

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101

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William R. Lloyd, Jr.  
Small Business Advocate

February 16, 2011

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**HAND DELIVERY**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Compliance of Commonwealth of Pennsylvania with Section 410(a) of the  
American Recovery and Reinvestment Act of 2009,  
Docket No. I-2009-2099881**

Dear Secretary Chiavetta:

By Order entered January 24, 2011, the Pennsylvania Public Utility Commission ("Commission") issued the American Recovery and Reinvestment Act ("ARRA") investigation working group's report for public comment. The deadlines for comments and reply comments were published in the February 12, 2011, *Pennsylvania Bulletin* at 41 Pa.B. 911.

The Office of Small Business Advocate ("OSBA") has been a participant in the ARRA working group. While the OSBA does not agree with everything in the ARRA working group's report, the OSBA believes its position on the contested issues is adequately represented. Furthermore, the OSBA reserves the right to file reply comments.

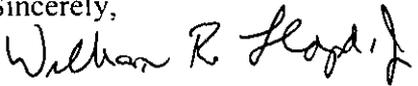
In order to evaluate the positions of the various parties, the OSBA respectfully requests that the Commission identify the risks if Pennsylvania does not adopt conservation measures which exceed Act 129, in the case of electric distribution companies ("EDCs"), and does not adopt mandatory conservation measures for natural gas distribution companies ("NGDCs") (collectively, "Additional Conservation Measures").

As the report demonstrates, the parties disagree over what the ARRA actually requires. One element of statutory construction is consideration of the consequences of the various plausible interpretations. As part of their advocacy, the EDCs and NGDCs imply that there will be dire consequences if the Commission does not adopt their aggressive interpretation of the ARRA. Unfortunately, none of the EDCs or the NGDCs provided answers to questions such as the following:

1. To what extent, if at all, is the Commonwealth at risk of having to return federal funding if it does not adopt Additional Conservation Measures?
2. How much, if any, additional funding might the Commonwealth receive if it does adopt Additional Conservation Measures?
3. To what extent, if at all, are the Commonwealth's EDCs and NGDCs at risk of having to return federal funding if the Commonwealth does not adopt Additional Conservation Measures?
4. How much, if any, additional funding might the Commonwealth's EDCs and NGDCs receive if the Commonwealth does adopt Additional Conservation Measures?

Thank you for consideration of the foregoing comments.

Sincerely,



William R. Lloyd, Jr.  
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Attorney ID No. 16452

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