



Testimony

Submitted on behalf of the
Pennsylvania Chamber of Business and Industry

Informational Hearing on House Bill 11

Before the:
House Consumer Affairs Committee

Presented by:
Kevin Sunday
Director, Government Affairs

Harrisburg, PA
April 8, 2019

417 Walnut Street
Harrisburg, PA 17101-1902
717.720.5443 phone
<http://www.pachamber.org>

Chairman Roae, Chairman Matzie, and members of the House Consumer Affairs Committee,

Thank you for the opportunity to testify on behalf of the Pennsylvania Chamber of Business and Industry, the largest, broad-based business advocacy organization in the Commonwealth. My name is Kevin Sunday, Director of Government Affairs.

The PA Chamber's Consistent Support for Nuclear, Competitive Markets and Energy Choice

The PA Chamber supports the nuclear industry in Pennsylvania for its valuable contributions to the economy. We have taken strides over the years to support the industry, along with the other abundant and diverse resources available to us in this state, which include coal, oil, gas and renewables. These strides include:

- Joining with leadership of the administration, House, Senate and organized labor in support of relicensing Exelon's Peach Bottom Nuclear Generating Station¹;
- Successfully securing changes to DEP's regulations governing spill reporting and storage tanks at nuclear facilities to address the industry's concerns²;
- Advocating that military bases overseas look to nuclear as one alternative to Russian-sourced natural gas³;
- Arguing in various letters, filings and Congressional testimony that the Obama administration's draft and final versions of the Clean Power Plan regulation did not appropriately recognize nuclear for its role in securing emissions reductions⁴; and
- Supporting a change to the regional grid operator's PJM Interconnection pricing rules, which will have the effect of increases energy prices paid to generators.⁵

In addition, the PA Chamber was one of four organizations (along with the Allegheny Conference on Community Development, the Pennsylvania Building and Construction Trades Council, and the Greater Philadelphia Chamber of Commerce) who partially sponsored an economic report prepared by the Brattle Group which estimated the economic value of Pennsylvania's five nuclear power plants.⁶

However, the PA Chamber cannot support House Bill 11. This legislation is in clear conflict with our organization's energy policies, which are developed and approved by a Board of Directors whose membership comprises executives from companies of all sizes and industrial categories, including the energy

¹ "Among those speaking or standing with the Exelon congregation were Mike Turzai, speaker of the state House; Pat McConnell, acting secretary of the state Department of Environmental Protection; Gladys Brown, chair of the Pennsylvania Public Utility Commission; and Gene Barr, president of the Pennsylvania Chamber of Business and Industry." Exelon to Seek Permission to Operate Peach Bottom Nuclear Plant Until 2054. LNP, June 7, 2016.

https://lancasteronline.com/news/local/exelon-to-seek-permission-to-operate-peach-bottom-nuke-plant/article_6b99981e-2cd0-11e6-a4c6-d789b89f5eda.html

² 2018 Revisions to Pennsylvania's Storage Tank Regulations. Pennsylvania Department of Environmental Protection. <https://www.dep.pa.gov/Business/Land/Tanks/Revisions%20to%20Pennsylvania's%20Storage%20Tank%20Regulations/Pages/default.aspx>

³ Letter to the editor: These are the necessary steps for energy security. Pittsburgh Post-Gazette, Aug. 7, 2018. <https://www.post-gazette.com/opinion/letters/2018/08/07/These-are-necessary-steps-for-energy-security/stories/201808070007>

⁴ "Further, nuclear power, itself a carbon-free resource that does not have the intermittency of solar and wind, is undervalued and treated inequitably in EPA's proposed Building Blocks [of the draft Clean Power Plan]." Testimony before the United States House of Representatives Committee on Energy and Commerce re EPA's 111(d) Rule for Existing Power Plants. April 14, 2015. https://pachamber.org/advocacy/legislative_agenda/communications/PA_Chamber_Whitfield_Hearing_Testimony.pdf

⁵ PA Chamber Endorses Changes to Regional Electricity Market Pricing Rules. Feb. 27, 2019. https://pachamber.org/media/2650/Regional_Electricity_Market_Pricing_Rules_022719/

⁶ Pennsylvania Nuclear Power Plants' Contribution to the State Economy. The Brattle Group, December 2016. http://files.brattle.com/files/5732_pennsylvania_nuclear_power_plants_contribution_to_the_state_economy.pdf

industry. In part, our energy policy directs us to support legislation that encourages competition in electric markets, allows individual companies to select the most appropriate energy source that meets their needs and goals, and avoids government actions that select, force or subsidize particular energy resources.

The PA Chamber opposed the creation of the original Alternative Energy Portfolio Standards Act in 2004 out of concern for the cost it would impose on ratepayers and that it would distort the market, as it very clearly has. House Bill 11 does not alleviate either of those two issues; instead, this legislation will impose significantly higher costs on ratepayers, stifle innovation, erode competitive markets, and diminish Pennsylvania's ability to attract new investment.

Background and Overview of House Bill 11

House Bill 11 amends the state's Alternative Energy Portfolio Standards Act to include a new obligation for electric transmission and distribution utilities, which serve in total 5.8 million residential, commercial and industrial ratepayers, to purchase credits from a specific set of energy resources equivalent to 50% of the electric demand served in their territory. Electric utilities would immediately pass on these costs to their customers, resulting in a total increase in cost to ratepayers of at least \$500 million per year. This 50% mandate is in addition to the existing 18% mandate for Tier 1 and Tier 2 renewable resources, meaning that for most of Pennsylvania, 68% of the market would be subject to government mandates.

The power generation facilities who would generate the Tier 3 credits and thus be eligible for compensation, generally, are those that not fossil-fuel powered and commit to operate in the program for six years (though there are a number of criteria outlined in the legislation allowing a resource that receives Tier 3 credit payments to shut down or retire regardless). As the bill is written, the Public Utility Commission will ultimately decide which resources qualify to be paid for these Tier 3 credits. Qualifying resources would be paid regardless of whether or not they are competitive in the regional energy markets. The eligibility criteria, while not specifically exclusive of out-of-state resources, are written in such a manner that it can reasonably be expected that Pennsylvania's five nuclear generation facilities (Beaver Valley, Limerick, Peach Bottom, Susquehanna and Three Mile Island) will comprise nearly all of the 50% requirement. The legislation also requires the PUC to secure additional payments from customers to Tier 3 resources should the Federal Energy Regulatory Commission, through its review of capacity markets, direct the regional grid operator PJM to remove subsidized resources from the capacity markets. These costs are estimated to be another \$100 million per year, in addition to the \$500 million cost for Tier 3 credits. The brunt of these costs will be borne by the commercial and industrial sector.

HB11 Will Cost Ratepayers More than Half a Billion Dollars per Year

Electricity users are generally characterized into three segments: residential, commercial and industrial. While each of these are also responsible for roughly one-third of electricity demand in Pennsylvania⁷, costs are not equally shared. It has historically been the case, due to load factors and other designs of ratemaking, that commercial and industrial electric rates are higher than residential rates. As written, House Bill 11 will place a disproportionate burden on commercial and industrial ratepayers. These businesses and manufacturers will see increases of between 5% and 15%. Depending on the type of facility, these costs could range from nearly \$500,000 annually for a large hospital to \$4.8 million annually for an energy-intensive manufacturer. Given Pennsylvania's already burdensome tax, regulatory, legal and labor policy climate, the legislature should seriously question whether it wants to give manufacturers and businesses another reason to export their investment to another state. The legislature should also be aware, given the perpetual discussion around education funding in this state, that this bill will impose millions of dollars of costs on colleges, universities and K12 institutions, leaving school boards and college boards of trustees with the option of cutting staff or raising tuition or property taxes.

⁷ Retail Sales of Electricity by State by Sector by Provider. U.S. Energy Information Administration, Jan. 15, 2019. <https://www.eia.gov/electricity/data/state/>

Estimated annual costs for the Tier 3 credits are \$500 million. It must also be noted that a section of the bill addresses what would happen should FERC direct PJM to remove subsidized resources from capacity auctions. The bill would require PUC to direct revenues from ratepayers to such resources and pay them as if they cleared the auction anyway. It is estimated for the next three years this will be an additional \$100 million per year, with the brunt imposed on commercial and industrial customers who employ hundreds of thousands of workers. It must be noted that while Pennsylvania is a net exporter of energy, meaning our produced power benefits neighboring states, all of the cost in implementing this legislation will fall solely on Pennsylvania.

Further, concurrent with the regional grid operator's reliability analysis, there are no credible reports that indicate the grid is facing a reliability issue should the Three Mile Island and Beaver Valley be decommissioned. In its Nov. 2018 analysis on fuel security⁸, which examined dozens of scenarios accounting for changes in the fuel mix, disruption in supply, changes in customer demand, deactivation of power plants and the stress of severe weather, the grid operator found "no imminent threat" to reliability. More broadly, we are not facing a situation in which all five of the state's nuclear power plants are imminently on the brink of closure but for the enactment of this bill.

HB11 Stifles Innovation & Erodes Competitive Markets

When the state enacted the Electric Generation Customer Choice and Competition Act, ratepayers (once they paid billions of dollars in stranded costs to the owners of the power plants) were no longer on the hook for the performance of generation assets. Investors were. Not only did competition save Pennsylvania ratepayers billions of dollars in the two decades since, there has been a noted environmental benefit as well. As plants were forced to become more efficient, environmental performance improved as well. The state has seen significant reductions in NAAQS criteria pollutants since deregulation, as competition paired with regulation resulted in improved air quality.⁹ The capacity factors of nuclear plants dramatically increased as well, as plants such as Three Mile Island soon saw net increases of more than 30% in efficiency as a result of competition. This bill will reverse that paradigm and reward less efficient operation at power plants.

Mandating the use of particular energy resources today diminishes the possibility of new resources entering the market tomorrow. HB 11 will also preclude the entrance of new generation and energy resources into Pennsylvania's market. These include carbon capture, hydrogen and natural gas fuel cells, small modular reactors, battery technology and other resources not yet even contemplated.

Many PA Chamber members have sustainability goals. Investors are making decisions based on companies' rankings on environmental, sustainability and governance criteria. In some cases, executive compensation is partially tied to achieving such goals. But companies in need of energy must have the choice to select the energy resource that works best for that company and its facilities' operating profile, and companies who develop energy solutions must have the ability to compete in the first place.

Advocates of HB 11 argue the playing field is not level. We agree at least in one respect: in contrast with the regulated electric utilities and their ratepayers, rural electric cooperatives do not pay the gross receipts tax, are not subject to PUC oversight, and are not subject to the Alternative Energy Portfolio Standards Act's mandates. We opposed the original AEPS and we oppose the expansion of it. The solution to market distorting policy is to eliminate the distortions, not add additional ones.

⁸ Fuel Security: Analyzing Fuel Supply Resilience in the PJM Region. November 2018. <https://www.pjm.com/-/media/committees-groups/committees/mrc/20181101-fuel-security/20181101-pjm-fuel-security-summary.ashx?la=en>

⁹ National Air Quality: Status and Trends of Key Air Pollutants. United States Environmental Protection Agency. <https://www.epa.gov/air-trends>

HB 11 Will Discourage New Investment in Pennsylvania and Encourage Further Exit of its Manufacturing Base

Not only will HB 11 preclude investment into new technologies in Pennsylvania, it will, by virtue of the significant cost to power users, discourage new investment into Pennsylvania and encourage existing commercial, industrial and manufacturing facilities to leave the state.

The PA Chamber has advocated over the past two years that its energy resources, leveraged correctly and in partnership with federal and state tax and regulatory reform, can secure more than 100,000 new jobs and increase state GDP and state revenue collection by billions of dollars.¹⁰ Federal tax reform is also proving to be a catalyst for growth. But both of these competitive advantages will be overtaken by the cost increase to businesses and manufacturers this bill imposes should it be enacted.

In closing, thank you for the opportunity to testify on behalf of our members today. We encourage this committee and the legislature to turn the focus away from considering policies, be they a severance tax, energy taxes, or this bill, that raise the cost of electricity for consumers and businesses, and instead pursue pro-growth policies that foster greater economic opportunity for all Pennsylvanians. I look forward to answering any questions you may have.

¹⁰ Forge the Future: Ideas for Action. October 2018. <https://paforgethefuture.com/pdf-2/Pa-Forge-The-Future-2.pdf>