

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 433 Session of
1993

INTRODUCED BY STAIRS, SEMMEL, BATTISTO, TRELLO, KASUNIC AND
CIVERA, MARCH 15, 1993

REFERRED TO COMMITTEE ON CONSERVATION, MARCH 15, 1993

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," further providing for
21 energy development authority and emergency powers; and
22 providing for the designation of an agency to coordinate the
23 monitoring of supplies of energy resources.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Sections 2801-C and 2802-C of the act of April 9,
27 1929 (P.L.177, No.175), known as The Administrative Code of
28 1929, added December 14, 1982 (P.L.1213, No.280), are amended to

1 read:

2 Section 2801-C. Definitions.--The following words and
3 phrases when used in this article shall have the meanings given
4 to them in this section unless the context clearly indicates
5 otherwise:

6 "Authority" means the Energy Development Authority.

7 "Board" means the board of directors of the authority.

8 "Bond" or "Bonds" means notes, bonds, refunding or renewal
9 notes and bonds and other evidence of indebtedness or
10 obligations which the authority is authorized to issue.

11 "Cost" means the expense of construction and the expense of
12 acquisition of all structures, lands and other property rights
13 and interests in land necessary to a project. The term also
14 includes the expense of demolishing, removing or relocating any
15 buildings or structures on lands acquired or to be acquired,
16 including the expense of acquiring any lands to which such
17 buildings or structures may be moved or relocated; sewage
18 treatment, waste treatment and pollution control facilities;
19 railroad sidings, spurs or branch lines; all labor, materials,
20 machinery and equipment, fixtures; financing charges; interest
21 on all bonds prior to and during construction, and for a period
22 of one year thereafter; engineering, financial and legal
23 services; plans, specifications, studies, surveys necessary or
24 incidental to determining the feasibility or practicability of
25 constructing a project; administrative expenses; reserves for
26 interest and for extension, enlargements, additions and
27 improvements; and such other expenses as may be necessary or
28 incidental to the construction of the project and the placing of
29 the same in operation.

30 "Energy or fuel supply emergency" means a state of emergency,

1 declared by proclamation of the Governor within twenty-four
2 hours after the occurrence of an energy resource shortage or
3 supply or distribution problem resulting because of an absence
4 of availability or a critically reduced supply of any energy
5 source, which cannot be satisfactorily alleviated or resolved by
6 or under the authority of State regulatory authorities having
7 jurisdiction over such energy resources, thereby jeopardizing
8 the health, safety, welfare and economic well-being of the
9 inhabitants of this Commonwealth.

10 "Energy resource" means any force or material which yields or
11 has the potential to yield energy, including, but not limited
12 to, electrical, fossil and nuclear sources.

13 "Person" means a natural person, corporation, partnership,
14 association, and any municipality of this Commonwealth and any
15 public corporation, authority or body whatsoever.

16 "Petroleum product" includes motor gasoline, kerosene,
17 distillates (including Number 2 fuel oil) and diesel fuel.

18 "Project" means an activity, entirely or largely conducted in
19 Pennsylvania, which cannot be effectively funded using privately
20 available resources, relating to:

21 (1) basic and applied research concerning energy use,
22 renewable energy resources and energy extraction, transmission,
23 storage or conversion;

24 (2) limited scale demonstration of innovative or
25 commercially unproven technology to promote the production, use
26 or conservation of energy; or

27 (3) activities to promote or remove obstacles to the
28 utilization and transportation of Pennsylvania energy resources,
29 including but not limited to limited scale synthetic fuel
30 facilities and the conversion or technological improvement of

1 industrial, commercial or agricultural systems to utilize
2 Pennsylvania coal or renewable energy resources: Provided, That
3 no such facility unreasonably interferes with private waste
4 recycling industries.

5 "Renewable energy source" means any method, process or
6 substance whose supply is rejuvenated through natural processes
7 and, subject to those material processes, remains relatively
8 constant, including, but not limited to, biomass conversion,
9 geothermal energy, solar and wind energy and hydroelectric
10 power, and excluding those sources of energy used in the fission
11 and fusion processes.

12 Section 2802-C. [Emergency Petroleum Product Shortages.--(a)
13 The Governor may, by executive order, proclaim a state of
14 emergency based upon a finding that there impends or exists a
15 substantial shortage of petroleum products available for use in
16 Pennsylvania which poses a serious threat to health, safety or
17 welfare of the public.] Energy or Fuel Supply Emergency.--(a)
18 In the event that the threat or danger of an energy or fuel
19 supply emergency is imminent, the Governor may, after
20 consultation with the Lieutenant Governor, the Pennsylvania
21 Energy Office, the Pennsylvania Public Utility Commission and
22 the Department of Environmental Resources, declare a state of
23 energy or fuel supply emergency. A state of energy or fuel
24 supply emergency shall remain in effect for the maximum period
25 of ninety days [and may be extended], but may be terminated or
26 extended by the Governor unless the termination or extension is
27 disapproved by concurrent resolution adopted by both Houses of
28 the General Assembly. A state of emergency may be declared for
29 all or any portion of the Commonwealth.

30 [(b) Upon proclamation of a state of emergency, the Governor

1 shall designate a State agency to conduct emergency allocation
2 measures during the period of the declared emergency. Emergency
3 allocation measures may consist of:

4 (1) the administration of any emergency allocation powers
5 delegated to the State by the President or any Federal agency;

6 (2) the implementation of a set aside program, for not more
7 than one percent (1%) of the petroleum products available for
8 use in Pennsylvania, to alleviate hardship or meet emergency
9 needs. A set aside program shall be established in conformity
10 with any Federal law, regulations or executive orders governing
11 petroleum allocation, and shall apply only to petroleum products
12 found to be in a substantial shortage;

13 (3) measures to reduce the demand for or consumption of
14 gasoline; and

15 (4) other measures identified by the Governor in his
16 executive order proclaiming a state of emergency as necessary to
17 protect the public health, safety and welfare.

18 (c) The agency designated by the Governor to conduct
19 emergency measures may, during the period of the emergency,
20 adopt rules and regulations pursuant to section 204 of the act
21 of July 31, 1968 (P.L.769, No.240), referred to as the
22 Commonwealth Documents Law. Any regulation adopted during a
23 state of emergency shall be automatically rescinded upon the
24 expiration of the emergency.

25 (d) The Governor may designate a state agency to monitor
26 supplies of available for use in the Commonwealth to determine
27 whether there exists, or is likely to exist, an emergency
28 shortage.

29 (1) In order to monitor supplies of petroleum products, the
30 agency may require recordkeeping and periodic reports from

1 petroleum suppliers. These reporting and recordkeeping
2 requirements shall, to the maximum extent possible, employ
3 Federally mandated reports and records, avoid any unnecessary
4 duplicative reporting or recordkeeping, and minimize paperwork,
5 recordkeeping and reporting requirements.

6 (2) Reports filed and records maintained pursuant to this
7 subsection shall be deemed confidential.

8 (3) When a petroleum supplier or a company providing
9 information to a petroleum supplier claims that the information
10 requested by the agency is confidential, proprietary, market or
11 trade secret information, or when the information is deemed
12 confidential pursuant to this section, the agency shall not
13 disclose such information publicly or to any other governmental
14 agency unless the information is aggregated as part of a
15 statistical report in which the data and individual companies
16 supplying the data cannot be identified.

17 (4) No employe or appointee of the agency or other person
18 may release information from a petroleum product company that
19 would enable data provided by or relating to individual
20 customers of the company to be identified as relating to or
21 coming from the individual customer. Any person disclosing such
22 information in violation of this section shall be guilty of a
23 misdemeanor, shall be subject to disciplinary action, including
24 reprimand, suspension or termination, and may be ordered to make
25 restitution to any injured or aggrieved party for losses or
26 damages shown.

27 (5) In order to obtain information required pursuant to this
28 subsection, the agency designated by the Governor to monitor
29 supplies of may receive or share information from any other
30 Commonwealth, Federal or local agency: Provided, That the agency

shall provide the same confidentiality to information recovered as is provided by the supplying agency.] (b) Upon proclamation of a state of emergency, the Governor shall have the power:

(1) To designate a State agency to conduct emergency petroleum allocation measures which may consist of any of the following:

(i) The administration of any emergency petroleum allocation powers delegated to the Commonwealth by the President or any Federal agency.

(ii) The implementation of a set-aside program, for not more than one percent (1%) of the petroleum products available for use in Pennsylvania, to alleviate hardship or meet emergency needs. A set-aside program shall be established in conformity with any Federal law, regulations or executive orders governing petroleum allocation and shall apply only to petroleum products found to be in a substantial shortage.

(iii) Measures to reduce the demand for or consumption of petroleum products.

(iv) The adoption of rules and regulations in the manner provided by law. Any regulation adopted during a state of emergency shall be automatically rescinded upon the expiration of the emergency.

(v) Any other measures deemed necessary to protect the public health, safety and welfare.

(2) To encourage increased use of renewable energy sources.

(3) To suspend or modify existing State standards and requirements affecting or affected by the use of energy resources, including those related to air quality control.

(4) To order specific restrictions on the use and sale of energy resources, including, but not limited to:

1 (i) Restrictions on the interior temperature of public,
2 commercial, industrial and school buildings.

3 (ii) Restrictions on the hours and days during which public,
4 commercial, industrial and school buildings may be open.

5 (iii) Restrictions on lighting levels in public, commercial,
6 industrial and school buildings.

7 (iv) Restrictions on the use of display and decorative
8 lighting.

9 (v) Restrictions on the use of privately owned vehicles or a
10 reduction in speed limits.

11 (vi) Restrictions on the use of public transportation,
12 including directions to close a public transportation facility.

13 (vii) Restrictions on the use of pupil transportation
14 programs operated by public schools.

15 (viii) Reduction in the number of elevators operating in
16 office buildings during nonpeak hours.

17 (ix) Curtailment of nighttime sports, entertainment and
18 recreational activities.

19 (x) Closing of public museums, art galleries and historic
20 buildings.

21 (xi) Requiring Sunday closings of retail establishments,
22 except for services essential to the public.

23 (xii) Requiring closing of all retail establishments during
24 specified hours of the day, except for services essential to the
25 public.

26 (c) Any restrictions ordered by the Governor shall be
27 automatically rescinded upon the expiration of the emergency.

28 (d) Any actions taken by the Governor pursuant to this
29 section, insofar as they may apply to a regulated utility, shall
30 not conflict with or supersede regulations or orders of the

Pennsylvania Public Utility Commission or curtailment procedures on file with the Pennsylvania Public Utility Commission, nor shall any restrictions on the use of fuel for the generation of energy or on the transportation of fuel for the generation of energy be imposed prior to consultation with the Pennsylvania Public Utility Commission.

(e) An executive order, proclamation or directive issued under this section shall be disseminated promptly by means calculated to bring its contents to the attention of the citizens of this Commonwealth and published in accordance with the law. The Governor shall notify the General Assembly promptly of an executive order, proclamation or directive issued under this act.

(f) Any person who knowingly violates any order, proclamation or directive issued by the Governor under this section commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than five hundred dollars (\$500). Each day of a continuing violation shall be a separate offense.

(g) Nothing in this act shall limit the authority of the Pennsylvania Public Utility Commission to regulate public utility service as provided in Title 66 of the Pennsylvania Consolidated Statutes (relating to public utilities).

Section 2. The act is amended by adding a section to read:

Section 2802.1-C. Coordination of Monitoring of Supplies of Energy Resources.--(a) Within sixty (60) days of the effective date of this section, the Governor shall designate a State agency to coordinate the monitoring of supplies of energy resources available for use in this Commonwealth to determine whether there exists, or is likely to exist, an emergency

1 shortage.

2 (b) In order to coordinate the monitoring of energy
3 resources, the agency may require recordkeeping and periodic
4 reports from energy resource suppliers. These reporting and
5 recordkeeping requirements shall, to the maximum extent
6 possible, employ mandated reports and records of other Federal,
7 State or local agencies, avoid any unnecessary duplicative
8 reporting or recordkeeping, and minimize paperwork,
9 recordkeeping and reporting requirements.

10 (c) Any agency that provides or receives reports or records
11 under this act, any other act, any rule or regulation or any
12 executive order or similar directive for the purpose of
13 monitoring or coordinating the monitoring of supplies of energy
14 resources shall keep such records or reports confidential.

15 (d) When an energy resource supplier or a company providing
16 information to an energy resource supplier claims that the
17 information requested by the agency is confidential,
18 proprietary, market or trade secret information, or when the
19 information is deemed confidential pursuant to this section, the
20 agency shall not disclose such information publicly or to any
21 other governmental agency unless the information is aggregated
22 as part of a statistical report in which the data and individual
23 companies supplying the data cannot be identified.

24 (e) No employe or appointee of the agency or other person
25 may release information from an energy resource company that
26 would enable data provided by or relating to individual
27 customers of the energy resource company to be identified as
28 relating to or coming from the individual customer. Any person
29 disclosing such information in violation of this section shall
30 be guilty of a misdemeanor of the third degree, shall be subject

1 to disciplinary action, including reprimand, suspension or
2 termination, and may be ordered to make restitution to any
3 injured or aggrieved party for losses or damages shown.

4 (f) In order to obtain information required pursuant to this
5 section, the agency designated by the Governor to coordinate the
6 monitoring of supplies of energy resources may receive or share
7 information from any other Federal, State or local agency:
8 Provided, however, That the agency shall provide the same
9 confidentiality to information received as is provided by the
10 supplying agency.

11 Section 3. This act shall take effect immediately.