

- **Zimmerman Testimony – House Consumer Affairs Committee,**  
**Sept. 2, 2015**
- Thank you, Mr. Chairman and members of the committee.
- I appreciate this opportunity to you speak about my legislation, House Bill 1349, which would enact important protections for Pennsylvania's farms and landfills as it relates to the Alternative Energy Portfolio Standards Act.
- As you know, last year, the Public Utility Commission began a rulemaking process to restrict the size of alternative energy systems, including anaerobic digesters.
- This new rule would significantly reduce the current benefits afforded family farms that utilize anaerobic digesters throughout Pennsylvania, threatening the Chesapeake Bay Watershed and creating additional and unnecessary financial burdens for agricultural operations.
- The Lancaster County delegation, along with many other members of the General Assembly, as well as the Departments of

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Environmental Protection and Agriculture, all filed comments discouraging the PUC from pursuing this wrong-headed rule.

- Anaerobic digesters turn farm and municipal waste – biomass, sewage and plant byproducts – into electricity.
- By doing so, digesters prevent excess nutrients running off into our waterways, limit what is put into landfills and provide renewable electricity to the grid for public use.
- Digesters prevent nutrients from being spread in fields and washed down into the Chesapeake Bay.
- The farms that can make use of digesters are fairly large and have lots of animals.
- Digesters allow these farms to meet the mandatory nutrient management plans that must be approved by the conservation district.

- It really is a win-win – digesters help farms meet environmental regulations and really improve the water quality of our streams, rivers and estuaries.
- Without the digesters, these farms would need to spread more nutrients over their fields, leading to runoff, which we all know is harmful to the Bay.
- When the General Assembly passed the Alternative Energy Portfolio Standards Act (“AEPS”), which was enacted by a strong bipartisan vote of 161-35 in 2004, the intent was to encourage development of environmentally responsible energy and provide additional power to our grid.
- This green energy portfolio includes digesters, wind power and solar power and is needed to meet federal requirements.
- However, the PUC, under their current rulemaking, is seeking to undue the progress we have made.

- They want to reduce how much farmers are getting paid and have determined the best way to do that is to limit the size of the digesters.
- The Commission has said that there are farmers “acting like a utility or merchant generator” and that they are reaping, “excessive retail rate subsidies.”
- However, what the PUC is attempting to do is to re-write the AEPS without going through the legislative process.
- By doing so, they are usurping a jurisdiction of the General Assembly
- I maintain the PUC does not have the authority to restrict the size of these alternative energy systems because the AEPS sets forth what the maximize size limitations are.
- If the PUC wishes to reduce those limits, the most appropriate way to do that is *not* through a rulemaking that creates additional limits not supported by the law.

- The appropriate method is to come to members of this committee – and all the elected members of the General Assembly – and make their case for why changes are necessary.
- In fact, I will note that the PUC each year submits a report to the General Assembly on the AEPS.
- Interestingly enough, the Commission has never once raised the digester size as an issue which deserved to be addressed.
- Let's take a practical look at the real life impacts of the PUC's action.
- Columbia Borough is looking to replace its aging sewer treatment plant with a digester.
- Instead of building another costly treatment plant, the borough's elected leaders believe a digester would be the best use of taxpayer money as it not only provides energy and revenue to the borough, but it can also utilize biomass from nearby operations such as Turkey Hill Dairy.

- But, the borough mayor has told me that the PUC 's misguided efforts have put those plans on hold.
- Digesters also keep many family farms economically viable by enabling them to produce their own power to run their operations or sell to the grid.
- In Mount Joy, a 1,000-plus acre farm run by Mike and Tony Brubaker is known for its environmental innovation, including its waste-to-energy manure digester and solar panels that produce net energy gains.
- They are concerned that if the PUC is successful in restricting digesters, it could imperil many of the family-owned farms that are a source of pride for Lancaster County and across Pennsylvania.
- The whole idea behind AEPS was to diversify our energy portfolio by encouraging individuals and private businesses to embrace renewable energy.

- In that respect, AEPS has not only been very successful, it has allowed family farms to survive and thrive. It makes no sense that the PUC would try to undermine it like this.
- In fact, on June 10, the Environmental Protection Agency (EPA) issued its interim report on the progress of the District of Columbia and the six states – Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia – that are tasked with reducing pollutants into the Bay.
- Specifically, the report was on these jurisdictions meeting their 2012-13 Milestones and Watershed Implementation Plan goals.
- Of the six states plus Washington, D.C. that are in the Bay's watershed, Pennsylvania is the only one lagging behind.
- Specifically, the EPA report flags Pennsylvania for failing to hit goals in the agriculture and stormwater areas.
- To stay on track, the EPA said farms would have to greatly reduce nitrogen pollution this year.

- That means we need more digesters, not less.
- I respectfully ask the committee to study House Bill 1349 and move it to the full House at the earliest opportunity.
- Thank you.

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**Pennsylvania Waste Industries Association**  
122 State Street, Harrisburg, Pennsylvania 17101

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August 31, 2015

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Rep. Robert W. Godshall  
Chairman of the House Consumer Affairs Committee  
Room 151 Main Capitol  
P.O. Box 202053  
Harrisburg, PA 17120-2053

**Re: Support for House Bill No. 1349**

Dear Representative Godshall:

I am writing to affirm the strong support of The Pennsylvania Waste Industries Association (PWIA) for passage of House Bill No. 1349.

PWIA represents private-sector waste haulers, recyclers, and landfill operators. Our primary mission is to promote the efficient, environmentally safe management of solid waste, including advocating for sound public policy affecting its management.

Our understanding is that HB 1349 preserves the capacity limits, established by the General Assembly during its 2007 amendment to the Alternative Energy Portfolio Standards Act ("AEPS"), applicable to those renewable energy sources fueled by biologically generated methane gas seeking to participate in the net metering program. It is our further understanding that this legislation is necessary because last year, the Public Utility Commission (PUC) began a rulemaking process, opposed by the Departments of Environmental Protection and Agriculture, farmers, clean energy advocates, members of the renewable energy industry, along with many members of the General Assembly, to restrict the size of those systems.

The PUC's proposed restrictive limitations will severely undermine the purposes of the AEPS. The limitations are against sound public policy, and are wasteful. Without action by this Committee and the General Assembly, the PUC's proposed regulations will result in biologically generated methane gas from landfills being combusted in flares with no energy or economic recovery. It will result in an end to all future digester construction in the commonwealth, which means farmers will lose an important tool to handle manure in the most environmentally-responsible manner, hamper achieving Chesapeake Bay water quality standards and Clean Power

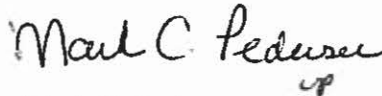
Plan compliance, and remove an important revenue source for farming operations.

The landfill industry in Pennsylvania produces approximately 170 MW of electricity per hour from the collection and control of landfill gas generated during the decomposition of waste. Almost all of this capacity was constructed and operated without the net metering program. Nationally, Pennsylvania is second behind California in the beneficial use of landfill gas. However, over 20% of all Pennsylvania landfill gas is not currently capable of being beneficially used, and is combusted in flares with no energy or economic benefit.

For the most part, no additional projects using landfill gas will occur in Pennsylvania without a continuation of the net metering program as it is currently configured. These pending projects, even with "free" fuel (landfill gas), cannot be economically constructed and operated due to a combination of low wholesale electricity prices and poor economies-of-scale (due to the fact that most of the remaining unutilized landfill gas is at smaller landfills with lower landfill gas generation rates). Net metering is the only tool that will allow the remaining 20% of landfill gas, a waste by-product of landfills, to be used for the generation of renewable energy, benefitting landfill owners, the public at large, and the environment.

PWIA strongly supports passage of HB 1349 and we would like this correspondence entered in to the official committee hearing record. We also believe that a slight change to the wording of the bill (see attached) would further the purposes of the bill, particularly given PUC's past actions on this issue.

Very truly yours,



Mark C. Pedersen  
President

Rep David Zimmerman (via email--[DZimmerman@pahousegop.com](mailto:DZimmerman@pahousegop.com))  
Attachment

**Attachment to PWIA Letter Dated August 31, 2015**

**PWIA'S PROPOSED LANGUAGE FOR INCLUSEION IN CAPITAL BOLDFONT.**

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in restructuring of electric utility industry, further providing for additional alternative energy sources; and abrogating or repealing provisions relating to the production of electrical power from biologically derived methane gas.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2814 of Title 66 of the Pennsylvania Consolidated Statutes is amended by adding a subsection to read:  
§ 2814. Additional alternative energy sources.

(d) Biologically derived methane gas.--Notwithstanding any other law, the commission may not limit the nameplate capacity, THE ABILITY TO PARTICIPATE IN THE NET METERING PROGRAM AS A CUSTOMER-GENERATOR BASED ON ANY LIMITATION OTHER THAN THAT EXPLICITLY SET FORTH IN THE DEFINITION OF "CUSTOMER-GENERATOR" IN THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT, and the production of electrical power from biologically derived methane gas, including methane from the anaerobic digestion of organic materials from yard waste, such as grass clippings and leaves, food waste, animal waste and sewage sludge and landfill methane gas.