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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 13, 2006

Honorable Wendell Holland, Chairman  
Pennsylvania Public Utility Commission  
Keystone Building, 3rd Floor  
400 North Street  
Harrisburg, PA 17105

Re: Regulation #57-249 (IRRC #2570)  
Pennsylvania Public Utility Commission  
Service Interruption

Dear Chairman Holland:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). We will send a copy to the standing committees when they are designated.

If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director  
wbg  
Enclosure

# Comments of the Independent Regulatory Review Commission

on

## Pennsylvania Public Utility Commission Regulation #57-249 (IRRC #2570)

### Service Interruption

December 13, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the October 14, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

#### **Section 67.1. General provisions. - Protection of public health and safety; Consistency with other regulations; Reasonableness; Implementation procedure; and Clarity.**

##### *Questions*

The Pennsylvania Chapter of the National Association of Water Companies (PA-NAWC) and Pennsylvania American Water Company's (PAWC) submitted comments on the proposed regulation that generated the following questions that relate directly to our review criteria.

First, what is the intent of the phrase “affecting the quantity or quality of water delivered to the customers”? For example, would this language require notice if the drinking water was discolored but still safe to drink? What types and levels of change in “quantity or quality” triggers the notice requirement? If there is a drop in pressure, hence a drop in quantity delivered during a certain time period, is that covered by this regulation? How much of a drop in pressure would trigger the required notice?

Second, the PUC noted in the preamble that “a similar DEP [Department of Environmental Protection] regulation defines a ‘service interruption’ as ‘affecting quantity or quality of the water delivered to the customer.’” However, this language is from the existing regulations at 25 Pa. Code § 109.708 which govern notice to the public and DEP before “**planned** service interruptions” initiated by public water suppliers. Why is this language being used in the proposed amendment to 52 Pa. Code § 67.1 which governs “**unplanned** service interruptions”? (Emphasis added.)

##### *Reasonable alternatives*

Two commentators, PA-NAWC and PAWC, suggested that the proposed regulation should cite other existing DEP regulations relating to notification requirements for public water suppliers. They suggest referencing existing DEP regulations at 25 Pa. Code Chapter 109, Subchapter D (§§ 109.407-109.416) and § 109.701(a)(3)). These regulations require notice in specific situations that relate directly to public health and safety. For example, Sections 109.409(a)(1) and (b)(1) specifically require one hour notice to DEP for violations of the maximum

contaminant level for fluoride. Therefore, these portions of Chapter 109 would afford clear and precise implementation of the PUC's policy objectives of protecting consumers of drinking water. Another benefit to using DEP regulations is that water suppliers are already familiar with these provisions. We recommend that the PUC give strong consideration to referencing existing regulations at 25 Pa. Code §§ 109.407-109.416 and 109.701 to give water suppliers clear direction on when notice will be required.



### Facsimile Cover Sheet



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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
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**To:** Sherri A. DelBiondo  
Regulatory Review Coordinator  
Law Bureau  
**Agency:** Pennsylvania Public Utility Commission  
**Phone:** 2-4597  
**Fax:** 3-3458  
**Date:** December 13, 2006  
**Pages:** 4

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-249 (IRRC #2570). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

**Accepted by:**     *Sh DelBiondo*     **Date:**     12-13-06