



**Testimony of
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On behalf of the
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Before the House Consumer Affairs Committee
FirstEnergy Power Plant Closures
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Chairman Godshall, Chairman Daley, and members of the House Consumer Affairs Committee, I am Pamela Witmer, Commissioner with the Pennsylvania Public Utility Commission (PUC). Under the state's restructured electric market, the PUC does not have jurisdiction over electric generation nor do I not support returning to the days of monopoly generation. However, part of the PUC's mission is to balance the needs of consumers and utilities while at the same time working to "ensure safe and reliable utility service at reasonable rates; protect the public interest...and further economic development." It is with these principles in mind that I appear before you today to offer testimony about the plans by FirstEnergy to shutter the Hatfield's Ferry and Mitchell power plants in western Pennsylvania.

The PUC shares your concerns about the loss of almost 2,000 megawatts (MW) of base load generation which is enough power to supply 1.5 million Pennsylvania homes for a year given that the average home in the Commonwealth uses 10,500 kilowatt hours of electricity a year.

We are six days away from the closing of these facilities and unanswered questions remain for the company and PJM Interconnection LLC (PJM).

Almost two weeks ago PJM indicated that the closure of these two plants will not cause problems when it comes to ensuring the reliability of the electric grid. PJM rules require a minimum 90-day notice of a deactivation in order to conduct a reliability review, which FirstEnergy met with its July 9, 2013, announcement of the closures next week. However, I would like to point out that typically companies give PJM 18 months to conduct a thorough reliability review analysis.

This begs the questions – did PJM have sufficient time to examine all of the reliability concerns closely? Do we have enough generation and transmission to ensure that consumers in the PJM footprint will have reliable electric service at reasonable prices? After all, in an August meeting at the PUC, PJM indicated reliability concerns did exist.

The question also remains – why is FirstEnergy not pursuing the sale of the Hatfield's Ferry and Mitchell plans to a third party who would be willing to take the steps to keep the plants operational whether through fuel conversion, necessary upgrades, or a dual-fuel retrofit as NRG has announced at New Castle in Lawrence County. On Sept. 13, 2013, during testimony before the Senate consumer Protection and Professional Licensure Committee, FirstEnergy Generation President James H. Lash indicated that the company had no interested buyers. However, the next day the local newspaper confirmed at least one interested party.¹

¹ Post-Gazette, Sept. 14, 2013, "Union leader says buyer exists for money-losing FirstEnergy plants"

When testifying before the Senate,² PUC Chairman Robert F. Powelson pointed out that the move to deactivate these two plants does not match the company's position at the March 2013 Morgan Stanley Utilities Conference. Four months ago, FirstEnergy indicated they were considering converting the facilities to natural gas co-firing units³. Conversion seems to be a logical move as these plants sit atop one of the largest natural gas supplies in the world with convenient access to natural gas through a network of pipelines in Greene and Fayette counties. However, in his Senate testimony last month⁴, Mr. Lash indicated that "the economics (of conversion) do not work at today's gas prices." He also cited a 10 percent drop in electric prices as an issue. I would counter that both natural gas prices and electric prices have been relatively stable since March of 2013.

In fact, PA natural gas has been selling for about \$4 mm/BTU for the last quarter. This low-cost gas obviously depresses wholesale prices for generators; however, one could argue that because the cost of fuel is the single largest component of a generating station's expenses, now would be a good time to make a conversion.

The company also cites the facilities' inability to clear the base-residual auction as a change since the Morgan Stanley presentation. In the same testimony, Mr. Lash indicated that the plants didn't clear the last several auctions. I would argue that when appearing before Morgan Stanley, the company knew that it was a very real possibility that these facilities again would not clear the auction. So I pose the question again, what has changed between March 2013 and July 2013?

While these are real questions that should be answered by FirstEnergy, there have been issues raised regarding PJM's capacity market rules that may impact the ability of some generation to successfully clear the auction such as the amount of demand response and generation that will be imported from outside of the PJM footprint.

FirstEnergy also points to the U.S. Environmental Protection Agency (EPA) requirement to comply with the Mercury and Air Toxics Standards (MATS) rule as a driver for these closures. On this point FE and I actually agree. I completely concur that complying with MATS, the Cooling Water Intake regulations, as well as the just announced Greenhouse Gas (GHG) rules is a complex and expensive undertaking. I also agree with the company and many of you who participated in a press conference last week that these efforts appear to be a larger attack on coal and it is a conversation many of us would like to have with the Obama Administration, specifically, EPA Administrator Gina McCarthy. However, in all fairness, MATS is not something new, nor are the

² Sept. 13, 2013, testimony before the Senate consumer Protection and Processional Licensure Committee

³ See FirstEnergy Company Overview for Morgan Stanley Utilities Conference at p. 58 (March 7, 2013)

⁴ Sept. 13, 2013, testimony before the Senate consumer Protection and Processional Licensure Committee

compliance timelines. The Hatfield's Ferry plant has a waiver extending the MATS compliance deadline until April 2016. This is relevant because in 2009, Allegheny Energy, Hatfield's Ferry's previous owner, spent \$715 million on a scrubber system that removed 95 percent of the plant's sulfur dioxide emissions and significantly reduced its mercury emissions. It would appear that these units may be close to being in compliance especially with the extended compliance timeline.

In the meantime, other power plants in the region are successfully converting their operations to conform to the changes in the business of generating electricity. As an example, GE Capital Corporation is installing emission control equipment in the Homer City Generating Station in Indiana County that could cost as much as \$750 million to comply with upcoming federal regulations.

Since it seems that FirstEnergy views closure as its only option, I join PUC Chairman Powelson in urging the PJM Independent Market Monitor (IMM) to evaluate the effect of the Hatfield's Ferry and Mitchell plant deactivations on FirstEnergy's remaining generation and transmission assets in PJM⁵. That includes encouraging the IMM to examine the impact that the closures will have on Locational Marginal Prices (LMP) across the PJM footprint.

I also join in the chorus of calls for EPA Administrator McCarthy to talk openly with Pennsylvanians about the impact of the cost of compliance for current and future environmental regulations. After all, these impacts are chief among the reasons FirstEnergy is giving for closing these plants. On Aug. 28, my colleagues have requested a meeting with Administrator McCarthy in the hope of sharing our perspective and discuss options to keep these plants open. We still await her response. On Sept. 24, 2013, Sen. Bob Casey also called on the EPA hold a hearing on the effects of its proposed carbon emission rule in the Commonwealth.

Conclusion

The PUC is concerned about every potential deactivation in the Commonwealth, but please do not take my concern or the concern of my colleagues to represent that we are not supportive of the free market. As indicated earlier, I do not and would not support a return to vertically-integrated utility monopolies. In the last six years alone, approximately 20,000 MW of new generation has been built under the restructured market across the PJM footprint – the costs of which were born by shareholders not ratepayers.

⁵ Sept. 13, 2013, testimony before the Senate consumer Protection and Professional Licensure Committee

I understand that if PJM makes the determination that there are no reliability concerns and the IMM is satisfied, then ultimately this is a business decision by the company. However, I view it as my obligation as a PUC Commissioner to ask tough questions and ensure that every possible alternative short of closure has been fully explored and vetted.

Thank you for holding this hearing and for the opportunity to testify. The Commission stands ready to assist you in any way on this issue and looks forward to further deliberations. I'll be glad to answer any questions you may have. Thank you.