



COMMONWEALTH OF PENNSYLVANIA

February 8, 2019

E-FILED

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

Re: Commission's Regulation Governing the Consumer Advisory Council, 52 Pa. Code Ch. 91; L-2018-3004948; Advance Notice of Proposed Rulemaking

Dear Secretary Chiavetta:

The Office of Small Business Advocate ("OSBA") submits this letter-in-lieu-of-comments to the Advance Notice of Proposed Rulemaking ("ANOPR") entered by the Pennsylvania Public Utility Commission ("PUC" or "Commission") at its Public Meeting held on October 25, 2018. The ANOPR seeks comments on whether changes should be made to the Consumer Advisory Council ("CAC") regulations "to improve its efficiency as an advisory body and to clarify its duties and role." ANOPR at 1.

The Office of Small Business Advocate is an independent agency of the Commonwealth, created by Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 ("SBA Act"), to represent the interests of small business consumers of utility services in matters before the PUC, state and federal regulatory agencies, and in state and federal courts. Although administratively situated within the Department of Community and Economic Development ("DCED"), the SBA Act clearly provides the OSBA with independent statutory authority to pursue policies, procedures and other substantive matters in designated forums in the interest of small business consumers. The independent authority of the OSBA is *critical* to its ability to be impactful in matters when representing the interests of the small business consumers.

As noted in the ANOPR, the CAC was created in 1977 through the adoption of regulations at Chapter 91 of 52 Pa. Code. While the CAC's independence is derived from regulations and not via statute, the independence of the CAC, and its ability to "conduct investigations...solicit and receive comments from interested parties and the general public" (52 Pa. Code §91.3(c)) is similarly critical to its ability to be most effective when filing comments and making "recommendations as to how the Commission may better serve the public, and particularly, the interest of ratepayers." (52 Pa. Code §91.3(b)).

While the OSBA does not regularly interact directly with the CAC, the OSBA is appreciative of the CAC's work and input on behalf of Pennsylvania consumers, and disagrees that the CAC's work is duplicative of the work conducted by other bureaus and offices within the Commission. Reestablishing the CAC via Commission Order would jeopardize the independence and effectiveness of the CAC.

The OSBA is mindful that changes and evolutions in the public utility landscape, and also at the Commission, may require logical ministerial changes to the manner in which the CAC functions, and also how it interacts with the Commission, *i.e.* notice requirements through the now-defunct Public Information Office of the Commission (52 Pa. Code §91.3(e)). However, we respectfully submit that such ministerial changes and other reasonable operational modernizations could be accomplished by simply amending the current regulations to allow the CAC broader discretion in the execution of ministerial matters.

If you have any questions, please feel free to contact me directly.

Sincerely,

A handwritten signature in blue ink, appearing to read "John R. Evans", with a long horizontal flourish extending to the right.

John R. Evans
Small Business Advocate

Cc: Tom Charles, PUC Office of Communications (thcharles@pa.gov)
Colin W. Scott, PUC Law Bureau (colinScott@pa.gov)