

Prepared Testimony of

James H. Cawley
Chairman
Pennsylvania Public Utility Commission

before the

Senate of Pennsylvania
Consumer Protection & Professional Licensure Committee

Advice and Consent to An Additional
Term of Five Years Pursuant to
the Governor's Nomination of February 12, 2010

June 9, 2010



Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265
Telephone (717) 783-1740
Internet Home Page <http://www.puc.state.pa.us>

Chairman Tomlinson, Chairwoman Boscola, and members of the Committee, thank you for this opportunity to appear before you today as Governor Rendell's nominee to serve an additional five-year term on the Public Utility Commission, and to respectfully ask for your favorable consideration.

Having just completed a term on the Commission, during which many difficult and controversial decisions had to be made, I ask you to understand that the PUC is likely the most misunderstood administrative agency of Pennsylvania government. It must *balance* the needs of consumers and public utilities, which often means that no one is completely satisfied with the result. In fact (and perhaps unavoidably), many believe that the PUC's only function is to raise rates, when in fact ratemaking consumes perhaps 1% of our time (and is never a happy task), with the remainder of our efforts dedicated to auditing utility books of account and property records; ensuring trucks, buses, and taxicabs operate safe equipment and possess liability insurance should they injure anyone; inspecting railroad track, equipment, and procedures; adjudicating customer service and billing disputes with utilities; implementing and enforcing legislative mandates with regulations; making payment arrangements for financially troubled customers and overseeing customer assistance plans administered by utilities; ensuring safe operation of public utility pipelines; and performing dozens of other functions within our broad jurisdiction, *all in the public interest*.

I have unbounded gratitude and respect for our dedicated engineers, rate and financial analysts, auditors, enforcement officers, pipeline safety inspectors, lawyers and Administrative Law Judges, consumer service representatives, prosecutors, mediators, economists, and support staff who labor day-in-and-day-out to serve the people of Pennsylvania, often unappreciated and unfairly scorned.

Since appearing before you five years ago, I can report several successes (certainly with much help from my colleagues and Commission staff members), but also unfinished tasks and challenges ahead. I note particularly the Commission's success in implementing legislative mandates mentioned in my 2005 confirmation hearing testimony:

- The Commission has completely and timely implemented the provisions of the Alternative Energy Portfolio Standards Act of 2004 and Act 129 of 2008. Both were enormous, complicated undertakings, and both require ongoing efforts. The Commission has cooperated on an unprecedented level with the Department of Environmental Protection, and I personally have worked hard to jumpstart solar and wind projects in Pennsylvania so that the legislative goals of the AEPS Act are fulfilled at least cost to rate payer and jobs are created in the state.

- Pennsylvania's Electric Choice law is the best in the nation, and it was implemented in the mid-1990's better than any other state implemented its electric generation restructuring law. After more than a decade of rate caps, the Commission has overseen the transition to retail and wholesale market prices in all but the PECO, Allegheny Power, Met-Ed, and Penelec service territories. Which is to say, much work needs to be done, but, so far, the Commission has devoted a great deal of time and effort to educating the public and ensuring a smooth transition, even though the Commission lacks jurisdiction over wholesale electricity prices (a direct pass-through of competitively bid costs as required by federal law—about 70% of a typical customer's bill).
- The Commission has successfully (and I believe sensibly) implemented Act 201 of 2004, which added Chapter 14 to the Public Utility Code, dealing with billing, deposits, collections, terminations, and reconnections of utility service.

Unfinished tasks and future challenges include the following:

- As noted, with the expiration of rate caps in the final four electric distribution company territories, a smooth transition to market rates and the creation of a vibrant and fair competitive market for electricity so customers will have their choice of lower rates and innovative product offerings.
- A more competitive natural gas choice market, following the Commission's report to the Legislature and working group recommendations. The Commission has initiated rulemakings and issued interim guidelines, all of which are intended to reduce market barriers to competition. An Office of Competitive Market Oversight (OCMO) has been formed and has been functioning for some time to correct deficiencies in the natural gas and electric competition.
- Reorganization of the Commission pursuant to the provisions of Act 129 of 2008. A thorough study was commissioned and awaits consideration by a full complement of five commissioners. When those deliberations are complete and discussed with our key staff, we shall submit our conclusions and recommendations to this Committee and its House counterpart before any implementation.

- Oversight of electric utility energy efficiency and conservation plans, smart meter deployment, and implementation of time-of-use and real time pricing plans.
- Coping with significantly increased levels of rate cases, caused in great measure by the deleterious effects of the economic downturn on utility pension programs, the need to upgrade existing distribution infrastructure to ensure reliable service, and the need for some electric and natural gas distribution companies to “catch up” after not filing rates cases for several years.
- Expanded jurisdiction to inspect non-public utility gathering lines under federal standards (and with substantial federal financial support), a problem made more imperative by the expansion of Marcellus Shale drilling in the state.
- Enactment of other infrastructure replacement legislation, including a natural gas distribution system improvement charge (DSIC) and a waste water collection system improvement charge (CSIC), both modeled on the very successful water DSIC which the Commission has prudently implemented for over a dozen years (and which has become a model for the nation).
- Ensuring final broadband deployment under Chapter 30 of the Public Utility Code by 2013 by Windstream and CenturyLink, and by 2015 by Verizon and Verizon North (the remaining rural local exchange carriers completed deployment by the end of 2008).
- Protection of Pennsylvania’s interests if the Federal Communication Commission’s recently announced National Broadband Plan is implemented. The Plan has grave implications for Pennsylvania’s landline telephone ratepayers and Incumbent Local Exchange Carriers. As one of four state public utility commissioners appointed to the Federal-State Joint Board on Universal Service (and the only one of the three from a net contributing state to the federal Universal Service Fund), I shall work diligently to protect Pennsylvania’s interests.

Finally, I gratefully acknowledge the support and cooperation of my colleagues with whom I have been honored to serve the past five years. Diversity of viewpoint, experience, education, and knowledge was intended by the Legislature in creating the PUC as a multi-headed independent administrative agency. We therefore do not always agree (as was expected), but we have managed to be

collegial and deliberative as we strived to produce decisions in the public interest. It has been a genuine pleasure serving with such persons of integrity and honesty.

From my inquiries with others, and my conversations with John Coleman, I know that he, too, is a man of integrity and honesty. I am confident that he brings valuable experience, knowledge, and informed viewpoints to the work of the Commission, and that he intends to work diligently on the problems before us. I am certain that he will be collegial, which is an essential prerequisite to serving faithfully and well on a deliberative body. I urge your favorable consideration of his nomination.

With your approval, I look forward to serving with John and with my dedicated colleagues, Vice Chairman Tyrone Christy and Commissioners Wayne Gardner and Robert Powelson.

With all this in mind, and with the utmost respect for you individually and the institution of the Senate where I began my career in dealing with public utility issues in the mid-1970s, I ask that you favorably report my nomination to the full Senate. In any event, thank you for your thoughtful consideration. I would be happy to answer your questions.