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June 18, 2014

Mr. John F. Mizner, Esq, Chairman  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, Pa. 17101

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IRRC

Dear Mr. Mizner:

I have had the opportunity to speak with several constituents within the 162nd Legislative District that would be impacted by the Philadelphia Parking Authority's proposed Final Regulations. My constituents have voiced many concerns to me regarding the potential regulatory changes, and I want to ensure that the IRRC is aware of these concerns prior to the adoption of any new regulations. Their concerns are as follows:

1. § 1013.32(b), states that if an individual is **not** a medallion taxicab certificate holder they must submit form SA-1 in order to qualify as a bidder in an auction. However, it is not clear who is considered a medallion certificate holder. For example, would the shareholder in a corporation that owns a medallion be considered a medallion holder for the purpose of bidding on behalf of a second corporation that they hold shares in, which does not yet own a medallion?

2. Additionally, SA-1 states that an applicant has to submit a non-refundable fee to the PPA. Is it permissible for this fee to be non-refundable? Also the regulations do not specify the amount of this fee. SA-1 states that the fee must be a percentage, but is unclear as to how this percentage will be calculated. My constituents have voiced concern at the lack of information on this process and wonder how they are to participate in the auction when they are unaware of the fees or potential for refund. To this point, they'd like to know that if there were 500 new bidders, would the PPA be collecting 500 non-refundable fees?

3. It is also unclear if an applicant's completed SA-1 will be published in the PA Bulletin pre or post auction. If it is published prior to the auction and the SA-1 is approved, my

Constituents would like to know if the PPA would issue the prospective bidder a certificate of public convenience, which is separate from an actual medallion? Also if the SA-1 is published before bidding and that bidder is protested, will that bidder have to litigate the protest prior to knowing whether they will successfully obtain a medallion?

4. §1013.35(a)(4)(i) states that a deposit of 10% of the bid amount must be included with each bid. This deposit will be non-refundable as to the highest conforming bidder and credited towards the sale price if the sale is approved. What happens to the deposit if the PPA does not approve the sale? While unsuccessful bidders get their deposits returned, the regulations are unclear on that deposits of successful bidders who are otherwise not approved by the PPA. My constituents are concerned that a conflict of interest exists because the PPA decides final approval and they do not provide any reasons as to why a sale would not be approved. They are seeking clarity on this issue.

5. What happens to a bidder's deposit and application fees if a protest is filed against the applicant?

6. According to the research of my constituents, the estimated amount being submitted to the PPA in deposits may reach \$2.5 million in addition to any application fees the PPA may collect. How will this money be managed? Will it be held in escrow? Will unsuccessful bidders have their deposit plus interest refunded to them? Will the deposits go into the PPA's general fund? Again, my constituents are seeking clarity where the proposed regulations inadequately address the proposed changes.

7. The regulations are also silent on how a bidder will obtain the title to a physical medallion even if a protest is filed against the issuance of a certificate of public convenience to the bidder.

8. §1013.35(a)(4)(ii) states that potential bidders need to need loan commitment letters from lenders for no less than 80% of the bid amount. In Philadelphia there are no direct medallion lending institutions, requiring all financing transactions to go through a third-party broker. My constituents are concerned that this may jeopardize the confidentiality of the sealed bid process because the bids will have to be revealed to the third-party broker.

9. When the proposed regulations were released in October 2013, they referred to Form MA-1 - "Official Bid Form for Medallion Sales." This form was not published until recently and thus it was impossible to comment on MA-1 during the comment period. This in itself is a violation of the Commonwealth Documents Law. Now that it has been released my constituents have noticed several problems with the form:

a. MA-1 has refers frequently to Form SA-1. The current SA-1 that is on the PPA's website contains a lot of errors and was created prior to the PPA's adoption of its most current regulations in 2011 and therefore it is out of date. SA-1 is inaccurate and does not contain complete instructions. The PPA has been notified of these problems many times in the past. My constituent's wonder why the form has not been updated for over

3 years and why the PPA refers to an inaccurate form in its final regulations, especially as it concerns a major event such as a medallion auction. They would like for Form SA-1 to be revised to correct the errors and to include detailed instructions.

b. MA-1 again raises the issue of who is considered a medallion owner and the issue of the PPA keeping a deposit if they do not approve the sale of an otherwise successful bidder.

c. Does the PPA have the right to keep the deposit if the sale is not approved?

d. Paragraph 1 of MA-1 contains a typo. It should read “from” not “form.”

e. How can an individual comply with Paragraph 4 of MA-1 if they intend to bid on multiple medallions? Are they permitted to do so? The regulations are unclear on this subject.

f. Is a bidder in violation of Paragraph 7 of MA-1 if a protest is filed against them and they cannot close within the time period specified by the PPA?

10. Generally the PPA should ensure that all potential bidders are aware of the situations in which they may lose their substantial deposits. Without clear and concise regulations and accurate forms with clear instructions, the PPA cannot ensure that bidders will be fully aware of what is required of them and how their property will be safeguarded.

Sincerely,

A handwritten signature in black ink that reads "Nick A. Miccarelli III". The signature is written in a cursive style with a distinct "III" at the end.

Nick Miccarelli, Member  
162<sup>nd</sup> Legislative District

NM:ds