

**Written testimony of Glen R. Thomas**  
**Submitted to the Senate Environmental Resources and Energy Committee and**  
**Consumer Protection and Professional Licensure**  
**on Behalf of the PJM Power Providers Group<sup>1</sup>**  
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In December of 1996, the Pennsylvania General Assembly sent a bold message for the world to hear. In the words of the statute, Pennsylvania declared “competitive market forces are more effective than economic regulation in controlling the costs of generating electricity.”

While perhaps unappreciated at the time, those words in that bill clearly sent a message that Pennsylvania believes the free market can perform better than government regulators, consumers and not regulators should be the ones to drive the marketplace and that Pennsylvania will ultimately be a better place to live, work and raise a family if the power of competitive electricity markets is unleashed to bring value to consumers.

Ten years later, Pennsylvania has a lot to be proud of. While in many respects Pennsylvania has yet to realize the complete promise of competition (in fact, we have not completed the transition to full competition), we can easily say that Pennsylvania is better today as a result of efforts to restructure on electricity. Is there more work to be done? Yes. Will this General Assembly and the Public Utility Commission always need to work together to ensure that this success continues? Absolutely. However, have we found a better approach? Without a doubt.

Prior to the 1996, consumers did not have any choices. They were told by regulators the terms by which they were going to receive service and the only option was to take that service on those terms or not take it at all. Our electricity industry was plagued by inefficient plants and cost over runs that resulted in billions of dollars of stranded costs. Renewable energy had yet to really find a niche and conservation was a civic virtue, not an economic opportunity.

Today, Pennsylvania’s nuclear plants are churning out 1.7 million more megawatts of power a year than they did a decade ago as operators now have real economic motivation to run plants more efficiently. Ten years ago Pennsylvania did not have a single wind farm while today the American Wind Association boasts that Pennsylvania has 179 megawatts of wind with another 300 megawatts in the queue.

Moving forward, this Committee needs to be sure that Pennsylvania remains committed to the original vision – that Pennsylvania will be a better place if the market sets the price of electric generation rather than the state regulator. While there is significant and critical work that still needs to be done by the Public Utility Commission and this

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<sup>1</sup> The PJM Power Providers Group is a non-profit organization that supports the development of properly designed and well functioning markets in the PJM region. PJM is a regional transmission organization that manages the supply and movement of power in 13 states and the District of Columbia.

Committee, Pennsylvania is well positioned to realize the promise of a robust competitive electricity market. It is important that this Committee keep Pennsylvania on that road and not take a detour that will likely lead to a less than optimal market which will ultimately deliver fewer choices and higher prices to consumers.

While laudable in some of its goals, the Governor's Energy Independence Strategy ("EIS") presents several troubling provisions that could seriously jeopardize Pennsylvania's efforts to achieve this vision. I'd like to address three:

### **1. "Portfolio" Approach to Generation Acquisition**

The Energy Independence Strategy suggests a portfolio approach to generation supply. While the Act is not entirely clear as to what is exactly meant by a portfolio approach, I would urge this committee to again be cautious. By adopting a portfolio approach, Pennsylvania could be headed down the same path as Delaware and other states which appear to be on a course that will have consumers paying above market rates for decades to come.

The Public Utility Commission has recently finalized regulations and policies for utilities to follow as they procure power for their consumers who decide not to switch to a competitive option. The Commission has set forth a process that sends a clear signal regarding their expectations while providing sufficient flexibility should market conditions change. The proposed rules balance the need to ensure price stability for non-shopping customers while not undermining price signals to the consumers that in the long term will encourage them to actively manage their energy costs, including reducing their demand when that is cost-effective, and create the incentives for suppliers to re-enter the Pennsylvania market. I respectfully submit that this policy decision should be in the province on the Commission, which has already proven it can handle well the responsibility.

### **2. Long-term Contracts**

It is time that Harrisburg realize that, despite what some interests would have you believe, there is not a single provision in Pennsylvania law, or Commission precedent or regulation, that prevents any consumer from entering into a long-term retail contract for their electricity supply. From the largest steel mill to the smallest home, Pennsylvanians now enjoy the ability to enter into a long-term power contract – an ability they didn't have prior to the 1996. And, in fact, many customers have availed themselves of that opportunity and taken generation service under long-term contracts. That most customers are not currently taking service under contracts with competitive suppliers but rather continue to take default service from their distribution utility derives mainly from the fact that current generation rates are capped at levels well below competitive market prices.

Since 1996, the Public Utility Commission has made the policy decision that in order for the competitive market place to mature in a rational manner that all competitors for energy supply should compete on a level playing field. All competitors should be subject to the same rules and the same licensing requirements – including any competitive

affiliates of utilities. The EIS turns this sound policy on its head. In essence, the strategy is asking the state to sanction a policy that will not only allow, but promote an un-level playing field that will certainly drive competitors away from Pennsylvania. Fewer competitors will lead to fewer choices which will in turn lead to high prices.

The EIS suggests that distribution utilities themselves (and not just competitive suppliers or competitive affiliates of distribution companies) be “allowed” to enter into long-term generation supply contracts with customers. This proposal springs from the expectation that, somehow, distribution companies will be able to provide prices below those available from the competitive market and that allowing the distribution companies the “option” of offering such contracts will increase competition.

This Committee needs to realize that the history of mandated utility provided long term supply contracts throughout this country is not a good one and almost universally has resulted in consumers paying more for electricity than they otherwise would have. In fact, California spent a significant amount of time and political capital undoing long term supply contracts that were entered into at the height of the energy crisis in that state. In Pennsylvania, consumers are still paying above market prices for long term contracts entered into as a result of the Pennsylvania’s implementation of the Public Utility Regulatory Policies Act of 1978.

Moreover, many economists have observed that it may not be advisable for utilities to enter into long term contracts. They note that long term contracts raise potential stranded cost problems (again), and can distort decisions by consumers regarding switching to competitive retail suppliers or default service as wholesale market prices will always deviate from the average cost of the utilities’ portfolio of long term contracts at any point in time. This places additional, unnecessary burdens on the spread of retail competition.

This Committee needs to be cautious in its approach to the issue of long-term contracts. The desire of a few large customers to negotiate deals directly with their distribution utility rather than the competitive suppliers (including competitive generation affiliates of the utility) could lead to higher prices for all Pennsylvanians as competitors flee the state. This Senate would be well advised to avoid such a serious set back on the road to a rational competitive market place in our Commonwealth.

### **3. Pennsylvania Energy Development Authority**

The Governor’s Energy Independence Strategy proposes that the PEDDA’s authority should be expanded to allow it to buy and sell electric power, natural gas and any other energy commodity. Nothing could be more disruptive to the development of a competitive market than to allow the government to assume the role of a market participant. It is appropriate for government to financially support activity it would like to see in the market, however, it is not appropriate for government to assume a role that is properly left to the private sector. Such an interference will distort the market and present a dilemma to anyone looking to invest in the Pennsylvania market.

PEDA's authority should be limited to grants and loans to support renewable energy projects. If PEDA were allowed to cross the line and participate in the market in a manner that would potentially undercut the very essence of a competitive market as proposed in the Governor's proposal, it would cast a chilling pall over the entire marketplace.

Before I conclude, I would like to offer a few words about the price of electricity as many critics of competition contend that since prices are going up that competition has been a failure. Nothing could be further from the truth. While prices will be indeed going up in Pennsylvania when rate caps that have been in place for almost a decade and half expire, these price increases are being caused by forces independent of the competitive market such as the momentous increase in the cost of fuels used to generate electricity. Consider that in 1997, the wholesale prices of natural gas was consistently below \$2 per mcf. At the beginning of June, the wholesale price of natural gas was around \$8 per mcf. Coal, uranium and oil have seen similar increases over that time. Moreover, increased environmental controls instituted by this state and others in the region have significantly increased the cost of generating electricity which ultimately must get passed on to consumers.

Consumers are understandably concerned about increases in power prices. However, it is a mistake to point the finger at competition. In fact, if Pennsylvania had not restructured its market, prices would likely be even higher in 2011. The transition may have been more gradual, but at the end of the day your constituents would have paid more for their electricity. One need only to look at the January 19<sup>th</sup> letter sent to Governor Rendell signed by nine of Pennsylvania's largest employers that stated "the electricity customers who have signed this letter strongly support the development of competitive electricity markets and encourage the Commonwealth of Pennsylvania to maintain its commitment to policies which allow for the continued evolution and implementation of such markets, especially the Commonwealth's competitive retail market. Electricity competition has contributed to Pennsylvania's remarkable economic growth and provides the best route toward energy independence" to see that consumers believe that Pennsylvania made the right choice in December 1996.

While Pennsylvania must resist efforts to move backward on the path to a fully functioning competitive market, it also must not ignore opportunities. Increasing the amount of demand response in Pennsylvania will help keep prices down and allow consumers to truly drive the market place, although it is unrealistic and probably irresponsible to think that all demand growth can or should be met with demand-reduction and conservation programs. The fact is that more generation will be needed to meet Pennsylvanian's needs, and this Commonwealth should be encouraging that. The Commission should also be supported in its efforts to promote smart meters and other cost effective technologies, and to educate customers of electric price changes and steps consumers can take to mitigate increases. Finally, Pennsylvania needs to have a clear understanding of how new and proposed environmental regulations impact the price of electricity and understand how these mandates drive the costs consumers pay.

Thank you for the opportunity to submit testimony. I would be happy to answer any questions that the committee members may have in person or through supplemental testimony.