 The division shall have the power to subpoena witnesses,  
10 records and papers; and, upon certification to it of failure to  
11 obey any such subpoena, the Commonwealth Court is empowered,  
12 after hearing, to enter, when proper, an adjudication of  
13 contempt and such other order as the circumstances require.

14 CHAPTER 7

15 ENFORCEMENT

16 Section 701. Conflict of interest.

17 (a) Surface mining.--No employee of the commission  
18 performing any function or duty within the scope of activities  
19 covered by the Surface Mining Control and Reclamation Act of  
20 1977 (Public Law 95-87, 30 U.S.C. § 1201 et seq.) shall have a  
21 direct or indirect financial interest in any underground or  
22 surface coal mining operation as defined by this act. Whoever  
23 knowingly violates the provisions of this subsection commits a  
24 misdemeanor of the third degree and shall, upon conviction, be  
25 sentenced to pay a fine of not more than \$2,500 or to  
26 imprisonment for not more than one year, or both. Rules and  
27 regulations shall be promulgated hereunder to establish methods  
28 by which the provisions of this subsection will be monitored and  
29 enforced by the commission, including, but not limited to,  
30 appropriate provisions for the filing by such employees and the

1 review of statements and supplements thereto concerning any  
2 financial interest which may be affected by this subsection.

3 (b) Oil and gas.--No employee of the commission performing  
4 the function or duty of any oil or gas inspector shall act as a  
5 manager, employee or agent of any oil-drilling or gas-drilling  
6 operation or of any mining or mining operation, nor shall he be  
7 interested in any pecuniary way in such operations in this  
8 Commonwealth. Whoever knowingly violates the provisions of this  
9 subsection commits a misdemeanor of the third degree and shall,  
10 upon conviction, be sentenced to pay a fine of not more than  
11 \$2,000 or to imprisonment for not more than one year, or both.  
12 Rules and regulations shall be promulgated hereunder to  
13 establish methods by which the provisions of this subsection  
14 will be monitored and enforced by the commission, including, but  
15 not limited to, appropriate provisions for the filing by such  
16 employees and the review of statements and supplements thereto  
17 concerning any financial interest which may be affected by this  
18 subsection.

19 Section 702. Violations and penalties.

20 (a) Civil penalties for failure to provide information.--Any  
21 person failing to provide energy information required by the  
22 commission, other than information deemed to be confidential in  
23 nature, shall be liable for a civil penalty of not more than  
24 \$3,000 for each offense. If the violation is of a continuing  
25 nature, each day during which it continues shall constitute an  
26 additional and separate offense.

27 (b) Unlawful purchase.--Any person purchasing or attempting  
28 to purchase energy supplies in violation of any rules,  
29 regulations or orders issued hereunder constitutes a summary  
30 offense.

1 (c) Violation of rules.--Any retail dealer who violates any  
2 rules, regulations or orders issued hereunder commits a summary  
3 offense.

4 (d) Violation by energy supplier.--Any distributor of any  
5 other supplier of energy who violates any rules, regulations or  
6 orders issued hereunder commits a misdemeanor of the first  
7 degree.

8 (e) Suspension or revocation of license.--In addition to any  
9 other penalties provided under this act or other statute, the  
10 commission may recommend to the appropriate agency the  
11 suspension or revocation of the license of any retail dealer,  
12 gasoline jobber, wholesale dealer, distributor or supplier of  
13 fuel who has violated this act or any rules, regulations or  
14 orders issued under this act.

## 15 CHAPTER 21

### 16 MISCELLANEOUS PROVISIONS

17 Section 2101. Transfer provisions.

18 All personnel, allocations, appropriations, equipment, files,  
19 records, contracts, agreements, obligations and other material  
20 which are used, employed or expended in connection with the  
21 powers, duties or functions of the Governor's Energy Council,  
22 the Bureau of Abandoned Mine Reclamation, the Bureau of Deep  
23 Mine Safety, the Bureau of Mining and Reclamation, the Bureau of  
24 Oil and Gas Management, the Bureau of Radiation Protection, the  
25 Coal Mining and Reclamation Advisory Board, the Anthracite Mine  
26 Inspectors' Examining Board, the Mine Inspectors' Examining  
27 Board for the Bituminous Coal Mines and the Oil and Gas  
28 Conservation Commission, are hereby transferred to the  
29 commission with the same force and effect as if the  
30 appropriations had been made to and said items had been the

1 property of the commission in the first instance, and as if said  
2 contracts, agreements and obligations had been incurred or  
3 entered into by the commission. The personnel, appropriations,  
4 equipment and other items and material transferred by this  
5 section shall include an appropriate portion of the general  
6 administrative, overhead and supporting personnel,  
7 appropriations, equipment and other material of the agencies and  
8 shall also include, where applicable, Federal grants and funds  
9 and other benefits from any Federal program. All personnel  
10 transferred pursuant to this act shall retain any civil service  
11 employment status assigned to the personnel.

12 Section 2102. Civil service.

13 In addition to the retention of civil service employment  
14 status as pertaining to employees transferred to the commission,  
15 all new positions in the commission shall be deemed to be  
16 included in the list of positions set forth in section 3(d) of  
17 the act of August 5, 1941 (P.L.752, No.286), known as the Civil  
18 Service Act, and the provisions and benefits of that act shall  
19 be applicable to all employees of the commission.

20 Section 2103. Construction of act.

21 (a) Curtailment plans.--Nothing set forth in this act shall  
22 supersede any curtailment plans which are established and  
23 approved by any Federal regulatory commission, the Pennsylvania  
24 Public Utility Commission or any ordinance duly adopted by any  
25 municipality or public gas system.

26 (b) Actions by DER.--All orders, permits, regulations,  
27 decisions and other actions of the Department of Environmental  
28 Resources, the Governor's Energy Council or any department,  
29 board, commission or agency whose functions have been  
30 transferred by this act to the commission shall remain in full

1 force and effect until modified, repealed, superseded or  
2 otherwise changed by appropriate action of the commission.

3 (c) Jurisdiction of PUC and other agencies.--The commission  
4 shall not have any authority to take any action affecting the  
5 jurisdiction of the Pennsylvania Public Utility Commission or  
6 any Federal administrative or regulatory agency. The executive  
7 administrator, however, shall have the authority to appear  
8 before the commission or any Federal administrative or  
9 regulatory agency to provide information concerning State energy  
10 policies.

11 Section 2104. Initial appointments.

12 The first members of the board appointed by the Governor  
13 shall be appointed as follows: one for a term of one year, one  
14 for a term of two years, one for a term of three years, one for  
15 a term of four years and one for a term of five years.

16 Thereafter, all appointments, except the filling of vacancies,  
17 shall be for five years. The first members appointed by the  
18 President pro tempore of the Senate and the Speaker of the House  
19 of Representatives shall be named to full five-year terms. All  
20 initial appointments shall be made not later than January 1,  
21 1989, and confirmed when the General Assembly convenes.

22 Section 2105. Staff availability.

23 At the direction of the administrator, the staff of the  
24 commission may assist the staff of the Pennsylvania Energy  
25 Development Authority and the Appalachian States Low-Level  
26 Radioactive Waste Commission in energy-related matters.

27 Section 2106. Annual report.

28 The commission shall, promptly following the close of each  
29 fiscal year, submit an annual report of its activities for the  
30 preceding year to the Governor, to the appropriate committees or

1 joint committees of the General Assembly as designated by the  
2 President pro tempore of the Senate and the Speaker of the House  
3 of Representatives, and, upon request, to members of the General  
4 Assembly. Each such report shall set forth a complete operating  
5 and financial statement of the commission during each year. An  
6 audit of the books and accounts of the commission shall be made  
7 by the Auditor General, in accordance with the same methods and  
8 schedule as apply to State departments.

9 Section 2107. Appropriation.

10 The sum of \$40,000,000, or as much thereof as may be  
11 necessary, is hereby appropriated to the State Energy Commission  
12 for the current fiscal period to carry out the provisions of  
13 this act.

14 Section 2108. Repeals.

15 All acts and parts of acts are repealed insofar as they are  
16 inconsistent with this act.

17 Section 2109. Sunset.

18 The State Energy Commission shall expire June 30, 1992, and  
19 at the end of each ten-year period thereafter, unless extended  
20 pursuant to the act of December 22, 1981 (P.L.508, No.142),  
21 known as the Sunset Act.

22 Section 2110. Effective date.

23 This act shall take effect in 180 days.