

Prepared Statement of Scott J. Rubin
before Pennsylvania Treasurer Barbara Hafer
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Good afternoon and thank you for allowing me to appear before you today.

The topic you are exploring is critically important to the Commonwealth and its residents. I would like to spend a few minutes discussing Enron's role in Pennsylvania's electricity marketplace and then I would be happy to answer any questions that you may have.

Enron was a central player in the movement to deregulate Pennsylvania's electricity market in 1996. Enron was a very active participant in the negotiations that led up to the enactment of the restructuring law. It also participated actively in the rulemaking proceedings and utility-specific restructuring cases at the Public Utility Commission (PUC).

But there is nothing unusual about that. Various groups of consumers, the AFL-CIO, other energy marketing companies, and other interests also were part of this complex process.

What is unusual is that Enron has managed to become a major player in Pennsylvania's electricity market without most people realizing it. In fact, just last week the chairman of the PUC gave a speech about the lessons learned from Enron's collapse where he said, "Enron never invested in Pennsylvania, even after their efforts to encourage competition there."

In fact, though, Enron has made significant investments in Pennsylvania's electricity market in four primary areas:

- Wholesale Trader
- Electrical Contractor
- Wind Power Developer
- Retail Electricity Supplier

Enron as Wholesale Trader

By now, we all have heard about Enron's business in buying and selling electricity and natural gas. Enron's wholesale trading business was just like a stock broker. It earned a commission from both the buyer and seller on every trade.

As you know, in order to make money trading, you need lots of buyers and sellers. Before deregulation, there were very few buyers and sellers of electricity. Most power plants were owned by the electric utilities and most of that power was used to serve their own customers.

For Enron, then, one of the primary goals for deregulation was to make sure that the owners of the power plants would not be the same as the people who sold electricity to retail consumers. In Pennsylvania, utilities were encouraged but not required to sell their power plants. GPU and Duquesne sold all of their plants. PP&L sold off one of its smaller plants and transferred the others to a completely separate subsidiary. PECO and West Penn Power also transferred their plants to completely separate subsidiaries.

So, Enron's first big investment in Pennsylvania was an investment in the structure of the electricity market here. Enron worked hard to ensure that electric utilities would have to buy their power from someone else, thereby creating a market that Enron could broker.

Enron as Electrical Contractor

Enron's other investments in Pennsylvania aren't as obvious, and are often overlooked. Limbach Facility Services, based in Pittsburgh, is listed as the eleventh largest electrical contractor in the United States. It employs 250 people in the Pittsburgh area and more than 2,000 nationwide. Williard Inc., based in Jenkintown, PA, is listed as number 34 on the list, and employs about 600 people in the greater Philadelphia area. Both companies – two of the largest electrical contractors in Pennsylvania – were purchased by Enron in 1998.

Williard is now a subsidiary of Limbach. Limbach is a subsidiary of Enron Energy Services, the Enron company that overstated its profits by hundreds of millions of dollars last year and was forced into bankruptcy. So far, Limbach and Williard have been kept out of bankruptcy court and continue to operate normally. But two weeks ago the *Pittsburgh Post-Gazette* reported that Enron is trying to sell Limbach, and with it Williard, to raise cash.

Enron as Wind Power Developer

Pennsylvania's utility regulators point with pride to the development of wind power that has occurred in Pennsylvania after deregulation. What is often overlooked, however, is that Enron plays a major role in that development.

In 1997, Enron purchased Zond Corporation, one of the largest producers and engineers of wind turbines in the world. The company has since been renamed the Enron Wind Corporation. As of January 2002, Pennsylvania had 34 megawatts of wind energy on line at four sites in Fayette, Luzerne, and Somerset Counties. Enron Wind provided the turbines and various other services for two of those projects, totaling 24 megawatts.

Enron as Retail Electricity Supplier

In November 1999, Enron Energy Services formed a new company called The New Power Company. Enron transferred its residential energy business to New Power. A few months later, America Online and IBM made equity investments in New Power totaling in the hundreds of millions of dollars, and entered into long-term agreements with New Power. New Power was attempting to position itself as the energy "dot com" for residential and small commercial customers.

New Power sold about 20 percent of its stock through an initial public offering (IPO) in October 2000 at \$21.00 per share. After the IPO, Enron continued to own about 45 percent of the company, and New Power has entered into long-term contracts with Enron Energy Services – the company now in bankruptcy – to utilize Enron's expertise to purchase energy in the wholesale market and to manage its risks.

New Power's directors included Enron's chairman Kenneth Lay, Enron's general counsel, Enron's chief accounting officer, the head of Enron Energy Services, and the vice president in charge of retail risk management for Enron Energy Services.

A few days after its IPO, New Power entered into an agreement with PECO Energy to become the default supplier of electricity for 299,000 PECO customers in the Philadelphia area.

Today, New Power is providing electricity to those nearly 300,000 PECO customers – about 60 percent of all Pennsylvanians who are buying power from someone other than their local utility. New Power continues to rely on Enron to provide the “expertise” to buy power and manage its risks. As of the close of the stock market on Friday, February 15, 2002, New Power's stock was trading for 53 cents a share – 97 percent less than the price at which it went public just 16 months ago.

Conclusion

In summary, Enron had a major role in restructuring Pennsylvania's electricity market. Through various subsidiaries and related corporations, Enron continues to have a substantial presence in Pennsylvania today. That presence includes employing well over 800 people in the Commonwealth and being the supplier of last resort for electricity to 300,000 Philadelphia-area consumers. We should not delude ourselves into thinking that Enron has not been a significant part of Pennsylvania's restructured energy marketplace or that Enron's collapse will not have a significant impact on the Commonwealth.

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Scott Rubin is an independent attorney and consultant whose practice has been devoted exclusively to issues affecting the public utility industry since 1983. He is a former Senior Assistant Consumer Advocate with the Pennsylvania Office of Consumer Advocate. Mr. Rubin has been an active participant in proceedings involving the restructuring of Pennsylvania's utility industries and is the author of studies on the impact of utility deregulation for AARP, the American Water Works Association Research Foundation, and the Keystone Research Center. He lives in Selinsgrove, PA, with his wife and two children.