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Philadelphia
Parking
Authority

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August 26, 2009

INDEPENDENT REGULATORY
COMMISSION
Reply to: **Vincent J. Fenerty, Jr.**
Executive Director
The Philadelphia Parking Authority
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Philadelphia, PA 19104
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Glenn C. Rowe, P.E., PTOE
Acting Director
Bureau of Highway Safety and Traffic Engineering
Department of Transportation
Commonwealth Keystone Building
400 North Street, 6th Floor
Harrisburg, PA 17120-0064

**Re: Automated Red Light Enforcement in First Class Cities
Proposed Rule Making for Distribution Program Revenue
67 Pa. Code Ch. 233**

Dear Mr. Rowe:

Please accept this letter as a formal comment by the Philadelphia Parking Authority (the "Authority") as to the above referenced Proposed Rule, which will establish the process by which the Department of Transportation (the "Department") distributes revenue generated solely by Philadelphia's Automated Red Light Enforcement Program (the "Program").

Because the Proposed Rule permits the use of revenue generated from the Program for highway safety and mobility *within the Commonwealth*, the Authority respectfully disputes the consistency of the Proposed Rule with the legislative intent of the statute which necessitates its promulgation. It is the Authority's recommendation that the Proposed Rule be amended to direct the use of Program funds solely within the City of Philadelphia, where every dollar controlled by the Proposed Rule has been generated. Philadelphia's unique highway transportation challenges were the impetus for the Program, and every dollar available is critically needed to further remedy Philadelphia's transportation challenges.

As you are aware, the Authority is the System Administrator of the Program. The Program is the first, and only, of its kind in the Commonwealth and was created as a pilot program, with an original sunset provision of December 31, 2005. See Act of October 4, 2002, P.L. 845, No. 123, 75 Pa.C.S. §3116, as amended, (the "Act"). Due to the Program's success in reducing red light violations and motor vehicle accidents where deployed, the Act's sunset provision has been extended twice, currently through December 31, 2011.

Over the past several years, the scope of the Program has been judiciously extended throughout Philadelphia through the joint consent of the Authority, the Department, and the City of Philadelphia. The Act directs that all revenue generated by the Program, net of the Administrator's operating expenses, be transferred to the Department. As the Program has been expanded, so to has the revenue generated by applicable fines, such that the Authority has now transferred \$8,850,394.00 to the Department.

The Act requires the Department to place the revenue generated by the Program into the Motor License Fund for distribution through a "Transportation Enhancements Grant Program". 75 Pa.C.S. §3116(1)(2). While the Act does not expressly constrain the Department to direct the available revenue to Philadelphia, the Act was created only because of the heavily burdened and often dangerous highway system in Philadelphia which must provide for the safe transportation of 1.5 million residents and tens of thousands of intrastate and interstate visitors everyday.

The intent of the Act was to improve the highway transportation system in Philadelphia. The Act deals only with Philadelphia and every dollar generated by the Program is derived from Philadelphia residents or frequent users of Philadelphia's highway system. While one day the Program may be extended through this Commonwealth, and thus alter the intended scope of the Transportation Enhancements Grant Program, today the Program only operates in Philadelphia and the Enhancement Grants should be designated for use only in Philadelphia.

It is imperative that the Department take the intent of the Act into consideration when promulgating its final Rule. The Authority respectfully suggests the following alterations, and any additional alterations that may be necessitated by the more focused scope of grant eligible projects resulting from these amendments, as follows:

§ 233.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Sponsor--A [local authority, metropolitan planning organization, rural planning organization, county planning organization, or Commonwealth agency applying for, or receiving, a transportation enhancement grant under this chapter.] city of the first class.

§ 233.3. Eligibility requirements and criteria.

(a) The minimum requirement for eligibility to apply for a transportation enhancement grant under this chapter is that the project must involve improvement to highway safety and mobility within [this Commonwealth.] a city of the first class.

Glenn C. Rowe, P.E., PTOE
Acting Director
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The Authority understands the complex nature of the issues presented to the Department and respects its effort and diligence in meeting the far-reaching needs of this Commonwealth, but we believe this Proposed Rule making has cast too broad a net to be consistent with the intent of the enabling legislation. If I may be of any assistance in the further review or promulgation of this Rule, or any other matter, please do not hesitate to contact me.

Sincerely,
The Philadelphia Parking Authority

By: *Vincent J. Fenerty, Jr.*
Vincent J. Fenerty, Jr.
Executive Director

cc: Joseph T. Ashdale
Chairman
Rina Cutler
Deputy Mayor
Dennis G. Weldon, Jr.
General Counsel

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