

## Exhibit I

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2200 Session of  
2008

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INTRODUCED BY GEORGE, McCALL, BELFANTI, CALTAGIRONE, CONKLIN,  
DALEY, N. P. GOODMAN, HARHAI, HARKINS, KULA, MANDERINO,  
McGEEHAN, VITALI, J. WHITE, WALKO, SURRA, DeLUCA, DERMODY,  
GRUCELA, JOSEPHS, JAMES, GINGRICH, FREEMAN, K. SMITH,  
McILVAINE SMITH, YOUNGBLOOD AND FRANKEL, JANUARY 15, 2008

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SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL  
LICENSURE, IN SENATE, RE-REPORTED AS AMENDED, OCTOBER 7, 2008

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, ~~providing for recovery of certain~~ <—  
3 ~~labor relations expenses; further providing for definitions;~~  
4 ~~providing for adoption of energy efficiency and demand side~~  
5 ~~response; and further providing for duties of electric~~  
6 ~~distribution companies. FURTHER PROVIDING FOR DEFINITIONS;~~ <—  
7 ~~PROVIDING FOR ENERGY EFFICIENCY AND CONSERVATION; FURTHER~~  
8 ~~PROVIDING FOR DUTIES OF ELECTRIC DISTRIBUTION COMPANIES; AND~~  
9 ~~PROVIDING FOR PROCUREMENT. FURTHER PROVIDING FOR DIRECTOR OF~~ <—  
10 OPERATIONS, SECRETARY, EMPLOYEES AND CONSULTANTS; REPEALING  
11 PROVISIONS RELATING TO OFFICE OF TRIAL STAFF; FURTHER  
12 PROVIDING FOR BUREAUS AND OFFICES; PROVIDING FOR OTHER  
13 BUREAUS, OFFICES AND POSITIONS; FURTHER PROVIDING FOR  
14 ELECTRIC UTILITY DEFINITIONS; PROVIDING FOR ENERGY EFFICIENCY  
15 AND CONSERVATION PROGRAM AND FOR ENERGY EFFICIENCY AND  
16 CONSERVATION; FURTHER PROVIDING FOR DUTIES OF ELECTRIC  
17 DISTRIBUTION COMPANIES AND FOR MARKET POWER REMEDIATION; AND  
18 PROVIDING FOR PROCUREMENT, FOR ADDITIONAL ALTERNATIVE ENERGY  
19 SOURCES AND FOR CARBON DIOXIDE SEQUESTRATION NETWORK.

20 THE GENERAL ASSEMBLY RECOGNIZES THE FOLLOWING PUBLIC POLICY  
21 FINDINGS AND DECLARES THAT THE FOLLOWING OBJECTIVES OF THE  
22 COMMONWEALTH ARE SERVED BY THIS ACT:

23 (1) THE HEALTH, SAFETY AND PROSPERITY OF ALL CITIZENS OF

1 THIS COMMONWEALTH ARE INHERENTLY DEPENDENT UPON THE  
2 AVAILABILITY OF ADEQUATE, RELIABLE, AFFORDABLE, EFFICIENT AND  
3 ENVIRONMENTALLY SUSTAINABLE ELECTRIC SERVICE AT THE LEAST  
4 COST, TAKING INTO ACCOUNT ANY BENEFITS OF PRICE STABILITY,  
5 OVER TIME AND THE IMPACT ON THE ENVIRONMENT.

6 (2) IT IS IN THE PUBLIC INTEREST TO ADOPT ENERGY  
7 EFFICIENCY AND CONSERVATION MEASURES AND TO IMPLEMENT ENERGY  
8 PROCUREMENT REQUIREMENTS DESIGNED TO ENSURE THAT ELECTRICITY  
9 OBTAINED REDUCES THE POSSIBILITY OF ELECTRIC PRICE  
10 INSTABILITY, PROMOTES ECONOMIC GROWTH AND ENSURES AFFORDABLE  
11 AND AVAILABLE ELECTRIC SERVICE TO ALL RESIDENTS.

12 (3) IT IS IN THE PUBLIC INTEREST TO EXPAND THE USE OF  
13 ALTERNATIVE ENERGY AND TO EXPLORE THE FEASIBILITY OF NEW  
14 SOURCES OF ALTERNATIVE ENERGY TO PROVIDE ELECTRIC GENERATION  
15 IN THIS COMMONWEALTH.

16 The General Assembly of the Commonwealth of Pennsylvania  
17 hereby enacts as follows:

18 ~~Section 1. Title 66 of the Pennsylvania Consolidated~~ <—  
19 ~~Statutes is amended by adding a section to read:~~

20 ~~§ 1329. Recovery of certain labor relations expenses.~~

21 ~~No public utility may charge its customers as a permissible~~  
22 ~~operating expense for ratemaking purposes any portion of the~~  
23 ~~direct or indirect cost of meetings, publications, consultants,~~  
24 ~~attorneys or other professional services and expenses associated~~  
25 ~~with the utility's efforts to dissuade the employees of the~~  
26 ~~utility, or the employees of any affiliated interest of the~~  
27 ~~utility as defined in section 2101 (relating to definition of~~  
28 ~~affiliated interest), from becoming or remaining a member in, or~~  
29 ~~otherwise being represented by, any labor union.~~

30 Section 2. Section 2803 of Title 66 is amended by adding

1 definitions to read:

2 ~~§ 2803. Definitions.~~

3 The following words and phrases when used in this chapter  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 ~~"Affiliated interest." As defined in section 2101 (relating  
7 to definition of affiliated interest).~~

8 \* \* \*

9 ~~"Cost effective." In relation to a program being evaluated,  
10 satisfaction of the total resource cost test.~~

11 \* \* \*

12 ~~"Demand side response." Load management technologies,  
13 management practices or other strategies employed by retail  
14 customers that decrease peak electricity demand or shift demand  
15 from on peak to off peak periods provided that:~~

16 ~~(1) The measure is installed on or after the effective  
17 date of this section at the service location of a retail  
18 customer.~~

19 ~~(2) The measure reduces the peak demand or cost of  
20 energy by the retail customer.~~

21 ~~(3) The costs of the acquisition or installation of the  
22 measure are directly incurred in whole or in part by the  
23 electric distribution company.~~

24 \* \* \*

25 ~~"Energy efficiency." Technologies, management practices or  
26 other strategies or measures employed by retail customers that  
27 reduce electricity consumption provided that:~~

28 ~~(1) The measure is installed on or after the effective  
29 date of this definition at the service location of a retail  
30 customer.~~

1           ~~(2) The measure reduces the consumption of energy by the~~  
2           ~~retail customer.~~

3           ~~(3) The costs of the acquisition or installation of the~~  
4           ~~measure are directly incurred in whole or in part by the~~  
5           ~~electric distribution company.~~

6           ~~"Independent entity." An entity with no direct or indirect~~  
7           ~~ownership, partnership or other affiliated interest with an~~  
8           ~~electric distribution company.~~

9           ~~"Peak demand." The highest electrical requirement occurring~~  
10           ~~during a specified period. For an electric distribution company,~~  
11           ~~the term means the sum of the metered consumption for all retail~~  
12           ~~customers over that period.~~

13           ~~"Real time price." A rate that directly reflects the~~  
14           ~~different cost of energy during each hour.~~

15           ~~\* \* \*~~

16           ~~"Smart meter technology." Technology, including, but not~~  
17           ~~limited to, metering technology and network communications~~  
18           ~~technology capable of bidirectional communication and that~~  
19           ~~records electricity usage on at least an hourly basis, including~~  
20           ~~related electric distribution system upgrades to enable the~~  
21           ~~technology. The technology shall provide customers with direct~~  
22           ~~access to and use of price and consumption information. The~~  
23           ~~technology shall also:~~

24           ~~(1) Directly provide customers with information on their~~  
25           ~~hourly consumption.~~

26           ~~(2) Enable time of use rates and real time price~~  
27           ~~programs.~~

28           ~~(3) Effectively support the automatic control of the~~  
29           ~~customer's electricity consumption by one or more of the~~  
30           ~~following as selected by the customer:~~

- 1           ~~(i) the customer;~~  
2           ~~(ii) the customer's utility; or~~  
3           ~~(iii) a third party engaged by the customer or the~~  
4           ~~customer's utility.~~

5           ~~"Time of use rate." A rate that reflects the costs of~~  
6           ~~servicing customers during different time periods, including off-~~  
7           ~~peak and on peak periods, but not as frequently as each hour.~~

8           ~~"Total resources cost test." A standard test that is met if,~~  
9           ~~over the effective life of the program, the avoided supply side~~  
10           ~~monetary costs are greater than the monetary costs of the~~  
11           ~~demand side programs borne by both the electric distribution~~  
12           ~~company and the participants.~~

13           ~~\* \* \*~~

14           ~~Section 3. Title 66 is amended by adding a section to read:~~  
15           ~~§ 2806.1. Adoption of procedures encouraging energy efficiency~~  
16           ~~and demand side response.~~

17           ~~(a) Program. The commission shall develop a program to~~  
18           ~~provide for the implementation of cost effective programs that~~  
19           ~~reduce energy demand and consumption within the service~~  
20           ~~territories of all electric distribution companies throughout~~  
21           ~~this Commonwealth. The program shall include, but is not limited~~  
22           ~~to, the following:~~

23           ~~(1) Selecting a program administrator to develop and~~  
24           ~~oversee the delivery of energy efficiency and demand side~~  
25           ~~response programs within the service territory of each~~  
26           ~~electric distribution company within this Commonwealth.~~

27           ~~(2) Implementing the necessary administrative and~~  
28           ~~financial mechanisms that will enable the program~~  
29           ~~administrator to develop and oversee the provision of energy~~  
30           ~~efficiency and demand side response programs within the~~

~~service territory of each electric distribution company within this Commonwealth, including the levying of assessments in accordance with sections 510 (relating to assessment for regulatory expenses upon public utilities), 1307 (relating to sliding scale of rates; adjustments) and 1308 (relating to voluntary changes in rates). The commission shall not approve or implement and shall not assess or charge to customers the costs of energy efficiency or demand response programs to the extent that the costs of such programs exceed 2% of the total annual revenues of the electric distribution company from all sources, including default service generation revenues as of January 1, 2007. This funding limit shall not include amounts provided for by the low income usage reduction programs established under regulations at 52 Pa. Code Ch. 58 (relating to residential low income usage reduction programs).~~

~~(3) Implementing the necessary administrative and financial mechanisms that facilitate a system of third party entities to deliver all or portions of the energy efficiency and demand side response programs within the service territory of each electric distribution company within this Commonwealth, including the levying of assessments in accordance with sections 510, 1307 and 1308. The commission may order the electric distribution company to pay the third party entity for services rendered in an electric distribution company's respective service territory pursuant to this section. The electric distribution company may be a third party entity.~~

~~(b) Selection of program administrator. The commission shall implement the following procedures when selecting a~~

1 ~~program administrator:~~

2 ~~(1) The commission shall prepare a request for proposals~~  
3 ~~for a program administrator to provide for the development~~  
4 ~~and delivery of the energy efficiency and demand side~~  
5 ~~response programs in the service territories of all electric~~  
6 ~~distribution companies and shall make the request for~~  
7 ~~proposals available for public comment.~~

8 ~~(2) The commission shall, within 60 days of the~~  
9 ~~completion of the public comment period, issue the final~~  
10 ~~request for proposals.~~

11 ~~(3) The commission shall, based on a competitive bid~~  
12 ~~process, select an independent entity to serve as the energy~~  
13 ~~efficiency and demand side response program administrator.~~

14 ~~(4) The commission shall include as a part of its~~  
15 ~~agreement with the program administrator a system of~~  
16 ~~performance parameters and a financial mechanism that~~  
17 ~~provides incentives for exceeding established performance~~  
18 ~~parameters and penalties for third parties not meeting~~  
19 ~~established performance parameters.~~

20 ~~(c) Powers and duties of program administrator. The program~~  
21 ~~administrator shall have powers and duties assigned by the~~  
22 ~~commission. The powers and duties shall include, but not be~~  
23 ~~limited to:~~

24 ~~(1) Soliciting through a competitive procurement process~~  
25 ~~within each electric distribution company service territory a~~  
26 ~~program of providing energy efficiency and demand side~~  
27 ~~response programs to residential, commercial and industrial~~  
28 ~~customers utilizing third party entities.~~

29 ~~(2) Ensuring that each proposal includes, but is not~~  
30 ~~limited to:~~



1           ~~(i) A clear delineation of how the program will be~~  
2           ~~conducted.~~

3           ~~(ii) The types of specific program measures to be~~  
4           ~~offered.~~

5           ~~(iii) The cost and benefit of each program to be~~  
6           ~~offered.~~

7           ~~(iv) A process for monitoring and verifying results,~~  
8           ~~data collection and management procedures, program~~  
9           ~~evaluation processes and financial management strategies.~~

10          ~~(3) In its review of each proposal received:~~

11           ~~(i) Taking into account the unique circumstances of~~  
12           ~~each electric distribution company's service territory.~~

13           ~~(ii) Finding that each program is cost effective and~~  
14           ~~that the portfolio of programs is designed to provide~~  
15           ~~every affected customer class with the opportunity to~~  
16           ~~participate and benefit economically.~~

17           ~~(iii) Determining the cost effectiveness of energy~~  
18           ~~efficiency and demand side response measures using the~~  
19           ~~total resource cost test.~~

20          ~~(4) Recommending to the commission those entities best~~  
21          ~~suited to provide energy efficiency and demand side response~~  
22          ~~programs within the service territory of each electric~~  
23          ~~distribution company.~~

24          ~~(5) In the event no qualified proposals are received~~  
25          ~~that meet the required plan goals in an electric distribution~~  
26          ~~company service territory to conduct the program activities:~~

27           ~~(i) Issuing a subsequent request for proposals with~~  
28           ~~plan goals that are reduced no more than necessary to~~  
29           ~~obtain qualified proposals to provide program activities.~~

30          ~~The lowered plan goals for energy efficiency and demand~~

1 ~~side response shall only be in effect for that year.~~

2 ~~(ii) In subsequent years, utilizing the plan goals~~  
3 ~~unless no qualified proposals are received to conduct the~~  
4 ~~program activities that meet the plan goals, the program~~  
5 ~~administrator shall issue a subsequent request for~~  
6 ~~proposals in accordance with the procedures identified in~~  
7 ~~this subparagraph.~~

8 ~~(6) Executing agreements on behalf of the commission~~  
9 ~~with the selected entity in each electric distribution~~  
10 ~~company service territory to conduct the energy efficiency~~  
11 ~~and demand side response program. As part of these agreements~~  
12 ~~the program administrator shall ensure that:~~

13 ~~(i) The programs offered by the selected entity are~~  
14 ~~provided equitably across all customer classes.~~

15 ~~(ii) A clearly defined process for financial~~  
16 ~~compensation for the entity delivering the program which~~  
17 ~~is tied to defined goals for performance regarding~~  
18 ~~program activities accomplished, energy cost savings on a~~  
19 ~~per customer basis and utility wide basis and overall~~  
20 ~~energy and peak demand reduction is established.~~

21 ~~(iii) A system of incentives and penalties for~~  
22 ~~performance of contractual activities above and below~~  
23 ~~predetermined levels is in place.~~

24 ~~(iv) There is a set contract term which may include~~  
25 ~~an initial three year term with renewal terms of varied~~  
26 ~~length.~~

27 ~~(7) Submitting reports to the commission at such times~~  
28 ~~and in such manner as the commission directs.~~

29 ~~(d) Commission review of recommendations. The commission~~  
30 ~~shall review the recommendations made by the program~~

1 ~~administrator regarding those entities best suited to provide~~  
2 ~~energy efficiency and demand side response programs within the~~  
3 ~~service territory of each electric distribution company. The~~  
4 ~~commission shall approve or disapprove the recommendations made~~  
5 ~~by the program administrator.~~

6 ~~(1) The commission review of the recommendations of the~~  
7 ~~program administrator shall be limited to ensuring that:~~

8 ~~(i) There is no evidence of fraud or market abuse.~~

9 ~~(ii) Any costs entered into are borne by the~~  
10 ~~appropriate parties and that costs, including the costs~~  
11 ~~of subsection (c)(6)(iii) incentives, related to the~~  
12 ~~provision of the contracted services are borne by the~~  
13 ~~appropriate customer class.~~

14 ~~(iii) There will be provided, in a cost effective~~  
15 ~~manner, a program that provides energy efficiency and~~  
16 ~~demand side response measures to all customer classes~~  
17 ~~throughout the service territory of each electric~~  
18 ~~distribution company.~~

19 ~~(2) If the commission approves a third party entity to~~  
20 ~~conduct the program, the commission shall ensure the program~~  
21 ~~administrator finalizes the agreement between the commission~~  
22 ~~and the third party entity selected to provide the program of~~  
23 ~~energy efficiency and demand side response.~~

24 ~~(3) In the event the commission disapproves the~~  
25 ~~recommendation of the program administrator, the commission~~  
26 ~~shall provide a rationale for this decision and direct the~~  
27 ~~program administrator on a course of action.~~

28 ~~(c) Plan goals. The program administrator shall ensure that~~  
29 ~~each proposal submitted by a third party entity to deliver a~~  
30 ~~program of energy efficiency and demand side response measures~~

1 ~~includes meeting the following energy saving goals:~~

2 ~~(1) The following relate to energy efficiency goals:~~

3 ~~(i) By May 31, 2011, total annual deliveries to~~  
4 ~~retail customers of electric distribution companies shall~~  
5 ~~be reduced by a minimum of 1%. This load reduction shall~~  
6 ~~be measured against the expected load forecasted by the~~  
7 ~~commission for June 1, 2010, through May 31, 2011, based~~  
8 ~~on load for the period June 1, 2007, through May 31,~~  
9 ~~2008, with provision made for weather adjustments and~~  
10 ~~extraordinary load that the electric distribution company~~  
11 ~~must serve. The commission shall determine and make~~  
12 ~~public the forecasts to be used for each electric~~  
13 ~~distribution company no later than August 31, 2008. The~~  
14 ~~program administrator shall ensure that a third party~~  
15 ~~entity meets the goals contained in this section through~~  
16 ~~the implementation of a program of energy efficiency~~  
17 ~~measures throughout the service territory of the electric~~  
18 ~~distribution company.~~

19 ~~(ii) By May 31, 2013, total annual deliveries to~~  
20 ~~retail customers of electric distribution companies shall~~  
21 ~~be reduced by a minimum of 2.5%. This load reduction~~  
22 ~~shall be measured against the expected load forecasted by~~  
23 ~~the commission for June 1, 2012, through May 31, 2013,~~  
24 ~~based on load for the period June 1, 2007, through May~~  
25 ~~31, 2008, with provision made for weather adjustments and~~  
26 ~~extraordinary load that the electric distribution company~~  
27 ~~must serve. The commission shall determine and make~~  
28 ~~public the forecasts to be used for each electric~~  
29 ~~distribution company no later than August 31, 2008. The~~  
30 ~~program administrator shall ensure that a third party~~

1 ~~entity meets the goals contained in this section through~~  
2 ~~the implementation of a program of energy efficiency~~  
3 ~~measures throughout the service territory of the electric~~  
4 ~~distribution company.~~

5 ~~(iii) By November 30, 2013, the program~~  
6 ~~administrator shall evaluate the costs and benefits of~~  
7 ~~these energy efficiency and conservation programs. If the~~  
8 ~~benefits have been shown to exceed the costs, consistent~~  
9 ~~with the total resource cost test, the program~~  
10 ~~administrator, in consultation with the commission, shall~~  
11 ~~set additional, incremental energy efficiency and~~  
12 ~~conservation goals for the period ending May 31, 2018.~~

13 ~~(iv) After May 31, 2018, the program administrator~~  
14 ~~shall continue to evaluate the costs and benefits of~~  
15 ~~efficiency and conservation measures and, in consultation~~  
16 ~~with the commission, may adopt additional incremental~~  
17 ~~load reduction standards for electric distribution~~  
18 ~~companies.~~

19 ~~(2) The following relate to demand side response~~  
20 ~~measures:~~

21 ~~(i) Cost effective demand side response measures to~~  
22 ~~reduce peak demand by a minimum of 4% in the 100 hours of~~  
23 ~~highest demand with provision made for weather~~  
24 ~~adjustments and extraordinary load that the electric~~  
25 ~~distribution company must serve shall be implemented in~~  
26 ~~each electric distribution company's service territory.~~  
27 ~~This reduction will be measured against the electric~~  
28 ~~distribution company's peak demand in the 100 hours of~~  
29 ~~greatest demand for June 1, 2007, through May 31, 2008.~~  
30 ~~The reductions shall be accomplished by May 31, 2012.~~

1 ~~(ii) By November 30, 2012, the program administrator~~  
2 ~~shall compare the total costs of these demand side~~  
3 ~~response measures to the total savings in energy and~~  
4 ~~capacity costs to retail customers of this Commonwealth.~~  
5 ~~If the benefits have been shown to exceed the costs,~~  
6 ~~consistent with the total resource cost test, the~~  
7 ~~commission shall order additional peak demand reductions~~  
8 ~~for the 100 hours of greatest demand or an alternative~~  
9 ~~measure adopted by the commission. The reductions shall~~  
10 ~~be measured from the electric distribution company's peak~~  
11 ~~demand for the period from June 1, 2011, through May 31,~~  
12 ~~2012. The mandated reductions shall be accomplished no~~  
13 ~~later than May 31, 2017.~~

14 ~~(iii) After May 31, 2017, the program administrator~~  
15 ~~shall continue to evaluate the costs and benefits of~~  
16 ~~demand side response measures and may, in consultation~~  
17 ~~with the commission, adopt additional incremental peak~~  
18 ~~load reduction standards.~~

19 ~~(f) Measurements and verification. The commission shall~~  
20 ~~establish standards by which the program administrator submits~~  
21 ~~to the commission an annual report, which includes that~~  
22 ~~information relating to the actions and results of the energy~~  
23 ~~efficiency and demand side response programs undertaken within~~  
24 ~~each electric distribution service territory by each third party~~  
25 ~~entity.~~

26 ~~(1) The report shall include, but not be limited to:~~

27 ~~(i) Documentation of program expenditures.~~

28 ~~(ii) Measurement and verification of savings~~  
29 ~~resulting from programs.~~

30 ~~(iii) Evaluation of the cost effectiveness of~~

1 ~~expenditures.~~

2 ~~(iv) Any other information the commission may~~  
3 ~~require pursuant to its rulemaking authority.~~

4 ~~(2) The program administrator, upon consultation with~~  
5 ~~the commission, shall direct a third party entity to modify~~  
6 ~~or terminate a particular energy efficiency or a demand side~~  
7 ~~response program if, after an adequate period for~~  
8 ~~implementation of the program, the commission determines the~~  
9 ~~program is not sufficiently meeting its goals and purposes.~~

10 ~~(3) In the event an energy efficiency or demand side~~  
11 ~~response program is terminated, the program administrator~~  
12 ~~shall require the third party entity to submit a revised~~  
13 ~~program describing the actions to be undertaken to either~~  
14 ~~offer a substitute program or increase the availability of~~  
15 ~~existing programs to make up for the effect of the terminated~~  
16 ~~program on its overall program goals.~~

17 ~~(g) Responsibilities of electric distribution companies.—~~

18 ~~Each electric distribution company that does not seek to be a~~  
19 ~~third party entity shall:~~

20 ~~(1) Cooperate with the program administrator as needed~~  
21 ~~in its efforts to competitively procure the services of a~~  
22 ~~third party entity to provide an energy efficiency and~~  
23 ~~demand side response program within the service territory of~~  
24 ~~the electric distribution company.~~

25 ~~(2) Provide information necessary to effectively~~  
26 ~~facilitate the work of the selected third party entity in~~  
27 ~~conducting the energy efficiency and demand side response~~  
28 ~~program.~~

29 ~~(3) Provide assistance as may be requested by the~~  
30 ~~program administrator in reviewing proposals from third party~~

~~entities seeking to provide energy efficiency and demand side response programs within their service territories.~~

~~(4) Provide assistance as may be requested by the program administrator to facilitate the successful execution of the contract agreement with the third party entities to provide an energy efficiency and demand side response program within their service territories.~~

~~(h) Recovery of administrative and program costs. An electric distribution company may fully recover all administrative costs, including, but not limited to, costs incurred under subsections (a)(3) and (g)(1), (2), (3) and (4), that the commission determines are prudently incurred and reasonable in amount pursuant to implementing a program to deliver cost effective energy efficiency and demand side response activities through a third party entity. Program and administrative costs shall be recovered on a full and current basis by the electric distribution company from customers through a reconcilable automatic adjustment clause pursuant to section 1307. Energy efficiency and demand side resource programs shall be deemed to be a new service offered for the first time under section 2804(4)(vi) (relating to standards for restructuring of electric industry).~~

~~(i) Reporting. The commission shall submit an annual report to the General Assembly describing the results of the programs implemented by each of the electric distribution companies, including, but not limited to:~~

~~(1) The costs, benefits and reductions in energy costs.~~

~~(2) Energy use by customer class within this Commonwealth.~~

~~(3) Reductions in overall peak demand and projections~~



1 ~~toward complying with the overall target reduction goals of~~  
2 ~~this section.~~

3 ~~(j) Definitions. For purposes of this section, the term~~  
4 ~~"electric distribution company" shall mean a public utility~~  
5 ~~providing facilities for the jurisdictional transmission and~~  
6 ~~distribution of electricity to 100,000 or more retail customers~~  
7 ~~in this Commonwealth.~~

8 Section 4. ~~Section 2807(e) of Title 66 is amended by adding~~  
9 ~~a paragraph to read:~~

10 ~~§ 2807. Duties of electric distribution companies.~~

11 ~~\* \* \*~~

12 ~~(e) Obligation to serve. \* \* \*~~

13 ~~(6) (i) Within nine months after the effective date of~~  
14 ~~this paragraph, electric distribution companies shall~~  
15 ~~file a smart meter technology procurement and~~  
16 ~~installation plan with the commission for approval and~~  
17 ~~make the plan available for public comment for a minimum~~  
18 ~~of 30 days. The plan shall describe the smart meter~~  
19 ~~technologies the electric distribution company proposes~~  
20 ~~to install, how the smart meter technology meets the~~  
21 ~~requirements of this paragraph and how the smart meter~~  
22 ~~technology shall be installed according to this~~  
23 ~~paragraph. In addition, the plan shall ensure that all~~  
24 ~~smart meter technology installation and maintenance work~~  
25 ~~shall be performed by adequately trained and qualified~~  
26 ~~personnel and that, to the extent practical, such work~~  
27 ~~shall be offered initially to employees of the electric~~  
28 ~~distribution company.~~

29 ~~(ii) Electric distribution companies shall furnish~~  
30 ~~smart meter technology to:~~

1 ~~(A) Customers responsible for 40% of the~~  
2 ~~distribution company's annual peak demand within four~~  
3 ~~years after the effective date of this paragraph.~~

4 ~~(B) Customers responsible for 75% of the~~  
5 ~~distribution company's annual peak demand within six~~  
6 ~~years after the effective date of this paragraph.~~

7 ~~(C) One hundred percent of its customers within~~  
8 ~~ten years after the effective date of this paragraph.~~

9 ~~Electric distribution companies shall, with customer~~  
10 ~~consent, make available electronic access to customer~~  
11 ~~meter data to third parties, including electric~~  
12 ~~generation suppliers and providers of conservation and~~  
13 ~~load management services.~~

14 ~~(iii) Electric distribution companies shall be~~  
15 ~~permitted to recover all reasonable and prudent costs, as~~  
16 ~~determined by the commission, of providing smart meter~~  
17 ~~technology, including annual depreciation and capital~~  
18 ~~costs over the life of the smart meter technology, that~~  
19 ~~are incurred after the effective date of this paragraph,~~  
20 ~~less all operating and capital costs savings realized by~~  
21 ~~the electric distribution company from the introduction~~  
22 ~~and use of the smart meter technology. An electric~~  
23 ~~distribution company may, at its option, recover such~~  
24 ~~smart meter technology costs:~~

25 ~~(A) through base rates, including a deferral for~~  
26 ~~future base rate recovery of current costs, with~~  
27 ~~carrying charges equal to 6%; or~~

28 ~~(B) on a full and current basis through a~~  
29 ~~reconcilable automatic adjustment clause under~~  
30 ~~section 1307 (relating to sliding scale of rates;~~

1           ~~adjustments).~~

2           ~~In no event shall lost or decreased revenues by an~~  
3           ~~electric distribution company due to reduced electricity~~  
4           ~~consumption or shifting energy demand be considered a~~  
5           ~~cost of smart meter technology. Smart meter technology~~  
6           ~~shall be deemed to be a new service offered for the first~~  
7           ~~time under section 2804(4)(vi) (relating to standards for~~  
8           ~~restructuring of electric industry).~~

9           ~~(iv) By January 1, 2010, or at the end of the~~  
10          ~~applicable generation rate cap period, whichever is~~  
11          ~~later, a default service provider shall submit to the~~  
12          ~~commission one or more proposed time of use rates and a~~  
13          ~~real time price plan. The commission shall approve or~~  
14          ~~modify the time of use rates and real time price plan~~  
15          ~~within six months of submittal. The default service~~  
16          ~~provider shall offer commission approved time of use~~  
17          ~~rates and a real time price plan to all residential and~~  
18          ~~commercial customers that have been provided with smart~~  
19          ~~meter technology within 60 days of installation of the~~  
20          ~~smart meter technology or commission approval of the~~  
21          ~~time of use rates and a real time price plan, whichever~~  
22          ~~is later. Customer participation in time of use rates or~~  
23          ~~real time pricing shall be voluntary and shall only be~~  
24          ~~provided with the affirmative consent of the customer.~~  
25          ~~The default service provider shall submit an annual~~  
26          ~~report to the commission on the participation in the~~  
27          ~~time of use and real time price programs and the efficacy~~  
28          ~~of the programs in affecting energy demand and~~  
29          ~~consumption and the effect on wholesale market prices.~~

30          ~~(v) For purposes of this paragraph, the term~~

1       ~~"electric distribution company" shall mean a public~~  
2       ~~utility providing facilities for the jurisdictional~~  
3       ~~transmission and distribution of electricity to 100,000~~  
4       ~~or more retail customers in this Commonwealth.~~

5       ~~Section 5. This act shall take effect immediately.~~

6       ~~SECTION 1. SECTION 2803 OF TITLE 66 OF THE PENNSYLVANIA~~       <—  
7       ~~CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:~~  
8       ~~§ 2803. DEFINITIONS.~~

9       ~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER~~  
10       ~~SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE~~  
11       ~~CONTEXT CLEARLY INDICATES OTHERWISE:~~

12       ~~\* \* \*~~

13       ~~"BILATERAL CONTRACT." AN AGREEMENT, AS APPROVED BY THE~~  
14       ~~PENNSYLVANIA PUBLIC UTILITY COMMISSION, REACHED BY TWO PARTIES,~~  
15       ~~EACH ACTING IN ITS OWN INDEPENDENT SELF INTEREST, AS A RESULT OF~~  
16       ~~NEGOTIATIONS FREE OF UNDUE INFLUENCE, DURESS OR FAVORITISM, IN~~  
17       ~~WHICH THE ELECTRIC ENERGY SUPPLIER AGREES TO SELL AND THE~~  
18       ~~ELECTRIC DISTRIBUTION COMPANY AGREES TO BUY A QUANTITY OF~~  
19       ~~ELECTRIC ENERGY AT A SPECIFIED PRICE FOR A SPECIFIED PERIOD OF~~  
20       ~~TIME UNDER TERMS AGREED TO BY BOTH PARTIES, AND WHICH FOLLOWS A~~  
21       ~~STANDARD INDUSTRY TEMPLATE WIDELY ACCEPTED IN THE INDUSTRY OR~~  
22       ~~VARIATIONS THERETO ACCEPTED BY THE PARTIES. STANDARD INDUSTRY~~  
23       ~~TEMPLATES MAY INCLUDE THE EEI MASTER AGREEMENT FOR PHYSICAL~~  
24       ~~ENERGY PURCHASES AND SALES AND THE ISDA MASTER AGREEMENT FOR~~  
25       ~~FINANCIAL ENERGY PURCHASES AND SALES.~~

26       ~~\* \* \*~~

27       ~~"DEFAULT SERVICE PROVIDER." AN ELECTRIC DISTRIBUTION COMPANY~~  
28       ~~WITHIN ITS CERTIFIED SERVICE TERRITORY OR AN ALTERNATIVE~~  
29       ~~SUPPLIER APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION~~  
30       ~~THAT PROVIDES GENERATION SERVICE TO RETAIL ELECTRIC CUSTOMERS~~

1 WHO:

2 ~~(1) CONTRACT FOR ELECTRIC POWER, INCLUDING ENERGY AND~~  
3 ~~CAPACITY, AND THE CHOSEN ELECTRIC GENERATION SUPPLIER DOES~~  
4 ~~NOT SUPPLY THE SERVICE; OR~~

5 ~~(2) DO NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION~~  
6 ~~SUPPLIER.~~

7 SECTION 2. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:

8 ~~§ 2806.1. ENERGY EFFICIENCY AND CONSERVATION.~~

9 ~~(A) PROGRAM. THE COMMISSION SHALL ADOPT A PROGRAM TO~~  
10 ~~REQUIRE ELECTRIC DISTRIBUTION COMPANIES TO ADOPT AND IMPLEMENT~~  
11 ~~COST EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PLANS TO~~  
12 ~~REDUCE ENERGY DEMAND AND CONSUMPTION WITHIN THE SERVICE~~  
13 ~~TERRITORIES OF ALL ELECTRIC DISTRIBUTION COMPANIES IN THIS~~  
14 ~~COMMONWEALTH. THE PROGRAM SHALL INCLUDE:~~

15 ~~(1) PROCEDURES FOR THE APPROVAL OF PLANS SUBMITTED UNDER~~  
16 ~~SUBSECTION (B).~~

17 ~~(2) A PLAN EVALUATION PROCESS INCLUDING A PROCESS TO~~  
18 ~~MONITOR AND VERIFY DATA COLLECTION, QUALITY ASSURANCE AND~~  
19 ~~RESULTS SUBMITTED.~~

20 ~~(3) AN ANALYSIS OF THE COST AND BENEFIT OF EACH PLAN~~  
21 ~~SUBMITTED UNDER SUBSECTION (B) IN ACCORDANCE WITH A TOTAL~~  
22 ~~RESOURCE COST TEST.~~

23 ~~(4) AN ANALYSIS OF HOW THE PROGRAM AND INDIVIDUAL PLANS~~  
24 ~~WILL ENABLE EACH ELECTRIC DISTRIBUTION COMPANY TO ACHIEVE THE~~  
25 ~~REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS~~  
26 ~~(C) AND (D).~~

27 ~~(5) STANDARDS TO ENSURE THAT EACH PLAN INCLUDES A~~  
28 ~~VARIETY OF ENERGY EFFICIENCY AND CONSERVATION MEASURES AND~~  
29 ~~WILL PROVIDE THE MEASURES EQUITABLY TO ALL CLASSES OF~~  
30 ~~CUSTOMERS.~~

1           ~~(6) PROCEDURES TO REVIEW ALL PROPOSED CONTRACTS PRIOR TO~~  
2 ~~THE EXECUTION OF THE CONTRACT WITH THIRD PARTY ENTITIES TO~~  
3 ~~IMPLEMENT THE PLAN. THE COMMISSION MAY ORDER THE MODIFICATION~~  
4 ~~OF A PROPOSED CONTRACT TO ENSURE THAT THE PLAN IS ADEQUATE.~~

5           ~~(7) PROCEDURES TO ENSURE COMPLIANCE WITH REQUIREMENTS~~  
6 ~~FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).~~

7           ~~(8) A REQUIREMENT FOR THE PARTICIPATION OF THIRD PARTY~~  
8 ~~ENTITIES IN THE IMPLEMENTATION OF ALL OR PART OF A PLAN.~~

9           ~~(9) A PROCESS TO LINK REDUCTIONS IN CONSUMPTION TO THE~~  
10 ~~COMPENSATION OF THIRD PARTY ENTITIES.~~

11           ~~(10) PROCEDURES FOR THE LEVY OF ASSESSMENTS IN~~  
12 ~~ACCORDANCE WITH SECTIONS 510 (RELATING TO ASSESSMENT FOR~~  
13 ~~REGULATORY EXPENSES UPON PUBLIC UTILITIES) AND 1308 (RELATING~~  
14 ~~TO VOLUNTARY CHANGES IN RATES) SUBJECT TO THE LIMITATIONS OF~~  
15 ~~SUBSECTION (G) TO FUND PLANS FILED UNDER SUBSECTION (B)~~  
16 ~~SUBJECT TO THE LIMITATIONS SET FORTH UNDER SUBSECTION (G).~~

17 ~~(B) DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.~~

18           ~~(1) (I) BY NOVEMBER 15, 2008, EACH ELECTRIC~~  
19 ~~DISTRIBUTION COMPANY SHALL DEVELOP AND FILE AN ENERGY~~  
20 ~~EFFICIENCY AND CONSERVATION PLAN WITH THE COMMISSION FOR~~  
21 ~~APPROVAL TO MEET THE REQUIREMENTS OF SUBSECTION (A) AND~~  
22 ~~THE REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER~~  
23 ~~SUBSECTIONS (C) AND (D). THE PLAN SHALL BE IMPLEMENTED~~  
24 ~~UPON APPROVAL BY THE COMMISSION AND SHALL COMPLY WITH ALL~~  
25 ~~OF THE FOLLOWING:~~

26                   ~~(A) INCLUDE SPECIFIC PROPOSALS TO IMPLEMENT~~  
27 ~~ENERGY EFFICIENCY AND CONSERVATION MEASURES TO~~  
28 ~~ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER~~  
29 ~~SUBSECTIONS (C) AND (D).~~

30                   ~~(B) A MINIMUM OF 10% OF THE REQUIRED REDUCTIONS~~

1 ~~IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D) SHALL BE~~  
2 ~~OBTAINED FROM UNITS OF FEDERAL, STATE AND LOCAL~~  
3 ~~GOVERNMENT, INCLUDING MUNICIPALITIES, SCHOOL~~  
4 ~~DISTRICTS, INSTITUTIONS OF HIGHER EDUCATION AND~~  
5 ~~NONPROFIT ENTITIES.~~

6 ~~(C) THE MANNER IN WHICH PERFORMANCE WILL BE~~  
7 ~~MEASURED, VERIFIED AND EVALUATED.~~

8 ~~(D) THE MANNER IN WHICH THE PLAN WILL ACHIEVE~~  
9 ~~THE REQUIREMENTS OF THE PROGRAM UNDER SUBSECTION (A)~~  
10 ~~AND THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER~~  
11 ~~SUBSECTIONS (C) AND (D).~~

12 ~~(E) INCLUDE A CONTRACT WITH ONE OR MORE THIRD-~~  
13 ~~PARTY ENTITIES TO IMPLEMENT THE PLAN OR A PORTION OF~~  
14 ~~THE PLAN AS APPROVED BY THE COMMISSION.~~

15 ~~(F) INCLUDE ESTIMATES OF THE COST OF~~  
16 ~~IMPLEMENTATION OF THE ENERGY EFFICIENCY AND~~  
17 ~~CONSERVATION MEASURES IN THE PLAN.~~

18 ~~(G) INCLUDE SPECIFIC ENERGY EFFICIENCY MEASURES~~  
19 ~~FOR HOUSEHOLDS AT OR BELOW 150% OF THE FEDERAL~~  
20 ~~POVERTY INCOME GUIDELINES. THE NUMBER OF MEASURES~~  
21 ~~SHALL BE PROPORTIONATE TO THOSE HOUSEHOLDS' SHARE OF~~  
22 ~~THE TOTAL ENERGY USAGE IN THIS COMMONWEALTH. THE~~  
23 ~~ELECTRIC DISTRIBUTION COMPANY SHALL COORDINATE~~  
24 ~~MEASURES UNDER THIS CLAUSE WITH OTHER PROGRAMS~~  
25 ~~ADMINISTERED BY THE COMMISSION OR ANOTHER FEDERAL OR~~  
26 ~~STATE AGENCY. THE EXPENDITURES OF AN ELECTRIC~~  
27 ~~DISTRIBUTION COMPANY UNDER THIS CLAUSE SHALL BE IN~~  
28 ~~ADDITION TO EXPENDITURES MADE UNDER 52 PA. CODE CH.~~  
29 ~~58 (RELATING TO RESIDENTIAL LOW INCOME USAGE~~  
30 ~~REDUCTION PROGRAMS).~~

1 ~~(H) INCLUDE A PROPOSED COST RECOVERY TARIFF~~  
2 ~~MECHANISM TO FUND THE ENERGY EFFICIENCY AND~~  
3 ~~CONSERVATION MEASURES AND TO ENSURE RECOVERY OF THE~~  
4 ~~PRUDENT AND REASONABLE COSTS OF THE PLAN AS APPROVED~~  
5 ~~BY THE COMMISSION.~~

6 ~~(I) A DEMONSTRATION THAT THE PLAN IS COST-~~  
7 ~~EFFECTIVE USING A TOTAL RESOURCE COST TEST OR OTHER~~  
8 ~~COST BENEFIT ANALYSIS APPROVED BY THE COMMISSION AND~~  
9 ~~PROVIDES A DIVERSE CROSS SECTION OF ALTERNATIVES FOR~~  
10 ~~CUSTOMERS OF ALL RATE CLASSES.~~

11 ~~(J) REQUIRE AN ANNUAL INDEPENDENT EVALUATION OF~~  
12 ~~THE PERFORMANCE OF THE COST EFFECTIVENESS OF THE PLAN~~  
13 ~~AND A FULL REVIEW OF THE FIVE YEAR RESULTS OF THE~~  
14 ~~PLAN AND, TO THE EXTENT PRACTICABLE, HOW THE PLAN~~  
15 ~~WILL BE ADJUSTED ON A GOING FORWARD BASIS AS A RESULT~~  
16 ~~OF THE EVALUATION.~~

17 ~~(II) A NEW PLAN SHALL BE FILED WITH THE COMMISSION~~  
18 ~~EVERY FIVE YEARS OR AS OTHERWISE REQUIRED BY THE~~  
19 ~~COMMISSION. THE PLAN SHALL SET FORTH THE MANNER IN WHICH~~  
20 ~~THE COMPANY WILL MEET THE REQUIRED REDUCTIONS IN~~  
21 ~~CONSUMPTION UNDER SUBSECTIONS (C) AND (D).~~

22 ~~(III) NO MORE THAN 2% OF FUNDS AVAILABLE TO~~  
23 ~~IMPLEMENT A PLAN UNDER THIS SUBSECTION SHALL BE ALLOCATED~~  
24 ~~FOR EXPERIMENTAL EQUIPMENT OR DEVICES.~~

25 ~~(2) THE COMMISSION SHALL DIRECT AN ELECTRIC DISTRIBUTION~~  
26 ~~COMPANY TO MODIFY OR TERMINATE ANY PART OF A PLAN APPROVED~~  
27 ~~UNDER THIS SECTION IF, AFTER AN ADEQUATE PERIOD FOR~~  
28 ~~IMPLEMENTATION, THE COMMISSION DETERMINES THAT AN ENERGY~~  
29 ~~EFFICIENCY OR CONSERVATION MEASURE INCLUDED IN THE PLAN IS~~  
30 ~~NOT EFFECTIVE.~~



1           ~~(3) IF PART OF A PLAN IS MODIFIED OR TERMINATED UNDER~~  
2           ~~PARAGRAPH (2), THE ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT~~  
3           ~~A REVISED PLAN DESCRIBING ACTIONS TO BE TAKEN TO OFFER~~  
4           ~~SUBSTITUTE MEASURES OR TO INCREASE THE AVAILABILITY OF~~  
5           ~~EXISTING MEASURES IN THE PLAN TO ACHIEVE THE REQUIRED~~  
6           ~~REDUCTIONS IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).~~

7           ~~(C) REDUCTIONS IN CONSUMPTION. EACH ELECTRIC DISTRIBUTION~~  
8           ~~COMPANY SHALL REDUCE CONSUMPTION AS FOLLOWS:~~

9           ~~(1) BY MAY 31, 2011, EACH ELECTRIC DISTRIBUTION COMPANY~~  
10           ~~SHALL REDUCE ITS TOTAL ANNUAL WEATHER NORMALIZED DELIVERIES~~  
11           ~~TO RETAIL CUSTOMERS BY A MINIMUM OF 1%. THE 1% LOAD REDUCTION~~  
12           ~~IN CONSUMPTION SHALL BE MEASURED AGAINST THE ELECTRIC~~  
13           ~~DISTRIBUTION COMPANY'S EXPECTED LOAD AS FORECASTED BY THE~~  
14           ~~COMMISSION FOR JUNE 1, 2007 THROUGH MAY 31, 2008, WITH~~  
15           ~~PROVISIONS MADE FOR WEATHER ADJUSTMENTS AND EXTRAORDINARY~~  
16           ~~LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY MUST SERVE.~~

17           ~~(2) BY MAY 31, 2013, EACH ELECTRIC DISTRIBUTION COMPANY~~  
18           ~~SHALL REDUCE ITS TOTAL ANNUAL WEATHER NORMALIZED DELIVERIES~~  
19           ~~TO RETAIL CUSTOMERS BY A MINIMUM OF 2.5%. THE 2.5% LOAD~~  
20           ~~REDUCTION IN CONSUMPTION SHALL BE MEASURED AGAINST THE~~  
21           ~~ELECTRIC DISTRIBUTION COMPANY'S EXPECTED LOAD AS FORECASTED~~  
22           ~~BY THE COMMISSION FOR JUNE 1, 2007, THROUGH MAY 31, 2008,~~  
23           ~~WITH PROVISION MADE FOR WEATHER ADJUSTMENTS AND EXTRAORDINARY~~  
24           ~~LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY MUST SERVE.~~

25           ~~(3) BY NOVEMBER 30, 2013, THE COMMISSION SHALL EVALUATE~~  
26           ~~THE COSTS AND BENEFITS OF THE PROGRAM ESTABLISHED UNDER~~  
27           ~~SUBSECTION (A) AND ENERGY EFFICIENCY AND CONSERVATION PLANS~~  
28           ~~SUBMITTED TO THE PROGRAM. THE EVALUATION SHALL BE CONSISTENT~~  
29           ~~WITH A TOTAL RESOURCE COST TEST OR A COST VERSUS BENEFIT~~  
30           ~~MEASUREMENT DETERMINED BY THE COMMISSION. IF THE COMMISSION~~

1 ~~DETERMINES THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS,~~  
2 ~~THE COMMISSION SHALL ADOPT ADDITIONAL INCREMENTAL REQUIRED~~  
3 ~~REDUCTIONS IN CONSUMPTION FOR THE PERIOD ENDING MAY 31, 2018.~~

4 ~~(4) AFTER MAY 31, 2018, THE COMMISSION SHALL CONTINUE TO~~  
5 ~~EVALUATE THE COSTS AND BENEFITS OF THE PROGRAM ESTABLISHED~~  
6 ~~UNDER SUBSECTION (A) AND ENERGY EFFICIENCY AND CONSERVATION~~  
7 ~~PLANS APPROVED UNDER SUBSECTION (A). IF THE COMMISSION~~  
8 ~~DETERMINES THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS,~~  
9 ~~THE COMMISSION MAY REQUIRE AND APPROVE ADDITIONAL PLANS TO~~  
10 ~~ACHIEVE INCREMENTAL REQUIREMENTS FOR REDUCTION IN CONSUMPTION~~  
11 ~~FOR ELECTRIC DISTRIBUTION COMPANIES. EACH PLAN SHALL BE FOR A~~  
12 ~~TERM NOT TO EXCEED FIVE YEARS.~~

13 ~~(D) PEAK DEMAND. EACH ELECTRIC DISTRIBUTION COMPANY SHALL~~  
14 ~~IMPLEMENT ENERGY EFFICIENCY AND CONSERVATION MEASURES TO ACHIEVE~~  
15 ~~THE FOLLOWING REDUCTIONS IN CONSUMPTION:~~

16 ~~(1) BY MAY 31, 2013, EACH ENERGY DISTRIBUTION COMPANY~~  
17 ~~SHALL REDUCE ITS WEATHER NORMALIZED DELIVERIES TO RETAIL~~  
18 ~~CUSTOMERS BY A MINIMUM OF 4% IN THE 100 HOURS OF HIGHEST~~  
19 ~~DEMAND. THE REDUCTION SHALL BE MEASURED AGAINST THE ELECTRIC~~  
20 ~~DISTRIBUTION COMPANY'S PEAK DEMAND IN THE 100 HOURS OF~~  
21 ~~GREATEST DEMAND FOR JUNE 1, 2007, THROUGH MAY 31, 2008.~~

22 ~~(2) BY NOVEMBER 30, 2013, THE COMMISSION SHALL COMPARE~~  
23 ~~THE TOTAL COSTS OF ENERGY EFFICIENCY AND CONSERVATION PLANS~~  
24 ~~IMPLEMENTED UNDER THIS SECTION TO THE TOTAL SAVINGS IN ENERGY~~  
25 ~~AND CAPACITY COSTS TO RETAIL CUSTOMERS IN THIS COMMONWEALTH.~~  
26 ~~IF THE COMMISSION DETERMINES THAT THE BENEFITS OF THE~~  
27 ~~MEASURES EXCEED THE COSTS, THE COMMISSION SHALL SET~~  
28 ~~ADDITIONAL INCREMENTAL REQUIREMENTS FOR REDUCTION IN PEAK~~  
29 ~~DEMAND FOR THE 100 HOURS OF GREATEST DEMAND OR AN ALTERNATIVE~~  
30 ~~REDUCTION APPROVED BY THE COMMISSION. REDUCTIONS IN~~

1 ~~CONSUMPTION SHALL BE MEASURED FROM THE ELECTRIC DISTRIBUTION~~  
2 ~~COMPANY'S PEAK DEMAND FOR THE PERIOD FROM JUNE 1, 2011,~~  
3 ~~THROUGH MAY 31, 2012. THE REDUCTIONS IN CONSUMPTION REQUIRED~~  
4 ~~BY THE COMMISSION SHALL BE ACCOMPLISHED NO LATER THAN MAY 31,~~  
5 ~~2017.~~

6 ~~(E) COMMISSION APPROVAL. THE COMMISSION SHALL APPROVE OR~~  
7 ~~DISAPPROVE A PLAN FILED UNDER SUBSECTION (B) WITHIN 120 DAYS OF~~  
8 ~~SUBMISSION. THE FOLLOWING SHALL APPLY TO AN ORDER DISAPPROVING A~~  
9 ~~PLAN:~~

10 ~~(1) THE COMMISSION SHALL DESCRIBE IN DETAIL THE REASONS~~  
11 ~~FOR THE DISAPPROVAL.~~

12 ~~(2) THE ELECTRIC DISTRIBUTION COMPANY SHALL HAVE 60 DAYS~~  
13 ~~TO FILE A REVISED PLAN TO ADDRESS THE DEFICIENCIES IDENTIFIED~~  
14 ~~BY THE COMMISSION.~~

15 ~~(F) PENALTIES.~~

16 ~~(1) THE FOLLOWING SHALL APPLY FOR FAILURE TO SUBMIT A~~  
17 ~~PLAN:~~

18 ~~(I) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO~~  
19 ~~FILE A PLAN UNDER SUBSECTION (B) SHALL BE SUBJECT TO A~~  
20 ~~CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE PLAN IS~~  
21 ~~FILED.~~

22 ~~(II) AN ELECTRIC DISTRIBUTION COMPANY THAT FAILS TO~~  
23 ~~FILE A REVISED PLAN UNDER SUBSECTION (E)(2) SHALL BE~~  
24 ~~SUBJECT TO A CIVIL PENALTY OF \$100,000 PER DAY UNTIL THE~~  
25 ~~PLAN IS FILED.~~

26 ~~(III) PENALTIES COLLECTED UNDER THIS PARAGRAPH SHALL~~  
27 ~~BE DEPOSITED IN THE LOW INCOME ELECTRIC CUSTOMER~~  
28 ~~ASSISTANCE PROGRAM OF THE ENERGY DISTRIBUTION COMPANY FOR~~  
29 ~~THE RESPECTIVE SERVICE TERRITORY.~~

30 ~~(2) THE FOLLOWING SHALL APPLY TO AN ELECTRIC~~

~~DISTRIBUTION COMPANY THAT FAILS TO ACHIEVE THE REDUCTIONS IN CONSUMPTION REQUIRED UNDER SUBSECTION (C) OR (D):~~

~~(I) THE ELECTRIC DISTRIBUTION COMPANY SHALL BE SUBJECT TO A CIVIL PENALTY OF UP TO \$5,000,000 FOR FAILURE TO ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C) OR (D). ANY PENALTY PAID BY AN ELECTRIC DISTRIBUTION COMPANY UNDER THIS SUBPARAGRAPH SHALL NOT BE RECOVERABLE FROM RATEPAYERS.~~

~~(II) IF AN ELECTRIC DISTRIBUTION COMPANY FAILS TO ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C) OR (D) BY 2013, RESPONSIBILITY TO ACHIEVE THE REDUCTIONS IN CONSUMPTION SHALL BE TRANSFERRED TO THE COMMISSION. THE COMMISSION SHALL DO ALL OF THE FOLLOWING:~~

~~(A) IMPLEMENT A PLAN TO ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C) OR (D).~~

~~(B) CONTRACT WITH THIRD PARTY ENTITIES AS NECESSARY TO IMPLEMENT ANY PORTION OF THE PLAN.~~

~~(III) THE PROVISIONS OF SUBPARAGRAPH (II) SHALL APPLY IN EACH SUBSEQUENT FIVE YEAR PERIOD IF THE ELECTRIC DISTRIBUTION COMPANY FAILS TO ACHIEVE THE REDUCTION STANDARDS UNDER SUBSECTION (C) OR (D).~~

~~(G) LIMITATION ON COSTS. THE TOTAL COST OF ANY PLAN REQUIRED UNDER THIS SECTION SHALL NOT EXCEED 2% OF THE ELECTRIC DISTRIBUTION COMPANY'S TOTAL ANNUAL REVENUE AS OF DECEMBER 31, 2006. NO MORE THAN 1% OF THE 2% OF THE COMPANY'S TOTAL ANNUAL REVENUE MAY BE USED FOR THE ADMINISTRATIVE COSTS OF THE ELECTRIC DISTRIBUTION COMPANY. THE LIMITATION UNDER THIS PARAGRAPH SHALL NOT INCLUDE THE COST OF LOW INCOME USAGE REDUCTION PROGRAMS ESTABLISHED UNDER 52 PA. CODE CH. 58 (RELATING TO RESIDENTIAL~~

1 ~~LOW INCOME USAGE REDUCTION PROGRAMS).~~

2 ~~(H) REPORT. THE FOLLOWING SHALL APPLY:~~

3 ~~(1) EACH ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT AN~~  
4 ~~ANNUAL REPORT TO THE COMMISSION RELATING TO THE RESULTS OF~~  
5 ~~THE ENERGY EFFICIENCY AND CONSERVATION PLAN WITHIN THE~~  
6 ~~ELECTRIC DISTRIBUTION SERVICE TERRITORY. THE REPORT SHALL~~  
7 ~~INCLUDE ALL OF THE FOLLOWING:~~

8 ~~(I) DOCUMENTATION OF PROGRAM EXPENDITURES.~~

9 ~~(II) MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS~~  
10 ~~UNDER THE PLAN.~~

11 ~~(III) EVALUATION OF THE COST EFFECTIVENESS OF~~  
12 ~~EXPENDITURES.~~

13 ~~(IV) ANY OTHER INFORMATION REQUIRED BY THE~~  
14 ~~COMMISSION.~~

15 ~~(2) BEGINNING FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF~~  
16 ~~THIS SECTION AND ANNUALLY THEREAFTER, THE COMMISSION SHALL~~  
17 ~~SUBMIT A REPORT TO THE CONSUMER PROTECTION AND PROFESSIONAL~~  
18 ~~LICENSURE COMMITTEE OF THE SENATE AND THE CONSUMER AFFAIRS~~  
19 ~~COMMITTEE OF THE HOUSE OF REPRESENTATIVES.~~

20 ~~(I) EXISTING FUNDING SOURCES. EACH ELECTRIC DISTRIBUTION~~  
21 ~~COMPANY SHALL PROVIDE A LIST OF ALL ELIGIBLE FEDERAL AND STATE~~  
22 ~~FUNDING PROGRAMS.~~

23 ~~(J) RECOVERY. IN NO CASE SHALL DECREASED REVENUES OF AN~~  
24 ~~ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ENERGY CONSUMPTION~~  
25 ~~OR CHANGES IN ENERGY DEMAND BE CONSIDERED A RECOVERABLE COST.~~

26 ~~(K) APPLICABILITY. THIS SECTION SHALL NOT APPLY TO AN~~  
27 ~~ELECTRIC DISTRIBUTION COMPANY WITH FEWER THAN 100,000 CUSTOMERS.~~

28 ~~(L) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING~~  
29 ~~WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS~~  
30 ~~SUBSECTION:~~

1 ~~"ELECTRIC DISTRIBUTION COMPANY TOTAL ANNUAL REVENUE."~~  
2 ~~AMOUNTS PAID TO THE ELECTRIC DISTRIBUTION COMPANY FOR~~  
3 ~~GENERATION, TRANSMISSION, DISTRIBUTION AND SURCHARGES BY RETAIL~~  
4 ~~CUSTOMERS.~~

5 ~~"ENERGY EFFICIENCY AND CONSERVATION MEASURES."~~

6 ~~(1) TECHNOLOGIES, MANAGEMENT PRACTICES OR OTHER MEASURES~~  
7 ~~EMPLOYED BY RETAIL CUSTOMERS THAT REDUCE ELECTRICITY~~  
8 ~~CONSUMPTION OR DEMAND IF ALL OF THE FOLLOWING APPLY:~~

9 ~~(I) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE IS~~  
10 ~~INSTALLED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION~~  
11 ~~AT THE LOCATION OF A RETAIL CUSTOMER.~~

12 ~~(II) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE~~  
13 ~~REDUCES CONSUMPTION OF ENERGY BY THE RETAIL CUSTOMER.~~

14 ~~(III) THE COST OF THE ACQUISITION OR INSTALLATION OF~~  
15 ~~THE MEASURE IS DIRECTLY INCURRED IN WHOLE OR IN PART BY~~  
16 ~~THE ELECTRIC DISTRIBUTION COMPANY.~~

17 ~~(2) ENERGY EFFICIENCY AND CONSERVATION MEASURES SHALL~~  
18 ~~INCLUDE SOLAR OR SOLAR PHOTOVOLTAIC PANELS, ENERGY EFFICIENT~~  
19 ~~WINDOWS AND DOORS, ENERGY EFFICIENT LIGHTING, INCLUDING EXIT~~  
20 ~~SIGN RETROFIT, HIGH BAY FLUORESCENT RETROFIT AND PEDESTRIAN~~  
21 ~~AND TRAFFIC SIGNAL CONVERSION, GEOTHERMAL HEATING,~~  
22 ~~INSULATION, AIR SEALING, REFLECTIVE ROOF COATINGS, ENERGY~~  
23 ~~EFFICIENT HEATING AND COOLING EQUIPMENT OR SYSTEMS AND ENERGY~~  
24 ~~EFFICIENT APPLIANCES AND OTHER TECHNOLOGIES, PRACTICES OR~~  
25 ~~MEASURES APPROVED BY THE COMMISSION.~~

26 ~~"PEAK DEMAND." THE HIGHEST ELECTRICAL REQUIREMENT OCCURRING~~  
27 ~~DURING A SPECIFIED PERIOD. FOR AN ELECTRIC DISTRIBUTION COMPANY,~~  
28 ~~THE TERM SHALL MEAN THE SUM OF THE METERED CONSUMPTION FOR ALL~~  
29 ~~RETAIL CUSTOMERS OVER THAT PERIOD.~~

30 ~~"QUALITY ASSURANCE." ALL OF THE FOLLOWING:~~

~~(1) THE AUDITING OF BUILDINGS, EQUIPMENT AND PROCESSES TO DETERMINE THE COST EFFECTIVENESS OF ENERGY EFFICIENCY AND CONSERVATION MEASURES USING NATIONALLY RECOGNIZED TOOLS AND CERTIFICATION PROGRAMS.~~

~~(2) INDEPENDENT INSPECTION OF COMPLETED ENERGY EFFICIENCY AND CONSERVATION MEASURES COMPLETED BY THIRD PARTY ENTITIES TO EVALUATE THE QUALITY OF THE COMPLETED MEASURE.~~

~~"REAL TIME PRICE." A RATE THAT DIRECTLY REFLECTS THE DIFFERENT COST OF ENERGY DURING EACH HOUR.~~

~~"THIRD PARTY ENTITY." AN ENTITY WITH NO DIRECT OR INDIRECT OWNERSHIP, PARTNERSHIP OR OTHER AFFILIATED INTEREST WITH AN ELECTRIC DISTRIBUTION COMPANY.~~

~~"TIME OF USE RATE." A RATE THAT REFLECTS THE COSTS OF SERVING CUSTOMERS DURING DIFFERENT TIME PERIODS, INCLUDING OFF-PEAK AND ON PEAK PERIODS, BUT NOT AS FREQUENTLY AS EACH HOUR.~~

~~"TOTAL RESOURCE COST TEST." A STANDARD TEST THAT IS MET IF, OVER THE EFFECTIVE LIFE OF EACH PLAN NOT TO EXCEED FIVE YEARS, THE AVOIDED MONETARY COSTS OF SUPPLYING ELECTRICITY ARE GREATER THAN THE MONETARY COSTS OF ENERGY EFFICIENCY MEASURES AND CONSERVATION OF CONSUMPTION.~~

~~SECTION 3. SECTION 2807(E) OF TITLE 66 IS AMENDED AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:~~

~~§ 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.~~

~~\* \* \*~~

~~(E) OBLIGATION TO SERVE. [AN ELECTRIC DISTRIBUTION COMPANY'S] A DEFAULT SERVICE PROVIDER'S OBLIGATION TO PROVIDE ELECTRIC GENERATION SUPPLY SERVICE FOLLOWING [IMPLEMENTATION OF RESTRUCTURING AND THE CHOICE OF ALTERNATIVE GENERATION BY A CUSTOMER] THE EXPIRATION OF A GENERATION RATE CAP SPECIFIED UNDER SECTION 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING~~

1 ~~OF ELECTRIC INDUSTRY) OR A RESTRUCTURING PLAN UNDER SECTION~~  
2 ~~2806(F) (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND~~  
3 ~~PERFORMANCE BASED RATES) IS REVISED AS FOLLOWS:~~

4       ~~(1) WHILE AN ELECTRIC DISTRIBUTION COMPANY COLLECTS~~  
5 ~~EITHER A COMPETITIVE TRANSITION CHARGE OR AN INTANGIBLE~~  
6 ~~TRANSITION CHARGE OR UNTIL 100% OF ITS CUSTOMERS HAVE CHOICE,~~  
7 ~~WHICHEVER IS LONGER, THE ELECTRIC DISTRIBUTION COMPANY SHALL~~  
8 ~~CONTINUE TO HAVE THE FULL OBLIGATION TO SERVE, INCLUDING THE~~  
9 ~~CONNECTION OF CUSTOMERS, THE DELIVERY OF ELECTRIC ENERGY AND~~  
10 ~~THE PRODUCTION OR ACQUISITION OF ELECTRIC ENERGY FOR~~  
11 ~~CUSTOMERS.~~

12       ~~{(2) AT THE END OF THE TRANSITION PERIOD, THE COMMISSION~~  
13 ~~SHALL PROMULGATE REGULATIONS TO DEFINE THE ELECTRIC~~  
14 ~~DISTRIBUTION COMPANY'S OBLIGATION TO CONNECT AND DELIVER AND~~  
15 ~~ACQUIRE ELECTRICITY UNDER PARAGRAPH (3) THAT WILL EXIST AT~~  
16 ~~THE END OF THE PHASE IN PERIOD.~~

17       ~~(3) IF A CUSTOMER CONTRACTS FOR ELECTRIC ENERGY AND IT~~  
18 ~~IS NOT DELIVERED OR IF A CUSTOMER DOES NOT CHOOSE AN~~  
19 ~~ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE ELECTRIC~~  
20 ~~DISTRIBUTION COMPANY OR COMMISSION APPROVED ALTERNATIVE~~  
21 ~~SUPPLIER SHALL ACQUIRE ELECTRIC ENERGY AT PREVAILING MARKET~~  
22 ~~PRICES TO SERVE THAT CUSTOMER AND SHALL RECOVER FULLY ALL~~  
23 ~~REASONABLE COSTS.}~~

24       ~~(3.1) (I) FOLLOWING THE EXPIRATION OF AN ELECTRIC~~  
25 ~~DISTRIBUTION COMPANY'S OBLIGATION TO PROVIDE ELECTRIC~~  
26 ~~GENERATION SUPPLY SERVICE TO RETAIL CUSTOMERS AT CAPPED~~  
27 ~~RATES, IF A CUSTOMER CONTRACTS FOR ELECTRIC GENERATION~~  
28 ~~SUPPLY SERVICE AND THE CHOSEN ELECTRIC GENERATION~~  
29 ~~SUPPLIER DOES NOT PROVIDE THE SERVICE OR IF A CUSTOMER~~  
30 ~~DOES NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION~~



1 ~~SUPPLIER, THE DEFAULT SERVICE PROVIDER SHALL PROVIDE~~  
2 ~~ELECTRIC GENERATION SUPPLY SERVICE TO THAT CUSTOMER~~  
3 ~~PURSUANT TO A COMMISSION APPROVED COMPETITIVE PROCUREMENT~~  
4 ~~PLAN. THE ELECTRIC POWER ACQUIRED SHALL BE PROCURED~~  
5 ~~THROUGH COMPETITIVE PROCUREMENT PROCESSES AND SHALL~~  
6 ~~INCLUDE ONE OR MORE OF THE FOLLOWING:~~

7 ~~(A) AUCTIONS.~~

8 ~~(B) REQUESTS FOR PROPOSAL.~~

9 ~~(C) BILATERAL AGREEMENTS ENTERED INTO AT THE~~  
10 ~~SOLE DISCRETION OF THE DEFAULT SERVICE PROVIDER WHICH~~  
11 ~~SHALL BE AT PRICES WHICH ARE:~~

12 ~~(I) NO GREATER THAN THE COST OF OBTAINING~~  
13 ~~GENERATION UNDER COMPARABLE TERMS IN THE~~  
14 ~~WHOLESALE MARKET, AS DETERMINED BY THE COMMISSION~~  
15 ~~AT THE TIME OF EXECUTION OF THE CONTRACT; OR~~

16 ~~(II) CONSISTENT WITH A COMMISSION APPROVED~~  
17 ~~COMPETITION PROCUREMENT PROCESS. ANY AGREEMENT~~  
18 ~~BETWEEN AFFILIATED PARTIES SHALL BE SUBJECT TO~~  
19 ~~REVIEW AND APPROVAL OF THE PENNSYLVANIA PUBLIC~~  
20 ~~UTILITY COMMISSION UNDER CHAPTER 21 (RELATING TO~~  
21 ~~RELATIONS WITH AFFILIATED INTERESTS). IN NO CASE~~  
22 ~~SHALL THE COST OF OBTAINING GENERATION FROM ANY~~  
23 ~~AFFILIATED INTEREST BE GREATER THAN THE COST OF~~  
24 ~~OBTAINING GENERATION UNDER COMPARABLE TERMS IN~~  
25 ~~THE WHOLESALE MARKET AT THE TIME OF EXECUTION OF~~  
26 ~~THE CONTRACT.~~

27 ~~(II) THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO~~  
28 ~~ANY TYPE OF FUEL PURCHASED BY A DEFAULT SERVICE PROVIDER~~  
29 ~~TO PROVIDE ELECTRIC GENERATION SUPPLY SERVICE, INCLUDING~~  
30 ~~FUEL REQUIRED TO BE PURCHASED UNDER THE ACT OF NOVEMBER~~

~~30, 2004 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT.~~

~~(3.2) THE ELECTRIC POWER PROCURED PURSUANT TO PARAGRAPH (3.1) SHALL INCLUDE A PRUDENT MIX OF THE FOLLOWING:~~

~~(I) SPOT MARKET PURCHASES.~~

~~(II) SHORT TERM CONTRACTS.~~

~~(III) LONG TERM PURCHASE CONTRACTS, ENTERED INTO AS A RESULT OF AN AUCTION, REQUEST FOR PROPOSAL OR BILATERAL CONTRACT THAT IS FREE OF UNDUE INFLUENCE, DURESS OR FAVORITISM, OF NOT LESS THAN THREE AND NOT MORE THAN 20 YEARS, UNLESS THE COMMISSION DETERMINES A LONGER TERM IS NECESSARY FOR THE RELIABILITY IN THE ACQUISITION OF GENERATION AND IT IS IN THE BEST INTEREST OF CONSUMERS TO EXTEND THE TERM OF THE CONTRACT BEYOND 20 YEARS. THE DEFAULT SERVICE PROVIDER SHALL HAVE SOLE DISCRETION TO DETERMINE THE SOURCE, FUEL TYPE AND LENGTH OF CONTRACT.~~

~~(3.3) THE PRUDENT MIX OF CONTRACTS ENTERED INTO PURSUANT TO PARAGRAPH (3.2) SHALL BE DESIGNED TO ENSURE:~~

~~(I) ADEQUATE AND RELIABLE SERVICE.~~

~~(II) THE LEAST COST TO CUSTOMERS OVER TIME.~~

~~(III) COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH~~

~~(3.1).~~

~~(3.4) THE DEFAULT SERVICE PROVIDER SHALL FILE A PLAN FOR COMPETITIVE PROCUREMENT WITH THE COMMISSION AND OBTAIN COMMISSION APPROVAL OF THE PLAN CONSIDERING THE STANDARDS IN PARAGRAPHS (3.1), (3.2) AND (3.3) BEFORE THE COMPETITIVE PROCESS IS IMPLEMENTED. THE COMMISSION SHALL HOLD HEARINGS AS NECESSARY ON THE PROPOSED PLAN. IF THE COMMISSION FAILS TO ISSUE A FINAL ORDER ON THE PLAN WITHIN NINE MONTHS OF THE DATE THAT THE PLAN IS FILED, THE PLAN SHALL BE DEEMED TO BE~~

1 ~~APPROVED AND THE DEFAULT SERVICE PROVIDER MAY IMPLEMENT THE~~  
2 ~~PLAN AS FILED. COSTS INCURRED THROUGH AN APPROVED COMPETITIVE~~  
3 ~~PROCUREMENT PLAN SHALL BE DEEMED TO BE THE LEAST COST OVER~~  
4 ~~TIME AS REQUIRED UNDER PARAGRAPH (3.3).~~

5 ~~(3.5) AT THE TIME THE COMMISSION EVALUATES THE PLAN AND~~  
6 ~~PRIOR TO APPROVAL, IN DETERMINING IF THE DEFAULT ELECTRIC~~  
7 ~~SERVICE PROVIDER'S PLAN OBTAINS GENERATION SUPPLY AT THE~~  
8 ~~LEAST COST, THE COMMISSION SHALL CONSIDER THE DEFAULT SERVICE~~  
9 ~~PROVIDER'S OBLIGATION TO PROVIDE ADEQUATE AND RELIABLE~~  
10 ~~SERVICE TO THE CUSTOMERS AND THAT THE DEFAULT SERVICE~~  
11 ~~PROVIDER HAS OBTAINED A PRUDENT MIX OF CONTRACTS TO OBTAIN~~  
12 ~~LEAST COST ON LONG TERM, SHORT TERM AND SPOT MARKET BASIS AND~~  
13 ~~SHALL MAKE SPECIFIC FINDINGS WHICH SHALL INCLUDE THE~~  
14 ~~FOLLOWING:~~

15 ~~(I) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES~~  
16 ~~PRUDENT STEPS NECESSARY TO NEGOTIATE FAVORABLE GENERATION~~  
17 ~~SUPPLY CONTRACTS.~~

18 ~~(II) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES~~  
19 ~~PRUDENT STEPS NECESSARY TO OBTAIN LEAST COST GENERATION~~  
20 ~~SUPPLY CONTRACTS ON A LONG TERM, SHORT TERM AND SPOT~~  
21 ~~MARKET BASIS.~~

22 ~~(III) NEITHER THE DEFAULT SERVICE PROVIDER NOR ITS~~  
23 ~~AFFILIATED INTEREST HAS WITHHELD OR ASKED TO WITHHOLD~~  
24 ~~FROM THE MARKET ANY GENERATION SUPPLY WHICH SHOULD HAVE~~  
25 ~~BEEN UTILIZED AS PART OF THE LEAST COST PROCUREMENT~~  
26 ~~POLICY.~~

27 ~~(3.6) NOTWITHSTANDING SECTIONS 508 (RELATING TO POWER OF~~  
28 ~~COMMISSION TO VARY, REFORM AND REVISE CONTRACTS) AND 2102~~  
29 ~~(RELATING TO APPROVAL OF CONTRACTS WITH AFFILIATED~~  
30 ~~INTERESTS), THE COMMISSION SHALL NOT MODIFY CONTRACTS OR~~

1 ~~DISALLOW COSTS ASSOCIATED WITH AN APPROVED PROCUREMENT~~  
2 ~~PROCESS WHEN IT HAS REVIEWED AND APPROVED THE RESULTS OF THE~~  
3 ~~PROCUREMENT.~~

4 ~~(3.7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE~~  
5 ~~TO THE CONTRARY, THE COMMISSION MAY MODIFY CONTRACTS OR~~  
6 ~~DISALLOW COSTS WHEN THE PARTY SEEKING RECOVERY OF THE COSTS~~  
7 ~~IS AT FAULT ASSOCIATED WITH CONTRACTS ENTERED INTO PURSUANT~~  
8 ~~TO A COMMISSION APPROVED PROCUREMENT PLAN IF THE COMMISSION~~  
9 ~~DETERMINES AFTER A HEARING THAT:~~

10 ~~(I) THE CONTRACT HAS NOT BEEN IMPLEMENTED OR~~  
11 ~~APPROVED OR DOES NOT COMPLY WITH THE COMMISSION APPROVED~~  
12 ~~PROCUREMENT PLAN; OR~~

13 ~~(II) THERE HAS BEEN FRAUD, COLLUSION OR MARKET~~  
14 ~~MANIPULATION WITH REGARD TO THESE CONTRACTS.~~

15 ~~(3.8) THE DEFAULT SERVICE PROVIDER SHALL HAVE THE RIGHT~~  
16 ~~TO RECOVER ON A FULL AND CURRENT BASIS, PURSUANT TO A~~  
17 ~~RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER SECTION 1307~~  
18 ~~(RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), ALL COSTS~~  
19 ~~INCURRED UNDER THIS SECTION AND A COMMISSION APPROVED~~  
20 ~~COMPETITIVE PROCUREMENT PLAN.~~

21 ~~(4) IF A CUSTOMER THAT CHOOSES AN ALTERNATIVE SUPPLIER~~  
22 ~~AND SUBSEQUENTLY DESIRES TO RETURN TO THE LOCAL DISTRIBUTION~~  
23 ~~COMPANY FOR GENERATION SERVICE, THE LOCAL DISTRIBUTION~~  
24 ~~COMPANY SHALL TREAT THAT CUSTOMER EXACTLY AS IT WOULD ANY NEW~~  
25 ~~APPLICANT FOR ENERGY SERVICE.~~

26 ~~(5) (I) NOTWITHSTANDING PARAGRAPH [(3)] (3.1), THE~~  
27 ~~ELECTRIC DISTRIBUTION COMPANY OR COMMISSION APPROVED~~  
28 ~~ALTERNATIVE SUPPLIER MAY, IN ITS SOLE DISCRETION, OFFER~~  
29 ~~LARGE CUSTOMERS WITH A PEAK DEMAND OF 15 MEGAWATTS OR~~  
30 ~~GREATER AT ONE METER AT A LOCATION IN ITS SERVICE~~

1           ~~TERRITORY ANY NEGOTIATED RATE FOR SERVICE AT ALL OF THE~~  
2           ~~CUSTOMERS' LOCATIONS WITHIN THE SERVICE TERRITORY FOR ANY~~  
3           ~~DURATION AGREED UPON BY THE ELECTRIC DISTRIBUTION COMPANY~~  
4           ~~OR COMMISSION APPROVED ALTERNATIVE SUPPLIER AND THE LARGE~~  
5           ~~CUSTOMER. THE COMMISSION SHALL PERMIT, BUT SHALL NOT~~  
6           ~~REQUIRE, AN ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-~~  
7           ~~APPROVED ALTERNATIVE SUPPLIER TO PROVIDE SERVICE TO LARGE~~  
8           ~~CUSTOMERS UNDER THIS PARAGRAPH. CONTRACT RATES ENTERED~~  
9           ~~INTO UNDER THIS PARAGRAPH SHALL BE SUBJECT TO REVIEW BY~~  
10           ~~THE COMMISSION IN ORDER TO ENSURE THAT ALL COSTS RELATED~~  
11           ~~TO THE RATES ARE BORNE BY THE PARTIES TO THE CONTRACT AND~~  
12           ~~THAT NO COSTS RELATED TO THE RATES ARE BORNE BY OTHER~~  
13           ~~CUSTOMERS OR CUSTOMER CLASSES. IF NO COSTS RELATED TO THE~~  
14           ~~RATES ARE BORNE BY OTHER CUSTOMERS OR CUSTOMER CLASSES,~~  
15           ~~THE COMMISSION SHALL APPROVE THE CONTRACT WITHIN 90 DAYS~~  
16           ~~OF ITS FILING, OR IT SHALL BE DEEMED APPROVED BY~~  
17           ~~OPERATION OF LAW UPON EXPIRATION OF THE 90 DAYS.~~  
18           ~~INFORMATION SUBMITTED UNDER THIS PARAGRAPH SHALL BE~~  
19           ~~SUBJECT TO THE COMMISSION'S PROCEDURES FOR THE FILING OF~~  
20           ~~CONFIDENTIAL AND PROPRIETARY INFORMATION.~~

21           ~~(II) FOR PURPOSES OF PROVIDING SERVICE UNDER THIS~~  
22           ~~PARAGRAPH TO CUSTOMERS WITH A PEAK DEMAND OF 20 MEGAWATTS~~  
23           ~~OR GREATER AT ONE METER AT A LOCATION WITHIN THAT~~  
24           ~~DISTRIBUTION COMPANY'S SERVICE TERRITORY, AN ELECTRIC~~  
25           ~~DISTRIBUTION COMPANY THAT HAS COMPLETED ITS RESTRUCTURING~~  
26           ~~TRANSITION PERIOD AS OF THE EFFECTIVE DATE OF THIS~~  
27           ~~PARAGRAPH MAY, IN ITS SOLE DISCRETION, ACQUIRE AN~~  
28           ~~INTEREST IN A GENERATION FACILITY OR CONSTRUCT A~~  
29           ~~GENERATION FACILITY SPECIFICALLY TO MEET THE ENERGY~~  
30           ~~REQUIREMENTS OF THE CUSTOMERS, INCLUDING THE ELECTRIC~~

1           ~~REQUIREMENTS OF THE CUSTOMERS' OTHER BILLING LOCATIONS~~  
2           ~~WITHIN ITS SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION~~  
3           ~~COMPANY MUST COMMENCE CONSTRUCTION OF THE GENERATION~~  
4           ~~FACILITY OR CONTRACT TO ACQUIRE THE GENERATION INTEREST~~  
5           ~~WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS~~  
6           ~~PARAGRAPH, EXCEPT THAT THE ELECTRIC DISTRIBUTION COMPANY~~  
7           ~~MAY ADD TO THE GENERATION FACILITIES IT COMMENCED~~  
8           ~~CONSTRUCTION OR CONTRACTED TO ACQUIRE AFTER THIS THREE-~~  
9           ~~YEAR PERIOD TO SERVE ADDITIONAL LOAD OF CUSTOMERS FOR~~  
10          ~~WHOM IT COMMENCED CONSTRUCTION OR CONTRACTED TO ACQUIRE~~  
11          ~~GENERATION WITHIN THREE YEARS. NOTHING IN THIS PARAGRAPH~~  
12          ~~REQUIRES OR AUTHORIZES THE COMMISSION TO REQUIRE AN~~  
13          ~~ELECTRIC DISTRIBUTION COMPANY TO COMMENCE CONSTRUCTION OR~~  
14          ~~ACQUIRE AN INTEREST IN A GENERATION FACILITY. THE~~  
15          ~~ELECTRIC DISTRIBUTION COMPANY'S INTEREST IN THE~~  
16          ~~GENERATION FACILITY IT BUILT OR CONTRACTED TO ACQUIRE~~  
17          ~~SHALL BE NO LARGER THAN NECESSARY TO MEET PEAK DEMAND OF~~  
18          ~~CUSTOMERS SERVED UNDER THIS SUBPARAGRAPH. DURING TIMES~~  
19          ~~WHEN THE CUSTOMER'S DEMAND IS LESS THAN THE ELECTRIC~~  
20          ~~DISTRIBUTION COMPANY'S GENERATION INTEREST, THE ELECTRIC~~  
21          ~~DISTRIBUTION COMPANY MAY SELL EXCESS POWER ON THE~~  
22          ~~WHOLESALE MARKET. AT NO TIME SHALL THE COSTS ASSOCIATED~~  
23          ~~WITH THE GENERATING FACILITY INTERESTS BE INCLUDED IN~~  
24          ~~RATE BASE OR OTHERWISE REFLECTED IN RATES. THE GENERATION~~  
25          ~~FACILITY INTERESTS SHALL NOT BE COMMISSION REGULATED~~  
26          ~~ASSETS.~~

27          ~~(6) A DEFAULT SERVICE PLAN APPROVED BY THE COMMISSION~~  
28          ~~PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN~~  
29          ~~EFFECT THROUGH ITS APPROVED TERM. AT ITS SOLE DISCRETION, THE~~  
30          ~~DEFAULT SERVICE PROVIDER MAY PROPOSE AMENDMENTS TO ITS~~

1 ~~APPROVED PLAN THAT ARE CONSISTENT WITH THIS SECTION, AND THE~~  
2 ~~COMMISSION SHALL ISSUE A DECISION WHETHER TO APPROVE OR~~  
3 ~~DISAPPROVE THE PROPOSED AMENDMENTS WITHIN NINE MONTHS OF THE~~  
4 ~~DATE THAT THE AMENDMENTS ARE FILED. IF THE COMMISSION FAILS~~  
5 ~~TO ISSUE A FINAL ORDER WITHIN NINE MONTHS, THE AMENDMENTS~~  
6 ~~SHALL BE DEEMED TO BE APPROVED AND THE DEFAULT SERVICE~~  
7 ~~PROVIDER MAY IMPLEMENT THE AMENDMENTS AS FILED.~~

8 ~~(7) THE DEFAULT SERVICE PROVIDER SHALL OFFER RESIDENTIAL~~  
9 ~~AND SMALL BUSINESS CUSTOMERS A GENERATION SUPPLY SERVICE RATE~~  
10 ~~THAT SHALL CHANGE NO MORE FREQUENTLY THAN ON A QUARTERLY~~  
11 ~~BASIS. ALL DEFAULT SERVICE RATES SHALL BE REVIEWED BY THE~~  
12 ~~COMMISSION TO ENSURE THAT THE COSTS OF PROVIDING SERVICE TO~~  
13 ~~EACH CUSTOMER CLASS ARE NOT SUBSIDIZED BY ANY OTHER CLASS.~~

14 ~~(F) SMART METER TECHNOLOGY AND TIME OF USE RATES.~~

15 ~~(1) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS~~  
16 ~~PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL FILE A SMART~~  
17 ~~METER TECHNOLOGY PROCUREMENT AND INSTALLATION PLAN WITH THE~~  
18 ~~COMMISSION FOR APPROVAL. THE PLAN SHALL DESCRIBE THE SMART~~  
19 ~~METER TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES~~  
20 ~~TO INSTALL IN ACCORDANCE WITH PARAGRAPH (2).~~

21 ~~(2) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH SMART~~  
22 ~~METER TECHNOLOGY AS FOLLOWS:~~

23 ~~(I) UPON REQUEST TO A CUSTOMER THAT AGREES TO PAY~~  
24 ~~THE COST OF THE SMART METER.~~

25 ~~(II) IN THE CONSTRUCTION OF A NEW RESIDENCE OR NEW~~  
26 ~~BUILDING TO BE USED BY A COMMERCIAL CUSTOMER.~~

27 ~~(III) IN ACCORDANCE WITH A SCHEDULE OF REPLACEMENT~~  
28 ~~OF FULL DEPRECIATION OF EXISTING METERS.~~

29 ~~(3) ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER~~  
30 ~~CONSENT, MAKE AVAILABLE ELECTRONIC ACCESS TO CUSTOMER METER~~

1 ~~DATA TO THIRD PARTIES, INCLUDING ELECTRIC GENERATION~~  
2 ~~SUPPLIERS AND PROVIDERS OF CONSERVATION AND LOAN MANAGEMENT~~  
3 ~~SERVICES.~~

4 ~~(4) AN ELECTRIC DISTRIBUTION COMPANY SHALL NOT BE~~  
5 ~~PERMITTED TO RECOVER THE COSTS, AS DETERMINED BY THE~~  
6 ~~COMMISSION, OF PROVIDING SMART METER TECHNOLOGY UNDER~~  
7 ~~PARAGRAPH (2).~~

8 ~~(5) IN NO EVENT SHALL LOST OR DECREASED REVENUES BY AN~~  
9 ~~ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ELECTRICITY~~  
10 ~~CONSUMPTION OR SHIFTING ENERGY DEMAND BE CONSIDERED A COST OF~~  
11 ~~SMART METER TECHNOLOGY.~~

12 ~~(6) BY JANUARY 1, 2010, OR AT THE END OF THE APPLICABLE~~  
13 ~~GENERATION RATE CAP PERIOD, WHICHEVER IS LATER, A DEFAULT~~  
14 ~~SERVICE PROVIDER SHALL SUBMIT TO THE COMMISSION ONE OR MORE~~  
15 ~~PROPOSED TIME OF USE RATES AND REAL TIME PRICE PLANS. THE~~  
16 ~~COMMISSION SHALL APPROVE OR MODIFY THE TIME OF USE RATES AND~~  
17 ~~REAL TIME PRICE PLAN WITHIN SIX MONTHS OF SUBMITTAL. THE~~  
18 ~~DEFAULT SERVICE PROVIDER SHALL OFFER THE RATES AND REAL TIME~~  
19 ~~PRICE PLAN TO ALL RESIDENTIAL AND COMMERCIAL CUSTOMERS THAT~~  
20 ~~HAVE BEEN PROVIDED WITH SMART METER TECHNOLOGY WITHIN 60 DAYS~~  
21 ~~OF INSTALLATION OF THE SMART METER TECHNOLOGY OR COMMISSION~~  
22 ~~APPROVAL OF THE TIME OF USE RATES AND REAL TIME PRICE PLAN,~~  
23 ~~WHICHEVER IS LATER. RESIDENTIAL OR COMMERCIAL CUSTOMERS MAY~~  
24 ~~ELECT TO PARTICIPATE IN TIME OF USE RATES OR REAL TIME~~  
25 ~~PRICING. THE DEFAULT SERVICE PROVIDER SHALL SUBMIT AN ANNUAL~~  
26 ~~REPORT TO THE COMMISSION ON THE PARTICIPATION IN THE TIME OF~~  
27 ~~USE AND REAL TIME PRICE PROGRAMS AND THE EFFICACY OF THE~~  
28 ~~PROGRAMS IN AFFECTING ENERGY DEMAND AND CONSUMPTION AND THE~~  
29 ~~EFFECT ON WHOLESALE MARKET PRICES.~~

30 ~~(7) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO~~



1 ~~AN ELECTRIC DISTRIBUTION COMPANY WITH 100,000 OR FEWER~~  
2 ~~CUSTOMERS.~~

3 ~~(G) DEFINITION. AS USED IN THIS SECTION, THE TERM "SMART~~  
4 ~~METER TECHNOLOGY" MEANS TECHNOLOGY, INCLUDING METERING~~  
5 ~~TECHNOLOGY AND NETWORK COMMUNICATIONS TECHNOLOGY CAPABLE OF~~  
6 ~~BIDIRECTIONAL COMMUNICATION, THAT RECORDS ELECTRICITY USAGE ON~~  
7 ~~AT LEAST AN HOURLY BASIS, INCLUDING RELATED ELECTRIC~~  
8 ~~DISTRIBUTION SYSTEM UPGRADES TO ENABLE THE TECHNOLOGY. THE~~  
9 ~~TECHNOLOGY SHALL PROVIDE CUSTOMERS WITH DIRECT ACCESS TO AND USE~~  
10 ~~OF PRICE AND CONSUMPTION INFORMATION. THE TECHNOLOGY SHALL ALSO:~~

11 ~~(1) DIRECTLY PROVIDE CUSTOMERS WITH INFORMATION ON THEIR~~  
12 ~~HOURLY CONSUMPTION.~~

13 ~~(2) ENABLE TIME OF USE RATES AND REAL TIME PRICE~~  
14 ~~PROGRAMS.~~

15 ~~(3) EFFECTIVELY SUPPORT THE AUTOMATIC CONTROL OF THE~~  
16 ~~CUSTOMER'S ELECTRICITY CONSUMPTION BY ONE OR MORE OF THE~~  
17 ~~FOLLOWING AS SELECTED BY THE CUSTOMER:~~

18 ~~(I) THE CUSTOMER;~~

19 ~~(II) THE CUSTOMER'S UTILITY; OR~~

20 ~~(III) A THIRD PARTY ENGAGED BY THE CUSTOMER OR THE~~  
21 ~~CUSTOMER'S UTILITY.~~

22 ~~(4) PROVIDE A MEANS TO OBTAIN REAL TIME CONSUMPTION~~  
23 ~~INFORMATION FROM A METER SUCH AS AN INSTALLED PORT OR OUTPUT~~  
24 ~~FOR TRANSMITTING METER PULSE DATA EXTERNAL TO THE METER TO BE~~  
25 ~~USED BY THE CUSTOMER, THE ELECTRIC DISTRIBUTION COMPANY OR A~~  
26 ~~THIRD PARTY ENGAGED BY THE CUSTOMER IN THE ELECTRIC~~  
27 ~~DISTRIBUTION COMPANY.~~

28 ~~SECTION 4. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:~~  
29 ~~§ 2813. PROCUREMENT OF POWER.~~

30 ~~EXCEPT AS PROVIDED UNDER THE ACT OF NOVEMBER 30, 2004~~

1 ~~(P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO~~  
2 ~~STANDARDS ACT, THE COMMISSION MAY NOT ORDER A DEFAULT SERVICE~~  
3 ~~PROVIDER TO PROCURE POWER FROM A SPECIFIC GENERATION SUPPLIER,~~  
4 ~~FROM A SPECIFIC GENERATION FUEL TYPE OR FROM NEW GENERATION~~  
5 ~~ONLY.~~

6 ~~SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.~~

7 SECTION 1. SECTION 305(A) OF TITLE 66 OF THE PENNSYLVANIA <—  
8 CONSOLIDATED STATUTES IS AMENDED TO READ:

9 § 305. DIRECTOR OF OPERATIONS, SECRETARY, EMPLOYEES AND  
10 CONSULTANTS.

11 (A) DIRECTOR OF OPERATIONS.--THE COMMISSION MAY APPOINT A  
12 DIRECTOR OF OPERATIONS WHO SHALL SERVE AT THE PLEASURE OF THE  
13 COMMISSION AND SHALL BE RESPONSIBLE FOR THE DAY-TO-DAY  
14 ADMINISTRATION AND OPERATION OF THE BUREAUS AND OFFICES OF THE  
15 COMMISSION, EXCEPT THAT THE DIRECTOR OF OPERATIONS SHALL HAVE  
16 RESPONSIBILITY FOR THE [OFFICE OF TRIAL STAFF] PROSECUTORIAL  
17 FUNCTION ONLY WITH REGARD TO ADMINISTRATIVE MATTERS.

18 \* \* \*

19 SECTION 1.1. SECTION 306 OF TITLE 66 IS REPEALED:

20 [§ 306. OFFICE OF TRIAL STAFF.

21 (A) GENERAL RULE.--THE OFFICE OF TRIAL STAFF TO THE  
22 PENNSYLVANIA PUBLIC UTILITY COMMISSION IS HEREBY CREATED. THE  
23 DIRECTOR OF TRIAL STAFF, WHO SHALL BE THE CHIEF PROSECUTOR OF  
24 THE COMMISSION, SHALL BE APPOINTED BY THE COMMISSION AND HOLD  
25 OFFICE AT ITS PLEASURE. THE COMMISSION SHALL ASSIGN A PERMANENT  
26 STAFF OF SUCH LEGAL, TECHNICAL AND OTHER EMPLOYEES OF THE  
27 COMMISSION AS MAY BE REQUIRED FOR THE PROPER CONDUCT OF THE WORK  
28 OF THE OFFICE OF TRIAL STAFF. EMPLOYEES ASSIGNED TO THE OFFICE  
29 OF TRIAL STAFF SHALL BE UNDER THE SUPERVISION OF THE DIRECTOR OF  
30 TRIAL STAFF AND SHALL NOT BE ASSIGNED TO ANY DUTIES OTHER THAN

1 WITH THE OFFICE OF TRIAL STAFF, EXCEPT AS THE COMMISSION MAY ON  
2 A TEMPORARY CASE-BY-CASE BASIS PERMIT WHERE THE PERFORMANCE OF  
3 SUCH OTHER DUTIES WILL NOT REPRESENT, OR CREATE THE APPEARANCE  
4 OF, A CONFLICT OF INTEREST. THE COMMISSION MAY DESIGNATE  
5 EMPLOYEES OF THE OFFICE OF TRIAL STAFF TO SERVE AS DEPUTIES TO  
6 THE DIRECTOR OF TRIAL STAFF. THE DIRECTOR OF TRIAL STAFF MAY  
7 RECOMMEND PERSONS FOR CONSIDERATION BY THE COMMISSION AS  
8 EMPLOYEES UNDER HIS SUPERVISION. ATTORNEYS ASSIGNED TO THE  
9 OFFICE OF TRIAL STAFF MAY BE REMOVED BY THE COMMISSION ONLY FOR  
10 GOOD CAUSE. THE COMPENSATION OF THE DIRECTOR OF TRIAL STAFF AND  
11 THE EMPLOYEES UNDER HIS SUPERVISION SHALL BE FIXED BY THE  
12 COMMISSION. THE DIRECTOR OF TRIAL STAFF SHALL REPORT AND BE  
13 RESPONSIBLE DIRECTLY TO THE COMMISSION, PROVIDED THAT THE  
14 DIRECTOR OF TRIAL STAFF SHALL BE RESPONSIBLE TO THE COMMISSION  
15 THROUGH THE DIRECTOR OF OPERATIONS ONLY FOR PURPOSES OF  
16 ADMINISTRATIVE MATTERS.

17 (B) POWER AND DUTIES.--

18 (1) THE OFFICE OF TRIAL STAFF SHALL BE RESPONSIBLE FOR  
19 AND SHALL ASSIST IN THE DEVELOPMENT OF, CHALLENGE OF AND  
20 REPRESENTATION ON THE RECORD OF ALL MATTERS IN THE PUBLIC  
21 INTEREST IN ALL COMMISSION PROCEEDINGS EXCEPT THOSE INVOLVING  
22 TRANSPORTATION, SAFETY, EMINENT DOMAIN, SITING, SERVICE  
23 ISSUES HAVING NO IMPACT ON RATES AND ABILITY TO PAY, PROVIDED  
24 THAT THE DIRECTOR OF TRIAL STAFF MAY PETITION THE COMMISSION  
25 OR MAY BE DIRECTED BY THE COMMISSION TO INTERVENE TO PROTECT  
26 THE PUBLIC INTEREST IN ANY PROCEEDING INVOLVING  
27 TRANSPORTATION, SAFETY, EMINENT DOMAIN, SITING, SERVICE  
28 ISSUES HAVING NO IMPACT ON RATES AND ABILITY TO PAY. TO  
29 ASSIST IN CARRYING OUT HIS POWERS AND DUTIES UNDER THIS  
30 SECTION, THE DIRECTOR OF TRIAL STAFF SHALL SUPERVISE THE

1       ACTIVITIES OF THE OFFICE OF TRIAL STAFF IN ALL COMMISSION  
2       PROCEEDINGS IN WHICH HE PARTICIPATES. IF THE DIRECTOR OF  
3       TRIAL STAFF IS OF THE OPINION THAT THE INITIATION OF A  
4       PROCEEDING IS NECESSARY TO PROTECT THE PUBLIC INTEREST, HE  
5       SHALL REQUEST THAT THE COMMISSION INITIATE THE APPROPRIATE  
6       PROCEEDING. WHEN HE PARTICIPATES IN A COMMISSION PROCEEDING,  
7       IT SHALL BE THE DUTY AND RESPONSIBILITY OF THE DIRECTOR OF  
8       TRIAL STAFF TO PROSECUTE IN THAT PROCEEDING.

9           (2) IN ADDITION TO ANY OTHER RESPONSIBILITY CONVEYED  
10       UPON IT BY THE COMMISSION, THE OFFICE OF TRIAL STAFF SHALL  
11       SUBMIT A REPORT TO THE COMMISSION RECOMMENDING WHETHER THE  
12       COMMISSION SHOULD ENTER UPON A HEARING IN ORDER TO  
13       INVESTIGATE THE JUSTNESS AND REASONABLENESS OF A TARIFF FILED  
14       PURSUANT TO SECTION 1308 (RELATING TO VOLUNTARY CHANGES IN  
15       RATES), TO SUSPEND THE EFFECTIVENESS OF SUCH TARIFF, TO ALLOW  
16       SUCH TARIFF TO BE SUSPENDED BY OPERATION OF LAW OR TO ALLOW  
17       TEMPORARY RATES PURSUANT TO SECTION 1310 (RELATING TO  
18       TEMPORARY RATES). THE REPORT:

19           (I) SHALL RECOMMEND ONLY THE INITIAL ACTION WHICH  
20       THE COMMISSION SHOULD TAKE AND SHALL NOT CONTAIN AN  
21       OPINION AS TO THE PORTION OF A PROPOSED RATE INCREASE  
22       WHICH APPEARS TO BE JUST AND REASONABLE, UNLESS THE  
23       REPORT INCLUDES A FINDING THAT THE PROPOSED RATE INCREASE  
24       APPEARS TO BE JUST AND REASONABLE IN ITS ENTIRETY;

25           (II) SHALL BE RELEASED TO THE PUBLIC IF THE REPORT  
26       RECOMMENDS THAT NO HEARINGS NEED TO BE HELD REGARDING THE  
27       PROPOSED TARIFF OR THAT THE PROPOSED TARIFF SHOULD NOT BE  
28       SUSPENDED, AND MAY BE RELEASED TO THE PUBLIC IN OTHER  
29       CIRCUMSTANCES WHEN, IN THE OPINION OF THE COMMISSION,  
30       SUCH RELEASE WOULD BE IN THE PUBLIC INTEREST;

1 (III) SHALL BE CONSIDERED ONLY AS AN INDICATION OF  
2 THE OFFICE OF TRIAL STAFF'S OPINION REGARDING WHETHER  
3 THERE SHOULD BE A HEARING ON THE PROPOSED TARIFF OR  
4 WHETHER THE PROPOSED TARIFF SHOULD BE SUSPENDED; AND

5 (IV) SHALL NOT BE CONSIDERED AS EVIDENCE OF THE  
6 OFFICE OF TRIAL STAFF'S OPINION REGARDING THE JUSTNESS  
7 AND REASONABLENESS OF ANY PROPOSED TARIFF IN ANY  
8 SUBSEQUENT COMMISSION PROCEEDING.

9 (3) EXCEPT FOR THE DUTIES SET OUT IN PARAGRAPH (2),  
10 NEITHER THE DIRECTOR OF TRIAL STAFF NOR ANY EMPLOYEE WHOM THE  
11 DIRECTOR OF TRIAL STAFF SUPERVISES SHALL COMMUNICATE WITH THE  
12 COMMISSION, AN ADMINISTRATIVE LAW JUDGE OR ANY OTHER EMPLOYEE  
13 OF THE COMMISSION WHO IS DECIDING OR ADVISING IN THE DECISION  
14 IN AN ON-THE-RECORD PROCEEDING, WHETHER CONTESTED OR  
15 UNCONTESTED, AS DEFINED IN SECTION 332(C) (RELATING TO  
16 PROCEDURES IN GENERAL), EXCEPT THROUGH THE PRACTICE AND  
17 PROCEDURE AVAILABLE TO ALL PARTIES TO COMMISSION  
18 PROCEEDINGS.]

19 SECTION 1.2. SECTION 308(A)(2) AND (4), (B), (C), (E), (F)  
20 AND (G) OF TITLE 66 ARE AMENDED TO READ:

21 § 308. BUREAUS AND OFFICES.

22 (A) ENUMERATION.--THERE SHALL BE ESTABLISHED WITHIN THE  
23 COMMISSION THE FOLLOWING BUREAUS AND FUNCTIONS:

24 \* \* \*

25 [(2) BUREAU OF CONSERVATION, ECONOMICS AND ENERGY  
26 PLANNING.]

27 \* \* \*

28 [(4) OFFICE OF SPECIAL ASSISTANTS.]

29 (B) LAW BUREAU.--THE LAW BUREAU SHALL BE A MULTIFUNCTION  
30 LEGAL STAFF, CONSISTING OF A PROSECUTORY FUNCTION, AN ADVISORY

1 FUNCTION, A REPRESENTATIONAL FUNCTION AND AN ENFORCEMENT  
2 FUNCTION. THE DIRECTOR OF THE LAW BUREAU SHALL BE THE CHIEF  
3 COUNSEL OF THE COMMISSION AND SHALL SERVE AT THE PLEASURE OF THE  
4 COMMISSION. THE COMMISSION MAY ALSO, FROM TIME TO TIME, APPOINT  
5 SUCH ASSISTANT COUNSEL TO THE COMMISSION AS MAY BE REQUIRED FOR  
6 THE PROPER CONDUCT OF THE WORK OF THE LAW BUREAU. ASSISTANT  
7 COUNSEL MAY BE REMOVED BY THE COMMISSION ONLY FOR GOOD CAUSE.  
8 THE LAW BUREAU SHALL ADVISE THE COMMISSION ON ANY AND ALL  
9 MATTERS. NO COUNSEL SHALL IN THE SAME CASE OR A FACTUALLY  
10 RELATED CASE PERFORM DUTIES IN THE PROSECUTORY AND ADVISORY  
11 FUNCTIONS, IF SUCH PERFORMANCE WOULD REPRESENT A CONFLICT OF  
12 INTEREST. EXCEPT FOR LITIGATION REFERRED TO THE ATTORNEY GENERAL  
13 OR OTHER APPROPRIATE OUTSIDE COUNSEL, THE LAW BUREAU SOLELY  
14 SHALL BE RESPONSIBLE TO REPRESENT THE COMMISSION UPON APPEALS  
15 AND OTHER HEARINGS IN THE COURTS OF COMMON PLEAS AND IN THE  
16 COMMONWEALTH COURT, SUPREME COURT OR OTHER COURTS OF THIS  
17 COMMONWEALTH OR IN ANY FEDERAL COURT OR AGENCY AND IN ACTIONS  
18 INSTITUTED TO RECOVER PENALTIES AND TO ENFORCE REGULATIONS AND  
19 ORDERS OF THE COMMISSION. [NO MEMBER OF THE LAW BUREAU SHALL  
20 PARTICIPATE IN ANY PROSECUTORY FUNCTION IN ANY MATTER] IF  
21 NECESSARY TO PROTECT THE PUBLIC INTEREST, THE LAW BUREAU,  
22 PURSUANT TO ITS PROSECUTORIAL FUNCTION, MAY INITIATE AND  
23 PARTICIPATE IN PROCEEDINGS BEFORE THE COMMISSION UNLESS DIRECTED  
24 BY THE COMMISSION TO DO SO IN A PROCEEDING INVOLVING  
25 TRANSPORTATION, SAFETY, EMINENT DOMAIN, SITING, SERVICE ISSUES  
26 HAVING NO IMPACT ON RATES OR ABILITY TO PAY OR ASSIST THE OFFICE  
27 OF TRIAL STAFF IN CARRYING OUT THE DUTIES OF THE OFFICE OF TRIAL  
28 STAFF, NOR SHALL ANY MEMBER OF THE LAW BUREAU RECEIVE ASSISTANCE  
29 FROM THE OFFICE OF TRIAL STAFF IN THE PERFORMANCE OF HIS DUTIES.  
30 EXCEPT AS PROVIDED IN THIS SECTION, THE LAW BUREAU MAY RECEIVE

1 ASSISTANCE FROM ANY OTHER BUREAU OR OFFICE OF THE COMMISSION AS  
2 DETERMINED TO BE NECESSARY.

3 [(C) BUREAU OF CONSERVATION, ECONOMICS AND ENERGY  
4 PLANNING.--THE BUREAU OF CONSERVATION, ECONOMICS AND ENERGY  
5 PLANNING SHALL CONDUCT STUDIES AND RESEARCH ALL MATTERS WITHIN  
6 THE COMMISSION'S JURISDICTION AND ADVISE THE COMMISSION OF THE  
7 RESULTS THEREOF IN ORDER TO ENABLE THE COMMISSION TO PROVIDE  
8 PROSPECTIVE REGULATION IN THE BEST INTEREST OF ALL PARTIES  
9 CONCERNED. SUCH STUDIES AND RESEARCH SHALL INCLUDE LONG RANGE  
10 FORECASTING OF ENERGY NEEDS AND DEVELOPMENT; RESEARCH INTO THE  
11 USE OF NEW, EFFICIENT AND ECONOMIC METHODS OF ENERGY PRODUCTION;  
12 THE REVIEW OF THE EFFICIENCY OF THE PRESENT GENERATING SYSTEMS  
13 OPERATED WITHIN THIS COMMONWEALTH; AND THE DEVELOPMENT OF AN  
14 EFFECTIVE PROGRAM OF ENERGY CONSERVATION. THE COMMISSION SHALL  
15 REQUIRE ALL ELECTRIC AND GAS PUBLIC UTILITIES SUBJECT TO ITS  
16 JURISDICTION TO FILE WITH IT AN ANNUAL CONSERVATION REPORT WHICH  
17 SHOWS THE PLANS AND PROGRESS ACHIEVED ON PROGRAMS OF ENERGY  
18 CONSERVATION. THE COMMISSION SHALL, BY RULE, PRESCRIBE  
19 GUIDELINES FOR THE FORM AND MANNER OF SUCH ANNUAL CONSERVATION  
20 REPORT WHICH REPORT SHALL DESCRIBE THE CURRENT AND PROPOSED  
21 PROGRAMS OF EACH SUCH UTILITY DESIGNED TO EDUCATE AND ENCOURAGE  
22 ITS CUSTOMERS IN THE OPTIMUM, EFFECTIVE AND EFFICIENT USE BY  
23 THEM OF ELECTRIC AND GAS ENERGY. THE REPORT SHALL INCLUDE AN  
24 ACCOUNTING OF THE MONETARY AND PERSONNEL RESOURCES ACTUALLY OR  
25 PROPOSED TO BE EXPENDED OR DEVOTED TO AND THE ACTUAL OR  
26 ANTICIPATED RESULTS OF SUCH PROGRAMS. THE BUREAU SHALL REVIEW  
27 ALL PROPOSALS FOR ELECTRIC AND GAS PUBLIC UTILITY PLANT  
28 EXPANSION AND SHALL SUBMIT FOR CONSIDERATION OF THE COMMISSION  
29 ITS FINDINGS ON WHAT IMPACT, IF ANY, THE ELECTRIC AND GAS PUBLIC  
30 UTILITY PLANT EXPANSION WILL HAVE ON RATES CHARGED BY THE PUBLIC

1 UTILITY.]

2 \* \* \*

3 [(E) OFFICE OF SPECIAL ASSISTANTS.--THE OFFICE OF SPECIAL  
4 ASSISTANTS SHALL BE A SUPPORT STAFF WHICH SHALL BE RESPONSIBLE  
5 TO ASSIST IN THE PREPARATION OF COMMISSION ORDERS AND SHALL  
6 PERFORM SUCH OTHER ADVISORY DUTIES AS MAY BE REQUIRED OF IT BY  
7 THE COMMISSION. NO MEMBER OF THE OFFICE OF SPECIAL ASSISTANTS  
8 SHALL PARTICIPATE IN ANY PROSECUTORY FUNCTION IN ANY MATTER  
9 BEFORE THE COMMISSION. NO MEMBER OF THE OFFICE OF SPECIAL  
10 ASSISTANTS SHALL ASSIST THE OFFICE OF TRIAL STAFF IN CARRYING  
11 OUT THE DUTIES OF THE OFFICE OF TRIAL STAFF, NOR SHALL ANY  
12 MEMBER OF THE OFFICE OF SPECIAL ASSISTANTS RECEIVE ASSISTANCE  
13 FROM THE OFFICE OF TRIAL STAFF IN THE PERFORMANCE OF HIS DUTIES.  
14 EXCEPT AS PROVIDED IN THIS SECTION, THE OFFICE OF SPECIAL  
15 ASSISTANTS MAY RECEIVE ASSISTANCE FROM, OR PROVIDE ASSISTANCE  
16 TO, ANY OTHER BUREAU OR OFFICE OF THE COMMISSION AS DETERMINED  
17 TO BE NECESSARY.

18 (F) OTHER BUREAUS AND OFFICES.--THE COMMISSION SHALL  
19 ESTABLISH SUCH BUREAU OR BUREAUS TO PERFORM SUCH DUTIES AS THE  
20 COMMISSION MAY PRESCRIBE REGARDING ALL MATTERS RESPECTING RATES  
21 OF PUBLIC UTILITIES AND ALL MATTERS RESPECTING COMMON CARRIERS  
22 AND CONTRACT CARRIERS. THE ESTABLISHMENT OF THESE BUREAUS SHALL  
23 NOT BE CONSTRUED TO PROHIBIT THE COMMISSION FROM ESTABLISHING  
24 ANY ADDITIONAL BUREAUS WHICH THE COMMISSION FINDS NECESSARY TO  
25 PROTECT THE INTERESTS OF THE PEOPLE OF THIS COMMONWEALTH. THE  
26 BUREAUS MAY PERFORM SUCH OTHER DUTIES NOT INCONSISTENT WITH LAW  
27 AS THE COMMISSION MAY DIRECT.

28 (G) STAFF TESTIMONY.--MEMBERS OF THE STAFF OF THE  
29 COMMISSION, EXCEPT FOR THE OFFICE OF SPECIAL ASSISTANTS, SHALL  
30 APPEAR AND PRESENT TESTIMONY IN ANY PROCEEDING BEFORE THE



1 COMMISSION WHEN CALLED BY THE COMMISSION, THE CHIEF COUNSEL, THE  
2 DIRECTOR OF TRIAL STAFF OR ANY OF THE PARTIES TO THE PROCEEDING.  
3 IN ADDITION TO ANY CROSS-EXAMINATION BY THE OFFICE OF TRIAL  
4 STAFF AS PROVIDED IN SECTION 306 (RELATING TO OFFICE OF TRIAL  
5 STAFF) OR THE CHIEF COUNSEL, ANY MEMBER OF THE COMMISSION STAFF  
6 WHO PARTICIPATES IN THE ANALYSIS, REVIEW AND CONCLUSIONS IN ANY  
7 PROCEEDINGS BEFORE THE COMMISSION MAY, IN THE DISCRETION OF THE  
8 OFFICE OF TRIAL STAFF OR THE CHIEF COUNSEL AND WITH THE CONSENT  
9 OF THE PRESIDING OFFICER, CROSS-EXAMINE ANY WITNESS PRESENTED BY  
10 THE PARTIES TO THE PROCEEDING AT THE PUBLIC HEARING.]

11 SECTION 1.3. TITLE 66 IS AMENDED BY ADDING A SECTION TO  
12 READ:

13 § 308.2. OTHER BUREAUS, OFFICES AND POSITIONS.

14 (A) ESTABLISHMENT OF OTHER BUREAUS, OFFICES AND POSITIONS.--  
15 IN ADDITION TO THE SPECIFIC BUREAUS ESTABLISHED IN THIS PART,  
16 THE COMMISSION MAY ESTABLISH OTHER BUREAUS, OFFICES AND  
17 POSITIONS TO PERFORM THE FOLLOWING FUNCTIONS:

18 (1) REVIEW AND PROVIDE ADVICE REGARDING APPLICATIONS,  
19 PETITIONS, TARIFF FILINGS AND OTHER MATTERS FILED WITH THE  
20 COMMISSION.

21 (2) PROVIDE ADVICE, REVIEW EXCEPTIONS AND PREPARE ORDERS  
22 REGARDING MATTERS TO BE ADJUDICATED.

23 (3) CONDUCT FINANCIAL REVIEWS, EARNINGS ANALYSES AND  
24 OTHER FINANCIAL STUDIES.

25 (4) CONDUCT ECONOMIC RESEARCH, FORECASTING, ENERGY  
26 CONSERVATION STUDIES, COST STUDIES AND OTHER ECONOMIC STUDIES  
27 RELATED TO PUBLIC UTILITIES.

28 (5) MONITOR INDUSTRY MARKETS TO DETECT ANTICOMPETITIVE,  
29 DISCRIMINATORY OR OTHER UNLAWFUL CONDUCT.

30 (6) INSURE ADEQUATE MAINTENANCE, SAFETY AND RELIABILITY

1 OF UTILITY NETWORKS.

2 (7) INSURE ADEQUATE SERVICE QUALITY, EFFICIENCY AND  
3 AVAILABILITY AT JUST AND REASONABLE RATES.

4 (8) CONDUCT FINANCIAL, MANAGEMENT, OPERATIONAL AND  
5 SPECIAL AUDITS.

6 (9) PROVIDE CONSUMER INFORMATION, CONSUMER PROTECTION  
7 AND INFORMAL RESOLUTION OF COMPLAINTS.

8 (10) INSURE ADEQUATE SAFETY, INSURANCE, FITNESS AND  
9 OTHER REQUIREMENTS RELEVANT TO TRANSPORTATION UTILITIES.

10 (11) TAKE APPROPRIATE ENFORCEMENT ACTIONS, INCLUDING  
11 RATE PROCEEDINGS, SERVICE PROCEEDINGS AND ALLOCATION  
12 PROCEEDINGS, NECESSARY TO INSURE COMPLIANCE WITH THIS TITLE,  
13 COMMISSION REGULATIONS AND ORDERS.

14 (12) PERFORM OTHER FUNCTIONS THE COMMISSION DEEMS  
15 NECESSARY FOR THE PROPER WORK OF THE COMMISSION.

16 (B) PROHIBITION ON COMMINGLING OF FUNCTIONS.--A COMMISSION  
17 EMPLOYEE ENGAGED IN A PROSECUTORY FUNCTION MAY NOT, IN THAT  
18 MATTER OR A FACTUALLY RELATED MATTER, PROVIDE ADVICE OR  
19 ASSISTANCE TO A COMMISSION EMPLOYEE PERFORMING AN ADVISORY  
20 FUNCTION AS TO THAT MATTER.

21 SECTION 1.4. SECTION 2803 OF TITLE 66 IS AMENDED BY ADDING  
22 DEFINITIONS TO READ:

23 § 2803. DEFINITIONS.

24 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
25 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
26 CONTEXT CLEARLY INDICATES OTHERWISE:

27 \* \* \*

28 "BILATERAL CONTRACT." AN AGREEMENT, AS APPROVED BY THE  
29 PENNSYLVANIA PUBLIC UTILITY COMMISSION, REACHED BY TWO PARTIES,  
30 EACH ACTING IN ITS OWN INDEPENDENT SELF-INTEREST, AS A RESULT OF

1 NEGOTIATIONS FREE OF UNDUE INFLUENCE, DURESS OR FAVORITISM, IN  
2 WHICH THE ELECTRIC ENERGY SUPPLIER AGREES TO SELL AND THE  
3 ELECTRIC DISTRIBUTION COMPANY AGREES TO BUY A QUANTITY OF  
4 ELECTRIC ENERGY AT A SPECIFIED PRICE FOR A SPECIFIED PERIOD OF  
5 TIME UNDER TERMS AGREED TO BY BOTH PARTIES, AND WHICH FOLLOWS A  
6 STANDARD INDUSTRY TEMPLATE WIDELY ACCEPTED IN THE INDUSTRY OR  
7 VARIATIONS THERETO ACCEPTED BY THE PARTIES. STANDARD INDUSTRY  
8 TEMPLATES MAY INCLUDE THE EEI MASTER AGREEMENT FOR PHYSICAL  
9 ENERGY PURCHASES AND SALES AND THE ISDA MASTER AGREEMENT FOR  
10 FINANCIAL ENERGY PURCHASES AND SALES.

11 \* \* \*

12 "DEFAULT SERVICE PROVIDER." AN ELECTRIC DISTRIBUTION COMPANY  
13 WITHIN ITS CERTIFIED SERVICE TERRITORY OR AN ALTERNATIVE  
14 SUPPLIER APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION  
15 THAT PROVIDES GENERATION SERVICE TO RETAIL ELECTRIC CUSTOMERS  
16 WHO:

17 (1) CONTRACT FOR ELECTRIC POWER, INCLUDING ENERGY AND  
18 CAPACITY, AND THE CHOSEN ELECTRIC GENERATION SUPPLIER DOES  
19 NOT SUPPLY THE SERVICE; OR

20 (2) DO NOT CHOOSE AN ALTERNATIVE ELECTRIC GENERATION  
21 SUPPLIER.

22 \* \* \*

23 SECTION 2. TITLE 66 IS AMENDED BY ADDING SECTIONS TO READ:  
24 § 2806.1. ENERGY EFFICIENCY AND CONSERVATION PROGRAM.

25 (A) PROGRAM.--THE COMMISSION SHALL, BY JANUARY 15, 2009,  
26 ADOPT AN ENERGY EFFICIENCY AND CONSERVATION PROGRAM TO REQUIRE  
27 ELECTRIC DISTRIBUTION COMPANIES TO ADOPT AND IMPLEMENT COST-  
28 EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PLANS TO REDUCE  
29 ENERGY DEMAND AND CONSUMPTION WITHIN THE SERVICE TERRITORY OF  
30 EACH ELECTRIC DISTRIBUTION COMPANY IN THIS COMMONWEALTH. THE

1 PROGRAM SHALL INCLUDE:

2 (1) PROCEDURES FOR THE APPROVAL OF PLANS SUBMITTED UNDER  
3 SUBSECTION (B).

4 (2) AN EVALUATION PROCESS, INCLUDING A PROCESS TO  
5 MONITOR AND VERIFY DATA COLLECTION, QUALITY ASSURANCE AND  
6 RESULTS OF EACH PLAN AND THE PROGRAM.

7 (3) AN ANALYSIS OF THE COST AND BENEFIT OF EACH PLAN  
8 SUBMITTED UNDER SUBSECTION (B) IN ACCORDANCE WITH A TOTAL  
9 RESOURCE COST TEST APPROVED BY THE COMMISSION.

10 (4) AN ANALYSIS OF HOW THE PROGRAM AND INDIVIDUAL PLANS  
11 WILL ENABLE EACH ELECTRIC DISTRIBUTION COMPANY TO ACHIEVE OR  
12 EXCEED THE REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER  
13 SUBSECTIONS (C) AND (D).

14 (5) STANDARDS TO ENSURE THAT EACH PLAN INCLUDES A  
15 VARIETY OF ENERGY EFFICIENCY AND CONSERVATION MEASURES AND  
16 WILL PROVIDE THE MEASURES EQUITABLY TO ALL CLASSES OF  
17 CUSTOMERS.

18 (6) PROCEDURES TO MAKE RECOMMENDATIONS AS TO ADDITIONAL  
19 MEASURES THAT WILL ENABLE AN ELECTRIC DISTRIBUTION COMPANY TO  
20 IMPROVE ITS PLAN AND EXCEED THE REQUIRED REDUCTIONS IN  
21 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

22 (7) PROCEDURES TO REQUIRE THAT ELECTRIC DISTRIBUTION  
23 COMPANIES COMPETITIVELY BID ALL CONTRACTS WITH CONSERVATION  
24 SERVICE PROVIDERS.

25 (8) PROCEDURES TO REVIEW ALL PROPOSED CONTRACTS PRIOR TO  
26 THE EXECUTION OF THE CONTRACT WITH CONSERVATION SERVICE  
27 PROVIDERS TO IMPLEMENT THE PLAN. THE COMMISSION MAY ORDER THE  
28 MODIFICATION OF A PROPOSED CONTRACT TO ENSURE THAT THE PLAN  
29 MEETS THE REQUIREMENTS FOR REDUCTION IN DEMAND AND  
30 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

1           (9) PROCEDURES TO ENSURE COMPLIANCE WITH REQUIREMENTS  
2 FOR REDUCTION IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

3           (10) A REQUIREMENT FOR THE PARTICIPATION OF CONSERVATION  
4 SERVICE PROVIDERS IN THE IMPLEMENTATION OF ALL OR PART OF A  
5 PLAN.

6           (11) COST RECOVERY TO ENSURE THAT MEASURES APPROVED ARE  
7 FINANCED BY THE SAME CUSTOMER CLASS THAT WILL RECEIVE THE  
8 DIRECT ENERGY AND CONSERVATION BENEFITS.

9 (B) DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.--

10           (1) (I) BY JULY 1, 2009, EACH ELECTRIC DISTRIBUTION  
11 COMPANY SHALL DEVELOP AND FILE AN ENERGY EFFICIENCY AND  
12 CONSERVATION PLAN WITH THE COMMISSION FOR APPROVAL TO  
13 MEET THE REQUIREMENTS OF SUBSECTION (A) AND THE  
14 REQUIREMENTS FOR REDUCTION IN CONSUMPTION UNDER  
15 SUBSECTIONS (C) AND (D). THE PLAN SHALL BE IMPLEMENTED  
16 UPON APPROVAL BY THE COMMISSION. THE FOLLOWING ARE THE  
17 PLAN REQUIREMENTS:

18                   (A) THE PLAN SHALL INCLUDE SPECIFIC PROPOSALS TO  
19 IMPLEMENT ENERGY EFFICIENCY AND CONSERVATION MEASURES  
20 TO ACHIEVE OR EXCEED THE REQUIRED REDUCTIONS IN  
21 CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

22                   (B) A MINIMUM OF 10% OF THE REQUIRED REDUCTIONS  
23 IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D) SHALL BE  
24 OBTAINED FROM UNITS OF FEDERAL, STATE AND LOCAL  
25 GOVERNMENT, INCLUDING MUNICIPALITIES, SCHOOL  
26 DISTRICTS, INSTITUTIONS OF HIGHER EDUCATION AND  
27 NONPROFIT ENTITIES.

28                   (C) THE PLAN SHALL EXPLAIN HOW QUALITY ASSURANCE  
29 AND PERFORMANCE WILL BE MEASURED, VERIFIED AND  
30 EVALUATED.

1                   (D) THE PLAN SHALL STATE THE MANNER IN WHICH THE  
2                   PLAN WILL ACHIEVE THE REQUIREMENTS OF THE PROGRAM  
3                   UNDER SUBSECTION (A) AND WILL ACHIEVE OR EXCEED THE  
4                   REQUIRED REDUCTIONS IN CONSUMPTION UNDER SUBSECTIONS  
5                   (C) AND (D).

6                   (E) THE PLAN SHALL INCLUDE A CONTRACT WITH ONE  
7                   OR MORE CONSERVATION SERVICE PROVIDERS SELECTED BY  
8                   COMPETITIVE BID TO IMPLEMENT THE PLAN OR A PORTION OF  
9                   THE PLAN AS APPROVED BY THE COMMISSION.

10                   (F) THE PLAN SHALL INCLUDE ESTIMATES OF THE COST  
11                   OF IMPLEMENTATION OF THE ENERGY EFFICIENCY AND  
12                   CONSERVATION MEASURES IN THE PLAN.

13                   (G) THE PLAN SHALL INCLUDE SPECIFIC ENERGY  
14                   EFFICIENCY MEASURES FOR HOUSEHOLDS AT OR BELOW 150%  
15                   OF THE FEDERAL POVERTY INCOME GUIDELINES. THE NUMBER  
16                   OF MEASURES SHALL BE PROPORTIONATE TO THOSE  
17                   HOUSEHOLDS' SHARE OF THE TOTAL ENERGY USAGE IN THE  
18                   SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION COMPANY  
19                   SHALL COORDINATE MEASURES UNDER THIS CLAUSE WITH  
20                   OTHER PROGRAMS ADMINISTERED BY THE COMMISSION OR  
21                   ANOTHER FEDERAL OR STATE AGENCY. THE EXPENDITURES OF  
22                   AN ELECTRIC DISTRIBUTION COMPANY UNDER THIS CLAUSE  
23                   SHALL BE IN ADDITION TO EXPENDITURES MADE UNDER 52  
24                   PA. CODE CH. 58 (RELATING TO RESIDENTIAL LOW INCOME  
25                   USAGE REDUCTION PROGRAMS).

26                   (H) THE PLAN SHALL INCLUDE A PROPOSED COST-  
27                   RECOVERY TARIFF MECHANISM, IN ACCORDANCE WITH SECTION  
28                   1307 (RELATING TO SLIDING SCALE OR RATES;  
29                   ADJUSTMENTS), TO FUND THE ENERGY EFFICIENCY AND  
30                   CONSERVATION MEASURES AND TO ENSURE FULL AND CURRENT

1           RECOVERY OF THE PRUDENT AND REASONABLE COSTS OF THE  
2           PLAN, INCLUDING ADMINISTRATIVE COSTS, AS APPROVED BY  
3           THE COMMISSION.

4           (I) THE ELECTRIC DISTRIBUTION COMPANY SHALL  
5           DEMONSTRATE THAT THE PLAN IS COST-EFFECTIVE USING A  
6           TOTAL RESOURCE COST TEST APPROVED BY THE COMMISSION  
7           AND PROVIDES A DIVERSE CROSS SECTION OF ALTERNATIVES  
8           FOR CUSTOMERS OF ALL RATE CLASSES.

9           (J) THE PLAN SHALL REQUIRE AN ANNUAL INDEPENDENT  
10          EVALUATION OF ITS COST-EFFECTIVENESS AND A FULL  
11          REVIEW OF THE RESULTS OF EACH FIVE-YEAR PLAN REQUIRED  
12          UNDER SUBSECTION (C)(3) AND, TO THE EXTENT PRACTICAL,  
13          HOW THE PLAN WILL BE ADJUSTED ON A GOING-FORWARD  
14          BASIS AS A RESULT OF THE EVALUATION.

15          (K) THE PLAN SHALL INCLUDE AN ANALYSIS OF THE  
16          ELECTRIC DISTRIBUTION COMPANY'S ADMINISTRATIVE COSTS.

17          (II) A NEW PLAN SHALL BE FILED WITH THE COMMISSION  
18          EVERY FIVE YEARS OR AS OTHERWISE REQUIRED BY THE  
19          COMMISSION. THE PLAN SHALL SET FORTH THE MANNER IN WHICH  
20          THE COMPANY WILL MEET THE REQUIRED REDUCTIONS IN  
21          CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

22          (III) NO MORE THAN 2% OF FUNDS AVAILABLE TO  
23          IMPLEMENT A PLAN UNDER THIS SUBSECTION SHALL BE ALLOCATED  
24          FOR EXPERIMENTAL EQUIPMENT OR DEVICES.

25          (2) THE COMMISSION SHALL DIRECT AN ELECTRIC DISTRIBUTION  
26          COMPANY TO MODIFY OR TERMINATE ANY PART OF A PLAN APPROVED  
27          UNDER THIS SECTION IF, AFTER AN ADEQUATE PERIOD FOR  
28          IMPLEMENTATION, THE COMMISSION DETERMINES THAT AN ENERGY  
29          EFFICIENCY OR CONSERVATION MEASURE INCLUDED IN THE PLAN WILL  
30          NOT ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION IN A COST-

1 EFFECTIVE MANNER UNDER SUBSECTIONS (C) AND (D).

2 (3) IF PART OF A PLAN IS MODIFIED OR TERMINATED UNDER  
3 PARAGRAPH (2), THE ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT  
4 A REVISED PLAN DESCRIBING ACTIONS TO BE TAKEN TO OFFER  
5 SUBSTITUTE MEASURES OR TO INCREASE THE AVAILABILITY OF  
6 EXISTING MEASURES IN THE PLAN TO ACHIEVE THE REQUIRED  
7 REDUCTIONS IN CONSUMPTION UNDER SUBSECTIONS (C) AND (D).

8 (C) REDUCTIONS IN CONSUMPTION.--THE PLANS ADOPTED UNDER  
9 SUBSECTION (B) SHALL REDUCE ELECTRIC CONSUMPTION AS FOLLOWS:

10 (1) BY MAY 31, 2011, TOTAL ANNUAL WEATHER-NORMALIZED  
11 CONSUMPTION OF THE RETAIL CUSTOMERS OF EACH ELECTRIC  
12 DISTRIBUTION COMPANY SHALL BE REDUCED BY A MINIMUM OF 1%. THE  
13 1% LOAD REDUCTION IN CONSUMPTION SHALL BE MEASURED AGAINST  
14 THE ELECTRIC DISTRIBUTION COMPANY'S EXPECTED LOAD AS  
15 FORECASTED BY THE COMMISSION FOR JUNE 1, 2009, THROUGH MAY  
16 31, 2010, WITH PROVISIONS MADE FOR WEATHER ADJUSTMENTS AND  
17 EXTRAORDINARY LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY  
18 MUST SERVE.

19 (2) BY MAY 31, 2013, THE TOTAL ANNUAL WEATHER-NORMALIZED  
20 CONSUMPTION OF THE RETAIL CUSTOMERS OF EACH ELECTRIC  
21 DISTRIBUTION COMPANY SHALL BE REDUCED BY A MINIMUM OF 3%. THE  
22 3% LOAD REDUCTION IN CONSUMPTION SHALL BE MEASURED AGAINST  
23 THE ELECTRIC DISTRIBUTION COMPANY'S EXPECTED LOAD AS  
24 FORECASTED BY THE COMMISSION FOR JUNE 1, 2009, THROUGH MAY  
25 31, 2010, WITH PROVISION MADE FOR WEATHER ADJUSTMENTS AND  
26 EXTRAORDINARY LOADS THAT THE ELECTRIC DISTRIBUTION COMPANY  
27 MUST SERVE.

28 (3) BY NOVEMBER 30, 2013, AND EVERY FIVE YEARS  
29 THEREAFTER, THE COMMISSION SHALL EVALUATE THE COSTS AND  
30 BENEFITS OF THE PROGRAM ESTABLISHED UNDER SUBSECTION (A) AND



1 OF APPROVED ENERGY EFFICIENCY AND CONSERVATION PLANS  
2 SUBMITTED TO THE PROGRAM. THE EVALUATION SHALL BE CONSISTENT  
3 WITH A TOTAL RESOURCE COST TEST OR A COST-BENEFIT ANALYSIS  
4 DETERMINED BY THE COMMISSION. IF THE COMMISSION DETERMINES  
5 THAT THE BENEFITS OF THE PROGRAM EXCEED THE COSTS, THE  
6 COMMISSION SHALL ADOPT ADDITIONAL REQUIRED INCREMENTAL  
7 REDUCTIONS IN CONSUMPTION.

8 (D) PEAK DEMAND.--THE PLANS ADOPTED UNDER SUBSECTION (B)  
9 SHALL REDUCE ELECTRIC DEMAND AS FOLLOWS:

10 (1) BY MAY 31, 2013, THE WEATHER-NORMALIZED DEMAND OF  
11 THE RETAIL CUSTOMERS OF EACH ELECTRIC DISTRIBUTION COMPANY  
12 SHALL BE REDUCED BY A MINIMUM OF 4.5% OF ANNUAL SYSTEM PEAK  
13 DEMAND IN THE 100 HOURS OF HIGHEST DEMAND. THE REDUCTION  
14 SHALL BE MEASURED AGAINST THE ELECTRIC DISTRIBUTION COMPANY'S  
15 PEAK DEMAND FOR JUNE 1, 2007, THROUGH MAY 31, 2008.

16 (2) BY NOVEMBER 30, 2013, THE COMMISSION SHALL COMPARE  
17 THE TOTAL COSTS OF ENERGY EFFICIENCY AND CONSERVATION PLANS  
18 IMPLEMENTED UNDER THIS SECTION TO THE TOTAL SAVINGS IN ENERGY  
19 AND CAPACITY COSTS TO RETAIL CUSTOMERS IN THIS COMMONWEALTH  
20 OR OTHER COSTS DETERMINED BY THE COMMISSION. IF THE  
21 COMMISSION DETERMINES THAT THE BENEFITS OF THE PLANS EXCEED  
22 THE COSTS, THE COMMISSION SHALL SET ADDITIONAL INCREMENTAL  
23 REQUIREMENTS FOR REDUCTION IN PEAK DEMAND FOR THE 100 HOURS  
24 OF GREATEST DEMAND OR AN ALTERNATIVE REDUCTION APPROVED BY  
25 THE COMMISSION. REDUCTIONS IN DEMAND SHALL BE MEASURED FROM  
26 THE ELECTRIC DISTRIBUTION COMPANY'S PEAK DEMAND FOR THE  
27 PERIOD FROM JUNE 1, 2011, THROUGH MAY 31, 2012. THE  
28 REDUCTIONS IN CONSUMPTION REQUIRED BY THE COMMISSION SHALL BE  
29 ACCOMPLISHED NO LATER THAN MAY 31, 2017.

30 (E) COMMISSION APPROVAL.--

1           (1) THE COMMISSION SHALL CONDUCT A PUBLIC HEARING ON  
2 EACH PLAN AND ALLOW FOR THE SUBMISSION OF RECOMMENDATIONS BY  
3 THE OFFICE OF CONSUMER ADVOCATE AND THE OFFICE OF SMALL  
4 BUSINESS ADVOCATE AND BY MEMBERS OF THE PUBLIC AS TO HOW THE  
5 ELECTRIC DISTRIBUTION COMPANY COULD IMPROVE ITS PLAN OR  
6 EXCEED THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER  
7 SUBSECTIONS (C) AND (D).

8           (2) THE COMMISSION SHALL APPROVE OR DISAPPROVE A PLAN  
9 FILED UNDER SUBSECTION (B) WITHIN 120 DAYS OF SUBMISSION. THE  
10 FOLLOWING SHALL APPLY TO AN ORDER DISAPPROVING A PLAN:

11           (I) THE COMMISSION SHALL DESCRIBE IN DETAIL THE  
12 REASONS FOR THE DISAPPROVAL.

13           (II) THE ELECTRIC DISTRIBUTION COMPANY SHALL HAVE 60  
14 DAYS TO FILE A REVISED PLAN TO ADDRESS THE DEFICIENCIES  
15 IDENTIFIED BY THE COMMISSION. THE REVISED PLAN SHALL BE  
16 APPROVED OR DISAPPROVED BY THE COMMISSION WITHIN 60 DAYS.

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 \$100,000 PER DAY UNTIL THE PLAN IS  
23 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 \$100,000 PER DAY UNTIL THE  
27 PLAN IS FILED.

28           (III) PENALTIES COLLECTED UNDER THIS PARAGRAPH SHALL  
29 BE DEPOSITED IN THE LOW-INCOME ELECTRIC CUSTOMER  
30 ASSISTANCE PROGRAM OF THE ENERGY DISTRIBUTION COMPANY FOR

1           THE RESPECTIVE SERVICE TERRITORY.

2           (2) THE FOLLOWING SHALL APPLY TO AN ELECTRIC  
3           DISTRIBUTION COMPANY THAT FAILS TO ACHIEVE THE REDUCTIONS IN  
4           CONSUMPTION REQUIRED UNDER SUBSECTION (C) OR (D):

5           (I) THE ELECTRIC DISTRIBUTION COMPANY SHALL BE  
6           SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$1,000,000 AND  
7           NOT TO EXCEED \$20,000,000 FOR FAILURE TO ACHIEVE THE  
8           REQUIRED REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C)  
9           OR (D). ANY PENALTY PAID BY AN ELECTRIC DISTRIBUTION  
10          COMPANY UNDER THIS SUBPARAGRAPH SHALL NOT BE RECOVERABLE  
11          FROM RATEPAYERS.

12          (II) IF AN ELECTRIC DISTRIBUTION COMPANY FAILS TO  
13          ACHIEVE THE REQUIRED REDUCTIONS IN CONSUMPTION UNDER  
14          SUBSECTION (C) OR (D), RESPONSIBILITY TO ACHIEVE THE  
15          REDUCTIONS IN CONSUMPTION SHALL BE TRANSFERRED TO THE  
16          COMMISSION. THE COMMISSION SHALL DO ALL OF THE FOLLOWING:

17                  (A) IMPLEMENT A PLAN TO ACHIEVE THE REQUIRED  
18                  REDUCTIONS IN CONSUMPTION UNDER SUBSECTION (C) OR  
19                  (D).

20                  (B) CONTRACT WITH CONSERVATION SERVICE PROVIDERS  
21                  AS NECESSARY TO IMPLEMENT ANY PORTION OF THE PLAN.

22                  (G) LIMITATION ON COSTS.--THE TOTAL COST OF ANY PLAN  
23          REQUIRED UNDER THIS SECTION SHALL NOT EXCEED 2% OF THE ELECTRIC  
24          DISTRIBUTION COMPANY'S TOTAL ANNUAL REVENUE AS OF DECEMBER 31,  
25          2006. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO THE  
26          COST OF LOW-INCOME USAGE REDUCTION PROGRAMS ESTABLISHED UNDER 52  
27          PA. CODE CH. 58 (RELATING TO RESIDENTIAL LOW INCOME USAGE  
28          REDUCTION PROGRAMS).

29                  (H) COSTS.--THE COMMISSION SHALL RECOVER FROM ELECTRIC  
30          DISTRIBUTION COMPANIES THE COSTS OF IMPLEMENTING THE PROGRAM

1 ESTABLISHED UNDER THIS SECTION.

2 (I) REPORT.--THE FOLLOWING SHALL APPLY:

3 (1) EACH ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT AN  
4 ANNUAL REPORT TO THE COMMISSION RELATING TO THE RESULTS OF  
5 THE ENERGY EFFICIENCY AND CONSERVATION PLAN WITHIN EACH  
6 ELECTRIC DISTRIBUTION SERVICE TERRITORY. THE REPORT SHALL  
7 INCLUDE ALL OF THE FOLLOWING:

8 (I) DOCUMENTATION OF PROGRAM EXPENDITURES.

9 (II) MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS  
10 UNDER THE PLAN.

11 (III) EVALUATION OF THE COST-EFFECTIVENESS OF  
12 EXPENDITURES.

13 (IV) ANY OTHER INFORMATION REQUIRED BY THE  
14 COMMISSION.

15 (2) BEGINNING FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF  
16 THIS SECTION AND ANNUALLY THEREAFTER, THE COMMISSION SHALL  
17 SUBMIT A REPORT TO THE CONSUMER PROTECTION AND PROFESSIONAL  
18 LICENSURE COMMITTEE OF THE SENATE AND THE CONSUMER AFFAIRS  
19 COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

20 (J) EXISTING FUNDING SOURCES.--EACH ELECTRIC DISTRIBUTION  
21 COMPANY SHALL, UPON REQUEST BY ANY PERSON, PROVIDE A LIST OF ALL  
22 ELIGIBLE FEDERAL AND STATE FUNDING PROGRAMS AVAILABLE TO  
23 RATEPAYERS FOR ENERGY EFFICIENCY AND CONSERVATION. THE LIST  
24 SHALL BE POSTED ON THE ELECTRIC DISTRIBUTION COMPANY'S INTERNET  
25 WEBSITE.

26 (K) RECOVERY.--

27 (1) AN ELECTRIC DISTRIBUTION COMPANY SHALL RECOVER ON A  
28 FULL AND CURRENT BASIS FROM CUSTOMERS, THROUGH A RECONCILABLE  
29 ADJUSTMENT CLAUSE UNDER SECTION 1307, ALL REASONABLE AND  
30 PRUDENT COSTS INCURRED IN THE PROVISION OR MANAGEMENT OF A

1 PLAN PROVIDED UNDER THIS SECTION. THIS PARAGRAPH SHALL APPLY  
2 TO ALL ELECTRIC DISTRIBUTION COMPANIES, INCLUDING ELECTRIC  
3 DISTRIBUTION COMPANIES SUBJECT TO GENERATION OR OTHER RATE  
4 CAPS.

5 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), DECREASED  
6 REVENUES OF AN ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED  
7 ENERGY CONSUMPTION OR CHANGES IN ENERGY DEMAND SHALL NOT BE A  
8 RECOVERABLE COST UNDER A RECONCILABLE AUTOMATIC ADJUSTMENT  
9 CLAUSE.

10 (3) DECREASED REVENUE AND REDUCED ENERGY CONSUMPTION MAY  
11 BE REFLECTED IN REVENUE AND SALES DATA USED TO CALCULATE  
12 RATES IN A DISTRIBUTION-BASE RATE PROCEEDING FILED BY AN  
13 ELECTRIC DISTRIBUTION COMPANY UNDER SECTION 1308 (RELATING TO  
14 VOLUNTARY CHANGES IN RATES).

15 (L) APPLICABILITY.--THIS SECTION SHALL NOT APPLY TO AN  
16 ELECTRIC DISTRIBUTION COMPANY WITH FEWER THAN 100,000 CUSTOMERS.

17 (M) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
18 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
19 SUBSECTION:

20 "CONSERVATION SERVICE PROVIDER." AN ENTITY THAT PROVIDES  
21 INFORMATION AND TECHNICAL ASSISTANCE ON MEASURES TO ENABLE A  
22 PERSON TO INCREASE ENERGY EFFICIENCY OR REDUCE ENERGY  
23 CONSUMPTION AND THAT HAS NO DIRECT OR INDIRECT OWNERSHIP,  
24 PARTNERSHIP OR OTHER AFFILIATED INTEREST WITH AN ELECTRIC  
25 DISTRIBUTION COMPANY.

26 "ELECTRIC DISTRIBUTION COMPANY TOTAL ANNUAL REVENUE."  
27 AMOUNTS PAID TO THE ELECTRIC DISTRIBUTION COMPANY FOR  
28 GENERATION, TRANSMISSION, DISTRIBUTION AND SURCHARGES BY RETAIL  
29 CUSTOMERS.

30 "ENERGY EFFICIENCY AND CONSERVATION MEASURES."

1           (1) TECHNOLOGIES, MANAGEMENT PRACTICES OR OTHER MEASURES  
2 EMPLOYED BY RETAIL CUSTOMERS THAT REDUCE ELECTRICITY  
3 CONSUMPTION OR DEMAND IF ALL OF THE FOLLOWING APPLY:

4           (I) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE IS  
5 INSTALLED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION  
6 AT THE LOCATION OF A RETAIL CUSTOMER.

7           (II) THE TECHNOLOGY, PRACTICE OR OTHER MEASURE  
8 REDUCES CONSUMPTION OF ENERGY OR PEAK LOAD BY THE RETAIL  
9 CUSTOMER.

10           (III) THE COST OF THE ACQUISITION OR INSTALLATION OF  
11 THE MEASURE IS DIRECTLY INCURRED IN WHOLE OR IN PART BY  
12 THE ELECTRIC DISTRIBUTION COMPANY.

13           (2) ENERGY EFFICIENCY AND CONSERVATION MEASURES SHALL  
14 INCLUDE SOLAR OR SOLAR PHOTOVOLTAIC PANELS, ENERGY EFFICIENT  
15 WINDOWS AND DOORS, ENERGY EFFICIENT LIGHTING, INCLUDING EXIT  
16 SIGN RETROFIT, HIGH BAY FLUORESCENT RETROFIT AND PEDESTRIAN  
17 AND TRAFFIC SIGNAL CONVERSION, GEOTHERMAL HEATING,  
18 INSULATION, AIR SEALING, REFLECTIVE ROOF COATINGS, ENERGY  
19 EFFICIENT HEATING AND COOLING EQUIPMENT OR SYSTEMS AND ENERGY  
20 EFFICIENT APPLIANCES AND OTHER TECHNOLOGIES, PRACTICES OR  
21 MEASURES APPROVED BY THE COMMISSION.

22           "PEAK DEMAND." THE HIGHEST ELECTRICAL REQUIREMENT OCCURRING  
23 DURING A SPECIFIED PERIOD. FOR AN ELECTRIC DISTRIBUTION COMPANY,  
24 THE TERM SHALL MEAN THE SUM OF THE METERED CONSUMPTION FOR ALL  
25 RETAIL CUSTOMERS OVER THAT PERIOD.

26           "QUALITY ASSURANCE." ALL OF THE FOLLOWING:

27           (1) THE AUDITING OF BUILDINGS, EQUIPMENT AND PROCESSES  
28 TO DETERMINE THE COST-EFFECTIVENESS OF ENERGY EFFICIENCY AND  
29 CONSERVATION MEASURES USING NATIONALLY RECOGNIZED TOOLS AND  
30 CERTIFICATION PROGRAMS.

1           (2) INDEPENDENT INSPECTION OF COMPLETED ENERGY  
2           EFFICIENCY AND CONSERVATION MEASURES COMPLETED BY THIRD-PARTY  
3           ENTITIES TO EVALUATE THE QUALITY OF THE COMPLETED MEASURE.

4           "REAL-TIME PRICE." A RATE THAT DIRECTLY REFLECTS THE  
5           DIFFERENT COST OF ENERGY DURING EACH HOUR.

6           "TIME-OF-USE RATE." A RATE THAT REFLECTS THE COSTS OF  
7           SERVING CUSTOMERS DURING DIFFERENT TIME PERIODS, INCLUDING OFF-  
8           PEAK AND ON-PEAK PERIODS, BUT NOT AS FREQUENTLY AS EACH HOUR.

9           "TOTAL RESOURCE COST TEST." A STANDARD TEST THAT IS MET IF,  
10          OVER THE EFFECTIVE LIFE OF EACH PLAN NOT TO EXCEED 15 YEARS, THE  
11          NET PRESENT VALUE OF THE AVOIDED MONETARY COST OF SUPPLYING  
12          ELECTRICITY IS GREATER THAN THE NET PRESENT VALUE OF THE  
13          MONETARY COST OF ENERGY EFFICIENCY CONSERVATION MEASURES.

14          § 2806.2. ENERGY EFFICIENCY AND CONSERVATION.

15          (A) REGISTRY.--THE COMMISSION SHALL, BY MARCH 1, 2009,  
16          ESTABLISH A REGISTRY OF APPROVED PERSONS QUALIFIED TO PROVIDE  
17          CONSERVATION SERVICES TO ALL CLASSES OF CUSTOMERS. IN ORDER TO  
18          BE INCLUDED IN THE REGISTRY, A CONSERVATION SERVICE PROVIDER  
19          MUST MEET EXPERIENCE AND OTHER QUALIFICATIONS DETERMINED BY THE  
20          COMMISSION.

21          (B) APPLICATION.--THE COMMISSION SHALL DEVELOP AN  
22          APPLICATION FOR REGISTRATION UNDER SUBSECTION (A) AND MAY CHARGE  
23          A REASONABLE REGISTRATION FEE.

24          SECTION 3. SECTION 2807(E) OF TITLE 66 IS AMENDED AND THE  
25          SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

26          § 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

27          \* \* \*

28          (E) OBLIGATION TO SERVE.--[AN ELECTRIC DISTRIBUTION  
29          COMPANY'S] A DEFAULT SERVICE PROVIDER'S OBLIGATION TO PROVIDE  
30          ELECTRIC GENERATION SUPPLY SERVICE FOLLOWING [IMPLEMENTATION OF

1 RESTRUCTURING AND THE CHOICE OF ALTERNATIVE GENERATION BY A  
2 CUSTOMER] THE EXPIRATION OF A GENERATION RATE CAP SPECIFIED  
3 UNDER SECTION 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING  
4 OF ELECTRIC INDUSTRY) OR A RESTRUCTURING PLAN UNDER SECTION  
5 2806(F) (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND  
6 PERFORMANCE-BASED RATES) IS REVISED AS FOLLOWS:

7 (1) WHILE AN ELECTRIC DISTRIBUTION COMPANY COLLECTS  
8 EITHER A COMPETITIVE TRANSITION CHARGE OR AN INTANGIBLE  
9 TRANSITION CHARGE OR UNTIL 100% OF ITS CUSTOMERS HAVE CHOICE,  
10 WHICHEVER IS LONGER, THE ELECTRIC DISTRIBUTION COMPANY SHALL  
11 CONTINUE TO HAVE THE FULL OBLIGATION TO SERVE, INCLUDING THE  
12 CONNECTION OF CUSTOMERS, THE DELIVERY OF ELECTRIC ENERGY AND  
13 THE PRODUCTION OR ACQUISITION OF ELECTRIC ENERGY FOR  
14 CUSTOMERS.

15 [(2) AT THE END OF THE TRANSITION PERIOD, THE COMMISSION  
16 SHALL PROMULGATE REGULATIONS TO DEFINE THE ELECTRIC  
17 DISTRIBUTION COMPANY'S OBLIGATION TO CONNECT AND DELIVER AND  
18 ACQUIRE ELECTRICITY UNDER PARAGRAPH (3) THAT WILL EXIST AT  
19 THE END OF THE PHASE-IN PERIOD.

20 (3) IF A CUSTOMER CONTRACTS FOR ELECTRIC ENERGY AND IT  
21 IS NOT DELIVERED OR IF A CUSTOMER DOES NOT CHOOSE AN  
22 ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE ELECTRIC  
23 DISTRIBUTION COMPANY OR COMMISSION-APPROVED ALTERNATIVE  
24 SUPPLIER SHALL ACQUIRE ELECTRIC ENERGY AT PREVAILING MARKET  
25 PRICES TO SERVE THAT CUSTOMER AND SHALL RECOVER FULLY ALL  
26 REASONABLE COSTS.]

27 (3.1) FOLLOWING THE EXPIRATION OF AN ELECTRIC  
28 DISTRIBUTION COMPANY'S OBLIGATION TO PROVIDE ELECTRIC  
29 GENERATION SUPPLY SERVICE TO RETAIL CUSTOMERS AT CAPPED  
30 RATES, IF A CUSTOMER CONTRACTS FOR ELECTRIC GENERATION SUPPLY



1 SERVICE AND THE CHOSEN ELECTRIC GENERATION SUPPLIER DOES NOT  
2 PROVIDE THE SERVICE OR IF A CUSTOMER DOES NOT CHOOSE AN  
3 ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE DEFAULT SERVICE  
4 PROVIDER SHALL PROVIDE ELECTRIC GENERATION SUPPLY SERVICE TO  
5 THAT CUSTOMER PURSUANT TO A COMMISSION-APPROVED COMPETITIVE  
6 PROCUREMENT PLAN. THE ELECTRIC POWER ACQUIRED SHALL BE  
7 PROCURED THROUGH COMPETITIVE PROCUREMENT PROCESSES AND SHALL  
8 INCLUDE ONE OR MORE OF THE FOLLOWING:

9 (I) AUCTIONS.

10 (II) REQUESTS FOR PROPOSAL.

11 (III) BILATERAL AGREEMENTS ENTERED INTO AT THE SOLE  
12 DISCRETION OF THE DEFAULT SERVICE PROVIDER WHICH SHALL BE  
13 AT PRICES WHICH ARE:

14 (A) NO GREATER THAN THE COST OF OBTAINING  
15 GENERATION UNDER COMPARABLE TERMS IN THE WHOLESALE  
16 MARKET, AS DETERMINED BY THE COMMISSION AT THE TIME  
17 OF EXECUTION OF THE CONTRACT; OR

18 (B) CONSISTENT WITH A COMMISSION-APPROVED  
19 COMPETITION PROCUREMENT PROCESS. ANY AGREEMENT  
20 BETWEEN AFFILIATED PARTIES SHALL BE SUBJECT TO REVIEW  
21 AND APPROVAL OF THE PENNSYLVANIA PUBLIC UTILITY  
22 COMMISSION UNDER CHAPTER 21 (RELATING TO RELATIONS  
23 WITH AFFILIATED INTERESTS). IN NO CASE SHALL THE COST  
24 OF OBTAINING GENERATION FROM ANY AFFILIATED INTEREST  
25 BE GREATER THAN THE COST OF OBTAINING GENERATION  
26 UNDER COMPARABLE TERMS IN THE WHOLESALE MARKET AT THE  
27 TIME OF EXECUTION OF THE CONTRACT.

28 (3.2) THE ELECTRIC POWER PROCURED PURSUANT TO PARAGRAPH  
29 (3.1) SHALL INCLUDE A PRUDENT MIX OF THE FOLLOWING:

30 (I) SPOT MARKET PURCHASES.

1           (II) SHORT-TERM CONTRACTS.

2           (III) LONG-TERM PURCHASE CONTRACTS, ENTERED INTO AS  
3 A RESULT OF AN AUCTION, REQUEST FOR PROPOSAL OR BILATERAL  
4 CONTRACT THAT IS FREE OF UNDUE INFLUENCE, DURESS OR  
5 FAVORITISM, OF MORE THAN FOUR AND NOT MORE THAN 20 YEARS.  
6 THE DEFAULT SERVICE PROVIDER SHALL HAVE SOLE DISCRETION  
7 TO DETERMINE THE SOURCE AND FUEL TYPE. LONG-TERM PURCHASE  
8 CONTRACTS UNDER THIS SUBPARAGRAPH MAY NOT CONSTITUTE MORE  
9 THAN 25% OF THE DEFAULT SERVICE PROVIDER'S PROJECTED  
10 DEFAULT SERVICE LOAD UNLESS THE COMMISSION, AFTER A  
11 HEARING, DETERMINES FOR GOOD CAUSE THAT A GREATER PORTION  
12 OF LOAD IS NECESSARY TO ACHIEVE LEAST COST PROCUREMENT.  
13 THIS SUBPARAGRAPH SHALL NOT APPLY TO CONTRACTS EXECUTED  
14 UNDER PARAGRAPH (5).

15           (3.3) THE COMMISSION MAY DETERMINE THAT A CONTRACT IS  
16 REQUIRED TO BE EXTENDED FOR A LONGER TERM OF UP TO 20 YEARS,  
17 IF THE EXTENSION IS NECESSARY TO ENSURE ADEQUATE AND RELIABLE  
18 SERVICE AT LEAST COST TO CUSTOMERS OVER TIME.

19           (3.4) THE PRUDENT MIX OF CONTRACTS ENTERED INTO PURSUANT  
20 TO PARAGRAPHS (3.2) AND (3.3) SHALL BE DESIGNED TO ENSURE:

21           (I) ADEQUATE AND RELIABLE SERVICE.

22           (II) THE LEAST COST TO CUSTOMERS OVER TIME.

23           (III) COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH

24           (3.1).

25           (3.5) EXCEPT AS SET FORTH IN PARAGRAPH (5)(II), THE  
26 PROVISIONS OF THIS SECTION SHALL APPLY TO ANY TYPE OF ENERGY  
27 PURCHASED BY A DEFAULT SERVICE PROVIDER TO PROVIDE ELECTRIC  
28 GENERATION SUPPLY SERVICE, INCLUDING ENERGY OR ALTERNATIVE  
29 ENERGY PORTFOLIO STANDARDS CREDITS REQUIRED TO BE PURCHASED  
30 UNDER THE ACT OF NOVEMBER 30, 2004 (P.L.1672, NO.213), KNOWN

1 AS THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT. THE  
2 COMMISSION SHALL APPLY PARAGRAPH (3.4) TO COMPARABLE TYPES OF  
3 ENERGY SOURCES.

4 (3.6) THE DEFAULT SERVICE PROVIDER SHALL FILE A PLAN FOR  
5 COMPETITIVE PROCUREMENT WITH THE COMMISSION AND OBTAIN  
6 COMMISSION APPROVAL OF THE PLAN CONSIDERING THE STANDARDS IN  
7 PARAGRAPHS (3.1), (3.2), (3.3) AND (3.4) BEFORE THE  
8 COMPETITIVE PROCESS IS IMPLEMENTED. THE COMMISSION SHALL HOLD  
9 HEARINGS AS NECESSARY ON THE PROPOSED PLAN. IF THE COMMISSION  
10 FAILS TO ISSUE A FINAL ORDER ON THE PLAN WITHIN NINE MONTHS  
11 OF THE DATE THAT THE PLAN IS FILED, THE PLAN SHALL BE DEEMED  
12 TO BE APPROVED AND THE DEFAULT SERVICE PROVIDER MAY IMPLEMENT  
13 THE PLAN AS FILED. COSTS INCURRED THROUGH AN APPROVED  
14 COMPETITIVE PROCUREMENT PLAN SHALL BE DEEMED TO BE THE LEAST  
15 COST OVER TIME AS REQUIRED UNDER PARAGRAPH (3.4)(II).

16 (3.7) AT THE TIME THE COMMISSION EVALUATES THE PLAN AND  
17 PRIOR TO APPROVAL, IN DETERMINING IF THE DEFAULT ELECTRIC  
18 SERVICE PROVIDER'S PLAN OBTAINS GENERATION SUPPLY AT THE  
19 LEAST COST, THE COMMISSION SHALL CONSIDER THE DEFAULT SERVICE  
20 PROVIDER'S OBLIGATION TO PROVIDE ADEQUATE AND RELIABLE  
21 SERVICE TO CUSTOMERS AND THAT THE DEFAULT SERVICE PROVIDER  
22 HAS OBTAINED A PRUDENT MIX OF CONTRACTS TO OBTAIN LEAST COST  
23 ON A LONG-TERM, SHORT-TERM AND SPOT MARKET BASIS AND SHALL  
24 MAKE SPECIFIC FINDINGS WHICH SHALL INCLUDE THE FOLLOWING:

25 (I) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES  
26 PRUDENT STEPS NECESSARY TO NEGOTIATE FAVORABLE GENERATION  
27 SUPPLY CONTRACTS.

28 (II) THE DEFAULT SERVICE PROVIDER'S PLAN INCLUDES  
29 PRUDENT STEPS NECESSARY TO OBTAIN LEAST COST GENERATION  
30 SUPPLY CONTRACTS ON A LONG-TERM, SHORT-TERM AND SPOT

1           MARKET BASIS.

2           (III) NEITHER THE DEFAULT SERVICE PROVIDER NOR ITS  
3           AFFILIATED INTEREST HAS WITHHELD FROM THE MARKET ANY  
4           GENERATION SUPPLY IN A MANNER THAT VIOLATES FEDERAL LAW.

5           (3.8) NOTWITHSTANDING SECTIONS 508 (RELATING TO POWER OF  
6           COMMISSION TO VARY, REFORM AND REVISE CONTRACTS) AND 2102  
7           (RELATING TO APPROVAL OF CONTRACTS WITH AFFILIATED  
8           INTERESTS), THE COMMISSION MAY MODIFY CONTRACTS OR DISALLOW  
9           COSTS ONLY WHEN THE PARTY SEEKING RECOVERY OF THE COSTS OF A  
10           PROCUREMENT PLAN IS, AFTER HEARING, FOUND TO BE AT FAULT FOR  
11           THE FOLLOWING:

12           (I) NOT COMPLYING WITH THE COMMISSION-APPROVED  
13           PROCUREMENT PLAN; OR

14           (II) THE COMMISSION OF FRAUD, COLLUSION OR MARKET  
15           MANIPULATION WITH REGARD TO THESE CONTRACTS.

16           (3.9) THE DEFAULT SERVICE PROVIDER SHALL HAVE THE RIGHT  
17           TO RECOVER ON A FULL AND CURRENT BASIS, PURSUANT TO A  
18           RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER SECTION 1307  
19           (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), ALL  
20           REASONABLE COSTS INCURRED UNDER THIS SECTION AND A  
21           COMMISSION-APPROVED COMPETITIVE PROCUREMENT PLAN.

22           (4) IF A CUSTOMER THAT CHOOSES AN ALTERNATIVE SUPPLIER  
23           AND SUBSEQUENTLY DESIRES TO RETURN TO THE LOCAL DISTRIBUTION  
24           COMPANY FOR GENERATION SERVICE, THE LOCAL DISTRIBUTION  
25           COMPANY SHALL TREAT THAT CUSTOMER EXACTLY AS IT WOULD ANY NEW  
26           APPLICANT FOR ENERGY SERVICE.

27           (5) (I) NOTWITHSTANDING PARAGRAPH [(3)] (3.1), THE  
28           ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-APPROVED  
29           ALTERNATIVE SUPPLIER MAY, IN ITS SOLE DISCRETION, OFFER  
30           LARGE CUSTOMERS WITH A PEAK DEMAND OF 15 MEGAWATTS OR

1 GREATER AT ONE METER AT A LOCATION IN ITS SERVICE  
2 TERRITORY ANY NEGOTIATED RATE FOR SERVICE AT ALL OF THE  
3 CUSTOMERS' LOCATIONS WITHIN THE SERVICE TERRITORY FOR ANY  
4 DURATION AGREED UPON BY THE ELECTRIC DISTRIBUTION COMPANY  
5 OR COMMISSION-APPROVED ALTERNATIVE SUPPLIER AND THE LARGE  
6 CUSTOMER. THE COMMISSION SHALL PERMIT, BUT SHALL NOT  
7 REQUIRE, AN ELECTRIC DISTRIBUTION COMPANY OR COMMISSION-  
8 APPROVED ALTERNATIVE SUPPLIER TO PROVIDE SERVICE TO LARGE  
9 CUSTOMERS UNDER THIS PARAGRAPH. CONTRACT RATES ENTERED  
10 INTO UNDER THIS PARAGRAPH SHALL BE SUBJECT TO REVIEW BY  
11 THE COMMISSION IN ORDER TO ENSURE THAT ALL COSTS RELATED  
12 TO THE RATES ARE BORNE BY THE PARTIES TO THE CONTRACT AND  
13 THAT NO COSTS RELATED TO THE RATES ARE BORNE BY OTHER  
14 CUSTOMERS OR CUSTOMER CLASSES. IF NO COSTS RELATED TO THE  
15 RATES ARE BORNE BY OTHER CUSTOMERS OR CUSTOMER CLASSES,  
16 THE COMMISSION SHALL APPROVE THE CONTRACT WITHIN 90 DAYS  
17 OF ITS FILING, OR IT SHALL BE DEEMED APPROVED BY  
18 OPERATION OF LAW UPON EXPIRATION OF THE 90 DAYS.  
19 INFORMATION SUBMITTED UNDER THIS PARAGRAPH SHALL BE  
20 SUBJECT TO THE COMMISSION'S PROCEDURES FOR THE FILING OF  
21 CONFIDENTIAL AND PROPRIETARY INFORMATION.

22 (II) FOR PURPOSES OF PROVIDING SERVICE UNDER THIS  
23 PARAGRAPH TO CUSTOMERS WITH A PEAK DEMAND OF 20 MEGAWATTS  
24 OR GREATER AT ONE METER AT A LOCATION WITHIN THAT  
25 DISTRIBUTION COMPANY'S SERVICE TERRITORY, AN ELECTRIC  
26 DISTRIBUTION COMPANY THAT HAS COMPLETED ITS RESTRUCTURING  
27 TRANSITION PERIOD AS OF THE EFFECTIVE DATE OF THIS  
28 PARAGRAPH MAY, IN ITS SOLE DISCRETION, ACQUIRE AN  
29 INTEREST IN A GENERATION FACILITY OR CONSTRUCT A  
30 GENERATION FACILITY SPECIFICALLY TO MEET THE ENERGY

1           REQUIREMENTS OF THE CUSTOMERS, INCLUDING THE ELECTRIC  
2           REQUIREMENTS OF THE CUSTOMERS' OTHER BILLING LOCATIONS  
3           WITHIN ITS SERVICE TERRITORY. THE ELECTRIC DISTRIBUTION  
4           COMPANY MUST COMMENCE CONSTRUCTION OF THE GENERATION  
5           FACILITY OR CONTRACT TO ACQUIRE THE GENERATION INTEREST  
6           WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS  
7           PARAGRAPH, EXCEPT THAT THE ELECTRIC DISTRIBUTION COMPANY  
8           MAY ADD TO THE GENERATION FACILITIES IT COMMENCED  
9           CONSTRUCTION OR CONTRACTED TO ACQUIRE AFTER THIS THREE-  
10          YEAR PERIOD TO SERVE ADDITIONAL LOAD OF CUSTOMERS FOR  
11          WHOM IT COMMENCED CONSTRUCTION OR CONTRACTED TO ACQUIRE  
12          GENERATION WITHIN THREE YEARS. NOTHING IN THIS PARAGRAPH  
13          REQUIRES OR AUTHORIZES THE COMMISSION TO REQUIRE AN  
14          ELECTRIC DISTRIBUTION COMPANY TO COMMENCE CONSTRUCTION OR  
15          ACQUIRE AN INTEREST IN A GENERATION FACILITY. THE  
16          ELECTRIC DISTRIBUTION COMPANY'S INTEREST IN THE  
17          GENERATION FACILITY IT BUILT OR CONTRACTED TO ACQUIRE  
18          SHALL BE NO LARGER THAN NECESSARY TO MEET PEAK DEMAND OF  
19          CUSTOMERS SERVED UNDER THIS SUBPARAGRAPH. DURING TIMES  
20          WHEN THE CUSTOMER'S DEMAND IS LESS THAN THE ELECTRIC  
21          DISTRIBUTION COMPANY'S GENERATION INTEREST, THE ELECTRIC  
22          DISTRIBUTION COMPANY MAY SELL EXCESS POWER ON THE  
23          WHOLESALE MARKET. AT NO TIME SHALL THE COSTS ASSOCIATED  
24          WITH THE GENERATING FACILITY INTERESTS BE INCLUDED IN  
25          RATE BASE OR OTHERWISE REFLECTED IN RATES. THE GENERATION  
26          FACILITY INTERESTS SHALL NOT BE COMMISSION-REGULATED  
27          ASSETS.

28          (6) A DEFAULT SERVICE PLAN APPROVED BY THE COMMISSION  
29          PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN  
30          EFFECT THROUGH ITS APPROVED TERM. AT ITS SOLE DISCRETION, THE

1 DEFAULT SERVICE PROVIDER MAY PROPOSE AMENDMENTS TO ITS  
2 APPROVED PLAN THAT ARE CONSISTENT WITH THIS SECTION, AND THE  
3 COMMISSION SHALL ISSUE A DECISION WHETHER TO APPROVE OR  
4 DISAPPROVE THE PROPOSED AMENDMENTS WITHIN NINE MONTHS OF THE  
5 DATE THAT THE AMENDMENTS ARE FILED. IF THE COMMISSION FAILS  
6 TO ISSUE A FINAL ORDER WITHIN NINE MONTHS, THE AMENDMENTS  
7 SHALL BE DEEMED TO BE APPROVED AND THE DEFAULT SERVICE  
8 PROVIDER MAY IMPLEMENT THE AMENDMENTS AS FILED.

9 (7) THE DEFAULT SERVICE PROVIDER SHALL OFFER RESIDENTIAL  
10 AND SMALL BUSINESS CUSTOMERS A GENERATION SUPPLY SERVICE RATE  
11 THAT SHALL CHANGE NO MORE FREQUENTLY THAN ON A QUARTERLY  
12 BASIS. ALL DEFAULT SERVICE RATES SHALL BE REVIEWED BY THE  
13 COMMISSION TO ENSURE THAT THE COSTS OF PROVIDING SERVICE TO  
14 EACH CUSTOMER CLASS ARE NOT SUBSIDIZED BY ANY OTHER CLASS.

15 (F) SMART METER TECHNOLOGY AND TIME OF USE RATES.--

16 (1) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS  
17 PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL FILE A SMART  
18 METER TECHNOLOGY PROCUREMENT AND INSTALLATION PLAN WITH THE  
19 COMMISSION FOR APPROVAL. THE PLAN SHALL DESCRIBE THE SMART  
20 METER TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES  
21 TO INSTALL IN ACCORDANCE WITH PARAGRAPH (2).

22 (2) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH SMART  
23 METER TECHNOLOGY AS FOLLOWS:

24 (I) UPON REQUEST FROM A CUSTOMER THAT AGREES TO PAY  
25 THE COST OF THE SMART METER AT THE TIME OF THE REQUEST.

26 (II) IN NEW BUILDING CONSTRUCTION.

27 (III) IN ACCORDANCE WITH A DEPRECIATION SCHEDULE NOT  
28 TO EXCEED 15 YEARS.

29 (3) ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER  
30 CONSENT, MAKE AVAILABLE DIRECT METER ACCESS AND ELECTRONIC

1 ACCESS TO CUSTOMER METER DATA TO THIRD PARTIES, INCLUDING  
2 ELECTRIC GENERATION SUPPLIERS AND PROVIDERS OF CONSERVATION  
3 AND LOAD MANAGEMENT SERVICES.

4 (4) IN NO EVENT SHALL LOST OR DECREASED REVENUES BY AN  
5 ELECTRIC DISTRIBUTION COMPANY DUE TO REDUCED ELECTRICITY  
6 CONSUMPTION OR SHIFTING ENERGY DEMAND BE CONSIDERED ANY OF  
7 THE FOLLOWING:

8 (I) A COST OF SMART METER TECHNOLOGY RECOVERABLE  
9 UNDER A RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER  
10 SECTION 1307(B), EXCEPT THAT DECREASED REVENUES AND  
11 REDUCED ENERGY CONSUMPTION MAY BE REFLECTED IN THE  
12 REVENUE AND SALES DATA USED TO CALCULATE RATES IN A  
13 DISTRIBUTION RATE BASE RATE PROCEEDING FILED UNDER  
14 SECTION 1308 (RELATING TO VOLUNTARY CHANGE IN RATES).

15 (II) A RECOVERABLE COST.

16 (5) BY JANUARY 1, 2010, OR AT THE END OF THE APPLICABLE  
17 GENERATION RATE CAP PERIOD, WHICHEVER IS LATER, A DEFAULT  
18 SERVICE PROVIDER SHALL SUBMIT TO THE COMMISSION ONE OR MORE  
19 PROPOSED TIME-OF-USE RATES AND REAL-TIME PRICE PLANS. THE  
20 COMMISSION SHALL APPROVE OR MODIFY THE TIME-OF-USE RATES AND  
21 REAL-TIME PRICE PLAN WITHIN SIX MONTHS OF SUBMITTAL. THE  
22 DEFAULT SERVICE PROVIDER SHALL OFFER THE TIME-OF-USE RATES  
23 AND REAL-TIME PRICE PLAN TO ALL CUSTOMERS THAT HAVE BEEN  
24 PROVIDED WITH SMART METER TECHNOLOGY UNDER PARAGRAPH  
25 (2)(III). RESIDENTIAL OR COMMERCIAL CUSTOMERS MAY ELECT TO  
26 PARTICIPATE IN TIME-OF-USE RATES OR REAL-TIME PRICING. THE  
27 DEFAULT SERVICE PROVIDER SHALL SUBMIT AN ANNUAL REPORT TO THE  
28 PRICE PROGRAMS AND THE EFFICACY OF THE PROGRAMS IN AFFECTING  
29 ENERGY DEMAND AND CONSUMPTION AND THE EFFECT ON WHOLESALE  
30 MARKET PRICES.



1           (6) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO  
2 AN ELECTRIC DISTRIBUTION COMPANY WITH 100,000 OR FEWER  
3 CUSTOMERS.

4           (7) AN ELECTRIC DISTRIBUTION COMPANY MAY RECOVER  
5 REASONABLE AND PRUDENT COSTS OF PROVIDING SMART METER  
6 TECHNOLOGY UNDER PARAGRAPH (2)(II) AND (III), AS DETERMINED  
7 BY THE COMMISSION. THIS PARAGRAPH INCLUDES ANNUAL  
8 DEPRECIATION AND CAPITAL COSTS OVER THE LIFE OF THE SMART  
9 METER TECHNOLOGY AND THE COST OF ANY SYSTEM UPGRADES THAT THE  
10 ELECTRIC DISTRIBUTION COMPANY MAY REQUIRE TO ENABLE THE USE  
11 OF THE SMART METER TECHNOLOGY WHICH ARE INCURRED AFTER THE  
12 EFFECTIVE DATE OF THIS PARAGRAPH LESS OPERATING AND CAPITAL  
13 COST SAVINGS REALIZED BY THE ELECTRIC DISTRIBUTION COMPANY  
14 FROM THE INSTALLATION AND USE OF THE SMART METER TECHNOLOGY.  
15 SMART METER TECHNOLOGY SHALL BE DEEMED TO BE A NEW SERVICE  
16 OFFERED FOR THE FIRST TIME UNDER SECTION 2804(4)(VI). AN  
17 ELECTRIC DISTRIBUTION COMPANY MAY RECOVER SMART METER  
18 TECHNOLOGY COSTS:

19           (I) THROUGH BASE RATES, INCLUDING A DEFERRAL FOR  
20 FUTURE BASE RATE RECOVERY OF CURRENT BASIS WITH CARRYING  
21 CHARGE AS DETERMINED BY THE COMMISSION; OR

22           (II) ON A FULL AND CURRENT BASIS THROUGH A  
23 RECONCILABLE AUTOMATIC ADJUSTMENT CLAUSE UNDER SECTION  
24 1307.

25           (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "SMART  
26 METER TECHNOLOGY" MEANS TECHNOLOGY, INCLUDING METERING  
27 TECHNOLOGY AND NETWORK COMMUNICATIONS TECHNOLOGY CAPABLE OF  
28 BIDIRECTIONAL COMMUNICATION, THAT RECORDS ELECTRICITY USAGE ON  
29 AT LEAST AN HOURLY BASIS, INCLUDING RELATED ELECTRIC  
30 DISTRIBUTION SYSTEM UPGRADES TO ENABLE THE TECHNOLOGY. THE

1 TECHNOLOGY SHALL PROVIDE CUSTOMERS WITH DIRECT ACCESS TO AND USE  
2 OF PRICE AND CONSUMPTION INFORMATION. THE TECHNOLOGY SHALL ALSO:

3 (1) DIRECTLY PROVIDE CUSTOMERS WITH INFORMATION ON THEIR  
4 HOURLY CONSUMPTION.

5 (2) ENABLE TIME-OF-USE RATES AND REAL-TIME PRICE  
6 PROGRAMS.

7 (3) EFFECTIVELY SUPPORT THE AUTOMATIC CONTROL OF THE  
8 CUSTOMER'S ELECTRICITY CONSUMPTION BY ONE OR MORE OF THE  
9 FOLLOWING AS SELECTED BY THE CUSTOMER:

10 (I) THE CUSTOMER;

11 (II) THE CUSTOMER'S UTILITY; OR

12 (III) A THIRD PARTY ENGAGED BY THE CUSTOMER OR THE  
13 CUSTOMER'S UTILITY.

14 SECTION 4. SECTION 2811 OF TITLE 66 IS AMENDED BY ADDING A  
15 SUBSECTION TO READ:

16 § 2811. MARKET POWER REMEDIATION.

17 \* \* \*

18 (E.1) MARKET MISCONDUCT.--

19 (1) IF AN ELECTRIC DISTRIBUTION COMPANY OR ANY OF ITS  
20 AFFILIATED COMPANIES OR ANY COMPANY THAT AN ELECTRIC  
21 DISTRIBUTION COMPANY HAS PURCHASED GENERATION FROM IS FOUND  
22 GUILTY OF MARKET MANIPULATION, EXERCISING MARKET POWER OR  
23 COLLUSION BY THE FEDERAL ENERGY REGULATORY COMMISSION OR ANY  
24 FEDERAL OR STATE COURT OR, IF AN ELECTRIC DISTRIBUTION  
25 COMPANY OR ANY ONE OF ITS AFFILIATED COMPANIES OR ANY COMPANY  
26 THAT AN ELECTRIC DISTRIBUTION COMPANY HAS PURCHASED  
27 GENERATION FROM SETTLES A CLAIM OF MARKET MANIPULATION,  
28 EXERCISING MARKET POWER OR COLLUSION THAT IS BROUGHT BY A  
29 REGIONAL TRANSMISSION OPERATOR'S MARKET MONITORING UNIT, THE  
30 FEDERAL ENERGY REGULATORY COMMISSION OR ANOTHER ENTITY, THE

1       COMMISSION:

2               (I) SHALL DIRECT THE ELECTRIC DISTRIBUTION COMPANY  
3       TO TAKE ANY AND ALL REASONABLE ACTION TO QUANTIFY THE  
4       EFFECT OF THE MARKET MISCONDUCT UPON PENNSYLVANIA  
5       RATEPAYERS.

6               (II) FOLLOWING PUBLIC HEARING ON THE MATTER AND A  
7       FINDING OF PUBLIC INTEREST, MAY DIRECT THE ELECTRIC  
8       DISTRIBUTION COMPANY TO TAKE ANY AND ALL REASONABLE LEGAL  
9       ACTION, INCLUDING THE FILING OF A LAWSUIT AS MAY BE  
10       NECESSARY, TO RECOVER THE QUANTIFIED DAMAGES WHICH SHALL  
11       BE USED TO RECOMPENSE PENNSYLVANIA RATEPAYERS AFFECTED BY  
12       THE MARKET MISCONDUCT.

13               (2) IF THE ELECTRIC DISTRIBUTION COMPANY FAILS TO PURSUE  
14       REASONABLE ACTION TO QUANTIFY OR SEEK RECOVERY OF DAMAGES FOR  
15       PENNSYLVANIA RATEPAYERS AFFECTED BY MARKET MANIPULATION, THE  
16       EXERCISE OF MARKET POWER OR COLLUSION, THE COMMISSION IS  
17       AUTHORIZED, FOLLOWING NOTICE AND AN OPPORTUNITY OF THE  
18       ELECTRIC DISTRIBUTION COMPANY TO COMPLY OR CONTEST, TO ASSESS  
19       A CIVIL PENALTY, WHICH SHALL NOT BE RECOVERED IN RATES, OF  
20       NOT MORE THAN \$10,000 PER DAY FOR FAILURE OR NEGLECT TO OBEY  
21       AN ORDER OF THE COMMISSION, THE CONTINUANCE OF THE FAILURE OR  
22       NEGLECT BEING A SEPARATE OFFENSE.

23               (3) ANY MONETARY DAMAGES RECOVERED BY THE ELECTRIC  
24       DISTRIBUTION COMPANY SHALL BE PAID TO AFFECTED PENNSYLVANIA  
25       RATEPAYERS IN THE FORM OF A CREDIT TO THEIR ELECTRIC BILLS OR  
26       AS REFUNDS.

27               (4) THE PROVISIONS OF THIS SUBSECTION SHALL BE HELD TO  
28       BE IN ADDITION TO AND NOT IN SUBSTITUTION FOR OR LIMITATION  
29       OF ANY OTHER PROVISIONS OF THIS TITLE.

30       \* \* \*

1 SECTION 5. TITLE 66 IS AMENDED BY ADDING SECTIONS TO READ:  
2 § 2813. PROCUREMENT OF POWER.

3 EXCEPT AS PROVIDED UNDER THE ACT OF NOVEMBER 30, 2004  
4 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY PORTFOLIO  
5 STANDARDS ACT, THE COMMISSION MAY NOT ORDER A DEFAULT SERVICE  
6 PROVIDER TO PROCURE POWER FROM A SPECIFIC GENERATION SUPPLIER,  
7 FROM A SPECIFIC GENERATION FUEL TYPE OR FROM NEW GENERATION  
8 ONLY.

9 § 2814. ADDITIONAL ALTERNATIVE ENERGY SOURCES.

10 (A) ALTERNATIVE ENERGY SOURCES.--THE TERM "ALTERNATIVE  
11 ENERGY SOURCES" AS DEFINED UNDER SECTION 2 OF THE ACT OF  
12 NOVEMBER 30, 2004 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE  
13 ENERGY PORTFOLIO STANDARDS ACT, SHALL ALSO INCLUDE LOW-IMPACT  
14 HYDROPOWER CONSISTING OF ANY TECHNOLOGY THAT PRODUCES ELECTRIC  
15 POWER AND THAT HARNESSSES THE HYDROELECTRIC POTENTIAL OF MOVING  
16 WATER IMPOUNDMENTS IF ONE OF THE FOLLOWING APPLIES:

17 (1) (I) THE HYDROPOWER SOURCE HAS A FEDERAL ENERGY  
18 REGULATORY COMMISSION LICENSED CAPACITY OF 21 MEGAWATTS  
19 OR LESS; AND

20 (II) THE LICENSE FOR THE HYDROPOWER SOURCE WAS  
21 ISSUED BY THE FEDERAL ENERGY REGULATORY COMMISSION ON OR  
22 PRIOR TO JANUARY 1, 1984, AND HELD ON JULY 1, 2007, IN  
23 WHOLE OR IN PART BY A MUNICIPALITY LOCATED WHOLLY WITHIN  
24 THIS COMMONWEALTH OR BY AN ELECTRIC COOPERATIVE  
25 INCORPORATED IN THIS COMMONWEALTH.

26 (2) THE INCREMENTAL HYDROELECTRIC DEVELOPMENT:

27 (I) DOES NOT ADVERSELY CHANGE EXISTING IMPACTS TO  
28 AQUATIC SYSTEMS;

29 (II) MEETS THE CERTIFICATION STANDARDS ESTABLISHED  
30 BY THE LOW IMPACT HYDROPOWER INSTITUTE AND AMERICAN

1 RIVERS, INC., OR THEIR SUCCESSORS;

2 (III) PROVIDES AN ADEQUATE WATER FLOW FOR PROTECTION  
3 OF AQUATIC LIFE AND FOR SAFE AND EFFECTIVE FISH PASSAGE;

4 (IV) PROTECTS AGAINST EROSION; AND

5 (V) PROTECTS CULTURAL AND HISTORIC RESOURCES.

6 (B) BIOMASS.--THE TERM "BIOMASS ENERGY" AS DEFINED UNDER  
7 SECTION 2 OF THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT  
8 SHALL ALSO INCLUDE THE GENERATION OF ELECTRICITY UTILIZING BY-  
9 PRODUCTS OF THE PULPING PROCESS AND WOOD MANUFACTURING PROCESS,  
10 INCLUDING BARK, WOOD CHIPS, SAWDUST AND LIGNINS IN SPENT PULPING  
11 LIQUORS. ELECTRICITY FROM BIOMASS ENERGY UNDER THIS SUBSECTION  
12 GENERATED INSIDE THIS COMMONWEALTH SHALL BE ELIGIBLE AS A TIER I  
13 ALTERNATIVE ENERGY SOURCE. ELECTRICITY FROM BIOMASS ENERGY UNDER  
14 THIS SUBSECTION GENERATED OUTSIDE THIS COMMONWEALTH SHALL BE  
15 ELIGIBLE AS A TIER II ALTERNATIVE ENERGY SOURCE.

16 (C) INCREASE IN TIER I.--THE COMMISSION SHALL AT LEAST  
17 QUARTERLY INCREASE THE PERCENTAGE SHARE OF TIER I ALTERNATIVE  
18 ENERGY SOURCES REQUIRED TO BE SOLD BY AN ELECTRIC DISTRIBUTION  
19 COMPANY OR ELECTRIC GENERATION SUPPLIER UNDER SECTION 3(B)(1) OF  
20 THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT TO REFLECT ANY  
21 NEW BIOMASS ENERGY OR LOW-IMPACT HYDROPOWER RESOURCES THAT  
22 QUALIFY AS A TIER I ALTERNATIVE ENERGY SOURCE UNDER THIS  
23 SECTION. NO NEW RESOURCE QUALIFYING AS BIOMASS ENERGY OR LOW-  
24 IMPACT HYDROPOWER UNDER THIS SECTION SHALL BE ELIGIBLE TO  
25 GENERATE TIER I ALTERNATIVE ENERGY CREDITS UNTIL THE COMMISSION  
26 HAS INCREASED THE PERCENTAGE SHARE OF TIER I TO REFLECT THESE  
27 ADDITIONAL RESOURCES.

28 § 2815. CARBON DIOXIDE SEQUESTRATION NETWORK.

29 (A) ASSESSMENT.--

30 (1) BY APRIL 1, 2009, THE DEPARTMENT SHALL COMPLETE A

1 STUDY TO IDENTIFY SUITABLE GEOLOGICAL FORMATIONS, INCLUDING  
2 SITES WITHIN OR IN PROXIMITY TO THE MEDINA, TUSCARORA OR  
3 ORISKANY SANDSTONE FORMATION FOR THE LOCATION OF A STATE  
4 NETWORK.

5 (2) BY JUNE 1, 2009, THE DEPARTMENT, IN CONSULTATION  
6 WITH THE COMMISSION, SHALL HIRE ONE OR MORE INDEPENDENT  
7 EXPERTS PURSUANT TO 62 PA.C.S. PT. I (RELATING TO  
8 COMMONWEALTH PROCUREMENT CODE), AS NECESSARY, TO CONDUCT AN  
9 ASSESSMENT OF THE FOLLOWING:

10 (I) ESTIMATES OF CAPITAL REQUIREMENTS AND  
11 EXPENDITURES NECESSARY FOR THE ESTABLISHMENT, OPERATION  
12 AND MAINTENANCE OF A STATE NETWORK.

13 (II) THE COLLECTION OF DATA TO ALLOW A SAFETY  
14 ASSESSMENT.

15 (III) AN ASSESSMENT OF ALL POTENTIAL RISK TO  
16 INDIVIDUALS, PROPERTY AND THE ENVIRONMENT ASSOCIATED WITH  
17 THE GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE IN A STATE  
18 NETWORK. THE ASSESSMENT, WHICH SHALL BE COMPLETED BY  
19 OCTOBER 1, 2009, SHALL INCLUDE AN ANALYSIS OF THE  
20 FOLLOWING:

21 (A) EXISTING FEDERAL AND STATE REGULATORY  
22 STANDARDS FOR THE STORAGE OF CARBON DIOXIDE.

23 (B) FACTORS CONTAINED IN THE UNITED STATES  
24 ENVIRONMENTAL PROTECTION AGENCY'S VULNERABILITY  
25 EVALUATION FRAMEWORK FOR GEOLOGIC SEQUESTRATION OF  
26 CARBON DIOXIDE (EPA 430-R-08-009, DATED JULY 10,  
27 2008).

28 (C) THE DIFFERENT TYPES OF INSURANCE, BONDS,  
29 OTHER INSTRUMENTS AND RECOMMENDED LEVELS OF INSURANCE  
30 WHICH SHOULD BE CARRIED BY THE OPERATOR OF THE STATE

1           NETWORK DURING THE CONSTRUCTION AND OPERATION OF THE  
2           STATE NETWORK.

3           (D) THE AVAILABILITY OF COMMERCIAL INSURANCE.

4           (E) MODELS FOR THE ESTABLISHMENT OF A  
5           COMMONWEALTH FUND TO PROVIDE PROTECTION AGAINST RISK  
6           TO BE FUNDED BY THE OPERATOR.

7           (B) TRANSMISSION OF STUDY AND ASSESSMENT.--

8           (1) THE DEPARTMENT SHALL SUBMIT THE STUDY CONDUCTED  
9           UNDER SUBSECTION (A)(1) TO THE GOVERNOR, THE CHAIRMAN AND  
10           MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY  
11           COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY CHAIRMAN  
12           OF THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE  
13           HOUSE OF REPRESENTATIVES AND THE DEPARTMENT NO LATER THAN MAY  
14           1, 2009.

15           (2) THE INDEPENDENT EXPERT SHALL SUBMIT THE FINAL  
16           ASSESSMENT UNDER SUBSECTION (A)(2) TO THE GOVERNOR, THE  
17           CHAIRMAN AND MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES  
18           AND ENERGY COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY  
19           CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE  
20           OF THE HOUSE OF REPRESENTATIVES AND THE DEPARTMENT NO LATER  
21           THAN NOVEMBER 1, 2009.

22           (C) DEPARTMENT.--THE FOLLOWING SHALL APPLY:

23           (1) THE DEPARTMENT SHALL REVIEW THE ASSESSMENT SUBMITTED  
24           UNDER SUBSECTION (A)(2) AND ALL GEOLOGIC SEQUESTRATION  
25           REQUIREMENTS ASSOCIATED WITH A STATE NETWORK, INCLUDING  
26           GEOLOGICAL SITE CHARACTERIZATION, MODELING AND VERIFICATION  
27           OF FLUID MOVEMENT, CORRECTIVE ACTION, WELL CONSTRUCTION,  
28           OPERATION, MECHANICAL INTEGRITY TESTING, MONITORING AND SITE  
29           CLOSURE.

30           (2) FOLLOWING THE REVIEW UNDER PARAGRAPH (1), THE

1 DEPARTMENT MAY CONDUCT A PILOT PROJECT TO DETERMINE THE  
2 VIABILITY OF ESTABLISHING A STATE NETWORK IN THIS  
3 COMMONWEALTH.

4 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
5 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
6 SUBSECTION:

7 "CARBON DIOXIDE SEQUESTRATION." THE STORAGE OF CARBON  
8 DIOXIDE IN A SUPERCRITICAL PHASE WITHIN A GEOLOGICAL SUBSURFACE  
9 FORMATION SUCH AS A DEEP SALINE AQUIFER WITH SUITABLE CAP ROCK,  
10 SEALING FAULTS AND ANTICLINES THAT INCLUDES COMPRESSION,  
11 DEHYDRATION AND LEAK DETECTION MONITORING EQUIPMENT AND  
12 PIPELINES TO TRANSPORT CARBON DIOXIDE CAPTURED BY AN ADVANCED  
13 COAL COMBUSTION WITH LIMITED CARBON EMISSIONS PLANT TO AN  
14 UNDERGROUND STORAGE SITE. THE TERM SHALL NOT INCLUDE USE OF THE  
15 CARBON DIOXIDE FOR ENHANCED OIL RECOVERY.

16 "DEPARTMENT." THE DEPARTMENT OF CONSERVATION AND NATURAL  
17 RESOURCES OF THE COMMONWEALTH.

18 "STATE NETWORK." A CARBON DIOXIDE SEQUESTRATION NETWORK  
19 ESTABLISHED ON LANDS OWNED BY THE COMMONWEALTH, OR LANDS ON  
20 WHICH THE COMMONWEALTH HAS ACQUIRED THE RIGHT TO STORE CARBON  
21 DIOXIDE, THAT HAVE BEEN DESIGNATED BY THE DEPARTMENT OF  
22 CONSERVATION AND NATURAL RESOURCES FOR THE STORAGE OF CARBON  
23 DIOXIDE.

24 SECTION 6. THIS ACT SHALL TAKE EFFECT IN 30 DAYS.



Exhibit J

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

WEDNESDAY, OCTOBER 8, 2008

SESSION OF 2008 192ND OF THE GENERAL ASSEMBLY

No. 64

**SENATE**

WEDNESDAY, October 8, 2008

The Senate met at 10 a.m., Eastern Daylight Saving Time.

The PRESIDENT pro tempore (Joseph B. Scarnati III) in the Chair.

**PRAYER**

The Chaplain, Reverend LOUIS BUTCHER, of Brightside Baptist Church, Lancaster, offered the following prayer:

Let us pray.

Our father and our God, we come today with thanksgiving in our hearts and praise on our lips to You, the sovereign of the universe. We observe Your handiwork, and we certainly stand in awe. You are truly an awesome God. Today, we have much to be thankful for. First, You have smiled upon this nation and its people. Despite our problems, we remain the land of the free and the home of the brave. You have endowed us with life, liberty, and the pursuit of happiness, which has made us the greatest nation on Earth.

We come now to ask Your blessings upon the various elements of this union. Be gracious to our President and the branches of our government. Grant wisdom and insight to lead Your people prudently. Watch over us and keep us safe in a world prone to terrorism and violence. Bless our children and our seasoned citizens, the millions of workers who make this republic strong. More than that, remember our courageous young men and women who stand in harm's way to defend our freedom around the globe.

Bless the Commonwealth of Pennsylvania, if You will. Give unto us prosperity and good will. Bless each branch of our State government, and shed Your grace upon the Senate where we stand. Give wisdom to these legislators that they may, in a bipartisan way, do what is best for the citizens of this State. Be with the leadership and help them to make wise decisions.

We ask these things of You with humility and reverence. Grant them, if You will, in Jesus' name. Amen.

The PRESIDENT pro tempore. The Chair thanks Reverend Butcher, who is the guest today of Senator Armstrong.

**PLEDGE OF ALLEGIANCE**

(The Pledge of Allegiance was recited by those assembled.)

**COMMUNICATIONS FROM THE GOVERNOR**

**RECALL COMMUNICATIONS  
REFERRED TO COMMITTEE**

The PRESIDENT pro tempore laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE PENNSYLVANIA ECONOMIC  
DEVELOPMENT FINANCING AUTHORITY**

October 8, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 12, 2008, for the appointment of David E. Landau, 11 Oak Knoll Drive, Wallingford 19086, Delaware County, Ninth Senatorial District, as a member of the Pennsylvania Economic Development Financing Authority, to serve for a term of four years and until his successor is appointed and qualified, vice William Davis, Williamsport, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL  
Governor

**MEMBER OF THE PENNSYLVANIA ECONOMIC  
DEVELOPMENT FINANCING AUTHORITY**

October 8, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 13, 2008, for the appointment of Fred P. Rinaldi, Esquire, One Lee Court, Old Forge 18518, Lackawanna County, Twenty-second Senatorial District, as a member of the Pennsylvania Economic Development Financing Authority, to serve for a term of four years and until his successor is appointed and qualified, vice C. Talbot Heppenstall, Jr., Pittsburgh, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL  
Governor

**SB 1107 (Pr. No. 2472) (Rereported) (Concurrence)**

An Act amending Titles 23 (Domestic Relations) and 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for modification of existing custody orders; and providing for protection of deployed members of the Pennsylvania National Guard and reserve components in child custody arrangements.

**SB 1504 (Pr. No. 2454) (Rereported) (Concurrence)**

An Act providing for the highway capital budget project itemization for the fiscal year 2008-2009 to be financed from current revenue or by the incurring of debt.

**CONSIDERATION OF CALENDAR RESUMED**

**BILL ON CONCURRENCE IN HOUSE AMENDMENTS TO SENATE AMENDMENTS AS AMENDED**

**SENATE CONCURS IN HOUSE AMENDMENTS TO SENATE AMENDMENTS AS AMENDED**

**HB 1096 (Pr. No. 4527)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, further providing for definitions; establishing the Uniform Construction Code Review and Advisory Council; and further providing for revised or successor codes and for training of inspectors.

On the question,

Will the Senate concur in the amendments made by the House to Senate amendments, as further amended by the Senate, to House Bill No. 1096?

Senator PILEGGI. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate amendments, as further amended by the Senate, to House Bill No. 1096.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

**YEA-50**

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earl	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

**NAY-0**

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

**THIRD CONSIDERATION CALENDAR RESUMED**

**BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE**

**HB 2200 (Pr. No. 4526)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for director of operations, secretary, employees and consultants; repealing provisions relating to office of trial staff; further providing for bureaus and offices; providing for other bureaus, offices and positions; further providing for electric utility definitions; providing for energy efficiency and conservation program and for energy efficiency and conservation; further providing for duties of electric distribution companies and for market power remediation; and providing for procurement, for additional alternative energy sources and for carbon dioxide sequestration network.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,

Shall the bill pass finally?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Bucks, Senator Tomlinson.

Senator TOMLINSON. Mr. President, I rise to ask for support for House Bill No. 2200 as amended by the Senate. I think this is very, very important legislation for our consumers today who consume power and energy in Pennsylvania. House Bill No. 2200 is, I think, a large step forward. The Governor of the State of Pennsylvania, Ed Rendell, has been a leader in a new energy policy, and this legislation contains many of those items in there.

It includes demand-side reduction, conservation, that I think is going to help the consumer, in the long run, to reduce the demand on power. We are requiring a reduction of 3 percent by the year 2013 and 4 1/2 percent for peak power, and I think that is extremely important as we go forward with an energy policy, Mr. President. It also contains language in there that we will have smart meters. It is not mandated, but it allows for the deployment of smart meters through a depreciation process, through new home construction process, and through the depreciation of 15 years, and for anyone who wants to purchase a smart meter which they feel will help them manage their electric load better.

I think probably the most important reason that we do this is the procurement language. As many of you know, we fought, in the last few months, trying to get mitigation for rate caps coming off. So that is a year or 2 away in some instances, and I think we have more time to fight that battle, but something that I think will help the consumer immediately will be the fact that we have new procurement standards. We no longer are going to use market pricing. We are going to use best pricing or least price for the consumer, and I think that helps the consumer in the end, when utilities are able to go out and compete for power as they purchase it for the distribution company.

I think that by offering these different tools and giving some latitude, people are not locked into buying power in 1 day for the rest of their contracts. Many of you are aware of the Pike County

situation, where after the episode of Katrina, Pike County and that utility up there were forced to buy their power the day after the hurricane, and of course, the rates were extremely high. Under our provisions here for procurement, we would be able to prevent that. And so for that reason, I think that would be a huge step forward in trying to bring electric rates down for the consumers in Pennsylvania.

I am disappointed. I fought hard to try to get mitigation. I do not think that is possible now, but I do not think that chapter is closed. I think that we are going to stand here and fight hard in these next 2 years and fight for mitigation or fight to make sure that any rate increases when the caps come off are not onerous for our consumers. But I think it is important today that we step forward and take these steps when it comes to demand-side reduction, to energy conservation, and to procurement, to make sure that we are moving forward with a very sensible energy policy in Pennsylvania.

I want to thank several people here. I want to thank Senator Boscola, my counterpart on the committee, for her hard fight and her cooperation. I want to thank my counterparts in the House, Representative McCall and Representative Preston. I want to thank our staffs. Fran Cleaver and Kathy Eakin have worked extremely hard, along with Bernie Kieklak and Christopher Craig, who have done an outstanding job, particularly, I think, in representing the interests of the consumer in this.

We are very, very fortunate in Pennsylvania to have some very strong utility companies, and we are, in fact, an exporter of power. We are, in fact, very energy-independent. We export probably 40 percent of the power we produce. Thirty-five percent of our power is produced by nuclear, and we are, of course, very, very rich in coal resources in Pennsylvania. So I think we have a great base in our energy policies and in our energy companies here to be able to go on and move into some of our alternative energies, to move into a better energy policy, as the Governor has asked for.

So I think this is a great compromise bill. It has been hard-fought. There are very, very strong and passionate positions on both sides of this issue. But I think it is time now to move forward, help the consumer, move forward with a forward-thinking energy policy that the Governor has put forward, and pass this bill today. So for that reason, Mr. President, I ask for a favorable vote on House Bill No. 2200 as amended by the Senate.

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Northampton, Senator Boscola.

Senator BOSCOLA. Mr. President, as we all know, electric rate caps are scheduled to expire in Pennsylvania's five largest electric companies in 2010. And if we do nothing, if we do nothing to protect millions of electric customers from rate shock, the people we represent will see their bills go up by 30, 40, 50, and up to 70 percent in some areas, and that will be overnight.

Today, in House Bill No. 2200, we can finally do something to help millions of ratepayers hold on to more of their money instead of having to send it to their electric company. The procurement provisions contained in this bill will force power companies to purchase least-cost fuel instead of purchasing coal or natural gas or uranium at prevailing market rates, which is more expensive. It also gives Pennsylvania's Consumer Advocate the

tools he needs to keep electric prices as low as possible in the future. That is why our Consumer Advocate endorses this bill today, and personally assured me late last night that passing House Bill No. 2200 today is the right thing to do.

The other major provision of this bill deals with energy conservation and some very important steps that we all need to take for electric use. So-called smart meters by themselves are not magically -- anyone's monthly electric bill is not going to go down just because you are getting a smart meter. That will not happen. But this new technology will reward customers who are smart enough to realize that they can use electricity when it is cheapest during off-peak hours and pay a lower rate. We also made sure that smart meters would not be mandated for every single ratepayer. Not only is that a smarter approach to smart meter deployment, but it will also save electric customers hundreds of millions of dollars paying for something that will not provide a real benefit in their own households.

There is also strong market manipulation language in House Bill No. 2200, and that is what Senator Mellow insisted on being part of this bill. He should be commended for that, and we should not overlook that critical provision, because it will insure that real competition will not be undermined by existing power companies manipulating the wholesale market or the retail market to their own advantage.

What is not contained in this bill, unfortunately, is a real rate relief mitigation plan that I think the Senate needs to pass eventually. As everyone in this Chamber knows, that is what I have been fighting for for the past 2 years, and I do not doubt anybody knows that I am passionate about it, and this is just the beginning of this fight. Now, have we reached an agreement on mitigation yet? No. Despite our best efforts and ongoing negotiations that lasted into early morning, we have not. But I believe we are getting there.

And I know for a fact that we are closer to real rate mitigation now than we were 2 weeks ago or 2 months ago or 2 years ago. If there is anyone who wants to dispute that, you just have to take my word for it. And you can ask Senator Pileggi and Senator Tomlinson. They both sat in marathon sessions, negotiating sessions, and they want what we all want. We want Pennsylvania power companies to put up their own money to make it easier for customers to afford the new deregulated electric rates in 2010 and 2011. To do that will cost billions of dollars, billions, billions, that the companies would have given to their shareholders or slickly added to their profits.

So real rate relief, not just some Christmas card program or a plan to add some coupons, stuff some coupons in your pocket and save \$10 off your next purchase of a \$30,000 solar panel, that is not real rate relief. Just because it did not all come together at the eleventh hour like it does in the movies does not mean that we are done and that mitigation is dead. I have too much respect for Senator Pileggi, Chairman Tomlinson, Senator Fumo, and Senator Mellow to doubt that we will have a mitigation plan in place before rate caps come off. I also know that Governor Rendell will not rest until we have a mitigation plan in place that helps the ratepayers, small businesses, and our most vulnerable industries from this rate shock.

Together, we have put a tremendous amount of time into making this bill good for ratepayers and good for Pennsylvania. I

want to thank Senator Pileggi and Kathy Eakin and Dave Woods on his staff, Senator Tomlinson for going above and beyond the call of duty on this very, very complicated issue, and of course, my shopping partner, Fran Cleaver on his staff. I want to also thank Senator Mellow and Senator Fumo for their faith in me during these times when the obstacles seemed almost insurmountable, and both Gladys Brown and Christopher "Wing Man" Craig, who distinguished themselves in the heat of so many battles here and so many late, late nights and early mornings of hard, hard work.

Our job is not finished. There is still a lot of work to do. As of today, we have 449 days left to get it done before the rate caps come off, and get it done right. And as of today, after talking to Governor Rendell, he had indicated that he will take the bus that he goes around in across the State, and we are going to talk rate mitigation come January and February and take that bus to every corner of the State until we get a rate mitigation plan in effect before 2010.

Thank you, Mr. President. I thank everybody for all their hard work, and let us try to move forward. Thank you.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, first, I want to applaud everyone who has worked so hard on this particular issue - Senator Tomlinson and his staff, Senator Pileggi, and everyone who has been involved and committed to this. I really do think we have a good piece of legislation, but I am going to agree with the gentlewoman from Northampton, because I will tell you what, 10 years ago may have been--and I say may have been--the first and the only time I voted for deregulation.

But the decision I made then was based on what I perceived to be the statements made to me, and as I saw it, that this would result in lower or at least the same level playing field rates for consumers. There was no talk then of a cost increase. There was no talk of a projection increase. There was no talk of a 35- or 40-percent increase at the end. And we still allowed the stranded costs. Then I look over that 10-year period, and the local company I have has made billions of dollars of profit, has been able to distribute very fine dividends to its stockholders. That is fine. That is excellent. That is good.

We have gone from a regulated monopoly to an unregulated monopoly, and I have problems with that. I do not want to move on any piece of legislation until I see the mitigation piece and how it is going to affect the consumers. Then I will say we should do the whole thing. I want to see how it affects the consumers, what it is going to mean to them, and how we are going to put it in place. I know, I hear, well, we will give them a 75-percent break, then a 50-percent break, then a 25-percent break, but as a company borrows that money, you know who is going to end up paying the interest on it. Or I will tell you what, you put your deposit in, and I will give you 6 percent now. Why do I have to go through that gyration when I should have had an understanding, at least it was projected to me, that all things will remain basically the same, except now, you will be able to go out and be at least more competitive. I have not seen that.

Another grave concern I have, too, is I want to make sure that PPL retirees, and those are the people I am talking about, have their pension system put in a separate account. I do not want to

end up like Bethlehem Steel, where it ended up that they closed down, and then I had people looking for pensions. I want these kinds of things to be understood, and I want to know what the consumer is really going to have to pay before I can pass on anything. So for that reason, I will be voting "no."

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Ferlo.

Senator FERLO. Mr. President, with all due respect to all the self-congratulatory accolades being expressed, I am very disappointed in the final outcome represented in this bill, House Bill No. 2200, and it quite honestly represents a sucker punch in the face of electric ratepayers, both individual homeowners and ratepayers at a residential level, as well as those in the small business community, and even larger businesses that are going to have to continue to bear exorbitant rate hikes and rate increases when it comes to electricity.

I am disappointed mostly because as a benchmark piece of legislation, this legislation does not admit or declare in some type of form the horrendous failure that so-called electric choice has been. The State legislature should be held accountable for a bad decision made over 10 years ago in creating so-called electric choice. The only electric choice we have, basically, is to continue to pay exorbitant electric rates.

There is no true competition. There is basically an almost fraudulent methodology by which electricity is purchased on the PJM marketplace. We have companies going to Wall Street, blatantly and with very clear annual statements and reports, even documenting the amount of profiteering that they are going to make off the backs of ratepayers. And as one of my most brilliant colleagues reported at a press conference in June, the rate hikes will basically represent probably the largest tax increase on the backs of Pennsylvania residents and businesses, although it will not be in the form of taxes. It will come through the back door in the form of higher electric rates.

Needless to say, I am less than pleased. I have three amendments here. Two deal, actually, with the issue that everybody seems to say they want, and that is rate mitigation. Well, I have two amendments right here. One is to extend the rate caps to 2013. Another one is to implement a more modified rate cap over a 5-year period at 9 percent per year, which would at least create less pain for residents and small businesses. I am also concerned, at a third level, about the fact that this legislature, just 2 1/2 years ago, removed the so-called Chapter 14 provisions, which at least provided some consumer protections under the Public Utility Commission code.

We have had over 60 house fires in this State in the last 2 years since the removal of the Chapter 14 consumer rights provisions, where people have actually died in their houses, people trying to keep gas and light on either illegally or inappropriately, or during the winter months, trying to use kerosene heaters, lighting wood and fuel. That is a horrendous situation, and given the harsh reality of the economics of this country right now, today, and what everybody admits is going to be hard times for the next several years, I find it reprehensible that we are not able to proceed with some level of rate cap mitigation in this bill and, as well, some restoration of consumer rights to provide opportunities to ban winter shutoffs, to allow a more rational and reasonable reconnect policy as to how much people have to pay to get

their gas and light put back on by the utility company, to allow the Public Utility Commission to reenter as the mediator between the utility companies' narrow self-interests and the ratepayer. Right now, say you are on the phone with some operator, you do not even know if the operator works in China or India or Asia, and you are trying to argue about some consumer right that you feel you have to try to get a more reasonable reconnection. You have no rights whatsoever. We should restore that. And I have amendments that do that.

It is clear, however, that there are important elements in this bill that I certainly would not want to oppose or argue with, because I have fought hard. I have fought hard for some of the provisions that are in this bill, including the provision for the least-cost purchase price, and that is very important. And there are other elements of this bill that none of us would want to argue about, because, in fact, they are moving forward in trying to create a more level playing field between outright profiteering and the ability of small businesses and residences to survive in our Commonwealth with a needed, basic right to electricity.

So I am betwixt and between. There is not majority support to support these amendments, so I am not going to go forward in a Don Quixote fashion and offer amendments on the mitigation side of the equation, and I believe that come January, when people will be freezing to death, maybe there will be an ability for both sides of the aisle, in a nonpartisan way, to come together to talk about restoring some of the consumer protections.

So at this eleventh hour, as my colleague reported, I think it is important that we move forward on the bill, but I do think it is inappropriate that we were not able--and we keep saying we are rushed, it is the eleventh hour. I mean, we do not set the agenda on this side of the aisle. You all do on the aisle opposite. I do not know what says that we have to leave today. I know there is an election coming up in a few weeks. I do not know what says that we cannot reconvene to really deal with the rate cap mitigation. It is not rocket science.

So I am very disappointed, but I think it is important that we try to move forward on this bill, and accordingly, Mr. President, I will not be offering the amendments. Thank you.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Beaver, Senator LaValle.

Senator LaVALLE. Mr. President, as most people probably know, up until about an hour ago, I was prepared to vote "no" on this bill simply because I really wanted to see rate cap mitigation included. I thought that was the direction we were going. Since that time, and I want to be on record, the Governor has assured us that beginning in January, he will do all that he can to address that issue. Senator Boscola has been committed to addressing the issue and working as hard as she can possibly work to get the rate cap mitigation included, or at least address that issue next year. So although I am not very happy with not having it in now, I am prepared to vote "yes."

As Senator Ferlo said, there are some good things in the bill. However, you know, I am not going to be here next year, so the guy who takes my place when the rates go sky high, he can take all the complaining, and I will be one of the complainers. So, hopefully, we will do something to relieve him of that pain.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I want to thank Senator Ferlo for not offering his amendments today, because I think that would have ultimately denied us the opportunity of voting on House Bill No. 2200. I want to thank Senator LaValle and the other Members of my Caucus who were negative and are now positive. But I also want to echo some of the comments, in two particular areas.

This is not a bad bill. This is not a vote against mitigation, which we all seem to want, in one form or another, but this is a step in the right direction. The procurement portions of this bill will result in immediate ratepayer savings. As was mentioned earlier, and I just want to reemphasize, this legislation will change the current law and force utilities to purchase their electricity at the least possible rate, the lowest-cost rate, not the phony market rate that the current law allows them to do.

Secondly, it will require them to have a mix in their portfolio of long-term, short-term, and middle-term contracts, which will ultimately also benefit the consumer. It will require them, in that portfolio, to have at least some long-term contracts, more than 4 years, but not less than 20. And as was also said, the amendment will impose significant safeguards intended to prevent market manipulation and self-dealing.

In addition to that, the bill has been amended to say that the maximum fine will not be \$5 million, which to some of these large utilities is just merely the cost of operation, but rather \$20 million, which is some pain.

Then, on the demand side, we do have long-term goals and positions that will save us energy in the long run. But like everything else, no one wants to hear about that, because it is not going to really kick in for 8 to 10 years. But it is there, and future generations will be the beneficiaries of that. In addition, we did not mandate smart meters, but we made them optional. We did say in new construction, where they really are practical, they will be put in.

So this is not a bad vote for anybody. What has been explained to me in the main argument that I have heard is that, gee, we blew an opportunity. We had some leverage. We had no leverage with utility companies on this bill. This was similar to the guy who stands there with a gun to his head and says to the other guy, if you move, I will shoot. There was no leverage against utility companies in this bill.

Next, I want to address, because I, too, will not be here, but I was here in 1996 when I not only voted against deregulation, I predicted that there would not be any competition, and regrettably, my prediction has come true. But then I sued PECO, and I was the one who got the 8-percent reduction and the current caps that we have. Now I am beginning to think it was the right thing to do. We saved people billions of dollars, but when it comes off, they are going to be upset.

In addition to that, the people have not yet gotten the message. That is why I think the utility companies have made a major strategic mistake by not attempting to resolve mitigation at this stage. What is going to happen is every day they delay in coming to the table, and every day we do not do anything about mitigation in the next Session, more and more pressure is going to be built up

against them. And I know the reality here, having served here over 30 years. We are usually dealing with this lobbyist versus that lobbyist, this union versus this construction company, and all these special interests. For the first time, when this begins to become a reality, the power base will not be with any lobbyist, will not be with any special interest group. It will be with those who are with the people. The people will rebel. The people will demand mitigation far in excess, far in excess to what we are willing to compromise with today. But the utilities will ultimately pay for that arrogance.

Lastly, because I will not be here, the way to serve consumers is not to get \$1.5 billion, \$2 billion, \$5 billion, \$10 billion, \$20 billion into this, because we are now dealing with an unregulated utility industry. We have never done that before. They were always regulated, until 1996, when we deregulated, and then immediately, they had the caps imposed upon them so no one ever suffered or saw the reality of an unregulated monopoly, and that is what we have here. So when that happens, getting \$1 billion or \$10 billion is not going to help, because they are not regulated. They will just get it back again. It is a shell game. The only real way to protect the consumer is to devise a scheme that would have in it some sort of index with a ceiling that would go forth in perpetuity, and that ceiling might be inflation plus 2 percent, 3 percent, or whatever. But that will do two things. That will give consumers predictability in where their rates are going, it will protect them from the gouging, and it will also give utility companies predictability. That should be the goal you strive for in the next Session.

But in the end, voting for this bill is a major step forward, and this will save consumers and ratepayers money right now. It is not that we are not doing anything for them. We are. We would like to do more. We will do this now, given the reality. So I urge everyone to vote in the affirmative, and from what I understand on our side of the aisle, that will be a reality. I am very happy about that, and I want to thank my colleagues for that, and I would hope on the other side that we can get very near that unanimous number as well, to show the public that we do care, that we do have concerns for what is going to hit them. Because right now, they are getting beat up every which way from Sunday with the stock market, with their IRAs, savings accounts, the cost of food, the cost of gasoline, the cost of heating oil. We can help them with this. This is a step in that direction, and we should do more, and I am positive we will do more in the next Session.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Bucks, Senator Tomlinson.

Senator TOMLINSON. Mr. President, I will be brief. I just want to reiterate that the utilities were never held at leverage. The utilities were never who we could get anything out of. It was always the Governor's proposal on energy. It was the Governor whom I was looking forward to bringing in to help us, against the utilities, to bring about mitigation. The Governor stepped up, the Governor stepped in, and the Governor had meetings.

The Governor called in all the CEOs and executives from the utility companies. I was in some of those meetings, and my colleagues from the other side of the aisle were in some of those meetings, and we tried very, very hard. And some utilities

stepped up. Some utilities offered some plans. Some utilities did not. I do not think it is something we can do piecemeal. I do not think it is something we can do with one utility and not with another utility. We just did not get all of the utilities together. But that is not a reason not to vote for this legislation.

This legislation-- I cannot believe that the utilities can be happy about the procurement language that we are about to propose. I think this procurement language helps the consumer, gives the PUC oversight over these contracts, allows them to look at these contracts to make sure that there is not any manipulation in the contracts. So I think we have given more tools to the consumer by allowing this.

Right now, there are actually two cases before the PUC. If we vote this out and the Governor signs this, that will give the PUC the power to actually help the consumer in those two rate cases because we changed the standards from market to best price or least price for the consumer, instead of market price. So I think it is extremely important to the consumer that we move this forward. It is extremely important when we start moving this energy policy into the new technologies, into the meters. Not everyone believes in universal meters and mandatory meters, but it is a technology that we have to move into. It is a technology that I think, in the future, is going to show more benefit to the consumer. And certainly, we should start to manage our demand side. We have to bring that peak power load down.

So there is a lot of good in this legislation. It is extremely important, I think, that we move forward, and the fight is not over. I want to thank Senator LaValle for his passion in the meetings that we have had on this. He has done a wonderful job standing up for the consumer. I want to thank Senator Ferlo for his passion, and I know he is going to continue to be here to help us fight that fight. But the leverage is not on this legislation, the leverage was on the Governor holding up his legislation to help me leverage the utilities. The Governor has done that, and I am confident the Governor is going to continue to help us fight the utilities and fight and bring about an equitable settlement with them.

So, with that, I think this is a very good bill. It is a good compromise bill. I think the administration has given up a lot to get this done, and I think we have given up a lot to get this done. Not everybody is totally happy with this. I know the Governor would like to have seen a little bit more. I would like to have seen a little bit more. I think it is a good compromise bill, and I ask for an affirmative vote. I would also like to thank Senator Fumo, whom I did not mention before, who has worked very, very hard to try to bring this thing together. And I thank Senator Fumo very much for his help on this.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I will be brief. I do not want to repeat all of the comments that have been made, many of them valid. I do want to address a couple of comments made, the comments by Senator Ferlo regarding the shutoff legislation that was contained in an amendment he planned to offer. I had told him privately, and I will repeat publicly, that I am willing to work with him on that important issue as we move toward the next Session, and hopefully we can reach an improvement in the cur-

rent law as it pertains to people facing both shutoff notices and the difficult task of being reconnected to utilities once they go through a shutoff process.

As to the issue of mitigation, I share Senator Boscola's comments as to the importance of that litigation being worked on and addressed here. I have said publicly that that was probably the most important topic that we needed to address in the various topics of energy legislation. Unfortunately, we simply were not able to reach an agreement on legislation to deal with that now, but I will continue to work with Senator Boscola and the other Members of the Senate who are interested in this topic. It is something that we absolutely have to do for consumers in Pennsylvania going forward.

I do want to commend Senator Tomlinson for his leadership on this issue and his patience over, now, almost 2 years in working through these issues; Senator Boscola and the leadership on the other side of the aisle, Senator Mellow and Senator Fumo, in working through these difficult issues; and also their staffs who worked very long hours. Although not complete because we do not have the mitigation legislation as part of this package, I think this is a tremendous improvement in the law in Pennsylvania on demand-side management and on procurement, and it is certainly something worthy of support by every Member of this body. I urge an affirmative vote.

Thank you, Mr. President.

LEGISLATIVE LEAVE

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a legislative leave for Senator Punt.

The PRESIDENT pro tempore. Senator Pileggi requests a legislative leave for Senator Punt. Without objection, the leave will be granted.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-47

Armstrong	Fumo	O'Pake	Tartaglione
Baker	Gordner	Orie	Tomlinson
Boscola	Greenleaf	Piccola	Vance
Browne	Hughes	Pileggi	Washington
Brubaker	Kasunic	Pippy	Waugh
Corman	Kitchen	Punt	White, Donald
Costa	LaValle	Rafferty	White, Mary Jo
Dinniman	Logan	Regola	Williams, Anthony H.
Earll	Madigan	Robbins	Williams, Constance
Erickson	Mellhinney	Scarnati	Wonderling
Ferlo	Mellow	Stack	Wozniak
Fontana	Musto	Stout	

NAY-3

Eichelberger	Folmer	Rhoades
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A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**HB 2294 (Pr. No. 4525)** -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the licensure of persons providing debt management services and for the powers and duties of the Department of Banking; requiring surety bonds; prohibiting certain fees and costs; providing for debt management plans; and prohibiting certain acts by persons providing debt management services.

Considered the third time and agreed to,  
And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I offer remarks for the record.

The PRESIDENT pro tempore. The remarks will be spread upon the record.

*(The following prepared remarks were made part of the record at the request of the gentleman from Allegheny, Senator COSTA:)*

Mr. President, I rise in support of this bill and to make a few brief remarks.

First, I would like to thank Senator Browne, Senator Greenleaf, Senator Stack, and Senator Fumo for their work on this important piece of legislation. Their efforts helped to address many of the concerns expressed by nonprofit consumer credit counseling agencies and made this bill a much better product.

For the first time, this legislation establishes a regulatory framework governing consumer credit counseling agencies, both for-profit and nonprofit agencies. We are in the midst of one of the greatest financial crises in our nation's history. A large part of the problem we are experiencing has to do with consumer debt. For better or worse, many in our communities have gotten in over their heads. In this atmosphere, many will rely on credit counseling agencies to provide advice and guidance, as well as assistance to put them into a debt management or debt settlement program.

Now is a great time for this legislation because it will impose strong regulation through the Department of Banking on the entities that will provide this important advice and services to consumers. Currently, there is no requirement to be licensed to offer debt management services or debt settlement services in Pennsylvania.

The bill would require that those offering debt management services be licensed, bonded, and certified. Further, the bill offers significant enforcement powers to the Department of Banking as well as remedies for aggrieved persons. The bill sets limitations on fees a consumer may be charged. This is an important consumer protection change to the law, as there currently are no limitations on the fees a consumer may be charged.

The legislation requires entities offering debt management services or debt settlement services to be licensed by the department and to operate according to regulations promulgated by the department. Those offering debt management services would also be required to renew their license on a yearly basis.

The application for a license would require the applicant to disclose any ownership interest of any officer, director, agent, or employee in an



The PRESIDENT pro tempore. Senator Pileggi requests that the remaining items on today's Calendar be laid upon the table.

The motion was agreed to by voice vote.

### ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

#### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

#### WEDNESDAY, OCTOBER 8, 2008

Off the Floor	RULES AND EXECUTIVE NOMINATIONS (to consider Senate Bills No. 100, 263, 295, 763, 768, 1028, 1107, 1114, 1258 and 1504; and certain executive nominations)	Rules Cmte. Conf. Rm.
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Off the Floor	ENVIRONMENTAL RESOURCES AND ENERGY (to consider certain Environmental Quality Board regulations, including diesel truck idling and triennial review of water quality standards)	Rules Cmte. Conf. Rm.
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#### TUESDAY, OCTOBER 14, 2008

11:00 A.M.	PUBLIC HEALTH AND WELFARE (public hearing on Senate Bill No. 1255)	Room 8E-A East Wing
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### RECESS

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I move that the Senate do now recess to the call of the President pro tempore.

The motion was agreed to by voice vote.

### AFTER RECESS

The PRESIDENT pro tempore. The time of recess having expired, the Senate will come to order.

### RECESS

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I move that the Senate do now recess until Thursday, November 20, 2008, at 3:30 p.m., Eastern Standard Time.

The motion was agreed to by voice vote.

The Senate recessed at 1:51 p.m., Eastern Daylight Saving Time.

## Exhibit K

# Pennsylvania State Senate

[https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc\\_view\\_action2.cfm?sess\\_yr=2007&sess\\_ind=0&rc\\_body=S&rc\\_nbr=826](https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2007&sess_ind=0&rc_body=S&rc_nbr=826)

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## Senate Roll Calls

RSS Available 

### Senate of Pennsylvania Session of 2007-2008 Regular Session

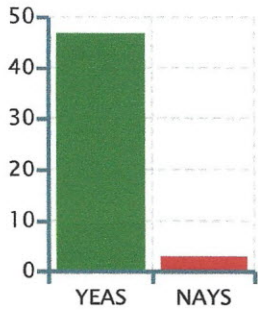
**Details for RCS No. 826**

Wednesday Oct. 8, 2008

House Bill 2200 PN 4526  
FINAL PASSAGE

**Summary**

Y	YEAS	47
N	NAYS	3
X	N/V	0
<b>TOTAL</b>		<b>50</b>



**Prime Sponsor**

GEORGE

**Short Title**

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for director of operations, secretary, employ...

Y ARMSTRONG	Y HUGHES	N RHOADES
Y BAKER	Y KASUNIC	Y ROBBINS
Y BOSCOLA	Y KITCHEN	Y SCARNATI
Y BROWNE	Y LAVALLE	Y STACK
Y BRUBAKER	Y LOGAN	Y STOUT
Y CORMAN	Y MADIGAN	Y TARTAGLIONE
Y COSTA	Y MCILHINNEY	Y TOMLINSON
Y DINNIMAN	Y MELLOW	Y VANCE
Y EARLL	Y MUSTO	Y WASHINGTON
N EICHELBERGER	Y O'PAKE	Y WAUGH
Y ERICKSON	Y ORIE	Y WHITE, DONALD
Y FERLO	Y PICCOLA	Y WHITE, MARY JO
N FOLMER	Y PILEGGI	Y WILLIAMS, ANTHONY H.
Y FONTANA	Y PIPPY	Y WILLIAMS, CONSTANCE
Y FUMO	Y PUNT	Y WONDERLING
Y GORDNER	Y RAFFERTY	Y WOZNIAK
Y GREENLEAF	Y REGOLA	

Exhibit L

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

WEDNESDAY, OCTOBER 8, 2008

SESSION OF 2008

192D OF THE GENERAL ASSEMBLY

No. 65

### HOUSE OF REPRESENTATIVES

The House convened at 9 a.m., e.d.t.

**THE SPEAKER (DENNIS M. O'BRIEN)  
PRESIDING**

#### PRAYER

HON. THOMAS C. CREIGHTON, member of the House of Representatives, offered the following prayer:

Let us please bow:

The Heavens declare Your glory, O God. The earth reveals Your handiwork. We thank You today for our Founding Fathers who were guided by Your wisdom. We pray that Your will will be done and You will lift up leaders with integrity and wisdom in these chaotic times. Be with us not to be anxious about anything, but in everything, by prayer and supplication and thanksgiving, present our request to You, O Lord. Give us a steady spirit and a peace of mind and the wisdom to accomplish the duties that are set before us in this chamber today. We offer gratitude that You have a purpose for each of us, that Your purpose is to serve You and to serve the people of Pennsylvania. We offer gratitude that You are in control and that Yours is the power and the glory forever. Amen.

#### PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Tuesday, October 7, 2008, will be postponed until printed. The Chair hears no objections.

#### LEAVES OF ABSENCE

The SPEAKER. The Chair turns to requests for leaves of absence and recognizes the majority whip, who requests that Representative RAMALEY of Beaver County be placed on leave. The Chair hears no objection. The leave will be granted.

The Chair recognizes the minority whip, Representative Argall, who requests that Representative PERRY of York County, Representative REICHLEY, and Representative BEYER be placed on leave. The Chair hears no objection. The leaves will be granted.

The Chair recognizes the minority whip, who requests that Representative SCHRODER be placed on leave. The Chair hears no objection. The leave will be granted.

Members will report to the floor.

#### MASTER ROLL CALL

The SPEAKER. The Chair is about to take the master roll. Members will proceed to vote.

(Members proceeded to vote.)

#### LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative VEREB be placed on leave. The Chair hears no objection. The leave will be granted.

#### MASTER ROLL CALL CONTINUED

The following roll call was recorded:

PRESENT—197

Adolph	Freeman	Mann	Rohrer
Argall	Gabig	Mantz	Ross
Baker	Galloway	Markosek	Rubley
Barrar	Geist	Marshall	Sabatina
Bastian	George	Marsico	Sainato
Bear	Gerber	McCall	Samuelson
Belfanti	Gergely	McGeehan	Santoni
Benninghoff	Gibbons	McI. Smith	Saylor
Bennington	Gillespie	McIlhatten	Scavello
Biancucci	Gingrich	Melio	Seip
Bishop	Godshall	Mensch	Shapiro
Blackwell	Goodman	Metcalfe	Shimkus
Boback	Grell	Micozzie	Siptroth
Boyd	Grucela	Millard	Smith, K.
Brennan	Haluska	Miller	Smith, M.
Brooks	Hanna	Milne	Smith, S.
Buxton	Harhai	Moul	Solobay
Caltagirone	Harhart	Moyer	Sonney
Cappelli	Harkins	Mundy	Staback
Carroll	Harper	Murt	Stairs
Casorio	Harris	Mustio	Steil
Causer	Helm	Myers	Stern
Civera	Hennessey	Nailor	Stevenson
Clymer	Hershey	Nickol	Sturla
Cohen	Hess	O'Brien, M.	Surra
Conklin	Hickernell	O'Neill	Swanger
Costa	Hornaman	Oliver	Tangretti
Cox	Hutchinson	Pallone	Taylor, J.
Creighton	James	Parker	Taylor, R.
Cruz	Josephs	Pashinski	Thomas

NOT VOTING—0

EXCUSED—14

Adolph	Clymer	Leach	Shapiro
Barrar	Frankel	Perry	Tangretti
Bastian	Freeman	Ramaley	Wojnaroski
Beyer	Josephs		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

The SPEAKER. The House will be at ease.

The House will come to order.

### VOTE CORRECTION

The SPEAKER. The Chair recognizes the gentleman, Mr. Ellis.

Mr. ELLIS. Mr. Speaker, I would like to be recorded in the affirmative on SB 1258.

The SPEAKER. The gentleman's remarks will be spread upon the record.

### SUPPLEMENTAL CALENDAR F

#### BILL ON CONCURRENCE IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **HB 2294, PN 4525**, entitled:

An Act providing for the licensure of persons providing debt management services and for the powers and duties of the Department of Banking; requiring surety bonds; prohibiting certain fees and costs; providing for debt management plans; and prohibiting certain acts by persons providing debt management services.

On the question,  
Will the House concur in Senate amendments?

The SPEAKER. The House will be at ease.

The House will come to order.

### MOTION TO SUSPEND RULE 21(E)

Mr. D. EVANS. Mr. Speaker? Mr. Speaker?

The SPEAKER. The Chair recognizes Representative Evans.

Mr. D. EVANS. I would like to make a motion for suspension of the rules for the purpose of voting on HB 2294.

The SPEAKER. The Chair cannot hear the gentleman.

Mr. D. EVANS. Mr. Speaker, 2294, rule 24.

I would like to make a motion for suspension of the rules.

The SPEAKER. The gentleman, Representative Evans, moves to suspend rule 24, the 24-hour requirement, so that HB 2294, PN 4525, can be—

Mr. D. EVANS. Let me make a correction, Mr. Speaker.

My understanding is rule 21(e).

The SPEAKER. The gentleman, Representative Evans, moves to suspend rule 21(e) so that HB 2294, PN 4525, can be considered.

On the question,  
Will the House agree to the motion?

(Members proceeded to vote.)

### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative Ramaley on the floor. His name will be added to the master roll.

### CONSIDERATION OF HB 2294 CONTINUED

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. Nothing is in order but the calling of the roll.

Mr. D. EVANS. The minority leader, he can speak for himself, but he said they did not have a chance to caucus on this bill.

### VOTE STRICKEN

The SPEAKER. The clerk will strike the vote.

The Chair is under the impression from the statement of Representative Evans that the minority leader, the minority caucus has not had a chance to caucus on this. That is why the Chair struck the vote.

### BILL PASSED OVER TEMPORARILY

The SPEAKER. HB 2294 will be over temporarily.

The House will be at ease.

The House will come to order.

Mr. D. EVANS. Mr. Speaker? Mr. Speaker?

The SPEAKER. The House will come to order.

The Chair recognizes Representative Evans.

Mr. D. EVANS. HB 2200, Mr. Speaker; I would like to call that up for a vote, please.

Mr. McCALL. We would like to call up HB 2200.

The SPEAKER. The Chair thanks the gentleman.

### RULE 21(E) SUSPENDED

Mr. McCALL. Mr. Speaker?

The SPEAKER. The Chair recognizes the majority whip, Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would like to suspend rule 21(e) for the immediate consideration of HB 2200.

The SPEAKER. The gentleman, Representative McCall, moves to suspend rule 21(e) for the immediate consideration of HB 2200, PN 4526.

**LEAVE OF ABSENCE**

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative BENNINGHOFF be placed on leave. The Chair hears no objection. The leave will be granted.

**SUSPENSION OF RULE 21(E) CONTINUED**

On the question,  
Will the House agree to the motion?

The following roll call was recorded:

**YEAS—157**

Argall	Geist	Marsico	Rubley
Baker	George	McCall	Sabatina
Belfanti	Gerber	McGeehan	Sainato
Bennington	Gergely	McI. Smith	Santoni
Bianucci	Gibbons	McIlhattan	Saylor
Bishop	Gillespie	Melio	Scavello
Blackwell	Godshall	Mensch	Seip
Boback	Goodman	Micozzie	Shimkus
Brennan	Grucela	Miller	Siptroth
Brooks	Haluska	Moul	Smith, K.
Buxton	Hanna	Moyer	Smith, M.
Caltagirone	Harhai	Mundy	Smith, S.
Cappelli	Harhart	Mustio	Solobay
Carroll	Harkins	Myers	Sonney
Casorio	Harper	Nailor	Staback
Causer	Harris	Nickol	Stairs
Civera	Helm	O'Brien, M.	Stevenson
Cohen	Hennessey	Oliver	Sturla
Conklin	Hershey	Pallone	Surra
Costa	Hornaman	Parker	Taylor, J.
Cox	James	Pashinski	Taylor, R.
Cruz	Keller, W.	Payne	Thomas
Curry	Kenney	Payton	Vereb
Daley	Kessler	Peifer	Vitali
Dally	Killion	Perzel	Vulakovich
DeLuca	King	Petrarca	Wagner
DePasquale	Kirkland	Petri	Walko
Dermody	Kortz	Petrone	Wansacz
DeWeese	Kotik	Phillips	Waters
DiGirolamo	Kula	Pickett	Watson
Donatucci	Lentz	Preston	Wheatley
Eachus	Levdansky	Pyle	White
Evans, D.	Longietti	Quinn	Williams
Evans, J.	Mackereth	Ramaley	Yewcic
Everett	Mahoney	Rapp	Youngblood
Fabrizio	Major	Raymond	Yudichak
Fairchild	Manderino	Readshaw	
Fleck	Mann	Reed	O'Brien, D.,
Gabig	Markosek	Roebuck	Speaker
Galloway	Marshall	Ross	

**NAYS—32**

Bear	Hess	Millard	Rohrer
Boyd	Hickernell	Milne	Samuelson
Creighton	Hutchinson	Murt	Schroder
Cutler	Kauffman	O'Neill	Steil
Denlinger	Keller, M.K.	Quigley	Stern
Ellis	Maher	Reichley	Swanger
Gingrich	Mantz	Roae	True
Grell	Metcalfe	Rock	Turzai

NOT VOTING—0

EXCUSED—14

Adolph	Beyer	Josephs	Shapiro
Barrar	Clymer	Leach	Tangretti
Bastian	Frankel	Perry	Wojnaroski
Benninghoff	Freeman		

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

**BILL ON CONCURRENCE  
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 2200, PN 4526**, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for director of operations, secretary, employees and consultants; repealing provisions relating to office of trial staff; further providing for bureaus and offices; providing for other bureaus, offices and positions; further providing for electric utility definitions; providing for energy efficiency and conservation program and for energy efficiency and conservation; further providing for duties of electric distribution companies and for market power remediation; and providing for procurement, for additional alternative energy sources and for carbon dioxide sequestration network.

On the question,  
Will the House concur in Senate amendments?

**MOTION TO SUSPEND RULES**

The SPEAKER. The Chair recognizes Representative Saylor, who moves to suspend the rules to offer amendment A09788.

On the question,  
Will the House agree to the motion?

**MOTION WITHDRAWN**

The SPEAKER. The Chair recognizes Representative Saylor on the motion.

Mr. SAYLOR. Mr. Speaker, I am in support of HB 2200, and to move the process along today – I think there are a lot of things we can do to improve HB 2200 – but to move the process along, I am going to withdraw those amendments at this time, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Will the House concur in Senate amendments?

The SPEAKER. Representative George.  
Mr. GEORGE. Thank you, Mr. Speaker.

I know that many on both sides of the aisle have been patiently waiting to vote for this bill in that the majority, regardless of who they are, want to see because of the times and the economic situation that this General Assembly do something more than what has been done for some reason, even in the

Federal government, in protecting our consumers and those individuals that have been having a tough time.

Mr. Speaker, I hope you do not challenge. It has been said that the road to hell is often paved with good intentions. Unfortunately, this might be the scenario that I have created with HB 2200. The truth of the matter is there is much more that many of us would have liked to have seen, but I urge you to support this bill in that we do have time, should we have a bill signed into law, to be able to add to it, as I know I myself might like to do.

I know the legislation, unfortunately, eliminates the Office of Trial Staff, and as I understand, the Office of Trial Staff acts not unlike the Consumer Advocate but their mission is much broader.

Little has been said on why this was done, and the short time I have had the amended bill precludes me from an answer. The legislation has a cap of 25 percent on long-term contracts, which I think is somewhat advised. However, my biggest concern with the procurement language is it gives the utility sole discretion over the length of long-term contracts, which are defined as "contracts of more than 4 years."

Together I know we want to encourage and assure our constituency that we have their interest and their best regard, and I would urge that as a total body that we say to these constituents, these people that are concerned with the economic times, this is what we have been able to get and we will continue to keep your interest in mind.

I would urge, Mr. Speaker, that we support this bill.

Thank you very much.

The SPEAKER. Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

The Senate has actually approached this issue in a different way than I would have, but I notice that there are some elements in this bill that are actually very interesting and I think very helpful; in particular, the change in the responsibilities being offered to the Public Utility Commission. I think the Senate decided that they wanted to do that because they wanted to make sure that the Public Utility Commission would have the ability, clearly and understandably, to go beyond the mere targets that are being offered in this bill and also to reach out to other entities that might be interested in creating conservation and demand-side management. I encourage them to go ahead and do that for the good of the ratepayers as a whole, because in fact, conservation and demand-side management are the only realistic ways that we are going to help the ratepayers of Pennsylvania soften the blow for the upcoming repeal of price caps. It is critical for Pennsylvania because many other States have already gone far ahead of us in this area – New York, California. We are at risk of falling behind in a competitive marketplace. It is critical for us to be able to offer businesses that might want to locate here, low-income homeowners that are currently here, and the ratepayers – whether they be commercial, industrial, or residential – the best possible opportunity to use the power that we have most efficiently and most cheaply.

So I urge a positive vote on HB 2200. I urge the Public Utility Commission to take full advantage of the power that is being granted additionally to them here and to do the best by the ratepayers to improve and increase conservation and demand-side management, which will save us all lots of money.

Thank you, Mr. Speaker.

The SPEAKER. Representative Metcalfe.

Mr. METCALFE. Thank you, Mr. Speaker.

I have got a bonus for all the members; I am going to keep my comments short.

Mr. Speaker, I think that for us to suspend the rules on such a significant issue as this, with a 79-page bill that was just caucused on briefly, and which we had a limited amount of time and we even ran out of time to caucus the additional bills, I do not think that this really speaks well. I think it is actually an indictment of the process that we are using here, an indictment of the Reform Commission that the Speaker actually formed earlier this session.

Mr. Speaker, I think that passing HB 2200 today as we approach the dark of night once again, when many of our colleagues needed to leave for their own reasons, as was mentioned earlier today, I think that the membership list is getting shorter, and I do not think that we should be taking this vote up today. It is a vote that needs to be vetted more; it is a vote that needs to be read more. I think a 79-page bill that you are going to push through with a suspension of the rules is what a quarter of this Assembly ran against the last time they ran to get elected, Mr. Speaker. I think when they came in here and took that oath, and many of them served on your Reform Commission, I do not think they envisioned the end of session voting for a 79-page bill that was dropped on our desks at the last minute, that has severe impacts on the marketplace and, in my opinion and I know in many of my colleagues' opinions, will drive the costs up for consumers, not down.

Once again with our economy in the state that it is in, I think that to try and satisfy the radical leftist groups like the Sierra Club and others who actually endorse this, I think is a wrong move, Mr. Speaker. I think it is time to stand with the people of Pennsylvania. It is time to reject this government-mandated-type control of our energy market. It is time for energy independence, Mr. Speaker, and more government controls through this type of legislation will not deliver it. It is not the type of reform that the people of Pennsylvania expect. They like a different type of bonus; they like to be looked out for by the people that are supposed to be representing them.

Thank you, Mr. Speaker.

The SPEAKER. Representative Turzai.

Mr. TURZAI. Thank you very much, Mr. Speaker.

With respect to HB 2200, I will support concurrence although I think that we could have had a much better bill from the Senate. There are some positive aspects to this and I think those override the negative aspects. I would like to point out that a bill that we had done with respect to our energy independence task force, lead by Representative Stan Saylor and Representative Scott Hutchinson, resulted in a bill, HB 2300, that I thought addressed electric rate stabilization really quite succinctly.

The issue really is, in the first instance, are we going to maintain the course with electric deregulation that started under Governor Ridge? The answer to that should be yes, and concededly, HB 2200 does reinforce the notion that we need to maintain electric deregulation. It will benefit, in the short term and long term, consumers, and secondly, it will benefit the energy industry in terms of job growth and meeting the needs of Pennsylvania's citizens. So in that first instance, HB 2200 is important because it continues to pursue electric deregulation started under Governor Ridge.

Now, part of that deals with this issue of procurement. Now, I know that that seems like, as it was to many of us a new



concept for many in understanding electric deregulation, but to this audience and to the listening audience, procurement is this: utilities and suppliers who sell you your electricity – and we all use electricity, right? We are plugging in toasters, TVs, and turning on lights. When we are doing that, we need to meet those energy demands that we have in our homes and our businesses. How can those that buy that electricity, how can we get that at the most reasonable price possible? The more that the utility companies and the suppliers have options in the market to be able to go out and get their product, the better they are able to provide that product to us at competitive prices.

This bill does, in many ways, follow HB 2300, introduced by myself and Representative Saylor, in terms of the options for procurement for utilities and suppliers from generators that can ultimately be passed on as savings to consumers. That is important.

One of the things that the bill does not do that many of us wish it did do; we wish it would have dealt with the potential for increases in a complete transition to electric deregulation. We are in the middle of that process, right?

Now, a lot of people think that as the, quote, unquote, "caps come off" that we automatically get these increased prices. That is not true. In the southwest, in the Duquesne Light territory, where I am from, actually prices went down in large part because of the ability to look for a product on the market in a competitive, free-market approach, and those savings have been passed on to consumers. That has not been true in all regions.

One of the things we would have liked to have seen is a phase-in or phase-out-type plan that would have allowed some consistency in terms of the transition to electric deregulation in parts of the State. That is not a component part of the plan. Now, I guess there is a good side to that. One of the good sides is because the Governor of this administration, as part of their mitigation plan or stabilization plan, there has been essentially a desire to, I would say, extort or shake down money from the energy companies. We have seen that in other paradigms with this administration, and I am glad to see that for now that is not part of this package, because speaking for myself and I think many of my colleagues on this side of the aisle, we do not want to be part of that racket, and that is good.

I am fearful that there is a second part coming to this that is going to be a shakedown or extortion of money from energy companies to put more dollars in the hands of government, elected officials, or bureaucrats so that they can be big shots around the State. I am hoping that that is not the case and that we are not seeing a second part to this.

I think also, in the procurement aspects of it, there are parts of the procurement package I think they would have been better off sticking with HB 2300's strict language. I think parts of it, arguably, do attempt or butt up against FERC (Federal Energy Regulatory Commission) or the Federal regulations that apply in this area, and I hope it does not present a constitutional or legal issue. I think HB 2300's language on procurement would have been better, and there was an opportunity for some diversified portfolio, for the lack of a better phrase, in terms of how utilities and suppliers get their product from generators, but nonetheless, broader procurement or more flexible procurement is important.

I do think that there are some opportunities for conservation education. I am not in favor of the mandate-type approach but the educational type of approach where consumers can make those decisions for themselves. But in the end, despite some

misgivings in this version versus the version that Representative Saylor and myself and the Republican Caucus put on the table, the fact of the matter is the three strongest points in favor of this bill are these: electric deregulation will continue and the free market is ultimately in place, and I think that you will see growth in the energy industry and jobs here. I think you will see more product getting to people and meeting the citizens' needs for energy in this State. I think also that the procurement aspects enhance that opportunity, and the fact is, even though they do not have a mitigation or a stabilization component to this, at least, thank goodness, there was not a shakedown or extortion component to this particular bill, and I am hoping we do not see it in the future.

Given that, I would urge a "yes" vote. If the Republicans had an opportunity in the House to forge this bill alone, I think it would look different, but at least it is some steps in the right direction, and I would urge a "yes" vote.

Thank you very, very much.

The SPEAKER. Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I am not going to take too long. I was surprised, though – and the last speaker did a pretty good job – I was surprised to hear him supporting a Bud George bill, but I guess if you stay around long enough, a lot of things can happen.

I want to first thank Representative George for his stewardship in helping to bring about the conservation component of HB 2200. The conservation component is a component that will help Pennsylvania achieve some level of independence, hold down costs, and benefit consumers in the long run. But there is a marketplace component to HB 2200 which is extremely troubling, and it is that marketplace and it is that maintaining this environment of deregulation that is troubling.

If the events of the last couple weeks, the events facing this country and facing the financial markets across the world, if we did not learn anything else, we learned that deregulation is not a good thing for consumers, that we need to always be mindful of the impact on the people that we represent. It is this maintenance of this deregulation that causes me grave concern, and I hope that whatever happens with HB 2200 – and I am not promoting HB 2200 – but whatever happens with HB 2200, I ask Representative George, the author, I ask Representative Preston, the chair of Consumer Affairs, and I ask leadership from both sides to let us not take our eyes off of the ball. There are too many people in Pennsylvania that are literally sitting in darkness as we speak because they are unable to pay for electricity, gas, or any utilities, and we did not help them in December of 2004 when we gave the utility companies unfettered authority to turn on and turn off consumers' utilities almost at will.

So I hope that Representative George, Representative Preston, leadership from the minority side, that we do not take our eyes off of this ball and that at the end of the day, we do not step away from putting people over politics, from looking out for the interests of the people that we represent. I am excited that jobs will be created. I am excited with how energy will be conserved, but I am troubled by the current situation facing people all over Pennsylvania with respect to electricity and heat, and I am concerned about how the marketplace and deregulation are going to aggravate an already bad situation.

Thank you, Mr. Speaker.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

The hour is late respectively with our legislative day here. While it might be tempting to go through a lot of questioning, I think it is better just to put on the record my remarks regarding this legislation.

Quite frankly, Mr. Speaker, I think we are ducking our responsibility, but all we have heard from our constituents over the last few weeks and months is the need to address this question of whether rate caps will be extended, which I think is an unconstitutional provision and therefore illegal, or whether we are going to do something about mitigating the impact of increased prices at the end of 2009.

I think even the chairman, the majority chairman of the Environmental Committee would admit this legislation does not do one iota to address the issue of a mitigated rate structure. We received this bill 2 hours ago. It is 79 pages long. It is a huge power grab that we would authorize to the Public Utility Commission, and we are avoiding our responsibility to ensure for our constituents that we are mitigating, or lessening, the blow of rate increases starting in 2010.

In addition, some of our members know there is a separate regulatory body, the Federal Energy Regulatory Commission, which has exclusive purview under wholesale electricity rates. This legislation would seek to provide the Public Utility Commission of Pennsylvania with the comparable authority to interfere in the contracts by which wholesale electricity prices are set. Mr. Speaker, based upon correspondence I have had with the Public Utility Commission, that could potentially be unconstitutional.

I do not understand why we are in such a rush now at this eleventh hour to try to sell our constituency on the idea that we did something big when in fact we have done nothing except turn over our responsibility to the Public Utility Commission. They are certainly very well versed in these areas, but I do not think that serves as a justification for us to duck a tough one here. We still need to come back to this issue of mitigated rate structure, and instead of trying to suspend the rules and review a 79-page bill in less than 2 hours' time, we should have taken the opportunity to delay consideration of this bill. This chamber at least has had the guts to come back in November to consider tough pieces of legislation – the chamber on the other side of the building should have done the same thing – and we should be prepared to consider this kind of legislation in November and in January rather than rushing something through. I understand it is tempting to tell people, oh, we did something on electricity rates. With all due respect, you have done nothing.

So I would urge a "no" vote on this legislation. Thank you.

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that we concur in the Senate amendments.

I would agree with a lot of the previous speakers that this is a major first step. However, we are far from done in addressing the issues that the people of Pennsylvania want us to address. I think when you look at this legislation, it has been around the chamber now for 22 months, and I know a lot of our members really did not know what energy conservation was, demand-side management, smart meters, procurement, but in those 22 months we have all become well educated.

And one of the important aspects of this legislation is certainly what we are doing in conservation and demand-side management, because if we do not say to our utility companies

that we want you to further conserve and tell our constituents that we want them to cut down on demand and put together a plan to do that— We talk about rate mitigation; the cost to build the utilities that we will need in the next 20 or 30 years will far outweigh any cost of rate mitigation to our citizens. The cost to build more generation facilities is to the tune of \$20 to \$30 billion over the next 20 years. It is a cost that we cannot afford.

This legislation addresses that in saying to our utilities that we want you to conserve energy, and as a matter of fact, the bill that the Senate sent back to us is stronger than what we sent over to the Senate. The goals that they set are more stringent than the goals that we passed originally in this House of Representatives, and I think that in fact is a good thing.

This legislation is environmentally friendly and civically responsible because it also helps with the emissions and the clean-air concerns that many of us have with generation here in this Commonwealth.

We have not talked about what we are doing in the alternative energy portfolio as well, including low-impact hydropower plants to go online and put them into our first tier, or Tier I, of our alternative energy portfolio as well as defining what biomass is and allowing wood pulp and black liquor for electric generation and putting that into Tier I as well.

And then for all of those who are concerned about coal, what we are doing with clean coal technology: in doing a study to identify geological formations, doing a risk assessment and determining the viability of carbon sequestration in Pennsylvania so we can really capture some of these new and emerging technologies and put clean coal technology on the forefront of what we do here in Pennsylvania for generations.

So, Mr. Speaker, certainly it is not a perfect bill but it is a great first step, and the thing that I know we will all come back to in January is to work on a very aggressive rate mitigation plan, and that is the commitment that a lot of us have made when we started to work on HB 2200, to get that done, and we will get it done in the coming year.

I would ask the members to support HB 2200.

The SPEAKER. Representative Mensch.

Mr. MENSCH. Thank you, Mr. Speaker.

I would like to echo some of the sentiments that were just offered by the previous speaker. This is not the best bill that it could be, but I believe that it provides some benefits, and I think those benefits do outweigh the negatives.

The previous speaker mentioned that his primary goal, and I would agree with him, of this bill is to see that we lower the costs to our consumers and we do that in a free market and a competitive way. I think that is the important point that the previous speaker offered.

There is a lot of discussion when we talk about rate caps and we talk about mitigation that we focus too much on what I consider to be a red herring, and that is, do we regulate or do we deregulate? Certainly in today's economic climate there is some concern about regulation, but we cannot forget that we are in this position we are in with rate caps simply because of regulation.

I would also suggest that the economic landscape of our country is littered with bad examples of governments trying to regulate economic processes. All we have to do is look at the railroads as one example, Mr. Speaker. The railroads no longer really are a viable option for us because trucking was

deregulated at the same time that railroad regulation was strengthened.

I would also suggest in an environment that I lived for 35 years, the telecom industry, we had regulation that forced one company to compete in a very regulated environment while the rest of the companies were completely unregulated, and today all they did was bilk our investors out of billions of dollars. Where is MCI? Where is Adelphia? Where are these other companies today? They no longer exist.

So, Mr. Speaker, my comment is, let us move forward with HB 2200, but let us not focus on the wrong issue. Let us not focus on the regulation. Let us focus on the benefit that we can provide to the ratepayers in Pennsylvania. How do we get them the most affordable electric service in a competitive environment? I think we do that, Mr. Speaker, by taking the first step with HB 2200.

I agree with the previous speaker that in January this body needs to aggressively pursue a strategy for mitigation. Now, the electric companies themselves are already beginning to do that. That is truly the way to encourage it, but for those who cannot or will not, then we need to intercede. But again, I think we need to move cautiously in this whole area of regulation.

So, Mr. Speaker, with that I will suggest that we consider very strongly to concur on HB 2200 and begin the first step. Thank you.

**LEAVES OF ABSENCE CANCELED**

The SPEAKER. The Chair recognizes the presence of Representative Perry and Representative Barrar on the floor. Their names will be added to the master roll.

**CONSIDERATION OF HB 2200 CONTINUED**

On the question recurring,

Will the House concur in Senate amendments?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

**YEAS—186**

Argall	Geist	Marsico	Rohrer
Baker	George	McCall	Ross
Barrar	Gerber	McGeehan	Rubley
Bear	Gergely	McI. Smith	Sabatina
Belfanti	Gibbons	McIlhattan	Sainato
Bennington	Gillespie	Melio	Samuelson
Bianucci	Gingrich	Mensch	Santoni
Bishop	Godshall	Micozzie	Saylor
Blackwell	Goodman	Millard	Scavello
Boback	Grell	Miller	Schroder
Boyd	Grucela	Milne	Seip
Brennan	Haluska	Moul	Shimkus
Brooks	Hanna	Moyer	Siptroth
Buxton	Harhai	Mundy	Smith, K.
Caltagirone	Harhart	Murt	Smith, M.
Cappelli	Harkins	Mustio	Smith, S.
Carroll	Harper	Myers	Solobay
Casorio	Harris	Nailor	Sonney
Causar	Helm	Nickol	Staback
Civera	Hennessey	O'Brien, M.	Stairs
Cohen	Hershey	O'Neill	Steil
Conklin	Hess	Oliver	Stern
Costa	Hickernell	Pallone	Stevenson

Cox	Hornaman	Parker	Sturla
Creighton	James	Pashinski	Surra
Cruz	Kauffman	Payne	Swanger
Curry	Keller, M.K.	Payton	Taylor, J.
Cutler	Keller, W.	Peifer	Taylor, R.
Daley	Kenney	Perry	True
Dally	Kessler	Petzel	Turzai
DeLuca	Killion	Petrarca	Vereb
Denlinger	King	Petri	Vitali
DePasquale	Kirkland	Petrone	Vulakovich
Dermody	Kortz	Phillips	Wagner
DeWeese	Kotik	Pickett	Walko
DiGirolamo	Kula	Preston	Wansacz
Donatucci	Lentz	Pyle	Waters
Eachus	Levdansky	Quigley	Watson
Ellis	Longiatti	Quinn	Wheatley
Evans, D.	Mackereth	Ramaley	White
Evans, J.	Mahoney	Rapp	Williams
Everett	Major	Raymond	Yewcic
Fabrizio	Manderino	Readshaw	Youngblood
Fairchild	Mann	Reed	Yudichak
Fleck	Mantz	Roae	
Gabig	Markosek	Rock	O'Brien, D., Speaker
Galloway	Marshall	Roebuck	

**NAYS—4**

Hutchinson	Maher	Metcalfe	Reichley
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**NOT VOTING—1**

Thomas

**EXCUSED—12**

Adolph	Beyer	Freeman	Shapiro
Bastian	Clymer	Josephs	Tangretti
Benninghoff	Frankel	Leach	Wojnaroski

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

The SPEAKER. The House will be at ease.

The House will come to order.

**RULE 21(E) SUSPENDED**

Mr. McCALL. Mr. Speaker?

The SPEAKER. The Chair recognizes Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would like to suspend rule 21(e) for the purpose of immediately considering HB 1096, HB 2294, HB 2629, and HB 2525.

The SPEAKER. The gentleman, Representative McCall, moves to suspend House rule 21(e) for the immediate consideration of HB 1096, HB 2294, HB 2525, and HB 2629.

On the question,  
Will the House agree to the motion?

The SPEAKER. The Chair recognizes the minority leader, Representative Smith, on the motion to suspend.

RESOLVED, (the House of Representatives concurring), Pursuant to Article II, Section 14, of the Pennsylvania Constitution, that when the Regular Session of the Senate recesses this week, it reconvene at the call of the President Pro Tempore of the Senate; and be it further

RESOLVED, Pursuant to Article II, Section 14, of the Pennsylvania Constitution, that when the Regular Session of the House of Representatives recesses this week, it reconvene at the call of the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,  
Will the House concur in the resolution of the Senate?  
Resolution was concurred in.  
Ordered, That the clerk inform the Senate accordingly.

The SPEAKER. The Chair announces its intention to recess regular session and reconvene special session at 7:22.

### RECESS

The SPEAKER. Regular session of the House will now stand in recess.

### AFTER RECESS

The time of recess having expired, the House was called to order.

### BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

### RECESS

The SPEAKER. The Chair recognizes Representative DePasquale of York, Pennsylvania, who moves that this House do now recess until Wednesday, November 12, 2008, at 1 p.m., e.s.t., unless sooner recalled by the Speaker.

On the question,  
Will the House agree to the motion?  
Motion was agreed to, and at 7:25 p.m., e.d.t., the House recessed.

## Exhibit M

# Pennsylvania House of Representatives

[https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc\\_view\\_action2.cfm?sess\\_yr=2007&sess\\_ind=0&rc\\_body=H&rc\\_nbr=2358](https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2007&sess_ind=0&rc_body=H&rc_nbr=2358)

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Details for RCS No. 2358

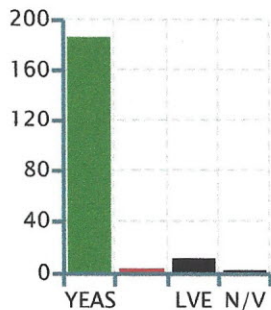
Wednesday Oct. 8, 2008

House Bill 2200 PN 4526  
CONCUR

#### Summary

Y YEAS	186
N NAYS	4
E LVE	12
X N/V	1

TOTAL 203



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GEORGE

#### Short Title

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for director of operations, secretary, employ...

E ADOLPH	Y MCILHATTAN	Y BIANCUCCI	Y MANN
Y ARGALL	Y MENSCH	Y BISHOP	Y MARKOSEK
Y BAKER	N METCALFE	Y BLACKWELL	Y MCCALL
Y BARRAR	Y MICOZZIE	Y BRENNAN	Y MCGEEHAN
E BASTIAN	Y MILLARD	Y BUXTON	Y MCI. SMITH
Y BEAR	Y MILLER	Y CALTAGIRONE	Y MELIO
E BENNINGHOFF	Y MILNE	Y CARROLL	Y MUNDY
E BEYER	Y MOUL	Y CASORIO	Y MYERS
Y BOBACK	Y MOYER	Y COHEN	Y O'BRIEN, M.
Y BOYD	Y MURT	Y CONKLIN	Y OLIVER
Y BROOKS	Y MUSTIO	Y COSTA	Y PALLONE
Y CAPPELLI	Y NAILOR	Y CRUZ	Y PARKER
Y CAUSER	Y NICKOL	Y CURRY	Y PASHINSKI
Y CIVERA	Y O'NEILL	Y DALEY	Y PAYTON
E CLYMER	Y PAYNE	Y DELUCA	Y PETRARCA
Y COX	Y PEIFER	Y DEPASQUALE	Y PETRONE
Y CREIGHTON	Y PERRY	Y DERMODY	Y PRESTON
Y CUTLER	Y PERZEL	Y DEWEESE	Y RAMALEY
Y DALLY	Y PETRI	Y DONATUCCI	Y READSHAW
Y DENLINGER	Y PHILLIPS	Y EACHUS	Y ROEBUCK
Y DIGIROLAMO	Y PICKETT	Y EVANS, D.	Y SABATINA
Y ELLIS	Y PYLE	Y FABRIZIO	Y SAINATO
Y EVANS, J.	Y QUIGLEY	E FRANKEL	Y SAMUELSON
Y EVERETT	Y QUINN	E FREEMAN	Y SANTONI
Y FAIRCHILD	Y RAPP	Y GALLOWAY	Y SEIP
Y FLECK	Y RAYMOND	Y GEORGE	E SHAPIRO
Y GABIG	Y REED	Y GERBER	Y SHIMKUS
Y GEIST	N REICHLEY	Y GERGELY	Y SIPTROTH
Y GILLESPIE	Y ROAE	Y GIBBONS	Y SMITH, K.
Y GINGRICH	Y ROCK	Y GOODMAN	Y SMITH, M.
Y GODSHALL	Y ROHRER	Y GRUCELA	Y SOLOBAY
Y GRELL	Y ROSS	Y HALUSKA	Y STABACK
Y HARHART	Y RUBLEY	Y HANNA	Y STURLA
Y HARPER	Y SAYLOR	Y HARHAI	Y SURRA
Y HARRIS	Y SCAVELLO	Y HARKINS	E TANGRETTI
Y HELM	Y SCHRODER	Y HORNAMAN	Y TAYLOR, R.
Y HENNESSEY	Y SMITH, S.	Y JAMES	X THOMAS
Y HERSHEY	Y SONNEY	E JOSEPHS	Y VITALI
Y HESS	Y STAIRS	Y KELLER, W.	Y WAGNER
Y HICKERNELL	Y STEIL	Y KESSLER	Y WALKO
N HUTCHINSON	Y STERN	Y KING	Y WANSACZ
Y KAUFFMAN	Y STEVENSON	Y KIRKLAND	Y WATERS
Y KELLER, M.K.	Y SWANGER	Y KORTZ	Y WHEATLEY
Y KENNEY	Y TAYLOR, J.	Y KOTIK	Y WHITE
Y KILLION	Y TRUE	Y KULA	Y WILLIAMS
Y MACKERETH	Y TURZAI	E LEACH	E WOJNAROSKI
N MAHER	Y VEREB	Y LENTZ	Y YEWIC
Y MAJOR	Y VULAKOVICH	Y LEVDANSKY	Y YOUNGBLOOD
Y MANTZ	Y WATSON	Y LONGIETTI	Y YUDICHAK
Y MARSHALL	Y BELFANTI	Y MAHONEY	
Y MARSICO	Y BENNINGTON	Y MANDERINO	Y O'BRIEN, D.

Certificate of Service

I hereby certify that on this 25th day of September 2021, a true and correct copy of the foregoing Appendix to Appellees' Brief Appealing Commonwealth Court's October 8, 2020 Decision in Povacz v. P.U.C., and related actions, was served upon the following persons by electronic service via ECF:

PUC Counsels)

(PECO counsels)

(Other Appellants & Appellees)

/s/ \_\_\_\_\_