

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 596 Session of 2019

INTRODUCED BY MENSCH, KILLION, BOSCOLA, BROWNE, COSTA, YUDICHAK, FARNESE, SANTARSIERO, BREWSTER, FONTANA, STREET, BLAKE, COLLETT, LEACH, ARGALL, LANGERHOLC, BARTOLOTTA, IOVINO, L. WILLIAMS, LAUGHLIN, J. WARD, PITTMAN, KEARNEY AND STEFANO, APRIL 30, 2019

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, OCTOBER 30, 2019

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in restructuring of electric utility
3 industry, providing for transportation fueling infrastructure
4 development.

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 § 2816. Transportation fueling infrastructure development.

10 (a) Findings and declarations.--The General Assembly finds
11 and declares as follows:

12 (1) Rapid improvements in battery, fuel-cell, vehicle
13 and equipment technologies are making electrified vehicles
14 and equipment more competitive options for families,
15 businesses, institutions and governmental organizations.

16 (2) Increased deployment of electric vehicles, equipment
17 and infrastructure offers the opportunity to meet more of the

1 Commonwealth's transportation needs with Pennsylvania-based
2 resources while reducing dependence on the importation of
3 transportation fuels.

4 (3) Approximately 5.6 million Pennsylvanians live in
5 counties that are classified as being in nonattainment status
6 with Federal clean air requirements and increased deployment
7 of electric transportation technologies can improve public
8 health and support economic development.

9 (4) Deploying infrastructure to support transportation
10 electrification will require coordinated planning of
11 transportation systems and electric infrastructure networks.

12 (5) Pennsylvania is a large and diverse state, and
13 planning for infrastructure investment should appropriately
14 reflect differences in regions and communities.

15 (6) Natural gas and hydrogen vehicles and equipment
16 offer additional opportunities to meet the Commonwealth's
17 transportation needs while investing in new technologies and
18 reducing environmental impacts.

19 (b) Transportation electrification opportunity assessment.--

20 In order to support economic development opportunities arising
21 from new transportation technologies, the Governor or a designee <--
22 of the Governor shall conduct a Statewide transportation
23 electrification opportunity assessment, including opportunities
24 for hydrogen and other fuel cell electric vehicles supported by
25 electrical infrastructure, and INCLUDING OPPORTUNITIES FOR <--
26 HYDROGEN AND OTHER FUEL CELL ELECTRIC VEHICLES SUPPORTED BY
27 ELECTRICAL INFRASTRUCTURE, THE COMMISSION SHALL establish a goal
28 for Statewide expansion of transportation electrification that
29 is 50% above current market forecasts for December 31, 2030, in <--
30 the assessment. The assessment shall be based on the forecasts

1 ~~of no less than three independent, nationally recognized~~
2 ~~analysts with expertise in transportation and energy market~~
3 ~~forecasting~~ BASED ON EXISTING GOVERNMENTAL AND PRIVATE SECTOR <--
4 FORECASTS. The goal shall be established within 60 days of the
5 effective date of this section. At the time the Statewide goal
6 is established, the Governor or a designee of the Governor <--
7 COMMISSION may also establish regional goals for each group of <--
8 priority alternative transportation infrastructure counties that
9 are served, in whole or in part, by an electric distribution
10 company.

11 (c) Commission guidelines.--No later than 180 days after the
12 effective date of this section, the commission shall issue
13 transportation electrification infrastructure development plan
14 guidelines for electric distribution companies addressing the
15 following:

16 (1) The establishment of an essential public access
17 network, including utility-owned electric vehicle charging
18 stations and ~~nonutility-owned~~ THIRD-PARTY OWNED stations <--
19 participating in a utility incentive program.

20 (2) The electrification of public transit, school bus,
21 port, freight, rail and airport infrastructure, and central
22 charging facilities serving medium, heavy-duty and
23 governmental fleets. For the purpose of this paragraph,
24 infrastructure may include connective and inductive charging
25 technologies and electric infrastructure supporting hydrogen-
26 fueled vehicles and equipment.

27 (3) The deployment of ~~nonutility-owned~~ THIRD-PARTY OWNED <--
28 electric vehicle charging stations.

29 (4) Requirements to ensure that electric distribution
30 company development plans with utility-owned charging

1 stations and incentive programs are implemented in a
2 competitive and nondiscriminatory manner and do not limit
3 public access to charging stations owned by third parties not
4 participating in utility incentive programs.

5 (5) Open standard communication protocols for electric
6 vehicle charging stations and flexible payment options,
7 including credit card reader and mobile payment options, to
8 facilitate electric vehicle travel throughout this
9 Commonwealth.

10 (6) Policies to encourage the deployment of charging
11 infrastructure for electric vehicles and equipment in ~~low~~ <--
12 ~~income~~ DISADVANTAGED communities and transit serving these <--
13 communities.

14 (7) The procedures for approval of transportation
15 electrification infrastructure development plans.

16 (d) Revised guidelines.--No later than one year before
17 filing an updated transportation electrification infrastructure
18 development plan required under subsection (j), the commission
19 may issue revised guidelines to reflect technological
20 developments and changes in market conditions.

21 (e) Transportation electrification infrastructure regional
22 framework.--

23 (1) An electric distribution company serving one or more
24 priority alternative transportation infrastructure counties
25 shall contract with a qualifying independent transportation
26 analyst to develop a transportation electrification
27 infrastructure regional framework for those counties.

28 (2) The regional framework development process shall
29 include representatives from the Department of
30 Transportation, the Department of Environmental Protection,

1 county and municipal governments of the priority alternative
2 transportation infrastructure counties served by the electric
3 distribution company, public transit organizations and the
4 electric distribution company. Electric distribution
5 companies shall invite representatives of regional planning
6 commissions, school districts, owners of vehicle fleets,
7 transportation network companies, nonprofit environmental
8 organizations, experts in transportation electrification
9 charging infrastructure, manufacturers of transportation
10 electrification equipment and other participants and
11 stakeholders in the transportation electrification market to
12 participate in the regional framework development process.

13 (3) If multiple electric distribution companies serve a
14 single priority alternative transportation infrastructure
15 county, the electric distribution companies may elect to
16 collaborate on the selection of a qualifying independent
17 transportation analyst for the county and allocate framework-
18 related costs proportionally based upon the number of
19 customers served in the county or by another mutually
20 agreeable method. An electric distribution company serving
21 less than 50,000 customers in a county is not required to
22 participate in the development of the framework for that
23 county.

24 (f) Transportation electrification infrastructure
25 development plan.--

26 (1) An electric distribution company serving one or more
27 priority alternative transportation infrastructure counties
28 shall, consistent with the guidelines established under
29 subsections (c) and (d), file a transportation
30 electrification infrastructure development plan with the

1 commission within one year of the establishment of a
2 Statewide goal under subsection (b). The electric
3 distribution company shall provide its transportation
4 electrification infrastructure regional framework as part of
5 the TRANSPORTATION ELECTRIFICATION infrastructure development <--
6 plan filing.

7 (2) The TRANSPORTATION ELECTRIFICATION infrastructure <--
8 development plan shall describe the company's proposal to
9 support deployment of the transportation electrification
10 infrastructure reasonably necessary to achieve the applicable
11 regional goal established in accordance with subsection (b)
12 or, if no regional goal is established, the Statewide goal
13 established in accordance with subsection (b) as applied to
14 the priority alternative transportation infrastructure
15 counties served by the electric distribution company. The
16 TRANSPORTATION ELECTRIFICATION infrastructure development <--
17 plan shall include strategies to optimize the use of the
18 electric distribution grid and provide opportunities for the
19 reduction of electric charging costs for customers, including
20 time-of-use, demand management and other innovative rates.

21 (3) Subject to the guidelines established under
22 subsections (c) and (d), the TRANSPORTATION ELECTRIFICATION <--
23 infrastructure development plan may include transportation
24 electrification charging stations owned and operated by the
25 electric distribution company and third parties, incentives
26 for customers and third-party charging station owners and
27 customer education programs related to installing or using
28 transportation electrification charging stations.

29 (g) Commission approval.--

30 (1) The commission shall, after reasonable notice and

1 hearing and within 270 days of submission, approve or
2 disapprove each TRANSPORTATION ELECTRIFICATION infrastructure <--
3 development plan filed under subsection (f).

4 (2) If the commission does not approve a plan, the
5 commission shall describe in detail the reasons for
6 disapproval and the electric distribution company shall have
7 60 days to file a revised plan to address the deficiencies
8 identified by the commission.

9 (3) A revised plan shall be approved or disapproved by
10 the commission within 60 days.

11 (h) Recovery.--

12 ~~(1)~~ An electric distribution company ~~shall~~ MAY recover, <--
13 in distribution rates established under section 1308
14 (relating to voluntary changes in rates) or 1330 (relating to
15 alternative ratemaking for utilities), all reasonable and
16 prudent costs incurred in the implementation of this section,
17 including the costs of transportation electrification
18 infrastructure regional frameworks and TRANSPORTATION <--
19 ELECTRIFICATION infrastructure development plans,
20 transportation electrification infrastructure, including
21 annual depreciation costs, capital costs over the life of
22 transportation electrification charging technology and
23 required distribution system upgrades, incentives and
24 education provided in accordance with an A TRANSPORTATION <--
25 ELECTRIFICATION infrastructure development plan approved
26 under subsection (g). The commission may determine the
27 appropriate rate structure and cost allocation for the just
28 and reasonable recovery of prudently incurred costs, which
29 may include any payments by customers related to a specific
30 electric vehicle charging station or other transportation

1 electrification infrastructure.

2 ~~(2) The costs recovered under paragraph (1) by an~~ <--
3 ~~electric distribution company may not be otherwise~~
4 ~~recoverable from ratepayers.~~

5 (i) Limitation on costs.--The total annual costs charged to
6 customers by an electric distribution company in implementing
7 this section may not exceed 0.25% of the total annual customer
8 bill amount for an electric distribution company, excluding bill
9 amounts for electric energy, for the MOST RECENT 12-month period <--
10 ending December 31, 2019, or the test year upon which
11 distribution rates were established in the electric distribution
12 company's most recent base distribution rate case proceeding.

13 (j) Additional regional frameworks and TRANSPORTATION <--
14 ELECTRIFICATION infrastructure development plans.--An electric
15 distribution company shall contract for an update of the
16 regional framework required under subsection (e) and file an
17 updated transportation electrification infrastructure
18 development plan required under subsection (f) after five years.
19 ~~Additional regional frameworks and infrastructure development~~ <--
20 ~~plans shall be developed after December 31, 2025, as directed by~~
21 ~~the commission.~~

22 (k) Voluntary development of transportation electrification
23 infrastructure development plans.--An electric distribution
24 company may file a transportation electrification infrastructure
25 development plan for commission approval in accordance with this <--
26 section for counties within the company's service territory that
27 do not qualify as priority alternative transportation
28 infrastructure counties. The commission approval requirements of <--
29 subsection (g) do not apply to plans filed under this
30 subsection. Plans filed under this subsection must include an

1 affirmative written statement of support by the majority of the
2 elected county representatives for any county included in the
3 plan.

4 (1) Open access for public electric vehicle charging
5 stations.--

6 (1) An electric vehicle operator who chooses to use a
7 public electric vehicle charging station installed or
8 operated with incentives authorized under a transportation
9 electrification infrastructure development plan or by an
10 electric distribution company shall not be required to enroll
11 in a club, association or membership organization or pay a
12 subscription fee as a condition to use the station. Nothing
13 in this section shall prevent nonutility THIRD-PARTY owners <--
14 and operators of electric vehicle charging stations that are
15 installed or operated without incentives authorized under a
16 transportation electrification infrastructure development
17 plan from including those stations in a subscription or
18 membership network with variable rate structures.

19 (2) The owner or lessee of a publicly available parking
20 space, ~~whose primary business is not electric vehicle~~ <--
21 ~~charging services~~ WITH AN ELECTRIC VEHICLE CHARGING STATION, <--
22 may restrict the use of that parking space, including by
23 limiting use to EMPLOYEES, customers and visitors of the <--
24 business.

25 (3) The owner or operator of a public electric vehicle
26 charging station installed or operated with incentives
27 authorized under a transportation electrification
28 infrastructure development plan or by an electric
29 distribution company shall disclose the station's geographic
30 location, hours of operation, charging level, hardware

1 compatibility, schedule of fees, accepted methods of payment
2 and the amount of network roaming charges for nonmembers, if
3 any, on an ongoing basis to the commission, the Department of
4 Revenue and the United States Department of Energy National
5 Renewable Energy Laboratory.

6 (m) Publicly funded electric vehicle charging stations.--Any
7 publicly funded PUBLIC electric vehicle charging station using <--
8 electric distribution company ratepayer funds must use open
9 standard communication protocols and be capable of being
10 networked and submetered at the charging station or other on-
11 site access location. A third-party owned and operated electric
12 vehicle charging station may not be subject to the requirements
13 of this subsection solely because:

14 (1) the electric distribution company has completed or
15 will complete a necessary line extension to provide
16 distribution service to the station; or

17 (2) the station takes services under an electric vehicle
18 incentive rate offered by the electric distribution company.

19 (n) Construction.--This section may not be construed to
20 limit in any manner the establishment of third-party owned and
21 operated electric vehicle charging stations or establish
22 commission jurisdiction to regulate third-party owned and
23 operated electric vehicle charging stations that are established
24 without ratepayer funds.

25 (o) Natural gas and propane-fueled transportation
26 infrastructure assessment.--

27 (1) Within one year of the effective date of this
28 section, the Governor or a designee of the Governor <--
29 COMMISSION shall complete a Statewide assessment of current <--
30 natural gas and propane-fueled vehicle usage and fueling

1 infrastructure in this Commonwealth. The assessment shall
2 identify opportunities and goals for the expansion of natural
3 gas and propane-fueled vehicle usage and fueling
4 infrastructure in this Commonwealth and make recommendations
5 to the General Assembly and the commission to support the <--
6 expansion.

7 (2) The Governor or a designee of the Governor shall <--
8 transmit the assessment and recommendations to the commission
9 for posting THE ASSESSMENT SHALL BE POSTED on the <--
10 commission's publicly accessible Internet website.

11 (p) Alternative fuels tax.--An electric distribution company
12 or third party which owns an electric vehicle charging station
13 shall be subject to the alternative fuels tax under 75 Pa.C.S. §
14 9004 (relating to imposition of tax, exemptions and deductions).

15 (q) Penalties.--No electric distribution company shall be
16 subject to penalties for failure to meet the applicable goal
17 established under subsection (b).

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

21 "Battery electric vehicle." A motor vehicle that is powered
22 partly or solely by a battery that can be recharged wirelessly
23 or by plugging it into an external source of electricity and
24 which motor vehicle meets the applicable Federal and State
25 safety standards for on-road vehicles.

26 "Electric infrastructure supporting hydrogen-fueled vehicles
27 and equipment." Electric infrastructure and equipment used to
28 produce hydrogen for hydrogen-fueled vehicles and equipment.

29 "Electric vehicle charging station." A facility or equipment
30 designed to charge batteries within battery electric vehicles by

1 permitting the transfer of electric energy to a battery or other
2 storage device in a battery electric vehicle. The facilities and
3 equipment may charge batteries through connective or inductive
4 means. The term includes stations which provide hydrogen to
5 fuel-cell electric vehicles.

6 "Essential public access network." A system of charging
7 stations located on high-volume transportation corridors and in
8 high-population density urbanized areas for the purpose of
9 ensuring public-access charging in these areas.

10 "NATURAL GAS VEHICLE." A MOTOR VEHICLE THAT CAN OPERATE ON <--
11 COMPRESSED NATURAL GAS OR LIQUID NATURAL GAS FUEL, INCLUDING
12 DEDICATED BI-FUEL AND DUAL FUEL VEHICLES.

13 "Priority alternative transportation infrastructure county."
14 A county in this Commonwealth with at least 200,000 people that
15 includes all or part of a metropolitan statistical area with a
16 population of at least 500,000 people as defined by the United
17 States Census Bureau.

18 "Public electric vehicle charging station." An electric
19 vehicle charging station located at a publicly available parking
20 space.

21 "Publicly available parking space." A parking space or other
22 location that has been designated by a property owner or a
23 lessee to be available to and accessible by the public,
24 including on-street parking spaces and parking spaces in surface
25 lots or parking garages. The term does not include a parking
26 space that is part of or associated with a private residence, a
27 parking space provided as a service by a producer of electric
28 vehicles or a parking space that is reserved for the exclusive
29 use of an individual driver or vehicle or for a group of drivers
30 of vehicles, including employees, tenants, visitors or residents

1 of a common interest development or residents of an adjacent
2 building.

3 "Qualifying independent transportation analyst." A regional
4 planning commission established in accordance with the laws of
5 this Commonwealth or an independent analyst with demonstrated
6 expertise in transportation modeling and forecasting.

7 "Transportation electrification." The use of electricity
8 from external sources of electrical power, including the
9 electrical grid, for all or part of vehicles, vessels, trains,
10 boats or other equipment that are mobile sources of air
11 pollution and greenhouse gases and the related programs and
12 charging and propulsion infrastructure investments to enable and
13 encourage this use of electricity.

14 "Transportation electrification infrastructure regional
15 framework." A framework that provides the following information
16 for the priority alternative transportation infrastructure
17 counties served by the electric distribution company:

18 (1) The extent of ownership, leasing and usage of
19 battery electric vehicles, including heavy-duty battery
20 electric vehicles, as well as projected ownership, leasing
21 and usage through December 31, 2030, or 15 years after the
22 effective date of this section, whichever is later.

23 (2) The extent of nonroad transportation electrification
24 usage and transportation electrification charging
25 infrastructure.

26 (3) The additional transportation electrification
27 charging infrastructure that is reasonably necessary to
28 achieve the applicable regional goal established in
29 accordance with subsection (b) or, if no regional goal is
30 established, the Statewide goal established in accordance

1 with subsection (b) as applied to the priority alternative
2 transportation infrastructure counties served by the electric
3 distribution company.

4 (4) Recommendations regarding the geographic
5 distribution and general specifications of transportation
6 electrification charging infrastructure identified in
7 accordance with paragraph (3), including recommendations
8 specific to the deployment of electric vehicle charging
9 infrastructure to serve low-income communities, multiunit
10 commercial, residential and mixed-use buildings and single-
11 family residential homes.

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