

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105**

**Compliance of Commonwealth  
of Pennsylvania with Section  
410(a) of the American Recovery  
and Reinvestment Act of 2009**

**PUBLIC MEETING April 16, 2009  
C-0008  
Docket No. I-**

**JOINT MOTION OF CHAIRMAN JAMES H. CAWLEY  
AND COMMISSIONER WAYNE E. GARDNER**

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009, Pub.L. 111-5 (Recovery Act), which, among other provisions, provided in Section 410(a) for additional state energy grants in excess of the base allocation of the State<sup>1</sup>. Grants totaling \$3.1 billion are available under the Federal State Energy Program. These additional grants were made contingent upon the Governor of the state notifying the Secretary of Energy, in writing, that certain conditions had been met. These conditions include the following provision:

The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

In response to this requirement, Governor Rendell issued a letter dated March 23, 2009, to the Honorable Stephen Chu, Secretary of the U.S. Department of Energy, certifying that he had written to the Pennsylvania Public Utility Commission asking that it ensure adoption of the general policy described in Section 410(a) of the Recovery Act.

On the same day, Governor Rendell issued a letter to Commission Chairman Cawley requesting that the Commission take specific steps to ensure that Pennsylvania met the conditions of the Recovery Act. In his letter, Governor Rendell asked that the Commission:

[C]onsider additional steps the Commonwealth can take to establish appropriate incentives in electric and natural gas utility rates for energy efficiency programs, consistent with State Law, the attached

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<sup>1</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 § 410(a), 123 Stat. 115 (2009).

statute [the Recovery Act], and relevant PURPA requirements. These include policies to align interest of utilities to support conservation, without raising the cost of conservation and increasing the cost to ratepayers of measurable, verifiable efficiency savings<sup>2</sup>.

Governor Rendell further asked the Secretary of the Pennsylvania Department of Environmental Protection to work with the Commission on this matter.

In compliance with the Recovery Act, and at the request of the Governor, we move that this Commission commence an investigation into the requirements of Section 410(a) of the Recovery Act. Specifically, this Commission should establish a comment and reply comment period for interested parties to provide recommendations for future Commission action through appropriate Orders, Policy Statements, or Regulations that will ensure compliance with the Recovery Act so that Pennsylvania consumers and businesses can optimally avail themselves of the opportunities provided by energy efficiency and renewable energy while the financial health of Pennsylvania's public utilities is maintained.

Additionally, we note that proposed federal energy legislation would mandate that our utilities reduce the amount of energy that they sell in order to conserve these valuable resources and protect the environment.<sup>3</sup> We wish to evaluate the effect that such federal legislation would have on our electric and natural gas utilities' business models.

**THEREFORE, WE MOVE THAT:**

1. Initial comments be submitted by interested parties within 60 days of entry of this Order and reply comments 30 days thereafter regarding any appropriate actions, Orders, Policy Statements, or Regulations that the Commission should adopt to ensure compliance with Section 410(a) of the American Recovery and Reinvestment Act of 2009, including the issue of rate decoupling and all such measures that have the potential to encourage utility energy efficiency and conservation while ensuring the financial viability of the utilities.
2. The Law Bureau draft the appropriate Order consistent with this Motion and be designated as the lead bureau to oversee the investigation.

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<sup>2</sup> Letter of Governor Edward G. Rendell to Chairman James H. Cawley, March 23, 2009

<sup>3</sup> The American Clean Energy and Security Act of 2009 introduced by Chairman Henry A. Waxman of the Energy and Commerce Committee and Chairman Edward J. Markey of the Energy and Environment Subcommittee.

3. A copy of this Order be served upon all jurisdictional electric and gas utilities, the Office of Consumer Advocate, and the Office of Small Business Advocate and published in the Pennsylvania Bulletin.

**DATE: April 16, 2009**

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**James H. Cawley, Chairman**

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**Wayne E. Gardner, Commissioner**