

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 868 Session of
2009

INTRODUCED BY BOSCOLA, O'PAKE, FONTANA, HUGHES, WASHINGTON AND
KITCHEN, MAY 27, 2009

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, MAY
27, 2009

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for the definition of
3 "overall rate" and for rate phase-in plans.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 2803 of Title 66 of the Pennsylvania
7 Consolidated Statutes is amended by adding a definition to read:

8 § 2803. Definitions.

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

12 * * *

13 "Overall rate." The sum of all retail rate schedule
14 components including the generation and transmission charges
15 charged by an electric distribution company or a competitive
16 electric generating supplier for electric service and including
17 all applicable riders and surcharges.

18 * * *

Section 2. Title 66 is amended by adding a section to read:
§ 2816. Rate phase-in plans.

(a) General rule.--Within 90 days of the effective date of this section, each electric distribution company shall file a competitively neutral phase-in plan with the commission to provide all customers in each customer class the option to phase in any initial increase in the price for generation service that may occur upon the expiration of the generation rate cap for such provider specified in section 2804(4) (relating to standards for restructuring of electric industry) or a restructuring plan in section 2806(f) (relating to implementation, pilot programs and performance-based rates) and ending no sooner than three years after such expiration date and no later than five years after such expiration date. Customer participation in any plan approved under this subsection shall be voluntary.

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

(1) Such plan shall offer a gradual transition to prices at the level permitted under a commission-approved procurement plan under section 2807(e)(3.1) (relating to duties of electric distribution companies) beginning on the expiration date of the generation rate cap for the provider.

(2) The plan shall ensure that the annual percentage increase in the overall rate charged to each customer class under the plan shall be phased in in equal annual percentage increases, provided that the increase in any one year shall not exceed 10% of the overall rate in effect for the customer class on the last day before the expiration of the generation rate caps during the period specified in subsection (a).

1 After appropriate notice and opportunity for hearing, the
2 commission may provide for an additional period of up to
3 three years for the recovery of deferred amounts under this
4 section.

5 (3) Such plan may offer the customer the option to begin
6 the phase-in period prior to the expiration of the generation
7 rate cap, provided that the customer accrues interest on any
8 prepaid amount at a rate of no less than 6% compounded
9 annually. Customer participation in any plan approved under
10 this subsection shall be voluntary.

11 (4) In the event a customer leaves the default service
12 provider's system prior to the full distribution of amounts
13 collected, a credit will be applied to the customer's final
14 bill and any remainder shall be refunded to the customer.

15 (5) Such plan shall specify the means of providing
16 notice to customers of the option to participate in such plan
17 on a voluntary basis.

18 (c) Recovery.--The default service provider shall be
19 eligible to fully recover the amount of the deferred payment
20 resulting from a customer's participation in the plan from such
21 customers. The charge shall be a reconcilable automatic
22 adjustment charge under section 1307 (relating to sliding scale
23 of rates; adjustments), shall be applied to participating
24 customers on a customer class basis, shall be included in other
25 charges on the electric distribution company's bill and shall
26 not appear as a separate line item on the customer's bill.

27 (d) Carrying charge not permitted.--The commission shall not
28 permit any carrying charge or compounded annual interest to be
29 applied by an electric distribution company to the deferred cost
30 or deferred payments from such customers. Only the amount of the

1 deferred payment shall be eligible for recovery under
2 subsections (b) and (c).

3 (e) Deferred costs.--The commission shall permit such
4 deferred costs to be recorded for accounting purposes on an
5 electric distribution company's books of account as a regulatory
6 asset where the electric distribution company is the default
7 service provider.

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

20 Section 3. The requirements of this act shall only apply to
21 electric distribution companies that, as of the effective date
22 of this act, are subject to a Pennsylvania Public Utility
23 Commission-approved generation rate cap that was initiated under
24 section 2804(4)(ii).

25 Section 4. This act shall take effect immediately.