
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 232 Session of
2019

INTRODUCED BY KILLION, LAUGHLIN, KEARNEY, ARGALL, BARTOLOTTA,
BLAKE, BROWNE, DINNIMAN, HUGHES, MENSCH, SANTARSIERO,
SCAVELLO AND SCHWANK, FEBRUARY 7, 2019

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
FEBRUARY 7, 2019

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in restructuring of electric utility
3 industry, further providing for energy efficiency and
4 conservation program.

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

7 Section 1. Section 2806.1(b)(1)(i)(G) and (H), (c), (f)(1)
8 (i) and (ii) and (2)(i), (g), (k) and (m) of Title 66 of the
9 Pennsylvania Consolidated Statutes are amended, subsection (a)
10 is amended by adding a paragraph and the section is amended by
11 adding a subsection to read:

12 § 2806.1. Energy efficiency and conservation program.

13 (a) Program.--The commission shall, by January 15, 2009,
14 adopt an energy efficiency and conservation program to require
15 electric distribution companies to adopt and implement cost-
16 effective energy efficiency and conservation plans to reduce
17 energy demand and consumption within the service territory of
18 each electric distribution company in this Commonwealth. The

1 program shall include:

2 * * *

3 (12) A process convened by the commission where
4 interested parties can provide input on defining and
5 quantifying the costs, benefits and other factors to be
6 utilized in calculating the total resource cost test. The
7 process shall assure consistency with relevant State energy
8 policy goals, capture costs and benefits over the lifetime of
9 energy efficiency program impacts, account for impacts of
10 energy efficiency programs and assure transparency to
11 ratepayers.

12 (b) Duties of electric distribution companies.--

13 (1) (i) [By July 1, 2009, each] Each electric
14 distribution company shall develop and file an energy
15 efficiency and conservation plan with the commission for
16 approval to meet the requirements of subsection (a) and
17 the requirements for reduction in consumption under
18 subsections (c) and (d). The plan shall be implemented
19 upon approval by the commission. The following are the
20 plan requirements:

21 * * *

22 (G) The plan shall include [specific energy
23 efficiency measures] reductions in consumption for
24 households at or below [150%] 200% of the Federal
25 poverty income guidelines. The [number of measures]
26 reductions in consumption shall be proportionate to
27 those households' share of the total energy usage in
28 the service territory. The electric distribution
29 company shall coordinate measures under this clause
30 with other programs administered by the commission or

1 another Federal or State agency. The expenditures of
2 an electric distribution company under this clause
3 shall be in addition to expenditures made under 52
4 Pa. Code Ch. 58 (relating to residential low income
5 usage reduction programs).

6 (H) The plan shall include a proposed cost-
7 recovery tariff mechanism, in accordance with
8 [section 1307 (relating to sliding scale of rates;
9 adjustments)] subsection (k), to fund the energy
10 efficiency and conservation measures and to ensure
11 full and current recovery of the prudent and
12 reasonable costs of the plan, including
13 administrative costs, as approved by the commission.

14 * * *

15 (c) Reductions in consumption.--The plans adopted under
16 subsection (b) shall reduce [electric] energy consumption as
17 follows:

18 (1) By May 31, 2011, total annual weather-normalized
19 consumption of the retail customers of each electric
20 distribution company shall be reduced by a minimum of 1%. The
21 1% load reduction in consumption shall be measured against
22 the electric distribution company's expected load as
23 forecasted by the commission for June 1, 2009, through May
24 31, 2010, with provisions made for weather adjustments and
25 extraordinary loads that the electric distribution company
26 must serve.

27 (2) By May 31, 2013, the total annual weather-normalized
28 consumption of the retail customers of each electric
29 distribution company shall be reduced by a minimum of 3%. The
30 3% load reduction in consumption shall be measured against

1 the electric distribution company's expected load as
2 forecasted by the commission for June 1, 2009, through May
3 31, 2010, with provisions made for weather adjustments and
4 extraordinary loads that the electric distribution company
5 must serve.

6 (3) By November 30, 2013, and every five years
7 thereafter, the commission shall evaluate the costs and
8 benefits of the program established under subsection (a) and
9 of approved energy efficiency and conservation plans
10 submitted to the program. The evaluation shall be consistent
11 with a total resource cost test or a cost-benefit analysis
12 determined by the commission. If the commission determines
13 that the benefits of the program exceed the costs, the
14 commission shall adopt additional required incremental
15 reductions in consumption.

16 * * *

17 (f) Penalties.--

18 (1) The following shall apply for failure to submit a
19 plan:

20 (i) An electric distribution company that fails to
21 file a plan under subsection (b) shall be subject to a
22 civil penalty of not more than \$100,000 per day until the
23 plan is filed.

24 (ii) An electric distribution company that fails to
25 file a revised plan under subsection (e)(2)(ii) shall be
26 subject to a civil penalty of not more than \$100,000 per
27 day until the plan is filed.

28 * * *

29 (2) The following shall apply to an electric
30 distribution company that fails to achieve the reductions in

1 consumption required under subsection (c) or (d):

2 (i) The electric distribution company shall be
3 subject to a civil penalty [not less than \$1,000,000 and
4 not to exceed \$20,000,000] not to exceed \$5,000,000 for
5 failure to achieve the required reductions in consumption
6 under subsection (c) or (d). Any penalty paid by an
7 electric distribution company under this subparagraph
8 shall not be recoverable from ratepayers.

9 * * *

10 [(g) Limitation on costs.--The total cost of any plan
11 required under this section shall not exceed 2% of the electric
12 distribution company's total annual revenue as of December 31,
13 2006. The provisions of this paragraph shall not apply to the
14 cost of low-income usage reduction programs established under 52
15 Pa. Code Ch. 58 (relating to residential low income usage
16 reduction programs).]

17 * * *

18 (k) Recovery.--

19 (1) An electric distribution company shall recover on a
20 full and current basis from customers, through a reconcilable
21 adjustment clause under section 1307, all reasonable and
22 prudent costs incurred in the provision or management of a
23 plan provided under this section. This paragraph shall apply
24 to all electric distribution companies, including electric
25 distribution companies subject to generation or other rate
26 caps.

27 [(2) Except as set forth in paragraph (3), decreased
28 revenues of an electric distribution company due to reduced
29 energy consumption or changes in energy demand shall not be a
30 recoverable cost under a reconcilable automatic adjustment

1 clause.]

2 (2.1) An electric distribution company may recover
3 decreased revenues due to reduced energy consumption or
4 changes in energy demand through a full revenue decoupling
5 mechanism. Upward rate adjustments as a result of a full
6 revenue decoupling mechanism may not be greater than 2% of
7 rates approved in the electric distribution company's most
8 recent base rate case.

9 (3) Decreased revenue and reduced energy consumption may
10 be reflected in revenue and sales data used to calculate
11 rates in a distribution-base rate proceeding filed by an
12 electric distribution company under section 1308 (relating to
13 voluntary changes in rates).

14 (k.1) Incentives.--

15 (1) An energy efficiency and conservation plan filed by
16 an electric distribution company under this section may
17 include a financial incentive mechanism for the electric
18 distribution company. Payment and design of a financial
19 incentive authorized in the plan is subject to the approval
20 of the commission. The total amount of a financial incentive
21 earned shall not exceed the lesser of the following amounts:

22 (i) ten percent of the net benefits experienced by
23 the electric distribution company's customers as a result
24 of implementation of the energy efficiency and
25 conservation plan; or

26 (ii) eight percent of the electric distribution
27 company's actual expenditures on energy efficiency
28 conservation programs for the year.

29 (2) The commission shall issue guidelines for financial
30 incentive mechanisms under this section. The total amount of

1 a financial incentive shall be based upon quantifiable
2 reductions in energy consumption and may consider the time,
3 location and load shifting value of energy saved and the
4 extent to which savings directly benefit customers at or
5 below 200% of Federal poverty income guidelines.

6 * * *

7 (m) Definitions.--As used in this section, the following
8 words and phrases shall have the meanings given to them in this
9 subsection:

10 "Conservation service provider." An entity that provides
11 information and technical assistance on measures to enable a
12 person to increase energy efficiency or reduce energy
13 consumption and that has no direct or indirect ownership,
14 partnership or other affiliated interest with an electric
15 distribution company.

16 ["Electric distribution company total annual revenue."
17 Amounts paid to the electric distribution company for
18 generation, transmission, distribution and surcharges by retail
19 customers.]

20 "Energy efficiency and conservation measures."

21 (1) Technologies, management practices or other measures
22 employed by retail customers that reduce [electricity] energy
23 consumption or demand if all of the following apply:

24 (i) The technology, practice or other measure is
25 installed on or after the effective date of this section
26 at the location of a retail customer.

27 (ii) The technology, practice or other measure
28 reduces consumption of energy or peak load by the retail
29 customer.

30 (iii) The cost of the acquisition or installation of

1 the measure is directly incurred in whole or in part by
2 the electric distribution company.

3 (2) [Energy efficiency and conservation measures shall
4 include] The term includes solar or solar photovoltaic
5 panels, energy efficient windows and doors, energy efficient
6 lighting, including exit sign retrofit, high bay fluorescent
7 retrofit and pedestrian and traffic signal conversion,
8 geothermal heating, insulation, air sealing, reflective roof
9 coatings, energy efficient heating and cooling equipment or
10 systems and energy efficient appliances, smart connected
11 thermostats and other technologies, practices or measures
12 approved by the commission.

13 (3) The term includes up to one-third of the energy
14 savings and reductions resulting from energy efficiency
15 building codes, provided that:

16 (i) The electric distribution company played a
17 direct role in achieving the savings and reductions
18 through program implementation.

19 (ii) The savings and reductions are quantified and
20 reported through an independent measurement and
21 evaluation study.

22 (iii) The savings and reductions are commensurate
23 with the direct role that the electric distribution
24 company played to achieve the savings and reductions.

25 (4) The term includes measures that increase electricity
26 consumption due to fuel switching provided that:

27 (i) The measures reduce total energy consumption at
28 the premises, including energy from gas, coal, oil,
29 biomass and other fuels. Calculations used to determine
30 the total reduction in energy shall be subject to

1 approval by the commission.

2 (ii) The reductions in energy consumption are not
3 directly related to transportation or transportation
4 infrastructure.

5 (iii) The measures meet a total resource cost test
6 approved by the commission.

7 "Full revenue decoupling mechanism." A rate mechanism that
8 adjusts or reconciles authorized distribution rates or revenues
9 for differences, whether positive or negative, between revenues
10 approved in a base rate case and actual revenues, including, but
11 not limited to, customer adjustments or other adjustments, such
12 as collars or caps, deemed appropriate by the commission.

13 "Peak demand." The highest electrical requirement occurring
14 during a specified period. For an electric distribution company,
15 the term shall mean the sum of the metered consumption for all
16 retail customers over that period.

17 "Quality assurance." All of the following:

18 (1) The auditing of buildings, equipment and processes
19 to determine the cost-effectiveness of energy efficiency and
20 conservation measures using nationally recognized tools and
21 certification programs.

22 (2) Independent inspection of completed energy
23 efficiency and conservation measures completed by third-party
24 entities to evaluate the quality of the completed measure.

25 "Real-time price." A rate that directly reflects the
26 different cost of energy during each hour.

27 "Time-of-use rate." A rate that reflects the costs of
28 serving customers during different time periods, including off-
29 peak and on-peak periods, but not as frequently as each hour.

30 "Total resource cost test." [A standard test that is met if,

1 over the effective life of each plan not to exceed 15 years, the
2 net present value of the avoided monetary cost of supplying
3 electricity is greater than the net present value of the
4 monetary cost of energy efficiency conservation measures.] A
5 standard test that is met if, over the effective life of the
6 energy efficiency and conservation measures, the net present
7 value of the avoided cost of supplying utility service,
8 including the cost of generation, transmission and distribution
9 of electricity, gas, water and other nonenergy benefits, is
10 greater than the net present value of the incremental monetary
11 cost of the energy efficiency and conservation measures.
12 Nonenergy benefits considered in the test shall be quantifiable
13 and directly related to a program or service. The value of
14 avoided cost may include the time, location or load shifting
15 value of the energy efficiency and conservation measures.

16 Section 2. In addition to the requirement under section
17 2806.1(b)(1)(ii), the commission may require an electric
18 distribution company to file a new plan which meets the
19 requirements of this act.

20 Section 3. This act shall take effect in 60 days.