Testimony before

THE SENATE ECONOMIC GROWTH COMMITTEE and
THE SENATE ENVIRONMENT COMMITTEE

DECEMBER 11, 2008
1 P.M., Committee Room 4
State House Annex
Trenton, NJ

SENATE BILL No. 2428
CONCERNING FORMULA-BASED RATES FOR UTILITIES

MEMBERS OF COMMITTEES PRESENT:

Senator Raymond J. Lesniak, Co-Chair
Senator Bob Smith, Co-Chair
Senator Sandra B. Cunningham, Co-Vice Chair
Senator Jeff Van Drew, Co-Vice Chair
Senator Robert M. Gordon
Senator M. Teresa Ruiz
Senator Christopher "Kip" Bateman
Senator Joseph M. Kyrillos Jr.
Senator Steven V. Oroho
New Jersey State Legislature
SENATE ECONOMIC GROWTH COMMITTEE
STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

PUBLIC HEARING NOTICE

&

*COMMITTEE NOTICE

The Senate Economic Growth Committee and the Senate Environment Committee will hold a joint public hearing on Thursday, December 11, 2008 at 1:00 PM in Committee Room 4, 1st Floor, State House Annex, Trenton, New Jersey.

The public may address comments and questions to Kevin J. Donahue, Committee Aide, at (609) 984-7381 (for economic growth and energy/telecommunications bills) or Richard M. Handelman, Committee Aide, at (609) 292-7676 (for agriculture and animal bills), or make bill status and scheduling inquiries to Kathleen Zurka, Committee Secretary, at (609) 984-7381, fax (609) 292-0561, or e-mail: OLSAideSEG@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The following bill will be heard:

S-2428
Lesniak

Authorizes electric or gas public utilities to implement formula based rates.

Those wishing to testify are asked to provide 20 copies of any written testimony to the committee aides prior to the start of the hearing.

The Senate Economic Growth Committee will have a committee meeting immediately following the public hearing to consider the following bill:

(OVER)
Released/SCS  Establishes procedures for guaranteed energy savings contracts by
S-1537  governmental entities.
Smith/Bateman

Issued 12/4/2008
*Revised 12/8/08 (Added committee meeting following the public hearing)

For reasonable accommodation of a disability call the telephone number or fax number above, or TTY for persons
with hearing loss (609)777-2744/toll free in NJ (800)257-7490. The provision of assistive listening devices requires
24 hours’ notice. Real time reporter or sign language interpretation requires 5 days’ notice.
For changes in schedule due to snow or other emergencies, call 800-792-8630 (toll-free in NJ) or 609-292-4840.
# TABLE OF CONTENTS

Ralph LaRossa  
President and Chief Operating Officer  
Public Service Electric & Gas  

3

Rick Thigpen  
Vice President  
State Governmental Affairs  
Public Service Electric & Gas  

5

Nicholas Asselta  
Commissioner  
State of New Jersey Board of Public Utilities  

21

Victor Fortkiewicz  
Executive Director  
State of New Jersey Board of Public Utilities  

26

Stefanie A. Brand,  
Director  
Division of Rate Counsel  
New Jersey Department of the Public Advocate  

26

Chip Gerrity  
President  
Local 94  
IBEW  

33

Kevin O’Sullivan  
Executive Director  
Building and Construction Trades Council  
New Jersey State AFL-CIO  

34

Noel J. Christmas  
President  
Local 601  
Utility Workers Union of America  

36

Robert Master  
Political Director  
District 1  
CWA  

37
<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Organization</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unidentified Speaker</td>
<td>Representing</td>
<td>Capital Health Center</td>
<td>51</td>
</tr>
<tr>
<td>Dennis Dooley</td>
<td>Vice President</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planning &amp; Development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sara Bluhm</td>
<td>Assistant Vice President</td>
<td>New Jersey Business &amp; Industry Association</td>
<td>53</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dena Mottola</td>
<td>Executive Director</td>
<td>Environment New Jersey</td>
<td>55</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Steven S. Goldberg, Esq.</td>
<td>Fox Rothchild</td>
<td>New Jersey Large Energy Users Coalition</td>
<td>57</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Matt Shapiro</td>
<td>President</td>
<td>New Jersey Tenants Organization</td>
<td>63</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jeff Tittel</td>
<td>Director</td>
<td>New Jersey Chapter</td>
<td>64</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sierra Club</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stephen G. Asplundh</td>
<td>Vice President</td>
<td>Asplundh Tree Expert Company</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX

Testimony, plus
"Barak Obama and Joe Biden: New Energy for America"
Submitted by
Ralph LaRossa  1x

Testimony, plus Attachment
Submitted by
Nicolas Asselta  14x

Testimony
Submitted by
Stefanie A. Brand  18x

Testimony
Submitted by
Jim Leonard  30x

Testimony
Submitted by
Pam Hersh  32x

Testimony
Submitted by
Phyllis Salowe-Kaye  38x

Testimony
Submitted by
Melanie Willoughby and
Sara Bluhm  44x

Testimony
Submitted by
Dennis Dooley  50x

Testimony
Submitted by
Steven S. Goldenberg  51x

Testimony
Submitted by
Hal Bozarth
Executive Director
Chemistry Council of New Jersey  54x
APPENDIX, Page 2

Letter addressed to
Members of the Senate Economic Growth and
Senate Environment Committees
from
Kevin Dolan
President
Plumbing-Heating-Cooling Contractors Association-NJ 55x

Memo to
Senate Economic Growth and
Senate Environment Committees
from
Kathleen R. Madaras
Associate Director
Fuel Merchants Association of New Jersey 56x

Letter addressed to
Senate Committee Members
from
Linda Doherty
President
New Jersey Food Council 57x

Letter addressed to
Senator
from
Roger Ellis
Business Representative
Local 472
Heavy and General Construction Laborers’ Union 58x
SENATOR RAYMOND J. LESNIAK (CHAIR): I want to thank Senator Smith and his Committee members for joining us today. It's just a public hearing -- just a public hearing -- but no vote on any bills; although the Senate Economic Growth Committee will be voting on one bill after the public hearing. We are -- the genesis of this hearing came when I had heard about a proposal that would create billions of dollars of investments in New Jersey, thousands of jobs -- new jobs, and energy efficiency. And those are issues that are very dear to my heart and particularly in these trying economic times.

I immediately spoke to Senator Smith because I know these issues are very dear to him as well. And in the -- the most important thing I believe to come out of today's hearing will be the information that we have gathered, both in terms of the testimony at the hearing and the written testimony that you have provided for us.

We are going to try to do this in an efficient manner by calling up representatives from groups to testify -- and in a concise manner -- and whether they're for or against. And I'm sure even those who are against will have constructive proposals to deal-- As Senator Oroho mentioned to me, you know there may be other ways and there should be other ways; and we want to hear other ways in addition to the proposal in the legislation that I introduced to provide energy efficiency, job growth, and investment.

Just for the-- And Yoshi will be -- after he straightens out all these forms, he'll go in the back of the room and talk to different groups so that you can kind of designate one or two people to provide concise testimony. As I see it, Senator, there are -- there's certainly the energy companies. Then there are business companies who are both for and against. There are union leaders who
are both for and against. There's BPU, and government representatives, and there are citizen groups. I think that's probably a good way to categorize this.

So, Senator, would you like to say a few words? Any members of the Committee?

And we'll call the first group.

**SENATOR BOB SMITH (CHAIR):** Brevity is the soul of wit. Let me thank you, Chairman Lesniak. I think so many issues today are combined issues of environment and energy, and it's a pleasure to be working with your Committee today.

**SENATOR LESNIAK:** Thank you, Mr. Chair. Any other statements from the Committee?

If not, we will call up Ralph LaRossa from PSE&G.

**RALPH LAROSA:** Thank you, Chairman Lesniak and Chairman Smith, and other members of the Economic Growth and Environment Committees.

I appreciate being here today. Rick Thigpen is going to be joining me here at the table.

I believe that everyone you'll hear from today shares the same end goal. We want to stimulant investment and create jobs here in New Jersey during these tough economic times. In my testimony over the next few minutes I'd like to accomplish two things. First, to explain briefly why we think the legislation being discussed today is an effective way to achieve this goal. And second, to clear up any misconceptions about this proposal.

I'm submitting more detailed written testimony for the record, and we also have copies available here today and on our website.
Our support for this legislation can be traced to two important challenges. First, the policy makers here in New Jersey and those incoming to Washington have expressed a desire to create jobs through infrastructure improvements and, specifically, investments in energy infrastructure.

The investments include traditional pipes and wires, grid modernization, energy efficiency and renewables. Utilities can play a big role in making these plans a reality. Second, we are in an economic crisis that has restricted access to the capital market to all but the most secure investments. That means we need timely and predictable recovery of our investments in order to access the capital we need to make the investments and create the jobs. And with timely and predictable revenue streams, we will get access to more affordable capital which will create a savings and a benefit to our ratepayers.

This legislation will enable policy makers and the utility industry to address the two challenges I've laid out. The bill will empower but not direct the BPU and utilities to choose a ratemaking mechanism that will spur job creation, protect consumer interest, and enable economic stimulus. The draft legislation does not spell out how all the details will work. We anticipate that will be part of a regulatory process that each utility that chooses to use formula rates will need to complete with the BPU. However, it is clear to us that the following basics shouldn't (sic) be included, and following principles.

First, there should be an annual regulatory review, including continued review of the prudence of all investments. Second, incremental rate treatments that do not – that are implemented do not overly burden consumers and reflect some reasonable cap. Third, performance standards to ensure utility performance should be put in place. Fourth, returns are given to the utilities that reflect the economic conditions as they change.
As many of you know, I'm a lifelong resident of New Jersey. Born, raised, educated, and still living here. I care about the well-being of the state, as do the other 6,500 employees of PSE&G that I have the privilege to work with day in and day out. Our goal here is rather simple. We want to make the kind of green and traditional investments that the Governor, other state leaders, and President-elect Obama have said we need. We want to contribute to New Jersey's economic recovery and sustainable future as a valued corporate citizen.

We stand ready to help and look forward to working with the others to make sure these investments become a reality.

That's it.

SENATOR LESNIAK: Wow.

MR. LaROSSA: You wanted to keep it brief.

SENATOR LESNIAK: Wow. That's very good.

Rick, do you have anything to say?

RICK THIGPEN: Yes, very briefly. I would say this Committee is faced with the challenges of, like the rest of our country, of reducing carbon emission, reducing energy consumption, and creating jobs in hard economic times. We hope that this proposal helps stimulate that discussion and hopefully moves our state forward.

Thank you.

SENATOR LESNIAK: Thank you.

Any questions from the Committee?

SENATOR SMITH: Two quick ones. Are any other states in the United States using this approach? And number two, with regard to Public Service Electric and Gas, what do you anticipate to be the costs of the upgrading
of the grid to make it a smart grid, and what do you see as the initial investment of Public Service for energy efficiency programs?

MR. LaROSSA: Well, Senator, I'll try -- I'll start from the beginning there. The other states that have this in place, most of them are in the Southeast. Most of them are integrated utilities where both generation and distribution are together within the same entity. We're a little unique there. The only other entity that has that in place, that has this type of mechanism in place today, is FERC, the Federal Energy Regulatory Commission. It has spurred investment. It has created new investment in the infrastructure. And we think that while this is not a model that we're wed to by any stretch of the imagination, it's a model that deserves to be looked at in some detail.

As far as the impact on rates or the impact on bills, that's a decision that will be made through the process. We could decide jointly between the regulators and the utilities to not spend any money. That prudency test would be done up front where we would agree upon the investment that we would make going forward.

What this bill and this ratemaking process gives is a clear line of site to the investment community to understand that that agreement has been reached up front in the process and, therefore, the revenue stream will be agreed upon on the back end of the process. It just moves the prudency up forward.

We could agree that we want to spend billions of dollars because we want to stir the economy in the state, and we can hire contractors and increase all workforce to meet that desire. Or we could scale back tremendously because the economic times just don't dictate that today.
SENATOR LESNIAK: Please excuse my ignorance. So this formula-based return on investment, whatever you want to call that, would have to be approved by BPU?

MR. LaROSSA: It would have to be approved by the BPU and the expenditures will be agreed upon up front.

SENATOR LESNIAK: Okay. Motion to move the bill? (laughter) Senator Kyrillos.

SENATOR JOSEPH M. KYRILLOS Jr.: Thank you, Senator Lesniak. This is a big bill, big initiative for the State of New Jersey. I appreciate your calling this hearing.

On the one hand I understand why you want more certainty, predictability by going before the BPU on an annual basis. One might also think that it's overly burdensome, instead of going every three years or four years or five years. This would be every year. And as I understand it, that certainty, predictability, assurance of rates will help you in the capital markets during this difficult time.

Is that correct?

MR. LaROSSA: That's correct.

SENATOR KYRILLOS: And I think that we all appreciate the investment that the state's largest utility may be prepared to make on behalf of the company, of the citizenry, of the ratepayer, of those that need jobs during this very difficult time in the country's history. I don't begin to understand all that the new green economy and the jobs that will be created from it -- what they mean, what they can do; but I take it that it puts some people to work, and we need that.
On the other hand, I'm concerned about some of the people that are already working; and some of the people that can be hired by New Jersey's private sector if we can find a way to make things more hospitable for them here in a very highly taxed, highly regulated state – where there's a lot of competition from states around the region, the country, countries around the world. And you know, Mr. President, you know the numbers, and the statistics, and the competition out there. So let me just put this out there, you know, right at the outset, because people are concerned about this. Are these formula rates, so to speak, are they going to increase rates for a lot of people out there in the society, electric rates, and disproportionately so for some people?

MR. LaROSSA: The question is certainly valid and we share the concerns. The issue comes right down to: the rate mechanism does not increase rates; the expenditures could increase rates. We as a society need to determine whether or not the expenditures are needed. And we fully believe that the policy makers, as I stated earlier, have indicated that this is a direction we want to move in. The formula will drive the investment level. So as said earlier, if we decide to spend a dollar next year rather than $100, that will obviously have a different impact on the ratepayers. I believe that the utilities are a great mechanism to use to drive the infrastructure growth.

If I think back 100 years ago when this company was started, it was started on the premise that we were going to provide universal access to all customers for these types of services, electric and gas, and that that would be spread out over time so folks could afford to make those payments. And it would be done in a way that was -- regulated the return rate. This bill continues that tradition. It changes the timing of when the prudence takes place.
SENATOR KYRILLOS: To your contention then, if I'm hearing you correctly, it is not the new methodology, per se, that could increase rates, but the policy decisions thereafter with regard to infrastructure, what it is, how much of it we need, what the jobs are that could drive rates?

MR. LaROSSA: That's correct.

SENATOR KYRILLOS: For some people.

MR. LaROSSA: Right. So the best example -- and it's not an electric example, although people talk about electric quite a bit. Let's just talk about our gas replacement program. That program is currently around an 80 year replacement time frame. We could shrink that to 40 years, replace those assets sooner, put more people to work, create that economic stimulus.

But that's a decision we should make together with the regulators to ensure that we're all on the same page and that we do not put an undo burden on the ratepayers.

SENATOR KYRILLOS: And from your point of view, how is that -- how are those decisions going to be made with regard to infrastructure in the kind of example you just mentioned?

MR. LaROSSA: Again, I believe --

SENATOR KYRILLOS: It's a blank check for the utilities, or are there going to be other people at the table?

MR. LaROSSA: No, we continue – that has to be a joint decision. Now, there are two changes, one that I mentioned, which is the timing of that prudence in the up-front. The other point is, it is a compressed time frame. What we need to ensure is to work with all the interested parties to ensure that that proof -- that burden, that proof of burden of the investment is done in an
appropriate manner. We don't want to ramrod anything down anyone's throat. What we're trying to do is expedite the process.

A normal rate proceeding will take up to 13 months. I'm not sure that we as a state can wait 13 months to move forward on this type of initiative. Now, I know it's asking a lot and it's going to be putting some people in positions to work long hours. But the question remains as to whether or not we want to compress that timeline, ensure that prudence on the up-front part of process, and allow us the access to the capital market at a fair level.

Overall, for customers, if we do this right and we have energy efficiency across all of our customer classes, we could reduce bills. Rates may go up, but the bills themselves will go down.

SENATOR KYRILLOS: Well, I'm all for access to the capital markets and increasing your capacity to get money quicker and invest in New Jersey. And all of us, I'm sure you included, have to be concerned about what kind of infrastructure investment, what kind of stimulus, so to speak, do we need; what's sustainable, what's affordable, what's practical. And you know, that's the stuff of this hearing and others to come, I'm sure.

SENATOR LESNIAK: Thank you, Senator.

Senator Cunningham, followed by Senator Van Drew.

SENATOR SANDRA B. CUNNINGHAM (Vice Chair): Through the Chair, good afternoon.

I understand the significance and the importance of a program such as this, but I am concerned about -- there are so many people in our communities now who cannot pay their gas and electric bills. I'm concerned when you say that they're going to be affected. Is there going to be some sort of cap to decide how much more they're going to be paying, or how is the formula going to work?
MR. LaROSSA: Well, as I mentioned in my testimony, I believe there should be a cap. We should agree upon that through the regulatory process. It is not in the bill today. If that makes sense to put it in, from a legislative standpoint, we certainly would support that. The concept remains the same.

The question is, where along the approval process this makes sense to put into the bill. The bill, as it currently stands, we believe could be modified, and in some cases should be to make more clarity. It's obvious by the reaction that this bill has created that folks have differences of opinion. I'm not a lawyer. Folks are obviously-- Good, smart folks will read and interpret language in different ways. I want to make sure this is very clear, and I would suggest that we continue to work together to make it clear so everyone could benefit.

SENATOR CUNNINGHAM: Okay.

SENATOR LESNIAK: Thank you, Senator Cunningham. And you raise a good point; and we could talk to BPU when they testify about that -- finding ways where we can ease any increases on the lower income folks. Because certainly we do not want to hurt them. At the same time, we do not want to inhibit investment, and job growth, and economic development in our state.

Senator Van Drew.

SENATOR JEFF VAN DREW (Vice Chair): Thank you, Chairman.

Through the Chairman, there was some discussions of this, and I assume this is a reaction to the recent economic challenges that we have in the economic downturn.

MR. LaROSSA: It is, from a standpoint of access in the capital markets.
SENATOR VAN DREW: Okay. Through the Chairman, though, there was discussions of this beforehand as well, wasn't there? Hasn't this been a subject, a discussion -- this type of formula-based rate has been discussed before as well?

MR. LaROSSA: Not by PS in a committee. I don't believe so.

SENATOR VAN DREW: Not in committee; but I mean just in general discussion, the idea of doing it?

MR. LaROSSA: I believe we have floated this idea in the past three or four months since the economic downturn.

SENATOR VAN DREW: Perhaps a little bit before that.

But the question I would have is, through the Chair: If we do it -- I understand that certainly -- perhaps we hopefully would increase capital investment. At the same time, if the rates and costs go up, if the -- in plain English, if the electric bill and the gas bill goes up for the small business person, for the average consumer, for the middle class consumer and for the poor consumer, aren't we also disincentivizing business and economic growth in the state as well?

I'm not quite sure why we can't have -- and maybe there's something I'm not understanding, and that's what I would like to understand better -- why we can't have this increased capital investment without changing this formula in a way that I think or I believe could possibly hurt individual consumers as well as small businesses.

MR. LaROSSA: I would agree with you that the investment can still take place. The question is whether or not the capital cost of borrowing that money will be as cheap as it could be. If the investment community -- and you could-- We've had -- many utilities have gone to the capital markets to borrow
money over the last month or so. Those interest rates that they're paying on their debt average anywhere from 7.75 to almost 9 percent. Our historical cost of debt has been about 6.21 percent.

So for us to borrow money and make those investments, we could still do it at the higher rates. The question becomes whether or not that's the best thing for the consumers in the long run. If we can show the investment community that there's a clear line of sight to revenues because decisions have been made around the prudence of the investments ahead of time, then we can ensure -- we can ensure that we'll get the lowest rates available to the utility community.

Same thing if we take a look at the cost of equity, shareholders' cost. One of the other utilities in the state recently went out and issued stock. Again, I'm an engineer. I'm not on the investment side of the house. But you can argue that that cost was about 13 percent. Rates are going up. Interest rates are going up. Access to those markets is expensive for all the folks that are doing business here in the State of New Jersey, as well as across the country. We just see this as a way to keep those as low as possible, because they will be a firm and clear line of sight to the revenue stream.

SENATOR VAN DREW: Through the Chair, would I be inaccurate if I said that it would increase predictability because you would predictably be able to say that you would be able to charge consumers and businesses more for their utilities?

MR. LaROSSA: Not charge them more, but that we would be able to recover the cost. Again, I believe if we do this right we can actually reduce the overall bill for customers because they'll be using less product.
SENATOR VAN DREW: And through the Chair, they'll be using less product because they would be discouraged from using product at certain times, at peek times and other times; is that correct?

MR. LaROSSA: No, I'm not -- you would have just energy efficiency as a whole within the household or within the business. We would be able to drive that. We would be able to replace some of our transformers that are not providing efficient delivery of the electrons or replace some of our gas facilities, so that we can continue to improve the efficiency, overall efficiency for customers.

So it's not necessarily a one for one that we would automatically raise a bill for a customer. It just simply puts the ratemaking in a more timely and more certain fashion for the investment community.

SENATOR VAN DREW: Okay. I will digest that.

Thank you, Chairman.

SENATOR LESNIAK: Senator Van Drew.

Senator Oroho, followed by Senator Gordon.

SENATOR SEVEN V. OROHO: Thank you, Chair, and thank you very much for being here this afternoon.

And I'd like to -- one's a statement and one's just a question, because I know there will be a lot of testimony today. But as I've read through a number of the comments, it seems like right now, and correct me if I'm wrong or if somebody else could correct me, we right now in New Jersey, I think, have the highest utility rates in the Mid-Atlantic region; and then I think we're like fifth highest in the nation in utility rates.

So my observation or my question is: obviously we're doing something wrong and we're not in a good spot. And I think we would like to try and do a lot better. Does anybody have -- or does PSE&G, or the BPU, or
anybody have an analysis or competitive analysis -- okay? -- that says "Here's the components of our utilities rates and why they're more expensive than our neighboring states" and, I guess, 45 other states?

MR. LaROSSA: I can speak to that at a very high level.

First of all, New York does have higher rates. They're not in the Mid-Atlantic region, but they are -- New York City and New York State have higher rates than we have here in New Jersey. Pennsylvania does not. And as we move to the west into more of the pole regions, their rates are not as high as ours are. So if you were to break down the components of our bill, I'm proud to say the distribution portion of the bill is well in line with regional averages, if not better. But the commodity price, both on the gas side and on the electric side, are higher; and a lot of that, arguably, has to do with congestion in the system.

SENATOR OROHO: I would -- through the Chair, if anybody even in the audience or PSE&G happens to have that analysis, I'd love to see as far as what makes up those components.

Now, with respect-- If we talk about the cost of cap -- and I understand the predictability in the capital markets and how that could lower the cost of capital. And I guess historically you were about 6.2, and now it's about 7.75 to 9.

MR. LaROSSA: To 9, in some utilities.

SENATOR OROHO: Have you done any estimates of how much savings on a cost capital basis would be affected by this process?

MR. LaROSSA: Our financial folks believe-- Now, again, it's against-- Yes. Where we expect to be is about 75 basis points below where we would have been.

SENATOR OROHO: Would have been.
MR. LaROSSA: Right.

SENIATOR OROHO: I know it moves all the time. So you're expecting about 75 -- or three-quarters of one percentage point of a savings. How does that translate into savings to the consumer?

MR. LaROSSA: Through the formula.

SENIATOR OROHO: But how much?

MR. LaROSSA: So what that-- Depending upon our investment level -- and again I said that could be from a dollar to a billion or more, depending on what we want to do from a policy standpoint -- that will translate directly back into customers because those interest rates would go down. And the following year, as a result, they would be less than they would have been. That money would come back to the consumers.

SENIATOR OROHO: Now, let me just-- How much-- Of the 75 basis points, is there like 50 percent that would benefit the consumer, or is it, you know-- How much of that basis point savings would go to the company versus to the consumer?

MR. LaROSSA: Well, basically our returns are regulated at a given percentage. So any savings that we have on it would just flow back to the bottom line.

SENIATOR OROHO: So arguably 100 percent would go to the consumer?

MR. LaROSSA: That's correct. There's always a question of prudence and whether all those costs are allowed, but assuming that they would be allowed, because they were prudent investments, that would be true.

SENIATOR OROHO: Okay. One other thing. So since your -- obviously the rate of return is set and regulated, the total cost-- If you looked at
just the component of the cost of energy, the total cost of capital -- except for maybe the equity portion -- gets passed on to, obviously, to the consumer: total cost of capital of the debt, the debt component.

MR. LaROSSA: The debt component.

SENATOR OROHO: 100 percent of that gets passed to the consumer. It would have to.

MR. LaROSSA: The interest is an expense line within our -- within the formula.

SENATOR OROHO: Just one more, if you would: The intent of the bill itself is that the investment, as I understand it -- your investment plan into the distribution system, that would be approved by the BPU up front?

MR. LaROSSA: Both. For all investments: the distribution system; the energy efficiency, if that's so chosen to be pursued; as well as any renewable investment.

SENATOR OROHO: So would there be a discussion -- let's say you've made analysis that you think, in the distribution -- in the efficiency of the distribution system that your investment of X millions of dollars is going to drive efficiency. And say the BPU disagrees -- they take it out of the investment schedule?

MR. LaROSSA: That's correct. As well as what we-- When I mentioned the performance -- performance standards -- we should be held accountable for achieving those levels if we claim that we can achieve them with that investment. So if we say we're going to save a megawatt, we should be held accountable to save a megawatt. If we're going to invest in more reliable grid, we should be held accountable for keeping the lights on.

SENATOR OROHO: Thank you.
Thank you, Chair.

SENATOR LESNIAK: Senator Gordon.

SENATOR ROBERT M. GORDON: Thank you, Mr. Chairman.

And Mr. LaRossa, thanks for being with us today. I'm still a bit confused about the rationale for doing this. The state governments around the country recognized a long time ago that because of the significant economies of scale and utilities, they're natural monopolies, and as a result established a system of rate regulation.

It's still unclear to me what's wrong with that system. It seems to provide protection to the consumer and a reasonable rate of return to the utilities. Couldn't we achieve the goals of this simply by trying to streamline the existing process so that it doesn't take all those months to get a rate change approved? Why do we have to completely change the system?

MR. LaROSSA: We can certainly do that. We could modify the existing structure. We can find ways to streamline it. This is a proposal that we put forward that we believe is sound, exists, and can be copied relatively easily and quickly to achieve the goals we've all heard we want to achieve.

I can be no clearer than to say that from a PSE&G standpoint this is not something we need to have. This is something we're trying to do to help to enable the infrastructure growth. We think it would help to drive that investment at the lowest cost possible. Again, the energy efficiency, the renewables, and our traditional infrastructure investment.

Our company is sound, our 6,500 employees are strong. We're very proud of the work that we've done over the past hundred years. We're proud of the work that you'll hear from some of our unions. We have great employees and we received the National Reliability Award again this year. We're not a company
in trouble. We're a company trying to help. And we think – we think that the access to the capital markets and to bring that cheaper capital to the State of New Jersey is something worth pursuing.

SENATOR LESNIAK: Thank you. I just have one final question. I'd like to read you a statement from testimony submitted and I'd like you to respond to it.

MR. LaROTTA: Sure.

SENATOR LESNIAK: “Not only will the utility spending be unchecked, but the profit would be tied not to the level of service or whether they operate an efficient system, but to how much they spend. Does this bill actually provide an incentive for the utility to overspend? If they buy gold-plated infrastructure, their profits would be calculated off of the higher investment cost. The bill, therefore, creates a disincentive for the utilities to operate efficiently.”

What would be your response to that?

MR. LaROTTA: Those are concerns that we expected to hear. First, from an efficiency standpoint, we believe that's why we advocate for performance standards. We believe that we should be held accountable to those performance standards to drive the efficiency, first and foremost.

Secondly, as I said earlier, I believe that smart people can read language differently. We should sit down together, draft a language so we achieve what I've spoken about here today. If there's a desire to do that, we would love to have that conversation and to move that process along. We trust our lawyers that we have. They made a good attempt at drafting language that we felt was accomplishing the intent of what I've spoken to. We're fully open to have that.

I would also ask the Committee -- and we have copies if you'd like to look at it. President Obama -- President-elect Obama and Vice-President-elect
Biden have put out a white paper on energy that they've shared and is available on their website, and it speaks directly to the issue about the incentives and how utilities make money. And if it would be okay, I would just like to read one sentence of this here.

"The Federal government under an Obama administration will play an important and positive role in flipping the profit model for the utility sector so that shareholder profit is based on reliability and performance, as opposed to total production."

We believe in that statement, we believe in that sentence, and we're just hoping that this initiative will get us ahead of the curve so we can set New Jersey up to make those investments.

SENATOR LESNIAK: Hopefully next time if we hear this bill we'll be able to get the EPA administrator here to testify. (laughter)

I just asked Senator Smith -- since your generous offer to meet with all the parties and find out the best way to do this-- And Senator Gordon suggested that if we may do we don't have to continue with the hearing. Oh, no, no, no, no. Don't do that. But I think that alone will be a great benefit to come out of that hearing, because I know everyone on this Committee wants to get jobs going, wants to get investment in New Jersey, and wants to get this economy going. And we want to find a way to get it done.

So thank you for your testimony.

MR. LaROSSA: Thank you. Thank you, Committee.

SENATOR LESNIAK: Okay. So the next group, if I could see my notes, will be the BPU. And I think they decided-- Listen to this. This is the first time this has ever happened, I believe, right? New Jersey Business & Industry Association, Citizen Action and the environmental groups testifying as a
group, opposed. But more importantly, testifying as a group. You guys, can you come, can you keep your hands off of each other and play nice? (laughter)

Can we get a photograph? Can we get a photograph of this? Where's the -- You may never see it again. Whatever you guys want to do. Well, you guys figure out how you want to handle this and we're all right with that.

Senator Smith, we achieved something that no other legislature has been able to achieve -- something to be proud of. Happy holidays guys.

Nick Asselta.

NICHOLAS ASSELTA: Good afternoon, Senator Lesniak -- Chairman Lesniak and Chairman Smith, and honorable members of the Senate Environmental and Economic Growth Committee.

For the record, my name is Nicholas Asselta. I'm a Commissioner with the New Jersey Board of Public Utilities. Thank you for the opportunity to testify in regards to S2428, which authorizes electric or gas public utilities to implement formula-based rates.

Our state and our nation are facing a difficult and challenging economic environment, an environment made worse by high energy prices that continued through this past summer. We can respond constructively to our economic circumstances by investing in our energy infrastructure. Such an investment will pay dividends in two ways. It will create good jobs quickly, it will improve our ability to compete for business against other states and other countries when energy prices inevitably rise again.

We're here to propose an alternative to S2428, which will allow New Jersey utilities to attract capital, invest in our energy infrastructure, create jobs, and keep our state competitive. Our proposal uses existing statutory authority to
accomplish these goals in recognition of the increased market risk and cost of capital in the current financial climate.

Specifically, the BPU already has the authority to ensure that utilities can make additional capital investment with certainty, while simultaneously allowing utilities to regain the cost of their investments. The utilities can recover those costs and earn a return appropriately with the current increased cost of capital. The BPU has historically done this in cases in which the affected utilities did not have sufficient cash flow to meet the cost of constructing major facilities.

SENATOR LESNIAK: Commissioner, can I ask you a question on that?

MR. ASSELTA: Sure.

SENATOR LESNIAK: Are you limited to those circumstances, or could you adjust that procedure for instances of capital investment, as outlined previously?

MR. ASSELTA: We can adjust. We believe we can adjust.

Those major facilities, just for an example -- nuclear plants that were constructed 15, 20 years ago -- this particular statute was utilized. In doing so, it has relied on its authority under N.J.S.A. 48:2-23 to require utilities to provide safe, adequate and proper service; and its authority under that statute to require extensions of existing utility facilities when the financial condition of the utility so warrants.

The BPU believes that this approach can be used to allow appropriate cost recovery and returns not only for the single large projects, but also for groups of smaller projects such as the ones the utilities would be expected to undertake of any infrastructure, based on economic stimulus programs.
The BPU continues to approve mechanisms to provide companies with the opportunity to stabilize earnings while continuing to provide ratepayers. In 2006, the BPU approved the Conversation Incentive Program, CIP, for Natural -- New Jersey Natural Gas and South Jersey Gas, so they would continue to recover the cost of improving, operating, and maintaining their distribution infrastructure even if the volume of the companies' natural gas sales were to fall as a result of their conservation and energy efficiency initiatives.

The CIP was the first of its kind and continues to be a national model. About a year ago, this legislature approved the RGGI law, allowing electric and gas companies to invest in energy efficiency and renewable energy to obtain cost recovery on an expedited basis and to be eligible for incentives. Under that law, the Board has approved a $100 million solar loan program and a $46 million carbon abatement program for PSE&G.

The existing regulatory approach by the BPU to developing electric and gas rates has protected consumers while providing sufficient revenues for utilities to attract the capital they need to maintain and improve the reliability of their infrastructure. New Jersey utilities have rarely begun a rate case with the BPU when their revenues are sufficient. Over the last 10 years, each of the seven electric and gas utilities have filed only one or more, at most two, times to increase their base delivery rates to customers.

Also, there is a provision within every rate case that prescribes relief for utilities if their current rates threaten their ability to continue to maintain safe and reliable service to New Jersey ratepayers, as they are required to do by law. In short, the current regulatory system works and can deal with challenges facing New Jersey utilities and ratepayers.
Finally, with respect to S2428, the Board feels that the formula-based rate system would be a dramatic departure from our regulatory process that has worked well for more than 100 years. The use of a formula rate eliminates one of the most important elements of traditional regulation, the incentive to improve productivity and minimize costs between rate cases. These incentives are beneficial to both utilities and to your constituents. They provide the impetus for the utility to maintain or lower its cost structure, allowing for the potential to earn or even exceed its allowed rate of return. The ratepayer benefits from the long-term lower cost structure of the rate of return.

The absence of this incentive will result in an annual rate increase to New Jersey's citizens that's undoubtedly--Our current ratemaking system is a semi-judicial stakeholder process that relies on the testimony, and the Board's ability to hold accountable the utilities for their documents that they submit to us. With this formula system, the due process for taxpayers will be lost entirely.

Our agency supports the goal of the needed construction of utility infrastructure and creation of jobs for New Jersey's citizens. Our alternative proposal would provide for cooperation between the Board, as it always has been, and our public utilities will ensure that the objectives of this bill are realized.

Chairman, thank you for the opportunity. I have Victor Fortkiewicz here also, our Executive Director, who could lend some insight to this issue.

Thank you.

SENATOR LESNIAK: Thank you, Commissioner. I want to add a few comments of my own. First of all, I do believe some of that statutory language that you read was – would restrict your ability to do what you said. It can, and we'll certainly take a look at that. Because it certainly did not appear to
apply to the cases that -- the investments that the representatives from PSE&G talked about and that certainly would be something that we could do.

Secondly, I'm going to disagree with you just a tad, sighting Senator Oroho's statement about how we have the highest utility cost in the Northeast, fifth or fourth highest in the nation -- fifth. And I remember we used to have the highest insurance cost as well, which has gone down dramatically. And we had a rate-setting review process that was in place for about 100 years and that worked terribly. So, you know, I'm not buying, necessarily, the fact that because something has been in place for 100 years that that's necessarily good and we should keep a closed mind and close our thoughts, as that-- There's always room for improvement. Certainly we would love to improve and get better than the highest utility rates in the Northeast. So that in and of itself-- As I said, the oversight often increases costs rather than decreases cost. So we will take that into consideration.

I think there are a lot of good points raised both in previous testimony and your testimony, you know, whether it's done by performance standards, whether it's done by accelerated hearings, whether it's done by predefined formulas, who knows. But I think the most important thing, as we started, is that we find a way by working together to get this investment going, the jobs going, and at the same time protect the ratepayer.

And I think we can do it. With your support, I think we will.

MR. ASSELTA: Absolutely.

Through the Chair, I would assume -- and as I've seen in my first nine months, there's been some dramatic changes and cooperation that I've seen, and I think the utility -- Board of Public Utility is moving forward in that fashion.
I know Mr. Fortkiewicz would like to add a couple of comments to your comments.

**VICTOR FORTKIEWICZ:** This is a point that Mr. LaRossa just echoed. And in fact, the delivery portion of both gas and electric rates -- the part that is still regulated -- those compare very favorably to other states and are even lower than other states. They only represent about 30 percent of the bill.

The reason why our rates have gotten above is, it's the other 70 percent which has been deregulated, in fact. Those are the commodity costs on the electricity or for natural gas. So that's driving these costs higher -- that which has already been deregulated.

Thank you, Mr. Chairman.

**SENATOR LESNIAK:** Madam. Madam.

There we go.

**STEFANIE A. BRAND:** Thank you. I'm Stefanie Brand. I'm the Director of the Division of Rate Counsel in the Department of Public Advocate. We have submitted extensive written testimony. I will not——

**UNIDENTIFIED SPEAKER:** (Indiscernible)

**MS. BRAND:** Yes, I believe you did. And I just wanted to touch on a couple of points that I think are of importance in terms of considering this bill. And I want to thank the Chairman and members of the Committee for the opportunity to testify.

First of all, I do want to stress that we already have a statutory provision that is intended to encourage investment in energy efficiency and renewable energy without the need to go through the formal ratemaking process.

Less than a year ago, in the RGGI legislation, there was a provision that was enacted that allows utilities to come in to propose programs for energy
efficiency and renewable energy, and recover through charges on rates or some other form of alternate rate mechanism that does not require them to go through a formal rate case in order to recover. So that this bill -- what's in this bill is not needed in order to encourage investment in energy efficiency and renewable energy. It is aimed at extending that to the traditional utility investments.

And in terms of the prudency review, I think it's important to note that what it does is bring any review of the expenditures by the utility not only up front, but into sort of a hypothetical circumstance. The utility will come in -- at least as the bill is written right now -- and they will propose categories of spending and a band in which they can invest. As long as they're not making over the top end of the band, they can continue to spend on whatever is within those category of cases. It takes away the analysis of a particular project, so that if they're saying we want to build a substation here, it takes away the specific review by the BPU of that project and what they're spending on that project. As long as they stay within their formula, then they can spend.

That's where the danger comes in. Because there are many ways to do many of these projects. And unless they're done in a cost-effective manner, then we don't get the benefits that we want. And what we're urging is that we must maintain that prudency review to make sure that, to the extent the utilities are spending money that is going to get folded into rates, that it's done in a cost-effective manner.

Finally, I'd like to talk a little bit about what we should do. I don't think anybody in this room thinks that the goals here of creating jobs and encouraging energy efficiency are things we don't agree with. But in addition to the alternative mentioned by Commissioner Asselta, another thing is to spend that money -- not necessarily on infrastructur improvements, because the current
system allows for spending, and as long as its cost-effective they will recover and it will bring them savings -- but to put that money into energy efficiency. Because when you're talking about energy efficiency, you're also talking about cost savings that will ultimately reap to the benefit of ratepayers. We have very limited ratepayer dollars to spend on these -- on job creation, and we should do it in a way that minimizes the ultimate cost. If you're talking about energy efficiency, there will be energy savings that will ultimately, hopefully, bring the burden on ratepayers down.

Thank you.

SENATOR LESNIAK: Questions from the Committee?

Senator Oroho.

SENATOR OROHO: I just want to make sure I understand. So if the consumer looks at their bill, 30 percent of that -- you think 30 percent is from the distribution and 70 percent is from the generation?

MR. FORTKIEWICZ: That's correct. And on the gas side 70 percent of it is from the gas that's bought in Texas or Louisiana, which is deregulated.

SENATOR OROHO: Any idea how that 30 percent compares to our other surrounding--

MR. FORTKIEWICZ: It does compare favorably, as I said before. And they've -- as Commissioner Asselta pointed out, because the mechanism is in place now where they have an incentive to keep costs down, they have not come in to raise that rate. I know in the case of New Jersey Natural, I think they've been in once in the last 15 years. And certainly what this bill would do would result in, each year, small but steady and predictable increases in that rate, even if it were tied to performance standards.
SENATOR OROHO: Through the Chair, if you have any of those analysis with respect to, you know, the generation and distribution side of that competitive analysis I spoke about, I'd love to see it.

MR. FORTKIEWICZ: Yes, Senator, we'll provide those. Certainly.

SENATOR LESNIAK: Thank you.

Senator Van Drew.

SENATOR VAN DREW: Just to rehash and make sure I understand: It's your sense that this wouldn't supply enough for protection for the consumers -- that you currently have now? And secondly, the second part of that question would be: Do you believe there's enough flexibility and that you would be able to help the production of capital investment in the current regulations -- that exist now in the current statutes? Or would you agree, even if you don't necessarily like this legislation or agree with it, that there should be some change, some increase in flexibility so at the same time, while you have the protections that you desire, you'd also have the flexibility to rapidly stimulate the economy and bring in the efficiencies that you want, as well as the capital investment?

MR. FORTKIEWICZ: Yes, Senator, I think we do. And I heard, from Senator Lesniak, his legal review of the statue and what it could permit. I mean, we've looked at it. We believe that we can utilize this, but certainly would require further, you know, review by our lawyers, Attorney General's office. But this is jobs creation that we're after. We think that this could accelerate, during this time period, creation of those jobs.

And as we said, under the energy efficiency and renewable energy we have recently approved, under the new RGGI law which was passed in this -- in 2008, a $100 million solar program, a $45 million carbon abatement program for energy efficiency; and PS is about to file a $1.2 billion solar program within the
next couple of weeks, and we're ready to move on it rapidly. And we have under the statue six months to come to a resolution. So we think the mechanisms are in place to address the job creation, the energy efficiency building infrastructure. It would require filings to make sure we get the requisite parameters, but we think we can do that.

SENATOR VAN DREW: But, through the Chair, with the current legislation you believe that you could create the same level of capital investment that this legislation would create, and also create the same -- the level of protection that you have now?

What I'm asking you is, in essence you're kind of saying to me that there isn't actually any need for this legislation because you could do what needs to be done -- we don't need this legislation. And the result of this legislation will only, in essence, be an increase in cost to the consumer.

So I'm asking you specifically, do you think that we can do all that we need to do with the current regulations?

MR. FORTKIEWICZ: Senator Van Drew, I believe we can, and I think it's hard to quantify. But basically this issue comes down to timely. I think Mr. LaRossa said it best, it's a timing issue -- "changing the timing of liability debt recovery" -- which means the ratepayer is going to pay the timing issue here. That ratepayer is going to pay more quickly so that they can recover their liability in debt, and so that the funds and financial situation is improved so they can build this infrastructure.

But long-term -- and through the Chair, Senator Lesniak -- Federal government really can play a huge role here in helping with the investment liability and the investment here, and that's where we should be focused to. With
a new administration, with all the other incentives and bailouts that are happening, this is something that we should be pushing for.

SENATOR VAN DREW: Through the Chair, real quickly, I want to do both. I want us to have the protection that we need and also get the investment that we need as well, and just try to get to the actual essence of the truth here.

MS. BRAND: Senator --

SENATOR LESNIAK: I'm going to disagree with you, Commissioner. I know a little bit about economics. I mean, not enough, but it's not quite--Timing doesn't make it cost more, you know. If the timing is dragged out more, the investment has to be more, that's all. It's a question of value. And it's a question of, you know, the quicker the timing, the more money you could get in the infrastructure, you know? I mean, if the timing is going to be -- if recovery is going to be dragged out, then the amount of infrastructure improvements is going to be dragged out too.

So it's not as simple, quite frankly, as you made it out to be.

Yes, ma'am.

MS. BRAND: Well, I just want to reiterate that I do think we do have the tools necessary to encourage this type of investment and work with the utilities. I spent all day yesterday with the utilities and the BPU working on trying to encourage half a billion dollars in investment in energy efficiency for next year, and I think it is very important that we make sure that they have the ability to recover what they need to recover in order to invest in the market.

But I do believe they do have that under the current scheme. PSE&G did borrow recently. It was slightly more, and, yes, we are going to pay for that,
but we have the legal tools available. We don't need this legislation to encourage spending in energy efficiency.

SENATOR LESNIAK: Well, we're going to find out, because what's going to happen after this -- and I'm not sure if we need to hear from anyone else, but we will -- is the guys-- The utility guys are saying they can't make this investment without this and you guys are saying you can. You guys are going to get in a room, right? And you have to discuss, you know, and come up with the right answer.

Thank you very much for your testimony.

I do want to mention a little bit about the issue of deregulation, because it's oftentimes confused with oversight, you know. The financial crisis we've seen was a result of, and lack of, oversight. I've seen deregulation drive up cost a lot more often than I have -- I mean, reduce cost a lot more often than I have increase cost. We saw when we deregulated insurance how much it went down. We saw when we deregulated telecom how much those prices, other costs are coming down. I'm not saying that in all instances, but I heard a little bit from the Executive Director a sense that, "Well, maybe the cost of energy is because we deregulated." And if you regulate so much that you decrease supply, you cannot regulate the laws of supply and demand -- they will take over.

All right. We will hear from some labor representatives who are in favor of this process as opposed to the other process, because I think we all believe we need a process to get things moving in the state.

Linda Pont Vliet, Neil Wojceichowski -- you'd figure I would be able to pronounce that name better -- Chip Gerrity; IBEW, and OPEIU, and VA. And Tony Wieners, State PBA. State PBA is here in favor. What do you guys have to do with energy?

How are you guys doing?

(UNIDENTIFIED SPEAKERS): Good. How are you doing?

SENATOR LESNIAK: You guys decide on how you're going to go.

CHIP GERRITY: All right. Everybody ready? Okay. We'll start this thing off.

Good afternoon. My name is Chip Gerrity, President and Business Manager of Local 94 of the IBEW International Brotherhood of Electrical Workers. All righty then. And with me is Linda Pont Vliet -- she is the chief steward of Local 153, Office and Professional Employees International Union -- and business agent Neil Wojceichowski of the VA Local 855. And together we represent about 5,500 employees at PSE&G and related companies.

The brothers and sisters of our locals operate and maintain electrical distribution systems, and even part of the gas distribution system, of PSE&G. They're the ones that keep the lights on and homes warm on days like this. We're here today to support the company's efforts to create and continue good solid jobs for our members and for the members of the construction trades around the state. And we are here to thank Senator Lesniak for sponsoring Senate Bill 2428.

It's a lot of hard, dirty work, often in lousy weather, to make sure that gas and electric systems of a 100-year-old company meet the needs of our customers. And we're proud of the company's reputation for safety and reliability.

The company tells us that it could put more people to work by moving up the schedule for upgrades to electric circuits and substations, and replacement of gas mains. But it can't wisely spend the money in today's
economy if slowed down by yesterday's regulatory tools. Same goes for spending on new initiatives like advance street lighting, more efficient transformers, new meters, and other smart grid investments.

Senator Lesniak's bill would give the BPU a new way to regulate utility spending on distribution systems, the same way that the feds use it to regulate spending on high voltage transmission lines. The bill will help accelerate upgrades to electric and gas distribution systems, and the bill will get money out on the street faster for people doing the work on new green jobs, and the state – as mentioned in the State Energy Master Plan.

If this legislation means the project can be moved up while the BPU still looks after rates, that sounds like a win-win to us and we ask you to go forward.

Thank you.

KEVIN O'SULLIVAN: Mr. Chairman, my name is Kevin O'Sullivan. I represent the New Jersey State Building and Construction Trades Council's 150,000 members, and I'm here speaking on behalf of President William T. Moen.

Our organization represents 15 trades that do construction in the State of New Jersey. And we are here today in support of Senate Bill 2428. We've had a long-term relationship with PSE&G and it's been a positive one. Hand and glove, we work together going to put forward a better way of life for New Jersey and for its citizens.

Our members are facing projected 30 percent unemployment next year in discussions we've been having with our affiliates and our contracting partners. We are looking at a very tough time ahead. We're looking to make sure that we can do all in our power to ensure that we do not increase the numbers of
unemployment, and thereby also collecting various social programs from the State of New Jersey, and thereby further draining our State's budget.

Both Governor Corzine and President-elect Obama have committed largely to investment in infrastructure. But unfortunately this investment into infrastructure is going to be limited to a one-time huge shot. What we're looking at here with this legislation is a long-term projected way of addressing infrastructure investment.

This legislation is very similar, as you have heard, to the Federal regulatory standards; and thereby it is not unprecedented, but rather it's assimilating to what already exists. While opponents of this legislation voice concerns about potential impact, my members are under the duress of the current economic impact. We need to make sure that we promote private investment into the State of New Jersey by addressing the regulatory issues that hinder this process.

So on behalf of the 150,000 members of New Jersey State Building Trades, I thank you as a sponsor and the chairman.

Thank you.

SENATOR LESNIAK: However, we do have some unions who are against, okay, and that would be Bob Master, CWA District 1; Frank Brill, Plumbing-Heating-Cooling Contractors of New Jersey -- he has submitted written testimony; Ira Stern, Local 108 RWDSU; Bob Regan, CWA 1037; and Noel Christmas and Michael Garcia from the Utility Workers Union of America.

And one of you is speaking for the rest. Thank you very much. I like it that way.

Oh, someone else is coming up.

You know, we don't have until Christmas. (laughter)
NOEL J. CHRISTMAS: Good morning, Chairman Lesniak and members of the Committee. My name is Noel Christmas, chairman of the Utility Worker's Union of America, representing 2,500 members currently employed with various utility companies in the state -- PSE&G, Elizabethtown Gas Company, American Water, and United Water. UWUA understands the multitude of energy challenges which are critical to both the economy and the environment of the State of New Jersey. In this regard, UWUA is committed to finding solutions to the many energy challenges which are confronting our state.

Having said this, however, eliminating oversight of any investment by eliminating the prudence review of the Board of Public Utilities will be a disservice to workers and ratepayers. Allowing formula-based rates, as proposed, with no oversight only creates a formula of deregulation. If S2428 is passed as is with no regulatory oversight, what is to stop other utilities from proposing the same? Water, cable, and phone.

Let me make this clear: UWUA is all for improved infrastructure; renewable energy resources, including wind and solar, smart appliances, plug-in high grids; smart, safe, and reliable service. However, we must not forget that in this state's recent history, a Chicago-based company named Exelon attempted to purchase PSE&G. If it was not for the regulatory review process in Title 48 requiring a just and reasonable threshold, Exelon would be here today. The State of New Jersey would be sitting here with thousands of jobs being moved to Chicago and many more positions outsourced.

I would also like to point out that if that buyout was a success, PSE&G would not have two leaders held in high esteem in the state, such as Ralph Izzo and Ralph LaRossa. Without oversight, job loss could potentially become a reality, even if the investment does not prove to be a benefit to the
ratepayer, the state, and its economy. Without oversight, cost to ratepayers could become a formula of calamity. Jobs that require a minimum education of a GED or high school diploma would be particularly impacted in urban communities.

For example, with respect to entry level positions, a large portion of UWUA members begin their careers with utility companies in these areas. The opportunities that are provided in these positions to many, especially those in urban communities who have citizens that are less fortunate and can't afford to pay for higher education, could possibly be eliminated for good. Call Center jobs can end up in India, like Elizabethtown Gas. Not only do these positions provide a fair starting wage, but they also provide for a full complement of benefits. And these attributes may not be easily replicated in the event that these positions are eliminated.

In closing, the UWUA urges the regulatory review process remain under the jurisdiction of the Board of Public Utilities, therefore continuing the history of New Jersey utilities remaining one of the best in the country.

Thank you for listening and giving me this opportunity to come before you today.

SENATOR LESNIAK: Thank you very much.

ROBERT MASTERS: Chairman Lesniak, members of the Committee, thank you for this opportunity to testify before you.

My name is Bob Master. I'm the legislative and political director for CWA District 1. We represent approximately 200 state workers who are employed at the New Jersey Board of Public Utilities. Our members include professional economists, accountants, rate analysts, auditors, and customer service personnel, plus a broad range of technical and support staff. Together these unionized workers are responsible for the economic regulation of the public
utilities servicing New Jersey ratepayers, including electric, gas, water, telecommunications, and cable television companies. They utilize an array of long-established regulatory tools that have made New Jersey electric and gas utilities among the most secure and reliable service providers in the country. This regulatory structure we believe would be dismantled by the bill under discussion today, S2428.

We are here to register our opposition to that legislation. If adopted, we believe it would eliminate the remaining vestiges of government oversight of the state's electric and gas utilities, permitting them to unilaterally raise rates based on imprudent investments and technology. The higher utility rates produced by the proposed formula rate mechanism will impose serious economic burdens on New Jersey businesses while we are facing the worse recession in a generation. It would also undermine the necessity of retaining career professionals at the BPU, replacing many of the expert regulatory functions they currently perform with mere rubber-stamping of the utilities annual formula rate updates. And it would displace the jobs of utility workers through widespread installation of technologies that neither benefit the average utility customer nor are capable of replacing the level of service provided by these workers.

Specifically, S2428 would deregulate the electric and gas utility industries by eliminating the just and reasonable standard for BPU approval of utility investment and expense recovery and rates. Section 3B-3 of the proposed legislation sets aside current statutory requirements outlined in N.J.S.A. 48:2-21 and related rules and regulations. These requirements constitute the prudence review normally conducted in the context of open public base-rate proceedings before the BPU.
CWA members employed at the BPU conduct the evidentiary phase of these proceedings, which is an intensive but necessary fact-finding process designed to produce a comprehensive record that BPU commissioners use to make their final decision on requested rate recovery. Absent this rigorous prudence review, utilities would have the perverse incentive to overinvest in plant, inflate their rate base, and garner excess profits, all at the expense of the general public and the rest of the business community.

The bill asserts the need for this unprecedented financial security in order to access capital markets required to finance infrastructure upgrades. Publicly available information, however, on the financial health of New Jersey utilities does not support this contention. PSE&G, for example, reported in their third-quarter earnings to the investment community a liquidity position of $3.35 billion, and stated the capital needs could be funded with 25 internal cash. While credit markets are, in fact, tight, public utilities remain attractive and secure customers in the credit markets. And I would add that in the same third quarter, PSE&G reported profits of net earnings, I believe, of about $650 million; operating earnings of about $475 million.

It hardly seems necessary to point out that a blind faith in financial deregulation led directly to the economic debacle now facing us. Even many of the conservative economists who advocated that deregulation now acknowledges its failure and the need to deregulate. The New Jersey legislature should spare itself and the state the same tough lessons. This is not the time to embark on further deregulation of our utility industries. This is not the time to raise utility rates.
In the view of our members at the BPU who daily fight to protect the public interest, and in the view of the national union, the system is not broken. We urge the Committee to reject this bill.

SENATOR LESNIAK: I am just going to read now some business representatives in favor. If somebody wants to come up and testify who I read, please come up. But there's an indication here that you do not.


Who wants to speak on behalf of your group, one or two or three briefly. Take your shots.

FLETCH CREAMER Jr.: I'll start. Thank you, Mr. Chairman.

My name is Fletch Creamer Jr., CEO of J. Fletcher Creamer & Son; lifelong resident of New Jersey. Our company has been in business for 85 years. I'm sure you've been stuck -- by our trucks -- in traffic over some period of time of your lives; but we employ about 1,300 people. About a thousand of those people are in New Jersey, and about 250 people work directly for projects for Public Service right now.
The thought, if they cut back the work -- which they have; they've pulled some of the projects off the street -- it's going to create a ripple effect. It's not just going to affect the people that work for us, it's other people. It's suppliers for asphalt plants, the quarries, even the little guy that drives the coffee trucks to the job. It's all about jobs. We're proud of the fact that we support 1,200 families with our business. The business, again, was started by my grandfather, and over 85 years in construction.

The economy needs a jump start, and the best way to fuel the economy is through the construction industry. It's been a proven fact over the years that it works. Start the construction industry, and other areas ripple because of it. Governor Corzine as well as President-elect Obama have all stated infrastructure, infrastructure. Infrastructure means jobs and we need jobs in this state and in this country. You have a company that's willing to put money on the street, why not take advantage of it?

Yes, there will be oversight, but we need somebody like this in the housing market right now, too, that's willing to put some money on the street to rebuild the housing market.

Thank you for allowing me to speak today. Thank you.

SENATOR LESNIAK: Thank you, Mr. Creamer.

Anyone else?

Excuse me, we have a question from Senator Kyrillos.

Okay. He'll wait. Go right ahead.

RICHARD A. PIEPER: Thank you, Mr. Chairman.

My name is Rick Pieper. I'm representing my company, Henkels & McCoy. We are an infrastructure nationwide contractor. We employ union labor
and build transmission lines, gas lines that feed a lot of what goes on. We also have trucks that sit probably in your streets that bother you.

I would like to basically state that right now we have probably about 300 employees that are currently working. We have been up as high as 700 over here. We have seen how -- in my role, I cover the power market, which is a nationwide 30,000-foot view. We have already seen nationwide what is the impact of both the housing market and the financial market. A lot of our clients are rapidly withdrawing the work that they would build in the distribution system, and we are at that point laying off people.

And on the other end of it, we have also seen, across the state, where FERC has put the incentives to build the transmission lines, that people are out building the infrastructure to pull in the wind farms that we connect, that are out there putting in the infrastructure that allows the cheaper power to come in.

And I guess I really want to make sure that everybody understands that we believe, as Fletch does, that this is a good program with good jobs, with good people, and there is a big ripple effect that does affect us.

SENATOR LESNIAK: Thank you. By the way, I missed Jerry Keenan. Jerry, are you here from New Jersey Alliance for Action? Did you make it up to the panel? Can't see that far.

There we are.

WILLIAM PHILLIPS: Good afternoon, Mr. Chairman, members of the Committee. Thank you for the opportunity to speak with you today.

My name is Bill Phillips. I'm the Vice President of Lantier Construction Company. We're one of the largest, most efficient gas distribution contractors in the State of New Jersey. We install natural gas distribution pipelines throughout the state.
As a New Jersey-based contractor, without this act several gas lines specialty contractors are at risk of losing their business. This will not only mean the loss of many jobs, but eliminate the opportunity to create new jobs. Factoring the ripple effect, think about the impact we will have on our suppliers who are directly rated (sic) to the installation and maintenance of the natural gas line industry. Not to mention the loss of income for all our local suppliers: people we purchase our vehicles from, our heavy duty equipment, our materials, sand, stone, the asphalt, the concrete; the recycling plants that we use on a daily basis installing new gas line.

This bill will prevent the collapse of many of our specialty gas line product distributors who supply us with the necessary materials and tools needed to perform our work. This bill will also secure the hundreds of subcontractors needed to complete gas line projects, such as the milling and paving contractors, concrete construction contractors, the line striping, the pavement cutting specialists, traffic control companies, and the training people that train our especially needed gas distribution people in the schooling and safety regulations of the gas line installation procedures. It takes numerous hours of manpower and several types of material to build and maintain an up-to-date system that meets all of the requirements of the today's society.

As you can see, there's many crafts and trades that will be impacted by the outcome of this bill. On behalf of Lantier Construction Company and the thousands of people employed by our subcontractors and suppliers, I urge you to sign this bill so we can assist Public Service Electric and Gas Company in rebuilding and maintaining the utility infrastructure that New Jersey needs and has worked so hard to build.

Thank you for your time.
SENATOR LESNIAK: Thank you. This is going to be interesting, because BPU says that we already have in place a process to get this done. And there will be a way where we can determine that, you know, because either the financial markets will put up the billions of dollars under what BPU says we're going to do or they won't.

So we're going to find out. We are determined to get this done in the best way possible to get these folks to work.

Yes.

FRANK GIULIANO: Chairman Lesniak, Chairman Smith, and members of the Committee. Senator Kyrillos, in his question early on today, put his finger on the pulse to some extent of how serious the problem is. He asked about the people who were already working.

I represent the Okonite Company. My name is Frank Giuliano. I'm the Vice President and General Counsel of the corporation. We go back to 1878 in the State of New Jersey. We had our first factory here. We are incorporated in New Jersey. We have a factory in the City of Paterson. We have our research facilities in the City of Paterson; and we have two sales offices, one in North Jersey and one in South Jersey. We are intimately involved with the state, always have been and hopefully always will be.

The problem today is this: We manufacture electric insulated cable; Public Service is a major customer of ours, as are the utilities across the country. What we're seeing today is an emergency of immense proportion. Orders are evaporating before our eyes. We have -- the Paterson factory is a perfect example. By the way, the Okonite Company is totally employee-owned from top to bottom. We have three shifts in the Paterson factory. It recently had to be reduced to two. Now, the people on the third shift-- We consider this almost a trust. We
don't want to be laying anyone off, but we put all of them on the second shift. But I ask again now, especially in response to Senator Kyrillos' question, what happens when the second shift has to disappear?

The problem is there simply isn't business out there. And as the President-elect has said, as the Governor has said, and as the Committee obviously recognizes, we need to jump-start the economy. There is no more effective way, from the standpoint of Public Service or from the standpoint of our business, than to encourage the investment in the cables that will actually carry the electricity in the intelligent grid.

Chairman Lesniak also raised the question about timing and indicated that he understood timing was important. While we debate about whether or not the present laws afford enough of a mechanism to do this, that, or the other thing, the question I think that the Committee needs to address -- in the context of Public Service's President indicating that they need this bill to jump-start what they will do in investing infrastructure. He's saying, in so many words, we need to do it and in order to do it quickly we need this bill. From our standpoint, while the debate goes on, if Public Service is delayed in making the investment that they need to make, there will be pain -- there will be tremendous pain on the part of the employees of our company.

As I said, we would rather not lay anyone off, and this is not a question of survival -- the company will survive. We have to make difficult decisions and we're all going to pay the price. As I said, we all own the company. But it will be painful for all of us. But as we know, when you work in a factory and you have to have time off, the pain is greater.

There is a particular harm to the Okonite Company, and when I make that point I will conclude my remarks. We have workers who have learned
their trade basically on their feet. When they come to us, it doesn't matter the extent to which they may have an education if they have an ability to read the meters and to deal with the things they have to deal with day-to-day. And if that's lacking, we train them. Once we start laying off these people, we are losing skilled workers who have excellent paying jobs, excellent benefits.

We're not asking for help from anyone. We don't need loans. Initially the company became employee-owned in 1976 when we got EDA money from New Jersey and from the Federal government. We have paid back every dime with interest. What we're saying we need now is, we need a recognition on the part of the government that this is a true emergency; and to avoid the pain of those already employed and those whose jobs, once they disappear, will be gone to the company -- with the end result that the company itself now has a permanent problem of trying to replace very valuable, skilled workers.

So if Public Service says that they would be able to make their investment quicker with a bill like this, then from our standpoint, and also from the standpoint of all the other companies that would be involved in supplying equipment for the intelligent grid -- many of which are in New Jersey, by the way, and if the Committee were interested I could name some -- but from those standpoints it is a true emergency, and we would ask that the debate come to a quick end and that, to the extent Public Service needs this bill, they should get it.

Thank you very much.

SENATOR LESNIAK: Thank you.

Is there anyone else?

JIM LEONARD: Mr. Chairman, Jim Leonard. I'm going to summarize my testimony, that I've distributed, in a sentence or two.
Simply put, capital investment is on the endangered species list in New Jersey. It's important for us to do as much as we can to improve the ability of businesses to spend capital dollars, to get access to credit so the jobs can be created. The State Chamber's position was characterized when our name was read as "kind of in favor." The reason is because we are concerned about the energy costs and how they may be impacted by this piece of legislation.

But make it clear, make it known clear that the State Chamber supports the components of this bill that push through capital expenditures.

It's time; it needs to be done. Thank you.

SENATOR SMITH: Is that panel now complete?

I'm sorry. Ma'am.

PAHM ERS: Good afternoon and thank you, Chairman Lesniak and Chairman Smith. I'm Pam Hersh. I'm Vice President at Princeton HealthCare System. And I'll take a little different tact, and I'll just also summarize the testimony that is being handed out.

After nearly 100 years, we are trying to build a replacement hospital just two-and-a-half miles from our current site. We're building in Plainsboro. And I don't think it's any news to any of you sitting here about the very precarious financial state of healthcare and hospitals in the State of New Jersey.

Just briefly, in the past 24 months more than five hospitals have filed for bankruptcy, and 24 hospitals have closed since 1992. And that was before the economic meltdown. So building a $450 million new hospital in this climate is an extremely daunting challenge.

However, we've tried to do it right from the beginning. We have numerous sustainability and green initiatives. We ourselves have committed millions of dollars for green initiatives such as creating a 32-acre park. There are
several millions of dollars of sustainable features, however, that we don't have the money to do. And it seems almost criminal to build a new facility without making it as sustainable as possible. But in healthcare, if it comes down to choosing an operating room or solar shades, we're going to do choose an operating room.

We have been trying for a year to somehow find government support to make these investments in this new hospital for energy efficient initiatives. And we have made no progress and we have broken ground, and if we don't get a commitment very soon, many of these very important environmentally sustainable initiatives will not be done. And there is enormous research in the field on how sustainability is good for the health of the patients in the hospital and it's good for society in general. And obviously, the job creation is huge and that has been talked to extensively.

I didn't address it here, but this is a billion dollar construction project that is happening in central New Jersey. And the government support for these initiatives, we feel, is a crucial public policy. And we happen to applaud PSE&G's carbon abatement program.

And I just hope you find the mechanism in these conversations to make a decision on this sooner than later.

Thank you very much.

SENATOR SMITH: Thank you very much.

Is there anyone else in that front panel that hasn't spoken?

Yes, sir.

GERALD T. KEENAN: Yes. Thank you very much for your time. My name is Jerry Keenan. I'm the Executive Vice President of the New Jersey Alliance for Action.
Real quickly, the Alliance is a coalition of business, and labor, and government that works to promote economic development through the investment of infrastructure. We were created back in the '70s during times very similar to today when unemployment rates were going up, interest rates were going up -- and we see a lot of that today. Our mission has never been more important -- than ever. It's clear that everywhere you hear, it's jobs -- it's jobs. And I'm glad to see what's happening here in Trenton and what's happening in Washington -- that they're going to be pushing money out. Well, PSE&G is trying to do the same thing with their investment.

PSE&G, throughout the years, has been one of the best neighbors New Jersey could ever have. And here they have a program where they're looking to invest billions of dollars into our economy, create thousands of permanent, as well as construction, jobs. It's up to us to help them help us. It's up to us to help them put more jobs and more money into the economy, which is why we're in favor of the formula rates. This will open the door, as I said, to those billions of dollars, and to those new jobs, and the construction and permanent jobs, and to additional dollars into the economy. It will also set up a fair rate-setting process that will allow all utilities and their financial backers to recapture their costs in a reasonable and timely manner, which will once again encourage more investment.

So I don't want to speak a long time today. You have a number of people here, but I want to say thank you very much, and I call on you to approve the formula rate structure.

SENATOR SMITH: Thank you, Jerry.

Senator Kyrillos, you have a question?
SENATOR KYRILLOS: You know, I have a question, maybe a comment; maybe it's just a rhetorical question for the good of the order.

But you know, I heard from the Alliance for Action, and from some of the contractor community, and the Chamber of Commerce, and others about infrastructure spending, transportation spending, green job spending, job creation; and we hear a lot about it in the State Capital in general, other state capitals, Washington. You know, I think all of us could benefit from, you know, a brush-up economics lesson as we decide these kinds of big policy and economic issues.

With regard to how this does spill over into the general economy, people use the word trickle – or two words, trickle down; ripple effect, I guess I heard. You know, we need to talk to our constituents who aren't putting a shovel in the ground, aren't climbing a pole, who don't serve lunch to the guys who are working out there on these job sites, who don't have a direct economic stake on how it involves them.

Now, you know, I guess I know a little bit -- enough about economics to know that it does to a degree, but I would like somebody, maybe the Governor's economic czar; or maybe the State Chamber of Commerce, which I guess kind of embraced this idea today, to really talk to us about the job's impact, the economic impact, revenue -- tax revenue impact, and all these decisions that we're going to have to effect in 2009 -- this kind of a bill and other kinds of initiatives to come. Because we're throwing around these words so frivolously -- stimulus and job creation -- and we ought to know. And I don't think most of the members of the Legislature know.

SENATOR SMITH: Thank you, Senator.

Bob Stewart, Anheuser-Busch, indicated Anheuser is opposed to the bill. Joe Starkey, Schering Plough, indicating that Schering Plough is opposed, no

I think we have a whole bunch of people that are still in line to speak. Why don't we get -- we already have Melanie, and Dena, and Phyllis. Why don't you come to the table?

Oh, you're already there? You have microphones?

(UNIDENTIFIED SPEAKER FROM AUDIENCE): We're right here.

SENATOR SMITH: Okay, perfect. Why don't we start with Phyllis.

PHYL LIS S A L O W E - K A Y E: Actually, I'm last.

SENATOR SMITH: Okay. I'm sorry, I didn't know you had an order. Melanie, okay?

MELANIE W ILL O U G H B Y: We got organized while we were waiting to testify, Senator.

SENATOR SMITH: Go right ahead. Who's first?

SENATOR: LESNIAK: Who's on second?

SENATOR SMITH: Go ahead, please. And remember Shakespeare's admonition, "Brevity is the soul of wit."

(UNIDENTIFIED SPEAKER): I'm here on behalf of Dennis Dooley, who had to leave – the Capital Health System, here in support of the bill. So just to continue with that. And, again, looking forward to the assistance PSE&G will provide in the construction of the new hospital that Capital Health has in Hopewell and the rebuild of the hospital in Trenton at Fuld; and working with PSE&G and their climate change and energy initiatives.
MS. WILLOUGHBY: Chairman Lesniak, Chairman Smith. I'm here representing a very broad coalition, as you can see, represented here today -- a group that you may never see come together again. But we thank Senator Lesniak for bringing us together.

We are a coalition that-- Senator, yes?

(UNIDENTIFIED SPEAKER): He wants a picture.

MS. WILLOUGHBY: Okay. Could you take a picture? That's a great idea.

We are coalition that is opposed to the formula rate bill that you have before you, and I just want you to know who is part of the coalition. We have AARP, Citizen Action, NJRMA, Sierra Club, Environment New Jersey, the Chemistry Council, the Large Energy Users, the Food Council, Anheuser-Busch, New Jersey Gasoline Retailers, New Jersey Hospital Association, New Jersey Fuel Merchants, and the New Jersey Business & Industry Association.

And so we have brought together a representative sample to talk with you today. And what I wanted to talk to you about is basically that this bill is a far-reaching change in New Jersey's regulatory structure. And certainly we agree with change, but we feel that this is a change though that should not happen. Right now we do have stable rates while providing sufficient revenues to the utilities to attract necessary capital, to maintain and improve the viability of their distribution systems.

But we feel that this is throwing the baby out with the bathwater. We, as an organization, as you know, have typically not been supportive of a regulatory structure that some might consider to be cumbersome. But we feel that this structure does provide safeguards to electric and gas consumers who rely on the BPU to keep the rates reasonable. And under this bill, the just and
prudent review of utility spending will be thrown out the window. In other words, we feel the utilities will become an unregulated monopoly. It would leave ratepayers at the mercy of the utilities that could spend what they want, for whatever they want, with the ratepayers picking up the tab.

The present system provides utilities with incentive to improve productivity and to minimize cost between rate cases. We feel that -- we believe in infrastructure improvements. We believe that it's important to create jobs. And we believe it's present (sic) and possible to do it under the present system, that we do not need this bill to effectuate any of those improvements. And we feel that we would be throwing out the regulation that is necessary in order to ensure we have prudence standards.

In essence, this will eliminate what little financial risk utilities face now, and open the door for annual rate increases that the ratepayers will be responsible for during a very difficult financial times which we're all suffering through.

So I would like now to turn it over to Sara, who will continue to explain some of the possible ways that this can be done.

**S A R A B L U H M:** Good afternoon, Committee. I'd like to remind you that you are 20 days away from higher electric prices. On January 1, the Regional Greenhouse Gas Initiative goes into effect and those costs are going to be passed on to you.

I have examples of bills from trucking firms, local bars, health clinics, supermarkets, the gamut of small businesses who have all reached out to us and said that they are struggling with their high electric cost. And we understand that there may need to be a greener infrastructure, but we're already paying for it.
If you look at what's been going on lately -- and we were discussing why some of our electric bills are higher -- we've got $1.2 billion over the next four years that we're spending on a green economy because of the ratepayers of New Jersey, which is coming through the Societal Benefits Charge. We're going to have at least $70 million a year from the Regional Greenhouse Gas Initiative to spend on this.

SENATOR SMITH: You made the point that rates are high. How about talking about the bill?

MS. BLUHM: I'm telling you we've got 105 million in the retail margin bill.

SENATOR SMITH: I understand that, but we have a limited --

SENATOR LESNIAK: How about this bill? We have a lot of people here wanting to testify on this bill. You feel free to testify on another bill that was passed in the past on -- another time, have a press conference.

Please, on this bill.

MS. BLUHM: Well, to this bill, sir, I don't think we need it because we already have pots of monies ready to spend and deploy on capital infrastructure and on jobs. And we're going to start spending that very shortly.

I know that the committee before this one recently considered the retail margin bill and how we're going to deploy those green jobs. And I think this bill asks ratepayers to add an additional pot of money when we haven't even spent the billion dollars that we have; and going forward, looking at that and how we're going to keep rates sound, but yet still create these jobs. And I think we need to look at the ripple effect in terms of what we're doing to the industry in the state if we drive up the cost.
It was already discussed – the Construction Work in Progress ability. We also have an Economic Development Authority which we're spending quite a bit of capital dollars on. I know we've been discussing investing pension dollars there to loan out to New Jersey businesses. That's an option for the utilities to explore as well. There's no reason why we can't use the EDA for some of these. And looking at that, we haven't explored all of the options that are on the table and a need to lock us in for five years for a temporary economic problem--

And with that, I'm going to turn it over to my cohorts in the environment community.

SENATOR SMITH: Ms. Mottola.

DENA MOTTOLA: Thank you, Chairman Lesniak and Chairman Smith, thank you for your ongoing leadership on clean energy and green jobs.

We are also here to oppose the bill today. My organization has actually called for major clean energy investments at the State and Federal level. We've called for a billion dollar investment at the State level, and 100 to 200 billion a year at the Federal level. We believe very strongly in investment in clean energy, and energy efficiency, and smart grid. And we think the current law has the ability to help us make those investments.

And as Sara said, the current law already is helping us make these investments. I estimate that almost $4 billion is either already coming into the state -- you know, already been allocated by State programs, or will be soon in the next six months -- to do energy efficiency, renewable energy. You know, in the next -- literally in the next six months we will have $4 billion we can spend in the next four years. And that's a lot of green jobs.

So I think -- I really want to just, you know, emphasize that I don't think that we need this legislation to have more green jobs in the state. What I
do think this bill is about is about giving -- I think the utility companies want more of a blank check to build out our grid. And I would really caution this Committee and the sponsors to not give them that authority, because we need to look closely at how the utility companies want to build out our grid. Not all the ways they want to build our grid out are smart, and not all the ways they want to build our grid out are good for New Jersey.

Some of the ways they want to build our grid out are better for New York than they are for New Jersey, for example. Other things about how they want to build our grid out come directly in conflict with what we should be doing on energy efficiency. Some of the proposals to build power lines are -- some of the money that would fund some of the distribution lines and power lines would be better spent on energy efficiency, and would be a better investment for the ratepayer.

So I really caution you that you don't give the utility companies a blank check to be able-- Because a lot of this is about building out the grid. Most of the supporters you heard today were talking about pipes and wires, because they understand that this is much more about the grid than renewable energy and energy efficiency. As several people have already testified, including Stefanie Brand, there's already a process in place to do expedited review of energy efficiency and renewable programs run by the utilities. So we don't need this to foster green jobs. The utility companies are looking for it because they want to build out the grid.

Now, I do -- I think other people have mentioned, but we have a new President, we have a great new EPA administrator. There's going to be money coming to New Jersey. So it's going to be even more money coming in for green jobs. I estimate -- and this is just my sense, knowing how the RGGI program is
going to be running in New Jersey -- that it's going to be something like $5 billion a year when the Federal government comes up with a national cap and trade program that's going to be available. A nice chunk of that would come to New Jersey.

I think we need to sit tight and stop asking ratepayers to pay for the whole green technology future. I think there's other ways that we can build that future. Utilities should play a role -- and a major role. The Federal government and other pots of money should also come into play here. I think we're doing a lot with the ratepayers help, and we're going to do a little more with the Governor's call on the utilities to come in with efficiency programs. And I would caution you that there's a limit to how much we can go to the ratepayers to ask them to fund this future and that there's other ways to do it.

I guess the last thing I really want to touch on is that some of my other colleagues in the environmental community really want to speak today. So I hope they have the opportunity to speak. But in summary, you know, I think it's important to understand that we need to hold the utilities accountable for how they're spending ratepayers dollars, and we need to hold them accountable for how they're putting in pipes and wires -- and whether it's helpful to the future that we're trying to build, or whether it's helpful to their own bottom line, or to New York or other states within our grid.

I think those questions the Board has to be able to closely examine, and this bill really pulls some of that authority away from the Board. Thank you.

SENATOR SMITH: Gentleman to your right.

STEVEN S. GOLDBERG, Esq.: Chairman Lesniak, Chairman Smith, members of the Committee. My name is Steven Goldberg. I'm an
attorney with Fox Rothschild. It's my privilege to represent the New Jersey Large Energy Users Coalition.

The Coalition is compromised of some of the state's largest businesses, which are also the state's largest consumers of electricity and natural gas. One thing that distinguishes our group from the other business organizations that have joined with us in opposition to this bill is that historically our group has litigated utility rate cases and regulatory proceedings before the Board of Public Utilities.

And based on that experience, I just had a couple of quick observations about existing law; and I wanted to respond in part to questions raised by Senator Kyrillos. I join in the statements by Commissioner Asselta, and Stefanie Brand, and others in defense of the existing laws, because they assure that utility rates are just and reasonable, that utility rates are prudent, and most importantly that stakeholders such as the constituency that I represent have an adequate due process, opportunity to be heard in matters of great importance like utility ratemaking.

This is not to suggest that my group is rooted in the past. Quite frankly, we employ the 21st century energy efficiency measures that are the goal of this bill and that have been ecognized as such in the Governor's Energy Master Plan and at the Board of Public Utilities. So we are forward looking, but we are also guided by what we have seen in the past.

And in the past, by way of reference, the last PSE&G rate case involved a total of about $50 million. What we're seeing now in the numbers that we are hearing-- We shouldn't lose track of the fact that billions of dollars -- these are mind boggling numbers, and they certainly require more prudency review, not less; not hurry up rules, but prudent rules to make sure that these investments are
looked at very carefully; and, again, that everyone's right to due process, which is of constitutional dimension, is preserved here.

Senator Kyrillos asked about what the effect of formula-based rates would be, and I'll just respond quickly to that. Ralph said accurately that you can't say for sure that they're going to go up or down. But one thing that they do, which represents a seismic shift from utility rate regulation as it currently exists, is to guarantee a utility a return. Under current law they have an opportunity to make a case to recover their cost. This will guarantee them annual returns.

I won't get into the nuances. They're very complicated, very boring, and I wouldn't dream of doing that to you. But a practical example of a problem from stabilized rates, decoupled rates -- however you want to refer to them. Griffin Pipe company is a member of my coalition. Some of you may know they announced this week that they are suspending indefinitely their manufacturing operation in Florence. It will involve the loss of 400 jobs. It's very unfortunate. It was caused in large measure by the high cost of doing business in New Jersey, and electricity costs were certainly part of that. This company is not going bankrupt. Their facilities in other states remain ongoing.

4 The reason I mentioned them is that under a stabilized rate regime, where the rates are guarantee to be over here, the loss of load represented by Griffin Pipe, which would bring the rate down -- that would be made up for in stabilized rates. It's a very good deal to get, especially on an economy like this where your profits will be guaranteed. And it's one of the more pernicious things that have to do with this. I won't get involved in a long discussion about it.

The question about whether stabilized rates could increase cost -- well, on the Federal level, they did. Subject to check, PSE&G's transmission rates went up either $35 million or $65 million. I don't recall. The bigger problem here
is that what this bill authorizes is spending that doesn't appear to be reined in terribly well. And when you're spending money here, this isn't the (indiscernible) deal. The State isn't contributing to this. If we're lucky we'll get significant funds from the Federal government. I'm optimistic that that will happen.

But any dollar that is spent by PSE&G, or any other utility that opts for these rates, will be paid back; and they'll be paid back with interest. And when you're talking about billions of dollars and a utility going to the capital markets buying at 7 or 8 percent, earning a return of whatever dimension --I don't know right now -- on top of that, you're talking about the citizens of this state investing their own money -- billions of dollars -- with significant return on top of that for these investments.

And it's for that reason that we really do need to be cautious about how we do this. We're certainly not backward looking. And to the extent that there needs to be change, we would certainly participate in this process.

We just want to participate in this process. Thank you very much.
SENATOR SMITH: Thank you.
Phyllis.

MS. SALOWE-KAYE: First of all, I do want to acknowledge the strange bedfellows that sit here together. And we would love to have a picture to put up on our website, because it would really show that we all agree on one thing -- and that is the people that we represent would not benefit from this.

SENATOR LESNIAK: Makes me think that this is a pretty good bill.

MS. SALOWE-KAYE: Would not benefit from this. We also commend Senator Lesniak -- first of all, I want to thank both Senator Lesniak, and Senator Smith, and the Committee for letting us testify. But we want to commend Senator Lesniak's intent to encourage and support the modernization
of our energy infrastructure, develop energy and efficiency programs, and create jo

However, we do oppose this bill. Not because we oppose a green recovery, but because the bill doesn't provide an equitable, transparent vehicle to achieve these goals. And it sacrifices the interest of consumers of every income level, and small commercial and industrial employers, for those of utility companies and their shareholders.

While the consequences might be unintended, if enacted this bill will hurt our communities, destroy good jobs, and place an even greater burden on our state's already stressed families and businesses. This is a deregulation bill that will put ratepayers at the mercy of unregulated monopolies.

I do want to mention, in response to some of the previous speakers, that this bill does not -- there's nothing in this bill that requires that one job be created. There's nothing in this bill that speaks to the direct benefit of ratepayers, and there's no protection for ratepayers who could see very significant rate increases.

On green jobs, we should be looking to other alternatives like tax credits, loan guarantees. The President has proposed some wonderful things. We have a new EPA person, and we now have a former Citizen Action employee in the White House as the energy czar -- Carol Browner. So we feel we have some really good people there who could come up with a progressive way -- a much more progressive way to look at this problem and do what I think are the intentions of the sponsors.

My final comment would be that this is really the wrong time to be doing something that's going to guarantee a profit to PSE&G. There is no other industry that is guaranteed a profit from their customer today. And that's -- think about Ford Motor Company, Goldman Sachs, Hoffmann-La Roche. Nobody is
guaranteed this. PSE&G and the other utilities are allowed to operate as monopolies and in exchange for that -- because we really have no choice of our energy provider -- and in exchange for this their rates are regulated and based on cost associated with delivering the goods, plus the opportunity to return a reasonable rate for shareholders.

Regulation replaces the market, and while shareholders assume the risk of the initial investments, they are virtually assured cost recovery as long as their investments are reasonable and prudent. This bill would turn this compact on its head and give shareholders the best of both worlds: a guarantee -- a guaranteed return; and it would also transfer all the risks to the ratepayers. Their investments would no longer be subject to any review for reasonableness and prudence. The utilities would become virtually unregulated monopolies.

Now, nobody could say that New Jersey Citizen Action is the best friend to the BPU, or thinks that they're the number one greatest organization. However-- We couldn't be accused of saying that. We do think that they are able-- By getting rid of them, we really are throwing the baby out with the bathwater. And we don't think this is the answer to encouraging utility investment, and energy efficient programs, and the infrastructure. We think that they have the ability to adjust and to do exactly what I think is the intent of the sponsors.

Thank you.

SENATOR SMITH: Thank you.

Mr. Chairman, if I might mention that, unfortunately, I have to be back in New Brunswick at five o'clock. The other bill that's on this agenda, S1537, I understand will be successful in being released.

SENATOR LESNIAK: That's been released by a 5-0 vote.
SENATOR SMITH: All right. But in any case, I want to offer to John Hutchison and the Republican members that if they would like to be co-prime sponsors on S1537, they are invited to do so. And, likewise, the same with our Democratic members who'd like to be co-prime sponsors. We can do that at the committee level. This is the bill that the Governor talked about in the emergency session -- one of the bills that's going to generate a lot of green jobs in New Jersey.

If you'd like to be co-prime, you're invited to do so. Just let Gene Lapore and John Hutchison know.

Thank you.

SENATOR LESNIAK: Thank you, Senator.

Thank you. Thank you ladies and gentlemen.

We still have quite a few people who we have not given an opportunity to say anything. We are running out of time. So we'll call folks up, and if you just want to register your opposition or your position in favor that would be welcomed as well.

But this is interesting. Moretta Short from NOW. NOW is against the bill? Wow. Okay.

Marcia Marley from BlueWare New Jersey, against the bill.

Matt Shapiro, New Jersey Tenants Organization, against the bill.

You want to say a few words or you just-- Okay, go ahead. That's good. I like that.

I still want to know why the National Organization For Women's is against--

M A T T S H A P I R O: Well, as a card-carrying member of the National Organization for Women, I think it's very good that they oppose this bill.
But on behalf of the New Jersey Tenants Organization, we don't particularly like the idea of our utility rates having basically no controls whatsoever. The national economy has been put into ruins because of the deregulation of the banking and -- well, the money industry; and we don't think the same thing should happen to the utility industry. They're a monopoly and they will do what they want to do if they're allowed to do it.

SENATOR LESNIAK: Matt, you know, this proposal doesn't take away controls. It's just --

MR. SHAPIRO: It automates that.

SENATOR LESNIAK: Come on.

MR. SHAPIRO: I mean no disrespect to you, Senator Lesniak. I really think you're a great person, but I don't think this bill is going to end up helping small people.

SENATOR LESNIAK: I understand that opinion. I understand.

Thank you very much.

Lewis Hurd, Universal Improvement Authority, Elizabeth, New Jersey, opposed to the bill. Whoa, Lewis. Okay, James-- Elizabeth, New Jersey -- used to work for me. Lewis are you here? All right.

James Harris, president of the NJ Montclair Branch? No, president of New Jersey NAACP, against. And Dick Barber as well.

Jeff Tittel, you want to say one word? Okay.

I'm not having any luck with Jeff today. You didn't check a box.

JEFF TITTEL: I just wanted -- because I think you got it backwards. And the thing is this, that—

Let me just make two quick points, and we can talk more in detail. That it's not PSE&G that's investing, it's the ratepayers that are going to be the
investors. Therefore, they should see the profits from this. One of the problems that we have -- and we support the idea of decoupling. We think that putting the rate base into helping to pay for smart grid, green energy is a good thing. Energy efficiency is a good thing.

But there's two things that need to happen. When the companies make money off of those investments, that money should go help the ratepayers. The other thing is that people who conserve or use less electricity shouldn't see their rates go up because they're now conserving. And what we would rather see is restructuring how we do business so that people who waste energy, who don't invest in efficiency, who don't want green technologies -- that rate should go up to help pay for the people that are actually doing the right thing.

Thank you.

SENATOR LESNIAK: Thank you, Jeff.

Jeff Pringle, do you want to say a few words, or just echo-- Dave Pringle, do you want to echo Jeff, stand by his remarks?


You want to say a few words or you're fine? Cool.

And now Steve-- Tough last name, Steve. Do you have a few words to say?

Okay.

STEVEN G. ASPLUN DH: Thank you. My name is Steven Asplundh. I'm with the Asplundh Tree Expert Company. I'm not a politician.
I'm not a lobbyist. I'm a tree trimmer. And it's pretty interesting from my perspective. Our family company has worked in the State of New Jersey for over 80 years. PSE&G was one of our first companies, and we've worked for them ever since. Our employees live in this state. We pay taxes in this state. Our families are going to the schools.

I know job creation is very important. I'm worried about job preservation. I'm not very familiar with how bills work and all the legislation, but from all the comments that have been made today, it sounds to me as if there's a very good process in place to help protect the ratepayers. It sounds like the bill has some -- or the proposal has some flexibility to work through it.

It's a matter of immediacy. We are laying crews off, laying men off, women off, they're looking at going to other states where there is work available. We don't want anyone being unprotected else. I think this is an issue of timing. If there's anything we can do to help work together to improve the timing—

And ultimately, if we can borrow money cheaper, have it reflected in the rates -- let the ratepayers experience that decrease in cost.

If I can just say -- if whatever happens the process can go faster. We're not just going down the normal pace here, we're in a tough spot, we're laying people off.

And I think all the comments that have been made are terrific, but I don't want to sensationalize anything. I think your process works. It sounds like everyone's proposing flexibility, to work together to make this thing happen. Hopefully it just happens soon.

Thank you.

SENATOR LESNIAK: Thank you, Steve. I think you hit the nail right on the head.
We're going to get everyone together and get this investment going one way or the other, but we have to get it going. This economy in this state, in this country is in bad shape and we have to give people jobs. And I'm sure all the good people in this room are going to work together in that direction.

Anyone else have anything to say? You know, if not, have a happy holiday, Merry Christmas.

Meeting is adjourned.

(MEETING CONCLUDED)