

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1509 Session of 1995

INTRODUCED BY DURHAM, FICHTER, KENNEY, EVANS, TRELLO, YOUNGBLOOD, PRESTON AND WOGAN, APRIL 27, 1995

SENATOR LOEPER, RULES AND EXECUTIVE NOMINATIONS, IN SENATE, RE-REPORTED AS AMENDED, NOVEMBER 20, 1996

AN ACT

1 ~~Amending Title 66 (Public Utilities) of the Pennsylvania~~ <—
2 ~~Consolidated Statutes, providing for the regulation of~~
3 ~~taxicabs in cities of the first class.~~

4 AMENDING TITLES 15 (CORPORATIONS AND UNINCORPORATED <—
5 ASSOCIATIONS) AND 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA
6 CONSOLIDATED STATUTES, PROVIDING FOR GENERATION CHOICE FOR
7 CUSTOMERS OF ELECTRIC COOPERATIVES AND UTILITIES; FURTHER
8 PROVIDING FOR DEFINITIONS; REENACTING PROCEDURAL REQUIREMENTS
9 FOR TAXICAB CERTIFICATES AND MEDALLIONS; PROVIDING FOR
10 RESTRUCTURING OF THE ELECTRIC UTILITY INDUSTRY; AND FURTHER
11 PROVIDING FOR TAXATION.

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

14 ~~Section 1. Section 2404(a) of Title 66 of the Pennsylvania~~ <—
15 ~~Consolidated Statutes is amended to read:~~

16 SECTION 1. TITLE 15 OF THE PENNSYLVANIA CONSOLIDATED <—
17 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

18 CHAPTER 74
19 GENERATION CHOICE FOR CUSTOMERS
20 OF ELECTRIC COOPERATIVES
21 SEC.

1 7401. SHORT TITLE OF CHAPTER.
2 7402. APPLICATION.
3 7403. DECLARATION OF POLICY.
4 7404. DEFINITIONS.
5 7405. CUSTOMER CHOICE IN ELECTRIC COOPERATIVE SERVICE
6 TERRITORIES.
7 7406. COMPETITION BY ELECTRIC COOPERATIVES.
8 7407. TRANSITION SURCHARGE AND STRANDED COST RECOVERY.
9 7408. OPTION TO ELECT COMMISSION REVIEW.
10 7409. UNIVERSAL SERVICE AND ENERGY CONSERVATION.
11 7410. SAVINGS PROVISION AND REPEALER.

12 § 7401. SHORT TITLE OF CHAPTER.

13 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
14 ELECTRICITY GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC
15 COOPERATIVES ACT.

16 § 7402. APPLICATION.

17 THE PROVISIONS OF 66 PA.C.S. CH. 28 (RELATING TO
18 RESTRUCTURING OF ELECTRIC UTILITY INDUSTRY) SHALL NOT APPLY TO
19 ELECTRIC COOPERATIVE CORPORATIONS OR TO THE LAWS RELATING TO
20 ELECTRIC COOPERATIVE CORPORATIONS.

21 § 7403. DECLARATION OF POLICY.

22 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

23 (1) BECAUSE OF ADVANCES IN ELECTRIC GENERATION
24 TECHNOLOGY AND FEDERAL INITIATIVES TO ENCOURAGE GREATER
25 COMPETITION IN THE WHOLESALE ELECTRIC MARKET, IT IS NOW IN
26 THE PUBLIC INTEREST TO PERMIT RETAIL CUSTOMERS TO OBTAIN
27 DIRECT ACCESS TO A COMPETITIVE GENERATION MARKET, AS LONG AS
28 SAFE AND AFFORDABLE SERVICE IS AVAILABLE AT LEVELS OF
29 RELIABILITY THAT ARE CURRENTLY ENJOYED BY THE CITIZENS AND
30 BUSINESSES OF THIS COMMONWEALTH.

1 (2) ELECTRIC COOPERATIVE CORPORATIONS WHICH OWN AND
2 OPERATE ELECTRIC GENERATION, TRANSMISSION OR DISTRIBUTION
3 FACILITIES IN THIS COMMONWEALTH, WHICH ARE OPERATED ON A
4 NONPROFIT BASIS AND WHICH ARE OWNED AND ARE DEMOCRATICALLY
5 CONTROLLED BY THE MEMBER CONSUMERS WHICH THEY SERVE ARE AN
6 ESSENTIAL PART OF THE RURAL INFRASTRUCTURE AND AN IMPORTANT
7 PARTICIPANT IN THE ECONOMIC DEVELOPMENT AND VITALITY OF
8 SIGNIFICANT AREAS OF THIS COMMONWEALTH.

9 (3) IN PROVIDING FOR CUSTOMER CHOICE FOR THE MEMBER
10 CONSUMERS OF ELECTRIC COOPERATIVE CORPORATIONS, THE FINANCIAL
11 INTEGRITY, OPERATIONS AND INDEPENDENCE OF ELECTRIC
12 COOPERATIVE CORPORATIONS MUST BE PROTECTED AND PRESERVED,
13 WHILE COMPARABLE STANDARDS ARE PROVIDED FOR ELECTRIC
14 SUPPLIERS FOR THE PROVISION OF SERVICE TO NEW LOADS, BY
15 PROVIDING FOR THE CONTINUED EXEMPTION FOR ELECTRIC
16 COOPERATIVE CORPORATIONS FROM THE JURISDICTION AND CONTROL OF
17 THE COMMISSION AND BY PROVIDING FOR A SEPARATE SYSTEM OF
18 CHOICE FOR PERSONS IN THE SERVICE TERRITORIES OF ELECTRIC
19 COOPERATIVE CORPORATIONS.

20 (4) THE COMPLETE RIGHT OF ELECTRIC COOPERATIVE
21 CORPORATIONS TO COMPETE WITH OTHERS IN PROVIDING ELECTRIC AND
22 OTHER SERVICES MUST BE PROVIDED FOR THROUGHOUT THIS
23 COMMONWEALTH.

24 § 7404. DEFINITIONS.

25 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
26 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
27 CONTEXT CLEARLY INDICATES OTHERWISE:

28 "COMMISSION." THE PENNSYLVANIA PUBLIC UTILITY COMMISSION.

29 "DEPARTING MEMBER." A MEMBER CONSUMER SERVED AT RETAIL BY AN
30 ELECTRIC COOPERATIVE CORPORATION THAT HAS GIVEN NOTICE OF INTENT

1 TO RECEIVE GENERATION SERVICE FROM ANOTHER SOURCE OR THAT IS
2 OTHERWISE IN THE PROCESS OF CHANGING GENERATION SUPPLIERS. THESE
3 PERSONS SHALL NONETHELESS REMAIN MEMBERS OF THE ELECTRIC
4 DISTRIBUTION COOPERATIVE CORPORATION FOR PURPOSES OF
5 DISTRIBUTION SERVICE.

6 "ELECTRIC-CONSUMING FACILITIES." AS DEFINED IN SECTION 7352
7 (RELATING TO DEFINITIONS).

8 "RETAIL ELECTRIC SERVICE." AS DEFINED IN SECTION 7352
9 (RELATING TO DEFINITIONS).

10 "SERVICE TERRITORY." THE SERVICE TERRITORY OF ELECTRIC
11 COOPERATIVE CORPORATIONS ESTABLISHED IN CHAPTER 73 (RELATING TO
12 ELECTRIC COOPERATIVE CORPORATIONS) AS INTERPRETED BY EXISTING
13 CASE LAW.

14 "TRANSITION SURCHARGE." THE TOTAL STRANDED COSTS PAYABLE TO
15 AN ELECTRIC COOPERATIVE CORPORATION AS A CONDITION PRECEDENT TO
16 A CONSUMER-MEMBER OF AN ELECTRIC COOPERATIVE CORPORATION HAVING
17 THE RIGHT TO RECEIVE ELECTRIC GENERATION SERVICE FROM ANOTHER
18 SOURCE.

19 § 7405. CUSTOMER CHOICE IN ELECTRIC COOPERATIVE SERVICE
20 TERRITORIES.

21 (A) GENERAL RULE.--

22 (1) AN ELECTRIC COOPERATIVE CORPORATION SHALL PROVIDE
23 OPEN AND NONDISCRIMINATORY ACCESS AND ALLOW OTHER ELECTRIC
24 GENERATION SUPPLIERS THAT HAVE BEEN LICENSED OR CERTIFIED BY
25 THE COMMISSION OR JURISDICTIONAL PUBLIC UTILITIES TO UTILIZE
26 THE COOPERATIVE'S FACILITIES TO MAKE SALES TO END-USE
27 CUSTOMERS IT SERVES. A PERSON THAT, ON OR AFTER THE EFFECTIVE
28 DATE OF THIS CHAPTER, RECEIVES RETAIL ELECTRIC SERVICE AT AN
29 ELECTRIC-CONSUMING FACILITY FROM AN ELECTRIC COOPERATIVE IN
30 THIS COMMONWEALTH OR OWNS OR OCCUPIES AN ELECTRIC-CONSUMING

1 FACILITY WITHIN THE SERVICE TERRITORY OF AN ELECTRIC
2 COOPERATIVE CORPORATION SHALL HAVE THE RIGHT TO PURCHASE AND
3 RECEIVE ELECTRIC GENERATION FROM ANOTHER SOURCE AT THE
4 CONCLUSION OF A FOUR-YEAR TRANSITION AND PHASE-IN PERIOD
5 BEGINNING ON THE EFFECTIVE DATE OF THIS CHAPTER AND ENDING
6 JANUARY 1, 2001. THE FOLLOWING SCHEDULE FOR PHASED
7 IMPLEMENTATION OF RETAIL ACCESS SHALL BE ADHERED TO UNLESS
8 THE COMMISSION SHOULD DETERMINE TO EXTEND THE TRANSITION AND
9 PHASE-IN PERIOD FOR ITS JURISDICTIONAL ELECTRIC UTILITIES
10 UNDER 66 PA.C.S. § 2806 (RELATING TO IMPLEMENTATION, PILOT
11 PROGRAMS AND PERFORMANCE-BASED RATES), IN WHICH CASE THE
12 TRANSITION AND PHASE-IN PERIOD FOR ELECTRIC COOPERATIVE
13 CORPORATIONS SHALL BE SUBSTANTIALLY SIMILAR TO THAT
14 ESTABLISHED BY THE COMMISSION FOR DIRECT ACCESS TO THE
15 COMPETITIVE ELECTRIC GENERATION MARKET BY CUSTOMERS OF
16 ELECTRIC UTILITIES:

17 (I) AS OF JANUARY 1, 1999, A MAXIMUM OF 33% OF THE
18 PEAK LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE
19 OPPORTUNITY FOR DIRECT ACCESS.

20 (II) AS OF JANUARY 1, 2000, A MAXIMUM OF 66% OF THE
21 PEAK LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE
22 OPPORTUNITY FOR DIRECT ACCESS.

23 (III) AS OF JANUARY 1, 2001, ALL CUSTOMERS OF
24 ELECTRIC COOPERATIVE CORPORATIONS IN THIS COMMONWEALTH
25 SHALL HAVE THE OPPORTUNITY FOR DIRECT ACCESS.

26 (2) IF THE COMMISSION ESTABLISHES A PHASE-IN PERIOD
27 WHICH IS NOT UNIFORM AMONG ELECTRIC UTILITIES, THEN THE
28 PHASE-IN PERIOD FOR PERSONS IN THE SERVICE TERRITORIES OF
29 ELECTRIC COOPERATIVE CORPORATIONS MAY BE AS LONG AS THAT OF
30 THE LONGEST PHASE-IN PERIOD PERMITTED BY THE COMMISSION. NO

1 ELECTRIC COOPERATIVE CORPORATION MAY UTILIZE THE TRANSMISSION
2 OR DISTRIBUTION SYSTEM OF AN ELECTRIC UTILITY REGULATED BY
3 THE COMMISSION FOR THE PURPOSE OF PROVIDING GENERATION
4 ELECTRIC SERVICE UNTIL THE ELECTRIC COOPERATIVE BEGINS ITS
5 PHASE-IN PERIOD. NO ELECTRIC UTILITY REGULATED BY THE
6 COMMISSION MAY UTILIZE THE TRANSMISSION OR DISTRIBUTION
7 SYSTEM OF AN ELECTRIC COOPERATIVE CORPORATION UNTIL THE
8 ELECTRIC UTILITY BEGINS ITS PHASE-IN PERIOD OTHER THAN FOR
9 PILOT PROGRAMS.

10 (3) ELECTRIC COOPERATIVE CORPORATIONS MAY DEVELOP RETAIL
11 PILOT PROGRAMS FOR THEIR OWN SERVICE TERRITORIES.

12 (4) CUSTOMER BILLS ISSUED BY AN ELECTRIC COOPERATIVE
13 CORPORATION SHALL CONTAIN UNBUNDLED CHARGES SUFFICIENT TO
14 ENABLE THE CUSTOMER TO DETERMINE THE GENERATION COMPONENT OF,
15 AND BASIS FOR THOSE CHARGES. ELECTRIC GENERATION SHALL BE
16 DELIVERED TO THE DEPARTING MEMBER BY THE ELECTRIC COOPERATIVE
17 WHICH HAS THE EXCLUSIVE RIGHT TO PROVIDE RETAIL ELECTRIC
18 SERVICE IN SUCH AREA UNDER CHAPTER 73 (RELATING TO ELECTRIC
19 COOPERATIVE CORPORATIONS) AT THE NONDISCRIMINATORY PRICES,
20 TERMS AND CONDITIONS DETERMINED BY THE ELECTRIC COOPERATIVE
21 CORPORATION.

22 (5) IT SHALL BE THE DUTY OF AN ELECTRIC COOPERATIVE
23 CORPORATION WHICH IS A BORROWER FROM THE RURAL UTILITIES
24 SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE TO
25 MAINTAIN THE INTEGRITY AND SAFETY OF ITS DISTRIBUTION SYSTEM
26 IN A MANNER TO PROVIDE SERVICE TO ALL CUSTOMERS CONNECTED TO
27 SUCH SYSTEM CONSISTENT WITH STANDARDS ESTABLISHED BY THE
28 RURAL UTILITIES SERVICE. IT SHALL BE THE DUTY OF AN ELECTRIC
29 COOPERATIVE CORPORATION WHICH IS NOT A BORROWER FROM THE
30 RURAL UTILITIES SERVICE TO MAINTAIN THE INTEGRITY AND SAFETY

1 OF ITS DISTRIBUTION SYSTEM IN A MANNER TO PROVIDE SERVICE TO
2 ALL CUSTOMERS CONNECTED TO SUCH SYSTEM CONSISTENT WITH
3 STANDARDS OF THE NATIONAL ELECTRIC SAFETY CODE.

4 (6) THE RIGHT IN THIS SUBSECTION TO TAKE GENERATION
5 SERVICE FROM ANOTHER SOURCE, AND THE DUTY OF AN ELECTRIC
6 COOPERATIVE CORPORATION TO DELIVER SERVICE, SHALL BE
7 EXPRESSLY SUBJECT TO AND CONTINGENT UPON THE FULL ADVANCE
8 SATISFACTION BY A DEPARTING MEMBER OF ALL OF THE FOLLOWING
9 CONDITIONS, UNLESS WAIVED BY THE ELECTRIC COOPERATIVE
10 CORPORATION:

11 (I) THE DEPARTING MEMBER MUST GIVE WRITTEN NOTICE OF
12 INTENT TO RECEIVE GENERATION SERVICE FROM ANOTHER SOURCE
13 TO THE ELECTRIC COOPERATIVE CORPORATION.

14 (II) WITH THE WRITTEN NOTICE OF INTENT REQUIRED BY
15 SUBPARAGRAPH (I), THE DEPARTING MEMBER MUST PROVIDE TO
16 THE ELECTRIC COOPERATIVE CORPORATION WRITTEN EVIDENCE
17 REASONABLY SATISFACTORY TO THE ELECTRIC COOPERATIVE
18 CORPORATION THAT THE DEPARTING MEMBER HAS ACQUIRED ALL
19 NECESSARY TRANSMISSION SERVICES AND RELATED ANCILLARY
20 SERVICES AS MAY BE NECESSARY TO TRANSMIT THE GENERATION
21 SERVICE FROM THE ALTERNATIVE ELECTRIC SUPPLIER TO THE
22 DISTRIBUTION SYSTEM OF THE ELECTRIC COOPERATIVE
23 CORPORATION.

24 (III) THE DEPARTING MEMBER MUST HAVE MADE ALL
25 PAYMENTS FOR ELECTRIC SERVICE OR OTHER SERVICES OR
26 PRODUCTS RENDERED TO DATE BY THE ELECTRIC COOPERATIVE
27 CORPORATION AND MUST NOT OTHERWISE BE IN VIOLATION OR
28 DEFAULT OF ANY MEMBERSHIP REQUIREMENT, RULE OR REGULATION
29 OF THE ELECTRIC COOPERATIVE CORPORATION.

30 (IV) THE DEPARTING MEMBER, OR THE PROVIDER OF THE

1 COMPETING GENERATION SOURCE, MUST MAKE FULL PAYMENT OF A
2 TRANSITION SURCHARGE OR TRANSITION SURCHARGES TO EACH
3 ELECTRIC COOPERATIVE CORPORATION WHICH PROVIDES
4 DISTRIBUTION, TRANSMISSION OR GENERATION SERVICE,
5 DIRECTLY OR INDIRECTLY, TO THE DEPARTING MEMBER OR
6 ASSOCIATED ELECTRIC CONSUMING FACILITY. DURING THE
7 CONDUCT OF A PILOT PROGRAM THE ELECTRIC COOPERATIVE
8 CORPORATION MAY CHOOSE NOT TO APPLY THE TRANSITION
9 SURCHARGE TO DEPARTING MEMBERS. THE DUTY TO PAY A
10 TRANSITION SURCHARGE BY A DEPARTING MEMBER AND THE RIGHT
11 OF AN ELECTRIC COOPERATIVE CORPORATION TO COLLECT A
12 TRANSITION SURCHARGE SHALL NOT APPLY TO DEPARTING MEMBERS
13 WHO BECOME NEW MEMBERS OF AN ELECTRIC COOPERATIVE
14 CORPORATION FOLLOWING THE EXPIRATION OF THE PHASE-IN
15 PROVIDED FOR IN THIS CHAPTER.

16 (B) EFFECTIVENESS OF EXISTING CONTRACTS.--NOTWITHSTANDING
17 THE RIGHTS SET FORTH IN SUBSECTION (A), WHERE AN AGREEMENT FOR
18 ELECTRIC SERVICE, EVIDENCED BY A SIGNED WRITING BETWEEN AN
19 ELECTRIC COOPERATIVE CORPORATION AND ANY PERSON EXISTS PRIOR TO
20 THE EFFECTIVE DATE OF THIS CHAPTER, THE PERSON SHALL BE BOUND BY
21 ITS TERMS AND CONDITIONS AND SHALL NOT HAVE THE RIGHT TO RECEIVE
22 GENERATION SERVICE FROM ANOTHER SOURCE UNTIL THE EXPIRATION OF
23 THE TERM OF THE AGREEMENT OR OTHERWISE PURSUANT TO THE TERMS AND
24 CONDITIONS OF THE AGREEMENT.

25 § 7406. COMPETITION BY ELECTRIC COOPERATIVES.

26 (A) SERVICE RIGHTS.--ELECTRIC COOPERATIVE CORPORATIONS MAY
27 PROVIDE GENERATION ELECTRIC SERVICE TO ANY PERSON AND AT ANY
28 LOCATION WITHIN THIS COMMONWEALTH. IN THE CASE WHERE AN ELECTRIC
29 COOPERATIVE CORPORATION PROVIDES GENERATION ELECTRIC SERVICE AT
30 RETAIL TO A PERSON LOCATED OUTSIDE OF ITS SERVICE TERRITORY AND

1 WITHIN THE FRANCHISED TERRITORY OF AN ELECTRIC UTILITY SUBJECT
2 TO 66 PA.C.S. (RELATING TO PUBLIC UTILITIES), IT MUST FIRST HAVE
3 BEEN CERTIFIED BY THE COMMISSION PURSUANT TO SUBSECTION (E) AND,
4 UNLESS IT IS OTHERWISE EXEMPT UNDER SUBSECTION (D), IT SHALL
5 COMPLY WITH ALL RELEVANT TERMS, CONDITIONS AND OBLIGATIONS
6 APPLICABLE TO ELECTRIC GENERATION SUPPLIERS PURSUANT TO 66
7 PA.C.S. ELECTRIC COOPERATIVE CORPORATIONS SHALL NOT BE REQUIRED
8 TO BE LICENSED BY THE COMMISSION AND SHALL BE EXEMPT AS
9 OTHERWISE PROVIDED FOR IN THIS CHAPTER IN ANY AND ALL OTHER
10 RESPECTS FROM THE JURISDICTION AND CONTROL OF THE COMMISSION. TO
11 THE EXTENT SUCH SERVICES ARE NOT PROVIDED FOR RESALE TO OTHERS,
12 SUCH PERSONS MUST BE MEMBERS OF THE ELECTRIC COOPERATIVE
13 CORPORATION. IT SHALL NOT BE NECESSARY FOR AN ELECTRIC
14 COOPERATIVE CORPORATION TO AMEND ITS BYLAWS TO PERMIT IT TO
15 PROVIDE SERVICE TO ANY PERSON AT ANY LOCATION WITHIN THIS
16 COMMONWEALTH. ALL OTHER UTILITIES AND PERSONS OWNING, OPERATING
17 OR CONTROLLING ELECTRIC TRANSMISSION OR DISTRIBUTION FACILITIES
18 WITHIN THIS COMMONWEALTH SHALL BE OBLIGATED TO TRANSMIT AND
19 DELIVER GENERATION SERVICE BY ELECTRIC COOPERATIVE CORPORATIONS
20 AT THE SAME PRICES AND AT THE SAME TERMS AND CONDITIONS AS ARE
21 APPROVED BY THE COMMISSION OR THE FEDERAL ENERGY REGULATORY
22 COMMISSION FOR SIMILAR SERVICE TO OTHERS.

23 (B) NEW LOAD TERMINATION CONDITIONS.--IN THE CASE WHERE AN
24 ELECTRIC COOPERATIVE CORPORATION PROVIDES GENERATION SERVICE
25 UNDER SUBSECTION (A) TO A PERSON NOT LOCATED WITHIN ITS
26 EXCLUSIVE RETAIL ELECTRIC SERVICE TERRITORY AND, CONSISTENT WITH
27 ANY THEN-EXISTING CONTRACT RIGHTS OF THE ELECTRIC COOPERATIVE
28 CORPORATION, SUCH PERSON SUBSEQUENTLY DESIRES TO RECEIVE
29 GENERATION SERVICE FROM ANOTHER SOURCE, THE DEPARTING MEMBER
30 SHALL HAVE THE RIGHT TO DO SO, CONTINGENT UPON THE FULL ADVANCE

1 SATISFACTION OF THE FOLLOWING CONDITIONS, UNLESS WAIVED BY THE
2 ELECTRIC COOPERATIVE CORPORATION:

3 (1) THE DEPARTING MEMBER MUST GIVE WRITTEN NOTICE OF
4 INTENT TO RECEIVE GENERATION SERVICE FROM ANOTHER SOURCE TO
5 THE ELECTRIC COOPERATIVE CORPORATION PRIOR TO THE INITIATION
6 OF THE NEW GENERATION SERVICE.

7 (2) THE DEPARTING MEMBER MUST HAVE MADE ALL PAYMENTS FOR
8 ELECTRIC SERVICE OR OTHER SERVICES OR PRODUCTS RENDERED TO
9 DATE BY THE ELECTRIC COOPERATIVE CORPORATION.

10 (C) RELATION TO UTILITIES GROSS RECEIPTS TAX.--

11 (1) TO THE EXTENT THAT AN ELECTRIC COOPERATIVE
12 CORPORATION PROVIDES GENERATION ELECTRIC SERVICE AT RETAIL TO
13 A PERSON IN THIS COMMONWEALTH AND LOCATED OUTSIDE OF ITS
14 SERVICE TERRITORY AS SET FORTH IN SUBSECTION (A), THEN FOR
15 THAT LIMITED PURPOSE AND IN THAT LIMITED AREA, IT SHALL BE
16 DEEMED TO BE THE STATUTORY EQUIVALENT OF AN "ELECTRIC LIGHT
17 COMPANY," A "WATERPOWER COMPANY" AND A "HYDRO-ELECTRIC
18 COMPANY" FOR PURPOSES OF SECTION 1101 OF THE ACT OF MARCH 4,
19 1971 (P.L. 6, NO. 2), KNOWN AS THE TAX REFORM CODE OF 1971.

20 (2) TO THE EXTENT THAT AN ELECTRIC COOPERATIVE
21 CORPORATION PROVIDES GENERATION ELECTRIC SERVICE AT RETAIL TO
22 A PERSON IN THIS COMMONWEALTH AND LOCATED OUTSIDE OF ITS
23 SERVICE TERRITORY AS SET FORTH IN SUBSECTION (A) AND TO THE
24 EXTENT THAT THE TAX ON SALES OF ELECTRIC ENERGY UNDER SECTION
25 1101 OF THE TAX REFORM CODE OF 1971 HAS NOT PREVIOUSLY BEEN
26 IMPOSED ON SUCH GENERATION ELECTRIC SERVICE OR ELECTRIC
27 ENERGY, THEN, FOR THAT LIMITED PURPOSE AND IN THAT LIMITED
28 AREA, SUCH RETAIL SALES TO END-USE CONSUMERS UNDER THIS
29 CHAPTER SHALL BE DEEMED "SALES OF ELECTRIC ENERGY" FOR
30 PURPOSES OF SECTION 1101 OF THE TAX REFORM CODE OF 1971.

1 (D) SMALL COOPERATIVE EXCEPTIONS.--BECAUSE OF THE RELATIVELY
2 SMALL NUMBER OF CONSUMERS WHICH ELECTRIC COOPERATIVE
3 CORPORATIONS SERVE, THEIR RELATIVELY SMALL ELECTRIC LOADS, THE
4 NONPROFIT NATURE OF THEIR OPERATIONS AND THEIR OTHER UNIQUE
5 CHARACTERISTICS, THE GENERAL ASSEMBLY FINDS THAT IT MAY BE
6 UNDULY BURDENSOME AND COSTLY FOR SMALL ELECTRIC COOPERATIVE
7 CORPORATIONS TO COMPLY WITH THE RELEVANT TERMS, CONDITIONS AND
8 OBLIGATIONS APPLICABLE TO ELECTRIC GENERATION SUPPLIERS PURSUANT
9 TO 52 PA. CODE CH. 56 (RELATING TO STANDARDS AND BILLING
10 PRACTICES FOR RESIDENTIAL UTILITY SERVICE) AND REGULATIONS
11 PROMULGATED UNDER 66 PA.C.S. CH. 28 (RELATING TO RESTRUCTURING
12 OF ELECTRIC UTILITY INDUSTRY) WHEN SERVING PERSONS LOCATED
13 OUTSIDE OF THEIR SERVICE TERRITORIES. NOTWITHSTANDING THE
14 PROVISIONS OF SUBSECTION (A) REQUIRING AN ELECTRIC COOPERATIVE
15 CORPORATION WHEN SERVING PERSONS OUTSIDE OF ITS TERRITORY TO
16 COMPLY WITH RELEVANT TERMS, CONDITIONS AND OBLIGATIONS OF
17 ELECTRIC GENERATION SUPPLIERS PURSUANT TO 52 PA. CODE CH. 56 AND
18 REGULATIONS PROMULGATED UNDER 66 PA.C.S. CH. 28, AN ELECTRIC
19 COOPERATIVE CORPORATION MAY PETITION THE COMMISSION TO GRANT
20 EXEMPTION FROM COMPLIANCE WITH ANY OR ALL SUCH RELEVANT TERMS,
21 CONDITIONS OR OBLIGATIONS OR OTHERWISE MAY PETITION THE
22 COMMISSION TO ESTABLISH AND GRANT STREAMLINED OR REDUCED TERMS,
23 CONDITIONS OR STANDARDS. THE COMMISSION SHALL APPROVE SUCH
24 EXEMPTION, STREAMLINING OR REDUCTION UPON REACHING A FINDING
25 THAT THE PROPOSAL IS IN THE PUBLIC INTEREST. EXEMPTIONS SHALL
26 NOT BE TRANSFERABLE TO ANY ENTITY WITHOUT PRIOR COMMISSION
27 APPROVAL. TO THE EXTENT THAT AN ELECTRIC COOPERATIVE
28 CORPORATION, ON ITS OWN OR IN PARTNERSHIP OR COMBINATION WITH
29 ANY OTHER ENTITY WHICH OPERATES ON A FOR-PROFIT BASIS, BY SALES
30 OUTSIDE OF ITS SERVICE TERRITORY, INCREASES ITS TOTAL NET

1 ELECTRIC LOAD BY MORE THAN 20% OF ITS TOTAL NET ELECTRIC LOAD AS
2 OF THE EFFECTIVE DATE OF THIS CHAPTER, THIS SUBSECTION SHALL NOT
3 APPLY. NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS ALLOWING
4 ANY ENTITY, EITHER THROUGH FORMATION OF A COOPERATIVE OR THROUGH
5 ANY OTHER METHOD DESCRIBED IN THIS CHAPTER, TO AVOID
6 RESPONSIBILITY FOR PAYING A COMPETITIVE TRANSITION CHARGE THAT
7 IT WOULD OTHERWISE BE REQUIRED TO PAY PURSUANT TO 66 PA.C.S. CH.
8 28.

9 (E) COMMISSION CERTIFICATION.--PRIOR TO AN ELECTRIC
10 COOPERATIVE CORPORATION HAVING THE RIGHT TO PROVIDE GENERATION
11 ELECTRIC SERVICE AT RETAIL TO A PERSON LOCATED OUTSIDE OF ITS
12 SERVICE TERRITORY AS DEFINED BY CHAPTER 73 SUBCH. C (RELATING TO
13 UNINCORPORATED AREA CERTIFIED TERRITORY) AND WITHIN THE
14 FRANCHISED TERRITORY OF AN ELECTRIC UTILITY SUBJECT TO 66
15 PA.C.S., IT MUST FIRST HAVE OBTAINED FROM THE COMMISSION A
16 CERTIFICATION OF ITS FINANCIAL RESPONSIBILITY AND TECHNICAL
17 CAPABILITY, INCLUDING THE ASSURANCE THAT ADEQUATE RESERVE
18 MARGINS OF ELECTRIC SUPPLY ARE MAINTAINED. AN APPLICATION FOR
19 CERTIFICATION BY AN ELECTRIC COOPERATIVE CORPORATION MUST BE
20 MADE TO THE COMMISSION IN WRITING, BE VERIFIED BY OATH OR
21 AFFIRMATION AND BE IN SUCH FORM AND CONTAIN SUCH INFORMATION AS
22 THE COMMISSION MAY REQUIRE. A CERTIFICATION SHALL BE ISSUED BY
23 THE COMMISSION TO ANY QUALIFIED APPLICANT IF IT IS FOUND THAT
24 THE APPLICANT IS FIT, WILLING AND ABLE TO PERFORM PROPERLY THE
25 SERVICE PROPOSED IN CONFORMITY WITH THE PROVISIONS OF THIS
26 CHAPTER. NO CERTIFICATION ISSUED UNDER THIS SUBSECTION MAY BE
27 TRANSFERRED WITHOUT PRIOR COMMISSION APPROVAL.

28 § 7407. TRANSITION SURCHARGE AND STRANDED COST RECOVERY.

29 (A) TRANSITION SURCHARGE.--A TRANSITION SURCHARGE IS THE
30 TOTAL STRANDED COSTS PAYABLE TO AN ELECTRIC COOPERATIVE

1 CORPORATION AS A CONDITION PRECEDENT TO A CONSUMER-MEMBER OF AN
2 ELECTRIC COOPERATIVE CORPORATION HAVING THE RIGHT TO RECEIVE
3 ELECTRIC GENERATION SERVICE FROM ANOTHER SOURCE.

4 (B) DETERMINATION OF STRANDED COSTS.--TOTAL STRANDED COSTS
5 SHALL BE REASONABLY DETERMINED BY AN ELECTRIC COOPERATIVE AND
6 MAY INCLUDE:

7 (1) THE PRO RATA SHARE IN ALL INVESTMENTS IN ELECTRIC
8 COOPERATIVE DISTRIBUTION, TRANSMISSION AND GENERATION PLANT
9 AND FACILITIES.

10 (2) THE PRO RATA SHARE OF FORESEEABLE DECOMMISSIONING
11 COSTS OF GENERATION FACILITIES.

12 (3) THE PRO RATA SHARE OF ALL EFFECTIVE ELECTRIC
13 COOPERATIVE CONTRACTUAL COMMITMENTS TO OTHERS, REGULATORY
14 ASSETS, DEFERRED DEBITS AND CREDITS, FIXED OPERATION AND
15 MAINTENANCE EXPENSES, EXPENDITURES MADE FOR THE BENEFIT OF
16 THE DEPARTING CUSTOMER AND ADMINISTRATIVE AND OTHER COSTS,
17 INCURRED OR TO BE INCURRED BY AN ELECTRIC COOPERATIVE AS A
18 RESULT OF A DECISION BY A CONSUMER-MEMBER TO TAKE ELECTRIC
19 GENERATION SERVICE FROM ANOTHER SOURCE.

20 (C) DETERMINATION OF PRO RATA SHARE.--THE PRO RATA SHARE OF
21 ELECTRIC COOPERATIVE STRANDED COSTS SHALL BE DETERMINED ON THE
22 BASIS OF HISTORICAL ENERGY AND CAPACITY USAGE BY THIS CONSUMER-
23 MEMBER, COMPARED TO HISTORICAL TOTAL ENERGY AND CAPACITY USAGE
24 OF SUCH ELECTRIC COOPERATIVE OR BY DIRECT ASSIGNMENT WHERE
25 APPLICABLE.

26 § 7408. OPTION TO ELECT COMMISSION REVIEW.

27 (A) GENERAL RULE.--THE TRANSITION SURCHARGE ASSESSED BY AN
28 ELECTRIC COOPERATIVE CORPORATION UNDER THIS CHAPTER GENERALLY
29 SHALL NOT BE SUBJECT TO THE JURISDICTION OR CONTROL OF THE
30 COMMISSION. AN ELECTRIC COOPERATIVE CORPORATION SHALL HAVE THE

1 OPTION OF SUBMITTING ITS PROPOSED TRANSITION SURCHARGE FOR
2 REVIEW BY THE COMMISSION IN THE MANNER SET FORTH IN SUBSECTION
3 (B).

4 (B) SUBMISSION TO COMMISSION.--EITHER BY AN AFFIRMATIVE VOTE
5 OF TWO-THIRDS OF ALL MEMBERS OF THE CORPORATION OR BY AN
6 AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL DIRECTORS, AT A MEETING OF
7 THE MEMBERS OR DIRECTORS CALLED FOR THE PURPOSE, AN ELECTRIC
8 COOPERATIVE CORPORATION MAY ELECT THE OPTION OF SUBMITTING A
9 TRANSITION SURCHARGE WHICH HAS BEEN ADOPTED BY ITS BOARD OF
10 DIRECTORS TO THE COMMISSION FOR REVIEW AND APPROVAL. WITHIN 30
11 DAYS OF SUCH ACTION BY AN ELECTRIC COOPERATIVE CORPORATION, THE
12 SECRETARY OF THE CORPORATION SHALL CERTIFY SUCH AN ACTION BY THE
13 MEMBERS OR DIRECTORS, AS THE CASE MAY BE, AND SUBMIT THE
14 TRANSITION SURCHARGE TO THE SECRETARY OF THE COMMISSION
15 REQUESTING REVIEW AND APPROVAL.

16 (C) COMMISSION DETERMINATION.--THE COMMISSION, WITHIN 90
17 DAYS AFTER A SUBMISSION UNDER SUBSECTION (B,) SHALL MAKE A
18 DETERMINATION AS TO WHETHER THE TRANSITION SURCHARGE OF AN
19 ELECTRIC COOPERATIVE CORPORATION IS JUST AND REASONABLE AND
20 SHALL ISSUE AN ORDER REFLECTING ITS DETERMINATION. IF NO ORDER
21 IS ISSUED WITHIN 90 DAYS, THE TRANSITION SURCHARGE SHALL BE
22 DEEMED TO BE APPROVED AS BEING JUST AND REASONABLE; AND ALL
23 REVIEW PROCEEDINGS SHALL BE TERMINATED. IF NO ORDER IS ISSUED BY
24 THE COMMISSION WITHIN THE 90 DAYS, NO APPEAL MAY BE TAKEN
25 RELATIVE TO THE EFFECTIVENESS OF THE TRANSITION SURCHARGE; AND
26 IT SHALL HAVE FULL FORCE AND EFFECT.

27 (D) ALTERNATIVE.--AN ELECTRIC COOPERATIVE CORPORATION MAY
28 TAKE ACTION BY A MAJORITY VOTE OF ITS BOARD OF DIRECTORS TO
29 ALTER THE AMOUNT OF ITS TRANSITION SURCHARGE. IF THE TRANSITION
30 SURCHARGE HAS PREVIOUSLY BEEN SUBMITTED TO THE COMMISSION FOR

1 REVIEW AND APPROVAL UNDER SUBSECTION (B) AND IF THE CHANGE BY
2 THE BOARD OF DIRECTORS CAUSES A REDUCTION OF THE CURRENT
3 TRANSITION SURCHARGE OF GREATER THAN 10%, THAT ACTION BY THE
4 BOARD OF DIRECTORS SHALL HAVE THE EFFECT OF IMMEDIATELY
5 TERMINATING ANY PENDING APPROVAL PROCEEDING BY THE COMMISSION
6 AND ENDING ITS JURISDICTION AND CONTROL OVER THE SUBJECT
7 TRANSITION SURCHARGE.

8 § 7409. UNIVERSAL SERVICE AND ENERGY CONSERVATION.

9 (A) GENERAL RULE.--ELECTRIC COOPERATIVE CORPORATIONS SHALL
10 ENSURE THAT UNIVERSAL SERVICE AND ENERGY CONSERVATION POLICIES,
11 ACTIVITIES AND SERVICES THAT THEY PROVIDE AS OF THE EFFECTIVE
12 DATE OF THIS CHAPTER TO ASSIST CUSTOMERS WHO ARE LOW-INCOME TO
13 AFFORD ELECTRIC SERVICE, ARE APPROPRIATELY FUNDED AND AVAILABLE
14 WITHIN THEIR TERRITORIES. SUCH ACTIVITIES SHALL BE FUNDED BY
15 NONBYPASSABLE, COMPETITIVELY-NEUTRAL COST RECOVERY MECHANISMS
16 THAT FULLY RECOVER THE COSTS OF UNIVERSAL SERVICE AND ENERGY
17 CONSERVATION SERVICES.

18 (B) DEFINITION.--AS USED IN THIS SECTION, THE TERM
19 "UNIVERSAL SERVICE AND ENERGY CONSERVATION" SHALL MEAN POLICIES,
20 PROTECTIONS AND SERVICES THAT HELP LOW-INCOME CUSTOMERS TO
21 MAINTAIN ELECTRIC SERVICE, INCLUDING CUSTOMER ASSISTANCE
22 PROGRAMS AND POLICIES AND SERVICES THAT HELP LOW-INCOME
23 CUSTOMERS TO REDUCE OR MANAGE ENERGY CONSUMPTION IN A COST-
24 EFFECTIVE MANNER, SUCH AS THE LOW-INCOME USAGE REDUCTION
25 PROGRAMS AND CUSTOMER EDUCATION.

26 § 7410. SAVINGS PROVISION AND REPEALER.

27 (A) SAVINGS.--EXCEPT AS SET FORTH IN SUBSECTION (B), ALL
28 PROVISIONS OF CH. 73 (RELATING TO ELECTRIC COOPERATIVE
29 CORPORATION) ARE SAVED FROM REPEAL AND SHALL REMAIN IN FULL
30 FORCE AND EFFECT.

1 (B) REPEAL.--

2 (1) THOSE PROVISIONS OF CHAPTER 73 SUBCH. C (RELATING TO
3 UNINCORPORATED AREA CERTIFIED TERRITORY) ARE REPEALED INSOFAR
4 AS THEY CONFLICT WITH THE RIGHT OF A DEPARTING MEMBER TO TAKE
5 GENERATION SERVICE FROM AN ALTERNATIVE GENERATION SUPPLIER.

6 (2) THOSE PROVISIONS OF CHAPTER 73 SUBCHS. A. (RELATING
7 TO PRELIMINARY PROVISIONS) AND B (RELATING TO POWERS, DUTIES
8 AND SAFEGUARDS) ARE REPEALED INSOFAR AS THEY CONFLICT WITH
9 THE RIGHT OF AN ELECTRIC COOPERATIVE CORPORATION TO PROVIDE
10 GENERATION SERVICE TO ANY PERSON AND AT ANY LOCATION WITHIN
11 THIS COMMONWEALTH.

12 SECTION 2. PARAGRAPH 2 OF THE DEFINITION OF "PUBLIC UTILITY"
13 IN SECTION 102 OF TITLE 66 OF THE PENNSYLVANIA CONSOLIDATED
14 STATUTES IS AMENDED BY ADDING SUBPARAGRAPHS TO READ:

15 § 102. DEFINITIONS.

16 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
17 PROVISIONS OF THIS PART WHICH ARE APPLICABLE TO SPECIFIC
18 PROVISIONS OF THIS PART, THE FOLLOWING WORDS AND PHRASES WHEN
19 USED IN THIS PART SHALL HAVE, UNLESS THE CONTEXT CLEARLY
20 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

21 * * *

22 "PUBLIC UTILITY."

23 * * *

24 (2) THE TERM [PUBLIC UTILITY] DOES NOT INCLUDE:

25 * * *

26 (V) ANY BUILDING OR FACILITY OWNER/OPERATORS WHO
27 HOLD OWNERSHIP OVER, AND MANAGE THE INTERNAL DISTRIBUTION
28 SYSTEM SERVING, SUCH BUILDING OR FACILITY AND WHO SUPPLY
29 ELECTRIC POWER AND OTHER RELATED ELECTRIC POWER SERVICES
30 TO OCCUPANTS OF THE BUILDING OR FACILITY.

1 (VI) ELECTRIC GENERATION SUPPLIER COMPANIES EXCEPT
2 FOR THE LIMITED PURPOSES AS DESCRIBED IN SECTIONS 2809
3 (RELATING TO REQUIREMENTS FOR ELECTRIC GENERATION
4 SUPPLIERS) AND 2810 (RELATING TO REVENUE NEUTRAL
5 RECONCILIATION).

6 * * *

7 SECTION 3. SECTION 2404(A) OF TITLE 66 IS REENACTED TO READ:

8 § 2404. Certificate and medallion required.

9 (a) Procedure.--A vehicle may not be operated as a taxicab
10 in cities of the first class unless a certificate of public
11 convenience is issued authorizing the operation of the taxicab
12 and a medallion is attached to the hood of the vehicle. Prior to
13 the issuance of a medallion, the certificate holder shall have
14 its vehicle inspected by the commission. The commission shall
15 require, by order or regulation, that each medallion holder
16 submit to a periodic vehicle inspection of its taxicab by
17 commission personnel to ensure that the vehicle meets the
18 requirements of this title and commission regulations.

19 Commission inspection requirements shall be in addition to the
20 vehicle requirements set forth in Title 75 (relating to
21 vehicles). Commission inspection and recording requirements
22 shall be established by regulations. No vehicle which is more
23 than ~~six~~eight EIGHT years old shall continue in operation as ←
24 a taxicab. Notwithstanding the foregoing, the commission may
25 authorize the operation of antique vehicles in call or demand
26 service in such circumstances as the commission may deem
27 appropriate. Each medallion holder's tariff rates shall be
28 clearly and visibly displayed in each taxicab. A medallion shall
29 not be removed from a vehicle without prior notification to and
30 permission of the commission. A medallion authorizes operation

1 of a vehicle as a taxicab only for the fiscal year for which the
2 medallion is issued.

3 * * *

4 ~~Section 2. This act shall take effect in 60 days.~~ <—

5 SECTION 4. TITLE 66 IS AMENDED BY ADDING A CHAPTER TO READ: <—

6 CHAPTER 28

7 RESTRUCTURING OF ELECTRIC UTILITY INDUSTRY

8 SEC.

9 2801. SHORT TITLE OF CHAPTER.

10 2802. DECLARATION OF POLICY.

11 2803. DEFINITIONS.

12 2804. STANDARDS FOR RESTRUCTURING OF ELECTRIC INDUSTRY.

13 2805. REGIONALISM AND RECIPROCITY.

14 2806. IMPLEMENTATION PILOT PROGRAMS AND

15 PERFORMANCE-BASED RATES.

16 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

17 2808. COMPETITIVE TRANSITION CHARGE.

18 2809. REQUIREMENTS FOR ELECTRIC GENERATION SUPPLIERS.

19 2810. REVENUE NEUTRAL RECONCILIATION.

20 2811. MARKET POWER REMEDIATION.

21 2812. APPROVAL OF TRANSITION BONDS.

22 2813. SEVERABILITY.

23 § 2801. SHORT TITLE OF CHAPTER.

24 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
25 ELECTRICITY GENERATION CUSTOMER CHOICE AND COMPETITION ACT.

26 § 2802. DECLARATION OF POLICY.

27 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

28 (1) OVER THE PAST 20 YEARS, THE FEDERAL GOVERNMENT AND
29 STATE GOVERNMENT HAVE INTRODUCED COMPETITION IN SEVERAL
30 INDUSTRIES THAT PREVIOUSLY HAD BEEN REGULATED AS NATURAL

1 MONOPOLIES.

2 (2) MANY STATE GOVERNMENTS ARE IMPLEMENTING OR STUDYING
3 POLICIES THAT WOULD CREATE A COMPETITIVE MARKET FOR THE
4 GENERATION OF ELECTRICITY.

5 (3) BECAUSE OF ADVANCES IN ELECTRIC GENERATION
6 TECHNOLOGY AND FEDERAL INITIATIVES TO ENCOURAGE GREATER
7 COMPETITION IN THE WHOLESALE ELECTRIC MARKET, IT IS NOW IN
8 THE PUBLIC INTEREST TO PERMIT RETAIL CUSTOMERS TO OBTAIN
9 DIRECT ACCESS TO A COMPETITIVE GENERATION MARKET AS LONG AS
10 SAFE AND AFFORDABLE TRANSMISSION AND DISTRIBUTION SERVICE IS
11 AVAILABLE AT LEVELS OF RELIABILITY THAT ARE CURRENTLY ENJOYED
12 BY THE CITIZENS AND BUSINESSES OF THIS COMMONWEALTH.

13 (4) RATES FOR ELECTRICITY IN THIS COMMONWEALTH ARE ON
14 AVERAGE HIGHER THAN THE NATIONAL AVERAGE, AND SIGNIFICANT
15 DIFFERENCES EXIST AMONG THE RATES OF PENNSYLVANIA ELECTRIC
16 UTILITIES.

17 (5) COMPETITIVE MARKET FORCES ARE MORE EFFECTIVE THAN
18 ECONOMIC REGULATION IN CONTROLLING THE COST OF GENERATING
19 ELECTRICITY.

20 (6) THE COST OF ELECTRICITY IS AN IMPORTANT FACTOR IN
21 DECISIONS MADE BY BUSINESSES CONCERNING LOCATING, EXPANDING
22 AND RETAINING FACILITIES IN THIS COMMONWEALTH.

23 (7) THIS COMMONWEALTH MUST BEGIN THE TRANSITION FROM
24 REGULATION TO GREATER COMPETITION IN THE ELECTRICITY
25 GENERATION MARKET TO BENEFIT ALL CLASSES OF CUSTOMERS AND TO
26 PROTECT THIS COMMONWEALTH'S ABILITY TO COMPETE IN THE
27 NATIONAL AND INTERNATIONAL MARKETPLACE FOR INDUSTRY AND JOBS.

28 (8) IN MOVING TOWARD GREATER COMPETITION IN THE
29 ELECTRICITY GENERATION MARKET, THE COMMONWEALTH MUST RESOLVE
30 CERTAIN TRANSITIONAL ISSUES IN A MANNER THAT IS FAIR TO

1 CUSTOMERS, ELECTRIC UTILITIES, INVESTORS, THE EMPLOYEES OF
2 ELECTRIC UTILITIES, LOCAL COMMUNITIES, NONUTILITY GENERATORS
3 OF ELECTRICITY AND OTHER AFFECTED PARTIES.

4 (9) ELECTRIC SERVICE IS ESSENTIAL TO THE HEALTH AND
5 WELL-BEING OF RESIDENTS, TO PUBLIC SAFETY AND TO ORDERLY
6 ECONOMIC DEVELOPMENT; AND ELECTRIC SERVICE SHOULD BE
7 AVAILABLE TO ALL CUSTOMERS ON REASONABLE TERMS AND
8 CONDITIONS.

9 (10) THE COMMONWEALTH MUST, AT A MINIMUM, CONTINUE THE
10 PROTECTIONS, POLICIES AND SERVICES THAT NOW ASSIST CUSTOMERS
11 WHO ARE LOW-INCOME TO AFFORD ELECTRIC SERVICE.

12 (11) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF
13 THE ELECTRIC SYSTEM, ENSURE THE CONTINUED PROVISION OF HIGH-
14 QUALITY CUSTOMER SERVICE AND AVOID ECONOMIC DISLOCATION,
15 UTILITIES SHALL CONSIDER THE EXPERIENCE AND EXPERTISE OF
16 THEIR WORK FORCE IN MOVING TOWARDS COMPETITION.

17 (12) THE PURPOSE OF THIS CHAPTER IS TO MODIFY EXISTING
18 LEGISLATION AND REGULATIONS AND TO ESTABLISH STANDARDS AND
19 PROCEDURES IN ORDER TO CREATE DIRECT ACCESS BY RETAIL
20 CUSTOMERS TO THE COMPETITIVE MARKET FOR THE GENERATION OF
21 ELECTRICITY, WHILE MAINTAINING THE SAFETY AND RELIABILITY OF
22 THE ELECTRIC SYSTEM FOR ALL PARTIES. RELIABLE ELECTRIC
23 SERVICE IS OF THE UTMOST IMPORTANCE TO THE HEALTH, SAFETY AND
24 WELFARE OF THE CITIZENS OF THE COMMONWEALTH. ELECTRIC
25 INDUSTRY RESTRUCTURING SHOULD ENSURE THE RELIABILITY OF THE
26 INTERCONNECTED ELECTRIC SYSTEM BY MAINTAINING THE EFFICIENCY
27 OF THE TRANSMISSION AND DISTRIBUTION SYSTEM.

28 (13) UNDER CURRENT LAW AND REGULATION THERE EXISTS SOME
29 COMPETITION IN THE WHOLESALE MARKET FOR THE GENERATION OF
30 ELECTRICITY; BUT THE GENERATION, TRANSMISSION, DISTRIBUTION

1 AND RETAIL SALE OF ELECTRICITY IS PROVIDED GENERALLY BY
2 PUBLIC UTILITIES UNDER BUNDLED RATES REGULATED BY THE
3 COMMISSION. THE PROCEDURES ESTABLISHED UNDER THIS CHAPTER
4 PROVIDE FOR A FAIR AND ORDERLY TRANSITION FROM THE CURRENT
5 REGULATED STRUCTURE TO A STRUCTURE UNDER WHICH RETAIL
6 CUSTOMERS WILL HAVE DIRECT ACCESS TO A COMPETITIVE MARKET FOR
7 THE GENERATION AND SALE OR PURCHASE OF ELECTRICITY.

8 (14) THIS CHAPTER REQUIRES ELECTRIC UTILITIES TO
9 UNBUNDLE THEIR RATES AND SERVICES AND TO PROVIDE OPEN ACCESS
10 OVER THEIR TRANSMISSION AND DISTRIBUTION SYSTEMS TO ALLOW
11 COMPETITIVE SUPPLIERS TO GENERATE AND SELL ELECTRICITY
12 DIRECTLY TO CONSUMERS IN THIS COMMONWEALTH. THE GENERATION OF
13 ELECTRICITY WILL NO LONGER BE REGULATED AS A PUBLIC UTILITY
14 FUNCTION EXCEPT AS OTHERWISE PROVIDED FOR IN THIS CHAPTER.
15 ELECTRIC GENERATION SUPPLIERS WILL BE REQUIRED TO OBTAIN
16 LICENSES, DEMONSTRATE FINANCIAL RESPONSIBILITY AND COMPLY
17 WITH SUCH OTHER REQUIREMENTS CONCERNING SERVICE AS THE
18 COMMISSION DEEMS NECESSARY FOR THE PROTECTION OF THE PUBLIC.

19 (15) IN ESTABLISHING THE STANDARDS FOR THE TRANSITION TO
20 AND CREATION OF A COMPETITIVE ELECTRIC MARKET, HERETOFORE,
21 PUBLIC UTILITIES GENERALLY HAVE HAD AN OBLIGATION TO SERVE
22 CUSTOMERS WITHIN THEIR DEFINED SERVICE TERRITORIES;
23 CONSISTENT WITH THAT OBLIGATION, HAVE UNDERTAKEN LONG-TERM
24 INVESTMENTS IN GENERATION, TRANSMISSION AND DISTRIBUTION
25 FACILITIES IN ORDER TO MEET THE NEEDS OF THEIR CUSTOMERS; AND
26 HAVE ENTERED INTO LONG-TERM POWER SUPPLY AGREEMENTS AS
27 REQUIRED BY FEDERAL LAW. IN MANY INSTANCES, THESE INVESTMENTS
28 AND AGREEMENTS HAVE CREATED COSTS WHICH MAY NOT BE
29 RECOVERABLE IN A COMPETITIVE MARKET. THE COMMISSION IS
30 EMPOWERED UNDER THIS CHAPTER TO DETERMINE THE LEVEL OF

1 TRANSITION OR STRANDED COSTS FOR EACH ELECTRIC UTILITY AND TO
2 PROVIDE A MECHANISM, THE COMPETITIVE TRANSITION CHARGE, FOR
3 RECOVERY OF AN APPROPRIATE AMOUNT OF SUCH COSTS IN ACCORDANCE
4 WITH THE STANDARDS ESTABLISHED IN THIS CHAPTER.

5 (16) IT IS IN THE PUBLIC INTEREST FOR THE TRANSMISSION
6 AND DISTRIBUTION OF ELECTRICITY TO CONTINUE TO BE REGULATED
7 AS A NATURAL MONOPOLY SUBJECT TO THE JURISDICTION AND ACTIVE
8 SUPERVISION OF THE COMMISSION. ELECTRIC DISTRIBUTION
9 COMPANIES SHOULD CONTINUE TO BE THE PROVIDER OF LAST RESORT
10 IN ORDER TO ENSURE THE AVAILABILITY OF UNIVERSAL ELECTRIC
11 SERVICE IN THIS COMMONWEALTH UNLESS ANOTHER PROVIDER OF LAST
12 RESORT IS APPROVED BY THE COMMISSION.

13 (17) THERE ARE CERTAIN PUBLIC PURPOSE COSTS, INCLUDING
14 PROGRAMS FOR LOW-INCOME ASSISTANCE, ENERGY CONSERVATION AND
15 OTHERS, WHICH HAVE BEEN IMPLEMENTED AND SUPPORTED BY PUBLIC
16 UTILITIES' BUNDLED RATES. THE PUBLIC PURPOSE IS TO BE
17 PROMOTED BY CONTINUING UNIVERSAL SERVICE AND ENERGY
18 CONSERVATION POLICIES, PROTECTIONS AND SERVICES; AND FULL
19 RECOVERY OF SUCH COSTS IS TO BE PERMITTED THROUGH A NON-
20 BYPASSABLE RATE MECHANISM.

21 (18) THERE ARE CERTAIN CHANGES TO A UTILITY, WHICH WILL
22 CREATE TRANSITION COSTS, TO ACCOMPLISH THE MOVE TO A
23 COMPETITIVE MARKET. THESE CHANGES MAY ENTAIL THE CLOSURE OF
24 FACILITIES OR REDUCTION IN EMPLOYEE LEVELS. IF SUCH ACTIONS
25 ARE TO BE UNDERTAKEN, THE UTILITY MUST FULLY INFORM THE
26 COMMISSION OF THE IMPACT OF SUCH DECISIONS ON LOCAL
27 COMMUNITIES AND ON SOCIAL SERVICES AND OF ANY TAX
28 IMPLICATIONS OF THE ACTIONS. THE UTILITY IS EXPECTED TO
29 DISCUSS THE TRANSITION TO COMPETITION WITH ITS EMPLOYEES OR
30 THEIR CERTIFIED REPRESENTATIVES AND MAY PROVIDE SEVERANCE,

1 RETRAINING, EARLY RETIREMENT AND OUTPLACEMENT SERVICES. SUCH
2 TRANSITION COSTS MAY BE RECOVERABLE UNDER THE COMPETITIVE
3 TRANSITION CHARGE IN SECTION 2808 (RELATING TO COMPETITIVE
4 TRANSITION CHARGE).

5 (19) ALL PARTICIPANTS IN THE RESTRUCTURED ELECTRIC
6 INDUSTRY ARE ENCOURAGED TO COORDINATE THEIR PLANS AND
7 TRANSACTIONS THROUGH AN INDEPENDENT SYSTEM OPERATOR OR ITS
8 FUNCTIONAL EQUIVALENT.

9 (20) SINCE CONTINUING AND ENSURING THE RELIABILITY OF
10 ELECTRIC SERVICE DEPENDS ON ADEQUATE GENERATION AND ON
11 CONSCIENTIOUS INSPECTION AND MAINTENANCE OF TRANSMISSION AND
12 DISTRIBUTION SYSTEMS, THE INDEPENDENT SYSTEM OPERATOR OR ITS
13 FUNCTIONAL EQUIVALENT SHOULD SET, AND THE COMMISSION SHALL
14 SET, THROUGH REGULATIONS, INSPECTION, MAINTENANCE, REPAIR AND
15 REPLACEMENT STANDARDS AND ENFORCE THOSE STANDARDS.

16 (21) UNDER FEDERAL AND STATE CLEAN AIR LAWS AND
17 REGULATIONS, ELECTRICITY GENERATORS LOCATED IN STATES TO THE
18 WEST AND SOUTH OF THIS COMMONWEALTH ARE NOT SUBJECT TO
19 REQUIREMENTS AS STRINGENT AS THOSE WHICH APPLY TO GENERATORS
20 AND OTHER "PERSONS" AS DEFINED IN SECTION 3 OF THE ACT OF
21 JANUARY 8, 1960 (1959 P.L.2119, NO.787), KNOWN AS THE AIR
22 POLLUTION CONTROL ACT, OPERATING IN THIS COMMONWEALTH AND
23 THAT DIFFERENT REGIONS WITHIN THIS COMMONWEALTH ARE SUBJECT
24 TO VARYING AIR EMISSION REQUIREMENTS. UNDER SOME SCENARIOS,
25 COMPETITION AMONG ELECTRICITY GENERATORS LOCATED IN DIFFERENT
26 STATES AND DIFFERENT REGIONS WITHIN THIS COMMONWEALTH COULD
27 MAKE IT MORE DIFFICULT FOR AREAS IN THIS COMMONWEALTH TO
28 DEMONSTRATE ATTAINMENT WITH FEDERAL AND STATE AIR QUALITY
29 STANDARDS. SINCE THIS RESULT MAY BE CAUSED BY THE DISPARATE
30 REQUIREMENTS IMPOSED BY FEDERAL AND STATE LAW ON GENERATORS

1 AND OTHER "PERSONS" AS DEFINED IN SECTION 3 OF THE AIR
2 POLLUTION CONTROL ACT IN THIS COMMONWEALTH AND GENERATORS
3 LOCATED IN OTHER STATES, THE GENERAL ASSEMBLY SUPPORTS
4 CHANGES TO FEDERAL CLEAN AIR LAWS AND REGULATIONS THAT WILL
5 PROTECT PENNSYLVANIA'S ENVIRONMENT AND ENSURE THAT
6 ELECTRICITY GENERATORS AND OTHER "PERSONS" AS DEFINED IN
7 SECTION 3 OF THE AIR POLLUTION CONTROL ACT LOCATED IN THIS
8 COMMONWEALTH ARE NOT PLACED AT AN UNDUE COMPETITIVE
9 DISADVANTAGE. THE COMMISSION WILL CONSULT WITH THE DEPARTMENT
10 OF ENVIRONMENTAL PROTECTION REGARDING THIS ISSUE DURING THE
11 TRANSITION TO RETAIL COMPETITION.

12 § 2803. DEFINITIONS.

13 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
14 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
15 CONTEXT CLEARLY INDICATES OTHERWISE:

16 "AGGREGATOR OR MARKET AGGREGATOR." AN ENTITY, LICENSED BY
17 THE COMMISSION, THAT PURCHASES ELECTRIC ENERGY AND TAKES TITLE
18 TO ELECTRIC ENERGY AS AN INTERMEDIARY FOR SALE TO RETAIL
19 CUSTOMERS.

20 "BROKER OR MARKETER." AN ENTITY, LICENSED BY THE COMMISSION,
21 THAT ACTS AS AN AGENT OR INTERMEDIARY IN THE SALE AND PURCHASE
22 OF ELECTRIC ENERGY BUT THAT DOES NOT TAKE TITLE TO ELECTRIC
23 ENERGY.

24 "COMPETITIVE TRANSITION CHARGE." A NONBYPASSABLE CHARGE
25 APPLIED TO THE BILL OF EVERY CUSTOMER ACCESSING THE TRANSMISSION
26 OR DISTRIBUTION NETWORK WHICH (CHARGE) IS DESIGNED TO RECOVER AN
27 ELECTRIC UTILITY'S TRANSITION OR STRANDED COSTS AS DETERMINED BY
28 THE COMMISSION UNDER SECTIONS 2804 (RELATING TO STANDARDS) AND
29 2808 (RELATING TO COMPETITIVE TRANSITION CHARGE).

30 "CONSUMER." A RETAIL ELECTRIC CUSTOMER.

1 "CUSTOMER." A RETAIL ELECTRIC CUSTOMER.

2 "DIRECT ACCESS." THE RIGHT OF ELECTRIC GENERATION SUPPLIERS
3 AND END-USE CUSTOMERS TO UTILIZE AND INTERCONNECT WITH THE
4 ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM ON A
5 NONDISCRIMINATORY BASIS AT RATES, TERMS AND CONDITIONS OF
6 SERVICE COMPARABLE TO THE TRANSMISSION AND DISTRIBUTION
7 COMPANIES' OWN USE OF THE SYSTEM TO TRANSPORT ELECTRICITY FROM
8 ANY GENERATOR OF ELECTRICITY TO ANY END-USE CUSTOMER.

9 "ELECTRIC DISTRIBUTION COMPANY." THE PUBLIC UTILITY
10 PROVIDING FACILITIES FOR THE JURISDICTIONAL TRANSMISSION AND
11 DISTRIBUTION OF ELECTRICITY TO RETAIL CUSTOMERS, EXCEPT BUILDING
12 OR FACILITY OWNERS/OPERATORS THAT MANAGE THE INTERNAL
13 DISTRIBUTION SYSTEM SERVING SUCH BUILDING OR FACILITY AND THAT
14 SUPPLY ELECTRIC POWER AND OTHER RELATED ELECTRIC POWER SERVICES
15 TO OCCUPANTS OF THE BUILDING OR FACILITY.

16 "ELECTRIC GENERATION SUPPLIER OR ELECTRICITY SUPPLIER." A
17 PERSON OR CORPORATION, INCLUDING MUNICIPAL CORPORATIONS WHICH
18 CHOOSE TO PROVIDE SERVICE OUTSIDE THEIR MUNICIPAL LIMITS EXCEPT
19 TO THE EXTENT PROVIDED PRIOR TO THE EFFECTIVE DATE OF THIS
20 CHAPTER, BROKERS AND MARKETERS, AGGREGATORS OR ANY OTHER
21 ENTITIES, THAT SELLS TO END-USE CUSTOMERS ELECTRICITY OR RELATED
22 SERVICES UTILIZING THE JURISDICTIONAL TRANSMISSION OR
23 DISTRIBUTION FACILITIES OF AN ELECTRIC DISTRIBUTION COMPANY OR
24 THAT PURCHASES, BROKERS, ARRANGES OR MARKETS ELECTRICITY OR
25 RELATED SERVICES FOR SALE TO END-USE CUSTOMERS UTILIZING THE
26 JURISDICTIONAL TRANSMISSION AND DISTRIBUTION FACILITIES OF AN
27 ELECTRIC DISTRIBUTION COMPANY. THE TERM EXCLUDES BUILDING OR
28 FACILITY OWNER/OPERATORS THAT MANAGE THE INTERNAL DISTRIBUTION
29 SYSTEM SERVING SUCH BUILDING OR FACILITY AND THAT SUPPLY
30 ELECTRIC POWER AND OTHER RELATED POWER SERVICES TO OCCUPANTS OF

1 THE BUILDING OR FACILITY. THE TERM EXCLUDES ELECTRIC COOPERATIVE
2 CORPORATIONS EXCEPT AS PROVIDED IN 15 PA.C.S. CH.74 (RELATING TO
3 GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC COOPERATIVES).

4 "END-USE CUSTOMER." A RETAIL ELECTRIC CUSTOMER.

5 "RELIABILITY." INCLUDES ADEQUACY AND SECURITY. AS USED IN
6 THIS DEFINITION, "ADEQUACY" MEANS THE PROVISION OF SUFFICIENT
7 GENERATION, TRANSMISSION AND DISTRIBUTION CAPACITY SO AS TO
8 SUPPLY THE AGGREGATE ELECTRIC POWER AND ENERGY REQUIREMENTS OF
9 CONSUMERS, TAKING INTO ACCOUNT SCHEDULED AND UNSCHEDULED OUTAGES
10 OF SYSTEM FACILITIES; AND "SECURITY" MEANS DESIGNING,
11 MAINTAINING AND OPERATING A SYSTEM SO THAT IT CAN HANDLE
12 EMERGENCIES SAFELY WHILE CONTINUING TO OPERATE.

13 "RENEWABLE RESOURCE." INCLUDES TECHNOLOGIES SUCH AS SOLAR
14 PHOTOVOLTAIC ENERGY, SOLAR THERMAL ENERGY, WIND POWER, LOW HEAD
15 HYDRO POWER, GEOTHERMAL ENERGY, LANDFILL AND MINEBASED METHANE
16 GAS, ENERGY FROM WASTE AND SUSTAINABLE BIOMASS ENERGY.

17 "RETAIL CUSTOMER." A RETAIL ELECTRIC CUSTOMER.

18 "RETAIL ELECTRIC CUSTOMER." A DIRECT PURCHASER OF ELECTRIC
19 POWER. THE TERM EXCLUDES AN OCCUPANT OF A BUILDING OR FACILITY
20 WHERE THE OWNERS/OPERATORS MANAGE THE INTERNAL DISTRIBUTION
21 SYSTEM SERVING SUCH BUILDING OR FACILITY AND SUPPLY ELECTRIC
22 POWER AND OTHER RELATED POWER SERVICES TO OCCUPANTS OF THE
23 BUILDING OR FACILITY; WHERE SUCH OWNERS/OPERATORS ARE DIRECT
24 PURCHASERS OF ELECTRIC POWER; AND WHERE THE OCCUPANTS ARE NOT
25 DIRECT PURCHASERS.

26 "TRANSITION OR STRANDED COSTS." AN ELECTRIC UTILITY'S KNOWN
27 AND MEASURABLE NET ELECTRIC GENERATION-RELATED COSTS, DETERMINED
28 ON A NET PRESENT VALUE BASIS OVER THE LIFE OF THE ASSET OR
29 LIABILITY AS PART OF ITS RESTRUCTURING PLAN, WHICH TRADITIONALLY
30 WOULD BE RECOVERABLE UNDER A REGULATED ENVIRONMENT BUT WHICH MAY

1 NOT BE RECOVERABLE IN A COMPETITIVE ELECTRIC GENERATION MARKET
2 AND WHICH THE COMMISSION DETERMINES WILL REMAIN FOLLOWING
3 MITIGATION BY THE ELECTRIC UTILITY. THIS TERM INCLUDES:

4 (1) REGULATORY ASSETS AND OTHER DEFERRED CHARGES
5 TYPICALLY RECOVERABLE UNDER CURRENT REGULATORY PRACTICE, THE
6 UNFUNDED PORTION OF THE UTILITY'S PROJECTED NUCLEAR
7 GENERATING PLANT DECOMMISSIONING COSTS AND COST OBLIGATIONS
8 UNDER CONTRACTS WITH NONUTILITY GENERATING PROJECTS WHICH
9 HAVE RECEIVED A COMMISSION ORDER, THE RECOVERABILITY OF WHICH
10 SHALL BE DETERMINED UNDER SECTION 2808(C)(1) (RELATING TO
11 COMPETITIVE TRANSITION CHARGE).

12 (2) PRUDENTLY INCURRED COSTS RELATED TO CANCELLATION,
13 BUYOUT, BUYDOWN OR RENEGOTIATION OF NONUTILITY GENERATING
14 PROJECTS CONSISTENT WITH SECTION 527 (RELATING TO
15 COGENERATION RULES AND REGULATIONS), THE RECOVERABILITY OF
16 WHICH SHALL BE DETERMINED PURSUANT TO SECTION 2808(C)(2).

17 (3) THE FOLLOWING COSTS, THE RECOVERABILITY OF WHICH
18 SHALL BE DETERMINED PURSUANT TO SECTION 2808(C)(3):

19 (I) NET PLANT INVESTMENTS AND COSTS ATTRIBUTABLE TO
20 THE UTILITY'S EXISTING GENERATION PLANTS AND FACILITIES.

21 (II) THE UTILITY'S DISPOSAL OF SPENT NUCLEAR FUEL.

22 (III) THE UTILITY'S LONG TERM PURCHASE POWER
23 COMMITMENTS OTHER THAN THE COSTS DEFINED IN PARAGRAPHS
24 (1) AND (2).

25 (IV) RETIREMENT COSTS ATTRIBUTABLE TO THE UTILITY'S
26 EXISTING GENERATING PLANTS OTHER THAN THE COSTS DEFINED
27 IN PARAGRAPH (1).

28 (V) OTHER TRANSITION COSTS OF THE UTILITY, INCLUDING
29 COSTS OF EMPLOYEE SEVERANCE, RETRAINING, EARLY
30 RETIREMENT, OUTPLACEMENT AND RELATED EXPENSES, AT

1 REASONABLE LEVELS, FOR EMPLOYEES WHO ARE AFFECTED BY
2 CHANGES THAT OCCUR AS A RESULT OF THE RESTRUCTURING OF
3 THE ELECTRIC INDUSTRY OCCASIONED BY THIS CHAPTER.
4 THE TERM INCLUDES ANY COSTS ATTRIBUTABLE TO PHYSICAL PLANT NO
5 LONGER USED AND USEFUL BECAUSE OF THE TRANSITION TO RETAIL
6 COMPETITION. THE TERM EXCLUDES ANY AMOUNTS PREVIOUSLY DISALLOWED
7 BY THE COMMISSION AS IMPRUDENTLY INCURRED. TO THE EXTENT THAT
8 THE RECOVERABILITY OF AMOUNTS THAT ARE SOUGHT TO BE INCLUDED AS
9 TRANSITION OR STRANDED COSTS ARE SUBJECT TO APPELLATE REVIEW AS
10 OF THE TIME OF THE COMMISSION DETERMINATION, ANY DETERMINATION
11 TO INCLUDE SUCH COSTS SHALL BE REVERSED TO THE EXTENT REQUIRED
12 BY THE RESULTS OF THAT APPELLATE REVIEW.

13 "TRANSMISSION AND DISTRIBUTION COSTS." ALL COSTS DIRECTLY OR
14 INDIRECTLY INCURRED TO PROVIDE TRANSMISSION AND DISTRIBUTION
15 SERVICES TO RETAIL ELECTRIC CUSTOMERS. THIS INCLUDES THE RETURN
16 OF AND RETURN ON FACILITIES AND OTHER CAPITAL INVESTMENTS
17 NECESSARY TO PROVIDE TRANSMISSION AND DISTRIBUTION SERVICES AND
18 ASSOCIATED OPERATING EXPENSES, INCLUDING APPLICABLE TAXES.

19 "UNIVERSAL SERVICE AND ENERGY CONSERVATION." POLICIES,
20 PROTECTIONS AND SERVICES THAT HELP LOW-INCOME CUSTOMERS TO
21 MAINTAIN ELECTRIC SERVICE. THE TERM INCLUDES CUSTOMER ASSISTANCE
22 PROGRAMS; TERMINATION OF SERVICE PROTECTION AND POLICIES AND
23 SERVICES THAT HELP LOW-INCOME CUSTOMERS TO REDUCE OR MANAGE
24 ENERGY CONSUMPTION IN A COST-EFFECTIVE MANNER, SUCH AS THE LOW-
25 INCOME USAGE REDUCTION PROGRAMS, APPLICATION OF RENEWABLE
26 RESOURCES AND CONSUMER EDUCATION.

27 § 2804. STANDARDS FOR RESTRUCTURING OF ELECTRIC INDUSTRY.

28 THE FOLLOWING INTERDEPENDENT STANDARDS SHALL GOVERN THE
29 COMMISSION'S ASSESSMENT AND APPROVAL OF EACH PUBLIC UTILITY'S
30 RESTRUCTURING PLAN, OVERSIGHT OF THE TRANSITION PROCESS AND

1 REGULATION OF THE RESTRUCTURED ELECTRIC UTILITY INDUSTRY:

2 (1) THE COMMISSION SHALL ENSURE CONTINUATION OF SAFE AND
3 RELIABLE ELECTRIC SERVICE TO ALL CONSUMERS IN THE
4 COMMONWEALTH, INCLUDING:

5 (I) THE MAINTENANCE OF ADEQUATE RESERVE MARGINS BY
6 ELECTRIC SUPPLIERS IN CONFORMITY WITH THE STANDARDS
7 REQUIRED BY THE NORTH AMERICAN ELECTRIC RELIABILITY
8 COUNCIL (NERC) AND THE REGIONAL RELIABILITY COUNCIL
9 APPROPRIATE TO EACH SUPPLIER, OR ANY SUCCESSORS TO THOSE
10 RELIABILITY ENTITIES, AND IN CONFORMITY WITH ESTABLISHED
11 INDUSTRY STANDARDS AND PRACTICES.

12 (II) THE INSTALLATION AND MAINTENANCE OF
13 TRANSMISSION AND DISTRIBUTION FACILITIES IN CONFORMITY
14 WITH ESTABLISHED INDUSTRY STANDARDS AND PRACTICES,
15 INCLUDING THE STANDARDS SET FORTH IN THE NATIONAL
16 ELECTRIC SAFETY CODE.

17 (2) CONSISTENT WITH THE TIME LINE SET FORTH IN SECTION
18 2806 (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND
19 PERFORMANCE-BASED RATES), THE COMMISSION SHALL ALLOW
20 CUSTOMERS TO CHOOSE AMONG ELECTRIC GENERATION SUPPLIERS IN A
21 COMPETITIVE GENERATION MARKET THROUGH DIRECT ACCESS.
22 CUSTOMERS SHOULD BE ABLE TO CHOOSE AMONG ALTERNATIVES SUCH AS
23 FIRM AND INTERRUPTIBLE SERVICE, FLEXIBLE PRICING AND
24 ALTERNATE GENERATION SOURCES, INCLUDING REASONABLE AND FAIR
25 OPPORTUNITIES TO SELF-GENERATE AND INTERCONNECT. THESE
26 ALTERNATIVES MAY BE PROVIDED BY DIFFERENT ELECTRIC GENERATION
27 SUPPLIERS.

28 (3) THE COMMISSION SHALL REQUIRE THE UNBUNDLING OF
29 ELECTRIC UTILITY SERVICES, TARIFFS AND CUSTOMER BILLS TO
30 SEPARATE THE CHARGES FOR GENERATION, TRANSMISSION AND

1 DISTRIBUTION. THE COMMISSION MAY REQUIRE THE UNBUNDLING OF
2 OTHER SERVICES.

3 (4) THE FOLLOWING CAPS ON ELECTRIC UTILITY RATES SHALL
4 APPLY:

5 (I) FOR A PERIOD OF 54 MONTHS FROM THE EFFECTIVE
6 DATE OF THIS CHAPTER OR UNTIL AN ELECTRIC DISTRIBUTION
7 UTILITY IS NO LONGER RECOVERING ITS TRANSITION OR
8 STRANDED COSTS THROUGH A COMPETITIVE TRANSITION CHARGE OR
9 INTANGIBLE TRANSITION CHARGE AND ALL THE CUSTOMERS OF AN
10 ELECTRIC DISTRIBUTION UTILITY CAN CHOOSE AN ALTERNATIVE
11 PROVIDER OF ELECTRIC GENERATION, WHICHEVER IS SHORTER:

12 (A) THE TOTAL CHARGES OF AN ELECTRIC
13 DISTRIBUTION UTILITY FOR SERVICE TO ANY CUSTOMER WHO
14 PURCHASES GENERATION FROM THAT UTILITY SHALL NOT
15 EXCEED THE TOTAL CHARGES THAT HAVE BEEN APPROVED BY
16 THE COMMISSION FOR SUCH SERVICE AS OF THE EFFECTIVE
17 DATE OF THIS CHAPTER; AND

18 (B) FOR CUSTOMERS WHO PURCHASE GENERATION FROM A
19 SUPPLIER OTHER THAN THE ELECTRIC DISTRIBUTION
20 UTILITY, THE CHARGES OF THE UTILITY FOR NON-
21 GENERATION SERVICES THAT ARE REGULATED AS OF THE
22 EFFECTIVE DATE OF THIS CHAPTER, EXCLUSIVE OF THE
23 COMPETITIVE TRANSITION CHARGE AND INTANGIBLE
24 TRANSITION CHARGE, SHALL NOT EXCEED THE NON-
25 GENERATION CHARGES THAT HAVE BEEN APPROVED BY THE
26 COMMISSION FOR SUCH SERVICE AS OF THE EFFECTIVE DATE
27 OF THIS CHAPTER.

28 (II) IN ADDITION TO THE RATE CAP SET FORTH IN
29 SUBPARAGRAPH (I), FOR A PERIOD OF NINE YEARS FROM THE
30 EFFECTIVE DATE OF THIS CHAPTER, OR UNTIL AN ELECTRIC

1 DISTRIBUTION UTILITY IS NO LONGER RECOVERING ITS
2 TRANSITION OR STRANDED COSTS THROUGH A COMPETITIVE
3 TRANSITION CHARGE OR INTANGIBLE TRANSITION CHARGE AND ALL
4 CUSTOMERS OF AN ELECTRIC DISTRIBUTION UTILITY CAN CHOOSE
5 AN ALTERNATIVE PROVIDER OF ELECTRIC GENERATION, WHICHEVER
6 IS SHORTER, THE GENERATION COMPONENT OF A UTILITY'S
7 CHARGES TO CUSTOMERS WHO PURCHASE GENERATION FROM THE
8 UTILITY, INCLUDING THE COMPETITIVE TRANSITION CHARGE AND
9 INTANGIBLE TRANSITION CHARGE, SHALL NOT EXCEED THE
10 GENERATION COMPONENT CHARGED TO THE CUSTOMERS THAT HAS
11 BEEN APPROVED BY THE COMMISSION FOR SUCH SERVICE, AS OF
12 THE EFFECTIVE DATE OF THIS CHAPTER.

13 (III) AN ELECTRIC DISTRIBUTION UTILITY MAY SEEK, AND
14 THE COMMISSION MAY APPROVE, AN EXCEPTION TO THE
15 LIMITATIONS SET FORTH IN SUBPARAGRAPHS (I) AND (II) ONLY
16 IN ANY OF THE FOLLOWING CIRCUMSTANCES:

17 (A) THE ELECTRIC DISTRIBUTION UTILITY MEETS THE
18 REQUIREMENTS FOR EXTRAORDINARY RATE RELIEF UNDER
19 SECTION 1308(E) (RELATING TO VOLUNTARY CHANGES IN
20 RATES).

21 (B) EITHER THE ELECTRIC DISTRIBUTION UTILITY IS
22 REQUIRED TO BEGIN PAYMENT UNDER CONTRACTS WITH NON-
23 UTILITY GENERATION PROJECTS THAT HAVE RECEIVED
24 COMMISSION ORDERS, HAS BEEN UNABLE TO MITIGATE SUCH
25 COSTS, SUCH COSTS ARE NOT RECOVERABLE IN A
26 COMPETITIVE GENERATION MARKET, AND SUCH COSTS WERE
27 NOT PREVIOUSLY COVERED IN THE COMPETITIVE TRANSITION
28 CHARGE OR INTANGIBLE TRANSITION CHARGE; OR THE
29 UTILITY PRUDENTLY INCURS COSTS RELATED TO
30 CANCELLATION, BUYOUT, BUYDOWN OR RENEGOTIATION OF

1 NONUTILITY GENERATING PROJECT OBLIGATIONS OF THE
2 UTILITY CONSISTENT WITH SECTION 527 (RELATING TO
3 COGENERATION RULES AND REGULATIONS) AND SUCH COSTS
4 WERE NOT PREVIOUSLY COVERED IN THE COMPETITIVE
5 TRANSITION CHARGE OR INTANGIBLE TRANSITION CHARGE.
6 COSTS RELATED TO CANCELLATION, BUYOUT, BUYDOWN OR
7 RENEGOTIATION SHALL BE RECOVERED FROM RATEPAYERS OVER
8 A PERIOD NOT TO EXCEED THREE YEARS, UNLESS THE
9 COMMISSION DETERMINES WITHIN ITS DISCRETION TO
10 REQUIRE A LONGER RECOVERY PERIOD DUE TO THE MAGNITUDE
11 OF SUCH COSTS, BUT SHALL BE ACCOUNTED FOR BY THE
12 UTILITY ON A LEVELIZED BASIS OVER THE TOTAL PERIOD IN
13 WHICH THE GENERATION PORTION OF THE UTILITY'S RATES
14 ARE CAPPED.

15 (C) THE ELECTRIC DISTRIBUTION UTILITY IS SUBJECT
16 TO SIGNIFICANT INCREASES IN THE RATES OF FEDERAL OR
17 STATE TAXES OR OTHER SIGNIFICANT CHANGES IN LAW OR
18 REGULATIONS THAT WOULD NOT ALLOW THE UTILITY TO EARN
19 A FAIR RATE OF RETURN.

20 (D) THE ELECTRIC DISTRIBUTION UTILITY IS SUBJECT
21 TO SIGNIFICANT INCREASES IN THE UNIT RATE OF FUEL FOR
22 UTILITY GENERATION OR THE PRICE OF PURCHASED POWER
23 THAT ARE OUTSIDE OF THE CONTROL OF THE UTILITY AND
24 THAT WOULD NOT ALLOW THE UTILITY TO EARN A FAIR RATE
25 OF RETURN.

26 (E) THE ELECTRIC DISTRIBUTION UTILITY IS
27 DIRECTED BY THE COMMISSION OR AN INDEPENDENT SYSTEM
28 OPERATOR OR ITS FUNCTIONAL EQUIVALENT TO MAKE
29 EXPENDITURES TO REPAIR OR UPGRADE ITS TRANSMISSION OR
30 DISTRIBUTION SYSTEM.

1 (F) THE ELECTRIC DISTRIBUTION UTILITY SEEKS TO
2 INCREASE ITS ALLOWANCE FOR NUCLEAR DECOMMISSIONING
3 COSTS TO REFLECT NEW INFORMATION NOT AVAILABLE AT THE
4 TIME THE UTILITY'S EXISTING RATES WERE DETERMINED,
5 AND SUCH COSTS ARE NOT RECOVERABLE IN THE COMPETITIVE
6 GENERATION MARKET AND ARE NOT COVERED IN THE
7 COMPETITIVE TRANSITION CHARGE OR INTANGIBLE
8 TRANSITION CHARGE, AND SUCH COSTS WOULD NOT ALLOW THE
9 UTILITY TO EARN A FAIR RATE OF RETURN.

10 (G) AS PERMITTED BY PARAGRAPH (16).

11 (IV) CONSISTENT WITH THE REQUIREMENTS OF DUE
12 PROCESS, THE COMMISSION MAY EXPEDITE PROCEEDINGS THAT
13 INVOKE THE PROVISIONS OF SUBPARAGRAPH (III).

14 (V) IF AN ELECTRIC DISTRIBUTION UTILITY ROLLS ITS
15 ENERGY COST RATE INTO BASE RATES AT A COMBINED LEVEL THAT
16 DOES NOT EXCEED ITS COMBINED LEVEL OF SUCH RATES WHICH
17 HAVE BEEN APPROVED BY THE COMMISSION AS OF THE EFFECTIVE
18 DATE OF THIS CHAPTER, THE UTILITY SHALL NOT BE REQUIRED
19 TO REDUCE ITS CAPPED RATES BELOW THE CAPPED LEVEL UPON
20 THE COMPLAINT OF ANY PARTY IF THE COMMISSION DETERMINES
21 THAT ANY EXCESS EARNINGS ACHIEVED UNDER THE CAP ARE BEING
22 UTILIZED TO MITIGATE TRANSITION OR STRANDED COSTS FOR THE
23 BENEFIT OF RATEPAYERS OR TO OFFSET OTHER KNOWN AND
24 MEASURABLE COST INCREASES THAT WOULD BE RECOVERABLE UNDER
25 TRADITIONAL RATEMAKING BUT ARE NOT INCLUDED WITHIN THE
26 CAPPED RATES.

27 (VI) THIS PARAGRAPH SHALL NOT APPLY TO NEW SERVICES
28 OFFERED FOR THE FIRST TIME AFTER THE EFFECTIVE DATE OF
29 THIS CHAPTER.

30 (5) THE COMMISSION MAY PERMIT, BUT SHALL NOT REQUIRE, AN

1 ELECTRIC UTILITY TO DIVEST ITSELF OF FACILITIES OR TO
2 REORGANIZE ITS CORPORATE STRUCTURE.

3 (6) CONSISTENT WITH THE PROVISION OF SECTION 2806, THE
4 COMMISSION SHALL REQUIRE THAT A PUBLIC UTILITY THAT OWNS OR
5 OPERATES JURISDICTIONAL TRANSMISSION AND DISTRIBUTION
6 FACILITIES SHALL PROVIDE TRANSMISSION AND DISTRIBUTION
7 SERVICE TO ALL RETAIL ELECTRIC CUSTOMERS IN THEIR SERVICE
8 TERRITORY AND TO ELECTRIC COOPERATIVE CORPORATIONS AND
9 ELECTRIC GENERATION SUPPLIERS, AFFILIATED OR NONAFFILIATED,
10 ON RATES, TERMS OF ACCESS AND CONDITIONS THAT ARE COMPARABLE
11 TO THE UTILITY'S OWN USE OF ITS SYSTEM.

12 (7) THE COMMISSION SHALL REQUIRE THAT RESTRUCTURING OF
13 THE ELECTRIC UTILITY INDUSTRY BE IMPLEMENTED IN A MANNER THAT
14 DOES NOT UNREASONABLY DISCRIMINATE AGAINST ONE CUSTOMER CLASS
15 TO THE BENEFIT OF ANOTHER.

16 (8) THE COMMISSION SHALL ESTABLISH FOR EACH ELECTRIC
17 UTILITY AN APPROPRIATE COST RECOVERY MECHANISM WHICH IS
18 DESIGNED TO FULLY RECOVER THE ELECTRIC UTILITY'S UNIVERSAL
19 SERVICE AND ENERGY CONSERVATION COSTS OVER THE LIFE OF THESE
20 PROGRAMS.

21 (9) THE COMMISSION SHALL ENSURE THAT UNIVERSAL SERVICE
22 AND ENERGY CONSERVATION POLICIES, ACTIVITIES AND SERVICES ARE
23 APPROPRIATELY FUNDED AND AVAILABLE IN EACH ELECTRIC
24 DISTRIBUTION TERRITORY. POLICIES, ACTIVITIES AND SERVICES
25 UNDER THIS PARAGRAPH SHALL BE FUNDED IN EACH ELECTRIC
26 DISTRIBUTION TERRITORY BY NONBYPASSABLE, COMPETITIVELY-
27 NEUTRAL COST RECOVERY MECHANISMS THAT FULLY RECOVER THE COSTS
28 OF UNIVERSAL SERVICE AND ENERGY CONSERVATION SERVICES. THE
29 COMMISSION SHALL ENCOURAGE THE USE OF COMMUNITY-BASED
30 ORGANIZATIONS THAT HAVE THE NECESSARY TECHNICAL AND

1 ADMINISTRATIVE EXPERIENCE TO BE THE DIRECT PROVIDERS OF
2 SERVICES OR PROGRAMS WHICH REDUCE ENERGY CONSUMPTION OR
3 OTHERWISE ASSIST LOW-INCOME CUSTOMERS TO AFFORD ELECTRIC
4 SERVICE. PROGRAMS UNDER THIS PARAGRAPH SHALL BE SUBJECT TO
5 THE ADMINISTRATIVE OVERSIGHT OF THE COMMISSION WHICH WILL
6 ENSURE THAT THE PROGRAMS ARE OPERATED IN A COST-EFFECTIVE
7 MANNER.

8 (10) THE COMMISSION SHALL ESTABLISH RATES FOR
9 JURISDICTIONAL TRANSMISSION AND DISTRIBUTION SERVICES AND
10 SHALL CONTINUE TO REGULATE DISTRIBUTION SERVICES FOR NEW AND
11 EXISTING CUSTOMERS IN ACCORDANCE WITH THIS CHAPTER AND
12 CHAPTER 13 (RELATING TO RATES AND RATEMAKING).

13 (11) THE TIME LINE FOR THE TRANSITION TO AND PHASE IN OF
14 DIRECT ACCESS TO COMPETITIVE ELECTRIC GENERATION SHALL BE IN
15 ACCORDANCE WITH SECTION 2806.

16 (12) THE COMMISSION HAS THE AUTHORITY TO ORDER UTILITY
17 PARTICIPATION IN RETAIL ACCESS PILOT PROGRAMS, AS SET FORTH
18 IN SECTION 2806 AND AS FURTHER IMPLEMENTED OR MODIFIED BY THE
19 COMMISSION, WITH DIRECT ACCESS TO BEGIN ON APRIL 1, 1997. THE
20 COMMISSION SHALL CONDUCT MILESTONE REVIEWS OF THE TRANSITION
21 TO RETAIL ELECTRIC GENERATION COMPETITION TO ASSURE A
22 TECHNICALLY WORKABLE AND EQUITABLE TRANSITION PERIOD.

23 (13) CONSISTENT WITH SECTION 2808 (RELATING TO
24 COMPETITIVE TRANSITION CHARGE), THE COMMISSION HAS THE POWER
25 AND DUTY TO APPROVE A COMPETITIVE TRANSITION CHARGE FOR THE
26 RECOVERY OF TRANSITION OR STRANDED COSTS IT DETERMINES TO BE
27 JUST AND REASONABLE TO RECOVER FROM RATEPAYERS.

28 (14) THE TRANSITION TO A COMPETITIVE GENERATION MARKET
29 SHALL BE ORDERLY, PROTECT ELECTRIC SYSTEM RELIABILITY, BE
30 FAIR TO RATEPAYERS AND PROVIDE THE INVESTORS IN PENNSYLVANIA

1 ELECTRIC UTILITIES WITH A FAIR OPPORTUNITY TO FULLY RECOVER
2 THE AMOUNT OF TRANSITION OR STRANDED COSTS THAT THE
3 COMMISSION DETERMINES TO BE JUST AND REASONABLE.

4 (15) AT THE TIME EACH UTILITY FILES ITS RESTRUCTURING
5 PLAN WITH THE COMMISSION, THE UTILITY SHALL SUBMIT AN INITIAL
6 PLAN THAT SETS FORTH HOW IT SHALL MEET ITS UNIVERSAL SERVICE
7 AND ENERGY CONSERVATION OBLIGATIONS.

8 (16) THE FOLLOWING SHALL APPLY:

9 (I) THE COMMISSION SHALL ISSUE REGULATIONS THAT
10 PERMIT THE ELECTRIC DISTRIBUTION COMPANY TO RECOVER ANY
11 CHANGE IN ITS STATE TAX LIABILITY UNDER SECTIONS 2806(H),
12 2809(C) (RELATING TO REQUIREMENTS FOR ELECTRIC GENERATION
13 SUPPLIERS) AND 2810 (RELATING TO REVENUE NEUTRAL
14 RECONCILIATION) OR IN ITS LIABILITY UNDER 52 PA. CODE §§
15 69.51 THROUGH 69.56 (RELATING TO INCLUSION OF STATE TAXES
16 AND GROSS RECEIPTS TAXES IN BASE RATES) TO THE EXTENT
17 THAT THE RESULTING RATE DOES NOT EXCEED THE RATE CAP
18 ESTABLISHED IN THIS SECTION EXCEPT AS PROVIDED IN THIS
19 CHAPTER.

20 (II) WITH REGARD TO ANY PORTION OF THE CHANGE IN AN
21 ELECTRIC DISTRIBUTION COMPANY'S TAX LIABILITY UNDER
22 SECTION 2810 WHICH WOULD CAUSE IT TO EXCEED THE RATE CAP,
23 THE ELECTRIC DISTRIBUTION COMPANY MAY FILE A SINGLE ISSUE
24 RATE PROCEEDING UNDER SECTION 1308(A) TO RECOVER THAT
25 AMOUNT. THE COMMISSION SHALL ADJUDICATE, WITHIN 60 DAYS,
26 WHETHER THE RESULTING RATES ARE JUST AND REASONABLE.

27 (III) WITH REGARD TO ANY PORTION OF THE CHANGE IN AN
28 ELECTRIC DISTRIBUTION COMPANY'S TAX LIABILITY UNDER
29 SECTIONS 2806(H) AND 2809(C) WHICH WOULD CAUSE IT TO
30 EXCEED THE PRICE CAP, UPON CERTIFICATION TO THE

1 COMMISSION, BY AFFIDAVIT, THAT THE ELECTRIC DISTRIBUTION
2 COMPANY HAS NOT COLLECTED THE TAXES DUE PURSUANT TO THE
3 TARIFF INDEMNIFICATION PROVISIONS REQUIRED BY SECTION
4 2810(M) AND THAT THE ELECTRIC DISTRIBUTION COMPANY AND
5 THE DEPARTMENT OF REVENUE HAVE NOT COLLECTED THE TAXES
6 DUE PURSUANT TO THE OTHER MEANS SET FORTH IN SECTIONS
7 2806(G)(3)(I) AND (II) AND 2809(C) TO RECOVER THE TAXES
8 DUE AND ANY INTEREST THEREON, THE ELECTRIC DISTRIBUTION
9 UTILITY SHALL BE PERMITTED TO RECOVER THAT AMOUNT IN THE
10 STATE TAX ADJUSTMENT SURCHARGE.

11 § 2805. REGIONALISM AND RECIPROCITY.

12 (A) OTHER STATES.--THE COMMISSION SHALL TAKE ALL NECESSARY
13 AND APPROPRIATE STEPS TO ENCOURAGE INTERSTATE POWER POOLS TO
14 ENHANCE COMPETITION AND TO COMPLEMENT INDUSTRY RESTRUCTURING ON
15 A REGIONAL BASIS. THE COMMONWEALTH, THE COMMISSION AND
16 PENNSYLVANIA ELECTRIC UTILITIES SHALL WORK WITH THE FEDERAL
17 GOVERNMENT, OTHER STATES IN THE REGION AND INTERSTATE POWER
18 POOLS TO ACCOMPLISH THE GOALS OF RESTRUCTURING AND TO ESTABLISH
19 INDEPENDENT SYSTEM OPERATORS OR THEIR FUNCTIONAL EQUIVALENTS TO
20 OPERATE THE TRANSMISSION SYSTEM AND INTERSTATE POWER POOLS. THE
21 COMMISSION, PENNSYLVANIA ELECTRIC UTILITIES AND ALL ELECTRICITY
22 SUPPLIERS SHALL WORK WITH THE FEDERAL GOVERNMENT, OTHER STATES
23 IN THE REGION, THE NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL
24 AND ITS REGIONAL COORDINATING COUNCILS OR THEIR SUCCESSORS,
25 INTERSTATE POWER POOLS, AND WITH THE INDEPENDENT SYSTEM OPERATOR
26 OR ITS FUNCTIONAL EQUIVALENT TO ENSURE THE CONTINUED PROVISION
27 OF ADEQUATE, SAFE AND RELIABLE ELECTRIC SERVICE TO THE CITIZENS
28 AND BUSINESSES OF THIS COMMONWEALTH.

29 (B) ELECTRIC COOPERATIVES, MUNICIPALITIES AND OTHER ELECTRIC
30 GENERATION SUPPLIERS.--

1 (1) IN ORDER TO MAKE THE BENEFITS OF COMPETITION IN THE
2 GENERATION AND SALE OF ELECTRICITY AS WIDELY AVAILABLE AS
3 POSSIBLE TO RETAIL CUSTOMERS AND TO PROVIDE OPEN, FAIR AND
4 NONDISCRIMINATORY ACCESS TO ALL ELECTRIC GENERATION
5 SUPPLIERS:

6 (I) CONSISTENT WITH 15 PA.C.S. CH. 74 (RELATING TO
7 GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC
8 COOPERATIVES), NO ELECTRIC COOPERATIVE OR MUNICIPALITY
9 WHICH DISTRIBUTES ELECTRICITY TO END-USE CUSTOMERS MAY
10 UTILIZE THE TRANSMISSION OR DISTRIBUTION SYSTEM OF AN
11 ELECTRIC UTILITY REGULATED BY THE COMMISSION FOR THE
12 PURPOSE OF SUPPLYING ELECTRICITY TO AN END-USE CUSTOMER
13 UNLESS THE ELECTRIC COOPERATIVE OR MUNICIPALITY PROVIDES
14 OPEN AND NONDISCRIMINATORY ACCESS AND ALLOWS OTHER
15 ELECTRIC GENERATION SUPPLIERS TO UTILIZE ITS FACILITIES,
16 INCLUDING ANY FACILITIES IT IS ENTITLED TO PROVIDE TO
17 THIRD PARTIES PURSUANT TO CONTRACT, TO MAKE SALES TO THE
18 END-USE CUSTOMERS IT SERVES. A BOROUGH MAY PROHIBIT
19 ELECTRIC GENERATION SUPPLIERS FROM SERVING END-USE
20 CUSTOMERS WITHIN ITS BOROUGH LIMITS; HOWEVER, SUCH A
21 BOROUGH SHALL BE PROHIBITED FROM PROVIDING GENERATION
22 SERVICE TO END-USE CUSTOMERS OUTSIDE OF ITS BOROUGH
23 LIMITS WHICH IT DID NOT SERVE PRIOR TO THE EFFECTIVE DATE
24 OF THIS CHAPTER.

25 (II) THE COMMISSION SHALL REQUIRE ANY ELECTRIC
26 COOPERATIVE SEEKING A CERTIFICATE UNDER 15 PA.C.S. CH. 74
27 TO PROVIDE OPEN AND NONDISCRIMINATORY ACCESS TO ITS
28 TRANSMISSION AND DISTRIBUTION FACILITIES AS A CONDITION
29 TO THE GRANTING OF THE CERTIFICATE.

30 (III) THE RELIABILITY OF THE TRANSMISSION SERVICE

1 PROVIDED TO ELECTRIC COOPERATIVE CORPORATIONS MUST BE
2 COMPARABLE TO THE RELIABILITY WHICH THE TRANSMISSION
3 SUPPLIER PROVIDES AT THE WHOLESALE LEVEL.

4 (2) NO ELECTRIC UTILITY REGULATED BY THE COMMISSION AND
5 NO AFFILIATE OF SUCH ELECTRIC UTILITY MAY USE THE
6 DISTRIBUTION SYSTEM OF ANOTHER ELECTRIC UTILITY REGULATED BY
7 THE COMMISSION OR MAKE SALES TO END-USE CUSTOMERS IN ANOTHER
8 ELECTRIC UTILITY'S SERVICE TERRITORY UNLESS THE COMMISSION
9 HAS APPROVED A RESTRUCTURING PLAN FOR THE SUPPLYING ELECTRIC
10 UTILITY WHICH PROVIDES FOR DIRECT ACCESS COMPARABLE TO THE
11 DIRECT ACCESS PROVIDED UNDER THE APPROVED PLAN OF THE
12 ELECTRIC UTILITY OPERATING THE DISTRIBUTION SYSTEM IN THE
13 LOCATION WHERE THE SUPPLYING ELECTRIC UTILITY SEEKS TO SELL
14 ELECTRICITY TO AN END-USE CUSTOMER. NO ELECTRIC UTILITY
15 REGULATED BY THE COMMISSION AND NO AFFILIATE OF SUCH ELECTRIC
16 UTILITY MAY USE THE DISTRIBUTION SYSTEM OF AN ELECTRIC
17 COOPERATIVE CORPORATION OR MAKE SALES TO END-USE CUSTOMERS IN
18 THE TERRITORY OF AN ELECTRIC COOPERATIVE CORPORATION UNLESS
19 THE COMMISSION HAS APPROVED A RESTRUCTURING PLAN FOR THE
20 SUPPLYING ELECTRIC UTILITY.

21 § 2806. IMPLEMENTATION, PILOT PROGRAMS AND PERFORMANCE-BASED
22 RATES.

23 (A) GENERAL RULE.--THE GENERATION OF ELECTRICITY SHALL NO
24 LONGER BE REGULATED AS A PUBLIC UTILITY SERVICE OR FUNCTION
25 EXCEPT AS OTHERWISE PROVIDED FOR IN THIS CHAPTER AT THE
26 CONCLUSION OF A TRANSITION AND PHASE-IN PERIOD BEGINNING ON THE
27 EFFECTIVE DATE OF THIS CHAPTER AND ENDING, CONSISTENT WITH THE
28 COMMISSION'S DISCRETION UNDER THIS SECTION, JANUARY 1, 2001. AS
29 OF JANUARY 1, 2001, CONSISTENT WITH THE COMMISSION'S DISCRETION
30 UNDER THIS SECTION, ALL CUSTOMERS OF ELECTRIC DISTRIBUTION

1 COMPANIES IN THIS COMMONWEALTH SHALL HAVE THE OPPORTUNITY TO
2 PURCHASE ELECTRICITY FROM THEIR CHOICE OF ELECTRIC GENERATION
3 SUPPLIERS. THE ULTIMATE CHOICE OF THE ELECTRIC GENERATION
4 SUPPLIER IS TO REST WITH THE CONSUMER.

5 (B) SCHEDULE.--RECOGNIZING THAT APPROXIMATELY 5% OF THE PEAK
6 LOAD WILL HAVE RETAIL ACCESS THROUGH PILOT PROGRAMS, THE
7 FOLLOWING SCHEDULE FOR PHASED IMPLEMENTATION OF RETAIL ACCESS
8 SHALL BE ADHERED TO UNLESS A DETERMINATION IS MADE BY THE
9 COMMISSION UNDER SUBSECTION (C):

10 (1) AS OF JANUARY 1, 1999, A MAXIMUM OF 33% OF THE PEAK
11 LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE OPPORTUNITY FOR
12 DIRECT ACCESS.

13 (2) AS OF JANUARY 1, 2000, A MAXIMUM OF 66% OF THE PEAK
14 LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE OPPORTUNITY FOR
15 DIRECT ACCESS.

16 (3) AS OF JANUARY 1, 2001, ALL CUSTOMERS OF ELECTRIC
17 DISTRIBUTION COMPANIES IN THIS COMMONWEALTH SHALL HAVE THE
18 OPPORTUNITY FOR DIRECT ACCESS.

19 (4) THE COMMISSION SHALL ESTABLISH REGULATIONS
20 SPECIFYING THAT, WITHIN EACH CUSTOMER CLASS, THE CUSTOMERS
21 THAT ARE ELIGIBLE FOR DIRECT ACCESS PRIOR TO FULL DIRECT
22 ACCESS SHALL BE DETERMINED ON A FIRST-COME-FIRST-SERVED BASIS
23 UNLESS OTHERWISE DETERMINED BY THE COMMISSION THROUGH
24 REGULATION, IN THE CONTEXT OF RESTRUCTURING PLANS, OR IN
25 OTHER APPROPRIATE ADMINISTRATIVE PROCEEDINGS, TO PREVENT
26 COMPETITIVE DISADVANTAGES AMONG SIMILARLY SITUATED CUSTOMERS
27 WITHIN A CUSTOMER CLASS.

28 (C) ADDITIONAL TIME.--

29 (1) THE COMMISSION MAY DETERMINE THAT AN ADDITIONAL SIX-
30 MONTH TRANSITION PERIOD IS NECESSARY PRIOR TO THE JANUARY 1,

1 1999, IMPLEMENTATION DATE. A DETERMINATION UNDER THIS
2 SUBSECTION MUST BE MADE AT LEAST 45 DAYS IN ADVANCE OF THE
3 SCHEDULED DATE FOR IMPLEMENTATION AND MUST BE BASED ON ONE OR
4 MORE OF THE FOLLOWING CONSIDERATIONS:

5 (I) IMPLEMENTATION WOULD MATERIALLY AFFECT THE
6 RELIABILITY OF THE ELECTRIC SYSTEM.

7 (II) FEDERAL APPROVALS NECESSARY FOR THE
8 IMPLEMENTATION OF THE PROVISIONS OF THIS CHAPTER HAVE NOT
9 BEEN GRANTED.

10 (III) COMMUNICATIONS AND INFORMATION SYSTEMS
11 NECESSARY FOR THE IMPLEMENTATION OF RETAIL ACCESS HAVE
12 NOT BEEN INSTALLED FOR REASONS BEYOND THE UTILITY'S
13 CONTROL, AS MEASURED BY APPROPRIATE INDUSTRY STANDARDS.

14 (IV) PENNSYLVANIA GENERATORS WOULD BE DISADVANTAGED
15 DUE TO LACK OF REGIONAL RECIPROCITY WITH RESPECT TO
16 DIRECT ACCESS.

17 (V) THE INTERESTS OF PENNSYLVANIA CONSUMERS AND THE
18 COMPETITIVE POSITION OF PENNSYLVANIA BUSINESS AND
19 INDUSTRY WOULD BE MATERIALLY AFFECTED.

20 (VI) SUCH OTHER CONSIDERATION AS WOULD MATERIALLY
21 AFFECT THE ORDERLY IMPLEMENTATION OF THE LEGISLATIVE
22 PURPOSE OF THIS CHAPTER UNDER SECTION 2802(12) THROUGH
23 (21) (RELATING TO DECLARATION OF POLICY).

24 (2) CONSISTENT WITH THE CONSIDERATIONS LISTED IN
25 PARAGRAPH (1), THE COMMISSION MAY DETERMINE THAT AN
26 ADDITIONAL SIX-MONTH TRANSITION PERIOD IS NECESSARY. THIS
27 DETERMINATION MUST BE MADE BY THE COMMISSION BY MAY 15, 1999.

28 (D) FILING OF RESTRUCTURING PLANS.--ALL ELECTRIC UTILITIES
29 IN THIS COMMONWEALTH SHALL SUBMIT TO THE COMMISSION, PURSUANT TO
30 A SCHEDULE TO BE DETERMINED BY THE COMMISSION IN CONSULTATION

1 WITH THE ELECTRIC UTILITIES, BEGINNING ON APRIL 1, 1997, BUT IN
2 NO EVENT LATER THAN SEPTEMBER 30, 1997, A RESTRUCTURING PLAN TO
3 IMPLEMENT DIRECT ACCESS TO A COMPETITIVE MARKET FOR THE
4 GENERATION OF ELECTRICITY.

5 (E) CONTENTS OF RESTRUCTURING PLANS.--A RESTRUCTURING PLAN
6 UNDER SUBSECTION (D) MUST INCLUDE, CONSISTENT WITH THE
7 DETERMINATIONS OF THE COMMISSION, UNBUNDLED PRICES OR RATES FOR
8 GENERATION, JURISDICTIONAL TRANSMISSION, DISTRIBUTION AND OTHER
9 SERVICES; A PROPOSED COMPETITIVE TRANSITION CHARGE; A PROPOSED
10 UNIVERSAL SERVICE AND ENERGY CONSERVATION COST RECOVERY
11 MECHANISM; PROCEDURES FOR ENSURING DIRECT ACCESS TO ALL LICENSED
12 ELECTRIC GENERATION SUPPLIERS; A DISCUSSION OF THE IMPACTS OF
13 THE PROPOSED PLAN ON THE UTILITY'S EMPLOYEES; AND REVISED
14 TARIFFS AND RATE SCHEDULES IMPLEMENTING THE ABOVE.

15 (F) COMMISSION REVIEW.--THE COMMISSION SHALL REVIEW THE
16 RESTRUCTURING PLAN FILED BY EACH ELECTRIC UTILITY AND SHALL,
17 AFTER OPEN EVIDENTIARY HEARINGS WITH PROPER NOTICE AND
18 OPPORTUNITY FOR ALL PARTIES TO CROSS-EXAMINE WITNESSES, ISSUE AN
19 ORDER ACCEPTING, MODIFYING OR REJECTING SUCH PLAN AT THE
20 EARLIEST DATE POSSIBLE, BUT NO LATER THAN NINE MONTHS FROM THE
21 FILING OF SUCH RESTRUCTURING PLAN. IF THE COMMISSION REJECTS A
22 RESTRUCTURING PLAN, IT SHALL STATE THE SPECIFIC REASONS FOR
23 REJECTION AND DIRECT THE ELECTRIC UTILITY TO FILE AN ALTERNATIVE
24 PLAN ADDRESSING THESE OBJECTIONS WITHIN 30 DAYS OF THE ENTRY
25 DATE OF THE COMMISSION ORDER REJECTING THE PLAN. THE COMMISSION
26 SHALL REVIEW THE ALTERNATIVE PLAN, SOLICIT COMMENTS FROM
27 INTERESTED PARTIES AND ISSUE A FINAL ORDER WITHIN 45 DAYS OF THE
28 FILING OF THE REVISED PLAN.

29 (G) RETAIL ACCESS PILOT PROGRAMS.--AS OF THE EFFECTIVE DATE
30 OF THIS CHAPTER, THE COMMISSION HAS AUTHORITY TO ORDER ELECTRIC

1 UTILITIES TO SUBMIT PROPOSALS FOR RETAIL ACCESS PILOT PROGRAMS
2 TO BEGIN APRIL 1, 1997. THE COMMISSION SHALL PROVIDE GUIDELINES
3 FOR RETAIL ACCESS PILOT PROGRAMS BY ORDER.

4 (1) IN ORDER TO DETERMINE WHETHER ALL CUSTOMERS CLASSES
5 CAN BENEFIT FROM COMPETITIVE MARKETS, UTILITIES SHALL TAILOR
6 PROPOSED RETAIL ACCESS PILOT PROGRAMS TO ACCOMMODATE THE
7 SPECIFIC GEOGRAPHIC, DEMOGRAPHIC AND SOCIOECONOMIC
8 CHARACTERISTICS OF THEIR CUSTOMER BASE. RETAIL ACCESS PILOT
9 PROGRAMS MUST INCLUDE AN EQUAL OPPORTUNITY FOR THE BROADEST
10 PRACTICAL DIRECT ACCESS BY ALL CUSTOMER CLASSES TO ELECTRIC
11 GENERATION SUPPLIERS.

12 (2) THE MINIMUM PERIOD OF TIME FOR A RETAIL ACCESS PILOT
13 PROGRAM SHALL BE ONE YEAR AND SHALL INCLUDE AN EVALUATION
14 PROCESS AS DIRECTED BY THE COMMISSION.

15 (3) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF THE
16 GENERATION OF ELECTRICITY IN THIS COMMONWEALTH, PARTICIPATION
17 IN THE RETAIL ACCESS PILOT PROGRAMS SHALL BE LIMITED TO
18 ELECTRICITY SUPPLIERS SUBJECT TO COMMISSION LICENSURE OR
19 CERTIFICATION.

20 (I) EACH PARTICIPATING ELECTRICITY SUPPLIER SHALL DO
21 ALL OF THE FOLLOWING:

22 (A) CERTIFY TO THE COMMISSION THAT IT WILL PAY
23 AND, IN SUBSEQUENT YEARS, HAS PAID, THE FULL AMOUNT
24 OF TAXES IMPOSED BY ARTICLES II AND XI OF THE ACT OF
25 MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM
26 CODE OF 1971 AND ANY TAX IMPOSED BY THIS CHAPTER.

27 (B) PROVIDE THE COMMISSION WITH THE ADDRESS OF
28 THE PARTICIPANT'S PRINCIPAL OFFICE IN THIS
29 COMMONWEALTH OR THE ADDRESS OF THE PARTICIPANT'S
30 REGISTERED AGENT IN THIS COMMONWEALTH, THE LATTER

1 BEING THE ADDRESS AT WHICH THE PARTICIPANT MAY BE
2 SERVED PROCESS.

3 (C) AGREE THAT IT SHALL BE SUBJECT TO ALL TAXES
4 IMPOSED BY THE TAX REFORM CODE OF 1971 AND ANY TAX
5 IMPOSED BY THIS CHAPTER.

6 (II) FAILURE OF AN ELECTRICITY SUPPLIER TO PAY A TAX
7 REFERRED TO IN SUBPARAGRAPH (I) OR TO OTHERWISE COMPLY
8 WITH THE PROVISIONS OF THIS PARAGRAPH SHALL BE CAUSE FOR
9 THE COMMISSION TO REVOKE THE LICENSE OF THE ELECTRICITY
10 SUPPLIER.

11 (III) IF AN ELECTRICITY SUPPLIER, OTHER THAN AN
12 ELECTRIC DISTRIBUTION COMPANY, DOES NOT PAY THE TAX
13 IMPOSED UPON GROSS RECEIPTS UNDER SECTION 1101 OF THE TAX
14 REFORM CODE OF 1971 OR THIS CHAPTER, THE ELECTRIC
15 DISTRIBUTION COMPANY TO WHOSE RETAIL CUSTOMER THE
16 ELECTRICITY SUPPLIER PROVIDED GENERATION SERVICE SHALL
17 REMIT THE UNPAID TAX, AS A TAX ON THE USE OF ELECTRICITY
18 IN THIS COMMONWEALTH, TO THE DEPARTMENT OF REVENUE AND
19 MAY COLLECT OR SEEK REIMBURSEMENT OF THE TAX SO PAID FROM
20 THE ELECTRICITY PROVIDER OR ANY OTHER APPROPRIATE PARTY
21 THAT USED THE ELECTRICITY IN THIS COMMONWEALTH. THE
22 DEPARTMENT SHALL COLLECT AND ENFORCE THE USE TAX HEREIN
23 PROVIDED UNDER SECTION 1102 OF THE TAX REFORM CODE OF
24 1971. FAILURE OF THE ELECTRIC DISTRIBUTION COMPANY TO PAY
25 THE AMOUNT WITHIN 30 DAYS AFTER NOTICE PROVIDED BY THE
26 DEPARTMENT SHALL CAUSE INTEREST TO BE IMPOSED ON THE
27 ELECTRIC DISTRIBUTION COMPANY IN ACCORDANCE WITH ARTICLE
28 XI OF THE TAX REFORM CODE OF 1971. INTEREST SHALL BE
29 CALCULATED FROM THE 31ST DAY AFTER THE DEPARTMENT GIVES
30 THE NOTICE REQUIRED IN THIS SUBPARAGRAPH. AN ELECTRIC

1 DISTRIBUTION COMPANY OR OTHER APPROPRIATE PERSON MAY
2 CHALLENGE THE IMPOSITION OF THE TAX AND INTEREST BY
3 FILING A PETITION WITH THE DEPARTMENT NOT LATER THAN 30
4 DAYS AFTER THE DATE ON WHICH THE TAX BECAME DUE.

5 (4) THE PERCENTAGE OF UTILITY LOAD COMMITTED TO A RETAIL
6 ACCESS PILOT PROGRAM MUST BE APPROXIMATELY 5% OF UTILITY'S
7 PEAK LOAD FOR EACH CUSTOMER CLASS. WAIVERS OF THIS CONDITION
8 MAY BE CONSIDERED BY THE COMMISSION FOR ECONOMIC DEVELOPMENT
9 PURPOSES OR SPECIAL CIRCUMSTANCES.

10 (H) FLEXIBLE PRICING.--IN ADDITION TO THE IMPLICIT AUTHORITY
11 OF THE COMMISSION UNDER SECTION 501 (RELATING TO GENERAL
12 POWERS), THE COMMISSION HAS THE AUTHORITY TO APPROVE FLEXIBLE
13 PRICING AND FLEXIBLE RATES, INCLUDING NEGOTIATED, CONTRACT-BASED
14 TARIFFS DESIGNED TO MEET THE SPECIFIC NEEDS OF A UTILITY
15 CUSTOMER AND TO ADDRESS COMPETITIVE ALTERNATIVES.

16 (I) PERFORMANCE BASED RATES AND ALTERNATIVE REGULATION.--THE
17 COMMISSION HAS AUTHORITY TO USE PERFORMANCE BASED RATES AS AN
18 ALTERNATIVE TO EXISTING RATE BASE/RATE OF RETURN RATEMAKING,
19 SUBJECT TO THE RESTRICTIONS PERTAINING TO RATE CAPS IN SECTION
20 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING FOR ELECTRIC
21 INDUSTRY).

22 § 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

23 (A) GENERAL RULE.--EACH ELECTRIC DISTRIBUTION COMPANY SHALL
24 MAINTAIN THE INTEGRITY OF THE DISTRIBUTION SYSTEM AT LEAST IN
25 CONFORMITY WITH THE NATIONAL ELECTRIC SAFETY CODE AND SUCH OTHER
26 STANDARDS PRACTICED BY THE INDUSTRY IN A MANNER SUFFICIENT TO
27 PROVIDE SAFE AND RELIABLE SERVICE TO ALL CUSTOMERS CONNECTED TO
28 THE SYSTEM CONSISTENT WITH THIS TITLE AND THE COMMISSION'S
29 REGULATIONS. IN PERFORMING SUCH DUTIES, THE ELECTRIC
30 DISTRIBUTION COMPANY SHALL IMPLEMENT PROCEDURES TO REQUIRE ALL

1 ELECTRIC GENERATION SUPPLIERS TO DELIVER ENERGY TO THE ELECTRIC
2 DISTRIBUTION COMPANY AT LOCATIONS AND IN AMOUNTS WHICH ARE
3 ADEQUATE TO MEET THE ENERGY SUPPLIER'S OBLIGATIONS TO ITS
4 CUSTOMERS. SUBJECT TO COMMISSION APPROVAL, THE ELECTRIC
5 DISTRIBUTION COMPANY MAY REQUIRE THAT THE CUSTOMER INSTALL, AT
6 THE CUSTOMER'S EXPENSE, ENHANCED METERING CAPABILITY SUFFICIENT
7 TO MATCH THE ENERGY DELIVERED BY THE ELECTRIC GENERATION
8 SUPPLIERS WITH CONSUMPTION BY THE CUSTOMER.

9 (B) PROCEDURES FOR REVIEW BY THE COMMISSION.--THERE SHALL BE
10 A REBUTTABLE PRESUMPTION THAT THE ELECTRIC DISTRIBUTION COMPANY
11 HAS THE ABILITY TO RECEIVE ENERGY AT ALL POINTS ON ITS SYSTEM
12 SUFFICIENT TO MEET THE NEEDS OF ALL ELECTRIC GENERATION
13 SUPPLIERS' CUSTOMERS ON ITS SYSTEM. THE ELECTRIC DISTRIBUTION
14 COMPANY SHALL NOT HAVE AN OBLIGATION TO INSTALL NONSTANDARD
15 FACILITIES, EITHER AS TO TYPE OR LOCATION, FOR THE PURPOSE OF
16 RECEIVING ENERGY FROM THE ENERGY SUPPLIER UNLESS THE ENERGY
17 SUPPLIER OR ITS CUSTOMER PAYS THE FULL COST OF THESE FACILITIES.
18 NOTHING IN THIS CHAPTER SHALL PREVENT THE ELECTRIC DISTRIBUTION
19 COMPANY FROM UPGRADING ITS SYSTEM TO MEET CHANGING CUSTOMER
20 REQUIREMENTS CONSISTENT WITH THE REQUIREMENTS OF SECTION 1501
21 (RELATING TO CHARACTER OF SERVICE AND FACILITIES), AND THE
22 COMMISSION MAY ESTABLISH INCENTIVE PROGRAMS TO ENCOURAGE SUCH
23 SYSTEM UPGRADES. DISPUTES CONCERNING FACILITIES SHALL BE SUBJECT
24 TO THE JURISDICTION OF THE COMMISSION AND MAY BE INITIATED BY
25 THE FILING OF A COMPLAINT UNDER SECTION 701 (RELATING TO
26 COMPLAINTS) BY THE ELECTRIC GENERATION SUPPLIER OR THE CUSTOMER.

27 (C) CUSTOMER BILLING.--SUBJECT TO THE RIGHT OF AN END-USE
28 CUSTOMER TO CHOOSE TO RECEIVE SEPARATE BILLS FROM ITS ELECTRIC
29 GENERATION SUPPLIER, THE ELECTRIC DISTRIBUTION COMPANY MAY BE
30 RESPONSIBLE FOR BILLING CUSTOMERS FOR ALL ELECTRIC SERVICES,

1 CONSISTENT WITH THE REGULATIONS OF THE COMMISSION, REGARDLESS OF
2 THE IDENTITY OF THE PROVIDER OF THOSE SERVICES.

3 (1) CUSTOMER BILLS SHALL CONTAIN UNBUNDLED CHARGES
4 SUFFICIENT TO ENABLE THE CUSTOMER TO DETERMINE THE BASIS FOR
5 THOSE CHARGES.

6 (2) IF SERVICES ARE PROVIDED BY AN ENTITY OTHER THAN THE
7 ELECTRIC DISTRIBUTION COMPANY, THE ENTITY THAT PROVIDES THOSE
8 SERVICES SHALL FURNISH TO THE ELECTRIC DISTRIBUTION COMPANY
9 BILLING DATA SUFFICIENT TO ENABLE THE ELECTRIC DISTRIBUTION
10 COMPANY TO BILL CUSTOMERS.

11 (3) THE ELECTRIC DISTRIBUTION COMPANY SHALL NOT BE
12 REQUIRED TO FORWARD PAYMENT TO ENTITIES PROVIDING SERVICES TO
13 CUSTOMERS, AND ON WHOSE BEHALF THE ELECTRIC DISTRIBUTION
14 COMPANY IS BILLING THOSE CUSTOMERS, BEFORE THE ELECTRIC
15 DISTRIBUTION COMPANY HAS RECEIVED PAYMENT FOR THOSE SERVICES
16 FROM CUSTOMERS.

17 (D) CONSUMER PROTECTIONS AND CUSTOMER SERVICE.--THE ELECTRIC
18 DISTRIBUTION COMPANY SHALL CONTINUE TO PROVIDE CUSTOMER SERVICE
19 FUNCTIONS CONSISTENT WITH THE REGULATIONS OF THE COMMISSION,
20 INCLUDING METER READING, COMPLAINT RESOLUTION AND COLLECTIONS.
21 CUSTOMER SERVICES SHALL, AT A MINIMUM, BE MAINTAINED AT THE SAME
22 LEVEL OF QUALITY UNDER RETAIL COMPETITION.

23 (1) THE COMMISSION SHALL ESTABLISH REGULATIONS TO ENSURE
24 THAT AN ELECTRIC DISTRIBUTION COMPANY DOES NOT CHANGE A
25 CUSTOMER'S ELECTRICITY SUPPLIER WITHOUT DIRECT ORAL
26 CONFIRMATION FROM THE CUSTOMER OF RECORD OR WRITTEN EVIDENCE
27 OF THE CUSTOMER'S CONSENT TO A CHANGE OF SUPPLIER.

28 (2) THE COMMISSION SHALL ESTABLISH REGULATIONS TO
29 REQUIRE EACH ELECTRIC DISTRIBUTION COMPANY, ELECTRICITY
30 SUPPLIER, MARKETER, AGGREGATOR AND BROKER TO PROVIDE ADEQUATE

1 AND ACCURATE CUSTOMER INFORMATION TO ENABLE CUSTOMERS TO MAKE
2 INFORMED CHOICES REGARDING THE PURCHASE OF ALL ELECTRICITY
3 SERVICES OFFERED BY THAT PROVIDER. INFORMATION SHALL BE
4 PROVIDED TO CONSUMERS IN AN UNDERSTANDABLE FORMAT THAT
5 ENABLES CONSUMERS TO COMPARE PRICES AND SERVICES ON A UNIFORM
6 BASIS.

7 (3) PRIOR TO THE IMPLEMENTATION OF ANY RESTRUCTURING
8 PLAN UNDER SECTION 2806 (RELATING TO IMPLEMENTATION, PILOT
9 PROGRAM AND PERFORMANCE-BASED RATES), EACH ELECTRIC
10 DISTRIBUTION COMPANY, IN CONJUNCTION WITH THE COMMISSION,
11 SHALL IMPLEMENT A CONSUMER EDUCATION PROGRAM INFORMING
12 CUSTOMERS OF THE CHANGES IN THE ELECTRIC UTILITY INDUSTRY.
13 THE PROGRAM SHALL PROVIDE CONSUMERS WITH INFORMATION
14 NECESSARY TO HELP THEM MAKE APPROPRIATE CHOICES AS TO THEIR
15 ELECTRIC SERVICE. THE EDUCATION PROGRAM SHALL BE SUBJECT TO
16 APPROVAL BY THE COMMISSION.

17 (E) OBLIGATION TO SERVE.--AN ELECTRIC DISTRIBUTION COMPANY'S
18 OBLIGATION TO PROVIDE ELECTRIC SERVICE FOLLOWING IMPLEMENTATION
19 OF RESTRUCTURING AND THE CHOICE OF ALTERNATIVE GENERATION BY A
20 CUSTOMER IS REVISED AS FOLLOWS:

21 (1) WHILE AN ELECTRIC DISTRIBUTION COMPANY COLLECTS
22 EITHER A COMPETITIVE TRANSITION CHARGE OR AN INTANGIBLE
23 TRANSITION CHARGE OR UNTIL 100% OF ITS CUSTOMERS HAVE CHOICE,
24 WHICHEVER IS LONGER, THE ELECTRIC DISTRIBUTION COMPANY SHALL
25 CONTINUE TO HAVE THE FULL OBLIGATION TO SERVE, INCLUDING THE
26 CONNECTION OF CUSTOMERS, THE DELIVERY OF ELECTRIC ENERGY AND
27 THE PRODUCTION OR ACQUISITION OF ELECTRIC ENERGY FOR
28 CUSTOMERS.

29 (2) AT THE END OF THE TRANSITION PERIOD, THE COMMISSION
30 SHALL PROMULGATE REGULATIONS TO DEFINE THE ELECTRIC

1 DISTRIBUTION COMPANY'S OBLIGATION TO CONNECT AND DELIVER AND
2 ACQUIRE ELECTRICITY UNDER PARAGRAPH (3) THAT WILL EXIST AT
3 THE END OF THE PHASE-IN PERIOD.

4 (3) IF A CUSTOMER CONTRACTS FOR ELECTRIC ENERGY AND IT
5 IS NOT DELIVERED OR IF A CUSTOMER DOES NOT CHOOSE AN
6 ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE ELECTRIC
7 DISTRIBUTION COMPANY OR COMMISSION-APPROVED ALTERNATIVE
8 SUPPLIER SHALL ACQUIRE ELECTRIC ENERGY AT PREVAILING MARKET
9 PRICES TO SERVE THAT CUSTOMER AND SHALL RECOVER FULLY ALL
10 REASONABLE COSTS.

11 (4) IF A CUSTOMER THAT CHOOSES AN ALTERNATIVE SUPPLIER
12 AND SUBSEQUENTLY DESIRES TO RETURN TO THE LOCAL DISTRIBUTION
13 COMPANY FOR GENERATION SERVICE, THE LOCAL DISTRIBUTION
14 COMPANY SHALL TREAT THAT CUSTOMER EXACTLY AS IT WOULD ANY NEW
15 APPLICANT FOR ENERGY SERVICE.

16 § 2808. COMPETITIVE TRANSITION CHARGE.

17 (A) GENERAL RULE.--TO PROVIDE EACH ELECTRIC UTILITY WITH AN
18 OPPORTUNITY TO RECOVER ITS TRANSITION OR STRANDED COSTS
19 FOLLOWING THE COMMISSION'S DETERMINATION UNDER SUBSECTION (C),
20 EVERY CUSTOMER ACCESSING THE TRANSMISSION OR DISTRIBUTION
21 NETWORK SHALL PAY A COMPETITIVE TRANSITION CHARGE TO THE
22 ELECTRIC DISTRIBUTION COMPANY IN WHOSE CERTIFICATED TERRITORY
23 THAT CUSTOMER IS LOCATED. THE COSTS TO BE RECOVERED SHALL BE
24 ALLOCATED TO CUSTOMER CLASSES IN A MANNER THAT DOES NOT SHIFT
25 INTER-CLASS OR INTRA-CLASS COSTS AND MAINTAINS CONSISTENCY WITH
26 THE ALLOCATION METHODOLOGY FOR UTILITY PRODUCTION PLANT ACCEPTED
27 BY THE COMMISSION IN THE ELECTRIC UTILITY'S MOST RECENT BASE
28 RATE PROCEEDING. IF A CUSTOMER INSTALLS ON-SITE GENERATION WHICH
29 OPERATES IN PARALLEL WITH OTHER GENERATION ON THE PUBLIC
30 UTILITY'S SYSTEM AND WHICH SIGNIFICANTLY REDUCES THE CUSTOMER'S

1 PURCHASES OF ELECTRICITY THROUGH THE TRANSMISSION AND
2 DISTRIBUTION NETWORK, THE CUSTOMER'S FULLY ALLOCATED SHARE OF
3 TRANSITION OR STRANDED COSTS SHALL BE RECOVERED FROM THE
4 CUSTOMER THROUGH A COMPETITIVE TRANSITION CHARGE. THE RECOVERY
5 OF TRANSITION OR STRANDED COSTS ASSOCIATED WITH EXISTING
6 GENERATING FACILITIES IS CONTINGENT ON CONTINUED OPERATION AT
7 REASONABLE AVAILABILITY LEVELS OF THE GENERATION FACILITIES FOR
8 WHICH RECOVERY HAS BEEN APPROVED, EXCEPT WHEN THE GENERATION
9 FACILITY IS UNECONOMIC ON A PRODUCTION COST BASIS BECAUSE OF THE
10 TRANSITION TO A COMPETITIVE MARKET.

11 (B) PERIOD FOR COLLECTING COMPETITIVE TRANSITION CHARGE.--
12 THE COMPETITIVE TRANSITION CHARGE SHALL BE INCLUDED ON BILLS TO
13 CUSTOMERS FOR A PERIOD NOT TO EXCEED NINE YEARS FROM THE
14 EFFECTIVE DATE OF THIS CHAPTER UNLESS AN ALTERNATIVE PAYMENT
15 METHODOLOGY IS MUTUALLY AGREED UPON BY THE CUSTOMER AND THE
16 UTILITY OR UNLESS THE COMMISSION, IN ITS DISCRETION AND FOR GOOD
17 CAUSE SHOWN, ORDERS AN ALTERNATIVE PAYMENT PERIOD. IN
18 ESTABLISHING THE LENGTH OF THE PERIOD FOR COLLECTION OF THE
19 COMPETITIVE TRANSITION CHARGE, THE COMMISSION SHALL CONSIDER THE
20 EFFECT ON THE ABILITY OF THE COMMONWEALTH TO COMPETE IN
21 ATTRACTING INDUSTRY AND JOBS, ON THE FINANCIAL HEALTH OF
22 ELECTRIC UTILITIES AND OTHER RELEVANT FACTORS.

23 (C) DETERMINATION OF COMPETITIVE TRANSITION CHARGE.--IN
24 DETERMINING THE LEVEL OF TRANSITION OR STRANDED COSTS THAT AN
25 ELECTRIC UTILITY MAY RECOVER THROUGH THE COMPETITIVE TRANSITION
26 CHARGE, THE COMMISSION SHALL APPLY THE FOLLOWING PRINCIPLES:

27 (1) THE COMMISSION SHALL ALLOW RECOVERY OF REGULATORY
28 ASSETS AND OTHER DEFERRED CHARGES TYPICALLY RECOVERABLE UNDER
29 CURRENT REGULATORY PRACTICE, THE UNFUNDED PORTION OF THE
30 UTILITY'S PROJECTED NUCLEAR GENERATING PLANT DECOMMISSIONING

1 COSTS AND COST OBLIGATIONS UNDER CONTRACTS WITH NONUTILITY
2 GENERATING PROJECTS THAT HAVE RECEIVED A COMMISSION ORDER.
3 NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS REQUIRING AN
4 ELECTRIC UTILITY OR A NONUTILITY GENERATING PROJECT TO ENTER
5 INTO AN ARRANGEMENT TO BUYDOWN, BUYOUT AND TERMINATE OR
6 OTHERWISE RESTRUCTURE A CONTRACT OR AS AUTHORIZING THE
7 COMMISSION TO REQUIRE A UTILITY TO PURSUE SUCH AN ARRANGEMENT
8 WITH A NONUTILITY GENERATING PROJECT.

9 (2) THE COMMISSION SHALL ALLOW RECOVERY OF AN ELECTRIC
10 UTILITY'S PRUDENTLY INCURRED COSTS RELATED TO CANCELLATION,
11 BUYOUT, BUYDOWN OR RENEGOTIATION OF NONUTILITY GENERATING
12 PROJECTS CONSISTENT WITH SECTION 527 (RELATING TO
13 COGENERATION RULES AND REGULATIONS).

14 (3) THE COMMISSION SHALL DETERMINE THE LEVEL OF OTHER
15 GENERATION-RELATED TRANSITION OR STRANDED COSTS THAT MAY BE
16 RECOVERED THROUGH THE COMPETITIVE TRANSITION CHARGE.

17 (4) THE COMMISSION SHALL CONSIDER THE EXTENT TO WHICH
18 THE ELECTRIC UTILITY HAS UNDERTAKEN EFFORTS TO MITIGATE
19 GENERATION-RELATED TRANSITION OR STRANDED COSTS BY
20 APPROPRIATE MEANS IN A MANNER THAT IS REASONABLE UNDER ALL OF
21 THE CIRCUMSTANCES, INCLUDING CONSIDERATION OF WHETHER
22 MITIGATION HAS BEEN COMMENSURATE WITH THE MAGNITUDE OF THE
23 ELECTRIC UTILITY'S GENERATION-RELATED TRANSITION OR STRANDED
24 COSTS. DURING THE TRANSITION PERIOD, ELECTRIC UTILITIES SHALL
25 HAVE THE DUTY TO MITIGATE GENERATION RELATED TRANSITION OR
26 STRANDED COSTS TO THE EXTENT PRACTICABLE. EFFORTS MAY INCLUDE
27 THE FOLLOWING:

28 (I) ACCELERATION OF DEPRECIATION AND AMORTIZATION OF
29 EXISTING RATE BASE GENERATION ASSETS.

30 (II) MINIMIZATION OF NEW CAPITAL SPENDING FOR

1 EXISTING RATE BASE GENERATION ASSETS.

2 (III) REALLOCATION OF DEPRECIATION RESERVES TO
3 EXISTING RATE BASE GENERATION ASSETS.

4 (IV) REDUCTION OF BOOK ASSETS BY APPLICATION OF NEW
5 PROCEEDS OF ANY SALE OF IDLE OR UNDER-UTILIZED EXISTING
6 RATE BASE GENERATION ASSETS.

7 (V) MAXIMIZATION OF MARKET REVENUES FROM EXISTING
8 RATE BASE GENERATION ASSETS.

9 (VI) ISSUANCE OF SECURITIZED DEBT PURSUANT TO THE
10 PROVISIONS OF SECTION 2812 (RELATING TO APPROVAL OF
11 TRANSITION BONDS).

12 (5) OF EQUAL IMPORTANCE TO THE MITIGATION EFFORTS UNDER
13 PARAGRAPH (4)(I) THROUGH (VI), THE COMMISSION SHALL CONSIDER
14 EFFORTS UNDERTAKEN OVER TIME, PRIOR TO THE ENACTMENT OF THIS
15 CHAPTER, TO REDUCE OR MODERATE CUSTOMER RATE LEVELS WHILE
16 MAINTAINING SAFE AND EFFICIENT OPERATIONS.

17 (D) COMMISSION REVIEW.--AS A COMPONENT OF ITS RESTRUCTURING
18 PLAN, EACH ELECTRIC UTILITY SHALL FILE WITH THE COMMISSION A
19 RECOVERY PLAN, INCLUDING A PROPOSED COMPETITIVE TRANSITION
20 CHARGE AND SUPPORTING DOCUMENTATION. IN EVALUATING A RECOVERY
21 PLAN AND ANY PROPOSED COMPETITIVE TRANSITION CHARGE, THE
22 COMMISSION SHALL SCHEDULE OPEN EVIDENTIARY HEARINGS WITH PROPER
23 NOTICE AND OPPORTUNITY FOR ALL PARTIES TO CROSS-EXAMINE
24 WITNESSES AS NECESSARY.

25 (E) USE OF TRANSITION BONDS.--AFTER THE EFFECTIVE DATE OF
26 THIS CHAPTER, A UTILITY MAY APPLY TO THE COMMISSION FOR A
27 QUALIFIED RATE ORDER, UNDER SECTION 2812, FOR SOME OR ALL OF ITS
28 TRANSITION OR STRANDED COSTS.

29 (1) IN EVALUATING A UTILITY APPLICATION UNDER THIS
30 SUBSECTION, THE COMMISSION SHALL SCHEDULE HEARINGS, AS

1 NECESSARY.

2 (2) IF THE COMMISSION ISSUES A QUALIFIED RATE ORDER
3 UNDER SECTION 2812 AND IF THE TRANSITION BONDS APPROVED BY
4 THAT ORDER ARE SUCCESSFULLY ISSUED, THEN:

5 (I) THE UTILITY SHALL IMPOSE AND COLLECT, THROUGH
6 ITS CUSTOMER BILLS, THE INTANGIBLE TRANSITION CHARGES
7 APPROVED BY THAT QUALIFIED RATE ORDER; AND

8 (II) SIMULTANEOUSLY, EITHER THE UTILITY'S RATES FOR
9 ELECTRIC SERVICE OR THE UTILITY'S COMPETITIVE TRANSITION
10 CHARGES SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE
11 REVENUE REQUIREMENT OF THE TRANSITION OR STRANDED COSTS
12 FOR WHICH TRANSITION BONDS HAVE BEEN SUCCESSFULLY ISSUED.

13 (F) ANNUAL REVENUE.--CONSISTENT WITH SECTION 1307(E)
14 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), THE
15 COMMISSION SHALL ESTABLISH PROCEDURES FOR THE ANNUAL REVIEW OF
16 THE COMPETITIVE TRANSITION CHARGE. THE REVIEW SHALL RECONCILE
17 THE ANNUAL REVENUES RECEIVED FROM THE CHARGE WITH THE ANNUAL
18 AMORTIZATION OF TRANSITION OR STRANDED COSTS APPROVED BY THE
19 COMMISSION UNDER THIS SECTION. THE COMMISSION SHALL ADJUST THE
20 COMPETITIVE TRANSITION CHARGE BASED UPON UNDERRECOVERY OR
21 OVERRECOVERY OF THE ANNUAL AMORTIZATION AMOUNT.

22 § 2809. REQUIREMENTS FOR ELECTRIC GENERATION SUPPLIERS.

23 (A) LICENSE REQUIREMENT.--NO PERSON OR CORPORATION,
24 INCLUDING MUNICIPAL CORPORATIONS WHICH CHOOSE TO PROVIDE SERVICE
25 OUTSIDE THEIR MUNICIPAL LIMITS EXCEPT TO THE EXTENT PROVIDED
26 PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER, BROKERS AND
27 MARKETERS, AGGREGATORS AND OTHER ENTITIES, SHALL ENGAGE IN THE
28 BUSINESS OF AN ELECTRIC GENERATION SUPPLIER IN THIS COMMONWEALTH
29 UNLESS THE PERSON OR CORPORATION HOLDS A LICENSE ISSUED BY THE
30 COMMISSION. CONSISTENT WITH 15 PA.C.S. CH. 74 (RELATING TO

1 GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC COOPERATIVES),
2 ELECTRIC COOPERATIVE CORPORATIONS MUST POSSESS A CERTIFICATE FOR
3 SERVICE TO SUPPLY GENERATION SERVICES BEYOND THEIR TERRITORIAL
4 LIMITS.

5 (B) LICENSE APPLICATION AND ISSUANCE.--AN APPLICATION FOR AN
6 ELECTRIC GENERATION SUPPLIER LICENSE MUST BE MADE TO THE
7 COMMISSION IN WRITING, BE VERIFIED BY OATH OR AFFIRMATION AND BE
8 IN SUCH FORM AND CONTAIN SUCH INFORMATION AS THE COMMISSION MAY,
9 BY ITS REGULATIONS, REQUIRE. A LICENSE SHALL BE ISSUED TO ANY
10 QUALIFIED APPLICANT, AUTHORIZING THE WHOLE OR ANY PART OF THE
11 SERVICE COVERED BY THE APPLICATION, IF IT IS FOUND THAT THE
12 APPLICANT IS FIT, WILLING AND ABLE TO PERFORM PROPERLY THE
13 SERVICE PROPOSED AND TO CONFORM TO THE PROVISIONS OF THIS TITLE
14 AND THE LAWFUL ORDERS AND REGULATIONS OF THE COMMISSION UNDER
15 THIS TITLE, INCLUDING THE COMMISSION'S REGULATIONS REGARDING
16 STANDARDS AND BILLING PRACTICES, AND THAT THE PROPOSED SERVICE,
17 TO THE EXTENT AUTHORIZED BY THE LICENSE, WILL BE CONSISTENT WITH
18 THE PUBLIC INTEREST AND THE POLICY DECLARED IN THIS CHAPTER,
19 OTHERWISE, SUCH APPLICATION SHALL BE DENIED.

20 (C) FINANCIAL RESPONSIBILITY.--

21 (1) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF THE
22 GENERATION OF ELECTRICITY IN THIS COMMONWEALTH, NO ENERGY
23 SUPPLIER LICENSE SHALL BE ISSUED OR REMAIN IN FORCE UNLESS
24 THE HOLDER COMPLIES WITH ALL OF THE FOLLOWING:

25 (I) FURNISHES A BOND OR OTHER SECURITY APPROVED BY
26 THE COMMISSION, IN FORM AND AMOUNT TO ENSURE THE
27 FINANCIAL RESPONSIBILITY OF THE ELECTRIC GENERATION
28 SUPPLIER AND THE SUPPLY OF ELECTRICITY AT RETAIL IN
29 ACCORDANCE WITH CONTRACTS, AGREEMENTS OR ARRANGEMENTS.

30 (II) CERTIFIES TO THE COMMISSION THAT IT WILL PAY

1 AND, IN SUBSEQUENT YEARS, HAS PAID, THE FULL AMOUNT OF
2 TAXES IMPOSED BY ARTICLES II AND XI OF THE ACT OF MARCH
3 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF
4 1971 AND ANY TAX IMPOSED BY THIS CHAPTER.

5 (III) PROVIDES THE COMMISSION WITH THE ADDRESS OF
6 THE PARTICIPANT'S PRINCIPAL OFFICE IN THIS COMMONWEALTH
7 OR THE ADDRESS OF THE PARTICIPANT'S REGISTERED AGENT IN
8 THIS COMMONWEALTH, THE LATTER BEING THE ADDRESS AT WHICH
9 THE PARTICIPANT MAY BE SERVED PROCESS.

10 (IV) AGREES THAT IT SHALL BE SUBJECT TO ALL TAXES
11 IMPOSED BY THE TAX REFORM CODE OF 1971 AND ANY TAX
12 IMPOSED BY THIS CHAPTER.

13 FAILURE OF AN ELECTRICITY SUPPLIER TO PAY A TAX REFERRED TO
14 IN THIS PARAGRAPH OR TO OTHERWISE COMPLY WITH THE PROVISIONS
15 OF THIS PARAGRAPH SHALL BE CAUSE FOR THE COMMISSION TO REVOKE
16 THE LICENSE OF THE ELECTRICITY SUPPLIER.

17 (2) IF AN ELECTRICITY SUPPLIER, OTHER THAN AN ELECTRIC
18 DISTRIBUTION COMPANY, DOES NOT PAY THE TAX IMPOSED UPON GROSS
19 RECEIPTS UNDER SECTION 1101 OF THE TAX REFORM CODE OF 1971 OR
20 THIS CHAPTER, THE ELECTRIC DISTRIBUTION COMPANY TO WHOSE
21 RETAIL CUSTOMER THE ELECTRICITY SUPPLIER PROVIDED GENERATION
22 SERVICE SHALL REMIT THE UNPAID TAX, AS A TAX ON THE USE OF
23 ELECTRICITY IN THIS COMMONWEALTH, TO THE DEPARTMENT OF
24 REVENUE AND MAY COLLECT OR SEEK REIMBURSEMENT OF THE TAX SO
25 PAID FROM THE ELECTRICITY PROVIDER OR ANY OTHER APPROPRIATE
26 PARTY THAT USED THE ELECTRICITY IN THIS COMMONWEALTH. THE
27 DEPARTMENT SHALL COLLECT AND ENFORCE THE USE TAX HEREIN
28 PROVIDED UNDER SECTION 1102 OF THE TAX REFORM CODE OF 1971.
29 FAILURE OF THE ELECTRIC DISTRIBUTION COMPANY TO PAY THE
30 AMOUNT WITHIN 30 DAYS AFTER NOTICE PROVIDED BY THE DEPARTMENT

1 SHALL CAUSE INTEREST TO BE IMPOSED ON THE ELECTRIC
2 DISTRIBUTION COMPANY IN ACCORDANCE WITH ARTICLE XI OF THE TAX
3 REFORM CODE OF 1971. INTEREST SHALL BE CALCULATED FROM THE
4 31ST DAY AFTER THE DEPARTMENT GIVES THE NOTICE REQUIRED IN
5 THIS PARAGRAPH. AN ELECTRIC DISTRIBUTION COMPANY OR OTHER
6 APPROPRIATE PERSON MAY CHALLENGE THE IMPOSITION OF THE TAX
7 AND INTEREST BY FILING A PETITION WITH THE DEPARTMENT NOT
8 LATER THAN 30 DAYS AFTER THE DATE ON WHICH THE TAX BECAME
9 DUE.

10 (D) TRANSFERABILITY OF LICENSES.--NO LICENSE ISSUED UNDER
11 THIS CHAPTER MAY BE TRANSFERRED WITHOUT PRIOR COMMISSION
12 APPROVAL.

13 (E) FORM OF REGULATION OF ELECTRIC GENERATION SUPPLIERS.--
14 THE COMMISSION MAY FORBEAR FROM APPLYING REQUIREMENTS OF THIS
15 PART WHICH IT DETERMINES ARE UNNECESSARY DUE TO COMPETITION
16 AMONG ELECTRIC GENERATION SUPPLIERS. IN REGULATING THE SERVICE
17 OF ELECTRIC GENERATION SUPPLIERS, THE COMMISSION SHALL IMPOSE
18 REQUIREMENTS NECESSARY TO ENSURE THAT THE PRESENT QUALITY OF
19 SERVICE PROVIDED BY ELECTRIC UTILITIES DOES NOT DETERIORATE,
20 INCLUDING ASSURING THAT ADEQUATE RESERVE MARGINS OF ELECTRIC
21 SUPPLY ARE MAINTAINED AND ASSURING THAT 56 PA. CODE CH. 56
22 (RELATING TO STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL
23 SERVICE), ARE MAINTAINED.

24 (F) AVAILABILITY OF THE SERVICES OF BROKERS AND MARKETERS OR
25 AGGREGATORS.--PRIOR TO APPROVING THE LICENSURE OF ANY BROKER AND
26 MARKETER OR AGGREGATOR, THE COMMISSION SHALL SET FORTH STANDARDS
27 TO ENSURE THAT ALL RETAIL CUSTOMER CLASSES MAY CHOOSE TO
28 PURCHASE ELECTRICITY THROUGH A BROKER AND MARKETER OR
29 AGGREGATOR. THE COMMISSION SHALL ALSO ENSURE THAT BROKERS,
30 MARKETERS AND AGGREGATORS COMPLY WITH 52 PA. CODE CH. 56.

1 § 2810. REVENUE NEUTRAL RECONCILIATION.

2 (A) GENERAL INTENT OF REVENUE NEUTRAL RECONCILIATION.--IT IS
3 THE INTENTION OF THE GENERAL ASSEMBLY THAT THE RESTRUCTURING OF
4 THE ELECTRIC INDUSTRY BE ACCOMPLISHED IN A MANNER THAT ALLOWS
5 PENNSYLVANIA TO ENJOY THE BENEFITS OF COMPETITION, PROMOTES THE
6 COMPETITIVENESS OF PENNSYLVANIA'S ELECTRIC UTILITIES AND
7 MAINTAINS REVENUE NEUTRALITY TO THE COMMONWEALTH. THIS SECTION
8 IS NOT INTENDED TO CAUSE A SHIFT IN PROPORTIONAL TAX OBLIGATIONS
9 AMONG CUSTOMER CLASSES OR INDIVIDUAL ELECTRIC DISTRIBUTION
10 COMPANIES. IT IS THE INTENTION OF THE GENERAL ASSEMBLY TO
11 ESTABLISH THIS REVENUE REPLACEMENT AT A LEVEL NECESSARY TO
12 RECOUP LOSSES THAT MAY RESULT FROM THE RESTRUCTURING OF THE
13 ELECTRIC INDUSTRY AND THE TRANSITION THERETO.

14 (B) IMPOSITION.--

15 (1) FOR TAX PERIODS BEGINNING ON OR AFTER JANUARY 1,
16 1999, A TAX AT THE RATE PROVIDED IN SUBSECTION (C) IS IMPOSED
17 UPON THE GROSS RECEIPTS OF ELECTRIC DISTRIBUTION COMPANIES
18 AND ELECTRIC GENERATION SUPPLIERS.

19 (2) A TAX AT THE RATE PROVIDED IN SUBSECTION (C) IS
20 IMPOSED UPON THE GROSS RECEIPTS OF ANY MUNICIPALITY OWNED OR
21 OPERATED PUBLIC UTILITY OR OF ANY PUBLIC UTILITY SERVICE
22 FURNISHED BY ANY MUNICIPALITY. GROSS RECEIPTS SHALL BE EXEMPT
23 FROM THE TAX TO THE EXTENT THAT GROSS RECEIPTS ARE DERIVED
24 FROM SALES OF ELECTRIC ENERGY INSIDE THE LIMITS OF THE
25 MUNICIPALITY OWNING OR OPERATING THE PUBLIC UTILITY OR
26 FURNISHING THE PUBLIC UTILITY SERVICE.

27 (3) A TAX AT THE RATE PROVIDED IN SUBSECTION (C) IS
28 IMPOSED UPON THE GROSS RECEIPTS DERIVED FROM ANY ELECTRIC
29 COOPERATIVE OWNED OR OPERATED PUBLIC UTILITY OR FROM ANY
30 PUBLIC UTILITY SERVICE FURNISHED BY ANY ELECTRIC COOPERATIVE.

1 GROSS RECEIPTS SHALL BE EXEMPT FROM THE TAX TO THE EXTENT
2 THAT GROSS RECEIPTS ARE DERIVED FROM SALES FOR RESALE OR
3 SALES OF ELECTRIC ENERGY WITHIN THE LIMITS OF ITS SERVICE
4 TERRITORY AS SET FORTH IN 15 PA.C.S. § 7406 (RELATING TO
5 COMPETITION BY ELECTRIC COOPERATIVES).

6 (C) RATE.--

7 (1) BY DECEMBER 1, 1998, AND EACH OCTOBER 1 THEREAFTER
8 UNTIL AND INCLUDING OCTOBER 1, 2002, THE SECRETARY OF REVENUE
9 SHALL PUBLISH THE RATE OF TAX AS PROVIDED IN PARAGRAPH (2) IN
10 THE FORM OF A NOTICE IN THE PENNSYLVANIA BULLETIN AND THE
11 RATE SHALL APPLY TO THE TAX IMPOSED BY SUBSECTION (B) FOR THE
12 PERIOD BEGINNING THE NEXT JANUARY 1. THE TAX RATE PUBLISHED
13 ON OCTOBER 1, 2002, SHALL CONTINUE IN FORCE WITHOUT FURTHER
14 ADJUSTMENT. IF THE COMMISSION DETERMINES UNDER SECTION
15 2806(C) (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND
16 PERFORMANCE-BASED RATES) TO EXTEND THE TRANSITION PERIOD BY
17 MORE THAN SIX MONTHS, THE REQUIREMENT FOR AN ANNUAL
18 ADJUSTMENT OF THE TAX RATE SHALL BE EXTENDED BY ONE
19 ADDITIONAL YEAR. THE SECRETARY SHALL ALSO CERTIFY THE RATE
20 CALCULATED TO THE MAJORITY AND MINORITY CHAIRS OF THE
21 APPROPRIATIONS COMMITTEE OF THE SENATE AND THE APPROPRIATIONS
22 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND DETAIL THE
23 CALCULATIONS OF THE RATE.

24 (2) THE SECRETARY SHALL CALCULATE THE RATE FOR THE
25 PERIODS BEGINNING ON AND AFTER JANUARY 1, 1999, IN THE MANNER
26 SET FORTH IN THIS PARAGRAPH:

27 (I) MULTIPLY THE 1995-1996 FISCAL TAX REVENUE BASE
28 BY A FRACTION, THE NUMERATOR OF WHICH IS THE TOTAL
29 KILOWATT HOURS OF ELECTRICITY DISTRIBUTED FOR ULTIMATE
30 CONSUMPTION IN PENNSYLVANIA IN THE PRECEDING CALENDAR

1 YEAR AS CERTIFIED BY THE COMMISSION AND THE DENOMINATOR
2 OF WHICH IS THE TOTAL KILOWATT HOURS OF ELECTRICITY
3 DISTRIBUTED FOR ULTIMATE CONSUMPTION IN PENNSYLVANIA IN
4 THE CALENDAR YEAR 1995 AS CERTIFIED BY THE COMMISSION.

5 (II) FROM THE PRODUCT DERIVED UNDER SUBPARAGRAPH
6 (I), SUBTRACT THE TOTAL CASH PAYMENTS MADE TO THE
7 DEPARTMENT DURING THE COMMONWEALTH'S PRECEDING FISCAL
8 YEAR ON ACCOUNT OF AFFECTED TAXES ACTUALLY PAID BY EACH
9 ELECTRIC DISTRIBUTION COMPANY AND ELECTRIC GENERATION
10 SUPPLIER AND BY ANY OTHER ENTITY, INCLUDING A SUCCESSOR,
11 WHOSE AFFECTED TAXES ARE CONTAINED IN THE 1995-1996
12 FISCAL TAX REVENUE BASE.

13 (III) DIVIDE THE DIFFERENCE DERIVED UNDER
14 SUBPARAGRAPH (II) BY THE TOTAL GROSS RECEIPTS IN THE
15 PRECEDING CALENDAR YEAR AS CERTIFIED BY THE COMMISSION TO
16 DETERMINE THE TAX RATE. THE TAX RATE UNDER THIS
17 SUBPARAGRAPH SHALL BE A DECIMAL ROUNDED TO THREE PLACES.

18 (3) ON AUGUST 1, 2000, AUGUST 1, 2001, AND AUGUST 1,
19 2002, THE DEPARTMENT SHALL DELIVER A REPORT TO THE GENERAL
20 ASSEMBLY AND THE GOVERNOR THAT SHALL DESCRIBE THE DYNAMIC
21 ECONOMIC EFFECT UPON THE AFFECTED TAXES DUE TO ELECTRIC
22 UTILITY RESTRUCTURING. IT IS THE PURPOSE OF THIS REPORT TO
23 PROVIDE THE GENERAL ASSEMBLY AND THE GOVERNOR WITH
24 INFORMATION TO DETERMINE WHETHER IT IS APPROPRIATE TO
25 CONSIDER MODIFYING THE CALCULATION DESCRIBED IN PARAGRAPH (2)
26 TO REFLECT ADDITIONAL TAX REVENUES, IF ANY, RESULTING FROM
27 THE DYNAMIC ECONOMIC EFFECTS UPON THE AFFECTED TAXES.

28 (4) IF THE EFFECTIVE RATE FOR ANY AFFECTED TAX IS
29 DIFFERENT FROM THE EFFECTIVE RATE FOR SUCH AFFECTED TAX IN
30 THE 1995-1996 FISCAL TAX REVENUE BASE, AN ADJUSTMENT SHALL BE

1 MADE TO THE COMPUTATION OF THE RATE OF TAX UNDER PARAGRAPH
2 (2) BY MULTIPLYING THAT PORTION OF THE 1995-1996 FISCAL TAX
3 REVENUE BASE ATTRIBUTABLE TO THE AFFECTED TAX BY A FRACTION,
4 THE NUMERATOR OF WHICH IS THE EFFECTIVE RATE OF THE AFFECTED
5 TAX FOR THE PRECEDING FISCAL YEAR AND THE DENOMINATOR OF
6 WHICH IS THE EFFECTIVE RATE OF TAX OF THE AFFECTED TAX IN THE
7 BASE FISCAL YEAR.

8 (5) FOR NEGATIVE RATES:

9 (I) IF THE RATE OF TAX CALCULATED FOR A TAX YEAR
10 PRIOR TO THE TAX YEAR BEGINNING JANUARY 1, 2004, OR
11 JANUARY 1, 2005, IN THE EVENT OF AN EXTENSION BY MORE
12 THAN SIX MONTHS BY THE COMMISSION AS PROVIDED IN SECTION
13 2806(C) IS NEGATIVE, A CREDIT EQUAL TO THE NEGATIVE TAX
14 RATE FOR SUCH TAX YEAR MULTIPLIED BY THE TAXABLE GROSS
15 RECEIPTS FOR THAT TAX YEAR SHALL BE ALLOWED AGAINST THE
16 TAXPAYER'S LIABILITY FOR ANY TAX FOR THAT TAX YEAR
17 IMPOSED UNDER ARTICLE XI OF THE ACT OF MARCH 4, 1971
18 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

19 (II) IF THE RATE OF TAX CALCULATED AS THE FINAL
20 ADJUSTMENT IS NEGATIVE FOR THE TAX PERIOD BEGINNING
21 JANUARY 1, 2003, OR JANUARY 1, 2004, IN THE EVENT OF AN
22 EXTENSION BY MORE THAN SIX MONTHS BY THE COMMISSION AS
23 PROVIDED IN SECTION 2806(C), THE RATE OF TAX IMPOSED BY
24 SECTION 1101(B) OF ARTICLE XI OF THE TAX REFORM CODE OF
25 1971 FOR THE TAX YEARS BEGINNING JANUARY 1, 2004, AND
26 THEREAFTER, OR JANUARY 1, 2005, AND THEREAFTER IN THE
27 EVENT OF AN EXTENSION BY MORE THAN SIX MONTHS, SHALL BE
28 ADJUSTED AND SET AS FOLLOWS: THE TAX RATE EXPRESSED AS A
29 DECIMAL ROUNDED TO THREE POSITIONS SHALL BE SUBTRACTED
30 FROM .044 OR THE CURRENT RATE IMPOSED UNDER SECTION

1 1101(B) OF THE TAX REFORM CODE OF 1971 TO DETERMINE THE
2 ADJUSTED TAX RATE. THE ADJUSTED TAX RATE SHALL BE
3 PUBLISHED IN THE PENNSYLVANIA BULLETIN.

4 (6) INFORMATION TO BE PROVIDED TO THE DEPARTMENT OR THE
5 COMMISSION SHALL BE AS FOLLOWS:

6 (I) TO ENSURE THE IDENTIFICATION OF CASH PAYMENTS
7 FOR PURPOSES OF SUBSECTION (D) THE COMMISSION SHALL
8 REQUIRE ANY LICENSEE, ELECTRIC DISTRIBUTION COMPANY,
9 ELECTRIC GENERATION SUPPLIER, OR OTHER PERSON AFFECTED TO
10 DISCLOSE ON ITS LICENSE APPLICATION, RENEWAL OR TRANSFER
11 ITS STATE TAX ACCOUNT OR SIMILAR NUMBER RELATIVE TO ANY
12 OF THE TAXES SPECIFIED.

13 (II) THE COMMISSION SHALL REPORT AND CERTIFY TO THE
14 SECRETARY OF THE DEPARTMENT BY AUGUST 1, 1998, AND EACH
15 AUGUST 1 THEREAFTER THE TOTAL AMOUNT OF ELECTRICITY
16 DISTRIBUTED FOR ULTIMATE CONSUMPTION IN THIS COMMONWEALTH
17 DURING THE PREVIOUS TWO CALENDAR YEARS AND THE TOTAL
18 GROSS RECEIPTS FOR THE PAST YEAR.

19 (III) AS A CONDITION OF LICENSURE, THE COMMISSION
20 SHALL REQUIRE EACH ELECTRIC DISTRIBUTION COMPANY AND
21 ELECTRIC GENERATION SUPPLIER TO REPORT THEIR ANNUAL GROSS
22 RECEIPTS IN THIS COMMONWEALTH.

23 (IV) FOR PURPOSES OF ENFORCING SECTIONS 2806 AND
24 2809 (RELATING TO REQUIREMENTS FOR ELECTRIC GENERATION
25 SUPPLIERS), AS THEY RELATE TO THE PAYMENT OF STATE TAXES,
26 AN APPLICANT FOR THE GRANT, RENEWAL OR TRANSFER OF A
27 LICENSE ISSUED UNDER THIS TITLE SHALL, BY FILING AN
28 APPLICATION WITH THE COMMISSION, WAIVE CONFIDENTIALITY
29 WITH RESPECT TO STATE TAX INFORMATION REGARDING THE
30 APPLICANT IN THE POSSESSION OF THE DEPARTMENT, REGARDLESS

1 OF THE SOURCE OF THE INFORMATION, AND SHALL CONSENT TO
2 THE DEPARTMENT PROVIDING THAT INFORMATION TO THE
3 COMMISSION.

4 (7) BEGINNING JUNE 15, 1999, AND EACH YEAR THEREAFTER,
5 AN AMOUNT EQUAL TO 0.18% OF TOTAL UTILITIES GROSS RECEIPTS
6 SHALL BE DEPOSITED INTO THE PUBLIC TRANSPORTATION ASSISTANCE
7 FUND AS PROVIDED IN ARTICLE XXIII OF THE TAX REFORM CODE OF
8 1971.

9 (D) PAYMENT OF TAX AND REPORTS.--THE TAX IMPOSED UNDER
10 SUBSECTION (B) SHALL BE PAID WITHIN THE TIME PRESCRIBED BY LAW.
11 FOR THE PURPOSE OF ASCERTAINING THE AMOUNT OF THE TAX, THE
12 TREASURER OR OTHER APPROPRIATE OFFICER OF THE TAXPAYER SHALL
13 TRANSMIT TO THE DEPARTMENT BY MARCH 15 AN ANNUAL REPORT, AND
14 UNDER OATH OR AFFIRMATION, OF THE AMOUNT OF GROSS RECEIPTS
15 RECEIVED BY THE TAXPAYER DURING THE PRIOR CALENDAR YEAR. THE
16 TREASURER OR OTHER APPROPRIATE OFFICER OF THE TAXPAYER LIABLE TO
17 REPORT OR PAY TAXES IMPOSED UNDER SUBSECTION (B), EXCEPT
18 MUNICIPALITIES AND COOPERATIVES, SHALL TRANSMIT TO THE
19 DEPARTMENT BY MARCH 15, A TENTATIVE REPORT FOR THE PRIOR
20 CALENDAR YEAR. THE TENTATIVE REPORT SHALL SET FORTH ALL OF THE
21 FOLLOWING:

22 (I) THE AMOUNT OF GROSS RECEIPTS RECEIVED IN THE
23 PERIOD OF 12 MONTHS NEXT PRECEDING AND REPORTED IN THE
24 ANNUAL REPORT.

25 (II) THE GROSS RECEIPTS RECEIVED IN THE FIRST THREE
26 MONTHS OF THE CURRENT CALENDAR YEAR.

27 (III) OTHER INFORMATION AS THE DEPARTMENT MAY
28 REQUIRE.

29 (E) TAX COMPUTATION.--UPON THE DATE ITS TENTATIVE REPORT IS
30 REQUIRED TO BE MADE, THE TAXPAYER MAKING A TENTATIVE REPORT

1 SHALL TRANSMIT THE REPORT TO THE DEPARTMENT ON ACCOUNT OF THE
2 TAX DUE FOR THE CURRENT CALENDAR YEAR AND COMPUTE AND MAKE
3 PAYMENT OF THE TENTATIVE TAX WITH THE REPORT UNDER SECTION 3003
4 OF THE TAX REFORM CODE OF 1971.

5 (F) TIME TO FILE REPORTS.--THE TIME FOR FILING ANNUAL
6 REPORTS MAY BE EXTENDED, ESTIMATED SETTLEMENTS MAY BE MADE BY
7 THE DEPARTMENT IF REPORTS ARE NOT FILED, AND THE PENALTIES FOR
8 FAILING TO FILE REPORTS AND PAY THE TAXES IMPOSED UNDER
9 SUBSECTION (B) SHALL BE AS PRESCRIBED, BY THE LAWS DEFINING THE
10 POWERS AND DUTIES OF THE DEPARTMENT. IF THE WORKS OF A TAXPAYER
11 ARE OPERATED BY ANOTHER TAXPAYER, THE TAXES IMPOSED UNDER
12 SUBSECTION (B) SHALL BE APPORTIONED BETWEEN THE TAXPAYERS IN
13 ACCORDANCE WITH THE TERMS OF THEIR RESPECTIVE LEASES OR
14 AGREEMENTS. FOR THE PAYMENT OF THE APPORTIONED TAXES THE
15 COMMONWEALTH SHALL FIRST LOOK TO THE TAXPAYER OPERATING THE
16 WORKS. UPON PAYMENT BY THAT TAXPAYER, NO OTHER TAXPAYER SHALL BE
17 HELD LIABLE FOR ANY TAX IMPOSED UNDER SUBSECTION (B).

18 (G) TIMELY MAILING TREATED AS TIMELY FILING AND PAYMENT.--
19 NOTWITHSTANDING THE PROVISIONS OF ANY STATE TAX LAW TO THE
20 CONTRARY, WHENEVER PAYMENT OF ALL OR ANY PORTION OF A STATE TAX
21 IS REQUIRED BY LAW TO BE RECEIVED BY THE DEPARTMENT OR OTHER
22 AGENCY OF THE COMMONWEALTH BY A DAY CERTAIN, THE TAXPAYER SHALL
23 BE DEEMED TO HAVE COMPLIED WITH THAT LAW IF THE LETTER
24 TRANSMITTING PAYMENT OF THE TAX WHICH HAS BEEN RECEIVED BY THE
25 DEPARTMENT IS POSTMARKED BY THE UNITED STATES POSTAL SERVICE ON
26 OR PRIOR TO THE FINAL DAY ON WHICH THE PAYMENT IS TO BE
27 RECEIVED.

28 (H) PROCEDURE, ENFORCEMENT AND PENALTIES.--PARTS III, IV, VI
29 AND VII OF ARTICLE IV AND ARTICLE XXX OF THE TAX REFORM CODE OF
30 1971 SHALL APPLY TO THIS SECTION IN SO FAR AS THEY ARE

1 CONSISTENT WITH THIS SECTION AND APPLICABLE TO THE TAX IMPOSED
2 UNDER SUBSECTION (B). NOTWITHSTANDING THE PROVISIONS OF SECTION
3 403(D) OF THE TAX REFORM CODE OF 1971, IF THE OFFICERS OF ANY
4 CORPORATION SUBJECT TO TAX UNDER THIS CHAPTER NEGLECT OR REFUSE
5 TO MAKE A REPORT AS REQUIRED IN THIS CHAPTER OR KNOWINGLY MAKE A
6 FALSE REPORT, THE DEPARTMENT SHALL ADD TO THE TAX DETERMINED TO
7 BE DUE A PENALTY OF 5% OF THE AMOUNT OF TAX DUE FOR EACH MONTH
8 OR FRACTION OF A MONTH UNTIL THE PENALTY HAS REACHED 25% AND,
9 THEREAFTER, A PENALTY OF 1% OF THE AMOUNT OF TAX DUE FOR EACH
10 MONTH OR FRACTION OF A MONTH. PENALTIES ADDED TO THE TAX SHALL
11 NOT BEAR INTEREST.

12 (I) ELECTRIC LIGHT, WATERPOWER AND HYDROELECTRIC
13 UTILITIES.--THE TERMS "ELECTRIC LIGHT COMPANY," "WATERPOWER
14 COMPANY" AND "HYDROELECTRIC COMPANY," AS USED IN SECTION 1101(B)
15 OF THE TAX REFORM CODE OF 1971, SHALL BE DEEMED TO INCLUDE
16 ELECTRIC DISTRIBUTION COMPANIES AND ELECTRIC GENERATION
17 SUPPLIERS.

18 (J) SALES OF ELECTRIC ENERGY.--RETAIL SALES OF ELECTRIC
19 GENERATION, TRANSMISSION, DISTRIBUTION OR SUPPLY OF ELECTRIC
20 ENERGY, DISPATCHING SERVICES, CUSTOMER SERVICES, COMPETITIVE
21 TRANSITION CHARGES, INTANGIBLE TRANSITION CHARGES, AND UNIVERSAL
22 SERVICE AND ENERGY CONSERVATION CHARGES AND SUCH OTHER RETAIL
23 SALES IN THIS COMMONWEALTH THE RECEIPTS OF WHICH, IF BUNDLED,
24 WOULD HAVE BEEN DEEMED TO BE SALES OF ELECTRIC ENERGY PRIOR TO
25 THE EFFECTIVE DATE OF THIS CHAPTER SHALL BE DEEMED SALES OF
26 ELECTRIC ENERGY FOR PURPOSES OF SECTION 1101 OF THE TAX REFORM
27 CODE OF 1971. THE PHRASES "DOING BUSINESS IN THIS COMMONWEALTH"
28 AND "ENGAGED IN ELECTRIC LIGHT AND POWER BUSINESS, WATERPOWER
29 BUSINESS AND HYDROELECTRIC BUSINESS IN THIS COMMONWEALTH," AS
30 SUCH TERMS ARE USED IN SECTION 1101(B) OF THE TAX REFORM CODE OF

1 1971 AND IN THIS CHAPTER, SHALL BE CONSTRUED TO INCLUDE THE
2 DIRECT OR INDIRECT ENGAGING IN, TRANSACTING OR CONDUCTING OF,
3 ACTIVITY IN THIS COMMONWEALTH FOR THE PURPOSE OF ESTABLISHING OR
4 MAINTAINING A MARKET FOR THE SALES OF ELECTRIC ENERGY AND
5 INCLUDE OBTAINING A LICENSE OR CERTIFICATION FROM THE COMMISSION
6 TO SUPPLY ELECTRIC ENERGY. RETAIL SALES OF GENERATION SHALL BE
7 DEEMED TO OCCUR AT THE METER OF THE RETAIL CONSUMER.

8 (K) ELECTRIC COOPERATIVES.--SECTION 1101(B) OF THE TAX
9 REFORM CODE OF 1971 SHALL APPLY TO ELECTRIC COOPERATIVES AND
10 IMPOSE A TAX UPON THE GROSS RECEIPTS DERIVED FROM ANY ELECTRIC
11 COOPERATIVE OWNED OR OPERATED PUBLIC UTILITY OR FROM ANY PUBLIC
12 UTILITY SERVICE FURNISHED BY ANY ELECTRIC COOPERATIVE. GROSS
13 RECEIPTS SHALL BE EXEMPT FROM THE TAX TO THE EXTENT THAT THE
14 GROSS RECEIPTS ARE DERIVED FROM SALES FOR RESALE OR SALES OF
15 ELECTRIC ENERGY WITHIN THE LIMITS OF ITS SERVICE TERRITORY AS
16 SET FORTH IN 15 PA.C.S. § 7406.

17 (L) PROVISIONS TO BE CONSTRUED WITH UTILITIES GROSS RECEIPTS
18 TAX.--SUBSECTIONS (I), (J), AND (K) SHALL BE CONSTRUED IN
19 CONJUNCTION WITH ARTICLE XI OF THE TAX REFORM CODE OF 1971 AND
20 SHALL BE EFFECTIVE FOR TAX YEARS BEGINNING JANUARY 1, 1997, AND
21 THEREAFTER.

22 (M) INDEMNIFICATION.--THE ELECTRIC DISTRIBUTION UTILITY
23 COMPANY'S TARIFF SHALL PROVIDE THAT, IF AN ELECTRIC DISTRIBUTION
24 COMPANY BECOMES LIABLE, UNDER SECTIONS 2806(G) AND 2809(C), FOR
25 STATE TAXES NOT PAID BY AN ELECTRIC GENERATION SUPPLIER, THAT
26 ELECTRIC GENERATION SUPPLIER SHALL INDEMNIFY THE ELECTRIC
27 DISTRIBUTION COMPANY FOR THE AMOUNT OF THE LIABILITY SO IMPOSED
28 UPON THE ELECTRIC DISTRIBUTION UTILITY.

29 (N) DEFINITIONS.--AS USED IN THIS SECTION THE FOLLOWING
30 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION:

2 "AFFECTED TAXES." THE TAXES IMPOSED UNDER ARTICLES II, IV,
3 VI, XI AND SECTION 2301(F) OF THE TAX REFORM CODE OF 1971.

4 "BASE FISCAL YEAR." THE YEAR BEGINNING ON JULY 1, 1995, AND
5 ENDING ON JUNE 30, 1996.

6 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

7 "EFFECTIVE RATE." THE TAX RATE APPLICABLE DURING THE FISCAL
8 YEAR OR, IF MORE THAN ONE RATE IS APPLICABLE, THE AVERAGE OF THE
9 RATES THAT WERE IN EFFECT FOR EACH MONTH OF THE FISCAL YEAR.

10 "FISCAL YEAR." A YEAR BEGINNING ON JULY 1 AND ENDING ON THE
11 SUBSEQUENT JUNE 30.

12 "GROSS RECEIPTS." THE GROSS RECEIPTS FROM THE RETAIL SALES
13 OF ELECTRIC ENERGY AS DEFINED IN SECTION 1101(B) OF THE TAX
14 REFORM CODE OF 1971.

15 "1995-1996 FISCAL TAX REVENUE BASE." THE RECEIPTS FROM
16 AFFECTED TAXES FROM THE FISCAL YEAR 1995-1996, SUCH AMOUNT BEING
17 \$984,141,837.

18 "PORTION OF THE 1995-1996 FISCAL TAX REVENUE BASE
19 ATTRIBUTABLE TO THE AFFECTED TAX. THE FOLLOWING AMOUNTS FOR THE
20 TAX INDICATED:

21	TAX	AMOUNT
22	CORPORATE NET INCOME TAX	\$181,628,433
23	CAPITAL STOCK-FRANCHISE TAX	\$117,495,605
24	SALES AND USE TAX	\$187,401,632
25	PUBLIC UTILITY REALTY TAX	\$ 43,883,573
26	UTILITIES GROSS RECEIPTS TAX	\$453,732,594

27 "TOTAL UTILITIES GROSS RECEIPTS." THE TOTAL GROSS RECEIPTS
28 FOR A CALENDAR YEAR FOR ALL ELECTRIC DISTRIBUTION COMPANIES AND
29 ELECTRIC GENERATION SUPPLIERS WHICH ARE DERIVED FROM THE SALES
30 OF ELECTRIC ENERGY AND REQUIRED TO BE REPORTED TO THE COMMISSION

1 UNDER SUBSECTION (C)(6)(III).

2 § 2811. MARKET POWER REMEDIATION.

3 (A) MONITORING COMPETITIVE CONDITIONS.--THE COMMISSION SHALL
4 MONITOR THE MARKET FOR THE SUPPLY AND DISTRIBUTION OF
5 ELECTRICITY TO RETAIL CUSTOMERS AND TAKE STEPS AS SET FORTH IN
6 THIS SECTION TO PREVENT ANTICOMPETITIVE OR DISCRIMINATORY
7 CONDUCT AND THE UNLAWFUL EXERCISE OF MARKET POWER.

8 (B) INITIATION OF INVESTIGATIONS.--UPON COMPLAINT OR UPON
9 ITS OWN MOTION, FOR GOOD CAUSE SHOWN, THE COMMISSION SHALL
10 CONDUCT AN INVESTIGATION OF THE IMPACT ON THE PROPER FUNCTIONING
11 OF A FULLY COMPETITIVE RETAIL ELECTRICITY MARKET, INCLUDING THE
12 EFFECT OF MERGERS, CONSOLIDATIONS, ACQUISITION OR DISPOSITION OF
13 ASSETS OR SECURITIES OF ELECTRICITY SUPPLIERS, TRANSMISSION
14 CONGESTION AND ANTICOMPETITIVE OR DISCRIMINATORY CONDUCT
15 AFFECTING THE RETAIL DISTRIBUTION OF ELECTRICITY.

16 (C) CONDUCT OF INVESTIGATIONS.--

17 (1) THE COMMISSION MAY REQUIRE AN ELECTRICITY SUPPLIER
18 TO PROVIDE INFORMATION, INCLUDING DOCUMENTS AND TESTIMONY,
19 IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS REGARDING THE
20 DISCOVERY OF INFORMATION FROM ANY ELECTRICITY SUPPLIER.

21 (2) CONFIDENTIAL, PROPRIETARY OR TRADE SECRET
22 INFORMATION PROVIDED UNDER THIS SUBSECTION SHALL NOT BE
23 DISCLOSED TO ANY PERSON NOT DIRECTLY EMPLOYED OR RETAINED BY
24 THE COMMISSION TO CONDUCT THE INVESTIGATION WITHOUT THE
25 CONSENT OF THE PARTY PROVIDING THE INFORMATION.

26 (3) NOTWITHSTANDING THE PROHIBITION ON DISCLOSURE OF
27 INFORMATION IN PARAGRAPH (2), THE COMMISSION SHALL DISCLOSE
28 INFORMATION OBTAINED UNDER THIS SUBSECTION TO THE OFFICE OF
29 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE
30 UNDER AN APPROPRIATE CONFIDENTIALITY AGREEMENT. THE

1 COMMISSION MAY DISCLOSE THE INFORMATION TO APPROPRIATE
2 FEDERAL OR STATE LAW ENFORCEMENT OFFICIALS IF IT DETERMINES
3 THAT THE DISCLOSURE OF THE INFORMATION IS NECESSARY TO
4 PREVENT OR RESTRAIN A VIOLATION OF FEDERAL OR STATE LAW AND
5 IT PROVIDES THE PARTY THAT PROVIDED THE INFORMATION WITH
6 REASONABLE NOTICE AND OPPORTUNITY TO PREVENT OR LIMIT
7 DISCLOSURE.

8 (D) REFERRALS AND INTERVENTION.--IF, AS A RESULT OF AN
9 INVESTIGATION CONDUCTED UNDER THIS SECTION, THE COMMISSION HAS
10 REASON TO BELIEVE THAT ANTICOMPETITIVE OR DISCRIMINATORY
11 CONDUCT, INCLUDING THE UNLAWFUL EXERCISE OF MARKET POWER IS
12 PREVENTING THE RETAIL ELECTRICITY CUSTOMERS IN THIS COMMONWEALTH
13 FROM OBTAINING THE BENEFITS OF A PROPERLY FUNCTIONING AND
14 WORKABLE COMPETITIVE RETAIL ELECTRICITY MARKET, THE COMMISSION,
15 PURSUANT TO ITS REGULATIONS, SHALL:

16 (1) REFER ITS FINDINGS TO THE ATTORNEY GENERAL, THE
17 UNITED STATES DEPARTMENT OF JUSTICE, THE SECURITIES AND
18 EXCHANGE COMMISSION OR THE FEDERAL ENERGY REGULATORY
19 COMMISSION.

20 (2) SUBJECT TO SUBSECTION (C)(3), DISCLOSE ANY
21 INFORMATION IT HAS OBTAINED IN THE COURSE OF ITS
22 INVESTIGATION TO THE AGENCY OR AGENCIES TO WHICH IT HAS MADE
23 A REFERRAL UNDER PARAGRAPH (1).

24 (3) INTERVENE, AS PROVIDED AND PERMITTED BY LAW OR
25 REGULATION, IN ANY PROCEEDINGS INITIATED AS A RESULT OF A
26 REFERRAL MADE UNDER PARAGRAPH (1).

27 (E) APPROVAL OF PROPOSED MERGERS, CONSOLIDATIONS,
28 ACQUISITIONS, OR DISPOSITIONS.--

29 (1) IN THE EXERCISE OF AUTHORITY THE COMMISSION
30 OTHERWISE MAY HAVE TO APPROVE THE MERGERS OR CONSOLIDATIONS

1 BY ELECTRIC UTILITIES OR ELECTRICITY SUPPLIERS, OR THE
2 ACQUISITION OR DISPOSITION OF ASSETS OR SECURITIES OF OTHER
3 PUBLIC UTILITIES OR ELECTRICITY SUPPLIERS, THE COMMISSION
4 SHALL CONSIDER WHETHER THE PROPOSED MERGER, CONSOLIDATION,
5 ACQUISITION OR DISPOSITION IS LIKELY TO RESULT IN
6 ANTICOMPETITIVE OR DISCRIMINATORY CONDUCT, INCLUDING THE
7 UNLAWFUL EXERCISE OF MARKET POWER, WHICH WILL PREVENT RETAIL
8 ELECTRICITY CUSTOMERS IN THIS COMMONWEALTH FROM OBTAINING THE
9 BENEFITS OF A PROPERLY FUNCTIONING AND WORKABLE COMPETITIVE
10 RETAIL ELECTRICITY MARKET.

11 (2) UPON REQUEST FOR APPROVAL, THE COMMISSION SHALL
12 PROVIDE NOTICE AND AN OPPORTUNITY FOR OPEN, PUBLIC
13 EVIDENTIARY HEARINGS. IF THE COMMISSION FINDS, AFTER HEARING,
14 THAT A PROPOSED MERGER, CONSOLIDATION, ACQUISITION OR
15 DISPOSITION IS LIKELY TO RESULT IN ANTICOMPETITIVE OR
16 DISCRIMINATORY CONDUCT, INCLUDING THE UNLAWFUL EXERCISE OF
17 MARKET POWER, WHICH WILL PREVENT RETAIL ELECTRICITY CUSTOMERS
18 IN THIS COMMONWEALTH FROM OBTAINING THE BENEFITS OF A
19 PROPERLY FUNCTIONING AND WORKABLE COMPETITIVE RETAIL
20 ELECTRICITY MARKET, THE COMMISSION SHALL NOT APPROVE SUCH
21 PROPOSED MERGER, CONSOLIDATION, ACQUISITION OR DISPOSITION,
22 EXCEPT UPON SUCH TERMS AND CONDITIONS AS IT FINDS NECESSARY
23 TO PRESERVE THE BENEFITS OF A PROPERLY FUNCTIONING AND
24 WORKABLE COMPETITIVE RETAIL ELECTRICITY MARKET.

25 (F) PRESERVATION OF RIGHTS.--NOTHING IN THIS SECTION SHALL
26 RESTRICT THE RIGHT OF ANY PARTY TO PURSUE ANY OTHER REMEDY
27 AVAILABLE TO IT UNDER THIS PART.

28 § 2812. APPROVAL OF TRANSITION BONDS.

29 (A) QUALIFIED RATE ORDERS.--NOTWITHSTANDING ANY OTHER
30 PROVISION OF LAW, THE COMMISSION IS AUTHORIZED TO ISSUE

1 QUALIFIED RATE ORDERS IN ACCORDANCE WITH THE PROVISIONS OF THIS
2 SUBSECTION, TO FACILITATE THE RECOVERY OR FINANCING OF QUALIFIED
3 TRANSITION EXPENSES OF AN ELECTRIC UTILITY OR ASSIGNEE.

4 (1) A QUALIFIED RATE ORDER MAY BE ADOPTED BY THE
5 COMMISSION ONLY UPON THE APPLICATION OF AN ELECTRIC UTILITY
6 AND SHALL BECOME EFFECTIVE IN ACCORDANCE WITH ITS TERMS.
7 AFTER THE ISSUANCE OF A QUALIFIED RATE ORDER, THE ELECTRIC
8 UTILITY RETAINS SOLE DISCRETION REGARDING WHETHER TO ASSIGN,
9 SELL OR OTHERWISE TRANSFER INTANGIBLE TRANSITION PROPERTY OR
10 TO CAUSE THE TRANSITION BONDS TO BE ISSUED, INCLUDING THE
11 RIGHT TO DEFER OR POSTPONE SUCH ASSIGNMENT, SALE, TRANSFER OR
12 ISSUANCE.

13 (2) AFTER THE EFFECTIVE DATE OF THIS CHAPTER, AN
14 ELECTRIC UTILITY MAY FILE AN APPLICATION FOR A QUALIFIED RATE
15 ORDER PURSUANT TO THE FOLLOWING PROCEDURES:

16 (I) EACH APPLICATION FOR A QUALIFIED RATE ORDER
17 SHALL CONTAIN A COMPLETE ACCOUNTING OF THE UTILITY'S
18 TRANSITION OR STRANDED COSTS, DETAILED INFORMATION
19 REGARDING THE UTILITY'S PROPOSAL FOR THE SALE OF
20 INTANGIBLE TRANSITION PROPERTY OR THE ISSUANCE OF
21 TRANSITION BONDS AND INFORMATION REGARDING THE ELECTRIC
22 UTILITY'S PLANNED USE OF THE PROCEEDS OF THE SALE OR
23 ISSUANCE. AFTER THE UTILITY HAS FILED ITS RESTRUCTURING
24 PLAN UNDER SECTION 2806 (RELATING TO IMPLEMENTATION,
25 PILOT PROGRAMS AND PERFORMANCE-BASED RATES), THE UTILITY
26 MAY INCORPORATE BY REFERENCE THE INFORMATION IN THE
27 RESTRUCTURING PLAN IN PROVIDING THE INFORMATION.

28 (II) AN ELECTRIC UTILITY MAY FILE AN APPLICATION FOR
29 A QUALIFIED RATE ORDER CONCURRENTLY WITH, PRIOR TO,
30 DURING OR FOLLOWING THE FILING OF ITS RESTRUCTURING PLAN

1 UNDER SECTION 2806. IF AN ELECTRIC UTILITY REQUESTS
2 EXPEDITED REVIEW UNDER SUBSECTION (B)(1)(I) OR (II), IT
3 SHALL DESIGNATE IN ITS APPLICATION THE PORTION OF ITS
4 TOTAL CLAIMED TRANSITION OR STRANDED COSTS FOR WHICH IT
5 REQUESTS SUCH EXPEDITED REVIEW.

6 (III) AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD,
7 THE COMMISSION MAY ISSUE A FINAL QUALIFIED RATE ORDER FOR
8 ALL OR A PORTION OF THE AMOUNT OF TRANSITION OR STRANDED
9 COSTS THAT IT FINDS WOULD BE JUST AND REASONABLE FOR THE
10 UTILITY TO RECOVER FROM RATEPAYERS UNDER SECTIONS 2804
11 (RELATING TO STANDARDS) AND 2808 (RELATING TO COMPETITIVE
12 TRANSITION CHARGE). THE COMMISSION SHALL ISSUE A FINAL
13 QUALIFIED RATE ORDER ONLY FOR THE AMOUNTS FOR WHICH IT
14 FINDS SUCH ISSUANCE TO BE IN THE PUBLIC INTEREST. THE
15 COMMISSION SHALL COMPLETE ITS REVIEW OF THE APPLICATION
16 AND ISSUE ITS FINAL DETERMINATION BY THE LATER OF NINE
17 MONTHS FROM THE FILING, UNLESS THE ELECTRIC UTILITY
18 REQUESTS EXPEDITED TREATMENT UNDER SUBSECTION (B), OR 15
19 DAYS FOLLOWING THE FILING OF THE ELECTRIC UTILITY'S
20 RESTRUCTURING PLAN UNDER SECTION 2806.

21 (B) EXPEDITED REVIEW PROCEDURES.--

22 (1) THE COMMISSION SHALL PROVIDE FOR EXPEDITED REVIEW OF
23 APPLICATIONS FOR QUALIFIED RATE ORDERS UPON REQUEST OF THE
24 ELECTRIC UTILITY PURSUANT TO THE FOLLOWING PROCEDURES:

25 (I) IF THE UTILITY ELECTS TO FILE AN APPLICATION
26 PRIOR TO THE FILING OF ITS RESTRUCTURING PLAN AND
27 REQUESTS EXPEDITED REVIEW, THE COMMISSION, AFTER NOTICE
28 AND AN OPPORTUNITY TO BE HEARD, MAY ISSUE A FINAL
29 QUALIFIED RATE ORDER APPROVING THE ISSUANCE OF TRANSITION
30 BONDS FOR A PORTION OF THE UTILITY'S TRANSITION OR

1 STRANDED COSTS THAT THE COMMISSION FINDS WOULD BE JUST
2 AND REASONABLE TO RECOVER FROM RATEPAYERS UNDER SECTIONS
3 2804 AND 2808. THE COMMISSION SHALL CONSIDER ONLY THE
4 PORTION OF THE TRANSITION OR STRANDED COSTS FOR WHICH THE
5 UTILITY REQUESTS APPROVAL TO ISSUE TRANSITION BONDS.
6 CONSIDERATION OF ALL REMAINING AMOUNTS AND AMOUNTS NOT
7 RESOLVED BY THE COMMISSION SHALL BE DEFERRED FOR
8 CONSIDERATION IN THE ELECTRIC UTILITY'S RESTRUCTURING
9 PLAN PROCEEDING UNDER SECTION 2806. THE COMMISSION SHALL
10 COMPLETE ITS REVIEW OF THE APPLICATION AND ISSUE ITS
11 FINAL DETERMINATION WITHIN 120 DAYS AFTER THE REQUEST FOR
12 EXPEDITED REVIEW, BUT, IN NO EVENT, EARLIER THAN 15 DAYS
13 AFTER THE UTILITY HAS FILED ITS RESTRUCTURING PLAN UNDER
14 SECTION 2806.

15 (II) IF THE ELECTRIC UTILITY FILES AN APPLICATION
16 FOR A QUALIFIED RATE ORDER CONCURRENTLY WITH ITS
17 RESTRUCTURING PLAN OR DURING THE COURSE OF THE
18 RESTRUCTURING PLAN PROCEEDING, THE ELECTRIC UTILITY MAY
19 REQUEST, AND THE COMMISSION MAY ALLOW, AN ACCELERATED
20 DETERMINATION OF THE APPLICATION. AFTER NOTICE AND AN
21 OPPORTUNITY TO BE HEARD, THE COMMISSION MAY ISSUE A FINAL
22 QUALIFIED RATE ORDER APPROVING THE ISSUANCE OF TRANSITION
23 BONDS FOR A PORTION OF THE UTILITY'S STRANDED OR
24 TRANSITION COSTS THAT THE COMMISSION FINDS WOULD BE JUST
25 AND REASONABLE TO RECOVER FROM RATEPAYERS UNDER SECTIONS
26 2804 AND 2808. THE COMMISSION SHALL CONSIDER ONLY THE
27 PORTION OF THE UTILITY'S TRANSITION OR STRANDED COSTS FOR
28 WHICH THE UTILITY SEEKS EXPEDITED REVIEW. CONSIDERATION
29 OF ALL REMAINING AMOUNTS AND AMOUNTS NOT RESOLVED BY THE
30 COMMISSION SHALL BE DEFERRED FOR CONSIDERATION IN A FINAL

1 ORDER REGARDING THE UTILITY'S RESTRUCTURING PLAN UNDER
2 SECTION 2806. THE COMMISSION SHALL COMPLETE ITS REVIEW OF
3 THE APPLICATION AND ISSUE ITS FINAL DETERMINATION WITHIN
4 120 DAYS AFTER THE REQUEST FOR EXPEDITED REVIEW.

5 (III) IF THE ELECTRIC UTILITY FILES AN APPLICATION
6 FOR A QUALIFIED RATE ORDER AFTER THE COMMISSION ENTERS A
7 FINAL ORDER REGARDING THE UTILITY'S RESTRUCTURING PLAN,
8 AND REQUESTS EXPEDITED TREATMENT, THE COMMISSION SHALL
9 COMPLETE ITS REVIEW AND ISSUE ITS FINAL DETERMINATION
10 WITHIN 120 DAYS OF THE REQUEST FOR EXPEDITED REVIEW.

11 (2) THE QUALIFIED RATE ORDER SHALL REQUIRE THAT THE
12 PROCEEDS FROM THE ASSIGNMENT, SALE OR TRANSFER OR OTHER
13 FINANCING OF INTANGIBLE TRANSITION PROPERTY SHALL BE USED
14 PRINCIPALLY TO REDUCE THE ELECTRIC UTILITY'S TRANSITION OR
15 STRANDED COSTS AND TO REDUCE THE RELATED CAPITALIZATION,
16 PURSUANT TO A PLAN SUBMITTED BY THE ELECTRIC UTILITY IN ITS
17 APPLICATION FOR A QUALIFIED RATE ORDER AND APPROVED BY THE
18 COMMISSION.

19 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
20 COMMISSION HAS THE POWER TO SPECIFY THAT ALL OR A PORTION OF
21 A QUALIFIED RATE ORDER SHALL BE IRREVOCABLE. TO THE EXTENT SO
22 SPECIFIED, NEITHER THE ORDER NOR THE INTANGIBLE TRANSITION
23 CHARGES AUTHORIZED TO BE IMPOSED AND COLLECTED UNDER THE
24 ORDER SHALL BE SUBJECT TO REDUCTION, POSTPONEMENT, IMPAIRMENT
25 OR TERMINATION BY ANY SUBSEQUENT ACTION OF THE COMMISSION.
26 NOTHING IN THIS PARAGRAPH IS INTENDED TO SUPERSEDE THE RIGHT
27 OF ANY PARTY TO JUDICIAL REVIEW OF THE QUALIFIED RATE ORDER.

28 (5) THE COMMISSION SHALL PROVIDE IN ANY QUALIFIED RATE
29 ORDER FOR A PROCEDURE FOR THE EXPEDITIOUS APPROVAL BY THE
30 COMMISSION OF PERIODIC ADJUSTMENTS TO THE INTANGIBLE

1 TRANSITION CHARGES THAT ARE THE SUBJECT OF THE PERTINENT
2 QUALIFIED RATE ORDER. SUCH ADJUSTMENTS SHALL ENSURE THE
3 RECOVERY OF REVENUES SUFFICIENT TO PROVIDE FOR THE PAYMENT OF
4 PRINCIPAL, INTEREST, ACQUISITION OR REDEMPTION PREMIUM, AND
5 FOR OTHER FEES, COSTS AND CHARGES IN RESPECT OF TRANSITION
6 BONDS APPROVED BY THE COMMISSION AS PART OF OR IN CONJUNCTION
7 WITH A QUALIFIED RATE ORDER. THE COMMISSION SHALL DETERMINE
8 WHETHER THE ADJUSTMENTS ARE REQUIRED ON EACH ANNIVERSARY OF
9 THE ISSUANCE OF THE QUALIFIED RATE ORDER AND AT THE
10 ADDITIONAL INTERVALS AS MAY BE PROVIDED FOR IN THE QUALIFIED
11 RATE ORDER. THE ADJUSTMENTS, IF REQUIRED, SHALL BE APPROVED
12 WITHIN 90 DAYS OF EACH ANNIVERSARY OF THE ISSUANCE OF THE
13 QUALIFIED RATE ORDER OR OF EACH ADDITIONAL INTERVAL PROVIDED
14 FOR IN THE QUALIFIED RATE ORDER.

15 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON SUCH
16 CONDITIONS AS THE COMMISSION MAY APPROVE, ALL OR PORTIONS OF
17 THE INTEREST OF AN ELECTRIC UTILITY IN INTANGIBLE TRANSITION
18 PROPERTY MAY BE ASSIGNED, SOLD OR TRANSFERRED TO AN ASSIGNEE
19 AND MAY BE PLEDGED OR ASSIGNED AS SECURITY BY AN ELECTRIC
20 UTILITY OR ASSIGNEE TO OR FOR THE BENEFIT OF A FINANCING
21 PARTY. TO THE EXTENT THAT AN INTEREST IS ASSIGNED, SOLD OR
22 TRANSFERRED OR IS PLEDGED OR ASSIGNED AS SECURITY, THE
23 COMMISSION SHALL AUTHORIZE THE ELECTRIC UTILITY TO CONTRACT
24 WITH THE ASSIGNEE OR FINANCING PARTY THAT THE ELECTRIC
25 UTILITY WILL CONTINUE TO OPERATE ITS SYSTEM TO PROVIDE
26 SERVICE TO ITS CUSTOMERS, WILL IMPOSE AND COLLECT THE
27 APPLICABLE INTANGIBLE TRANSITION CHARGES FOR THE BENEFIT AND
28 ACCOUNT OF THE ASSIGNEE OR FINANCING PARTY, AND WILL ACCOUNT
29 FOR AND REMIT THE APPLICABLE INTANGIBLE TRANSITION CHARGE TO
30 OR FOR THE ACCOUNT OF THE ASSIGNEE OR FINANCING PARTY. IF THE

1 QUALIFIED RATE ORDER SO PROVIDES, THE OBLIGATIONS OF THE
2 ELECTRIC UTILITY:

3 (I) SHALL BE BINDING UPON THE ELECTRIC UTILITY, ITS
4 SUCCESSORS AND ASSIGNS; AND

5 (II) SHALL BE REQUIRED BY THE COMMISSION TO BE
6 UNDERTAKEN AND PERFORMED BY THE ELECTRIC UTILITY AND ANY
7 OTHER ENTITY WHICH PROVIDES ELECTRIC SERVICE TO A PERSON
8 THAT WAS A CUSTOMER OF AN ELECTRIC UTILITY LOCATED WITHIN
9 THE CERTIFICATED TERRITORY OF THE ELECTRIC UTILITY ON THE
10 EFFECTIVE DATE OF THIS CHAPTER OR THAT BECAME A CUSTOMER
11 OF ELECTRIC SERVICES WITHIN SUCH TERRITORY AFTER THE
12 EFFECTIVE DATE OF THIS CHAPTER AND IS STILL LOCATED
13 WITHIN SUCH TERRITORY, AS A CONDITION TO THE PROVISION OF
14 SERVICE TO SUCH CUSTOMER BY SUCH ELECTRIC UTILITY OR
15 OTHER ENTITY, UNLESS THE CUSTOMER HAS PAID A TERMINATION
16 CHARGE IN THE MANNER AND ON THE BASIS SPECIFIED IN THE
17 QUALIFIED RATE ORDER.

18 (7) THE IRREVOCABLE STATUS OF ANY PORTION OF A QUALIFIED
19 RATE ORDER UNDER PARAGRAPH (4) SHALL LAPSE AND TERMINATE TO
20 THE EXTENT THAT AN ASSIGNMENT, SALE OR TRANSFER OF THE
21 INTANGIBLE TRANSITION PROPERTY RESULTING FROM THE RATE ORDER
22 OR THE ISSUANCE OF THE RELATED TRANSITION BONDS IS NOT
23 EFFECTED WITHIN THE PERIOD SPECIFIED IN THE QUALIFIED RATE
24 ORDER.

25 (8) THE EFFECT OF ANY SUBSEQUENT REFINANCING OF
26 TRANSITION BONDS UPON THE RATES AUTHORIZED IN A QUALIFIED
27 RATE ORDER SHALL BE AS PROVIDED IN SUCH ORDER.

28 (9) IN ITS QUALIFIED RATE ORDER, THE COMMISSION SHALL
29 AFFORD FLEXIBILITY IN ESTABLISHING THE TERMS AND CONDITIONS
30 OF THE TRANSITION BONDS, INCLUDING REPAYMENT SCHEDULES,

1 INTEREST RATES AND OTHER FINANCING COSTS. THE ELECTRIC
2 UTILITY SHALL FILE THE FINAL TERMS OF ISSUANCE WITH THE
3 COMMISSION.

4 (C) INTANGIBLE TRANSITION PROPERTY.--

5 (1) ANY RIGHT THAT AN ELECTRIC UTILITY HAS IN THE
6 INTANGIBLE TRANSITION PROPERTY PRIOR TO ITS SALE OR TRANSFER
7 OR ANY OTHER RIGHT CREATED UNDER THIS SECTION OR CREATED IN
8 THE QUALIFIED RATE ORDER AND ASSIGNABLE UNDER THIS SECTION OR
9 ASSIGNABLE PURSUANT TO A QUALIFIED RATE ORDER SHALL BE ONLY A
10 CONTRACT RIGHT.

11 (2) THE COMMONWEALTH PLEDGES TO AND AGREES WITH THE
12 HOLDERS OF ANY TRANSITION BONDS ISSUED UNDER THIS SECTION AND
13 WITH ANY ASSIGNEE OR FINANCING PARTY WHO MAY ENTER INTO
14 CONTRACTS WITH AN ELECTRIC UTILITY UNDER THIS SECTION THAT
15 THE COMMONWEALTH WILL NOT LIMIT, OR ALTER OR IN ANY WAY
16 IMPAIR OR REDUCE THE VALUE OF INTANGIBLE TRANSITION PROPERTY
17 OR INTANGIBLE TRANSITION CHARGES APPROVED BY A QUALIFIED RATE
18 ORDER UNTIL THE TRANSITION BONDS AND INTEREST ON THE
19 TRANSITION BONDS ARE FULLY PAID AND DISCHARGED OR THE
20 CONTRACTS ARE FULLY PERFORMED ON THE PART OF THE ELECTRIC
21 UTILITY. SUBJECT TO OTHER REQUIREMENTS OF LAW, NOTHING IN
22 THIS PARAGRAPH SHALL PRECLUDE LIMITATION OR ALTERATION IF
23 ADEQUATE COMPENSATION IS MADE BY LAW FOR THE FULL PROTECTION
24 OF THE INTANGIBLE TRANSITION CHARGES COLLECTED PURSUANT TO A
25 QUALIFIED RATE ORDER AND OF THE HOLDER OF THIS TRANSITION
26 BOND AND ANY ASSIGNEE OR FINANCING PARTY ENTERING INTO
27 CONTRACT WITH THE ELECTRIC UTILITY.

28 (D) SECURITY INTERESTS IN INTANGIBLE TRANSITION PROPERTY.--

29 (1) NEITHER INTANGIBLE TRANSITION PROPERTY NOR ANY
30 RIGHT, TITLE OR INTEREST OF A UTILITY OR ASSIGNEE DESCRIBED

1 IN PARAGRAPH (1) OF THE DEFINITION OF "INTANGIBLE TRANSITION
2 PROPERTY" IN SUBSECTION (G), WHETHER BEFORE OR AFTER THE
3 ISSUANCE OF THE QUALIFIED RATE ORDER, SHALL CONSTITUTE "AN
4 ACCOUNT" OR "GENERAL INTANGIBLES" UNDER 13 PA.C.S. § 9106
5 (RELATING TO DEFINITIONS); NOR SHALL ANY SUCH RIGHT, TITLE OR
6 INTEREST PERTAINING TO A QUALIFIED RATE ORDER, INCLUDING THE
7 ASSOCIATED INTANGIBLE TRANSITION PROPERTY AND ANY REVENUES,
8 COLLECTIONS, CLAIMS, PAYMENTS, MONEY OR PROCEEDS OF OR
9 ARISING FROM INTANGIBLE TRANSITION CHARGES PURSUANT TO SUCH
10 ORDER, BE DEEMED PROCEEDS OF ANY RIGHT OR INTEREST OTHER THAN
11 IN THE ORDER AND THE INTANGIBLE TRANSITION PROPERTY ARISING
12 FROM THE ORDER.

13 (2) THE GRANTING, PERFECTION AND ENFORCEMENT OF SECURITY
14 INTERESTS IN INTANGIBLE TRANSITION PROPERTY TO SECURE
15 TRANSITION BONDS IS GOVERNED BY THIS SECTION RATHER THAN BY
16 TITLE 13 (RELATING TO COMMERCIAL CODE).

17 (3) A VALID AND ENFORCEABLE SECURITY INTEREST IN
18 INTANGIBLE TRANSITION PROPERTY SHALL ATTACH AND BE PERFECTED
19 ONLY BY MEANS OF A SEPARATE FILING WITH THE COMMISSION, UNDER
20 REGULATIONS THE COMMISSION PRESCRIBES. FOR THIS PURPOSE:

21 (I) IF THE TRANSITION BONDS ARE ISSUED TO FINANCE
22 ANY QUALIFIED TRANSITION EXPENSES, AS SPECIFIED IN THE
23 APPLICABLE QUALIFIED RATE ORDER, THE LIEN OF THE BONDS
24 SHALL ATTACH AUTOMATICALLY TO THE INTANGIBLE TRANSITION
25 PROPERTY RELATING TO THE EXPENSES FROM THE TIME OF
26 ISSUANCE OF THE BONDS.

27 (II) THE LIEN UNDER SUBPARAGRAPH (I) SHALL BE DEEMED
28 A VALID AND ENFORCEABLE SECURITY INTEREST IN THE
29 INTANGIBLE TRANSITION PROPERTY SECURING THE QUALIFIED
30 TRANSITION BONDS AND SHALL BE CONTINUOUSLY PERFECTED IF,

1 BEFORE THE DATE OF ISSUANCE SPECIFIED IN SUBPARAGRAPH (I)
2 OR WITHIN NO MORE THAN TEN DAYS AFTER THE DATE, A FILING
3 HAS BEEN MADE BY OR ON BEHALF OF THE FINANCING PARTY TO
4 PROTECT THAT SECURITY INTEREST IN ACCORDANCE WITH THE
5 PROCEDURES PRESCRIBED BY THE COMMISSION UNDER THIS
6 SUBSECTION. ANY FILING IN RESPECT TO SUCH TRANSITION
7 BONDS SHALL TAKE PRECEDENCE OVER ANY OTHER FILING.

8 (III) THE LIEN UNDER SUBPARAGRAPH (I) IS ENFORCEABLE
9 AGAINST THE ASSIGNEE AND ALL THIRD PARTIES, INCLUDING
10 JUDICIAL LIEN CREDITORS, SUBJECT ONLY TO THE RIGHTS OF
11 ANY THIRD PARTIES HOLDING SECURITY INTERESTS IN THE
12 INTANGIBLE TRANSITION PROPERTY PREVIOUSLY PERFECTED IN
13 THE MANNER DESCRIBED IN THIS SUBSECTION IF VALUE HAS BEEN
14 GIVEN BY THE PURCHASERS OF TRANSITION BONDS. A PERFECTED
15 LIEN IN INTANGIBLE TRANSITION PROPERTY IS A CONTINUOUSLY
16 PERFECTED SECURITY INTEREST IN ALL REVENUES AND PROCEEDS
17 ARISING WITH RESPECT TO THE ASSOCIATED INTANGIBLE
18 TRANSITION PROPERTY, WHETHER OR NOT REVENUES HAVE
19 ACCRUED. INTANGIBLE TRANSITION PROPERTY CONSTITUTES
20 PROPERTY FOR THE PURPOSES OF CONTRACTS SECURING
21 TRANSITION BONDS, WHETHER OR NOT THE RELATED REVENUES
22 HAVE ACCRUED. THE LIEN CREATED UNDER THIS PARAGRAPH IS
23 PERFECTED AND RANKS PRIOR TO ANY OTHER LIEN, INCLUDING
24 ANY JUDICIAL LIEN, WHICH SUBSEQUENTLY ATTACHES TO THE
25 INTANGIBLE TRANSITION PROPERTY; TO THE INTANGIBLE
26 TRANSITION CHARGES; AND TO THE QUALIFIED RATE ORDER AND
27 ANY RIGHTS CREATED BY THE ORDER OR ANY PROCEEDS OF THE
28 ORDER. THE RELATIVE PRIORITY OF A LIEN CREATED UNDER THIS
29 PARAGRAPH IS NOT DEFEATED OR ADVERSELY AFFECTED BY
30 CHANGES TO THE QUALIFIED RATE ORDER OR TO THE INTANGIBLE

1 TRANSITION CHARGES PAYABLE BY ANY CUSTOMER.

2 (IV) THE RELATIVE PRIORITY OF A LIEN CREATED UNDER
3 THIS PARAGRAPH IS NOT DEFEATED OR ADVERSELY AFFECTED BY
4 THE COMMINGLING OF REVENUES ARISING WITH RESPECT TO
5 INTANGIBLE TRANSITION PROPERTY WITH FUNDS OF THE ELECTRIC
6 UTILITY OR OTHER FUNDS OF THE ASSIGNEE.

7 (V) IF AN EVENT OF DEFAULT OCCURS UNDER APPROVED
8 TRANSITION BONDS, THE HOLDERS OF TRANSITION BONDS OR
9 THEIR AUTHORIZED REPRESENTATIVES, AS SECURED PARTIES, MAY
10 FORECLOSE OR OTHERWISE ENFORCE THE LIEN IN THE INTANGIBLE
11 TRANSITION PROPERTY SECURING THE TRANSITION BONDS,
12 SUBJECT TO THE RIGHTS OF ANY THIRD PARTIES HOLDING PRIOR
13 SECURITY INTERESTS IN THE INTANGIBLE TRANSITION PROPERTY
14 PERFECTED IN THE MANNER PROVIDED IN THIS SUBSECTION. UPON
15 APPLICATION BY THE HOLDERS OR THEIR REPRESENTATIVES,
16 WITHOUT LIMITING THEIR OTHER REMEDIES, THE COMMISSION
17 SHALL ORDER THE SEQUESTRATION AND PAYMENT TO THE HOLDERS
18 OR THEIR REPRESENTATIVES OF REVENUES ARISING WITH RESPECT
19 TO THE INTANGIBLE TRANSITION PROPERTY PLEDGED TO THE
20 HOLDERS. AN ORDER UNDER THIS SUBPARAGRAPH SHALL REMAIN IN
21 FULL FORCE AND EFFECT NOTWITHSTANDING ANY BANKRUPTCY,
22 REORGANIZATION, OR OTHER INSOLVENCY PROCEEDINGS WITH
23 RESPECT TO THE ELECTRIC UTILITY OR ASSIGNEE.

24 (4) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A
25 SEPARATE SYSTEM OF RECORDS TO REFLECT THE DATE AND TIME OF
26 RECEIPT OF ALL FILINGS MADE UNDER THIS SUBSECTION AND MAY
27 PROVIDE THAT TRANSFERS OF INTANGIBLE TRANSITION PROPERTY TO
28 AN ASSIGNEE BE FILED IN ACCORDANCE WITH THE SAME SYSTEM.

29 (E) TRUE SALE.--A TRANSFER OF INTANGIBLE TRANSITION PROPERTY
30 BY AN ELECTRIC UTILITY TO AN ASSIGNEE WHICH THE PARTIES HAVE IN

1 THE GOVERNING DOCUMENTATION EXPRESSLY STATED TO BE A SALE OR
2 OTHER ABSOLUTE TRANSFER, IN A TRANSACTION APPROVED IN A
3 QUALIFIED RATE ORDER, SHALL BE TREATED AS AN ABSOLUTE TRANSFER
4 OF ALL OF THE TRANSFEROR'S RIGHT, TITLE AND INTEREST, AS IN A
5 TRUE SALE, AND NOT AS A PLEDGE OR OTHER FINANCING, OF THE
6 INTANGIBLE TRANSITION PROPERTY, OTHER THAN FOR FEDERAL AND STATE
7 INCOME AND FRANCHISE TAX PURPOSES. GRANTING TO HOLDERS OF
8 TRANSITION BONDS A PREFERRED RIGHT TO THE INTANGIBLE TRANSITION
9 PROPERTY OR THE PROVISION BY THE ELECTRIC UTILITY OF ANY CREDIT
10 ENHANCEMENT WITH RESPECT TO TRANSITION BONDS SHALL NOT IMPAIR OR
11 NEGATE THE CHARACTERIZATION OF ANY TRANSFER AS A TRUE SALE,
12 OTHER THAN FOR FEDERAL AND STATE INCOME AND FRANCHISE TAX
13 PURPOSES. A TRANSFER OF INTANGIBLE TRANSITION PROPERTY SHALL BE
14 DEEMED PERFECTED AS AGAINST THIRD PERSONS, INCLUDING ANY
15 JUDICIAL LIEN CREDITORS, WHEN ALL OF THE FOLLOWING HAVE TAKEN
16 PLACE:

17 (1) THE COMMISSION HAS ISSUED THE QUALIFIED RATE ORDER
18 CREATING INTANGIBLE TRANSITION PROPERTY.

19 (2) A SALE OR TRANSFER OF THE INTANGIBLE TRANSITION
20 PROPERTY IN WRITING HAS BEEN EXECUTED AND DELIVERED TO THE
21 ASSIGNEE.

22 (F) ACTIONS WITH RESPECT TO INTANGIBLE TRANSITION CHARGES.--

23 (1) NOTHING IN THIS CHAPTER SHALL ENTITLE ANY PERSON TO
24 BRING AN ACTION AGAINST A RETAIL ELECTRIC CUSTOMER FOR
25 NONPAYMENT OF INTANGIBLE TRANSITION CHARGES, OTHER THAN THE
26 ELECTRIC UTILITY, ITS SUCCESSOR OR ANY OTHER ENTITY WHICH
27 PROVIDES ELECTRIC SERVICE TO A PERSON THAT WAS A CUSTOMER OF
28 AN ELECTRIC UTILITY LOCATED WITHIN THE CERTIFICATED TERRITORY
29 OF THE ELECTRIC UTILITY ON THE EFFECTIVE DATE OF THIS CHAPTER
30 OR THAT BECAME A CUSTOMER OF ELECTRIC SERVICES WITHIN SUCH

1 TERRITORY AFTER THE EFFECTIVE DATE OF THIS CHAPTER AND IS
2 STILL LOCATED WITHIN SUCH TERRITORY.

3 (2) THE COMMISSION HAS EXCLUSIVE JURISDICTION OVER ANY
4 DISPUTE ARISING OUT OF THE OBLIGATIONS, TO IMPOSE AND COLLECT
5 INTANGIBLE TRANSITION CHARGES, OF AN ELECTRIC UTILITY, ITS
6 SUCCESSOR OR ANY OTHER ENTITY WHICH PROVIDES ELECTRIC SERVICE
7 TO A PERSON THAT WAS A CUSTOMER OF AN ELECTRIC UTILITY
8 LOCATED WITHIN THE CERTIFICATED TERRITORY OF THE ELECTRIC
9 UTILITY ON THE EFFECTIVE DATE OF THIS CHAPTER OR THAT BECAME
10 A CUSTOMER OF ELECTRIC SERVICES WITHIN SUCH TERRITORY AFTER
11 THE EFFECTIVE DATE OF THIS CHAPTER AND IS STILL LOCATED
12 WITHIN SUCH TERRITORY.

13 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
14 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
15 SUBSECTION:

16 "ASSIGNEE." AN ENTITY, INCLUDING A CORPORATION, PUBLIC
17 AUTHORITY, TRUST OR FINANCING VEHICLE, TO WHICH AN ELECTRIC
18 UTILITY ASSIGNS, SELLS OR TRANSFERS OTHER THAN AS SECURITY ALL
19 OR A PORTION OF ITS INTEREST IN OR RIGHT TO INTANGIBLE
20 TRANSITION PROPERTY. THE TERM INCLUDES AN ENTITY, INCLUDING A
21 CORPORATION, PUBLIC AUTHORITY, TRUST OR FINANCING VEHICLE TO
22 WHICH A DIRECT ASSIGNEE OF AN ELECTRIC UTILITY MAY ASSIGN, SELL
23 OR TRANSFER OTHER THAN AS SECURITY ITS INTEREST IN OR RIGHT TO
24 INTANGIBLE TRANSITION PROPERTY.

25 "FINANCING PARTY." A HOLDER OF TRANSITION BONDS, INCLUDING
26 TRUSTEES, COLLATERAL AGENTS AND OTHER ENTITIES ACTING FOR THE
27 BENEFIT OF SUCH A HOLDER.

28 "INTANGIBLE TRANSITION CHARGES." THE AMOUNTS AUTHORIZED TO
29 BE IMPOSED ON ALL CUSTOMER BILLS AND COLLECTED, THROUGH A NON-
30 BYPASSABLE MECHANISM BY THE ELECTRIC UTILITY OR ITS SUCCESSOR OR

1 BY ANY OTHER ENTITY WHICH PROVIDES ELECTRIC SERVICE TO A PERSON
2 THAT WAS A CUSTOMER OF AN ELECTRIC UTILITY LOCATED WITHIN THE
3 CERTIFICATED TERRITORY OF THE ELECTRIC UTILITY ON THE EFFECTIVE
4 DATE OF THIS CHAPTER OR THAT, AFTER THIS EFFECTIVE DATE OF THIS
5 CHAPTER, BECAME A CUSTOMER OF ELECTRIC SERVICES WITHIN SUCH
6 TERRITORY, AND IS STILL LOCATED WITHIN SUCH TERRITORY, TO
7 RECOVER QUALIFIED TRANSITION EXPENSES PURSUANT TO A QUALIFIED
8 RATE ORDER. THE AMOUNTS SHALL BE ALLOCATED TO CUSTOMER CLASSES
9 IN A MANNER THAT DOES NOT SHIFT INTER-CLASS OR INTRA-CLASS COSTS
10 AND MAINTAINS CONSISTENCY WITH THE ALLOCATION METHODOLOGY FOR
11 UTILITY PRODUCTION PLANT ACCEPTED BY THE COMMISSION IN THE
12 ELECTRIC UTILITY'S MOST RECENT BASE RATE PROCEEDING.

13 "INTANGIBLE TRANSITION PROPERTY."

14 (1) THE PROPERTY RIGHT CREATED UNDER THIS SECTION
15 REPRESENTING THE IRREVOCABLE RIGHT OF THE ELECTRIC UTILITY OR
16 AN ASSIGNEE TO RECEIVE THROUGH INTANGIBLE TRANSITION CHARGES
17 AMOUNTS SUFFICIENT TO RECOVER ALL OF ITS QUALIFIED TRANSITION
18 EXPENSES. THE TERM INCLUDES ALL RIGHT, TITLE AND INTEREST OF
19 THE ELECTRIC UTILITY OR ASSIGNEE IN THE QUALIFIED RATE ORDER
20 AND IN ALL REVENUES, COLLECTIONS, CLAIMS, PAYMENTS, MONEY OR
21 PROCEEDS OF OR ARISING FROM INTANGIBLE TRANSITION CHARGES
22 PURSUANT TO THE ORDER, TO THE EXTENT THAT, IN ACCORDANCE WITH
23 THIS CHAPTER, THE ORDER AND THE RATES AND OTHER CHARGES
24 AUTHORIZED UNDER THE ORDER ARE DECLARED TO BE IRREVOCABLE.

25 (2) INTANGIBLE TRANSITION PROPERTY SHALL ARISE AND EXIST
26 ONLY WHEN, AS, AND TO THE EXTENT THAT, AN ELECTRIC UTILITY OR
27 ASSIGNEE HAS QUALIFIED TRANSITION EXPENSES FOR WHICH
28 INTANGIBLE TRANSITION CHARGES ARE AUTHORIZED IN A QUALIFIED
29 RATE ORDER THAT HAS BECOME EFFECTIVE IN ACCORDANCE WITH
30 SUBSECTION (A) AND SHALL THEREAFTER CONTINUOUSLY EXIST TO THE

1 EXTENT PROVIDED IN THE ORDER.

2 "QUALIFIED RATE ORDER." AN ORDER OF THE COMMISSION ADOPTED
3 IN ACCORDANCE WITH THIS SECTION, AUTHORIZING THE IMPOSITION AND
4 COLLECTION OF INTANGIBLE TRANSITION CHARGES.

5 "QUALIFIED TRANSITION EXPENSES." THE TRANSITION OR STRANDED
6 COSTS OF AN ELECTRIC UTILITY APPROVED BY THE COMMISSION FOR
7 RECOVERY UNDER SECTIONS 2804 (RELATING TO STANDARDS FOR
8 RESTRUCTURING OF ELECTRIC INDUSTRY) AND 2808 (RELATING TO
9 COMPETITIVE TRANSITION CHARGE), THROUGH THE ISSUANCE OF
10 TRANSITION BONDS; THE COSTS OF RETIRING EXISTING DEBT OR EQUITY
11 CAPITAL OF THE ELECTRIC UTILITY OR ITS HOLDING COMPANY PARENT,
12 INCLUDING ACCRUED INTEREST AND ACQUISITION OR REDEMPTION
13 PREMIUM, COSTS OF DEFEASANCE, AND OTHER RELATED FEES, COSTS AND
14 CHARGES RELATING TO, THROUGH THE ISSUANCE OF TRANSITION BONDS OR
15 THE ASSIGNMENT, SALE OR OTHER TRANSFER OF INTANGIBLE TRANSITION
16 PROPERTY; AND THE COSTS INCURRED TO ISSUE, SERVICE OR REFINANCE
17 THE TRANSITION BONDS, INCLUDING ACCRUED INTEREST AND ACQUISITION
18 OR REDEMPTION PREMIUM, AND OTHER RELATED FEES, COSTS AND
19 CHARGES, OR TO ASSIGN, SELL OR OTHERWISE TRANSFER INTANGIBLE
20 TRANSITION PROPERTY.

21 "TRANSITION BONDS." BONDS, DEBENTURES, NOTES, CERTIFICATES
22 OF PARTICIPATION OR OF BENEFICIAL INTEREST OR OTHER EVIDENCES OF
23 INDEBTEDNESS OR OWNERSHIP WHICH:

24 (1) ARE ISSUED BY OR ON BEHALF OF THE ELECTRIC UTILITY
25 OR ASSIGNEE PURSUANT TO A QUALIFIED RATE ORDER;

26 (2) ARE SECURED BY OR PAYABLE FROM INTANGIBLE TRANSITION
27 PROPERTY; AND

28 (3) REACH FINAL MATURITY IN NO LONGER THAN TEN YEARS.

29 SECTION 5. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY
30 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR

1 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
2 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
3 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

4 SECTION 6. THIS ACT SHALL TAKE EFFECT JANUARY 1, 1997.