

**Statement of Richard Rathvon,
Retail Energy Supply Association**

**Testimony before the
Senate Consumer Protection and Professional Licensure &
Senate Environmental Resources and Energy Committees**

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RESA Members include:

ConEdison Solutions
Direct Energy Services
Hess Corporation
Liberty Energy Inc.
Reliant Energy Retail Services, LLC
Sempra Energy Solutions
Strategic Energy
SUEZ Energy Resources NA, Inc.
US Energy Savings Corporation

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Madam Chairwomen White and Boscola, Chairmen Tomlinson and Musto, distinguished members of the Senate Consumer Protection and Professional Licensure and Senate Environmental Resources and Energy Committees, good morning. My name is Richard Rathvon; I am the President of the Retail Energy Supply Association (RESA) an industry trade group and a Vice President for Reliant Energy. My comments today represent the views of RESA as an association of electric generation suppliers (EGSs), not necessarily the views of any particular member company with respect to any specific issue.

RESA would like to express its appreciation to both committees for the opportunity to present its views regarding energy policy for Pennsylvania. .

The Retail Energy Supply Association is a broad and diverse group of retail energy suppliers devoted to promoting competitive retail energy markets for all of Pennsylvania's residential, commercial and industrial consumers. These suppliers include companies like Strategic Energy, a home-grown electric supplier headquartered in Pittsburgh and doing business across PJM. And Direct Energy, a US subsidiary of an international company with operations across Canada, Texas and the north-eastern U.S. and which serves more than 32 million customers worldwide. And Hess Corporation, a *Fortune 100* company with retail fuel oil, gasoline, natural gas and electric operations across the Mid-Atlantic and New England regions and which is the largest retail natural gas marketer in Pennsylvania. My company, Reliant Energy, serves 1.9 million customers in the United States as well as operating 16,000 megawatts of generation – including 17 generating plants in Pennsylvania totaling nearly 6,000 megawatts. Reliant

has a regional office in Canonsburg near Pittsburgh and employs over 1200 Pennsylvanians across the Commonwealth. Other RESA members include: Sempra Energy Solutions, US Energy Savings Corp, Liberty Power Corp, Consolidated Edison Solutions and Suez Energy Resources, N.A. RESA members compete in electric markets in other states and are bringing the benefit of their experience and knowledge to Pennsylvania consumers.

In Pennsylvania, RESA member companies serve thousands of customers – including residential homes, businesses, schools & universities, sports stadiums and several city, township and county entities – in the utility service territories that have fully transitioned to a competitive market.

RESA agrees with many of the goals put forth by Governor Rendell for Pennsylvania's energy future but does not agree that legislation affecting Title 66 is necessary to accomplish those goals. It is premature to determine that the existing Title 66 has failed to produce competitive electric markets and associated benefits for customers in the Commonwealth. The existing rate caps for most large utilities continue through 2010, and it is doubtful that robust competition will ensue prior to the end of the rate caps. The Public Utility Commission has issued a set of policy guidelines and default service rules that will begin the transition towards competitive markets and should be allowed to work. Indeed, RESA believes that the legislation at issue is fraught with unintended consequences and could have a chilling effect on the progress toward a competitive electric market. For example:

1. ...utilities offering cost-based long term contracts for particular customers.

- If the utilities are permitted to offer cost-based long term contracts to large customers, an inordinate amount of risk is shifted to ratepayers. The utility will either be shifting the pricing risk (if it doesn't procure long term supply) or shifting credit risk (if it enters into long term supply contracts). Either way, the ratepayer eventually sees these additional costs in unnecessarily higher utility rates. Keep in mind that producers of goods and services don't offer their products on a cost-basis because they couldn't survive. Smaller businesses and residential customers will not get the full advantage of a competitive market if certain large customers are allowed to obtain special deals. I have a letter from big box retailers recently sent to Governor Rendell that I have brought with me to share with you today. The letter implores him to continue to develop policies that will allow the benefits of a competitive electric market to flow through to all Pennsylvanians. Other businesses and manufacturers have made similar requests.

2.implementing a state mandated procurement method which includes long term contracts as part of a portfolio.

- Consumers are forced to accept pricing based on a mandated time line that can be above or below market for extended periods of time. In a period of declining prices consumers will not be able to take advantage of lower prices if the state has them locked into long term contracts. In the C&I markets, if consumers want a long term contract they make the choice of when to lock in the price; it's not based on a regulatory timeline – it's a value-added service that comes at a premium. In California the state signed long term contracts hoping to bring lower prices to consumers. The market prices

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dropped soon after the contracts were signed and consumers are still paying higher prices
– is the Commonwealth ready to take on the responsibility of out-guessing the market?

- Price signals are muted; consumers base their consumption decisions on distorted market prices. They don't conserve or invest in energy efficiency or demand side management programs as a result of market prices and demand grows. Rather than conserving energy, increased demand results in the need for new power plants and transmission lines – an unintended consequence.

3. ...establishing micro-grids.

- While, RESA believes that easing restrictions on the development of micro-grids can be a useful economic development tool to help industry manage rising energy costs, we must ensure that micro-grid participants pay their fair share of system reliability costs.

4.expanding PEDA fund's powers to include buying and selling power

- Is the Commonwealth prepared to take risks involved in getting into the power trading business? Does state government have the risk management skills for commodity trading or the funds to hire experienced traders? How will the state ensure that these people are adequately supervised and who will be held responsible for inherent conflicts of interest between government traders and competitive entity traders (e.g., revolving door policy, gambling with taxpayer money) California hired consultants, traders etc. during its crisis with disastrous results – conflict of interest issues arose around traders/consultants who were hired; second guessing the government's choice of

consultants became headline news – government interference can lead to unintended consequences.

Much has been said lately both to you and in the press about large industrial customers being unable to procure electricity at prices they like – they have threatened to take their expansion plans elsewhere if they cannot obtain electricity at below market prices. RESA is sympathetic to their concerns and our members stand ready to work with industrial customers and the General Assembly to find compromise solutions that do not sacrifice one segment of industry for another. It is in everyone's best interest to see all segments of the market succeed.

The simple fact of the matter is that these large customers want prices that are below market. RESA's members cannot afford to sell their products below cost. More importantly, what some call "traditional utilities" cannot afford to sell electricity at below cost either. These large customers are asking for a subsidy at the expense of residential and small commercial customers – the Commonwealth should not allow favorable deals only for certain customers. It is a robust, competitive electric marketplace that will provide all customers with the products and services that best meet their individual needs. If there is truly no cross-subsidization, then why do industrial customers need to contract directly with the utility? Let me tell what risks other consumers will bear if the utilities contract with industrial customers – just to name a few: cost of credit, unit contingency insurance which applies if the utility contracts with a specific unit (where will they get

the power if the unit goes down and who will pay for that power), capacity charges (as well as other PJM requirements) and downturn in industrial customers output.

Pennsylvania is making progress in its transition to fully competitive electricity markets, but the opportunities for customers to experience full retail choice will not occur until rate caps expire in 2011. In 1997, the Commonwealth allowed competitive electric generation suppliers (EGSs) to come into the market and compete for customers' business. However, as part of the restructuring process, rate caps were put in place to act as a ceiling on prices - some not expiring until 2011. Had electricity prices remained stable or declined, new competitors would have been able to come into the market and provide prices lower than the rate caps. Initially, many sellers did indeed come into the market. However, when prices for natural gas and coal, the underlying fuels used to generate electricity, increased significantly, the price of power increased to levels higher than the rate caps. Since 2000 the price of natural gas has risen more than 250%, the price of a barrel of oil 80% and the price of coal approximately 55%.

We have learned that regardless of a state's regulatory status – restructured or traditional – the cost of the underlying fuel commodity will drive electricity prices. Traditional regulation provides no immunity from the effect of fuel increases. For example, between 2000 and 2005 many fully regulated states experienced a significant increase in rates: 49% in Oklahoma, 37% in Georgia, 67% in Louisiana, 53% in Mississippi and 43% in Colorado.

RESA encourages Pennsylvania policymakers to allow the continuation of the advancement of competitive markets under the existing Choice Law. Over the long term, properly structured competitive markets will prove to deliver more value than regulated monopoly service. The competitive market is the best pathway to deliver innovative products that allow consumers to meet their unique individual needs and reducing consumption thus helping the environment.