

**PENNSYLVANIA HOUSE OF REPRESENTATIVES
HOUSE CONSUMER AFFAIRS COMMITTEE**

**HEARING – HOUSE BILL 11
MONDAY, MAY 6, 2019 (11:00 AM)
HARRISBURG, PA**

**TESTIMONY OF
THE PENNSYLVANIA SMALL BUSINESS ADVOCATE
PRESENTED BY
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Good morning Chairman Roae, Chairman Matzie, and distinguished members of the House Consumer Affairs Committee. Good morning, as well, to my esteemed colleagues from the Public Utility Commission (“PUC”), Department of Environmental Protection (“DEP”), PJM Interconnection, LLC (“PJM”), and the Office of Consumer Advocate (“OCA”).

My name is Shelby A. Linton-Keddie, and I serve as an Assistant Small Business Advocate with the Office of Small Business Advocate (“OSBA”). The Small Business Advocate, John Evans, regrets that he was unable to join us today, but has asked me to provide the Committee and other interested stakeholders with the OSBA’s position on House Bill 11 (“HB 11”). Thank you again for inviting us to share our thoughts.

The OSBA is charged with representing the interests of Pennsylvania’s more than 650,000 small business utility customers¹ in proceedings before the Pennsylvania Public Utility Commission, any comparable federal regulatory agencies, and in the courts. The OSBA’s statutory duty is to ensure that small businesses, so crucial to the Commonwealth’s economy, pay reasonable rates for safe and reliable utility service.

With this statutory duty in mind, the OSBA cannot support HB 11 as written. As everyone is aware, the Commonwealth deregulated the generation of electricity in 1996. Deregulation also permitted utilities across the Commonwealth to recover their stranded costs for assets that were no longer used and useful. *And recover they did.* Specifically, by 2011, Commonwealth utilities recovered almost \$9 billion in compensation for their nuclear assets.

Despite deregulation and years of stranded-cost recovery, the Governor, the Legislature, and the Statutory Advocates spend a lot of time talking about generation. This is a direct result of

¹ See “A Guide to Utility Ratemaking”, James H. Cawley and Norman J. Kennard, 2018 Edition, at 13. As of 2016, there were 651,884 commercial customers of the state’s 11 electric distribution companies.

the fortunate fact that the Commonwealth is a net exporter of energy. As has been explained numerous times in these proceedings, Pennsylvania is second in the country for nuclear production, second for natural gas extraction, and third for coal production. While that is excellent news for the Commonwealth, it results in a lot of competing interests.

As proposed, HB 11 would amend the Commonwealth's Alternative Energy Portfolio Standards ("AEPS") Act to add a new obligation for electric distribution utilities. Specifically, those utilities would be required to purchase credits from a specific set of energy resources equivalent to 50% of the electric demand served in their territory, inclusive of default service and electric generation supplier ("EGS") sales. This 50% mandate would be in addition to the existing 18% mandate for Tier 1 and Tier 2 renewable resources. Consequently, for most of Pennsylvania, credits for 68% of the power consumed in these utility territories would be tied to alternative energy sources outlined in the AEPS Act.

The proponents of HB 11 argue that passage of this bill will level the playing field for nuclear generators, properly value low or no-carbon emissions, and save jobs. The OSBA respectfully submits that HB 11 will do none of these things. Rather, if passed in its current form, House Bill 11 would be an unprecedented legislative mandate in favor of nuclear generation; it would thwart electric competition; and it would add an additional \$3 billion dollars to the bills of 5.8 million Pennsylvanian consumers. Furthermore, although Exelon asserts that Three Mile Island ("TMI") may cease operation on June 1st, HB 11 will not, by objective analysis, do anything to save the fate of TMI.² For all these reasons, the OSBA cannot support this bill.

² See generally "The Market and Financial Position of Nuclear Resources in Pennsylvania" by Paul M. Sotkiewicz (Apr. 5, 2019).

One of the major tenets behind the Electric Generation Customer Choice and Competition Act is that by deregulating generation, generators and their shareholders (not electric ratepayers) will bear the risk, AND reap the reward, of the wholesale and retail competitive markets. As a result, end-use customers, including small businesses, would be the recipients of lower electricity prices resulting from more efficient, competitive, and innovative generation options. Since 2010/11, when rate caps expired for most of the Commonwealth's electric utilities, combined with expanded Marcellus shale gas exploration and extraction, electric prices in the Commonwealth have dropped. Not only has competition grown, but also PJM currently enjoys a more diverse portfolio of generation resources than at any other time in its history. This diversity is the *organic* result of a changing generation mix, with a reduction of coal and nuclear resources, and growth in natural gas and renewables. Such changes are expected as the market continues to grow and evolve. This is definitive proof that competition is working.

Picking winners and losers, as HB 11 attempts to do, will stifle competition in both the wholesale and retail electric markets as consumers will no longer be able to freely choose either the type or price of generating resources. Instead, HB 11 will require consumers to pay for a certain percentage of credits tied to HB 11 generating resources, regardless of whether the consumer directly utilizes that type of resource. This result is great for the owners and operators of the generating resources named in the AEPS Act, but it puts all other generating resources at a significant competitive disadvantage.

What is more troubling, in the OSBA's view, are the cost projections and potential burdens that will be thrust upon consumers if HB 11 passes as proposed. While the proponents of HB 11 attempt to minimize the impact of this legislation as a few dollars each month, for Pennsylvania's critical small businesses, the expected increases (estimated at approximately \$1,300 or more

annually)³ will have a significant impact on both the marginal costs and operations of these businesses. If HB 11 passes in its current form, small business owners may be forced to absorb these increases personally, pass through these increases to their customers, delay pay raises for workers, or delay hiring new workers.⁴ Any of these results cut into a small business's bottom line, which could cause a stall or decline in small business growth across the Commonwealth. Such a decline would seriously impact the Commonwealth's economy.

In conclusion, the OSBA affirms that this office does not favor one generation source over another. However, to force 5.8 million customers to pay an additional \$3 billion dollars for little benefit, which essentially amounts to a windfall handed to the nuclear industry, is neither just nor reasonable.

Thank you for your time and attention today. I welcome any questions or comments you may have in response to this testimony.

³ See "Pennsylvania Office of Consumer Advocate Customer Impact Analysis of House Bill 11 of 2019" (Mar. 22, 2019).

⁴ See "Small businesses fear 'huge' electric bill increases under Pa.'s \$500 million nuclear proposal" (Apr. 26, 2019), Attached.

Small businesses fear 'huge' electric bill increases under Pa.'s \$500 million nuclear proposal

By **Elizabeth Hardison** - April 26, 2019



Sri Kumarasingam in his restaurant Pastorante, at 1012 N. 3rd Street in Harrisburg.

Sri Kumarasingam owns Pastorante, an Italian restaurant in Harrisburg's Midtown neighborhood just blocks from the state Capitol. Right now, the electric bill for his 2,000-square-foot eatery runs him about \$500 to \$600 a month.

It's a manageable expense. But Kumarasingam could see his bill jump by more than \$1,300 per year — about \$110 per month — if lawmakers pass a \$500 million proposal to aid Pennsylvania's nuclear power plants.

That "huge" bump that would be "like paying an extra two months of electricity bills," he told the Capital-Star this week.

So far, the debate over Pennsylvania's nuclear bailout proposal — which would require utilities to purchase clean energy credits from nuclear companies, resulting in millions of dollars of new revenue for the plants and higher energy prices for consumers — has largely focused on the potential impact on residential customers.

Different state agencies predict that Pennsylvania households could see electricity bills jump by anywhere from \$1.53 to \$3 per month.

Proponents of nuclear intervention say those rate hikes are a small price to pay to prevent the shutdown of two of the state's nuclear power plants, which support thousands of jobs and supply reliable, resilient, and low-carbon energy.

But rate increases could have a more profound impact on large energy consumers, including manufacturers, hospitals, and schools.

And they stand to be particularly tough on small businesses, where thin profit margins can't always accommodate unexpected operating costs.

Small commercial electricity businesses like Pastorante could see their annual power bills increase by \$1,322 if the **nuclear bill** sponsored by Rep. Tom Mehaffie, R-Dauphin, passes this June, according to an analysis of the bill by Pennsylvania's Office of the Consumer Advocate, which represents the state's utility consumers.

If those projections prove accurate, Kumarasingam said that he'd have to trim other parts of his operating budget to cover electricity costs. He'd likely have to defer the pay raises he wants to offer his waitstaff, who earn \$5 an hour plus tips, and his kitchen staff, who earn \$13 an hour.

He'd like to increase their hourly wage rates to \$9 and \$15, respectively, but doesn't think he could afford it if his electricity bills increased.

"Our margins are already so tight," Kumarasingam said. "If we had to pay extra [for electricity], we will push back wage increases."

- **Read More:** [Should lawmakers prop up Pa.'s struggling nuclear industry? The debate, explained.](#)

Ravi Patel, who owns a mini-mart one block down Third Street, pays \$900 in an average month for electricity.

His bill drops by about \$100 in the winter, thanks to his gas heating system. But other factors beyond his control — such as cigarette price hikes that have dampened sales — have eaten into his profits in the past year.

As a result, he's skeptical he could absorb the electricity price hikes projected by the Consumer Advocate.

"A \$50 increase, maybe we could sustain that," Patel said. "But \$100, I would have to pay out of pocket."

Residential customers can change their habits or swap out energy-sucking appliances to rein in hefty power bills. But most commercial customers have fixed energy needs that they can't supplant by other means.

Such is the case for Charlotte Todd, owner of Minuteman Press in downtown Harrisburg. There, a good business day requires the near-constant use of printers and copiers.

Todd said the increases projected by Consumer Advocate could negatively impact her business. She said she'd try to look for cheaper supplies – such as paper, rubber bands, and staples – to make up the cost.

In addition to energy costs, a typical operating budget for a small business can include water and sewer rates, payroll taxes, and ever-increasing insurance premiums, said Ken Hammaker, vice president of the Community First Fund, which provides financing to small businesses in low-income communities.

A lot of operating expenses are relatively small, Hammaker said. But taken together, they eat up a significant portion of a business' revenues each month.

"If you do have even a 10 percent increase in one category, it would have a negative impact on their bottom line," Hammaker said. "They have to pass that on to the customer through higher costs."

Mehaffie could not be reached for comment on the Consumer Advocate's projections.

But Sen. Ryan Aument, a Lancaster Republican who's sponsoring a [companion bill in the Senate](#), said he's sensitive to the costs that customers will bear under the proposal.

The Consumer Advocate hasn't completed its analysis of Aument's bill, which is expected to have the same \$450 to \$500 million price tag as Mehaffie's.

Aument thinks that legislators need to be open and transparent with constituents about the anticipated costs of the proposal. He acknowledges that there will always be a price to pay for keeping nuclear plants afloat.

But Aument also says that energy consumers will pay higher electricity bills in the future if nuclear plants close and natural gas companies gobble up a larger share of the energy market.

A [2016 study](#) by the Brattle Group, a consulting firm, found that energy prices could rise in the future if all of Pennsylvania's nuclear plants close and aren't replaced by other energy sources.

That argument is disputed by research from Penn State professor Seth Blumsack, who says that the closure of nuclear plants could result in lower energy prices, albeit greater carbon emissions, if nuclear sources are replaced with natural gas.

Aument said he hasn't yet had time to dig into the report from the Consumer Advocate, which was published March 22. But he thinks that the numbers it produced are inflated.

The analysis Aument has used, from the Pennsylvania Public Utility Commission, projects a \$1.53 monthly increase for residential consumers, compared to the nearly \$3 per month increase anticipated in the Consumer Advocate analysis of the House bill.

Aument thinks that the Public Utility Commission is the best arbiter of the legislation's potential impacts. But in an independent memo last week, published by the environmental news site [StateImpact Pennsylvania](#), PUC commissioner Andrew Place quoted higher rate hikes than those cited by Aument.

Place said that residential bills could increase by anywhere from \$2.36 to \$4.50 per month, depending on a user's heat source.

As the nuclear proposals advance through committees, stakeholders across the state will use their own methods to determine how much the deal will cost.

Community colleges, for instance, are analyzing how rate increases will affect their campuses, said Carolyn Simpson, director of communications for the Pennsylvania Commission for Community Colleges.

Simpson didn't comment on the figure provided by the Consumer Advocate, but said "any increase in electric rates adds to the operating expenses of each institution."

Community colleges and state-related universities received flat-line operating funds in Gov. Tom Wolf's proposed 2019-20 budget.

The rate hikes are also troubling to manufacturing firms, which already pay hundreds of thousands or even millions of dollars in electricity bills each year, and can't accommodate large increases in energy costs without cutting other expenses, said David Taylor, president of the Pennsylvania Manufacturers Association, which adamantly opposes the proposal.

Taylor said it's misleading for lawmakers to focus on residential consumer impact as they pitch their nuclear legislation to colleagues and constituents.

Those relatively modest rate hikes obfuscate other costs that businesses, public institutions, and their stakeholders will have to bear if electricity prices go up, Taylor said.

"When it comes to the amount of energy that's required to operate an individual household, it's an entirely different scale than a university campus or a major medical center or an industrial operation," Taylor said. "And this is where the bit is really going to come down — higher prices ... to all those institutions."

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Elizabeth Hardison

Elizabeth Hardison is the *Capital-Star's* Senate reporter. She previously covered the city of Harrisburg for *TheBurg Magazine*.

