

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

HOUSE CONSUMER AFFAIRS COMMITTEE  
PUBLIC HEARING

STATE CAPITOL  
HARRISBURG, PENNSYLVANIA

MAIN CAPITOL BUILDING  
HEARING ROOM 140

TUESDAY, MARCH 16, 2021  
10:00 A.M.

PRESENTATION ON  
THE ELECTRIC INDUSTRY IN PENNSYLVANIA

BEFORE:

HONORABLE JIM MARSHALL, MAJORITY CHAIRMAN  
HONORABLE ROBERT F. MATZIE, MINORITY CHAIRMAN  
HONORABLE SHERYL M. DELOZIER  
HONORABLE JOE EMRICK  
HONORABLE FRANK A. FARRY  
HONORABLE THOMAS MEHAFFIE  
HONORABLE CARL WALKER METZGAR  
HONORABLE BRETT R. MILLER  
HONORABLE ERIC NELSON  
HONORABLE TINA PICKETT  
HONORABLE CHRIS QUINN  
HONORABLE THOMAS R. SANKEY  
HONORABLE DONNA BULLOCK  
HONORABLE AUSTIN DAVIS  
HONORABLE STEVEN MALAGARI  
HONORABLE KYLE MULLINS  
HONORABLE DARISHA PARKER  
HONORABLE PETER SCHWEYER  
HONORABLE PAM SNYDER

HOUSE COMMITTEE STAFF PRESENT:

PHILLIP KIRCHNER  
MAJORITY EXECUTIVE DIRECTOR  
MARCUS HUERTAS  
MAJORITY RESEARCH ANALYST  
NANCY LANE  
ADMINISTRATIVE ASSISTANT TO MAJORITY CHAIRMAN  
  
BETH ROSENTEL  
DEMOCRATIC EXECUTIVE DIRECTOR

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*Pennsylvania House Of Representatives  
Commonwealth of Pennsylvania*

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SUBMITTED WRITTEN TESTIMONY

\* \* \*

(See submitted written testimony and handouts online.)

## P R O C E E D I N G S

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1  
2  
3 MAJORITY CHAIRMAN MARSHALL: Good morning. I  
4 hereby call this informational meeting of the House  
5 Consumer Affairs Committee to order. I would like to  
6 welcome our two testifiers today. The first is Chairwoman  
7 of the PUC, Gladys Brown Dutrieuille. The second is  
8 President and CEO of the Energy Association of  
9 Pennsylvania, Terry Fitzpatrick.

10 It's great to have you both here today and I look  
11 forward to hearing from you. I'll remind everyone that  
12 this meeting is a hybrid meeting and is being recorded. If  
13 we have connectivity issues, we'll pause the hearing until  
14 we can get things straightened out. I would ask the  
15 Members that are here to silence their cell phones and  
16 we'll save the questions from our Members -- our virtual  
17 Members and Members that are here, until after the meeting.

18 Chairman Matzie, do you have any opening remarks?

19 MINORITY CHAIRMAN MATZIE: No. Thank you. Thank  
20 you, Mr. Chairman. Appreciate the opportunity. I think  
21 it's important to have these types of informational  
22 hearings for Members, especially our newer Members and also  
23 to reacquaint ourselves with the issues before the  
24 Committee. So appreciate you calling this hearing. Thank  
25 you.

1 MAJORITY CHAIRMAN MARSHALL: Thank you, Chairman.  
2 Okay, Chairwoman Dutrieuille, would you like to  
3 start?

4 CHAIRWOMAN DUTRIEUILLE: Good morning, Chairman  
5 Marshall and Chairman Matzie, Members of the House Consumer  
6 Affairs Committee. My name is Gladys Brown Dutrieuille.  
7 I'm Chair of the Pennsylvania Public Utility Commission,  
8 and I do have with me here today Dan Mumford, who is our  
9 Director of the Office of Competitive Market Oversight and  
10 who will assist me with any questions that Members may have  
11 in terms of our competitive market.

12 But on behalf of the Commission, we want to thank  
13 you for the opportunity to appear before the Committee  
14 today for this informational setting, and my testimony will  
15 be a summary of not only the Commission's duty, but an  
16 explanation of our competitive retail market.

17 So our board of commissioners at the PUC includes  
18 five seats, four of which are populated. One is vacant.  
19 The Commission includes 12 distinct offices and bureaus  
20 that are comprised of our legal and our technical and our  
21 administrative staff. The Commission presently has  
22 about -- a complement of about 526 employees with an  
23 overall budget of about a little over 83 million, and that  
24 includes federal dollars in the amount of a little over 5  
25 million. We oversee approximately 9,000 utilities across

1 Pennsylvania, and that includes the ones that you're used  
2 to in terms of electric distribution, natural gas  
3 distribution, telecommunications, water, wastewater, and  
4 steam, but also transportation, and we all know that each  
5 of these sectors presents its own set of unique challenges.

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

14 So going into 2020, and you've probably heard  
15 this phrase so many times, none of us expected to see what  
16 we were going to see in 2020, a pandemic causing far-  
17 reaching concern and economic hardship, not only for  
18 consumers, but businesses and communities. So the last 12  
19 months have been replete with unprecedented challenges for  
20 the utility industry in Pennsylvania. But through it all,  
21 the Commission has tried to do its best in protecting  
22 consumers and assisting utilities - including last March,  
23 when we quickly acted on a moratorium that not only looked  
24 into service terminations but also a moratorium also that  
25 dealt with in-person marketing by electric generation

1 suppliers and natural gas suppliers.

2           Regarding our suppliers, I will note that the --  
3 for the Committee that the Commission twice amended our  
4 emergency order, which initially prohibited all indoor  
5 or -- excuse me, all door-to-door, in-person marketing by  
6 energy suppliers. Currently, our energy suppliers may  
7 conduct sales and marketing activities at indoor retail  
8 locations. Further, energy suppliers may market products  
9 at outdoor public events provided that they follow all  
10 state and federal health guidelines. The ban on door-to-  
11 door sales by energy suppliers still remains in place and  
12 it will remain in place during the pendency of the  
13 Governor's Proclamation of Disaster Emergency, or until the  
14 Commission directs otherwise.

15           The PUC continues reminding consumers to remain  
16 vigilant about any questionable energy marketing activities  
17 and possible scams. This has been in response to utility  
18 consumers receiving unsolicited telemarketing calls  
19 demanding quick action and promising far-reaching benefits.  
20 The Commission's Office of Competitive Market Oversight, or  
21 OCMO, has broadcast this concern to the energy supplier  
22 marketplace, reminding suppliers of their obligations to  
23 comply with all pertinent statutes and regulations,  
24 including the Telemarketing Registration Act.

25           Further, with many more residents at home, and

1 we're all working virtually from home most of the time, the  
2 Commission has stepped up consumer education initiatives  
3 pertaining to electric safety and safe digging. We have  
4 encouraged residents to consider delaying the start of non-  
5 essential home digging projects to safeguard citizens,  
6 protect utility crews, and avoid accidental damage to  
7 underground lines that could disrupt utility service during  
8 this stressful time. As these issues remain fluid, the  
9 Commission continues exploring possible safeguards for at-  
10 risk consumers.

11           So moving on to our retail electric competition,  
12 since the passage of the Electricity Generation Consumer  
13 Choice and Competitive Act, or for short, the Electric  
14 Choice Act, the Commission has maintained its commitment to  
15 ensure a sustainable competitive retail electric  
16 marketplace in the Commonwealth. This year marks the 25th  
17 year since the Electric Choice Act has been passed. This  
18 legislation directed the unbundling of electric generation  
19 and transmission resources from electric distribution  
20 company distribution rates and the resultant opportunity of  
21 Pennsylvania's regulated EDC consumers to choose who  
22 supplies their generation and transmission services. As a  
23 result, millions of electricity customers have benefitted  
24 in making choices that lower monthly bills, provide access  
25 to new products such as renewable energy, and explored new,



1 innovative offers and plans. And due to the efforts of the  
2 Commission and our dedicated staff, and our EDCs and our  
3 EGSs, Pennsylvania now operates in the vanguard of the  
4 competitive electricity market.

5 As of the end of February, approximately 1.7  
6 million Pennsylvania electricity customers, or about 30  
7 percent, currently receive their electric generation from a  
8 competitive supplier that represents just under two-thirds  
9 of Pennsylvania's electric load. However, this data does  
10 vary from customer class. Over 92 percent of the  
11 industrial electric load in the Commonwealth is served by  
12 competitive suppliers. Over 58 percent of the medium and  
13 small commercial customers are served by competitive  
14 suppliers while approximately 29 percent of residential  
15 customers are enrolled with a competitive supplier. This  
16 variance among customer classes is understandable as  
17 customers with larger electric usage have significant  
18 incentives to shop, given their larger electric bills and  
19 their specific load profiles.

20 So in past PUC surveys, those surveys indicate  
21 that a vast majority of respondents, more than 90 percent,  
22 are aware of their ability to shop for electric generation  
23 products. A little less than half of the respondents also  
24 indicated that they have enrolled with an EGS at some point  
25 in time. Those same surveys also indicate that over half

1 of the respondents have not switched to an EGS, and they  
2 say that it's because they're happy with their current EDC  
3 default service.

4           It's important to understand that our electric  
5 market has been restructured to ensure that all customers,  
6 even those that do not actively shop, benefit from electric  
7 competition. These customers that do not shop receive  
8 default service generation supply from their local electric  
9 distribution company. So the EDCs procure default service  
10 power through a Commission-approved program that  
11 establishes a set of laddered competitive auctions. In  
12 effect, the utility accesses wholesale markets via these  
13 auctions and shops for the customers who otherwise do not  
14 actively decide to enroll with an EGS. The results of  
15 these auctions are translated into the default service  
16 price, which we call the price-to-compare. Given EDC rate  
17 unbundling from generation, the default service programs  
18 permit a dollar-to-dollar recovery of expenses associated  
19 with this service but do not permit a markup or a return by  
20 earned -- that be earned by the EDC on the default service.  
21 So it's just a pass-through.

22           The default service prices, or the price-to-  
23 compare, for residential and small commercial customers are  
24 fixed prices that can run for either three-month or six-  
25 month periods. These fixed rates insulate default service

1 customers from price volatility. Large commercial and  
2 industrial customers receive hourly-priced service.  
3 However, as stated above, almost all of those high-usage  
4 customers are enrolled with an EGS as those entities offer  
5 a broader array of products to fit commercial customer  
6 usage profiles.

7           So if we look at our PAPowerSwitch website as it  
8 relates to this retail competition, we are committed to  
9 doing what we can to make shopping and saving opportunities  
10 available for all classes, and to that end we recognize the  
11 unique efforts needed to facilitate energy shopping for  
12 mass-market customers.

13           For more than a decade, the Commission has  
14 maintained what we call our PAPowerSwitch website. It's  
15 our electric shopping website, which is a neutral source  
16 for consumers to educate themselves through the competitive  
17 retail market, as well as to view and compare offers from  
18 EGSs. By entering their home zip code or -- a consumer can  
19 quickly obtain a list of offers from a multitude of  
20 licensed suppliers. The Commission strives to keep  
21 PAPowerSwitch an easy-to-use, state-of-the-art education  
22 and shopping platform. Recent upgrades to PA Power Switch  
23 have made the site fully responsive, no matter what type of  
24 account -- computer or smartphone that someone is using,  
25 and the website has been continually updated to secure,

1 visually cleaner -- to be secure, visually cleaner, and to  
2 be more intuitive for visitors to learn about individual  
3 supplier offers.

4 In 2020, PAPowerSwitch.com hosted about 750,000  
5 visitors, with 90 percent of them agreeing that the website  
6 provides helpful information and 70 percent saying that the  
7 website is easy to navigate. So we're proud to convey that  
8 PAPowerSwitch is nationally recognized as a successfully  
9 designed retail generation online marketplace.

10 While prices remain a primary source or reason  
11 that many consumers choose to shop for electric generation,  
12 in recent years consumers have increasingly factored into  
13 other criteria for their decision. For example, many  
14 consumers are looking for renewable energy products for  
15 their home or for their businesses. Such products are  
16 plentiful on the PAPowerSwitch.com website, with varying  
17 percentages of renewable energy available including up to  
18 100 percent of wind or 100 percent of solar. The website  
19 allows a customer to specifically filter and identify  
20 renewable offers. Such products have proven to be popular,  
21 with about -- approximately 25 percent of residential  
22 shopping customers enrolling. This is especially  
23 impressive given that renewable products, while coming down  
24 in price, can still cost more than utility default service.

25 With more than 5 million smart meters fully

1 deployed across the state, we hope to see a greater variety  
2 of dynamic supplier products offerings that are marketed  
3 here in the Commonwealth. As electric vehicles become more  
4 common, we will be looking for EGSs to offer more time-of-  
5 use products to facilitate the economical charging of these  
6 vehicles. Time-of-use products are those that change in  
7 price based on a pre-established time period such as the  
8 on-peak or off-peak hours. As such products proliferate,  
9 the Commission will most certainly be ready to ensure  
10 customers are well situated to make informed decisions.

11           When we look at customer protections in the  
12 electric competitive market, we recognize that a robust  
13 retail marketplace requires strong consumer protection  
14 rules and enforcement of those rules. So in 2020, the  
15 Commission adopted new, stricter Chapter 54 disclosure  
16 rules. These regulations govern what suppliers must  
17 disclose in writing to customers when enrolling. These new  
18 regulations require that introductory pricing must be  
19 clearly identified with both the introductory price and the  
20 price after the introductory period disclosed.

21 Additionally, for variable-priced products the supplier  
22 must provide the factors that the supplier will use to  
23 establish the price and must put in writing, in a larger  
24 font, that the price can change. Suppliers also have to  
25 state all prices for all products in a standard kilowatt

1 hour price unit, and the overall bill resultant from three  
2 different usage levels, that's 500, 1,000, or 2,000, in  
3 terms of kilowatt hours.

4 For time-of-use products, the supplier must  
5 clearly show the price for specific time periods in a table  
6 format. Importantly, early termination fees are now  
7 prohibited in the final 30 days of a customer's service  
8 contract, freeing customers to shop and switch without fear  
9 of getting charged as they approach the expiration of their  
10 contract. In recognizing that vulnerable low-income  
11 customers need additional protections, the Commission has  
12 put in place special rules and restrictions to ensure that  
13 customer assistance program participants are either  
14 required to be on default service or required to enroll  
15 with an EGS at a price to compare below -- at a price below  
16 the price to compare.

17 Another important aspect of consumer protection  
18 are marketing rules. Pennsylvania was a national leader  
19 when 10 years ago we promulgated some of the first energy  
20 supplier marketing rules in the country, putting in place  
21 rules for door-to-door and telemarketing. Now that a  
22 decade has passed, we realize it is time to update these  
23 rules and have started the process for doing so. We have  
24 solicited informal comments from stakeholders on what needs  
25 to be updated and revised and will use this feedback to

1 initiate a rulemaking.

2           Of course, the effectiveness of any rules goes as  
3 far as its enforcement. We actively monitor the  
4 competitive market through the informal and formal  
5 complaints filed with the Commission. Staff routinely  
6 engages suppliers informally on regulatory compliance  
7 concerns, and when informal methods are not effective, a  
8 variety of more formal enforcement mechanisms are available  
9 including referring matters to our Bureau's -- our  
10 Commission's Bureau of Investigation and Enforcement. We  
11 encourage any consumers with questions or problems to  
12 contact our Bureau of Consumer Services through our  
13 hotline, and that number is 1-800-692-7380, or of course  
14 they can go onto our online complainant portal, which is at  
15 [www.puc.pa.gov](http://www.puc.pa.gov).

16           So I can't leave my comments today without  
17 touching upon some of the events that occurred in Texas.  
18 And given this platform and the substance of this hearing,  
19 the Commission found it prudent to highlight the recent  
20 events in Texas and how Pennsylvania stands apart from that  
21 unfortunate scenario. Three main items help to insulate  
22 Pennsylvania consumers from the effects that were realized  
23 in Texas. The first one is the capacity market.  
24 Pennsylvania's wholesale power grid operates within an  
25 energy and capacity market that is administered by PJM

1 Interconnection, and I believe that the Committee will have  
2 them next week to come and testify.

3           The Texas wholesale market, administered by the  
4 Energy Reliability Council of Texas, or ERCOT, is an  
5 energy-only market. The PJM capacity market provides a  
6 means to ensure resource adequacy three years into the  
7 future. Generators can avail themselves to capacity  
8 revenues but must ensure that they are winterized and  
9 operationally robust enough to meet dispatch in the future  
10 or else face strict penalties. Also, we have a default  
11 service. Pennsylvania maintains a quasi-regulated default  
12 service construct as a safe-haven backstop for customers,  
13 whereas Texas does not. If an EGS in Pennsylvania passes  
14 through extremely high costs to customers, those customers  
15 have the ability to migrate to default service. The  
16 existing default service design provides a fixed rate for  
17 all mass-market, i.e. the residential and the small  
18 business customers, that is competitively bid and hedged to  
19 ensure price volatility is managed.

20           And then also we have accelerated switching.  
21 Pennsylvania now avails electric customers the ability to  
22 switch to an EGS or to default service within three days.  
23 This helps avoid situations where customers are stranded on  
24 uneconomic or unreasonable-priced EGS products. The Texas  
25 market switches customers within seven days.



1           So in conclusion, I would just like to say that,  
2 you know, quarter century has been a big time for all of  
3 us, especially for me, a person that came as a staff  
4 person, staff counsel from the Senate Democratic Caucus and  
5 helped work on this Electric Choice Act, so it is amazing  
6 to see how well we are doing within this -- the statute  
7 that has been passed by the General Assembly.

8           I think that we have worked hard at the  
9 Commission through the challenges of the implementation and  
10 tweaking the policies and rules along the way but always  
11 seeking to enhance the electric shopping experience. So  
12 for more than two decades, Pennsylvania has stood as a  
13 national forefront of electric competition, putting the  
14 choice of -- putting the power of choice in the hands of  
15 consumers and giving them greater control of their electric  
16 bills, all while balancing this with prudent consumer  
17 protections. As a consequence, Pennsylvania has remained  
18 competitive and energy resilient with millions of  
19 electricity customers making the affirmative choice to  
20 enroll with energy suppliers.

21           So I do want to thank you for your time and  
22 attention, and I will be happy to answer any questions at  
23 the end of my testimony and Terry Fitzpatrick's testimony.  
24 Thank you.

25           MAJORITY CHAIRMAN MARSHALL: Thank you,

1 Chairwoman Dutrieuille, and we will go right into Terry  
2 Fitzpatrick.

3 MR. FITZPATRICK: Yes. Good morning. Good  
4 morning, Chairman Marshall, Chairman Matzie, members of the  
5 Committee. I am Terry Fitzpatrick, President and CEO of  
6 the Energy Association of Pennsylvania. We're a trade  
7 group comprised of electric and natural gas utilities, also  
8 known as distribution companies, operating in the state.

9 EAP advocates for its members before the General  
10 Assembly and state agencies. We assist members by  
11 facilitating sharing of information and best practices, and  
12 we provide educational opportunities for employees of  
13 members and others through our operations and consumer  
14 services conference. Thanks very much, again, for the  
15 opportunity to be here to testify about the electric  
16 industry in Pennsylvania.

17 EAP was formed in 2000, when the Pennsylvania  
18 Electric Association and Pennsylvania Gas Association came  
19 together to form a new organization. Now, the Pennsylvania  
20 Electric Association had been formed in 1908, and at that  
21 time the electric industry was in its formative stage and  
22 was focused on expanding availability of service to more  
23 customers in more areas of the Commonwealth. In these  
24 early years PEA had dozens of electric utility members.  
25 There were some familiar names there such as Duquesne Light

1 and Metropolitan Edison, but others such as Hershey  
2 Electric, Windber Electric, and my favorite, Mauch Chunk  
3 Heat, Power, and Electric Company, no longer exist due to  
4 industry consolidations.

5 Now, I should make one modification to my  
6 testimony though, Mr. Chairman. I was reading the very  
7 early history of the Association, and Duquesne Light  
8 Company came into existence a bit later and right at the  
9 beginning was Allegheny County Lighting Company was the  
10 utility there. But back in these early stages, the  
11 industry was vertically integrated, that is, the electric  
12 utilities owned and operated all the infrastructure that  
13 was necessary to provide service, including the generating  
14 plants, as well as the poles, wires, and substations that  
15 make up the grid. Because the utilities were monopolies,  
16 government regulation of their rates and service was  
17 entrusted to the Public Service Commission, later  
18 reconstituted as the Public Utility Commission.

19 Today, investor-owned electric utilities, along  
20 with electric cooperatives and a few dozen boroughs that  
21 own their own distribution systems, provide electric  
22 service throughout Pennsylvania, so we do have universal  
23 service when it comes to electricity. In 1996, as  
24 Chairwoman Dutrieuille has noted, Pennsylvania made a big  
25 change to the industry structure with the passage of the

1 Competition Act. Like the Chairman, I was involved in that  
2 I will say as a member of the staff there in the Senate.  
3 The law was motivated largely by a desire to lower  
4 electricity rates, which at that time were 15 percent above  
5 the national average. The Act ended the vertical  
6 integration of the industry by deregulating generation of  
7 electricity and allowing customers to choose their supplier  
8 of electricity.

9 Today, the industry structure is comprised of  
10 generating plant owners, who sell their product in the  
11 wholesale markets administered in this area by PJM, and  
12 regulated by the Federal Energy Regulatory Commission;  
13 public electric utilities, or EDCs, who are regulated by  
14 the PUC; and competitive retail suppliers, named electric  
15 generation suppliers in the Act, who offer competitive  
16 supply options to customers and are subject to limited  
17 oversight by the PUC.

18 Now, in the restructured industry, electric  
19 utilities are responsible for poles and wires, as I said.  
20 They provide bills to customers, administer universal  
21 service programs designed to help low-income customers, and  
22 also provide default supply service to customers who choose  
23 not to purchase from the competitive suppliers. And in  
24 providing default service, electric utilities purchase  
25 supplies in the wholesale market in a manner that provides

1 market-based but reasonably priced and reasonably stable  
2 prices to customers. This service is subject to rigorous  
3 oversight by the PUC. Electric utilities are assured of  
4 recovery of the costs of providing that service, but we do  
5 not earn any profit on that service.

6           Since this year does mark the 25th anniversary of  
7 the Competition Act, it seems appropriate for me to comment  
8 on how it worked, especially since I was involved in the  
9 original drafting of it. For the most part, I believe it  
10 has worked to the benefit of Pennsylvania, and the best  
11 evidence of that is that before the Act was passed,  
12 electric rates here were 20 -- were 15 percent above the  
13 national average, and we looked at the most recent data  
14 from 2019, from the Energy Information Administration, and  
15 it shows that Pennsylvania's electric prices are 7 percent  
16 below the national average, so that's where the success  
17 comes in.

18           We think those results are likely due to  
19 competition in the wholesale market among generators, which  
20 encourages efficiency and lower prices. However, we do  
21 believe there are questions about the retail market arising  
22 from evidence that customers who purchase from competitive  
23 suppliers pay more, sometimes much more, than customers who  
24 purchase supplies from utilities, and I'm going to address  
25 that a little bit below.

1           In 2004, the General Assembly passed the  
2 Alternative Energy Portfolio Standards Act which required  
3 utilities and competitive suppliers to procure 18 percent  
4 of their portfolios from alternative energy sources by  
5 2021, this year. This Act could be viewed as an  
6 intervention in the competitive market to jump start  
7 alternative energy to further environmental goals. In  
8 addition to mandating some alternative energy, the Act also  
9 sought to encourage customer-owned forms of renewable  
10 distributed generation, such as rooftop solar systems. The  
11 policy tool for encouraging this type of generation was a  
12 method for crediting a customer-generator's electric bill  
13 known as net metering, and I'm also going to address this  
14 below.

15           So with this background in mind, I'll address a  
16 few current policy issues. First again, as covering the  
17 same ground as the Chairman did, the recent power blackouts  
18 in Texas, millions of customers in that state without  
19 electricity, heat, or water for days. That's a real  
20 catastrophe in the utility business. The biggest cause was  
21 unusual and extreme cold weather, but also inadequate  
22 winterization of power plants and some other facilities.

23           Texas has some peculiar features with regard to  
24 its electric grid that I think contributed to this, and I'm  
25 not going to cover the same ground as the Chairman. I

1 agree with her comments about the capacity market and the  
2 fact that that -- we have that here. Texas does not have  
3 that. Probably what happened there is evidence that it's  
4 wise to have the capacity market. Even though it does add  
5 something to electricity prices, I think it does help to  
6 assure reliability. But another unfortunate aspect of what  
7 happened in Texas was that some small customers on variable  
8 rate plans with competitor suppliers faced monthly bills in  
9 the thousands of dollars. As demand for electricity  
10 increased and power plants went down due to the cold  
11 weather, you have the basic loss of supply and demand went  
12 to work. Wholesale electricity prices soared. These high  
13 prices were then flowed through to those small customers  
14 who were on the variable rate plans.

15 Now, many customers in Pennsylvania faced this  
16 same problem during the polar vortex of 2014. In response  
17 to that the PUC enacted additional customer protections  
18 intended to increase awareness of how these plans work.

19 While Pennsylvania is different from Texas, I do  
20 think there are some lessons to be learned for all of us  
21 from that. First, I think it's a reminder of the need to  
22 balance reasonable rates with reliable service. Second,  
23 the weather is becoming more volatile and prone to  
24 extremes. Electric utilities in Pennsylvania are planning  
25 and making additional investments to prepare for that.

1 Third, variable rate plans may save customers money under  
2 most circumstances but customers will struggle to cope with  
3 the unpredictability of occasional bills in the thousands  
4 of dollars. And lastly, what happened in Texas is a  
5 reminder that utility services are necessities in modern  
6 life, and we need to guard against a complacent assumption  
7 that these things could not happen here.

8 Let me next cover the impact of COVID-19 on  
9 customers and utilities. In general, electric and other  
10 utilities succeeded in maintaining somewhat normal  
11 operations over the past year. In the early stages,  
12 utilities were classified as life-sustaining and exempted  
13 from business closures. There were some initial questions  
14 about utility infrastructure projects, but those were  
15 cleared up and utilities have continued to make these  
16 investments, which really are necessary to assure reliable  
17 and safe service.

18 As far as the impact on customers, this has been  
19 uneven. A lot of customers have been able to maintain  
20 their employment, work remotely, and pay their bills. But  
21 a lot of customers employed in the service and hospitality  
22 industries, in particular, have faced hardship, there's no  
23 doubt. The federal government has responded with two  
24 stimulus-assistance programs and now we have an additional  
25 \$1.9 trillion on the way. The PUC responded to the



1 pandemic by imposing a moratorium in service terminations  
2 in March 2020. They then modified that in October 2020, so  
3 that -- to allow some terminations but put some enhanced  
4 consumer protections in place. And just last week, as the  
5 Chairman noted, the PUC acted to allow the full regulated  
6 collections process, including terminations, to resume on  
7 April 1st, with some extensions of the otherwise applicable  
8 payback periods for customers who are in arrears and also a  
9 continuing requirement to allow payment arrangements of 18  
10 months for small business customers.

11           From the electric utility standpoint, we believe  
12 that the Commission's action to restore the full  
13 collections process and end the moratorium was appropriate.  
14 The collections process is heavily regulated, requires  
15 multiple notices to customers and levels of review before  
16 any kind of termination of service would take place. In  
17 addition to that, electric and gas utilities have universal  
18 service programs designed to help low-income customers.  
19 These are not small programs. In 2019, they provided a  
20 total of \$374 million in assistance. But ironically, these  
21 assistance programs, as well as government-funded programs,  
22 such as the LIHEAP program, were underutilized during the  
23 pandemic as the moratorium and additional restrictions  
24 removed the incentive for many customers to reach out for  
25 assistance. And at the same time, arrearages were growing.

1 As of the end of January, the residential arrearages were  
2 roughly 45 percent higher compared to that same time period  
3 in the previous year.

4 The utility has authorized utilities to track  
5 this increased consumer debt and other incremental  
6 pandemic-related expenses, and utilities can request  
7 recovery at some point in the future, but full recovery of  
8 those amounts is not guaranteed. So for all of those  
9 reasons, we think the Commission did the right thing by  
10 restoring the collections process in order to restore the  
11 incentive for customers to seek all of the ample assistance  
12 which is already out there.

13 Retail electricity competition. Pennsylvania is  
14 one of 13 states that allow customers to choose their  
15 supplier of electricity. Again as Chairwoman Dutrieuille  
16 noted, Pennsylvania is -- with the exception of Texas, all  
17 of these states provide an option for customers to buy  
18 their supplies from the electric utility, as well. And  
19 again, default service is intended to be market based  
20 because utilities don't own plants. We go into the  
21 wholesale market to buy it, -- also reasonably stable so  
22 that it doesn't fluctuate around too much from month to  
23 month.

24 The number of customers who are purchasing from  
25 competitive suppliers, or the so-called shopping customers,

1 has decreased somewhat since 2013. The most likely cause,  
2 in my view, was the polar vortex of 2014, during which  
3 customers on variable rate plans faced these very high  
4 electric bills as wholesale prices increased during that  
5 period of extreme weather. And as I said, the PUC did put  
6 additional consumer protections in place following this  
7 incident, but I do think there may be some consumer  
8 wariness has -- that has lingered after that.

9           Currently, competitive suppliers are advocating  
10 legislation such as House Bill 548, to allow them to  
11 provide customers with a consolidated bill that would  
12 include not just their charges, but also the electric  
13 utilities' charges. They've also supported legislation to  
14 increase the utilities' default service charges by  
15 allocating additional overhead costs to default service and  
16 to allow customers to switch suppliers without providing  
17 their account numbers.

18           From the standpoint of electric utilities, we  
19 don't think these proposals are in the best interest of  
20 customers. Allowing competitive suppliers to provide  
21 billing for all electric and gas services, including the  
22 services provided by utilities, would make them responsible  
23 for important customer service functions, including  
24 collections, service terminations, making payment  
25 arrangements, and administering low-income assistance

1 programs.

2           These services and protections are really heavily  
3 regulated and we think they're more appropriately provided  
4 by public utilities. Moreover, competitive suppliers  
5 already have the ability to provide separate bills to  
6 customers for their services if they choose to do so.  
7 Requiring allocation of additional costs to default service  
8 is contrary to the interest of those customers who choose  
9 to purchase default service.

10           In addition to that, the supplier argument that  
11 more costs ought to be allocated to default service was  
12 raised in a default service case before the PUC, and the  
13 PUC unanimously rejected that. It's also now been rejected  
14 by Commonwealth Court and the Pennsylvania Supreme Court.  
15 And finally, requiring account numbers before switching  
16 customers helps to protect against slamming customers,  
17 switching them without their consent.

18           Before the General Assembly considers proposals  
19 to further stimulate the retail market, we think  
20 consideration should be given to whether this market is  
21 really meeting the needs of most customers. There is ample  
22 evidence, including from a recent Wall Street Journal  
23 article, that customers who purchase supplies from  
24 competitive suppliers on average pay much more than  
25 customers who purchase their supplies from utilities.

1 Specifically, this article asserted that from 2010 to 2019,  
2 these shopping customers paid 1.9 billion more than those  
3 purchasing supplies from utilities. There may be some  
4 legitimate reasons for this. For example, customers can  
5 choose to pay more for renewable energy, but if you assume  
6 that most customers are choosing competitive suppliers to  
7 save money, I think this information raises serious  
8 concerns about whether the retail market, as currently  
9 constructed, is working in the best interests of those  
10 customers.

11           And finally, let me touch on the issue of  
12 community and local solar and also net metering. There is  
13 some interest in the legislature in bills that would  
14 authorize community or local solar facilities, that is  
15 facilities that are connected to the utility's distribution  
16 system and to which customers could purchase subscriptions.  
17 This would give customers an additional option to shopping  
18 in the retail market if they want to promote renewable  
19 energy. They could -- it's available to customers who  
20 don't -- maybe even don't own their homes, so they're not  
21 in a position to put panels on their roof. Examples of  
22 this legislation are two bills from last session, House  
23 Bills 531 and 1970, and I would expect bills to be  
24 introduced along those lines in this session, as well.

25           Now the two bills I just cited differ in an

1 important respect, and that is how the electric bills of  
2 these subscribing customers are credited for energy  
3 produced by the solar facility. Under the Community Solar  
4 Bill, the credits are at the full retail price for electric  
5 service. It's important to recognize, this price includes  
6 not just a charge for energy, but also charges for the  
7 electric grid that delivers the energy, and also helps to  
8 pay for items such as state taxes and government-mandated  
9 programs for low-income assistance and energy efficiency.  
10 Now in contrast, under the local solar legislation  
11 subscribes would pay a cost-based charge for energy, and  
12 other charges such as transmission and distribution would  
13 not be impacted.

14           The method for crediting customers' bills under  
15 the community solar legislation is identical to the method  
16 required under the Alternative Energy Portfolio Standards  
17 Act for crediting the bills of customer generators who own  
18 or lease their distributed generation systems, including  
19 rooftop solar. It's commonly referred to as net metering  
20 because when a -- the customer's electric meter runs  
21 backwards when its generation system is producing energy.  
22 As it runs backwards it eliminates charges, not just for  
23 the energy itself, but also the charges to pay for the  
24 transmission and distribution grid and to pay for state  
25 taxes and these government-mandated programs, which I

1 mentioned. The costs that these customer generators avoid  
2 are then shifted to non-solar customers. It may be argued  
3 that this policy was appropriate as a blunt instrument to  
4 jump-start distributed generation, but we do not believe  
5 it's appropriate or sustainable in the long term.

6 Customer generators rely on the grid to access  
7 power when their on-site generation is not producing power  
8 and to export power when it is. There is also no reason  
9 why these customer generators should be permitted to avoid  
10 paying their share of taxes and costs of programs such as  
11 low-income assistance. In addition, there are now over  
12 31,000 customer-generators in Pennsylvania, and we don't  
13 believe it's any longer necessary to jump-start the  
14 industry.

15 Any legislation to allow community solar  
16 facilities should not add to the burden of subsidies  
17 already being paid by non-solar customers. Moreover, we  
18 think that the net-metering policy in existing law is not  
19 sustainable and should be modified. We believe it makes  
20 sense to base the credits for customer generators and  
21 subscribers to solar facilities on the wholesale price of  
22 electricity, referred to as the locational marginal price.  
23 We do realize that these solar issues are complex and can  
24 be controversial and we'll work with the General Assembly  
25 and other interested parties to find a fair and appropriate

1 solution.

2 So with that, thank you for the opportunity to  
3 testify, and I'll be happy to answer any questions.

4 MAJORITY CHAIRMAN MARSHALL: Thank you, Mr.  
5 Fitzpatrick.

6 We will go right into questions from Members, and  
7 we will begin with Representative Metzgar.

8 REPRESENTATIVE METZGAR: Thank you, Chairman  
9 Marshall. I appreciate the time. Just a quick question.  
10 I have a question for both testifiers.

11 Quick question for Madam Chair. I saw that you  
12 continued in your testimony, you asked about -- or you said  
13 that you're committed to the choice, and I'm still  
14 struggling because there's only, you know, 30 percent  
15 participation in the market. So I guess that -- and I know  
16 you mentioned and touted, and I agree with you, the  
17 PowerSwitch website's very good, but can you tell me is --  
18 are there any proceedings, rule-makings, initiatives that  
19 are -- the PUC is involved in to try and encourage choice  
20 in the market at this point? Because we're at 25 years out  
21 and we're still only at that 30 percent threshold, and I'm  
22 just wondering if maybe -- is there something more than a  
23 website that we can do?

24 CHAIRWOMAN DUTRIEUILLE: Thank you for the  
25 question, and it's a very good question. We do not have



1 any particular proceedings. We follow what we have been  
2 doing in terms of our path of communicating information on  
3 our website and things of that nature. When I say we're  
4 committed to it, we're committed to implementing the  
5 legislation that has been put into place for us to operate  
6 by the General Assembly, and in doing so we try to make  
7 sure we have sufficient information for consumers to be  
8 able to make the choice that is best for them. So we're  
9 not necessarily spending additional dollars that consumers  
10 would have to pay for but doing the best we can within that  
11 framework.

12 REPRESENTATIVE METZGAR: Thank you, Madam Chair.  
13 That -- it's good to hear a commission that is only doing  
14 what the Legislature says and so I guess that begs the  
15 point. I guess you're waiting for us to do more to try and  
16 provide you more tools for the competitive market there, so  
17 I appreciate that.

18 Just a -- I guess, a question for Mr.  
19 Fitzpatrick. There's so many things that you had in there  
20 and it seems like, I guess, there's only one side of the  
21 story on -- in today's hearing, but just trying to tease  
22 some of that out. I noticed that you took aim at a couple  
23 different bills. One in particular is about the  
24 consolidated billing, and I'm just a little curious. I  
25 kind of look at it, so that there's the generator who makes

1 my electricity and then there's my utility who delivers the  
2 electricity. If you would look at it, you know, one of  
3 those Amazon orders that everybody seems to like to do  
4 during the COVID crisis, right now I get the bill from the  
5 post office, the utility, saying that here's what I ordered  
6 and here's my bill. Why wouldn't I want to have the  
7 relationship with the people that I ordered the product  
8 from rather than the people who delivered the product,  
9 number 1. And number 2, I guess I'm still a little  
10 confused as to what -- you know, we have utilities being  
11 largely monopolies that are profit-driven. Why do you want  
12 to keep doing something if it actually costs you money?

13 MR. FITZPATRICK: Well, let me -- there were a  
14 number of aspects to that, Representative. If I don't --  
15 I'll try to answer them but if I miss any of them, please  
16 prompt me and I'll try to catch up on it. But you know,  
17 utilities are providing default service because the General  
18 Assembly decided that that was appropriate for them to do.  
19 Again, we're not trying to -- I think really if you look at  
20 what utilities have done, we've tried to further that  
21 policy. We've been cooperative in it.

22 The -- now the example that you're using as far  
23 as the, you know, delivery and who gets to do the bill,  
24 first of all, I think it's important to recognize here,  
25 competitive suppliers are free to bill customers if they

1 choose to do that. What they want to do though is not just  
2 bill for their service, they want to force utilities to  
3 have to bill utility services through them. That really  
4 does raise a lot of issues about all of these other things  
5 that I mentioned that utilities do. All of the public  
6 service functions that we provide would then have to be  
7 provided by competitive suppliers. I don't think that  
8 that's a simple thing in order to have them do that. The  
9 PUC's going to have to regulate them a lot more than they  
10 do. That's already a regulated service provided by the  
11 utilities, so I think there's going to be some  
12 inefficiencies, you know, as a result of that, so. The  
13 only state that does that right now is Texas. I do think  
14 events in Texas recently might require taking a closer look  
15 at some of the policies that they have because none of the  
16 other states that allow retail competition have that type  
17 of policy in place.

18 REPRESENTATIVE METZGAR: But just to clarify,  
19 right now the utility is putting on a bill what a generator  
20 is and you're saying that consumer protection's important  
21 but you want to have two bills going to the consumer. You  
22 say that that can happen now. Wouldn't that be confusing  
23 for the consumer and actually add more mayhem to a  
24 situation that we don't need?

25 MR. FITZPATRICK: I don't know that it would be

1 confusing to a customer. If you have telephone service,  
2 you pay a bill to the landline telephone company. You  
3 might pay a wireless bill, as well. I really don't think  
4 it's confusing. And you know, the -- it's a whole -- the  
5 whole concept of consolidated bills came about in the  
6 original Competition Act as a way to help suppliers because  
7 it was felt, well, some customers might not want to pay two  
8 bills; they might want to pay one. So they helped the  
9 suppliers. The provision was put in there that they could  
10 choose to have a consolidated bill through the utility, but  
11 suppliers aren't forced to do that. I mean, and you know,  
12 frankly, I think it could be a reflection on the fact  
13 that -- of the value that the customer puts on the service.  
14 I don't think -- if a customer really values a service a  
15 lot, I don't think they mind paying a separate bill for it.

16 REPRESENTATIVE METZGAR: Thank you.

17 MAJORITY CHAIRMAN MARSHALL: Our next question --

18 MR. FITZPATRICK: Thank you.

19 MAJORITY CHAIRMAN MARSHALL: -- our next question  
20 will be from Representative Austin Davis.

21 REPRESENTATIVE DAVIS: Thank you, Mr. Chairman.

22 And thank you, Chairwoman Brown and Mr.  
23 Fitzpatrick, for being with us today.

24 You recently, Mr. Fitzpatrick, alluded to Texas,  
25 and I just kind of wanted to follow up on that situation.

1 The recent polar vortex there caused about 4.4 million  
2 people to lose power and we also saw energy prices jump to  
3 unprecedented levels with some customers receiving bills  
4 well over \$10,000. Many discovered that they were  
5 unknowingly enrolled in variable rate plans. Could a  
6 similar scenario happen here in Pennsylvania? And I  
7 understand that there are 10 times the amount of customers  
8 and variable plans here versus what we're seeing in Texas,  
9 but are we on the verge of a major similar issue here?

10 MR. FITZPATRICK: Let me answer it -- I think  
11 maybe it would be more appropriate for the Chairman and for  
12 the Commission to answer that, but I do think the  
13 Commission -- I know they've taken steps to try to make  
14 customers more aware of these variable rate plans. There  
15 are still some customers on them here, but I think the  
16 effort has been made to educate customers.

17 CHAIRWOMAN DUTRIEUILLE: Thank you for the  
18 question, and Terry is correct in that as we saw some of  
19 the concerns that we had from our 2014 polar vortex and the  
20 concern with having more information and disclosure to  
21 consumers, the fact that they were still on a -- they went  
22 to a variable rate plan because maybe they went from a  
23 fixed plan and did not change it and then it lapsed into a  
24 variable rate plan, so we put in emergency regulations back  
25 in 2014, that would require that the EGSS and also NGSS

1 later on -- that they would give more information and  
2 disclose that. And as I said it before, we've done some  
3 additional updates that even in that last month where  
4 someone is coming to the end of their contract they're able  
5 to switch without having any type of penalty or things of  
6 that nature. So I don't believe that we're in the same  
7 situation as Texas. Also, because Texas does -- where we  
8 allow our consumers if they're on, if they're shopping for  
9 electricity and with a EGS, they can switch back to the  
10 electric distribution company and it's a three-day  
11 switching requirement, whereas in Texas they do not  
12 necessarily have the option to be with the -- they have to  
13 shop in Texas.

14 And also, their switching is not in the short  
15 time period of three days. They go more on a cycle, which  
16 is a seven-day cycle minimum, I believe, so we're a little  
17 bit different in that. I would not see Pennsylvania, as I  
18 stated in my testimony, as being on the verge of what's  
19 happening in Texas. We also have to look, and PJM will be  
20 here next week is my understanding. The protections that  
21 were put in place by PJM for generators and the different  
22 requirements for them as a result of our 2014 polar vortex  
23 and different penalties in place if they do not come online  
24 to provide the generation needed if we're in a similar  
25 situation. So I think we have additional protections. I

1 know we have additional protections, let me emphasize that,  
2 than what Texas does.

3 REPRESENTATIVE DAVIS: Thank you.

4 Thank you, Mr. Chairman. That concludes my  
5 questions.

6 MAJORITY CHAIRMAN MARSHALL: Thank you,  
7 Representative.

8 Our next question will be from Representative  
9 Eric Nelson.

10 REPRESENTATIVE NELSON: Thank you, Mr. Chairman.

11 And I'm going to follow up on Representative  
12 Davis' concern, you know, comparing the Texas situation to  
13 Pennsylvania. And it's outstanding, as you touched on, the  
14 capacity market and our three-year look-ahead. But one of  
15 the major concern parts that we've been dealing with is the  
16 executive order on the Governor implementing RGGI, and this  
17 additional layer to the market, you know, is recognized to  
18 result in about a third of our coal and natural gas plants  
19 closing. Because that window would be much more  
20 accelerated than the three-year look-ahead to replace -- I  
21 mean, right now on the grid we're using 103,000 megawatts  
22 and 6,700 megawatts are coming from renewables across 13  
23 states, so if we're going to lose a third of our coal and  
24 natural gas because of this RGGI component, if it does move  
25 forward, how does that impact reliability for customers on

1 our three-year look-ahead?

2 CHAIRWOMAN DUTRIEUILLE: I thank you for the  
3 question. I would say that it's more appropriate to ask  
4 PJM. I do know from looking at some of the information  
5 that they provided, PJM provided the General Assembly, when  
6 there was discussion of giving some type of nuclear  
7 subsidy, they did do some type of look/report in terms of  
8 providing what they considered to be reliability and the  
9 percentage in terms of basing it upon -- in terms of  
10 natural gas that we have in Pennsylvania. So I think the  
11 question is more appropriate for them since we deal with  
12 the distribution side of it. We always look in terms of  
13 the generation side, but I don't necessarily have a  
14 sufficient answer to give you. They would have a better  
15 answer.

16 REPRESENTATIVE NELSON: Mr. Fitzpatrick?

17 MR. FITZPATRICK: You know, we're neutral on  
18 RGGI, but I think the Chairman's answer makes sense about  
19 PJM, and I guess just from having been involved in these  
20 things for all these years, both the environmental side and  
21 the PUC regulation side that balancing the environmental  
22 challenge of climate change, along with trying to keep  
23 rates low, along with trying to keep service reliable is a  
24 difficult and complex task that I think is occupying the  
25 brain power of all of us that are in the industry, so I'll



1 just let it go at that.

2 REPRESENTATIVE NELSON: Well, and that's a --  
3 it's a great segue in the -- trying to keep rates low for  
4 consumers because as you touched on in your testimony was  
5 the retail market is supposed to work in the best interest  
6 of consumers. So what may be a little more appropriate, if  
7 we all kind of recognize that we may be looking up to a  
8 third of those plants closing, how do we readjust the grid  
9 because the way that the grid distribution system is now,  
10 it's set and runs through a lot of these power plants that  
11 won't be there. So if they're going to be replaced by new  
12 power plants, how do we adjust Pennsylvania's grid and what  
13 would be the cost of that grid build-out to Pennsylvania  
14 consumers?

15 CHAIRWOMAN DUTRIEUILLE: Once again, I don't  
16 necessarily have that answer for you and -- because it  
17 takes a lot of discussion in terms of the generation side  
18 and I would feel more comfortable having PJM be a part of  
19 that discussion.

20 REPRESENTATIVE NELSON: But ma'am, it would be  
21 the Public Utility Commission that would be, you know,  
22 rerouting and involved with additional surcharges that  
23 would be placed on consumers to pay for this new grid  
24 system. I understand there's, you know, a lot of citizens  
25 in Pennsylvania in the southeast concerned about the new

1 power lines going from Pennsylvania down into Maryland, and  
2 really we would be almost having to redraw how our power  
3 lines were going to be laid out in Pennsylvania because we  
4 don't even have these new solar replacement plants yet.  
5 Shouldn't there be some pre-planning involved in this that  
6 I would think very much you guys would be right front and  
7 center.

8 CHAIRWOMAN DUTRIEUILLE: We would be happy to  
9 have those discussions with you. As I -- you know, I would  
10 just need more information in terms of exactly what you're  
11 asking.

12 REPRESENTATIVE NELSON: Okay. Thank you.

13 Thank you, Mr. Chairman.

14 MAJORITY CHAIRMAN MARSHALL: Thank you,  
15 Representative.

16 I know we are approaching the hour of 11:00 and  
17 need to wrap up soon, but we do have a few more questions  
18 from members, and the next one will be from Representative  
19 Miller.

20 REPRESENTATIVE MILLER: Thank you, Mr. Chairman.

21 And thank you to our testifiers.

22 Both of you talked about the variable rate and we  
23 had a question previously about that. I have a question  
24 related to this topic. What would both of you think about  
25 removing the ability of a variable rate, period?

1           CHAIRWOMAN DUTRIEUILLE: Well, I will jump into  
2 that first. I do remember Chairman Godshall having that  
3 discussion and that interest back in 2014, and I personally  
4 said to him -- you know, Chairman Godshall, you have every  
5 right to do that by statute. It's really up to the General  
6 Assembly. But for us, as I emphasized in some of my  
7 earlier comments, we're here to implement the legislation  
8 that the General Assembly puts in place. And so the  
9 emergency regulations that we did back at that time in  
10 2014, was more disclosure information. There was no  
11 recommendation on our part as a Commission to say what you  
12 the General Assembly should do, whether you should  
13 eliminate variable rates or not, so I have the same answer.  
14 It really is up to the General Assembly. We've got to  
15 weigh the pros and cons, and we would be happy to be a  
16 resource to give you any information or things that we have  
17 seen in terms of the variable rates, but we don't have an  
18 opinion on that, per se.

19           MR. FITZPATRICK: And Representative, I would  
20 answer your question. I agree with what the Chairman said  
21 about this being a judgment call and one for the General  
22 Assembly to look at. I would say this, in addition,  
23 though. People have asked me for advice, as they sometimes  
24 do, you know, about the retail market. With variable  
25 rates, I tell them, well, just -- I would -- you have to

1 know yourself. A lot of times the marketing is -- a  
2 supplier will offer you a fixed rate for three months that  
3 would be a good rate, discounted off what you can buy it  
4 for from the utility, with it then going to a variable  
5 rate. And I tell them, well if you're going to, at the end  
6 of that three-month period, look at that plan again and  
7 make some other choices, go to a new plan, then maybe  
8 that's for you. But just understand, if you go on a  
9 variable rate, under most circumstances you're going to pay  
10 a low rate but you do run the risk of that occasional bill  
11 that's going to be in the thousands of dollars because, you  
12 know, the weather can get extreme. We can't predict that.  
13 Wholesale pricing can go really high. So if you can't take  
14 that risk of having a bill that high, you really -- I would  
15 advise them personally, think twice before going on a  
16 variable rate plan.

17 REPRESENTATIVE MILLER: Yeah. I want to thank  
18 both of you for your answer. I think all of us here as  
19 State Representatives have those constituents who have  
20 these exorbitantly high rates and we're trying to help  
21 those people. Many of them don't understand the system.  
22 And I appreciate the protections that you're working for  
23 for the consumers, and I think we need to look at that. So  
24 thanks for your answer.

25 MAJORITY CHAIRMAN MARSHALL: Thanks,

1 Representative.

2 And quickly, we will go to Representative  
3 Delozier.

4 REPRESENTATIVE DELOZIER: Thank you, Mr.  
5 Chairman.

6 Thank you both for being here and I recognize  
7 what the Chairwoman has mentioned about the fact that the  
8 legislature needs to look at different issues, but you are  
9 the experts and you are the ones that do this every day.  
10 So my questions go to the underserved programs that I know  
11 both of you mentioned in your testimony, LIHEAP and both  
12 the shopping.

13 So real quickly, and I know we're running out of  
14 time, but with shopping, I myself went onto shop this past  
15 year and the lowest rate was the default service. So I  
16 understand that only 30 percent are shopping. I'm glad to  
17 shop and I went shopping, but I found that the lowest cost  
18 was my default. So my question to you is, knowing the  
19 industry and PJM and national, what are other states doing  
20 to -- that are higher than us and what can we do better to  
21 allow for folks to -- for more people to shop?

22 CHAIRWOMAN DUTRIEUILLE: Well, part of my answer  
23 is I am of the belief, and this is me personally, that your  
24 choice to not shop is part of your choice. It's called The  
25 Electric Choice Act. You choose. To me, that's shopping,

1 as well. You're looking more for an answer of what  
2 additional things can be put into place that would make you  
3 want to shop or sign up with the EGS. As I always look at  
4 the fact that from one time in a year to another part of  
5 the year there could be a rate that fits your needs better  
6 as a consumer and that would be the reason why you would  
7 shop or that would be the reason why you would switch back  
8 to the default service supplier, so to me that is shopping,  
9 as well.

10 But we can definitely provide you with some  
11 different information or maybe I can turn to Dan Mumford  
12 for this in terms of what other states might be doing.

13 MR. MUMFORD: Well, I would also add, as you  
14 mentioned in your testimony, Chairman, that it's not always  
15 all about price. You know, we do have customers that are  
16 looking for renewable energy, for example. One out of  
17 every four of our residential customers who shop are  
18 purchasing renewable energy. The other thing we're going  
19 to be looking at in the future is -- especially as electric  
20 vehicle usage becomes more common, people are going to want  
21 to charge those vehicles at advantageous rates, so they're  
22 going to be looking for time-of-use products. And now that  
23 we have smart metering deployed across the state, we are  
24 looking to the supplier community to make those kind of  
25 special time-of-use rates available. You know, that's, you

1 know the next, I think, big wave of the future that we're  
2 going to be looking to the competitive market to provide  
3 those kind of products.

4 REPRESENTATIVE DELOZIER: And I appreciate that.  
5 I just -- with 30 percent, and I respect what you're  
6 saying, that I chose to shop and stay with my home  
7 supplier, but I guess in the ability for us, my  
8 understanding in working with this for a number of years,  
9 the idea was to try and find lower rates and that would be  
10 what drove me as to my selection. But when the default is  
11 the less -- the lowest rate, that's the one that we choose.

12 So and real quickly, the LIHEAP. Mr.  
13 Fitzpatrick, you mentioned about the LIHEAP and 45 percent  
14 increase in overdue billing. At this point, do we know how  
15 many -- how much has gone out with the LIHEAP, how much  
16 have been applied? I'm just trying to get an  
17 understanding. You're talking about 374 million in low-  
18 income assistance. I guess it's frustrating that we put  
19 the plans in place to have low-income assistance but if we  
20 don't have people taking advantage of it for the dollars  
21 that are coming from the Federal Government, as well, that  
22 it's -- we need to either educate better or do something  
23 different to allow for folks to recognize that they need to  
24 apply for this assistance.

25 MR. FITZPATRICK: Well, I think -- as I said, I

1 think what the Commission determining that the full  
2 collections process can resume on April 1st, I think we're  
3 going to see the normal cycle that we see on this. We  
4 often see arrearages grow during the winter and then when  
5 the winter moratorium comes off under existing regulations  
6 we see customers taking advantage of assistance programs  
7 more at that point. I think we're going to see that again  
8 this year, probably even more so this year because, in  
9 addition to the winter moratorium, we had the moratorium  
10 resulting from the pandemic before that. So I am hopeful  
11 that with getting back a little bit to normal now that it's  
12 going to help that situation and customers will use the  
13 money, because you're right, Representative Delozier, last  
14 summer there was a special LIHEAP program set up with some  
15 of the money from the Federal Government, and at the end of  
16 the summer not all the money was used. But I think it's  
17 going to get better now.

18 REPRESENTATIVE DELOZIER: And I do believe -- I  
19 appreciate that the agency was able to use the types of --  
20 the crisis billing and that type of thing and what they  
21 needed to prove with the terminations and I think that that  
22 had an impact. Do we know the dollars that have been used  
23 with LIHEAP? We have the dollars sitting there. Do we  
24 know where we stand with how much has been used that we  
25 have access to?



1 CHAIRWOMAN DUTRIEUILLE: I don't think we know  
2 just yet but we can get you that information. I know the  
3 Commission doesn't know.

4 MR. FITZPATRICK: Yeah. I don't know either. It  
5 changes constantly.

6 REPRESENTATIVE DELOZIER: Okay. It's just it's a  
7 lot of dollars and our companies put those dollars into the  
8 low-income funds and we get dollars from our Federal  
9 Government and we need to make use of allowing people to  
10 get out from underneath their debt. So thank you very  
11 much.

12 MAJORITY CHAIRMAN MARSHALL: Thank you,  
13 Representative.

14 And we really have gone beyond our time but we do  
15 have one final question from Representative Mehaffie.

16 REPRESENTATIVE MEHAFFIE: Thank you, Mr.  
17 Chairman.

18 A real quick question, Gladys, if I may, and  
19 thank you today for your testimony. The first question is  
20 the sewer -- we're going off electric now, real quick.  
21 The sewer systems -- municipal sewer systems seem to be  
22 being bought up across the state by our water companies,  
23 and we're seeing more and more of that. Does that fall  
24 under your jurisdiction then, as far as the PUC, if bought  
25 by American, Suez or Aqua, someone in that nature or

1 somebody else?

2 CHAIRWOMAN DUTRIEUILLE: If it's purchased by an  
3 investor-owned, yes, it then would fall under our  
4 jurisdiction. And of course, we also have a role to play  
5 in the purchase of it -- of the approval under the 1329  
6 provision of the Code.

7 REPRESENTATIVE MEHAFFIE: Okay. Very good.  
8 Thank you for that.

9 Now let's go into the capacity market. You  
10 talked about that. You said we have a three-year outlook.  
11 We haven't had a capacity bid in about going on almost two  
12 years. Now, this may not be the question for you to answer  
13 but that concerns me in the respect that we're talking  
14 about the capacity market, we're talking what happened in  
15 Texas, and now we're saying oh, we're okay, but we're not  
16 because we haven't had that bid and gone out for bid for  
17 almost going on two years.

18 So we talked about the polar vortex in 2014. The  
19 reason that we were okay is because we had baseload power.  
20 We have the second largest fleet of nuclear power in the  
21 country. They were able to produce the power that they bid  
22 on the capacity market. Others that bid on the capacity  
23 market in 2014 were not able to produce the electricity.  
24 Even though they bid on that, that doesn't necessarily mean  
25 that they're able to produce because of the extreme weather

1 conditions. I think we all can agree to that. There was  
2 problems throughout the northeast at that time.

3 But we talk about the prices and where we're  
4 going with the pricing and how this, you know, deregulated  
5 system works and how, you know, the prices got there that  
6 you guys were a part of, but really, isn't it true that the  
7 price of gas really dictates the price of electric, and our  
8 low gas market right now is dictating the price of  
9 electric? So if that market goes up, the gas market goes  
10 up, so does our electric bills; is that correct?

11 CHAIRWOMAN DUTRIEUILLE: Generally, we do have a  
12 lot of gas-fired generation and a lot of the projects we've  
13 seen or see online in terms of the generation side are our  
14 gas-fired generation.

15 I will add onto a part of what you were asking.  
16 If you recall, after the 2014 polar vortex, as I stated in  
17 my testimony, PJM did put additional requirements in place  
18 and protections. We have not had the auction and you can  
19 definitely ask that question of PJM, but I think with  
20 additional requirements and protections put in place, it  
21 puts us in a better situation in the PJM footprint that  
22 we're protected and making sure the generators would come  
23 online if they were requested, if we run into a situation  
24 like the polar vortex that we had in 2014.

25 REPRESENTATIVE MEHAFFIE: Okay.

1 Thank you, Mr. Chairman.

2 MAJORITY CHAIRMAN MARSHALL: Thank you,  
3 Representative.

4 Chairman Matzie, do you have any questions or  
5 closing remarks?

6 MINORITY CHAIRMAN MATZIE: I do not.

7 Just a quick closing remark. I know -- you know,  
8 Terry mentioned in his testimony about potentially  
9 requesting recovery at some point for arrearages, et  
10 cetera, and you know, I think we really as policymakers  
11 need to look at changing the way we distribute the money  
12 with LIHEAP too, potentially, and maybe we could just give  
13 that money to the companies. And I know some people may  
14 want to call that a bailout but at the end of the day, you  
15 know, companies are on the hook for people not paying their  
16 bill.

17 And the last thing I will say relative to  
18 Texas -- you know, Texas forces consumers to shop. We  
19 don't. It's an option. They do force them and they do not  
20 have a default service, so I'm thankful that both  
21 testifiers mentioned Texas because I think that's  
22 important. That's something both you, I'm sure, Chairman  
23 Marshall, and I know myself and our staffs have received a  
24 ton of calls after everything went down in Texas.

25 But again, we're out of time but appreciate it,

1 as always, your willingness to participate and come before  
2 the Committee.

3 Thank you, Mr. Chairman.

4 MAJORITY CHAIRMAN MARSHALL: Thank you, Mr.  
5 Chairman.

6 And I'd like to thank Chairwoman Dutrieuille and  
7 President Fitzpatrick for your testimony today. I'm very  
8 grateful that you did touch on Texas. It's been a hot  
9 issue for us and we want to make sure that we don't fall  
10 into that catastrophic event that happened there.

11 And at this time, I would like to say this  
12 meeting is now adjourned.

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C E R T I F I C A T E

I hereby certify that the foregoing proceedings are a true and accurate transcription produced from audio on the said proceedings and that this is a correct transcript of the same.

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