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**THE GENERAL ASSEMBLY OF PENNSYLVANIA**

SENATE BILL

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| No. | 596 | Session of  2019 |

INTRODUCED BY MENSCH, KILLION, BOSCOLA, BROWNE, COSTA, YUDICHAK, FARNESE, SANTARSIERO, BREWSTER, FONTANA, STREET, BLAKE, COLLETT, LEACH, ARGALL, LANGERHOLC, BARTOLOTTA, IOVINO, L. WILLIAMS, LAUGHLIN, J. WARD, PITTMAN, KEARNEY AND STEFANO, APRIL 30, 2019

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, OCTOBER 30, 2019

AN ACT

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in restructuring of electric utility industry, providing for transportation fueling infrastructure development.

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

Section 1. Title 66 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 2816. Transportation fueling infrastructure development.

(a) Findings and declarations.--The General Assembly finds and declares as follows:

(1) Rapid improvements in battery, fuel-cell, vehicle and equipment technologies are making electrified vehicles and equipment more competitive options for families, businesses, institutions and governmental organizations.

(2) Increased deployment of electric vehicles, equipment and infrastructure offers the opportunity to meet more of the Commonwealth's transportation needs with Pennsylvania-based resources while reducing dependence on the importation of transportation fuels.

(3) Approximately 5.6 million Pennsylvanians live in counties that are classified as being in nonattainment status with Federal clean air requirements and increased deployment of electric transportation technologies can improve public health and support economic development.

(4) Deploying infrastructure to support transportation electrification will require coordinated planning of transportation systems and electric infrastructure networks.

(5) Pennsylvania is a large and diverse state, and planning for infrastructure investment should appropriately reflect differences in regions and communities.

(6) Natural gas and hydrogen vehicles and equipment offer additional opportunities to meet the Commonwealth's transportation needs while investing in new technologies and reducing environmental impacts.

(b) Transportation electrification opportunity assessment.--In order to support economic development opportunities arising from new transportation technologies, ~~the Governor or a designee~~ ~~of the Governor shall conduct a Statewide transportation~~ ~~electrification opportunity assessment, including opportunities~~ ~~for hydrogen and other fuel-cell electric vehicles supported by~~ ~~electrical infrastructure, and~~ including opportunities for hydrogen and other fuel cell electric vehicles supported by electrical infrastructure, the commission shall establish a goal for Statewide expansion of transportation electrification that is 50% above current market forecasts for December 31, 2030, ~~in~~ ~~the assessment. The assessment shall be based on the forecasts~~ ~~of no less than three independent, nationally recognized~~ ~~analysts with expertise in transportation and energy market~~ ~~forecasting~~ based on existing governmental and private sector forecasts. The goal shall be established within 60 days of the effective date of this section. At the time the Statewide goal is established, the ~~Governor or a designee of the Governor~~ commission may also establish regional goals for each group of priority alternative transportation infrastructure counties that are served, in whole or in part, by an electric distribution company.

(c) Commission guidelines.--No later than 180 days after the effective date of this section, the commission shall issue transportation electrification infrastructure development plan guidelines for electric distribution companies addressing the following:

(1) The establishment of an essential public access network, including utility-owned electric vehicle charging stations and ~~nonutility-owned~~ third-party owned stations.

(2) The electrification of public transit, school bus, port, freight, rail and airport infrastructure, and central charging facilities serving medium, heavy-duty and governmental fleets. For the purpose of this paragraph, infrastructure may include connective and inductive charging technologies and electric infrastructure supporting hydrogen-fueled vehicles and equipment.

(3) The deployment of ~~nonutility-owned~~ third-party owned electric vehicle charging stations.

(4) Requirements to ensure that electric distribution company development plans with utility-owned charging stations and incentive programs are implemented in a competitive and nondiscriminatory manner and do not limit public access to charging stations owned by third parties not participating in utility incentive programs.

(5) Open standard communication protocols for electric vehicle charging stations and flexible payment options, including credit card reader and mobile payment options, to facilitate electric vehicle travel throughout this Commonwealth.

(6) Policies to encourage the deployment of charging infrastructure for electric vehicles and equipment in ~~low-~~~~income~~ disadvantaged communities and transit serving these communities.

(7) The procedures for approval of transportation electrification infrastructure development plans.

(d) Revised guidelines.--No later than one year before filing an updated transportation electrification infrastructure development plan required under subsection (j), the commission may issue revised guidelines to reflect technological developments and changes in market conditions.

(e) Transportation electrification infrastructure regional framework.--

(1) The Department of Transportation shall contract with a qualifying independent transportation analyst and coordinate withthe electric distribution company serving one or more priority alternative transportation infrastructure counties to develop a transportation electrification infrastructure regional framework for those counties.

(2) The regional framework development process shall include representatives from the Department of Environmental Protection, county and municipal governments of the priority alternative transportation infrastructure counties served by the electric distribution company, public transit organizations and the electric distribution company. The Department of Transportation shall invite representatives of regional planning commissions, school districts, owners of vehicle fleets, transportation network companies, nonprofit environmental organizations, experts in transportation electrification charging infrastructure, manufacturers of transportation electrification equipment and other participants and stakeholders in the transportation electrification market to participate in the regional framework development process.

(3) An electric distribution company serving less than 50,000 customers in a county is not required to participate in the development of the framework for that county.

(f) Transportation electrification infrastructure development plan.--

(1) An electric distribution company serving one or more priority alternative transportation infrastructure counties shall, consistent with the guidelines established under subsections (c) and (d), file a transportation electrification infrastructure development plan with the commission within one year of the establishment of a Statewide goal under subsection (b). The electric distribution company shall provide its transportation electrification infrastructure development plan as part of the transportation electrification infrastructure regional framework.

(2) The transportation electrification infrastructure development plan shall describe the company's proposal to support deployment of the transportation electrification infrastructure reasonably necessary to achieve the applicable regional goal established in accordance with subsection (b) or, if no regional goal is established, the Statewide goal established in accordance with subsection (b) as applied to the priority alternative transportation infrastructure counties served by the electric distribution company. The transportation electrification infrastructure development plan shall include strategies to optimize the use of the electric distribution grid and provide opportunities for the reduction of electric charging costs for customers, including time-of-use, demand management and other innovative rates.

(3) Subject to the guidelines established under subsections (c) and (d), the transportation electrification infrastructure development plan may include transportation electrification charging stations owned and operated by the electric distribution company and third parties, incentives for customers and third-party charging station owners and customer education programs related to installing or using transportation electrification charging stations.

(g) Commission approval.--

(1) The commission shall, after reasonable notice and hearing and within 270 days of submission, approve or disapprove each transportation electrification infrastructure development plan filed under subsection (f).

(2) If the commission does not approve a plan, the commission shall describe in detail the reasons for disapproval and the electric distribution company shall have 60 days to file a revised plan to address the deficiencies identified by the commission.

(3) A revised plan shall be approved or disapproved by the commission within 60 days.

(h) Recovery.--

~~(1)~~ An electric distribution company ~~shall~~ may seek to recover, in distribution rates established under section 1308 (relating to voluntary changes in rates) or 1330 (relating to alternative ratemaking for utilities), all reasonable and prudent costs incurred in the implementation of this section, including the costs of transportation electrification infrastructure regional frameworks and transportation electrification infrastructure development plans, transportation electrification infrastructure, including annual depreciation costs, capital costs over the life of transportation electrification charging technology and required distribution system upgrades, incentives and education provided in accordance with ~~an~~ a transportation electrification infrastructure development plan approved under subsection (g). The commission shall, in a rate proceeding subject to a full evidentiary process, determine the appropriate cost classification, allocation, and rate design for the just and reasonable recovery of prudently incurred costs under this section; such determination shall include the direct assignment and allocation of costs to customers benefitting from a specific electric vehicle charging station or other transportation electrification infrastructure.

~~(2) The costs recovered under paragraph (1) by an~~ ~~electric distribution company may not be otherwise~~ ~~recoverable from ratepayers.~~

(i) Limitation on costs.--The total annual costs charged to customers by an electric distribution company in implementing this section may not exceed 0.25% of the total annual customer bill amount for an electric distribution company, excluding bill amounts for electric energy, for the most recent 12-month period ending December 31, 2019, or the test year upon which distribution rates were established in the electric distribution company's most recent base distribution rate case proceeding.

(j) Additional regional frameworks and transportation electrification infrastructure development plans.--The Department of Transportation shall contract for an update of the regional framework required under subsection (e) and coordinate with the electric distribution company to file an updated transportation electrification infrastructure development plan required under subsection (f) after five years. ~~Additional regional frameworks and infrastructure development~~ ~~plans shall be developed after December 31, 2025, as directed by~~ ~~the commission.~~

(k) Voluntary development of transportation electrification infrastructure development plans.--An electric distribution company may file a transportation electrification infrastructure development plan ~~for commission approval~~ in accordance with this section for counties within the company's service territory that do not qualify as priority alternative transportation infrastructure counties. Plans filed under this subsection must include an affirmative written statement of support by the majority of the elected county representatives for any county included in the plan.

(l) Open access for public electric vehicle charging stations.--

(1) An electric vehicle operator who chooses to use a public electric vehicle charging station installed or operated with incentives authorized under a transportation electrification infrastructure development plan or by an electric distribution company shall not be required to enroll in a club, association or membership organization or pay a subscription fee as a condition to use the station. Nothing in this section shall prevent ~~nonutility~~ third-party owners and operators of electric vehicle charging stations that are installed or operated without incentives authorized under a transportation electrification infrastructure development plan from including those stations in a subscription or membership network with variable rate structures.

(2) The owner or lessee of a publicly available parking space, ~~whose primary business is not electric vehicle~~ ~~charging services~~ with an electric vehicle charging station, may restrict the use of that parking space, including by limiting use to employees, customers and visitors of the business.

(3) The owner or operator of a public electric vehicle charging station installed or operated with incentives authorized under a transportation electrification infrastructure development plan or by an electric distribution company shall disclose the station's geographic location, hours of operation, charging level, hardware compatibility, schedule of fees, accepted methods of payment and the amount of network roaming charges for nonmembers, if any, on an ongoing basis to the commission, the Department of Revenue and the United States Department of Energy National Renewable Energy Laboratory.

(m) Publicly funded electric vehicle charging stations.--Any ~~publicly funded~~ public electric vehicle charging station using electric distribution company ratepayer funds must use open standard communication protocols and be capable of being networked and submetered at the charging station or other on-site access location. A third-party owned and operated electric vehicle charging station may not be subject to the requirements of this subsection solely because:

(1) the electric distribution company has completed or will complete a necessary line extension to provide distribution service to the station; or

(2) the station takes services under an electric vehicle incentive rate offered by the electric distribution company.

(n) Construction.--This section may not be construed to limit in any manner the establishment of third-party owned and operated electric vehicle charging stations or establish commission jurisdiction to regulate third-party owned and operated electric vehicle charging stations that are established without ratepayer funds.

(o) Natural gas and propane-fueled transportation infrastructure assessment.--

(1) Within one year of the effective date of this section, the ~~Governor or a designee of the Governor~~ commission shall complete a Statewide assessment of current natural gas and propane-fueled vehicle usage and fueling infrastructure in this Commonwealth. The assessment shall identify opportunities and goals for the expansion of natural gas and propane-fueled vehicle usage and fueling infrastructure in this Commonwealth and make recommendations to the General Assembly ~~and the commission~~ to support the expansion.

(2) ~~The Governor or a designee of the Governor shall~~ ~~transmit the assessment and recommendations to the commission~~ ~~for posting~~ The assessment shall be posted on the commission's publicly accessible Internet website.

(p) Alternative fuels tax.--An electric distribution company or third party which owns an electric vehicle charging station shall be subject to the alternative fuels tax under 75 Pa.C.S. § 9004 (relating to imposition of tax, exemptions and deductions).

(q) Penalties.--No electric distribution company shall be subject to penalties for failure to meet the applicable goal established under subsection (b).

(r) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Battery electric vehicle." A motor vehicle that is powered partly or solely by a battery that can be recharged wirelessly or by plugging it into an external source of electricity and which motor vehicle meets the applicable Federal and State safety standards for on-road vehicles.

"Electric infrastructure supporting hydrogen-fueled vehicles and equipment." Electric infrastructure and equipment used to produce hydrogen for hydrogen-fueled vehicles and equipment.

"Electric vehicle charging station." A facility or equipment designed to charge batteries within battery electric vehicles by permitting the transfer of electric energy to a battery or other storage device in a battery electric vehicle. The facilities and equipment may charge batteries through connective or inductive means. The term includes stations which provide hydrogen to fuel-cell electric vehicles.

"Essential public access network." A system of charging stations located on high-volume transportation corridors and in high-population density urbanized areas for the purpose of ensuring public-access charging in these areas.

"Natural gas vehicle." A motor vehicle that can operate on compressed natural gas or liquid natural gas fuel, including dedicated bi-fuel and dual fuel vehicles.

"Priority alternative transportation infrastructure county." A county in this Commonwealth with at least 200,000 people that includes all or part of a metropolitan statistical area with a population of at least 500,000 people as defined by the United States Census Bureau.

"Public electric vehicle charging station." An electric vehicle charging station located at a publicly available parking space.

"Publicly available parking space." A parking space or other location that has been designated by a property owner or a lessee to be available to and accessible by the public, including on-street parking spaces and parking spaces in surface lots or parking garages. The term does not include a parking space that is part of or associated with a private residence, a parking space provided as a service by a producer of electric vehicles or a parking space that is reserved for the exclusive use of an individual driver or vehicle or for a group of drivers of vehicles, including employees, tenants, visitors or residents of a common interest development or residents of an adjacent building.

"Qualifying independent transportation analyst." A regional planning commission established in accordance with the laws of this Commonwealth or an independent analyst with demonstrated expertise in transportation modeling and forecasting.

"Transportation electrification." The use of electricity from external sources of electrical power, including the electrical grid, for all or part of vehicles, vessels, trains, boats or other equipment that are mobile sources of air pollution and greenhouse gases and the related programs and charging and propulsion infrastructure investments to enable and encourage this use of electricity.

"Transportation electrification infrastructure regional framework." A framework that provides the following information for the priority alternative transportation infrastructure counties served by the electric distribution company:

(1) The extent of ownership, leasing and usage of battery electric vehicles, including heavy-duty battery electric vehicles, as well as projected ownership, leasing and usage through December 31, 2030, or 15 years after the effective date of this section, whichever is later.

(2) The extent of nonroad transportation electrification usage and transportation electrification charging infrastructure.

(3) The additional transportation electrification charging infrastructure that is reasonably necessary to achieve the applicable regional goal established in accordance with subsection (b) or, if no regional goal is established, the Statewide goal established in accordance with subsection (b) as applied to the priority alternative transportation infrastructure counties served by the electric distribution company.

(4) Recommendations regarding the geographic distribution and general specifications of transportation electrification charging infrastructure identified in accordance with paragraph (3), including recommendations specific to the deployment of electric vehicle charging infrastructure to serve low-income communities, multiunit commercial, residential and mixed-use buildings and single-family residential homes.

Section 2. This act shall take effect in 60 days.