
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 833 Session of
2023

INTRODUCED BY AUMENT, YAW, PHILLIPS-HILL, REGAN AND CULVER,
JUNE 23, 2023

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JUNE 23, 2023

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for consumer choice billing;
3 imposing penalties; and making repeals.

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

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

8 CHAPTER 22A

9 CONSUMER CHOICE BILLING

10 Sec.

11 22A01. Scope of chapter.

12 22A02. Declaration of policy.

13 22A03. Definitions.

14 22A04. Authorization of consumer choice billing.

15 22A05. Implementation plans.

16 22A06. Report.

17 22A07. Penalties.

18 § 22A01. Scope of chapter.

1 This chapter provides for enhanced retail electric and
2 natural gas competition through the adoption of electric and
3 natural gas consumer choice billing and enhanced consumer
4 protection regulations to be promulgated and enforced by the
5 commission.

6 § 22A02. Declaration of policy.

7 The General Assembly finds and declares as follows:

8 (1) Reasonably priced reliable sources of electricity
9 and natural gas generated and supplied in this Commonwealth
10 are vital to the health, safety and welfare of this
11 Commonwealth's residents, businesses and economy.

12 (2) Numerous states, including this Commonwealth, have
13 transitioned to a restructured energy market that has lowered
14 the cost of electricity and natural gas and spurred
15 technological and product innovations by authorizing
16 competitive retail electric and natural gas supplier
17 shopping.

18 (3) The former provisions of 15 Pa.C.S. Ch. 74 (relating
19 to generation choice for customers of electric cooperatives)
20 and Chapters 22 (relating to natural gas competition) and 28
21 (relating to restructuring of electric utility industry)
22 allow retail competition among electric and natural gas
23 generation companies in order to lower consumer costs while
24 maintaining regulation and supervision of electric and
25 natural gas transmission and distribution services.

26 (4) The year 2021 marked the 25th anniversary of the
27 enactment of the former provisions of 15 Pa.C.S. Ch. 74, the
28 22nd anniversary of the enactment of the Natural Gas Choice
29 and Competition Act and the 25th anniversary of the enactment
30 of the Electricity Generation Customer Choice and Competition

1 Act, yet according to utility shopping statistics released in
2 January 2022 by the Office of Consumer Advocate, only 18.9%
3 of residential electric consumers and 11.9% of residential
4 natural gas consumers are served by an alternative service
5 supplier, which is an indication that there is tremendous
6 growth potential in this Commonwealth's residential electric
7 and natural gas consumer market.

8 (5) In markets where suppliers do not have access to
9 smart meter data or the ability to render consolidated bills,
10 consumers are restricted to one-size-fits-all rates, which
11 provide limited benefits.

12 (6) These basic rates may meet the needs of some
13 consumers, but consolidated billing enables the development
14 of pricing plans and offers that meet the unique needs of all
15 consumers, including time-varying rates, demand response and
16 renewable energy plans.

17 (7) While this Commonwealth's consumers have invested
18 billions of dollars into the deployment of more than
19 5,000,000 smart meters across this Commonwealth, regulated
20 electric and natural gas distribution utilities have not
21 capitalized on this consumer usage data to offer cost-
22 effective and affordable time-of-use products to consumers.

23 (8) Maintaining the status quo of retail electric and
24 natural gas policies is not sound public policy given the
25 turbulence in residential electric and natural gas rates and
26 the historic public and private financial investments in this
27 Commonwealth's ever-changing energy marketplace.

28 (9) By allowing a direct relationship between retail
29 electric and natural gas suppliers and consumers who choose
30 to shop, consumer choice billing will enable suppliers to

1 clarify their role with consumers, who may believe that they
2 are only consumers of the utility regardless of their retail
3 supplier, and solidify that role by providing the products
4 and services the consumers desire.

5 (10) The commission's mission is to balance the needs of
6 consumers and utilities, ensure safe and reliable utility
7 service, educate consumers on making independent and informed
8 utility choices and to foster new technologies and
9 competitive markets in an environmentally sound manner.

10 (11) To achieve a fully functioning competitive electric
11 and natural gas market in this Commonwealth, the commission
12 has the legal and regulatory authority to promote and further
13 incentivize the development of dynamic electric and natural
14 gas supplier product offerings to consumers and improve
15 utility consumer service through the adoption and regulation
16 of consumer choice billing.

17 § 22A03. Definitions.

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

21 "Applicant." An entity pursuing a new or amended electric
22 generation supplier or natural gas supplier license issued by
23 the commission.

24 "Consumer." A residential, commercial or industrial retail
25 electric or natural gas customer.

26 "Consumer choice billing." The consolidated billing of
27 retail electric and natural gas services, as chosen by an
28 electric generation supplier or natural gas supplier for all
29 electric or natural gas charges, including electric or natural
30 gas distribution and transmission charges.

1 "Electric distribution company." As defined in section 2803
2 (relating to definitions).

3 "Electric generation supplier." As defined in section 2803.

4 "Natural gas distribution company." As defined in section
5 2202 (relating to definitions).

6 "Natural gas supplier." As defined in section 2202.

7 § 22A04. Authorization of consumer choice billing.

8 (a) Duty.--The commission shall promulgate temporary
9 regulations to authorize consumer choice billing, including all
10 of the following:

11 (1) Enhancing consumer protections for consumers who
12 select an alternative electric generation supplier or natural
13 gas supplier and elect to be billed by the alternative
14 electric generation supplier or natural gas supplier.

15 (2) Increasing competition in this Commonwealth's
16 electric generation supplier and natural gas supplier
17 marketplaces and fostering the development of direct and
18 transparent relationships between suppliers and their
19 consumers.

20 (b) Implementation.--For the purpose of implementing this
21 section, the temporary regulations promulgated by the commission
22 under subsection (a) shall include all of the following:

23 (1) An additional application requirement for the new
24 licensure of an electric generation supplier or natural gas
25 supplier, or the amendment of an existing electric generation
26 supplier or natural gas supplier license to provide for
27 consumer choice billing if the applicant maintains a current
28 and valid license issued by the commission and submits a
29 statement confirming that the applicant will not offer or
30 provide consumer choice billing absent the commission's

1 authorization for the provisioning of consumer choice
2 billing.

3 (2) A requirement that an applicant seeking to provide
4 consumer choice billing meets the following technical and
5 financial qualifications:

6 (i) Maintains bonding or financial guarantees with
7 the commission for sales of electricity in the amount of
8 \$250,000 or 10% of the annual gross receipts, whichever
9 is greater. The security under this subparagraph shall be
10 in addition to the security required under 52 Pa. Code §
11 54.40 (relating to bonds or other security).

12 (ii) Maintains bonding or financial guarantees with
13 each natural gas distribution company in the service
14 territory where the applicant provides service. The
15 security under this subparagraph shall be in addition to
16 the security required under 52 Pa. Code § 62.111
17 (relating to bonds or other security).

18 (iii) Maintains bonding or financial guarantees with
19 each utility where the applicant plans to offer consumer
20 choice billing in an amount equal to the sum of the two
21 highest months of utility receivables in the previous 12
22 months in addition to the security required under 52 Pa.
23 Code §§ 54.40 and 62.111.

24 (iv) Certifies that the applicant has not had its
25 license revoked in this Commonwealth in the previous five
26 years.

27 (v) Certifies that the applicant will comply with 52
28 Pa. Code Ch. 56 (relating to standards and billing
29 practices for residential public utility service) for
30 bills that contain regulated electric distribution

1 company or natural gas distribution company charges and
2 retail energy charges.

3 (vi) Demonstrates that the applicant can meet the
4 rigorous demands of increased consumer service and
5 dispute resolution functions, including the operation of
6 call centers, support of complex billing requirements,
7 responsible execution of collections functions and the
8 quality assurance and recordkeeping necessary to handle
9 electric distribution company or natural gas distribution
10 company charges that contribute to potential electric or
11 natural gas service disconnections.

12 (vii) Attests to the applicant's ability to comply
13 with applicable regulations related to payment plans or
14 to assist customers with other payment assistance options
15 by employing new or existing consumer assistance programs
16 prior to the initiation of the termination process for a
17 reason specified under Chapter 14 (relating to
18 responsible utility customer protection).

19 (viii) Agrees to purchase the receivables for
20 regulated charges of an electric distribution company or
21 natural gas distribution company.

22 (ix) Agrees to timely inform the commission of any
23 material change or the cancellation of the bonding or
24 collateral required under this paragraph.

25 (x) Agrees to comply with all of the following:

26 (A) 52 Pa. Code § 54.43(f) (relating to
27 standards of conduct and disclosure for licensees)
28 for an electric generation supplier.

29 (B) 52 Pa. Code § 62.114(e) (relating to
30 standards of conduct and disclosure for licensees)

1 for a natural gas supplier.

2 (C) 52 Pa. Code Ch. 111 (relating to marketing
3 and sales practices for the retail residential energy
4 market).

5 (3) A process for an applicant to petition the
6 commission for authorization to provide consumer choice
7 billing through a third party if the applicant does not have
8 five years of experience or if the applicant otherwise meets
9 the qualifications under paragraph (2).

10 (4) A mechanism to create a bypassable billing service
11 charge that is wholly based on the fully unbundled direct and
12 indirect costs of an electric distribution company's billing
13 system or a natural gas distribution company's billing system
14 after a commission-imposed prudence review that guarantees
15 the recovery of all prudent investments in billing
16 infrastructure prior to the implementation of consumer choice
17 billing.

18 (5) A requirement that an electric distribution company
19 or natural gas distribution company timely furnish an
20 electric generation supplier or natural gas supplier
21 participating in consumer choice billing with the necessary
22 billing data.

23 (6) A standardized form of consumer notice to be used
24 when an electric generation supplier or natural gas supplier
25 ceases providing a particular type of service.

26 (7) A consumer choice billing working group for
27 stakeholders to draft tariff provisions, collect data, design
28 business processes, configure electronic transactions, review
29 similar programs in other states, define a comprehensive
30 consumer choice billing education program to support consumer

1 choice billing launches and consider any other relevant
2 matters, including the process for disconnection or
3 termination of utility service outside of the scope of this
4 chapter.

5 (8) An electronic data exchange working group to develop
6 proposed electronic transactions for an electric distribution
7 company, natural gas distribution company, electric
8 generation supplier or natural gas supplier to exchange
9 necessary consumption, billing, payment and related data.

10 (9) A prohibition on an electric distribution company or
11 natural gas distribution company from requiring an electric
12 generation supplier or natural gas supplier to purchase a
13 consumer's arrears from the electric distribution company,
14 natural gas distribution company or another entity.

15 (10) A prohibition on an electric distribution company
16 or natural gas distribution company from utilizing consumer
17 information to:

18 (i) market standard offer service;

19 (ii) research or market other electric distribution
20 company or natural gas distribution company services; or

21 (iii) share information the electric distribution
22 company or natural gas distribution company acquires
23 through electronic transactions that facilitate consumer
24 choice billing with the unregulated affiliates of the
25 electric distribution company or natural gas distribution
26 company or any other nongovernmental entity.

27 (11) The circumstances, terms and conditions for an
28 electric generation supplier or natural gas supplier to
29 change a consumer's billing method to or from consumer choice
30 billing and the corresponding content and timing of consumer

1 notification.

2 (12) The terms and conditions for a consumer on budget
3 billing with an electric distribution company or natural gas
4 distribution company at the time of the switch.

5 (13) The terms and conditions for the purchase of
6 receivables, including prioritization of partial payments and
7 dispute resolution processes.

8 (14) The terms and conditions for nonpayment by a
9 consumer receiving consumer choice billing, including the
10 content of collection notices, purchase of arrears and
11 limitations and unpaid charges.

12 (15) The terms and conditions for the participation of
13 consumers receiving energy assistance through a utility's
14 customer assistance program in consumer choice billing.

15 (c) Temporary regulations.--

16 (1) In order to facilitate the prompt implementation of
17 this chapter, regulations promulgated under subsection (a)
18 shall be deemed temporary regulations that shall expire no
19 later than two years following the publication of the
20 temporary regulations. The temporary regulations shall not be
21 subject to:

22 (i) Section 612 of the act of April 9, 1929
23 (P.L.177, No.175), known as The Administrative Code of
24 1929.

25 (ii) Sections 201, 202, 203, 204 and 205 of the act
26 of July 31, 1968 (P.L.769, No.240), referred to as the
27 Commonwealth Documents Law.

28 (iii) Sections 204(b) and 301(10) of the act of
29 October 15, 1980 (P.L.950, No.164), known as the
30 Commonwealth Attorneys Act.

1 (iv) The act of June 25, 1982 (P.L.633, No.181),
2 known as the Regulatory Review Act.

3 (2) The commission's authority to promulgate temporary
4 regulations shall expire upon the promulgation of final-form
5 regulations, or two years after the effective date of this
6 paragraph, whichever is later.

7 § 22A05. Implementation plans.

8 (a) Submission.--No later than 45 days after the effective
9 date of this section, the commission shall issue an order
10 requiring an electric distribution company or natural gas
11 distribution company to submit an implementation plan to the
12 commission within 180 days. The implementation plan shall:

13 (1) demonstrate how the electric distribution company or
14 natural gas distribution company will meet the requirements
15 under this chapter;

16 (2) be subject to commission approval on an expedited
17 basis, if necessary; and

18 (3) include all tariffs, agreements, processes, proposed
19 cost recovery mechanisms and other components required for
20 approval by the commission in accordance with the
21 commission's order under this subsection.

22 (b) Records of recoverable costs.--An electric distribution
23 company or natural gas distribution company shall maintain a
24 record of recoverable costs as regulatory assets, which shall be
25 recovered in the immediately subsequent rate case and adjusted
26 in future base rate cases in accordance with section 1308
27 (relating to voluntary changes in rates) or through an
28 alternative rate mechanism under section 1330 (relating to
29 alternative ratemaking for utilities).

30 § 22A06. Report.

1 (a) Submission.--No later than 360 days after the
2 promulgation of final-form regulations implementing consumer
3 choice billing, the commission shall submit a report to the
4 chair and minority chair of the Consumer Protection and
5 Professional Licensure Committee of the Senate and the chair and
6 minority chair of the Consumer Protection, Technology and
7 Utilities Committee of the House of Representatives.

8 (b) Details.--The report under subsection (a) shall detail
9 the status of consumer choice billing, including all of the
10 following information about consumers who elected to participate
11 in consumer choice billing:

12 (1) Retail electric and natural gas shopping statistics.

13 (2) Consumer complaints.

14 (3) Billing disputes.

15 (4) Service terminations.

16 (5) Any other information to determine whether
17 modifications are necessary to consumer choice billing
18 qualifications and regulations for the purpose of enhancing
19 retail electric and natural gas service shopping.

20 § 22A07. Penalties.

21 (a) Violations by suppliers.--For a violation of this
22 chapter, including a violation of the commission's orders or
23 regulations, by an electric generation supplier or natural gas
24 supplier, consistent with the requirements of due process, the
25 commission may impose any of the following:

26 (1) A suspension or revocation of the electric
27 generation supplier or natural gas supplier's participation
28 in consumer choice billing.

29 (2) A suspension or revocation of the license of an
30 electric generation supplier or natural gas supplier for a

1 violation of this chapter.

2 (3) For a fraudulent, deceptive or other unlawful
3 marketing act, a fine on the electric generation supplier or
4 natural gas supplier.

5 (b) Violations by agents.--In accordance with 52 Pa. Code §
6 54.43(f) (relating to standards of conduct and disclosure for
7 licensees) for an electric generation supplier and 52 Pa. Code §
8 62.114(e) (relating to standards of conduct and disclosure for
9 licensees) for a natural gas supplier, an electric generation
10 supplier or natural gas supplier shall be responsible for
11 fraudulent, deceptive or other unlawful marketing act performed
12 by an agent of the electric generation supplier or natural gas
13 supplier. For a violation of this chapter, including a violation
14 of the commission's orders or regulations, by an agent of an
15 electric generation supplier or natural gas supplier, consistent
16 with due process, the commission may impose any of the
17 following:

18 (1) A suspension or revocation of the electric
19 generation supplier's or natural gas supplier's participation
20 in consumer choice billing.

21 (2) A suspension or revocation of the license of an
22 electric generation supplier or natural gas supplier for a
23 violation of this chapter.

24 (3) For a fraudulent, deceptive or other unlawful
25 marketing act, a fine on the electric generation supplier or
26 natural gas supplier.

27 Section 2. Repeals are as follows:

28 (1) The General Assembly declares that repeals under
29 paragraph (2) are necessary to effectuate the addition of 66
30 Pa.C.S. Ch. 22A.

1 (2) The provisions of 66 Pa.C.S. §§ 2205(c) and 2807(c)
2 are repealed insofar as they are inconsistent with the
3 addition of 66 Pa.C.S. Ch. 22A.
4 Section 3. This act shall take effect in 120 days.