

Prepared Testimony of
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before the

Pennsylvania House
Appropriations Committee

February 27, 2012



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Good afternoon Chairman Adolph, Chairman Markosek, and members of the House Appropriations Committee. Thank you for the opportunity to testify about the Pennsylvania Public Utility Commission's (PUC) budget request for fiscal year 2012-13. I am Rob Powelson, Chairman of the PUC. Joining me today are my fellow commissioners: Vice Chairman John Coleman, Commissioner James Cawley, Commissioner Wayne Gardner, and Commissioner Pamela Witmer.

On October 4, 2011, the PUC submitted a budget request of \$63.755 million for fiscal year 2012-13. This amount represented a zero percent increase from last year's budget. On December 22, 2011, the legislature passed Act 127, which expanded the PUC's natural gas pipeline safety oversight authority. In order to carry out the functions of Act 127, the PUC increased in its 2012-13 budget request by \$1.5 million. As a result, the PUC's combined budget request is **\$65.255 million**. This amount includes **\$60.398 million** in state funds and **\$4.857 million** in federal funds. The request represents a 2.55 percent increase from last year's budget, one hundred percent of which is attributable to the new responsibilities in Act 127.

Unlike most agencies, the state portion of the PUC's budget does not come from the General Fund. The PUC collects its state portion by assessments on jurisdictional utilities, which they in turn collect from customers through rates. The PUC determines how much to charge each utility by requiring staff to allocate how they spend their time to specific utility groups and assessing each jurisdictional utility a portion of those costs based on the revenues from their intrastate operations.

Although efforts by the PUC to reduce spending do not directly impact the Commonwealth's General Fund, the PUC never loses sight of the fact that the

assessments that fund our agency ultimately come from tax-paying utility customers. The PUC therefore continually strives to minimize its assessments on utilities, and by extension customers. Last year the PUC pledged to reduce our spending by \$1.5 million below the authorized budget amount. I am pleased to report that, although fiscal year 2011-2012 is not yet complete, the PUC is on track to attain its goal of saving \$1.5 million. The PUC will achieve this savings through increased efficiencies, planned staff retirements, and reorganization efforts, which allowed the agency to eliminate 12 positions, reducing our current complement of employees from 519 to 507. The PUC also refrained from filling certain other vacant positions by reallocating resources and job sharing where possible. In addition, the PUC set budget reduction goals for travel, training, overtime, annuitants and wage employees, contracts, and technology upgrades.

For the 2012-2013 fiscal year, the PUC expects a \$2.9 million increase in personnel and operating costs to fund contractually mandated salary and benefit increases, as well as increases in non-discretionary vendor goods and services. Despite these elevated costs, the PUC will maintain a zero budget increase for the upcoming fiscal year outside of the appropriation necessary to carry out the new duties in Act 127. The PUC will accomplish this by taking steps similar to those taken in the 2011-2012 fiscal year. The PUC will operate without the twelve positions eliminated in 2011-2012, delay filling other non-vital vacant positions, and place limits on travel, training, and overtime.

Reorganization

To further the goal of operating in the most efficient and effective manner

possible, the PUC is undergoing a major agency reorganization, which was authorized by Act 129 of 2008. In the fall of 2011, the PUC completed Phase One of the reorganization, which involved consolidating and eliminating some of the internal bureaus to better align the PUC's organization with the changing landscape of the utility industry. Some of the major changes the PUC implemented in Phase One include: (1) incorporating strategy and planning functions within a new Executive Director position; (2) centralizing administrative and personnel functions; (3) more accurately aligning agency bureaus with regulatory functions; (4) consolidating technical staff within one bureau; and (5) clearly separating the agency's prosecutory function from its advisory functions.

The PUC will execute Phases Two through Four of the reorganization this year. These phases involve updating the PUC's case management system – InfoMAP – to reflect the structural reorganization that occurred during Phase One. The final phase of the reorganization, Phase Five, will occur in early 2013 and involves the physical relocation of employees to correspond with the changes made in the earlier phases.

I am confident these efforts to reorganize the agency will create a PUC that is more efficient and better equipped to carry out the agency's mission. This is especially important given the increased responsibilities the PUC will assume in the upcoming year under Act 127, Act 13 (the Marcellus Shale impact fee), and Act 11 (distribution system improvement charge).

Natural Gas Safety and Act 127

Gas safety is a critical issue for the PUC and one that will demand a great deal of attention and resources in the 2012-2013 fiscal year. Acting as an agent for the U.S.

Department of Transportation's Office of Pipeline and Hazardous Materials Safety Administration (PHMSA), the PUC enforces federal pipeline safety regulations across the state. The recent passage of the Gas and Hazardous Liquids Pipeline Act (Act 127) increased the PUC's natural gas pipeline safety oversight authority. Act 127, which became effective on February 20, 2012, expands the PUC's authority to enforce the federal pipeline safety laws as they relate to gas pipeline operators and hazardous liquids pipeline facilities within the state. Act 127 also requires the PUC to develop and maintain a registry of pipeline operators within Pennsylvania.

Due to the new oversight responsibilities authorized by Act 127, the PUC is in the process of hiring up to 13 new employees in its Gas Safety Division, increasing the agency's total complement to 520 employees for fiscal year 2012-13. In addition, on January 12, 2012, the PUC issued an order to solicit public input for its tentative determinations regarding the implementation of Act 127 and provided draft registration materials for comment. After weighing the public comments, the PUC issued a final order on February 16, 2012 that resolved certain jurisdictional issues, provided a final registration form for pipeline operators, established registration deadlines and fees, and set dates for assessment invoices, among other things. The PUC also published a Frequently Asked Questions and Answers sheet on Act 127 to explain the provisions of the legislation for interested parties.

The PUC commends the legislature for passing this important piece of legislation. Protecting the safety of our citizens by inspecting pipeline facilities and enforcing pipeline safety regulations is an important mission of the PUC. Prior to Act 127 the PUC's efforts were hampered because we did not have safety jurisdiction over

all gathering and intrastate transmission lines in the state. The changes embodied in Act 127 – expanding the PUC’s safety jurisdiction and providing funding for additional gas safety inspectors – will help the PUC more effectively carry out its mission to ensure the pipeline system in Pennsylvania is safe and reliable.

Aging Infrastructure and Act 11

Another important aspect of pipeline safety is infrastructure replacement. In Pennsylvania, much of our utility infrastructure is more than 70 years old. On the natural gas side alone, there are roughly 13,000 miles of old cast iron and bare steel pipes that are susceptible to corrosion and breakage. According to the PUC’s estimates, it would cost \$12 billion and take 20 years for the state’s 10 largest natural gas utilities to remove and replace the at-risk pipes. These figures demonstrate that the amount of aging infrastructure in need of replacement in Pennsylvania is an alarming issue that needs our complete attention.

The legislature has taken a vital step towards addressing this issue with the passage of Act 11. This legislation gives the PUC the authority to approve a distribution system improvement charge that will encourage utilities to replace the aging infrastructure at an accelerated rate. The PUC has seen success with similar measures in the water industry since the mid-1990’s and is confident that Pennsylvania will experience the same positive results in the natural gas, electric, and wastewater industries. This legislation represents an important step towards achieving a safer and more modern utility infrastructure in Pennsylvania.

Marcellus Shale: Act 13 Impact Fee & Motor Carrier Enforcement

Issues related to Marcellus Shale development and safety will continue to have a significant impact on the PUC's responsibilities during the next fiscal year. On February 14, 2012, Governor Corbett signed Act 13, which authorizes counties in Pennsylvania to implement an impact fee on unconventional gas wells, the collection and disbursement of which will be administered by the PUC. Act 13 also gives the PUC the authority to review the ordinances imposing such a fee at the request of a municipality and handle complaints filed by well operators or residents who are aggrieved by these ordinances.

The PUC has already begun taking steps to implement Act 13. On February 22, 2012, the PUC issued a Secretarial Letter to provide direction for local governments and interested parties on the PUC's implementation of Act 13. The PUC also published a list of Frequently Asked Questions and Answers on Act 13 to help interested parties understand the legislation and the PUC's role in collecting and disbursing the fees. These steps are the first of many by the PUC towards a smooth and efficient implementation of Act 13.

Also in response to the Marcellus Shale development in the state, the PUC's Motor Carrier Safety Division has enhanced its enforcement presence in the five-county area of Northern Pennsylvania that has experienced unprecedented growth due to drilling activities. The PUC increased inspections in this area to ensure the motor carriers associated with the Marcellus Shale are complying with PUC regulations. Trucking companies are required to have a certificate of public convenience for property carrier authority and proof of insurance if they are involved with transporting commodities related to the drilling operations, such as water, sand, and stone.

Currently, the PUC processes more than 20 applications a week for new property carrier authority from small business start-ups in the Marcellus Shale regions of the state. These activities will continue to keep the PUC busy in the 2012-2013 fiscal year.

Electric Competition and the Retail Markets Investigation

Pennsylvania recently completed the transition to a competitive electricity market as the last of the rate caps expired for consumers at the end of 2010. Through the creation of www.PAPowerSwitch.com, the PUC has ensured consumers have the tools at their fingertips to make an informed decision about choosing an electric supplier. With a zip-code enabled search and information that is updated regularly, www.PAPowerSwitch.com provides consumers with helpful, user-friendly information when shopping for an electric supplier.

Though the transition has been gradual, Pennsylvania is clearly witnessing the benefits of electric competition. In 1996, Pennsylvania's electricity prices were 15 percent higher than the national average, while today rates are hovering right around the national average. In 2009 and 2010, the years when the rate caps expired, Pennsylvania's electric rates were 1 and 3 percent higher than the national average, respectively.¹ Shopping numbers have also gradually increased since the expiration of the rate caps. As of February 22, 2012, over 1.5 million customers, representing 54 percent of total statewide electricity load, have chosen an electric generation supplier in Pennsylvania.

¹ U.S. Energy Information Administration, *Average Retail Price of Electricity to Ultimate Customers: Total by End-Use Sector* (www.eia.gov/cneaf/electricity/epm/table5_3.html); *Table 8: Retail Sales, Revenue, and Average Retail Price by Sector, 1990 Through 2009* (www.eia.gov/cneaf/electricity/st_profiles/pennsylvania.html).

With the transition to a competitive market complete, the PUC launched a statewide investigation into the Pennsylvania's retail electric markets on April 28, 2011. The goal of the Retail Markets Investigation is to make improvements to ensure that a properly functioning and workable competitive retail electricity market exists in the state. The investigation has two phases. Phase I of the investigation, which ended with an order issued by the PUC on July 28, 2011, assessed the status of the current retail market and explored changes that should be made to allow customers to fully realize the benefits of competition. Phase II, which is currently ongoing, will examine how to resolve the issues raised in Phase I and determine how to implement any necessary changes.

Thus far, the Retail Markets Investigation has involved two *en banc* hearings, with a third scheduled for March 21, 2012, as well as numerous technical conferences. Based on testimony and comments the PUC received during Phase I, the PUC concluded in its July 2011 order that Pennsylvania's current retail electricity market requires changes to bring about the robust competition envisioned by the General Assembly when it passed the Electric Generation Customer Choice and Competition Act of 1996 (Competition Act). In furtherance of this goal, the PUC directed its Office of Competitive Markets Oversight (OCMO) to develop two work plans.

The first work plan, which OCMO issued on December 15, 2011, included recommendations for intermediate changes, such as increased consumer education, accelerated timeframes for switching suppliers, the use of retail opt-in auctions and customer referral programs, the placement of the default service Price-to-Compare on customer bills, and mechanisms for increased coordination between utilities and

suppliers. OCOMO's second work plan is due in April 2012 and will include recommendations for longer-term changes to the competitive market.

At the conclusion of the retail markets investigation, the PUC will evaluate OCOMO's recommendations and implement the necessary changes to improve the competitive electricity market to the extent it has legislative authority to do so. For any changes that that PUC does not have authority to make, it may recommend statutory changes for the legislature's consideration. The PUC takes very seriously its duty to carry out the legislative mandate set forth in the Competition Act, and it is with this mandate in mind that the PUC is leading this investigation. I am confident that during the 2012-2013 fiscal year the PUC will make significant strides towards improving Pennsylvania's competitive electricity market as a result of this investigation.

Electric Reliability & Storm Response

Another major focus of the PUC is the reliability of electric service throughout the Commonwealth. Currently, the PUC is in the midst of a comprehensive review of electric reliability as it relates to long-term service outages. Three major storms hit Pennsylvania in an eight-week timeframe in the fall of 2011. These storms left hundreds of thousands of customers without power, with some of the customer outages lasting for up to 10 days.

In examining what happened, the PUC required utilities to provide a variety of data including the timing and duration of outages, as well as information on circuits that lost power for longer than 24 hours during the last six months. The PUC is in the process of determining whether the long-term outages related solely to the unprecedented weather events or if system reliability problems were also a factor. One

important finding the PUC reached during its review is that utilities' communication with consumers during outages – including through their voice activated phone systems – is an ongoing problem that must be remedied. The PUC's evaluation of the outage data will continue into fiscal year 2012-2013 and culminate in the creation of several outage reports. The PUC is confident these steps will help the Commonwealth's utilities improve their responses to future unplanned, long-term outages.

Act 129: Energy Efficiency

Another issue that will be important to the PUC in next fiscal year is the continued monitoring of electric utilities' compliance with Act 129 of 2008. This legislation expanded the PUC's oversight responsibilities and imposed new requirements on electric utilities with the goal of reducing electric consumption and peak demand throughout the Commonwealth over the course of five years. The PUC worked at an accelerated pace to meet the implementation deadlines set forth in Act 129, as well as updating previously approved provisions to ensure the goals of the legislation are met. The PUC also adopted plans for the deployment of smart meter technology, time-of-use rates, and real-time prices as required for the state's seven largest electric utilities.

The PUC is in the process of reviewing utilities' energy efficiency and conservation plans to determine what revisions may need to be made to ensure the usage-reduction targets in the legislation are met. Additionally, because Act 129 expires in 2013, the PUC is currently determining whether the program should continue. To help with this decision, the PUC's independent statewide evaluator has been evaluating the success and cost-effectiveness of utilities' energy efficiency and conservation efforts

under Act 129, as well as the potential for future energy efficiency measures to be successful. In addition, the PUC is holding a stakeholder meeting on March 16, 2012, to gather input from interested parties on whether to extend the Act 129 energy efficiency program, and if so, how the program should be structured. The PUC will use this information to assess whether it is in the public interest to continue Act 129 beyond 2013.

Telecommunications

Telephone number resources will continue to be an issue of importance to the PUC this fiscal year. In 2011, the PUC received petitions for relief in response to reports suggesting three of the state's area codes would exhaust in 2012 or 2013. PUC's options for relief were either to create a geographic split of the area code or overlay the existing area code with a new area code. The PUC devoted substantial effort towards resolving this issue, including holding several public hearings and instituting number conservation measures. The PUC's conservation efforts were successful, enabling the PUC to dismiss the petition for relief in the 717 area code. The PUC continues to monitor the need for action in the 814 area code. As such, the PUC will continue to track the forecasted exhaust dates throughout the state and prepare to take action before problems arise from lack of available numbers.

Rail Safety

During fiscal year 2011-2012, the PUC processed over 138 applications to approve the construction, alternation, and abolition of highway rail crossings. The PUC also conducted numerous informal investigations of complaints about unsatisfactory crossing surface conditions, as well as unsafe crossings. Additionally, the PUC

approved a proposed rulemaking order that takes into consideration the technological and operational changes of the rail industry over the last 30 years and reflects current federal standards. The PUC's work on this rulemaking will continue in fiscal year 2012-2013.

Conclusion

In each of the five industries we regulate, the PUC has a wide variety of responsibilities to carry out during the next fiscal year. While the issues we face are significant, I am confident that the PUC is well-positioned to take on these challenges. Thank you for your consideration of our budget request. My colleagues and I are happy to answer any questions you have.