

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE HEARING

STATE CAPITOL
MAIN BUILDING
ROOM 140
HARRISBURG, PENNSYLVANIA

MONDAY, FEBRUARY 27, 2012
10:00 A.M.

PRESENTATION FROM
PUBLIC UTILITY COMMISSION

BEFORE:

HONORABLE WILLIAM F. ADOLPH, JR., MAJORITY CHAIRMAN
HONORABLE MARTIN T. CAUSER
HONORABLE GARY DAY
HONORABLE GORDON DENLINGER
HONORABLE BRIAN L. ELLIS
HONORABLE MAUREE GINGRICH
HONORABLE GLEN R. GRELL
HONORABLE DAVID R. MILLARD
HONORABLE MARK T. MUSTIO
HONORABLE BERNIE T. O'NEILL
HONORABLE MICHAEL PEIFER
HONORABLE SCOTT PERRY
HONORABLE SCOTT A. PETRI
HONORABLE TINA PICKETT
HONORABLE JEFFREY P. PYLE
HONORABLE THOMAS J. QUIGLEY
HONORABLE MARIO M. SCAVELLO
HONORABLE CURTIS G. SONNEY

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BEFORE (cont.'d):

- HONORABLE JOSEPH F. MARKOSEK, MINORITY CHAIRMAN
- HONORABLE MATTHEW D. BRADFORD
- HONORABLE MICHELLE F. BROWNLEE
- HONORABLE H. SCOTT CONKLIN
- HONORABLE PAUL COSTA
- HONORABLE DEBERAH KULA
- HONORABLE TIM MAHONEY
- HONORABLE MICHAEL H. O'BRIEN
- HONORABLE CHERELLE L. PARKER
- HONORABLE JOHN P. SABATINA
- HONORABLE STEVE SAMUELSON
- HONORABLE MATTHEW SMITH
- HONORABLE RONALD G. WATERS

ALSO IN ATTENDANCE:

- EDWARD J. NOLAN, REPUBLICAN EXECUTIVE DIRECTOR
- MIRIAM FOX, DEMOCRATIC EXECUTIVE DIRECTOR
- HONORABLE JOHN D. PAYNE
- HONORABLE JOHN TAYLOR
- HONORABLE KATHARINE M. WATSON
- HONORABLE ROBERT GODSHALL
- HONORABLE GEORGE DUNBAR
- HONORABLE MIKE TOBASH
- HONORABLE H. WILLIAM DeWEESE
- HONORABLE DANTE SANTONI, JR.
- HONORABLE PAMELA A. DeLISSIO

JEAN M. DAVIS, REPORTER
NOTARY PUBLIC

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1 P R O C E E D I N G S

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3 MAJORITY CHAIRMAN ADOLPH: Good morning,
4 everyone.

5 This morning's House Appropriations Committee
6 Budget Hearing is on the Pennsylvania Public Utility
7 Commission.

8 Before we start, what I would like to do is have
9 all the members of the Appropriations Committee identify
10 themselves and the county that they represent.

11 I'm the Republican Chair. My name is Bill Adolph
12 and I reside in Delaware County.

13 MR. NOLAN: Ed Nolan, Executive Director for the
14 Appropriations Committee.

15 MR. CLARK: Dan Clark, Chief Counsel, Republican
16 Appropriations Committee.

17 REP. PERRY: Scott Perry, representing Northern
18 York County and Southern Cumberland County.

19 REP. GRELL: Good morning. Glen Grell,
20 Cumberland County, 87th District.

21 REP. SCAVELLO: Good morning. Mario Scavello,
22 176th District, Monroe County.

23 REP. SONNEY: Good morning. Curt Sonney, 4th
24 Legislative District, Erie County.

25 REP. DENLINGER: Good morning. Gordon Denlinger

1 from the 99th District in Eastern Lancaster County.

2 REP. GINGRICH: Good morning. Mauree Gingrich
3 from Lebanon County. Welcome.

4 REP. PICKETT: Tina Pickett, Bradford, Sullivan,
5 and Susquehanna Counties.

6 REP. PETRI: Scott Petri, Bucks County.

7 REP. MILLARD: David Millard, Columbia County.

8 MINORITY CHAIRMAN MARKOSEK: I'm the Democratic
9 Chairman, State Representative Joe Markosek. I live in
10 Allegheny County. And part of my District is Westmoreland
11 County.

12 MS. FOX: Miriam Fox, Executive Director for the
13 House Democratic Appropriations.

14 REP. PARKER: Cherelle Parker, 200th Legislative
15 District, Philadelphia.

16 REP. KULA: Deberah Kula, Fayette and
17 Westmoreland Counties. Good morning.

18 REP. SABATINA: Rep. John Sabatina from
19 Philadelphia County.

20 REP. O'BRIEN: Mike O'Brien, Philadelphia. Good
21 morning.

22 REP. BROWNLEE: Michelle Brownlee, Philadelphia
23 County.

24 MAJORITY CHAIRMAN ADOLPH: Thank you, members.

25 I would also like to acknowledge the presence of

1 the Chairman of the House Consumer Affairs Committee, the
2 gentleman from Montgomery, Mr. Robert Godshall. Good
3 morning, Chairman.

4 REP. GODSHALL: Good morning.

5 MAJORITY CHAIRMAN ADOLPH: It's now my pleasure
6 to introduce the Chairman of the Public Utility Commission,
7 Mr. Rob Powelson, for some brief comments and an
8 introduction of the fellow members.

9 MR. POWELSON: Thank you, Chairman Adolph and
10 Chairman Markosek and members of the Committee for having
11 us here for our annual House Appropriations Committee
12 Hearing.

13 I would like to start off with a brief
14 introduction of my colleagues. To my right, our Vice
15 Chairman, John Coleman, from Centre County; to his right,
16 our Commissioner, Jim Cawley, from Cumberland County; and
17 back over to my left here, my colleague and fellow
18 Commissioner from Chester County, Wayne Gardner; and then
19 our newest colleague from Dauphin County, Ms. Pam Witmer.
20 It great to be with you here.

21 And let me begin, Chairman, with a quick PUC
22 budget request update. For Fiscal Year 2012-2013, we're
23 requesting \$65.255 million, which includes 58.9 million in
24 State funds, which, as you know, we collect from
25 assessments from utilities and now pipeline operators here

1 in the Commonwealth and 4.9 million in Federal funds.

2 This amount represents a 2.5 percent increase
3 from the last fiscal year and again, driven in large part
4 to the passage of Act 127, which was Rep. Matt Baker's
5 pipeline safety bill. And I want to commend every member
6 of this Committee and the General Assembly for your
7 proactive steps in giving us these new tools to properly
8 safely regulate Class 2, 3, and 4 pipelines here in the
9 Commonwealth.

10 In order to meet, by the way, the new duties
11 under Act 127, the PUC is planning to add up to 13 new
12 positions to the existing complement. And part of this
13 would be driven due in large part to the area of new gas
14 safety inspectors that we'll bring on line here shortly.

15 I'm also proud to report, Mr. Chairman, that last
16 year we reported to this Committee that we would reduce our
17 budget expenditures by \$1.5 million. The PUC has
18 accomplished this due in large part to our willingness to
19 undergo cost-cutting measures, such as limiting travel,
20 training, and overtime. And the PUC has also reduced its
21 spending through planned retirements and our reorganization
22 effort, which I'll share with you here momentarily.

23 Under the leadership of our Vice Chairman John
24 Coleman, the PUC has very successfully implemented an
25 organization-wide restructuring. And these were tools that

1 you gave us under Act 129 of 2008.

2 I think these new tools allow us to consolidate
3 and eliminate some of our bureaus to better align the PUC's
4 organization with the changing landscape that we face now
5 with the development of the Marcellus Shale. I think we
6 are in a very unique position as an agency to meet some of
7 these demands.

8 Now granted, there's a couple more phases of the
9 reorganization that will take place this year. These
10 phases include updating the PUC's case management system
11 and a physical relocation of employees to correspond with
12 the changes that we have made in the Phase One aspects of
13 the reorganization.

14 I think it's fair to say, my colleagues and I
15 agree, that we're very confident that the reorganization
16 effort of the agency will create a PUC that is more
17 efficient and better equipped to carry out the agency's
18 mission.

19 I highlighted earlier -- I mean just think here
20 in the last year some of the new legislative directives
21 that have come our way: Act 127, pipeline safety; Act 11,
22 which is the new distribution service improvement charge.
23 And I want to recognize Chairman Godshall and Chairman
24 Preston for their leadership in providing these new tools
25 to the Commission.

1 And then finally with the passage of Act 13,
2 Marcellus Shale impact fee legislation and new
3 responsibilities that we have on our plate. As you can
4 tell, we're not lacking issues these days at the Public
5 Utility Commission.

6 I also want to thank Senator Lisa Baker and Rep.
7 Matt Baker for the passage of the Act 127 pipeline bill
8 which Governor Corbett signed into law and had us over last
9 week for a bill signing. Again, a new endeavor for the
10 Commission.

11 And I think it's important to recognize here as
12 we talk about safety around the Marcellus Shale that we
13 will not lose sight of our existing responsibility of the
14 over 46,000 distributions pipelines that we monitor across
15 this Commonwealth. And that work will continue under the
16 leadership of our Gas Safety Director Paul Metro.

17 Let me wrap up, Mr. Chairman, briefly that again
18 we have had a number of new responsibilities come our way.
19 I think it's fair to say that when you give us new
20 responsibilities, the question is your ability to implement
21 them. And I want to answer that question here this
22 morning. Look back over the past 20 years. Many of you in
23 this room were part of that effort when we deregulated our
24 gas and electric industries when we passed the Cogeneration
25 Consumer Choice Act and the ability of this Commission to

1 implement that massive policy shift.

2 We also in 2004, as many of you remember, passed
3 an alternative energy portfolio standard that the Public
4 Utility Commission was tasked with implementing.

5 And more recently in 2008 with the passage of Act
6 129, which is the State's very successful statewide energy
7 efficiency conservation tool, we've done a remarkable job
8 in our implementation of that act.

9 So again, it's evident from the success of these
10 existing programs that the PUC takes its responsibility
11 under each of these new laws very seriously and will
12 continue to do so here in the future. I also think it's
13 important to mention that you have provided us the
14 resources, the financial resources, in order to meet these
15 new challenges.

16 A couple issues -- and I'm sure questions will
17 come today -- before us is the recent storm outages that
18 face this Commonwealth. As you know, during an eight-week
19 period here in the Commonwealth, we were hit by a
20 hurricane, tropical storm, and an October winter storm,
21 where customers were without power in some cases across the
22 Commonwealth for ten-plus days.

23 I want to note for this Committee, we have been
24 extremely proactive in participating and actually hosting a
25 forum where we brought together all of our electric

1 utilities, looking at things that worked and things that
2 didn't work, and obviously going forward, adopting some
3 best practices so consumers have a peace of mind that the
4 power restoration will be done in an efficient manner.

5 I want to share with you, it was certainly a
6 challenge. PUC's staff was very active in manning the PEMA
7 bunker on a 24/7 basis. But again, I think many of you and
8 Rep. Caltagirone had a House Democratic Policy Committee
9 that the five of us participated in last month. And more
10 recently Commissioner Gardener was in the Berks County area
11 for a hearing as well.

12 And I think one of the takeaways you're going to
13 hear from us today is really a comprehensive review is
14 taking place right now. And more importantly, it's very
15 important to mention that within a 48-hour period, 90
16 percent of the customers were restored. But we do
17 recognize that when you're dealing with 10 percent of your
18 constituents that are without power beyond, I'd say, a
19 three- to four- to five-day period, that causes a lot of
20 phone calls in your district offices. We understand that.

21 Lastly, Mr. Chairman, I just want to share with
22 you that we had a very productive year at the Commission.
23 It's great to have a new commissioner join us, Commissioner
24 Witmer, and the expertise that she brings to this
25 Commission. And I think it's also important to mention --

1 and I said it earlier in my testimony -- the Commission
2 will be diligent and steadfast in implementing these new
3 policy initiatives that this Legislature has provided us.

4 So we look forward to questions here this
5 morning. And again, I appreciate the opportunity to be
6 here.

7 MAJORITY CHAIRMAN ADOLPH: Thank you,
8 Mr. Chairman. I actually have two questions. And I'll
9 save my second question for the second round.

10 My first question is with the passage of Act 13,
11 the Marcellus Shale impact fee. You have an awful lot of
12 new responsibility, a lot of new duties. Do you have any
13 concerns? Tell us a little bit about how you're going to
14 implement this legislation with this new responsibility.

15 MR. POWELSON: I'm glad to do that, Chairman
16 Adolph.

17 MAJORITY CHAIRMAN ADOLPH: Thank you.

18 MR. POWELSON: And, Chairman Adolph, let me first
19 -- I want to make a bold statement. But I think we can
20 back it up. I think we're ideally positioned to take on
21 these new responsibilities. You heard it in my testimony.

22 You look back over the past 20 years and the
23 things we have been tasked to implement, I think we've done
24 it remarkably well. This Commission, I will share with
25 you, we forecasted it probably a year and a half out that

1 something was going to happen around the Marcellus Shale
2 legislation.

3 And if you read the tea leaves, we thought some
4 of it might be coming our way. And in doing so, we put
5 together kind of a SWAT Team internally to look at the
6 implementation. Well, I'm proud to report, Mr. Chairman,
7 that our implementation team has already put together a
8 draft work plan. And I think we're in a very unique
9 position to implement this legislation.

10 Let me give you a for example. Last week the PUC
11 issued a secretarial letter which will go out to all the
12 interested parties or affected parties. In the coming
13 weeks, we'll issue a tentative implementation order
14 addressing some of the various issues and procedures
15 related to our new duties and responsibilities under the
16 Act.

17 We've also posted the following positions: Two
18 new attorneys, two new budget analysts, and one MIS
19 developer. And I think the biggest issue -- and I'll let
20 my other colleagues speak to this -- we have deadlines that
21 are outlined in the Act.

22 You have the 60-day window for counties, which
23 presents itself on April 16th. And then we have another
24 60-day window on June 13th for the municipalities. And
25 then on 9/1, the producers here in the Commonwealth will

1 report to us their well information and we will provide an
2 assessment vehicle on the spud fee.

3 I think the biggest issue for us, Mr. Chairman,
4 is, I think, a drop-dead date of December 1st is when
5 checks need to go out the door to those counties and those
6 municipalities in the impacted areas. And I think that the
7 push internally is that we cannot have any hiccups in order
8 to meet that mandate. So the 12/1 deadline is very
9 important to us.

10 MAJORITY CHAIRMAN ADOLPH: If you take a look at
11 those tea leaves that you predicted you're involved with,
12 what's your prediction as far as the counties out there?

13 MR. POWELSON: Wow. Let me answer it this way.
14 On April 16th, we'll know a little bit more about their
15 ability to either move forward with the opt-in ordinance.
16 I guess there was a quote that I used in a football analogy
17 of letting the play come to us.

18 And what I meant by that was the fact that this
19 is purely a local option. This is not driven by the Public
20 Utility Commission. This is local options. So those
21 counties have that 60-day window to either opt into the
22 ordinance or then the 60-day window for the municipalities.

23 I'll be curious. Speaking of tea leaves,
24 Bradford County has mentioned their county commissioners
25 that if they were to go forward with some type of impact

1 fee, it would put them at a competitive disadvantage. So
2 we might see a little bit of that. But again, April 16th
3 we'll know more.

4 MAJORITY CHAIRMAN ADOLPH: So your so-called SWAT
5 Team hasn't come back and given you some ideas of what
6 counties are going to be implementing it or not?

7 MR. POWELSON: Not at this point.

8 MAJORITY CHAIRMAN ADOLPH: Thank you. Chairman
9 Markosek.

10 MINORITY CHAIRMAN MARKOSEK: Thank you very much,
11 Chairman Adolph.

12 The secretarial letter that you pointed out, is
13 that something that we can get a copy of as well if we
14 haven't already? And if we have, forgive me. But if we
15 have not, would you be kind enough to forward that to the
16 Chairman for distribution here?

17 MR. POWELSON: Absolutely.

18 MINORITY CHAIRMAN MARKOSEK: I have some
19 questions relative to your internal abilities to meet some
20 of the new requirements of these various acts.

21 MR. POWELSON: Sure.

22 MINORITY CHAIRMAN MARKOSEK: It's my
23 understanding that you may want to or wish to or need to
24 bring in some outside help at least on a temporary basis
25 relative to some of the requirements of this Act. Can you

1 elaborate on that a little bit?

2 MR. POWELSON: Sure. Chairman, the two issues
3 that have come out of the implementation team is obviously
4 the collection and distribution of the fee. And we don't
5 have the current apparatus set up to do that.

6 But we handled this very unique position with the
7 collection and distribution of the Universal Service Fund.
8 We hired a third-party entity that contracted with us to do
9 that work. So the same model can be adopted with an impact
10 fee. We are looking at other options where some people
11 say, well, why can't you do it internally? Well, I think
12 there's a meeting today at 3 o'clock with the Department of
13 Corrections. We understand that they have these IT systems
14 in place. We might look at that model.

15 Your other question in terms of outside counsel,
16 one of the recommendations is potentially seeking more
17 expertise in the area of the Municipal Planning Code. This
18 would be probably on a retainer basis for about a year
19 period as we get ramped up.

20 So the two areas are the collection/distribution
21 and whether we outsource or try to do it internally. And
22 then the second part of it is retaining outside counsel to
23 help us put the framework in place.

24 MINORITY CHAIRMAN MARKOSEK: Any thought relative
25 to the cost, relative to what you're actually collecting?

1 Like, a percentage of what you're collecting, what that
2 will cost you to collect debt because of some of the new
3 expenditures that you'll have to bring?

4 MR. POWELSON: Offhand, I don't -- I can get you
5 the number. I do know -- you heard me say in my testimony,
6 we're not lacking resources. I believe we have a
7 supplemental appropriations of about \$250,000 that will get
8 us through June 30th of this year to help with the ramp-up.

9 And then beyond that, the ability to use what we
10 traditionally do with electric and gas utilities and water
11 utilities for that matter, the ability to assess and then
12 the \$50 spud fee on the producers.

13 MINORITY CHAIRMAN MARKOSEK: If I understand your
14 budget as of this year, there's a little extra money that
15 you're asking for for the inspectors of the pipeline safety
16 because of the Pipeline Safety Act passage.

17 So if we look at that additional budget asked
18 plus what you would have to spend relative to, you know,
19 collect the other monies that are due to you from Act 13 or
20 other acts that we have passed, if you could, you know,
21 gather for us perhaps an estimate of what percentage of
22 these costs will have to be borne by either additional tax
23 revenues or, in this case, budget revenues or monies that
24 you'll have to spend for hiring outside help.

25 I would appreciate it if you would somehow try to

1 provide the Committee with that data.

2 MR. POWELSON: Sure.

3 MINORITY CHAIRMAN MARKOSEK: And I have just one
4 other question. It's regarding your ability or your
5 mandate to determine the local ordinances and when local
6 communities have ordinances and they come to you for
7 judgments on those ordinances.

8 If you judge against a community, what is their
9 option after that? What is their appeal option? Do they
10 have an appeal option?

11 MR. CAWLEY: Representative, the individuals and
12 companies may ask the Commission for one of two things.
13 They can ask us for an advisory opinion, which is
14 non-appealable. It's merely advisory.

15 MINORITY CHAIRMAN MARKOSEK: Okay.

16 MR. CAWLEY: Or they can ask us for an order, in
17 which case maybe a fact-intensive question whether they
18 meet the standards in the Act or whether the ordinance,
19 existing ordinance, exceeds those standards. That is an
20 appealable order.

21 And it's a very unusual standard of review. The
22 appeal goes to the Commonwealth Court. And it's a de novo
23 review, which means that the Court is not bound at all by
24 what was found. And they start over using the record that
25 we have created.

1 So we're waiting to see now whether anybody comes
2 to us or whether they also directly go to the Commonwealth
3 Court. If they all go to the Commonwealth Court, the
4 Commonwealth Court is liable to have problems dealing with
5 a lot of evidentiary hearings. They might even ask us for
6 some help or change jurisdiction and have us do the fact
7 finding and then they make the final decision.

8 MINORITY CHAIRMAN MARKOSEK: So as I understand
9 it, then either the community or the driller, for example,
10 have the option of going directly to the Court and
11 bypassing the PUC; is that correct?

12 MR. POWELSON: They do. And just if you look at
13 the time frame that's in the Act, I think it's 120 days PUC
14 review or the Commonwealth Court can take up to a year.
15 And again, that's an option that those local municipalities
16 or counties or producers have.

17 MINORITY CHAIRMAN MARKOSEK: And that will also
18 then invariably -- if everybody chooses to do that or if a
19 high percentage of the folks out there that want to do that
20 actually choose that option, then that would cause
21 additional costs then to the court system as well?

22
23 MR. POWELSON: Conceivably, yes.

24 MINORITY CHAIRMAN MARKOSEK: Okay. Thank you,
25 Mr. Chairman.

1 MAJORITY CHAIRMAN ADOLPH: Thank you, Chairman
2 Markosek.

3 I would like to acknowledge the presence of Rep.
4 Brian Ellis and Gary Day.

5 The next question will be offered by Rep. Scott
6 Petri.

7 REP. PETRI: Thank you, Mr. Chairman.

8 I want to switch gears a moment and go to the
9 issue involving PGW. I'm wondering if you're familiar,
10 Mr. Chairman, with the recent articles that have appeared
11 in the Philadelphia newspapers about PGW and their
12 attitude of implementing liens.

13 Generally, what is happening to both commercial
14 customers? PGW is taking the position that they can file a
15 lien at any time within 20 years of the obligation.

16 And there have been many -- I've received contact
17 from many commercial customers who have found that the lien
18 appeared six and seven years afterwards. And they don't
19 have any records to substantiate whether a tenant paid or
20 not.

21 I'm wondering if the PUC has a position as to
22 whether that is actually allowed under the law. As I
23 understand, there is a statute of limitations. And most
24 people are still entitled in this country to some sort of
25 due process hearing.

1 MR. POWELSON: I am aware. We saw some of the
2 Inquirer articles with regards to that. I know a few of
3 the constituents in Bucks County where you reside were in
4 that article. And I do hear you loud and clear about due
5 process.

6 We are dealing with a number of issues related to
7 PGW. This is one of many. And I don't know if any of my
8 colleagues want to talk about it. But there was a recent
9 article this morning in the Inquirer about the cost of the
10 low-income assistance programs. And obviously, we can't
11 talk on record here. But the gas safety investigation
12 that's taking place and then more recently Mayor Nutter's
13 announcement from Lizard capitol report about the potential
14 strategic options for the gas works going forward.

15 So this is one -- I don't want to punt here,
16 Representative, but this is one of many issues we're
17 dealing with with PGW.

18 REP. PETRI: Well, let me just say for those
19 consumers that are out there, I think something has to be
20 done once it's six or seven years to just be able to place
21 a lien and then you don't even have the ability to check to
22 see whether your tenant paid. And clearly, the landlords
23 have no ability to go back and collect after that many
24 years. If there's a statute of limitations, which I
25 understand is three years, they just shouldn't be able to

1 file a lien and leave it. And quite frankly, the attitude
2 that's coming out of legal counsel is quite disconcerting
3 to me.

4 The other question I wanted to ask you real
5 quickly and then I'll save the balance of my questions for
6 the second round, how successful has the alternative Energy
7 Portfolio Standards Act been and what's your position on
8 the continuation of solar credits?

9 MR. POWELSON: I'll start with the fact that you
10 would not see renewal investment in the State for not
11 having restructured electricity markets. Pennsylvania
12 wants to provide a framework for investment. I think that
13 was a guiding principle in bringing renewable investment
14 here. And that was under then Governor Ed Rendell.

15 And I do think, you know, the solar industry who
16 I met with last week -- also, I guess, Rep. Ross has put
17 forth. My issue there is this whole issue of consumer
18 neutrality. I mean, a lot of this stuff is baked into the
19 monthly electric bill. So consumer neutrality is a big
20 issue with me personally.

21 And the other issue, Representative -- and I hear
22 about it and I want this Committee to know that there's no,
23 quote, backstop or what we'll call authority given to any
24 agency in State government to deal with some of these
25 unscrupulous solar developers that want into school

1 districts, hospitals, and non-profits. And we're finding
2 out now a lot of these horror stories about promised values
3 on SRECs.

4 So what I would recommend here this morning, if
5 there is a movement afoot with regards to this legislation
6 that there be a new solar code of conduct initiative to
7 weed out some of these bad actors. And I bet you I could
8 get a show of hands here this morning. You've heard those
9 stories. And when I say we're dealing with it, there's
10 nothing we can do. There's no tools available to the
11 Commission, the Attorney General.

12 And so again, if there is a movement afoot around
13 I guess it's House Bill 1580, that there be a commitment to
14 having good contractors in the marketplace and weeding out
15 those bad actors.

16 Again, AEPS is working remarkably well. We've
17 seen close to, I think, 800 megawatts of wind generation
18 built across Pennsylvania, predominantly in Southwestern
19 Pennsylvania, investment in low-level hydro, biomass, and
20 the solar development. So it's all part of the mix.

21 I want to remind this Committee that we are a
22 generation agnostic at the Commission. We don't endorse
23 one over the other. But we've heard from the solar lobby.
24 So I understand that that's important. But more
25 importantly I feel very strongly about this whole code of

1 conduct issue.

2 REP. PETRI: Well, I thank you. And I also
3 support the broad approach. Build everything.

4 Thank you.

5 MAJORITY CHAIRMAN ADOLPH: Thank you,
6 Representative.

7 The next question is from Rep. Parker.

8 REP. PARKER: Thank you, Mr. Chairman.

9 Good morning to the members of the Commission.

10 MR. POWELSON: Good morning.

11 REP. PARKER: It's highly unusual for me but I
12 really do need to start by just saying thank you to you all
13 first. We were working on the passage of House Bill 1294
14 in the Consumer Affairs Committee.

15 Some of the commissioners and the staff were
16 there. I had several consumer protection issues that
17 needed to be addressed. I was a no vote. And I
18 communicated what my concerns were. It was like a tsunami
19 of staffers from the Commission that made sure that they
20 answered each and every one of the questions I had.

21 The bill returned from the Senate. Those issues
22 were addressed and it passed.

23 So I wanted to say thank you, Mr. Chairman, and
24 also to Commissioner Gardner for making sure that those
25 issues were addressed. So thank you for that.

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MR. GARDNER: Thank you.

REP. PARKER: I want to go back to the 300-pound gorilla that was mentioned earlier, and that's PGW. And, you know, I haven't gotten starry eyed by the \$300 million, the number that's been sort of bandied about, how much revenue the city would generate as a result of its sale.

I was thinking about those hearings and consumers on 1294. And I thought about the PUC, really sort of congratulating PGW on its pipeline and placement program, particularly given the limited amount of dollars they had in order to keep the program going and consistent. In addition to that, it hasn't been without its financial woes over the years.

It seems like in every Mayoral Administration in the City of Philadelphia the proposed sale of PGW comes up for discussion. So from my perspective now, I'm thinking about the social responsibility programs that were listed in the article that you mentioned this morning in the paper and CRP, the senior discount program, along with the issue associated with employment.

I mean, I too read the strategic assessment that was offered. It talked about what would happen with the employees, PGW employees, 1,654 employees. The headquarters is in Philadelphia.

If, in fact, tomorrow we learn that it was able

1 to be sold and we had a buyer, what would the PUC's role be
2 in, one, ensuring that those social responsibility programs
3 were reached by those people who most needed them in the
4 city of Philadelphia and also in ensuring that whatever
5 company who is so fortunate to buy PGW that it sort of did
6 its best to ensure that it continued to be a benefit to
7 employees and residents in the city of Philadelphia?

8 What would be the PUC's role?

9 MR. POWELSON: Well, first and foremost, let me
10 assure you that the five of us -- one, we wouldn't lose our
11 ability to set rates.

12 REP. PARKER: Okay.

13 MR. POWELSON: The second is the safety oversight
14 wouldn't go away. They're fundamental to our mission and
15 obviously our regulatory oversight.

16 In terms of potentially consummating a deal,
17 whether it be another investor surrounding the utility
18 purchasing the entity or an infrastructure fund coming in
19 or some type of public private partnership where someone is
20 coming in acting as an operator of the system, I think what
21 you've outlined is something we're very passionate about.
22 I look to my right to my colleague Commissioner Cawley when
23 we deal with the people's gas transaction. I'll be very
24 direct with you.

25 Corporate head count, corporate headquarters in

1 our State means a lot. We don't want infrastructure people
2 running these companies from Wall Street or San Francisco
3 or Houston. We've made that clear in the people's
4 transaction and retaining key management.

5 REP. PARKER: All right.

6 MR. POWELSON: Don't bring a bunch of outsiders
7 in and expect to understand the greater Philadelphia
8 region. So these are things that we would expect. And I
9 heard you. I think we hear you loud and clear.

10 REP. PARKER: All right.

11 MR. POWELSON: Now, granted, commitments that
12 we're retaining the current head count at the utility, you
13 know, you've got to look at synergies and savings. But,
14 you know, corporate headquarters, our ability to set rates,
15 our ability to monitor and regulate safety are things that
16 won't go away.

17 REP. PARKER: Final question. I'll save the
18 others for the next round.

19 I absolutely have been paying attention to what's
20 happened in New Jersey with the telecommunication
21 companies. And I need to know, from your perspective, is
22 the regulation of competitive services offered by the
23 telecom companies, is it like obsolete in Pennsylvania or
24 can we learn anything from the policy debate that's taken
25 place in New Jersey? Help me to understand it from a

1 consumer's perspective.

2 MR. POWELSON: Sure.

3 REP. PARKER: Thank you.

4 MR. POWELSON: And you're going to hear a
5 different opinion from one of my colleagues.

6 I guess this is referring to -- when you referred
7 to New Jersey, you're referring to the Verizon proposal in
8 New Jersey to really, quote, officially be deregulated.
9 And let's be honest. You look at what we've done
10 remarkably well here in Pennsylvania with the deployment of
11 broadband and meeting the Chapter 30 requirements.

12 You know, back in the mid-'90s when you did
13 Chapter 30, no one realized that there was this little
14 cable company emerging in Philadelphia providing those same
15 services, i.e., triple-play services to customers regulated
16 by the FCC, not by the Public Utility Commission.

17 Some of the archaic processes that are in place
18 now to regulate these telephone companies, in my view, can
19 be streamlined to provide a level playing field for those
20 companies to compete.

21 My view of the world with the recent FCC order --
22 and I say my view because there's varying opinions about
23 this. The FCC order on the ABC plan in dealing with things
24 like inter-carrier compensation, there's two concerns that
25 we've expressed. One is the Federal preemption. And we

1 would hold our telecommunication providers here in the
2 State to honor the Chapter 30 requirements.

3 So I'm actually an advocate for looking at this
4 issue. Let's have that legislative debate. As my good
5 friend Chairman Godshall reminds me, we don't legislate the
6 Commission. We implement. And so I'd be willing to have
7 that debate and participate in that debate if we're heading
8 in that direction.

9 REP. PARKER: Thank you, Mr. Chairman.

10 MR. CAWLEY: May I add something?

11 REP. PARKER: Please.

12 MR. CAWLEY: I'll try to keep this within a half
13 an hour, Chairman.

14 Representative, I think what you were asking is,
15 should Pennsylvania consider what the New Jersey
16 Legislature did? And that is, pass a deregulation bill on
17 the local level. The Governor vetoed it. I don't think
18 this Legislature should pass it, to begin with.

19 I would simply have each of you ask whether you
20 would favor completely deregulating our ability to control
21 basic local service rates and service quality. Because
22 that's really all we have left here now. We don't regulate
23 wireless rates or service. We don't regulate cable or
24 bundled telephone service with cable rates or service.

25 Do you want the same thing on the local telephone

1 level where we don't have anything to say about local rates
2 and service? Unlike wireless and cable, many rural areas
3 of Pennsylvania rely exclusively on one of the 25 or so
4 rural telephone companies.

5 We have tried to maintain local service at \$18 a
6 month. We recently raised that to \$23. But the FCC has
7 now substantially preempted our ability even to do that.
8 They're going to compute a \$30 a month rate for local
9 service whether we raise it to that level or not.

10 And this is a debate that I think is going to
11 quickly come upon you. I will be the first among my
12 colleagues to step forward and say we're not ready for that
13 because all of the rural areas of Pennsylvania just are not
14 adequately served by anybody but their local telephone
15 company.

16 So until the day comes when we have ubiquitous,
17 reliable wireless service, I will oppose any complete
18 deregulation of our ability to control basic local service
19 and service quality.

20 REP. PARKER: Thank you, Mr. Chairman.

21 MAJORITY CHAIRMAN ADOLPH: Thank you.

22 I would like to acknowledge a couple of members
23 that have joined us. Reps. Peifer, Causer, and Quigley.
24 Chairman.

25 MINORITY CHAIRMAN MARKOSEK: And also Rep. Tim

1 Mahoney from Fayette County.

2 MAJORITY CHAIRMAN ADOLPH: The next question will
3 be by Rep. Tina Pickett.

4 REP. PICKETT: Thank you, Mr. Chairman.
5 Chairman Powelson, greetings.

6 MR. POWELSON: Hello.

7 REP. PICKETT: To go back to Act 127 a little
8 bit, the Pipeline Safety Act, as you can imagine, we have a
9 lot of pipelines developing in my area. And I get a lot of
10 questions about them.

11 Would you comment on exactly whether you feel the
12 Act at this point is sufficient? I get questions on Class
13 1 pipelines and how that might play out in the future and
14 the mechanics of what the PUC actually does to make
15 pipeline safe and reliable for people.

16 MR. POWELSON: Sure. Well, let me start with the
17 fact that this piece of legislation, without it, one, we
18 wouldn't be able to get our adequate reimbursement from the
19 Federal Government to ramp up this safety.

20 We're one of two states, Alaska and Pennsylvania,
21 that had the dubious honor of not having legislative
22 authority on the books to get properly reimbursed for ramp
23 upping in oversight of these intrastate gathering systems.

24 The Class 1 issue -- and Senator Baker has met
25 with us on this -- is a big issue across the State. Eighty

1 percent of the State is rural. And many of your
2 constituents are worried about compressor stations being
3 built in and around schools or critical pieces of
4 infrastructure.

5 The good news is under Act 127, there is a
6 registry in place. So we now know where a lot of this
7 Class 1 area is located. The question now becomes, I'll
8 say, on a going-forward basis, if there was some
9 legislative attempt that would require us to actively
10 provide safety inspections, could we meet that?

11 And that is a concern to us as it relates to
12 these areas that are not densely populated like Class 2, 3,
13 and 4 areas. Is there a vehicle in place where we could do
14 maybe a bi-annual inspection?

15 Some of it, by the way, just in my quick learning
16 curve of the issue, there's some technology that's out
17 there that might afford us that opportunity. But having
18 adequate boots on the ground to go after this Class 1 is
19 going to be a challenge for us.

20 REP. PICKETT: So you would have to have a fee
21 that would come further from maybe the gas companies to be
22 able to do that? Is that what you're saying?

23 MR. POWELSON: Added funding, yes.

24 MS. WITMER: Representative, if I could just add,
25 one of the things I think that was very -- the Legislature

1 had a lot of foresight when they were going through the
2 legislation that became Act 127, that if a Federal
3 Government -- and as you know right now, the Federal
4 Government is saying that safety inspections for Class 1
5 aren't necessary. But if the Federal Government makes that
6 change, there's already the built-in language within Act
7 127 that would allow the PUC to go and do the safety
8 inspections for Class 1's. So it's really, you know, if
9 the Federal Government acts, then we will as well.

10 REP. PICKETT: Okay. Thank you.

11 You mentioned the registry. Exactly how does the
12 registry come together? Is that something that you're now
13 starting from scratch? Was it partly there and there's new
14 rules about how they have to register where they're placing
15 the pipelines? There are a lot of them.

16 MR. POWELSON: There are a lot. One of the
17 things -- and I commend our Act 127 implementation team.
18 We've already had a kickoff meeting about three weeks ago
19 and brought all the industry participants.

20 I want to particularly thank the Marcellus Shale
21 Coalition, American Petroleum Institute, PIOGA. These are
22 new entities for us to regulate, by the way. But we
23 brought them all together. I want to mention to this
24 Committee these associations, these trade associations,
25 have reached out to their members because we need to get

1 our handle on the mileage, because the mileage of pipeline
2 drives the assessments that come into the Commission.

3 So getting our hands around that, Rep. Pickett,
4 we're doing that as we speak. I would encourage you to
5 understand that it's going to take us a little bit of time.
6 But we're already out there touching those customers of
7 those new regulated entities to get that reporting of
8 pipeline in to us so we can do the proper assessment.

9 REP. PICKETT: You mentioned 46,000 miles at this
10 point?

11 MR. POWELSON: Distribution pipeline.

12 REP. PICKETT: Do you know how many miles at this
13 point and what's the projection of the next year?

14 MR. POWELSON: I don't.

15 REP. PICKETT: Okay. Thank you very much,
16 Mr. Chairman.

17 MAJORITY CHAIRMAN ADOLPH: Thank you,
18 Representative.

19 Rep. Scott Perry.

20 REP. PERRY: Thank you, Mr. Chairman.

21 Thank you, Chairman Powelson and Commission
22 members. My question is in regard to the high vehicle fuel
23 prices that we see historically high, maybe not quite so
24 yet but we're headed there. I paid \$3.75 last night to
25 fill up my wife's van.

1 And I hear stories on the news that Florida is
2 already at \$6 a gallon. And I am a proponent, as probably
3 many folks are, of using Pennsylvania natural gas to fuel
4 vehicles.

5 And in that regard, I have heard rumors that the
6 ratepayers of the captive utilities, some of that money
7 that they collect might be used to subsidize or
8 cross-subsidize vehicle fueling stations.

9 Is that something that the Commission supports or
10 will support? Is there any assurance that that rate, that
11 captive ratepayer money, would not be used to construct
12 these refueling stations? Even though I'm an advocate, I
13 think it ought to come from the private sector in that
14 regard.

15 MR. POWELSON: I'm on the same page with you.
16 This is not the local utility. Let the marketers come in.
17 We see companies like Clean Fuels and other marketers out
18 there that want to invest in this infrastructure.

19 We just recently got a letter from Gulf Oil. We
20 could potentially see Sunoco and other companies investing
21 in this infrastructure.

22 But to rate base it, we tried that in the '80s.
23 It didn't work. And I think, again, you know, just looking
24 at the local distribution companies, we want them focused
25 on infrastructure and infrastructure replacement. I

1 wouldn't view investment in fueling stations as a wise
2 option. And me, personally, I wouldn't support it.

3 I also want to report to this Committee, taking
4 that concept of the infrastructure that needs to be built,
5 the Commission is hosting in Philadelphia, I believe on
6 March 30th, a public forum to bring all the marketers to
7 the table, along, by the way, with plug-in electric vehicle
8 marketers that are coming into our state now as well.

9 REP. PERRY: Thank you, Mr. Chairman.

10 MAJORITY CHAIRMAN ADOLPH: Thank you,
11 Representative.

12 Rep. Mario Scavello.

13 REP. SCAVELLO: Good morning, Mr. Chairman.

14 MR. POWELSON: Good morning.

15 REP. SCAVELLO: This morning I didn't see or hear
16 the whole news thing on TV. But one of the utility
17 companies was reducing rates. And a lot of it has to do
18 with natural gas. Are you guys familiar with it?

19 MR. POWELSON: Well aware of it, Representative.
20 Yes.

21 REP. SCAVELLO: Is that going to -- I hope it's
22 an epidemic and it goes across the board. Because, you
23 know, with gasoline and \$4 heating oil -- I mean, \$4
24 heating oil this winter, and thank God it wasn't as cold --
25 a lot of folks are hurting.

1 Do you expect this to continue?

2 MR. POWELSON: Well, I'll respectfully submit to
3 you -- if I can forecast that far ahead, I'm in the wrong
4 business. But I will say to you, we are seeing a
5 tremendous suppression in natural gas pricing.

6 What's driving that? Unequivocally, Marcellus
7 Shale gas. I remind people that a lot of the gas that
8 comes into our local district region companies is brought
9 into areas like Pittsburgh and Philadelphia from long haul
10 pipelines. In Southwestern PA, Equitable Gas will
11 terminate. They won't haul pipeline.

12 I'll use an example. This chart here shows 2008
13 to 2011 across our local distribution companies, our gas
14 companies, in PECO, a 43 percent reduction; NFG, 32 percent
15 reduction; PGW, 43 percent reduction; Equitable Gas, 45;
16 UGI, 42; People's Gas, 42 percent.

17 So it is an amazing success story. How do we
18 harness that in terms of retaining and attracting
19 companies? I think that's going to be a huge upside for us
20 in Pennsylvania and using it to our advantage.

21 REP. SCAVELLO: I think you'll see manufacturing
22 companies coming back because of the low energy cost.
23 That's great news.

24 MR. POWELSON: Yes.

25 REP. SCAVELLO: Thank you very much for your good

1 work.

2 MR. POWELSON: You're welcome.

3 MAJORITY CHAIRMAN ADOLPH: Thank you,
4 Representative.

5 The next question is by Rep. Scott Conklin.

6 REP. CONKLIN: I'd like to thank the gentlemen
7 for coming out.

8 Just a quick question. As the PUC has regulatory
9 authority, could you tell, the me percentage of natural gas
10 harvested in Pennsylvania that actually stays in
11 Pennsylvania and how much of that harvest is actually
12 exported?

13 MR. POWELSON: It's tough. The way I'll answer
14 your question is, peg those molecules on the pipeline.
15 It's tough to do that. I said to Rep. Scavello, we're
16 seeing this suppression in gas prices. What's driving
17 that, I use Marcellus Shale as one of the key drivers. But
18 instate versus outside, out of state; is that the question?

19 REP. CONKLIN: Yes. I was just wondering how
20 much of the total -- whether you want to go with cubic
21 worth or just percentage of how much is actually consumed
22 within the state of Pennsylvania and how much is being
23 exported?

24 MR. POWELSON: We can follow up with you on that.
25 It's a good question. But I don't have an answer offhand.

1 REP. CONKLIN: Just a question to follow up on
2 what the member just talked about, the price of natural
3 gas.

4 MR. POWELSON: Sure.

5 REP. CONKLIN: One of the topics that's comes to
6 me a lot is the price of propane. They're talking about
7 using the propane to help especially rural areas. Once you
8 get outside an urban area, the price of natural gas is a
9 moot point because most individuals do not have access to
10 the low price of natural gas. They're either propane, oil,
11 or some other type of renewable fuel.

12 Can you tell me a little bit -- and I'll tell you
13 the answer that I've gotten from gas companies after you
14 do. But can you tell me a little bit of why propane is
15 still tied to the price of oil? I was told because they
16 can. Well, I've asked several times to several different
17 companies.

18 Can you tell me why the price of propane,
19 especially in the state of Pennsylvania where so many of
20 our rural areas depend on that fuel, is still tied directly
21 to the cost of oil prices within homes?

22 MR. POWELSON: I can't.

23 REP. CONKLIN: So it goes back to because they
24 can?

25 MR. POWELSON: Well, we don't regulate propane

1 either.

2 REP. CONKLIN: I know. That's all. Thank you,
3 gentlemen.

4 Thank you, Mr. Chairman.

5 MAJORITY CHAIRMAN ADOLPH: Thank you.

6 Rep. Curt Sonney.

7 REP. SONNEY: Thank you, Mr. Chairman.

8 Good morning, Chairman Powelson.

9 I'm wondering if you could give an update on the
10 area code, 814. I'm from the Northwest. And, of course,
11 you know, a year or so ago that's where the big change was
12 going to take place. And now that was temporarily, you
13 know, halted or roped back. And I'm just curious as to
14 where we stand.

15 MR. POWELSON: I'm going to let my Vice Chairman
16 give you some good news.

17 MR. CAWLEY: I too am an 814 area code user and
18 have been my entire life, living in Cambria County, living
19 in Warren County, living in Centre County, living in
20 Jefferson County. So the 814 area code is certainly a very
21 large piece of the geography of Pennsylvania.

22 The Commission, back in December of 2010, in
23 order to provide a relief to that 814 area code, one of the
24 original area codes for Pennsylvania and at the time, they
25 were calling for a split of geography.

1 We received, as you certainly know, a number of
2 petitions for reconsideration. And in February of 2011, we
3 reopened the record, giving those who had something to say
4 on this matter time to do that.

5 We had a number of technical conferences around
6 the State. We had a number of public hearings around the
7 State. And so we received a considerable amount of
8 information.

9 The good news is the Commission has instituted
10 some conservation measures, the way in which we distribute
11 the numbers to those who are looking for new blocks of
12 numbers to be used for businesses or residents.

13 So we instituted some conservation measures that
14 have, indeed, helped curtail the rapid use of the 814
15 numbers and the exhaust of the 814 area code.

16 The good news is, as the Chairman indicated, that
17 that exhaust state is now moved from the first quarter of
18 2015 to the first quarter of 2016. So at this point, we
19 have suspended the implementation of the split. We're
20 awaiting for another update for the 814 area code that will
21 come, I believe, in April of this year. And we will take
22 another look at it.

23 REP. SONNEY: Thank you.

24 I want to talk just for a minute again about the
25 alternative energy and portfolio. And I know that one of

1 the Commission's concerns is how that affects the
2 ratepayers.

3 Can you tell me what effect that it's had on the
4 ratepayers to date? Has it been a negative or a positive
5 effect on the ratepayers as far as the alternative energy
6 that has been implemented today?

7 MR. POWELSON: Well, you heard me say earlier, I
8 mean, without the Act, you wouldn't see this new industry
9 come to Pennsylvania. That's first and foremost.

10 The impact of customers is, you know, one,
11 allowing electric distribution companies to go out and look
12 at long-term contracts to really support this industry has
13 been important.

14 The other aspect in terms of answering the
15 question about the customers having choice on the supplier
16 side, they want to buy a renewable product. You didn't
17 have that prior to restructuring.

18 But to answer your question, I think that, you
19 know, it is on the monthly bill. Is it an \$8 charge on the
20 bill? No.

21 We also have on the bill the Act 129 charges. I
22 remind people that CFLs and refrigerator pick-up programs
23 do not come free of charge. They're being paid for by
24 captive customers.

25 But is it causing customer outcry across the

1 Commonwealth? The answer is no.

2 REP. SONNEY: And I noticed you spoke a little
3 bit about the bad actors and how we need to, you know,
4 address that issue.

5 Have there been any failures of the companies on
6 the alternative energy? In other words, have there been
7 any wind fields built that are abandoned today or have
8 there been any solar fields built that are abandoned today?

9 MR. POWELSON: Good question. I'm not sure. I'm
10 sure there's been some hiccups across the footprint. But
11 are you asking the calendric question? No. I don't think
12 we've seen any here in Pennsylvania.

13 REP. SONNEY: Thank you.

14 MR. CAWLEY: Representative, may I answer?

15 The effect of the Alternative Energy Portfolio
16 Standards Act has been infinitesimal on customers' bills
17 primarily because the Legislature had the foresight to ramp
18 up implementation over a period of time ending in 2020.
19 But it was a hockey stick.

20 In other words, very low at the beginning and all
21 of the electric generation suppliers and all of the
22 electric distribution companies acting as the default
23 supplier for those who don't switch have all met their
24 goals of a certain part of their generation when it's
25 coming from an alternative energy source.

1 I said before that if the cost of alternative
2 energy through technology does not decline in the coming
3 years, then Legislature may want to flatten out the hockey
4 stick, if you will, so that the requirement isn't so steep
5 and you may extend it out.

6 The problem with the Alternative Energy Portfolio
7 Standard Act at the moment is because of the Federal and
8 State incentive monies. There's been an oversupply of
9 solar renewable energy credits.

10 You can't fill a solar facility without one of
11 the revenue streams being the alternative energy credits.
12 That was the whole purpose of the Legislature creating
13 alternative energy credits.

14 So if you've got an omnibus, why not avoid it by
15 taking care of a temporary aberration in the market created
16 by government, not by market.

17 REP. SONNEY: Thank you, Mr. Chairman.

18 MAJORITY CHAIRMAN ADOLPH: Thank you.

19 Rep. Gary Day.

20 REP. DAY: Thank you, Mr. Chairman.

21 Thank you, gentlemen, ladies, for being here
22 today. We've had a relatively mild winter. And before
23 that, we didn't. We had a couple extreme weather events
24 that brought down some of our electric distribution lines
25 for a lot of our customers.

1 After I went through and examined -- I have two
2 distributors that serve into my district. There's not much
3 I found that I would have done differently with the
4 workforce that they had. They were extreme weather events.

5 The one thing I did see in the rural part of my
6 district was that the right of ways were heavy with old
7 trees that came down even more because of wet ground and
8 the winds that brought them down. And it created this
9 extreme situation.

10 My question is about right-of-way management and
11 whether you think we can do that better as a community, as
12 everyone, as the distributors, as legislators? Are there
13 ways that we can manage the right of way better?

14 Can you explain the PUC's role in right-of-way
15 management, whether it's through regulation of our
16 distribution companies and they do it or whether there's a
17 way that we can grant authority to our municipalities to do
18 it at the local level and have a local government agency
19 managing the right of way?

20 MR. GARDNER: Representative, as Chairman
21 Powelson has mentioned earlier, we had a comprehensive
22 review of our companies -- our electric distribution
23 companies' performance in the last year and especially
24 during the three major outage events that we had over a
25 eight-week period at the end of the summer.

1 But one of the details that we were able to come
2 up with pretty quickly is -- and our companies report that
3 on average, more than 40 percent of the time that customers
4 are without power, is due to trees and bushes outside of
5 the right of way coming into contact with the
6 infrastructure.

7 So it leads one to believe that it is those trees
8 on private properties that the utility does not have a
9 right to go out and trim those trees back or cut them down.

10 That is creating a major issue for reliability
11 for the customers and makes it extremely challenging for
12 our companies also to restore power when these trees fall
13 down and kick out the lines.

14 I have personally been out and viewed a couple of
15 our companies of where trees are outside of the right of
16 way by some 60 feet but the trees are over 100 feet high
17 and they will fall down. And not only will they take down
18 the line, but they'll take down three or four poles at a
19 time. And so, again, for the company to get back there and
20 make those repairs is a major challenge.

21 I have asked our companies to really take a real
22 hard look at that and come back to us with some type of a
23 proposal on how we might start to address that. So that is
24 something that's very much in progress. We're looking at
25 it pretty hard.

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I would think that by the summer, we may have some recommendations for the Legislature.

REP. DAY: Thank you. I appreciate that.

MR. GARDNER: Certainly.

REP. DAY: And I will be interested to see what that is. If you could please copy me and keep me in the loop on that.

I was working to try to decide whether I need to draft legislation in order to do that or whether we can do it through other means. That would be great if that could be done. I know municipalities have the opportunity to enact a Shade Tree Commission that goes in and talks to people who own property about vegetation, in that case shade trees, you know, on your own property, about vegetation and shade trees in communities.

The broadband question, I just have one question about broadband. The FCC gives franchising authority to our municipalities. Our municipalities get the authority to do whatever they can do, but it has to come from the Legislature.

So do you believe that, us, the Legislature, could give authority or even guidance to municipalities in local franchising, some of the things that we have talked about, that you had talked about? Have you guys explored that or have any information to that effect?

1 MR. POWELSON: I don't believe we do, but we can
2 circle back with you.

3 Jim, any updates?

4 MR. CAWLEY: Representative, do you mean the
5 municipality offering local telephone service or extending
6 broadband?

7 REP. DAY: The FCC gives local franchising
8 authority to cable companies right now. But to use that
9 model -- and I'm actually tying these two questions
10 together -- to give municipalities the opportunity to
11 manage the right of way of all telecommunications that are
12 in the right of way. Does that make sense?

13 MR. CAWLEY: I'm not sure the municipalities
14 would want that thankless job, frankly. We have it now.
15 We can make a public utility manage its right of ways
16 because it comes under quality of service.

17 It's an age-old balancing question, particularly
18 if the lines, the right of way, is in a residential
19 neighborhood. People don't want their trees cut down. But
20 on the other hand, when a big storm comes along, as we've
21 seen, then they live with many days of outages.

22 So we can be very hard on the utilities. But
23 then if we're too hard and they cut down a lot of trees,
24 then we hear from all of you because your phones ring off
25 the wall because they're having the residential

1 neighborhoods denuded.

2 REP. DAY: One of the things I'm trying to do --
3 and this is my final comment, Mr. Chairman -- is I think
4 the best entity to walk that line is not the PUC, that it's
5 a local entity, the Shade Tree Commission. You put on
6 people that are environmentally minded, people who are
7 consumer minded, and people who are electric distribution
8 or technology cable minded, and then they come to a local
9 decision.

10 The reason I'm trying to get it down to the local
11 level for this decision is that when all these trees came
12 down -- I lived in and worked in the third largest
13 municipality in the Commonwealth. Now I live in and work
14 in one of the smallest. So I have, you know, a gamut of
15 experience as far as personal experience from being in both
16 situations.

17 In the more rural part of Pennsylvania, when all
18 these trees came down, it's Jack, my local fire policeman,
19 who knows exactly where that tree is down. It's Jack who
20 knows exactly which ones are going to come down in the next
21 windstorm. So I'm trying to push the decision out to a
22 local Shade Tree Commission that would probably have Jack
23 sitting on it as well just as a goal to try to resolve the
24 issues.

25 So I appreciate any further information you get

1 from the municipalities or from the electric companies.

2 Thank you, Mr. Chairman.

3 MAJORITY CHAIRMAN ADOLPH: Thank you,
4 Representative.

5 I would like to acknowledge the presence of Rep.
6 Dunbar.

7 And at this time, it's our custom to allow the
8 Chairman of the Consumer Affairs Committee to make some
9 comments as well as ask the PUC some questions.

10 Chairman Godshall.

11 REP. GODSHALL: Thank you, Mr. Chairman.

12 There's a couple things that came up here this
13 morning in reference to Rep. Petri's questions. We had a
14 discussion. I had a discussion with the PUC pertaining to
15 deceptive marketing practices which have existed and do
16 exist. And we are going to be looking at that at the
17 committee level.

18 Another question was what Rep. Sonney brought up,
19 what does the alternative energy cost? And I have asked
20 Penn State to do a study. They did an extensive study on
21 the cost of that. But they start 2012 up to 2021. It was
22 a good study. It was an extensive study. And I will make
23 that available to the Committee and also to Rep. Sonney,
24 who asked the question.

25 There was another discussion pertaining to the

1 solar bill. And that's presently in our committee. And
2 the cost of that solar bill, which is the Ross bill at this
3 point, according to the figures that were supplied to us
4 was someplace between 3 and 3 and a half billion, with a b,
5 dollars, which would be directly a cost going back to the
6 consumers of Pennsylvania. We are looking at that.

7 As far as the PUC, I mean, everything else that I
8 was going to talk about you have already covered except Act
9 11, which was House Bill 1294. What about the scrutiny and
10 expeditiousness of getting -- that act is going to be
11 changing totally the way rates are established in
12 Pennsylvania.

13 Is it going to be a burden or is it going to be
14 less of a burden to the PUC as far as scrutiny and also
15 expeditious?

16 MR. POWELSON: Well, again, I want to commend
17 you, Chairman Godshall, for your leadership on the bill. I
18 think it was long overdue that we had an alternative
19 rate-making measure like 1294.

20 You know, through the hearings that you had, the
21 aging infrastructure problem we deal with. And I don't
22 want to use these last three weather events as an example,
23 but it does tie into this discussion.

24 Yes, it's going to have -- the PUC will spend the
25 better part of nine months here putting the apparatus in

1 place to implement the act. Example, a model tariff has to
2 be designed. You know, the act goes into effect in 2013.

3 REP. GODHSALL: Right.

4 MR. POWELSON: But in terms of our ability now to
5 aggressively require the utilities, gas, electric
6 utilities, to get some of this aged infrastructure, which
7 in many cases is not only aged but it's a hazard, to get it
8 out of the service territory and replaced.

9 I said it in the Senate here. We're not going to
10 be paying for gold plating of the system. Prudent
11 infrastructure replacement, as you outlined in the
12 legislation, electric distribution companies will submit to
13 us plans. Gas companies will provide us a gas pipe
14 replacement plan.

15 I think they are all good consumer protections.
16 The other consumer protection that's in the bill is for
17 utilities not to file a rate increase with us. They are
18 not eligible to use DSIC mechanism.

19 So it is a model piece of legislation. You are
20 to be commended for getting this legislation passed and
21 signed into law. And I can assure you, very similar to
22 what we've done with the water DSIC, which is a national
23 success story, you are going to see a replacement, an
24 aggressive replacement of this infrastructure.

25 Don't underestimate the fact that there's a lot

1 of job creation behind this bill. You're going to see a
2 lot of pipe contractors go to work to do these accelerated
3 replacements.

4 The other thing we should all take pride in is
5 the fact that in that bill, we were able to push this whole
6 notion of supporting, although it is not mandated, this
7 whole notion of supporting tubular steel production here in
8 the Commonwealth. We now will look at where that pipe is
9 produced.

10 I don't speak for U.S. Steel, but I know this was
11 a big issue for them. And I think it encourages, again,
12 investment in PA-based products into our utility
13 footprints.

14 MR. GARDNER: Chairman Godshall, if I can add to
15 that?

16 REP. GODSHALL: Yes.

17 MR. GARDNER: I think that your question of, will
18 it be a burden to the PUC? and my personal belief is that
19 in the short term, we do have a heavy load in front of us
20 getting prepared to implement this act.

21 But once we have the mechanics in place, I think
22 that the Commission, through our reorganization, will be in
23 a much better position to be able to implement the act
24 efficiently and effectively.

25 I will also add some kudos to our bureau who is

1 already very used to applying robust audits to the
2 companies that we oversee. They have already received the
3 message that we don't want any rubber stamping. We want to
4 make sure that the consumers are protected.

5 So in the long run, I think that we're in darn
6 good shape.

7 REP. GODSHALL: Thank you very much.

8 We have had at the committee an excellent working
9 relationship with the PUC and support with a lot of the
10 initiatives that we have worked on in these last couple of
11 years. So I want to thank you for working with us and the
12 leadership in a number of cases that you've given us. So
13 thank you very much.

14 MAJORITY CHAIRMAN ADOLPH: Thank you, Chairman
15 Godshall.

16 I believe that's the last question for the first
17 round. We'll now begin the second round with Rep. Parker.

18 REP. PARKER: Thank you again, Mr. Chairman.

19 And Chairman Powelson, I'm hoping that you and/or
20 one of the commissioners will be able to help provide some
21 insight into this question.

22 About a year ago, the staff in my district office
23 asked me, why are we forced to pay when we pay? And I
24 thought that the question was a little odd. But they were
25 referring to the payment of utilities online. With the

1 increase in the number of people using debit cards and/or
2 check cards, a lot of people don't go to headquarters for
3 utilities to sort of pay their bill. And they think that
4 they're sort of being more efficient by paying the bill in
5 a timely manner and using the Internet to do it. But
6 there's usually a fee to do it.

7 My immediate response without thinking of the
8 PUC, thinking of any of the utilities or companies, was
9 that's the cost of doing business. You just have to add
10 that in. And then they said, well, why don't I have to pay
11 to pay my credit card bill or why don't I have to pay to
12 pay my cable bill online?

13 And, Mr. Chairman, I didn't have an answer for
14 them. And I wasn't sure whether or not you all would be
15 able to provide some insight to me. When I think about
16 municipal utilities like our Water Department, like, we're
17 cash strapped. Like, we're trying to make it.

18 But I thought it was a question that deserved a
19 response and I didn't have the answer to it.

20 MR. POWELSON: This is regarding a customer's
21 ability to online bill pay, via their checking account,
22 their monthly PECO, or PGW bill where we live, and there's
23 a cost incurred to do that? Is that it?

24 REP. PARKER: Yes.

25 MR. POWELSON: And I don't know the answer

1 because my wife pays the bills. So I'll ask her if we get
2 a charge. We pay a PECO bill online through our bank
3 account. So this is news to me that we'd be paying a
4 charge.

5 I don't know if any of my colleagues wants to
6 debate that issue. I was not aware that there was an added
7 charge for paying online. I actually thought you were
8 incentivized to pay online.

9 REP. PARKER: And, Commissioner, I'm glad you
10 mentioned that. Because that, in fact, was the focus of
11 the staff's questions. If I'm attempting to pay and I'm
12 going to be efficient and get it done early, why am I being
13 forced to pay a \$2.50 surcharge? because I'm trying to, you
14 know, be environmentally sound, not use a lot of paper, be
15 safe and use the debit card, but I have to pay a fee here
16 or a surcharge here?

17 In our area, you know, we have a major company.
18 Why isn't my cable company charging me a fee or why isn't
19 my credit card company charging me a fee?

20 So you're right, Mr. Chairman. I just didn't
21 have an answer. Thank you.

22 MAJORITY CHAIRMAN ADOLPH: Thank you,
23 Representative.

24 Rep. Scott Petri.

25 REP. PETRI: Just very briefly, could you give us

1 a sense of the last occasion you really had a chance to
2 talk about utility rates so we're talking about
3 deregulation and the probable increases in utility rates.

4 Can you talk to me just briefly about whether
5 there's been an impact from the Marcellus Shale gas that's
6 available and a sense broad term where you think that might
7 be going as far as the rates? Will we continue to see
8 reduced rates as we have for energy generators and will
9 there be some benefit likely to our local businessmen?

10 MR. POWELSON: Well, I harken back to the summer
11 of 2008 where natural gas price was up about \$14. Rate
12 caps were coming off for the majority of Pennsylvanians.
13 If you were a PECO customer, you were looking close to a 25
14 to 30 percent increase if you stayed as a default customer.

15 This chart here kind of shows you where we are
16 today in terms of power prices. As I remind people, as
17 goes the price of natural gas goes your monthly electric
18 bill. Here in the PJM footprint. So here we are back in
19 2008, rate caps coming off and you're looking to about \$128
20 to \$130 per megawatt. Fast forward to where we are today.
21 We're at \$40 per megawatt now.

22 Now, I will forecast that demand will come back.
23 Prices will go up. However, the abundance of cheap
24 affordable Pennsylvania-based natural gas is, as I said
25 earlier, a huge opportunity for not only economic

1 development and business retention but for your rank and
2 file residential electric and gas customers.

3 And I think that, again, I don't -- I'll use an
4 example, PECO. Those gas purchase costs reduced by 43
5 percent. That's the story that's being told across many
6 Pennsylvania communities. Customers are benefiting from
7 that.

8 REP. PETRI: Thank you, Mr. Chairman.

9 And that certainly is a good thing, given the
10 scare that everybody had on the utility rates.

11 And I would just thank the Chairman of this
12 Committee for having performed a tour during the summer
13 where we learned how influential that can be when we were
14 up in the Poconos. We had a company indicate, you know,
15 that this might be the difference between keeping or
16 closing a facility. So this is an important development
17 for Pennsylvania.

18 Thank you.

19 MAJORITY CHAIRMAN ADOLPH: Thank you,
20 Representative.

21 I have a question for the Chairman. And I know
22 he's familiar with the issue. And that's the closing of
23 the refineries in Southeast Pennsylvania. And I guess my
24 first question, Chairman, is, has the PUC had involvement
25 during this process?

1 MR. POWELSON: Indirectly. Many people don't
2 realize but Sunoco Logistics is a regulated entity from the
3 Public Utility Commission they put back into service.
4 Their Mariner East line, speaking of benefits of Marcellus
5 Shale, the ability to take gas extraction ethane from
6 Southwestern PA and move it east.

7 So indirectly, Chairman, the question of the day
8 is, what are the opportunities for those refineries, and
9 looking at that, is there a potential suitor to come into
10 the Marcus Hook area or Southwest Philadelphia?

11 And I'd like to think in our mission of being
12 proponents of economic development that we could bring
13 parties to the table. One company in particular, an LNG
14 export facility operator, was in to meet with us. Another
15 company is coming in to talk to us as well.

16 Obviously, we won't make those decisions as
17 companies and the Governor and legislative leaders will
18 make the decision if those companies are going to come to
19 the Commonwealth.

20 But I will tell you this. The opportunities that
21 we learned, the Vice Chairman and I, those refineries, not
22 only are they huge job creators for that region but now
23 with the development of Marcellus Shale and the liquid
24 extractions and the value -- by the way, the only thing the
25 United States does really, really well, by the way, is

1 refining these ethanes and the worldwide demand. We do it
2 better than any country in the world.

3 So I'm optimistic that we might see an
4 opportunity around one of these ethane cracker facilities
5 moving into Southeastern Pennsylvania. So bringing the
6 parties together, we've had a couple of meetings. Gulf
7 Oil, I think, is coming in later this month to see us as
8 well.

9 MAJORITY CHAIRMAN ADOLPH: Thank you.

10 MR. POWELSON: You're welcome.

11 MAJORITY CHAIRMAN ADOLPH: I would like to just
12 pick your brain a little bit. These closings for these oil
13 refineries, obviously we all understand the job loss. But
14 how do you think that will affect the energy needs
15 particularly in Pennsylvania as well as the Northeast
16 United States?

17 MR. POWELSON: Well, the economics of the three
18 facilities are such that -- I'll use an example.
19 Southwestern Pennsylvania does home heating oil. Under Act
20 129, we're trying to aggressively promote fuel switching in
21 utilities from oil burners to using more natural gas.
22 Obviously, 50 degree weather in the winter doesn't help
23 that cause as well.

24 The other issue with regards to this Marcus Hook
25 facility, which brings in, as I understand it, a West

1 Nigeria crew to refine there at that facility to promote
2 products such as jet fuel, there's been a collapse in that
3 market as well.

4 So these are two kind of -- I'll say not
5 unintended consequences but the reality of what's going on
6 in the utility field. A lot of utilities, as you know,
7 across the country are closing down. And trying to get the
8 right investor into one of those facilities, I think, is
9 critically important.

10 The biggest takeaway that I've learned in my
11 short time of getting my hands around this issue is there
12 are two waterborne facilities there. We're dredging the
13 Delaware in 45 feet. So there's tremendous opportunities
14 to get someone to come in and invest.

15 But it's not going to be an overnight fix. I can
16 tell you that.

17 MAJORITY CHAIRMAN ADOLPH: Thank you.

18 Seeing no further questions, I would like to
19 thank the PUC Board for appearing before us this morning.
20 I certainly believe it was informative. And thank you for
21 coming before us. And I'm sure you're going to be in touch
22 with us regarding the Marcellus Shale issue in particular
23 in the next few months.

24 Thank you very much.

25 MR. POWELSON: Thank you, Chairman.

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(The hearing concluded at 11:20 a.m.)

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I hereby certify that the proceedings and
evidence are contained fully and accurately in the notes
taken by me on the within proceedings and that this is a
correct transcript of the same.

Jean M. Davis
Notary Public