

**INDEPENDENT REGULATORY REVIEW COMMISSION
PUBLIC MEETING MINUTES**

10:00 A.M.

Thursday, May 19, 2022
14th Floor Conference Room
333 Market Street

I. CALL OF THE MEETING

The May 19, 2022 public meeting of the Independent Regulatory Review Commission (Commission) was called to order by Chairman Bedwick at 10:23 a.m. in the 14th Floor Conference Room, 333 Market Street, Harrisburg, PA.

Commissioners Present: George D. Bedwick, Chairman
 John J. Soroko, Esq.
 Dennis A. Watson, Esq.

Telephone: John F. Mizner, Esq., Vice Chairman
 Murray Ufberg, Esq.

Chairman Bedwick indicated David Sumner, Executive Director, would receive the “Professional Excellence Award” from the *Legal Intelligencer* for his work at the Commission.

II. APPROVAL OF THE MARCH 21, 2022 PUBLIC MEETING MINUTES

Chairman Bedwick asked for a motion for approval of the March 21, 2022 public meeting minutes, as submitted. Vice Chairman Mizner made the motion and Commissioner Watson seconded, and the motion passed 5-0.

III. NEW BUSINESS

A. ACTION ITEMS

1. No. 3303 State Board of Education #6-347: Academic Standards and Assessment

Laura Campbell, Regulatory Analyst, explained the regulation updates existing science standards, clarifies expectations for high school graduation and aligns the regulation with statutory changes. She stated both House and Senate standing committees deemed the regulation approved.

Dr. Lee Williams, Chair, Council of Basic Education and Chair, Committee on Academic Standards/Chapter 4, Karen Farmer White, Chair, State Board of Education, Karen Molchanow, Executive Director, State Board of Education, Thomas Howell, Deputy General Counsel, Governor's Office of General Counsel, Julie Kane, Policy Director, Department of Education, Brian Gasper, Chief, Division of Instructional Quality, Department of Education, and Brian

Campbell, Director, Bureau of Curriculum, Assessment, and Instruction, Department of Education, were present to answer any questions.

Dr. Lee Williams asserted the provisions make changes to several educational standards for science subjects in grades six through 12. She noted the provisions incorporated input from educational officials from universities such as Penn State. Dr. Williams stated the State Board of Education considered the importance of updating standards for students across the Commonwealth to bolster the state's economic vitality, particularly with growth in science, technology, engineering and mathematics industries. She indicated a fifth domain was created through the regulation, environmental literacy and stewardship skills, to take effect in 2025.

In response to a question from Commissioner Ufberg, Ms. Molchanow stated the regulation does not add anything to current high school graduation requirements. Ms. Molchanow also responded Keystone Exams are aligned with existing academic standards and are part of the regulation's three-year implementation window. She added the exams would be aligned with the new standards set by the proposed regulation.

Commissioner Ufberg made a motion for approval. Commissioner Watson seconded, and the motion passed 5-0.

2. No. 3272 State Board of Pharmacy #16A-5429: Administration of Injectable Medications, Biologicals and Immunizations

Scott Schalles, Regulatory Analyst, explained the regulation conforms existing regulations to statutory amendments that allow pharmacists and qualified pharmacy interns to administer influenza immunizations to children ages nine to 18 and sets forth corresponding liability insurance requirements for pharmacists who administer immunizations, biological and injectable medications. He concluded both standing committees deemed the regulation approved.

Carole Clarke Smith, Board Counsel, State Board of Pharmacy, and Jacqueline Wolfgang, Senior Regulatory Counsel, Department of State, were present to answer any questions.

Ms. Smith claimed the regulation updates current language to consider pharmacy interns.

Commissioner Watson wondered why it took seven years for a regulation incorporating changes from an act passed in 2015 to be presented. Ms. Smith responded she is also "frustrated" and indicated several officials who were part of the process left the agency. Ms. Wolfgang added the statute was "primarily self-executing" and Department of State is just now catching up.

Chairman Bedwick remarked any frustrations are not directed at the individual members of the panel. He noted the Commission is sensitive to large delays between changes to acts and regulations.

Vice Chairman Mizner made a motion for approval. Commissioner Watson seconded, and the motion passed 5-0.

3. No. 3297 Pennsylvania Public Utility Commission #57-331: Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa. C.S Section 3016(a); General Review of Regulations 52 Pa. Code Chapters 53, 63 and 64

Corinne Brandt, Regulatory Analyst, specified the regulation amends existing language to respond to changes in competitive market conditions within the telecommunications industry. She added one public comment was received and both standing committees deemed the regulation approved.

Chairman Bedwick questioned if Ms. Brandt can discuss the dissenting opinion from the Chair of the Public Utility Commission (PUC). Ms. Brandt referred the question to the PUC for a complete response.

Christopher Van de Verg, Assistant Counsel, Law Bureau, Derek Vogel song, Telecommunications Supervisor, Bureau of Technical Utility Services, Matthew Hrivnak, Manager of Compliance, Enforcement and Field Auditing, Bureau of Consumer Services, and Bobbi Anderson, Policy Analyst, Bureau of Consumer Services, PUC, were present to answer any questions.

Mr. Van de Verg stated the regulation updates provisions that have not been changed since only one telecommunications company was operational. He commented the change in the number of telecommunication companies influenced the regulation's creation. Mr. Van de Verg outlined the PUC's interaction with Verizon and how a five-year waiver for regulations was granted to Verizon. Upon the completion of the waiver, Verizon provided the PUC with inconclusive data regarding the telecommunications company's activities with the waiver. He stated the proposed regulation would bring the PUC closer to regulatory parity with other organizations.

Chairman Bedwick asked if a telecommunications company's violation of a consumer protection law would be considered a violation under section 1501 of Title 66. Mr. Van de Verg replied in the affirmative. He noted situations would be taken on a case-by case basis. Chairman Bedwick remarked that although precedents could be set, certainty of regulations is important to both businesses and consumers. He wondered what point the removal of the section would serve. Mr. Van de Verg stated the elimination of any rule is motivated by competition among telecommunications companies. He asserted regulations were previously eliminated due to their provisions not being consistent with the current marketplace. Chairman Bedwick stated he is unsure of how he would vote but he would motion for a vote on the regulation to move forward.

Chairman Bedwick made a motion for approval. Commissioner Watson seconded, and the motion passed 4-1, with Chairman Bedwick dissenting.

4. No. 3298 Pennsylvania Public Utility Commission #57-330: Rulemaking to Implement Act 120 of 2018

Michelle Elliott, Regulatory Analyst, explained the regulation establishes a program for the removal of customer-owned lead service lines and establishes the standard under which a jurisdictional wastewater utility may seek to replace, rehabilitate or repair customer-owned damaged wastewater service laterals. She added both standing committees deemed the regulation approved.

Hayley Dunn, Assistant Counsel, Matthew Lamb, Fixed Utility Valuation Engineer, Paul Zander, Fixed Utility Financial Analyst, PUC, were present to answer any questions.

Ms. Dunn said a comprehensive program for examining and repairing wastewater service laterals is established by the regulation. She added the regulation worked to maintain clarity and consistency with other statutes. Commissioner Soroko inquired about the economics of water service maintenance. Ms. Dunn indicated it is between \$1,200 and \$8,000 per service line for service line replacements and between \$3,000 and \$10,000 per service lateral for damaged wastewater lateral replacements. She added these estimates considered consumer input and were provided by the Bureau of Technical Utility Services, and any rate adjustments require approval from PUC.

Commissioner Soroko suggested these are indirect costs related to rates rather than the maintenance service cost in general. Ms. Dunn replied the utility would not charge the costs of removing any lead to the customer directly, so the customer would not pay for replacements. Mr. Lamb indicated the regulation considered consistency to be important. He argued utilities have been able to remove service lines for the least amount of money possible. Mr. Lamb continued by stating the regulation would establish guidelines for utility providers and provide a timespan to prevent "rate shock." Commissioner Soroko asked if the regulation protects consumers from rate adjustments. Mr. Lamb replied in the affirmative.

Commissioner Watson questioned what authorities and utility providers are under the regulation's jurisdiction. Ms. Dunn answered the regulation covers entities under the PUC's jurisdiction, such as public utilities providing water and wastewater services and municipal corporations. Commissioner Watson wondered if other municipal authorities in the commonwealth are not subject to the regulations. Mr. Lamb replied in the affirmative, except for municipal authorities that "provide water service extraterritorially."

Commissioner Watson inquired if the property value increases when the owner of a property has their lead service line replaced.

Ms. Dunn responded property value changes were not studied. Mr. Lamb agreed and affirmed the PUC is responsible for setting standards and guidelines for the utility itself rather than the entire property. He noted utility providers must replace the entirety of a service line. Commissioner Watson queried if the health risk has been eliminated. Ms. Dunn stated the entire lead line would be replaced for health reasons, though "incidental benefits" could also occur.

Chairman Bedwick pondered why the regulation does not preclude a consumer from conducting their own line replacements. Ms. Dunn answered a utility provider would need to provide reimbursement to any consumer who replaced their line within one year of the commencement of a line replacement project. Chairman Bedwick questioned what happens if the PUC is not able to provide permission to a consumer who wishes to replace their own lines. Ms. Dunn explained a prohibition is in place for partial service line replacements due to safety risks. She added termination of service through the line is possible. Ms. Dunn conceded the PUC requires a utility provider to include provisions regarding similar situations, as well as provide information to the consumer about self-repairs for service lines. Chairman Bedwick asked if eminent domain could be invoked by utility providers to make alterations to service lines. Ms. Dunn answered current law does not include provisions related to eminent domain.

Commissioner Soroko made a motion for approval. Commissioner Watson seconded, and the motion passed 5-0.

IV. OTHER BUSINESS

Approval of Vouchers

Commissioner Watson made motions to approve vouchers and expenses for the period March 11, 2022 through March 21, 2022. Vice Chairman Bedwick seconded, and the motions passed 5-0.

V. DATE AND PLACE OF SUBSEQUENT MEETING

Chairman Bedwick announced the next public meeting is scheduled for Thursday, June 16, 2022, at 10:00 a.m. in the 14th Floor Conference Room, 333 Market Street, Harrisburg.

VI. EXECUTIVE SESSION ANNOUNCEMENTS

Chairman Bedwick announced that no executive session would be held.

VII. ADJOURNMENT

Chairman Bedwick adjourned the meeting at 11:25 a.m.