

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 812 Session of
2010

INTRODUCED BY GEORGE, BISHOP, BOBACK, BRIGGS, COHEN, CONKLIN,
D. COSTA, DeWEESE, EVERETT, FREEMAN, GOODMAN, GRUCELA, HANNA,
HESS, HORNAMAN, JOSEPHS, LEVDANSKY, MAJOR, McILVAINE SMITH,
MUNDY, MURPHY, SANTARSIERO, SIPTROTH, STABACK, VITALI AND
YOUNGBLOOD, MAY 26, 2010

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, MAY
26, 2010

A RESOLUTION

1 Directing the Environmental Resources and Energy Committee of
2 the House of Representatives to investigate whether electric
3 utilities overcollected or undercollected in stranded cost
4 payments under the Electricity Generation Customer Choice and
5 Competition Act of 1996 to Pennsylvania ratepayers, including
6 industrial manufacturers and the government of the
7 Commonwealth, whether refunds in cases of overcollection or
8 surcharges in cases of undercollection may be necessary and
9 whether those utilities' generation affiliates which received
10 formerly regulated generation assets of the utilities at
11 little to no cost may have been unjustly enriched in those
12 transactions.

13 WHEREAS, By enacting 66 Pa.C.S. Ch. 28, known as the
14 Electricity Generation Customer Choice and Competition Act, on
15 December 3, 1996, the General Assembly sought to resolve certain
16 transitional issues in a manner fair to customers, investors,
17 electric utilities and their employees, local communities,
18 nonutility generators and other affected parties; and

19 WHEREAS, The Electricity Generation Customer Choice and
20 Competition Act defines "competitive transition charge" as "[a]
21 nonbypassable charge applied to the bill of every customer

1 accessing the transmission or distribution network which
2 (charge) is designed to recover an electric utility's transition
3 or stranded costs as determined by the commission under sections
4 2804 and 2808"; and

5 WHEREAS, The act defines "transition or stranded costs," in
6 part, as "[an] electric utility's known and measurable net
7 electric generation-related costs, determined on a net present
8 value basis over the life of the asset or liability as part of
9 its restructuring plan, which traditionally would be recoverable
10 under a regulated environment but which may not be recoverable
11 in a competitive electric generation market and which the
12 commission determines will remain following mitigation by the
13 electric utility"; and

14 WHEREAS, Since the implementation of the Electricity
15 Generation Customer Choice and Competition Act, there has not
16 been a final analysis by the Pennsylvania Public Utility
17 Commission or other governmental entity of the commission-
18 approved stranded costs by electric utilities; and

19 WHEREAS, In forecasting the future prices of electricity,
20 electric utilities may have grossly overestimated the costs that
21 may have been stranded under the act; and

22 WHEREAS, Electric utilities have been collecting stranded
23 cost payments from all classes of ratepayers during the period
24 where electric rates were capped based on the projected price of
25 electricity; and

26 WHEREAS, With the expirations of electric rate caps, a
27 complete and certain analysis is both possible and necessary to
28 determine whether electric utilities overcollected in stranded
29 cost payments from their ratepayers by comparing the projected
30 cost of electricity as outlined in the stranded cost agreements

1 with the actual cost of electricity charged to ratepayers; and

2 WHEREAS, The Environmental Resources and Energy Committee of
3 the House of Representatives desires to investigate whether
4 electric utilities overcollected millions or billions of dollars
5 in stranded cost payments from Pennsylvania ratepayers and were
6 unjustly enriched in doing so and whether their unregulated
7 generation affiliates (UGAs) which received formerly regulated
8 generation assets at little to no cost from electric utilities
9 that grossly undervalued those assets were unjustly enriched in
10 those transactions; and

11 WHEREAS, In order to effectively investigate and to find the
12 answers to the above questions, it is imperative the
13 Environmental Resources and Energy Committee has the power to
14 obtain testimony and documents; therefore be it

15 RESOLVED, That the House of Representatives direct the
16 Environmental Resources and Energy Committee to conduct an
17 investigation on whether more than \$18 billion of stranded costs
18 paid by Pennsylvania ratepayers were justified and whether some
19 electric utilities and their UGAs, which received formerly
20 regulated generation assets of the electric utilities at little
21 to no cost, were unjustly enriched in those transactions and
22 whether there should be refunds to ratepayers in cases of
23 overcollection or surcharges in cases of undercollection; and be
24 it further

25 RESOLVED, That the committee may hold hearings and conduct
26 investigations at such places as necessary in this Commonwealth;
27 and be it further

28 RESOLVED, That it may issue subpoenas under the hand and seal
29 of its chairman commanding any person to appear before the
30 committee and to testify on matters relevant to the committee's

1 inquiries and to produce such books, papers, records and
2 documents as the committee deems necessary; and be it further

3 RESOLVED, That any person who neglects or refuses to testify
4 or to produce any books, papers, records or documents may be
5 subject to the penalties provided by the laws of this
6 Commonwealth in such case, and each member of the committee
7 shall have power to administer oaths and affirmations to
8 witnesses appearing before the committee; and be it further

9 RESOLVED, That the committee make a report of its
10 investigation and recommendations to the House of
11 Representatives by September 15, 2010.