

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1639 Session of
1985

INTRODUCED BY LAUGHLIN, IRVIS, MANDERINO, LLOYD, BURNS, TRUMAN,
D. R. WRIGHT, DEAL, KUKOVICH, VAN HORNE, DOMBROWSKI,
COLAFELLA, VEON, DeLUCA, COHEN AND COY, SEPTEMBER 19, 1985

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, SEPTEMBER 19, 1985

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for the appointment,
3 terms and qualifications of commissioners; providing for the
4 Office of Trial Staff, the Office of Special Assistants, the
5 Bureau of Rates and the Bureau of Audits and their powers and
6 duties; further providing for procedures, reports, budget
7 requests and audits; providing for management efficiency
8 investigators; and reestablishing the Pennsylvania Public
9 Utility Commission.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Sections 301(a) and (c), 306 and 308 of Title 66
13 of the Pennsylvania Consolidated Statutes are amended to read:

14 § 301. Establishment, members, qualifications and chairman.

15 (a) Appointment and terms of members.--The Pennsylvania
16 Public Utility Commission, established by the act of March 31,
17 1937 (P.L.160, No.43), as an independent administrative
18 commission, is hereby continued as such [and]. Prior to the
19 third Tuesday in January of 1987, the commission shall consist
20 of five members who shall be appointed by the Governor, by and
21 with the advice and consent of two-thirds of all the members of

1 the Senate, for a term of ten years, provided that the term of
2 any member appointed on or after the effective date of this
3 amendatory act and prior to the third Tuesday in January of 1987
4 shall expire on April 1, 1987. Beginning with any vacancies
5 existing on the third Tuesday in January of 1987, and as terms
6 expire thereafter, the commission shall consist of five members
7 appointed by the Governor, by and with the advice and consent of
8 two-thirds of all the members of the Senate, for a term of four
9 years, provided that any member appointed to fill a vacancy
10 which occurs after the third Tuesday in January of 1987 shall
11 serve the balance of the term to which his predecessor had been
12 appointed regardless of whether the balance is more or less than
13 four years. The Governor may submit the nomination to the Senate
14 within 60 days prior to the expiration of the term or the
15 effective date of the resignation of the member whom the nominee
16 would replace and shall submit that nomination no later than 90
17 days after the expiration of the term or the effective date of
18 the resignation. [No] A commissioner [upon the expiration of his
19 term shall] may continue to hold office [until] for a period not
20 to exceed six months beyond the expiration of his term if his
21 successor [shall be] has not been duly appointed [or shall be]
22 and qualified according to law.

23 * * *

24 (c) Chairman.--A member designated by the Governor shall be
25 the chairman of the commission [during such member's term of
26 office] and shall serve as such at the pleasure of the Governor,
27 provided that the chairman of the commission as of the third
28 Tuesday in January of 1987 shall be entitled to continue serving
29 as chairman for the balance of that member's term on the
30 commission unless otherwise removed in accordance with law. The

1 chairman shall designate a member to serve as the vice chairman
2 of the commission at the pleasure of the chairman. When present,
3 the chairman shall preside at all meetings, but in his absence
4 the vice chairman or a member, designated by the chairman, shall
5 preside and shall exercise, for the time being, all the powers
6 of the chairman. The chairman shall have such powers and duties
7 as authorized by the commission as provided in section 331(b)
8 (relating to powers of commission and administrative law
9 judges).

10 * * *

11 § 306. [Counsel] Office of Trial Staff.

12 (a) General rule.--The [office of chief counsel] Office of
13 Trial Staff to the Pennsylvania Public Utility Commission is
14 hereby created. The [chief counsel] Director of Trial Staff
15 shall be appointed by the commission and hold office at its
16 pleasure. The commission, in its discretion, may appoint the
17 Director of Trial Staff to serve also as the director of either
18 the Law Bureau, the Bureau of Rates or the Bureau of Audits. The
19 commission may also from time to time appoint such [assistant
20 counsel] other employees to the commission as may be required
21 for the proper conduct of [its work. Assistant counsel] the work
22 of the Office of Trial Staff. The Director of Trial Staff may
23 recommend persons for consideration by the commission as
24 employees under his supervision. The employees may be removed by
25 the commission only for good cause. The compensation of the
26 [counsel] Director of Trial Staff and the employees under his
27 supervision shall be fixed by the commission. [In accordance
28 with the multifunction legal staff established in this part,
29 such counsel shall attend the hearings before the commission or
30 a commissioner, or a special agent or administrative law judge,

1 and conduct the examination of witnesses and shall represent the
2 commission upon appeals and other hearings in the courts of
3 common pleas and in the Commonwealth and Supreme Courts, or
4 other courts of this Commonwealth, or in any Federal court or
5 agency and in actions instituted to recover penalties and to
6 enforce regulations and orders of the commission. Such counsel
7 shall conduct all mandamus, injunction and quo warranto
8 proceedings at law or in equity, instituted for the enforcement
9 of the regulations and orders of the commission, and shall
10 perform such other professional duties as may be required by the
11 commission.] The Director of Trial Staff shall report and be
12 responsible directly to the commission.

13 (b) Power and duties.--

14 (1) The Office of Trial Staff shall be responsible for
15 and shall assist in the development of, challenge of and
16 representation on the record of all matters in the public
17 interest, as directed by the commission. To assist in
18 carrying out his powers and duties under this section, the
19 Director of Trial Staff shall supervise the activities of the
20 Law Bureau, the Bureau of Rates, the Bureau of Audits and any
21 other bureaus designated by the commission in all commission
22 proceedings. If the Director of Trial Staff determines that
23 the initiation of a proceeding is necessary to protect the
24 public interest, he shall request that the commission
25 initiate the appropriate proceeding. When the proceeding is
26 initiated, it shall be the duty and responsibility of the
27 Director of Trial Staff to prosecute in that proceeding.

28 (2) In addition to any other responsibility conveyed
29 upon it by the commission, the Office of Trial Staff shall
30 submit a report to the commission recommending whether the

1 commission should enter upon a hearing in order to
2 investigate the justness and reasonableness of a tariff filed
3 pursuant to section 1308 (relating to voluntary changes in
4 rates), to suspend the effectiveness of such tariff, to allow
5 such tariff to be suspended by operation of law or to allow
6 temporary rates pursuant to section 1310 (relating to
7 temporary rates). The report:

8 (i) shall recommend only the initial action which
9 the commission should take and shall not contain an
10 opinion as to the portion of a proposed rate increase
11 which appears to be just and reasonable, unless the
12 report includes a finding that the proposed rate increase
13 appears to be just and reasonable in its entirety;

14 (ii) shall be released to the public if the report
15 recommends that no hearings need to be held regarding the
16 proposed tariff or that the proposed tariff should not be
17 suspended, and may be released to the public in other
18 circumstances when, in the opinion of the commission,
19 such release would be in the public interest;

20 (iii) shall be considered only as an indication of
21 the Office of Trial Staff's opinion regarding whether
22 there should be a hearing on the proposed tariff or
23 whether the proposed tariff should be suspended; and

24 (iv) shall not be considered as evidence of the
25 Office of Trial Staff's opinion regarding the justness
26 and reasonableness of any proposed tariff in any
27 subsequent commission proceeding.

28 (3) Except for the duties set out in paragraph (2),
29 neither the Director of Trial Staff nor any employee whom the
30 Director of Trial Staff supervises shall communicate with the

commission, an administrative law judge or any other employee
of the commission who is deciding or advising in the decision
in an on-the-record proceeding, whether contested or
uncontested, as defined in section 332(c) (relating to
procedures in general), except through the practice and
procedure available to all parties to commission proceedings.

§ 308. Bureaus and offices.

(a) Enumeration.--There shall be established within the
commission the following bureaus and functions:

(1) [Law Bureau] Office of Special Assistants.

(2) Bureau of Conservation, Economics and Energy
Planning.

(3) Bureau of Consumer Services.

(4) Bureau of Rates.

(5) Bureau of Audits.

(6) Law Bureau.

(b) [Law Bureau] Office of Special Assistants.--The [Law
Bureau] Office of Special Assistants shall be a multifunction
legal and technical staff, consisting of [a prosecutory function
and] an advisory function, a representational function and an
enforcement function. [Prosecutory counsel shall be responsible
for and shall assist in the development of, challenge of, and
representation on the record of all matters in the public's
interest. Advisory counsel] The Office of Special Assistants
shall advise the commission on any and all matters. [The counsel
shall appear on behalf of the commission in all courts of record
and before district magistrates. No counsel shall in the same
case or a factually related case perform duties in the
prosecutory and advisory functions, if such performance would
represent a conflict of interest.] The Office of Special

1 Assistants solely shall be responsible to assist in the
2 preparation of commission orders and to represent the commission
3 upon appeals and other hearings in the courts of common pleas
4 and in the Commonwealth Court, Supreme Court or other courts of
5 this Commonwealth or in any Federal court or agency and in
6 actions instituted to recover penalties and to enforce
7 regulations and orders of the commission. Upon request of the
8 commission, the office shall proceed in the name of the
9 Commonwealth, by mandamus, injunction, quo warranto, or other
10 appropriate action at law or in equity, to restrain violations
11 of the provisions of this title or of the regulations or orders
12 of the commission, or of the judgments, orders, or decrees of
13 any court, or to enforce obedience thereto, and shall perform
14 such other professional duties as may be required of it by the
15 commission. No member of the office shall participate in any
16 prosecutory function in any matter before the commission or
17 assist the Office of Trial Staff or any bureau under the
18 supervision of the Director of Trial Staff in carrying out its
19 duties, nor shall it receive assistance from the Office of Trial
20 Staff or any bureau under the supervision of the Director of
21 Trial Staff in the performance of its duties. Except as provided
22 in this section, the Office of Special Assistants may receive
23 assistance from any other bureau or office of the commission as
24 determined to be necessary.

25 (c) Bureau of Conservation, Economics and Energy Planning.--
26 The Bureau of Conservation, Economics and Energy Planning shall
27 conduct studies and research all matters within the commission's
28 jurisdiction and advise the commission of the results thereof in
29 order to enable the commission to provide prospective regulation
30 in the best interest of all parties concerned. Such studies and

1 research shall include long range forecasting of energy needs
2 and development; research into the use of new, efficient and
3 economic methods of energy production; the review of the
4 efficiency of the present generating systems operated within
5 this Commonwealth; and the development of an effective program
6 of energy conservation. The commission shall require all
7 electric and gas public utilities subject to its jurisdiction to
8 file with it an annual conservation report which shows the plans
9 and progress achieved on programs of energy conservation. The
10 commission shall, by rule, prescribe guidelines for the form and
11 manner of such annual conservation report which report shall
12 describe the current and proposed programs of each such utility
13 designed to educate and encourage its customers in the optimum,
14 effective and efficient use by them of electric and gas energy.
15 The report shall include an accounting of the monetary and
16 personnel resources actually or proposed to be expended or
17 devoted to and the actual or anticipated results of such
18 programs. The bureau shall review all proposals for electric and
19 gas public utility plant expansion and shall submit for
20 consideration of the commission its findings on what impact, if
21 any, the electric and gas public utility plant expansion will
22 have on rates charged by the public utility.

23 (d) Bureau of Consumer Services.--The Bureau of Consumer
24 Services shall investigate and [have prepared replies to] issue
25 final determinations on all informal consumer complaints and
26 shall advise the commission as to the need for formal commission
27 action on any matters brought to its attention by the
28 complaints. Any party may appeal a final determination issued by
29 the Bureau of Consumer Services and seek review by an
30 administrative law judge or special agent subject to the

1 procedures in section 335 (relating to initial decisions). The
2 bureau shall on behalf of the commission keep records of all
3 complaints received, the matter complained of, the utility
4 involved, and the disposition thereof and shall at least
5 annually report to the commission on such matters. The
6 commission may take official notice of all complaints and the
7 nature thereof in any proceeding before the commission in which
8 the utility is a party. The commission shall adopt, publish and
9 generally make available rules by which a consumer may make
10 informal complaints. The bureau shall also assist and advise the
11 commission on matters of safety compliance by public utilities.

12 (e) Bureau of Rates.--Subject to the supervision of the
13 Director of Trial Staff, the Bureau of Rates shall investigate
14 and present its opinion in commission proceedings regarding all
15 rate and tariff matters and any other matter as the Director of
16 Trial Staff and the commission may direct. No member of the
17 Bureau of Rates shall advise the commission on a case or
18 participate in deciding a case except through the presentation
19 of on-the-record testimony or pleadings.

20 (f) Bureau of Audits.--Subject to the supervision of the
21 Director of Trial Staff, the Bureau of Audits shall perform or
22 conduct audits of public utilities in such a manner and fashion
23 as the commission and the Director of Trial Staff may from time
24 to time direct. No member of the Bureau of Audits shall advise
25 the commission on a case or participate in deciding a case
26 except through the presentation of on-the-record testimony or
27 pleadings.

28 (g) Law Bureau.--Subject to the supervision of the Director
29 of Trial Staff, the Law Bureau shall be responsible for and
30 shall assist in the development of, challenge of and

1 representation on the record of all matters in the public
2 interest. The director of the bureau shall be the chief counsel
3 of the commission. Neither the chief counsel nor any assistant
4 counsel or other employees in the bureau shall advise the
5 commission on a case or participate in deciding a case except
6 through the presentation of on-the-record testimony or
7 pleadings.

8 (h) Other bureaus and offices.--The commission shall
9 establish such bureau or bureaus to perform such duties as the
10 commission may prescribe regarding all matters respecting rates
11 of public utilities and all matters respecting common carriers
12 and contract carriers. The establishment of these bureaus shall
13 not be construed to prohibit the commission from establishing
14 any additional bureaus which the commission finds necessary to
15 protect the interests of the people of this Commonwealth. The
16 bureaus may perform such other duties not inconsistent with law
17 as the commission may direct. The commission may appoint a
18 director of operations who shall be responsible for the day-to-
19 day administration and operation of the bureaus and offices of
20 the commission except that the director of operations shall have
21 no operational or policy authority over the Office of Trial
22 Staff or any bureau under the supervision of the Director of
23 Trial Staff.

24 ~~[(f)]~~ (i) Staff testimony.--Members of the staff of the
25 commission, except for the Office of Special Assistants, shall
26 appear and present testimony in any proceeding before the
27 commission when called by the commission, the Director of Trial
28 Staff or any of the parties to the proceeding. In addition to
29 any cross-examination by [counsel] the Office of Trial Staff as
30 provided in section 306 (relating to [counsel] Office of Trial

1 Staff), any member of the commission staff who participates in
2 the analysis, review and conclusions in any proceedings before
3 the commission may, in the discretion of [commission counsel]
4 the Office of Trial Staff and with the consent of the presiding
5 officer, cross-examine any witness presented by the parties to
6 the proceeding at the public hearing.

7 Section 2. Title 66 is amended by adding a section to read:

8 § 321. Annual reports.

9 The commission shall annually transmit to the Governor and
10 the General Assembly and shall make available to the public a
11 report on the conduct of the commission. The report shall
12 include, but shall not be limited to, a summary of all rate
13 proceedings completed within the reporting period, the amount of
14 the rate increase requested in each such proceeding, the amount
15 of the request granted by the commission in each such
16 proceeding, the percentage increase in rates requested and
17 granted in each such proceeding as compared to the percentage
18 increase requested and granted in the most recent similar
19 proceeding for the affected utility prior to the reporting
20 period, a summary of other significant regulatory issues which
21 the commission resolved during the reporting period a summary of
22 significant orders and decisions of the commission and the
23 courts of the Commonwealth during the reporting period relating
24 to public utilities, a summary of significant anticipated issues
25 by type of utility and a status report of any commission action
26 regarding these issues, and a summary of the audits completed by
27 the commission during the reporting period. In the annual report
28 and at such other times as the commission determines, the
29 commission shall make recommendations to the Governor and the
30 General Assembly which the commission believes to be necessary

1 or desirable to protect the public interest.

2 Section 3. Sections 332(h), 333(d), 503, 510(a), 515 and 516
3 of Title 66 are amended and a section is added to read:

4 § 332. Procedures in general.

5 * * *

6 (h) Exceptions and appeal procedure.--Any party to a
7 proceeding referred to an administrative law judge under section
8 331(b) may file exceptions to the decision of the administrative
9 law judge [within 15 days after such decision is issued] with
10 the commission, in a form and manner and within the time to be
11 prescribed by the commission. The [administrative law judge]
12 commission shall rule upon such exceptions within [30] 90 days
13 after filing. [Any party to the proceeding may appeal to the
14 commission from the ruling of the administrative law judge on
15 the exceptions within 15 days after such ruling is issued.] If
16 no exceptions are filed [or if no appeal is taken from the
17 ruling on the exceptions within 15 days after any such decision
18 or ruling is issued], the decision [or ruling] shall become
19 final, without further commission action, unless two or more
20 commissioners within 15 days after the decision [or ruling on
21 the exceptions] request that the commission review the decision
22 and make such other order, within 90 days of such request, as it
23 shall determine. [Prosecutory counsel of the Law Bureau] The
24 Office of Trial Staff shall be deemed to have automatic standing
25 as a party to such proceeding and may file exceptions to any
26 decision of the administrative law judge under this subsection.

27 § 333. Prehearing procedures.

28 * * *

29 (d) Interrogatories.--Any party to a proceeding may serve
30 written interrogatories upon any other party for purposes of

1 discovering relevant, unprivileged information. A party served
2 with interrogatories may, before the time prescribed either by
3 commission rule or otherwise for answering the interrogatories,
4 apply to the presiding officer for the holding of a prehearing
5 conference for the mutual exchange of evidence exhibits and
6 other information. Each interrogatory which requests information
7 not previously supplied at a prehearing conference or hearing
8 shall be answered separately and fully in writing under oath,
9 unless it is objected to, in which event the reasons for the
10 objections shall be stated in lieu of an answer. The party upon
11 whom the interrogatories have been served shall serve a copy of
12 the answers and objections within a reasonable time, unless
13 otherwise specified, upon the party submitting the
14 interrogatories. The party submitting the interrogatories may
15 petition the presiding officer for an order compelling an answer
16 to an interrogatory or interrogatories to which there has been
17 an objection or other failure to answer. The commission shall
18 designate an appropriate official, other than the Director of
19 Trial Staff or any other employee of the Office of Trial Staff
20 or of any bureau under the supervision of the Director of Trial
21 Staff, on whom other parties to the proceeding may serve written
22 interrogatories directed to the commission. That official shall
23 arrange for agency personnel with knowledge of the facts to
24 answer and sign the interrogatories on behalf of the commission.
25 [The attorney or employee appearing on behalf of the commission
26 in the proceeding shall have the authority to make and sign
27 objections to interrogatories served upon the commission.]
28 Interrogatories directed to the commission shall be allowed only
29 upon an order of the commission based upon a specific finding
30 that the interrogating party is seeking significant,

1 unprivileged information not discoverable by alternative means.
2 When participating in a commission proceeding, the Office of
3 Trial Staff shall be subject to the same rules of discovery
4 applicable to any other party to the case.

5 * * *

6 § 503. Enforcement proceedings by [Chief Counsel] Office of
7 Special Assistants.

8 [The Chief Counsel,] The Office of Special Assistants, in
9 addition to the exercise of the powers and duties now conferred
10 upon [him] it by law, shall also, upon request of the commission
11 proceed in the name of the Commonwealth, by mandamus,
12 injunction, or quo warranto, or other appropriate remedy at law
13 or[,] in equity, to restrain violations of the provisions of
14 this part, or of the regulations or orders of the commission, or
15 the judgments, orders, or decrees of any court, or to enforce
16 obedience thereto.

17 § 510. Assessment for regulatory expenses upon public
18 utilities.

19 (a) Determination of assessment.--Before November 1 of each
20 year, the commission shall estimate its total expenditures in
21 the administration of this part for the fiscal year beginning
22 July of the following year, which estimate shall not exceed
23 three-tenths of 1% of the total gross intrastate operating
24 revenues of the public utilities under its jurisdiction for the
25 preceding calendar year. Such estimate shall be submitted to the
26 Governor in accordance with section 610 of the act of April 9,
27 1929 (P.L.177, No.175), known as "The Administrative Code of
28 1929." At the same time the commission submits its estimate to
29 the Governor, the commission shall also submit that estimate to
30 the General Assembly. The commission or its designated

1 representatives shall be afforded an opportunity to appear
2 before the Governor and the Senate and House Appropriations
3 Committees regarding their estimates. The commission shall
4 subtract from the final estimate:

5 (1) The estimated fees to be collected pursuant to
6 section 317 (relating to fees for services rendered by
7 commission) during such fiscal year.

8 (2) The estimated balance of the appropriation,
9 specified in section 511 (relating to disposition,
10 appropriation and disbursement of assessments and fees), to
11 be carried over into such fiscal year from the preceding one.
12 The remainder so determined, herein called the total assessment,
13 shall be allocated to, and paid by, such public utilities in the
14 manner prescribed. If the General Assembly fails to approve the
15 commission's budget for the purposes of this part, by March [15]
16 30, the commission shall assess public utilities on the basis of
17 the last approved operating budget. At such time as the General
18 Assembly approves the proposed budget the commission shall have
19 the authority to make an adjustment in the assessments to
20 reflect the approved budget. If, subsequent to the approval of
21 the budget, the commission determines that a supplemental budget
22 may be needed, the commission shall submit its request for that
23 supplemental budget simultaneously to the Governor and the
24 chairmen of the House and Senate Appropriations Committees.

25 * * *

26 § 515. Construction cost of electric generating units.

27 (a) Submission of estimate.--No later than 30 days after
28 construction of an electric generating unit is begun, either in
29 this Commonwealth or in some other state, any public utility
30 operating in this Commonwealth and owning any share in that unit

1 shall submit to the commission an estimate of the cost of
2 constructing that unit. If the public utility acquires ownership
3 of any share in an electric generating unit which is under
4 construction on the date of acquisition, the public utility
5 shall, within 30 days of the date of acquisition, submit an
6 estimate of the cost of constructing that unit which was
7 formulated no later than 30 days from the beginning of
8 construction.

9 (b) Onsite auditors.--From and after the beginning of
10 construction of an electric generating unit, the commission, or
11 its designee, shall be present at the construction site on an
12 ongoing basis for the purpose of obtaining oral or documentary
13 evidence relevant to determining the necessity and propriety of
14 any construction cost. The commission shall assess the utility
15 or utilities operating in this Commonwealth and owning any share
16 in that generating unit for the expense of having auditors
17 present on the construction site as required by this subsection.

18 (c) Access to evidence.--From and after the beginning of
19 construction of an electric generating unit, the commission, or
20 its designee, and the Consumer Advocate, or his designee, shall
21 have reasonable access to the construction site and to any oral
22 or documentary evidence relevant to determining the necessity
23 and propriety of any construction cost. If a public utility
24 objects to any request by the commission or the Consumer
25 Advocate, or persons designated by the commission or the
26 Consumer Advocate, for access to the construction site or to any
27 oral or documentary evidence, the objection shall be decided in
28 the same manner as an on-the-record proceeding pursuant to
29 Chapter 3 (relating to public utility commission). The affected
30 public utility shall have the burden of proof in sustaining any

1 such objection.

2 [(c)] (d) Definition.--As used in this section the term
3 "construction" includes any work performed on an electric
4 generating unit which is expected to require the affected public
5 utility to incur an aggregate of at least \$100,000,000 of
6 expenses which, in accordance with generally accepted accounting
7 principles, are capital expenses and not operating or
8 maintenance expenses.

9 § 516. Audits of certain utilities.

10 (a) General rule.--The commission shall provide for audits
11 of any electric, gas, telephone or water utility whose plant in
12 service is valued at not less than \$10,000,000. The audits shall
13 include an examination of management effectiveness and operating
14 efficiency. The commission shall establish procedures for audits
15 of the operations of utilities as provided in this section.
16 Audits shall be conducted at least once every five years unless
17 the commission finds that a specific audit is unnecessary, but
18 in no event shall audits be conducted less than once every eight
19 years. A summary of the audits mandated by this subsection shall
20 be released to the public and a complete copy of the audits
21 shall be provided to the Office of Trial Staff and the Office of
22 Consumer Advocate.

23 (b) Management efficiency investigator.--In addition to the
24 audits mandated by subsection (a), the commission shall appoint
25 a management efficiency investigator who shall be responsible
26 for examining the management effectiveness and operating
27 efficiency on an ongoing basis of all electric utilities with
28 total annual intrastate operating revenues of at least
29 \$40,000,000 and of all gas utilities with total annual
30 intrastate operating revenues of at least \$40,000,000, and such

1 other utilities as the commission may, from time to time,
2 direct. The management efficiency investigator shall designate
3 one member of his staff, or an independent contractor selected
4 by the commission, to be responsible for each utility subject to
5 this subsection. Such staff member or independent contractor
6 shall be present on an ongoing basis at the facilities of the
7 utility for which he is responsible. The management efficiency
8 investigator shall provide an annual report to the commission,
9 the Office of Trial Staff and the Office of Consumer Advocate
10 detailing the findings of its investigations. All costs incurred
11 by the management efficiency investigator, his staff and
12 independent contractors in carrying out the provisions of this
13 subsection shall be assessed against the utility in connection
14 with which those costs are incurred.

15 [(b)] (c) Use of independent auditing firms.--The commission
16 may require an audit to be performed by an independent
17 consulting firm. When the commission orders an audit to be
18 performed by an independent consulting firm, the commission,
19 after consultation with the audited utility, shall select the
20 audit firm and require the audited utility to enter into a
21 contract with the audit firm providing for payment of the audit
22 firm by the utility. That contract shall require the audit firm
23 to work under the direction of the commission.

24 [(c)] (d) Other powers of commission unaffected.--This
25 section is not intended to alter or repeal any existing powers
26 of the commission.

27 § 520. Expense reduction program.

28 (a) Target.--The commission shall establish an expense
29 reduction program for calendar year 1986 for all electric and
30 gas utilities with total annual intrastate operating revenues of

1 at least \$40,000,000 and for all telephone utilities with total
2 annual intrastate operating revenues of at least \$9,000,000.
3 Utilities regulated by the commission pursuant to this
4 subsection shall make every reasonable effort to achieve a level
5 of expenses, other than expenses associated with depreciation,
6 fuel, collective bargaining agreements, and other categories of
7 expense as determined by the commission, for the calendar year
8 1986 which represents at least a 5% reduction in the actual
9 level of such expenses, other than expenses associated with
10 depreciation, fuel, collective bargaining agreements, and other
11 categories of expense as determined by the commission, for the
12 calendar year 1985. The commission shall periodically review the
13 expense reducing efforts undertaken by utilities pursuant to
14 this subsection and shall take appropriate action in response to
15 these efforts.

16 (b) Ongoing effort.--The commission may direct or permit any
17 utility to take any lawful action not inconsistent with this
18 title for the purpose of encouraging economies, efficiencies, or
19 improvements which benefit the utility and its ratepayers. The
20 commission may consider, in addition to all other relevant
21 factors, the efficiency, effectiveness, and adequacy of service
22 of each utility when determining just and reasonable rates
23 pursuant to this title.

24 Section 4. Persons who are members of the Pennsylvania
25 Public Utility Commission on the effective date of this act
26 shall serve until their current terms have expired.

27 Section 5. All rules and regulations promulgated by the
28 Pennsylvania Public Utility Commission shall remain in full
29 force and effect until amended or repealed by the commission,
30 provided that the commission shall immediately initiate action

1 to repeal or amend any rule or regulation which is in conflict
2 with the provisions of this act.

3 Section 6. This act, with respect to the Pennsylvania Public
4 Utility Commission, constitutes the legislation required to
5 reestablish an agency pursuant to the act of December 22, 1981
6 (P.L.508, No.142), known as the Sunset Act.

7 Section 7. The Pennsylvania Public Utility Commission shall
8 continue together with its statutory functions and duties until
9 December 31, 1991, when it shall terminate and go out of
10 existence unless reestablished or continued by the General
11 Assembly for an additional five years. Evaluation and review,
12 termination, reestablishment and continuation of the agency
13 beyond December 31, 1991, and every fifth year thereafter, shall
14 be conducted pursuant to the act of December 22, 1981 (P.L.508,
15 No.142), known as the Sunset Act.

16 Section 8. This act shall take effect January 1, 1986, or
17 immediately, whichever is later.