
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2143 Session of
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SIPTROTH, STEIL, SWANGER, VITALI AND WAGNER, JANUARY 3, 2008

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 3, 2008

AN ACT

1 Providing for the adoption of procedures to encourage energy
2 efficiency and demand-side resources by electric distribution
3 companies, for program administrator, for review of
4 recommendations by the Public Utility Commission, for
5 responsibilities of electric distribution companies and for
6 reporting.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Electric
11 Energy Conservation Investment Act.

12 Section 2. Findings and purpose.

13 The General Assembly finds and declares that:

14 (1) Energy efficiency and demand-side resources are
15 cost-effective resources that are an essential component of
16 the balanced resource portfolio that electric distribution
17 companies must achieve to provide affordable and reliable
18 energy to consumers.

19 (2) Energy efficiency and demand-side resources in this

1 Commonwealth are resources that are currently underutilized.

2 (3) Investments in energy efficiency and demand-side
3 resources present opportunities to increase Pennsylvania's
4 energy security, protect consumers from price increases,
5 preserve the Commonwealth's natural resources and pursue an
6 improved environment.

7 (4) Investment in energy efficiency and demand-side
8 resources can bring significant economic benefits to
9 Pennsylvania.

10 (5) The purpose of this act is to develop a process to
11 encourage the adoption of cost-effective energy efficiency
12 and demand-side resource investments throughout Pennsylvania
13 as one means to help keep energy costs affordable to all
14 consumers.

15 Section 3. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Commission." The Pennsylvania Public Utility Commission.

20 "Cost-effective." In relation to a program being evaluated,
21 satisfaction of the total resource cost test.

22 "Demand-side resources." Load management technologies,
23 management practices or other strategies employed by retail
24 customers that decrease peak electricity demand or shift demand
25 from on-peak to off-peak periods provided that:

26 (1) the measure is installed on or after the effective
27 date of this section at the service location of a retail
28 customer;

29 (2) the measure reduces the consumption of energy by the
30 retail customer; and

1 (3) the costs of the acquisition or installation of the
2 measure are directly incurred in whole or in part by the
3 electric distribution company.

4 "Electric distribution company." The term shall have the
5 same meaning given to it in 66 Pa.C.S. Ch. 28 (relating to
6 restructuring of electric utility industry).

7 "Energy efficiency." Technologies, management practices or
8 other strategies or measures employed by retail customers that
9 reduce electricity consumption provided that:

10 (1) the measure is installed on or after the effective
11 date of this section at the service location of a retail
12 customer;

13 (2) the measure reduces the consumption of energy by the
14 retail customer; and

15 (3) the costs of the acquisition or installation of the
16 measure are directly incurred in whole or in part by the
17 electric distribution company.

18 "Peak demand." The highest electrical requirement occurring
19 during a specified period. For an electric distribution company,
20 the term means the sum of the metered consumption for all retail
21 customers over that period.

22 "Total resource cost test." A standard test that is met if,
23 over the effective life of the program, the avoided supply-side
24 monetary costs are greater than the monetary costs of the
25 demand-side programs borne by both the electric distribution
26 company and the participants.

27 Section 4. Adoption of procedures encouraging energy efficiency
28 and demand-side resources.

29 The commission shall develop a program to provide for the
30 implementation of cost-effective programs that reduce energy

1 demand and consumption within the service territories of all
2 electric distribution companies throughout this Commonwealth.

3 The program shall include, but is not limited to:

4 (1) Selecting a program administrator to develop and
5 oversee the delivery of energy efficiency and demand-side
6 resources programs with the service territory of each
7 electric distribution company within this Commonwealth.

8 (2) Implementing the necessary administrative and
9 financial mechanisms that will enable the program
10 administrator to develop and oversee the provision of energy
11 efficiency and demand-side resources programs within the
12 service territory of each electric distribution company
13 within this Commonwealth, including the levying of
14 assessments in accordance with 66 Pa.C.S. §§ 510 (relating to
15 assessment for regulatory expenses upon public utilities),
16 1307 (relating to sliding scale of rates; adjustments) and
17 1308 (relating to voluntary changes in rates).

18 (3) Implementing the necessary administrative and
19 financial mechanisms that facilitate a system of third-party
20 entities to deliver all or portions of the energy efficiency
21 and demand-side resources programs within the service
22 territory of each electric distribution company within this
23 Commonwealth, including the levying of assessments in
24 accordance with 66 Pa.C.S. §§ 510, 1307 and 1308.

25 Section 5. Program administrator.

26 (a) Selection procedure.--

27 (1) The commission shall prepare a request for proposals
28 for a program administrator to provide for the development
29 and delivery of the energy efficiency and demand-side
30 resources programs in the service territories of all electric

1 distribution companies and shall make the request for
2 proposals available for public comment.

3 (2) The commission shall within 60 days of the
4 completion of the public comment period issue the final
5 request for proposals.

6 (3) The commission shall, based upon a competitive bid
7 process, select an independent entity to serve as the energy
8 efficiency and demand-side resources program administrator.

9 (4) The commission shall include as part of its
10 agreement with the program administrator a system of
11 performance parameters and a financial mechanism that
12 provides incentives for exceeding established performance
13 parameters and penalties for not meeting established
14 performance parameters.

15 (b) Program administrator.--The administrator shall have
16 powers and duties assigned by the commission. The powers and
17 duties shall include, but not be limited to:

18 (1) Soliciting through a competitive procurement process
19 within each electric distribution company service territory a
20 program of providing energy efficiency and demand-side
21 resources programs to residential, commercial and industrial
22 customers utilizing third-party entities.

23 (2) Ensuring that each proposal includes, but is not
24 limited to:

25 (i) A clear delineation of how the program will be
26 conducted.

27 (ii) The types of specific program measures to be
28 offered.

29 (iii) The cost and benefit of each program to be
30 offered.

1 (iv) A process for monitoring and verifying results,
2 data collection and management procedures, program
3 evaluation processes and financial management strategies.

4 (3) (i) In its review of each proposal received:

5 (A) Taking into account the unique circumstances
6 of each electric distribution company's service
7 territory.

8 (B) Finding that each program is cost effective
9 and that the portfolio of programs is designed to
10 provide every affected customer class with the
11 opportunity to participate and benefit economically.

12 (C) Determining the cost-effectiveness of energy
13 efficiency and demand-side resources measures using
14 the total resource cost test.

15 (4) In the event no qualified proposals are received
16 that meet the required plan goals in an electric distribution
17 company service territory to conduct the program activities:

18 (i) Issuing a subsequent request for proposals with
19 plan goals that are reduced no more than necessary to
20 obtain qualified proposals to provide program activities.
21 The lowered plan goals for energy efficiency and demand-
22 side resources shall be only in effect for that year.

23 (ii) In subsequent years, utilizing the plan goals
24 unless no qualified proposals are received to conduct the
25 program activities that meet the plan goals, the program
26 administrator shall issue a subsequent request for
27 proposals in accordance with the procedures identified in
28 this paragraph.

29 (5) Executing agreements with the selected entity in
30 each electric distribution company service territory to

1 conduct the energy efficiency and demand-side resources
2 program. As part of these agreements the program
3 administrator shall ensure that:

4 (i) the programs offered by the selected entity are
5 provided equitably across all customer classes;

6 (ii) a clearly defined process for financial
7 compensation which is tied to defined goals for
8 performance regarding program activities accomplished,
9 energy cost savings on a per-customer basis and utility-
10 wide basis and overall energy and peak demand reductions
11 is established;

12 (iii) a system of incentives and penalties for
13 performance of contractual activities above and below
14 predetermined levels is in place; and

15 (iv) there is a set contract term which may include
16 an initial three-year term with renewal terms of a varied
17 length.

18 (6) Submitting reports to the commission at such times
19 and in such manner as the commission directs.

20 Section 6. Commission review of recommendations.

21 (a) General rule.--The commission shall review the
22 recommendations made by the program administrator regarding
23 those entities best suited to provide the energy efficiency and
24 demand-side resources programs within the service territory of
25 each electric distribution company. The commission shall approve
26 or disapprove the recommendations made by the program
27 administrator.

28 (b) Subjects for review.--The commission review of the
29 recommendations of the program administrator shall be limited to
30 ensuring that:

1 (1) There is no evidence of fraud or market abuse.

2 (2) Any costs entered into are borne by the appropriate
3 parties and that costs related to the provision of the
4 contracted services are borne by the appropriate customer
5 class.

6 (3) There will be, provided in a cost-effective manner,
7 a program that provides energy efficiency and demand-side
8 resources measures to all customer classes throughout the
9 service territory of each electric distribution company.

10 (c) Third-party agreement.--If the commission approves a
11 third-party entity to conduct the program, the commission shall
12 ensure the program administrator finalizes the agreement between
13 it and the third-party entity selected to provide the program of
14 energy efficiency and demand-side resources.

15 (d) Disapproval.--In the event the commission disapproves
16 the recommendation of the program administrator, the commission
17 shall provide a rationale for this decision and direct the
18 program administrator on a course of action.

19 (e) Plan goals.--

20 (1) The program administrator shall ensure that each
21 proposal submitted by a third-party entity to deliver a
22 program of energy efficiency measures includes meeting the
23 goal of reaching an incremental annual energy savings based
24 on a percentage of all electricity sold in calendar year 2007
25 of 0.4% in 2010 and 2.0% in 2014 and each year thereafter.
26 The program administrator shall ensure that a third-party
27 entity meets the goals contained in this section through the
28 implementation of a program of energy efficiency measures
29 throughout the service territory of the electric distribution
30 company.

1 (2) The program administrator shall ensure that each
2 proposal submitted by a third-party entity to deliver a
3 program of demand-side resources measures includes meeting
4 the goal of reducing peak demand from a target year being the
5 calendar year 2007 on a weather-normalized basis and adjusted
6 to eliminate the effect of emergency load control procedures
7 implemented by a regional transmission organization by an
8 amount equal to 2.0% in 2010, 5.0% in 2015 and 10.1% in 2020
9 and each year thereafter. The program administrator shall
10 ensure a third-party entity meets the goals contained in this
11 section through the implementation of a program of demand-
12 side resources measures throughout the service territory of
13 the electric distribution company.

14 (f) Measurements and verification.--

15 (1) The commission shall establish standards by which
16 the program administrator submits to the commission an annual
17 report, which report includes that information relating to
18 the actions and results of the energy efficiency and demand-
19 side resources programs undertaken within each electric
20 distribution service territory by each third-party entity.

21 (2) The report shall include, but not be limited to:

22 (i) Documentation of program expenditures.

23 (ii) Measurement and verification of savings
24 resulting from programs.

25 (iii) Evaluation of the cost-effectiveness of
26 expenditures.

27 (iv) Any other information the commission may
28 require pursuant to its rulemaking authority.

29 (3) The program administrator, upon consultation with
30 the commission, shall direct a third-party entity to modify

1 or terminate particular energy efficiency or demand-side
2 resources program if, after an adequate period for
3 implementation of the program, the commission determines the
4 program is not sufficiently meeting its goals and purposes.

5 (4) In the event an energy efficiency or demand-side
6 resources program is terminated, the program administrator
7 shall require the third-party entity to submit a revised
8 program describing the actions to be undertaken to either
9 offer a substitute program or increase the availability of
10 existing programs to make up for the effect of the terminated
11 program on its overall program goals.

12 Section 7. Responsibilities of electric distribution companies.

13 (a) General rule.--Each electric distribution company shall:

14 (1) Cooperate with the program administrator as needed
15 in its efforts to competitively procure the services of a
16 third-party entity to provide an energy efficiency and
17 demand-side resources program with the service territory of
18 the electric distribution company.

19 (2) Provide information necessary to effectively
20 facilitate the work of the selected third-party entity in
21 conducting the energy efficiency and demand-side resources
22 program.

23 (3) Provide assistance as may be requested by the
24 program administrator in reviewing proposals from third-party
25 entities seeking to provide energy efficiency and demand-side
26 resources programs within their service territory.

27 (4) Provide assistance as may be requested by the
28 program administrator to facilitate the successful execution
29 of the contract agreement with the third-party entities to
30 provide energy efficiency and demand-side resources programs

1 within their service territory.

2 (b) Recovery of administrative costs.--An electric
3 distribution company may fully recover all administrative costs
4 that the commission determines are prudently incurred pursuant
5 to implementing a program to deliver cost-effective energy
6 efficiency and peak demand reduction activities through a third-
7 party entity.

8 Section 8. Reporting.

9 The commission shall submit an annual report to the General
10 Assembly describing the results of the programs implemented by
11 each of the electric distribution companies, including, but not
12 limited to:

13 (1) The costs, benefits and reductions in energy costs.

14 (2) Energy use by customer class within this
15 Commonwealth.

16 (3) Reductions in overall peak demand and projections
17 toward complying with the overall target reduction goals of
18 this act.

19 Section 9. Effective date.

20 This act shall take effect immediately.