

No. 1984-240

AN ACT

SB 1196

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for rate communications to utility customers; defining "rate base"; regulating valuation; prohibiting certain natural gas utilities from utilizing a sliding scale of rates to recover natural gas costs; further providing for commission powers and duties relating to the use of coal, and for procedures and standards for regulating the rates of natural gas utilities; and making a repeal.

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

Section 1. Section 102 of Title 66 of the Pennsylvania Consolidated Statutes is amended by adding a definition to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Rate base." *The value of the whole or any part of the property of a public utility which is used and useful in the public service.*

* * *

Section 2. Section 514 of Title 66 is amended to read:
§ 514. Use of coal.

(a) Upgrading capability to use coal.—The commission shall ***promulgate regulations which*** require utilities to uprate their electric power production by upgrading the capability to use coal in existing coal-fueled plants where economically feasible ***and where the uprate is beneficial to ratepayers.***

(b) Incentive for uprating.—The commission shall **[develop] *promulgate regulations which establish*** a special cost recovery and shared benefits procedure for electric utilities and their ratepayers as an incentive to implement upratings as provided in subsection (a). ***Nothing in this section shall permit or require the commission to establish rates or procedures which are inconsistent with any other section in this title.***

Section 3. Section 1302 of Title 66 is amended to read:
§ 1302. Tariffs; filing and inspection.

Under such regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, tariffs showing all rates established by it and collected or enforced, or to be collected or enforced, within the jurisdiction of the commission. The tariffs of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, so far as practicable, to the form of those prescribed by such Federal regulatory body. Every public utility shall keep copies of such tariffs open to public inspection under

such rules and regulations as the commission may prescribe. *One copy of any rate filing shall be made available, at a convenient location and for a reasonable length of time within each of the utilities' service areas, for inspection and study by customers, upon request to the utility.*

Section 4. Section 1307(a) and (f) of Title 66 are amended to read:

§ 1307. Sliding scale of rates; adjustments.

(a) General rule.—Any public utility, except common carriers and those natural gas distributors with gross intrastate annual operating revenues in excess of \$40,000,000 with respect to the gas costs of such natural gas distributors, may establish a sliding scale of rates or such other method for the automatic adjustment of the rates of the public utility as shall provide a just and reasonable return on the **[fair value of the property used and useful in the public service] rate base of such public utility**, to be determined upon such equitable or reasonable basis as shall provide such fair return. A tariff showing the scale of rates under such arrangement shall first be filed with the commission, and such tariff, and each rate set out therein, approved by it. The commission may revoke its approval at any time and fix other rates for any such public utility if, after notice and hearing, the commission finds the existing rates unjust or unreasonable.

* * *

(f) Recovery of natural gas costs.—

(1) Natural gas distributors with gross intrastate annual operating revenues in excess of \$40,000,000 may file tariffs reflecting increases or decreases in their natural gas costs and the tariffs shall have an effective date six months from the date of filing. *The commission shall promulgate regulations establishing the time and manner of such filing, but no such natural gas utility shall voluntarily file more than one such tariff in a 12-month period: Provided, That nothing contained herein shall prohibit any party from advising the commission that there has been or there is anticipated to be a significant difference between the natural gas costs to the utility and the costs reflected in the then effective tariff or the commission from acting upon such advice.*

(2) The commission shall hold a hearing or hearings **[in the distributor's service area]**, with notice, to investigate the tariffs. *Where there has been an indication of consumer interest, the hearing shall be held in the service territory of the natural gas distributor.* Prior to the effective date of the filing, the commission shall issue **[a final] an** order establishing the rate to be charged to reflect such increases or decreases in natural gas costs. Rates established under this subsection do not constitute either a sliding scale of rates or an automatic adjustment subject to the prohibitions in subsections (a) and (b). Such rates, however, are subject to the same kinds of audits, reports and proceedings required by **[subsections (d) and (e)]**. **In addition to the reports required by subsections (d) and (e), gas distribution companies subject to this subsection shall:**

(i) **Submit evidence in the form of testimony or some other manner showing how actual costs are different from costs allowed under this subsection.**

(ii) Show how these costs are consistent with a least cost procurement policy as required by section 1318 (relating to determination of just and reasonable natural gas rates).

The commission shall allow these companies to recover the difference in these costs only after a hearing on the matter, if the commission makes a finding that the difference in costs was consistent with the requirements of section 1318.] subsection (d).

(3) Within 60 days following the end of such 12-month period as the commission shall designate, each public utility subject to this subsection shall file with the commission a statement which specifies for such period:

- (i) The total revenues received pursuant to this section.
- (ii) The total gas expense incurred.
- (iii) The difference between the amounts specified by subparagraphs (i) and (ii).
- (iv) Evidence explaining how actual costs incurred differ from the costs allowed under paragraph (2) and why such differences occurred.

(v) How these costs are consistent with a least cost procurement policy as required by section 1318 (relating to determination of just and reasonable natural gas rates).

Such report shall be a matter of public record and copies thereof shall be made available by the gas distributor to any person upon request. Copies of the reports shall be filed with the Office of Consumer Advocate at the same time as they are filed with the commission.

(4) The commission shall hold a public hearing on the substance of such statement submitted by a utility as required in paragraph (3) and on any related matters.

(5) The commission, after hearing, shall determine the portion of the companies' actual gas costs in the previous 12-month period which meet the standards set out in section 1318. The commission shall by order, direct each gas utility subject to this subsection to refund to its patrons any gas revenues collected pursuant to paragraph (2) which exceed the amount of actual gas expenses incurred consistent with the standards in section 1318 and to recover from its patrons any amount by which the actual gas expenses, which have been incurred consistent with the standards in section 1318, exceed the revenues collected pursuant to paragraph (2). Absent good reason to the contrary, the commission shall issue its order within six months following the filing of the statement described in paragraph (3). Refunds to patrons shall be made with interest, which shall be the average rate of interest specified for residential mortgage lending by the Secretary of Banking in accordance with the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law, during the period or periods for which the commission orders refunds: Provided, That nothing contained herein shall limit the applicability of any defenses, principles or doctrines which would prohibit the commission's inquiry into any matters that were decided finally in the commission's order issued under paragraph (2).

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Section 5. Section 1308(a) of Title 66 is amended and a subsection is added to read:

§ 1308. Voluntary changes in rates.

(a) General rule.—Unless the commission otherwise orders, no public utility shall make any change in any existing and duly established rate, except after 60 days notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force, and the time when the changed rates will go into effect. The public utility shall also give such notice of the proposed changes to other interested persons as the commission in its discretion may direct. *Such notices regarding the proposed changes which are provided to the utility's customers shall be in plain-understandable language as the commission shall prescribe.* All proposed changes shall be shown by filing new tariffs, or supplements to existing tariffs filed and in force at the time. The commission, for good cause shown, may allow changes in rates, without requiring the 60 days notice, under such conditions as it may prescribe.

* * *

(d.1) Multiple filings prohibited.—Except as required to implement an order granting extraordinary rate relief, no public utility which has filed a general rate increase request pursuant to this section shall file an additional general rate increase request pursuant to this section for the same type of service until the commission has made a final decision and order on the prior general rate increase request or until the expiration of the maximum period of suspension of the prior general rate increase request pursuant to this section, whichever is earlier.

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Section 6. Section 1311 of Title 66 is amended to read:

§ 1311. Valuation of *and return on the* property of a public utility.

(a) *Valuation generally.*—The commission may, after reasonable notice and hearing, ascertain and fix the [fair] value of the whole or any part of the property of any public utility, insofar as the same is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time [and ascertain the fair value] *in the value of rate base of a public utility on account* of all new construction, extensions, [and] additions *and retirements* to the property of any public utility.

(b) *Method of valuation.*—*The value of the property of the public utility included in the rate base shall be the original cost of the property when first devoted to the public service less the applicable accrued depreciation as such depreciation is determined by the commission.*

(c) *Segregation of property.*—When any public utility furnishes more than one of the different types of utility service, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the [property] *rate base* of such public utility for the purpose of fixing rates.

(d) *Common carriers.*—In fixing any rate of a public utility engaged exclusively as a common carrier by motor vehicle, the commission may, in

lieu of other standards established by law, fix the fair return by relating the fair and reasonable operating expenses, depreciation, taxes and other costs of furnishing service to operating revenues.

Section 7. Each natural gas distribution utility required to file a tariff in accordance with 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments) shall file such a tariff no later than March 1, 1985. Until such tariffs become effective in accordance with 66 Pa.C.S. § 1307(f), such utilities shall remain subject to the provisions of 66 Pa.C.S. § 1307 in effect prior to this amendatory act and the regulations issued by the commission pursuant to that section for natural gas distribution utilities.

Section 8. As much of the first sentence as reads "no later than January 1, 1986" and all of the second sentence of section 5 of the act of May 31, 1984 (P.L.370, No.74), entitled "An act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for commission powers and duties relating to the use of coal; prohibiting certain natural gas utilities from utilizing a sliding scale of rates to recover natural gas costs; and further providing for procedures and standards for regulating the rates of natural gas utilities," are repealed.

Section 9. This act shall take effect immediately.

APPROVED—The 21st day of December, A. D. 1984.

DICK THORNBURGH