Pennsylvania Dereg: 'Greed, Broken Promises'

by John Hoefle

Faced with the spectacular failure of electricity deregulation in California, proponents of deregulation have repeatedly pointed to Pennsylvania as a state where deregulation was "done right," where deregulation works. But the absence of headline-grabbing blackouts is not the same as success, and "California-style" cracks are already appearing in Pennsylvania. Deregulation's model state is already on the road to failure.

In Pennsylvania, like every other state, deregulation was pushed as a way to save consumers money by lowering electricity rates. The Pennsylvania law, grandly styled the Electricity Generation Customer Choice and Competition Act of 1996, implemented a ten-year cap on electricity rates in the state, to run from 1999 until 2009. The act called for the phasing-in of "customer choice and competition" over a three-year period, with one-third of the state's electricity users being allowed to choose their electricity supplier in 1999, another third in 2000, and the remainder in 2001. So, the state which is touted as proving deregulation works, has actually had "full choice" for only three months. During the latter part of 2000, when Pennsylvania was widely called the alternative to California, the state had not even completed the implementation of its customer choice program!

In fact, "full choice" had been in effect for only a month and a half, before the Pennsylvania Public Utility Commission (PUC) began a series of hearings on the request by GPU Inc. to eliminate the rate cap and allow it to raise prices. On Feb. 15, the PUC held the first of a series of hearings on GPU's request to allow it to raise rates at its two regulated Pennsylvania utilities, Pennsylvania Electric (Penelec) and Metropolitan Edison (Met-Ed), by 29% and 32%, respectively.

GPU's request is just the tip of the iceberg. Politically, having GPU take the lead in attacking the rate cap is useful, since New Jersey-based GPU is an out-of-state company; even better, GPU has reached an agreement to be bought by Ohio's FirstEnergy, further removing it from the political consequences of its actions.

Pennsylvania State Rep. Camille "Bud" George, Democratic chairman of the House Environmental Resources and Energy Committee, summed the situation up last May, noting that far from being a success, deregulation in Pennsylvania is actually a "lurid story of greed and broken promises."

"Pennsylvanians face higher taxes and electric rates, reduced reliability, fewer jobs, guaranteed price gouging by utilities and disrupted finances for school districts and municipalities," George warned. " 'Electric Choice' is the culprit."

Behind Closed Doors

Deregulation got off to an inauspicious start in Pennsylvania in 1996, when the deregulation bill passed literally in the middle of the night, after bypassing the normal legislative reviews. The final version of the bill was not hammered out by elected officials, but was rather crafted in some 200 hours of by-invitation-only, closed-door negotiations between the PUC, the major electric utilities, industry groups, and state consumer advocates. The bill was passed by the House at 4:24 a.m. on Nov. 26, 1996, by a vote of 171-28 (a day after it passed the Senate 40-10), despite Representative George's pointing out during the debate that "there aren't ten people in this floor who know anything about this bill." When Gov. Tom Ridge (R) signed the bill into law, Pennsylvania became the fourth state to capitulate to deregulation, after California, Rhode Island, and New Hampshire.

Pennsylvania's bill did manage to avoid one of California's biggest blunders, that of forcing utilities to buy all of their electricity through auction on the spot market, but otherwise contains the same axiomatic fallacies. Much has also been made of Pennsylvania's decision not to force the state's regulated utilities to divest themselves of their electricity generation capabilities, but some such divestitures have occurred anyway, notably with GPU's decision to sell the generation assets of Penelec and Met-Ed, and place itself and its customers at the mercy of the "market."

With the support of Governor Ridge, the law also gave most of the oversight of the deregulation process to the PUC, rather than the Legislature, making it easier for the financier crowd behind deregulation to steer it in the "proper" direction. Under the PUC, electricity customers who have not elected to switch suppliers, have been arbitrarily and involuntarily switched to energy pirate companies, making a mockery of "choice."

Marginal Utility

While deregulation weakens the utility system from within, the rapid consolidation among utility holding companies further reduces the state's control over its power grid. Peco Energy (née Philadelphia Electric), the state's largest electricity generator, was bought by Chicago's Unicom (nee Commonwealth Edison), which renamed itself Exelon. Akron-based FirstEnergy, which already owns Pennsylvania Power, is buying GPU, which owns Penelec and Met-Ed, giving it, assuming the merger goes through, three of the state's 11 investor-owned utilities. Allegheny Energy, based in Hagerstown, Maryland, already owns West Penn Power, and New York's Consolidated Edison owns Pike County Power & Light. This means that six of the state's investor-owned regulated utilities are either already owned by out-of-

PRIOR PRINTER'S NO. 1147 PRINTER'S NO. 1257

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 100 Session of 2001

INTRODUCED BY GANNON, MARCH 14, 2001

AS AMENDED, HOUSE OF REPRESENTATIVES, MARCH 20, 2001

A RESOLUTION

Directing the Judiciary Committee to hold public hearings on energy prices.

WHEREAS, The citizens of this Commonwealth are dependent upon energy sources for comfortable and productive lives; and

WHEREAS, Energy prices across this Commonwealth have fluctuated dramatically over the course of the past year; and

WHEREAS, The causes of these dramatic energy price fluctuations are not readily apparent to the citizens of this Commonwealth; and

WHEREAS, There is growing concern among the citizens of this Commonwealth for answers regarding the causes of dramatic fluctuations in the price of energy; therefore be it

RESOLVED, That the House of Representatives direct the Judiciary Committee to hold public hearings to study the availability, supply and price of energy provided from any source, including Philadelphia Gas Works and the Philadelphia Gas Commission, including any price hikes occurring during any

Despite repeated insistence that Pennsylvania deregulation "works," electricity prices are climbing fast, and the legislature has passed a bill authorizing an investigation of pricing.

state companies, or are in the process of becoming so.

One could argue that, under a competent regulatory policy, out-of-state ownership of a regulated utility would not be a problem, but such absentee ownership presents a significant problem in a deregulated environment, as the profits of Enron, Dynegy, et al., at the expense of California, amply demonstrate.

Furthermore, this corporate restructuring is just the beginning of a process in which the regulated utilities themselves would disappear, with both the generation and transmission capabilities passing into the hands of financier-related corporations.

Enron President Jeffrey Skilling gave the game away in a recent interview in *BusinessWeek*. When asked who should own the power plants, Skilling replied: "Financial institutions, insurance companies, and pension funds. They have the lowest cost of capital. What we should be doing as an industry is packaging them in a way where we take away the risks that they don't like. They don't like to operate things. They don't like to take the risk on commodity prices. We ought to do that stuff and then sell them the underlying asset with kind of an annuity return."

In other words, the big commercial and investment banks, insurance companies, and financial funds would own the power plants, selling the power through companies such as Enron at whatever the market will bear. Every time one of those companies loses money in the derivatives market, your electric bill will go up. That's the plan.

Enron, of course, sees this as a good thing. "If you walk around the halls here, people have a mission," Skilling told *BusinessWeek*. "The mission is we're on the side of angels. We're taking on the entrenched monopolies. In every business we've been in, we're the good guys. That's why they don't like us. Customers love us, but the incumbents don't like us. We're bringing the benefits of choice and free markets to the world."

Enron demonstrated its commitment to "choice" by lobbying hard to have hundreds of thousands of Peco customers involuntarily switched to the New Power Company, a joint venture it formed with IBM and America Online (and with financing from GE Capital), to market electricity first in Pennsylvania, and then nationally. The PUC complied, giving 300,000 Peco customers to New Power, even though those customers had not elected to leave Peco.

Against the General Welfare

As part of the deregulation bill, the real estate taxes paid by utilities under the 30-year-old Public Utility Realty Tax Act (PURTA) were significantly reduced, and a 1998 follow-up bill removed all electric power plants from paying PURTA effective Jan. 1, 2000. The revenue from this tax had been distributed to more than 3,000 counties, cities, towns, and school districts in the state. In 1997, the PURTA funds amounted to $167.5 million, but will drop by more than two-thirds, to a projected $53 million in fiscal year 2000-2001.

In May 2000, for example, SEPTA, the Southeast Pennsylvania Transit Authority, which serves the greater Philadelphia area, announced that its PURTA receipts would be just $3.2 million, compared to the $28 million it received the previous May.

These tax cuts for the generators—but not necessarily passed on to their customers—will force already underfunded local governments and school districts to either raise taxes or cut spending—or both—to compensate for the lost revenue.

Governor Ridge claims that the benefits to the state's citizens, local governments, and schools from deregulation, in the form of lower electricity rates, more than offsets these tax losses: But those lower rates will last only as long as the rate caps. In the long run, rates will rise, and when they do, those "savings" will quickly evaporate.

Pennsylvania's deregulation has not been a success, but a failure; the best one can say for it is that it has thus far been a more discreet act of piracy than its California sibling.