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Senate of Pennsylvania

January 13, 2021

The Honorable George Bedwick
Chairman
Independent Regulatory Review Commission
333 Market St., 14th Floor
Harrisburg, PA 17120

Dear Chairman Bedwick:

I am writing to express my strong opposition to the proposed rulemaking: CO₂ Budget Trading Program (#7-559) and joining Pennsylvania to the Regional Greenhouse Gas Initiative (RGGI). The proposed regulation, as published in the Pennsylvania Bulletin on November 7, 2020 (50 Pa. B, 6212), would profoundly alter Pennsylvania's energy generation portfolio and cause the near immediate closure of the state's remaining coal fired power plants and some older natural gas fired power plants. The premature closure of these plants will result in the unnecessary loss of thousands of jobs supplying and supporting these facilities, a substantial reduction in property taxes in communities that host those power plants and the coal mines that supply them, and not to mention higher electric rates for consumers throughout the state.

Bituminous coal mining plays an integral role not only in Pennsylvania's economy but is an indispensable component to the economic vitality of 46th Senatorial District. The bituminous coal industry supports over 9,000 direct and indirect jobs in Greene and Washington Counties, both of which are encompassed by my Senate district, and are the largest coal-producing counties in the state. The industry serves as the economic backbone providing thousands of family-sustaining jobs and supporting local government and school district operations.

In 2019, over nine million tons of coal was sent to Pennsylvania-based power plants. The vast majority of that nine million tons came from coal mines within the 46th district, and any such policy that results in the premature closure of these remaining coal-fired plants will have a ripple effect on the operations of those supplying mines. This will put into jeopardy the economic health of my residents, school districts and

local communities that are already struggling greatly under the stress of the COVID-19 pandemic. To date, there has been no consideration of the economic devastation the 46th Senate District will experience with the closure of power plants and the ripple effect to the supply chain, and no outreach has been made to the businesses, employers, or constituents I represent.

While Governor Wolf alleges that this proposed regulation is necessary to reduce carbon dioxide emissions, the Department of Environmental Protection's (DEP) own modeling indicates otherwise. As a member of the Senate Environmental Resources and Energy Committee, I have heard numerous experts testify at public hearings on RGGI that power generation will shift to plants in Ohio and West Virginia, right across the border, resulting in a significant overall decrease in carbon dioxide emissions in PJM. This concept, known as leakage, was required under Governor Wolf's Executive Order to be "minimized", however this proposed rulemaking contains nothing to address this issue.

Most, if not all, of these negative economic consequences and deficiencies of the proposed regulation were considered and discussed by three DEP Advisory Committees prior to its approval by the Environmental Quality Board (EQB). The Air Quality Technical Advisory Committee, the Citizens Advisory Council, and the Small Business Compliance Advisory Committee, three statutorily mandated advisory boards, rejected recommending the rule to the EQB. Despite this considerable opposition and concern, DEP made no amendments to the proposed regulation and presented it as such to the EQB.

Finally, the proposed regulation represents an unprecedented expansion of legal authority under the Air Pollution Control Act (APCA) and the Pennsylvania Constitution. The APCA contains no reference to carbon dioxide under the definition of "air pollution", or any express authority to regulate, cap, and tax carbon dioxide emissions. Additionally, the Pennsylvania Constitution specifically prohibits the General Assembly from delegating taxing power. Given RGGI's revenue generating mechanism, joining RGGI will implement a tax that was not authorized by the General Assembly. Last session, I supported bipartisan legislation that would have outlined a specific process before Pennsylvania could impose a carbon dioxide tax on electric generation, manufacturing, or other industries, or enter any multi-state program, such as the RGGI. Unfortunately, this legislation was vetoed.

In closing, the proposed regulation will have severe negative economic impacts on employees, local communities, and consumers and every resident of our Commonwealth seeking a reliable and affordable supply of electricity. This combined with the failure to address leakage in the proposed rulemaking, and the absence of clear statutory authority to join Pennsylvania to RGGI, I strongly oppose establishing a CO₂ Budget Trading Program and joining Pennsylvania to RGGI and ask that the EQB withdraw the proposed regulation. Thank you for your time and consideration of this matter.

Sincerely,



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