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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1236 Session of  
2018

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INTRODUCED BY MCGARRIGLE, MENSCH, BLAKE, SCAVELLO, BARTOLOTTA,  
KILLION, RAFFERTY, DINNIMAN AND ARGALL, SEPTEMBER 10, 2018

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
SEPTEMBER 10, 2018

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AN ACT

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

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

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

11 § 2806.1. Energy efficiency and conservation program.

12 \* \* \*

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

14 (1) (i) [By July 1, 2009, each] Each electric  
15 distribution company shall develop and file an energy  
16 efficiency and conservation plan with the commission for  
17 approval to meet the requirements of subsection (a) and  
18 the requirements for reduction in consumption under

1 subsections (c) and (d). The plan shall be implemented  
2 upon approval by the commission. The following are the  
3 plan requirements:

4 \* \* \*

5 (G) The plan shall include specific energy  
6 efficiency measures for households at or below [150%]  
7 200% of the Federal poverty income guidelines. The  
8 number of measures shall be proportionate to those  
9 households' share of the total energy usage in the  
10 service territory. The electric distribution company  
11 shall coordinate measures under this clause with  
12 other programs administered by the commission or  
13 another Federal or State agency. The expenditures of  
14 an electric distribution company under this clause  
15 shall be in addition to expenditures made under 52  
16 Pa. Code Ch. 58 (relating to residential low income  
17 usage reduction programs).

18 (H) The plan shall include a proposed cost-  
19 recovery tariff mechanism, in accordance with  
20 [section 1307 (relating to sliding scale of rates;  
21 adjustments)] subsection (k), to fund the energy  
22 efficiency and conservation measures and to ensure  
23 full and current recovery of the prudent and  
24 reasonable costs of the plan, including  
25 administrative costs, as approved by the commission.

26 \* \* \*

27 (f) Penalties.--

28 (1) The following shall apply for failure to submit a  
29 plan:

30 (i) An electric distribution company that fails to

1 file a plan under subsection (b) shall be subject to a  
2 civil penalty of not more than \$100,000 per day until the  
3 plan is filed.

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

8 \* \* \*

9 (2) The following shall apply to an electric  
10 distribution company that fails to achieve the reductions in  
11 consumption required under subsection (c) or (d):

12 (i) The electric distribution company shall be  
13 subject to a civil penalty [not less than \$1,000,000 and  
14 not to exceed \$20,000,000] not to exceed \$5,000,000 for  
15 failure to achieve the required reductions in consumption  
16 under subsection (c) or (d). Any penalty paid by an  
17 electric distribution company under this subparagraph  
18 shall not be recoverable from ratepayers.

19 \* \* \*

20 [(g) Limitation on costs.--The total cost of any plan  
21 required under this section shall not exceed 2% of the electric  
22 distribution company's total annual revenue as of December 31,  
23 2006. The provisions of this paragraph shall not apply to the  
24 cost of low-income usage reduction programs established under 52  
25 Pa. Code Ch. 58 (relating to residential low income usage  
26 reduction programs).]

27 \* \* \*

28 (k) Recovery.--

29 (1) An electric distribution company shall recover on a  
30 full and current basis from customers, through a reconcilable

1 adjustment clause under section 1307, all reasonable and  
2 prudent costs incurred in the provision or management of a  
3 plan provided under this section. This paragraph shall apply  
4 to all electric distribution companies, including electric  
5 distribution companies subject to generation or other rate  
6 caps.

7 [(2) Except as set forth in paragraph (3), decreased  
8 revenues of an electric distribution company due to reduced  
9 energy consumption or changes in energy demand shall not be a  
10 recoverable cost under a reconcilable automatic adjustment  
11 clause.]

12 (2.1) An electric distribution company may recover  
13 decreased revenues due to reduced energy consumption or  
14 changes in energy demand through a full revenue decoupling  
15 mechanism. Upward rate adjustments as a result of a full  
16 revenue duplicating mechanism may not be greater than 2% of  
17 rates approved in the electric distribution company's most  
18 recent base rate case.

19 (3) Decreased revenue and reduced energy consumption may  
20 be reflected in revenue and sales data used to calculate  
21 rates in a distribution-base rate proceeding filed by an  
22 electric distribution company under section 1308 (relating to  
23 voluntary changes in rates).

24 (k.1) Incentives.--An energy efficiency and conservation  
25 plan filed by an electric distribution company under this  
26 section may include a financial incentive mechanism for the  
27 electric distribution company. Payment and design of a financial  
28 incentive authorized in the plan is subject to the approval of  
29 the commission. The total amount of a financial incentive shall  
30 be based upon the achievement of energy savings and peak demand

1 reduction goals established by the commission and shall not  
2 exceed the lesser of the following amounts:

3 (1) ten percent of the net benefits experienced by the  
4 electric distribution company's customers as a result of  
5 implementation of the energy efficiency and conservation  
6 plan; or

7 (2) eight percent of the electric distribution company's  
8 actual expenditures on energy efficiency conservation  
9 measures for the year.

10 \* \* \*

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

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

20 ["Electric distribution company total annual revenue."  
21 Amounts paid to the electric distribution company for  
22 generation, transmission, distribution and surcharges by retail  
23 customers.]

24 "Energy efficiency and conservation measures."

25 (1) Technologies, management practices or other measures  
26 employed by retail customers that reduce electricity  
27 consumption or demand if all of the following apply:

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

1 (ii) The technology, practice or other measure  
2 reduces consumption of energy or peak load by the retail  
3 customer.

4 (iii) The cost of the acquisition or installation of  
5 the measure is directly incurred in whole or in part by  
6 the electric distribution company.

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

17 (3) The term includes up to one third of the energy  
18 savings and reductions resulting from energy efficiency  
19 building codes, provided that:

20 (i) The electric distribution utility played a  
21 direct role in achieving the savings and reductions  
22 through program implementation.

23 (ii) The savings and reductions are quantified and  
24 reported through an independent measurement and  
25 evaluation study.

26 (iii) The savings and reductions are commensurate  
27 with the direct role that the affected utility played to  
28 achieve the savings and reductions.

29 "Full revenue decoupling mechanism." A rate mechanism that  
30 adjusts or reconciles authorized distribution rates or revenues

1 for differences, whether positive or negative, between revenues  
2 approved in a base rate case and actual revenues sales used to  
3 set rates and actual sales, including, but not limited to,  
4 customer adjustments or other adjustments, such as collars or  
5 caps, deemed appropriate by the commission.

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

10 "Quality assurance." All of the following:

11 (1) The auditing of buildings, equipment and processes  
12 to determine the cost-effectiveness of energy efficiency and  
13 conservation measures using nationally recognized tools and  
14 certification programs.

15 (2) Independent inspection of completed energy  
16 efficiency and conservation measures completed by third-party  
17 entities to evaluate the quality of the completed measure.

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

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

23 "Total resource cost test." A standard test that is met if,  
24 over the effective life of each plan not to exceed 15 years, the  
25 net present value of the avoided [monetary] quantifiable cost of  
26 supplying electricity is greater than the net present value of  
27 the monetary cost of energy efficiency conservation measures.

28 Section 2. In addition to the requirement under section  
29 2806.1(b)(1)(ii), the commission may require an electric  
30 distribution company to file a new plan which meets the

1 requirements of this act.

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