BEFORE THE PENNSYLVANIA HOUSE OF REPRESENTATIVES

CONSUMER AFFAIRS COMMITTEE

Pennsylvania's Retail Energy Markets are Broken – But HB 1789 is Not the Right Fix

Testimony of Elizabeth R. Marx, Executive Director, Pennsylvania Utility Law Project

In Opposition to HB 1789

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Greetings, Chairman Marshall, Chairman Matzie, and Members of the Committee,

Thank you for the invitation and opportunity to submit written testimony to aid in the Committee's deliberation of HB 1789, which contemplates extensive reforms to Pennsylvania's retail energy markets.

The Pennsylvania Utility Law Project (PULP) is a statewide specialty legal services project within the Pennsylvania Legal Aid Network. Our mission is to ensure that Pennsylvanians with limited economic means can connect to and maintain safe and affordable utility services to their home.

Each year, we help thousands of Pennsylvania families keep the lights and heat on and the water running to their home. We see, firsthand, the severe economic strain of high energy prices, and the deep and lasting consequences when a family cannot afford to maintain essential services to their home. We also see how exorbitant supplier pricing across Pennsylvania's competitive energy markets is exacerbating the economic strain on families – compounding the unprecedented utility debt crisis, increasing involuntary termination rates, and driving higher prices for all consumers.

While it is undeniable that Pennsylvania's retail energy markets are broken, HB 1789 is not the right fix to reduce energy costs in Pennsylvania – and would further exacerbate energy affordability challenges across the state.

Since 2015, Pennsylvania's residential electric shopping customers have been charged over $1.5 billion more than they would have been charged on default service.

Table 1: Aggregate Residential Shopping Charges in Excess of Default Service[i]

Utility	Dates Analyzed	Aggregate Shopping Charges in Excess of Default Service Price
PECO Electric	Jan. 2015 – April 2020	$733,197,940
PPL Electric	Jan. 2015 – May 2020	$295,828,735
Duquesne Light	Jan. 2017 – May 2020	$102,869,316
FirstEnergy	Aug. 2017 – Dec. 2021	$431,152,822
Total		**$1,563,048,813**

The financial impact of excessive supplier pricing on a per customer basis is stark. Across the four FirstEnergy Companies, retail electric shopping customers are charged hundreds more than the default service each year.

Table 2: Per Customer Shopping Charges in Excess of Default Service Price, FirstEnergy

	MetEd	Penelec	Penn Power	West Penn Power
2018	$180.01	$158.29	$192.72	$184.95
2019	$233.80	$201.09	$234.73	$230.56
2020	$253.64	$198.67	$241.19	$271.32
2021	$244.37	$245.03	$287.93	$352.32

In December 2021, as Pennsylvania continued to grapple with unprecedented utility debts accrued through the pandemic - and hundreds of millions of dollars in emergency aid flowed through the state to prevent a catastrophic termination crisis, confirmed low income shopping customers across the FirstEnergy service territories were charged between $46.17 and $60.71 more than the applicable default service price… *In just one month!*

These excessive shopping prices are having a severe impact on involuntary termination rates, and are undermining the effectiveness of utility relief dollars. In 2021, nearly one in three (29.5%) low income shopping customers in FirstEnergy's Customer Assistance Program (CAP) were involuntarily terminated for non-payment – compared to less than 1 in 10 (8.8%) CAP customers who did not shop.

High shopping prices are also impacting utility write-offs, resulting in higher rates for all residential consumers. In 2021:

- The average write-off for FirstEnergy's residential shopping customer accounts was $1,204.99 – compared to $767.27 for FirstEnergy's residential default service customer accounts. *A difference of $437.72 per account.*

- The average write-off for FirstEnergy's confirmed low income shopping customer accounts was $1,660.76 – compared to $1,212.43 for FirstEnergy's confirmed low income default service customer accounts. *A difference of $448.33 per account.*

- The average write-off in for FirstEnergy's CAP shopping customer accounts was $1,876.11 – compared to $1,038.69. *A difference of $837.42 per account.*

These high write-offs are recovered through residential rates – driving higher energy prices for all.

Exorbitant prices for competitive residential electric service are not unique to Pennsylvania. Every competitive market state that has analyzed the difference in pricing between competitive supplier prices and default service prices has found that residential shopping customers pay substantially more for electricity than those who choose to remain on default service.

Table 3: Aggregate Residential Shopping Charges in Excess of Default Service, Other States

State	Dates Analyzed	Aggregate Shopping Charges in Excess of Default Service Price
Connecticut	2015-2019	$240,771,574
	Dec. 2020-Nov. 2021	$36,069,404
Illinois	June 2019-May 2020	$234,434,643
	June 2020-May 2021	$388,940,183
Maine	2014-2016	$77,670,086
Maryland	2017	$34,138,799
Massachusetts	July 2015- June 2020	$425,700,000
New York	Jan. 2014- Dec. 2016	$1,200,000,000

In analyzing data from the US Energy Information Administration, a recent Wall Street Journal investigation found that from 2010 to 2019, residential shopping customers across the competitive electric market states were charged – in the aggregate – more than **$19.2 billion** over the applicable default service rates.[ii]

Excessive pricing in the retail electric markets have a uniquely detrimental impact on low income consumers, who are more susceptible to promised savings and sign-on incentives like gift cards and giveaways. Unfortunately, energy marketers are taking advantage of this vulnerability. Indeed, troubling evidence continues to emerge that EGSs actively target low income communities and communities of color for higher priced contracts, using high-pressure door-to-door and other direct marketing techniques - compounding existing disparities in access to basic electric services.[iii]

While the evidence is clear that Pennsylvania's retail energy markets are broken, HB 1789 is not the right fix for Pennsylvania. The default service reforms contemplated in the bill would artificially inflate the cost of default service by shifting utility costs incurred to serve *all* ratepayers into default service rates. The result? More expensive energy services for all – driving market pricing up, not down.

It is critical that default service remain a stable and affordable choice for Pennsylvanians who choose not to shop. For that reason, I urge you to reject HB 1789.

PULP stands ready to assist the Committee to develop reforms that will work for Pennsylvanians. Please do not hesitate to contact me with any questions or to discuss. I look forward to working with you on this critically important matter to ensure that all Pennsylvanians can reasonably afford to maintain safe and stable energy services to their home.

Respectfully,

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[i] Competitive market pricing data contained throughout this testimony was compiled through litigation in each of the electric utilities' default service plan proceedings, where competitive market issues are addressed. The data is all part of the public record and is available at the below cited dockets.

Petition of PPL Electric Utilities Corp. for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019356, at 8 & Exhibit 1 (dated June 25, 2020).

Petition of PECO Energy Co. for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019290, at 10 & Exhibit 1 (dated June 16, 2020).

Petition of Duquesne Light Company for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019522, at 10 & Exhibit 1 (dated July 17, 2020).

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of their Default Service Programs for the period commencing June 1, 2023, through May 31, 2027, Docket Nos. P-2021-3030012, -13, -14, -21 (dated Feb. 25, 2022).

[ii] Scott Patterson & Tom McGinty, *Deregulation Aimed to Lower Home-Power Bills. For Many, It Didn't*, Wall Street Journal (March 8, 2021), https://www.wsj.com/articles/electricity-deregulation-utility-retail-energy-bills-11615213623?page=16.

[iii] Marcus Dieterle, *Energy Supplier Choice Aimed to Lower Marylanders' Bills, But Some Customers Are Left Feeling Powerless* (Dec. 28, 2021), https://baltimorefishbowl.com/stories/energy-supplier-choice-aimed-to-lower-marylanders-bills-but-some-customers-are-left-feeling-powerless/ (providing an interactive map of door-to-door marketing activities in Maryland, which reveals higher marketing activities in predominately Black and low income zip codes); see also MA Attorney General, *Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts: 2021 Update*, at viii-ix (Mar. 2021) https://www.mass.gov/doc/2021-competitive-electric-supply-report/download.