

Prepared Testimony of

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*before the*

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## **Introduction**

Good morning, Chairman Marshall, Chairman Matzie, and members of the House Consumer Affairs Committee. I am Gladys Brown Dutrieuille, Chairman of the Pennsylvania Public Utility Commission (PUC or Commission). On behalf of the Commission, we thank you for the opportunity to appear before the committee today. With this testimony I will provide a summary of the Commission's duties as well as a focused explanation of Pennsylvania's competitive retail electric marketplace.

The board of commissioners at the PUC includes five seats, with four presently populated and one presently vacant. The Commission includes twelve distinct offices and bureaus comprised of legal, technical, and administrative staff. The Commission presently has a complement of 526 employees with an overall budget of \$83.08 million dollars, including federal funds in the amount of \$5.02 million. The PUC oversees approximately 9,000 utilities across the Commonwealth. These utilities include electric distribution, natural gas distribution, telecommunication, water, wastewater, transportation, and steam. Each of these sectors presents its own set of unique challenges.

The Commission continually evaluates issues facing each sector and adapts to meet the developing needs of these industries. In doing so, we never lose sight of our mission to balance the needs of consumers and utilities, to ensure safe and reliable utility service, to educate consumers to make independent and informed utility choices, and to foster new technologies and competitive markets in an environmentally sound manner.

Going into 2020, none of us could have foreseen what the year ahead would bring – a pandemic causing far-reaching concern and economic hardship for consumers, businesses, and communities. The past 12 months have been replete with unprecedented challenges for the utility industry in Pennsylvania. Throughout it

all, the Commission has tried to do its part in protecting consumers and assisting utilities – including last March, when the PUC quickly acted on moratoria regarding service terminations<sup>1</sup> and in-person marketing by electric generation suppliers (EGSs) and natural gas suppliers (NGSs) (collectively energy suppliers).<sup>2</sup>

Regarding the latter, I note for the Committee that the Commission twice has amended its Emergency Order - which initially prohibited all door-to-door and in-person marketing by energy suppliers. Currently, energy suppliers may conduct sales and marketing activities at indoor retail locations. Further, energy suppliers may market products at outdoor public events provided that they follow all state and federal health guidelines. The ban on door-to-door sales by energy suppliers remains in place during the pendency of the Governor’s Proclamation of Disaster Emergency, or unless otherwise directed by the Commission.

The PUC continues reminding consumers to remain vigilant about questionable energy marketing activities and possible scams. This has been in response to utility customers receiving unsolicited telemarketing calls demanding quick action and promising far-reaching benefits. The Commission’s Office of Competitive Market Oversight (OCMO) has broadcast this concern to the energy supplier marketplace, reminding suppliers of their obligations to comply with all pertinent statute and regulations, including the Telemarketing Registration Act.

Further, with many more residents at home, the Commission has stepped up consumer education initiatives pertaining to electric safety and safe digging. We have encouraged residents to consider delaying the start of non-essential home digging projects to safeguard citizens, protect utility crews, and avoid accidental damage to underground lines that could disrupt utility services during this stressful time. As these issues remain fluid, the Commission continues exploring possible safeguards for at-risk consumers.

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<sup>1</sup> Orders entered at Docket M-2020-3019244.

<sup>2</sup> Orders entered at Docket M-2020-3019254.

## **Retail Electric Competition**

Since passage of the Electricity Generation Customer Choice and Competition Act (Electric Choice Act), the Commission has maintained its commitment to ensure a sustainable competitive retail electric marketplace in the Commonwealth. This year marks the 25<sup>th</sup> anniversary of the Electric Choice Act, as it passed in 1996. This legislation directed the unbundling of electric generation and transmission resources from electric distribution company distribution rates (EDCs) and the resultant opportunity of Pennsylvania's regulated EDC customers to choose who supplies their generation and transmission services. As a result, millions of electricity customers have benefitted in making choices that lower monthly bills, provide access to new products such as renewable energy, and explored new, innovative offers and plans. Due to the efforts of the Commission, its previous members, our dedicated staff, EDCs, and EGSs, Pennsylvania now operates in the vanguard of competitive electricity markets.

As of the end of February, approximately 1.7 million Pennsylvania electricity customers (or 30 percent) currently receive their electric generation from a competitive supplier; representing just under two-thirds of Pennsylvania's electric load. However, this data does vary by customer class. Over 92 percent of the industrial electric load in the Commonwealth is served by competitive suppliers. Over 58 percent of medium and small commercial customers are served by competitive suppliers while approximately 29 percent of residential customers are enrolled with a competitive supplier. This variance among customer classes is understandable as customers with larger electric usage have significant incentives to shop given their larger electric bills and their specific load profiles.

Past PUC surveys indicate that the vast majority of respondents, more than 90 percent, are aware of their ability to shop electric generation products. A little less

than half of the respondents also indicated they have enrolled with an EGS at some point in time. The same surveys also indicates that over half of the respondents who have not switched to an EGS say it is due to them being happy with their current EDC's default service.

It is important to understand that our electric market has been restructured to ensure that all customers, even those that do not actively shop, benefit from electric competition. Those customers that do not shop receive default service generation supply from their local EDC. EDCs procure default service power through a Commission approved program that establishes a set of laddered competitive auctions. In effect, the utility accesses wholesale markets via these auctions and “shops” for the customers who otherwise do not actively decide to enroll with an EGS. The results of these auctions are translated into the default service price, entitled the “Price-to-Compare” or “PTC.” Given EDC rate unbundling from generation, the default service programs permit a dollar-to-dollar recovery of expenses associated with this service but do not permit a mark-up or a return to be earned by the EDC on default service. The default service prices, i.e. PTCs, for residential and small-commercial customers are fixed prices that can run for either three-month or six-month periods. These fixed rates insulate default service customers from price volatility. Large commercial and industrial customers receive hourly-priced service. However, as stated above, almost all these high-usage customers are enrolled with an EGS as those entities offer a broader array of products to fit commercial customers' usage profiles.

### **PAPowerSwitch.com**

The Commission is committed to doing what it can to make shopping and saving opportunities available for all customer classes. To that end, we recognize the unique efforts needed to facilitate energy shopping for mass market customers (i.e.

residential and small business accounts). For more than a decade, the Commission has maintained its PAPowerSwitch.com electric shopping website – a neutral source for consumers to educate themselves on the competitive retail market as well as to view and compare offers from EGSs.

By entering their home zip code, a consumer can quickly obtain a list of offers from a multitude of licensed suppliers. The Commission strives to keep PAPowerSwitch an easy-to-use, state-of-art education and shopping platform. Recent upgrades to PAPowerSwitch.com have made the site fully responsive no matter what type of computer or smart phone used. The website has been continually updated to be secure, visually cleaner, and to be more intuitive for visitors to learn about individual supply offers. In 2020, PAPowerswitch.com hosted more than 755,000 visitors, with 90 percent agreeing that the website provides helpful information and 70 percent saying that the website is easy to navigate. The Commission is proud to convey that PAPowerSwitch.com is nationally recognized as a successfully designed retail generation online marketplace.

### **Value Added Products**

While price remains a primary reason that many consumers choose to shop for electric generation, in recent years consumers have increasingly factored other criteria into their decisions. For example, many consumers are looking for renewable energy products for their home or business. Such products are plentiful on PAPowerSwitch.com, with varying percentages of renewable energy available – including up to 100% wind or 100% solar. The website allows a customer to specifically filter and identify renewable offers. Such products have proven to be popular, with approximately 25% of residential shopping customers enrolling. This is especially impressive given that renewable products, while coming down in price, can still cost more than utility default service PTC.

With more than 5 million smart meters fully deployed across the state, we hope to see a greater variety of dynamic supplier product offerings marketed in the Commonwealth. As electric vehicles become more common, we will be looking for EGSs to offer more Time-of-Use products to facilitate the economical charging of these vehicles. Time-of-Use products are those that change in price based on pre-established time-periods such as on-peak and off-peak hours. As such products proliferate the Commission will most certainly be ready to ensure customers are well situated to make informed decisions.

### **Consumer Protections**

The Commission recognizes that a robust retail electric market requires strong consumer protection rules and enforcement of those rules. In 2020 the Commission adopted new, stricter Chapter 54 disclosure rules. These regulations govern what suppliers must disclose in writing to customers when enrolling. These new regulations require that “introductory pricing” must be clearly identified, with both the introductory price and the price after the introductory period disclosed.

Additionally, for variable priced products the supplier must provide the factors that the supplier will use to establish the price and must put in writing, in a larger font, that the price can change. Suppliers also have to state all prices for all products in a standard kilowatt hour (kWh) price unit and the overall bill resultant from three different usage levels: 500, 1,000, and 2,000 kWh. For Time-of-Use products, the supplier must clearly show the price for specific time periods in a table format.

Importantly, early termination fees are now prohibited in the final 30 days of a customer’s service contract – freeing customers to shop and switch without fear of getting charged as they approach the expiration of a contract. In recognizing that vulnerable low-income customers need additional protections, the Commission has put in place special rules and restrictions to ensure that Customer Assistance

Program participants are either required to be on default service or required to enroll with an EGS at a price below the PTC.

Another important aspect of consumer protection are marketing rules.

Pennsylvania was a national leader when 10 years ago we promulgated some of the first energy supplier marketing rules in the country; putting in place rules for door-to-door and telemarketing. Now that a decade has passed, we realize it is time to update these rules and have started the process for doing so. We have solicited informal comments from stakeholders on what needs to be updated and revised and will use this feedback to initiate a formal rulemaking.

Of course, the effectiveness of any rules only goes as far as its enforcement. We actively monitor the competitive market through the informal and formal complaints filed with the Commission. Staff routinely engages suppliers informally on regulatory compliance concerns, and when informal methods are not effective, a variety of more formal enforcement mechanisms are available – including referring matters to the Commission’s Bureau of Investigation and Enforcement. We encourage any consumer with questions or problems to contact our Bureau of Consumer Services through our hotline at 1-800-692-7380 or through our online complaint portal at [www.puc.pa.gov](http://www.puc.pa.gov).<sup>3</sup>

## **Recent Events in Texas**

Given this platform and the substance of this hearing, the Commission found it prudent to highlight the recent events in Texas and how Pennsylvania stands apart from that unfortunate scenario. Three main items help to insulate Pennsylvania consumers from the effects realized in Texas.

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<sup>3</sup> <https://www.puc.pa.gov/complaints/informal-complaints/>

- Capacity Market

First, Pennsylvania's wholesale power grid operates within an energy and capacity market that is administered by PJM Interconnection, LLC (PJM). The Texas wholesale market, administered by the Energy Reliability Council of Texas (ERCOT), is an energy-only market. The PJM capacity market provides a means to ensure resource adequacy three years in the future. Generators can avail themselves to capacity revenues but must ensure they are winterized and operationally robust enough to meet dispatch in the future or else face strict penalties.

- Default Service

Second, as described above, Pennsylvania maintains a quasi-regulated default service construct as a safe-haven backstop for customers whereas Texas does not. If an EGS in Pennsylvania passes through extremely high costs to customers, those customers have the ability to migrate to default service. The existing default service design provides a fixed rate for all mass-market (i.e. residential and small business) customers that is competitively bid and hedged to ensure price volatility is managed.

- Accelerated Switching

Finally, Pennsylvania now avails electric customers the ability to switch to an EGS or to default service within three days. This helps avoid situations where customers are stranded on uneconomic or unreasonably priced EGS products. The Texas market switches customers within seven days.<sup>4</sup>

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<sup>4</sup> <http://powertochoose.org/en-us/Content/Resource/FAQ>

## **Conclusion**

From a personal perspective, as Commission Chairman, it is hard to believe it was a quarter century ago that I served as Counsel to the Senate Democratic Leader assisting in the passage of the Electric Choice Act. I can still remember the drafting, the debates, the discussions, and the votes.

Together as a Commonwealth we have worked through the challenges of implementation, tweaking policies and rules along the way but always seeking to enhance the electric shopping experience. For more than two decades, Pennsylvania has stood on the national forefront of electric competition, putting the power of choice in the hands of consumers, giving them greater control of their electric bills, all while balancing this with prudent consumer protections. As a consequence, Pennsylvania has remained competitive and energy resilient – with millions of electricity customers making the affirmative choice to enroll with energy suppliers.

Thank you for your time and attention. At this time, I would be happy to answer any questions that committee members may have.