

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1639

Session of
1985

INTRODUCED BY LAUGHLIN, IRVIS, MANDERINO, LLOYD, BURNS, TRUMAN,
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SEPTEMBER 18, 1985

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 22, 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 THE DIRECTOR OF <—
6 OPERATIONS and their powers and duties; further providing for
7 procedures, reports, budget requests and audits; providing
8 for management efficiency investigators; and reestablishing
9 the Pennsylvania Public 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

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

24 * * *

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

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

11 * * *

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

13 (a) General rule.--The [office of chief counsel] Office of
14 Trial Staff to the Pennsylvania Public Utility Commission is
15 hereby created. The [chief counsel] Director of Trial Staff
16 shall be appointed by the commission and hold office at its
17 pleasure. ~~The commission, in its discretion, may appoint the~~ <—
18 ~~Director of Trial Staff to serve also as the director of either~~
19 ~~the Law Bureau, the Bureau of Rates or the Bureau of Audits.~~ The
20 commission [may also from time to time appoint such {assistant <—
21 counsel} ~~other employees to the commission as may be required~~ <—
22 COUNSEL TO] SHALL ASSIGN A PERMANENT STAFF OF SUCH LEGAL, <—
23 TECHNICAL AND OTHER EMPLOYEES OF THE COMMISSION AS MAY BE
24 REQUIRED for the proper conduct of [its work. Assistant counsel]
25 the work of the Office of Trial Staff. EMPLOYEES ASSIGNED TO THE <—
26 OFFICE OF TRIAL STAFF SHALL BE UNDER THE SUPERVISION OF THE
27 DIRECTOR OF TRIAL STAFF AND SHALL NOT BE ASSIGNED TO ANY DUTIES
28 OTHER THAN WITH THE OFFICE OF TRIAL STAFF. THE COMMISSION MAY
29 DESIGNATE EMPLOYEES OF THE OFFICE OF TRIAL STAFF TO SERVE AS
30 DEPUTIES TO THE DIRECTOR OF TRIAL STAFF. The Director of Trial

1 Staff may recommend persons for consideration by the commission
2 as employees under his supervision. The employees may be removed
3 by the commission only for good cause. The compensation of the
4 [counsel] Director of Trial Staff and the employees under his
5 supervision shall be fixed by the commission. [In accordance
6 with the multifunction legal staff established in this part,
7 such counsel shall attend the hearings before the commission or
8 a commissioner, or a special agent or administrative law judge,
9 and conduct the examination of witnesses and shall represent the
10 commission upon appeals and other hearings in the courts of
11 common pleas and in the Commonwealth and Supreme Courts, or
12 other courts of this Commonwealth, or in any Federal court or
13 agency and in actions instituted to recover penalties and to
14 enforce regulations and orders of the commission. Such counsel
15 shall conduct all mandamus, injunction and quo warranto
16 proceedings at law or in equity, instituted for the enforcement
17 of the regulations and orders of the commission, and shall
18 perform such other professional duties as may be required by the
19 commission.] The Director of Trial Staff shall report and be
20 responsible directly to the commission PROVIDED THAT THE
21 DIRECTOR OF TRIAL STAFF SHALL BE RESPONSIBLE TO THE COMMISSION
22 THROUGH THE DIRECTOR OF OPERATIONS ONLY FOR PURPOSES OF
23 ADMINISTRATIVE MATTERS.

<—

24 (b) Power and duties.--

25 (1) The Office of Trial Staff shall be responsible for
26 and shall assist in the development of, challenge of and
27 representation on the record of all matters in the public
28 interest, as directed by the commission. IN ALL COMMISSION
29 PROCEEDINGS EXCEPT THOSE INVOLVING TRANSPORTATION, SAFETY,
30 EMINENT DOMAIN, SITING, SERVICE ISSUES HAVING NO IMPACT ON

<—

1 RATES, AND ABILITY TO PAY, PROVIDED THAT THE DIRECTOR OF
2 TRIAL STAFF MAY PETITION THE COMMISSION OR MAY BE DIRECTED BY
3 THE COMMISSION TO INTERVENE TO PROTECT THE PUBLIC INTEREST IN
4 ANY PROCEEDING INVOLVING TRANSPORTATION, SAFETY, EMINENT
5 DOMAIN, SITING, SERVICE AND ABILITY TO PAY. To assist in
6 carrying out his powers and duties under this section, the
7 Director of Trial Staff shall supervise the activities of the
8 Law Bureau, the Bureau of Rates, the Bureau of Audits and any <—
9 other bureaus designated by the commission OFFICE OF TRIAL <—
10 STAFF in all commission proceedings IN WHICH HE PARTICIPATES. <—
11 If the Director of Trial Staff determines that the initiation
12 of a proceeding is necessary to protect the public interest,
13 he shall request that the commission initiate the appropriate
14 proceeding. When the proceeding is initiated WHEN HE <—
15 PARTICIPATES IN A COMMISSION PROCEEDING, it shall be the duty
16 and responsibility of the Director of Trial Staff to
17 prosecute in that proceeding.

18 (2) In addition to any other responsibility conveyed
19 upon it by the commission, the Office of Trial Staff shall
20 submit a report to the commission recommending whether the
21 commission should enter upon a hearing in order to
22 investigate the justness and reasonableness of a tariff filed
23 pursuant to section 1308 (relating to voluntary changes in
24 rates), to suspend the effectiveness of such tariff, to allow
25 such tariff to be suspended by operation of law or to allow
26 temporary rates pursuant to section 1310 (relating to
27 temporary rates). The report:

28 (i) shall recommend only the initial action which
29 the commission should take and shall not contain an
30 opinion as to the portion of a proposed rate increase

1 which appears to be just and reasonable, unless the
2 report includes a finding that the proposed rate increase
3 appears to be just and reasonable in its entirety;

4 (ii) shall be released to the public if the report
5 recommends that no hearings need to be held regarding the
6 proposed tariff or that the proposed tariff should not be
7 suspended, and may be released to the public in other
8 circumstances when, in the opinion of the commission,
9 such release would be in the public interest;

10 (iii) shall be considered only as an indication of
11 the Office of Trial Staff's opinion regarding whether
12 there should be a hearing on the proposed tariff or
13 whether the proposed tariff should be suspended; and

14 (iv) shall not be considered as evidence of the
15 Office of Trial Staff's opinion regarding the justness
16 and reasonableness of any proposed tariff in any
17 subsequent commission proceeding.

18 (3) Except for the duties set out in paragraph (2),
19 neither the Director of Trial Staff nor any employee whom the
20 Director of Trial Staff supervises shall communicate with the
21 commission, an administrative law judge or any other employee
22 of the commission who is deciding or advising in the decision
23 in an on-the-record proceeding, whether contested or
24 uncontested, as defined in section 332(c) (relating to
25 procedures in general), except through the practice and
26 procedure available to all parties to commission proceedings.

27 § 308. Bureaus and offices.

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

30 (1) ~~{Law Bureau} Office of Special Assistants.~~

<—

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

3 (3) Bureau of Consumer Services.

4 ~~(4) Bureau of Rates.~~ <—

5 ~~(5) Bureau of Audits.~~

6 ~~(6) Law Bureau.~~

7 (4) OFFICE OF SPECIAL ASSISTANTS. <—

8 (b) ~~{Law Bureau} Office of Special Assistants.~~--The {Law <—
9 Bureau} ~~Office of Special Assistants~~ shall be a multifunction <—
10 legal ~~and technical~~ staff, consisting of {a prosecutory function <—
11 [and], an advisory function, a representational function and an <—
12 enforcement function. [Prosecutory counsel shall be responsible
13 for and shall assist in the development of, challenge of, and
14 representation on the record of all matters in the public's
15 interest. Advisory counsel] ~~The Office of Special Assistants~~ THE <—
16 DIRECTOR OF THE LAW BUREAU SHALL BE THE CHIEF COUNSEL OF THE
17 COMMISSION. THE LAW BUREAU shall advise the commission on any
18 and all matters. [The counsel shall appear on behalf of the
19 commission in all courts of record and before district
20 magistrates.] No counsel shall in the same case or a factually <—
21 related case perform duties in the prosecutory and advisory
22 functions, if such performance would represent a conflict of
23 interest.] ~~The Office of Special Assistants~~ THE LAW BUREAU <—
24 solely shall be responsible to assist in the preparation of <—
25 commission orders and to represent the commission upon appeals
26 and other hearings in the courts of common pleas and in the
27 Commonwealth Court, Supreme Court or other courts of this
28 Commonwealth or in any Federal court or agency and in actions
29 instituted to recover penalties and to enforce regulations and
30 orders of the commission. Upon request of the commission, the <—

1 ~~office shall proceed in the name of the Commonwealth, by~~
2 ~~mandamus, injunction, quo warranto, or other appropriate action~~
3 ~~at law or in equity, to restrain violations of the provisions of~~
4 ~~this title or of the regulations or orders of the commission, or~~
5 ~~of the judgments, orders, or decrees of any court, or to enforce~~
6 ~~obedience thereto, and shall perform such other professional~~
7 ~~duties as may be required of it by the commission.~~ No member of
8 ~~the office~~ LAW BUREAU shall participate in any prosecutory <—
9 function in any matter before the commission UNLESS DIRECTED BY <—
10 THE COMMISSION TO DO SO IN A PROCEEDING INVOLVING TRANSPORTATION
11 SAFETY, EMINENT DOMAIN, SITING, SERVICE OR ABILITY TO PAY or
12 assist the Office of Trial Staff ~~or any bureau under the~~ <—
13 ~~supervision of the Director of Trial Staff~~ in carrying out its
14 duties, nor shall it receive assistance from the Office of Trial
15 Staff ~~or any bureau under the supervision of the Director of~~ <—
16 ~~Trial Staff~~ in the performance of its duties. Except as provided
17 in this section, the ~~Office of Special Assistants~~ LAW BUREAU may <—
18 receive assistance from any other bureau or office of the
19 commission as determined to be necessary.

20 (c) Bureau of Conservation, Economics and Energy Planning.--
21 The Bureau of Conservation, Economics and Energy Planning shall
22 conduct studies and research all matters within the commission's
23 jurisdiction and advise the commission of the results thereof in
24 order to enable the commission to provide prospective regulation
25 in the best interest of all parties concerned. Such studies and
26 research shall include long range forecasting of energy needs
27 and development; research into the use of new, efficient and
28 economic methods of energy production; the review of the
29 efficiency of the present generating systems operated within
30 this Commonwealth; and the development of an effective program

1 of energy conservation. The commission shall require all
2 electric and gas public utilities subject to its jurisdiction to
3 file with it an annual conservation report which shows the plans
4 and progress achieved on programs of energy conservation. The
5 commission shall, by rule, prescribe guidelines for the form and
6 manner of such annual conservation report which report shall
7 describe the current and proposed programs of each such utility
8 designed to educate and encourage its customers in the optimum,
9 effective and efficient use by them of electric and gas energy.
10 The report shall include an accounting of the monetary and
11 personnel resources actually or proposed to be expended or
12 devoted to and the actual or anticipated results of such
13 programs. The bureau shall review all proposals for electric and
14 gas public utility plant expansion and shall submit for
15 consideration of the commission its findings on what impact, if
16 any, the electric and gas public utility plant expansion will
17 have on rates charged by the public utility.

18 (d) Bureau of Consumer Services.--The Bureau of Consumer
19 Services shall investigate and [have prepared replies to] issue
20 final determinations on all informal consumer complaints and
21 shall advise the commission as to the need for formal commission
22 action on any matters brought to its attention by the
23 complaints. Any party may appeal a final determination issued by
24 the Bureau of Consumer Services and seek review by an
25 administrative law judge or special agent subject to the
26 procedures in section 335 (relating to initial decisions). The
27 bureau shall on behalf of the commission keep records of all
28 complaints received, the matter complained of, the utility
29 involved, and the disposition thereof and shall at least
30 annually report to the commission on such matters. The

1 commission may take official notice of all complaints and the
2 nature thereof in any proceeding before the commission in which
3 the utility is a party. The commission shall adopt, publish and
4 generally make available rules by which a consumer may make
5 informal complaints. The bureau shall also assist and advise the
6 commission on matters of safety compliance by public utilities.

7 ~~(e) Bureau of Rates. Subject to the supervision of the~~ <—
8 ~~Director of Trial Staff, the Bureau of Rates shall investigate~~
9 ~~and present its opinion in commission proceedings regarding all~~
10 ~~rate and tariff matters and any other matter as the Director of~~
11 ~~Trial Staff and the commission may direct. No member of the~~
12 ~~Bureau of Rates shall advise the commission on a case or~~
13 ~~participate in deciding a case except through the presentation~~
14 ~~of on the record testimony or pleadings.~~

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

23 ~~(g) Law Bureau. Subject to the supervision of the Director~~
24 ~~of Trial Staff, the Law Bureau shall be responsible for and~~
25 ~~shall assist in the development of, challenge of and~~
26 ~~representation on the record of all matters in the public~~
27 ~~interest. The director of the bureau shall be the chief counsel~~
28 ~~of the commission. Neither the chief counsel nor any assistant~~
29 ~~counsel or other employees in the bureau shall advise the~~
30 ~~commission on a case or participate in deciding a case except~~

1 ~~through the presentation of on the record testimony or~~
2 ~~pleadings.~~

3 (E) OFFICE OF SPECIAL ASSISTANTS.--THE OFFICE OF SPECIAL <—
4 ASSISTANTS SHALL BE A SUPPORT STAFF WHICH SHALL BE RESPONSIBLE
5 TO ASSIST IN THE PREPARATION OF COMMISSION ORDERS AND SHALL
6 PERFORM SUCH OTHER ADVISORY DUTIES AS MAY BE REQUIRED OF IT BY
7 THE COMMISSION. NO MEMBER OF THE OFFICE SHALL PARTICIPATE IN ANY
8 PROSECUTORY FUNCTION IN ANY MATTER BEFORE THE COMMISSION. NO
9 MEMBER OF THE OFFICE SHALL ASSIST THE OFFICE OF TRIAL STAFF IN
10 CARRYING OUT ITS DUTIES NOR SHALL IT RECEIVE ASSISTANCE FROM THE
11 OFFICE OF TRIAL STAFF IN THE PERFORMANCE OF ITS DUTIES. EXCEPT
12 AS PROVIDED IN THIS SECTION, THE OFFICE OF SPECIAL ASSISTANTS
13 MAY RECEIVE ASSISTANCE FROM, OR PROVIDE ASSISTANCE TO, ANY OTHER
14 BUREAU OR OFFICE OF THE COMMISSION AS DETERMINED TO BE
15 NECESSARY.

16 ~~(h)~~ (F) Other bureaus and offices.--The commission shall <—
17 establish such bureau or bureaus to perform such duties as the
18 commission may prescribe regarding all matters respecting rates
19 of public utilities and all matters respecting common carriers
20 and contract carriers. The establishment of these bureaus shall
21 not be construed to prohibit the commission from establishing
22 any additional bureaus which the commission finds necessary to
23 protect the interests of the people of this Commonwealth. The
24 bureaus may perform such other duties not inconsistent with law
25 as the commission [may] SHALL direct. The commission may appoint <—
26 a director of operations who shall SERVE AT THE PLEASURE OF THE <—
27 COMMISSION AND SHALL be responsible for the day-to-day
28 administration and operation of the bureaus and offices of the
29 commission except that the director of operations shall have no <—
30 operational or policy authority over the Office of Trial Staff

~~or any bureau under the supervision of the Director of Trial Staff.~~ RESPONSIBILITY FOR THE OFFICE OF TRIAL STAFF ONLY WITH REGARD TO ADMINISTRATIVE MATTERS.

[(f)] ~~(i)~~ (G) Staff testimony.--Members of the staff of the commission, except for the Office of Special Assistants, shall appear and present testimony in any proceeding before the commission when called by the commission, THE CHIEF COUNSEL, the Director of Trial Staff or any of the parties to the proceeding. In addition to any cross-examination by [counsel] the Office of Trial Staff as provided in section 306 (relating to [counsel] Office of Trial Staff) OR THE CHIEF COUNSEL, any member of the commission staff who participates in the analysis, review and conclusions in any proceedings before the commission may, in the discretion of [commission counsel] the Office of Trial Staff OR THE CHIEF COUNSEL and with the consent of the presiding officer, cross-examine any witness presented by the parties to the proceeding at the public hearing.

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

§ 321. Annual reports.

The commission shall annually transmit to the Governor and the General Assembly and shall make available to the public a report on the conduct of the commission. The report shall include, but shall not be limited to, a summary of all rate proceedings completed within the reporting period, the amount of the rate increase requested in each such proceeding, the amount of the request granted by the commission in each such proceeding, the percentage increase in rates requested and granted in each such proceeding as compared to the percentage increase requested and granted in the most recent similar proceeding for the affected utility prior to the reporting

1 period, a summary of other significant regulatory issues which
2 the commission resolved during the reporting period, a summary <—
3 of significant orders and decisions of the commission and the
4 courts of the Commonwealth during the reporting period relating
5 to public utilities, a summary of significant anticipated issues
6 by type of utility and a status report of any commission action
7 regarding these issues, and a summary of the audits completed by
8 the commission during the reporting period. In the annual report
9 and at such other times as the commission determines, the
10 commission shall make recommendations to the Governor and the
11 General Assembly which the commission believes to be necessary
12 or desirable to protect the public interest.

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

15 § 332. Procedures in general.

16 * * *

17 (h) Exceptions and appeal procedure.--Any party to a
18 proceeding referred to an administrative law judge under section
19 331(b) may file exceptions to the decision of the administrative
20 law judge [within 15 days after such decision is issued] with
21 the commission, in a form and manner and within the time to be
22 prescribed by the commission. The [administrative law judge]
23 commission shall rule upon such exceptions within [30] 90 days
24 after filing. [Any party to the proceeding may appeal to the
25 commission from the ruling of the administrative law judge on
26 the exceptions within 15 days after such ruling is issued.] If
27 no exceptions are filed [or if no appeal is taken from the
28 ruling on the exceptions within 15 days after any such decision
29 or ruling is issued], the decision [or ruling] shall become
30 final, without further commission action, unless two or more

1 commissioners within 15 days after the decision [or ruling on
2 the exceptions] request that the commission review the decision
3 and make such other order, within 90 days of such request, as it
4 shall determine. [Prosecutory counsel of the Law Bureau] The
5 Office of Trial Staff AND THE CHIEF COUNSEL shall be deemed to <—
6 have automatic standing as a party to such proceeding and may
7 file exceptions to any decision of the administrative law judge
8 under this subsection.

9 § 333. Prehearing procedures.

10 * * *

11 (d) Interrogatories.--Any party to a proceeding may serve
12 written interrogatories upon any other party for purposes of
13 discovering relevant, unprivileged information. A party served
14 with interrogatories may, before the time prescribed either by
15 commission rule or otherwise for answering the interrogatories,
16 apply to the presiding officer for the holding of a prehearing
17 conference for the mutual exchange of evidence exhibits and
18 other information. Each interrogatory which requests information
19 not previously supplied at a prehearing conference or hearing
20 shall be answered separately and fully in writing under oath,
21 unless it is objected to, in which event the reasons for the
22 objections shall be stated in lieu of an answer. The party upon
23 whom the interrogatories have been served shall serve a copy of
24 the answers and objections within a reasonable time, unless
25 otherwise specified, upon the party submitting the
26 interrogatories. The party submitting the interrogatories may
27 petition the presiding officer for an order compelling an answer
28 to an interrogatory or interrogatories to which there has been
29 an objection or other failure to answer. The commission shall
30 designate an appropriate official, other than the Director of

1 Trial Staff or any other employee of the Office of Trial Staff
2 or of any bureau under the supervision of the Director of Trial <—
3 Staff, on whom other parties to the proceeding may serve written
4 interrogatories directed to the commission. That official shall
5 arrange for agency personnel with knowledge of the facts to
6 answer and sign the interrogatories on behalf of the commission.
7 [The attorney or employee appearing on behalf of the commission
8 in the proceeding shall have the authority to make and sign
9 objections to interrogatories served upon the commission.]
10 Interrogatories directed to the commission shall be allowed only
11 upon an order of the commission based upon a specific finding
12 that the interrogating party is seeking significant,
13 unprivileged information not discoverable by alternative means.
14 When participating in a commission proceeding, the Office of
15 Trial Staff shall be subject to the same rules of discovery
16 applicable to any other party to the case.

17 * * *

18 ~~§ 503. Enforcement proceedings by [Chief Counsel] Office of~~ <—
19 ~~Special Assistants.~~

20 ~~[The Chief Counsel,] The Office of Special Assistants, in~~
21 ~~addition to the exercise of the powers and duties now conferred~~
22 ~~upon [him] it by law, shall also, upon request of the commission~~
23 ~~proceed in the name of the Commonwealth, by mandamus,~~
24 ~~injunction, or quo warranto, or other appropriate remedy at law~~
25 ~~or[,] in equity, to restrain violations of the provisions of~~
26 ~~this part, or of the regulations or orders of the commission, or~~
27 ~~the judgments, orders, or decrees of any court, or to enforce~~
28 ~~obedience thereto.~~

29 § 510. Assessment for regulatory expenses upon public
30 utilities.

1 (a) Determination of assessment.--Before November 1 of each
2 year, the commission shall estimate its total expenditures in
3 the administration of this part for the fiscal year beginning
4 July of the following year, which estimate shall not exceed
5 three-tenths of 1% of the total gross intrastate operating
6 revenues of the public utilities under its jurisdiction for the
7 preceding calendar year. Such estimate shall be submitted to the
8 Governor in accordance with section 610 of the act of April 9,
9 1929 (P.L.177, No.175), known as "The Administrative Code of
10 1929." At the same time the commission submits its estimate to
11 the Governor, the commission shall also submit that estimate to
12 the General Assembly. The commission or its designated
13 representatives shall be afforded an opportunity to appear
14 before the Governor and the Senate and House Appropriations
15 Committees regarding their estimates. The commission shall
16 subtract from the final estimate:

17 (1) The estimated fees to be collected pursuant to
18 section 317 (relating to fees for services rendered by
19 commission) during such fiscal year.

20 (2) The estimated balance of the appropriation,
21 specified in section 511 (relating to disposition,
22 appropriation and disbursement of assessments and fees), to
23 be carried over into such fiscal year from the preceding one.
24 The remainder so determined, herein called the total assessment,
25 shall be allocated to, and paid by, such public utilities in the
26 manner prescribed. If the General Assembly fails to approve the
27 commission's budget for the purposes of this part, by March [15]
28 30, the commission shall assess public utilities on the basis of
29 the last approved operating budget. At such time as the General
30 Assembly approves the proposed budget the commission shall have

1 the authority to make an adjustment in the assessments to
2 reflect the approved budget. If, subsequent to the approval of
3 the budget, the commission determines that a supplemental budget
4 may be needed, the commission shall submit its request for that
5 supplemental budget simultaneously to the Governor and the
6 chairmen of the House and Senate Appropriations Committees.

7 * * *

8 § 515. Construction cost of electric generating units.

9 (a) Submission of estimate.--No later than 30 days after
10 construction of an electric generating unit is begun, either in
11 this Commonwealth or in some other state, any public utility
12 operating in this Commonwealth and owning any share in that unit
13 shall submit to the commission an estimate of the cost of
14 constructing that unit. If the public utility acquires ownership
15 of any share in an electric generating unit which is under
16 construction on the date of acquisition, the public utility
17 shall, within 30 days of the date of acquisition, submit an
18 estimate of the cost of constructing that unit which was
19 formulated no later than 30 days from the beginning of
20 construction.

21 (b) Onsite auditors.--From and after the beginning of
22 construction of an electric generating unit, the commission, or
23 its designee, shall be present at the construction site on an
24 ongoing basis for the purpose of obtaining oral or documentary
25 evidence relevant to determining the necessity and propriety of
26 any construction cost. The commission shall assess the utility
27 or utilities operating in this Commonwealth and owning any share
28 in that generating unit for the expense of having auditors
29 present on the construction site as required by this subsection.

30 (c) Access to evidence.--From and after the beginning of

1 construction of an electric generating unit, the commission, or
2 its designee, and the Consumer Advocate, or his designee, shall
3 have reasonable access to the construction site and to any oral
4 or documentary evidence relevant to determining the necessity
5 and propriety of any construction cost. If a public utility
6 objects to any request by the commission or the Consumer
7 Advocate, or persons designated by the commission or the
8 Consumer Advocate, for access to the construction site or to any
9 oral or documentary evidence, the objection shall be decided in
10 the same manner as an on-the-record proceeding pursuant to
11 Chapter 3 (relating to public utility commission). The affected
12 public utility shall have the burden of proof in sustaining any
13 such objection.

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

21 § 516. Audits of certain utilities.

22 (a) General rule.--The commission shall provide for audits
23 of any electric, gas, telephone or water utility whose plant in
24 service is valued at not less than \$10,000,000. The audits shall
25 include an examination of management effectiveness and operating
26 efficiency. The commission shall establish procedures for audits
27 of the operations of utilities as provided in this section.
28 Audits shall be conducted at least once every five years unless
29 the commission finds that a specific audit is unnecessary, but
30 in no event shall audits be conducted less than once every eight

1 years. A summary of the audits mandated by this subsection shall
2 be released to the public and a complete copy of the audits
3 shall be provided to the Office of Trial Staff and the Office of
4 Consumer Advocate.

5 (b) Management efficiency investigator.--In addition to the
6 audits mandated by subsection (a), the commission shall appoint
7 a management efficiency investigator who shall be responsible
8 for examining the management effectiveness and operating
9 efficiency on an ongoing basis of all electric utilities with
10 total annual intrastate operating revenues of at least
11 \$40,000,000 and of all gas utilities with total annual
12 intrastate operating revenues of at least \$40,000,000, and such
13 other utilities as the commission may, from time to time,
14 direct. The management efficiency investigator shall designate
15 one member of his staff, or an independent contractor selected
16 by the commission, to be responsible for each utility subject to
17 this subsection. Such staff member or independent contractor
18 shall be present on an ongoing basis at the facilities of the
19 utility for which he is responsible. The management efficiency
20 investigator shall provide an annual report to the commission,
21 the Office of Trial Staff and the Office of Consumer Advocate
22 detailing the findings of its investigations. All costs incurred
23 by the management efficiency investigator, his staff and
24 independent contractors in carrying out the provisions of this
25 subsection shall be assessed against the utility in connection
26 with which those costs are incurred.

27 [(b)] (c) Use of independent auditing firms.--The commission
28 may require an audit to be performed by an independent
29 consulting firm. When the commission orders an audit to be
30 performed by an independent consulting firm, the commission,

1 after consultation with the audited utility, shall select the
2 audit firm and require the audited utility to enter into a
3 contract with the audit firm providing for payment of the audit
4 firm by the utility. That contract shall require the audit firm
5 to work under the direction of the commission.

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

9 § 520. Expense reduction program.

10 (a) Target.--The commission shall establish an expense
11 reduction program for calendar year 1986 for all electric and
12 gas utilities with total annual intrastate operating revenues of
13 at least \$40,000,000 and for all telephone utilities with total
14 annual intrastate operating revenues of at least \$9,000,000.
15 Utilities regulated by the commission pursuant to this
16 subsection shall make every reasonable effort to achieve a level
17 of expenses, other than expenses associated with depreciation,
18 fuel, collective bargaining agreements, and other categories of
19 expense as determined by the commission, for the calendar year
20 1986 which represents at least a 5% reduction in the actual
21 level of such expenses, other than expenses associated with
22 depreciation, fuel, collective bargaining agreements, and other
23 categories of expense as determined by the commission, for the
24 calendar year 1985. The commission shall periodically review the
25 expense reducing efforts undertaken by utilities pursuant to
26 this subsection and shall take appropriate action in response to
27 these efforts.

28 (b) Ongoing effort.--The commission may direct or permit any
29 utility to take any lawful action not inconsistent with this
30 title for the purpose of encouraging economies, efficiencies, or

improvements which benefit the utility and its ratepayers. The commission may consider, in addition to all other relevant factors, the efficiency, effectiveness, and adequacy of service of each utility when determining just and reasonable rates pursuant to this title.

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

Section 5. All rules and regulations promulgated by the Pennsylvania Public Utility Commission shall remain in full force and effect until amended or repealed by the commission, provided that the commission shall immediately initiate action to repeal or amend any rule or regulation which is in conflict with the provisions of this act.

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

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

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