

Testimony of Glen R. Thomas¹ on House Bill 11
Before the House Consumer Affairs Committee
April 8, 2019

In 1996, the Commonwealth declared that competitive electricity markets were in the best interests of consumers and, since that time, consumers in Pennsylvania have reaped the benefits of historically low power prices, unprecedented reliability, reduced emissions and greater choice. Pennsylvania's homes and businesses have been the beneficiaries of strong bipartisan support for competitive markets that render Pennsylvania the envy of the region, nation and world. House Bill 11 represents an unfortunate and unnecessary reversal of this progress and should be rejected.

Why did Pennsylvania restructure?

Prior to the Electricity Generation Customer Choice and Competition Act of 1996, Pennsylvania's electricity rates were 15-20% above the national average and we thought we could do better. Policymakers recognized at the time that electricity rates were a jobs issue. As Governor Ridge said in 1996, "Low cost electricity is an enormously powerful economic development tool. I have heard it time and time again from some of our largest employers – and I've heard it from some employers who have looked to Pennsylvania as a place to do business."²

In the mid-90's wholesale power prices were dramatically below the regulated retail rates that Pennsylvania's consumers were paying. Because of the regulatory structure in place at the time, consumers were trapped in a regulatory model that forced them to pay rates dictated by the Public Utility Commission. The only real choice that consumers had was to consume or not consume. Clearly, there was a better way.

¹ I am currently President of GT Power Group and served as Chairman of the Pennsylvania Public Utility Commission from 2001-2003 and as Commissioner from 2003-2005. The views expressed in this testimony are solely mine and do not necessarily reflect the views of any GT Power clients with respect to any issue.

² Remarks of Governor Tom Ridge to the Pennsylvania Energy Association, Sept 18, 1996.

The General Assembly and Governor Ridge seized the opportunity. Together, they enacted legislation that gave the Public Utility Commission a tall task – restructuring all of the state’s electric utilities so electricity generation was no longer a vertically integrated monopoly, but rather a competitive service. The Commission did exactly that and it was not easy. Long hours, contentious negotiations, difficult compromises, tough decisions and tremendous leadership from then PUC Chairman John Quain ultimately produced restructuring orders for all of the Commonwealth’s electric utilities.

The most significant and contentious issue raised during these restructuring settlements was stranded costs. Stranded costs represented the costs associated with investments in generation by utilities that would not be recoverable in a competitive market. Utilities made significant investments in generation with the expectation that those costs would be recovered from consumers over time. Deregulation was cutting that projected recovery time short. As a result, most all utilities agreed to cap their electricity rates during a transition period over which stranded costs would be recovered. Eventually, all utilities recovered their stranded costs and the rate caps were lifted. Combined, Pennsylvanians paid \$11.6 billion in stranded costs associated with power plants owned by utilities. \$8.6 billion of those stranded costs were attributable to the nuclear fleet – some of that money even flowed to nuclear plants located outside of Pennsylvania.

By January 1, 2011, the transition of our utilities to competitive generation was complete. All stranded costs obligations were paid off and capped generation rates were a thing of the past. It took over a decade and nearly \$12 billion to get Pennsylvania’s consumers and utilities in position to fully benefit from a competitive electricity market, but Pennsylvanians were well positioned to reap the benefits as a result of these efforts. Consumers now had a choice – continue to receive “default” generation service from the utility or seek an alternative energy supplier. Among other things, consumers could purchase 100% renewable options or choose to do nothing and remain with the utility. The beauty of a competitive market is that consumers are in control and they are the ones who drive the market. Likewise, utilities who owned the plants were free to keep or sell them having virtually all of their capital costs paid off via stranded cost recovery.

Was electric restructuring successful?

As a result of the hard work and legislative foresight, Pennsylvanians have enjoyed success that may be unmatched anywhere in the country. Consider the following remarkable items:

- Pennsylvania's electricity rates that were 15%-20% above the national average before competition are now consistently below the national average.
- Over 2 million residential consumers have selected alternative suppliers and virtually all industrial consumers are currently purchasing power from competitive suppliers.
- In most parts of the Commonwealth, consumers can purchase 100% renewable generation at prices below the utility's price to compare.
- PJM's grid, in which Pennsylvania is a member, has more fuel diversity than ever and reserve margins (a measure of reliability) are at all-time highs.
- Carbon, lead, mercury, sulphur and other pollutants' emissions from the Pennsylvania power sector have all plummeted over the last two decades.
- In the last ten years, thirteen new power plants representing over \$8 billion in investment and employing thousands of Pennsylvania construction workers have been built in the Keystone State.
- The risks associated with the development and financing of new generation facilities have shifted from the backs of ratepayers to the balance sheets of investors. All new powerplants being built in Pennsylvania are being built with at risk capital – no ratepayer guarantees.

The progress has been extraordinary. Pennsylvania should be rightfully proud of the numerous benefits that restructured markets have brought to the Commonwealth. Two decades of bipartisan regulatory and legislative support for electric competition has placed Pennsylvania in an envious position. As the current chair of the Commission, Gladys Brown, appropriately observed, "...Pennsylvania has stood on the national forefront of electric competition, putting the power of choice in the hands of consumers and giving them greater control of their electric bills.....As result of this historic legislation, millions of electricity customers have made choices and saved money, purchased renewable products and explored innovative new offers and plans."³

³ <https://www.electricchoice.com/blog/puc-celebrates-20-years/>

Therefore, why would Pennsylvania even consider throwing away all this progress?

House Bill 11, if enacted, would represent a myopic and disastrous step back in time. House Bill 11 takes Pennsylvania from the forefront of innovation and competitiveness back to a time when Pennsylvania's policymakers dictated the generation choices for consumers and locked them into prices that are higher than what they should otherwise be paying. House Bill 11 would cause 68% of the megawatts delivered in the state to be from resources dictated by the state. This is not a simple expansion of the RPS to correct a historical oversight - - this is a full reintroduction of a command and control energy policy that Pennsylvania worked so very hard to get past. The General Assembly should not be fooled into thinking that House Bill 11 is a simple or surgical "fix." House Bill 11 represents the single biggest energy policy shift that the Commonwealth has seen since 1996.

In fact, House Bill 11 would most certainly cause a downward spiral that would likely lead to either re-regulation of our electricity industry or and even more deleterious hybrid market structure in which regulators have no insights into the profits being earned by heavily-subsidized power generators. Right now, Pennsylvania enjoys a robust and diverse supply of electricity generation without consumers shouldering the risks associated with power generation. If 68% of the market share were dedicated to specific power suppliers, at risk capital would most certainly dry up as the risks associated with multi-billion-dollar investments in an unstable regulatory environment would be too much for investors to tolerate. The notion that Pennsylvania is open for business in the energy industry would most certainly be a thing of the past.

Beyond these obvious problems associated with House Bill 11, the General Assembly should consider:

1. **Nuclear subsidies are not needed.** There has been no compelling economic analysis that shows any nuclear plant in Pennsylvania other than Three Mile Island is in imminent danger of closing. Three Mile Island has very unique operational and historical issues that place it in a different category. Any suggestions that some plants may be unprofitable in the future is speculative at best and does not take into account any changes in the market, technology or regulation that could alter the economic health of the state's nuclear fleet or its competitiveness vis a vis other resources.

Despite the doomsday rhetoric being offered in some quarters, there is no imminent crisis beyond the closure of Three Mile Island that demands immediate legislative action.

2. **Carbon reductions can be achieved within a market-based construct.** There are a myriad of ways to address carbon as a pollutant that do not destroy Pennsylvania's competitive market. Pennsylvania has historically regulated pollution from power generators by directly regulating the pollutant at the source or putting a price on the problematic pollutant. This is Environmental Regulation 101. If the General Assembly is motivated to address carbon, then it should have a thoughtful discussion similar to the ones had with other pollutants from the power industry and develop a regulatory strategy that does not destroy 20 years of hard work to create a competitive electricity market.
3. **Job losses are overstated and can be managed.** To the extent that there are any employee transition issues in the event that any of the nuclear units retire, those issues can and should be addressed. It is important to note that the closure and clean-up of a nuclear facility can take over a decade and require hundreds of employees – many of whom would likely be existing employees of the plant.⁴
4. **The local impacts of power plant closures are real and can best be addressed through other means.** Communities that hosted power plants shouldered certain burdens while other communities in the Commonwealth benefitted from the electricity. These burdens should be recognized by the state and should not be limited to just communities that hosted nuclear facilities. Other states have considered legislative packages addressed at the transitioning of communities that hosted retiring power plants. Pennsylvania should do the same.

The bottom line is that any challenge that has been offered in this discussion can be addressed through means other than dictating that Pennsylvania's electricity be derived from a handful of state-chosen nuclear stations. The competitive electricity market has served Pennsylvania well and it can continue to do so provided that the Commonwealth does not heavy-handedly interfere with that market through legislative action such as House Bill 11. If there is legislative interest in addressing carbon, there are multiple ways to do so that do not destroy the competitive market place. If there is concern about displaced workers, the focus should be on

⁴ <https://www.app.com/story/opinion/columnists/2017/05/02/tauro-christie-must-fight-full-oyster-creek-cleanup/101216882/>

transitioning anyone not retained to assist with decommissioning. No matter what the challenge put forth by the proponents of House Bill 11, any issue can be addressed without taking Pennsylvania back to the failed policies of the past.