

1
2 COMMONWEALTH OF PENNSYLVANIA
3 HOUSE OF REPRESENTATIVES
4 APPROPRIATIONS COMMITTEE

5 MAIN CAPITOL
6 ROOM 140
7 HARRISBURG, PENNSYLVANIA

8 BUDGET HEARING
9 OFFICE OF CONSUMER ADVOCATE
and
OFFICE OF SMALL BUSINESS ADVOCATE

10 WEDNESDAY, FEBRUARY 19, 2014
11 11:22 A.M.

12 BEFORE:

13 HONORABLE WILLIAM F. ADOLPH, JR.,
Majority Chairman

14 HONORABLE KAREN BOBACK

15 HONORABLE JIM CHRISTIANA

16 HONORABLE GARY DAY

17 HONORABLE BRIAN ELLIS

18 HONORABLE GLEN GRELL

19 HONORABLE SETH GROVE

20 HONORABLE ADAM HARRIS

21 HONORABLE THOMAS KILLION

22 HONORABLE DAVID MILLARD

23 HONORABLE MARK MUSTIO

24 HONORABLE DONNA OBERLANDER

25 HONORABLE BERNIE O'NEILL

HONORABLE MICHAEL PEIFER

HONORABLE SCOTT PETRI

HONORABLE JEFFREY PYLE

HONORABLE CURT SONNEY

HONORABLE JOSEPH MARKOSEK, Minority Chairman

HONORABLE MATTHEW BRADFORD

HONORABLE MICHELLE BROWNLEE

HONORABLE MIKE CARROLL

HONORABLE H. SCOTT CONKLIN

HONORABLE MADELEINE DEAN

1 BEFORE: (cont'd)

2 HONORABLE DEBERAH KULA
3 HONORABLE MICHAEL O'BRIEN
4 HONORABLE JOHN SABATINA
5 HONORABLE STEVEN SANTARSIERO
6 HONORABLE JAKE WHEATLEY

7 ALSO PRESENT:

8 HONORABLE MARTY CAUSER
9 HONORABLE SHERYL DELOZIER
10 HONORABLE ROBERT GODSHALL
11 HONORABLE DAVE MALONEY
12 HONORABLE RON MILLER
13 HONORABLE JERRY STERN
14 HONORABLE J. P. MIRANDA
15 HONORABLE GREG VITALI
16
17 DAVID DONLEY, MAJORITY EXECUTIVE DIRECTOR
18 MIRIAM FOX, MINORITY EXECUTIVE DIRECTOR
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1 P R O C E E D I N G S

2 MAJORITY CHAIRMAN ADOLPH: Thank you,
3 everyone. I'd like to reconvene the House
4 Appropriations Committee budget hearing.

5 Our next testifiers are John Evans,
6 certainly not a stranger to the House
7 Appropriations Committee. John is now the Small
8 Business Advocate. And also with us is the acting
9 consumer affairs advocate, Tanya McCloskey.
10 Welcome.

11 Nice to see you.

12 With us once again is the Republican
13 chair of the Consumer Affairs Committee, Chairman
14 Godshall.

15 So, why don't we start with opening
16 comments. I never get into trouble by saying
17 ladies first.

18 ACTING ADVOCATE MCCLOSKEY: Thank you.
19 Thank you, Chairman Adolph, Chairman Markosek, and
20 members of the committee.

21 My name is Tanya McCloskey, and I'm
22 serving as the acting consumer advocate of
23 Pennsylvania since the retirement of Sonny Popowsky
24 in October of 2012. I've worked at the Office of
25 Consumer Advocate since 1987 with a primary focus

1 on energy issues.

2 Thank you for the opportunity to
3 discuss the Office of Consumer Advocate's proposed
4 budget for fiscal year 2014 and 2015.

5 The OCA's legislative budget request
6 that was filed in October of 2013 for fiscal year
7 2014 and 2015 is five million one hundred sixty-
8 five thousand dollars. Our budget request
9 represents no increase from our current year's
10 budget authorization. Our current year's budget
11 authorization represented a decrease of eight
12 thousand dollars from the budget authorization for
13 the prior fiscal year of 2012-2013.

14 On February 14th, 2014, the governor
15 announced his proposed budget for all commonwealth
16 agencies. I'm pleased to report that the
17 governor's proposed budget for the OCA for fiscal
18 year 2014-2015 is five million one hundred sixty-
19 five thousand dollars, which is the amount we have
20 requested.

21 In reviewing the OCA's budget, it is
22 important to recognize that our budget is not
23 derived from the general fund but is funded through
24 a separate assessment on the utilities that fall
25 under the jurisdiction of the Pennsylvania Public

1 Utility Commission. While the OCA is
2 administratively located within the Pennsylvania
3 Office of Attorney General, the OCA budget is
4 wholly separate and independent from the budget of
5 the attorney general.

6 Finally, the OCA's budget is separate
7 from that of the Pennsylvania Public Utility
8 Commission, which is also funded through
9 assessments on the commonwealth's utilities.

10 By law, the OCA budget may not exceed
11 five-one hundredths of 1 percent of the prior
12 calendar year's total intrastate gross revenues of
13 the utilities that are subject to the jurisdiction
14 of the PUC. The OCA's proposed budget for fiscal
15 year 2014-2015 represents approximately .032
16 percent of the estimated utility total gross
17 intrastate operating revenues, which is
18 approximately 65 percent of our budget cap under
19 that formula.

20 As we have set forth in our budget
21 hearing materials that were submitted to Chairman
22 Adolph on February 7th and in our most recent
23 annual report to the general assembly, the OCA
24 provides vigorous professional representation for
25 Pennsylvania utility consumers before both the

1 state and federal regulatory agencies and courts.
2 In my written testimony, I provided a brief summary
3 of our efforts for each regulated industry and our
4 efforts in assisting consumers with utility
5 complaints, as well as our consumer education
6 efforts. I will not repeat that testimony here.

7 But in the next fiscal year, the OCA
8 expects to continue all of its litigation
9 activities and will continue to participate on
10 behalf of utility consumers in state and federal
11 legislative and policy matters. The OCA will also
12 continue its role in consumer education and in
13 responding to utility consumer complaints and
14 inquiries.

15 The OCA acknowledges and is grateful
16 for the support that this committee has provided
17 over the years in considering the OCA's annual
18 budget requests. Through our legislative budget
19 request for fiscal year 2014 and 2015, the OCA asks
20 the members of the general assembly to permit the
21 OCA to receive the budgetary resources needed to
22 continue our service to Pennsylvania utility
23 consumers.

24 Thank you. And I'd be happy to answer
25 any questions you may have.

1 MAJORITY CHAIRMAN ADOLPH: Okay. Thank
2 you.

3 We'll now hear from the small business
4 advocate, John Evans.

5 ADVOCATE EVANS: Thank you very much.
6 And good morning, Chairman Adolph, Chairman
7 Markosek, Chairman Godshall, members of the
8 committee.

9 I want to thank you for the opportunity
10 to submit testimony regarding the budget of the
11 Office of Small Business Advocate for the fiscal
12 year beginning July 1st, 2014.

13 The Office of Small Business Advocate,
14 OSBA, is responsible for representing the interests
15 of small business customers in utility matters
16 before the public utility commission, corresponding
17 federal agencies, and the courts. The OSBA's
18 principal mission in these cases is to assure that
19 small business customers pay no more than their
20 fair share of the cost for utility service.

21 The OSBA is responsible for
22 representing employers of all sizes before the
23 Insurance Department and the courts when rating
24 organizations that seek changes in workers'
25 compensation rates. The OSBA's mission in these

1 cases is to assure that businesses of all sizes pay
2 no more than necessary for workmen's compensation
3 insurance.

4 For administrative purposes, the OSBA
5 is located in the Department of Community and
6 Economic Development; however, the department has
7 no responsibility for OSBA's litigation strategy
8 and policy positions.

9 The OSBA receives no money from the
10 general fund. Instead, much like the Consumer
11 Advocates Office, OSBA's operations are financed
12 entirely by assessments on utilities and workers'
13 compensation insurers. Specifically, assessments
14 on utilities finance about 55 percent of the OSBA,
15 while assessments on workers' compensation insurers
16 finance about 15 percent of our budget.

17 The governor's budget request for
18 fiscal year '14-'15 is one million three hundred
19 fifty-seven thousand dollars. That is the same
20 amount the general assembly approved for the
21 current fiscal year, aside from personnel benefits,
22 which are beyond our control.

23 I urge the adoption of the governor's
24 proposal as a way to help mitigate the cost of
25 doing business in Pennsylvania. Now, to

1 demonstrate that point, I offer the following
2 explanation.

3 The consumer classes generally have a
4 common interest in keeping a utility rate increase
5 as small as possible. Therefore, OSBA usually does
6 join with the Office of Consumer Advocate to
7 present legal arguments and expert testimony
8 regarding the size of the rate increase a utility
9 should be granted. However, OCA and OSBA
10 frequently disagree when the case turns to the
11 share of the rate increase each customer class
12 should bear. At that stage of the proceeding, the
13 OCA presents legal arguments and expert testimony
14 on behalf of the residential customers. The OSBA
15 presents legal arguments and expert testimony on
16 behalf of small commercial and industrial
17 customers, the small C and I customers. Often
18 large C and I customers are also represented at
19 this stage of the proceeding by their own attorneys
20 and expert witnesses.

21 Our job is critical at OSBA, because
22 with a few exceptions, small C and I rate payers
23 historically have subsidized residential and large
24 C and I rate payers. For example, if one were to
25 consider only the rate cases decided since last

1 year's budget hearing in which the OSBA
2 participated, small C and I customers would pay --
3 rather, will pay twenty-five billion dollars less
4 than they would have if the PUC had adopted the
5 positions advocated by other parties, including
6 OCA.

7 In carrying its mission in the next
8 fiscal year, the OSBA will continue to be guided by
9 the realization that every dollar a business must
10 spend on utility service or workers' compensation
11 insurance is a dollar unavailable for expanding
12 that business, creating jobs, or increasing pay and
13 benefits.

14 I will be happy to answer any questions
15 that you might have concerning OSBA's budget or any
16 of the OSBA activities. Thank you very much.

17 MAJORITY CHAIRMAN ADOLPH: Thank you,
18 Mr. Evans.

19 The first question or comment will be
20 by Chairman Markosek.

21 MINORITY CHAIRMAN MARKOSEK: Thank you
22 very much, Chairman Adolph.

23 You know, from time to time, we get
24 former colleagues and members that come before us
25 in these committee meetings, and I don't know if

1 Chairman Adolph has noticed it, but they all seem
2 so much happier, and younger, even. So, maybe --
3 you know, I don't want to make any editorial
4 comments, but maybe there's something to their
5 new-found lives. But nevertheless, welcome,
6 Representative.

7 And Ms. McCloskey, I don't have a
8 specific question, but I did see you on TV last
9 night. And it's an interesting issue that we
10 talked about in our previous hearing with the PUC
11 relative to the choice of electrical utility
12 providers and some of those choices and some of the
13 things that are going on with that that have been
14 somewhat negative and have created some problems
15 with our consumers and our constituents.

16 I don't have a specific question. I
17 know, Mr. Chairman, at the appropriate time,
18 Representative Conklin, I know, wants to follow up
19 on those issues.

20 MAJORITY CHAIRMAN ADOLPH: Okay. Thank
21 you, Chairman.

22 Chairman Godshall.

23 REPRESENTATIVE GODSHALL: Going along
24 with Chairman Markosek, I really don't have a
25 specific question, but I do appreciate working

1 together that we've had over the years and
2 continue.

3 I just do want to mention, the main
4 issue that we have right now, these variable, you
5 know, rates, and I -- this was just handed to me
6 this morning. They have been e-mailed. One woman
7 even stopped into the ABC27 studios to tell her
8 story, various delivery method with the same
9 message: Anger over electric bills that have
10 doubled, tripled, and even quadrupled.

11 Two such examples is from a family
12 worship center in New Kensington, near
13 Mechanicsburg. The electric bill for December was
14 fourteen hundred and twenty-three dollars and
15 eleven cents. In January, the congregation was
16 driven to its knees with a forty-one-hundred-forty-
17 six-dollar-and-sixty-cent bill, going from fourteen
18 hundred to almost forty-one fifty in one month. It
19 had a variable rate with Pennsylvania Gas and
20 Electric.

21 The church's treasurer was
22 flabbergasted. How dare they, she said. How are
23 we supposed to come up with that kind of money?

24 But this is what we're hearing over and
25 over again, and is it's something, as I mentioned

1 before with the PUC hearing, that we're going to
2 have to deal with, and we're going to have to deal
3 with it quickly, sooner rather than later.

4 And I know you've been involved in it.
5 I know the PUC's been involved with it. And some
6 of our members here and some, you know, have voiced
7 their opinions, but this is one of the major issues
8 that we have at the forefront, you know, right
9 now. I know Representative Conklin said the same
10 thing, you know, out in his area. It's not only my
11 area, but it's all over the state that this is
12 happening.

13 So, we've got to put some kind of
14 limits on what we can do, and that is going to have
15 to be legislated and then going to the PUC. And I
16 would appreciate your help when we address it.

17 ACTING ADVOCATE MCCLOSKEY: Thank you,
18 Chairman Godshall.

19 And I agree with you wholeheartedly.
20 We think there are some serious concerns with the
21 contracts that are in existence right now,
22 particularly as to disclosure. And I believe
23 Chairman Powelson mentioned that the commission has
24 disclosure regulations that require a disclosure of
25 both the conditions of variability and the limits

1 of variability. The disclosures we've looked at
2 have imposed no limits on that variability. So, we
3 are going to be questioning that and working with
4 the PUC on that issue.

5 As Chairman Powelson also said, reports
6 coming into our office raise some serious concerns
7 as to whether the advertising was truthful and
8 fair, whether customers have experienced deceptive
9 advertising.

10 We have customers reporting to us that
11 they were told the price would only be about two to
12 three cents at the tops above or below the price --
13 the utility's price. Obviously, that's not the
14 case.

15 And then, you know, the third part is
16 just even the purchasing practices of these
17 suppliers that have exposed customers, residential
18 customers, and I'm sure John is concerned about
19 small business customers, to such unconscionable
20 risk of market volatility.

21 So, we are going to be working with the
22 commission in their endeavors and on our own as
23 well in those issues.

24 But we're happy to work with you on
25 legislation. If legislation is necessary, we

1 agree, we need to get that into place.

2 REPRESENTATIVE GODSHALL: Well, you
3 know, a lot of these people, they're not used to
4 it. They don't know what the variable rate really
5 is, with no disrespect. You know, they just don't
6 know. And they think, well, maybe, I'm paying six
7 cents here, well, maybe it will go up to seven or
8 eight, but not thirty.

9 ACTING ADVOCATE MCCLOSKEY: Absolutely.

10 REPRESENTATIVE GODSHALL: They just
11 have never experienced anything like that before.

12 And, John, Mario Scavello,
13 Representative Scavello, mentioned in Stroudsburg,
14 a woman, a small business owner, was paying nine
15 hundred dollars a month and all of a sudden jumped
16 to twenty-six hundred dollars. And the businesses
17 and the homeowners, you know, just can't afford,
18 you know, what's happened here.

19 ADVOCATE EVANS: Chairman Godshall,
20 I agree with you that action is going to have to
21 come from the PUC, I think, to make thing better
22 for consumers and small businesses in this choice
23 issue. Small businesses are part of the equation
24 when it comes to utility choice, electric choice.

25 And one of things that our office is

1 concerned about is the understandability of the
2 PAPowerSwitch website. In fact, our office has
3 been proactive. We are in the process of sending a
4 letter to PUC, asking them to take another look at
5 how the rates are displayed on the PAPowerSwitch
6 website as it exists today.

7 It's very confusing for many consumers
8 when they see the variable and fixed rates
9 mentioned on the website in very small print, and
10 they're not highlighted. I think that it needs to
11 be highlighted about a variable rate, because, you
12 know, rates have been low. We've had historically
13 low rates in recent months until we had the
14 situation last year with a severe cold snap, and
15 the spot market increased dramatically, causing
16 these companies to come forward with the
17 variable-rate hikes that we're seeing now.

18 And I think the education component is
19 critical. We all need to do a better job of
20 educating consumers and small businesses about the
21 choice that we have in Pennsylvania. We've been
22 doing our best in our office to get with groups of
23 small business people to inform them of money they
24 could be saving to help their businesses if they do
25 take a look at what they're doing. And those that

1 have been on the variable rates certainly did have
2 some sticker shock in recent weeks.

3 REPRESENTATIVE GODSHALL: You know,
4 there was an ad that the PUC just put on the radio
5 pertaining to variable rates, that you have to be
6 careful, you know, with variable rates, but I'm not
7 sure to say how many of the masses that we have in
8 Pennsylvania heard that ad, nor do they know what
9 it means. You know, they just plain don't know.
10 And they have haven't experienced. It's something
11 new. And somebody comes along and says, you know,
12 they're paying eight cents. We're going to give
13 you this for six cents for a month or two months
14 and then you're on your own. But it's a total new
15 experience for a lot of people. And a lot of
16 people are being hurt.

17 ADVOCATE EVANS: Chairman, I might add,
18 even if you're on a fixed rate, in some cases, when
19 your fixed rate contract expires, the company can
20 throw you into a variable rate. And that also is
21 something that consumers need to be aware of if
22 they're on a fixed-rate program.

23 So, as I said a moment ago, education
24 is going to be a key component here and making the
25 PUC aware that some changes are going to have to be

1 made to help make it easier for consumers to
2 navigate and small businesses.

3 REPRESENTATIVE GODSHALL: Well, just,
4 you know, to finish on this. It's -- how many
5 people of our total population in Pennsylvania are
6 going to look at a website, you know, that they
7 never even know exists, like the PUC, your website,
8 or anybody else? It's just, we're not reaching out
9 to the masses with the information on what these
10 variable rates can do. And it's something that
11 we're going to have to address legislatively. And
12 I'm hopeful we're going to be doing it, you know,
13 with the Democrat and the Republican working
14 together on this issue, and we will, you know, be
15 addressing it, and hopefully with your assistance.

16 Thank you.

17 MAJORITY CHAIRMAN ADOLPH: Thank you.
18 Representative Scott Conklin.

19 REPRESENTATIVE CONKLIN: Thank you,
20 Mr. Chairman.

21 You're about to hear the same thing
22 over and over again. I talked to the PUC, and I'll
23 tell you why you may hear me get a little angry.
24 The gentlemen from the PUC do a good job.

25 I'm hearing from the advocates of the

1 people that they should know better. They need to
2 do more homework.

3 I'm going to tell you about a small
4 business in my area. This is just one lady. And
5 I'm going to vent one more time.

6 Eighteen hundred dollars a month for
7 electricity, paying about seven cents a kilowatt
8 hour. They get solicited from American -- I guess
9 -- I don't know if I'm allowed to say -- American
10 Gas and Power of Pennsylvania, who happens to be
11 American Gas and Power of New York, who happens to
12 be Connecticut Gas and Power, who aren't even in
13 any of these states but they're strictly a broker,
14 call them up and promise them they'll save them a
15 half a cent. Being tight, they say, guess what,
16 it's going to work. They go to the website and
17 check the price on PA power and gas, thinking it's
18 a regulated website, that, you know, this must be
19 good because they're a Pennsylvania company, the
20 salesman just promised me. The question was asked
21 point blank, Will my rates go up? And they said,
22 We'll always be competitive. There won't be any
23 great spikes. They get their bill last week,
24 eighteen hundred to forty-four fifty last month.
25 That's not even this month coming. It takes them

1 three months to get back out of the system.

2 And what's disturbing me very much, and
3 I tried to hold myself to PUC, who's their
4 advocates? I'm hearing the people should know
5 better. They should be smarter. See, our job
6 isn't to say the people should know better. Our
7 job is to find out -- you know, I was in the
8 construction business for thirty years. If you're
9 in the construction business and you show one
10 product and you tell them the price and you install
11 another product and upped it, you go to court, you
12 lose for classic bait and switch. And that's the
13 bottom line.

14 We are dealing with unscrupulous, in my
15 opinion -- and this is my opinion, to keep myself
16 out of a lawsuit -- people that are coming in and
17 taking advantage of this.

18 You know, we can justify it any way we
19 want, but at the end of the day, we have people
20 losing their business, people going out of
21 business.

22 And, by the way, I called this company
23 myself. With the most arrogant individuals I've
24 ever talked to in my life, telling me, It's too
25 bad. They're in a contract.

1 By the way, you know what the contract
2 is? They solicit them on the phone. They switch
3 them over on the phone, and say, Do you understand
4 that will be 6.1 cents? They say yes. They take
5 the deal. That's the contract.

6 I asked them for a recording of this
7 contract two weeks ago. I still haven't received
8 it yet from them.

9 We have to do something. We need to
10 work with you. We need to know who runs
11 PAPowerSwitch, who's in control of that.

12 ACTING ADVOCATE MCCLOSKEY: Let me --

13 REPRESENTATIVE CONKLIN: And I'm not
14 yelling at you.

15 ACTING ADVOCATE MCCLOSKEY: Sure.

16 REPRESENTATIVE CONKLIN: You're all
17 doing a good job. The reason I'm doing this is, I
18 want you all to understand this isn't just the
19 Baptist Church, this isn't just the small
20 business. This is the retirees. They go onto the
21 PAPowerSwitch. This lady told me, she -- this lady
22 told me, she went in and asked them -- before she
23 changed, she got on her phone, checked
24 PAPowerSwitch and saw it had to have been a
25 legitimate company because it's on the website. In

1 fact, when she's being charged fifteen cents,
2 they're advertising seven cents a kilowatt hour on
3 the website, on PAPowerSwitch.

4 This isn't a small thing that is
5 happening. We are literally gouging the people of
6 Pennsylvania.

7 I know deregulation's a great thing for
8 some, and done correctly, it's a good thing, so I'm
9 told. But we're seeing that the door was opened
10 for this type of actions to take place, and whose
11 ever fault it is, to be honest with you, I don't
12 care. But at the end of the day, all I know are
13 people have to pay this electric bill. They're
14 being told, Too bad. Pay up. We'll set you up on
15 a budget plan. That doesn't help out. They're
16 locked in for three months.

17 I'm mean, there's certain things we can
18 do. You know, the reason I want to know who has
19 it, can we -- before legislation starts, can we
20 make it mandatory that they have to put the last
21 twelve months' rates they charge? Because I
22 guarantee the consumer who's trying to do their
23 homework -- everyone says, do your homework.
24 There's an individual who went on, they did their
25 homework. They looked at it. They said, oh, PA

1 company, PAPowerSwitch has them on there, they must
2 be vetted properly, I'll take them. It doesn't
3 seem like a big chance, to find out they aren't
4 vetted properly. Can we put the last month, show
5 high and low? Can we put consumer reviews, like
6 Amazon does, so people could put on there? Because
7 I guarantee you, those two things alone, if we
8 don't need legislation, will stop these actions
9 from taking place.

10 Sorry for venting. But I'm getting
11 phone calls of women literally bawling, breaking
12 down in my office, not being able to pay their
13 bills. It's not just -- it's just not "they should
14 have known better." They thought they did know
15 better. And they trusted us. They trusted us in
16 the state of Pennsylvania to make sure they didn't
17 get ripped off.

18 We're allowing this to happen. We
19 allowed it to happen and justifying it by people
20 saying, Well, it's variable rate. They should know
21 better, that I'm in this company and I did well.
22 Well, good for them. And I'm not yelling at you.
23 But that's what I'm hearing from everybody across
24 the board. And, as I say, as a hot-tempered
25 Irishman sometimes, we don't give up. And this is

1 something that isn't going to go away, so we have
2 to do something.

3 Tell us, what can we do immediately,
4 and how can we fix this long term?

5 ACTING ADVOCATE MCCLOSKEY: Right. I
6 absolutely agree with you. It's not that people
7 should have known better; it's the fact that there
8 was not disclosure. There was not sufficient
9 information that was being put out there to the
10 consumer so that they knew better and knew or
11 understood the type of product that they were
12 getting into.

13 There are a lot of disclosure
14 regulations. There are disclosures in other areas
15 such as mortgages, truth-in-lending that be can be
16 used. I think we could do that now, but I think
17 legislation would reinforce the authority of the
18 PUC to require the types of disclosure, the types
19 of limits on variable pricing that should exist.
20 So, I agree with you 100 percent.

21 As to PAPowerSwitch, the commission
22 operates PAPowerSwitch, so you would have to pose
23 that question to them. But our office does offer a
24 shopping guide, through our website, and we mail
25 them out to consumers. And we put in many bold

1 "variable prices." If it's an introductory price
2 that only lasts two months, we put it in bold type
3 so that customers understand what's variable and
4 what's introductory. We try to separate out
5 those -- those offers so that customers understand
6 that.

7 I think the third problem is what you
8 also hit on, which is, we've had consumers call us
9 and say, I called my supplier in early January,
10 when I started hearing about, you know, the PJM
11 market prices, and they wouldn't tell me what price
12 I was being charged. So, they went to the website,
13 and they saw the current price, thinking that's
14 what they were going to get.

15 But I think there has to be disclosure
16 before a price is charged to a consumer. The
17 consumer has a right to know what they're going to
18 be charged for upcoming usage, not just after
19 they've used it all.

20 REPRESENTATIVE CONKLIN: Just to let
21 you know, when we talk variable pricing, here's the
22 way the lady explained it to me. She has a
23 business loan. Every five years, she knows that's
24 going to be readjusted variable price. It goes up
25 whatever the national rate is. She thought

1 variable price meant it would be much like mortgage
2 rates or other rates, when it changes, it changes 1
3 or 2 percent, not 120 percent overnight.

4 So, when people say they should have
5 known better, it's a variable rate; no. When
6 people deal with variable rates, they're used to
7 dealing with reputable companies that actually care
8 about the consumer.

9 And that's -- again, sorry for venting,
10 but I'm sure, you know, former representative Evans
11 knows, when you have people coming in, breaking
12 down bawling in your office, and you can't help
13 them because of something that we, as a
14 legislature, allowed to happen, you're just
15 absolutely beside yourself. And not intentionally,
16 this was not intentional by anybody here. We have
17 to fix it immediately.

18 And I guess I'm yelling so much, hoping
19 that my colleagues will feel sorry for me and shut
20 me up; we'll all work together and get it done.

21 Thank you.

22 ADVOCATE EVANS: Representative
23 Conklin, I think that our office also would be
24 willing to work with you or anyone who is putting
25 forth legislation to further enhance the

1 educational component to consumers and small
2 businesses.

3 One of the other tweaks that we would
4 like to see on the PAPowerSwitch website is that if
5 a company has been cited in the past legally, have
6 a bad reputation or bad track record, to have that
7 information also flagged on the website so that
8 consumers can see that this company, indeed, has
9 had problems in the past from a legal standpoint.

10 And so, those are changes that we
11 would, hopefully, be able to work together to make
12 happen.

13 MAJORITY CHAIRMAN ADOLPH: Thank you.
14 Representative Tom Killion.

15 REPRESENTATIVE KILLION: Thank you,
16 Mr. Chairman.

17 Ms. McCloskey, good to see you.

18 John, great to see you again. Hope all
19 is well.

20 ADVOCATE EVANS: Thank you.

21 REPRESENTATIVE KILLION: Quick
22 question. In the last hearing, there was a
23 question on Senate Bill 1121, the effort to try
24 to -- or they say, nudge consumers into shopping
25 for electric. And under this bill, they would

1 be -- if they didn't shop, they would be assigned
2 to a electric utility and, then, the consumer would
3 receive some money for that and the commonwealth as
4 well.

5 I'm just curious, either the
6 residential community or the business communities,
7 have you had any questions on that, or is no one
8 aware of it? And, two, do either of you have any
9 opinion or do your agencies have any opinion on
10 this legislation and how it would be good or bad
11 for consumers?

12 ACTING ADVOCATE MCCLOSKEY: Yes, I'm
13 aware of it. And we've had a lot of contacts or
14 seen a lot of contacts from consumers as well, but
15 we're very concerned about Senate Bill 1121. It
16 would eliminate the default service, which is the
17 stable price that we have now, that requires you
18 to -- and the product that we require utilities to
19 buy fixed price contracts over time, to try and
20 mitigate this type of market risk. So, our concern
21 is that this type of approach would raise costs to
22 consumers, both in the short term and in the long
23 term.

24 I think, to the point of the variable
25 price we spoke about, Senate Bill 1121, at the end

1 of that first twelve-month contract term, would
2 place all consumers who don't make an affirmative
3 choice onto a variable-rate contract and would
4 expose them to the risks of the market. And in our
5 view, that's not a positive thing for residential
6 consumers. And we think it's not necessarily a
7 positive thing for the commonwealth in terms of the
8 economic development.

9 ADVOCATE EVANS: Representative
10 Killion, we also do have some concerns about that
11 bill as it's currently written. I understand that
12 the sponsor, Senator Mensch, is looking to make
13 some changes into that legislation in the future
14 months, but as it is currently written, there's
15 really nothing in it that's attractive for small
16 business people in the way of reducing their rates
17 that we can see.

18 The problem I also have is the
19 two-dollar fee that's being charged to the -- being
20 assigned to the educational component isn't nearly
21 enough. As we can see with this issue with the
22 variable rate, consumers are confused. Consumers
23 do not understand the current environment properly.
24 And if we are going to make that type of a drastic
25 change on default service, it's going to require a

1 lot of heavy lifting on the educational side, and
2 the money that's being allocated isn't nearly
3 sufficient, in our view, to make that happen.

4 REPRESENTATIVE KILLION: Thank you.
5 And we both served with Senator Mensch when he was
6 over here, and I know his motives are pure and he
7 wants to do what's best for the consumer, and I'm
8 sure he'll be working with both of your offices as
9 well as us in the House as the bill moves forward
10 to make it a good consumer bill. And I look
11 forward to your input on that as well.

12 Thank you.

13 MAJORITY CHAIRMAN ADOLPH: Thank you.
14 Representative Donna Oberlander.

15 REPRESENTATIVE OBERLANDER: Thank you,
16 Chairman.

17 I was going through your materials,
18 Ms. McCloskey, and you had stated that the Office
19 of Consumer Advocate participates in utility merger
20 and restructuring proceedings. I'm wondering if
21 this includes the closure of power plants and the
22 potential impact this could have on both the cost
23 and reliability of power generation for
24 Pennsylvania residents.

25 ACTING ADVOCATE MCCLOSKEY: We

1 participate in proceedings that can be brought
2 before the Pennsylvania Public Utility Commission.
3 And the closure of power plants -- or before the
4 Federal Energy Regulatory Commission. And the
5 closure of power plants are not proceedings that
6 come before the Public Utility Commission or the
7 Federal Energy Regulatory Commission at this time.

8 We do participate, as a voting member,
9 in PJM, the interconnection, so we do actively
10 participate on committees that review the types of
11 analyses of the reliability of the system that go
12 on when a power plant closure is proposed.

13 But in terms of actual proceedings,
14 there aren't any that our office has the statutory
15 authority to participate in.

16 REPRESENTATIVE OBERLANDER: Thank you.
17 Thank you for the information.

18 Thank you, Mr. Chairman.

19 MAJORITY CHAIRMAN ADOLPH: Thank you.
20 Representative Mark Mustio.

21 REPRESENTATIVE MUSTIO: Thank you,
22 Mr. Chairman.

23 Thank you for testifying today.

24 John, good to see you again.

25 Both, if you could speak to your budget

1 requests and the number of positions that you'd
2 like to see filled, are there new positions being
3 requested? And if so, what are the
4 responsibilities that you'd like to see those new
5 people perform?

6 ACTING ADVOCATE MCCLOSKEY: We are not
7 requesting any new positions. We have a full
8 complement of thirty-five, but we've requested
9 funding for thirty-three positions, which two of
10 those positions are only being requested for
11 funding for half a year. So, at this point, our
12 request is to fund the thirty-three positions.

13 REPRESENTATIVE MUSTIO: And currently
14 you have twenty-seven of those filled?

15 ACTING ADVOCATE MCCLOSKEY: Currently,
16 we have twenty-eight of those positions filled.

17 REPRESENTATIVE MUSTIO: What are the
18 new positions? What do you see them doing?

19 ACTING ADVOCATE MCCLOSKEY: They
20 wouldn't be new positions. We've had some
21 departures through retirement of our regulatory
22 analysts, and we've had some of our support staff,
23 our paralegals, and our clerk typists that have
24 departed as well. So, we're trying to refill
25 positions that currently exist but staff members

1 have left.

2 REPRESENTATIVE MUSTIO: Okay.

3 ADVOCATE EVANS: Representative Mustio,
4 we'd like to have more staff, but it's not in our
5 budget for this year. We have seven people total
6 in our office. That would include four attorneys,
7 one administrator, one paralegal, and myself. We
8 don't anticipate any new hires over the course of
9 next fiscal year. We are going to keep the same
10 load that we have right now and the same
11 personnel.

12 REPRESENTATIVE MUSTIO: Could both of
13 you answer to me the process, if a consumer,
14 whether it be a business or an individual, reaches
15 out to you for assistance or has questions, do you
16 respond directly to them?

17 ACTING ADVOCATE MCCLOSKEY: Yes. Our
18 office -- we have a small call center. We have two
19 staff that work that call center. And we will take
20 in a consumer call, we'll respond directly to the
21 consumer. We will try to work with and we have
22 contacts with both the utilities and generations --
23 electric generation suppliers or natural gas
24 suppliers to try and resolve the problem for the
25 consumer.

1 If we are not able to satisfactorily
2 resolve the problem for the consumer, or if the
3 problem is something such as a termination or an
4 emergency, we then would refer the customer to the
5 Public Utility Commission, that has the authority
6 to handle formal complaints. So, we try to work
7 informally to find a resolution.

8 ADVOCATE EVANS: Yes. And we do work
9 in a similar fashion at OSBA, fielding calls from
10 small business when they have an issue that
11 arises. We also work with business groups in a
12 larger group format. We take those calls, try to
13 deal with them. We can work with the utilities as
14 necessary and the insurance companies as
15 necessary. If satisfactory arrangements are not
16 made, it can be referred to the PUC.

17 And in small business cases, it's
18 interesting to note that they do have a mediation
19 process at the PUC as it exists today, and it's not
20 necessary to always have an attorney on hand. So,
21 small business people do have recourse when they
22 have issues that arise that would require them to
23 interface with the PUC.

24 REPRESENTATIVE MUSTIO: Can you answer
25 how you would respond if a consumer does not like

1 legislation that was passed that was requiring them
2 to do something, that reached out to you to
3 complain about that?

4 I would assume it's not your position
5 to advocate for that change; is that correct?

6 ACTING ADVOCATE MCCLOSKEY: That's
7 correct. It's not our position to advocate for
8 that. We try to explain to the consumer what the
9 legislation does and what the benefits of that
10 legislation may be to them.

11 REPRESENTATIVE MUSTIO: Okay.

12 ADVOCATE EVANS: Again, legislative
13 action is taken, and our job is to follow that as
14 the rules and laws currently exist, and we don't
15 take an advocacy position one way or the other.

16 REPRESENTATIVE MUSTIO: Mr. Chairman,
17 if I may offer a suggestion as far as it relates to
18 the variable rates. Representative Killion and I
19 were speaking earlier about there are some other
20 industries, businesses out there that operate with
21 variable rates, and we were talking specifically
22 about the life insurance business, particularly.
23 And their disclosure forms are written in very
24 large print, with very large examples of what may
25 or may not happen. And they're required to have

1 signatures of the consumer as well as the person
2 making the proposal to them.

3 So, I think what this body would like
4 to see is, if you're having some sort of complaints
5 before we even hear them, if you could let us know
6 that and work with us along those lines, it would
7 be beneficial and offer some suggestions that
8 consumers are seeing in other areas of business as
9 well.

10 Thank you.

11 ACTING ADVOCATE MCCLOSKEY: Great.

12 Thank you.

13 MAJORITY CHAIRMAN ADOLPH: Thank you.

14 Representative Karen Boback.

15 REPRESENTATIVE BOBACK: Thank you,

16 Mr. Chairman.

17 Ms. McCloskey, how has your role as
18 consumer advocate changed with the exploration of
19 Marcellus shale and the dramatic development in the
20 natural gas industry in our state?

21 ACTING ADVOCATE MCCLOSKEY: I think the
22 role has changed in several respects. I mean,
23 first of all, our office does participate in all of
24 what are called the purchase gas cost proceedings
25 of our utilities that provides supplier of last

1 resort service. And one of the key issues that we
2 try to pursue in those cases is to be sure that our
3 gas companies are making use of the Marcellus shale
4 resources to keep the cost of gas low.

5 I think the second area that's become
6 much more active for our office is in natural gas
7 main extensions. With the explosion of natural
8 gas -- and on the other side of the coin, I'd say
9 with abandonment proceedings -- with the explosion
10 of the Marcellus shale gas, many more customers are
11 trying, in unserved areas, they're trying to have
12 natural gas mains extended to them. So, we've been
13 working with the utilities and through a number of
14 proceedings to try and come up with ways to make
15 that financially feasible.

16 And then, again, in the other areas,
17 just our efforts at PJM in terms of market prices
18 and the design of the markets as more of the
19 generation in PJM is turning to natural gas. You
20 know, there are a lot of issues that came up,
21 again, in January as to natural gas coordination
22 with gas supply had to be diverted for heating
23 versus for electric generation. So, we've been
24 working -- as a voting member of PJM, we do work in
25 the committees and work on the various rules and

1 protocols for PJM operations.

2 REPRESENTATIVE BOBACK: A specific case
3 that -- there's an area of contention right now
4 with the issue of royalty payments made to
5 landowners. And, of course, we know that was
6 recently requested to be investigated by the
7 attorney general, and this was requested by
8 Governor Corbett, Senator Scarnoti, Senator Yaw.

9 And my question is, have you or do you
10 expect your office or do you expect to become
11 involved in such matters, since you do have
12 oversight of public and consumer protection issues?

13 ACTING ADVOCATE MCCLOSKEY: Well,
14 our -- we are limited to representing utility
15 consumers. So, as landowners, the jurisdiction
16 there would lie with the attorney general's office,
17 who is investigating that issue.

18 REPRESENTATIVE BOBACK: Thank you very
19 much.

20 Thank you, Mr. Chairman.

21 MAJORITY CHAIRMAN ADOLPH: Thank you,
22 Representative.

23 Chairman Godshall, for some closing
24 thoughts.

25 REPRESENTATIVE GODSHALL: Thank you

1 very much.

2 I just want to say that the
3 variable-rate issue, I think we hashed out and
4 we're, you know, all in agreement we have to do
5 something there.

6 I just want to point out another issue,
7 the choice issue. With electric deregulation,
8 which most of us senior members, at least, voted
9 for, and I stand behind, you know, what we did at
10 that point.

11 But, you know, what seems to have been
12 lost in the whole issue is that if you stay with
13 your present supplier, you know, PPL, PECO, or
14 whoever, you haven't made a choice. You know,
15 that's lost in this whole argument.

16 And I do know, in Philadelphia, with
17 PECO -- and maybe not necessarily in Philadelphia,
18 but they had thousands of people that had left PECO
19 for another supplier, then came back. I mean, they
20 made a choice to come back to PECO. But we just
21 seem to have lost the sense that if I decide, if I
22 want to stay with PPL, I made a choice. But that's
23 lost in the whole argument.

24 And I don't know how -- you know, if
25 you agree with me or not, but I -- it's just --

1 it's just not there.

2 ACTING ADVOCATE MCCLOSKEY: I agree
3 with you 100 percent. That people can choose to
4 stay on default service, and there are many people
5 who have shopped and haven't found something that
6 suits their needs, so they choose to stay where
7 they are.

8 So, I agree with you. The fact that
9 people are on default services is not at all a
10 failing of default service or of the legislation
11 that we passed.

12 ADVOCATE EVANS: And Representative
13 Godshall, Chairman Godshall, the choice in
14 Pennsylvania, I think, is a good thing overall.
15 And, in fact, we are number two in the country as
16 far as consumers and businesses who take advantage
17 of it, right behind Texas. So, we've recently been
18 cited as number two in participation.

19 So, a lot of the public is getting it.
20 But, again, I think that the default service issue
21 is part of that legislation in that Senate bill
22 that is causing contention among many as to, you
23 know, do we want to take away that price to compare
24 and force people to default service provider that
25 they aren't necessarily choosing. And that is to

1 your point where they may choose to have the
2 provider that they've been with for many years, are
3 happy with that provider and want to stay there.

4 REPRESENTATIVE GODSHALL: And they made
5 a choice to be with that provider. And one of the
6 major problems I have with that Senate Bill 1121,
7 you know, you're taking away my ability to choose.
8 And so, I know, if there are to be changes made,
9 you know, and that and so forth, I'd like to see
10 them, but that's a major issue that I had there.
11 And as I said, I think this whole argument, the
12 fact that I choose to stay with my present default
13 supplier is not a choice, which I totally disagree
14 with.

15 So, thank you for your participation.

16 ACTING ADVOCATE MCCLOSKEY: Thank you.

17 MAJORITY CHAIRMAN ADOLPH: And thank
18 you, Chairman.

19 I want to thank Ms. McCloskey,
20 Mr. Evans, for your testimony today.

21 I want to thank the members for their
22 very informative questions and answers that we
23 received.

24 For the members' information, we will
25 reconvene today at 1:00 p.m., and before us will be

1 the Department of Environmental Resources.

2 Thank you.

3 (Whereupon, the hearing concluded at
4 12:03 p.m.)

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

BRENDA J. PARDUN, RPR
Court Reporter
Notary Public