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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 129 Session of  
2019

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INTRODUCED BY BOSCOLA, BROWNE, MENSCH, ARGALL, HUTCHINSON,  
SCAVELLO, STEFANO, K. WARD AND ALLOWAY, APRIL 8, 2019

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
APRIL 8, 2019

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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(a)(10), (b)(1) introductory  
8 paragraph and (i)(B) and (I), (c)(3), (d)(2), (f)(1)(i) and (ii)  
9 and (2)(i) and (ii) introductory paragraph and (A) and the  
10 definition of "conservation service provider" in subsection (m)  
11 of Title 66 of the Pennsylvania Consolidated Statutes are  
12 amended, subsection (m) is amended by adding a definition and  
13 the section is amended by adding subsections to read:

14 § 2806.1. Energy efficiency and conservation program.

15 (a) Program.--The commission shall, by January 15, 2009,  
16 adopt an energy efficiency and conservation program to require  
17 electric distribution companies to adopt and implement cost-  
18 effective energy efficiency and conservation plans to reduce

1 energy demand and consumption within the service territory of  
2 each electric distribution company in this Commonwealth. The  
3 program shall include:

4 \* \* \*

5 (10) A requirement for the [participation] utilization  
6 of conservation service providers [in] to facilitate the  
7 implementation of all or part of a plan.

8 \* \* \*

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

10 (1) The following apply:

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

19 \* \* \*

20 [(B) A minimum of 10% of the required reductions  
21 in consumption under subsections (c) and (d) shall be  
22 obtained from units of Federal, State and local  
23 government, including municipalities, school  
24 districts, institutions of higher education and  
25 nonprofit entities.]

26 \* \* \*

27 (I) The electric distribution company shall  
28 demonstrate that the plan is cost effective using a  
29 total resource cost test approved by the commission  
30 and provides a diverse cross section of alternatives

1 for participating customers of [all] rate classes  
2 included in the plan.

3 \* \* \*

4 (c) Reductions in consumption.--The plans adopted under  
5 subsection (b) shall reduce electric consumption as follows:

6 \* \* \*

7 (3) By November 30, 2013, [and every five years  
8 thereafter,] the commission shall evaluate the costs and  
9 benefits of the program established under subsection (a) and  
10 of approved energy efficiency and conservation plans  
11 submitted to the program. The evaluation shall be consistent  
12 with a total resource cost test or a cost-benefit analysis  
13 determined by the commission. If the commission determines  
14 that the benefits of the program exceed the costs, the  
15 commission shall adopt additional required incremental  
16 reductions in consumption. Following May 31, 2021, the term  
17 of a plan shall be determined by the commission but shall not  
18 exceed five years.

19 (c.1) Option.--

20 (1) Prior to each phase of implementation of the program  
21 beginning after May 31, 2021, by a date determined by the  
22 commission, a customer that is a member of a large commercial  
23 class or industrial class may opt to cease participation in  
24 the electric distribution company plan for all of the  
25 customer's eligible accounts. A customer that opts to cease  
26 participation in a plan under this paragraph shall remain  
27 opted out of the electric distribution company plan for all  
28 subsequent phases of implementation of the program unless and  
29 until the customer, by a date determined by the commission  
30 prior to implementation of a subsequent phase, opts to resume

1 participation in the electric distribution company plan.

2 (2) A customer that opts out of a plan under paragraph  
3 (1):

4 (i) shall not be eligible to receive grants, rebates  
5 or other funding contained in the plan for the opt-out  
6 accounts during the applicable phase; and

7 (ii) shall not be required to pay a recovery under  
8 subsection (k) for the opt-out accounts during the  
9 applicable phase.

10 (3) By December 31, 2019, the commission shall establish  
11 guidelines to implement this subsection.

12 (c.2) Refund.--Any overcollections or undercollections from  
13 any customer classes shall be refunded or recovered, as  
14 appropriate in accordance with the commission's implementation  
15 order for the subsequent phase.

16 (d) Peak demand.--The plans adopted under subsection (b)  
17 shall reduce electric demand as follows:

18 \* \* \*

19 (2) [By November 30, 2013, the commission shall compare  
20 the total costs of energy efficiency and conservation plans  
21 implemented under this section to the total savings in energy  
22 and capacity costs to retail customers in this Commonwealth  
23 or other costs determined by the commission. If the  
24 commission determines that the benefits of the plans exceed  
25 the costs, the commission shall set additional incremental  
26 requirements for reduction in peak demand for the 100 hours  
27 of greatest demand or an alternative reduction approved by  
28 the commission. Reductions in demand shall be measured from  
29 the electric distribution company's peak demand for the  
30 period from June 1, 2011, through May 31, 2012. The

1 reductions in consumption required by the commission shall be  
2 accomplished no later than May 31, 2017.] The commission  
3 shall not mandate any peak demand reductions in any new plan  
4 implemented after May 31, 2021.

5 \* \* \*

6 (f) Penalties.--

7 (1) The following shall apply for failure to submit a  
8 plan:

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

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

17 \* \* \*

18 (2) The following shall apply to an electric  
19 distribution company that fails to achieve the reductions in  
20 consumption required [under subsection (c) or (d)] by the  
21 commission under subsection (c):

22 (i) The electric distribution company shall be  
23 subject to a civil penalty [not less than \$1,000,000 and]  
24 not to exceed [\$20,000,000] \$5,000,000 for failure to  
25 achieve the [required] reductions in consumption [under  
26 subsection (c) or (d)] required by the commission under  
27 subsection (c). Any penalty paid by an electric  
28 distribution company under this subparagraph shall not be  
29 recoverable from ratepayers.

30 (ii) If an electric distribution company fails to

1 achieve the [required] reductions in consumption [under  
2 subsection (c) or (d)] required by the commission under  
3 subsection (c), responsibility to achieve the reductions  
4 in consumption shall be transferred to the commission.

5 The commission shall do all of the following:

6 (A) Implement a plan to achieve the [required]  
7 reductions in consumption [under subsection (c) or  
8 (d)] required by the commission under subsection (c).

9 \* \* \*

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

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

19 \* \* \*

20 "Large commercial class or industrial class." The group of  
21 customers categorized as large commercial or as industrial by an  
22 electric distribution company in its original energy efficiency  
23 and conservation plan under subsection (b)(1)(i) or as filed in  
24 the company's tariff.

25 \* \* \*

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