

**§4706. Commission authority to adopt alternative rate-making mechanisms**

**1. Alternative rate-making mechanisms.** This Title may not be construed to prohibit the commission from or to restrict the commission in establishing or authorizing any reasonable alternative rate-making mechanisms for gas utilities to promote efficiency in operations, create appropriate financial incentives, promote rate stability and promote equitable cost recovery. Alternative rate-making mechanisms may include, but are not limited to:

- A. Multiyear rate-making plans that cap or otherwise establish mechanisms for future rate or revenue changes; [PL 1997, c. 707, §10 (NEW).]
- B. Reconciliation of actual revenues or costs with projected revenues or costs; [PL 1997, c. 707, §10 (NEW).]
- C. Adjustment of rates or revenues based on the use of any index, formula, forecast or projection; [PL 1997, c. 707, §10 (NEW).]
- D. Adjustment of rates or revenues based on an earnings-sharing, range-of-freedom or rate-stability plan; [PL 1997, c. 707, §10 (NEW).]
- E. Positive or negative financial incentives; and [PL 1997, c. 707, §10 (NEW).]
- F. Streamlined regulation or deregulation of services or entities when regulation is not required to protect the public interest. [PL 1997, c. 707, §10 (NEW).]

In adopting an alternative rate-making mechanism, the commission may consider the costs of regulation, the benefits of the rate plan to the utility and to ratepayers, the impact on economic development, the reallocation of risk between investors and ratepayers, the development of a competitive market for gas services that are not natural monopolies and any other factor relevant to the establishment or authorization of an alternative rate-making mechanism. Prior to adopting an alternative rate-making mechanism, the commission shall consider the need for a rate case in order to establish a base line for the alternative rate-making mechanism.  
[PL 1997, c. 707, §10 (NEW).]

**2. Adoption of rate-making mechanisms.** Upon the filing of an application for a rate plan by a gas utility, or upon the commission's own motion, the commission, in an adjudicatory proceeding, may adopt alternative rate-making mechanisms for any gas utility in the State. The alternative rate-making mechanisms need not conform with chapter 3 to the extent that the provisions of chapter 3 require the use of rate-base, rate-of-return or any other specific form of regulation of the rates of a gas utility or to the extent that the provisions of chapter 3 give any party, including the gas utility, the right to petition to change rates for gas services. This section may not be construed to limit the authority of the commission under section 1322.  
[PL 1997, c. 707, §10 (NEW).]

**3. Just and reasonable rates.** In determining the reasonableness of any rate-adjustment mechanism established under this subchapter, the commission shall apply the standards of section 301 to ensure that the rates resulting from the implementation of a rate-adjustment mechanism are just and reasonable. Prior to the adoption of a new or replacement alternative rate plan or renewal of any existing alternative rate plan, the commission shall, in order to ensure that rates at the starting point of the plan are just and reasonable, conduct a revenue requirement and earnings review pursuant to the standards of section 301. In conducting such a review under this subsection, the commission, at its discretion, may conduct the review in a manner designed to minimize the cost of the review to ratepayers.  
[PL 2003, c. 45, §2 (AMD).]

**4. General safeguards.** In adopting alternative rate-making mechanisms, the commission shall consider appropriate consumer and competitive safeguards.

[PL 1997, c. 707, §10 (NEW).]

**5. Rate flexibility.** Notwithstanding sections 307 and 703, the commission, in an adjudicatory proceeding, may authorize a gas utility to implement a program under which:

A. The utility may change its schedule of rates with limited notice to the commission; and [PL 1997, c. 707, §10 (NEW).]

B. The utility may enter into contracts for the sale of gas, transmission and distribution services and related management services with limited or no prior approval by the commission. [PL 1997, c. 707, §10 (NEW).]

The commission shall establish the terms and conditions under which a program is authorized under this subsection.

[PL 1997, c. 707, §10 (NEW).]

**6. Amendment to multiyear rate plans.** The commission may not amend or prematurely terminate the terms of a multiyear rate plan in a manner that prevents or threatens the utility's opportunity to recover a reasonable rate of return over the entire term of the plan. The commission shall ensure compliance with the requirements of this subsection in the revenue requirement proceeding and earnings review required by subsection 3.

[PL 2003, c. 45, §2 (AMD).]

**7. Authority.** The authority granted to the commission under this section is in addition to the authority of the commission granted under other provisions of this Title and this section may not be construed to limit the authority of the commission under any other provision of this Title.

[PL 1997, c. 707, §10 (NEW).]

**8. Cost-of-gas adjustment.** As part of the implementation of alternative rate-making mechanisms pursuant to this section, the commission may waive or modify the requirements of section 4703 to the extent necessary to promote efficiency in operation, appropriate financial incentives, rate stability or equitable cost recovery.

[PL 1997, c. 707, §10 (NEW).]

**9. Report.** The commission shall include in its annual report pursuant to section 120, subsection 6 any significant developments with respect to any actions taken or proposed to be taken by the commission under this section.

[PL 2009, c. 122, §16 (AMD).]

## SECTION HISTORY

PL 1997, c. 707, §10 (NEW). PL 2003, c. 45, §2 (AMD). PL 2009, c. 122, §16 (AMD).

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