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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1699 Session of  
2013

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INTRODUCED BY ROSS, CUTLER, REED, COHEN, GINGRICH, STERN,  
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GIBBONS, GERGELY, CORBIN, TOEPEL, KAMPF, BRADFORD, LUCAS,  
VEREB AND MURT, SEPTEMBER 25, 2013

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
SEPTEMBER 25, 2013

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AN ACT

1 Providing for the regulation of certain reciprocal internal  
2 combustion engines.

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

5 Section 1. Definitions.

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

9 "Demand response generating resource." A stationary  
10 generator subject to an agreement or obligation to provide power  
11 in response to power grid needs, economic signals from  
12 competitive wholesale electric markets or special retail rates.

13 "Department." The Department of Environmental Protection of  
14 the Commonwealth.

15 "Emergency." The term shall mean:

16 (1) An electric power outage due to:

- 1 (i) a failure of the electrical grid;
- 2 (ii) an on-site disaster;
- 3 (iii) local equipment failure;
- 4 (iv) a public service emergency, such as a flood, a
- 5 fire or a natural disaster; or
- 6 (v) a severe weather condition, such as a hurricane
- 7 or tornado.

8 (2) Any situation in which there is a deviation of  
9 voltage or frequency from the electric public utility or  
10 regional transmission operator to the premise of 5% or  
11 greater below standard voltage or frequency.

12 "Emergency generator." A stationary generator whose  
13 operation is limited to emergencies and required testing and  
14 maintenance. The term shall not include any demand response  
15 generating resources.

16 "Energy year." The 12-month period beginning on June 1 and  
17 ending on May 31.

18 "Environmental Protection Agency" or "EPA." The United  
19 States Environmental Protection Agency or the administrator of  
20 the United States Environmental Protection Agency.

21 "Federal Energy Regulatory Commission" or "FERC." The  
22 Federal Energy Regulatory Commission or the administrator of the  
23 Federal Energy Regulatory Commission.

24 "Nonemergency generator." A stationary generator that:

- 25 (1) May be used during an emergency.
- 26 (2) May be used for testing and maintenance purposes.
- 27 (3) May be used for any other purpose at times other
- 28 than during an emergency.
- 29 (4) Is a demand response generating resource.

30 "PJM interconnection" or "PJM." The regional transmission

1 organization registered to do business in this Commonwealth as  
2 PJM Interconnection, L.L.C., or any successor to PJM as the  
3 regional transmission organization, approved by the Federal  
4 Energy Regulatory Commission to manage the wholesale procurement  
5 of electricity and electric generation capacity, and serving all  
6 or parts of the states of Delaware, the District of Columbia,  
7 Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey,  
8 North Carolina, Ohio, Pennsylvania, Tennessee, Virginia and West  
9 Virginia.

10 "Stationary generator." An emergency or nonemergency  
11 generator powered by a reciprocating internal combustion engine  
12 which is not a "nonroad engine" as the term is defined in 40 CFR  
13 89.2 (relating to definitions). The term shall not include  
14 residential generators used only during times of emergency,  
15 existing generators at fire stations, new or existing stationary  
16 internal combustion engines used at a nuclear power plant as an  
17 emergency generator which is subject to the regulations of the  
18 Nuclear Regulatory Commission, or generators less than 37  
19 kilowatts.

20 Section 2. Registration of nonemergency generators.

21 (a) Registration.--Beginning with the energy year commencing  
22 in 2014 and every five years thereafter, nonemergency generators  
23 shall register with the department. Immediately upon any changes  
24 to the registration information provided under paragraph (1),  
25 (2), (3), (4) or (5), updated registration information shall be  
26 submitted to the department. Within 90 days of the effective  
27 date of this act, the department shall provide the form and  
28 manner for the registration required under this section, which  
29 shall include:

30 (1) A generator owner's contact information.

1           (2) The physical address where the generator is or will  
2 be installed and the date of installation.

3           (3) A description of the generator, including make,  
4 model number, serial number and year of manufacture.

5           (4) The standby power rating and horsepower of the  
6 engine powering the generator.

7           (5) Any additional information the department deems  
8 necessary.

9           (b) Streamlined compliance certification form.--Within 120  
10 days of the effective date of this act, the department shall  
11 publish a technical guidance document detailing measurement and  
12 verification options to comply with the reasonable assurance  
13 requirement under paragraph (1), and a compliance certification  
14 form that the owner or operator of a nonemergency generator  
15 shall submit for the energy year beginning in 2016, and every  
16 five years thereafter, and at any time when the information  
17 required under subsection (a) (1), (2), (3) or (5) is revised or  
18 becomes outdated. Information on the form shall include, but is  
19 not limited to:

20           (1) Information adequate to reasonably assure the  
21 department that the nonemergency generator meets the  
22 requirements of section 4.

23           (2) Attestation of an owner or operator that the  
24 information supplied in the compliance certification form is  
25 accurate and that the nonemergency generator has been and  
26 will continue to be operated and fueled in a manner  
27 consistent with the requirements under section 4 and assured  
28 under paragraph (1).

29           (c) Registration fees.--The department shall assess a  
30 registration fee for each nonemergency generator that registers

1 in accordance with this section. For the energy year beginning  
2 in 2014, the fee shall be \$40 per nonemergency generator. The  
3 fees authorized under this subsection shall be adjusted annually  
4 to reflect any upward changes in the Consumer Price Index for  
5 All Urban Consumers for the Pennsylvania, New Jersey, Delaware  
6 and Maryland area in the preceding 12 months, and the department  
7 shall immediately submit the adjusted amounts to the Legislative  
8 Reference Bureau for publication as a notice in the Pennsylvania  
9 Bulletin.

10 Section 3. Reporting and recordkeeping requirements for  
11 nonemergency generators.

12 (a) Reporting.--The owner or operator of a nonemergency  
13 generator shall annually report to the department all of the  
14 following information no later than 90 days after the completion  
15 of each energy year:

16 (1) The daily and annual fuel types and amounts consumed  
17 by the engine powering each generator.

18 (2) The daily and annual hours of operation, delineated  
19 by testing and maintenance hours, emergency hours and  
20 nonemergency hours.

21 (3) Descriptions of emergencies requiring operation.

22 (b) Recordkeeping.--The owner or operator of a nonemergency  
23 generator shall maintain each record required by section 2 and  
24 this section for a minimum of five years after the date the  
25 record is made. The owner or operator shall promptly provide  
26 copies of records to the department, if requested.

27 Section 4. Emissions standards for nonemergency generators.

28 Beginning in energy year 2016, nonemergency generators shall  
29 not exceed the emissions standards as set forth under this  
30 section under full load design conditions or at the load

1 conditions specified by the applicable testing methods.

2 (1) New engines shall meet the applicable Tier 3 or Tier  
3 4 emissions standards set forth by the EPA under 40 CFR Pt.  
4 60 Subpt. IIII (relating to standards of performance for  
5 stationary compression ignition internal combustion engines)  
6 or JJJJ (relating to standards of performance for stationary  
7 spark ignition internal combustion engines).

8 (2) Existing engines with a rated horsepower of greater  
9 than 37 kilowatts but less than or equal to 750 kilowatts  
10 shall meet the Tier 3 emissions standards set forth by the  
11 EPA under 40 CFR Pt. 60 Subpt. IIII or JJJJ.

12 (3) Existing engines with a rated horsepower of greater  
13 than 750 kilowatts shall meet the Tier 4 standards set forth  
14 by the EPA under 40 CFR Pt. 60 Subpt. IIII or JJJJ.

15 Section 5. Blind compliance audit.

16 (a) Department duties.--Beginning nine months after the  
17 beginning of the 2014 energy year, and at the beginning of every  
18 energy year thereafter, the department shall forward a list of  
19 nonemergency generators compiled under section 2(a) to the  
20 Pennsylvania Public Utility Commission for the purpose of an  
21 annual compliance audit.

22 (b) Pennsylvania Public Utility Commission duties.--Pursuant  
23 to the authority provided to the Pennsylvania Public Utility  
24 Commission under PJM's Open Access Transmission Tariff,  
25 Attachment M, Section D and the "Required Disclosure" provisions  
26 of section 18.17.2 of the Operating Agreement of PJM, the  
27 commission shall conduct a blind compliance audit pursuant to  
28 this section to ensure that nonemergency generators  
29 participating in PJM programs and those nonemergency generators  
30 participating in programs established under 66 Pa.C.S. § 2806.1

1 (relating to energy efficiency and conservation program) meet  
2 the requirements of this act. The commission shall do all of the  
3 following:

4 (1) Request annually from PJM a listing of all demand  
5 response generating resources located in this Commonwealth.  
6 Except as provided for by this section, the commission shall  
7 not disclose any confidential or proprietary information  
8 received from PJM pursuant to this section.

9 (2) Compare the list of nonemergency generators provided  
10 by the department under subsection (a) with the list of  
11 demand response generating resources provided under paragraph  
12 (1).

13 (3) Where a nonemergency generator is found to be listed  
14 as a demand response generating resource in PJM but is not  
15 included on the list provided by the department, the  
16 commission shall confirm that the nonemergency generator is  
17 participating in the PJM markets as a demand response  
18 generating resource.

19 (4) In any instance where the commission confirms that  
20 the nonemergency generator is participating in the PJM  
21 markets as a demand response generating resource but has not  
22 complied with this act, the commission shall notify FERC  
23 enforcement staff alleging a violation of PJM's Open Access  
24 Transmission Tariff, and may, at its discretion, also file a  
25 complaint with FERC, with a request that consideration of the  
26 complaint be expedited.

27 (5) In any instance where the commission determines that  
28 noncompliance with this act is deliberate and continuing, the  
29 commission shall refer the matter to the Attorney General for  
30 prosecution under the act of December 17, 1968 (P.L.1224,

1 No.387), known as the Unfair Trade Practices and Consumer  
2 Protection Law, and shall concomitantly notify the department  
3 that a referral has been made.

4 Section 6. Violations and penalties.

5 (a) Penalties.--The department shall establish civil  
6 penalties for failure to comply with sections 2, 3 and 4. In  
7 determining the amount of the penalty, the department shall  
8 consider all of the following:

9 (1) Willfulness of the violation.

10 (2) Damage to air, soil, water or other natural resource  
11 of this Commonwealth or their uses.

12 (3) Any financial benefit that the owner or operator  
13 realized as a result of noncompliance.

14 (4) The necessity to deter future violations of this  
15 act.

16 (5) The compliance history of the owner or operator.

17 (6) Costs realized by the department as a result of the  
18 violation.

19 (7) The size of the source or facility.

20 (8) The severity and duration of the violation.

21 (9) The owner's or operator's cooperation in resolving  
22 the violation.

23 (10) The amount of time it took the owner or operator to  
24 achieve compliance.

25 (11) Whether the violation was voluntarily reported.

26 (12) Other factors unique to the owner or operator of  
27 the source or facility.

28 (b) Continuing violations.--Each violation of any provision  
29 of this act and each day of continued violation shall constitute  
30 a separate offense and violation.

1 Section 7. Disposition of fees, fines and civil penalties.

2 All fees, fines and civil penalties levied and collected  
3 under this act shall be paid into and administered in accordance  
4 with the Clean Air Fund, as established under section 9.2 of the  
5 act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air  
6 Pollution Control Act.

7 Section 8. Severability.

8 The provisions of this act are severable. If any provision of  
9 this act or its application to any person or circumstance is  
10 held invalid, the invalidity shall not affect other provisions  
11 or applications of this act which can be given effect without  
12 the invalid provision or application.

13 Section 9. Effective date.

14 This act shall take effect immediately.