
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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INTRODUCED BY GEORGE, McCALL, BELFANTI, CALTAGIRONE, CONKLIN,
DALEY, GOODMAN, HARHAI, HARKINS, KULA, MANDERINO, McGEEHAN,
VITALI AND J. WHITE, JANUARY 15, 2008

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 15, 2008

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions; and
3 providing for adoption of energy efficiency and demand-side
4 response.

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

7 Section 1. Section 2803 of Title 66 of the Pennsylvania
8 Consolidated Statutes is amended by adding definitions to read:
9 § 2803. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 * * *

14 "Cost effective." In relation to a program being evaluated,
15 satisfaction of the total resource cost test.

16 * * *

17 "Demand-side response." Load management technologies,
18 management practices or other strategies employed by retail

1 customers that decrease peak electricity demand or shift demand
2 from on-peak to off-peak periods provided that:

3 (1) The measure is installed on or after the effective
4 date of this section at the service location of a retail
5 customer.

6 (2) The measure reduces the consumption of energy by the
7 retail customer.

8 (3) The costs of the acquisition or installation of the
9 measure are directly incurred in whole or in part by the
10 electric distribution company.

11 * * *

12 Energy efficiency." Technologies, management practices or
13 other strategies or measures employed by retail customers that
14 reduce electricity consumption provided that:

15 (1) The measure is installed on or after the effective
16 date of this definition at the service location of a retail
17 customer.

18 (2) The measure reduces the consumption of energy by the
19 retail customer.

20 (3) The costs of the acquisition or installation of the
21 measure are directly incurred in whole or in part by the
22 electric distribution company.

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

27 * * *

28 "Total resources cost test." A standard test that is met if,
29 over the effective life of the program, the avoided supply-side
30 monetary costs are greater than the monetary costs of the

1 demand-side programs borne by both the electric distribution
2 company and the participants.

3 * * *

4 Section 2. Title 66 is amended by adding a section to read:

5 § 2806.1. Adoption of procedures encouraging energy efficiency
6 and demand-side response.

7 (a) Program.--The commission shall develop a program to
8 provide for the implementation of cost-effective programs that
9 reduce energy demand and consumption within the service
10 territories of all electric distribution companies throughout
11 this Commonwealth. The program shall include, but is not limited
12 to, the following:

13 (1) Selecting a program administrator to develop and
14 oversee the delivery of energy efficiency and demand-side
15 response programs within the service territory of each
16 electric distribution company within this Commonwealth.

17 (2) Implementing the necessary administrative and
18 financial mechanisms that will enable the program
19 administrator to develop and oversee the provision of energy
20 efficiency and demand-side response programs within the
21 service territory of each electric distribution company
22 within this Commonwealth, including the levying of
23 assessments in accordance with sections 510 (relating to
24 assessment for regulatory expenses upon public utilities),
25 1307 (relating to sliding scale of rates; adjustments) and
26 1308 (relating to voluntary changes in rates). The commission
27 shall not approve or implement and shall not assess or charge
28 to customers the costs of energy efficiency or demand-
29 response programs to the extent that the costs of such
30 programs exceed 2% of the total annual revenues of the

1 electric distribution company in whose service territory the
2 programs are implemented.

3 (3) Implementing the necessary administrative and
4 financial mechanisms that facilitate a system of third-party
5 entities to deliver all or portions of the energy efficiency
6 and demand-side response programs within the service
7 territory of each electric distribution company within this
8 Commonwealth, including the levying of assessments in
9 accordance with sections 510, 1307 and 1308. The electric
10 distribution company may be a third-party entity.

11 (b) Selection of program administrator.--The commission
12 shall implement the following procedures when selecting a
13 program administrator:

14 (1) The commission shall prepare a request for proposals
15 for a program administrator to provide for the development
16 and delivery of the energy efficiency and demand-side
17 response programs in the service territories of all electric
18 distribution companies and shall make the request for
19 proposals available for public comment.

20 (2) The commission shall, within 60 days of the
21 completion of the public comment period, issue the final
22 request for proposals.

23 (3) The commission shall, based on a competitive bid
24 process, select an independent entity to serve as the energy
25 efficiency and demand-side response program administrator.

26 (4) The commission shall include as a part of its
27 agreement with the program administrator a system of
28 performance parameters and a financial mechanism that
29 provides incentives for exceeding established performance
30 parameters and penalties for third parties not meeting

1 established performance parameters.

2 (c) Powers and duties of program administrator.--The program
3 administrator shall have powers and duties assigned by the
4 commission. The powers and duties shall include, but not be
5 limited to:

6 (1) Soliciting through a competitive procurement process
7 within each electric distribution company service territory a
8 program of providing energy efficiency and demand-side
9 response programs to residential, commercial and industrial
10 customers utilizing third-party entities.

11 (2) Ensuring that each proposal includes, but is not
12 limited to:

13 (i) A clear delineation of how the program will be
14 conducted.

15 (ii) The types of specific program measures to be
16 offered.

17 (iii) The cost and benefit of each program to be
18 offered.

19 (iv) A process for monitoring and verifying results,
20 data collection and management procedures, program
21 evaluation processes and financial management strategies.

22 (3) In its review of each proposal received:

23 (i) Taking into account the unique circumstances of
24 each electric distribution company's service territory.

25 (ii) Finding that each program is cost effective and
26 that the portfolio of programs is designed to provide
27 every affected customer class with the opportunity to
28 participate and benefit economically.

29 (iii) Determining the cost-effectiveness of energy
30 efficiency and demand-side response measures using the

1 total resource cost test.

2 (4) Recommending to the commission those entities best
3 suited to provide energy efficiency and demand-side response
4 programs within the service territory of each electric
5 distribution company.

6 (5) In the event no qualified proposals are received
7 that meet the required plan goals in an electric distribution
8 company service territory to conduct the program activities:

9 (i) Issuing a subsequent request for proposals with
10 plan goals that are reduced no more than necessary to
11 obtain qualified proposals to provide program activities.
12 The lowered plan goals for energy efficiency and demand-
13 side response shall only be in effect for that year.

14 (ii) In subsequent years, utilizing the plan goals
15 unless no qualified proposals are received to conduct the
16 program activities that meet the plan goals, the program
17 administrator shall issue a subsequent request for
18 proposals in accordance with the procedures identified in
19 this subparagraph.

20 (6) Executing agreements with the selected entity in
21 each electric distribution company service territory to
22 conduct the energy efficiency and demand-side response
23 program. As part of these agreements the program
24 administrator shall ensure that:

25 (i) The programs offered by the selected entity are
26 provided equitably across all customer classes.

27 (ii) The plan presents a portfolio of energy
28 efficiency measures targeted to households at or below
29 150% of the poverty level at a level proportionate to
30 those households' share of total annual utility revenues

1 in this Commonwealth.

2 (iii) A clearly defined process for financial
3 compensation for the entity delivering the program which
4 is tied to defined goals for performance regarding
5 program activities accomplished, energy cost savings on a
6 per-customer basis and utility-wide basis and overall
7 energy and peak demand reduction is established.

8 (iv) A system of incentives and penalties for
9 performance of contractual activities above and below
10 predetermined levels is in place.

11 (v) There is a set contract term which may include
12 an initial three-year term with renewal terms of varied
13 length.

14 (7) Submitting reports to the commission at such times
15 and in such manner as the commission directs.

16 (d) Commission review of recommendations.--The commission
17 shall review the recommendations made by the program
18 administrator regarding those entities best suited to provide
19 energy efficiency and demand-side response programs within the
20 service territory of each electric distribution company. The
21 commission shall approve or disapprove the recommendations made
22 by the program administrator.

23 (1) The commission review of the recommendations of the
24 program administrator shall be limited to ensuring that:

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

26 (ii) Any costs entered into are borne by the
27 appropriate parties and that costs related to the
28 provision of the contracted services are borne by the
29 appropriate customer class.

30 (iii) There will be provided, in a cost-effective

1 manner, a program that provides energy efficiency and
2 demand-side response measures to all customer classes
3 throughout the service territory of each electric
4 distribution company.

5 (2) If the commission approves a third-party entity to
6 conduct the program, the commission shall ensure the program
7 administrator finalizes the agreement between the commission
8 and the third-party entity selected to provide the program of
9 energy efficiency and demand-side response.

10 (3) In the event the commission disapproves the
11 recommendation of the program administrator, the commission
12 shall provide a rationale for this decision and direct the
13 program administrator on a course of action.

14 (e) Plan goals.--The program administrator shall ensure that
15 each proposal submitted by a third-party entity to deliver a
16 program of energy efficiency and demand-side response measures
17 includes meeting the following energy saving goals:

18 (1) The following relate to energy efficiency goals:

19 (i) By May 31, 2013, total annual deliveries to
20 retail customers of electric distribution companies shall
21 be reduced by a minimum of 2.5%. This load reduction
22 shall be measured against the expected load forecasted by
23 the commission for June 1, 2012, through May 31, 2013,
24 based on load for the period June 1, 2007, through May
25 31, 2008. The commission shall determine and make public
26 the forecasts to be used for each electric distribution
27 company no later than August 31, 2008. The program
28 administrator shall ensure that a third-party entity
29 meets the goals contained in this section through the
30 implementation of a program of energy efficiency measures

1 throughout the service territory of the electric
2 distribution company.

3 (ii) By November 30, 2013, the program administrator
4 shall evaluate the costs and benefits of these energy
5 efficiency and conservation programs. If the benefits
6 have been shown to exceed the costs, consistent with the
7 total resource cost test, the program administrator, in
8 consultation with the commission, shall set additional,
9 incremental energy efficiency and conservation goals for
10 the period ending May 31, 2018.

11 (iii) After May 31, 2018, the program administrator
12 shall continue to evaluate the costs and benefits of
13 efficiency and conservation measures and, in consultation
14 with the commission, may adopt additional incremental
15 load reduction standards for electric distribution
16 companies.

17 (2) The following relate to demand-side response
18 measures:

19 (i) Cost-effective demand-side response measures to
20 reduce peak demand by a minimum of 4% in the 100 hours of
21 highest demand with provision made for weather
22 adjustments and extraordinary load that the electric
23 distribution company must serve. This reduction will be
24 measured against the electric distribution company's peak
25 demand in the 100 hours of greatest demand for June 1,
26 2007, through May 31, 2008. The reductions shall be
27 accomplished by May 31, 2012.

28 (ii) By November 30, 2012, the program administrator
29 shall compare the total costs of these demand-side
30 response measures to the total savings in energy and

1 capacity costs to retail customers of this Commonwealth.
2 If the benefits have been shown to exceed the costs,
3 consistent with the total resource cost test, the
4 commission shall order additional peak demand reductions
5 for the 100 hours of greatest demand or an alternative
6 measure adopted by the commission. The reductions shall
7 be measured from the electric distribution company's peak
8 demand for the period from June 1, 2011, through May 31,
9 2012. The mandated reductions shall be accomplished no
10 later than May 31, 2017.

11 (iii) After May 31, 2017, the program administrator
12 shall continue to evaluate the costs and benefits of
13 demand-side response measures and may, in consultation
14 with the commission, adopt additional incremental peak
15 load reduction standards.

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

23 (1) The report shall include, but not be limited to:

24 (i) Documentation of program expenditures.

25 (ii) Measurement and verification of savings
26 resulting from programs.

27 (iii) Evaluation of the cost-effectiveness of
28 expenditures.

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

1 (2) The program administrator, upon consultation with
2 the commission, shall direct a third-party entity to modify
3 or terminate a particular energy efficiency or a demand-side
4 response program if, after an adequate period for
5 implementation of the program, the commission determines the
6 program is not sufficiently meeting its goals and purposes.

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

14 (g) Responsibilities of electric distribution companies.--

15 Each electric distribution company shall:

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

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

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

29 (4) Provide assistance as may be requested by the
30 program administrator to facilitate the successful execution

1 of the contract agreement with the third-party entities to
2 provide an energy efficiency and demand-side response program
3 within their service territories.

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

10 (i) Reporting.--The commission shall submit an annual report
11 to the General Assembly describing the results of the programs
12 implemented by each of the electric distribution companies,
13 including, but not limited to:

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

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

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

20 (j) Definitions.--For purposes of this section, the term
21 "electric distribution company" shall mean a public utility
22 providing facilities for the jurisdictional transmission and
23 distribution of electricity to 100,000 or more retail customers
24 in this Commonwealth.

25 Section 3. This act shall take effect immediately.