



**Testimony of
David J. Spigelmyer, President
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Before the
Pennsylvania House Consumer Affairs Committee
April 15, 2019**

Good morning, Chairman Roae, Chairman Matzie and members of the House Consumer Affairs Committee. Thank you for the opportunity to testify today and share with you some thoughts regarding House Bill 11. My name is Dave Spigelmyer, and I serve as President of the Marcellus Shale Coalition (MSC). The MSC is a state-wide trade association representing energy producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials to facilitate the safe development of natural gas resources in the Marcellus, Utica and related geologic formations. I appreciate the opportunity to appear before you today.

Stay the Course: Competitive Markets Work

Just over two decades ago, the General Assembly embarked on a bold experiment to transform how we deliver electricity in Pennsylvania. Under the 1996 Electricity Generation Customer Choice and Competition Act¹ (Competition Act), the business of generating electricity was separated from the business of delivering it to end-use customers. In doing so, a new marketplace was created whereby customers could choose their electric supplier, and the risk for building and operating generation facilities was shifted from ratepayers to the private sector.

This process of transitioning to competitive markets took the better part of 15 years. Along the way, owners of generation facilities in place at the time – including every single nuclear facility that exists today in Pennsylvania – were compensated by Pennsylvania ratepayers for their stranded costs, to the tune of over \$11.6 Billion. Almost \$9 Billion of that went to Pennsylvania's nuclear industry. In short, Pennsylvania's nuclear power plants were built and financed by you and me – the Pennsylvania ratepayer.

Contrast that to today's marketplace. Captive ratepayers no longer pay the freight to build, operate or subsidize electric generation. Rather, the risk to build and operate generation facilities is borne by private investors, who must carefully evaluate the marketplace and deploy limited resources in as efficient and effective a manner as possible.

Historic Capital Investment and Job Opportunities for PA

The business environment created in Pennsylvania through the Competition Act sent positive signals to the investment community. The response was significant new capital spending – and

¹ Act 138 of 1996, P.L. 802

the creation and retention of thousands of jobs as companies take advantage of clean, abundant and locally-sourced natural gas.

Preliminary estimates of this capital investment show nearly \$13 Billion in construction costs for new and converted power stations just in Pennsylvania alone. Other estimates put the capital investment in the Tri-State Appalachian region at more than \$25 Billion.

Many of these projects have received critical permits and are nearing construction. Yet, fundamentally changing the market rules by mandating nearly 70% of our electric generation portfolio threatens this private capital investment and the jobs and revenue it will bring to our local communities. Operators have demonstrated a willingness to take on 100% of the risk of their investment, but they need certainty and reassurance that our Commonwealth is committed to the principles that first attracted this investment.

Nuclear Power: Here to Stay

We have heard the argument that this abundance of new natural gas power generation may serve the interests of consumers today but may not in future years should natural gas prices rise. This fear is premised on an argument that nuclear power will simply go away. Let me put those arguments to rest.

First, nuclear power generation as an industry is not going anywhere. Pennsylvania's nuclear industry, and indeed the nuclear industry across the PJM power grid, is profitable and healthy. According to the U.S. Energy Information Administration, nuclear generation within the United States reached an all-time peak in 2018 and has increased by 4.8% since 2012.²

Second, power generation in the PJM market does not operate as a cartel. Operators cannot – and do not – conspire to fix prices or limit supply. Each commercial power plant is competing against every other power plant, regardless of its fuel source. As importantly, the General Assembly has prescribed laws which dictate how electricity must be purchased and empowered the Public Utility Commission to oversee and enforce these laws. The system is working.

Some have decried the supposed 'early retirement' of some nuclear plants as emblematic of a struggling industry. However, the retirement of individual power plants that are not economical is nothing new. Currently across the United States, six nuclear power facilities have announced retirement plans; four³ of the facilities are single-reactor facilities while the other two⁴ have announced retirements due to a variety of locally-significant factors, including opposition from environmental organizations.

² U.S. Energy Information Administration: <https://www.eia.gov/todayinenergy/detail.php?id=38792> (March 21, 2019)

³ Oyster Creek (NJ), Palisades (MI), Pilgrim (MA) & Three Mile Island (PA)

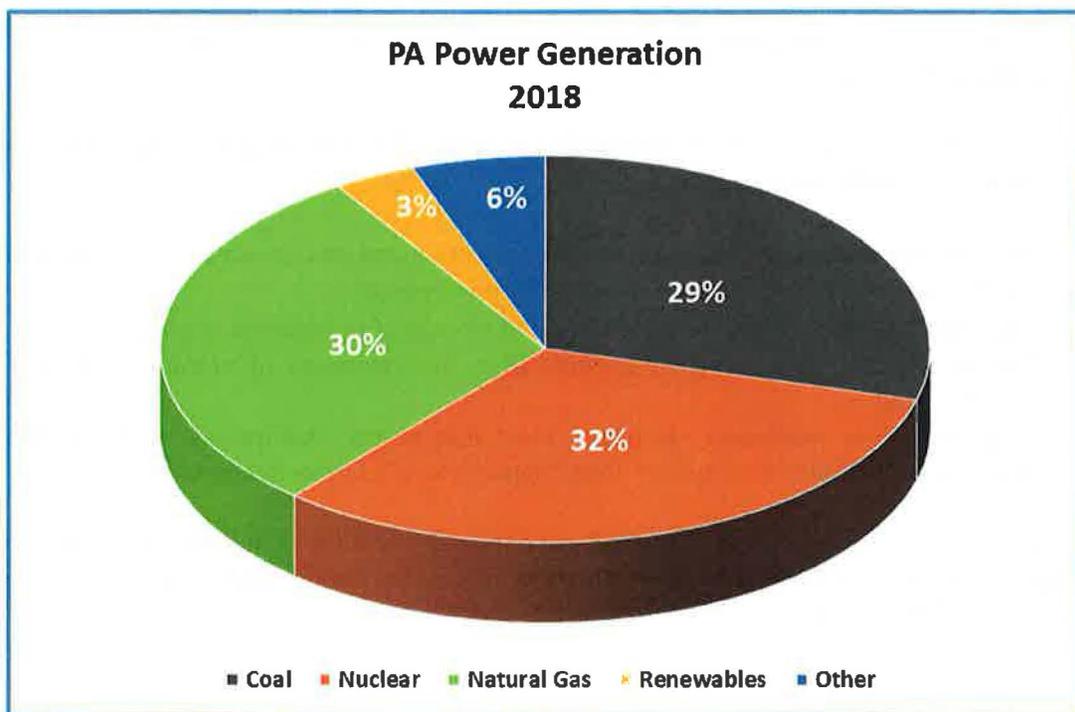
⁴ Diablo Creek (CA) has two reactors but agreed to shut down when their existing licenses expire; concerns include proximity to earthquake-prone faults & environmental pressures to invest in renewable energy; Indian Point (NY) has two operating units & one closed unit; concerns include lack of efficiency due to the closed unit as well as proximity of the plant to New York City.

Despite these announced retirements, there remains a strong, healthy – and highly profitable – nuclear industry within Pennsylvania, PJM and the United States.

Diversity of PA's Generation Portfolio

Pennsylvania is fortunate to have a diverse and abundant portfolio of energy resources, and this has led to an extremely diverse and well-balanced electric generation portfolio.

The diversity of our portfolio works to the advantage of consumers, as various fuels act as a hedge during times of price volatility and increased demand for power. Perhaps no state in the nation has as diverse a generation portfolio as Pennsylvania, with roughly equal parts coming from each nuclear, coal and natural gas. In fact, in 2018 nuclear energy represented the largest percentage of electric power generation in Pennsylvania at 32%:



PA Department of Environmental Protection – Comprehensive Energy Assessment

It also is imperative to understand that Pennsylvania does not exist on an electric generation island. Electricity is generated, transmitted and distributed across the entire PJM regional transmission organization (RTO), which stretches from Illinois to New Jersey. As such, we have the ability to import or export electricity into neighboring RTOs as the market dictates. The diversity of resources available to Pennsylvania consumers – across the entirety of our electrical grid – is well-positioned to serve the needs of our residents regardless if individual, uneconomic power plants choose to close.

No – the Market is Not Broken

Some proponents of the bailout proposal before you have suggested that our marketplace is broken, that it fails to account for external costs borne by us all. Oddly, proponents seek to enter one – and only one – consideration into these external costs, namely the lack of a price of carbon.

If one entertains the argument that wholesale electricity prices should reflect external costs – or in the case of nuclear energy, the supposed external benefit – then why not other external costs or benefits? Why should the General Assembly therefore not ensure that wholesale electricity prices reflect external benefits, such as:

- Use of Pennsylvania-derived fuel stock, including coal and natural gas;
- Significantly reduced use of freshwater for power generation cooling;⁵
- Non-intrusive fuel stock delivery, such as underground pipelines; and
- Proximity of electric generation to end-use customers, which increases efficiency through reduced line loss.⁶

Conversely, why should the General Assembly not ensure that wholesale electricity prices reflect external costs or factors, such as:

- Training and equipment for community notification and emergency response planning;
- Greater use of freshwater for power generation cooling;
- Short-term and long-term transportation and storage of radioactive waste;
- Community and environmental impacts from the extraction of uranium and rare earth minerals; and
- Artificially low wholesale electricity rates due to tax exemptions, such as the rural electric cooperatives' exemption⁷ from Pennsylvania's Gross Receipts Tax.⁸

In short, choosing *one* supposed external cost to address alleged market disparities, while ignoring factors such as those discussed above, is inherently unfair, disingenuous, and in itself, manipulative of the market.

⁵ Panda Hummel Station, located in Shamokin Dam, Snyder County, PA, is a new 1,124 MW natural gas-fired power generation facility which uses 97% less freshwater for cooling purposes while generating 180% more electricity than its predecessor coal-fired power facility situated at the same location:

<https://www.pennlive.com/news/2018/09/landmark-former-coal-fired-gen.html>

⁶ Line loss refers to the amount of electricity 'lost' – or dissipated – into the atmosphere as it travels across transmission and distribution lines to end-use customers. The U.S. Energy Information Administration (U.S. EIA) estimates that 5% of electricity is lost in this manner:

<https://www.eia.gov/tools/faqs/faq.php?id=105&t=3>

⁷ This exemption is estimated by the Governor's Office of the Budget to have resulted in a subsidy to Rural Electric Cooperatives of approximately \$250,000,000 over the past decade.

⁸ Article XI of Act 2 of 1971, as amended, known as the Tax Reform Code of 1971

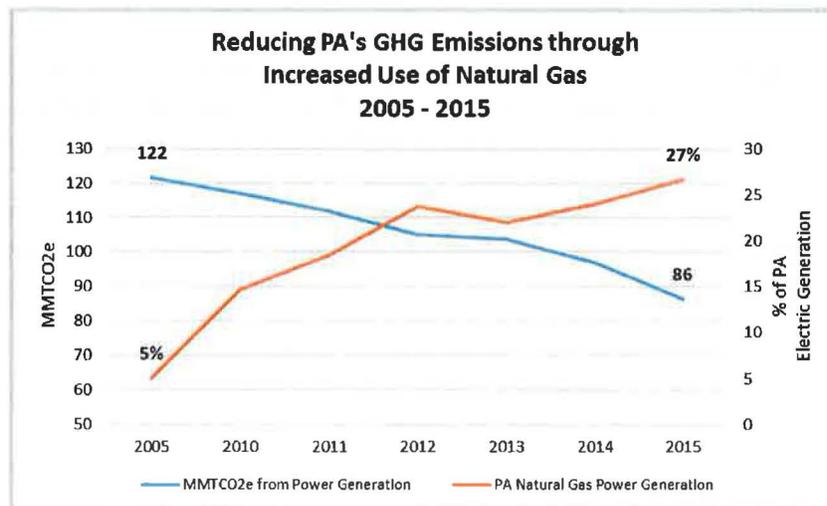
Importance of Carbon and Other Emission Reductions

To be clear: the MSC and its member companies recognize the importance of reduced air emissions across the board. While the MSC does not represent any power generation facilities, our member companies are incredibly proud of the role that natural gas has played in developing the fuel and delivering the fuel that is cleaning our air and helping to lead the world in historic carbon emission reductions.

It is helpful to understand where we are in Pennsylvania with respect to air quality⁹. Thanks to innovations in technology, tightening environmental performance standards, and increased use of natural gas:

- Volatile Organic Compounds emissions, affecting respiratory health, are **down 51%** between 1995 and 2015;
- Sulfur dioxide emissions, which contributes to acid rain, are **down 82%** between 1990 and 2015; and
- Nitrogen oxide emissions, affecting respiratory health, are **down 72%** between 1990 and 2015.

Additionally, carbon dioxide emissions in Pennsylvania from the electric power generation sector are **down 30%** since 2005 (through 2015). This is overwhelmingly attributable to the increased use of natural gas.



Source: PA Greenhouse Gas Inventory (Nov. 2018) & PA Draft Energy Assessment Report (April 2018)

Questions in Search of Answers

As this Committee deliberates on House Bill 11, and the concept of manipulating the very markets that you successfully created, we respectfully suggest that you get clear answers to the following questions:

⁹ PA Department of Environmental Protection – Stationary Source Emission Inventory 2012-2015

- Why hasn't Exelon committed – unequivocally – to keeping Three Mile Island open?
- If this effort is about supporting Pennsylvania's nuclear industry, why don't the proponents limit the subsidy to Pennsylvania's nuclear generating stations only?
- Why is there not a mean's test to qualify for this state subsidy?
- Why should individual nuclear facilities – that have profited in the hundreds of millions of dollars in recent years – receive any subsidy just so that uneconomic facilities like Three Mile Island can receive a bailout?
- If Allegheny Electric Cooperative, Inc., the corporation that oversees the rural electric co-ops, feels so strongly about the value and importance of nuclear energy, why are they not subject to the mandates of House Bill 11 or the Alternative Energy Portfolio Standards Act? It is easy to be for an energy tax when it is on someone else and you get to share in the proceeds.
- Why should bailout revenue be distributed to rural electric cooperative customers that live in New Jersey and Maryland?¹⁰
- Why should ratepayers – your constituents – pay any subsidy because out-of-state corporate profits are simply not high enough?

Conclusion

In conclusion, I strongly urge this Committee and the General Assembly to stay the course. The long-term policies laid out in our Competition Act have worked to the benefit of consumers and our shared environment.

Disrupting the markets by picking winners and losers, as the proponents of House Bill 11 would have you do, risks significant jobs and private capital investment in our Commonwealth – and gives credence to many across the nation that Pennsylvania is not open for business.

On behalf of our members, and the thousands of their employees who are your constituents, I urge you to oppose HB 11 and any subsidization or bailout of the profitable nuclear generation industry.

¹⁰ Rural electric cooperatives with service in PA, NJ & MD collectively own 10% of Susquehanna nuclear power plant in Luzerne County. If the House Bill 11 mandate were in effect in 2018, Susquehanna nuclear power plant would have received approximately \$229 Million. Profits received by the rural electric cooperatives are distributed directly to their customers – including those living in NJ (Sussex Rural Electric) and MD (Somerset Rural Electric).