

Prepared Testimony of  
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*before the*

Senate of Pennsylvania  
Consumer Protection and Professional Licensure Committee

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Good morning Chairman Tomlinson, Chair Boscola, and members of the Senate Consumer Protection and Professional Licensure Committee. Thank you for inviting me to discuss the recent impacts of variable rates in the retail electricity market and the Public Utility Commission's (PUC or Commission) role in protecting and educating consumers about this issue.

## **Background**

As you know, in recent months, some Pennsylvania electric customers received very high electric bills in amounts two and three times, and even higher, than what they would normally be billed during this time of year. Based on the number of complaints received at the Commission, a substantial number of customers have received such bills. As of mid-March, more than 12,283 customers have contacted the Commission with concerns about electric supply prices, and of those, more than 4,800 customers have filed informal complaints with the PUC's Bureau of Consumer Services.

The affected customers are participating in the competitive retail market and receiving electric supply service from an electric generation supplier (EGS) under a contract with a variable rate that is adjusted monthly. Other affected customers received electric supply service under expired fixed rate contracts that provided for variable rates on a month-to-month basis until the customer chose another supplier or returned to default service from their electric distribution company (EDC).

These high bills reflect wholesale energy market volatility resulting from the very cold weather that the region endured in January and February of this year. The cold weather contributed to increased and, on some days, record breaking use of natural gas and electricity within the region. As consumer usage spiked on these days, so did wholesale market prices for gas and electricity. It appears that these wholesale price increases, in whole or in part, were passed on by EGSs to retail electric customers receiving service at a variable rate. This resulted in a doubling, tripling, or even larger increases of the per-kilowatt hour rate that these customers were charged for their electric usage. Variable rate customers are particularly vulnerable to these price spikes because their rates change monthly to reflect market conditions.

### **Contract Terms & Disclosure Statements**

As a general rule, the rate consumers pay in the retail electric market is governed by the terms of their contract with their supplier. The Commission's regulations require EGSs to provide customers with a written disclosure statement explaining the terms and conditions of service, including the price charged. For customers on a variable rate, the disclosure statement must disclose conditions of variability (i.e., it must state on what *basis* prices will vary) and any limits on price variability. It appears that some customer contracts had no ceiling on the variable rate that could be charged by the EGS. While a variable rate may offer substantial savings when wholesale market prices are low, customers may experience very high bills during periods of market volatility, such as occurred with the recent cold weather. It is important for consumers on variable rates to

carefully review the terms and conditions of their contracts to determine if they are at risk for large rate increases at any given time.

### **Early Measures by the PUC**

After becoming aware of the situation with variable rate customers earlier this year, the Commission immediately took action. On January 31, 2014, the PUC issued a press release advising consumers receiving electricity from an alternative supplier to carefully review the terms of their EGS contract. Additionally, in early February, the Commission directed its staff to initiate the following measures to help ensure consumers are fully informed about variable rate products:

- Posting a “consumer alert” on the PUC website ([www.puc.pa.gov](http://www.puc.pa.gov)) stating that customers subject to a variable rate may see their prices increase and should check their contracts, evaluate competitive offers at [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com), contact their supplier to sign up for budget billing or a payment plan, and conserve energy;
- Posting a similar “consumer alert” on [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com);
- Re-issuing the January 31 press release noting the messages available on the PUC and PowerSwitch websites;
- Developing a separate page on [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com) devoted to explaining fixed vs. variable rate products;
- Developing a fact sheet for customers on fixed vs. variable rates that mirrors the new page on [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com); and
- Adding a fixed vs. variable Q&A section to our existing “Shopping for Electricity” fact sheet and enhancing the Q&A under “Frequently Asked Questions” on [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com) to help ensure that consumers are better educated about variable rates.

The PUC believes these initial measures will help inform customers about the difference between a variable and fixed rate product, and also provide them with options

to mitigate high bills and avoid receiving such bills in the future. As time passes, the PUC will continue to ensure that our shopping website and consumer education materials are readable and understandable for customers.

### **Long-Term Measures by the PUC**

Although the PUC immediately took steps to address the variable rate issue and help customers cope with their high bills, Commissioners and Staff also took a deeper look into the marketplace to determine if any longer-term fixes could help address this situation. After doing so, the PUC determined that two major changes would improve the retail electricity market place. These changes are (1) improvements to EGS disclosure statements; and (2) ensuring that customers can more quickly change generation suppliers when they are charged unacceptably high rates.

The PUC chose to focus on these two improvements because these changes will make the biggest difference to customers. While, unfortunately, the PUC cannot predict whether Pennsylvania will experience another Polar Vortex or some other extreme weather event that will cause electricity prices to spike again in the future, the PUC can ensure that customers in the retail electricity market are informed about the products they choose and have the ability to easily shop for another product if they are dissatisfied with the one they have.

Accordingly, on March 18, 2014, the PUC issued a Secretarial Letter initiating a rulemaking which will amend existing regulations to direct EDCs to accelerate switching

time frames through off-cycle meter reads in a fashion that will permit Pennsylvania retail electric customers to switch suppliers within three (3) business days. Presently, a variety of regulatory requirements, technical issues, and business practices often results in a switching process that lasts as long as forty (40) days. By reducing the length of this process, the PUC seeks to mitigate the adverse financial impacts of rate volatility by allowing customers to quickly shop for another supplier.

Pursuant to the Commission's actions, EDCs would be required to implement the changes to facilitate accelerated switching within six (6) months of the new regulations becoming final. Cost recovery for implementation would be addressed in each EDC's next base rate proceeding. Interested parties had seven (7) days to file comments on the proposal and PUC Staff is currently reviewing those comments.

The Commission is also taking steps to effectuate the second market improvement it identified as necessary. On March 19, 2014, the PUC issued a Secretarial Letter initiating a second rulemaking which will amend the regulations governing the disclosure statements that EGSs provide to customers. These changes will ensure that consumers receive adequate and accurate information to make informed decisions when purchasing electric supply, and generally make the disclosure statements more user-friendly to consumers. Interested parties had five (5) days to submit comments and the PUC Staff is currently reviewing those submissions.

The intent this rulemaking to ensure EGS disclosure statements are understandable and useful to customers, especially in the context of variable-priced products. The

changes will make notices more prominent and provide customers with important and timely information about their options upon the expiration or change in terms of their EGS contracts. The Commission believes these changes will provide additional information and greater protections for residential and small business customers choosing a competitive supplier for their electric generation. Some of the requirements in the proposal include:

- More contractual information on conditions of price variability, including whether or not there are limits on variability;
- A clear statement of the price per kilowatt hour for the first billing cycle of electric generation;
- Customer access to historical pricing information;
- Separate mailings for either fixed-term contracts that are expiring, or any changes to terms of service;
- A separate EGS contract summary along with the full disclosure statement to ensure EGSs highlight key terms and conditions in a uniform, consistent manner;
- New requirements for contract “renewal notices” and customer “options notices” prior to the expiration of a contract;
- A renewed emphasis on highlighting changes in pricing or any terms and conditions - including a fixed rate becoming a month-to-month, variable product if the customer does not respond to the notice(s); and
- Prominent marking on front of the “options notice” envelope clearly stating that it contains important information regarding the expiration or changes in terms of the customer’s electric supply contract.

Due to the recent price spikes in the wholesale electricity market, and concerns that similar events could occur again in the immediate future – particularly, this summer

or during the 2014-15 winter season – the PUC is pursuing both of these regulatory changes through an expedited rulemaking process. However, despite the expedited process, the PUC thought it was important to solicit comments from interested parties and we will certainly take those comments and suggestions into consideration. The PUC is confident that the changes in these rulemakings are not only necessary, but will significantly improve customers’ shopping experience in the retail electricity market.

## **Conclusion**

I will close today by stating that the Commission is taking the issue of customers impacted by variable rates extremely seriously. We are aware that many customers received bills that they are simply unable to pay and that attempting to do so will impact their livelihood and ability to make ends meet each month. The PUC is sympathetic to these customers and wants to help ensure they do not experience anything like this again. The PUC is confident that if we more proactively educate customers about their options and their ability to switch suppliers, Pennsylvanians will be empowered to make smart choices and continue to save money on their electricity bills. The PUC remains confident that in the long term, a restructured electricity market remains the best way for consumers to maintain affordable electricity bills and have access to innovative product offerings.

Thank you again for inviting me to speak today. I look forward to answering any questions you may have.