

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2693 Session of
2010

INTRODUCED BY BAKER, S. H. SMITH, STERN, MAJOR, BOBACK, BRIGGS,
CALTAGIRONE, CARROLL, CLYMER, D. COSTA, CREIGHTON,
DePASQUALE, FLECK, GINGRICH, GOODMAN, GROVE, HANNA, HARHART,
HELM, HENNESSEY, HESS, KILLION, MANN, MILLER, MILNE, MUNDY,
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SIPTROTH, K. SMITH, TALLMAN, TRUE, VULAKOVICH, WAGNER,
WATSON, YOUNGBLOOD, YUDICHAK, McILVAINE SMITH, SWANGER,
DENLINGER, KNOWLES, SONNEY, GEIST, PRESTON, HOUGHTON AND
MURPHY, SEPTEMBER 14, 2010

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 5, 2010

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in general provisions, further
3 providing for definitions; ~~providing~~ IN RESTRUCTURING OF ←
4 ELECTRIC UTILITY INDUSTRY, FURTHER PROVIDING FOR DEFINITIONS;
5 PROVIDING FOR SOLAR ENERGY PORTFOLIO STANDARDS AND for
6 regulation of certain operators of pipelines; ~~and,~~ in ←
7 violations and penalties, further providing for civil
8 penalties for gas pipeline safety violations; AND MAKING A ←
9 RELATED REPEAL.

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

12 Section 1. Paragraph (2) of the definition of "public
13 utility" in section 102 of Title 66 of the Pennsylvania
14 Consolidated Statutes is amended by adding a subparagraph and
15 the section is amended by adding a definition to read:

16 § 102. Definitions.

17 Subject to additional definitions contained in subsequent

provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Natural or artificial gas." Natural gas, liquefied natural gas, synthetic natural gas and any natural gas substitute such as propane or landfill gas.

* * *

"Public utility."

* * *

(2) The term does not include:

* * *

(vii) A pipeline operator, not otherwise a public utility, provided that the pipeline operator is subject to the jurisdiction of the commission as provided in Chapter 32 (relating to regulation of nonjurisdictional entities) and in regulations promulgated by the commission.

* * *

SECTION 2. SECTION 2803 OF TITLE 66 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:

* * *

"SOLAR." INCLUDES BOTH SOLAR PHOTOVOLTAIC AND SOLAR THERMAL ENERGY TECHNOLOGIES.

"SOLAR THERMAL ENERGY." TECHNOLOGY UTILIZING SOLAR ENERGY



1 FOR WATER HEATING OR FOR GENERATING ENERGY.

2 * * *

3 SECTION 3. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:

4 § 2816. SOLAR ENERGY PORTFOLIO STANDARDS.

5 THE TOTAL PERCENTAGE OF THE ELECTRIC ENERGY SOLD BY AN
6 ELECTRIC DISTRIBUTION COMPANY OR ELECTRIC GENERATION SUPPLIER TO
7 RETAIL ELECTRIC CUSTOMERS IN THIS COMMONWEALTH THAT MUST BE SOLD
8 FROM SOLAR TECHNOLOGIES SHALL BE AS FOLLOWS:

9 (1) 0.0013% FOR JUNE 1, 2006, THROUGH MAY 31, 2007.

10 (2) 0.0030% FOR JUNE 1, 2007, THROUGH MAY 31, 2008.

11 (3) 0.0063% FOR JUNE 1, 2008, THROUGH MAY 31, 2009.

12 (4) 0.0120% FOR JUNE 1, 2009, THROUGH MAY 31, 2010.

13 (5) 0.0203% FOR JUNE 1, 2010, THROUGH MAY 31, 2011.

14 (6) 0.0504% FOR JUNE 1, 2011, THROUGH MAY 31, 2012.

15 (7) 0.0752% FOR JUNE 1, 2012, THROUGH MAY 31, 2013.

16 (8) 0.1218% FOR JUNE 1, 2013, THROUGH MAY 31, 2014.

17 (9) 0.2016% FOR JUNE 1, 2014, THROUGH MAY 31, 2015.

18 (10) 0.3% FOR JUNE 1, 2015, THROUGH MAY 31, 2016.

19 (11) 0.41% FOR JUNE 1, 2016, THROUGH MAY 31, 2017.

20 (12) 0.5% FOR JUNE 1, 2017, THROUGH MAY 31, 2018.

21 (13) 0.62% FOR JUNE 1, 2018, THROUGH MAY 31, 2019.

22 (14) 0.75% FOR JUNE 1, 2019, THROUGH MAY 31, 2020.

23 (15) 0.97% FOR JUNE 1, 2020, THROUGH MAY 31, 2021.

24 (16) 1.35% FOR JUNE 1, 2021, THROUGH MAY 31, 2022.

25 (17) 1.5% FOR JUNE 1, 2022, AND THEREAFTER.

26 Section ~~2~~ 4. Title 66 is amended by adding a chapter to
27 read:

28 CHAPTER 32

29 REGULATION OF NONJURISDICTIONAL ENTITIES

30 Sec.



1 3201. Definitions.

2 3202. Adoption of Federal pipeline safety laws.

3 3203. Scope of commission regulation.

4 3204. Registry of pipeline operators.

5 3205. Assessments.

6 3206. Regulations.

7 § 3201. Definitions.

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

11 "Federal pipeline safety laws." The provisions of 49 U.S.C.
12 Subtitle VIII (relating to pipelines) and all regulations
13 promulgated pursuant thereto.

14 "Gas and natural gas." Natural gas, flammable gas or toxic
15 or corrosive gas. The term shall have the same meaning as in the
16 Federal pipeline safety laws.

17 "Hazardous liquid." The term shall have the same meaning as
18 in the Federal pipeline safety laws, including, but not limited
19 to, carbon dioxide, a highly volatile liquid, petroleum,
20 petroleum products or anhydrous ammonia.

21 "Person." Any individual, firm, joint venture, partnership,
22 corporation, association, municipality, cooperative association
23 or joint stock association, including any trustee, receiver,
24 assignee or personal representative thereof.

25 "Pipeline." Any part of the physical facilities through
26 which gas or hazardous liquids move in transportation, including
27 a pipe, valve and other appurtenance attached to the pipe,
28 compressor unit, metering station, regulator station, delivery
29 station, holder and fabricated assembly. The term only includes
30 pipelines regulated by Federal pipeline safety laws. The term

1 does not include a pipeline subject to the exclusive
2 jurisdiction of the Federal Energy Regulatory Commission.

3 "Pipeline facility." A new and existing pipeline, right-of-
4 way and any equipment, facility or building used in the
5 transportation of gas or hazardous liquids or in the treatment
6 of gas during the course of transportation. The term only
7 includes facilities regulated by the Federal pipeline safety
8 laws. The term does not include a pipeline facility subject to
9 the exclusive jurisdiction of the Federal Energy Regulatory
10 Commission.

11 "Pipeline operator." A person that owns or operates in this
12 Commonwealth equipment or facilities for the transportation of
13 gas or hazardous liquids by pipeline or pipeline facility
14 regulated under Federal pipeline safety laws. The term does not
15 include a public utility or an ultimate consumer who owns a
16 service line on the real property of the ultimate consumer.

17 "Transportation of gas." The gathering, transmission or
18 distribution of gas by pipeline or the storage of gas.

19 "Transportation of hazardous liquids." The gathering,
20 transmission or distribution of hazardous liquids by pipeline.

21 § 3202. Adoption of Federal pipeline safety laws.

22 (a) General rule.--The safety standards and regulations for
23 the transportation of gas and hazardous liquids in this
24 Commonwealth shall be those issued under the Federal pipeline
25 safety laws and as implemented in 49 CFR Subtitle B Ch. 1 Subch.
26 D (relating to pipeline safety), including all subsequent
27 amendments thereto.

28 (b) Amendments to Federal law.--

29 (1) Amendments to the Federal pipeline safety laws shall
30 have the effect of amending or modifying the commission's

1 regulations with regard to the safety standards for the
2 transportation of gas and hazardous liquids.

3 (2) The amendment or modification shall take effect 60
4 days after the effective date of the Federal amendment or
5 modification.

6 § 3203. Scope of commission regulation.

7 The commission shall have general administrative authority to
8 supervise and regulate pipeline operators within this
9 Commonwealth consistent with Federal pipeline safety laws. The
10 commission may adopt regulations, consistent with the Federal
11 pipeline safety laws, as may be necessary or proper in the
12 exercise of its powers and perform its duties under this
13 chapter. The regulations shall not be inconsistent with or
14 greater or more stringent than the minimum standards and
15 regulations adopted under the Federal pipeline safety laws. The
16 commission shall have the following powers and duties:

17 (1) To investigate any service, act, practice, policy or
18 omission by a pipeline operator to determine compliance with
19 this chapter.

20 (2) To investigate any pipeline facility to determine if
21 it is hazardous to life or property pursuant to the Federal
22 pipeline safety laws.

23 (3) To investigate the existence or report of any
24 safety-related condition that involves a pipeline facility.

25 (4) To enter into and perform contracts or agreements
26 with the United States Department of Transportation to
27 inspect intrastate and interstate transmission facilities
28 pursuant to the Federal pipeline safety laws.

29 (5) Accept grants-in-aid, cash and reimbursements
30 provided for or made available to the Commonwealth by the

1 Federal Government to carry out the Federal pipeline safety
2 laws or other Federal law.

3 (6) To adopt by reference the pipeline safety
4 regulations promulgated at 49 CFR Parts 191 (relating to
5 transportation of natural and other gas pipeline; annual
6 reports, incident reports, and safety-related condition
7 reports) through 199 (relating to drug and alcohol testing).
8 The commission may not adopt a rule or regulation to
9 implement this chapter that is inconsistent with or more
10 stringent than the pipeline safety regulations promulgated by
11 the Federal Government.

12 (7) To advise, consult and cooperate with the Federal
13 Government, other State agencies and other states as may be
14 necessary to administer its duties under this chapter.

15 (8) To issue adjudications, after notice and opportunity
16 to be heard, and to impose civil fines and take enforcement
17 action for violations of the applicable Federal regulations
18 and any provision of this chapter.

19 (9) For purposes of petroleum gas, the commission's
20 jurisdiction under this chapter shall be limited to those
21 petroleum gas systems that are subject to the Federal
22 pipeline safety laws and not a public utility.

23 § 3204. Registry of pipeline operators.

24 (a) Duty to establish and maintain registry.--The commission
25 shall establish and maintain a registry of all gas and hazardous
26 liquids pipeline operators.

27 (b) Applications.--The commission may develop an application
28 for registration under subsection (a) and may charge a
29 reasonable registration fee and annual renewal registration fee.

30 (c) Duty to register.--

1 (1) A pipeline operator shall register with the
2 commission.

3 (2) A pipeline operator that fails to register in
4 accordance with this chapter shall be subject to the civil
5 penalty provided in section 3301(c) (relating to civil
6 penalties for violations).

7 (d) Exemptions.--No application or registration fee shall be
8 required of a petroleum gas distributor who is registered under
9 the act of June 19, 2002 (P.L.421, No.61), known as the Propane
10 and Liquefied Petroleum Gas Act, and provides proof of
11 registration to the commission. It shall be the responsibility
12 of the commission to verify registrations of petroleum gas
13 distributors with the Department of Labor and Industry before
14 requiring a petroleum gas distributor to register under this
15 section. This exemption shall not apply to assessments.

16 § 3205. Assessments.

17 (a) Duty to determine.--The commission shall by regulation
18 or order determine the assessments of pipeline operators in
19 accordance with this section.

20 (b) Fees.--

21 (1) The commission shall determine an appropriate annual
22 assessment based on intrastate regulated transmission,
23 distribution and regulated on-shore gathering pipeline miles,
24 which fee shall be designed to collect the commission's total
25 costs, plus a reasonable allocation of indirect costs, of its
26 gas and hazardous liquids pipeline safety program, excluding
27 the costs otherwise reimbursed by the Federal Government.

28 (2) The assessment shall be paid by all pipeline
29 operators. The assessment shall not be applicable to natural
30 gas public utilities.

1 (c) Time for payment.--The assessment shall be due and
2 payable within 30 days of the notice of amount due from the
3 commission. The amount of the assessment may be challenged
4 consistent with the provisions of section 510(c), (d) and (e)
5 (relating to assessment for regulatory expenses upon public
6 utilities).

7 (d) Reporting of miles.--Each pipeline operator shall, on or
8 before March 31 of each calendar year, report to the commission
9 its total intrastate regulated transmission, distribution and
10 regulated on-shore gathering pipeline miles in operation in this
11 Commonwealth during the prior calendar year.

12 (e) Estimated assessments.--The estimated assessments to be
13 collected under this section for each fiscal year shall be
14 subtracted from the final estimate of total expenditures used to
15 calculate the total assessment on public utilities under section
16 510(a).

17 § 3206. Regulations.

18 The commission shall establish regulations to implement this
19 chapter and may promulgate and enforce binding interim
20 guidelines.

21 § 3207. Jurisdiction and authority of commission.

22 (a) Jurisdiction.--Nothing in this chapter shall give the
23 commission jurisdiction over any pipeline, not otherwise a
24 public utility, for purposes of rates or ratemaking or any
25 purpose other than those set forth in this chapter.

26 (b) Landfill gas distribution systems.--The jurisdiction of
27 the commission over a landfill gas distribution system, not
28 otherwise a public utility, shall be limited to systems subject
29 to Federal pipeline safety laws. The commission shall not have
30 jurisdiction over operations and systems within the property

1 boundary of the landfill.

2 (c) Authority.--Nothing in this chapter grants the
3 commission additional authority to determine or regulate a
4 pipeline operator as a public utility as defined in section 102
5 (relating to definitions) or as a natural gas supplier or
6 natural gas supply services as defined in section 2202 (relating
7 to definitions).

8 Section ~~3~~ 5. Section 3301(c) of Title 66 is amended to read: ←
9 § 3301. Civil penalties for violations.

10 * * *

11 (c) Gas pipeline safety violations.--Any person or
12 corporation, defined as a public utility in this part, who
13 violates any provisions of this part governing the safety of
14 pipeline or conduit facilities in the transportation of natural
15 gas, flammable gas, or gas which is toxic or corrosive, or of
16 any regulation or order issued thereunder, shall be subject to a
17 civil penalty [of] not to exceed [\$10,000] \$100,000 for each
18 violation for each day that the violation persists, except that
19 the maximum civil penalty shall not exceed [\$500,000] \$1,000,000
20 for any related series of violations.

21 * * *

22 ~~Section 4. This act shall take effect in 60 days.~~ ←

23 SECTION 6. REPEALS ARE AS FOLLOWS: ←

24 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
25 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 66
26 PA.C.S. § 2816.

27 (2) SECTION 3(B)(2) OF THE ACT OF NOVEMBER 30, 2004
28 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO
29 STANDARDS ACT, IS REPEALED.

30 SECTION 7. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.