# *Public Hearing*

before

## NEW JERSEY ASSEMBLY TELECOMMUNICATIONS

## AND UTILITIES COMMITTEE

*"Testimony regarding the impact of energy deregulation on this State"*

**LOCATION:** Committee Room 15
State House Annex
Trenton, New Jersey

**DATE:** April 22, 2002
11:00 a.m.

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Wilfredo Caraballo, Chairman
Assemblyman Peter C. Eagler, Vice-Chairman
Assemblyman Upendra J. Chivukula
Assemblyman Joseph V. Egan

**ALSO PRESENT:**

Kevin J. Donahue
*Office of Legislative Services*
*Committee Aide*

John McCarvill
*Assembly Majority*
*Committee Aide*

Mark E. Hobbie
*Assembly Republican*
*Committee Aide*

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# TABLE OF CONTENTS

## TABLE OF CONTENTS

# TABLE OF CONTENTS



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**ASSEMBLYMAN WILFREDO CARABALLO (Chairman):** Good morning, everyone. I'd like to get us started, please.

Good morning, everyone. I'd like to publicly thank the Speaker for having allowed me to call this special meeting of this Committee. Back a couple of months ago, I indicated that one of my goals was to start off having this Committee hearing, as much as it possibly could, about the issues that come before this Committee. There are all kinds of specific pieces of legislation that have been proposed to deal with a whole myriad of problems, but it seems to me that before you actually do that you should, at least, find out a little bit about the various industries that you're supposed to be overseeing so that, hopefully, the kind of legislation that comes out of this Committee is the kind of legislation that this State needs.

To that end, today's hearing, we'll be looking into two specific areas: the area of cable, at least for the purpose of getting us up-to-date on where we stand on cable in the State. We are aware of the fact that we have a very limited role in the area of cable, but to the extent that we have any role, we should, at least, find out as much as possible about that role and where we are and where we should be going. The second part of this hearing will deal with energy and, specifically, the dreaded August 2003 and life thereafter.

I'd like to welcome Jeanne Fox, the President of the BPU. Last time you were here, you were the designee. Now you are, in fact, the President. Welcome.

Would you like to share some words with us?

**J E A N N E M. F O X:** Am I on? Is this on? Yes? (referring to PA microphone)

Red is on. I don’t know who did that, but I -- red seems to be off to me. (laughter) That’s so you know who the new people are appearing before the Legislature, I guess.

I want to thank the Chairman and the Vice-Chair for having me here today and to work with the Committee and to talk about these two topics in front of the Board that are important to the State. I look forward to working within the Administration, with the Legislature to assure that the public is getting good representation in the best way possible on how we regulate certain industries.

I think we’re developing a very good working relationship, and I appreciate that. And as, again, we’ll offer to sit down with you and members of the Committee with my staff.

ASSEMBLYMAN CARABALLO: Especially as we run into each other at the great dining places in Newark, right? (laughter)

MS. FOX: Your district is as full of excellent places to munch. And I’m very happy about that. I’m sure I’d be seeing you more up in that neck of the woods.

I want to introduce the staff I have here who will be staying. I have to leave in about a hour, but Lance Miller, my Chief of Staff -- could you guys -- thank you.

Dr. Fred Grygiel, the Chief Economist; Nusha Wyner, the Director of Energy Division; Celeste Fasone, the Director of the Office of Cable Television; and Grace Strom, who’s my new Legislative Liaison; and Joanne Murad, who you know, is my Special Assistant.

As the Chair just mentioned, there are two issues that I'll be talking briefly about and can take questions, if you would like, regarding the cable TV industry and the energy industry and, to a degree, deregulation and how it's going.

As the Chair mentioned, basic rate regulation is really the only thing that the Board has general jurisdiction over. We regulate basic service tier, or BST is the acronym, that includes, at a minimum, local over the air broadcast: CBS, NBC, ABC, FOX, PBS, as well as public educational and government access channels and other channels such as New Jersey Network, CN8, News 12 New Jersey.

I note that, on the whole, what we regulate accounts for, on the average, 25 percent of the average residential bill. The rest of the average residential bill we do not regulate. Cablevision has about 600,000 customers in the State, Comcast has maybe 625,000, 650,000 customers, and then there are a number of other companies that serve within the State. It is, legally, a competitive industry within the State.

The average number of basic service channels is about 26. Thirty-two is not uncommon. Our Board's Office of Cable Television continues to regulate any equipment needed by subscribers to access the basic tier service. We do not regulate expanded basic tier cable service, known on the Federal level as cable programming service tier, CPS. This tier was deregulated by Congress effective March 31, ′99 by the Telecommunications Act of ′96. In addition, channels such as HBO, Showtime, Pay-Per-View have always been free from regulation.

I want to note that regulation of cable originally started in 1972 and continued until ′86. Congress deregulated that from ′87 to ′93 and did some reregulation in that Telecommunications Act of ′96.

There's some good news and some bad news for New Jersey's cable subscribers. From my perspective, the good news is the cost of basic cable service, which is the only tier that we regulate on, pursuant to the FCC, has dropped in New Jersey to an average of $11.75, which is the lowest its been in eight years. Rate freezes have also held down basic rates in nearly 20 rate districts. There are 92 rate districts in the State. That's in 2001. So, rate freezes have accounted for 20 rate district freezes in 2001.

Prior to the deregulation of the expanded basic tier, the Board's Office conducted an analysis of the expanded tier rates and was successful in forcing the FCC to review unreasonable CPS rates. Over $7 million in additional dollars came back to New Jersey subscribers by the FCC ordering refunds after the Board's Office challenged those rates. We said it's probably a national record -- total savings of $164 million in basic rate and equipment costs to New Jersey subscribers since reregulation in ′93. And this includes a Board-ordered bill credits of over $6 million in 2001 in the areas of base rates and equipment cost, rate caps, refund rates. And if you have questions about that, Celeste Fasone will answer them. Celeste has been with the Board since 1988 and knows the division well.

Obviously, there's a concern about increased cable bills. That's the number one complaint we get in our consumer complaints for cable. And it's really due to the regulation of CPS, which now does not exist. The CPS tier was regulated by the FCC, but what it was -- the Board had former complaints filed with us about those rates. We then would file with the FCC and the FCC could then take action.

Since ′93, unregulated rates have risen over 50 percent. And, again, that's the ones that we don't have jurisdiction over. The average CPS rate, over which the Board has no control, has increased almost 53 percent, since ′99, from $17.60 to $26.87. The Board-regulated basic service tier rates dropped about 5 percent over that same time frame. While the Board has no control over the CPS rates, rest assured that we'll continue to aggressively review basic rate filings in the 92 rate districts in the State.

The pressure in rising cable rates can only be solved by Federal legislation to either reregulate the CPS tier or by working with Congress to encourage cable operators to offer special interest tiers to keep rates down despite high programming and sports channel increases, which are blamed on the high priced professional contracts.

A hot issue, which I'm going to mention to you -- although I assume I would otherwise get a question -- is regarding the YES Network, the Yankee Entertainment Network. Except for Cablevision and dish TV, most major cable companies and direct satellite services serving New Jersey have reached an agreement with the YES Network to add the new channels to the basic service line-up featuring 130 Yankee baseball games. Cablevision reps met with myself and the staff to explain their position in keeping YES off basic. Interestingly enough, the Office of Cable TV's complaint phone lines' numbers show that Comcast customers' hit was a $1.82 per month YES surcharge, are out writing complaints about Cablevision's noncarriage of Yankee games, three to one margin. As of Friday, we had 579 complaints from

Comcast subscribers about YES and only 209 complaints about Cablevision's -- subscribers complaining that they didn't get the Yankees.

ASSEMBLYMAN CARABALLO: Could you repeat that?

MS. FOX: Yes.

As of Friday, we have gotten, in our customer line, complaints from Comcast customers complaining about paying for YES, 579 and complaints, regarding Cablevision, that they should be carrying YES and aren't -- 209. And that's basically over the last month.

It is likely that it may take months for some agreement to ultimately be reached, or it could be doomed entirely between YES and Cablevision. And, again, it's important to note that the Board has no jurisdiction over rates charged beyond the first tier.

Then, in the electric and gas regulation, we're restructuring our deregulation area. As you all well know, the Electric Discount and Energy Competition Act became law in 1999. It permits customers to shop for electric and natural gas suppliers -- retail competition. I note -- and this is something that the public doesn't quite understand -- the delivery of those services are still by the local utility. The four electric utilities in the State are PSE&G, Rockland, Conectiv, and JCP&L, are still the utility that somebody goes to if they have a complaint, that there's a power outage, that kind of thing. The competition would be for the energy supply, third-party suppliers, we call them. So EDECA allowed customers to shop for that third-party supplier. EDECA also mandated electric rate reductions, which was a minimal of 10 percent, ranging up to 14 percent, and rate caps as well, for a four year transition period which is August ′99 to August 1, ′03.

In the first year of electric restructuring or deregulation, we had a high of 100,000 customers switch electrical suppliers. However, that has sharply fallen. Last year, only 7000 customers were with the nine BGS, or Basic Generating Service supplier. Over the last two years, there's been a mismatch between the higher than expected market prices and the shopping credits, which has stymied retail electric competition and has been a contributor to the build up of deferred balances.

Basic Generation Services, however, had an auction, as you recall, in February, and that was the good news for the year, for electric supply, which obviously starts this summer. And that was successful. The Board expects the four electric utility rate cases will be coming in shortly, beginning in May and through August. There is a merger application pending for Conectiv and Pepco. If that is approved by the Board, as recommended in a stipulation of the parties, which we have not yet received, Conectiv might be coming in in August ′03 for the base rate case.

Competition for natural gas has been minimally successful, certainly more so than the electric, at this point. Seventy-five thousand residential customers have switched their natural gas supplier. And I should note, that large industrial and business customers, I think, truly have a choice in the natural gas arena and have been enjoying competition in natural gas before EDECA. Its been going on for five years now, approximately.

Some of the post transition issues that we're considering in thinking about and working with the staff on -- and, I think, you'll be thinking about and we'll be working together on. EDECA allowed utilities to defer certain costs for payment by the customers after that August 1, ′03 date. And that's the date that's in our face. For example, deferred balances for power purchases are a result of EDECA, and they've required shopping credits. And then you had a higher than expected wholesale prices, which didn't allow for the competition to take place. What can we do about that?

Other deferrals also exist as a societal benefit charge out of EDECA: deferrals for conservation measures and renewable technologies as well as transition-related expenses such as consumer education.

The societal benefit charge includes the Comprehensive Resource Analysis, also know as Demand-Side Monitoring, the Universal Service Fund, gas site remediation as well as nuclear decommissioning. EDECA mandated rate reductions and that, we think, should amount to approximately $2.4 billion in rate payers savings, over that four year period. However, some portion of these rate reductions is expected to be offset by the impact from the mandated deferrals, which, depending on their levels, will be collected in rates sometime after August 1, ′03.

The Board is currently reassessing our staffing, and we'll restructure in order to address, in a timely manner, the electric proceedings that we'll be having pending before us in the post transition period as well as now. And the utility deferrals, obviously, is a major import, and we think additional staffing will be required. We're going to try to do that in-house. We might be doing some other actions, minimal hirings.

The proceedings that we expect are the four electric utility rate cases. This would include the renewal of the deferrals, including the Society Benefit Charge, unrecovered Basic Generation Service, unrecovered stranded cost, unrecovered nonutility generation. The Board has been and will continue to be proactive in helping to reduce the impact on the customer's rates.

First, the Board is working with the utilities to consider deferral mitigation methods including nonutility generation renegotiations and peak load reduction programs, and the peak loads are in the summer times, obviously, July and August.

Second, the Board is working on a Comprehensive Resource Analysis, the CRA, or Demand-Side Management, funding for renewables in energy conservation methods to make them in a better place to reduce consumer bills.

And third, we're working with you to determine if securitization of deferred balances would be beneficial in helping to mitigate impacts of these costs.

That's what I have in my presentation, but I'm more than happy to take questions.

ASSEMBLYMAN CARABALLO: Let's start off with cable, and I just want basic questioning.

Has to due with the fact that you said -- you made a statement, and I just can't help but, I guess, fall for the trap, maybe. You indicated that there were things we can do at this point with the unregulated aspect of our bills is to, perhaps, have the Feds, rather, reregulate. Is that something that you advocate if you --

MS. FOX: That's a national Federal issue. It's something that I have not studied and so, I wouldn't have a recommendation for you or for my Governor, as to whether the State should take a position or not. There's, obviously, as a Federal issue, it's something that, you know, they had it regulated, then they deregulated, then they partially reregulated. But it's all tied into where we're going into telecommunications and cable and that whole thing, and then cable and telecommunications are coming together on a national level. And so, it's a very complicated thing. It's all with the FCC, and Congress is in charge of them.

ASSEMBLYMAN CARABALLO: I just thought I saw a little breach there and thought I'd jump into it.

Does anybody have any questions? Let's stick with the cable portion first.

ASSEMBLYMAN CHIVUKULA: Chairman.

In terms of the cable, each municipality has to go through a franchise agreement. That franchise agreement is overseen by the BPU. Am I correct?

MS. FOX: Yes.

ASSEMBLYMAN CHIVUKULA: Can we do that? Do we have some leverage there to --

MS. FOX: Sure. I mean --

ASSEMBLYMAN CHIVUKULA: -- address some of the issues?

MS. FOX: -- a lot of the municipalities are in their franchise agreements, who are getting special discounts for senior citizens, for instance, which the board is very supportive of. Again, that's a negotiation posture where it's included in the basic tier. For instance, whether they carry CN 8, New Jersey Network News 12 is frequently dealt with at that level. So, it's something that our staff is very willing to give guidance on what other municipalities have done in their negotiations and then that municipality when they renegotiator and negotiating, can do it.

Also, legally, you can have competition in cable. It's happened in three towns, and Celeste can go into more detail if you want. There's a fourth one that we expect, pending. There are some cable companies that we don't regulate, because they don't fall within the designation. Their facilities don't cross public rights-of-way, for instance. In large townhouse complexes that might be a possible -- or apartment houses or something.

But local municipalities, you know, when they're coming in to start the renegotiation and negotiation, they really should talk to our staff before they get into it to see what other options are available.

ASSEMBLYMAN CHIVUKULA: One other question: where the telecommunications and the cable come together, especially in the cable modem area, where Verizon and other telecommunication companies are not able to provide the DSL service, I think cable companies play a very important role there, and do we have any jurisdiction over that?

MS. FOX: Minimal.

Our reading of what we have jurisdiction over is the modem itself is a component. It's a service fixture that we have control over, that cost of what you pay for. And so, unless Congress does something otherwise, we have some say over modems and staff. When they get complaints, we'll, in fact, deal with the cable companies, I think, fairly effectively. Cable companies are working with us on those.

It's pretty clear where the industry is heading, and it's really the people who have computer lines is where the money is to be made for the telephone companies or for the cable companies. They're the high end users.

ASSEMBLYMAN CHIVUKULA: Thank you.

ASSEMBLYMAN CARABALLO: All right, let's switch over to energy a little bit.

Just a couple quick questions. When's the last time we had what we call a basic rate case?

MS. FOX: A long time ago. Matter of fact, I think I might have been at the Board then. (laughter)

Where's Nusha?

**N U S H A W Y N E R, ESQ.:** (speaking from audience) Well, on the electric side we have had--

HEARING REPORTER: Excuse me, Mr. Chairman, she doesn't have --

MS. FOX: Just give me the year, and I'll repeat it. Approximately.

MS. WYNER: (speaking from the audience) Public service had an electric rate case back in 1990.

MS. FOX: Okay, so, 1991, public service had the last basic rate case. And I was still with the Board. I might have just started DEP.

ASSEMBLYMAN CARABALLO: So it's been due. Is that what you're --

MS. FOX: Yes, we really need to sit down and look at whether they have reason -- you know, their imprudently expended costs, and our staff needs to look at that, and the rate payer advocate needs to look at that, and we'll sit down at very long meetings and go through a lot of information and going over whether, you know, they've been charging appropriate rates and whether they need a rate increase or not or possibly a decrease.

ASSEMBLYMAN CARABALLO: Yes, I too was around during that last rate case, although I wore a different hat back in ′91.

You know, we're talking about what we can expect to happen in ′03. From your perspective, as it relates to rates, do you have some kind of general feel for what the consumer can expect?

MS. FOX: I'm more hopeful than I was several months ago after being briefed by staff and talking with other people. I think we have some tools at our disposal to mitigate any kind of dramatic rate increase to customers and, you know -- plus you have the base rate proceedings themselves, which we can work with. But there are ways to do that, and we can also work to make competition actually work for residential customers as well as small businesses and the larger companies and commercial industrial, obviously, we have a better shot at it.

And, I think we have to deal with what we're going to do with rate caps. Are they needed? Is there a high level of rate caps? And there's a lot of issues to look at, and we had some time to do this, and we're in the forefront throughout the country. So, that's a kind of scary thing. I'd rather always follow somebody else and learn from their mistakes and, hopefully, we won't make many.

ASSEMBLYMAN CARABALLO: But we've got some mistakes we can learn from, right?

MS. FOX: Yes, we do.

ASSEMBLYMAN CARABALLO: So, your best guess tells you that you don't see any rate shock?

MS. FOX: Unless something dramatic happens in the overseas energy market, I think that we'll be able to get by without any kind of dramatic rate shocker, any rate shock at all where there's a minimal increase. I'm not sure that would be our goal.

I would like to point out though that my personal thought is, for competition to work, you need some kind of base. In the telephone industry, we regulate. The whole country's telephone industry is within the United States of America. I said something like 50 percent of our energy supply comes from outside this country.

So, energy self-sufficiency is moving in that direction, something very important, which is why conservation, renewable energy sources, energy efficiency is so important to lower how much energy we get from overseas. That's what scares me a little bit, and we have very little, if any, control over that.

ASSEMBLYMAN CARABALLO: Any other member have a question?

ASSEMBLYMAN CHIVUKULA: You have this August 1st --

ASSEMBLYMAN CARABALLO: Mr. Chivukula.

ASSEMBLYMAN CHIVUKULA: Chairman.

August 1st of 2003 is right around the corner. I mean, do you think that alternate suppliers have been able to gain market share in the electrics --

MS. FOX: Clearly, in New Jersey, they have not, and I think it's, in part, due to the wholesale electric rates being higher than expected in ′99. And so, the shopping credit was set in hindsight at the wrong level so that third party suppliers cannot make a profit in New Jersey. There are a few still active and, you know, the ideal would be to have some energy suppliers competing so they can make some money, and the customers can have lower rates. Aggregation and allowing aggregation is something that we need to talk about with the new Administration and with the Legislature. There are some minor changes that we want to make, to make aggregation work, to save customer's money.

There are a lot of things that I think we could do, working together so that New Jersey citizens can get some benefit out of competition. And so, that August 1, ′03 is not that scary date that it appears to be at sometimes.

ASSEMBLYMAN CHIVUKULA: Where are you in terms of some of the -- what do you call -- the secretization (*sic*) of some of the balances -- from balances?

MS. FOX: The securitization?

ASSEMBLYMAN CHIVUKULA: Yes.

MS. FOX: Dr. Grygiel could talk about that in much more detail than I can, but it appears that if the board were to authorize the utilities to securitize some of their debt that the rates for the customers would be lower because then their future debt would be cheaper than what otherwise would be, because the previous debt is securitized. And that's about as much as I know. So, if --

ASSEMBLYMAN CHIVUKULA: Okay, we're going to ask --

ASSEMBLYMAN CARABALLO: We're going to have an opportunity to deal with that.

ASSEMBLYMAN CHIVUKULA: Well, I just wanted -- Chairman, I just wanted to bring up August 1st as a really important date that's around the corner, and that's all I wanted to say.

MS. FOX: Right.

And I -- yet the aggregation you have -- you know, it's possible, with the Demand-Side Management, with renewables and energy efficiency, that residential customers as well as small businesses and mid-size businesses can actually lower their energy bills, even though the energy rates are increased. And that's something that's very important.

You know, there are companies now who are putting in geothermal units, which is, basically, they use the heat, which is fairly constant, in the Earth, underground, to help with their air-conditioning and their heat. That's doable now. So, even if the electric rates were to go up some -- if a company were to put in a unit like that, they could, over the long-term, save money.

Trying to have builders build energy-efficiency homes, some of the high-scale units are doing that. Trying to get normal builders, who build normal housing for normal New Jerseyans, to do that makes sense. There are a lot of things in renewables and in conservation and energy efficiency that I think can, in fact, hold bills the same or lower them if we do that in an organized fashion. So, you know, we need to increase renewable energy generation, and EDECA has some of that. The question for you is, do we think we can do it faster or not? And then conservation can obviously lessen the need for energy. Energy-efficient appliances, obviously, can also lower some of these bills, as well.

So, when somebody is buying a refrigerator, they should buy the most energy efficient one, even though it might cost a couple hundred dollars more. And you could actually price out how much it's going to take to pay that off.

ASSEMBLYMAN CHIVUKULA: Thank you.

ASSEMBLYMAN CARABALLO: Thank you.

I just wanted to publicly thank you, Madam President. You, personally, as well as your office, have responded to this Committee in a way in which makes me totally confident that we're going to be able to, together, deal with some of these issues in a way that makes sense for the people of this State, and I really appreciate this spirit of cooperation that we've been able to, rather quickly, develop. So, I want to thank you. And thanks for coming, again, today.

MS. FOX: Thank you.

And I will be leaving. I'm going to be staying for awhile, but leaving my two Directors behind, as well as the Chief Economist and Chief of Staff to hear everybody's comments so they could take notes, and we can learn from the other people appearing before the Committee.

ASSEMBLYMAN CARABALLO: Thank you.

MS. FOX: Thank you.

ASSEMBLYMAN CARABALLO: Thank you.

All right, this time we're going to go into the cable part of this. Now, I know there were some folks who wanted to testify because I spoke to one of them last week, but we didn't get a sheet, but we'll overlook that.

Ms. Alexander.

How are you?

**KAREN ALEXANDER:** Fine, thank you, Mr. Chairman.

I neglected the administrative detail of filling out my name.

ASSEMBLYMAN CARABALLO: That's okay. That's okay.

MS. ALEXANDER: Sometimes I forget my name. I hope you'll forgive me. (laughter)

Good morning to you and to the Committee. I'm Karen Alexander, President of the New Jersey Cable Telecommunications Association. With me is the current Chairman of our Association, Bob Smith, who is also a regional Vice-President for Comcast. To the extent that questions arise during our discussion that Mr. Smith may be better equipped to answer than I can, I will defer to him.

The Association represents four companies that are doing business in New Jersey as cable companies. They are Cablevision Systems Corporation, Comcast Cable Communications, Service Electric Cable of TV of NJ, and Time Warner Cable Television (*sic*). Those four companies are serving 98 percent of the 2.5-plus --

ASSEMBLYMAN CARABALLO: Excuse me for a second, could you close that door please?

Thank you.

MS. ALEXANDER: Those companies are providing service to more than 98 percent of all the cable customers in New Jersey. The number of subscribers currently served by my members is about 2.5 million.

A few years ago, the industry opted to change the name of the Association from the Cable Television Association to the Cable Telecommunications Association. And the reason for that was that the industry, as it was developing new technologies and services, envisioned that it would be providing more than just TV to New Jersey residents and, in fact, we are now doing that.

Among the advance services that we're providing is digital cable television. We are also providing high-speed Internet service to many consumers throughout New Jersey and anticipate, in the not too distant future, to be able to provide actual local telephone service to New Jersey residents and businesses, as well.

The cable industry is distinctly different from the other industries that the BPU regulates, insofar as we are not a public utility. The cable industry is a private enterprise that is regulated under the jurisdiction of the Federal government and the Board of Public Utilities. But what makes us very different from the telephone companies and the gas and electric utilities is that all of the investment that's been made by cable operators in New Jersey is done based upon risk capital. The companies go to Wall Street, they get financing, they build their infrastructure, and they do that without any support or backing of the government, Federal or state. And they do that taking 100 percent of the risk of whether or not they're going to get a return on that investment.

Basically, as you regulate the telephone and the other utilities, the social contract, essentially, that exists is that in exchange for them making an investment, sometimes with some government moneys, in providing service, they get a guaranteed rate of return. There is no guarantee on the rate of return that cable operators make, and that makes us somewhat different and is why you will, from time to time, hear us say, "But we're not a utility." The kinds of factors that impact on cable operations and the economics of cable television are very different in many respects than our utility brethren.

Part of what, we think, is sometimes missed is the extent of the contribution that's made by the cable companies to New Jersey. There are many direct benefits and also indirect benefits. We employee more than 7000 people. We pay taxes, both wage and income taxes, in excess of $13 million annually. The industry also pays $2 million in property taxes and $17.5 million in franchise fees to municipal and state governments.

In New Jersey alone, the cable industry spends multiple billions of dollars for New Jersey-based goods and services that are used nationwide. The companies that are members of our Association that operate in New Jersey spend more than $100 million every year on New Jersey-based goods and services. We are not an inconsequential part of New Jersey's economy.

We also produce very extensive public affairs coverage, some of which you are familiar with by virtue of, possibly, having taken advantage of opportunities for interviews on CN8 and News 12 New Jersey. We also provide full coverage, gavel-to-gavel, of the full sessions of the Senate and the State Assembly, and we do that as a public service at the industry's expense.

The cable industry also provides public educational and governmental access to those communities who choose to avail themselves of it. Some of that programming will allow, for example, just any citizen that may have a particular issue or talent that they want to show, to be there. You can see school board meetings. You can see, in some cases, city council meetings. That PEG, or Public and Educational Governmental Access, is something that the cable industry provides. And we are the only multichannel video provider that provides that.

Despite what you read in the newspapers and what you may hear from some of your constituents, cable faces very stiff competition. We face it from direct broadcast satellite providers, and that competition has been on the increase more rapidly than any other electronics industry in the United States.

What makes us different from DBS, essentially, is the way that the service is brought to the consumer. What also distinguishes us from DBS is that we are regulated, and they are not. They don't have the local presence, in New Jersey, that the cable companies have so they don't have the kind of direct and indirect economic impacts that we have.

In the last three years, DBS penetration in New Jersey has grown to 14 percent. It's somewhat less than it is nationally, and that's largely because of the presence of New Jersey between two major media markets, Philadelphia and New York. Many of our residents are able to get television broadcast television signals without the assistance of cable, but, to the extent that they want service beyond the basic television broadcast services, they have the option of choosing cable television or a DBS provider more often than not. The one exception to that is in the rare event that someone is physically situated, where they cannot place a dish on their premises in a way that allows them to get the satellite signal. But most New Jerseyans have the option of either going with their local cable company or with a DBS provider.

As I said, DBS doesn't make the kinds of contributions that the cable industry does. They don't pay franchise fees, they don't produce local programming, they don't provide public access to communities, and they don't provide normal call customer service.

As I said earlier, although we do not consider ourselves to be a monopoly, by virtue of the extreme pressures that we face in competition from DBS, we are nonetheless regulated. And although there are some allegation made, from time to time, that cable rates are rising because the consumer programming service's tier was deregulated by Congress, we really don't believe that that is the case.

Cable programming costs have risen in direct proportion to the cost of providing that programming to consumers. Specifically, as a network, like ESPN, for example, is having to carry forward the costs that they incur from the contracts that they have with sporting arenas and sports teams. And those sports arenas and teams' costs are going up. Those costs get passed on to us and, in turn, to the consumer.

To the extent that a network like HBO has had extraordinary success with a TV show like the Sopranos, and James Gandalfini can now command considerably more money that he could have the first season, those costs are passed on to consumers. So, while there have been increases in the tier and, specifically, the CPS tier, that is of some concern -- is the expanded basic tier. It has been relatively level at about 1.5 percent. The last statistics taken by the FCC between July 2000 and July 2001.

As President Fox said, the basic cable tier, through regulation and other issues, has managed to decline overtime. So, while there have been increases in the overall cost the consumers pay for cable television, there are some pretty clear reasons for it.

The other thing to be mindful of is that while there is an aggregate increase, the actual cost per channel has declined significantly over the last 15 years. And, I think, if you look into the issue and if you want any further information about that, I'd be glad to provide it. We are providing many, many, many more channels today in the expanded tier of service than ever before, and our ability to do so is, in part, related to being able to promise to programmers that there are certain numbers of residents that will be watching. And the more successful we are in marketing our services and delivering the programming that residents want, the better able we are to keep control of some of those prices.

The other issue that is sometimes misunderstood is that while there may be some price increases in some service areas, that increase is often also attributable to the kinds of investments that we've been able to make in providing the advance services. Almost all of the cable infrastructure in New Jersey has been significantly upgraded to provide two-way digital communications. And that's done as no small undertaking. It has taken, at least, $2.5 billion to date for those kinds of upgrades to take place.

The reason that the industry has been willing to make that kind of an investment is because in 1996, Congress made the promise of deregulation of the CPS tier, and with that Wall Street saw that there was a potential for money to be made, and they were more willing to release the capital that the industry would need to invest because they could see that there was actually going to be some return on that investment. So while deregulation is considered anathema to many it, in fact, freed up companies to make investments of multiple billions of dollars to provide new and advanced services to New Jersey consumers.

My hope is that we'll have the opportunity over the next few months, two years, to get to know each other better. I think there's a lot about the cable industry that we'd like to share with you that may not be well understood. We think it's a pretty good success story. We don't think it's as well known a success story as we would like for it to be, and that's despite what you read in the press. That doesn't mean we're perfect. Clearly, there are problems and issues that crop up, but we're open to feedback. We want to hear about those problems. We want to know constructive criticism and are always available for dialogue.

Mr. Chairman, I'm glad to be here today, and I'd be open to take questions from any of the members of the Committee.

ASSEMBLYMAN CARABALLO: Sure.

Does anyone have a question?

Vice-Chairman.

ASSEMBLYMAN EAGLER: Thank you.

My biggest concern that you stated about the amount of money -- taxes that you pay, because of the increasing the rates, don't you think you're going to be putting people out of the market? To hope that the people that purchase, new subscribers, because they are going to be looking for alternatives --

MS. ALEXANDER: I don't think so. I mean, to the extent that people are interested in what we call multichannel video programming, it is available to them at a cost, and that cost does sometime rise. However, it is comparable to what they would get from a direct broadcast satellite provider.

There is nothing about the expanded basic tier or even the premium channels that is a giveaway. It's not something that people are able to have as a right. If they want it, they need to look at, among all the other things that they pay for, the extent to which they can afford it.

ASSEMBLYMAN EAGLER: Because in my town where I live, in Clinton, the majority of the people like the cable. They don't want to switch over to the satellite dishes because they like watching the city council meetings, the school board meetings, and the local programming; however, there was some advertisement a few weeks ago that there is a company that would provide that satellite dish that gives you the local access, and many people are willing to change over. Maybe they'll get a little less programming, but they're not watching those extra programs. So, I just really think that the market is going to change drastically.

MS. ALEXANDER: The market has changed drastically.

ASSEMBLYMAN EAGLER: Especially with this whole issue as it resorts to the Yankee games.

MS. ALEXANDER: I think one of the benefits, though, of having competition, is that while a consumer may not be able to get from company A all of the services that they want, now we have a situation where company B are making those services available, and they do have a choice about which company is their provider.

ASSEMBLYMAN EAGLER: I just think that most of the public does not believe there's has been a competition.

MS. ALEXANDER: I understand that. Part of my job is --

ASSEMBLYMAN EAGLER: Because the only company in town that you can get your cable is one company, and other companies are not coming forward to do an additional franchise. The public believes, "I can only get cable from one company, so why do they keep raising my rates?"

MS. ALEXANDER: And, unfortunately, part of my job -- not unfortunately that it's my job, but, unfortunately, the message hasn't been clearly understood: there is competition. And that the misunderstanding about the relationship between cable rates and the existence of competition is fairly rampant in our society. I think you'll see the industry making a more concerted effort over the next few months to help the public understand, one, that they do have choice in what is involved in the rate process.

ASSEMBLYMAN EAGLER: Well, my concerns are that, because the public is going to go shopping, if the industry doesn't put its house in order, and then we lose State revenues. That's my base concern.

MS. ALEXANDER: Understood.

We work very hard to keep our customers and to grow it. No one is more concerned about losing those customers than we are.

ASSEMBLYMAN EAGLER: It's just like I said, if the local access can be from a dish satellite, the public's going to move.

MS. ALEXANDER: That's true.

ASSEMBLYMAN CARABALLO: One of the things that I've encountered as a consequence of this YES Cablevision dish fight, is the fact that it actually has educated people to the fact that there is an alternative. Obviously, DirecTV is trying very hard to educate the public, but I've never seen the kind of inquiry that I've seen out there, with respect to these choices. So I think they're becoming a little bit more aware.

And you're right, I think the fact that you could only get cable from one source automatically implies in people's minds that there's no competition, because they don't go to that next level -- satellite being the next level, or the alternative, not the next level. And they are finding out what the differences are, with respect to the service.

Any other questions?

Mr. Egan.

ASSEMBLYMAN EGAN: Yes.

One of the problems I've encountered is the ability of having local offices for people to go in and exchange their convertors or their boxes and to go in to pay their bills. Has that problem been looked at recently? And what has been done to alleviate that, especially in the urban areas?

MS. ALEXANDER: I'm not sure that I'm understanding what the problem is. You're saying with the locations or the number?

ASSEMBLYMAN EGAN: The problem is, many cable contracts with municipalities require local offices to be able to go in and pay your bill, be able to go in and get a convertor.

It's my understanding that's not happening in most cases, especially in urban areas. And I'm just wondering if that's a problem that I'm just hearing about, or is that a problem that is really not accurate, it's only isolated instances?

MS. ALEXANDER: I think you're probably talking about isolated instances. My experience has been that the -- first of all, the Office of Cable Television does have jurisdiction over the location and the closing or the opening of local offices. And I would -- my guess is that the accessibility has remained fairly constant, although there may have been some areas in which an office moved from location A to location B or where the company actually got permission from the Office of Cable Television to close a given office. But the existence of local offices really has not declined, to my knowledge, overtime, although that's something that the Office of Cable Television would probably know more about it.

ASSEMBLYMAN EGAN: Thanks.

ASSEMBLYMAN CARABALLO: I saw the Director, or the Manager, of the Cable Division at the BPU shake her head a little while ago. Are you in agreement with the fact that these are isolated instances as opposed to a general problem?

**CELESTE FASONE:** (speaking from audience) Yes, Mr. Chair, it is in the --

HEARING REPORTER: Mr. Chairman --

ASSEMBLYMAN CARABALLO: Could you --

MS. FASONE: Oh, I'm sorry.

ASSEMBLYMAN CARABALLO: Yes. Yes.

MS. FASONE: If there is a provision for a local office in the ordinance, municipal ordinance, then there is a local office in that town. If there is not, if it is in the ordinance, and it's closed or relocated without Board approval, administrative action results.

ASSEMBLYMAN CARABALLO: So, if I get this correctly, what Mr. Egan might be referring to are situations where there is not a local agreement to have an office in town? Is that --

MS. FASONE: Right. I'd be very surprised since -- I would venture a guess that over 90 percent of the 562 franchises have a condition which requires a local office within the municipality or the service area. So, if there's an individual instance where that has not happened, and it's not in violation of the franchise, then it was not negotiated for in the franchise. But I would find that difficult to believe.

ASSEMBLYMAN EGAN: Okay. Well, let me just check it out, and I'll be glad to get back to and let you know if what I've been told was, in fact, true.

MS. FASONE: Certainly, Mr. Assemblyman.

ASSEMBLYMAN EGAN: Thank you.

ASSEMBLYMAN CARABALLO: Okay. And then maybe those municipalities will have a contract, yes.

ASSEMBLYMAN EGAN: Sure, sure.

ASSEMBLYMAN CARABALLO: In which case, you'd know how to advise them for next time.

Mr. Chivukula.

ASSEMBLYMAN CHIVUKULA: Mr. Chairman.

In terms of the telecommunication aspect, where you said that cable will be getting into the telecommunication, do you have a time frame when you're going to get into it?

MS. ALEXANDER: I actually can't specify for any of the companies exactly when. That largely has to do with the regulatory environment that we're in, and, as we discussed at the last Committee meeting, there are some issues that have been pending, both for the BPU and the FCC, that we don't necessarily think are going to encourage competition. Each individual company will look at the marketplace and will make decisions as to whether or not entry into that market is something that's likely to be profitable for them or not.

I do believe though, in the case of Cablevision, they are providing some limited service to businesses in New Jersey already. And I would expect that over time, particularly if we get a more favorable ruling from the FCC, this time, one of Verizon's requests to be in long distance, that the opportunities for cable operators to go into telephone will rise.

ASSEMBLYMAN CHIVUKULA: One other question, Internet Telephony. I mean, that's one way you can get into the telephone business.

MS. ALEXANDER: When I speak of a cable operator providing telephone service, there are two options, technologically, that they can do that. They can do that through the traditional switch network, which is, essentially, neutral for the consumers' purposes in terms of where it's coming from, but the actual connection to the home is through a cable connection. But the kind of back off situation that you have with Verizon, there is a comparable network that the cable operator would have.

The other alternative is IP Telephony, which is using the Internet protocol technology to provide the voice signal, also through the cable lines, and when you do that, you do that without the switching technology that we traditionally associate with telephone.

Cable IP is not as far along advanced in its deployment around the country. There are still some kinks that the industry is trying to work out, from a technical standpoint, but I do believe it is something that you will see employed in New Jersey, as well as the switch technology.

ASSEMBLYMAN CHIVUKULA: Thank you.

ASSEMBLYMAN CARABALLO: Ms. Alexander, as usual, you've been very informative. Thank you very much for your testimony.

MS. ALEXANDER: Thank you, Mr. Chairman. Have a good day.

ASSEMBLYMAN CARABALLO: Thank you.

Celeste, I remember your first name.

MS. FASONE: Yes.

ASSEMBLYMAN CARABALLO: I don't remember your last name, I'm sorry.

MS. FASONE: It's Fasone.

ASSEMBLYMAN CARABALLO: Fasone.

MS. FASONE: Yes.

ASSEMBLYMAN CARABALLO: Why don't you sit there for a minute in case somebody else is coming up and --

MS. FASONE: Sure, be happy to.

ASSEMBLYMAN CARABALLO: Thank you.

Anybody else from the cable industry or consumer group? (no response)

No.

All right, then we will switch off to the energy. A number of people are here to testify on energy. Let me see, what I'd like to do is, if at all possible -- I mean, I'd like to get out of here before tonight (laughter). Maybe even before today, right. I'd like to get out of here before tonight and I would, however, like to give everyone an opportunity to have their say, so, I'm going to ask the following, if you would. I'm going to call up a couple of groups that, I think, might help provide some general background information with, hopefully, also some specifics. And then, anyone else who wants to testify, obviously, can. Please try as much as possible not to be repetitive, and try to keep in mind that we all want to get out to eat lunch or dinner even, tonight.

So, with that, I'd like to start off with Fred DeSanti from PSE&G. Good morning, Fred.

**FRED DESANTI:** Good morning, Mr. Chairman.

Thank you.

Members of the Committee.

My name is Fred DeSanti from PSE&G. I very much appreciate the opportunity to appear before you today. And I would like compliment the Chair for having this meeting. Certainly, it is in the best interest of everyone to understand where we're headed. And we look forward to providing some information today, which I hope will provide that direction.

Before I begin, we're going to be throwing a tremendous amount of numbers around. I would like to do two things. First of all, tell you the basis from which these numbers represent**.** All the numbers and percentages that I'm going to posit with you today are based upon a baseline of what PSE&G sold in 1999. At that point in time, there was approximately $4 billion of revenue, approximately, $.10 per kilowatt was the average cost, and we're talking about a sales volume of 40 billion kilowatt hours. That would equate to the fact that 1 percent of sales would be $40 million. So, as I go through these numbers, we can use that as a base. I think, you can get a good point of comparison. Otherwise, it becomes very confusing.

I would also like to, absolutely, qualify all the numbers that I will posit with you. Frank Delany, our Rate Counsel, is behind me. He has something sharp, I'm sure, pointed at my head, and, certainly, we have to recognize that we are looking at a point in time which is 15 months forward. A lot of things can happen at that point, so the numbers I posit with you today are really based upon our best guess and estimated at this point in time.

There are two areas that we want to talk about. First, is the area of deferrals, which is of a great concern to everyone and, secondly, what the anticipated cost would be in August of 2003. Let's begin with the discussion of deferrals.

As you are well aware, PSE&G, because of the construct of our stipulation and Board order, has no past deferred amount of cash. For the past three years, based upon the structure of that agreement, PSE&G Power supplied BGS, and it was designed so that at the end of that period, which will end in August of this year, there is no money owed by customers.

As we look forward to year four, of course, we have a circumstance like the other utilities whereby BGS market price would be compared to the shopping credit. And whether that becomes a plus or minus, we think it will be a negative, will accrue then to customers, and we'll be due and owing, of course, hence after August of 2003.

But first, I think, we've got to look at the components of what's in the deferral. First of all, we have societal benefits charges, which again, are accruing and have for the past several years; nonutility generation, which is the NTC charges, these are essentially the over market costs that are passed through the customers; we have MTC, which is the market transition charges that collect stranded cost; we have restructuring charges; and, of course, we have BGS.

You have to blend all these things together, really, to come up with a net number as to what the deferral for PSE&G customers is going to be. I'll give you some numbers just to give you an idea of what that is. Societal benefits charge, we're looking at approximately 1 percent of under recovery; restructuring charges, which have to be filed and, of course, go through the entire process of discovery, has approximately running about 1 percent, as well; and BGS, as you know, we had a very successful auction, which was running about 6 percent expected. So, taken together, we're looking at a number of about 8 percent of deferral.

However, the good news is that if we take together the nonutility transition charge and the market transition charge, which we are still collecting, again -- and I want to emphasize this is based upon our estimation at this point in time -- it looks like we may end up with either a plus or minus 1 percent deferral, which, honestly, on the basis of the size of revenue and impact that we're talking about is, in the noise, it's very, very nominal.

I'm very pleased to tell you that a large portion of that wipe away of the deferral amount is based upon the restructuring of the nonutility generation cost, the contracts that we've had. We've been very successful with that. About 90 percent of the capacity of the nonutility generation we have renegotiated with the purveyors, some of whom are here today, represents about 690 megawatts.

I'm very pleased to report that we've had about an 18 percent reduction on the stranded cost associated with those contacts as a result of that negotiation. That means about $150 million is an up-front cost, which will be paid during the year of deferral that can be booked against what is owed for the BGS for this year.

In addition to that, about $100 million will exist in the out years of these contracts in order to further reduce that. So, in total, we have about $261 million of reduced costs and NTC, which is going to go a long way in reducing those deferrals to near zero.

These contracts were constructed, principally, by the cogenerators looking toward becoming not qualifying facilities where they would have to, you know, sell everything to public utilities, but instead become mergence plants. And that was really, I think, the dynamics of negotiation that works so well for us.

So, again, net, net. In terms of deferrals, it appears to us, right now, that it will be plus 1 percent, minus 1 percent, but certainly within the noise, and we're hopeful that it will be, certainly, about zero going forward into 2003.

The second question that we wanted to talk about was, what are rates going to look like in August of 2003? Again, based upon our best guess, and, again, I'm going to posit numbers, again, based upon 1999, so that everybody has the same frame of reference.

Reviewing the rate reductions that were required from EDECA in August of 1999, we had a 5 percent rate reduction, which is approximately $200 million; in January of 2000, upon the completion of securitization, we had a 2 percent rate reduction; in August of ′01, we followed up with an additional 2 percent rate reduction, bringing us to 9 percent, which is where we stand right now; and in August of 2002, we are now scheduled to have a 4.9 percent rate reduction, which will bring us to 13.9 percent in August this year. The total accumulated rate reduction for customers over this period will be in the amount of $1.6 billion. And, I think, that that's a very significant number which has done a lot to pump money back into the economy.

The average price per kilowatt hour in 1999 was about 10 cents. And with these rate reductions, in August of this year, it'll be down to about 8.6 percent, 13 percent off of them. Pretty easy math when you're dealing with a number like that.

With respect to the impact of wholesale competition at the generation level, I can tell that in 1999, when we first unbundled, it was our estimation at that time that the cost of generation was about seven cents per kilowatt per hour on a ten cents charge. Even if you take off the securitization fee of a penny, you're still at six cents compared to where we ended up in the BGS auction of about five point one one two cents. So, you can see that the impact of competition, even in the short time of three years, has had a demonstrated effect on the price of generation at the wholesale level.

So, if we talk about going into August of ′03, where are we? Well, as was discussed before, the transmission and distribution costs have not be reviewed since 1991, and it is our intention to file for a rate case sometime either in May or early June. And the numbers, again, I don't have, you know, finalized, but based again upon 1999 numbers, we're looking at somewhere in the neighborhood of 7 percent, 7.5 percent, maybe a little higher, a little lower. Again, I can't be that specific at this point in time. But that would be an add back, of course, to the 5 percent. But we're going down in August, so, net, net. As of today's rates, you'll be talking about, maybe, 2 percent higher.

The other issue that has to be talked about is where are BGS costs going to be for next year? Certainly, if we look in a linear way, they would be about 6 percent higher than the shopping credit, which is where they came in this year. And, really, we had two competing factors with respect to BGS service that should be discussed.

One is the price of natural gas. All of this generation is natural gas fired, and it is true that the price of natural gas has taken up since the auction, maybe a $1 higher when you look at some of the future's market. So that is certainly going to be to the negative in terms of putting pressure on cost. But on the other side, in terms of the competitive nature of the wholesale market, we have to look at the fact that there are a number of new projects being built and, as was posited recently in the announced projects in 2002 through 2004, will mean that there are many more megawatts that are being constructed than there is low growth, even if you consider a 2 percent low growth.

So, on balance we have maybe a little bit higher natural gas costs, but by the same token, we have a more competitive market because there are more generators that we'll be building.

So, net, net, net all in all. We're looking at, perhaps, the examination of a rate increase for our T&D group. We're looking at a BGS cost, which will be, maybe -- again, if you look at it linearly -- 6 percent higher, and you balance that against a 13.9 percent rate reductions that would have accrued to that point, you're talking about August of ′03 coming out something less than 5 percent reduction from where we were in 1999.

ASSEMBLYMAN CARABALLO: Five percent reduction fee --

MR. DESANTI: In that range, Assemblyman -- Chairman.

ASSEMBLYMAN CARABALLO: -- and that would -- and it'll be an increase of -- to get to that --

MR. DESANTI: It'll be as much 3 percent to 5 percent, let's say, lower than it was in 1999. That would be the price in 2003.

Again, you know, please take these numbers with some kind of a range. It's an estimate. Obviously, it helps us very much that the deferral balances are going to be either very, very small or negligible at this point. And again, we're looking at T&D rates and the BGS rates combining to take back about two-thirds of the rate reduction a little bit more.

And, I think, that concludes my testimony with respect to those particular areas.

Any questions?

ASSEMBLYMAN EAGLER: Chairman.

ASSEMBLYMAN CARABALLO: Mr. Vice-Chairman.

ASSEMBLYMAN EAGLER: So, you're saying that the homeowners and municipalities and counties are going to get a reduction of 3 percent to 5 percent by next August?

MR. DESANTI: This August, we are scheduled, currently, for a 4.9 percent reduction from existing rates, okay. That rate reduction would be frozen until August of 2003.

ASSEMBLYMAN EAGLER: And what happens in 2003?

MR. DESANTI: In 2003, we will be looking at market prices for BGS, and I'm going to assume that it's linear from today, in which case it would be 6 percent higher, and we're looking at going into a rate case, as I mentioned, again, loosely 7 percent based upon the 1999 numbers. So, you're talking about the potential of an add back of 13 against a reduction of 15, there abouts. So, we're talking about 3 percent to 5 percent below 1999 levels.

ASSEMBLYMAN EAGLER: Because there are some members at the State Legislature that have sent out letters to every municipality that uses Public Service Electric and Gas.

MR. DESANTI: Yes, I am familiar with that.

ASSEMBLYMAN EAGLER: And many of the municipalities are being stoked up to pass resolutions to oppose this legislation.

MR. DESANTI: Yes.

ASSEMBLYMAN EAGLER: Are you going to send anything out to the towns before they pass this?

MR. DESANTI: We have a meeting with the Senator and the Assembly people who have sponsored that legislation for later in this week, where we would go down and basically set right the deferred cost that they have in that argument because, right now, we think it's erroneous.

ASSEMBLYMAN EAGLER: Is Public Service going to send a letter out to the municipalities? Municipalities believe the letter from the Legislature is correct.

MR. DESANTI: Yes.

ASSEMBLYMAN EAGLER: And the municipalities want to pass resolutions saying, you know, don't do this.

MR. DESANTI: Don't do the other rate reductions?

ASSEMBLYMAN EAGLER: Correct.

So, they don't understand it the way the letter was written.

ASSEMBLYMAN CARABALLO: Before you move on, let's make sure that everybody here understands what it is that you're talking about.

Over the last week, Senator Connors sent a letter out to members of the Legislature proposing that the rate reduction, which is supposed to be kicking in this year, not -- I'm sorry, by the end of the year -- not kick in so that, in fact, the theory being that if we're going to have a rate increase, why bother with a rate reduction to begin with? And so, what is being suggested, right now, to Mr. DeSanti is -- or rather what is being asked is, what is his reaction to that particular proposal? Right?

ASSEMBLYMAN EAGLER: Correct.

ASSEMBLYMAN CARABALLO: Okay.

Anything else that you think needs to be added to the formula before he answers?

ASSEMBLYMAN EAGLER: Well, I think that a letter has to go out to the municipalities stating your case --

MR. DESANTI: Yes.

ASSEMBLYMAN EAGLER: -- so that we don't get botched up with a lot of paperwork and resolutions being passed on the local level where they believe one thing, and it's another situation where the spin on it or the PR on it, isn't what is actually happening. And then, we got to run up and yell, "Fires!" all over the place, saying, "No, you got the wrong information."

MR. DESANTI: I agree with you there.

I mean, with respect to, again, PS is circumstanced at this time -- PSE&G circumstance. We're looking at a nominal to zero deferral based upon all in consideration. I would agree with you that, you know, the public is going to get a 5 percent rate reduction, 4.9 percent rate reduction, in August. It will last 12 months, and it is unsustainable. We will be adding back. I would like to not to believe that it is sustainable. Does it make sense to smooth this thing? It might. But, again, we're dealing with, you know, a lot of different customers, some of whom may have planned upon this and having their business performance, this rate reduction, I wouldn't want to speak to them.

Yet, I feel completely different about this if we were borrowing a tremendous amount of money and deferring cost and having a rate reduction on top of that. But for my company, we're not really in that situation. So, I can see that it might make some sense in some cases to do that. It may make some sense in our case to do that. But, again, beauty on the rate reduction is in the eyes of the beholder and, in that case, it would be our customers.

But I absolutely agree with you, we need to posit with municipalities: our cost data, what it looks like at this point in time in terms of deferrals. We will do that. And we are meeting with the sponsors of that legislation, at least to set the deferral record straight as it relates to PSE&G this week.

ASSEMBLYMAN CARABALLO: If I'm not mistaken, your numbers added up to something like a 9 percent, 8 percent, 9 percent increase next year. This is after the 5 percent reduction.

MR. DESANTI: Correct.

ASSEMBLYMAN CARABALLO: So, we would have an 8 percent increase after a 5 percent deduction, netting out at 3 percent, which is what you were, basically, getting at.

MR. DESANTI: Yes.

ASSEMBLYMAN CARABALLO: And the proposal would be to avoid the 5 percent in the hopes that the only increase that would take place would be that 2.9 percent or 3 percent.

Okay, now I just want to make sure. I've learned more about this over the last week than I ever thought I'd care to know. (laughter) But trust me, I care to know. The answer that we're hearing, and I think it's important to focus in on that, is that, in the point of view of PSE&G, that may or may not be the way to go. And they'll study it further, and I'm sure they'll let us know the appropriate moment which way they want to go. But they're not alone in this venture.

MR. DESANTI: That's correct.

ASSEMBLYMAN CARABALLO: There are other companies, and to the extent that there are other companies, the question then becomes, does it make sense to consumers from other utilities to avoid or to grunt the rate reduction or to, in fact, not grunt it at all?

So, we're going to wind up, I think, hearing different scenarios from different companies because their individual situations are, I think, very different. In some cases very similar. In some cases, I think, dramatically different.

Any other questions?

ASSEMBLYMAN CHIVUKULA: Just a --

ASSEMBLYMAN CARABALLO: Mr. Chivukula.

ASSEMBLYMAN CHIVUKULA: Mr. Chairman.

I understand that PSE&G is the only company that has no debt right now.

MR. DESANTI: That's correct, sir.

ASSEMBLYMAN CHIVUKULA: That's the only reason why you're able to offer this thing?

MR. DESANTI: It is expected, right now, with the collection. First of all, the cash benefit of the renegotiation of our nonutility generation contracts and the expected recovery of market transition costs that this thing is going to blend together so that in August of ′03 we're going to be maybe plus or minus 1 percent, maybe zero, in terms of deferrals. But nothing to speak of and certainly nothing to become concerned about on the basis of, you know, $4 billion of revenue and end up being off by a few million dollars, is nothing to be concerned about.

ASSEMBLYMAN CHIVUKULA: So, you are in a unique situation --

MR. DESANTI: Yes, sir, we are.

ASSEMBLYMAN CHIVUKULA: -- compared with the rest of the companies?

MR. DESANTI: Yes, sir, we are.

ASSEMBLYMAN CHIVUKULA: Okay.

Thank you.

ASSEMBLYMAN CARABALLO: Mr. DeSanti, as usual, you've been very informative.

MR. DESANTI: Thank you, sir. Appreciate it very much.

ASSEMBLYMAN CARABALLO: Thank you very much.

MR. DESANTI: Thank you.

ASSEMBLYMAN CARABALLO: There's going to be a method to my madness here. I'm going to be calling up utility companies first. Then, what I'm going to be doing is calling up a number of entities that have been involved in this from not just a individual or one perspective, but from a larger perspective, to have their say. And then, I'm going to try and bring in a couple of the advocates. And then, I don't know who else I have left after that, but we'll see.

So, next, we have Leila Vespoli.

Did I pronounce that correctly?

**LEILA L. VESPOLI:** (speaking from audience) Very good.

ASSEMBLYMAN CARABALLO: I better since that's my granddaughter's name.

Leila Vespoli from Jersey Central Power & Light.

Good morning.

MS. VESPOLI: Good morning.

Thank you, Mr. Chairman.

Chairman Caraballo and members of the Telecommunications and Utilities Committee, I very much appreciate the opportunity to be with you here today. Again, my name is Leila Vespoli, and I'm Senior Vice President and General Counsel for FirstEnergy Corp.

As you probably know, upon the completion of our merger with the former GPU, Inc., in November last year, FirstEnergy became the parent company of Jersey Central Power & Light, which serves 1 million customers in the northern and central parts of the State. We also serve another 3.3 million customers in Pennsylvania and Ohio through our six other electric utility companies.

While FirstEnergy is a relative newcomer to your State, our competitive subsidiary, FirstEnergy Solutions has been active in the customer choice program, first as a supplier to some 800 governmental facilities, including the Statue of Liberty, and more recently, as a successful bidder in the Basic Generation Service auction. With our competitive subsidiary, we certainly want to see this State make a successful transition to a fully competitive market.

And with our electric distribution company, we have a genuine interest in seeing that our customers continue receiving affordable and reliable electricity. This State took an important first step, recently, with the successful

BGS, or Basic Generation Service, auction. Through that process, you have ensured customers stable generation prices through August of 2003.

It's clearly time to look beyond 2003 so that electricity customers in New Jersey can participate and benefit in the kind of competitive electricity market that was envisioned by lawmakers when they passed the Electric Discount and Electric Competition Act.

Although I don't have a crystal ball to tell what the future market will look like, I believe that there are a few fundamental principles that need to be in place in order for a vibrant, competitive electricity market to develop, whether in New Jersey, Pennsylvania, Ohio, or any other state. And in this regard, I plan to keep my remarks to general principles as opposed to numbers.

First, investment in generation should be encouraged. Under deregulation, utility companies no longer have the obligation to produce power to serve their customers, but to purchase power in the marketplace. It is Economics 101 that in order to maintain lower prices over the long-term, in a competitive marketplace, supply must not be constrained. An adequate supply of electricity will support the marketplace, whether there is another BGS auction or customers shop on their own. To achieve this, the competitive marketplace needs to send the right economic signals to investors to build and maintain generating plants.

And that leads me to my second point, BGS prices should reflect the actual cost to serve customers. Otherwise, retail suppliers will be unable to compete. And without retail suppliers, there can't be a competitive electric market. While utilities could provide default service, this should be reserved for limited circumstances and phased out over time as the market begins operating as a fully functioning retail enterprise.

Third, electricity users, particularly large manufacturers with some flexibility in the way they use the product, should look for innovative ways to bring down their cost by purchasing off-peak power, through interruptible agreements or special metering for real-time pricing.

And finally, whatever role electric distribution companies play as a provider of last resort, we should be treated fairly with respect to the recovery of power costs. Otherwise, it could jeopardize the ability of utilities to operate and maintain system safety, reliability, and a long-term benefit -- and try to maintain a long-term benefit for New Jersey customers.

Ultimately, the retail electricity market in New Jersey must rely on generators to provide power cost-efficiently, suppliers to participate in the retail market, distribution companies to maintain a safe and reliable delivery system, and customers, particularly large commercial and industrial electricity users, to look for innovative ways to use electricity.

We look forward to working with the Legislature and the BPU to help ensure that transition to full competition is smooth so that our customers continue to receive the level of service and reliability that they expect and deserve.

Thank you very much.

ASSEMBLYMAN CARABALLO: Ms. Vespoli, if you don’t mind, I’d like to ask you a couple of questions.

You just made a statement about the fact that utilities should be allowed to recover costs. Is there something that you see that interferes with that? I mean, as I understand it, we have committed ourselves so far to that proposition, and I assume that you're raising it because you see something that might interfere with that. Could you share that with us?

MS. VESPOLI: Absolutely.

You're correct with respect to what is happening in New Jersey thus far. And what I was specifically referring to was going forward. As we're trying to determine the utility's role as the provider of last resort, whatever that might be, those are the rules that in New Jersey and in other states across the country, are currently being fleshed out. And that's what I'm referring to when I'm saying, you know, looking forward, making sure that those rules are written appropriately so that we continue with the tradition of appropriate cost recovery.

ASSEMBLYMAN CARABALLO: Do you have an idea of what your deferred costs are? We heard from PSE&G that they might not be any -- with them --

MS. VESPOLI: I have some numbers to share with you.

If you recall, there was some talking in the news with respect to, specifically, JCP&L's deferred costs. As part of the merger process, FirstEnergy agreed to write down that then existing balance by $300 million. So, that balance has already been sizably reduced.

Also, contributing to a lessening of the increase in deferral is the lower wholesale market prices. As we go forward in time, and we are able to decrease the price in which we buy power, that deferral is not increasing at the rate that it would otherwise have been foreseen.

So, right now, the number, as I understand the deferral to be, is in the neighborhood of $300 million.

ASSEMBLYMAN CARABALLO: Okay.

What do you anticipate as the possible increase come 2003 for JCP&L?

MS. VESPOLI: If I could, let me just put that in a little bit of context. And, I think, as was eluded to earlier, there are some specific, and I'll call them loosely, pots of cost in our rate. There's the T&D rate, and that rate is going to be determined as, traditionally, utility rates have been determined. They're going to look at our cost to serve, show them our appropriate rate of return. And that's going to go forward.

There's also the deferral that we're going to need to look into. And there are several ways to mitigate the rate and peaks of that. I think, as President Fox alluded to, they're certainly regulatory. Mechanisms that can be used, there's securitization that is currently being considered. That would be one way to help mitigate how the rate impact of that is felt by New Jersey residents.

And then finally, there's the last pot of rate, if you would, dollars that are going to be passed along to customers, and that's in the form of the wholesale or retail rates that are going to be charged to customers that are now competitive.

I think, in adopting a competitive system, it is generally realized that over the long-term, competition will tend to lower those cost. Having competitive suppliers out there, we'll be able to bring a lowering of cost to customers. And at any given point in the competition cycle, we go through supply verses demand, you're going -- it's hard to predict. And I think that the speaker before myself, always qualified what he said with, "This my best prediction right now."

I think the rates are in a downturn, so I think that New Jersey is fortunate that when it does make the transition to more fully competitive rates, it's going to be in a lower market price frame, which should spread, which should help customers. As to specific rate increase or decrease for JCP&L, I don't have that. And I would just say, again, it depends a lot on what the wholesale market rates are. Is that a substantial part of the rate that customers pay?

ASSEMBLYMAN CARABALLO: Well, let me take a step at this a little differently. I fully understand the difficulty in trying to come up with a figure given those variables, so I'm really not trying to get you to commit or, actually, misstate something that you wouldn't want to misstate on purpose. But, you know, we're trying to make sure that come 2003, we don't have some rate shock. And some of us are trying to look at some things that we might be able to do in the hopes of avoiding a rate shock.

Do you feel that, even considering the variables, that your company's in a position -- assuming that some of these good things happen in a way that's beneficial to you and the consumers -- do you feel comfortable that your customers won't be feeling a rate shock come August 2003?

MS. VESPOLI: Yes, I feel comfortable in saying that given where we perceive things and where market prices are tending, I do not perceive our customers will be facing rate shock.

ASSEMBLYMAN CARABALLO: Okay.

And my understanding is that in order for you to feel that comfort level, some of the things that go into this rate need to be dealt with in a way that you consider favorable. I would hope that and I'm sure you will, but stated publicly, I would hope that you share with this Committee, as soon as possible, your views on what those things should be so that we can look at these in a timely manner, in the hopes of making sure that your customers don't feel the rate shock that we're all trying to avoid.

MS. VESPOLI: Absolutely.

Thank you, Mr. Chairman.

ASSEMBLYMAN CARABALLO: Anybody have any questions?

Mr. Egan.

ASSEMBLYMAN EGAN: Yes, I had one trouble following you about the deferred balance. Did you say, reduced it to $300 million?

MS. VESPOLI: I appreciate your confusion there. We reduced it by $300 million, and it just so happens that today's balance is in the neighborhood of $300 million.

ASSEMBLYMAN EGAN: Okay. Gotcha.

ASSEMBLYMAN CARABALLO: But earlier it had been $700 million?

MS. VESPOLI: Yes, yes.

ASSEMBLYMAN CARABALLO: Okay. Somewhere near there.

**ASSEMBLYMAN JOSEPH R. MALONE:** Mr. Chairman.

ASSEMBLYMAN CARABALLO: Yes, Assemblyman Malone.

Welcome.

ASSEMBLYMAN MALONE: Apologize for being late. I was at another meeting.

With all of the discussion going on relative to the CBT, do you anticipate that that's going to have any impact on your utility and, eventually, to posit to the rate payers?

MS. VESPOLI: I'm sorry, can you repeat --

ASSEMBLYMAN MALONE: The CBT, the Corporate Business Tax -- and changes the Corporate Business Tax. Do you think that that's going to impact on your company?

MS. VESPOLI: I --

ASSEMBLYMAN MALONE: Negatively impact on your company, let's put it that way.

MS. VESPOLI: Any rate increases that the utilities feel, through taxes, through just general inflation or otherwise, through the T&D rate, eventually get passed on to customers. So, yes, it will affect both us and our customers.

ASSEMBLYMAN MALONE: One other thing.

Has your company had any discussions with the Administration relevant any issues regarding to the Corporate Business Tax?

MS. VESPOLI: I honestly cannot answer that question.

ASSEMBLYMAN MALONE: Thank you very much, Mr. Chairman.

ASSEMBLYMAN CARABALLO: Sure.

Any other questions? (no response)

Thank you, Ms. Vespoli.

MS. VESPOLI: Thank you very much.

ASSEMBLYMAN CARABALLO: Mr. Skip Castaldi for Conectiv.

**JOSEPH "SKIP" CASTALDI:** Good morning, Chairman.

Good morning, Committee.

ASSEMBLYMAN CARABALLO: Good morning.

MR. CASTALDI: My name is Skip Castaldi. I'm the Vice President for Conectiv's Atlantic Region. Joining me today is Charlie Morgan, our Manager of New Jersey Regulatory Affairs.

I'll focus my comments on two primary areas that will impact energy restructuring in 2003 and beyond. Those two areas are Basic Generation Service and the recovery of certain deferred costs.

Under the Energy Restructuring Act (*sic*), we are required to provide Basic Generation Service to all nonswitching customers through July 31, 2002. Conectiv secures the electric for Basic Generation Service customers from the competitive market. As Basic Generation Service rates increase, we reduce other components of rates without our cost for those components being reduced. This was done to maintain the rate caps that are mandated rate caps. Basic Generation Service prices, beyond the transition period, we believe should be market-based to encourage customer choice by sending the appropriate price signals to customers.

Regarding Basic Generation Service, the Board has already initiated proceedings to address the pricing after the transition period. In fact, the parties have filed comments and have met to initiate working groups to develop alternatives for BPU to consider. The Board's final restructuring order approved the use of deferred accounting to protect the financial condition of utilities. By approving the deferred accounting method, the Board has balanced the dual legislative mandates of electric restructuring that begin to provide substantial rate reductions while ensuring that the rate reductions do not impair the utility's financial integrity or ability to provide safe, adequate, and proper service.

There's been some questions about deferred balances here. Our deferred balance, as of the end of 2001, was approximately $100 million. As part of our recent merger settlement, we agreed to forego the collection of $30.5 million of that $100 million. In addition, previously we offered to collect the deferred balance and return over a four year period.

Regarding deferred balances, the Board's final restructuring order, having struck the utilities to make rate filings prior to August 1, 2002, within these proceedings, the BPU will make a full review of any deferrals and will determine the appropriate recovery period for those balances.

Also, recently, the BPU testified in support of Senate Bill 869. As you know, this bill authorizes the securitization of deferred balances through the use of Transition Bonds. And these Bonds are to be amortized over 15 years. We support this bill.

We also commend you, Mr. Chairman, for sponsoring 2008 *(sic)*, the companion bill. This legislation is another prudent step. It's another pull to help mitigate rate increases to customers while helping to preserve the financial integrity of the utility companies.

Thank you very much.

ASSEMBLYMAN CARABALLO: Questions? (no response from other Committee members)

Do you anticipate a rate increase at the end of August?

MR. CASTALDI: I would say this, that we don't anticipate rate shock. Our deferral is not as big, it's $100 million. We've already eaten, say, $30.5 million of that. So, we don't really see rate shock for our company.

ASSEMBLYMAN CARABALLO: Okay.

MR. CASTALDI: Thank you.

ASSEMBLYMAN MALONE: Mr. Chairman, Conectiv is looking at building a facility very close to where I live, and I just wanted to say that in dealing with them over the, I guess, nearly a year now, in that process they've been a very, very good company to work with and, hopefully, they'll make a very good partnership in our community, and I just want to thank them.

MR. CASTALDI: I appreciate your comments, sir.

ASSEMBLYMAN MALONE: Thank you.

MR. CASTALDI: Thank you.

ASSEMBLYMAN CARABALLO: Mr. Egan? Oh, okay.

Thank you very much.

MR. CASTALDI: Thank you very much.

ASSEMBLYMAN CARABALLO: Mr. Bram from Rockland Electric.

Mr. Bram, welcome.

**S T E P H E N B. B R A M:** Good morning, Chairman Caraballo and members of the Committee. My name is Steve Bram, and I'm the President and Chief Executive Officer of Rockland Electric Company. I appreciate the opportunity to testify before the Committee on the impact of deregulation on the State after the conclusion of the transition period in 2003.

By way of background, let me explain that Rockland Electric serves about 70,000 New Jersey customers in parts of Bergen, Passaic, and Sussex counties. Rockland Electric itself is a wholly owned subsidiary of Orange and Rockland Utilities, Incorporated, a New York based utility serving customers in Rockland, Orange, and Sullivan counties. We also have a subsidiary in Pike County, Pennsylvania.

As part of an integrated system, Rockland Electric Company historically purchased and took delivery of its energy from the power grid system administered by the New York Independent System Operator, or New York ISO.

On March 1 of this year, however, after securing Federal regulatory approval, Rockland Electric joined the PJM system. We did so because we believe that our New Jersey customers are best served by our securing energy through that system in the recently completed statewide Basic Generation Service auction.

By joining the PJM and by participating in the BGS auction, as a member of PJM, our wholesale energy costs for the coming year are fixed at the auction price and are almost certainly lower than they would otherwise have been had Rockland Electric remained a part of the New York ISO. In fact, although the auction will not become effective until August of this year, our Rockland Electric customers have already realized substantial benefits from the transfer to PJM. In March, by obtaining energy from PJM rather than from the New York ISO, we were able to save our customers, on average, about 16 percent of the energy cost of the BGS.

Over the past several years, New Jersey has sought to bring the benefits of wholesale and retail competition to the State, an effort that culminated in the Legislature's passage of the Electric Discount and Energy Competition Act, which establishes the framework for energy competition.

Rockland Electric has fully supported New Jersey's efforts to introduce wholesale and retail competition for electric power supply and has taken many steps to further these mutual objectives. In 1999, we divested our power plants to enable new suppliers to enter the area and to create a more friendly environment for merchant generators. We also have participated in statewide outreach and education efforts concerning retail choice, modified our customer accounting system to allow for customer billing, either by Rockland Electric or third-part providers or both, and reached out to municipalities to encourage aggregation.

Today, this Committee seeks the points of view of various parties with respect to the future of deregulation. Rockland Electric remains convinced that deregulation can and will work to the benefit of our customers at the end of the transition period. We define a successful deregulated environment as one in which three things will occur.

First, customers will have a meaningful choice of retail energy suppliers, whether they choose that supplier predicated on the price of energy, on environmental factors, or on other services that an alternate supplier may offer, such as variable pricing or variable contract periods.

Second, that customers will have meaningful signals of the market price of energy, thereby encouraging shopping and also energy conservation during periods of peak demand or high prices and that marketers will be provided with a meaningful opportunity to compete.

And, finally, success means that the investor-owned utilities that deliver the power to customers remain financially healthy.

To meet these three objectives, I would repeat here, in very highly abbreviated form, some of the highlights of our recent response to the Board of Public Utilities' inquiry on our vision of the post-transition period.

First, we propose that Rockland Electric's entire Basic Generation Service obligation be put up for auction, as it was for the fourth year of the transition period. Doing so will provide price stability for customers while promoting a competitive wholesale market.

In the alternative, we would propose that the Board examine various options that will provide for energy purchases at market prices in a competitive wholesale marketplace, such as exists today through the PMJ Interconnection.

In either case, we propose that the Company be allowed to charge customers for the wholesale price of energy, rather than below market capped rates. Doing so will provide an appropriate price signal to encourage retail competition by third party providers who currently cannot compete with the capped rates.

Further, utilities must be able to fully recover their energy purchase costs on a current basis, thereby avoiding the deferred balances that currently exist. This will both send real price signals to customers and will further encourage retail choice, while protecting the financial integrity of the utilities. I will address this topic in a bit more detail momentarily.

We believe that if these steps are implemented, a robust competitive marketplace can develop, and with it will come the potential for utilities to exit the BGS function entirely. To do so, however, will require multiple commodity market entrants and substantial customer migration, both of which will certainly take time and are not envisioned for 2003.

A final and vitally important point needs to be made with respect to the post-transition period. As a result of the higher than anticipated wholesale power prices, below market BGS price caps and the deferral of recovery of under collected balances to the end of the four-year transition period, our current estimate is that Rockland Electric will have a balance due from our customers of nearly $110 million.

The recovery of the deferred balance from customers in a four-year post-transition period, as envisioned by the Board of Public Utilities' Order that implemented EDECA, would result in an increase in energy costs to our customers of more than 20 percent. We believe, and we know you share that belief, that the Board must have the tools at its disposal to mitigate the impact of this recovery on customers.

We are hopeful that this Committee will soon consider a bill, A-2108, which would permit the Board to utilize a practical solution to significantly mitigate rate impacts in the post-transition period. The bill would allow the Board, after an appropriate review process, to securitize the deferred balance for recovery from customers over 15 years.

The use of securitized debt can produce significant benefits for our customers. This is because it is backed by irrevocable recovery of the regulatory asset and, consequently, has a lower cost than the utility would otherwise incur using either traditional weighted cost of capital calculations or the interest rate established by the Board's Restructuring Summary Order for our company.

In our case, securitization is expected to reduce the rate impact of the recovery of the deferred balance to nearly one-third of what it would be if recovered over four years using traditional financing. The difference to consumers is real.

There is another important reason that securitization is a superior choice over traditional utility financing and, in fact, why it may prove to be the only viable option for us. Absent the assurance that the utility's ability to collect the deferred balance is irrevocable, it is very possible and perhaps likely that our creditors would require a higher interest on borrows, which would increase the cost of providing delivery service.

We hope that this bill will be before your Committee in the near future and that we can address it in greater detail at that time.

I thank you for permitting me to speak today and being able to provide our view on the post-transition period. We have always believed, and we continue to believe that a deregulated, competitive marketplace is in the best interest of all consumers, and we hope that our proposals can contribute to that objective.

I'd be happy to answer any questions that you might have.

ASSEMBLYMAN CARABALLO: Questions? (no response)

Thank you very much, Mr. Bram.

MR. BRAM: Thank you.

ASSEMBLYMAN CARABALLO: All right, we're going to get into a different grouping here. And we will start off with Mr. Bozarth. Where are you? From the Chemical Industry.

**HAL BOZARTH:** (speaking from audience) I'm right here, Mr. Chairman.

ASSEMBLYMAN CARABALLO: How are you?

MR. BOZARTH: I'm alive and well, thank you.

It's nice to be here.

ASSEMBLYMAN CARABALLO: And, let me just -- Steve Gabel, next, after that, and then Mr. Morford.

Where are you?

MR. BOZARTH: Mr. Morford had to step away for another meeting, Mr. Chairman.

ASSEMBLYMAN CARABALLO: Okay. Okay.

MR. BOZARTH: It's a pleasure to be here. Thank you very much.

My name is Hal Bozarth, and I'm with the Chemistry Council of New Jersey.

It's strange, probably, for some of you to think why I am here today talking about this issue, and that's because the companies that I represent are extraordinarily energy intensive. A huge portion of their cost of doing business has to do with the cost of electricity.

Our group participated along with many in putting together the EDECA bill, that's been talked about this morning, a couple of years ago. At that point in time, let me show you what the world looked like, and one of the reasons why the Legislature said it needed to deregulate the energy industry.

If you take a look at my map, you'll see states in red. All the states in red, at that time, had energy prices cheaper than the prices for everyone in New Jersey. Each and every one of those states had energy prices, in some cases, significantly cheaper. We had, at that point, the fourth highest rates in the country. Fourth highest, 50 percent, above the national average. So, it wasn't an insignificant amount.

The promise of that deregulation and the legislation that followed it was two things: lower rates, because all classes of customers were being hurt and hurt substantially by the high cost of energy; and two, the way to get there was through open competition. A marketplace, which is as vibrant for this commodity -- and that's what energy is -- as it is for any other commodity that people buy or the businesses or industries buy. If you have an open and competitive marketplace instead of a monopoly, strange things happen: prices go down, costs are minimized, people have an opportunity to shop. It's what was great about America. You could shop for the best deal, except when it came to energy.

And that was one of things that the Legislature, back three years ago, said was, let's move in a transition period to a place in time where everybody will be able to shop for this commodity just like they do for gasoline; just like they do for natural gas, in the terms of businesses and industries; just like they do for practically anything.

What you've heard today from the representatives and the monopolies is frankly that there is no competition today. There's still the basic generation people out there providing the same extraordinarily high energy to the consumers who can't go anywhere. President Fox said there were 7000 people at this point who had left the monopolies for third party supply. Out of 8 million, not a good record I would say.

Some of us in the industrial and business community put together aggregations early in this process, and we were able to put all of our people together and go out and shop in the marketplace. And lo and behold, there was significant savings. My group had an aggregation. Jim Morford's the Food Council were able to save their members significantly when they did not have to buy from the New Jersey monopolies when they could take the opportunity that competition provided them and shopped for the best price. Excellent.

But a lot of things happened. And in hindsight, as you look back on EDECA, there were many things that were done wrong. Let me just clip off a couple for you. We said to the monopolies, well, if you go to a competitive marketplace, your assets that produce this energy, they said, the monopolies are going to become stranded because you can't afford to make energy as cheap as our competitors can. You have to pay us for that. And the Legislature agreed and said, over three or four years, we'll give you a market transition charge to pay for your assets which will become stranded. The amount of money was about \$8 billion, maybe it was \$7.5 billion, that the citizens and the rate payers of the monopolies paid to those monopolies because their assets would become stranded. To this day, not one asset that has stopped making one kilowatt worth of energy for the monopolies in New Jersey. Not one asset was stranded and, frankly, prices, if it weren't for the Legislature's action for mandating lower prices it, would not have gone down. That's the second thing we did wrong.

President Fox talked about shopping credits and why, in hindsight, it looks like they were too low. Shopping credits came out of the discussion that we had back then about what does energy cost. For years, the monopolies would not tell us what our basic cost was. They said, we'll give you a bundled rate. We'll tell you what it cost for our trucks and our lines and our employees and all that, but it's all one, we can't break out what it cost.

Well, what the EDECA Act did was that it unbundled those rates, and we saw what the cost of generation actually was for the first time. That was good. And then the Board of Public Utilities, at the time and in its wisdom -- and I doubt that I'm using that word correctly -- set static shopping credits, which is the price to compare the cost of basic generation at this level.

In an open and competitive marketplace, you can't have a price for your basic generation, which stays the same. Markets go up, and they go down. But in its wisdom, again with quotes around it, the Board said at the utilities monopolies' request, we'll give you this level, and it will be static, and it will be set forever. We'll guarantee you what the price to compare is so when prices went up, with the natural gas increases and other things, what happened, in effect, was that the shopping credit was here, the cost of the utilities' generation was here, and you couldn't shop because no one could beat this price, the price to compare the shopping credit. No one could beat that.

If the Board of Public Utilities had done what some of us suggested and either put in a floating shopping credit or a shopping credit that rolls with the cost of its raw materials, then we'd have a situation where the shopping credit, the cost of the generation, would go up with the market and down with the market. That way all suppliers and all third party suppliers coming into New Jersey would be able to say, okay, who could offer me the best price?

Public Service's price is here, may be cheap, you know. Jersey Central Power and Light's price would be here, maybe it would be up here, but you would shop. It would be a competitive marketplace. Again, back to where we should have been through EDECA. That didn't work. And as I said before, we got that $8 billion that we said for a market transition charge we were going to give to them, because their assets are going to be useless after this because we know they can't produce cheap energy.

So, after EDECA and after what you've heard today, where are we today? Let me hand out the same chart again. With the exception of California, which you should add to the white column, because its prices are now higher, and with some changes in the individual amounts, all the states that are red are still red. That means, roughly 45 or 46 other states have energy rates which are significantly less than New Jersey. Our rates are still 50 percent above the national average, and we rank either fourth, fifth, or sixth, depending on whom you ask, in the high cost of energy. We had no competition. If only 7000 people are shopping with someone other than our own State monopolies, you know there's no competition.

What will happen in 2003? Our view is, rates would go up. You've heard each and every representative of the New Jersey monopolies today tell you that bottom line. In 2003, rates are going up. We still have no competition, and we're still paying $8 billion or so for these stranded assets. Three months before the election in 2003, rates would go up somewhere in excess of 8 percent to 10 percent, maybe even more percent, depending on whether or not the monopolies' crystal balls are correct -- three months before the election.

What should the Legislature do? Well, first of all you have to make sure that the Board of Public Utilities has the tools to illuminate each and every impediment to open and fair retail competition with a cap. Let the customers, let the citizens, the industries, and the businesses shop for competitive priced market utility rates.

One of the things Legislature can do is demand the Board of Public Utilities respond to the law and do a cost of service study. To have an outside group of experts or the Board of Public Utilities staffers to look at and really determine whether or not what the monopolies say the cost of their generation is true. We have no way of knowing. Our monopolies say the cost of generation is X. Okay, fine. Since it's a monopoly and there's no competition and no open marketplace, we don't know where the real market is. Someone ought to be looking at that.

Second thing the Board ought to be doing, at your direction Mr. Chairman, ought to be looking at a true up of what the real cost for those stranded investments are. They said it was $8 billion. How do we know? Do we know that they're correct? I don't know if they're correct. Do you know if they're correct? I doubt it. To the tune of $8 billion, someone ought to watch that store.

What shouldn't we do? We shouldn't settle for the gradual same old status quo that each and every one of the monopoly representatives talked about. And that is, when are we going to have gradual rate increases? We're going to have gradual -- it won't be bad, it won't be shocking, but they're going to go up.

Think about this the next time they tell you they're going to give you an 8 percent rate increase three months before the next election. Why? The reason why the prices are high is because we don't have an open and competitive marketplace. We're not allowed to shop. We can't go anywhere because of the impediments that are put in place. So what are we? We're captive customers. We're the best thing going for these guys. They don't have to lower their costs, they don't have to be competitive with real world charges because we can't go anywhere. They've got us. What a business.

One of the things that one of the representatives said was, well, the promise of deregulation ought to be a couple of things. And the last one was, make sure that the investor-owned utilities are financially stable. Well, I have to tell you, I wish you'd pass a law so the 100-member companies that I represent will be guaranteed to be financially stable. What a world that would be. That's not America. That's even gone by the board in Eastern Europe for heaven's sakes!

An open and competitive marketplace shouldn't guarantee anybody the right to make a profit. It should be allowed to compete in the marketplace and if you win customers, great, and if you don't, sayonara. You're gone, you're out of here, you're a dinosaur. And I'm afraid that's what EDECA is. It's a dinosaur. It could happen in three years, but that's what it is, and we're left with the same old bucket, and it's not filled with good stuff.

We're willing to work with you, Mr. Chairman, and the rest of the Committee, to make sure that we can do something to open up this marketplace. And so, the people are part of a coalition that we put together, live in senior citizen's housing, don't have to live in one room in the winter because they can't afford to heat their house for the whole time because the prices are so high.

My energy really, really needs a lower competitive price that's supplied to be here. We support about 100,000 employees in the State of New Jersey. All of them at risk. And not the least reason why they're at risk is because of the high price of electricity.

Thank you very much.

Be glad to answer any questions.

ASSEMBLYMAN CARABALLO: Boy, this was like déjà vu.

MR. BOZARTH: You know, sometimes you're just going to keep saying the same old thing, Mr. Chairman.

ASSEMBLYMAN CARABALLO: Well, I wasn't saying it was bad thing.

Any questions? (no response)

Thank you very much, Hal.

MR. BOZARTH: Thank you.

ASSEMBLYMAN CARABALLO: Steven.

Aren't you glad you're following -- you sat next to him the last time, if I remember.

**STEVEN GABEL:** Yes.

Thank you, Mr. Chairman.

My name is Steven Gabel. I'm an Energy Consultant based in Highland Park, New Jersey. We run a business that provides energy advice to large producers and users of electricity. And I'm happy to be here today. I'm here today for the Independent Energy Producers of New Jersey. They are the power producers, the generators, of the State of New Jersey. Their Executive Director, Adam Kaufman, is not available today. He's out of the country and I'm here. I'm here with Russ Strom (phonetic spelling), who helped me put together some nice pictures that I hope tell the story of where things have gone and where they're likely to go over the next few years.

The Independent Energy Producers are not -- and I want to emphasize that -- are not the retail suppliers of power in the State of New Jersey. They don't sell to businesses or residences or municipalities. They are the bulk power suppliers, the big generators that you see up and down the Turnpike and around the State of New Jersey. This is the trade association for the power generation industry representing about 14,000 megawatts of electric generation capacity in New Jersey. I'll give you a sense of scope with that. A megawatt serves about 1000 homes. Just so you'll have a sense of the size as I go through this.

I wanted to talk this morning a little bit in response to the issues that you've raised, Chairman, about what has been going on with EDECA. There's good news, and there's bad news with EDECA and some concerns that other speakers have talked about. But I also wanted to highlight some good things that have happened as a result of the Legislature's action, about three years ago, as a result of actions that have been going on at the Federal level with respect to the power industry as well.

The members of the IEPNJ, as I said, don't sell at retail. They operate in the wholesale power market. Because of your actions in the

Legislature, because of actions at the Federal level, we have a very vibrant, competitive wholesale power market in New Jersey. And that means stability, that means capital generation and investment in New Jersey, and that means that New Jersey has not had put upon it some of the problems that you've seen either out in California or even as close as New York City where there has been a lot of concern with adequate supplies of electricity.

The first thing that EDECA has done is set up a competitive wholesale generation industry. In point of fact, utilities are no longer in the power generation industry. So, if someone talks about a utility supplied power, there is no such animal in the State of New Jersey. Utilities transport power, they do not generate power in the State of New Jersey. So even if you stay on as a PSE&G or a JCP&L or a Conectiv customer, the electrons coming to your home are not generated, provided by electric utilities. They are provided by wholesale power generators operating in a competitive wholesale market.

That competition created a lot of investment in New Jersey. I want to talk a little bit about the type of competition we're going to have. I do have copies of this, and I'll hand that out when I'm done here.

There is quite a lot of competition in New Jersey. What we graphed here is the amount of generation that has occurred in New Jersey investment plants coming on-line, within this State, over a 10-year period, 1994 up to 2005. Very dramatically, it shows that when you deregulated this industry, investment came to this State, power plants were built to meet our demand for supplies. Close to 7300 megawatts will come on-line from this year through 2005. Close to none, you know, less than 500 prior to that time.

So it has been a very active market. Up and down New Jersey there are power plants coming on-line. They're all primarily -- all gas, fire generation, extremely clean generation. They represent more than $7 billion of investment, construction jobs, and ongoing jobs once those plants go on-line.

In a month or two --

ASSEMBLYMAN CARABALLO: Would you turn that around. They're all -- (referring to turn chart to audience)

MR. GABEL: Sure.

In a month or two, about another 1000 megawatts will come on-line down in Sayreville. You'll see another few hundred up in Bergen. Three months ago, about 180 megawatts went on-line up in Linden. So this is happening. This is real. This is investment in New Jersey. And from an energy price standpoint, this not only means this investment, but it means more stable electric prices. Econ 101: supply and demand.

We have additional supplies coming on-line. We have market rules that have been set by the BPU and by PJM. PJM is our wholesale, in a sense, our regulator, operator, of the wholesale power market that have lent some stability to that marketplace.

I have another chart that compares the amount of volatility within the State of New Jersey's power market, in the wholesale market, with that of California. Trying to look back over the period of deregulation of from April of 2000 and forward, the red line shows the stock markets in California.

We've done some averaging here to keep this thing from just kind of flying off the chart, but the volatility in California, which has come down since they've changed their market rules in the last year, compared to the level of volatility in New Jersey. Because of the presence of an active and well-structured generation market and wholesale, we've had less volatility here. Certainly there been some cost issues, and I'm going to get into those in a minute, but the power generation industry, as a structure, has been much more stable than in places like California.

The other thing that that has helped tap in, I think, is the successful BGS auction, which a number of speakers talked about. New Jersey went out all at once for about 18,000 megawatts. It was a huge procurement, nationally, occurring here in New Jersey. There was extremely active competition. The BPU can provide you with the details of how much competition there was. They bought 18,000 megawatts. When that auction opened, there were many, many more participants. And eventually it was whittled down to the lowest cost suppliers in what, I think -- Everyone who was involved was very impressed with the level of competition, and the magnitude of the prices was much lower than people anticipated going into that.

So, those are all good things relative to wholesale competition. The other thing that EDECA asked people to do, and the power generation industry in New Jersey was a major focal point, was that the part of the cost structure of New Jersey contained a number of long-term power contracts that were above market.

EDECA set up a structure for people to go out and renegotiate those contracts with utilities. The power generators who hold these long-term contracts have gone out and renegotiated with Conectiv. They've renegotiated with JCP&L, FirstEnergy. They've gone out and renegotiated with PSE&G. And all these dollars, right now it stands at about $324 million, are benefits. Every dollar of which goes into the pot to reduce the amount of deferred cost that utilities have.

The Legislature and the Board set up a regulatory structure for utilities and unregulated power producers to sit down and renegotiate. And that's happening. There are more of these pending at the BPU right now which will add to this. So this is a significant source of savings, $324 million, which has been seen and will be seen by New Jersey rate payers. It's kind of a bank account that stands there to offset some of the other cost increases that we're going to see down the road. So those have been some positive things that have occurred over the last few years.

I think, as Hal talked about, not everything is, you know, wine and roses. When we set about the BPU and others -- and I was a participant -- set about to set up the structure for that transition would work, everyone sat down and tried to estimate what the cost of power would be. It was a very significant exercise and it involved -- all the parties to those proceedings brought in their best forecast of where our power prices would go in the future.

It was significant for two reasons, and it's two reasons that I think are key, things that you've heard about. The level of deferred balances that you're seeing from the utilities rode on how well that forecast was. If the forecast was accurate, then the utilities would not have carried additional costs. If the forecast was accurate, there would have been a shopping credit under which suppliers would be able to offer prices that would have been attractive to customers in New Jersey. And we could have, would have seen a lot more shopping than we actually saw.

The reality, as you can see from the chart -- if you want to hold that up -- is that this is what we forecast. And when I say we, it's not me, it's ultimately what was found by the BPU to be reasonable. This is the average of the three forecasts of the electric utilities adopted by the BPU, the blue line. The actual cost of power at the wholesale market is along the red line. So when utilities had to go out in the market, if we felt they were going to pay a little over two cents for energy in the year 2000, they actually paid somewhere, maybe, two point seven cents per kilowatt hour for electricity. That differential went into the utilities deferred balances, and those are costs which the utilities talked about earlier, some of which they've absorbed, some of which will be part of the rate increase request that you'll see later this year.

So this isn't anything. There's nothing up anybody's sleeve. These are just forecast, consensus forecast, which people believed to be reasonable back in 1998 and 1999, which didn't pan out through a number of reasons and which now you now face and the Board faces, with respect to where the deferred costs are and the amount of shopping that'll occur.

Now coming in the year 2003 -- and the Board has already started to look at this -- is the amount of structure we'll have in place in 2003. This chart won't matter anymore because, in 2003, the Board is going to decide how to price electric generation service. It was set based on these forecasts and has stayed on those forecasts over the last three and a half years. In 2003, there'll be another auction, presumably for some sort of supply for those who don't go shopping to pay. But that number is market based. It will reflect the actual cost of power in the marketplace and customers can then kind of get that accurate price signal that they need to do their comparison shopping and decide whether they want to shop for an alternative supplier at retail or whether they want to remain and let -- you know, reflect the auction results to find what their price of power will be.

In either event, that price is going to be a competitive price power. The cost of service gain that people were used to in New Jersey, in terms of how rates will be set, will be changed dramatically, and the price of power will be determined. So power supply, not for transmission and transportation, will be set by what happens out in that marketplace.

This really covers what I wanted to talk about with respect to these issues. I think you've got a good process in place. All the participants, the IEPNJ, most of the people sitting behind me, are working closely at the BPU to try and get themselves ready for that end of transition point in August of ′03. And I think the Board has gotten most of the tools in place to try and address those issues.

ASSEMBLYMAN CARABALLO: Steve, as always, you are very clear and very informative.

MR. GABEL: Thank you.

ASSEMBLYMAN CARABALLO: Anyone have some questions from those for whom it is not as clear?

ASSEMBLYMAN CHIVUKULA: Mr. Chairman.

I was just looking some of the electricity generation the last few years. I mean, New Jersey looks like zero megawatt hours.

MR. GABEL: Right.

ASSEMBLYMAN CHIVUKULA: That's what it showed.

MR. GABEL: Right.

ASSEMBLYMAN CHIVUKULA: And also you said that the wholesale rates are around two cents and we have -- I mean, that's a forecast, those two cents.

I was looking at a chart handed out to us earlier and the rates, you know, ranged from four point two cents all the way down to -- I don't know. I guess -- Hawaii being the highest and needs twelve point one cents per kilowatt hour. And if you're not producing the electricity in the State of New Jersey, and the same wholesale rates that are available, how come our rates are so high?

MR. GABEL: When you look at that chart and look at my chart, you've got to realize you're looking at apples and oranges. The charts that I put up show only the cost of energy, the actual generation of kilowatt hours in the wholesale marketplace.

ASSEMBLYMAN CHIVUKULA: The wholesale rates in --

MR. GABEL: In the wholesale market and only for energy. There are a bunch of other components to that retail chart, which are not shown here. And I could go through a few of them.

One is the distribution --

ASSEMBLYMAN CHIVUKULA: Costs.

MR. GABEL: -- rates, the transmission costs, the taxes, the cost for generation capacity. There's a separate payment where people make to pay for the physical plant itself. This is only for the raw generation of the electricity: putting through the fuel, adding some operating cost, and that's the cost of energy.

So, you have: transmission, distribution, taxes, capacity costs, other ancillary costs; Societal Benefit Charges, which are the environmental programs; energy efficiency programs; customer education programs that all get pancaked on top of this cost to make New Jersey's rate structure happen.

In addition, over the transition period, there are also some transition charges that have been put in place by the Board of Public Utilities.

ASSEMBLYMAN CHIVUKULA: Right. All these charges for the transmission, distribution, etc. --

MR. GABEL: Right.

ASSEMBLYMAN CHIVUKULA: -- also, applicable to other states also.

MR. GABEL: That's right.

ASSEMBLYMAN CHIVUKULA: It's not just New Jersey that has that. Maybe the Societal Charges may be higher in New Jersey, taxes may be higher.

MR. GABEL: Societal, taxes, the cost of generation in this part of the country.

For a number of reasons, if you compare to some of the states that either have low-cost hydro, federally government tax subsidized generation -- I'm talking about the TVA or Bonneville Authority, which can set taxes and bonds for generation or have access to lower cost power supply because of the presence of heavily depreciated coal fired power plants, which costs a lot less in the Midwest, which we do not have access to, all contribute to it. So, it's kind of a puzzle --

ASSEMBLYMAN CHIVUKULA: Is it?

MR. GABEL: -- that you need to put together.

ASSEMBLYMAN CHIVUKULA: It's going back to that chart, "Forecast versus Actually."

MR. GABEL: Right.

ASSEMBLYMAN CHIVUKULA: They're off by a factor of two or two and a half.

MR. GABEL: Right.

ASSEMBLYMAN CHIVUKULA: Well, what went wrong?

MR. GABEL: Well, the one thing -- I'll add another chart here that I didn't use.

You want to get that gas chart out.

One of the things that people forecasted was the price of natural gas in the wholesale markets. And if you look at that, natural gas business is extremely cyclical. What I mean by that is people who dig gas wells out in the Gulf Coast dig them when the price is up, drill when the price is up, and when the price comes down they're out of there. So you have an industry which is very cyclical.

Back in 1998 and 1999, you see the forecast. It's the red line. The price of natural gas was much higher here and all around the country over the last three-year period. That was one contributor to higher than expected energy prices. It really had nothing to do with anything that this Legislature or the BPU did. We're all subject to what happens in the market. I can tell you that the flip side of that is that when we went out, when the Board of Public Utilities went out and auctioned off the BGS service a few months ago, gas prices, at that point in time, had dropped dramatically. It's not shown on this chart, but they had dropped dramatically, and we were the beneficiaries of the decreases in gas costs that occurred earlier this year.

ASSEMBLYMAN CHIVUKULA: What puzzles me that -- whatever you said about the energy, how -- whether they turned it on or turned it off, that's not new. I mean, they didn't start doing it, totally, five years ago. They've been doing that for quite a number of years.

MR. GABEL: That's right.

ASSEMBLYMAN CHIVUKULA: My question is, why that was not factored not in? The cyclical nature of the rates of natural gas was not factored in the forecast.

MR. GABEL: Well, they were in the forecast, but when you do a forecast of three years or five years, you tend to do some sort of a trend line that goes down the middle of a consensus, and that's where you end up when you do a forecast.

ASSEMBLYMAN CARABALLO: They screwed up. (laughter)

ASSEMBLYMAN CHIVUKULA: That's right.

MR. GABEL: I think a couple of the speakers before me put about 15 asterisks before all their forecasts, because when you're dealing with the energy industry, there's a level of volatility that goes beyond most of the other industries that are going to show up here in the Legislature. And so you need to be careful when you're making any sort of forward-looking statement with respect to power costs.

If the BPU, though, had not used that forecast, ask yourself the reverse question. If we had just gone with a volatile, let's let the price go where it was going, then you would have had questions over the last three or four years. You wouldn't have had the rate stability that we had over the last few years.

ASSEMBLYMAN CHIVUKULA: It was artificial.

MR. GABEL: It was set based on what people thought it was at the time. Yes, I mean, it was the other side of the question. You could have caused a lot more shopping to happen because you would have had these rates jumping around, but you would have had a lot of people sitting right here, over the last four years, saying, why did my rates go through the roof? We just deregulated. So, it was a way to maintain a form of stability. I'm not saying it's right, although, I'm just explaining it.

ASSEMBLYMAN CHIVUKULA: I know. I'm just saying, pay now or pay later. It was just a --

MR. GABEL: Okay.

ASSEMBLYMAN CARABALLO: All right.

Thank you very much.

MR. GABEL: Sure thing.

ASSEMBLYMAN MALONE: Mr. Chairman.

ASSEMBLYMAN CARABALLO: Oh, Mr. Malone.

ASSEMBLYMAN MALONE: In looking at this chart that was hand wrapped by Mr. Bozarth -- I mean, I don't even know how -- if the public sees a chart like this, it just looks as though the energy bureaucracy within in the State of New Jersey is committing highway robbery, basically. And that's something -- I mean, if we're not generating -- if the source of the power is not coming from us, which is what I guess you're saying, that the generating capacity is -- most of the electricity that comes to New Jersey comes from out of state?

MR. GABEL: No.

I mean, a good portion of it, probably 15 percent to 25 percent, comes from within the State --

ASSEMBLYMAN MALONE: But 75 percent --

MR. GABEL: -- but a lot of it -- it's all within the region. And what --

ASSEMBLYMAN MALONE: Okay. Well, 75 percent comes from out of State.

MR. GABEL: Pennsylvania. But all contiguous.

ASSEMBLYMAN MALONE: Well, that's not New Jersey.

MR. GABEL: Yes.

ASSEMBLYMAN MALONE: Okay.

So, we look at rates in the adjacent states, which I'm assuming -- relatively, get the power from the same grid, I would assume?

MR. GABEL: Pennsylvania.

ASSEMBLYMAN MALONE: Maryland?

MR. GABEL: Yes.

ASSEMBLYMAN MALONE: Pennsylvania?

MR. GABEL: Yes.

ASSEMBLYMAN MALONE: Okay.

Delaware?

MR. GABEL: That's the region.

Correct.

ASSEMBLYMAN MALONE: Okay.

And so, we're looking at them being considerably less. So, it has got to be an in-house problem with the power distribution companies within the State that are layering on all these excess costs or additional costs.

MR. GABEL: Before you jump to that conclusion, you've got to take --

ASSEMBLYMAN MALONE: Well, if --

MR. GABEL: -- you've got to take the pie apart.

ASSEMBLYMAN MALONE: There are generators, and then there are distributors, right?

MR. GABEL: Right.

ASSEMBLYMAN MALONE: We basically have distributors within the State that are layering on these costs. Is that correct? It's not the raw power that we're paying for that's so expensive.

MR. GABEL: Well, there are two elements to power supply and, I think, you've got to kind of unpeel the onion before you jump to the conclusion.

ASSEMBLYMAN MALONE: Okay, but you have the power itself.

MR. GABEL: Right.

ASSEMBLYMAN MALONE: Then you buy the power?

MR. GABEL: Right.

ASSEMBLYMAN MALONE: And that's a relatively stable price?

MR. GABEL: The wholesale price in Delaware, Maryland, New Jersey, Pennsylvania is roughly the same.

ASSEMBLYMAN MALONE: Okay.

So, if it's not the wholesale power price, the energy bureaucracy in the State of New Jersey is layering on some significant cost to the users in the State of New Jersey. Whatever those issues might be, I mean, if we talk to the public here, and we say, you're paying three to four cents more than anybody in the surrounding states with the exception of New York, people are going to say, well, why? And if it's the companies that are doing it, we need to look at why they're doing it. Is it to keep the power infrastructure going? Is there some sinister motive? Is there collusion? Is there something happening here that causes the internal structure within the State of New Jersey to continue to have such high rates?

MR. GABEL: I think what your answer to your question to me is layered in the history, and part of it's in EDECA, which talks about the investments and contracts which utilities did. And I'm talking ten and twenty years ago, nothing that they did over this transition period --

ASSEMBLYMAN MALONE: But --

MR. GABEL: -- which the Board -- which the Legislature set some standards on back in 1999, in EDECA, which the BPU took those standards and implemented them within settlements, with respect to how to deal with the stranded cost issues, and that's what's inside today's rate structure.

So, there's nothing --

ASSEMBLYMAN MALONE: But I guess the conclusion --

MR. GABEL: -- beyond that.

ASSEMBLYMAN MALONE: -- is that we shouldn't be talking about the rate increases. We ought to be saying, how are we going to get closer to the rates that other states are paying? Not rate increases. That would be my logical thought process. We ought to be looking into coming down more to the Pennsylvania or the Delaware or the Maryland rate to say, this is what people should be paying.

MR. GABEL: And I think I'm with you on that, and I think that's where we're moving toward. Competition, as you roll through time it's --

ASSEMBLYMAN MALONE: But we're moving going up before we go down?

MR. GABEL: Well, on a net basis, and I think all the speakers talked about it on a net basis. If you compare where we were in '99 to where we are today, we're lower, or we'll be lower next year.

ASSEMBLYMAN MALONE: We aren't really competitive with our surrounding states though.

MR. GABEL: That's correct.

ASSEMBLYMAN MALONE: Okay.

So, somebody's not going to buy power from Public Service, or from somebody else, out through New Jersey. They'd have to be insane.

MR. GABEL: Well, the rates that are on that chart, I think, show the rates you pay if you locate in the State of New Jersey. Those aren't competitive prices on that chart.

ASSEMBLYMAN MALONE: So, if I ran a major energy consuming company, and I had access to an energy source in Pennsylvania or

Ohio or West Virginia or Virginia or Maryland -- if I had direct access to them, I couldn't get a lower rate?

MR. GABEL: Direct access as in you were located in New Jersey?

ASSEMBLYMAN MALONE: No, I'm located in New Jersey, and I have access to their power through one of those states. Could I get a lower rate than what's currently being charged in New Jersey?

MR. GABEL: Today, probably not.

ASSEMBLYMAN MALONE: Well, let's just say theoretically, though.

ASSEMBLYMAN CARABALLO: No.

Well, that's the piece that Steve was indicating. I mean, we, as the Legislature three years ago, wound up putting in --

ASSEMBLYMAN MALONE: I understand that, but there has to be a solution or an answer.

ASSEMBLYMAN CARABALLO: And the Legislature, three years ago, over the objection of some of us, by the way, who are on this Committee today, said this is what we want, and we're going to factor A, B, C, D, E, F, G into it, and the rate that has been arrived at takes into consideration a lot of those things that were factored into that particular rate.

ASSEMBLYMAN MALONE: So, you would agree, we should be able to give power to local people.

ASSEMBLYMAN CARABALLO: Well, in theory we all were told, back then, that at some point down the line what you're saying should happen. We were told that.

ASSEMBLYMAN MALONE: You and I'll be looking -- you and I'll be talking to our grandchildren, Fred.

ASSEMBLYMAN CARABALLO: (laughter)

ASSEMBLYMAN MALONE: Okay.

I just think if the public sees a chart like this, they would get outraged.

ASSEMBLYMAN CARABALLO: They were shown that chart three years ago, too.

ASSEMBLYMAN MALONE: I know, but I think, maybe now with things -- people being a little more sensitive than they were, maybe, three years ago. I mean, that just seems to be a great deal of concern, and I would hope -- you know, I'm not a permanent member of this Committee -- that I would hope that, through the Chairman, that things were done to look very closely at what some of these layers of energy bureaucracy are on New Jersey rate payers to make sure that they're getting the best possible rate they can, in the shortest period of time that they can.

Thank you very much, Mr. Chairman.

ASSEMBLYMAN CARABALLO: Sure.

Steve, thank you.

MR. GABEL: Thank you.

ASSEMBLYMAN CARABALLO: All right, we have two different types here. We'll just go right down the line I have. Why don't we get the following in here: Felicia Thomas-Friel. Where are you?

**FELICIA THOMAS-FRIEL, ESQ.:** (speaking from audience) Right here.

ASSEMBLYMAN CARABALLO: From the Ratepayer Advocate.

We've got some written remarks. Good.

Would you summarize the --

MS. THOMAS-FRIEL: I will.

ASSEMBLYMAN CARABALLO: Thank you.

MS. THOMAS-FRIEL: Good afternoon.

ASSEMBLYMAN CARABALLO: Good afternoon.

Press your button.

MS. THOMAS-FRIEL: I'm sorry.

Can you hear me now?

ASSEMBLYMAN CARABALLO: Yes. Good.

MS. THOMAS-FRIEL: Okay. I'm sorry.

Good afternoon, Chairman and Assemblyman.

At the risk of being brief and not repetitive, believe it or not, a lot of what we were going to say has been said. We prepared, on behalf of Seema Singh, who you are familiar with -- Our office is in a state of transition right now, and we prepared our comments that we wanted to bring to your attention, so without -- if you wish, I can read it for you or -- it has been distributed, from what I understand. I was also asked to bring our current, updated Consumer Assistance Handbook that we're handing out to the public. If you wish a copy, I have enough here and, you know, without further ado, if you just had questions that I can answer on behalf of Ms. Singh, I will, but I will not take up your time. Too much this afternoon to repeat.

ASSEMBLYMAN CARABALLO: Ms. Friel, I appreciate this. Thank you.

And I assure you that members of this Committee are going to be reading your statement or the statement of Ms. Singh, since I have no doubt you folks are going to be playing a very critical role in what we will be doing over the next bunch of months.

MS. THOMAS-FRIEL: Absolutely.

ASSEMBLYMAN CARABALLO: So, thank you very much, unless somebody has a question. (no response)

Thank you.

MS. THOMAS-FRIEL: We'll be watching, okay.

ASSEMBLYMAN CARABALLO: Okay. And we want you to watch, or at least, I do.

Evelyn Liebman, Citizen Action.

Okay. Good morning.

**E V E L Y N L E I B M A N:** Good morning.

ASSEMBLYMAN CARABALLO: Good afternoon.

MS. LEIBMAN: Good afternoon, I think, now.

ASSEMBLYMAN CARABALLO: Yes.

MS. LIEBMAN: Thank you, Chairman Caraballo and members of the Committee, for the invitation to testify today about the impact of energy deregulation as we approach that critical date of August 2003.

My name is Ev Liebman, and I'm the Assistant Program Director. As you know, New Jersey Citizen Action is our State's largest citizen watchdog organization representing over 60,000 working families, and we are a coalition organization of over 100-labor, tenant, religious, community, and senior organizations across New Jersey.

Citizen Action has been actively engaged in the deregulation debates since its inception. We did not support deregulation and, at that time, we continue to harbor strong misgivings whether or not it could produce a competitive energy marketplace and bring with it the prize of lower electricity rates. As you know, despite our opposition and amidst great fanfare, EDECA was signed into law in February of 1999, promising that all electric rates fall. Some projected as much as a 50 percent reduction in rates. I should also say that my remarks are primarily geared towards residential rate payers, those of us out there who are paying the bill every month.

Despite our suspicions, we did hope that the predictions of restructuring supporters would prove, true that we would see our high electric cost decline, the quality of consumer choices would be improved, universal access to affordable and reliable service would be improved, and consumers would be adequately informed and protected with respect to our rights and responsibilities in this new marketplace.

Unfortunately, most of our hopes have yet to be realized. As you have heard today, the truth is there is very little, if any, competition, particularly within the residential marketplace in New Jersey. Out of 3.1 million residential electric customers, roughly 8000, perhaps 7000, as we heard this morning from President Fox, are served by an alternate supplier. That's only .25 percent of all residential rate payers. And this figure is down from what was the all time high, which was 2.8 percent in the fall of 2000.

Currently, consumers do not have shopping opportunities in any meaningful way. As of April 8, 2002, the Board of Public Utilities reported that there are no alternate suppliers actively competing for residential customers in Rockland Electric territory. In Conectiv's territory, there is only one alternate supplier competing for their customers. In Jersey Central Power & Light, there are two, and in Public Service's territory, there are three.

And, again, as we've heard this morning, principally, because of pricing increases in the wholesale energy market, alternate suppliers have been unable to effectively compete and offer what we had hoped to see as lower energy prices in New Jersey. And the bottom line is that consumers themselves did not necessarily embrace energy deregulation or restructuring per se. What we were all looking for were lower rates and we will and we'll continue when it comes down to that, to vote with our feet, and currently no one is walking.

During the current transition period, mandatory rate caps have been in place to protect consumers and to lower customers high electricity bills, on average, as we've heard, 15 percent. These caps are going to be removed in 2003 at which point we will be in what's considered a fully deregulated market. Utilities have used what we've heard in terms of the deferred balances to account for the differential between these revenues collected during this period and the capped rates.

Although these deferrals have yet to be reviewed by the BPU, at least as of last week, the estimates that we've heard about those deferrals ranged up to $1 billion by 2003. This morning we've heard some different numbers, but I think all of the different numbers speak to the fact that no one has really just had an opportunity to review what those balances are in a regulatory sense.

But we are gravely concerned that when these rate caps are removed in August, there will be rate spikes for electric customers. Working families, seniors, and those on fixed incomes should not be facing increases in their bills. The Legislature must be prepared to protect consumers against such rate increases, and New Jersey Citizen Action continues to urge that, commencing in August 2003, these rate caps be phased out rather than eliminated all at once in the same fashion that they were phased in to protect consumers from rate shock.

The current lack of competition, the energy crisis in California and the Enron scandal involving allegations of power price manipulation continue to leave consumers wary of deregulation. The rest of the country is wary too. Seven states have delayed the implementation of their restructuring efforts, one state has suspended its effort all together, and twenty-six are not actively pursuing deregulation.

Here in New Jersey, the big question, which quite frankly no one has the answer to, is when the rate caps are removed, and we are in a fully deregulated market, what happens if the marketplace continues to be noncompetitive? We will be left with unregulated monopolies that will be able to charge whatever they want. If the market cannot produce lower rates and reliable services through meaningful choices, the Board of Public Utilities should exercise its authority under EDECA to reregulate noncompetitive portions of the industry.

Despite the limited marketplace activity, consumers are interested in knowing what their rights and responsibilities are under restructuring. Under EDECA, the utility companies and the State designed a marketing and education program which advertised the change as energy choice.

In the three years of this program, we participated with PSE&G's local initiative and currently with all utilities through the Utility Education Committee to offer a grassroots community-based education program. During this time, we have conducted over 2000 presentations to community organizations with an emphasis on groups in rural and urban areas and those that represent low-income and senior consumers.

This year, we will conduct nearly 500 presentations around the State. To date, we have reached nearly 70,000 people with free live presentations about understanding one's energy needs, making sense of the utility bill, how to evaluate competitive suppliers including Green Market, Green Power, marketers, and protecting oneself against fraud. We have been able to do this important work on a very small budget and believe this is the most cost-effective way of reaching the most vulnerable consumers.

The Legislature correctly envisioned the need for energy education and included a mandate in EDECA for a three year program. Under the Board's authority, we are continuing this program through December of 2002, but we hope that the Legislature and the BPU will evaluate what has been successful and economical components of the program and elect to continue that.

The major consumer protection issue that still needs to be resolved under EDECA is the creation of a permanent universal service program to establish affordable bills for low-income consumers. The Board recently granted final approval for an interim universal service fund that grants eligible customers a one-time credit of $200 for payment of electric and natural gas bills. This program is an important first step and a tremendous victory for working families and seniors who often struggle to pay their utility bills and have to make dire choices between heating and eating.

We only hope that the Board will act quickly to establish a permanent program that has an adequate level of funding so that the program can meet the needs of New Jersey consumers before the 2002-2003 heating season.

I would like to draw your attention to one final consumer protection issue and that is the BPU itself. As many of you have heard over the years, the BPU is under funded and understaffed. Unlike every other State agency, however, the BPU does not receive its budget from the appropriations process. It assesses a charge to the utility companies, a levy that right now is only a fraction of what it could collect. In order to have a public utility commission that can meet the challenges our BPU faces, many of which we already heard about this morning, we would recommend an increase in the utility levy to augment the BPU's resources. They need better internal communications, additional customer complaint representatives, and more technical and regulatory staff to fairly evaluate all of the issues that will come before it in the next 12 to 15 months.

In general and as we move forward, Citizen Action strongly urges that caution, thoughtful, and thorough deliberation, among all of the affected parties, be the watch words of the day. Our experience demonstrates that what we know most is that it is extremely difficult if not impossible to predict what will happen tomorrow based on today's energy markets. If at the end of the day New Jersey's foray into electric restructuring has not delivered on its promises, consumers should not be left holding the proverbial plug.

I'll be short today, so I'll end my formal remarks here. Thank you again, very much, Chairman Caraballo and members of this Committee, for the opportunity to testify today, and I'll be happy to answer any questions you have.

ASSEMBLYMAN CARABALLO: Questions? (no response)

Thank you. Thank you very much.

John Holtz, Green Mountain.

UNIDENTIFIED SPEAKER: (speaking from the audience) Mr. Chairman, Mrs. Holtz is due any day to deliver their second child, and he just got a phone call.

ASSEMBLYMAN CARABALLO: Oh, okay.

UNIDENTIFIED SPEAKER: He left about ten minutes ago.

Green Mountain is one of the few third party suppliers still in the market, and it's the only one providing electricity from renewable sources, which you heard about earlier so I'd hope there would be another opportunity, at least for John and Green Mountain to present their views of the market, but he just called me up at home and said, he had to get home.

ASSEMBLYMAN CARABALLO: Oh, that's okay.

That's okay.

I assure you there will be more opportunities, and the next time we'll make sure we get you up front. All right.

UNIDENTIFIED SPEAKER: That's great. Thank you.

ASSEMBLYMAN CARABALLO: Thank you.

Patrick Jeffrey.

**PATRICK JEFFERY:** Thank you, members of the Committee.

My name is Patrick Jeffery. I appreciate the opportunity to speak here today. I'm the Vice President of Regulatory Affairs for SmartEnergy. Until this summer, SmartEnergy was a third party supplier in New Jersey. We still have a license to supply electricity and natural gas in New Jersey, but we no longer supply any customers in New Jersey. We're based in the Boston area, and we are a competitive supplier of energy, natural gas, to residential and small commercial customers only. So, we are one of those companies that would be very keen to provide a choice to residential customers in New Jersey, should the opportunity actually present itself.

I think SmartEnergy can speak very well towards this topic because we currently serve over 100,000 residential and small commercial customers, not far away, in the ConEd service territory in New York City. So, one of the reasons I'm here today is to talk about how retail competition can really be a tremendous success.

Clearly, everyone is here today to think about what's going to happen in August 2003. Will there be rate shock? Will there be competition? Will there be deferrals? Will there be deferral recovery? And the reason I'm here today is to say that whether or not there is rate shock, there is a way to address that. Even in the worst case scenario, if there was some kind of rate shock, companies like ours would immediately step in if we knew what rates were going to be and provide a competitive price. And that's what we do in New York City today.

In the ConEd electric service territory, commodity rates for electricity for ConEd customers, residential customers, fluctuates. It fluctuates monthly so those customers don't have any of the kind of certainty that exists today in New Jersey. So, if they don't like that, if they had a concern about the volatility with their electric rates, they'll go to SmartEnergy or one of the other residential suppliers that serves them in ConEd. There are a few of them.

So, I'm trying to draw everyone's attention to the ultimate goal of competition which is, in the competitive market, if the price that you receive from the traditional provider of last resort is unattractive, then others will step in to provide a more attractive price. So, which came first the chicken or the egg?

The concern our company has is that if either the Legislature or the BPU continues to artificially hold down prices, you never had competition and yet people come here saying, well, there's no competition so we have to hold down prices. Yet prices are set at a market rate as they are in New York, you will have competition and that will hold prices down for people who don't like their provider of last resort prices. Our price to New York consumers is fixed, a guaranteed rate. It's in a contract that we have with our customers for a year, in most cases. They don't have a contract or a guaranteed rate with the utility, it's market based.

The other topic that I've heard a lot of talk about today is the topic of deferrals. You know, the best example I can think of how not to handle deferrals is the bankruptcy of Pacific Gas & Electric in California. This issue of deferrals is -- I know it has hit the press recently, and well it should. There may be some dispute about the numbers, but I think that kind of debate is healthy because I think that deferrals are bad, and I don't think there are going to be too many people here that disagree that this can really have a very negative impact on the financial health of the utility, which is critical anyway because it does distribute the power. But deferrals are an issue that can be dealt with many different ways.

In New York right now, the utility companies are strongly opposed to rates that are structured in such a way that would create a deferral. The utilities themselves are nervous about a situation where their financial health might be negatively impacted, such as it was in California.

So, SmartEnergy believes that deferrals not only should not take place in the future, but they aren't necessary because if rates go up to a certain point, companies like us will simply step in to offer the customer a better price. And that's what the whole deregulation end stated is all about.

So, our company would very much like to serve residential customers in New Jersey, in August of 2003, at a residential rate that's better than the rate they get from the utility, but only if that utility rate isn't held down artificially. And so we advocate, as I've heard one or two other utilities advocate, for a market-based rate. And for those who are concerned about rate shock or rate spikes or whatnot, I can only say there are certain ways to implement those rates, but I think the deferral experience has demonstrated -- I hope that it has demonstrated that statutory rate caps or other artificial rate management mechanisms -- it's going to give somewhere else.

The other thing about deferrals that are created by these rate caps, which is unfair to consumers, is that the consumers who ultimately pay for those deferrals in the future are not the consumers who use the electricity in the first place. Now, that is just not fair. If in 2004, I move to New Jersey and begin using electricity, or my company moves to New Jersey in 2004 and begins using electricity, under deferral recovery programs that are being advocated now, I'm going to wind up paying for the cost of electricity that was used last year or the year before. That's not fair. The consumers who used the electricity should be the ones that pay for it and not those who did not. I don't want to pay for deferred amounts with customers who were in the State before I was. And that creates artificially low prices which simply stunt competition to start with.

In closing, I simply hope that our company has the opportunity to provide a choice to consumers that they don't have today. Our company is focused on residential customers. And if the customers have a proper price signal in this State in 2003, I don't think there's going to be any problem with companies like ours coming in and providing them with a better alternative. You know, people use to have only Ma Bell, and that was pretty expensive, but now they have a lot of choices and there are over 100,000 people in New York that like our choice, and we'd like to bring our choice to New Jersey as well.

ASSEMBLYMAN CARABALLO: Thank you.

Questions?

ASSEMBLYMAN CHIVUKULA: Mr. Chairman.

ASSEMBLYMAN CARABALLO: Thank you very much.

MR. JEFFREY: Okay.

ASSEMBLYMAN CHIVUKULA: Mr. Chairman, I have a question.

ASSEMBLYMAN CARABALLO: Oh, I'm sorry. I didn't see you.

MR. JEFFREY: Oh, I'm sorry.

ASSEMBLYMAN CHIVUKULA: How would you handle the bid for us? You know, we are in a bad situation. How would you handle that? Do you have any suggestions?

MR. JEFFREY: Are you talking about the difference in the current rates here versus other states?

ASSEMBLYMAN CHIVUKULA: Well --

MR. JEFFREY: Oh, the deferral?

ASSEMBLYMAN CHIVUKULA: Yes.

MR. JEFFREY: That's a very good question.

One thing I would not suggest is that the deferral be recovered from every customer regardless of whether or not they switched to a competitive supplier. Let me give you an example: the deferral results from the fact that what the customer paid for their electric commodity is less than that electric commodity cost them. So the difference is on that electric commodity. Now SmartEnergy comes in, and we are selling electric commodity. The customers that are no longer getting electric commodity from the utility, they switched to SmartEnergy, they shouldn't be paying to make up that deferral because they got that electric commodity from the monopoly utilities to start with. They didn't get it from SmartEnergy.

One of SmartEnergy's concerns is that the deferrals made up -- like they do in California, which is socialized, which is all taxpayers pay the deferral, that's not far. Not all taxpayers use that electricity. Many taxpayers may not have used much electricity at all. Other programs could assign the recovery of the deferral to every rate payer, everyone that uses electricity. Well, that's not fair because if a customer decides they don't want to get electricity from the utility anymore, they want to get it from us, why should they be contributing to a deferral that was from when the paid the utility? That should be coming from customers who still get their electricity from the utility. So it should be in commodity charge, it shouldn't be hidden in their distribution charge.

ASSEMBLYMAN CARABALLO: Excuse me, one second.

MR. JEFFREY: Yes.

ASSEMBLYMAN CARABALLO: Before you go on with that one, there's a problem with what you're stating here.

One the one hand you said that FirstEnergy (*sic*), or --

MR. JEFFREY: Yes.

ASSEMBLYMAN CARABALLO: -- any third party utility company coming in, any provider coming in, shouldn't have to pay the higher price. And you said, for example, if you move into New Jersey in 2004, you don't want to pay for something that somebody used in 2002.

MR. JEFFREY: Yes, that's correct.

ASSEMBLYMAN CARABALLO: But if we start with the premise that the user is supposed to be paying for it, which is what you're advocating, then if that user moves to FirstEnergy, shouldn't they also move their liability with them?

MR. JEFFREY: Well --

ASSEMBLYMAN CARABALLO: Given the fact that they received the benefit --

MR. JEFFREY: That's true if they moved elsewhere with --

ASSEMBLYMAN CARABALLO: The only people who should get the new price --

MR. JEFFREY: That's true if --

ASSEMBLYMAN CARABALLO: -- lower price should be people who never lived in New Jersey.

MR. JEFFREY: That's correct.

If someone moved elsewhere within the State, they still are receiving the benefit. But you see, I guess my point is the deferral should have never been created to begin with because now we get into these complex issues. Now we can't figure out who's actually supposed to be paying for it. It's too complicated. You'll never be able to work it out perfectly.

The answer is, please get away from these deferrals for two reasons: one of which is you don't to have a utility bankruptcy; and two, you're never going to figure out a really decent way for consumers to have to pay up that deferral because someone's always going to wind up paying for something they didn't use and someone else is going to be using something they didn't pay for.

So, it just doesn't work out very well. There are just too many public policy reasons. The deferrals are wrong.

ASSEMBLYMAN CARABALLO: So, you're recommending we don't do deferrals in the future, but you don't have an answer for how to deal with the fact that we have deferrals now?

MR. JEFFREY: Deferrals should be recovered now through an addition to the customer's commodity charge that they get from utility.

Now, you could do that different ways. You could pay off in 15 minutes, one day, one week, one month, one year, five years, ten years, fifteen years. Now the devil is in the details, as a former colleague use to tell me. Now we've got to decide how long you want to take to pay it back. It has got to be paid back.

The other thing to keep in mind with these deferrals is, I think we all got lucky here a little bit. It could be a lot worse. There are all these settlement agreements, these merger agreements, in which people wrote off large parts to deferrals. You can't count on those mergers happening at a particular point in the future. So, it's another reason. You really lucked out. It could be a lot worse, but you could still recover it. You just have to decide how long you're going to take to recover it from people and how much people should understand how much that electricity they use really cost them. And I know there are some political issues there. Just don't charge it to my customers, charge it to the customers who stay with utility. My customers aren't getting their electricity from the utility. They got a bargain from the utility in years back. They want to stay with utility, they're going to have to pay for it.

ASSEMBLYMAN CARABALLO: Okay.

Thank you.

Sara O'Neill, AES NewEnergy. Yes? No?

**SARA O'NEILL:** (speaking from audience) Are you guys --

ASSEMBLYMAN CARABALLO: You don't have to speak. I just-

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MS. O'NEILL: I'll pass, then.

ASSEMBLYMAN CARABALLO: Okay.

Susan Covino.

Susan Covino, NewPower Company.

Hi, Susan.

**SUSAN COVINO:** How are you?

ASSEMBLYMAN CARABALLO: Good. Good.

MS. COVINO: I'm Susan Covino, Director of Government Affairs for the NewPower Company. Our company commenced operations in May of 2000, and we serve strictly residential and small commercial customers, both natural gas and electric power. We had, what we called, a roll out, a soft roll out in PECO and in PSE&G. Currently, we're serving approximately 4500 residential electric customers behind PSE&G.

The latest numbers I have from the Board of Public Utilities on switching rates show that as of March there were a total of 6229 residential customers out of a possible 1,750,000 behind PSE&G. Currently, we do not have an offer in the marketplace.

I think these numbers demonstrate fairly well that, at least quantitatively, the ideal or the suggestion that we have been moving through a four year transition hasn't really been a transition. In my mind, you characterize a competitive market by the presence of many buyers and, to my notion, we have 1,750,000 residential buyers behind PSE&G and currently few, if any, sellers.

Where are we in New Jersey? I think this statistic I just presented shows that we are not moving through the transition as we might have liked. Looking at the statewide total, we have 7066 residential customers procuring service from another supplier out of a total of over 3 million. If you move to the nonresidential sector, we find only 676 customers out of 462,993. A truly discouraging fact, especially in view of the development of the natural gas market in 1984 in New Jersey. When we began to see development of rates, development of policies that gave small commercial and large industrial customers true choice on the natural gas side. We're not seeing that replicated on the electric side.

Where do we need to go? I think most of the speakers have hit it on the head. We need to get away from artificial price caps. We need to have market prices in the wholesale market reflected in the prices that our customers see.

Good heavens, today is Earth Day. What kind of price signals are we giving consumers of electricity about how to manage the use of their electricity when the prices that we're charging are below what it costs to make that electricity.

Not only that, here in New Jersey, we have some of the finest minds and research technology, computers, chemistry, and we are at a point where the price of computer chips in telecommunications would actually allow us to communicate and help customers, even residential customers, manage their usage in significantly important ways that would allow them to reduce demand during high priced periods, when the every expensive units of generation have to come into the marketplace, and reduce their bills and reduce pollution as well. But these signals are being stymied. They're being stymied by price caps that are absolutely artificial and that are the death now of competition.

We need to move towards getting the utilities out of the merchant function. Quite clearly, we've taken the first step. We are moving towards putting BGS, Basic Generation Service into, at least at a wholesale level, the competitive marketplace.

A bottom line for companies like mine, there has to be head room, there has to be opportunity in order to justify the kinds of investment that need to be made to serve, provide quality service to customers here in New Jersey.

We feel that the Texas program offers a good deal of that head room and a good deal more opportunity than we see here in New Jersey. Although we entered the pilot last year, which was 2001, we entered the market here in 2000, we're currently serving 87,000 customers and as we add customers, we begin to justify the investment we make to provide billing services, to provide the kinds of stable services and prices that customers want.

There's reason to be hopeful. Here in New Jersey, the Board as begun a proceeding to address basic generation in year five. We're also going to be discussing the price to compare. We have the good fortune of having on the Commission, Commissioner Murphy, who is here when the EDECA bill was put together. We also have the benefit of the wisdom of Commissioner Butler, who understands these issues, as does the staff of the Board. And recently we've added Nusha Wyner, who is instrumental in expanding retail gas choice to firm customers when back in 1983 and ′84.

There are also a number of reasons to be concerned. There are very few electric power suppliers out there particularly serving residential customers. And frankly, the financial markets on Wall Street do not have appetite for the kinds of risks companies like mine have faced. Furthermore, the resources of the utilities far outstrip not only the Board's resources in these endeavors, but also the nascent companies like mine who are trying to get into the marketplace.

The role for the Legislature, I think, is an important one. Three items come quickly to mind. I believe we need to address the issues from municipal aggregation, the real issues including the switching rules. They don't work. I think this Legislature has been told that before. It would improve the opportunities for companies like mine coming into this State who need to be able to serve large blocks of customers in order to be able to make the investments necessary to give good quality service.

The other I would suggest, item number two, would monitor the development of Basic Generation Service. This, in our view, is intended as a competitive service and a retail service, and at the earliest possible time, we should be phasing the utilities out of the provision of generation service.

Finally, I believe it's incumbent on the Legislature to provide resources and a sense of urgency to the Board. The resources that this Board needs would, for example, enable it to participate more actively at PJM and at the FERC.

Unlike natural gas, where the wholesale markets developed before the retail markets, in electricity we have these two markets developing side by side. And the interaction of Federal legislators, as they establish policy and the PJM folks and the folks at the Board of Public Utilities, is critical to having this system work.

Let me just give you one really quick example. In PJM, parties who wish to serve customers, such as my company, are light serving entities. We provide electricity, installed capacity and ancillary services. Installed capacities is an obligation within PJM that falls into three intervals during the course of a calendar year.

The summer interval begins on June 1st and ends on September 30th. The legislation in New Jersey requires BGS auction service to begin on August 1st, right plumb in the middle of the summer. If there is good communication going back and forth so that these kinds of obstacles or problems are reduced, I think we'll get to the kind of marketplace that we all envision a whole lot sooner.

Thank you very much for your kind attention.

ASSEMBLYMAN CARABALLO: Sure.

Questions? (no response)

Before we adjourn, I want to indicate -- you know, we were told Mr. Holtz left because his wife is having a baby. I should recognize the fact that our Committee Aide didn't have it himself, but is --

MR. McCARVILL: Feels like I have. (laughter)

ASSEMBLYMAN CARABALLO: -- feels like it had.

Is the proud father of what, two weeks old?

MR. McCARVILL: Three weeks last Thursday.

ASSEMBLYMAN CARABALLO: And the name?

MR. McCARVILL: Matthew Christopher.

ASSEMBLYMAN CARABALLO: Weighed in at?

MR. McCARVILL: Eight pounds, twenty and one-half inches.

ASSEMBLYMAN CARABALLO: Excellent. Congratulations.

MS. COVINO: Congratulations.

MR. McCARVILL: Thank you.

ASSEMBLYMAN CARABALLO: Thank you very much. I hope this was a fruitful hearing. I certainly learned some things, and hopefully we'll have some good things coming out of this.

Meeting adjourned.

**(MEETING CONCLUDED)**