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**ENERGY ASSOCIATION  
OF PENNSYLVANIA**

**Testimony Before the  
Senate Consumer Protection and Professional Licensure  
&  
Senate Environmental Resources and Energy Committees**

**Tuesday, June 12, 2007**

**On**

**Energy Policy for Pennsylvania**

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It is an honor to be before your two committees because you have held repeated inquiries and hearings seeking to assist the public in coping with what is occurring in the use and pricing of electricity. Just recently, Chairwoman White, your committee unanimously approved Senate Bill 76 sponsored by Senators Tomlison, Boscola, Musto, Stoudt and others, which for the first time, sought to provide energy assistance to the working poor under a specific definitive set of circumstances.

In your committees you seek to recognize the need to balance affordability of electricity with the reality that the government is not an unlimited source of assistance, you in essence recognized my first point, namely that in the world of electricity there are conflicts and trade-offs.

My parents taught me that if you want to become good at something, you need to practice, practice, practice, so I *practiced*. A word when broken down embraces the conflicting priorities that you as policy makers face in addressing electricity:

**P** PRICE

**R** RELIABILITY

**A** AFFORDABILITY

**C** CONSERVATION

**T** TIME OF USE RATE (Smart Meters)

**I** INFRASTRUCTURE

**C** COMPETITION

**E** ECONOMIC DEVELOPMENT

**D** DIVERSITY OF SUPPLY

These priorities are not always complimentary. For example, new alternative sources are not always reliable. A wind unit that works normally provides power 25% of the time, a solar unit, 15% of the time. They are not reliable, and because they are new technology, the price at their inception is always the most expensive and a backup source such as gas, for each is necessary.

In terms of potential conflicting priorities, I wish to focus on reliability. In the Competition and Electric Generation Deregulation Act, the word “reliability” appears twenty (20) times. In the Alternative Energy Portfolio Statute, it appears but only once (1). In the Energy Independence Initiative, the word “reliability” does not appear at all in Senate Bill 715 seeking to increase solar percentages, and only three (3) times in relation to the electric industry in Senate Bill 716.

Since society needs electricity to provide heat for homes, run hospitals, operate businesses, open schools, etc., reliability must be high on the list of priorities. Yet, the language of Senate Bill 716 seeks to place unnecessary restrictions on the production of electricity, and, these restrictions fail to recognize the importance of service reliability. This occurs despite the fact that electric distribution utilities provide more reliable service now than when Competition and Electric Generation Deregulation began over ten (10) years ago.

In other words, the intent and focus of ten (10) years ago on reliability worked. Senate Bill 716 takes two (2) major steps backwards on reliability in its two (2) procurement sections.

The entire language that appears in Section 3 of the Bill seeks to impose conflicting language on generation procurement that we do not believe will continue to produce improvements in generation supply nor produce the lowest reasonable rates over the long term. The imposed mandates of long, medium, and short term purchases in conjunction with the

restrictions on the type of supply amount to government planning that will substantially inhibit the development of efficient wholesale and retail generation markets. The so-called portfolio approach as presented in the proposed Bill creates significant regulatory and financial risk for utilities and their customers.

The language currently set-forth in the Competition Act requires default service providers to obtain electric energy at prevailing market prices. This current statutory phrase envisions auctions and other market driven attainment of generation. Reliability is a huge concern. In securing power, our record demonstrates that electric distribution utilities have maintained and improved reliability, while still incorporating new diverse alternative sources of supply. The second procurement issue we have with Senate Bill 716 is the language that appears on pages 7 and 8, which requires that any increase in either electrical usage or electrical demand be met by first demand side response, which is voluntary and then alternative energy. On the third day of a hot humid summer, we ask customers to volunteer and conserve energy, but we cannot be constrained to relying on volunteers and new alternative energy sources that are sporadic in operation. These two (2) procurement provisions threaten electric reliability by jeopardizing the critical electric generation. They do so at a time when electric generation retirements are exceeding new plant construction. They do so at a time when we have yet to find out how many older low cost coal units will be retired due to increased federal and state environmental rules. Pennsylvania law with its appropriate emphasis on reliability is currently followed. We ask you not to make our job to serve customers any more difficult by undermining our ability to ensure reliable supply of electricity for our customers.

In talking about reliability in this context, I am endeavoring to make you aware of generation reliability. Increases in energy usage and energy demand cannot be met with

potential volunteer demand side response and alternative generating units that run 15-25% of the time. These are not options designed for reliability. If a generating base load unit is closed down for whatever reason, neither energy nor that demand can be met with these suggested offering of demand side volunteers and/or non base load generation.

We as an industry do not object to language that permits long-term contracts between electric distribution companies and industrial customers if those contracts are voluntary and do not require subsidization by other customers. In addition, we support long-term contracts for acquisition of default service supply. We cannot support PEDA being in the purchase and sale of energy business. There is no reason unseasoned personnel should be inflating prices as what occurred in California.

As you requested, I turn to other provisions of the proposed Energy Initiative Legislation. The Energy Initiative properly focuses on the need for dramatic changes to encourage conservation through greater energy efficiency. Conservation is a high priority.

In discussing the importance of conservation and energy efficiency, I wish to use as guideposts two quotes; one from Senator Earll and one from PUC Chairman Holland, and two sets of statistics, one from the Census and the other from both current and previous attempts at the use of smart meters or time-of-use rates. To embark upon greater conservation and energy efficiency, we need to examine what we know about electricity consumers in the Commonwealth. As shown by the 2000 Census, we have an old housing stock in the state. Nearly 80% of the homes were built before the first energy crisis in 1979.

This means inadequate insulation, energy inefficient windows and doors, an absence of new technology like smart thermostats and inefficient water heaters, appliances, and inadequate wiring. This means that 80% of the homes out there have customers trying to cope with

increased energy bills without the benefit of energy audits in many cases, and quite likely with houses that leak energy like a sieve. Conservation is important no matter what fuel is used to heat water or heat a home.

Statistics show over 30% of the homes were built before 1939; some 1.5 million homes.

**Census 2000**

➤ 1939 or Earlier	30.3%
➤ 1959 or Earlier	54.6%
➤ 1969 or Earlier	66.0%
➤ 1979 or Earlier	79.5%
➤ 1989 or Earlier	89.6%

The Governor’s Energy Initiative discusses an appliance change out for refrigerators and air conditioners, which is a solid start and represents by their estimate an opportunity to save \$13 million a year. A good start, but if we are going to truly help the average Pennsylvania homeowner, we have to do more given our state’s old housing stock.

We have programs to assist conservation and energy efficiency, yet we do not coordinate our governmental efforts nor do we build a coordinated database on how best to help the vast majority of Pennsylvania residents that live in old housing stock. We have DCED receiving Department of Energy funds and DPW receiving Federal LIHEAP dollars. We have the PUC requiring energy efficiency/weatherization dollars be spent to assist customers by both gas and electric utilities; we have DEP awarding grants for energy efficiency projects. Most importantly, we have the Keystone Energy Loan Program out of the Treasurer's office to assist all Pennsylvanians regardless of income with low interest loans to make energy efficiency programs.

Senator Earll has stated "We keep creating programs that have similar – if not redundant – missions and then we're trying to find dollars to keep them all funded." I ask, what is the cost benefit for utility customers, oil consumers, and taxpayers.

Clearly, coordinating these programs more effectively to address conservation and energy efficiency would lead to many more people being assisted to actively save energy and money on their energy bills. If you are an electric consumer endeavoring to secure assistance with conservation and energy efficiency, you need to visit at least three governmental agencies and possibly two energy utilities. Would it not be better to secure funding for weatherization, or energy efficiency, or conservation through a one-stop visit? If we are serious about conservation as a priority, then we need to make it easier to help all consumers.

The Energy Initiative purports to have technology put in place to enable Smart Meters to function yet such technology comes with a price to consumers because the electric industry will need to invest well over a billion new dollars. Furthermore, the deployment of such technology requires significant expenditures by electric consumers in their homes to create two-way communication between appliances and the electric distribution companies. We can have two-way communications with our meters without direct expenditures by customers, but the actual communication with and control of appliances is on customers' shoulders. Finally, an advertising program is envisioned to educate consumers to convince customers to dramatically reduce their energy weekdays between noon and 7 p.m.

These concepts are not new. In Puget Sound, Washington, a major effort with time-of-use rates and smart meters was undertaken. I have provided you newspaper clippings that demonstrate that with these types of programs, some people save money and others do not and indeed end up paying more. This is an example of a widespread smart meter program that was cancelled due to consumer dissatisfaction in part because it was oversold.

Currently, in Pennsylvania there are pilots using time-of-use rates. These pilots utilize people committed to attempting to change their energy use patterns. The results of these pilots show that dedicated people can, overall, see some favorable change in rates and usage but there are winners and losers.

This excerpt from PPL's report to the Commission is indicative of what has occurred in Pennsylvania. "The On-peak usage by individual customers over the summer months ranged from 32.2% to 6.5%. Participants saved, on average, only \$10.31 during 2005. If we look only at the 242 customers who saved, we find an average of \$20.64 with a range of \$147.44 to \$0.02. A total of 101 customers actually paid an average of \$13.79 more for electricity as a result of their participation with a range of losses from a minimum of \$0.07 to a maximum of \$69.63." It is important to recognize that PPL was reporting on the results of a small pilot program. Nevertheless, the results provide some valuable insights, including the usefulness of implementing pilot programs before broad deployment of conservation programs.

As these results demonstrate, there is the potential for savings from dedicated conservation oriented consumers, yet even among these dedicated, there are winners and losers. Clearly, people losing money will not continue to alter their usage to assist in achieving demand reduction. This amplifies the correctness of Chairman Holland's statement provided last week, namely that "the smartest part of the meter is the customer."

The Pennsylvania electric distribution utilities have been active participants in the Commissions dockets on time-of-use rates. The result has been that the infrastructure for voluntary use of time-of-use rates through automated metering infrastructure has far greater deployment in Pennsylvania than any other state.

In the final analysis, neither the smart meter (even with two-way communication), nor the ad campaign to encourage shifting of use by the average consumer can achieve significant cost savings until we tighten up energy usage in the average old housing stock, and rates reflect actual generation costs thereby sending the proper price signals. Only then will customers have an adequate incentive to cut demand and reduce usage. Placing a time-of-day meter that charges consumers 80 cents a kwh in the peak summer time and \$.02 a kwh during the late evening and on weekends can and will cause a variety of consumer reactions as PPL found.

Last week, the Pennsylvania consumer advocate testified that residential consumers do not want their bills changing frequently. Having rates change hourly is anything but stable. As you are aware, the Pittsburgh industrial users who came out from under Duquesne Light's rate caps chose not to take advantage of the time-of-use rates and hourly adjustments because they wanted to know that the price would not fluctuate. This is, in part, why they say they want long-term fixed price electricity contracts.

Since no state governmental building utilizes time-of-use rates and further residential and large industrials want rate stabilization and not hourly pricing, it is unclear where the widespread deployment is going to occur.

As the attached chart from the Energy Initiative shows, there are significant assumptions related to altering electricity demand ranging from \$230 to \$750 million a year. This level of “so called” savings is not likely to occur. No widespread demand side program has achieved a 3% reduction much less 5%. Please review the articles that cover the Washington state Puget Sound Program where hundreds of thousands of customers were involved. In small pilots in California, there have been some savings but this is the typical program among committed conservationists and not the overall public. How many of your constituents are going to adjust their energy usage by going to computers and deciding what to use in terms of day ahead prevailing time-of-day electric rates that will change daily and monthly? If residential consumers want budget bills and stable rates, why are they going to want hourly pricing changes? If industry needs stable long-term contract rates to price their products, why are they going to embrace hourly wide ranging changes in their rates?

## **Energy Independence Strategy Savings**

**Overall: \$10 Billion Over 10 Years ???**

### **Examples of studies, not real pilot test results:**

➤ PJM/DEP Study: 3-5% cut in peak demand	\$230M/Yr
➤ CMU Study: 5% cut in base demand	\$750M/Yr
➤ CMU Study: Micro grids serving 5% of load	\$546M/Yr
➤ Cool Appliances Swap	\$ 13M/Yr
➤ PA Sunshine	\$ 10M/Yr

Source: Pennsylvania Energy Independence Strategy

First PJM and MADRI did a “recent study” released this year that a widespread Demand Side Response Program would not save anywhere near these levels for the entire Mid-Atlantic region, let alone Pennsylvania itself. The Puget Sound experience illustrates that the savings are marginal, not enjoyed by everyone and not sustainable over time. Clearly, without addressing the loss of energy by the older housing first, there will not be widespread savings from the use of smart meters given the costs of installation for both the utility and the home or business owner.

As shown in the Energy Initiative breakdown, micro-grids are assumed to provide over 50% of the alleged savings. Yet, at the present time, there is possibly one micro-grid in the entire state, which can not even cover its own peak period. It is highly unlikely that allowing these micro-grids to spring up will have nearly the positive impact projected by some, especially when they are outside the Pennsylvania Utilities Commission’s jurisdiction – which jurisdiction

would, ensure safety and reliability. To permit these facilities to be exempt from the requirements of the Alternative Energy Portfolio Act translates into building micro-grid units with the fuel type employed as either diesel or natural gas, which will not save consumers money but rather, add to both electricity and natural gas prices.

The system benefits charge impacts those who are in utility CAP Programs and/or receive LIHEAP. The purposes or uses for such a “system benefit tax” are critical. While other states do permit such taxes, a designated portion is set aside as a fund for supplemental energy assistance for the poor and indeed working poor. In addition, the structure of this charge creates a tax on a tax which needs remedied. Every commercial and industrial customer who pays a sales tax and a gross receipts tax on the total bill would now pay those taxes on the societal benefits tax as well. A tax on a tax is not helpful in holding electric rates down.

If we are truly seeking to protect residents from electric price spikes, should not tax dollars go to assist those most likely to need assistance? This potential for assistance to the poor is set forth in Senate Bill 716 and that purpose needs to be strengthened through a specific allocation to supplement energy assistance funds. Many of the states that employ this type of tax use it to expand eligibility for energy assistance between 175% and 200% of the Federal Poverty Level as many of you have suggested to occur in Senate Bill 76.

In conclusion, I thank you for your continuous interest in seeking to positively address electricity use in the state. As I noted at the beginning of my testimony, there are many factors that impact the public interest which are not always compatible with one another, price, reliability, new diverse sources of supply, conservation, affordability, economic development are examples. In your deliberations, you will likely need to prioritize which of these goals trump others in the final analysis... as you also seek to eliminate unintended results.

The following proposed new levies are additions to the electric energy costs of Pennsylvania consumers:

- (1) A system benefit charge or tax
- (2) Costs of smart meters
- (3) Back-up costs for micro-grids
- (4) Departure from legislative concerns about reliability
- (5) Additional increases in natural gas costs as increased back up to alternative sources and micro-grids

As I noted earlier in my testimony, the two procurement provisions of Senate Bill 716 directly harm reliability and are as costly as they are confusing. We are convinced that arm length long-term contracts negotiated between major industrials and the industry serve the public interest.

Conservation of all fuels needs to be encouraged and to do so efficiently recognition must be accorded to providing sufficient price incentives to customers. And, coordination of all existing programs leads to better utilization of tax funds. Please understand that smart meters can help but there will be ratepayer winners and losers, and there is a significant cost to smart meter deployment.

It is your decision whether an additional energy tax is necessary. However, if you decide to say yes to that issue, I would urge you to address the needs of our poor and working poor by allocating a specific portion of any new bond proceeds to supplement inadequate Federal Energy Assistance programs. Repeatedly, over the years the members of these two committees have

shown a compassion for both the poor and the working poor as most recently demonstrated in your sponsorship of Senate Bill 76. Faced with volatile energy markets caused by escalating fuel prices in oil, gas, coal, I would suggest that assisting those most vulnerable is the most laudable of priorities. I will be happy to answer your questions.

**J. Michael Love**  
**President and Chief Executive Officer**  
**Energy Association of Pennsylvania**

J. Michael Love serves as President and Chief Executive Officer of the Energy Association of Pennsylvania (EAPA), headquartered in Harrisburg. His more than 30 years as a utility executive and regulator provides the trade association with the necessary public policy expertise to represent the interests of the Commonwealth's 18 Public Utility Commission-regulated electric and natural gas distribution companies that provide service to more than 8 million commercial, industrial, and residential customers.

For more than 15 years, Mr. Love held increasingly more responsible executive level positions with Citizens Communication Company (formerly Citizens Utilities), which included service as President and Chief Operating Officer of the electric, gas, water, wastewater and propane operations of Citizens in 11 states including Pennsylvania. These operations involved serving the utility needs of 3 million people.

Prior to entering the corporate arena, Mr. Love was appointed Chairman of the New Hampshire Public Utilities Commission, and in that capacity, he served as President of the New England Conference of Public Utility Commissioners. In addition, he served as consumer advocate in New Hampshire.

His accomplishments have been nationally recognized by two of America's leading newspapers. In 1983, USA TODAY named Mr. Love as "Person of the Year" for the State of New Hampshire. As the state's PUC Chairman, the WALL STREET JOURNAL profiled Mr. Love.