

Prepared Testimony of
Robert F. Powelson
Chairman
Pennsylvania Public Utility Commission

before the

Pennsylvania Senate
Consumer Protection and Professional Licensure Committee

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Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120
Telephone (717) 787-4301
<http://www.puc.pa.gov>

Good morning Chairman Tomlinson, Chair Boscola, and members of the Senate Consumer Protection and Professional Licensure Committee. Thank you for inviting me to update you on the Public Utility Commission's (PUC or Commission) progress in addressing the variable rate issue in the retail electricity market.

The PUC has been proactive in responding to this issue and has taken multiple steps to reduce the likelihood that such an event will occur in the future. My colleagues and I have spent the past few months taking a hard look at what caused this unfortunate situation and have focused PUC efforts on addressing the root causes that are within our control. As you know, the PUC cannot control the weather or the prices of the wholesale electricity market, both of which hit historic levels during the month of January.

However, PUC actions can have a substantial impact on customers and, in particular, on educating and enabling customers to make well-informed choices when participating in the retail electricity market. With this in mind, the PUC has undertaken a number of innovative consumer education initiatives and two rulemakings designed to ensure that customers have access to the information and educational materials they need to make wise decisions regarding their electricity supply options.

The PUC does not believe that responding to this unfortunate event by eliminating variable rates is a necessary, or even prudent, course of action. Rather, by taking more measured steps designed to inform and empower customers, we will allow the retail electricity market to continue to flourish in Pennsylvania, which will benefit customers in more ways than banning variable rates ever could.

Background

As you know, starting in January of this year, some Pennsylvania electric customers received electricity bills in amounts much higher than what they would normally be billed during this time of year. The majority of affected customers were receiving a variable rate product from an electric generation supplier (EGS). Some of these customers contracted with an EGS for a variable rate that is adjusted monthly. Others were on fixed rate product that expired and were receiving a variable rate 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 historic cold weather that much of the country experienced in the beginning 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. 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 were particularly vulnerable to these price spikes because their rates can change monthly to reflect market conditions.

PUC Efforts to Address Consumer Complaints

To date, more than 17,000 customers have contacted the Commission with concerns about electric supply prices. These customer contacts fall into three categories – inquiries, formal complaints, and informal complaints – each of which I will describe in detail below. The PUC has been fully engaged and committed to helping customers who have experienced extremely high bills due to variable rates. The hard-working and knowledgeable staff in the PUC’s Bureau of Consumer Services call center has been working tirelessly to answer customer inquiries and complaints on this issue.

When contacted by a customer, the PUC generally recommends that the customer first contact the utility to try to resolve the issue. In the instant situation, many EGSs have been willing to work with variable rate customers by offering billing adjustments and credits, so contacting them directly is often the quickest and most effective way to resolve an issue. Moreover, for certain types of complaints (involving billing or service termination), customers are required by law to contact the utility first.

However, if a customer’s efforts to contact or work with the utility have been unsuccessful, they have the option of filing with the PUC either a formal or an informal complaint against the utility. Filing a formal complaint begins a legal proceeding before an Administrative Law Judge who holds hearings, if necessary, to gather evidence and issues a decision. Consumers filing formal complaints may also request mediation, which is offered by the PUC. The informal complaint process is simpler and less time consuming than a formal complaint process. Once the PUC receives an informal

complaint, an investigator will look into the complaint, work with the parties to resolve the issue, and provide the outcome of the investigation to the parties.

Principally in response to the variable rate issue, the PUC has received 10,476 EGS-related inquiries since February 1, 2014. Inquiries are customer contacts that do not result in the filing of a formal or informal complaint. In these instances, the PUC provides the customer with information, or their opinion is recorded, or they are referred to the utility if they have not already talked to them.

With respect to complaints, more than 6,708 customers filed *informal* complaints with the PUC between March and April of this year. To give these numbers some perspective, over the same period last year, the PUC received only 650 informal complaints.¹ In comparison, since January 1, 2014, customers have filed 1,016 *formal* complaints, a large number of which related to the variable rates issue. In particular, the PUC served approximately 450 formal complaints on EGSs and EDCs (if they were also named as a respondent) as of April 25, 2014.

The good news is that between March 1, 2014 and April 25, 2014, more than 350 Certificates of Satisfaction have also been filed with the PUC. Approximately 90 percent of these satisfied formal complaints arising from a variable rate high bill amount. This number of Certificates of Satisfaction demonstrates that EGS are trying to settle as many of their formal complaints as possible. The PUC's Mediation Unit reports that more than

¹ On March 4, 2014, the number of informal complaints regarding EGSs peaked at 311 in one day. Since then, numbers have declined and on April 25, 2014, the PUC received only 33 informal complaints.

300 formal complaints have been assigned to them for mediation and more than 100 have now been resolved by a Certificate of Satisfaction or Settlement. However, the large number of Certificates of Satisfactions indicates that many EGSs are not waiting for mediation or a hearing, but are attempting to resolve customer complaints on their own initiative and as soon as possible.

The fact that so many Pennsylvanians were impacted by the dramatic increase in electricity rates this winter is clearly unfortunate. However, the good news is that the PUC has been largely successful in helping customers through this unfortunate experience. It is also good news that many EGSs – either on their own initiative or upon encouragement from the PUC – have been willing to work with customers to resolve their complaints. It is also important to keep in mind that although 17,000 customers contacted the PUC with concerns about electric suppliers, there are over 2 million customers participating in Pennsylvania’s retail electricity market. The PUC is in no way diminishing the experience of those who were subject to high bills as a result of variable rates; however, it is important to remember that the majority of customers in the retail electricity marketplace were not impacted by this incident.

PUC Consumer Education on Variable Rates

When the Commission became aware that certain variable rate customers were receiving extraordinarily high bills, we immediately took action. As an initial response, the PUC issued press releases and posted consumer alerts and fact sheets explaining the difference between fixed and variable rates on the PUC website and

PAPowerSwitch.com. The PUC also developed a series of educational videos designed to help customers shop for a competitive electricity supplier. The first video explains the difference between fixed and variable rates, while the second explains what happens when a contract with a competitive supplier expires. The videos can be found on the PUC website on the “Educational Videos” page, the PAPowerSwitch.com website’s “Understanding Fixed & Variable Rates” page, and on the PUC’s YouTube channel. The PUC also provided these videos to the communications offices of your caucuses, so your members are able to post the videos as well.

In addition to these initial steps, the PUC is in the process of further enhancing PAPowerSwitch.com. First, the PUC is considering adding a Consumer Complaint Report to PAPowerSwitch.com, which will list the number of consumer complaints received by every supplier. This supplier “report card” will, in essence, allow customers to compare suppliers based on the number of complaints received. Such a report will not only provide customers with valuable information, but will further encourage to suppliers to minimize complaints and provide exceptional customers service.

The second change to PAPowerSwitch.com will help customers assess their risk tolerance, which in turn will help them decide whether to choose a variable rate, which can be riskier, or a fixed rate, which is often less risky. When a customer is shopping for electricity on PAPowerSwitch.com and their cursor hovers over a particular type of rate (fixed or variable), a message will appear describing what each rate means. This message will also contain links to the recently added “Fixed & Variable” page of

PAPowerSwitch.com, which the PUC will update to include a comparison of the risks associated with fixed and variable rates. These small changes will have a big impact on customers by ensuring they have access to the best the information possible. Doing so will also protect against the possibility of a customer selecting a product without understanding the associated risks.

The PUC believes that consumer education is one of the key elements in resolving this issue and preventing it from occurring in the future. The PUC never loses sight of the fact that the competitive retail electricity market is constantly evolving, and understands that its education initiatives must evolve along with it. As a result, the PUC will continue to assess and, as necessary, modify its approach to educating customers on this issue. In doing so, our goal is to ensure that customers are protected and continue to benefit from the opportunities available in the competitive retail electricity market.

Rulemakings

In addition to the customer education initiatives outlined above, the PUC initiated two rulemakings in response to this issue. After listening to customer complaints and examining our regulations, the PUC concluded that two important changes would vastly improve customers' experience in the retail electricity marketplace. The first is that supplier disclosure statements need to be clearer and more understandable to customers. The second is that customers must to be able to quickly change suppliers when they are unhappy with their service.

As such, on March 18, 2014, the PUC issued a Secretarial Letter initiating a rulemaking that proposed to dramatically reduce the time that it takes for consumers to switch suppliers. Right now it can take up to forty (40) days to switch suppliers, but pursuant to the rulemaking, customers will be able to make the change in only three (3) business days. This change is necessary to allow customers who have experienced unreasonably high electricity bills, or who are displeased with their supplier for any number of reasons, to reenter the marketplace and find another supplier who will meet their needs, rather than being stuck with that supplier for another billing cycle. The ability of consumers to “speak with their dollars” by choosing another supplier is an important check and balance to have in any competitive marketplace. Texas recognized the importance of this and allows “same-day” supplier switching for customers. Under the PUC’s rule change, EDCs will be required to facilitate accelerated switching within six (6) months of the new regulations becoming effective and cost recovery for implementation will be addressed in each EDC’s next base rate proceeding.

On March 19, 2014, the PUC issued another Secretarial Letter initiating a second rulemaking proposing to modify the requirements for supplier disclosure statements to make them more transparent and understandable for 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. Among other things, this rule change will require supplier disclosure statements to summarize key contractual terms in a uniform and

consistent manner (as is currently required with credit cards). Wading through long and complicated contractual language is never easy, so any changes the PUC can make to ensure the terms of supplier contracts are easier to read and understand will be an improvement.

The second rulemaking also changed the way EGSs serve customers whose contracts with them have expired. The new rules continue to allow suppliers to serve customers after their contracts expire, but require that these customers receive at least 30 days' advance notice of any change in their rate. Thus, these customers will always be aware of any rate increases. This new rule, when coupled with the rulemaking providing for accelerated supplier switching, will effectively prevent customers with expired contracts from unknowingly experiencing electricity price spikes, as they did this winter.

The PUC chose to pursue both of these regulatory changes through an expedited rulemaking process. We did this out of an awareness that the recent price spikes in the wholesale electricity market could occur again and the PUC wants to ensure the steps we have taken to improve the market are in place before that happens. As such, after soliciting input from interested stakeholders, my colleagues and I unanimously voted to finalize the rulemakings on April 3, 2014. The rulemaking process will now advance to the standing committees, this committee, and the House Consumer Affairs Committee, as well as to the Independent Regulatory Review Commission (IRRC), for additional review and consideration.

Throughout this process, the PUC has endeavored to collaborate with all interested parties in developing remedies to address consumer concerns. I have personally met with the Pennsylvania Attorney General's office on two occasions (the second meeting included representatives from all four legislative caucuses), and a third meeting is scheduled for the near future. These meetings have provided a forum where parties can share concerns and coordinate efforts in addressing this issue, which has allowed for a more comprehensive and thoughtful response on the part of the PUC. Along those lines, the PUC welcomes input and collaboration from any interested party in developing solutions to this issue.

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 unusually high bills that they are simply unable to pay in one lump sum and that attempting to do so will impact their livelihood and ability to make ends meet each month. The PUC is committed to helping these customers navigate a resolution to any existing high bills and well as ensure they do not experience anything like this again. The PUC is confident that if we more proactively educate customers about their options when enrolling with an EGS 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.

Hearing on Variable Rates



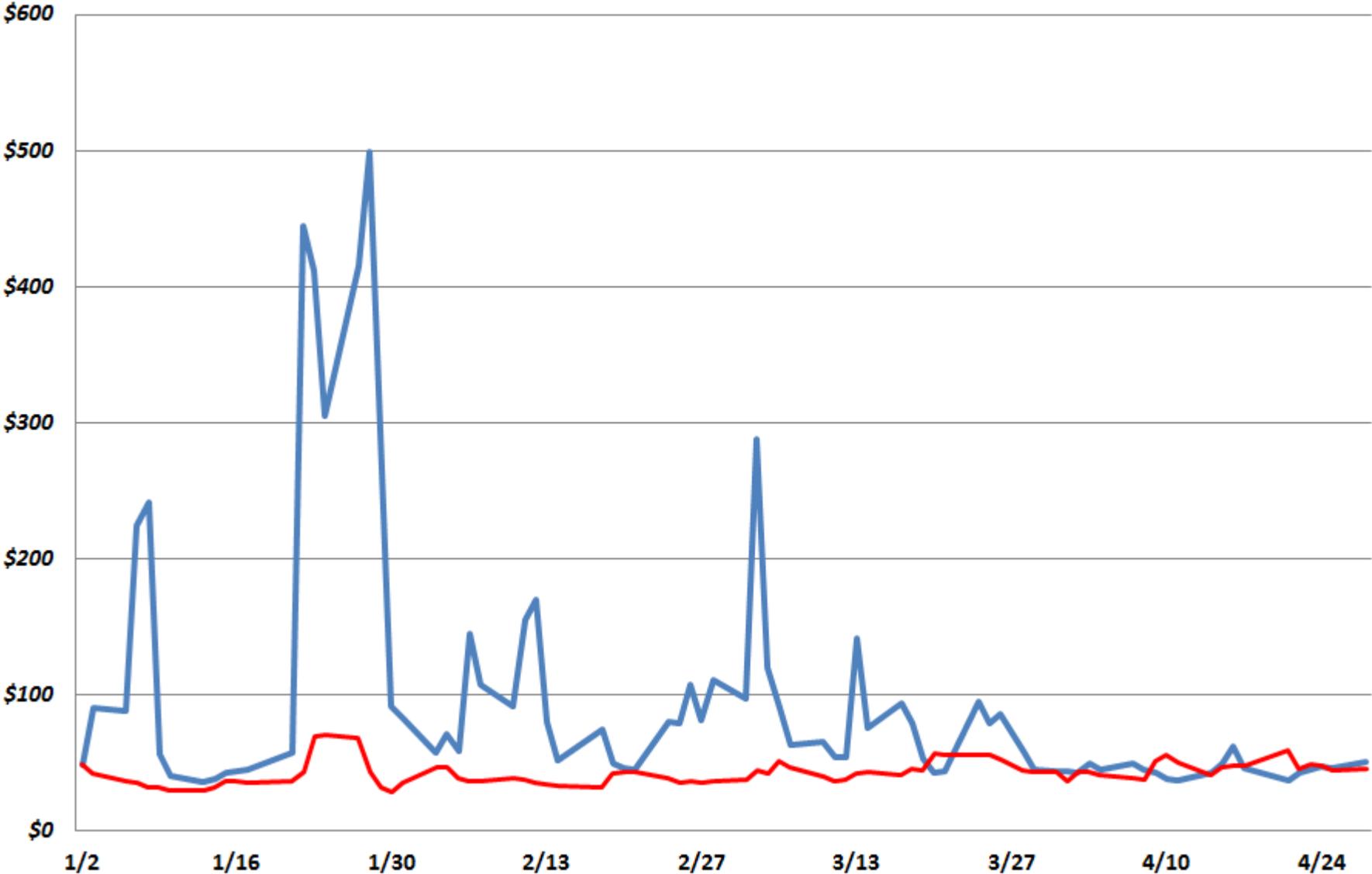
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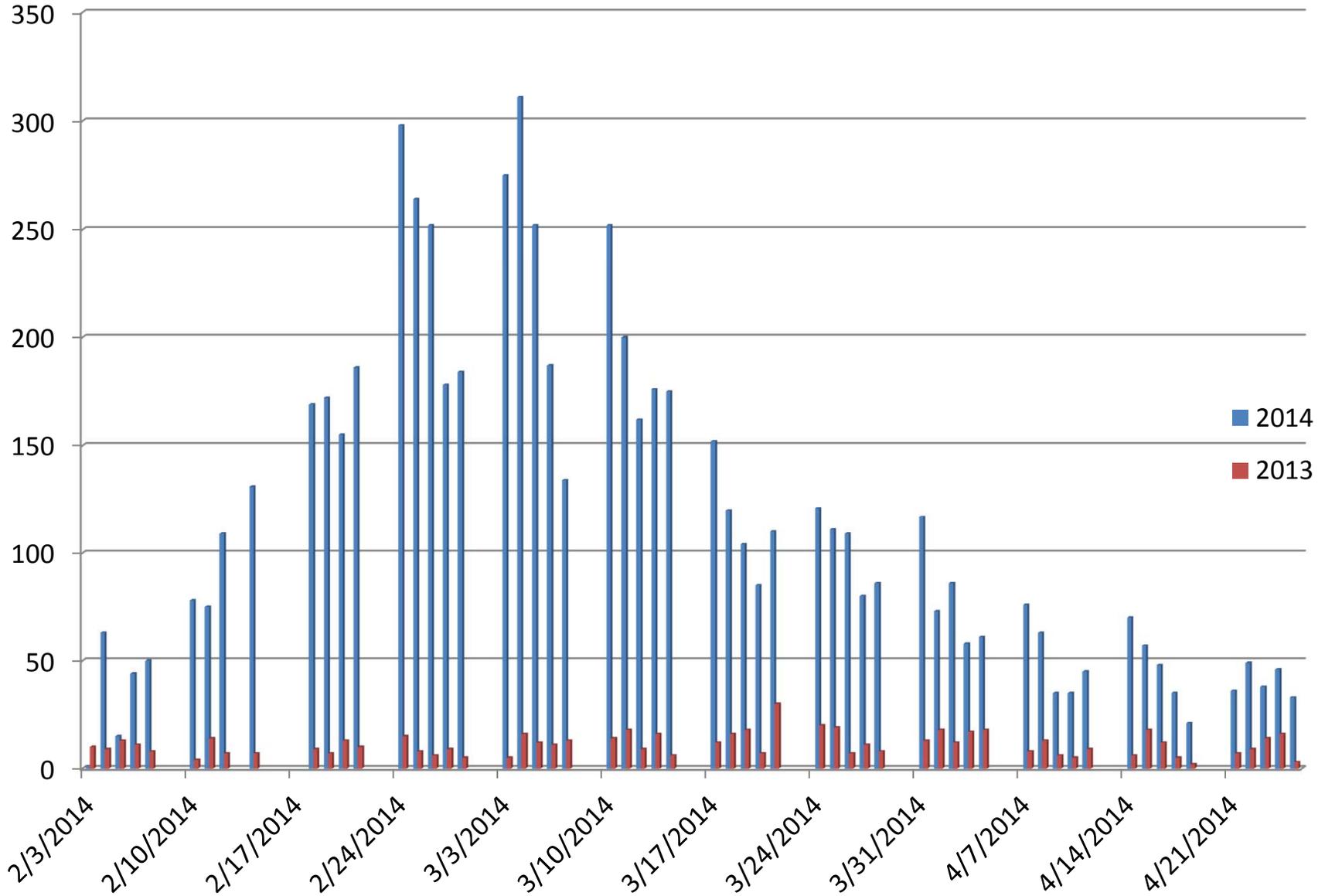
PJM Spot Prices during Polar Vortex Winter 2014 v. Winter 2013 (\$/MWH)

— 2014 — 2013



PUC INFORMAL COMPLAINT DATA

2014 vs. 2013



Thank you