

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1294 Session of 2011

INTRODUCED BY GODSHALL, PRESTON, AUMENT, BEAR, BRENNAN, BUXTON, CARROLL, CLYMER, D. COSTA, P. COSTA, CUTLER, DALEY, DAVIDSON, DELOZIER, ELLIS, GRELL, GROVE, HARHART, W. KELLER, KORTZ, KOTIK, MANN, MCGEEHAN, MILLARD, NEUMAN, D. O'BRIEN, M. O'BRIEN, PAYNE, PAYTON, PEIFER, PERRY, PYLE, QUIGLEY, READSHAW, REICHLEY, SAINATO, SAYLOR, SCAVELLO, SONNEY, VULAKOVICH, WILLIAMS, KULA, MILLER, GINGRICH, STEPHENS, DEASY, GIBBONS, M. SMITH, GERGELY, CHRISTIANA, KILLION, HANNA, BRIGGS, STABACK, WAGNER, OBERLANDER AND SABATINA, APRIL 6, 2011

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 8, 2011

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for valuation of and
3 return on the property of a public utility; and providing for
4 alternative regulatory mechanisms.

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

7 Section 1. Section 1311(c) of Title 66 of the Pennsylvania
8 Consolidated Statutes is amended AND THE SECTION IS AMENDED BY
9 ADDING A SUBSECTION to read:



10 § 1311. Valuation of and return on the property of a public
11 utility.

12 * * *

13 (c) Segregation of property.--When any public utility
14 furnishes more than one of the different types of utility

1 service, the commission shall segregate the property used and
2 useful in furnishing each type of such service, and shall not
3 consider the property of such public utility as a unit in
4 determining the value of the rate base of such public utility
5 for the purpose of fixing rates. A utility that provides water
6 and wastewater service shall be exempt from this subsection and
7 may combine all components of its water and wastewater revenue
8 requirement for the purposes of fixing rates on a consolidated
9 basis.

10 * * *

11 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM "UTILITY ←
12 THAT PROVIDES BOTH WATER AND WASTEWATER SERVICE" SHALL INCLUDE
13 SUBSIDIARY COMPANIES THAT INDIVIDUALLY PROVIDE WATER OR
14 WASTEWATER SERVICE SO LONG AS THE COMPANIES ARE WHOLLY OWNED BY
15 A COMMON PARENT COMPANY.

16 Section 2. Title 66 is amended by adding a section to read:
17 § 1329. Alternative regulatory mechanisms.

18 (a) Declaration of policy.--Many fixed utilities and city
19 natural gas distribution operations in this Commonwealth have
20 incurred and will continue to incur significant costs to
21 maintain, enhance and OR modernize their physical facilities in ←
22 order to continue to provide customers with safe and reliable
23 service. Under traditional regulatory mechanisms developed under
24 this title, these utilities and distribution operations
25 experience delay in the recovery of the revenue requirements
26 associated with those costs. The opportunity for more timely
27 recovery of those costs, including the recovery of capital
28 costs, including return of and on capital investments, and,
29 where applicable, debt service and debt-service coverage, should
30 encourage investment to replace facilities for continued

1 reliability, should enhance the efficiency of the construction
2 cycle and should attract lower-cost debt, which would reduce the
3 overall cost of these investments and should create jobs in the
4 Commonwealth. Accordingly, it is in the public interest to
5 provide for alternative regulatory mechanisms as set forth under
6 this section.

7 (b) Authority.--

8 (1) Notwithstanding any other provision of this title, ←
9 ~~including, but not limited to, sections 315 (relating to~~
10 ~~burden of proof), 1307 (relating to sliding scale of rates;~~
11 ~~adjustments), 1308 (relating to voluntary changes in rates)~~
12 ~~and 1315 (relating to limitation on consideration of certain~~
13 ~~costs for electric utilities), THAT WOULD PROHIBIT~~ ←
14 IMPLEMENTATION OF THIS SECTION, UPON PETITION BY A FIXED
15 UTILITY OR A CITY NATURAL GAS DISTRIBUTION OPERATION, FILED
16 IN ITS SOLE DISCRETION, the commission shall have the
17 authority to approve, but shall not require, ←
18 MODIFY OR REJECT ←
19 additional regulatory procedures and mechanisms proposed by a
20 fixed utility or a city natural gas distribution operation to
21 provide for timely recovery of reasonable and prudently ←
22 ~~incurred costs~~ PRUDENT COSTS INCURRED FOR THE IMPROVEMENT OF ←
23 PHYSICAL FACILITIES TO MAINTAIN SAFETY OR RELIABILITY.

23 (2) (i) The additional procedures and mechanisms under
24 paragraph (1) shall include, but are not limited to:

25 (A) The use of a fully projected future test
26 year in a general rate proceeding under section
27 1308(d).

28 (B) An automatic adjustment clause to recover
29 capital costs and operating expenses related to the ←
30 ~~capital costs~~ INCREMENTAL EXPENDITURES ACCOUNTED FOR ←

1 AS EXPENSE OF CERTAIN PROJECTS, AS APPROVED BY THE
2 COMMISSION UNDER THIS SECTION THAT ARE PLACED INTO
3 SERVICE BETWEEN BASE RATE PROCEEDINGS.

4 (ii) For purposes of this paragraph, a fully
5 projected future test year shall be the 12-month period
6 beginning with the first month that the new rates could
7 be placed in effect after application of the full
8 suspension period permitted under section 1308(d).

9 (c) Construction and interpretation.--Except as otherwise
10 expressly provided under this section, nothing under this
11 section shall be construed as limiting the existing ratemaking
12 authority of the commission, including, but not limited to, the
13 commission's existing authority to permit recovery of operating
14 expenses through an automatic adjustment clause, or as
15 indicating that the existing authority of the commission over
16 rate structure or design is limited.

17 (D) COMMISSION.--THE COMMISSION, BY REGULATION OR ORDER, ←
18 SHALL PRESCRIBE THE SPECIFIC PROCEDURES TO BE FOLLOWED IN
19 ESTABLISHING THE ALTERNATIVE REGULATORY PROCEDURES AND
20 MECHANISMS AUTHORIZED IN THIS SECTION. AN ALTERNATIVE REGULATORY
21 MECHANISM APPROVED BY THE COMMISSION UNDER THIS SECTION SHALL:

22 (1) PROVIDE FOR REASONABLE ALLOCATION OF COSTS TO THE
23 CUSTOMER CLASS RESPONSIBLE FOR THOSE COSTS.

24 (2) PROVIDE FOR ADJUSTMENT OF THE MECHANISM, INCLUDING A
25 PROCESS TO PROVIDE:

26 (I) CREDIT TO CUSTOMER ACCOUNTS FOR OVER COLLECTIONS
27 AND COLLECTIONS FOR INELIGIBLE PROJECTS.

28 (II) CHARGES TO CUSTOMER ACCOUNTS FOR UNDER
29 COLLECTIONS.

30 (3) PROVIDE FOR A CAP ON THE AMOUNT THAT MAY BE

1 COLLECTED FROM CUSTOMERS THROUGH AN ALTERNATIVE REGULATORY
2 MECHANISM AUTHORIZED BY SUBSECTION (B) (2) (I) (B).
3 Section 3. This act shall take effect in 60 days.