

**§3208. Stranded cost recovery**

**1. Stranded costs defined.** For the purposes of this section, the term "stranded costs" means a utility's legitimate, verifiable and unmitigable costs made unrecoverable as a result of the restructuring of the electric industry required by this chapter and determined by the commission as provided in this subsection.

[PL 1997, c. 316, §3 (NEW).]

**2. Calculation.** For each electric utility, the commission shall determine the sum of the following to the extent they qualify as stranded costs pursuant to subsection 1:

- A. The costs of a utility's regulatory assets related to generation; [PL 1997, c. 316, §3 (NEW).]
- B. The difference between net plant investment associated with a utility's generation assets and the market value of the generation assets; and [PL 1997, c. 316, §3 (NEW).]
- C. The difference between future contract payments and the market value of a utility's purchased power contracts. [PL 1997, c. 316, §3 (NEW).]

When determining the market value of generation assets and purchased power contracts, the commission shall rely to the greatest extent possible on market information, including, but not limited to, market valuations that become known as generation assets and the rights to power under contracts with qualifying facilities are sold.

[PL 1997, c. 316, §3 (NEW).]

**3. Exclusions.** Notwithstanding any other provision of this chapter, the commission may not include any costs for obligations incurred on or after April 1, 1995 in a utility's stranded costs, except that the commission may include:

- A. Regulatory assets created after April 1, 1995 and prior to March 1, 2000 for:
  - (1) The amortization of costs associated with the restructuring of a qualifying facility contract;
  - (2) Costs deferred pursuant to rate plans; or
  - (3) Energy conservation costs; [PL 1997, c. 316, §3 (NEW).]
- B. Obligations incurred by a utility after April 1, 1995 and prior to March 1, 2000 that are beyond the control of the electric utility; and [PL 1997, c. 316, §3 (NEW).]
- C. Obligations incurred by an electric utility after April 1, 1995 to reduce potential stranded costs. [PL 1997, c. 316, §3 (NEW).]

[PL 1997, c. 316, §3 (NEW).]

**4. Mitigation.** An electric utility shall pursue all reasonable means to reduce its potential stranded costs and to receive the highest possible value for generation assets and contracts, including the exploration of all reasonable and lawful opportunities to reduce the cost to ratepayers of contracts with qualifying facilities. The commission shall consider a utility's efforts to satisfy this requirement when determining the amount of a utility's stranded costs.

[PL 1997, c. 316, §3 (NEW).]

**5. Stranded costs recoverable.** When retail access begins, the commission shall provide a transmission and distribution utility a reasonable opportunity to recover stranded costs through the rates of the transmission and distribution utility, as provided in this section. The opportunity must be comparable to the utility's opportunity to recover stranded costs before the implementation of retail access under this chapter. Nothing in this chapter may be construed to give a transmission and distribution utility a greater or lesser opportunity to recover stranded costs than existed prior to the implementation of retail access. The commission may reduce or increase the amount of stranded costs

that the commission allows a utility to recover based on the efforts of the utility to mitigate its stranded costs.

[PL 1997, c. 316, §3 (NEW).]

**6. Determination of stranded costs charges.** Before retail access begins, the commission shall estimate the stranded costs for each electric utility in the State. The commission shall use these estimates as the basis for a stranded costs charge to be charged by each transmission and distribution utility when retail access begins. In 2003 and every 3 years thereafter until the utility is no longer recovering adjustable stranded costs, the commission shall correct any substantial inaccuracies in the stranded costs estimates associated with adjustable stranded costs and adjust the stranded costs charges to reflect any such correction. The commission may correct adjustable stranded costs estimates and adjust the stranded costs charges at any other time. When correcting stranded costs estimates and adjusting stranded costs charges, the commission shall make any change effective only prospectively and may not reconcile past estimates to reflect actual values.

For purposes of this subsection, "adjustable stranded costs" means stranded costs other than stranded costs associated with divested generation assets.

[PL 1997, c. 316, §3 (NEW).]

**7. Recovery of stranded costs.** The commission shall set an amount of recoverable stranded costs after calculating the net aggregate value of all divested assets that had proceeds exceeding book costs against the aggregate value of all other stranded electricity generation assets. The commission may not shift cost recovery among customer classes in a manner inconsistent with existing law, as applicable.

[PL 1997, c. 316, §3 (NEW).]

**8. Proceedings.** The commission shall conduct separate adjudicatory proceedings to determine the stranded costs for each investor-owned utility and each consumer-owned utility. In the same proceedings, the commission shall establish the revenue requirements for each transmission and distribution utility and stranded costs charges to be charged by each transmission and distribution utility when retail access begins. The proceedings must be completed by December 1, 1999.

[PL 1999, c. 398, Pt. L, §1 (AMD).]

#### SECTION HISTORY

PL 1997, c. 316, §3 (NEW). PL 1999, c. 398, §L1 (AMD).

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