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May 7, 2021

The Honorable Gene Yaw, Chairman
Environmental Resources and Energy Committee
362 Main Capitol
Harrisburg, PA 17120

The Honorable Carolyn Committa, Minority Chair
Environmental Resources and Energy Committee
457 Main Capitol
Harrisburg, PA 17120

The Honorable Chris Dush, Chairman
Senate Local Government Committee
16 East Wing
Harrisburg, PA 17120

The Honorable Tim Kearney, Minority Chair
Senate Local Government Committee
463 Main Capitol
Harrisburg, PA 17120

RE: Senate Bill 275 Energy Choice Legislation

As the Senate committees on Environmental Resources and Energy and Local Government convene next week to hear perspectives and positions regarding SB 275, which reaffirms that local governments may not prohibit utility and energy service to businesses and residents within such governments' jurisdictions, please note this important legislation is supported by the Pennsylvania Chamber of Business and Industry. First, as a matter of first principle, energy policy is best established at the state level, and recent litigation regarding the implication of the Environmental Rights Amendment and zoning law have affirmed as much. Second, energy choice is paramount to the continued success and economic vitality of the state. Finally, efforts to restrict delivery of energy by utilities will be counterproductive in meeting environmental goals.

Before explicating these themes further, we must begin by emphasizing the news that Pennsylvania lost another Congressional seat following the decennial census. Broadly speaking, the states which gained seats have stronger economies as a direct result of tax and regulatory environments that are creating more opportunity and drawing graduates and residents of other states. To put it succinctly, economic stagnation and decline are a direct result of the policy choices you and your colleagues make. This news should spur the legislature and administration to action in joint, bipartisan pursuit of pro-growth policies.

Second, the pandemic and the ensuing mitigation measures cost Pennsylvania ten years' worth of job growth. While the state added 238,000 jobs between 2016 and 2020, it lost 436,000 jobs between February 2020 and February 2021. This is the seventh-highest job loss of all states, and Pennsylvania lost proportionally more jobs in all industrial categories compared to the national average, with the exception of government jobs. Pennsylvania's economy needs to be rebuilt, and our members are committed to working with government to do it – but this will require a concerted effort on government's part to enact policies that encourage investment, provide for equality of opportunity, and improve Pennsylvania's competitiveness. As such, our member-driven recovery initiative, Bringing PA Back, includes key pillars such as workforce development and infrastructure modernization. Local government decisions which impede energy access and raise costs on families and businesses are counterproductive and unnecessary.

With respect to arguments that the Environmental Rights Amendment justifies or empowers local governments to obstruct energy access in the guise of stewardship, let us be clear: court decisions emanating from Commonwealth Court and the Supreme Court of Pennsylvania in the past several years have firmly established environmental regulation is the province of state government. See, for example, the opinions in the cases of *Delaware Riverkeeper v. Middlesex Twp.*, *Gorsline v. Fairfield Board of Supervisors*, and, most importantly, *Frederick v. Allegheny Twp.* As the Commonwealth Court made clear in *Allegheny Twp.*, and affirmed by the state Supreme Court, DEP and state agencies, not municipalities, are the environmental regulators; the Environmental Rights Amendment does not allow governments to exceed statutorily defined powers; the Environmental Rights Amendment does not obligate municipalities to zone out energy projects; and, perhaps most relevant to this discussion, the Environmental Rights Amendment does not negate private property rights, including the right to reasonably use property. We argue this includes the use of utility and other fuels service as well.

Second, returning to the theme of economic vitality and competitiveness, the decline in the cost of natural gas has resulted in collectively tens of billions of dollars saved by Pennsylvania. Residential consumers in Pennsylvania have seen utility bills, inclusive of commodity costs and distribution charges, fall by as much as 56%, with annual savings ranging between \$321 and \$1,643 depending on the utility. With respect to commercial and industrial customers, total bills have fallen at minimum by 28% and as much as 56%, depending on the utility. These cost reductions have resulted in significant improvements in one of the highest cost pressures for these types of facilities, and by extension their competitiveness.¹

With specific regards to the commodity cost components of gas utility bills, utilities' purchased gas costs are between 67% and 83% lower compared to 2008 levels. These costs are passed directly to consumers with no mark-up by the utility. Absent infrastructure buildout and the onset of production from the Marcellus shale that has occurred since 2008, the average household would be paying between \$1,368 and \$2,467 more annually on commodity charges. Commercial customers would be paying between \$3,800 and \$6,855 more per year, and large commercial and industrial customers would be paying between \$68,400 and \$123,390 more.² State and local governments should not close off the extension of gas service to customers who want it; to do so would be to encourage further relocation of business and investment to other states. Neither should state or local governments close off access to innovations in other distributed energy resources – to again emphasize that SB 275 is fuel neutral.

Finally, with respect to environmental goals, continued investment into both electric and gas infrastructure is necessary to meeting energy and climate goals, which will require the option for ratepayers to select from a full host of energy resources, including natural gas. As researchers at Columbia University recently noted in an analysis, “while it may seem counterintuitive, investing more in the domestic natural gas pipeline network could help the US reach net-zero emission goals more quickly and cheaply. Fortifying and upgrading the system could prepare the existing infrastructure to transport zero-carbon fuels as they become available and, in the meantime, reduce harmful methane leaks from natural gas.” The natural gas industry continues to lower its carbon impact by addressing fugitive emissions with aggressive and targeted pipeline replacement programs and has begun introducing renewable natural gas into its system. As blue and green hydrogen becomes available, piping it directly or blending that energy source into the natural gas system will further lower carbon emissions.

Additionally, private sector companies, whether publicly or privately held, are focused on sustainability and working in concert with shareholders, customers, financial institutions and their own employees. The approach any one business takes to reducing costs and emissions may take a different path compared to

¹ Rate Comparison Reports for 2008 and 2020, Pennsylvania Public Utility Commission. <https://www.puc.pa.gov/filing-resources/reports/rate-comparison-reports/>

² Purchased Gas Costs, Pennsylvania Public Utility Commission. <https://www.puc.pa.gov/NaturalGas/pdf/PGC.pdf>

others; local government policy that closes off energy choice may preclude additional reductions in emissions and the competitiveness of that facility's operations.

Further, the increased use of natural gas and its production in Pennsylvania has resulted in Pennsylvania reducing CO2 emissions since 2005 by more than any other state but Ohio. Our energy economy has helped the United States lead the world in reducing greenhouse gas emissions while keeping residential and commercial prices for energy among the lowest of all developed nations. At the same time CO2 emissions and costs fell, Pennsylvania has continued to be a net exporter of electricity and gas, while helping the United States become net energy independent. In short, continuing to provide energy access to all ratepayers is necessary, not counterproductive, to keeping energy costs low while reducing emissions further.

In closing, thank you for your consideration of our position and views on this matter. The PA Chamber strongly supports SB 275 and encourages its swift passage and adoption.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Sunday". The signature is written in a cursive style with a large, stylized initial "K".

Kevin Sunday
Director, Government Affairs