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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

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INTRODUCED BY VITALI, FRANKEL, BRIGGS, BROWNLEE, COHEN,  
M. DALEY, KINSEY, McCARTER, O'BRIEN AND THOMAS,  
FEBRUARY 23, 2015

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 23, 2015

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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; and providing for natural gas energy  
5 efficiency and conservation program.

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

8 Section 1. Section 2806.1(g), (k) and (m) of Title 66 of the  
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 2806.1. Energy efficiency and conservation program.

11 \* \* \*

12 [(g) Limitation on costs.--The total cost of any plan  
13 required under this section shall not exceed 2% of the electric  
14 distribution company's total annual revenue as of December 31,  
15 2006. The provisions of this paragraph shall not apply to the  
16 cost of low-income usage reduction programs established under 52  
17 Pa. Code Ch. 58 (relating to residential low income usage  
18 reduction programs).]

19 \* \* \*

1 (k) Recovery.--

2 (1) An electric distribution company shall recover on a  
3 full and current basis from customers, through a reconcilable  
4 adjustment clause under section 1307, all reasonable and  
5 prudent costs incurred in the provision or management of a  
6 plan provided under this section. This paragraph shall apply  
7 to all electric distribution companies, including electric  
8 distribution companies subject to generation or other rate  
9 caps.

10 (2) [Except as set forth in paragraph (3), decreased]  
11 Decreased revenues of an electric distribution company due to  
12 reduced energy consumption or changes in energy demand [shall  
13 not] attributable to the implementation of an energy  
14 efficiency and conservation program required by this section  
15 may be a recoverable cost under a reconcilable automatic  
16 adjustment clause.

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

22 \* \* \*

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

26 "Conservation service provider." An entity that provides  
27 information and technical assistance on measures to enable a  
28 person to increase energy efficiency or reduce energy  
29 consumption and that has no direct or indirect ownership,  
30 partnership or other affiliated interest with an electric

1 distribution company.

2 "Electric distribution company total annual revenue."

3 Amounts paid to the electric distribution company for  
4 generation, transmission, distribution and surcharges by retail  
5 customers.

6 "Energy efficiency and conservation measures."

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

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

13 (ii) The technology, practice or other measure  
14 reduces consumption of energy or peak load by the retail  
15 customer.

16 (iii) The cost of the acquisition or installation of  
17 the measure is directly incurred in whole or in part by  
18 the electric distribution company.

19 (2) Energy efficiency and conservation measures shall  
20 include solar or solar photovoltaic panels, energy efficient  
21 windows and doors, energy efficient lighting, including exit  
22 sign retrofit, high bay fluorescent retrofit and pedestrian  
23 and traffic signal conversion, geothermal heating,  
24 insulation, air sealing, reflective roof coatings, energy  
25 efficient heating and cooling equipment or systems and energy  
26 efficient appliances and other technologies, practices or  
27 measures approved by the commission.

28 "Peak demand." The highest electrical requirement occurring  
29 during a specified period. For an electric distribution company,  
30 the term shall mean the sum of the metered consumption for all

1 retail customers over that period.

2 "Quality assurance." All of the following:

3 (1) The auditing of buildings, equipment and processes  
4 to determine the cost-effectiveness of energy efficiency and  
5 conservation measures using nationally recognized tools and  
6 certification programs.

7 (2) Independent inspection of completed energy  
8 efficiency and conservation measures completed by third-party  
9 entities to evaluate the quality of the completed measure.

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

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

15 "Total resource cost test." A standard test that is met if,  
16 over the effective life of each plan not to exceed [15] 20  
17 years, the net present value of the avoided monetary [cost] and  
18 societal costs of supplying electricity is greater than the net  
19 present value of the monetary cost of energy efficiency  
20 conservation measures.

21 Section 2. Title 66 is amended by adding a section to read:

22 § 2806.3. Natural gas energy efficiency and conservation  
23 program.

24 (a) Program.--The commission shall, by January 15, 2016,  
25 adopt an energy efficiency and conservation program to require  
26 natural gas distribution companies to adopt and implement cost-  
27 effective energy efficiency and conservation plans to reduce  
28 energy demand and consumption within the service territory of  
29 each natural gas distribution company in this Commonwealth. The  
30 program shall include:

1           (1) Procedures for the approval of plans submitted under  
2 subsection (b).

3           (2) An evaluation process, including a process to  
4 monitor and verify data collection, quality assurance and  
5 results of each plan and the program.

6           (3) An analysis of the cost and benefit of each plan  
7 submitted under subsection (b) in accordance with a total  
8 resource cost test approved by the commission.

9           (4) An analysis of how the program and individual plans  
10 will enable each natural gas distribution company to achieve  
11 or exceed the requirements for reduction in consumption under  
12 subsection (c).

13           (5) Standards to ensure that each plan includes a  
14 variety of energy efficiency and conservation measures and  
15 will provide the measures equitably to all classes of  
16 customers.

17           (6) Procedures to make recommendations as to additional  
18 measures that will enable a natural gas distribution company  
19 to improve its plan and exceed the required reductions in  
20 consumption under subsection (c).

21           (7) Procedures to require that natural gas distribution  
22 companies competitively bid all contracts with conservation  
23 service providers.

24           (8) Procedures to review all proposed contracts prior to  
25 the execution of the contract with conservation service  
26 providers to implement the plan. The commission may order the  
27 modification of a proposed contract to ensure that the plan  
28 meets the requirements for reduction in demand and  
29 consumption under subsection (c).

30           (9) Procedures to ensure compliance with requirements

1 for reduction in consumption under subsection (c).

2 (10) A requirement for the participation of conservation  
3 service providers in the implementation of all or part of a  
4 plan.

5 (11) Cost recovery to ensure that measures approved are  
6 financed by the same customer class that will receive the  
7 direct energy and conservation benefits.

8 (b) Duties of natural gas distribution companies.--

9 (1) (i) By July 1, 2016, each natural gas distribution  
10 company shall develop and file an energy efficiency and  
11 conservation plan with the commission for approval to  
12 meet the requirements of subsection (a) and the  
13 requirements for reduction in consumption under  
14 subsection (c). The plan shall be implemented upon  
15 approval by the commission. The following are the plan  
16 requirements:

17 (A) The plan shall include specific proposals to  
18 implement energy efficiency and conservation measures  
19 to achieve or exceed the required reductions in  
20 consumption under subsection (c).

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

27 (C) The plan shall explain how quality assurance  
28 and performance will be measured, verified and  
29 evaluated.

30 (D) The plan shall state the manner in which the

1 plan will achieve the requirements of the program  
2 under subsection (a) and will achieve or exceed the  
3 required reductions in consumption under subsection  
4 (c).

5 (E) The plan shall include a contract with one  
6 or more conservation service providers selected by  
7 competitive bid to implement the plan or a portion of  
8 the plan as approved by the commission.

9 (F) The plan shall include estimates of the cost  
10 of implementation of the energy efficiency and  
11 conservation measures in the plan.

12 (G) The plan shall include specific energy  
13 efficiency measures for households at or below 150%  
14 of the Federal poverty income guidelines. The number  
15 of measures shall be proportionate to those  
16 households' share of the total energy usage in the  
17 service territory. The natural gas distribution  
18 company shall coordinate measures under this clause  
19 with other programs administered by the commission or  
20 another Federal or State agency. The expenditures of  
21 a natural gas distribution company under this clause  
22 shall be in addition to expenditures made under 52  
23 Pa. Code Ch. 58 (relating to residential low income  
24 usage reduction programs).

25 (H) The plan shall include a proposed cost-  
26 recovery tariff mechanism, in accordance with section  
27 1307 (relating to sliding scale of rates;  
28 adjustments), to fund the energy efficiency and  
29 conservation measures and to ensure full and current  
30 recovery of the prudent and reasonable costs of the

1 plan, including administrative costs, as approved by  
2 the commission.

3 (I) The natural gas distribution company shall  
4 demonstrate that the plan is cost effective using a  
5 total resource cost test approved by the commission  
6 and provides a diverse cross section of alternatives  
7 for customers of all rate classes.

8 (J) The plan shall require an annual independent  
9 evaluation of its cost-effectiveness and a full  
10 review of the results of each five-year plan required  
11 under subsection (c) (3) and, to the extent practical,  
12 how the plan will be adjusted on a going-forward  
13 basis as a result of the evaluation.

14 (K) The plan shall include an analysis of the  
15 natural gas distribution company's administrative  
16 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 subsection (c).

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 a natural gas  
26 distribution company to modify or terminate any part of a  
27 plan approved under this section if, after an adequate period  
28 for 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 subsection (c).

2 (3) If part of a plan is modified or terminated under  
3 paragraph (2), the natural gas distribution company shall  
4 submit 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 subsection (c).

8 (c) Reductions in consumption.--The plans adopted under  
9 subsection (b) shall reduce natural gas consumption as follows:

10 (1) By May 31, 2018, total annual weather-normalized  
11 consumption of the retail customers of each natural gas  
12 distribution company shall be reduced by a minimum of 1%. The  
13 1% demand reduction in consumption shall be measured against  
14 the natural gas distribution company's expected demand as  
15 forecasted by the commission for June 1, 2016, through May  
16 31, 2017, with provisions made for weather adjustments and  
17 extraordinary demand that the natural gas distribution  
18 company must serve.

19 (2) By May 31, 2020, the total annual weather-normalized  
20 consumption of the retail customers of each natural gas  
21 distribution company shall be reduced by a minimum of 3%. The  
22 3% demand reduction in consumption shall be measured against  
23 the natural gas distribution company's expected demand as  
24 forecasted by the commission for June 1, 2016, through May  
25 31, 2017, with provisions made for weather adjustments and  
26 extraordinary demand that the natural gas distribution  
27 company must serve.

28 (3) By May 31, 2020, and every five years thereafter,  
29 the commission shall evaluate the costs and benefits of the  
30 program established under subsection (a) and of approved

1 energy efficiency and conservation plans submitted to the  
2 program. The evaluation shall be consistent with a total  
3 resource cost test or a cost-benefit analysis determined by  
4 the commission. If the commission determines that the  
5 benefits of the program exceed the costs, the commission  
6 shall adopt additional required incremental reductions in  
7 consumption.

8 (d) Commission approval.--

9 (1) The commission shall conduct a public hearing on  
10 each plan and allow for the submission of recommendations by  
11 the Office of Consumer Advocate and the Office of Small  
12 Business Advocate and by members of the public as to how the  
13 natural gas distribution company could improve its plan or  
14 exceed the required reductions in consumption under  
15 subsection (c).

16 (2) The commission shall approve or disapprove a plan  
17 filed under subsection (b) within 120 days of submission. The  
18 following shall apply to an order disapproving a plan:

19 (i) The commission shall describe in detail the  
20 reasons for the disapproval.

21 (ii) The natural gas distribution company shall have  
22 60 days to file a revised plan to address the  
23 deficiencies identified by the commission. The revised  
24 plan shall be approved or disapproved by the commission  
25 within 60 days.

26 (e) Penalties.--

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

29 (i) A natural gas distribution company that fails to  
30 file a plan under subsection (b) shall be subject to a

1 civil penalty of \$100,000 per day until the plan is  
2 filed.

3 (ii) A natural gas distribution company that fails  
4 to file a revised plan under subsection (d)(2)(ii) shall  
5 be subject to a civil penalty of \$100,000 per day until  
6 the plan is filed.

7 (iii) Penalties collected under this paragraph shall  
8 be deposited in the low-income natural gas customer  
9 assistance program of the natural gas distribution  
10 company for the respective service territory.

11 (2) The following shall apply to a natural gas  
12 distribution company that fails to achieve the reductions in  
13 consumption required under subsection (c):

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

21 (ii) If a natural gas distribution company fails to  
22 achieve the required reductions in consumption under  
23 subsection (c), responsibility to achieve the reductions  
24 in consumption shall be transferred to the commission.  
25 The commission shall do all of the following:

26 (A) Implement a plan to achieve the required  
27 reductions in consumption under subsection (c).

28 (B) Contract with conservation service providers  
29 as necessary to implement any portion of the plan.

30 (f) Costs.--The commission shall recover from natural gas

1 distribution companies the costs of implementing the program  
2 established under this section.

3 (g) Report.--The following shall apply:

4 (1) Each natural gas distribution company shall submit  
5 an annual report to the commission relating to the results of  
6 the energy efficiency and conservation plan within each  
7 natural gas distribution service territory. The report shall  
8 include all of the following:

9 (i) Documentation of program expenditures.

10 (ii) Measurement and verification of energy savings  
11 under the plan.

12 (iii) Evaluation of the cost-effectiveness of  
13 expenditures.

14 (iv) Any other information required by the  
15 commission.

16 (2) Beginning five years following the effective date of  
17 this section and annually thereafter, the commission shall  
18 submit a report to the Consumer Protection and Professional  
19 Licensure Committee of the Senate and the Consumer Affairs  
20 Committee of the House of Representatives.

21 (h) Existing funding sources.--Each natural gas distribution  
22 company shall, upon request by any person, provide a list of all  
23 eligible Federal and State funding programs available to  
24 ratepayers for energy efficiency and conservation. The list  
25 shall be posted on the natural gas distribution company's  
26 Internet website.

27 (i) Recovery.--

28 (1) A natural gas distribution company shall recover on  
29 a full and current basis from customers, through a  
30 reconcilable adjustment clause under section 1307, all

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

6 (2) Decreased revenue of a natural gas distribution  
7 company due to reduced natural gas consumption or a change in  
8 natural gas demand attributable to the implementation of a  
9 natural gas energy efficiency and conservation program  
10 required by this section may be a recoverable cost under a  
11 reconcilable automatic adjustment clause.

12 (3) Decreased revenue and reduced natural gas  
13 consumption may be reflected in revenue and sales data used  
14 to calculate rates in a distribution-base rate proceeding  
15 filed by a natural gas distribution company under section  
16 1308 (relating to voluntary changes in rates).

17 (j) Applicability.--This section shall not apply to a  
18 natural gas distribution company with fewer than 100,000  
19 customers.

20 (k) Definitions.--As used in this section, the following  
21 words and phrases shall have the meanings given to them in this  
22 subsection:

23 "Conservation service provider." An entity that provides  
24 information and technical assistance on measures to enable a  
25 person to increase energy efficiency or reduce energy  
26 consumption and that has no direct or indirect ownership,  
27 partnership or other affiliated interest with a natural gas  
28 distribution company.

29 "Energy efficiency and conservation measures."

30 (1) Technologies, management practices or other measures

1 employed by retail customers that reduce natural gas  
2 consumption or demand if all of the following apply:

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

6 (ii) The technology, practice or other measure  
7 reduces consumption of natural gas by the retail  
8 customer.

9 (iii) The cost of the acquisition or installation of  
10 the measure is directly incurred in whole or in part by  
11 the natural gas distribution company.

12 (2) Energy efficiency and conservation measures shall  
13 include solar hot water systems, energy efficient windows and  
14 doors, geothermal heating, insulation, air sealing,  
15 reflective roof coatings, efficient gas heating equipment or  
16 systems and energy efficient appliances and other  
17 technologies, practices or measures approved by the  
18 commission.

19 "Natural gas distribution company total annual revenue."  
20 Amounts paid to the natural gas distribution company for  
21 commodity, transmission, distribution and surcharges by retail  
22 customers.

23 "Quality assurance." All of the following:

24 (1) The auditing of buildings, equipment and processes  
25 to determine the cost-effectiveness of energy efficiency and  
26 conservation measures using nationally recognized tools and  
27 certification programs.

28 (2) Independent inspection of completed energy  
29 efficiency and conservation measures completed by third-party  
30 entities to evaluate the quality of the completed measure.

1       "Total resource cost test." A standard test that is met if,  
2       over the effective life of each plan not to exceed 20 years, the  
3       net present value of the avoided monetary and societal cost of  
4       supplying natural gas is greater than the net present value of  
5       the monetary cost of energy efficiency conservation measures.

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