

JOSEPH PRESTON, JR., MEMBER
PENNSYLVANIA HOUSE OF REPRESENTATIVES



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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

MEMORANDUM

TO: All House Members

FROM: Rep. Joseph Preston, Jr.

RE: Resolution to Bar Final Promulgation of a Regulation Disapproved
by the Independent Regulatory Review Commission

DATE: November 3, 2011

In the near future, I plan to introduce a concurrent resolution disapproving *Regulation No. 2772 Pennsylvania Public Utility Commission #57-269: Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets* to prevent it from being published in the PA Bulletin and taking effect. This regulation has been disapproved by the Independent Regulatory Review Commission (IRRC) on two occasions.

On June 26, 2009, IRRC received a proposed regulation (57-269 Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets) from the Public Utility Commission. The proposed regulation was published in the July 11, 2009 *Pennsylvania Bulletin* with a 45 day comment period. The final form regulation was submitted to IRRC on June 24, 2011.

The regulation is intended to foster more competition for natural gas consumers as envisioned by the Natural Gas Choice and Competition Act of 1999 (66 Pa.C.S. § 2201-2212). In addition, the PUC believes the order ensures that consumers of natural gas will be able to shop for gas that is marketed on a level playing field for all market participants. Specifically, the regulation:

- Establishes a mechanism for a local Natural Gas Distribution Company (NGDC) to reallocate costs and develop a "Price to Compare" (PTC) so that customers can more easily compare gas prices between their NGDC and a competitive Natural Gas Supplier (NGS).
- Directs the NGDC to file revenue neutral reallocation of costs with the Public Utility Commission for a proceeding to determine the NGDC's PTC after the proposed regulation takes effect, and finally,
- Establishes a Purchase of Receivables Program and other provisions relating to release, assignment or transfer of capacity.

On August 25, 2011, The Independent Regulatory Review Commission disapproved Regulation #2772. The reasons cited by IRRC for disapproval include their finding that the final form regulation was (a) not in the public interest, (b) does not meet IRRC's criteria of legislative intent, (c) would cause adverse effects on clarity and competition. The PUC re-submitted their proposed regulation (without making any of the changes recommended by IRRC) and the regulation was subsequently disapproved again on November 3, 2011.

The issue of retail competition is an important one to Pennsylvania's natural gas consumers. As mandated by the General Assembly's passage of the Natural Gas Choice and Competition Act of 1999, the goal of natural gas restructuring was to provide natural gas customers with greater retail choice. Unfortunately, the PUC's proposed regulation does not do that.

Therefore, based on the comments submitted by stakeholders, including the Consumer Advocate, Small Business Advocate, and Natural Gas Distribution Companies, as well as IRRC's disapproval of the regulation, I believe there is still room for discussion. It is my hope that all interested parties will come together and ultimately produce a regulation that is in the best interest of all classes of shopping and non-shopping of natural gas customers.

If you wish to co-sponsor this resolution, please call my Harrisburg Office at 717-783-1017 or email Wendy Shearer at wshearer@pahouse.net.