

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2791 Session of
2008

INTRODUCED BY GEORGE, BELFANTI, CALTAGIRONE, GOODMAN, GRUCELA,
HARKINS, JOSEPHS, KOTIK, MAHER, MAHONEY, MANDERINO, READSHAW,
SURRA AND WALKO, SEPTEMBER 24, 2008

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 24, 2008

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," providing for Commonwealth
21 Energy Advocate and for energy development authority.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
25 as The Administrative Code of 1929, is amended by adding a
26 section to read:

1 Section 903-A.1. Commonwealth Energy Advocate.--(a) The
2 Consumer Advocate, with the approval of the Attorney General,
3 shall appoint a Commonwealth Energy Advocate. The compensation
4 of the Commonwealth Energy Advocate and clerical, technical and
5 professional staff shall be set by the executive board. The
6 Commonwealth Energy Advocate shall not, while serving in such
7 position, engage in any business, vocation, other employment or
8 have other interests inconsistent with his official
9 responsibilities.

10 (b) The duties of the Commonwealth Energy Advocate shall be:

11 (1) To monitor the activities of the Federal Energy
12 Regulatory Commission and other Federal agencies and advocate on
13 behalf of the interests of retail electric customers in this
14 Commonwealth.

15 (2) To participate in the governance process for the
16 regional transmission organizations serving areas of this
17 Commonwealth and advocate on behalf of retail electric customers
18 in this Commonwealth.

19 Section 2. The act is amended by adding an article to read:

20 ARTICLE XXVIII-D

21 POWERS AND DUTIES OF THE PENNSYLVANIA POWER AUTHORITY

22 Section 2801-D. Short title of article.

23 This article shall be known and may be cited as the
24 Pennsylvania Power Authority Act.

25 Section 2802-D. Legislative findings and declarations.

26 The General Assembly finds and declares as follows:

27 (1) The health, welfare and prosperity of all
28 Pennsylvanians require the provision of adequate, reliable,
29 affordable, efficient and environmentally sustainable
30 electric service at the lowest total cost over time, taking

1 into account any benefits of price stability.

2 (2) The transition to retail competition is not
3 complete. Some customers, especially residential and small
4 commercial customers, have failed to benefit from lower
5 electricity costs from retail and wholesale competition.

6 (3) Escalating prices for electricity in Pennsylvania
7 pose a serious threat to the economic well-being, health and
8 safety of residents, commerce and industry of this
9 Commonwealth.

10 (4) To protect against this threat to economic well-
11 being, health and safety, it is necessary to improve the
12 process of procuring electricity to serve the residents of
13 this Commonwealth, to promote investment in energy efficiency
14 and demand-response measures and to support development of
15 clean coal technologies and renewable resources.

16 (5) Procuring a diverse electricity supply portfolio
17 will ensure the lowest total cost over time for adequate,
18 reliable, efficient and environmentally sustainable electric
19 service.

20 (6) Including cost-effective renewable resources in that
21 portfolio will reduce long-term direct and indirect costs to
22 consumers by decreasing environmental impacts and by avoiding
23 or delaying the need for new generation, transmission and
24 distribution infrastructure.

25 (7) Energy efficiency, demand-response measures and
26 renewable energy are resources currently underused throughout
27 this Commonwealth. The General Assembly therefore finds that
28 it is necessary to create the Pennsylvania Power Authority.
29 The goals and objectives of the authority are to accomplish
30 each of the following:

1 (i) Develop electricity procurement plans to ensure
2 adequate, reliable, affordable, efficient and
3 environmentally sustainable electric service at the
4 lowest total cost over time, taking into account any
5 benefits of price stability, for electric utilities that
6 provide electric service to at least 50,000 customers in
7 this Commonwealth. The procurement plan shall be updated
8 on an annual basis.

9 (ii) Conduct competitive procurement processes to
10 procure the supply resources identified in the
11 procurement plan.

12 (iii) Develop electric generation and cogeneration
13 facilities that use indigenous coal or renewable
14 resources, or both, financed with bonds issued by the
15 Commonwealth Financing Authority.

16 (iv) Supply electricity from the authority's
17 facilities at cost to one or more of the following:

18 (A) Municipal electric systems.

19 (B) Governmental aggregators.

20 (C) Rural electric cooperatives in this

21 Commonwealth.

22 Section 2803-D. Definitions.

23 The following words and phrases when used in this article
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Authority." The Pennsylvania Power Authority established
27 under section 2804-D.

28 "Consumer." As defined in 66 Pa.C.S. § 2803 (relating to
29 definitions).

30 "Customer." As defined in 66 Pa.C.S. § 2803 (relating to

1 definitions).

2 "Electric distribution company." As defined in 66 Pa.C.S. §
3 2803 (relating to definitions).

4 "Electric generation supplier." As defined in 66 Pa.C.S. §
5 2803 (relating to definitions).

6 "Rebate." The generation rebate established under section
7 2808-D(a).

8 Section 2804-D. Pennsylvania Power Authority.

9 (a) Establishment.--There is hereby established the
10 Pennsylvania Power Authority.

11 (b) Board of directors.--The authority shall be governed and
12 all of its corporate powers exercised by a board of directors
13 which shall be composed of the following:

14 (1) The Consumer Advocate or a designee.

15 (2) The Small Business Advocate or a designee.

16 (3) One representative of the industrial customer sector
17 who shall be appointed by the Governor.

18 (c) Board compensation and reimbursement.--The members of
19 the board of directors shall be entitled to no compensation for
20 their services as members but shall be entitled to reimbursement
21 for all necessary expenses incurred in connection with the
22 performance of their duties as members.

23 (d) Meetings.--The board of directors shall provide for the
24 holding of regular and special meetings. Two directors attending
25 shall constitute a quorum for the transaction of any business,
26 and at least two votes shall be required to adopt any action,
27 except that at least three votes shall be required to approve
28 financial assistance for any project. Representatives of the
29 three customer sectors shall be weighted equally.

30 (e) Board appointments.--

1 (1) Members appointed by the Governor shall serve a term
2 of three years.

3 (2) Any appointment of a member of the authority shall
4 be subject to the advice and consent of a majority of the
5 members of the Senate.

6 (3) Any appointed member of the authority shall be
7 eligible for reappointment.

8 (4) All appointments shall be made within 90 days of the
9 effective date of this act.

10 Section 2805-D. Duties and obligations.

11 The authority shall:

12 (1) Acquire an ownership interest in existing and new
13 Pennsylvania-based power plants and industrial cogeneration
14 facilities through purchase or construction.

15 (2) Enter into long-term power purchase agreements to
16 facilitate the financing of new Pennsylvania-based power
17 plants and industrial cogeneration facilities.

18 (3) Enter into power purchase agreements with new and
19 existing Pennsylvania-based power plants and industrial
20 cogeneration facilities.

21 (4) Procure power supply and other related products in
22 applicable regional transmission organization markets.

23 (5) Distribute the authority's power supply, at cost,
24 among Pennsylvania electric distribution companies on an
25 equitable basis and determine how the electric distribution
26 companies in turn will allocate the power supply to retail
27 customers on an equitable basis.

28 (6) Distribute the revenues raised by the rebate to
29 electric distribution companies on an equitable basis and
30 determine how the electric distribution companies in turn

1 will pass on the rebate to retail customers on an equitable
2 basis.

3 (7) Manage default service acquisition for Pennsylvania
4 electric distribution companies under a least-cost portfolio
5 approach over time, including both demand-side and supply-
6 side resources, unless current law is changed to require
7 electric distribution companies to use a least-cost portfolio
8 standard that includes consideration of long-term contracts
9 without any artificial limitations and that is subject to
10 review by the Pennsylvania Public Utility Commission.

11 Section 2806-D. Authority powers.

12 (a) Acquisition or construction.--The authority has the
13 power to take all necessary actions to purchase or construct or
14 otherwise obtain Pennsylvania-based power plants, industrial
15 cogeneration facilities, transmission lines and transmission-
16 related facilities.

17 (b) Eminent domain.--The authority has the power of eminent
18 domain to acquire Pennsylvania-based power plants and associated
19 facilities.

20 (c) Contracting.--The authority has the power to enter into
21 contracts to obtain Pennsylvania-based power plants and
22 industrial cogeneration facilities and the power to enter into
23 contracts to purchase power supply, including, but not limited
24 to, the power to facilitate the financing of generating units in
25 this Commonwealth through long-term power purchase agreements.

26 (d) Bond issuance.--The authority has the power to issue
27 bonds and incur debt as needed to meet all duties and
28 obligations.

29 (e) Hiring.--The authority has the power to hire staff and
30 outside consultants to implement the authority's activities.

1 (f) Sound economic principles.--In executing its duties, the
2 authority will apply sound economic principles and ensure its
3 activities meet a cost-benefit analysis.

4 Section 2807-D. Funding.

5 The revenue requirements of the authority will be allocated
6 in a nondiscriminatory manner on a cost-of-service basis that
7 will avoid interclass and intraclass subsidization.

8 Section 2808-D. Electric distribution company obligations.

9 (a) Supplies.--Electric distribution companies shall accept
10 specified supplies from the authority and pass on the supplies
11 to retail customers at cost.

12 (b) Power supplies.--Electric distribution companies shall
13 allocate power supplies from the authority to retail customers
14 on an equitable basis, in a manner to be determined by the
15 authority.

16 (c) Revenues.--Electric distribution companies shall pass
17 through to retail customers, on a current basis, revenues from
18 the rebate in a manner to be determined by the authority.

19 (d) Fixed-price contracts.--Electric distribution companies
20 shall offer fixed-price contracts to retail customers who agree
21 to waive their right to switch suppliers during the term of the
22 contract. This obligation is not limited by the amount of the
23 power supply provided to the electric distribution companies by
24 the authority.

25 (e) Access to information.--Electric distribution companies
26 shall provide access to data and personnel and all other
27 information necessary to the authority so supply may be acquired
28 in a least-cost manner.

29 Section 2809-D. Generation rebate.

30 (a) Establishment.--Establish a generation rebate collected

1 on a per megawatt basis from all Pennsylvania generating units
2 portions of those units that were subject to regulation as a
3 public utility function prior to 66 Pa.C.S. Ch. 28 (relating to
4 restructuring of electric utility industry) taking effect.

5 (b) Collection.--The rebate will be collected on the
6 nameplate rating of units or portions of units that were subject
7 to regulation as a public utility function regardless of current
8 ownership.

9 (c) Applicability.--

10 (1) The rebate will apply to generating units or
11 portions of generating units with nameplate ratings in excess
12 of 150 megawatts.

13 (2) The rebate will not apply, during the term of the
14 contract, to a generating unit that has entered into a long-
15 term contract to sell power to the authority at rates that
16 are based on the generating unit's cost of service.

17 (d) Rates.--The rebate initially will be imposed at a rate
18 of \$100 per megawatt per day. The level of the rebate will be
19 adjusted periodically by the authority.

20 (e) Revenue.--Revenue from the rebate shall be used to
21 provide rebates to Pennsylvania electric consumers to reduce
22 generation rates and to fund the establishment and ongoing
23 activities of the authority and the Commonwealth Energy
24 Advocate.

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