

**BEFORE THE PENNSYLVANIA
HOUSE CONSUMER AFFAIRS COMMITTEE**

Comments of

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Regarding

Pennsylvania Electric Industry

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**Chairman Godshall, Chairman Preston
and Members of the House Consumer Affairs Committee**

My name is Sonny Popowsky. I have served as the Consumer Advocate of Pennsylvania since 1990, and I have worked at the Office of Consumer Advocate since 1979. Thank you for inviting me to give comment before this Committee at this informational meeting on the Pennsylvania electric industry.

For newly elected representatives and those representatives who are new to this Committee, let me first congratulate you and next introduce you to the Pennsylvania Office of Consumer Advocate (OCA). The OCA was established by the General Assembly in 1976 to fill a gap that had long existed in the representation of consumers – particularly residential consumers -- before the Pennsylvania Public Utility Commission (PUC) and other state and federal agencies and courts that regulate the activities of Pennsylvania's public utilities. Traditionally, utilities have always been well-represented at the PUC by lawyers and expert witnesses who could advocate for utility stockholders in matters such as rate increase requests for utility services. Our Office was created so that the consumers who have to pay those utility bills were also represented by professional attorneys and experts. The job of representing consumers cannot be performed by the PUC itself because the members of the Commission serve in a judicial role and must balance the interests of the utility stockholders and consumers in achieving a result that is just and reasonable for all parties. The OCA also has the right to appeal PUC decisions that we believe are adverse to the interests of consumers, and we have taken such appeals all the way to the Pennsylvania Supreme Court and, in one landmark decision, to the United States Supreme Court. Offices like mine have been established across the country, and

the National Association of State Utility Consumer Advocates now includes members from more than 40 states and the District of Columbia.

Over the last several years, I have had the honor of working with Chairman Godshall, Chairman Preston, and the members and outstanding staff of this Committee to offer my views on how various utility developments and proposed legislation would affect the interests of the utility consumers that my Office represents. I look forward to continuing to work with the Committee and to provide any assistance that I can as you deal with the complex and difficult utility issues that are certain to come before you.

Turning to the specific subject of today's meeting, the Pennsylvania electric industry, it is important to note that we have just come out of a tumultuous transition from a fully regulated monopoly service industry to a partially regulated, partially competitive industry that is much different than it was when that transition began 15 years ago.

In 1996, Pennsylvania became one of the first states in the Nation to open the generation portion of its electric utilities to competition. This legislation reflected a policy that competition, rather than regulation, would provide lower prices and improve service for that portion of the electric industry -- electric generation -- that was not believed to be a natural monopoly and where competition could therefore take root. At the time of restructuring in 1996, it was hoped that wholesale competition among generation owners would reduce the cost and price of generation, and that retail competition among suppliers would provide lower prices and a broader array of products to consumers. Because of concern that utilities would be financially harmed by too rapid a transition to competition because lower competitive prices would prevent utilities from recovering the costs they had incurred to build generation under prior regulation, the transition to competition was extended over a period of years and utilities were allowed to

recover the “stranded costs” that were expected to result from competition. Just in case competition did not develop quickly and just in case prices did not go down, however, the restructuring law passed in 1996 also contained a series of generation rate caps that extended as long as the utilities were charging their customers for stranded costs. Those rate caps originally were set to expire no later than 2005 but were later extended through settlements with most of our major utilities until the end of 2009 or 2010. On December 31, 2010, the last of the rate caps expired.

Prior to the end of the rate caps, in 2008, the General Assembly revisited the 1996 electric restructuring law and made some important changes and additions that I believe have helped ease the final transition to the post-rate cap era. In 2008, the General Assembly passed House Bill 2200, Act 129, which addressed several components of Pennsylvania’s electric structure.

First of all, Act 129 dealt with the manner in which our electric utilities secure power and provide so-called “default” service to their customers who do not switch to alternative competitive generation suppliers. This is extremely important, particularly for residential customers, because even where rate caps have expired in parts of Pennsylvania and in other neighboring restructured states such as Maryland, New Jersey, and Delaware, the great majority of residential customers continue to receive generation from their utility, rather than from an alternative competitive provider. In Act 129, the General Assembly enacted new requirements to ensure that those customers who do not or cannot switch to an alternative supplier can be assured that they will receive reliable generation service at a reasonable price. Specifically, the Act requires each utility to provide default service “at the least cost to customers over time.” Default service providers must enter into a “prudent mix of contracts” to provide least cost service “on a

long-term, short-term and spot market basis.” Under Act 129, utilities must adopt a portfolio approach in which they purchase a variety of long term, short term and spot market products that are designed to produce the lowest cost to consumers over time.

At the time Act 129 was being debated, energy prices across the United States were extremely high and all of us were very concerned that when rate caps expired Pennsylvania consumers would be hit with massive electric rate increases. In fact, when the last of the rate caps ended in 2010, price increases were not as high as we had feared. This was due to a number of factors, primarily the overall economic downturn which reduced energy demand and thus energy prices. In addition, the cost of natural gas, which is used as a fuel for many new electric power plants has dropped dramatically because of increased supplies of natural gas including gas from new developments such as the Marcellus Shale. Finally, in accordance with Act 129, each of our utilities has begun to secure generation from a variety of wholesale sources under plans that have been approved by the Public Utility Commission. These plans will extend until mid-2013, when the utilities will implement new plans after Commission review.

At the same time as these default service rates have gone into effect, a substantial number of competitive marketers have stepped up to offer an array of generation products that have generally offered savings to customers as compared to the utility default rates. As part of our service to Pennsylvania consumers, my Office publishes a “shopping guide” both on our Website (www.oca.state.pa.us) and in hard copies which can be obtained at no charge by calling our toll free number at 800-684-6560. Our shopping guide provides apples-to-apples price comparisons of residential prices offered by the utility itself and each of the active marketers in the utility’s service territories. As of the end of last month, our shopping guide for PPL customers listed 48 offers by 20 different marketers. The offers to PPL customers have provided savings of up to

10% per month (or about \$10 per month for a customer using 1000 kilowatt hours) and include both variable and fixed price offers as well as “green” products that feature the sale of generation from renewable resources.

Since PPL rate caps came off at the end of 2009, we have seen nearly 430,000 residential customers – or about 35% -- switch to alternative suppliers. We are also beginning to see a high level of retail marketing activity in the PECO service territory where rate caps expired at the end of 2010 and where 20 marketers are already offering 39 products, many at a savings to customers. While we have not yet seen as much residential marketer activity in some of our other service territories (which generally have lower utility default service prices than PECO and PPL), we do now have at least one active residential marketer in all of the major utility service territories.

In my mind, this is how the 1996 Act, as amended by Act 129 of 2008, is supposed to work. Customers who want to shop for electric generation service can choose to do so, and customers who wish to stay with their utility are assured that their utility will provide them with service through the acquisition of wholesale generation at the least cost over time.

Another important change enacted by the General Assembly in Act 129 was a requirement for the first time that our electric utilities must help their customers save energy and save money by offering energy efficiency and demand response programs to their customers. Again, these programs were the subject of a series of proceedings before the PUC. Each of the utilities has begun to implement these programs, and at least one utility, PECO, has announced that it has already met its statutorily mandated energy efficiency goals for 2011 and has helped customers reduce unnecessary energy usage by 419,000 megawatt hours.

By mandating that our utilities take an active role in developing energy efficiency and demand response programs, Act 129 is intended to help individual consumers to lower their monthly bills, while helping all customers by reducing the overall system cost of electricity. These benefits occur because it is generally far cheaper to take steps to reduce energy usage than it is to purchase the same amount of energy in the wholesale generation market (particularly at times of high peak usage). From an individual customer's perspective, even if the utility's rate per kilowatt hour increases when rate caps come off, customers can still see a lower overall monthly bill if they can significantly reduce the amount of kilowatt hours that they actually use. Customers as a whole benefit from these actions as well because energy usage reductions at the retail level will reduce demand in the unregulated wholesale markets and therefore reduce the prices that all retail customers must ultimately pay. Again, this is most effective when usage reductions occur at periods of peak demand when wholesale costs are the highest. That is why Act 129 includes separate specific requirements for reductions in both overall energy usage and peak demand.

Finally, Act 129 required each of our utilities to install advanced metering technology for all their customers over a period not to exceed 15 years. With the exception of one utility, my office concluded that the advance metering plans submitted by the utilities were generally reasonable and those plans were approved by the PUC. In one case, we believed that the original smart meter plan was too aggressive and costly to consumers. After further review, however, that utility modified its program and has now submitted a new plan that is more in line with those of the other utilities and which I hope will now be approved by the Commission as well.

Lastly, I would like to talk briefly about the PJM wholesale market from which nearly all the generation we use in Pennsylvania is purchased. We were extremely fortunate in 1996 that at

the time of our initial restructuring Pennsylvania was already a part of the PJM power pool, in which utilities in the Pennsylvania, New Jersey, Maryland region operated in a coordinated manner to provide the most economical and reliable service to customers throughout the region. Since that time, PJM has expanded to include a number of additional states to the west and to the south of the original PJM region, but it still operates a reliable and economic short term energy market that is essentially the model for competitive wholesale electric systems across the Nation and the world.

The biggest concern with the PJM markets is whether they will provide adequate new generation resources in the future to meet the long term needs of Pennsylvania consumers at reasonable costs. Our Office has been active at PJM and at the Federal Energy Regulatory Commission (FERC) to support market reforms that will provide needed generation resources to serve Pennsylvania consumers in the most economic manner.

I want to thank you again for inviting me to comment on these important issues and I would be happy to answer any questions you may have at this time.

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