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February 4, 2019

Attn: Secretary Rosemary Chiavetta
400 North Street
Harrisburg PA 17120

Re: Docket No. L-2018-3004948

Dear Secretary Chiavetta:

We are Pennsylvania citizens and consumers who have interest in many issues that come before the Pennsylvania Public Utilities Commission, not limited to unregulated rural class one area gathering lines, controversial smart meter deployment and unreliable, slow and expensive rural internet and landline service. Despite the opportunities to file complaints, Pennsylvania consumers having concerns on these issues in reality have very little input or opportunity to see these matters improved. Thus, when we read in the Pennsylvania Bulletin that there's a rulemaking that appears at face value with the propensity to weaken and possibly even eliminate the Consumer Advisory Council we became keenly concerned.

"The Commission seeks comment on 52 Pa. Code Chapter 91 regarding the following: (1) whether to repeal Chapter 91 and concomitantly reestablish the Council via Commission Order; (2) what improvements are needed for CAC operational efficiency; (3) information sharing between Commission Staff and the Council; (4) the Council's ability to file comments in proceedings before the Commission; (5) the diversity of Council membership; (6) Consumer Advisory Council members interactions with the media or at public forums; (7) clarification to the General Assembly and the Governor's Office regarding the appointments and biennial terms of the Council; and (8) ministerial changes to the Council including examining the frequency of meetings and evaluating the Council's composition. Additionally, the Commission proposes to update and revise the CAC's underlying authority and reporting structure to align administratively with current Commission practices."

1. Whether to Repeal Chapter 91 and Concomitantly Establish the Council via Commission Order

"the Commission first seeks comments from interested parties on whether it should repeal Chapter 91 of the Commission's regulations and reestablish the Council through a Commission Order."

We find it interesting that Council staff reached out to several states regarding whether or not they had a similar counterpart to the Council. Reaching out to other states on regulating rural class one area gathering lines, and you'll find that the majority of states (28 of 30 – 2012 GAO Report) have chosen to regulate them. Pennsylvania has chosen not to regulate them despite the fact that there are GAO reports that have identified them as being a moderate to high public safety risk and Pennsylvania state generated reports that urge they need to be regulated. Reaching out to other states regarding smart meter deployment and you'll find that the majority of states with smart meter laws (41, PA is the only

exception) incorporate a consumer opt-out choice with either no or a small fee attached. Obviously, we in Pennsylvania, we like to do things differently. So, why move to essentially repeal Chapter 91?

It is well known that a regulatory defined council or board is going to function as they are required. Let us not dismiss the strength of the regulatory process, or where are we going? The way we see it, the only reason to repeal Chapter 91 and replace it with a Commission Order is to weaken or eliminate the Council entirely. Who will want to volunteer on a Council with a precarious future? That only lessens the pool of potential members. And that again, weakens the Council.

Further, we would urge Council staff to take a look at what Pennsylvania does regarding regulatory “public” type councils. We urge you to take a look at the Pennsylvania Department of Environmental Protection’s Citizen Advisory Council established by the Administrative Code. You’ll find that it is similar to the Council. Members are appointed, they hold monthly meetings and they advise PA DEP. Just as they advise concerning the different areas, such as air, water and energy, the Council advises on electricity, gas and transportation issues. They are both created similarly. Additionally, a comparison between the two Councils is insightful. We will expand on that further in our comment.

We are very concerned that reestablishing the Council through a Commission Order will actually further reduce transparency and create potential problems with public access of information. Through regulation the PA PUC and Council are required, regulated to perform. Through an Order we anticipate that it is the equivalent of making a regulatory change from shall to may. And, surely it is well known the results of that. (That, being the Council may cease to exist.)

We are vehemently opposed to repealing Chapter 91 and concomitantly establishing the council via commission order.

2. Operational Efficiency of the Consumer Advisory Council

“The Commission seeks comment on how the Council might best “make periodic reports to the Commission regarding the actions of the Council and its recommendations as to how the Commission may better serve the public and, particularly, the interest of ratepayers,” pursuant to the current regulation at 52 Pa. Code § 91.3(b).”

The items noted are all housekeeping items that can be easily revised in Chapter 91 through this ANOPR. We suggest that in order to improve operational efficiency, there must be an improvement of information coming to the Council.

The DEP provides their Council with a monthly “*January 2019 Report to the Citizens Advisory Council*” at their meetings. The Report is also posted on the Citizens Advisory Council Webpage. <https://www.dep.pa.gov/PublicParticipation/CitizensAdvisoryCouncil/Meetings/Pages/default.aspx> Does PUC provide a similar report to the Consumer Advisory Council? If so, why is it not posted on the Consumer Advisory Council webpage? Regardless, this report must indicate the volume of complaints *both informal and formal the PUC receives monthly*. Complaints must be categorized by type; billing issues, ROW issues and smart meter complaints regarding consumers who do not want a smart meter installed, etc. It must indicate inspections done, such as the miles of gathering pipelines, distribution pipelines and transmission pipelines when designated that have been inspected/audited. Also issues regarding phone service or lack of dial tones, and extremely slow internet or lack of service, etc.; please reference the DEP report as an example. Power points provided to the members during meetings must also be available on the Council’s webpage.

For example, a read over of minutes from 2013 to present, (33 meetings) only indicates 13 meetings where the smart meter deployment is discussed. Most of this information is general or pertains to the utility end of the deployment. There is very little discussion of consumer issues, with the exception of perhaps one member stating people have contacted them about the smart meters and a few references by members or questions relating to people refusing them or fires. The member’s questions seem, at least according to the minutes to be quickly dismissed. There’s no statistics provided by the PUC staff answering the question. How many refusals, how many fires? Members appear to receive simply a canned answer; a canned answer to their concern. This is the perfect forum for the PUC to provide information that pertains to the Consumer Advisory Council for advisement. Does the Council know that when a consumer calls inquiring what they can do because they don’t want a smart meter deployed on their home that the PUC staff advises the consumer “There’s nothing we can do it’s mandated.” Does the Council know that PUC staff advises the consumer they can file an informal or formal complaint, “but there’s nothing we can do”? Does the Council know that despite the filing of informal/formal complaints virtually every consumer receives the same answer, take it or no electricity? Oh, certainly the utilities have agreed people can move their meter at their own expense, in some cases this may cost tens of thousands of dollars (another consumer issue)! Does the Council know the great lengths that consumers are going through following this rigorous formal complaint process only to no avail?

Does anyone have any idea how much money is being wasted in this process? PUC funding that could be spent elsewhere (perhaps on pipeline inspections) plus the utilities that are assessed and dealing

with these formal complaints are paying essentially twice – paying the PUC staff that are handling these complaints (their assessments) and then their internal or contracted legal staff hired to handle their own case, not to mention the consumers who in some situations are desperate enough to hire their own attorneys. This is such an incredible waste of time and resources! And, yet, the PUC apparently hasn't advised the Consumer Advisory Council of this fiasco. Clearly, something needs to be done. And perhaps, just perhaps had the Consumer Advisory Council been advised, just perhaps they might have had some creative solutions, or taken a creative action. This is anything but efficient! Clearly, the PUC can do better in communicating with the Council, and such communications can be published on the website for public reference.

We strongly advise the PUC improve communication to the Council in a report similar in style to the DEP Report mentioned above with specifics that include inspections and complaints. New programs such as the smart meter deployment or the continual, monthly increase of unregulated gathering line miles must be communicated to the Council in each report with specific information. For example, a breakdown of informal and formal consumer complaints must be included on the report.

Secondly, we strongly advise this report be added to the Council's webpage for public access.

Thirdly, we strongly advise that the actions of the Council and its recommendations to the Commission can annually be published in a report similar (and published on the Council's webpage) to the "PA DEP's Citizens Advisory Council Annual Report" which can be found here:

<http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/What%27sNew/CAC%20Annual%20Report%202016.pdf> .

3. Information Sharing Between the Commission and the Consumer Advisory Council

"Therefore, the Commission seeks comments regarding the most effective ways the Council can connect with its constituencies to fulfill the requirement of Section 91.3 to regularly bring consumers' concerns and feedback to the Commission's attention"

There are several ways the Council can better connect with constituencies, folks like us who would really enjoy the opportunity to talk with a member regarding these issues we mention. Alas, there is not one member within an hour's drive of our home; in fact the nearest member appears to be more than a two hour's drive. Of course we could phone, email or snail mail but alas, the webpage doesn't include **any** contact information! When there is no opportunity for consumers to reach out to members of the Consumer Advisory Council that leads us to believe that the only consumers they may have contact with are the consumers they personally know. Additionally, the members are so far removed from our

region that we're not sure they would be aware of the issues we have here such as unregulated gathering pipelines, which while are non-jurisdictional are nevertheless, a moderate to high public safety risk or the poor landline and internet service we experience.

We strongly recommend that at the very least member's email or snail mail addresses be added to the Council's website in order to be more accessible by the consumers in which they are advising on behalf.

We also strongly recommend that the Council consider having meetings in the various regions of the state where the PUC already has offices; Harrisburg, Altoona, Philadelphia, Pittsburgh and Scranton. Considering that considerable PA PUC staff would have to travel and the expenses connected with traveling members, this is probably not going to be received well considering that the number of consumers present may be small. Therefore, consider our next recommendation.

We strongly recommend that the Council's website publish all the actual meeting dates for the entire year at the beginning of the year or end of the prior year. If the Council itself is meeting remotely via conference call, open that call to the public with muted voices and provide for a public comment period where voices are then unmuted. There is no public comment period at Commission meetings as you know. The public needs some way to be able to address the PUC through the Consumers Advisory Council.

We realize that the Council are volunteer participants. Still, there must be a way to assist them in reaching more consumers at least in their region. There's numerous ways to do this either by scheduling a day to meet consumers and take input either at locations of local or county government offices or perhaps even an Assembly member would open their office for this outreach. We strongly recommend that the Council be given the opportunity to discuss this issue as they apparently were not consulted about this rulemaking and the members may actually have their own ideas how they might adequately become more effective reaching consumers. Even with adopting such meetings, there is not one member north of I-80 the forgotten hinterland of Pennsylvanian consumers.

“The Commission seeks comments on whether the directive and charge of the Council—to provide advice to the Commission regarding matters of protecting consumer interests—requires the ability to conduct investigations and solicit and receive public comments from interested parties and the general public.”

Absolutely the directive/charge, providing advice to the Commission regarding matters of protecting consumer interests, requires the ability to conduct investigations and solicit and receive public comments from interested parties and the general public. While we could provide an example regarding either gathering lines or rural phone/internet service, we’re choosing rather to illustrate this ability regarding the smart meter deployment issue. As previously mentioned there’s an entire informal and formal complaint process that more than a few consumers are pursuing only to no avail. There’s a significant amount of attorneys involved in this process by the PUC, electric distribution companies and the complainant. Consumers are wasting time pursuing an answer that the PUC is not authorized to give. Consumers are overwhelmed, frustrated and having to layout additional monies for attorneys, mitigations and at times the major decision to go off grid all the while becoming more and more agitated regarding the process the PUC has advised them to pursue; towards the PUC in general, and towards their electric distribution company who also says, “there’s nothing we can do, we are mandated.” On top of this add the many consumers who didn’t want the smart meter deployed on their homes but didn’t bother to file either an informal or formal complaint because they were overwhelmed by the process itself or already had too much happening in their lives to take on pursuing an avenue that in the end, still results that the meter is deployed on their home. And, we’re guessing that the PUC staff dealing with each step of the informal and formal complaint process doesn’t exactly relish the role that is required of them; having to judicially determine cases in such a way that perhaps is not even to their liking.

Based on the Council’s meeting minutes that we read, we’re convinced the Council at least doesn’t have any idea how many consumers are being effected by the lack of consumer choice regarding their meters. We’re wondering what the Commissioners may know of the number of consumers effected. We’re wondering whether anyone at the PUC is even tracking this issue being there is no specific sort of their large data base to quickly determine this information. Then there’s also the issue that only the electric distribution companies know, and that is how many of their customers told them “no, I don’t want the smart meter deployed on my home.” (possibly even the a larger number of consumers)

Thus, we recognize here, a perfect opportunity for the Council to investigate; how many consumers have contacted their electric distribution company wanting a meter choice? How many informal

complaints have been filed at the PUC? How many formal complaints have been filed at the PUC? And how many consumers were given a consumer choice, not to have a smart meter deployed on their home? Is there a breakdown of why consumers want a meter choice?

The Council may solicit public comments from consumers, assembly members and electric distribution companies and entities, NGOs and other states regarding the ability for consumers to have a meter choice. The PUC Staff reached out to other states regarding this rulemaking; why not reach out to other states and gather information concerning meter choice and provide that to the Council?

From this gathering and review of information, the Council then has an opportunity to provide a real advisement to the Commission regarding matters of protecting consumer interests. This also provides the Commission with real opportunity to effectively testify to the Assembly on the problems that are happening with consumers, the waste of time and resources, etc., all that can be eliminated by the Assembly passing bill/s that will adequately resolve this issue. The Commission can meet with the prime sponsors of bills and make suggestions and provide letters of support for their legislation. The Council can provide letters of support for meter choice legislation.

From where we sit, the statement isn't "there's nothing we can do" but rather "there are options of what we can do if we empower our Consumer Advisory Council with real tools to effect real change." An informed and empowered Consumer Advisory Council advisement can be given and the Commission can act. And then perhaps the last several years of consumers not trusting the PUC and their electric distribution companies can come to a close.

Granted the PUC isn't an elected body with jurisdiction to make legislation. However, it is true that the PUC was created by the Assembly. The Assembly authorizes the PUC to have jurisdiction over different aspects of utilities. For example, the Assembly authorizes the PUC to have jurisdiction over gas pipeline transportation, but fails to grant jurisdiction for the PUC over rural class one area gathering pipelines. However despite that fact, the PUC does more than notice legislation that is in Chamber such as to update PA One Call and are ready and willing to provide information. This may or may not be happening on the problems associated with the smart meter deployment. Seeing that cases that are decided by the ALJ come before the Commission are quickly approved with no discussion leaves us wondering to say the least. Nevertheless, maintaining this charge and directive with the Council and

providing them opportunity to use it, well, it just seems to be common sense. Pennsylvania is the only one of 41 states with smart meter legislation that doesn't provide a meter choice aka opt-out for a smart meter. We see the Council instrumental in helping the Commission to protect consumer interests.

We don't see this particular example as *"duplicative of the work conducted by other bureaus and offices in the Commission"* as there is nothing on the website, minutes or agendas that suggests anything such as noted above has occurred. The idea *"that there may be budgetary difficulties should the Council decide to use these mechanisms"* at least regarding this suggestion is absurd to say the least since rectifying this issue will have the outcome of staff having more time to better serve the public; and while simultaneously enhancing the PUC budget in addition to saving electric distribution companies and consumers time and resources.

The Council needs to be able to provide advice to the PA PUC regarding matters of protecting consumer interests, including the ability to conduct investigations, solicit and receive public comments from interested parties and the general public. It's a shame the Council hasn't exercised this charge anytime recently. However, we see ample opportunity to better serve consumers by exercising this charge/directive. Therefore, we strongly recommend it remain in Chapter 91.

4. The Consumer Advisory Council's Ability to File Comments with the Commission

"The Commission seeks comments on whether the Council should be empowered and explicitly authorized to file comments in public proceedings before the Commission."

We strongly support the empowerment of the Council to file comments on public proceedings before the PA PUC including a minority comment should any Council member desire. Consumers expect a government that works for them. They really don't want to struggle trying to understand a variety of utility issues, learn the details of how the PA PUC operates and then represent themselves or hire an attorney should they feel the need. The Consumer Advisory Council must be able to stand up for consumers when regulations, deployments and other matters before the PA PUC go awry.

5. The Diversity of Consumer Advisory Council Membership

“the Commission seeks comments regarding organizations from which to include representatives in the future, ideas for recruiting Council members from minority communities, and whether the diversity obligation should be amended to allow for representatives or organizations that advocate low-income consumers' interests or if low-income consumers should be sought directly for Council membership. Further, the Commission requests comments on whether the appointments by the Governor, Lieutenant Governor, and the General Assembly should be derived from certain organizations.”

The current membership list indicates 12 members, five of which are appointed Commission-at-Large members by the PA PUC, and one that the appointment source is unnoted. Of those 12 members, four may be considered as representing low-income consumers. Currently, the membership seems to adequately represent the low-income community. Puzzling, the ANOPR notes there is no member from the City of Philadelphia, yet the website published Council membership list does note a member who does reside in Philadelphia.

Further, from a geographic perspective membership from rural areas is just about non-existent with a total lack of membership from the northeast sector of Pennsylvania. This needs to be remedied. The Council is missing out on not having a member from the northern tier region. The northern tier region is known to have a density of unregulated class one area gathering pipelines and poor landline/internet service. Consumers are frustrated. They call their county commissioners. The region's weekly and daily newspapers commonly report on landline/internet issues.

In order to further highlight why this is important, please note that there are thousands of miles of unregulated gathering lines in Pennsylvania that the PUC lacks jurisdiction over. The Council over the years expressed much interest in Marcellus Shale, but when it comes down to these unregulated class one area gathering lines, has the Council issued any report regarding the high to moderate safety risk outlined in several GAO Reports? This is an issue that concerns residents in the rural areas such as the Northern Tier Region where there is not one Council member. We very well understand that the Assembly hasn't given the PA PUC authority over the class one area gathering lines. Yet, from the standpoint of the Council, it seems that something could be communicated that there is at least interest in the PA PUC having this jurisdiction.

These are examples of why the Council needs to have representation from every region of Pennsylvania. Consumer issues differ across the state depending on the city, rural area or utility sector.

It is suggested that low-income representation must not be greater than the percentage of low-income Pennsylvania Consumers. Presently, a number of members are appointed by the Governor and others. This is not a recommendation to change that. The recommendation is that Pennsylvania be considered in six regions, Southwest, Southcentral, Southeast, Northwest, Northcentral and Northeast. Once the appointed members are considered, then it is recommended that the at-large membership be completed with membership that is lacking from those six areas plus whatever is needed to adequately provide for low-income representation. The total number would of course vary; such that if an appointed member was from Lycoming County, the northcentral position would be satisfied. Further explained, after consideration is given to the entire membership and there is no representation in the northeast, then the PA PUC would make an at-large appointment.

Technology is becoming a fast and furious dynamic across Pennsylvania. There are consumers who are actually cautious about new and unstudied technology rollouts and deployments. There is a real need to include a member of the committee who is knowledgeable and of the cautious mindset. Additionally, it is recommended such a person be an appointed member. So, when selecting members, it is important to seek out a member in the public health advocacy who has real knowledge about the drawbacks of technology to public health and safety.

6. Consumer Advisory Council Members Interaction with the Media or at Public Forums

“The Commission seeks comments on whether the Commission’s approval should be a prerequisite and what parameters need to exist, if any, before Council members speak publicly about the work of the Council or the Commission.”

It is recommended that Council members be able to speak at meetings where they are gathering public input as that is reasonable. It is apparent that the unpaid Council members advise on consumer issues; therefore, they need to be able to obtain public input from Pennsylvania consumers, and while at the same point, they need to be able to share what they do and the effectiveness of the Council and where a consumer may find information on the website about their meetings and opportunities to provide input.

Also, with today’s technology, Council members are essentially able to be recorded on video anywhere they are speaking, with or without their knowledge. Therefore, it needs to be a given that when a Council member is speaking it becomes Media. And, if desired, should a Council member be attempting outreach in a particular area, they need the latitude to be able to approach that through emails or social media should they desire.

7. Clarifying to the General Assembly and the Governor's Office the Biennial Terms of the Consumer Advisory Council

"The Commission invites comments regarding these biennial terms".

The PA PUC's current practice is appropriate.

8. Ministerial Changes to the Council Including the Frequency of Council Meetings and Evaluating the Council's Composition

"The Commission seeks comments on whether it may be prudent to examine the frequency of Council meetings and whether regular meetings should be held monthly, bi-monthly, quarterly, or at the call of the Chairperson."

Since the Council is struggling to reach a quorum, before examining the frequency of meetings, perhaps it may be worthwhile to determine why the struggle? If certain appointed members miss a certain amount of consecutive meetings perhaps a new appointment needs to be made. The Council needs to meet regularly; monthly or bi-monthly. There's many utility matters coming before the Council and the public is better served by regular attendance and more frequent meetings.

"the Commission seeks comment on whether a simple majority vote of Council members present during general meetings should be satisfactory to approve meeting minutes. Further, the Commission seeks comment on whether the Council's rules regarding what constitutes a quorum should be amended and, if so, how a quorum should be deemed convened. The Commission welcomes any additional comments about quorum and how the CAC and the Commission can encourage greater attendance for Council meetings."

This appears to be more an issue with membership than with the quorum requirements. There needs to be rules on absences and a certain amount then the appointee is deemed released and a new appointee replaces that member.

"Noting the concerns described herein about reaching a quorum regularly, the Commission seeks comments from interested parties about whether there should be minimum membership and/or maximum membership for the Council each term. If so, the Commission seeks input about what those membership requirements should be."

This appears again to be a membership problem. 12 members seem workable and adequate. However, it is also understood that in order to provide minimum geographical representation that number may need to be adjusted. It may be wise to limit the council to 18 members at the maximum. A larger Council may not necessarily be more effective. It is recommended that an option to have members appoint an alternate to attend meetings in their stead providing they represent the same sector, geographic area, low-income, etc. The legislature also needs to be aware of the importance of geographic representation; perhaps they can assist with meeting this requirement in their appointments.

“The Commission seeks comments on whether it would be prudent to formally require the Council to select a Vice Chairperson or other officers for each term. The Commission also seeks comments about whether it should expressly empower the CAC to form subcommittees from its membership to achieve specific, assigned tasks;”

These are reasonable requests. We recommend that the ANOPR include revisions to Chapter 91 for these noted items.

9. Statement of Vice Chairperson Andrew G. Place

“I am also particularly interested in receiving and reviewing comments that address the additional issues articulated in this Advance Notice of Proposed Rulemaking such as the potential role that the Council can provide to the Commission.”

We are grateful for Vice Chairperson Place’s dissenting remarks regarding the issuance of the ANOPR, as we too are quite concerned over the content of this ANOPR. The Council can certainly increase its effectiveness. Part of that directly hinges on the PA PUC changing their mindset that the Council is a valuable tool representing the public-consumers and bringing concerns of the public-consumers to the PA PUC on a regular basis. Had the Council been able to exercise its charge of investigation, solicitation and receiving public comments; had they been sufficiently informed of the many unnumbered consumer complaints since the smart meter deployment began; we strongly envision that there would not be the frustration among so many Pennsylvania’s electric consumers today. Right or wrong, many of these consumers feel the PA PUC isn’t doing their job and has failed them and that government is not working for them.

“There may indeed be ways in which the Council can increase its effectiveness and I am interested in evaluating those ideas and proposals which are not hinged upon a rescission of the CAC’s regulatory language.”

Council increasing effectiveness is a two way street. On the one side is the PUC which really needs to communicate better in the type of information that is being provided to the Council. It shouldn’t be sugar-coated. Rather, they are a useful arm of the PUC ready and willing to advise. If there are issues that the PUC is concerned about, has no way to resolve whether rooted in jurisdictional or legislative inadequacies, these need to be communicated to the Council as such. While they have somewhat a limited role, they also have the ability to investigate or solicit and receive public comments that may be useful in promoting solutions.

On the other side is the Council. The Council needs to be willing to reach out to consumers beyond what they are doing. Most consumers have no idea the Council exists or what they are charged or directed to do. Perhaps if the Council was better known, members naturally would have more and better contact with consumers. This means contact information needs to be made available. While members request

the PUC update them on certain matters during meetings, members need to request data as part of their questions to get a real understanding of the matters at hand. For example, the minutes read that a member asked about fires being started by smart meters. The answer given is the meters were replaced. That seems insufficient. How many fires were there? Did this affect only one electric distribution company, several or all? What meters were causing the fires? Where else are these meters being utilized? How do they know all the meters were in fact replaced? There are consumers worried about such fires. More and better information is beneficial for consumers to understand Pennsylvania's actual experience with the deployment. Lacking this, they may rely on older news articles or news from other states. When consumers want information, in the information age they will find it.

Thank you for the opportunity to comment on the ANOPR. It is important that the public have the opportunity to weigh in on important regulatory matters.

Best Regards,



Emily Krafjack



David Krafjack