Ohio River Valley Water Sanitation Commission
5735 Kellogg Avenue
Cincinnati, OH 45230

RE: ORSANCO’s Triennial Review of Pollution Control Standards

Feb. 23, 2018

I am writing on behalf of the Pennsylvania Chamber of Business and Industry (PA Chamber), the largest, broad-based business advocacy organization in the Commonwealth. Our nearly 10,000 member companies are involved in all industrial categories and are of all sizes. On behalf of these businesses, we welcome the opportunity to respond to the Department’s invitation for public comments concerning the development of the Ohio River Valley Water Sanitation Commission’s (ORSANCO) Triennial Review of Pollution Control Standards.

The PA Chamber has been actively and positively involved throughout the past 15 years or more in working with other stakeholders in helping to frame workable approaches to addressing the water quality challenges of the state. As the PA Chamber has expressed in our previous comments on various legislation regarding water policy, DEP and EPA proposed rulemakings, and proposals from interstate water basin commissions for the Ohio, Delaware and Susquehanna rivers, the Chamber and its members recognize that development, use and stewardship of the state’s water resources is vital to the health and success of the communities, industries and enterprises throughout the state. That stewardship of our water resources requires a thoughtful balancing of environmental and economic considerations. It is with this perspective that we offer the following comments.

ORSANCO Should Adopt Alternative #2 (Clean Water Alternatives to ORSANCO PCS Rules)

ORSANCO was created seventy years ago when there was not a comprehensive state and federal framework to regulate water quality in interstate waters. Its creation predated the enactment of the federal Clean Water Act and the formation of various state regulatory agencies as they exist today. ORSANCO’s role at the time was to establish and coordinate regional water quality efforts. A substantial and effective regulatory framework has since been put into place at the state and federal level, resulting in considerable reductions in pollutant loadings into the Ohio River basin and substantially improving water quality.

Every state in the Ohio River basin is carrying out federally-enforceable water quality efforts and, in cases like Pennsylvania, implementing regulatory criteria that are more stringent than federal rules (for example, with respect to protection, mitigation and compensation of wetland resources and with respect to some various in-stream water quality criteria and point source discharge regulatory obligations). The goals that ORSANCO was originally designed to achieve are being met by these state programs, and we do not believe the existing Pollution Control Standards (PCS) add much value or environmental benefit. What the PCS do is lead to confusion on the part of states, which must incorporate them into statewide permitting structures, and on the part of the regulated community, who do not have an effective way to question, appeal or challenge the appropriateness of the underlying PCS.
Therefore, the PA Chamber believes that the best and proper role for ORSANCO is to focus its efforts on scientific research and technical information gathering, rather than developing and implementing duplicative and unnecessary water quality regulations. We understand the Commissioners of ORSANCO have developed several proposals for how to move forward with PCS. Of these, we believe the second approach, Clean Water Alternatives to ORSANCO PCS Rules, is the best framework for all parties involved.

The Commission is satisfying its duties established under the ORSANCO Compact (and the water quality goals the Compact was designed to achieve) to find that the bulk of the existing PCS are no longer necessary in light of existing state and federal law. Pennsylvania has an extensive and robust set of water quality criteria that sets stringent limits on point source discharges; these criteria will not be relaxed under Alternative #2. Further, we believe that the resources expended by ORSANCO that in essence overlap with existing state and federal programs could be better expended on research and assessment of water quality and biological integrity of the Ohio River. Finally, we understand that the beneficial uses of the Ohio River are being achieved throughout the basin with a small number of exceptions that are already being addressed through state agency’s implementation of state and federal water quality laws and regulations.

In closing, we believe that Alternative #2 is the best approach for the Commission, the states and the regulated community. Each of these stakeholders, whether public or private, must and should continue to evaluate how existing resources should be best deployed to achieve the desired outcomes. As such, after review of the six proposed approaches, Alternative #2 is a framework that eliminates duplicative, burdensome and unnecessary water quality rules and that will not sacrifice environmental quality in the basin.

We appreciate your consideration of these comments and look forward to continuing to work with the Commission on further policy.

Sincerely,

Gene Barr
President and CEO

CC:
The Honorable Patrick McDonnell, Secretary of DEP & Commissioner, Ohio River Valley Water Sanitation Commission
Ms. Jennifer Orr, Director of the Office of Compacts and Commissions and Alternate for Secretary McDonnell
Mr. Charles Duritsa, Commissioner, Ohio River Valley Water Sanitation Commission