

Re: Investigation of Pennsylvania's Retail Electricity Market
Docket No. I-2011-2237952

John R. Hanger Testimony

Thank you Chairman Powelson and members of the Pennsylvania Public Utility Commission for inviting me to testify in this important proceeding. I also want to commend you for your stewardship of Pennsylvania's Electric Generation Competition and Customer Choice Act that was passed in 1996.

I was intimately involved in the drafting of the 1996 Act and its early implementation. The purpose and intent of the Act are to create fully competitive retail electric generation markets with many different companies competing to provide all customers multiple choices and products. This proceeding can boost further competition, choices, and innovation.

The 1996 Act provides direction but gave implementation authority and discretion to the Pennsylvania Public Utility Commission to make decisions about the details of how the retail electricity generation monopolies previously granted to electric utilities would be terminated and how retail electricity competition would operate.

The Act supports more competition as the best means to protect the public interest. As a result, when I served on the Public Utility Commission from 1993 to 1998, whenever a decision implementing the Act had to be made that was not answered by the plain words of the Act, I asked this question to guide my reasoning: what would create more competition, more providers, more products and services?

The decisions that the PUC makes about the details and the specific operational rules governing competitive retail electric markets can be the difference between strangling electricity competition and customer choice and making it work.

Chairman Powelson and members of the PUC, I have been impressed by your commitment to implement faithfully the 1996 Act by deciding the details and the specific rules in a manner that makes electricity competition work.

I have also been impressed by the commitment of many stakeholders such as the Office of Consumer Advocate, the Small Business Advocate, PennFuture, renewable energy businesses, competitive electricity suppliers, utilities such as PPL and PECO, and members of the General Assembly to making retail electricity competition work.

Now nearly 15 years after the passage of the 1996 Act, with all rate caps on transmission, distribution and generation services having expired, June 2011 is the right time to have this proceeding and to answer the questions you have posed. It is also important to remember that rate caps ended at different times in different service territories. Rate caps ended in DQE in 2002, PennPower in 2007, PPL in 2009 and PECO as well as FirstEnergy in 2010. In the PPL

and especially PECO and FirstEnergy territories the time since the end of rate caps is not great. But key trends are now clear across the Commonwealth.

Substantial progress has been made in creating healthy competitive electricity markets for Pennsylvania but more needs to be done to boost competition. Some service territories such as PPL and PECO Energy have higher levels of competition than in others such as Allegheny Energy, Penelec, and MetEd. Our goal should be to take steps that will increase competition and choices for customers in all service territories and especially in those areas where competition for smaller customers has been modest to date. Changing some of details involving default service and insuring that the demand side of the market is healthy will build competition.

According to the April, 2011 electricity competition statistics generated by the Office of Consumer Advocate led ably by Sonny Popowsky, approximately 14,600 megawatts of electricity load in Pennsylvania and 1,031,784 customers are served by competitive electricity suppliers. Fifty per cent or more of the total load has switched to competitive electricity suppliers in 5 of 8 service territories. Industrial load has overwhelmingly shopped, with 90% or more of the industrial load switched in most service territories.

But a deeper look at these totals reveals competition especially for residential customers and small commercial customers in several service territories is not as vibrant as it should be.

About 29% of UGI's commercial load has shopped, while 84% of PPL's commercial load has switched. In the remaining service territories, 44% to 64% of commercial load is now served by a competitive electricity supplier. Undoubtedly shopping rates are higher for larger commercial customers and lower for smaller commercial customers.

In the residential class, PPL has the highest percentage of residential load served by competitive electricity suppliers at 41.8%, with Duquesne Light ranking second at 23.2%, PECO Energy at 16%, and Penn Power at 12.4%. The 4 remaining service territories (MetEd, Penelec, Allegheny Power and UGI) have residential shopping rates at 1% or less.

While there are 21 competitive electricity suppliers offering to residential customers generation service in the PECO service territory, as of May 5th, 2011, there were just 2 competitive suppliers offering generation service to residential customers in the Penelec service territory and one of the two is the affiliate of the default provider.

In the Met Ed service territory, there were 3 competitive suppliers competing for residential business, with the affiliate of the default provider being one again.

In the West Penn Power service territory there were 4 companies competing for residential customers, including the affiliate of the default provider.

The limited choices for residential customers especially in the Met Ed, Penelec, West Penn service territories and the shopping rates in the residential class confirm the wisdom of holding this proceeding. Statewide most residential load and most residential customers are receiving generation service from their electricity distribution utility through default service offerings.

In my view, a healthy market would have default service playing a minor role, with most consumers served by competitive electricity generation suppliers.

The 1996 Act and its amendments provide that there must be a default supplier but that the default supplier could be a company other than the distribution utility if approved by the PUC. The Act also specifies certain purchasing practices that the default supplier must follow.

Within the terms of the Act, there is much that can and should be done to strengthen competition and choice. Of course, the General Assembly could make further changes to the Act itself.

In the absence of legislative changes, I recommend the following steps be taken.

First, the current policy should end of assigning customers to the default supplier automatically whenever a customer moves into a service territory or to a new address within a service territory. This policy is not consistent with promoting competition or customer choice. It in fact limits choice and limits competition. This policy contradicts the purpose of the Act.

Second, whenever a customer moves into a service territory or moves within a service territory, the customer should be given a list of all suppliers with pricing information and asked to choose one on the list. Up to 15% of customers each year move so this change alone will increase within a few years the number of customers shopping.

Third, once each year customers on default supply should be given the option to join a group of customers that will have their service auctioned to the company willing to offer the best terms to serve them.

Fourth, twice a year electricity distribution companies should send materials approved by the PUC that give customers the list of companies willing to serve them and other important information about shopping.

Fifth, I hope the PUC itself could increase its public education of small customers and include various means for consumers to dialogue with it. I for example would urge that each electric utility send a letter from the Chairman to all default customers every year encouraging them to shop for power.

These five steps would increase the number of small customers that shop for electricity and the number of providers offering service.

In conclusion, a market where most customers in a particular class are served by a default supplier is not as healthy as a market where the default supplier plays a much smaller role. Taking reasonable steps to boost competitive choices for all customers advances the public interest, because robust competition and choices can best protect the interests of consumers over time. I urge at least the five steps that I have listed be taken.

Thank you.