

**INDEPENDENT REGULATORY REVIEW COMMISSION  
PUBLIC MEETING MINUTES**

10:00 A.M.

Thursday, July 21, 2022  
14<sup>th</sup> Floor Conference Room  
333 Market Street

**I. CALL OF THE MEETING**

The July 21, 2022 public meeting of the Independent Regulatory Review Commission (Commission) was called to order by Chairman Bedwick at 10:00 a.m. in the 14<sup>th</sup> Floor Conference Room, 333 Market Street, Harrisburg, PA.

Commissioners Present:      George D. Bedwick, Chairman  
   John F. Mizner, Esq., Vice Chairman  
   John J. Soroko, Esq.

Telephone:                      Murray Ufberg, Esq.  
   Dennis A. Watson, Esq.

**II. APPROVAL OF THE JUNE 16, 2022 PUBLIC MEETING MINUTES**

Chairman Bedwick asked for a motion for approval of the June 16, 2022 public meeting minutes, as submitted. Vice Chairman Mizner made the motion and Chairman Bedwick seconded, and the motion passed 5-0.

**III. NEW BUSINESS**

**A. ACTION ITEMS**

**1. No. 3304 Pennsylvania Public Utility Commission #57-332: Diversity Reporting for Major Jurisdictional Utilities; Notice of Proposed Rulemaking**

Scott Schalles, Regulatory Analyst, explained the regulation requires major jurisdictional utilities to annually report the progress of their respective diversity programs to the Pennsylvania Public Utility Commission (PUC) in a standardized manner. He noted the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania submitted comments. He concluded by stating both standing committees deemed the regulation approved.

Commissioner Soroko requested clarification on what the regulation used to determine its "jurisdictional basis." Mr. Schalles cited 66 Pa.C.S. § 501, relating to general powers, and 66 Pa.C.S. § 504, relating to reports by public utilities.

Chairman Bedwick asserted several of the regulations were submitted, withdrawn, and then resubmitted with amendments, which is statutorily permitted if the final regulation is

submitted within two years. He delineated how changes "reset" the Commission's review process of a regulation.

Joseph Cardinale Jr., Assistant Counsel, and Patricia Wiedt, Deputy Chief Counsel, PUC, were present to answer any questions.

Mr. Cardinale relayed a statement submitted by PUC Chairman Gladys Brown Dutrieuille that supports the regulation's implementation of diversity requirements and encouraged the regulation's approval.

Commissioner Soroko inquired if the regulation started as a statement of policy from PUC that evolved into the current regulation. Mr. Cardinale responded affirmatively and added the regulation reflects PUC's policy statement. He added diversity requirements are not placed on utility providers but diversity would be tracked. Commissioner Soroko wondered if the "regulation would reflect a transition from something that was being encouraged . . . to something that was now being converted into a legal requirement relative to reporting." Mr. Cardinale answered that is correct. Commissioner Soroko pondered if that includes potential legal penalties for not reporting. Mr. Cardinale responded in the affirmative.

Chairman Bedwick noted the regulation concerning coal refuse disposal revisions would have been approved, but it was resubmitted with an amendment. He stated the Commission would have to vote on the regulation in consideration of the change.

Commissioner Soroko criticized the regulation for containing "legally inadequate" provisions and for its unclear language. He indicated he would vote against the regulation.

Commissioner Watson made a motion for approval. Commissioner Ufberg seconded, and the motion passed 3-2, with Vice Chairman Mizner and Commissioner Soroko dissenting.

## **2. No. 3256 Environmental Quality Board #7-544: Control of VOC Emissions from Unconventional Oil and Natural Gas Sources**

Corinne Brandt, Regulatory Analyst, detailed how the regulation adds Reasonably Available Control Technology (RACT) requirements and RACT emission limitations for unconventional oil and natural gas sources of volatile organic compounds. She specified the Commission received communications from the Clean Air Council, Clean Water Action, Moms Clean Air Force, and the Evangelical Environmental Network; a joint statement from the Pennsylvania Environmental Council and the Environmental Defense Fund; a letter of support from the House Environmental Resources and Energy Committee (House Committee); and a Democratic letter of dissent towards the House Committee's letter.

Chairman Bedwick asserted there have been conversations on conventional gas wells, but they are not the focus of the regulation.

Krishnan Ramamurthy, Deputy Secretary for Waste, Air, Radiation and Remediation, and Jennie Demjanick, Assistant Counsel, Department of Environmental Protection (DEP), were present to answer any questions.

Mr. Ramamurthy commented the regulation was withdrawn in May because the House Committee disapproved the regulation due to contentions with its language. He added the unclear language was removed from the regulation, and conventional gas wells would be addressed in further legislation. He reiterated the regulation addresses RACT requirements and emission limitations. He detailed how the regulation aims to reduce emissions to save taxpayer money and maintain clean air.

Vice Chairman Mizner asked how the weight of an emission is measured. Mr. Ramamurthy replied emissions can solidify and have mass and the strength of the emissions is used to determine how much gas is being used.

Mr. Ramamurthy explained how the Environmental Protection Agency (EPA) developed guidelines for states and the oil and natural gas industry in 2016. DEP utilized the guidelines, though advancements in technology have made it partially outdated. "To be clear, we are not going beyond federal requirements," he declared, indicating the decision is left to each state. He concluded DEP found upgrading technology, training workers and using best practices is economically feasible.

Chairman Bedwick questioned if federal guidelines for RACT are more stringent than guidelines recommended by EPA. Mr. Ramamurthy replied in the affirmative. Chairman Bedwick wondered if the recent Supreme Court ruling on EPA would impact the agency's authority over Pennsylvania. Ms. Demjanick responded the ruling was specific to the Clean Air Act and is not applicable to the regulation. Chairman Bedwick asked if sanctions are mandatory with EPA. Mr. Ramamurthy explained they are mandatory and EPA sent a letter indicating this.

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

### **3. No. 3292 Board of Coal Mine Safety #7-558: Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines**

Laura Campbell, Regulatory Analyst, indicated the regulation amends the smoking prohibition for underground bituminous coal mines to expressly prohibit the use or possession of liquid vaporizing devices. She indicated both standing committees deemed the regulation approved.

John Stefanko, Deputy Secretary for Active and Abandoned Mines Operations, and Christopher Minott, Assistant Counsel, DEP, were present to answer any questions.

Vice Chairman Mizner asked if lithium batteries have strong regulations. Mr. Stefanko replied in the affirmative.

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

**4. No. 3318 Environmental Quality Board #7-565: Coal Refuse Disposal Revisions**

Mr. Schalles clarified the regulation implements Act 74 of 2019 to resolve differences between Pennsylvania's regulations and federal regulations relating to temporary cessation of operations at coal refuse disposal sites and to clarify items related to the design of these sites. He concluded both standing committees deemed the regulation approved.

Mr. Stefanko and Mr. Minott were present to answer any questions.

Commissioner Ufberg commented he finds the regulation "logical."

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

**IV. OTHER BUSINESS**

**Approval of Vouchers**

Vice Chairman Mizner made motions to approve vouchers and expenses for the period May 20, 2022 through June 16, 2022. 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, August 18, 2022, at 10:00 a.m. in the 14<sup>th</sup> 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 10:46 a.m.