

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1530 Session of 2007

INTRODUCED BY DERMODY, TURZAI, PALLONE, SOLOBAY, MAHONEY, WALKO, PETRARCA, TANGRETTI, READSHAW, BELFANTI, CAPPELLI, FABRIZIO, JOSEPHS, GEORGE, CALTAGIRONE, FAIRCHILD, HARHAI, YUDICHAK, COHEN, HARKINS, MARSHALL, J. WHITE, THOMAS, KULA, McCALL, LEVDANSKY, LONGIETTI, YOUNGBLOOD, GIBBONS, PYLE, CURRY, GOODMAN, KORTZ, MUNDY, WANSACZ, SCHRODER, MYERS AND PASHINSKI, JUNE 8, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 30, 2007

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in restructuring of electric utility  
3 industry, further providing for ~~declaration of policy and for~~ <—  
4 duties of electric distribution companies.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 ~~Section 1. Section 2802(6) of Title 66 of the Pennsylvania~~ <—  
8 ~~Consolidated Statutes is amended and the section is amended by~~  
9 ~~adding a paragraph to read:~~

10 ~~§ 2802. Declaration of policy.~~

11 ~~The General Assembly finds and declares as follows:~~

12 \* \* \*

13 ~~(6) The cost of electricity is an important factor in~~  
14 ~~decisions made by businesses concerning locating, expanding~~  
15 ~~and retaining facilities in this Commonwealth. The benefits~~  
16 ~~of a competitive market for the generation of electricity~~

1 ~~will be received by businesses and all customers when~~  
2 ~~electric distribution companies or commission approved~~  
3 ~~alternative suppliers and electric generation suppliers may~~  
4 ~~offer and provide competitive generation services without~~  
5 ~~limitation on the type of generation services that each may~~  
6 ~~offer.~~

7 \* \* \*

8 ~~(22) Following the completion of the transition period~~  
9 ~~in an electric distribution company's service area pursuant~~  
10 ~~to section 2807(c) (relating to duties of electric~~  
11 ~~distribution companies), the electric distribution company or~~  
12 ~~commission approved alternative supplier and each electric~~  
13 ~~generation supplier operating in that service area may offer~~  
14 ~~and provide at its discretion competitive generation services~~  
15 ~~to all customers without limitation on the types of~~  
16 ~~generation service that may be offered.~~

17 Section 2. ~~Section 2807(c) of Title 66 is amended to read:~~

18 SECTION 1. SECTION 2807(E) OF TITLE 66 OF THE PENNSYLVANIA  
19 CONSOLIDATED STATUTES IS AMENDED TO READ:

20 § 2807. Duties of electric distribution companies.

21 \* \* \*

22 (e) Obligation to serve.--An electric distribution company's  
23 obligation to provide electric service following implementation  
24 of restructuring and the choice of alternative generation by a  
25 customer is revised as follows:

26 (1) While an electric distribution company collects  
27 either a competitive transition charge or an intangible  
28 transition charge or until 100% of its customers have choice,  
29 whichever is longer, the electric distribution company shall  
30 continue to have the full obligation to serve, including the

1 connection of customers, the delivery of electric energy and  
2 the production or acquisition of electric energy for  
3 customers.

4 (2) At the end of the transition period, the commission  
5 shall promulgate regulations to define the electric  
6 distribution company's obligation to connect and deliver and  
7 acquire electricity under paragraph (3) that will exist at  
8 the end of the phase-in period.

9 ~~(3) (I) If a customer contracts for electric energy and~~ <—  
10 ~~it is not delivered or if a customer does not choose an~~  
11 ~~alternative electric generation supplier, the electric~~  
12 ~~distribution company or commission-approved alternative~~  
13 ~~supplier shall acquire electric energy at prevailing~~ <—  
14 ~~market prices to serve that customer and shall recover~~ <—  
15 ~~fully all reasonable costs. The electric energy acquired~~ <—  
16 ~~under this paragraph may include long term contracts or a~~  
17 ~~portfolio of resources to serve that customer and may be~~  
18 ~~procured through auctions, requests for proposals and~~  
19 ~~bilateral contracts as well as through the generation of~~  
20 ~~the electricity by the electric distribution company or~~  
21 ~~commission approved alternative supplier with its assets.~~  
22 ~~The electric distribution company or commission approved~~  
23 ~~alternative supplier may propose, and the commission~~  
24 ~~shall approve, an annual or multiyear fixed price service~~  
25 ~~option to the customer. In acquiring electric energy~~  
26 ~~pursuant to this paragraph, the electric distribution~~  
27 ~~company or commission approved alternative supplier~~  
28 ~~should seek to provide the most stable and lowest cost~~  
29 ~~service for all of its customers. REASONABLE COSTS. THE~~ <—  
30 ~~ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED~~

1 SUPPLIER SHALL ADJUST RATES AT APPROPRIATE INTERVALS AS  
2 DETERMINED BY THE COMMISSION. THE ELECTRIC ENERGY  
3 ACQUIRED UNDER THIS PARAGRAPH SHALL BE PROCURED THROUGH  
4 COMPETITIVE PROCUREMENT PROCESSES THAT MAY INCLUDE ONE OR  
5 MORE OF THE FOLLOWING:

6 (A) AUCTIONS.

7 (B) REQUESTS FOR PROPOSAL.

8 (C) BILATERAL CONTRACTS NEGOTIATED BETWEEN THE  
9 ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED  
10 ALTERNATIVE SUPPLIER AND A WHOLESALE ELECTRIC  
11 SUPPLIER, EXCEPT THAT THE BILATERAL CONTRACTS SHALL  
12 BE ENTERED INTO AT THE SOLE DISCRETION OF THE  
13 ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED  
14 ALTERNATIVE SUPPLIER AND THE COMMISSION SHALL HAVE NO  
15 AUTHORITY TO REQUIRE THE CONTRACTS AND SHALL BE AT  
16 PRICES NO GREATER THAN REASONABLE FORWARD MARKET  
17 PRICES.

18 (II) THE COMMISSION SHALL NOT MODIFY CONTRACTS OR  
19 DISALLOW COSTS ASSOCIATED WITH CONTRACTS ENTERED INTO  
20 PURSUANT TO AN APPROVED COMPETITIVE PROCUREMENT PROCESS.  
21 PRICES OBTAINED THROUGH THE COMPETITIVE PROCUREMENT  
22 PROCESSES SHALL BE DEEMED TO BE PREVAILING MARKET PRICES.  
23 THE RESOURCES PROCURED PURSUANT TO THIS PARAGRAPH MAY  
24 REFLECT A MIX OF LONG-TERM, SHORT-TERM AND SPOT MARKET  
25 PURCHASES.

26 (4) If a customer that chooses an alternative supplier  
27 and subsequently desires to return to the local distribution  
28 company for generation service, the local distribution  
29 company shall treat that customer exactly as it would any new  
30 applicant for energy service.

~~(5) The electric distribution company or commission approved alternative supplier may offer large customers any rate, including, but not limited to, a cost based rate, for any duration agreed upon by the electric distribution company or commission approved alternative supplier and the large customer. For purposes of providing service pursuant to this paragraph, the electric distribution company or commission approved alternative supplier may build or acquire a generation facility or acquire an interest in a generation facility specifically to meet energy requirements, provided that the cost of energy from the facility is below the cost of acquiring energy in the wholesale market. Contract rates entered into under this paragraph shall be subject to review by the commission in order to ensure that no cost related to the rates are borne by other customers or customer classes. If no costs related to the rates are borne by other customers or customer classes, the commission shall approve the contract rate within 30 days of its filing or it shall be deemed approved by operation of law upon expiration of the 30 days. Information submitted under this paragraph shall be subject to the commission's procedures for the filing of confidential and proprietary information.~~

~~(5) (I) NOTWITHSTANDING PARAGRAPH (3), THE ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED ALTERNATIVE SUPPLIER MAY, IN ITS SOLE DISCRETION, OFFER LARGE CUSTOMERS WITH A PEAK DEMAND OF 15 MEGAWATTS OR GREATER AT ONE METER AT A LOCATION IN ITS SERVICE TERRITORY ANY NEGOTIATED RATE FOR SERVICE AT ALL OF THE CUSTOMERS' LOCATIONS WITHIN THE SERVICE TERRITORY FOR ANY DURATION AGREED UPON BY THE ELECTRIC DISTRIBUTION COMPANY OR~~

1 COMMISSION-APPROVED ALTERNATIVE SUPPLIER AND THE LARGE  
2 CUSTOMER. THE COMMISSION SHALL PERMIT, BUT SHALL NOT  
3 REQUIRE, AN ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-  
4 APPROVED ALTERNATIVE SUPPLIER TO PROVIDE SERVICE TO LARGE  
5 CUSTOMERS UNDER THIS PARAGRAPH. CONTRACT RATES ENTERED  
6 INTO UNDER THIS PARAGRAPH SHALL BE SUBJECT TO REVIEW BY  
7 THE COMMISSION IN ORDER TO ENSURE THAT ALL COSTS RELATED  
8 TO THE RATES ARE BORNE BY THE PARTIES TO THE CONTRACT AND  
9 THAT NO COSTS RELATED TO THE RATES ARE BORNE BY OTHER  
10 CUSTOMERS OR CUSTOMER CLASSES. IF NO COSTS RELATED TO THE  
11 RATES ARE BORNE BY OTHER CUSTOMERS OR CUSTOMER CLASSES,  
12 THE COMMISSION SHALL APPROVE THE CONTRACT WITHIN 90 DAYS  
13 OF ITS FILING OR IT SHALL BE DEEMED APPROVED BY OPERATION  
14 OF LAW UPON EXPIRATION OF THE 90 DAYS. INFORMATION  
15 SUBMITTED UNDER THIS PARAGRAPH SHALL BE SUBJECT TO THE  
16 COMMISSION'S PROCEDURES FOR THE FILING OF CONFIDENTIAL  
17 AND PROPRIETARY INFORMATION.

18 (II) FOR PURPOSES OF PROVIDING SERVICE UNDER THIS  
19 PARAGRAPH TO CUSTOMERS WITH A PEAK DEMAND OF 20 MEGAWATTS  
20 OR GREATER AT ONE METER AT A LOCATION WITHIN THAT  
21 DISTRIBUTION COMPANY'S SERVICE TERRITORY, AN ELECTRIC  
22 DISTRIBUTION COMPANY THAT HAS COMPLETED ITS RESTRUCTURING  
23 TRANSITION PERIOD AS OF THE EFFECTIVE DATE OF THIS  
24 PARAGRAPH MAY, IN ITS SOLE DISCRETION, ACQUIRE AN  
25 INTEREST IN A GENERATION FACILITY OR CONSTRUCT A  
26 GENERATION FACILITY SPECIFICALLY TO MEET THE ENERGY  
27 REQUIREMENTS OF THE CUSTOMERS INCLUDING THE ELECTRIC  
28 REQUIREMENTS OF THE CUSTOMERS' OTHER BILLING LOCATIONS  
29 WITHIN ITS SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION  
30 COMPANY MUST COMMENCE CONSTRUCTION OF THE GENERATION

1           FACILITY OR CONTRACT TO ACQUIRE THE GENERATION INTEREST  
2           WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS  
3           PARAGRAPH, EXCEPT THAT THE ELECTRIC DISTRIBUTION COMPANY  
4           MAY ADD TO THE GENERATION FACILITIES IT COMMENCED  
5           CONSTRUCTION OR CONTRACTED TO ACQUIRE AFTER THIS THREE-  
6           YEAR PERIOD TO SERVE ADDITIONAL LOAD OF CUSTOMERS FOR  
7           WHOM IT COMMENCED CONSTRUCTION OR CONTRACTED TO ACQUIRE  
8           GENERATION WITHIN THREE YEARS. NOTHING IN THIS PARAGRAPH  
9           REQUIRES OR AUTHORIZED THE COMMISSION TO REQUIRE AN  
10           ELECTRIC DISTRIBUTION COMPANY TO COMMENCE CONSTRUCTION OR  
11           ACQUIRE AN INTEREST IN A GENERATION FACILITY. THE  
12           ELECTRIC DISTRIBUTION COMPANY'S INTEREST IN THE  
13           GENERATION FACILITY IT BUILT OR CONTRACTED TO ACQUIRE  
14           SHALL BE NO LARGER THAN NECESSARY TO MEET PEAK DEMAND OF  
15           CUSTOMERS SERVED UNDER THIS SUBPARAGRAPH. DURING TIMES  
16           WHEN THE CUSTOMER'S DEMAND IS LESS THAN THE ELECTRIC  
17           DISTRIBUTION COMPANY'S GENERATION INTEREST, THE ELECTRIC  
18           DISTRIBUTION COMPANY MAY SELL EXCESS POWER ON THE  
19           WHOLESALE MARKET. AT NO TIME SHALL THE COSTS ASSOCIATED  
20           WITH THE GENERATING FACILITY INTERESTS BE INCLUDED IN  
21           RATE BASE OR OTHERWISE REFLECTED IN RATES. THE GENERATION  
22           FACILITY INTERESTS SHALL NOT BE COMMISSION-REGULATED  
23           ASSETS.

24           Section 3 2. This act shall take effect in 60 days.

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