



**Testimony of
David J. Spigelmyer, President
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Before the
Senate Consumer Protection and Professional Licensure Committee
April 10, 2019**

Good afternoon Chairman Tomlinson, Chairman Boscola and members of the Senate Consumer Protection and Professional Licensure Committee. Thank you for the opportunity to testify today and share with you some thoughts regarding Senate Bill 510, which would make fundamental and profound changes to Pennsylvania's energy markets, impose massive new costs on consumers, and turn capital investment and jobs away from our communities. My name is Dave Spigelmyer, and I serve as President of the Marcellus Shale Coalition (MSC). The MSC is a state-wide trade association representing nearly 200 energy producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials to facilitate the safe development of natural gas resources in the Marcellus, Utica and related geologic formations.

I certainly appreciate the opportunity to appear before you today. Before jumping into some significant concerns on this subsidy proposal before you, it is important to recognize that there are critical voices not represented today that this Committee needs to hear from – namely, the Pennsylvania ratepayers – your constituents – who will pay the bill. While our members have a vested interest in expanding access to clean-burning, domestic natural gas, we do not represent the power generators who have invested over \$13 Billion in this state, and hired thousands of skilled tradesmen and women to build and maintain these facilities; we do not represent the interests of older citizens and those on fixed incomes, who will bear a disproportionate cost of this subsidy; we do not represent the interests of large, industrial energy consumers, who employ our fellow citizens by the tens of thousands; and we do not represent the schools, hospitals and universities who will face the prospect of higher rates to pay an artificially-inflated energy bill. I strongly urge this Committee to seek these voices out to more fully understand the implications of this legislation.

Stay the Course: Competitive Markets Work

Just over two decades ago, the General Assembly embarked on a bold experiment to transform how we deliver electricity in Pennsylvania. Under the 1996 Electricity Generation Customer Choice and Competition Act¹ (Competition Act), the business of generating electricity was separated from the business of delivering it safely to end-use customers. In doing so, a new marketplace was created whereby customers could choose their electric supplier, and the risk for building and operating generation facilities was shifted from ratepayers to the private sector.

¹ Act 138 of 1996, P.L. 802

This process did not happen overnight. It took the better part of 15 years for this transition to occur. Along the way, owners of generation facilities in place at the time – including every single nuclear facility that exists today in Pennsylvania – were compensated by Pennsylvania ratepayers for their stranded costs, to the tune of over \$11.6 Billion. In short, Pennsylvania’s nuclear power plants were built and financed by you and me – the Pennsylvania ratepayer.

Contrast that to today’s marketplace. Captive ratepayers no longer pay the freight to build, operate or subsidize electric generation. Rather, the risk to build and operate generation facilities is borne by private investors, who must carefully evaluate the marketplace and deploy limited resources in as efficient and effective a manner as possible. Gone are the days of speculative construction, where an operator knew that – no matter how poor their individual business plan – ratepayers would be there to pick up the tab.

Along the way, Pennsylvania consumers have been the winners. Today, consumers are able to consider hundreds of offers² from dozens of licensed generation suppliers and find a match that meets their individual priorities. This may include the certainty of a predictable price; a preferred generation source; or any combination in between. Or, customers can do nothing – knowing that electric distribution companies are legally obligated to procure electricity on their behalf and safely deliver it to their home or business. As of January 2019, all major electric distribution service territories had at least 25% of all customers shopping for energy. For industrial customers, electric distribution territories saw at least 80% of their industrial customers shopping³, with 100% of the industrial customers within West Penn Power’s service territory using a competitive supplier.

While the number of customers who have switched their supplier is impressive, the real test of competition is the availability of choice. Equally important, the shifting of risk to the private sector – and away from ratepayers – has sent the right signals to the market to encourage appropriate levels of new generation facilities with assurances of competing on an even playing field. To these ends, Pennsylvania’s Competition Act has been extremely successful. The General Assembly ought to be commended for the discipline of staying the course, and resist the temptation to upend decades of progress.

Historic Capital Investment and Job Opportunities for PA

The business environment created in Pennsylvania through the Competition Act has sent positive signals to the investment community. The response is evident with significant new capital spending – and the creation and retention of thousands of jobs – as companies take advantage of clean, abundant and locally-sourced natural gas.

Preliminary estimates of this capital investment show nearly \$13 Billion in construction costs for new and converted power stations just in Pennsylvania alone. Other estimates put the capital

² PA Office of Consumer Advocate – Electric Shopping Guide:

<http://www.oca.state.pa.us/Industry/Electric/elecomp/ElecGuide.pdf>

³ PA Office of Consumer Advocate – Electric Shopping Statistics (As of January 1, 2019):

[http://www.oca.state.pa.us/Industry/Electric/elecstats/Electric%20Shopping%20Statistics_Jan2019\(00248469x97486\).pdf](http://www.oca.state.pa.us/Industry/Electric/elecstats/Electric%20Shopping%20Statistics_Jan2019(00248469x97486).pdf)



investment in the Tri-State Appalachian region at more than \$25 Billion. Importantly, these facilities are located much closer to their end-use customers, which limits line loss of electricity and results in much higher efficiencies for consumers.

Many of these projects have cleared critical permitting stages and are under or at the cusp of commencing construction. Yet, fundamentally changing the market rules by mandating nearly 70% of our electric generation portfolio threatens this private capital investment and the jobs and revenue it will bring to our local communities. Operators are willing to take on 100% of the risk of their investment, but they need certainty and reassurance that our Commonwealth remains committed to the principles which first attracted this investment: a level playing field that does not discriminate based on fuel source. Backdoor cash subsidies to prop up uneconomic power units should not be advanced under the guise of rewarding environmental performance.

Nuclear Power: Here to Stay

We have also heard the argument that this abundance of new natural gas power generation may serve the interests of consumers today but may not in future years should natural gas prices rise to historically high prices. This fear is premised on an argument that nuclear power will simply go away. Let me put those arguments to rest.

First – make no mistake: nuclear power generation as an industry is not going anywhere. Pennsylvania’s nuclear industry, and indeed the nuclear industry across the PJM power grid, is profitable and healthy. According to the U.S. Energy Information Administration, nuclear generation within the United States reached an all-time peak in 2018 and has increased by 4.8% since 2012.⁴ Nuclear facilities have increased generation output because of three key factors: capacity uprates at existing facilities; reduced facility outages; and thermal efficiency improvements. Indeed, between 2012 and 2018, the average annual outage duration of nuclear power plants decreased by 44%, from 45 days to just 25 days.⁵

Secondly, power generation in the PJM market does not operate as a cartel. Operators cannot – and do not – conspire to fix prices or limit supply. Each commercial power plant is competing against every other power plant, regardless of its fuel source. As importantly, the General Assembly has prescribed laws which dictate how electricity must be purchased and empowered the Public Utility Commission to oversee and enforce these laws. The system is working.

Some have decried the supposed ‘early retirement’ of some nuclear plants as emblematic of a struggling industry. However, the retirement of individual power plants that are not economical is nothing new to our state or nation. With respect to nuclear power plants, it has largely been limited to single-reactor units that do not possess the efficiencies of scale to be economically competitive. Currently across the United States six nuclear power facilities have announced retirement plans; four⁶ of the facilities are single-reactor facilities while the other two⁷ have

⁴ U.S. Energy Information Administration: <https://www.eia.gov/todayinenergy/detail.php?id=38792> (March 21, 2019)

⁵ Ibid

⁶ Oyster Creek (NJ), Palisades (MI), Pilgrim (MA) & Three Mile Island (PA)

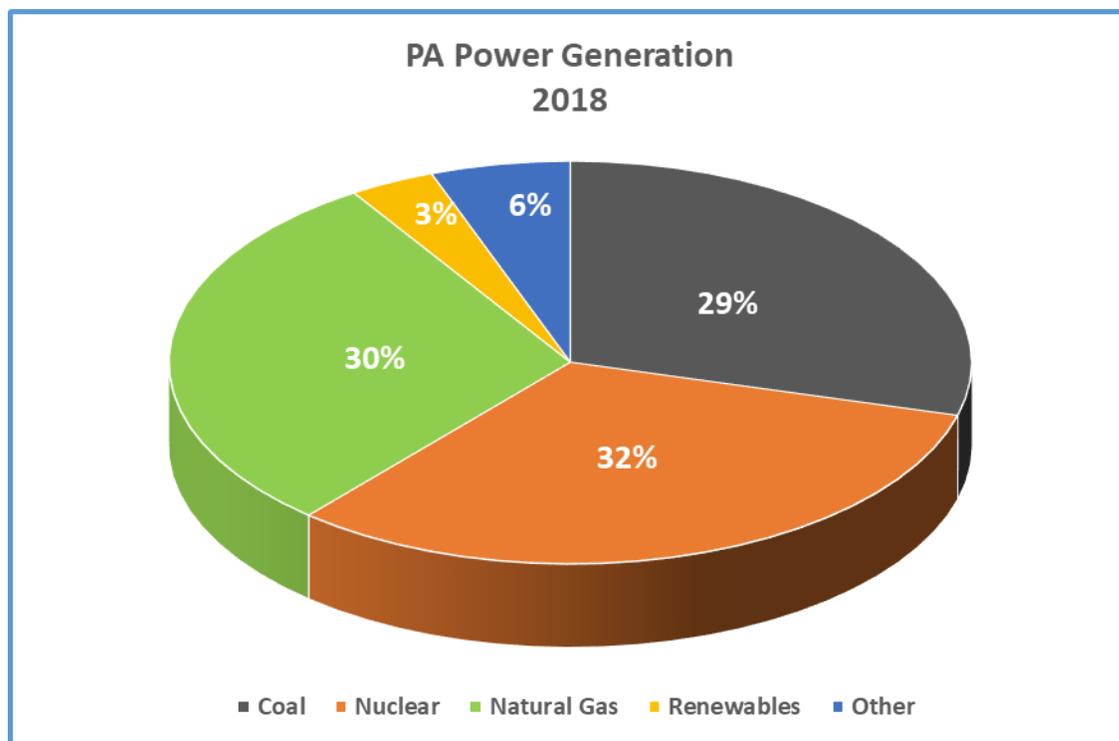
announced retirements due to a variety of locally-significant factors, including opposition from environmental organizations.

Despite these announced retirements, there remains a strong, healthy – and highly profitable – nuclear industry within Pennsylvania, PJM and the United States.

Diversity of PA's Generation Portfolio

Pennsylvania is extremely fortunate to have a diverse and abundant portfolio of energy resources, and this has led to an extremely diverse and well-balanced electric generation portfolio.

The diversity of our portfolio works to the advantage of consumers, as various fuels act as a hedge during times of price volatility and increased demand for power. Perhaps no state in the nation has as diverse a generation portfolio as Pennsylvania, with roughly equal parts coming from each nuclear, coal and natural gas. In fact, in 2018 nuclear energy represented the largest percentage of electric power generation in Pennsylvania at 32%:



PA Department of Environmental Protection – Comprehensive Energy Assessment

⁷ Diablo Creek (CA) has two reactors but agreed to shut down when their existing licenses expire; concerns include proximity to earthquake-prone faults & environmental pressures to invest in renewable energy; Indian Point (NY) has two operating units & one closed unit; concerns include lack of efficiency due to the closed unit as well as proximity of the plant to New York City.

It also is imperative to understand that Pennsylvania does not exist on an electric generation island. Electricity is generated, transmitted and distributed across the entire PJM regional transmission organization (RTO), which stretches from Illinois to New Jersey. As such, we have the ability to import or export electricity into neighboring RTOs as the market dictates. The diversity of resources available to Pennsylvania consumers – across the entirety of our electrical grid – is deep and strong and well-positioned to serve the needs of our residents regardless if individual, uneconomic power plants may choose to close.

Importance of Carbon and Other Emission Reductions

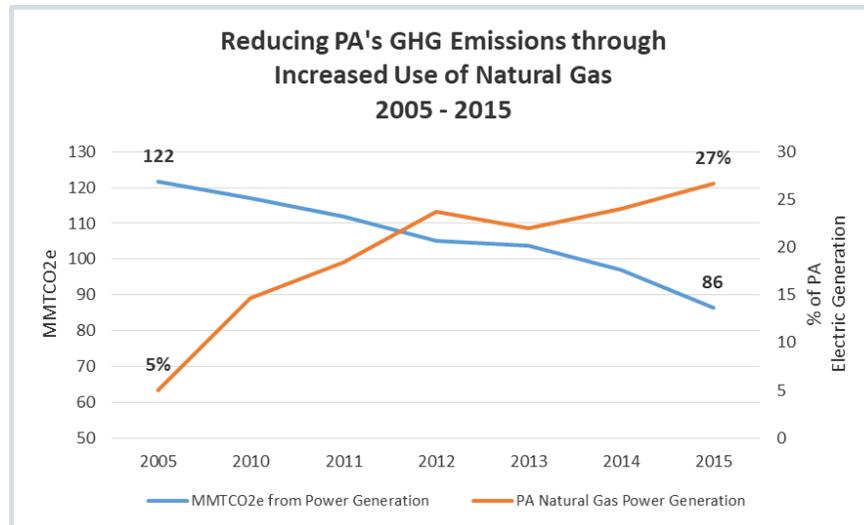
To be clear: the MSC and its member companies recognize the importance of reduced air emissions across the board. While the MSC does not represent any power generation facilities, our member companies are incredibly proud of the role that natural gas has played in cleaning our air and helping to lead the world in historic carbon emission reductions.

It is helpful to understand where we are in Pennsylvania with respect to air quality⁸. Thanks to innovations in technology, tightening environmental performance standards, and increased use of natural gas:

- Volatile Organic Compounds emissions, affecting respiratory health, are **down 51%** between 1995 and 2015;
- Sulfur dioxide emissions, which contributes to acid rain, are **down 82%** between 1990 and 2015; and
- Nitrogen oxide emissions, affecting respiratory health, are **down 72%** between 1990 and 2015.

Additionally, carbon dioxide emissions in Pennsylvania from the electric power generation sector are **down 30%** since 2005 (through 2015). This is overwhelmingly attributable to the increased use of natural gas:

⁸ PA Department of Environmental Protection – Stationary Source Emission Inventory 2012-2015



Source: PA Greenhouse Gas Inventory (Nov. 2018) & PA Draft Energy Assessment Report (April 2018)

Conclusion

In conclusion, I strongly urge this Committee and the General Assembly to stay the course. Recognize that the long-term policies laid out in our Competition Act – more than two decades in the making – have worked to the benefit of consumers and our shared environment.

Upending the markets by picking winners and losers, as the proponents of this legislation would have you do, risks significant jobs and private capital investment in our Commonwealth, and gives credence to many across the nation that Pennsylvania is not open for business. It is why this legislation is so vocally opposed by many consumer voices, including AARP, the Industrial Energy Consumers of Pennsylvania, the Pennsylvania Chamber of Business and Industry, the Pennsylvania Manufacturers Association, to name a few.

On behalf of our members, and the thousands of their employees who are your constituents, I urge you not to advance this troubling piece of legislation.