

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1599 Session of
2008

INTRODUCED BY MELLOW, A. WILLIAMS, FERLO, FUMO, BOSCOLA, MUSTO,
FONTANA, LAVALLE, COSTA, TARTAGLIONE, LOGAN, KITCHEN, HUGHES,
O'PAKE AND WASHINGTON, OCTOBER 2, 2008

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
OCTOBER 2, 2008

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in restructuring of electric utility
3 industry, further providing for market power remediation.

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

6 Section 1. Section 2811 of Title 66 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subsection to read:
8 § 2811. Market power remediation.

9 * * *

10 (e.1) Market misconduct.--

11 (1) If an electric distribution company or any of its
12 affiliated companies is found guilty of market manipulation,
13 exercising market power or collusion by the Federal Energy
14 Regulatory Commission or any Federal or State court or, if an
15 electric distribution company or any one of its affiliated
16 companies settles a claim of market manipulation, exercising
17 market power or collusion that is brought by a regional

1 transmission operator's market monitoring unit, the Federal
2 Energy Regulatory Commission or another entity, the
3 commission:

4 (i) Shall direct the electric distribution company
5 to take any and all reasonable action to quantify the
6 effect of the market misconduct upon Pennsylvania
7 ratepayers.

8 (ii) Following public hearing on the matter and a
9 finding of public interest, may direct the electric
10 distribution company to take any and all reasonable legal
11 action, including the filing of a lawsuit as may be
12 necessary, to recover the quantified damages which shall
13 be used to recompense Pennsylvania ratepayers affected by
14 the market misconduct.

15 (2) If the electric distribution company fails to pursue
16 reasonable action to quantify or seek recovery of damages for
17 Pennsylvania ratepayers affected by market manipulation, the
18 exercise of market power or collusion, the commission is
19 authorized, following notice and an opportunity of the
20 electric distribution company to comply or contest, to assess
21 a civil penalty, which shall not be recovered in rates, of
22 not more than \$10,000 per day for failure or neglect to obey
23 an order of the commission, the continuance of the failure or
24 neglect being a separate offense.

25 (3) Any monetary damages recovered by the electric
26 distribution company shall be paid to affected Pennsylvania
27 ratepayers in the form of a credit to their electric bills or
28 as refunds.

29 (4) The provisions of this subsection shall be held to
30 be in addition to and not in substitution for or limitation

1 of any other provisions of this title.

2 * * *

3 Section 2. This act shall take effect in 60 days.