

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2093 Session of  
2007

INTRODUCED BY DERMODY, TURZAI, PRESTON, BENNINGTON, BIANCUCCI,  
COSTA, DeLUCA, FRANKEL, GERGELY, KORTZ, KOTIK, LEVDANSKY,  
MARKOSEK, MARSHALL, MUSTIO, PETRARCA, PETRONE, PYLE, RAMALEY,  
READSHAW, M. SMITH, VULAKOVICH, WAGNER, WALKO, WHEATLEY,  
BELFANTI, CALTAGIRONE, CAPPELLI, DePASQUALE, HARKINS,  
HORNAMAN, JOSEPHS, McCALL, McILHATTAN, MENSCH, PASHINSKI,  
PAYNE, SIPTROTH, S. H. SMITH, SOLOBAY, SURRA AND K. SMITH,  
DECEMBER 5, 2007

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, DECEMBER 5, 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 duties of electric  
4 distribution companies.

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

7 Section 1. Section 2807(e) of Title 66 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 2807. Duties of electric distribution companies.

10 \* \* \*

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

15 (1) While an electric distribution company collects  
16 either a competitive transition charge or an intangible

1 transition charge or until 100% of its customers have choice,  
2 whichever is longer, the electric distribution company shall  
3 continue to have the full obligation to serve, including the  
4 connection of customers, the delivery of electric energy and  
5 the production or acquisition of electric energy for  
6 customers.

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

12 (3) If a customer contracts for electric energy and it  
13 is not delivered or if a customer does not choose an  
14 alternative electric generation supplier, the electric  
15 distribution company or commission-approved alternative  
16 supplier shall acquire electric energy [at prevailing market  
17 prices] through a portfolio of electric generation to serve  
18 [that customer] those customers and shall recover fully all  
19 reasonable costs. The electric energy procurement proposed by  
20 the electric distribution company should be designed to  
21 provide customers:

22 (i) Safe and reliable service.

23 (ii) The lowest reasonable retail prices to  
24 customers over time.

25 (iii) Compliance with the requirements of the act of  
26 November 30, 2004 (P.L.1672, No.213), known as the  
27 Alternative Energy Portfolio Act.

28 (3.1) The procurement strategy in paragraph (3) may  
29 include an appropriate mix of long-term, short-term and spot  
30 market purchases and may include one or more of the

1 following:

2 (i) Auctions.

3 (ii) Requests for proposal.

4 (iii) Spot market purchases.

5 (iv) Long-term purchase power agreements to support  
6 construction of new generation facilities, including  
7 generation that meets the requirements of the Alternative  
8 Energy Portfolio Standards Act.

9 (v) Bilateral contracts negotiated between the  
10 electric distribution company or commission-approved  
11 alternative supplier and a wholesale electric supplier.

12 (3.2) The commission shall not modify contracts or  
13 disallow costs associated with contracts entered into  
14 pursuant to a commission-approved procurement plan unless the  
15 commission determines that:

16 (i) the contract does not comply with the  
17 commission-approved portfolio plan; or

18 (ii) there has been fraud, collusion, market  
19 manipulation or abuse of market power.

20 (3.3) In addition to any voluntary rates offered to all  
21 customers, such as a time-of-use rate, the electric  
22 distribution company or commission-approved alternative  
23 supplier shall offer all customers a fixed rate that shall  
24 change no more frequently than on an annual basis. All rates  
25 shall be reviewed by the commission to ensure that the costs  
26 of providing service to each customer class are borne solely  
27 by that customer class.

28 (4) If a customer that chooses an alternative supplier  
29 and subsequently desires to return to the local distribution  
30 company for generation service, the local distribution

1 company shall treat that customer exactly as it would any new  
2 applicant for energy service.

3 (5) (i) Notwithstanding paragraph (3), the electric  
4 distribution company or commission-approved alternative  
5 supplier may, in its sole discretion, offer large  
6 customers with a peak demand of 15 megawatts or greater  
7 at one meter at a location in its service territory any  
8 negotiated rate for service at all of the customers'  
9 locations within the service territory for any duration  
10 agreed upon by the electric distribution company or  
11 commission-approved alternative supplier and the large  
12 customer. The commission shall permit, but shall not  
13 require, an electric distribution company or commission-  
14 approved alternative supplier to provide service to large  
15 customers under this paragraph. Contract rates entered  
16 into under this paragraph shall be subject to review by  
17 the commission in order to ensure that all costs related  
18 to the rates are borne by the parties to the contract and  
19 that no costs related to the rates are borne by other  
20 customers or customer classes. If no costs related to the  
21 rates are borne by other customers or customer classes,  
22 the commission shall approve the contract within 90 days  
23 of its filing, or it shall be deemed approved by  
24 operation of law upon expiration of the 90 days.  
25 Information submitted under this paragraph shall be  
26 subject to the commission's procedures for the filing of  
27 confidential and proprietary information.

28 (ii) For purposes of providing service under this  
29 paragraph to customers with a peak demand of 20 megawatts  
30 or greater at one meter at a location within that

1 distribution company's service territory, an electric  
2 distribution company that has completed its restructuring  
3 transition period as of the effective date of this  
4 paragraph may, in its sole discretion, acquire an  
5 interest in a generation facility or construct a  
6 generation facility specifically to meet the energy  
7 requirements of the customers, including the electric  
8 requirements of the customers' other billing locations  
9 within its service territory. The electric distribution  
10 company must commence construction of the generation  
11 facility or contract to acquire the generation interest  
12 within three years after the effective date of this  
13 paragraph, except that the electric distribution company  
14 may add to the generation facilities it commenced  
15 construction or contracted to acquire after this three-  
16 year period to serve additional load of customers for  
17 whom it commenced construction or contracted to acquire  
18 generation within three years. Nothing in this paragraph  
19 requires or authorizes the commission to require an  
20 electric distribution company to commence construction or  
21 acquire an interest in a generation facility. The  
22 electric distribution company's interest in the  
23 generation facility it built or contracted to acquire  
24 shall be no larger than necessary to meet peak demand of  
25 customers served under this subparagraph. During times  
26 when the customer's demand is less than the electric  
27 distribution company's generation interest, the electric  
28 distribution company may sell excess power on the  
29 wholesale market. At no time shall the costs associated  
30 with the generating facility interests be included in

1           rate base or otherwise reflected in rates. The generation  
2           facility interests shall not be commission-regulated  
3           assets.

4    Section 2. This act shall take effect in 60 days.