

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1699 Session of
2013

INTRODUCED BY ROSS, CUTLER, REED, COHEN, GINGRICH, STERN,
GODSHALL, HICKERNELL, DAVIS, SCHLOSSBERG, O'BRIEN, VITALI,
SAYLOR, QUINN, HARKINS, EVERETT, DENLINGER, BRIGGS, GIBBONS,
GERGELY, CORBIN, TOEPEL, KAMPF, BRADFORD, LUCAS, VEREB, MURT,
ELLIS, GABLER, McNEILL AND CALTAGIRONE, SEPTEMBER 25, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 11, 2014

AN ACT

1 ~~Providing for the regulation of certain reciprocal internal~~ <--
2 ~~combustion engines; and imposing certain powers and duties on~~
3 ~~the Department of Environmental Protection.~~

4 PROVIDING FOR THE REGISTRATION AND REPORTING OF CERTAIN <--
5 RECIPROCAL INTERNAL COMBUSTION ENGINES; IMPOSING CERTAIN
6 POWERS AND DUTIES ON THE DEPARTMENT OF ENVIRONMENTAL
7 PROTECTION; AND PROVIDING FOR AN AIR QUALITY IMPACT STUDY.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Definitions.~~ <--

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

14 ~~"Demand response generating resource." A generator which is~~
15 ~~compensated as a demand response resource by PJM or a generator~~
16 ~~compensated to participate in a demand response program for PJM.~~
17 ~~The term shall not include a generator that derives its energy~~
18 ~~from an alternative energy source that qualifies as a Tier I~~

~~source under the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act.~~

~~"Department." The Department of Environmental Protection of the Commonwealth.~~

~~"Energy year." The 12 month period beginning on June 1 and ending on May 31.~~

~~"Environmental Protection Agency" or "EPA." The United States Environmental Protection Agency or the administrator of the United States Environmental Protection Agency.~~

~~"Federal Energy Regulatory Commission" or "FERC." The Federal Energy Regulatory Commission or the administrator of the Federal Energy Regulatory Commission.~~

~~"Generator." A machine powered by a reciprocating internal combustion engine that converts mechanical energy into electric energy.~~

~~"PJM interconnection" or "PJM." The regional transmission organization registered to do business in this Commonwealth as PJM Interconnection, L.L.C., or any successor to PJM as the regional transmission organization, approved by the Federal Energy Regulatory Commission to manage the wholesale procurement of electricity and electric generation capacity, and serving all or parts of the states of Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia.~~

~~Section 2. Registration of demand response generating resources.~~

~~(a) Registration. Beginning with the energy year commencing in 2014 and every two years thereafter, demand response generating resources shall register with the department.~~

~~Immediately upon any changes to the registration information provided under paragraph (1), (2), (3), (4), (5) or (6), updated registration information shall be submitted to the department. Within 90 days of the effective date of this act, the department shall provide the form and manner for the registration required under this section, which shall include:~~

~~(1) A generator owner's contact information.~~

~~(2) The physical address where the generator is or will be installed and the date of installation.~~

~~(3) A description of the generator, including make, model number, serial number and year of manufacture.~~

~~(4) The standby power rating of the generator and rated power of the engine powering the generator.~~

~~(5) The type of demand response program in which the generator participates and the name and address of the aggregator, if any.~~

~~(6) Any additional information the department deems necessary, consistent with 40 CFR §§ 60.4214(d)(1) (relating to What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary CI internal combustion engine?), 60.4245(e)(1) (relating to What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?) and 63.6650(h)(1) (relating to What reports must I submit and when?).~~

~~(b) Registration fees. The department shall assess a registration fee for each demand response generating resource that registers in accordance with this section. For the energy year beginning in 2014, the fee shall be \$40 per demand response generating resource. The fees authorized under this subsection~~

~~shall be adjusted annually to reflect any upward changes in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months, and the department shall immediately submit the adjusted amounts to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.~~

~~Section 3. Reporting and recordkeeping requirements for demand response generating resources.~~

~~(a) Reporting. The owner or operator of a demand response generating resource shall annually report to the department all of the following information no later than 90 days after the completion of each energy year:~~

~~(1) The daily and annual fuel types and amounts consumed by the engine powering each demand response generating resource.~~

~~(2) The daily and annual hours of operation, delineated by testing and maintenance hours, emergency hours and nonemergency hours.~~

~~(3) Any additional information the department deems necessary, consistent with 40 CFR §§ 60.4214(d)(1) (relating to What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary CI internal combustion engine?), 60.4245(e)(1) (relating to What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?) and 63.6650(h)(1) (relating to What reports must I submit and when?).~~

~~(b) Recordkeeping. The owner or operator of a demand response generating resource shall maintain each record required by section 2 and this section for a minimum of five years after~~

~~the date the record is made. The owner or operator shall promptly provide copies of records to the department, if requested.~~

~~Section 4. Confidentiality.~~

~~The registration and reporting requirements under sections 2 and 3 shall be subject to the provisions of section 13.2 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.~~

~~Section 5. Blind compliance audit.~~

~~(a) Department duties. Beginning nine months after the beginning of the 2014 energy year, and at the beginning of every energy year thereafter, the department shall forward a list of demand response generating resources compiled under section 2(a) to the Pennsylvania Public Utility Commission for the purpose of an annual compliance audit.~~

~~(b) Pennsylvania Public Utility Commission duties. Pursuant to the authority provided to the Pennsylvania Public Utility Commission under PJM's Open Access Transmission Tariff, Attachment M, Section D and the "Required Disclosure" provisions of section 18.17.2 of the Operating Agreement of PJM, the commission shall conduct a blind compliance audit pursuant to this section to ensure that demand response generating resources participating in PJM programs and those demand response generating resources participating in programs established under 66 Pa.C.S. § 2806.1 (relating to energy efficiency and conservation program) meet the requirements of this act. The commission shall do all of the following:~~

~~(1) Request annually from PJM a listing of all demand response generating resources located in this Commonwealth.~~

~~Except as provided for by this section, the commission shall~~

1 ~~not disclose any confidential or proprietary information~~
2 ~~received from PJM pursuant to this section.~~

3 ~~(2) Compare the list of demand response generating~~
4 ~~resources provided by the department under subsection (a)~~
5 ~~with the list of demand response generating resources~~
6 ~~provided under paragraph (1).~~

7 ~~(3) Where a demand response generating resource is found~~
8 ~~to be listed as a demand response generating resource in PJM~~
9 ~~but is not included on the list provided by the department,~~
10 ~~the commission shall confirm that the demand response~~
11 ~~generating resource is participating in the PJM markets as a~~
12 ~~demand response generating resource.~~

13 ~~(4) In any instance where the commission confirms that~~
14 ~~the demand response generating resource is participating in~~
15 ~~the PJM markets as a demand response generating resource but~~
16 ~~has not complied with this act, the commission shall notify~~
17 ~~FERC enforcement staff alleging a violation of PJM's Open~~
18 ~~Access Transmission Tariff, and may, at its discretion, also~~
19 ~~file a complaint with FERC, with a request that consideration~~
20 ~~of the complaint be expedited.~~

21 ~~(5) In any instance where the commission determines that~~
22 ~~noncompliance with this act is deliberate and continuing, the~~
23 ~~commission shall refer the matter to the Attorney General for~~
24 ~~prosecution under the act of December 17, 1968 (P.L.1224,~~
25 ~~No.387), known as the Unfair Trade Practices and Consumer~~
26 ~~Protection Law, and shall concomitantly notify the department~~
27 ~~that a referral has been made.~~

28 ~~Section 6. Violations and penalties.~~

29 ~~(a) Penalties. The department shall establish and enforce~~
30 ~~civil penalties for failure to comply with sections 2 and 3. In~~

~~determining the amount of the penalty, the department shall
consider all of the following:~~

~~(1) Willfulness of the violation.~~

~~(2) Damage to air, soil, water or other natural resource
of this Commonwealth or their uses.~~

~~(3) Any financial benefit that the owner or operator
realized as a result of noncompliance.~~

~~(4) The necessity to deter future violations of this
act.~~

~~(5) The compliance history of the owner or operator.~~

~~(6) Costs realized by the department as a result of the
violation.~~

~~(7) The size of the source or facility.~~

~~(8) The severity and duration of the violation.~~

~~(9) The owner's or operator's cooperation in resolving
the violation.~~

~~(10) The amount of time it took the owner or operator to
achieve compliance.~~

~~(11) Whether the violation was voluntarily reported.~~

~~(12) Other factors unique to the owner or operator of
the source or facility.~~

~~(b) Continuing violations. Each violation of any provision
of this act and each day of continued violation shall constitute
a separate offense and violation.~~

~~(c) Limitation on action. Notwithstanding the provisions of
any other statute to the contrary, an action for a civil or
criminal penalty under this act may be commenced at any time
within a period of seven years from the date the offense is
discovered.~~

~~Section 7. Disposition of fees, fines and civil penalties.~~

~~All fees, fines and civil penalties levied and collected under this act shall be paid into and administered in accordance with the Clean Air Fund, as established under section 9.2 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.~~

~~Section 8. Severability.~~

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

~~Section 9. Effective date.~~

~~This act shall take effect immediately.~~

SECTION 1. SHORT TITLE.

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THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE RECIPROCAL
INTERNAL COMBUSTION ENGINE ACT.

SECTION 2. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"CALENDAR YEAR." THE 12-MONTH PERIOD BEGINNING JANUARY 1 AND
ENDING DECEMBER 31.

"DEMAND RESPONSE GENERATING RESOURCE." A GENERATOR WHICH IS
COMPENSATED AS A DEMAND RESPONSE RESOURCE BY PJM OR A GENERATOR
COMPENSATED TO PARTICIPATE IN A DEMAND RESPONSE PROGRAM FOR PJM.
THE TERM SHALL NOT INCLUDE A GENERATOR THAT DERIVES ITS ENERGY
FROM AN ALTERNATIVE ENERGY SOURCE THAT QUALIFIES AS A TIER I
ENERGY SOURCE UNDER THE ACT OF NOVEMBER 30, 2004 (P.L.1672,
NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS
ACT.

1 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
2 THE COMMONWEALTH.

3 "GENERATOR." A MACHINE POWERED BY A RECIPROCAL INTERNAL
4 COMBUSTION ENGINE THAT CONVERTS MECHANICAL ENERGY INTO ELECTRIC
5 ENERGY.

6 "PJM INTERCONNECTION" OR "PJM." THE INDEPENDENT SYSTEM
7 OPERATOR AND REGIONAL TRANSMISSION ORGANIZATION AUTHORIZED BY
8 THE FEDERAL ENERGY REGULATORY COMMISSION TO MANAGE THE WHOLESALE
9 PROCUREMENT OF ELECTRICITY AND ELECTRIC GENERATION CAPACITY THAT
10 SERVES THIS COMMONWEALTH.

11 "SMALL BUSINESS." A FOR-PROFIT CORPORATION, LIMITED
12 LIABILITY COMPANY, PARTNERSHIP OR PROPRIETORSHIP WITH NET BOOK
13 VALUE OF ASSETS TOTALING, AT THE BEGINNING OF EACH TAXABLE YEAR,
14 AS REPORTED ON THE BALANCE SHEET, LESS THAN \$5,000,000.

15 "STAKEHOLDERS." A PARTY THAT HAS A DIRECT INTEREST IN THIS
16 ACT, INCLUDING REPRESENTATIVES OF ENVIRONMENTAL ADVOCACY GROUPS,
17 THE AGRICULTURE INDUSTRY, ELECTRIC POWER GENERATORS, OWNERS OR
18 OPERATORS OF DEMAND RESPONSE GENERATING RESOURCES, CONSERVATION
19 SERVICE PROVIDER AS DEFINED IN 66 PA.C.S. § 2806.1(M) (RELATING
20 TO ENERGY EFFICIENCY AND CONSERVATION PROGRAM), THE OFFICE OF
21 CONSUMER ADVOCATE AND THE SMALL BUSINESS ADVOCATE.

22 SECTION 3. REGISTRATION.

23 (A) REQUIREMENT.--

24 (1) BEGINNING WITH CALENDAR YEAR 2015, EACH DEMAND
25 RESPONSE GENERATING RESOURCE MUST REGISTER WITH THE
26 DEPARTMENT.

27 (2) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS
28 SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM AND MANNER FOR
29 THE REGISTRATION REQUIRED UNDER THIS SECTION, WHICH SHALL
30 INCLUDE:

1 (I) A GENERATOR OWNER'S CONTACT INFORMATION.

2 (II) THE PHYSICAL ADDRESS WHERE THE GENERATOR IS OR
3 WILL BE INSTALLED AND THE DATE OF INSTALLATION.

4 (III) A DESCRIPTION OF THE GENERATOR'S ENGINE,
5 INCLUDING MAKE, MODEL, MAXIMUM ENGINE RATING IN KW,
6 HORSEPOWER OR BRAKE HORSEPOWER AND MODEL YEAR.

7 (IV) THE TYPE OF DEMAND RESPONSE PROGRAM IN WHICH
8 THE GENERATOR PARTICIPATES.

9 (3) WITHIN 45 DAYS OF A CHANGE TO THE REGISTRATION
10 INFORMATION PROVIDED UNDER PARAGRAPH (2), UPDATED
11 REGISTRATION INFORMATION MUST BE SUBMITTED TO THE DEPARTMENT.

12 (B) FEE.--THE DEPARTMENT SHALL ASSESS A REGISTRATION FEE FOR
13 EACH DEMAND RESPONSE GENERATING RESOURCE THAT REGISTERS IN
14 ACCORDANCE WITH THIS SECTION. FOR THE CALENDAR YEAR BEGINNING IN
15 2015, THE FEE SHALL BE \$100 PER DEMAND RESPONSE GENERATING
16 RESOURCE. THE FEE AUTHORIZED UNDER THIS SUBSECTION MAY BE
17 ADJUSTED ANNUALLY TO REFLECT ANY UPWARD CHANGES IN THE CONSUMER
18 PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE PENNSYLVANIA, NEW
19 JERSEY, DELAWARE AND MARYLAND AREA IN THE PRECEDING 12 MONTHS,
20 AND THE DEPARTMENT SHALL IMMEDIATELY SUBMIT THE ADJUSTED AMOUNTS
21 TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION AS A NOTICE
22 IN THE PENNSYLVANIA BULLETIN.

23 SECTION 4. REPORTING AND RECORDKEEPING REQUIREMENTS.

24 (A) REPORTING.--THE OWNER OR OPERATOR OF A DEMAND RESPONSE
25 GENERATING RESOURCE MUST ANNUALLY REPORT TO THE DEPARTMENT ALL
26 OF THE FOLLOWING INFORMATION NO LATER THAN MARCH 31 OF EACH
27 CALENDAR YEAR:

28 (1) THE ANNUAL FUEL TYPES UTILIZED AND ESTIMATED AMOUNTS
29 CONSUMED BY THE ENGINE POWERING EACH DEMAND RESPONSE
30 GENERATING RESOURCE.

1 (2) THE DAILY AND ANNUAL HOURS OF DEMAND RESPONSE
2 OPERATIONS. FOR THE PURPOSES OF THIS PARAGRAPH, A DEMAND
3 RESPONSE OPERATION SHALL INCLUDE HOURS OF OPERATIONS THAT ARE
4 USED TO MEET CONTRACTUAL OR OTHER OBLIGATIONS AS A DEMAND
5 RESPONSE GENERATING RESOURCE, INCLUDING HOURS OF OPERATION
6 FOR BOTH PJM EMERGENCY DEMAND RESPONSE PROGRAMS AND PJM
7 ECONOMIC DEMAND RESPONSE PROGRAMS, WHICH MUST BE SEPARATELY
8 REPORTED TO THE DEPARTMENT.

9 (3) THE ESTIMATED NUMBER OF HOURS THE ENGINE OPERATED
10 FOR TESTING AND MAINTENANCE OR OTHER SIMILAR PURPOSES.

11 (4) ANY ADDITIONAL INFORMATION THE DEPARTMENT DEEMS
12 NECESSARY CONSISTENT WITH REQUIREMENTS UNDER THE FOLLOWING:

13 (I) 40 CFR PT. 60 SUBPT. IIII (RELATING TO STANDARDS
14 OF PERFORMANCE FOR STATIONARY COMPRESSION IGNITION
15 INTERNAL COMBUSTION ENGINES) OR JJJJ (RELATING TO
16 STANDARDS OF PERFORMANCE FOR STATIONARY SPARK IGNITION
17 INTERNAL COMBUSTION ENGINES).

18 (II) 40 CFR PT. 63 SUBPT. ZZZZ (RELATING TO NATIONAL
19 EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR
20 STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES).

21 (B) RECORDKEEPING.--THE OWNER OR OPERATOR OF A DEMAND
22 RESPONSE GENERATING RESOURCE MUST MAINTAIN EACH RECORD REQUIRED
23 UNDER SECTION 3 (A) AND THIS SECTION FOR A MINIMUM OF FIVE YEARS
24 AFTER THE DATE THE RECORD IS MADE. AN OWNER OR OPERATOR MUST
25 PROMPTLY PROVIDE COPIES OF RECORDS TO THE DEPARTMENT, IF
26 REQUESTED.

27 SECTION 5. AIR QUALITY IMPACT STUDY.

28 (A) AUTHORIZATION.--THE DEPARTMENT SHALL, UTILIZING A
29 QUALIFIED INDEPENDENT THIRD PARTY, CONDUCT A SCIENTIFIC STUDY TO
30 DETERMINE IF THERE IS A RELATIONSHIP BETWEEN THE USE OF DEMAND

1 RESPONSE GENERATING RESOURCES AND THE COMMONWEALTH'S ABILITY TO
2 ACHIEVE AND MAINTAIN THE NATIONAL AMBIENT AIR QUALITY STANDARDS.
3 THE STUDY SHALL DETERMINE IF THERE ARE SOCIOECONOMIC, HEALTH AND
4 ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE USE OF DEMAND RESPONSE
5 GENERATING RESOURCES. THE STUDY MUST UTILIZE A MINIMUM OF TWO
6 YEARS OF DATA AS REPORTED TO THE DEPARTMENT UNDER SECTION 3 (A)
7 FROM GEOGRAPHICALLY DISPERSED LOCATIONS AND OTHER VERIFIABLE AND
8 AVAILABLE DATA.

9 (B) CRITERIA.--THE DEPARTMENT, IN CONSULTATION WITH
10 STAKEHOLDERS, SHALL DEVELOP THE CRITERIA TO BE EXAMINED FOR THE
11 AIR QUALITY IMPACT STUDY AUTHORIZED UNDER SUBSECTION (A). AT A
12 MINIMUM, THE CRITERIA SHALL INCLUDE ALL OF THE FOLLOWING:

13 (1) AN EXAMINATION OF THE EMISSIONS PRODUCED FROM DEMAND
14 RESPONSE GENERATING RESOURCES, INCLUDING BENZENE, OZONE-
15 FORMING PRECURSORS, CARBON MONOXIDE, OXIDES OF NITROGEN AND
16 PARTICULATE MATTER.

17 (2) A COST-BENEFIT ANALYSIS TO DETERMINE THE COST
18 EFFECTIVENESS OF RETROFITTING DEMAND RESPONSE GENERATING
19 RESOURCES WITH COMMERCIALY AVAILABLE TECHNOLOGIES.

20 (3) THE IMPACT TO SMALL BUSINESSES THAT OWN AND OPERATE
21 DEMAND RESPONSE GENERATING RESOURCES.

22 (C) FINDINGS AND CONCLUSIONS.--THE AIR QUALITY IMPACT STUDY
23 AUTHORIZED UNDER SUBSECTION (A) SHALL BE COMPLETED AND A COPY OF
24 THE STUDY AND A SUMMARY OF THE FINDINGS AND CONCLUSIONS SHALL BE
25 TRANSMITTED TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
26 ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE SENATE AND
27 THE CHAIRMAN AND MINORITY CHAIRMAN OF THE ENVIRONMENTAL
28 RESOURCES AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES
29 NO LATER THAN DECEMBER 31, 2017.

30 (D) APPROPRIATION.--NOTWITHSTANDING ANY OTHER LAW, THE

1 DEPARTMENT MAY UTILIZE \$250,000 OF THE UNEXPENDED ALTERNATIVE
2 ENERGY SERIES 2010B PROCEEDS ALLOCATED TO THE DEPARTMENT UNDER
3 SECTION 304(A) OF THE ACT OF JULY 9, 2008 (1ST SP.SESS.,
4 P.L.1873, NO.1), KNOWN AS THE ALTERNATIVE ENERGY INVESTMENT ACT,
5 FOR THE PURPOSE OF FUNDING THE STUDY UNDER THIS SECTION.

6 SECTION 6. CONFIDENTIALITY.

7 THE REGISTRATION AND REPORTING REQUIREMENTS UNDER SECTIONS 3
8 AND 4 SHALL BE SUBJECT TO ALL OF THE FOLLOWING:

9 (1) SECTION 13.2 OF THE ACT OF JANUARY 8, 1960 (1959
10 P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT.

11 (2) THE ACT OF NOVEMBER 29, 2006 (P.L.1435, NO.156),
12 KNOWN AS THE PUBLIC UTILITY CONFIDENTIAL SECURITY INFORMATION
13 DISCLOSURE PROTECTION ACT.

14 SECTION 7. BLIND COMPLIANCE AUDIT.

15 (A) DEPARTMENT DUTIES.--BEGINNING OCTOBER 1, 2015, AND AT
16 THE BEGINNING OF EVERY CALENDAR YEAR THEREAFTER, THE DEPARTMENT
17 SHALL FORWARD A LIST OF DEMAND RESPONSE GENERATING RESOURCES
18 COMPILED UNDER SECTION 3(A) TO THE PENNSYLVANIA PUBLIC UTILITY
19 COMMISSION FOR THE PURPOSE OF AN ANNUAL COMPLIANCE AUDIT.

20 (B) PENNSYLVANIA PUBLIC UTILITY COMMISSION DUTIES.--PURSUANT
21 TO THE AUTHORITY PROVIDED TO THE PENNSYLVANIA PUBLIC UTILITY
22 COMMISSION UNDER PJM'S OPEN ACCESS TRANSMISSION TARIFF,
23 ATTACHMENT M, SECTION D AND THE "REQUIRED DISCLOSURE" PROVISIONS
24 OF SECTION 18.17.2 OF THE OPERATING AGREEMENT OF PJM, THE
25 COMMISSION SHALL CONDUCT A BLIND COMPLIANCE AUDIT UNDER THIS
26 SECTION TO ENSURE THAT DEMAND RESPONSE GENERATING RESOURCES
27 PARTICIPATING IN PJM PROGRAMS MEET THE REQUIREMENTS OF THIS ACT.
28 THE COMMISSION SHALL DO ALL OF THE FOLLOWING:

29 (1) REQUEST ANNUALLY FROM PJM A LISTING OF ALL DEMAND
30 RESPONSE GENERATING RESOURCES LOCATED IN THIS COMMONWEALTH.

1 THE COMMISSION MAY NOT DISCLOSE ANY CONFIDENTIAL OR
2 PROPRIETARY INFORMATION RECEIVED FROM PJM PURSUANT TO THIS
3 SECTION.

4 (2) COMPARE THE LIST OF DEMAND RESPONSE GENERATING
5 RESOURCES PROVIDED BY THE DEPARTMENT UNDER SUBSECTION (A)
6 WITH THE LIST OF DEMAND RESPONSE GENERATING RESOURCES
7 PROVIDED UNDER PARAGRAPH (1).

8 (3) IF A DEMAND RESPONSE GENERATING RESOURCE IS FOUND TO
9 BE LISTED AS A DEMAND RESPONSE GENERATING RESOURCE IN PJM BUT
10 IS NOT INCLUDED ON THE LIST PROVIDED BY THE DEPARTMENT, THE
11 COMMISSION SHALL CONFIRM THAT THE DEMAND RESPONSE GENERATING
12 RESOURCE IS PARTICIPATING IN THE PJM MARKETS AS A DEMAND
13 RESPONSE GENERATING RESOURCE.

14 (4) IF THE COMMISSION CONFIRMS THAT THE DEMAND RESPONSE
15 GENERATING RESOURCE IS PARTICIPATING IN THE PJM MARKETS AS A
16 DEMAND RESPONSE GENERATING RESOURCE BUT HAS NOT COMPLIED WITH
17 THIS ACT, THE COMMISSION SHALL ACT AS FOLLOWS:

18 (I) THE COMMISSION SHALL NOTIFY THE OWNER AND
19 OPERATOR OF THE DEMAND RESPONSE GENERATING RESOURCE AND
20 PJM OF THE VIOLATION. FOR A FIRST OFFENSE, THE OWNER OR
21 OPERATOR SHALL HAVE 60 DAYS TO COMPLY WITH THIS ACT AND
22 MUST PROVIDE EVIDENCE OF COMPLIANCE TO THE COMMISSION.
23 IF, AFTER 60 DAYS, THE NONCOMPLIANCE CONTINUES, THE
24 COMMISSION SHALL PROCEED UNDER SECTION 8.

25 (II) FOR A SECOND, SUBSEQUENT OR CONTINUING OFFENSE,
26 THE COMMISSION SHALL PROCEED UNDER SECTION 8.

27 SECTION 8. VIOLATIONS AND PENALTIES.

28 THE COMMISSION SHALL ENFORCE VIOLATIONS AND LEVY PENALTIES
29 UNDER THIS ACT AS FOLLOWS:

30 (1) FOR A FIRST OFFENSE UNDER SECTION 7(B)(4)(I), THE

1 COMMISSION SHALL LEVY A \$300 CIVIL PENALTY.

2 (2) FOR A SECOND, SUBSEQUENT OR CONTINUING OFFENSE UNDER
3 SECTION 7(B)(4)(II), THE COMMISSION SHALL LEVY A \$500 CIVIL
4 PENALTY IN ADDITION TO A \$25 PER DAY FINE FOR EACH DAY OF
5 CONTINUED VIOLATION.

6 SECTION 9. DISPOSITION OF FEES, FINES AND CIVIL PENALTIES.

7 (A) FEES.--FEES COLLECTED BY THE DEPARTMENT UNDER THIS ACT
8 SHALL BE RETAINED BY THE DEPARTMENT FOR THE PURPOSE OF
9 ADMINISTRATION OF THIS ACT.

10 (B) FINES AND CIVIL PENALTIES.--FINES AND CIVIL PENALTIES
11 COLLECTED BY THE COMMISSION UNDER THIS ACT SHALL BE RETAINED BY
12 THE COMMISSION FOR THE PURPOSE OF ADMINISTRATION OF THIS ACT.

13 SECTION 10. ENVIRONMENTAL REGULATION.

14 PRIOR TO THE AIR QUALITY STUDY UNDER SECTION 5 BEING
15 COMPLETED, THE DEPARTMENT MAY NOT PROMULGATE ADDITIONAL
16 REGULATIONS PROVIDING FOR THE ENVIRONMENTAL CONTROL OF DEMAND
17 RESPONSE GENERATING RESOURCES.

18 SECTION 11. SEVERABILITY.

19 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
20 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS
21 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
22 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
23 THE INVALID PROVISION OR APPLICATION.

24 SECTION 12. APPLICABILITY.

25 THIS ACT SHALL NOT APPLY TO A GENERATOR THAT IS NOT A DEMAND
26 RESPONSE GENERATING RESOURCE AND THAT IS OPERATED IN INSTANCES
27 WHERE THERE IS ONSITE LOSS OF ELECTRICAL POWER OR IF THE
28 GENERATOR IS BEING USED SOLELY TO SUPPLY POWER AS A RESULT OF A
29 DISRUPTION IN ELECTRIC SERVICE.

30 SECTION 40. EFFECTIVE DATE.

1 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.