
WUC

**Water Utility Council of the
PA-Section, American Water
Works Association (PA-AWWA)**



GOVERNMENT RELATIONS UPDATE

From Gmerek Government Relations, Inc.

212 Locust Street ♦ Suite 300 ♦ Harrisburg, PA 17101 ♦ Phone: 717-234-8525 ♦ Cell: 717-574-3963 ♦ Fax:
717-234-8812 ♦ Erik A. Ross, Senior Lobbyist ♦ www.ggrgov.com

Harrisburg, PA

eross@ggrgov.com

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*PA- Section, American Water Works Association
National Association of Water Companies
Water Works Operators' Association of Pennsylvania*

PUC Chairman Powelson Elected MACRUC President

On June 24, 2014, Pennsylvania Public Utility Commission (PUC) Chairman Robert F. Powelson was sworn in as President of the Mid-Atlantic Conference of Regulatory Utilities Commissioners (MACRUC).

"I'm thrilled to expand my role with MACRUC and continue to work toward advancement and uniformity of public utility regulation throughout the Mid-Atlantic region," said Chairman Powelson. "It's important to work with other state public utility commissions and federal departments to collaborate, enhance and support the public interest and our industry. I'm honored to have been chosen to lead this organization."

Chairman Powelson served as First Vice President of MACRUC from June 2013 until his recent election. He has been highly active with the organization since taking office as a PUC Commissioner in 2008.

In addition to his role with MACRUC, Chairman Powelson serves as the chair of the National Association of Regulatory Utility Commissioners (NARUC) Committee on Water. In addition, he has

been appointed to represent that committee on NARUC's Task Force on Climate Policy. He also is a member of the NARUC Committee on Critical Infrastructure and a member of the NARUC Subcommittee on Nuclear Issues-Waste Disposal.

Chairman Powelson has served on the Pennsylvania PUC since June 2008, when he was first nominated by Governor Edward G. Rendell to fill the remainder of an unexpired term. The Senate unanimously confirmed Chairman Powelson to serve as Commissioner in June 2008, and he was re-nominated by Governor Rendell for a full five-year term on Feb. 12, 2009, once again being unanimously confirmed by the Senate.

In February 2011, Governor Tom Corbett appointed Powelson PUC Chairman, and his re-nomination for a second five-year term was unanimously confirmed in March 2014. His term will expire April 1, 2019.

Chairman Powelson also serves as a member of the Marcellus Shale Advisory Commission and previously served as President of the Chester County Chamber of Business & Industry from 1994 to 2008.

Chairman Powelson holds a Bachelor of Administration degree from St. Joseph's University

and a Master of Governmental Administration degree from the University of Pennsylvania, with a concentration in public finance. In 2013, Chairman Powelson was nominated to serve on the Board of Trustees at Drexel University.

The PUC balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

For recent news releases and video of select Commission proceedings or more information about the PUC, visit our website at www.puc.pa.gov. Follow the PUC on Twitter - @PA_PUC for all things utility. "Like" PAPowerSwitch on Facebook for easy access to information on electric shopping.

Source: PUC Press Release, 6/24/2014

EPA Orders Pennsylvania Municipalities to Improve Stormwater Management; Improvements will help protect local streams in 85 communities

On June 24, 2014, the U.S. Environmental Protection Agency announced that it has sent orders to 85 municipalities in north central and northeast Pennsylvania requiring improvements to their programs for managing stormwater. EPA issued the orders to augment Pennsylvania's efforts to ensure effective stormwater management programs are in place to improve water quality in local streams and the Chesapeake Bay, which is downstream of most of the towns cited by EPA.

"In this age of changing climate and more frequent and severe weather events, managing urban stormwater is essential for protecting and restoring the waterways in our communities," said

EPA Regional Administrator Shawn M. Garvin. "Our objective in issuing these orders is to build on the work being done by the Commonwealth of Pennsylvania, and bridge any gaps in making it clear to the municipalities that they need to do a better job of implementing their programs for controlling stormwater runoff."

The federal Clean Water Act requires the cited municipalities to develop and implement a program to reduce contamination of stormwater runoff and prevent illegal discharges of stormwater.

EPA's orders also require the cited municipalities to correct deficiencies with their respective Municipal Separate Storm Sewer System (MS4) programs and to come into compliance with their Clean Water Act stormwater discharge permits. MS4s are publicly-owned drainage systems, including storm drains, pipes, and ditches, which are designed to collect and convey stormwater runoff in urbanized areas.

Urbanized areas generally contain large portions of impervious surfaces such as roads, rooftops and parking lots that channel stormwater directly into local streams, rivers, and other water bodies. Improperly managed stormwater runoff from urbanized areas can cause flooding and significant erosion, damage streams, and carry excessive nutrients, sediment, metals, volatile organic compounds, and other pollutants downstream.

The orders provide information to the municipalities regarding how to assure compliance with MS4 requirements of the Clean Water Act. For more information about Municipal Separate Storm Sewer Systems (MS4s) visit:

<http://cfpub.epa.gov/npdes/stormwater/munic.cfm>.

The municipalities receiving the orders are:

Carbon County
Bowmanstown Borough
Lower Towamensing
Weissport Borough

Centre County
College Township
Harris Township
Patton Township

State College Borough

Franklin County

Old Forge Borough

Lackawanna County

Taylor Borough

Clarks Summit Borough

South Abingdon Township

Clarks Green Borough

Dickson City Borough

Dunmore Borough

Blakely Borough,

Throop Borough.

Ransom Township

PSU Scranton

Moosic Borough

Abington Township

Scranton City

Scott Township

Lehigh County

Catasauqua Borough

Slatington Borough

Whitehall Township

Macungie Township

Upper Milford Township

Salisbury Township

South Whitehall Township

Emmaus Borough

Alburtis Borough

Weisenberg Township

Luzerne County

Duryea Borough

Edwardsville Borough

Wilkes-Barre Township

Plymouth Borough

Larksville Borough

Sugar Notch Borough

Ashley Borough

DuPont Borough

Jenkins Township

Avoca Borough

Warrior Run Borough

Laflin Borough

Dallas Borough

Swoyersville Borough

Exeter Borough

Wyoming Borough

Pittston Township

Nanticoke City

Newport Township

West Wyoming Borough

Foster Township

Hazleton City

West Pittston Borough

Kingston Borough

Bear Creek Township

Wilkes-Barre City

Laurel Run Borough

Plymouth Township

Hughestown Borough

Dallas Township

Lehman Township

Luzerne & Northampton County

Jackson Township

Fountain Hill Borough

Lower Saucon Township

Lower Nazareth Township

Hanover Township

Lycoming County

Old Lycoming Township

Montoursville Borough

Loyalsock Township

Williamsport City

Northampton County

Allen Township

Northampton Borough

Walnutport Borough

Bangor Borough

Lower Mt. Bethel Township

Pen Argyl Borough

Freemansburg Borough

Williams Township

East Allen Township

Easton City

Bushkill Township

Plainfield Township

Hellertown Borough

Northampton County

Wind Gap Borough

Forks Township

Hanover Township

Source: EPA Press Release, 6/24/2014

DEP Announces Energy Development Authority Funding Workshops in North Central PA

The Department of Environmental Protection (DEP) invites non-profit corporations, schools, colleges and universities, and local governments, public corporations, for-profit businesses and authorities to attend one of three Pennsylvania Energy Development Authority (PEDA) funding workshops in north central Pennsylvania.

On June 12, Governor Corbett announced an estimated \$12.5 million is now available through PEDA to provide funding for the deployment of advanced energy projects and for businesses interested in locating or expanding their alternative energy manufacturing or production operations in the commonwealth.

PEDA anticipates awarding approximately \$10 million for renewable energy projects such as wind, hydropower, solar, and biomass, along with demand management measures including energy recovery, energy efficiency, and load management. This is the first financial assistance offering since 2010 by PEDA, an independent public financing authority created in 1982. The authority's mission is to finance advanced energy projects in Pennsylvania.

The free informational workshops, all with the same content, are being held to assist potential applicants learn more about PEDA funding eligibility and requirements. Presentations will include a demonstration of the online eGrants application process. The deadline to apply for grant money is Aug. 15.

The workshops will be held from 10 a.m. until noon, at the following locations:

- Monday, July 14, at the Centre County Recycling and Refuse Authority Interpretive Center, 253 Transfer Road, Bellefonte, Centre County;

- Wednesday, July 16, at the Northumberland County Administration Center, 399 S. 5th St., Sunbury, Northumberland County; and
- Thursday, July 17, at DEP's North-central Regional Office, 208 W. 3rd St., Williamsport, Lycoming County.

Seating is limited and the deadline to register is July 10. To register, please provide attendee's name, organization, email, and workshop date to DEP North-central Energy Manager Michelle Ferguson, at miferguson@pa.gov, or by calling 570-327-3783.

To learn more about the PEDA program, visit www.dep.state.pa.us, keyword: "Pennsylvania Energy Development Authority."

Source: DEP Press Release, 6/24/2014

Pennsylvania Native Wins Prestigious EPA Award for Protecting Wetlands

Regina Poeske, a resident of Doylestown, Pa., and the Wetlands Ecologist for the U.S. Environmental Protection Agency, received the Edward T. "Red" Heinen Wetlands Award, EPA's most prestigious national award recognizing superior work to protect wetlands.

The award is named after a highly respected leader from the formative years of EPA's Wetlands Program. It is presented annually to the person from EPA's nationwide Wetlands Program who best exemplifies the high standards and personal dedication to wetlands protection that characterized Red's years with EPA. It acknowledges those people whose work and attitude best contributes to EPA's environmental and public service goals.

"Regina is a tireless champion of wetlands protection here in the mid-Atlantic region, and her expertise is often requested during the development of national wetlands protocols," said EPA Regional Administrator Shawn M. Garvin. "Her scientific knowledge, leadership abilities and consensus-

building skills have helped minimize negative impacts to wetlands in every corner of our region."

During her 25-year tenure at EPA, Regina has served on national teams on emerging issues in data analysis, participated in national pilot projects aimed at assessing the impacts to wetlands, tackled contentious wetland issues, and worked to make sure that environmental justice issues were addressed in EPA's work.

"I have a passion for wetlands and for working with cutting edge researchers to integrate science into our practical management of wetlands," Regina said.

Highlights of Regina's career include the King William Reservoir in Virginia, and critical support to the National Wetlands Monitoring and Assessment Program.

She has provided environmental impact analysis training internationally to the African nations of Mali, South Africa and Morocco. Regina has also educated foreign students invited to the U.S. for wetlands training.

Poeske is a 1981 graduate of Archbishop Wood High School in Warminster, and a 1985 graduate of Stockton State College in Stockton, N.J. where she received a bachelor of science degree in Marine Science.

EPA's mid-Atlantic region includes Pennsylvania, Delaware, Virginia, West Virginia, Maryland and the District of Columbia.

Source: EPA Press Release, 6/24/2014

House Passes Eminent Domain Legislation – SB 1096

On June 27, 2014, the House of Representatives passed Senate Bill 1096 by a vote of 179 to 23.

[Senate Bill 1096](#) (White-R) amends Title 26 (Eminent Domain) further providing for limited

reimbursement of appraisal, attorney and engineering fees by adding that the limit of \$4,000 shall be per property, except where the taking is for an easement related to underground piping for water or sewer infrastructure, in which case the reimbursement is limited to \$1,000.

The bill would change two areas of concern to municipal authorities whose costs of reimbursing these fees has significantly increased, especially in cases where infrastructure improvements and/or expansions to storm water, drinking water and sewage projects are necessary or mandated by the Department of Environmental Protection (DEP). As a result, the increased fees have led to higher projects costs, which ultimately lead to increased rates for customers.

As the current law is written and interpreted, costs to property owners challenging eminent domain is reimbursed per owner of the property, as opposed to per property. For example, the current amount of money that can be reimbursed toward reasonable expenses actually incurred for appraisal, attorney and engineering fees is \$4,000. However, if more than one owner is listed on the title to the property (i.e. a married couple), reimbursement doubles to \$8,000. This legislation would limit reimbursement to \$4,000 per property, regardless of right, title or interest, which clarifies the original intent of the law.

Additionally, this legislation would limit reimbursement for easements related to underground piping for water or sewer infrastructure to \$1000, regardless of right, title or interest. Currently, some authorities are finding it financially impossible to implement necessary sewer and water projects due to the increased fees. It is important to distinguish the nature of these takings/easements from other proceedings.

The bill now goes to the Governor for his consideration.

Source: Gmerek Government Relations

House Passes Water Well Construction Standards – HB 343

On June 27, 2014, the House of Representatives passed House Bill 343 by a vote of 164 to 38.

[House Bill 343](#) (Miller-R) amends Title 27 (Environmental Resources), in conservation and natural resources, providing for water well construction standards. Specifically, the legislation directs the Environmental Quality Board (EQB) to adopt the construction and decommissioning standards proposed by the American National Standards Institute/National Ground Water Association.

The bill now goes to the Senate for its consideration.

Source: Gmerek Government Relations

House Approves Baker’s Bill to Improve Public Safety of PA One Call Law

With more than 6,000 utility line hits being reported each year, it is clear better enforcement of the state’s PA One Call Law needs to take place in order to ensure public safety. Legislation to address this issue, authored by Rep. Matt Baker (R-Bradford/Tioga), was approved by the House on June 27, 2014 and now goes to the state Senate for consideration.

“Utility line hits often take place when homeowners, facility owners or excavators start digging in the ground without first having called to have a utility check done. Using the One Call system is the law when using powered equipment for any excavation on a property in order to protect utility lines,” said Baker. “Underground lines that are covered by the PA One Call law include those delivering electricity, communication, gas, propane, oil, oil product, sewage, water or other service. By

reducing line hits, we can increase public safety and reduce costs needed to repair damaged lines.”

[House Bill 1607](#) will specifically transfer enforcement authority from the Department of Labor and Industry to the Pennsylvania Public Utility Commission (PUC); create a Damage Prevention Committee; remove exemptions from current law; place additional duties upon facility owners, excavators and project owners; and create an administrative process for the determination of violations and the assessment of penalties.

Baker noted that the transfer of One Call System enforcement from the Department of Labor and Industry to the Public Utility Commission is consistent with the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration’s recommendation, and also is a logical move considering the PUC already handles other similar enforcement duties. This change is also needed because, without following the federal recommendation, Pennsylvania could miss out on federal grants to support the state’s One Call System and federal pipeline safety. In 2012, the Commonwealth received nearly \$1 million in federal One Call grants.

“The changes my bill would implement are consistent with the federal government’s recommendations and would serve to improve public safety,” said Baker. “I am pleased with the support the bill received in the House and look forward to swift movement in the Senate.”

In Pennsylvania, homeowners and contractors are required to contact PA One Call by dialing 8-1-1 at least three business days prior to beginning any digging or excavation project.

Source: Rep. Baker Press Release, 6/27/2014

DEP: PA Sewage Advisory Committee Rescheduled Meeting

The Pennsylvania Sewage Advisory Committee meeting scheduled for July 9, 2014, has been rescheduled for Wednesday,

September 10, 2014, at 10:30 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg. For more information contact John Diehl at (717) 783-2941 or jdiehl@pa.gov.

Source: [PA Bulletin, 6/27/2014](#)

Marsico Fix Aims at Truck Safety

Rep. Ron Marsico (R-Lower Paxton), long-time member of the House Transportation Committee, is pleased that his amendment to comply with Federal Motor Carrier Safety Regulations regarding distracted driving by over-the-road truckers and stave off the potential loss of \$170.5 million in federal highway dollars passed the full House this week.

Marsico amended [Senate Bill 1312](#), which also would increase the maximum overall allowable length of a school bus from 40 feet to no more than 45 feet, increase the sentencing requirement for fleeing the scene of an accident involving a death, and make changes to the permitting and movement of mobile homes or modular housing units and undercarriages.

The Marsico amendment originated from the Pennsylvania Department of Transportation (PennDOT) and the Pennsylvania State Police (PSP), who identified sections within current law that require updates to come into compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) relating to commercial drivers.

These sections were:

- The hand-held mobile phone and texting prohibitions would apply to a driver of a commercial vehicle 10,001 pounds or more operating in interstate commerce and a 17,001 pound commercial vehicle or more operating in intrastate commerce. This has been federal law since September of 2010 for texting and December of 2011 for hand held phones. The PSP have been enforcing it as a federal regulation violation, but the amendment would now make it a Motor Vehicle Code violation.

- If the person is transporting property for compensation, then the hand-held phone and texting prohibitions would apply, subject to the weight requirements. However, the hand-held mobile phone and texting ban would not apply if the transportation is not for compensation (i.e. an individual leases a vehicle to move their child's belongings from Harrisburg to Richmond Virginia).

The fines are \$100 plus costs and surcharges for a driver for texting or use of a hand-held phone and \$500 for an employer who is found to have permitted or required a driver to use the device for texting or phone calls on a hand-held.

Federal regulations authorize the federal government to take punitive action against states following a final determination that the state is out of compliance. The regulation authorizes an amount up to 5 percent of the federal-aid highway funds to be withheld on the first day of the fiscal year following the first year of non-compliance. For a second year of non-compliance, the amount doubles.

"The total amount of penalties the Commonwealth would have seen without my amendment would have been upwards of \$170.5 million," said Marsico. "I couldn't allow this to happen and was pleased that we were able to take care of this fix."

The necessary changes directly relate to the safety of commercial drivers and the operation of commercial vehicles on Pennsylvania highways. On average, heavy-truck-related crashes account for approximately 11 percent of the total traffic related fatalities and 7 percent of the major injuries that occur on Pennsylvania's roads each year. In 2013, out of 1,208 fatalities, 148 deaths were the result from heavy-truck-related crashes.

"Enacting the necessary legislation will help Pennsylvania in achieving our goal of reducing fatalities and major injuries by 50 percent over the next two decades," said Marsico. "It is vital that we continue to focus on safe driving by educating the public about the deadly effects of distractions at the wheel."

The legislation will now go back to the Senate for final consideration.

Source: Rep. Marsico Press Release, 6/27/2014

Evankovich Bill Benefitting Local Governments through Public-Private Partnerships Heads to House Floor

Legislation that would allow new infrastructure investment in Pennsylvania by entering into public-private partnership (P3) agreements to build public water and sewage projects, sponsored by Rep. Eli Evankovich (R-Westmoreland/Armstrong), was approved by the House State Government Committee on June 25, 2014. [House Bill 2239](#) will next be considered by the full House of Representatives.

“My bill will offer a new financing option to our local water and sewage authorities,” said Evankovich. “Allowing P3s for water and sewage will make more money available for expansion projects and environmental compliance.”

A P3 agreement is a contract between a public sector authority and a private party, in which the private party assumes substantial financial, technical and potentially the operational risk in a project. Under Evankovich’s bill, a P3 agreement must be structured so that the taxpayers do not incur any borrowing.

“My hope is that we can move this proposal forward to unlock new investment in Pennsylvania,” added Evankovich. “For instance, I would like to see more investments into Westmoreland and Allegheny counties to address our infrastructure needs.”

If House Bill 2239 is enacted, Pennsylvania would join a number of other states that have established comprehensive P3s, including Maryland and Florida.

For more information on Evankovich and his legislative priorities, visit

www.RepEvankovich.com or www.facebook.com/RepEvankovich .

Source: Rep. Evankovich Press Release, 6/25/2014

Miller, House Committee Move to Separate Regulation of Conventional and Unconventional Gas Wells

Legislation that would separate regulation of Pennsylvania’s conventional oil and gas wells from the state’s unconventional gas wells may now be taken up on the House floor following passage by the House Environmental Resources and Energy Committee, which is chaired by state Rep. Ron Miller (R-York County).

“This bill does not excuse smaller drilling operations from having to adhere to strict standards,” Miller said. “We are simply separating the two entities and excusing shallow well drillers, many of whom have been in the business for decades and could easily be classified as mom-and-pop businesses, from specific regulations that place a financial and operational burden on them and are specifically tailored to unconventional well operations.”

[House Bill 2350](#) would require Pennsylvania’s Environmental Quality Board (EQB) to separate the drilling, alteration, operation and plugging regulations of the two types of wells. While current law clearly defines the difference between these two wells, they share most of the same regulatory framework.

“There were allegations in committee that this will let smaller well owners off the hook,” added Miller. “If anything, this will allow EQB to create regulations exclusively for conventional wells.”

The committee also passed [House Bill 2354](#), which would give the state Legislature a voice in deciding energy policy.

“This bill would bring to a vote in the state House and Senate the Department of Environmental

Protection’s plan to regulate carbon dioxide emissions before it goes to the federal government,” Miller commented. “The citizens of Pennsylvania would essentially have a voice in deciding this issue, which impacts not only our environment, but our economy and employment picture.

“It will give Pennsylvania the flexibility to do what 11 other states have done in empowering their citizens with the ability to take their energy future into their own hands.”

The committee also unanimously passed the following bills dealing with different aspects of drilling:

[House Bill 402](#) – Would require oil and gas producers, upon termination or cancellation of a lease, to deliver to the owner a recordable release. The legislation would address instances where landowners require a release in order to enter into a new lease with a different natural gas company.

[House Bill 2278](#) – Would require unconventional well operators to report production data to the Department of Environmental Protection on a monthly basis. Biannual reporting is currently required.

Both bills are on the House voting calendar for later in the week.

Source: Representative Ron Miller Press Release, 6/25/2014

Senate Environmental Committee Approves Three Bills

On June 25, 2014, the state Senate Environmental Resources and Energy Committee, chaired by Senator Gene Yaw (R-23), approved three bills.

[Senate Bill 1310](#) (Hutchinson) - Establishes the Penn Grade Crude Development Advisory Council, which will study existing regulations and assist the Department of Environmental Protection in making changes that better address the differences between

conventional and unconventional oil and gas production. (Approved 10-1)

[Senate Bill 1378](#) (Scarnati) - Directs the Environmental Quality Board (EQB) to differentiate regulations relating to conventional oil and gas wells and unconventional gas wells in this Commonwealth. (Approved 7-4)

[Senate Bill 1443](#) (White) - Amends the Indigenous Mineral Resources Development Act to clarify the definition of “State-owned land” and “State system land” to mean surface and subsurface land and any rights therein. (Approved 10-1)

All three legislative measures now move to the full Senate for consideration.

Source: Senator Yaw Press Release, 6/25/2014

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This newsletter provides general information, not legal advice as to any specific matter. It should not be used as a substitute for appropriate legal advice.