SENATE . . . . . No. 2293

The Commonwealth of Massachusetts

SENATE, NOVEMBER 15, 1984.

The committee on Energy, to whom was referred the petition (accompanied by bill, House, No. 1041) of Leo F. Flemming relative to the conversion of oil to coal by electric generating facilities, reports the accompanying bill (Senate, No. 2293).

For the Committee

WILLIAM Q. MacLEAN, JR.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT PROVIDING FOR THE CONVERSION OF OIL TO COAL BY ELECTRIC GENERATING FACILITIES.

Whereas. The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the conversion of oil to coal by electric generating facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 164 of the General Laws is hereby amended by striking out the existing Section 94G-½ and inserting the following section: —

Section 94G-½. An electric company or other person which distributes to retail customers all or a portion of the output of any existing oil-burning electric generating facility which is proposed to be converted from oil to coal-fired operation may file with the department an application, in such form as the department may prescribe, for an adjustment in its rates through the oil conservation adjustment described in this section, provided that environmental controls for sulfur and particulates will be required to ensure that approved long-term emissions from the facility shall not significantly contribute to any condition of non-attainment of ambient air quality standards established and approved by the environmental protection agency and the department of environmental quality engineering. Such application may be filed prior to the time the applicant incurs costs in connection with the conversion and operation of the facility.

Within thirty-five days of receipt of such application the department shall hold a public hearing to determine the oil conservation adjustment, and the manner in which said adjustment shall be recovered from all retail customers of the applicant. The department shall render a decision upon such application within one hundred and twenty days of the beginning

26 of such hearing. Said adjustment shall not be authorized unless
27 it is determined by the department that there is a substantial
28 probability that the share of the cost of conversion of such
29 facility attributable to the applicant's retail customers,
30 together with any incremental operating expenses
31 necessitated by the conversion will be less than or equal to the
32 fuel cost savings to accrue to said retail customers over the
33 remaining life of the electric generating facility.
34 The oil conservation adjustment shall be determined by the
35 department such that the applicant will recover the total cost
36 of conversion within eighty-four months of the effective date
37 of the adjustment, such conversion being hereinafter referred
38 to as a short-term conversion, or will recover the total cost
39 of conversion over a period more than seven years but within
40 twelve years of the effective date of the adjustment, such con-
41 version being hereinafter referred to as a long-term conver-
42 sion. The effective date of the adjustment shall be the earlier
43 of the date of initial conversion or the date on which the board
44 of directors of the applicant authorizes the cancellation of the
45 conversion.
46 All revenues derived through said adjustment shall be ap-
47 plied solely to the cost of conversion of said facility. Except
48 as provided in this section, said adjustment, once authorized
49 by the department, shall not be disapproved, reduced, ter-
50 minated, suspended or, without the consent of the applicant,
51 otherwise modified by the department nor shall any portion
52 thereof be applied by the department to reduce or modify the
53 otherwise lawfully authorized rates and charges of the appli-
54 cant. The department shall not recognize for purposes of
55 establishing any rate, price or charge, pursuant to section
56 ninety-four or section ninety-four G, costs of conversion which
57 are recovered from said customers under said adjustment.
58 The applicant may assign to any person or entity, in whole
59 or in part, the revenues to be collected under the oil conserva-
60 tion adjustment in connection with financing the cost of
61 conversion. If such an assignment is made, or if the applicant
62 has filed its application in whole or in part for the benefit of any
63 other person or entity that proposes to own and finance all or
64 part of the assets to be added to the facility in connection with
65 the conversion, the revenues to be collected by applicant under

said adjustment shall constitute revenues of such person or entity and not revenues of the applicant. The applicant shall collect such revenues solely for the benefit of such person or entity.

In this section the following words and phrases shall have the following meanings, unless the context requires otherwise:

"Coal", coal used as a primary energy source and any other primary energy source which is derived from coal or synthetic fuels which use coal as a base.

"Cost of conversion", costs as determined by the department to be reasonable and necessary for the conversion of an oil-burning electric generating facility to the burning of coal. Such costs shall include, but not be limited to, engineering, administrative and legal costs, the cost of environmental studies, and control equipment, coal handling and storage equipment, equipment and facilities necessary to permit the combustion of coal, the cost of retro-fitting or refurbishing boilers to permit the combustion of coal, the cost of on-site and off-site facilities for handling, storing, and disposing of wastes resulting from the combustion of coal, and the cost of all other facilities reasonable and necessary to allow the conversion of an oil-burning electric generating facility to burn coal, whether such costs are incurred before or after the date of initial conversion of such facility. Such costs shall also include the reasonable costs of capital for such conversion until such costs are recovered as provided in this section. In no case shall costs of conversion include any costs incurred pursuant to an expansion of an electric generating facility's generating capacity above the generating capacity of said facility that existed prior to the oil conservation adjustment period.

"Date of initial conversion", the first day on which an existing oil-burning electric generating facility generates electricity for continuous distribution to customers by the combustion of coal, whether or not additional facilities must be constructed or installed.

"Fuel cost saving", the differential costs between an equal amount of coal and oil calculated on the basis of British Thermal Units.

"Oil conservation adjustment", in the case of a short-term conversion, shall be an amount which is the greater of (a) two-thirds of the fuel cost savings per kilowatt hour sold accruing

107 to retail customers on the date of initial conversion or (b) the
108 cost of conversion of an existing oil-burning electric genera-
109 tion facility to coal divided by the estimated kilowatt hours
110 to be generated for sale by the facility during the first eighty-
111 four calendar months after the date of initial conversion; pro-
112 vided, however, that if the total amount of cost of conversion
113 per kilowatt hour initially calculated by application of method
114 (b) exceeds one hundred percent of the fuel cost savings per
115 kilowatt hour sold accruing to retail customers on the date of
116 initial conversion, the eighty-four month period referred to in
117 said method (b) shall be extended so that the total amount of
118 cost of conversion per kilowatt hour shall be no more than one
119 hundred percent of such fuel cost saving per kilowatt hour;
120 or, in the case of a long-term conversion, amounts which will
121 provide sufficient revenues during a period not to exceed
122 twelve years to repay or otherwise discharge all obligations
123 incurred by or on behalf of the applicant in connection
124 with financing arrangements that the department determines
125 to be reasonably necessary for financing the cost of conver-
126 sion. The oil conservation charge determined by the depart-
127 ment shall permit recovery by the applicant of the cost of con-
128 version net of such federal, state, or local taxes based on
129 revenue and income which may be imposed upon the applicant
130 for receipt of proceeds of the oil conservation adjustment
131 which cannot be reasonably avoided by the applicant using due
132 diligence. In no event shall the oil conservation adjustment in-
133 clude amounts attributable to non-retail customers.

134 Upon recovery by the applicant of its share of the cost of con-
135 version as herein provided, the applicant shall terminate the
136 oil conservation adjustment. Upon such termination the ap-
137 plicant shall demonstrate to the department that its oil con-
138 servation adjustment revenue collections are in compliance
139 with orders issued pursuant to this section. In the event such
140 collections are lesser or greater than the applicant's share of
141 the cost of conversion, the department shall make such deter-
142 minations and issue such orders as are necessary to result in
143 compliance with this section.

144 In the event the facility or the applicant should become en-
145 titled, by reason of the conversion, to any federal or state
146 grant, the department shall make such determinations and
147 issue such orders as are necessary to reduce the amount of

148 conversion costs which the applicant would otherwise recover
149 by means of such oil conservation adjustment, or if such grant
150 is received after termination of such adjustment make such
151 determinations and issue such orders as are necessary to result
152 in the applicant receiving no more than the cost of conversion
153 after taking into account the retail customers' apportioned
154 share of such grant.

155 In the case of a long-term conversion, the department shall,
156 every six months, review the revenues collected pursuant to
157 the oil conservation adjustment in order to determine whether
158 the applicant is recovering the cost of conversion over the
159 period approved by the department. In the event any over-
160 collection of such cost of conversion has occurred, the depart-
161 ment shall order such overcollection to be returned to the
162 ratepayers.

163 In the case of a short-term conversion, the department shall,
164 upon its own initiative or upon petition of the original appli-
165 cant, but in any event at least twice each year, review the ac-
166 tual cost of conversion and fuel cost savings and changes in
167 estimates thereof, and may, where necessary after notice and
168 public hearing, modify the oil conservation adjustment to per-
169 mit, if method (a) referred to in the definition of "oil conser-
170 vation adjustment" in this section was initially used, recovery
171 by the applicant of two-thirds of the recalculated fuel cost sav-
172 ing per kilowatt hour accruing to retail customers on the date
173 of recalculation of the saving by the department or, if method
174 (b) referred to in said definition was initially used, to permit
175 recovery by the applicant of the recalculated cost of conver-
176 sion over such recalculated number of months as would not
177 result in a charge exceeding the fuel cost saving per kilowatt
178 hour accruing to retail customers on the date of recalculation
179 of the saving by the department. Said adjustment also may
180 be modified to permit switching from said method (a) to
181 method (b) or from method (b) to method (a), where
182 necessary to either permit the applicant to recover the cost
183 of conversion as promptly as possible, consistent with the in-
184 tent of this section that no adjustment for a short-term con-
185 version shall exceed fuel cost savings accruing to retail
186 customers or prevent such adjustment from exceeding fuel
187 cost savings accruing to retail customers.

188 This act shall take effect upon its passage.