

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105**

**Initiation of a fact finding  
investigation of the competitive  
market conditions re: Pike  
County Light & Power Company**

**Public Meeting January 27, 2006  
JAN-2006-C-0001  
Docket No. P-00052168**

**STATEMENT OF  
COMMISSIONER TERRANCE J. FITZPATRICK**

The Electricity Generation Customer Choice and Competition Act<sup>1</sup> (“Competition Act”) requires that, after a utility’s generation rate cap expires, rates for generation service provided by the utility shall reflect “prevailing market prices” for electricity.<sup>2</sup> Pursuant to this standard, the Commission entered an Order on September 23, 2005 in this proceeding that approved, with modifications, the Default Service Implementation Plan (“Plan”) filed by Pike County Light & Power Company (“Pike”). On October 28, 2005, the Commission issued a Secretarial Letter approving the results of the auction conducted under the Plan. On December 21, 2005, the Commission entered an Order allowing Pike’s tariff filing containing default service rates to become effective, subject to any timely filed formal complaints. No formal complaints have been filed by the Office of Consumer Advocate or by the Office of Small Business Advocate, both of which had earlier filed comments on Pike’s Plan.<sup>3</sup>

Accordingly, there is no question that the Commission has satisfied its responsibility under the Competition Act to establish default generation prices that reflect “prevailing market prices.”

It is understandable, however, that the customers of Pike have difficulty accepting a seventy percent increase in their electricity bills. It may be small comfort to these customers to note that volatile prices have become the norm in energy markets. Over the past few years, our country has also grappled with increases and rapid swings in the prices of natural gas, fuel oil, and gasoline. To illustrate this, in January 2000, the spot market weekly price of natural gas at the Henry Hub was \$2.40; by December 2005, that price was \$13.35, an increase of 550%. Numerous factors are contributing to this situation – including tighter supplies, increased demand (both domestic and international), and additional environmental regulations.

The outlook for energy supplies and prices has changed dramatically since the Competition Act was passed almost a decade ago. The regulated prices that were in existence at that time formed the baseline for the capped generation prices that remain in effect for most of the electric utilities in the Commonwealth. Depending upon the level of these historical prices, the magnitude of any adjustments to the prices during the transition

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<sup>1</sup> 66 Pa. C.S. §2801 et seq.

<sup>2</sup> 66 Pa. C.S. §2807 (e)(3).

<sup>3</sup> These comments were addressed in both the September 23, 2005 and December 21, 2005 Orders.

period, and the market conditions when the caps expire, customers may experience a dramatic increase in the price for electricity. That is the situation the customers of Pike are facing. On the other hand, the residential customers of Duquesne Light Company are paying roughly fifteen percent less on their electric bill than they did under regulated rates. The success of electricity competition cannot be judged based upon whether market prices in 2006 are higher or lower than regulated prices that were in existence in 1996. The world has changed.

Given the understandable public concern over the price increases for Pike's customers, it is reasonable for this Commission to make an extra effort to consider any appropriate, legally permissible options that may alleviate these generation prices. For this reason, I support the fact-finding investigation into the issues set forth in moving paragraph 2 of the Motion of Commissioner Shane. While this may already be implicit in the assignment, I would request the Law Bureau to analyze the legality of the Commission ordering Pike to implement any of the options being investigated.

While I support the investigation described in paragraph 2, I do not agree with much of the language in the body of the Motion. I respect the opinion of Commissioner Shane on the relative merits of competition versus regulation; he is not alone in questioning whether retail and wholesale electricity competition are working well. However, in a Commission proceeding, our personal policy views must be subordinated to the policies embodied in the laws we administer – here, the Competition Act. A broader policy discussion is best reserved for another forum, such as a legislative hearing.

Finally, I take issue with the suggestion in the Motion that it would be a viable solution for this Commission to forcibly transfer Pike's territory to another electric utility. As the Motion recognizes, the precedent for such a draconian action is "slender." In addition, in its September 23, 2005 Order, the Commission already considered, and rejected, a proposal to require Pike to explore a sale of its operations to a Pennsylvania utility operating within the transmission grid administered by PJM, Inc. The Commission based this conclusion upon a feasibility study performed by Pike pursuant to an earlier Order – this study concluded that it would cost over \$12 million to construct a line of roughly eight miles to connect to a substation owned by PPL, Inc. Dividing a total cost of \$12 million over Pike's 4,200 customers results in a cost of over \$2,850 per customer, a figure that does not include carrying costs. Accordingly, a forced sale to another utility is suspect both legally and practically.<sup>4</sup>

In summary, I will vote to initiate the investigation described in moving paragraph 2 of the Motion for the reasons set forth in this Statement.

**Date: January 27, 2006**

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**Terrance J. Fitzpatrick  
Commissioner**

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<sup>4</sup> This is not intended to suggest that I would object to a voluntary sale of Pike to another Pennsylvania electric utility.