

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2200 Session of 2008

INTRODUCED BY GEORGE, McCALL, BELFANTI, CALTAGIRONE, CONKLIN, DALEY, GOODMAN, HARHAI, HARKINS, KULA, MANDERINO, McGEEHAN, VITALI, J. WHITE, WALKO, SURRA, DeLUCA, DERMODY, GRUCELA, JOSEPHS, JAMES, GINGRICH, FREEMAN, K. SMITH, McILVAINE SMITH, YOUNGBLOOD AND FRANKEL, JANUARY 15, 2008

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 11, 2008

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, PROVIDING FOR RECOVERY OF CERTAIN <—
3 LABOR RELATIONS EXPENSES; further providing for definitions;
4 and providing for adoption of energy efficiency and demand- <—
5 side response; AND FURTHER PROVIDING FOR DUTIES OF ELECTRIC <—
6 DISTRIBUTION COMPANIES.

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

9 ~~Section 1. Section 2803 of Title 66 of the Pennsylvania <—
10 Consolidated Statutes is amended by adding definitions to read:~~

11 SECTION 1. TITLE 66 OF THE PENNSYLVANIA CONSOLIDATED <—
12 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

13 § 1329. RECOVERY OF CERTAIN LABOR RELATIONS EXPENSES.

14 NO PUBLIC UTILITY MAY CHARGE ITS CUSTOMERS AS A PERMISSIBLE
15 OPERATING EXPENSE FOR RATEMAKING PURPOSES ANY PORTION OF THE
16 DIRECT OR INDIRECT COST OF MEETINGS, PUBLICATIONS, CONSULTANTS,
17 ATTORNEYS OR OTHER PROFESSIONAL SERVICES AND EXPENSES ASSOCIATED
18 WITH THE UTILITY'S EFFORTS TO DISSUADE THE EMPLOYEES OF THE

1 UTILITY, OR THE EMPLOYEES OF ANY AFFILIATED INTEREST OF THE
2 UTILITY AS DEFINED IN SECTION 2101 (RELATING TO DEFINITION OF
3 AFFILIATED INTEREST), FROM BECOMING OR REMAINING A MEMBER IN, OR
4 OTHERWISE BEING REPRESENTED BY, ANY LABOR UNION.

5 SECTION 2. SECTION 2803 OF TITLE 66 IS AMENDED BY ADDING
6 DEFINITIONS TO READ:

7 § 2803. Definitions.

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

11 "Affiliated interest." As defined in section 2101 (relating
12 to definition of affiliated interest).

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

21 (1) The measure is installed on or after the effective
22 date of this section at the service location of a retail
23 customer.

24 (2) The measure reduces the peak demand or cost of
25 energy by the retail customer.

26 (3) The costs of the acquisition or installation of the
27 measure are directly incurred in whole or in part by the
28 electric distribution company.

29 * * *

30 "Energy efficiency." Technologies, management practices or

1 other strategies or measures employed by retail customers that
2 reduce electricity consumption provided that:

3 (1) The measure is installed on or after the effective
4 date of this definition 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 "Independent entity." An entity with no direct or indirect
12 ownership, partnership or other affiliated interest with an
13 electric distribution company.

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

18 * * *

19 "REAL-TIME PRICE." A RATE THAT DIRECTLY REFLECTS THE
20 DIFFERENT COST OF ENERGY DURING EACH HOUR.

21 * * *

22 "SMART METER TECHNOLOGY." TECHNOLOGY, INCLUDING, BUT NOT
23 LIMITED TO, METERING TECHNOLOGY AND NETWORK COMMUNICATIONS
24 TECHNOLOGY CAPABLE OF BIDIRECTIONAL COMMUNICATION AND THAT
25 RECORDS ELECTRICITY USAGE ON AT LEAST AN HOURLY BASIS, INCLUDING
26 RELATED ELECTRIC DISTRIBUTION SYSTEM UPGRADES TO ENABLE THE
27 TECHNOLOGY. THE TECHNOLOGY SHALL PROVIDE CUSTOMERS WITH DIRECT
28 ACCESS TO AND USE OF PRICE AND CONSUMPTION INFORMATION. THE
29 TECHNOLOGY SHALL ALSO:

30 (1) DIRECTLY PROVIDE CUSTOMERS WITH INFORMATION ON THEIR

1 HOURLY CONSUMPTION.

2 (2) ENABLE TIME-OF-USE RATES AND REAL-TIME PRICE
3 PROGRAMS.

4 (3) EFFECTIVELY SUPPORT THE AUTOMATIC CONTROL OF THE
5 CUSTOMER'S ELECTRICITY CONSUMPTION BY ONE OR MORE OF THE
6 FOLLOWING AS SELECTED BY THE CUSTOMER:

7 (I) THE CUSTOMER;

8 (II) THE CUSTOMER'S UTILITY; OR

9 (III) A THIRD PARTY ENGAGED BY THE CUSTOMER OR THE
10 CUSTOMER'S UTILITY.

11 "TIME-OF-USE RATE." A RATE THAT REFLECTS THE COSTS OF
12 SERVING CUSTOMERS DURING DIFFERENT TIME PERIODS, INCLUDING OFF-
13 PEAK AND ON-PEAK PERIODS, BUT NOT AS FREQUENTLY AS EACH HOUR.

14 "Total resources cost test." A standard test that is met if,
15 over the effective life of the program, the avoided supply-side
16 monetary costs are greater than the monetary costs of the
17 demand-side programs borne by both the electric distribution
18 company and the participants.

19 * * *

20 Section 2 3. Title 66 is amended by adding a section to ←
21 read:

22 § 2806.1. Adoption of procedures encouraging energy efficiency
23 and demand-side response.

24 (a) Program.--The commission shall develop a program to
25 provide for the implementation of cost-effective programs that
26 reduce energy demand and consumption within the service
27 territories of all electric distribution companies throughout
28 this Commonwealth. The program shall include, but is not limited
29 to, the following:

30 (1) Selecting a program administrator to develop and

1 oversee the delivery of energy efficiency and demand-side
2 response programs within the service territory of each
3 electric distribution company within this Commonwealth.

4 (2) Implementing the necessary administrative and
5 financial mechanisms that will enable the program
6 administrator to develop and oversee the provision of energy
7 efficiency and demand-side response programs within the
8 service territory of each electric distribution company
9 within this Commonwealth, including the levying of
10 assessments in accordance with sections 510 (relating to
11 assessment for regulatory expenses upon public utilities),
12 1307 (relating to sliding scale of rates; adjustments) and
13 1308 (relating to voluntary changes in rates). The commission
14 shall not approve or implement and shall not assess or charge
15 to customers the costs of energy efficiency or demand-
16 response programs to the extent that the costs of such
17 programs exceed 2% of the total annual revenues of the
18 electric distribution company in whose service territory the <—
19 programs are implemented. FROM ALL SOURCES, INCLUDING DEFAULT <—
20 SERVICE GENERATION REVENUES AS OF JANUARY 1, 2007. This
21 funding limit shall not include amounts provided for by the
22 low-income usage reduction programs established under
23 regulations at 52 Pa. Code Ch. 58 (relating to residential
24 low income usage reduction programs).

25 (3) Implementing the necessary administrative and
26 financial mechanisms that facilitate a system of third-party
27 entities to deliver all or portions of the energy efficiency
28 and demand-side response programs within the service
29 territory of each electric distribution company within this
30 Commonwealth, including the levying of assessments in

1 accordance with sections 510, 1307 and 1308. The commission
2 may order the electric distribution company to pay the third-
3 party entity for services rendered in an electric
4 distribution company's respective service territory pursuant
5 to this section. The electric distribution company may be a
6 third-party entity.

7 (b) Selection of program administrator.--The commission
8 shall implement the following procedures when selecting a
9 program administrator:

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

16 (2) The commission shall, within 60 days of the
17 completion of the public comment period, issue the final
18 request for proposals.

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

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

28 (c) Powers and duties of program administrator.--The program
29 administrator shall have powers and duties assigned by the
30 commission. The powers and duties shall include, but not be

1 limited to:

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

7 (2) Ensuring that each proposal includes, but is not
8 limited to:

9 (i) A clear delineation of how the program will be
10 conducted.

11 (ii) The types of specific program measures to be
12 offered.

13 (iii) The cost and benefit of each program to be
14 offered.

15 (iv) A process for monitoring and verifying results,
16 data collection and management procedures, program
17 evaluation processes and financial management strategies.

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

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

21 (ii) Finding that each program is cost effective and
22 that the portfolio of programs is designed to provide
23 every affected customer class with the opportunity to
24 participate and benefit economically.

25 (iii) Determining the cost-effectiveness of energy
26 efficiency and demand-side response measures using the
27 total resource cost test.

28 (4) Recommending to the commission those entities best
29 suited to provide energy efficiency and demand-side response
30 programs within the service territory of each electric

1 distribution company.

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

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

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

16 (6) Executing agreements on behalf of the commission
17 with the selected entity in each electric distribution
18 company service territory to conduct the energy efficiency
19 and demand-side response program. As part of these agreements
20 the program administrator shall ensure that:

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

23 (ii) A clearly defined process for financial
24 compensation for the entity delivering the program which
25 is tied to defined goals for performance regarding
26 program activities accomplished, energy cost savings on a
27 per-customer basis and utility-wide basis and overall
28 energy and peak demand reduction is established.

29 (iii) A system of incentives and penalties for
30 performance of contractual activities above and below

1 predetermined levels is in place.

2 (iv) There is a set contract term which may include
3 an initial three-year term with renewal terms of varied
4 length.

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

7 (d) Commission review of recommendations.--The commission
8 shall review the recommendations made by the program
9 administrator regarding those entities best suited to provide
10 energy efficiency and demand-side response programs within the
11 service territory of each electric distribution company. The
12 commission shall approve or disapprove the recommendations made
13 by the program administrator.

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

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

17 (ii) Any costs entered into are borne by the
18 appropriate parties and that costs, including the costs
19 of subsection (c)(6)(iv) incentives, related to the
20 provision of the contracted services are borne by the
21 appropriate customer class.

22 (iii) There will be provided, in a cost-effective
23 manner, a program that provides energy efficiency and
24 demand-side response measures to all customer classes
25 throughout the service territory of each electric
26 distribution company.

27 (2) If the commission approves a third-party entity to
28 conduct the program, the commission shall ensure the program
29 administrator finalizes the agreement between the commission
30 and the third-party entity selected to provide the program of

1 energy efficiency and demand-side response.

2 (3) In the event the commission disapproves the
3 recommendation of the program administrator, the commission
4 shall provide a rationale for this decision and direct the
5 program administrator on a course of action.

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

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

11 (I) BY MAY 31, 2011, TOTAL ANNUAL DELIVERIES TO ←
12 RETAIL CUSTOMERS OF ELECTRIC DISTRIBUTION COMPANIES SHALL
13 BE REDUCED BY A MINIMUM OF 1%. THIS LOAD REDUCTION SHALL
14 BE MEASURED AGAINST THE EXPECTED LOAD FORECASTED BY THE
15 COMMISSION FOR JUNE 1, 2010, THROUGH MAY 31, 2011, BASED
16 ON LOAD FOR THE PERIOD JUNE 1, 2007, THROUGH MAY 31,
17 2008, WITH PROVISION MADE FOR WEATHER ADJUSTMENTS AND
18 EXTRAORDINARY LOAD THAT THE ELECTRIC DISTRIBUTION COMPANY
19 MUST SERVE. THE COMMISSION SHALL DETERMINE AND MAKE
20 PUBLIC THE FORECASTS TO BE USED FOR EACH ELECTRIC
21 DISTRIBUTION COMPANY NO LATER THAN AUGUST 31, 2008. THE
22 PROGRAM ADMINISTRATOR SHALL ENSURE THAT A THIRD-PARTY
23 ENTITY MEETS THE GOALS CONTAINED IN THIS SECTION THROUGH
24 THE IMPLEMENTATION OF A PROGRAM OF ENERGY EFFICIENCY
25 MEASURES THROUGHOUT THE SERVICE TERRITORY OF THE ELECTRIC
26 DISTRIBUTION COMPANY.

27 ~~(i)~~ (II) By May 31, 2013, total annual deliveries to ←
28 retail customers of electric distribution companies shall
29 be reduced by a minimum of 2.5%. ~~with provision made~~ ←
30 ~~for weather adjustments and extraordinary load that the~~

electric distribution company must serve. This load reduction shall be measured against the expected load forecasted by the commission for June 1, 2012, through May 31, 2013, based on load for the period June 1, 2007, through May 31, 2008, WITH PROVISION MADE FOR WEATHER ADJUSTMENTS AND EXTRAORDINARY LOAD THAT THE ELECTRIC DISTRIBUTION COMPANY MUST SERVE. The commission shall determine and make public the forecasts to be used for each electric distribution company no later than August 31, 2008. The program administrator shall ensure that a third-party entity meets the goals contained in this section through the implementation of a program of energy efficiency measures throughout the service territory of the electric distribution company.

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

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

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

1 (i) Cost-effective demand-side response measures to
2 reduce peak demand by a minimum of 4% in the 100 hours of
3 highest demand with provision made for weather
4 adjustments and extraordinary load that the electric
5 distribution company must serve shall be implemented in
6 each electric distribution company's service territory.
7 This reduction will be measured against the electric
8 distribution company's peak demand in the 100 hours of
9 greatest demand for June 1, 2007, through May 31, 2008.
10 The reductions shall be accomplished by May 31, 2012.

11 (ii) By November 30, 2012, the program administrator
12 shall compare the total costs of these demand-side
13 response measures to the total savings in energy and
14 capacity costs to retail customers of this Commonwealth.
15 If the benefits have been shown to exceed the costs,
16 consistent with the total resource cost test, the
17 commission shall order additional peak demand reductions
18 for the 100 hours of greatest demand or an alternative
19 measure adopted by the commission. The reductions shall
20 be measured from the electric distribution company's peak
21 demand for the period from June 1, 2011, through May 31,
22 2012. The mandated reductions shall be accomplished no
23 later than May 31, 2017.

24 (iii) After May 31, 2017, the program administrator
25 shall continue to evaluate the costs and benefits of
26 demand-side response measures and may, in consultation
27 with the commission, adopt additional incremental peak
28 load reduction standards.

29 (f) Measurements and verification.--The commission shall
30 establish standards by which the program administrator submits

1 to the commission an annual report, which includes that
2 information relating to the actions and results of the energy
3 efficiency and demand-side response programs undertaken within
4 each electric distribution service territory by each third-party
5 entity.

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

7 (i) Documentation of program expenditures.

8 (ii) Measurement and verification of savings
9 resulting from programs.

10 (iii) Evaluation of the cost-effectiveness of
11 expenditures.

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

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

20 (3) In the event an energy efficiency or demand-side
21 response program is terminated, the program administrator
22 shall require the third-party entity to submit a revised
23 program describing the actions to be undertaken to either
24 offer a substitute program or increase the availability of
25 existing programs to make up for the effect of the terminated
26 program on its overall program goals.

27 (g) Responsibilities of electric distribution companies.--
28 Each electric distribution company that does not seek to be a
29 third-party entity shall:

30 (1) Cooperate with the program administrator as needed

1 in its efforts to competitively procure the services of a
2 third-party entity to provide an energy efficiency and
3 demand-side response program within the service territory of
4 the electric distribution company.

5 (2) Provide information necessary to effectively
6 facilitate the work of the selected third-party entity in
7 conducting the energy efficiency and demand-side response
8 program.

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

13 (4) Provide assistance as may be requested by the
14 program administrator to facilitate the successful execution
15 of the contract agreement with the third-party entities to
16 provide an energy efficiency and demand-side response program
17 within their service territories.

18 (h) Recovery of administrative and program costs.--An
19 electric distribution company may fully recover all
20 administrative costs, including, but not limited to, costs
21 incurred under subsections (a)(3) and (g)(1), (2), (3) and (4),
22 that the commission determines are prudently incurred and
23 reasonable in amount pursuant to implementing a program to
24 deliver cost-effective energy efficiency and demand-side
25 response activities through a third-party entity. Program and
26 administrative costs shall be recovered on a full and current
27 basis by the electric distribution company from customers
28 through a reconcilable automatic adjustment clause pursuant to
29 section 1307. Energy efficiency and demand-side resource
30 programs shall be deemed to be a new service offered for the

1 first time under section 2804(4)(vi) (relating to standards for
2 restructuring of electric industry).

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

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

8 (2) Energy use by customer class within this
9 Commonwealth.

10 (3) Reductions in overall peak demand and projections
11 toward complying with the overall target reduction goals of
12 this section.

13 (j) Definitions.--For purposes of this section, the term
14 "electric distribution company" shall mean a public utility
15 providing facilities for the jurisdictional transmission and
16 distribution of electricity to 100,000 or more retail customers
17 in this Commonwealth.

18 SECTION 4. SECTION 2807(E) OF TITLE 66 IS AMENDED BY ADDING <—
19 A PARAGRAPH TO READ:

20 § 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

21 * * *

22 (E) OBLIGATION TO SERVE.--* * *

23 (6) (I) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF
24 THIS PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL
25 FILE A SMART METER TECHNOLOGY PROCUREMENT AND
26 INSTALLATION PLAN WITH THE COMMISSION FOR APPROVAL AND
27 MAKE THE PLAN AVAILABLE FOR PUBLIC COMMENT FOR A MINIMUM
28 OF 30 DAYS. THE PLAN SHALL DESCRIBE THE SMART METER
29 TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES
30 TO INSTALL, HOW THE SMART METER TECHNOLOGY MEETS THE

1 REQUIREMENTS OF THIS PARAGRAPH AND HOW THE SMART METER
2 TECHNOLOGY SHALL BE INSTALLED ACCORDING TO THIS
3 PARAGRAPH. IN ADDITION, THE PLAN SHALL ENSURE THAT ALL
4 SMART METER TECHNOLOGY INSTALLATION AND MAINTENANCE WORK
5 SHALL BE PERFORMED BY ADEQUATELY TRAINED AND QUALIFIED
6 PERSONNEL AND THAT, TO THE EXTENT PRACTICAL, SUCH WORK
7 SHALL BE OFFERED INITIALLY TO EMPLOYEES OF THE ELECTRIC
8 DISTRIBUTION COMPANY.

9 (II) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH
10 SMART METER TECHNOLOGY TO:

11 (A) CUSTOMERS RESPONSIBLE FOR 40% OF THE
12 DISTRIBUTION COMPANY'S ANNUAL PEAK DEMAND WITHIN FOUR
13 YEARS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH.

14 (B) CUSTOMERS RESPONSIBLE FOR 75% OF THE
15 DISTRIBUTION COMPANY'S ANNUAL PEAK DEMAND WITHIN SIX
16 YEARS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH.

17 (C) ONE HUNDRED PERCENT OF ITS CUSTOMERS WITHIN
18 TEN YEARS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH.

19 ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER
20 CONSENT, MAKE AVAILABLE ELECTRONIC ACCESS TO CUSTOMER
21 METER DATA TO THIRD PARTIES, INCLUDING ELECTRIC
22 GENERATION SUPPLIERS AND PROVIDERS OF CONSERVATION AND
23 LOAD MANAGEMENT SERVICES.

24 (III) ELECTRIC DISTRIBUTION COMPANIES SHALL BE
25 PERMITTED TO RECOVER ALL REASONABLE AND PRUDENT COSTS, AS
26 DETERMINED BY THE COMMISSION, OF PROVIDING SMART METER
27 TECHNOLOGY, INCLUDING ANNUAL DEPRECIATION AND CAPITAL
28 COSTS OVER THE LIFE OF THE SMART METER TECHNOLOGY, THAT
29 ARE INCURRED AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH,
30 LESS ALL OPERATING AND CAPITAL COSTS SAVINGS REALIZED BY

1 THE ELECTRIC DISTRIBUTION COMPANY FROM THE INTRODUCTION
2 AND USE OF THE SMART METER TECHNOLOGY. AN ELECTRIC
3 DISTRIBUTION COMPANY MAY, AT ITS OPTION, RECOVER SUCH
4 SMART METER TECHNOLOGY COSTS:

5 (A) THROUGH BASE RATES, INCLUDING A DEFERRAL FOR
6 FUTURE BASE RATE RECOVERY OF CURRENT COSTS, WITH
7 CARRYING CHARGES EQUAL TO 6%; OR

8 (B) ON A FULL AND CURRENT BASIS THROUGH A
9 RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER
10 SECTION 1307 (RELATING TO SLIDING SCALE OF RATES;
11 ADJUSTMENTS).

12 IN NO EVENT SHALL LOST OR DECREASED REVENUES BY AN
13 ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ELECTRICITY
14 CONSUMPTION OR SHIFTING ENERGY DEMAND BE CONSIDERED A
15 COST OF SMART METER TECHNOLOGY. SMART METER TECHNOLOGY
16 SHALL BE DEEMED TO BE A NEW SERVICE OFFERED FOR THE FIRST
17 TIME UNDER SECTION 2804(4)(VI) (RELATING TO STANDARDS FOR
18 RESTRUCTURING OF ELECTRIC INDUSTRY).

19 (IV) BY JANUARY 1, 2010, OR AT THE END OF THE
20 APPLICABLE GENERATION RATE CAP PERIOD, WHICHEVER IS
21 LATER, A DEFAULT SERVICE PROVIDER SHALL SUBMIT TO THE
22 COMMISSION ONE OR MORE PROPOSED TIME-OF-USE RATES AND A
23 REAL-TIME PRICE PLAN. THE COMMISSION SHALL APPROVE OR
24 MODIFY THE TIME-OF-USE RATES AND REAL-TIME PRICE PLAN
25 WITHIN SIX MONTHS OF SUBMITTAL. THE DEFAULT SERVICE
26 PROVIDER SHALL OFFER COMMISSION-APPROVED TIME-OF-USE
27 RATES AND A REAL-TIME PRICE PLAN TO ALL RESIDENTIAL AND
28 COMMERCIAL CUSTOMERS THAT HAVE BEEN PROVIDED WITH SMART
29 METER TECHNOLOGY WITHIN 60 DAYS OF INSTALLATION OF THE
30 SMART METER TECHNOLOGY OR COMMISSION APPROVAL OF THE

1 TIME-OF-USE RATES AND A REAL-TIME PRICE PLAN, WHICHEVER
2 IS LATER. CUSTOMER PARTICIPATION IN TIME-OF-USE RATES OR
3 REAL-TIME PRICING SHALL BE VOLUNTARY AND SHALL ONLY BE
4 PROVIDED WITH THE AFFIRMATIVE CONSENT OF THE CUSTOMER.
5 THE DEFAULT SERVICE PROVIDER SHALL SUBMIT AN ANNUAL
6 REPORT TO THE COMMISSION ON THE PARTICIPATION IN THE
7 TIME-OF-USE AND REAL-TIME PRICE PROGRAMS AND THE EFFICACY
8 OF THE PROGRAMS IN AFFECTING ENERGY DEMAND AND
9 CONSUMPTION AND THE EFFECT ON WHOLESALE MARKET PRICES.

10 (V) FOR PURPOSES OF THIS PARAGRAPH, THE TERM
11 "ELECTRIC DISTRIBUTION COMPANY" SHALL MEAN A PUBLIC
12 UTILITY PROVIDING FACILITIES FOR THE JURISDICTIONAL
13 TRANSMISSION AND DISTRIBUTION OF ELECTRICITY TO 100,000
14 OR MORE RETAIL CUSTOMERS IN THIS COMMONWEALTH.

15 Section 3 5. This act shall take effect immediately.

<—