

1 ~~State or municipal authority or similar organization created by~~
2 ~~or pursuant to a statute which declares in substance that such~~
3 ~~organization performs or has for its purpose the performance of~~
4 ~~an essential governmental function.~~

5 ~~"Dangerous to human life or property."—A violent act or an~~
6 ~~act which is intended to or likely to cause death, serious~~
7 ~~bodily injury or mass destruction.~~

8 ~~"Mass destruction."—An act which is intended to or likely to~~
9 ~~destroy or cause serious damage to transportation related~~
10 ~~infrastructure or facilities, energy related infrastructure or~~
11 ~~facilities, public or private buildings, places of public~~
12 ~~accommodation or public works under circumstances evincing~~
13 ~~depraved indifference to human life or property.~~

14 ~~"Public utility."—An entity owned by a person, municipality~~
15 ~~or municipal authority which provides, distributes, purifies,~~
16 ~~generates or refines water, electricity, natural gas or home~~
17 ~~heating oil or which removes, purifies or stores wastewater or~~
18 ~~storm water. The term shall include, but not be limited to,~~
19 ~~electric power generation facility.~~

20 ~~"Record."—A document maintained by an agency in any form.~~
21 ~~The term includes all of the following:~~

22 ~~(1) A vulnerability assessment which is submitted to the~~
23 ~~Environmental Protection Agency or any other Federal, State~~
24 ~~or local agency.~~

25 ~~(2) An emergency response plan which is submitted to the~~
26 ~~Department of Environmental Protection, the Pennsylvania~~
27 ~~Public Utility Commission or any other Federal, State or~~
28 ~~local agency.~~

29 ~~(3) A plan, map or other drawing which shows the~~
30 ~~location of community drinking water wells and surface water~~

1 intakes.

2 ~~(4) A security plan, security procedure or risk~~
3 ~~assessment prepared specifically for the purpose of~~
4 ~~preventing or for protection against sabotage or criminal or~~
5 ~~terrorist acts and which depend, whether in whole or in part,~~
6 ~~upon a lack of general public knowledge of its details for~~
7 ~~their effectiveness.~~

8 ~~(5) A document, including financial statements, which~~
9 ~~relates to the existence, nature, location or function of a~~
10 ~~security device designed to protect against sabotage or~~
11 ~~criminal or terrorist acts and which devices depend, whether~~
12 ~~in whole or in part, upon a lack of general public knowledge~~
13 ~~of its details for their effectiveness.~~

14 ~~(6) A document, including any blueprint, map, schematic~~
15 ~~drawing, photograph or other material, which relates to the~~
16 ~~location or structural design of critical systems such as~~
17 ~~structural support, communications, electrical systems,~~
18 ~~ventilation, distribution, wastewater treatment or storage~~
19 ~~which if made public could compromise security against~~
20 ~~sabotage or criminal or terrorist acts.~~

21 ~~"Terrorist act." Any act or acts constituting a violent~~
22 ~~offense intended to:~~

23 ~~(1) intimidate or coerce a civilian population;~~

24 ~~(2) influence the policy of a government by intimidation~~
25 ~~or coercion; or~~

26 ~~(3) affect the conduct of a government.~~

27 ~~"Violent offense." An offense under 18 Pa.C.S. Part II~~
28 ~~(relating to definition of specific offenses), including an~~
29 ~~attempt, conspiracy or solicitation to commit any such offense,~~
30 ~~which is punishable by imprisonment of more than one year and~~

1 ~~involves an act dangerous to human life or property.~~

2 ~~Section 3. Prohibition.~~

3 ~~An agency shall not release, publish or otherwise disclose a~~
4 ~~record which would do any of the following:~~

5 ~~(1) Endanger public safety or property.~~

6 ~~(2) Endanger a person's security or property.~~

7 ~~(3) Disclose or compromise the protection of a public~~
8 ~~utility.~~

9 ~~Section 4. Penalties.~~

10 ~~A public official or public employee who violates this act~~
11 ~~with the intent and purpose of violating this act commits a~~
12 ~~misdemeanor of the second degree subject to prosecution by the~~
13 ~~Attorney General and shall, upon conviction, be sentenced to pay~~
14 ~~a fine of not more than \$5,000 plus costs of prosecution and to~~
15 ~~a term of imprisonment not to exceed two years.~~

16 ~~Section 5. Repeal.~~

17 ~~All acts and parts of acts are repealed insofar as they are~~
18 ~~inconsistent with this act.~~

19 ~~Section 6. Effective date.~~

20 ~~This act shall take effect in 60 days.~~

21 SECTION 1. SHORT TITLE.

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22 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE PUBLIC
23 UTILITY CONFIDENTIAL SECURITY INFORMATION DISCLOSURE PROTECTION
24 ACT.

25 SECTION 2. DEFINITIONS.

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

29 "AGENCY." ANY HOUSE, OFFICE, DEPARTMENT, BOARD OR COMMISSION
30 OF THE EXECUTIVE DEPARTMENTS OF THE COMMONWEALTH, ANY POLITICAL

1 SUBDIVISION OF THE COMMONWEALTH, THE PENNSYLVANIA TURNPIKE
2 COMMISSION, THE STATE SYSTEM OF HIGHER EDUCATION OR ANY STATE OR
3 MUNICIPAL AUTHORITY OR SIMILAR ORGANIZATION CREATED BY OR
4 PURSUANT TO A STATUTE WHICH DECLARES IN SUBSTANCE THAT SUCH
5 ORGANIZATION PERFORMS OR HAS FOR ITS PURPOSE THE PERFORMANCE OF
6 AN ESSENTIAL GOVERNMENTAL FUNCTION.

7 "CONFIDENTIAL SECURITY INFORMATION." A RECORD OR PORTIONS
8 THEREOF MAINTAINED BY AN AGENCY IN ANY FORM. THE TERM SHALL
9 INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

10 (1) A VULNERABILITY ASSESSMENT WHICH IS SUBMITTED TO THE
11 ENVIRONMENTAL PROTECTION AGENCY OR ANY OTHER FEDERAL, STATE
12 OR LOCAL AGENCY.

13 (2) PORTIONS OF EMERGENCY RESPONSE PLANS THAT ARE
14 SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, THE
15 PENNSYLVANIA PUBLIC UTILITY COMMISSION OR ANY OTHER FEDERAL,
16 STATE OR LOCAL AGENCY DEALING WITH RESPONSE PROCEDURES OR
17 PLANS PREPARED TO PREVENT OR RESPOND TO EMERGENCY SITUATIONS,
18 THE DISCLOSURE OF WHICH WOULD REVEAL VULNERABILITY
19 ASSESSMENTS, SPECIFIC TACTICS, SPECIFIC EMERGENCY PROCEDURES
20 OR SPECIFIC SECURITY PROCEDURES. NOTHING IN THIS TERM SHALL
21 BE CONSTRUED TO RELIEVE A PUBLIC UTILITY FROM ITS PUBLIC
22 NOTIFICATION OBLIGATIONS FOR IMMINENT THREAT VIOLATIONS AND
23 SITUATIONS IN ACCORDANCE WITH OTHER APPLICABLE FEDERAL AND
24 STATE LAWS.

25 (3) A PLAN, MAP OR OTHER DRAWING OR DATA WHICH SHOWS THE
26 LOCATION OR REVEALS LOCATION DATA ON COMMUNITY DRINKING WATER
27 WELLS AND SURFACE WATER INTAKES.

28 (4) A SECURITY PLAN, SECURITY PROCEDURE OR RISK
29 ASSESSMENT PREPARED SPECIFICALLY FOR THE PURPOSE OF
30 PREVENTING OR FOR PROTECTION AGAINST SABOTAGE OR CRIMINAL OR

1 TERRORIST ACTS.

2 (5) SPECIFIC INFORMATION, INCLUDING PORTIONS OF
3 FINANCIAL STATEMENTS, ABOUT SECURITY DEVICES OR PERSONNEL,
4 DESIGNED TO PROTECT AGAINST SABOTAGE OR CRIMINAL OR TERRORIST
5 ACTS.

6 "DANGEROUS TO HUMAN LIFE OR PROPERTY." A VIOLENT ACT OR AN
7 ACT WHICH IS INTENDED TO OR LIKELY TO CAUSE DEATH, SERIOUS
8 BODILY INJURY OR MASS DESTRUCTION.

9 "FACILITIES." ALL THE PLANT AND EQUIPMENT OF A PUBLIC
10 UTILITY, INCLUDING ALL TANGIBLE AND INTANGIBLE REAL AND PERSONAL
11 PROPERTY WITHOUT LIMITATION, AND ANY AND ALL MEANS AND
12 INSTRUMENTALITIES IN ANY MANNER OWNED, OPERATED, LEASED,
13 LICENSED, USED, CONTROLLED, FURNISHED OR SUPPLIED FOR, BY OR IN
14 CONNECTION WITH THE BUSINESS OF ANY PUBLIC UTILITY. THE TERM
15 SHALL ALSO INCLUDE ELECTRIC POWER GENERATION.

16 "MASS DESTRUCTION." AN ACT WHICH IS INTENDED TO OR LIKELY TO
17 DESTROY OR CAUSE SERIOUS DAMAGE TO FACILITIES, PUBLIC OR PRIVATE
18 BUILDINGS, PLACES OF PUBLIC ACCOMMODATION OR PUBLIC WORKS UNDER
19 CIRCUMSTANCES EVINCING DEPRAVED INDIFFERENCE TO HUMAN LIFE OR
20 PROPERTY.

21 "PUBLIC UTILITY." ANY PERSON, CORPORATION, MUNICIPALITY OR
22 MUNICIPAL AUTHORITY NOW OR HEREAFTER OWNING OR OPERATING IN THIS
23 COMMONWEALTH EQUIPMENT OR FACILITIES FOR:

24 (I) PRODUCING, GENERATING, TRANSMITTING,
25 DISTRIBUTING OR FURNISHING NATURAL OR ARTIFICIAL GAS,
26 ELECTRICITY OR STEAM FOR THE PRODUCTION OF LIGHT, HEAT OR
27 POWER TO THE PUBLIC FOR COMPENSATION. THE TERM SHALL ALSO
28 INCLUDE ELECTRIC POWER GENERATION.

29 (II) DIVERTING, DEVELOPING, PUMPING, IMPOUNDING,
30 DISTRIBUTING OR FURNISHING WATER TO OR FOR THE PUBLIC FOR

1 COMPENSATION.

2 (III) USING A CANAL, TURNPIKE, TUNNEL, BRIDGE, WHARF
3 AND THE LIKE FOR THE PUBLIC FOR COMPENSATION.

4 (IV) TRANSPORTING OR CONVEYING NATURAL OR ARTIFICIAL
5 GAS, CRUDE OIL, GASOLINE OR PETROLEUM PRODUCTS, MATERIALS
6 FOR REFRIGERATION OR OXYGEN OR NITROGEN OR OTHER FLUID
7 SUBSTANCE, BY PIPELINE OR CONDUIT, FOR THE PUBLIC FOR
8 COMPENSATION.

9 (V) CONVEYING OR TRANSMITTING MESSAGES OR
10 COMMUNICATIONS BY TELEPHONE OR TELEGRAPH OR DOMESTIC
11 PUBLIC LAND MOBILE RADIO SERVICE, INCLUDING, BUT NOT
12 LIMITED TO, POINT-TO-POINT MICROWAVE RADIO SERVICE FOR
13 THE PUBLIC FOR COMPENSATION.

14 (VI) COLLECTING, TREATING OR DISPOSING SEWAGE FOR
15 THE PUBLIC FOR COMPENSATION.

16 (VII) TRANSPORTING PASSENGERS OR PROPERTY AS A
17 COMMON CARRIER.

18 "TERRORIST ACT." ANY ACT OR ACTS CONSTITUTING A VIOLENT
19 OFFENSE INTENDED TO:

20 (I) INTIMIDATE OR COERCE A CIVILIAN POPULATION;

21 (II) INFLUENCE THE POLICY OF A GOVERNMENT BY
22 INTIMIDATION OR COERCION; OR

23 (III) AFFECT THE CONDUCT OF A GOVERNMENT.

24 "VIOLENT OFFENSE." AN OFFENSE UNDER 18 PA.C.S. PT. II
25 (RELATING TO DEFINITION OF SPECIFIC OFFENSES), INCLUDING AN
26 ATTEMPT, CONSPIRACY OR SOLICITATION TO COMMIT ANY SUCH OFFENSE,
27 WHICH IS PUNISHABLE BY IMPRISONMENT OF MORE THAN ONE YEAR AND
28 INVOLVES AN ACT DANGEROUS TO HUMAN LIFE OR PROPERTY.

29 SECTION 3. PROCEDURES FOR SUBMITTING, CHALLENGING AND
30 PROTECTING CONFIDENTIAL SECURITY INFORMATION.

1 (A) GENERAL RULE.--THE PUBLIC UTILITY IS RESPONSIBLE FOR
2 DETERMINING WHETHER A RECORD OR PORTIONS THEREOF SHOULD BE
3 DEEMED CONFIDENTIAL SECURITY INFORMATION. WHEN A PUBLIC UTILITY
4 IDENTIFIES CONFIDENTIAL SECURITY INFORMATION, IT MUST CLEARLY
5 STATE IN ITS TRANSMITTAL LETTER, UPON SUBMISSION TO AN AGENCY,
6 THAT THE FILING CONTAINS CONFIDENTIAL SECURITY INFORMATION AND
7 EXPLAIN WHY THE INFORMATION SHOULD BE TREATED AS SUCH.

8 (B) SUBMISSION OF CONFIDENTIAL SECURITY INFORMATION.--AN
9 AGENCY SHALL DEVELOP FILING PROTOCOLS AND PROCEDURES FOR PUBLIC
10 UTILITIES TO FOLLOW WHEN SUBMITTING RECORDS, INCLUDING PROTOCOLS
11 AND PROCEDURES FOR FILING CONFIDENTIAL SECURITY INFORMATION.
12 SUCH PROTOCOLS AND PROCEDURES SHALL INSTRUCT PUBLIC UTILITIES
13 WHO SUBMIT RECORDS TO AN AGENCY TO SEPARATE THEIR INFORMATION
14 INTO AT LEAST TWO CATEGORIES:

15 (1) PUBLIC.--RECORDS OR PORTIONS THEREOF SUBJECT TO THE
16 PROVISIONS OF THE ACT OF JUNE 21, 1957 (P.L.390, NO.212),
17 REFERRED TO AS THE RIGHT-TO-KNOW LAW.

18 (2) CONFIDENTIAL.--RECORDS OR PORTIONS THEREOF REQUESTED
19 TO BE TREATED AS CONFIDENTIAL SECURITY INFORMATION AND NOT
20 SUBJECT TO THE RIGHT-TO-KNOW LAW.

21 (C) CHALLENGES TO THE DESIGNATION OF CONFIDENTIAL SECURITY
22 INFORMATION.--CHALLENGES TO A PUBLIC UTILITY'S DESIGNATION OR
23 REQUEST TO EXAMINE CONFIDENTIAL SECURITY INFORMATION BY A MEMBER
24 OF THE PUBLIC SHALL BE MADE IN WRITING TO THE AGENCY IN WHICH
25 THE RECORD OR PORTIONS THEREOF WERE ORIGINALLY FILED. THE AGENCY
26 SHALL DEVELOP PROTOCOLS AND PROCEDURES TO ADDRESS CHALLENGES TO
27 THE DESIGNATIONS OR REQUESTS TO EXAMINE CONFIDENTIAL SECURITY
28 INFORMATION. SUCH PROTOCOLS AND PROCEDURES SHALL INCLUDE:

29 (1) WRITTEN NOTIFICATION TO THE PUBLIC UTILITY BY THE
30 AGENCY OF THE REQUEST TO EXAMINE CONFIDENTIAL SECURITY

1 INFORMATION OR CHALLENGE OF ITS DESIGNATION.

2 (2) AN OPPORTUNITY FOR AGENCY REVIEW OF THE PUBLIC
3 UTILITY'S DESIGNATION.

4 (3) DURING THE REVIEW OR ANY APPEAL OF THE AGENCY'S
5 DECISION, THE AGENCY SHALL CONTINUE TO HONOR THE CONFIDENTIAL
6 SECURITY INFORMATION DESIGNATION BY THE PUBLIC UTILITY.

7 (4) AGENCY REVIEW OF THE PUBLIC UTILITY'S DESIGNATION OR
8 REQUEST TO EXAMINE CONFIDENTIAL SECURITY INFORMATION SHALL BE
9 BASED ON CONSISTENCY WITH THE DEFINITION OF CONFIDENTIAL
10 SECURITY INFORMATION CONTAINED IN THIS ACT OR WHEN THERE ARE
11 REASONABLE GROUNDS TO BELIEVE DISCLOSURE MAY RESULT IN A
12 SAFETY RISK, INCLUDING THE RISK OF HARM TO ANY PERSON, OR
13 MASS DESTRUCTION.

14 (5) WRITTEN NOTIFICATION OF THE AGENCY'S DECISION ON
15 CONFIDENTIALITY TO THE PUBLIC UTILITY AND MEMBER OF THE
16 PUBLIC THAT REQUESTED TO EXAMINE THE CONFIDENTIAL SECURITY
17 INFORMATION OR CHALLENGED THE DESIGNATION MADE BY THE PUBLIC
18 UTILITY.

19 (6) FOLLOWING WRITTEN NOTIFICATION BY THE AGENCY OF ITS
20 DECISION ON CONFIDENTIALITY, A PUBLIC UTILITY SHALL BE GIVEN
21 30 DAYS TO FILE AN APPEAL IN COMMONWEALTH COURT.

22 (D) PROTECTING CONFIDENTIAL SECURITY INFORMATION.--AN AGENCY
23 SHALL DEVELOP SUCH PROTOCOLS AS MAY BE NECESSARY TO PROTECT
24 PUBLIC UTILITY RECORDS OR PORTIONS THEREOF THAT CONTAIN
25 CONFIDENTIAL SECURITY INFORMATION, IN ACCORDANCE WITH THE
26 PROVISIONS OF THIS ACT, FROM PROHIBITED DISCLOSURE UNDER SECTION
27 5. SUCH PROTOCOLS SHALL ENSURE THAT:

28 (1) EACH COPY OF A RECORD OR PORTION THEREOF CONTAINING
29 CONFIDENTIAL SECURITY INFORMATION IS CLEARLY MARKED AS
30 CONFIDENTIAL AND NOT SUBJECT TO THE PROVISIONS OF THE RIGHT-

1 TO-KNOW LAW.

2 (2) EACH COPY OF A RECORD OR PORTION THEREOF CONTAINING
3 CONFIDENTIAL SECURITY INFORMATION IS KEPT ON SITE IN A SECURE
4 LOCATION, SEPARATE FROM THE GENERAL RECORDS RELATING TO THE
5 PUBLIC UTILITY, WHERE IT IS AVAILABLE FOR INSPECTION BY
6 AUTHORIZED INDIVIDUALS.

7 (3) ONLY AUTHORIZED INDIVIDUALS, AS DESIGNATED BY THE
8 AGENCY, MAY HAVE ACCESS TO RECORDS OR COPIES THEREOF
9 CONTAINING CONFIDENTIAL SECURITY INFORMATION.

10 (4) AUTHORIZED INDIVIDUALS, AS DESIGNATED BY THE AGENCY,
11 SHALL UNDERGO TRAINING AND SIGN AN ACCESS AGREEMENT WHICH
12 SUMMARIZES RESPONSIBILITIES AND PERSONAL LIABILITIES IF
13 CONFIDENTIAL SECURITY INFORMATION IS KNOWINGLY OR RECKLESSLY
14 RELEASED, PUBLISHED OR OTHERWISE DISCLOSED.

15 (5) A DOCUMENT TRACKING SYSTEM IS ESTABLISHED TO ALLOW
16 FOR RECORDS OR COPIES THEREOF CONTAINING CONFIDENTIAL
17 SECURITY INFORMATION TO BE TRACEABLE AT ALL TIMES TO A SINGLE
18 PERSON.

19 SECTION 4. APPLICABILITY TO OTHER LAW.

20 PUBLIC UTILITY RECORDS OR PORTIONS THEREOF WHICH CONTAIN
21 CONFIDENTIAL SECURITY INFORMATION, IN ACCORDANCE WITH THE
22 PROVISIONS OF THIS ACT, SHALL NOT BE SUBJECT TO THE PROVISIONS
23 OF THE ACT OF JUNE 21, 1957 (P.L.390, NO.212), REFERRED TO AS
24 THE RIGHT-TO-KNOW LAW.

25 SECTION 5. PROHIBITION.

26 (A) GENERAL RULE.--AN AGENCY SHALL NOT RELEASE, PUBLISH OR
27 OTHERWISE DISCLOSE A PUBLIC UTILITY RECORD OR PORTION THEREOF
28 WHICH CONTAINS CONFIDENTIAL SECURITY INFORMATION, IN ACCORDANCE
29 WITH THE PROVISIONS OF THIS ACT.

30 (B) EXCEPTION.--NOTWITHSTANDING SUBSECTION (A), AN AGENCY

1 MAY, AFTER NOTIFICATION AND CONSULTATION WITH THE PUBLIC
2 UTILITY, DISCLOSE A PUBLIC UTILITY RECORD OR PORTION THEREOF
3 WHICH CONTAINS CONFIDENTIAL SECURITY INFORMATION, IN ACCORDANCE
4 WITH THE PROVISIONS OF THIS ACT, THAT IS NECESSARY FOR
5 CONSTRUCTION, RENOVATION OR REMODELING WORK ON ANY PUBLIC
6 BUILDING OR PROJECT. RELEASE OR DISCLOSURE OF SUCH RECORDS OR
7 PORTIONS THEREOF FOR THESE PURPOSES DOES NOT CONSTITUTE
8 PROHIBITED DISCLOSURE UNDER SUBSECTION (A) AND DOES NOT RESULT
9 IN SUCH RECORDS OR PORTIONS THEREOF BECOMING PUBLIC RECORDS
10 SUBJECT TO THE PROVISIONS OF THE ACT OF JUNE 21, 1957 (P.L.390,
11 NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW.

12 SECTION 6. PENALTIES.

13 A PUBLIC OFFICIAL OR PUBLIC EMPLOYEE WHO ACQUIRES A PUBLIC
14 UTILITY RECORD OR PORTIONS THEREOF WHICH CONTAIN CONFIDENTIAL
15 SECURITY INFORMATION, IN ACCORDANCE WITH THE PROVISIONS OF THIS
16 ACT, OR ANY REPRODUCTION OF A PUBLIC UTILITY RECORD OR PORTION
17 THEREOF WHICH CONTAINS CONFIDENTIAL SECURITY INFORMATION, IN
18 ACCORDANCE WITH THE PROVISIONS OF THIS ACT, AND WHO KNOWINGLY OR
19 RECKLESSLY RELEASES, PUBLISHES OR OTHERWISE DISCLOSES A PUBLIC
20 UTILITY RECORD OR PORTION THEREOF WHICH CONTAINS CONFIDENTIAL
21 SECURITY INFORMATION, IN ACCORDANCE WITH THE PROVISIONS OF THIS
22 ACT, OR ANY REPRODUCTION OF A PUBLIC UTILITY RECORD OR PORTION
23 THEREOF WHICH CONTAINS CONFIDENTIAL SECURITY INFORMATION, IN
24 ACCORDANCE WITH THE PROVISIONS OF THIS ACT, COMMITS A
25 MISDEMEANOR OF THE SECOND DEGREE SUBJECT TO PROSECUTION BY THE
26 ATTORNEY GENERAL AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY
27 A FINE OF NOT MORE THAN \$5,000 PLUS COSTS OF PROSECUTION OR TO A
28 TERM OF IMPRISONMENT NOT TO EXCEED ONE YEAR, OR BOTH, AND SHALL
29 BE REMOVED FROM OFFICE OR AGENCY EMPLOYMENT.

30 SECTION 7. EFFECTIVE DATE.

1 THIS ACT SHALL TAKE EFFECT IN 180 DAYS.