

Pennsylvania Legislative and Regulatory Action

Energy Efficiency/Conservation

House Bill 129 (Representative Greg Vitali) - Amends Act 129 of 2008 to make various changes to the act which include lifting the spending cap on energy efficiency programs, allowing electric distribution companies (EDCs) to recover lost revenue that results from energy efficiency programs and broaden the scope of the Act to include natural gas distribution companies. The bill is currently in the House Consumer Affairs Committee.

Senate Bill 805 (Senator Lisa Boscola) - Amends Act 129 to permit large industrial customers to opt out of the energy efficiency requirements of the Act. The bill provides EDCs the option of adjusting energy efficiency and peak demand targets to reflect those customers that have opted out. The bill was reported out of the Senate Consumer Protection and Professional Licensure Committee and awaits consideration by the full Senate. The electric industry is in the process of working with the industrial consumers advocacy group to come to an agreement to allow for an opt out while minimizing the financial impact of the EDCs in exchange for getting minor changes to the current law, including changing the penalty structure and eliminating the target in the law that requires reductions in demand response.

House Bills 393-396 (Representative Mike Reese) and Senate Bills 364-366 (Senator Don White) - These bills make various changes to the smart meter provisions under Act 129 such as requiring EDCs to obtain customer consent before providing metering data to a government agency, allowing customers to opt-out of receiving a smart meter and removing the mandate for EDCs to install smart meter technology. House Bill 395 (requiring customer consent) passed the House of Representatives in February and is currently in the Senate Consumer Protection and Professional Licensure Committee with the three Senate bills. The other two House bills are currently in the House Consumer Affairs Committee.

Ratemaking

House Bill 1436 (Representative Bob Godshall) - This legislation eliminates the consolidated tax adjustment (CTA) when setting rates. The CTA policy in Pennsylvania was set by the state appellate courts, not established through legislation. A majority of states and the federal government have concluded that the proper way to calculate a utility's federal income tax expense in this situation is on a "standalone" basis, so that the utility's recoverable tax expense is based upon its operations, not those of an unregulated affiliate. House Bill 1436 passed the House in February and the Senate in May. Governor Wolf allowed the bill to become law without his signature in June, making it Act 40 of 2016.

Safety of Utility Workers/Protection of Services

House Bill 120 (Representative Dom Costa) – Amends Pennsylvania's aggravated assault statute under the Pennsylvania Crimes Code to add crossing guards, volunteer firefighters, special fire police, and public utility employees or an employee of an electric

cooperative to the list of groups covered by the statute. House Bill 120 is currently in the House Judiciary Committee.

Senate Bill 765 (Senator Michele Brooks) – Amends Pennsylvania’s Vehicle Code to include utility line crews under the definition of “emergency responders” during declared disaster emergencies. Including utility line crews under this definition provides specific protections to crews working on or along roadways during an emergency. Senate Bill 765 passed the House and Senate in October and was signed into law by Governor Wolf, making it Act 61 of 2015.

Drones

House Bill 1339 (Representative Jeff Pyle) - Amends the PA Crimes Code to create the offense of unlawful use of unmanned aircraft. The intent of the bill is to combat the use of drones for the purpose of surveillance on private property. The bill provides for a number of exemptions, including a specific exemption for employees and agents of water, gas and electric utilities that utilize drones. The bill passed the House in June and is now in the Senate Judiciary Committee.

Senate Bill 971 (Senator Mike Folmer) - This legislation would create the Fourth Amendment Protection Act and impose a drone moratorium on usage of drones by law enforcement agencies. The bill does not prohibit the usage of drones by utilities. The industry is continuing to monitor the bill to ensure that the bill provisions are not expanded to include utilities. The bill is currently in the Senate State Government Committee.

Distributed Generation

PUC Net Metering Regulations- In February the PUC approved after a two year process final form regulations making various changes to the net metering provisions under the AEPS Act. Those changes included imposing a 200% size limit on projects, requiring independent load as well as exempting anaerobic digesters from the net metering provisions (in response to House Bill 1349 and Senate Bill 844). The Independent Regulatory Review Commission (IRRC) unanimously disapproved the regulations in May, ruling that the PUC did not have statutory authority to impose the size limits. The PUC resubmitted the regulations to the IRRC without the size limits. The IRRC unanimously disapproved the rulemaking for a second time in late June, citing inconsistencies throughout the regulations with the definition of “utility”. The PUC does have the ability to make the rulemaking final and enforceable by publishing in the PA Bulletin. Publication can be prohibited by the standing legislative committees of jurisdiction in the House and Senate, who would have to approve a resolution to disapprove the regulations. The Legislature recessed for the summer on July 13 and is not scheduled to return until mid-September.

Draft net metering legislation (Representative Robert Godshall) - Legislation is in the process of being introduced to provide the PUC with the necessary statutory authority it needs to impose size limits on net metering projects. The legislation will also include language to change the current compensation rate for net metering customers from full retail rate to wholesale rate.

House Bill 1349 (Representative David Zimmerman) and Senate Bill 844 (Senator Elder Vogel) - In response to the PUC's regulations on net metering, bills have been introduced in the House and Senate that amend Title 66 (Public Utility Code) to prohibit size restrictions for systems that burn methane from the anaerobic digestion of organic materials from yard waste. This particular technology is used in the agriculture industry. The bills are currently in the House Consumer Affairs Committee and Senate Consumer Protection and Professional Licensure Committee, respectively.

House Bill 2040 (Representative Fred Keller) - Amends the Alternative Energy Portfolio Standards Act to "close the border" on SREC purchases in order to raise Pennsylvania's SREC price. The bill would require all solar technology registered in Pennsylvania to deliver its output to Pennsylvania EDC's, essentially requiring Pennsylvania EDCs and EGSs to use the generation from Pennsylvania facilities to meet their SREC obligations under the AEPS Act. The bill is currently in the House Commerce Committee. A similar bill is in the process of being introduced in the Senate.

House Bill 100 (Representative Greg Vitali) and Senate Bill 743 (Senator Daylin Leach) – Amends Pennsylvania's Alternative Energy Portfolio Standards Act to increase minimum solar alternative energy portfolio standards from 0.5% by 2020 to 1.5% by 2023. The bills would also increase the Tier 1 requirement from 8% by 2021 to 15% by 2023. The bills are currently in the House Environmental Resources and Energy Committee and Senate Environmental Resources and Energy Committee, respectively.

House Bill 1354 (Representative Dan Moul) - Amends the Alternative Energy Portfolio Standards Act to add natural gas as a Tier II energy source. This bill is currently in the House Environmental Resources and Energy Committee.

Natural Gas Main Extensions

Senate Bill 738 (Senator Gene Yaw) – Ostensibly this bill is designed to promote the extension of distribution mains outside of current service territories. It requires natural gas utilities to file a plan with the PUC demonstrating a three-year plan on how to extend distribution mains, but without any real incentives. The bill provides for criteria that must be contained in the plan, including a ten-year payback for customer contributions. Despite direct opposition from two of the companies it was designed to help, the bill passed the Senate and is currently in the House Environmental Resources and Energy Committee.

House Bill 2393 (Representative Warren Kampf) – Would require each natural gas distribution company to file a petition with the PUC proposing a pilot or permanent program, including any necessary tariffs, to extend natural gas distribution service to unserved or underserved areas within its certificated service territory. The bill provides for the requirements of the program and for commission review. While not great, this bill is a big improvement over the Senate version. The legislation is currently in the House Consumer Affairs Committee and unlikely to move, given the Chairman's own bill, below.

HB 1946 (Representative Robert Godshall) – This bill allow for the recovery of dollars spent on gas main expansion projects under the "DSIC" portion of Act 11 of 2012. While this idea is intriguing, it presents some challenges and PA's gas utilities are working with the Chairman on another approach that would be more workable. The bill is still in the House Consumer Affairs Committee.

Gas Customer Choice

House Bill 57 (Representative John Payne) – HB 57 amends Section 1307 of the Public Utility Code with the intention of enhancing natural gas competition in the Commonwealth. The bill eliminates a confusing and asymmetrical interest rate structure, incentivizes accurate rate projections to minimize over and under collections and makes it easier for customers to make an "apples to apples" comparison between the gas supply rates offered by a natural gas distribution company and competitive suppliers.

The bill also eliminates the "migration rider" charged to customers who switch to a competitive supplier, and instead permits a natural gas distribution company, upon approval from the PUC, to include a non-bypassable charge on all customer bills in the event that a large number of customers migrate to competitive suppliers all at once. This will ensure that the costs incurred by the natural gas distribution company to purchase gas supply to meet its projected supplier of last resort obligation is not borne by a small number of non-shopping customers.

Finally, HB 57 clarifies that a natural gas distribution company may recover all reasonable costs incurred to implement customer choice. This includes necessary operational and billing changes as well as customer education initiatives. This cost recovery is similar to that provided to electric distribution companies to implement the Electric Choice Act and Act 129 of 2008.

The bill was without opposition, and quickly passed through the House and the Senate Committee process and was in position to move in June of 2015. Unfortunately, it got tangled in disagreements between the two Chambers during last year's epic budget debacle. Almost a year later, it was freed from its prison and now stands as Act 47 of 2016.

One Call Enforcement (Related to Underground Utilities)

House Bill 445 (Representative Matt Baker) and Senate Bill 1235 (Senator Lisa Baker) - The PUC has worked with the PA One Call Board on a proposal that will significantly alter one call enforcement in Pennsylvania. Enforcement authority for proper underground utility identification and related issues will be transferred from the Department of Labor and Industry to the PUC. The bill also extends the sunset provision of the law from December 2016 to December 2021. House Bill 445 is currently in the House Consumer Affairs Committee. Senate Bill 1235 was reported from the Senate Consumer Protection and Professional Licensure Committee and is currently in the Senate Appropriations Committee.

Because One Call expires this year, some kind of bill is expected to pass in the fall. However, the House Chairman is strongly opposed to giving the Commission enforcement authority and so we currently are at an impasse. At the time of this report, the Magic 8-ball reads "reply hazy, try again."