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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 27, 2011

Honorable Robert F. Powelson, Chairman
Pennsylvania Public Utility Commission
Keystone Building, 3rd Floor
400 North Street
Harrisburg, PA 17105

Re: Regulation #57-281 (IRRC #2887)
Pennsylvania Public Utility Commission
Liquid Fuels Pipeline Regulations

Dear Chairman Powelson:

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.lrrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director

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Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Robert W. Godshall, Majority Chairman, House Consumer Affairs Committee
Honorable Joseph Preston, Jr., Minority Chairman, House Consumer Affairs Committee
Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



Pennsylvania Public Utility Commission Regulation #57-281 (IRRC #2887)

Liquid Fuels Pipeline Regulations

April 27, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the February 26, 2011 *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.

1. Section 59.33. Safety. - Consistency with federal law; Reasonableness; Need; Clarity.

Subsection (b)

Proposed changes to Subsection (b) incorporate federal requirements for safety standards for “all natural gas and hazardous liquid public utilities in the Commonwealth.” We raise three issues.

First, what are “hazardous liquid public utilities”? The final-form regulation should define this term.

Second, proposed Subsection (b) references “49 CFR Parts 190-195, 198 and 199...,” as well as “future federal amendments to 49 CFR Parts 190-195, 198 and 199....” Why does the regulation reference future federal provisions? Section 1.6 (b) of the *PA Code & Bulletin Style Manual* provides: “If an agency wishes to incorporate subsequent amendments [of a code or regulation] the agency must explicitly do so by amendment of its existing rules....” The final-form regulation should either delete the new language pertaining to future federal amendments or provide a justification for retaining it.

Finally, the existing subsection references 49 CFR Parts 191-193, and 199. The proposed regulation replaces these references with 49 CFR Parts 190-195,

198 and 199. However, it is unclear why these changes have been made. The final-form regulation should explain the need for this change in citations.

Facsimile Cover Sheet



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

To: Sherri A. DelBiondo
Regulatory Review Coordinator
Law Bureau
Agency: Pennsylvania Public Utility Commission
Phone: 2-4597
Fax: 3-3458
Date: April 27, 2011
Pages: 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-281 (IRRC #2887). 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 DelB- Date: 4-27-11