STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of General Services

The Executive Board approved a reorganization of the Department of General Services effective March 18, 2009.

The organization chart at 39 Pa.B. 1671 (April 4, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(*Editor's Note*: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 09-623. Filed for public inspection April 3, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of State

The Executive Board approved a reorganization of the Department of State effective March 18, 2009.

The organization chart at 39 Pa.B. 1672 (April 4, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(*Editor's Note*: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 09-624. Filed for public inspection April 3, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

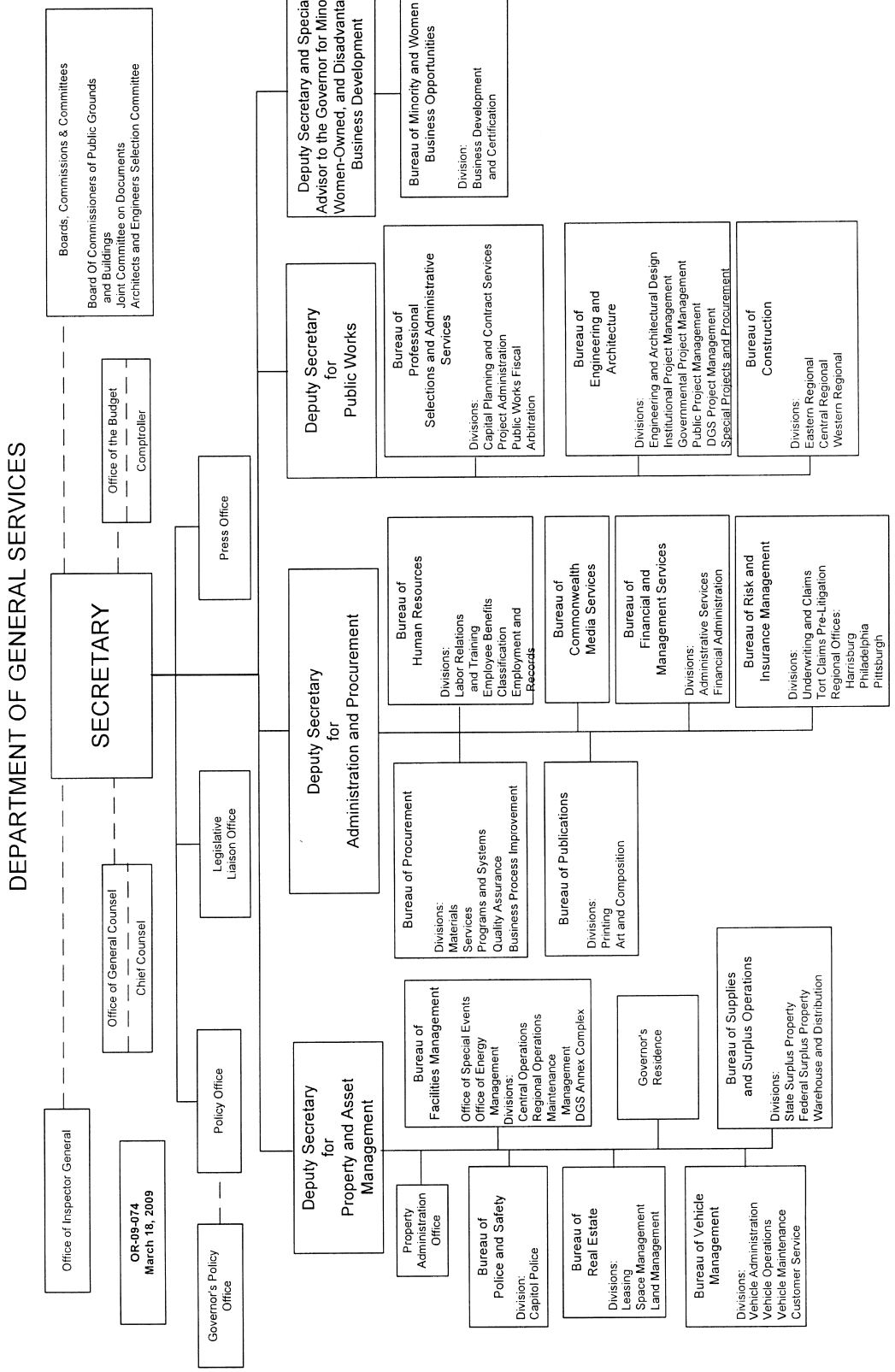
Reorganization of the Pennsylvania Game Commission

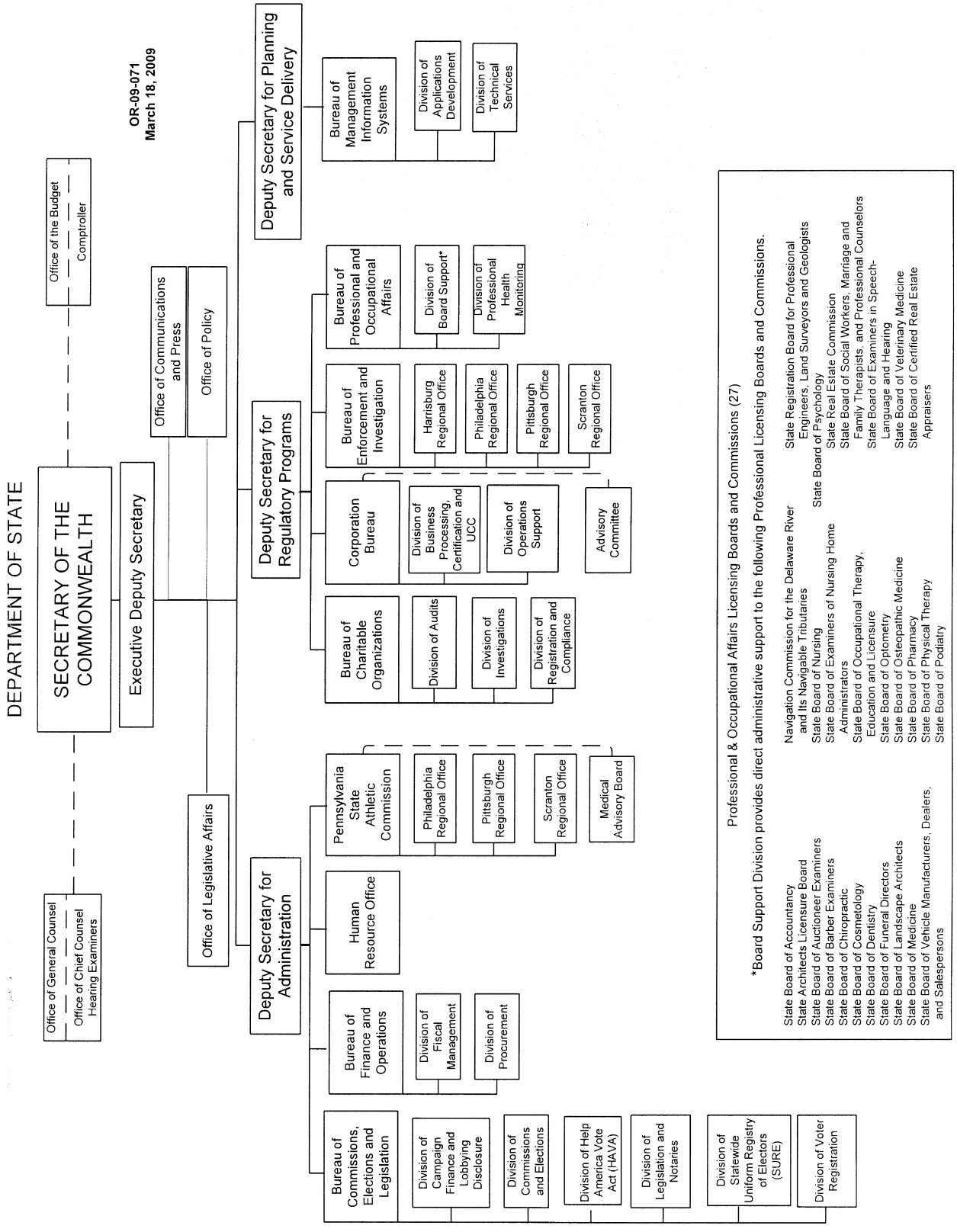
The Executive Board approved a reorganization of the Pennsylvania Game Commission effective March 18, 2009.

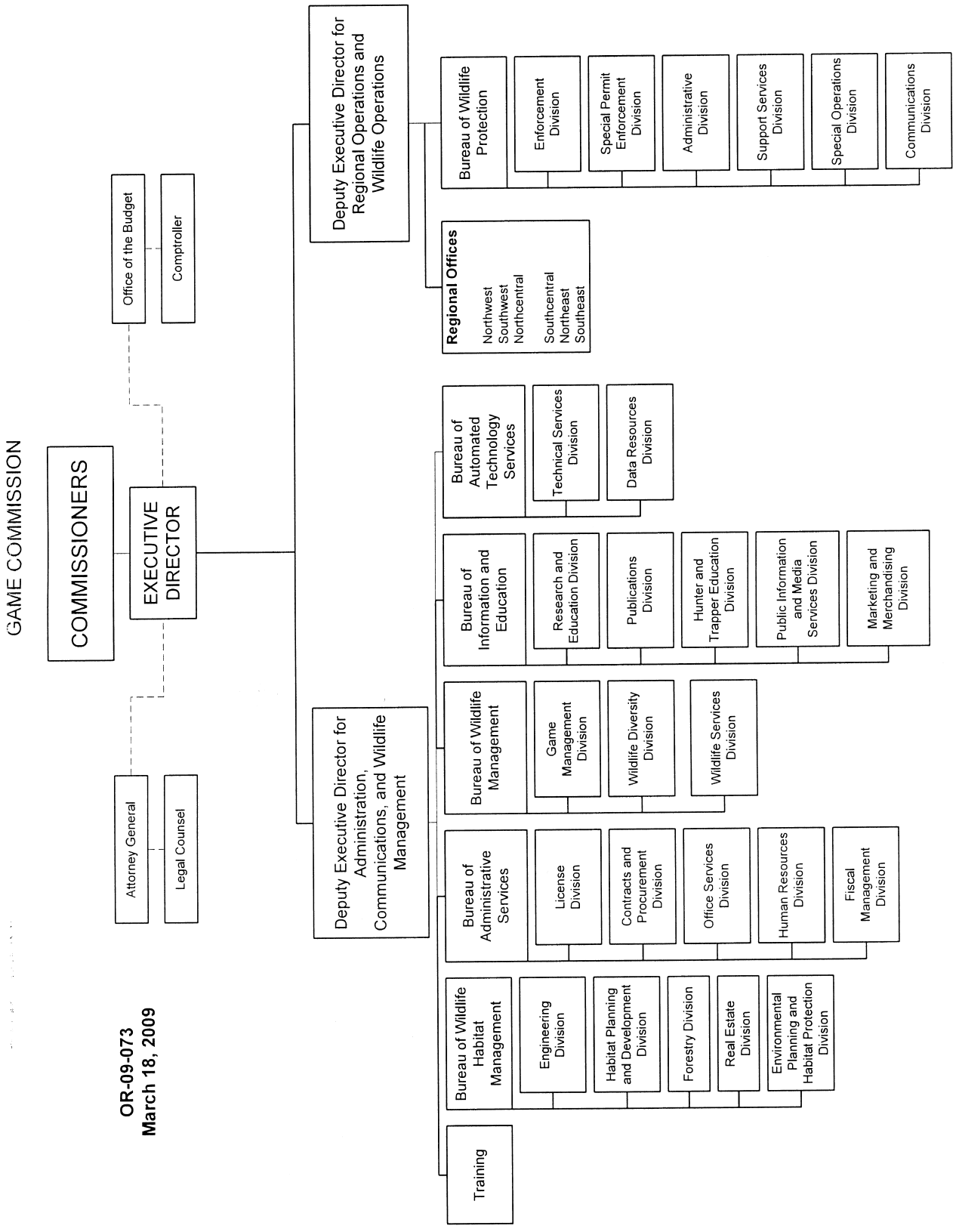
The organization chart at 39 Pa.B. 1673 (April 4, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(*Editor's Note*: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 09-625. Filed for public inspection April 3, 2009, 9:00 a.m.]


DEPARTMENT OF GENERAL SERVICES
SECRETARY
Boards, Commissions & Committees
Board Of Commissioners of Public Grounds and Buildings
Joint Committee on Documents
Architects and Engineers Selection Committee
Office of Inspector General
OR-09-074
March 18, 2009
Governor's Policy Office
Policy Office
Office of General Counsel
Chief Counsel
Legislative Liaison Office
Press Office
Office of the Budget
Comptroller
Deputy Secretary for Property and Asset Management
Property Administration Office
Bureau of Facilities Management
Office of Special Events
Office of Energy Management
Divisions:
Central Operations
Regional Operations
Maintenance Management
DGS Annex Complex
Governor's Residence
Bureau of Police and Safety
Division:
Capitol Police
Bureau of Real Estate
Divisions:
Leasing
Space Management
Land Management
Bureau of Vehicle Management
Divisions:
Vehicle Administration
Vehicle Operations
Vehicle Maintenance
Customer Service
Bureau of Supplies and Surplus Operations
Divisions:
State Surplus Property
Federal Surplus Property
Warehouse and Distribution
Deputy Secretary for Administration and Procurement
Bureau of Procurement
Divisions:
Materials
Services
Programs and Systems
Quality Assurance
Business Process Improvement
Bureau of Publications
Divisions:
Printing
Art and Composition
Bureau of Human Resources
Divisions:
Labor Relations and Training
Employee Benefits
Classification
Employment and Records
Bureau of Commonwealth Media Services
Bureau of Financial and Management Services
Divisions:
Administrative Services
Financial Administration
Bureau of Risk and Insurance Management
Divisions:
Underwriting and Claims
Tort Claims Pre-Litigation
Regional Offices:
Harrisburg
Philadelphia
Pittsburgh
Deputy Secretary for Public Works
Bureau of Professional Selections and Administrative Services
Divisions:
Capital Planning and Contract Services
Project Administration
Public Works Fiscal
Arbitration
Bureau of Engineering and Architecture
Divisions:
Engineering and Architectural Design
Institutional Project Management
Governmental Project Management
Public Project Management
DGS Project Management
Special Projects and Procurement
Bureau of Construction
Divisions:
Eastern Regional
Central Regional
Western Regional
Deputy Secretary and Special Advisor to the Governor for Minority, Women-Owned, and Disadvantaged Business Development
Bureau of Minority and Women Business Opportunities
Division:
Business Development and Certification


DEPARTMENT OF STATE
OR-09-071
March 18, 2009
SECRETARY OF THE COMMONWEALTH
Executive Deputy Secretary
Office of General Counsel
Office of Chief Counsel Hearing Examiners
Office of the Budget
Comptroller
Office of Communications and Press
Office of Policy
Office of Legislative Affairs
Deputy Secretary for Administration
Bureau of Commissions, Elections and Legislation
Division of Campaign Finance and Lobbying Disclosure
Division of Commissions and Elections
Division of Help America Vote Act (HAVA)
Division of Legislation and Notaries
Division of Statewide Uniform Registry of Electors (SURE)
Division of Voter Registration
Bureau of Finance and Operations
Division of Fiscal Management
Division of Procurement
Human Resource Office
Pennsylvania State Athletic Commission
Philadelphia Regional Office
Pittsburgh Regional Office
Scranton Regional Office
Medical Advisory Board
Deputy Secretary for Regulatory Programs
Bureau of Charitable Organizations
Division of Audits
Division of Investigations
Division of Registration and Compliance
Corporation Bureau
Division of Business Processing, Certification and UCC
Division of Operations Support
Advisory Committee
Bureau of Enforcement and Investigation
Harrisburg Regional Office
Philadelphia Regional Office
Pittsburgh Regional Office
Scranton Regional Office
Bureau of Professional and Occupational Affairs
Division of Board Support*
Division of Professional Health Monitoring
Deputy Secretary for Planning and Service Delivery
Bureau of Management Information Systems
Division of Applications Development
Division of Technical Services
Professional & Occupational Affairs Licensing Boards and Commissions (27)
*Board Support Division provides direct administrative support to the following Professional Licensing Boards and Commissions.
State Board of Accountancy
State Architects Licensure Board
State Board of Auctioneer Examiners
State Board of Barber Examiners
State Board of Chiropractic
State Board of Cosmetology
State Board of Dentistry
State Board of Funeral Directors
State Board of Landscape Architects
State Board of Medicine
State Board of Vehicle Manufacturers, Dealers, and Salespersons
Navigation Commission for the Delaware River and Its Navigable Tributaries
State Board of Nursing
State Board of Examiners of Nursing Home Administrators
State Board of Occupational Therapy, Education and Licensure
State Board of Optometry
State Board of Osteopathic Medicine
State Board of Pharmacy
State Board of Physical Therapy
State Board of Podiatry
State Board of Psychology
State Real Estate Commission
State Board of Social Workers, Marriage and Family Therapists, and Professional Counselors
State Board of Examiners in Speech-Language and Hearing
State Board of Veterinary Medicine
State Board of Certified Real Estate Appraisers
State Registration Board for Professional Engineers, Land Surveyors and Geologists


GAME COMMISSION
COMMISSIONERS
EXECUTIVE DIRECTOR
Office of the Budget
Comptroller
Attorney General
Legal Counsel
Deputy Executive Director for Regional Operations and Wildlife Operations
Bureau of Wildlife Protection
Enforcement Division
Special Permit Enforcement Division
Administrative Division
Support Services Division
Special Operations Division
Communications Division
Regional Offices
Northwest
Southwest
Northcentral
Southcentral
Northeast
Southeast
Deputy Executive Director for Administration, Communications, and Wildlife Management
Bureau of Automated Technology Services
Technical Services Division
Data Resources Division
Bureau of Information and Education
Research and Education Division
Publications Division
Hunter and Trapper Education Division
Public Information and Media Services Division
Marketing and Merchandising Division
Bureau of Wildlife Management
Game Management Division
Wildlife Diversity Division
Wildlife Services Division
Bureau of Administrative Services
License Division
Contracts and Procurement Division
Office Services Division
Human Resources Division
Fiscal Management Division
Bureau of Wildlife Habitat Management
Engineering Division
Habitat Planning and Development Division
Forestry Division
Real Estate Division
Environmental Planning and Habitat Protection Division
Training
OR-09-073
March 18, 2009

Title 37—LAW

PART III. AGENCIES AND OFFICERS

[37 PA. CODE CH. 96]

Interim Guidelines for the Implementation of the Recidivism Risk Reduction Incentive

The Department of Corrections (Department) has established guidelines for the implementation of 44 Pa.C.S. Chapter 53 (relating to recidivism risk reduction incentive) under section 9 of the act of September 25, 2008 (P. L. 1026, No. 81) which added 44 Pa.C.S. Chapter 53 (relating to recidivism risk reduction incentive).

A. *Effective Date*

The interim guidelines will become effective upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

Further information concerning the interim guidelines may be obtained from the Department of Corrections, 2520 Lisburn Road, P. O. Box 598, Camp Hill, PA 17001. The interim guidelines are published on the Department's web site at www.cor.state.pa.us.

C. *Statutory Authority*

The interim guidelines are published under 44 Pa.C.S. § 5308 (relating to written guidelines and regulations) which requires the Department, upon consultation with the Board of Probation and Parole, to develop written interim guidelines which are not subject to the Regulatory Review Act (71 P. S. §§ 745.1—745.25). The interim guidelines are effective for a period of 2 years and must be replaced with regulations promulgated consistently with the Regulatory Review Act within the 3-year period during which the interim guidelines are effective.

D. *Purpose and Background*

A growing body of scientific evidence indicates that the risks that an offender will commit additional crimes can be reduced through the completion of programs intended to address the offender's criminogenic needs. On September 25, 2008, Governor Rendell signed into law legislation that, inter alia, established the recidivism risk reduction incentive (RRRI). The RRRI seeks to improve public safety by encouraging offenders to complete programs that scientific evidence suggests may reduce the risk that the offender will commit a future crime.

The RRRI Act applies only to a select group of "eligible offenders" and not to all persons convicted of crime. Eligible offenders generally are low-risk offenders who have not committed personal injury crimes as defined in the Crime Victims Act (18 P. S. §§ 11.101—11.5102) or any violation of the 18 Pa.C.S. §§ 6101—6127 (relating to Uniform Firearms Act). Certain other offenses also are excluded from the eligible offender definition. Additionally, only those offenders being sentenced to a term of confinement in the Department are eligible for purposes of the RRRI.

A judge sentencing an eligible offender to confinement in the Department is required to impose both a traditional minimum sentence and a RRRI minimum sentence. A RRRI minimum sentence is not required if the eligible offender has previously been sentenced to two or more RRRI minimum sentences. The RRRI minimum sentence is equal to 3/4 of the minimum sentence if the traditional minimum sentence is 3 years or less and to 5/6 of the minimum sentence if the traditional minimum sentence is greater than 3 years.

The Department will conduct an assessment of the treatment needs and risks of eligible offenders it receives using Nationally recognized assessment tools. The results of the assessment will be used to develop a program plan that is designed to reduce the risk of recidivism using RRRI programs. An RRRI program is a program that scientific evidence suggests may reduce the risk that an offender will commit additional crimes. An offender who successfully completes the program plan, maintains a good conduct record, and continues to remain an eligible offender can be paroled on the RRRI minimum sentence date unless the Board of Probation and Parole determines that parole would present an unreasonable risk to public safety or that other specified conditions have not been satisfied.

E. *Paperwork*

The interim guidelines will not appreciably increase the paperwork requirements of the counties. Counties currently submit to the Department a Court Commitment form (DC-300B). The form will be modified to include information relevant to the RRRI minimum sentence. The Department will use the existing documentation and other evaluative tools in performing assessments.

F. *Fiscal Impact*

The interim guidelines will be fiscally neutral with respect to counties. The Department anticipates a savings of $42,784,000 through the first 5 years of the program.

JEFFREY A. BEARD, Ph.D.,
Secretary

(*Editor's Note*: Title 37 of the *Pennsylvania Code* is amended by adding a statement of policy in §§ 96.1—96.6 to read as set forth in Annex A.)

Fiscal Note: 19-SOP-10. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICERS

Subpart B. DEPARTMENT OF CORRECTIONS

CHAPTER 96. RECIDIVISM RISK REDUCTION INCENTIVE

Sec.

§ 96.1. Authority and purpose.

(a) On September 25, 2008, the RRRI was established under the act. The RRRI seeks to improve public safety by encouraging eligible offenders to complete programs that scientific evidence suggests may reduce the risk that the offender will commit a future crime. Eligible offenders generally are low-risk offenders who have not committed personal injury crimes as defined in the Crime Victims Act (18 P. S. §§ 11.101—11.5102), any violation of 18 Pa.C.S. Chapter 61 (relating to the Uniform Firearms Act) or certain other enumerated offenses. A judge sentencing an eligible offender to confinement in the Department generally is required to impose both a traditional minimum sentence and an RRRI minimum sentence equal to 3/4 of the minimum sentence if the traditional minimum sentence is 3 years or less and to 5/6 of the minimum sentence if the traditional minimum sentence is greater than 3 years.

(b) The Department will conduct an assessment of the treatment needs and risks of eligible offenders it receives using Nationally recognized assessment tools. The results of the assessment will be used to develop a program plan that is designed to reduce the risk of recidivism using RRRI programs. An RRRI program is a program that scientific evidence suggests may reduce the risk that an offender will commit additional crimes. An offender who successfully completes the program plan, maintains a good conduct record and continues to remain an eligible offender can be paroled on the RRRI minimum sentence date unless the Board determines that parole would present an unreasonable risk to public safety or that other specified conditions have not been satisfied.

(c) This chapter was established under the acts, and is intended to inform judges, prosecutors, defense counsel, defendants, court personnel and the general public about the RRRI.

§ 97.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—44 Pa.C.S. Chapter 53 (relating to recidivism risk reduction incentive).

Board—The Pennsylvania Board of Probation and Parole.

Court—The trial judge exercising sentencing jurisdiction over an eligible offender under the act or the president judge or the president judge's designee if the original trial judge is no longer serving as a judge of the sentencing court.

Defendant—An individual charged with a criminal offense.

Department—The Department of Corrections of the Commonwealth.

Eligible offender—A defendant or prisoner convicted of a criminal offense who will be committed to the custody of the Department and who meets the following eligibility requirements:

(i) Does not demonstrate a history of present or past violent behavior.

(ii) Has not been subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon as defined under law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, or the attorney for the Commonwealth has not demonstrated that the defendant has been found guilty of or was convicted of an offense involving a deadly weapon or offense under 18 Pa.C.S. Chapter 61 (relating to firearms and other dangerous articles) or the equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(iii) Has not been found guilty or previously convicted or adjudicated delinquent for or an attempt or conspiracy to commit a personal injury crime as defined under section 103 of the Crime Victims Act (18 P. S. § 11.103), or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(iv) Has not been found guilty or previously convicted or adjudicated delinquent for violating any of the following provisions or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation:

(A) 18 Pa.C.S. § 4302 (relating to incest).

(B) 18 Pa.C.S. § 5901 (relating to open lewdness).

(C) 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(D) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(E) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(F) 18 Pa.C.S. Chapter 76, Subchapter C (relating to Internet child pornography).

(G) Received a criminal sentence under 42 Pa.C.S. § 9712.1 (relating to sentences for certain drug offenses committed with firearms).

(H) Any offense listed under 42 Pa.C.S. § 9795.1 (relating to registration).

(v) Is not awaiting trial or sentencing for additional criminal charges, if a conviction or sentence on the additional charges would cause the defendant to become ineligible under this definition.

(vi) Has not been found guilty or previously convicted of violating section 13(a)(3)(14), or (37) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)(14)(3) or (37)), when the sentence was imposed under 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii), (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking sentencing and penalties).

Program plan—An individualized plan recommended by the Department that contains approved treatment and other approved programs designed to reduce recidivism risk of a specific prisoner.

RRRI—Recidivism Risk Reduction Incentive.

§ 96.3. RRRI programs.

(a) Before designating a program as an RRRI program, the Department will publish for public comment a detailed description of the program, the types of offenders who will be eligible to participate in the program, the name and citation of research reports that demonstrate the effectiveness of the proposed program and the name and address of a Department contact person responsible for receiving public comment. Publication will be made by placing the description on the Department's public web site (www.cor.state.pa.us) as well as publishing the description in the *Pennsylvania Bulletin* and delivering a copy of the list to the Judiciary Committee of the Senate, the Judiciary Committee of the House of Representatives, the Board, the Pennsylvania Commission on Sentencing and the Victim Advocate.

(b) Public comment will be received for at least 60 days following the date of publication in the *Pennsylvania Bulletin*. The Department will consider public comment received prior to designating a program as an RRRI program.

§ 96.4. Commitment documents.

The Department's Court Commitment Form (DC-300B) has been modified to enable the entry of the traditional minimum sentence, an RRRI minimum sentence and a maximum sentence. The DC-300B also includes an area in which court officials can indicate if the attorney for the Commonwealth waived the eligibility requirements. The DC-300B is included in the Administrative Office of the Pennsylvania Courts' electronic docketing system.

§ 96.5. Assessment and program plan.

(a) The Department will assess the treatment needs and risks of every defendant sentenced to an RRRI minimum sentence. Assessments will be made using Nationally-recognized assessment tools that have been normed and validated.

(b) The Department will develop a program plan designed to reduce the risk of recidivism through the use of RRRI programs that are appropriate for the particular defendant. The program plan may also include non-RRRI programs that the Department in its sole discretion believes are appropriate for the particular defendant.

(c) Each defendant sentenced to an RRRI minimum sentence will be advised and asked to acknowledge that he is required to successfully complete the program plan. If the defendant refuses to sign the acknowledgement, a Department staff member will note the refusal to sign the acknowledgement.

§ 96.6. Notification to the Board and certification.

(a) The Department will, in a manner agreed to between the Board and the Department, inform the Board when a defendant who is scheduled for parole review is serving an RRRI minimum sentence.

(b) For each defendant serving an RRRI minimum sentence, the Department will, in a manner agreed to between the Board and the Department, and if appropriate, certify to the Board that the following conditions have been met:

(1) The Department conducted an appropriate assessment of the treatment needs and risks of the defendant using Nationally-recognized assessment tools that have been normed and validated.

(2) The Department developed a program plan based upon the assessment that was designed to reduce the risk of recidivism through the use of RRRI programs authorized and approved under the act that were appropriate for the particular defendant.

(3) The Department advised the defendant that he was required to successfully complete the program plan.

(4) The defendant successfully completed all required RRRI programs or other programs designated in the program plan.

(5) The defendant maintained a good conduct record following imposition of the RRRI minimum sentence. For purposes of this paragraph, generally a defendant may be deemed to have maintained good conduct if he incurred no more than one Class 1 misconduct or two Class 2 misconducts while incarcerated with the Department. However, reviewing staff shall have discretion to certify or refuse to certify that a defendant maintained good conduct based upon the totality of the defendant's conduct with the Department.

(6) The defendant continues to be an eligible offender.

(c) The Department will continue to monitor the factors in subsection (b) until the defendant has been actually released from custody and will notify the Board of any material change in one or more of the factors.

[Pa.B. Doc. No. 09-626. Filed for public inspection April 3, 2009, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

Interconnection Application Fees

The Pennsylvania Public Utility Commission (Commission) on February 26, 2009, adopted a final policy statement which establishes standards fees for interconnection in this Commonwealth.

Public Meeting held
February 26, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Interconnection Application Fees; M-00051865

Policy Statement

By the Commission:

The Commission issued a proposed Policy Statement at this docket on June 26, 2008 (June 26 Order). The proposed Policy Statement set forth a series of standard fees for interconnection applications, reviews of generating facilities and completion of the interconnection underto the Commission's Regulations at 52 Pa. Code §§ 75.21, 75.22, 75.31—75.40 and 75.51. The standard fees established in this Policy Statement will be presumed reasonable. An Electric Distribution Company (EDC) that wishes to deviate from the standard fees set forth in this Policy Statement will be required to file for Commission approval of any such deviation. The EDC will have the burden of proof to establish, in an on the record proceeding, that the proposed deviation is justified. June 26 Order at 3.

The proposed fee structure and levels are based, in part, on the fee schedule established in New Jersey, consistent with the directive set forth in the Alternative Energy Portfolio Standards Act (AEPS) (73 P. S. § 1648.5). There, this Commission is directed to establish interconnection rules "consistent with rules defined in other states within the service region of the regional transmission organization that manages the transmission system in any part of this Commonwealth." The fee structure set forth in this Policy Statement is aligned with the levels of review for interconnection requests in Pennsylvania, Levels 1 through 4. We departed from the New Jersey structure in the Proposed Policy Statement by proposing a flat fee of $250 for Level 1 reviews. New Jersey did not have a fee for Level 1 reviews. June 26 Order at 5. We will revisit the issue of fees for Level 1 reviews in this Opinion and Order.

The balance of the review levels tracked the New Jersey fee structure by providing for a base fee and a per-kW fee tied to the nameplate capacity of the proposed generating facility. For Level 2, the base fee was proposed

to be $250 with a per-kW fee of $1 for the nameplate capacity rating of the generating facility. For Level 3, the base fee was proposed to be $350 with a per-kW fee of $2. June 26 Order at 5. We also noted that there are various studies and analyses that may be required in the higher level projects. Again, we adopted the New Jersey model and provided for a cap on hourly charges that would apply to such studies and analyses. Hourly fees for studies and analyses may not exceed $100 per hour for Levels 2 and 3. June 26 Order at 8.

New Jersey does not have a Level 4 review as does Pennsylvania. Because of the nature of a Level 4 review, it could mimic reviews for Level 1, Level 2 or Level 3. Accordingly, we proposed that in those instances, the fee for a Level 4 review would be consistent with the fee levels for the applicable level of review actually performed, even though it is classified as a Level 4 review. For actual Level 4 reviews on larger capacity systems that do not mimic a different review level, we proposed to use the Level 3 review fee structure. June 26 Order at 6.

The June 26 Order and the Annex containing the proposed Policy Statement were published at 38 Pa.B. 4107 (August 2, 2008). Comments to the proposed Policy Statement were received from the Office of Consumer Advocate (OCA), the Department of Environmental Protection (DEP), The Mid-Atlantic Solar Energy Industries Association and The Solar Alliance (collectively, The Solar Alliance), the Energy Association of Pennsylvania (EAP), Duquesne Light Company (Duquesne) and Metropolitan Edison Company and Pennsylvania Power Company (collectively, First Energy).

Initially, we note that those parties which commented specifically on the use of a policy statement for the establishment of interconnection fees favored this approach. In particular, First Energy notes that the use of a policy statement provides for the flexibility needed to review and, if needed, change the various fee structures and levels over time as changing circumstances warrant. First Energy Comments at 2. Each of the parties that filed comments favor a uniform fee approach across the Commonwealth. The structure and level of the fees proposed generated some disagreement among the commenting parties.

Level 1 Reviews

With regard to Level 1 Reviews, The Solar Alliance, the OCA and the DEP all recommended that no fee be charged. These parties commented that New Jersey does not charge a fee and suggested that Pennsylvania should attempt to remain consistent with surrounding states. See such as, The Solar Alliance Comments at 2; OCA Comments at 2-4; DEP Comments at 1-2. Interestingly, the The Solar Alliance submitted information regarding existing EDC fees for small generation facilities (up to 40 kW). According to The Solar Alliance, such fees range from flat fees of $35 to $100 for solar photovoltaic (PV) systems and up to $300 for nonsolar PV systems. The Solar Alliance Comments at 2.

Conversely, Duquesne comments that a $250 Level 1 fee will not compensate it for the time necessary to evaluate a Level 1 application through to actual interconnection. Duquesne states that the average Level 1 application will require approximately 8.5 hours of time at an average cost of $80 per hour (including vehicles). Thus, Duquesne states that the average Level 1 application costs approximately $680. Duquesne Comments at 2-3.

The EAP comments that a variety of factors have an impact on solar development. However, the EAP states that it would "support an application fee of $250 for Level 1, noting the actual costs would be partially subsidized and noting the likelihood that Level 1 applicants will also need to obtain a permit from the local government entity." EAP Comments at 7. First Energy supports the EAP Comments. First Energy Comments at 4.

In our view, the DEP and The Solar Alliance have proposed a fair compromise which resolves the discussion around the proposed $250 Level 1 fee and no fee at all in Level 1 applications. The DEP and The Solar Alliance each propose a Level 1 flat fee of $100 if any fee must be imposed. The DEP Comments at 2; Solar Alliance Comments at 2. We also note that the OCA suggested that if any fee must be imposed, the OCA recommends a reduction to some level below the proposed $250. OCA Comments at 4.

We are aware that the EAP, First Energy and Duquesne have expressed concerns that even the proposed amount of $250 will not compensate EDCs for their costs in evaluating Level 1 applications. However, we must balance that assertion with the AEPS directive that we try to remain consistent with neighboring states. In addition, the Level 1 process is expressly designed to be the most simplified interconnection process. These are low capacity, pre-certified systems. Over time, we expect the EDCs and the solar industry to become more familiar with these systems which will result in a reduction in EDC efforts to process these types of applications. As we have stated, because these standardized fees are established through a Policy Statement, we will periodically review the fee levels. If these fee levels require adjustment, we will be able to do so.

Given the AEPS Act's promotion of alternative energy sources, in particular solar based systems, we find that a standard fee for Level 1 applications of $100 is appropriate. We are also persuaded by the OCA, The Solar Alliance and the DEP that the lower fee is necessary to put Pennsylvania on a better footing in comparison to sister states which are also competing for these types of installations. See *e.g.*, OCA Comments at 2-3.

Levels 2 and 3

Our proposed fees for Levels 2 and 3 include a base fee depending on the review level and a per-kW fee based on the nameplate capacity of the generating facility to be interconnected. For Level 2, the base fee proposed was $250 plus $1 per kW of nameplate capacity. For Level 3, the base fee proposed was $350 plus $2 per kW of nameplate capacity. The escalation in fee levels are designed to account for the increasing complexity of Level 2 and then Level 3 reviews.

Our interconnection Regulations also provide that there may be additional studies required at these Levels. For example, our 52 Pa. Code § 75.38(e) provides that additional studies may be required in the event that one or more Level 2 screens were failed by the proposed generator facility. Another example is found in 52 Pa. Code § 75.39(b)(5) relating to Level 3 interconnection feasibility studies. As was done in New Jersey, we provided for a cap on the cost of such studies at no more than $100 per hour. Finally, we noted that in the event that an application did not meet the requirements of the level of review initially sought, the application could be resubmitted under another review procedure and the EDC could impose a fee consistent with the new level of review.

The EAP proposed increasing the base fee for Level 2 applications from $250 to $350. The EAP also proposed increasing the per kW fees for Level 2 applications from

$1 per kW to $2 per kW. The EAP also proposed increasing the per kW fees for Level 3 applications from $2 to $3. The EAP stated that its proposed increases "better reflect actual costs; otherwise all ratepayers would be subsidizing the costs associated with processing interconnection applications . . ." EAP Comments at 6. The EAP also observes that its proposed fee schedule "is dramatically lower than those charged by utilities in other jurisdictions and mindful of the fees likely to be charged by municipalities." Id. at 10.

The DEP expresses concerns about combining a base fee with an escalating fee on a kW nameplate capacity basis. The DEP states that "some larger projects may pay base fees that exceed reasonable and prudent costs actually incurred by the EDCs for application review." DEP Comments at 2. The DEP suggests that its concerns arise, in part, from the proposed engineering and analyses fee of $100 per hour. The DEP recommends that we revise the fees to institute a cap that allows EDCs to collect no more than reasonable costs actually associated with application review. Alternatively, the DEP suggests that we impose the requirement that EDCs track actual application review time and credit excess application fees to any engineering and interconnection study costs. Id.

The Solar Alliance presents concerns similar to those advanced by the DEP. The Solar Alliance observes that the Level 2 and Level 3 fees in New Jersey are lower than those proposed here. The base fee for Level 2 reviews in New Jersey is $50 and the base fee for Level 3 reviews is $100. The Solar Alliance states that it is more concerned with the per kW fee. The Solar Alliance suggests that a cap of $500 be placed on the per kW nameplate capacity charge if the application involves inverter equipment which meets the IEE 1547 and UL 1741 standards. If additional review is required, the Solar Alliance suggests that the $100 per hour charge could apply at that point provided that the Customer-generator receives an estimate of those fees in advance. Solar Alliance Comments at 2-3.

The Solar Alliance also requests that clarification be made regarding application fees in the event an application is resubmitted under a different level of review. The Solar Alliance requests that it be made clear that the EDC would be permitted to charge only the incremental cost of the second review, not a full application fee. In the event that a higher fee was initially imposed than actually required under the resubmitted level, the EDC should refund the incremental difference. Solar Alliance Comments at 3-4.

We find that the fee structure and levels proposed for Levels 2 and 3 are appropriate at this point in time. We are mindful of the example provided by The Solar Alliance in which a 3 MW solar PV project submitted under a Level 3 application would result in a $6,350 application fee. Although the resulting fee appears large, it must be viewed in perspective. A 3 MW solar PV installation is an extremely large project which may, or may not, be interconnected at the distribution level. We do not find, at this point in time, that a $6,350 application fee for a 3 MW capacity plant is unreasonable. We note that The Solar Alliance does not supply information regarding the overall cost of the installation and the size of the application fee in relationship to that cost. It is highly doubtful that such an application fee would be considered an impediment to such a project. The Solar Alliance has presented no information which would suggest that is the case.

We do agree with The Solar Alliance and the DEP that certain clarifications should be made. First, concern has been expressed with regard to the $100 hourly cap for engineering and other studies. We emphasize that the $100 per hour fee is a cap and consistent with the New Jersey fee schedule. It is to be hoped that charges will be less than that figure, but they can be no more. The Policy Statement should not be viewed as setting engineering and study fees at $100 per hour. We also note that our Regulations expressly provide for good faith estimates when higher levels of engineering studies are required before a customer-generator agrees to such studies. See *e.g.*, 52 Pa. Code § 75.39(b)(5) (relating to Level 3 Reviews).

We are also persuaded that, in those instances when an application is resubmitted under a different level, the EDC should be entitled to recover only the additional incremental cost of the second review, not a full application fee. This would include a refund of an incremental amount due to an initial application fee that is higher than the application fee at the resubmitted level.

We have considered the various comments that suggest tracking of costs and crediting application fees toward such costs before moving to the per-kW charge. We have also considered the comments which propose a cap on the per-kW charge. However, those application fee structures are in line with the New Jersey fee structure and are an integral aspect of uniform charges. Other than evaluation studies for higher level reviews, for which good faith estimates are required, the fees stated herein permit Customer-generators and their vendors to know what the project application fees will be up front. Over time, we expect that the evaluation studies themselves will become fairly well established with substantial uniformity in cost as all parties become familiar with them. It is also expected that, as more and more studies are performed, the cost should decrease as more information and data will be available from prior studies. Again, we would expect to obtain information on that aspect of the application fees as this Policy Statement is examined in the future.

Level 4 Reviews

As we stated in the June 26 Order, Level 4 Reviews will be conducted in a variety of circumstances. In those instances when a Level 4 application is processed using the Level 1, Level 2 or Level 3 review process, the fees set forth for those particular review levels shall apply. No fee shall be assessed for an area network impact study conducted under 52 Pa. Code § 75.40. A Level 4 application reviewed under 52 Pa. Code § 75.40(d) (relating to Level 4 interconnection review) shall be subject to a base fee of $350 plus $2 per kW of the nameplate capacity rating of the customer-generator's facility. If an application is denied because it does not meet the requirements of a Level 4 review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee representing the incremental costs for the resubmitted application consistent with the fees established for the new level of review. This is consistent with our discussion of Level 2 and Level 3 reviews, previously.

Based on the foregoing discussion, the Commission will establish the following standard fee schedule for interconnection applications in this Commonwealth:

Level 1—flat fee of $100. If an application is denied because it does not meet the requirements of a Level 1 review, and the applicant resubmits the application under

another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application, consistent with the fees established for the new level of review.

Level 2—base fee of $250 plus $1 per kW of the nameplate capacity rating of the Customer-generator's facility, plus the cost of any minor modifications to the EDC's distribution system or additional review if required under 52 Pa. Code § 75.38. Costs for such minor modifications or additional review shall be based on EDC estimates and shall be subject to review by the Commission at the request of either party. Costs for engineering work done as part of any additional review shall not exceed $100 per hour. If an application is denied because it does not meet the requirements of a Level 2 review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application, consistent with the fees established for the new level of review.

Level 3—base fee of $350 plus $2 per kW of the nameplate capacity rating of the Customer-generator's facility, plus the cost of any feasibility studies, system impact studies and/or facilities studies required under 52 Pa. Code § 75.39. Costs for engineering work done as part of a feasibility study, system impact study or facilities study shall not exceed $100 per hour. If the EDC must install facilities in order to accommodate the interconnection of the Customer-generator facility, the cost of such facilities shall be the responsibility of the Customer-generator. If an application is denied because it does not meet the requirements of a Level 3 review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

Level 4—in those instances when a Level 4 application is processed using the Level 1, Level 2 or Level 3 review process, the fees set forth in those particular review levels shall apply. No fee shall be assessed for an area network impact study conducted under 52 Pa. Code § 75.40. A Level 4 application reviewed under 52 Pa. Code § 75.40(d) shall be subject to a base fee of $350 plus $2 per kW of the nameplate capacity rating of the Customer-generator's facility. If an application is denied because it does not meet the requirements of a Level 4 Review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

Conclusion

Based on the foregoing discussion, we will adopt this Policy Statement regarding standard fees for interconnection in Pennsylvania; *Therefore,*

It Is Ordered That:

1. The amendments to Chapter 69 (relating to general orders, policy statements and guidelines on fixed utilities) as set forth in Annex A are adopted.

2. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. The Policy Statement shall become effective upon publication in the *Pennsylvania Bulletin*.

5. A copy of thiso order shall be posted on the Commission's public Internet domain and served on the Office of Consumer Advocate, the Office of Small Business Advocate, and all participants in the Commission's Interconnection Standards Working Group.

6. The contact persons for this matter are Greg Shawley, Bureau of Conservation, Economics and Energy Planning, (717) 787-5369 (technical) and H. Kirk House, Office of Special Assistants, (717) 772-8495 (legal).

By the Commission

JAMES J. MCNULTY,
Secretary

(*Editor's Note*: Title 52 of the Pa. Code is amended by adding a statement of policy in §§ 69.2101—69.2103 to read as set forth at 38 Pa.B. 4107 (August 2, 2008); and by adding § 69.2104 to read as set forth in Annex A.

For a notice relating to this Statement of Policy, see 39 Pa.B. 1657 (April 4, 2009).)

Fiscal Note: 57-263. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS

POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

INTERCONNECTION APPLICATION FEES

§ 69.2104. Interconnection application fees.

The following fee structures and fees will be deemed appropriate for use by electric distribution companies when processing interconnection applications filed under §§ 75.21, 75.22, 75.31—75.40 and 75.51 (relating to interconnection standards):

(1) *Level 1 applications*. If an application is denied because it does not meet the requirements of a Level 1 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

(2) *Level 2 applications*. Base fee of $250 plus $1 per kW of the nameplate capacity rating of the customer-generator's facility, plus the cost of any minor modifications to the electric distribution company's distribution system or additional review if required under § 75.38 (relating to Level 2 interconnection review). Costs for minor modifications or additional review must be based on electric distribution company estimates and must be subject to review by the Commission at the request of either party. Costs for engineering work done as part of any additional review should not exceed $100 per hour. If an application is denied because it does not meet the requirements of a Level 2 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution

company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

(3) *Level 3 applications.* Base fee of $350 plus $2 per kW of the nameplate capacity rating of the customer-generator's facility, plus the cost of any feasibility studies, system impact studies or facilities studies required under § 75.39 (relating to Level 3 interconnection review). Costs for engineering work done as part of a feasibility study, system impact study or facilities study should not exceed $100 per hour. If the electric distribution company must install facilities to accommodate the interconnection of the customer-generator facility, the cost of the facilities shall be the responsibility of the customer-generator. If an application is denied because it does not meet the requirements of a Level 3 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

(4) *Level 4 applications.* In those instances when a Level 4 application is processed using the Level 1, Level 2 or Level 3 review process, the fees set forth for those particular review levels should apply. A fee may not be assessed for an area network impact study conducted under § 75.40 (relating to Level 4 interconnection review). A Level 4 application reviewed under § 75.40(d) should be subject to a base fee of $350 plus $2 per kW of the nameplate capacity rating of the customer-generator's facility. If an application is denied because it does not meet the requirements of a Level 4 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

[Pa.B. Doc. No. 09-627. Filed for public inspection April 3, 2009, 9:00 a.m.]