
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

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, IN SENATE, AS AMENDED, SEPTEMBER 23, 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 ~~providing for adoption of energy efficiency and demand side~~
5 ~~response; and further providing for duties of electric~~
6 ~~distribution companies.~~ FURTHER PROVIDING FOR DEFINITIONS; <—
7 PROVIDING FOR ENERGY EFFICIENCY AND CONSERVATION; FURTHER
8 PROVIDING FOR DUTIES OF ELECTRIC DISTRIBUTION COMPANIES; AND
9 PROVIDING FOR PROCUREMENT.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 ~~Section 1. Title 66 of the Pennsylvania Consolidated~~ <—
13 ~~Statutes is amended by adding a section to read:~~

14 ~~§ 1329. Recovery of certain labor relations expenses.~~

15 ~~No public utility may charge its customers as a permissible~~
16 ~~operating expense for ratemaking purposes any portion of the~~
17 ~~direct or indirect cost of meetings, publications, consultants,~~
18 ~~attorneys or other professional services and expenses associated~~

~~1 with the utility's efforts to dissuade the employees of the
2 utility, or the employees of any affiliated interest of the
3 utility as defined in section 2101 (relating to definition of
4 affiliated interest), from becoming or remaining a member in, or
5 otherwise being represented by, any labor union.~~

~~6 Section 2. Section 2803 of Title 66 is amended by adding
7 definitions to read:~~

~~8 § 2803. Definitions.~~

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

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

~~14 * * *~~

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

~~17 * * *~~

~~18 "Demand side response." Load management technologies,
19 management practices or other strategies employed by retail
20 customers that decrease peak electricity demand or shift demand
21 from on peak to off peak periods provided that:~~

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

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

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

~~30 * * *~~

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

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

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

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

~~"Independent entity." An entity with no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company.~~

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

~~"Real time price." A rate that directly reflects the different cost of energy during each hour.~~

~~* * *~~

~~"Smart meter technology." Technology, including, but not limited to, metering technology and network communications technology capable of bidirectional communication and that records electricity usage on at least an hourly basis, including related electric distribution system upgrades to enable the technology. The technology shall provide customers with direct access to and use of price and consumption information. The technology shall also:~~

~~(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 ~~servicing 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 3. Title 66 is amended by adding a section to read:~~
21 ~~§ 2806.1. Adoption of procedures encouraging energy efficiency~~
22 ~~and demand side response.~~

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

29 ~~(1) Selecting a program administrator to develop and~~
30 ~~oversee the delivery of energy efficiency and demand side~~

1 ~~response programs within the service territory of each~~
2 ~~electric distribution company within this Commonwealth.~~

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

23 ~~(3) Implementing the necessary administrative and~~
24 ~~financial mechanisms that facilitate a system of third party~~
25 ~~entities to deliver all or portions of the energy efficiency~~
26 ~~and demand side response programs within the service~~
27 ~~territory of each electric distribution company within this~~
28 ~~Commonwealth, including the levying of assessments in~~
29 ~~accordance with sections 510, 1307 and 1308. The commission~~
30 ~~may order the electric distribution company to pay the third-~~

~~party entity for services rendered in an electric distribution company's respective service territory pursuant to this section. The electric distribution company may be a third party entity.~~

~~(b) Selection of program administrator. The commission shall implement the following procedures when selecting a program administrator:~~

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

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

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

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

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

~~(1) Soliciting through a competitive procurement process~~

~~within each electric distribution company service territory a program of providing energy efficiency and demand side response programs to residential, commercial and industrial customers utilizing third party entities.~~

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

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

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

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

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

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

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

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

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

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

~~(5) In the event no qualified proposals are received~~

1 ~~that meet the required plan goals in an electric distribution~~
2 ~~company service territory to conduct the program activities:~~

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

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

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

19 ~~(i) The programs offered by the selected entity are~~
20 ~~provided equitably across all customer classes.~~

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

27 ~~(iii) A system of incentives and penalties for~~
28 ~~performance of contractual activities above and below~~
29 ~~predetermined levels is in place.~~

30 ~~(iv) There is a set contract term which may include~~

1 ~~an initial three year term with renewal terms of varied~~
2 ~~length.~~

3 ~~(7) Submitting reports to the commission at such times~~
4 ~~and in such manner as the commission directs.~~

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

12 ~~(1) The commission review of the recommendations of the~~
13 ~~program administrator shall be limited to ensuring that:~~

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

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

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

25 ~~(2) If the commission approves a third party entity to~~
26 ~~conduct the program, the commission shall ensure the program~~
27 ~~administrator finalizes the agreement between the commission~~
28 ~~and the third party entity selected to provide the program of~~
29 ~~energy efficiency and demand side response.~~

30 ~~(3) In the event the commission disapproves the~~

1 ~~recommendation of the program administrator, the commission~~
2 ~~shall provide a rationale for this decision and direct the~~
3 ~~program administrator on a course of action.~~

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

8 ~~(1) The following relate to energy efficiency goals:~~

9 ~~(i) By May 31, 2011, total annual deliveries to~~
10 ~~retail customers of electric distribution companies shall~~
11 ~~be reduced by a minimum of 1%. This load reduction shall~~
12 ~~be measured against the expected load forecasted by the~~
13 ~~commission for June 1, 2010, through May 31, 2011, based~~
14 ~~on load for the period June 1, 2007, through May 31,~~
15 ~~2008, with provision made for weather adjustments and~~
16 ~~extraordinary load that the electric distribution company~~
17 ~~must serve. The commission shall determine and make~~
18 ~~public the forecasts to be used for each electric~~
19 ~~distribution company no later than August 31, 2008. The~~
20 ~~program administrator shall ensure that a third party~~
21 ~~entity meets the goals contained in this section through~~
22 ~~the implementation of a program of energy efficiency~~
23 ~~measures throughout the service territory of the electric~~
24 ~~distribution company.~~

25 ~~(ii) By May 31, 2013, total annual deliveries to~~
26 ~~retail customers of electric distribution companies shall~~
27 ~~be reduced by a minimum of 2.5%. This load reduction~~
28 ~~shall be measured against the expected load forecasted by~~
29 ~~the commission for June 1, 2012, through May 31, 2013,~~
30 ~~based on load for the period June 1, 2007, through May~~

1 ~~31, 2008, with provision made for weather adjustments and~~
2 ~~extraordinary load that the electric distribution company~~
3 ~~must serve. The commission shall determine and make~~
4 ~~public the forecasts to be used for each electric~~
5 ~~distribution company no later than August 31, 2008. The~~
6 ~~program administrator shall ensure that a third party~~
7 ~~entity meets the goals contained in this section through~~
8 ~~the implementation of a program of energy efficiency~~
9 ~~measures throughout the service territory of the electric~~
10 ~~distribution company.~~

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

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

25 ~~(2) The following relate to demand side response~~
26 ~~measures:~~

27 ~~(i) Cost effective demand side response measures to~~
28 ~~reduce peak demand by a minimum of 4% in the 100 hours of~~
29 ~~highest demand with provision made for weather~~
30 ~~adjustments and extraordinary load that the electric~~

~~distribution company must serve shall be implemented in each electric distribution company's service territory. This reduction will be measured against the electric distribution company's peak demand in the 100 hours of greatest demand for June 1, 2007, through May 31, 2008. The reductions shall be accomplished by May 31, 2012.~~

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

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

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

1 entity.

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

3 ~~(i) Documentation of program expenditures.~~

4 ~~(ii) Measurement and verification of savings~~
5 ~~resulting from programs.~~

6 ~~(iii) Evaluation of the cost effectiveness of~~
7 ~~expenditures.~~

8 ~~(iv) Any other information the commission may~~
9 ~~require pursuant to its rulemaking authority.~~

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

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

23 ~~(g) Responsibilities of electric distribution companies.~~

24 ~~Each electric distribution company that does not seek to be a~~
25 ~~third party entity shall:~~

26 ~~(1) Cooperate with the program administrator as needed~~
27 ~~in its efforts to competitively procure the services of a~~
28 ~~third party entity to provide an energy efficiency and~~
29 ~~demand side response program within the service territory of~~
30 ~~the electric distribution company.~~

1 ~~(2) Provide information necessary to effectively~~
2 ~~facilitate the work of the selected third party entity in~~
3 ~~conducting the energy efficiency and demand side response~~
4 ~~program.~~

5 ~~(3) Provide assistance as may be requested by the~~
6 ~~program administrator in reviewing proposals from third party~~
7 ~~entities seeking to provide energy efficiency and demand side~~
8 ~~response programs within their service territories.~~

9 ~~(4) Provide assistance as may be requested by the~~
10 ~~program administrator to facilitate the successful execution~~
11 ~~of the contract agreement with the third party entities to~~
12 ~~provide an energy efficiency and demand side response program~~
13 ~~within their service territories.~~

14 ~~(h) Recovery of administrative and program costs. An~~
15 ~~electric distribution company may fully recover all~~
16 ~~administrative costs, including, but not limited to, costs~~
17 ~~incurred under subsections (a)(3) and (g)(1), (2), (3) and (4),~~
18 ~~that the commission determines are prudently incurred and~~
19 ~~reasonable in amount pursuant to implementing a program to~~
20 ~~deliver cost effective energy efficiency and demand side~~
21 ~~response activities through a third party entity. Program and~~
22 ~~administrative costs shall be recovered on a full and current~~
23 ~~basis by the electric distribution company from customers~~
24 ~~through a reconcilable automatic adjustment clause pursuant to~~
25 ~~section 1307. Energy efficiency and demand side resource~~
26 ~~programs shall be deemed to be a new service offered for the~~
27 ~~first time under section 2804(4)(vi) (relating to standards for~~
28 ~~restructuring of electric industry).~~

29 ~~(i) Reporting. The commission shall submit an annual report~~
30 ~~to the General Assembly describing the results of the programs~~

1 ~~implemented by each of the electric distribution companies,~~
2 ~~including, but not limited to:~~

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

4 ~~(2) Energy use by customer class within this~~
5 ~~Commonwealth.~~

6 ~~(3) Reductions in overall peak demand and projections~~
7 ~~toward complying with the overall target reduction goals of~~
8 ~~this section.~~

9 ~~(j) Definitions. For purposes of this section, the term~~
10 ~~"electric distribution company" shall mean a public utility~~
11 ~~providing facilities for the jurisdictional transmission and~~
12 ~~distribution of electricity to 100,000 or more retail customers~~
13 ~~in this Commonwealth.~~

14 Section 4. ~~Section 2807(e) of Title 66 is amended by adding~~
15 ~~a paragraph to read:~~

16 ~~§ 2807. Duties of electric distribution companies.~~

17 ~~* * *~~

18 ~~(e) Obligation to serve. * * *~~

19 ~~(6) (i) Within nine months after the effective date of~~
20 ~~this paragraph, electric distribution companies shall~~
21 ~~file a smart meter technology procurement and~~
22 ~~installation plan with the commission for approval and~~
23 ~~make the plan available for public comment for a minimum~~
24 ~~of 30 days. The plan shall describe the smart meter~~
25 ~~technologies the electric distribution company proposes~~
26 ~~to install, how the smart meter technology meets the~~
27 ~~requirements of this paragraph and how the smart meter~~
28 ~~technology shall be installed according to this~~
29 ~~paragraph. In addition, the plan shall ensure that all~~
30 ~~smart meter technology installation and maintenance work~~

1 ~~shall be performed by adequately trained and qualified~~
2 ~~personnel and that, to the extent practical, such work~~
3 ~~shall be offered initially to employees of the electric~~
4 ~~distribution company.~~

5 ~~(ii) Electric distribution companies shall furnish~~
6 ~~smart meter technology to:~~

7 ~~(A) Customers responsible for 40% of the~~
8 ~~distribution company's annual peak demand within four~~
9 ~~years after the effective date of this paragraph.~~

10 ~~(B) Customers responsible for 75% of the~~
11 ~~distribution company's annual peak demand within six~~
12 ~~years after the effective date of this paragraph.~~

13 ~~(C) One hundred percent of its customers within~~
14 ~~ten years after the effective date of this paragraph.~~

15 ~~Electric distribution companies shall, with customer~~
16 ~~consent, make available electronic access to customer~~
17 ~~meter data to third parties, including electric~~
18 ~~generation suppliers and providers of conservation and~~
19 ~~load management services.~~

20 ~~(iii) Electric distribution companies shall be~~
21 ~~permitted to recover all reasonable and prudent costs, as~~
22 ~~determined by the commission, of providing smart meter~~
23 ~~technology, including annual depreciation and capital~~
24 ~~costs over the life of the smart meter technology, that~~
25 ~~are incurred after the effective date of this paragraph,~~
26 ~~less all operating and capital costs savings realized by~~
27 ~~the electric distribution company from the introduction~~
28 ~~and use of the smart meter technology. An electric~~
29 ~~distribution company may, at its option, recover such~~
30 ~~smart meter technology costs:~~

1 ~~(A) through base rates, including a deferral for~~
2 ~~future base rate recovery of current costs, with~~
3 ~~carrying charges equal to 6%; or~~

4 ~~(B) on a full and current basis through a~~
5 ~~reconcilable automatic adjustment clause under~~
6 ~~section 1307 (relating to sliding scale of rates;~~
7 ~~adjustments).~~

8 ~~In no event shall lost or decreased revenues by an~~
9 ~~electric distribution company due to reduced electricity~~
10 ~~consumption or shifting energy demand be considered a~~
11 ~~cost of smart meter technology. Smart meter technology~~
12 ~~shall be deemed to be a new service offered for the first~~
13 ~~time under section 2804(4)(vi) (relating to standards for~~
14 ~~restructuring of electric industry).~~

15 ~~(iv) By January 1, 2010, or at the end of the~~
16 ~~applicable generation rate cap period, whichever is~~
17 ~~later, a default service provider shall submit to the~~
18 ~~commission one or more proposed time of use rates and a~~
19 ~~real time price plan. The commission shall approve or~~
20 ~~modify the time of use rates and real time price plan~~
21 ~~within six months of submittal. The default service~~
22 ~~provider shall offer commission approved time of use~~
23 ~~rates and a real time price plan to all residential and~~
24 ~~commercial customers that have been provided with smart~~
25 ~~meter technology within 60 days of installation of the~~
26 ~~smart meter technology or commission approval of the~~
27 ~~time of use rates and a real time price plan, whichever~~
28 ~~is later. Customer participation in time of use rates or~~
29 ~~real time pricing shall be voluntary and shall only be~~
30 ~~provided with the affirmative consent of the customer.~~

~~The default service provider shall submit an annual report to the commission on the participation in the time of use and real time price programs and the efficacy of the programs in affecting energy demand and consumption and the effect on wholesale market prices.~~

~~(v) For purposes of this paragraph, the term "electric distribution company" shall mean a public utility providing facilities for the jurisdictional transmission and distribution of electricity to 100,000 or more retail customers in this Commonwealth.~~

~~Section 5. This act shall take effect immediately.~~

SECTION 1. SECTION 2803 OF TITLE 66 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:
§ 2803. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

* * *

"BILATERAL CONTRACT." AN AGREEMENT, AS APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, REACHED BY TWO PARTIES, EACH ACTING IN ITS OWN INDEPENDENT SELF-INTEREST, AS A RESULT OF NEGOTIATIONS FREE OF UNDUE INFLUENCE, DURESS OR FAVORITISM, IN WHICH THE ELECTRIC ENERGY SUPPLIER AGREES TO SELL AND THE ELECTRIC DISTRIBUTION COMPANY AGREES TO BUY A QUANTITY OF ELECTRIC ENERGY AT A SPECIFIED PRICE FOR A SPECIFIED PERIOD OF TIME UNDER TERMS AGREED TO BY BOTH PARTIES, AND WHICH FOLLOWS A STANDARD INDUSTRY TEMPLATE WIDELY ACCEPTED IN THE INDUSTRY OR VARIATIONS THERETO ACCEPTED BY THE PARTIES. STANDARD INDUSTRY TEMPLATES MAY INCLUDE THE EEI MASTER AGREEMENT FOR PHYSICAL ENERGY PURCHASES AND SALES AND THE ISDA MASTER AGREEMENT FOR

1 FINANCIAL ENERGY PURCHASES AND SALES.

2 * * *

3 "DEFAULT SERVICE PROVIDER." AN ELECTRIC DISTRIBUTION COMPANY
4 WITHIN ITS CERTIFIED SERVICE TERRITORY OR AN ALTERNATIVE
5 SUPPLIER APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
6 THAT PROVIDES GENERATION SERVICE TO RETAIL ELECTRIC CUSTOMERS
7 WHO:

8 (1) CONTRACT FOR ELECTRIC POWER, INCLUDING ENERGY AND
9 CAPACITY, AND THE CHOSEN ELECTRIC GENERATION SUPPLIER DOES
10 NOT SUPPLY THE SERVICE; OR

11 (2) DO NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION
12 SUPPLIER.

13 SECTION 2. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:

14 § 2806.1. ENERGY EFFICIENCY AND CONSERVATION.

15 (A) PROGRAM.--THE COMMISSION SHALL ADOPT A PROGRAM TO
16 REQUIRE ELECTRIC DISTRIBUTION COMPANIES TO ADOPT AND IMPLEMENT
17 COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PLANS TO
18 REDUCE ENERGY DEMAND AND CONSUMPTION WITHIN THE SERVICE
19 TERRITORIES OF ALL ELECTRIC DISTRIBUTION COMPANIES IN THIS
20 COMMONWEALTH. THE PROGRAM SHALL INCLUDE:

21 (1) PROCEDURES FOR THE APPROVAL OF PLANS SUBMITTED UNDER
22 SUBSECTION (B).

23 (2) A PLAN EVALUATION PROCESS INCLUDING A PROCESS TO
24 MONITOR AND VERIFY DATA COLLECTION, QUALITY ASSURANCE AND
25 RESULTS SUBMITTED.

26 (3) AN ANALYSIS OF THE COST AND BENEFIT OF EACH PLAN
27 SUBMITTED UNDER SUBSECTION (B) IN ACCORDANCE WITH A TOTAL
28 RESOURCE COST TEST.

29 (4) AN ANALYSIS OF HOW THE PROGRAM AND INDIVIDUAL PLANS
30 WILL ENABLE EACH ELECTRIC DISTRIBUTION COMPANY TO ACHIEVE THE

1 REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS
2 (C) AND (D).

3 (5) STANDARDS TO ENSURE THAT EACH PLAN INCLUDES A
4 VARIETY OF ENERGY EFFICIENCY AND CONSERVATION MEASURES AND
5 WILL PROVIDE THE MEASURES EQUITABLY TO ALL CLASSES OF
6 CUSTOMERS.

7 (6) PROCEDURES TO REVIEW ALL PROPOSED CONTRACTS PRIOR TO
8 THE EXECUTION OF THE CONTRACT WITH THIRD-PARTY ENTITIES TO
9 IMPLEMENT THE PLAN. THE COMMISSION MAY ORDER THE MODIFICATION
10 OF A PROPOSED CONTRACT TO ENSURE THAT THE PLAN IS ADEQUATE.

11 (7) PROCEDURES TO ENSURE COMPLIANCE WITH REQUIREMENTS
12 FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

13 (8) A REQUIREMENT FOR THE PARTICIPATION OF THIRD-PARTY
14 ENTITIES IN THE IMPLEMENTATION OF ALL OR PART OF A PLAN.

15 (9) A PROCESS TO LINK REDUCTIONS IN CONSUMPTION TO THE
16 COMPENSATION OF THIRD-PARTY ENTITIES.

17 (10) PROCEDURES FOR THE LEVY OF ASSESSMENTS IN
18 ACCORDANCE WITH SECTIONS 510 (RELATING TO ASSESSMENT FOR
19 REGULATORY EXPENSES UPON PUBLIC UTILITIES) AND 1308 (RELATING
20 TO VOLUNTARY CHANGES IN RATES) SUBJECT TO THE LIMITATIONS OF
21 SUBSECTION (G) TO FUND PLANS FILED UNDER SUBSECTION (B)
22 SUBJECT TO THE LIMITATIONS SET FORTH UNDER SUBSECTION (G).

23 (B) DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.--

24 (1) (I) BY NOVEMBER 15, 2008, EACH ELECTRIC
25 DISTRIBUTION COMPANY SHALL DEVELOP AND FILE AN ENERGY
26 EFFICIENCY AND CONSERVATION PLAN WITH THE COMMISSION FOR
27 APPROVAL TO MEET THE REQUIREMENTS OF SUBSECTION (A) AND
28 THE REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER
29 SUBSECTIONS (C) AND (D). THE PLAN SHALL BE IMPLEMENTED
30 UPON APPROVAL BY THE COMMISSION AND SHALL COMPLY WITH ALL

1 OF THE FOLLOWING:

2 (A) INCLUDE SPECIFIC PROPOSALS TO IMPLEMENT
3 ENERGY EFFICIENCY AND CONSERVATION MEASURES TO
4 ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER
5 SUBSECTIONS (C) AND (D).

6 (B) A MINIMUM OF 10% OF THE REQUIRED REDUCTIONS
7 IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D) SHALL BE
8 OBTAINED FROM UNITS OF FEDERAL, STATE AND LOCAL
9 GOVERNMENT, INCLUDING MUNICIPALITIES, SCHOOL
10 DISTRICTS, INSTITUTIONS OF HIGHER EDUCATION AND
11 NONPROFIT ENTITIES.

12 (C) THE MANNER IN WHICH PERFORMANCE WILL BE
13 MEASURED, VERIFIED AND EVALUATED.

14 (D) THE MANNER IN WHICH THE PLAN WILL ACHIEVE
15 THE REQUIREMENTS OF THE PROGRAM UNDER SUBSECTION (A)
16 AND THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER
17 SUBSECTIONS (C) AND (D).

18 (E) INCLUDE A CONTRACT WITH ONE OR MORE THIRD-
19 PARTY ENTITIES TO IMPLEMENT THE PLAN OR A PORTION OF
20 THE PLAN AS APPROVED BY THE COMMISSION.

21 (F) INCLUDE ESTIMATES OF THE COST OF
22 IMPLEMENTATION OF THE ENERGY EFFICIENCY AND
23 CONSERVATION MEASURES IN THE PLAN.

24 (G) INCLUDE SPECIFIC ENERGY EFFICIENCY MEASURES
25 FOR HOUSEHOLDS AT OR BELOW 150% OF THE FEDERAL
26 POVERTY INCOME GUIDELINES. THE NUMBER OF MEASURES
27 SHALL BE PROPORTIONATE TO THOSE HOUSEHOLDS' SHARE OF
28 THE TOTAL ENERGY USAGE IN THIS COMMONWEALTH. THE
29 ELECTRIC DISTRIBUTION COMPANY SHALL COORDINATE
30 MEASURES UNDER THIS CLAUSE WITH OTHER PROGRAMS

1 ADMINISTERED BY THE COMMISSION OR ANOTHER FEDERAL OR
2 STATE AGENCY. THE EXPENDITURES OF AN ELECTRIC
3 DISTRIBUTION COMPANY UNDER THIS CLAUSE SHALL BE IN
4 ADDITION TO EXPENDITURES MADE UNDER 52 PA. CODE CH.
5 58 (RELATING TO RESIDENTIAL LOW INCOME USAGE
6 REDUCTION PROGRAMS).

7 (H) INCLUDE A PROPOSED COST-RECOVERY TARIFF
8 MECHANISM TO FUND THE ENERGY EFFICIENCY AND
9 CONSERVATION MEASURES AND TO ENSURE RECOVERY OF THE
10 PRUDENT AND REASONABLE COSTS OF THE PLAN AS APPROVED
11 BY THE COMMISSION.

12 (I) A DEMONSTRATION THAT THE PLAN IS COST-
13 EFFECTIVE USING A TOTAL RESOURCE COST TEST OR OTHER
14 COST-BENEFIT ANALYSIS APPROVED BY THE COMMISSION AND
15 PROVIDES A DIVERSE CROSS SECTION OF ALTERNATIVES FOR
16 CUSTOMERS OF ALL RATE CLASSES.

17 (J) REQUIRE AN ANNUAL INDEPENDENT EVALUATION OF
18 THE PERFORMANCE OF THE COST-EFFECTIVENESS OF THE PLAN
19 AND A FULL REVIEW OF THE FIVE-YEAR RESULTS OF THE
20 PLAN AND, TO THE EXTENT PRACTICABLE, HOW THE PLAN
21 WILL BE ADJUSTED ON A GOING-FORWARD BASIS AS A RESULT
22 OF THE EVALUATION.

23 (II) A NEW PLAN SHALL BE FILED WITH THE COMMISSION
24 EVERY FIVE YEARS OR AS OTHERWISE REQUIRED BY THE
25 COMMISSION. THE PLAN SHALL SET FORTH THE MANNER IN WHICH
26 THE COMPANY WILL MEET THE REQUIRED REDUCTIONS IN
27 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

28 (III) NO MORE THAN 2% OF FUNDS AVAILABLE TO
29 IMPLEMENT A PLAN UNDER THIS SUBSECTION SHALL BE ALLOCATED
30 FOR EXPERIMENTAL EQUIPMENT OR DEVICES.

1 (2) THE COMMISSION SHALL DIRECT AN ELECTRIC DISTRIBUTION
2 COMPANY TO MODIFY OR TERMINATE ANY PART OF A PLAN APPROVED
3 UNDER THIS SECTION IF, AFTER AN ADEQUATE PERIOD FOR
4 IMPLEMENTATION, THE COMMISSION DETERMINES THAT AN ENERGY
5 EFFICIENCY OR CONSERVATION MEASURE INCLUDED IN THE PLAN IS
6 NOT EFFECTIVE.

7 (3) IF PART OF A PLAN IS MODIFIED OR TERMINATED UNDER
8 PARAGRAPH (2), THE ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT
9 A REVISED PLAN DESCRIBING ACTIONS TO BE TAKEN TO OFFER
10 SUBSTITUTE MEASURES OR TO INCREASE THE AVAILABILITY OF
11 EXISTING MEASURES IN THE PLAN TO ACHIEVE THE REQUIRED
12 REDUCTIONS IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

13 (C) REDUCTIONS IN CONSUMPTION.--EACH ELECTRIC DISTRIBUTION
14 COMPANY SHALL REDUCE CONSUMPTION AS FOLLOWS:

15 (1) BY MAY 31, 2011, EACH ELECTRIC DISTRIBUTION COMPANY
16 SHALL REDUCE ITS TOTAL ANNUAL WEATHER-NORMALIZED DELIVERIES
17 TO RETAIL CUSTOMERS BY A MINIMUM OF 1%. THE 1% LOAD REDUCTION
18 IN CONSUMPTION SHALL BE MEASURED AGAINST THE ELECTRIC
19 DISTRIBUTION COMPANY'S EXPECTED LOAD AS FORECASTED BY THE
20 COMMISSION FOR JUNE 1, 2007 THROUGH MAY 31, 2008, WITH
21 PROVISIONS MADE FOR WEATHER ADJUSTMENTS AND EXTRAORDINARY
22 LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY MUST SERVE.

23 (2) BY MAY 31, 2013, EACH ELECTRIC DISTRIBUTION COMPANY
24 SHALL REDUCE ITS TOTAL ANNUAL WEATHER-NORMALIZED DELIVERIES
25 TO RETAIL CUSTOMERS BY A MINIMUM OF 2.5%. THE 2.5% LOAD
26 REDUCTION IN CONSUMPTION SHALL BE MEASURED AGAINST THE
27 ELECTRIC DISTRIBUTION COMPANY'S EXPECTED LOAD AS FORECASTED
28 BY THE COMMISSION FOR JUNE 1, 2007, THROUGH MAY 31, 2008,
29 WITH PROVISION MADE FOR WEATHER ADJUSTMENTS AND EXTRAORDINARY
30 LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY MUST SERVE.

1 (3) BY NOVEMBER 30, 2013, THE COMMISSION SHALL EVALUATE
2 THE COSTS AND BENEFITS OF THE PROGRAM ESTABLISHED UNDER
3 SUBSECTION (A) AND ENERGY EFFICIENCY AND CONSERVATION PLANS
4 SUBMITTED TO THE PROGRAM. THE EVALUATION SHALL BE CONSISTENT
5 WITH A TOTAL RESOURCE COST TEST OR A COST VERSUS BENEFIT
6 MEASUREMENT DETERMINED BY THE COMMISSION. IF THE COMMISSION
7 DETERMINES THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS,
8 THE COMMISSION SHALL ADOPT ADDITIONAL INCREMENTAL REQUIRED
9 REDUCTIONS IN CONSUMPTION FOR THE PERIOD ENDING MAY 31, 2018.

10 (4) AFTER MAY 31, 2018, THE COMMISSION SHALL CONTINUE TO
11 EVALUATE THE COSTS AND BENEFITS OF THE PROGRAM ESTABLISHED
12 UNDER SUBSECTION (A) AND ENERGY EFFICIENCY AND CONSERVATION
13 PLANS APPROVED UNDER SUBSECTION (A). IF THE COMMISSION
14 DETERMINES THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS,
15 THE COMMISSION MAY REQUIRE AND APPROVE ADDITIONAL PLANS TO
16 ACHIEVE INCREMENTAL REQUIREMENTS FOR REDUCTION IN CONSUMPTION
17 FOR ELECTRIC DISTRIBUTION COMPANIES. EACH PLAN SHALL BE FOR A
18 TERM NOT TO EXCEED FIVE YEARS.

19 (D) PEAK DEMAND.--EACH ELECTRIC DISTRIBUTION COMPANY SHALL
20 IMPLEMENT ENERGY EFFICIENCY AND CONSERVATION MEASURES TO ACHIEVE
21 THE FOLLOWING REDUCTIONS IN CONSUMPTION:

22 (1) BY MAY 31, 2013, EACH ENERGY DISTRIBUTION COMPANY
23 SHALL REDUCE ITS WEATHER-NORMALIZED DELIVERIES TO RETAIL
24 CUSTOMERS BY A MINIMUM OF 4% IN THE 100 HOURS OF HIGHEST
25 DEMAND. THE REDUCTION SHALL BE MEASURED AGAINST THE ELECTRIC
26 DISTRIBUTION COMPANY'S PEAK DEMAND IN THE 100 HOURS OF
27 GREATEST DEMAND FOR JUNE 1, 2007, THROUGH MAY 31, 2008.

28 (2) BY NOVEMBER 30, 2013, THE COMMISSION SHALL COMPARE
29 THE TOTAL COSTS OF ENERGY EFFICIENCY AND CONSERVATION PLANS
30 IMPLEMENTED UNDER THIS SECTION TO THE TOTAL SAVINGS IN ENERGY

1 AND CAPACITY COSTS TO RETAIL CUSTOMERS IN THIS COMMONWEALTH.
2 IF THE COMMISSION DETERMINES THAT THE BENEFITS OF THE
3 MEASURES EXCEED THE COSTS, THE COMMISSION SHALL SET
4 ADDITIONAL INCREMENTAL REQUIREMENTS FOR REDUCTION IN PEAK
5 DEMAND FOR THE 100 HOURS OF GREATEST DEMAND OR AN ALTERNATIVE
6 REDUCTION APPROVED BY THE COMMISSION. REDUCTIONS IN
7 CONSUMPTION SHALL BE MEASURED FROM THE ELECTRIC DISTRIBUTION
8 COMPANY'S PEAK DEMAND FOR THE PERIOD FROM JUNE 1, 2011,
9 THROUGH MAY 31, 2012. THE REDUCTIONS IN CONSUMPTION REQUIRED
10 BY THE COMMISSION SHALL BE ACCOMPLISHED NO LATER THAN MAY 31,
11 2017.

12 (E) COMMISSION APPROVAL.--THE COMMISSION SHALL APPROVE OR
13 DISAPPROVE A PLAN FILED UNDER SUBSECTION (B) WITHIN 120 DAYS OF
14 SUBMISSION. THE FOLLOWING SHALL APPLY TO AN ORDER DISAPPROVING A
15 PLAN:

16 (1) THE COMMISSION SHALL DESCRIBE IN DETAIL THE REASONS
17 FOR THE DISAPPROVAL.

18 (2) THE ELECTRIC DISTRIBUTION COMPANY SHALL HAVE 60 DAYS
19 TO FILE A REVISED PLAN TO ADDRESS THE DEFICIENCIES IDENTIFIED
20 BY THE COMMISSION.

21 (F) PENALTIES.--

22 (1) THE FOLLOWING SHALL APPLY FOR FAILURE TO SUBMIT A
23 PLAN:

24 (I) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO
25 FILE A PLAN UNDER SUBSECTION (B) SHALL BE SUBJECT TO A
26 CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE PLAN IS
27 FILED.

28 (II) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO
29 FILE A REVISED PLAN UNDER SUBSECTION (E)(2) SHALL BE
30 SUBJECT TO A CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE

1 PLAN IS FILED.

2 (III) PENALTIES COLLECTED UNDER THIS PARAGRAPH SHALL
3 BE DEPOSITED IN THE LOW-INCOME ELECTRIC CUSTOMER
4 ASSISTANCE PROGRAM OF THE ENERGY DISTRIBUTION COMPANY FOR
5 THE RESPECTIVE SERVICE TERRITORY.

6 (2) THE FOLLOWING SHALL APPLY TO AN ELECTRIC
7 DISTRIBUTION COMPANY THAT FAILS TO ACHIEVE THE REDUCTIONS IN
8 CONSUMPTION REQUIRED UNDER SUBSECTION (C) OR (D):

9 (I) THE ELECTRIC DISTRIBUTION COMPANY SHALL BE
10 SUBJECT TO A CIVIL PENALTY OF UP TO \$5,000,000 FOR
11 FAILURE TO ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION
12 UNDER SUBSECTION (C) OR (D). ANY PENALTY PAID BY AN
13 ELECTRIC DISTRIBUTION COMPANY UNDER THIS SUBPARAGRAPH
14 SHALL NOT BE RECOVERABLE FROM RATEPAYERS.

15 (II) IF AN ELECTRIC DISTRIBUTION COMPANY FAILS TO
16 ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER
17 SUBSECTION (C) OR (D) BY 2013, RESPONSIBILITY TO ACHIEVE
18 THE REDUCTIONS IN CONSUMPTION SHALL BE TRANSFERRED TO THE
19 COMMISSION. THE COMMISSION SHALL DO ALL OF THE FOLLOWING:

20 (A) IMPLEMENT A PLAN TO ACHIEVE THE REQUIRED
21 REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C) OR
22 (D).

23 (B) CONTRACT WITH THIRD-PARTY ENTITIES AS
24 NECESSARY TO IMPLEMENT ANY PORTION OF THE PLAN.

25 (III) THE PROVISIONS OF SUBPARAGRAPH (II) SHALL
26 APPLY IN EACH SUBSEQUENT FIVE-YEAR PERIOD IF THE ELECTRIC
27 DISTRIBUTION COMPANY FAILS TO ACHIEVE THE REDUCTION
28 STANDARDS UNDER SUBSECTION (C) OR (D).

29 (G) LIMITATION ON COSTS.--THE TOTAL COST OF ANY PLAN
30 REQUIRED UNDER THIS SECTION SHALL NOT EXCEED 2% OF THE ELECTRIC

1 DISTRIBUTION COMPANY'S TOTAL ANNUAL REVENUE AS OF DECEMBER 31,
2 2006. NO MORE THAN 1% OF THE 2% OF THE COMPANY'S TOTAL ANNUAL
3 REVENUE MAY BE USED FOR THE ADMINISTRATIVE COSTS OF THE ELECTRIC
4 DISTRIBUTION COMPANY. THE LIMITATION UNDER THIS PARAGRAPH SHALL
5 NOT INCLUDE THE COST OF LOW-INCOME USAGE REDUCTION PROGRAMS
6 ESTABLISHED UNDER 52 PA. CODE CH. 58 (RELATING TO RESIDENTIAL
7 LOW INCOME USAGE REDUCTION PROGRAMS).

8 (H) REPORT.--THE FOLLOWING SHALL APPLY:

9 (1) EACH ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT AN
10 ANNUAL REPORT TO THE COMMISSION RELATING TO THE RESULTS OF
11 THE ENERGY EFFICIENCY AND CONSERVATION PLAN WITHIN THE
12 ELECTRIC DISTRIBUTION SERVICE TERRITORY. THE REPORT SHALL
13 INCLUDE ALL OF THE FOLLOWING:

14 (I) DOCUMENTATION OF PROGRAM EXPENDITURES.

15 (II) MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS
16 UNDER THE PLAN.

17 (III) EVALUATION OF THE COST-EFFECTIVENESS OF
18 EXPENDITURES.

19 (IV) ANY OTHER INFORMATION REQUIRED BY THE
20 COMMISSION.

21 (2) BEGINNING FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF
22 THIS SECTION AND ANNUALLY THEREAFTER, THE COMMISSION SHALL
23 SUBMIT A REPORT TO THE CONSUMER PROTECTION AND PROFESSIONAL
24 LICENSURE COMMITTEE OF THE SENATE AND THE CONSUMER AFFAIRS
25 COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

26 (I) EXISTING FUNDING SOURCES.--EACH ELECTRIC DISTRIBUTION
27 COMPANY SHALL PROVIDE A LIST OF ALL ELIGIBLE FEDERAL AND STATE
28 FUNDING PROGRAMS.

29 (J) RECOVERY.--IN NO CASE SHALL DECREASED REVENUES OF AN
30 ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ENERGY CONSUMPTION

1 OR CHANGES IN ENERGY DEMAND BE CONSIDERED A RECOVERABLE COST.

2 (K) APPLICABILITY.--THIS SECTION SHALL NOT APPLY TO AN
3 ELECTRIC DISTRIBUTION COMPANY WITH FEWER THAN 100,000 CUSTOMERS.

4 (L) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
5 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
6 SUBSECTION:

7 "ELECTRIC DISTRIBUTION COMPANY TOTAL ANNUAL REVENUE."
8 AMOUNTS PAID TO THE ELECTRIC DISTRIBUTION COMPANY FOR
9 GENERATION, TRANSMISSION, DISTRIBUTION AND SURCHARGES BY RETAIL
10 CUSTOMERS.

11 "ENERGY EFFICIENCY AND CONSERVATION MEASURES."

12 (1) TECHNOLOGIES, MANAGEMENT PRACTICES OR OTHER MEASURES
13 EMPLOYED BY RETAIL CUSTOMERS THAT REDUCE ELECTRICITY
14 CONSUMPTION OR DEMAND IF ALL OF THE FOLLOWING APPLY:

15 (I) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE IS
16 INSTALLED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION
17 AT THE LOCATION OF A RETAIL CUSTOMER.

18 (II) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE
19 REDUCES CONSUMPTION OF ENERGY BY THE RETAIL CUSTOMER.

20 (III) THE COST OF THE ACQUISITION OR INSTALLATION OF
21 THE MEASURE IS DIRECTLY INCURRED IN WHOLE OR IN PART BY
22 THE ELECTRIC DISTRIBUTION COMPANY.

23 (2) ENERGY EFFICIENCY AND CONSERVATION MEASURES SHALL
24 INCLUDE SOLAR OR SOLAR PHOTOVOLTAIC PANELS, ENERGY EFFICIENT
25 WINDOWS AND DOORS, ENERGY EFFICIENT LIGHTING, INCLUDING EXIT
26 SIGN RETROFIT, HIGH BAY FLUORESCENT RETROFIT AND PEDESTRIAN
27 AND TRAFFIC SIGNAL CONVERSION, GEOTHERMAL HEATING,
28 INSULATION, AIR SEALING, REFLECTIVE ROOF COATINGS, ENERGY
29 EFFICIENT HEATING AND COOLING EQUIPMENT OR SYSTEMS AND ENERGY
30 EFFICIENT APPLIANCES AND OTHER TECHNOLOGIES, PRACTICES OR

1 MEASURES APPROVED BY THE COMMISSION.

2 "PEAK DEMAND." THE HIGHEST ELECTRICAL REQUIREMENT OCCURRING
3 DURING A SPECIFIED PERIOD. FOR AN ELECTRIC DISTRIBUTION COMPANY,
4 THE TERM SHALL MEAN THE SUM OF THE METERED CONSUMPTION FOR ALL
5 RETAIL CUSTOMERS OVER THAT PERIOD.

6 "QUALITY ASSURANCE." ALL OF THE FOLLOWING:

7 (1) THE AUDITING OF BUILDINGS, EQUIPMENT AND PROCESSES
8 TO DETERMINE THE COST-EFFECTIVENESS OF ENERGY EFFICIENCY AND
9 CONSERVATION MEASURES USING NATIONALLY RECOGNIZED TOOLS AND
10 CERTIFICATION PROGRAMS.

11 (2) INDEPENDENT INSPECTION OF COMPLETED ENERGY
12 EFFICIENCY AND CONSERVATION MEASURES COMPLETED BY THIRD-PARTY
13 ENTITIES TO EVALUATE THE QUALITY OF THE COMPLETED MEASURE.

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

16 "THIRD-PARTY ENTITY." AN ENTITY WITH NO DIRECT OR INDIRECT
17 OWNERSHIP, PARTNERSHIP OR OTHER AFFILIATED INTEREST WITH AN
18 ELECTRIC DISTRIBUTION COMPANY.

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

22 "TOTAL RESOURCE COST TEST." A STANDARD TEST THAT IS MET IF,
23 OVER THE EFFECTIVE LIFE OF EACH PLAN NOT TO EXCEED FIVE YEARS,
24 THE AVOIDED MONETARY COSTS OF SUPPLYING ELECTRICITY ARE GREATER
25 THAN THE MONETARY COSTS OF ENERGY EFFICIENCY MEASURES AND
26 CONSERVATION OF CONSUMPTION.

27 SECTION 3. SECTION 2807(E) OF TITLE 66 IS AMENDED AND THE
28 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

29 § 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

30 * * *

1 (E) OBLIGATION TO SERVE.--[AN ELECTRIC DISTRIBUTION
2 COMPANY'S] A DEFAULT SERVICE PROVIDER'S OBLIGATION TO PROVIDE
3 ELECTRIC GENERATION SUPPLY SERVICE FOLLOWING [IMPLEMENTATION OF
4 RESTRUCTURING AND THE CHOICE OF ALTERNATIVE GENERATION BY A
5 CUSTOMER] THE EXPIRATION OF A GENERATION RATE CAP SPECIFIED
6 UNDER SECTION 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING
7 OF ELECTRIC INDUSTRY) OR A RESTRUCTURING PLAN UNDER SECTION
8 2806(F) (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND
9 PERFORMANCE-BASED RATES) IS REVISED AS FOLLOWS:

10 (1) WHILE AN ELECTRIC DISTRIBUTION COMPANY COLLECTS
11 EITHER A COMPETITIVE TRANSITION CHARGE OR AN INTANGIBLE
12 TRANSITION CHARGE OR UNTIL 100% OF ITS CUSTOMERS HAVE CHOICE,
13 WHICHEVER IS LONGER, THE ELECTRIC DISTRIBUTION COMPANY SHALL
14 CONTINUE TO HAVE THE FULL OBLIGATION TO SERVE, INCLUDING THE
15 CONNECTION OF CUSTOMERS, THE DELIVERY OF ELECTRIC ENERGY AND
16 THE PRODUCTION OR ACQUISITION OF ELECTRIC ENERGY FOR
17 CUSTOMERS.

18 [(2) AT THE END OF THE TRANSITION PERIOD, THE COMMISSION
19 SHALL PROMULGATE REGULATIONS TO DEFINE THE ELECTRIC
20 DISTRIBUTION COMPANY'S OBLIGATION TO CONNECT AND DELIVER AND
21 ACQUIRE ELECTRICITY UNDER PARAGRAPH (3) THAT WILL EXIST AT
22 THE END OF THE PHASE-IN PERIOD.

23 (3) IF A CUSTOMER CONTRACTS FOR ELECTRIC ENERGY AND IT
24 IS NOT DELIVERED OR IF A CUSTOMER DOES NOT CHOOSE AN
25 ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE ELECTRIC
26 DISTRIBUTION COMPANY OR COMMISSION-APPROVED ALTERNATIVE
27 SUPPLIER SHALL ACQUIRE ELECTRIC ENERGY AT PREVAILING MARKET
28 PRICES TO SERVE THAT CUSTOMER AND SHALL RECOVER FULLY ALL
29 REASONABLE COSTS.]

30 (3.1) (I) FOLLOWING THE EXPIRATION OF AN ELECTRIC

1 DISTRIBUTION COMPANY'S OBLIGATION TO PROVIDE ELECTRIC
2 GENERATION SUPPLY SERVICE TO RETAIL CUSTOMERS AT CAPPED
3 RATES, IF A CUSTOMER CONTRACTS FOR ELECTRIC GENERATION
4 SUPPLY SERVICE AND THE CHOSEN ELECTRIC GENERATION
5 SUPPLIER DOES NOT PROVIDE THE SERVICE OR IF A CUSTOMER
6 DOES NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION
7 SUPPLIER, THE DEFAULT SERVICE PROVIDER SHALL PROVIDE
8 ELECTRIC GENERATION SUPPLY SERVICE TO THAT CUSTOMER
9 PURSUANT TO A COMMISSION-APPROVED COMPETITIVE PROCUREMENT
10 PLAN. THE ELECTRIC POWER ACQUIRED SHALL BE PROCURED
11 THROUGH COMPETITIVE PROCUREMENT PROCESSES AND SHALL
12 INCLUDE ONE OR MORE OF THE FOLLOWING:

13 (A) AUCTIONS.

14 (B) REQUESTS FOR PROPOSAL.

15 (C) BILATERAL AGREEMENTS ENTERED INTO AT THE
16 SOLE DISCRETION OF THE DEFAULT SERVICE PROVIDER WHICH
17 SHALL BE AT PRICES WHICH ARE:

18 (I) NO GREATER THAN THE COST OF OBTAINING
19 GENERATION UNDER COMPARABLE TERMS IN THE
20 WHOLESALE MARKET, AS DETERMINED BY THE COMMISSION
21 AT THE TIME OF EXECUTION OF THE CONTRACT; OR

22 (II) CONSISTENT WITH A COMMISSION-APPROVED
23 COMPETITION PROCUREMENT PROCESS. ANY AGREEMENT
24 BETWEEN AFFILIATED PARTIES SHALL BE SUBJECT TO
25 REVIEW AND APPROVAL OF THE PENNSYLVANIA PUBLIC
26 UTILITY COMMISSION UNDER CHAPTER 21 (RELATING TO
27 RELATIONS WITH AFFILIATED INTERESTS). IN NO CASE
28 SHALL THE COST OF OBTAINING GENERATION FROM ANY
29 AFFILIATED INTEREST BE GREATER THAN THE COST OF
30 OBTAINING GENERATION UNDER COMPARABLE TERMS IN

1 THE WHOLESALE MARKET AT THE TIME OF EXECUTION OF
2 THE CONTRACT.

3 (II) THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO
4 ANY TYPE OF FUEL PURCHASED BY A DEFAULT SERVICE PROVIDER
5 TO PROVIDE ELECTRIC GENERATION SUPPLY SERVICE, INCLUDING
6 FUEL REQUIRED TO BE PURCHASED UNDER THE ACT OF NOVEMBER
7 30, 2004 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE
8 ENERGY PORTFOLIO STANDARDS ACT.

9 (3.2) THE ELECTRIC POWER PROCURED PURSUANT TO PARAGRAPH
10 (3.1) SHALL INCLUDE A PRUDENT MIX OF THE FOLLOWING:

11 (I) SPOT MARKET PURCHASES.

12 (II) SHORT-TERM CONTRACTS.

13 (III) LONG-TERM PURCHASE CONTRACTS, ENTERED INTO AS
14 A RESULT OF AN AUCTION, REQUEST FOR PROPOSAL OR BILATERAL
15 CONTRACT THAT IS FREE OF UNDUE INFLUENCE, DURESS OR
16 FAVORITISM, OF NOT LESS THAN THREE AND NOT MORE THAN 20
17 YEARS, UNLESS THE COMMISSION DETERMINES A LONGER TERM IS
18 NECESSARY FOR THE RELIABILITY IN THE ACQUISITION OF
19 GENERATION AND IT IS IN THE BEST INTEREST OF CONSUMERS TO
20 EXTEND THE TERM OF THE CONTRACT BEYOND 20 YEARS. THE
21 DEFAULT SERVICE PROVIDER SHALL HAVE SOLE DISCRETION TO
22 DETERMINE THE SOURCE, FUEL TYPE AND LENGTH OF CONTRACT.

23 (3.3) THE PRUDENT MIX OF CONTRACTS ENTERED INTO PURSUANT
24 TO PARAGRAPH (3.2) SHALL BE DESIGNED TO ENSURE:

25 (I) ADEQUATE AND RELIABLE SERVICE.

26 (II) THE LEAST COST TO CUSTOMERS OVER TIME.

27 (III) COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH

28 (3.1).

29 (3.4) THE DEFAULT SERVICE PROVIDER SHALL FILE A PLAN FOR
30 COMPETITIVE PROCUREMENT WITH THE COMMISSION AND OBTAIN

1 COMMISSION APPROVAL OF THE PLAN CONSIDERING THE STANDARDS IN
2 PARAGRAPHS (3.1), (3.2) AND (3.3) BEFORE THE COMPETITIVE
3 PROCESS IS IMPLEMENTED. THE COMMISSION SHALL HOLD HEARINGS AS
4 NECESSARY ON THE PROPOSED PLAN. IF THE COMMISSION FAILS TO
5 ISSUE A FINAL ORDER ON THE PLAN WITHIN NINE MONTHS OF THE
6 DATE THAT THE PLAN IS FILED, THE PLAN SHALL BE DEEMED TO BE
7 APPROVED AND THE DEFAULT SERVICE PROVIDER MAY IMPLEMENT THE
8 PLAN AS FILED. COSTS INCURRED THROUGH AN APPROVED COMPETITIVE
9 PROCUREMENT PLAN SHALL BE DEEMED TO BE THE LEAST COST OVER
10 TIME AS REQUIRED UNDER PARAGRAPH (3.3).

11 (3.5) AT THE TIME THE COMMISSION EVALUATES THE PLAN AND
12 PRIOR TO APPROVAL, IN DETERMINING IF THE DEFAULT ELECTRIC
13 SERVICE PROVIDER'S PLAN OBTAINS GENERATION SUPPLY AT THE
14 LEAST COST, THE COMMISSION SHALL CONSIDER THE DEFAULT SERVICE
15 PROVIDER'S OBLIGATION TO PROVIDE ADEQUATE AND RELIABLE
16 SERVICE TO THE CUSTOMERS AND THAT THE DEFAULT SERVICE
17 PROVIDER HAS OBTAINED A PRUDENT MIX OF CONTRACTS TO OBTAIN
18 LEAST COST ON LONG-TERM, SHORT-TERM AND SPOT MARKET BASIS AND
19 SHALL MAKE SPECIFIC FINDINGS WHICH SHALL INCLUDE THE
20 FOLLOWING:

21 (I) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES
22 PRUDENT STEPS NECESSARY TO NEGOTIATE FAVORABLE GENERATION
23 SUPPLY CONTRACTS.

24 (II) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES
25 PRUDENT STEPS NECESSARY TO OBTAIN LEAST COST GENERATION
26 SUPPLY CONTRACTS ON A LONG-TERM, SHORT-TERM AND SPOT
27 MARKET BASIS.

28 (III) NEITHER THE DEFAULT SERVICE PROVIDER NOR ITS
29 AFFILIATED INTEREST HAS WITHHELD OR ASKED TO WITHHOLD
30 FROM THE MARKET ANY GENERATION SUPPLY WHICH SHOULD HAVE

1 BEEN UTILIZED AS PART OF THE LEAST COST PROCUREMENT
2 POLICY.

3 (3.6) NOTWITHSTANDING SECTIONS 508 (RELATING TO POWER OF
4 COMMISSION TO VARY, REFORM AND REVISE CONTRACTS) AND 2102
5 (RELATING TO APPROVAL OF CONTRACTS WITH AFFILIATED
6 INTERESTS), THE COMMISSION SHALL NOT MODIFY CONTRACTS OR
7 DISALLOW COSTS ASSOCIATED WITH AN APPROVED PROCUREMENT
8 PROCESS WHEN IT HAS REVIEWED AND APPROVED THE RESULTS OF THE
9 PROCUREMENT.

10 (3.7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE
11 TO THE CONTRARY, THE COMMISSION MAY MODIFY CONTRACTS OR
12 DISALLOW COSTS WHEN THE PARTY SEEKING RECOVERY OF THE COSTS
13 IS AT FAULT ASSOCIATED WITH CONTRACTS ENTERED INTO PURSUANT
14 TO A COMMISSION-APPROVED PROCUREMENT PLAN IF THE COMMISSION
15 DETERMINES AFTER A HEARING THAT:

16 (I) THE CONTRACT HAS NOT BEEN IMPLEMENTED OR
17 APPROVED OR DOES NOT COMPLY WITH THE COMMISSION-APPROVED
18 PROCUREMENT PLAN; OR

19 (II) THERE HAS BEEN FRAUD, COLLUSION OR MARKET
20 MANIPULATION WITH REGARD TO THESE CONTRACTS.

21 (3.8) THE DEFAULT SERVICE PROVIDER SHALL HAVE THE RIGHT
22 TO RECOVER ON A FULL AND CURRENT BASIS, PURSUANT TO A
23 RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER SECTION 1307
24 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), ALL COSTS
25 INCURRED UNDER THIS SECTION AND A COMMISSION-APPROVED
26 COMPETITIVE PROCUREMENT PLAN.

27 (4) IF A CUSTOMER THAT CHOOSES AN ALTERNATIVE SUPPLIER
28 AND SUBSEQUENTLY DESIRES TO RETURN TO THE LOCAL DISTRIBUTION
29 COMPANY FOR GENERATION SERVICE, THE LOCAL DISTRIBUTION
30 COMPANY SHALL TREAT THAT CUSTOMER EXACTLY AS IT WOULD ANY NEW

1 APPLICANT FOR ENERGY SERVICE.

2 (5) (I) NOTWITHSTANDING PARAGRAPH [(3)] (3.1), THE
3 ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED
4 ALTERNATIVE SUPPLIER MAY, IN ITS SOLE DISCRETION, OFFER
5 LARGE CUSTOMERS WITH A PEAK DEMAND OF 15 MEGAWATTS OR
6 GREATER AT ONE METER AT A LOCATION IN ITS SERVICE
7 TERRITORY ANY NEGOTIATED RATE FOR SERVICE AT ALL OF THE
8 CUSTOMERS' LOCATIONS WITHIN THE SERVICE TERRITORY FOR ANY
9 DURATION AGREED UPON BY THE ELECTRIC DISTRIBUTION COMPANY
10 OR COMMISSION-APPROVED ALTERNATIVE SUPPLIER AND THE LARGE
11 CUSTOMER. THE COMMISSION SHALL PERMIT, BUT SHALL NOT
12 REQUIRE, AN ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-
13 APPROVED ALTERNATIVE SUPPLIER TO PROVIDE SERVICE TO LARGE
14 CUSTOMERS UNDER THIS PARAGRAPH. CONTRACT RATES ENTERED
15 INTO UNDER THIS PARAGRAPH SHALL BE SUBJECT TO REVIEW BY
16 THE COMMISSION IN ORDER TO ENSURE THAT ALL COSTS RELATED
17 TO THE RATES ARE BORNE BY THE PARTIES TO THE CONTRACT AND
18 THAT NO COSTS RELATED TO THE RATES ARE BORNE BY OTHER
19 CUSTOMERS OR CUSTOMER CLASSES. IF NO COSTS RELATED TO THE
20 RATES ARE BORNE BY OTHER CUSTOMERS OR CUSTOMER CLASSES,
21 THE COMMISSION SHALL APPROVE THE CONTRACT WITHIN 90 DAYS
22 OF ITS FILING, OR IT SHALL BE DEEMED APPROVED BY
23 OPERATION OF LAW UPON EXPIRATION OF THE 90 DAYS.
24 INFORMATION SUBMITTED UNDER THIS PARAGRAPH SHALL BE
25 SUBJECT TO THE COMMISSION'S PROCEDURES FOR THE FILING OF
26 CONFIDENTIAL AND PROPRIETARY INFORMATION.

27 (II) FOR PURPOSES OF PROVIDING SERVICE UNDER THIS
28 PARAGRAPH TO CUSTOMERS WITH A PEAK DEMAND OF 20 MEGAWATTS
29 OR GREATER AT ONE METER AT A LOCATION WITHIN THAT
30 DISTRIBUTION COMPANY'S SERVICE TERRITORY, AN ELECTRIC

1 DISTRIBUTION COMPANY THAT HAS COMPLETED ITS RESTRUCTURING
2 TRANSITION PERIOD AS OF THE EFFECTIVE DATE OF THIS
3 PARAGRAPH MAY, IN ITS SOLE DISCRETION, ACQUIRE AN
4 INTEREST IN A GENERATION FACILITY OR CONSTRUCT A
5 GENERATION FACILITY SPECIFICALLY TO MEET THE ENERGY
6 REQUIREMENTS OF THE CUSTOMERS, INCLUDING THE ELECTRIC
7 REQUIREMENTS OF THE CUSTOMERS' OTHER BILLING LOCATIONS
8 WITHIN ITS SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION
9 COMPANY MUST COMMENCE CONSTRUCTION OF THE GENERATION
10 FACILITY OR CONTRACT TO ACQUIRE THE GENERATION INTEREST
11 WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS
12 PARAGRAPH, EXCEPT THAT THE ELECTRIC DISTRIBUTION COMPANY
13 MAY ADD TO THE GENERATION FACILITIES IT COMMENCED
14 CONSTRUCTION OR CONTRACTED TO ACQUIRE AFTER THIS THREE-
15 YEAR PERIOD TO SERVE ADDITIONAL LOAD OF CUSTOMERS FOR
16 WHOM IT COMMENCED CONSTRUCTION OR CONTRACTED TO ACQUIRE
17 GENERATION WITHIN THREE YEARS. NOTHING IN THIS PARAGRAPH
18 REQUIRES OR AUTHORIZES THE COMMISSION TO REQUIRE AN
19 ELECTRIC DISTRIBUTION COMPANY TO COMMENCE CONSTRUCTION OR
20 ACQUIRE AN INTEREST IN A GENERATION FACILITY. THE
21 ELECTRIC DISTRIBUTION COMPANY'S INTEREST IN THE
22 GENERATION FACILITY IT BUILT OR CONTRACTED TO ACQUIRE
23 SHALL BE NO LARGER THAN NECESSARY TO MEET PEAK DEMAND OF
24 CUSTOMERS SERVED UNDER THIS SUBPARAGRAPH. DURING TIMES
25 WHEN THE CUSTOMER'S DEMAND IS LESS THAN THE ELECTRIC
26 DISTRIBUTION COMPANY'S GENERATION INTEREST, THE ELECTRIC
27 DISTRIBUTION COMPANY MAY SELL EXCESS POWER ON THE
28 WHOLESALE MARKET. AT NO TIME SHALL THE COSTS ASSOCIATED
29 WITH THE GENERATING FACILITY INTERESTS BE INCLUDED IN
30 RATE BASE OR OTHERWISE REFLECTED IN RATES. THE GENERATION

1 FACILITY INTERESTS SHALL NOT BE COMMISSION-REGULATED
2 ASSETS.

3 (6) A DEFAULT SERVICE PLAN APPROVED BY THE COMMISSION
4 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN
5 EFFECT THROUGH ITS APPROVED TERM. AT ITS SOLE DISCRETION, THE
6 DEFAULT SERVICE PROVIDER MAY PROPOSE AMENDMENTS TO ITS
7 APPROVED PLAN THAT ARE CONSISTENT WITH THIS SECTION, AND THE
8 COMMISSION SHALL ISSUE A DECISION WHETHER TO APPROVE OR
9 DISAPPROVE THE PROPOSED AMENDMENTS WITHIN NINE MONTHS OF THE
10 DATE THAT THE AMENDMENTS ARE FILED. IF THE COMMISSION FAILS
11 TO ISSUE A FINAL ORDER WITHIN NINE MONTHS, THE AMENDMENTS
12 SHALL BE DEEMED TO BE APPROVED AND THE DEFAULT SERVICE
13 PROVIDER MAY IMPLEMENT THE AMENDMENTS AS FILED.

14 (7) THE DEFAULT SERVICE PROVIDER SHALL OFFER RESIDENTIAL
15 AND SMALL BUSINESS CUSTOMERS A GENERATION SUPPLY SERVICE RATE
16 THAT SHALL CHANGE NO MORE FREQUENTLY THAN ON A QUARTERLY
17 BASIS. ALL DEFAULT SERVICE RATES SHALL BE REVIEWED BY THE
18 COMMISSION TO ENSURE THAT THE COSTS OF PROVIDING SERVICE TO
19 EACH CUSTOMER CLASS ARE NOT SUBSIDIZED BY ANY OTHER CLASS.

20 (F) SMART METER TECHNOLOGY AND TIME OF USE RATES.--

21 (1) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS
22 PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL FILE A SMART
23 METER TECHNOLOGY PROCUREMENT AND INSTALLATION PLAN WITH THE
24 COMMISSION FOR APPROVAL. THE PLAN SHALL DESCRIBE THE SMART
25 METER TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES
26 TO INSTALL IN ACCORDANCE WITH PARAGRAPH (2).

27 (2) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH SMART
28 METER TECHNOLOGY AS FOLLOWS:

29 (I) UPON REQUEST TO A CUSTOMER THAT AGREES TO PAY
30 THE COST OF THE SMART METER.

1 (II) IN THE CONSTRUCTION OF A NEW RESIDENCE OR NEW
2 BUILDING TO BE USED BY A COMMERCIAL CUSTOMER.

3 (III) IN ACCORDANCE WITH A SCHEDULE OF REPLACEMENT
4 OF FULL DEPRECIATION OF EXISTING METERS.

5 (3) ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER
6 CONSENT, MAKE AVAILABLE ELECTRONIC ACCESS TO CUSTOMER METER
7 DATA TO THIRD PARTIES, INCLUDING ELECTRIC GENERATION
8 SUPPLIERS AND PROVIDERS OF CONSERVATION AND LOAN MANAGEMENT
9 SERVICES.

10 (4) AN ELECTRIC DISTRIBUTION COMPANY SHALL NOT BE
11 PERMITTED TO RECOVER THE COSTS, AS DETERMINED BY THE
12 COMMISSION, OF PROVIDING SMART METER TECHNOLOGY UNDER
13 PARAGRAPH (2).

14 (5) IN NO EVENT SHALL LOST OR DECREASED REVENUES BY AN
15 ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ELECTRICITY
16 CONSUMPTION OR SHIFTING ENERGY DEMAND BE CONSIDERED A COST OF
17 SMART METER TECHNOLOGY.

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

1 PRICING. THE DEFAULT SERVICE PROVIDER SHALL SUBMIT AN ANNUAL
2 REPORT TO THE COMMISSION ON THE PARTICIPATION IN THE TIME-OF-
3 USE AND REAL-TIME PRICE PROGRAMS AND THE EFFICACY OF THE
4 PROGRAMS IN AFFECTING ENERGY DEMAND AND CONSUMPTION AND THE
5 EFFECT ON WHOLESALE MARKET PRICES.

6 (7) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO
7 AN ELECTRIC DISTRIBUTION COMPANY WITH 100,000 OR FEWER
8 CUSTOMERS.

9 (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "SMART
10 METER TECHNOLOGY" MEANS TECHNOLOGY, INCLUDING METERING
11 TECHNOLOGY AND NETWORK COMMUNICATIONS TECHNOLOGY CAPABLE OF
12 BIDIRECTIONAL COMMUNICATION, THAT RECORDS ELECTRICITY USAGE ON
13 AT LEAST AN HOURLY BASIS, INCLUDING RELATED ELECTRIC
14 DISTRIBUTION SYSTEM UPGRADES TO ENABLE THE TECHNOLOGY. THE
15 TECHNOLOGY SHALL PROVIDE CUSTOMERS WITH DIRECT ACCESS TO AND USE
16 OF PRICE AND CONSUMPTION INFORMATION. THE TECHNOLOGY SHALL ALSO:

17 (1) DIRECTLY PROVIDE CUSTOMERS WITH INFORMATION ON THEIR
18 HOURLY CONSUMPTION.

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

21 (3) EFFECTIVELY SUPPORT THE AUTOMATIC CONTROL OF THE
22 CUSTOMER'S ELECTRICITY CONSUMPTION BY ONE OR MORE OF THE
23 FOLLOWING AS SELECTED BY THE CUSTOMER:

24 (I) THE CUSTOMER;

25 (II) THE CUSTOMER'S UTILITY; OR

26 (III) A THIRD PARTY ENGAGED BY THE CUSTOMER OR THE
27 CUSTOMER'S UTILITY.

28 (4) PROVIDE A MEANS TO OBTAIN REAL-TIME CONSUMPTION
29 INFORMATION FROM A METER SUCH AS AN INSTALLED PORT OR OUTPUT
30 FOR TRANSMITTING METER PULSE DATA EXTERNAL TO THE METER TO BE

1 USED BY THE CUSTOMER, THE ELECTRIC DISTRIBUTION COMPANY OR A
2 THIRD PARTY ENGAGED BY THE CUSTOMER IN THE ELECTRIC
3 DISTRIBUTION COMPANY.

4 SECTION 4. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:
5 § 2813. PROCUREMENT OF POWER.

6 EXCEPT AS PROVIDED UNDER THE ACT OF NOVEMBER 30, 2004
7 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO
8 STANDARDS ACT, THE COMMISSION MAY NOT ORDER A DEFAULT SERVICE
9 PROVIDER TO PROCURE POWER FROM A SPECIFIC GENERATION SUPPLIER,
10 FROM A SPECIFIC GENERATION FUEL TYPE OR FROM NEW GENERATION
11 ONLY.

12 SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.