

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1782 Session of 2017

INTRODUCED BY DELOZIER, GREINER, KAUFER, M. K. KELLER, MACKENZIE, THOMAS, WHEELAND, CARROLL, SCHWEYER, ZIMMERMAN, SCHLOSSBERG, F. KELLER, NELSON AND KAMPF, SEPTEMBER 14, 2017

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 11, 2018

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in rates and distribution systems,
3 providing for alternative ratemaking for natural gas and
4 electric distribution companies UTILITIES. <--

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

7 Section 1. Title 66 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 1330. Alternative ratemaking for natural gas and electric
10 distribution companies. <--

11 (a) Declaration of policy. The General Assembly finds and
12 declares as follows:

13 (1) Innovations in energy and information technologies
14 are creating new energy options for all customers, and it is
15 in the public interest for the commission to approve just and
16 reasonable rates and rate mechanisms to facilitate customer
17 access to new energy options while ensuring that natural gas
18 and electric distribution infrastructure costs are reasonably

~~allocated to and recovered from customers and market participants consistent with the use of the infrastructure.~~

~~(2) It is the policy of the Commonwealth that utility ratemaking should encourage and sustain investment in natural gas and electric distribution systems through appropriate cost recovery mechanisms to enhance the safety, security, reliability or availability of natural gas and electric infrastructure and be consistent with the efficient consumption of energy and the deployment of distributed energy resources.~~

~~(b) Alternative rate mechanisms.~~

~~(1) Any provision of law to the contrary notwithstanding, the commission may approve an application by a natural gas distribution company as defined in section 2202 (relating to definitions) or electric distribution company as defined in section 2803 (relating to definitions) in a base rate proceeding to establish alternative rates and rate mechanisms, including, but not limited to, the following mechanisms:~~

~~(i) decoupling mechanisms;~~

~~(ii) performance based rates;~~

~~(iii) formula rates;~~

~~(iv) multiyear rate plans;~~

~~(v) cost recovery mechanisms and rates to support and fully recover the allocated costs to deploy infrastructure and distributed energy resources; or~~

~~(vi) rates based on a combination of more than one of the mechanisms in subparagraphs (i), (ii), (iii), (iv) and (v) or other ratemaking mechanisms as provided under this chapter.~~

~~(2) An alternative rate mechanism established under this section may include section 1307 (relating to sliding scale of rates and adjustments) or 1308 (relating to voluntary changes in rates) rates and may provide for recovery of returns on and return of capital investments or, in the case of city natural gas distribution operations, recovery under the cash flow ratemaking method.~~

~~(c) Construction. Nothing in this section shall be construed as limiting the existing ratemaking authority of the commission or be construed to invalidate or void any rate mechanisms approved by the commission prior to the effective date of this section.~~

~~(d) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:~~

~~"Decoupling mechanism." A rate mechanism that adjusts or reconciles authorized distribution rates or revenues for differences between sales used to set rates and actual sales, including, but not limited to, customer adjustments or other adjustments deemed appropriate by the commission.~~

~~"Distributed energy resource." Any of the following:~~

~~(1) A distributed generation resource.~~

~~(2) Energy efficiency.~~

~~(3) Energy storage.~~

~~(4) Alternative fuel vehicles and associated infrastructure.~~

~~(5) Demand response technology.~~

~~"Formula rates." Rates that are periodically adjusted based on a predetermined formula without the need for a full base rate proceeding.~~

1 ~~"Multiyear rate plan." A rate mechanism where periodic~~
2 ~~changes in base rates are approved in advance by the commission~~
3 ~~and without the need for base rate proceedings based on an~~
4 ~~approved revenue requirement for the multiyear plan period,~~
5 ~~which may include adjustments for inflation during the plan~~
6 ~~period.~~

7 ~~"Performance based rates." Rates that are set or adjusted~~
8 ~~based on a public utility's financial or operating performance.~~
9 ~~Such mechanisms can be part of, or in addition to, existing rate~~
10 ~~base/rate of return ratemaking or cash flow ratemaking method~~
11 ~~and may include capital costs and return thereon.~~

12 § 1330. ALTERNATIVE RATEMAKING FOR UTILITIES.

<--

13 (A) DECLARATION OF POLICY.--THE GENERAL ASSEMBLY FINDS AND
14 DECLARES AS FOLLOWS:

15 (1) INNOVATIONS IN UTILITY OPERATIONS AND INFORMATION
16 TECHNOLOGIES ARE CREATING NEW OPPORTUNITIES FOR ALL
17 CUSTOMERS, AND IT IS IN THE PUBLIC INTEREST FOR THE
18 COMMISSION TO APPROVE JUST AND REASONABLE RATES AND RATE
19 MECHANISMS TO FACILITATE CUSTOMER ACCESS TO THESE NEW
20 OPPORTUNITIES WHILE ENSURING THAT UTILITY INFRASTRUCTURE
21 COSTS ARE REASONABLY ALLOCATED TO AND RECOVERED FROM
22 CUSTOMERS AND MARKET PARTICIPANTS CONSISTENT WITH THE USE OF
23 THE INFRASTRUCTURE.

24 (2) IT IS THE POLICY OF THE COMMONWEALTH THAT UTILITY
25 RATEMAKING SHOULD ENCOURAGE AND SUSTAIN INVESTMENT THROUGH
26 APPROPRIATE COST-RECOVERY MECHANISMS TO ENHANCE THE SAFETY,
27 SECURITY, RELIABILITY OR AVAILABILITY OF UTILITY
28 INFRASTRUCTURE AND BE CONSISTENT WITH THE EFFICIENT
29 CONSUMPTION OF UTILITY SERVICE.

30 (B) ALTERNATIVE RATE MECHANISMS.--

1 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
2 INCLUDING, BUT NOT LIMITED TO, SECTIONS 2806.1(K) (2)
3 (RELATING TO ENERGY EFFICIENCY AND CONSERVATION PROGRAM) AND
4 2807(F) (4) (RELATING TO DUTIES OF ELECTRIC DISTRIBUTION
5 COMPANIES), THE COMMISSION MAY APPROVE AN APPLICATION BY A
6 UTILITY IN A BASE RATE PROCEEDING TO ESTABLISH ALTERNATIVE
7 RATES AND RATE MECHANISMS, INCLUDING, BUT NOT LIMITED TO, THE
8 FOLLOWING MECHANISMS:

9 (I) DECOUPLING MECHANISMS;

10 (II) PERFORMANCE-BASED RATES;

11 (III) FORMULA RATES;

12 (IV) MULTIYEAR RATE PLANS; OR

13 (V) RATES BASED ON A COMBINATION OF MORE THAN ONE OF
14 THE MECHANISMS IN SUBPARAGRAPHS (I), (II), (III) AND (IV)
15 OR OTHER RATEMAKING MECHANISMS AS PROVIDED UNDER THIS
16 CHAPTER.

17 (2) AN ALTERNATIVE RATE MECHANISM ESTABLISHED UNDER THIS
18 SECTION MAY INCLUDE RATES UNDER SECTION 1307 (RELATING TO
19 SLIDING SCALE OF RATES; ADJUSTMENTS) OR 1308 (RELATING TO
20 VOLUNTARY CHANGES IN RATES) AND MAY PROVIDE FOR RECOVERY OF
21 RETURNS ON AND RETURN OF CAPITAL INVESTMENTS OR, IN THE CASE
22 OF CITY NATURAL GAS DISTRIBUTION OPERATIONS, RECOVERY UNDER
23 THE CASH FLOW RATEMAKING METHOD.

24 (3) CAPITAL COSTS AND EXPENSES RECOVERED THROUGH
25 ALTERNATIVE RATES AND RATE MECHANISMS SHALL BE REASONABLE AND
26 PRUDENTLY INCURRED AND USED AND USEFUL IN PROVIDING SERVICE.
27 NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROHIBIT OR
28 LIMIT THE RECOVERY OF REVENUE, AS APPROPRIATE, UNDER A
29 COMMISSION-APPROVED PERFORMANCE-BASED RATE PLAN.

30 (C) CUSTOMER NOTICE.--

1 (1) A UTILITY SHALL NOTIFY A CUSTOMER OF ALL OF THE
2 FOLLOWING:

3 (I) THE FILING OF AN APPLICATION UNDER SUBSECTION
4 (B) (1).

5 (II) THE COMMISSION'S DECISION ON THE APPLICATION.

6 (III) A SUMMARY AND, IF APPLICABLE, A SCHEDULE OF
7 THE RATE ADJUSTMENTS THAT WILL OCCUR AS A RESULT OF THE
8 COMMISSION'S APPROVAL OF A UTILITY APPLICATION UNDER
9 SUBSECTION (B) AND THE EFFECTIVE DATE OF THE ADJUSTMENTS.

10 (IV) ANY OTHER INFORMATION REQUIRED BY THE
11 COMMISSION BY REGULATION OR ORDER.

12 (2) NOTICE SHALL BE PROVIDED THROUGH CUSTOMER BILL
13 INSERTS AND POSTED ON THE UTILITY'S PUBLICLY ACCESSIBLE
14 INTERNET WEBSITE.

15 (D) COMMISSION.--NO LATER THAN SIX MONTHS AFTER THE
16 EFFECTIVE DATE OF THIS SUBSECTION, THE COMMISSION, BY REGULATION
17 OR ORDER, SHALL PRESCRIBE THE SPECIFIC PROCEDURES FOR THE
18 APPROVAL OF AN APPLICATION TO ESTABLISH ALTERNATIVE RATES.

19 (E) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
20 CONSTRUED AS LIMITING THE EXISTING RATEMAKING AUTHORITY OF THE
21 COMMISSION OR BE CONSTRUED TO INVALIDATE OR VOID ANY RATE
22 MECHANISMS APPROVED BY THE COMMISSION PRIOR TO THE EFFECTIVE
23 DATE OF THIS SECTION.

24 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
25 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
26 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

27 "DECOUPLING MECHANISM." AS FOLLOWS:

28 (1) A RATE MECHANISM THAT RECONCILES AUTHORIZED
29 DISTRIBUTION RATES OR REVENUES FOR DIFFERENCES BETWEEN THE
30 PROJECTED SALES USED TO SET RATES AND ACTUAL SALES, WHICH MAY

1 INCLUDE, BUT NOT BE LIMITED TO, ADJUSTMENTS RESULTING FROM
2 FLUCTUATIONS IN THE NUMBER OF CUSTOMERS SERVED AND OTHER
3 ADJUSTMENTS DEEMED APPROPRIATE BY THE COMMISSION.

4 (2) IN THE CASE OF WATER AND WASTEWATER, A RATE
5 MECHANISM THAT ADJUSTS OR RECONCILES AUTHORIZED RATES OR
6 REVENUES FOR DIFFERENCES BETWEEN SALES USED TO SET RATES AND
7 ACTUAL SALES, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO,
8 ADJUSTMENTS RESULTING FROM FLUCTUATIONS IN THE NUMBER OF
9 CUSTOMERS SERVED AND OTHER ADJUSTMENTS DEEMED APPROPRIATE BY
10 THE COMMISSION.

11 "FORMULA RATES." RATES THAT ARE PERIODICALLY ADJUSTED BASED
12 ON A PREDETERMINED FORMULA WITHOUT THE NEED FOR A FULL BASE RATE
13 PROCEEDING.

14 "MULTIYEAR RATE PLAN." A RATE MECHANISM UNDER WHICH THE
15 COMMISSION SETS BASE RATES AND REVENUE REQUIREMENTS FOR A
16 MULTIYEAR PLAN PERIOD AND AUTHORIZES PERIODIC CHANGES IN BASE
17 RATES, INCLUDING, BUT NOT LIMITED TO, ADJUSTMENTS TO ACCOUNT FOR
18 INFLATION AND CAPITAL INVESTMENTS WITHOUT THE NECESSITY FOR BASE
19 RATE PROCEEDINGS DURING THE APPROVED PLAN PERIOD.

20 "PERFORMANCE-BASED RATES." RATES THAT ARE SET OR ADJUSTED
21 BASED ON A PUBLIC UTILITY'S FINANCIAL OR OPERATING PERFORMANCE.
22 SUCH MECHANISMS CAN BE PART OF, OR IN ADDITION TO, EXISTING RATE
23 BASE/RATE OF RETURN RATEMAKING OR CASH FLOW RATEMAKING METHOD
24 AND MAY INCLUDE CAPITAL COSTS AND RETURN THEREON.

25 "UTILITY." AS DEFINED IN SECTION 1351 (RELATING TO
26 DEFINITIONS).

27 Section 2. This act shall take effect in 60 days.