

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2300 Session of
2008

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J. TAYLOR AND WATSON, SEPTEMBER 15, 2008

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, SEPTEMBER 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," "overall rate," and "rate phase-in
5 plan"; further providing for standards for restructuring of
6 electric industry and for duties of electric distribution
7 companies; and providing for rate phase-in plans and for
8 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 ejectment 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 "Overall rate." The sum of all retail rates charged by an
23 electric distribution company for electric service, including
24 all applicable riders and surcharges.

25 "Rate phase-in plan" or "plan." A plan filed with the
26 commission by an electric distribution company solely to phase
27 in any initial increase in the rate for generation service that
28 may occur upon the expiration of that electric distribution
29 company's generation rate cap. The plan may not address or
30 affect any other rate changes filed by the electric distribution

1 company.

2 * * *

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

4 § 2804. Standards for restructuring of electric industry.

5 The following interdependent standards shall govern the
6 commission's assessment and approval of each public utility's
7 restructuring plan, oversight of the transition process and
8 regulation of the restructured electric utility industry:

9 * * *

10 (9) The commission shall ensure that universal service
11 and energy conservation policies, activities and services are
12 appropriately funded and available in each electric
13 distribution territory. The commission shall ensure that
14 programs are in place to assist low-income customers in
15 managing default service price increases that those customers
16 may experience after the expiration of the transition period.
17 Policies, activities and services under this paragraph shall
18 be funded in each electric distribution territory by
19 nonbypassable, competitively neutral cost-recovery mechanisms
20 that fully recover the costs of universal service and energy
21 conservation services. The commission shall encourage the use
22 of community-based organizations that have the necessary
23 technical and administrative experience to be the direct
24 providers of services or programs which reduce energy
25 consumption or otherwise assist low-income customers to
26 afford electric service. Programs under this paragraph shall
27 be subject to the administrative oversight of the commission
28 which will ensure that the programs are operated in a cost-
29 effective manner.

30 * * *

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

§ 2807. Duties of electric distribution companies.

* * *

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

* * *

(4) By November 1, 2008, and until the end of an
electric distribution company's rate cap or rate phase-in
plan filed pursuant to section 2813 (relating to rate phase-
in plans), electric distribution companies, in conjunction
with the commission, shall implement consumer education
programs informing customers about available energy
efficiency and demand-side response programs, actions they
can take to reduce their consumption and default service
price increases that the customers may experience. The
commission will reactivate the standing Council for Utility
Choice to approve and oversee both the Statewide and electric
distribution company education plans. Electric distribution
company plans shall be coordinated with the Statewide
education plans, and Statewide education should be funded and
serve as the umbrella for coordinated electric distribution
company plans. Electric distribution companies shall file
their customer education programs with the commission for
approval. Electric distribution companies may recover the
reasonable and prudent costs, as determined by the

1 commission, of any education programs at their option:

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

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

7 These costs shall be considered to be new services
8 offered for the first time under section 2804(4)(vi)
9 (relating to standards for restructuring of electric
10 industry). The electric distribution companies shall
11 fully recover the reasonable and prudent costs of all
12 approved education programs and deferrals.

13 (e) Obligation to serve.--[An electric distribution
14 company's obligation to provide] The obligation of a default
15 service provider to furnish electric service following
16 implementation of restructuring and the choice of alternative
17 generation by a customer is revised as follows:

18 (1) While an electric distribution company collects
19 either a competitive transition charge or an intangible
20 transition charge or until 100% of its customers have choice,
21 whichever is longer, the electric distribution company shall
22 continue to have the full obligation to serve, including the
23 connection of customers, the delivery of electric energy and
24 the production or acquisition of electric energy for
25 customers.

26 [(2) At the end of the transition period, the commission
27 shall promulgate regulations to define the electric
28 distribution company's obligation to connect and deliver and
29 acquire electricity under paragraph (3) that will exist at
30 the end of the phase-in period.

1 (3) If a customer contracts for electric energy and it
2 is not delivered or if a customer does not choose an
3 alternative electric generation supplier, the electric
4 distribution company or commission-approved alternative
5 supplier shall acquire electric energy at prevailing market
6 prices to serve that customer and shall recover fully all
7 reasonable costs.]

8 (2) (i) The default service provider shall provide
9 electric generation supply service to its customers and meet
10 the requirements of the act of November 30, 2004 (P.L.1672,
11 No.213), known as the Alternative Energy Portfolio Standards
12 Act, pursuant to a commission-approved competitive
13 procurement plan that is designed to produce the lowest
14 reasonable rates on a long-term basis and includes a
15 portfolio of long-term, short-term and spot-market purchases.

16 (ii) The commission may not order the default
17 service provider to procure power from any of the
18 following:

19 (A) A specific generation supplier.

20 (B) A specific generation fuel type.

21 (C) Only from new generation.

22 (iii) The electric power acquired to provide
23 electric generation service under this paragraph shall be
24 procured through competitive procurement processes that
25 may include one or more of the following:

26 (A) Auctions.

27 (B) Requests for proposals.

28 (C) Spot-market purchases.

29 (D) Bilateral contracts, negotiated between the
30 default service provider and a wholesale electric

1 supplier, except that the bilateral contracts shall
2 be entered into at the sole discretion of the default
3 service provider and be at prices no greater than the
4 cost of otherwise obtaining generation in the
5 wholesale market, as determined by the commission at
6 the time of its approval of the plan, or are
7 otherwise consistent with a commission-approved
8 competitive procurement process.

9 (iv) The competitive procurement process or
10 processes shall be conducted, as determined and approved
11 by the commission, for each customer class. The
12 generation rates procured by the competitive procurement
13 process or processes shall not allow the cross-
14 subsidization of one customer class by another.

15 (3) The default service provider shall have the right to
16 recover on a full and current basis, pursuant to a
17 reconcilable automatic adjustment clause under section 1307,
18 all costs incurred pursuant to this section and a commission-
19 approved competitive procurement plan. The commission may
20 approve, at the default service provider's request, an
21 alternative cost-recovery mechanism that may include, but is
22 not limited to, nonreconcilable default service rate
23 offerings.

24 (4) The commission shall not modify contracts or
25 disallow costs associated with contracts that are entered
26 into pursuant to a commission-approved competitive
27 procurement plan unless the commission determines that the
28 contract was not entered into in accordance with the
29 commission-approved competitive procurement process or there
30 has been fraud, collusion or market manipulation.

1 (5) A default service provider, in its sole discretion,
2 may enter into long-term contracts, through an auction or
3 request for proposal, with durations longer than five years
4 but no longer than 20 years for up to 20% of its projected
5 default service load. Long-term contracts shall be permitted
6 for energy generated from all sources, including alternative
7 energy sources and alternative energy credits as those terms
8 are defined in section 2 of the Alternative Energy Portfolio
9 Standards Act and demand-side response. Once a long-term
10 contract has been approved by the commission, it shall be
11 deemed approved for all subsequent competitive procurement
12 plans filed under this section for the life of the approved
13 contract. Long-term contracts entered into by a default
14 service provider under paragraph (14) shall not be considered
15 for the purposes of compliance with this paragraph.

16 (5.1) The default service provider may procure power
17 through a competitive procurement process on a load following
18 full requirements basis and such procurement shall be deemed
19 to comply with this section.

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

25 (7) Not later than December 31, 2008, the commission
26 shall promulgate final regulations to define the default
27 service provider's obligations under paragraph (2). At least
28 every five years after final regulations have been
29 promulgated, the commission shall hold hearings and issue
30 findings regarding whether the regulations effectively

1 promote the lowest reasonable rates on a long-term basis. The
2 commission shall make any changes to the regulations it
3 identifies in its findings that are consistent with this
4 chapter, provided, however, that the commission may not
5 modify or disallow costs associated with contracts previously
6 entered into pursuant to regulations in effect at the time
7 the procurement plan was approved.

8 (8) The default service provider shall file a plan for
9 competitive procurement with the commission and obtain
10 commission approval of the plan before the competitive
11 procurement process may be implemented. The commission shall
12 hold hearings as necessary on the proposed plan. If the
13 commission fails to issue a final order on the plan within
14 nine months of the date that the plan is filed, the plan
15 shall be deemed to be approved and the default service
16 provider may implement the plan as filed.

17 (9) The commission shall monitor the implementation of
18 the approved competitive procurement plan. The commission may
19 make changes to the plan to ensure the lowest reasonable
20 rates pursuant to paragraph (6) where such a change would
21 produce a more reasonable result provided that such changes
22 are made on a prospective basis. If the competitive
23 procurement process set forth in the approved plan is
24 implemented in accordance with the terms and the commission's
25 order approving it, the commission shall approve the results
26 of any competitive procurement process using the methods in
27 paragraph (2)(iii)(A) and (B) not more than two business days
28 after successful bids are selected. If the commission does
29 not reject such results within two business days, then the
30 results of the competitive procurement process shall be

1 deemed to have been approved. If bilateral contracts under
2 paragraph (2)(iii)(D) are proposed to be used, the commission
3 shall approve or reject the contracts no later than the
4 latest of commission approval of the plan or one week
5 following presentation of the final form of contract. If such
6 contracts are not rejected in the time period provided, they
7 shall be deemed approved. Purchases undertaken pursuant to
8 approved processes under paragraph (2)(iii)(C) shall only be
9 subject to modification under the provisions of paragraph
10 (4). The commission shall reject the results of a competitive
11 procurement process if it was not implemented in accordance
12 with the plan's terms and the commission's order approving it
13 or if the results produced unreasonably high prices due to
14 abnormal, transient market events.

15 (i) If the commission rejects the results of a
16 competitive procurement process under paragraph
17 (2)(iii)(A), (B) or (D) because it was not implemented in
18 accordance with the plan's terms and the commission's
19 order approving it, the commission shall specifically
20 identify the elements of the process that were not
21 implemented in accordance with its terms or the
22 commission's order approving it. The default service
23 provider shall modify its implementation of that
24 competitive procurement process consistent with the
25 commission's order.

26 (ii) If the commission rejects the results of a
27 competitive procurement process under paragraph
28 (2)(iii)(A), (B) or (D) because the results produced
29 unreasonably high prices due to abnormal, transient
30 market events, the commission may require the default

1 service provider to modify the process and resubmit the
2 results to the commission for approval or direct the
3 default service provider to reimplement the plan without
4 modification.

5 (iii) If the results are not rejected, the costs
6 shall be deemed to be the lowest reasonable rates on a
7 long-term basis and shall be fully recoverable pursuant
8 to paragraph (3).

9 (iv) In the event the commission rejects proposed
10 purchases under an approved competitive procurement plan
11 and the default service provider is required to purchase
12 requirements on the spot market as a result, the costs of
13 such purchases shall be fully recoverable pursuant to
14 paragraph (3).

15 (10) The default service provider shall file an updated
16 competitive procurement plan with the commission every three
17 years.

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

22 (ii) The commission shall approve the default
23 service provider's updated plan if it complies with the
24 standards of this section. If the default service
25 provider's updated plan does not comply with the
26 standards of this section, the commission shall
27 specifically identify the elements of the plan that do
28 not comply with the standards of this section, and the
29 default service provider shall modify the plan to meet
30 those standards and resubmit the plan to the commission

1 for approval.

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

7 (12) Any default service plan approved by the commission
8 prior to the effective date of this paragraph or any default
9 service plan pending before the commission on the effective
10 date of this paragraph that is approved by the commission
11 shall remain in effect through its approved term. At its sole
12 option, the default service provider may propose changes to
13 its approved plan that are consistent with this paragraph,
14 and the commission shall issue a decision whether to accept
15 or reject such proposed amendments within nine months. If the
16 commission fails to issue a final order on the proposed
17 amendments within nine months after the date the amendments
18 are filed, the amendments shall be deemed to be approved and
19 the default service provider may implement the amendments as
20 filed.

21 [(4)] (13) If a customer that chooses an alternative
22 supplier and subsequently desires to return to the local
23 distribution company for generation service, the local
24 distribution company shall treat that customer exactly as it
25 would any new applicant for energy service.

26 [(5)] (14) (i) Notwithstanding paragraph [(3)] (2), the
27 [electric distribution company or commission-approved
28 alternative supplier] default service provider may, in
29 its sole discretion, offer large customers with a peak
30 demand of 15 megawatts or greater at one meter at a

1 location in its service territory any negotiated rate for
2 service at all of the customers' locations within the
3 service territory for any duration agreed upon by the
4 [electric distribution company or commission-approved
5 alternative supplier] default service provider and the
6 large customer. The commission shall permit, but shall
7 not require, [an electric distribution company or
8 commission-approved alternative supplier] a default
9 service provider to provide service to large customers
10 under this paragraph. Contract rates entered into under
11 this paragraph shall be subject to review by the
12 commission in order to ensure that all costs related to
13 the rates are borne by the parties to the contract and
14 that no costs related to the rates are borne by other
15 customers or customer classes. If no costs related to the
16 rates are borne by other customers or customer classes,
17 the commission shall approve the contract within 90 days
18 of its filing, or it shall be deemed approved by
19 operation of law upon expiration of the 90 days.
20 Information submitted under this paragraph shall be
21 subject to the commission's procedures for the filing of
22 confidential and proprietary information.

23 (ii) For purposes of providing service under this
24 paragraph to customers with a peak demand of 20 megawatts
25 or greater at one meter at a location within that
26 distribution company's service territory, an electric
27 distribution company that has completed its restructuring
28 transition period as of the effective date of this
29 paragraph may, in its sole discretion, acquire an
30 interest in a generation facility or construct a

1 generation facility specifically to meet the energy
2 requirements of the customers, including the electric
3 requirements of the customers' other billing locations
4 within its service territory. The electric distribution
5 company must commence construction of the generation
6 facility or contract to acquire the generation interest
7 within three years after the effective date of this
8 paragraph, except that the electric distribution company
9 may add to the generation facilities it commenced
10 construction or contracted to acquire after this three-
11 year period to serve additional load of customers for
12 whom it commenced construction or contracted to acquire
13 generation within three years. Nothing in this paragraph
14 requires or authorizes the commission to require an
15 electric distribution company to commence construction or
16 acquire an interest in a generation facility. The
17 electric distribution company's interest in the
18 generation facility it built or contracted to acquire
19 shall be no larger than necessary to meet peak demand of
20 customers served under this subparagraph. During times
21 when the customer's demand is less than the electric
22 distribution company's generation interest, the electric
23 distribution company may sell excess power on the
24 wholesale market. At no time shall the costs associated
25 with the generating facility interests be included in
26 rate base or otherwise reflected in rates. The generation
27 facility interests shall not be commission-regulated
28 assets.

29 (iii) In addition to any other rates that may be
30 offered, the default service provider shall offer all

1 residential and small business customers a rate that
2 shall change no more frequently than on a quarterly
3 basis. The quarterly rate shall be the default service
4 rate for all customers who do not affirmatively choose
5 another service. Such a rate may be subject to
6 reconciliation to reflect any over-recovery or under-
7 recovery of costs from the prior year or, at the option
8 of the default service provider, may be provided on a
9 nonreconcilable basis. All rates shall be reviewed by the
10 commission to ensure that the costs of providing service
11 to each customer class are borne solely by that customer
12 class.

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

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

18 § 2813. Rate phase-in plans.

19 (a) General rule.--Within 90 days of the effective date of
20 this section, each electric distribution company shall file a
21 rate phase-in plan with the commission to provide residential
22 and small commercial customers the option to phase in any
23 overall rate increase resulting from an initial increase in the
24 price for default generation service that may occur upon the
25 expiration of the generation rate cap for such electric
26 distribution company specified under section 2804(4) (relating
27 to standards for restructuring of electric industry) or a
28 restructuring plan under section 2806(f) (relating to
29 implementation, pilot programs and performance-based rates) and
30 ending no later than three years after such expiration date.

Customer participation in any plan approved under this subsection shall be voluntary.

(b) Conditions.--Each rate phase-in plan shall be subject to commission approval, which shall be granted no less than 90 days prior to implementation of the phase-in plan in each electric distribution company's service territory and shall meet the following conditions:

(1) The plan, which shall be implemented through a nonbypassable credit or charge to customers' bills separate from the default generation charge, shall offer a transition to prices at the level permitted pursuant to a commission-approved procurement plan beginning on the expiration date of the generation rate cap for the electric distribution company.

(2) The plan shall provide for all of the following:

(i) that any overall rate increase resulting from an initial increase in the rate for default generation service charged to each customer class under the plan shall be phased in in approximately equal annual percentage increases; and

(ii) that the increase in any one year shall not exceed 15% of the overall rate in effect for that customer class on the last day of the prior calendar year during the three-year period specified under subsection (a).

(2.1) The commission shall provide for not more than an additional three-year period, at the option of the electric distribution company, for the recovery of all amounts recoverable under section 2807(e)(3) (relating to duties of electric distribution companies) and deferred amounts with

1 carrying charges under this section.

2 (3) The plan may offer the customer the option to begin
3 the phase-in period prior to the expiration of the generation
4 rate cap, provided that the customer accrues interest on any
5 prepaid amount at a rate of 6% compounded annually. Customer
6 participation in any plan approved under this subsection
7 shall be voluntary.

8 (4) The plan shall specify the means of providing notice
9 to customers of the option to participate in such plan on a
10 voluntary basis.

11 (5) Any customer is eligible to participate in a phase-
12 in plan as described under this section whether the customer
13 chooses to take electric generation service from an electric
14 distribution company or from an electric generation supplier.

15 (c) Recovery.--

16 (1) The electric distribution company shall fully
17 recover the expenses associated with implementing a plan and
18 the amount of the deferred payments resulting from customers'
19 participation in the plan and a carrying charge of 6%
20 compounded annually on the deferred payments from the
21 customers by means of a nonbypassable charge to each customer
22 class, subject to the conditions established under subsection
23 (b).

24 (2) The charge shall be a reconcilable automatic
25 adjustment charge under section 1307 (relating to sliding
26 scale of rates; adjustments), be applied to participating
27 customers on a customer class basis, be included in other
28 charges on the electric distribution company's bill and not
29 appear as a separate line item on a customer's bill.

30 (3) Any rate phase-in plan approved by the commission

1 shall be considered a new service offered for the first time
2 under section 2804(4)(vi).

3 (4) The amounts deferred together with the carrying
4 charges thereon shall be deemed to be transition costs for
5 the purposes of section 2812 (relating to approval of
6 transition bonds); and upon issuance by the commission of a
7 qualified rate order pursuant to section 2812, such amounts
8 together with any cost related to the issuance of transition
9 bonds shall be deemed qualified transition expenses.

10 (d) Deferred amounts.--The commission shall permit deferred
11 costs and associated carrying charges to be recorded for
12 accounting purposes on an electric distribution company's books
13 of account as a regulatory asset where the electric distribution
14 company is the default service provider.

15 (e) Credit.--If a customer enrolled in a plan that begins
16 prior to the expiration of the electric distribution company's
17 generation rate cap leaves the electric distribution company's
18 system prior to the full distribution of amounts collected, a
19 credit shall be applied to the customer's final bill and any
20 remainder shall be refunded to the customer.

21 (f) Intangible transition property.--

22 (1) An electric distribution company's right to recover
23 costs under an approved phase-in plan shall be deemed
24 intangible transition property for the purposes of sections
25 2808(e) and 2812, but not for any other sections of this
26 chapter.

27 (2) The commission may issue a qualified rate order
28 under section 2812 with respect to such costs and to issue
29 other orders and take actions as may be necessary or proper
30 for the electric distribution company or its assignee to

1 issue transition bonds, as provided under section 2812,
2 secured by such intangible transition property; and upon
3 issuance by the commission of a qualified rate order, the
4 amounts authorized to be imposed on customer bills shall be
5 deemed intangible transition charges for the purposes of
6 section 2812.

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

12 § 2814. Microgrids.

13 Customers may have their electricity supplied by microgrids
14 subject to the following:

15 (1) A microgrid shall be limited to four customers.
16 Microgrids seeking to supply electricity to more than four
17 customers may be approved by the commission on a case-by-case
18 basis. The commission shall approve such requests if the
19 microgrid, while serving more than four customers, provides a
20 private rather than a public service.

21 (2) The commission shall promulgate regulations on the
22 fees related to microgrid interconnection, standby power and
23 other services related to the reliable and safe functioning
24 of microgrids. Fees associated with this section shall be the
25 lowest costs necessary to ensure adequate system reliability
26 and safety.

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

30 Section 7. This act shall take effect immediately.