

**Before the
Consumer Protection and Professional Licensure Committee
And the Environmental Resources & Energy Committee
Senate of Pennsylvania
June 5, 2007**

**Testimony of Kim Pizzigrilli
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Good morning, Chairmen Tomlinson, White, Boscola and Musto, and members of the Committees. I would like to thank you for the opportunity to testify today on an Energy Policy for Pennsylvanians.

I commend the Senate Consumer Protection and Professional Licensure Committee and the Senate Environmental Resources and Energy Committee for holding this joint hearing. By working together, the Committees have set the stage for the type of open process that is essential in considering so many diverse interests as you contemplate a comprehensive energy policy for Pennsylvania. It is critically important to continue to establish policies and programs to reduce consumer energy costs, and to expand the availability and use of alternative energy -- the ultimate challenge is to establish such a strategy that accomplishes that by taking into consideration all interests.

The Commission continues to move energy policy forward pursuant to our existing statutory scheme and regulatory authority. Establishing comprehensive energy policies is not new for Pennsylvania. The Commonwealth took the lead with the passage of the Electricity Generation Customer Choice and Competition Act, the Natural Gas Choice and Competition Act and the Alternative Energy Portfolio Standards Act. We continue to implement those laws and the regulations necessary to carry out the intent of the General Assembly.

We need to continue to evaluate and establish policies that empower consumers to conserve energy; provide them with the tools they need to better manage their energy usage and costs; and attract and enhance the availability of alternative energy sources. The impact of any energy policy has different costs and benefits associated with various classes of customers: residential, small business and large commercial and industrial customers. The needs of consumers and utilities also vary among our service territories.

The regulation of utility service is impacted by several facets of federal, state and local government all with varying statutory and regulatory responsibilities. As a comprehensive energy strategy is being contemplated, it is important for the General Assembly to be aware that the Commission continues to actively participate in federal and regional proceedings that impact electricity to ensure consideration of Pennsylvania's interests. The Commission has a broad range of statutory responsibilities, primarily to ensure safe, reliable and reasonably priced utility service. Any legislative changes should preserve that important role for the Commission.

To that end, the Commission actively represents the Commonwealth's interests before the Federal Energy Regulatory Commission (FERC). We also work with PJM Interconnection, based in Valley Forge, which coordinates the movement of electricity through all or parts of 13 states and the District of Columbia and plays an important role in ensuring future electric reliability. In May 2005, the PUC and 13 other regulatory commissions within the PJM territory formed a non-profit organization known as the Organization of PJM States (OPSI). OPSI coordinates state participation in the PJM stakeholder process; shares information among member agencies; and facilitates the submission of joint comments to PJM and FERC. Similarly, the Pennsylvania Commission also is represented on the board of the Organization of Midwest States (OMS). The Midwest ISO is an independent, nonprofit organization that supports electricity in 15 states and the Canadian province of Manitoba.

As the demand for electricity increases and we continue to explore options for demand response initiatives, we also actively participate in the Mid-Atlantic Distributed Resources Initiative (MADRI), which includes five Mid-Atlantic jurisdictions, in collaboration with PJM, and federal and regional authorities. A joint policy statement advocated accelerated implementation of Distributed Energy Resources in the region.

A MADRI study recently completed by the Brattle Group concluded that a modest reduction in electricity use during peak hours would reduce energy prices by at least \$57 million to \$182 million annually in the Mid-Atlantic Region. This study and the MADRI's efforts will be invaluable for states such as Pennsylvania as we continue to successfully implement alternative energy laws and to empower our energy consumers with innovative energy efficiency, demand side response and advanced metering programs. Regional solutions developed by the MADRI process will continue to enhance the work of the states.

Also consistent with this regional focus, we participate in a similar initiative -- the Midwest Demand Side Response Initiative (MWDRI). MWDRI is working to build upon and expand the work of the New England and Mid-Atlantic Demand Response Initiative. The PUC continues to monitor and participate in OMS workgroups and participate with these regional partners in activities at FERC.

Participation at the regional level on demand response initiatives goes hand-in-hand with the Commission's investigation of issues relating to demand side response, energy efficiency, conservation and advanced metering infrastructure. The investigation was initiated in the fall of 2006 in response to significant increases in fuel prices and the associated impact on utility rates. We should soon be in the position to share the findings of our Demand Side Working Group which will include: utilities current efforts to assist their customers to reduce usage, increase energy efficiency, and implement demand side response programs; the nature and costs of such programs; whether advanced metering infrastructure should be developed by utilities and, if so, what timeline and standards should be established for implementation of these systems for various classes of customers; and whether revenue decoupling or other similar mechanisms are necessary or

appropriate to ensure that utilities aggressively encourage and implement conservation and energy efficiency in their service territories.

Last month, the Commission took action on an overall strategy for preparing consumers for potential increases in generation costs. We finalized a plan to mitigate and prepare Pennsylvania electricity customers for potential price increases. As part of this plan, we will:

- Consider policy recommendations from our Demand Side Response Working Group on how to increase the utilization of these programs and technologies;
- Consider proposals to avoid large, abrupt retail electric rates on a case-by-case basis;
- Initiate a rulemaking process to modify our policies and regulations relating to Customer Assistance Programs to address funding levels and cost recovery;
- Actively participate in the Universal Service Task Force and the Low Income Home Energy Assistance Program (LIHEAP) Advisory Committee to secure state funding for low-income energy customers;
- Address specific requests for Low Income Usage Reduction Program funding increases when opportunities arise; and
- Continue our policy of active participation in federal and regional proceedings that impact electricity prices.

The centerpiece of this regulatory package is a potential \$5 million consumer-education campaign to help prepare electricity customers for potential increases. Our staff has invited stakeholders to a June meeting to help craft the campaign, which will include messages and education about energy efficiency, conservation, and demand side response and low-income programs.

Electric distribution companies also will implement consumer-education plans for their service territories that will help mitigate the impact of price increases and educate customers about energy conservation and efficiency, and demand side response.

We now have approved final regulations and a policy statement that will establish the rules for default service for electric generation. The default service regulations are one of the most important rulemakings for the Commission since the restructuring of the electric industry. The rulemaking is now before the Senate and House Committees and the Independent Regulatory Review Commission. IRRC is scheduled to consider the rulemaking at its July 19, 2007, meeting.

Our default service regulations address conditions in the wholesale market and the relationship between the default service rulemaking and the Alternative Energy Portfolio Standards Act. This law, Act 213 of 2004, requires that electric distribution companies and electric generation suppliers include a specific percentage of electricity from alternative resources in the generation that they sell to Pennsylvania customers.

In January, the Legislative Budget and Finance Committee completed a performance audit of the PUC, noting that the Commission has made good progress in implementing the requirements of the Alternative Energy Portfolio Standards Act. While a comprehensive list of our actions is attached at the end of the testimony, briefly our work includes:

- A Final Order and Technical Manual related to demand side management, energy efficiency and load management programs and technologies;
- A Final Rulemaking Order, which promotes on-site generation by customer-generators using renewable resources and eliminates barriers which may have previously existed regarding net metering. The regulations also provide for metering capabilities that will be required and a compensation mechanism which reimburses customer-generators for surplus energy supplied to the electric grid;
- A Final Rulemaking Order, which establishes regulations governing interconnection for customer-generators. The regulations have been drafted with a view toward promoting onsite generation by customer-generators using renewable resources, consistent with the over-arching goal of the Act. The regulations strive to eliminate barriers which may have previously existed with regard to interconnection while ensuring that interconnection by customer-generators will not pose unnecessary risks to the electric distribution systems in the Commonwealth; and
- The retaining of the services of an alternative energy credit program administrator to develop and implement an alternative energy credits certification, tracking and reporting program.

The Commission looks forward to working with the Committees as you continue to evaluate the Governor's energy initiatives. Our staff continues to analyze the legislative proposals and has developed some technical amendments which we can share with the Committees. There are many agencies in state government that have an interest in developing the energy strategy going forward. The Department of Environmental Protection advises the administration on new legislation on bio fuels, renewable energy issues and energy efficiency, and has some responsibilities to implement the Alternative Energy Portfolio Standards Act. The Department of Community and Economic Development is involved in energy policy, as the impact of energy costs on businesses and the growth of new alternative energy infrastructure are among the multitude of issues related to economic development in Pennsylvania.

I believe that it is important that any legislation should provide regulatory certainty *and* regulatory flexibility; investing in consumer education; empowering our customers through new technology; and at the same time, it must balance the interests of utilities and consumers. I also believe it is important for the Commission to continue its active participation in regional and federal areas as well.

The Commission continues its important role to ensure safe, reliable and reasonably priced utility service. I believe it is important for all parties to work cooperatively to address energy issues in Pennsylvania to ensure that the costs and

benefits are fully analyzed prior to passage of the legislation. Finally, attached to this testimony is a brief summary of the Commission's recent actions with regard to default service regulations and the many developments to implement the Alternative Energy and Portfolio Standards Act. The Commission appreciates the opportunity to testify today and looks forward to providing the Committees with further input.

Status of Energy Related Regulations and Policies

Default Service Policy Development

The Commission voted to issue proposed default service regulations for public comment on December 16, 2004. *Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2)*, Docket No. L-00040169 (Order entered December 16, 2004).

The proposed regulations were published in the *Pennsylvania Bulletin*, Volume 35, No. 9, on February 26, 2005. A 60 day comment period and 60 day reply comment period followed, the latter of which concluded on June 27, 2005. The Independent Regulatory Review Commission (the "IRRC") filed comments to this proposed rulemaking order on July 27, 2005.

The Commission reopened the public comment period in late 2005 to address the relationship between the default service rulemaking and the Alternative Energy Portfolio Standards Act of 2004. 73 P.S. § 1648.1, *et seq.* ("AEPS Act").¹ This second public comment period concluded on April 7, 2006. The IRRC stated in a letter dated May 8, 2006, that it had no additional comments, and that the due date for a final default service rulemaking had been extended to April 7, 2008.

On February 8, 2007, the Commission issued an Advance Notice of Final Rulemaking at this docket. The ANOFR included numerous changes to the proposed rule intended to address concerns raised by the IRRC and other parties, and to reflect changes in Commission policy on a number of issues. Comments and reply comments were requested. Separately, the Commission issued a proposed policy statement on certain issues relating to default service and retail choice. *Default Service and Retail Electric Markets*, Docket No. M-00072009 (Proposed Policy Statement Order entered February 9, 2007).

At the Public Meeting of May 10, 2007, the Commission voted to issue default service regulations in final form, and a final version of the default service policy statement. The default service regulations were delivered to the standing committees and the IRRC on May 24, 2007. The default service regulations will be considered at the IRRC Public Meeting of July 19, 2007. The regulations and policy statement will take effect on publication in the *Pennsylvania Bulletin*.

¹ *Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2)*, Docket No. L-00040169 (Order entered November 18, 2005).

AEPS Regulatory Development

On November 30, 2004, Governor Edward Rendell signed Act 213 into law. 73 P.S. §§ 1648.1 *et seq.* Generally, Act 213 requires that electric distribution companies (EDCs) and electric generation suppliers include a specific percentage of electricity from alternative resources in the generation that they sell to Pennsylvania's retail electric customers. The level of alternative energy required gradually increases according to a 15-year schedule identified in Act 213.

The Commission initiated an implementation proceeding for Act 213 at Docket No. M-00051865 via a Secretarial Letter issued on January 7, 2005. The Commission presided over a technical conference on the implementation on January 19, 2005. Subsequently, the Commission established an Alternative Energy Portfolio Standards Working Group to provide a forum for input by consumers and their advocates, electric distribution companies, electric generation suppliers, and other state agencies. The Working Group held its first meeting on March 2, 2005.

The following official actions have been taken by the Commission to implement Act 213:

1. Identified a 15-year reporting timeline. *Implementation of the Alternative Energy Portfolio Standards Act*, Docket No. M-00051865 (Order entered March 23, 2005).
2. Identified the compliance exemption period for each EDC service territory. *Implementation of the Alternative Energy Portfolio Standards Act*, Docket No. M-00051865 (entered March 23, 2005); *Implementation of the Alternative Energy Portfolio Standards Act*, Docket No. M-00051865 (Order entered July 18, 2005).
3. Established general standards and processes for tracking and verifying demand side management and energy efficiency measures. *Implementation of the Alternative Energy Portfolio Standards Act: Standards for the Participation of Demand Side Management Resources*, Docket No. M-00051865 (Final Order entered September 29, 2005).
4. Designated PJM-EIS's Generation Attribute Tracking System as the alternative energy credit registry. *Implementation of the Alternative Energy Portfolio Standards Act: Designation of the Alternative Energy Credit Registry*, Docket No. M-00051865 (Final Order entered January 31, 2006).
5. Completed, with the Department of Environmental Protection (DEP), an interim alternative energy system qualification process. (Secretarial Letters of December 20, 2005, and January 30, 2006). An application form developed as part of this process is available through the Commission website. More than 170 systems have been qualified. This qualification process will be assigned to the third party administrator later in 2007.

6. Final rules for the net metering of alternative energy distributed generation systems have been promulgated and are legally effective. Proposed rules were issued for public comment in late 2005. *Proposed Rulemaking Re Net Metering for Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.5*, L-00050174 (entered November 16, 2005). The net metering regulations appeared in the *Pennsylvania Bulletin* on February 4, 2006. Final form rules were issued in mid-2006, and took effect on December 16, 2006. Net metering tariffs were filed and approved by the Commission in February and March of 2007. Customers have been compensated consistent with this new net metering standard since about January of 2007.

7. Final rules for the interconnection of alternative energy distributed generation systems have been promulgated and are legally effective. Proposed rules were issued for public comment in late 2005. *Proposed Rulemaking Re Interconnection Standards for Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.5*, L-00050175 (Order entered November 16, 2005). The net metering regulations appeared in the *Pennsylvania Bulletin* on February 25, 2006. Final form rules were issued in mid-2006, and took effect on December 16, 2006.

8. The Commission resolved litigation on the ownership of alternative energy attributes for contracts entered pursuant to the federal Public Regulatory Policies Act of 1978 (PURPA), which required electric utilities to enter into long-term contracts with independently owned electric generation facilities, some of which relied on alternative energy sources to generate electricity. The Commission concluded that these attributes were conveyed with the energy to the purchasing EDCs. *Petition for Declaratory Order Regarding Ownership of Alternative Energy Credits Associated with Non-Utility Generating Facilities Under Contract to Pennsylvania Electric Company and Metropolitan Edison Company*, Docket No. P-00052149 (Order entered February 12, 2007); Reconsideration Denied on the Merits via Order issued on May 30, 2007.

9. The Commission adopted a policy statement on the non-public utility status of some alternative energy systems. *Implementation of the Alternative Energy Portfolio Standards Act*, Docket No. M-00051865 (Final Policy Statement entered December 5, 2006). This was done to remove uncertainty over whether projects would be subject to Commission regulation. The policy statement is codified at 52 Pa. Code § 69.1401.

10. The Commission issued proposed rulemaking order to codify the statutory interpretations of Act 213 already made at Docket M-00051865, and to resolve other issues that have not already been addressed in other AEPS rulemakings and policy statements. *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. L-00060180 (Proposed Rulemaking Order entered July 25, 2006). The Public Comment period concluded in January 2007, and staff is preparing a final rulemaking order for issuance in mid-2007.

11. The Commission retained the services of a third party administrator, Clean Power Markets, to help the Commission manage the AEPS obligation. A contract was executed and all approvals obtained in March 2007.

Demand Side Response, Energy Efficiency, And Conservation Policies

The Commission initiated an investigation of demand side response, AMI (advanced metering infrastructure), energy efficiency and conservation on October 11, 2006 at Docket M-00061984. The objective was to identify new policies that will help retail customers manage their energy expenditures. The Demand Side Response Working Group and Commission staff will provide policy recommendations to the Commission in June of 2007. These recommendations may serve as the foundation for further deployment of AMI, and greater availability of DSR, energy efficiency and conservation programs, and consideration of the EPACT smart metering standard. Information about the investigation is available at: ww.puc.state.pa.us/electric/electric_dmndsideresp.aspx

Policies to Mitigate Electric Price Increases

At the Public Meeting of May 19, 2006, the Commission adopted a motion of Commissioner Fitzpatrick to initiate this proceeding. An Order was subsequently entered delineating the scope and schedule of this investigation. *Policies to Mitigate Potential Electricity Price Increases*, Docket No. M-00061957 (Order entered May 24, 2006). All interested parties were encouraged to file written comments on these issues by June 15, 2006. The Commission then presided over an En Banc hearing on June 22, 2006, at which testimony was offered by numerous parties. Reply comments were accepted on July 20, 2006. A tentative order with proposed findings was issued on February 9, 2007, for public comment.

The Commission entered a final order on May 17, 2007, identifying new policies it would implement to address potential price increases. This included a consumer education initiative to inform customers about the expiration of rate caps and the tools they can use to manage their energy costs, greater participation in LIHEAP policy development, completion of the default service rulemaking and DSR investigation, and continued advocacy of Pennsylvania's interests before PJM and the FERC.

A stakeholder working group will be convened in the Summer of 2007 to begin the development of the consumer education initiative.