

ORIGINAL

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE

IN RE: PUBLIC HEARING

NORTH OFFICE BUILDING
HEARING ROOM 1
HARRISBURG, PENNSYLVANIA

TUESDAY, JUNE 8, 2004, 9:08 A.M.

BEFORE:

HON. WILLIAM ADOLPH, MAJORITY CHAIRMAN
HON. CAMILLE GEORGE, MINORITY CHAIRMAN
HON. GIBSON ARMSTRONG
HON. ELLEN BARD
HON. MARTIN CAUSER
HON. JACQUELINE CRAHALLA
HON. THOMAS CREIGHTON
HON. KATE HARPER
HON. SCOTT HUTCHINSON
HON. CHARLES MCILHINNEY
HON. DAVE REED
HON. CHRIS ROSS
HON. CAROLE RUBLEY
HON. RICHARD STEVENSON
HON. ROBERT FREEMAN
HON. DAYLIN LEACH
HON. DAVID LEVDANSKY
HON. GREGORY VITALI
HON. JIM WANSACZ
HON. JOHN YUDICHAK

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1 CHAIRMAN ADOLPH: The hour of 9:00
2 having arrived, I would like to call to order a
3 meeting of the Environmental Resources and Energy
4 Committee public hearing on renewable portfolio
5 standards. Good morning, everyone. Before we get
6 started, I want to apologize for a little mix-up
7 this morning. Our chief clerk's office, for some
8 reason, cancelled this meeting on the internet.
9 But I'm glad that many people out there like
10 myself don't jump on that internet first thing in
11 the morning. I appreciate those that did call my
12 office just to double check.

13 We were also notified late yesterday
14 around 5:00 that the House Republicans would be
15 having a caucus at 10:00. I would just remind the
16 members that we have that. So the testifiers, if
17 you can, keep your testimony brief and leave
18 enough time for questions. Of course, the
19 Democrat Chair will be in charge, as he always is
20 anyway.

21 I would like to take attendance. We
22 can start from the left.

23 REPRESENTATIVE STEVENSON: Dick
24 Stevenson, 8th District, Mercer and Butler
25 Counties.

1 REPRESENTATIVE CRAHALLA: Jackie
2 Crahalla, Montgomery County.

3 REPRESENTATIVE ARMSTRONG: Gib
4 Armstrong, Lancaster County.

5 REPRESENTATIVE YUDICHAK: John
6 Yudichak, Luzerne County.

7 REPRESENTATIVE ROSS: Chris Ross from
8 Chester County.

9 CHAIRMAN ADOLPH: Bill Adolph,
10 Delaware County.

11 CHAIRMAN GEORGE: Bud George,
12 Clearfield County.

13 REPRESENTATIVE LEACH: Daylin Leach,
14 Montgomery County.

15 REPRESENTATIVE VITALI: Greg Vitali,
16 Delaware County.

17 REPRESENTATIVE FREEMAN: Bob Freeman,
18 Northampton County.

19 REPRESENTATIVE BARD: Ellen Bard,
20 Montgomery County.

21 REPRESENTATIVE REED: Dave Reed,
22 Indiana County.

23 REPRESENTATIVE HUTCHINSON: Scott
24 Hutchinson, Venango County.

25 REPRESENTATIVE RUBLEY: Carole Rubley,

1 157th District, Chester and Montgomery County.

2 REPRESENTATIVE HARPER: Kate Harper,
3 Montgomery County.

4 REPRESENTATIVE CAUSER: Martin Causer,
5 McKean, Potter and Cameron Counties.

6 CHAIRMAN ADOLPH: Today we will be
7 conducting a public hearing on renewable portfolio
8 standards Legislation which is before this
9 Committee. RPS requires a certain amount of
10 renewable energy to be included in a generation
11 portfolio of electric utilities.

12 During the past few months, this
13 Committee has come to appreciate the complexity of
14 the RPS concept and a number of the issues that
15 must be carefully considered. Today we are
16 focusing our hearing on the economic and
17 regulatory issues that must be addressed in any
18 Pennsylvania RPS effort. As usual, Representative
19 George, Chairman, would like to have a few
20 comments.

21 CHAIRMAN GEORGE: Thank you, Chairman
22 Adolph. I welcome you and share the Majority
23 Chairman's zeal in that I believe today, more than
24 anytime in my 30 years here, we have to start
25 focusing on something that we claim we focused on

1 many years ago and that is being able to determine
2 and bring about a situation where we're not so
3 dependent on our energies.

4 I might say to you personally one of
5 my priorities will be focusing basically on used
6 coal reserves. I don't think anyone can deny,
7 with the Governor's attention to the environment
8 and a couple of statements I've read thus far, Mr.
9 Chairman, the environment and energy is something
10 that has to work together.

11 I believe that no more damage could be
12 brought about than what was brought about years
13 ago before we had laws containing mining. I
14 believe that by removing these coal wastes and
15 using them in a manner where we can provide
16 electric energy and clear the environment, as we
17 all want to do, we are going to be focusing on
18 that. I welcome all of you that will testify and
19 I thank you, Mr. Chairman.

20 CHAIRMAN ADOLPH: Thank you, Mr.
21 Chairman. I would also like Representative Ross,
22 the prime sponsor of this Legislation, to have
23 some brief comments.

24 REPRESENTATIVE ROSS: I will be very
25 brief. Basically, I just want to thank the Chair

1 and the Committee for coming together to get some
2 important information out on this Legislation. We
3 are well aware that we are going to need to make
4 some significant change to it. I'm looking
5 forward to the testimony today to help us get a
6 better understanding of the issues involved so
7 that we can do as well by this Legislation as
8 possible. Thank you.

9 CHAIRMAN ADOLPH: Thank you,
10 Representative. Our first speaker today is Ms.
11 Denise Foster, Senior Counsel for the PJM
12 Interconnection. Denise is joined by Ken Seiler.
13 I understand that Ms. Foster is also testifying in
14 the Senate. So after she makes her presentation,
15 we are going to ask Ms. Foster the questions and
16 then she can run off to the Senate. Then we will
17 continue with our hearing. Without further adieu,
18 Denise Foster.

19 MS. FOSTER: Thank you, Chairman
20 Adolph and members of the House Environmental
21 Resources and Energy Committee. I thank you for
22 accommodating our scheduled today. As you
23 mentioned, Ken Seiler is here. He will be
24 available to help answer the questions that you
25 might have.

1 We submitted some written testimony.
2 I'm not planning to read through that today but
3 rather provide some overview comments. We believe
4 that in our testimony, we addressed most of the
5 questions that you posed to us in your invitation
6 letter. But we welcome any additional questions
7 that you might have if you feel that we had not.

8 PJM appreciates this opportunity to
9 offer testimony before you today on your efforts
10 to establish a renewable portfolio requirement for
11 the Commonwealth of Pennsylvania. In the written
12 testimony, I offered a brief overview of PJM and I
13 would be happy to answer any questions you may
14 have on PJM.

15 Many of you may generally be aware of
16 PJM and how PJM works closely with the
17 Pennsylvania Public Utility Commission given the
18 interplay between the wholesale level and the
19 retail level of energy. You may generally know
20 that PJM ensures the reliability of the
21 transmission system, administers a competitive
22 wholesale energy market and does these things as
23 an independent entity with no preference for any
24 market participant.

25 With regard to how we operate the

1 transmission system, in my testimony I used the
2 analogy of an air traffic controller to explain
3 what PJM does. An air traffic controller must
4 direct the landing, taxiing and take off of all
5 the aircraft that comes into an airport. It must
6 do this in order to ensure safety and it must
7 exercise its authority without giving preference
8 to any one airline over another.

9 For example, it cannot give
10 preferential treatment to Delta Airlines over
11 united by always allowing Delta planes to take off
12 first. While not a perfect analogy, like the air
13 traffic controller, PJM must ensure the
14 reliability of the transmission system and
15 coordinate the use of the transmission system
16 without favoring one market participant over
17 another.

18 I had circulated a map to use that can
19 better depict the geographic region of PJM. PJM
20 currently encompasses the Mid-Atlantic region.
21 The most significant portion of Pennsylvania is
22 within the PJM region currently. The graph that I
23 circulated shows a PJM before and a PJM after and
24 that's indicative of the fact that we on May 1st
25 integrated the Northern Illinois control area,

1 which is the Com Ed Company, into PJM. So I just
2 provided some statistics with regard to PJM
3 region.

4 I should note that there are
5 additional efforts under way to integrate
6 additional companies into PJM including Duquesne
7 by January 1st, 2005, American Electric Power in
8 October 2004, Dayton Power & Light in October of
9 2004 and Dominion in November of 2004. We are
10 working through various regulatory issues
11 associated with that. But those are the dates
12 that we're working toward from a technical
13 feasibility standpoint of integrating those
14 companies.

15 Turning to the Generator Attribute
16 Tracking System that PJM is developing -- and we
17 use the acronym GATS. So if you indulge me, I
18 will just refer to it as GATS. Let me explain why
19 PJM even started to develop GATS. PJM received
20 requests by certain states that have emissions or
21 fuel mix disclosure requirements or renewable
22 portfolio standard requirements to see if it would
23 be possible for PJM to administer a system that
24 would facilitate supplier compliance with such
25 rules.

1 There was a recognition that some
2 suppliers serve load in multiple states and that
3 the energy market is regional such that generators
4 outside of a particular state may produce the
5 energy that is actually consumed in another state.

6 Therefore, it made sense for PJM,
7 which administers a wholesale power market and by
8 virtue of controlling the operation of the
9 transmission system and knows which generators
10 within PJM are producing power at any given time,
11 to develop a system to track information that
12 would be helpful to the suppliers who must comply
13 with the state requirements.

14 PJM engaged with other interested
15 market participants including the Pennsylvania
16 Public Utility Commission, the Pennsylvania
17 Department of Environmental Protection, the
18 Pennsylvania Office of Consumer Advocate and other
19 Pennsylvania distribution companies and generation
20 suppliers and interested parties from other states
21 as well to discuss and develop the design details
22 of such a system.

23 The Appendices A and B attached to my
24 written testimony provide additional detail on the
25 current proposed conceptual design of GATS. The

1 conceptual design is an unbundled certificate
2 base. We're using the terminology in
3 Representative Ross's bill, a credit-based system.

4 As generators create megawatt hours of
5 energy, a certificate would be created and
6 deposited in the generators' accounts. There
7 would be one certificate representing the
8 attributes of the generation for each megawatt
9 hour of energy produced. This system would allow
10 also distributed generation such as solar to be
11 combined by an aggregator to enter into the
12 system.

13 The value of the certificate or the
14 credit that is created is that it can be treated
15 separately from the actual megawatt hour of
16 energy. In other words, an electric distribution
17 company or an electric generation supplier could
18 choose to buy megawatt hours to cover its load
19 from one generator but then buy certificates
20 without the associated megawatt hours from another
21 generator -- and we understand from our
22 discussions from various stakeholders, that this
23 happens today -- or these suppliers could purchase
24 both the megawatt hours and the attributes from
25 the same generator.

1 GATS would allow suppliers to model
2 their supply portfolio for the load that they
3 serve in each state in which they do business
4 separately in order to better track compliance
5 with different state requirements. GATS then
6 would issue reports for any time period required
7 by state requirements.

8 The suppliers who make marketing
9 claims are required to comply with the particular
10 state RPS or emissions fuel mix disclosure rules
11 and then use user ports to verify their claims to
12 customers in order to demonstrate the compliance
13 to regulators.

14 This discussion on the design of GATS
15 is still ongoing at PJM at some level. PJM is
16 attempting to drive the design to finality so that
17 a system could be implemented in 2005. That's our
18 goal. We would like to implement something in
19 2005.

20 I should note that a piece of this
21 discussion is ensuring that the cost associated
22 with constructing and operating such a system will
23 be covered. PJM has specifically requested that
24 jurisdictions that look to GATS as a means of
25 facilitating supplier compliance with reporting

1 and RPS requirements, to require the suppliers to
2 cover those costs in accordance with the use of
3 the system, to facilitate the use of that system.

4 In my written comments, I also offered
5 a few specific comments and suggestions regarding
6 the language of Bill 2250. I and my colleague,
7 Mr. Seiler, would be happy to step through any of
8 the specific requests or specific suggestions or
9 any other questions that you might have regarding
10 my testimony here today. We thank you for
11 allowing us to participate in your hearing.

12 CHAIRMAN ADOLPH: Thank you. First I
13 would like to acknowledge the presence of
14 Representative Levdansky and Representative
15 Wansacz. The first question will be from
16 Representative Ross.

17 REPRESENTATIVE ROSS: Thank you. I
18 just wanted to first express my appreciation for
19 the amount of work you all are doing to set up the
20 necessary techniques that are going to be needed
21 to properly track RPS. It's showing a lot of
22 initiative on your part and it certainly is going
23 to make our job a little easier. I'm looking
24 forward to checking out your testimony in more
25 detail, the backup information as well, and trying

1 to see if we can't incorporate that into
2 Legislation.

3 One question that has been raised from
4 time to time and I thought maybe if you would have
5 just a moment to explain it for some of the other
6 members of the Committee as well as myself is the
7 issue of various types of power that are not
8 always available, particularly things like wind,
9 and how that fits into the overall system and if
10 we create more wind capacity here in Pennsylvania,
11 whether we're going to create problems for you in
12 terms of meeting the load needs that you have. If
13 you could just maybe briefly explain how that
14 works with you a little bit, it would be helpful I
15 think.

16 MR. SEILER: PJM has a regional
17 transmission expansion planning process. Any new
18 wind projects that are being planned for the PJM
19 system are studied separately. Each project that
20 would be proposed is studied by PJM to see if any
21 transmission system upgrades would be required.

22 PJM is in a good position in that
23 respect. I think we're one of the few RTOs that
24 does that kind of regional transmission expansion
25 planning. So as far as the transmission system

1 upgrades, we would evaluate the impact of those
2 upgrades prior to the project coming on-line.

3 With respect to the intermittent
4 nature of some of the resources, PJM has another
5 advantage in that we are a very large market, the
6 largest centrally dispatched control area in the
7 world at this point. So the impact of additional
8 renewable resources on our system would be lesser
9 than it might be in some other control areas that
10 aren't as large. We have seen evidence of some
11 problems in other regions, but we don't expect any
12 reliability issues in PJM due to the intermittent
13 nature of the resources.

14 MS. FOSTER: If I may, we have also
15 done a lot to try to encourage resources. There's
16 been discussion about how wind resources -- and I
17 believe there is still ongoing discussions about
18 solar resources, to get capacity credits at PJM.
19 Load-serving entities have to have enough energy
20 to meet their load, but they also have to have
21 enough capacity in a different kind of concept.
22 So we are trying to encourage these resources
23 within PJM.

24 REPRESENTATIVE ROSS: Thank you very
25 much.

1 CHAIRMAN ADOLPH: Representative Bard?

2 REPRESENTATIVE BARD: Thank you, Mr.
3 Chairman. I want to express to PJM our
4 appreciation for the excellent work you do. We
5 certainly all saw that in the recent blackout. So
6 thank you and thank you for being here today.

7 Just to follow up a little bit in
8 terms of your comments about being able to
9 accommodate distributed generation, solar, could
10 you amplify on that a little bit and what kind of
11 expectations you might have for the potential for
12 that and how that might be encouraged?

13 MS. FOSTER: I can start addressing it
14 and Ken can assist me. Our current system creates
15 a certificate for a megawatt hour of generation
16 and it does for the generation that's metered that
17 we know runs at a particular time. Solar
18 resources may not be metered to the PJM level.
19 They might be, what we call, behind the meter,
20 more at the distribution level or on a customer
21 site.

22 We would create a mechanism to ensure
23 that that generation actually ran but allow them
24 some aggregator to take that amount of generation,
25 input it into the system as aggregated up to a

1 megawatt hour and get credit to be able to
2 transfer in the system.

3 MR. SEILER: I would just add that in
4 one of the appendices, there is a conceptual
5 design document that describes in a couple
6 paragraphs how the system will be able to
7 accommodate behind the meter generation like solar
8 or other distributed resources. There is some
9 additional information in one of the appendices on
10 that issue.

11 REPRESENTATIVE BARD: Do you have any
12 expectations in terms of the potential for that?

13 MS. FOSTER: We know that there has
14 been a lot of interest and a specific request that
15 we find a way to accommodate it. From that
16 perspective, we would imagine that there would be
17 interest. The District of Columbia, for example,
18 are looking at our renewable portfolio standards
19 considering solar carve outs. They have heard a
20 lot of testimony that might be valuable, too, on
21 the level of solar resources and the interest in
22 the development of solar resources.

23 CHAIRMAN ADOLPH: Thank you.
24 Representative Rubley?

25 REPRESENTATIVE RUBLEY: Thank you, Mr.

1 Chairman, and thank you both for appearing today.
2 I have a question on the grid as it currently
3 operates without getting into the GATS. I was
4 just speaking to someone who mentioned -- and I
5 wasn't familiar with this -- that in order for a
6 company to participate in PJM, that they have to
7 pay either an up-front fee or an ongoing cost
8 unlike other grids around the country and it could
9 be discouraging to certain companies. Is this
10 correct?

11 MS. FOSTER: We require the members of
12 PJM to pay an annual fee of \$5,000 and an
13 application fee when they apply to become a member
14 of \$1,500. Most of that is the administrative
15 cost of processing the application and the 5,000
16 goes toward other expenses of membership.

17 I haven't heard that it's been
18 discouraging of members. I know end-use
19 customers, for example, have expressed that it's
20 prohibitive for them to be a member -- or I
21 shouldn't say prohibitive. But they think about
22 it. They are not the customer that we have. We
23 are wholesale customers.

24 So the suppliers, your Constellation
25 Energies, your PECO, your PP&L, they are members

1 of PJM. But yet their end-use customers can
2 consider becoming a member of PJM. We have an
3 end-use sector in our voting scheme that allows
4 for that. There have been several industrial
5 customers. Even the consumer advocates, there are
6 special rules for the consumer advocates to become
7 a member and there is a reduced fee for them. I
8 can't recall offhand what it is, but there is a
9 reduced fee.

10 REPRESENTATIVE RUBLEY: It doesn't
11 sound like for any large utilities that your fees
12 would be prohibitive?

13 MS. FOSTER: Absolutely not.

14 CHAIRMAN ADOLPH: Ms. Foster, are
15 there any examples of other states with RPS
16 Legislation that is using the similar system to
17 this GATS?

18 MS. FOSTER: Within PJM, New Jersey,
19 for example, is looking to GATS to satisfy their
20 needs. The District of Columbia is expressing
21 interest in the GATS program to accommodate their
22 needs. As I mentioned, we were specifically
23 requested to see if we could come up with a design
24 that would help facilitate both RPS and disclose,
25 since the majority of states within that

1 environment have disclosure, their system similar
2 to ours. In New England, the one that we are
3 developing in the New England region are those
4 states that have RPS and disclosure requirements.
5 There is something in Texas as well. It's fairly
6 similar.

7 MR. SEILER: The Texas system is just
8 tracking renewable energy credits. So it's a
9 little bit different from the Generator Attribute
10 Tracking System that PJM has proposed. Wisconsin
11 has a REC tracking system or a Renewable Energy
12 Credit Tracking System.

13 There is another REC tracking system
14 that's being proposed for the western
15 interconnection, the western portion of the United
16 States. But our system, the GATS system, is most
17 like the New England GIS which is being used today
18 and has been for a couple years to track resources
19 in the six New England states.

20 CHAIRMAN ADOLPH: Thank you very much.
21 Seeing no other questions, you may leave and
22 proceed to the State Senate's hearing. To keep
23 the program on schedule, I will ask our remaining
24 speakers to provide their testimony and then we
25 will open it up to questions.

1 Our next speaker is the Honorable
2 Terrance Fitzpatrick, Chairman of the Pennsylvania
3 Public Utility Commission. Good morning, Mr.
4 Chairman.

5 MR. FITZPATRICK: Good morning,
6 Chairman Adolph. Good morning, Democratic
7 Chairman George. It's a pleasure to be here. I
8 want to start out by making a correction to my
9 written testimony and that would be on page 3
10 under Question No. 1. At the end of the first
11 paragraph, the words low single digits should be
12 stricken from the testimony and there would be a
13 period after 3.5 percent.

14 CHAIRMAN ADOLPH: Thank you.

15 MR. FITZPATRICK: Thank you, Mr.
16 Chairman. Mr. Chairman, would you like me to
17 summarize my testimony or just be open for
18 questions?

19 CHAIRMAN ADOLPH: I think a brief
20 summary. Then we are going to go to Mr. Love for
21 his testimony and then we are going to open it up
22 for questions for both testifiers.

23 MR. FITZPATRICK: Thank you, Mr.
24 Chairman. Going quickly over my testimony, first
25 of all, under the electricity competition law that

1 was passed in 1996, there have been some benefits
2 to Pennsylvania. I won't try to go into all of
3 them. But with respect to the issues we are
4 dealing with today, we do have a lot of customers
5 that have chosen to shop for green power and are
6 willing to pay more than they can get energy from
7 their electric utility by buying from a green
8 power producer.

9 Also sustainable energy funds have
10 been formed which have provided \$20 million in
11 financing for renewable energy projects. Partly
12 as a result of that, Pennsylvania is now the
13 leader in wind energy production in the eastern
14 part of the United States.

15 I do point out in my testimony that
16 there is a close relationship between
17 environmental policy and energy policy. The
18 manner in which we use energy affects the
19 environment. The manner in which we regulate the
20 environment also influences the amount and the
21 type of energy that we use. The Legislation
22 you're considering here today is something that
23 touches both energy and environmental policy.

24 Let me go right into the questions
25 that you asked. I really think that's the meat

1 probably of what you're looking for from us. The
2 first question is, how can an RPS system,
3 renewable portfolio system, be developed for
4 Pennsylvania that would be sensitive to customer
5 rates and not be an economic burden to electric
6 generators and distributors?

7 Currently, renewable energy sources
8 are more expensive than non-renewable energy
9 sources. But the gap has narrowed recently as the
10 prices of natural gas and coal have increased.
11 The staff of the PUC has analyzed a 10 percent RPS
12 requirement and estimated that if this cost was
13 passed on to customers -- and I'll discuss that
14 later -- it would not cause excessive price
15 increases, probably in the range of 1 to 3.5
16 percent.

17 For the majority of electric
18 utilities, which are still subject to generation
19 rate caps, under current law they could not pass
20 along this price increase unless they could
21 demonstrate that relief was necessary to preserve
22 a fair rate of return. The inability of electric
23 utilities to pass along this increased cost would
24 make it more difficult for competitive electricity
25 suppliers to increase their prices and still

1 remain competitive because, of course, they have
2 to compete with the electric utilities' cap
3 prices.

4 Question 2, should there be a cost
5 recovery mechanism in place for electric utilities
6 and how can an RPS exist in Pennsylvania under the
7 current rate cap structure? As I stated earlier,
8 most electric utilities that are serving most of
9 the Commonwealth remain subject to caps on
10 generation rates and the caps will remain in place
11 for the next four to six years depending on the
12 utility.

13 Under the competition act, the
14 commission may grant an exception to these rate
15 caps due to increased generation costs but only if
16 the utility could show that absorbing the added
17 cost would prevent it from earning a fair rate of
18 return.

19 One option for dealing with this would
20 be to implement an RPS after the generation rate
21 caps expire. At that point, any increased cost
22 incurred by the utility could be passed along in
23 the market-based generation rate and this would
24 help alternative suppliers remain competitive.

25 If an RPS is required prior to the