
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2201 Session of
2008

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M. SMITH, VITALI, WANSACZ 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 the definition
3 of "public utility"; adding definitions for "default service
4 provider," "microgrid," "real-time price," "smart meter
5 technology" and "time of use rate"; further providing for
6 standards for restructuring of electric industry and for
7 duties of electric distribution companies; and providing for
8 rate phase-in plans and for microgrids.

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

11 Section 1. The definition of "public utility" in section 102
12 of Title 66 of the Pennsylvania Consolidated Statutes is amended
13 to read:

14 § 102. Definitions.

15 Subject to additional definitions contained in subsequent
16 provisions of this part which are applicable to specific
17 provisions of this part, the following words and phrases when
18 used in this part shall have, unless the context clearly
19 indicates otherwise, the meanings given to them in this section:

1 * * *

2 "Public utility."

3 (1) Any person or corporations now or hereafter owning
4 or operating in this Commonwealth equipment or facilities
5 for:

6 (i) Producing, generating, transmitting,
7 distributing or furnishing natural or artificial gas,
8 electricity, or steam for the production of light, heat,
9 or power to or for the public for compensation.

10 (ii) Diverting, developing, pumping, impounding,
11 distributing, or furnishing water to or for the public
12 for compensation.

13 (iii) Transporting passengers or property as a
14 common carrier.

15 (iv) Use as a canal, turnpike, tunnel, bridge,
16 wharf, and the like for the public for compensation.

17 (v) Transporting or conveying natural or artificial
18 gas, crude oil, gasoline, or petroleum products,
19 materials for refrigeration, or oxygen or nitrogen, or
20 other fluid substance, by pipeline or conduit, for the
21 public for compensation.

22 (vi) Conveying or transmitting messages or
23 communications, except as set forth in paragraph (2)(iv),
24 by telephone or telegraph or domestic public land mobile
25 radio service including, but not limited to, point-to-
26 point microwave radio service for the public for
27 compensation.

28 (vii) Sewage collection, treatment, or disposal for
29 the public for compensation.

30 (viii) Providing limousine service in a county of

1 the second class pursuant to Subchapter B of Chapter 11
2 (relating to limousine service in counties of the second
3 class).

4 (2) The term does not include:

5 (i) Any person or corporation, not otherwise a
6 public utility, who or which furnishes service only to
7 himself or itself.

8 (ii) Any bona fide cooperative association which
9 furnishes service only to its stockholders or members on
10 a nonprofit basis.

11 (iii) Any producer of natural gas not engaged in
12 distributing such gas directly to the public for
13 compensation.

14 (iv) Any person or corporation, not otherwise a
15 public utility, who or which furnishes mobile domestic
16 cellular radio telecommunications service.

17 (v) Any building or facility owner/operators who
18 hold ownership over and manage the internal distribution
19 system serving such building or facility and who supply
20 electric power and other related electric power services
21 to occupants of the building or facility.

22 (vi) Electric generation supplier companies, except
23 for the limited purposes as described in sections 2809
24 (relating to requirements for electric generation
25 suppliers) and 2810 (relating to revenue-neutral
26 reconciliation).

27 (vii) Any person or corporation who or which
28 distributes natural gas or natural gas produced from
29 alternative sources, including, but not limited to,
30 landfill gas, coal mine methane or coal bed methane and

1 synthetic natural gas produced from the gasification of
2 coal or other feedstocks directly to no more than four
3 customers. A person or corporation who wishes to
4 distribute natural gas or natural gas produced from
5 alternative sources to more than four customers and be
6 excluded from this definition must request approval from
7 the commission. The commission shall approve the request
8 if the person or corporation provides a private rather
9 than a public service.

10 (viii) Microgrids, as that term is defined under
11 section 2803 (relating to definitions).

12 (3) For the purposes of sections 2702 (relating to
13 construction, relocation, suspension and abolition of
14 crossings), 2703 (relating to ejection in crossing cases)
15 and 2704 (relating to compensation for damages occasioned by
16 construction, relocation or abolition of crossings) and those
17 portions of sections 1501 (relating to character of service
18 and facilities), 1505 (relating to proper service and
19 facilities established on complaint) and 1508 (relating to
20 reports of accidents), as those sections or portions thereof
21 relate to safety only, a municipal authority or
22 transportation authority organized under the laws of this
23 Commonwealth shall be considered a public utility when it
24 owns or operates, for the carriage of passengers or goods by
25 rail, a line of railroad composed of lines formerly owned or
26 operated by the Pennsylvania Railroad, the Penn-Central
27 Transportation Company, the Reading Company or the
28 Consolidated Rail Corporation.

29 * * *

30 Section 2. Section 2803 of Title 66 is amended by adding

1 definitions to read:

2 § 2803. Definitions.

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

6 * * *

7 "Default service provider." An electric distribution company
8 within its certificated service territory or a commission-
9 approved alternative supplier providing generation service to
10 retail electric customers who:

11 (1) contract for electric power, including, but not
12 limited to, energy and capacity, and the chosen electric
13 generation supplier does not supply the service; or

14 (2) do not choose an alternative electric generation
15 supplier.

16 * * *

17 "Microgrid." A small power generation and distribution
18 network serving multiple customers with the electric generating
19 facility located near or on the same site as the consumers, that
20 may be interconnected to the transmission and distribution
21 system but capable of operating independently from it.

22 "Real-time price." A rate that directly reflects the
23 different costs of energy during each hour.

24 * * *

25 "Smart meter technology." Technology including, but not
26 limited to, metering technology and network communications
27 technology capable of bidirectional communication and that
28 records electricity usage on at least an hourly basis including
29 related electric distribution system upgrades to enable the
30 technology. Such technology shall provide customers with direct

1 access to and use of price and consumption information. Such
2 technology shall also:

3 (1) Directly provide customers with information on their
4 hourly consumption.

5 (2) Enable time-of-use rates and real-time price
6 programs.

7 (3) Effectively support the automatic control of the
8 customer's electricity consumption by one or more of the
9 following as selected by the customer:

10 (i) the customer;

11 (ii) the customer's utility; or

12 (iii) a third party engaged by the customer or the
13 customer's utility.

14 "Time of use rate." A rate that reflects the costs of
15 servicing customers during different time periods, including off-
16 peak and on-peak periods, but not as frequently as each hour.

17 * * *

18 Section 3. Section 2804(9) of Title 66 is amended to read:

19 § 2804. Standards for restructuring of electric industry.

20 The following interdependent standards shall govern the
21 commission's assessment and approval of each public utility's
22 restructuring plan, oversight of the transition process and
23 regulation of the restructured electric utility industry:

24 * * *

25 (9) The commission shall ensure that universal service
26 and energy conservation policies, activities and services are
27 appropriately funded and available in each electric
28 distribution territory. The commission shall ensure that
29 programs are in place to assist low-income customers in
30 managing default service price increases that those customers

1 may experience after the expiration of the transition period.

2 Policies, activities and services under this paragraph shall
3 be funded in each electric distribution territory by
4 nonbypassable, competitively neutral cost-recovery mechanisms
5 that fully recover the costs of universal service and energy
6 conservation services. The commission shall encourage the use
7 of community-based organizations that have the necessary
8 technical and administrative experience to be the direct
9 providers of services or programs which reduce energy
10 consumption or otherwise assist low-income customers to
11 afford electric service. Programs under this paragraph shall
12 be subject to the administrative oversight of the commission
13 which will ensure that the programs are operated in a cost-
14 effective manner.

15 * * *

16 Section 4. Section 2807(e) of Title 66, is amended and
17 subsection (d) is amended by adding a paragraph to read:

18 § 2807. Duties of electric distribution companies.

19 * * *

20 (d) Consumer protections and customer service.--The electric
21 distribution company shall continue to provide customer service
22 functions consistent with the regulations of the commission,
23 including meter reading, complaint resolution and collections.
24 Customer services shall, at a minimum, be maintained at the same
25 level of quality under retail competition.

26 * * *

27 (4) By July 1, 2008, and until the end of an electric
28 distribution company's rate cap or rate phase-in plan filed
29 pursuant to section 2813 (relating to rate phase-in plans),
30 electric distribution companies, in conjunction with the

1 commission, shall implement consumer education programs
2 informing customers about available energy efficiency and
3 demand-side response programs, actions they can take to
4 reduce their consumption and default service price increases
5 that the customers may experience. The commission will
6 reactivate the standing Council for Utility Choice to approve
7 and oversee both the Statewide and electric distribution
8 company education plans. Electric distribution company plans
9 shall be coordinated with the Statewide education plans, and
10 Statewide education should be funded and serve as the
11 umbrella for coordinated electric distribution company plans.
12 Electric distribution companies shall file their customer
13 education programs with the commission for approval. Electric
14 distribution companies may recover the reasonable and prudent
15 costs, as determined by the commission, of any education
16 programs at their option:

17 (i) by deferring costs for future recovery in base
18 rates, with carrying charges equal to 6%; or

19 (ii) on a full and current basis through a
20 reconcilable automatic adjustment clause under section
21 1307 (relating to sliding scale of rates; adjustment).

22 These costs shall be considered to be new services
23 offered for the first time under section 2804(4)(vi)
24 (relating to standards for restructuring of electric
25 industry). The electric distribution companies shall
26 fully recover the reasonable and prudent costs of all
27 approved education programs and deferrals.

28 (e) Obligation to serve.--[An electric distribution
29 company's obligation to provide] The obligation of a default
30 service provider to furnish electric service following

1 implementation of restructuring and the choice of alternative
2 generation by a customer is revised as follows:

3 (1) While an electric distribution company collects
4 either a competitive transition charge or an intangible
5 transition charge or until 100% of its customers have choice,
6 whichever is longer, the electric distribution company shall
7 continue to have the full obligation to serve, including the
8 connection of customers, the delivery of electric energy and
9 the production or acquisition of electric energy for
10 customers.

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

16 (3) If a customer contracts for electric energy and it
17 is not delivered or if a customer does not choose an
18 alternative electric generation supplier, the electric
19 distribution company or commission-approved alternative
20 supplier shall acquire electric energy at prevailing market
21 prices to serve that customer and shall recover fully all
22 reasonable costs.]

23 (2) The default service provider shall provide electric
24 generation supply service to its customers and meet the
25 requirements of the act of November 30, 2004 (P.L.1672,
26 No.213), known as the Alternative Energy Portfolio Standards
27 Act, pursuant to a commission-approved competitive
28 procurement plan that is designed to produce the lowest
29 reasonable rates on a long-term basis and includes a
30 portfolio of long-term, short-term and spot-market purchases.

1 The electric power acquired to provide electric generation
2 service under this paragraph shall be procured through
3 competitive procurement processes that may include one or
4 more of the following:

5 (i) Auctions.

6 (ii) Requests for proposals.

7 (iii) Spot-market purchases.

8 (iv) Bilateral contracts, negotiated between the
9 default service provider and a wholesale electric
10 supplier, except that the bilateral contracts shall be
11 entered into at the sole discretion of the default
12 service provider and be at prices no greater than the
13 cost of otherwise obtaining generation in the wholesale
14 market, as determined by the commission at the time of
15 its approval of the plan, or are otherwise consistent
16 with a commission-approved competitive procurement
17 process.

18 The competitive procurement process or processes shall be
19 conducted, as determined and approved by the commission, for
20 each customer class. The generation rates procured by the
21 competitive procurement process or processes shall not allow
22 the cross-subsidization of one customer class by another.

23 (3) The default service provider shall have the right to
24 recover on a full and current basis, pursuant to a
25 reconcilable automatic adjustment clause under section 1307,
26 all reasonable costs incurred pursuant to this section and a
27 commission-approved competitive procurement plan. The
28 commission may approve, at the default service provider's
29 request, an alternative cost-recovery mechanism that may
30 include, but is not limited to, nonreconcilable default

1 service rate offerings.

2 (4) The commission shall not modify contracts or
3 disallow costs associated with contracts that are entered
4 into pursuant to a commission-approved competitive
5 procurement plan unless the commission determines that the
6 contract was not entered into in accordance with the
7 commission-approved competitive procurement process or there
8 has been fraud, collusion or market manipulation.

9 (5) A default service provider may enter into long-term
10 contracts, through a competitive procurement process, with
11 durations longer than five years but no longer than 20 years
12 for up to 20% of its projected default service load.
13 Contracts longer than five years shall be permitted for
14 energy generated from alternative energy sources, alternative
15 energy credits as those terms are defined in section 2 of the
16 Alternative Energy Portfolio Standards Act and demand-side
17 response. Contracts longer than five years for energy
18 generated from alternative energy sources, alternative energy
19 credits and demand-side response shall not be considered
20 long-term contracts when determining whether long-term
21 contracts make up 20% of the default service provider's
22 projected service load pursuant to this paragraph. In
23 reviewing a competitive procurement plan pursuant to this
24 section, the commission may require the default service
25 provider to procure power pursuant to such long-term
26 contracts provided that the long-term contract is expected to
27 produce the lowest reasonable rate on a long-term basis and
28 that the procurement is conducted pursuant to a competitive
29 process. The commission may permit a waiver on the
30 limitations on long-term contracts set forth in this

1 subsection if the commission determines that a waiver would
2 contribute to a portfolio that provides the lowest cost
3 service to customers. Once a long-term contract has been
4 approved by the commission, it shall be deemed approved for
5 all subsequent competitive procurement plans filed under this
6 section for the life of the approved contract.

7 (6) Electric power acquired to provide electric
8 generation service under this section shall be deemed to be
9 the lowest reasonable rates on a long-term basis provided
10 that the default service provider implemented the competitive
11 procurement plan as approved by the commission.

12 (7) Not later than December 31, 2008, the commission
13 shall promulgate final regulations to define the default
14 service provider's obligations under paragraph (2). At least
15 every five years after final regulations have been
16 promulgated, the commission shall hold hearings and issue
17 findings regarding whether the regulations effectively
18 promote the lowest reasonable rates on a long-term basis. The
19 commission shall make any changes to the regulations it
20 identifies in its findings that are consistent with this
21 chapter, provided, however, that the commission may not
22 modify or disallow costs associated with contracts previously
23 entered into pursuant to regulations in effect at the time
24 the procurement plan was approved.

25 (8) The default service provider shall file a plan for
26 competitive procurement with the commission and obtain
27 commission approval of the plan before the competitive
28 procurement process may be implemented. The commission shall
29 hold hearings as necessary on the proposed plan. If the
30 commission fails to issue a final order on the plan within

1 nine months of the date that the plan is filed, the plan
2 shall be deemed to be approved and the default service
3 provider may implement the plan as filed.

4 (9) The commission shall monitor the implementation of
5 the approved competitive procurement plan. The commission may
6 make changes to the plan to ensure the lowest reasonable
7 rates pursuant to paragraph (6) where such a change would
8 produce a more reasonable result provided that such changes
9 are made on a prospective basis. If the competitive
10 procurement process set forth in the approved plan is
11 implemented in accordance with the terms and the commission's
12 order approving it, the commission shall approve the results
13 of any competitive procurement process using the methods in
14 paragraph (2)(i) or (ii) not more than ten business days
15 after successful bids are selected. If the commission does
16 not reject such results within ten business days, then the
17 results of the competitive procurement process shall be
18 deemed to have been approved. If bilateral contracts under
19 paragraph (2)(iv) are proposed to be used, the commission
20 shall approve or reject the contracts no later than the
21 latest of commission approval of the plan or one week
22 following presentation of the final form of contract. If such
23 contracts are not rejected in the time period provided, they
24 shall be deemed approved. Purchases undertaken pursuant to
25 approved processes under paragraph (2)(iii) shall only be
26 subject to modification under the provisions of paragraph
27 (4). The commission shall reject the results of a competitive
28 procurement process if it was not implemented in accordance
29 with the plan's terms and the commission's order approving it
30 or if the results produced unreasonably high prices due to

1 abnormal, transient market events.

2 (i) If the commission rejects the results of a
3 competitive procurement process under paragraph (2)(i),
4 (ii) or (iv) because it was not implemented in accordance
5 with the plan's terms and the commission's order
6 approving it, the commission shall specifically identify
7 the elements of the process that were not implemented in
8 accordance with its terms or the commission's order
9 approving it. The default service provider shall modify
10 its implementation of that competitive procurement
11 process consistent with the commission's order.

12 (ii) If the commission rejects the results of a
13 competitive procurement process under paragraph (2)(i),
14 (ii) or (iv) because the results produced unreasonably
15 high prices due to abnormal, transient market events, the
16 commission may require the default service provider to
17 modify the process and resubmit the results to the
18 commission for approval or direct the default service
19 provider to reimplement the plan without modification.

20 (iii) If the results are not rejected, the costs
21 shall be deemed to be the lowest reasonable rates on a
22 long-term basis and shall be fully recoverable pursuant
23 to paragraph (3).

24 (iv) In the event the commission rejects proposed
25 purchases under an approved competitive procurement plan
26 and the default service provider is required to purchase
27 requirements on the spot market as a result, the costs of
28 such purchases shall be fully recoverable pursuant to
29 paragraph (3).

30 (10) The default service provider shall file an updated

1 competitive procurement plan with the commission every three
2 years.

3 (i) The commission shall hold hearings as necessary
4 to review the plan and issue findings regarding whether
5 the updated plan is designed to produce the lowest
6 reasonable rates on a long-term basis.

7 (ii) The commission shall approve the default
8 service provider's updated plan if it complies with the
9 standards of this section. If the default service
10 provider's updated plan does not comply with the
11 standards of this section, the commission shall
12 specifically identify the elements of the plan that do
13 not comply with the standards of this section, and the
14 default service provider shall modify the plan to meet
15 those standards and resubmit the plan to the commission
16 for approval.

17 (11) The commission shall permit a default service
18 provider to implement a competitive procurement process up to
19 36 months prior to the expiration of the generation rate cap
20 for such provider specified in section 2804(4) or a
21 restructuring plan in section 2806(f).

22 (12) Any default service plan approved by the commission
23 prior to the effective date of this paragraph shall remain in
24 effect through its approved term. At its sole option, the
25 default service provider may propose changes to its approved
26 plan that are consistent with this paragraph, and the
27 commission shall issue a decision whether to accept or reject
28 such proposed amendments within nine months. If the
29 commission fails to issue a final order on the proposed
30 amendments within nine months after the date the amendments

1 are filed, the amendments shall be deemed to be approved and
2 the default service provider may implement the amendments as
3 filed.

4 [(4)] (13) If a customer that chooses an alternative
5 supplier and subsequently desires to return to the local
6 distribution company for generation service, the local
7 distribution company shall treat that customer exactly as it
8 would any new applicant for energy service.

9 [(5)] (14) (i) Notwithstanding paragraph [(3)] (2), the
10 [electric distribution company or commission-approved
11 alternative supplier] default service provider may, in
12 its sole discretion, offer large customers with a peak
13 demand of 15 megawatts or greater at one meter at a
14 location in its service territory any negotiated rate for
15 service at all of the customers' locations within the
16 service territory for any duration agreed upon by the
17 [electric distribution company or commission-approved
18 alternative supplier] default service provider and the
19 large customer. The commission shall permit, but shall
20 not require, [an electric distribution company or
21 commission-approved alternative supplier] a default
22 service provider to provide service to large customers
23 under this paragraph. Contract rates entered into under
24 this paragraph shall be subject to review by the
25 commission in order to ensure that all costs related to
26 the rates are borne by the parties to the contract and
27 that no costs related to the rates are borne by other
28 customers or customer classes. If no costs related to the
29 rates are borne by other customers or customer classes,
30 the commission shall approve the contract within 90 days

1 of its filing, or it shall be deemed approved by
2 operation of law upon expiration of the 90 days.
3 Information submitted under this paragraph shall be
4 subject to the commission's procedures for the filing of
5 confidential and proprietary information.

6 (ii) For purposes of providing service under this
7 paragraph to customers with a peak demand of 20 megawatts
8 or greater at one meter at a location within that
9 distribution company's service territory, an electric
10 distribution company that has completed its restructuring
11 transition period as of the effective date of this
12 paragraph may, in its sole discretion, acquire an
13 interest in a generation facility or construct a
14 generation facility specifically to meet the energy
15 requirements of the customers, including the electric
16 requirements of the customers' other billing locations
17 within its service territory. The electric distribution
18 company must commence construction of the generation
19 facility or contract to acquire the generation interest
20 within three years after the effective date of this
21 paragraph, except that the electric distribution company
22 may add to the generation facilities it commenced
23 construction or contracted to acquire after this three-
24 year period to serve additional load of customers for
25 whom it commenced construction or contracted to acquire
26 generation within three years. Nothing in this paragraph
27 requires or authorizes the commission to require an
28 electric distribution company to commence construction or
29 acquire an interest in a generation facility. The
30 electric distribution company's interest in the

1 generation facility it built or contracted to acquire
2 shall be no larger than necessary to meet peak demand of
3 customers served under this subparagraph. During times
4 when the customer's demand is less than the electric
5 distribution company's generation interest, the electric
6 distribution company may sell excess power on the
7 wholesale market. At no time shall the costs associated
8 with the generating facility interests be included in
9 rate base or otherwise reflected in rates. The generation
10 facility interests shall not be commission-regulated
11 assets.

12 (iii) In addition to any other rates that may be
13 offered, the default service provider shall offer all
14 residential and small business customers a rate that
15 shall change no more frequently than on an annual basis.
16 The annual rate shall be the default service rate for all
17 customers who do not affirmatively choose another
18 service. Such a rate may be subject to reconciliation to
19 reflect any over-recovery or under-recovery of costs from
20 the prior year or, at the option of the default service
21 provider, may be provided on a nonreconcilable basis. All
22 rates shall be reviewed by the commission to ensure that
23 the costs of providing service to each customer class are
24 borne solely by that customer class.

25 (15) Nothing in this section shall be construed to
26 relieve an electric distribution company or electric
27 generation supplier of its responsibility to comply with the
28 Alternative Energy Portfolio Standards Act.

29 (16) (i) Within nine months after the effective date of
30 this paragraph, electric distribution companies shall

1 file a smart meter procurement and installation plan with
2 the commission for approval and make the plan available
3 for public comment for a minimum of 30 days. The plan
4 shall describe the smart metering technologies the
5 electric distribution company proposes to install, how
6 the smart meter technology meets the requirements of this
7 paragraph and how the smart meter technology shall be
8 installed according to this paragraph.

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 act.

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 act.

17 (C) One hundred percent of its customers within
18 ten years after the effective date of this act.

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.

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

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

1 real-time pricing shall be voluntary and shall only be
2 provided with the affirmative consent of the customer.
3 The default service provider shall submit an annual
4 report to the commission on the participation in the time
5 of use and real-time price programs and the efficacy of
6 the programs in affecting energy demand and consumption
7 and the effect on wholesale market prices.

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

13 Section 6. Title 66 is amended by adding sections to read:

14 § 2813. Rate phase-in plans.

15 (a) General rule.--Within 90 days of the effective date of
16 this section, each electric distribution company shall file a
17 phase-in plan with the commission to provide customers that take
18 service from a default service provider the option to phase in
19 any initial increase in the price for generation service that
20 may occur upon the expiration of the generation rate cap for
21 such provider specified in section 2804(4) (relating to
22 standards for restructuring of electric industry) or a
23 restructuring plan in section 2806(f) (relating to
24 implementation, pilot programs and performance-based rates) and
25 ending no later than three years after such expiration date.
26 Customer participation in any plan approved under this
27 subsection shall be voluntary.

28 (b) Conditions.--Each phase-in plan shall be subject to
29 commission approval and shall meet the following conditions:

30 (1) Such plan shall offer a gradual transition to prices

1 at the level permitted pursuant to a commission-approved
2 procurement plan under section 2807(e)(2) (relating to duties
3 of electric distribution companies) beginning on the
4 expiration date of the generation rate cap for the provider.

5 (2) Such plan shall ensure that the annual increase in
6 the overall rate charged to each customer class under the
7 plan shall not exceed 15% of the increase in the overall rate
8 for that customer class at the expiration of the generation
9 rate caps during the three-year period specified in
10 subsection (a). For good cause shown, the commission may
11 provide for an additional two-year period for the recovery of
12 deferred amounts under this section.

13 (3) Such plan may offer the customer the option to begin
14 the phase-in period prior to the expiration of the generation
15 rate cap, provided that the customer accrues interest on any
16 prepaid amount at a rate of 6% compounded annually. Customer
17 participation in any plan approved under this subsection
18 shall be voluntary.

19 (4) Such plan shall specify the means of providing
20 notice to customers of the option to participate in such plan
21 on a voluntary basis.

22 (c) Recovery.--The default service provider shall be
23 eligible to fully recover the amount of the deferred payment
24 resulting from a customer's participation in the plan from such
25 customers by means of a nonbypassable charge to such customers
26 subject to the conditions established in subsection (b).

27 (d) Deferred costs.--The commission shall permit such
28 deferred costs and associated carrying charges to be recorded
29 for accounting purposes on an electric distribution company's
30 books of account as a regulatory asset where the electric

1 distribution company is the default service provider.

2 (e) Credit.--In the event a customer leaves the default
3 service provider's system prior to the full distribution of
4 amounts collected, a credit will be applied to the customer's
5 final bill and any remainder shall be refunded to the customer.

6 (f) Intangible transition property.--An electric company's
7 right to recover costs under an approved phase-in plan shall be
8 deemed intangible transition property for purposes of section
9 2812 (relating to approval of transition bonds), but not for any
10 other section of Chapter 28 (relating to restructuring of
11 electric utility industry), and the commission is authorized to
12 issue a qualified rate order under section 2812 with respect to
13 such costs and to issue such other orders and take such actions
14 as may be necessary or proper for the electric distribution
15 company to issue transition bonds, as provided in section 2812,
16 secured by the electric distribution company's right to recover
17 such costs.

18 (g) Penalty for failure to file.--If any electric
19 distribution company fails to file a rate phase-in plan with the
20 time required by subsection (a), the commission shall impose a
21 fine of \$100,000 per day on that electric distribution company
22 until it files such plan.

23 § 2814. Microgrids.

24 Customers may have their electricity supplied by microgrids
25 subject to the following:

26 (1) A microgrid shall be limited to four customers.
27 Microgrids seeking to supply electricity to more than four
28 customers may be approved by the commission on a case-by-case
29 basis. The commission shall approve such requests if the
30 microgrid, while serving more than four customers, provides a

1 private rather than a public service.

2 (2) The commission shall promulgate regulations on the
3 fees related to microgrid interconnection, standby power and
4 other services related to the reliable and safe functioning
5 of microgrids. Fees associated with this section shall be the
6 lowest costs necessary to ensure adequate system reliability
7 and safety.

8 (3) Microgrids may sell power, either through net
9 metering, if consistent with the commission's net metering
10 requirements, or to the market.

11 Section 7. This act shall take effect immediately.