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Utilities save big as towns lose out

Tax bills on plants of major power companies in Pennsylvania have gone from $120 million annually to $20 million.

By Anthony R. Wood
Inquirer Staff Writer

Pennsylvanians have been jolted in recent years by whopping increases in property taxes - unless the property happens to be a power plant.

While homeowners are paying an average of 30 percent more than they did in 1997, Exelon, Pennsylvania Power & Light, and the other major electric utility companies in the state are paying 85 percent less in taxes on their plants, down from about $120 million annually to about $20 million, an Inquirer analysis has found.

Meantime, the utilities are passing on their real estate levies to their customers, based not on what the companies are currently taxed but on the far higher sums of six years ago.

And it is perfectly legal.

Whether it is fair, however, is a point of contention for thousands of communities and school districts across Pennsylvania that have seen much-counted-on tax revenues from the utilities shrink, in some cases to almost nothing.

The City of Philadelphia, for instance, is losing $20 million a year and its fiscally stressed schools nearly $6 million. The districts of Council Rock in Bucks County and North Penn in Montgomery County used to get $1 million apiece; now each takes in about $160,000.

"It is an outrage," said Eric Epstein, a consumer-energy activist based in Harrisburg. The state and the electric companies "created a tax-depletion system for the school districts at the worst possible time."

That system was born in the complex deregulation deals the generators cut with the Pennsylvania legislature and the Public Utilities Commission in the mid-1990s, when they gave up their monopolies and allowed competitors to sell power on what had been their exclusive turfs. The change, the Ridge administration said, would "generate savings and choice for people."

It also opened a side door to big tax savings for the utilities.

John Hanger, the former PUC member who was the architect of deregulation, said the utilities' lower taxes have been more than offset by expenses wrought by the free market.

"It wouldn't be fair to say that utilities had a windfall out of this," Hanger said.

Critics, though, are saying exactly that.

"I can't imagine a deal where consumers and local taxpayers got kicked in the rear worse than this one," said Pittsburgh lawyer Ira Weiss, an expert on Pennsylvania real estate taxes.

For the previous 25 years, the power companies' property taxes were relatively cut-and-dried. Payments were calculated by the state and put into one important pot: the Pennsylvania Utility Realty Tax Act fund, or PURTA. For 1997, $167.5 million was paid in, the bulk of it by the two electric behemoths, Peco Energy Co. and Pennsylvania Power & Light.

Harrisburg distributed the money annually to every county, town and school district according to their overall tax revenues. The more they collected, the greater their share of PURTA. That is why Philadelphia and its schools got so much, about 20 percent of the fund.

When the state loosened its grip on the electric industry, the commercial power plants - 25 major ones, 55 much smaller - were gradually released from PURTA. For the first two years, 1998 and 1999, the utilities were allowed to appraise their plants for tax purposes; the fund tumbled to $60 million.

On Jan. 1, 2000, the plants were removed from PURTA and put on the property rolls of the locales in which they sat, to be assessed and taxed like any hometown business.

PURTA was kept alive, but barely. Minus the big-ticket plants, contributions largely came from industries still state-regulated, such as telecommunications and water, and added up to $29.5 million a year.

The PURTA handouts shriveled. That has been double trouble for communities and school districts that cannot make up the losses because they have no sizable power plants within their borders to tax - and more than 90 percent of them do not.

Philadelphia has seen its annual take drop from $24.4 million in 1997 to nearly $4.3 million today; its schools are getting $960,000 instead of $6.85 million. They are the big losers, topping a list of nearly 3,000 other losers statewide.

Over the next five years, city budget director Rob Dubow noted, Philadelphia will be out $100 million. "To put that in context," he said, "the whole giant wage-tax battle last year was about $120 million over five years."

Among the lawmakers who had almost unanimously approved the PURTA change, "everyone knew those local governments were going to [take a hit]," said John Raymond, an aide to State Sen. Vincent J. Fumo, the ranking Democrat when deregulation was negotiated. Fumo and other party leaders, Raymond said, raised the issue, to no avail.

As a spokesman for then-Gov. Tom Ridge explained, "The purpose of electric competition [is] not to generate money for government."

Still, some municipalities and school districts seemed destined for windfalls. They were the ones blessed with electric plants in their yards. But instead of a bonanza, what they have gotten from the utilities is a power play, one used effectively in other states.

On the local tax rolls, the companies had the same right as any property owner: They could appeal their assessments. And they have done so aggressively, arguing that when they gave up their monopolies, their plants plummeted in value. They also contend that most of their equipment should be exempt.

Contesting the assessments, the utilities said, is part of their duty to customers and shareholders to contain costs.

"We appreciate the fact that [local] officials have an obligation to the taxpayers to ensure that corporations like ours pay their fair share," said George Biechler, a PP&L spokesman.

"However, we are reaching out to our plant neighbors to respect the fact that PP&L must look at the bigger picture. We also have a responsibility to [our] 1.3 million customers across eastern and central Pennsylvania and to our more than 150,000 shareowners across the country. That responsibility includes opposing local taxes that are excessive and that unfairly single out our company."

Appeals have been filed on virtually all plants in Pennsylvania. The cases are entangled in questions. For starters, how does one put a market value on an electric-generating facility? Comparable sales are hard to come by.

While their cases are pending, the utilities typically make interim tax payments that are considerably lower than what they would pay under current assessments. It is an option not available to homeowners.

Among the major disputes:

Limerick nuclear power plant. Montgomery County assessed it at $912 million. Its owner, Peco Energy, part of Chicago-based Exelon, says it is worth only $10 million. The appeal has been pending for more than two years. Meanwhile, the utility is paying $2.1 million in taxes annually to the county, Limerick Township and Spring-Ford School District - a fraction of the $16 million it would owe under the county assessment.