

Energy Conservation Statement

According to a Pennsylvania legislative staff analysis, Pennsylvania HB 2200, which became law in 2008, generally:

- provides for the creation and implementation of a statewide energy efficiency and demand-side response program;
- requires electric distribution companies to procure energy through a competitive procurement plan that is designed to ensure adequate and reliable service and the least cost to customers over time;
- provides for the implementation of “smart meters” and real-time and time-of-use rates;
- sets forth new provisions for market misconduct; and
- requires a carbon sequestration network study.

The Act requires the state Public Utilities Commission (PUC) to adopt a program to require state Electric Distribution Companies (EDCs) to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the EDC territory. The PUC will have all of the following responsibilities:

- develop procedures for approving EDC plans;
- develop a plan evaluation process including a process to monitor and verify data collection, quality assurance and results submitted;
- analyze the cost and benefit of each plan in accordance with the total resource cost test, which is a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value basis of supplying electricity is greater than the net present value basis of energy efficiency measures and conservation of consumption;
- conduct an analysis of how the program and plans will enable each EDC to achieve the load and peak demand reduction goals;
- create standards to ensure that each plan includes a variety of energy efficiency and conservation measures to be provided equitably to all classes of consumers;
- enact procedures to make recommendations as to additional measures that will enable an EDC to improve its plan and exceed the required reductions;
- enact procedures to require that EDCs competitively bid all contracts with third party entities;
- develop procedures to review all proposed contracts prior to the execution of the contract with third-party entities;
- enact requirements for the participation of conservation service providers in the implementation of all or part of a plan. A conservation service provider is an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an EDC.
- set forth procedures for the levy of assessments to fund plans, subject to limitations;
- direct an EDC to modify or terminate any part of an approved plan if, after an adequate period for implementation, it is determined that an energy efficiency or conservation measure included in the plan is not effective;
- approve or disapprove a plan within 120 days of submission. Where disapproval is given, describe in detail the reasons for disapproval; and

- by November 30, 2013, evaluate the costs and benefits of energy efficiency and conservation plans consistent with the total resource cost test or a cost versus benefit measurement, and if it determines that the benefits of the program exceed the costs, it shall adopt additional incremental required reductions in load and peak demand for the periods ending May 31, 2018 and May 31, 2017, respectively.

The Act directs each EDC by July 1, 2009 to develop and file an energy efficiency and conservation plan with the PUC. The energy efficiency and demand-side response programs within each EDC territory must:

- include specific proposals to implement energy efficiency and conservation measures to achieve or exceed the required reductions in load and peak demand;
- include provisions that a minimum of 10% of the required reductions be obtained from units of federal, state and local government, including municipalities, school districts, institutions of higher education and nonprofit entities;
- set forth the manner in which quality assurance and performance will be measured, verified and evaluated;
- provide for how the plan will achieve or exceed the reductions in load and peak demand;
- include a proposed cost-recovery tariff mechanism to fund the energy efficiency and conservation measures and to ensure recovery of prudent and reasonable costs of the plan; and
- demonstrate that the plan is cost-effective using the total resource cost test or other cost-benefit analysis approved by the PUC that provides a diverse cross section of alternatives for all consumer classes.

EDCs must submit a new plan to the PUC every five years or as otherwise required by the PUC.

EDCs must reduce the total annual deliveries to retail consumers (load reduction) as follows:

- by May 31, 2011, reduce the total annual weather-normalized consumption of the retail consumers (load reduction) by a minimum of 1% (this will be measured against the expected load forecasted by the PUC for June 1, 2009 through May 31, 2010, with provision made for weather adjustments and extraordinary loads that the EDC must serve).
- by May 31, 2013, reduce the total annual weather-normalized consumption of the retail consumers (load reduction) by a minimum of 3% (this will be measured against the expected load forecasted by the PUC for June 1, 2009, through May 31, 2010, with provision made for weather adjustments and extraordinary loads that the EDC must serve).

By May 31, 2013, EDCs must reduce peak demand by a minimum of 4.5% in the 100 hours of highest demand with provision made for weather adjustments and extraordinary load that the EDC must serve. This will be measured against the EDC's peak demand in the 100 hours of greatest demand for June 1, 2007, through May 31, 2008. Failure of an EDC to meet the required reductions will result in a civil penalty of not less than \$1 million but not more than \$20 million, which will not be a recoverable cost from rate payers. A similar penalty will attach for each 5 year period the required reductions were in place. If an EDC fails to achieve the required reductions by 2013, the responsibility to achieve the reductions will be transferred to the PUC, which will implement a plan to achieve the required reductions by contract with a conservation service provider.

The total cost of the plan cannot exceed 2% of the EDC's total annual revenue as of December 31, 2006. No more than 1% of the 2% of the EDC's revenue may be used for administrative costs.

Each EDC must submit an annual report to the PUC detailing the results of the energy efficiency and conservation plan. The report must include documentation of program expenditures, measurement and verification of energy savings, evaluation of the cost-effectiveness of expenditures, and any other information required by the PUC.

The Act requires EDCs to provide a list of all eligible Federal and State funding programs available to ratepayers for energy efficiency and conservation. Such information must be made available upon request and posted on the EDC's Internet website.

Under the Act, decreased revenues of an EDC due to reduced energy consumption or changes in energy demand are not considered a recoverable cost, except that such information may be reflected in revenue and sales data used to calculate rates in a distribution base rate proceeding.

The Act directs the PUC to establish a registry of approved people qualified to provide conservation services to all classes of consumers. The PUC will determine the experience and qualifications necessary in order to be included on the registry.

The Act requires EDCs to procure electricity pursuant to a PUC-approved competitive procurement plan that is designed to ensure adequate and reliable service and the least cost to customers overtime. EDCs must file a procurement plan with the PUC, which has 9 months to approve or disapprove the plan. Once approved, all plans are deemed to be reflecting the least cost over time. In evaluating the plan, the PUC must:

- consider the EDC's obligation to provide adequate and reliable service;
- consider whether the EDC obtained a prudent mix of contracts to obtain least cost on long-term, short-term and spot market basis;
- determine if the EDC plan includes prudent steps necessary to negotiate favorable generation supply contracts and to obtain the least cost generation supply contracts on a long-term, short-term and spot market basis; and
- determine whether neither the EDC nor its affiliated interest has withheld or asked to withhold from the market any generation supply which should have been utilized as part of the least cost procurement policy.

The electricity procured must include a prudent mix of spot market purchases; short-term contracts; and long-term contracts. The PUC is not authorized to modify contracts or disallow costs associated with the EDC procurement plan when it has reviewed and approved the results of the procurements; however the PUC is authorized to modify contracts or disallow costs when the contract has not been implemented as approved or does not comply with an approved plan or there has been fraud, collusion or market manipulation with regard to a contract. EDCs are authorized to recover on a full and current basis all costs incurred relating to the filing and implementation of a competitive procurement plan.

The Act requires EDCs, within 9 months after the effective date of the Act to file a smart meter technology procurement and installation plan with the PUC. Smart meter technology is metering technology and network communications technology capable of bidirectional communication and that records electricity usage on at least an hourly basis, directly provides consumers with information on their hourly consumption, enables time-of use and real-time price programs; and supports the automatic control of the consumer's electricity consumption by the consumer, the consumer's utility, or a third party.

EDCs are required to furnish smart meters to consumers upon the request of a consumer who agrees to pay for the cost of the smart meter; install smart meters in new building construction; replace existing meters with smart meters in accordance with a schedule of replacement of full depreciation of the existing meters not to exceed 15 years; and make available, with the consumer's consent, electronic access to consumer meter data to third parties,

including electric generation suppliers and providers of conservation and load management services.

By January 1, 2010, or at the end of the applicable generation rate cap period, EDCs are required to submit to the PUC one or more time-of-use rate and real-time price rate plans. A time-of-use rate is a rate that reflects the costs of serving consumers during different time periods, including off-peak and on-peak periods, but not as frequently as each hour. A real-time price rate reflects the different costs of energy during each hour. Once approved, EDCs are required to make each of these plans available to all residential and commercial consumers that have been provided with smart meters. Consumer participation in a time-of-use or real-time price rate plan is voluntary. EDCs are required to submit an annual report to the PUC detailing the participation of consumers in the rates schemes.

Lost or decreased revenues as a result of reduced electricity consumption due to smart meter technology cannot be considered recoverable cost for an EDC. Except that such information may be reflected in the revenue and sales data used to calculate rates in a distribution base rate proceeding. An EDC can recover reasonable and prudent costs of providing smart meter technology.

The Act directs that, in addition to any other rates that may be offered by the EDC, it must offer all residential and small business consumers a rate that cannot change more frequently than on a quarterly basis. Additionally, the PUC is required to make sure that there is no cross-class subsidization.

Submitted as:

Pennsylvania

HB 2200

Status: Enacted into law in 2008.