

No. 1986-114

AN ACT

HB 1639

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for the appointment, terms, compensation and qualifications of and restrictions on commissioners; providing for a director of operations, the Office of Trial Staff, the Office of Special Assistants and the Director of Operations and their powers and duties; further providing for procedures, reports, budget requests and audits and for rate increase requests; providing for management efficiency investigators and for fuel purchase audits; limiting recovery of certain employee meeting expenses; making provisions relating to the sale of electric generating units; providing for the regulation of excess capacity costs and new electric generating units; restricting rate setting procedures of telephone companies; requiring that certain data be supplied by electric utilities; further regulating the recovery of advertising expenses and the recovery of club dues; authorizing the commission to order conservation and load management; regulating coin telephone service; and reestablishing the Pennsylvania Public Utility Commission.

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

Section 1. Sections 301(a), (b), (c) and (e), 305, 306 and 308 of Title 66 of the Pennsylvania Consolidated Statutes are amended to read:

§ 301. Establishment, members, qualifications and chairman.

(a) Appointment and terms of members.—The Pennsylvania Public Utility Commission, established by the act of March 31, 1937 (P.L.160, No.43), as an independent administrative commission, is hereby continued as such [and]. *Prior to the third Tuesday in January of 1987, the commission shall consist of five members who shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, for a term of ten years, provided that the term of any member appointed to fill a vacancy existing on the effective date of this amendatory act and prior to the third Tuesday in January of 1987 shall expire on March 31, 1987. Vacancies on April 1, 1987, shall be filled as follows: One term shall be until April 1, 1990, and one term shall be until April 1, 1992. Confirmation of such gubernatorial appointees shall be by a majority of the members of the Senate. If other vacancies occur between the effective date of this amendatory act and April 1, 1987, the term shall be the balance of the term to which the predecessor had been appointed. Vacancies after April 1, 1987, shall be filled for the balance of the term to which a predecessor had been appointed. Thereafter, the commission shall consist of five members appointed by the Governor, by and with the advice and consent of a majority of the members of the Senate, for a term of five years. The Governor may submit the nomination to the Senate within 60 days prior to the expiration of the term or the effective date of the resignation of the member whom the nominee would replace and shall submit that nomination no later than 90 days after the expiration of the term or the effective date of the resignation.*

[No] A commissioner **[upon the expiration of his term shall]** *may* continue to hold office **[until]** *for a period not to exceed six months beyond the expiration of his term if his successor [shall be] has not been* duly appointed **[or shall be]** and qualified *according to law*.

(b) Qualifications and restrictions.—Each commissioner, at the time of his appointment and qualification, shall be a resident of this Commonwealth and shall have been a qualified elector therein for a period of at least one year next preceding his appointment, and shall also be not less than **[30]** 25 years of age. No person shall be appointed a member of the commission or hold any place, position or office under it, who occupies any official relation to any public utility or who holds any other appointive or elected office of the Commonwealth or any political subdivision thereof. Commencing July 1, 1977, commissioners shall devote full time to their official duties. No commissioner shall hold any office or position, the duties of which are incompatible with the duties of his office as commissioner, or be engaged in any business, employment or vocation, for which he shall receive any remuneration, except as provided in this chapter. No employee, appointee or official engaged in the service of or in any manner connected with, the commission shall hold any office or position, or be engaged in any employment or vocation, the duties of which are incompatible with his employment in the service of or in connection with the work of the commission. No commissioner shall be paid or accept for any service connected with the office, any fee or emolument other than the salary and expenses provided by law. No commissioner shall participate in any hearing or proceeding in which he has any direct or indirect pecuniary interest. Within 90 days of confirmation, each commissioner shall disclose, at that time and thereafter annually, the existence of all security holdings in any public utility or its affiliates held by such commissioner, his or her spouse and any minor or unemancipated children and must either divest or place in a blind trust such securities. As used in this part, blind trust means a trust over which neither the commissioners, their spouses, nor any minor or unemancipated children shall exercise any managerial control, and from which neither the commissioners, their spouses, nor any minor or unemancipated children shall receive any income from the trust during the commissioner's tenure of office. Such disclosure statement shall be filed with the secretary of the commission and shall be open to inspection by the public during the normal business hours of the commission during the tenure of the commissioner. Every commissioner, and every individual or official, employed or appointed to office under, in the service of, or in connection with, the work of the commission, is forbidden, directly or indirectly, to solicit or request from, or to suggest or recommend to any public utility, or to any officer, attorney, agent or employee thereof, the appointment of any individual to any office, place or position in, or the employment of any individual in any capacity by, such public utility. Every commissioner, every bureau *or office* director and every administrative law judge employed or appointed to office under, in the service of or in connection with the work of the commission, is prohibited from accepting employment with any public utility subject to the rules and regulations of the commission.

for a period of one year, *and every commissioner is prohibited from appearing before the commission on behalf of any public utility subject to the rules and regulations of the commission for a period of three years*, after terminating employment or service with the commission. If any person employed or appointed in the service of the commission violates any provision of this section, the commission shall forthwith remove him from the office or employment held by him.

(c) Chairman.—A member designated by the Governor shall be the chairman of the commission during such member's term of office, *except that within 120 days following the third Tuesday in January 1987, and, every four years thereafter, the Governor shall designate a chairman. The commissioners shall annually elect a member to serve as the vice chairman of the commission.* When present, the chairman shall preside at all meetings, but in his absence *the vice chairman or, in his absence*, a member, designated by the chairman, shall preside and shall exercise, for the time being, all the powers of the chairman. The chairman shall have such powers and duties as authorized by the commission as provided in section 331(b) (relating to powers of commission and administrative law judges).

* * *

(e) Compensation.—Each of the commissioners shall receive an annual salary of [~~\$35,000, as of January 1, 1977, and \$40,000, as of January 1, 1978~~] *\$55,000*, except the chairman, who shall receive an annual salary of [~~\$37,500, as of January 1, 1977, and \$42,500, as of January 1, 1978~~] *\$57,500*.

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§ 305. [~~Secretary~~] *Director of operations, secretary*, employees and consultants.

(a) *Director of operations.*—*The commission may appoint a director of operations who shall serve at the pleasure of the commission and shall be responsible for the day-to-day administration and operation of the bureaus and offices of the commission, except that the director of operations shall have responsibility for the Office of Trial Staff only with regard to administrative matters.*

[(a)] (b) Secretary.—The commission may appoint and fix the compensation of a secretary to hold office at its pleasure. The secretary shall have such powers and shall perform such duties not contrary to law as the commission shall prescribe. The commission shall have power and authority to designate, from time to time, one of its clerks to perform the duties of the secretary during his absence, and the clerk so designated shall possess, for the time so designated, the powers of the secretary of the commission.

[(b)] (c) Employees and consultants.—The commission may appoint, fix the compensation of, authorize and delegate such officers, consultants, experts, engineers, statisticians, accountants, inspectors, clerks and employees as may be appropriate for the proper conduct of the work of the commission. The total compensation paid to consultants in any fiscal year shall not exceed 4% of the commission's budget. The commission shall keep records of the names of each consultant, the services performed for the commission, and the amounts expended for each consultant's services. The commission

shall submit these records as a part of its annual budget submission. Such records shall be a matter of public record open for inspection at the office of the commission during the normal business hours of the commission. The commission shall establish, after consultation with the Civil Service Commission, standardized qualifications for employment and advancement, and all titles, and establish different standards for different kinds, grades, and classes of similar work or service. The employees of the commission shall be afforded employment security as provided by the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act," or the appropriate collective bargaining agreement, whichever is applicable, but the commission shall set the salaries of all employees in accordance with the employment standards established under this section.

§ 306. [Counsel] *Office of Trial Staff.*

(a) *General rule.*—The [office of chief counsel] *Office of Trial Staff* to the Pennsylvania Public Utility Commission is hereby created. The [chief counsel] *Director of Trial Staff*, who shall be the chief prosecutor of the commission, shall be appointed by the commission and hold office at its pleasure. The commission [may also from time to time appoint such assistant counsel to] shall assign a permanent staff of such legal, technical and other employees of the commission as may be required for the proper conduct of [its work. Assistant counsel] the work of the *Office of Trial Staff*. Employees assigned to the *Office of Trial Staff* shall be under the supervision of the *Director of Trial Staff* and shall not be assigned to any duties other than with the *Office of Trial Staff*, except as the commission may on a temporary case-by-case basis permit where the performance of such other duties will not represent, or create the appearance of, a conflict of interest. The commission may designate employees of the *Office of Trial Staff* to serve as deputies to the *Director of Trial Staff*. The *Director of Trial Staff* may recommend persons for consideration by the commission as employees under his supervision. Attorneys assigned to the *Office of Trial Staff* may be removed by the commission only for good cause. The compensation of the [counsel] *Director of Trial Staff* and the employees under his supervision shall be fixed by the commission. [In accordance with the multifunction legal staff established in this part, such counsel shall attend the hearings before the commission or a commissioner, or a special agent or administrative law judge, and conduct the examination of witnesses and shall represent the commission upon appeals and other hearings in the courts of common pleas and in the Commonwealth and Supreme Courts, or other courts of this Commonwealth, or in any Federal court or agency and in actions instituted to recover penalties and to enforce regulations and orders of the commission. Such counsel shall conduct all mandamus, injunction and quo warranto proceedings at law or in equity, instituted for the enforcement of the regulations and orders of the commission, and shall perform such other professional duties as may be required by the commission.] *The Director of Trial Staff* shall report and be responsible directly to the commission, provided that the *Director of Trial Staff* shall be responsible to the commission through the *Director of Operations* only for purposes of administrative matters.

(b) Power and duties.—

(1) The Office of Trial Staff shall be responsible for and shall assist in the development of, challenge of and representation on the record of all matters in the public interest in all commission proceedings except those involving transportation, safety, eminent domain, siting, service issues having no impact on rates and ability to pay, provided that the Director of Trial Staff may petition the commission or may be directed by the commission to intervene to protect the public interest in any proceeding involving transportation, safety, eminent domain, siting, service issues having no impact on rates and ability to pay. To assist in carrying out his powers and duties under this section, the Director of Trial Staff shall supervise the activities of the Office of Trial Staff in all commission proceedings in which he participates. If the Director of Trial Staff is of the opinion that the initiation of a proceeding is necessary to protect the public interest, he shall request that the commission initiate the appropriate proceeding. When he participates in a commission proceeding, it shall be the duty and responsibility of the Director of Trial Staff to prosecute in that proceeding.

(2) In addition to any other responsibility conveyed upon it by the commission, the Office of Trial Staff shall submit a report to the commission recommending whether the commission should enter upon a hearing in order to investigate the justness and reasonableness of a tariff filed pursuant to section 1308 (relating to voluntary changes in rates), to suspend the effectiveness of such tariff, to allow such tariff to be suspended by operation of law or to allow temporary rates pursuant to section 1310 (relating to temporary rates). The report:

(i) shall recommend only the initial action which the commission should take and shall not contain an opinion as to the portion of a proposed rate increase which appears to be just and reasonable, unless the report includes a finding that the proposed rate increase appears to be just and reasonable in its entirety;

(ii) shall be released to the public if the report recommends that no hearings need to be held regarding the proposed tariff or that the proposed tariff should not be suspended, and may be released to the public in other circumstances when, in the opinion of the commission, such release would be in the public interest;

(iii) shall be considered only as an indication of the Office of Trial Staff's opinion regarding whether there should be a hearing on the proposed tariff or whether the proposed tariff should be suspended; and

(iv) shall not be considered as evidence of the Office of Trial Staff's opinion regarding the justness and reasonableness of any proposed tariff in any subsequent commission proceeding.

(3) Except for the duties set out in paragraph (2), neither the Director of Trial Staff nor any employee whom the Director of Trial Staff supervises shall communicate with the commission, an administrative law judge or any other employee of the commission who is deciding or advising in the decision in an on-the-record proceeding, whether contested or uncon-

tested, as defined in section 332(c) (relating to procedures in general), except through the practice and procedure available to all parties to commission proceedings.

§ 308. *Bureaus and offices.*

(a) Enumeration.—There shall be established within the commission the following bureaus and functions:

- (1) Law Bureau.
- (2) Bureau of Conservation, Economics and Energy Planning.
- (3) Bureau of Consumer Services.
- (4) *Office of Special Assistants.*

(b) Law Bureau.—The Law Bureau shall be a multifunction legal staff, consisting of a prosecutory function [and], an advisory function, *a representational function and an enforcement function.* [Prosecutory counsel shall be responsible for and shall assist in the development of, challenge of, and representation on the record of all matters in the public's interest. Advisory counsel] *The Director of the Law Bureau shall be the chief counsel of the commission and shall serve at the pleasure of the commission. The commission may also, from time to time, appoint such assistant counsel to the commission as may be required for the proper conduct of the work of the Law Bureau. Assistant counsel may be removed by the commission only for good cause. The Law Bureau shall advise the commission on any and all matters. [The counsel shall appear on behalf of the commission in all courts of record and before district magistrates.] No counsel shall in the same case or a factually related case perform duties in the prosecutory and advisory functions, if such performance would represent a conflict of interest. Except for litigation referred to the Attorney General or other appropriate outside counsel, the Law Bureau solely shall be responsible to represent the commission upon appeals and other hearings in the courts of common pleas and in the Commonwealth Court, Supreme Court or other courts of this Commonwealth or in any Federal court or agency and in actions instituted to recover penalties and to enforce regulations and orders of the commission. No member of the Law Bureau shall participate in any prosecutory function in any matter before the commission unless directed by the commission to do so in a proceeding involving transportation, safety, eminent domain, siting, service issues having no impact on rates or ability to pay or assist the Office of Trial Staff in carrying out the duties of the Office of Trial Staff, nor shall any member of the Law Bureau receive assistance from the Office of Trial Staff in the performance of his duties. Except as provided in this section, the Law Bureau may receive assistance from any other bureau or office of the commission as determined to be necessary.*

(c) Bureau of Conservation, Economics and Energy Planning.—The Bureau of Conservation, Economics and Energy Planning shall conduct studies and research all matters within the commission's jurisdiction and advise the commission of the results thereof in order to enable the commission to provide prospective regulation in the best interest of all parties concerned. Such studies and research shall include long range forecasting of energy needs and development; research into the use of new, efficient and

economic methods of energy production; the review of the efficiency of the present generating systems operated within this Commonwealth; and the development of an effective program of energy conservation. The commission shall require all electric and gas public utilities subject to its jurisdiction to file with it an annual conservation report which shows the plans and progress achieved on programs of energy conservation. The commission shall, by rule, prescribe guidelines for the form and manner of such annual conservation report which report shall describe the current and proposed programs of each such utility designed to educate and encourage its customers in the optimum, effective and efficient use by them of electric and gas energy. The report shall include an accounting of the monetary and personnel resources actually or proposed to be expended or devoted to and the actual or anticipated results of such programs. The bureau shall review all proposals for electric and gas public utility plant expansion and shall submit for consideration of the commission its findings on what impact, if any, the electric and gas public utility plant expansion will have on rates charged by the public utility.

(d) Bureau of Consumer Services.—

(1) The Bureau of Consumer Services shall investigate and **[have prepared replies to]** *issue final determinations* on all informal consumer complaints and shall advise the commission as to the need for formal commission action on any matters brought to its attention by the complaints. *Any party may appeal a final determination issued by the Bureau of Consumer Services and seek review by an administrative law judge or special agent subject to the procedures in section 335 (relating to initial decisions).* The bureau shall on behalf of the commission keep records of all complaints received, the matter complained of, the utility involved, and the disposition thereof and shall at least annually report to the commission on such matters. The commission may take official notice of all complaints and the nature thereof in any proceeding before the commission in which the utility is a party. The commission shall adopt, publish and generally make available rules by which a consumer may make informal complaints. The bureau shall also assist and advise the commission on matters of safety compliance by public utilities.

(2) *Annually on or before April 15, the commission shall submit a report to the Governor and to the Business and Commerce Committee of the House and the Community and Economic Development Committee of the Senate. The report shall compare all nonresidential categories of ratepayers for all electric and gas public utilities so that reasonably accurate comparisons of rates can be made between similar individuals or groups of nonresidential ratepayers receiving services in different service areas.*

(e) *Office of Special Assistants.—The Office of Special Assistants shall be a support staff which shall be responsible to assist in the preparation of commission orders and shall perform such other advisory duties as may be required of it by the commission. No member of the Office of Special Assistants shall participate in any prosecutory function in any matter before the*

commission. No member of the Office of Special Assistants shall assist the Office of Trial Staff in carrying out the duties of the Office of Trial Staff, nor shall any member of the Office of Special Assistants receive assistance from the Office of Trial Staff in the performance of his duties. Except as provided in this section, the Office of Special Assistants may receive assistance from, or provide assistance to, any other bureau or office of the commission as determined to be necessary.

(f) Other bureaus and offices.—The commission shall establish such bureau or bureaus to perform such duties as the commission may prescribe regarding all matters respecting rates of public utilities and all matters respecting common carriers and contract carriers. The establishment of these bureaus shall not be construed to prohibit the commission from establishing any additional bureaus which the commission finds necessary to protect the interests of the people of this Commonwealth. The bureaus may perform such other duties not inconsistent with law as the commission may direct.

[(f)] (g) Staff testimony.—Members of the staff of the commission, *except for the Office of Special Assistants*, shall appear and present testimony in any proceeding before the commission when called by the commission, *the chief counsel, the Director of Trial Staff* or any of the parties to the proceeding. In addition to any cross-examination by [counsel] *the Office of Trial Staff* as provided in section 306 (relating to [counsel] *Office of Trial Staff*) or *the chief counsel*, any member of the commission staff who participates in the analysis, review and conclusions in any proceedings before the commission may, in the discretion of [commission counsel] *the Office of Trial Staff or the chief counsel* and with the consent of the presiding officer, cross-examine any witness presented by the parties to the proceeding at the public hearing.

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

§ 321. *Annual reports.*

The commission shall annually transmit, to the Governor and the General Assembly and shall make available to the public, a report on the conduct of the commission. The report shall include, but shall not be limited to, a summary of all rate proceedings completed within the reporting period, the amount of the rate increase requested in each such proceeding, the amount of the request granted by the commission in each such proceeding, the percentage increase in rates requested and granted in each such proceeding as compared to the percentage increase requested and granted in the most recent similar proceeding for the affected utility prior to the reporting period, a summary of other significant regulatory issues which the commission resolved during the reporting period, a summary of significant orders and decisions of the commission and the courts of the Commonwealth during the reporting period relating to public utilities, a summary of significant anticipated issues by type of utility and a status report of any commission action regarding these issues, and a summary of the audits completed by the commission during the reporting period. In the annual report and at such other times as the commission determines, the commission shall make recommendations to the Governor and the General Assembly which the commission believes to be necessary or desirable to protect the public interest.

Section 3. Sections 331(d), 332(h), 333(d), 510(a), 515 and 516 of Title 66 are amended to read:

§ 331. Powers of commission and administrative law judges.

* * *

(d) Authority of presiding officers.—In addition to any administrative rules of procedure contained in this part, the commission may adopt and publish such additional rules of procedure as are not inconsistent with this part. Officers presiding at hearings shall have authority subject to the published rules of the commission and within its powers, to:

(1) Administer oaths and affirmations.

(2) Issue subpoenas authorized by law.

(3) Rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken whenever the ends of justice would be served thereby.

(4) Regulate the course of the hearing.

(5) *Require persons requesting to make a statement at a public input hearing to state their name, occupation and place of employment for the record.*

~~[(5)]~~ (6) Hold conferences for settlement or simplification of the issues by consent of the parties.

~~[(6)]~~ (7) Dispose of procedural requests or similar matters.

~~[(7)]~~ (8) Make decisions or recommend decisions in conformity within this part.

~~[(8)]~~ (9) Take any other action authorized by commission rule.

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§ 332. Procedures in general.

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(h) Exceptions and appeal procedure.—Any party to a proceeding referred to an administrative law judge under section 331(b) may file exceptions to the decision of the administrative law judge **[within 15 days after such decision is issued]** *with the commission*, in a form and manner *and within the time* to be prescribed by the commission. The **[administrative law judge]** *commission* shall rule upon such exceptions within **[30]** 90 days after filing. **[Any party to the proceeding may appeal to the commission from the ruling of the administrative law judge on the exceptions within 15 days after such ruling is issued.]** If no exceptions are filed **[or if no appeal is taken from the ruling on the exceptions within 15 days after any such decision or ruling is issued]**, the decision **[or ruling]** shall become final, without further commission action, unless two or more commissioners within 15 days after the decision **[or ruling on the exceptions]** request that the commission review the decision and make such other order, within 90 days of such request, as it shall determine. **[Prosecutory counsel of the Law Bureau]** *The Office of Trial Staff and the chief counsel* shall be deemed to have automatic standing as a party to such proceeding and may file exceptions to any decision of the administrative law judge under this subsection.

§ 333. Prehearing procedures.

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(d) Interrogatories.—Any party to a proceeding may serve written interrogatories upon any other party for purposes of discovering relevant, unprivileged information. A party served with interrogatories may, before the time prescribed either by commission rule or otherwise for answering the interrogatories, apply to the presiding officer for the holding of a prehearing conference for the mutual exchange of evidence exhibits and other information. Each interrogatory which requests information not previously supplied at a prehearing conference or hearing shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objections shall be stated in lieu of an answer. The party upon whom the interrogatories have been served shall serve a copy of the answers and objections within a reasonable time, unless otherwise specified, upon the party submitting the interrogatories. The party submitting the interrogatories may petition the presiding officer for an order compelling an answer to an interrogatory or interrogatories to which there has been an objection or other failure to answer. The commission shall designate an appropriate official, *other than the Director of Trial Staff or any other employee of the Office of Trial Staff*, on whom other parties to the proceeding may serve written interrogatories directed to the commission. That official shall arrange for agency personnel with knowledge of the facts to answer and sign the interrogatories on behalf of the commission. **[The attorney or employee appearing on behalf of the commission in the proceeding shall have the authority to make and sign objections to interrogatories served upon the commission.]** Interrogatories directed to the commission shall be allowed only upon an order of the commission based upon a specific finding that the interrogating party is seeking significant, unprivileged information not discoverable by alternative means. *When participating in a commission proceeding, the Office of Trial Staff shall be subject to the same rules of discovery applicable to any other party to the case.*

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§ 510. Assessment for regulatory expenses upon public utilities.

(a) Determination of assessment.—Before November 1 of each year, the commission shall estimate its total expenditures in the administration of this part for the fiscal year beginning July of the following year, which estimate shall not exceed three-tenths of 1% of the total gross intrastate operating revenues of the public utilities under its jurisdiction for the preceding calendar year. Such estimate shall be submitted to the Governor in accordance with section 610 of the act of April 9, 1929 (P.L.177, No.175), known as “The Administrative Code of 1929.” *At the same time the commission submits its estimate to the Governor, the commission shall also submit that estimate to the General Assembly.* The commission or its designated representatives shall be afforded an opportunity to appear before the Governor and the Senate and House Appropriations Committees regarding their estimates. The commission shall subtract from the final estimate:

(1) The estimated fees to be collected pursuant to section 317 (relating to fees for services rendered by commission) during such fiscal year.

(2) The estimated balance of the appropriation, specified in section 511 (relating to disposition, appropriation and disbursement of assessments and fees), to be carried over into such fiscal year from the preceding one.

The remainder so determined, herein called the total assessment, shall be allocated to, and paid by, such public utilities in the manner prescribed. If the General Assembly fails to approve the commission's budget for the purposes of this part, by March **[15] 30**, the commission shall assess public utilities on the basis of the last approved operating budget. At such time as the General Assembly approves the proposed budget the commission shall have the authority to make an adjustment in the assessments to reflect the approved budget. *If, subsequent to the approval of the budget, the commission determines that a supplemental budget may be needed, the commission shall submit its request for that supplemental budget simultaneously to the Governor and the chairmen of the House and Senate Appropriations Committees.*

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§ 515. Construction cost of electric generating units.

(a) Submission of estimate.—No later than 30 days after construction of an electric generating unit is begun, either in this Commonwealth or in some other state, any public utility operating in this Commonwealth and owning any share in that unit shall submit to the commission an estimate of the cost of constructing that unit. If the public utility acquires ownership of any share in an electric generating unit which is under construction on the date of acquisition, the public utility shall, within 30 days of the date of acquisition, submit an estimate of the cost of constructing that unit which was formulated no later than 30 days from the beginning of construction.

(b) *Auditor in charge.*—*For each electric generating unit under construction which falls under the provisions of this section, the commission shall designate an auditor in charge. In addition to the access to evidence granted by this section, each utility having a generating unit under construction shall promptly submit, to the appropriate auditor in charge, copies and a description of any change with respect to construction which may be expected to result in substantial variances in the construction cost. A summary of all other changes shall be submitted to the commission at such reasonable times as the commission shall require.*

(c) Access to evidence.—From and after the beginning of construction of an electric generating unit, the commission, or **[its designee]** *the auditor in charge*, and the Consumer Advocate, or his designee, shall have reasonable access to the construction site and to any oral or documentary evidence relevant to determining the necessity and propriety of any construction cost. If a public utility objects to any request by the commission or *the auditor in charge* or the Consumer Advocate, or **[persons]** *the person* designated by the **[commission or the]** Consumer Advocate, for access to the construction site or to any oral or documentary evidence, the objection shall be decided in the

same manner as an on-the-record proceeding pursuant to Chapter 3 (relating to public utility commission). The affected public utility shall have the burden of proof in sustaining any such objection.

[(c)] (d) Definition.—As used in this section the term “construction” includes any work performed on an electric generating unit which is expected to require the affected public utility to incur an aggregate of at least \$100,000,000 of expenses which, in accordance with generally accepted accounting principles, are capital expenses and not operating or maintenance expenses.

§ 516. Audits of certain utilities.

(a) General rule.—The commission shall provide for audits of any electric, gas, telephone or water utility whose plant in service is valued at not less than \$10,000,000. The audits shall include an examination of management effectiveness and operating efficiency. The commission shall establish procedures for audits of the operations of utilities as provided in this section. Audits shall be conducted at least once every five years unless the commission finds that a specific audit is unnecessary, but in no event shall audits be conducted less than once every eight years. *A summary of the audits mandated by this subsection shall be released to the public, and a complete copy of the audits shall be provided to the Office of Trial Staff and the Office of Consumer Advocate.*

(b) Management efficiency investigations.—*In addition to the audits mandated by subsection (a), the commission shall appoint a management efficiency investigator who shall periodically examine the management effectiveness and operating efficiency of all utilities required to be audited under subsection (a) and monitor the utility company responses to the audits required by subsection (a). For the purposes of carrying out the periodic audit required by this subsection and for carrying out the monitoring of audits required by subsection (a), the commission is hereby empowered to direct the management efficiency investigator to conduct such investigations through and with teams made up of commission staff and/or independent consulting firms; further, the commission may designate specific items of management effectiveness and operating efficiency to be investigated. The management efficiency investigator shall provide an annual report to the commission, the affected utility, the Office of Trial Staff and the Office of Consumer Advocate detailing the findings of such investigations.*

[(b)] (c) Use of independent auditing firms.—The commission may require an audit *under subsection (a) or (b)* to be performed by an independent consulting firm. When the commission, *under either subsection (a) or (b)*, orders an audit to be performed by an independent consulting firm, the commission, after consultation with the **[audited]** utility, shall select the **[audit]** firm and require the **[audited]** utility to enter into a contract with the **[audit]** firm providing for payment of the **[audit]** firm by the utility. *The terms of the contract shall include all reasonable expenses directly related to the performance of the audit or to the management efficiency investigation activities of independent consulting firms at the utility, as well as their preparation and presentation of testimony in any contested litigation which may*

be undertaken as a result of the audit findings under subsection (a) or (b). That contract shall require the audit firm to work under the direction of the commission.

(c)] (d) Other powers of commission unaffected.—This section is not intended to alter or repeal any existing powers of the commission.

Section 4. Section 517(e) of Title 66 is repealed.

Section 5. Title 66 is amended by adding sections to read:

§ 522. Expense reduction program.

(a) Target.—*The commission shall establish an expense reduction program for calendar year 1986 for all electric and gas utilities with total annual intrastate operating revenues of at least \$40,000,000 and for all telephone utilities with total annual intrastate operating revenues of at least \$9,000,000. Utilities regulated by the commission pursuant to this subsection shall make every reasonable effort to reduce their level of expenses, other than expenses associated with depreciation, fuel, collective bargaining agreements and other categories of expense as determined by the commission for the calendar year 1986 as compared to calendar year 1985. The commission shall periodically review the expense reducing efforts undertaken by utilities pursuant to this subsection and shall take appropriate action in response to these efforts.*

(b) Ongoing effort.—*The commission may direct or permit any utility to take any lawful action not inconsistent with this title for the purpose of encouraging economies, efficiencies or improvements which benefit the utility and its ratepayers.*

§ 523. Performance factor consideration.

(a) Considerations.—*The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate. Any adjustment made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the commission.*

(b) Fixed utilities.—*As part of its duties pursuant to subsection (a), the commission shall set forth criteria by which it will evaluate future fixed utility performance and in assessing the performance of a fixed utility pursuant to subsection (a), the commission shall consider specifically the following:*

(1) Management effectiveness and operating efficiency as measured by an audit pursuant to section 516 (relating to audits of certain utilities) to the extent that the audit or portions of the audit have been properly introduced by a party into the record of the proceeding in accordance with applicable rules of evidence and procedure.

(2) Action or failure to act pursuant to section 514 (relating to use of coal) to upgrade capability to use coal for electric utilities.

(3) *Efficiency and cost-effectiveness of generating capacity for electric utilities.*

(4) *Action or failure to act to encourage development of cost-effective energy supply alternatives such as conservation or load management, cogeneration or small power production for electric and gas utilities.*

(5) *Action or failure to act to encourage cost-effective conservation by customers of water utilities.*

(6) *Action or failure to act to contain costs of constructing new generating units consistent with sections 515 (relating to construction cost of electric generating units) and 1308(f) (relating to voluntary changes in rates).*

(7) *Any other relevant and material evidence of efficiency, effectiveness and adequacy of service.*

§ 524. *Data to be supplied by electric utilities.*

(a) *General rule.—Effective December 31, 1987, each public utility producing, generating, distributing or furnishing electricity shall submit annually to the commission information concerning its future plans to meet its customer demand, including, but not limited to, the following data:*

(1) *A year-by-year projection of electrical energy use and electrical energy demand for each of the next 20 years. The forecast shall examine alternative scenarios for demand growth and shall be divided into the residential, commercial, industrial and utility sectors.*

(2) *A year-by-year projection of all available sources of supply for each of the next 20 years, including, but not limited to, the following:*

(i) *Electric generating capacity from centralized power plants over 25,000 KW indicating planned additions, retirements, purchases and all other expected changes in levels of generating capacity.*

(ii) *The projected utilization, and the potential for additional utilization, of cogeneration and nonconventional technologies relying on renewable energy resources, including, but not limited to, solar, wind, biomass and geothermal and other small power technologies not accounted for in subparagraph (i). The information shall identify specifically any such capacity that is expected to or may be available to each utility.*

(3) *A year-by-year examination of the potential for promoting and ensuring the full utilization of all practical and economical energy conservation for the next 20 years and a discussion of how existing and planned utility programs do or do not adequately reach this potential. Such programs should include, but not be limited to, educational, audit, loan, rebate, third-party financing and load management efforts to shift load from peak to off-peak periods.*

(4) *An explanation of how the utility has integrated all demand-side and supply-side options to derive a resource mix to meet customer demand.*

(5) *A comparison of the total annual cost to customers and to the company of the utility's plan to meet new demand compared with alternative plans for the next 20 years.*

(6) *A discussion of the methodologies, assumptions and data sources used to determine the projections and estimates required by paragraphs (1), (2), (3), (4) and (5).*

(7) *With respect to the planned construction of any new generation or production facilities, the utility shall provide all of the following:*

(i) *A discussion of proposed and alternative sites for the construction and operation of planned facilities and an estimate of the effect on annual costs of each alternative considered.*

(ii) *A discussion of the type of fuel and method of generation to be used at the proposed facility as well as alternative types of facilities studied and an estimate of the effect upon annual costs of the various alternative types of facilities considered.*

(iii) *A discussion of expected financial impacts and requirements of construction and operation of the proposed facility, as well as alternative facilities.*

(iv) *A discussion of why all the alternatives considered were rejected.*

(b) *Report.*—*The commission shall prepare a report summarizing and discussing the data provided pursuant to subsection (a) and annually, on or before September 1, shall submit the report to the General Assembly, the Governor, the Office of Consumer Advocate and each affected public utility.*

(c) *Regulations.*—*The commission shall promulgate regulations to establish the specific forms and methods of reporting the information to be submitted pursuant to subsection (a).*

(d) *Effect of submission of information.*—*Neither the submission to the commission of the information required by subsection (a) or the issuance by the commission of a report on the information, or anything contained in such reports, or any action taken by the commission as a result of the issuance of such reports, shall be considered or construed as approval or acceptance by the commission of any of the plans, assumptions or calculations made by the public utility and reflected in the information submitted.*

§ 525. *Sale of generating units and power.*

The commission may prohibit a public utility from discontinuing an electric generating unit from normal operation if the commission determines that it would be technically feasible and cost effective for the utility to sell the unit or the power from the unit to another utility and if the commission determines that it would be cost effective for the other utility to make such a purchase. The commission may also order the sale of the unit or the power from the unit if the commission determines that such a sale would be technically feasible and cost effective for both the selling and buying utilities.

§ 526. *Rejection of rate increase requests due to inadequate quality or quantity of service.*

(a) *General rule.*—*The commission may reject, in whole or in part, a public utility's request to increase its rates where the commission concludes, after hearing, that the service rendered by the public utility is inadequate in that it fails to meet quantity or quality for the type of service provided.*

(b) Other powers and duties preserved.—This section shall not be construed to diminish the powers and duties of the commission under any other provision of law to remedy inadequate service by a public utility.

§ 527. Cogeneration rules and regulations.

The commission shall promulgate rules and regulations concerning the rates, terms, conditions and availability of cogeneration in this Commonwealth. The commission shall require that utility rates to the public reflect savings to the utility from cogeneration.

Section 6. Section 1316 of Title 66 is amended to read:

§ 1316. Recovery of advertising expenses.

(a) General rule.—For purposes of rate determinations, no [gas or electric] public utility may charge to its consumers as a permissible operating expense for ratemaking purposes any direct or indirect expenditure by the utility for political advertising. The commission shall also disallow as operating expense for ratemaking purposes expenditures for other advertising, unless and only to the extent that the commission finds that such advertising is reasonable and meets one or more of the following criteria:

(1) Is required by law or regulation.

(2) Is in support of the issuance, marketing or acquisition of securities or other forms of financing.

(3) Encourages energy independence by promoting the wise development and use of domestic sources of coal, oil or natural gas and does not promote one method of generating electricity as preferable to other methods of generating electricity.

(4) Provides important information to the public regarding safety, rate changes, means of reducing usage or bills, load management or energy conservation.

(5) Provides a direct benefit to ratepayers.

(6) Is for the promotion of community service or economic development.

(b) Charging expenses to stockholders.—Any direct or indirect expenditure by a [gas or electric utility] public utility for political advertising, or any other advertising not meeting the criteria set forth in subsection (a), shall be charged to its stockholders and shall not be included as an operating expense for ratemaking purposes.

(c) Filing of information and materials.—Whenever a public utility proposes a change in rates under section 1308 (relating to voluntary changes in rates), the public utility shall file with the commission a listing of each type of advertising prepared, distributed or presented by the public utility or to be prepared, distributed or presented by the public utility during the test year utilized by the public utility in discharging its burden of proof, and a listing of each type of advertising prepared, distributed or presented by the public utility during the year immediately preceding the test year, as well as an accounting of the expenditures by the public utility for such advertising, to the extent such advertising is proposed to be included as operating expense for ratemaking purposes. The filing requirements imposed by this subsection shall not be construed to limit the right of any party to discovery under this or any other provision of law.

[(c)] (d) Definition.—As used in this section the term “political advertising” means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative action or candidate election or with respect to any controversial issue to be decided by public voting. The term includes money spent for lobbying but not money spent for appearances before regulatory or other governmental bodies in connection with a **[gas or electric]** public utility’s existing or proposed operations.

Section 7. Title 66 is amended by adding a section to read:

§ 1316.1. Recovery of club dues.

No public utility may charge to its customers as a permissible operating expense for ratemaking purposes membership fees, dues or charges to fraternal, social or sports clubs or organizations.

Section 8. Section 1319 of Title 66 is amended to read:

§ 1319. Financing of energy supply alternatives.

(a) Recovery of certain additional expenses.—If:

(1) a natural gas or electric public utility elects to establish a conservation or load management program and that program is approved by the commission after a determination by the commission that the program is prudent and cost-effective[,]; or

(2) *the commission orders a natural gas or electric public utility to establish a conservation or load management program that the commission determines to be prudent and cost-effective;*

the commission shall allow the public utility to recover all prudent and reasonable costs associated with the development, management, financing and operation of the program, provided that such prudent and reasonable costs shall be recovered only in accordance with appropriate accounting principles. Nothing in this section shall permit the recovery of costs in a manner prohibited by section 1315 (relating to limitation on consideration of certain costs for electric utilities). Nothing in this section shall permit the recovery of the cost of producing, generating, transmitting, distributing or furnishing electricity or natural gas.

(b) Option for recovery.—The commission may consider allowing the recovery of those costs permitted to be recovered by subsection (a) through charges to those persons who are participants in the financing program.

Section 9. Title 66 is amended by adding sections to read:

§ 1320. Fuel purchase audits by complaint.

(1) *Upon complaint, the commission shall conduct an audit of an electric public utility’s purchases of fuel for generating purposes. Such an audit shall examine the utility’s fuel purchasing activities for the two years prior to the date of such complaint, provided that:*

(i) *The utility does its own testing or procures its own analysis of its fuel.*

(ii) *The fuel cost of the utility for the most recently completed fiscal year exceeds that of the prior fiscal year by more than 5%.*

(iii) *The commission has not completed and made available to the public a fuel purchase audit of the utility in the past two years.*

(2) *This audit, which shall be completed within one year of the date of initiation of the complaint, shall include, but not be limited to, a comparison of unit price paid for fuel for generating purposes, considering such factors as ash, sulfur content, British thermal units, transportation costs and reliability of supply.*

(3) *The audit shall seek to determine whether the public utility's fuel purchasing procedures are conducted in such a manner as to result in the greatest benefit to the ratepayers.*

(4) *The commission's audit report shall contain recommendations as to methods by which the utility's fuel purchasing procedures can be adjusted so as to result in the greatest benefit to the ratepayers.*

(5) *The commission shall take the audit report into consideration at the utility's next request for a rate adjustment.*

(6) *Upon completion and release by the commission, copies of the audit report summary shall be mailed to every person who requests a copy.*

§ 1321. Recovery of certain employee meeting expenses.

No public utility may charge to its customers as a permissible operating expense for ratemaking purposes any portion or portions of the direct or indirect costs of meetings, conferences, seminars or other events conducted by the utility for its employees, managers or directors which portion or portions of such costs represent expenditures for activities or items unrelated to the business or civic purpose of the event, such as costs for entertainment, recreation, athletic activities, personal clothing or other personal effects.

§ 1322. Outages of electric generating units.

(a) *General rule.—Whenever an electric generating unit, determined by the commission to be a base load unit, is out of service for more than 120 consecutive days, a utility owning a share of that unit shall not be permitted to recover, through base rates, a sliding scale of rates, or by any other means, the excess energy costs incurred to generate or purchase replacement power occasioned by any portion of the outage which the commission determines to be unreasonable or imprudent. In making its determination under this subsection, the commission shall consider, in addition to any other relevant evidence, whether the outage could have been shortened or avoided if the unit had been properly constructed, operated or maintained.*

(b) *Notice of outage.—Whenever an electric generating unit, determined by the commission to be a base load unit, is out of service for 45 consecutive days, any utility owning a share of that unit shall submit to the commission and the Office of Consumer Advocate a status report on that outage. The utility shall submit subsequent status reports on the outage to the commission and the Office of Consumer Advocate at least by the 20th day of each subsequent month until the unit returns to service. If more than one utility owns a share in the electric generating unit, the commission may designate one utility to make the reports required by this subsection.*

(c) *Operation at less than reasonable level of generation.—Whenever the actual generation of an electric generating unit, determined by the commission to be a base load unit, is less than 50% of the unit's potential generation during any calendar year or other 12-month period specified by the commis-*

sion, the commission, on its own motion or upon complaint, may initiate an investigation to determine a reasonable level of generation for that unit. In establishing rates as part of that investigation or in any subsequent proceeding, the commission shall not permit recovery of the excess energy costs incurred to generate or purchase replacement power occasioned by the failure of the unit to operate at or above such reasonable level of generation, if such failure is determined to be unreasonable or imprudent.

(d) *Procedure.*—In carrying out its powers and duties under this section, the commission may hold such hearings as it deems necessary. The utility shall have the burden of proof in any proceeding under this section.

(e) *Other powers and duties preserved.*—This section shall not be construed to diminish the powers and duties of the commission under any other provision of law to reduce rates in the event of an outage of an electric generating unit, regardless of the duration of that outage.

(f) *Definition.*—As used in this section the term “excess energy costs” means the additional costs incurred to purchase or generate replacement power minus the fuel costs which would have been incurred to generate an equivalent amount of power from the affected base load unit.

§ 1323. *Procedures for new electric generating capacity.*

(a) *Excess capacity costs.*—Whenever a public utility claims the costs of an electric generating unit in its rates for the first time and the commission finds that the unit results in the utility having excess capacity, the commission shall disallow from the utility’s rates, in the same proportion as found to be excess capacity:

- (1) the return on specific unit or units of any excess generating reserve;
- (2) the return on the average net original cost per megawatt of the utility’s generating capacity; or
- (3) the equity investment in the new unit.

In addition to the disallowances set forth in this subsection, the commission may disallow any other costs of the unit or units which the commission deems appropriate. For the purposes of this section, a rebuttable presumption is created that a unit or units or portion thereof shall be determined to be excess unless found to be needed to meet the utility’s customer demand plus a reasonable reserve margin in the test year or the year following the test year, or, if it is a base load unit, it is also found to produce annual economic benefits which will exceed the total annual cost of the plant during the test year or within a reasonable period following the test year.

(b) *Units which are out of service.*—Whenever an electric generating unit, determined by the commission to be a base load unit, is first claimed in the rates of a public utility and the unit is out of service at the time that the commission makes its final decision in the case in which the unit’s costs are claimed, the commission shall make either of the following adjustments:

- (1) exclude from the utility’s rates all costs associated with the unit; or
- (2) for a period of one year from the date of the final decision, require that the utility shall guarantee at least the level of either generation or energy savings, whichever produces the rate or rates most advantageous to the ratepayer, that the utility had estimated would be produced by the unit in the first year of its operation.

An adjustment shall be made under this subsection regardless of whether or not the new base load unit had been in service during or at the end of the test year used in the proceeding.

(c) Other powers and duties preserved.—This section shall not be construed to diminish the powers and duties of the commission under any other provision of law to reduce rates because of excess capacity or any other reason, provided that, in determining whether a base load unit, which was in commercial operation for at least one year prior to the effective date of this section, results in a public utility having excess capacity, cogeneration, for which an agreement has been entered into by the public utility within three years after the in-service date of the base load unit, shall not be considered by the commission in determining the reserve margins or economic benefits resulting from the base load unit for the first five years after the date of the cogeneration agreement.

(d) Record evidence.—Any adjustments to rates made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the commission.

§ 1324. *Residential telephone service rates based on duration or distance of call.*

(a) Required charging method.—In addition to any other method of charging offered on an optional basis, a telecommunications utility providing local exchange telephone service to residential customers within a certified exchange area must provide service which charges, for calls originating and terminating within the same local calling area, on the basis of a flat monthly fee for all such calls made.

(b) Options.—If the commission determines that a telecommunications utility may offer to residential customers an optional method of charging for calls originating and terminating within the same local calling area based, in whole or in part, on the duration or distance of the call, it shall also offer a rate which charges for such calls only on the basis of the number of calls made.

(c) Rate relationship.—In addition to any other requirements imposed by this title, the rates for services required or permitted pursuant to subsections (a) and (b) shall be maintained at just and reasonable levels in comparison to one another.

(d) Nonresidential rates pursuant to another section.—Nothing in this section shall preclude the commission from establishing rates for other classes of telephone service based upon another section of this title.

§ 1325. *Local exchange service increases; limitation.*

(a) General rule.—In any rate proceeding pursuant to section 1308 (relating to voluntary changes in rates), no public utility shall be granted a percentage increase in local exchange service unless that percentage increase is just and reasonable. In no event shall the public utility be granted an increase in local exchange rates which is greater than the overall average percentage increase in total intrastate revenues authorized by the commission unless the utility proves by record evidence that a greater percentage increase

for local exchange service is justified based upon the cost of providing that service.

(b) Generic studies permitted.—The commission, after notice and hearing, may promulgate regulations setting forth appropriate methods of calculating the stand-alone costs of telecommunication services.

(c) Definitions.—As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Cost of providing local exchange service.” The direct cost of providing the service plus a share of the costs of the dial tone line, allocated in proportion to the stand-alone cost of each class of service which utilizes the dial tone line.

“Local exchange service.” The intrastate charge for access to the telephone network plus the charge for making calls which originate and terminate within the same calling area.

Section 10. Section 1505 of Title 66 is amended to read:

§ 1505. Proper service and facilities established on complaint; *authority to order conservation and load management programs.*

*(a) General rule.—*Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this part, the commission shall determine and prescribe, by regulation or order, the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public.

(b) Authority to order conservation and load management.—In determining or prescribing safe, adequate and sufficient services and facilities of a public utility, the commission may order the utility to establish a conservation or load management program that the commission determines to be prudent and cost-effective.

Section 11. Chapter 29 of Title 66 is amended by adding a subchapter heading and a subchapter to read:

CHAPTER 29
TELEPHONE AND TELEGRAPH WIRES

SUBCHAPTER A
GENERAL PROVISIONS

* * *

SUBCHAPTER B
REGULATION OF COIN TELEPHONE SERVICE

Sec.

- 2911. Legislative findings and declarations.
- 2912. Availability of adequate coin telephone service.
- 2913. Minimum service requirement.
- 2914. Establishment of just and reasonable rates.

2915. Duty of commission.**§ 2911. Legislative findings and declarations.**

The General Assembly finds and declares as follows:

(1) It is in the public interest of the citizens of this Commonwealth to maintain and promote the availability and affordability of public coin telephone service.

(2) The public safety, health and welfare requires that public coin telephone stations shall, except in extraordinary circumstances, have the capability of making and receiving local and toll calls in order to provide adequate service.

§ 2912. Availability of adequate coin telephone service.

(a) General rule.—All public utilities, as defined in this chapter, shall maintain a sufficient number of public coin telephone stations within its service territory to provide adequate access to emergency telephone service, to ensure that there is adequate access to the telephone network for individuals who do not subscribe to telephone service and for any other purpose determined to be appropriate by the commission.

(b) Definition.—As used in this subchapter the term “public coin telephone stations” means those stations which are readily accessible to the public 24 hours per day or are designated as public telephones pursuant to tariffs approved by the commission.

§ 2913. Minimum service requirement.

(a) General rule.—All public and semipublic coin telephone stations maintained by a public utility or provided, maintained or sold in this Commonwealth by any other person, partnership, association or corporation shall, except in extraordinary circumstances, provide two-way service. The commission shall permit public coin telephones to be converted so that they are technically capable of placing, but not receiving, calls only when such conversion is necessary to protect the public safety, health and welfare and would be in the best interests of the public.

(b) Public coin telephone service by nonpublic utilities.—No public utility shall provide telephone service to any person, partnership, association or corporation for the purpose of providing public and semipublic coin service unless the coin telephone complies with subsection (a).

(c) Definition.—As used in this section the term “two-way service” means the technical capability to place and receive local and intrastate telephone calls, the conspicuous display of a telephone number at which the public coin telephone can be reached and the ability to recognize when a call is incoming.

§ 2914. Establishment of just and reasonable rates.

The commission shall ensure that all public and semipublic coin telephone service rates for local and intrastate calls are just and reasonable.

§ 2915. Duty of commission.

The commission shall ensure that the provisions of this subchapter are implemented by all public utilities, coin telephone station manufacturers, vendors, owners and lessors doing business in this Commonwealth. The

commission shall, within 120 days after the effective date of this subchapter, promulgate regulations implementing the provisions of this subchapter.

Section 12. Persons who are members of the Pennsylvania Public Utility Commission on the effective date of this act shall serve until their current terms have expired.

Section 13. All rules and regulations promulgated by the Pennsylvania Public Utility Commission shall remain in full force and effect until amended or repealed by the commission, provided that the commission shall immediately initiate action to repeal or amend any rule or regulation which is in conflict with the provisions of this act.

Section 14. This act, with respect to the Pennsylvania Public Utility Commission, constitutes the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 15. The Pennsylvania Public Utility Commission shall continue, together with its statutory functions and duties, until December 31, 1991, when it shall terminate and go out of existence unless reestablished or continued by the General Assembly for an additional ten years. Evaluation and review, termination, reestablishment and continuation of the agency beyond December 31, 1991, and every tenth year thereafter, shall be conducted pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 16. As much of the amendment to 66 Pa.C.S. § 301(a) as relates to the advice and consent of a majority of all the members of the Senate shall apply on and after the third Tuesday of January 1987.

Section 17. Section 207.1(c)(2) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed to the extent that it requires a vote of two-thirds of the members elected to the Senate to confirm appointments to the Pennsylvania Public Utility Commission as to any vacancies existing on the third Tuesday in January 1987, and as terms expire thereafter.

Section 18. 66 Pa.C.S. § 526 (relating to rejection of rate increase requests due to inadequate quality or quantity of service) shall be applicable to all cases pending before the commission or courts, whether on appeal or otherwise.

Section 19. 66 Pa.C.S. § 1323 (relating to procedures for new electric generating capacity) shall be applicable to all cases pending before the commission.

Section 20. (a) The amendments to sections 305(a), 306 and 308(a), (b), (e) and (g) of Title 66 shall take effect in 60 days.

(b) The remainder of this act shall take effect immediately.

APPROVED—The 10th day of July, A. D. 1986.

DICK THORNBURGH