

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1212 Session of
2009

INTRODUCED BY MILLARD, TURZAI, SAYLOR, BEYER, BOBACK, BOYD,
BROOKS, CAUSER, CLYMER, D. COSTA, CREIGHTON, CUTLER, DALLY,
EVERETT, GEIST, GINGRICH, GROVE, HARHART, HARRIS, HICKERNELL,
KAUFFMAN, M. KELLER, MAJOR, MOUL, PHILLIPS, REICHLEY, ROCK,
ROHRER, SCAVELLO, STERN, SWANGER, VULAKOVICH, WATSON AND
BENNINGHOFF, APRIL 7, 2009

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 7, 2009

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in restructuring of electric utility
3 industry, further providing for definitions; and providing
4 for rate phase-in plans.

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

7 Section 1. Section 2803 of Title 66 of the Pennsylvania
8 Consolidated Statutes is amended by adding a definition to read:
9 § 2803. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 * * *

14 "Overall rate." The sum of all retail rates charged by an
15 electric distribution company for electric service, including
16 all applicable riders and surcharges.

17 "Rate phase-in plan" or "plan." A plan filed with the

commission by an electric distribution company solely to phase
in any initial increase in the rate for generation service that
may occur upon the expiration of that electric distribution
company's generation rate cap. The plan may not address or
affect any other rate changes filed by the electric distribution
company.

* * *

Section 2. Title 66 is amended by adding a section to read:
§ 2816. Rate phase-in plans.

(a) General rule.--Within 90 days of the effective date of
this section, each electric distribution company shall file a
rate phase-in plan with the commission to provide residential
and small commercial customers, who use up to 25 kw in maximum
registered peak load, the option to phase in any overall rate
increase that:

(1) is greater than 25% for a customer class; and
(2) results from an initial increase in the price for
default generation service that may occur
upon the expiration of the generation rate cap for such electric
distribution company specified under section 2804(4) (relating
to standards for restructuring of electric industry) or a
restructuring plan under section 2806(f) (relating to
implementation, pilot programs and performance-based rates) and
ending no later than three years after such expiration date.
Customer participation in any plan approved under this
subsection shall be voluntary.

(b) Conditions.--Each rate phase-in plan shall be subject to
commission approval, which shall be granted no less than 90 days
prior to implementation of the phase-in plan in each electric
distribution company's service territory and shall meet the

1 following conditions:

2 (1) The plan, which shall be implemented through a
3 nonbypassable credit or charge to customers' bills separate
4 from the default generation charge, shall offer a transition
5 to prices at the level permitted pursuant to a commission-
6 approved procurement plan beginning on the expiration date of
7 the generation rate cap for the electric distribution
8 company.

9 (2) The plan shall provide for all of the following:

10 (i) that the overall rate increase resulting from an
11 initial increase in the rate for default generation
12 service charged to each customer class under the plan
13 shall be phased in for as long as three years; and

14 (ii) that the overall rate increase in the first
15 year shall not exceed 25% of the overall rate in effect
16 for that customer class on the last day prior to
17 expiration of the generation rate cap, and the overall
18 rate increase in the second year shall not exceed an
19 additional 25% of the overall rate in effect for that
20 customer class on the last day prior to expiration of the
21 generation rate cap.

22 (3) The plan may offer the customer the option to begin
23 the phase-in period prior to the expiration of the generation
24 rate cap, provided that the customer accrues interest on any
25 prepaid amount at a rate of 6% compounded annually. Customer
26 participation in any plan approved under this subsection
27 shall be voluntary.

28 (4) The plan shall specify the means of providing notice
29 to customers of the option to participate in such plan on a
30 voluntary basis.

1 (5) Any customer is eligible to participate in a phase-
2 in plan as described under this section whether the customer
3 chooses to take electric generation service from an electric
4 distribution company or from an electric generation supplier.

5 (c) Recovery.--

6 (1) The electric distribution company shall fully
7 recover the expenses associated with implementing a plan,
8 including related administrative costs, and the amount of the
9 deferred payments resulting from customers' participation in
10 the plan and a carrying charge of 6% compounded annually on
11 the deferred payments from the customers by means of a
12 competitively neutral nonbypassable charge to each customer
13 class, subject to the conditions established under subsection
14 (b).

15 (2) The charge shall be a reconcilable automatic
16 adjustment charge under section 1307 (relating to sliding
17 scale of rates; adjustments), be applied to participating
18 customers on a customer class basis, be included in other
19 charges on the electric distribution company's bill and not
20 appear as a separate line item on a customer's bill.

21 (3) Any rate phase-in plan approved by the commission
22 shall be considered a new service offered for the first time
23 under section 2804(4)(vi).

24 (4) The amounts deferred together with the carrying
25 charges thereon shall be deemed to be transition costs for
26 the purposes of section 2812 (relating to approval of
27 transition bonds); and upon issuance by the commission of a
28 qualified rate order under section 2812, such amounts
29 together with any cost related to the issuance of transition
30 bonds shall be deemed qualified transition expenses.

1 (d) Deferred amounts.--The commission shall permit deferred
2 costs and associated carrying charges to be recorded for
3 accounting purposes on an electric distribution company's books
4 of account as a regulatory asset where the electric distribution
5 company is the default service provider.

6 (e) Credit.--If a customer enrolled in a plan that begins
7 prior to the expiration of the electric distribution company's
8 generation rate cap leaves the electric distribution company's
9 system prior to the full distribution of amounts collected, a
10 credit shall be applied to the customer's final bill and any
11 remainder shall be refunded to the customer.

12 (f) Intangible transition property.--

13 (1) An electric distribution company's right to recover
14 costs under an approved phase-in plan shall be deemed
15 intangible transition property for the purposes of sections
16 2808(e) and 2812, but not for any other sections of this
17 chapter.

18 (2) The commission may issue a qualified rate order
19 under section 2812 with respect to such costs and to issue
20 other orders and take actions as may be necessary or proper
21 for the electric distribution company or its assignee to
22 issue transition bonds, as provided under section 2812,
23 secured by such intangible transition property; and upon
24 issuance by the commission of a qualified rate order, the
25 amounts authorized to be imposed on customer bills shall be
26 deemed intangible transition charges for the purposes of
27 section 2812.

28 (g) Penalty for failure to file.--If any electric
29 distribution company fails to file a rate phase-in plan with the
30 time required by subsection (a), the commission shall impose a

1 fine of \$100,000 per day on that electric distribution company
2 until it files such plan.

3 Section 3. This act shall take effect immediately.