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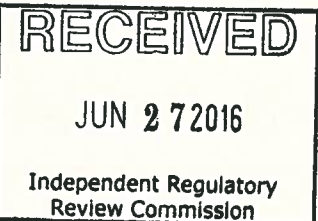
Senate of Pennsylvania  
CHARLES T. McILHINNEY, JR.  
SENATOR

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3061

June 27, 2016

Chairman George D. Bedwick  
Independent Regulatory Review Commission  
333 Market Street  
Harrisburg, PA 17120

**Re:** Implementation of the Alternative Energy Portfolio Standards Act of 2004  
Pennsylvania Public Utility Commission Regulation No. 57-304 Independent  
Regulatory Review Commission No. 3061

Dear Chairman Bedwick:

I am forwarding the attached correspondence from the Bucks County Water and Sewer Authority (BCWSA) expressing their concerns with the aforementioned regulation to be considered at the Commission's upcoming hearing on Thursday, June 30, 2016. I, too, share the same concerns raised by the BCWSA in the attached letter and respectfully request a thorough review/hearings on the regulatory changes proposed by the PUC.

Thank you for your consideration in this matter.

Sincerely,

CHARLES T. McILHINNEY, JR.  
State Senator  
10<sup>th</sup> Senatorial District

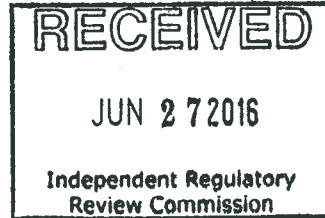
CTM/mmr

Enclosure

3061



Chairman George D. Bedwick  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101



June 27, 2016

Implementation of the Alternative Energy Portfolio Standards Act of 2004 Pennsylvania Public Utility Commission Regulation No. 57-304 Independent Regulatory Review Commission No. 3061

Chairman Bedwick:

I am writing to share the concerns of the Public Utility Commission's final-ready regulation submitted to the Commission for its review at its June 30<sup>th</sup> meeting. There are two principal concerns with the PUC's response and revised regulations. First, the PUC failed to respond to the IRRC's May 19<sup>th</sup> order. Second, the PUC rules contain new changes and restrictions on renewable energy development that have not received adequate notice and comment by the public or the legislature. These restrictions could adversely affect an innovative renewable energy development by the Bucks County Water and Sewer Authority (BCWSA). I, therefore, urge the Commission to consider these comments and recommend that the Commission disapprove the PUC's rules.

In its May 19<sup>th</sup> order, the IRRC found three problems with the PUC's regulations. The IRRC could not find any statutory justification for the 200 percent cap of the sale of excess electricity. The IRRC also determined that the PUC did not have any quantified evidence to support the claim that distributed electricity generation is imposing excess costs on other customers. Finally, the IRRC concluded that the PUC's policy goal to restrict customer-generation and its specific regulations contain policy decisions more appropriately decided by the legislature.



BCWSA  
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In its June 9<sup>th</sup> response, the PUC extensively revised the final-ready regulations but only address one of the three IRRRC concerns. The two undressed IRRRC findings - the PUC's lack of quantified justification for restricting renewable energy development and the need for a new legislative mandate for the PUC's policy changes - are so significant that the IRRRC should affirm its May 19<sup>th</sup> findings and disapprove the PUC's revised regulations.

In addition to its inadequate response to the Commission's order, the PUC regulations decrease renewable energy development opportunities in other ways. I note many comments raise concerns with the new definition of "utility." There are other changes that also restrict opportunities. For example, the PUC added to the virtual net metering a requirement that customer-generators "own or lease and operate" the equipment in the two-mile radius.

This addition only restricts development opportunities with little, if any, public policy benefit. BCWSA is pursuing an innovative technology to recover hydropower from its water system. This clean energy source is fully enclosed within BCWSA's pipes and thus has no environmental impact. Its location near consumers reduces transmission losses and their associated environmental and financial costs. The BCWSA system is exactly the innovative, alternative energy sources envisioned under the Act.

The PUC proposes to new restriction that BCWSA must "own or operate" offsetting consumption to qualify for net metering under the Act. This restriction is not in the Act. This restriction has nothing to do with the legislative requirements in the Act or the project's impact on electricity distribution costs. If there are any costs on other consumers, they relate to the amount of electricity added, not the ownership of the generation.

In addition, the June 9<sup>th</sup> revised regulations include other limits on transmission fee recovery and fee recovery that are new and received scant, if any, public comment and have minimal justification in the PUC's administrative record. I am troubled that the PUC is rendering such important changes without a full public discussion and without publicly-available analysis.

In sum, the effect of the PUC's cap, the "own and operate," definition of "utility," are further restrictions to reduce the financial incentive to invest in these innovate technologies in Pennsylvania. The PUC appears intent on restricting distributed energy development in total, even those environmentally-beneficial projects by BCWSA.

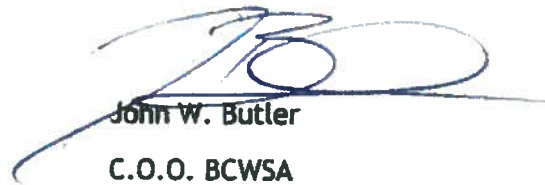


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Therefore, at a minimum, the IRRC should reject the PUC's rules at its June 30<sup>th</sup> meeting. I urge the Commission to investigate all of the PUC's regulatory changes that have the effect of restricting renewable energy development to ensure that they are consistent with the Act and that the PUC demonstrates quantitatively that any the benefits exceed the costs for any proposed regulatory change.

Respectfully,



John W. Butler  
C.O.O. BCWSA



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