

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1045 Session of
2009

INTRODUCED BY DINNIMAN, JULY 23, 2009

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JULY 23, 2009

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the Mid-
2 Atlantic Area Natural Gas Corridor Compact; providing for the
3 form of the compact; imposing additional powers and duties on
4 the Governor and the Secretary of the Commonwealth; and
5 making an appropriation.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Mid-Atlantic
10 Area Natural Gas Corridor Compact Act.

11 Section 2. Execution of compact.

12 The Governor of Pennsylvania, on behalf of this Commonwealth,
13 is authorized to and shall execute the Mid-Atlantic Area Natural
14 Gas Corridor Compact, hereinafter referred to as the "compact,"
15 with two or more of the party states. The General Assembly
16 signifies in advance its approval and ratification of the
17 compact and the compact is hereby adopted and entered into with
18 all states joining therein. The compact shall be in
19 substantially the following form:

20 Mid-Atlantic Area Natural Gas Corridor Compact

1 Article I

2 Statement of Purpose

3 Section 1. Purpose of compact.

4 The purpose of this compact is to promote regional
5 cooperation in the location, approval and construction of cross-
6 borders natural gas pipelines in the Mid-Atlantic region of the
7 United States by the development of a regional pipeline siting
8 council to facilitate the siting of cross-borders natural gas
9 pipelines within the compact states and to perform the
10 interstate pipeline siting responsibilities of such states.

11 Article II

12 Definitions

13 Section 1. Definitions.

14 For the purpose of this compact and of any supplemental or
15 concurring legislation enacted pursuant hereto, the following
16 words and phrases shall have the meanings given to them in this
17 section, except as may be otherwise required by the context:

18 "Affected Federal agency." The United States Department of
19 Energy, the Federal Energy Regulatory Commission, and the United
20 States Environmental Protection Agency and any other agency of
21 the United States Government affected by the Natural Gas Act of
22 1938.

23 "Associated facilities." Facilities essential to the
24 transport of natural gas through interstate commerce, including,
25 but not limited to, pipelines, substations and terminals.

26 "Compact." The Mid-Atlantic Area Natural Gas Corridor
27 Compact established pursuant to this act.

28 "Council." The Mid-Atlantic Area States Council as
29 established in this compact.

30 "Cross-borders natural gas pipeline." A proposed interstate

1 natural gas pipeline and any associated facilities.

2 "Distribution corridor." A geographic area proposed for the
3 location, construction and operation of one or more cross-
4 borders natural gas pipelines.

5 "DOE." The United States Department of Energy.

6 "Eligible state." Any state contiguous to a party state that
7 elects to become a signatory to this compact.

8 "FERC." The Federal Energy Regulatory Commission.

9 "Federal acts." Any applicable requirement of:

10 (1) The National Forest Management Act of 1976 (Public
11 Law 94-588, 16 U.S.C. § 472a et seq.).

12 (2) The Endangered Species Act of 1973 (Public Law
13 93-205, 16 U.S.C. § 1531 et seq.).

14 (3) The Federal Water Pollution Control Act (62 Stat.
15 1155, 33 U.S.C. § 1251 et seq.).

16 (4) The National Environmental Policy Act of 1969
17 (Public Law 91-190, 42 U.S.C. § 4321 et seq.).

18 (5) The Federal Land Policy and Management Act of 1976
19 (Public Law 94-579, 43 U.S.C. § 1701 et seq.).

20 (6) The Natural Gas Act (52 Stat. 821, 15 U.S.C. § 717
21 et seq.).

22 "Indian tribe." Any Indian or Alaska Native tribe, band,
23 nation, pueblo, village or community that the Secretary of the
24 United States Department of the Interior acknowledges to exist
25 as an Indian tribe.

26 "Interested party." The term shall include the governmental
27 bodies of any political subdivision of a party state, state
28 agencies of a party state, Indian tribes domiciled within the
29 party states and persons residing or owning property in each
30 such party state through which a distribution corridor or

1 natural gas pipeline is proposed.

2 "Natural gas." Gas issuing from the earth's crust through
3 natural openings or bored wells and which is typically a
4 combustible mixture of methane and other hydrocarbons used
5 chiefly as a fuel and raw material. The term includes both
6 compressed and liquefied forms of natural gas.

7 "Natural gas pipeline." A pipeline used for the
8 transportation, distribution, and/or sale of natural gas in
9 interstate commerce.

10 "Party state" or "compact state." Any states situated within
11 the mid-Atlantic area national corridor that are signatories of
12 this compact and any eligible state.

13 "Political subdivision." Any county, city, borough,
14 incorporated town, township or any equivalent unit of local
15 government of a party state.

16 "Secretary." The Secretary of the United States Department
17 of Energy.

18 Article III

19 Mid-Atlantic Area States Council

20 and Compact Administrators

21 Section 3.1. Establishment of council.

22 (1) There is hereby established a council to be known as
23 the Mid-Atlantic Area States Council, which shall be a body
24 politic and corporate, with succession for the duration of
25 this compact, as an agency and instrumentality of the
26 governments of the party states that are signatories of this
27 compact.

28 (2) The Council shall consist of persons holding
29 similarly situated positions in party states. If no such
30 persons in similarly situated positions exist in a party

1 state, the Governor of that state, or Mayor as in the case of
2 the District of Columbia, shall appoint an individual with
3 expertise related to the field for which there is no
4 similarly situated person. Members of the council shall be:

5 (i) The Secretary of Environmental Protection, or a
6 designee.

7 (ii) The Secretary of Conservation and Natural
8 Resources, or a designee.

9 (iii) The chairman of the utility commission or
10 public service commission, or a designee.

11 (iv) One representative from county conservation
12 districts appointed by the State Conservation Commission.

13 (v) Three representatives from local government,
14 whereby one shall be selected by the Pennsylvania State
15 Association of Boroughs, one shall be selected by the
16 Pennsylvania State Association of Township Supervisors,
17 and one shall be selected by the County Commissioners
18 Association of Pennsylvania.

19 (vi) One representative of the housing industry
20 chosen by the Pennsylvania Builders Association.

21 (vii) One representative selected by The
22 Pennsylvania Chamber of Business and Industry.

23 (viii) The Chairman of the Environmental Resources
24 and Energy Committee of the House of Representatives.

25 (ix) The minority Chairman of the Environmental
26 Resources and Energy Committee of the House of
27 Representatives.

28 (x) The Chairman of the Environmental Resources and
29 Energy Committee of the Senate.

30 (xi) The minority Chairman of the Environmental

Resources and Energy Committee of the Senate.

(3) If no such persons in similarly situated positions exist in a party state, the Governor of that state, or Mayor as in the case of the District of Columbia, shall appoint two individuals with expertise in energy policy as it relates to protection of the environment, conservation and natural resources and land use as that state's representatives on the council, provided, however, that a person so appointed shall not have any pecuniary interest in any corporation, natural gas utility or other person operating or interested in establishing a cross-borders natural gas pipeline in a party state or in any affiliate, intermediary, subsidiary or holding company of such corporation, natural gas utility or other person.

(4) The council shall elect annually from among its members a chairperson, a vice-chairperson and a treasurer whose offices shall rotate annually among the party states, with such powers and duties as the council shall in its bylaws prescribe. At no time shall any such office be held by council members from the same party states.

(5) A member of the council may designate a deputy or assistant to act in the place of such member, with full authority to attend meetings of the council and with power to discharge the duties and functions of such member either for the duration of membership of the appointing member or for any lesser time, unless otherwise provided by law of the party state of such member. A designee so appointed shall serve only at the direction and during the term of the appointing member and shall be subject to removal at the pleasure of such appointing member.

1 (6) The council shall appoint an executive director who
2 shall serve at the pleasure of the council and who shall have
3 such powers and duties as the council shall in its bylaws
4 impose. The executive director shall serve as secretary of
5 the council and, together with the treasurer, shall be bonded
6 in such amounts as the council may in its bylaws require. The
7 executive director, on behalf of, as trustee for, and with
8 approval of the council as its bylaws shall require, may
9 borrow, accept or contract for the services of personnel from
10 any party state, any other state government or any political
11 subdivision or agency thereof, from any intergovernmental
12 agency, or from any institution, person, firm or corporation,
13 and may accept for any of the council's purposes and
14 functions under this compact any and all donations, gifts and
15 grants of money, equipment, supplies, materials and services
16 from any party state, any other government or political
17 subdivision or agency thereof, or intergovernmental agency,
18 or from any institution, person, firm or corporation, and may
19 receive and utilize the same.

20 (7) The council may, without regard to the civil service
21 or other laws of any party state relative to public officers
22 and employees, create and abolish offices, employment and
23 positions as it deems necessary for the purposes of the
24 council, affix and provide for the duties, conditions for
25 employment, qualifications, appointment, removal, term,
26 compensation and other rights and benefits of the council's
27 officers and employees. The council shall appoint the
28 principal officers of the council and allocate among them
29 administrative functions, powers and duties necessary to
30 carry out its purposes under this compact.

1 (8) The council may maintain one or more offices for the
2 transaction of its business and shall meet as often as it
3 requires at such time and place as it shall determine. Each
4 council member shall be reimbursed for travel expenses in
5 accordance with the laws, regulations or policies of the
6 council member's party state.

7 (9) The organizational meeting of the council shall be
8 held within six months of the effective date of this compact.

9 Section 3.2. Council bylaws.

10 (1) The council shall adopt bylaws for the conduct of
11 its business by a two-thirds vote and shall have the power by
12 the same vote to amend and rescind its bylaws. The council
13 shall publish its bylaws in convenient form with the
14 Secretary of the Commonwealth or, in the case of other party
15 states, with the appropriate agency or officer of each
16 participating party state. The bylaws shall, among other
17 things, provide for the powers and duties of the executive
18 director of the council and for adequate notice to the
19 council members and the general public of all meetings and
20 hearings, and of the business to be transacted at such
21 meetings and hearings of the council. Adequate notice of all
22 meetings and hearings of the council shall be provided to the
23 public and to other agencies and officers of party states in
24 accordance with the laws and regulations of such states or in
25 accordance with the requirements of this compact.

26 (2) The council shall have a seal.

27 Section 3.3. Voting.

28 (1) Each party state shall be entitled to one vote in
29 the conduct of the business of the council.

30 (2) All actions taken by the council, except for actions

1 to designate a distribution corridor and approve the location
2 construction of a cross-borders natural gas pipeline proposed
3 to be sited in party states, shall be by majority vote of the
4 members present.

5 (3) Any actions of the council to designate a
6 distribution corridor or approve the location and
7 construction of a cross-borders natural gas pipeline proposed
8 to be sited in party states shall require an affirmative vote
9 by two-thirds of all members of the council in whose states
10 the distribution corridor is proposed to be designated or a
11 cross-borders natural gas pipeline is proposed to be located
12 and constructed.

13 (4) Except as provided in paragraph (3), no action of
14 the council shall be binding unless taken at a meeting at
15 which a majority of all party states are represented and
16 unless a majority of the total number of votes are cast in
17 favor thereof.

18 (5) In addition to the powers and duties elsewhere
19 prescribed in this compact, the council shall have the power
20 to make and enforce rules and regulations as it deems
21 necessary to implement the provisions of this compact or to
22 effectuate in any other respect the purposes of this compact.

23 Section 3.4. Compact administrators.

24 (1) The chairman of each party state's public utility
25 commission or public service commission, as the case may be,
26 or the person holding an equivalent position who is
27 responsible for regulating natural gas utilities in each such
28 party state shall act as compact administrator for that
29 state. The compact administrator shall consult with like
30 officials of the party states, and shall foster cooperation

1 between such states in the designation of distribution
2 corridors and the location and construction of any cross-
3 borders natural gas pipelines.

4 (2) The compact administrators and other members of the
5 council shall organize to negotiate and establish a regional
6 process to be adopted by the party states for the designation
7 a distribution corridor or approval, location and
8 construction of cross-borders natural gas pipeline in
9 accordance with the requirements of this compact.

10 (3) In negotiating the terms of the compact, the compact
11 administrators shall assure that the compact incorporates
12 procedures to ensure appropriate adjudicative proceedings,
13 mitigate environmental impacts and ensure that the compact is
14 in the public interest of the party states.

15 Article IV

16 Powers and Duties of Council

17 Section 4.1. Powers and duties.

18 (1) The council shall, after notice and public hearings,
19 develop, negotiate and promulgate rules and regulations
20 establishing a regional process to govern the designation of
21 a distribution corridor and approval, location and
22 construction of cross-borders natural gas pipelines.

23 (2) To carry out its powers and duties under this
24 compact, it shall be the further duty of the council to:

25 (i) Conduct and prepare, independently or in
26 cooperation with academia, energy economists and other
27 energy experts and analysts or other persons as
28 determined by the council, studies, investigations,
29 research and programs relating to all aspects of the site
30 selection of cross-borders natural gas pipelines.

1 (ii) Adopt standards, rules and regulations to
2 perform its functions and enforce the terms of this
3 compact, including standards, rules and regulations to
4 govern the location and construction of cross-borders
5 natural gas pipelines.

6 (iii) Exercise any authority consistent with this
7 compact authorized by Congress under Federal law.

8 (iv) Advise, consult and encourage voluntary
9 cooperation from other agencies of the party states and
10 political subdivisions thereof, industries, other states,
11 the Federal Government, interested parties and other
12 persons in furtherance of its duties under this compact.

13 (v) Submit to the Governor of each party state an
14 annual report covering the activities of the council for
15 the preceding calendar year. The report shall be
16 submitted on or before December 31 of each year, shall
17 include such standards, rules, regulations and bylaws as
18 may have been adopted by the council, and shall be
19 transmitted to the Senate and the House of
20 Representatives or State Assembly, as the case may be, of
21 each party state. The council may issue such additional
22 reports as it may deem necessary.

23 (vi) Conduct informational meetings and public
24 hearings to disseminate information, receive comment or
25 take testimony with respect to the designation of a
26 distribution corridor or the location and construction of
27 cross-borders natural gas pipelines.

28 (vii) Consider and present recommendations, policies
29 and programs designed to facilitate the location and
30 construction of cross-borders natural gas pipelines.

1 (viii) Recommend such changes in, or amendments or
2 additions to, the laws, rules, regulations, policies or
3 guidelines of the party states that, in the judgment of
4 the council, may be appropriate.

5 (ix) Work with the DOE and FERC or any successor
6 agency thereto, any other officer or agency of the United
7 States and the party states and any other governmental
8 unit or agency or officer thereof, and with any other
9 persons, entities or agencies, including energy or power
10 authorities, in matters related to the approval, location
11 and construction of cross-borders natural gas pipelines.

12 (x) Advise and assist the Governor and the
13 legislature of each party state with the development and
14 implementation of policies and procedures relating to the
15 designation of distribution corridors and the location
16 and construction of cross-borders natural gas pipelines.

17 (xi) Require and receive from any agency of a party
18 state, or any political subdivision thereof, assistance
19 and data.

20 (xii) Compile, publish and distribute, with or
21 without fee, any reports, bulletins, newsletters or other
22 documents as it may deem appropriate.

23 (xiii) Work with stakeholders, affected Federal,
24 state and local agencies, power or energy authorities and
25 the public to study alternatives to cross-borders natural
26 gas pipelines and distribution corridors.

27 (xiv) Designate a cross-borders natural gas
28 distribution corridor or corridors on its own motion or
29 by application of a person proposing to construct a
30 cross-borders natural gas pipeline. The council's

1 designation of a distribution corridor shall serve to
2 identify a feasible corridor where one or more future
3 cross-borders natural gas pipelines may be located and
4 constructed that are consistent with the needs of this
5 Commonwealth and the party states.

6 (xv) Develop and adopt, in consultation with
7 appropriate agencies of the party states, energy or power
8 authorities, natural gas distribution companies, and
9 consumers a strategic plan for the Mid-Atlantic region's
10 natural gas needs. The strategic plan shall identify and
11 recommend activities needed to ensure reliability, future
12 growth, new natural gas wells, renewable resources, and
13 energy efficiency. In developing the strategic plan, the
14 council shall confer with state agencies and political
15 subdivisions in the party states and Federal agencies to
16 identify appropriate areas within their jurisdictions
17 that may be suitable for a distribution corridor or
18 natural gas pipeline.

19 (xvi) Coordinate, to the extent feasible, efforts to
20 identify long-term natural gas needs of the party states
21 with the land use plans of the party states, political
22 subdivisions thereof and Federal agencies.

23 (xvii) Accept, review and approve or disapprove
24 applications from persons proposing to locate and
25 construct a cross-borders natural gas pipeline. The
26 application shall be in the form required by the council
27 and shall be accompanied by any supportive data and other
28 information, including, but not limited to, the
29 following:

30 (A) The name of the applicant, address of its

1 principal place of business and state or states in
2 which it is incorporated to do business.

3 (B) A statement of need and general description
4 of the proposed route. The general description shall
5 not be a legal or metes and bounds description but
6 shall include the proposed route of the cross-borders
7 natural gas pipeline, including the number of route
8 miles, the right-of-way width and the location of
9 such facility within each political subdivision
10 traversed.

11 (C) Supporting exhibits, such as maps, including
12 topographic maps; a system map depicting in
13 sufficient detail the location and volume of existing
14 pipelines of the applicant and the location and
15 volume of the proposed natural gas pipelines, aerial
16 photographs and other engineering materials as the
17 council shall by regulation prescribe.

18 (D) The names and addresses of known persons,
19 Indian tribes, corporations, small businesses and
20 other entities of record owning property within the
21 proposed right-of-way, together with an indication of
22 the rights-of-way acquired or the rights-of-way
23 needed to be acquired by the applicant.

24 (E) A statement of the safety considerations,
25 including public health and safety, that will be
26 incorporated into the design, construction and
27 maintenance of the proposed natural gas pipeline and
28 require this statement to be submitted to all county
29 and local government units where the proposed natural
30 gas pipeline will be located.

1 (F) A description of any studies, including any
2 third-party studies, that have been made or will be
3 made concerning the projected environmental impact of
4 the proposed cross-borders natural gas pipeline and
5 of the efforts that have been or will be made to
6 minimize the impact of the proposed natural gas
7 pipeline on the environment, scenic rivers and
8 waterways, including, but not limited to, impacts,
9 where applicable, on land use, soil and
10 sedimentation, plant and wildlife habitats, terrain,
11 hydrology and landscape.

12 (G) A description of the efforts of the
13 applicant to locate and identify archaeological,
14 geologic, historic, scenic and wilderness areas of
15 significance within two miles of the proposed right-
16 of-way and the location and identity of areas
17 discovered by the applicant, and of the efforts that
18 have been or will be made to minimize the impact of
19 the proposed natural gas pipeline on such areas.

20 (H) A description of the efforts of the
21 applicant to locate and identify preserved land,
22 farmland, land subject to agricultural conservation
23 easements and other conservation easements, and of
24 the efforts that have been or will be made to
25 minimize the impact of the proposed natural gas
26 pipeline on such areas.

27 (I) A description of rights-of-way obtained or
28 to be obtained and efforts made to minimize the size
29 of any rights-of-way.

30 (J) A description of any developed areas within

1 two miles of the proposed natural gas pipeline, the
2 impacts of the proposed natural gas pipeline on these
3 areas, the efforts made to avoid such areas, and the
4 efforts that have been or will be made to minimize
5 the impact of the proposed natural gas pipeline on
6 such areas.

7 (K) A general description of reasonable
8 alternative routes, including a description of the
9 distribution corridor planning, methodology, a
10 comparison of the merits and detriments of each
11 route, and a statement of the reasons for selecting
12 the proposed route.

13 (L) A list of local, state and Federal agencies
14 that have requirements which must be satisfied in
15 connection with the construction, maintenance and
16 operation of the proposed cross-borders natural gas
17 pipeline, and a list of all required documents which
18 have been or will be filed with a local, state or
19 Federal agency in connection with the location,
20 construction and operation of the proposed cross-
21 borders natural gas pipeline.

22 (M) The estimated cost of construction of the
23 proposed cross-borders natural gas pipeline and the
24 projected date of completion.

25 (xviii) Upon receipt of an application or upon its
26 own motion for the designation of a distribution corridor
27 or upon receipt of an application for the location and
28 construction of a cross-borders natural gas pipeline,
29 arrange for the publication of a summary of the
30 application in two newspapers of general circulation in

1 each county where the proposed distribution corridor or
2 cross-borders natural gas pipeline is proposed to be
3 located and constructed and notify all property owners
4 within, or adjacent to, the proposed distribution
5 corridor or cross-borders natural gas pipeline. The
6 council shall transmit a copy of the application for
7 designation of a distribution corridor or for the
8 location and construction of a cross-borders natural gas
9 pipeline to all political subdivisions, and state and
10 Federal agencies having an interest in the proposed
11 distribution corridor or cross-borders natural gas
12 pipeline.

13 (xix) Publish applications for designation of a
14 distribution corridor or location and construction of a
15 cross-borders natural gas pipeline on its Internet
16 website, and provide for public notification of the
17 availability of the application on the council's Internet
18 website through appropriate media outlets.

19 (xx) Notify appropriate agencies of party states,
20 and political subdivisions thereof, Federal agencies and
21 Indian tribes in whose jurisdiction the proposed
22 distribution corridor or cross-borders natural gas
23 pipeline will be located regarding the application to
24 designate a distribution corridor or locate and construct
25 a cross-borders natural gas pipeline. Such notice shall
26 solicit information from, and the council shall confer
27 with, all affected political subdivisions of party
28 states, Indian tribes and affected state and Federal
29 agencies regarding their land use plans, existing land
30 uses and other factors in which they have expertise or

1 interest with respect to the proposed distribution
2 corridor or proposed cross-borders natural gas pipeline.
3 The council shall provide any affected political
4 subdivision, state or Federal agency, Indian tribe and
5 any property owner within or adjacent to the proposed
6 distribution corridor or cross-borders natural gas
7 pipeline and other interested parties ample opportunity
8 to participate in the council's review of a proposed
9 distribution corridor or cross-borders natural gas
10 pipeline.

11 (xxi) Permit agencies of party states and affected
12 political subdivisions thereof, Federal agencies, energy
13 authorities, Indian tribes and members of the public,
14 including any property owner within or adjacent to the
15 proposed distribution corridor or proposed natural gas
16 pipeline, to provide comment on the need and suitability
17 of the proposed distribution corridor or proposed cross-
18 borders natural gas pipeline with respect to
19 environmental, public health and safety, land use,
20 economic impact or other factors on which they may have
21 expertise or desire to comment.

22 (xxii) Require applicants to submit a statement of
23 the safety considerations, including public health and
24 safety and necessary safety devices and procedures that
25 will be incorporated into the design, construction and
26 maintenance of the proposed natural gas pipeline to all
27 county and local government units where the proposed
28 natural gas pipeline will be located.

29 (xxiii) Adopt standards for the construction and
30 operation of cross-borders natural gas pipelines.

1 (xxiv) Prescribe the form and content of
2 applications for the designation of distribution
3 corridors and the location and construction of natural
4 gas pipelines; conduct public hearings and take other
5 actions to secure adequate evaluation of applications;
6 and formally act to approve, disapprove or modify
7 applications, including specifying conditions under which
8 approval of a distribution corridor or cross-borders
9 natural gas pipeline will be permitted.

10 (xxv) Issue permits for the location and
11 construction of cross-borders natural gas pipelines.

12 (xxvi) Present state concerns and interests to party
13 states, other states, energy authorities, and the Federal
14 Government on any proposed distribution corridor or the
15 location and construction of any natural gas pipeline
16 which may affect the environment, health or safety of the
17 citizens of the Commonwealth of Pennsylvania and other
18 party states.

19 (xxvii) Establish, maintain and manage a data
20 collection system for obtaining and storing information
21 necessary to perform its functions under this compact.

22 (xxviii) Adopt rules and regulations, or take any
23 action, it deems reasonable and necessary to:

24 (A) ensure the free and open participation of
25 the public and interested parties; and

26 (B) protect the confidentiality of information
27 it may receive in performing its function under this
28 compact.

29 Section 4.2. Advisory Committees.

30 The council may establish such advisory, technical or

1 regional committees as it may deem necessary to carry out its
2 duties under this compact. The membership of such advisory
3 committees shall include, but not be limited to, private
4 citizens; representatives of Indian tribes; expert and lay
5 personnel; representatives of industry, labor, commerce,
6 agriculture, civic organizations, environmental organizations,
7 health professions, voluntary health agencies and academia; and
8 officials of local, state and Federal government. The council
9 may cooperate with and use the assistance and services of any
10 such committees and the organizations they represent in
11 furthering any of its activities or carrying out its functions
12 and duties under this compact.

13 Section 4.3. Rules and regulations.

14 (1) The council shall, after public notice and public
15 hearing, promulgate, adopt and enforce such rules and
16 regulations as may be necessary and appropriate for the
17 implementation and enforcement of this compact. Such rules
18 and regulations shall, among other things, provide for the
19 following:

20 (i) Cooperation and consultation between the party
21 states and affected Federal agencies of the United States
22 Government.

23 (ii) Processes and procedures for developing a
24 comprehensive inventory of all existing and planned
25 natural gas pipelines in each party state, including all
26 natural gas pipelines under construction. Notwithstanding
27 any other provision of law or regulation, all providers
28 of natural gas distribution services, all power or energy
29 authorities or successors to such providers in each party
30 state shall cooperate with the council in developing the

1 inventory of existing and natural gas pipelines.

2 (iii) Processes and procedures to receive assistance
3 and data from any agency of a party state or political
4 subdivisions thereof.

5 (iv) Adoption of an annual budget.

6 (v) Standards for the review and approval of
7 applications to locate and construct natural gas
8 pipelines. Such standards shall address, but need not be
9 limited to, the following:

10 (A) The financial ability and qualifications of
11 the applicant.

12 (B) The organizational, managerial and technical
13 expertise of the applicant to construct and operate
14 the proposed cross-borders natural gas pipeline.

15 (C) The need for the proposed distribution
16 corridor or proposed cross-borders natural gas
17 pipeline.

18 (D) Protection of public health and safety,
19 including necessary safety devices and procedures.

20 (E) Areas designated for protection or
21 conservation by a party state, an agency of the
22 Federal Government, county, or local government unit,
23 including, but not limited to, agricultural land,
24 monuments, historic sites, wilderness areas, scenic
25 rivers and waterways, wildlife refuges and similar
26 areas.

27 (F) Impact of the proposed cross-borders natural
28 gas pipeline on the environment.

29 (G) Effect of the proposed cross-borders natural
30 gas pipeline, taking into account mitigation on fish

1 and wildlife, including threatened and endangered
2 fish, wildlife or plant species.

3 (H) Soil protection.

4 (I) Impact of the proposed cross-borders natural
5 gas pipeline on historic, cultural or archaeological
6 resources listed on or determined pursuant to
7 historic preservation or land conservation laws of
8 the party states, the Federal Government, County, or
9 local government unit to be eligible for listing on
10 the National Register of Historic Places or any
11 similar laws of the party states concerned with the
12 protection, preservation and conservation of historic
13 places in such party states.

14 (J) Potential impact of the proposed cross-
15 borders natural gas pipeline on recreation, scenic
16 and aesthetic values.

17 (K) Rights-of-way obtained or to be obtained and
18 efforts made to minimize the size of any rights-of-
19 way with the intent of restricting rights-of-ways to
20 a minimum necessary size.

21 (L) Impact on developed areas within two miles
22 of the proposed natural gas pipeline, the efforts
23 made to avoid such areas, and of the efforts that
24 have been or will be made to minimize the impact of
25 the proposed natural gas pipeline on such areas with
26 the intent of avoiding siting natural gas pipelines
27 in or directly adjacent to populated areas.

28 (M) Any other conditions, requirements or
29 standards the council may prescribe by rule or
30 regulation.

1 (vi) The form and content of applications for
2 designation of a distribution corridor or construction of
3 a cross-borders natural gas pipeline.

4 (vii) Confidentiality of data and information
5 received by the council and maintained in its data
6 collection system, including security measures to ensure
7 that data or information it has designated as
8 confidential or received with a confidential designation
9 from a governmental agency, energy authority or other
10 person is protected against disclosure. The council may,
11 by regulation, designate certain categories of data and
12 information as confidential. Any confidential information
13 pertinent to the functions of the council under this
14 compact that is obtained by another state agency or
15 person shall be available to the council and shall be
16 treated as confidential. Confidential information shall
17 be aggregated or masked to the extent necessary to assure
18 confidentiality if public disclosure of the specific
19 information would result in unfair competitive
20 disadvantage to the person supplying the information.

21 (viii) Procedures to govern cost-sharing between the
22 party states.

23 Section 4.4. Duties of party states.

24 It shall be the duty of the Public Utility Commission or
25 similar situated agency of each party state to establish a
26 natural gas pipeline siting council and take such measures as
27 shall be necessary and appropriate to promulgate and adopt the
28 regional process for the location and construction of natural
29 gas pipelines established by this compact. Each party state's
30 natural gas pipeline siting council is hereby designated as the

1 state authority for the purpose of siting natural gas pipelines
2 under the Natural Gas Act of 1938, and shall work with the
3 council to carry out the intent and purpose of this compact.
4 Each such council's authority regarding natural gas pipelines
5 shall be limited to those natural gas pipelines that are subject
6 to the Natural Gas Act of 1938 and this compact.

7 Article V

8 Public Hearing, Meetings, and Records of Council

9 Section 5.1. Informational meetings.

10 (1) The council may conduct informational meetings in
11 the counties where the distribution corridor is proposed to
12 be designated or where a natural gas pipeline is proposed to
13 be located and constructed. Such informational meetings shall
14 be convened as soon as practicable but not later than 60 days
15 after a vote of the council to designate a distribution
16 corridor and not later than 60 days after receipt of an
17 application for the designation of a distribution corridor or
18 the location and construction of a cross-borders natural gas
19 pipeline. The purpose of the informational hearings shall be
20 to:

21 (i) Provide information about the proposed
22 distribution corridor or natural gas pipeline to ensure
23 that the public and interested parties have a clear
24 understanding of the proposal.

25 (ii) Receive initial comments about the proposed
26 distribution corridor or natural gas pipeline.

27 (iii) Explain the relationship of the proposed
28 distribution corridor or natural gas pipeline to any
29 strategic plan regarding natural gas for the Mid-Atlantic
30 area.

1 (iv) Solicit suggestions and information on
2 reasonable alternatives to the proposed transmission
3 corridor or natural gas pipeline.

4 (2) Informational meetings shall be convened in each
5 party state, and the place or places of such meetings shall
6 be as close as possible to the proposed route of the
7 distribution corridor or natural gas pipeline.

8 Section 5.2. Public hearings.

9 (1) Subsequent to the informational meetings, the
10 council shall convene public hearings to determine whether
11 the proposed location of the distribution corridor or natural
12 gas pipeline is consistent and in compliance with land use
13 plans and zoning ordinances of affected political
14 subdivisions and regional planning authorities. If it is
15 determined that the proposed location conforms with existing
16 land use plans or zoning ordinances in effect as of the date
17 of the application, the affected political subdivision or
18 regional planning authority shall not thereafter change or
19 modify such land use plans or zoning ordinances so as to
20 affect the proposed location.

21 (2) Additional public hearings shall be held as deemed
22 necessary and appropriate by the council in the exercise of
23 its functions under this compact, and to ensure participation
24 by landowners and other individuals who may be impacted by
25 the location and construction of a natural gas pipeline.

26 Section 5.3. Public participation.

27 (1) All meetings and public hearings convened by the
28 council shall be open to the public, except with respect to
29 meetings concerned with personnel issues, with at least 30
30 days' advance notice. The chairman may convene an emergency

1 meeting with less advance notice.

2 (2) The council shall ensure public accessibility to all
3 documents, exhibits or other materials related to the
4 designation of a distribution corridor or the location and
5 construction of a natural gas pipeline.

6 (3) All meetings of the council shall be conducted in a
7 manner that substantially conforms to the Administrative
8 Procedure Act (5 U.S.C. Ch.5, Subch.II, and Ch.7).

9 (4) The council may, by two-thirds vote of the members
10 present, hold an executive session closed to the public for
11 the purpose of discussing legally privileged or proprietary
12 information; to consider dismissal, disciplining of or
13 hearing complaints or charges brought against an employee or
14 other public official unless such person requests a public
15 hearing; or to consult with its attorney regarding
16 information or strategy in connection with specific
17 litigation. The reason requiring an executive session shall
18 be announced at least 14 days prior to the executive session,
19 except that the chairman may convene an emergency executive
20 session with less advance notice, provided that the reason
21 for the emergency executive session is announced at the
22 public meeting immediately subsequent to the executive
23 session. All actions of the council taken in violation of the
24 requirements of this section shall be null and void.

25 Section 5.4. Tribal participation.

26 (1) In addition to all other opportunities to comment
27 and participate in proceedings of the council under this
28 compact, the council shall consult with and ensure
29 participation by federally recognized Indian tribes in its
30 proceedings.

1 (2) All federally recognized Indian tribes within a
2 party state shall receive reasonable notice informing the
3 tribe that they may participate in the proceeding before the
4 council. The notice and subsequent notices shall inform the
5 tribe of any informational or public hearing to be convened
6 by the council and of the tribe's right to submit written
7 comments or otherwise participate in such meetings and
8 hearings. The council shall consider the comments submitted
9 by an Indian tribe before approving, approving with
10 modification or disapproving any proposal subject to review,
11 approval or disapproval by the council.

12 (3) The council shall consult with federally recognized
13 Indian tribes for the establishment of a mutually agreed upon
14 mechanism or process for the purpose of facilitating dialogue
15 with and participation by such tribes in its proceedings. The
16 council may include tribal participation on advisory
17 committees authorized under this compact or such other
18 mutually agreed to processes.

19 Section 5.5. Minutes.

20 Detailed written minutes shall be kept of all meetings and
21 hearings of the council. All decisions, files, records and data
22 of the council, except for information privileged against
23 introduction in judicial proceedings, including proprietary
24 information, personnel records and minutes of a properly
25 convened executive session, shall be open to public inspection
26 subject to a procedure that substantially conforms to the
27 Freedom of Information Act (Public Law 89-554, 5 U.S.C. § 552)
28 and applicable Pennsylvania law or laws of other party states,
29 and may be copied upon request and payment of a fee as
30 established by regulation of the council and which shall be no

1 higher than necessary to recover copying costs.

2 Article VI

3 Finances

4 Section 6.1. Annual budget.

5 (1) The council shall annually adopt and submit a budget
6 of its estimated expenditures for administration and
7 operation to the principal budget officer of each party state
8 at such time and in such manner as may be required by the
9 laws of the party states for presentation to the legislatures
10 thereof. Each such budget shall contain specific
11 recommendations of the amount or amounts to be appropriated
12 by each party state. The council shall not pledge the credit
13 of any party state. The council may meet any of its
14 obligations in whole or in part with funds available to it
15 under Article III of this compact, provided that the council
16 take specific action to set aside such funds prior to the
17 incurring of any obligations to be met in whole or in part by
18 the use of such funds. Except where the council makes use of
19 funds available to it under Article III hereof, the council
20 shall not incur any obligations prior to the allocation of
21 funds by the party states sufficient to meet such
22 obligations.

23 (2) In calculating its annual budget, the council shall
24 balance total expenses against the council's estimate of
25 revenues from all sources, either previously appropriated by
26 a party state or receivable from any person, political
27 subdivision or governmental agency.

28 (3) The chairman of the council shall certify to the
29 respective party states and may, if applicable, submit to
30 persons in other governmental agencies statements of the

1 amounts requested from them in accordance with any existing
2 cost-sharing agreement established by the party states
3 pursuant to this compact.

4 Section 6.2. Apportionment of cost.

5 The amount required for the council's current budget shall be
6 apportioned equally among the party states unless a different
7 apportionment is agreed to by unanimous vote of the council.

8 Section 6.3. Accounts of council.

9 (1) The council shall keep accurate accounts of all
10 receipts and disbursements. The receipts and disbursements of
11 the council shall be subject to the audit and accounting
12 procedures established by the council under its bylaws,
13 except that all receipts and disbursements of funds handled
14 by the council shall be audited annually by a qualified
15 public accountant and the report of the audit shall be
16 included in and become a part of the annual report of the
17 council.

18 (2) The accounts of the council shall be open at any
19 reasonable time for inspection by such agency, representative
20 or representatives of the party states as may be duly
21 constituted for that purpose and by others who may be
22 authorized by the council.

23 Article VII

24 Enforcement

25 Section 7.1. Power to enforce.

26 (1) The council shall have the power to implement and
27 enforce the provisions of this compact.

28 (2) Any person aggrieved by an action or decision of the
29 council shall:

30 (i) Be entitled to an administrative hearing before

1 the council.

2 (ii) Have the right to judicial review of a council
3 decision or action in the United States District Court
4 for the District of Columbia or in such district court
5 that has jurisdiction in the state or states where the
6 council maintain offices, provided that a petition for
7 judicial review is filed within 90 days after all
8 administrative remedies have been exhausted.

9 Section 7.2. Actions to compel compliance.

10 The council may by majority vote initiate actions to compel
11 compliance with this compact and the rules and regulations
12 adopted and promulgated pursuant to this compact. The United
13 States District Court for the District of Columbia or the United
14 States District Court that has jurisdiction in the state or
15 states where the council maintains offices shall have
16 jurisdiction over any actions filed by the council.

17 Section 7.3. Liability.

18 Liabilities of the council shall not be deemed liabilities of
19 the party states. Members of the council shall not be personally
20 liable for actions taken in their official capacity.

21 Article VIII

22 Eligibility, Entry into Effect, Amendments
23 and Withdrawal

24 Section 8.1. Eligibility.

25 Any or all of the states of Delaware, Maryland, New Jersey,
26 New York, Ohio, Pennsylvania, Virginia, West Virginia and the
27 District of Columbia shall be eligible to become a party state,
28 and any state contiguous to a party state if affirmed by
29 unanimous vote of the council shall be eligible to become a
30 party to this compact.

1 Section 8.2. Entry into effect.

2 This compact shall become operative and effective between the
3 Commonwealth of Pennsylvania and such other party states when
4 the following occur:

5 (i) The Governor executes the Mid-Atlantic Area
6 Natural Gas Compact on behalf of the Commonwealth of
7 Pennsylvania and files a verified copy of this compact
8 with the Secretary of the Commonwealth.

9 (ii) The compact is ratified through the enactment
10 of concurring legislation by two or more of the party
11 states.

12 (iii) The Congress of the United States confers its
13 consent or approval to this compact.

14 Section 8.3. Filing.

15 This compact shall be signed and sealed in as many original
16 copies as necessary by the respective Governors of the party
17 states. One such copy shall be filed with the Secretary of State
18 of each party state in accordance with the laws or regulations
19 of each such state in which the filing is effectuated, and one
20 copy shall be filed and retained in the archives of the council
21 upon its organization. The signatures shall be affixed and
22 attested in a form similar to the following:

23 In witness whereof, and in evidence of the adoption and
24 enactment into law of this compact by the legislatures of the
25 party states and consent by the Congress of the United States,
26 the respective Governors do hereby, in accordance with the
27 authority conferred by law, sign this compact in six duplicate
28 original copies, attested by the respective Secretaries of State
29 of each party state, and have caused the seals of the respective
30 party states to be hereunto affixed this day of (month), (year).

1 Section 8.4. Amendments to compact.

2 This compact shall not be amended or modified except with the
3 concurrence of the General Assembly of the Commonwealth of
4 Pennsylvania and the legislatures of the party states.

5 Amendments shall not become effective until adopted in the same
6 manner as the original compact.

7 Section 8.5. Withdrawal.

8 Any party state may withdraw from this compact by enacting a
9 statute repealing the same, but no such withdrawal shall become
10 effective until one year after the Governor of the withdrawing
11 party state forwards formal notice in writing to the Governor of
12 each other party state informing said Governors of the action of
13 the legislature in repealing the compact and declaring the
14 intention to withdraw, provided, however, that the withdrawal of
15 a party state shall not affect any liability already incurred by
16 or chargeable to a party state prior to the time of such
17 withdrawal.

18 Article XI

19 Severability and Construction

20 Section 9.1. Construction.

21 (1) Nothing in this compact shall be construed to:

22 (i) Limit, repeal or supersede any law, rule or
23 regulation of any party state.

24 (ii) Displace existing laws or regulations of the
25 party states that govern the location and construction of
26 intrastate natural gas pipelines proposed to be located
27 and constructed within the geographic borders of any such
28 states.

29 (iii) Permit or require any person or other entity
30 to avoid or refuse to comply with any law, rule,

1 regulation, order or ordinance of a party state, or
2 political subdivision thereof, now or hereafter made,
3 enacted or in force.

4 (iv) Limit, diminish or otherwise impair
5 jurisdiction exercised by the DOE or any successor
6 agency, or any other Federal department, agency or
7 officer pursuant to and in conformity with any valid and
8 operative act of Congress.

9 (v) Alter the relations between and respective
10 internal responsibilities of the government of a party
11 state and its political subdivisions.

12 (vi) Abrogate or derogate the rights held by any
13 federally recognized Indian tribe.

14 (2) This compact shall be construed liberally in order
15 to achieve the purposes and intent enunciated herein. It is
16 the intent of this compact to establish a basic structure by
17 which the council may achieve such purposes through the
18 development and adoption of uniform policies, rules and
19 regulations and strategic plans to facilitate the designation
20 of distribution corridors and the location and construction
21 of cross-border natural gas pipelines.

22 Section 9.2. Severability.

23 The provisions of this compact are severable. If any
24 provision of this compact or its application to any person or
25 circumstance is held invalid, the invalidity shall not affect
26 other provisions or applications of this compact which can be
27 given effect without the invalid provision or applications.

28 Section 3. Policy of Commonwealth and legal effect.

29 The policy of the Commonwealth and the effect on laws and
30 regulations generally are as follows:

1 (1) It is hereby declared to be the policy of the
2 Commonwealth to perform and carry out the compact and to
3 accomplish the purposes thereof. All officers and agencies of
4 this Commonwealth are authorized and directed to do all
5 things falling within their respective jurisdictions
6 necessary or incidental to the carrying out of the compact in
7 every particular. All officers, employees, departments,
8 bureaus, boards, commissions, authorities and other such
9 agencies of the Commonwealth are authorized and directed at
10 reasonable times and upon request of the council to furnish
11 the council with information and data possessed by them or
12 any of them and to aid the council by loan of personnel or
13 other means lying within their legal powers respectively.

14 (2) If any provision of the compact conflicts with any
15 other provision, limitation or restriction which is now in
16 effect under any other law of this Commonwealth or any rule,
17 regulation, order or policy promulgated thereunder, this act
18 shall govern and control any such other law or rule,
19 regulation, order or policy promulgated thereunder shall be
20 deemed superseded for the purposes of this act.

21 Section 4. Submission of council budgets.

22 The budget of the estimated expenditures of the council shall
23 be submitted to the Governor for such period and in such form as
24 shall be requested by the Governor.

25 Section 5. Appropriation.

26 The sum of \$2,000,000, or as much thereof as may be
27 necessary, is hereby appropriated to the council as the
28 Commonwealth of Pennsylvania's pro rata share of the expenses of
29 the council for the fiscal year beginning July 1, 2009, to June
30 30, 2010, provided, however, that no such appropriation shall be

1 allocated until the compact becomes operative and effective in
2 accordance with section 8.2(1) of the compact.

3 Section 6. Expiration.

4 (a) Publication of failure to consent.--If the Congress of
5 the United States fails to confer its consent to and approval of
6 the compact by June 30, 2010, the Secretary of the Commonwealth
7 shall publish a notice in the Pennsylvania Bulletin within 30
8 days of June 30, 2010, declaring such failure of the Congress to
9 consent to the compact.

10 (b) Effect of publication.--This act shall expire
11 immediately upon publication of the notice under subsection (a).

12 (c) Effect of repeal.--If the President of the United States
13 signs a subsequent act of the Congress of the United States
14 providing for the repeal of the Natural Gas Act of 1938, this
15 act shall expire immediately upon the effective date of the
16 repeal.

17 (d) Dissolution.--In the event that this act is terminated
18 by the operation of subsection (b) or (c), the council shall be
19 dissolved, its assets and liabilities transferred and its
20 affairs suspended in accordance with the unanimous agreement of
21 the party states or, failing unanimous agreement, in such manner
22 that the assets and liabilities of the council shall be shared
23 by the respective party states.

24 Section 7. Administrative duties.

25 (a) Governor.--The Governor is hereby authorized and
26 directed to take such action as may be necessary to complete the
27 exchange of official documents between the Commonwealth of
28 Pennsylvania and any other state ratifying the compact.

29 (b) Secretary of the Commonwealth.--The Secretary of the
30 Commonwealth shall publish a notice in the Pennsylvania Bulletin

1 when the conditions set forth in subsection (a) of this section
2 are satisfied. The notice shall include the date on which the
3 Mid-Atlantic Area Natural Gas Compact became effective and
4 operative between this Commonwealth and any other state in
5 accordance with this act.

6 Section 8. Effective date.

7 This act shall take effect immediately.