Regulatory Analysis Form

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IRRC

Independent Regulatory Review Commission

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SECTION I: PROFILE

(1) Agency:

Pennsylvania Public Utility Commission

(2) Agency Number:

Identification Number: L-00060182/57-265

IRRC Number: 2743

(3) Short Title:

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14; General Review of Regulations.

(4) PA Code Cite:

52 Pa. Code Section 56.1 *et seq.*

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Daniel Mumford, Bureau of Consumer Services (717) 783-1957

Secondary Contact: Terrence J. Buda, Law Bureau (717) 783-3459

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- ☐ Proposed Regulation
- ☒ Final Regulation
- ☐ Final Omitted Regulation
- ☐ Emergency Certification Regulation;
  - ☐ Certification by the Governor
  - ☐ Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The Rulemaking Order amends 52 Pa. Code §§ 56.1, et seq., to implement Chapter 14, the Responsible Utility Customer Protection Act, and, if necessary, promulgates other regulations to administer and enforce Chapter 14. In addition, the Commission is taking this opportunity to review the entire Chapter 56 and make revisions when necessary given our experience and the technological advances in the industries.

(9) Include a schedule for review of the regulation including:

A. The date by which the agency must receive public comments: N/A

B. The date or dates on which public meetings or hearings will be held: N/A

C. The expected date of promulgation of the proposed regulation as a final-form regulation: N/A

D. The expected effective date of the final-form regulation: Effective upon publication in the *PaB*

E. The date by which compliance with the final-form regulation will be required: Effective upon publication in the *PaB*

F. The date by which required permits, licenses or other approvals must be obtained: N/A

(10) Provide the schedule for continual review of the regulation.

Pursuant to the Commission's statutory duty to oversee the standards and billing practices for Residential utility service, the Commission's staff is continually monitoring the practical impact of this regulation.

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

The authority for the regulation is 66 Pa.C.S. §§ 102, 501, 504-506, 1301, 1401-1418 and 1501, the Commonwealth Documents Law, 45 P.S. §§ 1201, *et seq.*, the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5, and Section 6 of Act 201.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Section 6 of Act 201 requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The purpose of this Final Rulemaking is to promulgate regulations to implement Chapter 14. This legislation seeks to eliminate opportunities for customers capable of paying to avoid paying their utility bills, and to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections. The goal of these changes is to increase timely collections while ensuring that service is available to all customers based on equitable terms and conditions. Generally, utility companies and their customers will benefit from the regulation. More specifically, the response in Paragraph (17) identifies who will benefit from the regulation. For example, gross residential write-offs for the major electric distribution companies and the natural gas distribution companies declined during the period from 2004 through 2010. Customer arrearages also declined during this period.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No person or entity will be adversely affected by the regulations.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

All jurisdictional electric utilities, natural gas utilities, steam, water, and wastewater utilities, electric generation suppliers, natural gas suppliers, and their customers. Given the extent the regulation affects utilities and the ever changing number of customers statewide, the approximate number of people required to comply is difficult to measure. However, in response to Paragraph (17) the Commission has listed the utility companies required to comply with the regulation. The Commission also provided estimates of the number of affected residential customers, as submitted by utilities to the Commission pursuant to 52 Pa. Code § 56.231, informal reporting, and from the Office of Consumer Advocate.

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Commission expects that the revised Chapter 56 provisions, many of which are already in effect through the enactment of Chapter 14, the Responsible Utility Customer Protection Act, effective December 14, 2004, will reduce uncollectible expenses for the relevant utilities. Uncollectible accounts are delinquent accounts that the utilities write off as uncollectible. This reduction in uncollectible expenses will, in turn, protect customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills but choose not to pay as normally, these costs are recovered from all ratepayers.

We first want to note that Chapter 56 has been in existence since 1978, and this is the 17th time it has been revised (the most recent previous revision was in 1998). Unlike many of the previous revisions, this pending revision was not revised upon the Commission's own initiative. Instead, the Commission was directed to promulgate this rulemaking by the General Assembly in Section 6 of Act 201 of 2004 (Chapter 14):

> *Section 6. The Pennsylvania Public Utility Commission shall amend the provisions of 52 Pa. Code Ch. 56 to comply with the provisions of 66 Pa.C.S. Ch. 14 and may promulgate other regulations to administer and enforce 66 Pa.C.S. Ch. 14, but promulgation of any such regulation shall not act to delay the implementation or effectiveness of this chapter.*

This rulemaking was intended to bring Chapter 56 requirements into compliance with Chapter 14. The primary intent of the Commission in adopting these revised rules was to simply comply with the will of the General Assembly; not to impose costly new requirements. We believe these rules fulfill this intent.

The following savings data or reduction in uncollectible accounts was provided by utility companies as part of their reporting requirements to the Commission. Gross residential write-offs for the major electric distribution companies and the natural gas distribution companies declined from $224,998,632 in 2004 to $208,120,659 in 2010. Gross residential write-offs are residential billings that are written off as uncollectible. Customer arrearages for active accounts (those whose service is still on but whose account is delinquent) declined from $490,461,007 in 2004 to $434,632,475 in 2010.
(http://www.puc.state.pa.us/general/publications_reports/pdf/Chapter14-Biennial042011.pdf
http://www.puc.state.pa.us/general/publications_reports/pdf/Chapter14-Biennial_2004RCD.pdf)

It is important to note that these positive results were achieved during an economic downturn, arguably making them even more significant. The reduction of uncollectible accounts of customers has outweighed any cost of Chapter 14 implementation, and we expect the same to continue under the Chapter 56 revisions, many of which simply incorporate the relevant Chapter 14 language.

The projected cost figures submitted by the utilities in their responses to the rulemaking were largely unsubstantiated and do not account for the ongoing savings associated with reduced uncollectible accounts and reduced customer arrearages. It is inherently difficult to provide an estimated reduction in dollar figures of a number that was not substantiated in the first place. Also, for the utilities covered by subsections L-V of the proposed rules (wastewater, small natural gas, steam heat, and customers who are victims of domestic violence), the implementation costs should be minimal since subsections L-V consist mostly of the current Chapter 56 regulations. Because we are mostly preserving the "status quo" for these entities, we do not see how significant implementation costs could be incurred. While parties have filed comments in response to the Notice of Proposed Rulemaking (NOPR) including projected costs, no party has filed comments with IRRC complaining about the cost burden. Additionally, to the extent that utilities have listed projected costs in response to the NOPR, the Commission has made changes to the rulemaking such that these costs would be eliminated altogether or otherwise significantly reduced. We have discussed each comment to the NOPR below.

We also want to point out that in addition to providing the efficiencies and cost-savings related to Chapter 14, the Commission used this opportunity to update and modernize the regulations, thus providing additional cost-saving opportunities for utilities. These include the following (and are described in more detail in Attachment Three):

- Electronic billing (56.11, 56.261)
- Electronic submission of customer-meter reads (56.12, 56.262)
- Utilities can now place charges for nonbasic services on the utility bill instead of being required to bill separately for such (56.13, 56.263).
- Utilities can now end an account with an estimated meter reading if an actual reading is not possible (56.16, 56.266)
- Electronic customer payments (56.25, 56.275)
- Electronic provision of dispute reports to consumers (56.151, 56.152, 56.381, 56.382)
- Electronic provision of public consumer education information (56.201, 56.431)
- Streamlined collection reporting requirements (56.231, 56.461)

GENERAL:

In EAP's comments to the NOPR, EAP alleges that it has quantified the cost of the proposed rules and regulations. According to EAP, if the Commission adopts the proposed rules, electric and gas rates could increase by an estimated $50 million. The proposed rules and regulations would eliminate the opportunity to remove $165 million in current collection costs. (Page 3):

IRRC also notes that EAP has estimated that this rulemaking will cost the utility industry approximately $50 million annually and this additional cost would have to be absorbed by the ratepayers of the utilities. (Page 5)

RESPONSE:

In their comments, EAP identified 6 areas that, together, would result in an estimated $50 million dollars in costs annually. The Commission responded by modifying and changing the rulemaking as indicated below. This projected number has been effectively significantly reduced.

1) ADDITIONAL WINTER SURVEYS: In response to the comments, this requirement was modified in the final as explained on page 268 of Attachment One.

2) MEDICAL CERTIFICATES: In response to the comments, this was modified by changing the payment and timing provisions at Section 56.191 to provide separate provisions for customers and applicants. Under Section 56.191, for applicants, a public utility is not required to modify or eliminate the payment required to restore service if a medical certificate is presented.

3) INFORMAL COMPLAINTS: It is not clear what EAP's specific objections are. In their comments, they object to the backlog of pending informal complaints at the Commission; but this backlog is now gone. We also incorporated the Section 1410 requirement that complainants first have to contact their utility about the disputed matter. If EAP's objections are to the 30-day/5-day response requirement to informal complaints filed with the Commission (see pages 158-159 of Attachment One); this is merely codifying long-standing practice of the Commission. We also, based on the comments,

modified the 5-day emergency requirement in the final to specify 5 business days instead of calendar days.

4) REQUIRING PAPER RECEIPTS FOR ELECTRONIC PAYMENTS: In response to the comments, this requirement was removed as explained on pages 62-63 of Attachment One.

5) PAYMENT ARRANGEMENTS FOR TERMINATED CUSTOMERS: I believe EAP is addressing the ability of the Commission to issue payment agreements for customers whose service has been terminated. PUC payment agreements are not addressed in Chapter 56; these are a matter of internal Commission procedure; not Chapter 56 regulations (as discussed in Attachment One of the NOPR at page 60).

If EAP is addressing the payment agreement obligations of utilities in cases where service has been terminated, as explained in pages 172-178 of Attachment One, this is a matter of law; specifically Section 1407 of Chapter 14.

6) THE AMORTIZATION OF PAYMENTS OVER 3-12 MONTHS: This appears to concern the amortization of make-up bills requirement at § 56.12(7). If so, we modified this section based on the comments of the parties, as discussed on pages 39-44 of Attachment One.

SPECIFIC SECTIONS WHERE COST ISSUES WERE IDENTIFIED:

§ 56.2 Definition of Electronic notification of payment:
Allegheny Power states that the receipt requirement will be very costly, potentially $ 1 million annually with little or no benefit to the customer. (page 18)

RESPONSE:

We eliminated this requirement, as discussed on page 18 of Attachment One:

> *We agree with Allegheny, PPL and PGW that a receipt for all electronic payments is not necessary because as the parties point out, not all payments are received through utility-operated systems. In addition, utilities have operated direct, pre-authorized debiting systems for years without receipts being provided. (page 18)*

§ 56.2 Definition of Household income:

Allegheny Power, Duquesne Light, FirstEnergy and PPL state that excluding unearned income intended for minors, such as social security would have a severe impact on their CAP programs. Allegheny Power claims that it would expose Allegheny Power to roughly $2.5 million more in supplemental grant money and an additional $2.0 million in shortfall amortization. (page 19)

RESPONSE:

The Commission simply mirrored the "Household income" definition found in the statute at §1403. This definition is only for the purposes of applying Chapter 56. This definition does not control/impact eligibility for CAP programs, which appears to be the main concern. CAP program eligibility is not determined by Chapter 56, instead it is determined by each company's CAP plan.

This is how we addressed this concern on pages 20-21 of Attachment One:

> *We did not intend to propose changes that would inadvertently expand CAP program eligibility, and must note that, in general, the definitions in § 56.2 are intended to apply to the application of Chapter 56 provisions, and are not intended to apply to other regulations or other programs, such as CAP or LIHEAP. That being said, we are persuaded by the comments of parties including Allegheny Power, PECO, Columbia, Allegheny Power and PGW that the proposed definition is overly broad in identifying a minor's income. (pages 20 -21)*

§ 56.11. Billing Frequency:

Allegheny Power claims that it would cost $228,000 annually to provide duplicate paper and electronic bills. Columbia reports that it would cost them $6,000 monthly. FirstEnergy, PPL and PGW also oppose a requirement to provide both paper and electronic bills to the same customer as being unnecessary and negating the benefits of electronic billing. (page 31)

RESPONSE:

We removed this requirement, as explained on page 35 of Attachment One:

> *We agree with EAP, NFG, Columbia, FirstEnergy and PGW in that we should not require a utility to provide redundant paper and electronic bills to the customer at the same time. We are not convinced that requiring duplicate bills is of any substantial benefit especially since we propose requiring both electronic and paper bills to provide the same information. Requiring such redundancy may defeat some of the purposes of electronic bills, such as the environmental benefits and cost savings. (page 35)*

§ 56.25. Electronic bill payment.

Allegheny Power objects to the requirement that they provide a paper receipt for electronic payments. This requirement could cost potentially $ 1 million annually. (page 61)

RESPONSE:

We removed this requirement, as explained on pages 62-63 of Attachment One:

> *We agree with IRRC, Allegheny Power, Columbia and NFG that automated, pre-authorized payments should be exempt from any receipt requirement. As the parties point out, these types of payments have been in place for many years and it is the financial institution involved that generates the receipt or notice. (pages 62-63)*

§ 56.36. Written procedures.

Duquesne reports that the details of credit standards can change frequently and that each tariff change can cost approximately $7,500 per filing. (page 74)

RESPONSE:

We acknowledged this concern and scaled back the tariffing requirements as explained on pages 71-72 of Attachment One. However, as we also explained, we believe that there are plenty of valid public policy reasons for retaining some of the tariffing requirements. And as we also pointed out, tariffing probably costs the same, if not cheaper, than other alternatives (such as filing separate petitions seeking "other" liability methods):

> *We agree with PPL's recommendation that utilities place in their tariffs the "other methods" per Section 1407(e) that they will use to determine an applicant's liability for outstanding accounts because, as PPL points out, the phrase "other methods" is vague. Our original proposal to require the tariffing of all methods is overly broad because it is unnecessary to itemize in the tariff the methods already provided for in this regulation and Section 1407(e), namely the use of "mortgage, deed or lease information" or "a commercially available consumer credit reporting service." However, Section 1407(e) also explicitly states that "other methods" used to determine liability must be "...approved as valid by the Commission." The tariff approval process is the most logical process to facilitate the approval of these methods. The tariff process provides the benefits of an established and standard procedure, is more efficient than requiring the filing of individual petitions with the Commission seeking permission, and provides notice to parties that facilitate the due process rights of all interested parties. No party in this proceeding has argued that the policy statement at § 56.31 has been voided by Chapter 14. § 56.31 declares that credit and deposit policies must be equitable and nondiscriminatory. Requiring the tariffing of liability standards used in the application process will bring about the transparency necessary to make sure that liability determinations are not being made in a discriminatory, inequitable manner. The purpose of a tariff is to have a utility's rules and rates in one central location, approved by the Commission, accessible to all, as to help prevent the discrimination in the application of these rules. (pages 71 – 72)*

§ 56.82. Timing of termination.

Allegheny Power, Duquesne, PPL and PGW object to including in § 56.82 any additional limitations other than those specifically mentioned in Section 1406(d). Duquesne estimates the cost of complying with these additional requirements would be $500,000 annually. PPL estimates the cost of having to staff operations on Saturday to meet this proposed requirement at $280,000 annually. (page 94)

RESPONSE:

We acknowledged this concern and modified the proposal to more closely reflect the law (Section1406(d)) as we explained on pages 95-96 of Attachment One:

> *We believe that the claims of Allegheny Power, Duquesne, PPL and PGW that these are new and costly requirements are overstated and that our intent was to merely provide guidance as to what we believe the General Assembly intended. As the CAC and PULP point out, this section assists all parties in understanding the obligations to be assumed by utilities when they avail themselves of the additional opportunities to terminate service provided by Section 1406(d). However, we are concerned that augmenting the statutory language without a more compelling reason may be inappropriate, and we will revise this section to more closely reflect the language at Section 1406(d). (pages 95 – 96)*

§ 56.100. Winter termination procedures.

Allegheny Power, Duquesne and NFG object to the proposal in § 56.100(h) to require updated survey results on January 15 and February 15 of each year. Allegheny Power states this would cost approximately $33,000 with no apparent benefit. Duquesne estimates the cost at $50,000 annually. EAP believes that the updates to the winter survey are unnecessary because requirements for monthly reporting, including monthly termination activity, and postal code categorization are already set forth in §56.231 as currently written. EAP reports that the costs of surveys can be as high as $2.1 million, which must be reflected immediately in utility rates. (page 123)

RESPONSE:

We acknowledged this concern and in response, scaled back the follow-up surveys by half. This means that the requirement will simply codify the current existing practice; no new requirement will be added. This was explained on page 132 of Attachment One:

> *Regarding our proposed paragraphs (h) and (i) that concern the annual survey of terminated accounts (commonly referred to as the winter survey), upon our review of the comments, we believe that our original proposal needs to be modified. We agree with PPL, Allegheny Power, Equitable, EAP and Columbia that the reporting of survey results by postal code, while "nice to know" as PPL points out, does present programming and reporting costs that may not be worthwhile. We also agree that our proposal to require two rounds of updated survey results*

(January 15 and February 15) is not necessary and would impose unreasonable costs. Instead, we will revise this proposal to require only one update, on February 1. This would merely codify a practice that has been in place since February 2004 and would not impose any additional costs. (page 132)

§ 56.111. General provision.

PECO and Duquesne likewise believe that "applicants" should be removed from this section with Duquesne estimating the cost of complying with this provision at $860,000 annually. (page 137)

RESPONSE:

In the revised final rulemaking, the Commission agreed with the concerns of PECO and Duquesne by qualifying the timing and payment provisions at § 56.191 so that "applicants" must meet all applicable conditions and that a public utility is not required to modify or eliminate the payment required to restore service if a medical certificate is presented, as we explained on pages 139-141 of Attachment One:

We find merit with the concerns expressed by IRRC, Allegheny Power, PECO, Columbia and Duquesne with the proposed language in this section referring to "applicants." The explicit words of Section 1406(f) cannot be disregarded. This section only refers to customers in terms of obtaining a medical certification to prevent termination. The legislative intent is expressed through the plain language of the statute. 1 Pa. C.S. A. § 1921. Moreover, this interpretation is consistent with the application of the rules for reconnection of service.

Section 1407(b) addresses the timing of Reconnection of service:

> *(b) Timing.—When service to a dwelling has been terminated and, provided the applicant has met all applicable conditions, the public utility shall reconnect service as follows:*
> *(1) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification.*
> *(2) Within 24 hours for terminations occurring after November 30 and before April 1.*
> *(3) Within three days for erroneous terminations requiring street or sidewalk digging.*
> *(4) Within three days from April 1 to November 30 for proper terminations.*
> *(5) Within seven days for proper terminations requiring street or sidewalk digging. (emphasis added)*

Although the opening sentence of this subsection includes the term "applicant", subparagraph (b)(1) clearly refers to a service restoration timeframe upon receipt of a medical certificate. A plain reading of this section reveals that medical certificates are only mentioned in Section 1407(b), the subsection that specifies the rules utilities must follow regarding the timing of the

physical restoration of service. Nothing in subsection (b) erodes a utility's rights under Section 1407(a), which permits utilities to charge reconnection fees, or 1407(c), which allows utilities to require payment of all or a portion of an applicant's outstanding balance before reconnection. Further, 1407(b) clearly states that utilities are only required to abide by the timing provisions "provided the applicant has met all applicable conditions." Thus, it is only after an applicant for service has complied with "all applicable conditions" that medical certificates play a role in the restoration of service, and that role is only to accelerate the timeframe the utility has to restore the applicant's service. The General Assembly's use of the word "applicant" within the reconnection of service section is clear evidence of legislative intent that medical certifications are only available for "applicants" to receive expedited reconnection of service. 1 Pa.C.S.A. § 1921(b).

As a result, we believe it is appropriate to retain a reference to "applicants" in § 56.111, since, as noted above, applicants can use medical certificates to expedite the restoration of service. However, we will revise § 56.191 (restoration payment and timing) to make clear that while a "customer" can use a medical certificate to get terminated service restored; an "applicant" must still meet "all applicable conditions" (whatever payment is required) before getting service restored on an expedited timeframe (24 hours). This means that medical certificates, for the purpose of preventing termination and for restoring service without payment, are only available to "customers." (refer to the definition of customer at § 56.2; where it is specified that "a natural person remains a customer after discontinuance or termination until the final bill for service is past due.").

We believe these changes are not only necessary to comply with Chapter 14, but are also sound public policy. Duquesne, the smallest of the large electric distribution companies, estimated that the costs of complying with the existing medical certificate procedures in Chapter 56 are $860,000 annually. These are costs that must be borne by all utility ratepayers, just as those same ratepayers will ultimately pay for the bad debt expense utilities accrue because of customers who abuse the termination and restoration process. We are mindful that this legislation seeks to eliminate opportunities for customers to avoid paying their utility bills, and to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections. 66 Pa. C. S. § 1402. Customers with legitimate medical conditions have ample time to provide utilities with the necessary information to ensure the continuation of service. It is only after the customer relationship is severed, that the right to use a medical certificate as a tool to guarantee the continuation or restoration of service ceases. (Attachment One, page 139-141).

§ 56.252 Definition of *Electronic notification of payment*:

Allegheny Power states that the receipt requirement will be very costly, potentially $ 1 million annually with little or no benefit to the customer. (page 196)

RESPONSE:

We eliminated this requirement, as discussed on page 18 of Attachment One:

> *We agree with Allegheny, PPL and PGW that a receipt for all electronic payments is not necessary because as the parties point out, not all payments are received through utility-operated systems. In addition, utilities have operated direct, pre-authorized debiting systems for years without receipts being provided. (page 18)*

§ 56.261 Billing frequency.

Allegheny Power claims that it would cost $228,000 annually to provide duplicate paper and electronic bills. Columbia reports that it would cost them $6,000 monthly. (page 203)

RESPONSE:

We eliminated this requirement, as we explained on page 205 of Attachment One:

> *We agree with EAP, NFG, Columbia, FirstEnergy and PGW in that we should not require a utility to provide redundant paper and electronic bills to the customer at the same time. We are not convinced that requiring duplicate bills is of any substantial benefit especially since we propose requiring both electronic and paper bills to provide the same information. Requiring such redundancy may defeat some of the purposes of electronic bills, such as the environmental benefits and cost savings. (page 206)*

§ 56.275. Electronic bill payment.

Allegheny Power objects to the requirement that they provide a paper receipt for electronic payments. This requirement could cost potentially $ 1 million annually. (page 232)

RESPONSE:

We eliminated this requirement, as we explained on page 231 of Attachment One:

> *We agree with IRRC, Allegheny Power, Columbia and NFG that automated, pre-authorized payments should be exempt from any receipt requirement. (page 233)*

§ 56.340. Winter termination procedures.

Allegheny Power, Duquesne and NFG object to the proposal in § 56.100(h) to require updated survey results on January 15 and February 15 of each year. Allegheny Power states this would cost approximately $33,000 with no apparent benefit. Duquesne estimates the cost at $50,000 annually. EAP believes that the updates to the winter survey are unnecessary because requirements for monthly reporting, including monthly termination activity, and postal code categorization are already set forth in §56.231 as currently written. EAP reports that the costs of surveys can be as high as $2.1 million, which must be reflected immediately in utility rates. (page 264)

RESPONSE:

We acknowledged this concern and in response, scaled back the follow-up surveys by half. This means that the requirement will simply codify the current existing practice; no new requirement will be added. This was explained on page 270 of Attachment One:

> *Regarding our proposed paragraphs (4) and (5) that concern the annual survey of terminated accounts (commonly referred to as the winter survey), upon our review of the comments, we believe that our original proposal needs to be modified. We agree with PPL, Allegheny Power, Equitable, EAP and Columbia that the reporting of survey results by postal code, while "nice to know" as PPL points out, does present programming and reporting costs that may not be worthwhile. We also agree that our proposal to require two rounds of updated survey results (January 15 and February 15) is not necessary and would impose unreasonable costs. Instead, we will revise this proposal to require only one update, on February 1. This would merely codify a practice that has been in place since February 2004 and would not impose any additional costs. (page 270)*

§ 56.351. General provision.

PECO and Duquesne likewise believe that "applicants" should be removed from this section with Duquesne estimating the cost of complying with this provision at $860,000 annually. (page 273)

RESPONSE:

This section of the regulation applies only to those utilities and customers that are exempt from Chapter 14 requirements. As discussed above, the Commission responded to this concern by eliminating the word "applicant" from section 56.111 and by distinguishing the payment and timing provisions between customers and applicants at Section 56.191. Regardless, we explain on pages 277- 278 that the Section 56.351 requirement does not apply to *all* applicants; only a sub-set of applicants:

> *Moreover, it was not our intent in the proposal to make medical certificates available to all applicants. It was our intent to make medical certificates available to those individuals who are seeking reconnection of service; meaning that their service must first have been terminated as*

stated in (b). This is based on the fact that Section 1407 is titled "Reconnection of service," and that to have service reconnected one's service must have been first connected and then terminated at some point. Chapter 14 clearly makes a distinction among different types of applicants and different standards are imposed on some applicants as opposed to others. For example, Section 1404(h) provides for applicants who are seeking reconnection under paragraph (a)(1) of Section 1404 up to 90 days to pay a security deposit, as opposed to other applicants, such as those that fail to establish creditworthiness under Section 1404(a)(2), who do not have 90 days to pay. It appears that the General Assembly intended applicants who are seeking reconnection of service after termination to have different standards applied to them than applicants who are seeking to establish new, initial service. This is apparent from the above cited provision at Section 1404(h) and for making medical certificates available to applicants seeking reconnection under Section 1407(b). Therefore, the use of the word "applicant" in the reconnection of service section is explicit and should not be disregarded to ascertain intent. 1 Pa. C.S. § 1921(c). (pages 277-278)

The following are estimates of the number of residential customers as submitted by utilities to the Commission as required pursuant to 52 Pa. Code § 56.231, and by informal reporting, and from the Office of Consumer Advocate, as indicated. The number of customers along with the large number of entities involved demonstrates the difficulties of providing cost estimates. Calculating the costs of compliance with so many companies and customers involved is not possible, especially given that the requirements do not equally apply to all entities. For example, competitive electric and gas suppliers who bill customers directly have to comply with Chapter 56 billing regulations; while suppliers who do not bill customers directly do not have to comply. Given that the Commission does not know who bills and who does not bill (there is no reporting requirement covering this), the Commission has no way to estimate the cost of compliance upon suppliers.

ELECTRIC DISTRIBUTION COMPANIES: 12
RESIDENTIAL CUSTOMERS (7 LARGEST COMPANIES IN 2010 BASED ON § 56.231 REPORTING): 4,903,680
Allegheny Power (West Penn Power)
Citizens Electric Of Lewisburg
Duquesne Light Company (DQE)
Metropolitan Edison Company (Met-Ed)
PECO Energy Company
Pennsylvania Power Company (PennPower)
Pennsylvania Electric Company (Penelec)
Pike County Light & Power Company
PPL Electric Utilities Inc. (PPL)
Schuylkill Haven Borough
UGI Utilities Inc.
Wellsboro Electric Company

NATURAL GAS DISTRIBUTION COMPANIES: 32
RESIDENTIAL CUSTOMERS (7 LARGEST COMPANIES IN 2010 BASED ON § 56.231 REPORTING): 2,065,216
Able Co Inc
Andreassi Gas Co
C.E. Dunmire Gas Co Inc
Chartiers Natural Gas Co Inc
Clarion River Gas (CRG Inc.)
Columbia Gas Of Pennsylvania Inc.
Corsica Gas Co
Equitable Gas Company
Herman Oil & Gas Co Inc
Herman Riemer Gas Co
Kaib & Kaib
Larkin Oil & Gas Co
Mountain Energy Ltd
National Fuel Gas Distribution Corporation
North East Heat & Light Co.
Orwell Natural Gas - Clarion River Gas Division
Orwell Natural Gas - Walker Gas Division
Peoples Natural Gas Company LLC
Philadelphia Electric Company (PECO/Exelon Company)
Philadelphia Gas Works (PGW)
Pike County Light & Power Company
Pine□Roe Natural Gas Inc
S A R Gas Co
Sergeant Gas Company
Sigel Gas Co
T.W. Phillips Gas & Oil Company
UGI Central Penn Gas
UGI Penn Natural Gas Inc.
UGI Utilities Inc.
Valley Energy
Walker Gas & Oil Co
Wally Gas Co

WATER UTILITIES: 44
RESIDENTIAL CUSTOMERS (CLASS "A" COMPANIES IN 2009 BASED ON INFORMAL REPORTING): 1,098,299
Ambler, Borough of
Appalachian Utilities Inc.
Aqua America Inc. (Aqua Pennsylvania)
Artesian Water Company
Audubon Water Company
Bethlehem, City of
Buck Hill Water Company
Chambersburg, Borough of
Columbia Water Company
Elverson Water Company Inc.
Emporium Water Company
Fairchance, Borough of
Glendale Yearound Water Company
Hanover, Borough of
Honesdale Consolidated Water Company
Houston Run Community Water System

Hyndman, Borough of
Ken Man Water Company
Lancaster, City of
Lock Haven, City of
Loren K. Dixon Water Works
Manwalamink Water Company
Marietta Gravity Water Company
Newtown Artesian Water Company
Pa American Water
Penn Estates Utilities Inc.
Phoenixville, Borough of
Pleasantville, Borough of
Republic Development Corporation
Reynolds Water Company
Sand Springs Water Company Inc.
School House Village
Schuylkill Haven Borough
Superior Water Company
Total Environmental Solutions Inc.
Twin Lakes Water Services LLC
United Water Bethel Inc.
United Water Of Pennsylvania Inc.
Utilities, Inc. - Westgate
Valley Run Water Company
Village Water Company
Wilcox Water Company
Wonderview Water Company
York Water Company

WASTEWATER: 17
RESIDENTIAL CUSTOMERS (DATA NOT AVAILABLE; NO REPORTING REQUIREMENT):
Cecil Wastewater Treatment Company
Clean Treatment Sewage Company
Delaware Sewer Company
Glendale Yearound Sewer Company
Johnstown, City of
Little Washington Wastewater Company
Loren K. Dixon Sewer Works
Manwalamink Sewer Company
PA American Water
Penn Estates Utilities Inc.
Phoenixville, Borough of
Regent Acres
Reynolds Disposal Company
School House Village
Schuylkill Haven Borough
Utilities Inc. of Pennsylvania
Wonderview Sanitary Facilities

82 Residential Electric Generation Suppliers:
827,757 residential customers as of April 1, 2011 (Office of Consumer Advocate shopping statistics).
41 Residential Natural Gas Suppliers:
208,827 residential customers as of April 1, 2011 (Office of Consumer Advocate shopping statistics).

We are also providing the web link to the most recent Chapter 14 Biennial Report that includes additional information regarding the benefits and savings from Chapter 14.
http://www.puc.state.pa.us/general/publications_reports/pdf/Chapter14-Biennial011411.pdf

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

N/A

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

Cost studies have not been conducted. However, this revision to Chapter 56 should reduce the number of complaints coming into the Commission thereby resulting in greater efficiency for completing its other functions

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	**$ N/A**	**$**	**$**	**$**	**$**	**$**
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						

State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A				

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

See above. Reducing the number of uncollectible accounts outweighs any costs of implementation. This rulemaking has already been implemented. It has been effective since December 14, 2004.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

Prior to issuing an Advance Notice of Proposed Rulemaking Order, the implementation process addressed and resolved numerous issues involving the application of Chapter 14 provisions. Written comments were filed by interested parties. Roundtable Forums were also held, and a number of implementation orders were issued. The Advance Notice enabled us to gather input from the industry, consumer groups, and advocates before drafting the proposed revisions and provided us the opportunity to conduct a general review of this Chapter to identify, modify, and/or rescind certain provisions of Chapter 56. In the Proposed Rulemaking Order, a proposed regulation was submitted for public comment. Comments were filed by approximately 24 interested parties. In the Final Rulemaking Order,

revisions were made to the proposed version based upon the public input. During this rulemaking process, the interested parties have filed or had an opportunity to file comments on five separate occasions. In addition, in response to meetings with the standing committees, and filings from interested parties, the Public Utility Commission requested that IRRC disapprove the rulemaking at its public meeting of May 19, 2011 so that the Commission could reach a consensus with all groups and respond to these additional concerns.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Final Rulemaking will implement the least burdensome requirements for implementing the provisions of Chapter 14 while ensuring the necessary consumer protections remain in place.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

No comparison was conducted. However the regulation should make Pennsylvania more efficient and not affect its ability to compete with other states.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

We revised a number of sections of Chapter 56 to remove language that contradicted the provisions of Chapter 14 at 66 Pa.C.S. §§ 1401-1418, so that the language of all sections of Chapter 56 is now consistent.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Section 56.231 will modify existing reporting requirements of Chapter 56 and requires additional reporting to comply with Chapter 14 provisions.

CDL - 1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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Copy below is hereby approved as to form and legality. Attorney General.	Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:	Copy below is hereby approved as to form and legality. Executive or independent Agencies.
BY _____ (DEPUTY ATTORNEY GENERAL)	Pennsylvania Public Utility Commission (AGENCY)	BY Bohdan R. Pankiw Chief Counsel
_____ DATE OF APPROVAL	DOCUMENT/FISCAL NOTE NO. L-00060182/57-265	6-14-2011 DATE OF APPROVAL
☐ Check if applicable Copy not approved. Objections attached	DATE OF ADOPTION June 9, 2011 BY _____ Rosemary Chiavetta TITLE Secretary (SECRETARY)	☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00060182/57-265
Revised Final Rulemaking
To Amend Provisions of 52 Pa. Code Chapter 56 to
Comply with the Provisions of 66 Pa.C.S. Chapter 14;
General Review of Regulations
52 Pa. Code, Chapter 56

The Pennsylvania Public Utility Commission on June 9, 2011, adopted a revised final rulemaking order which amends Chapter 56 to comply with the provisions of Chapter 14 of Title 66. The contact persons are Terrence Buda, Law Bureau, 783-3459 and Daniel Mumford, BCS, 783-1957.

EXECUTIVE SUMMARY
L-00060182/57-265
FINAL RULEMAKING

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14; General Review of Regulations 52 Pa. Code Sections §§ 56.1 *et seq.*

By Order entered September 26, 2008, at Docket No. L-00060182, the Commission adopted a *Proposed Rulemaking Order* which amends Chapter 56 of the Commission regulations, 52 Pa. Code §§ 56.1, *et seq*. By Order entered March 22, 2011, at this docket, the Commission adopted the *Final Rulemaking Order*. By Order entered June 13, 2011, at this docket, the Commission adopted the *Revised Final Rulemaking Order*.

The purpose of this *Revised Final Rulemaking Order* is to promulgate regulations to implement Chapter 14 (66 Pa.C.S. §§ 1401-1418, *Responsible Utility Customer Protection*). In particular, Section 6 of Act 201 requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.

On November 30, 2004, the Governor signed into law SB 677, or Act 201. This law went into effect on December 14, 2004. Act 201 amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401-1418, *Responsible Utility Customer Protection)*. Complying with the Section 6 obligation imposed by the Act is the main purpose of this rulemaking. In addition, the Commission reviewed the entire Chapter 56 to revise when necessary given our experience and the technological advances in the industries.

Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. The legislation is applicable to electric distribution

companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of $6,000,000). Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

The contact persons for this matter are Daniel Mumford, Policy Analyst, Bureau of Consumer Services (717) 783-1957, (dmumford@state.pa.us), Terrence J. Buda, Assistant Counsel, Law Bureau (717) 783-3459, (tbuda@state.pa.us) and Patricia Wiedt, Assistant Counsel, Law Bureau (717) 787-5755, (pwiedt@state.pa.us). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597, sdelbiondo@state.pa.us.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

Public Meeting held June 9, 2011

Commissioners Present:

Robert F. Powelson, Chairman
John F. Coleman, Jr., Vice Chairman
Tyrone J. Christy
Wayne E. Gardner
James H. Cawley

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14; General Review of Regulations

Docket No. L-00060182

REVISED FINAL RULEMAKING ORDER

BY THE COMMISSION:

On September 26, 2008, the Commission issued a Proposed Rulemaking Order to amend our Chapter 56 Standards and Billing Practices for Residential Utility Service to comply with Chapter 14 of Title 66 and to undertake a general review of the regulations. On November 30, 2004, the Governor signed into law SB 677, or Act 201. This law went into effect on December 14, 2004. Act 201 amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401-1418), *Responsible Utility Customer Protection.* The purpose of the Proposed Rulemaking Order was to promulgate regulations to implement Chapter 14. In particular, Section 6 of the Act requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.[1] Complying with this obligation imposed by the Act

[1] Section 6 further provides that "promulgation of any such regulation shall not act to delay the implementation or effectiveness of this chapter."

is the main purpose of this rulemaking. In addition, we are taking this opportunity to review the entire Chapter 56 and make revisions when necessary given our experience and the technological advances in the industries.

Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. The legislation is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of $6,000,000).[2] Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

In response to the disapproval order issued by the Independent Regulatory Review Commission (IRRC) of the Commission's Final Rulemaking Order adopted February 24, 2011, as well as the other comments to that order, the Commission is hereby adopting this Revised Final Rulemaking Order.

BACKGROUND

Chapter 14 of the Public Utility Code seeks to eliminate opportunities for customers capable of paying to avoid paying their utility bills, and to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections. The goal of these changes is to increase timely collections while ensuring that service is available to all customers based on equitable terms and conditions. 66 Pa.C.S. § 1402.

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[2] Small natural gas companies may voluntarily "opt in" to Chapter 14. 66 Pa.C.S. § 1403.

Chapter 14 supersedes certain Chapter 56 regulations, all ordinances of the City of Philadelphia and any other regulations that impose inconsistent requirements on the utilities. Chapter 14 expires on December 31, 2014, unless re-enacted. Two years after the effective date and every two years thereafter, the Commission must report to the General Assembly regarding the implementation and effectiveness of the Act.[3]

On January 28, 2005, the Commission issued a Secretarial Letter identifying general subject areas for discussion and encouraged interested parties to file written comments. In addition, on February 3, 2005, the Commission held a "Roundtable Forum" to address the implementation and application of Chapter 14.

Written comments were filed by the following interested parties: Energy Association of Pennsylvania (EAP), PECO Energy Company (PECO Energy), PPL Electric Utilities Corporation and PPL Gas Utilities Corporation (PPL), Philadelphia Gas Works (PGW), Aqua Pennsylvania, Inc. (Aqua), Pennsylvania-American Water Company (PAWC), Office of Consumer Advocate (OCA), Community Legal Services (CLS), Pennsylvania Utility Law Project (PULP), Pennsylvania Coalition Against Domestic Violence (PCADV), Pennsylvania Apartment Association, Housing Alliance of Pennsylvania, and American Association of Retired Persons (AARP).

Based upon our review of the comments filed by interested parties pursuant to our January 28, 2005 Secretarial Letter and the oral comments expressed at the Roundtable Forum, we issued an *Implementation Order* on March 4, 2005 that addressed seven threshold issues. Although we considered these issues to be the most fundamental, we understood that this was an ongoing process and that other implementation issues would need to be resolved in the future.

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[3] On December 14, 2006, the Commission issued the *First Biennial Report to the General Assembly and the Governor pursuant to Section 1415.* On December 14, 2008, the Commission issued the *Second Biennial Report.* On January 14, 2011, the Commission issued the *Third Biennial Report.*

Therefore, by Secretarial Letter issued June 27, 2005, we informed interested parties of the next Chapter 14 Roundtable, July 1, 2005, and established agenda items for this meeting. At this second Chapter 14 Roundtable, we again sought to engage in a discussion that promoted an exchange of ideas and views so that all interested parties would better understand differing positions and the rationales underlying them. It was intended that the parties would benefit from this discussion of the issues and assist in the effective development of procedures, interim guidelines and subsequent regulations necessary to implement the new requirements of Chapter 14.

Written comments were again submitted by the EAP, PECO Energy, PGW, OCA, CLS, and PULP. The comments were also intended to supplement oral representations at the July 1, 2005 Roundtable. Another Roundtable discussion was held on July 21, 2005 to discuss PGW-Specific Chapter 14 issues, and written comments were filed by PGW, the OCA, CLS, and PULP. On September 12, 2005, we issued the *Second Implementation Order* addressing unresolved issues identified for review and disposition as follows:

Section I – Termination/Reconnection
Section II – Payment Arrangements (PARS)
Section III – Applications – Deposits
Section IV – Protection from Abuse (PFA)/Consumer Education
Section V – PGW-Specific Issues

Thereafter, we continued to address issues at this docket number. On August 24, 2005, we issued a *Section 703(g) Order Seeking Comments* on one of these threshold issues – the interpretation of the payment agreement restrictions in Section 1405(d). On October 31, 2005, we issued the *Reconsideration of Implementation Order* (page 23) amending the *Implementation Order* by concluding "that § 1405(d) permits the Commission (in addition to instances where there has been a change of income) to establish one payment agreement that meets the terms of Chapter 14 before the prohibition against a second payment agreement in § 1405(d) applies." Finally, on

November 21, 2005, we issued a *Declaratory Order* pursuant to 66 Pa.C.S. § 331(f) that Chapter 14 does not authorize public utilities to require upfront payments greater than those amounts specified in § 1407(c)(2).

Up to this point in the implementation process, we had addressed and resolved numerous issues involving the application of Chapter 14 provisions. However, as indicated previously, we are required by the legislation to open a rulemaking proceeding. In order to facilitate the completion of our responsibility under the Act, we issued an *Advance Notice of Proposed Rulemaking Order(Advance Notice)* on December 4, 2006. This *Advance Notice* enabled us to gather input from the industry, consumer groups, and advocates before drafting the proposed revisions and provided us the opportunity to conduct a general review of this Chapter to identify, modify, and/or rescind certain provisions of Chapter 56. *See, e.g., General Review of Regulations; Advance Notice of Proposed Rulemaking,* Docket No. L-00950103, adopted April 27, 1995, 25 *Pa. B.* 2188 (June 3, 1995). We have offered all parties the opportunity to address other issues as well.

For example, we explained in the December 4, 2006 *Advance Notice* that since the most recent revision of Chapter 56, there have been technological advances including electronic billing and payment, email, the internet, etc. Parties were invited to comment as to how these technological advances should be addressed in the regulations, especially the billing and payment sections. Furthermore, we asserted that the rulemaking proceeding will also review all of our outstanding ad hoc reporting requirements for the same purpose.

In the *Advance Notice*, we recognized that Chapter 14 will necessitate significant changes to the winter termination rules at § 56.100; this is an area of crucial importance and is central to the Commission's obligation to protect the health and safety of all citizens of the Commonwealth.

Chapter 14 also changes the procedures utilities may use when screening applicants for service and credit worthiness. Related to this are provisions in Chapter 14 that expand a utility's ability to assign liability for account balances that may have accrued under the name of someone other than the customer or applicant. The Commission requested comments on these procedures of winter terminations and screening and asked for the assistance of all parties in formulating regulations to address these important areas.

The Commission sought comments on the most controversial and complex provisions of Chapter 14 identified in questions set forth in Appendix A to the *Advance Notice*. Comments were received from the following 22 parties: EAP, PECO Energy, Allegheny Power, PPL, Duquesne Light Company (DLC), the FirstEnergy Companies (FirstEnergy), PGW, Columbia Gas of Pennsylvania, Inc. (Columbia), TW Phillips Gas Company (TWP), National Fuel Gas Distribution Corporation (NFG), Equitable Gas Company Division of Equitable Resources, Inc. (Equitable), The National Association of Water Companies (NAWC), PAWC, Aqua, OCA, PULP, Action Alliance of Senior Citizens, Tenant Union Representative Network and ACORN (Action Alliance), AARP, PCADV, Women's Law Project (WLP), Women Against Abuse (WAA), and the Consumer Advisory Council (CAC). As indicated previously, we encouraged the commentators to raise any matters or issues that they feel we have overlooked or missed, including the need to revise Chapter 56 sections unrelated to Chapter 14.

PROPOSED RULEMAKING ORDER

Upon consideration of the new requirements of Chapter 14 and all of the comments received to date, we proposed the adoption of the regulations set forth in Annex A to the September 26, 2008 *Proposed Rulemaking Order*. A summary of the comments along with discussion of such were attached to this Order as Attachment One. The Order was published February 14, 2009 at 39 *Pa B* 925 and the public comment

period concluded on April 20, 2009. This action continued the process of revising our Chapter 56 regulations. As provided for under law, the Commission next sought to finalize the proposed regulations.

Comments in response to the Order were submitted by Action Alliance, Allegheny Power, Aqua, Citizens' Electric Company (Citizens), Columbia, DLC, CAC, Dominion Peoples (Dominion), EAP, Equitable, FirstEnergy , MidPenn Legal Service (MidPenn), OCA, PULP, PECO Energy, PAWC, PGW, PPL, TWP, UGI Distribution Company (UGI), United Water (United), West Philadelphia Coalition of Neighborhoods and Businesses (WPCNB), York Water (York), as well as the Independent Regulatory Review Commission (IRRC). All comments are available at the Commission's public internet domain at **www.puc.state.pa.us**, as well as IRRC's at **www.irrc.state.pa.us**.

The Commission reviewed all the comments and the issues that developed in this rulemaking and issued a Final Rulemaking Order. The interested parties have now filed or had an opportunity to file comments on five separate occasions, including the December 4, 2006 *Advance Notice*. The issues have narrowed and the Commission's final order attempted to resolve the remaining issues. Many of the issues had already been the subject of previous Commission actions and the interested parties, as I have indicated, had numerous opportunities to comment on these issues, as set forth below:

- definition of customer (First Implementation Order)
- user without contract (First Implementation Order)
- landlord winter termination (First Implementation Order)
- PUC payment agreements (Reconsideration of Implementation Order)
- curing a payment agreement to avoid termination (First Implementation Order)
- verification of households eligible for winter termination (Second Implementation Order)

FINAL RULEMAKING ORDER

By Order adopted February 24, 2011, and entered March 22, 2011, the Commission adopted a *Final Rulemaking Order*.

Our *Final Rulemaking Order* reflected changes in areas such as income definitions and CAP eligibility, winter surveys, paper receipts for electronic payments, budget billing payment arrangements, tariffs and credit scoring, etc. In some aspects, our *Final Rulemaking Order* represented substantial changes to the originally proposed amendment. We made changes in response to the issues and resolutions raised in comments by IRRC, consumer advocates and industry participants. We found merit with many of the comments and made the necessary changes.

The Commission believes that our implementation of Chapter 14 by amending Chapter 56 regulations to comply and be consistent with the statute will allow utilities to reduce their uncollectible accounts and provide additional collection tools to PGW. However, we did not draft proposed regulations that provide utilities and PGW additional methods or practices that were not specifically set forth or contemplated by the legislation. Although this was advocated by a few commentators, that is not the agency's role. The General Assembly enacted this legislation that provided these tools and the regulations implement the statute.

As previously indicated, we reviewed IRRC's comments and the *Final Rulemaking Order* attempted to address the concerns raised by IRRC. In addition, IRRC also made recommendations with respect to additional matters to be included and discussed in the Order. First, IRRC suggested that the Commission provide a section by section explanation of what revisions are being made. We addressed that request in Attachment Two, which provided a summary of the significant revisions to the *Proposed*

Rulemaking Order. In addition, Attachment Three provided a regulatory analysis of the savings and efficiencies that will result from the revisions established in the *Final Rulemaking Order*. Furthermore, the Commission anticipated minimal additional costs to utilities reflecting possible computer software changes and increased training for customer service representatives and the additional reporting requirement costs. In Section 1402, the General Assembly declared that revision of the Chapter 56 rules would be in the public interest. We believe that the following substantive changes are consistent with that declaration of policy:

- Chapter 14 expanded the ability of a utility to ask for a deposit and we implemented this change.
- Chapter 14 expanded the ability of a utility to assign liability for an account without first seeking permission from the Commission or a court.
- The Commission expanded the ability of utilities and PGW to terminate in the winter.
- The Commission made the termination notice requirements less stringent than existing Chapter 56 requirements.

IRRC also suggested a cross-reference of Chapter 14 provisions that have been incorporated into Chapter 56 regulations. We also cross-referenced where Chapter 56 provisions have been revised to incorporate Chapter 14. These cross-references were provided in Attachment Four and Five, respectively. Finally, Attachment Six cross-referenced the traditional Chapter 56 subchapters with the new subchapters covering excluded utilities and PFA holders.

The Commission made these and other changes described above and below based on its oversight authority, experience in consumer service standards for residential service, and the requirements of Chapter 14. Chapter 14 (Section 4) supersedes inconsistent Chapter 56 regulations. We believed that this Order and Annex A did not

reflect inconsistencies with Chapter 56 provisions or language. Although we amended 24 sections listed in Section 4, Chapter 56 addresses a number of topics that are not touched by Chapter 14, *e.g.*, third-party notice, 4-year statute of limitation period for outstanding bills, make-up bills, existing customer deposits, unauthorized termination of service, procedures immediately prior to termination, post-termination notices, the right to petition the Commission to terminate customers protected by the winter termination prohibitions, and all the medical emergency provisions that are consistent with Chapter 14. We do not believe that these provisions are inconsistent with Chapter 14. We also made additional changes in response to comments from IRRC and other commentators that were intended to clarify and otherwise improve the rulemaking.

On April 7, 2011, the final-form regulation was delivered to the standing Committees of the Pennsylvania Senate and House of Representatives and (IRRC).

The next stage for the regulation within the Regulatory Review Act (ACT) was review and approval at an IRRC public meeting. The regulation was scheduled for consideration and action at the May 19, 2011 public meeting. However, on May 13, 2011, the Commission issued a Secretarial Letter requesting disapproval of the regulation. The Secretarial Letter was served on all the parties to the rulemaking giving these parties an opportunity to file comments with IRRC. Notice of the May 19, 2011 public meeting was posted on IRRC's website and the parties had an opportunity to provide oral comments at the meeting.

According to Section 745.2(a) of the Regulatory Review Act, 71 P. S. § 745.2(a), the legislative intent of the Act is to encourage the resolution of objections to a regulation and the reaching of a consensus among IRRC, the standing committees, interested parties and the agency. At this final stage in the regulatory review process, we determined that it

was necessary to revise the regulation. In order to accomplish this result, it was necessary to seek disapproval of the regulation.

The Commission submitted in its Secretarial Letter that the modifications will not improperly enlarge the scope of regulation. The Commission further submitted that the final-form regulation may be inconsistent with the intention of the General Assembly in the enactment of Chapter 14. Therefore, pursuant to Section 745.7(a), we requested that the IRRC disapprove the subject regulation which would allow this agency to revise the final-form rulemaking consistent with subsection (c). The response and recommendations contemplated by the agency shall be submitted in a report to the Committees and the IRRC, within 40 days of the agency's receipt of the IRRC's disapproval order. The matters to be addressed and identified in the Secretarial Letter are set forth below:

§ 56.2	Definition of *Household Income*
§ 56.17	Advance Payments
§ 56.111	General Provision
§ 56.191	Payment and Timing
§ 56.252	Definition of *Household Income*
§ 56.267	Advance Payments
	Appendix B

On May 26, 2011, IRRC issued its Disapproval Order. In addition to the matters identified above, IRRC requested further explanation of the Commission's statutory authority for Subchapters L through V and a more detailed cost-benefit and fiscal impact analysis of the regulation. IRRC also noted that commentators have expressed concern with additional sections. IRRC's final concern related to clarity and lack of ambiguity with two sections. The Commission's Report to Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions contains the final-form regulation, the findings of IRRC, and our response and recommendations regarding the

revised regulation, including responses to the concerns expressed by IRRC and the commentators. The Commission respectfully submits that it has addressed the concerns expressed by the Independent Regulatory Review Commission in its Disapproval Order. The Commission made substantive changes to the revised final-form regulation to address IRRC's concerns, and has explained the basis for the changes in this Report. Based on the attached revised final-form regulation, the findings of the Independent Regulatory Review Commission and the Commission's response and recommendations regarding the regulation, the Commission submits that this *Revised Final Rulemaking Order* is in the public interest. This Order, Report, Attachments and Annex A will be published on the Commission's website.

CONCLUSION

Accordingly, under Sections 501, 504, and 1401-1418 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504 and 1401-1418; Sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, 71 P.S. § 732.204(b); Sections 745.5 and 745.7 of the Regulatory Review Act, 71 P.S. §§ 745.5 and 745.7; and Section 612 of the Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231-7.234, we are considering adopting the REVISED FINAL regulations set forth in Annex A, attached hereto;

THEREFORE,

IT IS ORDERED:

1. That the Commission hereby adopts the revised final regulations set forth in Annex A.

2. That the Commission hereby adopts the attached Report to the Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions (Report to IRRC).

3. That the Secretary shall submit this Order, Report to IRRC, Attachments One through Six and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review for fiscal impact.

4. That the Secretary shall submit this Order, Report to IRRC, Attachments and Annex A for review by the Legislative Standing Committees, and for review and approval by the Independent Regulatory Review Commission.

5. That the Secretary shall certify this Order, Report to IRRC, Annex A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

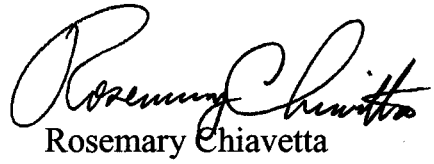
6. That the regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

7. That the Secretary shall serve this Order upon all jurisdictional electric utilities, natural gas utilities, steam, water, and wastewater utilities, electric generation suppliers, natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate, and all parties that submitted comments at this Docket. The Report, Order, Attachments and Annex A shall be posted and made available electronically on the Commission's website.

8. The contact persons for this matter are Daniel Mumford, Manager-Field Review, Bureau of Consumer Services (717) 783-1957, (dmumford@state.pa.us), Terrence J. Buda, Assistant Counsel, Law Bureau (717) 783-3459, (tbuda@state.pa.us),

and Patricia Wiedt, Assistant Counsel, Law Bureau (717) 787-5755, (pwiedt@state.pa.us). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597, sdelbiondo@state.pa.us.

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)
ORDER ADOPTED: June 9, 2011

ORDER ENTERED: June 13, 2011

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REPORT TO THE INDEPENDENT REGULATORY REVIEW COMMISSION: DISAPPROVED REGULATION SUBMITTED WITH REVISIONS

The Commission is submitting this Report to the Independent Regulatory Review Commission (IRRC) and the standing Committees of the Pennsylvania Senate and House of Representatives pursuant to Section 745.7(c) of the Regulatory Review Act, 71 P. S. § 745.7(c), and regulatory requirements at 1 Pa. Code Chapter 311 (relating to procedures for review of disapproved final regulations). The Commission has decided to revise this disapproved final-form regulation in order to respond to objections raised by IRRC and adopt this regulation with revisions. This Report contains the attached revised final-form regulation which includes the Revised Final Rulemaking Order, Annex A, and Attachments One through Six. In addition, this Report contains the findings of IRRC, and our response and recommendations regarding the final-form regulation. The regulation is identified by IRRC as Regulation No. 57-265 (#2743).

BACKGROUND

By Order adopted February 24, 2011, and entered March 22, 2011, the Commission adopted the *Final Rulemaking Order*. On April 7, 2011, the final-form regulation was delivered to the standing Committees of the Pennsylvania Senate and House of Representatives and IRRC.

The next stage for the regulation with the Regulatory Review Act (ACT) was review and approval at an IRRC meeting. The regulation was scheduled for consideration and action at the May 19, 2011 public meeting. However, on May 13, 2011, the Commission issued a Secretarial Letter requesting disapproval of the

regulation. The Secretarial Letter was served on all the parties to the rulemaking giving these parties an opportunity to file comments with IRRC. Notice of the May 19, 2011 public meeting was posted on IRRC's website and the parties had an opportunity to provide oral comments at the meeting.

According to Section 745.2(a) of the Regulatory Review Act, 71 P. S. § 745.2(a), the legislative intent of the Act is to encourage the resolution of objections to a regulation and the reaching of a consensus among IRRC, the standing committees, interested parties and the agency. At this final stage in the regulatory review process, we determined that it was necessary to revise the regulation. In order to accomplish this result, it was necessary to seek disapproval of the regulation.

The Commission submitted in the Secretarial Letter that the modifications will not improperly enlarge the scope of regulation. The Commission further submitted that the final-form regulation may be inconsistent with the intention of the General Assembly in the enactment of Chapter 14. Therefore, pursuant to Section 745.7(a), we requested that IRRC disapprove the subject regulation which will then allow this agency to revise the final-form rulemaking consistent with subsection (c). The response and recommendations contemplated by the agency shall be submitted in the report to the Committees and the IRRC, within 40 days of the agency's receipt of the IRRC's disapproval order. The matters to be addressed and identified in the Secretarial Letter are set forth below:

§ 56.2	Definition of *Household Income*
§ 56.17	Advance Payments
§ 56.111	General Provision
§ 56.191	Payment and Timing
§ 56.252	Definition of *Household Income*
§ 56.267	Advance Payments
	Appendix B

On May 26, 2011, IRRC issued its Disapproval Order. A true and correct copy of the subject Disapproval Order is appended to this report as "Exhibit A" and is incorporated herein.

DISAPPROVAL ORDER AND FINDINGS

In the Disapproval Order, IRRC first cites the Commission's acknowledgement that certain sections of the regulation may be inconsistent with Chapter 14. IRRC then cited the sections of the rulemaking identified in the Commission's May 13, 2011 Secretarial Letter. The basis of IRRC's disapproval is that without support from the promulgating agency, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P.S. § 745.5b(b)(3).

In addition to this conclusion, IRRC expressed other concerns with the rulemaking. First, IRRC requests further explanation of the Commission's statutory authority for promulgating Subchapters L through V. 71 P.S. § 745.5b(a).

Second, IRRC requests a more detailed fiscal impact analysis that includes actual dollar amounts to determine the true economic or fiscal impact the regulation will have on the Commonwealth, political subdivisions and the private sector. 71 P.S. § 745.5b(b)(1).

Third, IRRC notes that commentators have expressed concern with sections of the rulemaking not included in the Commission's Secretarial Letter of May 13, 2011. These commentators share similar concerns pertaining to the manual reading of utility meters and a utility communicating with non-English and non-Spanish speaking customers. IRRC submits that the sections cited by the commentators are as follows:

§ 56.12, pertaining to meter reading, estimated billing and customer readings

§ 56.91, pertaining to general notice provisions and contents of termination notice

§§ 56.93 and 56.333, pertaining to personal contact

§§ 56.201 and 56.431, pertaining to public information

§ 56.331, pertaining to general notice provisions and contents of termination notice.

According to IRRC, the commentators believe that the language in these sections does not adequately protect the public health, safety and welfare of the citizens of the Commonwealth. In the report submitted with our revised final-form regulation, IRRC requests that the Commission analyze the sections noted above in conjunction with the comments and explain how the regulation adequately protects the public health, safety and welfare of the citizens of the Commonwealth. 71 P.S. § 745.5b(b)(2).

Finally, IRRC expresses a concern that relates to clarity and lack of ambiguity. 71 P.S. § 745.5b(b)(3)(ii). IRRC explains that under § 56.13, a cross-reference to § 56.83(3) would improve the clarity of the regulation. Also, under § 56.36, IRRC notes the comment and response document submitted with the final regulation states that references to "customer" in subsection (b)(1) were deleted. However, IRRC points out that the references are still in the regulation.

REVISED FINAL-FORM REGULATION

A true and correct copy of the revised final-form regulation is attached in front of this report and is incorporated herein. The inclusion of the revised final-form regulation is in accordance with Section 745.7(c) of the Regulatory Review Act and IRRC's regulation at 1 Pa. Code § 311.4(1). *Although the entire final-form regulation is attached, the only changes to the final-form regulation appear on the following pages:*

5 (household income 56.2)
12 (inserted cross-reference in 56.13)
14-15 (advance payment 56.17)
22 (removed the word customer 56.36)
35 (term notice languages 56.91)
43 (med cert 56.111)
57 (med cert – restoration 56.191)

69 (household income 56.252)
75 (inserted cross reference in 56.263)
77-78 (advance payment 56.267)
83 (removed the word customer 56.286)
92 (term notice, changed reference to appendix B 56.331)
92-93 (term notice languages 56.331)
95 (post-term notice; changed reference to appendix B 56.336)
115 (appendix B)
122 (appendix F)

COMMISSION RESPONSE AND RECOMMENDATIONS REGARDING THE FINAL REGULATION

Pursuant to Section 745.7(c), this Commission has decided to revise the final-form regulation in order to respond to objections raised by IRRC in the Disapproval Order and adopt the regulation with revisions or modifications. In addition, pursuant to Section 7(c), the Commission is submitting this agency report to contain the revised final-form regulation, the findings of the IRRC and the agency's response and recommendations regarding the revised final-form. This response and recommendation is also offered in accordance with IRRC's regulation at 1 Pa. Code § 311.4(3).

First, the Commission submits that it has revised the final-form regulation to address the issues raised in the May 13, 2011 Secretarial Letter and the other objections raised by IRRC in its May 26, 2011 Disapproval Order. In summary, the definition of "Household income" will be revised to mirror the definition provided in 66 Pa. C.S. § 1403. Additional guidance as to what is not to be included in the definition will be deleted. The section on "Advanced payments" will be revised to restore the traditional prohibition on low-income customers participating in these programs. The section on medical certifications in the Emergency Provisions will be revised to restore the traditional language that allows a medical certificate to be used to restore a customer's service. In addition, the section on Payment and Timing will be revised to align it with the revisions to § 56.111, in that medical certificates may be used to restore a customer's

service that has been terminated. Additionally, the section on Payment and Timing will be revised to set forth different provisions for customer and applicant. The revisions to the definition of "Household income" and the restoration of the traditional prohibition on low-income customers participating in advance payment programs will also be made in subchapters L-V that cover small gas companies, wastewater, steam heat and PFA customers. Finally, Appendix B, the Medical Emergency Notice, attached to Annex A, will be revised to align it with the revisions in § 56.111 and § 56.191 that allow a medical certificate to be used to restore a customer's service. Given that Appendix B will apply to all customers, Appendix F (applying to small gas companies, wastewater, steam heat and PFA customers) will be removed. We have made the necessary revisions to Annex A and Attachment One to implement these revisions.

In addition, to respond to IRRC's two other concerns, we have first revised the Discussion section in Attachment One, § 56.251 Statement of purpose and policy, to provide further explanation and justification that the Commission has statutory authority for promulgating Subchapters L through V. With respect to IRRC's request that we provide a detailed fiscal impact analysis that includes actual dollar amounts to determine the true economic or fiscal impact of the regulation, we shall address IRRC's concern in the Regulatory Analysis Form, under Section III: Cost and Impact Analysis.

As indicated previously, IRRC identified additional concerns that were raised by commentators. The comments of Action Alliance of Senior Citizens and Tenant Union Representative Network (Action Alliance) raised the issue of "Automatic meter readings" and its definition in Section 1411 that "[a]ll readings by an automatic reading device shall be deemed actual readings for purposes of this title." Action Alliance believes that this statutory language would supersede and override all existing statutory provisions and Commission regulations designed to ensure accurate billings. Citing Section 1922(1) of the Regulatory Construction Act, 1 Pa. C.S. § 1922(1), Action Alliance believes that interpreting Section 1411 to override long-settled consumer protections is an absurd

result and would constitute an unwarranted repeal by implication. Action Alliance further believes that § 56.12(5) as modified in the Proposed Rulemaking Order now requires no manual, physical meter reading to ensure accuracy because, by definition, a remote reading obtained through an AMR is an actual meter reading. Action Alliance asserts that the General Assembly did not intend to relieve public utilities from their responsibility to ensure accurate billing. Finally, Action Alliance concludes that there appears to be no conflict or repugnancy between Chapter 14 and Section 1504 (Standards of service and facilities.) and Commission regulations designed to ensure accurate billing. Similarly, Representative W. Curtis Thomas believes it is absurd to not require a manual, physical meter reading to ensure accuracy.

We first want to clarify the definition of automatic meter reading (AMR). Per the definition we are providing at §§ 56.2 and 56.252, an AMR is "Metering using technologies that automatically read and collect data from metering devices and transfer the data to a central database for billing and other purposes." Basically, the meter reads itself and automatically transmits the reading (using various technologies) to the utility. An AMR system allows a utility to obtain regular meter readings without sending a company employee to physically interrogate the meter for obtaining a meter read. The technology also eliminates the need for issuing customer bills based on an estimated meter reading when the utility is not able to obtain a meter reading (for example, when a meter read is not possible because of poor weather or the meter is not accessible because it is in a basement or behind a locked fence, etc.). The cost-saving benefits for the utility, in that they no longer have to deploy meter readers, are obvious. However, customers also benefit in that they no longer receive bills based on estimated meter readings.

The commentators identified by IRRC appear to have concerns with the accuracy of AMR meters. Of course an AMR meter, like any other meter, may malfunction, rare as this may be. As a result, there are Commission regulations that address the testing, accuracy and replacement of meters (electric, refer to 52 Pa Code §§ 57.20 – 57.25; gas

§§ 59.16-59.22; water §§65.7 – 65.9). We stress that nothing in this rulemaking impacts these meter testing, accuracy and replacement standards. Concerning the accuracy of AMR meters as opposed to conventional meters, we believe this question is well beyond the scope of this rulemaking. Any party with concerns along these lines should bring the matter to the Commission in a separate proceeding.

If these commentators want AMR metering to be treated the same as "remote metering devices" under § 56.12(5), again, we believe at this point, this is beyond the scope of this rulemaking. This would in effect require examination of every AMR meter every five years. This would be a dramatic and costly expansion of current meter inspection requirements found in the above mentioned regulations. For example, the electric meter inspection requirements at 52 Pa Code § 57.20 require meters manufactured after 1940 to be tested every 8 – 20 years (depending on the type of meter). Shortening these timeframes to five years, and using this rulemaking to do so, would be inappropriate, especially given the significant costs involved and the fact that this subject was not fully aired in this proceeding. Again, if a party wants to bring this matter to the attention of the Commission, they should do so in a separate proceeding.

We believe that the General Assembly's intent in Section 1411 was clear. The General Assembly is clearly convinced of the benefits of AMR metering for both utilities and consumers, and want the cost-saving benefits and billing accuracy benefits to be fully realized. That is why Section 1411 clearly states that "All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title." We believe that any attempt by us to impose costly additional testing and inspection requirements on these metering systems would thwart the intention of the General Assembly, and would not be legally supportable.

IRRC also notes that commentators shared concerns about a utility communicating with non-English and non-Spanish speaking customers. Nationalities Service Center,

SEAMAAC, Inc., Welcoming Center for New Pennsylvanians, and the Pennsylvania Immigration and Citizenship Coalition raised this issue. The commentators identified § 56.91(b)(17), § 56.331(b)(13), § 56.201, § 56.431, § 56.93 and § 56.333 for revision. In particular, it was commented that the Proposed Rulemaking Order under § 56.91(b)(17) and § 56.331(b)(13), included termination notice information directing customers to a number to call for information and translation assistance in Spanish and in non-Spanish "languages when census data indicates a significant population using that language resides in the public utility's service territory." The IRRC recommended that the Commission clarify what constitutes a "significant population." Instead, the commentators submit that the Commission, in the final regulation, eliminated the entire non-Spanish language proposal, as follows:

(17) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. ~~Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility's service territory~~.

The commentators recommend the following amendments to the regulations at § 56.91 (b)(17) and § 56.331(b)(13):

> Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility's service territory. **A SIGNIFICANT POPULATION CONSTITUTES 5% OF PERSONS ELIGIBLE TO BE SERVED OR 1,000 MEMBERS OF THE LANGUAGE GROUP, WHICHEVER IS LESS.**

The commentators recommend the same amendment for billing information under § 56.201 and § 56.431 as follows:

> ... A public utility which serves a substantial number of Spanish-speaking [ratepayers] customers shall provide billing information in English, **[and]** in Spanish, **AND IN OTHER LANGUAGES WHEN CENSUS DATA INDICATES THAT A SIGNIFICANT POPULATION USING THE PARTICULAR LANGUAGE RESIDES IN THE PUBLIC UTILITY'S SERVICE TERRITORY. A SIGNIFICANT POPULATION**

CONSTITUTES 5% OF PERSONS ELIGIBLE TO BE SERVED OR 1,000 MEMBERS OF THE LANGUAGE GROUP, WHICHEVER IS LESS.

Finally, the commentators believe that § 56.93 and § 56.333, which describe a utility employee's personal contact with customers, should be amended to require the personal contact, whether in person or by phone, be in the primary language of the customer.

IRRC asked us to consider the comments of various parties about the utilization of languages other than English in utility communications with consumers. We first want to note that IRRC and some other parties had concerns with what the Commission proposed in our September 2008 Proposed Rulemaking Order concerning the use of other languages on 10-day written termination notices (§§ 56.91 and 56.331). We had proposed that utilities should provide taglines in other languages "when census data indicates a significant population using that language resides in the public utility's service territory." IRRC and others suggested that the requirement was too "vague," and we agreed.

We want to clarify by what the Commission intended in its original proposal. It was never intended or proposed that the entire termination notice be provided in different languages. The intent was to just include a line in the foreign language directing the reader to the phone number to call for assistance. As PPL and PGW pointed out in their comments, utilities retain foreign language translation services. The line on the termination notice would simply direct the reader to call this service for assistance. Regardless, we admitted that the original proposal was too vague, and we removed the proposed requirement in the February 2011 Final Order.

We must also note that the use of Spanish is not at issue. Current termination notices, and the proposed regulations, continue to require that termination notices contain taglines in Spanish that direct Spanish speakers where they can call for assistance. This has not been an issue of debate in this rulemaking and no change in this current practice

was ever proposed. Instead, the issue has been providing similar information in languages other than English and Spanish.

Upon reconsideration, we now believe that we can revise this requirement while at the same time making it less vague. We will do this revising § 56.91 and § 56.331 by adding to the requirement a threshold of 5% of the population, based on census data, as advocated by parties such as Action Alliance. The requirement will now read "Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5 % or more of the residents of the utility's service territory are using that language."

However, we do not agree with the recommendations of various parties to also incorporate a minimum threshold of 1,000 customers (5 percent or 1,000 customers, whichever is less). We believe that a minimum threshold of 1,000 is too low. As PECO and PGW pointed out in their comments, the City of Philadelphia has a very diverse population with many different languages being spoken. A 1,000 threshold could have the effect of requiring several different taglines on the termination notices; further crowding an already crowded 2-page written notice. PPL points out that such a requirement could even lead to an additional notice page, significantly increasing costs. Expanding the notice to a 3-page document would also not serve consumers well from a plain-language perspective. The longer a document is, the less likely it is to be fully read and comprehended. We believe the five percent threshold (1 out of every 20), is a reasonable middle ground that will help protect significant vulnerable populations while not imposing additional burdensome costs on the utilities.

Some of the parties also want us to go further still and to require the provision of 3-day personal contact termination notices (§§ 56.93, 56.333) in the language of the customer. This would require a utility, when calling or visiting a customer's residence to provide a notice of termination, to provide such in the customer's language. We believe

that this has serious practical concerns (such as necessitating the utility to somehow know and keep record of each customer's language) and cost issues, none of which have been fully aired in this proceeding. As such, we believe it is inappropriate to expand the scope of this rulemaking in this direction at this time. Furthermore, we believe this requirement is unnecessary in that, as we have discussed above, we are revising § 56.91 and § 56.331 to direct that the 10-day written notice of termination include information in other languages if five percent or more of the customer base uses that language. We believe it is more important that the 10-day *written* notice (which every customer facing termination receives) contains this information, so that the customer has the information and phone number to call in *writing,* in their language, making it less likely they will forget. The 3-day personal contact notice is not nearly as critical, especially considering that a utility only has to *attempt* to deliver a 3-day notice; meaning that not every customer facing termination actually receives a 3-day notice. As such, we believe providing the information in other languages on the 10-day *written* notice is far more effective from a public health and safety perspective, and is also the more cost-conscious solution.

Concerning the request of some of the parties that the Commission require utilities to provide other customer communications in other languages (§§ 56.201 and 56.431), we note that the current regulation and the proposed regulations require this for Spanish. However, we believe that expanding this requirement to include other languages presents significant cost issues for both utilities and the Commission. Given the costs and the fact that this issue has not been fully aired in this proceeding, we believe it is inappropriate to expand the scope of this rulemaking in this direction at this time. Parties with concerns such as these can bring them to the attention of the Commission through other proceedings. We point to the Commission's Policy Statement on Plain Language Guidelines (52 Pa Code § 69.251) as an example of possible other alternative methods of addressing concerns with utility communications.

IRRC's last concern expressed in its Disapproval Order addressed clarity and a lack of ambiguity. We agree and will cross-reference § 56.83(3) in § 56.13 and delete the reference to "customer" in § 56.36(b)(1).

CONCLUSION

The Commission respectfully submits that it has addressed the concerns expressed by the Independent Regulatory Review Commission in its Disapproval Order. The Commission made substantive changes to the revised final-form regulation to address IRRC's concerns, and has explained the basis for the changes in this Report. The Commission respectfully requests IRRC's approval of this Report, in accordance with Section 7(c.1) of the Regulatory Review Act (71 P.S. § 745.7(c.1)). Based on the attached revised final-form regulation, the findings of the Independent Regulatory Review Commission and the Commission's response and recommendations regarding the regulation, the Commission further requests that the Independent Regulatory Review Commission find that promulgation of the regulation is in the public interest.

"EXHIBIT A"

INDEPENDENT REGULATORY REVIEW COMMISSION

DISAPPROVAL ORDER

INDEPENDENT REGULATORY REVIEW COMMISSION
DISAPPROVAL ORDER

Commissioners Voting:

Silvan B. Lutkewitte, III, Chairman
George D. Bedwick, Vice Chairman
Arthur Coccodrilli
John F. Mizner, Esq., by phone
Lawrence J. Tabas, Esq.

Public Meeting Held May 19, 2011

Regulation No. 57-265 (#2743)
Pennsylvania Public Utility Commission
Standards and Billing Practices for Residential Utility Services

On February 4, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking amends 52 Pa. Code Chapter 56. The proposed regulation was published in the February 14, 2009 *Pennsylvania Bulletin* with a 65-day public comment period. The final-form regulation was submitted to the Commission on April 7, 2011.

This regulation implements that portion of the law commonly known as Chapter 14 or the Responsible Utility Customer Protection Act. It includes provisions necessary to administer and enforce Chapter 14, as well as language added as a result of the PUC's review of Chapter 56 in its entirety.

On May 13, 2011, the PUC submitted a letter that asked this Commission to disapprove the rulemaking. The PUC stated that certain sections of the regulation may be inconsistent with Chapter 14. The sections of the rulemaking cited by the PUC are:

- §§ 56.2 and 56.252, pertaining to the definition of "household income";
- §§ 56.17 and 56.267, pertaining to advance payments;
- § 56.111, pertaining to general provision;
- § 56.191, pertaining to payment and timing; and
- Appendix B, pertaining to medical emergency notice.

Without support from the promulgating agency, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P.S. § 745.5b(b)(3).

In addition, we have other concerns with the rulemaking. First, in our comments on the proposed rulemaking, we asked the PUC to explain its statutory authority for promulgating Subchapters L through V. We have reviewed the PUC's response to this comment and request further explanation of its statutory authority for Subchapters L through V. 71 P.S. §745.5b(a).

Second, our comments on the proposed rulemaking asked for a more detailed cost-benefit and fiscal impact analysis of the regulation. We appreciate the time and effort spent by the PUC in preparing Attachment Three of the final regulatory package, entitled "Revisions to Chapter 56 That Will Promote Greater Efficiencies and Cost-Savings." However, an analysis that includes

actual dollar amounts is needed to determine the true economic or fiscal impact the regulation will have on the Commonwealth, political subdivisions and the private sector. 71 P.S. § 745.5b(b)(1).

Third, commentator have expressed concern with sections of the rulemaking not included in the PUC's letter of May 13, 2011. These commentators share similar concerns pertaining to the manual reading of utility meters and a utility communicating with non-English and non-Spanish speaking customers. The sections cited by the commentators are:

- § 56.12, pertaining to meter reading, estimated billing and customer readings;
- § 56.91, pertaining to general notice provisions and contents of termination notice;
- §§ 56.93 and 56.333, pertaining to personal contact;
- §§ 56.201 and 56.431, pertaining to public information; and
- § 56.331, pertaining to general notice provisions and contents of termination notice.

The commentators believe that the language in these sections does not adequately protect the public health, safety and welfare of the citizens of the Commonwealth. In light of these comments, we question whether these sections could have a detrimental effect on the well-being of some citizens of the Commonwealth. In the report submitted with the revised final regulation, we ask the PUC to analyze the sections noted above in conjuction with the comments and explain how the regulation adequately protects the public health, safety and welfare of the citizens of the Commonwealth. 71 P.S § 745.5b(b)(2).

Our fourth and final concern relates to clarity and lack of ambiguity. 71 P.S. § 745.5b(b)(3)(ii). Under § 56.13, a cross-reference to § 56.83(3) would improve the clarity of the regulation. Also, under § 56.36, the comment and response document submitted with the final regulation states that references to "customer" in Subsection (b)(1) were deleted. However, the references are still in the regulation.

Having considered the PUC's request for disapproval of the regulation and all of the criteria of the Regulatory Review Act, we find promulgation of this regulation is not in the public interest.

BY ORDER OF THE COMMISSION:

This regulation is disapproved.

Silvan B. Lutkewitte, III, Chairman

Regulation #57-265 (IRRC #2743)
Pennsylvania Public Utility Commission
Standards and Billing Practices for Residential
Utility Services

Honorable Robert F. Powelson
Chairman

Kim Bellmer

DATE: 5-26-11

Regulation #57-265 (IRRC #2743)
Pennsylvania Public Utility Commission
Standards and Billing Practices for Residential
Utility Services

Honorable Robert M. Tomlinson
Majority Chairman

Mary Walmer

DATE: 5/26/11

Regulation #57-265 (IRRC #2743)
Pennsylvania Public Utility Commission
Standards and Billing Practices for Residential
Utility Services

Honorable Lisa M. Boscola
Minority Chairman

Stephen L. Smith

DATE: 5/26/11

Regulation #57-265 (IRRC #2743)
Pennsylvania Public Utility Commission
Standards and Billing Practices for Residential
Utility Services

Honorable Robert W. Godshall
Majority Chairman

DATE: 5/26/11

Regulation #57-265 (IRRC #2743)
Pennsylvania Public Utility Commission
Standards and Billing Practices for Residential
Utility Services

Honorable Joseph Preston, Jr.
Minority Chairman

Wendy Sheaner

DATE: 5/26/11

Annex A

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES

CHAPTER 56. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE

Subchapter A. PRELIMINARY PROVISIONS FOR UTILITIES AND CUSTOMERS SUBJECT TO CHAPTER 14 OF THE PUBLIC UTILITY CODE

§ 56.1. Statement of purpose and policy.

(a) This chapter establishes and enforces uniform, fair and equitable residential public utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. This chapter assures adequate provision of residential public utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service, while eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills and protecting against rate increases for timely paying customers resulting from other customers' delinquencies. Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages. Every privilege conferred or duty required by this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

(b) This subchapter and Subchapters B--K apply to electric distribution utilities, natural gas distribution utilities and water distribution utilities. Subchapters L--V apply to wastewater utilities, steam heat utilities, small natural gas utilities and to all customers who have been granted a Protection From Abuse (PFA) order from a court of competent jurisdiction.

§ 56.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AMR (Automatic meter reading)--

(i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii) The term does not include remote meter reading devices as defined by this section.

(III) ALL METER READINGS BY AN AMR SHALL BE DEEMED ACTUAL READINGS FOR THE PURPOSES OF THIS CHAPTER.

Applicant--[A person who applies for residential utility service.] (i) A natural person AT LEAST 18 YEARS OF AGE not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested.

(ii) The term does not include a person who[, within 60 days after termination or discontinuance of service,] seeks to transfer service within the service territory of the same public utility or to reinstate service at the same address provided that the final bill for service is not ~~due and payable~~ PAST DUE.

Basic services--Services necessary for the physical delivery of residential public utility service. THE TERM ALSO INCLUDES DEFAULT SERVICE AS DEFINED BY THIS SUBSECTION.

Billing month--A period of not less than 26 and not more than 35 days except in the following circumstances:

(i) An initial bill for a new [ratepayer] customer may be less than 26 days or greater than 35 days. However, if an initial bill exceeds 60 days, the [ratepayer] customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the initial bill without penalty.

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(iii) [In addition, bills] Bills for less than 26 days or more than 35 days shall be permitted if they result from a rebilling initiated by the company or customer dispute to correct a billing problem.

(IV) BILLS FOR LESS THAN 26 DAYS OR MORE THAN 35 DAYS SHALL BE PERMITTED IF THEY RESULT FROM A METER READING ROUTE CHANGE INITIATED BY THE PUBLIC UTILITY. THE PUBLIC UTILITY SHALL INFORMALLY CONTACT THE DIRECTOR OF THE BUREAU OF CONSUMER SERVICES AT LEAST 30 DAYS PRIOR TO THE REROUTING AND PROVIDE INFORMATION AS TO WHEN THE BILLING WILL OCCUR, THE NUMBER OF CUSTOMERS AFFECTED AND A GENERAL DESCRIPTION OF THE GEOGRAPHIC AREA INVOLVED. IF A BILL RESULTING FROM A METER RE-ROUTING EXCEEDS 60 DAYS, THE CUSTOMER SHALL BE

GIVEN THE OPPORTUNITY TO AMORTIZE THE AMOUNT OVER A PERIOD EQUAL TO THE PERIOD COVERED BY THE BILL WITHOUT PENALTY.

Billing period--In the case of public utilities supplying gas, electric and steam heating service, the billing period [shall] must conform to the definition of a billing month; in the case of water and wastewater service, a billing period may be monthly, bimonthly or quarterly as provided in the tariff of the public utility. [Ratepayers] Customers shall be permitted to receive bills monthly and shall be notified of their rights thereto.

Class A water utility--A water utility with annual revenues greater than $ 1 million.

Customer--A natural person AT LEAST 18 YEARS OF AGE in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or an adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. A natural person remains a customer after discontinuance or termination until the final bill for service is past due.

Customer assistance program--A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined in 66 Pa.C.S. § 2202 or 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers shall comply with certain responsibilities and restrictions to remain eligible for the program.

Cycle billing--A system of billing employed by a public utility which results in the normal rendition of bills for public utility service to a group or portion of [ratepayers] customers on different or specified days of one billing period.

DEFAULT SERVICE—ELECTRIC GENERATION SUPPLY SERVICE PROVIDED PURSUANT TO A DEFAULT SERVICE PROGRAM TO A RETAIL ELECTRIC CUSTOMER NOT RECEIVING SERVICE FROM AN ELECTRIC GENERATION SUPPLIER (EGS).

Delinquent account--Charges for public utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment [or settlement] agreement with the public utility has been entered into by the [ratepayer] customer, a timely filed notice of dispute is pending before the public utility, or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

~~*Discontinuation*~~ *DISCONTINUANCE of service*-- The cessation of service with the consent of the [ratepayer] customer and otherwise in accordance with § 56.72 (relating to ~~discontinuation~~ DISCONTINUANCE of service).

Dispute--A grievance of an applicant, [ratepayer] customer or occupant about a public utility's application of a provision covered by this chapter, including, BUT NOT LIMITED TO, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, [ratepayer] customer or occupant indicates satisfaction with the resulting resolution or explanation OF THE SUBJECT OF THE GRIEVANCE, the contact will not be considered a dispute.

Dwelling—A house, apartment, mobile home or single meter multiunit structure being supplied with residential service.

Electric distribution utility--An entity providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners or operators that manage the internal distribution system serving the building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

Electronic billing--

~~(i)~~ The electronic delivery and presentation of bills and related information sent by a public utility to its customers USING A SYSTEM ADMINISTERED BY THE PUBLIC UTILITY OR A SYSTEM THE PUBLIC UTILITY IS RESPONSIBLE FOR MAINTAINING.

~~(ii) The term also includes any process that permits customers to pay their bills electronically.~~

Electronic notification of payment--A notification generated by ~~the~~ AN electronic payment system upon receipt of a payment FROM A CUSTOMER USING AN ELECTRONIC BILLING AND PAYMENT SYSTEM ADMINISTERED BY THE UTILITY OR A SYSTEM THE UTILITY IS RESPONSIBLE FOR MAINTAINING. The notification will inform the customer of successful receipt and amount of payment and the date and time the payment was received.

ELECTRONIC REMITTANCE OF PAYMENT - THE ELECTRONIC RECEIPT OF PAYMENT FROM CUSTOMERS TO A PUBLIC UTILITY USING A SYSTEM ADMINISTERED BY THE PUBLIC UTILITY OR A SYSTEM THE PUBLIC UTILITY IS RESPONSIBLE FOR MAINTAINING.

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FEDERAL POVERTY LEVEL -- THE POVERTY GUIDELINES UPDATED PERIODICALLY IN THE *FEDERAL REGISTER* BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE AUTHORITY OF 42 U.S.C. 9902(2).

Formal complaint--A complaint filed before the Commission requesting a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

Household income--

~~(i)~~ The combined gross income of all adults in a residential household who benefit from the public utility service.

~~(ii) The term does not include income intended for the use of a minor. Examples of a minor's income include Social Security, child support, SSI, earnings and grants from the Department of Public Welfare WAGE EARNINGS OF A MINOR OR GOVERNMENT BENEFITS THAT ARE RECEIVED WHOLLY IN THE NAME OF A MINOR.~~

Informal complaint--A complaint ~~filed~~ with the Commission SUBMITTED by a customer that does not involve a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

~~*Informal dispute settlement agreements* A mutually agreeable statement of a claim or dispute by a customer or applicant including a proposed resolution of the claim or dispute. An informal dispute settlement agreement is a written document that is provided to the parties or their representatives. An informal dispute settlement agreement offered by a utility must contain the following statement: "If you are not satisfied with this agreement, immediately notify the utility that you are not satisfied. You may file either an informal complaint or a formal complaint before the Public Utility Commission without making yourself subject to retaliation by the Utility." The informal dispute settlement agreement must also contain the information necessary to contact the Commission either in writing or by telephone.~~

Initial inquiry--A concern or question of an applicant, [ratepayer] customer or occupant about a public utility's application of a provision covered by this chapter, including, BUT NOT LIMITED TO, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If a public utility, with the consent of the applicant, [ratepayer] customer or occupant, offers to review pertinent records and call back the applicant, [ratepayer] customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, [ratepayer] customer or occupant with the company's response. If the company cannot

reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

~~*LIHEAP*--Low Income Heating Energy Assistance Program--A Federally funded program that provides financial assistance in the form of cash and crisis grants to low-income households for home energy bills and is administered by the Department of Public Welfare.~~

Natural gas distribution service--The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution utility.

Natural gas distribution utility--

(i) A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services.

(ii) The term does not include the following:

(A) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that has annual gas operating revenues of less than $6,000,000 per year, except when the public utility voluntarily petitions the Commission to be included within this definition or when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory.

(B) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that is not connected to an interstate gas pipeline by means of a direct connection or an indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

Natural gas supply services--

(i) The sale or arrangement of the sale of natural gas to retail gas customers and services that may be unbundled by the Commission under section 66 Pa. C.S. § 2203(3) (relating to standards for restructuring of natural gas utility industry).

(ii) The term does not include natural gas distribution service.

Nonbasic services--Optional recurring services which are distinctly separate and clearly not required for the physical delivery of public utility service OR DEFAULT SERVICE.

[*Notice or termination notice*--A written statement which, in conspicuous print, clearly and fully includes the following information when applicable:

(i) The reason for the proposed termination.

(ii) An itemized statement of accounts currently due, including any required deposit.

(iii) A statement that a specific reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the utility on file with the Commission.

(iv) The date on or after which service will be terminated unless: payment in full is received, the grounds for termination are otherwise eliminated, a settlement or payment agreement is entered or a dispute is filed with the utility or the Commission.

(v) A statement that the ratepayer should immediately contact the utility to attempt to resolve the matter, including the address and telephone number where questions may be filed and payment and settlement agreements entered into with the utility.

(vi) The following statement: "If, AFTER discussing your problem with the Utility you remain dissatisfied, you may file an informal complaint with the Public Utility Commission. TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE. You may file an informal complaint by telephoning the Public Utility Commission at 1 (800) 692-7380 or by writing to the following address Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17120."

(vii) A serious illness notice substantially in compliance with the form as set forth in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to ~~post-termination~~ POST TERMINATION notice), the notice shall substantially comply with the form as set forth in Appendix B (relating to medical emergency notice).]

Nurse practitioner--A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

Occupant—A NATURAL person who resides in the premises to which public utility service is provided.

Payment agreement--[A mutually satisfactory written agreement whereby a ratepayer or applicant who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments over a reasonable period of time.] An agreement in which a customer OR APPLICANT who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

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Physician--An individual licensed [under the laws of the Commonwealth] to engage in the practice of medicine and surgery in all of its branches [within the scope of the Medical Practice Act of 1974 (63 P. S. §§ 421.1--421.18) relating to medicine and surgery as amended], or in the

practice of osteopathy or osteopathic surgery [within the scope of the Osteopathic Medical Practice Act (63 P. S. §§ 271.1--271.18)] by a jurisdiction within the United States of America.

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Public utility--An electric distribution utility, natural gas distribution utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Commission.

[*Ratepayer*--A person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service. For the purposes of establishing credit, this term includes a transfer of service from a residence or dwelling within the service area of the utility or a reinstitution of service at the same location within 60 days following termination or discontinuance of service.]

Remote reading device—

(I) A device which by electrical impulse or otherwise transmits readings from a meter, ~~excluding devices that permit direct interrogation of the meter,~~ usually located within a residence, to a more accessible location outside of a residence.

(II) THE TERM DOES NOT INCLUDE AMR (AUTOMATIC METER READING) DEVICES AS DEFINED IN THIS SECTION AND DEVICES THAT PERMIT DIRECT INTERROGATION OF THE METER.

Residential service--

(i) [Utility] Public utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) [Utility] The term does not include public utility service provided to a hotel or motel [is not considered residential service].

[*Settlement agreements*--A mutually satisfactory settlement of a claim or dispute, reduced to writing and signed by the parties or their representatives. The settlement agreement offered by a utility shall state, immediately preceding the space provided for the name of the ratepayer and in boldface print at least two point sizes larger than any other used thereon: "If you are not satisfied with this agreement, do not sign it. You may file an informal complaint before the Public Utility Commission without making yourself subject to retaliation by the Utility. If you do sign this agreement, you may give up your right to a hearing before the Commission on any matter involved in this dispute except the utility's failure to follow the terms of this agreement."]

Termination of service-- Cessation of service, whether temporary or permanent, without the consent of the [ratepayer] customer.

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User without contract — ~~Taking or acceptance of~~ A PERSON AS DEFINED IN 66 PA. C.S.§102 THAT TAKES OR ACCEPTS public utility service without the knowledge or approval of the public utility, other than THE unauthorized use of UTILITY service as defined in this section.

[*Utility*-- A public utility or a municipality, subject to Commission jurisdiction, which provides electric, gas, steam heat, wastewater or water service.]

Water distribution utility--An entity owning or operating equipment or facilities for diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

Subchapter B. BILLING AND PAYMENT STANDARDS

BILLING

§ 56.11. Billing frequency.

(a) A public utility shall render a bill once every billing period to every residential [ratepayer] customer in accordance with approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary ~~and the customer retains the option of continuing to receive a paper bill if desired~~ AND ONLY WITH THE PRIOR CONSENT OF THE CUSTOMER. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a 1 ~~month~~ BILLING CYCLE notice of a request to revert to paper billing.

(2) A customer shall receive ~~a visual presentation of an electronic bill in the same format as the~~ THE SAME INFORMATION THAT IS INCLUDED WITH A paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and ~~required~~ educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted UNLESS THE CUSTOMER HAS AFFIRMATIVELY CONSENTED TO THIS METHOD OF DELIVERY. THE ELECTRONIC DELIVERY OF A TERMINATION NOTICE DOES NOT RELIEVE THE PUBLIC UTILITY OF THE OBLIGATION TO PROVIDE TERMINATION NOTICES AS REQUIRED BY §§ 56.91 – 56.98.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund IF THE UTILITY IS ABLE TO ACCEPT HARDSHIP FUND CONTRIBUTIONS BY THIS METHOD.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall maintain a system to ~~ensure delivery of~~ DELIVER electronic bills if the bill is emailed to a customer.

(8) The public utility shall ~~maintain sufficient system security to assure customer privacy~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

§ 56.12. Meter reading; estimated billing; [ratepayer] customer readings.

Except as provided in this section, a public utility shall render bills based on actual meter readings by public utility company personnel.

(1) *Inapplicability to seasonally billed* [*ratepayers*] *customers*. This section does not apply to [ratepayers] customers billed on a seasonal basis under terms included in the tariff of the public utility.

(2) *Estimates for bills rendered on a monthly basis*. If a public utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the public utility provides a [ratepayer] customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills shall be based on the information provided, except for an account where it is apparent that the information is erroneous.

(i) Upon the request of the [ratepayer] customer, the public utility shall, at least annually, provide preaddressed postcards on which the [ratepayer] customer may [note] report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The public utility may establish due dates by which the ~~postcards~~ CUSTOMER SUPPLIED READING shall be received for a bill to be based upon the meter reading of the [ratepayer] customer or occupant. If the reading of a [ratepayer] customer or occupant is not received by that due date, the public utility may estimate the quantity of usage. The public utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances*. A public utility may estimate the bill of a [ratepayer] customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when public utility personnel are unable to gain access.* A public utility may estimate the bill of a [ratepayer] customer if public utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The public utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the [ratepayer] customer may [note] report the reading or the telephone reporting of the reading.

(ii) The public utility, at least every 6 months, or every four billing periods for public utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or [ratepayer] customer supplied reading to verify the accuracy of the estimated readings.

(iii) The public utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or [ratepayer] customer read.

(5) *Remote reading devices for water, gas and electric PUBLIC utilities.* ~~All readings by an AMR device shall be deemed actual readings for the purposes of this subsection.~~ A public utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water public utility uses readings from a remote reading device to render bills, the public utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the [ratepayer] customer of record at the dwelling changes during the 5-year period between actual meter readings, the public utility shall make a bona fide attempt to schedule an appointment with the departing [ratepayer] customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the public utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% [and] or at least $50, the public utility shall comply with § 56.14 (relating to previously unbilled public utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the public utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.181(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found).

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(6) *Limitation of liability.* If a water ~~company~~ PUBLIC UTILITY has estimated bills and if the [ratepayer] customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the [ratepayer] customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water public utility was unable to gain access and has complied with paragraph (4).

(7) [*Equal monthly*] *Budget billing.* A gas, electric and steam heating PUBLIC utility shall provide its residential [ratepayers] customers, on a year-round rolling enrollment basis, with an

optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The public utility shall review accounts at least three times during the optional billing period. AT THE CONCLUSION OF THE BUDGET BILLING YEAR, ~~A~~ A resulting reconciliation amount exceeding ~~$25~~ $100 BUT LESS THAN $300 shall be, AT THE REQUEST OF THE CUSTOMER, amortized over a ~~3—12~~ 6-month period. RECONCILIATION AMOUNTS EXCEEDING $300 SHALL BE AMORTIZED OVER AT LEAST A 12-MONTH PERIOD AT THE REQUEST OF THE CUSTOMER. SHORTER AMORTIZATION PERIODS ARE PERMISSIBLE AT THE REQUEST OF THE CUSTOMER. ~~Payment agreements for heating customers shall be based upon equal monthly billing.~~

(8) *Notice.* The public utility shall inform existing [ratepayers] customers of their rights under this section and under 66 Pa. C.S. § 1509 (relating to billing procedures).

§ 56.13. [Separate billings] Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service--that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges, and other nonrecurring charges, except as provided in this chapter--~~shall~~ MUST appear [on a separate bill] after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. SEE § 56.83(3) (RELATING TO UNAUTHORIZED TERMINATION OF SERVICE).

§ 56.14. Previously unbilled public utility service.

When a public utility renders a make-up bill for previously unbilled public utility service which accrued within the past 4 years resulting from public utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make-up bill is issued by at least 50% [and] or at least $50, whichever is greater:

(1) The public utility shall ~~review~~ EXPLAIN the bill ~~with~~ TO the [ratepayer] customer and make a reasonable attempt to ~~enter into a payment agreement~~ AMORTIZE THE BILL.

(2) The period of the ~~payment agreement~~ AMORTIZATION may, at the option of the [ratepayer] customer, extend at least as long as:

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§ 56.15. Billing information.

A bill rendered by a public utility for metered residential public utility service [shall] must state clearly the following information:

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(8) The amount of late payment charges, designated as such, which have accrued to the account of the [ratepayer] customer for failure to pay bills by the due date of the bill and which are authorized under § 56.22 (relating to accrual of late payment charges).

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(11) A statement directing the [ratepayer] customer to "register any question or complaint about the bill prior to the due date," with the address and telephone number where the [ratepayer] customer may initiate the inquiry or complaint with the public utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, IN PLAIN LANGUAGE of the various charges, if applicable, is available for inspection in the local business office of the public utility AND ON THE PUBLIC UTILITY'S WEBSITE.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the public utility.

(14) Electric distribution utilities and natural gas distribution utilities shall incorporate the requirements of §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

~~(15) The Plain Language Policy Guidelines in § 69.251 (relating to plain language—statement of policy) shall be incorporated to the extent practical.~~

§ 56.16. Transfer of accounts.

(a) A [ratepayer] customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice to the public utility and a [nonratepayer] noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the [ratepayer] customer shall be responsible for services rendered. If the public utility is not, AFTER A REASONABLE ATTEMPT TO OBTAIN METER ACCESS, able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading ~~and can determine the actual consumption used by the customer~~.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a public utility may transfer an unpaid balance to a new residential service account of the same [ratepayer] customer.

(c) If a termination notice has been issued in accordance with § 56.91 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of ~~a~~

THAT notice, ~~a~~ THE [ratepayer] customer requests a transfer of service to a new location, the termination process as set forth in §§ 56.91--56.99 may continue at the new location.

(1) ~~In the event that~~ WHEN notifications set forth under § 56.91 and § 56.95 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the public utility may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a [ratepayer] customer to dispute a bill within the meaning of §§ 56.141--56.143 (relating to dispute procedures; time for filing ~~a termination dispute or~~ AN informal ~~complaints~~ COMPLAINT; and effect of failure to timely file an informal complaint).

~~(d) In the event of a termination of service to a residential [ratepayer] customer, a public utility may transfer to the account of a third-party guarantor any portion of the unpaid balance which is equivalent to the cash deposit requirement of the [ratepayer] customer.~~

§ 56.17. Advance payments.

Payments may be required in advance of furnishing any of the following services:

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(3) Gas and electric rendered through prepayment meters provided:

(i) The [ratepayer] customer is nonlow income; for purposes of this section, nonlow income is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines, and has a delinquency for which the individual is requesting a payment agreement but offering terms that the public utility, after consideration of the factors at § 56.97(b) (relating to procedures upon [ratepayer] customer or occupant contact prior to termination), finds unacceptable.

(ii) ~~(I)~~ The service is being rendered to an individually-metered residential dwelling, and the [ratepayer] customer and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) ~~(II)~~ The [ratepayer] customer and public utility enter into [a settlement] ~~an informal dispute settlement agreement or~~ A payment agreement which includes, but is not limited to, the following terms:

(A) The [ratepayer] customer voluntarily agrees to the installation of a prepayment meter.

(B) The [ratepayer] customer agrees to purchase prepayment ~~cards~~ CREDITS to maintain service until the total balance is retired and the public utility agrees to make new ~~cards~~ CREDITS available to the [ratepayer] customer within 5 days of receipt of prepayment.

(C) The public utility agrees to furnish the [ratepayer] customer ~~an~~ WITH emergency backup ~~card~~ CREDITS for additional usage of at least 5 days.

(D) The [ratepayer] customer agrees that failure to renew the ~~card~~ CREDITS by making prepayment for additional service constitutes a request for discontinuance under § 56.72(1)

(relating to ~~discontinuation~~ DISCONTINUANCE of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup ~~card~~ CREDITS runs out.

(iv) ~~(III)~~ [During the first 2 years of use of prepayment meters, the utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.]

The public utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v)~~(IV)~~ [The utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.]

During the first 2 years of use of prepayment meters, the public utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

* * * * *

PAYMENTS

§ 56.21. Payment.

The due date for payment of a bill may be no less than 20 days from the date of transmittal; that is, the date of mailing, OR ELECTRONIC TRANSMISSION or PHYSICAL delivery of the bill by the public utility to the [ratepayer] customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the public utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

* * * * *

(ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

* * * * *

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a public utility is the date of actual receipt ~~of the electronic notification~~ of payment.

(5) *Fees.* Fees or charges assessed and collected by the public utility for utilizing a payment option shall be included in the public utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a public utility advises a [ratepayer] customer of a balance owed by multiple notices or contacts~~,~~ which contain different due dates, the date on or before which payment is due shall be the ~~last~~ LATEST DUE date contained in any of the notices.

§ 56.22. Accrual of late payment charges.

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the [full unpaid and] overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility may waive ~~a~~ late payment ~~charge~~ CHARGES on any customer accounts. The Commission may ~~direct the~~ ONLY ORDER A waiver of late payment charges LEVIED BY A PUBLIC UTILITY AS A RESULT OF A DELINQUENT ACCOUNT for customers with a gross MONTHLY HOUSEHOLD income ~~less than or equal to~~ NOT EXCEEDING 150% of the Federal poverty level. See 66 Pa.C.S. § 1409 (relating to late payment charge waiver).

~~(e) Additional late payment charges may not be assessed on account balances once the account is no longer actively billed by the public utility.~~

§ 56.23. Application of partial payments between public utility and other service.

Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service.

§ 56.24. Application of partial payments among several bills for public utility service.

In the absence of written instructions, a disputed bill, or [an amortization] A payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

§ 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary ~~and may not be required in conjunction with electronic billing~~. A PUBLIC UTILITY MAY NOT REQUIRE A CUSTOMER TO ENROLL IN ELECTRONIC BILL PAYMENT AS A CONDITION FOR ENROLLING IN ELECTRONIC BILLING.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's ~~checking~~ FINANCIAL account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY, before the customer enters the program. Program changes shall be conveyed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The public utility shall provide a receipt, OR A CONFIRMATION, TRANSACTION OR REFERENCE NUMBER, either electronically or on paper, to the customer upon payment through the electronic method. THIS REQUIREMENT DOES NOT APPLY IF THE

PAYMENT METHOD IS THROUGH A PRE-AUTHORIZED AUTOMATED DEBIT FROM A CUSTOMER'S FINANCIAL ACCOUNT.

(5) The public utility shall ~~maintain sufficient system security to protect customer information and access to customer accounts~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

Subchapter C. CREDIT AND DEPOSITS STANDARDS POLICY PROCEDURES FOR ~~NEW~~ APPLICANTS

§ 56.31. Policy statement.

An essential ingredient of the credit and deposit policies of each public utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual [ratepayers] customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies [shall] must be based upon the credit risk of the individual applicant or [ratepayer] customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which [he] the applicant or customer lives and without regard to race, sex, age over 18, national origin or marital status.

§ 56.32. [Credit standards] Security and cash deposits.

[A utility shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Prior utility payment history.* The applicant has been a recipient of utility service of a similar type within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for such service, so long as:

(i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

(ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.

(iii) The applicant does not have an unpaid balance from that prior service.

(2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting his place of residence under a lease of one year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as an utility customer within 2 years prior to the application for service.

(3) *Credit information.* The applicant provides information demonstrating that he is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.

(ii) The utility may request and consider information including but not limited to: the name of the employer of the applicant, place and length of employment, residences during the previous 5 years, letters of reference, credit cards and any significant source of income other than from employment.]

(a) A public utility may require a cash deposit in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

(i) Nonpayment of an undisputed delinquent account.

(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.

(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.

(v) Failure to comply with the material terms of A ~~an informal dispute settlement agreement or~~ payment agreement.

(vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.

(vii) Tampering with meters, including bypassing a meter or removal of an automatic meter reading device or other public utility equipment.

(viii) Violating tariff provisions on file with the Commission ~~which~~ SO AS TO endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) An applicant ~~or customer~~ who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice. The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment.

(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:

(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required.

(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer

assistance program made available by the city natural gas distribution operation are not subject to this paragraph.

(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.

(c) Prior to providing public utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.

§ 56.33. [Cash deposits; third] Third-party guarantors.

If an applicant does not establish [his] credit under § 56.32 (relating to [credit standards] security and cash deposits), the public utility shall provide residential service when one of the following requirements is satisfied:

* * * * *

(2) *Third-party guarantor.* [The applicant furnishes a written guarantee from a responsible ratepayer which, for the purposes of this section, shall mean a ratepayer who has or can establish credit, under § 56.32, to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee shall be in writing and shall state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.52--56.57.]

This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility. FOR THE PURPOSES OF THIS SECTION, THE GUARANTOR SHALL MEAN A THIRD-PARTY WHO HAS OR CAN ESTABLISH CREDIT, UNDER § 56.32 (RELATING TO SECURITY AND CASH DEPOSITS).

§ 56.35. Payment of outstanding balance.

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly. [However, any such]

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, EXCEPT AS PROVIDED FOR IN PARAGRAPHS (1) AND (2) OF THIS SECTION.

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years FROM THE DATE OF THE SERVICE REQUEST. THE 4-YEAR LIMIT DOES NOT APPLY IF THE BALANCE INCLUDES AMOUNTS THAT THE UTILITY WAS NOT AWARE OF BECAUSE OF FRAUD OR THEFT ON THE PART OF THE APPLICANT.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. PUBLIC UTILITIES MUST INCLUDE IN THEIR TARIFFS FILED WITH THE COMMISSION THE METHODS, OTHER THAN THOSE SPECIFICALLY MENTIONED IN THIS PARAGRAPH, USED TO DETERMINE THE APPLICANT'S LIABILITY FOR ANY OUTSTANDING BALANCE.

(3) ~~Public utilities shall include in their tariffs filed with the Commission the procedures and standards used to determine the applicant's liability for any outstanding balance~~. Any outstanding residential account with the public utility may be amortized [over a reasonable period of time. Factors to be taken into account include but are not limited to the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant, and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant] in accordance with § 56.191 (relating to ~~the general rule~~ PAYMENT AND TIMING).

(c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

§ 56.36. Written procedures.

(a) Public utilities shall include in their tariffs filed with the Commission their credit and application procedures along with A GENERAL DESCRIPTION OF their credit scoring methodology and standards.

(b) A public utility shall establish written procedures for determining the credit status of an applicant and for determining responsibility for unpaid balances in accordance with § 56.35 (relating to payment of outstanding balance). The written procedures must specify that there are separate procedures and standards for victims with a protection from abuse order. A public utility [employe] employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the public utility. A copy of these procedures shall be maintained on file in each of the business offices of the public utility and made available, upon request, for inspection by members of the public and the Commission and be included on the public utility's website.

(1) *Reasons for denial of credit.* If credit is denied, the public utility shall inform the [ratepayer] ~~customer or~~ applicant ~~orally and~~ in writing of the reasons for the denial within 3 business days of the denial. THIS INFORMATION MAY BE PROVIDED ELECTRONICALLY TO THE APPLICANT WITH THE APPLICANT'S CONSENT. The written denial statement must include ~~the applicant or customer's credit score,~~ the provider of the credit score, information on the ~~customer or~~ applicant's ability to challenge the accuracy of the credit score, and how to contact the credit score provider. If the public utility is requiring payment of an unpaid balance in accordance with § 56.35, the public utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a ~~third party~~ THIRD-PARTY guarantor in accordance with § 56.33 (relating to third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a Protection from Abuse Order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* [Utility] Public utility personnel shall fully explain the credit and deposit procedures of the public utility to each [ratepayer] customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish public utility service on behalf of an applicant will not be honored until the public utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third party is authorized to act on the applicant's behalf.

§ 56.37. General rule.

Once an applicant's application for service is accepted by the public utility, the public utility shall MAKE A BONA FIDE ATTEMPT TO provide service within 3 BUSINESS days,

provided that the applicant has met all REGULATORY requirements. A BONA FIDE ATTEMPT TO PROVIDE SERVICE WITHIN 7 BUSINESS DAYS IS PERMISSIBLE IF STREET OR SIDEWALK DIGGING IS REQUIRED. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the public utility shall provide service pending completion of the investigation. IF THE PUBLIC UTILITY CANNOT PROVIDE SERVICE BY THE TIMEFRAMES SPECIFIED BY THIS PARAGRAPH, THEY SHALL INFORM THE CUSTOMER OF THIS FACT AND PROVIDE A REASONABLE ESTIMATE OF WHEN SERVICE WILL BE PROVIDED. THESE REQUIREMENTS DO NOT APPLY TO NEW SERVICE INSTALLATIONS AND SERVICE EXTENSIONS THAT REQUIRE THE CONSTRUCTION OF FACILITIES TO PROVIDE THE PUBLIC UTILITY SERVICE.

§ 56.38. Payment period for deposits by applicants.

(A) An applicant REQUIRED TO PAY A DEPOSIT UNDER THE PROVISIONS OF § 56.32 (RELATING TO SECURITY AND CASH DEPOSITS) may ~~elect to pay any required deposits in three installments: 50% payable upon the determination by the public utility that the deposit is required, 25% payable 30 days after the determination, and 25% payable 60 days after the determination.~~ BE REQUIRED BY THE PUBLIC UTILITY TO PAY THE DEPOSIT IN FULL PRIOR TO THE PROVISION OF PUBLIC UTILITY SERVICE. ~~A public utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.~~

(B) AN APPLICANT PAYING A DEPOSIT FOR THE RECONNECTION OF SERVICE UNDER § 56.41(2) (RELATING TO THE GENERAL RULE), MAY BE REQUIRED TO PAY 50% PRIOR TO, AND AS A CONDITION OF, THE RECONNECTION OF SERVICE WITH 25% BILLED 30 DAYS AFTER RECONNECTION OF SERVICE AND 25% BILLED 60 DAYS AFTER THE RECONNECTION OF SERVICE. THE PUBLIC UTILITY SHALL INFORM THE APPLICANT OF THE OPTION TO PAY THE DEPOSIT IN THE INSTALLMENTS DESCRIBED IN THIS SUBSECTION. THE APPLICANT RETAINS THE OPTION TO PAY THE DEPOSIT AMOUNT IN FULL BEFORE THE DUE DATE.

PROCEDURES FOR EXISTING [RATEPAYERS] CUSTOMERS

§ 56.41. General rule.

A public utility may require an existing [ratepayer] customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a [ratepayer] customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the public utility shall give the [ratepayer] customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification [shall] must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the [ratepayer] customer together with a bill for public utility service.

(C) Notification [shall] must set forth the address and phone number of the public utility office where complaints or questions may be registered.

(D) A subsequent request for deposit [shall] must clearly indicate that a [ratepayer] customer should register any question or complaint about that matter prior to the date the deposit is due [in order] to avoid having service terminated pending resolution of a dispute. The request [shall] must also include the address and telephone number of the public utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to ~~equal monthly~~ BUDGET billing plans, a public utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled public utility services), under the following conditions:

(A) The public utility has complied with [the requirements of] § 56.14. Compliance with a payment agreement ~~or~~ [settlement agreement] ~~informal dispute settlement agreement~~ by the [ratepayer] customer discharges the delinquency, and a notification or request for deposit [shall] may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the [ratepayer] customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the [ratepayer] customer, ~~such~~ a notification or request for deposit [shall] may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A public utility may require a deposit as a condition to reconnection of service following a termination in accordance with § 56.191 (relating to ~~the general rule~~ PAYMENT AND TIMING).

(3) *Failure to comply with* [*settlement*] ~~*informal dispute settlement agreement or*~~ *payment agreement.* A public utility may require a deposit, whether or not service has been terminated, when a [ratepayer] customer fails to comply with a material term or condition of a [settlement] ~~informal dispute settlement agreement or~~ payment agreement.

§ 56.42. Payment period for deposits BY CUSTOMERS .

(A) *INITIAL DUE DATE.* The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.41[(b)] (2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the [ratepayer] customer of notification of the amount due.

(B) *DELINQUENT ACCOUNT.* A [ratepayer] customer PAYING A DEPOSIT UNDER § 56.41(1) (RELATING TO THE GENERAL RULE) may elect to pay a required deposit in three installments: 50% ~~payable~~ BILLED upon the determination by the public utility that the deposit is required, 25% ~~payable~~ BILLED 30 days after the determination and 25% ~~payable~~ BILLED 60 days after the determination. ~~A customer paying a deposit based on the grounds in § 56.41(2) may be required to pay 50% as part of the conditions for restoration, with 25% payable 60 days later and 25% payable 90 days later.~~ THE PUBLIC UTILITY SHALL INFORM THE CUSTOMER OF THE OPTION TO PAY THE DEPOSIT IN THE INSTALLMENTS DESCRIBED IN THIS SUBSECTION. THE CUSTOMER RETAINS THE OPTION TO PAY THE DEPOSIT AMOUNT IN FULL BEFORE THE DUE DATE.

(C) *RECONNECTION OF SERVICE.* A CUSTOMER PAYING A DEPOSIT FOR THE RECONNECTION OF SERVICE UNDER § 56.41(2) MAY BE REQUIRED TO PAY 50% PRIOR TO, AND AS A CONDITION OF, THE RECONNECTION OF SERVICE WITH 25% BILLED 30 DAYS AFTER RECONNECTION OF SERVICE AND 25% BILLED 60 DAYS AFTER THE RECONNECTION OF SERVICE. THE PUBLIC UTILITY SHALL INFORM THE CUSTOMER OF THE OPTION TO PAY THE DEPOSIT IN THE INSTALLMENTS DESCRIBED IN THIS SUBSECTION. THE CUSTOMER RETAINS THE OPTION TO PAY THE DEPOSIT AMOUNT IN FULL BEFORE THE DUE DATE.

(D) *FAILURE TO COMPLY WITH A PAYMENT AGREEMENT.* A CUSTOMER PAYING A DEPOSIT UNDER § 56.41(3) MAY BE REQUIRED TO PAY THE DEPOSIT IN FULL UPON THE DETERMINATION OF THE UTILITY THAT A DEPOSIT IS REQUIRED.

§ 56.43. [Deposit method; cash deposit or composite group] (Reserved).

[Whenever a ratepayer is required to make a deposit, the requirement may be satisfied either by posting a cash deposit or becoming a member in good standing of a composite group.]

CASH DEPOSITS

§ 56.51. Amount of cash deposit.

(a) *Applicants*. A public utility may [not] require a cash deposit [from an applicant in excess of the average estimated bill of the applicant for a period equal to one billing period plus 1 additional month's service, not to exceed 4 months in the case of water and sewage utilities and 2 months in the case of gas, electric and steam heat utilities, with a minimum deposit of $5] equal to 1/6 of the applicant's estimated annual bill CALCULATED ON THE BASIS OF THE ANNUAL BILL TO THE DWELLING AT WHICH SERVICE IS BEING REQUESTED FOR THE PRIOR 12 MONTHS, OR, IF UNAVAILABLE, A SIMILAR DWELLING IN CLOSE PROXIMITY. ~~under the following circumstances:~~

~~(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:~~

~~(i) Nonpayment of an undisputed delinquent account.~~

~~(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.~~

~~(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.~~

~~(iv) Unauthorized use of the utility service delivered on or about the affected dwelling.~~

~~(v) Failure to comply with the material terms of a settlement or payment agreement.~~

~~(vi) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.~~

~~(vii) Tampering with meters, including, but not limited to, bypassing a meter or removal of an automatic meter reading device or other public utility equipment.~~

~~(viii) Violating tariff provisions on file with the Commission to endanger the safety of a person or the integrity of the delivery system of the public utility.~~

~~(2) An applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice.~~

~~(3) A customer who fails to comply with a material term or condition of a settlement or payment agreement.~~

(b) *City natural gas operation*. A city natural gas distribution operation may require a cash deposit from an applicant with a household income no greater than 300% of the Federal poverty level in an amount not in excess of 1/12 of the applicant's estimated annual bill. A city natural gas operation may require a cash deposit from an applicant with a household income level above 300% of the Federal poverty level in the amount of 1/6 of the applicant's estimated annual bill. An estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months, or, if unavailable, a similar dwelling in close proximity.

(c) *Existing* [*ratepayers*] *customers*. For an existing [ratepayer] customer, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that [ratepayer] customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of water [and sewage] utilities and 2 months in the case of gas[,] and electric [and steam heat] utilities~~, with a minimum of $5~~.

[(c)] (d) *Adjustment of deposits*. The amount of a cash deposit may be adjusted at the request of the [ratepayer] customer or the public utility whenever the character or degree of the usage of the [ratepayer] customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

§ 56.53. [Refund of deposit] Deposit hold period and refund.

[A cash deposit shall be refunded under the following conditions:

(1) *Termination or discontinuance of service.* Upon termination or discontinuance of service, the utility shall promptly apply the deposit of the ratepayer, including accrued interest, to any outstanding balance for utility service and refund or apply to the ratepayer's account, the remainder to the ratepayer. A transfer of service from one location to another within a service area may not be deemed discontinuance within the meaning of this chapter.

(2) *Credit established.* When a ratepayer establishes credit under § 56.32 (relating to credit standards), the utility shall refund or apply to the ratepayer's account, any cash deposit plus accrued interest.

(3) *Third-party guarantor.* When a ratepayer substitutes a third-party guarantor in accordance with § 56.33(3) (relating to composite group; cash deposits; third-party guarantor), the utility shall refund any cash deposit, plus accrued interest, up to the limits of the guarantee.

(4) *Prompt payment of bills.* After a ratepayer has paid bills for service for 12-consecutive months without having service terminated and without having paid his bill subsequent to the due date or other permissible period as stated in this chapter on more than two occasions, the utility shall refund any cash deposit, plus accrued interest, so long as the customer currently is not delinquent.

(5) *Optional refund.* At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.]

(a) A public utility may hold a deposit until a timely payment history is established or for a maximum period of 24 months.

(b) A timely payment history is established when a customer has paid in full and on time for 12 consecutive months.

(c) At the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return or credit any positive difference

to the customer. At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

(d) If service is terminated before the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return any positive difference to the customer within 60 days of the termination.

(e) If a customer becomes delinquent before the end of the deposit holding period as established in subsection (a), the public utility may deduct the outstanding balance from the deposit.

§ 56.54. ~~Application of deposit to bills.~~ (Reserved)

~~The [ratepayer] customer may elect to have a deposit applied to reduce bills for public utility service or to receive a cash refund.~~

§ 56.55. [Periodic review] (Reserved).

[If a ratepayer is not entitled to refund under § 56.53 (relating to refund of deposit), the utility shall review the account of the ratepayer each succeeding billing period and shall make appropriate disposition of the deposit in accordance with § 56.53 and § 56.54 (relating to application of deposit to bills).]

§ 56.56. Refund statement.

If a cash deposit is applied or refunded, the public utility shall mail or deliver to the [ratepayer] customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

§ 56.57. Interest rate.

[Interest at the rate of the average of 1-year Treasury Bills for September, October and November of the previous year is payable on deposits without deductions for taxes thereon unless otherwise required by law.] The public utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), referred to as the Loan Interest and Protection Law, and return the interest with the deposit.

§ 56.58. Application of interest.

Interest shall be paid ~~annually~~ to the [ratepayer] customer, or, at the option of either the public utility or the [ratepayer] customer, shall be applied to service bills.

Subchapter D. INTERRUPTION AND DISCONTINUANCE OF SERVICE

§ 56.71. Interruption of service.

A public utility may temporarily interrupt service ~~where~~ WHEN necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or [national] National emergency.

(1) *Interruption with prior notice.* [Where] When the public utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to [ratepayers] customers and occupants who may be affected.

(2) *Interruption without prior notice.* [Where] When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration of the interruption shall be given as soon as possible to [ratepayers] customers and occupants who may be affected.

(3) *Notification procedures.* [Where ratepayers] When customers and occupants are to be notified under this section, the public utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected [ratepayers] customers and occupants of the cause and expected duration of the interruption.

* * * * *

§ 56.72. ~~Discontinuation~~ DISCONTINUANCE of service.

A public utility may discontinue service without prior written notice under the following circumstances:

(1) [*Ratepayer's*] *Customer's residence.* When a [ratepayer] customer requests a discontinuance at ~~his~~ THE CUSTOMER'S residence, when the [ratepayer] customer and members of ~~his~~ THE CUSTOMER'S household are the only occupants. ~~If the account is listed in multiple customer names and the public utility receives a request for discontinuance from just one or more of the customers listed, but not all the customers listed, the customer requesting discontinuance shall state that all the occupants meeting the definition of customer consent to the cessation of service. If consent is not provided, the public utility, at least 3 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.~~

(2) *Other premises or dwellings.* Other premises or dwellings [shall be] as follows:

(i) When a [ratepayer] customer requests discontinuance at a dwelling other than ~~his~~ THE CUSTOMER'S residence or at a single meter multifamily residence, whether or not ~~his~~ THE CUSTOMER'S residence but, in either case, only under either of the following conditions:

(A) The [ratepayer] customer states in writing that the premises are unoccupied. The statement [shall] must be on a form conspicuously bearing notice that information provided by the [ratepayer] customer will be relied upon by the Commission in administering a system of uniform service standards for public utilities and that any false statements are punishable criminally. When the [ratepayer] customer fails to provide a notice, or when the [ratepayer] customer has falsely stated the premises are unoccupied, the [ratepayer] customer shall be responsible for payment of utility bills until the public utility [terminates] discontinues service.

(B) The occupants affected by the proposed cessation inform the public utility orally or in writing of their consent to the ~~discontinuation~~ DISCONTINUANCE.

(ii) [Where] When the conditions set forth in subparagraph (i) have not been met, the public utility, at least [10] ~~3~~ 10 days prior to the proposed [termination] discontinuance, shall conspicuously post notice of termination at the affected premises.

* * * * *

(B) Notices [shall] must, at a minimum, state: the date on or after which [termination] discontinuance will occur; the name and address of the public utility; and the requirements necessary for the occupant to obtain public utility service in the occupant's name. Further termination provisions of this chapter except § 56.97 (relating to procedures upon [ratepayer] customer or occupant contact prior to termination) do not apply in these circumstances.

(C) This section does not apply when the [ratepayer] customer is a landlord ratepayer. See [§§ 56.121--56.126 (Reserved).] 66 Pa.C.S.§§ 1521-1533 (relating to discontinuance of service to leased premises).

Subchapter E. TERMINATION OF SERVICE
GROUNDS FOR TERMINATION

§ 56.81. Authorized termination of service.

[Utility service to a dwelling may be terminated for one or more of the following reasons:] A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91--56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer:

* * * * *

(2) Failure to [post a deposit, provide a guarantee or establish credit] ~~to~~ complete payment of a deposit, provide a guarantee of payment or establish credit.

(3) [Unreasonable refusal to permit access to meters, service connections and other property of the utility for the purpose of maintenance, repair or meter reading] Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(4) [Unauthorized use of the utility service delivered on or about the affected dwelling.

(5)] Failure to comply with the material terms of a [settlement] ~~informal dispute settlement agreement or~~payment agreement.

[(6) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.

(7) Tampering with meters or other utility equipment.

(8) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the energy delivery system of the utility.]

§ 56.82. [Days termination of service is prohibited] Timing of termination.

[Except in emergencies--which include unauthorized use of utility service--service shall not be terminated, for nonpayment of charges or for any other reason, during the following periods:

(1) On Friday, Saturday, or Sunday.

(2) On a bank holiday or on the day preceding a bank holiday.

(3) On a holiday observed by the utility or on the day preceding such holiday. A holiday observed by a utility shall mean any day on which the business office of the utility is closed to observe a legal holiday, to attend utility meetings or functions, or for any other reason.

(4) On a holiday observed by the Commission or on the day preceding such holiday.]

A public utility may terminate service for the reasons in § 56.81 (relating to authorized termination of service) from Monday through Friday as long as the public utility ~~has offices open on the following day during regular business hours and personnel on duty who can negotiate conditions to restore service, accept emergency medical certificates,~~ IS ABLE TO accept payment to restore service ON THE DAY OF TERMINATION AND ON THE FOLLOWING DAY and can restore service~~,~~ consistent with § 56.191 (relating to ~~the general rule~~ PAYMENT AND TIMING).

§ 56.83. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the public utility, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part~~:~~, of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; ~~of~~ meter testing fees; ~~of~~ special construction charges; and ~~of~~ other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior [ratepayer] customer at the same address unless the public utility has, under § 56.35 (relating to payment of outstanding balance), established that the applicant or customer was an ADULT occupant at the same address during the time period the delinquent amount accrued.

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled public utility service) and the [ratepayer] customer has complied with [the requirements of] § 56.41(1)(ii)(A) or (B) (relating to general rule).

* * * * *

(7) Nonpayment of charges for public utility service ~~furnished~~ FOR WHICH THE UTILITY CEASED BILLING more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the [ratepayer] customer unless a court, district justice or administrative agency has determined that the [ratepayer] customer is legally obligated to pay for the service previously furnished or unless the public utility has, under § 56.35, established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued. This paragraph does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because public utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the [ratepayer] customer or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

* * * * *

~~(11) Nonpayment of delinquent accounts when the amount of the deposit presently held by the public utility is within $25 of account balance.~~

NOTICE PROCEDURES PRIOR TO TERMINATION

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to [a termination of service, the utility shall mail or deliver written notice to the ratepayer at least 10 days prior to the date of the proposed termination] terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall provide written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice ~~must~~ SHALL remain effective for 60 days. In the event of [any taking or acceptance of utility service without the knowledge or approval of the utility, other than unauthorized use of service] A user without contract as defined in § 56.2 (relating to definitions), the public utility shall comply with §§ 56.93--56.97, but need not ~~otherwise~~ provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of ~~accounts~~ AMOUNTS currently due, including any required deposit.

(3) A statement that a ~~specific~~ reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the public utility on file with the Commission. THE STATEMENT MUST INCLUDE THE MAXIMUM POSSIBLE DOLLAR AMOUNT OF THE RECONNECTION FEE THAT MAY APPLY.

(4) The date on or after which service will be terminated unless ONE OF THE FOLLOWING OCCURS:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement ~~or informal dispute settlement agreement~~ is ~~entered~~ ESTABLISHED.

(iv) Enrollment is made in a ~~universal service~~ CUSTOMER ASSISTANCE program OR ITS EQUIVALENT, IF THE CUSTOMER IS ELIGIBLE FOR THE PROGRAM.

(v) A dispute is filed with the public utility or the Commission.

(VI) PAYMENT IN FULL OF AMOUNTS PAST DUE ON THE MOST RECENT PAYMENT AGREEMENT IS RECEIVED.

(5) A statement that specifies that the notice is valid for 60 days.

(6) A statement that the customer ~~shall~~ SHOULD immediately contact the public utility to attempt to resolve the matter~~, including~~. THE STATEMENT SHALL INCLUDE the address and telephone number where questions may be ~~filed~~ ASKED, HOW payment agreements MAY BE NEGOTIATED AND entered into with the public utility, and WHERE APPLICATIONS CAN BE FOUND AND SUBMITTED FOR ENROLLMENT INTO ~~questions and applications can be found for~~ the public utility's universal service programs, if these programs are offered by the public utility.

(7) The following statement: "If YOU HAVE QUESTIONS OR NEED MORE INFORMATION, CONTACT US AS SOON AS POSSIBLE AT (UTILITY PHONE NUMBER). AFTER ~~discussing your problem with the utility, you remain dissatisfied~~ YOU TALK TO US, IF YOU ARE NOT SATISFIED, you may file ~~an informal~~ A complaint with the Public Utility Commission. ~~TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE, THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE. You may file an informal complaint by telephoning the Public Utility Commission at~~ THE PUBLIC UTILITY COMMISSION MAY DELAY THE SHUT OFF IF YOU FILE THE COMPLAINT BEFORE THE SHUT OFF DATE. TO CONTACT THEM, CALL 1 (800) 692-7380 or ~~by writing~~ WRITE to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(8) A serious illness notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to ~~postermination~~ POST TERMINATION notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(9) ~~When~~ IF the public utility has universal service programs, information indicating that special assistance programs ~~are~~ MAY BE available and how to contact the public utility for information and enrollment, and that enrollment in the program ~~is~~ MAY BE a method of avoiding the termination of service.

(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty ~~line~~ LEVEL, and the required documentation or information the customer shall supply to avoid termination.

(11) Information indicating that special protections are available for victims under a Protection From Abuse Order and how to contact the public utility to obtain more information on these protections.

(12) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(13) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered 'customers' and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, ~~any~~ AN adult occupant who has been living at the premise may have to pay all or portions of the bill THAT ACCRUED WHILE THE ADULT OCCUPANT LIVED THERE to have service ~~restored~~ TURNED BACK ON.

(15) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service ~~restored~~ TURNED BACK ON.

(17) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates ~~a significant population~~ THAT 5% OR MORE OF THE RESIDENTS OF THE UTILITY'S SERVICE TERRITORY ARE using that language ~~resides in the public utility's service territory~~.

(18) Contact information for customers with disabilities that need assistance.

~~(19) Notices must reflect to the extent practical the Plain Language Guidelines found in § 69.251 (relating to plain language--statement of policy).~~

§ 56.92. Notice when dispute pending.

A public utility may not mail or deliver a notice of termination if a notice of INITIAL INQUIRY, dispute, INFORMAL OR FORMAL COMPLAINT has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

§ 56.93. Personal contact.

(a) Except when authorized by §§ 56.71, 56.72 or 56.98 (relating to interruption of service; ~~discontinuation~~ DISCONTINUANCE of service; and [exception for terminations based on occurrences harmful to person or property] immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without [personally contacting the ratepayer or a responsible adult occupant at least 3 days prior to the interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required by this chapter or other Commission directive. For purposes of this section, "personal contact" means:

(1) Contacting the ratepayer or responsible adult occupant in person or by telephone.

(2) Contacting another person whom the ratepayer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(3) If the ratepayer has not made the designation noted in paragraph (2), contacting a community interest group or other entity, including a local police department, which previously shall have agreed to receive a copy of the notice of termination and to attempt to contact the ratepayer.

(4) If the ratepayer has not made the designation noted in paragraph (2) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing] attempting to contact the customer or responsible adult occupant, either in person or by telephone, to provide notice of the proposed termination at least 3 days prior to the scheduled termination. If personal contact by one method is not possible, the public utility is obligated to attempt the other method.

(b) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of ~~7~~ 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m and at least 2 hours apart. CALLS MADE TO CONTACT TELEPHONE NUMBERS PROVIDED BY THE CUSTOMER SHALL BE DEEMED TO BE CALLS TO THE RESIDENCE.

(c) If contact is attempted in person by a home visit, only one attempt is required.~~, but the~~ THE public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant DURING THE HOME VISIT.

(d) The content of the 3-day personal contact notice must ~~comply with § 56.91 (relating to general notice provisions and contents of termination notice).~~ INCLUDE THE EARLIEST DATE AT WHICH TERMINATION MAY OCCUR AND THE FOLLOWING INFORMATION:

(1) DATE AND GROUNDS OF THE TERMINATION.

(2) WHAT IS NEEDED TO AVOID THE TERMINATION OF SERVICE.

(3) HOW TO CONTACT THE PUBLIC UTILITY AND THE COMMISSION.

(4) THE AVAILABILITY OF THE EMERGENCY MEDICAL PROCEDURES.

(E) THE PUBLIC UTILITY SHALL ASK THE CUSTOMER OR OCCUPANT IF THEY HAVE ANY QUESTIONS ABOUT THE 10-DAY WRITTEN NOTICE THE PUBLIC UTILITY PREVIOUSLY SENT.

§ 56.94. Procedures immediately prior to termination.

Immediately preceding the termination of service, a public utility [employe] employee, who may be the public utility [employe] employee designated to perform the termination, shall attempt to make personal contact with a responsible [person] adult occupant at the residence of the [ratepayer and shall attempt to make personal contact with a responsible person at the affected dwelling] customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the [employe] employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination [shall] may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the [ratepayer] customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

(3) *Dishonorable tender of payment after receiving termination notice.* After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted telephone contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor).

(ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

§ 56.95. Deferred termination when no prior contact.

[If a prior contact has not been made with a responsible adult either at the residence of the ratepayer, as required by § 56.94 (relating to procedures immediately prior to termination) or at the affected dwelling, the employe may not terminate service but shall conspicuously post a termination notice at the residence of the ratepayer and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting] During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, a public utility shall, ~~within~~ 48 hours ~~of~~ PRIOR TO the scheduled date of termination, post a notice of the proposed termination at the service location.

§ 56.96. [Post-termination] POST TERMINATION notice.

When service is actually terminated, notice [or a written statement which contains the address and telephone number of the utility where the ratepayer or occupant may arrange to have service restored] that ~~substantially~~ reflects the requirements of § 56.91 (relating to the general notice provisions and contents of a termination notice) as well as a medical emergency notice ~~substantially~~ in the form which [is attached to this chapter as] appears in Appendix B (relating to medical emergency notice) shall be conspicuously posted or delivered to a responsible ADULT

person OR OCCUPANT at the residence of the [ratepayer] customer and at the affected premises.

§ 56.97. Procedures upon [ratepayer] customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a [ratepayer] customer or occupant contacts the public utility concerning a proposed termination, an authorized public utility [employe] employee shall fully explain:

* * * * *

(2) All available methods for avoiding a termination, including the following:

* * * * *

(ii) Entering a [settlement] ~~informal dispute settlement agreement or~~ payment agreement.

(iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.

(iv) Enrolling in the public utility's customer assistance program or ~~universal service program~~ ITS EQUIVALENT, if the public utility has these programs AND THE CUSTOMER IS ELIGIBLE FOR THE PROGRAM.

* * * * *

(b) The public utility, through its [employes] employees, shall exercise good faith and fair judgment in attempting to enter a reasonable [settlement] ~~informal dispute settlement agreement or~~ payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable [settlement] ~~informal dispute settlement agreement or~~ payment agreement include the size of the unpaid balance, the ability of the [ratepayer] customer to pay, the payment history of the [ratepayer] customer and the length of time over which the bill accumulated. PAYMENT AGREEMENTS FOR HEATING CUSTOMERS SHALL BE BASED UPON BUDGET BILLING AS DETERMINED BY § 56.12(7) (RELATING TO METER READING; ESTIMATED BILLING; CUSTOMER READINGS). If [a settlement] ~~an informal dispute settlement agreement or~~ A payment agreement is not established, the company shall further explain the following:

(1) The right of the [ratepayer] customer to file a dispute with the public utility and, thereafter, an informal complaint with the Commission.

* * * * *

(3) The duty of the [ratepayer] customer to pay any portion of a bill which the [ratepayer] customer does not ~~honestly~~ dispute.

§ 56.98. [Exception for terminations based on occurrences harmful to person or property] Immediate termination for unauthorized use, fraud, tampering or tariff violations.

[Notwithstanding any other provision of this chapter, when a service termination is based on an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without written notice so long as the utility honestly and reasonably believes grounds to exist. At the time of termination, the utility shall make a bona fide attempt to deliver a notice of termination to a responsible person at the affected premises and, in the case of a single meter, multiunit dwelling, shall conspicuously post the notice at the dwelling, including common areas when permissible.]

(a) A public utility may immediately terminate service for any of the following actions by the customer:

(1) Unauthorized use of the service delivered on or about the affected dwelling.

(2) Fraud or material misrepresentation of the customer's identity for the purpose of obtaining service.

(3) Tampering with meters or other public utility equipment.

(4) Violating tariff provisions on file with the Commission which endanger the safety of a person or the integrity of the public utility's delivery system.

(b) Upon termination, the public utility shall make a good faith attempt to provide a ~~post-termination~~ POST-TERMINATION notice to the customer or a responsible ADULT person OR OCCUPANT at the affected premises~~, and~~,. IF PROVIDING A POST-TERMINATION NOTICE TO THE CUSTOMER OR RESPONSIBLE PERSON AT THE AFFECTED PREMISES IS NOT POSSIBLE, THEN THE PUBLIC UTILITY SHALL CONSPICUOUSLY POST THE NOTICE AT THE AFFECTED PREMISES. ~~in~~ IN the case of a single meter, multiunit dwelling, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.

§ 56.99. Use of termination notice solely as collection device prohibited.

A public utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter[; notice]. NOTICE of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures [set forth by] ~~in~~ under this chapter, unless the [ratepayer] customer or occupant remedies the situation which gave rise to the enforcement efforts of the public utility.

§ 56.100. Winter termination procedures.

(a) *Water distribution utilities.* Notwithstanding ~~another~~ ANY provision of this chapter, during the period of December 1 through March 31, water distribution utilities subject to this ~~chapter~~ SUBCHAPTER [shall conform to the provisions of this section. The covered utilities may] ~~are~~ MAY not [be] ~~permitted to~~ terminate heat related service between December 1 and March 31 except as provided in this section or in § 56.98 (relating to [exception for terminations based on occurrences harmful to person or property] immediate termination for unauthorized use, fraud, tampering or tariff violations).

(b) *Electric distribution and natural gas distribution utilities.* Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution utility may not terminate ~~heat related~~ service to customers with household incomes at or below 250% of the Federal poverty level except as provided in this section or in § 56.98. The Commission will not prohibit an electric distribution utility or natural gas distribution utility from terminating ~~heat related~~ service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

(c) *City natural gas distribution utility.* In addition to the winter termination authority in subsection (b), a city natural gas distribution operation may terminate service after January 1 and before April 1 to a customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of charges for each of the prior 2 months unless the customer has done one of the following:

(1) Proven in accordance with Commission rules, that the household contains one or more persons who are 65 years of age or over.

(2) Proven in accordance with Commission rules, that the household contains one or more persons 12 years of age or younger.

(3) Obtained a medical certification, in accordance with Commission rules.

(4) Paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last 2 months.

(d) *CITY NATURAL GAS DISTRIBUTION UTILITY ~~Notice~~ NOTICE to the Commission.* At the time that the notice of termination required by § 56.91 (relating to general notice provisions and contents of termination notice) is provided to the customer, the city natural gas distribution operation shall provide notice to the Commission. The Commission will not stay the termination of service unless the Commission finds that the customer meets the criteria in subsection (c)(1), (2), (3) or (4).

(e) *Identification of accounts protected during the winter.* Public utilities shall determine the eligibility of an account for termination during the period of December 1 through March 31 under the criteria in subsections (b) and (c) before terminating service. Public utilities are to use household income and size information they have on record provided by customers to identify accounts that are not to be terminated during the period of December 1 through March 31. Public utilities are expected to solicit from customers, who contact the utility in response to notices of

termination, household size and income information and to use this information to determine eligibility for termination. PUBLIC UTILITIES WHO INTEND TO REQUIRE VERIFICATION OF HOUSEHOLD INCOME INFORMATION SUBMITTED BY CONSUMERS RELATING TO THIS SUBSECTION SHALL INCLUDE, IN THEIR TARIFFS FILED WITH THE COMMISSION, THE PROCEDURES THEY INTEND TO IMPLEMENT TO OBTAIN VERIFICATION. THE PROCEDURES SHOULD SPECIFY THE PROOF OR EVIDENCE THE UTILITY WILL ACCEPT AS VERIFICATION OF HOUSEHOLD INCOME.

(f) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a public utility may not terminate service to a ~~premise~~ PREMISES when the account is in the name of a landlord ratepayer as defined in 66 Pa. C.S. § 1521 (relating to definitions) except for the grounds in § 56.98 (RELATING TO IMMEDIATE TERMINATION FOR UNAUTHORIZED USE, FRAUD, TAMPERING OR TARIFF VIOLATIONS).

(g) *Right of public utility to petition the Commission for permission to terminate service to a customer protected by the prohibitions in this section.*

(1) The public utility shall comply with §§ 56.91--56.95 including personal contact, as defined in § 56.93[(1)] (relating to personal contact), at the premises if occupied.

(2) If at the conclusion of the notification process defined in §§ 56.91--56.95, a reasonable agreement cannot be reached between the public utility and the [ratepayer] customer, the public utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.152 (relating to contents of the utility company report). AT THE SAME TIME, THE PUBLIC UTILITY SHALL SERVE THE CUSTOMER A COPY OF THE WRITTEN REQUEST REGISTERED WITH THE COMMISSION.

(3) If the [ratepayer] customer has filed an informal complaint or if the Commission has acted upon the public utility's written request, the matter shall proceed under §§ 56.161--56.165. Nothing in this section may be construed to limit the right of a public utility or [ratepayer] customer to appeal a decision by the [mediation unit] Bureau of Consumer Services (BCS) under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.171--56.173 and 56.211.

[(4)] (h) *Survey of terminated heat related accounts.* For premises where heat related service has been terminated within the past year for any of the grounds in § 56.81 (relating to authorized termination of services) or § 56.98 (RELATING TO IMMEDIATE TERMINATION FOR UNAUTHORIZED USE, FRAUD, TAMPERING OR TARIFF VIOLATIONS) ~~prior to December 1 of each year~~, [covered] electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall, within 90 days prior to December 1, survey and attempt to make [post-termination] ~~posttermination~~ POST-TERMINATION personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

[(5) Companies] (i) *Reporting of survey results.* Electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall file a brief report outlining their

pre-December 1 survey and personal contact results with the Bureau of Consumer Services on or before December 15 of each year. ~~The filing must categorize the accounts by the first three digits of the customer's postal code.~~ Each utility shall update the survey and report the results to the Bureau of Consumer Services on ~~January 15 and~~ February ~~15~~ 1 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. FOR THE PURPOSES OF THE FEBRUARY 1 UPDATE OF SURVEY RESULTS, ~~The~~ THE PUBLIC utility shall attempt to contact by telephone, if available, a responsible ADULT PERSON OR occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(j) *Reporting of deaths at locations where public utility service was previously terminated.* Throughout the year, public utilities shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning OR OTHER EVENT that resulted in a death and that the utility service was off at the time of the incident. Within 1 business day of becoming aware of an incident, the public utility shall submit a telephone or electronic report to the Director of the Bureau of Consumer Services including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved, and, if ~~applicable,~~ AVAILABLE FROM AN OFFICIAL SOURCE OR THE MEDIA, the initial findings as to the cause of the incident and the source of that information. The Bureau or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this subsection will be treated in accordance with 66 Pa.C.S. § 1508 (relating to the reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

[NOTICE PROCEDURES AFTER DISPUTE FILED]

§ 56.101. [Limited notice upon noncompliance with report or order] (Reserved).

[(a) Except during the winter period identified in § 56.100 (relating to winter termination procedures), the original grounds for terminations may be revived provided a 10-day termination notice was previously issued to the ratepayer. The original grounds for termination shall be revived and utilities may proceed with termination as provided in subsection (b) upon the failure to timely appeal from or comply with any of the following:

(1) A utility company report required by § 56.151 (relating to the general rule).

(2) An informal complaint report required by § 56.161 (relating to general rule; time for filing).

(3) An order from a formal complaint, under § 56.173 or § 56.174 (relating to formal complaint procedures other than appeals from mediation decisions of the Bureau of Consumer Services; and formal complaint procedures for appeals from mediation decisions of the Bureau of Consumer Services).

(4) A company negotiated payment or settlement agreement where a customer fails, at any time, during the first 120 days to maintain the agreement and this failure reflects payments of less than 50% of the overdue balance during this same time period.

(b) The utility may not be required to give further written notice so long as within 10 business days of the failure to appeal or comply with subsection (a):

(1) The ratepayer is personally contacted as described in § 56.93(1), (2) or (3) (relating to personal contact), at least 3 days prior to termination. If the utility is unable to make personal contact as described in § 56.93(1), (2) or (3), it shall proceed with the posting procedure described in § 56.95 (relating to deferred termination when no prior contact).

(2) At the time of termination, the utility serves personally on the ratepayer or posts conspicuously at the residence of the ratepayer and at the affected premises, including common areas where permissible, a post-termination notice complying with § 56.96 (relating to post-termination notice).]

EMERGENCY PROVISIONS

§ 56.111. General provision.

[A utility may not terminate, or refuse to restore, service to a premise when an occupant therein is certified by a physician to be seriously ill or affected with a medical condition which will be aggravated by a cessation of service or failure to restore service.] A public utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to the general rule) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician ~~or nurse practitioner~~ verifying the condition and promptly forward it to the public utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

§ 56.112. Postponement of termination pending receipt of certificate.

If, prior to termination of service, the public utility [employe] employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. [Service may be terminated if] If no certification is produced within that 3-day period, the public utility may resume the termination process at the point where it was suspended.

§ 56.113. Medical certifications.

Certifications initially may be written or oral, subject to the right of the public utility to verify the certification by calling the physician or nurse practitioner or to require written ~~confirmation~~ VERIFICATION within 7 days. Certifications, whether written or oral, [shall] must include [all of] the following:

(1) The name and address of the [ratepayer] customer or applicant in whose name the account is registered.

(2) The name and address of the afflicted person and [his] relationship to the [ratepayer] customer or applicant.

* * * * *

(5) The name, office address and telephone number of the certifying physician or nurse practitioner.

§ 56.114. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification; the maximum length of the certification shall be 30 days.

* * * * *

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the [ratepayer] customer has met the obligation under § 56.116 (relating to duty of [ratepayer] customer to pay bills). In instances [where] when a [ratepayer] customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications ~~that concern medical certificates~~ filed for the same set of arrearages ~~and same termination action. When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.~~ [If a utility wishes to contest the renewal, it shall follow § 56.118(3) (relating to the right of utility to petition the Commission).] In these instances the public utility is not required to honor a third RENEWAL OF A medical certificate and is not required to follow § 56.118(3) (relating to the right of public utility to petition the Commission). The public utility shall apply the dispute procedures in §§ 56.151 and 56.152 (relating to public utility company dispute procedures). WHEN THE CUSTOMER ELIMINATES THESE ARREARAGES, THE CUSTOMER IS ELIGIBLE TO FILE NEW MEDICAL CERTIFICATES.

§ 56.115. Restoration of service.

When service is required to be restored under this section and §§ ~~56.111,~~ 56.114, ~~and~~ 56.116--56.118 AND 56.191, the public utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be [restored before the end of the next working day] reconnected within 24 hours. Each public utility shall have [employes] employees available or on call to restore service in emergencies.

§ 56.116. Duty of [ratepayer] customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the [ratepayer] customer shall retain a duty [to equitably arrange] to make payment on all [bills] current undisputed bills or ~~equal monthly~~ BUDGET billing amount as determined by § 56.12(7) (relating to meter reading; estimated billing; ratepayer readings).

§ 56.117. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the public utility may terminate service without additional written notice, if notice previously has been mailed or delivered WITHIN THE PAST 60 DAYS under § 56.91 (relating to general notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93--56.96.

§ 56.118. Right of public utility to petition the Commission.

(a) A public utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) *Contest the validity of a certification.* To request an investigation and hearing by the Commission or its designee when the public utility wishes to contest the validity of the certification.

(2) *Terminate service prior to expiration of certification.* To request permission to terminate service for the failure of the [ratepayer] customer to [equitably arrange to] make payments on current undisputed bills.

(3) *Contest the renewal of a certification.* To request permission to terminate service, under this section and §§ 56.81--56.83 and 56.91--56.99 when the [ratepayer] customer has not met [his]

the duty under § 56.116 (relating to duty of [ratepayer] customer to pay bills), provided that the public utility has informed the [ratepayer] customer of that duty under § 56.116.

(b) A public utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.152 (relating to contents of the PUBLIC utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

* * * * *

THIRD-PARTY NOTIFICATION

§ 56.131. Third-party notification.

Each public utility shall permit its [ratepayers] customers to designate a consenting individual or agency which is to be sent, by the public utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that public utility. When contact with a third party is made, the public utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A public utility shall institute and maintain a program:

(1) To allow [ratepayers] customers to designate third parties to receive copies of a [ratepayer's] customer's or group of [ratepayers'] customers' notices of termination of service.

(2) To advise [ratepayers] customers at least annually of the availability of a third-party notification program and to encourage ~~their~~ ITS use thereof. The public utility shall emphasize that the third party is not responsible for the payment of the customer's bills.

* * * * *

(4) ~~Making~~ TO MAKE available a standard enrollment form ~~substantially~~ in compliance with the form as set forth in Appendix E (relating to ~~third party~~ THIRD-PARTY notification).

Subchapter F. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

GENERAL PROVISIONS

§ 56.140. Follow-up response to inquiry.

When a customer is waiting for a follow-up response to an INITIAL inquiry under § 56.2 (relating to DEFINITIONS), termination or threatening termination of service for the subject matter RELATING TO THE INQUIRY in question shall be prohibited until the follow-up

response, and when applicable, subsequent dispute resolution is completed by the public utility.

§ 56.141. Dispute procedures.

A notice of dispute, including termination disputes, [shall] must proceed ~~in the first instance~~, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a [ratepayer] customer advises the public utility that ~~he~~ THE CUSTOMER disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of public utility metering or billing or the proper party to be charged, the public utility shall attempt to resolve the dispute in accordance with § 56.151 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, [where] when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint; however, the disputing party shall pay undisputed portions of the bill.

§ 56.142. Time for filing [a termination dispute or] AN informal ~~complaints~~ COMPLAINT.

To be timely filed, [a termination dispute] an informal complaint--which may not include disputes under §§ 56.35 and 56.191 (relating to payment of outstanding balance; and ~~general rule~~ PAYMENT AND TIMING)--~~and informal complaints~~ shall be filed prior to the day on which the public utility arrives to terminate service. If the public utility arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing [a termination dispute or] an informal complaint shall be extended until the end of the business day prior to the public utility again arriving to terminate service.

§ 56.143. Effect of failure to timely file [a termination dispute] an informal complaint.

Failure to timely file [a notice of dispute] an informal complaint, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the public utility [and may constitute a waiver of rights to file an informal complaint in accordance with this chapter].

PUBLIC UTILITY COMPANY DISPUTE PROCEDURES

§ 56.151. General rule.

Upon initiation of a dispute covered by this section, the public utility shall:

* * * * *

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the [ratepayer] customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the [ratepayer] customer or occupant IS ELIGIBLE FOR A PAYMENT AGREEMENT AND claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement [shall] include, but are not ~~be~~ limited to:

* * * * *

(ii) The ability of the [ratepayer] customer to pay.

(iii) The payment history of the [ratepayer] customer.

* * * * *

(4) Provide the [ratepayer] customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report [shall] must be in writing and conform to § 56.152 (relating to contents of the utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.

* * * * *

~~(iii) If the complaining party expresses satisfaction but requests a written report, the report shall conform with § 56.152, in its entirety.~~

~~(iv)~~ (III) The information and documents required by this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them ELECTRONICALLY.

§ 56.152. Contents of the PUBLIC utility company report.

A utility company report [shall] must include the following:

(1) A statement of the claim or dispute of the [ratepayer] customer and a copy thereof if the claim or notice of dispute was made in writing.

(2) The position of the public utility regarding that claim.

* * * * *

(4) A statement that if the complaining party does not agree with the utility company report, an informal complaint ~~shall~~ MUST be filed with the Commission ~~within 10 days of the mailing date of the report~~ to ~~insure~~ ENSURE the preservation of all of [his] the complaining party's rights.

(5) The office where payment may be made or information obtained listing the appropriate telephone number and address of the public utility.

(6) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.162 (relating to informal complaint filing procedures). If a written report is not requested by the complaining party or IS NOT deemed necessary by the public utility, the public utility shall provide the information in § 56.162(1), (2) and (5). In addition, the public utility ~~should~~ SHALL always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(7) If the matter in dispute involves a billing dispute, the report [shall] must include the following:

(i) An itemized statement of the account of the complaining [ratepayer] customer specifying the amount of credit, if any, and the proper amount due.

(ii) The date on or after which the account will become delinquent unless a [settlement] ~~informal dispute settlement agreement or~~ payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the report [shall] must also state the following:

* * * * *

(ii) The date on or after which [service will be terminated] ~~the utility will commence termination action~~ SERVICE WILL BE TERMINATED in accordance with the applicable requirements unless the report is complied with, [settlement] ~~informal dispute settlement agreement or~~ A payment agreement entered INTO or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility COMPANY report, whichever is later. If the utility COMPANY report is in writing, the information in this paragraph must be ~~presented in a bold font that is at least two font sizes larger than the font used in other sections of the utility report~~ PROMINENTLY DISPLAYED.

INFORMAL COMPLAINT PROCEDURES

§ 56.161. [General rule; time for filing] (Reserved).

[Within 10 days of notification or mailing of a utility company report and not thereafter except for failure to receive notice or other good cause, an informal complaint may be filed with the Commission.]

§ 56.162. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and [shall] must include the following information:

(1) The name and address of the [ratepayer] complainant and, if different, the address at which service is provided.

(2) The telephone number of the [ratepayer] complainant.

(3) The account number of the [ratepayer] complainant, if applicable.

(4) The name of the public utility.

* * * * *

(6) Whether the dispute formerly has been the subject of a public utility company investigation and report. THE COMPLAINANT SHALL AFFIRM HAVING FIRST CONTACTED THE PUBLIC UTILITY FOR THE PURPOSE OF RESOLVING THE PROBLEM ABOUT WHICH THE COMPLAINANT WISHES TO FILE A COMPLAINT. IF THE COMPLAINANT HAS NOT CONTACTED THE PUBLIC UTILITY, THE COMMISSION SHALL DIRECT THE COMPLAINANT TO THE PUBLIC UTILITY.

* * * * *

§ 56.163. Commission informal complaint procedure.

Upon the filing of an informal complaint, which shall be [docketed] captioned as "(Complainant) v. (public utility)," Commission staff will immediately notify the public utility; review the dispute; and, within a reasonable period of time, issue to the public utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports [shall] will be in writing and a summary [shall] will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and

investigation. Procedures [shall] will be designed to ~~insure~~ ENSURE a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. Information and documents requested by Commission staff as part of the review process shall be provided by the public utility within 30 days of the request. If the complainant is without public utility service, or in other emergency situations as identified by Commission staff, the information requested by Commission staff shall be provided by the public utility within 5 BUSINESS days of the request.

(2) *Settlement.* Prior to the issuance of [its report] an informal decision, Commission staff may [negotiate with] facilitate discussions between the parties in an [attempt] effort to settle the [matters in] dispute. [Upon reaching] If a settlement is reached, Commission staff will [prepare, when advisable, a settlement agreement which shall be signed by the parties and will make the provisions for the obtaining of signatures reasonable under the circumstances] CONFIRM that all parties understand the terms of the settlement and ~~mark~~ DOCUMENT the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.171--56.174 (relating to formal complaints).

§ 56.164. Termination pending resolution of the dispute.

In any case alleging unauthorized use of public utility service, as defined in § 56.2 (relating to definitions), OR THE CUSTOMER'S FAILURE TO PAY UNDISPUTED BILLS AS REQUIRED BY § 56.181 (RELATING TO DUTIES OF PARTIES; DISPUTING PARTY'S DUTY TO PAY UNDISPUTED PORTION OF BILLS; PUBLIC UTILITY'S DUTY TO PAY INTEREST WHENEVER OVERPAYMENT IS FOUND), a public utility may terminate service after giving proper notice in accordance with §§ 56.91--56.98, whether or not a dispute is pending.

§ 56.165. Conference procedures.

Conferences held under §§ 56.161--56.164 and this section will be informal and may be held by conference telephone call, [where] when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint. ~~The parties will be advised that false information intended to mislead a public servant in performing [his] an official function may be punishable criminally.~~

§ 56.166. Informal complaints.

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to resolve customer, applicant or occupant INFORMAL complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement this chapter.

(1) The Commission will accept complaints only from ~~customers~~ COMPLAINANTS who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the ~~customer~~ COMPLAINANT wishes to file a complaint. If the ~~customer~~ COMPLAINANT has not contacted the public utility, the Commission will direct the ~~customer~~ COMPLAINANT to the public utility.

(2) Only after the ~~customer~~ COMPLAINANT and the public utility have failed to resolve the dispute will BCS initiate an investigation.

FORMAL COMPLAINTS

* * * * *

§ 56.172. [Time for filing] Filing.

[Within 20 days of notification or mailing of the informal complaint report and not thereafter except for good cause, an appeal from the report of the Consumer Service Representative may be initiated by means of a written intention to appeal. Upon receipt of this written intention, the Secretary's Bureau will determine whether the appeal is from a mediation decision of the Bureau of Consumer Services--to be docketed with the prefix "Z"--or another type of appeal. Thereafter, formal complaint forms shall be filed by the party taking the appeal.

(1) Appeal from mediation decisions where the issue is solely ability to pay shall proceed in accord with § 56.174 (relating to formal complaint procedures for appeals from mediation decisions of the Bureau of Consumer Services).

(2) Other appeals shall proceed in accord with § 56.173 (relating to formal complaint procedures other than appeals from mediation decisions of the Bureau of Consumer Services).]

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) must be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary OF THE COMMISSION will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of THE decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a later time except as otherwise may be provided in 66 Pa. C.S. (relating to public utility code).

§ 56.173. [Formal complaint procedures other than appeals] Review from [mediation] informal complaint decisions of the Bureau of Consumer Services.

(a) *Assignment.* [Appeals from] Review of informal complaint [reports] decisions will be heard [de novo by the Commission, a Commissioner or] DE NOVO by ~~an~~ A [Administrative Law Judge] law judge or special agent[:].

[(1)](b) *Filing and docketing.* [Appeals] ~~Complaints~~ A COMPLAINT will be filed and docketed as a formal Commission complaint, under §§ [5.22 and 5.61 (relating to contents of formal complaint; and answers to complaints, petitions and motions)] 1.31--1.38 (relating to requirements for documentary filings).

[(2)](c) *Captions.* The parties to [an appeal] a review will be stated in the caption as they stood upon the record of the informal complaint proceeding[, with]. If the party requesting review is a public utility, the [addition of the] phrase [of] "Complaint Appellant" will be added after [the] its name [of the party taking the appeal].

[(3)*Hearings.* Hearings conducted by a Commissioner or administrative law judge will be held within a reasonable period of time after the filing of the answer. The parties may incorporate portions of the conference report or informal complaint report that they shall agree upon.

(4) *Formal complaint report.* The Commissioner or administrative law judge assigned to the formal complaint will file his report with the Commission within a reasonable period of time after the receipt of the transcribed testimony. Included in the report will be a description of the matter, findings of fact, conclusions of law and other discussion and opinion as is appropriate.

(5)](D) *HEARINGS.* HEARINGS CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE OR SPECIAL AGENT WILL BE HELD WITHIN A REASONABLE PERIOD OF TIME AFTER THE FILING OF THE ANSWER. THE PARTIES MAY INCORPORATE PORTIONS OF THE CONFERENCE REPORT OR INFORMAL DECISION THAT THEY SHALL AGREE UPON.

(E) *FORMAL COMPLAINT DECISION.* THE ADMINISTRATIVE LAW JUDGE OR SPECIAL AGENT ASSIGNED TO THE FORMAL COMPLAINT WILL ISSUE A DECISION WITHIN A REASONABLE PERIOD OF TIME AFTER THE RECEIPT OF THE TRANSCRIBED TESTIMONY. INCLUDED IN THE DECISION WILL BE A DESCRIPTION OF THE MATTER, FINDINGS OF FACT, CONCLUSIONS OF LAW AND OTHER DISCUSSION AND OPINION AS IS APPROPRIATE.

~~(d)~~ (F) *Commission review.* The Commission will review the [report] decision of the assigned administrative law judge or [Commissioner] special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or [Commissioner] special agent for further development of the record or issue a final order. The burden of proof remains with the party WHO ~~filing~~ FILED the formal complaint.

§ 56.174. [Formal complaint procedures for appeals from mediation decisions of the Bureau of Consumer Services] Ability to pay proceedings.

[Appeals from mediation decisions of the Bureau of Consumer Services, and any other case in which the issue is solely ability to pay, including ability to pay according to payment agreements, shall be assigned to a special agent for review. Where there are issues involved other than ability to pay, any party or the Office of Administrative Law Judge sua sponte, can remove or seek removal of the appeal to an administrative law judge.

(1) *Filing and docketing.* Appeals shall be filed as a formal complaint under this title and shall be docketed with the prefix "Z."

(2) *Caption.* Parties will be stated in the caption as in the informal complaint proceeding, with the addition of the designation "Appellant" after the name of the party taking the appeal.]

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

[(3)](b) *Stay of informal complaint decision.* Upon [appeal] the filing of a formal complaint in a case seeking review from the [mediation] decision of the [Bureau of Consumer Services] BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The public utility may request that the [special agent] presiding officer remove the stay and order payment of amounts set forth in the [mediation] informal complaint decision. When current bills are not at issue, the [ratepayer will] customer shall be responsible for payment of current, undisputed bills pending [review] issuance of a final Commission order.

[(4)](c) *Hearings.* The [special agent shall] presiding officer will conduct hearings within a reasonable period after filing of the [appeal] review and answer. [The] If the presiding officer is a special agent [shall], the special agent will have all powers of an administrative law judge [or presiding officer]. ~~Subject to any valid evidentiary objections raised by the parties, the presiding officer will enter into the record BCS's documents on the complainant's income, the utility report to the BCS's from the PUBLIC utility, and the BCS's decision when the formal complaint was the subject matter of a BCS's informal decision.~~

~~(i)~~(1) The [special agent shall] presiding officer will attempt to hold hearings by telephone, [subject to the approval of the] unless one or more parties object. Hearings [shall] will be held [within 25 days] after [receipt of appellee's] the filing of an answer.

~~(ii)~~(2) The [special agent shall] presiding officer will hear the [appeals] case de novo, but may request a stipulation of the parties as to undisputed facts.

~~(iii)~~ (3) Hearings [shall] will be tape recorded and [may] will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape [recording] or other circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that [sanctioned] made by the [special agent] presiding officer.

[(5)] (d) *Proposed findings of fact and conclusions of law or briefs*. The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the [special agent, with supporting reasons therefor. If proposed findings and conclusions have not been submitted at or before hearing, notice] presiding officer. Notice of intent to submit [them] findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

[(6) *Formal complaint report*](e) *Initial decision*. The [special agent shall] presiding officer will render a written decision [within 25 days] after the hearings or [25 days] after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision [shall] will be in writing and [shall] contain a brief description of the matter, findings of fact and conclusions of law. The initial decision shall be subject to the filing of exceptions under the procedures set forth in Chapters 1 and 5 (relating to rules of administrative practice and procedure; and formal proceedings).

[(7) *Post hearing procedures*. A party to a proceeding referred to a special agent may file exceptions to the decision of the special agent within 15 days after the decision is issued, in a form and manner to be prescribed by the Commission. The special agent shall rule upon the exceptions within 30 days after filing. A party to the proceeding may appeal to the Commission from the ruling of the special agent on the exceptions within 15 days after the ruling is issued. If no exceptions are filed or if no appeal is taken from the ruling on the exceptions within 15 days after the decision or ruling is issued, the decision or ruling shall become final, without further Commission action, unless two or more commissioners within 15 days after the decision or ruling on the exceptions request that the Commission review the decision and make the other order, within 90 days of the request, as it shall determine.]

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 56.181. Duties of parties: disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found.

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section[:].

* * * * *

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the [ratepayer] customer shall be required to pay that amount which the [Consumer Services Representative] consumer services representative determines is not ~~reasonably~~ disputed.

* * * * *

(4) *Effect of offer of payment.* An offer by a [ratepayer] customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a public utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the public utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

Subchapter G. RESTORATION OF SERVICE

§ 56.191. ~~General rule~~ PAYMENT AND TIMING.

[When service to a dwelling has been terminated, the utility shall reconnect service by the end of the first full working day after receiving one of the following:

(1) Full payment of an outstanding charge plus a reasonable reconnection fee. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account shall include, but are not be limited to:

(i) The size of the unpaid balance.

(ii) The ability of the ratepayer to pay.

(iii) The payment history of the ratepayer.

(iv)The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to a settlement or payment agreement, plus a reasonable reconnection fee, which may be a part of the settlement or payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the ratepayer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and

compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.]

(a) *Fee.* A public utility may require a reconnection fee based upon the public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service. The amount of this fee shall be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, ~~provided the applicant OR CUSTOMER has met all applicable conditions,~~ the public utility shall reconnect service as follows:

(1) *CUSTOMERS*:

(I) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. ~~THE MEDICAL CERTIFICATE MUST BE ACCOMPANIED BY THE PAYMENTS REQUIRED BY THIS SECTION.~~ Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

~~(2)~~ (II) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

~~(3)~~ (III) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

~~(4)~~ (IV) Within 3 calendar days from April 1 to November 30 for proper terminations.

~~(5)~~ (V) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(2) *APPLICANTS:* PROVIDED THE APPLICANT HAS MET ALL APPLICABLE CONDITIONS:

(I), WITHIN 24 HOURS FOR ERRONEOUS TERMINATIONS OR UPON RECEIPT BY THE PUBLIC UTILITY OF A VALID MEDICAL CERTIFICATION. THE PUBLIC UTILITY IS NOT REQUIRED TO MODIFY OR ELIMINATE THE PAYMENT REQUIRED TO RESTORE SERVICE IF A MEDICAL CERTIFICATE IS PRESENTED. ERRONEOUS TERMINATIONS INCLUDE INSTANCES WHEN THE GROUNDS FOR TERMINATION WERE REMOVED BY THE CUSTOMER PAYING THE AMOUNT NEEDED TO AVOID TERMINATION PRIOR TO THE TERMINATION OF THE SERVICE.

(II) WITHIN 24 HOURS FOR TERMINATIONS AND RECONNECTIONS OCCURRING AFTER NOVEMBER 30 AND BEFORE APRIL 1.

(III) WITHIN 3 CALENDAR DAYS FOR ERRONEOUS TERMINATIONS REQUIRING STREET OR SIDEWALK DIGGING.

(IV) WITHIN 3 CALENDAR DAYS FROM APRIL 1 TO NOVEMBER 30 FOR PROPER TERMINATIONS.

(V) WITHIN 7 CALENDAR DAYS FOR PROPER TERMINATIONS REQUIRING STREET OR SIDEWALK DIGGING.

(c) *Payment to restore service.*

(1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order. A PUBLIC UTILITY SHALL ALSO INFORM THE APPLICANT OR CUSTOMER THAT THE TIMING AND CONDITIONS FOR RESTORATION OF SERVICE MAY DIFFER IF SOMEONE IN THE HOUSEHOLD IS SERIOUSLY ILL OR AFFECTED BY A MEDICAL CONDITION WHICH WILL BE AGGRAVATED WITHOUT UTILITY SERVICE. ~~THE PUBLIC UTILITY IS NOT REQUIRED TO MODIFY OR ELIMINATE THE PAYMENT REQUIRED TO RESTORE SERVICE IF A MEDICAL CERTIFICATE IS PRESENTED.~~

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment agreements. For purposes of this section, neither a payment agreement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment agreement that has been paid in full by the customer, are to be considered A DEFAULT. BUDGET BILLING PLANS AND AMORTIZATION OF BUDGET PLAN RECONCILIATION AMOUNTS UNDER § 56.12(7) (RELATING TO METER READING; ESTIMATED BILLINGS; CUSTOMER READINGS) MAY NOT BE CONSIDERED A DEFAULT FOR THE PURPOSES OF THIS SECTION.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months to pay the outstanding balance required for reconnection. For purposes of this paragraph, a life event is:

(A) A job loss that extends beyond 9 months.

(B) A serious illness that extends beyond 9 months.

(C) Death of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment REQUIRED toward the outstanding balance ~~required~~ as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment REQUIRED toward the outstanding balance ~~required~~ as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises AS A CONDITION TO RESTORE SERVICE.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant OR CUSTOMER resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant OR CUSTOMER resided there, not exceeding 4 years PRIOR TO THE DATE OF REQUESTING THAT SERVICE BE RESTORED~~, except for instances of fraud and theft.~~ THE 4 YEAR LIMIT DOES NOT APPLY IN INSTANCES OF FRAUD AND THEFT.

(e) *Approval.* A public utility may establish that an applicant OR CUSTOMER previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the ~~procedures and standards~~ METHODS, OTHER THAN THOSE SPECIFICALLY MENTIONED IN THIS PARAGRAPH, used to determine liability for outstanding balances.

§ 56.192. Personnel available to restore service.

A public utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a commensurate period of 8 consecutive hours to restore service when required under this [subchapter] chapter, specifically in §§ 56.82 and 56.191 (relating to timing of termination; and ~~the general rule~~ PAYMENT AND TIMING).

Subchapter H. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

§ 56.201. Public information.

(A) In addition to the notice requirements [set forth] in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its [ratepayers] customers affected by the change. Summaries [shall] will be mailed by the public utility to each [ratepayer] customer of the public utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the public utility and its [ratepayers] customers in accordance with this chapter, shall be in writing, shall be reproduced by the public utility, shall be displayed prominently, SHALL BE AVAILABLE ON THE PUBLIC UTILITY'S WEBSITE IF THE UTILITY HAS ONE, and shall be available at all public utility office locations open to the general public. ~~This information be delivered or mailed to each new [ratepayer] customer of the~~

~~public utility upon the commencement of service and be available at all times upon request.~~ THE PUBLIC UTILITY SHALL INFORM NEW CUSTOMERS OF THE AVAILABILITY OF THIS INFORMATION AND DIRECT WHERE TO LOCATE IT ON THE PUBLIC UTILITY'S WEBSITE. THE PUBLIC UTILITY SHALL DELIVER OR MAIL A COPY UPON THE REQUEST OF A CUSTOMER OR APPLICANT.

(B) A public utility which serves a substantial number of Spanish-speaking [ratepayers] customers shall provide billing information in English and in Spanish. The written information [shall] must indicate conspicuously that it is being provided in accordance with [the regulations of the Commission] this title and [shall] contain information concerning, but not limited to, the following:

* * * * *

(3) Explanation of operation of ~~fuel adjustment clauses and~~ purchased gas adjustment clauses.

* * * * *

(8) Explanation of meter reading procedures which would enable a [ratepayer] customer or occupant to read his own meter.

(9) Procedure whereby [ratepayers] customers or occupants may avoid discontinuance of service during extended periods of absence.

* * * * *

(11) Telephone numbers and addresses of the public utility and of the nearest regional office of the Commission where further inquiries may be made.

(12) Definitions of terms or abbreviations used by the public utility on its bills.

(13) Information indicating that additional consumer protections ~~are~~ MAY BE available for victims of domestic violence, PEOPLE WITH SERIOUS ILLNESSES, AND LOW INCOME HOUSEHOLDS.

§ 56.202. Record maintenance.

A public utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, [shall] keep the records ACCESSIBLE within this Commonwealth at an office located in the territory served by it, and [shall] make the records available for examination by the Commission or its staff. Information to be maintained [shall include] includes the following:

(1) The payment performance of each of its [ratepayers] customers.

(2) The number of [settlement] ~~informal dispute settlement agreements and~~ payment agreements made by the public utility company and a synopsis of the terms, conditions and standards upon which agreements were made.

* * * * *

(4) Communications to or from individual [ratepayers] customers regarding interruptions, discontinuances, terminations and reconnections of service, including the name and address of the [ratepayer] customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

Subchapter I. INFORMAL COMPLAINTS

§ 56.211. [Informal complaints] (Reserved).

[The Bureau of Consumer Services (BCS) will have primary jurisdiction over ratepayer, applicant or occupant complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement the provisions of this chapter.

(1) Absent good cause, the BCS will handle only Chapter 56 informal complaints in which the customer first attempted to resolve the matter with the utility.

(2) Only after the customer and the utility have failed to resolve the dispute will BCS initiate an investigation.]

Subchapter J. GENERAL PROVISIONS

§ 56.221. Availability of normal Commission procedures.

Nothing in this chapter [is deemed to prevent] prevents a person or a public utility from pursuing other Commission procedures in a case not described in this chapter.

§ 56.222. Applications for modification or exception.

(a) If unreasonable hardship to a person or to a public utility results from compliance with a section in this chapter, OR A TECHNOLOGICAL ADVANCE PERMITS AN ENHANCED LEVEL OF CUSTOMER SERVICE, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or public utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

Subchapter K. [MONTHLY] PUBLIC UTILITY REPORTING REQUIREMENTS

§ 56.231. Reporting requirements.

(a) Within 15 days after the end of each month, each electric[, gas] distribution utility, natural gas distribution utility, AND class A water distribution utility ~~and steam heat utility~~ shall file with the Commission a report containing the following information concerning residential accounts for that month:

(1) [Total number of accounts, categorized as follows:

(i) By classification--residential, residential multi-unit dwellings.

(ii) By usage--heating, nonheating.

(2) Number of overdue accounts, categorized as follows:

(i) By usage--heating, nonheating.

(ii) By amount overdue--$25 or less, $26--$50, $51--$150, $151--$250, $251--$500, $501--$1,000 and over $1,000.

(iii) By time overdue in days--30 days or less, 31--60 days, 61--90 days, 91--120 days, and over 120 days.

(3) Dollar amount overdue, categorized as follows:

(i) Total amount of arrearages.

(ii) By usage--heating, nonheating.

(iii) By time overdue in days--30 days or less, 31--60 days, 61--90 days, 91--120 days, and over 120 days.

(4) Total number of ten-day termination notices sent out by company.

(5) Total number of dwellings which receive notices sent to ratepayers other than occupants.

(6) Number of completed personal contacts categorized as follows:

(i) In person.

(ii) By telephone.

(iii) By third-party notification to a person designated by the customer.

(iv) By third-party notification to a community interest group.

(v) By third-party notification to the Commission or its designee.

(7) Total number of 48-hour notices posted.

(8) Number of terminations completed by the company, categorized as follows:

(i) Number of nonpayment of undisputed delinquent accounts, failure to satisfy credit requirements, noncompliance in the settlement of amortization agreement.

(ii) Others.

(9) Number of terminations completed, categorized as follows:

(i) By usage--heating, nonheating.

(ii) By amount overdue--$25 or less, $26--$50, $51--$150, $151--$250, $251--$500, $501--$1,000 and over $1,000.

(iii) By length of time overdue--30 days or less, 31--60 days, 61--90 days, 91--120 days, and over 120 days.

(iv) By first three digits of each account's zip code.

(10) Reconnections, categorized as follows:

(i) By usage--heating, nonheating.

(ii) By whether amortization settlement agreement was achieved:

(A) With involvement of the Commission.

(B) Between the customer and utility.

(iii) By total number of the reconnections due to medical certification.

(iv) By total number of reconnections due to full payment of arrearage.]

The total number of residential heating customers.

(2) The total number of residential nonheating customers.

(3) The total number of active residential accounts in arrears not on a payment agreement.

(4) The total dollar amount in arrears for active residential accounts in arrears and not on a payment agreement.

(5) The total number of active residential accounts in arrears and on a payment agreement.

(6) The total dollar amount in arrears for active residential accounts in arrears and on a payment agreement.

(7) The total number of inactive residential accounts in arrears.

(8) The total dollar amount of inactive residential accounts in arrears.

(9) The total number of 10-day termination notices sent out by company.

(10) The total number of dwellings receiving termination notices sent to occupants other than the customer.

(11) The total number of 3-day termination notices completed by ~~personal~~ contact in person.

(12) The total number of 3-day termination notices completed by telephone.

(13) The total number of 48-hour termination notices posted.

(14) The total number of terminations for nonpayment.

(15) The total number of terminations for reasons other than nonpayment.

(16) The total number of terminations for nonpayment and FOR reasons other than nonpayment categorized by the first three digits of each account's postal code.

(17) The total number of reconnections for full customer payment, PARTIAL PAYMENT OR PAYMENT AGREEMENT. ~~Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151–250% of the Federal poverty guideline.~~

~~(iii) Between 251–300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(18) The total number of reconnections for partial customer payment or payment agreement. Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151–250% of the Federal poverty guideline.~~

~~(iii) Between 251–300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(19)~~ (18) The total number of reconnections for customer submission of medical certification. ~~Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151–250% of the Federal poverty guideline.~~

~~(iii) Between 251–300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(20)~~ (19) The total number of reconnections for reasons other than customer payment or medical certification. ~~Categorize into five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151–250% of the Federal poverty guideline.~~

~~(iii) Between 251–300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(21)~~ (20) The total number of applicants that are requested TO PAY or ARE billed a security deposit.

~~(22)~~ (21) The total dollar amount in security deposits that are requested OF or billed to applicants.

~~(23)~~ (22) The total number of customers that are requested TO PAY or ARE billed a security deposit.

~~(24)~~ (23) The total dollar amount in security deposits that are requested OF or billed to customers.

(b) Within 90 days after the end of each year, each electric distribution utility, natural gas distribution utility, AND class A water distribution utility ~~and steam heat utility~~ shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

(1) The total number of security deposits on hand.

(2) The total dollar amount in security deposits on hand.

(3) The total dollar amount of annual collection operating expenses.

(4) The total dollar amount of annual residential billings.

(5) The total dollar amount of annual gross residential write-offs.

(6) The total dollar amount of annual net residential write-offs.

(7) The average monthly bill for the previous year for a heating customer.

(8) The average monthly bill for the previous year for a nonheating customer.

(9) The average monthly usage for a heating customer.

(10) The average monthly usage for a nonheating customer.

(c) Public utilities shall refer to the data dictionary in Appendix C (relating to definitions (§ 56.231)) for additional guidance as to the terms used in this section.

Subchapter L. ~~PRELIMINARY~~ PROVISIONS FOR WASTEWATER, STEAM HEAT AND SMALL NATURAL GAS DISTRIBUTION UTILITIES AND VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER

§ 56.251. Statement of purpose and policy.

Subchapters L--V apply to victims under a Protection From Abuse Order as provided by 23 Pa.C.S. Chapter 61 (relating to Protection from Abuse) and 66 Pa. C.S. §1417 (relating to non-applicability). These subchapters also apply to wastewater, steam heating and natural gas distribution utilities with annual gas operating revenues of less than $6,000,000 per year, except when the utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided by 66 Pa. C.S. § 1403 (relating to definitions). These subchapters establish and enforce uniform, fair and equitable residential utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. This chapter assures adequate provision of residential utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service. Every privilege conferred or duty required by this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

§ 56.252. Definitions.

~~In addition to the definitions in § 56.2 (relating to definitions), the~~ THE following words and terms, when used in Subchapters L--V, have the following meanings, unless the context clearly indicates otherwise:

AMR (AUTOMATIC METER READING)--

(I) METERING USING TECHNOLOGIES THAT AUTOMATICALLY READ AND COLLECT DATA FROM METERING DEVICES AND TRANSFER THAT DATA TO A CENTRAL DATABASE FOR BILLING AND OTHER PURPOSES.

(II) THE TERM DOES NOT INCLUDE REMOTE METER READING DEVICES AS DEFINED BY THIS SECTION.

(III) ALL METER READINGS BY AN AMR SHALL BE DEEMED ACTUAL READINGS FOR THE PURPOSES OF THIS CHAPTER.

Applicant--

(i) A person AT LEAST 18 YEARS OF AGE who applies for residential utility service.

(ii) The term does not include a person who, within 60 days after termination or discontinuance of service, seeks to transfer service within the service territory of the same utility or to reinstate service at the same address.

Basic services--Services necessary for the physical delivery of residential utility service. THE TERM ALSO INCLUDES DEFAULT SERVICE AS DEFINED BY THIS SUBSECTION.

BILLING MONTH--A PERIOD OF NOT LESS THAN 26 AND NOT MORE THAN 35 DAYS EXCEPT IN THE FOLLOWING CIRCUMSTANCES:

(I) AN INITIAL BILL FOR A NEW CUSTOMER MAY BE LESS THAN 26 DAYS OR GREATER THAN 35 DAYS. HOWEVER, IF AN INITIAL BILL EXCEEDS 60 DAYS, THE CUSTOMER SHALL BE GIVEN THE OPPORTUNITY TO AMORTIZE THE AMOUNT OVER A PERIOD EQUAL TO THE PERIOD COVERED BY THE INITIAL BILL WITHOUT PENALTY.

(II) A FINAL BILL DUE TO DISCONTINUANCE MAY BE LESS THAN 26 DAYS OR GREATER THAN 35 DAYS BUT MAY NEVER EXCEED 42 DAYS. IN CASES INVOLVING TERMINATION, A FINAL BILL MAY BE LESS THAN 26 DAYS.

(III) BILLS FOR LESS THAN 26 DAYS OR MORE THAN 35 DAYS SHALL BE PERMITTED IF THEY RESULT FROM A REBILLING INITIATED BY THE COMPANY OR CUSTOMER DISPUTE TO CORRECT A BILLING PROBLEM.

(IV) BILLS FOR LESS THAN 26 DAYS OR MORE THAN 35 DAYS SHALL BE PERMITTED IF THEY RESULT FROM A METER READING ROUTE CHANGE INITIATED BY THE UTILITY. THE UTILITY SHALL INFORMALLY CONTACT THE DIRECTOR OF THE BUREAU OF CONSUMER SERVICES AT LEAST 30 DAYS PRIOR TO THE REROUTING AND PROVIDE INFORMATION AS TO WHEN THE BILLING WILL OCCUR, THE NUMBER OF CUSTOMERS AFFECTED AND A GENERAL DESCRIPTION OF THE GEOGRAPHIC AREA INVOLVED. IF A BILL RESULTING FROM A METER RE-ROUTING EXCEEDS 60 DAYS, THE CUSTOMER SHALL BE GIVEN THE OPPORTUNITY TO AMORTIZE THE AMOUNT OVER A PERIOD EQUAL TO THE PERIOD COVERED BY THE BILL WITHOUT PENALTY.

BILLING PERIOD--IN THE CASE OF UTILITIES SUPPLYING GAS, ELECTRIC AND STEAM HEATING SERVICE, THE BILLING PERIOD MUST CONFORM TO THE DEFINITION OF A BILLING MONTH; IN THE CASE OF WATER AND WASTEWATER SERVICE, A BILLING PERIOD MAY BE MONTHLY, BIMONTHLY OR QUARTERLY AS PROVIDED IN THE TARIFF OF THE UTILITY. CUSTOMERS SHALL BE PERMITTED TO RECEIVE BILLS MONTHLY AND SHALL BE NOTIFIED OF THEIR RIGHTS THERETO.

Customer--A person AT LEAST 18 YEARS OF AGE in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service.

CUSTOMER ASSISTANCE PROGRAM--A PLAN OR PROGRAM SPONSORED BY A UTILITY FOR THE PURPOSE OF PROVIDING UNIVERSAL SERVICE AND ENERGY CONSERVATION, AS DEFINED IN 66 PA.C.S. § 2202 OR 2803 (RELATING TO DEFINITIONS), IN WHICH CUSTOMERS MAKE MONTHLY PAYMENTS BASED ON HOUSEHOLD INCOME AND HOUSEHOLD SIZE AND UNDER WHICH CUSTOMERS

SHALL COMPLY WITH CERTAIN RESPONSIBILITIES AND RESTRICTIONS TO REMAIN ELIGIBLE FOR THE PROGRAM.

Cycle billing--A system of billing employed by a utility which results in the normal rendition of bills for utility service to a group or portion of customers on different or specified days of one billing period.

DEFAULT SERVICE—ELECTRIC GENERATION SUPPLY SERVICE PROVIDED PURSUANT TO A DEFAULT SERVICE PROGRAM TO A RETAIL ELECTRIC CUSTOMER NOT RECEIVING SERVICE FROM AN ELECTRIC GENERATION SUPPLIER (EGS).

Delinquent account--Charges for utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment agreement ~~or informal dispute settlement agreement~~ with the utility has been entered into by the customer, a timely filed notice of dispute is pending before the utility, or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

~~*Discontinuation*~~*DISCONTINUANCE of service*--The cessation of service with the consent of the customer and otherwise in accordance with § 56.312 (relating to ~~discontinuation~~ DISCONTINUANCE of service).

Dispute--A grievance of an applicant, customer or occupant about a utility's application of a provision covered by this chapter, including, BUT NOT LIMITED TO, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, customer or occupant indicates satisfaction with the resulting resolution or explanation OF THE SUBJECT OF THE GRIEVANCE, the contact will not be considered a dispute.

DWELLING—A HOUSE, APARTMENT, MOBILE HOME OR SINGLE METER MULTIUNIT STRUCTURE BEING SUPPLIED WITH RESIDENTIAL SERVICE.

ELECTRONIC BILLING-- THE ELECTRONIC DELIVERY AND PRESENTATION OF BILLS AND RELATED INFORMATION SENT BY A UTILITY TO ITS CUSTOMERS USING A SYSTEM ADMINISTERED BY THE UTILITY OR A SYSTEM THE UTILITY IS RESPONSIBLE FOR MAINTAINING.

ELECTRONIC NOTIFICATION OF PAYMENT--A NOTIFICATION GENERATED BY AN ELECTRONIC PAYMENT SYSTEM UPON RECEIPT OF A PAYMENT FROM A CUSTOMER USING AN ELECTRONIC BILLING AND PAYMENT SYSTEM ADMINISTERED BY THE UTILITY OR A SYSTEM THE UTILITY IS RESPONSIBLE FOR MAINTAINING. THE NOTIFICATION WILL INFORM THE CUSTOMER OF SUCCESSFUL RECEIPT AND AMOUNT OF PAYMENT AND THE DATE AND TIME THE PAYMENT WAS RECEIVED.

ELECTRONIC REMITTANCE OF PAYMENT - THE ELECTRONIC RECEIPT OF PAYMENT FROM CUSTOMERS TO A UTILITY USING A SYSTEM ADMINISTERED BY A UTILITY OR A SYSTEM THE UTILITY IS RESPONSIBLE FOR MAINTAINING.

EMERGENCY—AN UNFORESEEN COMBINATION OF CIRCUMSTANCES REQUIRING TEMPORARY DISCONTINUANCE OF SERVICE IN ORDER TO EFFECT REPAIRS OR MAINTENANCE OR TO ELIMINATE AN IMMINENT THREAT TO LIFE, HEALTH, SAFETY OR PROPERTY.

FEDERAL POVERTY LEVEL - THE POVERTY GUIDELINES UPDATED PERIODICALLY IN THE *FEDERAL REGISTER* BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE AUTHORITY OF 42 U.S.C. 9902(2).

FORMAL COMPLAINT--A COMPLAINT FILED BEFORE THE COMMISSION REQUESTING A LEGAL PROCEEDING BEFORE A COMMISSION ADMINISTRATIVE LAW JUDGE OR A MEDIATION UNDER THE MANAGEMENT OF A COMMISSION ADMINISTRATIVE LAW JUDGE.

HOUSEHOLD INCOME--

~~(I)~~ THE COMBINED GROSS INCOME OF ALL ADULTS IN A RESIDENTIAL HOUSEHOLD WHO BENEFIT FROM THE PUBLIC UTILITY SERVICE.

~~(II) THE TERM DOES NOT INCLUDE WAGE EARNINGS OF A MINOR OR GOVERNMENT BENEFITS THAT ARE RECEIVED WHOLLY IN THE NAME OF A MINOR.~~

INFORMAL COMPLAINT--A COMPLAINT WITH THE COMMISSION SUBMITTED BY A CUSTOMER THAT DOES NOT INVOLVE A LEGAL PROCEEDING BEFORE A COMMISSION ADMINISTRATIVE LAW JUDGE OR A MEDIATION UNDER THE MANAGEMENT OF A COMMISSION ADMINISTRATIVE LAW JUDGE.

Initial inquiry--A concern or question of an applicant, customer or occupant about a utility's application of a provision covered by this chapter, including, BUT NOT LIMITED TO, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill

amounts or the proper party to be charged. If a utility, with the consent of the applicant, customer or occupant, offers to review pertinent records and call back the applicant, customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, customer or occupant with the company's response. If the company cannot reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

NATURAL GAS DISTRIBUTION SERVICE--THE DELIVERY OF NATURAL GAS TO RETAIL GAS CUSTOMERS UTILIZING THE JURISDICTIONAL FACILITIES OF A NATURAL GAS DISTRIBUTION UTILITY.

NATURAL GAS DISTRIBUTION UTILITY-- A CITY NATURAL GAS DISTRIBUTION OPERATION OR ENTITY THAT PROVIDES NATURAL GAS DISTRIBUTION SERVICES AND MAY PROVIDE NATURAL GAS SUPPLY SERVICES AND OTHER SERVICES.

NATURAL GAS SUPPLY SERVICES--

(I) THE SALE OR ARRANGEMENT OF THE SALE OF NATURAL GAS TO RETAIL GAS CUSTOMERS AND SERVICES THAT MAY BE UNBUNDLED BY THE COMMISSION UNDER SECTION 66 PA.C.S.§2203(3) (RELATING TO STANDARDS FOR RESTRUCTURING OF NATURAL GAS UTILITY INDUSTRY).

(II) THE TERM DOES NOT INCLUDE NATURAL GAS DISTRIBUTION SERVICE.

Nonbasic services--Optional recurring services which are distinctly separate and clearly not required for the physical delivery of utility service OR DEFAULT SERVICE.

NURSE PRACTITIONER--A REGISTERED NURSE LICENSED IN THIS COMMONWEALTH WHO IS CERTIFIED BY THE STATE BOARD OF NURSING IN A PARTICULAR CLINICAL SPECIALTY AREA AND WHO, WHILE FUNCTIONING IN THE EXPANDED ROLE AS A PROFESSIONAL NURSE, PERFORMS ACTS OF MEDICAL DIAGNOSIS OR PRESCRIPTION OF MEDICAL THERAPEUTIC OR CORRECTIVE MEASURES IN COLLABORATION WITH AND UNDER THE DIRECTION OF A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH.

Occupant--A NATURAL person who resides in the premises to which utility service is provided.

Payment agreement--A mutually satisfactory written agreement whereby a customer or applicant who admits liability for billed service is permitted to amortize or pay the unpaid balance of the

account in one or more payments over a reasonable period of time.

PERSON—AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION, INCLUDING ANY LESSEE, ASSIGNEE, TRUSTEE, RECEIVER, EXECUTOR, ADMINISTRATOR AND OTHER SUCCESSORS IN INTEREST.

Physician--An individual licensed to engage in the practice of medicine and surgery in all of its branches, or in the practice of osteopathy or osteopathic surgery BY A JURISDICTION WITHIN THE UNITED STATES OF AMERICA.

PREMISES OR *AFFECTED PREMISES*—UNLESS OTHERWISE INDICATED, THE RESIDENCE OF THE OCCUPANT.

Remote reading device—

(I) A device which by electrical impulse or otherwise transmits readings from a meter, ~~excluding devices that permit direct interrogation of the meter,~~ usually located within a residence, to a more accessible location outside of a residence.

(II) ~~THIS ALSO EXCLUDES~~ THE TERM DOES NOT INCLUDE AMR (AUTOMATIC METER READING) DEVICES AS DEFINED IN THIS SECTION AND DEVICES THAT PERMIT DIRECT INTERROGATION OF THE METER.

Residential service--

(i) Utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) The term does not include utility service provided to a hotel or motel.

TERMINATION OF SERVICE—CESSATION OF SERVICE, WHETHER TEMPORARY OR PERMANENT, WITHOUT THE CONSENT OF THE RATEPAYER.

UNAUTHORIZED USE OF UTILITY SERVICE—UNREASONABLE INTERFERENCE OR DIVERSION OF SERVICE, INCLUDING METER TAMPERING (ANY ACT WHICH AFFECTS THE PROPER REGISTRATION OF SERVICE THROUGH A METER), BY-PASSING (UNMETERED SERVICE THAT FLOWS THROUGH A DEVICE CONNECTED BETWEEN A SERVICE LINE AND CUSTOMER-OWNED FACILITIES), AND UNAUTHORIZED SERVICE RESTORAL.

User without contract--~~Taking or acceptance of~~ A PERSON AS DEFINED IN 66 PA. C.S.§102 THAT TAKES OR ACCEPTS utility service without the knowledge or approval of the utility, other than THE unauthorized use of UTILITY service as defined in this section.

Utility--

(i) A public utility or a municipality, subject to Commission jurisdiction, which provides wastewater services or steam heating services.

(ii) The term also includes natural gas distribution utilities with annual gas operating revenues of less than $6,000,000 per year, except when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided under 66 Pa.C.S. § 1403 (relating to definitions).

Subchapter M. BILLING AND PAYMENT STANDARDS

GENERAL

§ 56.261. Billing frequency.

(a) A utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules.

(b) A utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following:

(1) The electronic billing option is voluntary and ~~the customer retains the option of continuing to receive a paper bill if desired~~ ONLY WITH THE PRIOR CONSENT OF THE CUSTOMER. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the utility with a 1 ~~month~~ BILLING CYCLE notice of a request to revert to paper billing.

(2) A customer shall receive ~~a visual presentation of an electronic bill in the same format as~~ the SAME INFORMATION THAT IS INCLUDED WITH A paper bill issued by the utility.

(3) The electronic bill must include the same disclosures and ~~required~~ educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted UNLESS THE CUSTOMER HAS AFFIRMATIVELY CONSENTED TO THIS METHOD OF DELIVERY. THE ELECTRONIC DELIVERY OF A TERMINATION NOTICE DOES NOT RELIEVE THE PUBLIC UTILITY OF THE OBLIGATION TO PROVIDE TERMINATION NOTICES AS REQUIRED BY §§ 56.331 – 56.338.

(4) The electronic bill must include all required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the utility's hardship fund IF THE UTILITY IS ABLE TO ACCEPT HARDSHIP FUND CONTRIBUTIONS BY THIS METHOD.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The utility shall maintain a system to ~~ensure delivery of~~ DELIVER electronic bills if the bill is emailed to a customer.

(8) The utility shall ~~maintain sufficient system security to assure customer privacy~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

§ 56.262. Meter reading; estimated billing; customer readings.

Except as provided in this section, a utility shall render bills based on actual meter readings by utility company personnel.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the utility.

(2) *Estimates for bills rendered on a monthly basis.* If a utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills shall be based on the information provided, except for an account where it is apparent that the information is erroneous.

(i) Upon the request of the customer, the utility shall, at least annually, provide preaddressed postcards on which the customer may report the reading. The utility shall provide additional preaddressed postcards on request. The utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The utility may establish due dates by which the ~~postcards~~ CUSTOMER SUPPLIED READING shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer OR OCCUPANT is not received by that due date, the utility may estimate the quantity of usage. The utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when utility personnel are unable to gain access.* A utility may estimate the bill of a customer if utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may ~~note~~ REPORT the reading or the telephone reporting of the reading.

(ii) The utility, at least every 6 months, or every four billing periods for utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric utilities.* A utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water utility uses readings from a remote reading device to render bills, the utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least $50, whichever is greater, the utility shall comply with § 56.264 (relating to previously unbilled utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.411(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found).

(iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Limitation of liability.* If a water ~~company~~ UTILITY has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water utility was unable to gain access and has complied with paragraph (4).

(7) *Budget billing.* A gas, electric and steam heating utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The utility shall review

accounts at least three times during the optional billing period. AT THE CONCLUSION OF THE BUDGET BILLING YEAR, ~~Any~~A resulting reconciliation amount exceeding ~~$25~~ $100 BUT LESS THAN $300 shall be, AT THE REQUEST OF THE CUSTOMER, amortized over a ~~3—12~~ 6-month period. RECONCILIATION AMOUNTS EXCEEDING $300 SHALL BE AMORTIZED OVER AT LEAST A 12-MONTH PERIOD AT THE REQUEST OF THE CUSTOMER. SHORTER AMORTIZATION PERIODS ARE PERMISSIBLE AT THE REQUEST OF THE CUSTOMER. ~~Payment agreements for heating customers are to be based upon equal monthly billing.~~

(8) *Notice.* The utility shall inform existing customers of their rights under this section and under 66 Pa. C.S.§1509 (relating to billing procedures).

§ 56.263. Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service--that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges, and other nonrecurring charges, except as provided in this chapter--must appear after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. SEE § 56.323(3) (RELATING TO UNAUTHORIZED TERMINATION OF SERVICE).

§ 56.264. Previously unbilled utility service.

When a utility renders a make-up bill for previously unbilled utility service which accrued within the past 4 years resulting from utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make-up bill is issued by at least 50% or at least $50, whichever is greater:

(1) The utility shall ~~review~~ EXPLAIN the bill ~~with~~ TO the customer and make a reasonable attempt to ~~enter into a payment agreement~~ AMORTIZE THE BILL.

(2) The period of the ~~payment agreement~~ AMORTIZATION may, at the option of the customer, extend at least as long as:

(i) The period during which the excess amount accrued.

(ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

§ 56.265. Billing information.

A bill rendered by a utility for metered residential utility service must state clearly the following information:

(1) The beginning and ending dates of the billing period.

(2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it must contain a clear and conspicuous marking of the word "Estimated."

(3) The due date on or before which payment shall be made or the account will be delinquent.

(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State Sales Tax if applicable and other similar charges. The bills should also indicate that a State Gross Receipts Tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

(5) Amounts due for reconnection charges.

(6) Amounts due for security deposits.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.272 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to "register any question or complaint about the bill prior to the due date," with the address and telephone number where the customer may initiate the inquiry or complaint with the utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, IN PLAIN LANGUAGE, of the various charges, if applicable, is available for inspection in the local business office of the utility AND ON THE UTILITY'S WEBSITE.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the utility.

(14) Utilities shall incorporate the requirements of §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

~~(15) The Plain Language Policy Guidelines in § 69.251 (relating to plain language—statement of policy) shall be incorporated to the extent practical.~~

§ 56.266. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with utility service or who wishes to have service discontinued shall give at least 7 days notice to the utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. If the utility is not, AFTER A REASONABLE ATTEMPT TO OBTAIN METER ACCESS, able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the utility has obtained an actual meter reading ~~and can determine the actual consumption used by the customer~~.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.331 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of ~~a~~ THAT notice, ~~a~~ THE customer requests a transfer of service to a new location, the termination process as set forth in §§ 56.331--56.339 may continue at the new location.

(1) When notifications set forth under § 56.331 and § 56.335 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the utility may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.372--56.374 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint).

~~(d) In the event of a termination of service to a residential customer, a utility may transfer to the account of a third-party guarantor any portion of the unpaid balance which is equivalent to the cash deposit requirement of the customer.~~

§ 56.267. Advance payments.

Payments may be required in advance of furnishing any of the following services:

(1) Seasonal service.

(2) The construction of facilities and furnishing of special equipment.

(3) Gas and electric rendered through prepayment meters provided:

(i) The customer is nonlow income; for purposes of this section, nonlow income is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines, and has a delinquency for which the individual is requesting a payment agreement but offering terms that the utility, after consideration of the factors in § 56.337(b)

(relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.

(ii) ~~(I)~~ The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) ~~(II)~~ The customer and utility enter into a ~~informal dispute settlement agreement or~~ payment agreement which includes, but is not limited to, the following terms:

(A) The customer voluntarily agrees to the installation of a prepayment meter.

(B) The customer agrees to purchase prepayment ~~cards~~ CREDITS to maintain service until the total balance is retired and the utility agrees to make new ~~cards~~ CREDITS available to the customer within 5 days of receipt of prepayment.

(C) The utility agrees to furnish the customer ~~an~~ WITH emergency backup ~~card~~ CREDITS for additional usage of at least 5 days.

(D) The customer agrees that failure to renew the ~~card~~ CREDITS by making prepayment for additional service constitutes a request for discontinuance under § 56.312(1) (relating to ~~discontinuation~~ DISCONTINUANCE of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup ~~card~~ CREDITS runs out.

(iv) ~~(III)~~ The utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v) ~~(IV)~~ During the first 2 years of use of prepayment meters, the utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

(4) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.

PAYMENTS

§ 56.271. Payment.

The due date for payment of a bill may be no less than 20 days from the date of transmittal; that is, the date of mailing, OR ELECTRONIC TRANSMISSION or PHYSICAL delivery of the bill by the utility to the customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) *Branch offices or authorized payment agents.* The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a utility is the date of actual receipt ~~of the electronic notification~~ of payment.

(5) *Fees.* Fees or charges assessed and collected by the ~~public~~ utility for utilizing a payment option shall be included in the utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the ~~last~~ LATEST DUE date contained in any of the notices.

§ 56.272. Accrual of late payment charges.

(a) Every utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue utility bill, as defined in § 56.271 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A ~~public~~ utility may waive late payment charges on any customer accounts.

~~(e) Additional late payment charges may not be assessed on account balances once the account is no longer actively billed by the utility.~~

§ 56.273. Application of partial payments between utility and other service.

Payments received by a utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential utility service.

§ 56.274. Application of partial payments among several bills for utility service.

In the absence of written instructions, a disputed bill, or a ~~informal dispute settlement agreement or~~ payment agreement, payments received by a utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

§ 56.275. Electronic bill payment.

A utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary ~~and may not be required in conjunction with electronic billing~~. A UTILITY MAY NOT REQUIRE A CUSTOMER TO ENROLL IN ELECTRONIC BILL PAYMENT AS A CONDITION FOR ENROLLING IN ELECTRONIC BILLING.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's ~~checking~~ FINANCIAL account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY, before the customer enters the program. Program changes shall be conveyed to the customer in writing, EITHER MY MAIL OR ELECTRONICALLY, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The utility shall provide a receipt, OR A CONFIRMATION, TRANSACTION OR REFERENCE NUMBER, either electronically or on paper, to the customer upon payment through the electronic method. THIS REQUIREMENT DOES NOT APPLY IF THE

PAYMENT METHOD IS THROUGH A PRE-AUTHORIZED AUTOMATED DEBIT FROM A CUSTOMER'S FINANCIAL ACCOUNT.

(5) The utility shall ~~maintain sufficient system security to protect all customer information and all access to customer accounts~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

Subchapter N. CREDIT AND DEPOSITS STANDARDS POLICY

PROCEDURES FOR ~~NEW~~ APPLICANTS

§ 56.281. Policy statement.

An essential ingredient of the credit and deposit policies of each utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies must be based upon the credit risk of the individual applicant or customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which the applicant or customer lives and without regard to race, sex, age over 18, National origin or marital status.

§ 56.282. Credit standards.

(a) A utility shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Prior utility payment history.* The applicant has been a recipient of utility service of a similar type within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for the service, so long as:

(i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

(ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.

(iii) The applicant does not have an unpaid balance from that prior service.

(2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting the applicant's place of residence under a lease of 1 year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as a utility customer within 2 years prior to the application for service.

(3) *Credit information.* The applicant provides information demonstrating that ~~he~~ THE APPLICANT is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.

(ii) The utility may request and consider information including:

(A) The name of the employer of the applicant.

(B) The place and length of employment.

(C) Residences during the previous 5 years.

(D) Letters of reference.

(E) Credit cards.

(F) Significant source of income other than from employment.

§ 56.283. Cash deposits; third-party guarantors.

If an applicant does not establish credit under § 56.282 (relating to credit standards), the utility shall provide residential service when one of the following requirements is satisfied:

(1) *Cash deposit.* The applicant posts a cash deposit.

(2) *Third-party guarantor.* The applicant furnishes a written guarantee from a responsible customer which, for the purposes of this section, means a customer who has or can establish credit, under § 56.282 (relating to credit standards), to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee must be in writing and state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.302 and 56.303 (relating to deposit hold period and refund; and application of deposit to bills).

§ 56.284. Deposits for temporary service.

Deposits for applicants for temporary service may be required in accordance with § 53.82(1) (relating to deposits).

§ 56.285. Payment of outstanding balance.

A utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the utility which accrued within the past 4 years FROM THE DATE OF THE SERVICE REQUEST for which the applicant is legally responsible and for which the applicant was billed properly. THE 4 YEAR LIMIT DOES NOT APPLY IF THE BALANCE INCLUDES AMOUNTS THAT THE UTILITY WAS NOT AWARE OF BECAUSE OF FRAUD OR THEFT ON THE PART OF THE APPLICANT. ~~However, an~~AN outstanding residential account with the utility may be amortized over a reasonable period of time. Factors to be taken into account include the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant. This section does not affect the creditor rights and remedies of a utility otherwise permitted by law.

§ 56.286. Written procedures.

A utility shall establish written procedures for determining the credit status of an applicant. A utility employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the utility. A copy of these procedures shall be maintained on file in each of the business offices of the utility and made available, upon request, for inspection by members of the public and the Commission and be included on the utility's website.

(1) *Reasons for denial of credit.* If credit is denied, the utility shall inform the ~~customer or~~ applicant in writing of the reasons for the denial WITHIN 3 BUSINESS DAYS OF THE DENIAL. THIS INFORMATION MAY BE PROVIDED ELECTRONICALLY TO THE APPLICANT WITH THE APPLICANT'S CONSENT. If the utility is requiring payment of an unpaid balance in accordance with § 56.285 (relating to payment of outstanding balance), the utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued, and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a ~~third-party~~ THIRD-PARTY guarantor in accordance with § 56.283 (relating to cash deposits; third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a Protection from Abuse Order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* Utility personnel shall fully explain the credit and deposit procedures of the utility to each customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish ~~public~~ utility service on behalf of an applicant will not be honored until the ~~public~~ utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third-party is authorized to act on the applicant's behalf.

§ 56.287. General rule.

Once an applicant's application for service is accepted by the utility, the utility shall MAKE A BONA FIDE ATTEMPT TO provide service within 3 BUSINESS days, provided that the applicant has met all REGULATORY requirements. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the utility shall provide service pending completion of the investigation. IF THE UTILITY CANNOT PROVIDE SERVICE BY THE TIMEFRAMES SPECIFIED BY THIS PARAGRAPH, THEY SHALL INFORM THE CUSTOMER OF THIS FACT AND PROVIDE A REASONABLE ESTIMATE OF WHEN SERVICE WILL BE PROVIDED. THESE REQUIREMENTS DO NOT APPLY TO NEW SERVICE INSTALLATIONS AND SERVICE EXTENSIONS THAT REQUIRE CONSTRUCTION OF FACILITIES TO PROVIDE THE UTILITY SERVICE.

§ 56.288. Payment period for deposits by applicants.

An applicant may elect to pay any required deposits in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination.

PROCEDURES FOR EXISTING CUSTOMERS

§ 56.291. General rule.

A utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the customer together with a bill for utility service.

(C) Notification must set forth the address and phone number of the utility office where complaints or questions may be registered.

(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to ~~equal monthly~~ BUDGET billing plans, a utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility services), under the following conditions:

(A) The utility has complied with § 56.264. Compliance with a payment agreement ~~or informal dispute settlement agreement~~ by the customer discharges the delinquency, and a notification or request for deposit may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A utility may require a deposit as a condition to reconnection of service following a termination.

(3) *Failure to comply with ~~informal dispute settlement agreement or~~ payment agreement.* A utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a ~~informal dispute settlement agreement or~~ payment agreement.

§ 56.292. Payment period for deposits BY CUSTOMERS.

The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.291(2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due. A customer may elect to pay a required deposit in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A ~~public~~ utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the

deposit is requested.

CASH DEPOSITS

§ 56.301. Amount of cash deposit.

(a) *Applicants.* A utility may not require a cash deposit from an applicant in excess of the average estimated bill of the applicant for a period equal to one billing period plus 1 additional month's service, not to exceed 4 months in the case of water and wastewater utilities and 2 months in the case of gas, electric and steam heat utilities, with a minimum deposit of $5.

(b) *Existing customer.* For an existing customer, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of wastewater utilities and 2 months in the case of gas and steam heat utilities, with a minimum of $5.

(c) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the customer or the utility whenever the character or degree of the usage of the customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

§ 56.302. Deposit hold period and refund.

A cash deposit shall be refunded under the following conditions:

(1) *Termination or discontinuance of service.* Upon termination or discontinuance of service, the utility shall promptly apply the deposit of the customer, including accrued interest, to any outstanding balance for utility service and refund or apply the remainder to the customer's account. A transfer of service from one location to another within a service area may not be deemed discontinuance within the meaning of this chapter.

(2) *Credit established.* When a customer establishes credit under § 56.282 (relating to credit standards), the utility shall refund or apply to the customer's account, any cash deposit plus accrued interest.

(3) *Third-party guarantor.* When a customer substitutes a third-party guarantor in accordance with § 56.283(2) (relating to cash deposits; third-party guarantors), the utility shall refund any cash deposit, plus accrued interest, up to the limits of the guarantee.

(4) *Prompt payment of bills.* After a customer has paid bills for service for 12-consecutive months without having service terminated and without having paid a bill subsequent to the due

date or other permissible period as stated in this chapter on more than two occasions or for a maximum period of 24 months, the utility shall refund any cash deposit, plus accrued interest.

(5) *Optional refund.* At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

§ 56.303. Application of deposit to bills.

The customer may elect to have a deposit applied to reduce bills for utility service or to receive a cash refund.

§ 56.304. Periodic review.

If a customer is not entitled to refund under § 56.302 (relating to deposit hold period and refund), the utility shall review the account of the customer each succeeding billing period and make appropriate disposition of the deposit in accordance with §§ 56.302 and 56.303 (relating to application of deposit to bills).

§ 56.305. Refund statement.

If a cash deposit is applied or refunded, the utility shall mail or deliver to the customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

§ 56.306. Interest rate.

The utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known as the Loan Interest and Protection Law, and return the interest with the deposit.

§ 56.307. Application of interest.

Interest shall be paid annually to the customer, or, at the option of either the utility or the customer, shall be applied to service bills.

Subchapter O. INTERRUPTION AND DISCONTINUANCE OF SERVICE

§ 56.311. Interruption of service.

A utility may temporarily interrupt service ~~where~~ WHEN necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency.

(1) *Interruption with prior notice.* When the utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to customers and occupants who may be affected.

(2) *Interruption without prior notice.* When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration of the interruption shall be given as soon as possible to customers and occupants who may be affected.

(3) *Notification procedures.* When customers and occupants are to be notified under this section, the utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected customers and occupants of the cause and expected duration of the interruption.

(4) *Permissible duration.* Service may be interrupted for only the periods of time necessary to protect the health and safety of the public, to protect property or to remedy the situation which necessitated the interruption; and service shall be resumed as soon as possible thereafter.

§ 56.312. ~~Discontinuation~~ DISCONTINUANCE of service.

A utility may discontinue service without prior written notice under the following circumstances:

(1) *Customer's residence.* When a customer requests a discontinuance at ~~his~~ THE CUSTOMER'S residence, when the customer and members of the CUSTOMER'S household are the only occupants~~, if the account is listed in multiple customer names and the utility receives a request for discontinuance from just one or more of the customers listed, but not all the customers listed, the customer requesting discontinuance shall state that all the occupants meeting the definition of "customer" consent to the cessation of service. If consent is not provided, the utility, at least 3 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises~~.

(2) *Other premises or dwellings.* Other premises or dwellings ~~shall be~~ as follows:

(i) When a customer requests discontinuance at a dwelling other than ~~his~~ THE CUSTOMER'S residence or at a single meter multifamily residence, whether or not ~~his~~ THE CUSTOMER'S residence but, in either case, only under either of the following conditions:

(A) The customer states in writing that the premises are unoccupied. The statement must be on a form conspicuously bearing notice that information provided by the customer will be relied upon by the Commission in administering a system of uniform service standards for ~~public~~ utilities and that any false statements are punishable criminally. When the customer fails to provide a notice, or when the customer has falsely stated the premises are unoccupied, the customer shall be responsible for payment of utility bills until the utility discontinues service.

(B) The occupants affected by the proposed cessation inform the utility orally or in writing of their consent to the ~~discontinuation~~ DISCONTINUANCE.

(ii) When the conditions in subparagraph (i) have not been met, the utility, at least 10 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(A) When the premises is a multifamily residence, notice shall also be posted in common areas.

(B) Notices must, at a minimum, state: the date on or after which discontinuance will occur; the name and address of the utility; and the requirements necessary for the occupant to obtain utility service in the occupant's name. Further termination provisions of this chapter except § 56.337 (relating to procedures upon customer or occupant contact prior to termination) do not apply in these circumstances.

(C) This section does not apply when the customer is a landlord ratepayer. See 66 Pa.C.S. §§ 1521--1533 (relating to discontinuance of service to leased premises).

Subchapter P. TERMINATION OF SERVICE

GROUNDS FOR TERMINATION

§ 56.321. Authorized termination of service.

Utility service to a dwelling may be terminated for one or more of the following reasons:

(1) Nonpayment of an undisputed delinquent account.

(2) Failure to post a deposit, provide a guarantee or establish credit.

(3) Unreasonable refusal to permit access to meters, service connections and other property of the utility for the purpose of maintenance, repair or meter reading.

(4) Unauthorized use of the utility service delivered on or about the affected dwelling.

(5) Failure to comply with the material terms of a ~~informal dispute settlement agreement or~~ payment agreement.

(6) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.

(7) Tampering with meters or other utility equipment.

(8) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the energy delivery system of the utility.

§ 56.322. ~~Days termination of service is prohibited~~ TIMING OF TERMINATION.

Except in emergencies--which include unauthorized use of utility service--service may not be terminated, for nonpayment of charges or for any other reason, during the following periods:

(1) On Friday, Saturday or Sunday.

(2) On a bank holiday or on the day preceding a bank holiday.

(3) On a holiday observed by the utility or on the day preceding the holiday. A holiday observed by a utility means any day on which the business office of the utility is closed to observe a legal holiday, to attend utility meetings or functions or for any other reason.

(4) On a holiday observed by the Commission or on the day preceding the holiday.

§ 56.323. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the utility, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; meter testing fees; special construction charges; and other nonrecurring OR RECURRING charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior customer at the same address.

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility service) and the customer has complied with § 56.291(1)(ii)(A) or (B) (relating to general rule).

(6) Noncompliance with a payment agreement prior to the due date of the bill which forms the basis of the agreement.

(7) Nonpayment of charges for utility service ~~furnished~~ FOR WHICH THE UTILITY CEASED BILLING more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the customer unless a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished. This paragraph does not affect the creditor rights and remedies of a utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the customer or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

(10) Nonpayment of delinquent accounts which accrued over two billing periods or more, which remain unpaid in whole or in part for 6 months or less, and which amount to a total delinquency of less than $25.

(11) Nonpayment of delinquent accounts when the amount of the deposit presently held by the utility is within $25 of account balance.

NOTICE PROCEDURES PRIOR TO TERMINATION

§ 56.331. General notice provisions and contents of termination notice.

(a) Prior to a termination of service, the utility shall mail or deliver written notice to the customer at least 10 days prior to the date of the proposed termination. In the event of A user without contract as defined in § 56.252 (relating to definitions), the utility shall comply with §§ 56.333--56.337, but need not ~~otherwise~~ provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of ~~accounts~~ AMOUNTS currently due, including any required deposit.

(3) A statement that a ~~specific~~ reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the utility on file with the Commission. THE STATEMENT MUST INCLUDE THE MAXIMUM POSSIBLE DOLLAR AMOUNT OF THE RECONNECTION FEE THAT MAY APPLY.

(4) The date on or after which service will be terminated unless ONE OF THE FOLLOWING OCCURS:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement ~~or informal dispute settlement agreement~~ is ~~entered~~ ESTABLISHED.

(iv) Enrollment is made in a ~~universal service~~ CUSTOMER ASSISTANCE program OR ITS EQUIVALENT, IF THE CUSTOMER IS ELIGIBLE FOR THE PROGRAM.

(v) A dispute is filed with the utility or the Commission.

(VI) PAYMENT IN FULL OF AMOUNTS PAST DUE ON THE MOST RECENT PAYMENT AGREEMENT IS RECEIVED.

(5) A statement that the customer ~~shall~~ SHOULD immediately contact the utility to attempt to resolve the matter~~, including~~. THE STATEMENT SHALL INCLUDE the address and telephone number where questions may be ~~filed~~ ASKED, HOW payment agreements MAY BE NEGOTIATED AND entered into with the utility, and ~~questions and applications can be found for~~ WHERE APPLICATIONS CAN BE FOUND AND SUBMITTED FOR ENROLLMENT INTO the utility's universal service programs, if these programs are offered by the utility.

(6) The following statement: "If YOU HAVE QUESTIONS OR NEED MORE INFORMATION, CONTACT US AS SOON AS POSSIBLE AT (UTILITY PHONE NUMBER)~~:~~. AFTER ~~discussing your problem with the utility~~ YOU TALK TO US, ~~you remain dissatisfied,~~ IF YOU ARE NOT SATISFIED, you may file ~~an informal~~ A complaint with the Public Utility Commission. ~~TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE, THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE.~~ THE PUBLIC UTILITY COMMISSION MAY DELAY THE SHUT OFF IF YOU FILE THE COMPLAINT BEFORE THE SHUT OFF DATE. ~~You may file an informal complaint by telephoning the Public Utility Commission at~~ TO CONTACT THEM, CALL (800) 692-7380 or ~~by writing~~ WRITE to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(7) A serious illness notice in compliance with the form as set forth in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.336 (relating to ~~posttermination~~ POST TERMINATION notice), the notice must ~~substantially~~ comply with the form ~~as set forth~~ in Appendix B ~~F~~ (relating to medical emergency notice).

(8) ~~When~~ IF the utility has universal service programs, information indicating that special assistance programs ~~are~~ MAY BE available and how to contact the utility for information and enrollment, and that enrollment in the program ~~is~~ MAY BE a method of avoiding the termination of service.

(9) Information indicating that special protections are available for victims under a Protection From Abuse Order and how to contact the utility to obtain more information on these protections.

(10) Information indicating that special protections are available for tenants if the landlord is responsible for paying the utility bill and how to contact the utility to obtain more information on these protections.

(11) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(12) Information indicating that if service is shut off, the customer shall contact the utility after payment has been made to arrange reconnection of the service.

(13) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates ~~a significant population~~ THAT 5% OR MORE OF THE RESIDENTS OF THE UTILITY'S SERVICE TERRITORY ARE using that language ~~resides in the utility's service territory~~.

(14) Contact information for customers with disabilities that need assistance.

~~(15) Notices should reflect to the extent practical the plain language guidelines found in § 69.251 (relating to plain language--statement of policy).~~

§ 56.332. Notice when dispute pending.

A utility may not mail or deliver a notice of termination if a notice of INITIAL INQUIRY, dispute, INFORMAL OR FORMAL COMPLAINT has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

§ 56.333. Personal contact.

(a) Except when authorized under §§ 56.311, 56.312 or 56.338 (relating to interruption of service; ~~discontinuation~~ DISCONTINUANCE of service; and exception for terminations based on occurrences harmful to person or property), a utility may not interrupt, discontinue or terminate service without personally contacting the customer or a responsible adult occupant at least 3 days prior to the interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required by this chapter or other Commission directive.

(b) For purposes of this section, "personal contact" means:

(1) Contacting the customer or responsible adult occupant in person or by telephone. Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between ~~7~~ 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. CALLS MADE TO CONTACT TELEPHONE NUMBERS PROVIDED BY THE CUSTOMER SHALL BE DEEMED TO BE CALLS TO THE RESIDENCE.

(2) If contact is attempted in person by a home visit, only one attempt is required~~, but the~~. THE utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant DURING THE HOME VISIT.

(3) Contacting another person whom the customer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(4) If the customer has not made the designation noted in paragraph (3), contacting a community interest group or other entity, including a local police department, which previously shall have agreed to receive a copy of the notice of termination and to attempt to contact the customer.

(5) If the utility is not successful in establishing personal contact as noted in paragraphs (1) and (2) and the customer has not made the designation noted in paragraph (3) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing.

(c) The content of the 3-day personal contact notice must ~~comply with § 56.331 (relating to general notice provisions and contents of termination notice)~~ INCLUDE THE EARLIEST DATE AT WHICH TERMINATION MAY OCCUR AND THE FOLLOWING INFORMATION:~~.~~

(1) THE DATE AND GROUNDS OF THE TERMINATION.

(2) WHAT IS NEEDED TO AVOID THE TERMINATION OF SERVICE.

(3) HOW TO CONTACT THE UTILITY AND THE COMMISSION.

(4) THE AVAILABILITY OF THE EMERGENCY MEDICAL PROCEDURES.

(D) THE UTILITY SHALL ASK THE CUSTOMER OR OCCUPANT IF THEY HAVE ANY QUESTIONS ABOUT THE 10-DAY WRITTEN NOTICE THE UTILITY PREVIOUSLY SENT.

§ 56.334. Procedures immediately prior to termination.

Immediately preceding the termination of service, a utility employee, who may be the utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

§ 56.335. Deferred termination when no prior contact.

If a prior contact has not been made with a responsible adult OCCUPANT either at the residence of the customer, as required by § 56.334 (relating to procedures immediately prior to termination) or at the affected dwelling, the employee may not terminate service but shall

conspicuously post a termination notice at the residence of the customer and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting.

§ 56.336. Post termination notice.

When service is actually terminated, notice that ~~substantially~~ reflects the requirements of § 56.331 (relating to general notice provisions and contents of termination notice) as well as a medical emergency notice ~~substantially~~ in the form which appears in Appendix B ~~F~~ (relating to medical emergency notice) shall be DELIVERED TO A RESPONSIBLE ADULT OCCUPANT AT THE RESIDENCE OF THE CUSTOMER OR conspicuously posted ~~or delivered to a responsible person at the residence of the customer and~~ at the affected premises.

§ 56.337. Procedures upon customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the utility concerning a proposed termination, an authorized utility employee shall fully explain the following:

(1) The reasons for the proposed termination.

(2) The available methods for avoiding a termination, including the following:

(i) Tendering payment in full or otherwise eliminating the grounds for termination.

(ii) Entering a ~~informal dispute settlement agreement or~~ payment agreement.

(iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.

(iv) Enrolling in the utility's customer assistance program or ~~universal service program~~ ITS EQUIVALENT, if the utility has ~~such~~ THESE programs AND THE CUSTOMER IS ELIGIBLE FOR THE PROGRAM.

(3) The medical emergency procedures.

(b) The utility, through its employees, shall exercise good faith and fair judgment in attempting to enter a reasonable ~~informal dispute settlement agreement or~~ payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable informal dispute settlement agreement or payment agreement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. PAYMENT AGREEMENTS FOR HEATING CUSTOMERS SHALL BE BASED UPON BUDGET BILLING AS DETERMINED BY § 56.262(7) (RELATING TO METER READING; ESTIMATED BILLING; CUSTOMER READINGS). If ~~an informal dispute settlement agreement or~~ A payment agreement is not established, the company shall further explain the following:

(1) The right of the customer to file a dispute with the utility and, thereafter, an informal complaint with the Commission.

(2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17105-3265, (800) 692-7380.

(3) The duty of the customer to pay any portion of a bill which the customer does not ~~honestly~~ dispute.

§ 56.338. Exception for terminations based on occurrences harmful to person or property.

Notwithstanding any other provision of this chapter, when a service termination is based on an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without written notice so long as the utility ~~honestly and~~ reasonably believes grounds to exist. At the time of termination, the utility shall make a bona fide attempt to deliver a notice of termination to a responsible ~~person~~ ADULT OCCUPANT at the affected premises and, in the case of a single meter, multiunit dwelling, shall conspicuously post the notice at the dwelling, including common areas when permissible.

§ 56.339. Use of termination notice solely as collection device prohibited.

A utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter. Notice of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures under this chapter, unless the customer or occupant remedies the situation which gave rise to the enforcement efforts of the utility.

§ 56.340. Winter termination procedures.

Notwithstanding ~~another~~ ANY provision of this chapter, during the period of December 1 through March 31, utilities subject to this ~~chapter~~ SUBCHAPTER shall conform to the provisions of this section. The covered utilities may not ~~be permitted to~~ terminate ~~heat related~~ service between December 1 and March 31 except as provided in this section or in § 56.338 (relating to exception for terminations based on occurrences harmful to person or property).

(1) *Termination notices.* The utility shall comply with §§ 56.331--56.335 including personal contact, as defined in § 56.333 (relating to personal contact), at the premises if occupied.

(2) *Request for permission to terminate service.* If at the conclusion of the notification process defined in §§ 56.331--56.335, a reasonable agreement cannot be reached between the utility and

the customer, the utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.382 (relating to contents of the utility company report). AT THE SAME TIME, THE UTILITY SHALL SERVE THE CUSTOMER A COPY OF THE WRITTEN REQUEST REGISTERED WITH THE COMMISSION.

(3) *Informal complaints.* If the customer has filed an informal complaint or if the Commission has acted upon the utility's written request, the matter shall proceed under §§ 56.391--56.394 (relating to informal complaint procedures). Nothing in this section may be construed to limit the right of a utility or customer to appeal a decision by the Bureau of Consumer Services (BCS) under 66 Pa. C.S. § 701 (relating to complaints) and §§ 56.401--56.403 and 56.441.

(4) *Survey of premises previously terminated.* For premises where heat related service has been terminated prior to December 1 of each year, covered utilities shall, within 90 days prior to December 1, survey and attempt to make ~~posttermination~~ POST TERMINATION personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(5) *Reporting of survey results.* Utilities subject to this ~~chapter~~ SUBCHAPTER shall file a brief report outlining their pre-December 1 survey and personal contact results with the BCS on or before December 15 of each year. ~~The filing must categorize the accounts by the first three digits of the customer's postal code.~~ Each utility shall update the survey and report the results to the BCS on ~~January 15 and~~ February ~~15~~ 1 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. FOR THE PURPOSES OF THE FEBRUARY 1 UPDATE OF SURVEY RESULTS, ~~The~~ THE utility shall attempt to contact by telephone, if available, a responsible ADULT PERSON OR occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(6) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a utility subject to this ~~chapter~~ SUBCHAPTER may not terminate service to a ~~premise~~ PREMISES when the account is in the name of a landlord ratepayer as defined at 66 Pa. C.S. § 1521 (related to definitions) except for the grounds in § 56.338 (RELATING TO EXCEPTION FOR TERMINATIONS BASED ON OCCURRENCES HARMFUL TO PERSON OR PROPERTY).

(7) *Reporting of deaths at locations where utility service was previously terminated.* Throughout the year, utilities subject to this ~~chapter~~ SUBCHAPTER shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning OR ANOTHER EVENT that resulted in a death and that the utility service was off at the time of the incident. Within 1 working day of becoming aware of an incident, the utility shall submit a telephone or electronic report to the Director of the BCS including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved, and, if ~~applicable~~ AVAILABLE FROM AN OFFICIAL SOURCE OR THE MEDIA, the initial findings as to the cause of the incident and the source of that information. The BCS or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this paragraph shall be treated in accordance with 66 Pa. C.S. § 1508 (relating to the reports of accidents) and may not be open for public inspection except by

order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

EMERGENCY PROVISIONS

§ 56.351. General provision.

A utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking ~~restoration~~ RECONNECTION of PREVIOUSLY TERMINATED service under § 56.421 (relating to ~~general rule~~ PAYMENT AND TIMING) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer OR APPLICANT shall obtain a letter from a licensed physician or nurse practitioner verifying the condition and shall promptly forward it to the utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the utility. A utility may not impose any qualification standards for medical certificates other than those listed in this section.

§ 56.352. Postponement of termination pending receipt of certificate.

If, prior to termination of service, the utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. If no certification is produced within that 3-day period, the utility may resume the termination process at the point when it was suspended.

§ 56.353. Medical certifications.

Certifications initially may be written or oral, subject to the right of the utility to verify the certification by calling the physician or nurse practitioner or to require written ~~confirmation~~ VERIFICATION within 7 days. Certifications, whether written or oral, must include the following:

(1) The name and address of the customer or applicant in whose name the account is registered.

(2) The name and address of the afflicted person and ~~their~~ relationship to the customer or applicant.

(3) The nature and anticipated length of the affliction.

(4) The specific reason for which the service is required.

(5) The name, office address and telephone number of the certifying physician or nurse practitioner.

§ 56.354. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification. The maximum length of the certification shall be 30 days.

(1) *Time period not specified.* If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.352 and 56.353 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the customer has met the obligation under § 56.356 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.356 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications ~~that concern medical certificates~~ filed for the same set of arrearages ~~and the same termination action. When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.~~ In these instances, the utility is not required to honor a third RENEWAL OF A medical certificate and is not required to follow § 56.358(3) (relating to right of utility to petition the Commission). The utility shall apply the dispute procedures in §§ 56.381 and 56.382 (relating to utility company dispute procedures). WHEN THE CUSTOMER ELIMINATES THESE ARREARAGES, THE CUSTOMER IS ELIGIBLE TO FILE NEW MEDICAL CERTIFICATES.

§ 56.355. Restoration of service.

When service is required to be restored under this section and §§ 56.351, 56.354, ~~and~~ 56.356--56.358 AND 56.421, the utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each utility shall have employees available or on call to restore service in emergencies.

§ 56.356. Duty of customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or ~~equal monthly~~ BUDGET billing amount as determined when § 56.262(7) (relating to meter reading; estimated billing; customer readings).

§ 56.357. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the utility may terminate service without additional written notice, if notice previously has been mailed or delivered WITHIN THE PAST 60 DAYS under § 56.331 (relating to general notice provisions and contents of termination notice). The utility shall comply with §§ 56.333--56.336.

§ 56.358. Right of utility to petition the Commission.

(a) A utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) *Contest the validity of a certification.* To request an investigation and hearing by the Commission or its designee when the utility wishes to contest the validity of the certification.

(2) *Terminate service prior to expiration of certification.* To request permission to terminate service for the failure of the customer to make payments on current undisputed bills.

(3) *Contest the renewal of a certification.* To request permission to terminate service, under this section and §§ 56.321--56.323 and 56.331--56.339 when customer has not met the duty under § 56.356 (relating to duty of customer to pay bills), provided that the utility has informed the customer of that duty under § 56.356 ~~(relating to duty of customer to pay bills)~~.

(b) A utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.382 (relating to contents of the utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

(c) Upon the filing of a petition for waiver of medical certification, Commission staff will review the facts and issue an informal written decision.

(d) A party to the proceeding may, within 20 days of mailing of the informal decision, and not thereafter except for good cause shown, appeal by filing with the Secretary of the Commission a letter stating the basis for appeal. An appeal from the informal decision will be assigned to the Office of Administrative Law Judge for hearing and decision.

THIRD-PARTY NOTIFICATION

§ 56.361. Third-party notification.

Each utility shall permit its customers to designate a consenting individual or agency which is to be sent, by the utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that utility. When contact with a third party is made, the utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A utility shall institute and maintain a program:

(1) To allow customers to designate third parties to receive copies of a customer's or group of customers' notices of termination of service.

(2) ~~At least annually, to~~ TO advise customers AT LEAST ANNUALLY of the availability of a third-party notification program and to encourage its use thereof. The utility ~~must~~ SHALL emphasize that the third party is not responsible for the payment of the customer's bills.

(3) To solicit community groups to accept third-party notices to assist in preventing unnecessary terminations and protecting the public health and safety.

(4) To make available a standard enrollment form ~~substantially~~ in compliance with the form as set forth in Appendix E (relating to third-party notification).

Subchapter Q. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

GENERAL PROVISIONS

§ 56.371. Follow-up response to inquiry.

When a customer is waiting for a follow-up response to an INITIAL inquiry under § 56.252 (relating to ~~the~~ definitions), termination or threatening termination of service, for the subject matter RELATING TO THE INQUIRY in question, shall be prohibited until the follow-up response, and when applicable, subsequent dispute resolution is completed by the utility.

§ 56.372. Dispute procedures.

A notice of dispute, including termination disputes, must proceed ~~in the first instance~~, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a customer advises the utility that ~~he~~ THE CUSTOMER disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of utility metering or billing or the proper party to be charged, the utility shall attempt to resolve the dispute in accordance with § 56.381 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint; however, the disputing party shall pay undisputed portions of the bill.

§ 56.373. Time for filing an informal complaint.

To be timely filed, an informal complaint--which may not include disputes under §§ 56.285 and 56.421 (relating to payment of outstanding balance; and ~~general rule~~ PAYMENT AND TIMING)--~~and informal complaints~~ shall be filed prior to the day on which the utility arrives to terminate service. If the utility arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing an informal complaint shall be extended until the end of the business day prior to the utility again arriving to terminate service.

§ 56.374. Effect of failure to timely file an informal complaint.

Failure to timely file an informal complaint, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the utility.

UTILITY COMPANY DISPUTE PROCEDURES

§ 56.381. General rule.

Upon initiation of a dispute covered by this section, the utility shall:

(1) Not issue a termination notice based on the disputed subject matter.

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

(i) The size of the unpaid balance.

(ii) The ability of the customer to pay.

(iii) The payment history of the customer.

(iv) The length of time over which the bill accumulated.

(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.382 (relating to contents of the utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the utility deems it necessary.

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.382(1), (2) and, when applicable, § 56.382(7)(ii) or (8)(ii).

~~(iii) If the complaining party expresses satisfaction but requests a written report, the report must conform with § 56.382, in its entirety.~~

~~(iv)~~ (III) The information and documents required by this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving ~~such~~ THEM ELECTRONICALLY.

§ 56.382. Contents of the utility company report.

A utility company report must include the following:

(1) A statement of the claim or dispute of the customer and a copy thereof if the claim or notice of dispute was made in writing.

(2) The position of the utility regarding that claim.

(3) A statement that service will not be terminated pending completion of the dispute process, including both informal and formal complaints, so long as there is compliance with all requirements of the Commission.

(4) A statement that if the complaining party does not agree with the utility company report, an informal complaint MUST ~~shall~~ be filed with the Commission ~~within 10 days of the mailing date of the report~~ to ~~insure~~ ENSURE the preservation of all of ~~their~~ THE COMPLAINING PARTY'S rights.

(5) The office where payment may be made or information obtained listing the appropriate telephone number and address of the utility.

(6) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.391 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or IS NOT deemed necessary by the utility, the utility shall provide the information in § 56.391(1), (2) and (5). In addition, the utility ~~should~~ SHALL always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(7) If the matter in dispute involves a billing dispute, the report must include the following:

(i) An itemized statement of the account of the complaining customer specifying the amount of credit, if any, and the proper amount due.

(ii) The date on or after which the account will become delinquent unless a ~~informal dispute settlement agreement or~~ payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the report must also state the following:

(i) The action required to be taken to avoid the termination of service.

(ii) The date on or after which ~~the utility will commence termination action~~ SERVICE WILL BE TERMINATED in accordance with the applicable requirements unless the report is complied with~~, informal dispute settlement agreement~~ or A payment agreement entered INTO or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility COMPANY report, whichever is later. If the utility COMPANY report is in writing, the information in this paragraph shall be ~~presented in a bold font that is at least 2 font sizes larger than the font used in other sections of the utility report~~ PROMINENTLY DISPLAYED.

INFORMAL COMPLAINT PROCEDURES

§ 56.391. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and must include the following information:

(1) The name and address of the complainant and, if different, the address at which service is provided.

(2) The telephone number of the complainant.

(3) The account number of the complainant, if applicable.

(4) The name of the utility.

(5) A brief statement of the dispute.

(6) Whether the dispute formerly has been the subject of a utility company investigation and report.

(7) Whether the dispute formerly has been the subject of a Commission informal or formal complaint.

(8) The date, if any, of proposed termination.

(9) The relief sought.

§ 56.392. Commission informal complaint procedure.

Upon the filing of an informal complaint, which shall be captioned as "(Complainant) v. (utility)," Commission staff will immediately notify the utility; review the dispute; and, within a reasonable period of time, issue to the utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports will be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures will be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. Information and documents requested by Commission staff as part of the review process shall be provided by the utility within 30 days of the request. If the complainant is without utility service, or in other emergency situations as identified by Commission staff, the information requested by Commission staff shall be provided by the utility within 5 BUSINESS days of the request.

(2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff will confirm that all parties understand the terms of the settlement and ~~mark~~ DOCUMENT the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.401--56.404 (relating to formal complaints).

§ 56.393. Termination pending resolution of the dispute.

In any case alleging unauthorized use of utility service, as defined in § ~~56.2~~ 56.252 (relating to definitions), OR THE CUSTOMER'S FAILURE TO PAY UNDISPUTED BILLS AS REQUIRED BY § 56.411 (RELATING TO DUTIES OF PARTIES; DISPUTING PARTY'S DUTY TO PAY UNDISPUTED PORTION OF BILLS; UTILITY'S DUTY TO PAY INTEREST WHENEVER OVERPAYMENT FOUND); a utility may terminate service after giving proper notice in accordance with §§ 56.331--56.338, whether or not a dispute is pending.

§ 56.394. Conference procedures.

Conferences held under §§ 56.391--56.393 (relating to informal complaint FILING procedures; Commission informal complaint procedure; and termination pending resolution of the dispute) and this section will be informal and may be held by conference telephone call, when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint. ~~The parties will be advised that false information intended to mislead a public servant in performing their official function may be punishable criminally.~~

FORMAL COMPLAINTS

§ 56.401. General rule.

Except as otherwise provided in this chapter, formal complaint proceedings will proceed according to the rules and regulations of the Commission governing complaint proceedings.

§ 56.402. Filing.

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) must be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary OF THE COMMISSION will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of THE decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a later time except as otherwise may be provided in 66 Pa. C.S. ~~Part I~~ (relating to Public Utility Code).

§ 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.

(a) *Assignment.* Review of informal complaint decisions will be heard DE NOVO by an administrative law judge or special agent.

(b) *Filing and docketing.* ~~Complaints~~ A COMPLAINT will be filed and docketed as a formal Commission complaint, under §§ 1.31--1.38 (relating to REQUIREMENTS FOR documentary filings).

(c) *Captions.* The parties to A review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a utility, the phrase "Complaint Appellant" will be added after its name.

(D) *HEARINGS.* HEARINGS CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE OR A SPECIAL AGENT WILL BE HELD WITHIN A REASONABLE PERIOD OF TIME AFTER THE FILING OF THE ANSWER. THE PARTIES MAY INCORPORATE PORTIONS OF THE CONFERENCE REPORT OR INFORMAL COMPLAINT DECISION THAT THEY SHALL AGREE UPON.

(E) *FORMAL COMPLAINT DECISION.* THE ADMINISTRATIVE LAW JUDGE OR SPECIAL AGENT ASSIGNED TO THE FORMAL COMPLAINT WILL ISSUE A DECISION WITH THE COMMISSION WITHIN A REASONABLE PERIOD OF TIME AFTER THE RECEIPT OF THE TRANSCRIBED TESTIMONY. INCLUDED IN THE DECISION WILL BE A DESCRIPTION OF THE MATTER, FINDINGS OF FACT, CONCLUSIONS OF LAW AND OTHER DISCUSSION AND OPINION AS IS APPROPRIATE.

~~(d)~~ (F) *Commission review.* The Commission will review the decision of the assigned administrative law judge or special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or special agent for further development of the record or issue a final order. The burden of proof remains with the party WHO ~~filing~~ FILED the formal complaint.

§ 56.404. Ability to pay proceedings.

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

(b) *Stay of informal complaint decision.* Upon the filing of a formal complaint in a case seeking review from the decision of the BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The utility may request that the presiding officer remove the stay and order payment of amounts set forth in the informal

complaint decision. When current bills are not at issue, the customer shall be responsible for payment of current, undisputed bills pending issuance of a final Commission order.

(c) *Hearings.* The presiding officer will conduct hearings within a reasonable period after filing of the ~~appeal~~ REVIEW and answer. If the presiding officer is a special agent, the special agent will have all powers of an administrative law judge. ~~Subject to any valid evidentiary objections raised by the parties, the presiding officer shall enter into the record BCS's documents on the complainant's income, the utility report to the BCS from the utility, and the BCS's decision when the formal complaint was the subject matter of a BCS's informal decision.~~

(1) The presiding officer will attempt to hold hearings by telephone, unless one or more parties object. Hearings will be held after the filing of an answer.

(2) The presiding officer will hear the case de novo, but may request a stipulation of the parties as to undisputed facts.

(3) Hearings will be tape recorded and will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape or other circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that made by the presiding officer.

(d) *Proposed findings of fact and conclusions of law or briefs.* The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the presiding officer. Notice of intent to submit findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

(e) *Initial decision.* The presiding officer will render a written decision after the hearings or after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision will be in writing and contain a brief description of the matter, findings of fact and conclusions of law. The initial decision will be subject to the filing of exceptions under the procedures in Chapters 1 and 5 (relating to rules of administrative practice and ~~procedures~~ PROCEDURE; and formal proceedings).

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 56.411. Duties of parties: disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found.

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section.

(1) *Pending informal complaint.* Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed. An amount ultimately determined, by the parties or the Commission, to have been validly due but not paid

may be paid with interest at the tariff rate filed under § 56.272 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representative determines is not ~~reasonably~~ disputed.

(3) *Overpayments reimbursed with interest.* An amount ultimately determined to have been overpaid by the disputing party shall be reimbursed with interest at the tariff rate filed under § 56.272.

(4) *Effect of offer of payment.* An offer by a customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

Subchapter R. RESTORATION OF SERVICE

§ 56.421. ~~General rule~~ PAYMENT AND TIMING.

When service to a dwelling has been terminated, the utility shall reconnect service ~~by the end of the first full working day~~ WITHIN 24 HOURS after receiving one of the following:

(1) Full payment of an outstanding charge plus ~~a reasonable~~ THE reconnection fee SPECIFIED IN THE UTILITY'S TARIFF ON FILE WITH THE COMMISSION. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account include, but are not limited to:

(i) The size of the unpaid balance.

(ii) The ability of the customer to pay.

(iii) The payment history of the customer.

(iv) The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to ~~an informal dispute settlement agreement or~~ A payment agreement, plus a reasonable reconnection fee, which may be a part of the ~~informal dispute settlement agreement or~~ payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the customer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order. FOR

PURPOSES OF THIS SECTION, NEITHER AN AMORTIZATION OF A MAKE-UP BILL UNDER § 56.264 (RELATING TO PREVIOUSLY UNBILLED UTILITY SERVICE) OR §56.252 DEFINITION OF A BILLING MONTH (RELATING TO DEFINITIONS), NOR A PAYMENT AGREEMENT THAT HAS BEEN PAID IN FULL BY THE CUSTOMER, ARE TO BE CONSIDERED DEFAULTS. BUDGET BILLING PLANS AND AMORTIZATION OF BUDGET PLAN RECONCILIATION AMOUNTS UNDER § 56.262(7) (RELATING TO METER READING; ESTIMATED BILLINGS; CUSTOMER READINGS) MAY NOT BE CONSIDERED DEFAULTS FOR THE PURPOSES OF THIS SECTION.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.

(4) Service shall be restored within 24 hours for erroneous terminations or upon receipt by the utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(5) Service shall be restored within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(6) A CUSTOMER OR APPLICANT OF A CITY NATURAL GAS DISTRIBUTION OPERATION WHOSE HOUSEHOLD INCOME DOES NOT EXCEED 135% OF THE FEDERAL POVERTY LEVEL SHALL BE REINSTATED UNDER THIS SECTION ONLY IF THE CUSTOMER OR APPLICANT ENROLLS IN THE CUSTOMER ASSISTANCE PROGRAM OF THE CITY NATURAL GAS DISTRIBUTION OPERATION. THIS REQUIREMENT MAY NOT APPLY IF THE FINANCIAL BENEFITS TO THE CUSTOMER OR APPLICANT ARE GREATER IF SERVED OUTSIDE OF THAT ASSISTANCE PROGRAM.

(7) A UTILITY SHALL PROVIDE FOR AND INFORM THE APPLICANT OR CUSTOMER OF A LOCATION WHERE THE CUSTOMER MAY MAKE PAYMENT TO RESTORE SERVICE. A UTILITY SHALL INFORM THE APPLICANT OR CUSTOMER THAT CONDITIONS FOR RESTORATION OF SERVICE MAY DIFFER IF SOMEONE IN THE HOUSEHOLD IS A VICTIM OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER OR IS SERIOUSLY ILL OR AFFECTED BY A MEDICAL CONDITION WHICH WILL BE AGGRAVATED WITHOUT UTILITY SERVICE.

§ 56.422. Personnel available to restore service.

A utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a commensurate period of 8 consecutive hours to restore service when required under this chapter, specifically §§ 56.322 and 56.421 (relating to days termination of service is prohibited; ~~and general rule~~ PAYMENT AND TIMING).

Subchapter S. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

§ 56.431. Public information.

(A) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the utility and its customers affected by the change. Summaries will be mailed by the utility to each customer of the utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the utility and its customers in accordance with this chapter, ~~must~~ SHALL be in writing, SHALL be reproduced by the utility, SHALL be displayed prominently, SHALL BE AVAILABLE ON THE UTILITY'S WEBSITE, IF THE COMPANY HAS ONE, and SHALL be available at all utility office locations open to the general public. ~~This information shall be delivered or mailed to each new customer of the utility upon the commencement of service and shall be available at all times upon request.~~ THE PUBLIC UTILITY SHALL INFORM NEW CUSTOMERS OF THE AVAILABILITY OF THIS INFORMATION AND DIRECT WHERE TO LOCATE IT ON THE UTILITY'S WEBSITE. THE UTILITY SHALL DELIVER OR MAIL A COPY UPON THE REQUEST OF A CUSTOMER OR APPLICANT.

(B) A utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

(1) Billing and estimated billing procedures.

(2) Methods for customer verification of billing accuracy.

(3) Explanation of operation of ~~fuel adjustment clauses and~~ purchased gas adjustment clauses.

(4) Payment requirements and procedures.

(5) Security deposit and guarantee requirements.

(6) Procedures for discontinuance and reconnection of service.

(7) Dispute, informal complaint and formal complaint procedures.

(8) Explanation of meter reading procedures which would enable a customer or occupant to read their own meter.

(9) Procedure whereby customers or occupants may avoid discontinuance of service during extended periods of absence.

(10) Third-party notification procedures.

(11) Telephone numbers and addresses of the utility and of the nearest regional office of the Commission where further inquiries may be made.

(12) Definitions of terms or abbreviations used by the utility on its bills.

(13) Information indicating that additional consumer protections ~~are~~ MAY BE available for victims of domestic violence, PEOPLE WITH SERIOUS ILLNESSES, AND LOW INCOME HOUSEHOLDS.

§ 56.432. Record maintenance.

A utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, keep the records ACCESSIBLE within this Commonwealth at an office located in the territory served by it, and make the records available for examination by the Commission or its staff. Information to be maintained includes the following:

(1) The payment performance of each of its customers.

(2) The number of ~~informal dispute settlement agreements and~~ payment agreements made by the utility company and a synopsis of the terms, conditions and standards upon which agreements were made.

(3) The number of service terminations and reconnections.

(4) Communications to or from individual customers regarding interruptions, discontinuances, terminations and reconnections of service, including the name and address of the customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

Subchapter T. INFORMAL COMPLAINTS

§ 56.441. Informal complaints.

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to resolve customer, applicant or occupant complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement the provisions of this chapter.

(1) Absent good cause, the BCS will handle only Chapter 56 informal complaints in which the customer first attempted to resolve the matter with the utility.

(2) Only after the customer and the utility have failed to resolve the dispute will BCS initiate an investigation.

Subchapter U. GENERAL PROVISIONS

§ 56.451. Availability of normal Commission procedures.

Nothing in this chapter prevents a person or a utility from pursuing other Commission procedures in a case not described in this chapter.

§ 56.452. Applications for modification or exception.

(a) If unreasonable hardship to a person or to a utility results from compliance with a section in this chapter, OR A TECHNOLOGICAL ADVANCE PERMITS AN ENHANCED LEVEL OF CUSTOMER SERVICE application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

§ 56.453. Inconsistent tariff provisions.

A tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter.

Subchapter V. UTILITY REPORTING REQUIREMENTS

§ 56.461. Reporting requirements.

(a) Within 90 days after the end of each calendar year, each natural gas distribution utility with annual gas operating revenues of less than $6,000,000 per year, and EACH steam heat utility

shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

(1) The total number of residential customers as of the end of each month for the calendar year.

(2) The total number of terminations for nonpayment for each month of the calendar year.

(3) The total number of terminations for reasons other than nonpayment for each month of the calendar year.

(4) The total number of reconnections for customer payment for each month of the calendar year.

(5) The total number of reconnections for customer submission of medical certification for each month of the calendar year.

(6) The total number of reconnections for reasons other than customer payment or medical certification for each month of the calendar year.

(7) The total dollar amount of annual residential billings.

(8) The total dollar amount of annual gross residential write-offs.

(b) ~~Public utilities~~ UTILITIES shall refer to the data dictionary in Appendix D (relating to definitions (§ 56.461)) for additional guidance as to the terms used in this section.

APPENDIX A

MEDICAL EMERGENCY NOTICE

~~If you, or anyone presently and normally living in your home is SERIOUSLY ILL OR AFFLICTED WITH A MEDICAL CONDITION THAT WILL BE AGGRAVATED BY CESSATION OF SERVICE,~~ LET US KNOW IF SOMEONE LIVING IN YOUR HOME IS SERIOUSLY ILL OR HAS A MEDICAL CONDITION THAT WILL BE AGGRAVATED BY THE CESSATION OF SERVICE. WE WILL NOT SHUT OFF YOUR SERVICE during such illness provided you:

(a) Have a LICENSED physician or nurse practitioner certify by phone or in writing that such illness exists and that it may be aggravated if your service is stopped; and

(b) Make some equitable arrangement to pay the company your ~~past due and~~ current bills for service.

(c) Contact us by calling the following number:

(Utility) Phone Number:

(Utility) Address:

(D) HAVE YOUR LICENSED PHYSICIAN SEND A LETTER TO THE UTILITY WITHIN 7 DAYS VERIFYING THE MEDICAL CONDITION.

APPENDIX B

MEDICAL EMERGENCY NOTICE

~~If you, or anyone presently and normally living in your home is SERIOUSLY ILL OR AFFLICTED WITH A MEDICAL CONDITION THAT WILL BE AGGRAVATED BY CESSATION OF SERVICE,~~ LET US KNOW IF SOMEONE LIVING IN YOUR HOME IS SERIOUSLY ILL OR HAS A MEDICAL CONDITION THAT WILL BE AGGRAVATED BY THE CESSATION OF SERVICE. WE WILL RESTORE YOUR [GAS OR ELECTRIC] UTILITY SERVICE WITHIN 24 HOURS during such illness provided you:

(a) Have a LICENSED physician or nurse practitioner certify by phone or in writing that such illness exists and that it may be aggravated if your service is not restored; and

(b) Make some equitable arrangement to pay the company your ~~past due and~~ current bills for service ~~PAY THE AMOUNTS REQUIRED BY THE UTILITY TO RESTORE YOUR SERVICE~~.

(c) Contact us by calling the following number:

(Utility) Phone Number:

(Utility) Address:

(D) HAVE YOUR LICENSED PHYSICIAN SEND A LETTER TO THE UTILITY WITHIN 7 DAYS VERIFYING THE MEDICAL CONDITION.

APPENDIX C

Definitions (§ 56.231)

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.231 (relating to reporting requirements).

Annual collections operating expenses--Use the definition in §§ 54.72 or 62.2, "include administrative expenses associated with termination activity, field visits, negotiating payment arrangements, budget counseling, investigation and resolving informal and formal complaints associated with payment arrangements, securing and maintaining deposits, tracking delinquent accounts, collection agencies' expenses, litigation expenses other than already included, dunning expenses and winter survey expenses." Report the cumulative total as of the end of the reporting period/year. Exclude customer assistance program expenses.

Annual residential billings--Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes "normal tariff billings" and "miscellaneous billings." The latter category includes billings for late payment fees.

Average monthly bill for the previous year for a heating customer--Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for heating customers. Report the average as of the end of the reporting period/year.

Average monthly bill for the previous year for a nonheating customer--Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for nonheating customers. Report the average as of the end of the reporting period/year.

Average monthly usage for a heating customer--Report the aggregate average monthly usage by calculating the average of the 12 monthly average usages for heating customers. Report the average as of the end of the reporting period/year.

Average monthly usage for a nonheating customer--Report the aggregate average monthly usage by calculating the average of the twelve monthly average usages for nonheating customers. Report the average as of the end of the reporting period/year.

Total dollar amount of active residential accounts in arrears and not on a payment agreement--Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total dollar amount of active residential accounts in arrears and on a payment agreement--Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total dollar amount of gross residential write-offs--Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

Total dollar amount of inactive residential accounts in arrears--An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

Total dollar amount of net residential write-offs--Net write-offs are calculated by subtracting recoveries from gross write-offs. Report the cumulative total dollar amount as of the end of the reporting period/year.

Total dollar amount in security deposits on-hand--Report the dollar amount as of the end of the reporting period/year. Exclude accrued interest.

Total dollar amount in security deposits that are requested or billed to applicants--Report the cumulative total dollar amount as of the end of the reporting period/month.

Total dollar amount in security deposits that are requested or billed to customers--Report the cumulative total dollar amount as of the end of the reporting period/month.

Total number of active residential accounts in arrears and not on a payment agreement--Report the total as of the end of the reporting period/month. The due date should be considered to be day

zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total number of active residential accounts in arrears and on a payment agreement--Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total number of applicants that are requested or billed a security deposit--Report the cumulative number as of the end of the reporting period/month.

Total number of customers that are requested or billed a security deposit--Report the cumulative number as of the end of the reporting period/month.

Total number of dwellings receiving termination notices sent to occupants other than the customer--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Use this category when the termination notice was delivered to someone other than the customer, for example, a termination notice to a tenant because of nonpayment of a landlord-ratepayer. This does not include copies of termination notices sent in accordance with the third-party notification procedures in § 56.131. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of 48-hour termination notices posted--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The termination notice was posted at the customer's residence in accordance with § 56.95.

Total number of inactive residential accounts in arrears--An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

Total number of reconnections for customer submission of medical certification--Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection. Report the cumulative number as of the end of the reporting period/month. ~~Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151--250% of the Federal poverty guideline; between 251--300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available.~~ Include customer assistance program recipients.

Total number of reconnections for full customer payment, PARTIAL PAYMENT OR PAYMENT AGREEMENT --A reconnection is any residential account that was terminated for any reason covered under §§ 56.81 or 56.98 and subsequently restored after the customer paid in full the outstanding balance of the account, MADE A PARTIAL PAYMENT OR ENTERED INTO A PAYMENT AGREEMENT regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.2. Four criteria must be met: the reconnection is

for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment and/or customer payment agreement are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. ~~Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151–250% of the Federal poverty guideline; between 251–300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available.~~ Include customer assistance program recipients.

~~*Total number of reconnections for partial customer payment or payment agreement*--A reconnection is any residential account that was terminated for any reason covered under §§ 56.81 or 56.98 and subsequently restored after meeting the utility's terms for restoration if the terms for restoration included a customer payment and/or the establishment of a payment agreement, regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.2. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment or customer payment agreement, or both, are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151–250% of the Federal poverty guideline; between 251–300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available. Include customer assistance program recipients.~~

Total number of reconnections for reasons other than customer payment or medical certification--Report the cumulative number as of the end of the reporting period/month. ~~Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151–250% of the Federal poverty guideline; between 251–300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available.~~ Include customer assistance program recipients.

Total number of residential heating customers--Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of residential nonheating customers--Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of security deposits on-hand--Report the number as of the end of the reporting period/year.

Total number of 10-day termination notices issued by the utility--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the

cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment and reasons other than nonpayment categorized by the first three digits of each account's postal code--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit, failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. Categorize by the first three digits of the postal code of the customer's service address.

Total number of terminations for reasons other than nonpayment--The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of 3-day termination notices completed by personal contact in person--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted in person in accordance with § 56.93.

Total number of 3-day termination notices completed by telephone--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted using the telephone in accordance with § 56.93.

APPENDIX D

Definitions (§ 56.461)

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.461 (relating to reporting requirements).

Annual residential billings--Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes "normal tariff billings" and "miscellaneous billings." The latter category includes billings for late payment fees.

Total dollar amount of gross residential write-offs--Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

Total number of reconnections for customer payment--A reconnection is any residential account that was terminated for any reason covered under §§ 56.321 or 56.338 and subsequently restored after the customer paid in full the outstanding balance of the account, or made a partial payment or entered into a payment agreement regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.252. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment or customer payment agreement, or both, are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of reconnections for customer submission of medical certification--Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of residential customers--Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of reconnections for reasons other than customer payment or medical certification--Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment--The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for reasons other than nonpayment--The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

APPENDIX E

~~THIRD PARTY~~ THIRD-PARTY NOTIFICATION

Once in a while, for one reason or another, a customer fails to pay his or her <UTILITY> bill. Under the ~~Third Party~~ THIRD-PARTY Notification program, <UTILITY> will notify you and another person you choose to receive copies of shut-off notices. The ~~Third Party~~ THIRD-PARTY can be a trusted relative, friend, clergy member, or social service agency.

The ~~Third Party~~ THIRD-PARTY Notification program is voluntary and can help you if you are hospitalized, away from home for extended periods of time or homebound. The ~~Third Party~~ THIRD-PARTY is not responsible for paying your bills and this program will not stop <UTILITY> from shutting off your <UTILITY> service if you do not pay your bills. When a ~~ThirdParty~~ THIRD-PARTY contacts <UTILITY> about the shut off notice, we will tell them what you can do to stop the shut off. The ~~Third Party~~ THIRD-PARTY does not have the right to make a payment agreement for you.

To sign up, both you and the ~~Third Party~~ THIRD-PARTY must complete and sign the form below. **Do not return this with your bill, return it to:**

<UTILITY NAME>

<UTILITY ADDRESS>

<CITY, STATE, POSTAL CODE>

IMPORTANT THINGS TO REMEMBER:

* Notify us immediately if you want to change or drop your ~~Third Party~~ THIRD-PARTY.
* Notify us if your ~~Third Party~~ THIRD-PARTY moves.
* Notify us if you move and you want the ~~Third Party~~ THIRD-PARTY transferred to your new address.

Please sign me up for the ~~Third Party~~ THIRD-PARTY Notification program. By completing this form and returning it to <UTILITY>, I request that a copy of any shut off notice be given to the person or agency named below.

CUSTOMER NAME:

<UTILITY> ACCOUNT/CUSTOMER NUMBER:

CUSTOMER ADDRESS:

CUSTOMER SIGNATURE:

DATE:

Receipt of a copy of a shut off notice by the ~~Third Party~~ THIRD-PARTY does not place any obligation on that party to pay the <UTILITY> bill for the customer named above nor will it necessarily stop shut off if payment is not made. The notice simply reminds the ~~Third Party~~ THIRD-PARTY of a chance to help the customer solve the problem.

~~THIRD PARTY~~ THIRD-PARTY NAME:

~~THIRD PARTY~~ THIRD-PARTY ADDRESS:

~~THIRD PARTY~~ THIRD-PARTY SIGNATURE:

DATE:

~~APPENDIX F~~

~~MEDICAL EMERGENCY NOTICE~~

~~LET US KNOW IF SOMEONE LIVING IN YOUR HOME IS SERIOUSLY ILL OR HAS A MEDICAL CONDITION THAT WILL BE AGGRAVATED BY THE CESSATION OF SERVICE. WE WILL RESTORE YOUR [GAS OR ELECTRIC] UTILITY SERVICE WITHIN 24 HOURS DURING SUCH ILLNESS PROVIDED YOU:~~

~~(A) HAVE A LICENSED PHYSICIAN OR NURSE PRACTITIONER CERTIFY BY PHONE OR IN WRITING THAT SUCH ILLNESS EXISTS AND THAT IT MAY BE AGGRAVATED IF YOUR SERVICE IS NOT RESTORED; AND~~

~~(B) MAKE SOME EQUITABLE ARRANGEMENT TO PAY THE UTILITY YOUR CURRENT BILLS FOR SERVICE.~~

~~(C) CONTACT US BY CALLING THE FOLLOWING NUMBER:~~

~~(UTILITY) PHONE NUMBER:~~

~~(UTILITY) ADDRESS:~~

~~(D) HAVE YOUR LICENSED PHYSICIAN SEND A LETTER TO THE UTILITY WITHIN 7 DAYS VERIFYING THE MEDICAL CONDITION.~~

ATTACHMENT ONE

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa. C.S., Chapter 14; General Review of Regulations.

L-00060182

Summary of Comments and Discussion

General Comments:

PGW believes that the proposed rules fail to implement the central task of promulgating rules that are consistent with Chapter 14 and in some crucial instances the proposals fail to delete various sections from the old rules that are no longer lawfully permitted. In other areas the proposals resurrect certain aspects of the old regulations that were specifically targeted for elimination and have been superseded by Chapter 14. Moreover, some of the proposals create new burdens on PGW which will be costly and will undermine one of Chapter 14's goals; protecting PGW's ability to provide natural gas to the residents of the City of Philadelphia and to protect timely paying customers from unnecessary rate increases. Consideration must be given to the programming time and training necessary to implement any new requirements.

UGI states that they are generally supportive of the Commission's efforts to promulgate rules that are consistent with the letter and spirit of Chapter 14 but that for a number of reasons UGI believes that the Commission's efforts to date have resulted in proposed regulations that run contrary to Chapter 14's requirements. UGI opines that Chapter 14 provides Pennsylvania utilities with the tools to reduce their cost of collection and termination and encourages the Commission to embrace those tools and allow the utilities to exercise wide discretion free from unnecessary administrative obstacles and burdens to pursue reasonable revenue collection and termination practices. UGI believes that the Commission's proposed regulations in some instances undermine the rights afforded the utilities, including requiring additional payment agreements, security deposit periods that differ from those set forth in Section 1404 and termination procedures that appear to conflict with Section 1406. UGI notes that any regulatory requirement that exceeds Chapter 14 comes at a cost including computer programming, additional labor and notices and delay in payment which serve to reduce each utility's earnings. The Commission should, therefore, review its proposed regulations to determine whether the additional costs that result from them are justified in light of the goals of Chapter 14.

Dominion suggests that every change proposed by the Commission in this rulemaking be analyzed in the context of how it satisfies the stated declarations of Section 1402. Concerning implementation, Dominion notes that some of the proposed rules will require utilities to modify their billing systems in order to implement these rules. As a result, Dominion requests that the

Commission provide at least six months after publication of the final rules before they become effective, or that the Commission phase in rules that require modifications.

In NFG's opinion, the proposed modifications to Chapter 56 are not wholly consistent with legislative intent and many of the proposed changes would take away the means the General Assembly provided to public utilities to reduce uncollectible accounts. Further, many of the proposed modifications would significantly increase the costs of providing service without the promise of real benefit to ratepayers. Increases in the cost of service that cannot be shown to have a reciprocal benefit are, by their very nature, inconsistent with the stated intent of Chapter 14. A number of the proposed modifications to Chapter 56 involve changes to the regulations that were clearly not brought about by Chapter 14. That is, many proposed changes appear to have been made on the Commission's initiative alone without guidance from the Legislature. Primarily, NFG feels that proposed revisions of this sort are improperly within the scope of this rulemaking that had, as its genesis, the implementation of Chapter 14. Secondarily, if these proposed revisions are permitted to take final form, public utilities will need ample time to make necessary business practice changes to implement these changes.

PPL believes incorporating the changes mandated by Chapter 14 into 52 Pa. Code, Chapter 56 is a significant effort for two key reasons: 1) the Commission has not undertaken a comprehensive review and revision of Chapter 56 for over ten years, and 2) the issues and concerns associated with the provisions of Chapter 14 are complex and, to some parties, very controversial. PPL believes that the Commission has made an effort to consider and accommodate the various perspectives and concerns of both consumer advocates and public utilities and the important challenge for the Commission is to consider the implications and impacts (protections, costs, etc.) of the revised regulations on consumers and utilities. PPL commends the Commission for taking the appropriate steps in identifying concerns, providing various opportunities for interested parties to articulate their positions, and attempting to blend and balance all of these perspectives into fair and coherent regulations. PPL agrees with much of what the Commission has proposed; however, there are several issues in which the Company has concerns.

EAP believes that the Commission has issued its proposed rules, but they do not fulfill the express purpose of Chapter 14 and in fact, create additional unnecessary and costly barriers to reasonable collection and termination practices permitted under the law. The proposed regulations have the unlawful effect of filtering or watering down clear mandates in Chapter 14. Proposed regulations must be struck where they are inconsistent with the mandate of Chapter 14, as an enabling statute would trump any, and indeed all, conflicting provisions promulgated thereunder and the Commission has not performed a cost benefit analysis on the proposed regulations.

EAP notes that under the Statutory Construction Act, "the object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly." 1 Pa.C.S. §1921. In interpreting a statute, the words of the statute must be construed according to

their plain meaning and technical words and phrases which have acquired a peculiar and appropriate meaning shall be construed accordingly. *Id* at §1903(a). When a statute is free from ambiguity, any further deliberation as to its meaning is unwarranted. 1 Pa.C.S. §1921(b). *Meier v. Maleski,* 670 A.2d 755 (Pa. Commw. 1996) *affirmed* 549 PA. 171, 700 A.2d 1262 (1997). An agency's failure to interpret statutes, regulations or orders, consistent with their clear and plain meaning, constitutes an abuse of discretion. *Peoples Natural Gas Co. v. Pennsylvania PUC*, 542 A.2d 606 (PA. Commw1988).

EAP alleges that it has quantified the cost of the proposed rules and regulations. According to EAP, if the Commission adopts the proposed rules, electric and gas rates could increase by an estimated $50 million. The proposed rules and regulations would eliminate the opportunity to remove $165 million in current collection costs. In addition, EAP believes that Act 201 requires the Commission to provide additional collection tools for PGW. EAP charges that there is no Commission discussion or provision of additional PGW collection tools contained in the regulations offered for comment and for the past four years there have been no new regulations proposed which would assist PGW with its collections.

Action Alliance notes that Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. Action Alliance's comments focus primarily on vulnerable and low-income customers who cannot afford to pay utility bills at full rates, and often have difficulty paying monthly bills in full and on time. Action Alliance submits that its recommendations are consistent with Chapter 14 and at the same time make utility service available based on equitable terms and conditions to consumers at all income levels. However, caution should be taken not to adopt Chapter 56 proposals that exceed what Action Alliance believes are the already harsh Chapter 14 limitations on customer.

CAC recommends that in enacting regulations, the common purposes of Chapters 14 and 56 – ensuring the availability of service while providing equity and protection to responsible ratepayers and to low-income consumers - must be considered as the guiding goals of the regulation. The CAC strongly agrees with the Commission that termination of service can have serious consequences, not only for the customers immediately affected but also for neighbors and the surrounding community and wholeheartedly supported the Commission in its determination to fulfill its duty to protect the health and safety of all citizens of the Commonwealth. CAC believes that such an approach is in keeping with the mandate of Chapter 14 to ensure that service remains available to residential consumers on reasonable terms and conditions.

The OCA submits that the Commission's resolution of the issues and its proposed modifications to the regulations have, in large part, reached a reasonable balance in achieving the goals of Chapter 14. The Commission's approach to the many issues raised by the parties carries forth both the letter and intent of Chapter 14 while ensuring that customers who are unable to pay their utility bills receive the protections afforded them under Chapters 14 and 56. The OCA

appreciates the significant efforts of the Commission and its staff in this monumental undertaking and believes the proposed regulations have largely reached a fair balance of the many difficult issues presented by Chapter 14.

PULP supports much of what is proposed in the Commission's Chapter 56 Order. PULP notes that Chapter 56 contains important protections for public utility consumers, particularly low-income consumers. The array of rules and protections in Chapter 56 improves the likelihood that public utility companies will provide safe, reasonable, and reliable service; where they do not provide such service, Chapter 56 provides mechanisms with which consumers can seek redress. PULP believes that Chapter 56 protections have never been more important than now, and the Commission should take this opportunity to strengthen and improve these protections.

IRRC recognizes that developing a set of rules that eliminates opportunities for customers capable of paying to avoid timely payment of their bills with the equally important goal of ensuring that utility service remains available to all other customers on reasonable terms and conditions is not an easy task. IRRC acknowledges the amount of time and effort the Commission has dedicated to this endeavor. However, IRRC notes that some commentators are concerned that, in general, the proposed rulemaking does not accurately reflect the intent of Chapter 14 as expressed in subsections (3) and (4) of Section 1402. IRRC requests that the Commission explain, in the Preamble to the final-form regulation, how the proposed regulation allows utilities to reduce their uncollectible accounts and to identify what *additional* tools have been provided to city natural gas distribution operations. IRRC raises the commentators particular concern that the 25 sections of 52 Pa. Code Chapter 56 (Chapter 56) identified in the Historical and Statutory Notes to Chapter 14 are superseded to the extent the requirements imposed by those sections are inconsistent with Chapter 14. The Commission has amended 24 of those sections to some degree and reserved one of those sections. IRRC asks the Commission to explain, in the Preamble to the final-form regulation, the amendments being made and how those amendments make the section consistent with Chapter 14.

IRRC states that Section 5.2 of the RRA (71 P.S. § 745.5b) directs the Independent Regulatory Review Commission (IRRC) to determine whether a regulation is in the public interest. When making this determination, IRRC considers criteria such as economic or fiscal impact and reasonableness. To make that determination, the Commission must analyze the text of the Preamble and proposed regulation and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under § 745.5(a) in the regulatory analysis form (RAF). IRRC comments further that the explanation of the regulation in the Preamble and the information contained in the regulatory analysis form are not sufficient to allow IRRC to determine if the regulation is in the public interest as required by Section 5.2 of the RRA (71 P.S. § 745.5b). In the Preamble and RAF submitted with the final-form rulemaking, IRRC contends that the Commission should provide more detailed information required under § 745.5(a) of the RRA, including a description of the amendments proposed for each section of the regulation and why the amendments are required.

IRRC also notes that EAP has estimated that this rulemaking will cost the utility industry approximately $50 million annually and this additional cost would have to be absorbed by the ratepayers of the utilities. According to IRRC, creating a regulatory framework that increases the costs of utilities attempting to reduce their uncollectible accounts is contrary to Chapter 14 and also conflicts with the Commission's contention that the rulemaking will not have a fiscal impact on the regulated community. As noted above in their comments pertaining to "determining whether the regulation is in the public interest," IRRC believes that there is insufficient information in the RAF and Preamble to enable it to determine what fiscal impact, if any, the rulemaking will have on the regulated utilities and their customers. In the final-form regulation, IRRC maintains that the Commission needs to provide a more detailed cost benefit and fiscal impact analysis of the regulation.

56.1 Statement of purpose and policy.

PECO appreciates this clear statement of policy by the Commission and intends to pursue the goal of managing accounts to prevent the accumulation of large arrearages with vigor. PECO notes however there are legacy accounts with high balances that will continue to be a challenge for utilities, their customers and the Commission. Being a utility that appropriately utilizes Chapter 14 tools but also respects customer's rights under Chapters 14 and 56, PECO expects to still have customers who develop new, high balances notwithstanding the use of Chapter 14. PECO believes, however, that customers bear the primary and ultimate responsibility to manage their own accounts.

Equitable agrees that there will be customer accounts that accumulate large arrearages even though the utility may utilize Chapter 56 procedures effectively because the provisions for wastewater, steam heat, small natural gas distribution utilities and victims of domestic violence with a PFA order are basically the same as those adopted in 1978, which were found unsuccessful by the General Assembly.

Columbia takes issue with some of the changes in the proposal because, while those changes incorporate some language from Section 1402(2), as drafted they leave out some of the policy language in Section 1402(3) that was central to the General Assembly's declaration of policy. In lieu of the language as proposed, Columbia recommends that the current period after the word "service" remain in place, followed by the following language: "This chapter establishes procedures for delinquent account collections and for timely collections to provide public utilities with equitable means to reduce their uncollectible accounts, eliminates opportunities for customers capable of paying to avoid the timely payment of public utility bills, protects against rate increases for timely paying customers resulting from other customers' delinquencies, and ensures that public utility service remains available to all customers on reasonable terms and conditions."

NFG requests that the language "and protecting against rate increases for timely paying customers resulting from other customers' delinquencies. Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages" be removed from the proposed § 56.1 because this is an improper interpretation and incorrectly assumes that it is solely the responsibility of the public utility to manage customer accounts.

PGW recommends deleting the proposed language requiring that utilities use the procedures in the Chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages because this falls outside of the scope of Chapter 14 and utilities cannot be held responsible for the payment behavior of their customers. This new requirement would be especially burdensome for PGW because of the demographics of its service territory. PGW estimates that a very substantial majority of households earn less than $50,000 a year with a large majority of households earning far less than $50,000 a year.

The OCA notes that procedures that allow large, unmanageable arrearages to accumulate before the utility takes steps to manage the account can cause significant problems for both the utility and the customer. Under the narrow timeframes for the repayment of arrearages in Chapter 14, customers with large arrearages will be at greater risk of termination for nonpayment because they will not be able to make up the arrearages in the time allowed. The OCA supports the proposed new language in § 56.1, but believes it does not completely convey the Commission's stated intent to ensure timely and effective management of accounts to prevent the accumulation of unmanageable arrearages. OCA suggests revising the proposed language to make it clear that utilities shall be responsible for effectively managing customer accounts.

PULP recommends the Commission state in these regulations that it is the policy of the Commonwealth to prevent service termination where possible, particularly for low-income customers who often cannot afford to pay for service. Although Chapter 14's stated goal is to pursue customers who are capable of paying but who choose not to pay. PULP submits that the General Assembly recognizes the plight of low-income utility customers and has included protections for low-income households in various pieces of legislation. In both of the restructuring statutes, the General Assembly included clear language maintaining the operation of universal service and energy conservation programs, a key safeguard for low-income customers. Just recently in Act 129, PULP notes that the General Assembly required electric distribution companies to create special initiatives directed to low-income households to help these households reduce energy consumption and the cost of energy. Importantly, these Act 129 initiatives are in addition to existing utility activities in the Low Income Usage Reduction Programs mandated under 52 Pa. Code, Chapter 58. In addition, PULP emphasizes that Chapter 14 itself states the General Assembly's intent "that service remains available to all customers on reasonable terms and conditions" and creates special statutory winter termination protections for low and lower income households.

PULP believes that the increase of service terminations since Chapter 14's enactment suggests that Chapter 14's implementation may not be meeting the General Assembly's expectations, particularly given the level of protection for low-income consumers expressed in so many other related laws. PULP points out that 296,451 households had electric or natural gas utility service involuntarily terminated from January to December of 2008, a 20% increase from the previous year. Even after reconnections are considered, PULP asserts that 82,684 households remained unaccounted for as of the end of 2008 after having their service involuntarily terminated. PULP states that this astounding and growing number of terminations suggests that the General Assembly's intention to protect low-income citizens is not being achieved.

Discussion:

While we agree with parties like PECO and NFG that customers are also, of course, responsible for managing their accounts and paying what they owe, it is also clear that the General Assembly's intent, as expressed in Section 1402, was to provide the utilities with more means to reduce uncollectible accounts. It is clearly the responsibility of utilities to utilize these methods to achieve the goals of the General Assembly; eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills. Therefore, it is appropriate to remind utilities of this responsibility in the statement of purpose and policy. The proposed language conveys the intent of the General Assembly's declaration of policy and does not go beyond its spirit and intent. It is a reasonable middle ground between omitting any such statement as proposed by some parties and mandating specific collection standards and penalties as proposed by other parties.

§ 56.2. Definitions.

Allegheny Power suggests adding definitions for Change in Income, Complainant, Federal Poverty Level, and Significant Change in Circumstance. Allegheny Power suggests using the Chapter 14 definition for Change in Income and Significant Change in Circumstance and complainant should include the customer, occupant, third-party designate, applicant, or someone with Power of Attorney. Allegheny Power would also limit the ability to file complaints to only those having a true interest in the matter.

PGW asks that the term "Protection from Abuse Orders (PFA)" be defined so it is clear that this refers only to PFA orders issued in Pennsylvania. 23 Pa. C.S. § 6104(a) provides a legitimate process to certify a foreign PFA and requiring utility employees to verify foreign PFA's would require utility employees to become familiar with the PFA laws of different states.

IRRC notes that there are several terms that are used in the proposed regulation but are not defined. The final-form regulation should include definitions for the following terms: "change in

income;" "complainant;" "Federal poverty level;" "significant change in circumstance" and "third-party guarantor." Both "change in income" and "significant change in circumstance" are defined in Section 1403 and a cross-reference is appropriate for definitions of these terms.

Discussion:

We decline to include definitions of "change in income" and "significant change in circumstance" as suggested by Allegheny Power and IRRC because neither of these terms are used in these regulations. However, these terms are defined in Section 1403. We also decline to include a definition of "complainant" since if we specify who is eligible to file a complaint; this could inadvertently bar some individuals from being able to file a legitimate complaint. Traditionally, the Commission has not restricted who a complainant may be, beyond the usual standard that the complainant must have some standing in the matter. A complainant does not even have to be a customer. For example, a non-gas customer may file a complaint alleging that a gas utility damaged the street they live on while repairing a gas line; or a tenant in a multi-unit building may complain about frequent electric outages despite not being a direct customer of the electric utility. We also decline to include a definition of "third-party guarantor" because we believe it would be more appropriate to address this in § 56.33 which specifically addresses third-party guarantors. Concerning PGW and PPL's request to define Protection from Abuse Orders (PFA), we decline to do so in this proceeding and will instead defer this matter to a separate proceeding that was discussed in the NOPR that will address PFA matters in a more comprehensive manner.

We do find merit in IRRC's suggestion of defining "Federal Poverty Level" and will propose using the definition provided by the federal Department of Health and Human Services. We will also change the definition of "Discontinuation" to "Discontinuance" since "discontinuance" is the more commonly-used term.

Definition of *AMR (Automatic meter reading):*

PPL and Columbia suggest adding language to this definition indicating that a reading obtained from an AMR is an actual reading.

Discussion:

We find merit in the comments of PPL and Columbia and will add language to this definition indicating that a reading obtained from an AMR is considered an actual meter reading for the purposes of this chapter. This is also keeping with the intent of Section 1411.

Definition of *Applicant*:

FirstEnergy suggests the definition of "applicant" specify that the individuals must be eighteen years of age or older.

Phillips thinks the proposed definition is confusing and unclear and suggests that the last sentence be revised to "except where the final bill for the discontinued or terminated service at said same address is past due."

EAP states that the Commission, in its proposed rules, does not necessarily distinguish between a

delinquent customer and an applicant, such as where a utility customer moves out owing a balance and then becomes an applicant elsewhere in the service territory. EAP believes that the proposed rules attempt to disregard the plain language of Section 1407 and provide payment arrangement rights to applicants. According to EAP, the express language of §1407 requires full payment of outstanding balances.

Action Alliance and PULP recommend a change to the proposed definition for "applicant" to clarify exactly when a customer reverts to applicant status after termination of service, and proposes changing the ending of the last sentence to "provided that the final bill for service is not past due" and deleting the word "payable." Action Alliance believes that this modification will synchronize language from this definition of "applicant" with that of the definition of "customer," and will make it absolutely clear that after termination of service a customer reverts to applicant status again when the final bill is past due, and no sooner.

MidPenn requests that the term "applicant" be revised to assure that persons who are the victims of identity theft are not punished unfairly and improperly by being held responsible for an outstanding bill for which they should not be responsible.

IRRC notes that, like Chapter 14, this definition not only refers to a "natural person" but it also refers to an "adult occupant." Based on the use of "natural person," can someone under 18 be considered an applicant? The definitions for "customer" and "occupant" should also include the same clarification.

Discussion:

We agree with FirstEnergy and IRRC that the definition should specify that an applicant must be at least 18 years of age because it is generally accepted that minors, except when emancipated, cannot be parties to binding contracts. We also agree with Phillips, Action Alliance and PULP that the final sentence of the definition, as proposed, is unclear and could easily be made clearer by some minor revisions, and will also synchronize this definition with the definition of "customer". We disagree with EAP in that our interpretation is that Section 1407 does not require full payment of outstanding balances in all circumstances; is full payment required when a customer is simply transferring service from one address to another? We will discuss this in further detail at the analogous definition of "customer" in this same subsection.

Definition of *Basic services*:

The OCA believes that the use of the phrase "physical delivery" may be too narrow and could be interpreted as referring only to the distribution/transportation portion of the bill and that the term "basic service" should include the provision of default supply service.

IRRC notes the definition refers to the delivery of residential service, however it does not mention default supply. Has the Commission considered the inclusion of default supply in the definition of basic service? If the Commission includes default supply in the definition of basic service, it should also separately define "default supply" in the final-form regulation. The definition for "nonbasic service" should also be consistent with the language in the definition for "basic service."

Discussion:

We concur with IRRC and OCA and will incorporate a reference to default service in the proposed definition of *basic service.* We will also include a new definition of *default service* in this subsection, as defined at § 54.182.

Definition of *Billing month*:

FirstEnergy recommends that an additional exception be added to the definition of "billing month" to allow for instances that may follow a company's rerouting of meter reading processes. This would eliminate the need to file petitions for waiver of this section every time a utility changes metering routes, which would represent savings in time and resources for both the utility and the Commission.

NFG submits that the Commission may want to take this opportunity to streamline the process a utility needs to undertake to modify its meter-reading routes. In the past, due primarily to demographic changes in service territories, public utilities need to alter their meter reading routes for purposes of efficiency. In those instances, it is often necessary that the billing month for certain customers may fall outside the guidelines presented. In these cases, the utility must initiate a proceeding with the Commission for a temporary waiver of this provision and § 56.11 regarding billing frequency. It has been NFG's experience that the Commission has handled these requests timely in the past and the outcome is always favorable. The utility would notify the customers in advance and subsequently allow any impacted customer to make a payment agreement on a bill resulting from a meter rerouting. NFG suggests that the Commission could enjoy some economy by allowing an exception to the billing month definition addressing rerouting.

Discussion:

We find merit in the suggestions of FirstEnergy and NFG that we take this opportunity to incorporate another exception to this definition that would facilitate the routine change of meter reading routes. These parties are correct in that under the current rules, utilities must file waivers every time a routine meter route change causes a billing month to fall outside of the parameters of the definition. The processing of these routine waiver requests is costly in both time and money for both the utilities and the Commission. For a recent example, see *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Continuation of Temporary Waiver of Certain Standards and Billing Practices of 52 Pa. Code Section 56.1, et seq.* (Docket No. P-00062243, Public Meeting of January 26, 2007). We believe it is possible to carve out an exception to facilitate these routine meter changes while at the same time protecting affected customers. We shall put into place the same protections that are usually adopted by the petition process by requiring amortization of any bills exceeding a 60-day period, which should be exceedingly rare. We note that this amortization is not a payment agreement under Chapter 14 because it does not involve unpaid balances. We will also require an informal notification to the Bureau of Consumer Services of these occurrences so that the Bureau is prepared to answer customer inquiries on the matter.

Definition of *Customer*:

FirstEnergy suggests the definition of "customer" specify that the individuals must be eighteen years of age or older.

In order to be consistent with the language the Legislature used in Section 1403, NFG submits that the proposed phrase "or an adult occupant" should be changed to "or any adult occupant". This change will also eliminate any potential confusion that could arise from use of the less exacting word "an".

PGW recommends that the proposed definition be revised to specify that a person's status as a customer shall terminate at the time of termination or discontinuance of utility service because under Chapter 14, an applicant is a "person not currently receiving service" while in contrast a customer has a "residential service account" in his or her name. PGW believes it is unreasonable to deem a consumer who is not receiving service as a customer because a consumer who has failed to meet their obligation to timely pay for service should not be afforded customer rights.

Action Alliance proposes that to clarify that only adults or emancipated minors can be customers, the phrase "only a natural person 18 years or older, or an emancipated minor, may become a customer" should be part of this definition.

MidPenn requests that the term "customer" be revised to assure that persons who are the victims of identity theft are not punished unfairly and improperly by being held responsible for an outstanding bill for which they should not be responsible.

IRRC notes that the definition for "customer" mirrors the definition of the same term in Section 1403, except that the regulation includes the following additional sentence: "[a] natural person remains a customer after discontinuance or termination until the final bill for service is past due." IRRC questions what is the Commission's statutory authority for expanding the scope of a definition provided by the General Assembly. IRRC also notes that, like Chapter 14, this definition not only refers to a "natural person" but it also refers to an "adult occupant." Based on the use of "natural person," IRRC questions whether someone under 18 can be considered a customer.

Discussion:

We agree with FirstEnergy, Action Alliance and IRRC that it should be specified that a customer must be at least 18 years of age. This will align this definition with the definition of *applicant*. We also agree with NFG and will change "or an adult occupant" to "or any adult occupant" as to reflect the wording of the statute.

We disagree with PGW that a customer's status as a customer immediately ceases once service is discontinued or terminated. This issue has been the subject of at least two previous adjudications; the March 3, 2005 *Chapter 14 Implementation* Order (Docket M-00041802F0002) and the June 2, 2005 *Chapter 14 Implementation – Petitions of the Energy Association and the Philadelphia Gas Works for Clarification and/or reconsideration of the Implementation Order* (Docket M-00041802F0002). The arguments presented by PGW are generally the same arguments presented and rejected by the Commission in these previous proceedings.

As the Commission discussed in the June 2, 2005 Order (page 14):

> "EAP and PGW continue to argue that you cannot be a customer if you are not receiving service. As we indicated in the *Order* (page 22), however, the definition of "customer" does not require that a person be receiving service. The definition recognizes a customer as "[a] natural person in whose name a residential service account is listed." We agree that to be an 'applicant' you cannot be receiving service. However, the fact that you are not receiving service does not mean you cannot be a 'customer'. We agree with the position advocated by PPL that a residential account can still be listed in the name, for a certain period of time, of the person terminated or discontinued and termination or discontinuance occurs when the final bill is due and payable."

Again, no new, persuasive arguments have been presented that would cause the Commission to change the conclusions reached in this proceeding. In addition, PGW's comments on this issue are in the context of a customer whose service has been terminated. However, PGW fails to address customers who have simply requested discontinuance at their current address so that they may transfer it to another address. As the Commission noted in the March 3, 2005 *Implementation Order*, the policy advocated by PGW "...would be to treat anyone seeking utility

service as an "applicant" and thus be required to meet all the standards and obligations placed upon an applicant for utility service (*e.g.* completion of application, providing ID, providing lease/deed information, occupant information, meeting credit standards/credit scoring, payment of all balances owed, etc.). This could incorrectly include situations where an individual is simply transferring service from one location to another" (page 21). Moreover, the Commission has always held that service involves more than just receiving kilowatts and specifically includes billing.

Definition of *Customer assistance program*:

Action Alliance recommends that the Commission specifically include within the definition of "customer assistance program" the requirement that a monthly CAP payment be set at a level that is affordable for the customer. To qualify as affordable, the payment should be set in accord with the maximum energy burdens listed at 52 Pa. Code § 69.265(2). Action Alliance believes that a requirement of this kind is necessary because only if CAP bills are affordable will low-income customers have a realistic chance of being able to pay them. Action Alliance believes that it is undisputed that Chapter 14 intends to eliminate opportunities to avoid paying for utility service by individuals capable of paying. However, Action Alliance also notes that it is also clear that Chapter 14 intends to maintain protections for low-income customers who are not capable of paying at full rates. According to Action Alliance, this is clearly illustrated by the references to 66 Pa. C.S. §§ 2202 and 2803 in the Chapter 14 definition of customer assistance programs. Action Alliance reasons that when the General Assembly eliminated the ability of the Commission to provide payment agreements to CAP customers, under Section 1405(c), it must have understood and expected that CAP rates and bills would be affordable for low-income families; that is, the General Assembly must have believed that multiple payment agreements would be unnecessary because CAP bills would be affordable for low-income customers. Action Alliance submits that to hold otherwise would result in an inconsistent and absurd result that the General Assembly and the Governor clearly would not have intended. The definition of customer assistance programs should therefore clearly reference the affordability standards set forth in 52 Pa. Code § 69.265(2).

Action Alliance notes that in the Second Biennial Report regarding Chapter 14 implementation, the Commission opined that CAP customers were at the "greatest risk because they are out of options" and that through October 10, 2008, the Commission turned away 24,144 customers seeking review of their CAP budgets because it was determined the customer was not eligible for a payment arrangement because they were a participant in the utility's CAP. Action Alliance also recommends that the Commission adopt procedures to establish a payment agreement for former CAP customers whose arrearages include missed CAP bills, as well as non-CAP bills.

PULP recommends the Commission specifically include within the definition of customer assistance program the requirement that a monthly CAP payment be set at a level that is affordable for the customer. To qualify as affordable, the payment should be set in accord with

the maximum energy burdens listed at 52 Pa. Code § 69.265(2). PULP believes that a requirement of this kind is necessary because only if CAP bills are affordable will low-income customers have a realistic chance of being able to pay them.

Discussion:

While Action Alliance and PULP raise several legitimate concerns, we believe that this is not the appropriate forum to address most of these issues. There are currently at the Commission several other venues at which CAP issues are being addressed. This includes a proposed rulemaking currently underway (Docket L-00070186); CAP policy statement revisions (Docket M-00072036) and an ongoing Universal Service Working Group (Docket M-2009-2107153). These forums are the appropriate venue to address many of the issues raised by the parties. In addition, the Commission's proposed definition of Customer Assistance Program reflects verbatim the definition in Chapter 14, and we are unable to revise the definition in regulation that would be inconsistent with the statutory definition.

As to Action Alliance's request that the Commission adopt procedures to issue payment agreements for former CAP customers whose arrearages include a mixture of both missed CAP bills and non-CAP bills, we recognize that it is indeed current Commission procedure to deny Commission payment agreements to such customers. This policy is in keeping with the prohibition on making payment agreements for CAP customers in Section 1405(c). While it may be theoretically possible to write a payment agreement on just the non-CAP dollars in an arrearage, such a payment agreement would not protect the account from termination since the CAP dollars would still be past-due and thus grounds for termination. Consequently, there is little if any practical reason for issuing a payment agreement under such circumstances.

Definition of *Default service*:

Discussion:

A definition of *default service,* reflecting the definition in the default service regulations at §54.182 was not included in the NOPR, but is now included based on comments received from IRRC on the proposed definition of *basic service*:

> "IRRC notes the definition refers to the delivery of residential service, however it does not mention default supply. IRRC questions whether the Commission has considered the inclusion of default supply in the definition of basic service? If the Commission includes default supply in the definition of basic service, it should also separately define 'default supply' in the final-form regulation. Finally, the definition for "nonbasic service" should also be consistent with the language in the definition for 'basic service.'"

Definition of *Delinquent account*:

While the Commission has not proposed any material changes to this definition, PECO suggests the Commission take the opportunity to add language to this definition to clarify that amounts that accrue for service during the resolution of a dispute are not included within the "disputed account."

NFG suggests that the language contained in this definition is semantically incorrect as it proposes that accounts that are overdue are not delinquent if they are subject to a payment agreement or the subject of a timely filed dispute. To the contrary, NFG submits that any account that has an arrearage is, in fact, delinquent. To clarify this situation and eliminate any potential conflicts in record keeping or in reporting to other agencies or governmental agencies, NFG asserts that this language should be changed. NFG suggests that, at the least, the phrase "for purpose of this Chapter only" be inserted between "provided that" and "an account" in this definition.

Discussion:

We proposed no substantial changes to this definition because we were not aware that there were any problems or significant concerns with it. Upon review of the comments, we still do not see a compelling reason to alter this definition. PECO's concerns are adequately addressed by Section 1405(f) and are reflected in other sections of these proposed regulations, such as at §§ 56.181 and 56.141. NFG's point appears to be unnecessary since it states the obvious; that is, this definition is for the purpose of application of Chapter 56 provisions.

Definition of *Dispute*:

Action Alliance recommends modifications to the definition of the term "dispute" to clarify aspects of its meaning and its use within the Commission's administrative processes, particularly in light of Chapter 14 changes. Action Alliance requests that the Commission amend the definition of "dispute" so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to a dispute by an applicant, customer, or occupant. And to clarify the definition of dispute, Action Alliance recommends that within the definition the Commission replace the terms "initial contact" and "contact" with the terms "initial inquiry" and "inquiry," respectively. According to Action Alliance, this change will harmonize the definitions of dispute and initial inquiry and will clarify that a dispute may begin as an initial inquiry.

Action Alliance notes that according to the definition of dispute, the trigger that converts an initial inquiry into a dispute is the level of satisfaction felt by the complainant regarding the resolution of the issue forming the basis of their initial inquiry. Therefore, it is important that public utilities carefully discern that satisfaction level. However, at the end of a contact with an

applicant, customer, or occupant, a general question by a utility representative, such as "Are you satisfied with this call?" may be misleading. Action Alliance recommends that "public utilities must ensure applicants, customers, and occupants understand that their satisfaction is to be based upon the resolution of their grievance, not with the personal qualities or conduct of the customer service representative."

PULP requests that the Commission amend the definition of dispute so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to a dispute by an applicant, customer, or occupant. PULP also recommends the Commission make changes to the wording of the definition to clarify a dispute's place within the chain of administrative process. As PULP reads Chapter 56, there may be a four step progression in the "complaint" process before the Commission: a customer makes an initial inquiry with the public utility; where that initial inquiry is not resolved to the satisfaction of the customer, the initial inquiry converts into a dispute; where a dispute is not resolved to the satisfaction of the customer, then the customer may register an informal complaint with the Commission; where the informal complaint is not resolved to the satisfaction of either party, then the dissatisfied party may file a formal complaint with the Commission. To clarify the definition of dispute, PULP recommends that in two spots within the definition the Commission replace the term "initial contact" with the term "initial inquiry."

Discussion:

We agree with Action Alliance and PULP that the list of matters that a customer may dispute with a utility and/or the Commission has changed over time as new subjects, like energy conservation programs and CAP programs have come along. However, we are reluctant to list or itemize such subjects in the regulation because this could be inadvertently interpreted to exclude things not specifically listed. Another reason we are reluctant to itemize disputable issues is that it is likely that other new things will come along in the future such as hourly metering, remote appliance control and other load management initiatives that may also be the subject of disputes. We also note that Chapter 56 dispute procedures have also been incorporated in other regulations, such as the electric "slamming" regulations at § 57.177 for example. Therefore, it is possible that future regulations on other topics may include similar language. As an alternative to itemizing disputable issues, we prefer to insert the phrase "but not limited to" after "including" in the first sentence of this definition. This will convey that a disputable issue is not restricted to the few items listed in the regulation.

We also agree with Action Alliance and PULP that the customer's satisfaction should be based on the resolution of the underlying complaint, not solely with the utility's handling of the complaint or proposed course of action. We propose addressing this by inserting the phrase " of the subject of the grievance" after the word "explanation" in the final sentence of the definition.

Definition of *Electric distribution utility*:

FirstEnergy suggests using the definition of "electric distribution company" found at 66 Pa. C.S. 2803 as to avoid inconsistency.

Discussion:

The definition at Section 2803 that FirstEnergy cites is as follows:

> *"Electric distribution company." The public utility providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners/operators that manage the internal distribution system serving such building or facility and that supply electric power and other related electric power services to occupants of the building or facility.*

This definition is practically identical to the definition we proposed in the NOPR. In addition, the definition we proposed in the NOPR is verbatim from Chapter 14. Given that we are reluctant to revise a Chapter 14 definition absent a compelling reason, and that the definition at Section 2803 is almost identical, we must disagree with FirstEnergy and will instead continue with our proposed definition.

Definition of *Electronic billing*:

NFG and PGW believe that the second sentence of this proposed definition should not be included in the definition because the act of paying a bill electronically can take many forms. A better definition for the act of paying a bill electronically would be "electronic remittance." Also, the act of electronic billing can be completely separate from the act of electronic payment. In some cases, a customer may elect to receive an electronic bill and not a paper bill and yet still pay their bill with a check or by other non-electronic means. In order to clarify the differences, NFG believes that these concepts should be divided into two separate definitions. PGW believes that the proposed definition is too broad and could include electronic transactions over which the utility has no control. PGW suggests modifying the definition by specifying that it only applies to electronic systems "administered by a public utility for its customers."

IRRC notes that is their understanding that electronic billing and electronic payment are separate and distinct from each other. However, this definition includes both billing and payment. To improve clarity, IRRC advocates that the final-form regulation should include separate definitions for the terms "electronic billing" and "electronic payment."

Discussion:

We agree with NFG, PGW and IRRC that electronic billing and payment are two different and distinct concepts that are not necessarily in tandem. Therefore, we will add a separate definition

of electronic remittance. We also agree with PGW that the proposed definition is possibly overbroad and should specify only those systems administered by a utility and/or that the utility is responsible for.

Definition of *Electronic notification of payment*:

Allegheny Power states that the receipt requirement will be very costly, potentially $ 1 million annually with little or no benefit to the customer. PPL believes it is necessary to distinguish between one-time payments made by customers through a utility's interactive voice response system and reoccurring monthly payments from customers who participate in on-line billing. PPL suggests revising this proposed definition to "A notification generated by the electronic payment system upon receipt of a payment from on-line billing and payment customers. The notification will inform the customer of successful receipt and amount of payment and the date and time the payment was received." PGW notes that it is not possible to always confirm electronic payments because PGW receives electronic payments from many sources including third party payors.

NFG suggests that the word "the" in the first sentence of this proposed definition should be changed to "an".

Aqua requests that that this definition be clarified so that a paper receipt is not mandated but otherwise maintain the requirement for a tracking system so that the customer has a confirmation and record of the payment. Electronic payments can be of very different forms and an automatic bill payment from a banking institution does not generate a paper receipt. A confirmation number that permits the tracking of the payment is the most appropriate and efficient manner to advise the customer that the electronic payment has been made.

Discussion:

We agree with Allegheny, PPL and PGW that a receipt for all electronic payments is not necessary because as the parties point out, not all payments are received through utility-operated systems. In addition, utilities have operated direct, pre-authorized debiting systems for years without receipts being provided. We find PPL's proposed definition helpful, along with NFG's suggestion to change "the" to "an."

Definition of *Electronic remittance of payment*:

Discussion:

This definition was not in the NOPR, but is now being included based on the suggestions of NFG, PGW and IRRC in response to the proposed definition of *electronic billing*.

Definition of *Federal poverty level*:

Discussion:

A definition of "Federal Poverty Level" is being added at the suggestion of IRRC. We will use the definition provided by the federal Department of Health and Human Services.

Definition of *Household income*:

Allegheny Power, Duquesne Light, FirstEnergy and PPL state that excluding unearned income intended for minors, such as social security would have a severe impact on their CAP programs. Allegheny Power claims that it would expose Allegheny Power to roughly $2.5 million more in supplemental grant money and an additional $2.0 million in shortfall amortization. It is Allegheny Power's opinion that earned income from a child's employment should be excluded. Furthermore, Allegheny Power submits that as the industry moves toward consolidating applications for all assistance programs, it will be necessary that all parties use the same criteria. Duquesne suggests striking the word "adult" from the definition since money paid to parents should be used to pay utilities. FirstEnergy suggests that if an individual's income is not going to be counted; then the individual should not be included when determining household size. PECO objects to this definition because this change will either cause utilities to have to manage two sets of income data for their customers, or will constitute an unexamined change to low-income programs. Columbia also objects because of the impact on their CAP program and that the proposed change is contrary to the definition of income in the 2009 State Plan for the Low Income Home Energy Assistance Program. PPL suggests changing the definition so that only wage earnings of a dependent child under 18 are excluded. Dominion believes that the definition of household income is clear and unambiguous and needs no interpretation.

Equitable points out that proposed definition is inconsistent with federal and state assistance programs. For example, Equitable submits that the LIHEAP State Plan for 2009 excludes only wage earnings of a dependent child under 18 from household income and the first $ 50 of child support.

NFG believes that the proposed language is confusing as written as there is a distinct difference between the phrases "income intended for the use of a minor" which is used in the first additional sentence and "a minor's income" which is used in the second sentence. According to NFG, "Income intended for the use of a minor" is a phrase that is far too indefinite for use in a regulation; any income that comes into a household with minor children could be deemed to be "for the use of a minor." Therefore, this creates a potential loophole that would be contrary to

the stated Legislative intent. NFG agrees that income that is received wholly by a minor, such as SSI in a minor's name or income derived by a minor should not be included in this definition.

PGW reports that it currently uses the household income requirements of the Pennsylvania LIHEAP program which includes the total earned and non-earned income of all household members. PGW asserts that the LIHEAP income definitions are reasonable and result in the provision of utility service customer assistance based on true household need. By excluding certain types of income, PGW's obligation to offer payment agreements and assistance might dramatically increase. PGW suggests deleting the proposed definition and replacing it with the LIHEAP standard. Phillips agrees that this definition should conform to the LIHEAP definition.

Action Alliance supports the proposed definition at § 56.2 for "household income" that incorporates the Chapter 14 definition that specifies that household income only includes the income of adults. Action Alliance agrees that listing examples of children's income that should be excluded provides helpful clarification to utilities and customers.

PULP supports the Commission's inclusion of a definition of household income that excludes a minor's income from being considered part of the household income total. PULP maintains that this definition tracks the statutory language which clearly intends to include only the income of adult household members.

IRRC notes that Section 1403 defines "household income" as "[t]he combined gross income of all adults in a residential household who benefit from the public utility service." The regulatory definition excludes income intended for the use of a minor from the household income, and includes examples of what would constitute a minor's income. Commentators are concerned that these examples exceed not only the scope of the statute, but also are inconsistent with how the term is used in various programs, such as LIHEAP. IRRC questions what is the Commission's statutory authority for including these changes in the regulation and the need for these provisions.

Discussion:

We disagree with the comments of Duquesne and FirstEnergy that would basically ignore the word "adult" as found in Section 1403. The General Assembly included the term "adult" in the definition of household income and this reference cannot be disregarded. 1 Pa. C.S. § 1921(b). However, it is not entirely clear the intent of the legislature in distinguishing a minor's income from an adult's income. The Commission offered the proposed language in the hope of prompting comments from the parties as to provide some guidance in making these distinctions. We are pleased that the parties submitted helpful comments on this issue and believe that the proposed definition should be revised to reflect the guidance received.

We did not intend to propose changes that would inadvertently expand CAP program eligibility, and must note that, in general, the definitions in § 56.2 are intended to apply to the application of

Chapter 56 provisions, and are not intended to apply to other regulations or other programs, such as CAP or LIHEAP. That being said, we are persuaded that it is probably best not to amend the statutory definition without a compelling reason. As a result, we will revise our proposed definition so that it simply reflects the definition found in Section 1403.

Definition of *Informal complaint*:

Action Alliance and PULP recommend that the Commission alter its definition of "informal complaint" since the current definition defines an informal complaint as one which is "filed with" the Commission. Since it is current Commission policy to accept informal complaints by telephone, these commentators believe that the phrase "file with" may be confusing, implying that an actual physical, formal filing is required. Additionally, the definition provided by the Commission only refers to a customer. Action Alliance and PULP recommend the Commission delete the reference to customer in the definition since it is possible and likely that an applicant or an occupant might also submit an informal complaint.

IRRC notes that the proposed definition states that an informal complaint is "a complaint filed...by a customer...." IRRC believes that the word "filed" is vague because informal complaints can be made telephonically. It is IRRC's understanding that an informal complaint can be made not only by a customer, but also by an applicant or an occupant. IRRC submits that the final-form regulation should clarify who can make an informal complaint, and the available methods of filing.

Discussion:

This definition is copied verbatim from Section 1403 and it has not been the cause of any confusion or controversy. That being said, we will address the concerns of Action Alliance, PULP and IRRC by removing the word "filed" from the definition. IRRC is also correct in that parties other than "customers" have always had right to file informal complaints. However, we decline to specify just who can file an informal complaint because we do not want to inadvertently exclude any party from this right. We believe the use of "customer" in this definition, and in Section 1403, is intended to declare that customers have the right to file an informal complaint and is not intended to exclude other parties who are technically not customers. Traditionally, any party with an interest in the disputed matter has had the right to file complaints. This can include applicants, occupants and tenants. It can even include parties who have little if any relationship with a utility. For example, a heating oil customer may file an informal complaint against the local gas utility for failing to investigate a possible gas leak in the main which happens to run near his property.

Definition of *Informal dispute settlement agreements*:

Allegheny Power states that this is not a term introduced by Chapter 14 and sees no purpose for it. FirstEnergy agrees that the term is unclear and appears to introduce a third level of dispute. PECO also believes this definition is unclear and appears to create an entirely new, burdensome requirement with no identified benefit or cost-benefit analysis performed. PPL asks that this definition be deleted because the company cannot envision when utilities would use this type of informal dispute settlement agreement, and that the current regulations concerning disputes, payment agreements, informal and formal complaints seem sufficient and effective.

Columbia believes this definition is unnecessary to implement Chapter 14 and will serve to confuse customers who thought they had resolved their disputes, and will unnecessarily increase the number of formal complaint proceedings initiated at the Commission. Dominion believes that the proposed definition is unwieldy and complicated.

NFG feels that this phrase and this concept needs to be better explained in the proposed rulemaking as it is unclear whether this phrase applies to any "agreement" between a utility and a customer or whether it simply applies to settlement offers or resolution offers made by a public utility. PGW also finds the proposed definition unnecessary and confusing because it is unclear how this term is different from a payment agreement.

PAWC asks if the parties fail to reach an agreement on the statement of the claim or dispute, will it prevent the parties from reaching an informal dispute settlement agreement? PAWC also suggests that the regulation set a time period in which the customer or applicant must make known to the public utility that they reject the settlement offer as to eliminate ambiguity and minimize potential confusion.

Action Alliance and PULP recommend several changes to the proposed definition of "informal dispute settlement agreements" to clarify its meaning and place within the Commission's administrative process. Action Alliance and PULP also recommend the Commission use terms in this definition that it has defined elsewhere within Chapter 56. The definition should clarify that the utility is the default party made responsible for reducing the agreement to writing since the utility is more likely to have the expertise and staff necessary to properly write such a document. Also, the definition omits the word "occupant" when listing the parties to whom this definition applies.

IRRC believes that the first sentence is vague, as it refers to a "mutually agreeable statement," but then it only mentions a "customer or applicant" as entering into one. IRRC suggests that the final form regulation should clarify who the parties are in the "mutual agreement" and questions what is the need for including this definition in the regulation?

Discussion:

We agree with Allegheny Power, FirstEnergy, PECO, PPL, Columbia, Dominion, NFG, PGW and IRRC in that the proposed definition is vague, unnecessary, and complicated and will delete it and any reference to it in these regulations.

Definition of *Initial inquiry:*

Action Alliance and PULP recommend that the Commission amend the definition of "initial inquiry" so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to an inquiry by an applicant, customer, or occupant.

Discussion:

The concerns expressed by Action Alliance and PULP parallel the concerns they expressed about the definition of *dispute*. Again, we are reluctant to list or itemize such things in the regulation because this could be inadvertently interpreted to exclude things not specifically listed. Another reason we are reluctant to itemize disputable issues as it is likely that other new subjects will come along in the future such as hourly metering, remote appliance control and other load management initiatives that may also be the subject of disputes. We must also note that Chapter 56 dispute procedures have been incorporated in other regulations, such as the electric "slamming" regulations at § 57.177 for example. Moreover, it is possible that future regulations on other topics may include similar language.

We shall resolve the issue in the same manner as with definition of *dispute*. We will insert the phrase "but not limited to" after "including" in the first sentence of this definition. This will convey that a disputable issue is not restricted to the few items listed in the regulation.

Definition of *LIHEAP*:

NFG, OCA and PULP suggest correcting the name of the LIHEAP program by replacing "Heating" with "Home". NFG believes that the descriptive language should be removed from this definition as the LIHEAP program speaks for itself and should not be quantified or defined in these regulations.

Discussion:

We agree with NFG that this definition is not necessary. While it is defined in Chapter 14, its use at Section 1406(g) is directed to the Department of Public Welfare. The term is not used in Chapter 56.

Definition of *Natural gas distribution service*:

NFG suggests removing the phrase "retail gas" from this definition to avoid any conflict with the Natural Gas Choice and Competition Act and the related Commission regulations.

Discussion:

The definition NFG refers to is from Section 2202 as follows:

> *"Natural gas distribution service." The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of the natural gas distribution company.*

This definition also refers to "retail gas," so we see no compelling reason to alter the definition originally proposed.

Definition of *Nonbasic services:*

The OCA believes that the use of the phrase "physical delivery" may be too narrow and could be interpreted as referring only to the distribution/transportation portion of the bill and that the provision of default supply service should also be included.

Discussion:

OCA's comments are analogous to the comments they and IRRC submitted in response to the definition of basic service. We shall address these concerns in a similar manner, by inserting a reference to default service in the proposed regulation.

Definition of *Nurse practitioner*:

The CAC and PULP support incorporating the definition of Certified Registered Nurse Practitioner found at 49 Pa. Code § 21.251 into these regulations. This definition will enable the Commission to be consistent with other statewide definitions and usage.

Definition of *Occupant*:

Action Alliance proposes that the regulation recognize that an occupant can reside at a property where service is not currently being provided, and also clarify that a dependent child occupant should not be made responsible for the bills of a parent, under Section 1407(d). Action Alliance also recommends that the definition should specify "adult" persons and that the phrase "or requested" be added to the end of the definition. OCA also agrees that the word "adult" should precede the word "person" because it was clearly not the intent of Chapter 14 or of prior Commission regulations to make a dependent child responsible for the bills of a parent and the current definition of "occupant" could produce such a result.

PULP makes the same request that the Commission make a minor modification to the definition of occupant by adding the phrase "or requested" to the final sentence. According to PULP, this addition will capture the idea that the public utility's relationship with the household can often extend beyond the time when public utility service is currently provided, i.e. in situations where a customer loses service and the final bill is past due, the public utility may still have interactions with occupants of the household.

IRRC believes that the proposed definition is vague for two reasons. First, while other related terms like "customer" or "applicant" use the descriptor "natural person," this definition uses "person." IRRC suggests that to improve consistency, "person" should be replaced with "natural person." Second, IRRC asks when does a natural person officially become an occupant and when does the natural person cease being one? Finally, IRRC notes that this definition should clarify if someone under 18 can be considered an occupant.

Discussion:

The word "occupant" appears in the following sections of Chapter 56: §§ 56.2, 56.12, 56.17, 56.71, 56.72, 56.83, 56.93, 56.96, 56.97, 56.99, 56.100, 56.111, 56.112, 56.151, 56.201, 56.211 and 56.231. We proposed no substantial changes to this definition in the NOPR and Chapter 14 does not include a revised definition of occupant. Based on past experience and most of the comments, there has been little if any confusion or difficulties with this definition. As such, we are reluctant to tinker with this definition out of concern for inadvertent and possibly serious consequences that could result, especially given the large number of sections where this term appears. For example, under the medical emergency regulations at §§56.111-112, an "occupant" is eligible to file an emergency medical certificate. If we revise the definition of "occupant" to specify an occupant must be an adult, this would serve to strip children of medical emergency protections; clearly an unacceptable outcome.

We prefer to keep with the traditional approach as found in §56.93. When it is important that the occupant be an "adult" the regulation specifies that the occupant concerned must be an "adult." As another example, we believe that our proposed revisions to the definitions of *customer* and *applicant*, which specify that both must be "adults" will address to a large extent the concerns expressed by some of the parties. We also see no problem with IRRC's suggestion that we insert the word "natural" before "person" as to align this definition with the definitions of *customer* and *applicant*.

Definition of *Payment agreement:*

Dominion suggests adding language including balances where the customer is "adjudged liable" in addition to balances where liability is admitted.

NFG suggests including the phrase "or applicant" after the word "customer" in this definition

because it is possible for an applicant to enter into a payment agreement as well as a customer and this definition should recognize that.

Discussion:

While we understand Dominion's concerns, we believe that the liability provisions found in Sections 1403 and 1407 are sufficient to hold a customer responsible for charges accrued in another party's name under certain circumstances and it has not been argued that these charges are never eligible for inclusion in a payment agreement. Therefore, we do not see Dominion's suggested changes as necessary. However, we do find merit in NFG's position that the definition should also mention *applicants* because applicants may be the subject of payment agreements and this would also bring this definition into alignment with Section 1405 that specifies that the Commission can "...establish payment agreements between a public utility, customers and applicants..."

Definition of *Physician*:

The CAC and PULP support the elimination from the definition of physician at § 56.2 the requirement that a physician must be licensed by the Commonwealth of Pennsylvania. Many individuals are treated by out-of-state physicians. Those individuals who live in communities bordering other states or require specialists or treatments located in other states should not be precluded from the intended protection of the statute.

Discussion:

For the reasons cited by CAC and PULP, and the fact no significant objections were raised to this proposed definition, we will retain this definition as proposed.

Definition of *Remote reading device:*

Allegheny Power thinks this definition should specify that automatic meter reading (AMR) technology is excluded, since the AMR definition likewise excludes remote reading devices.

Discussion:

We find merit in Allegheny Power's suggestion as to improve clarity and avoid confusion. This will be in keeping with the intent of Section 1411 that deems automatic meter readings as actual readings. We will also rearrange the sentence structure of this definition to improve readability.

Definition of *User without contract*:

PGW believes that Chapter 14 does not allow a distinction between the terms "user without a contract" and "unauthorized use" because Section 1406 permits immediate termination of service

for all unauthorized use of service and fraud. PGW explains that since unauthorized use is without official authorization, using gas service without a contract is unauthorized use. However, if the Commission maintains this distinction in the regulations, PGW requests that user without contract must be specifically limited to a "reasonable" use of utility service, such as where a customer dies and the spouse continues to use the service for a period of time. PGW suggests that a reasonable period of time be specified as two months or when the utility threatens termination; whichever is earliest.

Phillips asks that this definition be revised to include applicants and customers who have failed or refuse to sign service contracts.

EAP takes the position that the "users without contract" are unauthorized users where service is maintained without customer application and is subject to immediate termination without notice. EAP argues that maintaining a distinction between "user without contract" and "unauthorized user" as the Commission proposes will not minimize uncollectible expenses or encourage timely payments. According to EAP, under the Statutory Construction Act (1 Pa.C.S.A. §1921), the object of all interpretation of statutes is to ascertain and effectuate legislative intent; had the legislature intended to make the distinction between "user without contract" and "unauthorized user" in Chapter 14, it would have done so.

EAP believes that Chapter 14 is very clear in its language mandating when the utility may terminate service and what it shall do prior to termination of service under Section 1406. EAP submits that the Commission's authority to inject itself into the internal management of a public utility is limited and the Commission has no authority to supplant the decision making responsibility of management on matters committed to their discretion. EAP concludes that the Commission, by attempting to inject itself into managerial decisions of the utilities, by proposing regulations inconsistent with Chapter 14, would be acting outside its legislative authority as interpreted by Pennsylvania courts.

Action Alliance notes that the Commission has long recognized that users without a contract, like persons such as widows taking service under their deceased spouse's name, should be protected from immediate service terminations without prior notice, and that overly broad interpretations of unauthorized use as grounds for immediate terminations should be avoided. Action Alliance strongly supports the Commission's original proposal to maintain the long-standing distinction between "user without contract" and "unauthorized users." Action Alliance further supports the proposed definition of "user without contract," at § 56.2, and recommends its adoption, in order to bring further clarity to the regulations. Action Alliance also agrees that the proposed language at § 56.91(a) relating to termination notices, which effectively provides for a three-day notice to a user without contract, should be adopted.

CAC and PULP support the Commission's decision to maintain the distinction between "user without contract" and "unauthorized use." These commentators agree that the inclusion of a new

definition of "user without contract" in the new regulations provides needed clarity and assistance to consumers and utilities in recognizing the distinction between a "user without contract" and "unauthorized use." According to CAC and PULP, common sense and equity require that these two situations should be treated differently. PULP explains that a widow continuing to use the service provided to her in her deceased husband's name is markedly different from someone who has illegally tampered with a meter to avoid paying for service. PULP also supports the Commission's decision to craft the regulations in a manner that recognizes this difference.

IRRC notes that this definition includes "unauthorized use" as an exception to what would be considered a "user without contract." Given that the existing regulation already includes a definition for "unauthorized use," IRRC suggests that the Commission considered simply amending this definition to include the substance of this proposed definition for "user without contract"?

Discussion:

The Commission has formally addressed "user without contract" in recent years, and the arguments against the Commission's long-standing position on this matter are basically the same that have been presented in these previous proceedings. *See* the first *Chapter 14 Implementation Order,* M-00041802F0002 (March 3, 2005) and the follow-up *Chapter 14 Implementation – Petitions of the Energy Association and the Philadelphia Gas Works for Clarification and/or Reconsideration of the Implementation Order,* M-00041802 F0002 (June 2, 2005).

We have seen nothing in these comments that persuades us to change the long-standing distinction between *user without contract* and *unauthorized use*, and we are still of the opinion that nothing in Chapter 14 changes this important distinction. Therefore, given the Commission's paramount responsibility to protect public health and safety, no other interpretation can be responsibly arrived at. As the Commission declared in the March 3, 2005 *Implementation Order*:

> We disagree with the EAP and PGW's position on this issue. It is important from a safety standpoint to maintain the distinction between a user without contract and unauthorized use of service. The Commission historically has viewed unauthorized use of service and user without contract as separate and distinct issues. Unauthorized use of service usually refers to meter tampering, diversion of service, or some other means of stealing utility service from the company. Whereas a user without contract involves situations where the customer has not been identified.
>
> The Chapter 56 definition of unauthorized use of utility service does not conflict with any provision in Chapter 14. The Commission's Regulations have historically permitted the immediate termination of service in these unauthorized use cases where there is an obvious threat to human safety and/or the utility delivery system. While

Chapter 14 does not contain a definition of unauthorized use, the context of §1406(c) indicates that the Legislature intended utilities to have the authority to immediately terminate service that was obtained through theft or fraud. Immediate termination in these instances is warranted. Indeed, our regulations already permit termination without advance notice in these situations. We must, however, caution utilities to use this authority judiciously and only under circumstances that address clear safety concerns. *See, e.g.*, 52 Pa. Code §§56.98, 59.24(b).

User without contract, on the other hand, refers to using utility service without the knowledge or approval of the utility. While in the strictest sense this may be an unauthorized use of service, user without contract generally implies no intent to deceive on the part of the customer. A user without contract situation normally arises when the utility company chooses to let the service remain on after a ratepayer vacates a property and discontinues service. This is not an uncommon occurrence in utility operations. *See, e.g., Pat Marioni v. PECO Energy Company*, C-00968276 (July 7, 1997).

When a new occupant moves into the property, the new occupant is a user without contract until completing an application for service and having an account initiated. The utility can easily prevent these situations by physically disconnecting the utility service between customers. Most companies, however, try to reduce costs by avoiding repeated trips to the property. The Commission supports these efforts to reduce costs but believes that customers should not be subjected to immediate termination as a result. If a new customer does not apply for service in a timely manner, the utility company should be able to detect usage on an inactive account and should pursue termination, minimizing the potential losses to the company.

Another principal cause of user without contract situations is having a ratepayer move from a property without advising the utility or officially requesting discontinuance of the account. Another customer may move in without requesting service, thereby creating a user without contract situation. Under these circumstances, Section 56.16(a), which has not been superseded by Chapter 14, places the responsibility for the service on the ratepayer. Other user without contract situations can arise when one ratepayer moves from a property and a roommate remains at the premises, or when a ratepayer dies and the family remains at the property.

User without contract situations are covered by 66 Pa.C.S. §1503(b) which states that except when required to prevent or alleviate an emergency or except in the case of danger to life or property, a utility may not terminate service for any reason without personally contacting the customer at least three days prior to such termination. Since user without contract is not specifically defined or addressed in Chapter 14, the Commission sees no inconsistency between §1503(b) and Chapter 14, and finds that a 3-day notice prior to terminating these accounts is still required.

Requiring a 3-day notice prior to termination may also minimize losses to the utility company. Many customers, when faced with the threat of termination, will come forward and formally apply for service. This reduces the utility's costs associated with terminating and reconnecting the account.

If utilities are allowed to treat users without contract the same as unauthorized use, an unnecessary tragedy may occur. The Commission finds that it is always the customer's responsibility to contact the company and to apply for utility service when the customer begins to use the service. There is a possibility of fraud, but common sense dictates that not all of these customers are attempting to avoid paying for their utility service. Customers must act responsibly to insure that the utility has the proper billing information and utilities must implement and follow appropriate tracking procedures. Diligent maintenance of accounts by the utility company can prevent or reduce lost revenues due to these types of billing problems.

The Commission discussed this further in the follow-up order from the June 2, 2005 Public Meeting:

Unquestionably, as a practical matter, there is a distinction between a customer who obtains service through "unauthorized" means and a "user without a contract" which can be either a customer who is receiving service because they have moved into a residence and not yet submitted an application for service or there has been a change of the customer of record. "Unauthorized use of utility service" is defined in Chapter 56 as an "[u]nreasonable interference or diversion of service," 52 Pa. Code §56.2, as opposed to a situation where the customer has not been identified. The phrase "unauthorized use of utility service" is not defined in Chapter 14 and the Chapter 56 definition is not inconsistent with any provision in Chapter 14. Moreover, our decision to require a three-day termination notice for a "user without contract" is not inconsistent with Chapter 14, as we find that "user without contract" is not included within activities identified under Section 1406 (c) (1). Although, we acknowledge that a user without contract receives service without the explicit approval of the utility, this situation may not be the result of any overt action taken by the occupant. Actually, the utility company can prevent these situations by disconnecting utility service after the previous customer has vacated the premises and discontinued service.

In Chapter 56, Section 56.91 specifically addresses situations where an occupant takes or accepts utility service without the knowledge or approval of the utility. There is no provision in Chapter 14 that identified this type of situation and allows a utility to immediately terminate service. A utility, pursuant to Section 1406 (c) (1) (I), (II), (III), and (IV), can immediately terminate service for unauthorized use, fraud, tampering, and violating a tariff provision. These actions by a customer essentially involve interference

or diversion as contemplated in the Section 56.2 definition of "Unauthorized use of utility service".

An occupant of a building or rental unit that has a soft "off" is not interfering with or diverting utility service. A distinction exists between the outright theft of utility service versus the unintentional use of such service without the knowledge or approval of the utility. It appears even more obvious that the safety concerns are not the same between theft or diversion and user without contract since the former assumes that someone other than an authorized utility employee has tampered with the system, rather than the soft "off" that is a practice of the utility. One consequence of this practice is that some occupants moving in to such locations may be truly unaware of their obligations surrounding the utility service that they find when they move in. The three-day notice requirement for such situations minimizes revenue loss while providing an opportunity for an occupant to come forward and apply for service. In this way, the three-day notice also helps avoid possible tragedies that might otherwise result from cessation of service without any notice. Moreover, the utility may well have a meter reading from the old customer so no revenue is lost.

To repeat what the Commission declared on June 2, 2005, "If utilities are allowed to treat users without contract the same as unauthorized use, an unnecessary tragedy may occur." Also, given the importance of this distinction and its prominence, we believe it is important to define *user without contract* with a separate, distinct definition in this subsection. Therefore, after careful consideration, we decline IRRC's suggestion that this definition be incorporated into the definition of *unauthorized use of utility service*. We feel this is also unnecessary given that the definition of *user without contract* immediately follows the definition of *unauthorized use of utility service* in the regulations. We will make a minor revision by inserting the word "utility" in the definition to make clear the reference to the definition of *unauthorized use of utility service*. We will also clarify that a user without contract is a "person" as defined at 66 Pa.C.S.§102.

§ 56.11. Billing Frequency:

Allegheny Power claims that it would cost $228,000 annually to provide duplicate paper and electronic bills. Columbia reports that it would cost them $6,000 monthly. FirstEnergy, PPL and PGW also oppose a requirement to provide both paper and electronic bills to the same customer as being unnecessary and negating the benefits of electronic billing.

FirstEnergy supports the inclusion of regulations regarding electronic billing and agrees that this option should be voluntary and at the customer's option. FirstEnergy also believes § 56.11(b)(7) should be deleted because maintaining a system to ensure delivery of electronic bills would be difficult and that it should be the customer's obligation to notify the company of a change in e-

mail address.

PPL opines that since hardship funds are voluntary and the Commission has no regulatory authority over them, that the proposed language at § 56.11(b)(5) should omit "must" and replace it with "should." PPL also suggests revising §56.11(7) by adding language specifying that the customer shall be responsible for informing the utility of changes to e-mail addresses within 30 days.

PECO recommends that the Commission not attempt to regulate the format of electronic bills. PECO believes that an electronic bill can include the same information as a paper bill but that utilities should be allowed flexibility to utilize evolving web technologies to present information in ways that fully utilize those technologies.

Columbia suggests revising 56.11(b)(1) to clarify that a public utility will be required to process a request to revert to paper billing "one billing cycle after the request is made" because depending upon when such a request would be made within a particular customer's billing cycle, it could take longer than one month's notice to process such a request.

Citizen's notes that it has received very positive feedback from consumers regarding their electronic billing program. It is very convenient and allows customers to receive early notification of their electric bills. Citizen's uses a password protected website with firewalls and secured servers to ensure that information over the internet is encrypted and cannot be intercepted and customer data is protected from unauthorized access.

NFG believes that the language in Chapter 56, as originally written, is broad enough to include the electronic transmission of bills. However, if the Commission decides otherwise, NFG suggests that a blanket waiver permitting electronic billing would be appropriate.

UGI fully supports appropriate revisions to the Chapter 56 regulations to permit electronic billing without the necessity of seeking a waiver from the Commission. UGI notes that in case of a failed e-mail delivery, a paper bill is automatically generated and sent to the customer along with a note that they will be removed from e-billing unless correct e-mail information is provided and five days is added to the payment deadline.

Columbia reports a similar procedure. However, FirstEnergy and PGW differs by declaring that it cannot realistically assure customer privacy or ensure the delivery of e-bills and that the burden of ensuring that e-mail addresses are valid should be placed entirely on the customer, and that the utility should not have to contact the customer to try to find out the correct e-mail address.

PGW suggests that electronic billing provisions must acknowledge the realities of processes for electronic methods of communication. PGW reports that it cannot realistically assure customer privacy or ensure the delivery of e-bills and that the utility should not have to contact the

customer to try to find out the correct e-mail address. PGW claims that it is customers who control and can change e-mail addresses without the knowledge of the utility and that the burden should be placed on the customer to inform the utility of any changes. PGW asks that if the Commission is going to specify cancellation timeframes, it should specify at least one billing cycle instead of specifying "months" since calendar months and billing cycles do not necessarily coincide. PGW also asks the Commission to consider expanding electronic notification options to include all notices, such as termination notices, by e-mail through the e-billing process.

EAP agrees that the Chapter 56 rulemaking process provided a satisfactory vehicle for addressing electronic billing and further agrees that certain protections should be in place, such as voluntary participation, a visual format that mirrors the paper bill including messages, bill inserts, assurance of customer privacy, etc. EAP disagrees, however, with § 56.11(b)(1) because this proposed provision goes against the rationale of providing electronic billing services. A provision that was put into place to streamline the billing process for both the customer and the utility has now essentially doubled the processes and costs. EAP members estimate that at current electronic billing enrollment levels, requiring utilities to provide the additional paper bill to its electronic billing customers will range anywhere from thousands to hundreds of thousands of dollars per utility each year.

United notes that there are many positives to electronic billing from a customer service, environmental and cost perspective. United encourages companies to choose electronic billing partners carefully and ensure that they have integrated solid security measures and also visible and real-time tracking mechanisms.

York agrees with the Commission's comments that electronic billing and payment will save customers and utilities time and expense and create significant environmental benefits. If a customer elects electronic billing, York will provide all of the text that is currently printed on a water bill plus a link to view any bill stuffers. York believes that the shift towards electronic billing will continue until it is the norm and paper bills are the exception.

Action Alliance supports the recommendations of the OCA with regard to electronic billing and payment options and incorporates by reference those proposed regulations that reflect the OCA's recommendations. Action Alliance supports the proposed language, at § 56.11(b)(5), which requires that electronic bills include the option for the customer to contribute to the utility's hardship fund, so that such important contributions to assist low-income customers can be maximized.

PULP recommends modifying § 56.11(b)(1) which states that a customer must provide the utility with one month's notice if the customer wants to revert from electronic billing back to paper billing because there may be circumstances that prevent a customer from giving one month's notice. For example, if the internet service provider or the provider of e-mail services goes

bankrupt, out of business, or experiences unforeseen technical difficulties, the customer will not have the time to provide one month's notice to the utility.

IRRC raises three issues concerning electronic billing. First, subsection (b)(l) states that a customer must provide the public utility with one month notice to revert to paper billing. Commentators for both public utilities and consumer groups question whether a one month notice is an appropriate amount of time. The Commission should consider adding language suggested by a commentator that the request for paper billing be processed "one billing cycle after the request is made." Second, subsection (b)(5) requires an electronic bill to: "include the option for the customer to contribute to the utility's hardship fund." Does this requirement also apply to paper billing? If not, why is it being added to electronic billing requirements? Finally, Subsection (b)(8) requires the public utility to maintain a "sufficient system security." The Commission should explain this requirement.

Discussion:

Electronic billing and payment hold great promise in increasing customer convenience while lowering costs, in addition to the obvious environmental benefits. It must be implemented in a way that does not impose costly restrictions on the utilities while at the same time protect and assure consumers that these methods are safe and helpful. It is not our intention to specify and regulate every feature in detail of these programs. We recognize that such a level of detail is over-reaching and that such micromanagement can lead to inflexibility and unintended results. This is especially true with evolving technologies, where such over-specificity may discourage innovation.

We believe that it is important that electronic bills contain the same information as paper bills and this includes any bill inserts and newsletters. Again, the point is to encourage the use of these programs by assuring customers that they will be receiving the same information electronically that they have always received on paper. However, we agree with PECO that while we should require the same information on electronic bills, we should not specify a format. As PECO points out, one of the advantages of electronic communication is the technological possibilities of presenting information in new, more interactive and innovative ways. Mandating a set format may well stifle these creative possibilities. We will make a minor revision to paragraph (3) to remove a redundant word; "required."

We agree with Action Alliance that it is critical that, whatever the format, the electronic bill must include an option that the customer can easily utilize to contribute to the utility's hardship fund. These funds rely on customer contributions and are of urgent importance to the customers that need them. Going back to the 1992 PUC report on *Investigation of Uncollectable Balances*, where recommendation 27 (page 31) urged "...all major gas and electric companies' should adopt the 'dollar check-off' provision or a similar provision on utility bills to enable customer to make contributions with minimal effort." This was followed by the General Assembly's

enactment of the Natural Gas Choice and Competition Act in 1999 which included the provision at 66 Pa. C.S.A. § 2205(c)(6):

> *(6) Natural gas distribution companies and natural gas suppliers shall take reasonable steps to allow retail gas customers to contribute via their bill to hardship energy funds which benefit low-income residential retail gas consumers.*

In addition, this is a component of some of the major utility's universal service plans that are filed with and approved by the Commission. For example, PPL's *Universal Service and Energy Conservation Plan For the Period (2008 – 2010)* includes this provision:

> *Begun in March 1983, Operation HELP was one of the first utility-sponsored hardship funds in the nation. Through its annual promotional campaign, PPL Electric encourages customers to contribute by adding an extra $1, $2, or $5 to their monthly electric bill or by sending in onetime, lump-sum checks. Over 20,000 customers give to Operation HELP via their electric bill payments. PPL Electric's customer service system has the flexibility to allow customers to give any amount to the program and to choose a specific period of time (over the winter months).*

Another example is *PECO Energy Company Universal Services Three-Year Plan, 2007 to 2009, February 2009 Revision, Revised to Reflect the Settlements Approved by the Commission on October 29, 2008 in Docket No. R-2008-2028394 and on December 23, 2008 in Docket No. M-00061945* which includes this provision:

> *The Matching Energy Assistance Fund (MEAF) is PECO's hardship fund program. There are two components, MEAF contributors and MEAF grants. Contributors – Ratepayers can pledge donations through monthly bill payment, or a one time donation.*
>
> *Monthly Bill Check-Off and bill inserts options - Beginning in the 4th quarter of 2006, customers will have the ability to contribute to MEAF through a check-off box on their monthly bill stub.*

However, to address the concerns expressed by PPL and IRRC, we will revise the proposed regulation to specify that a hardship fund contribution feature only needs to be provided if the utility has a hardship fund and collects contributions through regular customer billings.

We agree with EAP, NFG, Columbia, FirstEnergy and PGW in that we should not require a utility to provide redundant paper and electronic bills to the customer at the same time. We are not convinced that requiring duplicate bills is of any substantial benefit especially since we propose requiring both electronic and paper bills to provide the same information. Requiring such redundancy may defeat some of the purposes of electronic bills, such as the environmental benefits and cost savings.

We commend utilities such as UGI and Columbia that have put in place procedures to address instances where an e-mail delivery fails. We believe that if a utility is going to rely on billing a customer electronically, failed e-mails should not be ignored, especially since, as noted by PULP, not all failures are necessarily the fault of a customer. While we agree that failed delivery of an e-mail cannot be ignored and should be addressed by the utility, we will not require a specific method or procedure for handling such. The evolving technologies and differences in each utilities program make the mandating of a specific procedure problematic. However, utilities should be directed to have some procedure in place and for guidance may want to look at the procedures utilized by UGI and Columbia that are discussed in their comments.

PPL, PGW and UGI reported that customers are free to cancel electronic billing at anytime. We believe that this is an important feature that will encourage participation in these programs. However, we agree that a cancellation should require advance notice of at least one billing cycle as opposed to one calendar month because as parties like Columbia and PGW point out, billing cycles do not necessarily coincide with calendar months. As for the amount of notice that must be provided prior to cancellation, parties such as PULP suggest the proposed period is too much; while some parties suggest it may be too little notice. We believe that a "one billing cycle" period is a reasonable middle ground.

To further reinforce the message that security is important, especially in the context of heightened concerns with identity theft and data theft, we believe we should remind utilities of their obligations to secure their systems. However, we should avoid specifying the precise methods that a utility should employ in protecting customer information from unauthorized access; ever-changing technology would make this impossible and might inhibit new and innovative security arrangements. We agree with Phillips in their comments responding to the proposed § 56.25 that we should simply indicate that utilities should employ "all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access."

PGW suggests that the Commission permit the electronic transmission of other notices, such as termination notices. We see merit in allowing this as to accomadate customer's who may be more comfortable with electronic means of communication, and in keeping with our intent to update these regulations as to accomadate technological advances. However, we believe this should only be allowed with the prior consent of the customer, and that the electronic notices will complement the normal notice process - not replace it. As anyone with experience with e-mail knows, an e-mail inbox can easily be filled with a variety of spam and other unsolicited e-mail. An important notice from a utility can be easily overlooked. As such, we believe providing termination notices through the traditional methods should continue, with the electronic termination notice augmenting the procedure, not replacing it.

§ 56.12. Meter reading; estimated billing; customer readings.

Allegheny Power states that § 56.12(2)(i) be amended to accommodate electronic and telephonic methods for submitting meter readings in lieu of paper postcards.

With respect to § 56.12(4)(ii) NFG submits that the Commission may want to take this opportunity to recognize the current sophistication of utility estimating algorithms and programs and lengthen the period of actual meter readings to 12 months. This has potential cost savings and customers are protected from any large adjustments by other provisions that require amortization of any such adjustments.

PULP recommends the Commission amend the final sentence of Section 56.12(5)(i), by replacing the word "occupant" with "applicant or customer." PULP explains that given that the word "occupant" has taken on a specific meaning under these regulations, that word choice may now be inapt and confusing.

Columbia notes that the proposed definition of "AMR (Automatic meter reading)" in § 56.2 correctly excludes remote reading devices. However, Columbia thinks that the proposed additional language that would refer to AMRs in 56.12(5) confuses that distinction. While the proposed language appears to be designed to reinforce that AMR reading are actual readings, Columbia thinks the way the language is inserted may be misconstrued as an indication that 56.12(5) applies to AMR readings. If the definition of AMR in 56.2 were to be amended as suggested above in these comments, no reference to AMRs would be necessary in 56.12(5).

Allegheny Power suggests language requiring mandatory 12-month stay in and stay out provisions to prevent customers from participating in budget billing only when their budget bill amounts are less than their actual monthly usage amounts.

FirstEnergy does not support the provision requiring amortization of any anniversary bill amounts exceeding $25. According to FirstEnergy, if the customer is already on a payment agreement, this provision would require adding a second payment agreement onto the account; presenting problematic and expensive programming and bill presentment changes. Moreover, this could also be inconsistent with Section 1405(d) of Chapter 14 which prohibits the Commission from ordering the establishment of a second payment agreement.

PPL generally agrees with the Commission's suggested revision, but suggests adding language indicating that a reconciliation amount exceeding $25 shall, depending upon the amount and the customer's ability to pay, be amortized over a 3-12 month period at the discretion of the utility.

Columbia opposes the proposed changes to 56.12(7) that would require any reconciliation amount under budget billing that exceeds $25 to be amortized over a three to twelve month period. Columbia contends that the proposed changes conflict with the policies of Chapter 14, explaining that the 3-12 month amortization requirement will result in public utilities incurring additional expenses in the form of carrying costs which must be financed through borrowed money, and which will ultimately be passed onto other customers who should not be required to

subsidize unnecessary payment plans. Columbia also finds no support anywhere in Chapter 14 to the proposed additional language in 56.12(7) that would require payment agreements for heating customers to be based upon equal monthly billing. Finally, Columbia submits that the reference to "payment agreements" has no place in a subsection that addresses budgets.

NFG suggests changing "and" to "or" in the first sentence of §56.12(7). NFG also requests that the amortization period be changed to no longer than 9 months and that amortization be made only necessary at the request of a customer.

PGW believes that the proposed requirement to amortize budget reconciliation amounts in §56.12(7) is contrary to Chapter 14's prohibition on the Commission from ordering second payment agreements because many of PGW's customers on budget billing have already received and broken payment agreements. Without waiving this position, PGW is amenable to setting a reasonable dollar amount over which a reconciliation amount could be amortized if the customer requests such. PGW suggests that amounts between $100 and $300 could be amortized over 6 months with amounts in excess of $300 amortized over 12 months. However, PGW asserts that the customer should have the option to pay the bill in full.

Phillips recommends that the minimum budget billing reconciliation amount requiring amortization be increased from $25 to $100 so as to avoid logistic and administrative burdens of having to monitor transactions involving small amounts.

Concerning § 56.12(7), EAP believes that the Commission, despite statutory language, has extended repayment periods or granted second or subsequent payment agreements to many customers who defaulted on previous payments. EAP explains that by ordering a utility to defer payment, for example, for 12 months for a customer with a gross monthly household income of 300% of the federal poverty level, the Commission overlooks Section 1405(b)(4) which provides that the maximum period of time is only 6 months. EAP submits that allowing a customer to make payment of $26 over a 12-month period simply delays full payment unnecessarily, thereby compounding a utility's cash flow difficulties. Moreover, to comply with this regulation, EAP believes that the utilities would need to increase programming and other collection tracking, which comes at a cost, all contrary to the spirit of Chapter 14.

Action Alliance supports the proposed requirement, at § 56.12(7), that reconciliation of budget bills not cause sudden jumps in payment requirements, which would defeat the purpose of budget billing to provide equal monthly bills. Action Alliance requests that the term "payment agreements" in the new language should be changed to a different term such as "amortization" to avoid confusion with the Chapter 14 defined term "payment agreement" that can count toward the maximum number of payment agreements that a customer may receive for a particular balance.

PULP supports the Commission's choice in Section 56.12(7) to require year-round, rolling enrollment into the budget billing program, where this means that at no time in the year would a

customer be denied enrollment into the program. PULP explains that budget billing enables a customer to have fairly consistent bills each month of the year, reducing the billing volatility caused by seasonal changes in energy use and builds a consistent payment history.

IRRC has three concerns with paragraph (7) which specifically addresses the budget billing process. First, the proposed paragraph changes the billing mechanism from "equal monthly" to "budget billing," yet the Commission does not explain the reason for the change. As a result, many commentators expressed concerns that changing the method was inappropriate. Second, IRRC explains that paragraph (7) allows a public utility, as part of budget billing, to amortize over a 3 to 12-month period any amount exceeding $25 resulting from reconciliation. IRRC questions how the Commission determined that both the amount triggering amortization and the time periods were reasonable. Finally, IRRC questions the need for the last sentence of paragraph (7) that states that: "payment agreements for heating customers shall be based upon equal monthly billing."

Discussion:

We agree with Allegheny Power and have proposed allowing electronic and telephonic methods to comply with § 56.12(2). We disagree with NFG however and do not believe it is appropriate to expand the number of consecutive months that estimated bills would be permitted. We note that the current regulations require only one utility-obtained meter reading annually in cases where meter access is an issue. Given the advances in AMR and remote metering, we would expect the instances of meter access problems and estimated bills to diminish over time; not increase. Therefore, loosening these already lenient requirements is not needed at this time. We also disagree with PULP that the word "occupant" in the final sentence of § 56.12(5)(i) is a possible problem. The new "occupant" may not necessarily be a "customer" or an "applicant" and that person's status as such is not of any relevance in providing access to the utility for the purposes of obtaining a meter reading. We agree with Columbia in that with the new definition of "AMR – Automatic Meter Reading" at § 56.2, the inclusion of AMR language in § 56.12(5) is redundant and no longer needed. And in keeping with our intent to modernize the regulations, we will remove the references to "postcards" from paragraph (ii) as to accommodate other, technology-driven methods of submitting customer meter-readings.

Most of the comments about this section were specifically related to § 56.12(7), commonly referred to as the budget billing rules. Budget billing has been the subject of previous Commission proceedings with many stemming from a Motion of then Vice Chairman Cawley in *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing,* M - 00051925, (November 10, 2005). The Motion described the importance of these programs to both consumers and utilities:

> *"...and budget billing has become a key tool for customers to mitigate spikes in utility bills and for utilities to manage account receivables. Now is the time to ensure that*

utility budget billing programs optimize both the customers' and companies' ability to manage higher prices this winter..."

The Motion also asked interested parties to comment as to what should be the elements of an acceptable budget billing program. Based on the comments received, the Commission issued two subsequent orders; *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing.* M-00051925 (June 1, 2006), and *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing,* M-00051925 (November 9, 2006). In the June 1, 2006 Order, the Commission declared that an acceptable budget billing program should include the following elements:

- Budget billing must be available, on a rolling enrollment basis, to all utility customers with residential end use irrespective of the rate the account is billed.
- Based on well-established case history, budget billing must be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility.
- Budget accounts are to be routinely monitored and adjusted at least three times per year, consistent with the Commission's regulations to prevent over or under collections to the extent possible.
- Natural gas utilities should adjust budget bills at least four times per year, in conjunction with their Purchased Gas Cost (PGC) rate adjustments.
- The budget billing payment period must be a minimum of 12 months, with no annual true-ups occurring during the winter heating season.
- If the true-up amount is less than 100% of the budget amount, customers should be given 3-6 months to pay off that amount.
- If the true-up amount is 100% or more of the budget amount, customers should be given 12 months to pay off that amount.
- Any tariff provision that is inconsistent with the Commission's interpretation of its regulation is deemed null and void.

The Commission concluded the Order by stating that:

> "By allowing rolling enrollment in budget billing programs and mandating adjustments to the budget billing amount at least three times per year, we reduce the likelihood of having large true-ups at the end of the budget year. Given the utilities' obligation to review budget billing amounts 3-4 times per year, large true-ups should be the exception. By doing this we are providing a way for companies to smooth customer bills and decrease

their exposure to uncollectible expenses. We strongly encourage utilities that do not presently have these elements in place to work with BCS to ensure that their new system contains the elements that comply with the letter and intent of this Final Interpretive Order. The Commission will incorporate this Final Interpretive Order in the next Chapter 56 rulemaking."

However, this was not the Commission's final declaration on this subject. In response to petitions for reconsideration filed by various parties, the Commission followed up with additional guidance and clarification in a November 9, 2006 Order. Among other things, the Commission deferred to the rulemaking process some of the interpretational issues raised by some parties:

> PPL argues that the prohibition against winter true-ups is overly broad since it includes all customers, not just heating customers. We agree. In the discussion section of the Final Interpretive Order, we stated that two commentators found winter true-ups for heating customers undesirable during the winter. However, when we enumerated the list of essential elements for an acceptable budget billing program, we did not limit that element to heating customers. Moreover, as explained by PPL, if the budget billing amount is reviewed and adjusted periodically, the true-up amount should not be substantial. Under these circumstances, we shall delete the prohibition on winter true-ups from the interpretive rule. Nevertheless, we reiterate what was stated in our Final Interpretive Order. We expect utilities to exercise good judgment in dealing with these situations, and to manage their budget billing programs in a manner designed to avoid large winter true-ups for heating customers.
>
> We also agree with the commentators that there appears to be a conflict between Section 56.12(7) and the enumerated element that the budget billing period "must be a minimum period of 12 months..." In addition, NFG stated that some of its customers are satisfied with a 10 month budget billing program that allows customers to experience two months of lower current bills during the summer months. As stated in our Final Interpretive Order, the purpose of that order was to provide guidance. Since our intent was not to change or modify the current regulation, we will modify the fifth bullet on page 19 of our Final Interpretive Order to more closely track the existing regulation. Accordingly, we do not intend to prohibit 10 or 11 month budget billing programs that suit the needs of some customers and utilities.
>
> Finally, we agree with NFG and Columbia that bullet numbers 6 and 7, pertaining to how long customers should be given to pay off true-up amounts, raise interpretational issues with Chapter 14 payment arrangement limitations. The purpose of our Final Interpretive Order was to provide guidance as to how budget billing programs are managed, not to resolve interpretational issues that will be the subject of the rulemaking required at Section 6 of Act 201 to amend Chapter 56. Accordingly, we will delete bullet numbers 6

and 7 from these guidelines. However, we emphasize that we expect utilities to exercise good judgment in dealing with true-up amounts in their budget billing programs. The remaining elements enumerated are guidelines on how to set up budget billing programs and what common elements we expect to see in budget billing programs. These guidelines should have no effect on customer assistance programs and existing payment agreements. Moreover, the use of "should" for bullet numbers 4-7 is intended to communicate what the Commission would like to see practiced by utilities. Nevertheless, the elements listed as acceptable budget billing components are guidelines, not a mandate. As stated in our Final Interpretive Order the goal of budget billing is to allow new customers, and existing customers not previously enrolled in a budget billing program, to obtain the maximum benefits from the program, while benefiting utilities by reducing their exposure to uncollectible expenses. A properly designed and managed budget billing program will achieve these goals and benefit both the customer and the utility.

The Commission then modified the list of elements that an acceptable budget billing program should include:

- Budget billing must be available, on a rolling enrollment basis, to all utility customers with residential end use irrespective of the rate the account is billed.
- Based on well-established case history, budget billing should be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility.
- Budget accounts are to be routinely monitored and adjusted at least three times per year, consistent with the Commission's regulations to prevent over or under collections to the extent possible.
- Natural gas utilities should adjust budget bills as often as necessary, but not less than three times per year. Rate changes such as increases in the Purchased Gas Cost (PGC) are examples of indicators that budgets may need adjustment.
- The budget billing payment period should average service costs over a 10, 11 or 12 month period.
- Any tariff provision that is inconsistent with the Commission's interpretation of its regulation is deemed null and void.

As noted above, the Commission in 2006 declared that budget billing would be addressed in this rulemaking; and that the interpretational issues concerning Chapter 14, specifically Section 1405(d) would also be addressed.

We disagree with EAP, FirstEnergy and Columbia that the Commission's proposal to require the amortization of reconciliation amounts conflicts with Chapter 14's limits on Commission – mandated payment agreements found in Section 1405(d). A "true-up" or "reconciliation" amount results when a utility, at the end of the budget billing "year" reconciles the customer's billed amount with the amount of service the customer actually used. This could be a positive amount (meaning the customer has a credit) or a negative amount (meaning that the customer will be billed to recover the difference). If the utility has been properly reviewing the account throughout the budget year, large reconciliation amounts should be rare. However, it can occur, especially with new customers, customers who are recent budget enrollees, or customers with highly erratic usage patterns. Such large reconciliation amounts defeat the purpose of budget billing, which is to provide the customer with a somewhat consistent, predictable bill amount that will facilitate regular payment; thus reducing a utility's uncollectible debt problems. When we discuss amortization of such bills, we are instructing the utility to adjust the future budget billing amounts to cover not only current average usage, but also to include a portion of the reconciliation amount from the previous budget year.

Frankly, Chapter 14's limits also do not apply because we are not talking about past-due charges. The definition of *payment agreement* in Chapter 14 at Section 1403 specifically refers to the amortization of an "unpaid balance of the account." In the Commission's proposal, we are not discussing "unpaid" amounts; in fact, we are discussing amounts that the customer has not even been billed for. Thus, we cannot accuse a customer of having an "unpaid balance" when in reality the customer has never been billed for the balance in question. If we were to accept EAP's arguments concerning Section 1405(d) and unreasonable rate preferences, we would also be acknowledging that budget billing itself is contrary to law and not permissible. Therefore, we find that these amortization requirements are not "payment agreements," and we agree with Action Alliance in that we should avoid using the term "payment agreement" to describe these amortizations.

In any event, having said the above, we do find merit in the comments of PPL, NFG, PGW and Phillips in that the Commission's amortization proposal should be modified to reflect a more reasonable dollar trigger amount. We find a $100 trigger amount more reasonable than the proposed $25 amount, and also that this should not be an absolute requirement; customers should have the option of paying in full if so desired. Amounts between $100 and $300 can be amortized over 6 months; with amounts exceeding $300 amortized over at least a year. We will also include language permitting shorter amortization periods if the customer requests such. This amortization schedule should not result in payments that are overly burdensome for the customer; while providing a reasonable timeframe for the utility to collect on the unbilled charges.

This amortization requirement is intended to encourage customer participation in budget billing programs. For this same reason, we must reject Allegheny Power's suggestions about mandatory stay-in/stay-out provisions. We believe that such provisions would discourage customers from

participating in budget billing programs. Regarding Allegheny Power's concerns with customers leaving budget billing when their actual usage is less than their monthly budget amount, we note that there is nothing to prevent a utility in this situation from removing the customer from budget billing and then billing the customer for unpaid actual usage. The above discussed amortization requirement only applies to customer's at the end of their budget year. To further make these programs more consumer-friendly, we are proposing changing the name of this subsection from *Equal Monthly Billing* to *Budget Billing*. Budget billing is the term that utilities and consumers commonly use to discuss these programs and the regulatory language should reflect this. This is merely a change in the terminology; it is not a change in the methodology used to calculate budget billing amounts.

Finally, we agree with Columbia and IRRC that the directive that "payment agreements for heating shall be based upon equal monthly billing" would be better placed elsewhere in the regulations. We propose placing it in § 56.97, which addresses the negotiation of payment agreements with customers facing the termination of service. This requirement dates back to the Commission's order in *Mary Frayne v. PECO Energy Company,* C-20029005 (July 17, 2003) where the Commission declared (page 7):

> "Budget billing should be the norm for all payment arrangements rather than current billing. Budget billing was designed to aid customers who are experiencing financial difficulties by ensuring a level, predictable payment amount from month to month. The level payment amount will better enable the customer to plan for his or her utility bills and budget accordingly. Therefore, customers should not be provided with the option of choosing current billing when budget billing is a more beneficial option."

This guidance was again reiterated in the June 1, 2006 and November 6, 2006 budget billing orders discussed above where the Commission twice declared that "[b]ased on well-established case history, budget billing should be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility." In conclusion, including this guidance in the regulations is simply codifying a well-established Commission expectation that has been the subject of the previously mentioned Commission formal proceedings.

§ 56.13. Billings for merchandise, appliances and nonrecurring and recurring services.

Phillips asks that this requirement be made clearer by adding the phrase "which requirement shall be satisfied where the charges for nonbasic services appear on lines of the customer bill which are different or separate from those which address basic services" to the end of this proposed section.

The OCA is concerned that while the proposed change in this regulation will allow charges for merchandise, appliances, etc. to appear on the utility bill, there is no corresponding requirement

that the utility separately account for these charges in a manner that will ensure that customers are not subjected to termination based on such charges. The OCA does not support the proposed change because there is nothing in Chapter 14 and no technological advance that would justify the change to the long-standing requirement that these services be billed separately.

IRRC notes that rather than have a separate billing, the proposed regulation would now include miscellaneous merchandise as part of the bill for basic service. According to IRRC, a commentator suggests there is no justification for this change, and that it could unfairly result in termination of service if termination is based on overdue miscellaneous merchandise charges. If a utility is able to terminate a customer's basic service as a result of unpaid miscellaneous merchandise charges, then the Commission should clarify in the final-form regulation that basic service cannot be terminated as a result of unpaid miscellaneous merchandise charges.

Discussion:

The changes proposed by the Commission to this section were intended to reflect the electric and gas bill formal regulations found in the customer information regulations for electric and gas; the relevant portions as follows:

> **§ 54.4. Bill format for residential and small business customers.**
>
> (a) EGS prices billed must reflect the marketed prices and the agreed upon prices in the disclosure statement.
>
> (b) The following requirements apply only to the extent to which an entity has responsibility for billing customers, to the extent that the charges are applicable. The default service provider will be considered to be an EGS for the purposes of this section. Duplication of billing for the same or identical charges by both the EDC and EGS is not permitted.
>
> (1) EDC charges must appear separately from EGS charges.
>
> (2) Charges for basic services must appear before charges for nonbasic services, and appear distinctly separate.
>
> (3) Customer bills must contain the following charges, if these charges are applicable, and these charges must appear in a distinct section of the bill. The designation or label of each charge as either a basic charge or nonbasic charge appears in parenthesis following the name of the charge. This label of either basic or nonbasic is not required to accompany the name of the charge on the bill.
>
> (i) Generation charges (basic).

(A) Generation charges shall be presented in a standard pricing unit for electricity in actual dollars or cents per kWh, actual average dollars or cents per kWh, kW or other Commission-approved standard pricing unit.

(B) Generation charges shall appear first among the basic charges with one exception. EDCs may place the customer charge first among the basic charges.

(ii) Transmission charges (basic).

(iii) Distribution charges (basic).

(iv) Customer charge or basic charge (charge for basic service in § 56.15 (relating to billing information)) (basic).

(v) Advanced metering charges (basic).

(vi) Transition charges (basic).

(vii) Taxes (comply with § 56.15) (basic).

(viii) Late payment charges (basic).

(ix) Security deposit (basic).

(x) Reconnection fee (basic).

(xi) Itemization of nonbasic charges (nonbasic).

(xii) Overall billing total.

§ 62.74. Bill format for residential and small business customers.

(a) NGS billed prices shall reflect the marketed prices and the disclosure statement prices.

(b) The following requirements apply only to the extent to which an entity has responsibility for billing customers, and to the extent that the charges are applicable. Duplication of billing for the same or identical charges by both the NGDC and NGS is not permitted.

(1) NGDC charges shall appear separately from NGS charges.

(2) Charges for basic services shall appear before charges for nonbasic services, and appear distinctly separate.

(3) Customer bills shall contain the following charges, if these charges are applicable, and these charges shall appear in a distinct section of the bill. The designation or label of each charge as either a basic charge or nonbasic charge appears in parentheses following the name of the charge. This label of either basic or nonbasic is not required to accompany the name of the charge on the bill.

(i) Commodity charges (basic).

(A) Commodity charges shall be presented in the standard pricing unit for natural gas of the NGDC in actual dollars or cents per standard pricing unit or actual average dollars or cents per standard pricing unit.

(B) Commodity charges shall appear first among the basic charges with one exception. NGDCs may place the customer charge first among the basic charges.

(ii) Distribution charges (basic).

(iii) Customer charge or basic charge (charge for basic service in § 56.15 (relating to billing information)) (basic).

(iv) Gas cost adjustment charges (basic).

(v) Interstate transition cost surcharges (basic).

(vi) Taxes (Comply with § 56.15) (basic).

(vii) Late payment charges (basic).

(viii) Security deposit (basic).

(ix) Reconnection fee (basic).

(x) Itemization of nonbasic charges (nonbasic).

(xi) Overall billing total.

The above cited regulations were promulgated subsequent to the most recent revision of Chapter 56 in 1997, and these regulations clearly permit the billing of nonbasic and basic charges on the same utility bill, as long as the charges are labeled and properly separated. The main reason for the Commission's proposed changes to § 56.13 is to simply update this section and make it consistent with the customer information regulations. We must disagree with the OCA that the requirement that nonbasic charges be billed separately is "long-standing." In fact, this requirement was dispensed with upon the adoption of the above-noted customer information regulations.

We share OCA and IRRC's concerns that termination for nonbasic charges should never be permitted, and have elected to address this in the proposed § 56.83(3) which prohibits termination of service for unpaid "in whole or in part: of nonbasic charges for leased or purchased merchandise, appliances or special services including but not limited to merchandise and appliance installation fees, rental and repair costs; of meter testing fees; of special construction charges; and of other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter." We believe this provision provides sufficient protection against the termination of essential utility service for nonpayment of nonbasic charges. In addition, we have proposed definitions of both *basic* and *nonbasic* services in the definitions at § 56.2 to help make clear how charges should be classified and to avoid confusion on this point. The definitions reflect the definitions found in the above mentioned customer information regulations with additional language added, per the suggestion of OCA and IRRC, that addresses default service.

§ 56.14. Previously unbilled public utility service.

Duquesne suggests adding language to § 56.14 that would exclude situations involving fraud or theft. Equitable also suggests that theft and fraud be expressly excluded from the proposed four-year rule and that a utility should be permitted to recover the amount previously unbilled without regard to the timeframe. However, PECO understands that as the regulation is currently written and also proposed, neither fraud nor theft are triggering events, and thus not considered make-up bills under § 56.14. PECO supports the Commission proposal to limit make-up bills to four years and the Commission's decision not to mandate a 20 percent discount on such billings.

Columbia opposes the establishment of a four-year limit on make-up bills. Columbia believes that the proposed four-year limit would serve to increase uncollectible accounts and, as such, would conflict with the General Assembly's stated policies in Chapter 14. Furthermore, Pennsylvania statutory law requires utilities to charge the approved rate for services provided, and makes no exception for any vintage of previously unbilled service (66 Pa.C.S. § 1303). Furthermore, Columbia submits that the $50.00 threshold for providing a customer with the option of entering into a payment agreement should be removed. Over a period of four or more prior billing periods, the $50.00 limit will almost always be exceeded. Columbia submits that, absent information that a $50.00 make-up bill would cause undue hardship to a particular customer, a payment agreement for such a low make-up payment is not necessary. Columbia states that the proposed regulation should be amended so that the 50% threshold for excess of the otherwise normal estimated bill should be the only threshold for whether a payment agreement will be made available. NFG also recommends increasing the threshold amount.

Action Alliance supports the Commission's recommendation to retain the obligation to offer an installment arrangement on make-up bills since such an arrangement concerns "unbilled"

amounts, not "billed" amounts, and as such, are not considered a payment agreement in the context of Chapter 14. To avoid confusion, Action Alliance recommends the use of the term "payment agreement" should be avoided in the context of arrangements to pay a make-up bill. Action Alliance proposes use of the term "installment arrangement" for these make-up bill arrangements. Action Alliance also supports retaining the current threshold amounts of 50% of current bills or $50 required for the issuance of make-up bills because the current levels are appropriate and working in an adequate fashion. Any increase in the threshold, and resulting immediate demands for full payment, would impose significant burdens on utility customers, especially on low-income customers. Action Alliance also supports the proposed four-year limitation on make-up bills as it reflects the same restrictions found in other sections of Chapter 56 or Title 66, *i.e.*, § 56.35 (relating to payment of outstanding balance), § 56.202 (record maintenance requirements), and 66 Pa.C.S.A. § 1312 (relating to refunds).

The CAC continues to support the proposal to establish a four-year limit on billings for previously unbilled service. CAC also recommends, consistent with its position in the NOPR, that arrangements to pay previously unbilled utility service not be subject to the constraints and limitations which apply under Chapter 14 "payment agreements". The CAC continues to support this approach and further supports the Commission determination to retain the current threshold amounts of 50% of the current bills or $50 required for the issuance of make-up bills. According to CAC, an increase above current levels would pose significant burdens on many utility customers, most particularly on low-income consumers.

The OCA supports the Commission's determination to impose the four-year limit on make-up bills under § 56.14 and to clearly state that arrangements to pay make-up bills are not considered "payment agreements" under Chapter 14. OCA argues that the four-year limit is a long-standing practice and is consistent with the four-year limit in Section 1312 and there is no reason under Chapter 14 to modify this practice. However, to avoid any confusion when considering whether the customer has received a payment agreement from the Commission under Chapter 14, the OCA recommends that a different term, like "payment plan" be used in discussing payment arrangements on make-up bills.

PULP supports proposed § 56.14's retention of the current threshold amounts required to trigger the issuance of make-up bills. The current levels are appropriate and presently working in an adequate fashion; any increase would pose significant burdens on many utility customers, most particularly on low-income consumers. PULP also supports the Commission's recognition that Chapter 14 does not apply to § 56.14 make-up bills. PULP submits that the definition of payment agreements contained in §1403 relates specifically to amounts previously billed to the consumer which have gone unpaid; make-up bills, not having been billed to the consumer, fall outside the parameters of Chapter 14.

PULP also requests that the Commission eliminate references to the term "payment agreement" in § 56.14. The proposed definition of payment agreement contained in § 56.2 states that a

payment agreement refers to a "liability for billed service"; however, § 56.14 deals with previously unbilled service. Therefore, it seems inappropriate and potentially confusing to use the term "payment agreement" to refer to the repayment methodology of § 56.14.

IRRC recognizes that this section allows for a utility to render a make-up bill for previously unbilled public utility service which accrued within the last four years. However, IRRC notes that Section 1303 appears to require utilities to charge the approved (tariff) rates for services provided.

Discussion:

First we must address the comments of Duquesne and Equitable that request an exception be inserted into this provision exempting instances of fraud and theft. This is not needed because as PECO correctly points out, the regulation as it is currently written and also proposed does not include fraud and theft as triggering events. This means a bill seeking to recover amounts that were previously unbilled because of theft or fraud have never been considered make-up bills under § 56.14 and this will continue to be the case under the proposed revisions to this section.

We must also reject Columbia and NFG's suggestion to raise the triggering dollar amounts found in this section. As Action Alliance and PULP point out, the current triggering amounts are appropriate and currently working adequately and any increase may pose burdens on many utility consumers, especially low-income consumers.

We agree with CAC, OCA, Action Alliance and PULP that the payment agreements mentioned in this section are not payment agreements as defined by Section 1403. The definition of *payment agreement* at Section 1403 clearly refers to an "unpaid balance" and § 56.14 concerns charges that have not even been billed as yet, let alone unpaid. As a result, these arrangements entered into under § 56.14 should not be counted toward the payment agreement restrictions and standards found in Sections 1405(d) and 1407(c). To avoid confusion on this point, we agree with CAC, OCA, Action Alliance and PULP that we should refrain from using the term *payment agreement* in this section and instead simply refer to amortization.

Concerning the proposed four-year limit on make-up bills issued under this section, except for Columbia, the four-year limit on make-up bills is not opposed. As emphasized by the Active Alliance, this limit of four years reflects the same restrictions found in other sections of the Public Utility Code and Chapter 56 regulations. The General Assembly under Section 1312 of the Public Utility Code determined that when a utility had to pay back or refund excess amounts, the period that this covers is also limited to the previous four years. This four-year time period is also consistent with the time limitations for civil actions, proceedings and other matters generally. 42 Pa. C.S.A. § 5525. Furthermore, the Commission's regulations have a long-standing practice of requiring payment of outstanding residential accounts with the utility that have also accrued within the past four-year period. Moreover, the Commission's record keeping

regulations at § 56.202 require a utility to preserve written or recorded disputes and complaints for a minimum of four years.

Finally, in 2004 the Commission addressed the issue of whether there should be a time limit on make-up bills and what is the appropriate period. In *Roderick Berry v. Philadelphia Gas Works*, F-01184412 (April 15, 2004), Pages 8-9, the Commission made the following disposition on the issue:

> We also must address the appropriate period for the make-up bill, if any is found to be warranted. The ALJ found that pursuant to Section 3314(a) of the Code, 66 Pa.C.S. § 3314(a), the Commission's statute of limitations is three (3) years from the date at which liability arose. (I.D. at 5). However, that is not the proper timeframe for make-up billing. In *Angie's Bar v. Duquesne Light Company*, 72 Pa. PUC 213, 1990 Pa. LEXUS 4 (1990), (*Angie's Bar*) we stated the following on the issue of make-up billing generally:
>
> > Section 1312 of the Public Utility Code permits ratepayers to seek rate refunds when certain findings are made, up to a four-year past period measured from the date that the improper billing was discovered. Parity and equity warrant that a utility should likewise be limited to a four-year past period for recoupment of under billings. ...*Accordingly, we shall limit backbillings to a four-year period in cases where the customer has no culpability*, and as such, Duquesne, in this proceeding, is permitted to backbill the Complainant for estimated unmetered usage for a period of April 10, 1982 to May 28, 1986.
>
> 72 Pa. PUC 217; 1990 Pa. PUC LEXIS 12-13. (Emphasis added). (Footnote omitted)

The Commission continued its analysis noting that prior decisions provide for a four-year period where "theft of service or other culpable acts" did not lead to the under billing. *Roderick Berry* at page 9.

As indicated in our discussion, the issue does not involve a determination of the appropriate tariff rate. The issue involves a resolution of the appropriate period for the make-up bill or the length of time a utility can go for recoupment of under billings. Therefore, the adherence to tariff requirement under Section 1303 is not relevant as we are not addressing the level of rates the utility is charging. We are merely addressing how far back a utility may charge for unbilled utility service. Quite the opposite, with respect to increasing uncollectible accounts, adopting a regulation that encourages a utility to limit the size of a make-up bill balance can only improve collections.

We will also remove the vague term "review" in paragraph (1) and replace it with the more specific "explain" since an explanation is what the customer needs when a make-up bill is received.

§ 56.15. Billing Information.

In this age of electronic billing and reduction in local business offices, Equitable suggests revising § 56.15(12) to specify that a rate schedule and an explanation of how to verify the accuracy of a bill is available on the utility's website or by calling the utility.

PULP submits for the Commission's consideration two minor clarifications to this section by replacing "or complaint" with "or dispute" in subsection (11) and adding "and online at the public utility's website in an easily accessible location" to the end of subsection (12).

Discussion:

We find merit in Equitable's and PULP's suggestion that paragraph (12) should include posting information on a website. This will improve public access to this information especially given that most utilities do not have local offices in every community. However, we do not see a need to change "complaint" with "dispute" since this is long-standing language has not caused any difficulties or confusion that we are aware of. "Dispute" is also a term that is specifically defined in these regulations and is narrower than the more generic term "complaint." For the purposes of this subsection, which is very general, the more generic reference is appropriate.

No party raised any serious concerns with proposed paragraph (14) and we propose keeping this language as proposed. The intent of paragraph (14) is to refer electric and gas utilities to the bill format regulations found in the customer information regulations that were promulgated subsequent to the most recent revision of Chapter 56. However, we will remove the proposed paragraph (15) that refers all utilities to the plain language guidelines that include some bill format guidance. We are removing this language because it may be inappropriate to reference non-binding guidelines in binding regulations.

§ 56.16. Transfer of accounts.

Allegheny Power, Duquesne, Equitable, FirstEnergy and PGW believe that § 56.16(d) should be rewritten to state that "In the event of a termination of service to a residential customer, a public utility may transfer to the account of a third-party guarantor the entire unpaid balance of the customer" to reflect the provisions of § 1404(b) and § 56.33. PPL also recommends rewording this section or just deleting § 56.16(d) altogether.

PECO believes that this provision could be used by customers facing termination who request discontinuance simply to be removed from billing. PECO believes that the Commission does not intend this result and suggests adding to the proposed section language that will enable a utility to hold the customer responsible for any charges accumulated after the discontinuance date if the customer still benefited from the service by remaining at the property past the discontinuance date.

Columbia believes that the proposed new language to § 56.16 is ill-advised because it will create additional costs to be borne by ratepayers, with no benefit to them or to the affected public utility. For example, in rental properties where rolling tenancies are common, it can be unwieldy if not impossible in some cases, to calculate an 'after-the-fact' final bill accurately. Moreover, the proposed language encourages user without contract situations because it removes the incentive of a former tenant (who, without this proposed change would continue to be billed) to arrange for meter access after the former tenant has vacated.

Equitable recommends revising the proposed section to specify that in "the absence of a notice or meter access, the customer shall be responsible for services rendered until the meter is secured or service is transferred to another party" because there are many situations when the utility is not provided access to discontinue the service. The proposed regulation also does not address who is responsible for the utility service consumed during the period between the time the customer vacates a premises and the utility is provided access.

Dominion reports that it is not uncommon to find situations where there is a significant difference between the estimated reading of the final bill and the next actual reading the utility obtains. Because the utility must then allocate the usage between customers, Dominion suggests deleting the phrase "and can determine the actual consumption used by the customer" as to eliminate any question about the utility's right to adjust the final bill even if that actual reading does not determine with certainty the customer's actual consumption.

NFG supports the proposed changes to § 56.16(a).

PGW claims that customers who request discontinuance often fail to show up for an appointment for physical discontinuance. PGW requests that this proposed language be revised to specify that a customer who fails to attend an appointment should be held responsible until meter access is provided. If the utility does not attempt to access the meter or the customer cannot provide access, then the account should be discontinued based on an estimated meter reading, subject to adjustment once access is obtained.

EAP notes that under §56.16(a), the customer is only required to notify the utility, at least seven days in advance, "specifying the date on which it is desired that service be discontinued." EAP believes that the proposed regulation is silent on who is responsible for the utility service consumed during the period between the time the customer vacated the premises and the utility is provided access. EAP recommends changing §56.16(a) to require the departing customer to provide access to the utility meter and that in the absence of a notice or meter access, the customer shall be responsible for services rendered until the meter is secured or service is transferred to another party. EAP also notes that under §56.16(d), the unpaid balance "which is equivalent to the cash deposit requirement" may be transferred to the account of a third party guarantor. EAP thinks §56.16(d) should be changed to be consistent with Section 1404(b) to

specify that in the event of a termination of service to a residential customer, a public utility may transfer all missed payments owed to the public utility to the account of a third-party guarantor.

The OCA agrees with the proposed modifications to this regulation, but proposes additional language to subsection (a) to clarify the public utility's obligation to obtain a final meter read. The OCA proposes to add a qualification to the regulation specifying that only "after reasonable attempts to obtain" meter access should the service be discontinued based on an estimated reading.

PULP recommends the Commission include an exception to the rule in this section. For example, where a victim of domestic violence is fleeing her abuser, she will clearly and understandably not be of the mindset to notify the utility of the desire to discontinue service. Making this notification might draw the abuser's attention and actually place the victim in physical danger. There are also several other reasonable situations that could justify affording an exception to this rule: in association with an unlawful self-help eviction by the landlord where an evicted tenant may not be able to provide proper notice; in a situation of fire or other emergency where a customer may inadvertently fail to provide sufficient notice; in situations of a disabling illness requiring immediate hospitalization or movement without eventual return to the premises. Given these likely possibilities, PULP recommends that the Commission carve out an exception to this rule that allows an individual to provide good cause to avoid liability for service used after that individual's departure.

IRRC notes that this section describes billing procedures for account transfers and subsection (d) addresses transfers from terminated residential customers to third-party guarantors. However, this subsection states that the transfer may be "any portion of the unpaid balance which is equivalent to the cash deposit requirements of the customer." A commentator suggested that this language is inconsistent not only with 66 Pa.C.S. §1404(b), but also with the proposed language in Section 56.33(2)(ii) of the regulation, which both require the guarantor to be responsible for *all* missed payments. For purposes of consistency not only with the statute but also within the regulation itself, IRRC states that "unpaid balances" should be replaced with "missed payments."

Discussion:

The Commission proposed the revisions to paragraph (a) to address situations where the utility does not obtain a final meter reading to close and bill an account. Many of the utility commentators framed this issue from the perspective of a customer failing to provide access, but did not address situations where a utility may miss an appointment with a departing customer. While probably not a common occurrence, emergencies and other contingencies do cause utilities to miss some pre-scheduled appointments. However, it does leave the departing customer with a problem; one that none of the utility commentators fully addressed. Hopefully, while incidences of this nature should diminish in the future as utilities move toward automated

metering, it is still a common enough occurrence that we believe it needs to be addressed in regulation.

The Commission has formally addressed this issue in the *Petition of Equitable Gas Company for Appeal From Staff Action Pursuant to 52 Pa. Code § 5.44 Regarding Discontinuance of Service and Meter Access*, Docket No. P-00011888, (March 14, 2002). The proposed revisions to this section simply codify the Commission's expectations as expressed in this final order. On page 6 of this Order, the Commission declared:

> "We are unpersuaded by Equitable's assertions that our interpretation here today will adversely affect the utilities and inure upon them additional costs which are beyond them to control. To begin with, we emphasize that we are not abdicating the responsibility of the ratepayer to provide proper notice to the utility for discontinuance, or their obligation to pay a final estimated bill where access to the meter is not provided within a reasonable time. Such a result would be inconsistent with general principles of equity.
>
> Moreover, Equitable retains the ability to render a reconciled bill when an actual final reading occurs and indicates that the estimated final bill was in error. Alternatively, the utility company is in the position to take additional measure to obtain a final meter read even if the initial attempts are unsuccessful."

No party in the instant proceeding has produced an argument that would cause us to change our previous position on this matter. It is simply not reasonable to expect an individual, who no longer owns the residence or no longer has a lease for the residence, to provide access to said residence. There may also be tenants who cannot provide access to a utility meter, even if they are still residing in the residence if the meter access is controlled by the property owner.

Many of the suggestions and arguments presented by utility commentators, such as PECO's, that would allow them to leave service on and continue to bill for the service would serve simply to facilitate the practice of "soft offs" – the questionable practice of leaving service physically active at a location without a current customer of record. While we are aware that several utilities engage in this practice and present it as a convenient and cost-saving procedure, the Commission has traditionally been skeptical of the practice. In the Commission's June 5, 2005 *Chapter 14 Implementation – Petitions of the Energy Association and the Philadelphia Gas Works for Clarification and/or Reconsideration of the Implementation Order* (Docket M-00041802 F0002), the Commission noted as follows:

> "We submit that EAP's perspective is extremely narrow on this issue. Although EAP asserts that the soft "off" practice reduces costs to a utility's customer base, the Commission is unaware, and it has not been brought to our attention, of any utility study that shows that the savings associated with soft "off" practices offset the aggregate usage and financial loss that can and does occur between the date of a soft "off" and the date on which the utility discovers usage without a contract. For example, a number of days can

pass between customers when the prior customer has discontinued service and the utility service is left on and the utility discovers that a new resident has taken occupancy. Therefore, the three days' usage may be minimal compared to the aggregate usage and financial loss that can and does occur between the date of a soft "off" and the date on which the utility discovers usage without a contact." (pages 11-12)

No party in the instant proceeding has produced anything that would cause the Commission to be any less skeptical of this practice. If we were to include provisions in this regulation holding departing parties responsible for bills after the requested discontinuance date, we would be creating an incentive for utilities to neglect to pursue meter access. The utility would in fact have no incentive to pursue a final meter reading. It must also be noted that since the definition of "customer" in Section 1403 links the status of "customer" to the "mortgage, deed or lease," it is questionable as to what legal grounds a utility could hold an individual responsible for service after they are no longer the deed or lease holder.

Instead of tailoring the regulations to facilitate the questionable practice of "soft-offs" and/or letting service on while it accumulates in a non-occupant's name, we believe the regulations should encourage the timely final billing of accounts and cessation of service.

The proposal is fair to the utility in that the estimated final bill is not the last word on the matter. Once the utility does obtain a meter reading, as it must do at some point, it is free to adjust the departing customer's final bill and allocate usage between the departing and new customer. We shall not prescribe the methodology for doing this as that would be over-reaching. We believe that the utility, using their usual business practices and estimating methodologies, is best suited to do this. We do point out that utilities should, per the definitions of "customer" and "applicant" at Section 1403, be guided by the "mortgage, deed or lease" to establish the timeframes of responsibility for the departing and new customers. We also agree with Dominion that the use of the phrase "...determine the actual consumption..." is probably not the best choice of words because it is not really possible to determine "actual" consumption in these instances. Therefore, we will delete this phrase.

We agree with OCA and will insert language that only after a reasonable attempt to obtain meter access should the service be discontinued based on an estimated bill. Hopefully this will prevent the estimating of final bills from becoming the routine, standard practice. Ending a customer's account with an actual meter reading remains the preferred practice.

We agree with IRRC, PPL, Allegheny Power, Duquesne, Equitable, FirstEnergy, PGW and EAP that paragraph (d) is not entirely consistent with Section 1404(b). We shall do as PPL suggests and delete this paragraph altogether since it is redundant; refer instead to §56.33. We will also make minor word changes to paragraph (c) to improve readability. And while we understand the concerns expressed by PULP that seven days notice is not always possible in all scenarios, the scenarios described by PULP are very fact-specific possibilities that should be handled on a case-

by-case basis using the dispute procedures. These possible scenarios do not lend themselves well to precise regulations. We do note that in cases involving Protection From Abuse orders, utilities should take care to apply Section 1417 and to treat such instances with sensitivity and confidentiality.

56.17. Advance Payments.

PPL recommends that the Commission revise §56.17(3)(i) to allow any payment-troubled customer, regardless of income, the option of using a prepayment meter. The proposed prohibition against allowing low-income customers to use a prepayment meter appears to assume that these customers are incapable of understanding the system, purchasing the prepayment cards, tracking their usage on the prepayment monitor, etc. PPL concedes that low-income customers may not be the most likely group to select a prepayment meter, but since the use of a prepayment meter is a voluntary decision, low-income customers should have access to the same payment options available to residential customers who are not low-income.

Discussion:

We note that nothing new of substance was proposed for this section. The changes proposed just rearrange the subsections to make the regulation clearer. To date, no utility has utilized these provisions to offer prepayment metering, so unfortunately we have no practical experience to rely upon when assessing the need to revise this section. Regardless, because of the public health and safety concerns involved, we decline to incorporate PPL's suggested removal of the 150% poverty level condition. In Chapter 14, the General Assembly indicates that the protected customers should be those at or below 250% of the federal poverty level. For example, the winter restrictions at Section 1406(e) apply to those at or below 250% of poverty, and the PUC payment agreement formulas at Section 1405(b) are more lenient for those at or below 250% of poverty. Based on these actions of the General Assembly, if anything, the income threshold for this section should be raised to 250% from 150%. However, we propose maintaining it at the current 150%, and decline PPL's suggestion to remove it altogether.

We do not believe it is appropriate to address cost-recovery of advance payment programs in these regulations, but we do want to note that utilities should address any cost-recovery issues in the plans that they submit under paragraph (iii). Also, in keeping with our intent to modernize the regulations to accommodate new technologies, we will remove the references to "cards" since "cards" refer to a specific technology that could be supplanted by new methods. We will also remove the reference to "informal dispute settlement agreement" per our discussion relative to § 56.2.

§ 56.21. Payment.

Allegheny Power suggests the language in § 56.21(3) be changed to clarify that the payment agent needs to be one authorized by the public utility. The effective date of payment to a branch office or authorized payment agent should be the date of actual receipt of payment at that location.

Duquesne suggests that § 56.21(4) should be clarified to be clear that the effective date of payment electronically transmitted to a public utility should be the date of actual receipt of the payment, not notification of a pending payment which may later be cancelled by the customer.

PGW suggests that § 56.21 be revised to specify that the transmittal date of a bill should be the date of mailing, e-mailing or physical delivery. In addition, § 56.21(4) should specify that the effective date for payments electronically transmitted outside the payment system administered by a public utility should be the date of actual receipt of the payment monies because the utility does not control and may not have sufficient knowledge to determine when the payment was made by the customer to a third party. Moreover, PGW submits that § 56.21(5) should reflect the fact that certain third party payment processors assess and collect fees for credit card payments to PGW. According to PGW, it does not assess or collect these fees and any requirement to publish such fees in their tariff would add undue time and expense to the process.

PULP believes that the proposed § 56.21(4) inappropriately places on the customer the risks of a failure to electronic systems that are not under the customer's control. For example, a partial or full failure of the bank's systems, of the internet service provider's systems, or of the utility's systems all could lead to the delay or failure of a timely electronic payment made by the customer, often totally unbeknownst to the customer. Therefore, under the proposed regulations, the customer could be deemed liable for a late payment made under such circumstances. Furthermore, as a result of an electronic mishap a CAP customer making electronic payments or a customer making electronic payments on a payment agreement could be deemed to have defaulted on CAP or on their payment agreement. PULP recommends adding to this section language specifying that where a customer can establish that a late electronic payment is the result of a failure of the electronic systems not under the customer's control, then a customer shall not be deemed to have defaulted on payment, on a payment agreement, or on a CAP payment.

IRRC notes that this section relates to transmitting payments and that the first paragraph states that the due date of a bill may be no less than 20 days from the date of transmittal and the paragraph seems to define "date of transmittal" occurring on either the date of mailing or delivery. IRRC questions how can the transmittal date be one or the other when, in all likelihood, the payments will be received on different dates in each circumstance? IRRC also mentions that the proposed regulation removes the word "physical," whereas other sections of the regulation continue to use the phrase "physical delivery."

Discussion:

We agree with IRRC and PGW and will revise the proposed regulation to specify that the transmittal date of a bill should be the date of mailing, or electronic or physical delivery. This will provide for the flexibility needed to accommodate a variety of different methods of bill delivery. We also agree with Duquesne, Allegheny Power and PGW that the effective date of payment to a public utility should be the date of actual receipt of the payment because as Duquesne points out, a pending payment can always be cancelled by a customer.

With respect to Allegheny Power's concerns with paragraph (3), we point out that this paragraph, as currently written, specifies that the "payment agents" relevant to this section are "authorized" agents. As such, we see no need for revising this paragraph. And concerning PGW's comments on paragraph (5), we point out that this applies only to fees "assessed and collected by the public utility." Fees assessed and collected by other parties are not included. We believe this appropriately addresses PGW's concerns, and see no reason for further revising this paragraph.

While we share PULP's concerns and understand that the scenarios described by PULP are certainly possible, we believe the dispute procedures found in these regulations will be sufficient to address these possibilities. If a customer has a problem with an electronic payment, that is clearly a disputable matter under these regulations, and the utility would be expected to apply the relevant regulations, including §§ 56.140 – 152.

We will change the word "last" to "latest due" in paragraph (6) to make this section clearer. Finally, we agree with IRRC that the removal of the word "physical" was an error and we will restore this term in the regulation.

§ 56.22. Accrual of late payment charges.

FirstEnergy recommends that 56.22(d) be revised to specify that the Commission can only waive late payment charges for customers at or below 150% of the federal poverty level as the result of the filing of an informal or formal complaint; not a generic order that is not tied to a specific complaint.

PECO objects to the proposal prohibiting late payment charges on accounts no longer actively billed to a customer as not being supported by Chapter 14. PECO submits that late charges are the equivalent of interest on a loan, and a customer choosing to leave an unpaid balance is effectively the same as the customer getting a loan from PECO.

NFG submits that if the proposed regulation will cite to the statutory language from which it claims to obtain authority, the statutory section should simply be quoted in its entirety rather than paraphrased or implied. The language of Section 1409 is clear and concise enough to quote directly and would ensure that proper effect is given to the legislative intent.

PULP submits that § 56.22(c) should be altered to make it clear that only denial of access to the meter by the customer can result in the imposition of late fees. According to PULP, the proposed language is problematic because there are a variety of situations in which utility personnel might be denied access to a meter through no fault of the customer of record. In these instances, PULP believes that an innocent customer should not be penalized for actions not his or her own. For example, where a landlord forbids access to a meter on the landlord's premises, the customer of record should not be penalized with a late fee as a result.

PULP supports the proposed § 56.22(d) because many low-income customers find it exceptionally difficult simply to pay for service, much less added fees. Empowering utilities to waive late fees enables them to relieve some of the burden on these vulnerable customers and, if this discretion is exercised liberally by utilities, may help reduce the number of households without service. Where that discretion is not exercised, PULP considers that the Commission clearly has the authority to compel the waiver and should do so wherever possible.

PULP also supports the inclusion of § 56.22(e), which limits the timeframe during which late payment charges may be imposed on an account balance. PULP explains that once an account is inactive, utility late fees cease to serve a purpose and thereafter become merely punitive in nature, with no bearing on actual costs of collection or providing service. Therefore, such fees are appropriately prohibited by § 56.22(e). However, PULP submits that this section is somewhat ambiguous about when an account becomes inactive or, in the words of the regulation, "is no longer actively billed by the public utility." PULP suggests this problem can be solved with a minor change that harmonizes the language of subsection (e) with other parts of these regulations, such as the definitions of customer and applicant at § 56.2, by specifying that "additional late payment charges may not be assessed on account balances once the final bill on the account is past due."

IRRC notes that subsection (e) prevents additional late payment charges once an account is no longer actively billed. IRRC questions what is the Commission's statutory authority for this revision.

Discussion:

We disagree with FirstEnergy and decline to specify that the Commission can only waive late payment charges for customers below 150% of the federal poverty level as a result of the filing of a formal or informal complaint. Section 1409 clearly specifies that the Commission can order the waiver of "any" late payment charge for customers below 150% of the federal poverty level. This does not preclude the Commission from using a generic order if it should so choose, and we agree with PULP that the Commission clearly has the authority to compel the waiver.

We agree with NFG that the language in paragraph (d) should simply reflect the language of Section 1409 and will revise this paragraph to do so. We disagree with PULP that changes are

needed to paragraph (c). Per § 56.12, utilities are allowed to issue estimated bills in certain circumstances, and estimated bills must be paid timely the same as any other bill.

In response to the concerns expressed by IRRC and PECO, we will drop the proposed paragraph (e) from this section. This paragraph was proposed to prevent situations where a former customer continues to accrue additional charges without being aware of such because they are no longer being billed. If a customer inadvertently pays short on their final bill, this could have serious consequences that the customer will not necessarily be aware of. This was also proposed to prevent possible double recovery of carrying costs on closed, written-off accounts; a utility recovering such costs in rates as part of uncollectable revenues and also via late payment charges. We note that late payment charges are not intended to generate revenue; their purpose is to cover any carrying costs. It is not clear what carrying costs are involved on a closed account that is no longer being actively billed. Regardless, we will drop this proposed paragraph.

§ 56.25. Electronic bill payment.

Allegheny Power objects to the requirement that they provide a paper receipt for electronic payments. This requirement could cost potentially $ 1 million annually. Columbia reports that for more than twenty years, Columbia customers have had the ability voluntarily to enroll in automatic checking account withdrawal services, which are administered by third-party vendors. These vendors do not issue receipts other than the transaction record that appears on the customer's checking account statement. Columbia claims it has never had a customer who complained that they were not being furnished with a receipt and this requirement, if applied to such recurring automatic payments, will needlessly increase costs.

NFG believes that these requirements would be better served by splitting apart the concept of "electronic bill payment" from what NFG refers to as "direct pay". In "electronic bill payment" a customer must still make an affirmative action, usually through an on-line medium, to effectuate a payment. This is different from "direct pay" where a customer only signs up for the program once and the billed amount is automatically withdrawn from a financial account on a specified date. "Direct pay" can be accomplished with the customer still receiving paper bills and not receiving any type of electronic bill message. NFG believes that the "direct pay" concept should be excluded from this section. With respect to § 56.25(2), NFG suggests replacing the phrase "checking account" with "financial account;" types of accounts other than checking accounts are capable of making automatic electronic payments such as a savings account or credit union money market account. With respect to § 56.25(3), NFG suggests allowing for an option for a customer to receive relevant notices electronically. NFG notes that many customers chose the electronic billing option to avoid receiving any paper correspondence at all. Inserting "unless the customer agrees to receive notice of program changes electronically" in the second sentence of 56.25(3) after the phrase "in writing" allows this option while keeping

an in writing requirement for any customer who so chooses. Regarding § 56.25(5), NFG believes that maintaining system security is critical to an electronic billing and electronic bill payment system. NFG suggests changing this section to read "(5) the public utility shall take all reasonable steps to maintain system security in order to protect all customer information and prevent unauthorized access to customer accounts."

PGW opines that electronic bill payment requirements should be linked to utility administered systems and that disclosure of electronic bill payment terms and changes to the program should be allowed via a utility's website. Instead of a receipt, the electronic notification of payment should be a confirmation number.

Phillips suggests that written terms provided electronically should be sufficient to satisfy § 56.25(3) requirements since customers will be enrolling in these programs electronically to begin with. Phillips also reports that it is not aware of any means which it can guarantee unequivocally to protect all customer information and accounts. As such, Phillips suggests revising § 56.25(5) to state the "the public utility shall maintain sufficient system security and, in so doing, take all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access."

The OCA strongly supports the Commission's proposed regulations on electronic bill payment but offers a modification of § 56.25(1) for the purposes of clarity. OCA proposes that this section should be revised to say "Electronic bill payment shall be voluntary and a public utility may not require a customer to accept electronic bill payment as a condition of enrolling in electronic billing." Action Alliance supports the recommendations of the OCA with regard to electronic billing and payment options and incorporates by reference those proposed regulations that reflect the OCA's recommendations.

IRRC notes that this section describes the procedures for electronic bill payments and raises three issues. First, Paragraph (2) refers to electronic bill payments via automatic withdrawals from a customer's checking account. A commentator notes that automatic electronic payments can be made from types of accounts other than checking accounts and suggests using the term "financial account." IRRC agrees and recommends that the Commission incorporate this change in the final-form regulation. Second, Paragraph (4) requires the public utility to provide an electronic or paper receipt to the customer upon payment through the electronic method. IRRC questions the need for a receipt in these circumstances? Finally, Paragraph (5) requires the public utility to maintain a "sufficient system security." IRRC questions how the Commission will determine what is "sufficient"?

Discussion:

We agree with IRRC, Allegheny Power, Columbia and NFG that automated, pre-authorized payments should be exempt from any receipt requirement. As the parties point out, these types

of payments have been in place for many years and it is the financial institution involved that generates the receipt or notice. We agree with IRRC and NFG that this section should refer to "financial account" instead of "checking account" as to accommodate the diversity of financial accounts a customer may have. We agree further with NFG, PGW and Phillips that the terms and conditions of these programs can be made available electronically instead of on paper. This will enhance the cost-savings and environmental benefits of these programs. We agree with OCA and will revise paragraph (1) to clarify that electronic payments are voluntary and are not required to be linked to electronic billing.

NFG correctly points out that maintaining system security is critical to an electronic billing and payment system. Customers will be reluctant to participate in these programs if they believe doing so may compromise the integrity of their personal financial data. We agree with IRRC, NFG and Phillips that paragraph (5) concerning security needs to be clarified. We will change this paragraph to reflect NFG's and Phillip's suggestion that utilities shall "employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access." This will mirror the language in §56.11 concerning electronic billing. We decline to get more specific than this because constantly changing technology makes it impossible to predict or specify particular security mechanisms or procedures.

§ 56.31. Policy statement:

The CAC and PULP support the Commission determination that § 56.31 is still fully in effect and has not been superseded by any section of Chapter 14. In accord with that policy, the credit and deposit policies and practices of each utility must be equitable and nondiscriminatory and shall be based on the credit risk of the individual without regard to area in which they live and without regard to race, sex, age over 18, national origin or marital status.

PULP suggests that § 56.31 should be moved so that it appears before the heading "Procedures For New Applicants." As it is positioned currently, § 56.31 falls under the heading "Procedures For New Applicants." However, PULP explains that it appears from the content of § 56.31 that it applies to both applicants and customers. Therefore, PULP recommends the Commission move § 56.31 so that it falls after the heading "Subchapter C: Credit And Deposits Standards Policy" and before the heading "Procedures For New Applicants." Also, PULP notes that the title of the first subsection in Subchapter C is "Procedures For New Applicants." PULP submits that this title may be confusing because it appears from the content of the subchapter that one does not have to be a "new" applicant in order for the subchapter to apply. PULP states that one could also have applicant status as a result of losing service and having a final bill past due (see § 56.2's definition of "applicant"). In that instance, the individual would be an applicant but not a "new" applicant. To clarify this ambiguity, PULP recommends the Commission remove the word "New" from the title of the first section of Subchapter C so it reads "Procedures For Applicants."

Discussion:

No substantial changes were proposed to § 56.31. We do see merit in the suggestion of PULP to change the title section by removing the word "new," as this minor change will lessen possible confusion as to what is a "new" applicant as opposed to just an "applicant." We decline to move the placement of this section however since we think its current position is appropriate since this does generally involve "applicants."

§ 56.32. Security and cash deposits.

Allegheny Power, PECO and Equitable object to the proposed language that specifies that the credit score used by a utility to evaluate the credit worthiness of applicants must assess the risk of utility bill payment because it limits the discretion of the utility and circumvents § 1404(a)(2). PECO notes that they currently use Equifax's utility score which is designed to predict the likelihood of paying utility bills. However, they want to be free to use other available products and methodologies.

Duquesne reports that many utilities do not report to credit bureaus, so relying on a credit-scoring model that would assess the risk of only utility bill payment might not exist or be extremely ineffective and that § 56.32(a)(2) should be changed to make it consistent with the policy statement at § 56.31.

PPL Electric agrees with the Commission's proposed language in § 56.32(a)(2), which states that, "The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment." PPL has been using Equifax, Inc.'s Energy Risk Assessment Model ("ERAM") for credit scoring since 2001. Equifax designed ERAM specifically to identify credit risk associated with the payment of utility bills. PPL reports that it has been pleased with the use of ERAM for credit scoring and has received few PUC complaints regarding credit scoring.

As a majority of this proposed language is taken verbatim from the statutory language, NFG suggests that § 56.32(a) track the statutory language of Section 1404(a) in order to give full effect to the legislative intent and also suggests changing the proposed language of §56.32(a)(1)(vii) by adding the phrase "but not limited to" after "including" and before "bypassing a meter" to comport with the language of Section 1404(a)(1)(vii). NFG questions why the proposed language at § 56.32(a)(2) quotes the statutory language through the first sentence, then adds a second sentence stating "The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment." According to NFG, this sentence is inappropriate because if the legislature intended to include such a requirement it could have easily added such a sentence to the statute and in many instances, a potential applicant who poses a significant credit risk may have no history of utility payment.

PGW believes that since this section only applies to applicants, references to customers should be removed. PGW submits that the proposed regulation should be made consistent with Chapter 14 by indicating that the utility does not have to provide service if there is a failure to pay a deposit. PGW also requests that, considering PGW's limited service area and housing stock and financial restraints on its ability to modify its systems, PGW should have the ability to calculate a deposit based on the average annual bill of its customers in the same rate class. Moreover, PGW believes that out of concerns with identity theft, if one or more of the identifications provided by the customer is suspicious, PGW believes that the utility should have the authority to request additional identification.

Phillips contends that utilities should have the right to require an applicant's social security number if credit evaluation methods which do not require a social security number are not able to adequately evaluate an applicant's creditworthiness.

EAP believes that the proposed regulations again attempt to revive the name game and that the public interest is ill-served by permitting households to avoid payment for energy used by a group of people who have unjustly enriched themselves. EAP reports that utilities properly equipped may be the first to spot the red flags that signal the risk of identity theft, including suspicious activity suggesting that thieves may be using stolen information to establish service.

Aqua submits that while a detailed explanation is appropriately sent to the applicant as part of its procedure to provide service, it is not appropriate to be placed in its tariff. The utility should be permitted under its management discretion to develop appropriate credit and deposit policies that can be modified within the parameters of the Commission's rules and regulations, as business needs and information change.

Action Alliance urges the Commission not to adopt the proposed deletion of the current language at § 56.32(3)(i) ("The absence of prior credit history does not, of itself, indicate an unsatisfactory risk."). According to Action Alliance, young persons or families who have previously lived with parents or other relatives will not have developed a credit score, because they have not previously had bills in their name. Some separated spouses and victims of domestic violence, with or without a Protection from Abuse Order, are also more likely to have no credit history upon which a credit score could be based. Having already provided a security deposit to a landlord for a new home, these applicants with no negative credit histories should not then be required to pay a two month utility deposit. Action Alliance believes that Chapter 14 does not supersede the current provision at § 56.32(3)(i) nor is it inconsistent with this provision and this important provision should not be deleted.

Action Alliance supports the clarification at proposed § 56.32(a)(2) that the "credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment." According to Action Alliance, bills for life-essential utility service significantly differ in character than bills for many other consumer goods and services, and any credit scoring

methodology used by utilities should also make that distinction. Action Alliance also supports proposed § 56.32(c) relating to identity of adult applicants and the identification documents that may be required by utilities. Action Alliance agrees that applicants should not be required to disclose or produce social security numbers, unless the applicant wishes to do so for the applicant's convenience.

The OCA has previously proposed a number of critical protections that the Commission should include in its regulations. OCA submits that one of the key protections needed is for the Commission to set forth what "generally accepted" means when referring to credit scoring methodology. The OCA recommended that the Commission state that the generally accepted methodology is one that assesses utility bill payment and risk such as Equifax's Energy Risk Assessment Model (ERAM) that was used in several pilot programs being operated by Pennsylvania utilities. Therefore, the OCA strongly supports the proposed § 56.32(a)(2) requirement that any credit scoring methodology must specifically assess the risk of utility bill payment.

PULP also submits that Section 56.32 requires a close review by the Commission. Subsections (a) and (b) appear to be updated and are very similar to §56.51, subsections (a) and (b). Minor differences include § 56.32(a)(1)(iv) and § 56.32(a)(1)(vi) both say public utility service, whereas the corresponding sections of § 56.51(a)(1)(iv) and § 56.51(a)(1)(vi) speak only of utility service; § 56.32(a)(1)(v) refers to "material terms of an informal dispute settlement or payment agreement" whereas 56.51(a)(1)(v) has "material terms of a settlement or payment agreement."; § 56.32(a)(1)(vii) has "including bypassing a meter" whereas § 56.51(a)(1)(vii) has "including, but not limited to, bypassing a meter."; § 56.32(a)(1)(viii) has "Violating tariff provisions on file with the Commission which endanger the safety of a person..." whereas §56.51(a)(1)(viii) has "Violating tariff provisions on file with the Commission to endanger the safety of a person"; the final sentence of § 56.32(a)(2) is "The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment." This sentence is omitted from the parallel § 56.51(a)(2); § 56.32(b)(2) requires an applicant with a household income no greater than 300% of the Federal poverty level to pay 1/12 of the applicant's estimated annual bill at the time the city natural gas distribution operation determines a deposit is required. An exception is made for applicants who enroll into the customer assistance program. In the parallel Section 56.51(b), no such exception is made.

PULP also notes that while § 56.32 falls under the heading "Procedures for New Applicants," §56.32(a)(2) reads, in part, "An applicant or customer who is unable to establish creditworthiness...." According to PULP, it is not clear why a reference to a customer is being included in this section, and the same inconsistency can be found in the parallel § 56.51(a)(2), which should not refer to applicants since the section applies only to customers. PULP recommends that the Commission, in order to consolidate regulations and avoid confusion, consider reorganizing Subchapter C. Credit and Deposits Standards Policy so that subsections,

specifically "Procedures for New Applicants" and "Deposits," do not duplicate information and so that references to applicants and customers are used consistently.

Discussion:

We agree with PPL, OCA and Action Alliance that the credit scoring methodology employed by utilities must specifically assess the risk of utility bill payment. As Action Alliance points out, bills for life-essential utility service significantly differ in character than bills for many other consumer goods and services. We also note that Section 1404(a) specifies that the credit scores used by a utility to screen applicants must be a "...generally accepted credit scoring methodology" which falls "...within the range of general industry practice." By including this language in Section 1404(a), the General Assembly made it clear that utilities could not employ just any credit score available; that the score used had to meet some standard and be of some relevance. We disagree with Allegheny Power, PECO, Equitable and NFG that it is entirely up to the discretion of the utility as to what credit scoring methodology is used. Therefore we believe it is appropriate to offer some guidance in the regulations as to what is "generally accepted." We emphasize that we are not proposing a specific score offered by a specific vendor; there are a number of vendors who offer an array of appropriate credit scoring products. PPL uses Equifax's "Energy Risk Assessment Model" (ERAM), which specifically identifies the credit risk associated with the payment of utility bills. PPL has been using ERAM since 2001 and reports that it has been pleased with the use of ERAM and has received few PUC complaints regarding its use. Based on the informal experience of the Bureau of Consumer Services, vendors such as Experian (which offers a Telecommunications, Energy and Cable Risk Model) and TransUnion offer similar products. However, a utility is always free to propose any credit scoring product to the Commission and make the case that it is a "generally accepted" practice.

We must decline PGW's suggestion that utilities should be free to calculate a deposit based on the average annual bill of its customers in the same rate class. This would be contrary to the clear requirements of Section 1404(g) which specifies that the deposit must be based on the "...annual bill to the dwelling at which service is being requested for the prior 12 months, or, if unavailable, a similar dwelling in close proximity." We also must decline Phillips request that a utility be allowed to require social security numbers from all applicants. Instead, we note that we are proposing that a utility may ask for social security numbers; and if the request is refused, the utility may require one government-issued identification, or two alternative identifications, as long as one of them includes a photo. This variety of options should also address PGW's concerns with identification and when we specify "identification" we of course mean a valid identification; a utility is never required to accept a questionable or fraudulent identification.

While we understand Action Alliance's concerns with the proposal to eliminate the provision specifying that the absence of prior credit history does not, of itself, indicate an unsatisfactory credit risk, we must decline their suggestion to retain this provision. Section 1404(a) clearly leaves a utility free to rely solely on credit scoring to screen applicants if they so wish.

We agree with NFG and PULP that the proposed paragraph (vii) should mirror Section 1404(a)(1)(vii). We also agree with PULP's suggestions to make the language in paragraphs (iv),(v), (viii) consistent with Section 1404(a) and other parts of these regulations. We also agree with PULP that this section should reference only "applicants" and not "customers" as to avoid confusion.

§ 56.33. Third-party guarantors.

Allegheny Power, Duquesne, Equitable, PGW and Phillips recommend adding language that clarifies that a third party guarantor must be a customer who has or can establish credit under §56.32.

PULP submits that the language in this section referring to third-party guarantors is potentially confusing and requires clarification and that the § 56.33 would be more appropriate in a general subsection, not in its current position within a subsection applying only to applicants. The problematic passage is "This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility." The final two sentences of this segment, an almost verbatim quotation from Section 1404(b)(2), are potentially contradictory. "The guaranty must be in writing and state the terms of the guaranty" seems to suggest that the guaranty instrument can be structured so it limits the guarantor's liability to only those missed payments constituting the security deposit. However, PULP explains that the regulation goes on to state, "the guarantor shall be responsible for all missed payments owed to the public utility." This could be interpreted to mean the guarantor is responsible for both missed security deposit payments and any other outstanding balance the customer owes the utility. PULP believes that the Commission should use this opportunity to introduce clarity through the regulations. According to PULP, it is reasonable to read the language from Section 1404(b) referring to "all missed payments" to mean all missed payments only on the security deposit. It is further reasonable, PULP explains, because Section 1404(b) specifically states the purpose of the third-party guarantor is to stand in lieu of the cash deposit, not the customer or applicant's entire debt. Moreover, the rules governing guarantees for security deposits apply both to applicants and to customers. § 56.33 is currently positioned in a subsection dealing with only applicants. PULP requests that this be remedied by adding a reference to customers in § 56.33 and by relocating the section to a more general subsection of the regulations.

Discussion:

We agree with Allegheny Power, Duquesne, Equitable, PGW and Phillips and will add language to this section specifying that any third party offering to guarantee an account must themselves be able to meet the credit standard of the utility. It was probably not the intent of the General

Assembly in Section 1404(b) to allow an individual with questionable credit to guarantee the account of an applicant with questionable credit. Allowing such would be nonsensical and would defeat the purpose of Section 1404(b).

However, we disagree with PULP in that Section 1404(b) requires the third party guarantor to only cover missing payments towards the security deposit. The language of Section 1404(b) states that the guarantor "shall be responsible for all missed payments owed to the public utility" not just all missed payments owed on a deposit.

§ 56.35. Payment of outstanding balance.

Equitable believes that § 56.35(2) and § 56.35(2)(a) are slightly conflicting in that one states that the utility may not require payment for service furnished under someone else's name while the following section does permit such if the applicant resided at the property during the time the bill accrued. To clarify this, Equitable suggests adding to § 56.35(2) "unless the applicant resided at the property for which service is requested during the time the outstanding balance accrued not exceeding 4 years." However, the four-year restriction should not include fraud or theft. Allegheny Power also suggests clarifying this section by adding the phrase "except as noted in (a) and (b) below" to the end of § 56.35(2). Concerning the methods to establish applicant liability under § 56.35(2)(b), Allegheny Power suggests a combination of information provided by a landlord, historical company records and CAP applications should be accepted.

Equitable also suggests adding a paragraph that allows a utility to require the payment of an outstanding bill as a condition of furnishing an additional account to an existing customer whose current account is not being cancelled and is delinquent.

Allegheny Power and FirstEnergy object to placing liability procedures and standards in their tariff because it will deprive the utility of the ability to revise its business practices as needed and would amount to the Commission interfering with the business practices of management. Columbia objects to this requirement because tariff changes take a minimum of 60 days which would create a lag in the implementation of new methodologies.

PPL opines that it is not necessary to include in tariffs methods and standards that are already delineated in § 56.35(2)(a) and (b). However, PPL does recommend that the Commission require utilities that use "other methods" to include them in their tariff because the term "other methods" is vague.

NFG opines that Chapter 14 provides that any adult occupant is considered an applicant for purpose of applying for service. As such, if any of those individuals is "legally responsible" for a balance, the public utility may require that balance to be paid before it will furnish service to a

residence where such a person is an applicant and will be a customer. According to NFG, the proposed language of § 56.35(2) does not allow for this possibility and should be removed to maintain consistency. NFG also opposes including in tariffs the procedures and standards used to determine an applicant's liability for an outstanding balance since it is difficult to draft reasonable tariff language to address every such situation.

PGW suggests that the regulation should allow a utility to require an applicant to pay arrearages consistent with Section 1407(d) and for a time period which exceeds four years in instances of theft. In addition, the rules should specifically allow a utility to determine occupancy and residency based on a PennDOT issued license or identification card and information in the utility's own records such as previous applications for CAP, LIHEAP, medical certificates, payment agreements, customer contacts, Commission formal or informal complaints, customer correspondence, and bankruptcy petitions. PGW adds that Section 1407(e) gives the Commission the discretion to approve of these methods and requiring each utility to file tariff revisions specifically requesting approval to use these methods at some later date would be burdensome and unnecessarily delays resolution of this issue.

Phillips suggests adding the phrase "except with respect to any unpaid balance for utility service previously furnished to any other adult who will be residing with the applicant at the address where residential service is sought" to the end of § 56.35(2).

EAP believes that § 56.35(2) tries to resurrect the name game and is directly contrary to Act 201. According to EAP, if the utility can prove that an applicant received the benefit of utility service at another dwelling, Act 201 permits denial of service until full payment is made.

Action Alliance supports the Commission's clarifying language that such liability should not be assigned for service furnished more than 4 years ago since any longer period would create an unreasonable evidentiary burden and barrier to service for applicants who in fact did not reside at the property for all or part of the time period.

MidPenn is concerned with identity theft and with the current regulations under which a utility could hold an individual fully responsible for an outstanding balance of a previous account despite the individual not knowing or consenting to having the previous service in their name. MidPenn requests that the Commission specifically address this issue so that individuals whose name appears on company records as a result of identity theft not be considered liable for service.

PULP supports the requirement that all "alternate" credit procedures receive Commission approval prior to implementation. PULP also supports the Commission's modification of §56.35(b)(3), which requires public utility companies to include in their tariffs the procedures and standards they will use to determine an applicant's liability for an outstanding balance

accrued at a residence for which the applicant was not the customer of record. PULP supports the Commission's requirement that these procedures be placed into company tariffs so applicants have the tools they need to safeguard their interests and challenge utility allegations when those allegations are inaccurate.

With respect to § 56.35(b)(3), PULP requests that the Commission provide guidance in how utilities may apply the terms of § 56.191 to applicants pursuant to § 56.35. PULP explains that when an applicant is required to pay for service pursuant to § 56.35, the applicant should be judged based on the applicant's payment history with the utility, not on the customer of record's payment history. Therefore, where in the course of reconnecting service the utility attempts to make an occupant of that household responsible for a portion of the outstanding balance pursuant to § 56.35, the utility should not be allowed to apply § 56.191(c)(2)(i) and request full payment up front from the applicant (the prior occupant) based on the prior customer's poor payment history. Rather, PULP argues, it should be the applicant's (the prior occupant's) payment history that drives the application of § 56.191. Finally, PULP suggests that there may be times when it is inappropriate to assign liability to an applicant under this section and recommends that the Commission add to this section some clarification about when exceptions to the rule might apply.

IRRC also notes that subsection (b)(3) requires public utilities to include in the tariff procedures and standards for determining an applicant's liability for any outstanding balance. IRRC recognizes that several commentators have objected to this requirement, noting that including the procedures and standards in the tariff would hinder a public utility's flexibility to revise its business practices and that the standards for determining liability are already set forth in Chapter 14 and the Commission's regulations. According to IRRC, this rulemaking deletes existing language in subsection (b)(3) that prohibits a condition of restoration of service being payment of an outstanding balance of an account in the name of a person other than the applicant. Finally, IRRC submits that the final-form regulation should clarify the provision regarding restoration of service.

Discussion:

We agree with Equitable and Allegheny Power that paragraphs (2) and (2)(a) might appear to be conflicting. We will correct this by adopting Allegheny Power's and Phillip's proposal to add language to paragraph (2) that refers to the exception provided for in paragraphs (2)(a) and (2)(b). This should also address EAP's concerns with paragraph (2) facilitating the "name game."

We agree with PPL's recommendation that utilities place in their tariffs the "other methods" per Section 1407(e) that they will use to determine an applicant's liability for outstanding accounts because, as PPL points out, the phrase "other methods" is vague. Our original proposal to require

the tariffing of all methods is overly broad because it is unnecessary to itemize in the tariff the methods already provided for in this regulation and Section 1407(e), namely the use of "mortgage, deed or lease information" or "a commercially available consumer credit reporting service." However, Section 1407(e) also explicitly states that "other methods" used to determine liability must be "...approved as valid by the Commission." The tariff approval process is the most logical process to facilitate the approval of these methods. The tariff process provides the benefits of an established and standard procedure, is more efficient than requiring the filing of individual petitions with the Commission seeking permission, and provides notice to parties that facilitate the due process rights of all interested parties. No party in this proceeding has argued that the policy statement at § 56.31 has been voided by Chapter 14. § 56.31 declares that credit and deposit policies must be equitable and nondiscriminatory. Requiring the tariffing of liability standards used in the application process will bring about the transparency necessary to make sure that liability determinations are not being made in a discriminatory, inequitable manner. The purpose of a tariff is to have a utility's rules and rates in one central location, approved by the Commission, accessible to all, as to help prevent the discrimination in the application of these rules.

We disagree with PGW that the Commission should specify these "other methods" in this rulemaking because a uniform, blanket, one-size-fits-all approach would be inappropriate given that different utilities may have different capacities and abilities. Also, as PULP points out, these procedures and standards will be used to hold individuals responsible for account balances accrued by another individual and having this information in the utility's tariff will help safeguard the interests of individuals and assist challenges when the allegations are inaccurate. Everyone should have an opportunity to fully comment on these specific issues and authorizing these procedures in this rulemaking would possibly deny parties their due process rights.

We understand MidPenn's and PULP's concerns with erroneous and disputed determinations of liability. An individual should be held responsible for service only if they are truly responsible under the provisions of Chapter 14 and Chapter 56. However, we believe the dispute procedures found in Chapter 56 (§§56.140 -181) are sufficient recourse for applicants and customers who believe that they have been assigned liability inappropriately. This is one of the reasons we are proposing language at § 56.36(1) that requires utilities to provide information to applicants and customers on their right to contact the Commission if they dispute being held responsible for an account balance.

Regarding MidPenn's concerns with identity theft, the Commission, in its July 14, 2005 order *In re: Identity Theft* (M-00041811), declared that "...with regard to Chapter 56 regulations, it is anticipated that this issue will be addressed, as warranted, during the regulatory review necessitated by Chapter 14." (page 5). It is out of these concerns that we are proposing at §56.32 (relating to security and cash deposits) and § 56.36, for the first time in Chapter 56, language addressing applicant identification and third-party requests for service. These are two areas that

have never been specifically addressed in Chapter 56, but we now believe it is appropriate to do so. The new rules include what is considered acceptable applicant identification, but are flexible enough to provide options for both utilities and applicants. It is also out of concern with identity theft that language is being added to § 56.11 (relating to billing frequency); § 56.25 (relating to electronic bill payment) and § 56.32 (relating to security and cash deposits) reminding utilities of their obligation to use all reasonable methods to protect account billing and payment data and any sensitive private information provided to them by applicants and customers.

We agree with Action Alliance that a four-year limit on liability determinations is appropriate because it is consistent with other restrictions in relevant regulations and statutes. A longer period also presents unreasonable evidentiary burdens; few if any individuals maintain housing, utility, address, etc. records for a period exceeding four years. However, we agree with Equitable and will include language exempting instances of fraud and theft from the four-year limit. We will also clarify that the 4-year period should be dated "from the date of the service request" to lessen confusion about the application of this requirement.

To address the suggestions of IRRC and PULP that the application of §56.191 for the payment of outstanding balances be clarified, we will add language specifying that it is the applicant's payment history that determines the appropriate payment formula. We should also note that applying §56.191 to these instances is merely codifying Commission expectations as expressed in *Maureen Christian v. Duquesne Light Company,* F-02126762, (May 1, 2008) as follows:

> Additionally, according to Duquesne, pursuant to 52 Pa. Code § 56.35, it may require the payment of any outstanding residential account which has accrued over the preceding four years as a condition of furnishing residential service. Tr. at 54. We agree with Duquesne's classification of the Complainant as an applicant; however, the Company's reliance on 52 Pa. Code § 56.35 is misplaced, because it has been superseded by 66 Pa. C.S. § 1407(c)(2)(iii). (page 6).

We note that § 56.191 has been revised to align it with the requirements expressed in Section 1407(c)(2).

§ 56.36. Written procedures.

Allegheny Power, PECO, NFG, Equitable and PGW object to the proposed regulation at § 56.36 requiring the utility to include in its tariff the utility's credit and application procedures along with its credit scoring methodology and standards. According to these parties, Chapter 14 at 1404(a)(2) is clear that the applicant must establish creditworthiness to the satisfaction of the public utility as long as it is using a generally accepted credit scoring method that falls within the range of general industry practice. Moreover, credit scoring procedures and methodologies are proprietary information belonging to the credit scoring agency and it would be inappropriate

to place this confidential information in the tariff. Columbia also objects because this would result in delays in the use of new methodologies by vendors on behalf of their utility clients.

Duquesne reports that the details of credit standards can change frequently and that each tariff change can cost approximately $7,500 per filing. While it objects to providing this information in a tariff, it is willing to provide it to the Commission to ensure that the company is providing service under reasonable conditions to its customers.

Allegheny Power objects to requiring utilities to include in the credit denial letter to the applicant detailed information including the credit score and credit score provider, since the utility often does not have this detailed information. FirstEnergy, PECO and Columbia also object to providing the customer the credit score since a third party agency does not provide the credit score to the utility. FirstEnergy does agree that the utility should provide the contact information to register disputes and questions regarding the credit score.

Duquesne believes that a written denial statement is not always necessary and the utility should be free to provide this information verbally and not in writing. Conversely, if the application is done online via the utility's website, the utility should be able to provide a denial statement in writing, not verbally and requiring both methods in all situations should not be necessary.

Duquesne does not oppose including information on credit denial letters directed at PFA holders, but proposes removing the phrase "more lenient credit and liability standards may be available" and replacing it with "other credit and liability standards may apply."

PPL Electric agrees, in part, with the Commission's proposal that, "Public utilities must include in their tariffs filed with the Commission their credit and application procedures along with their credit scoring methodology and standards." PPL reports that they certainly could include a description of its credit and application procedures in its tariff. However, because a utility's credit and collection activities are dynamic rather than static and utilities are continuously analyzing results and implementing new initiatives to improve collections, PPL recommends a narrow definition of credit and application procedures. PPL also believes that there are two problematic areas that the Commission had not specifically addressed in § 56.36. First, PPL does not have a credit scoring methodology per se; they use Equifax's ERAM for credit scoring. ERAM assesses credit risk based on the customer's or applicant's payment of utility bills. PPL could provide an overview of ERAM's methodology, but the model itself is proprietary. PPL recommends that the Commission allow utilities to include in their tariffs a general description of credit scoring methodologies. If a utility has developed its own credit scoring model, then the utility could include that methodology in its tariff.

The second problematic area identified by PPL, under § 56.36(1), is that the Commission proposes that, "The written denial statement shall include the applicant or customer's credit

score, the provider of the credit score, information on the customer or applicant's ability to challenge the accuracy of the credit score and how to contact the credit score provider." PPL agrees with the suggestion to provide information to the applicant or customer regarding the provider of the credit score and how to contact the provider. PPL has been using this process since 2001, when it started working with Equifax. The troublesome area for PPL is providing the credit score to the applicant or customer. Employees at PPL, by design, do not have access to credit scores; all they know is whether the applicant or customer failed the credit scoring risk assessment. For reasons of customer confidentiality, PPL does not believe that its employees should have access to individual credit scores. There also may be a legal concern presented by the federal Fair Credit Practices Act (15 USC § 1681g (a)(1)(B)) regarding the sharing of credit scores. For these reasons, PPL would be concerned about sending letters to applicants or customers that included their individual credit scores. PPL recommends that the Commission delete this requirement from the written denial statement because it would be more appropriate for the applicant or customer to call the credit score provider to discuss and, if necessary, correct any data used to determine an individual's credit score. PPL suggests that the credit denial letter sent by utilities would include information on how to contact the credit score provider.

PGW suggests that the regulations should allow for the use of a credit scoring methodology of one of the three major national credit reporting agencies (CRA). PGW submits that denial of credit notification has been provided for in federal law under the Fair Credit Reporting Act (FCRA) and this federal law pre-empts the notification requirements set forth in the proposed regulations. PGW claims the FCRA expressly pre-empts the Commission from imposing notice requirements or prohibitions on public utilities taking adverse action on the basis of information contained in a consumer credit report. 15 U.SC. § 1681t (b)(1)(c).

EAP also states that the Commission's proposed requirements squarely conflict with Federal Fair Credit standard and should be rejected. EAP claims that the legislature was explicit in their word choice stating that creditworthiness is to be established "to the satisfaction of the public utility" per Section 1404(a)(2).

Concerning the proposed §56.36(3), PAWC questions what is the third party's responsibility with regard to any outstanding balance. PAWC suggests the third party be held to the same standard as the third-party guarantor as provided by Section 1404.

Action Alliance supports clear notice to applicants of reasons for denial of credit and of dispute rights if the applicant disagrees with the denial of credit. Action Alliance believes that tariff filings should be served on interested agencies, including statewide and local legal services programs and agencies serving victims of domestic violence. Action Alliance believes that no more than one person can be billed at the same time for a particular outstanding balance and that the unpaid outstanding balance will revert back to the originally named customer who later applies for service at another address.

The CAC supports the Commission in its assertion that credit standard procedures be as transparent as possible and is correct in stating that these procedures need to be as transparent and fair as possible and subject to challenge whenever error or misuse occurs and that all credit related methodologies be included in the tariff. The Commission has proposed, and the CAC supports the requirement that applicants and customers be provided detailed and complete information when they are denied credit from a utility.

The OCA supports requiring utilities to establish written procedures for determining credit status and for determining responsibility for unpaid balances and to make these procedures available to the public. OCA recommends that the regulations make clear that the information must be well marked and prominently disclosed. Moreover, the OCA has identified additional pieces of information that should be required in the written denial. The acceptable credit score should be included in the denial statement because while the proposed regulation requires the customer's credit score to be provided, the customer may have no means of determining how that credit score compares to the requirement. Knowing one's credit score in relation to the required credit score would assist the applicant in deciding next steps. OCA also suggests that the applicant be provided with information on how to dispute the accuracy of their credit score. Finally, OCA asks that the written denial also include information on the applicant's rights under the Fair Credit Reporting Act.

PULP supports the requirement that applicants and customers be provided with detailed and complete information when denied credit from a utility. PULP also supports the Commission's requirement that utilities must include in their tariffs their credit and application procedures along with their credit scoring methodology and standards. PULP requests that the Commission clarify that these procedures should be made available on the company website in a standalone section in addition to being included within the company's tariff posted on the website.

PULP supports the Commission's inclusion of § 56.36(b)(1) requiring that utilities provide to applicants and customers the facts and rationale for the denial of creditworthiness or the assignment of responsibility for an outstanding balance. However, PULP submits the Commission should go further since the proposed regulations do not obligate utilities to provide applicants with specific information about their right to dispute with the utility the denial of creditworthiness or how they may appeal the utility decision before the Commission. PULP also notes that the section uses both of the terms "applicant" and "customer." The section, however, falls under the heading dealing with only "applicants." To prevent confusion, PULP recommends the Commission move § 56.36 so that it falls after the heading "Subchapter C: Credit And Deposits Standards Policy" and before the heading "Procedures For New Applicants."

IRRC first questions with respect to subsection (b)(1) what is the need for oral notification. Finally, IRRC states that the final-form regulation should explain whether the FCRA prohibits

disclosure of a consumer's credit score to the consumer, and why providing this information is necessary.

Discussion:

We agree with EAP, Allegheny Power, PECO, NFG Equitable and PGW that Section 1404(a)(2) clearly states that applicants must establish creditworthiness to the satisfaction of the public utility. While the utility is free to establish the acceptable credit score, there is nothing in Chapter 14 that states that the standard cannot be disclosed. The use of undisclosed, secret credit standards is inimical to the public interest, and contrary to the spirit of the policy statement at §56.31.

We believe that credit policies should be as transparent as possible to ensure that they are equitable and nondiscriminatory. By placing these policies in a legal document, such as a tariff, this will provide the transparency necessitated by § 56.31. It was never intended that utilities disclose confidential or proprietary information, although we agree that we must clarify our intent and carefully delineate what is to be required. We agree with PPL when they state that they could provide an overview of their vendor's methodology and a general description of their policies and procedures. This would be similar to the information provided by PPL, Columbia, Equitable and Dominion in their petitions to the Commission seeking permission to use credit scoring to screen applicants as part of a pilot program. *See Petition of Columbia Gas of Pennsylvania and PPL Electric Utilities Corp. for a Limited Waiver of 52 Pa. Code § 56.32(2) (Relating to Residential Applicant Security Deposits)* P-00001807 and P-00001808, Public Meeting of February 8, 2001; and *Joint Petition of Equitable Gas Company and the Office of Consumer Advocate for Limited Waiver of 52 Pa. Code § 56.32(2) to Permit an Experimental Program to Determine Residential Customer Security Deposits Based in Part Upon Credit Scoring,* P-00011915, Public Meeting of November 9, 2001; and *Petition of the Peoples Natural Gas Company d/b/a Dominion Peoples for Limited Waiver of Regulations at 52 Pa. Code §56.32(2),* P-00021972, Public Meeting of September 12, 2002. For example, in the above cited order approving PPL's and Columbia's petition, it was noted that "Petitioners propose the use of Equifax's Energy Risk Assessment Model (ERAM) of credit scoring. Petitioners emphasize that ERAM credit scoring was developed specifically for electric and natural gas utilities and has consistently shown to be reliable, inexpensive, and efficient" (page 3). ERAM was also described:

> ERAM begins with an analysis of historical utility bill payment data from several gas and electric utilities. Over 300 credit attributes of past delinquent utility customer were analyzed to determine those credit attributes most predictive of delinquency with utility bills. These credit attributes included payment history of credit cards, bank loans, mortgages, collection cases filed, and debt write –offs, etc. ERAM then applies these credit attributes to prospective residential customers. Each attribute is assigned a weight

> or value. A higher value is assigned to accounts that are current, while a lower value is assigned to accounts that are past due. These values are added to form a score from 1 to 999. The higher the score, the more likely the applicant will pay a utility bill on time. Conversely, the lower the score, the less likely the applicant will pay a utility bill on time. (footnote 2 on page 3)

If the above cited orders and petitions could contain general descriptions of the credit scoring model used and its methodology, we do not see why any confidentiality or proprietary concerns should prevent this same information from being disclosed as part of a tariff filing. We agree with Action Alliance, CAC, OCA and PULP that these procedures and standards need to be transparent and in writing. As we have already discussed, the tariff process provides the benefits of an established, standard procedure with which all utilities are familiar and provides notice to parties that facilitate the due process rights of all interested parties. The purpose of a tariff is to have a utility's rules and rates in one central location, lawfully approved by the Commission, accessible to all, as to help prevent the discrimination in the application of credit standards. While we appreciate Duquesne's offer to provide this information to the Commission as an alternative to tariffing, this offer misses the point that it is applicants who need this information above all others. As such, we agree with PULP that application procedures and standards should also be posted on each utility's website in a logical, easily accessible location, and not simply buried within a tariff. The procedures should also specify the procedures for applicants with a Protection From Abuse (PFA) order. At the suggestion of PULP, we will also remove references to "customers" in this section so as to avoid confusion.

Concerning the denial of credit letters required by § 56.36(1), we agree with OCA that it would be useful to provide applicants with both their own credit score and the utility's standard score so that the applicant can compare the two scores and make an informed decision as to how to proceed. However, based upon the comments of PPL, Allegheny Power, FirstEnergy, PECO and Columbia, indicating that the utility does not receive the applicant's credit score from the credit score vendor, this proposal does not appear feasible and will be dropped. It is unsettling that an applicant can be denied credit from a utility, but not be informed of their failing score. This risks leaving the applicant with the impression of a secretive, opaque process that is contrary to the principles of transparency urged by parties like Action Alliance, CAC, PULP and OCA. As OCA points out, credit scores can be controversial and fraught with problems, and are often inaccurate or incorrect and can vary by credit reporting agency. As such, we must disagree with Allegheny Power's objection to providing not only the applicant's credit score, but also providing the credit score provider. Although we are dropping the requirement to provide the applicant's credit score, we agree with OCA and PULP that the credit score vendor must be identified, along with information as to how to contact the vendor and dispute their scoring, and the applicant should also be informed of the acceptable, standard credit score. It is important to provide the acceptable score because, as OCA points out, this is information used by the applicant in deciding what their next steps should be. For example, if the customer's credit score

is close to the acceptable score, it may benefit the applicant to examine their credit report and dispute possible minor errors; whereas if the gulf between the scores is large, it may not be a useful exercise since the correcting of minor errors may not have enough of an impact to change the final determination of credit.

We agree with Duquesne that informing the applicant of the reasons for the denial does not have to be provided both verbally and in writing, and will revise this proposal to omit the verbal provisions. We note that it is common sense that if an applicant has applied for service verbally over the phone or in person, they should be informed as to the result at that time and not have to wait for a written document. However, Duquesne correctly points out that not all applications are done verbally and that this trend may increase in the future as more utilities offer online and electronic applications. By omitting the verbal notification requirement, along with allowing electronic notification, this will facilitate the movement to electronic and online transactions, and this will present cost-saving opportunities for utilities and further conveniences for their customers and applicants.

We disagree with Duquesne when they ask us to change the notification to PFA holders to state "other credit and liability standards may apply" because this phrase is dangerously vague and may actually discourage a PFA holder from exercising their important rights. An individual with a PFA may be in a desperate situation and needs to understand that assistance may be available, not just that "other standards" may apply. If Duquesne fears that this information may invite misuse, possible misuse by a small number of individuals is not sufficient justification to deny important information to everyone. We must also note that the new language uses the terms "*may* be available," not "are available" (emphasis added) because there may be situations, based on the individual's circumstances, where the utility's conditions for service do not differ significantly for an applicant regardless of a PFA; the outcome is similar regardless of whether Chapter 14 rules are applied or not. While it is important to provide PFA holders with their rights and to encourage them to exercise them, at the same time we do not want to over-promise specific results. We believe the new language is a reasonable middle-ground that provides important information, without promising a specific result.

Concerning the proposed § 56.36(3), as already discussed, the Commission previously announced its intention to address identity theft in this rulemaking. In its July 14, 2005 order *In re: Identity Theft* (M-00041811), the Commission declared that "...with regard to Chapter 56 regulations, it is anticipated that this issue will be addressed, as warranted, during the regulatory review necessitated by Chapter 14." (page 5). It is out of these concerns that we are proposing at §56.32 (relating to security and cash deposits) and § 56.36, for the first time in Chapter 56, language addressing applicant identification and third-party requests for service. Third-party requests for service have never been specifically addressed in Chapter 56, but we now believe it is appropriate to do so. This is also simply reflecting longstanding Commission expectations, as

first addressed in an August 31, 1978 Secretarial Letter from then-Commission Secretary C.J. McElwee, the text of which follows:

> Transfer of residential utility accounts.
>
> NOTICE
>
> The Commission has become increasingly concerned that some utilities transfer service from one account name to another after receiving a telephone request to do so; no attempt is made to verify the legitimacy of the request. It is the Commission's view that this practice is inconsistent with reasonable managerial control. It allows the ratepayer to shift his bill paying responsibility to another party who may be unaware of the transfer. Further, it places the utility in the position of not having substantiated the validity of the transfer; this frequently results in noncollectibility for service rendered.
>
> The Commission strongly urges you to verify all requests for transfer of accounts, if you are not already doing so.

We also note that third-party requests for service have been the subject of Commission informal investigations. For a recent example, see *Law Bureau Prosecutory Staff Informal Investigation of the Pennsylvania Electric Company Service Terminations in Hastings and Erie, Pennsylvania,* M-00051906, (October 6, 2005). In this case, one of the allegations of the prosecutory staff was the establishment of the account in question by a third party; a request that was never verified with the customer of record. The new rule prohibits a utility from accepting applications for service from third parties without somehow verifying the legitimacy of the request. However, the rule does not mandate a specific procedure and is flexible enough to provide options for both utilities and applicants, based on the management discretion and experience of the utility. This flexibility is an acknowledgement that in some limited situations, a third-party request for service is appropriate, so we do not want to prohibit the practice outright. We also want to respond to PAWC's comments about the liability of a third party in these circumstances. The language at §56.36(3) addresses only the application of service; not the liability for such. For liability determinations, a utility should be guided by the regulations such as the definitions of *customer* and *applicant* at § 56.2 and the provisions of § 56.35 relating to the payment of outstanding balances.

§ 56.37. General Rule.

Allegheny Power and Columbia recommend that language be added to clarify that this provision only applies to standard reconnects and does not include new service installation/service extension type conditions. Columbia also suggests adding "or when the applicant fails to provide the necessary access to provide service" to the end of the second sentence. NFG requests specifying that the utility be required to "make a bona fide attempt" to provide service

within three "business days" because, despite the best efforts of the utility, circumstances prohibit providing service in three days and for utilities who do not perform service work on Saturdays, limiting the timeframe to three calendar days could be burdensome. PAWC asks the Commission to define and specify "all requirements."

PGW suggests that per Section 1407(b)(5), a provision should be added allowing seven days when street or sidewalk digging is required.

Phillips suggests as to encourage the prompt return of signed gas service contracts from an applicant, the phrase " and has signed and returned any gas service agreement or contract required by the public utility to commence service" to the end of § 56.37.

Action Alliance proposes that the additional language proposed in § 56.37 should be clarified. Action Alliance recommends changing the language to "once an applicant's application for service is submitted to the utility," so that the three-day clock runs at the time of submission and not at a time that the public utility decides to "accept" the application. The phrase "provided that the applicant has met all requirements" should be modified by adding "regulatory" before the word "requirements" because this will prevent utilities from adding their own additional requirements beyond those provided in regulation.

PULP requests clarification from the Commission on how the three-day time limit in this section reconciles with the reconnection timing requirements at § 56.191 and those at Section 1407. In situations where an applicant is seeking to restore service, § 56.191 and Section 1407 provide different timeframes than the three-day timeframe in § 56.37. It is unclear which timeframe will apply. PULP requests clarification on this point from the Commission.

IRRC notes that this section allows a utility to provide service to an approved applicant within three days and questions how did the Commission determine this was a reasonable timeframe. In addition, approval is contingent on the applicant meeting "all requirements," yet the regulation does not explain what these are. According to IRRC, the final-form regulation should clarify this phrase.

Discussion:

The addition to this regulation is intended to bring this section into alignment with the timeframes found in Section 1407(b). Apparently the General Assembly found a three-day time period reasonable since this is what they provided for in reconnecting service under most circumstances in Chapter 14. Historically, this section has had a three-day timeframe that applied to the utility's investigation of credit. However, it has been a source of confusion, since technically this timeframe has only applied to instances where the utility's credit investigation takes longer than three days. Not explicitly addressed are situations where the credit

investigation does not take three days. The additional language to this section should address this confusion by making it clear that the three-day limit applies in either case.

We agree with Allegheny Power and Columbia and will clarify that this provision does not apply to new service installations or service extensions. These type of services can take weeks, even months, depending on the construction work involved, and mandating a timeframe for such work is simply not feasible. We also agree with PGW and will include language specifying a seven day timeframe where street or sidewalk digging is required because, again, this will align this regulation with Section 1407(b). We agree with NFG and will revise the proposal to require only a bona fide attempt at providing service because the actual provision of service may rely on factors beyond the utilities control, such as access to the property. We will also specify that the three-day timeframe refers to "business days" to address NFG's concerns with weekends. We will also add language requiring the utility to let a customer know if service can not be provided within the timeframes specified by this regulation and to provide an estimated timeframe. This will allow customers to make informed decisions as to their plans regarding moving, etc.

Finally, we agree with IRRC and Action Alliance that the phrase "all requirements" needs to be clarified and will do so by stipulating that the requirements to be met are "regulatory" requirements.

§ 56.38. Payment period for deposits by applicants.

Allegheny Power submits that there are generally two scenarios for applicants; those seeking restoration of service and those seeking new service. Under Chapter 14, these two groups have different deposit payment requirements. Allegheny Power submits that applicants seeking to restore service should be required to pay 50 percent of the deposit as a condition of restoration, and the remaining deposit in two additional installments; 25 percent after 30 days and the final 25 percent due after another 30 days. Other applicants seeking new service should be required to pay the full amount of the security deposit before service is provided. FirstEnergy agrees with Allegheny Power on this point.

Duquesne's and NFG's position is that § 56.38 should be stricken from the regulations because, as proposed, it conflicts with Section 1404(a) of Chapter 14. Equitable believes that the phrase "prior to...providing utility service" at Section 1404 denotes that the utility has the right to collect a security deposit before providing service.

PECO believes that the Commission's proposal does offer some of the simplicity benefits noted by the Commission and is willing to work with the 50% / 25% / 25% approach. However, they suggest the language be changed to bring the due dates for the deposit installments in line with the due date of regular bills. PECO suggests revising the wording to "A customer paying a

deposit based on the grounds at § 56.41(2) may be required to pay 50% as part of the condition of restoration, with 25% to be billed on the customer's next regular bill and due on the due date for all charges on that bill, and the remaining 25% charged on the following month's bill with payment due on the due date for all charges on that bill.

PGW notes that under Section 1404(f), a deposit required by PGW must be paid in full at the time PGW determines a deposit is required; 90 days is not allowed for new PGW customers or certain applicants. PGW requests that this section be revised to make this clear that this section only applies to deposits requested under §56.32(a)(1).

EAP notes that the proposed Section 56.38 prohibits a utility from requiring full and immediate up-front payments of an entire deposit amount, except in the case of PGW. This reflects the view of the Commission that had the General Assembly intended to impose the same requirements on all utilities, they would not have made the distinction for PGW. However, EAP's position is that under 1404(a) and (e), a public utility shall not be required to provide service to an applicant without their paying the full amount of the cash deposit if the applicant fails to pass the creditworthiness test of the utility. EAP believes that the language of the statute is clear and that the utility has "the right to collect a deposit...prior to or as a condition of providing utility service" and "a public utility shall not be required to provide service if the applicant fails to pay the full amount of cash deposit" per Sections §1404(a) and (e). According to EAP's legal opinion, where there is a conflict between the statute and a regulation purporting to implement the provisions of the statute, the regulation gives way. *Department of Transportation v. Colonial Nissan, Inc.*, 691 A.2d 1005 (Pa. Commw. 1997); *Dauphin County Social Services for Children and Youth v. Department of Public Welfare*, 2631 C.D. 2003 (Pa. Commw. 2004). If the deposit is paid in installments as proposed, then service would be provided prior to receipt of the full deposit and EAP believes that this is contrary to the statutory language.

Action Alliance notes that the option to pay a deposit in installments, provided at § 56.38 and §56.42, cannot be elected unless the applicant actually knows of the option. Action Alliance supports the Commission's proposal at § 56.38 to require utilities to "advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested."

The CAC believes that the requirement to pay security deposits to multiple utilities acts as a barrier to receipt or to reconnection of utility service for many individuals with limited economic resources. CAC notes that the Commission should use particular care to ensure that the Chapter 14 public policy purpose of "ensuring that service remains available to all customers on reasonable terms and conditions" is not thwarted by the imposition of security deposit requirements that may exceed the specific requirements of Chapter 14. Given the high number of customers entering the winter without a source of safe heating, CAC advises the Commission that security deposit requirements should be interpreted as liberally as possible. The CAC supports the determination by the Commission that §1404, except in the case of PGW, does not

require immediate, up-front payments of the deposit amount and thus allows payment over a full 90-day period. Based on its comments concerning §56.42, PULP recommends eliminating § 56.38 in its entirety.

IRRC notes that the proposed language adds a sentence permitting applicants to pay the security deposit in installments. However, IRRC notes that Chapter 14 specifically prohibits the Commission from prohibiting a utility from requiring a cash deposit "prior to or as a condition of providing utility service." IRRC maintains that the final-form regulation should explain how this provision is consistent with Section 1404(a) and (e) and Chapter 14 does not make a distinction between security deposits paid by applicants and new applicants.

Discussion:

Deposit payment timeframe requirements in Section 1404 are the subject of much confusion and debate, evidenced by the comments submitted on this section. This is an area where reasonable people can disagree because different interpretations are possible. The Commission, in its proposal, attempted to simplify security deposit timeframes by advancing an interpretation of Section 1404 that would facilitate the use of a standard time period for almost all applicants and most situations (with the notable exception of PGW, for whom there are clearly different and specific rules). This interpretation was based on the fact that while Section 1404(f), which applies to the Philadelphia Gas Works, clearly specifies that a deposit must be "...paid in full at the time the city natural gas distribution operation determines a deposit is required," this precise language is missing from Sections 1404(a) and (e), which apply to utilities other than PGW. This was seen as not only an aid to consumers who must comply with these rules but also to utilities that have the burden of administering the rules and applying the appropriate time periods.

The Commission's attempt at simplification was supported by many parties including PECO, CAC and Action Alliance. However, the Commission's proposal was opposed by Allegheny Power, FirstEnergy, Duquesne, NFG, Equitable, PGW and EAP. IRRC also questioned the basis for the Commission's proposal. While we still believe that the Commission's original proposal is reasonable and a supportable interpretation of Section 1404, given the objections to the proposal, we will revise the proposed regulation. The regulation will now require applicants who have to pay a deposit for failing to meet the utility's credit standards at § 56.32 to pay a deposit, in full, prior to the provision of service. Applicants who have to pay a deposit to restore service under § 56.41(2) will be allowed to pay by installments. The utility is free, of course, to accept a more lenient payment schedule if the utility so chooses. We admit that this proposal does mean that there are differing deposit payment periods depending on the applicant's and customer's circumstances (refer to § 56.42) which may present some confusion for consumers. We remind utilities that the responsibility is upon the utility to make sure that the appropriate time period is

applied.

§ 56.41. General rule.

PGW opines that per Section 1404(a)(2), a utility may require an existing customer to provide a deposit if the customer is unable to establish creditworthiness through the use of a commercially available consumer credit reporting service.

EAP states that § 56.41(1)(i)(a) has the utility sending notice to a perpetual non-payer that they get one more bad payment before a deposit will be required. EAP believes that this is bureaucratic, costly and does not serve the public interest.

Action Alliance is concerned with excessively broad readings of § 56.41(1) that allow deposit notifications being sent to any customer who has a delinquency no matter how small. As a result, customers with small outstanding balances, which either in practice or under regulation (less than $25) would not result in the utility's placing them on the collection path, have been served with purported § 56.41(1)(i) notices. Action Alliance notes that § 56.41(1) is prospective, and only sanctions with a deposit request the failure, *going forward*, to pay a current bill and the next bill in full and on time and/or three bills which may include the current bill in the next twelve months after notification. Action Alliance submits that two consecutive missed payments or payments which are less than the amount billed, or three such payments in a twelve month period only gives the utility the right to send a § 56.41(1)(i) notification. Action Alliance contends that the right to actually demand a payment must be based on the prospective payment pattern established by the customer's payments for the current bill and for future bills. In other words, Action Alliance submits that a customer's payment pattern in the months prior to service of the current bill and notification cannot be utilized as the basis for requiring a deposit.

In addition, Action Alliance submits § 56.41(1)(i) requires a specific written warning to the customer that their conduct will not be allowed to continue in the future without sanction and that a non-personal generalized statement of company policy regarding deposit requests to existing delinquent customers included on the "Message Center" part of a customer bill is not an appropriate notification under § 56.41(1)(i). Action Alliance opines that while the Commission may have historically encouraged utilities to utilize the authority provided by § 56.41(1) as a collection tool to control uncollectibles, the means that have been authorized are limited, and should not allow interpretations which exceed the bounds of reasonableness. For these reasons, Action Alliance requests that the Commission clarify § 56.41(1) by including a $100 threshold; requiring written notification that informs the customer that a deposit will be required if the current monthly bill and the next monthly bill, or three monthly bills in the next twelve months including the current bill are not paid on or before the due date and that the customer's prior delinquent payments identified by billing dates caused the notice to be sent and that the public

utility may require a deposit of up to two-month's average bill. Action Alliance adds that the notice must be in a document entitled "warning" which is separate from the bill and contains no other information not related to the notification. Action Alliance states that the notice should also specify that the customer may elect to pay the deposit in three installments and that the public utility may hold the deposit for a maximum period of 24 months or until the customer has paid bills in full and on time for 12 consecutive months, whichever is sooner.

Action Alliance further asks that § 56.41(1)(ii) be revised so that the term "equal monthly billing plans" be changed to "budget billing plans" to be consistent with a related proposed change at §56.12(7). Also, within §56.41(1)(ii)(A), the terms "payment agreement" in the context of §56.14 (make-up bills) should be replaced with the term "installment arrangement" because a "payment agreement" is a specialized arrangement that is very limited in availability under Chapter 14, so the terms should not be used for arrangements that do not fit strictly within its definition.

PULP recommends the elimination of the word "informal" in the two spots it appears in §56.41(3). This recommendation follows from the comments made in association with the definition of "informal dispute settlement agreement" under § 56.2.

The WPCNB opposes requiring customers who are late paying their utility bills to pay a security deposit. With the current bad economic conditions, consumers who were having trouble paying their bills in the past are experiencing even more difficulty now and many consumers who were able to pay their bills are facing layoffs that have devastated their families and threatened their very survival. According to WPCNB, having to pay the security deposit in addition to the regular monthly bill is a hardship that can lead to termination of service if the deposit is not paid.

IRRC notes that subsection (l)(ii) refers to "equal monthly billing plans" and suggests that in order to be consistent with § 56.12, the final-form regulation should replace this term with "budget billing."

Discussion:

Concerning § 56.41(1), EAP objects to providing a customer with a notice of a possible deposit, while Action Alliance thinks the notice requirements need to be augmented. We believe the current, longstanding notice requirements are a reasonable middle ground and we will retain this traditional language. And while we understand and sympathize with Action Alliance's and WPCNB's concerns with the burden that assessing a security deposit on an existing customer presents, especially regarding low-income customers, removing this option or significantly altering it as requested would be counter to the intent of Chapter 14, which is to provide more, not fewer, collection tools to utilities. We note that Chapter 14 has little if anything specifically addressing security deposits for existing customers, and urge utilities to apply the provisions of §

56.41 with care and flexibility. There may be accounts with individual circumstances in which the assessment of a security deposit on an existing customer might actually exacerbate a collection problem, not remedy it.

We agree with IRRC that the term "budget billing" should be used as to align this section with § 56.12(7) and we also agree with PULP that the term "informal dispute settlement agreement" should be aligned with the definition in § 56.2.

§ 56.42. Payment period for deposits.

PPL recommends that the Commission harmonize the two different payment periods for deposits set forth in this section. If the customer has been delinquent in the payment of any two consecutive bills or three or more bills within a 12-month period and as a condition for reconnecting service, a utility may require some customers to pay a security deposit. PPL suggests that the Commission establish the same payment period for payment of deposits under both scenarios: 50% upfront, 25% payable 30 days later and 25% payable 60 days after the initial 50% payment. PPL believes that providing customers with 60 days to pay deposits is a reasonable amount of time.

PGW suggests that only certain applicants have up to 90 days to pay a deposit, not customers, and that this proposed regulation applies to customers.

In situations when a utility may request a deposit, Action Alliance agrees with the Commissions' proposal "establishing a payment period that requires 50% payable upon the determination by the public utility that the deposit is required, 25% *billed* 30 days after the determination and 25% *billed* 60 days after the determination." Action Alliance explains that this rule would allow for compliance with Section 1404(h) providing for a 90-day time period and corrects earlier rules that only allowed up to 60 days for payment of the deposit. Action Alliance requests that the proposed § 56.42 should be modified to reflect the Commission's intentions, by correcting those terms that allow for only 60 days to pay the deposit.

Action Alliance urges the Commission to adopt the OCA's initial recommendation that customers should not be required to pay a deposit to reconnect service since Section 1404(a)(1) uses the terms applicant and "...was a customer." Action Alliance reasons that since the Commission ruled in the Implementation Order that a customer remains a customer, so "is a customer," until the final bill is due and payable, a customer should be able to reconnect service without paying a deposit, absent other grounds for a deposit request. Action Alliance also notes that customers in distress following a recent service termination should not be required to raise money for a deposit, over and above the reconnect fee and an upfront payment on the outstanding balance under Section 1407, in order to restore life-essential service. Therefore,

Action Alliance recommends that the Commission not adopt the proposed new language in §56.42 that provides for deposits for existing customers, which would include customers seeking restoration of service after a recent termination of service.

Action Alliance notes that the option to pay a deposit in installments, provided at § 56.38 and §56.42, cannot be elected unless the applicant actually knows of the option. Action Alliance supports the Commission's proposal at § 56.38 to require utilities to "advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested." Likewise, Action Alliance submits that utilities should also be required to provide this notice of an option to pay in installments to existing customers who are charged a deposit under § 56.42. Action Alliance requests that "A public utility shall advise a customer of the option to pay the requested security deposit in installments at the time the deposit is requested" should be added to the end of § 56.42.

PULP supports the determination by the Commission that Section 1404, except in the case of the Philadelphia Gas Works, does not require immediate, up-front payments of the deposit amount and the deposit may be paid over a full 90-day period. According to PULP, this determination will create greater simplicity and understanding of the payment procedure and corresponds to the correct statutory construction and legislative intent.

PULP observes that the Commission's statement in Attachment One to its Chapter 56 Order regarding the payment of security deposits is at odds with the proposed regulations at both §§56.38 and 56.42. PULP recommends the Commission correct this problem by adopting the standard enunciated in Attachment One, a standard which PULP believes is simpler, more easily implemented by practitioners, and which provides a single standard for security deposit payment. Given the Commission's clearly stated preference in Attachment One for the simplicity and clarity of a single payment structure for all parties, PULP recommends the regulatory language should directly reflect the Commission's intent.

Discussion:

For reasons discussed previously (refer to §56.38), the Commission is revising its original proposal to apply uniform security deposit payment periods for most applicants and customers in most situations. The deposit payment time period will vary depending on the grounds on which the security deposit was assessed. If the deposit was assessed on an existing customer per § 56.41(1), then the traditional installment plan will be maintained, since Chapter 14 is silent on these deposits. However, if the deposit was assessed because a customer defaulted on a payment agreement per Section 1404(a)(3) and § 56.41(3), then the deposit must be paid in full up front per Sections 1404(a) and (e). If the deposit was assessed as a condition of reconnection per 1404(a)(1), then the deposit can be paid in installments per Section 1404(h).

We concede that this is not simple and may be a source of confusion for both consumers and utilities. As discussed previously (refer to §56.38), while the Commission's attempt at simplification in its original proposal was supported by many parties including PECO, CAC, PULP and Action Alliance, it was opposed by Allegheny Power, FirstEnergy, Duquesne, NFG, Equitable, PGW and EAP. IRRC also questioned the basis for the Commission's proposal. While we still believe that the Commission's original proposal is reasonable and a supportable interpretation of Section 1404, given the objections to the original proposal, we will revise the proposed regulation by stipulating varying deposit time periods as outlined above.

We also acknowledge PPL's point that it is counterintuitive to provide customers whose service has been terminated and have thus demonstrated the highest level of risk with an extended period of time to pay their deposits; while other customers who may not have demonstrated such risk have to pay in full immediately. However, Section 1404(h) is clear in that those who have to pay a deposit because their service had been terminated get 90 days to pay the deposit. As such, we have to conclude that this is the result intended by the General Assembly.

We must disagree with Action Alliance when they urge that customers should not be required to pay a deposit to reconnect service because Section 1404(a)(1) uses the term "applicant" and that a "customer" remains a "customer" until the final bill is due and payable. While we understand Action Alliance's concerns with the burden this imposes, especially with low-income consumers who are already struggling to pay service restoration terms, we must point out that Section 1404 opens with the phrase "In addition to the right to collect a deposit under any Commission regulation or order..." Under Commission regulations, utilities have had the right, under §56.41(2) to collect a deposit as one of the conditions of reconnection of service after termination. We do not think it would be appropriate to take away this collection tool when the intent of Chapter 14 is to provide utilities with more collection tools, rather than fewer. We again remind utilities to exercise care and flexibility in applying these provisions because there may be individual circumstances, especially involving low-income consumers, where the imposition of a security deposit will exacerbate a collection problem, not ameliorate it.

We agree with Action Alliance that a consumer who has the right to pay a deposit in installments should be informed of this right and will revise the regulation to specify this. We also agree with Action Alliance that when a consumer can pay a deposit in installments, they should be provided with the 90-day period as specified in Section 1404(h).

§ 56.43. Deposit method; cash deposit or composite group.

NFG agrees that § 56.43 should be removed from the regulations.

Discussion:

This section is being removed because composite credit groups were eliminated as an option when Chapter 56 was last revised in 1997. The retention of this section was an oversight, which we now propose to correct.

§ 56.51. Amount of cash deposit.

PGW opines that this proposed regulation should address only the amount of deposits for customers because deposit requirements for applicants have already been addressed in § 56.32 and do not have to be restated in this section.

Action Alliance likewise notes that the proposed language to § 56.51(a) is redundant with the language at § 56.32(a) also relating to deposits for applicants. If this proposed language is adopted, Action Alliance believes that § 56.51(a)(2) should also include as its last sentence the same language already proposed for the last sentence of § 56.32(a)(2): "The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment." The methodology used to determine creditworthiness should be uniform throughout Chapter 56 and should be narrowly tailored to assess the risk of utility bill payment and not of payment history of debts of significantly different character.

PULP submits that § 56.51(a)(1)(iii) requires some clarification. The subsection permits utilities to require a cash deposit where there was a service termination resulting from the utility being denied access to the meter or service connections. This language is problematic because there are a variety of situations in which utility personnel might be denied access to a meter through no fault of the customer of record. In these instances, a customer should not be penalized for actions not his or her own. For example, where a landlord forbids access to a meter on the landlord's premises or where the meter is in a common area over which the customer has no exclusive control, the customer of record should not be penalized with the assessment of a security deposit as a result of the utility's inability to access the meter.

Discussion:

We agree with PGW and Action Alliance that much of the language in the proposed regulation is redundant and unnecessary. The grounds for deposits are already outlined in other sections (refer to § 56.32 and § 56.41) and do not have to be repeated in this section. We will add language from Section 1404(g) addressing the calculation of security deposit amounts. We will also delete the reference to minimum deposit amounts of $5 as being outdated.

§ 56.53. Deposit hold period and refund.

PPL reports that it has discovered that some customers do not establish a timely payment history over 12 months; they pay late, they pay inconsistently but they do not have their service terminated. When this happens, PPL explains that it refunds the security deposit to the customer at the end of the 24 months, and then immediately bills the customer for another security deposit. According to PPL, this process is time-consuming, confusing to customers and presents more risk for utilities. For these types of situations, PPL recommends that the Commission permit utilities to hold security deposits until the customer establishes a timely payment history as defined under § 56.53(b), even if that period extends beyond 24 months. PPL believes that the use of the conjunction "or" in § 56.53(a) provides this flexibility to the Commission.

Action Alliance recommends insertion to the end of § 56.53(a) the words "whichever is shorter" so that the public utility will not have the option of holding the deposit for 24 months if the timely payment history is established in a shorter period of time.

PULP supports the Commission's inclusion of a section that lays out clear rules for how long a security deposit may be held. PULP recommends adding "whichever is shorter" to the end of this section as this will clarify that a customer can receive back a security deposit by achieving a sound payment history and so should encourage good bill payment.

Discussion:

PPL wants the Commission to specify that a deposit retention period can be longer than 24 months; while Action Alliance and PULP want the Commission to insert language specifying that "whichever is shorter" should apply. We disagree with PPL because the plain language of Section 1404(c)(1), including the word "maximum," appears to indicate that 24 months is indeed the longest period that a deposit can held by a utility. We also disagree with Action Alliance and PULP that the timeframe is the shortest one provided. Again, based on the plain language of Section 1404(c)(1) and the use of the word "or" appears to indicate that either option is available to the utility. We believe that an interpretation of this section between the extremes advocated by the parties is a reasonable middle ground; a deposit can be held until a good payment history is established or for a maximum period of 24 months.

§ 56.54. Application of deposit to bills.

Allegheny Power and Equitable suggest that § 56.54 be eliminated because it conflicts with §56.53(4)(c) and § 66.1404(c)(3).

Duquesne suggests that this section be clarified as to state "If a customer is eligible to have all or a portion of the security deposit returned as required in § 56.53, the customer may choose to have it refunded or credited to the account to pay future bills."

Phillips opines that the customer election as to the disposition of the security deposit, as set forth in § 56.54 appears to be in conflict with the options reserved to the public utility at § 56.53(c),(d) and (e) and, accordingly Phillips proposes that the phrase "subject to the rights or options of the public utility, as set forth herein at § 56.53(c),(d) and (e)" be added to the beginning of § 56.54.

IRRC notes that the existing language in this section allows a customer to seek a refund of a deposit; however, a commentator is concerned that this language conflicts with proposed language in § 56.53 (c),(d) and (e) which allows only partial refunds, based on various circumstances. IRRC questions how the process for refund is consistent with each of these subsections.

Discussion:

We agree with Allegheny Power and Equitable that this section should be eliminated because it conflicts with § 56.53(4)(c) and § 66.1404(c)(3). This should also address the concerns of IRRC and Phillips.

§ 56.55. Periodic review.

NFG agrees that § 56.55 should be removed from the regulations.

Discussion:

We have eliminated this regulation because it is inconsistent with Section 1404(c). Deposit retention regulations are now found at § 56.53.

§ 56.57. Interest rate.

PECO currently returns deposit interest over the course of holding the deposit. The proposal to require utilities to accrue interest until the deposit is returned or credited is less customer-friendly and would require considerable re-programming dollars to achieve this. PECO suggests allowing utilities to implement either procedure.

Discussion:

The proposed language from this section was lifted substantially verbatim from Chapter 14 and so we must decline PECO's suggestion. Section 1404(c) states that the utility shall "...return such interest with the deposit" and we do not think PECO's proposal to return the interest over the life of the deposit is in keeping with the plain language of this section.

§ 56.58. Application of interest.

We will delete the word "annually" from this section as to align it with Section 1404(c)(6).

§ 56.72. Discontinuation of service.

NFG does not agree with the addition of the proposed language of § 56.72(1) requiring a customer to state that all other customers in the household consent to the cessation of service. NFG suggests that to address situations where one customer is leaving a household and other customers remain, or is otherwise ceasing to be a customer at a specific address, the individual that is no longer a customer should simply be removed from the account after demonstrating they are, in fact, no longer a customer. NFG believes that requiring a utility to post a notice at the premises would lead to significant cost increases with little return value.

Action Alliance notes that the Commission proposes to shorten, to three days, the 10-day notice that utilities must provide to occupants when a nonoccupant customer seeks discontinuance of service to a premises. Action Alliance believes that Chapter 14 does not require shortening of the time period to three days and occupants should be provided with at least 10 days to apply for service.

The OCA notes that the first sentence of § 56.72(1) appears incomplete or seems intended as a heading and recommends that this be clarified. The OCA also questions why the notice period in § 56.72(2)(ii) has been shortened from 10 to three days because this shortened time period seems to provide insufficient time for affected occupants to make alternative arrangements or to pursue their rights under the landlord-tenant regulations. The OCA recommends that this time period be restored to 10 days.

PULP believes there is no good policy basis for reducing this notice period and ample reasons for maintaining the 10-day notice requirement. PULP reasons that Section 1406(b)(1) sets the notice period for involuntary terminations at 10 days and discontinuance of service absent affirmative consent of all occupants is comparable to involuntary termination. According to PULP, an occupant of a household where discontinuance has been requested may be totally unaware of the proposed discontinuance and may be totally unprepared to move or secure alternative service in his or her name. Domestic violence situations provide a perfect illustration of this and the need for 10-day notice.

Discussion:

We will change the term "discontinuation" to "discontinuance" in this section because "discontinuance" is the more commonly-used term; and to align it with the definition at §56.2.

Upon review of the comments and our original proposal, we agree with NFG that the proposed new language in § 56.72(1) is unwieldy and could lead to potential abuse. We will leave it to the utility's experience and discretion as to how to best handle requests for discontinuance when an account is in the name of multiple parties. We do remind everyone of the long-standing requirements at § 56.91 to provide notice before terminating service to an occupied residence.

In response to the concerns expressed by OCA, Action Alliance and PULP, we will reconsider our proposed shortening of the notice time period to three days from its traditional 10-day period. As these parties point out, discontinuance is not addressed in Chapter 14 and as such there is no need to change this timeframe. Also, as OCA points out, three days may be insufficient time for affected occupants to make alternative arrangements or pursue their rights under the landlord-tenant regulations.

§ 56.81. Authorized termination of service.

NFG submits that § 56.81(3) be amended by adding "or arrange" after "Failure to permit" because customers with meters inside or within a locked fence or the like have an affirmative obligation to assist the utility in gaining access to the equipment of the utility in order to continue to receive safe and reliable service. While customers may not affirmatively refuse access they are often times ambivalent to a utility's attempts to work with them to gain access. NFG believes that inserting a provision of this nature would give a utility an affirmative tool to assist them in gaining the necessary access to their equipment.

Discussion:

The language of paragraph (3) is lifted verbatim from Section 1406(a) and we decline to alter statutory language without pressing cause. While we understand NFG's concern, we believe the existing language as proposed is sufficient to address these concerns and the additional verbiage suggested by NFG would be superfluous. We do note that paragraph (5) has been revised to omit reference to "informal dispute settlement agreement" in keeping with our response to the comments submitted in reference to § 56.2 that objected to this concept.

§ 56.82. Timing of termination.

Allegheny Power, Duquesne, PPL and PGW object to including in § 56.82 any additional limitations other than those specifically mentioned in Section 1406(d). Duquesne estimates the cost of complying with these additional requirements would be $500,000 annually. PPL estimates the cost of having to staff operations on Saturday to meet this proposed requirement at $280,000 annually. PECO notes that when it engages in Friday terminations, it has personnel available on Saturdays who can negotiate conditions to restore service, accept emergency

medical certificates and offers the same services offered to customers during the week. PECO believes this practice is consistent with the requirement to have an office open during regular business hours as well as the requirements at Section 1406(d) that Friday terminations are available as long as the utility can accept payment to restore service on the following day and can restore service consistent with Section 1407. PGW notes that it has offices and call centers open on Saturday from 9 a.m. to 1 p.m. and this is adequate enough to comply with the requirements of Section 1406(d) and that this section does not require the full access to customers the proposed regulation appears to require.

The CAC supports the requirement that if the utility will terminate on a Friday, the utility must be able to accept emergency medical certificates, negotiate payment agreements, and restore service, if required, on the day after a termination of service. CAC believes that this requirement assists all parties in understanding the obligations to be assumed by utilities when they avail themselves of this additional opportunity to terminate service.

OCA supports these requirements but suggests that when referencing the time period for offices to be open, that the regulation state that offices must be open at the time of termination as well as on the following day. The OCA also recommends that the utility should have personnel available who can refer customers to bill payment assistance programs because a utility should have the clearly stated obligation to inform and refer customers to agencies that can provide assistance.

PULP supports the requirement that, as a condition of terminating service on a Friday, a public utility must be able to accept emergency medical certificates, negotiate payment agreements, and restore service on the day after the Friday termination of service.

Discussion:

We agree with and support the PECO practice of having personnel available on Saturdays who can negotiate conditions to restore service, accept emergency medical certificates and offer the same services offered to customers during the week. PECO believes, and we agree, that this practice is consistent with the requirement to have an office open during regular business hours as well as the requirements at Section 1406(d) that Friday terminations are available as long as the utility can accept payment to restore service on the following day and can restore service consistent with Section 1407. We believe that the General Assembly, in Section 1406(d), clearly indicated that the utility must be reachable and able to act on the day following the termination of service.

We believe that the claims of Allegheny Power, Duquesne, PPL and PGW that these are new and costly requirements are overstated and that our intent was to merely provide guidance as to what we believe the General Assembly intended. As the CAC and PULP point out, this section assists

all parties in understanding the obligations to be assumed by utilities when they avail themselves of the additional opportunities to terminate service provided by Section 1406(d). However, we are concerned that augmenting the statutory language without a more compelling reason may be inappropriate, and we will revise this section to more closely reflect the language at Section 1406(d).

Additionally, we see merit in OCA's suggestion that language be added specifying that utility's offices be open at the time of termination in that it is nonsensical that the General Assembly would intend utility offices to be available the day after a termination of service but not on the day of termination. We think it is commonsense that if the General Assembly wanted a utility to be able to restore service the day *after* termination; the same should apply to the day *of* termination. Concerning OCA's other suggestion, bill payment assistance programs; we must note that under Section 1407(c), enrollment in an assistance program is not a method a customer may use to get service restored, with the exception of PGW customers under certain circumstances.

§ 56.83. Unauthorized termination of service.

Allegheny Power submits that § 56.83(10) and (11) are inconsistent with Chapter 14 and should be eliminated.

FirstEnergy opines that Chapter 14 provides that termination may occur for nonpayment of an undisputed delinquent account without any limitations. As a result, 56.83(1) and (11) should be stricken from the proposed regulations.

Columbia believes that this section must be narrowly tailored and the proposed provisions (1), (2), (5), (7), (8), (9), (10), and (11) of § 56.83 flaunts the General Assembly and constitutes an abuse of discretion. The proposed § 56.83(4) is acceptable to Columbia.

NFG supports the proposed changes to § 56.83(1) and has no comments on the remainder of the proposed changes to this section.

PGW asserts that subsections (1), (2), (3), (5), (7), (8), (9), (10) and (11) are inconsistent with Chapter 14 and that termination is permitted for non-payment of undisputed delinquent accounts regardless of the amount, type of service or charges or age of the debt. Concerning § 56.83(8), PGW suggests that the language concerning "court, district justice or administrative agency" should be removed since Chapter 14 gives utilities the right to establish liability without the involvement of a third party like a court.

EAP contends there are many inconsistencies between Chapter 14 and § 56.83. and that maintaining § 56.83 in its current state as much as possible is inconsistent with the statute. The sections that should be eliminated are § 56.83(1) and (2) relating to concurrent service; §56.83(3) the nonpayment of merchandise and fees; § 56.83(4) relates to nonpayment of bills of other customers; § 56.83(5) and (6) are not necessary because Chapter 14 has created very specific rules about deposits, termination, and payment agreements; § 56.83(7): concerning service furnished more than 4 years ago, which is not necessary because this is to be addressed in the make-up bill regulations; § 56.83(8) conflicts with the definition of "customer" as found at Section 1403; § 56.83(9) concerning nonpayment of estimated charges unless the estimated bills were required due to denial of access to the meter; § 56.83(10) and (11) because the $25.00 threshold is not mentioned in Section 1406(a)(1) and it also defeats the purpose of a security deposit and creates an additional risk of loss to the utility.

Action Alliance agrees with the Commission that unauthorized grounds for termination, at §56.83, should be maintained in their current state as much as possible. However, Action Alliance recommends that the proposed language at §§ 56.83(4) and (8) be modified to clarify that terminations based on nonpayment of third-party liability are only permissible in strictly limited circumstances; Sections 1407(d) and 1407(e), relate only to applicants, not customers and Action Alliance believes that utilities should not be allowed subsequent to the application stage to bill customers retroactively for charges accrued under another person's name. Action Alliance therefore recommends that § 56.83(4) should be revised to read " nonpayment of bills for delinquent accounts of the prior customer at the same address unless the public utility has previously, under § 56.35 (relating to payment of outstanding balance), established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued and had required payment on such amount, as a condition of approval of application for service or restoration of service." Action Alliance submits that § 56.83(8) should be revised to read "nonpayment for residential service already furnished in the names of persons other than the customer unless a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished or unless the public utility has previously, under § 56.35, established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued and had required payment on such amount, as a condition of approval of application for service or restoration of service. This paragraph does not affect the creditor rights and remedies of a public utility otherwise permitted by law."

The CAC supports the Commission proposals to maintain § 56.83 to the extent consistent with Chapter 14.

PULP submits that the Commission should clarify § 56.83(4). In its proposed form, this section might be read to mean that a child occupant, upon reaching maturity and requesting to have utility service placed in his or her name, could be held responsible for the delinquent account of a

parent. PULP submits that it is unlikely the General Assembly, the Commission, or public utilities intend for this section to apply where the occupant was a minor at the time the delinquent balance accrued. This would unjustifiably visit the sins of the parents on the children. Therefore, PULP requests that the Commission insert the word "adult" immediately prior to the word "occupant" in this section.

Discussion:

First, we disagree with PGW and EAP when they suggest that paragraph (3) is inconsistent with Chapter 14 and that they should be free to terminate utility service for the nonpayment of nonbasic charges such as, service contracts, service line insurance, etc. Leaving aside the fact that neither of these two parties pointed out the specific Chapter 14 provision that they claim supports the termination of service for such charges, the Commission has addressed this specific issue previously in the first *Chapter 14 Implementation* Order M-00041802F0002 (March 3, 2005) where the Commission noted that traditionally, a distinction has been made between basic and nonbasic utility charges (page 17). The Commission concluded that:

> "The Commission finds that utilities have adequate remedies to collect balances owed for nonbasic service. Therefore, we will retain our prohibition against terminating essential utility service for nonpayment of nonbasic charges. To allow utilities to include charges for services that may be unregulated by the Commission would result in additional terminations, and create administrative difficulties relating to determining the validity and accuracy of the nonbasic delinquent amounts that form part of the grounds for termination. We note that our resolution here is consistent with the Commission's regulations relating to billing and collection efforts of jurisdictional telephone companies found in §64.63 which prohibits suspension of basic phone service for nonpayment of nonbasic services. *See, e.g., Ruby Gandy v. MCI Worldcom Communications, Inc.,* F-01234911, entered July 11, 2004." (page 18)

We also note that the electric customer information regulations (52 Pa. Code §54.2) and the natural gas customer information regulations (52 Pa. Code §62.72) define basic and nonbasic services, and we have proposed incorporating these definitions now in Chapter 56. Neither PGW nor EAP have presented a convincing argument to overturn the Commission's previous declaration on this issue. Allowing the termination of essential utility service for nonpayment of nonbasic charges that are not set or regulated by the Commission would be a draconian measure, which might jeopardize public health and safety for the sole purpose of collecting miscellaneous charges. The remedy for non-payment of nonbasic services is for the utility to stop providing the nonbasic service; not stopping the provision of the essential, basic utility service.

Similarly extreme is the position of PGW, EAP and Columbia that utilities should be allowed to terminate residential service for non-payment of charges on a separate, commercial account, as currently prohibited by § 56.83(2). If a commercial account is in default, the collection remedy the utility should utilize is to terminate service to the commercial account; not terminating

service to a separate, residential account. Again, no party has explained sufficiently how this long-standing prohibition is in conflict with Chapter 14. We also disagree with EAP that the prohibition on terminating service before the due date of the bill which forms the basis of a payment agreement found in paragraph (6) is not necessary because of Chapter 14. We believe that allowing termination in such instances would make payment agreements meaningless.

We believe it is necessary to retain paragraph (5) because non-payment of a deposit based on the amount of a make-up bill is inappropriate and contrary to deposit amount calculation requirements in Section 1404. We believe it is necessary to retain paragraph (7) as to prevent a utility from placing on a bill charges for service furnished more than four years ago and terminating for such. Accordingly, this will avoid placing unreasonable burdens of evidence on customers who may dispute the liability for such charges because it is unlikely that more than a few customers retain account and financial information going back that far. The four-year limit also reflects the standard time period found in § 56.14 (make-up bills) and § 56.35 (liability determinations), and the utility record retention time requirement at § 56.202. It also reflects the four-year limit on rate refunds at 66 Pa. C.S.A. § 1312. However, we will revise the language in paragraph (7) to make clearer that the 4-year clock starts ticking when the utility ceases billing for the amount.

We do not understand PGW's objections to the phrase "court, district justice or administrative agency" in paragraph (8) since the intent of this was to provide utilities with more options for obtaining liability determinations rather than fewer. The proposed language of paragraph (8) allows a utility to use the independent determinations of liability provided for by Chapter 14 (as we propose incorporating at § 56.35) in *addition* to the option of obtaining a liability of determination from a court, district justice or administrative agency. There may be situations in which the utility is not able to hold a party responsible because they do not meet the criteria provided for in Chapter 14 (at Section 1407(d) and (e) for example). Retaining the option of going to a third party, such as a district justice, will make this possible. At the same time, we reject Action Alliance's request to insert language restricting liability determinations to applicants, at the time of application. If a party is responsible for a balance under the law or regulation, there is no legal basis for waiving the party's responsibility for such simply because their status has changed to that of "customer."

We are similarly perplexed by the objections of Allegheny Power, FirstEnergy, Columbia, PGW and EAP to paragraph (10) that prohibits termination for past-due amounts less than $25. Based on utility collection reporting under § 56.231 and Commission experience with both informal and formal complaints, there appears to be no shortage of accounts with arrears in the hundreds, and thousands of dollars. For a recent example, see *Benjamin A. Martins, III v. PECO Energy Company*, (F-2008-2059421) from the September 24, 2009 Public Meeting. We would hope that utilities focus their collection efforts on the accounts with large arrearages, and therefore we do not understand their concern with the prohibition on going after accounts under $25. It is even

harder to understand given the cost involved in terminating service to an account. This can include the cost of providing notices, sending personnel into the field to terminate the service, then reconnecting the service, etc. It is easy to assume that this cost must total more than $25, meaning that the utility is actually losing money as a result of the termination. This is a nonsensical result; one which the General Assembly could not have intended with the passage of Chapter 14. However, we will remove paragraph (11) based on the comments of Allegheny Power, FirstEnergy, Columbia, PGW and EAP that this provisions conflicts with Chapter 14.

We agree with PULP that liability for an account can only be assigned to an adult or someone who was an adult at the time service was provided. IRRC expressed similar concerns in their comments on the definition of "applicant." As such, we will insert the word "adult" prior to word "occupant" in paragraph (4).

§ 56.91. General notice provisions and contents of termination notice.

Allegheny Power suggests removing the requirement to publish specific Federal Poverty Level guidelines on termination notices because maintaining the income level grid is costly, requires utilities to revise their notices annually, are a training issue with customer service representatives, and can lead to customer confusion because revisions in the poverty guidelines do not coincide with the LIHEAP season. Allegheny Power also objects to termination notices containing foreign languages because the company believes that this is beyond the requirements of Chapter 14 and what is required of other industries.

Duquesne questions the language concerning the enrollment in a "universal service program" to avoid termination because LIHEAP, CRISIS, weatherization etc. are sometimes defined as universal service programs. Duquesne suggests making this more specific by instead referring to "customer assistance program" as defined in the proposed § 56.2.

PECO supports the Commission's approach in specifying notice formats and allowing utilities flexibility as it will allow PECO the opportunity to refine its notices as PECO gains experience with the information that will now be required on notices. PECO notes that some of the specific informational requirements may need minor modification to be implementable. PECO notes that providing a specific reconnection fee amount is problematic because the amount of the fee can vary depending on circumstances. And PECO notes that according to census data, as much as 26.7% of the population of Philadelphia could fall within this restriction. PECO recommends that the language proposed under subparagraph (17) be eliminated.

PPL agrees with the Commission's proposal to remove termination notice requirements from the definitions section of Chapter 56 and insert them into a revised §56.91. PPL also agrees with many of the suggested information requirements and already includes them in its existing

termination notice. However, PPL does have some concerns with several of the requirements proposed by the Commission that could expand the length of the notices from one to three pages. PPL suggests revising § 56.91 (b)(4)(iv), to "Enrollment is made in the public utility's customer assistance program or equivalent." PPL suggests this language to clarify that approval to receive assistance through a Low Income Usage Reduction Program ("LIURP") does not prohibit termination of service for non-payment of bills. This distinction is important because it may take several months to complete all of the LIURP services. PPL agrees with the Commission's proposed language included under § 56.91 (b)(10), which would enable the Company to send its normal termination notices to customers in December, January, February and March, thereby not having two separate notices, which simplifies the process and reduces costs.

PPL reports that it has a long history of including information in Spanish on the termination notice, customer letters, program brochures, etc., in recognition of the growing number of Spanish-speaking customers in its service area. Nevertheless, PPL does have concerns about the proposed § 56.91(b)(17). PPL recommends that the Commission revise the first sentence of § 56.91(b)(17) to encourage customers to call their utility. PPL recommends revising this section to "Information in Spanish, directing Spanish-speaking customers to call their public utility for information and translation assistance. Similar information may be included in other languages at the discretion of the utility when census data indicates a significant population using that language resides in the public utility's service area."

PPL has concerns with the proposed § 56.91(b)(18), because there is no one telephone number that would be sufficient; each of the 29 counties served by PPL is likely to have more than one agency serving the needs of disabled individuals. PPL recommends that the Commission allow utilities the flexibility of providing the best telephone number for this purpose. PPL Electric, for example, would provide its normal contact telephone number because its customer service representatives have access to a county-by-county electronic listing of various social service agencies.

Columbia believes that the proposed language could be interpreted as requiring 10-day notice prior to termination of a user without contract, which is contrary to the Commission's determination in its First Implementation Order entered March 4, 2005 in Docket M-00041902F002 that only three-day notice is required for a user without contract. Columbia believes that removal of the word "otherwise" from Section 56.91(a) would clear up this confusion.

Equitable suggests that the Commission provide the 10-Day termination notice as an Appendix in the regulations, and also suggests that since this notice includes the Medical Emergency Notice, the 10-Day termination notice could replace the Medical Emergency Notice currently in Appendix A. Equitable also submits that paragraph (7) should be changed to be consistent with the plain language wording in the current notices "If you have questions or need more

information, please call us today at XXX-XXX-XXXX. After you talk with us, if you are not satisfied, you may file a complaint with the Public Utility Commission (PUC). The PUC may delay the shutoff if you file the complaint before the shut-off date. To contact them call (800) 692-7380 or write to: Pennsylvania Public Utility Commission, Box 3265, Harrisburg, PA 17105-3265."

To provide clarification, NFG suggests changing the word "accounts" to "amounts" in the proposed language of § 56.91(b)(2) as well as adding the phrase "at the time of the notice" after the word "due". NFG believes that the phrase "if applicable" should be added to the end of the proposed language of § 56.91(b)(4)(iii) as, based on these proposed rules, a payment agreement or informal dispute settlement agreement will not always be available to a customer to avoid termination. Likewise, NFG believes that the phrase "if eligible" should be added to the end of the proposed language of § 56.91(b)(4)(iv) because not all customers will be eligible to enroll in a universal service program. NFG recommends removing the phrase "and that enrollment in the program is a method of avoiding termination of service" from the end of the proposed language or revising it to state "If you are eligible, enrollment in a universal services program may preclude termination of service." In addition, the word "threatening" in the proposed language of § 56.91(b)(10) is unnecessary and contrary to the notion that termination should not be used solely as a collection device. NFG also believes that the phrase "the customer" should be removed from the proposed language of § 56.91(b)(15), to prevent any potential confusion given the fact that "customer" is a defined term that may not be applicable in all situations.

PGW objects to the proposed § 56.91(b)(2) requirement that a notice include an itemized statement of the account because this could add a significant level of detail to the notice which could be confusing. PGW also objects to the proposed § 56.91(b)(17) requirement concerning foreign languages because while 2000 census data indicates that 17.7% of Philadelphia residents speak a language other than English at home, the U.S. Census Bureau reports that most people who reported speaking a language other than English at home also speak English. Also, PGW reports that they retain a foreign language service that can communicate with customers in a variety of languages as needed.

Phillips seeks clarification of § 56.91(b)(4) so that enrollment in universal service programs cannot be used to forestall termination of service multiple times. Phillips also asks that since there are very few Spanish-speaking customers in their service territory, the provision referring to census data should apply to all of paragraph (17).

EAP believes that the requirement that the notice has to reflect a language where there is a substantial "existence of a foreign language" is simply too vague. EAP also believes that there is no evidence that foreign language is a concern. The industry has positively and pro-actively addressed its customers who wish to communicate in a foreign language. There is no evidence that those current costs and procedures are not sufficient.

Aqua believes that the proposed § 56.91 (11) – (16) are significant alterations to the various current notices utilized by utilities and asks that these sections be deleted because they are not required by Chapter 14.

Action Alliance further supports the proposed definition of "user without contract," at § 56.2, and recommends its adoption, in order to bring further clarity to the regulations. Action Alliance also maintains that the proposed language at § 56.91(a) relating to termination notices, which effectively provides for a three-day notice to a user without contract, should be adopted.

Action Alliance requests that § 56.91(b)(2), be modified to include "past due of most recent payment agreement" explaining that while the Commission proposed similar language at § 56.97(2)(iii), this default cure amount is critical information that should be provided on all termination notices, as well as in contacts with the utility, if it is the lowest amount required to prevent termination of service. Action Alliance notes that throughout the Chapter 14 implementation process, the Commission has consistently upheld the customer's right to cure a default prior to termination and avoid termination and utilities must be required to identify the payment agreement catch up amount, and computer systems must display this amount to customer service representatives.

Action Alliance supports the Commission's proposal to require the provision of information on termination notices that inform victims of domestic violence with a PFA, low-income customers and tenants of the special protections from wintertime termination that are available for them and the inclusion of the federal poverty guidelines.

Action Alliance supports the Commission's proposed language at § 56.91 (b)(17) and §56.331(b)(13) requiring that termination notices include information in, not only the Spanish language, but also "in other languages when census data indicates a significant population using that language resides in the public utility's service territory." Action Alliance recommends that the Commission provide greater guidance in the regulations to clarify the meaning of "significant population using that language," by requiring written translations of vital documents for each eligible Limited English Proficient (LEP) group that constitutes 5% of persons eligible to be served or 1,000 members of the language group, whichever is less.

The CAC supports the Commission's proposal incorporating into the regulations the requirement that termination notices must include and itemize critical information and the protective information must include reference to universal service programs, emergency medical certification procedures, protections for tenants, and protections for victims of domestic violence with a PFA.

The OCA supports the proposed regulation and the contents of the termination notice specified. However, the OCA suggests that language be added to subsection (b)(4) clarifying that a

customer's application for a universal service program should be sufficient, and add language to (b)(6) and (b)(9) making it clear that the utility should provide information on the assistance program application process. In addition, the OCA proposes that § 56.91(b)(14) be modified so that it is clear that only adult occupants living at the premises when the bill was incurred are obligated to pay all or a portion of the bill.

PULP also requests that the protective information must include reference to universal service programs, emergency medical certification procedures, protections for tenants, and protections for victims of domestic violence with a PFA. PULP also supports the Commission's decision to require that termination notices must include information in Spanish that informs the reader of who to call for assistance.

However, PULP submits that § 56.91(b)(6) is unclear in parts and could benefit from some slight changes in its language. PULP suggests revising this subsection to state "A statement that the customer shall immediately contact the public utility to attempt to resolve the matter. The statement shall include the address and telephone number where questions may be asked, where payment agreements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility."

Concerning § 56.91(b)(12), PULP recommends that it would be helpful for customers if the termination notices, in addition to telling customers to contact the utility about these protections, also directed customers to the specific statutory cite. According to PULP, this would enable customers to better and more easily identify the statutory basis for their rights. PULP also requests that the Commission revise the language in subsection (14) to state that "Information indicating that if service is shut off, any adult occupant who has been living at the premises may, in order to have service restored to that premises, have to pay all or portions of the bill that accrued while they lived there." Finally, PULP requests that another subsection be added to §56.91 informing customers that they retain customer status until the final bill is past due.

IRRC notes that subsection (b) identifies the information that must be provided in termination notices. IRRC has four concerns. First, under subsection(b)(3), a commentator has noted that including a specific reconnection fee in the termination notice is not feasible, because the amount of the fee is not known at the time the termination notice is delivered. The commentator suggests removing the word "specific" and including a range of fees or maximum fee in the notice. IRRC further submits that the Commission should consider including this option in the final-form regulation. Second, under subsection (b)(7), IRRC posits the questions whether the Commission considered allowing informal complaints to be filed by electronic mail? Third, subsection (b)(17) lacks clarity because it requires a utility to include certain information in a termination notice "when census data indicates a significant population using that language resides in the public utility's service territory." IRRC recommends that the language be amended

to clarify what constitutes a "significant population." Fourth, IRRC questions whether the contact information required under subsection (b)(18) be the customer service telephone number for the utility?

Discussion:

We first want to note that this proposal for a revised § 56.91 was the result of termination notices developed in a collaborative process initiated by the Commission in the Second *Chapter 14 Implementation* Order, M-00041802F0002, (September 9, 2005), pages 11-15:

> "To ensure that utilities provide adequate notice to customers that details the customer's rights and the process a customer can use to avoid termination before utilities engage in winter terminations under Section 1406(e), we invite all parties to submit sample 10-day, 48-hour, and post-termination notices to the Commission's Bureau of Consumer Services (BCS) within 20 days from the date of this Order. Similar to the process we used to design the customer notice required at §1416, Commission staff will use the suggestions submitted by the interested parties to design three sets of notices, two sets for PGW (See PGW-Specific Issue #1), and another set for the other electric and gas utilities. When developing sample notices for Commission staff review, we request that parties incorporate the plain language guidelines at §69.251 into their design. The notices developed by Commission staff will be disseminated for additional feedback from the parties before they are finalized." (page 15)

The results of the collaborative process were disseminated to the utilities in November 2005, and those notices are the notices currently used by electric and gas utilities. The Commission's proposed notice requirements at § 56.91 substantially reflect the results of the collaborative process, and differ little from the notices currently in use.

We agree with IRRC and PECO that the notice does not have to state a specific reconnection fee amount because as the parties point out, this amount can vary depending on circumstances. We will revise subparagraph (b)(3) by removing the word "specific" and instead provide the maximum fee that could apply. We agree with Columbia that the word "otherwise" in paragraph (a) is unnecessary and possibly confusing. We agree with Duquesne and PPL that the term "universal service program" on line (b)(4)(iv) should be changed to the more specific "customer assistance program or equivalent" so as to avoid confusion with other programs such as LIHEAP and LIURP. We agree to also add the phrase "if eligible" to this same line because as NFG points out, not all consumers are eligible for CAP benefits. In the interest of plain language, we again agree with NFG that line (b)(2) should refer to "amounts" and not "accounts." This change should also address PGW's concerns with line (b)(2); but we do point out that the proposed language referencing "itemized statement of accounts" is from the current definition of notice at § 56.2, and to our knowledge has not been the source of confusion.

While we understand NFG's concerns with the use of the word "threatening" in line (b)(10), we must decline their suggestion to remove the word because it conveys an important point. The restrictions of Section 1406(e) apply to terminations that occur between December 1 and March 31. It is the date of the termination, or threatened date of termination, that triggers the winter restrictions. For example, because 10-day notices are valid for 60 days (per Section 1406(b)), a termination notice sent as early as October could be acted on in December. Therefore, because the "threatened" date of termination falls into the winter period, then the notice must include the wintertime information at (b)(10).

NFG's concern with subparagraph (b)(15) is misplaced since the utility is free to phrase this information, along with many of these notice requirements, as they see fit, as long as the language conveys the intent stated. For example, a utility may choose to convey the information in subparagraph (15) by stating on the notice that "You may be required to pay more than the amount listed on this notice to get your service turned back on." The intent of § 56.91 is to specify the information that a termination notice must provide. The exact wording and format are at the discretion of the utility, with the notable exceptions of subparagraphs (7) and (8) which do mandate specific language. We agree with PPL that the notice requirements belong at § 56.91 and we agree with PECO that while we should direct what the contents of the notice should be, we should not specify precise formats and instead leave the formatting to the discretion of the utility. As such, we disagree with Equitable's suggestion to place the notice requirements in a separate appendix. However, we do agree with Equitable that subparagraph (7) should reflect the plain language found in notices currently being used.

IRRC's and PPL's concerns with the telephone number a utility is to provide per (b)(18) is misplaced since this again is at the discretion of the utility. For many utilities, it will probably be the regular customer service number, as is the case with PPL. However, a utility is free to place whatever phone number they deem appropriate, depending on how they address consumers with disabilities.

We agree with IRRC, PECO, PPL and EAP that the proposed language in subparagraph 17 stating that "information shall be included in other languages when census data indicates a significant population using that language resides in the public utility's service territory" is vague. However, we first want to clarify what is intended by this language. It is not intended that the entire termination notice be provided in different languages. The intent is to just include a line in the foreign language directing the reader to the phone number to call for assistance. As PPL and PGW point out, utilities retain foreign language translation services. The line on the termination notice would simply direct the reader to call this service for assistance. Regardless, we admit the original proposal is too vague, and will revise the requirement to include a threshold of 5% population, based on census data, as mentioned by Action Alliance. We do reject Action Alliance's recommendation of a 1,000 threshold as being too low, which could result in many different taglines on a notice, which may increase notice size and present cost

issues. We believe the 5 percent threshold (1 out of every 20), is a reasonable middle ground that will help protect significant vulnerable populations while not imposing additional burdensome costs on the utilities.

We disagree with Allegheny Power's objection to providing Federal Poverty Level information on the notices because the placing of this information on notices was one of the results of the collaborative process discussed above, and we decline to overturn the results of that process without good cause. We also believe that the Federal Poverty Level information is crucial to protect consumers because the winter termination prohibitions are based on the poverty level. Consumers must have this information at hand if they are expected to help the utility determine their eligibility for wintertime termination (*see* §56.100).

While we see merit in Action Alliance's suggestion that (b)(2) be modified to include the amount needed to restore the customer's payment agreement and thus avoid termination (see our discussion at § 56.97), we decline to require this for practical reasons. In addition to the confusion that may be caused by placing two different dollar amounts on the notice, requiring this would cause significant and possibly costly programming changes for the utility. Instead, as a reasonable alternative, we will include a line under (b)(4) that informs the customer that payment of amounts past-due on a payment agreement will avoid the termination of service. The dollar amount past-due on a payment agreement will not be required to be printed on the notice. The costs of this change should be minimal, and it will inform the customer of this important option to avoid termination. This option allows the customer to restore a payment agreement, thus eliminating the grounds for termination at Section 1406(a)(2).

We agree with PULP and OCA that (b)(14) requires a minor revision to reflect Section 1407(d) and to specify that the individual must have been an occupant at the time a bill accrued as a condition of being held responsible for the bill. We also agree with PULP's and OCA's minor, suggested revisions to (b)(6) as to make it more plain language and more helpful. However, for reasons of practicality, we disagree with PULP about informing customers that they retain customer status until the final bill is past due. While we understand the importance of this information and its importance to the utility in its classification of consumers, it is a concept that is not easily communicated to consumers, especially via a sentence or two on a termination notice. We also decline to incorporate OCA's suggestion that an application for the customer assistance program is sufficient to avoid termination, since simply applying does not mean the customer is eligible or will be enrolled. However, we do remind utilities that, in all fairness, if the utility's review of an application is for some reason taking an extended period of time, they should consider holding the termination of service while an application is pending, assuming the customer is fully cooperating with the application process and has submitted the application in good faith. To address these concerns, we will revise paragraph (9) to indicate that application to a universal service "may" avoid the termination.

Concerning Aqua's comments on subparagraphs (11) – (16), we again note that these paragraphs were added during the above noted collaborative process, and we decline to revise the outcome of that process without good cause. While we acknowledge that the water industry was not a part of that collaborative process, Chapter 14, for the most part, does apply to water utilities, and thus most of the information on the notices is of some relevance. We also point out that paragraph (b) of this regulation starts with the phrase "A notice of termination must include, in conspicuous print, clearly and fully the following information *when applicable*" (emphasis added). If there are requirements in this section that do not apply to the utility, then the utility is free to omit these from the notices. For example, the winter termination provisions of Chapter 14 (Section 1406(e)) do not apply to water distribution utilities. As a result, the information at (b)(10) does not have to be included. Likewise, if the utility does not have customer assistance programs, the information at (b)(9) does not have to be included.

In answer to IRRC's question about filing complaints by electronic mail, the Commission does allow the filing of informal complaints electronically via the Commission's website. However, we decline to mention this in § 56.91 because any e-mail or website address we mention in the regulations could change in the future, and thus cause problems. It is also possible, with changing technologies that new methods may one day be available (such as texting for example). As such, we do not think it is good idea to get too specific about electronic methods of contacting the Commission, and providing the toll-free phone number and mailing address is sufficient.

§ 56.92. Notice when dispute pending.

PULP submits that this section requires clarification from the Commission. § 56.92 prohibits the mailing of termination notices to households where a dispute is pending and where the termination is concerned with the subject matter under dispute. However, PULP submits it is somewhat unclear what exactly constitutes a "dispute." Given other sections of the regulations, PULP holds that there is reason to believe § 56.92 is using the term dispute in a more general fashion so that it includes the process from initial inquiry, dispute, and informal complaint through the formal complaint. PULP submits that the Commission should change the language in § 56.92 to specify that a notice should not be delivered while an "inquiry, dispute, informal complaint, or formal complaint" is pending.

Discussion:

We agree with PULP that the use of the term "dispute" in this regulation is general. We see no harm being more specific as PULP suggests and will incorporate the terms "inquiry, dispute, informal complaint, or formal complaint" as to avoid confusion on this point. We will change "inquiry" to "initial inquiry" since it is "initial inquiry" that is defined at § 56.2.

§ 56.93. Personal contact.

Duquesne does not have a problem with requiring the two phone calls to be on different day parts, but does object to the requirement that the phone calls be two hours apart as adding complexity and cost.

PECO notes that customers often give contact phone numbers other than landlines and because of this a sentence should be added to the end of § 56.93(b) stating that "Calls made to contact numbers provided by the customer shall be deemed to be calls to the residence." PECO also submits that a personal contact telephone call should not try to provide every piece of information that would be provided in a written notice. Providing the 19 items listed in § 56.91 would not be practical and would make the phone calls too long. PECO suggests limiting the phone calls to the imminence of the termination, provide a contact number at the utility, and urge the customer to contact the utility as soon as possible.

Equitable is concerned with the provision that states a phone contact may be made between the hours of 7 a.m. and 9 p.m. because the Debt Collections Practices Act prohibits calls before 8 a.m. Equitable recommends changing the hours in this section from 7 a.m. to 8 a.m.

NFG believes that the Commission has clearly gone beyond the legislative intent of Section 1406 by placing more requirements than the Legislature intended. NFG explains further that had the Legislature intended to further define the viable time periods for telephone notification it could have easily done so. Rather, the Legislature saw fit to leave that discretion to the public utility under the utility's right of self-management. See Pennsylvania Public Utility Commission v. Philadelphia Electric Co., *et al.*, 561 A.2d 1224 (Pa. 1989). Given that public utilities have already updated their electronic systems to trigger these notice calls consistent with Chapter 14, to further define the requirements at this point will result, according to NFG, in significant expenditures by the public utilities with limited beneficial potential. NFG also believes that the proposed language of § 56.93(d), stating that the content of the three-day personal contact notice must contain all of the information that was contained in the 10-day notice of § 56.91, should be removed or refined.

PGW recommends replacing the proposed § 56.93(c) and (d) with the exact language of Section 1406(b)(1)(ii),(iii) and (iv). According to PGW, Chapter 14 does not add a requirement of "conspicuousness" or of attempting to contact a "responsible adult occupant."

Action Alliance supports the proposed language which clarifies that if personal contact by one method is not possible, the public utility is obligated to attempt the other method; a home visit. Action Alliance requests that the proposed regulations at § 56.93 and § 56.333 relating to

personal contact be amended to require the personal contact, whether in person or by phone, be in the primary language of the customer.

PULP supports the Commission's clarification about what constitutes appropriate telephone contact in the context of notification for termination, particularly § 56.93(b). PULP maintains that this regulation will ensure calls are placed at more varied times when a customer might actually be home to receive the call and act on the information provided.

Discussion:

We agree with NFG and PECO that our proposal in paragraph (d) is overbroad and needs to be more narrowly focused. Accordingly, it is not necessary to provide all of the § 56.91 information in the three-day call because we are convinced that this would make the phone calls too long, and would risk overwhelming the customer with too much information. Instead we will specify that the information to be conveyed is substantially found in § 56.91, paragraphs (b)(1), (2), (4), (6), (7) and (8). This basically means that the utility will be providing the date and grounds of the termination; what is needed to avoid termination; how to contact the utility and the Commission; and emergency medical information. In addition, the utility shall ask the customer if they have any questions about the written notice they received. This should accomplish the goal of the three-day notice; alerting the customer as to what is going to happen and providing them with the basic information necessary to avoid termination. Focusing the three-day notice on just these basics should limit the length of the calls, which will pose fewer cost issues for utilities, and will emphasize the most urgent information that the customer needs.

We disagree with Duquesne and NFG when they say the Commission has gone beyond the intentions of Section 1406(b)(ii). This section concludes with "...if the calls were made at various times of the day;" so it is clear that the General Assembly did not intend for the calls to be made at just any time of the utility's choosing. What the Commission is offering here is simply guidance as to how to apply this provision, and the proposal that the calls be "at least 2 hours apart" is not an unreasonable interpretation of the General Assembly's intent. In reply to NFG's concerns with the phrase in paragraph (a) that "If personal contact by one method is not possible, then the public utility is obligated to attempt the other method" are overstated. This is merely specifying that if one method cannot even be attempted, such as a customer without a telephone, then the utility is obligated to attempt the other method (in person). It is reasonable to assume that the General Assembly wants, as part of the notice process, at least an attempt at a three-day notice. Allowing a utility to forgo any attempt at a three-day notice because the customer does not have a telephone is a nonsensical result that could not have been the intent of the General Assembly. We note again that all this section requires are "attempts" (one attempt if in person; two attempts if by telephone). Moreover, only one method has to be attempted, not both because paragraph (a) specifies "person *or* by telephone."

Equitable raises a valid point when they note that the Debt Collections Practices Act prohibits calls before 8:00 a.m. . According to 15 USCA § 1692(c), "a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian..." Therefore, we will revise paragraph (b) to state 8:00 a.m. instead of 7:00 a.m.

We see no need to revise paragraph (c) as PGW suggests because we see no harm in requiring the posting of notice if the utility attempts a field visit and is unsuccessful. The utility is already at the residence for the purpose of informing the occupant of a pending termination; the posting of a notice with this same information appears to be a common-sense procedure that will at least provide some notice in the case that no one answers the door. We do not understand how this would impose a significant or costly additional burden since the utility has already reached the residence. The General Assembly in Section 1406(b)(1)(ii) clearly wanted a three-day notice to be included in the termination process. It is nonsensical to suggest that the General Assembly included an "in person" option to satisfy the requirements of this section that would have a utility go to the trouble and expense of a field visit; but then not even leave a posted notice if there is no answer at the door. This would result in the customer receiving no three-day notice of termination even though the utility has already expended the time and expense to reach the location. The time and expense of a field visit to a residence should result in at least a posted notice to the customer; doing nothing would be a waste of utility resources. The requirement that the contact be made with a responsible adult occupant is simply common-sense guidance. Again, it would be nonsensical to suggest that the General Assembly intended the three-day contact would be with a non-occupant or a child.

We agree with PECO that phone calls to provide the three-day notice should be made to the contact telephone number provided by the customer and will add language to paragraph (b) to specify such. As increasing numbers of customers abandon residential landline telephone service in favor of wireless service, it only makes sense to modernize this regulation to accommodate this trend. It will also help fulfill the clear intent of the General Assembly that public utilities make a serious attempt at personally contacting *customers* at least three days prior to termination. This superseding purpose is clearly more important to the General Assembly than the minor and increasingly irrelevant detail that the call be directed to the "residence."

While we understand Action Alliance's suggestions about requiring the three-day notice in the language of the customer, we believe this may be impractical to implement. In place of such a requirement, we point to our proposed revisions at § 56.91(17) that direct the 10-day written notice of termination to include "Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that five percent or more of the residents of the utility's service territory is using that language." We also note the comments of PPL and PGW concerning § 56.91 that point out that utilities retain foreign language translation services. With the revised § 56.91(17) and the language services provided by the utilities, we are confident

that customers who speak languages other than English have sufficient options available to them to obtain account and termination information.

§ 56.94. Procedures immediately prior to termination.

PGW suggests that the word "or" should be added under subsection (3) to make clear that either a bad check or invalid credit card will not stop termination. In addition, it should also be made clear that customers maintain responsibility for undisputed bills and termination for undisputed bills should not be prohibited or delayed.

The CAC supports the Commission's position that §56.94 procedures prior to termination remain unchanged by Chapter 14 and the Commission's proposal regarding the interaction of the dispute procedures with the termination procedures and continuing to stay termination pending the resolution of the dispute.

The OCA suggests that "the customer has applied for and has an application pending for enrollment in a universal service program offered by the utility" be added as one of the circumstances where termination is prohibited.

PULP supports the Commission's substantially maintaining § 56.94(1) in its historical form, prohibiting the completion of a termination where, at the time of termination, utility personnel make personal contact with the customer and the customer makes payment, makes known the existence of a serious illness or a medical certificate, or disputes the termination. According to PULP, this is a critical aspect of preventing terminations and protecting the health and welfare of customers. PULP asserts that the Commission should strongly encourage utilities to fully empower their workers to take all steps necessary to accept payments and register disputes at the time of termination as a means of stopping the termination.

IRRC asks if under paragraph (1), would termination be prohibited if evidence is presented that the customer is participating in a customer assistance program? If so, IRRC recommends that this be added to paragraph (1).

Discussion:

We agree with PGW and will insert "either" at the end of paragraph (3) to make it clear that conditions in either paragraphs (i) or (ii) can apply; both do not have to apply.

We disagree with PULP when they suggest that company service personnel have to be authorized to accept disputes at the time of termination. Traditionally, § 56.142 requires that a dispute be registered "prior to the day on which the utility arrives to terminate service" and we have no intention of altering this requirement at this time. This could lead to the possible abuse

of the dispute process simply to avoid an imminent termination of service. But we do agree that § 56.94 should preserve the right of the customer to stop the termination if they can present evidence that indicates a dispute or complaint previously filed is still pending. We also decline PULP's suggestion to encourage utilities to accept payments in the field as this presents serious security and employee safety issues and is a matter best left to the management discretion of the utility.

As to IRRC's question: is termination prohibited if evidence is presented that the customer is participating in a customer assistance program, the answer is no. A customer participating in a customer assistance program can have their service terminated the same as any other customer. However, we do note that generally, a customer participating in a customer assistance program is usually at or below 250% of the federal poverty level, and thus protected from wintertime terminations per Section 1406(e).

§ 56.95. Deferred termination when no prior contact.

PGW suggests that this section is unnecessary and that these requirements should fall under the winter termination regulations.

PULP supports § 56.95 as an important safeguard to customers during the winter months; however, PULP requests a slight rewording of the section so that it achieves what PULP thinks is its real purpose. This section traditionally has held that, where no personal contact with a customer or responsible adult occupant has been made regarding an impending termination, then the utility personnel must post a termination notice at the residence at least 48 hours prior to the date of the termination. The proposed wording at § 56.95, however, says a utility must post a notice, "within 48 hours of the scheduled date of termination." This wording, rather than ensuring the posting must be done at least 48 hours before the date of termination, requires the posting take place within the two days of the termination. The General Assembly could not have intended such an absurd result, and PULP believes this language is not the result of an intentional policy change. PULP suggests revising the wording to indicate that the notice must be provided "prior" to the termination. PULP also submits that the Commission can improve this section by specifying the content of this required posting as it does for other notice sections at §§56.93(d) and 56.96, which both mandate that the notices adhere to the requirements at § 56.91.

Discussion:

While we understand PGW's comments about moving this section to the winter termination section (§ 56.100), we decline to do so because we believe these requirements are appropriately placed among the regulations addressing notice of termination. We agree with PULP that in order to avoid confusion we will add the phrase "prior to and" to make it clear that the notice

must be provided before the termination of service, not after. As PULP points out, the General Assembly could not have intended the notice to be provided 48 hours after the termination. This is apparent from the opening sentence of the notice requirements in Section 1406(b) which starts with the phrase "Prior to terminating service..."

§ 56.96. Post-termination notice.

NFG disagrees with the proposed language of this section that would require public utilities to amend their post termination notices to include all of the requirements of the 10-day notice of § 56.91 for the same reasons it disagrees with the proposed changes to § 56.93.

Action Alliance requests that in the title of § 56.96, the terms "Post-termination" should not be deleted before "notice," as the section clearly relates to post-termination notices.

IRRC believes that the inclusion of the word "substantially" in this section is problematic because that term is vague and does not provide a specific standard that must be met. It should be deleted or replaced with more precise language.

Discussion:

We agree with Action Alliance and will include the words "post-termination" in the title of this section. While we agreed with NFG's concerns with § 56.93, we do not see how those concerns are relevant when considering § 56.96. We agreed with NFG that all of the information provided in a written 10-day notice should not also be provided in a verbal three-day notice because this would make the phone calls used to deliver the notice unrealistically lengthy and present a possibly costly burden on utilities. However, with § 56.96 we are once again talking about a written notice and we do not understand why providing this important information in written form presents a burden. However, to address IRRC's concerns, we will delete the term "substantially."

§ 56.97. Procedures upon customer or occupant contact prior to termination.

Duquesne questions the language concerning the enrollment in a "universal service program" to avoid termination because LIHEAP, CRISIS, weatherization etc. are sometimes defined as universal service programs. Duquesne suggests making this more specific by instead referring to "customer assistance program" as defined in the proposed § 56.2. PPL suggests changing the language to "enrolling in the public utility's customer assistance program or equivalent."

In order to avoid any potential confusion to a ratepayer or customer, NFG suggests that the phrase "if applicable" be added to both § 56.97(a)(2)(ii) and (a)(2)(iv). NFG explains that a payment agreement or enrollment in a customer assistance program will not be available to every customer in every instance.

PGW objects to the proposed § 56.97(a)(2)(iii) because the Commission is requiring the utility to accept a payment to cure material default on a payment agreement to stop a termination. This violates Chapter 14 because a utility is allowed to terminate a customer for failure to comply with the material terms of a payment agreement, and once a utility has provided the necessary termination notices, the Commission may not require the utility to take any additional actions prior to termination. PGW submits that forcing the utility to accept such a payment in effect creates a second or subsequent payment agreement. For this same reason § 56.97(a)(2)(iv) is also impermissible because CAP is a payment agreement.

Phillips is concerned that the proposal at § 56.97(a)(2)(iv) suggests that enrollment in universal service programs could be used to forestall termination of service multiple times and asks that this section be revised to make clear that this is not the case.

EAP believes that proposed § 56.97(b) should be rejected because it conflicts with the mandates of Chapter 14 regarding payment agreements. EAP again and again opines that the proper analysis of Section 1405(d) is that a customer gets one payment agreement, whether it be utility or Commission established, and if the customer defaults on that agreement, the Commission shall not establish a second or subsequent agreement, but the public utility may, at its discretion, do so. EAP notes that the legislature, in defining "payment agreement" at Section 1403 made no distinction between payment agreements established by the Commission and payment agreements established by the utility. The legislature, however, does make such a distinction as between utility established and Commission established payment agreements in Sections 1405(b) and 1405(c). EAP believes that had they intended to make this distinction in Section 1405(d), they would have done so.

Action Alliance fully supports maintaining the provisions in § 56.97, as they provide for critical procedures for public utilities to follow to assist a customer in preventing termination of service, including full explanations of all available methods for avoiding a termination. Also, Action Alliance contends that the Commission should adopt the two proposed subparagraphs at §§ 56.97(a)(2)(iii) & (iv), which would require public utility employees to fully explain that paying what is past-due on the most recent previous company negotiated or Commission payment agreement and enrolling in the public utility's customer assistance program or universal service program are possible methods of avoiding termination. Action Alliance reports that in their experience, these two options are two of the most common methods that low-income advocates use in assisting customers to avoid service termination. Unfortunately, some customers receive termination notices that demand payment amounts that are larger than the catch up amount or

default cure amount of the last payment agreement; and these larger than necessary amounts are confirmed by utility CSRs that take the customers' calls. Action Alliance adds that low-income customers often only learn for the first time from legal services organizations that CAP programs are available to provide more affordable bills and that CAP enrollment can prevent termination of service.

PULP requests the Commission delete "informal" from § 56.97(a)(2)(ii). PULP supports the Commission's inclusion of § 56.97(a)(2)(iii). PULP also supports the Commission's inclusion of § 56.97(a)(2)(iv), which requires utilities prior to termination to inform customers that they can avoid termination by enrolling into the utility's customer assistance or universal service programs if they are eligible.

IRRC notes that subparagraph (a)(2)(iii) requires public utilities to tell customers they may avoid termination by "paying what is past-due on the most recent previous company negotiated or Commission payment agreement." According to IRRC, a commentator is concerned that this subsection exceeds the scope of Chapter 14, which specifically allows a public utility to terminate service for failure to comply with a payment agreement. *See Sections 1405(f) and 1406(a)*. IRRC agrees and asks the Commission to explain how this provision, when applied to customers with existing payment agreements, is consistent with Chapter 14. Finally, IRRC suggests that the language found in subsection (a)(2)(iv) be consistent with the language found in § 56.91(b)(4)(iv), which pertains to universal service programs.

Discussion:

We agree with IRRC, Duquesne and PPL that the reference to "universal service programs" in paragraph (a)(2)(iv) should be more specific and will revise to "customer assistance program or its equivalent" as suggested by PPL. We also agree with NFG in adding the phrase "if the customer is eligible" to the end of this sentence since not all customers qualify for a customer assistance program. We also agree with PULP to remove the reference to "informal dispute settlement agreement" from paragraph (a)(2)(ii) because we are removing this term from the definitions at § 56.2.

Consistent with our previous discussion concerning § 56.12(7), we are adding language specifying that payment agreements for heating customers entered into pursuant to paragraph (b) must be based on budget billing. This requirement dates back to the Commission's order in *Mary Frayne v. PECO Energy Company,* C-20029005 (July 17, 2003), where the Commission declared (page 7):

> "Budget billing should be the norm for all payment arrangements rather than current billing. Budget billing was designed to aid customers who are experiencing financial difficulties by ensuring a level, predictable payment amount from month to month. The level payment amount will better enable the customer to plan for his or her utility bills

and budget accordingly. Therefore, customers should not be provided with the option of choosing current billing when budget billing is a more beneficial option."

This guidance was again reiterated in the following budget billing orders on June 1, 2006, *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing.* (M-00051925) and on November 9, 2006, *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing* (M-00051925) where the Commission twice declared that "Based on well-established case history, budget billing should be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility." Therefore, including this guidance in the regulations is simply codifying a well-established Commission expectation that has been the subject of the previously mentioned Commission formal proceedings, and is not inconsistent with Chapter 14.

In the proposed subparagraph (a)(2)(iii), the Commission includes paying the past-due amount of a defaulted payment agreement as a method of avoiding the termination of service. This is based on the grounds of authorized terminations found in Section 1406(a) that includes "Failure to comply with the material terms of a payment agreement." If the default is cured prior to the termination of service, then the grounds for the termination no longer exist under Section 1406(a). We do not see this as a second or subsequent payment agreement; merely paying on the existing agreement to cure a default. No new terms on a new payment agreement are established. The Commission addressed this matter in the Second *Chapter 14 Implementation* Order, M-00041802F0002, (September 9, 2005):

> "While we agree with PGW and EAP that Section 1406(a)(2) lists "failure to comply with the material terms of a payment agreement" as authorized grounds for termination, we do not agree that the customer cannot eliminate this ground for termination by paying an amount sufficient to catch-up on the terms of a payment agreement. As stated publicly several times by EAP, as well as in its written comments, the last resort of a utility is to terminate service. EAP also notes that "utilities would prefer to work with their customers to collect payment, than to become embroiled in complaint procedures." We agree and clarify that, while a utility has every right to initiate the termination process and to terminate service if necessary for failure to comply with the material terms of a payment agreement, an available method for eliminating the grounds for termination is to pay an amount sufficient to catch-up on the terms of a payment agreement. Clearly, once the catch-up payment is made, authorized grounds for termination no longer exist."

(pages 38-39) We also disagree with PGW when they object to the enrollment in a customer assistance program as a means of avoiding termination, as provided for in the proposed subparagraph (a)(2)(iv). PGW mistakenly declares that "CAP is a payment agreement." These are two separate and distinct concepts that Chapter 14 has separate and distinct definitions for in Section 1403. For example, the definition of *payment agreement* discusses the amortization of an unpaid balance whereas the definition of *customer assistance program* does not mention amortization of balances and in fact many such programs do not include amortization. It is clear

that in both the electric and gas competition acts and in Chapter 14, the General Assembly intended customer assistance programs to be made available and to be used to help make sure that "...service remains available to all customers..." per Section 1402. The appropriate place for a low-income customer is a customer assistance program. Low-income customers should not simply have their service terminated without ever having the opportunity to participate in these programs. The inclusion of subparagraph (a)(2)(iv) is intended to make sure that no low-income customer's service is terminated without first being considered for enrollment in these programs. As for Phillips concerns that this could be used by a customer to forestall termination multiple times, we note that each utilities customer assistance program plans have provisions to address customers who default that usually prevent repeated re-enrollments within a specific timeframe.

§ 56.98. Immediate termination for unauthorized use, fraud, tampering or tariff violations.

Phillips questions the appropriateness of requiring utilities to provide post-termination notices under these circumstances because the burden of inquiry and action should be placed upon the customer who has engaged in such activity and not upon the victim of such action.

EAP believes that the proposed §56.98 does not comply with either Act 201 or the criminal code of the Commonwealth. In the *Second Implementation Order* (pages 23-24), the Commission stated that tendering a bad check or an access device which is unauthorized, revoked or cancelled is not fraud. However, while the Commission is provided deference on regulatory matters, it does not have any authority to alter criminal statutes. According to EAP, a bad check, or a bad credit card, is fraud and constitutes grounds for immediate termination.

Action Alliance believes that the proposed § 56.98 provides little guidance to utilities and consumers. Action Alliance strongly recommends that immediate terminations should be limited to those situations in which the utility can base the termination on *substantial evidence* of "unauthorized use, fraud, tampering or tariff violations." Action Alliance also recommends that the post-termination notice should include the specific grounds for immediate termination of service, with detailed information concerning the alleged material facts; the specific terms for restoration of service and the phone number of the utility department that can answer questions and immediately handle disputes concerning immediate terminations. In addition, customers subject to immediate terminations, seeking Commission review, should be provided with expedited review at the Bureau of Consumer Services and emergency review with an administrative law judge or special agent, if necessary.

PULP submits that the notice provisions associated with this section are insufficient and the Commission should expand them since the basis for an immediate termination is often an unchallenged allegation by the utility against the customer, with no chance prior to termination for the customer to defend himself or state his side of the story. At a minimum, PULP believes

that the utility should be required to post a notice physically at the residence at the time of termination. This notice should instruct the customer that a termination happened, why it happened, and how to rectify it. This notice should also provide information on how to petition the Commission for expedited assistance if the customer disagrees with the utility's allegation of unauthorized use, fraud, tampering, or tariff violations.

Discussion:

We agree with Action Alliance that a utility should act with great care in applying this section. Terminating someone's essential utility service without prior warning is a serious matter that should only be resorted to when the utility is reasonably sure of circumstances. These provisions are not to be applied in a casual or careless manner, and it is expected that the utility will act only when they have reasonable evidence or indication of fraud, unauthorized use, etc. However, we decline to revise the proposed language of this section as suggested by Action Alliance. The language in this section was copied essentially verbatim from Section 1406(d) and we decline to tamper with such without a compelling reason. While we agree with the general concerns expressed by Action Alliance, their suggestion to add language requiring "substantial evidence" is problematic because the term "substantial" has been called vague by IRRC in their comments on § 56.96 because it does not provide a specific standard that must be met. We agree, and further decline to revise this section to include a "substantial evidence" burden.

Concerning post-termination notices, we disagree with Phillip's objections to providing a post-termination notice in cases of immediate termination without prior notice. Chapter 14 at Section 1406(c)(2) explicitly requires a post-termination notice. We agree with PULP that, given that utility personnel are already at the premises to conduct the termination, the posting of the premises after the termination is completed is not unduly burdensome or costly to the utility. Given the minimum effort involved, it is difficult to see why a notice could not be provided or posted in these instances. We will revise our proposed paragraph (b) to make it clear that if the utility cannot provide a post-termination notice to the customer or responsible person at the affected premises as required by Section 1406(c), they should at least post a notice at the affected premises. This requirement does not conflict with the Section 1406(b)(2) prohibition on the Commission requiring additional actions prior to termination because what we are talking about here is a post-termination action. This requirement will also help ensure that the intent of the General Assembly as expressed in Section 1406(c)(2) is fulfilled; that some kind of notice of the termination is provided. The alternative would be allowing a utility to terminate service without providing notice either prior to or after the termination of service. In addition to being contrary to the intent of the General Assembly, this would pose obvious health and safety issues. The post-termination notice will at least allow the affected occupants to know that it was indeed the utility that shut off their service and will hopefully prompt them to contact the utility to address whatever the problem is.

Finally, we must specifically respond to EAP comments on this issue. First, we have reviewed pages 23 and 24 of the *Second Implementation Order* and cannot locate the statement that tendering a bad check or access device is not fraud. The tendering of a dishonorable payment may or may not be fraud but it is not fraud for purposes warranting immediate termination of service under § 1406 (c). In discussing the immediate grounds for termination without notice under § 1406 (h) and our conclusion that the General Assembly under § 1406(c) (1) would have incorporated the subparagraph (h) list of actions, we did not address what constituted fraud under the criminal code. Moreover, it is not necessary for the Commission to engage in that analysis to implement the intentions of the General Assembly. If dishonorable tender of payments, as is specifically listed under subparagraph (h), is not listed under subparagraph (c), then our interpretation is that the General Assembly did not intend for utilities to immediately terminate service without notice for that reason, either through a bad check or credit card.

EAP states that a "bad check or a bad credit card, is fraud and constitutes grounds for immediate termination," and cites the bad check and credit card provision of the criminal code, §§ 4105 and 4106 of Title 18, respectively. Even a cursory review of these sections would highlight the reasons why a dishonored payment under these sections should not constitute grounds for immediate termination. Under § 4105 (bad checks), it is not a fraudulent practice to issue a check that is not honored. It is only a criminal offense if you fail to make good within ten days after notice. 18 Pa.C.S. § 4105(b)(2). Similarly, under § 4106 it is a defense to the unauthorized use of a credit card if you can prove you had the intent and ability to cover the charges. Even if you ignore the basic first year law school criminal and constitutional law precedent that the accused is presumed innocent, the actual offense requires that the customer would not make good on a check or credit card charges. Therefore, this offense could not trigger immediate termination since the statute allows the customer the opportunity for redemption. Rather than "altering a criminal statute", as advocated by EAP, our position in not allowing immediate termination reflects the proper application of the law. The fact that anyone "bounces" a check, a not unusual occurrence given that banks all have standard fees for doing so, is not in and of itself a fraudulent act in violation of the criminal code. The same holds true for tendering a dishonorable payment with a credit card. The real purpose behind this provision is that a utility that has already provided the required notice can terminate service without additional notice when the process is interrupted by a dishonored payment.

§ 56.100. Winter termination procedures.

Allegheny Power suggests that the responsibility lies with the customer to respond to a utility's termination notices by contacting the utility and providing the required income and household size information. If the customer fails to respond to the notices, the utility should be permitted to follow through with the pending termination. Columbia suggests that language be added to the end of § 56.100(e) indicating that if the utility is unsuccessful in obtaining household size and

income information after having made a good faith effort to do so, or if a customer refuses to provide such information, termination action may continue until such information is provided by the customer and, based upon that information, the public utility determines that termination should not proceed.

Concerning customers in which the utility lacks income information, PECO agrees with and supports the Commission's conclusion that sending termination notices to these customers is appropriate for it may induce the customer to contact the utility with this information. However, PECO is concerned with the customers for whom the utility has unverified information that the customer's income is at or below 250% of the federal poverty level. Their concern is that customers could claim low-income solely for the purpose of avoiding winter termination. PECO suggests that the Commission allow a utility, after multiple failed attempts to obtain income verification, to pursue termination of these accounts. PECO points out that over 275,000 customers have claimed to PECO to have income at or below 150% of the FPL. However, according to 2000 census data, there are 264,000 households who live in PECO's service territory with an income at or below 150% of the FPL. PECO believes there are over 150,000 households who have claimed to have an income below 150% of the FPL who have not verified their income - even though they could presumably get rate discounts if they did so.

NFG believes that the proposed language at § 56.100(e) is beyond the scope of the legislative intent and unnecessary. NFG maintains that nowhere in Chapter 14 did the legislature include language directing public utilities on how they must determine whether an account is permitted to be terminated during the winter months.

With regard to the Cold Weather Survey provisions in § 56.100(h) and the proposal to categorize accounts by postal codes, Allegheny Power opines that this is a concept not found in Chapter 14 and would cause utilities to incur extra programming costs with no benefit to the customer. Columbia also objects to including postal codes as this would cause the utility to incur substantial report programming costs, and postal codes are already included in the monthly report of terminated accounts. Equitable also suggests deleting this proposal because it would take extensive programming to comply and the company is unaware of the purpose of this data.

Allegheny Power, Duquesne and NFG object to the proposal in § 56.100(h) to require updated survey results on January 15 and February 15 of each year. Allegheny Power states this would cost approximately $33,000 with no apparent benefit. Duquesne estimates the cost at $50,000 annually. PPL could comply with this proposal but does not see the value of providing such updates, particularly when similar data (i.e., terminations and reconnections) already appears in the monthly § 56.231 report. PPL also reports that it can fulfill the proposed requirement to categorize each account by the first three digits of the customer's postal code, but again questions the value of doing so; this request appears to fall under the "nice to know" category rather than a "need to know."

With regard to § 56.100(j), PPL Electric agrees that it is important to report deaths to the Commission in situations where a utility had previously terminated residential service for non-payment of bills. However, PPL does not believe it is necessary to incorporate these reporting requirements into code since the Commission already possesses broad investigative powers and has the authority to request this type of information. 66 Pa. C.S. § 504. PPL recommends that it would be more appropriate for the Commission to address the reporting requirements through a Secretarial Letter. On January 16, 2009, the Commission issued just such a Secretarial Letter (Docket No. M-2009-2084013) regarding interim reporting requirements. The Commission noted that these interim reporting requirements will sunset upon promulgation of final regulations for Chapter 56. PPL suggests that the Commission simply reissue the reporting requirements in a final Secretarial Letter.

Allegheny Power also opposes the required reporting of death following a termination of utility service. According to Allegheny Power, this requirement implies a causal connection between the termination and the fatality. Columbia also opposes this requirement since the reports do not fall within the scope of "accidents" reported per 66 Pa. C.S. § 1508, the Commission may not be able to protect such reports from public disclosure or admission as evidence in a lawsuit.

NFG believes that the proposed language of § 56.100(j) is an egregious attempt to go beyond the intent of Chapter 14 and there is absolutely no legislative authority, be it in Chapter 14 or elsewhere, for the Commission to place this requirement on public utilities. NFG believes that the proposed language itself is vague, ambiguous and open to potentially broad interpretation. NFG also submits that public utilities are certainly not experts or in any way capable of making a determination as to the cause of such incidents.

Equitable suggests that a utility should be given up to five days to provide the information requested under § 56.100(j) and that the reporting should be limited to incidents that occur within 30 days of termination.

PGW wants to make the regulation clear in that a utility can terminate both heat and non-heat related service in the winter. Furthermore, the winter period is December 1 through March 31; the reference to January 1 in Section 1406(e)(2) is related to the evaluation of the charges paid by the customer and the proposed regulation should be revised to reflect this. Notification to the Commission under Section 1406(e)(3) is required only in the event of a termination notice issued for winter termination under Section 1406(e)(2) and the regulation should explicitly state so. PGW believes that the responsibility should explicitly be on the customer to provide this income information in addition to household make-up and failure to provide this information should not prevent the utility from being able to terminate the account in the winter. In addition, § 56.100(f) should be modified to include service discontinuance requests under § 56.72(2) and the "good faith attempt to reach a payment agreement" language in § 56.100(i) should be removed because

a utility does not have to reach a payment agreement with all terminated consumers for restoration of service.

PGW states that the utility's knowledge is limited to the facts regarding the termination of service and as such this is the only information the utility should be required to provide the Commission. PGW also questions the confidentiality of the information submitted given the recently expanded Right to Know Law.

EAP believes that the updates to the winter survey are unnecessary because requirements for monthly reporting, including monthly termination activity, and postal code categorization are already set forth in §56.231 as currently written. EAP reports that the costs of surveys can be as high as $2.1 million, which must be reflected immediately in utility rates. Moreover, EAP states that the people who remain without a central heating source beyond December consist mainly of consumers who are unwilling to file an application for LIHEAP assistance or consumers who are unwilling to provide income information to utilities so as to permit their qualification for CAP rates and consumers who have had CAP rates, but failed to maintain their low $20-$25 a month payment.

EAP also objects to the Commission's proposal of reporting deaths possibly relating to utility termination which occur in a utility's service area because liability may be imputed to a utility where none would otherwise exist.

PAWC suggests that a provision should be added permitting a utility to petition the Commission for permission to terminate service to a premise when the account is in the name of a landlord, unless specifically prohibited by law. Concerning § 56.100(i), PAWC notes that the current regulations define "occupant" and that if the proposed regulations require utilities to attempt contact with a responsible occupant for the purpose of reaching an agreement as to the payment of arrearages and restoration, then the Commission should define the term "responsible occupant."

Action Alliance strongly disagrees with the Commission's plan to revoke its earlier proposal to eliminate the heat-related distinction in the context of winter terminations by utilities. Chapter 14 clearly provides a basis for providing protection for heating and non-heating accounts. Action Alliance notes that the term "heat-related" or the like is nowhere found in Section 1406(e). While natural gas service may not be considered strictly heat-related if not the primary source of a home's heat, Action Alliance notes that it is often the source of energy for hot water and cooking. Action Alliance believes that the Commission would be acting contrary to its much emphasized duty to protect health and safety if it adopts the current proposal to limit winter termination protections to heat-related accounts. Therefore, the language "heat-related' should be omitted from § 56.100 as such limitation is statutorily prohibited and contrary to health and safety.

Action Alliance requests that cold weather survey results be categorized by five digit postal codes and not just by first three digits, as proposed. All addresses in Philadelphia have postal codes with the same first three digits of "191" so data about the first three digits would provide little additional assistance to social service organizations in analyzing termination data of the public utilities serving Philadelphia. Action Alliance supports the Commission's proposal to require three reports, on December 15, January 15 and February 15. The surveys provide important information about how many households are without service during winter and provide the Commission, policymakers and low-income advocates with the basis for relevant policy recommendations, if needed.

Action Alliance supports the Commission's proposal, at § 56.100(j), to require utilities to report incidents of household fire, hypothermia or carbon monoxide poisoning occurring at addresses where utility service was off at the time of the incident. However, the Commission omits any non-winter cause of fatalities such as hyperthermia. Action Alliance recommends that the term "hyperthermia" be inserted after the term "hypothermia" and that the Commission clarify that the reporting requirement applies all year. Action Alliance recommends that the reporting requirement include incidents involving injury and property damage, as well as, deaths. If the terms "injury or property damage" seem too broad, Action Alliance would here recommend that the terms "hospitalizations or property damage" be inserted after the phrase "resulted in a death" within proposed § 56.100(j).

CAC notes that the winter termination rules at §1406 (e) dramatically change prior Commission policy and practice. CAC believes that this dramatic change creates the need for the Commission to carefully review its regulations concerning winter terminations. The CAC continues to strongly support the Commission proposal to revise the winter survey provisions found at§ 56.100(4) and (5) to require updates throughout the winter. Additionally, the CAC previously supported, and continues to support the Commission's proposal that utilities be required to report to the Commission anytime they are aware of a death following a termination of utility service where it appears that the death may be linked to the lack of utility service. CAC notes that although much attention is properly focused on termination-related deaths, the responsibility of the Commission to protect the health and welfare of Pennsylvania citizens is one which requires a broader data base beyond just death-related incidents. CAC therefore recommends including "serious injuries" within the report. The CAC continues to recommend that the Commission require utilities to develop a specific plan to ensure that they obtain current and comprehensive information from reliable sources within their service territory such as fire departments, health clinics, or hospitals.

The OCA notes that the Commission has reversed its initial position and retained the heat and non-heat related distinction in the winter termination provisions for electric and natural gas distribution companies. The OCA submits that Chapter 14 does not distinguish between heat-

related and non-heat related service; it protects all electric and natural gas residential service regardless of the nature of the service.

The OCA further contends that termination of utility service can be a matter of life or death, and it is central to the Commission's obligations to protect the health and safety of all citizens of the Commonwealth. The Commission should make it clear that the reporting applies all year and should include an incident of hyperthermia in the summer heat as a reportable event. The OCA also suggests the reporting requirement include injuries as well as deaths.

The OCA believes that the information submitted should be available to the public and to policymakers as it has a bearing on whether Chapter 14 has been successfully implemented and whether the health and safety of the public has been adequately protected. If the Commission is concerned with the release of all the information due to the sensitive nature of some of the information or the need for privacy of the customer, the Commission could develop a report of the key information to be made available to the public on a regular basis.

PULP supports the Commission's requirement that utilities must first verify that an account is eligible for wintertime termination before terminating service. The utility should use household size and income information from its own records and should solicit such information from its customers at every opportunity. PULP also supports the Commission's improvement of the cold weather survey through the introduction of survey updates by public utilities on January 15 and February 15 of each year.

PULP also has significant concerns with the Commission retaining a distinction between heat-related and non-heat-related service within the winter termination process. PULP contends that the Commission has recognized in its *Second Implementation Order* that this is a change from § 56.100 practice prior to enactment of Section 1406(e). The Commission noted that, unlike the existing Chapter 56 provisions, Chapter 14 did not make a distinction between heat-related and nonheat- related service in regard to winter termination and in its Advanced Rulemaking, the Commission proposed to eliminate this distinction. However, contrary to the clear language of the statute and contrary to recognition by the Commission in its *Second Implementation Order* of this significant change, this outdated distinction between heat- and nonheat-related service remains in the winter termination provisions. The Department of Public Welfare (DPW) has long recognized the essential nature of nonheat-related electric service in winter. For decades, DPW has provided LIHEAP Crisis grants to those income eligible applicants who have lost or are in danger of losing electric service. DPW considers electric service not primarily used for heating as a secondary heat source, as opposed to a primary heat source. Because of the critical nature of electric service in relation to enabling a furnace to function, Crisis grants are provided to non-electric heating customers.

PULP strongly endorses the Commission's decision in § 56.100(a) to prohibit water distribution companies from terminating water service during the winter months. According to PULP, it is clear from Chapter 14 that only electric distribution companies and natural gas distribution companies were intended to have different winter termination rules as a result of Chapter 14 per Section 1406(e)(1). PULP also requests that the Commission have in place and requires utilities to have in place expedited procedures for hearing customer complaints about immediate terminations pursuant to § 56.100(b).

PULP supports the inclusion of § 56.100(j) concerning the reporting by utilities of deaths at locations where public utility service was previously terminated, particularly given that the Commonwealth has once again this year experienced fatalities in households where utility service was previously terminated. PULP also requests that the Commission require that utilities develop a specific plan, such as proposed by CAC, to ensure that they obtain current and comprehensive information from reliable sources within their service territory such as fire departments, health clinics, or hospitals. The information contained in these reports should be available to the public and to Commonwealth policymakers as well as to the Commission. PULP is equally concerned about the inclusion in the proposed rulemaking of a prohibition regarding the use of these reports by the judiciary. The Commission's proposal to bar the reports from being admitted into evidence in a court of law would appear to usurp the prerogative of the judiciary to determine the relevant contents of the factual record before it.

IRRC also questions the inclusion of the term "heat related service" and notes that Section 1406 (e) does not make any distinction between "service" and "heat related service." IRRC questions what is the procedure for verifying household income? IRRC also questions why does this subsection require the utility to gather household income and size information after the termination notice has been issued to determine eligibility for termination, rather than prior to issuance? IRRC also questions the need for the additional reporting requirement in this subsection.

Concerning Subsection (j) reporting of deaths at locations where public utility service was previously terminated, IRRC notes that this subsection has generated interest from both the utility industry and the consumer advocacy community. The utility industry questions the need for reporting deaths, and the consumer advocacy community has suggested that the provision be amended to require the reporting of deaths and injuries. Finally, IRRC submits that the Commission should explain the need for the reporting of deaths and why this provision presents an appropriate level of reporting and how the information will be used.

Discussion:

We agree with the CAC that Section 1406(e) dramatically changed the winter termination rules and that this change creates the need for the Commission to carefully review its regulations

concerning winter termination. The rules governing the termination of utility service in the winter have to be carefully considered because while the lack of utility service can present dangers anytime of the year, the dangers in the wintertime can be more compelling. A family without heat in the winter may resort to desperate, dangerous acts that imperil not only themselves but their neighbors and the community. The lack of central heat can force a family to resort to the use of space-heating equipment that is not designed nor intended to heat an entire residence. "Space heaters result in far more fires and losses than central heating devices and have higher risks relative to usage" according to the National Fire Protection Association (*Home Fires Involving Heating Equipment*, John R. Hall, Jr, National Fire Protection Association, November 2007, page ii). The cold weather survey conducted annually per § 56.100 shows that in 2008, 14,372 households entered the winter season without heat-related utility service compared to 13,762 the previous year. Given these numbers, and the dangers involved, the Commission has devoted considerable efforts in the past to address cold weather procedures, most notably in the *Second Chapter 14 Implementation Order* of September 9, 2005 (M-00041802F0002) and a follow-up December 1, 2005 *Chapter 14 Implementation Declaratory Order* (M-00041802F0002). In these orders, while the Commission addressed many different aspects to winter termination, it also made clear that "...we wish to emphasize that we are keeping our options open as to additional rules that may result from the upcoming rulemaking" (page 61 of the *Second Implementation* Order of September 9, 2005, M-00041802F0002). We thank the parties for their extensive comments on this section and believe it is now time to fully address these important winter rules.

The Commission has previously addressed the obligation of utilities to determine a customer's income and thus eligibility for wintertime termination in the above noted orders, starting with the *Second Implementation Order*, (pages 7-11):

> "We agree with EAP's comment that the primary source of income level information will be the consumers themselves. However, given the language at §1406(e), it is appropriate to infer that this provision clearly places an obligation on the electric and gas utilities to implement procedures that attempt to identify accounts that are protected from termination during the winter period, not only prior to but also subsequent to the issuance of a notice. In this regard, PGW and other parties identify an important activity that must be part of an appropriate process to ascertain income to prevent erroneous winter termination in application of §1406(e). Additionally, since water companies are not included under §1406(e), they remain obligated to apply §56.100 (winter termination procedures) when threatening termination to heat related water service between December 1 and March 31. We also clarify that §56.100 is superseded by Chapter 14 to the extent that the termination steps set forth in §56.100(1) and (2) are replaced by the termination steps at §1406(b)(1)(i) through (iii).
>
> The important activity that PGW and other parties note is that all public utilities contain pertinent income and household size information in their data bases. Moreover, this information is routinely updated whenever the utility receives a contact from a delinquent

customer seeking payment terms. The OCA reinforces this point with the comment that delinquent customers should have been given every opportunity to enter into a payment agreement, and termination should not be considered until the customer has deviated from the payment agreement, and in these cases the utility already has, or should have, income information that was used to create the original payment agreement...

...With respect to the contention by the OCA and CLS that the burden is on the utility to determine household size and income **prior** to sending a winter termination notice, we do not agree that Chapter 14 requires the electric and gas utilities, except for PGW which must verify household income in light of requirements at §1406(e) pertaining exclusively to PGW, to make such determinations prior to issuing a winter termination notice. While we intend that the policies contained in the instant Order help ensure the identification of the overwhelming majority of households that fall into the protected income categories listed at §1406(e)(1), we do not believe that Chapter 14 prohibits the issuance of a winter termination notice to a delinquent account for which the company doesn't know household size and income. However, in light of the prohibition against terminating service to households that fall into the protected income categories listed at §1406(e)(1), a utility must not complete the process and physically terminate service to a delinquent account for which the company doesn't know household size and income unless it makes a diligent, good faith attempt to verify that the household does not fall into the protected income category by following the processes required by 66 Pa. C.S. §§1401 *et seq.* and 52 Pa. Code §§56.1 *et seq.* as well as the notice provisions outlined in this Order. We also note that Chapter 14 at §1407(b)(1) requires that erroneous terminations must be restored within 24 hours. Moreover, we remind utilities the Commission may authorize termination of service pursuant to §1406(e)(1) in response to requests made pursuant to §56.100. While we do not anticipate numerous applications of §56.100 by utilities, we recognize that utilities may wish to make such requests in regard to egregious situations."

In that same order, the Commission addressed the same issue in the context of the provisions that apply specifically to the Philadelphia Gas Works (pages 60 – 61):

"As we stated in PGW-Specific issue #1, winter terminations will be permitted for customers whose income is less than 250% of the FPL. The Commission already has rules in place, in the case of PGW, in those instances where the utility is petitioning the Commission for permission to terminate a customer whose income is less than 150% of the poverty level. It is important to emphasize that from November 21 to January 31, PGW should only issue notices to this group of customers if it intends to follow through with the termination by petitioning the Commission if the customer fails to eliminate the grounds for termination.

PGW will be permitted to provide notice and terminate those customers between 150% and 250% of the poverty level during the winter. Similar to the responsibility shared by the other utilities, terminations in this customer category may not occur until PGW has confirmed that the household is not protected from termination pursuant to §1406 (e)(2)(i)-(iv). While we are permitting these terminations we wish to emphasize that we

are keeping our options open as to additional rules that may result from the upcoming rulemaking."

The Commission refined its guidance in response to a petition filed by PGW seeking clarification and reconsideration of the above mentioned Implementation Order. In its December 1, 2005 *Chapter 14 Implementation Declaratory Order* (M-00041802F0002), the Commission stated the following (pages 9-11):

> "Section 1405(e) provides that a city natural gas distribution operation may terminate service to a customer whose household income exceeds 150% of the FPL but does not exceed 250% of the FPL and who has not paid at least 50% of his charges for each of the prior two months. We have reviewed PGW's Petition and the Answer filed by CLS and we are persuaded that this section does not prevent the issuance of termination notices to delinquent heating customers in the winter even if the utility does not know with certainty that the customer was not exempt from termination.
>
> Requiring PGW to verify with certainty the income level of customers prior to issuing a winter termination notice is neither practical nor required by Chapter 14. If a customer fails or refuses to come forward with household size and income information, such failure or refusal would preclude the utility from issuing a winter termination notice that may otherwise be authorized under Chapter 14. Also, a termination notice could be an effective way to trigger a customer contact in order to determine household size and income level. This would give PGW the necessary information to then determine if a customer is, or is not, below the income level that would preclude termination under Chapter 14. Accordingly, it would frustrate legislative intent to interpret § 1406 to prohibit the issuance of a winter termination notice in all situations where the utility does not have income information for a customer."

We disagree with NFG that the proposed language in paragraph (e) is beyond the scope of the legislative intent and is unnecessary. As NFG points out, Chapter 14 does not include language directing utilities on how they must determine whether an account is eligible for winter termination. We agree, and believe this is why it is necessary to delineate procedures for this in regulation. The General Assembly clearly intended certain accounts to be exempt from termination in the winter and it is reasonable for this agency to promulgate rules that help ensure that intention is implemented. We believe the guidance provided for in the *Second Implementation Order* is basically sound, and this is reflected in our proposed paragraph (e). As we explained in the *Second Chapter 14 Implementation Order*, Chapter 14 does not prohibit the sending of termination notices to any segment of customers; it prohibits the termination of service to certain segments. In response to IRRC's questioning of the Commission permitting the sending of notices before income information is obtained, we point to our belief that the termination notice itself will prompt the customer to contact the utility to provide this information and that anything less than a termination threat may not instill the sense of urgency needed to prompt the customer to do so. While we understand IRRC's concerns, we believe prohibiting the sending of termination notices to customers whose income in unknown is overly

restrictive and not required to comply with Chapter 14. We also note that we are not aware of any serious problems stemming from this procedure since it was implemented in 2005 and see no compelling reason to revise this guidance.

However, we concede that we have to address the situation raised by parties such as Allegheny Power, Columbia, PECO and PGW as to what should occur when a utility does not obtain income data from the customer either because the customer never contacts the utility or does not cooperate with the utility. In our December 1, 2005 *Declaratory Order,* the Commission, on this point, declared that it was "... not ruling on whether PGW may actually terminate service. So that it is clear, we require that PGW seek a ruling from the Commission on this issue prior to implementing a change in this policy." We note that, to date, PGW has not sought Commission permission to change this policy. As a result, the Commission has not yet addressed this specific point but we agree that now is the appropriate time to do so. We have to disagree with the parties that suggest a utility should be free to terminate service in the winter when they do not know the customer's income. Allowing such a practice would clearly risk the termination of essential utility service to customers who the General Assembly sought to protect in Section 1406(e).

If a utility wants to terminate service to a customer who has failed to provide household income information, we point out that the petition procedure outlined in paragraph (g) is available and can be utilized in these instances. Commission staff can then review the matter and determine if termination is appropriate. To emphasize the seriousness of the situation to the consumer and in keeping with due process, we shall revise paragraph (g) to require the utility to send the customer a copy of the petition they are sending to the Commission (this is keeping with standard service procedures, but explicitly adding it to this paragraph will help make this clearer). It is hoped that being served with such a petition will alert the customer to the seriousness of the situation and that their service may be terminated as a consequence of their failure to cooperate with the utility. We believe that this is a reasonable middle ground between those who believe that these customers should not even receive termination notices (as discussed above in relation to IRRC's comments) and those that believe the customer's service should be terminated free of any review or restriction.

On the related issue raised by PECO, the verification of income information, we are not convinced that codifying this is workable. Depending upon the type of verification desired, this could present considerable administrative burdens upon utilities and also unidentified burdens on consumers attempting to comply with the verification request. Also, some utilities may want to verify income while others will not and different utilities have different capabilities (some have local offices, others do not, for example). This possible inconsistency presents equity, discrimination and fairness issues as consumers with one utility will face termination of service in the winter for failing to meet verification burdens not required by another utility. This may also be contrary to the statement of purpose and policy at § 56.1 which declares the rules to be

established are to be "...uniform, fair and equitable..." If a utility wants to pursue the verification of consumer income information, we believe the fairest and most reasonable approach is to have the utility include in their tariffs a provision that would stipulate under which conditions they would require verification of income, the procedures for doing so, the proof they would expect from a consumer, and the consequences if the consumer fails to comply. This will allow each utility to prepare a voluntary verification procedure that is tailored to the unique circumstances of their operations and their customers. In addition, we again point to the petition procedures in paragraph (g) that a utility may use if they believe an individual consumer is not acting in good faith.

We acknowledge the concerns of Action Alliance, OCA and PULP with the Commission's proposal to exempt non-heat related accounts from this section. IRRC also questions the Commission's proposal. We note that the proposal was to apply the winter termination rules to heat-*related* accounts. Traditionally, this includes any service where the lack of service would cause the resident's central-heating system to cease to function. As a result, the number of protected accounts is beyond just the heating-rate or primary source of heat accounts and is in fact significantly higher than some parties suggest. Regardless, we agree that there are legitimate and reasonable arguments that can be made on either side of this issue. However, the most convincing argument is simply that if the General Assembly had intended such a broad category of accounts to be exempt from the winter termination rules they provided in Section 1406(e), they themselves would have made such a significant exception. We will revise our proposal to apply the winter rules upon all electric and gas accounts, regardless of end-use. The provisions for the water industry will remain unchanged because the winter termination rules in Chapter 14 are directed only to the electric and gas utilities. We again note the petition procedures in paragraph (g) that a utility may use if they believe an individual consumer is not acting in good faith. We also point to the petition process in response to PAWC's request to allow termination where the account is in the name of the landlord ratepayer. The petition process in paragraph (g) can be used to request permission to terminate service to any customer otherwise protected by the prohibitions in this section.

We understand PGW's objections to paragraph (c) and how we propose to implement Section 1406(e)(2), which sets forth additional authority for PGW to terminate service in the winter to those customers between 150 – 250% of the federal poverty level. However, we believe the January 1 date specified in Section 1406(e)(2) is difficult to interpret any other way other than an additional qualifier to the termination provisions of this Section. If, per Section 1406(e)(2), PGW must apply this Section only to those accounts between 150% and 250% of the federal poverty level where the customer "...starting January 1, has not paid at least 50% of his charges for each of the prior two months...", we do not see how can it be interpreted to allow for December terminations for this group of customers.

Regarding our proposed paragraphs (h) and (i) that concern the annual survey of terminated accounts (commonly referred to as the winter survey), upon our review of the comments, we believe that our original proposal needs to be modified. We agree with PPL, Allegheny Power, Equitable, EAP and Columbia that the reporting of survey results by postal code, while "nice to know" as PPL points out, does present programming and reporting costs that may not be worthwhile. We also agree that our proposal to require two rounds of updated survey results (January 15 and February 15) is not necessary and would impose unreasonable costs. Instead, we will revise this proposal to require only one update, on February 1. This would merely codify a practice that has been in place since February 2004 and would not impose any additional costs. In response to PPL and IRRC's questions that this data is already available via monthly § 56.231 reporting; we point out that § 56.231 is only a reporting requirement. While this provides the Commission with the number of accounts terminated in any given month, it does not include a survey requirement. The survey updates in paragraph (i) go beyond just a reporting requirement; the utility is expected to make a good faith attempt to contact the customer to discuss the payment of arrearages and financial assistance to possibly get service restored. We will also remove redundant references to "December 1" in paragraph (h) to improve readability.

Given the health and safety issues involved with living without utility service in the winter which we have already discussed, we believe this second survey attempt in mid-winter is a valuable, cost-effective effort to get utility service restored. For example, in the February 2009 survey update, the electric and gas utilities reported that the total number of homes not using a central heating system was 11,347, a 36 percent reduction from 17,745, as reported in the December 15, 2008 initial survey results (http://www.puc.state.pa.us/General/press_releases/Press_Releases.aspx?ShowPR=2184). And the survey update from the previous year showed that as of February 1, 2008, the total number of homes not using a central heating system was 11,495, a 32 percent reduction from the 16,857 total reported in the initial December 15, 2007 survey results. (http://www.puc.state.pa.us/General/press_releases/Press_Releases.aspx?ShowPR=1912). We believe these numbers prove that the updated survey requirement results in more consumers having their heat reconnected in the winter and is a valuable tool in helping reduce the number of residences without heat and thus helps minimize the resulting public health and safety issues. As for EAP's point that these are customers who have had CAP rates but failed to maintain "their low $20-$25 a month payment" we point out that per the *Report on 2008 Universal Service Programs & Collections Performance* (consisting of data submitted by utilities per 52 Pa. Code §§ 54.75 and 62.50) the average CAP electric bill ranged from a low of $40 for a Penelec customer to a high of $70 for a PPL customer and the average CAP gas bill ranged from a low of $47 for a Columbia customer to a high of $112 for a UGI Penn Natural customer (page 38). There may indeed be CAP customers with a low $20 - $25 monthly bill, but based on the data they are very few in number.

We do not see a need to modify paragraph (f) as suggested by PGW to include discontinuance of service since paragraph (f) only refers to the *termination* of service, which is different from *discontinuance* of service, both of which are clearly defined in § 56.2. We also disagree with PGW's suggestion that the language in paragraph (i) referring to a "...good faith attempt to reach an agreement regarding payment of any arrearages..." conflicts with Chapter 14 and should be removed. We are not requiring a payment agreement in these instances and are not requiring service to be restored per an agreement. We are merely encouraging the utility to discuss the possibility with the customer in an effort to restore essential utility service.

Our proposal in paragraph (j) concerning the reporting of deaths at locations where public utility service was previously terminated generated numerous comments from the utility industry and consumer groups. We agree with OCA that termination of utility service can be a matter of life and death and is central to the Commission's obligations to protect the health and safety of all citizens of the Commonwealth. As OCA points out, the information sought by the Commission will be critical to the Commission, members of the General Assembly and interested stakeholders as they consider and evaluate Chapter 14.

Following are some examples from recent years of incidents the Commission has acted on that would be reportable under the proposed paragraph (j). These incidents are also reported in the *Biennial Reports to the General Assembly and the Governor* that the Commission is required to provide every two years per Section 1415:

- An electric utility contributed $250,000 for the company's Consumer Assistance Program (CAP) and $100,000 for the Dollar Energy Fund. The informal investigations centered on improper terminations of electric service on May 11, 2005, in Hastings, Cambria County. Following the termination, four fatalities resulted from a May 14, 2005, fire, which according to media reports was caused by an unattended candle. (Public Meeting of December 15, 2005, M-00051906).

- An electric utility contributed $175,000 for the Dollar Energy Fund. According to PUC's Prosecutory Staff, the utility violated provisions of Chapter 14 of the Public Utility Code by terminating service to a customer in State College on May 17, 2005, without first providing sufficient notice of the termination to the customer. A resident of the home was subsequently found dead on July 4, 2005. According to media reports, the cause of death was carbon monoxide poisoning from a gasoline-powered generator the household was using to generate electricity. The company also agreed to implement termination notice procedures as found in Chapter 14. (Public Meeting of October 19, 2006, M-00061952)

- An electric utility agreed to contribute $300,000 to a low-income program to settle an informal investigation into an electric termination that preceded a fatal fire in Steelton, Dauphin County. The utility terminated service to the residence involved on November 2, 2007. A fire at the home the following day was allegedly started by a lit candle that touched a wall. Two children died in the fire. Commission Prosecutory Staff contended

that the utility violated certain sections of Chapter 14 of the state's Public Utility Code and Chapter 56 of the Commission's regulations. In addition to the contribution, the settlement also requires the utility to revise its practices to bring them into full compliance with Chapters 14 and 56. This includes developing updated call scripts and increase training for its customer service representatives; establishing procedures to assist customers seeking payment arrangements including information about medical certificates; and enhancing procedures when they handle calls from customers whose service is terminated on Fridays. (Public Meeting held March 26, 2009, M-2008-2057562)

- On September 10, 2009, the Commission released for comment a settlement that dealt with the August 8, 2008, termination of electric service to a residence in Lancaster, Lancaster County. A fire destroyed the home on August 9, 2008, killing the resident. Although Pennsylvania State Police were unable to determine the fire's cause, the PUC's independent Prosecutory Staff began an informal investigation into the electric utility's termination practices. If the matters had been litigated, Prosecutory Staff would have contended the company violated various portions of the state's Public Utility Code and Commission regulations including provisions on termination notices, medical certificates, payment arrangements, restoration of service and dispute rights. Under the settlement, the company agreed to not terminate service to residential customers on Fridays before January 1, 2013, without petitioning the PUC; contribute $400,000 to its Operation HELP program; pay a civil penalty of $50,000; establish additional customer service procedures; and revise additional internal procedures to deal with terminations, medical certificates and disputes. (Public Meeting of September 10, 2009, M-2009-2058182).

We do not lightly propose this requirement, but do believe that this reporting is essential in meeting our obligations as described by OCA. At the same time, we once again emphasize that this reporting is not to infer liability or causation. We want to carefully craft this requirement so that it is as clear as possible, limited in its scope, reasonable in the burdens it imposes, yet still alerts the Commission to matters that policy makers should be aware of. The parties submitted several helpful comments that will assist us in meeting these objectives while some of the comments we must take issue with. Generally, utility commentators object to the requirement or the scope of the requirement; while commentators representing consumers object that the requirement is not broad enough.

We disagree with NFG that the Commission does not have the legal authority to promulgate a reporting requirement as found in paragraph (j). Sections 504, 1501 and 1508 of the Public Utility Code provides the Commission with the authority to promulgate a reporting requirement. We also note that the Commission has previously promulgated similar requirements, including a January 16, 2009 Secretarial Letter (M-2009-2084013) and a 1995 Secretarial Letter (M-00940603).

We also disagree with PPL when they suggest that these reporting requirements are best left to a Commission Secretarial Letter instead of regulation. By placing them in regulation, they will bear the scrutiny, comments and due process requirements the rulemaking process provides. The

Secretarial Letter process lacks these requirements. Placing them in regulation will also make them accessible and visible to all utilities, consumers and policy makers. Secretarial Letters simply lack this same visibility.

We do agree with PGW and NFG that the utility's reporting should focus on what the utility knows, such as circumstances of the termination and not on areas where they lack expertise, such as the cause of the incident. This is why we indicate that this information is to be provided "if applicable" or "if available." However, to clarify this further, we will revise the paragraph to make clear that the utility is responsible for providing information about the account and the circumstances surrounding the termination of service. For other information about the incident itself and its cause, they only have to forward what they have, if anything, from other sources such as the media or official government sources.

We disagree with Allegheny Power's and Equitable's objections to the one business day timeframe to submit reports. The reports consist of basic information (customer name, address, account number, date of incident, and brief description of circumstances involved) that should be readily available to the utility. Given the serious nature of these incidents, it is not unreasonable for the Commission to expect some basic information within a day. More detailed information that the Commission may request will of course take longer, and this can be worked out between Commission staff and the utility on a case-by-case basis.

We acknowledge the concerns expressed by PPL, Allegheny Power, NFG, PGW and EAP that this reporting requirement could infer an admission of liability; and that the information submitted could be subject to public exposure. However, 66 Pa. C.S. § 1508 requires that public utilities, "shall give immediate notice" of any incident where any person has been killed or injured. This statute also specifically states that the report is not open for public inspection except by an order of the Commission and that the report is not to be admitted in evidence for any purpose in any damages action.

While we understand the concerns of Action Alliance, CAC, OCA and PULP that the reporting requirement is too narrow in just focusing on deaths, we believe expanding this to include serious injuries and property damage presents too many practical difficulties to implement effectively. Almost every fire results in some property damage, so this would create an extremely broad and unnecessarily burdensome reporting requirement that would also impose burdens on the Commission in tracking so many reports. Limiting it to "serious property damage" is problematic in that "serious" is probably an impermissibly vague term. Likewise, injuries are not uncommon at a fire, if only a case of smoke inhalation or minor burns. Requiring a report on all such incidents would create too much of a burden, but limiting it to "serious" injuries again is probably impermissibly vague. Limiting it to injuries requiring "hospitalization" is problematic, in that it is the Commission's experience that media reports are

rarely this detailed and specific, and hospitals generally decline to release such information, citing patient privacy concerns.

We acknowledge OCA's belief that a severe injury is not less deserving of regulatory attention simply because no fatality resulted. We emphasize that even though we omit injuries and property damage among the events triggering a report to the Commission, the Commission still has the authority to investigate such instances. Omitting these occurrences from this regulation in no way diminishes the Commission's authority, and in fact the Commission has in the past investigated incidents that involved only property damage and injuries. For recent examples, see *Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. Pennsylvania Electric Company* (Public Meeting of March 12, 2009, Docket No. M-2008-2027681) where Commission staff investigated an incident that damaged a residence and injured an occupant, but no fatalities occurred and also *Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. PPL Electric Utilities Corporation* (Public Meeting of September 10, 2009. Docket No. M-2009-2059414) concerning a fire where several residential apartments were destroyed but no serious injuries or deaths resulted. We also remind everyone that omitting occurrences of injury and property damage from this regulation does not preclude any party at any time from presenting the Commission with information on such an incident and requesting an investigation.

Regardless of the above, we do agree with Action Alliance, CAC, OCA and PULP that the reporting requirement as proposed may appear unintentionally limited in that it only specifies deaths from "fire, incident of hypothermia or carbon monoxide poisoning." While we find the suggestions to add hyperthermia and asphyxiation as reportable events problematic because, in the Commission's experience, media reports of these incidents are rarely this specific, we do think the language of this requirement needs broadened a bit. To do so, we will revise the proposal to bring it more into alignment with the language of the Commission's January 16, 2009 Secretarial Letter (M-2009-2084013) by adding "another event that resulted in death" to paragraph (j).

§ 56.101. Limited notice upon noncompliance with report or order.

NFG agrees that § 56.101 should be removed from the regulations.

PGW believes that the regulations should allow limited notice when a consumer has failed to appeal from an informal or formal PUC determination or utility company report. Otherwise, consumers could abuse the dispute process to delay termination.

Discussion:

We agree with NFG that this section should be removed from the regulations, and conversely we disagree with PGW that it should be retained under some circumstances. In Chapter 14, the

General Assembly clearly provided new termination notice standards, and in none of those Chapter 14 provisions (Section 1406(b)) is there any mention of the traditional limited notice of termination provided for in § 56.101. As such, we can only conclude that the General Assembly did not intend to provide for a "limited notice." The use of limited termination notices has also been the subject of an investigation by Commission Prosecutory Staff in *Settlement Agreement Between Law Bureau Prosecutory Staff and West Penn Power Co., t/d/b/a Allegheny Power*, M-00061952, (October 19, 2006) where the utility, as one of the conditions of the settlement ending the investigation, agreed to stop using limited notice under § 56.101.

§ 56.111. General provision.

Allegheny Power alleges that the use of medical certificates has been abused over the past several years and that any proposed regulation should be written to prevent unscrupulous abuse. It should be specified that the medical condition must be one for which the customer is currently under a physician's care and that the physician's license number be required. The term "applicants" should be removed from the emergency medical provisions because applicants seeking service restoration after termination would have had ample time to exercise their rights under the emergency medical provisions. PECO and Duquesne likewise believe that "applicants" should be removed from this section with Duquesne estimating the cost of complying with this provision at $860,000 annually.

PPL agrees with the proposal to include "nurse practitioner" in this section. However, PPL has concerns about an applicant who has never had service with PPL and uses the medical certification process to obtain service. From PPL's perspective, credit worthiness should be the standard of providing service for these applicants rather than a medical condition. Simply using a medical condition standard would increase PPL's financial risk. PPL suggests that for § 56.113(1)and (2), the word "applicant" means a natural person who lives at the same address and had received a final bill from the utility.

Columbia opines that to the extent that the proposed language regarding medical certifications is broader in scope than 66 Pa.C.S. § 1406(f), it should be amended. Columbia believes there is nothing in the statute that provides for the restoration of service based upon a medical certification. Consequently, the proposed language in § 56.111, "or refuse to restore," and the reference to "applicant's house" are inconsistent with the statute. While Section 1406(f) prohibits service cessation based upon a nurse practitioner's medical certification, the statute requires a follow-up letter "from a licensed physician verifying the condition" that serves as the basis for the medical certification. Thus, the proposed § 56.111 language must be amended to remove the customer's option of obtaining the verifying letter from a nurse practitioner.

PGW opposes allowing nurse practitioners to file letters of certification because this is contrary to Section 1406(f). Only physicians have the required medical training to make these determinations and the proposal would force utilities to become familiar with the nurse practitioner rules of certification and registration.

EAP's position is that the term "nurse practitioner" should be added whenever a regulation in Chapter 56 references oral medical certification, but that written medical certification is still only acceptable from a licensed physician. Based on the plain meaning of the words used in 1406(f) of Chapter 14, the written (i.e., letter) medical certification should be provided by a licensed physician only. If the legislature had intended to include licensed nurse practitioner as being authorized to issue a written medical certification, then they would have expressly stated such in §1406(f). EAP does not believe that it is appropriate for the Commission to expand the statute, via regulation, beyond the clear and unambiguous language of the statute.

PAWC also believes that the proposed regulation goes beyond Chapter 14 and that in order to be consistent with the law, the Commission should consider limiting the written certification to licensed physicians and oral certifications to both licensed physicians and nurse practitioners.

Action Alliance contends that implementation of medical certification protection varies from utility to utility, including inconsistent policies of yearly limitations or lifetime limitations on a consumer's right to assert medical protections. The Commission's proposed modifications in this area will provide much helpful clarification for customers, utilities and agencies serving vulnerable consumers. Action Alliance strongly supports the Commission's proposed language at § 56.111 which states that "The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the public utility. The utility may not impose any qualification standards for medical certificates other than those specified in this section" because it is important to prevent utilities from imposing qualifications that may deter consumers from seeking medical certificates or doctors from providing medical certificates.

The CAC and PULP support maintaining in the proposed regulations the longstanding standard of "...seriously ill or affected with a medical condition which will be aggravated by a cessation of service..." and leaving the medical determinations to medical professionals. PULP explains further that emergency medical determinations are important safeguards intended to protect the health and welfare of a household's occupants. Neither the Commission nor a utility is in a position to substitute its judgment for that of a medical practitioner.

IRRC notes that Section 1406(f) only refers to customers, and not applicants and questions why have applicants been included in this section of the regulation? IRRC further notes that Section 1406(f) refers to authorized termination of service, not the refusal to restore service. Finally,

while Section 1406(f) requires a letter from a licensed physician verifying the condition of the customer, why does the regulation also allow nurse practitioners to provide verification letters?

Discussion:

We find merit with the concerns expressed by IRRC, Allegheny Power, PECO, Columbia and Duquesne with the proposed language in this section referring to "applicants." The explicit words of Section 1406(f) cannot be disregarded. This section only refers to *customers* in terms of obtaining a medical certification to prevent termination. The legislative intent is expressed through the plain language of the statute. 1 Pa. C.S. A. § 1921. Moreover, this interpretation is consistent with the application of the rules for reconnection of service.

Section 1407(b) addresses the timing of Reconnection of service:

> (b) Timing.—When service to a dwelling has been terminated and, provided the *applicant* has met all applicable conditions, the public utility shall reconnect service as follows:
> (1) *Within 24 hours* for erroneous terminations or *upon receipt by the public utility of a valid medical certification.*
> (2) Within 24 hours for terminations occurring after November 30 and before April 1.
> (3) Within three days for erroneous terminations requiring street or sidewalk digging.
> (4) Within three days from April 1 to November 30 for proper terminations.
> (5) Within seven days for proper terminations requiring street or sidewalk digging.
> (emphasis added)

Although the opening sentence of this subsection includes the term "applicant", subparagraph (b)(1) clearly refers to a service restoration timeframe upon receipt of a medical certificate. A plain reading of this section reveals that medical certificates are only mentioned in Section 1407(b), the subsection that specifies the rules utilities must follow regarding the timing of the physical restoration of service. Nothing in subsection (b) erodes a utility's rights under Section 1407(a), which permits utilities to charge reconnection fees, or 1407(c), which allows utilities to require payment of all or a portion of an *applicant's* outstanding balance before reconnection. Further, 1407(b) clearly states that utilities are only required to abide by the timing provisions "provided the *applicant* has met all applicable conditions." Thus, it is only after an *applicant* for service has complied with "all applicable conditions" that medical certificates play a role in the restoration of service, and that role is only to accelerate the timeframe the utility has to restore the applicant's service. The General Assembly's use of the word "applicant" within the reconnection of service section is clear evidence of legislative intent that medical certifications are only available for "applicants" to receive expedited reconnection of service. 1 Pa.C.S.A. § 1921(b).

As a result, we believe it is appropriate to retain a reference to "applicants" in § 56.111, since, as noted above, applicants can use medical certificates to expedite the restoration of service. However, we will revise § 56.191 (restoration payment and timing) to make clear that while a "customer" can use a medical certificate to get terminated service restored; an "applicant" must still meet "all applicable conditions" (whatever payment is required) before getting service restored on an expedited timeframe (24 hours). This means that medical certificates, for the purpose of preventing termination and for restoring service without payment, are only available to "customers." (refer to the definition of *customer* at § 56.2; where it is specified that "a natural person remains a customer after discontinuance or termination until the final bill for service is past due.").

We believe these changes are not only necessary to comply with Chapter 14, but are also sound public policy. Duquesne, the smallest of the large electric distribution companies, estimated that the costs of complying with the existing medical certificate procedures in Chapter 56 are $860,000 annually. These are costs that must be borne by all utility ratepayers, just as those same ratepayers will ultimately pay for the bad debt expense utilities accrue because of customers who abuse the termination and restoration process. We are mindful that this legislation seeks to eliminate opportunities for customers to avoid paying their utility bills, and to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections. 66 Pa. C. S. § 1402. Customers with legitimate medical conditions have ample time to provide utilities with the necessary information to ensure the continuation of service. It is only after the customer relationship is severed, that the right to use a medical certificate as a tool to guarantee the continuation or restoration of service ceases.

Finally, to be clear, it is not our intent in the final regulation to require 24 hour reconnection to all applicants with a medical certification. It is our intent to make medical certificates available to those individuals who are seeking reconnection of service; meaning that their service must first have been terminated as stated in (b). This is based on the fact that Section 1407 is titled "Reconnection of service," and that to have service reconnected one's service must have been first connected and then terminated at some point. Chapter 14 clearly makes a distinction among different types of applicants and different standards are imposed on some applicants as opposed to others. For example, Section 1404(h) provides for applicants who are seeking reconnection under paragraph (a)(1) of Section 1404 up to 90 days to pay a security deposit, as opposed to other applicants, such as those that fail to establish creditworthiness under Section 1404(a)(2), who do not have 90 days to pay. It appears that the General Assembly intended applicants who are seeking reconnection of service after termination to have different standards applied to them than applicants who are seeking to establish new, initial service. This is apparent from the above cited provision at Section 1404(h) and for requiring 24 hour reconnection to applicants seeking reconnection under Section 1407(b). Therefore, the use of the word "applicant" in the reconnection of service section is explicit and should not be disregarded to ascertain intent. 1 Pa. C.S. § 1921(c). In short, an applicant seeking new, initial service cannot use a medical

certificate to bypass the credit screening of the utility. We agree with PPL that credit worthiness should be the standard of providing service for new, initial applicants and believe this is also what the General Assembly intended in Section 1404. To make medical certificates available to *all* applicants would, as PPL points out, increase a utility's financial risk.

IRRC, Columbia, PGW, EAP and PAWC question the Commission's proposal to allow nurse practitioners to file medical certificates and to provide verification of medial certificates under Section 1406(f). This is an area where reasonable parties can disagree because the language at Section 1406(f) can be interpreted different ways. The first sentence of Section 1406(f), "A public utility shall not terminate service to a premises when *a licensed physician or nurse practitioner* has certified that the customer or a member of the customer's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service" (emphasis added) is fairly clear in that both physicians and nurse practitioners are qualified to provide medical certificates. However, the second sentence of Section 1406(f), "The customer shall obtain a letter from a licensed *physician* verifying the condition and shall promptly forward it to the public utility" (emphasis added) omits nurse practitioners. This appears to indicate that medical certification is a two-step process, with the second step being more restrictive than the first step. Based on the clear and unambiguous words of the statute, limiting the availability of obtaining the verification letter to a licensed physician, we conclude that if a nurse practitioner files a medical certificate, but a physician fails to provide the follow-up letter, the medical certificate filed by the nurse practitioner is invalidated and the utility may terminate service. 1 Pa. C.S.A. § 1921(b).

It is clear that the General Assembly, in Section 1406(f) intended to expand the medical professionals eligible to file a medical certificate from physicians only to now include nurse practitioners. It is equally clear that the medical certification process refers to a customer obtaining a letter of verification from only a physician.

We agree with Action Alliance, CAC and PULP that medical determinations are to be made by medical professionals and that utilities should not impose additional qualifications that are not found in regulation and statute. As such, we will retain the language we have proposed in §56.111.

§ 56.112. Postponement of termination pending receipt of certificate.

Action Alliance supports the Commission's plan to maintain the important three-day stay of termination to obtain written or oral certification at § 56.112. Illness, hospital stays and circumstances surrounding the medical emergency can prevent a household from being aware of imminent utility termination. The first time that a consumer may learn of the impending termination is when the utility worker appears at the home. Three days is the minimum period of

time that should be allowed to consumers to contact a medical professional to submit a verbal or written medical certification to the utility.

Discussion:

We agree with Action Alliance and see no reason to revise the original proposal.

§ 56.113. Medical certifications.

Columbia believes that the proposed § 56.113 improperly puts the onus on the utility to "verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days." Columbia thinks this is inconsistent with Section 1406(f), which provides that "The customer shall obtain a letter from a licensed physician verifying the condition." Columbia suggests that § 56.113 should be eliminated so that there is no confusion and the list of information that must be included in a medical certification should be moved to § 56.111.

Action Alliance supports the Commission's plan to maintain the seven-day window to provide written confirmation at § 56.113. If the utility requires a written certification, maintaining the seven day window, after verbal certification, for submission recognizes the demanding schedules of medical offices and provides a reasonable opportunity for consumers and their treating medical practitioners to comply.

Discussion:

Columbia is correct in that Section 1406(f) directs the customer to obtain a letter from a physician and this directive is incorporated into the proposed § 56.111. Columbia is incorrect in that the proposed § 56.113 improperly places the burden on the utility. Section § 56.113 is intended to provide the utility with the ability and means to verify a medical certificate that they may want to question. For example, if the utility receives a written letter signed by a medical professional from a customer, per § 56.111, but the utility suspects the letter to be possibly fraudulent, the proposed § 56.113 provides the *right* for the utility verify with the medical office the authenticity of the letter. It is the utility's option as to whether to exercise this right or not. We note that utilities should only use this right to verify the authenticity of the certificate and the utility should, as discussed in reference to § 56.111, refrain from questioning the medical determination of the medical professional or imposing additional standards not found in the regulations. We also believe that the retention of this provision is in keeping with the requirement of Section 1406(f) that the medical certification procedure be implemented in accordance with Commission regulations. Utilities, per this section, have traditionally had the right to verify medical certificates and we believe it was the intent of the General Assembly for utilities to retain this right. We will, in the interest of being more precise and aligning with the language of Section 1406(f), we will use the term "verification" instead of "confirmation."

§ 56.114. Length of postponement; renewals.

Allegheny Power, FirstEnergy and PGW agree that once a customer has eliminated his arrearages he is entitled to another three medical certificates. However, they disagree with the phrase "and same termination action" because every time the utility issues a new termination notice, the customer could qualify for more medical certificates. Duquesne and Equitable also ask that this phrase be removed because it is unclear.

PECO believes the proposed regulations implement a great deal of tested Commission practice and knowledge from recent years and they particularly support two elements of the new regulations; allowing the utility to enact the medical certificate restrictions without having to resort to petitioning the Commission and that the restrictions can be applied if the underlying arrearage is not resolved. However, PECO asks that the "same termination action" phrase be deleted since it may have consequences the Commission did not intend. PECO also suggests changing the reference from a "third medical certificate" to a "third renewal of a medical certificate" to avoid confusion.

PPL agrees with the Commission's proposals that limits the two 30-day renewals of medical certifications for the customer's household to the same set of arrearages and same termination action and that when the customer eliminates these arrearages, he or she is eligible to file new medical certification. PPL also supports the proposal that, in these instances, a utility does not have to petition the Commission under § 56.118(3) if the utility wishes to contest a third medical certification.

NFG recommends that the proposed language in §56.114(2) be expanded to include applicants as well as customers. In addition, the last sentence of the proposed language, regarding public utility company dispute procedures should be removed. NFG believes that there is no dispute in these cases since the proposed language of this section is clear as to whether or not a medical certificate is to be honored.

PGW disagrees that a utility's rejection of a medical certificate should be treated as a dispute because the customer's obligation to make payment under receipt of a medical certificate is unmistakable.

Action Alliance supports the Commission's proposed language at § 56.114 that brings important clarification to when the restrictions on renewals of medical certifications apply. The Commission has amended § 56.114 to clarify that the limit of two renewal certifications only applies if the customer is not making equitable efforts to pay utility bills per § 56.116, which specifies that at least current bills should be paid in order to be considered an equitable effort at

payment. When payments on current bills are not being made, only then do the restrictions at §56.114 apply.

Action Alliance disagrees with the Commission's proposal to allow utilities to refuse to honor medical certifications without petitioning the Commission, when the utility determines that the renewal restrictions have been reached under § 56.114. According to Action Alliance, Section 1406(f) clearly prohibits termination of utility service "when a licensed physician or nurse practitioner has certified that the customer or a member of the customer's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service." Action Alliance believes that the statute provides no restrictions on renewals and that any determination that renewal limits have been met should be made by the Commission, not the utility. These most vulnerable consumers, whose medical practitioners have provided multiple certifications of a serious condition, should be afforded all the consumer protections available, including Commission review prior to service termination.

In addition, Action Alliance notes that consumers with serious and chronic conditions that are not likely to improve within 30 days should not be burdened with a requirement to renew medical certifications every 30 days. Medical certification renewals often require that the patient make and attend an appointment with the treating medical practice and pay accompanying fees for the appointment and completion of medical certification for the utility. These perfunctory efforts are financially and physically burdensome for seriously ill consumers with chronic conditions. Action Alliance urges the Commission to adopt a rule similar to that adopted in the state of Massachusetts which allows for six-month chronic illness certification and certification of infancy until the child reaches 12 months of age.

The CAC supports the clear specification that any refusal to honor a medical certificate under conditions recognized by the Commission should be treated as a dispute by the utility, requiring that the customer will be referred to the Commission.

The OCA submits, in general, that the proposed changes to the Emergency Medical Provisions have clarified and strengthened these critical provisions. However, the OCA requests that the Commission reconsider and allow certificates that exceed the 30 day timeframe so that certificates are fully available to Pennsylvania's most vulnerable citizens with serious or chronic conditions. The OCA believes that a 90-day term would reduce the burden on the seriously ill individuals as well as avoid the wasteful use of medical resources when an individual's condition is unlikely to improve. For example, the OCA notes that in Massachusetts, medical certificates for serious illness are renewed on a quarterly basis and for chronic illnesses every six months. The OCA is also concerned with the additional language letting utilities refuse a medical certificate without first petitioning the Commission if they are only enforcing the restrictions found in § 56.114. The OCA believes this is contrary to Section 1406(f) of Chapter 14 which prohibits the termination of service where a customer presents a medical certificate. The OCA

believes that the petition process will better assure the Commission that all avenues for retaining service have been explored and all circumstances considered.

PULP supports the Commission's amendments to § 56.114 and the Commission's conclusion that any refusal to honor a medical certificate under conditions recognized by the Commission should be treated as a dispute by the utility, requiring that the customer will be referred to the Commission. PULP believes that the Commission has made an important clarification in Section 56.114(2) that establishes that the elimination of arrearages associated with a defaulted medical certificate enables a customer to apply for and receive another medical certificate on another set of arrearages. According to PULP, this policy also recognizes that households, particularly low-income or elderly households, may suffer multiple debilitating illnesses over time; allowing these households to access multiple medical certificates recognizes this reality.

PULP also requests that in the case of chronic conditions, utilities should develop policies that involve less frequent than monthly recertification. PULP explains that it would be less difficult administratively for the utility and less burdensome on the sick customer and the customer's medical professional to have a quarterly or less frequent recertification process where it is likely the illness will be protracted. PULP notes that other jurisdictions have adopted this kind of practice for chronic illnesses.

IRRC also notes that medical certificates are valid for 30 days under this section and suggests that the Commission consider providing procedures that would allow customers to request longer periods of time for instances involving chronic illness or other extenuating circumstances.

Discussion:

Most of what was proposed in this section was intended to provide clarification as to the application of the limitations set on the use of medical certificates. These renewal limitations were first included in these regulations with the last revision of Chapter 56 in 1997. Since then, it has been the informal experience of the Bureau of Consumer Services that there has been confusion and inconsistency in applying these provisions and the Bureau has been presented with repeated questions from utilities, consumers and medical professionals about this section and the limitations on the usage of medical certificates. For example, there have been questions as to whether the limits on renewals apply to individuals or to the entire household. In the proposed regulation, we propose to answer this by stating that the limitations apply to the household. We believe the guidance offered in the proposed § 56.114, while not addressing every possible contingency, which is not possible, does provide some useful direction. However, upon review of the comments, we also believe some further refining of this section is necessary, including some rearranging of the sentences to improve readability.

We first remind everyone that the limitations on medical certificate usage in § 56.114 only apply if the customer is not meeting their obligation to pay on their bills per § 56.116. As long as the customer is meeting this obligation, there is no limitation on medical certificate usage under this section. This is what has been traditionally required under § 56.114 and we are not proposing to change this; the limitations will continue to apply only if the customer is not making payments.

We agree with Allegheny Power, FirstEnergy, PGW, Duquesne, PECO and Equitable that the phrase "same termination action" should be removed because it is unclear and may have the unintended result of allowing a customer to bypass the limitations simply because the utility issued a new notice. We agree with PECO that the language should refer to "third renewal of a medical certificate" instead of "third medical certificate" to avoid confusion. NFG's suggestion to add "applicants" to this section is not necessary because this section refers to renewal of medical certificates and this does not involve applicants. We disagree with NFG and PGW's objections to providing dispute rights to those that have been denied a medical certificate. While a utility refusal to honor a medical certificate because it is applying the restrictions found in this section may be based on "unmistakable" or "clear" language, this has nothing to do with the standard for determining whether a dispute exists or not. Per the long-standing definition of *dispute* at § 56.2, it a customer's satisfaction or lack thereof with the company's position that determines whether a dispute exists or not. A customer being denied a medical certificate is unlikely to be satisfied with the company's position; meaning a dispute now exists and that the utility should provide the customer with their right to go to the Commission. Again, this is per traditional Chapter 56 rules. The proposal to note this explicitly in this section is simply serving as a reminder to the utility of this obligation; it is not a new requirement.

In an attempt to further clarify the restrictions that were incorporated into this section in 1997, we proposed making it clear that a utility has the authority to invoke these restrictions on their own, without first petitioning the Commission for permission. This has been a point of confusion since 1997, and we believe this clarification reflects the intent of the 1997 revisions. If a utility were required to petition the Commission every time they wished to apply these restrictions, it would in fact make these restrictions meaningless, since utilities have always had the option to petition the Commission to void a certificate. It would also place significant burdens on both the utilities and the Commission in processing said petitions. We understand the concerns of OCA and Action Alliance when they ask that we require the petition process to be used to apply the § 56.114 restrictions as to make sure that all the customer's circumstances have been considered. We disagree that Chapter 14 voids the restrictions in § 56.114 because Section 1406(f) states that "The medical certification procedure shall be implemented in accordance with Commission regulations." It is reasonable to assume that the General Assembly was familiar with the limitations found in § 56.114 and did not intend to void them. We also point out to these parties that, as discussed above, we will explicitly require the utility to treat these occasions as disputes. This will provide the customer the option of seeking Commission review of their circumstances and to make sure the restrictions have been appropriately applied.

IRRC, Action Alliance, OCA and PULP request that the Commission consider long-term medical certificates to address chronic or long-term illnesses. These parties raise several valid concerns about the burden the current 30-day limit imposes on patients and health-care professionals alike. However, we are reluctant to revise the regulations to this extent because the General Assembly had an opportunity to do so in Chapter 14 and declined to do so. We again note that in Section 1406(f), the General Assembly declared that the "...medical certificate procedure shall be implemented in accordance with Commission regulations." It is reasonable to assume that the General Assembly was familiar with the 30-day timeframe in the current regulations and was comfortable with it. We also remind everyone that there is no limit on medical certificates as long as the customer is paying bills per § 56.116. The limits on medical certificate usage only apply if the customer is not meeting their obligations at § 56.116. We must also decline PULP's suggestion to add "physician assistants" along with "physicians" and "nurse practitioners" as medical professionals allowed to file medical certificates. Again, if the General Assembly had wanted this, they would have included this in Chapter 14 when they added "nurse practitioners" to the medical certificate rules. Long-term medical certificates were not provided for in the legislation and would be a very substantive addition to these regulations.

§ 56.115. Restoration of service.

PGW states that Chapter 14 does not place an obligation on the utility to "make a diligent effort" to restore on the date of receipt and therefore this requirement should be removed from the regulation. Additionally, the regulation should be revised to note that customers are required to provide access or other information as may be needed by the utility to restore service.

Discussion:

While we understand PGW's concerns, we must point out that "make a diligent effort to have service restored on the day of receipt" does not require the service to be restored. The only requirement is that service be reconnected within 24 hours. As such, this section does not conflict with Section 1407(b). Given the obvious health and safety issues involved, asking a utility to make a diligent effort is simply intended to prompt the utility to act on a medical emergency as soon as possible is a reasonable requirement since the utility has 24 hours to restore service.

In addition, given our resolution on the issue of the use of medical certificates by "applicants" to restore service, we have added a cite to § 56.191 to indicate that an "applicant" with a medical certificate must still satisfy the reconnection of service payment requirements.

§ 56.116. Duty of customer to pay bills.

FirstEnergy is concerned that the payment of outstanding account balances is not addressed in §56.116 and should be amended to require payment agreements for such balances. PPL suggests revising the language to read "Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills, undisputed overdue balances, or equal monthly billing amount as determined by § 56.12(7) (relating to meter reading; estimated billing; ratepayer readings)."

NFG does not oppose the proposed language of this section. However, in order to simplify this section and make it more understandable NFG suggests modifying the proposed language by deleting "or equal monthly billing amount as determined by § 56.12(7) (relating to meter reading; estimated billing; ratepayer readings)" because, generally speaking, for customers on a equal monthly billing program, the amount they see on their monthly bill is the equal monthly billing amount. NFG states that the primary purpose of this provision is to require customers to continue to pay current undisputed bills and NFG believes that removing this excess language will communicate that point more clearly.

PGW believes that the reference to budget billing should be deleted because the customer's current undisputed bill is the same as the monthly budget amount.

Action Alliance supports the Commission's proposed language at § 56.116 that brings important clarification to when the restrictions on renewals of medical certifications apply. Action Alliance agrees that the current § 56.116 language "to equitably arrange to make payment" has not given adequate guidance to utilities and consumers alike. The Commission's proposed language brings long-awaited and proper clarification. Action Alliance, therefore, agrees with the proposals at § 56.116 to replace the language "to equitably arrange" with "to make payment on all current undisputed bills ..." When payments on current bills are not being made, only then do the restrictions at § 56.114 apply.

The CAC and PULP support the attempt to clarify the requirements of § 56.116 by specifying that payment of current bills be considered an equitable effort at payment.

PULP supports the Commission's clarification that a customer or applicant with a medical certificate retains a duty to make payments on current undisputed bills. This reasonable policy recognizes that customers and applicants requiring medical certificates often have their lives disrupted by their illness, often resulting in decreased or sporadic income. By requiring payment on only the current bills, PULP believes that the Commission recognizes this disruptive nature of serious illness and allows customers to wait until after their illness or condition is corrected to resolve past due amounts, amounts associated with a payment agreement, or amounts associated with settlements.

Discussion:

While we understand NFG's and PGW's concerns that the reference to budget billing amounts may be superfluous, we believe it is important to retain this reference in this section just so it is clear that a customer should be paying current bills or the budget billing amount. However, we will revise the terminology to refer to *budget* billing as to align it with our proposed terminology at § 56.12(7). We also understand FirstEnergy's concerns with the payment of the outstanding balance. In response, we point out that if the customer is paying their current bills as required by this section, the outstanding balance will not be increasing, meaning that the customer's and the utility's problems with the account balance will not be aggravated. We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer. We also point to the petition process at § 56.118 that a utility may use to possibly void a medical certificate that a utility believes is being used to avoid the payment of the account balance. We must also reject PPL's advice because their suggestion that we require an arrangement on all current and overdue balances might be considered a payment agreement, which may conflict with Section 1405(d)'s restrictions on the Commission's authority to order payment agreements. We agree with Action Alliance, CAC and PULP that the proposed language requiring payment on all current bills or budget bills brings much needed clarity to this section, and recognizes the disruptive nature of serious illness on customers. At the same time, we believe this proposal will aid both consumers and utilities in preventing the accumulation of additional arrearages while a customer is under the protection of a medical certificate.

§ 56.117. Termination upon expiration of medical certificate.

PULP suggests that § 56.117 requires revision because when the initial and renewed medical certificates have expired, it is unreasonable to begin the termination process where it left off. Depending on the nature of the illness or medical condition, months or years can pass between the time of the initial medical certificate submission and the expiration of the original certificate or renewal certificate. PULP submits that it is unreasonable to expect customers to remember where the termination process stood at the time of their initial submission of a medical certificate. It is not particularly burdensome for the utility to begin the termination process at the written notice stage so that the customer can have a written explanation of the state of their account, with the detailed enumeration of the content of their bill. PULP encourages the Commission to consider requiring the termination process to begin over rather than picking up at § 56.93.

Discussion:

Upon review of the comments submitted by PULP we must disagree that written notice of termination is always required upon expiration of a medical certificate. Such a requirement could impose additional collection costs on utilities without sufficient benefit to justify such. However, we do agree that this section does need a small revision to ensure compliance with

Section 1406(1)(i) which specifies that a 10-day written notice of termination is effective for 60 days. We will add language clarifying that additional written notice does not have to be provided upon expiration of a medical certificate if written notice has already been provided within the past 60 days.

§ 56.118. Right of public utility to petition the Commission.

NFG believes § 56.118(a)(2) should be removed because public utilities should not have to petition the Commission in these situations. As stated in §56.116, NFG explains that customers retain an affirmative duty to pay undisputed current bills and failure to do so would subject them to the general termination procedures contained in the remainder of this chapter. According to NFG, due to the timeframes involved in any petition under this section, the process has become mostly obsolete. NFG explains that there is generally a 90-day period under which a medical certificate and its renewals can be active. As there is no language in § 56.118 requiring a medical certificate petition to be addressed within a specific timeframe, more often than not, by the time a determination is made, the issue has passed. NFG opines that if this section is to have any real world applicability, a timeframe for a final Commission adjudication of 10 days should be required.

Discussion:

Under § 56.114(2), the utility already has the right to reject a third medical certificate *without* having to petition the Commission if the customer is not paying current bills. What § 56.118(a)(2) provides is the ability of the utility to petition the Commission to vacate a medical certificate at *any time* if the customer is not paying; even before the third medical certificate is filed. We disagree with NFG when they suggest § 56.118(a)(2) be removed because we believe this provides utilities with a valuable option that they may want to exercise in some cases. A utility does not have to wait 90 days, as suggested by NFG, to file a petition; they may do so at anytime if they believe the medical certificate process is being abused by a customer. We also decline to specify a time period for Commission adjudication of these petitions, but do note that it is the practice of the Bureau of Consumer Services to handle such petitions in an expedited manner.

§ 56.131. Third-party notification.

PPL agrees with the proposal that utilities, at least annually, inform customers of the availability of third-party notification programs. PPL, via a bill insert, has been informing customers for many years of the availability of its third-party notification program. This program can be particularly useful for older customers who want an adult child or other close relative to receive

copies of any collection notices. The Commission also proposes under § 56.131(4) that utilities make available a standard statewide enrollment form that would comply with the form set forth

in Appendix E. PPL recommends that the Commission allow utilities the flexibility to develop the format of their own forms, but to require all utilities to include the same standard information. This would be the same approach proposed by the Commission concerning termination notice requirements at § 56.91. PPL believes that the Commission should adopt this same reasonable and flexible approach regarding the format of the third-party notification form. Standard information would include, but is not limited to, utility name, address, customer name, address, telephone, date, signature, and the third-party name, address, telephone, date and signature.

Discussion:

We acknowledge PPL's concerns but believe they are overstated. While we are making the third-party enrollment form available in Appendix E, the utility is only required to make their form "substantially in compliance" with this form. This means that the utility's form only has to include the substance of the appendix; it does not have to mirror the appendix. The utility is free to format their own forms and choose their own wording, as long as the utility's form contains the same information as Appendix E.

Third-party notification is an important consumer safeguard that can be used anytime by anyone, but as PPL points out, is especially helpful for customers who may, because of illness, disability or advanced age, need the occasional intervention of a third-party to manage their utility account. However, we are concerned that these programs may be under-utilized due to confusion and misperceptions on the part of consumers. For example, customers may confuse third-party notice with third-party guarantor (see § 56.33) and mistakenly think that they will be held responsible for payment of the bill simply because they have agreed to accept third-party notification. To address this misperception, the notice in Appendix E emphasizes that agreeing to accept a third-party notice does not make one responsible for paying the bill. The notice also provides important information, such as making clear that this program does not stop the shut-off of service and that the third-party is not authorized to commit to a payment agreement on the customer's behalf. We also believe that consumers who participate in these programs may enroll with numerous different utilities, such as electric, gas and water. As such, it would be helpful to have the enrollment forms communicate the same information as to lessen confusion. The requirements of § 56.131 and its accompanying Appendix E are intended to increase the comfort level of consumers using this important consumer safeguard, while providing the utility with enough flexibility to format and present the critical information as they see fit.

§ 56.140. Follow-up response to inquiry.

Minor, nonsubstantual changes were made to this section to make it consistent with the definition of "initial inquiry" at § 56.2.

§ 56.141. Dispute procedures.

Allegheny Power asks that language be added to the dispute procedures to clarify that when the Commission issues a payment agreement, it should only be rendered on the disputed amount. The remainder of the account balance should be due immediately and not included in the payment agreement.

Discussion:

We decline to accept Allegheny Power's suggestion because we believe this level of specificity is not appropriate for codification and instead is best left to the Commission's internal procedures used to implement this Chapter under § 56.166.

§ 56.142. Time for filing informal complaints.

NFG suggests that the Commission should consider adding a requirement to this section that would spell out the timeframe that BCS has to respond to an informal complaint.

PULP recommends that this section should be modified slightly for clarity's sake by removing the repetitious phrase "and informal complaints" from the proposed regulation.

Discussion:

We agree with PULP's suggested minor revision to this section. However, we decline NFG's proposal to include a timeframe in this Section for reasons discussed relative to § 56.163.

§ 56.143. Effect of failure to timely file an informal complaint.

NFG does not agree with the proposed removal of language from this section because an essential component of any regulatory proceeding is that time is of the essence. NFG explains that there are many good reasons for this requirement; chief among them is the need to prevent the stagnation or loss of evidence. NFG submits that the language that is marked for removal makes it clear that failure to comply with necessary time requirements may lead to the inability to prosecute an informal complaint. In order to give structure to the process and promote economy in the processing of informal complaints, this language should remain.

Discussion:

While we understand NFG's concerns, we must disagree by pointing out that the Commission, in keeping with the due process rights of all parties, cannot impose such a blanket denial on the right to file an informal complaint simply based on the time of the filing. While we can specify that the right to retain service during such a proceeding can be restricted by the Commission, we cannot outright prohibit the filing of a complaint simply because a period of time has lapsed.

§ 56.151. General rule.

PPL agrees with the Commission's proposal to allow utilities, with the consent of the customer, to submit the information and documents electronically to him or her as long as the customer has the ability to accept electronic documents. This type of flexibility should help streamline utilities' internal processes and ensure timely responses to complaining parties.

PGW objects to the payment agreement language in §56.151(3) because when a customer raises a dispute, the utility is not obligated to negotiate a payment agreement if the customer is not entitled to one. EAP believes that proposed § 56.151(3) should be rejected because it conflicts with the mandates of Chapter 14 regarding payment agreements. EAP opines that the proper analysis of Section 1405(d) is that a customer gets one payment agreement, whether it be utility or Commission established, and if the customer defaults on that agreement, the Commission shall not establish a second or subsequent agreement, but the public utility may, at its discretion, do so.

Discussion:

We disagree with PGW and EAP that § 56.151(3) conflicts with Section 1405(d). This longstanding provision does not require that a payment agreement be established; merely an "attempt" is made to establish one. It is understood that the attempt may not be successful, and a possible reason for the lack of success may well be that the customer does not qualify for a payment agreement.

§ 56.152. Contents of the utility company report.

PECO objects to the proposed requirement that termination information be presented in a font size two points large than the font used in other sections of the utility report as this would require PECO to reprogram its entire utility report software. PECO suggests that the information found in this section should be "prominently displayed" in the utility report. PPL agrees with this

proposed change of § 56.152(8)(ii) and can accommodate this requirement by reformatting its written utility report.

PGW suggests using the phrase "service will be terminated" because it is less confusing for the customer and the utility. PGW also objects to placing this information in a larger font because this seemingly minor change would require PGW to make an extensive, costly programming change.

Action Alliance supports the Commission's proposed language at § 56.152(8)(ii) that requires the utility to provide conspicuous notice ("in a bold font that is at least two font sizes larger than the font used in other sections of the utility report") to the customer of the deadline to file an informal complaint in order to avoid termination of service.

Discussion:

We agree with Action Alliance and believe that the termination information in § 56.152(8) is of great importance because it is informing the customer of a possible approaching termination of service. As such, this information should not be buried inconspicuously in a document to the customer that may address many other topics. However, to address the concerns expressed by PECO and PGW, we will revise § 56.152(8)(ii) to drop the specific requirement that the termination information be presented in a print size two fonts larger and instead will accept PECO's suggestion and go with a more general requirement that the information be "prominently displayed." This will allow the flexibility needed to accommodate different utility capabilities, and we agree with PPL that this should now present the need for only relatively easy modifications and reformatting. We also agree with PGW that the language should be revised to make the termination threat clearer and more direct by restoring the phrase "service will be terminated" to this section instead of the vaguer "the utility will commence termination action." We will also omit reference to "informal dispute settlement agreement" per the comments submitted concerning § 56.2 and our response to those comments.

We will also delete the language in paragraph (4) requiring the customer to file informally with the Commission within 10 days. The Bureau of Consumer Services has never enforced this provision. Practically, the Bureau is unable to enforce such a standard because at the time of filing, the Bureau has no way of knowing when the customer received their utility report from a utility.

§ 56.161. General rule; time for filing.

NFG believes that this Section should not be removed. While the proposed changes to §56.142 would establish a timeframe in which an informal complaint must be filed if it involves a

potential termination of service there remains the potential for informal complaints to be filed where there is no prospect of termination of service. For the reasons discussed in NFG's comments on the proposed changes to §56.143, these instances also need the structure that is provided by clearly enumerated time deadlines. Thus, NFG believes this section should not be removed from Chapter 56. In the alternative, the 10-day filing timeframe could be added to the end of the proposed language of §56.143 for instances where an informal complaint does not involve the termination of service.

PGW also requests that this section be retained since it allows relief from the time required for filing for good cause shown.

Discussion:

While we understand NFG and PGW's concerns, we must reiterate what we said in relation to similar comments filed concerning § 56.143. The Commission, in keeping with the due process rights of all parties, cannot impose a blanket prohibition on the right to file an informal complaint simply based on the time of the filing. Moreover, to the extent that Chapter 14 addresses complaints, the General Assembly did not take the opportunity to set any filing limits. In fact, Section 1410 only requires that a customer first contact the utility prior to filing a complaint, pay undisputed bills, and verify the facts alleged in the complaint. There is no language about limiting the time period to file a complaint, formal or informal. The only time limit for filing a complaint is the statute of limitations set forth in Section 3314. *See also Duquesne Light Company v. Pennsylvania Public Utility Commission*, 611 A. 2d 370 (Pa. Cmwlth. 1992); *Suburban East Tires v. Pennsylvania Public Utility Commission*, 582 A. 2d 727 (Pa. Cmwlth. 1990).

§ 56.162. Informal complaint filing procedures.

Allegheny Power suggests that the date the complainant contacted the utility and the results of that contact be added to § 56.162 as to support similar requirements at § 56.166 and Section 1410(1).

Columbia suggests that to ensure that accurate information is being provided not only to Columbia, but to the Commission, proposed Section §56.163 should be amended to include provisions that would require complainants, upon filing an informal complaint, to provide the date the complainant contacted the utility company about the dispute, and occupant information, including the number and age of all occupants in the home, household income and the names listed on the mortgage, lease or deed of the property.

NFG suggests adding to the information that must be included in an informal complaint a statement or verification that the complainant has contacted the public utility regarding the subject matter of this complaint per Section 1410(1). NFG notes that proposed §56.166 includes this statutory requirement.

Discussion:

We agree with Allegheny Power and NFG suggestions to revise this section to reflect more explicitly the requirements of Section 1410(1). While it could be argued that the proposed paragraph (6) is basically soliciting the same information, we agree to revise this paragraph to bring it more in line with Section 1410(1). However, we think Columbia's suggestions go too far in asking for household income and occupant names and ages, etc. This information is entirely irrelevant to many types of informal complaints, such as those involving service issues and billing problems. It is also information that many individuals consider private and requiring the disclosure of such might discourage the filing of informal complaints when the information is of no relevance.

§ 56.163. Commission informal complaint procedure.

Allegheny Power recommends that language be added to this provision requiring that informal complaints be closed by the Commission within a 3-month period as this would improve efficiency and prevent delinquency monies from accumulating. Allegheny Power generally agrees with the 30-day response time standard, but is concerned with the 5-day standard for off cases as it may be unattainable and perhaps discriminatory.

Duquesne does not object to the 5-day standard, but recommends that it be specifically applied to instances where a customer has been terminated for nonpayment. Duquesne also suggests that the 5-day period should also apply to the Commission when issuing decisions in such cases. In addition, Duquesne requests that the Commission reconsider its interpretation of § 1405(d) because they fail to see the benefit of establishing multiple payment agreements for customers who have defaulted from a previous payment agreement.

PECO is cognizant of the health and safety issues involved in cases where a customer's service is off and that the utilities, through their complaint handling and collection policies can have a significant influence on complaint volume. But PECO points out that customers also have significant influence with respect to their own complaints and some simply wait until service is actually terminated until taking action. PECO has experience trying to implement the proposed five-day response standard and has found it very difficult to do so, - especially a concern if it is five "calendar" days. PECO requests the time period be extended to 10 days. PPL and Phillips suggest clarifying that the five days be specified as "business" days.

Columbia, Equitable, NFG, PGW and PULP all request a time deadline for BCS to respond to informal complaints. Columbia supports the proposed requirement that requires the utility to provide information to the Commission within five days of the request for information where a complainant is without utility service. In return Columbia respectfully asks that the Commission expedite the closing of these cases, including complaints involving an applicant who is denied service. According to Columbia, delays in closing complaint cases negatively impact collection efforts and contribute to increased delinquencies thereby making it more difficult for the customer to pay the bill once the case is resolved. Moreover, when BCS holds individual CAP disputes for months without resolution, the result is a *de facto* "payment arrangement" in violation of § 1405(c). Columbia believes that since the Commission cannot establish a payment agreement for a CAP account, the BCS should be prohibited from accepting inability to pay informal complaints from CAP customers.

Equitable agrees with the Commission that it is in the customer's best interest to resolve complaint issues within the shortest possible timeframe. Equitable, therefore, recommends changing the utility response requirement to 10 days when service is off and within 30 days for other complaints and requiring the BCS to issue a decision within 30 days for service off complaints and within 90 days for all other complaints.

Similarly, NFG requests that the Commission should consider adding a requirement to § 56.163(1) that would mandate a timeframe for BCS to respond to an informal complaint.

PGW also believes that Commission staff should have a 90-day response time imposed on its issuance of informal decisions; 15 days when the customer's service is off. In addition, PGW states that the failure of Commission staff to issue decisions likely violates Chapter 14 because the Commission is not authorized to establish second or subsequent payment agreements.

EAP believes that the proposed regulations contained in §56.140 through §56.181 could result in an increase in receivables and an increase in utility rates. EAP agrees that the Commission has the authority to codify or specify utility response times. However, in the spirit of promoting cooperation and improving processes and efficiency, EAP contends that it is not unreasonable for the Commission, like courts, to expeditiously process cases. EAP believes that § 56.163 should be amended to require the BCS to address a customer complaint within 30 days of receipt of the utility data.

PAWC notes that it is unclear as to when the staff will actually mark the informal complaint as closed - the time the parties sign the settlement or upon confirmation by all parties?

Action Alliance agrees with the Commission's proposal to require a response to the informal complaint from the utility within 30 days, and that the deadline should be five days when the

complainant is without service. However, in emergency situations, including wintertime complaints involving loss of heat, Action Alliance urges the Commission to adopt a 24 hour standard, initially recommended by the OCA. Action Alliance also notes that the Commission has reconsidered its original proposals concerning the handling of CAP-related payment agreements and accounts where service has been terminated, and now refers those issues to be addressed in Commission internal procedures that are developed under § 56.211 (now proposed § 56.166).

PULP requests that the Commission clarify the timeframe by which an informal complaint decision must be issued by the Bureau of Consumer Services. Currently, PULP states that the only guideline in the regulations is that Commission staff will issue a decision on informal complaints in a "reasonable period of time."

IRRC notes that the formatting for § 56.163 (2), as published in the *Pennsylvania Bulletin,* is unclear because the reader cannot tell what language is being deleted and what language is being added. IRRC questions whether any parties have to sign the settlement agreement?

Discussion:

In §56.163, the Commission, for the first time in Chapter 56, is proposing timeframes for utilities to respond to informal complaints filed with the Bureau of Consumer Services. This is intended to facilitate the handling of informal complaints and to also bring the gas, electric and water industries under informal complaint procedures similar to those in the telecommunications industry. The telecommunications industry has long been under a 30-day response standard per § 64.153(1):

> (1) Review techniques. Review shall be by appropriate means, including LEC written summaries, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures shall be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute. Information and documents requested by Commission staff as part of the review process shall be provided by the LEC *within 30 days* of the request. (emphasis added)

We believe the 30-day time period has worked effectively with informal complaints relating to telecommunications and is a reasonable period of time that balances the needs of the Commission, the complainant and the utility. We also note that the timeframe for a utility in addressing the consumer's complaint is actually longer than 30 days, and is in fact at least 60 days. We have to assume that the complainant first contacted the utility with their complaint because this is required by Section 1410(1) and §§ 56.162 and 56.166. Upon that contact, the utility has 30 days to address the consumer's issue per § 56.151(5). The consumer then has the option of filing an informal complaint with the Commission. The utility then has an additional

30 days to submit a report on the matter to the Commission. This totals at least 60 days since the initiation of the dispute for the utility to respond to the Commission.

We also note that no party voiced an outright rejection of the proposed 30-day response period. Admittedly, the five-day response period proposed for informal complaints where the customer is without utility service or other emergencies did raise some concerns. We still believe that given the inherent public health and safety issues involved in such complaints, a five-day response time is not unreasonable. However, we believe PECO, PPL and Phillips have a valid point and will revise the proposal to specify that the five-day time period refers to "business days" as opposed to "calendar days." This should allow some of the flexibility asked for by utilities while still securing urgent information within a reasonable time. We also reject the arguments of Duquesne and Allegheny Power that the five-day timeframe is "discriminatory" in that it favors one group of complainants over others. Whatever discrimination this presents is of secondary concern to the public health and safety issues involved. We also reject the suggestion of Action Alliance of changing the five-day standard to 24 hours as posing too great a burden on utilities. However, we point out that the Commission reserves the right it has always had of requiring information in a shorter time period for specific cases where the circumstances warrant.

Duquesne, Columbia, Equitable, NFG, PGW, EAP and PULP suggested that the Commission impose timeframes on the Commission for handling informal complaints. We understand the frustrations of both utilities and consumers with complaints that may be open and pending for an extended period of time. However, we also note that most complaints are not open for an excessive period of time, and that the results of customer feedback surveys indicate that 82% of customers who file informal complaints felt that the Bureau of Consumer Services handled their complaint either "very quickly" or "fairly quickly" (2007 Utility Consumer Activities Report and Evaluation, page 2). Regardless, we decline to codify an informal case-handling timeframe for several reasons.

As we have already noted, we believe that matters such as these are best left to internal Commission procedures as provided for in § 56.166. Codifying such timeframes is problematic because the Commission has no control over the volume of complaints filed with the agency. In reality, the utilities, by their actions and policies, have more control over this volume than the Commission will ever have. A utility, exercising its management discretion, can manipulate its collection efforts in ways that can both increase and decrease customer complaints. This volume can fluctuate significantly and unpredictably. For example, during the months of January through April 2009, a single electric utility increased the number of customers it terminated service to by 121% over the same period the previous year. This large increase in termination activity in turn led to an increase in informal complaints to the Commission. This is especially a concern in the future as rate caps are removed from the electric industry and the resulting rate increases generate both billing complaints and ability-to-pay complaints. It is the Commission's

experience that the number of informal complaints can more than double when an electric utility's rate cap is removed.

We must also note that utilities can help minimize the number of complaints to the Commission through effective customer service practices and adherence to the regulations. The suggestion that a 30-day limit be placed on the Commission as to align it with the 30-day limit on responses we propose placing on utilities; is based on an erroneous analogy. As we discussed above, the time utilities have to respond to complaints is actually 60 days; the 30 days in response to the customer's initial complaint to the utility and the additional 30 days they have to respond to the informal Commission complaint.

On a related issue, we must respond to EAP's concerns with accounts unreceivables that supposedly accumulate while an informal complaint is pending at the Commission by pointing out that Section 1410 and §§ 56.141, 56.151(1), specify that the complainant is only excused from paying *disputed* bills while a dispute is pending. The complainant remains responsible for payment of all other charges, and the utility should be pursuing normal collection action, including termination of service if necessary, on undisputed bills. Failure to do so is not the fault of the Commission, but of the utility that lets undisputed bills accumulate.

Columbia suggests that the Commission be prohibited from accepting inability-to-pay informal complaints from CAP customers. In keeping with the Section 1405(c) prohibition on the Commission making payment agreements with CAP customers, the Commission, per its internal procedures, does turn away CAP complainants whose only issue is an ability-to-pay problem. The Commission has also previously addressed this issue on pages 34-35 of the second *Chapter 14 Implementation* Order, M-00041802F0002, (September 9, 2005):

> "All parties agree that Chapter 14 at §1405(c) prohibits the Commission from establishing payment agreements for customers participating in a company CAP. Some parties correctly note that CAP participants can seek Commission intervention for other legitimate reasons such as the following: complaints about the accuracy of meter readings; allegations that the customer's CAP budget was inappropriately increased; allegations that the customer has been charged a CAP rate which is not the appropriate one for a household with their income or type of service; allegations that the customer was improperly removed from CAP or that CAP eligibility was denied; allegations that the customer has not been credited for all payments made, and complaints about the utility's application of payments including application of energy assistance grants.
>
> These are disputes that are unrelated to the prohibition at §1405 (c) that the Commission not establish a payment agreement for CAP participants. Therefore, utilities are required to apply §56.141 in response to such disputes, i.e., utilities must place a "stay" on termination activity pending completion of the dispute pursuant to §56.141(2). Moreover, pursuant to §56.141(2), the complainant retains the obligation to pay undisputed amounts pending resolution of the dispute."

Once again we emphasize that a utility should be pursuing collection on undisputed bills while a dispute, even those involving CAP issues, is pending at the Commission. This should prevent the accumulation of additional arrearages on the account.

Concerning IRRC's questions about paragraph (2), this paragraph is intended to facilitate the settlement of informal complaints and is intended to reflect the practical realities of the informal complaint process. Since this is an informal process, it does not usually involve signed documents, sworn testimony, notarization, face-to-face meetings, etc. There are also inherent practical difficulties in obtaining signatures from complainants and utilities given that the Bureau of Consumer Services only has offices in Harrisburg and Philadelphia. It is expected that the changes to this paragraph will facilitate settlements, resulting in cost and time savings for all parties and the Commission. As proposed, paragraph (2) will read as follows:

> (2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff shall confirm that all parties understand the terms of the settlement and document the informal complaint as closed.

We also propose to maintain the proposed paragraph (3) to make clear and explicit the validity of informal decisions issued by the Bureau of Consumer Services as authorized by Section 308(d).

§ 56.164. Termination pending resolution of the dispute.

PULP recommends that the Commission consider implementing some form of emergency expedited hearing in instances of public utility allegations of unauthorized use of utility service. PULP recognizes the Commission's concern that the unauthorized use of public utility service may place human life and personal property in harm's way. However, PULP also asks the Commission to recognize that utility companies do make mistakes, and when a utility mistakenly alleges a customer is engaging in unauthorized use and proceeds to terminate that customer's service without any substantive notice, that customer may face the same kinds of dangers to person and property that unauthorized use itself imposes. PULP believes that the Commission can rectify this problem by instituting expedited procedures that quickly allow a customer accused of unauthorized use to challenge the public utility's allegations, *e.g.*, hearing before an Administrative Law Judge within no more than 72 hours after the initiation of a complaint by the customer. Moreover, PULP submits that during the pendency of this procedure, the public utility should be required to reconnect utility service. If the Commission does not support reconnecting service during the challenge to the utility's allegations, then PULP recommends that, at a minimum, the Commission should guarantee that its own processes occur within 24 hours of the complaint being filed.

Discussion:

While we understand the concerns expressed by PULP and that utility companies make mistakes, we believe codifying special procedures for handling allegations of unauthorized use would not be appropriate and that ordering service to be restored while such complaints are pending would be contrary to Section 1406(c). We agree that complaints where the complainant is without utility service should receive expedited attention and note that in § 56.163, we are proposing a five business day response period for utilities in responding to these informal complaints. Other than that, we believe the processing of these complaints is best addressed using internal Commission procedures as provided for in § 56.166. We again remind utilities that the termination of service without notice is an extreme measure and should only be exercised when the utility is confident enough of the facts surrounding a situation and is sure they meet the grounds for immediate termination under Section 1406(c) and § 56.98.

We will also add language to this section to remind utilities and consumers that service can be terminated if the customer does not meet their obligation to pay undisputed bills while a dispute is pending, per § 56.181 and Section 1410(2).

§ 56.166. Informal complaints.

PPL agrees with the requirement of having customers first contact their utility before BCS will accept the complaint. If customers have complaints about their service, PPL wants the opportunity to work with them to identify and resolve their concerns. This type of approach helps the utility identify and close performance gaps, better manage its costs, and improve customer satisfaction.

NFG suggests that this section should be separated into two separate new sections; the first containing only the first paragraph and the second containing the remaining two paragraphs. NFG believes that the two concepts addressed are disparate enough to warrant separate sections and this is especially true since the Legislature has specifically identified the need for a customer to first contact a public utility under Section 1410. NFG also proposes adding language that the complainant must affirm that they have first contacted the public utility and that this affirmation must be first confirmed with the utility before a complaint is filed because NFG has experienced instances where individuals were permitted to file and prosecute informal complaints without first contacting the public utility. NFG also suggests replacing "customer" with "complainant" due to the fact that other potential individuals may file informal complaints.

EAP notes that Chapter 14 clearly prohibits CAP rates from being the subject of payment agreements negotiated or approved by the Commission. According to EAP, the prohibition against payment agreements for CAP customers is an exception carved out of the statute. EAP believes that by allowing a delay or postponement of a CAP payment(s) under the pretext of

pending resolution of a factual dispute is to allow an unwarranted tariff deviation. EAP contends that the Commission cannot "directly or indirectly" stray from the utilities' approved tariffs.

IRRC notes that the first sentence of this section provides BCS with primary authority over "customer, applicant and occupant complaints arising under this chapter." To improve clarity, IRRC recommends that the word "informal" be included before "complaints" in this section. This section also provides that BCS will "establish appropriate internal procedures to implement this chapter." However, IRRC further notes that 66 Pa.C.S. § 308(d)(l) requires the Commission to "adopt, publish and generally make available rules by which a consumer may make informal complaints." IRRC recommends that the Commission should explain how this regulatory provision is consistent with the statute.

Discussion:

We first want to point out that there is little new being proposed in this section. The language here is basically taken from the current § 56.211. The language is just being relocated to this new section because it makes more sense organizationally to place it under informal compliant procedures. There is little changed of substance; except for a revised paragraph (1) that now reflects Section 1410(1). However, we agree with IRRC that the word "informal" should be inserted into the first sentence of this section for the sake of clarity. We also agree with NFG that the term "customer" in paragraphs (1) and (2) should be replaced with the more generic, inclusive term "complainant." While the language of paragraph (1) is from Section 1410(1) and we generally hesitate to revise language from the statute, we believe this revision poses no problem because the revision will not change the legislative intent of this section; namely making sure complainants have first provided the utility with an opportunity to address the disputed matter.

However, we think NFG goes too far in their suggestion that before the Commission could open a complaint, the utility would first have to confirm the affirmation of the customer that they have indeed first been in contact with the utility. This would present significant practical problems and burdens on utilities, customers and the Commission because a procedure would have to be set up where all utilities would have to have staff available to interact constantly with Commission staff who are taking and screening calls from potential complainants. It is unlikely all utilities would want to participate in such a system. This process would also result in longer call-handling and case processing times for the Commission, which would also increase costs. Moreover, the utility is always free to contact the investigator handling the case and request an immediate dismissal based on Section 1410. There is no indication that this procedure is not working efficiently enough to replace it with a new, unwieldy procedure as NFG requests.

We also disagree with NFG's suggestion that the information in this section be split into two separate sections. The issues addressed in this section are related and have traditionally been

combined in § 56.211. Separating them now is not necessary and may lead to confusion. We note that we have also proposed incorporating Section 1410(1) directives in § 56.162 as suggested by NFG, so this information will be available in both § 56.162 and § 56.166. We believe noting this requirement in both sections is more than sufficient.

In response to EAP's comments about the Commission and informal complaints from CAP customers, we again point out that the Commission has previously addressed this issue on pages 34-35 of the second *Chapter 14 Implementation,* M-00041802F0002, (September 9, 2005), as previously cited.

We again reiterate that a utility should be pursuing collection on undisputed bills while a dispute, even those involving CAP issues, is pending at the Commission. This should prevent the accumulation of additional arrearages on the account.

Regarding IRRC's concerns with 66 § 308(d)(1) and § 56.166; the portion of § 56.166 relating to the establishment of internal procedures simply reflects the fact that there is a distinction between regulations and internal operating procedures. The regulations set forth the rules; the internal procedures set forth the specific steps that must be followed to properly apply the rules. For example, while Section 1410(1) sets forth a rule prohibiting the Commission from accepting complaints from someone that has not first dealt with the utility directly, the Bureau of Consumer Services must establish a set of instructions so that intake interviewers ask the appropriate questions and document the appropriate information to ensure adherence to the rule at Section 1410(1). All operations that require adherence to prescribed rules must develop procedures to ensure proper application of the rules. § 56.166 directs the Bureau of Consumer Services to establish these necessary implementation procedures, while at the same time requiring appropriate oversight by stipulating that these internal procedures receive the concurrence of the Commission.

§ 56.172. Filing.

NFG opines that the proposed timeframe created for a party to request a review of a Bureau of Consumer Services decision by § 56.172(a) – (c) is entirely too long. The way the proposed language of these sections work would, in essence create a 50-day or longer "appeal" period for these decisions. A party would have 20 days to file a request for review (subsection a) then an additional 30 days to actually file a formal complaint form (subsection c). In NFG's opinion, this time period is too long and could lead to prejudice, stagnation of evidence or issues, and potential exacerbation of the issues that lead to the informal complaint. A total of thirty days from the date the BCS decision was issued is not unreasonable. NFG also believes that the proposed language of § 56.172(2)(e) is inappropriate because if failing to request a review of a BCS decision within the timeframe established under this section does not prohibit the filing of a

formal complaint regarding the same issue, the timeframes established in this section are irrelevant.

PGW believes that BCS decisions should be recognized as final and binding and except in the event of good cause shown, allowing the untimely filing of a formal complaint based upon the same complaint determined in a BCS decision undermines the finality and strength of a BCS decision.

Action Alliance does not oppose the proposed § 56.172 Formal Complaint filing deadline of 30 days following the mailing of Formal Complaint forms to the parties, so long as there is conspicuous notice to the parties of the deadline including language that explains that any automatic stay on the informal complaint decision can be lifted or waived, if the deadline is missed, and could result in termination of service.

Discussion:

This section recognizes that there is no legal bar to the filing of a review of a BCS decision after the 30 days after receiving a formal complaint form referred to in subsection (c). A party can file a formal complaint until the statute of limitations expires. The only bar and time limit to the filing of a formal Complaint (whether subsequent to a BCS proceeding or not) is the statute of limitations set forth in 66 Pa. C.S. § 3314. This section is in compliance with § 3314 and is not inconsistent with any provision in Chapter 14.

§ 56.173. Review from informal complaint decisions of the Bureau of Consumer Services.

PGW believes that in fairness to a complainant and respondent, this regulation should continue to provide that the Commission or administrative law judge will hold a hearing within a reasonable time period after the filing of an answer.

Action Alliance notes that the proposed § 56.173 appears to eliminate *de novo* review of BCS decisions. Action Alliance does not believe it was the Commission's intent to eliminate *de novo* review of informal complaints and suspects that it was a clerical error to delete the words "*de novo*" from the proposed regulations. However, if it was indeed the Commission's intent to eliminate *de novo* review, except for ability to pay proceedings, Action Alliance takes this opportunity to register opposition to such a proposal. Given the informal nature of this process, the record developed at the informal complaint level should not be used to prejudice the consumer at the Formal Complaint level.

PULP also states that it is unclear why the Commission proposes removing a requirement that appeals from informal complaints be heard de novo by an Administrative Law Judge or special agent. According to PULP, with the removal of this explicit requirement, the Commission opens

the door for the possibility that complaints filed from BCS decisions are considered appeals from that decision. It is PULP's understanding that this is precisely what the removal of the words "Appeals from" and the substitution of the words "review of" was intended to avoid. In addition, this change conflicts with exactly what is proposed in ability to pay cases by the amended § 56.174(c).

PULP submits that to allow or even contemplate allowing the factual record developed during the informal complaint to be introduced into an appeal violates basic assumptions of a fair and balanced judicial process. By eliminating the requirement that appeals from informal complaints be heard de novo, the Commission runs the risk of undermining the credibility of the appeal process and seriously impeding the rights of customers.

Additionally, PULP opines, while many if not most residential customers approach the Commission without any legal counsel or representation, utility companies enjoy robust legal representation at every stage of the process. Moreover, PULP submits that the Commission represents on its web page that the informal complaint and the formal complaint are distinct procedures and advises customers to use the informal process because it is simpler and quicker and states that a BCS investigator will work as a mediator in the process. By having appeals heard de novo, PULP contends that the Commission guarantees that parties who approach the informal complaint in a more casual fashion are always given the opportunity in a formal complaint to more diligently and robustly develop their factual claims.

Discussion:

We agree with Action Alliance and PULP and the arguments they present that the appeals from informal complaints should be heard de novo by an Administrative Law Judge or special agent. This language also keeps this provision consistent with § 56.174(c)(ii). In addition, we agree with PGW that the phrase "hearings will be held within a reasonable time after the filing of an answer" should be retained since it is still contained in § 56.174(c). Therefore, to be consistent, this should be included. We also revised the language in this section so that it reflects current Commission practice and is consistent with Chapters 1 and 5.

§ 56.174. Ability to pay proceedings.

Allegheny Power and Columbia recommend that the time restrictions upon the Commission be reinstated as this would expedite the handling of complaints and prevent delinquent monies from accumulating. Columbia believes that the proposed regulations not only go beyond the legislative mandate of Chapter 14 but, in removing timelines that facilitate the quick resolution of these matters, also risk placing undue delays in the formal complaint process.

FirstEnergy objects to § 56.174(c)(ii) which appears to presume that Bureau of Consumer

Services documents relating to an informal complaint are admissible as evidence, when in fact it should be the other way around. These records, without the preparer of the documents participating in the proceeding as a witness, are simply hearsay and should not be admissible. If a party wishes to attempt to have such evidence admitted in the record, the party must offer an appropriate witness to do so.

NFG supports the addition of the language in proposed section (a) regarding assignment of ability to pay cases to a special agent but does not feel that the addition of language in proposed section (c) regarding what documentation shall be entered into evidence at a hearing is necessary or proper for a regulation. NFG believes that this is not the proper place for evidentiary rules and such rules are better left to the presiding officer to handle in a prehearing memorandum or otherwise.

Action Alliance notes that the Commission proposes to preserve *de novo* review in ability to pay proceedings, at § 56.174(c)(ii). Action Alliance believes that it is unclear why *de novo* review is preserved here and not in other types of cases.

PULP recommends that the Commission amend certain portions of § 56.174 which suffer from internal inconsistency and which undermine important consumer protections. Subsection (c) appears to establish the rule that BCS factual documents from an underlying informal complaint will be entered into the record of the formal complaint and only where a party makes a valid evidentiary objection will this rule be broken. On the other hand, subsection (c)(ii) seems to hold the opposite rule that cases will be heard de novo and only where parties so stipulate will facts from the underlying informal record be introduced. PULP recommends that the Commission clarify this situation by holding that all formal complaints, whether they involve ability to pay or not, shall be heard de novo. In addition, PULP strongly encourages the Commission to promulgate a rule requiring all administrative law judges, in situations where there are pro se litigants, to fully and completely describe to these litigants the ramifications of stipulating to the inclusion of the informal complaint's record in the formal complaint and to advise them of their right to object to such inclusion.

Discussion:

The language at § 56.174(7), post-hearing procedures, was eliminated since it is a repetition of what already exists in Chapters 1 and 5. These Commission deadlines are still in place and need not be repeated here. These hearings are intended to be de novo as indicated. However, stipulations as to facts are allowed as in most proceedings when the parties agree to facts.

§ 56.191. Payment and timing.

Allegheny Power notes that Section 1417 of Chapter 14 does not require that utilities solicit information from customers concerning their PFA status, and as such objects to the proposed language at § 56.191(c)(1). They note that termination notices, as proposed, will already include this information. FirstEnergy also objects to this requirement because it may significantly add to the length of telephone calls handled by the utility's call center.

Allegheny Power suggests that when it comes to determining applicant liability at a property, a combination of information provided by a landlord, historical company records and CAP applications should be accepted.

Allegheny Power objects to placing liability procedures and standards in their tariff because it will deprive the utility of the ability to revise its business practices as needed and would amount to the Commission interfering with the business practices of management. PECO objects to this proposal because it may provide "gamers" a roadmap to beat the system. If such a requirement is put in place, PECO asks that utilities be allowed to use language broad enough so that is does not provide a roadmap. PECO also objects to the four-year limit of liability assignment in the proposed regulation. The simple passage of time should not free a customer from the responsibility of paying their bills. PECO also believes such a requirement violates the filed rate doctrine. Columbia also objects to the four-year limit because if the Legislature had intended to place a four-year limitation on a public utility's ability to require this payment, it would have affirmatively stated that intention in the statute.

Duquesne disagrees that terminating the service of a customer who has paid the amount needed to avoid termination is an erroneous termination and asks that this language be stricken from §56.191(3)(b)(1).

Columbia agrees that the Commission's proposed § 56.191(b)(2) and § 56.191(c)(1) are consistent with Section 1407(b) and with the Chapter 14 objective to ensure that service remains available to all customers on reasonable terms and conditions. However, Columbia adds that unless a customer contacts the utility to provide payment receipt information, the utility will not be aware that a payment has been made. Absent such customer notification, utilities will not be made aware of when the 24-hour clock starts ticking. Columbia suggests that this issue can be addressed by amending proposed § 56.191(c)(2), so that a utility will be able to require that, upon making payment to restore service at a location designated under § 56.191(c)(1), the customer must contact the public utility and provide payment receipt information.

NFG requests that the proposed language "Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service" should be removed because the Legislature in Section 1407(b)(1) did not feel it necessary to include the language and if the Legislature wanted to include specific instances in this language it could have easily done so. In addition, as written,

NFG submits that the proposed language is ambiguous. NFG explains that it could be interpreted that the specified types of termination are the only erroneous terminations to which this language applies. NFG also objects to the proposed language of subsections (b)(3) through (b)(5) that adds the descriptor "calendar" to the three and seven-day timeframes for restoration. There is no descriptor to the word "days" in the statute and NFG submits that this period should be "business" days. Requiring restoration for instances that require street or sidewalk digging in three calendar days would be impractical, especially given the Pennsylvania One Call requirements that would need to be met.

PGW opines that § 56.191(b)(1) should specify that a termination should be considered erroneous if the payment was made prior to the day of termination because the utility may not have the ability to determine if the customer has paid if they wait until the day of termination to pay. Additionally, the regulation should establish a trigger for 24-hour restoration upon notification of the utility of a medical certificate or an erroneous termination. Concerning §56.191(c)(2)(iii) and (iv), PGW believes that a customer/applicant should have the option of paying an amount in excess of the statutory minimums towards an outstanding balance at restoration and that the word "may" should not be in place of "shall." § 56.191(d) and (e) unnecessarily addresses liability which is already addressed at §56.35, but if this is going to be included in this section, PGW has the same concerns it notes in its comments concerning §56.35.

Phillips requests that the first sentence of § 56.191(b)(1) be revised to give the public utility time to recognize that a termination action it has taken is, in fact, erroneous before the 24-hour clock begins to run. Phillips believes that it is reasonable that a utility's good faith recognition of an erroneous termination may be delayed until, for example, after its receipt of a payment dropped at an off-site payment collection center is reported to the utility or after a customer calls in to explain circumstances which, if known prior to termination, would have stopped the termination process. Concerning § 56.191(c)(1), Phillips suggests adding a specific requirement that customers provide their utility with a copy of any current Protection From Abuse order and that these regulations include either a summary of the ways in which victims with a Protection From Abuse order can expect to receive different consideration from their utility or a reference to other resources in which such information is clearly presented. Phillips also believes that the language referring to fraud and theft at the end of § 56.191(d) serves only to confuse the meaning of the entire section. This could be read to preclude a utility from seeking recovery of an outstanding balance from a person who may have had a role in obtaining service illegally.

Action Alliance had requested that the Commission include in its regulation more expansive definitions of the words "payment agreements" and "defaulted" for Section 1407(c)(2)(i) purposes. In proposed § 56.191(c)(2), the Commission has indicated that neither a payment agreement intended to amortize a make-up bill under § 56.14 or an initial bill covering more than 60 days constitutes a "payment agreement" for Section 1407(c)(2)(i) purposes. In addition, Action Alliance notes that the Commission proposes that any defaults on a "payment agreement

that has been paid in full" should not be considered a defaulted agreement for the purposes of Section 1407(c)(2)(i). In its original Comments, Action Alliance submitted that a customer who had defaulted on a payment agreement, had been served a termination notice, and then cured the default prior to termination should not be considered to have "defaulted" for Section 1407(c)(2)(i) purposes. Action Alliance contends that it is not clear from the Commission's provision whether the regulatory intent was to adopt Action Alliance's position. The reference to a "payment agreement that has been paid in full" would appear to refer to a payment agreement where the customer defaulted on the agreement, cured the default, and then over time, paid off the total outstanding balance due under the payment agreement. While that clarification does have some value, Action Alliance contends that it addresses only one simple cured default scenario and few utilities are likely to punish a customer for a default on a payment agreement that was ultimately fully paid off. Action Alliance's attention, however, was focused on the customer who might have defaulted on a payment agreement in month six, been placed on the collection path, cured the default, and now, in month thirteen of the same payment agreement, defaulted again, and was terminated. Action Alliance submits that the Commission should adopt the position that when a customer cures a default on a payment agreement, by bringing the payment agreement current prior to termination, the default that has been cured should not be counted as a "defaulted" payment agreement for Section 1407(c)(2)(i) purposes.

Action Alliance also believes that the Commission should list defaulted "invalid payment agreements," "extensions," "budget billing and budget billing true-ups," "medical certification equitable arrangements," and "customer assistance programs" as not being counted for Section 1407(c)(2)(i) purposes. Defaulted payment agreements of the prior named customer against the new customer who agrees to an assignment of liability of an outstanding balance at the service address should also not be included, because the newly named customer should be allowed a reasonable chance to fulfill his/her own payment agreement opportunities. In the event that the Commission does not choose to expand on the enumerated instances, Action Alliance requests that it should consider specifying that the enumerated instances do not represent a comprehensive list of all defaults that might be excluded.

Concerning § 56.191(d), while a two-year statute of limitations might be more appropriate in this situation, Action Alliance nevertheless appreciates the Commission's recognition of the need to apply a statute of limitations standard, in order to assure that this type of applicant has at least the same protections as other customers against stale claims. At the same time, Action Alliance submits that applicants should also be afforded the benefit of the same standard when the outstanding balance includes in whole or in part a claim for utility service obtained by fraud or theft. In considering this situation, it is important to remember that the applicant was not the customer of record at the premises, or even, in some cases, a person with a property interest in those premises via a mortgage, deed or lease. Such persons usually would not be directly responsible for the unauthorized use, did not themselves tamper, by-pass or illegally turn on service, or direct anyone else to do same. In short, Action Alliance explains that they are very

similar to the persons for whom the Commission proposes to recognize a four-year statute of limitations. Action Alliance also notes that it is not reasonable to expect low-income persons who move relatively frequently, and are not likely to keep documentary evidence of their prior addresses to be able to establish where they resided more than a few years into the past. As it is, they are given the heavy burden of proving negatives – that in the past, they were not residing at the property where theft or fraud occurred and/or that they were not responsible for the fraud or theft. Action Alliance states that it is appropriate that some limit be placed by means of a statute of limitations on the scope of their potential liability for service previously provided at the address for which they are now applying for service. For these reasons, Action Alliance requests that the Commission eliminate the exception in proposed § 56.191(d) expressed by the words "except for instances of fraud and theft."

The OCA recommends adding language indicating that utilities should restore service promptly and that the restoration timeframes provided are the longest time period allowed.

PULP supports the Commission's decision that the rule governing restoration of service at §56.191 uses calendar days, not business days, in the calculation of time for restoration. There is no justification to delay restoration of life-essential utility service. PULP respectfully suggests that the terms "customer" and "applicant" are used inconsistently throughout this section, and their usage requires clarification so as to avoid confusion. Since the Commission is proposing in these regulations that a customer whose service is terminated will retain customer status until a final bill is past due, PULP notes that there will be situations where a customer is seeking restoration of service. Therefore, whenever § 56.191 refers to applicant, it should also reference customer. Additionally, PULP respectfully requests the Commission clarify § 56.191(c)(1), which discusses payment to restore service. The proposed regulation clearly requires utilities to inform applicants and customers that conditions for restoration may differ for households containing victims of domestic violence with a PFA order. PULP submits that at the same time utilities should be required to inform customers and applicants that conditions for restoration may also differ for households containing individuals suffering from an illness or medical condition.

PULP supports the Commission's clarification in § 56.191(c)(2)(i) of what constitutes a payment agreement. This added section clarifies that there are certain types of arrangements which do not qualify as a payment agreement for purposes of calculating the requisite level of payment to effectuate restoration. PULP requests that the Commission revise § 56.191(d) by clarifying that occupants who were minors during the time the outstanding balance accrued and while they resided at the premises are not to be covered by this rule.

PULP submits that §56.191(c)(2)(i) requires clarification since the possibility exists that it may be interpreted to preclude a customer from a payment agreement who has previously defaulted on a payment agreement but cured the default prior to termination. PULP requests that the

Commission clarify this subparagraph by specifically stating that when a customer cures a default on a payment agreement, by bringing the payment agreement current prior to termination, the default that has been cured should not be counted as a "defaulted" payment agreement for Section 1407(c)(2)(i) purposes.

IRRC notes that most of the language found in this section is the exact same language found in Section 1407, pertaining to reconnection of service. However, certain subsections contain different or additional language. For example, subsection (b)(2) of the statute references three days and subsection (b)(2) of the regulation references three calendar days. IRRC comments that the Commission should explain why the different or additional language is needed and how the language is consistent with the intent of the General Assembly.

Discussion:

First, we are changing the title of this section to "Payment and timing" since "General rule" inadequately describes the important contents of this section.

Because of the obvious public health and safety issues involved, the rules governing the restoration of previously terminated service must be carefully considered. Chapter 14 dramatically changed the conditions and timeframes involved in restoring previously terminated service. Previously under Chapter 56, there were no specific payment formulas that determined the restoration of service, and restoration timeframes were uniform "by the end of the first full working day." Under Chapter 14, restoration payment amounts are now determined by very specific formulas that are based on the customer's relationship to the federal poverty level and their number of defaulted payment agreements. And restoration timeframes can now vary from 24-hours to seven days, depending on the time of the year and the circumstances surrounding the termination.

Because of the public health and safety concerns involved, we will maintain our original proposal to apply the stricter winter timeframes to all reconnections occurring in the winter, regardless of when service was originally terminated. No serious objections were raised to this proposal, and we believe it fulfills the legislative intent. The General Assembly specifically required stricter timeframes for the winter months (November 30 – April 1) in Section 1407(b) because of the obvious public health and safety issues winter weather presents. For example, it would be nonsensical to apply the summer rules for reconnection of service in January simply because the customer's service was originally terminated in October. This nonsensical result would ignore the obvious intent of the General Assembly; to restore service quickly as to mitigate the dangers of being without utility service in the winter. Likewise, it would be nonsensical to apply the shorter, winter timeframe in June simply because the service was originally terminated in March. We believe that this rule is also simpler to administrate by utilities; they will have one set of reconnection timeframes in the winter and one set of rules for

the summer. This is simpler than having rules that require the utility to first determine the date of termination for each and every reconnection before determining which timeframe to apply.

We will also maintain our proposal to include language in subparagraphs (c)(2)(iii) and (iv) that clarifies that initial payments towards the outstanding balance cannot exceed $1/12^{th}$ of the balance for customers between 150% and 300% of the federal poverty level and $1/24^{th}$ of the balance for those customers at or below 150% of the poverty level. We believe this guidance is important because misapplying this provision could result, in addition to possible noncompliance with the law on the part of the utility, in a consumer failing to get their utility service restored. This has also been the subject of confusion and controversy in the past which the Commission has had to address in two previous Commission formal proceedings. In the second *Chapter 14 Implementation* Order, M-00041802F0002, (September 9, 2005) the Commission, on pages 31-33, discussed the initial payment a utility may demand under Section 1407(c)(2):

> "With respect to the application of Section 1407(c) in terms of requiring any up-front payments to restore service, we agree with PGW and EAP that there is nothing in Chapter 14 which precludes requiring an up-front payment, but disagree that the up-front payment may be any amount that the utility decides is appropriate. We believe the payment requirements at §1407(c) are clear, and vary depending on household size and income, and whether or not a customer has broken prior agreements....
>
> We believe the clarifications noted above reflect adherence to the language at §1407(c), as well as the apparent intent that customers with differing circumstances require different timeframes to make payments. With respect to PGW's assertion that the pre-Chapter 14 BCS reconnection guidelines, which require up-front payments, continue to be in force, we disagree. The pre-Chapter 14 BCS guidelines that PGW refers to were based on waiving security deposits in most instances for customers at or below 300% of the FPL. Regarding PECO's contention that there is value to the customer in requiring a larger initial payment because it reduces the arrears to be paid over the remainder of the payment period, we see little value in lowering subsequent monthly payments if a customer can't afford a large initial up-front payment, plus a reconnection fee, plus 50% of a deposit. Utilities should help reduce the amount of monthly payments by adhering to the policy expressed at §1402(3) and increasing timely collections. If a utility increases timely collections, the outstanding amount will be lower and this, in turn, will result in lower monthly payments when applying the formulas at §1407(c)."

The Commission revisited this issue in response to a petition for reconsideration filed by PGW concerning the above noted order. On pages 9-10 of the *Chapter 14 Implementation* Order, M-00041802F0002 (November 10, 2005) the Commission reiterated its initial guidance:

> "PGW's arguments in support of its request for relief in its Petition are decidedly similar to the arguments we addressed in the *Second Implementation Order* (pages 31-33). First, we specifically recognized that while Chapter 14 does not prohibit utilities from requiring an upfront payment, we disagreed "that the upfront payment may be any

amount that the utility decides is appropriate." In fact, we found that the "payment requirements at §1407(c) are clear, and vary depending on household size and income, and whether or not a customer has broken prior agreements." This statement is not unclear nor does it leave room to allow a utility to request an amount that is larger than provided for in §1407(c)(2)(i)-(iii) – nowhere in the *Second Implementation Order* do we allow a utility to interpret §1407 as merely setting forth the minimum amount of an upfront payment to restore service.

PGW's request for a declaratory order based on its position that the language in §1407(c) sets forth a minimum series of payments that a utility may unilaterally require as a condition of restoration is far off the mark. In the *Second Implementation Order* (page 32), we specifically identified and described the repayment requirements categorized in subsection (c) (2). Furthermore, we emphasized in the *Order* "that customers with differing circumstances require different timeframes to make payments." Of course, if a utility agrees to accept an upfront payment that is less than provided for under §1407(c) (2), the use of the word "may" in the provision authorizes a utility to accept this lesser amount.

Rather than mandating such charges, the Legislature instead left to the utilities' discretion whether to require some, all, or none of the amounts delineated. Thus, the use of the word "may" was permissive, not mandatory, but the clear legislative intent was to specify the maximum amounts that can be required. In other words, the use of "may" does not limit the minimum upfront payment a utility may request. If that were the case, this provision would not make sense given the purpose of Chapter 14.

According to §1402, the General Assembly intended, *inter alia*, to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections and also provide additional collection tools to PGW. The purpose of the legislation is not to protect a utility from itself and against an unwise and liberal restoration policy. Rather, the purpose of §1407(c)(2) is to set the maximum amount a utility can require from a customer as an upfront payment. Given the declared policy of Chapter 14, this is the only interpretation that is reasonable. 1 Pa.C.S. §1922. Moreover, creating an obstacle such as setting a minimum the utility can require to restore service would favor the private interest rather than the public interest, a violation of a presumption of statutory construction. *Id.*"

No party has raised a compelling reason or objection that would cause us to revise our previously stated interpretation of Section 1407(c) as explained in the above noted orders. As such, we believe it is appropriate to include this guidance in the proposed § 56.191 so that utility and consumers alike are fully aware of these expectations.

We disagree with Allegheny Power and FirstEnergy's objection to our proposed language at §56.191(c)(1) that requires a public utility to inform the applicant or customer that conditions for restoration may differ if someone in the household is a victim of domestic violence with a Protection From Abuse (PFA) order. It is clear that through Section 1417, the General Assembly

intended that the reconnection rules in Section 1407(c), along with the rest of Chapter 14, do not apply to individuals covered by a PFA order. Providing this information is the only sensible way to implement the General Assembly's intent since it is unlikely that customers will be aware of Section 1417 and it is nonsensical to think that a consumer will voluntarily provide this information without any prompting. For similar reasons, we agree with PULP that in addition to PFA information, medical certificate information should also be provided. It is clear from the reconnection requirement at Section 1407(b)(1), that requires service to be restored within 24 hours in cases of medical emergencies, that the General Assembly thought this important. Again, to effectively implement this provision, consumers must be made aware of this protection since we cannot realistically rely on consumers voluntarily providing medical information unsolicited.

We disagree with Allegheny Power and PECO's objections to the proposed language in paragraph (e) that requires utilities to tariff their liability determination procedures and standards. Section 1407(e) explicitly states that "other methods" used to determine liability must be "...approved as valid by the Commission." The tariff approval process is the most logical process to facilitate the approval of these methods. The tariff process provides the benefits of an established, standard, procedure in which all utilities are familiar with; is more efficient than requiring the filing of individual petitions with the Commission seeking permission; and provides notice to parties that facilitate the due process rights of all interested parties. Requiring the tariffing of liability standards used in the reconnection process will bring about the transparency necessary to make sure that liability determinations are not being made in a discriminatory, inequitable manner. The purpose of a tariff is to have a utility's rules and rates in one central location, approved by the Commission, accessible to all, as to help prevent the discrimination in the application of these rules. However, we will revise this paragraph somewhat to clarify that only standards and methods not already specifically authorized in Section 1407(e) need to be included in the tariff.

We disagree with PECO and Columbia's objection to a four-year limit on liability determinations. We believe this proposal is appropriate because it is consistent with other restrictions in relevant regulations and statutes. This limit of four years reflects the same restrictions found in other sections of the Public Utility Code and Chapter 56 regulations. The General Assembly under Section 1312 of the Public Utility Code determined that when a utility had to pay back or refund excess amounts, the period that this covers is also limited to the previous four years. This four-year time period is also consistent with the time limitations for civil actions, proceedings and other matters generally. 42 Pa. C.S.A. § 5525. Furthermore, the Commission's regulations have a long-standing practice of requiring payment of outstanding residential accounts with the utility that have also accrued within the past four-year period. Moreover, the Commission's record keeping regulations at § 56.202 require a utility to preserve written or recorded disputes and complaints for a minimum of four years. As Action Alliance points out, a longer period also presents unreasonable evidentiary burdens; few if any individuals

maintain housing, utility, address, etc. records for a period exceeding four years. However, we decline Action Alliance's two-year limit because, as discussed above, a four-year limit is more in keeping with existing regulations and statutes. We also decline Action Alliance's request to delete the language exempting instances of fraud and theft from the four-year limit. In acknowledging the legitimate concerns of Action Alliance of the burdens of "proving a negative" can impose, especially concerning allegations from many years ago, we note that such allegations are disputable matters under Chapter 56. This means a consumer can challenge the assignment of liability by filing a complaint with the Commission and have a non-biased third party examine the circumstances and evidence involved. Additionally, we agree with Phillips that the proposed language regarding fraud and theft at the end of paragraph (d) needs some minor revisions to make it clearer. To lessen possible confusion, we will also clarify that the four-year period dates from the date of the customer requesting that the service be restored.

In response to IRRC's and NFG's concerns with the descriptor "calendar" days in paragraphs (b)(3), (4) and (5), we believe that if the General Assembly had intended for the "days" provided for in Section 1407(b) to be "business" days they would have specifically stated so. Given that they only specified "days," we are led to believe that this was intended to be "calendar" days. "Business" days are more specific and we believe the General Assembly would have clearly specified such if they had intended such.

While we acknowledge PGW's belief that liability provisions are redundant and not needed in this section because liability is already addressed in § 56.35, we believe it is necessary to include this information in this section as well. Generally, the liability provisions at § 56.35 are in the context of applicants applying for initial service while the liability provisions at § 56.191 are generally in the context of applicants and customers seeking the reconnection of terminated service. While we acknowledge these provisions are very similar and may in some instances be duplicative, we believe it is important to include these important liability provisions in both sections. PGW also opines that the regulation should give the customer the option of paying more than the minimum specified by the regulation. In response, we believe the regulation, as proposed, does not preclude a customer from paying more than specified if they so wish. The regulation just limits what the utility may *require* from a customer, and these limits reflect the limits in Section 1407(c).

Duquesne and NFG object to the proposed language in subparagraph (3)(b)(1) that specifies that "Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of service," while PGW asks that the sentence be modified to specify that the termination is erroneous only if the payment was made prior to the day of termination. In section 1407(b)(1), the General Assembly specified a 24-hour timeframe for restoring service that was terminated erroneously, without specifying what makes a termination "erroneous." As such, we believe that it is appropriate to offer some guidance in the regulation as to what constitutes an erroneous

termination, thus triggering the obligations at Section 1407(b)(1). If a consumer has paid the amount of money needed to avoid the termination of service then the grounds for the termination have been removed, making a termination of service in such an instance erroneous. We are specifying this particular kind of situation since it is likely one of the more common scenarios resulting in an erroneous termination and we believe it is important that everyone be aware of our position on this issue. It is not our intent to limit situations that are considered erroneous terminations to just these kinds of circumstances and note that the sentence in question specifies that "Erroneous terminations include..." to connote that other scenarios are possible.

Columbia, PGW and Phillips suggest that language be added addressing what triggers the timeframes in paragraph (b), such as the customer notifying the company of an erroneous termination and/or a requirement that customers contact the utility after posting a payment. We decline to add language as suggested since the provision appears to provide sufficient guidance in that the timeframes are triggered when "all applicable conditions" have been met. While a utility can enlist a customer's assistance in helping to bring erroneous terminations to the utility's attention as quickly as possible by requesting customers notify the utility after posting a payment, we decline to make this a condition, or suggest that a utility has no obligation to correct such errors until they hear from the affected customer.

We have also added language to paragraph (b) clarifying that while a medical certificate can be used by a *customer* to get their service restored within 24 hours, an *applicant* can only use a medical certificate to get service restored in an expedited manner (within 24 hours) only if it is accompanied by the payments required by this section and Section 1407(c). This is in response to concerns expressed by various parties about the inclusion of "applicants" in § 56.111. Refer to the previous discussion relating to § 56.111 for a detailed explanation of this issue and resolution.

Regarding paragraph (c)(2)(i), Action Alliance and PULP ask us to expand upon the items that a utility should not consider a defaulted payment agreement when applying these provisions. This was intended to remind everyone that *payment agreement* is defined in Chapter 14 and as such excludes some things that some parties may have traditionally viewed as payment agreements. Because the definition specifies that it applies to "...billed service..." this would exclude amortization agreements on make-up bills entered into under §56.14 and § 56.2 (definition of billing month) since these agreements involve only previously "unbilled" service. We agree with Action Alliance and PULP that the same reasoning could also be applied to budget billing agreements and amortization of budget billing reconciliation amounts, and we will add these to subparagraph (c)(2)(i). Action Alliance also requests us to include medical certificate arrangements and customer assistance programs to this paragraph. We believe it is not necessary to include medical certificate arrangements because we have proposed revising § 56.116 to eliminate medical certificate arrangements (to be replaced with an obligation to pay current bills) and that we do not have to mention customer assistance programs because it is understood that

payment agreements and customer assistance programs are two different things that are defined separately and distinctly in Section 1403 and our proposed § 56.2.

Action Alliance further requests that we should specify that defaulted payment agreements established by prior customers at the same address should not count as a defaulted payment agreement, even if the current customer is held responsible for the balance of that prior customer. We think this request may be too broad because there may be situations where the party in question should be held responsible for previous defaults if the party fell under the definition of customer at Section 1403 and our proposed § 56.2 at the time of the default. While we decline to get into this level of specificity in the proposed regulation, we do emphasize that a party can only be held responsible for payment agreements that defaulted during the period of time that the party could be considered a customer per the definition of customer at Section 1403 and our proposed § 56.2. We also cannot include "extensions" as something that should not be counted in paragraph (c)(2)(i) as requested by Action Alliance since the definition of payment agreement at Section 1403 includes amortizations that include just one payment. This appears to indicate that a payment extension is no different than a payment agreement under Chapter 14 as defined in Section 1403, and thus the utility can count defaulted extensions the same way they can count payment agreements.

§ 56.192. Personnel available to restore service.

PGW objects to including in § 56.192 any additional limitations other than those specifically mentioned in § 1406(d).

Discussion:

We disagree with PGW that this section conflicts with Section 1406(d). This longstanding section merely reminds the utility of their obligation to have sufficient personnel available to meet the statutory and regulatory requirements concerning the restoration of service.

§ 56.201. Public information.

PPL recommends that the Commission encourage utilities to include a link to the Commission's rights and responsibilities booklet through their websites. The Company recommends the following wording: "These summaries, as well as a summary of the rights and responsibilities of the public utility and its customers in accordance with this chapter, must be in writing, shall be reproduced by the public utility, shall be displayed prominently, shall be available on the public utility's website, and shall be available at all public utility offices open to the general public." PPL also recommends that the Commission include the rights and responsibilities booklet on its website. Regarding § 56.201(3), PPL recommends that the Commission delete the reference to

the operation of fuel adjustment clauses, because they are no longer applicable under a regulatory environment in which electric generation is totally deregulated. PPL Electric also supports the inclusion of information regarding protections for victims of domestic violence (i.e., Protection From Abuse order).

NFG objects to the proposed language in sentence (13) "Information indicating that additional consumer protections are available for victims of domestic violence" because it is misleading as the non-applicability language of Section 1417 specifically refers to "victims under a Protection From Abuse order as provided by 23 Pa. C.S. Ch. 61." There is a potential legal difference between such an individual and "victims of domestic violence." This difference could lead to potentially exploitable confusion. In addition, NFG opines that Chapter 14 does not actually provide any "additional consumer protections" for victims under a Protection From Abuse order. Rather, Chapter 14 does not apply to these individuals.

Action Alliance supports the Commission's proposed language at § 56.91 (b)(17) and §56.331(b)(13) requiring that termination notices include information in, not only the Spanish language, but also "in other languages when census data indicates a significant population using that language resides in the public utility's service territory." Action Alliance requests that a similar provision for other languages also be included in § 56.201 and § 56.431.

PULP supports the Commission's requirement that utilities must publicize changes to the regulations in Chapter 56. PULP asks that the Commission expand § 56.201(13) so that it more fully covers specially identified fragile populations such as people with serious illness or chronic medical conditions, and low-income households.

Discussion:

We agree with PPL that providing and making available this important information via electronic methods has many benefits for both consumers and utilities. This information will be more accessible and always available for consumers, and utilities will save money in the dissemination of this information. We will revise this section to permit the electronic posting of this information on utility websites and dispense with the requirement that written copies be physically mailed to all new customers. Written copies will only be required to be mailed if the customer specifically requests such, as to accommodate consumers that do not have easy access to the internet. This will result in significant cost savings for utilities, while keeping this information readily available to consumers. We also agree with PPL that information on the fuel adjustment charge for electric utilities should no longer be included.

We disagree with NFG's objection to providing Protection From Abuse (PFA) information (line 13) and agree with PPL that this information should be provided. The General Assembly, in Section 1417, clearly intended customers with PFA's to have a different level of protection from

other consumers. It is very unlikely that consumers will know of this provision unless they are informed of it. However, we agree that it would not be appropriate to itemize or promise specific protections in the "Rights and Responsibilities" booklet. We will tweak the language of the phrase to replace "*are* available" to "*may be* available" as to avoid over-stating the protections available because depending on the situation, a PFA may not always be relevant. We also agree with PULP that line (13) should mention that additional protections may be available for those with serious medical conditions and low-income consumers.

We agree with Action Alliance that this information should be made available in Spanish, but decline to place this obligation on utilities. It will simpler and much more cost effective to have the Commission develop a Spanish version and make it available on the Commission's website. Utilities could link to this Commission document and thus make it readily available to consumers. This will be far more cost effective than requiring each utility to develop their own Spanish language version. If other languages are desired, the Commission can always be asked to make other versions available as well.

§ 56.202. Record maintenance.

Discussion:

In response to the comments submitted relative to § 56.2, definition of informal dispute settlement agreements, we will delete reference to these in this section. We will also insert the word "accessible" in this section since the important thing is that the records need to be accessible somewhere within this Commonwealth; not necessarily that the records are physically located here. This is keeping with our intent to modernize these regulations as to accommodate technological advances, including advances in record retention and access.

§56.222. Applications for modification or exception.

Again, to keep these regulations adaptable to technological advances, we are inserting language in this section as to accommodate the possibility of waivers of these regulations if a technological advance allows a augmented level of customer service. We note that the utility would be compelled to demonstrate in their waiver request how the technological advance would provide a greater level of customer service.

§ 56.223. Inconsistent tariff provisions.

IRRC notes that this section states that: "[a] tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter." IRRC raises an issue as to the Commission's statutory authority for this section and questions what is the need for this section, and how will the Commission implement it since the section says the inconsistent tariff provisions are simply "deemed" nonoperative.

Discussion:

Although there is precedent for this authority, the provision is a reflection of current case law that may change, and may, therefore, not be necessary to codify. As a general proposition, a tariff that is inconsistent with the requirements of Commission regulations will not withstand judicial scrutiny. *See e.g. Pennsylvania Public Utility Commission v. Terry*, 368A.2d 1362 (Pa. Cmwlth Ct, 1977).

§ 56.231. Reporting requirements.

Allegheny Power recognizes that the Commission has attempted to consolidate the Chapter 14 Biennial Reporting Requirements with the § 56.231 reporting requirements. Allegheny Power proposes to consolidate other duplicative reporting requirements, such as the § 55.5 non-residential reporting; the annual quality of service benchmarking; annual residential usage and billing statistics report; and the annual universal service reporting.

PPL agrees with most of the Commission's proposed changes regarding this section. However, PPL recommends that the Commission delete the requirement under § 56.231(7) and (8) for utilities to report on the total number of inactive residential accounts in arrears and the total dollars associated with these accounts. Given the additional reporting requirements proposed at §56.231, PPL sees limited value in providing data about inactive accounts. According to PPL, the Commission already receives timely and periodic reports from utilities regarding write-offs, which would ultimately include write-offs associated with inactive residential accounts in arrears.

Columbia states that Section 1415 requires biennial reporting to the General Assembly and that the information contained in these reports was provided by the utilities through existing reports. Therefore, Columbia opines, the proposed amendments to § 56.231 are unnecessary, and should be removed.

Equitable contends that there is a substantial increase in the amount of data required monthly by this section and while Equitable has always made every effort to provide the Commission with all the data sought, they question the usefulness of additional data, particularly Nos. 17, 18, 19, and 20 concerning reconnection. While the current regulations request the number of

reconnections in each of the categories identified in these numbers, Equitable argues that the proposed regulation request substantially more data which will require extensive programming.

NFG comments regarding this section are with respect to § 56.231(a)(17) – (20). NFG explains that in late 2007, various public utilities worked in collaboration with the Commission to develop a "Data Dictionary" similar to Appendix C of the proposed rulemaking. The breakdowns of sections (a)(17) through (20) are different from those established though the collaborative process and in the current Data Dictionary. Public utilities spent a good deal of time and money to update their systems to be compliant with the collaborative terms. NFG states that the proposed language would again change the breakdowns and result in another expenditure of time and money for compliance.

Concerning the proposed §56.231(7) and (8), PGW opines that the monthly report on inactive accounts should provide only accounts which became inactive in that month, otherwise, the utility might provide stale information on accounts which became inactive a substantial time ago. Also, PGW does not maintain records of the number of consumers from whom a security deposit has been requested, and thus recommends that § 56.231(21) and (22) should be revised to remove "requested."

Phillips reports that it will have trouble complying with some of the new reporting requirements because its existing information system will not permit the generation of a monthly report which incorporates this level of detail; specifically requirements that would provide the information in four distinct income categories set forth in subparagraphs (i) to (iv). Similar difficulties are associated with an annual report which would require the total dollar amount of annual collection operating expenses pursuant to § 56.231(b)(3). Phillips notes that it expects to have a new customer information system by the end of 2010 and will incorporate into the new system the capacity to generate the reports needed to comply with the proposed § 56.231. Accordingly, Phillips requests that utilities be permitted a reasonable period of time, at least to December 31, 2010, to make such adjustments.

Aqua requests that the proposed modifications of this section be deleted and that the monthly reporting for Class A water distribution utilities be eliminated because a yearly report is filed under the requirements at Docket M-00041802F003.

The CAC supports extending the monthly collections data reporting requirements specified at §56.231 to also include Class A water utilities. CAC agrees that water utility rates have increased significantly since this section was first promulgated and concerns with collection issues in the water industry are now sufficient to amend this section to include major water utilities.

PULP supports the recognition by the Commission that comprehensive and current data collection is essential in allowing the Commission to fulfill its obligations under Section 1415.

PULP states that both the costs and termination activities of water companies have increased dramatically and the Commission should be kept abreast of the activities of these companies. Action Alliance supports the PULP Comments with regard to the reporting requirements and incorporates them herein by reference.

Discussion:

This reporting requirement is intended to allow the Commission to fulfill the requirements of Section 1415 to report to the Governor and General Assembly regarding the implementation of Chapter 14. The report is required to include, but is not limited to, the degree upon which the Chapter has been implemented; the effect upon cash flow and uncollectable accounts; the level of access to utility service by residential customers including low-income customers; and the level of consumer complaints filed with the Commission.

Section 1415 specifically requires the public utilities affected by Chapter 14 to provide the data needed for this reporting to the Commission. To facilitate this reporting while Chapter 56 revisions were pending, the Commission issued interim guidelines. *See Interim Guidelines for Residential Collections Data Reporting Requirements of the Electric, Natural Gas and Water Distribution Companies in Accordance with the Provisions of Chapter 14 at §1415* as contained in the Final Order of July 24, 2006 re: *Biennial Report to the General Assembly and Governor Pursuant to Section 1415,* M-00041802F0003. These guidelines were developed during a collaborative process in which utilities and consumer representatives participated. The proposed revisions to §56.231 were intended to substantially reflect the outcome of this process.

Upon careful consideration of the comments, we agree with Equitable and NFG that the proposed breakdown of reporting by income category in paragraphs 17, 18, 19, and 20 go beyond what was agreed to in the above discussed collaborative process and are not essential for the Commission in meeting its obligations per Section 1415. Since termination data (paragraphs 14-16) are not broken down by income category, there is no need to report reconnections by income category since no comparison to terminations to reconnections based on income is possible anyway. We will also revise the accompanying Appendix C to reflect these changes.

We acknowledge Allegheny Power's and Columbia's concerns about duplicative reporting requirements by noting that the proposed § 56.231 is intended to consolidate the current § 56.231 reporting requirement with the current Section 1415 reporting requirement. Once effective, the revised § 56.231 is intended to replace both of these current requirements. However, we must disagree with Allegheny Power when they suggest also consolidating requirements concerning quality of service reporting and commercial reporting requirements. Quality of service requirements (see 52 Pa. Code §§ 54.151 – 156) are altogether different from Chapter 56 matters and are required to fulfill the Commission's obligation to monitor service quality per 66 Pa.C.S.

§ 2807(a) and (d). Commercial collection data would not be appropriately incorporated into §56.231 which is intended to include residential data exclusively.

We disagree with PPL and PGW's objections to reporting inactive account data. This was part of the data agreed to in the collaborative process, and is essential in determining how much money is sitting inactive at the utility before being written off. We must question PGW's concerns with reporting stale information because we do want the total current amount of inactive account monies. We fully understand that this amount is an accumulation of inactive amounts, minus amounts that have been moved to write-off status.

We must also reject PGW's request to remove the word "requested" from paragraphs 21 and 22 because this language was agreed to in the collaborative process. It is also intended to reflect the fact that security deposits requested from applicants are not "billed" because an applicant is not yet a customer and thus not being "billed" for anything. Limiting these paragraphs to just "billed" deposits would omit the large number of deposits that applicants are required to pay. We must also reject Phillips concerns with meeting these requirements since they themselves acknowledge that their new information system in 2010 will allow this reporting. And we note that any utility, per § 56.222, can request a temporary waiver of this requirement if they need additional time to program their systems to meet the reporting requirements.

We also must reject Aqua's request to omit Class A water utilities from this reporting requirement. Chapter 14 applies to water utilities and thus falls under the Section 1415 reporting requirement. Termination activity has increased significantly since the enactment of Chapter 14 and water costs have also increased substantially. However, we recognize that this reporting requirement may be too burdensome for smaller water companies; therefore we will limit it to just Class A utilities (utilities with annual revenues exceeding $1 million).

§ 56.251. Statement of purpose and policy.

FirstEnergy agrees that utility applicants and customers are treated differently from other utility customers under Chapter 14. FirstEnergy suggests that a general provision be added that makes it clear that it is the responsibility of the individual purporting to possess a PFA order to inform the utility of and prove the existence of the appropriate documentation supporting such a claim.

PECO believes that the protections for PFA customers are clearly limited in the manner proposed in the Commission's new regulations. However, PECO also believes that customers with a PFA order are differently situated than customers of steam heating, wastewater, and small natural gas companies and questions the Commission's approach to addressing PFA customers in this proceeding. PECO suggests that this should be addressed in a separate proceeding.

PAWC had hoped that the Commission would incorporate the Chapter 14 standards and make them applicable to wastewater customers and applicants. PAWC provides wastewater services to 17,343 residential customers and most of these also receive water service from the company as well. PAWC believes the ability to apply one standard makes good business and regulatory sense and requests again that the Commission exercise its discretion and apply selected provisions of Chapter 14 to wastewater customers.

Action Alliance supports the Commission's proposal to create separate chapters to address the utilities and consumers that are specifically excluded from Chapter 14 under Section 1417. Action Alliance further supports the Commission's plan to incorporate into the separate chapters those sections of Chapter 14 that provide a higher level of consumer protection than in the current version of Chapter 56 because the General Assembly certainly did not intend to provide victims with a PFA order with a lesser level of consumer protections than other customers. Action Alliance also supports the Commission's proposal to establish, in an upcoming separate proceeding, a Policy Statement relating to the many significant issues of victims of abuse, which may not be appropriately placed in these regulations. According to Action Alliance, a separate proceeding will allow for participation of the various organizations who provide supportive services to victims of abuse and whose staff will provide practical recommendations regarding training, consumer education, record keeping, confidentiality and other related matters. In the meantime, Action Alliance requests that the Commission provide express interim guidance to the utilities to correct blatantly incorrect interpretations of Section 1417, such as refusing to honor a PFA issued by an out-of-state court. Action Alliance also supports the Commission's proposed requirements that public utilities provide information about the PFA exemption in all contacts with consumers, including but not limited to, written utility application procedures, credit denial letters, rights and responsibilities summaries, 10-day written termination notices, three-day personal contact notices, and post-termination notices.

The CAC continues to support the proposal of the Commission to create a separate chapter to address residential customers of steam heating utilities, wastewater utilities, small natural gas distribution utilities, water utilities' winter termination activity, and victims with a PFA order who are specifically excluded from Chapter 14 provisions.

The OCA strongly supports the Commission's determination to establish a separate chapter for customers and utilities that are specifically excluded from Chapter 14. OCA notes that to the extent that the General Assembly chose to modify the existing Chapter 56 protections for some types of utilities and some customer groups, it is equally clear that the General Assembly did not intend to mandate the expansion of those changes to other utilities.

PULP supports the Commission's decision to include a new subchapter with regulations for victims of domestic violence with a Protection From Abuse order (PFA). PULP also supports the Commission's decision to include within this new subchapter regulations reflecting levels of

consumer protection that are higher than Chapter 56 where Chapter 14 provides for higher protections. In addition, PULP supports the Commission's decision to require utilities to publicize on important utility documents the exceptions from Chapter 14 to which victims of domestic violence with a PFA are entitled. Finally, PULP supports the Commission's choice to address in a separate proceeding the special ancillary issues concerning victims of domestic violence with a PFA. These ancillary issues are complex, and the expertise of advocates and specialists will provide immeasurable assistance to the Commission in crafting sensible, fair, and effective protections for a vulnerable population. PULP recommends that the Commission should not put off this separate proceeding for more than 6 months after the submission of these comments.

IRRC notes that pursuant to Section § 1401, "[t]his Chapter relates to protecting responsible customers of public utilities." A public utility is defined as: "[a]ny electric distribution utility, natural gas distribution utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Pennsylvania Public Utility Commission." 66 Pa.C.S. §1403. It is clear that the General Assembly intended Chapter 14 to apply to specific types of public utility. This rulemaking adds 11 new subchapters to Chapter 56. While IRRC does not question the policy behind adding these new subchapters, IRRC requests that the Commission further explain its statutory authority for promulgating the new subchapters. IRRC also notes that the language in these subchapters is similar, and at times verbatim, to the corresponding sections of Subchapters A through K. To the extent this occurs, IRRC incorporates comments from Subchapters A through K.

Discussion:

We disagree with PECO that the regulations that apply to customers with a PFA should be addressed in a separate proceeding. This would needlessly delay the enactment of these important provisions. In fact, customers with a PFA, and customers of wastewater, steam heating and small natural gas companies are similarly situated; Chapter 14 applies to none of them. We must not delay needlessly the promulgation of rules for these customers. We also disagree with PAWC that Chapter 14 should be applied to wastewater utilities for the reasons outlined by OCA; that to the extent that the General Assembly chose to modify the existing Chapter 56 protections for some types of utilities and customer groups, it is equally clear that the General Assembly did not intend to mandate the expansion of those changes to other utilities.

We agree with Action Alliance and PULP that many of the ancillary issues concerning victims of domestic violence with a PFA should be addressed in a separate policy statement, rather than a regulation. This includes issues like confidentiality, consumer education, record keeping, training, etc. As PULP points out, this will allow the expertise of advocates and specialists to assist the Commission in addressing these sensitive issues.

IRRC points out that the language in these subchapters is similar, and at times verbatim, to the corresponding sections of Subchapters A through K. IRRC notes that to the extent that this occurs, they incorporate their comments from Subchapters A through K and ask the Commission to respond to the comments on both sets of subchapters and amend the final-form rulemaking in a consistent manner. We agree, and will treat the comments submitted by all parties in the same fashion. Comments filed on Subchapters A through K shall also be considered for the corresponding sections of Subchapters L through V, unless it is apparent that the comments do not apply to the corresponding section.

The General Assembly set the stage for this rulemaking which was mandated by section 6 of the Act. Section 6 requires the Commission to amend the provisions of Chapter 56 to comply with Chapter 14 and promulgate other regulations to administer and enforce Chapter 14. Currently, Chapter 56 under § 56.2 applies to a public utility which "provides electric, gas, steam heat, wastewater or water service." However, Chapter 14 defines public utility under Section 1403 as an "electric distribution utility, natural gas distribution utility or water distribution utility." In addition, the term "natural gas distribution utility" does not include smaller gas utilities that have less than $6,000,000 per year in operating revenues. Finally, the General Assembly under Section 1417 specifically determined that Chapter 14 "shall not apply to victims under a protection from abuse order."

Since the General Assembly determined that Chapter 14 would not cover steam heating, small gas utilities, wastewater utilities and customers protected by a PFA order, Chapter 56 provisions, as modified herein, would still apply to these utilities and this customer group. Therefore, at the same time the Commission is complying with section 6 of the Act by amending the provisions of Chapter 56 regulations to comply with this new legislation and declared policy, we still need to account for the General Assembly's decision to exclude certain utilities and PFA holders.

This bifurcation is necessary because the General Assembly made it clear that Chapter 14 did not apply to certain utilities and that it did not apply to certain customers (those with a PFA). At the same time, they directed that Chapter 56 be revised to reflect Chapter 14. Additionally, the victim advocates and consumer advocates, sensibly, made clear that provisions of Chapter 14 that provide *benefits* to consumers should also be extended to PFA consumers (since it is nonsensical to think that the General Assembly wanted PFA customers to have *fewer* protections than other customers). After much internal discussion as to how to accommodate these complex directives, it was decided to propose 2 separate bodies of regulation; one clearly reflecting Chapter 14, and the other free of Chapter 14 requirements (except where the Chapter 14 requirement provides a consumer benefit). Alternatives, such as incorporating different directives within the same sections, was seen as being even more unwieldy and confusing than the bifurcated approach.

Rather than discuss this exclusion and distinction in every provision of Chapter 56 (subchapters A-K), address whether Chapter 14 applies or doesn't apply to these utilities and customer group, and draft regulatory language consistent with our determination, we decided to establish a separate subchapter (L-V) within Chapter 56 for utilities and customers not covered by Chapter 14. We believe that the statutory authority for these new subchapters is the General Assembly's mandate that the Commission amend Chapter 56 to comply with Chapter 14 but not for a select group of utilities and a customer group. Independent of the General Assembly's mandate for Chapter 14, we further believe that the statutory authority identified in the Conclusion section of the Order (page 12) provides the authority for promulgating 11 new subchapters. Specifically, Section 501(b) empowers the Commission to supervise and regulate all public utilities, and provides that it "may make such regulations, not inconsistent with law, as may be necessary or proper." 66 Pa.CS. 501(b). Section 1501 requires public utilities to provide "service and facilities which shall be in conformity with the regulations and orders of the Commission." 66 Pa.C.S. 1501. Section 102 of the Public Utility Code defines "service", and states that it is to be "used in broadest and most inclusive sense, includes any and all acts done, rendered or performed, and any and all things furnished or supplied." 66 Pa.C.S 102. Under Section 504 the Commission may require the filing of reports. Collectively, Sections 102, 501, 504 and 1501 expressly provide the Commission the authority to promulgate regulations on all aspects of service rendered to residential utility customers.

Subchapters L through V of the final rule maintains, in a new format, the Commission's long standing regulation of residential services provided by non-Chapter 14 utilities. In no way was Chapter 14 intended to divest the Commission of or change its jurisdiction to regulate services provided by those public utilities not subject to Chapter 14. Accordingly, this regulation appropriately maintains residential utility standards affecting customer service and reporting requirements and the Commission has authority to make regulations in this area.

Finally, this issue was thoroughly vetted. The creation of separate subchapters was presented prominently in the ANOPR adopted by the Commission on November 30, 2006. The Commission placed this issue front and center by making it item # 1 of the ANOPR:

> **1. Rules that apply to victims with a protection from abuse (PFA) order and to customers of steam heating, wastewater and small natural gas companies.**
>
> Section 1417 states that the Chapter 14 rules "shall not apply" to victims under a protection from abuse (PFA) order. The definition of "natural gas distribution utility" at § 1403 also excludes gas utilities with annual operating revenues of less than $6 million per year or that are not connected to an interstate gas pipeline. Moreover, §1406(e) excludes water utilities. In addition, Chapter 14 excludes steam heat and wastewater utilities. In light of the above, we need to address what regulations should be applied for these utilities and consumers that are specifically excluded from Chapter 14 requirements. If it is Chapter 56 that is to be applied, we need to address what will be applicable to PFA holders and delinquent steam heat, small gas and wastewater customers once Chapter 56 is revised to reflect Chapter 14.

We propose creating a separate chapter to address the utilities and consumers that are specifically excluded from Chapter 14 provisions. This separate chapter essentially would reflect the current Chapter 56 rules, except that it would only apply to residential customers of steam heating utilities, wastewater utilities, small natural gas distribution utilities, water utilities' winter termination activity, and victims with a PFA order.

Upon review of the numerous comments received, the Commission proceeded with this proposed approach in the September 25, 2008 NOPR, and again comments were received. In their response, no party voiced strong objections to this structure, and enough parties supported the approach as to continue in the proposed direction. Most importantly, the Pa Coalition Against Domestic Violence (PCADV), the Women's Law Project (WLP) and Women Against Abuse (WAA) supported separate subsections for PFA customers. Given the support of the parties and customers who would be most affected by this resolution, it appeared the most reasonable course of action. Aqua, CAC, Action Alliance, Equitable, OCA, and PULP also voiced support for this approach.

§ 56.252. Definitions.

Allegheny Power suggests adding definitions for *Change in Income, Complainant, Federal Poverty Level,* and *Significant Change in Circumstance.* Allegheny Power suggests using the Chapter 14 definition for *Change in Income* and *Significant Change in Circumstance* and *complainant* should include the *customer, occupant, third-party designate, applicant*, or someone with *Power of Attorney.* Allegheny Power would also limit the ability to file complaints to only those having a true interest in the matter.

PGW asks that the term "Protection from Abuse Orders (PFA)" be defined so it is clear that this refers only to PFA orders issued in Pennsylvania. 23 Pa. C.S. § 6104(a) provides a legitimate process to certify a foreign PFA and requiring utility employees to verify foreign PFA's would require utility employees to become familiar with the PFA laws of different states.

IRRC notes that there are several terms that are used in the proposed regulation but are not defined. The final-form regulation should include definitions for the following terms: "change in income;" "complainant;" "Federal poverty level;" "significant change in circumstance" and "third-party guarantor." Both "change in income" and "significant change in circumstance" are defined in Section 1403 and a cross-reference is appropriate for definitions of these terms.

Discussion:

We propose to make the list of definitions at § 56.252 comprehensive by including all the definitions that apply, instead of splitting the list between §56.2 and § 56.252. This means that the utilities and customers subject to subchapters L – V will only have to look in one place for

definitions, instead of two places and then determining which definition applies. This should be less confusing and simpler and means we are adding to § 56.252 definitions for *AMR, Billing month, Billing period, Dwelling, Emergency, Formal complaint, Informal complaint, Nurse practitioner, Person, Premises, Termination of service* and *Unauthorized use of utility service.* These definitions were excluded from § 56.252 in the version published in the Pennsylvania Bulletin because they duplicate definitions already found in § 56.2. However, as we note above, upon review, we now believe that the list of definitions at § 56.252 should be as complete as possible by including them.

We decline to include definitions of "change in income" and "significant change in circumstance" as suggested by Allegheny Power and IRRC because neither of these terms is used in these regulations. In addition, these terms are relevant to Chapter 14, which does not apply to utilities and customers covered by the definitions at § 56.252. We also decline to include a definition of "complainant" since if we specify who is eligible to file a complaint, this could inadvertently bar some individuals from being able to file a legitimate complaint. Traditionally, the Commission has not restricted who a complainant may be, beyond the usual standard that the complainant must have some standing in the matter. A complainant does not even have to be a customer. For example, a non-gas customer may file a complaint alleging that a gas utility damaged the street they live on while repairing a gas line; or a tenant in a multi-unit building may complain about frequent electric outages despite not being a direct customer of the electric utility. We also decline to include a definition of "third-party guarantor" because we believe it would be more appropriate to address this in § 56.361 which specifically addresses third-party guarantors. Concerning PGW's and PPL's request to define Protection from Abuse Orders (PFA), we decline to do so in this proceeding and will instead defer this matter to a separate proceeding that was discussed in the NOPR that will address PFA matters in a more comprehensive manner.

We do find merit in IRRC's suggestion of defining "Federal Poverty Level" and will propose using the definition provided by the federal Department of Health and Human Services. We will also change the definition of "Discontinuation" to "Discontinuance" since "discontinuance" is the more commonly-used term.

Definition of *AMR (Automatic Meter Reading)*:

PPL and Columbia suggest adding language to this definition indicating that a reading obtained from an AMR is an actual reading.

Discussion:

We find merit in the comments of PPL and Columbia and will add language to this definition indicating that a reading obtained from an AMR is considered an actual meter reading for the purposes of this chapter. This will reflect the acceptance and increasing use of this technology, which provides cost saving benefits for utilities and billing accuracy benefits for consumers.

Definition of *Applicant*:

PAWC suggests using the Chapter 14 definition of applicant because to do so, according to PAWC, would not cause any harm to any potential applicant or infringe upon consumer protection. However, this would eliminate PAWC from applying two separate definitions to a person seeking water and wastewater service.

IRRC questions if someone under 18 can be considered an applicant. IRRC submits that the definitions for "customer" and "occupant" should also include the same clarification.

Discussion:

We disagree with PAWC's suggestion because this would basically be applying Chapter 14 provisions to wastewater utilities. We decline to do this for the reasons outlined by OCA; that to the extent that the General Assembly chose to modify the existing Chapter 56 protections for some types of utilities and customer groups, it is equally clear that the General Assembly did not intend to mandate the expansion of those changes to other utilities. We do agree with IRRC and will specify that an applicant must be at least 18 years of age.

Definition of *Basic services*:

The OCA believes that the use of the phrase "physical delivery" may be too narrow and could be interpreted as referring only to the distribution/transportation portion of the bill and that the term "basic service" should include the provision of default supply service.

IRRC notes the definition refers to the delivery of residential service, however it does not mention default supply. IRRC questions whether the Commission has considered the inclusion of default supply in the definition of basic service? If the Commission includes default supply in the definition of basic service, it should also separately define "default supply" in the final-form regulation. Finally, the definition for "nonbasic service" should also be consistent with the language in the definition for "basic service."

Discussion:

We concur with IRRC and OCA and will incorporate a reference to default service in the proposed definition of *basic service.* We will also include a new definition of *default service* in

this subsection, as defined at § 54.182.

Definition of *Billing month*:

FirstEnergy recommends that an additional exception be added to the definition of "billing month" to allow for instances that may follow a company's rerouting of meter reading processes. This would eliminate the need to file petitions for waiver of this section every time a utility changes metering routes, which would represent savings in time and resources for both the utility and the Commission.

NFG submits that the Commission may want to take this opportunity to streamline the process a utility needs to undertake to modify its meter-reading routes. In the past, due primarily to demographic changes in service territories, public utilities needed to alter their meter reading routes for purposes of efficiency. In those instances, it is often necessary that the billing month for certain customers may fall outside the guidelines presented. In these cases, the utility must initiate a proceeding with the Commission for a temporary waiver of this provision and § 56.11 regarding billing frequency. It has been NFG's experience that the Commission has handled these requests timely in the past and the outcome is always favorable. The utility would notify the customers in advance and subsequently allow any impacted customer to make a payment agreement on a bill resulting from a meter rerouting. NFG suggests that the Commission could enjoy some economic efficiencies by allowing for them in the regulation by adding an exception to the billing month definition addressing rerouting.

Discussion:

We find merit in the suggestions of FirstEnergy and NFG that we take this opportunity to incorporate another exception to this definition that would facilitate the routine change of meter reading routes. These parties are correct in that under the current rules, utilities must file waivers every time a routine meter route change causes a billing month to fall outside of the parameters of the definition. The processing of these routine waiver requests is costly in both time and money for both the utilities and the Commission. For a recent example, see *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Continuation of Temporary Waiver of Certain Standards and Billing Practices of 52 Pa. Code Section 56.1, et seq.*, P-00062243, (January 26, 2007). We believe it is possible to carve out an exception to facilitate these routine meter changes while at the same time protecting affected customers. We shall put into place the same protections that are usually adopted by the petition process by requiring amortization of any bills exceeding a 60-day period, which should be exceedingly rare. We note that this amortization is not a payment agreement under Chapter 14 because it does not involve unpaid balances. We will also require an informal notification to the Bureau of Consumer Services of these occurrences so that the Bureau is prepared to answer

customer inquiries on the matter.

Definition of *Customer*:

PAWC suggests using the Chapter 14 definition of customer because to do so would not cause any harm to any potential applicant or infringe upon consumer protection. It would, however, eliminate PAWC from applying two separate definitions to a water and wastewater customer.

FirstEnergy suggests the definition of "customer" specify that the individuals must be eighteen years of age or older. Action Alliance proposes that to clarify that only adults or emancipated minors can be customers, the phrase "only a natural person 18 years or older, or an emancipated minor, may become a customer" should be part of this definition. IRRC asks if someone under 18 can be considered a customer.

Discussion:

We disagree with PAWC's suggestion because this would basically be applying Chapter 14 provisions to wastewater utilities. We decline to do this for the reasons outlined by OCA; that to the extent that the General Assembly chose to modify the existing Chapter 56 protections for some types of utilities and customer groups, it is equally clear that the General Assembly did not intend to mandate the expansion of those changes to other utilities.

We agree with IRRC, Action Alliance and FirstEnergy and will specify that a *customer* has to be at least 18 years of age.

Definition of *Customer assistance program*:

Discussion:

Because customer assistance programs are referenced in some of the subsections L-V, § 56.337, for example, we shall include the definition of such. This is the definition found at Section 1403. This will have no negative impact on customers with PFA orders under Section 1417.

Definition of *Default service*:

Discussion:

This definition of *default service,* reflecting the definition in the default service regulations at § 54.182 was not included in the NOPR, but is now included based on comments received from IRRC on the proposed definition of *basic service*:

IRRC notes the definition refers to the delivery of residential service, however it does not mention default supply. IRRC questions whether the Commission has considered the inclusion of default supply in the definition of basic service? If the Commission includes default supply in the definition of basic service, it should also separately define "default supply" in the final-form regulation. Finally, the definition for "nonbasic service" should also be consistent with the language in the definition for "basic service."

Definition of *Dispute*:

Action Alliance recommends modifications to the definition of the term "dispute" to clarify aspects of its meaning and its use within the Commission's administrative processes, particularly in light of Chapter 14 changes. Action Alliance requests that the Commission amend the definition of "dispute" so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to a dispute by an applicant, customer, or occupant. And to clarify the definition of dispute, Action Alliance recommends that within the definition the Commission replace the terms "initial contact" and "contact" with the terms "initial inquiry" and "inquiry," respectively. This change will harmonize the definitions of dispute and initial inquiry and will clarify that a dispute may begin as an initial inquiry.

Action Alliance notes that according to the definition of dispute, the trigger that converts an initial inquiry into a dispute is the level of satisfaction felt by the complainant regarding the resolution of the issue forming the basis of their initial inquiry. Therefore, it is important that public utilities carefully discern that satisfaction level. However, at the end of a contact with an applicant, customer, or occupant, a general question by a utility representative, such as "Are you satisfied with this call?" may be misleading. Action Alliance recommends that public utilities must ensure applicants, customers, and occupants understand that their satisfaction is to be based upon the resolution of their grievance, not with the personal qualities or conduct of the customer service representative.

PULP requests that the Commission amend the definition of dispute so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to a dispute by an applicant, customer, or occupant. PULP also recommends the Commission make changes to the wording of the definition to clarify a dispute's place within the chain of administrative process. As PULP reads Chapter 56, there may be a four step progression in the "complaint" process before the Commission: a customer makes an initial inquiry with the public utility; where that initial inquiry is not resolved to the satisfaction of the customer, the initial inquiry converts into a dispute; where a dispute is not resolved to the satisfaction of the customer, then the customer may register an informal complaint with the Commission; where the informal complaint is not resolved to the satisfaction of either party, then the dissatisfied party may file a formal complaint with the Commission. To clarify the definition of dispute, PULP recommends that in two spots within the definition the Commission replace the term "initial

contact" with the term "initial inquiry." PULP also suggests adding "Public utilities must ensure applicants, customers, and occupants understand that their satisfaction is to be based upon the resolution of their complaint, not with the quality of customer service provided by the public utility" so that it is clear that the level of satisfaction regards the resolution of the underlying issue.

Discussion:

We agree with Action Alliance and PULP that the list of subjects that a customer may dispute with a utility and/or the Commission has changed over time as new topics, like energy conservation programs and CAP programs have come along. However, we are reluctant to list or itemize such subjects in the regulation because this could be inadvertently interpreted to exclude subjects not specifically listed. Another reason we are reluctant to itemize disputable issues as it is likely that other new things will come along in the future such as hourly metering, remote appliance control and other load management initiatives that may also be the subject of disputes. We must also note that Chapter 56 dispute procedures have also been incorporated into other regulations, such as the electric "slamming" regulations at § 57.177 for example. It is possible that future regulations on other topics may include similar language. As an alternative to itemizing disputable issues, we prefer to insert the phrase "but not limited to" after "including" in the first sentence of this definition. This will convey that a disputable issue is not restricted to the few items listed in the regulation.

We also agree with Action Alliance and PULP that the customer's satisfaction should be based on the resolution of the underlying complaint, not solely with the utility's handling of the complaint or proposed course of action. We propose addressing this by inserting the phrase "of the subject of the grievance" after the word "explanation" in the final sentence of the definition.

Definition of *Electronic billing*:

NFG and PGW believe that the second sentence of this proposed definition should not be included in the definition because the act of paying a bill electronically can take many forms. A better definition for the act of paying a bill electronically would be "electronic remittance." Also, the act of electronic billing can be completely separate from the act of electronic payment. In some cases, a customer may elect to receive an electronic bill and not a paper bill and yet still pay their bill with a check or by other non-electronic means. In order to clarify the differences, NFG believes that these concepts should be divided into two separate definitions. PGW believes that the proposed definition is too broad and could include electronic transactions over which the utility has no control. PGW suggests modifying the definitions by specifying that it applies only to electronic systems "administered by a public utility for its customers."

IRRC notes that is their understanding that electronic billing and electronic payment are separate and distinct from each other. However, this definition includes both billing and payment. To improve clarity, IRRC advocates that the final-form regulation should include separate definitions for the terms "electronic billing" and "electronic payment."

Discussion:

We agree with NFG, PGW and IRRC that electronic billing and payment are two different and distinct concepts that are not necessarily in tandem. Therefore, we will add a separate definition of electronic remittance. We also agree with PGW that the proposed definition is possibly overbroad and should specify only those systems administered by a utility and/or that the utility is responsible for.

Definition of *Electronic notification of payment*:

Allegheny Power states that the receipt requirement will be very costly, potentially $ 1 million annually with little or no benefit to the customer. PPL believes it is necessary to distinguish between one-time payments made by customers through a utility's interactive voice response system and reoccurring monthly payments from customers who participate in on-line billing. PPL suggests revising this proposed definition to "A notification generated by the electronic payment system upon receipt of a payment from on-line billing and payment customers. The notification will inform the customer of successful receipt and amount of payment and the date and time the payment was received." PGW notes that it is not possible to always confirm electronic payments because PGW receives electronic payments from many sources including third party payors.

NFG suggests that the word "the" in the first sentence of this proposed definition should be changed to "an".

Aqua requests that that this definition be clarified so that a paper receipt is not mandated but otherwise maintain the requirement for a tracking system so that the customer has a confirmation and record of the payment. Electronic payments can be of very different forms and an automatic bill payment from a banking institution does not generate a paper receipt. A confirmation number that permits the tracking of the payment is the most appropriate and efficient manner to advise the customer that the electronic payment has been made.

Discussion:

We agree with Allegheny, PPL and PGW that a receipt for all electronic payments is not necessary because as the parties point out, not all payments are received through utility-operated systems. In addition, utilities have operated direct, pre-authorized debiting systems for years

without receipts being provided. We find PPL's proposed definition helpful, along with NFG's suggestion to change "the" to "an."

Definition of *Electronic notification of payment:*

Discussion:

This definition was not in the NOPR, but is now being included based on the suggestions of NFG, PGW and IRRC in response to the proposed definition of *electronic billing.*

Definition of *Federal poverty level*:

Discussion:

A definition of "Federal Poverty Level" is being added at the suggestion of IRRC. The definition is the one provided for by the federal Department of Health and Human Services on its website.

Definition of *Formal complaint*:

Discussion:

We shall include the definition of *formal complaint* since this term is used in §§ 56.401- 404 and has no negative impact on customers with a PFA that would be contrary to Section 1417. This definition is from Section 1403.

Definition of *Household income*:

In adopting a definition of *household income* that excludes a minor's income, the General Assembly intended Chapter 14 to confer a benefit to consumers that previously did not exist. As a result, in keeping with our intention to apply Chapter 14 to customers covered by these subchapters when it provides a customer benefit, we will include this definition.

Definition of *Informal complaint*:

We shall include the definition of *informal complaint* since this term is used in §§ 56.391- 394 and has no negative impact on customers with a PFA that would be contrary to Section 1417. This definition is copied verbatim from Section 1403 and it has not been the cause of any

confusion or controversy. That being said, we will address the concerns Action Alliance, PULP and IRRC raised in relation to §56.2 by removing the word "filed" from the definition.

Definition of *Informal dispute settlement agreements*:

PAWC asks if the parties fail to reach an agreement on the statement of the claim or dispute, will it prevent the parties from reaching an informal dispute settlement agreement? Perhaps the first sentence can be reworded or deleted? PAWC also suggests that the regulation set a time period in which the customer or applicant must make known to the public utility that they reject the settlement offer as to eliminate ambiguity and minimize potential confusion.

Discussion:

For reasons based on comments received and discussed in relation to this same definition at §56.2, we will withdraw this proposed definition and remove all references to it in the regulations.

Definition of *Initial inquiry*:

Action Alliance and PULP recommend that the Commission amend the definition of "initial inquiry" so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to an inquiry by an applicant, customer, or occupant.

Discussion:

The concerns expressed by Action Alliance and PULP parallel the concerns they expressed about the definition of *dispute*. Again, we are reluctant to list or itemize such topics in the regulation because this could be inadvertently interpreted to exclude topics not specifically listed. Another reason we are reluctant to itemize disputable issues is that it is likely that other new subjects will come along in the future such as hourly metering, remote appliance control and other load management initiatives that may also be the subject of disputes. We also note that Chapter 56 dispute procedures have been incorporated in other regulations, such as the electric "slamming" regulations at § 57.177 for example. Moreover, it is possible that future regulations on other topics may include similar language.

We shall resolve this issue in the same manner as with definition of *dispute*. We will insert the phrase "but not limited to" after "including" in the first sentence of this definition. This will convey that a disputable issue is not restricted to the few items listed in the regulation.

Definition of *Nonbasic services*:

The OCA believes that the use of the phrase "physical delivery" may be too narrow and could be interpreted as referring only to the distribution/transportation portion of the bill and that the provision of default supply service should also be included.

Discussion:

OCA's comments are analogous to the comments they and IRRC submitted in response to the definition of basic service. We shall address these concerns in a similar manner, by inserting a reference to default supply service in the proposed regulation.

Definition of *Occupant*:

Action Alliance proposes that to recognize that an occupant can reside at a property where service is not currently being provided, and to clarify that a dependent child occupant should not be made responsible for the bills of a parent, under Section 1407(d), the definition should specify "adult" persons and that the phrase "or requested" be added to the end of the definition. OCA also agrees that the word "adult" should precede the word "person" because it was clearly not the intent of Chapter 14 or of prior Commission regulations to make a dependent child responsible for the bills of a parent and the current definition of "occupant" could produce such a result.

PULP requests that the Commission make a minor modification to the definition of occupant by adding the phrase "or requested" to the final sentence. This addition will capture the idea that the public utility's relationship with the household can often extend beyond the time when public utility service is currently provided. For example, in situations where a customer loses service and the final bill is past due, the public utility may still have interactions with occupants of the household. Because of this fact, the definition of occupant should be more expansive.

IRRC believes that the proposed definition is vague for two reasons. First, while other related terms like "customer" or "applicant" use the descriptor "natural person," this definition uses "person." To improve consistency, "person" should be replaced with "natural person." Second, IRRC raises the question; when does a natural person officially become an occupant and when does the natural person cease being one. IRRC also notes that this definition should clarify if someone under 18 can be considered an occupant.

Discussion:

The word "occupant" appears in the following sections of the current Chapter 56: §§ 56.2, 56.12, 56.17, 56.71, 56.72, 56.83, 56.93, 56.96, 56.97, 56.99, 56.100, 56.111, 56.112, 56.151, 56.201, 56.211 and 56.231. We proposed no substantial changes to this definition in the NOPR

and Chapter 14 does not include a revised definition of occupant. There has been little if any confusion or difficulties with this definition that we are aware of. As such, we are reluctant to tinker with this definition out of concern for inadvertent, and possibly serious, consequences that could result, especially given the large number of sections where this term appears, as noted above. For example, under the medical emergency regulations at §§56.111-112, an "occupant" is eligible to file an emergency medical certificate. If we revise the definition of "occupant" to specify an occupant must be an adult, this would serve to strip children of medical emergency protections; clearly an unacceptable outcome.

We prefer to keep with the traditional approach as found in §56.93 for example. When it is important that the occupant be an "adult" the regulation specifies that the occupant concerned must be an "adult." As another example, we believe that our proposed revisions to the definitions of *customer* and *applicant*, which specify that both must be "adults" will address to a large extent the concerns expressed by some of the parties. We also see no problem with IRRC's suggestion that we insert the word "natural" before "person" as to align this definition with the definitions of *customer* and *applicant*.

Definition of *Physician*:

The CAC and PULP support the elimination from the definition of physician at § 56.2 the requirement that a physician must be licensed by the Commonwealth of Pennsylvania. Many individuals are treated by out-of-state physicians. Those individuals who live in communities bordering other states or require specialists or treatments located in other states should not be precluded from the intended protection of the statute.

Discussion:

We agree with the CAC and PULP and will revise this regulation to stipulate that the medical professional has to be licensed in the United States.

Definition of *Remote reading device*:

Allegheny Power thinks this definition should specify that automated meter reading (AMR) technology is excluded, since the AMR definition likewise excludes remote reading devices. We will also rearrange the sentence structure of this definition to improve readability.

Discussion:

We do find merit in Allegheny Power's suggestion as to improve clarity and avoid confusion. This will be in keeping with the intent of Section 1411 that deems automatic meter readings as

actual readings.

Definition of *User without contract*:

PGW believes that Chapter 14 does not allow a distinction between the terms "user without a contract" and "unauthorized use" because Section 1406 permits immediate termination of service for all unauthorized use of service and fraud. PGW explains that since unauthorized use is without official authorization, using gas service without a contract is unauthorized use. However, if the Commission maintains this distinction in the regulations, PGW requests that user without contract must be specifically limited to a "reasonable" use of utility service, such as where a customer dies and the spouse continues to use the service for a period of time. PGW suggests that a reasonable period of time be specified as two months or when the utility threatens termination; whichever is earliest.

Phillips asks that this definition be revised to include applicants and customers who have failed or refuse to sign service contracts.

EAP takes the position that the "users without contract" are unauthorized users where service is maintained without customer application and is subject to immediate termination without notice. EAP argues that maintaining a distinction between "user without contract" and "unauthorized user" as the Commission proposes will not minimize uncollectible expenses or encourage timely payments. According to EAP, under the Statutory Construction Act (1 Pa.C.S.A. §1921), the object of all interpretation of statutes is to ascertain and effectuate legislative intent; had the legislature intended to make the distinction between "user without contract" and "unauthorized user" in Chapter 14, it would have done so.

EAP believes that Chapter 14 is very clear in its language mandating when the utility may terminate service and what it shall do prior to termination of service under Section 1406. EAP submits that the Commission's authority to inject itself into the internal management of a public utility is limited and the Commission has no authority to supplant the decision making responsibility of management on matters committed to their discretion. EAP concludes that the Commission, by attempting to inject itself into managerial decisions of the utilities, by proposing regulations inconsistent with Chapter 14, would be acting outside its legislative authority as interpreted by Pennsylvania courts.

Action Alliance notes that the Commission has long recognized that users without a contract, like persons such as widows taking service under their deceased spouse's name, should be protected from immediate service terminations without prior notice, and that overly broad interpretations of unauthorized use as grounds for immediate terminations should be avoided. Action Alliance strongly supports the Commission's original proposal to maintain the long-

standing distinction between "user without contract" and "unauthorized users." Action Alliance further supports the proposed definition of "user without contract," at § 56.2, and recommends its adoption, in order to bring further clarity to the regulations. Action Alliance also agrees that the proposed language at § 56.91(a) relating to termination notices, which effectively provides for a three-day notice to a user without contract, should be adopted.

CAC and PULP support the Commission's decision to maintain the distinction between "user without contract" and "unauthorized use." These commentators agree that the inclusion of a new definition of "user without contract" in the new regulations provides needed clarity and assistance to consumers and utilities in recognizing the distinction between a "user without contract" and "unauthorized use."According to CAC and PULP, common sense and equity require that these two situations should be treated differently. CAC explains that a widow continuing to use the service provided to her in her deceased husband's name is markedly different from someone who has illegally tampered with a meter to avoid paying for service. PULP also supports the Commission's decision to craft the regulations in a manner that recognizes this difference.

IRRC notes that this definition includes "unauthorized use" as an exception to what would be considered a "user without contract." Given that the existing regulation already includes a definition for "unauthorized use" IRRC suggests that the Commission consider simply amending this definition to include the substance of this proposed definition for "user without contract"?

Discussion:

The Commission has formally addressed "user without contract" in recent years, and the arguments against the Commission's long-standing position on this matter are basically the same that have been presented in these previous proceedings. *See* first Chapter 14 *Implementation Order,* M-00041802F0002, (March 3, 2005) and the follow-up *Chapter 14 Implementation – Petitions of the Energy Association and the Philadelphia Gas Works for Clarification and/or Reconsideration of the Implementation Order,* M-00041802 F0002, (June 2, 2005).

For the same reasons previously provided in relation to §56.2, definition of *user without contract*, we see nothing that persuades us to change the long-standing distinction between *user without contract* and *unauthorized use.* The arguments presented relative to this same definition under § 56.252 are even less persuasive since many of the arguments of EAP and PGW are based on Chapter 14. Chapter 14 has no relevance to § 56.252 because these definitions apply to utilities and consumers specifically exempt from Chapter 14 per Section 1417.

To repeat what the Commission declared in the above noted March 3, 2005 Order (page 10), "If utilities are allowed to treat users without contract the same as unauthorized use, an unnecessary tragedy may occur." Also, given the importance of this distinction and its prominence, we

believe it is important to define *user without contract* with a separate, distinct definition in this subsection. Therefore, after careful consideration, we decline IRRC's suggestion that this definition be incorporated into the definition of *unauthorized use of utility service*. We feel this is also unnecessary given that the definition of *user without contract* immediately follows the definition of *unauthorized use of utility service* in the regulations. We will make a minor revision by inserting the word "utility" in the definition to make clear the reference to the definition of *unauthorized use of utility service*. We will also clarify that a user without contract is a "person" as defined at 66 Pa.C.S.§102.

§ 56.261. Billing frequency.

Allegheny Power claims that it would cost $228,000 annually to provide duplicate paper and electronic bills. Columbia reports that it would cost them $6,000 monthly. FirstEnergy, PPL and PGW also oppose a requirement to provide both paper and electronic bills to the same customer as being unnecessary and negating the benefits of electronic billing.

FirstEnergy supports the inclusion of regulations regarding electronic billing and agree that this option should be voluntary and at the customer's option. FirstEnergy also believes § 56.11(b)(7) should be deleted because maintaining a system to ensure delivery of electronic bills would be difficult and that it should be the customer's obligation to notify the company of a change in e-mail address.

PPL opines that since hardship funds are voluntary and the Commission has no regulatory authority over them, that the proposed language at § 56.11(b)(5) should omit "must" and replace it with "should." PPL also suggests revising §56.11(7) by adding language specifying that the customer shall be responsible for informing the utility of changes to email addresses within 30 days.

PECO recommends that the Commission not attempt to regulate the format of electronic bills. PECO believes that an electronic bill can include the same information as a paper bill but that utilities should be allowed flexibility to utilize evolving web technologies to present information in ways that fully utilize those technologies.

Columbia suggests revising 56.11(b)(1) to clarify that a public utility will be required to process a request to revert to paper billing "one billing cycle after the request is made" because depending upon when such a request would be made within a particular customer's billing cycle, it could take longer than one month's notice to process such a request.

Citizen's notes that it has received very positive feedback from consumers regarding their electronic billing program. It is very convenient and allows customers to receive early

notification of their electric bills. Citizen's uses a password protected website with firewalls and secured servers to ensure that information over the internet is encrypted and cannot be intercepted and customer data is protected from unauthorized access.

NFG believes that the language in Chapter 56, as originally written, is broad enough to include the electronic transmission of bills. However, if the Commission decides otherwise, NFG suggests that a blanket waiver permitting electronic billing would be appropriate.

UGI fully supports appropriate revisions to the Chapter 56 regulations to permit electronic billing without the necessity of seeking a waiver from the Commission. UGI notes that in case of a failed e-mail delivery, a paper bill is automatically generated and sent to the customer along with a note that they will be removed from e-billing unless correct e-mail information is provided and five days is added to the payment deadline.

Columbia reports a similar procedure. However, FirstEnergy and PGW differs by declaring that it cannot realistically assure customer privacy or ensure the delivery of e-bills and that the burden of ensuring that e-mail addresses are valid should be placed entirely on the customer, and that the utility should not have to contact the customer to try to find out the correct e-mail address.

PGW suggests that electronic billing provisions must acknowledge the realities of processes for electronic methods of communication. PGW reports that it cannot realistically assure customer privacy or ensure the delivery of e-bills and that the utility should not have to contact the customer to try to find out the correct e-mail address. PGW claims that it is customers who control and can change e-mail addresses without the knowledge of the utility and that the burden should be placed on the customer to inform the utility of any changes. PGW asks that if the Commission is going to specify cancellation timeframes, it should specify at least one billing cycle instead of specifying "months" since calendar months and billing cycles do not necessarily coincide. PGW also asks the Commission to consider expanding electronic notification options to include all notices, such as termination notices, by e-mail through the e-billing process.

EAP agrees that the Chapter 56 rulemaking process provided a satisfactory vehicle for addressing electronic billing and further agrees that certain protections should be in place, such as voluntary participation, a visual format that mirrors the paper bill including messages, bill inserts, assurance of customer privacy, etc. EAP disagrees, however, with § 56.11(b)(1) because this proposed provision goes against the rationale of providing electronic billing services. A provision that was put into place to streamline the billing process for both the customer and the utility has now essentially doubled the processes and costs. EAP members estimate that at current electronic billing enrollment levels, requiring utilities to provide the additional paper bill to its electronic billing customers will range anywhere from thousands to hundreds of thousands of dollars per utility each year.

United notes that there are many positives to electronic billing from a customer service, environmental and cost perspective. United encourages companies to choose electronic billing partners carefully and ensure that they have integrated solid security measures and also visible and real-time tracking mechanisms.

York agrees with the Commission's comments that electronic billing and payment will save customers and utilities time and expense and create significant environmental benefits. If a customer elects electronic billing, York will provide all of the text that is currently printed on a water bill plus a link to view any bill stuffers. York believes that the shift towards electronic billing will continue until it is the norm and paper bills are the exception.

Action Alliance supports the recommendations of the OCA with regard to electronic billing and payment options and incorporates by reference those proposed regulations that reflect the OCA's recommendations. Action Alliance supports the proposed language, at § 56.11(b)(5), which requires that electronic bills include the option for the customer to contribute to the utility's hardship fund, so that such important contributions to assist low-income customers can be maximized.

PULP recommends modifying § 56.11(b)(1) which states that a customer must provide the utility with one month's notice if the customer wants to revert from electronic billing back to paper billing because there may be circumstances that prevent a customer from giving one month's notice. For example, if the internet service provider or the provider of e-mail services goes bankrupt, out of business, or experiences unforeseen technical difficulties, the customer will not have the time to provide one month's notice to the utility.

IRRC raises three issues concerning electronic billing. First, subsection (b)(l) states that a customer must provide the public utility with one month notice to revert to paper billing. Commentators for both public utilities and consumer groups question whether a one month notice is an appropriate amount of time. The Commission should consider adding language suggested by a commentator that the request for paper billing be processed "one billing cycle after the request is made." Second, subsection (b)(5) requires an electronic bill to: "include the option for the customer to contribute to the utility's hardship fund." IRRC questions whether this requirement also applies to paper billing; if not, why is it being added to electronic billing requirements. ? Finally, subsection (b)(8) requires the public utility to maintain a "sufficient system security" and IRRC submits that the Commission should further explain this requirement.

Discussion:

Electronic billing and payment hold great promise in increasing customer convenience while lowering costs, in addition to the obvious environmental benefits. It must be implemented in a way that does not impose costly restrictions on the utilities while at the same time protect and

assure consumers that these methods are safe and helpful. It is not our intention to specify and regulate every feature in detail of these programs. We recognize that such a level of detail is over-reaching and that such micromanagement can lead to inflexibility and unintended results. This is especially true with evolving technologies, where such over-specificity may discourage innovation.

We believe that it is important that electronic bills contain the same information as paper bills and this includes any bill inserts and newsletters. Again, the point is to encourage the use of these programs by assuring customers that they will be receiving the same information electronically that they have always received on paper. However, we agree with PECO that while we should require the same information on electronic bills, we should not specify a format. As PECO points out, one of the advantages of electronic communication is the technological possibilities of presenting information in new, more interactive and innovative ways. Mandating a set format may well stifle these creative possibilities. We will make a minor revision to paragraph (3) to remove a redundant word; "required."

We agree with Action Alliance that it is critical that, whatever the format, the electronic bill must include an option that the customer can easily utilize to contribute to the utility's hardship fund. These funds rely on customer contributions and are of urgent importance to the customers that need them. Going back to the 1992 PUC report on *Investigation of Uncollectable Balances*, where recommendation 27 (page 31) urged "...all major gas and electric companies' should adopt the 'dollar check-off' provision or a similar provision on utility bills to enable customer to make contributions with minimal effort." In addition, this is a component of some of the major utility's universal service plans that are filed with and approved by the Commission. For example, PPL's *Universal Service and Energy Conservation Plan For the Period (2008 – 2010)* includes this provision:

> Begun in March 1983, Operation HELP was one of the first utility-sponsored hardship funds in the nation. Through its annual promotional campaign, PPL Electric encourages customers to contribute by adding an extra $1, $2, or $5 to their monthly electric bill or by sending in onetime, lump-sum checks. Over 20,000 customers give to Operation HELP via their electric bill payments. PPL Electric's customer service system has the flexibility to allow customers to give any amount to the program and to choose a specific period of time (over the winter months).

Another example is *PECO Energy Company Universal Services Three-Year Plan, 2007 to 2009, February 2009 Revision, Revised to Reflect the Settlements Approved by the Commission on October 29, 2008 in Docket No. R-2008-2028394 and on December 23, 2008 in Docket No. M-00061945* which includes this provision:

> The Matching Energy Assistance Fund (MEAF) is PECO's hardship fund program. There are two components, MEAF contributors and MEAF grants. Contributors – Ratepayers

can pledge donations through monthly bill payment, or a one time donation.
Monthly Bill Check-Off and bill inserts options - Beginning in the 4th quarter of 2006, customers will have the ability to contribute to MEAF through a check-off box on their monthly bill stub.

We also note that this matter has been addressed by the General Assembly in the Natural Gas Choice and Competition Act at Section 2205(c)(6) that requires gas utilities to take reasonable steps to allow customers to contribute via their bill to hardship energy funds. However, to address the concerns expressed by PPL and IRRC, we will revise the proposed regulation to specify that a hardship fund contribution feature only needs to be provided if the utility has a hardship fund and collects contributions through regular customer billings.

We agree with EAP, NFG, Columbia, FirstEnergy and PGW in that we should not require a utility to provide redundant paper and electronic bills to the customer at the same time. We are not convinced that requiring duplicate bills is of any substantial benefit especially since we propose requiring both electronic and paper bills to provide the same information. Requiring such redundancy may defeat some of the purposes of electronic bills, such as the environmental benefits and cost savings.

We commend utilities such as UGI and Columbia that have put in place procedures to address instances where an e-mail delivery fails. We believe that if a utility is going to rely on billing a customer electronically, failed e-mails should not be ignored, especially since, as noted by PULP, not all failures are necessarily the fault of a customer. While we agree that failed delivery of an e-mail cannot be ignored and should be addressed by the utility, we will not require a specific method or procedure for handling such. The evolving technologies and differences in each utilities program make the mandating of a specific procedure problematic. However, utilities should be directed to have some procedure in place and for guidance may want to look at the procedures utilized by UGI and Columbia that are discussed in their comments.

PPL, PGW and UGI reported that customers are free to cancel electronic billing at anytime. We believe that this is an important feature that will encourage participation in these programs. However, we agree that a cancellation should require advance notice of at least one billing cycle as opposed to one calendar month because as parties like Columbia and PGW point out, billing cycles do not necessarily coincide with calendar months. As for the amount of notice that must be provided prior to cancellation, parties such as PULP suggest the proposed period is too much; while some parties suggest it may be too little notice. We believe that a "one billing cycle" period is a reasonable middle ground.

To further reinforce the message that security is important, especially in the context of heightened concerns with identity theft and data theft, we believe we should remind utilities of their obligations to secure their systems. However, we should avoid specifying the precise methods that a utility should employ in protecting customer information from unauthorized

access. Ever-changing technology would make this impossible and might inhibit new and innovative security arrangements. We agree with Phillips in their comments responding to the proposed § 56.25 that we should simply indicate that utilities should employ "all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access."

PGW suggests that the Commission permit the electronic transmission of other notices, such as termination notices. We see merit in allowing this as to accomadate customer's who may be more comfortable with electronic means of communication, and in keeping with our intent to update these regulations as to accomadate technological advances. However, we believe this should only be allowed with the prior consent of the customer, and that the electronic notices will complement the normal notice process - not replace it. As anyone with experience with e-mail knows, an e-mail inbox can easily be filled with a variety of spam and other unsolicited e-mail. An important notice from a utility can be easily overlooked. As such, we believe providing termination notices through the traditional methods should continue, with the electronic termination notice augmenting the procedure, not replacing it.

§ 56.262. Meter reading; estimated billing; customer readings.

Allegheny Power states that § 56.12(2)(i) be amended to accommodate electronic and telephonic methods for submitting meter readings in lieu of paper postcards.

With respect to § 56.12(4)(ii) NFG submits that the Commission may want to take this opportunity to recognize the current sophistication of utility estimating algorithms and programs and lengthen the period of actual meter readings to 12 months. This has potential cost savings and customers are protected from any large adjustments by other provisions that require amortization of any such adjustments.

PULP recommends the Commission amend the final sentence of Section 56.12(5)(i), by replacing the word "occupant" with "applicant or customer." PULP explains that given that the word "occupant" has taken on a specific meaning under these regulations, this word choice may now be inapt and confusing.

Columbia notes that the proposed definition of "AMR (Automatic meter reading)" in § 56.2 correctly excludes remote reading devices. However, Columbia thinks that the proposed additional language that would refer to AMRs in 56.12(5) confuses that distinction. While the proposed language appears to be designed to reinforce that AMR reading are actual readings, Columbia thinks the way the language is inserted may be misconstrued as an indication that 56.12(5) applies to AMR readings. If the definition of AMR in 56.2 were to be amended as suggested above in these comments, no reference to AMRs would be necessary in 56.12(5).

Allegheny Power suggests language requiring mandatory 12-month stay in and stay out provisions to prevent customers from participating in budget billing only when their budget bill amounts are less than their actual monthly usage amounts.

FirstEnergy does not support the provision requiring amortization of any anniversary bill amounts exceeding $25. According to FirstEnergy, if the customer is already on a payment agreement, this provision would require adding a second payment agreement onto the account, presenting problematic and expensive programming and bill presentment changes. Moreover, this could also be inconsistent with Section 1405(d) of Chapter 14 which prohibits the Commission from ordering the establishment of a second payment agreement.

PPL generally agrees with the Commission's suggested revision, but suggests adding language indicating that a reconciliation amount exceeding $25 shall, depending upon the amount and the customer's ability to pay, be amortized over a 3-12 month period at the discretion of the utility.

Columbia opposes the proposed changes to 56.12(7) that would require any reconciliation amount under budget billing that exceeds $25 to be amortized over a three to twelve month period. Columbia contends that the proposed changes conflict with the policies of Chapter 14 explaining that the 3-12 month amortization requirement will result in public utilities incurring additional expenses in the form of carrying costs which must be financed through borrowed money, and which will ultimately be passed onto other customers who should not be required to subsidize unnecessary payment plans. Columbia also finds no support anywhere in Chapter 14 for the proposed additional language in 56.12(7) that would require payment agreements for heating customers to be based upon equal monthly billing. Finally, Columbia submits that the reference to "payment agreements" has no place in a subsection that addresses budgets.

NFG suggests changing "and" to "or" in the first sentence of §56.12(7). NFG also requests that the amortization period be changed to no longer than 9 months and that amortization be made only necessary at the request of a customer.

PGW believes that the proposed requirement to amortize budget reconciliation amounts in §56.12(7) is contrary to Chapter 14's prohibition on the Commission from ordering second payment agreements because many of PGW's customers on budget billing have already received and broken payment agreements. Without waiving this position, PGW is amenable to setting a reasonable dollar amount over which a reconciliation amount could be amortized if the customer requests such. PGW suggests that amounts between $100 and $300 could be amortized over 6 months with amounts in excess of $300 amortized over 12 months. However, PGW asserts that the customer should have the option to pay the bill in full.

Phillips recommends that the minimum budget billing reconciliation amount requiring amortization be increased from $25 to $100 so as to avoid logistic and administrative burdens of having to monitor transactions involving small amounts.

Concerning § 56.12(7), EAP believes that the Commission, despite statutory language, has extended repayment periods or granted second or subsequent payment agreements to many customers who defaulted on previous payments. EAP explains that by ordering a utility to defer payment, for example, for 12 months for a customer with a gross monthly household income of 300% of the federal poverty level, the Commission overlooks Section 1405(b)(4) which provides that the maximum period of time is only 6 months. EAP submits that allowing a customer to make payment of $26 over a 12-month period simply delays full payment unnecessarily, thereby compounding a utility's cash flow difficulties. Moreover, to comply with this regulation, EAP believes that the utilities would need to increase programming and other collection tracking, which comes at a cost, all contrary to the spirit of Chapter 14.

Action Alliance supports the proposed requirement, at § 56.12(7), that reconciliation of budget bills not cause sudden jumps in payment requirements, which would defeat the purpose of budget billing to provide equal monthly bills. Action Alliance requests that the term "payment agreements" in the new language should be changed to a different term such as "amortization" to avoid confusion with the Chapter 14 defined term "payment agreement" that can count toward the maximum number of payment agreements that a customer may receive for a particular balance.

PULP supports the Commission's choice in Section 56.12(7) to require year-round, open rolling enrollment into the budget billing program, where this means that at no time in the year would a customer be denied enrollment into the program. PULP explains that budget billing enables a customer to have fairly consistent bills each month of the year, reducing the billing volatility caused by seasonal changes in energy use. This facilitates a household's ability to maintain a fairly regular bill amount, appropriately budget, and build a consistent payment history.

IRRC has three concerns with paragraph (7) which specifically addresses the budget billing process. First, the proposed paragraph changes the billing mechanism from "equal monthly" to "budget billing," yet the Commission does not explain the reason for the change. As a result, many commentators expressed concerns that changing the method was inappropriate. Second, IRRC explains that paragraph (7) allows a public utility, as part of budget billing, to amortize over a three to 12-month period any amount exceeding $25 resulting from reconciliation. IRRC asks how the Commission determined that both the amount triggering amortization and the time periods is reasonable. Finally, IRRC questions the need for the last sentence of paragraph (7) that states: "payment agreements for heating customers shall be based upon equal monthly billing."

Discussion:

We agree with Allegheny Power and have proposed allowing electronic and telephonic methods to comply with § 56.12(2). We disagree with NFG however and do not believe it is appropriate to expand the number of consecutive months that estimated bills would be permitted. We note that the current regulations require only one utility-obtained meter reading annually in cases where meter access is an issue. Given the advances in AMR and remote metering, we would expect the instances of meter access problems and estimated bills to diminish over time; not increase. Therefore, loosening these already lenient requirements is not needed at this time. We also disagree with PULP that the word "occupant" in the final sentence of § 56.12(5)(i) is a possible problem. The new "occupant" may not necessarily be a "customer" or an "applicant" and that person's status as such is not of any relevance in providing access to the utility for the purposes of obtaining a meter reading. We agree with Columbia in that with the new definition of "AMR – Automatic Meter Reading" at § 56.2, the inclusion of AMR language in § 56.12(5) is redundant and no longer needed. And in keeping with our intent to modernize the regulations, we will remove the references to "postcards" from paragraph (ii) as to accommodate other, technology-driven methods of submitting customer meter-readings.

Most of the comments about this section were specifically related to § 56.12(7), commonly referred to as the budget billing rules. Budget billing has been the subject of previous Commission proceedings with many stemming from a Motion of then Vice Chairman Cawley in *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing,* M-00051925 (November 10, 2005). The Motion described the importance of these programs to both consumers and utilities:

> "...and budget billing has become a key tool for customers to mitigate spikes in utility bills and for utilities to manage account receivables. Now is the time to ensure that utility budget billing programs optimize both the customers' and companies' ability to manage higher prices this winter..."

The Motion also asked interested parties to comment as to what should be the elements of an acceptable budget billing program. Based on the comments received, the Commission issued two subsequent orders; *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing,* M-00051925 (June 1, 2006) and, *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing,* M-00051925 (November 9, 2006). In the June 1, 2006 Order, the Commission declared that an acceptable budget billing program should include the following elements:

- Budget billing must be available, on a rolling enrollment basis, to all utility customers with residential end use irrespective of the rate the account is billed.

- Based on well-established case history, budget billing must be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility.
- Budget accounts are to be routinely monitored and adjusted at least three times per year, consistent with the Commission's regulations to prevent over or under collections to the extent possible.
- Natural gas utilities should adjust budget bills at least four times per year, in conjunction with their Purchased Gas Cost (PGC) rate adjustments.
- The budget billing payment period must be a minimum of 12 months, with no annual true-ups occurring during the winter heating season.
- If the true-up amount is less than 100% of the budget amount, customers should be given 3-6 months to pay off that amount.
- If the true-up amount is 100% or more of the budget amount, customers should be given 12 months to pay off that amount.
- Any tariff provision that is inconsistent with the Commission's interpretation of its regulation is deemed null and void.

The Commission concluded the Order by stating that:

> "By allowing rolling enrollment in budget billing programs and mandating adjustments to the budget billing amount at least three times per year, we reduce the likelihood of having large true-ups at the end of the budget year. Given the utilities' obligation to review budget billing amounts 3-4 times per year, large true-ups should be the exception. By doing this we are providing a way for companies to smooth customer bills and decrease their exposure to uncollectible expenses. We strongly encourage utilities that do not presently have these elements in place to work with BCS to ensure that their new system contains the elements that comply with the letter and intent of this Final Interpretive Order. The Commission will incorporate this Final Interpretive Order in the next Chapter 56 rulemaking."

However, this was not the Commission's final declaration on this subject. In response to petitions for reconsideration filed by various parties, the Commission followed up with additional guidance and clarification in a November 9, 2006 Order. Among other things, the Commission deferred to the rulemaking process some of the interpretational issues raised by some parties:

> "PPL argues that the prohibition against winter true-ups is overly broad since it includes all customers, not just heating customers. We agree. In the discussion section of the Final Interpretive Order, we stated that two commentators found winter true-ups for heating customers undesirable during the winter. However, when we enumerated the list of essential elements for an acceptable budget billing program, we did not limit that element to heating customers. Moreover, as explained by PPL, if the budget billing amount is reviewed and adjusted periodically, the true-up amount should not be substantial. Under these circumstances, we shall delete the prohibition on winter true-ups from the interpretive rule. Nevertheless, we reiterate what was stated in our Final

Interpretive Order. We expect utilities to exercise good judgment in dealing with these situations, and to manage their budget billing programs in a manner designed to avoid large winter true-ups for heating customers.

We also agree with the commentators that there appears to be a conflict between Section 56.12(7) and the enumerated element that the budget billing period "must be a minimum period of 12 months... ." In addition, NFG stated that some of its customers are satisfied with a 10 month budget billing program that allows customers to experience two months of lower current bills during the summer months. As stated in our Final Interpretive Order, the purpose of that order was to provide guidance. Since our intent was not to change or modify the current regulation, we will modify the fifth bullet on page 19 of our Final Interpretive Order to more closely track the existing regulation. Accordingly, we do not intend to prohibit 10 or 11 month budget billing programs that suit the needs of some customers and utilities.

Finally, we agree with NFG and Columbia that bullet numbers 6 and 7, pertaining to how long customers should be given to pay off true-up amounts, raise interpretational issues with Chapter 14 payment arrangement limitations. The purpose of our Final Interpretive Order was to provide guidance as to how budget billing programs are managed, not to resolve interpretational issues that will be the subject of the rulemaking required at Section 6 of Act 201 to amend Chapter 56. Accordingly, we will delete bullet numbers 6 and 7 from these guidelines. However, we emphasize that we expect utilities to exercise good judgment in dealing with true-up amounts in their budget billing programs. The remaining elements enumerated are guidelines on how to set up budget billing programs and what common elements we expect to see in budget billing programs. These guidelines should have no effect on customer assistance programs and existing payment agreements. Moreover, the use of "should" for bullet numbers 4-7 is intended to communicate what the Commission would like to see practiced by utilities. Nevertheless, the elements listed as acceptable budget billing components are guidelines, not a mandate. As stated in our Final Interpretive Order the goal of budget billing is to allow new customers, and existing customers not previously enrolled in a budget billing program, to obtain the maximum benefits from the program, while benefiting utilities by reducing their exposure to uncollectible expenses. A properly designed and managed budget billing program will achieve these goals and benefit both the customer and the utility."

The Commission then modified the list of elements that an acceptable budget billing program should include:

- Budget billing must be available, on a rolling enrollment basis, to all utility customers with residential end use irrespective of the rate the account is billed.
- Based on well-established case history, budget billing should be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility.

- Budget accounts are to be routinely monitored and adjusted at least three times per year, consistent with the Commission's regulations to prevent over or under collections to the extent possible.
- Natural gas utilities should adjust budget bills as often as necessary, but not less than three times per year. Rate changes such as increases in the Purchased Gas Cost (PGC) are examples of indicators that budgets may need adjustment.
- The budget billing payment period should average service costs over a 10, 11 or 12 month period.
- Any tariff provision that is inconsistent with the Commission's interpretation of its regulation is deemed null and void.

As noted above, the Commission in 2006 declared that budget billing would be addressed in this rulemaking; and that the interpretational issues concerning Chapter 14, specifically Section 1405(d) would also be addressed.

We disagree with EAP, FirstEnergy and Columbia that the Commission's proposal to require the amortization of reconciliation amounts conflicts with Chapter 14's limits on Commission – mandated payment agreements found in Section 1405(d). A "true-up" or "reconciliation" amount results when a utility, at the end of the budget billing "year" reconciles the customer's billed amount with the amount of service the customer actually used. This could be a positive amount (meaning the customer has a credit) or a negative amount (meaning that the customer will be billed to recover the difference). If the utility has been properly reviewing the account throughout the budget year, large reconciliation amounts should be rare. However, it can occur, especially with new customers, customers who are recent budget enrollees, or customers with highly erratic usage patterns. Such large reconciliation amounts defeat the purpose of budget billing, which is to provide the customer with a somewhat consistent, predictable bill amount that will facilitate regular payment; thus reducing a utility's uncollectible debt problems. When we discuss amortization of such bills, we are instructing the utility to adjust the future budget billing amounts to cover not only current average usage, but also to include a portion of the reconciliation amount from the previous budget year.

Frankly, Chapter 14 limits also do not apply because we are not talking about past-due charges. The definition of *payment agreement* in Chapter 14 at Section 1403 specifically refers to the amortization of an "unpaid balance of the account." In the Commission's proposal, we are not discussing "unpaid" amounts; in fact we are discussing amounts that the customer has not even been billed for. Thus we cannot accuse a customer of having an "unpaid balance" when in reality the customer has never been billed for the balance in question. Additionally, Chapter 14 is irrelevant when considering this requirement at § 56.262 because this section only applies to utilities and consumers that are specifically excluded from Chapter 14 provisions, as we explain in reference to § 56.251.

In any event, we do find merit in the comments of PPL, NFG, PGW and Phillips in that the Commission's amortization proposal should be modified to reflect a more reasonable dollar trigger amount. We find a $100 trigger amount more reasonable than the proposed $25 amount, and also that this should not be an absolute requirement; customers should have the option of paying in full if so desired. Amounts between $100 and $300 can be amortized over 6 months; with amounts exceeding $300 amortized over at least a year. We will also include language permitting shorter amortization periods if the customer requests such. This amortization schedule should not result in payments that are overly burdensome for the customer; while providing a reasonable timeframe for the utility to collect on the unbilled charges.

This amortization requirement is intended to encourage customer participation in budget billing programs. For this same reason, we must reject Allegheny Power's suggestions about mandatory stay-in/stay-out provisions. We believe that such provisions would discourage customers from participating in budget billing programs. Regarding Allegheny Power's concerns with customers leaving budget billing when their actual usage is less than their monthly budget amount, we note that there is nothing to prevent a utility in this situation from removing the customer from budget billing and then billing the customer for unpaid actual usage. The above discussed amortization requirement only applies to customer's at the end of their budget year. To further make these programs more consumer-friendly, we are proposing changing the name of this subsection from *Equal Monthly Billing* to *Budget Billing*. Budget billing is the term that utilities and consumers commonly use to discuss these programs and the regulatory language should reflect this. This is merely a change in the terminology; it is not a change in the methodology used to calculate budget billing amounts.

Finally, we agree with Columbia and IRRC that the directive that "payment agreements for heating shall be based upon equal monthly billing" would be better placed elsewhere in the regulations. We propose placing it in § 56.337, which addresses the negotiation of payment agreements with customers facing the termination of service. This requirement dates back to the Commission's order in *Mary Frayne v. PECO Energy Company,* C-20029005 (July 17, 2003) where the Commission declared (page 7):

> "Budget billing should be the norm for all payment arrangements rather than current billing. Budget billing was designed to aid customers who are experiencing financial difficulties by ensuring a level, predictable payment amount from month to month. The level payment amount will better enable the customer to plan for his or her utility bills and budget accordingly. Therefore, customers should not be provided with the option of choosing current billing when budget billing is a more beneficial option."

This guidance was again reiterated in the June 1, 2006 and November 6, 2006 budget billing orders discussed previously where the Commission twice declared that "[b]ased on well-established case history, budget billing should be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility." In conclusion, including

this guidance in the regulations is simply codifying a well-established Commission expectation that has been the subject of the previously mentioned Commission formal proceedings.

§ 56.263. Billings for merchandise, appliances and nonrecurring and recurring services.

Phillips asks that this requirement be made clearer by adding the phrase "which requirement shall be satisfied where the charges for nonbasic services appear on lines of the customer bill which are different or separate from those which address basic services" to the end of this proposed section.

The OCA is concerned that while the proposed change in this regulation will allow charges for merchandise, appliances, etc. to appear on the utility bill, there is no corresponding requirement that the utility separately account for these charges in a manner that will ensure that customers are not subjected to termination based on such charges. The OCA does not support the proposed change because there is nothing in Chapter 14 and no technological advance that would justify the change to the long-standing requirement that these services be billed separately.

IRRC notes that rather than have a separate billing, the proposed regulation would now include miscellaneous merchandise as part of the bill for basic service. According to IRRC, a commentator suggests there is no justification for this change, and that it could unfairly result in termination of service if termination is based on overdue miscellaneous merchandise charges. If a utility is able to terminate a customer's basic service as a result of unpaid miscellaneous merchandise charges, then the Commission should clarify in the final-form regulation that basic service cannot be terminated as a result of unpaid miscellaneous merchandise charges.

Discussion:

The changes proposed by the Commission to this section were intended to reflect the electric and gas bill formal regulations found in the customer information regulations for electric and gas; the relevant portions as follows:

> **§ 54.4. Bill format for residential and small business customers.**
> (a) EGS prices billed must reflect the marketed prices and the agreed upon prices in the disclosure statement.
> (b) The following requirements apply only to the extent to which an entity has responsibility for billing customers, to the extent that the charges are applicable. The default service provider will be considered to be an EGS for the purposes of this section. Duplication of billing for the same or identical charges by both the EDC and EGS is not permitted.
> (1) EDC charges must appear separately from EGS charges.
> (2) Charges for basic services must appear before charges for nonbasic services, and appear distinctly separate.

(3) Customer bills must contain the following charges, if these charges are applicable, and these charges must appear in a distinct section of the bill. The designation or label of each charge as either a basic charge or nonbasic charge appears in parenthesis following the name of the charge. This label of either basic or nonbasic is not required to accompany the name of the charge on the bill.

(i) Generation charges (basic).

(A) Generation charges shall be presented in a standard pricing unit for electricity in actual dollars or cents per kWh, actual average dollars or cents per kWh, kW or other Commission-approved standard pricing unit.

(B) Generation charges shall appear first among the basic charges with one exception. EDCs may place the customer charge first among the basic charges.

(ii) Transmission charges (basic).

(iii) Distribution charges (basic).

(iv) Customer charge or basic charge (charge for basic service in § 56.15 (relating to billing information)) (basic).

(v) Advanced metering charges (basic).

(vi) Transition charges (basic).

(vii) Taxes (comply with § 56.15) (basic).

(viii) Late payment charges (basic).

(ix) Security deposit (basic).

(x) Reconnection fee (basic).

(xi) Itemization of nonbasic charges (nonbasic).

(xii) Overall billing total.

§ 62.74. Bill format for residential and small business customers.

(a) NGS billed prices shall reflect the marketed prices and the disclosure statement prices.

(b) The following requirements apply only to the extent to which an entity has responsibility for billing customers, and to the extent that the charges are applicable. Duplication of billing for the same or identical charges by both the NGDC and NGS is not permitted.

(1) NGDC charges shall appear separately from NGS charges.

(2) Charges for basic services shall appear before charges for nonbasic services, and appear distinctly separate.

(3) Customer bills shall contain the following charges, if these charges are applicable, and these charges shall appear in a distinct section of the bill. The designation or label of each charge as either a basic charge or nonbasic charge appears in parentheses following the name of the charge. This label of either basic or nonbasic is not required to accompany the name of the charge on the bill.

(i) Commodity charges (basic).

(A) Commodity charges shall be presented in the standard pricing unit for natural gas of the NGDC in actual dollars or cents per standard pricing unit or actual average dollars or cents per standard pricing unit.

(B) Commodity charges shall appear first among the basic charges with one exception. NGDCs may place the customer charge first among the basic charges.

(ii) Distribution charges (basic).
(iii) Customer charge or basic charge (charge for basic service in § 56.15 (relating to billing information)) (basic).
(iv) Gas cost adjustment charges (basic).
(v) Interstate transition cost surcharges (basic).
(vi) Taxes (Comply with § 56.15) (basic).
(vii) Late payment charges (basic).
(viii) Security deposit (basic).
(ix) Reconnection fee (basic).
(x) Itemization of nonbasic charges (nonbasic).
(xi) Overall billing total.

The above cited regulations were promulgated subsequent to the most recent revision of Chapter 56, and these regulations clearly permit the billing of nonbasic and basic charges on the same utility bill, as long as the charges are labeled and properly separated. The main reason for the Commission's proposed changes to § 56.13 is to simply update this section and make it consistent with the customer information regulations. We must disagree with the OCA that the requirement that nonbasic charges be billed separately is "long-standing." In fact, this requirement was dispensed with upon the adoption of the above-noted customer information regulations.

We share OCA and IRRC's concerns that termination for nonbasic charges should never be permitted, and have elected to address this in the proposed § 56.83(3) which prohibits termination of service for unpaid "in whole or in part: of nonbasic charges for leased or purchased merchandise, appliances or special services including but not limited to merchandise and appliance installation fees, rental and repair costs; of meter testing fees; of special construction charges; and of other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter." We believe this provision provides sufficient protection against the termination of essential utility service for nonpayment of nonbasic charges. In addition, we have proposed definitions of both *basic* and *nonbasic* services in the definitions at § 56.2 to help make clear how charges should be classified and to avoid confusion on this point. The definitions reflect the definitions found in the above mentioned customer information regulations with additional language added, per the suggestion of OCA and IRRC, that addresses default service.

§ 56.264. Previously unbilled utility service.

Duquesne suggests adding language to § 56.14 that would exclude situations involving fraud or theft. Equitable also suggests that theft and fraud be expressly excluded from the proposed four-year rule and that a utility should be permitted to recover the amount previously unbilled without regard to the timeframe. However, PECO understands that as the regulation is currently written and also proposed, neither fraud nor theft are triggering events, and thus not considered make-up

bills under § 56.14. PECO supports the Commission proposal to limit make-up bills to four years and the Commission's decision not to mandate a 20 percent discount on such billings.

Columbia opposes the establishment of a four-year limit on make-up bills. Columbia believes that the proposed four-year limit would serve to increase uncollectible accounts and, as such, would conflict with the General Assembly's stated policies in Chapter 14. Furthermore, Pennsylvania statutory law requires utilities to charge the approved rate for services provided, and makes no exception for any vintage of previously unbilled service (66 Pa.C.S. § 1303). Furthermore, Columbia submits that the $50.00 threshold for providing a customer with the option of entering into a payment agreement should be removed. Over a period of four or more prior billing periods, the $50.00 limit will almost always be exceeded. Columbia submits that, absent information that a $50.00 make-up bill would cause undue hardship to a particular customer, a payment agreement for such a low make-up payment is not necessary. Columbia states that the proposed regulation should be amended so that the 50% threshold for excess of the otherwise normal estimated bill should be the only threshold for whether a payment agreement will be made available. NFG also recommends increasing the threshold amount.

Action Alliance supports the Commission's recommendation to retain the obligation to offer an installment arrangement on make-up bills since such an arrangement concerns "unbilled" amounts, not "billed" amounts, and as such, are not considered a payment agreement in the context of Chapter 14. To avoid confusion, Action Alliance recommends the use of the term "payment agreement" should be avoided in the context of arrangements to pay a make-up bill. Action Alliance proposes use of the term "installment arrangement" for these make-up bill arrangements. Action Alliance also supports retaining the current threshold amounts of 50% of current bills or $50 required for the issuance of make-up bills because the current levels are appropriate and working in an adequate fashion. Any increase in the threshold, and resulting immediate demands for full payment, would impose significant burdens on utility customers, especially on low-income customers. Action Alliance also supports the proposed four-year limitation on make-up bills as it reflects the same restrictions found in other sections of Chapter 56 or Title 66, *i.e.*, § 56.35 (relating to payment of outstanding balance), § 56.202 (record maintenance requirements), and 66 Pa.C.S.A. § 1312 (relating to refunds).

The CAC continues to support the proposal to establish a four-year limit on billings for previously unbilled service. CAC also recommends, consistent with its position in the NOPR, that arrangements to pay previously unbilled utility service not be subject to the constraints and limitations which apply under Chapter 14 "payment agreements". The CAC continues to support this approach and further supports the Commission determination to retain the current threshold amounts of 50% of the current bills or $50 required for the issuance of make-up bills. According to CAC, an increase above current levels would pose significant burdens on many utility customers, most particularly on low-income consumers.

The OCA supports the Commission's determination to impose the four-year limit on make-up bills under § 56.14 and to clearly state that arrangements to pay make-up bills are not considered "payment agreements" under Chapter 14. OCA argues that the four-year limit is a long-standing practice and is consistent with the four-year limit in Section 1312 and there is no reason under Chapter 14 to modify this practice. However, to avoid any confusion when considering whether the customer has received a payment agreement from the Commission under Chapter 14, the OCA recommends that a different term, like "payment plan" be used in discussing payment arrangements on make-up bills.

PULP supports proposed § 56.14's retention of the current threshold amounts required to trigger the issuance of make-up bills. The current levels are appropriate and presently working in an adequate fashion; any increase would pose significant burdens on many utility customers, most particularly on low-income consumers. PULP also supports the Commission's recognition that Chapter 14 does not apply to § 56.14 make-up bills. PULP submits that the definition of payment agreements contained in §1403 relates specifically to amounts previously billed to the consumer which have gone unpaid; make-up bills, not having been billed to the consumer, fall outside the parameters of Chapter 14.

PULP also requests that the Commission eliminate references to the term "payment agreement" in § 56.14. The proposed definition of payment agreement contained in § 56.2 states that a payment agreement refers to a "liability for billed service"; however, § 56.14 deals with previously unbilled service. Therefore, it seems inappropriate and potentially confusing to use the term "payment agreement" to refer to the repayment methodology of § 56.14.

IRRC recognizes that this section allows for a utility to render a make-up bill for previously unbilled public utility service which accrued within the last four years. However, IRRC notes that Section 1303 appears to require utilities to charge the approved (tariff) rates for services provided.

Discussion:

First we must address the comments of Duquesne and Equitable that request an exception be inserted into this provision exempting instances of fraud and theft. This is not needed because as PECO correctly points out, the regulation as it is currently written and also proposed does not include fraud and theft as triggering events. This means a bill seeking to recover amounts that were previously unbilled because of theft or fraud have never been considered make-up bills under § 56.14 and this will continue to be the case under the proposed revisions to this section.

We must also reject Columbia and NFG's suggestion to raise the triggering dollar amounts found in this section. As Action Alliance and PULP point out, the current triggering amounts are

appropriate and currently working adequately and any increase may pose burdens on many utility consumers, especially low-income consumers.

We agree with CAC, OCA, Action Alliance and PULP that the payment agreements mentioned in this section are not payment agreements as defined by Section 1403. The definition of *payment agreement* at Section 1403 clearly refers to an "unpaid balance," and § 56.14 concerns charges that have not even been billed as yet, let alone unpaid. As a result, these arrangements entered into under § 56.14 should not be counted toward the payment agreement restrictions and standards found in Sections 1405(d) and 1407(c). To avoid confusion on this point, we agree with CAC, OCA, Action Alliance and PULP that we should refrain from using the term *payment agreement* in this section and instead simply refer to amortization.

Concerning the proposed four-year limit on make-up bills issued under this section, except for Columbia, the four-year limit on make-up bills is not opposed. As emphasized by the Action Alliance, this limit of four years reflects the same restrictions found in other sections of the Public Utility Code and Chapter 56 regulations. The General Assembly under Section 1312 of the Public Utility Code determined that when a utility had to pay back or refund excess amounts, the period that this covers is also limited to the previous four years. This four-year time period is also consistent with the time limitations for civil actions, proceedings and other matters generally. 42 Pa. C.S.A. § 5525. Furthermore, the Commission's regulations have a long-standing practice of requiring payment of outstanding residential accounts with the utility that have also accrued within the past four-year period. Moreover, the Commission's record keeping regulations at § 56.202 require a utility to preserve written or recorded disputes and complaints for a minimum of four years.

Finally, in 2004 the Commission addressed the issue of whether there should be a time limit on make-up bills and what is the appropriate period. In *Roderick Berry v. Philadelphia Gas Works*, F-01184412 (April 15, 2004), Pages 8-9, the Commission made the following disposition on the issue:

> "We also must address the appropriate period for the make-up bill, if any is found to be warranted. The ALJ found that pursuant to Section 3314(a) of the Code, 66 Pa.C.S. § 3314(a), the Commission's statute of limitations is three (3) years from the date at which liability arose. (I.D. at 5). However, that is not the proper timeframe for make-up billing. In *Angie's Bar v. Duquesne Light Company*, 72 Pa. PUC 213, 1990 Pa. LEXUS 4 (1990), (*Angie's Bar*) we stated the following on the issue of make-up billing generally:
>
> > Section 1312 of the Public Utility Code permits ratepayers to seek rate refunds when certain findings are made, up to a four-year past period measured from the date that the improper billing was discovered. Parity and equity warrant that a utility should likewise be limited to a four-year past period for recoupment of under billings. ...*Accordingly, we shall limit backbillings to a four-year period in*

cases where the customer has no culpability, and as such, Duquesne, in this proceeding, is permitted to backbill the Complainant for estimated unmetered usage for a period of April 10, 1982 to May 28, 1986."

72 Pa. PUC 217; 1990 Pa. PUC LEXIS 12-13. (Emphasis added). (Footnote omitted)

The Commission continued its analysis noting that prior decisions provide for a four-year period where "theft of service or other culpable acts" did not lead to the under billing. *Roderick Berry* at page 9.

As indicated in our discussion, the issue does not involve a determination of the appropriate tariff rate. The issue involves a resolution of the appropriate period for the make-up bill or the length of time a utility can go for recoupment of under billings. Therefore, the adherence to tariff requirement under Section 1303 is not relevant as we are not addressing the level of rates the utility is charging. We are merely addressing how far back a utility may charge for unbilled utility service. Quite the opposite, with respect to increasing uncollectible accounts, adopting a regulation that encourages a utility to limit the size of a make-up bill balance can only improve collections.

We will also remove the vague term "review" in paragraph (1) and replace it with the more specific "explain" since an explanation is what the customer needs when a make-up bill is received.

§ 56.265. Billing information.

In this age of electronic billing and reduction in local business offices, Equitable suggests revising § 56.15(12) to specify that a rate schedule and an explanation of how to verify the accuracy of a bill is available on the utility's website or by calling the utility.

PULP submits for the Commission's consideration two minor clarifications to this section by replacing "or complaint" with "or dispute" in subsection (11) and adding "and online at the public utility's website in an easily accessible location" to the end of subsection (12).

Discussion:

We find merit in Equitable's and PULP's suggestion that paragraph (12) should include posting information on a website. This will improve public access to this information especially given that most utilities do not have local offices in every community. However, we do not see a need to change "complaint" with "dispute" since this is long-standing language has not caused any difficulties or confusion that we are aware of. "Dispute" is also a term that is specifically

defined in these regulations and is narrower than the more generic term "complaint." For the purposes of this subsection, which is very general, the more generic reference is appropriate.

No party raised any serious concerns with proposed paragraph (14) and we propose keeping this language as proposed. The intent of paragraph (14) is to refer electric and gas utilities to the bill format regulations found in the customer information regulations that were promulgated subsequent to the most recent revision of Chapter 56. However, we will remove the proposed paragraph (15) that refers all utilities to the plain language guidelines that include some bill format guidance. We are removing this language because it may be inappropriate to reference non-binding guidelines in binding regulations.

§ 56.266. Transfer of accounts.

Allegheny Power, Duquesne, Equitable, FirstEnergy and PGW believe that § 56.16(d) should be rewritten to state that "In the event of a termination of service to a residential customer, a public utility may transfer to the account of a third-party guarantor the entire unpaid balance of the customer" to reflect the provisions of § 1404(b) and § 56.33. PPL also recommends rewording this section or just deleting § 56.16(d) altogether.

PECO believes that this provision could also be used by customers facing termination who request discontinuance simply to be removed from billing. PECO believes that the Commission does not intend this result and suggests adding to the proposed section language that will enable a utility to hold the customer responsible for any charges accumulated after the discontinuance date if the customer still benefited from the service by remaining at the property past the discontinuance date.

Columbia believes that the proposed new language to § 56.16 is ill-advised because it will create additional costs to be borne by ratepayers, with no benefit to them or to the affected public utility. For example, in rental properties where rolling tenancies are common, it can be unwieldy if not impossible in some cases, to calculate an 'after-the-fact' final bill accurately. Moreover, the proposed language encourages user without contract situations because it removes the incentive of a former tenant (who, without this proposed change would continue to be billed) to arrange for meter access after the former tenant has vacated.

Equitable recommends revising the proposed section to specify that in "the absence of a notice or meter access, the customer shall be responsible for services rendered until the meter is secured or service is transferred to another party" because there are many situations when the utility is not provided access to discontinue the service. The proposed regulation also does not address who is responsible for the utility service consumed during the period between the time the customer vacates a premises and the utility is provided access.

Dominion reports that it is not uncommon to find situations where there is a significant difference between the estimated reading of the final bill and the next actual reading the utility obtains. Because the utility must then allocate the usage between customers, Dominion suggests deleting the phrase "and can determine the actual consumption used by the customer" as to eliminate any question about the utility's right to adjust the final bill even if that actual reading does not determine with certainty the customer's actual consumption.

NFG supports the proposed changes to § 56.16(a).

PGW claims that customers who request discontinuance often fail to show up for an appointment for physical discontinuance. PGW requests that this proposed language be revised to specify that a customer who fails to attend an appointment should be held responsible until meter access is provided. If the utility does not attempt to access the meter or the customer cannot provide access, then the account should be discontinued based on an estimated meter reading, subject to adjustment once access is obtained.

EAP notes that under §56.16(a), the customer is only required to notify the utility, at least seven days in advance, "specifying the date on which it is desired that service be discontinued." EAP believes that the proposed regulation is silent on who is responsible for the utility service consumed during the period between the time the customer vacated the premises and the utility is provided access. EAP recommends changing §56.16(a) to require the departing customer to provide access to the utility meter and that in the absence of a notice or meter access, the customer shall be responsible for services rendered until the meter is secured or service is transferred to another party. EAP also notes that under §56.16(d), the unpaid balance "which is equivalent to the cash deposit requirement" may be transferred to the account of a third party guarantor. EAP thinks §56.16(d) should be changed to be consistent with Section 1404(b) and specify that in the event of a termination of service to a residential customer, a public utility may transfer all missed payments owed to the public utility to the account of a third-party guarantor.

The OCA agrees with the proposed modifications to this regulation, but proposes additional language to subsection (a) to clarify the public utility's obligation to obtain a final meter read. The OCA proposes to add a qualification to the regulation specifying that only "after reasonable attempts to obtain" meter access should the service be discontinued based on an estimated reading.

PULP recommends the Commission include an exception to the rule in this section. For example, where a victim of domestic violence is fleeing her abuser, she will clearly and understandably not be of the mindset to notify the utility of the desire to discontinue service. Making this notification might draw the abuser's attention and actually place the victim in physical danger. There are also several other reasonable situations that could justify affording an exception to this

rule: in association with an unlawful self-help eviction by the landlord where an evicted tenant may not be able to provide proper notice; in a situation of fire or other emergency where a customer may inadvertently fail to provide sufficient notice; in situations of a disabling illness requiring immediate hospitalization or movement without eventual return to the premises. Given these likely possibilities, PULP recommends that the Commission carve out an exception to this rule that allows an individual to provide good cause to avoid liability for service used after that individual's departure.

IRRC notes that this section describes billing procedures for account transfers and subsection (d) addresses transfers from terminated residential customers to third-party guarantors. However, this subsection states that the transfer may be "any portion of the unpaid balance which is equivalent to the cash deposit requirements of the customer." IRRC raises a commentator's concern that this language is inconsistent not only with 66 Pa.C.S. §1404(b), but also with the proposed language in Section 56.33(2)(ii) of the regulation, which both require the guarantor to be responsible for *all* missed payments. IRRC states that for purposes of consistency not only with the statute but also within the regulation itself, "unpaid balances" should be replaced with "missed payments."

Discussion:

The Commission proposed the revisions to paragraph (a) to address situations where the utility does not obtain a final meter reading to close and bill an account. Many of the utility commentators framed this issue from the perspective of a customer failing to provide access, but did not address situations where a utility may miss an appointment with a departing customer. While probably not a common occurrence, emergencies and other contingencies do cause utilities to miss some pre-scheduled appointments. However, it does leave the departing customer with a problem; one that none of the utility commentators fully addressed. While incidences of this nature should diminish in the future as utilities move toward automated metering, it is still a common enough occurrence that we believe it needs to be addressed in regulation.

The Commission has formally addressed this issue in the *Petition of Equitable Gas Company for Appeal From Staff Action Pursuant to 52 Pa. Code § 5.44 Regarding Discontinuance of Service and Meter Access*, Docket No. P-00011888 (March 14, 2002). The proposed revisions to this section simply codify the Commission's expectations as expressed in this final order. On page 6 of this Order, the Commission declared:

> "We are unpersuaded by Equitable's assertions that our interpretation here today will adversely affect the utilities and inure upon them additional costs which are beyond them to control. To begin with, we emphasize that we are not abdicating the responsibility of the ratepayer to provide proper notice to the utility for discontinuance, or their obligation

to pay a final estimated bill where access to the meter is not provided within a reasonable time. Such a result would be inconsistent with general principles of equity.

Moreover, Equitable retains the ability to render a reconciled bill when an actual final reading occurs and indicates that the estimated final bill was in error. Alternatively, the utility company is in the position to take additional measure to obtain a final meter read even if the initial attempts are unsuccessful."

No party in the instant proceeding has produced an argument that would cause us to change our previous position on this matter. It is simply not reasonable to expect an individual, who no longer owns the residence or no longer has a lease for the residence, to provide access to said residence. There may also be tenants who cannot provide access to a utility meter, even if they are still residing in the residence if the meter access is controlled by the property owner.

Many of the suggestions and arguments presented by utility commentators, such as PECO's, that would allow them to leave service on and continue to bill for the service would serve simply to facilitate the practice of "soft offs" – the questionable practice of leaving service physically active at a location without a current customer of record. While we are aware that several utilities engage in this practice and present it as a convenient and cost-saving procedure, the Commission has traditionally been skeptical of the practice. In the Commission's June 5, 2005 *Chapter 14 Implementation – Petitions of the Energy Association and the Philadelphia Gas Works for Clarification and/or Reconsideration of the Implementation Order* (Docket M-00041802 F0002), the Commission noted as follows:

"We submit that EAP's perspective is extremely narrow on this issue. Although EAP asserts that the soft "off" practice reduces costs to a utility's customer base, the Commission is unaware, and it has not been brought to our attention, of any utility study that shows that the savings associated with soft "off" practices offset the aggregate usage and financial loss that can and does occur between the date of a soft "off" and the date on which the utility discovers usage without a contract. For example, a number of days can pass between customers when the prior customer has discontinued service and the utility service is left on and the utility discovers that a new resident has taken occupancy. Therefore, the three days' usage may be minimal compared to the aggregate usage and financial loss that can and does occur between the date of a soft "off" and the date on which the utility discovers usage without a contact." (pages 11-12)

No party in the instant proceeding has produced anything that would cause the Commission to be any less skeptical of this practice. If we were to include provisions in this regulation holding departing parties responsible for bills after the requested discontinuance date, we would be creating an incentive for utilities to neglect to pursue meter access. The utility would in fact have no incentive to pursue a final meter reading. It must also be noted that since the definition of "customer" in Section 1403 links the status of "customer" to the "mortgage, deed or lease," it

is questionable as to what legal grounds a utility could hold an individual responsible for service after they are no longer the deed or lease holder.

Instead of tailoring the regulations to facilitate the questionable practice of "soft-offs" and/or letting service on while it accumulates in a non-occupant's name, we believe the regulations should encourage the timely final billing of accounts and cessation of service.

The proposal is fair to the utility in that the estimated final bill is not the last word on the matter. Once the utility does obtain a meter reading, as it must do at some point, it is free to adjust the departing customer's final bill and allocate usage between the departing and new customer. We shall not prescribe the methodology for doing this as that would be over-reaching. We believe that the utility, using their usual business practices and estimating methodologies, is best suited to do this. We do point out that utilities should, per the definitions of "customer" and "applicant" at Section 1403, be guided by the "mortgage, deed or lease" to establish the timeframes of responsibility for the departing and new customers. We also agree with Dominion that the use of the phrase "...determine the actual consumption..." is probably not the best choice of words because it is not really possible to determine "actual" consumption in these instances. Therefore, we will delete this phrase.

We agree with OCA and will insert language that only after a reasonable attempt to obtain meter access should the service be discontinued based on an estimated bill. Hopefully, this will prevent the estimating of final bills from becoming the routine, standard practice. Ending a customer's account with an actual meter reading remains the preferred practice.

We agree with IRRC, PPL, Allegheny Power, Duquesne, Equitable, FirstEnergy, PGW and EAP that paragraph (d) is not entirely consistent with Section 1404(b). We shall do as PPL suggests and delete this paragraph altogether since it is redundant; refer instead to §56.283. We will also make minor word changes to paragraph (c) to improve readability. And while we understand the concerns expressed by PULP that seven days notice is not always possible in all scenarios, the scenarios described by PULP are very fact-specific possibilities that should be handled on a case-by-case basis using the dispute procedures. These possible scenarios do not lend themselves well to precise regulations. We do note that in cases involving Protection From Abuse orders, utilities should take care to apply Section 1417 and to treat such instances with sensitivity and confidentiality.

§ 56.267. Advance payments.

PPL recommends that the Commission revise §56.17(3)(i) to allow any payment-troubled customer, regardless of income, the option of using a prepayment meter. The proposed prohibition against allowing low-income customers to use a prepayment meter appears to assume

that these customers are incapable of understanding the system, purchasing the prepayment cards, tracking their usage on the prepayment monitor, etc. PPL concedes that low-income customers may not be the most likely group to select a prepayment meter, but since the use of a prepayment meter is a voluntary decision, low-income customers should have access to the same payment options available to residential customers who are not low-income.

Discussion:

To date, no utility has utilized these provisions to offer prepayment metering, so unfortunately we have no practical experience to rely upon when assessing the need to revise this section. Regardless, because of the public health and safety concerns involved, we decline to incorporate PPL's suggested removal of the 150% poverty level condition. In Chapter 14, the General Assembly indicates that the protected customers should be those at or below 250% of the federal poverty level. For example, the winter restrictions at Section 1406(e) apply to those at or below 250% of poverty, and the PUC payment agreement formulas at Section 1405(b) are more lenient for those at or below 250% of poverty. Based on these actions of the General Assembly, if anything, the income threshold for this section should be raised to 250% from 150%. However, we propose maintaining it at the current 150%, and decline PPL's suggestion to remove it altogether.

We do not believe it is appropriate to address cost-recovery of advance payment programs in these regulations, but we do want to note that utilities should address any cost-recovery issues in the plans that they submit under paragraph (iii). Also, in keeping with our intent to modernize the regulations to accommodate new technologies, we will remove the references to "cards" since "cards" refer to a specific technology that could be supplanted by new methods.

§ 56.271. Payment.

Allegheny Power suggests the language in § 56.21(3) be changed to clarify that the payment agent needs to be one authorized by the public utility. The effective date of payment to a branch office or authorized payment agent should be the date of actual receipt of payment at that location.

Duquesne suggests that § 56.21(4) should be clarified to be clear that the effective date of payment electronically transmitted to a public utility should be the date of actual receipt of the payment, not notification of a pending payment which may later be cancelled by the customer.

PGW suggests that § 56.21 be revised to specify that the transmittal date of a bill should be the date of mailing, e-mailing or physical delivery. In addition, § 56.21(4) should specify that the effective date for payments electronically transmitted outside the payment system administered by a public utility should be the date of actual receipt of the payment monies because the utility

does not control and may not have sufficient knowledge to determine when the payment was made by the customer to a third party. Moreover, PGW submits that § 56.21(5) should reflect the fact that certain third party payment processors assess and collect fees for credit card payments to PGW. According to PGW, it does not assess or collect these fees and any requirement to publish such fees in their tariff would add undue time and expense to the process.

PULP believes that the proposed § 56.21(4) inappropriately places on the customer the risks of a failure to electronic systems that are not under the customer's control. For example, a partial or full failure of the bank's systems, of the internet service provider's systems, or of the utility's systems all could lead to the delay or failure of a timely electronic payment made by the customer, often totally unbeknownst to the customer. Therefore, under the proposed regulations, the customer could be deemed liable for a late payment made under such circumstances. Furthermore, as a result of an electronic mishap a CAP customer making electronic payments or a customer making electronic payments on a payment agreement could be deemed to have defaulted on CAP or on their payment agreement. PULP recommends adding to this section language specifying that where a customer can establish that a late electronic payment is the result of a failure of the electronic systems not under the customer's control, then a customer shall not be deemed to have defaulted on payment, on a payment agreement, or on a CAP payment.

IRRC notes that this section relates to transmitting payments and that the first paragraph states that the due date of a bill may be no less than 20 days from the date of transmittal and the paragraph seems to define "date of transmittal" occurring on either the date of mailing or delivery. IRRC questions how can the transmittal date be one or the other when, in all likelihood, the payments will be received on different dates in each circumstance. IRRC also mentions that the proposed regulation removes the word "physical," whereas other sections of the regulation continue to use the phrase "physical delivery."

Discussion:

We agree with IRRC and PGW and will revise the proposed regulation to specify that the transmittal date of a bill should be the date of mailing, or electronic or physical delivery. This will provide for the flexibility needed to accommodate a variety of different methods of bill delivery. We also agree with Duquesne, Allegheny Power and PGW that the effective date of payment to a public utility should be the date of actual receipt of the payment because as Duquesne points out, a pending payment can always be cancelled by a customer.

With respect to Allegheny Power's concerns with paragraph (3), we point out that this paragraph, as currently written, specifies that the "payment agents" relevant to this section are "authorized" agents. As such, we see no need for revising this paragraph. And concerning PGW's comments on paragraph (5), we point out that this applies only to fees "assessed and collected by the public

utility." Fees assessed and collected by other parties are not included. We believe this appropriately addresses PGW's concerns, and see no reason for further revising this paragraph.

While we share PULP's concerns and understand that the scenarios described by PULP are certainly possible, we believe the dispute procedures found in these regulations will be sufficient to address these possibilities. If a customer has a problem with an electronic payment, that is clearly a disputable matter under these regulations, and the utility would be expected to apply the relevant regulations, including §§ 56.140 – 152. We will change the word "last" to "latest due" in paragraph (6) to make this section clearer. Finally, we agree with IRRC that the removal of the word "physical" was an error.

§ 56.272. Accrual of late payment charges.

FirstEnergy recommends that 56.22(d) be revised to specify that the Commission can only waive late payment charges for customers at or below 150% of the federal poverty level as the result of the filing of an informal or formal complaint; not a generic order that is not tied to a specific complaint.

PECO objects to the proposal prohibiting late payment charges on accounts no longer actively billed to a customer as not being supported by Chapter 14. PECO submits that late charges are the equivalent of interest on a loan, and a customer choosing to leave an unpaid balance is effectively the same as the customer getting a loan from PECO.

NFG submits that if the proposed regulation will cite to the statutory language from which it claims to obtain authority, the statutory section should simply be quoted in its entirety rather than paraphrased or implied. The language of Section 1409 is clear and concise enough to quote directly and would ensure that proper effect is given to the legislative intent.

PULP submits that § 56.22(c) should be altered to make it clear that only denial of access to the meter by the customer can result in the imposition of late fees. The proposed language is problematic because there are a variety of situations in which utility personnel might be denied access to a meter through no fault of the customer of record. In these instances, PULP believes an innocent customer should not be penalized for actions not his or her own. For example, where a landlord forbids access to a meter on the landlord's premises, the customer of record should not be penalized with a late fee as a result.

PULP supports the proposed § 56.22(d) because many low-income customers find it exceptionally difficult simply to pay for service, much less added fees. Empowering utilities to waive late fees enables them to relieve some of the burden on these vulnerable customers and, if this discretion is exercised liberally by utilities, may help reduce the number of households

without service. Where that discretion is not exercised, PULP considers that the Commission clearly has the authority to compel the waiver and should do so wherever possible.

PULP also supports the inclusion of § 56.22(e), which limits the timeframe during which late payment charges may be imposed on an account balance. PULP explains that once an account is inactive, utility late fees cease to serve a purpose and thereafter become merely punitive in nature, with no bearing on actual costs of collection or providing service. Therefore, such fees are appropriately prohibited by § 56.22(e). However, PULP submits that this section is somewhat ambiguous about when an account becomes inactive or, in the words of the regulation, "is no longer actively billed by the public utility." PULP suggests this problem can be solved with a minor change that harmonizes the language of subsection (e) with other parts of these regulations, such as the definitions of customer and applicant at § 56.2, by specifying that "additional late payment charges may not be assessed on account balances once the final bill on the account is past due."

IRRC notes that subsection (e) prevents additional late payment charges once an account is no longer actively billed. IRRC questions the Commission's statutory authority for this revision.

Discussion:

We disagree with FirstEnergy and decline to specify that the Commission can only waive late payment charges for customers below 150% of the federal poverty level as a result of the filing of a formal or informal complaint. Section 1409 clearly specifies that the Commission can order the waiver of "any" late payment charge for customers below 150% of the federal poverty level. This does not preclude the Commission from using a generic order if it should so choose, and we agree with PULP that the Commission clearly has the authority to compel the waiver.

We disagree with PULP that changes are needed to paragraph (c). Per § 56.12, utilities are allowed to issue estimated bills in certain circumstances, and estimated bills must be paid timely the same as any other bill.

In response to the concerns expressed by IRRC and PECO, we will drop the proposed paragraph (e) from this section. This paragraph was proposed to prevent situations where a former customer continues to accrue additional charges without being aware of such because they are no longer being billed. If a customer inadvertently pays short on their final bill, this could have serious consequences that the customer will not necessarily be aware of. This was also proposed to prevent possible double recovery of carrying costs on closed, written-off accounts; a utility recovering such costs in rates as part of uncollectable revenues and also via late payment charges. We note that late payment charges are not intended to generate revenue; their purpose is to cover any carrying costs. It is not clear what carrying costs are involved on a closed

account that is no longer being actively billed. Regardless, we will drop this proposed paragraph.

§ 56.275. Electronic bill payment.

Allegheny Power objects to the requirement that they provide a paper receipt for electronic payments. This requirement could cost potentially $ 1 million annually. Columbia reports that for more than twenty years, Columbia customers have had the ability voluntarily to enroll in automatic checking account withdrawal services, which are administered by third-party vendors. These vendors do not issue receipts other than the transaction record that appears on the customer's checking account statement. Columbia claims it has never had a customer who complained that they were not being furnished with a receipt and this requirement, if applied to such recurring automatic payments, will needlessly increase costs.

NFG believes that these requirements would be better served by splitting apart the concept of "electronic bill payment" from what NFG refers to as "direct pay". In "electronic bill payment" a customer must still make an affirmative action, usually through an on-line medium, to effectuate a payment. This is different from "direct pay" where a customer only signs up for the program once and the billed amount is automatically withdrawn from a financial account on a specified date. "Direct pay" can be accomplished with the customer still receiving paper bills and not receiving any type of electronic bill message. NFG believes that the "direct pay" concept should be excluded from this section. With respect to § 56.25(2), NFG suggests replacing the phrase "checking account" with "financial account,"- types of accounts other than checking accounts are capable of making automatic electronic payments such as a savings account or a credit union money market account. With respect to § 56.25(3) NFG suggests allowing for an option for a customer to receive relevant notices electronically. NFG notes that many customers chose the electronic billing option to avoid receiving any paper correspondence at all. Inserting "unless the customer agrees to receive notice of program changes electronically" in the second sentence of 56.25(3) after the phrase "in writing" allows this option while keeping an in writing requirement for any customer who so chooses. Regarding § 56.25(5), NFG believes that maintaining system security is critical to an electronic billing and electronic bill payment system. NFG suggests changing this section to read "(5) the public utility shall take all reasonable steps to maintain system security in order to protect all customer information and prevent unauthorized access to customer accounts."

PGW opines that electronic bill payment requirements should be linked to utility administered systems and that disclosure of electronic bill payment terms and changes to the program should be allowed via a utility's website. Instead of a receipt, the electronic notification of payment should be a confirmation number.

Phillips suggests that written terms provided electronically should be sufficient to satisfy §56.25(3) requirements since customers will be enrolling in these programs electronically to begin with. Phillips also reports that it is not aware of any means which it can guarantee unequivocally to protect all customer information and accounts. As such, Phillips suggests revising § 56.25(5) to state the "the public utility shall maintain sufficient system security and, in so doing, take all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access."

The OCA strongly supports the Commission's proposed regulations on electronic bill payment but offers a modification of § 56.25(1) for the purposes of clarity. OCA proposes that this section should be revised to say "Electronic bill payment shall be voluntary and a public utility may not require a customer to accept electronic bill payment as a condition of enrolling in electronic billing." Action Alliance supports the recommendations of the OCA with regard to electronic billing and payment options and incorporates by reference those proposed regulations that reflect the OCA's recommendations.

IRRC notes that this section describes the procedures for electronic bill payments and raises three issues. First, Paragraph (2) refers to electronic bill payments via automatic withdrawals from a customer's checking account. A commentator notes that automatic electronic payments can be made from types of accounts other than checking accounts and suggests using the term "financial account." IRRC agrees and recommends that the Commission incorporate this change in the final-form regulation. Second, Paragraph (4) requires the public utility to provide an electronic or paper receipt to the customer upon payment through the electronic method.

IRRC also questions the need for a receipt in these circumstances. Finally, Paragraph (5) requires the public utility to maintain a "sufficient system security." IRRC questions how the Commission will determine what is "sufficient."

Discussion:

We agree with IRRC, Allegheny Power, Columbia and NFG that automated, pre-authorized payments should be exempt from any receipt requirement. As the parties point out, these types of payments have been in place for many years and it is the financial institution involved that generates the receipt or notice. We agree with IRRC and NFG that this section should refer to "financial account" instead of "checking account" as to accommodate the diversity of financial accounts a customer may have. We agree further with NFG, PGW and Phillips that the terms and conditions of these programs can be made available electronically instead of on paper. This will enhance the cost-savings and environmental benefits of these programs. We agree with OCA and will revise paragraph (1) to clarify that electronic payments are voluntary and are not required to be linked to electronic billing.

NFG correctly points out that maintaining system security is critical to an electronic billing and payment system. Customers will be reluctant to participate in these programs if they believe doing so may compromise the integrity of their personal financial data. We agree with IRRC, NFG and Phillips that paragraph (5) concerning security needs to be clarified. We will change this paragraph to reflect NFG's and Phillip's suggestion that utilities shall "employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access." This will mirror the language in §56.11 concerning electronic billing. We decline to get more specific than this because constantly changing technology makes it impossible to predict or specify particular security mechanisms or procedures.

§ 56.281. Policy statement.

The CAC and PULP support the Commission determination that § 56.31 is still fully in effect and has not been superseded by any section of Chapter 14. In accord with that policy, the credit and deposit policies and practices of each utility must be equitable and nondiscriminatory and shall be based on the credit risk of the individual without regard to area in which they live and without regard to race, sex, age over 18, national origin or marital status.

PULP suggests that § 56.31 should be moved so that it appears before the heading "Procedures For New Applicants." As it is positioned currently, § 56.31 falls under the heading "Procedures For New Applicants." However, it appears from the content of § 56.31 that it applies to both applicants and customers. Therefore, PULP recommends the Commission move § 56.31 so that it falls after the heading "Subchapter C: Credit And Deposits Standards Policy" and before the heading "Procedures For New Applicants." Also, PULP notes that the title of the first subsection in Subchapter C is "Procedures For New Applicants." PULP submits that this title may be confusing because it appears from the content of the subchapter that one does not have to be a "new" applicant in order for the subchapter to apply. One could also have applicant status as a result of losing service and having a final bill past due (see § 56.2's definition of "applicant"). In that instance, the individual would be an applicant but not a "new" applicant. To clarify this ambiguity, PULP recommends the Commission remove the word "New" from the title of the first section of Subchapter C so it reads "Procedures For Applicants."

Discussion:

We see merit in the suggestion of PULP to change the title section by removing the word "new," as this minor change will lessen possible confusion as to what is a "new" applicant as opposed to just an "applicant." We decline to move the placement of this section however since we think its current position is appropriate since this does generally involve "applicants."

§ 56.282. Credit standards.

PPL recommends that the Commission delete § 56.282(a)(2) because the ownership of property or the existence of a one-year lease is not a strong indicator of credit worthiness. This requirement is not especially meaningful because nearly all customers or applicants either own or rent their homes. In addition, all overdue residential customers are either homeowners or renters. PPL believes that credit scoring based on applicants' prior payment of utility bills (e.g., Equifax's ERAM) is a better approach to determining credit risk.

EAP also disagrees with §56.282(a)(2) ownership of real property standard. EAP believes that in these troubled financial times, ownership of real estate or the existence of a one-year lease is not a convincing indicator of credit worthiness and that this requirement is not persuasive since virtually all customers or applicants either own or rent their homes. EAP believes that pursuant to Chapter 14, the utilities are permitted to use their choice of credit scoring and this should not be undermined.

Discussion:

Through Section 1417, the General Assembly made clear its intent that the provisions of Chapter 14 do not apply to victims with a Protection From Abuse order. These provisions include the Section 1404(a) requirements that allows a utility to assess a security deposit from an applicant whose credit score does not meet the satisfaction of the utility. As such, we must decline PPL's and EAP's suggestion that we allow utility's to impose credit standards based on credit scores on these customers. It is not unreasonable to surmise that the General Assembly did not want to burden victims who are already confronting domestic violence to also have to contend with a credit scoring standard set by the utility. A victim fleeing an abuser and setting up a new residence is especially vulnerable and may not have sufficient credit history to meet the utility's standard.

§ 56.283. Cash deposits; third-party guarantors.

Columbia states that the legislature's directive was straightforward – Chapter 14 would not apply to domestic violence victims under a Protection From Abuse order. However, Columbia believes that the Commission proposes unnecessary regulations that essentially adopt the same credit and deposit provisions for PFA holders that were specifically abrogated with the enactment of Chapter 14. Columbia opines that there is no reason to conclude that these unsuccessful rules will have a different result in the context of victims of abuse.

Discussion:

As previously discussed, through Section 1417, the General Assembly made clear its intent that the provisions of Chapter 14 do not apply to victims with a Protection From Abuse order. These provisions include the Section 1404(a) requirements that allows a utility to assess a security deposit from an applicant whose credit score does not meet the satisfaction of the utility. As such, we must disagree with Columbia's objections. It is not unreasonable to surmise that the General Assembly did not want to burden victims who are already confronting domestic violence to also have to contend with a credit scoring standard set by the utility. A victim fleeing an abuser and setting up a new residence is especially vulnerable and may not have sufficient credit history to meet the utility's standard.

§ 56.285. Payment of outstanding balance.

To clarify the imposition of the four-year limit, we will add language specifying that the four-year period is based upon the date of the service request.

§ 56.286. Written procedures.

Duquesne believes that a written denial statement is not always necessary and the utility should be free to provide this information verbally and not in writing. Conversely, if the application is done online via the utility's website, the utility should be able to provide a denial statement in writing, not verbally. Requiring both methods in all situations should not be required.

Action Alliance supports clear notice to applicants of reasons for denial of credit and of dispute rights if the applicant disagrees with the denial of credit. The CAC supports the requirement that applicants and customers be informed of their rights to provide a third-party guarantor and that a more lenient credit standard should be available for victims of domestic violence with a PFA order. These requirements are consistent with the other Chapter 56 regulatory proposals.

PULP supports the requirement that applicants and customers be provided with detailed and complete information when denied credit from a utility. PULP also supports the requirement that applicants and customers be informed of their rights to provide a third-party guarantor and that a more lenient credit standard should be available for victims of domestic violence with a PFA order. PULP also supports the Commission's inclusion of § 56.36(b)(1) requiring that utilities provide to applicants and customers the facts and rationale for the denial of creditworthiness or the assignment of responsibility for an outstanding balance. However, PULP submits the Commission should go further since the proposed regulations do not obligate utilities to provide applicants with specific information about their right to dispute with the utility the denial of creditworthiness or how they may appeal the utility decision before the Commission.

IRRC notes this section requires public utilities to establish written credit and application procedures and then raises two issues. First, Subsection (b)(l) states that if credit is denied, the public utility shall inform the customer orally and in writing. IRRC questions the need for oral notification. Second, commentators have stated that the Fair Credit Reporting Act (15 U.S.C. § 1681 *et. seq.)* (FCRA) prohibits a utility from providing a customer or applicant with a specific credit score. IRRC believes that the final-form regulation should explain whether the FCRA prohibits disclosure of a consumer's credit score to the consumer, and why providing this information is necessary.

Discussion:

We agree with Duquesne that informing the applicant of the reasons for the denial does not have to be provided both verbally and in writing, and will revise this proposal to omit the verbal provisions. We note that it is common sense that if an applicant has applied for service verbally over the phone or in person, they should be informed as to the result at that time and not have to wait for a written document. However, Duquesne correctly points out that not all applications are done verbally and that this trend may increase in the future as more utilities offer online and electronic applications. Omitting the verbal notification requirement, along with allowing electronic notification, will facilitate the movement to electronic and online transactions, and this will present cost-saving opportunities for utilities and further conveniences for their customers and applicants.

We disagree with Duquesne when they ask us to change the notification to PFA holders to state "other credit and liability standards may apply" because this phrase is dangerously vague and may actually discourage a PFA holder from exercising their important rights. An individual with a PFA may be in a desperate situation and needs to understand that assistance may be available, not just that "other standards" may apply. If Duquesne fears that this information may invite misuse; possible misuse by a small number of individuals is not sufficient justification to deny important information to everyone. We must also note that the new language uses the terms "*may* be available," not "are available" (emphasis added) because there may be situations, based on the individual's circumstances, where the utility's conditions for service do not differ significantly for an applicant regardless of a PFA; the outcome is similar regardless of whether Chapter 14 rules are applied or not. While it is important to provide PFA holders with their rights and to encourage them to exercise them, at the same time we do not want to over-promise specific results. We believe the new language is a reasonable middle-ground that provides important information, without promising a specific result.

Concerning the proposed § 56.36(3), as already discussed, the Commission previously announced its intention to address identity theft in this rulemaking. In its July 14, 2005 Order *In re: Identity Theft* (M-00041811), the Commission declared that "...with regard to Chapter 56 regulations, it is anticipated that this issue will be addressed, as warranted, during the regulatory

review necessitated by Chapter 14." (page 5). It is out of these concerns that we are proposing at §56.32 (relating to security and cash deposits) and § 56.36, for the first time in Chapter 56, language addressing applicant identification and third-party requests for service. Third-party requests for service have never been specifically addressed in Chapter 56, but we now believe it is appropriate to do so. This is also simply reflecting longstanding Commission expectations, as first addressed in an August 31, 1978 Secretarial Letter from then-Commission Secretary C.J. McElwee, the text of which follows:

Transfer of residential utility accounts.

NOTICE

> The Commission has become increasingly concerned that some utilities transfer service from one account name to another after receiving a telephone request to do so; no attempt is made to verify the legitimacy of the request. It is the Commission's view that this practice is inconsistent with reasonable managerial control. It allows the ratepayer to shift his bill paying responsibility to another party who may be unaware of the transfer. Further, it places the utility in the position of not having substantiated the validity of the transfer; this frequently results in noncollectibility for service rendered.
>
> The Commission strongly urges you to verify all requests for transfer of accounts, if you are not already doing so.

We also note that third-party requests for service have been the subject of Commission informal investigations. For a recent example, see *Law Bureau Prosecutory Staff Informal Investigation of the Pennsylvania Electric Company Service Terminations in Hastings and Erie, Pennsylvania,* M-00051906 (October 6, 2005). In this case, one of the allegations of the Prosecutory Staff was the establishment of the account in question by a third party; a request that was never verified with the customer of record. The new rule prohibits a utility from accepting applications for service from third parties without somehow verifying the legitimacy of the request. However, the rule does not mandate a specific procedure and is flexible enough to provide options for both utilities and applicants, based on the management discretion and experience of the utility. This flexibility is an acknowledgement that in some limited situations, a third-party request for service is appropriate, so we do not want to prohibit the practice outright.

We are also revising paragraph (1) to include a three-day timeframe for providing a denial letter to bring this section into alignment with the analogous requirements in §§ 56.36, 56.37 and 56.287.

§ 56.287. General rule.

Allegheny Power and Columbia recommend that language be added to clarify that this provision only applies to standard reconnects and does not include new service installation/service extension type conditions. Columbia also suggests adding "or when the applicant fails to provide the necessary access to provide service" to the end of the second sentence. NFG requests specifying that the utility be required to "make a bona fide attempt" to provide service within 3 "business days" because, despite the best efforts of the utility, circumstances prohibit providing service in three days and for utilities who do not perform service work on Saturdays, limiting the timeframe to 3 calendar days could be burdensome. PAWC asks the Commission to define and specify "all requirements."

PGW suggests that per Section 1407(b)(5), a provision should be added allowing seven days when street or sidewalk digging is required.

Phillips suggests as to encourage the prompt return of signed gas service contracts from an applicant, the phrase " and has signed and returned any gas service agreement or contract required by the public utility to commence service" to the end of § 56.37.

Action Alliance proposes that the additional language proposed in § 56.37 should be clarified. Action Alliance recommends changing the language to "once an applicant's application for service is submitted to the utility," so that the three-day clock runs at the time of submission and not at a time that the public utility decides to "accept" the application. The phrase "provided that the applicant has met all requirements" should be modified by adding "regulatory" before the word "requirements" because this will prevent utilities from adding their own additional requirements beyond those provided in regulation.

PULP requests clarification from the Commission on how the three (3) day time limit in this section reconciles with the reconnection timing requirements at § 56.191 and those at Section 1407. In situations where an applicant is seeking to restore service, § 56.191 and Section 1407 provide different timeframes than the three-day timeframe in § 56.37. It is unclear which timeframe will apply. PULP requests clarification on this point from the Commission.

IRRC notes that this section allows a utility to provide service to an approved applicant within three days and questions how the Commission determined this was a reasonable timeframe? In addition, approval is contingent on the applicant meeting "all requirements," yet the regulation does not explain what these are. According to IRRC, the final-form regulation should clarify this phrase.

Discussion:

Historically, this section has had a three-day timeframe that applied to the utility's investigation of credit. However, it has been a source of confusion, since technically this timeframe has only

applied to instances where the utility's credit investigation takes longer than three days. Not explicitly addressed are situations where the credit investigation does not take three days. The additional language to this section should address this confusion by making it clear that the three-day limit applies in either case. We believe that General Assembly found a three-day time period reasonable since this is what they provided for in reconnecting service under most circumstances in Section 1407(b).

We agree with Allegheny Power and Columbia and will clarify that this provision does not apply to new service installations or service extensions. These type of services can take weeks, even months, depending on the construction work involved, and mandating a timeframe for such work is simply not feasible.

We disagree with PGW and decline to include language specifying a seven-day timeframe as found in Section 1407(b) where street or sidewalk digging is required because this could possibly lead to imposing a Chapter 14 requirement on a victim with a PFA order. It is reasonable to assume that the General Assembly would not want a victim with a PFA order to have to wait for up to a week for service.

We agree with NFG and will revise the proposal to require only a bona fide attempt at providing service because the actual provision of service may rely on factors beyond the utilities control, such as access to the property. We will also specify that the three-day timeframe refers to "business days" to address NFG's concerns with weekends. We will also add language requiring the utility to let a customer know if service can not be provided within the timeframes specified by this regulation and to provide an estimated timeframe. This will allow customers to make informed decisions as to their plans regarding moving, etc.

Finally, we agree with IRRC and Action Alliance that the phrase "all requirements" needs to be clarified and will do so by stipulating that the requirements to be met are "regulatory" requirements.

§ 56.291. General rule.

PGW opines that per Section 1404(a)(2), a utility may require an existing customer to provide a deposit if the customer is unable to establish creditworthiness through the use of a commercially available consumer credit reporting service.

EAP states that § 56.41(1)(i)(a) will require the utility to send a notice to perpetual non-payers informing them that they get one more bad payment before a deposit will be required. EAP believes that this is bureaucratic, costly and does not serve the public interest.

Action Alliance is concerned with excessively broad readings of § 56.41(1) that allow deposit notifications being sent to any customer who has a delinquency no matter how small. As a result, customers with small outstanding balances, which either in practice or under regulation (less than $25) would not result in the utility's placing them on the collection path, have been served with purported § 56.41(1)(i) notices. Action Alliance notes that § 56.41(1) is prospective, and only sanctions with a deposit request the failure, *going forward*, to pay a current bill and the next bill in full and on time and/or three bills which may include the current bill in the next twelve months after notification. Action Alliance submits that two consecutive missed payments or payments which are less than the amount billed, or three such payments in a twelve month period only gives the utility the right to send a § 56.41(1)(i) notification. Action Alliance contends that the right to actually demand a payment must be based on the prospective payment pattern established by the customer's payments for the current bill and for future bills. In other words, Action Alliance submits that a customer's payment pattern in the months prior to service of the current bill and notification cannot be utilized as the basis for requiring a deposit.

In addition, Action Alliance submits § 56.41(1)(i) requires a specific written warning to the customer that their conduct will not be allowed to continue in the future without sanction and that a non-personal generalized statement of company policy regarding deposit requests to existing delinquent customers included on the "Message Center" part of a customer bill is not an appropriate notification under § 56.41(1)(i). Action Alliance opines that while the Commission may have historically encouraged utilities to utilize the authority provided by § 56.41(1) as a collection tool to control uncollectibles, the means that have been authorized are limited, and should not allow interpretations which exceed the bounds of reasonableness. For these reasons, Action Alliance requests that the Commission clarify § 56.41(1) by including a $100 threshold; requiring written notification that informs the customer that a deposit will be required if the current monthly bill and the next monthly bill, or three monthly bills in the next twelve months including the current bill are not paid on or before the due date and that the customer's prior delinquent payments identified by billing dates caused the notice to be sent and that the public utility may require a deposit of up to two month's average bill. Action Alliance adds that the notice must be in a document entitled "warning" which is separate from the bill and contains no other information not related to the notification. Action Alliance states that the notice should also specify that the customer may elect to pay the deposit in three installments and that the public utility may hold the deposit for a maximum period of 24 months or until the customer has paid bills in full and on time for 12 consecutive months, whichever is sooner.

Action Alliance further asks that § 56.41(1)(ii) be revised so that the term "equal monthly billing plans" be changed to "budget billing plans" to be consistent with a related proposed change at §

56.12(7). Also, within §56.41(1)(ii)(A), the terms "payment agreement" in the context of § 56.14 (make-up bills) should be replaced with the term "installment arrangement" because a "payment agreement" is a specialized arrangement that is very limited in availability under Chapter 14, so the terms should not be used for arrangements that do not fit strictly within its definition.

PULP recommends the elimination of the word "informal" in the two spots it appears in § 56.41(3). This recommendation follows from the comments made in association with the definition of "informal dispute settlement agreement" under § 56.2.

The WPCNB opposes requiring customers who are late paying their utility bills to pay a security deposit. With the current bad economic conditions, consumers who were having trouble paying their bills in the past are experiencing even more difficulty now and many consumers who were able to pay their bills are facing layoffs that have devastated their families and threatened their very survival. According to WPCNB, having to pay the security deposit in addition to the regular monthly bill is a hardship that can lead to termination of service if the deposit is not paid.

IRRC notes that subsection (l)(ii) refers to "equal monthly billing plans" and suggests that in order to be consistent with § 56.12, the final-form regulation should replace this term with "budget billing."

Discussion:

Concerning paragraph (1), EAP objects to providing a customer with a notice of a possible deposit, while Action Alliance thinks the notice requirements need to be augmented. We believe the current, longstanding notice requirements are a reasonable middle ground and we will retain this traditional language. And while we understand and sympathize with Action Alliance's and WPCNB's concerns with the burden that assessing a security deposit on an existing customer presents, especially regarding low-income customers, removing this option or significantly altering it as requested would be counter to the intent of Chapter 14, which is to provide more, not fewer, collection tools to utilities. And while Section 1417 clearly exempts victims with a PFA order from Chapter 14 requirements, this does not mean that longstanding Chapter 56 language, such as found in this section, should also not apply. We note that Chapter 14 has little if anything specifically addressing security deposits for existing customers, and urge utilities to apply the provisions of § 56.41 with care and flexibility. There may be accounts with individual circumstances in which the assessment of a security deposit on an existing customer might actually exacerbate a collection problem, not remedy it.

We agree with IRRC that the term "budget billing" should be used as to align this section with §56.12(7) and we also agree with PULP that the term "informal dispute settlement agreement" should be aligned with the definition in § 56.2.

§ 56.292. Payment period for deposits.

Action Alliance urges the Commission to adopt the OCA's initial recommendation that customers should not be required to pay a deposit to reconnect service since Section 1404(a)(1) uses the terms applicant and "...was a customer." Action Alliance reasons that since the Commission ruled in the *Implementation Order* that a customer remains a customer, so "is a customer," until the final bill is due and payable, a customer should be able to reconnect service without paying a deposit, absent other grounds for a deposit request. Action Alliance also notes that customers in distress following a recent service termination should not be required to raise money for a deposit, over and above the reconnect fee and an upfront payment on the outstanding balance, under Section 1407, in order to restore life-essential service. Therefore, Action Alliance recommends that the Commission not adopt the proposed new language in §56.42 that provides for deposits for existing customers, which would include customers seeking restoration of service after a recent termination of service.

Action Alliance notes that the option to pay a deposit in installments, provided at § 56.38 and §56.42, cannot be elected unless the applicant actually knows of the option. Action Alliance supports the Commission's proposal at § 56.38 to require utilities to "advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested." Likewise, Action Alliance submits that utilities should also be required to provide this notice of an option to pay in installments to existing customers who are charged a deposit under § 56.42. Action Alliance requests that "a public utility shall advise a customer of the option to pay the requested security deposit in installments at the time the deposit is requested" should be added to the end of § 56.42.

Discussion:

We first note that Chapter 14 does not apply to this section because this section applies to customers and utilities specifically excluded by Chapter 14. However, even leaving this aside, we must disagree with Action Alliance when they urge that customers should not be required to pay a deposit to reconnect service because Section 1404(a)(1) uses the term "applicant" and that a "customer" remains a "customer" until the final bill is due and payable. While we understand Action Alliance's concerns with the burden this imposes, especially with low-income consumers who are already struggling to pay service restoration terms, we must point out that Section 1404 opens with the phrase "In addition to the right to collect a deposit under any Commission regulation or order..." Under Commission regulations, utilities have had the right, under §56.41(2) to collect a deposit as one of the conditions of reconnection of service after termination. We do not think it would be appropriate to take away this long-standing collection tool. While Section 1417 specifies that Chapter 14 does not apply to victims with a PFA, it does

not require us to vacate long-standing Chapter 56 requirements. We again remind utilities to exercise care and flexibility in applying these provisions because there may be individual circumstances, especially involving low-income consumers, where the imposition of a security deposit will exacerbate a collection problem, not ameliorate it.

We agree with Action Alliance that a consumer who has the right to pay a deposit in installments should be informed of this right and will retain the language requiring this.

§ 56.302. Deposit hold period and refund.

PPL reports that it has discovered that some customers do not establish a timely payment history over 12 months - they pay late, they pay inconsistently but they do not have their service terminated. When this happens, PPL explains that it refunds the security deposit to the customer at the end of the 24 months, and then immediately bills the customer for another security deposit. According to PPL, this process is time-consuming, confusing to customers and presents more risk for utilities. For these types of situations, PPL recommends that the Commission permit utilities to hold security deposits until the customer establishes a timely payment history as defined under § 56.53(b), even if that period extends beyond 24 months. PPL believes that the use of the conjunction "or" in § 56.53(a) provides this flexibility to the Commission.

Discussion:

PPL wants the Commission to specify that a deposit retention period can be longer than 12 months. We disagree with PPL because incorporating the 24-month period provided for in Section 1404(c)(1) into § 56.302 would be applying a Chapter 14 standard upon customers and utilities who are specifically exempt from Chapter 14 per Section 1417.

§ 56.306. Interest rate.

PECO currently returns deposit interest over the course of holding the deposit. The proposal to require utilities to accrue interest until the deposit is returned or credited is less customer-friendly and would require considerable re-programming dollars to achieve this. PECO suggests allowing utilities to implement either procedure.

Discussion:

§ 56.306 was proposed to reflect the language of Section 1404(c) because this is a Chapter 14 provision that applies an additional consumer protection not currently found in Chapter 56; namely a rate of interest that is greater than the rate traditionally provided for by Chapter 56. The proposed language from this section was lifted substantially verbatim from Chapter 14 and

so we must decline PECO's suggestion. Section 1404(c) states that the utility shall "...return such interest with the deposit" and we do not think PECO's proposal to return the interest over the life of the deposit is in keeping with the plain language of this section.

§ 56.312. Discontinuation of service:

NFG does not agree with the addition of the proposed language of § 56.72(1) requiring a customer to state that all other customers in the household consent to the cessation of service. NFG suggests that to address situations where one customer is leaving a household and other customers remain, or otherwise ceasing to be a customer at a specific address, the individual that is no longer a customer should simply be removed from the account after demonstrating they are, in fact, no longer a customer. NFG believes that requiring a utility to post a notice at the premises would lead to significant cost increases with little return value.

Action Alliance notes that the Commission proposes to shorten, to three days, the 10-day notice that utilities must provide to occupants when a nonoccupant customer seeks discontinuance of service to a premises. Action Alliance believes that Chapter 14 does not require shortening of the time period to three days. Occupants should be provided with at least 10 days to apply for service.

The OCA notes that the first sentence of § 56.72(1) appears incomplete or seems intended as a heading and recommends that this be clarified. The OCA also questions why the notice period in § 56.72(2)(ii) has been shortened from 10 to three days because this shortened time period seems to provide insufficient time for affected occupants to make alternative arrangements or to pursue their rights under the landlord-tenant regulations. The OCA recommends that this time period be restored to 10 days.

PULP believes there is no good policy basis for reducing this notice period and ample reasons for maintaining the 10-day notice requirement. PULP reasons that Section 1406(b)(1) sets the notice period for involuntary terminations at 10 days and discontinuance of service absent affirmative consent of all occupants is comparable to involuntary termination. According to PULP, an occupant of a household where discontinuance has been requested may be totally unaware of the proposed discontinuance and may be totally unprepared to move or secure alternative service in his or her name. Domestic violence situations provide a perfect illustration of this and the need for 10-day notice.

Discussion:

We will change the term "discontinuation" to "discontinuance" in this section because "discontinuance" is the more commonly-used term; and to align it with the definition at §56.252.

Upon review of the comments and our original proposal, we agree with NFG that the proposed new language in § 56.72(1) and § 56.312(1) is unwieldy and could lead to potential abuse. We will leave it to the utility's experience and discretion as to how to best handle requests for discontinuance when an account is in the name of multiple parties. We do remind everyone of the long-standing requirements at § 56.91 and § 56.331 to provide notice before terminating service to an occupied residence.

In response to the concerns expressed by OCA, Action Alliance and PULP, we will maintain our proposed notice time period at 10 days. As these parties point out, discontinuance is not addressed in Chapter 14 and as such there is no need to change this timeframe. Also, as OCA points out, three days may be insufficient time for affected occupants to make alternative arrangements or pursue their rights under the landlord-tenant regulations.

§ 56.321. Authorized termination of service.

NFG submits that § 56.81(3) be amended by adding "or arrange" after "Failure to permit" because customers with meters inside or within a locked fence or the like have an affirmative obligation to assist the utility in gaining access to the equipment of the utility in order to continue to receive safe and reliable service. While customers may not affirmatively refuse access they are often times ambivalent to a utility's attempts to work with them to gain access. NFG believes that inserting a provision of this nature would give a utility an affirmative tool to assist them in gaining the necessary access to their equipment.

Discussion:

The language of paragraph (3) is lifted verbatim from Section 1406(a) and we decline to alter statutory language without pressing cause. While we understand NFG's concern, we believe the existing language as proposed is sufficient to address these concerns and the additional verbiage suggested by NFG would be superfluous. We do note that paragraph (5) has been revised to omit reference to "informal dispute settlement agreement" in keeping with our response to the comments submitted in reference to § 56.2 that objected to this concept.

§ 56.323. Unauthorized termination of service.

Allegheny Power submits that § 56.83(10) and (11) are inconsistent with Chapter 14 and should be eliminated.

FirstEnergy opines that Chapter 14 provides that termination may occur for nonpayment of an undisputed delinquent account without any limitations. As a result, 56.83(1) and (11) should be stricken from the proposed regulations.

Columbia believes that this section must be narrowly tailored and the proposed provisions (1), (2), (5), (7), (8), (9), (10), and (11) of § 56.83 flaunts the General Assembly and constitutes an abuse of discretion.

PGW asserts that subsections (1), (2), (3), (5), (7), (8), (9), (10) and (11) are inconsistent with Chapter 14 and that termination is permitted for non-payment of undisputed delinquent accounts regardless of the amount, type of service or charges or age of the debt. Concerning § 56.83(8), PGW suggests that the language concerning "court, district justice or administrative agency" should be removed since Chapter 14 gives utility's the right to establish liability without the involvement of a third party like a court.

EAP contends there are many inconsistencies between Chapter 14 and § 56.83 and that maintaining § 56.83 in its current state as much as possible is inconsistent with the statute. The sections that should be eliminated are § 56.83(1) and (2) relating to concurrent service; §56.83(3) the nonpayment of merchandise and fees; § 56.83(4) relates to nonpayment of bills of other customers; § 56.83(5) and (6) are not necessary because Chapter 14 has created very specific rules about deposits, termination, and payment agreements; § 56.83(7): concerning service furnished more than 4 years ago, which is not necessary because this is to be addressed in the make-up bill regulations; § 56.83(8) conflicts with the definition of "customer" as found at Section 1403; § 56.83(9) concerning nonpayment of estimated charges unless the estimated bills were required due to denial of access to the meter; § 56.83(10) and (11) because the $25.00 threshold is not mentioned in Section 1406(a)(1) and it also defeats the purpose of a security deposit and creates an additional risk of loss to the utility.

Discussion:

While § 56.83 may have been significantly altered by Chapter 14, and we have proposed the appropriate revisions to reflect this, we must reject suggestions to revise § 56.323 likewise because this would be imposing Chapter 14 requirements on utilities and consumers who are specifically exempt from Chapter 14 per Section 1417. However, we will revise the language in paragraph (7) as to clarify when the 4-year clock starts ticking; it starts when the utility ceased billing the amount in question.

§ 56.331. General notice provisions and contents of termination notice.

Allegheny Power suggests removing the requirement to publish specific Federal Poverty Level guidelines on termination notices because maintaining the income level grid is costly, requires utilities to revise their notices annually, are a training issue with customer service representatives, and can lead to customer confusion because revisions in the poverty guidelines do not coincide with the LIHEAP season. Allegheny Power also objects to termination notices

containing foreign languages because the company believes that this is beyond the requirements of Chapter 14 and what is required of other industries.

Duquesne questions the language concerning the enrollment in a "universal service program" to avoid termination because LIHEAP, CRISIS, weatherization etc. are sometimes defined as universal service programs. Duquesne suggests making this more specific by instead referring to "customer assistance program" as defined in the proposed § 56.2.

PECO supports the Commission's approach in specifying notice formats and allowing utilities flexibility as it will allow PECO the opportunity to refine its notices as PECO gains experience with the information that will now be required on notices. PECO notes that some of the specific informational requirements may need minor modification to be implementable. PECO notes that providing a specific reconnection fee amount is problematic because the amount of the fee can vary depending on circumstances. And PECO notes that according to census data, as much as 26.7% of the population of Philadelphia could fall within this restriction. PECO recommends that the language proposed under subparagraph (17) be eliminated.

PPL agrees with the Commission's proposal to remove termination notice requirements from the definitions section of Chapter 56 and insert them into a revised §56.91. PPL also agrees with many of the suggested information requirements and already includes them in its existing termination notice. However, PPL does have some concerns with several of the requirements proposed by the Commission that could expand the length of the notices from one to three pages. PPL suggests revising § 56.91 (b)(4)(iv), to "Enrollment is made in the public utility's customer assistance program or equivalent." PPL suggests this language to clarify that approval to receive assistance through a Low Income Usage Reduction Program ("LIURP") does not prohibit termination of service for non-payment of bills. This distinction is important because it may take several months to complete all of the LIURP services. PPL agrees with the Commission's proposed language included under § 56.91 (b)(10), which would enable the Company to send its normal termination notices to customers in December, January, February and March, thereby not having two separate notices, which simplifies the process and reduces costs.

PPL reports that it has a long history of including information in Spanish on the termination notice, customer letters, program brochures, etc., in recognition of the growing number of Spanish-speaking customers in its service area. Nevertheless, PPL does have concerns about the proposed § 56.91(b)(17). PPL recommends that the Commission revise the first sentence of § 56.91(b)(17) to encourage customers to call their utility. PPL recommends revising this section to "Information in Spanish, directing Spanish-speaking customers to call their public utility for information and translation assistance. Similar information may be included in other languages at the discretion of the utility when census data indicates a significant population using that language resides in the public utility's service area."

PPL has concerns with the proposed § 56.91(b)(18), because there is no one telephone number that would be sufficient; each of the 29 counties served by PPL is likely to have more than one agency serving the needs of disabled individuals. PPL recommends that the Commission allow utilities the flexibility of providing the best telephone number for this purpose. PPL Electric, for example, would provide its normal contact telephone number because its customer service representatives have access to a county-by-county electronic listing of various social service agencies.

Columbia believes that the proposed language could be interpreted as requiring 10-day notice prior to termination of a user without contract, which is contrary to the Commission's determination in its First Implementation Order entered March 4, 2005 in Docket M-00041902F002 that only three-day notice is required for a user without contract. Columbia believes that removal of the word "otherwise" from Section 56.91(a) would clear up this confusion.

Equitable suggests that the Commission provide the 10-Day termination notice as an Appendix in the regulations, and also suggests that since this notice includes the Medical Emergency Notice, the 10-Day termination notice could replace the Medical Emergency Notice currently in Appendix A. Equitable also submits that paragraph (7) should be changed to be consistent with the plain language wording in the current notices "If you have questions or need more information, please call us today at XXX-XXX-XXXX. After you talk with us, if you are not satisfied, you may file a complaint with the Public Utility Commission (PUC). The PUC may delay the shutoff if you file the complaint before the shut-off date. To contact them call (800) 692-7380 or write to: Pennsylvania Public Utility Commission, Box 3265, Harrisburg, PA 17105-3265."

To provide clarification, NFG suggests changing the word "accounts" to "amounts" in the proposed language of § 56.91(b)(2) as well as adding the phrase "at the time of the notice" after the word "due". NFG believes that the phrase "if applicable" should be added to the end of the proposed language of § 56.91(b)(4)(iii) as, based on these proposed rules, a payment agreement or informal dispute settlement agreement will not always be available to a customer to avoid termination. Likewise, NFG believes that the phrase "if eligible" should be added to the end of the proposed language of § 56.91(b)(4)(iv) because not all customers will be eligible to enroll in a universal service program. NFG recommends removing the phrase "and that enrollment in the program is a method of avoiding termination of service" from the end of the proposed language or revising it to state "If you are eligible, enrollment in a universal services program may preclude termination of service." In addition, the word "threatening" in the proposed language of § 56.91(b)(10) is unnecessary and contrary to the notion that termination should not be used solely as a collection device. NFG also believes that the phrase "the customer" should be removed from the proposed language of § 56.91(b)(15), to prevent any potential confusion given the fact that "customer" is a defined term that may not be applicable in all situations.

PGW objects to the proposed § 56.91(b)(2) requirement that a notice include an itemized statement of the account because this could add a significant level of detail to the notice which could be confusing. PGW also objects to the proposed § 56.91(b)(17) requirement concerning foreign languages because while 2000 census data indicates that 17.7% of Philadelphia residents speak a language other than English at home, the U.S. Census Bureau reports that most people who reported speaking a language other than English at home also speak English. Also, PGW reports that they retain a foreign language service that can communicate with customers in a variety of languages as needed.

Phillips seeks clarification of § 56.91(b)(4) so that enrollment in universal service programs cannot be used to forestall termination of service multiple times. Phillips also asks that since there are very few Spanish-speaking customers in their service territory, the provision referring to census data should apply to all of paragraph (17).

EAP believes that the requirement that the notice has to reflect a language where there is a substantial "existence of a foreign language" is simply too vague. EAP also believes that there is no evidence that foreign language is a concern. The industry has positively and pro-actively addressed its customers who wish to communicate in a foreign language. There is no evidence that those current costs and procedures are not sufficient.

Aqua believes that the proposed § 56.91 (11) – (16) are significant alterations to the various current notices utilized by utilities and asks that these sections be deleted because they are not required by Chapter 14.

Action Alliance further supports the proposed definition of "user without contract," at § 56.2, and recommends its adoption, in order to bring further clarity to the regulations. Action Alliance also maintains that the proposed language at § 56.91(a) relating to termination notices, which effectively provides for a three-day notice to a user without contract, should be adopted.

Action Alliance requests that § 56.91(b)(2), be modified to include "past due of most recent payment agreement" explaining that while the Commission proposed similar language at §56.97(2)(iii), this default cure amount is critical information that should be provided on all termination notices, as well as in contacts with the utility, if it is the lowest amount required to prevent termination of service. Action Alliance notes that throughout the Chapter 14 implementation process, the Commission has consistently upheld the customer's right to cure a default prior to termination and avoid termination and utilities must be required to identify the payment agreement catch up amount, and computer systems must display this amount to customer service representatives.

Action Alliance supports the Commission's proposal to require the provision of information on termination notices that inform victims of domestic violence with a PFA, low-income customers

and tenants of the special protections from wintertime termination that are available for them and the inclusion of the federal poverty guidelines.

Action Alliance supports the Commission's proposed language at § 56.91 (b)(17) and §56.331(b)(13) requiring that termination notices include information in, not only the Spanish language, but also "in other languages when census data indicates a significant population using that language resides in the public utility's service territory." Action Alliance recommends that the Commission provide greater guidance in the regulations to clarify the meaning of "significant population using that language," by requiring written translations of vital documents for each eligible Limited English Proficient (LEP) group that constitutes 5% of persons eligible to be served or 1,000 members of the language group, whichever is less.

The CAC supports the Commission's proposal incorporating into the regulations the requirement that termination notices must include and itemize critical information and the protective information must include reference to universal service programs, emergency medical certification procedures, protections for tenants, and protections for victims of domestic violence with a PFA.

The OCA supports the proposed regulation and the contents of the termination notice specified. However, the OCA suggests that language be added to subsection (b)(4) clarifying that a customer's application for a universal service program should be sufficient, and add language to (b)(6) and (b)(9) making it clear that the utility should provide information on the assistance program application process. In addition, the OCA proposes that § 56.91(b)(14) be modified so that it is clear that only adult occupants living at the premises when the bill was incurred are obligated to pay all or a portion of the bill.

PULP also requests that the protective information must include reference to universal service programs, emergency medical certification procedures, protections for tenants, and protections for victims of domestic violence with a PFA. PULP also supports the Commission's decision to require that termination notices must include information in Spanish that informs the reader of who to call for assistance.

However, PULP submits that § 56.91(b)(6) is unclear in parts and could benefit from some slight changes in its language. PULP suggests revising this subsection to state "A statement that the customer shall immediately contact the public utility to attempt to resolve the matter. The statement shall include the address and telephone number where questions may be asked, where payment agreements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility."

Concerning § 56.91(b)(12), PULP recommends that it would be helpful for customers if the termination notices, in addition to telling customers to contact the utility about these protections, also directed customers to the specific statutory cite. According to PULP, this would enable customers to better and more easily identify the statutory basis for their rights. PULP also requests that the Commission revise the language in subsection (14) to state that "Information indicating that if service is shut off, any adult occupant who has been living at the premises may, in order to have service restored to that premises, have to pay all or portions of the bill that accrued while they lived there." Finally, PULP requests that another subsection be added to § 56.91 informing customers that they retain customer status until the final bill is past due.

IRRC notes that subsection (b) identifies the information that must be provided in termination notices. IRRC has four concerns. First, under subsection(b)(3), a commentator has noted that including a specific reconnection fee in the termination notice is not feasible, because the amount of the fee is not known at the time the termination notice is delivered. The commentator suggests removing the word "specific" and including a range of fees or maximum fee in the notice. IRRC further submits that the Commission should consider including this option in the final-form regulation. Second, under subsection (b)(7), IRRC posits the questions whether the Commission considered allowing informal complaints to be filed by electronic mail. Third, subsection (b)(17) lacks clarity because it requires a utility to include certain information in a termination notice "when census data indicates a significant population using that language resides in the public utility's service territory." IRRC recommends that the language be amended to clarify what constitutes a "significant population." Fourth, IRRC questions whether the contact information required under subsection (b)(18) can be the customer service telephone number for the utility.

Discussion:

The proposed § 56.331 is very similar to the analogous § 56.91. Of course, not every standard in this regulation will apply to every utility and every customer. This is why paragraph (b) notes that the information must be included "when applicable." Because § 56.331 is identical to § 56.91, we shall consider all of the comments filed concerning § 56.91 as also applying to § 56.331. We will likewise address them similarly.

We first want to note that this proposal for a revised § 56.91 was the result of termination notices developed in a collaborative process initiated by the Commission in the Second *Chapter 14 Implementation* Order of September 9, 2005 (M-00041802F0002), pages 11-15:

> "To ensure that utilities provide adequate notice to customers that details the customer's rights and the process a customer can use to avoid termination before utilities engage in winter terminations under Section 1406(e), we invite all parties to submit sample 10-day, 48-hour, and post-termination notices to the Commission's Bureau of Consumer Services (BCS) within 20 days from the date of this Order. Similar to the process we used to

design the customer notice required at §1416, Commission staff will use the suggestions submitted by the interested parties to design three sets of notices, two sets for PGW (See PGW-Specific Issue #1), and another set for the other electric and gas utilities. When developing sample notices for Commission staff review, we request that parties incorporate the plain language guidelines at §69.251 into their design. The notices developed by Commission staff will be disseminated for additional feedback from the parties before they are finalized." (page 15)

The results of the collaborative process were disseminated to the utilities in November 2005, and those notices are the notices currently used by electric and gas utilities. The Commission's proposed notice requirements at §§ 56.91 and 56.331 substantially reflect the results of the collaborative process, and differ little from the notices currently in use.

We agree with IRRC and PECO that the notice does not have to state a specific reconnection fee amount because as the parties point out, this amount can vary depending on circumstances. We will revise subparagraph (b)(3) by removing the word "specific" and instead provide the maximum fee that could apply. We agree with Columbia that the word "otherwise" in paragraph (a) is unnecessary and possibly confusing. We agree with Duquesne and PPL that the term "universal service program" on line (b)(4)(iv) should be changed to the more specific "customer assistance program or equivalent" so as to avoid confusion with other programs such as LIHEAP and LIURP. We agree to also add the phrase "if eligible" to this same line because as NFG points out, not all consumers are eligible for CAP benefits. In the interest of plain language, we again agree with NFG that line (b)(2) should refer to "amounts" and not "accounts." This change should also address PGW's concerns with line (b)(2); but we do point out that the proposed language referencing "itemized statement of accounts" is from the current definition of notice at § 56.2, and to our knowledge has not been the source of confusion.

NFG's concern with subparagraph (b)(11) is misplaced since the utility is free to phrase this information, along with many of these notice requirements, as they see fit, as long as the language conveys the intent stated. For example, a utility may choose to convey the information in subparagraph (11) by stating on the notice that "You may be required to pay more than the amount listed on this notice to get your service turned back on." The intent of § 56.91 is to specify the information that a termination notice must provide. The exact wording and format are at the discretion of the utility, with the notable exceptions of subparagraphs (6) and (7) which do mandate specific language. We agree with PPL that the notice requirements belong at § 56.91 and we agree with PECO that while we should direct what the contents of the notice should be, we should not specify precise formats and instead leave the formatting to the discretion of the utility. As such, we disagree with Equitable's suggestion to place the notice requirements in a separate appendix. However, we do agree with Equitable that subparagraph (6) should reflect the plain language found in notices currently being used.

IRRC's and PPL's concerns with the telephone number a utility is to provide per (b)(14) is misplaced since this again is at the discretion of the utility. For many utilities, it will probably be the regular customer service number, as is the case with PPL. However, a utility is free to place whatever phone number they deem appropriate, depending on how they address consumers with disabilities.

We agree with IRRC, PECO, PPL and EAP that the proposed language in subparagraph 17 stating that "information shall be included in other languages when census data indicates a significant population using that language resides in the public utility's service territory" is vague. However, we first want to clarify what is intended by this language. It is not intended that the entire termination notice be provided in different languages. The intent is to just include a line in the foreign language directing the reader to the phone number to call for assistance. As PPL and PGW point out, utilities retain foreign language translation services. The line on the termination notice would simply direct the reader to call this service for assistance. Regardless, we admit the original proposal is too vague, and will revise the requirement to include a threshold of 5% population, based on census data, as mentioned by Action Alliance. We do reject Action Alliance's recommendation of a 1,000 threshold as being too low, which could result in many different taglines on a notice, which may increase notice size and present cost issues. We believe the 5 percent threshold (1 out of every 20), is a reasonable middle ground that will help protect significant vulnerable populations while not imposing additional burdensome costs on the utilities.

While we see merit in Action Alliance's suggestion that (b)(2) be modified to include the amount needed to restore the customer's payment agreement and thus avoid termination (see our discussion at § 56.97), we decline to require this for practical reasons. In addition to the confusion that may be caused by placing two different dollar amounts on the notice, requiring this would cause significant and possibly costly programming changes for the utility. Instead, as a reasonable alternative, we will include a line under (b)(4) that informs the customer that payment of amounts past-due on a payment agreement will avoid the termination of service. The dollar amount past-due on a payment agreement will not be required to be printed on the notice. The costs of this change should be minimal, and it will inform the customer of this important option to avoid termination. This option allows the customer to restore a payment agreement, thus eliminating the grounds for termination at Section 1406(a)(2).

We agree with PULP and OCA that (b)(14) requires a minor revision to reflect Section 1407(d) and to specify that the individual must have been an occupant at the time a bill accrued as a condition of being held responsible for the bill. We also agree with PULP's and OCA's minor, suggested revisions to (b)(5) as to make it more plain language and more helpful. However, for reasons of practicality, we disagree with PULP about informing customers that they retain customer status until the final bill is past due. While we understand the importance of this information and its importance to the utility in its classification of consumers, it is a concept that

is not easily communicated to consumers, especially via a sentence or two on a termination notice. We also decline to incorporate OCA's suggestion that an application for the customer assistance program is sufficient to avoid termination, since simply applying does not mean the customer is eligible or will be enrolled. However, we do remind utilities that, in all fairness, if the utility's review of an application is for some reason taking an extended period of time, they should consider holding the termination of service while an application is pending, assuming the customer is fully cooperating with the application process and has submitted the application in good faith. To address these concerns, we will revise paragraph (8) to indicate that application to a universal service "may" avoid the termination.

Concerning Aqua's comments on subparagraphs (11) – (16), we again note that these paragraphs were added during the above noted collaborative process, and we decline to revise the outcome of that process without good cause. While we acknowledge that the water industry was not a part of that collaborative process, Chapter 14, for the most part, does apply to water utilities, and thus most of the information on the notices is of some relevance. We also point out that paragraph (b) of this regulation starts with the phrase "A notice of termination must include, in conspicuous print, clearly and fully the following information *when applicable*" (emphasis added). If there are requirements in this section that do not apply to the utility, then the utility is free to omit these from the notices. For example, if the utility does not have customer assistance programs, the information at (b)(8) does not have to be included.

In answer to IRRC's question about filing complaints by electronic mail, the Commission does allow the filing of informal complaints electronically via the Commission's website. However, we decline to mention this in § 56.91 because any e-mail or website address we mention in the regulations could change in the future, and thus cause problems. It is also possible, with changing technologies that new methods may one day be available (such as texting for example). As such, we do not think it is good idea to get too specific about electronic methods of contacting the Commission, and providing the toll-free phone number and mailing address is sufficient.

§ 56.332. Notice when dispute pending.

PULP submits that this section requires clarification from the Commission. § 56.92 prohibits the mailing of termination notices to households where a dispute is pending and where the termination is concerned with the subject matter under dispute. However, PULP submits it is unclear what exactly constitutes a "dispute." Given other sections of the regulations, PULP holds that there is reason to believe § 56.92 is using the term dispute in a more general fashion so that it includes the process from initial inquiry, dispute, and informal complaint through the formal complaint. PULP submits that the Commission should change the language in § 56.92 to specify

that a notice should not be delivered while an "inquiry, dispute, informal complaint, or formal complaint" is pending.

Discussion:

We agree with PULP that the use of the term "dispute" in this regulation is general. We see no harm being more specific as PULP suggests and will incorporate the terms "inquiry, dispute, informal complaint, or formal complaint" as to avoid confusion on this point. We will change "inquiry" to "initial inquiry" since it is "initial inquiry" that is defined at § 56.252.

§ 56.333. Personal contact.

Duquesne does not have a problem with requiring the two phone calls to be on different day parts, but does object to the requirement that the phone calls be two hours apart as adding complexity and cost.

PECO notes that customers often give contact phone numbers other than landlines and because of this a sentence should be added to the end of § 56.93(b) stating that "Calls made to contact numbers provided by the customer shall be deemed to be calls to the residence." PECO also submits that a personal contact telephone call should not try to provide every piece of information that would be provided in a written notice. Providing the 19 items listed in § 56.91 would not be practical and would make the phone calls too long. PECO suggests limiting the phone calls to the imminence of the termination, provide a contact number at the utility, and urge the customer to contact the utility as soon as possible.

Equitable is concerned with the provision that states a phone contact may be made between the hours of 7 a.m. and 9 p.m. because the Debt Collections Practices Act prohibits calls before 8 a.m. Equitable recommends changing the hours in this section from 7 a.m. to 8 a.m.

NFG believes that the Commission has clearly gone beyond the legislative intent of Section 1406 by placing more requirements than the Legislature intended. NFG explains further that had the Legislature intended to further define the viable time periods for telephone notification it could have easily done so. Rather, the Legislature saw fit to leave that discretion to the public utility under the utility's right of self-management. See Pennsylvania Public Utility Commission v. Philadelphia Electric Co., *et al.*, 561 A.2d 1224 (Pa. 1989). Given that public utilities have already updated their electronic systems to trigger these notice calls consistent with Chapter 14, to further define the requirements at this point will result, according to NFG, in significant expenditures by the public utilities with limited beneficial potential.

NFG also believes that the proposed language of § 56.93(d), stating that the content of the three-day personal contact notice must contain all of the information that was contained in the 10-day notice of § 56.91, should be removed or refined.

PGW recommends replacing the proposed § 56.93(c) and (d) with the exact language of Section 1406(b)(1)(ii),(iii) and (iv). According to PGW, Chapter 14 does not add a requirement of "conspicuousness" or of attempting to contact a "responsible adult occupant."

Action Alliance requests that the proposed regulations at § 56.93 and § 56.333 relating to personal contact be amended to require the personal contact, whether in person or by phone, be in the primary language of the customer.

PULP supports the Commission's clarification about what constitutes appropriate telephone contact in the context of notification for termination, particularly § 56.93(b). PULP maintains that this regulation will ensure calls are placed at more varied times when a customer might actually be home to receive the call and act on the information provided.

Discussion:

As Chapter 14 provides additional customer protections relating to the provision of three-day notices, we believe it is appropriate to provide these protections to customers with a PFA order and also to customers of small natural gas, steam heat and wastewater utilities. As such, we proposed § 56.333 to be very similar to § 56.93 and will treat most of the comments filed in response to § 56.93 as also being relevant to § 56.333. We will also address these comments similarly.

We agree with NFG and PECO that our proposal in paragraph (c) is overbroad and needs to be more narrowly focused. Accordingly, it is not necessary to provide all of the § 56.331 information in the three-day call because we are convinced that this would make the phone calls too long, and would risk overwhelming the customer with too much information. Instead we will specify that the information to be conveyed is substantially found in § 56.331, paragraphs (b)(1), (2), (4), (5), (6) and (7). This basically means that the utility will be providing the date and grounds of the termination; what is needed to avoid termination; how to contact the utility and the Commission; and emergency medical information. In addition, the utility shall ask the customer if they have any questions about the written notice they received. This should accomplish the goal of the three-day notice; alerting the customer as to what is going to happen and providing them with the basic information necessary to avoid termination. Focusing the three-day notice on just these basics should limit the length of the calls, which will pose fewer cost issues for utilities, and will emphasize the most urgent information that the customer needs.

We disagree with Duquesne and NFG when they say the Commission has gone beyond the intentions of Section 1406(b)(ii). This section concludes with "...if the calls were made at various times of the day;" so it is clear that the General Assembly did not intend for the calls to be made at just any time of the utility's choosing. What the Commission is offering here is simply guidance as to how to apply this provision, and the proposal that the calls be "at least 2 hours apart" is not an unreasonable interpretation of the General Assembly's intent.

In reply to NFG's concerns with the phrase "If personal contact by one method is not possible, then the public utility is obligated to attempt the other method" are overstated. This is merely specifying that if one method cannot even be attempted, such as a customer without a telephone, then the utility is obligated to attempt the other method (in person). It is reasonable to assume that the General Assembly wants, as part of the notice process, at least an attempt at a three-day notice. Allowing a utility to forgo any attempt at a three-day notice because the customer does not have a telephone is a nonsensical result that could not have been the intent of the General Assembly. We note again that all this section requires are "attempts" (one attempt if in person; two attempts if by telephone). Moreover, only one method has to be attempted, not both because paragraph (a) specifies "person *or* by telephone."

Equitable raises a valid point when they note that the Debt Collections Practices Act prohibits calls before 8:00 a.m. According to 15 USCA § 1692(c), "a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian..." Therefore, we will revise paragraph (b) to state 8:00 a.m. instead of 7:00 a.m.

We see no need to revise paragraph (2) as PGW suggests because we see no harm in requiring the posting of notice if the utility attempts a field visit and is unsuccessful. The utility is already at the residence for the purpose of informing the occupant of a pending termination; the posting of a notice with this same information appears to be a common-sense procedure that will at least provide some notice in the case that no one answers the door. We do not understand how this would impose a significant or costly additional burden since the utility has already reached the residence. The General Assembly in Section 1406(b)(1)(ii) clearly wanted a three-day notice to be included in the termination process. It is nonsensical to suggest that the General Assembly included an "in person" option to satisfy the requirements of this section that would have a utility go to the trouble and expense of a field visit; but then not even leave a posted notice if there is no answer at the door. This would result in the customer receiving no three-day notice of termination even though the utility has already expended the time and expense to reach the location. The time and expense of a field visit to a residence should result in at least a posted notice to the customer; doing nothing would be a waste of utility resources. The requirement that the contact be made with a responsible adult occupant is simply common-sense guidance. Again, it would be nonsensical to suggest that the General Assembly intended the three-day contact would be with a non-occupant or a child.

We agree with PECO that phone calls to provide the three-day notice should be made to the contact telephone number provided by the customer and will add language to paragraph (b) to specify such. As increasing numbers of customers abandon residential landline telephone service in favor of wireless service, it only makes sense to modernize this regulation to accommodate this trend. It will also help fulfill the clear intent of the General Assembly that public utilities make a serious attempt at personally contacting *customers* at least three days prior to termination. This superseding purpose is clearly more important to the General Assembly than the minor and increasingly irrelevant detail that the call be directed to the "residence."

While we understand Action Alliance's suggestions about requiring the three-day notice in the language of the customer, we believe this may be impractical to implement. In place of such a requirement, we point to our proposed revisions at § 56.331 that direct the 10-day written notice of termination to include "Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that five percent or more of the residents of the utility's service territory is using that language." We also note the comments of PPL and PGW concerning § 56.91 that point out that utilities retain foreign language translation services. With the revised § 56.331 and the language services provided by the utilities, we are confident that customers who speak languages other than English have sufficient options available to them to obtain account and termination information.

§ 56.336. Post termination notice.

NFG disagrees with the proposed language of this section that would require public utilities to amend their post termination notices to include all of the requirements of the 10-day notice of § 56.91 for the same reasons it disagrees with the proposed changes to § 56.93.

IRRC believes that the inclusion of the word "substantially" in this section is problematic because that term is vague and does not provide a specific standard that must be met. It should be deleted or replaced with more precise language.

Discussion:

While we agreed with NFG's concerns with § 56.333, we do not see how those concerns are relevant when considering § 56.336. We agreed with NFG that all of the information provided in a written 10-day notice should not also be provided in a verbal three-day notice because this would make the phone calls used to deliver the notice unrealistically lengthy and present a possibly costly burden on utilities. However, with § 56.336 we are once again talking about a written notice and we do not understand why providing this important information in written form presents a burden. However, to address IRRC's concerns, we will delete the term "substantially."

§ 56.337. Procedures upon customer or occupant contact prior to termination.

Duquesne questions the language concerning the enrollment in a "universal service program" to avoid termination because LIHEAP, CRISIS, weatherization etc. are sometimes defined as universal service programs. Duquesne suggests making this more specific by instead referring to "customer assistance program" as defined in the proposed § 56.2. PPL suggests changing the language to "enrolling in the public utility's customer assistance program or equivalent."

In order to avoid any potential confusion to a ratepayer or customer, NFG suggests that the phrase "if applicable" be added to both § 56.97(a)(2)(ii) and (a)(2)(iv). NFG explains that a payment agreement or enrollment in a customer assistance program will not be available to every customer in every instance.

PGW objects to the proposed § 56.97(a)(2)(iii) because the Commission is requiring the utility to accept a payment to cure material default on a payment agreement to stop a termination. This violates Chapter 14 because a utility is allowed to terminate a customer for failure to comply with the material terms of a payment agreement, and once a utility has provided the necessary termination notices, the Commission may not require the utility to take any additional actions prior to termination. PGW submits that forcing the utility to accept such a payment in effect creates a second or subsequent payment agreement. For this same reason § 56.97(a)(2)(iv) is also impermissible because CAP is a payment agreement.

Phillips is concerned that the proposal at § 56.97(a)(2)(iv) suggests that enrollment in universal service programs could be used to forestall termination of service multiple times and asks that this section be revised to make clear that this is not the case.

EAP believes that proposed § 56.97(b) should be rejected because it conflicts with the mandates of Chapter 14 regarding payment agreements. EAP again and again opines that the proper analysis of Section 1405(d) is that a customer gets one payment agreement, whether it be utility or Commission established, and if the customer defaults on that agreement, the Commission shall not establish a second or subsequent agreement, but the public utility may, at its discretion, do so. EAP notes that the legislature, in defining "payment agreement" at Section 1403 made no distinction between payment agreements established by the Commission and payment agreements established by the utility. The legislature, however, does make such a distinction as between utility established and Commission established payment agreements in Sections 1405(b) and 1405(c). EAP believes that had they intended to make this distinction in Section 1405(d), they would have done so.

Action Alliance fully supports maintaining the provisions in § 56.97, as they provide for critical procedures for public utilities to follow to assist a customer in preventing termination of service,

including full explanations of all available methods for avoiding a termination. Also, Action Alliance contends that the Commission should adopt the two proposed subparagraphs at §§ 56.97(a)(2)(iii) & (iv), which would require public utility employees to fully explain that paying what is past-due on the most recent previous company negotiated or Commission payment agreement and enrolling in the public utility's customer assistance program or universal service program are possible methods of avoiding termination. Action Alliance reports that in their experience, these two options are two of the most common methods that low-income advocates use in assisting customers to avoid service termination. Unfortunately, some customers receive termination notices that demand payment amounts that are larger than the catch up amount or default cure amount of the last payment agreement; and these larger than necessary amounts are confirmed by utility CSRs that take the customers' calls. Action Alliance adds that low-income customers often only learn for the first time from legal services organizations that CAP programs are available to provide more affordable bills and that CAP enrollment can prevent termination of service.

PULP requests the Commission delete "informal" from § 56.97(a)(2)(ii). PULP supports the Commission's inclusion of § 56.97(a)(2)(iii). PULP also supports the Commission's inclusion of § 56.97(a)(2)(iv), which requires utilities prior to termination to inform customers that they can avoid termination by enrolling into the utility's customer assistance or universal service programs if they are eligible.

IRRC notes that subparagraph (a)(2)(iii) requires public utilities to tell customers they may avoid termination by "paying what is past-due on the most recent previous company negotiated or Commission payment agreement." According to IRRC, a commentator is concerned that this subsection exceeds the scope of Chapter 14, which specifically allows a public utility to terminate service for failure to comply with a payment agreement. *See* 66 Pa C.S. §§ 1405(f) and 1406(a). IRRC agrees and asks the Commission to explain how this provision, when applied to customers with existing payment agreements, is consistent with Chapter 14. Finally, IRRC suggests that the language found in subsection (a)(2)(iv) be consistent with the language found in § 56.91(b)(4)(iv), which pertains to universal service programs.

Discussion:

The language we proposed in § 56.337 is very similar to the language proposed in the analogous § 56.97, so we will treat comments submitted in response to § 56.97 as to also applying to § 56.337. We will address the comments in a similar fashion as well.

We agree with IRRC, Duquesne and PPL that the reference to "universal service programs" in paragraph (a)(2)(iv) should be more specific and will revise to "customer assistance program or its equivalent" as suggested by PPL. We also agree with NFG in adding the phrase "if the customer is eligible" to the end of this sentence since not all customers qualify for a customer

assistance program. We also agree with PULP to remove the reference to "informal dispute settlement agreement" from paragraph (a)(2)(ii) because we are removing this term from the definitions at § 56.2.

Consistent with our previous discussion concerning § 56.12(7), we are adding language specifying that payment agreements for heating customers entered into pursuant to paragraph (b) must be based on budget billing. This requirement dates back to the Commission's July 17, 2003 order in *Mary Frayne v. PECO Energy Company* (C-20029005) where the Commission declared (page 7):

> "Budget billing should be the norm for all payment arrangements rather than current billing. Budget billing was designed to aid customers who are experiencing financial difficulties by ensuring a level, predictable payment amount from month to month. The level payment amount will better enable the customer to plan for his or her utility bills and budget accordingly. Therefore, customers should not be provided with the option of choosing current billing when budget billing is a more beneficial option."

This guidance was again reiterated in the following budget billing orders on June 1, 2006, *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing.* (M-00051925) and on November 9, 2006, *Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing* (M-00051925) where the Commission twice declared that "Based on well-established case history, budget billing should be the method by which customers in arrears pay current bills while liquidating the past due amounts owed the utility." Therefore, including this guidance in the regulations is simply codifying a well-established Commission expectation that has been the subject of the previously mentioned Commission formal proceedings, and is not inconsistent with Chapter 14.

In the proposed subparagraph (a)(2)(iii), the Commission includes paying the past-due amount of a defaulted payment agreement as a method of avoiding the termination of service. This is based on the grounds of authorized terminations found in Section 1406(a) that includes "Failure to comply with the material terms of a payment agreement." If the default is cured prior to the termination of service, then the grounds for the termination no longer exist under Section 1406(a). We do not see this as a second or subsequent payment agreement; merely paying on the existing agreement to cure a default. No new terms on a new payment agreement are established. The Commission addressed this matter in the Second *Chapter 14 Implementation* Order of September 9, 2005 (M-00041802F0002):

> "While we agree with PGW and EAP that Section 1406(a)(2) lists "failure to comply with the material terms of a payment agreement" as authorized grounds for termination, we do not agree that the customer cannot eliminate this ground for termination by paying an amount sufficient to catch-up on the terms of a payment agreement. As stated publicly several times by EAP, as well as in its written comments, the last resort of a utility is to

terminate service. EAP also notes that "utilities would prefer to work with their customers to collect payment, than to become embroiled in complaint procedures." We agree and clarify that, while a utility has every right to initiate the termination process and to terminate service if necessary for failure to comply with the material terms of a payment agreement, an available method for eliminating the grounds for termination is to pay an amount sufficient to catch-up on the terms of a payment agreement. Clearly, once the catch-up payment is made, authorized grounds for termination no longer exist."

(pages 38-39).

The comments filed by some of the parties claiming that the language proposed is contrary to Chapter 14 are irrelevant to § 56.337 since this section is intended for customers and utilities not covered by Chapter 14 per Section 1417. As such, we disagree with PGW when they object to the enrollment in a customer assistance program as a means of avoiding termination, as provided for in the proposed subparagraph (a)(2)(iv). PGW mistakenly declares that "CAP is a payment agreement." These are two separate and distinct concepts that Chapter 14 has separate and distinct definitions for in Section 1403. For example, the definition of *payment agreement* discusses the amortization of an unpaid balance whereas the definition of *customer assistance program* does not mention amortization of balances and in fact many such programs do not include amortization. It is clear that in both the electric and gas competition acts and in Chapter 14, the General Assembly intended customer assistance programs to be made available and to be used to help make sure that "...service remains available to all customers..." per Section 1402. The appropriate place for a low-income customer is a customer assistance program. Low-income customers should not simply have their service terminated without ever having the opportunity to participate in these programs. The inclusion of subparagraph (a)(2)(iv) is intended to make sure that no low-income customer's service is terminated without first being considered for enrollment in these programs. As for Phillips concerns that this could be used by a customer to forestall termination multiple times, we note that each utility's customer assistance program plans have provisions to address customers who default that usually prevent repeated re-enrollments within a specific timeframe.

§ 56.340. Winter termination procedures.

Allegheny Power suggests that the responsibility lies with the customer to respond to a utility's termination notices by contacting the utility and providing the required income and household size information. If the customer fails to respond to the notices, the utility should be permitted to follow through with the pending termination. Columbia suggests that language be added to the end of § 56.100(e) indicating that if the utility is unsuccessful in obtaining household size and income information after having made a good faith effort to do so, or if a customer refuses to provide such information, termination action may continue until such information is provided by

the customer and, based upon that information, the public utility determines that termination should not proceed.

Concerning customers in which the utility lacks income information, PECO agrees with and supports the Commission's conclusion that sending termination notices to these customers is appropriate for it may induce the customer to contact the utility with this information. However, PECO is concerned with the customers for whom the utility has unverified information that the customer's income is at or below 250% of the federal poverty level. Their concern is that customers could claim low-income solely for the purpose of avoiding winter termination. PECO suggests that the Commission allow a utility, after multiple failed attempts to obtain income verification, to pursue termination of these accounts. PECO points out that over 275,000 customers have claimed to PECO to have income at or below 150% of the FPL. However, according to 2000 census data, there are 264,000 households who live in PECO's service territory with an income at or below 150% of the FPL. PECO believes there are over 150,000 households who have claimed to have an income below 150% of the FPL who have not verified their income - even though they could presumably get rate discounts if they did so.

NFG believes that the proposed language at § 56.100(e) is beyond the scope of the legislative intent and unnecessary. NFG maintains that nowhere in Chapter 14 did the legislature include language directing public utilities on how they must determine whether an account is permitted to be terminated during the winter months.

With regard to the Cold Weather Survey provisions in § 56.100(h) and the proposal to categorize accounts by postal codes, Allegheny Power opines that this is a concept not found in Chapter 14 and would cause utilities to incur extra programming costs with no benefit to the customer. Columbia also objects to including postal codes as this would cause the utility to incur substantial report programming costs, and postal codes are already included in the monthly report of terminated accounts. Equitable also suggests deleting this proposal because it would take extensive programming to comply and the company is unaware of the purpose of this data.

Allegheny Power, Duquesne and NFG object to the proposal in § 56.100(h) to require updated survey results on January 15 and February 15 of each year. Allegheny Power states this would cost approximately $33,000 with no apparent benefit. Duquesne estimates the cost at $50,000 annually. PPL could comply with this proposal but does not see the value of providing such updates, particularly when similar data (i.e., terminations and reconnections) already appears in the monthly § 56.231 report. PPL also reports that it can fulfill the proposed requirement to categorize each account by the first three digits of the customer's postal code, but again questions the value of doing so; this request appears to fall under the "nice to know" category rather than a "need to know."

With regard to § 56.100(j), PPL Electric agrees that it is important to report deaths to the Commission in situations where a utility had previously terminated residential service for non-payment of bills. However, PPL does not believe it is necessary to incorporate these reporting requirements into code since the Commission already possesses broad investigative powers and has the authority to request this type of information. 66 Pa. C.S. § 504. PPL recommends that it would be more appropriate for the Commission to address the reporting requirements through a Secretarial Letter. On January 16, 2009, the Commission issued just such a Secretarial Letter (Docket No. M-2009-2084013) regarding interim reporting requirements. The Commission noted that these interim reporting requirements will sunset upon promulgation of final regulations for Chapter 56. PPL suggests that the Commission simply reissue the reporting requirements in a final Secretarial Letter.

Regarding § 56.340(5), PPL agrees with the Commission's proposal to have utilities provide survey updates on January 15 and February 15 of each year. With respect to § 56.340(7), please refer to PPL's comments regarding § 56.100.

Allegheny Power also opposes the required reporting of death following a termination of utility service. According to Allegheny Power, this requirement implies a causal connection between the termination and the fatality. Columbia also opposes this requirement since the reports do not fall within the scope of "accidents" reported per 66 Pa. C.S. § 1508, the Commission may not be able to protect such reports from public disclosure or admission as evidence in a lawsuit.

NFG believes that the proposed language of § 56.100(j) is an egregious attempt to go beyond the intent of Chapter 14 and there is absolutely no legislative authority, be it in Chapter 14 or elsewhere, for the Commission to place this requirement on public utilities. NFG believes that the proposed language itself is vague, ambiguous and open to potentially broad interpretation. NFG also submits that public utilities are certainly not experts or in any way capable of making a determination as to the cause of such incidents.

Equitable suggests that a utility should be given up to five days to provide the information requested under § 56.100(j) and that the reporting should be limited to incidents that occur within 30 days of termination.

PGW states that the utility's knowledge is limited to the facts regarding the termination of service and as such this is the only information the utility should be required to provide the Commission. PGW also questions the confidentiality of the information submitted given the recently expanded Right to Know Law.

PGW wants to make the regulation clear in that a utility can terminate both heat and non-heat related service in the winter. Furthermore, the winter period is December 1 through March 31; the reference to January 1 in Section 1406(e)(2) is related to the evaluation of the charges paid

by the customer and the proposed regulation should be revised to reflect this. Notification to the Commission under Section 1406(e)(3) is required only in the event of a termination notice issued for winter termination under Section 1406(e)(2) and the regulation should explicitly state so. PGW believes that the responsibility should explicitly be on the customer to provide this income information in addition to household make-up and failure to provide this information should not prevent the utility from being able to terminate the account in the winter. In addition, § 56.100(f) should be modified to include service discontinuance requests under § 56.72(2) and the "good faith attempt to reach a payment agreement" language in § 56.100(i) should be removed because a utility does not have to reach a payment agreement with all terminated consumers for restoration of service.

EAP believes that the updates to the winter survey are unnecessary because requirements for monthly reporting, including monthly termination activity, and postal code categorization are already set forth in §56.231 as currently written. EAP reports that the costs of surveys can be as high as $2.1 million, which must be reflected immediately in utility rates. Moreover, EAP states that the people who remain without a central heating source beyond December consist mainly of consumers who are unwilling to file an application for LIHEAP assistance or consumers who are unwilling to provide income information to utilities so as to permit their qualification for CAP rates and consumers who have had CAP rates, but failed to maintain their low $20-$25 a month payment.

EAP also objects to the Commission's proposal of reporting deaths possibly relating to utility termination which occur in a utility's service area because liability may be imputed to a utility where none would otherwise exist.

PAWC suggests that a provision should be added permitting a utility to petition the Commission for permission to terminate service to a premise when the account is in the name of a landlord, unless specifically prohibited by law. Concerning § 56.100(i), PAWC notes that the current regulations define "occupant" and that if the proposed regulations require utilities to attempt contact with a responsible occupant for the purpose of reaching an agreement as to the payment of arrearages and restoration, then the Commission should define the term "responsible occupant."

Action Alliance strongly disagrees with the Commission's plan to revoke its earlier proposal to eliminate the heat-related distinction in the context of winter terminations by utilities. Chapter 14 clearly provides a basis for providing protection for heating and non-heating accounts. Action Alliance notes that the term "heat-related" or the like is nowhere found in Section 1406(e). While natural gas service may not be considered strictly heat-related if not the primary source of a home's heat, Action Alliance notes that it is often the source of energy for hot water and cooking. Action Alliance believes that the Commission would be acting contrary to its much emphasized duty to protect health and safety if it adopts the current proposal to limit winter

termination protections to heat-related accounts. Therefore, the language "heat-related' should be omitted from § 56.100 as such limitation is statutorily prohibited and contrary to health and safety.

Action Alliance requests that cold weather survey results be categorized by five-digit postal codes and not just by first three digits, as proposed. All addresses in Philadelphia have postal codes with the same first three digits of "191" so data about the first three digits would provide little additional assistance to social service organizations in analyzing termination data of the public utilities serving Philadelphia. Action Alliance supports the Commission's proposal to require three reports, on December 15, January 15 and February 15. The surveys provide important information about how many households are without service during winter and provide the Commission, policymakers and low-income advocates with the basis for relevant policy recommendations, if needed.

Action Alliance supports the Commission's proposal, at § 56.100(j), to require utilities to report incidents of household fire, hypothermia or carbon monoxide poisoning occurring at addresses where utility service was off at the time of the incident. However, the Commission omits any non-winter cause of fatalities such as hyperthermia. Action Alliance recommends that the term "hyperthermia" be inserted after the term "hypothermia" and that the Commission clarify that the reporting requirement applies all year. Action Alliance recommends that the reporting requirement include incidents involving injury and property damage, as well as, deaths. If the terms "injury or property damage" seem too broad, Action Alliance would here recommend that the terms "hospitalizations or property damage" be inserted after the phrase "resulted in a death" within proposed § 56.100(j).

CAC notes that the winter termination rules at §1406 (e) dramatically change prior Commission policy and practice. CAC believes that this dramatic change creates the need for the Commission to carefully review its regulations concerning winter terminations.

The CAC continues to strongly support the Commission proposal to revise the winter survey provisions found at§ 56.100(4) and (5) to require updates throughout the winter. Additionally, the CAC previously supported, and continues to support the Commission's proposal that utilities be required to report to the Commission anytime they are aware of a death following a termination of utility service where it appears that the death may be linked to the lack of utility service. CAC notes that although much attention is properly focused on termination-related deaths, the responsibility of the Commission to protect the health and welfare of Pennsylvania citizens is one which requires a broader data base beyond just death-related incidents. CAC therefore recommends including "serious injuries" within the report. The CAC continues to recommend that the Commission require utilities to develop a specific plan to ensure that they obtain current and comprehensive information from reliable sources within their service territory such as fire departments, health clinics, or hospitals.

The OCA notes that the Commission has reversed its initial position and retained the heat and non-heat related distinction in the winter termination provisions for electric and natural gas distribution companies. The OCA submits that Chapter 14 does not distinguish between heat-related and non-heat related service; it protects all electric and natural gas residential service regardless of the nature of the service.

The OCA contends that termination of utility service can be a matter of life or death, and it is central to the Commission's obligations to protect the health and safety of all citizens of the Commonwealth. The Commission should make it clear that the reporting applies all year and should include an incident of hyperthermia in the summer heat as a reportable event. The OCA also suggests the reporting requirement include injuries as well as deaths.

The OCA believes that the information submitted should be available to the public and to policymakers as it has a bearing on whether Chapter 14 has been successfully implemented and whether the health and safety of the public has been adequately protected. If the Commission is concerned with the release of all the information due to the sensitive nature of some of the information or the need for privacy of the customer, the Commission could develop a report of the key information to be made available to the public on a regular basis.

PULP supports the Commission's requirement that utilities must first verify that an account is eligible for wintertime termination before terminating service. The utility should use household size and income information from its own records and should solicit such information from its customers at every opportunity. PULP also supports the Commission's improvement of the cold weather survey through the introduction of survey updates by public utilities on January 15 and February 15 of each year.

PULP strongly endorses the Commission's decision in § 56.100(a) to prohibit water distribution companies from terminating water service during the winter months. According to PULP, it is clear from Chapter 14 that only electric distribution companies and natural gas distribution companies were intended to have different winter termination rules as a result of Chapter 14 per Section 1406(e)(1). PULP also requests that the Commission have in place and requires utilities to have in place expedited procedures for hearing customer complaints about immediate terminations pursuant to § 56.100(b).

PULP also has significant concerns with the Commission retaining a distinction between heat-related and non-heat-related service within the winter termination process. PULP contends that the Commission has recognized in its *Second Implementation Order* that this is a change from § 56.100 practice prior to enactment of Section 1406(e). The Commission noted that, unlike the existing Chapter 56 provisions, Chapter 14 did not make a distinction between heat-related and nonheat- related service in regard to winter termination and in its Advanced Rulemaking, the Commission proposed to eliminate this distinction. However, contrary to the clear language of

the statute and contrary to recognition by the Commission in its *Second Implementation Order* of this significant change, this outdated distinction between heat and nonheat-related service remains in the winter termination provisions. The Department of Public Welfare (DPW) has long recognized the essential nature of nonheat related electric service in winter. For decades, DPW has provided LIHEAP Crisis grants to those income eligible applicants who have lost or are in danger of losing electric service. DPW considers electric service not primarily used for heating as a secondary heat source, as opposed to a primary heat source. Because of the critical nature of electric service in relation to enabling a furnace to function, Crisis grants are provided to non-electric heating customers.

PULP supports the inclusion of § 56.100(j) concerning the reporting by utilities of deaths at locations where public utility service was previously terminated, particularly given that the Commonwealth has once again this year experienced fatalities in households where utility service was previously terminated. PULP also requests that the Commission require that utilities develop a specific plan, such as proposed by CAC, to ensure that they obtain current and comprehensive information from reliable sources within their service territory such as fire departments, health clinics, or hospitals. The information contained in these reports should be available to the public and to Commonwealth policymakers as well as to the Commission. PULP is equally concerned about the inclusion in the proposed rulemaking of a prohibition regarding the use of these reports by the judiciary. The Commission's proposal to bar the reports from being admitted into evidence in a court of law would appear to usurp the prerogative of the judiciary to determine the relevant contents of the factual record before it.

IRRC also questions the inclusion of the term "heat related service" and notes that Section 1406 (e) does not make any distinction between "service" and "heat related service." IRRC questions what is the procedure for verifying household income. IRRC also questions why this subsection requires the utility to gather household income and size information after the termination notice has been issued to determine eligibility for termination, rather than prior to issuance. IRRC also questions the need for the additional reporting requirement in this subsection.

Concerning Subsection (j) reporting of deaths at locations where public utility service was previously terminated, IRRC notes that this subsection has generated interest from both the utility industry and the consumer advocacy community. The utility industry questions the need for reporting deaths, and the consumer advocacy community has suggested that the provision be amended to require the reporting of deaths and injuries. Finally, IRRC submits that the Commission should explain the need for the reporting of deaths and why this provision presents an appropriate level of reporting and how the information will be used.

Discussion:

As we discussed in the analogous § 56.100, Section 1406(e) dramatically changed the winter termination rules. However, since Section 1406(e) does not apply to steam heating, wastewater, and small natural gas utilities nor to any customer with a PFA order, § 56.340 is intended to basically reflect the pre-Chapter 14 § 56.100, with some minor revisions as we will discuss.

We will retain the traditional petition process so that if a utility wants to terminate service to a customer who would otherwise be protected from winter termination, they will still have this traditional option. However, to emphasize the seriousness of the situation to the consumer and in keeping with due process, we shall revise paragraph (2) to require the utility to send the customer a copy of the petition they are sending to the Commission (this is keeping with standard service procedures, but explicitly adding it to this paragraph will help make this clearer). It is hoped that being served with such a petition will alert the customer to the seriousness of the situation and that their service may be terminated.

We acknowledge the concerns of Action Alliance, OCA and PULP with the Commission's proposal to exempt non-heat related accounts from this section. IRRC also questions the Commission's proposal. We note that the proposal was to apply the winter termination rules to heat-*related* accounts. Traditionally, this includes any service where the lack of service would cause the resident's central-heating system to cease to function. As a result, the number of protected accounts is beyond just the heating-rate or primary source of heat accounts and is in fact significantly higher than some parties suggest. Regardless, we agree that there are legitimate and reasonable arguments that can be made on either side of this issue. However, the most convincing argument is simply that if the General Assembly had intended such a broad category of accounts to be exempt from the winter termination rules they provided in Section 1406(e), they themselves would have made such a significant exception. In keeping with our previously stated position of providing customers with a PFA order all the customer benefits provided by Chapter 14, we will revise our proposal to apply the winter rules upon all electric and gas accounts, regardless of end-use. We again note the petition procedures in paragraph (2) that a utility may use if they believe an individual consumer is not acting in good faith. We also point to the petition process in response to PAWC's request to allow termination where the account is in the name of the landlord ratepayer. The petition process in paragraph (2) can be used to request permission to terminate service to any customer otherwise protected by the prohibitions in this section.

Regarding our proposed paragraphs (4) and (5) that concern the annual survey of terminated accounts (commonly referred to as the winter survey), upon our review of the comments, we believe that our original proposal needs to be modified. We agree with PPL, Allegheny Power, Equitable, EAP and Columbia that the reporting of survey results by postal code, while "nice to know" as PPL points out, does present programming and reporting costs that may not be worthwhile. We also agree that our proposal to require two rounds of updated survey results (January 15 and February 15) is not necessary and would impose unreasonable costs. Instead,

we will revise this proposal to require only one update, on February 1. This would merely codify a practice that has been in place since February 2004 and would not impose any additional costs. In response to PPL and IRRC's questions that this data is already available via monthly § 56.231 reporting, we point out that § 56.231 is only a reporting requirement. While this provides the Commission with the number of accounts terminated in any given month, it does not include a survey requirement. The survey updates in paragraph (5) go beyond just a reporting requirement; the utility is expected to make a good faith attempt to contact the customer to discuss the payment of arrearages and financial assistance to possibly get service restored.

Given the health and safety issues involved with living without utility service in the winter which we have already discussed, we believe this second survey attempt in mid-winter is a valuable, cost-effective effort to get utility service restored. For example, in the February 2009 survey update, the electric and gas utilities reported that the total number of homes not using a central heating system was 11,347, a 36 percent reduction from 17,745, as reported in the December 15, 2008 initial survey results (http://www.puc.state.pa.us/General/press_releases/Press_Releases.aspx?ShowPR=2184). And the survey update from the previous year showed that as of February 1, 2008, the total number of homes not using a central heating system was 11,495, a 32 percent reduction from the 16,857 total reported in the initial December 15, 2007 survey results. (http://www.puc.state.pa.us/General/press_releases/Press_Releases.aspx?ShowPR=1912). We believe these numbers prove that the updated survey requirement results in more consumers having their heat reconnected in the wintertime and is a valuable tool in helping reduce the number of residences without heat and thus helps minimize the resulting public health and safety issues. As for EAP's point that these are customers who have had CAP rates but failed to maintain "their low $20-$25 a month payment" we point out that per the *Report on 2008 Universal Service Programs & Collections Performance* (consisting of data submitted by utilities per 52 Pa. Code §§ 54.75 and 62.50) the average CAP electric bill ranged from a low of $40 for a Penelec customer to a high of $70 for a PPL customer and the average CAP gas bill ranged from a low of $47 for a Columbia customer to a high of $112 for a UGI Penn Natural customer (page 38). There may indeed be CAP customers with a low $20 - $25 monthly bill, but based on the data they are very few in number.

Our proposal in paragraph (7) concerning the reporting of deaths at locations where public utility service was previously terminated generated numerous comments from the utility industry and consumer groups. As we discussed in relation to the analogous § 56.100, we do not lightly propose this requirement, but do believe that this reporting is essential in meeting our obligations as described by OCA. At the same time, we once again emphasize that this reporting is not to infer liability or causation. We want to carefully craft this requirement so that it is as clear as possible, limited in its scope, reasonable in the burdens it imposes, yet still alerts the Commission to matters that policy makers should be aware of. The parties submitted several helpful comments that will assist us in meeting these objectives while some of the comments we

must take issue with. Generally, utility commentators object to the requirement or the scope of the requirement; while commentators representing consumers object that the requirement is not broad enough.

We do agree with PGW and NFG that the utility's reporting should focus on what the utility knows, such as circumstances of the termination and not on areas where they lack expertise, such as the cause of the incident. This is why we indicate that this information is to be provided "if applicable" or "if available." However, to clarify this further, we will revise the paragraph to make clear that the utility is responsible for providing information about the account and the circumstances surrounding the termination of service. For other information about the incident itself and its cause, they only have to forward what they have, if anything, from other sources such as the media or official government sources.

We disagree with Allegheny Power's and Equitable's objections to the one business day timeframe to submit reports. The reports consist of basic information (customer name, address, account number, date of incident, and brief description of circumstances involved) that should be readily available to the utility. Given the serious nature of these incidents, it is not unreasonable for the Commission to expect some basic information within a day. More detailed information that the Commission may request will of course take longer, and this can be worked out between Commission staff and the utility on a case-by-case basis.

While we understand the concerns of Action Alliance, CAC, OCA and PULP that the reporting requirement is too narrow in just focusing on deaths, we believe expanding this to include serious injuries and property damage presents too many practical difficulties to implement effectively. Almost every fire results in some property damage, so this would create an extremely broad and unnecessarily burdensome reporting requirement that would also impose burdens on the Commission in tracking so many reports. Limiting it to "serious property damage" is problematic in that "serious" is probably an impermissibly vague term. Likewise, injuries are not uncommon at a fire, if only a case of smoke inhalation or minor burns. Requiring a report on all such incidents would create too much of a burden, but limiting it to "serious" injuries again is probably impermissibly vague. Limiting it to injuries requiring "hospitalization" is problematic, in that it is the Commission's experience that media reports are rarely this detailed and specific, and hospitals generally decline to release such information, citing patient privacy concerns.

We acknowledge OCA's belief that a severe injury is not less deserving of regulatory attention simply because no fatality resulted. We emphasize that even though we omit injuries and property damage among the events triggering a report to the Commission, the Commission still has the authority to investigate such instances. Omitting these occurrences from this regulation in no way diminishes the Commission's authority, and in fact the Commission has in the past investigated incidents that involved only property damage and injuries. For recent examples, see

Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. Pennsylvania Electric Company (Public Meeting of March 12, 2009, Docket No. M-2008-2027681) where Commission staff investigated an incident that damaged a residence and injured an occupant, but no fatalities occurred and also *Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. PPL Electric Utilities Corporation* (Public Meeting of September 10, 2009. Docket No. M-2009-2059414) concerning a fire where several residential apartments were destroyed but no serious injuries or deaths resulted. We also remind everyone that omitting occurrences of injury and property damage from this regulation does not preclude any party at any time from presenting the Commission with information on such an incident and requesting an investigation.

Regardless of the above, we do agree with Action Alliance, CAC, OCA and PULP that the reporting requirement as proposed may appear unintentionally limited in that it only specifies deaths from "fire, incident of hypothermia or carbon monoxide poisoning." While we find the suggestions to add hyperthermia and asphyxiation as reportable events problematic because, in the Commission's experience, media reports of these incidents are rarely this specific, we do think the language of this requirement needs broadened a bit. To do so, we will revise the proposal to bring it more into alignment with the language of the Commission's January 16, 2009 Secretarial Letter (M-2009-2084013) by adding "another event that resulted in death" to paragraph (j).

§ 56.351. General provision.

Allegheny Power alleges that the use of medical certificates has been abused over the past several years and that any proposed regulation should be written to prevent unscrupulous abuse. It should be specified that the medical condition must be one for which the customer is currently under a physician's care and that the physician's license number be required. The term "applicants" should be removed from the emergency medical provisions because applicants seeking service restoration after termination would have had ample time to exercise their rights under the emergency medical provisions. PECO and Duquesne likewise believe that "applicants" should be removed from this section with Duquesne estimating the cost of complying with this provision at $860,000 annually.

PPL agrees with the proposal to include "nurse practitioner" in this section. However, PPL has concerns about an applicant who has never had service with PPL and uses the medical certification process to obtain service. From PPL's perspective, credit worthiness should be the standard of providing service for these applicants rather than a medical condition. Simply using a medical condition standard would increase PPL's financial risk. PPL suggests that for § 56.113(1)and (2), the word "applicant" means a natural person who lives at the same address and had received a final bill from the utility. PPL recommends that the Commission clarify the

meaning of "applicant" regarding the use of a medical certificate as proposed in PPL's comments regarding §56.111.

Columbia opines that to the extent that the proposed language regarding medical certifications is broader in scope than 66 Pa.C.S. § 1406(f), it should be amended. Columbia believes there is nothing in the statute that provides for the restoration of service based upon a medical certification. Consequently, the proposed language in § 56.111 ", or refuse to restore," and the reference to "applicant's house" are inconsistent with the statute. While Section 1406(f) prohibits service cessation based upon a nurse practitioner's medical certification, the statute requires a follow-up letter "from a licensed physician verifying the condition" that serves as the basis for the medical certification. Thus, the proposed § 56.111 language must be amended to remove the customer's option of obtaining the verifying letter from a nurse practitioner.

PGW opposes allowing nurse practitioners to file letters of certification because this is contrary to Section 1406(f). Only physicians have the required medical training to make these determinations and the proposal would force utilities to become familiar with the nurse practitioner rules of certification and registration.

EAP's position is that the term "nurse practitioner" should be added whenever a regulation in Chapter 56 references oral medical certification, but that written medical certification is still only acceptable from a licensed physician. Based on the plain meaning of the words used in 1406(f) of Chapter 14, the written (i.e., letter) medical certification should be provided by a licensed physician only. If the legislature had intended to include licensed nurse practitioner as being authorized to issue a written medical certification, then they would have expressly stated such in §1406(f). EAP does not believe that it is appropriate for the Commission to expand the statute, via regulation, beyond the clear and unambiguous language of the statute.

PAWC also believes that the proposed regulation goes beyond Chapter 14 and that in order to be consistent with the law, the Commission should consider limiting the written certification to licensed physicians and oral certifications to both licensed physicians and nurse practitioners.

Action Alliance contends that implementation of medical certification protection varies from utility to utility, including inconsistent policies of yearly limitations or lifetime limitations on a consumer's right to assert medical protections. The Commission's proposed modifications in this area will provide much helpful clarification for customers, utilities and agencies serving vulnerable consumers. Action Alliance strongly supports the Commission's proposed language at § 56.111 which states that "The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the public utility. The utility may not impose any qualification standards for medical certificates other than those specified in this section" because it is important to prevent utilities from

imposing qualifications that may deter consumers from seeking medical certificates or doctors from providing medical certificates.

The CAC and PULP support maintaining in the proposed regulations the longstanding standard of "...seriously ill or affected with a medical condition which will be aggravated by a cessation of service..." and leaving the medical determinations to medical professionals.

PULP explains further that emergency medical determinations are important safeguards intended to protect the health and welfare of a household's occupants. Neither the Commission nor a utility is in a position to substitute its judgment for that of a medical practitioner.

IRRC notes that Section 1406(f) only refers to customers, and not applicants and questions why have applicants been included in this section of the regulation? IRRC further notes that Section 1406(f) refers to authorized termination of service, not the refusal to restore service. Finally, while Section 1406(f) requires a letter from a licensed physician verifying the condition of the customer, IRRC further questions why the regulation also allows nurse practitioners to provide verification letters.

Discussion:

Chapter 14 does enhance customer rights when it comes to medical certificates in that it expands the number of medical professionals authorized to file medical certificates by including nurse practitioners in addition to physicians. Since we should not deprive customers with a PFA order of these expanded protections, we will incorporate these Chapter 14 protections in this section.

In response to the concerns expressed by IRRC, Allegheny Power, PECO, Columbia and Duquesne with the proposed language in this section referring to "applicants" and the use of medical certificates to restore terminated service, we point to Section 1407(b) which addresses Reconnection of Service:

> (b) Timing.—
>
> When service to a dwelling has been terminated and, provided the *applicant* has met all applicable conditions, the public utility shall reconnect service as follows:
>
> (1) *Within 24 hours* for erroneous terminations or *upon receipt by the public utility of a valid medical certification.*
>
> (2) Within 24 hours for terminations occurring after November 30 and before April 1.
>
> (3) Within three days for erroneous terminations requiring street or sidewalk digging.
>
> (4) Within three days from April 1 to November 30 for proper terminations.

(5) Within seven days for proper terminations requiring street or sidewalk digging.

(emphasis added)

The opening sentence of this subsection includes the term "applicant" and paragraph (b)(1) clearly refers to a service restoration timeframe upon receipt of a medical certificate. It is reasonable to assume that if the General Assembly did not intend medical certificates to be available to get utility service restored, they certainly would not have included a strict timeframe for doing so in this section or use the term "applicant." We also point to the language that concludes Section 1406(f) which addresses Medical Certification:

(f) Medical Certification.—

A public utility shall not terminate service to a premises when a licensed physician or nurse practitioner has certified that the customer or a member of the customer's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician verifying the condition and shall promptly forward it to the public utility. *The medical certification procedure shall be implemented in accordance with Commission regulations.*
(emphasis added)

Commission regulations (§ 56.111) have traditionally included provisions allowing the restoration of service based on the receipt of a medical certificate. Here is the current § 56.111:

§ 56.111. General provision.

A utility may not terminate, *or refuse to restore, service* to a premise when an occupant therein is certified by a physician to be seriously ill or affected with a medical condition which will be aggravated by a cessation of service or failure to restore service. (emphasis added)

It is reasonable to assume that the General Assembly was familiar with this regulation when they chose to end Section 1406(f) with the sentence "The medical certification procedure shall be implemented in accordance with Commission regulations." Therefore it follows that the General Assembly was aware that medical certificates can be used to get service restored and fully intended for this practice to continue. Again, the restoration timeframe for medical certificates at Section 1407(b) discussed above further reinforces this point. It is also reasonable to conclude that "applicant" is not mentioned at § 1406(f) because Section 1406 primarily involves termination actions at locations where there is a "customer." It is only after cessation of service and the finalization of the account that a person loses the status of "customer' and instead is properly viewed as an "applicant." Therefore, the reference to "applicants" at Section 1407 (relating to Reconnection of service) introduces this term in the application of medical

certifications at the appropriate point. Stated another way, the General Assembly's use of the word "applicant" within the reconnection of service section is clear evidence of legislative intent that medical certifications are available to "applicants." 1 Pa.C.S.A. § 1921(b)

Moreover, it was not our intent in the proposal to make medical certificates available to all applicants. It was our intent to make medical certificates available to those individuals who are seeking reconnection of service; meaning that their service must first have been terminated as stated in (b). This is based on the fact that Section 1407 is titled "Reconnection of service," and that to have service reconnected one's service must have been first connected and then terminated at some point. Chapter 14 clearly makes a distinction among different types of applicants and different standards are imposed on some applicants as opposed to others. For example, Section 1404(h) provides for applicants who are seeking reconnection under paragraph (a)(1) of Section 1404 up to 90 days to pay a security deposit, as opposed to other applicants, such as those that fail to establish creditworthiness under Section 1404(a)(2), who do not have 90 days to pay. It appears that the General Assembly intended applicants who are seeking reconnection of service after termination to have different standards applied to them than applicants who are seeking to establish new, initial service. This is apparent from the above cited provision at Section 1404(h) and for making medical certificates available to applicants seeking reconnection under Section 1407(b). Therefore, the use of the word "applicant" in the reconnection of service section is explicit and should not be disregarded to ascertain intent. 1 Pa. C.S. § 1921(c).

However, based on comments, we recognize that the proposed regulations apparently did not explain our intent to limit the type of applicants who can utilize medical certificates as clearly as it should be. We will revise this section by specifying that for an applicant to be eligible for a medical certificate, they must be an applicant seeking reconnection of service under § 56.421 after their service was first terminated. This will exclude applicants who are seeking new, initial service who must first meet the credit standard of the utility under Section 1404(a)(2) and § 56.282. In short, an applicant seeking new, initial service cannot use a medical certificate to bypass the credit screening of the utility. To make medical certificates available to *all* applicants would, as PPL points out, increase a utility's financial risk.

IRRC, Columbia, PGW, EAP and PAWC question the Commission's proposal to allow nurse practitioners to file medical certificates and to provide verification of medial certificates under Section 1406(f). This is an area where reasonable parties can disagree because the language at Section 1406(f) can be interpreted different ways. The first sentence of Section 1406(f), "A public utility shall not terminate service to a premises when *a licensed physician or nurse practitioner* has certified that the customer or a member of the customer's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service" (emphasis added) is fairly clear in that both physicians and nurse practitioners are qualified to provide medical certificates. However, the second sentence of Section 1406(f), "The customer

shall obtain a letter from a licensed *physician* verifying the condition and shall promptly forward it to the public utility" (emphasis added) omits nurse practitioners. This appears to indicate that medical certification is a two-step process, with the second step being more restrictive than the first step. This begs the question as to what happens if a nurse practitioner files a medical certificate, but a physician fails to provide the follow-up letter. Does this invalidate the medical certificate filed by the nurse practitioner, thus allowing the utility to terminate service, despite the fact that the first sentence of Section 1406(f) directs that the utility cannot terminate service?

It is clear that the General Assembly, in Section 1406(f) intended to expand the medical professionals eligible to file a medical certificate from physicians only to now include nurse practitioners. We also believe that the plain language of the opening sentence Section 1406(f) indicating that "A public utility *shall not terminate service* to a premises when a licensed physician or nurse practitioner has certified that the customer or a member of the customer's household is seriously ill..." (emphasis added) is unequivocal and controlling. It is equally clear that the medical certification process refers to a customer obtaining a letter of verification from only a physician. 66 Pa. C.S. § 1406(f). However, the rules of statutory construction require us to effectuate the intent of the General Assembly and give effect to all of its provisions, if possible. 1 Pa. C.S. § 1921(a)

Although we agree with Action Alliance, CAC and PULP that medical determinations are to be made by medical professionals and that utilities should not impose additional qualifications that are not found in regulation and statute, the statute is very specific that the customer has to obtain a letter from a licensed physician verifying the condition. Moreover, the statute provides that the medical certification procedures shall be implemented in accordance with Commission regulations. The procedures under § 56.113 (Medical Certification) currently provide that certification can be written or oral and subject to the right of the utility to obtain oral or written verification within seven days. We believe that to give effect to all the provisions the statute must be interpreted as initially allowing medical certifications to be oral from a licensed physician or nurse practitioner but the customer must still obtain a letter verifying the condition from only a licensed physician. Even though it may have been an inadvertent omission to leave out nurse practitioner, the statute explicitly excludes "nurse practitioner" from the verification procedures thereby only allowing a licensed physician to verify the medical condition. Therefore, termination of service can be prevented based upon a written or oral certification from a licensed physician or nurse practitioner, but a written letter verifying the medical condition must come from a physician.

§ 56.352. Postponement of termination pending receipt of certificate.

Action Alliance supports the Commission's plan to maintain the important three-day stay of termination to obtain written or oral certification at § 56.112. Illness, hospital stays and

circumstances surrounding the medical emergency can prevent a household from being aware of imminent utility termination. The first time that a customer may learn of the impending termination is when the utility worker appears at the home. Three days is the minimum period of time that should be allowed to customers to contact a medical professional to submit a verbal or written medical certification to the utility.

Discussion:

We agree with Action Alliance and see no need to revise our original proposal.

§ 56.353 Medical certifications.

Columbia believes that the proposed § 56.113 improperly puts the onus on the utility to "verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days." Columbia thinks this is inconsistent with Section 1406(f), which provides that "The customer shall obtain a letter from a licensed physician verifying the condition." Columbia suggests that § 56.113 should be eliminated so that there is no confusion and the list of information that must be included in a medical certification should be moved to § 56.111.

Action Alliance supports the Commission's plan to maintain the seven-day window to provide written confirmation at § 56.113. If the utility requires a written certification, maintaining the seven day window, after verbal certification, for submission recognizes the demanding schedules of medical offices and provides a reasonable opportunity for customers and their treating medical practitioners to comply.

Discussion:

Columbia is correct in that Section 1406(f) directs the customer to obtain a letter from a physician and this directive is incorporated into the proposed § 56.111 and § 56.351. Columbia is incorrect in that the proposed § 56.113 and § 56.353 improperly places the burden on the utility. Section § 56.113 is intended to provide the utility with the ability and means to verify a medical certificate that they may want to question. For example, if the utility receives a written letter signed by a medical professional from a customer, per § 56.111 or § 56.351, but the utility suspects the letter to be possibly fraudulent, the proposed § 56.353 provides the *right* for the utility to verify with the medical office the authenticity of the letter. It is the utility's option as to whether to exercise this right or not. We note that utilities should only use this right to verify the authenticity of the certificate and the utility should, as discussed in reference to § 56.351, refrain from questioning the medical determination of the medical professional or imposing additional standards not found in the regulations. We also believe that the retention of this provision is in keeping with the requirement of Section 1406(f) that the medical certification procedure be implemented in accordance with Commission regulations. Utilities, per this section, have

traditionally had the right to verify medical certificates and we believe it was the intent of the General Assembly for utilities to retain this right. We will, in the interest of being more precise and aligning with the language of Section 1406(f), we will use the term "verification" instead of "confirmation."

§ 56.354. Length of postponement; renewals.

Allegheny Power, FirstEnergy and PGW agree that once a customer has eliminated his arrearages he is entitled to another three medical certificates. However, they disagree with the phrase "and same termination action" because every time the utility issues a new termination notice, the customer could qualify for more medical certificates. Duquesne and Equitable also ask that this phrase be removed because it is unclear.

PECO believes the proposed regulations implement a great deal of tested Commission practice and knowledge from recent years and they particularly support two elements of the new regulations; allowing the utility to enforce the medical certificate restrictions without having to resort to petitioning the Commission and that the restrictions can be applied if the underlying arrearage is not resolved. However, PECO asks that the "same termination action" phrase be deleted since it may have consequences the Commission did not intend. PECO also suggests changing the reference from a "third medical certificate" to a "third renewal of a medical certificate" to avoid confusion.

PPL agrees with the Commission's proposals that limit the two 30-day renewals of medical certifications for the customer's household to the same set of arrearages and same termination action and that when the customer eliminates these arrearages, he or she is eligible to file new medical certification. PPL also supports the proposal that, in these instances, a utility does not have to petition the Commission under § 56.118(3) if the utility wishes to contest a third medical certification.

NFG recommends that the proposed language in §56.114(2) be expanded to include applicants as well as customers. In addition, the last sentence of the proposed language, regarding public utility company dispute procedures should be removed. NFG believes that there is no dispute in these cases since the proposed language of this section is clear as to whether or not a medical certificate is to be honored.

PGW disagrees that a utility's rejection of a medical certificate should be treated as a dispute because the customer's obligation to make payment under receipt of a medical certificate is unmistakable.

Action Alliance supports the Commission's proposed language at § 56.114 that brings important clarification to when the restrictions on renewals of medical certifications apply. The Commission has amended § 56.114 to clarify that the limit of two renewal certifications only applies if the customer is not making equitable efforts to pay utility bills per § 56.116, which specifies that at least current bills should be paid in order to be considered an equitable effort at payment. When payments on current bills are not being made, only then do the restrictions at §56.114 apply.

Action Alliance disagrees with the Commission's proposal to allow utilities to refuse to honor medical certifications without petitioning the Commission, when the utility determines that the renewal restrictions have been reached under § 56.114. According to Action Alliance, Section 1406(f) clearly prohibits termination of utility service "when a licensed physician or nurse practitioner has certified that the customer or a member of the customer's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service." Action Alliance believes that the statute provides no restrictions on renewals and that any determination that renewal limits have been met should be made by the Commission, not the utility. These most vulnerable consumers, whose medical practitioners have provided multiple certifications of a serious condition, should be afforded all the consumer protections available, including Commission review prior to service termination.

In addition, Action Alliance notes that consumers with serious and chronic conditions that are not likely to improve within 30 days should not be burdened with a requirement to renew medical certifications every 30 days. Medical certification renewals often require that the patient make and attend an appointment with the treating medical practice and pay accompanying fees for the appointment and completion of medical certification for the utility. These perfunctory efforts are financially and physically burdensome for seriously ill consumers with chronic conditions. Action Alliance urges the Commission to adopt a rule similar to that adopted in the state of Massachusetts which allows for six-month chronic illness certification and certification of infancy until the child reaches 12 months of age.

The CAC supports the clear specification that any refusal to honor a medical certificate under conditions recognized by the Commission should be treated as a dispute by the utility, requiring that the customer will be referred to the Commission.

The OCA submits, in general, that the proposed changes to the Emergency Medical Provisions have clarified and strengthened these critical provisions. However, the OCA requests that the Commission reconsider and allow certificates that exceed the 30-day timeframe so that certificates are fully available to Pennsylvania's most vulnerable citizens with serious or chronic conditions. The OCA believes that a 90-day term would reduce the burden on the seriously ill individuals as well as avoid the wasteful use of medical resources when an individual's condition is unlikely to improve. For example, the OCA notes that in Massachusetts, medical certificates

for serious illness are renewed on a quarterly basis and for chronic illnesses every six months. The OCA is also concerned with the additional language letting utilities refuse a medical certificate without first petitioning the Commission if they are only enforcing the restrictions found in § 56.114. The OCA believes this is contrary to Section 1406(f) of Chapter 14 which prohibits the termination of service where a customer presents a medical certificate. The OCA believes that the petition process will better assure the Commission that all avenues for retaining service have been explored and all circumstances considered.

PULP supports the Commission's amendments to § 56.114 and the Commission's conclusion that any refusal to honor a medical certificate under conditions recognized by the Commission should be treated as a dispute by the utility, requiring that the customer will be referred to the Commission. PULP believes that the Commission has made an important clarification in Section 56.114(2) that establishes that the elimination of arrearages associated with a defaulted medical certificate enables a customer to apply for and receive another medical certificate on another set of arrearages. According to PULP, this policy also recognizes that households, particularly low-income or elderly households, may suffer multiple debilitating illnesses over time; allowing these households to access multiple medical certificates recognizes this reality.

PULP also requests that in the case of chronic conditions, utilities should develop policies that involve less frequent than monthly recertification. PULP explains that it would be less difficult administratively for the utility and less burdensome on the sick customer and the customer's medical professional to have a quarterly or less frequent recertification process where it is likely the illness will be protracted. PULP notes that other jurisdictions have adopted this kind of practice for chronic illnesses.

IRRC also notes that medical certificates are valid for 30 days under this section and suggests that the Commission consider providing procedures that would allow customers to request longer periods of time for instances involving chronic illness or other extenuating circumstances.

Discussion:

Most of what was proposed in this section was intended to provide clarification as to the application of the limitations set on the use of medical certificates. These renewal limitations were first included in these regulations with the last revision of Chapter 56 in 1997. Since then, it has been the informal experience of the Bureau of Consumer Services that there has been confusion and inconsistency in applying these provisions and the Bureau has been presented with repeated questions from utilities, consumers and medical professionals about this section and the limitations on the usage of medical certificates. For example, there have been questions as to whether the limits on renewals apply to individuals or to the entire household. In the proposed regulation, we propose to answer this by stating that the limitations apply to the household. We believe the guidance offered in the proposed § 56.114 and § 56.354, while not addressing every

possible contingency, which is not possible, does provide some useful direction. However, upon review of the comments, we also believe some further refining of this section is necessary, including some rearranging of the sentences to improve readability.

We first remind everyone that the limitations on medical certificate usage in § 56.354 only apply if the customer is not meeting their obligation to pay on their bills per § 56.356. As long as the customer is meeting this obligation, there is no limitation on medical certificate usage under this section. This is what has been traditionally required under § 56.114 and we are not proposing to change this; the limitations will continue to apply only if the customer is not making payments.

We agree with Allegheny Power, FirstEnergy, PGW, Duquesne, PECO and Equitable that the phrase "same termination action" should be removed because it is unclear and may have the unintended result of allowing a customer to bypass the limitations simply because the utility issued a new notice. We agree with PECO that the language should refer to "third renewal of a medical certificate" instead of "third medical certificate" to avoid confusion. NFG's suggestion to add "applicants" to this section is not necessary because this section refers to renewal of medical certificates and this does not involve applicants. We disagree with NFG and PGW's objections to providing dispute rights to those that have been denied a medical certificate. While a utility refusal to honor a medical certificate because it is applying the restrictions found in this section may be based on "unmistakable" or "clear" language, this has nothing to do with the standard for determining whether a dispute exists or not. Per the long-standing definition of *dispute* at § 56.2, it a customer's satisfaction or lack thereof with the company's position that determines whether a dispute exists or not. A customer being denied a medical certificate is unlikely to be satisfied with the company's position; meaning a dispute now exists and that the utility should provide the customer with their right to go to the Commission. Again, this is per traditional Chapter 56 rules. The proposal to note this explicitly in this section is simply serving as a reminder to the utility of this obligation; it is not a new requirement.

In an attempt to further clarify the restrictions that were incorporated into this section in 1997, we proposed making it clear that a utility has the authority to invoke these restrictions on their own, without first petitioning the Commission for permission. This has been a point of confusion since 1997, and we believe this clarification reflects the intent of the 1997 revisions. If a utility were required to petition the Commission every time they wished to apply these restrictions, it would in fact make these restrictions meaningless, since utilities have always had the option to petition the Commission to void a certificate. It would also place significant burdens on both the utilities and the Commission in processing said petitions. We understand the concerns of OCA and Action Alliance when they ask that we require the petition process to be used to apply the § 56.114 restrictions as to make sure that all the customer's circumstances have been considered. We disagree that Chapter 14 voids the restrictions in § 56.114 because Section 1406(f) states that "The medical certification procedure shall be implemented in accordance with Commission regulations." It is reasonable to assume that the General Assembly was familiar

with the limitations found in § 56.114 and did not intend to void them. We also point out to these parties that, as discussed above, we will explicitly require the utility to treat these occasions as disputes. This will provide the customer the option of seeking Commission review of their circumstances and to make sure the restrictions have been appropriately applied.

IRRC, Action Alliance, OCA and PULP request that the Commission consider long-term medical certificates to address chronic or long-term illnesses. These parties raise several valid concerns about the burden the current 30-day limit imposes on patients and health-care professionals alike. However, we are reluctant to revise the regulations to this extent because the General Assembly had an opportunity to do so in Chapter 14 and declined to do so. We again note that in Section 1406(f), the General Assembly declared that the "...medical certificate procedure shall be implemented in accordance with Commission regulations." It is reasonable to assume that the General Assembly was familiar with the 30-day timeframe in the current regulations and was comfortable with it. We also remind everyone that there is no limit on medical certificates as long as the customer is paying bills per § 56.116 and § 56.356. The limits on medical certificate usage only apply if the customer is not meeting their obligations at §56.116 and § 56.356. We must also decline PULP's suggestion to add "physician assistants" along with "physicians" and "nurse practitioners" as medical professionals allowed to file medical certificates. Again, if the General Assembly had wanted this, they would have included this in Chapter 14 when they added "nurse practitioners" to the medical certificate rules. Long-term medical certificates were not provided for in the legislation and would be a very substantive addition to these regulations.

§ 56.355. Restoration of service.

PGW states that Chapter 14 does not place an obligation on the utility to "make a diligent effort" to restore on the date of receipt and therefore this requirement should be removed from the regulation. Additionally, the regulation should be revised to note that customers are required to provide access or other information as may be needed by the utility to restore service.

Discussion:

Chapter 14 provides some enhancements to restoration timeframes in that it requires service to be restored within a 24 hour timeframe, where the traditional Chapter 56 standard was "by the end of the next working day." As such, we need to provide this additional protection to customers with a PFA order by incorporating this timeframe into this section.

While we understand PGW's concerns, we must point out that "make a diligent effort to have service restored on the day of receipt" does not require the service to be restored. The only requirement is that service be reconnected within 24 hours. As such, this section does not

conflict with Section 1407(b). Given the obvious health and safety issues involved, asking a utility to make a diligent effort is simply intended to prompt the utility to act on a medical emergency as soon as possible. We believe this is a reasonable requirement since the utility has 24 hours to restore service.

§ 56.356. Duty of customer to pay bills.

FirstEnergy is concerned that the payment of outstanding account balances is not addressed in § 56.116 and should be amended to require payment agreements for such balances. PPL suggests revising the language to read "Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills, undisputed overdue balances, or equal monthly billing amount as determined by § 56.12(7) (relating to meter reading; estimated billing; ratepayer readings)."

NFG does not oppose the proposed language of this section. However, in order to simplify this section and make it more understandable NFG suggests modifying the proposed language by deleting "or equal monthly billing amount as determined by § 56.12(7) (relating to meter reading; estimated billing; ratepayer readings)" because, generally speaking, for customers on a equal monthly billing program, the amount they see on their monthly bill is the equal monthly billing amount. NFG states that the primary purpose of this provision is to require customers to continue to pay current undisputed bills and NFG believes that removing this excess language will communicate that point more clearly.

PGW believes that the reference to budget billing should be deleted because the customer's current undisputed bill is the same as the monthly budget amount.

Action Alliance supports the Commission's proposed language at § 56.116 that brings important clarification to when the restrictions on renewals of medical certifications apply. Action Alliance agrees that the current § 56.116 language "to equitably arrange to make payment" has not given adequate guidance to utilities and consumers alike. The Commission's proposed language brings long-awaited and proper clarification. Action Alliance, therefore, agrees with the proposals at § 56.116 to replace the language "to equitably arrange" with "to make payment on all current undisputed bills ..." When payments on current bills are not being made, only then do the restrictions at § 56.114 apply.

The CAC and PULP support the attempt to clarify the requirements of § 56.116 by specifying that payment of current bills be considered an equitable effort at payment.

PULP supports the Commission's clarification that a customer or applicant with a medical certificate retains a duty to make payments on current undisputed bills. This reasonable policy

recognizes that customers and applicants requiring medical certificates often have their lives disrupted by their illness, often resulting in decreased or sporadic income. By requiring payment on only the current bills, PULP believes that the Commission recognizes this disruptive nature of serious illness and allows customers to wait until after their illness or condition is corrected to resolve past due amounts, amounts associated with a payment agreement, or amounts associated with settlements.

Discussion:

While we understand NFG's and PGW's concerns that the reference to budget billing amounts may be superfluous, we believe it is important to retain this reference in this section just so it is clear that a customer should be paying current bills or the budget billing amount. However, we will revise the terminology to refer to *budget* billing as to align it with our proposed terminology at § 56.12(7) and § 56.262(7). We also understand FirstEnergy's concerns with the payment of the outstanding balance. In response, we point out that if the customer is paying their current bills as required by this section, the outstanding balance will not be increasing, meaning that the customer's and the utility's problems with the account balance will not be aggravated. We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer. We also point to the petition process at § 56.358 that a utility may use to possibly void a medical certificate that a utility believes is being used to avoid the payment of the account balance. We agree with Action Alliance, CAC and PULP that the proposed language requiring payment on all current bills or budget bills brings much needed clarity to this section, and recognizes the disruptive nature of serious illness on customers. At the same time, we believe this proposal will aid both consumers and utilities in preventing the accumulation of additional arrearages while a customer is under the protection of a medical certificate.

§ 56.357. Termination upon expiration of medical certification.

PULP suggests that § 56.117 requires revision because when the initial and renewed medical certificates have expired, it is unreasonable to begin the termination process where it left off. Depending on the nature of the illness or medical condition, months or years can pass between the time of the initial medical certificate submission and the expiration of the original certificate or renewal certificate. PULP submits that it is unreasonable to expect customers to remember where the termination process stood at the time of their initial submission of a medical certificate. It is not particularly burdensome for the utility to begin the termination process at the written notice stage so that the customer can have a written explanation of the state of their account, with the detailed enumeration of the content of their bill. PULP encourages the Commission to consider requiring the termination process to begin over rather than picking up at § 56.93.

Discussion:

Upon review of the comments submitted by PULP we must disagree that written notice of termination is always required upon expiration of a medical certificate. Such a requirement could impose additional collection costs on utilities without sufficient benefit to justify such. However, we do agree that this section does need a small revision to reflect Section 1406(1)(i) which specifies that a 10-day written notice of termination is effective for 60 days. We will add language clarifying that additional written notice does not have to be provided upon expiration of a medical certificate if written notice has already been provided within the past 60 days. This will provide customers with a PFA the same notice rights as any other customer when a medical certificate expires.

§ 56.358. Right of utility to petition the Commission.

NFG believes § 56.118(a)(2) should be removed because public utilities should not have to petition the Commission in these situations. As stated in § 56.116, NFG explains that customers retain an affirmative duty to pay undisputed current bills and failure to do so would subject them to the general termination procedures contained in the remainder of this chapter. According to NFG, due to the timeframes involved in any petition under this section, the process has become mostly obsolete. NFG explains that there is generally a 90-day period under which a medical certificate and its renewals can be active. As there is no language in § 56.118 requiring a medical certificate petition to be addressed within a specific timeframe, more often than not, by the time a determination is made, the issue has passed. NFG opines that if this section is to have any real world applicability, a timeframe for a final Commission adjudication of 10 days should be required.

Discussion:

Under § 56.114(2) and § 56.354, the utility already has the right to reject a third medical certificate *without* having to petition the Commission if the customer is not paying current bills. What §56.358(a)(2) provides is the ability of the utility to petition the Commission to vacate a medical certificate at *any time* if the customer is not paying; even before the third medical certificate is filed. We disagree with NFG when they suggest that this language be removed because we believe this provides utilities with a valuable option that they may want to exercise in some cases. A utility does not have to wait 90 days, as suggested by NFG, to file a petition; they may do so at anytime if they believe the medical certificate process is being abused by a customer. We also decline to specify a time period for Commission adjudication of these petitions, but do note that it is the practice of the Bureau of Consumer Services to handle such petitions in an expedited manner.

§ 56.361. Third-party notification.

PPL agrees with the proposal that utilities, at least annually, inform customers of the availability of third-party notification programs. PPL, via a bill insert, has been informing customers for many years of the availability of its third-party notification program. This program can be particularly useful for older customers who want an adult child or other close relative to receive copies of any collection notices. The Commission also proposes under § 56.131(4) that utilities make available a standard statewide enrollment form that would comply with the form set forth in Appendix E. PPL recommends that the Commission allow utilities the flexibility to develop the format of their own forms, but to require all utilities to include the same standard information. This would be the same approach proposed by the Commission concerning termination notice requirements at § 56.91. PPL believes that the Commission should adopt this same reasonable and flexible approach regarding the format of the third-party notification form. Standard information would include, but is not limited to, utility name, address, customer name, address, telephone, date, signature, and the third-party name, address, telephone, date and signature.

Discussion:

We acknowledge PPL's concerns but believe they are overstated. While we are making the third-party enrollment form available in Appendix E, the utility is only required to make their form "substantially in compliance" with this form. This means that the utility's form only has to include the substance of the appendix; it does not have to mirror the appendix. The utility is free to format their own forms and choose their own wording, as long as the utility's form contains the same information as Appendix E.

Third-party notification is an important consumer safeguard that can be used anytime by anyone, but as PPL points out, is especially helpful for customers who may, because of illness, disability or advanced age, need the occasional intervention of a third-party to manage their utility account. However, we are concerned that these programs may be under-utilized due to confusion and misperceptions on the part of consumers. For example, customers may confuse third-party notice with third-party guarantor (see § 56.33 and § 56.283) and mistakenly think that they will be held responsible for payment of the bill simply because they have agreed to accept third-party notification. To address this misperception, the notice in Appendix E emphasizes that agreeing to accept a third-party notice does not make one responsible for paying the bill. The notice also provides important information, such as making clear that this program does not stop the shut-off of service and that the third-party is not authorized to commit to a payment agreement on the customer's behalf. We also believe that consumers who participate in these programs may enroll with numerous different utilities, such as electric, gas and water. As such, it would be helpful to have the enrollment forms communicate the same information as to lessen confusion. The

requirements of § 56.361 and its accompanying Appendix E are intended to increase the comfort level of consumers using this important consumer safeguard, while providing the utility with enough flexibility to format and present the critical information as they see fit.

§ 56.372. Dispute procedures.

Allegheny Power asks that language be added to the dispute procedures to clarify that when the Commission issues a payment agreement, it should only be rendered on the disputed amount. The remainder of the account balance should be due immediately and not included in the payment agreement.

Discussion:

We decline to accept Allegheny Power's suggestion because we believe this level of specificity is not appropriate for codification and instead is best left to the Commission's internal procedures used to implement this Chapter under § 56.166. Moreover, while an informal complaint is pending at the Commission, Section 1410 and §§ 56.141, 56.151(1), 56.372 and 56.381 specify that the complainant is only excused from paying *disputed* bills while a dispute is pending.

§ 56.373. Time for filing an informal complaint.

NFG suggests that the Commission should consider adding a requirement to this section that would spell out the timeframe that BCS has to respond to an informal complaint.

PULP recommends that this section should be modified slightly for clarity's sake by removing the repetitious phrase "and informal complaints" from the proposed regulation.

Discussion:

We agree with PULP's suggested minor revisions to this section. However, we decline NFG's proposal to include a timeframe in this section for reasons discussed relative to § 56.163 and § 56.392.

§ 56.374. Effect of failure to timely file an informal complaint.

NFG requests that language be included in this section that notes that a failure to timely file a dispute may constitute a waiver of rights to file an informal complaint. NFG explains that an

essential component of any regulatory proceeding is that time is of the essence and that there are many good reasons for this requirement; chief among them is the need to prevent the stagnation or loss of evidence. NFG submits that the language that is marked for removal makes it clear that failure to comply with necessary time requirements may lead to the inability to prosecute an informal complaint. In order to give structure to the process and promote economy in the processing of informal complaints, this language should remain.

Discussion:

While we understand NFG's concerns, we must disagree by pointing out that the Commission, in keeping with the due process rights of all parties, cannot impose such a blanket denial on the right to file an informal complaint simply based on the time of the filing. While we can specify that the right to retain service during such a proceeding can be restricted by the Commission, we cannot outright prohibit the filing of a complaint simply because a period of time has lapsed.

§ 56.381. General rule.

PPL agrees with the Commission's proposal to allow utilities, with the consent of the customer, to submit the information and documents electronically to him or her as long as the customer has the ability to accept electronic documents. This type of flexibility should help streamline utilities' internal processes and ensure timely responses to complaining parties.

PGW objects to the payment agreement language in §56.151(3) because when a customer raises a dispute, the utility is not obligated to negotiate a payment agreement if the customer is not entitled to one. EAP believes that proposed § 56.151(3) should be rejected because it conflicts with the mandates of Chapter 14 regarding payment agreements. EAP opines that the proper analysis of Section 1405(d) is that a customer gets one payment agreement, whether it be utility or Commission established, and if the customer defaults on that agreement, the Commission shall not establish a second or subsequent agreement, but the public utility may, at its discretion, do so.

Discussion:

This longstanding provision does not require that a payment agreement be established; merely an "attempt" is made to establish one. Regardless, PGW's and EAP's concerns are not relevant to §56.381 which is intended for customers and utilities not subject to Chapter 14. We will omit the requirement in paragraph 5(iii) because the requirements in paragraph 5(ii) appear to be sufficient to provide a "satisfied" customer with the information they need; the 5(iii) requirement is unnecessarily burdensome. Of course, if a customer is "not satisfied", more comphrehensive information is still required per paragraph (5)(i).

§ 56.382. Contents of the utility company report.

PECO objects to the proposed requirement that termination information be presented in a font size two points large than the font used in other sections of the utility report as this would require PECO to reprogram its entire utility report software. PECO suggests that the information found in this section should be "prominently displayed" in the utility report. PPL also has concerns about complying with the formatting requirement proposed in § 56.382(8)(ii); similar to its comments concerning § 56.152.

PGW suggests using the phrase "service will be terminated" because it is less confusing for the customer and the utility. PGW also objects to placing this information in a larger font because this seemingly minor change would require PGW to make an extensive, costly programming change.

Action Alliance supports the Commission's proposed language at § 56.152(8)(ii) that requires the utility to provide conspicuous notice ("in a bold font that is at least two font sizes larger than the font used in other sections of the utility report") to the customer of the deadline to file an informal complaint in order to avoid termination of service.

Discussion:

We agree with Action Alliance and believe that the termination information in § 56.382(8) is of great importance because it is informing the customer of a possible approaching termination of service. As such, this information should not be buried inconspicuously in a document to the customer that may address many other topics. However, to address the concerns expressed by PECO and PGW, we will revise § 56.382(8)(ii) to drop the specific requirement that the termination information be presented in a print size two fonts larger and instead will accept PECO's suggestion and go with a more general requirement that the information be "prominently displayed." This will allow the flexibility needed to accommodate different utility capabilities. We also agree with PGW that the language should be revised to make the termination threat clearer and more direct by restoring the phrase "service will be terminated" to this section instead of the vaguer phrase "the utility will commence termination action." We will also omit reference to "informal dispute settlement agreement" per the comments submitted concerning § 56.2 and our response to those comments.

We will also delete the language in paragraph (4) requiring the customer to file informally with the Commission within 10 days. The Bureau of Consumer Services has never enforced this provision. Practically, the Bureau is unable to enforce such a standard because at the time of

filing, the Bureau has no way of knowing when the customer received their utility report from a utility.

§ 56.391. Informal complaint filing procedures.

Allegheny Power suggests that the date the complainant contacted the utility and the results of that contact be added to § 56.162 as to support similar requirements at § 56.166 and Section 1410(1).

Columbia suggests that to ensure that accurate information is being provided not only to Columbia, but to the Commission, proposed Section §56.163 should be amended to include provisions that would require complainants, upon filing an informal complaint, to provide the date the complainant contacted the utility company about the dispute, and occupant information, including the number and age of all occupants in the home, household income and the names listed on the mortgage, lease or deed of the property.

NFG suggests adding to the information that must be included in an informal complaint a statement or verification that the complainant has contacted the public utility regarding the subject matter of this complaint per Section 1410(1). NFG notes that proposed §56.166 includes this statutory requirement.

Discussion:

We decline to revise § 56.391 as suggested by Allegheny Power and NFG to make it reflect more explicitly the requirements of Section 1410(1). While we agreed with this request as it relates to § 56.162, imposing this stricter Chapter 14 provision to § 56.391 would not be appropriate because this section is intended for customers and utilities exempt from Chapter 14. We also think Columbia's suggestions go too far in asking for household income and occupant names and ages, etc. This information is entirely irrelevant to many types of informal complaints, such as those involving service issues and billing problems. It is also information that many individuals consider private and requiring the disclosure of such might discourage the filing of informal complaints when the information is of no relevance. This is also especially sensitive information for a victim with a Protection From Abuse order.

§ 56.392. Commission informal complaint procedure.

Allegheny Power recommends that language be added to this provision requiring that informal complaints be closed by the Commission within a 3-month period as this would improve

efficiency and prevent delinquency monies from accumulating. Allegheny Power generally agrees with the 30-day response time standard, but is concerned with the 5-day standard for off cases as it may be unattainable and perhaps discriminatory.

Duquesne does not object to the 5-day standard, but recommends that it be specifically applied to instances where a customer has been terminated for nonpayment. Duquesne also suggests that the 5-day period should also apply to the Commission when issuing decisions in such cases. In addition, Duquesne requests that the Commission reconsider its interpretation of § 1405(d) because they fail to see the benefit of establishing multiple payment agreements for customers who have defaulted from a previous payment agreement.

PECO is cognizant of the health and safety issues involved in cases where a customer's service is off and that the utilities, through their complaint handling and collection policies can have a significant influence on complaint volume. But PECO points out that customers also have significant influence with respect to their own complaints and some simply wait until service is actually terminated until taking action. PECO has experience trying to implement the proposed five-day response standard and has found it very difficult to do so, - especially a concern if it is five "calendar" days. PECO requests the time period be extended to 10 days. PPL and Phillips suggest clarifying that the five days be specified as "business" days.

Columbia, Equitable, NFG, PGW and PULP all request a time deadline for BCS to respond to informal complaints. Columbia supports the proposed requirement that requires the utility to provide information to the Commission within five days of the request for information where a complainant is without utility service. In return, Columbia respectfully asks that the Commission expedite the closing of these cases, including complaints involving an applicant who is denied service. According to Columbia, delays in closing complaint cases negatively impact collection efforts and contribute to increased delinquencies thereby making it more difficult for the customer to pay the bill once the case is resolved. Moreover, when BCS holds individual CAP disputes for months without resolution, the result is a *de facto* "payment arrangement" in violation of § 1405(c). Columbia believes that since the Commission cannot establish a payment agreement for a CAP account, the BCS should be prohibited from accepting inability to pay informal complaints from CAP customers.

Equitable agrees with the Commission that it is in the customer's best interest to resolve complaint issues within the shortest possible timeframe. Equitable, therefore, recommends changing the utility response requirement to 10 days when service is off and within 30 days for other complaints and requiring the BCS to issue a decision within 30 days for service off complaints and within 90 days for all other complaints.

Similarly, NFG requests that the Commission should consider adding a requirement to § 56.163(1) that would mandate a timeframe for BCS to respond to an informal complaint.

PGW also believes that Commission staff should have a 90-day response time imposed on its issuance of informal decisions; 15 days when the customer's service is off. In addition, PGW states that the failure of Commission staff to issue decisions likely violates Chapter 14 because the Commission is not authorized to establish second or subsequent payment agreements.

EAP believes that the proposed regulations contained in §56.140 through §56.181 could result in an increase in receivables and an increase in utility rates.

EAP agrees that the Commission has the authority to codify or specify utility response times. However, in the spirit of promoting cooperation and improving processes and efficiency, EAP contends that it is not unreasonable for the Commission, like courts, to expeditiously process cases. EAP believes that § 56.163 should be amended to require the BCS to address a customer complaint within 30 days of receipt of the utility data. PAWC notes that it is unclear as to when the staff will actually mark the informal complaint as closed - the time the parties sign the settlement or upon confirmation by all parties?

Action Alliance agrees with the Commission's proposal to require a response to the informal complaint from the utility within 30 days, and that the deadline should be five days when the complainant is without service. However, in emergency situations, including wintertime complaints involving loss of heat, Action Alliance urges the Commission to adopt a 24 hour standard, initially recommended by the OCA. Action Alliance also notes that the Commission has reconsidered its original proposals concerning the handling of CAP-related payment agreements and accounts where service has been terminated, and now refers those issues to be addressed in Commission internal procedures that are developed under § 56.211 (now proposed § 56.166).

PULP requests that the Commission clarify the timeframe by which an informal complaint decision must be issued by the Bureau of Consumer Services. Currently, PULP states that the only guideline in the regulations is that Commission staff will issue a decision on informal complaints in a "reasonable period of time."

IRRC notes that the formatting for § 56.163 (2), as published in the *Pennsylvania Bulletin,* is unclear because the reader cannot tell what language is being deleted and what language is being added. IRRC questions whether any parties have to sign the settlement agreement.

Discussion:

In §56.163 and § 56.392, the Commission, for the first time in Chapter 56, is proposing timeframes for utilities to respond to informal complaints filed with the Bureau of Consumer Services. This is intended to facilitate the handling of informal complaints and to also bring the gas, electric and water industries under informal complaint procedures similar to those in the

telecommunications industry. The telecommunications industry has long been under a 30-day response standard per § 64.153(1):

> (1) Review techniques. Review shall be by appropriate means, including LEC written summaries, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures shall be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute. Information and documents requested by Commission staff as part of the review process shall be provided by the LEC *within 30 days* of the request. (emphasis added)

We believe the 30-day time period has worked effectively with informal complaints relating to telecommunications and is a reasonable period of time that balances the needs of the Commission, the complainant and the utility. We also note that the timeframe for a utility in addressing the consumer's complaint is actually longer than 30 days, and is in fact at least 60 days. We have to assume that the complainant first contacted the utility with their complaint because this is required by Section 1410(1) and §§ 56.162, 56.166 and 56.391. Upon that contact, the utility has 30 days to address the consumer's issue per § 56.151(5) and § 56.381. The consumer then has the option of filing an informal complaint with the Commission. The utility then has an additional 30 days to submit a report on the matter to the Commission. This totals at least 60 days since the initiation of the dispute for the utility to respond to the Commission.

We also note that no party voiced an outright rejection of the proposed 30-day response period. Admittedly, the 5-day response period proposed for informal complaints where the customer is without utility service or other emergencies did raise some concerns. We still believe that given the inherent public health and safety issues involved in such complaints, a 5-day response time is not unreasonable. However, we believe PECO, PPL and Phillips have a valid point and will revise the proposal to specify that the 5-day time period refers to "business days" as opposed to "calendar days." This should allow some of the flexibility requested by utilities while still securing urgent information within a reasonable time. We also reject the arguments of Duquesne and Allegheny Power that the 5-day timeframe is "discriminatory" in that it favors one group of complainants over others. Whatever discrimination this presents is of secondary concern to the public health and safety issues involved. We also reject the suggestion of Action Alliance of changing the 5-day standard to 24 hours as posing too great a burden on utilities. However, we point out that the Commission reserves the right it has always had of requiring information in a shorter time period for specific cases where the circumstances warrant.

Duquesne, Columbia, Equitable, NFG, PGW, EAP and PULP suggested that the Commission impose timeframes on the Commission for handling informal complaints. We understand the frustrations of both utilities and consumers with complaints that may be open and pending for an extended period of time. However, we also note that most complaints are not open for an excessive period of time, and that the results of customer feedback surveys indicate that 82% of

customers who file informal complaints felt that the Bureau of Consumer Services handled their complaint either "very quickly" or "fairly quickly" (2007 Utility Consumer Activities Report and Evaluation, page 2). Regardless, we decline to codify an informal case-handling timeframe for several reasons.

As we have already noted, we believe that matters such as these are best left to internal Commission procedures as provided for in § 56.166. Codifying such timeframes is problematic because the Commission has no control over the volume of complaints filed with the agency. In reality, the utilities, by their actions and policies, have more control over this volume than the Commission will ever have. A utility, exercising its management discretion, can manipulate its collection efforts in ways that can both increase and decrease customer complaints. This volume can fluctuate significantly and unpredictably. For example, during the months of January through April 2009, a single electric utility increased the number of customers it terminated service to by 121% over the same period the previous year. This large increase in termination activity in turn led to an increase in informal complaints to the Commission. This is especially a concern in the future as rate caps are removed from the electric industry and the resulting rate increases generate both billing complaints and ability-to-pay complaints. It is the Commission's experience that the number of informal complaints can more than double when an electric utility's rate cap is removed.

We must also note that utilities can help minimize the number of complaints to the Commission through effective customer service practices and adherence to the regulations. The suggestion that a 30-day limit be placed on the Commission as to align it with the 30-day limit on responses we propose placing on utilities is based on an erroneous analogy. As we discussed above, the time utilities have to respond to complaints is actually 60 days; the 30 days in response to the customer's initial complaint to the utility and the additional 30 days they have to respond to the informal Commission complaint.

On a related issue, we must respond to EAP's concerns with accounts unreceivables that supposedly accumulate while an informal complaint is pending at the Commission by pointing out that Section 1410 and §§ 56.141, 56.151(1), 56.372 and 56.381 specify that the complainant is only excused from paying *disputed* bills while a dispute is pending. The complainant remains responsible for payment of all other charges, and the utility should be pursuing normal collection action, including termination of service if necessary, on undisputed bills. Failure to do so is not the fault of the Commission, but of the utility that lets undisputed bills accumulate.

Columbia suggests that the Commission be prohibited from accepting inability-to-pay informal complaints from CAP customers. In keeping with the Section 1405(c) prohibition on the Commission making payment agreements with CAP customers, the Commission, per its internal procedures, does turn away CAP complainants whose only issue is an ability-to-pay problem.

The Commission has also previously addressed this issue on pages 34-35 of the second *Chapter 14 Implementation* Order, M-00041802F0002, (September 9, 2005):

> "All parties agree that Chapter 14 at §1405(c) prohibits the Commission from establishing payment agreements for customers participating in a company CAP. Some parties correctly note that CAP participants can seek Commission intervention for other legitimate reasons such as the following: complaints about the accuracy of meter readings; allegations that the customer's CAP budget was inappropriately increased; allegations that the customer has been charged a CAP rate which is not the appropriate one for a household with their income or type of service; allegations that the customer was improperly removed from CAP or that CAP eligibility was denied; allegations that the customer has not been credited for all payments made, and complaints about the utility's application of payments including application of energy assistance grants.
>
> These are disputes that are unrelated to the prohibition at §1405 (c) that the Commission not establish a payment agreement for CAP participants. Therefore, utilities are required to apply §56.141 in response to such disputes, i.e., utilities must place a "stay" on termination activity pending completion of the dispute pursuant to §56.141(2). Moreover, pursuant to §56.141(2), the complainant retains the obligation to pay undisputed amounts pending resolution of the dispute."

Once again we emphasize that a utility should be pursuing collection on undisputed bills while a dispute, even those involving CAP issues, is pending at the Commission. This should prevent the accumulation of additional arrearages on the account.

Concerning IRRC's questions about paragraph (2), this paragraph is intended to facilitate the settlement of informal complaints and is intended to reflect the practical realities of the informal complaint process. Since this is an informal process, it does not usually involve signed documents, sworn testimony, notarization, face-to-face meetings, etc. There are also inherent practical difficulties in obtaining signatures from complainants and utilities given that the Bureau of Consumer Services only has offices in Harrisburg and Philadelphia. It is expected that the changes to this paragraph will facilitate settlements, resulting in cost and time savings for all parties and the Commission. As proposed, paragraph (2) will read as follows:

> (2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff shall confirm that all parties understand the terms of the settlement and mark the informal complaint as closed.

§ 56.393. Termination pending resolution of dispute.

PULP recommends that the Commission consider implementing some form of emergency expedited hearing in instances of public utility allegations of unauthorized use of utility service.

PULP recognizes the Commission's concern that the unauthorized use of public utility service may place human life and personal property in harm's way. However, PULP also asks the Commission to recognize that utility companies do make mistakes, and when a utility mistakenly alleges a customer is engaging in unauthorized use and proceeds to terminate that customer's service without any substantive notice, that customer may face the same kinds of dangers to person and property that unauthorized use itself imposes. PULP believes that the Commission can rectify this problem by instituting expedited procedures that quickly allow a customer accused of unauthorized use to challenge the public utility's allegations, *e.g.,* hearing before an Administrative Law Judge within no more than 72 hours after the initiation of a complaint by the customer. Moreover, PULP submits that during the pendency of this procedure, the public utility should be required to reconnect utility service. If the Commission does not support reconnecting service during the challenge to the utility's allegations, then PULP recommends that, at a minimum, the Commission should guarantee that its own processes occur within 24 hours of the complaint being filed.

Discussion:

While we understand the concerns expressed by PULP and that utility companies make mistakes, we believe codifying special procedures for handling allegations of unauthorized use would not be appropriate and that ordering service to be restored while such complaints are pending would be contrary to Section 1406(c). We agree that complaints where the complainant is without utility service should receive expedited attention and note that in § 56.392, we are proposing a five business day response period for utilities in responding to these informal complaints. Other than that, we believe the procedures for processing these complaints is best addressed using internal Commission procedures as provided for in §§ 56.166 and 56.441. We again remind utilities that the termination of service without notice is an extreme measure and should only be exercised when the utility is confident enough of the facts surrounding a situation and is sure they meet the grounds for immediate termination under Section 1406(c) and §§ 56.98 and 56.338.

We will also add language to this section to remind utilities and consumers that service can be terminated if the customer does not meet their obligation to pay undisputed bills while a dispute is pending, per § 56.181 and Section 1410(2).

§ 56.394. Conference procedures.

We will omit language requiring the parties be notified that providing false information may be punishable criminally because this kind of formality is not appropriate at the informal complaint level.

§ 56.402. Filing.

NFG opines that the proposed timeframe created for a party to request a review of a Bureau of Consumer Services decision by § 56.172(a) – (c) is entirely too long. The way the proposed language of these sections work would, in essence create a 50-day or longer "appeal" period for these decisions. A party would have 20 days to file a request for review (subsection a) then an additional 30 days to actually file a formal complaint form (subsection c). In NFG's opinion, this time period is too long and could lead to prejudice, stagnation of evidence or issues, and potential exacerbation of the issues that lead to the informal complaint. A total of thirty days from the date the BCS decision was issued is not unreasonable. NFG also believes that the proposed language of § 56.172(2)(e) is inappropriate because if failing to request a review of a BCS decision within the timeframe established under this section does not prohibit the filing of a formal complaint regarding the same issue, the timeframes established in this section are irrelevant.

PGW believes that BCS decisions should be recognized as final and binding and except in the event of good cause shown, allowing the untimely filing of a formal complaint based upon the same complaint determined in a BCS decision undermines the finality and strength of a BCS decision.

Action Alliance does not oppose the proposed § 56.172 Formal Complaint filing deadline of 30 days following the mailing of Formal Complaint forms to the parties, so long as there is conspicuous notice to the parties of the deadline including language that explains that any automatic stay on the informal complaint decision can be lifted or waived, if the deadline is missed, and could result in termination of service.

Discussion:

This section recognizes that there is no legal bar to the filing of a review of a BCS decision after the 30 days after receiving a formal complaint form referred to in subsection (c). A party can file a formal complaint until the statute of limitations expires. The only bar and time limit to the filing of a formal Complaint (whether subsequent to a BCS proceeding or not) is the statute of limitations set forth in 66 Pa. C.S. § 3314. This section is in compliance with § 3314 and is not inconsistent with any provision in Chapter 14.

§ 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.

PGW believes that in fairness to a complainant and respondent, this regulation should continue to provide that the Commission or administrative law judge will hold a hearing within a reasonable time period after the filing of an answer.

Action Alliance notes that the proposed § 56.173 appears to eliminate *de novo* review of BCS decisions. Action Alliance does not believe it was the Commission's intent to eliminate *de novo* review of informal complaints and suspects that it was a clerical error to delete the words "*de novo*" from the proposed regulations. However, if it was indeed the Commission's intent to eliminate *de novo* review, except for ability to pay proceedings, Action Alliance takes this opportunity to register opposition to such a proposal. Given the informal nature of this process, the record developed at the informal complaint level should not be used to prejudice the consumer at the Formal Complaint level.

PULP also states that it is unclear why the Commission proposes removing a requirement that appeals from informal complaints be heard de novo by an Administrative Law Judge or special agent. According to PULP, with the removal of this explicit requirement, the Commission opens the door for the possibility that complaints filed from BCS decisions are considered appeals from that decision. It is PULP's understanding that this is precisely what the removal of the words "Appeals from" and the substitution of the words "review of" was intended to avoid. In addition, this change conflicts with exactly what is proposed in ability to pay cases by the amended § 56.174(c).

PULP submits that to allow or even contemplate allowing the factual record developed during the informal complaint to be introduced into an appeal violates basic assumptions of a fair and balanced judicial process. By eliminating the requirement that appeals from informal complaints be heard de novo, the Commission runs the risk of undermining the credibility of the appeal process and seriously impeding the rights of customers.

Additionally, PULP opines, while many if not most residential customers approach the Commission without any legal counsel or representation, utility companies enjoy robust legal representation at every stage of the process. Moreover, PULP submits that the Commission represents on its web page that the informal complaint and the formal complaint are distinct procedures and advises customers to use the informal process because it is simpler and quicker and states that a BCS investigator will work as a mediator in the process. By having appeals heard de novo, PULP contends that the Commission guarantees that parties who approach the informal complaint in a more casual fashion are always given the opportunity in a formal complaint to more diligently and robustly develop their factual claims.

Discussion:

We agree with Action Alliance and PULP and the arguments they present that the appeals from informal complaints should be heard de novo by an Administrative Law Judge or special agent. This language also keeps this provision consistent with § 56.174(c)(ii). In addition, we agree with PGW that the phrase "hearings will be held within a reasonable time after the filing of an answer" should be retained since it is still contained in § 56.174(c). Therefore, to be consistent, this should be included. We also revised the language in this section so that it reflects current Commission practice and is consistent with Chapters 1 and 5.

§ 56.404. Ability to pay proceedings.

Allegheny Power and Columbia recommend that the time restrictions upon the Commission be reinstated as this would expedite the handling of complaints and prevent delinquent monies from accumulating. Columbia believes that the proposed regulations not only go beyond the legislative mandate of Chapter 14 but, in removing timelines that facilitate the quick resolution of these matters, also risk placing undue delays in the formal complaint process.

FirstEnergy objects to § 56.174(c)(ii) which appears to presume that Bureau of Consumer Services documents relating to an informal complaint are admissible as evidence, when in fact it should be the other way around. These records, without the preparer of the documents participating in the proceeding as a witness, are simply hearsay and should not be admissible. If a party wishes to attempt to have such evidence admitted in the record, the party must offer an appropriate witness to do so.

NFG supports the addition of the language in proposed section (a) regarding assignment of ability to pay cases to a special agent but does not feel that the addition of language in proposed section (c) regarding what documentation shall be entered into evidence at a hearing is necessary or proper for a regulation. NFG believes that this is not the proper place for evidentiary rules and such rules are better left to the presiding officer to handle in a prehearing memorandum or otherwise.

Action Alliance notes that the Commission proposes to preserve *de novo* review in ability to pay proceedings, at § 56.174(c)(ii). Action Alliance believes that it is unclear why *de novo* review is preserved here and not in other types of cases.

PULP recommends that the Commission amend certain portions of § 56.174 which suffer from internal inconsistency and which undermine important consumer protections. Subsection (c) appears to establish the rule that BCS factual documents from an underlying informal complaint will be entered into the record of the formal complaint and only where a party makes a valid evidentiary objection will this rule be broken. On the other hand, subsection (c)(ii) seems to hold the opposite rule that cases will be heard de novo and only where parties so stipulate will facts

from the underlying informal record be introduced. PULP recommends that the Commission clarify this situation by holding that all formal complaints, whether they involve ability to pay or not, shall be heard de novo. In addition, PULP strongly encourages the Commission to promulgate a rule requiring all administrative law judges, in situations where there are pro se litigants, to fully and completely describe to these litigants the ramifications of stipulating to the inclusion of the informal complaint's record in the formal complaint and to advise them of their right to object to such inclusion.

Discussion:

The language at § 56.174(7), post-hearing procedures, was eliminated since it is a repetition of what already exists in Chapters 1 and 5. These Commission deadlines are still in place and need not be repeated here. These hearings are intended to be de novo as indicated. However, stipulations as to facts are allowed as in most proceedings when the parties agree to facts.

§ 56.421. General rule.

PPL recommends revising the wording of this section requiring reconnection from "next working day" to "within 24 hours." PPL believes this modification will provide additional protection for consumers who have PFA orders and is consistent with the Commission's intent to exempt PFA holders from Chapter 14 while applying selected Chapter 14 provisions when the provisions provide enhanced consumer protections not found in the current Chapter 56. PPL also believes the first sentence of § 56.421(1) should be revised because the phrase "reasonable reconnection fee" is too vague. Utilities base reconnection fees in accordance with their Commission approved tariffs. PPL recommends the following language for the first sentence of § 56.421(1): "Full payment of an outstanding charge plus the reconnection fee specified in the utility's tariff on file with the Commission."

Duquesne disagrees that terminating the service of a customer who has paid the amount needed to avoid termination is an erroneous termination and asks that this language be stricken from §56.191(3)(b)(1).

Columbia agrees that the Commission's proposed § 56.191(b)(2) and § 56.191(c)(1) are consistent with Section 1407(b) and with the Chapter 14 objective to ensure that service remains available to all customers on reasonable terms and conditions. However, Columbia adds that unless a customer contacts the utility to provide payment receipt information, the utility will not be aware that a payment has been made. Absent such customer notification, utilities will not be made aware of when the 24-hour clock starts ticking. Columbia suggests that this issue can be addressed by amending proposed § 56.191(c)(2), so that a utility will be able to require that,

upon making payment to restore service at a location designated under § 56.191(c)(1), the customer must contact the public utility and provide payment receipt information.

NFG requests that the proposed language "Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service" should be removed because the Legislature in Section 1407(b)(1) did not feel it necessary to include the language and if the Legislature wanted to include specific instances in this language it could have easily done so. In addition, as written, NFG submits that the proposed language is ambiguous. NFG explains that it could be interpreted that the specified types of termination are the only erroneous terminations to which this language applies.

PGW opines that § 56.191(b)(1) should specify that a termination should be considered erroneous if the payment was made prior to the day of termination because the utility may not have the ability to determine if the customer has paid if they wait until the day of termination to pay. Additionally, the regulation should establish a trigger for 24-hour restoration upon notification of the utility of a medical certificate or an erroneous termination. Concerning §56.191(c)(2)(iii) and (iv), PGW believes that a customer/applicant should have the option of paying an amount in excess of the statutory minimums towards an outstanding balance at restoration and that the word "may" should not be in place of "shall."

Phillips requests that the first sentence of § 56.191(b)(1) be revised to give the public utility time to recognize that a termination action it has taken is, in fact, erroneous before the 24-hour clock begins to run. Phillips believes that it is reasonable that a utility's good faith recognition of an erroneous termination may be delayed until, for example, after its receipt of a payment dropped at an off-site payment collection center is reported to the utility or after a customer calls in to explain circumstances which, if known prior to termination, would have stopped the termination process. Concerning § 56.191(c)(1), Phillips suggests adding a specific requirement that customers provide their utility with a copy of any current Protection From Abuse (PFA) order and that these regulations include either a summary of the ways in which victims with a Protection From Abuse (PFA) order can expect to receive different consideration from their utility or a reference to other resources in which such information is clearly presented. Phillips also believes that the language referring to fraud and theft at the end of § 56.191(d) serves only to confuse the meaning of the entire section. This could be read to preclude a utility from seeking recovery of an outstanding balance from a person who may have had a role in obtaining service illegally.

Action Alliance had requested that the Commission include in its regulation more expansive definitions of the words "payment agreements" and "defaulted" for Section 1407(c)(2)(i) purposes. In proposed § 56.191(c)(2), the Commission has indicated that neither a payment agreement intended to amortize a make-up bill under § 56.14 or an initial bill covering more than

60 days constitutes a "payment agreement" for Section 1407(c)(2)(i) purposes. In addition, Action Alliance notes that the Commission proposes that any defaults on a "payment agreement that has been paid in full" should not be considered a defaulted agreement for the purposes of Section 1407(c)(2)(i).

Action Alliance also believes that the Commission should list defaulted "invalid payment agreements," "extensions," "budget billing and budget billing true-ups," "medical certification equitable arrangements," and "customer assistance programs" as not being counted for Section 1407(c)(2)(i) purposes. Defaulted payment agreements of the prior named customer against the new customer who agrees to an assignment of liability of an outstanding balance at the service address should also not be included, because the newly named customer should be allowed a reasonable chance to fulfill his/her own payment agreement opportunities. In the event that the Commission does not choose to expand on the enumerated instances, Action Alliance requests that it should consider specifying that the enumerated instances do not represent a comprehensive list of all defaults that might be excluded.

The OCA recommends adding language indicating that utilities should restore service promptly and that the restoration timeframes provided are the longest time period allowed.

PULP supports the Commission's clarification in § 56.191(c)(2)(i) of what constitutes a payment agreement. This added section clarifies that there are certain types of arrangements which do not qualify as a payment agreement for purposes of calculating the requisite level of payment to effectuate restoration. PULP submits that §56.191(c)(2)(i) requires clarification since the possibility exists that it may be interpreted to preclude a customer from a payment agreement who has previously defaulted on a payment agreement but cured the default prior to termination. PULP requests that the Commission clarify this subparagraph by specifically stating that when a customer cures a default on a payment agreement, by bringing the payment agreement current prior to termination, the default that has been cured should not be counted as a "defaulted" payment agreement for Section 1407(c)(2)(i) purposes.

Discussion:

First, we are changing the title of this section to "Payment and timing" since "General rule" inadequately describes the important contents of this section.

Because of the obvious public health and safety issues involved, the rules governing the restoration of previously terminated service must be carefully considered. We disagree with Allegheny Power's and FirstEnergy's objection to our proposed language at §56.191(c)(1) that requires a public utility to inform the applicant or customer that conditions for restoration may differ if someone in the household is a victim of domestic violence with a Protection From Abuse (PFA) order. It is clear that through Section 1417, the General Assembly intended that

the reconnection rules in Section 1407(c), along with the rest of Chapter 14, do not apply to individuals covered by a PFA order. Providing this information is the only sensible way to implement the General Assembly's intent since it is unlikely that customers will be aware of Section 1417 and it is nonsensical to think that a consumer will voluntarily provide this information without any prompting. For similar reasons, we agree with PULP that in addition to PFA information, medical certificate information should also be provided. Again, to effectively implement this provision, consumers must be made aware of this protection since we cannot realistically rely on consumers voluntarily providing medical information unsolicited. In keeping with our intent to provide victims of domestic violence with a PFA order all the protections provided other customers, we will add to §56.421 language that requires the utility to provide information on medical certificates and PFA orders. We will also include language from Section 1407(c)(2)(iii) that allows an eligible customer to have service restored upon entry into PGW's customer assistance program.

We agree with PPL's recommendation to revise the wording of this section requiring reconnection from "next working day" to "within 24 hours" as this modification will provide additional protection for consumers who have PFA orders and is consistent with the Commission's intent to exempt PFA holders from Chapter 14 while applying selected Chapter 14 provisions when the provisions provide enhanced consumer protections not found in the current Chapter 56. For this same reason, we will incorporate the requirements of Section 1407(c)(2)(iii) that specifies that a customer of a city natural gas distribution operation whose household income does not exceed 135% of the federal poverty level shall be restored upon enrollment in the utility's assistance program.

We also agree with PPL that the first sentence of § 56.421(1) should be revised because the phrase "reasonable reconnection fee" is too vague. As PPL points out, utilities base reconnection fees in accordance with their Commission approved tariffs and as such we will revise the language to reflect this suggestion.

Duquesne and NFG object to the proposed language in § 56.191 that specifies that "Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of service," while PGW asks that the sentence be modified to specify that the termination is erroneous only if the payment was made prior to the day of termination. In section 1407(b)(1), the General Assembly specified a 24-hour timeframe for restoring service that was terminated erroneously, without specifying what makes a termination "erroneous." As such, we believe that it is appropriate to offer some guidance in the regulation as to what constitutes an erroneous termination, thus triggering the restoration of service. If a customer has paid the amount of money needed to avoid the termination of service then the grounds for the termination have been removed, making a termination of service in such an instance erroneous. We are specifying this particular kind of situation since it is likely one of the more common scenarios resulting in an erroneous

termination and we believe it is important that everyone be aware of our position on this issue. It is not our intent to limit situations that are considered erroneous terminations to just these kinds of circumstances and note that the sentence in question specifies that "Erroneous terminations include..." to connote that other scenarios are possible.

Columbia, PGW and Phillips suggest that language be added addressing what triggers the timeframe in § 56.421, such as the customer notifying the company of an erroneous termination and/or a requirement that customers contact the utility after posting a payment. We decline to add language as suggested since the provision appears to provide sufficient guidance in that the timeframes are triggered. While a utility can enlist a customer's assistance in helping to bring erroneous terminations to the utility's attention as quickly as possible by requesting customers notify the utility after posting a payment, we decline to make this a condition, or suggest that a utility has no obligation to correct such errors until they hear from the affected customer.

Action Alliance and PULP ask us to expand upon the situations that a utility should not consider a defaulted payment agreement when applying these provisions of §56.191(c)(2)(i). § 56.421(2) has a similar provision, which is also found in the current § 56.191. These parties believe that this was intended to remind everyone that *payment agreement* is defined at § 56.252 and as such excludes some situations that some parties may have traditionally viewed as payment agreements. Because the definition specifies that it applies to "...billed service..." this would exclude amortization agreements on make-up bills entered into under §56.264 and § 56.252 (definition of billing month) since these agreements involve only previously "unbilled" service. We agree with Action Alliance and PULP that the same reasoning could also be applied to budget billing agreements and amortization of budget billing reconciliation amounts, and we will add this guidance to subparagraph (2). However, we disagree with these two parties when they ask to also specify that payment agreements that defaulted, but were subsequently brought current, not be counted as a default. We believe this would be difficult for utilities to administer. While these parties are correct in that a customer may indeed cure a default to eliminate the grounds for termination (see § 56.337) this does not alter the fact that the agreement was in default status at some point. Action Alliance also requests us to include medical certificate arrangements and customer assistance programs to this paragraph. We believe it is not necessary to include medical certificate arrangements because we have proposed revising § 56.356 to eliminate medical certificate arrangements (to be replaced with an obligation to pay current bills) and that we do not have to mention customer assistance programs because it is understood that payment agreements and customer assistance programs are two different things that are defined separately and distinctly in Section 1403 and our proposed §§ 56.2 and 56.252.

Finally, as per our discussion in relation to §§56.2 and 56.252, we will omit references to "informal dispute settlement agreements" from this section. This term has been omitted from the definitions section of these regulations and we shall likewise omit the term from this specific regulation.

§ 56.422. Personnel available to restore service.

PGW objects to including in § 56.192 any additional limitations other than those specifically mentioned in § 1406(d).

Discussion:

Leaving aside the fact that § 56.422 is intended for customers and utilities that are exempt from Chapter 14, we disagree with PGW that this section conflicts with Section 1406(d). This longstanding section merely reminds the utility of their obligation to have sufficient personnel available to meet the statutory and regulatory requirements concerning the restoration of service.

§ 56.431. Public information.

PPL recommends that the Commission include a link to the rights and responsibilities booklet on the utility's website and delete the reference to the operation of fuel adjustment clauses for electric distribution companies.

NFG objects to the proposed language in sentence (13) "Information indicating that additional consumer protections are available for victims of domestic violence" because it is misleading as the non-applicability language of Section 1417 specifically refers to "victims under a Protection From Abuse order as provided by 23 Pa. C.S. Ch. 61." There is a potential legal difference between such an individual and "victims of domestic violence." This difference could lead to potentially exploitable confusion. In addition, NFG opines that Chapter 14 does not actually provide any "additional consumer protections" for victims under a Protection From Abuse order. Rather, Chapter 14 does not apply to these individuals.

Action Alliance supports the Commission's proposed language at § 56.91 (b)(17) and §56.331(b)(13) requiring that termination notices include information in, not only the Spanish language, but also "in other languages when census data indicates a significant population using that language resides in the public utility's service territory." Action Alliance requests that a similar provision for other languages also be included in § 56.201 and § 56.431.

PULP supports the Commission's requirement that utilities must publicize changes to the regulations in Chapter 56. PULP asks that the Commission expand § 56.201(13) so that it more fully covers specially identified fragile populations such as people with serious illness or chronic medical conditions, and low-income households.

Discussion:

We agree with PPL that providing and making available this important information via electronic methods has many benefits for both consumers and utilities. This information will be more accessible and always available for consumers, and utilities will save money in the dissemination of this information. We will revise this section to permit the electronic posting of this information on utility websites and dispense with the requirement that written copies be physically mailed to all new customers. Written copies will only be required to be mailed if the customer specifically requests such, as to accommodate consumers that do not have easy access to the internet. This will result in significant cost savings for utilities, while keeping this information readily available to consumers. We also agree with PPL that information on the fuel adjustment charge for electric utilities should no longer be included.

We disagree with NFG's objection to providing Protection From Abuse (PFA) information (line 13) and agree with PPL that this information should be provided. The General Assembly, in Section 1417, clearly intended a customers with a PFA to have a different level of protection from other consumers. It is very unlikely that consumers will know of this provision unless they are informed of it. However, we agree that it would not be appropriate to itemize or promise specific protections in the "Rights and Responsibilities" booklet. We will tweak the language of the phrase to replace "*are* available" to "*may be* available" as to avoid over-stating the protections available because depending on the situation, a PFA may not always be relevant. We also agree with PULP that line (13) should mention that additional protections may be available for those with serious medical conditions and low-income consumers.

We agree with Action Alliance that this information should be made available in Spanish, but decline to place this obligation on utilities. It will simpler and much more cost effective to have the Commission develop a Spanish-language version and make it available on the Commission's website. Utilities could link to this Commission document and thus make it readily available to consumers. This will be far more cost effective than requiring each utility to develop their own Spanish version. If other languages are desired, the Commission can always be asked to make other versions available as well.

§ 56.432. Record maintenance.

Discussion:

In response to the comments submitted relative to § 56.2, definition of informal dispute settlement agreements, we will delete reference to these in this section. We will also insert the word "accessible" in this section since the important thing is that the records need to be accessible somewhere within this Commonwealth; not necessarily that the records are physically located here. This is keeping with our intent to modernize these regulations as to accommodate technological advances, including advances in record retention and access.

§56.452. Applications for modification or exception.

Again, to keep these regulations adaptable to technological advances, we are inserting language in this section as to accommodate the possibility of waivers of these regulations if a technological advance allows a augmented level of customer service. We note that the utility would be compelled to demonstrate in their waiver request how the technological advance would provide a greater level of customer service.

§ 56.453. Inconsistent tariff provisions.

IRRC notes that subchapter U is titled "General Provisions," and contains chapters that discuss the availability of pursuing other Commission procedures not described in the Chapter, as well as permitted applications for modifications or temporary exemptions based on hardship. However, §56.453 states that: "[a] tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter." IRRC raises an issue as to the Commission's statutory authority for this section and questions what is the need for this section, and how will the Commission implement it since the section says the inconsistent tariff provisions are simply "deemed" nonoperative.

Discussion:

Although there is precedent for this authority, the provision is a reflection of current case law that may change, and may, therefore, not be necessary to codify. As a general proposition, a tariff that is inconsistent with the requirements of Commission regulations will not withstand judicial scrutiny. *See e.g. Pennsylvania Public Utility Commission v. Terry*, 368A.2d 1362 (Pa. Cmwlth Ct, 1977).

Appendices:

Equitable suggests revising appendix B to reflect plain language wording: Let us know if someone living in your home is seriously ill or has a medical condition. WE WILL RESTORE YOUR SERVICE provided you: 1) Have your licensed physician or nurse practitioner certify by phone and in writing that such an illness exists and that it may be aggravated if your service is not restored. AND 2) Make arrangements to pay this bill. You must provide us with household income and occupant information to determine your payment terms while protected under the medical certification.

PGW suggests revising Appendices A and B that only a physician can certify a medical condition in writing.

Discussion:

Discussion:

We find some merit in Equitable's suggestion to revise this section to reflect plain language wording. However, we must decline Equitable's suggested language regarding payment arrangements since this could be viewed as a Commission-ordered payment agreement which might conflict with the restrictions on the number of payment agreements the Commission can order under Section 1405(d). Instead, we will revise the language to reflect the revisions we made to §§ 56.116 and 56.356 that require the customer to pay current, undisputed bills while under the protection of a medical certificate. We will also retain the phrase "that will be aggravated by the cessation of service" since this is the standard found in the medical certificate regulations. We also reject PGW's suggestion to limit the language to physicians since Section 1406(f) includes both licensed physicians and nurse practitioners and for reasons discussed relative to §§ 56.111 – 56.118. However, we will include the requirement that the customer obtain a letter from a licensed physician within seven days verifying the condition. We will also be omitting, in its entirety, Appendix F because it is no longer needed given that we are modifying § 56.111 to make medical certificates available to customers for the restoration of terminated service.

ATTACHMENT TWO:

CHAPTER 56 SECTIONS WITH SIGNIFICANT REVISIONS TO THE NOPR PROPOSAL.

L-00060182

§ 56.2. Definition of Billing Month:

(IV) BILLS FOR LESS THAN 26 DAYS OR MORE THAN 35 DAYS SHALL BE PERMITTED IF THEY RESULT FROM A METER READING ROUTE CHANGE INITIATED BY THE PUBLIC UTILITY. THE PUBLIC UTILITY SHALL INFORMALLY CONTACT THE DIRECTOR OF THE BUREAU OF CONSUMER SERVICES AT LEAST 30 DAYS PRIOR TO THE REROUTING AND PROVIDE INFORMATION AS TO WHEN THE BILLING WILL OCCUR, THE NUMBER OF CUSTOMERS AFFECTED AND A GENERAL DESCRIPTION OF THE GEOGRAPHIC AREA INVOLVED. IF A BILL RESULTING FROM A METER RE-ROUTING EXCEEDS 60 DAYS THE CUSTOMER SHALL BE GIVEN THE OPPORTUNITY TO AMORTIZE THE AMOUNT OVER A PERIOD EQUAL TO THE PERIOD COVERED BY THE BILL WITHOUT PENALTY.

- **This language was added to permit utilities to perform routine meter route changes without having the expense or bother of filing petitions with the Commission for permission to do so.**

§ 56.2. Definition of Informal dispute settlement agreement:

~~*Informal dispute settlement agreements*– A mutually agreeable statement of a claim or dispute by a customer or applicant including a proposed resolution of the claim or dispute. An informal dispute settlement agreement is a written document that is provided to the parties or their representatives. An informal dispute settlement agreement offered by a utility must contain the following statement: "If you are not satisfied with this agreement, immediately notify the utility that you are not satisfied. You may file either an informal complaint or a formal complaint before the Public Utility Commission without making yourself subject to retaliation by the Utility." The informal dispute settlement agreement must also contain the information necessary to contact the Commission either in writing or by telephone.~~

- **This definition is being removed in response to numerous negative comments that this NOPR proposal was unnecessary and confusing.**

§ 56.11. Billing frequency.

(a) A public utility shall render a bill once every billing period to every residential [ratepayer] customer in accordance with approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary ~~and the customer retains the option of continuing to receive a paper bill if desired~~ AND ONLY WITH THE PRIOR CONSENT OF THE CUSTOMER. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a 1 ~~month~~ BILLING CYCLE notice of a request to revert to paper billing.

(2) A customer shall receive ~~a visual presentation of an electronic bill in the same format as the~~ THE SAME INFORMATION THAT IS INCLUDED WITH A paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and ~~required~~ educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted UNLESS THE CUSTOMER HAS AFFIRMATIVELY CONSENTED TO THIS METHOD OF DELIVERY. THE ELECTRONIC DELIVERY OF A TERMINATION NOTICE DOES NOT RELIEVE THE PUBLIC UTILITY OF THE OBLIGATION TO PROVIDE TERMINATION NOTICES AS REQUIRED BY §§ 56.91 – 56.98.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund IF THE UTILITY IS ABLE TO ACCEPT HARDSHIP FUND CONTRIBUTIONS BY THIS METHOD.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall maintain a system to ~~ensure delivery of~~ DELIVER electronic bills if the bill is emailed to a customer.

(8) The public utility shall ~~maintain sufficient system security to assure customer privacy~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

- **This section is being revised to eliminate the requirement that utilities provide both hard copy *and* electronic bills to a customer if customer requests. This was seen as unnecessary and costly. Paragraph 2 was also revised to loosen the formatting requirements as to give utility greater flexibility in formatting electronic bills.**

§ 56.12. Meter reading; estimated billing; [ratepayer] customer readings.

(7) [*Equal monthly*] *Budget billing*. A gas, electric and steam heating PUBLIC utility shall provide its residential [ratepayers] customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The public utility shall review accounts at least three times during the optional billing period. AT THE CONCLUSION OF THE BUDGET BILLING YEAR, A resulting reconciliation amount exceeding ~~$25~~ 100 BUT LESS THAN $300 shall be, AT THE REQUEST OF THE CUSTOMER, amortized over a ~~3—12~~ 6-month period. RECONCILIATION AMOUNTS EXCEEDING $300 SHALL BE AMORTIZED OVER AT LEAST A 12-MONTH PERIOD AT THE REQUEST OF THE CUSTOMER. SHORTER AMORTIZATION PERIODS ARE PERMISSIBLE AT THE REQUEST OF THE CUSTOMER. ~~Payment agreements for heating customers shall be based upon equal monthly billing.~~

- **The amortization requirement was made less burdensome for the utility by making the circumstances under which it is required more restrictive. Amortization timeframes were also shortened, and is required only at the request of the customer.**

§ 56.22. Accrual of late payment charges.

(d) A public utility may waive a late payment charge on any customer accounts. The Commission may direct the waiver of late payment charges for customers with a gross income less than or equal to 150% of the Federal poverty level. See 66 Pa.C.S. § 1409 (relating to late payment charge waiver). A PUBLIC UTILITY MAY WAIVE LATE PAYMENT CHARGES ON ANY CUSTOMER ACCOUNTS. THE COMMISSION MAY ONLY ORDER A WAIVER OF ANY LATE PAYMENT CHARGES LEVIED BY A PUBLIC UTILITY AS A RESULT OF A DELINQUENT ACCOUNT FOR CUSTOMERS WITH A GROSS MONTHLY HOUSEHOLD INCOME NOT EXCEEDING 150% OF THE FEDERAL POVERTY LEVEL. SEE PA C.S. § 1409 (RELATING TO LATE PAYMENT CHARGE WAIVER).

~~(e) Additional late payment charges may not be assessed on account balances once the account is no longer actively billed by the public utility.~~

- **The proposed paragraph (e) has been removed based on comments received that indicated the provision was confusing and not necessary. The original intent was to prevent a utility from imposing additional late charges on an account without issuing a bill for the charges.**

§ 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary and ~~may not be required in conjunction with electronic billing~~ A PUBLIC UTILITY MAY NOT REQUIRE A CUSTOMER TO ENROLL IN ELECTRONIC BILL PAYMENT AS A CONDITION FOR ENROLLING IN ELECTRONIC BILLING.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's ~~checking~~ FINANCIAL account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY before the customer enters the program. Program changes shall be conveyed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The public utility shall provide a receipt, OR A CONFIRMATION, TRANSACTION OR REFERENCE NUMBER, either electronically or on paper, to the customer upon payment through the electronic method. THIS REQUIREMENT DOES NOT APPLY IF THE PAYMENT METHOD IS THROUGH A PRE-AUTHORIZED AUTOMATED DEBIT FROM A CUSTOMER'S FINANCIAL ACCOUNT.

(5) The public utility shall ~~maintain sufficient system security to protect customer information and access to customer accounts~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

- **Paragraph (3) was revised to allow the electronic provision of terms and procedures to the customer instead of requiring them to be sent by mail. This should save on paper, printing, handling and postal costs.**

- **Paragraph (4) was revised to remove the receipt requirement in instances when the payment is automatically debited from a customer's account through a pre-authorized agreement. This was based on comments pointing out that these types of transactions have been going on for many years and that in these cases it is the financial institution that provides receipt and tracking information to the customer.**

§ 56.33. [Cash deposits; third] Third-party guarantors.

If an applicant does not establish [his] credit under § 56.32 (relating to [credit standards] security and cash deposits), the public utility shall provide residential service when one of the following requirements is satisfied:

* * * * *

(2) *Third-party guarantor.* [The applicant furnishes a written guarantee from a responsible ratepayer which, for the purposes of this section, shall mean a ratepayer who has or can establish credit, under § 56.32, to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee shall be in writing and shall state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.52--56.57.]

This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility. FOR THE PURPOSES OF THIS SECTION, THE GUARANTOR SHALL MEAN A THIRD-PARTY WHO HAS OR CAN ESTABLISH CREDIT, UNDER § 56.32 (RELATING TO SECURITY AND CASH DEPOSITS).

- **Paragraph (2) was revised to require that a third-party guarantor must be a party that can establish credit with the utility. This was based on comments pointing out that it is nonsensical to allow a party that cannot establish credit to guarantee another party's credit.**

§ 56.35. Payment of outstanding balance.

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly. [However, any such]

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, EXCEPT AS PROVIDED FOR IN PARAGRAPHS (1) AND (2) OF THIS SECTION.

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years FROM THE DATE OF THE SERVICE REQUEST. THE 4-YEAR LIMIT DOES NOT APPLY IF THE BALANCE INCLUDES AMOUNTS THAT THE UTILITY WAS NOT AWARE OF BECAUSE OF FRAUD OR THEFT ON THE PART OF THE APPLICANT.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. PUBLIC UTILITIES MUST INCLUDE IN THEIR TARIFFS FILED WITH THE COMMISSION THE METHODS, OTHER THAN THOSE SPECIFICALLY MENTIONED IN THIS PARAGRAPH, USED TO DETERMINE THE APPLICANT'S LIABILITY FOR ANY OUTSTANDING BALANCE.

(3) ~~Public utilities shall include in their tariffs filed with the Commission the procedures and standards used to determine the applicant's liability for any outstanding balance.~~ Any outstanding residential account with the public utility may be amortized [over a reasonable period of time.

Factors to be taken into account include but are not limited to the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant, and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant] in accordance with § 56.191 (relating to ~~the general rule~~ PAYMENT AND TIMING).

(c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

- **Paragraph (1) was revised to exempt from the four-year limit on assignments of liability any balances that accrued without the utility's knowledge because of theft or deception. Paragraphs (2) and (3) were revised to only require the tariffing of standards not specifically mentioned in this section.**

§ 56.37. General rule.

Once an applicant's application for service is accepted by the public utility, the public utility shall MAKE A BONA FIDE ATTEMPT TO provide service within 3 BUSINESS days, provided that the applicant has met all REGULATORY requirements. A BONA FIDE ATTEMPT TO PROVIDE SERVICE WITHIN 7 BUSINESS DAYS IS PERMISSIBLE IF STREET OR SIDEWALK DIGGING IS REQUIRED. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the public utility shall provide service pending completion of the investigation. IF THE PUBLIC UTILITY CANNOT PROVIDE SERVICE BY THE TIMEFRAMES SPECIFIED BY THIS PARAGRAPH, THEY SHALL INFORM THE CUSTOMER OF THIS FACT AND PROVIDE A REASONABLE ESTIMATE OF WHEN SERVICE WILL BE PROVIDED. THESE REQUIREMENTS DO NOT APPLY TO NEW SERVICE INSTALLATIONS AND SERVICE EXTENSIONS THAT REQUIRE THE CONSTRUCTION OF FACILITIES TO PROVIDE THE PUBLIC UTILITY SERVICE.

- **This section was revised to make clearer that: only a bona fide attempt at providing service is required; that the 3-day limit refers to business days; that seven days is permissible if digging is required; and that none of these limits apply if the construction of facilities is involved. This was done based on utility comments asking for more clarity, and to bring the rule more into alignment with Section 1407(b).**

§ 56.38. Payment period for deposits by applicants.

An applicant REQUIRED TO PAY A DEPOSIT UNDER THE PROVISIONS OF § 56.32 (RELATING TO SECURITY AND CASH DEPOSITS) may ~~elect to pay any required deposits in three installments: 50% payable upon the determination by the public utility that the deposit is~~

~~required, 25% payable 30 days after the determination, and 25% payable 60 days after the determination.~~ BE REQUIRED BY THE PUBLIC UTILITY TO PAY THE DEPOSIT IN FULL PRIOR TO THE PROVISION OF PUBLIC UTILITY SERVICE. ~~A public utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.~~

- **This was a major revision that eliminated the "installment plan" for applicants paying deposits. Applicants paying deposits under § 56.32 must now pay the deposit in full prior to receiving service. While we believe the NOPR proposal was legally supportable, this revision is probably more supportable. However, it does sacrifice simplicity in that deposits now have different payment provisions, depending on the grounds for the deposit and whether the party is a *customer* or an *applicant*. See § 56.42.**

§ 56.42. Payment period for deposits BY CUSTOMERS .

(A) INITIAL DUE DATE. The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.41[(b)] (2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the [ratepayer] customer of notification of the amount due.

(B) DELINQUENT ACCOUNT. A [ratepayer] customer PAYING A DEPOSIT UNDER § 56.41(1) (RELATING TO THE GENERAL RULE) may elect to pay a required deposit in three installments: 50% payable BILLED upon the determination by the public utility that the deposit is required, 25% payable BILLED 30 days after the determination and 25% payable BILLED 60 days after the determination. A customer paying a deposit based on the grounds in § 56.41(2) may be required to pay 50% as part of the conditions for restoration, with 25% payable 60 days later and 25% payable 90 days later. THE CUSTOMER MUST BE INFORMED OF THE OPTION TO PAY THE DEPOSIT IN THE INSTALLMENTS DESCRIBED IN THIS PARAGRAPH. THE CUSTOMER RETAINS THE OPTION TO PAY THE DEPOSIT AMOUNT IN FULL BEFORE THE DUE DATE.

(C) *RECONNECTION OF SERVICE.* A CUSTOMER PAYING A DEPOSIT FOR THE RECONNECTION OF SERVICE UNDER § 56.41(2) (RELATING TO THE GENERAL RULE) MAY BE REQUIRED TO PAY 50% PRIOR TO, AND AS A CONDITION OF, THE RECONNECTION OF SERVICE WITH 25% BILLED 30 DAYS AFTER RECONNECTION OF SERVICE AND 25% BILLED 60 DAYS AFTER THE RECONNECTION OF SERVICE. THE CUSTOMER MUST BE INFORMED OF THE OPTION TO PAY THE DEPOSIT IN THE INSTALLMENTS DESCRIBED IN THIS PARAGRAPH. THE CUSTOMER RETAINS THE OPTION TO PAY THE DEPOSIT AMOUNT IN FULL BEFORE THE DUE DATE.

(D) *FAILURE TO COMPLY WITH A PAYMENT AGREEMENT.* A CUSTOMER PAYING A DEPOSIT UNDER § 56.41(3) (RELATING TO THE GENERAL RULE) MAY BE REQUIRED TO PAY THE DEPOSIT IN FULL UPON THE DETERMINATION OF THE UTILITY THAT A DEPOSIT IS REQUIRED.

- **As noted above in reference to § 56.38, this section was revised to clarify the differing deposit payment periods that are dependent on the grounds for the deposit. This was revised based on comments that insisted the NOPR proposal permitting "installment plans" in all situations was not legally supportable. See discussion relating to § 56.38.**

§ 56.51. Amount of cash deposit.

(a) *Applicants.* A public utility may [not] require a cash deposit [from an applicant in excess of the average estimated bill of the applicant for a period equal to one billing period plus 1 additional month's service, not to exceed 4 months in the case of water and sewage utilities and 2 months in the case of gas, electric and steam heat utilities, with a minimum deposit of $5] equal to 1/6 of the applicant's estimated annual bill CALCULATED ON THE BASIS OF THE ANNUAL BILL TO THE DWELLING AT WHICH SERVICE IS BEING REQUESTED FOR THE PRIOR 12 MONTHS, OR, IF UNAVAILABLE, A SIMILAR DWELLING IN CLOSE PROXIMITY. ~~under the following circumstances:~~

~~(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:~~

~~(i) Nonpayment of an undisputed delinquent account.~~

~~(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.~~

~~(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.~~

~~(iv) Unauthorized use of the utility service delivered on or about the affected dwelling.~~

~~(v) Failure to comply with the material terms of a settlement or payment agreement.~~

~~(vi) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.~~

~~(vii) Tampering with meters, including, but not limited to, bypassing a meter or removal of an automatic meter reading device or other public utility equipment.~~

~~(viii) Violating tariff provisions on file with the Commission to endanger the safety of a person or the integrity of the delivery system of the public utility.~~

~~(2) An applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice.~~

~~(3) A customer who fails to comply with a material term or condition of a settlement or payment agreement.~~

(b) *City natural gas operation.* A city natural gas distribution operation may require a cash deposit from an applicant with a household income no greater than 300% of the Federal poverty level in an amount not in excess of 1/12 of the applicant's estimated annual bill. A city natural gas operation may require a cash deposit from an applicant with a household income level above

300% of the Federal poverty level in the amount of 1/6 of the applicant's estimated annual bill. An estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months, or, if unavailable, a similar dwelling in close proximity.

(c) *Existing* [*ratepayers*] ***customers.*** For an existing [ratepayer] **customer**, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that [ratepayer] **customer** for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of water [and sewage] utilities and 2 months in the case of gas[,] and electric [and steam heat] utilities, with a minimum of $5.

[(c)] (d) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the [ratepayer] customer or the public utility whenever the character or degree of the usage of the [ratepayer] customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

- **While the removed provisions of this section appear significant, in fact this is not a significant change to the regulation. This language was removed because, as comments pointed out, it was information not appropriate to this section in that this section concerns the amount of a deposit, not the grounds for such. Comments also pointed out that this language was superfluous information in that these requirements are found elsewhere (see § 56.32).**

§ 56.72. ~~Discontinuation~~ DISCONTINUANCE of service.

A public utility may discontinue service without prior written notice under the following circumstances:

(1) [*Ratepayer's*] *Customer's residence.* When a [ratepayer] customer requests a discontinuance at ~~his~~ THE CUSTOMER'S residence, when the [ratepayer] customer and members of ~~his~~ THE CUSTOMER'S household are the only occupants. ~~If the account is listed in multiple customer names and the public utility receives a request for discontinuance from just one or more of the customers listed, but not all the customers listed, the customer requesting discontinuance shall state that all the occupants meeting the definition of customer consent to the cessation of service. If consent is not provided, the public utility, at least 3 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.~~

- **The language in paragraph (1) was proposed to address situations where discontinuance is requested for an account that is in multiple names (something that may occur more frequently with Chapter 14 liability rules). However, based on a review of the comments, handling these situations is probably best left to the management discretion of the utility. Many different scenarios are possible and**

creating regulations that would address most of these could be unwieldy and possibly unworkable.

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to [a termination of service, the utility shall mail or deliver written notice to the ratepayer at least 10 days prior to the date of the proposed termination] terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall provide written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice ~~must~~ SHALL remain effective for 60 days. In the event of [any taking or acceptance of utility service without the knowledge or approval of the utility, other than unauthorized use of service] A user without contract as defined in § 56.2 (relating to definitions), the public utility shall comply with §§ 56.93--56.97, but need not ~~otherwise~~ provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of ~~accounts~~ AMOUNTS currently due, including any required deposit.

(3) A statement that a ~~specific~~ reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the public utility on file with the Commission. THE STATEMENT MUST INCLUDE THE MAXIMUM POSSIBLE DOLLAR AMOUNT OF THE RECONNECTION FEE THAT MAY APPLY.

(4) The date on or after which service will be terminated unless ONE OF THE FOLLOWING OCCURS:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement ~~or informal dispute settlement agreement~~ is ~~entered~~ ESTABLISHED.

(iv) Enrollment is made in a ~~universal service~~ CUSTOMER ASSISTANCE program OR ITS EQUIVALENT, IF THE CUSTOMER IS ELIGIBLE FOR THE PROGRAM.

(v) A dispute is filed with the public utility or the Commission.

(VI) PAYMENT IN FULL OF AMOUNTS PAST DUE ON THE MOST RECENT PAYMENT AGREEMENT IS RECEIVED.

(5) A statement that specifies that the notice is valid for 60 days.

(6) A statement that the customer ~~shall~~ SHOULD immediately contact the public utility to attempt to resolve the matter~~, including~~. THE STATEMENT SHALL INCLUDE the address and telephone number where questions may be ~~filed~~ ASKED, HOW payment agreements MAY BE NEGOTIATED AND entered into with the public utility, and WHERE APPLICATIONS CAN BE FOUND AND SUBMITTED FOR ENROLLMENT INTO ~~questions and applications can be found for~~ the public utility's universal service programs, if these programs are offered by the public utility.

(7) The following statement: "If YOU HAVE QUESTIONS OR NEED MORE INFORMATION, CONTACT US AS SOON AS POSSIBLE AT (UTILITY PHONE NUMBER). AFTER ~~discussing your problem with the utility, you remain dissatisfied~~ YOU TALK TO US, IF YOU ARE NOT SATISFIED, you may file ~~an informal~~ A complaint with the Public Utility Commission. ~~TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE, THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE. You may file an informal complaint by telephoning the Public Utility Commission at~~ THE PUBLIC UTILITY COMMISSION MAY DELAY THE SHUT OFF IF YOU FILE THE COMPLAINT BEFORE THE SHUT OFF DATE. TO CONTACT THEM, CALL 1 (800) 692-7380 or ~~by writing~~ WRITE to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(8) A serious illness notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to ~~posttermination~~ POST TERMINATION notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(9) ~~When~~ IF the public utility has universal service programs, information indicating that special assistance programs ~~are~~ MAY BE available and how to contact the public utility for information and enrollment, and that enrollment in the program ~~is~~ MAY BE a method of avoiding the termination of service.

(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty ~~line~~ LEVEL, and the required documentation or information the customer shall supply to avoid termination.

(11) Information indicating that special protections are available for victims under a Protection From Abuse Order and how to contact the public utility to obtain more information on these protections.

(12) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(13) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered 'customers' and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, ~~any~~ AN adult occupant who has been living at the premise may have to pay all or portions of the bill THAT ACCRUED WHILE THE ADULT OCCUPANT LIVED THERE to have service ~~restored~~ TURNED BACK ON.

(15) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service ~~restored~~ TURNED BACK ON.

(17) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages

when census data indicates ~~a significant population~~ THAT FIVE PERCENT OR MORE OF THE RESIDENTS OF THE UTILITY'S SERVICE TERRITORY ARE using that language ~~resides in the public utility's service territory.~~

(18) Contact information for customers with disabilities that need assistance.

~~(19) Notices must reflect to the extent practical the Plain Language Guidelines found in § 69.251 (relating to plain language--statement of policy).~~

- **Most of the revisions to this section are non-substantive language changes to make it more "plain language." However, paragraph (4)(VI) is new and intended to reflect the *Second Implementation* Order. Paragraph (17) was also revised to clarify that information in additional languages is only necessary if a five percent threshold is reached. This was done in reaction to comments that the NOPR proposal was impermissibly vague.**

§ 56.93. Personal contact.

(4) If the ratepayer has not made the designation noted in paragraph (2) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing] attempting to contact the customer or responsible adult occupant, either in person or by telephone, to provide notice of the proposed termination at least 3 days prior to the scheduled termination. If personal contact by one method is not possible, the public utility is obligated to attempt the other method.

(b) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of ~~7~~ 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m and at least 2 hours apart. CALLS MADE TO CONTACT TELEPHONE NUMBERS PROVIDED BY THE CUSTOMER SHALL BE DEEMED TO BE CALLS TO THE RESIDENCE.

(c) If contact is attempted in person by a home visit, only one attempt is required.~~, but the~~ THE public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant DURING THE HOME VISIT.

(d) The content of the 3-day personal contact notice must ~~comply with § 56.91 (relating to general notice provisions and contents of termination notice)~~ INCLUDE THE DATE AND GROUNDS OF THE TERMINATION; WHAT IS NEEDED TO AVOID THE TERMINATION OF SERVICE; HOW TO CONTACT THE PUBLIC UTILITY AND THE COMMISSION; AND THE AVAILABILITY OF THE EMERGENCY MEDICAL PROCEDURES. THE PUBLIC UTILITY SHALL ALSO ASK THE CUSTOMER OR OCCUPANT IF THEY HAVE ANY QUESTIONS ABOUT THE 10-DAY WRITTEN NOTICE THEY HAVE PREVIOUSLY RECEIVED.

- **Paragraph (d) was revised in reaction to comments that the NOPR proposal would be too expensive and impractical to implement. The revision changes the requirement to focus on a few critical pieces of information that the customer needs. This will make the requirement easier to implement, less expensive, and more beneficial for the customer in that it will put the focus on the critical information.**

§ 56.97. Procedures upon [ratepayer] customer or occupant contact prior to termination.

(b) The public utility, through its [employes] employees, shall exercise good faith and fair judgment in attempting to enter a reasonable [settlement] ~~informal dispute settlement agreement or~~ payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable [settlement] ~~informal dispute settlement agreement or~~ payment agreement include the size of the unpaid balance, the ability of the [ratepayer] customer to pay, the payment history of the [ratepayer] customer and the length of time over which the bill accumulated. PAYMENT AGREEMENTS FOR HEATING CUSTOMER SHALL BE BASED UPON BUDGET BILLING AS DETERMINED BY § 56.12(7) (RELATING TO METER READING; ESTIMATED BILLING; CUSTOMER READINGS). If [a settlement] ~~an informal dispute settlement agreement or~~ A payment agreement is not established, the company shall further explain the following:

- **The revision to paragraph (b) concerning budget billing is the result of moving this requirement from § 56.12(7) (as proposed in the NOPR) to this section. This was based on comments that suggested payment agreement requirements are more appropriately placed in § 56.97 than in § 56.12 (which addresses meter reading primarily).**

§ 56.98. [Exception for terminations based on occurrences harmful to person or property] Immediate termination for unauthorized use, fraud, tampering or tariff violations.

(b) Upon termination, the public utility shall make a good faith attempt to provide a posttermination notice to the customer or a responsible person at the affected premises~~, and~~;. IF PROVIDING A POST TERMINATION NOTICE TO THE CUSTOMER OR RESPONSIBLE PERSON AT THE AFFECTED PREMISES IS NOT POSSIBLE, THEN THE PUBLIC UTILITY SHALL CONSPICUOUSLY POST THE NOTICE AT THE AFFECTED PREMISES. ~~in~~ IN the case of a single meter, multiunit dwelling, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.

- **Paragraph (b) was revised to require the posting of a post-termination notice at the premises if it is not possible to provide it directly to the customer. The NOPR proposal required posting only for multi-unit dwellings.**

§ 56.100. Winter termination procedures.

(a) *Water distribution utilities.* Notwithstanding ~~another~~ ANY provision of this chapter, during the period of December 1 through March 31, water distribution utilities subject to this ~~chapter~~ SUBCHAPTER [shall conform to the provisions of this section. The covered utilities may] ~~are~~ MAY not [be] ~~permitted to~~ terminate heat related service between December 1 and March 31 except as provided in this section or in § 56.98 (relating to [exception for terminations based on occurrences harmful to person or property] immediate termination for unauthorized use, fraud, tampering or tariff violations).

(b) *Electric distribution and natural gas distribution utilities.* Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution utility may not terminate ~~heat related~~ service to customers with household incomes at or below 250% of the Federal poverty level except as provided in this section or in § 56.98. The Commission will not prohibit an electric distribution utility or natural gas distribution utility from terminating ~~heat related~~ service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

(c) *City natural gas distribution utility.* In addition to the winter termination authority in subsection (b), a city natural gas distribution operation may terminate service after January 1 and before April 1 to a customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of charges for each of the prior 2 months unless the customer has done one of the following:

(1) Proven in accordance with Commission rules, that the household contains one or more persons who are 65 years of age or over.

(2) Proven in accordance with Commission rules, that the household contains one or more persons 12 years of age or younger.

(3) Obtained a medical certification, in accordance with Commission rules.

(4) Paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last 2 months.

(d) *CITY NATURAL GAS DISTRIBUTION UTILITY ~~Notice~~ NOTICE to the Commission.* At the time that the notice of termination required by § 56.91 (relating to general notice provisions and contents of termination notice) is provided to the customer, the city natural gas distribution operation shall provide notice to the Commission. The Commission will not stay the termination of service unless the Commission finds that the customer meets the criteria in subsection (c)(1), (2), (3) or (4).

(e) *Identification of accounts protected during the winter.* Public utilities shall determine the eligibility of an account for termination during the period of December 1 through March 31 under the criteria in subsections (b) and (c) before terminating service. Public utilities are to use household income and size information they have on record provided by customers to identify accounts that are not to be terminated during the period of December 1 through March 31. Public utilities are expected to solicit from customers, who contact the utility in response to notices of termination, household size and income information and to use this information to determine eligibility for termination. PUBLIC UTILITIES WHO INTEND TO REQUIRE

VERIFICATION OF HOUSEHOLD INCOME INFORMATION SUBMITTED BY CONSUMERS RELATING TO THIS SUBSECTION SHALL INCLUDE, IN THEIR TARIFFS FILED WITH THE COMMISSION, THE PROCEDURES THEY INTEND TO IMPLEMENT TO OBTAIN VERIFICATION. THE PROCEDURES SHOULD SPECIFY THE PROOF OR EVIDENCE THE UTILITY WILL ACCEPT AS VERIFICATION OF HOUSEHOLD INCOME.

(f) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a public utility may not terminate service to a ~~premise~~ PREMISES when the account is in the name of a landlord ratepayer as defined in 66 Pa. C.S. § 1521 (relating to definitions) except for the grounds in § 56.98 (RELATING TO IMMEDIATE TERMINATION FOR UNAUTHORIZED USE, FRAUD, TAMPERING OR TARIFF VIOLATIONS).

(g) *Right of public utility to petition the Commission for permission to terminate service to a customer protected by the prohibitions in this section.*

(1) The public utility shall comply with §§ 56.91--56.95 including personal contact, as defined in § 56.93[(1)] (relating to personal contact), at the premises if occupied.

(2) If at the conclusion of the notification process defined in §§ 56.91--56.95, a reasonable agreement cannot be reached between the public utility and the [ratepayer] customer, the public utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.152 (relating to contents of the utility company report). AT THE SAME TIME, THE PUBLIC UTILITY SHALL SERVE THE CUSTOMER A COPY OF THE WRITTEN REQUEST REGISTERED WITH THE COMMISSION.

(3) If the [ratepayer] customer has filed an informal complaint or if the Commission has acted upon the public utility's written request, the matter shall proceed under §§ 56.161--56.165. Nothing in this section may be construed to limit the right of a public utility or [ratepayer] customer to appeal a decision by the [mediation unit] Bureau of Consumer Services (BCS) under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.171--56.173 and 56.211.

[(4)] (h) *Survey of terminated heat related accounts.* For premises where heat related service has been terminated within the past year for any of the grounds in § 56.81 (relating to authorized termination of services) or § 56.98 (RELATING TO IMMEDIATE TERMINATION FOR UNAUTHORIZED USE, FRAUD, TAMPERING OR TARIFF VIOLATIONS) ~~prior to December 1 of each year~~, [covered] electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall, within 90 days prior to December 1, survey and attempt to make [post-termination] ~~posttermination~~ POST-TERMINATION personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

[(5) Companies] (i) *Reporting of survey results.* Electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall file a brief report outlining their pre-December 1 survey and personal contact results with the Bureau of Consumer Services on or before December 15 of each year. ~~The filing must categorize the accounts by the first three digits of the customer's postal code.~~ Each utility shall update the survey and report the results to the Bureau of Consumer Services on ~~January 15 and~~ February ~~15~~ 1 of each year to reflect any

change in the status of the accounts subsequent to the December 15 filing. FOR THE PURPOSES OF THE FEBRUARY 1 UPDATE OF SURVEY RESULTS, ~~The~~ THE PUBLIC utility shall attempt to contact by telephone, if available, a responsible ADULT PERSON OR occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(j) *Reporting of deaths at locations where public utility service was previously terminated.* Throughout the year, public utilities shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning OR OTHER EVENT that resulted in a death and that the utility service was off at the time of the incident. Within 1 business day of becoming aware of an incident, the public utility shall submit a telephone or electronic report to the Director of the Bureau of Consumer Services including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved, and, if ~~applicable,~~ AVAILABLE FROM AN OFFICIAL SOURCE OR THE MEDIA, the initial findings as to the cause of the incident and the source of that information. The Bureau or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this subsection will be treated in accordance with 66 Pa.C.S. § 1508 (relating to the reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

- **The major revision to this section is removing the "heat-related" distinction that was found in the NOPR. The language in the NOPR applied the winter protection rules only to heat-related accounts. This section has now been revised to protect all accounts. This was done in reaction to comments from parties, including IRRC, that questioned the legality of the NOPR proposal.**

- **Paragraph (e) was revised to address situations where a utility wishes to challenge a customer's claim to being low-income. This was done in response to parties who noted that the NOPR failed to address such situations. The revised language permits a utility to challenge such claims, but requires the utility to note in its tariff what is acceptable verification information.**

- **Paragraph (i) concerning the reporting of cold weather survey results was revised to replace the two follow-up surveys with one. This reflects recent practice and will be easier and less expensive for utilities to implement. The requirement that survey results be reported by postal codes was also eliminated as being something that, while useful, is not necessary and probably not worth the expense and bother.**

- **Paragraph (j) concerning the reporting of deaths has been revised to clarify that utilities only have to report the causes of the incident if the information is available from an official source or the media. The utility is not expected to make such determinations on its own. The requirement was also revised to cover deaths caused by an "other event" as to align it with the Commission's January 2009 Secretarial**

Letter and to make sure a death is not overlooked simply because it was not the result of a cause specifically mentioned in the regulation.

§ 56.117. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the public utility may terminate service without additional written notice, if notice previously has been mailed or delivered WITHIN THE PAST 60 DAYS under § 56.91 (relating to general notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93--56.96.

- **A minor revision in this section specifies that termination may proceed without additional notice as long as a termination notice has been issued within the past 60 days. This is intended to reflect Section 1406(b) language that specifies a 10-day written termination notice is only valid for 60 days.**

§ 56.152. Contents of the utility company report.

(ii) The date on or after which [service will be terminated] ~~the utility will commence termination action~~ SERVICE WILL BE TERMINATED in accordance with the applicable requirements unless the report is complied with, [settlement] ~~informal dispute settlement agreement or~~ A payment agreement entered or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility report, whichever is later. If the utility report is in writing, the information in this paragraph must be ~~presented in a bold font that is at least two font sizes larger than the font used in other sections of the utility report~~ PROMINENTLY DISPLAYED.

- **A minor revision to paragraph (8)(ii) requires that termination threats be "prominently displayed" rather than being in a larger font as specified in the NOPR. This should make this requirement easier and less expensive to implement.**

§ 56.173. [Formal complaint procedures other than appeals] Review from [mediation] informal complaint decisions of the Bureau of Consumer Services.

(a) *Assignment.* [Appeals from] Review of informal complaint [reports] decisions will be heard [de novo by the Commission, a Commissioner or] DE NOVO by ~~an~~ A [Administrative Law Judge] law judge or special agent[:].

[(1)](b) *Filing and docketing.* [Appeals] ~~Complaints~~ A COMPLAINT will be filed and docketed as a formal Commission complaint, under §§ [5.22 and 5.61 (relating to contents of formal complaint; and answers to complaints, petitions and motions)] 1.31--1.38 (relating to requirements for documentary filings).

[(2)](c) *Captions.* The parties to [an appeal] a review will be stated in the caption as they stood upon the record of the informal complaint proceeding[, with]. If the party requesting review is a public utility, the [addition of the] phrase [of] "Complaint Appellant" will be added after [the] its name [of the party taking the appeal].

[(3)*Hearings.* Hearings conducted by a Commissioner or administrative law judge will be held within a reasonable period of time after the filing of the answer. The parties may incorporate portions of the conference report or informal complaint report that they shall agree upon.

(4) *Formal complaint report.* The Commissioner or administrative law judge assigned to the formal complaint will file his report with the Commission within a reasonable period of time after the receipt of the transcribed testimony. Included in the report will be a description of the matter, findings of fact, conclusions of law and other discussion and opinion as is appropriate.

(5)](D) *HEARINGS.* HEARINGS CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE OR SPECIAL AGENT WILL BE HELD WITHIN A REASONABLE PERIOD OF TIME AFTER THE FILING OF THE ANSWER. THE PARTIES MAY INCORPORATE PORTIONS OF THE CONFERENCE REPORT OR INFORMAL DECISION THAT THEY SHALL AGREE UPON.

(E) *FORMAL COMPLAINT DECISION.* THE ADMINISTRATIVE LAW JUDGE OR SPECIAL AGENT ASSIGNED TO THE FORMAL COMPLAINT WILL ISSUE A DECISION WITHIN A REASONABLE PERIOD OF TIME AFTER THE RECEIPT OF THE TRANSCRIBED TESTIMONY. INCLUDED IN THE DECISION WILL BE A DESCRIPTION OF THE MATTER, FINDINGS OF FACT, CONCLUSIONS OF LAW AND OTHER DISCUSSION AND OPINION AS IS APPROPRIATE.

~~(d)~~ (F) *Commission review.* The Commission will review the [report] decision of the assigned administrative law judge or [Commissioner] special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or [Commissioner] special agent for further development of the record or issue a final order. The burden of proof remains with the party WHO ~~filing~~ FILED the formal complaint.

- **This section was revised to make it consistent with § 56.174.**

§ 56.191. ~~General rule~~ PAYMENT AND TIMING.

[When service to a dwelling has been terminated, the utility shall reconnect service by the end of the first full working day after receiving one of the following:

(1) Full payment of an outstanding charge plus a reasonable reconnection fee. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account shall include, but are not be limited to:

(i) The size of the unpaid balance.

(ii) The ability of the ratepayer to pay.

(iii) The payment history of the ratepayer.

(iv)The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to a settlement or payment agreement, plus a reasonable reconnection fee, which may be a part of the settlement or payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the ratepayer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.]

(a) *Fee.* A public utility may require a reconnection fee based upon the public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service. The amount of this fee shall be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, ~~provided the applicant OR CUSTOMER has met all applicable conditions,~~ the public utility shall reconnect service as follows:

(1) *CUSTOMERS*:

(I) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. ~~THE MEDICAL CERTIFICATE MUST BE ACCOMPANIED BY THE PAYMENTS REQUIRED BY THIS SECTION.~~ Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

~~(2)~~ (II) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

~~(3)~~ (III) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

~~(4)~~ (IV) Within 3 calendar days from April 1 to November 30 for proper terminations.

~~(5)~~ (V) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(2) *APPLICANTS:* PROVIDED THE APPLICANT HAS MET ALL APPLICABLE CONDITIONS:

(I), WITHIN 24 HOURS FOR ERRONEOUS TERMINATIONS OR UPON RECEIPT BY THE PUBLIC UTILITY OF A VALID MEDICAL CERTIFICATION. THE PUBLIC UTILITY IS NOT REQUIRED TO MODIFY OR ELIMINATE THE PAYMENT REQUIRED TO RESTORE SERVICE IF A MEDICAL CERTIFICATE IS PRESENTED. ERRONEOUS TERMINATIONS INCLUDE INSTANCES WHEN THE GROUNDS FOR TERMINATION WERE REMOVED BY THE CUSTOMER PAYING THE AMOUNT NEEDED TO AVOID TERMINATION PRIOR TO THE TERMINATION OF THE SERVICE.

(II) WITHIN 24 HOURS FOR TERMINATIONS AND RECONNECTIONS OCCURRING AFTER NOVEMBER 30 AND BEFORE APRIL 1.

(III) WITHIN 3 CALENDAR DAYS FOR ERRONEOUS TERMINATIONS REQUIRING STREET OR SIDEWALK DIGGING.

(IV) WITHIN 3 CALENDAR DAYS FROM APRIL 1 TO NOVEMBER 30 FOR PROPER TERMINATIONS.

(V) WITHIN 7 CALENDAR DAYS FOR PROPER TERMINATIONS REQUIRING STREET OR SIDEWALK DIGGING.

(c) *Payment to restore service.*

(1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order. A PUBLIC UTILITY SHALL ALSO INFORM THE APPLICANT OR CUSTOMER THAT THE TIMING AND CONDITIONS FOR RESTORATION OF SERVICE MAY DIFFER IF SOMEONE IN THE HOUSEHOLD IS SERIOUSLY ILL OR AFFECTED BY A MEDICAL CONDITION WHICH WILL BE AGGRAVATED WITHOUT UTILITY SERVICE. ~~THE PUBLIC UTILITY IS NOT REQUIRED TO MODIFY OR ELIMINATE THE PAYMENT REQUIRED TO RESTORE SERVICE IF A MEDICAL CERTIFICATE IS PRESENTED.~~

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment agreements. For purposes of this section, neither a payment agreement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment agreement that has been paid in full by the customer, are to be considered A DEFAULT. BUDGET BILLING PLANS AND AMORTIZATION OF BUDGET PLAN RECONCILIATION AMOUNTS UNDER § 56.12(7) (RELATING TO METER READING; ESTIMATED BILLINGS; CUSTOMER READINGS) MAY NOT BE CONSIDERED A DEFAULT FOR THE PURPOSES OF THIS SECTION.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months

to pay the outstanding balance required for reconnection. For purposes of this paragraph, a life event is:

(A) A job loss that extends beyond 9 months.

(B) A serious illness that extends beyond 9 months.

(C) Death of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment REQUIRED toward the outstanding balance ~~required~~ as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment REQUIRED toward the outstanding balance ~~required~~ as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises AS A CONDITION TO RESTORE SERVICE.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant OR CUSTOMER resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant OR CUSTOMER resided there, not exceeding 4 years PRIOR TO THE DATE OF REQUESTING THAT SERVICE BE RESTORED~~, except for instances of fraud and theft~~. THE 4 YEAR LIMIT DOES NOT APPLY IN INSTANCES OF FRAUD AND THEFT.

(e) *Approval.* A public utility may establish that an applicant OR CUSTOMER previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the ~~procedures and standards~~ METHODS, OTHER THAN THOSE SPECIFICALLY MENTIONED IN THIS PARAGRAPH, used to determine liability for outstanding balances.

- **Paragraph (b) was revised to clarify the use of medical certificates to restore terminated service for customers and applicants, and to distinguish the different standards for these two groups.**

- **Paragraph (c)(1) was revised to require the utility to inform terminated customers of medical certificate rights. This is intended to allow effective implementation of the requirement at Section 1407(b)(1) that service be restored within 24 hours for a medical certificate.**

- **Paragraph (c)(2)(i) was revised to specify more amortization plans, including budget billing plans, that should not be considered as a "payment agreement" when a utility is applying the provision that allows the utility to require the full account balance if a customer has defaulted on two payment agreements. This was done in reaction to comments that found the NOPR proposal helpful but incomplete.**

- **Paragraph (d) was revised to exclude from the 4-year limit on liability determinations any amounts that accrued due to theft and fraud.**

- **Paragraph (e) was revised to require that utilities only tariff those standards for liability determinations that are not specifically mentioned in the regulation.**

§ 56.201. Public information.

(A) In addition to the notice requirements [set forth] in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its [ratepayers] customers affected by the change. Summaries [shall] will be mailed by the public utility to each [ratepayer] customer of the public utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the public utility and its [ratepayers] customers in accordance with this chapter, shall be in writing, shall be reproduced by the public utility, shall be displayed prominently, SHALL BE AVAILABLE ON THE PUBLIC UTILITY'S WEBSITE IF THE UTILITY HAS ONE, and shall be available at all public utility office locations open to the general public. ~~This information be delivered or mailed to each new [ratepayer] customer of the public utility upon the commencement of service and be available at all times upon request.~~ THE PUBLIC UTILITY SHALL INFORM NEW CUSTOMERS OF THE AVAILABILITY OF THIS INFORMATION AND DIRECT WHERE TO LOCATE IT ON THE PUBLIC UTILITY'S WEBSITE. THE PUBLIC UTILITY SHALL DELIVER OR MAIL A COPY UPON THE REQUEST OF A CUSTOMER OR APPLICANT.

- **This section was revised to permit utilities to place their "rights and responsibilities" information on their website as opposed to having to mail hard copies to all new customers. This will save paper, printing, handling and postage costs.**

§ 56.231. Reporting requirements.

(17) The total number of reconnections for full customer payment, PARTIAL PAYMENT OR PAYMENT AGREEMENT. ~~Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(18) The total number of reconnections for partial customer payment or payment agreement. Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(19)~~ (18) The total number of reconnections for customer submission of medical certification. ~~Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(20)~~ (19) The total number of reconnections for reasons other than customer payment or medical certification. ~~Categorize into five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(21)~~ (20) The total number of applicants that are requested TO PAY or ARE billed a security deposit.

- **Paragraphs 17 – 20 were revised by removing the requirement that reconnection data be submitted according to federal poverty level. Some comments objected to the cost and usefulness of this information. Eliminating this requirement will make meeting these requirements easier. This data is also not entirely necessary, especially since termination data (lines 14-16) is not reported by federal poverty level.**

§ 56.252. Definitions.

- **Most of the definitions "added" to this section were in fact in the NOPR as adopted by the Commission. They were omitted by the *Pennsylvania Bulletin*. We are merely adding them back in.**

§ 56.261. Billing frequency.

(a) A utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules.

(b) A utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following:

(1) The electronic billing option is voluntary and ~~the customer retains the option of continuing to receive a paper bill if desired~~ ONLY WITH THE PRIOR CONSENT OF THE CUSTOMER. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the utility with a 1 ~~month~~ BILLING CYCLE notice of a request to revert to paper billing.

(2) A customer shall receive ~~a visual presentation of an electronic bill in the same format as~~ the SAME INFORMATION THAT IS INCLUDED WITH A paper bill issued by the utility.

(3) The electronic bill must include the same disclosures and ~~required~~ educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted UNLESS THE CUSTOMER HAS AFFIRMATIVELY CONSENTED TO THIS METHOD OF DELIVERY. THE ELECTRONIC DELIVERY OF A TERMINATION NOTICE DOES NOT RELIEVE THE PUBLIC UTILITY OF THE OBLIGATION TO PROVIDE TERMINATION NOTICES AS REQUIRED BY §§ 56.331 – 56.338.

(4) The electronic bill must include all required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the utility's hardship fund IF THE UTILITY IS ABLE TO ACCEPT HARDSHIP FUND CONTRIBUTIONS BY THIS METHOD.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The utility shall maintain a system to ~~ensure delivery of~~ DELIVER electronic bills if the bill is emailed to a customer.

(8) The utility shall ~~maintain sufficient system security to assure customer privacy~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

- **Paragraph (1) is being revised to eliminate the requirement that utilities provide both hard copy *and* electronic bills to a customer if the customer requests because this proposal was seen as unnecessary and costly. Paragraph (2) was also revised to**

loosen the formatting requirements as to give utility greater flexibility in formatting electronic bills.

§ 56.262. Meter reading; estimated billing; customer readings.

(7) *Budget billing.* A gas, electric and steam heating utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The utility shall review accounts at least three times during the optional billing period. AT THE CONCLUSION OF THE BUDGET BILLING YEAR, ANY ~~Any~~ resulting reconciliation amount exceeding ~~$25~~ $100 BUT LESS THAN $300 shall be, AT THE REQUEST OF THE CUSTOMER, amortized over a ~~3—12~~ **6** month period. RECONCILIATION AMOUNTS EXCEEDING $300 SHALL BE AMORTIZED OVER AT LEAST A 12 MONTH PERIOD AT THE REQUEST OF THE CUSTOMER. ~~Payment agreements for heating customers are to be based upon equal monthly billing.~~

- **The amortization requirement in paragraph (7) was made less burdensome for the utility by making the circumstances under which amortization is required more restrictive. Amortization timeframes were also shortened, and is required only at the request of the customer.**

§ 56.272. Accrual of late payment charges.

(a) Every utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue utility bill, as defined in § 56.271 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility may waive late payment charges on any customer accounts.

~~(e) Additional late payment charges may not be assessed on account balances once the account is no longer actively billed by the utility.~~

- **The proposed paragraph (e) has been removed based on comments received that indicated the provision was confusing and not necessary. The original intent was to**

prevent a utility from imposing additional late charges on an account without issuing a bill for the charges.

§ 56.275. Electronic bill payment.

A utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary and ~~may not be required in conjunction with electronic billing~~ A UTILITY MAY NOT REQUIRE A CUSTOMER TO ENROLL IN ELECTRONIC BILL PAYMENT AS A CONDITION FOR ENROLLING IN ELECTRONIC BILLING.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's ~~checking~~ FINANCIAL account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY before the customer enters the program. Program changes shall be conveyed to the customer in writing, EITHER MY MAIL OR ELECTRONICALLY and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The utility shall provide a receipt, OR A CONFIRMATION, TRANSACTION OR REFERENCE NUMBER, either electronically or on paper, to the customer upon payment through the electronic method. THIS REQUIREMENT DOES NOT APPLY IF THE PAYMENT METHOD IS THROUGH A PRE-AUTHORIZED AUTOMATED DEBIT FROM A CUSTOMER'S FINANCIAL ACCOUNT.

(5) The utility shall ~~maintain sufficient system security to protect all customer information and all access to customer accounts~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FORM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

- **Paragraph (3) was revised to allow the electronic provision of terms and procedures to the customer instead of requiring them in writing. This should save on paper, printing, handling and postal costs.**

- **Paragraph (4) was revised to remove the receipt requirement in instances when the payment is automatically debited from a customer's account through a pre-authorized agreement. This was based on comments pointing out that these types of transactions have been going on for many years and that in these cases it is the financial institution that provides receipt and tracking information to the customer.**

§ 56.287. General rule.

Once an applicant's application for service is accepted by the utility, the utility shall MAKE A BONA FIDE ATTEMPT TO provide service within 3 BUSINESS days, provided that the applicant has met all REGULATORY requirements. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the utility shall provide service pending completion of the investigation. IF THE UTILITY CANNOT PROVIDE SERVICE BY THE TIMEFRAMES SPECIFIED BY THIS PARAGRAPH, THEY SHALL INFORM THE CUSTOMER OF THIS FACT AND PROVIDE A REASONABLE ESTIMATE OF WHEN SERVICE WILL BE PROVIDED. THESE REQUIREMENTS DO NOT APPLY TO NEW SERVICE INSTALLATIONS AND SERVICE EXTENSIONS THAT REQUIRE CONSTRUCTION OF FACILITIES TO PROVIDE THE UTILITY SERVICE.

- **This section was revised to make clearer that: only a bona fide attempt at providing service is required; that the 3-day limit refers to business days; that seven days is permissible if digging is required; and that none of these limits apply if the construction of facilities is involved. This was done based on utility comments asking for more clarity.**

§ 56.312. ~~Discontinuation~~ DISCONTINUANCE of service.

A utility may discontinue service without prior written notice under the following circumstances:

(1) *Customer's residence.* When a customer requests a discontinuance at ~~his~~ THE CUSTOMER'S residence, when the customer and members of the household are the only occupants, ~~if the account is listed in multiple customer names and the utility receives a request for discontinuance from just one or more of the customers listed, but not all the customers listed, the customer requesting discontinuance shall state that all the occupants meeting the definition of "customer" consent to the cessation of service. If consent is not provided, the utility, at least 3 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.~~

- **The language in paragraph (1) was proposed to address situations where discontinuance is requested for an account that is in multiple names (something that may occur more frequently with Chapter 14 liability rules). However, based on a review of the comments, handling these situations is probably best left to the management discretion of the utility. Many different scenarios are possible and creating regulations that would address most of these could be unwieldy and possibly unworkable.**

§ 56.331. General notice provisions and contents of termination notice.

(a) Prior to a termination of service, the utility shall mail or deliver written notice to the customer at least 10 days prior to the date of the proposed termination. In the event of A user without contract as defined in § 56.252 (relating to definitions), the utility shall comply with §§ 56.333--56.337, but need not ~~otherwise~~ provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of ~~accounts~~ AMOUNTS currently due, including any required deposit.

(3) A statement that a ~~specific~~ reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the utility on file with the Commission. THE STATEMENT MUST INCLUDE THE MAXIMUM POSSIBLE DOLLAR AMOUNT OF THE RECONNECTION FEE THAT MAY APPLY.

(4) The date on or after which service will be terminated unless ONE OF THE FOLLOWING OCCURS:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement ~~or informal dispute settlement agreement~~ is ~~entered~~ ESTABLISHED.

(iv) Enrollment is made in a ~~universal service~~ CUSTOMER ASSISTANCE program OR ITS EQUIVALENT, IF THE CUSTOMER IS ELIGIBLE FOR THE PROGRAM.

(v) A dispute is filed with the utility or the Commission.

(VI) PAYMENT IN FULL OF AMOUNTS PAST DUE ON THE MOST RECENT PAYMENT AGREEMENT IS RECEIVED.

(5) A statement that the customer ~~shall~~ SHOULD immediately contact the utility to attempt to resolve the matter~~, including~~. THE STATEMENT SHALL INCLUDE the address and telephone number where questions may be ~~filed~~ ASKED, HOW payment agreements MAY BE NEGOTIATED AND entered into with the utility, and ~~questions and applications can be found for~~ WHERE APPLICATIONS CAN BE FOUND AND SUBMITTED FOR ENROLLMENT INTO the utility's universal service programs, if these programs are offered by the utility.

(6) The following statement: "If YOU HAVE QUESTIONS OR NEED MORE INFORMATION, CONTACT US AS SOON AS POSSIBLE AT (UTILITY PHONE NUMBER)~~;~~. AFTER ~~discussing your problem with the utility~~ YOU TALK TO US, ~~you remain dissatisfied,~~ IF YOU ARE NOT SATISFIED, you may file ~~an informal~~ A complaint with the Public Utility Commission. ~~TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE, THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE.~~ THE PUC MAY DELAY THE SHUT OFF IF YOU FILE THE COMPLAINT BEFORE THE SHUT OFF DATE. ~~You may file an informal complaint by telephoning the Public Utility Commission at~~ TO CONTACT THEM, CALL (800) 692-7380 or ~~by writing~~ WRITE to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(7) A serious illness notice in compliance with the form as set forth in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.336 (relating to ~~posttermination~~ POST TERMINATION notice), the notice must ~~substantially~~ comply with the form ~~as set forth~~ in Appendix B (relating to medical emergency notice).

(8) ~~When~~ IF the utility has universal service programs, information indicating that special assistance programs ~~are~~ MAY BE available and how to contact the utility for information and enrollment, and that enrollment in the program ~~is~~ MAY BE a method of avoiding the termination of service.

(9) Information indicating that special protections are available for victims under a Protection From Abuse Order and how to contact the utility to obtain more information on these protections.

(10) Information indicating that special protections are available for tenants if the landlord is responsible for paying the utility bill and how to contact the utility to obtain more information on these protections.

(11) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(12) Information indicating that if service is shut off, the customer shall contact the utility after payment has been made to arrange reconnection of the service.

(13) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates ~~a significant population~~ THAT FIVE PERCENT OR MORE OF THE RESIDENTS OF THE UTILITY'S SERVICE TERRITORY ARE using that language ~~resides in the public utility's service territory~~.

(14) Contact information for customers with disabilities that need assistance.

~~(15) Notices should reflect to the extent practical the plain language guidelines found in § 69.251 (relating to plain language--statement of policy).~~

- **Most of the revisions to this section are non-substantive language changes to make it more "plain language." However, paragraph (4)(VI) is new and intended to reflect the *Second Implementation* Order. Paragraph (13) was also revised to clarify that the requirement that information in additional languages is only necessary if a five percent threshold is reached. This was done in reaction to comments that the NOPR proposal was impermissibly vague.**

§ 56.333. Personal contact.

(a) Except when authorized under §§ 56.311, 56.312 or 56.338 (relating to interruption of service; discontinuation of service; and exception for terminations based on occurrences harmful to person or property), a utility may not interrupt, discontinue or terminate service without personally contacting the customer or a responsible adult occupant at least 3 days prior to the

interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required by this chapter or other Commission directive.

(b) For purposes of this section, "personal contact" means:

(1) Contacting the customer or responsible adult occupant in person or by telephone. Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between ~~7~~ **8** a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. CALLS MADE TO CONTACT TELEPHONE NUMBERS PROVIDED BY THE CUSTOMER SHALL BE DEEMED TO BE CALLS TO THE RESIDENCE.

(2) If contact is attempted in person by a home visit, only one attempt is required, but the utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant.

(3) Contacting another person whom the customer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(4) If the customer has not made the designation noted in paragraph (3), contacting a community interest group or other entity, including a local police department, which previously shall have agreed to receive a copy of the notice of termination and to attempt to contact the customer.

(5) If the utility is not successful in establishing personal contact as noted in paragraphs (1) and (2) and the customer has not made the designation noted in paragraph (3) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing.

(c) The content of the 3-day personal contact notice must ~~comply with § 56.331 (relating to general notice provisions and contents of termination notice)~~ INCLUDE THE DATE AND GROUNDS OF THE TERMINATION; WHAT IS NEEDED TO AVOID THE TERMINATION OF SERVICE; HOW TO CONTACT THE PUBLIC UTILITY AND THE COMMISSION; AND THE AVAILABILITY OF THE EMERGENCY MEDICAL PROCEDURES. THE PUBLIC UTILITY SHALL ALSO ASK THE CUSTOMER OR OCCUPANT IF THEY HAVE ANY QUESTIONS ABOUT THE 10-DAY WRITTEN NOTICE THEY PREVIOUSLY PROVIDED.

- **Paragraph (c) was revised in reaction to comments that the NOPR proposal would be too expensive and impractical to implement. The revision changes the requirement to focus on a few, critical pieces of information that the customer needs. This will make the requirement easier to implement, less expensive, and more beneficial for the customer in that it will put the focus on the critical information.**

§ 56.337. Procedures upon customer or occupant contact prior to termination.

(b) The utility, through its employees, shall exercise good faith and fair judgment in attempting to enter a reasonable ~~informal dispute settlement agreement or~~ payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a

reasonable informal dispute settlement agreement or payment agreement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. PAYMENT AGREEMENTS FOR HEATING CUSTOMERS SHALL BE BASED UPON BUDGET BILLING AS DETERMINED BY § 56.12(7) (RELATING TO METER READING; ESTIMATED BILLING; CUSTOMER READINGS). If ~~an informal dispute settlement agreement or~~ A payment agreement is not established, the company shall further explain the following:

- **The revision to paragraph (b) concerning budget billing is the result of moving this requirement from § 56.262(7) (as proposed in the NOPR) to this section. This was based on comments that suggested payment agreement requirements are more appropriately placed in § 56.337 than in § 56.262 (which addresses meter reading primarily).**

§ 56.340. Winter termination procedures.

Notwithstanding ~~another~~ ANY provision of this chapter, during the period of December 1 through March 31, utilities subject to this ~~chapter~~ SUBCHAPTER shall conform to the provisions of this section. The covered utilities may not ~~be permitted to~~ terminate ~~heat related~~ service between December 1 and March 31 except as provided in this section or in § 56.338 (relating to exception for terminations based on occurrences harmful to person or property).

(1) *Termination notices.* The utility shall comply with §§ 56.331--56.335 including personal contact, as defined in § 56.333 (relating to personal contact), at the premises if occupied.

(2) *Request for permission to terminate service.* If at the conclusion of the notification process defined in §§ 56.331--56.335, a reasonable agreement cannot be reached between the utility and the customer, the utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.382 (relating to contents of the utility company report). AT THE SAME TIME, THE UTILITY SHALL SERVE THE CUSTOMER A COPY OF THE WRITTEN REQUEST REGISTERED WITH THE COMMISSION.

(3) *Informal complaints.* If the customer has filed an informal complaint or if the Commission has acted upon the utility's written request, the matter shall proceed under §§ 56.391--56.394 (relating to informal complaint procedures). Nothing in this section may be construed to limit the right of a utility or customer to appeal a decision by the Bureau of Consumer Services (BCS) under 66 Pa. C.S. § 701 (relating to complaints) and §§ 56.401--56.403 and 56.441.

(4) *Survey of premises previously terminated.* For premises where heat related service has been terminated prior to December 1 of each year, covered utilities shall, within 90 days prior to December 1, survey and attempt to make ~~postermination~~ POST TERMINATION personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(5) *Reporting of survey results.* Utilities subject to this ~~chapter~~ SUBCHAPTER shall file a brief report outlining their pre-December 1 survey and personal contact results with the BCS on or

before December 15 of each year. ~~The filing must categorize the accounts by the first three digits of the customer's postal code.~~ Each utility shall update the survey and report the results to the BCS on ~~January 15 and~~ February ~~15~~ 1 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. FOR THE PURPOSES OF THE FEBRUARY 1 UPDATE OF SURVEY RESULTS, ~~The~~ THE utility shall attempt to contact by telephone, if available, a responsible ADULT PERSON OR occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(6) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a utility subject to this ~~chapter~~ SUBCHAPTER may not terminate service to a ~~premise~~ PREMISES when the account is in the name of a landlord ratepayer as defined at 66 Pa. C.S. § 1521 (related to definitions) except for the grounds in § 56.338 (RELATING TO EXCEPTION FOR TERMINATIONS BASED ON OCCURRENCES HARMFUL TO PERSON OR PROPERTY).

(7) *Reporting of deaths at locations where utility service was previously terminated.* Throughout the year, utilities subject to this ~~chapter~~ SUBCHAPTER shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning OR ANOTHER EVENT that resulted in a death and that the utility service was off at the time of the incident. Within 1 working day of becoming aware of an incident, the utility shall submit a telephone or electronic report to the Director of the BCS including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved, and, if ~~applicable~~ AVAILABLE FROM AN OFFICIAL SOURCE OR THE MEDIA, the initial findings as to the cause of the incident and the source of that information. The BCS or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this paragraph shall be treated in accordance with 66 Pa. C.S. § 1508 (relating to the reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

- **The major revision to this section is removing the "heat-related" distinction that was found in the NOPR. The language in the NOPR applied the winter protection rules only to heat-related accounts. This section has now been revised to protect all accounts. This was done in reaction to comments from parties, including IRRC, that questioned the legality of the NOPR proposal.**

- **Paragraph (5) concerning the reporting of cold weather survey results was revised to replace the two follow-up surveys with one. This reflects recent practice and will be easier and less expensive for utilities to implement. The requirement that survey results be reported by postal codes was also eliminated as being something that, while useful, is not necessary and probably not worth the expense and bother.**

- **Paragraph (7) concerning the reporting of deaths has been revised to clarify that utilities only have to report the causes of the incident if the information is available from an official source or the media. The utility is not expected to make such determinations on its own. The requirement was also revised to cover deaths caused by an "other event" as to align it with the Commission's January 2009 Secretarial**

Letter and to make sure a death is not overlooked simply because it was not the result of a cause specifically mentioned in the regulation.

§ 56.351. General provision.

A utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking ~~restoration~~ RECONNECTION of PREVIOUSLY TERMINATED service under § 56.421 (relating to general rule) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician or nurse practitioner verifying the condition and shall promptly forward it to the utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the utility. A utility may not impose any qualification standards for medical certificates other than those listed in this section.

- **A minor revision in this section clarifies that it is only applicants seeking reconnection of previously terminated service that are eligible for medical certificates; rather than *all* applicants. For example, this would exclude applicants seeking to establish new service and trying to circumvent the credit screening at §56.282.**

§ 56.357. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the utility may terminate service without additional written notice, if notice previously has been mailed or delivered WITHIN THE PAST 60 DAYS under § 56.331 (relating to general notice provisions and contents of termination notice). The utility shall comply with §§ 56.333--56.336.

- **A minor revision in this section specifies that termination may proceed without additional notice as long as a termination notice has been issued within the past 60 days. This is intended to reflect Section 1406(b) language that specifies a 10-day written termination notice is only valid for 60 days and to provide this same protection to customers with a PFA.**

§ 56.382. Contents of the utility company report.

(ii) The date on or after which ~~the utility will commence termination action~~ SERVICE WILL BE TERMINATED in accordance with the applicable requirements unless the report is complied with, ~~informal dispute settlement agreement~~ or payment agreement entered or an informal

complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility report, whichever is later. If the utility report is in writing, the information in this paragraph shall be ~~presented in a bold font that is at least 2 font sizes larger than the font used in other sections of the utility report~~ PROMINENTLY DISPLAYED.

- **A minor revision to paragraph (8)(ii) requires that termination threats only be "prominently displayed" rather than in a larger font as specified in the NOPR. This should make this requirement easier and less expensive to implement.**

§ 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.

(a) *Assignment.* Review of informal complaint decisions will be heard DE NOVO by an administrative law judge or special agent.

(b) *Filing and docketing.* ~~Complaints~~ A COMPLAINT will be filed and docketed as a formal Commission complaint, under §§ 1.31--1.38 (relating to REQUIREMENTS FOR documentary filings).

(c) *Captions.* The parties to A review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a utility, the phrase "Complaint Appellant" will be added after its name.

(D) *HEARINGS.* HEARINGS CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE OR A SPECIAL AGENT WILL BE HELD WITHIN A REASONABLE PERIOD OF TIME AFTER THE FILING OF THE ANSWER. THE PARTIES MAY INCORPORATE PORTIONS OF THE CONFERENCE REPORT OR INFORMAL COMPLAINT DECISION THAT THEY SHALL AGREE UPON.

(E) *FORMAL COMPLAINT DECISION.* THE ADMINISTRATIVE LAW JUDGE OR SPECIAL AGENT ASSIGNED TO THE FORMAL COMPLAINT WILL ISSUE A DECISION WITH THE COMMISSION WITHIN A REASONABLE PERIOD OF TIME AFTER THE RECEIPT OF THE TRANSCRIBED TESTIMONY. INCLUDED IN THE DECISION WILL BE A DESCRIPTION OF THE MATTER, FINDINGS OF FACT, CONCLUSIONS OF LAW AND OTHER DISCUSSION AND OPINION AS IS APPROPRIATE.

~~(d)~~ (F) *Commission review.* The Commission will review the decision of the assigned administrative law judge or special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or special agent for further development of the record or issue a final order. The burden of proof remains with the party WHO ~~filing~~ FILED the formal complaint.

- **This section was revised to make it consistent with § 56.404.**

§ 56.421. ~~General rule~~ PAYMENT AND TIMING.

When service to a dwelling has been terminated, the utility shall reconnect service ~~by the end of the first full working day~~ WITHIN 24 HOURS after receiving one of the following:

(1) Full payment of an outstanding charge plus ~~a reasonable~~ THE reconnection fee SPECIFIED IN THE UTILITY'S TARIFF ON FILE WITH THE COMMISSION. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account include, but are not limited to:

(i) The size of the unpaid balance.

(ii) The ability of the customer to pay.

(iii) The payment history of the customer.

(iv) The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to ~~an informal dispute settlement agreement or~~ A payment agreement, plus a reasonable reconnection fee, which may be a part of the ~~informal dispute settlement agreement or~~ payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the customer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order. FOR PURPOSES OF THIS SECTION, NEITHER AN AMORTIZATION OF A MAKE-UP BILL UNDER § 56.264 (RELATING TO PREVIOUSLY UNBILLED UTILITY SERVICE) OR §56.252 DEFINITION OF A BILLING MONTH (RELATING TO DEFINITIONS), NOR A PAYMENT AGREEMENT THAT HAS BEEN PAID IN FULL BY THE CUSTOMER, ARE TO BE CONSIDERED DEFAULTS. BUDGET BILLING PLANS AND AMORTIZATION OF BUDGET PLAN RECONCILIATION AMOUNTS UNDER § 56.262(7) (RELATING TO METER READING; ESTIMATED BILLINGS; CUSTOMER READINGS) SHALL ALSO NOT BE CONSIDERED DEFAULTS FOR THE PURPOSES OF THIS SECTION.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.

(4) Service shall be restored within 24 hours for erroneous terminations or upon receipt by the utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(5) Service shall be restored within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(6) A CUSTOMER OR APPLICANT OF A CITY NATURAL GAS DISTRIBUTION OPERATION WHOSE HOUSEHOLD INCOME DOES NOT EXCEED 135% OF THE FEDERAL POVERTY LEVEL SHALL BE REINSTATED UNDER THIS SUBSECTION ONLY IF THE CUSTOMER OR APPLICANT ENROLLS IN THE CUSTOMER ASSISTANCE PROGRAM OF THE CITY NATURAL GAS DISTRIBUTION OPERATION. THIS REQUIREMENT MAY NOT APPLY IF THE FINANCIAL BENEFITS TO THE

CUSTOMER OR APPLICANT ARE GREATER IF SERVED OUTSIDE OF THAT ASSISTANCE PROGRAM.

(7) A UTILITY SHALL PROVIDE FOR AND INFORM THE APPLICANT OR CUSTOMER OF A LOCATION WHERE THE CUSTOMER CAN MAKE PAYMENT TO RESTORE SERVICE. A UTILITY SHALL INFORM THE APPLICANT OR CUSTOMER THAT CONDITIONS FOR RESTORATION OF SERVICE MAY DIFFER IF SOMEONE IN THE HOUSEHOLD IS A VICTIM OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER OR IS SERIOUSLY ILL OR AFFECTED BY A MEDICAL CONDITION WHICH WILL BE AGGRAVATED WITHOUT UTILITY SERVICE.

- **Paragraph (2) was revised to specify more amortization plans, including budget billing plans, that should not be considered as a "payment agreement" when a utility is applying the provision that allows the utility to require the full account balance if a customer has defaulted on two payment agreements. This was done in reaction to comments that found the NOPR proposal helpful but incomplete.**

- **Paragraph (6) was added to provide a PGW customer with a PFA the same rights as any other customer to have service restored upon enrollment in PGW's CAP, if they are so eligible.**

- **Paragraph (7) was added to provide a customer with a PFA the same information rights as any other customer. This includes information on medical certificates, where to make payments, and PFA protections.**

§ 56.431. Public information.

(A) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the utility and its customers affected by the change. Summaries will be mailed by the utility to each customer of the utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the utility and its customers in accordance with this chapter, ~~must~~ SHALL be in writing, SHALL be reproduced by the utility, SHALL be displayed prominently, SHALL BE AVAILABLE ON THE UTILITY'S WEBSITE, IF THE COMPANY HAS ONE, and SHALL be available at all utility office locations open to the general public. ~~This information shall be delivered or mailed to each new customer of the utility upon the commencement of service and shall be available at all times upon request.~~ THE PUBLIC UTILITY SHALL INFORM NEW CUSTOMERS OF THE AVAILABILITY OF THIS INFORMATION AND DIRECT WHERE TO LOCATE IT ON THE UTILITY'S WEBSITE. THE UTILITY SHALL DELIVER OR MAIL A COPY UPON THE REQUEST OF A CUSTOMER OR APPLICANT.

- **This section was revised to permit utilities to place their "rights and responsibilities" information on their website as opposed to having to mail hard copies to all new customers. This will save paper, printing, handling and postage costs.**

ATTACHMENT THREE:

REVISIONS TO CHAPTER 56 THAT WILL PROMOTE GREATER EFFICIENCIES AND COST-SAVINGS.

L-00060182

56.2. AMR (Automatic meter reading)--

(III) ALL METER READINGS BY AN AMR SHALL BE DEEMED ACTUAL READINGS FOR THE PURPOSES OF THIS CHAPTER.

- **This revision will produce savings and efficiencies in that utilities will be able to rely on automated meter readings in lieu of sending meter readers to residences to read meters.**

56.2. Applicant--[A person who applies for residential utility service.] (i) A natural person AT LEAST 18 YEARS OF AGE not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested.

- **This revision will produce savings and efficiencies in that utilities will be able to hold, under certain circumstances, third parties responsible for utility service accrued in someone else's name without having to obtain a ruling from a court or the PUC to do so.**

56.2. Billing period--

(IV) BILLS FOR LESS THAN 26 DAYS OR MORE THAN 35 DAYS SHALL BE PERMITTED IF THEY RESULT FROM A METER READING ROUTE CHANGE INITIATED BY THE PUBLIC UTILITY. THE PUBLIC UTILITY SHALL INFORMALLY CONTACT THE DIRECTOR OF THE BUREAU OF CONSUMER SERVICES AT LEAST 30 DAYS PRIOR TO THE REROUTING AND PROVIDE INFORMATION AS TO WHEN THE BILLING WILL OCCUR, THE NUMBER OF CUSTOMERS AFFECTED AND A GENERAL DESCRIPTION OF THE GEOGRAPHIC AREA INVOLVED. IF A BILL RESULTING FROM A METER RE-ROUTING EXCEEDS 60 DAYS THE CUSTOMER SHALL BE GIVEN THE OPPORTUNITY TO AMORTIZE THE AMOUNT OVER A PERIOD EQUAL TO THE PERIOD COVERED BY THE BILL WITHOUT PENALTY.

- **This revision will produce savings and efficiencies in that utilities will be able to perform routine changes to meter reading routes that may produce long-period bills without first seeking waivers and exemptions from the Commission. (the source of**

this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).

56.2. Customer--A natural person AT LEAST 18 YEARS OF AGE in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or ~~an~~ ANY adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. A natural person remains a customer after discontinuance or termination until the final bill for service is past due.

- **This revision will produce savings and efficiencies in that utilities will be able to hold, under certain circumstances, third parties responsible for utility service accrued in someone else's name without having to obtain a ruling from a court or the PUC to do so.**

§ 56.11. Billing frequency.

(a) A public utility shall render a bill once every billing period to every residential [ratepayer] customer in accordance with approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary ~~and the customer retains the option of continuing to receive a paper bill if desired~~ AND ONLY WITH THE PRIOR CONSENT OF THE CUSTOMER. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a 1 ~~month~~ BILLING CYCLE notice of a request to revert to paper billing.

(2) A customer shall receive ~~a visual presentation of an electronic bill in the same format as the~~ THE SAME INFORMATION THAT IS INCLUDED WITH A paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and ~~required~~ educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted UNLESS THE CUSTOMER HAS AFFIRMATIVELY CONSENTED TO THIS METHOD OF DELIVERY. THE ELECTRONIC DELIVERY OF A TERMINATION NOTICE DOES NOT RELIEVE THE PUBLIC UTILITY OF THE OBLIGATION TO PROVIDE TERMINATION NOTICES AS REQUIRED BY §§ 56.91 – 56.98.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund IF THE UTILITY IS ABLE TO ACCEPT HARDSHIP FUND CONTRIBUTIONS BY THIS METHOD.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall maintain a system to ~~ensure delivery of~~ DELIVER electronic bills if the bill is emailed to a customer.

(8) The public utility shall ~~maintain sufficient system security to assure customer privacy~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

- **This revision will produce savings and efficiencies in that utilities will be able to bill customers through paperless, electronic methods. This will save paper, printing, processing and postal costs. In addition, utilities will not have to file petitions seeking permission to operate such billing programs. (The source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).**

§ 56.12. Meter reading; estimated billing; [ratepayer] customer readings.

Except as provided in this section, a public utility shall render bills based on actual meter readings by public utility company personnel.

(i) Upon the request of the [ratepayer] customer, the public utility shall, at least annually, provide preaddressed postcards on which the [ratepayer] customer may [note] report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

- **This revision will produce savings and efficiencies in that customers will be allowed to submit meter readings through electronic and telephonic methods, instead of using the traditional paper/mailing process. (The source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).**

§ 56.13. [Separate billings] Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service--that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges, and other nonrecurring charges, except as provided in this chapter--shall appear [on a separate bill] after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs.

- **This revision will produce savings and efficiencies in that utilities will be able to bill for non-basic services on the same utility bill as basic services. No longer requiring separate bills for these services will present savings in paper, processing, and postal costs. (The source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).**

§ 56.16. Transfer of accounts.

(a) A [ratepayer] customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice to the public utility and a [nonratepayer] noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the [ratepayer] customer shall be responsible for services rendered. If the public utility is not, AFTER A REASONABLE ATTEMPT TO OBTAIN METER ACCESS, able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading ~~and can determine the actual consumption used by the customer~~.

- **This revision will produce savings and efficiencies in that utilities will be able to "final" an account based on an estimated reading under certain circumstances. (The source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).**

§ 56.21. Payment.

The due date for payment of a bill may be no less than 20 days from the date of transmittal; that is, the date of mailing, OR ELECTRONIC or [physical] delivery of the bill by the public utility to the [ratepayer] customer.

- **This revision will produce savings and efficiencies in that utilities are allowed to electronically deliver a bill instead of physically delivering it. This will produce savings in paper, processing, and postal costs. (The source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).**

§ 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary ~~and may not be required in conjunction with electronic billing~~. A PUBLIC UTILITY MAY NOT REQUIRE A CUSTOMER TO ENROLL IN ELECTRONIC BILL PAYMENT AS A CONDITION FOR ENROLLING IN ELECTRONIC BILLING.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's ~~checking~~ FINANCIAL account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY, before the customer enters the program. Program changes shall be conveyed to the customer in writing, EITHER BY MAIL OR ELECTRONICALLY, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The public utility shall provide a receipt, OR A CONFIRMATION, TRANSACTION OR REFERENCE NUMBER, either electronically or on paper, to the customer upon payment through the electronic method. THIS REQUIREMENT DOES NOT APPLY IF THE PAYMENT METHOD IS THROUGH A PRE-AUTHORIZED AUTOMATED DEBIT FROM A CUSTOMER'S FINANCIAL ACCOUNT.

(5) The public utility shall ~~maintain sufficient system security to protect customer information and access to customer accounts~~ EMPLOY ALL REASONABLE MEASURES TO PROTECT CUSTOMER INFORMATION FROM UNAUTHORIZED DISCLOSURE AND TO PREVENT ACCESS TO CUSTOMER ACCOUNT RECORDS BY PERSONS WHO ARE NOT PROPERLY AUTHORIZED TO HAVE SUCH ACCESS.

- **This revision will produce savings and efficiencies in that utilities will be able to collect payments through paperless, electronic methods. This will save payment processing costs. In addition, utilities will not have to file petitions seeking permission to operate such payment programs. (The source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).**

§ 56.32. [Credit standards] Security and cash deposits.

[A utility shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Prior utility payment history.* The applicant has been a recipient of utility service of a similar type within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for such service, so long as:

(i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

(ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.

(iii) The applicant does not have an unpaid balance from that prior service.

(2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting his place of residence under a lease of one year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as an utility customer within 2 years prior to the application for service.

(3) *Credit information.* The applicant provides information demonstrating that he is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.

(ii) The utility may request and consider information including but not limited to: the name of the employer of the applicant, place and length of employment, residences during the previous 5 years, letters of reference, credit cards and any significant source of income other than from employment.]

(a) A public utility may require a cash deposit in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

(i) Nonpayment of an undisputed delinquent account.

(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.

(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.

(v) Failure to comply with the material terms of A ~~an informal dispute settlement agreement or~~ payment agreement.

(vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.

(vii) Tampering with meters, including, BUT NOT LIMITED TO, bypassing a meter or removal of an automatic meter reading device or other public utility equipment.

(viii) Violating tariff provisions on file with the Commission ~~which~~ SO AS TO endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) An applicant ~~or customer~~ who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice. The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment.

(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:

(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required.

(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer assistance program made available by the city natural gas distribution operation are not subject to this paragraph.

(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.

(c) Prior to providing public utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.

- **This revision will produce savings and efficiencies in that it grants utilities expanded authorization to obtain security deposits from applicants, which will protect against losses on such accounts. Utilities are authorized to use credit scores to establish credit-worthiness, which should be more efficient than collecting credit-worthiness information required by the traditional Chapter 56 credit standards. PGW is also allowed to enforce a lien by refusing service to applicants with liens. This should reduce the cost of enforcing such liens.**

§ 56.33. [Cash deposits; third] Third-party guarantors.

If an applicant does not establish [his] credit under § 56.32 (relating to [credit standards] security and cash deposits), the public utility shall provide residential service when one of the following requirements is satisfied:

* * * * *

(2) *Third-party guarantor.* [The applicant furnishes a written guarantee from a responsible ratepayer which, for the purposes of this section, shall mean a ratepayer who has or can establish credit, under § 56.32, to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee shall be in writing and shall state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.52--56.57.]

This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility. FOR THE PURPOSES OF THIS SECTION, THE GUARANTOR SHALL MEAN A THIRD-PARTY WHO HAS OR CAN ESTABLISH CREDIT, UNDER § 56.32 (RELATING TO SECURITY AND CASH

DEPOSITS).

- **This revision will produce savings and efficiencies in that third-party guarantors now can be held responsible for all missed utility payments, instead of just the amount of the deposit. This will offer additional protection against losses on such accounts.**

§ 56.35. Payment of outstanding balance.

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly. [However, any such]

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, EXCEPT AS PROVIDED FOR IN PARAGRAPHS (1) AND (2) OF THIS SECTION.

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years FROM THE DATE OF THE SERVICE REQUEST. THE 4-YEAR LIMIT DOES NOT APPLY IF THE BALANCE INCLUDES AMOUNTS THAT THE UTILITY WAS NOT AWARE OF BECAUSE OF FRAUD OR THEFT ON THE PART OF THE APPLICANT.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. PUBLIC UTILITIES MUST INCLUDE IN THEIR TARIFFS FILED WITH THE COMMISSION THE METHODS, OTHER THAN THOSE SPECIFICALLY MENTIONED IN THIS PARAGRAPH, USED TO DETERMINE THE APPLICANT'S LIABILITY FOR ANY OUTSTANDING BALANCE.

(3) ~~Public utilities shall include in their tariffs filed with the Commission the procedures and standards used to determine the applicant's liability for any outstanding balance~~. Any outstanding residential account with the public utility may be amortized [over a reasonable period of time. Factors to be taken into account include but are not limited to the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant, and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant] in accordance with § 56.191 (relating to ~~the general rule~~ PAYMENT AND TIMING).

(c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

- **This revision will produce savings and efficiencies in that utilities will be able to hold, under certain circumstances, third parties responsible for utility service accrued in someone else's name without having to obtain a ruling from a court or the PUC to do so.**

§ 56.38. Payment period for deposits by applicants.

An applicant REQUIRED TO PAY A DEPOSIT UNDER THE PROVISIONS OF § 56.32 (RELATING TO SECURITY AND CASH DEPOSITS) may ~~elect to pay any required deposits in three installments: 50% payable upon the determination by the public utility that the deposit is required, 25% payable 30 days after the determination, and 25% payable 60 days after the determination.~~ BE REQUIRED BY THE PUBLIC UTILITY TO PAY THE DEPOSIT IN FULL PRIOR TO THE PROVISION OF PUBLIC UTILITY SERVICE. ~~A public utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.~~

- **This revision will produce savings and efficiencies in that utilities will be able to collect security deposit amounts immediately instead of billing them in three installments. As a result, deposits will be paid faster, thus accounts will be secured against future losses more quickly.**

§ 56.82. [Days termination of service is prohibited] Timing of termination.

[Except in emergencies--which include unauthorized use of utility service--service shall not be terminated, for nonpayment of charges or for any other reason, during the following periods:

(1) On Friday, Saturday, or Sunday.

(2) On a bank holiday or on the day preceding a bank holiday.

(3) On a holiday observed by the utility or on the day preceding such holiday. A holiday observed by a utility shall mean any day on which the business office of the utility is closed to observe a legal holiday, to attend utility meetings or functions, or for any other reason.

(4) On a holiday observed by the Commission or on the day preceding such holiday.]

A public utility may terminate service for the reasons in § 56.81 (relating to authorized termination of service) from Monday through Friday as long as the public utility ~~has offices open on the following day during regular business hours and personnel on duty who can negotiate conditions to restore service, accept emergency medical certificates,~~ IS ABLE TO accept payment to restore service ON THE DAY OF TERMINATION AND ON THE FOLLOWING DAY and can restore service~~,~~ consistent with § 56.191 (relating to ~~the general rule~~ PAYMENT

AND TIMING).

- **This revision will produce savings and efficiencies in that utilities are able to terminate service on Fridays, contrary to the traditional restrictions in Chapter 56. This will provide additional days throughout the year that a utility can take collection action against customers in default.**

§ 56.83. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

*****

(4) Nonpayment of bills for delinquent accounts of the prior [ratepayer] customer at the same address unless the public utility has, under § 56.35 (relating to payment of outstanding balance), established that the applicant or customer was an ADULT occupant at the same address during the time period the delinquent amount accrued.

* * * * *

(8) Nonpayment for residential service already furnished in the names of persons other than the [ratepayer] customer unless a court, district justice or administrative agency has determined that the [ratepayer] customer is legally obligated to pay for the service previously furnished or unless the public utility has, under § 56.35, established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued. This paragraph does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

* * * * *

- **This revision will produce savings and efficiencies in that utilities are able, under certain circumstances, to terminate service for amounts accrued in the name of another party without having to obtain a ruling from a court or the PUC to do so.**

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to [a termination of service, the utility shall mail or deliver written notice to the ratepayer at least 10 days prior to the date of the proposed termination] terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall provide written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice ~~must~~ SHALL remain effective for 60 days. In the event of [any taking or acceptance of utility service without the knowledge or approval of the utility, other than unauthorized use of service] a user without contract as defined in § 56.2

(relating to definitions), the public utility shall comply with §§ 56.93--56.97, but need not ~~otherwise~~ provide notice 10 days prior to termination.

- **This revision will produce savings and efficiencies in that a 10-day notice is now valid for 60 days. The traditional practice was that 10-day notices expire in 30 days.**

§ 56.93. Personal contact.

(a) Except when authorized by §§ 56.71, 56.72 or 56.98 (relating to interruption of service; ~~discontinuation~~ DISCONTINUANCE of service; and [exception for terminations based on occurrences harmful to person or property] immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without [personally contacting the ratepayer or a responsible adult occupant at least 3 days prior to the interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required by this chapter or other Commission directive. For purposes of this section, "personal contact" means:

(1) Contacting the ratepayer or responsible adult occupant in person or by telephone.

(2) Contacting another person whom the ratepayer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(3) If the ratepayer has not made the designation noted in paragraph (2), contacting a community interest group or other entity, including a local police department, which previously shall have agreed to receive a copy of the notice of termination and to attempt to contact the ratepayer.

(4) If the ratepayer has not made the designation noted in paragraph (2) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing] attempting to contact the customer or responsible adult occupant, either in person or by telephone, to provide notice of the proposed termination at least 3 days prior to the scheduled termination. If personal contact by one method is not possible, the public utility is obligated to attempt the other method.

(b) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of ~~7~~ 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m and at least 2 hours apart. CALLS MADE TO CONTACT TELEPHONE NUMBERS PROVIDED BY THE CUSTOMER SHALL BE DEEMED TO BE CALLS TO THE RESIDENCE.

(c) If contact is attempted in person by a home visit, only one attempt is required.~~, but the~~ THE public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant DURING THE HOME VISIT.

(d) The content of the 3-day personal contact notice must ~~comply with § 56.91 (relating to general notice provisions and contents of termination notice)~~ INCLUDE THE DATE AND GROUNDS OF THE TERMINATION; WHAT IS NEEDED TO AVOID THE TERMINATION OF SERVICE; HOW TO CONTACT THE PUBLIC UTILITY AND THE COMMISSION; AND THE AVAILABILITY OF THE EMERGENCY MEDICAL PROCEDURES. THE PUBLIC UTILITY SHALL ALSO ASK THE CUSTOMER OR

OCCUPANT IF THEY HAVE ANY QUESTIONS ABOUT THE 10-DAY WRITTEN NOTICE THEY HAVE PREVIOUSLY RECEIVED.

- **This revision will produce savings and efficiencies in that utilities, if the personal contact attempts are unsuccessful, no longer have to notify the Commission of such, nor notify another entity such as a community group or local authorities. This will produce savings in paper, processing and postal costs.**

§ 56.94. Procedures immediately prior to termination.

(3) *Dishonorable tender of payment after receiving termination notice.* After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted telephone contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when EITHER:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor)., OR:

(ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

- **This revision will produce savings and efficiencies in that a utility can now terminate service, without providing additional notice, if a customer tenders a bad check during the termination process.**

§ 56.95. Deferred termination when no prior contact.

[If a prior contact has not been made with a responsible adult either at the residence of the ratepayer, as required by § 56.94 (relating to procedures immediately prior to termination) or at the affected dwelling, the employe may not terminate service but shall conspicuously post a termination notice at the residence of the ratepayer and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting] During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, a public utility shall, ~~within~~ 48 hours ~~of~~ PRIOR TO the scheduled date of termination, post a notice of the proposed termination at the service location.

- **This revision will produce savings and efficiencies in that utilities no longer have to provide a 48-hour notice, unless it is wintertime (December – March). This will produce savings by eliminating additional field work for utilities (a reduction in trips to the residence before terminating service).**

§ 56.100. Winter termination procedures.

(a) *Water distribution utilities.* Notwithstanding ~~another~~ ANY provision of this chapter, during the period of December 1 through March 31, water distribution utilities subject to this ~~chapter~~ SUBCHAPTER [shall conform to the provisions of this section. The covered utilities may] ~~are~~ MAY not [be] ~~permitted to~~ terminate heat related service between December 1 and March 31 except as provided in this section or in § 56.98 (relating to [exception for terminations based on occurrences harmful to person or property] immediate termination for unauthorized use, fraud, tampering or tariff violations).

(b) *Electric distribution and natural gas distribution utilities.* Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution utility may not terminate ~~heat related~~ service to customers with household incomes at or below 250% of the Federal poverty level except as provided in this section or in § 56.98. The Commission will not prohibit an electric distribution utility or natural gas distribution utility from terminating ~~heat related~~ service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

(c) *City natural gas distribution utility.* In addition to the winter termination authority in subsection (b), a city natural gas distribution operation may terminate service after January 1 and before April 1 to a customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of charges for each of the prior 2 months unless the customer has done one of the following:

(1) Proven in accordance with Commission rules, that the household contains one or more persons who are 65 years of age or over.

(2) Proven in accordance with Commission rules, that the household contains one or more persons 12 years of age or younger.

(3) Obtained a medical certification, in accordance with Commission rules.

(4) Paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last 2 months.

- **This revision will produce savings and efficiencies in that utilities can now terminate service to customers above 250% of poverty (150% for PGW) without first petitioning the PUC for permission to do so. This will produce savings in that utilities will not have the bother or expense of filing petitions with the Commission.**

§ 56.114. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification; the maximum length of the certification shall be 30 days.

* * * * *

(2) *Renewals*. Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the [ratepayer] customer has met the obligation under § 56.116 (relating to duty of [ratepayer] customer to pay bills). In instances [where] when a [ratepayer] customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications ~~that concern medical certificates~~ filed for the same set of arrearages ~~and same termination action. When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.~~ [If a utility wishes to contest the renewal, it shall follow § 56.118(3) (relating to the right of utility to petition the Commission).] In these instances the public utility is not required to honor a third RENEWAL OF A medical certificate and is not required to follow § 56.118(3) (relating to the right of public utility to petition the Commission). The public utility shall apply the dispute procedures in §§ 56.151 and 56.152 (relating to public utility company dispute procedures). WHEN THE CUSTOMER ELIMINATES THESE ARREARAGES, THE CUSTOMER IS ELIGIBLE TO FILE NEW MEDICAL CERTIFICATES.

- **This revision will produce savings and efficiencies in that utilities do not have to go to the bother and expense of petitioning the Commission before enforcing the restrictions on medical certificate usage found in this section. The restrictions have also been tightened in that they apply to the entire household and not "per individual." (The source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).**

§ 56.151. General rule.

Upon initiation of a dispute covered by this section, the public utility shall:

* * * * *

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the [ratepayer] customer or occupant IS ELIGIBILE FOR A PAYMENT AGREEMENT AND claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement [shall] include, but are not be limited to:

* * * * *

(ii) The ability of the [ratepayer] customer to pay.

(iii) The payment history of the [ratepayer] customer.

- **This revision will produce savings and efficiencies in that a utility does not have to provide a payment agreement unless the customer is eligible for one. Additionally,**

information provided to customers under this section can now be provided electronically; producing savings in paper, printing, and postal costs. (the source of this revision is not in Chapter 14; rather it is an efficiency the Commission is providing in addition to those in Chapter 14).

§ 56.162. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and [shall] must include the following information:

* * * * *

(6) Whether the dispute formerly has been the subject of a public utility company investigation and report. THE COMPLAINANT SHALL AFFIRM THAT THEY HAVE FIRST CONTACTED THE PUBLIC UTILITY FOR THE PURPOSE OF RESOLVING THE PROBLEM ABOUT WHICH THE COMPLAINANT WISHES TO FILE A COMPLAINT. IF THE COMPLAINANT HAS NOT CONTACTED THE PUBLIC UTILITY, THE COMMISSION SHALL DIRECT THE COMPLAINANT TO THE PUBLIC UTILITY.

- **This revision will produce savings and efficiencies in that complainants will first be directed to the utility by the Commission if the utility has not been given an opportunity to address the matter. This will give the utility an opportunity to eliminate the complaint before having to go to the trouble and expense of responding to the Commission.**

§ 56.191. ~~General rule~~ PAYMENT AND TIMING.

[When service to a dwelling has been terminated, the utility shall reconnect service by the end of the first full working day after receiving one of the following:

(1) Full payment of an outstanding charge plus a reasonable reconnection fee. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account shall include, but are not be limited to:

(i) The size of the unpaid balance.

(ii) The ability of the ratepayer to pay.

(iii) The payment history of the ratepayer.

(iv)The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to a settlement or payment agreement, plus a reasonable reconnection fee, which may be a part of the settlement or payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the ratepayer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.]

(a) *Fee.* A public utility may require a reconnection fee based upon the public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service. The amount of this fee shall be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, provided the applicant OR CUSTOMER has met all applicable conditions, the public utility shall reconnect service as follows:

(1) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(2) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(3) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(4) Within 3 calendar days from April 1 to November 30 for proper terminations.

(5) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(c) *Payment to restore service.*

(1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order. A PUBLIC UTILITY SHALL ALSO INFORM THE APPLICANT OR CUSTOMER THAT THE TIMING AND CONDITIONS FOR RESTORATION OF SERVICE MAY DIFFER IF SOMEONE IN THE HOUSEHOLD IS SERIOUSLY ILL OR AFFECTED BY A MEDICAL CONDITION WHICH WILL BE AGGRAVATED WITHOUT UTILITY SERVICE.

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment agreements. For purposes of this section, neither a payment agreement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment agreement that has been paid in full by the customer, are to be considered A DEFAULT. BUDGET BILLING PLANS AND AMORTIZATION OF BUDGET PLAN RECONCILIATION AMOUNTS UNDER § 56.12(7) (RELATING TO METER READING; ESTIMATED BILLINGS; CUSTOMER READINGS) MAY NOT BE CONSIDERED A DEFAULT FOR THE PURPOSES OF THIS SECTION.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months

to pay the outstanding balance required for reconnection. For purposes of this paragraph, a life event is:

(A) A job loss that extends beyond 9 months.

(B) A serious illness that extends beyond 9 months.

(C) Death of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment REQUIRED toward the outstanding balance ~~required~~ as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment REQUIRED toward the outstanding balance ~~required~~ as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises* *AS A CONDITION TO RESTORE SERVICE.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant OR CUSTOMER resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant OR CUSTOMER resided there, not exceeding 4 years PRIOR TO THE DATE OF REQUESTING THAT SERVICE BE RESTORED~~, except for instances of fraud and theft~~. THE 4 YEAR LIMIT DOES NOT APPLY IN INSTANCES OF FRAUD AND THEFT.

(e) *Approval.* A public utility may establish that an applicant OR CUSTOMER previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the ~~procedures and standards~~ METHODS, OTHER THAN THOSE SPECIFICALLY MENTIONED IN THIS PARAGRAPH, used to determine liability for outstanding balances.

- **This revision will produce savings and efficiencies in that utilities are now provided with varied, and in most cases, extended service restoration timeframes that are dependent upon the circumstances involved in restoring service. For example, instead of "by the end of the first full working day," a utility now has up to seven days to restore service if street or sidewalk excavation is involved. In addition, utilities will now be able to hold, under certain circumstances, third parties responsible for utility service accrued in someone else's name without having to**

obtain a ruling from a court or the PUC to do so.

§ 56.201. Public information.

(A) In addition to the notice requirements [set forth] in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its [ratepayers] customers affected by the change. Summaries [shall] will be mailed by the public utility to each [ratepayer] customer of the public utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the public utility and its [ratepayers] customers in accordance with this chapter, shall be in writing, shall be reproduced by the public utility, shall be displayed prominently, SHALL BE AVAILABLE ON THE PUBLIC UTILITY'S WEBSITE IF THE UTILITY HAS ONE, and shall be available at all public utility office locations open to the general public. ~~This information be delivered or mailed to each new [ratepayer] customer of the public utility upon the commencement of service and be available at all times upon request.~~ THE PUBLIC UTILITY SHALL INFORM NEW CUSTOMERS OF THE AVAILABILITY OF THIS INFORMATION AND DIRECT WHERE TO LOCATE IT ON THE PUBLIC UTILITY'S WEBSITE. THE PUBLIC UTILITY SHALL DELIVER OR MAIL A COPY UPON THE REQUEST OF A CUSTOMER OR APPLICANT.

- **This revision will produce savings and efficiencies in that utilities will be able to provide this information electronically to customers. This will produce savings in printing, processing and postal costs.**

§ 56.231. Reporting requirements.

(a) Within 15 days after the end of each month, each electric[, gas] distribution utility, natural gas distribution utility, AND class A water distribution utility ~~and steam heat utility~~ shall file with the Commission a report containing the following information concerning residential accounts for that month:

(1) [Total number of accounts, categorized as follows:

(i) By classification--residential, residential multi-unit dwellings.

(ii) By usage--heating, nonheating.

(2) Number of overdue accounts, categorized as follows:

(i) By usage--heating, nonheating.

(ii) By amount overdue--$25 or less, $26--$50, $51--$150, $151--$250, $251--$500, $501--$1,000 and over $1,000.

(iii) By time overdue in days--30 days or less, 31--60 days, 61--90 days, 91--120 days, and over 120 days.

(3) Dollar amount overdue, categorized as follows:

(i) Total amount of arrearages.

(ii) By usage--heating, nonheating.

(iii) By time overdue in days--30 days or less, 31--60 days, 61--90 days, 91--120 days, and over 120 days.

(4) Total number of ten-day termination notices sent out by company.

(5) Total number of dwellings which receive notices sent to ratepayers other than occupants.

(6) Number of completed personal contacts categorized as follows:

(i) In person.

(ii) By telephone.

(iii) By third-party notification to a person designated by the customer.

(iv) By third-party notification to a community interest group.

(v) By third-party notification to the Commission or its designee.

(7) Total number of 48-hour notices posted.

(8) Number of terminations completed by the company, categorized as follows:

(i) Number of nonpayment of undisputed delinquent accounts, failure to satisfy credit requirements, noncompliance in the settlement of amortization agreement.

(ii) Others.

(9) Number of terminations completed, categorized as follows:

(i) By usage--heating, nonheating.

(ii) By amount overdue--$25 or less, $26--$50, $51--$150, $151--$250, $251--$500, $501--$1,000 and over $1,000.

(iii) By length of time overdue--30 days or less, 31--60 days, 61--90 days, 91--120 days, and over 120 days.

(iv) By first three digits of each account's zip code.

(10) Reconnections, categorized as follows:

(i) By usage--heating, nonheating.

(ii) By whether amortization settlement agreement was achieved:

(A) With involvement of the Commission.

(B) Between the customer and utility.

(iii) By total number of the reconnections due to medical certification.

(iv) By total number of reconnections due to full payment of arrearage.]

The total number of residential heating customers.

(2) The total number of residential nonheating customers.

(3) The total number of active residential accounts in arrears not on a payment agreement.

(4) The total dollar amount in arrears for active residential accounts in arrears and not on a payment agreement.

(5) The total number of active residential accounts in arrears and on a payment agreement.

(6) The total dollar amount in arrears for active residential accounts in arrears and on a payment agreement.

(7) The total number of inactive residential accounts in arrears.

(8) The total dollar amount of inactive residential accounts in arrears.

(9) The total number of 10-day termination notices sent out by company.

(10) The total number of dwellings receiving termination notices sent to occupants other than the customer.

(11) The total number of 3-day termination notices completed by ~~personal~~ contact in person.

(12) The total number of 3-day termination notices completed by telephone.

(13) The total number of 48-hour termination notices posted.

(14) The total number of terminations for nonpayment.

(15) The total number of terminations for reasons other than nonpayment.

(16) The total number of terminations for nonpayment and FOR reasons other than nonpayment categorized by the first three digits of each account's postal code.

(17) The total number of reconnections for full customer payment, PARTIAL PAYMENT OR PAYMENT AGREEMENT. ~~Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(18) The total number of reconnections for partial customer payment or payment agreement. Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(19)~~ (18) The total number of reconnections for customer submission of medical certification. ~~Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(20)~~ (19) The total number of reconnections for reasons other than customer payment or medical certification. ~~Categorize into five groups based upon the customer's relation to the Federal poverty guidelines:~~

~~(i) Less than 150% of the Federal poverty guideline.~~

~~(ii) Between 151--250% of the Federal poverty guideline.~~

~~(iii) Between 251--300% of the Federal poverty guideline.~~

~~(iv) Greater than 300% of the Federal poverty guideline.~~

~~(v) Not available.~~

~~(21)~~ (20) The total number of applicants that are requested TO PAY or ARE billed a security deposit.

~~(22)~~ (21) The total dollar amount in security deposits that are requested OF or billed to applicants.

~~(23)~~ (22) The total number of customers that are requested TO PAY or ARE billed a security deposit.

~~(24)~~ (23) The total dollar amount in security deposits that are requested OF or billed to customers.

(b) Within 90 days after the end of each year, each electric distribution utility, natural gas distribution utility, AND class A water distribution utility ~~and steam heat utility~~ shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

(1) The total number of security deposits on hand.

(2) The total dollar amount in security deposits on hand.

(3) The total dollar amount of annual collection operating expenses.

(4) The total dollar amount of annual residential billings.

(5) The total dollar amount of annual gross residential write-offs.

(6) The total dollar amount of annual net residential write-offs.

(7) The average monthly bill for the previous year for a heating customer.

(8) The average monthly bill for the previous year for a nonheating customer.

(9) The average monthly usage for a heating customer.

(10) The average monthly usage for a nonheating customer.

(c) Public utilities shall refer to the data dictionary in Appendix C (relating to definitions (§ 56.231)) for additional guidance as to the terms used in this section.

- **This revision will produce savings and efficiencies in that the traditional § 56.231 reporting requirements will be reduced and merged with existing Section 1415 reporting requirements, thus eliminating current duplicative reporting requirements.**

ATTACHMENT FOUR:

L-00060182

CHAPTER 14 / CHAPTER 56 CROSS-REFERENCE.

Where Chapter 14 provisions have been incorporated into Chapter 56:

CHAPTER 14 SECTION	CHAPTER 56 SECTION
§1401. Scope of chapter.	
§1402. Declaration of policy.	§ 56.1.
§1403. Definitions: Applicant.	§ 56.2. Definition of Applicant. § 56.32. § 56.35. § 56.83. § 56.191.
§1403. Definitions. Change in Income.	
§1403. Definitions. Customer.	§ 56.2. Definition of Customer. § 56.32. § 56.36. § 56.83. § 56.191.
§1403. Definitions. Customer Assistance Program.	§ 56.2. Definition of Customer Assistance Program.
§1403. Definitions Electric distribution utility.	§ 56.2. Definition of Electric distribution utility.
§1403. Definitions. Formal complaint.	§ 56.2. Definition of Formal complaint. § 56.252. Definition of Formal complaint.
§1403. Definitions. Household income.	§ 56.2. Definition of Household income.

CHAPTER 14 SECTION	CHAPTER 56 SECTION
§1403. Definitions Informal complaint.	§ 56.2. Definition of Informal complaint. § 56.252. Definition of Informal complaint.
§1403. Definitions. LIHEAP	
§1403. Definitions. Natural gas distribution service.	§ 56.2. Definition of Natural gas distribution service.
§1403. Definitions. Natural gas distribution utility.	§ 56.2. Definition of Natural gas distribution utility. § 56.251. § 56.252.. Definition of Natural gas distribution utility.
§1403. Definitions. Natural gas supply services.	§ 56.2. Definition of Natural gas supply services.
§1403. Definitions Payment agreement.	§ 56.2. Definition of Payment agreement.
§1403. Definitions. Public utility.	§ 56.2. Definition of Public utility.
§1403. Definitions. Significant change in circumstance.	
§1403. Definitions. Water distribution utility.	§ 56.2. Definition of Water distribution utility.
§1404.(a). Cash deposits and household information requirements. General rule.	§ 56.32. § 56.38. § 56.42. § 56.51.

CHAPTER 14 SECTION	CHAPTER 56 SECTION
§1404.(b). Cash deposits and household information requirements. Third-party guarantor.	§ 56.33.
§1404.(c). Cash deposits and household information requirements. Deposit hold period.	§ 56.53. § 56.57. § 56.306.
§1404.(d). Cash deposits and household information requirements. Adult occupants.	§ 56.32.
§1404.(e). Cash deposits and household information requirements. Failure to pay full amount of cash deposit.	§ 56.38. § 56.42.
§1404.(f). Cash deposits and household information requirements. City natural gas distribution operation.	§ 56.51.
§1404.(g). Cash deposits and household information requirements. Estimated annual bill.	§ 56.51.
§1404.(h). Cash deposits and household information requirements. Time for paying deposits upon reconnection.	§ 56.42.
§1405.(a). Payment agreements. General rule.	
§1405.(b). Payment agreements. Length of payment agreements.	§ 56.2. Definition of Federal poverty level.

CHAPTER 14 SECTION	CHAPTER 56 SECTION
§1405.(c). Payment agreements. Customer Assistance Programs.	
§1405.(d). Payment agreements. Number of payment agreements.	§ 56.151.
§1405.(e). Payment agreements. Extension of payment agreements.	
§1405.(f). Payment agreements. Failure to comply with payment agreement.	
§1406.(a). Termination of utility service. Authorized termination.	§ 56.81. § 56.83.
§1406.(b). Termination of utility service. Notice of termination of service.	§ 56.91. § 56.93. § 56.95. § 56.117. § 56.331. § 56.333.
§1406.(c). Termination of utility service. Grounds for immediate termination.	§ 56.98.
§1406.(d). Termination of utility service. Timing of termination.	§ 56.82.
§1406.(e). Termination of utility service. Winter termination.	§ 56.2. Definition of Federal poverty level. § 56.91. § 56.100. § 56.201. § 56.331. § 56.340. § 56.431.
§1406.(f). Termination of utility service. Medical certification.	§ 56.2. Definition of Nurse practitioner. § 56.2. Definition of Physician. § 56.91. § 56.111.

CHAPTER 14 SECTION	CHAPTER 56 SECTION
	§ 56.112. § 56.113. § 56.114. § 56.115. § 56.116. § 56.117. § 56.118. § 56.252. Definition of Nurse practitioner. § 56.252. Definition of Physician. § 56.331. § 56.351. § 56.353. § 56.355. Appendix A.
§1406.(g). Termination of utility service. Qualification for LIHEAP.	
§1406.(h). Termination of utility service. Dishonorable tender of payment after receiving termination notice.	§ 56.94.
§1407.(a). Reconnection of service. Fee.	§ 56.91. § 56.191. § 56.331.
§1407.(b). Reconnection of service. Timing.	§ 56.37. § 56.91. § 56.111. § 56.113. § 56.115. § 56.191. § 56.192. § 56.331. § 56.351. § 56.353. § 56.355. § 56.421. Appendix B.
§1407.(c). Reconnection of service. Payment to restore service.	§ 56.2. Definition of Federal poverty level. § 56.91. § 56.191. § 56.331. § 56.421.

CHAPTER 14 SECTION	CHAPTER 56 SECTION
§1407.(d). Reconnection of service. Payment of outstanding balance at premises.	§ 56.35. § 56.36. § 56.83. § 56.91. § 56.191. § 56.331.
§1407.(e). Reconnection of service. Approval.	§ 56.35. § 56.36. § 56.83. § 56.91. § 56.191. § 56.331.
§1408. Surcharges for uncollectible expenses prohibited.	
§1409. Late payment charge waiver.	§ 56.22. § 56.272.
§1410. Complaints filed with the Commission.	§ 56.162. § 56.166. § 56.181.
§1411. Automatic meter readings.	§ 56.2. Definition of AMR. § 56.2. Definition of Remote reading device. § 56.252. Definition of AMR.
§1412. Reporting of delinquent customers.	
§1413. Reporting of recipients of public assistance.	
§1414.(a). Liens by city natural gas distribution operations. General rule.	§ 56.32.
§1414.(b). Liens by city natural gas distribution operations. Residential field visit charge.	
§1414.(c). Liens by city natural gas distribution operations. Refusal of service.	

CHAPTER 14 SECTION	CHAPTER 56 SECTION
§1415. Reporting to General Assembly and Governor.	§ 56.231. § 56.461. Appendix C. Appendix D.
§1416. Notice.	
§1417. Nonapplicability.	§ 56.91. § 56.201. § 56.251 – 56.461.
§1418. Construction.	

ATTACHMENT FIVE:

L-00060182

CHAPTER 56 / CHAPTER 14 CROSS-REFERENCE:

Where Chapter 56 provisions have been revised to incorporate Chapter 14:

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.1. Statement of purpose and policy.	66.1402.
§ 56.2. Definitions. *AMR (Automatic meter reading).*	66.1411.
§ 56.2. Definitions. *Applicant.*	66.1403. Definition of Applicant.
§ 56.2. Definitions. *Customer.*	66.1403. Definition of Customer.
§ 56.2. Definitions. *Customer assistance program.*	66.1403. Definition of Customer Assistance Program.
§ 56.2. Definitions. *Electric distribution utility.*	66.1403. Definition of Electric distribution utility.
§ 56.2. Definitions. *Federal poverty level.*	66.1405(b). 66.1406(e). 66.1407(c).
§ 56.2. Definitions. *Formal complaint.*	66.1403. Definition of Formal complaint.
§ 56.2. Definitions. *Household income.*	66.1403. Definition of Household income.
§ 56.2. Definitions. *Informal complaint.*	66.1403. Definition of Informal complaint.

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.2. Definitions. *Natural gas distribution service.*	66.1403. Definition of Natural gas distribution service.
§ 56.2. Definitions. *Natural gas distribution utility.*	66.1403. Definition of Natural gas distribution utility.
§ 56.2. Definitions. *Natural gas supply services.*	66.1403. Definition of Natural gas supply services.
§ 56.2. Definitions. *Nurse practitioner.*	66.1406(f).
§ 56.2. Definitions. *Payment agreement.*	66.1403. Definition of Payment agreement.
§ 56.2. Definitions. *Physician.*	66.1406(f).
§ 56.2. Definitions. *Public utility.*	66.1403. Definition of Public utility.
§ 56.2. Definitions. *Ratepayer.*	Removed. See 66.1403, Definition of Customer.
§ 56.2. Definitions. *Remote reading device.*	66.1411.
§ 56.2. Definitions. *Settlement agreements.*	Removed. See 66.1403, Definition of Payment agreement.
§ 56.2. Definitions. *Utility.*	Removed. See 66.1403, Definition of Public Utility.

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.2. Definitions. *Water distribution utility.*	66.1403. Definition of Water distribution utility.

Subchapter B. BILLING AND PAYMENT STANDARDS PAYMENTS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.22. Accrual of late payment charges.	66.1409.

Subchapter C. CREDIT AND DEPOSITS STANDARDS POLICY PROCEDURES FOR NEW APPLICANTS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.32. Security and cash deposits.	66.1403. Definitions of Customer and Applicant. 66.1404(a). 66.1404(d). 66.1414(a).
§ 56.33. [Cash deposits; third] Third-party guarantors.	66.1404(b).

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§56.35. Payment of outstanding balance.	66.1403. Definitions of Customer and Applicant. 66.1407(d). 66.1407(e).
§ 56.36. Written procedures.	66.1403. Definitions of Customer and Applicant. 66.1407(d). 66.1407(e).
§ 56.37. General rule.	66.1407(b).
§ 56.38. Payment period for deposits by applicants.	66.1404(a). 66.1404(e).

PROCEDURES FOR EXISTING [RATEPAYERS] CUSTOMERS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
56.41. General rule.	66.1404(a).
§ 56.42. Payment period for deposits.	66.1404(a). 66.1404(e). 66.1404(h).

CASH DEPOSITS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.51. Amount of cash deposit.	66.1404(a). 66.1404(f). 66.1404(g).
§ 56.53. Deposit hold period and refund.	66.1404(c).
§ 56.57. Interest rate.	66.1404(c)(6).

Subchapter D. INTERRUPTION AND DISCONTINUANCE OF SERVICE

Subchapter E. TERMINATION OF SERVICE
GROUNDS FOR TERMINATION

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.81. Authorized termination of service.	66.1406(a).
§ 56.82. Timing of termination.	66.1406(d).

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.83. Unauthorized termination of service.	66.1403. Definitions of Applicant and Customer. 66.1406(a). 66.1407(d). 66.1407(e).

NOTICE PROCEDURES PRIOR TO TERMINATION

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.91. General notice provisions and contents of termination notice.	66.1406(b). 66.1406(e). 66.1406(f). 66.1407(a). 66.1407(b). 66.1407(c). 66.1407(d). 66.1407(e). 66.1417.
§ 56.93. Personal contact.	66.1406(b).
§ 56.94. Procedures immediately prior to termination.	66.1406(h).
§ 56.95. Deferred termination when no prior contact.	66.1406(b).
§ 56.98. Immediate termination for unauthorized use, fraud, tampering or tariff violations.	66.1406(c).

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.100. Winter termination procedures.	66.1406(e).

[NOTICE PROCEDURES AFTER DISPUTE FILED]

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.101. Limited notice upon noncompliance with report or order.	Removed. See 1406(b).

EMERGENCY PROVISIONS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.111. General provision.	66.1406(f). 66.1407(b).
§ 56.112. Postponement of termination pending receipt of certificate.	66.1406(f).
§ 56.113. Medical certifications.	66.1406(f). 66.1407(b).
§ 56.114. Length of postponement; renewals.	66.1406(f).
§ 56.115. Restoration of service.	66.1406(f). 66.1407(b).
§ 56.116. Duty of customer to pay bills.	66.1406(f).

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.117. Termination upon expiration of medical certification.	66.1406(b). 66.1406(f).
§ 56.118. Right of public utility to petition the Commission.	66.1406(f).

Subchapter F. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

PUBLIC UTILITY COMPANY DISPUTE PROCEDURES

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.151. General rule.	66.1405(d).

INFORMAL COMPLAINT PROCEDURES

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.162. Informal complaint filing procedures.	66.1410.
§ 56.166. Informal complaints.	66.1410.

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.181. Duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found.	66.1410.

Subchapter G. RESTORATION OF SERVICE

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.191. Payment and Timing.	66.1403. Definitions of Applicant and Customer. 66.1407(a). 66.1407(b). 66.1407(c). 66.1407(d). 66.1407(e).
§ 56.192. Personnel available to restore service.	66.1407(b).

Subchapter H. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.201. Public information.	66.1406(e). 66.1417.

Subchapter K. PUBLIC UTILITY REPORTING REQUIREMENTS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.231. Reporting requirements.	66.1415.

Subchapter L. PRELIMINARY PROVISIONS FOR WASTEWATER, STEAM HEAT AND SMALL NATURAL GAS DISTRIBUTION UTILITIES AND VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.251. Statement of purpose and policy.	66.1403. Definition of Natural gas distribution utility. 66.1417.
§ 56.252. Definitions. *AMR (automatic meter reading).*	66.1411.
§ 56.252. Definitions. *Formal complaint.*	66.1403. Definition of Formal complaint.
§ 56.252. Definitions. *Informal complaint.*	66.1403. Definition of Informal complaint.
§ 56.252. Definitions. *Nurse practitioner.*	66.1406(f).
§ 56.252. Definitions. *Physician.*	66.1406(f).

§ 56.252. Definitions. *Utility.*	66.1403. Definition of Natural gas distribution utility.

PAYMENTS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.272. Accrual of late payment charges.	66.1409.

Subchapter N. CREDIT AND DEPOSITS STANDARDS POLICY PROCEDURES FOR APPLICANTS

CHAPTER 56 SECTION REVISED:	CHAPTER 14 SECTION THAT REVISION IS BASED ON:
§ 56.287. General rule.	66.1407(b).

PROCEDURES FOR EXISTING CUSTOMERS

CASH DEPOSITS

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L-00060182

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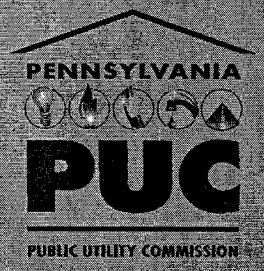

Pennsylvania Public Utility Commission

Third Biennial Report to the General Assembly and the Governor pursuant to section 1415

Implementation of Chapter 14

Jan. 14, 2011

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Executive Summary

In the First Biennial Report to the General Assembly and Governor Pursuant to Section 1415 submitted on Dec. 14, 2006, the Pennsylvania Public Utility Commission concluded that a comprehensive evaluation of the impact of Chapter 14 was premature. In the second report submitted on Dec. 14, 2008, the Commission concluded that the electric industry showed some deterioration since the passage of Chapter 14 while the natural gas industry, especially PGW, showed improvement.

Based on the evidence in the Third Biennial Report contained herein, the Pennsylvania Public Utility Commission (PUC or Commission) concludes that the utilities have successfully implemented Chapter 14 since its passage in Dec. 14, 2004.

Highlights from the Report:

- Despite a prolonged declining economy since the passage of Chapter 14, utilities have effectively managed residential collections expenses and Universal Service program expenses so that the total costs spread upon the residential rate base have been increasing at a pace that is well below the inflation rate.

- Terminations increased dramatically since the passage of Chapter 14 but have leveled off in recent years. On the positive side, utilities are using termination as a collections tool to effectively manage customer debt. However, more customers now enter the winter without a central heating source and the Commission is concerned about the health and safety of the occupants in these dwellings.

- Low-income customers have fared better since the passage of Chapter 14. The utilities have adopted the Commission's request for lenient restoration terms in our annual Prepare Now Campaign. Low-income customers are given every opportunity to have utility service entering the winter time. Most significantly, enrollment in Customer Assistance Programs (CAP) increased by 92 percent from 2004 to 2009.

- The report concludes that, while some instances of non-compliance remain, overall the utilities have effectively complied with Chapter 14.

- Chapter 14 has had an impact on the number of Payment Agreement Requests (PARs). The Commission has turned away 94,777 customers who are ineligible to receive a PAR since the passage of Chapter 14.

Chapter 14 requires the PUC to report to the General Assembly and Governor every two years (§ 1415). The reports are to review the implementation of the provisions of Chapter 14, including, but not limited to the following four areas: (1) The degree to which the Chapter's requirements have been successfully implemented; (2) The effect upon the cash working capital or cash flow, uncollectible levels and collections of the affected public utilities; (3) The level of access to utility services by residential customers including low-

income customers; and (4) The effect upon the level of consumer complaints and mediations filed with and adjudicated by the Commission. (Mediations are currently known as payment agreement requests under § 1415.)

Section I – The Degree to Which the Chapter's Requirements Have Been Successfully Implemented

- Chapter 14 has been in effect for six years. The Commission has taken steps to implement Chapter 14 in a manner that will allow it to achieve the policy goals of increasing utility account collections and eliminating the subsidization of bad debt costs by paying customers.

- Most notably, the Commission has issued a proposed rulemaking to update the provisions of the Chapter 56 regulations consistent with the mandates of Chapter 14. On a daily basis, the Commission works to implement Chapter 14 as fairly as possible and to ensure that service remains available to all customers on reasonable terms and conditions.

- The Commission concludes that overall the utilities have effectively complied with Chapter 14. While there are some compliance issues apparent from a review of informal complaints filed with the Bureau of Consumer Services (BCS) and informal investigations conducted by the Commission's prosecutory staff, as discussed on pages 3-10, there is no indication of widespread, systemic violations of the Chapter. For the most part, it appears that the utilities have brought their operations into compliance with the requirements of the Chapter, and the Commission is generally satisfied with the level of compliance demonstrated by the utilities.

- However, there are instances of non-compliance, as evidenced by the number of informally verified infractions found by the Commission relative to the electric, gas and water industries as shown in Tables 1 through 5 of this report and shown in the list of formal settlements resulting from informal investigations of the Commission's Prosecutory Staff. Infractions are misapplications or violations of Chapter 14 found by the Commission's Bureau of Consumer Services as part of an informal complaint investigation. Infractions become verified when BCS staff, after reviewing the informal complaint and information provided by the utility concerning the allegation, is satisfied that there is enough information indicating that a possible violation of the Chapter has occurred. An infraction can also be considered verified if the utility chooses not to contest the allegation, or admits that a violation may have occurred.

Section II – The Effect Upon the Cash Working Capital or Cash Flow, Uncollectible Levels and Collections of the Affected Public Utilities

- The overall collections performance for the electric industry continues to show some deterioration since the passage of Chapter 14.

- Specifically, the 28.5 percent increase in residential revenues since 2004 has been offset by an increasing number of customers who are in arrears and who owe an increasing amount of money.

- Of particular concern, a larger portion of the customer debt is not covered under a payment agreement and, as such, poses a greater collections risk.

- On the positive side, the gross residential write-offs ratio, which is the percentage of billings written off as uncollectible, declined by 6.5 percent from 2004-09.

- The overall collections performance for the gas industry improved from 2004-09. This improvement reflects the continuation of a trend that had already begun in the pre-Chapter 14 period from 2002-04.

  - During the post-Chapter 14 years, the percent of customers in debt declined by 29.7 percent while the total dollars in debt declined by 27.5 percent.

  - The gross residential write-offs ratio declined by 18.4 percent since the passage of Chapter 14.

- Overall, the analysis of the various collections data continues to show a dramatic pattern of improvement for PGW since the passage of Chapter 14.

  - Significantly fewer customers owe money to PGW, while the amount of debt has also significantly declined since 2004.

  - PGW also stands out for the 26.6 percent decrease in its gross residential write-offs ratio.

  - PGW's improved collections performance and overall financial health is reflected by its recently upgraded bond rating.

Section III – The Level of Access to Utility Services by Residential Customers, Including Low-Income Customers

- As for access to utility service, the Cold Weather Survey data is the most important indicator of the level of access to utility service.

  - The companies reported that as of Dec. 15, 2009, there were 17,037 households that entered the winter season without heat-related service.

  - An additional 3,992 residences were using potentially unsafe heating sources, bringing the total number of homes not using a central heating system to 21,029. This number is 28 percent higher than the pre-Chapter 14 average from 2001-04 of 14,992.

- Terminations increased by 78.6 percent for the electric industry and by 45.5 percent for the gas industry from 2004-09.

- Meanwhile, the Commission turned away 94,777 customers seeking PARs who were deemed ineligible under Chapter 14 since its passage (from 2005-09).

- Both the electric and gas industries have seen a significant increase in CAP enrollment since the passage of Chapter 14. This has led to a corresponding increase in CAP spending, which is borne by all ratepayers. Specifically, the electric industry has increased CAP spending 79.6% and the gas industry has increased cap spending 108.4% since 2004.

- Low-income households that are placed into CAP and successfully manage to pay their CAP bills represent the success of the program.

- The Commission continues to promote energy efficiency and conservation as well as customer responsibility as tools for maintaining access to utility service.

Section IV – The Effect Upon the Level of Consumer Complaints and Mediations Filed with and Adjudicated by the Commission (Mediations are Currently Known as Payment Agreement Requests Under § 1415)

- Chapter 14 has had an impact on the number of Payment Agreement Requests (PARs).

  - PARs decreased 40 percent from 2005-09 and have been well below the 2004 level in each year since then.

  - The Commission opened 58,672 PAR cases in 2005, but dismissed 14,225 because of Chapter 14 restrictions. The total number of PARs decreased from 2004-06 and have leveled off at over 48,000 in both 2008 and 2009.

  - The Commission turned away 20,788 customers in 2009 due to the restrictions on its ability to grant payment agreements.

  - Since the passage of Chapter 14, through the end of 2009, the Commission has turned away 94,777 customers seeking PARs.

  - However, an annual average of about 6,000 of these cases have been dismissed because in late 2005 the Commission revised its interpretation of Section 1405(d) to permit the issuance of at least one payment agreement for all customers, including those whose service was terminated.

  - While the Commission continues to issue payment terms for customers whose service has been terminated, this authority is exercised judiciously and only in instances where the customer has made a good-faith effort to pay the bill.

- In addition, informal consumer complaint volume declined by 21 percent from 2004-09.

Recommendations by the Commission for Legislative Amendments

- The Commission has no legislative amendments to recommend at this time. The Commission will continue to evaluate what, if any, legislative amendments may be necessary to further promote the goals of the Act and the public interest and will communicate those recommendations to the General Assembly and Governor in the Fourth Biennial Report in Dec. 2012. The Commission appreciates the willingness to continually evaluate Chapter 14 so that the goals of increasing utility account collections and eliminating the subsidization of bad debt costs by paying customers do not erode consumer protections.

Target Dates for Future Biennial Reports

- The Commission will issue its fourth biennial report by Dec. 14, 2012, and will include data from 2010-11. Through the issuance of the Biennial Report, the Commission will keep the General Assembly and Governor abreast of the implementation of Chapter 14. Following the 2012 Report, the final Biennial Report will then be sent to the General Assembly and Governor by Dec. 14, 2014. In recognition of the sunset of Chapter 14 on Dec. 14, 2014, the Commission may target an earlier release date of the final biennial report so that it is available for the legislature to use in its decision-making on whether to allow Chapter 14 to sunset, to modify it, or to continue it without change.

Introduction

On Nov. 30, 2004, Gov. Edward G. Rendell signed into law Senate Bill 677, also known as Act 201, the Responsible Utility Consumer Protection Act. The Act went into effect on Dec. 14, 2004, and amended Title 66 by adding Chapter 14 (66 Pa. C.S. §§ 1401-1418) (*Responsible Utility Customer Protection Act*). Chapter 14 is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having annual operating income in excess of $6 million).

Chapter 14 requires the PUC to report to the General Assembly and Governor every two years (§ 1415). The first report was due no later than Dec. 14, 2006, and the final report is due in December 2014. The reports are to review the implementation of the provisions of Chapter 14, including, but not limited to:

1. The degree to which the Chapter's requirements have been successfully implemented.

2. The effect upon the cash working capital or cash flow, uncollectible levels and collections of the affected public utilities.

3. The level of access to utility services by residential customers including low-income customers.

4. The effect upon the level of consumer complaints and mediations filed with and adjudicated by the Commission. (Mediations are currently known as payment agreement requests under § 1415.)

   (**Note:** These four areas are statutorily-mandated and serve as the basis for the sections of this report.)

Chapter 14 directs public utilities affected by this Chapter to provide data, as required by this Commission, to complete the reports. The PUC's report also may contain recommendations to the General Assembly and Governor regarding legislative amendments or other changes that the Commission deems appropriate.

Chapter 14 includes the Philadelphia Gas Works (PGW), a city natural gas distribution operation, within the category of natural gas distribution utilities. The category specifically excludes natural gas distribution utilities with operational revenues of less than $6 million per year except where the public utility voluntarily petitions the Commission to be included or where the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory. Natural gas distribution utilities that are not connected to an interstate gas pipeline are similarly excluded from the provisions of Chapter 14 under § 1403.

Report Sections

Section I - The Degree to Which the Chapter's Requirements Have Been Successfully Implemented

As part of the first section of this report, the Commission will provide a summary of the Chapter 14 implementation process by both the Commission and the utilities. This first section also will include a report on verified infractions of Chapter 14 committed by utilities, as determined through a random sampling of informal complaints before the Commission's BCS,[1] and possible violations of Chapter 14 from informal PUC investigations resolved in the last two calendar years. Although these violations represent non-compliance with Chapter 14, the violations are, for the most part, isolated occurrences, and the Commission concludes that overall, the relevant utilities have effectively implemented and complied with Chapter 14.

Commission Regulations

While the Commission has addressed and resolved numerous issues involving the application of Chapter 14 provisions, the Commission must still amend its regulations found in 52 Pa. Code, Chapter 56 (Chapter 56) to comply with the provisions of Chapter 14. Chapter 56 contains the Standards and Billing Practices for Residential Utility Service and includes the regulations governing the termination process, credit, applications, billing, payment, and dispute procedures. The Commission also will use this opportunity to address other issues with Chapter 56, including updates needed due to technological advances such as electronic billing and payments.

An Advance Notice of Proposed Rulemaking (ANOPR) was published in the Pennsylvania Bulletin on Dec. 16, 2006. Twenty-two sets of comments were received from the industry, consumer groups and the statutory advocates. After carefully reviewing and considering the comments, Commission staff drafted proposed revised Chapter 56 regulations that will make the regulations consistent with the mandates of Chapter 14.

On Sept. 25, 2008, the Commission adopted a Notice of Proposed Rulemaking (NOPR) that will amend 52 Pa. Code Chapter 56 to bring it into compliance with Act 201 (Chapter 14 of Title 66). The NOPR was published in the Pennsylvania Bulletin on Jan. 14, 2009. http://www.pabulletin.com/secure/data/vol39/39-7/289.html

Twenty-four parties submitted comments on the proposed regulations by the April 20, 2009 deadline. The comments, along with the proposed regulations, are available on the Commission's website under "Consumer Concerns." On May 20, 2009 the Independent Regulatory Review Commission submitted their comments.

[1] The random sampling consists of a statistically valid sample, with a reasonable margin of error, of informal complaints opened within the calendar year. The sample is selected by an automated process that sorts through the cases as they are closed and is intended to produce a representative sample of Bureau informal complaint activity. The selected sample is then reviewed for evaluative and compliance purposes. Utilities whose activity with the Bureau is insufficient to produce a valid sample are excluded from sampling.

Commission staff is reviewing the comments and drafting a final rulemaking for submission to the Commission (Docket No. L-00060182), which will be done in the first quarter of 2011. In promulgating these regulations, the Commission will strive to balance the needs of both consumers and utilities and protect the public interest.

To further facilitate implementation of the Act, Commission staff met with utility companies to address specific concerns and questions. Commission staff provided informal written guidance to the utility companies relating to areas of particular concern, such as winter termination rules and the annual change in the federal poverty guidelines.

The PUC's Bureau of Consumer Services (BCS) informal compliance process has also facilitated the implementation of the Act by giving utilities specific examples of possible infractions of Chapter 14. The informal compliance process uses consumer complaints to identify, document and notify utilities of possible infractions. A utility that receives notification of a possible infraction has an opportunity to refute the allegation. The utility can use the information to identify and voluntarily correct deficiencies in its customer service operations. Corrective actions may include modifying a computer program; revising the text of a notice, bill, letter or company procedure; or providing additional staff training to ensure the proper use of a procedure. The notification process also allows utilities to receive written clarifications of Chapter 14 and Commission regulations and policies. This is an informal process intended to address compliance deficiencies in a quick, non-punitive manner.

Informal Complaint Infractions

One measure of Chapter 14 compliance that the PUC's BCS uses is the frequency of Chapter 14 infractions that are found and verified during an informal complaint investigation. BCS typically keeps track of Chapter 14 infractions against energy and water utilities, including, but not limited to, infractions related to the collection of security deposits, to defective service termination notices, unauthorized service terminations, and untimely reconnections of service.

Upon review of informal complaints filed, the BCS recorded the following verified infractions of Chapter 14. As the data shows, while there are possible infractions of the Chapter documented, there is no indication of widespread, systemic violations of the Chapter. For the most part, it appears that the utilities have brought their operations into compliance with the requirements of the Chapter.

Table 1 – 2005 Infractions

2005				
Section of Chapter 14	**Electric Utilities**	**Gas Utilities**	**Water Utilities**	**Total**
§ 1403 Definitions	2	5	1	8
§ 1404 Credit and Deposits	10	11		21
§ 1405 Payment Agreements		1		1
§ 1406(a) Authorized Termination	14	32	4	50
§ 1406(b) Notice of Termination	9	6	5	20
§ 1406(c) Grounds for Immediate Termination	1	2		3
§ 1406(e) Winter Termination		1		1
§ 1406 Medical Certificates	1	1		2
§ 1407(a) Reconnection Fee		1		1
§ 1407(b) Reconnection of Service – Timing	11	14		25
§ 1407(c) Reconnection – Payment to Restore Service		1	4	5
§ 1407(d)(e) Payment of Outstanding Balance at Premise	2	2		4
Total	**50**	**77**	**14**	**141**

Table 2 – 2006 Infractions

2006				
Section of Chapter 14	**Electric Utilities**	**Gas Utilities**	**Water Utilities**	**Total**
§ 1403 Definitions	4	13	1	18
§ 1404 Credit and Deposits	2	14		16
§ 1406(a) Authorized Termination	5	25		34
§ 1406(b) Notice of Termination	9	2	4	13
§ 1406(c) Grounds for Immediate Termination			2	1
§ 1406 Medical Certificates		1	1	1
§ 1407(a) Reconnection Fee		2		2
§ 1407(b) Reconnection of Service – Timing	5	13		18
§ 1407(c) Reconnection – Payment to Restore Service	1	3	1	5
§ 1407(d)(e) Payment of Outstanding Balance at Premise	2	11	1	14
Total	**28**	**84**	**10**	**122**

Table 3 – 2007 Infractions

2007				
Section of Chapter 14	**Electric Utilities**	**Gas Utilities**	**Water Utilities**	**Total**
§ 1403 Definitions	4	5		9
§ 1404 Credit and Deposits	6	25		31
§ 1405 Payment Agreements		1	1	2
§ 1406(a) Authorized Termination	7	29	9	45
§ 1406(b) Notice of Termination	4	6	6	16
§ 1406(c) Grounds for Immediate Termination		1	2	3
§ 1407(a) Reconnection Fee	1			1
§ 1407(b) Reconnection of Service – Timing	3	13		16
§ 1407(c) Reconnection – Payment to Restore Service	1	2		3
§ 1407(d)(e) Payment of Outstanding Balance at Premise	5	12	2	19
§ 1417 Nonapplicability - Protection From Abuse	1	1		2
Total	**32**	**95**	**20**	**147**

Table 4 – 2008 Infractions

2008				
Section of Chapter 14	**Electric Utilities**	**Gas Utilities**	**Water Utilities**	**Total**
§ 1403 Definitions	8	8	1	17
§ 1404 Credit and Deposits	7	21	1	29
§ 1406(a) Authorized Termination	8	27	15	50
§ 1406(b) Notice of Termination	2	2	3	7
§ 1406(f) Medical Certificates	1			1
§ 1407(a) Reconnection Fee	2	4		6
§ 1407(b) Reconnection of Service – Timing	4	20		24
§ 1407(c) Reconnection – Payment to Restore Service	6	17	4	27
§ 1407(d)(e) Payment of Outstanding Balance at Premise	5	4	2	11
§ 1410 Complaints			2	2
Total	**43**	**103**	**28**	**174**

Table 5 – 2009 Infractions

2009				
Section of Chapter 14	**Electric Utilities**	**Gas Utilities**	**Water Utilities**	**Total**
§ 1403 Definitions		6	4	10
§ 1404 Credit and Deposits	11	8		19
§ 1405 Payment Agreements	1			1
§ 1406(a) Authorized Termination	13	12	10	35
§ 1406(b) Notice of Termination	1	2	2	5
§ 1406(c) Grounds for Immediate Termination		1		1
§ 1407(a) Reconnection Fee		3	3	6
§ 1407(b) Reconnection of Service – Timing	1	5		6
§ 1407(c) Reconnection – Payment to Restore Service	2			2
§ 1407(d)(e) Payment of Outstanding Balance at Premise	3	7	1	11
§ 1410 Complaints		2		2
Total	**32**	**46**	**20**	**98**

Formal Commission Actions

Pursuant to 66 Pa. C.S. §§ 331(a), 506 and 52 Pa. Code § 3.113, the Commission's Law Bureau Prosecutory Staff (Prosecutory Staff) along with BCS, continues to conduct informal investigations into alleged infractions of Chapter 14. These informal investigations have resulted in the Commission's approval of settlement agreements reached between companies and Prosecutory Staff to resolve these matters. Generally, it can take nine months or longer to bring an informal investigation to settlement. In all of the settlements, each company denied committing any Chapter 14 violations. These formal Commission actions are significant in that they may indicate systemic problems that are in need of correction. They also sometimes involve public health and safety issues that the Commission takes very seriously.

In the First and Second Biennial Reports submitted pursuant to Section 1415, the PUC reported on a total of six settlements related to alleged Chapter 14 violations. [1] Since the

[1] (i) Pennsylvania Public Utility Commission Prosecutory Staff v. PECO Energy Company, Public Meeting of Dec. 1, 2005. M-00051904; (ii) PUC Prosecutory Staff Informal Investigation of the Pennsylvania Electric Company Service Terminations in Hastings and Erie, Pennsylvania. Public Meeting of Dec. 15, 2005. M-00051906; (iii) PUC Prosecutory Staff Informal Investigation of the PPL Electric Utilities Corporation Residential Service Terminations. Public Meeting of Aug. 17, 2006. M-00061942; (iv) Settlement Agreement Between PUC Prosecutory Staff and West Penn Power Co., t/d/b/a Allegheny Power, Public Meeting of Oct. 19, 2006. M-00061952; (v) Pennsylvania Public Utility Commission Prosecutory Staff v. PECO Energy Company, Public Meeting of June 24, 2008. M-00072051 and (vi) Pennsylvania Public Utility Commission, Prosecutory Staff v. PPL Electric Utilities Corporation, Public Meeting of March 26, 2009, M-2008-2057562.

issuance of these reports, the Commission has acted on the following seven settlements that involve possible violations of Chapter 14:

- On Dec. 18, 2008, the Commission finalized a settlement with the Philadelphia Gas Works (PGW) after allegations that the company violated portions of the Public Utility Code and its tariff. The Commission's Prosecutory Staff initiated an informal investigation alleging that PGW improperly handled the termination of a non-heating resident who died 11 months later in a house fire. The customer was terminated after the company was unable to gain access to install an AMR device. The settlement agreement does not represent an admission of any wrongdoing by the company. The settlement included a $10,000 payment to the company's pilot conservation program and also required PGW to provide classroom and additional training for its customer service representatives covering topics such as collections, collection practices, payment agreements, bill dispute resolution, shut-off procedures, the automatic meter reading (AMR) exchange program and the Customer Responsibility Program. (Docket No. M-00072017)

- On March 12, 2009, the Commission finalized a settlement with the Pennsylvania Electric Co. (Penelec) that included a $200,000 contribution to a low-income program and ended an informal investigation into an electric termination that preceded a fire in Indiana, Indiana County. The PUC's Prosecutory Staff initiated an informal investigation into Penelec's handling of a discontinuance of service request and an application for service at the same residence. Penelec terminated service to the residence on Nov. 1, 2007, with a request for service on file from an occupant. A Nov. 3, 2007, fire at the residence seriously injured an occupant. If the matter had been litigated, Prosecutory Staff would have contended that Penelec violated certain sections of the state's Public Utility Code and the Commission's regulations while Penelec would have contested the matter. In addition to the $200,000 payment, the company committed to a variety of procedural changes and corrective actions relating to the transfer of account balances, termination notices, and communicating with customers. (Docket No. M-2008-2027681)

- On April 22, 2010 the Commission (PUC) approved a settlement with Metropolitan Edison Co. (Met-Ed) that included a $100,000 contribution to a fund to help low-income customers, ending an informal investigation of three separate events concerning electricity utility services subject to the Commission's authority. In addition, Met-Ed was required to implement staff training on several items, including transferring account balances, medical certificates and updating and revising internal procedures. The PUC's Prosecutory Staff initiated an informal investigation into three separate incidents involving alleged company action or inaction regarding customer service aspects of the provision of their utility service. In one incident, a customer telephoned Met-Ed following the termination of their electric service and was not referred to the utility's assistance program. According to media reports, a fire at the residence on Nov. 12, 2007, injured three firefighters. In another incident, Met-Ed allegedly failed to provide information on the Commission's regulations regarding service pursuant to a confirmed medical

condition. According to media reports, three children were rescued from a fire at the residence on Nov. 6, 2007. In a third instance, the company allegedly did not inquire whether the sale and vacating of the premises by the caller meant that the premises would be vacant or if other occupants would reside there. According to media reports, on Dec. 24, 2007, a 26-year old woman was found dead of carbon monoxide poisoning from a generator used at the residence. Had these matters been litigated, the Commission's Prosecutory Staff would have alleged that Met-Ed violated sections of the state Public Utility Code and Commission regulations. (Docket No. M-2009-2035436)

- On Nov. 19, 2009, the Commission finalized a settlement with PPL Electric Utilities Inc. that concerned the Aug. 8, 2008, termination of electric service to a residence in Lancaster, Lancaster County. A fire destroyed the home on Aug. 9, 2008, killing Cynthia Glassman. The PUC's Prosecutory Staff began an informal investigation into PPL's termination practices and if the issue had been litigated, Prosecutory Staff would have contended the company violated various portions of the Public Utility Code and Commission regulations, including provisions on termination notices, medical certificates, payment agreements, restoration of service and dispute rights. PPL would have contested the matters. As part of the settlement, the company agreed to not terminate service to residential customers on Fridays before Jan. 1, 2013, contribute $400,000 to its Operation HELP program, pay a civil penalty of $50,000; and establish additional customer service procedures and revise additional internal procedures to deal with terminations, medical certificates and disputes. (Docket No. M-2009-2058182)

- On Nov. 19, 2009, the Commission finalized a settlement with PPL Electric Utilities Inc. that involved an April 9, 2008, termination of electric service to an apartment in Mechanicsburg, Cumberland County. A fire destroyed the apartment and six other apartments on May 3, 2008. Following the incident, the PUC's Prosecutory Staff began an informal investigation into PPL's termination practices. If the issue had been litigated, Prosecutory Staff would have contended the company violated various portions of the Public Utility Code and Commission regulations including provisions on termination notices, medical certifications and dispute rights. PPL would have contested the matters. Under the settlement, the company agreed to develop updated call scripts for customer service representatives and provide retraining; revise its procedures for customer service representatives receiving calls on terminations; contribute $20,000 to its Operation HELP program; and pay a civil penalty of $1,000. (Docket No. M-2009-2059414)

- On Dec. 3, 2009, the Commission approved a settlement with FirstEnergy (Penelec, Met Ed, Penn Power) that included a $200,000 contribution and restitution for some customers, ending an informal investigation into terminations that occurred between Aug. 11, 2008, and Aug. 26, 2008. As part of the settlement agreement, FirstEnergy agreed to credit within 30 days $50-$200 to each unlawfully terminated customer's account depending on the length of their terminations. The PUC's Prosecutory Staff initiated an informal investigation into

FirstEnergy's handling of 492 unlawful terminations that occurred between Aug. 11, 2008, and Aug. 26, 2008. It was determined that due to a computer system malfunction, FirstEnergy failed to properly deliver the 10-day notice of terminations required by law under Chapter 14 of the Public Utility Code. In addition, 446 of the 492 terminated customers were unable to be reached in the required 3-day notice of termination. If the matter had been litigated, Prosecutory Staff would have contended that FirstEnergy violated certain sections of the state's Public Utility Code and the Commission's regulations while FirstEnergy would have contested the matter. (Docket No. M-2009-2112849)

- On March 26, 2009, the Commission finalized a settlement agreement that ended an informal investigation into an alleged failure to provide the required notices of termination at least three days prior to the scheduled terminations of service by Pennsylvania American Water Co. (PAWC). The agreement directs the company to pay a $3,000 civil penalty and to pay individual restitution payments to the affected customers. Commission staff initiated an informal investigation into the company's alleged failure to provide the required statutory notices of termination at least three days prior to the scheduled terminations of service. As part of the investigation, Commission staff determined that the company violated a section of the Public Utility Code, resulting in 1,666 terminated accounts in August 2007. Additionally, 697 of those affected customers had service restored within 24 hours, and 969 of those customers had service restored over 24 hours later. The company required 1,236 of the affected customers to pay a reconnection fee in order to have their service restored. As part of the settlement, PAWC agreed to pay a $3,000 civil penalty and provided each of the 969 customers who were terminated, but not reinstated within 24 hours, a $150 credit toward their accounts. For each of the 697 customers who were terminated but reinstated within 24 hours, PAWC provided a $125 credit toward their account. Additionally, for each of the 1,236 customers who were improperly charged a reconnection fee, the company refunded or credited the full amount charged to their accounts. Also as part of the settlement, the company instituted new procedures, training, and quality analysis to prevent future occurrences of the same problem. (Docket No. M-2008-2066530)

Conclusion: Section I – The Degree to Which the Chapter's Requirements Have Been Successfully Implemented

Chapter 14 has been in effect for six years. The Commission has taken steps to implement Chapter 14 in a manner that will allow it to achieve the policy goals of increasing utility account collections and eliminating the subsidization of bad debt costs by paying customers. Most notably, the Commission has issued a rulemaking that is in its final stages to update the provisions of the Chapter 56 regulations consistent with the mandates of Chapter 14. On a daily basis, the Commission works to implement Chapter 14 as fairly as possible and to ensure that service remains available to all customers on reasonable terms and conditions.

The Commission concludes that overall, the utilities have effectively complied with Chapter 14. While there are some compliance issues apparent from a review of informal complaints filed with the Bureau of Consumer Services and informal investigations conducted by the Commission's prosecutory staff, there is no indication of widespread, systemic violations of the Chapter. For the most part, it appears that the utilities have brought their operations into compliance with the requirements of the Chapter, and the Commission is generally satisfied with the level of compliance demonstrated by the utilities.

However, there are instances of non-compliance, as evidenced by the number of informally verified infractions found by the Commission relative to the electric, gas and water industries and alleged infractions shown in the list of formal settlements resulting from informal investigations of the Commission's Prosecutory Staff. The Commission continues to be concerned with unlawful or erroneous terminations, which present serious issues of health and safety for both the individuals directly involved and the surrounding community. The Commission notes that many of these infractions are isolated occurrences, but for those infractions where a systemic failure is involved, appropriate corrective and, if need be, punitive action has been taken. The Commission further notes that prior to the enactment of Chapter 14, the relevant utilities experienced similar compliance issues related to improper service terminations, etc. under the PUC's Chapter 56 billing regulations and/or Section 1501 of the Code (pertaining to reasonable service). Thus, these types of compliance issues are not unique to Chapter 14. In any event, the Commission takes such matters seriously and continues to work diligently to address these issues with utilities on a case-by-case basis.

Section II - The Effect Upon the Cash Working Capital or Cash Flow, Uncollectible Levels and Collections of the Affected Public Utilities

Chapter 14 requires the Commission to report on the effect of Chapter 14 on cash working capital or cash flow, uncollectible levels and residential collections of the affected utilities. This section of the report will begin with an overview of the collections process followed by a review of the type of collections data that the Commission receives and utilizes to, among other things, assess the impact of Chapter 14 on energy and water utility uncollectible levels and collections, etc. This section concludes with data on the collections impact of Chapter 14 on affected utilities. Based on this data, the overall collections performance for the electric industry continues to show some deterioration since the passage of Chapter 14, while the overall collections performance for the gas industry improved from 2004-09. However, noting the current economic conditions, utilities have effectively managed their overall collection levels during the report period.

Overview of the Collections Process

The collections process begins when a customer does not pay his/her bill in full and on time. Active account balances are those accounts with service still on. The number of active accounts in debt and the corresponding dollars in debt are included in this report.

Inactive account balances are those accounts that have been terminated or discontinued but not yet written-off by the company. Inactive account balances will ultimately either be paid by the customer or written off as uncollectible by the company. Our Collections Reporting Interim Guidelines require utility reporting of inactive accounts beginning with 2007 data (See Appendix 30). Write-offs are accounts that the company determines to be uncollectible.

Companies move accounts from inactive status to write-offs on differing timelines, varying from two months to one year following termination or discontinuance, according to individual company accounting strategies. Collections Operating Expenses represent the costs to the company for pursuing the dollars that are owed by customers. Universal Service Programs costs reflect the costs associated with those programs that serve as alternative collections devices for low-income customers. Security Deposits on Hand represent a cash asset for utilities and these dollars are treated as an offset to collections costs in the calculation of a company's Distribution Charges (See Appendix 31).

Collections Data Process

The Commission sought comments from the industry and interested parties on collections data issues associated with Chapter 14 reporting requirements, including, but not limited to, the following:

- Applicability of the reporting requirements;
- Content of the list of collections data variables to be included under the reporting requirements;

- Frequency of utility reporting under the requirements;
- Due dates for the utility reporting under the requirements;
- Establishment of the Collaborative Process Working Group;
- Transfer of historical data from the Commission to the utilities;
- Link between the Chapter 56 rulemaking and the Collections Reporting Requirements; and
- Process for making collections data available to the public.

Applicability

Larger Utilities

By order entered July 24, 2006, at Docket No. M-00041802F0003, the Commission established that larger utilities – those electric, gas and water distribution utilities with annual operating revenues greater than or equal to $200 million – are subject to full reporting pursuant to § 1415. The complete list of collections data variables appears in Appendix 1. The electric distribution utilities subject to the Chapter 14 evaluation collections reporting requirements include: Allegheny, Duquesne Light Co. (Duquesne), Metropolitan Edison Co. (Met-Ed), PECO, Penelec, Pennsylvania Power Co. (Penn Power) and PPL.

The natural gas distribution utilities include: Columbia Gas of Pennsylvania (Columbia), Peoples Gas (formerly Dominion Peoples), Equitable Gas (Equitable), National Fuel Gas Distribution Corp. (NFG), PECO, UGI Penn Natural, PGW and UGI-Gas.

The water distribution utilities include: Aqua Pennsylvania Inc. (Aqua Pennsylvania) and Pennsylvania -American Water Co. (PA -American).

Smaller Utilities

The Commission established that smaller utilities covered by Chapter 14 are required to report only a limited number of residential collections data variables beginning with 2007 data. This abbreviated list of collections variables includes the number of residential customers, annual residential billings, annual gross residential write-offs, the number of terminations and the number of reconnections.

Number of Years to be Included in the Biennial Report

The historical reporting period for the residential collections data in the Commission's Third Biennial Report is 2002-09. Under Commission regulations at 52 Pa. Code § 56.202 (Record Maintenance), utilities are required to maintain a minimum of four years written or recorded disputes and complaints. The water industry was excluded from this reporting until the industry fell under existing reporting requirements for 2007 data due on or before April 1, 2008.

Frequency of Utility Reporting

The Commission's Interim Guidelines require utilities to report data on an annual basis. This reporting frequency is sufficient.

Utility Reporting Due Dates

The Commission set Sept. 1, 2006, as the initial reporting deadline. For subsequent reporting, the Commission established April 1 as the due date for the previous year's information (i.e. 2009 data is due April 1, 2010). The annual reporting will continue through April 1, 2014, which will cover the year 2013. The Final Order also set utility reporting due dates which are reflected in the Interim Guidelines.

Link between the Chapter 56 Rulemaking and the Collections Reporting Requirements

The Commission issued a Notice of Proposed Rulemaking (L -00060182) initiating a Rulemaking to revise Chapter 56 of its Regulations to bring those regulations in compliance with the mandates of Chapter 14. Until the Chapter 56 rulemaking is complete, the Commission will follow the Interim Guidelines for the collections data reporting requirements. In the Chapter 56 rulemaking, the Commission will revise § 56.231 to incorporate these Interim Guidelines.

The Interim Guidelines enable the Commission to comply with the requirements for the Residential Collections Data while the Chapter 56 Rulemaking is completed.

Making Collections Data Available to the Public

The Commission received comments asking that collections data be made available on the PUC website www.puc.state.pa.us. The Commission agreed and placed the initial historical data submission covering the period 2002-05 on its Web site in December 2006. The Commission continues to post annual data submissions to the PUC website by May 31 of each year. Data for the period 2002-09 is now on our website.

Collections Data

Residential Collections Data 2002–09

All residential collections data tables presented in this report are based on data previously submitted to the Commission by the affected companies and subsequently validated by the companies. The validation process was set forth in the Commission's Final Order at Docket No. M-00041802F0003. The historical data set for this report covers 2002-09 and was recently validated and updated by the utilities during 2010 for this report. In some cases, data has been revised since its prior publication in the first two reports and the corrected data is contained herein.

Treatment of Electric and Gas Industry Totals and Averages

All electric and gas industry totals shown throughout the tables in this report are based on industry totals and do not represent an average of the company scores. This rule applies to all tables, regardless of whether the table shows total lines that are simple additions or whether the table shows totals that are derived from calculated variables.

Gas industry totals in the report tables include PGW beginning in 2004 since the Commission does not have PGW data prior to the implementation of Chapter 14. However, the narrative descriptive highlights below the gas industry tables are based on industry totals excluding PGW. In this way, PGW can better be compared to its industry peers.

Collections Performance Measures and Data

The Commission believes that specific collections performance measures such as the percent of customers in debt, the percent of billings in debt, the weighted arrearage and the percent of billings written off provide a comprehensive picture of collections performance. These primary collections measures appear in Section II along with annual residential billings and annual Universal Service Program costs. Billings are included because they are used to calculate the percentage of billings in debt and the percentage of billings written off. In addition, the amount of billings shows the magnitude of the dollars involved in residential collections. Universal Service costs are included because Universal Service Programs provide the safety net for low-income customers and, as such, represent a significant part of the utilities' overall collections strategy.

Other collections data appear in the appendices of this report. While the Commission views this data as secondary to the performance measures presented in Section II, the Commission considers the data important enough to include in this report. In all cases, the additional data presented in the appendices offers significant supporting and summary data. The Commission's goal is to provide a comprehensive view of collections performance and the appendices allow us to do so. The appendices include: the dollars in gross write-offs; the number of active accounts in debt; the total dollars in debt for active accounts; average arrearages; annual utility collections operating expenses; collections costs as a percentage of billings; Universal Service Program costs as a percentage of billings; Customer Assistance Program (CAP) Costs; Low Income Usage Reduction Program (LIURP) costs; summaries of select collections and Universal Service costs; monthly average bills; the number of accounts and dollars in debt for inactive accounts; and the number of accounts and total dollars in security deposits on hand.

Definitions for each collections performance measure and data variable are provided prior to all data tables in Section II and in the various appendices that provide additional supporting collections data.

Collections Trend Analysis of Pre-Chapter 14 Data versus Post-Chapter 14 Data

The data presented in Tables 6-26 illustrate the Pre-Chapter 14 versus Post-Chapter 14 collections trends. These tables show collections data from 2002-04 for the pre-Chapter 14 period and data from 2004-09 for the post-Chapter 14 period. The line graphs in this section present collections data from 2002 to 2009. Subsequent Biennial Reports will provide multi-year data to show a longer post-Chapter 14 trend line.

The annual residential billings shown below represent the cumulative amount of the residential billings for calendar years 2002-09. This includes normal tariff billings and late payment fees.

Table 6 – Annual Residential Billings ($) – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	472,083,703	454,127,871	461,441,708	482,974,436	494,672,069	547,374,217	554,454,172	599,340,971	-2.3	29.9
Duquesne	335,199,000	302,583,153	314,096,238	363,023,022	367,688,569	451,564,521	469,775,020	466,507,432	-6.3	48.5
GPU*	794,398,727									
Met-Ed		444,319,062	459,899,488	487,495,533	490,102,735	556,775,006	585,043,618	626,478,569	3.5***	36.2
PECO**	1,801,779,619	1,923,710,201	1,957,092,865	2,219,005,806	2,281,139,333	2,453,497,423	2,429,827,312	2,366,957,059	8.6	20.9
Penelec		373,227,197	375,076,999	389,251,205	391,403,521	451,605,105	467,879,472	472,113,272	0.5***	25.9
Penn Power	136,838,297	137,209,360	139,365,836	147,271,058	134,567,931	174,449,198	184,277,941	183,328,312	1.8	31.5
PPL	1,066,109,848	1,113,754,752	1,119,311,100	1,272,490,051	1,300,025,518	1,383,051,077	1,450,626,903	1,487,538,825	5.0	32.9
Total	**4,606,409,194**	**4,748,931,596**	**4,826,284,234**	**5,361,511,111**	**5,459,599,676**	**6,018,316,547**	**6,141,884,438**	**6,202,264,440**	**4.8**	**28.5**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO's data includes electric and gas.
***Percent change from 2003-04.

Table 7 – Annual Residential Billings ($) – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	188,343,042	349,010,748	334,443,294	422,316,022	418,132,074	402,803,625	481,827,700	387,454,010	77.6	15.9
Peoples	181,078,432	263,961,282	290,778,050	356,078,003	322,086,340	286,731,554	331,893,654	259,501,732	60.6	-10.8
Equitable	217,196,523	264,543,904	283,893,176	312,307,597	287,990,871	302,131,240	363,574,586	308,905,022	30.7	8.8
NFG	184,074,895	228,052,896	244,711,222	281,018,336	287,197,446	262,091,560	292,267,922	259,746,550	32.9	6.1
PGW*			572,312,071	643,044,117	632,699,250	622,743,570	649,689,318	629,654,666	*	10.0
UGI-Gas	232,474,943	244,489,521	260,933,261	314,092,374	310,939,761	333,604,769	343,459,192	311,515,001	12.2	19.4
UGI Penn Natural	149,164,424	178,252,688	184,696,814	212,942,138	199,170,443	220,805,764	233,511,186	239,555,679	23.8	29.7
Total	**1,152,332,259**	**1,528,311,039**	**2,171,767,888**	**2,541,798,587**	**2,458,216,185**	**2,430,912,082**	**2,696,223,558**	**2,396,332,660**	*	**10.3**

*PGW did not come under reporting requirements until 2004.

The following tables show the percentage of customers in debt for electric and gas utilities from 2002 through 2009. The percentage of customers in debt is calculated by dividing the number of residential customers in debt by the total number of residential customers. A company with a low percentage of its residential customers in debt will experience better cash flow than one with a higher percentage of its residential customers in debt.[1]

Table 8 – Percentage of Residential Customers in Debt – Active Accounts – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	18.68	18.06	17.54	16.72	15.55	16.07	15.89	16.83	-6.1	-4.0
Duquesne	15.85	15.67	11.78	11.31	10.20	9.50	9.50	9.41	-25.7	-20.1
GPU*	20.52									
Met-Ed		19.56	18.79	18.46	18.69	18.82	19.12	19.88	-3.9***	5.8
PECO**	19.78	20.57	19.77	19.40	26.58	23.26	23.80	23.71	0.0	19.9
Penelec		20.60	19.88	19.45	19.79	19.63	19.24	19.46	-3.5***	-2.1
Penn Power	21.44	20.37	19.23	19.39	19.17	19.18	18.76	19.31	-10.3	0.4
PPL	15.62	16.34	15.97	15.59	17.20	17.28	17.28	17.56	2.2	10.0
Total	**18.40**	**18.60**	**17.59**	**17.16**	**19.43**	**18.47**	**18.59**	**18.85**	**-4.4**	**7.2**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas.
***Percent change from 2003-04.

The percentage of residential customers in debt for the electric industry declined by 4.4 percent in the pre-Chapter 14 period from 2002-04 but has since increased by 7.2 percent in the post-Chapter 14 period from 2004-09.

[1] These are customers with utility account arrearages.

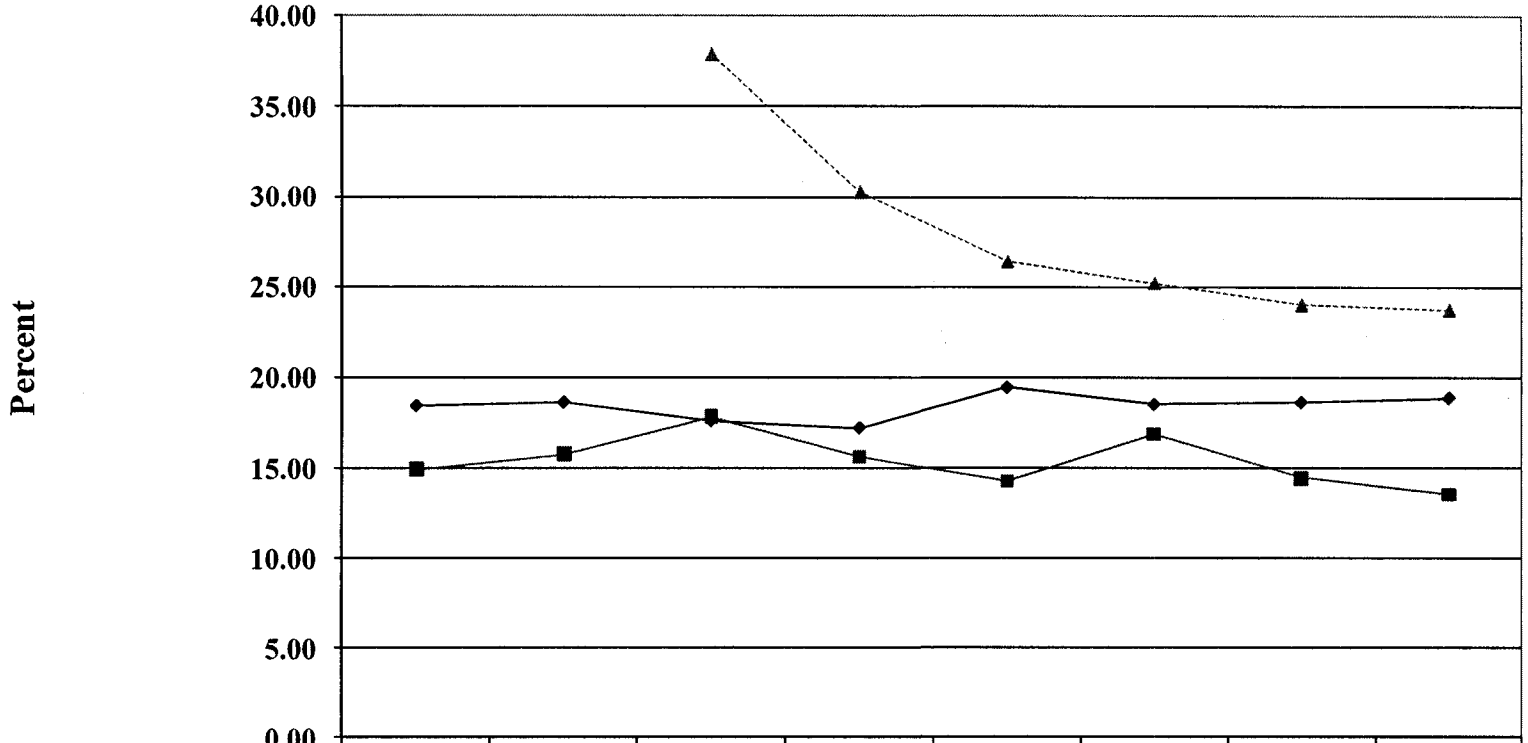
Table 9 – Percentage of Residential Customers in Debt – Active Accounts – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	10.44	12.79	14.14	14.23	13.13	12.85	13.34	11.49	35.4	-18.7
Peoples	18.10	17.00	18.03	17.78	15.61	14.61	14.19	12.76	-0.4	-29.2
Equitable	16.99	16.44	27.44	16.09	14.25	13.43	12.31	11.84	61.5	-56.9
NFG	15.03	16.88	16.54	15.18	13.81	12.09	12.33	12.07	10.0	-27.0
PGW*			37.95	30.27	26.41	25.20	24.01	23.73	*	-37.5
UGI-Gas	14.15	15.66	15.22	14.48	13.12	16.61	17.52	16.39	7.6	7.7
UGI Penn Natural	16.66	17.86	17.52	16.14	17.02	17.14	17.92	19.20	5.2	9.6
Total	**14.93**	**15.76**	**22.63**	**19.09**	**17.14**	**16.86**	**16.68**	**15.90**	*	**-29.7**

*PGW did not come under reporting requirements until 2004.

The percentage of residential customer in debt for the gas industry, excluding PGW, increased by 19.4 percent in the pre-Chapter 14 period from 2002-04 and declined by 24.2 percent in the post-Chapter 14 period from 2004-09. PGW's improvement since the passage of Chapter 14 was even more dramatic than its industry peers as the percent of customers in debt declined by 37.5 percent from 2004-09.

Percentage of Customers in Debt - Active Accounts



	2002	2003	2004	2005	2006	2007	2008	2009
Electric	18.40	18.60	17.59	17.16	19.43	18.47	18.59	18.85
Gas Exluding PGW*	14.93	15.76	17.83	15.61	14.26	16.86	14.44	13.52
PGW			37.95	30.27	26.41	25.20	24.01	23.73

*PGW did not come under reporting requirements until 2004

Electric Gas Exluding PGW* PGW

The following tables show the percentage of billings in debt for electric and gas utilities from 2002 through 2009. The percentage of billings in debt is calculated by dividing the total annual billings by the total monthly average dollars in debt. This calculated variable provides another way to measure the extent of customer debt. In the two tables that follow, the higher the percentage, the greater the potential collections risk.

Table 10 – Percentage of Billings in Debt – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	3.60	3.51	3.38	2.48	2.05	2.01	2.04	2.20	-6.1	-34.9
Duquesne	11.75	11.37	7.13	5.06	4.27	3.41	3.99	4.22	-39.3	-40.8
GPU*	5.74									
Met-Ed		5.60	5.44	4.84	5.29	5.05	4.85	4.81	-2.9***	-11.6
PECO**	4.92	5.11	6.32	4.31	4.10	5.77	8.11	7.39	28.5	16.9
Penelec		6.43	6.62	5.99	6.26	5.79	5.31	5.27	3.0***	-20.4
Penn Power	3.90	4.95	5.76	5.65	6.19	5.29	5.29	5.63	47.7	-2.3
PPL	4.58	5.11	5.15	4.62	5.86	5.87	5.94	6.08	12.4	18.1
Total	**5.31**	**5.50**	**5.74**	**4.47**	**4.66**	**5.20**	**6.12**	**5.86**	**8.1**	**2.1**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas.
***Percent change from 2003-04.

The percentage of billings in debt was worsening for the electric industry prior to the passage of Chapter 14, as evidenced by the 8.1 percent increase from 2002-04. Since the passage of Chapter 14, the electric industry showed an increase of 2.1 percent.

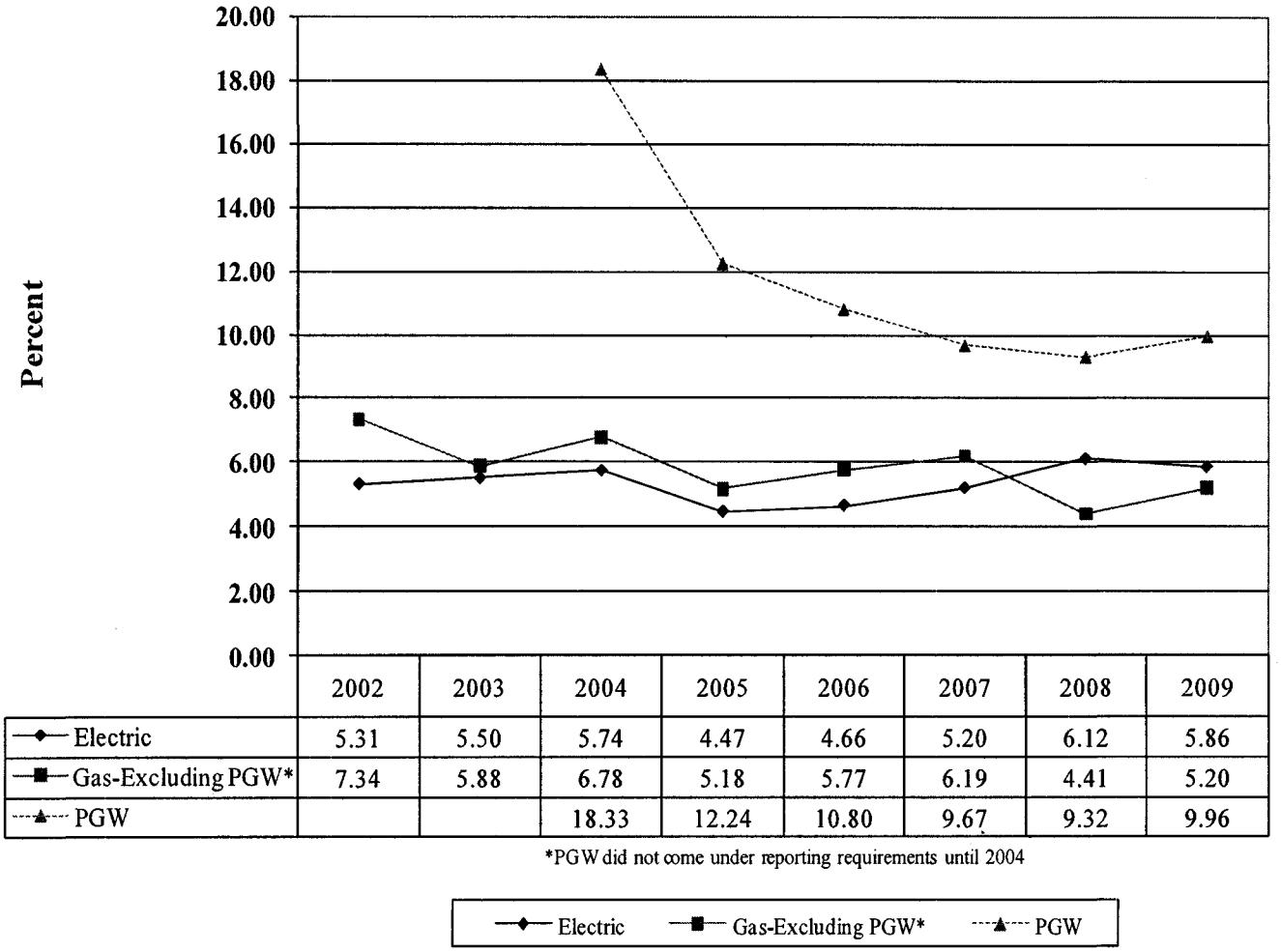
Table 11 – Percentage of Billings in Debt – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	5.61	4.53	4.78	3.93	4.18	3.73	3.53	5.12	-14.8	7.1
Peoples	21.99	13.43	14.48	12.10	15.27	12.92	10.36	12.18	-34.2	-15.9
Equitable	8.50	6.01	9.44	5.09	5.36	4.19	3.23	3.99	11.1	-57.7
NFG	3.09	3.43	3.54	2.85	2.75	2.45	2.31	2.76	14.6	-22.0
PGW*			18.33	12.24	10.80	9.67	9.32	9.96	*	-45.7
UGI-Gas	2.17	3.18	3.04	3.18	2.72	3.48	4.06	3.52	40.1	15.8
UGI Penn Natural	3.38	3.97	3.76	2.76	4.07	3.41	3.68	4.18	11.2	11.2
Total	**7.34**	**5.88**	**9.82**	**7.01**	**7.12**	**6.19**	**5.67**	**6.45**	*	**-34.3**

*PGW did not come under reporting requirements until 2004.

The percentage of billings in debt decreased by 7.6 percent for the gas industry, excluding PGW, prior to the passage of Chapter 14 from 2002-04 and showed a more dramatic decrease of 23.3 percent since 2004. PGW showed even more dramatic improvement since the passage of Chapter 14, based on the 45.7 percent decrease in the percentage of billings in debt.

Percentage of Billings in Debt



	2002	2003	2004	2005	2006	2007	2008	2009
Electric	5.31	5.50	5.74	4.47	4.66	5.20	6.12	5.86
Gas-Excluding PGW*	7.34	5.88	6.78	5.18	5.77	6.19	4.41	5.20
PGW			18.33	12.24	10.80	9.67	9.32	9.96

*PGW did not come under reporting requirements until 2004

The following tables show the weighted average of arrearages compared to bills for electric and gas utilities from 2002 through 2009. The weighted arrearage is calculated by dividing the average arrearage by the average bill. It represents the number of average bills in an average arrearage. The larger the number, the greater the collections risk.

Table 12 – Weighted Arrearage – Active Accounts – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	2.48	2.34	2.33	1.79	1.58	1.51	1.51	1.51	-6.0	-35.2
Duquesne	8.81	8.69	7.29	5.36	5.03	4.42	5.07	5.96	-17.3	-18.2
GPU*	3.35									
Met-Ed		3.43	3.17	3.14	3.40	3.21	3.04	2.93	-7.6***	-7.6
PECO**	2.98	2.98	3.83	2.66	1.85	4.06	4.09	3.74	42.4	-2.3
Penelec		3.36	3.99	3.69	3.77	3.51	3.32	3.25	18.8***	-18.5
Penn Power	3.53	3.44	3.16	3.49	3.86	3.31	3.38	3.51	-10.5	11.1
PPL	3.58	3.80	3.96	3.60	4.14	4.12	4.09	4.20	10.6	6.1
Total	**3.99**	**3.91**	**4.13**	**3.47**	**3.24**	**3.91**	**4.24**	**4.02**	**3.5**	**-2.7**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas.
***Percent change from 2003-04.

From 2002 to 2004, the weighted arrearage for the electric industry increased by 3.5 percent. It improved somewhat after the passage of Chapter 14, as reflected by the 2.7 percent decrease from 2004-09.

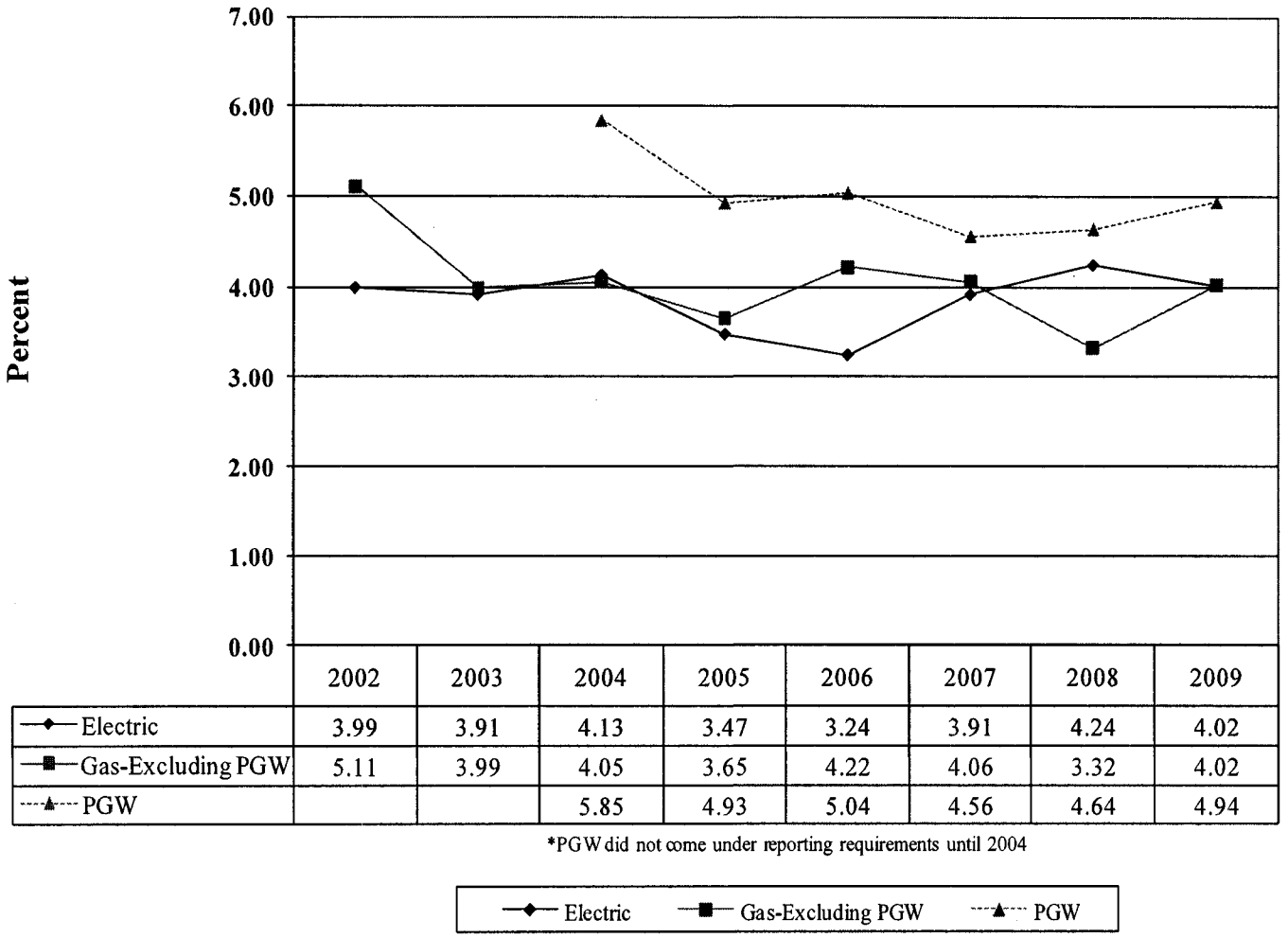
Table 13 – Weighted Arrearage – Active Accounts – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	4.73	3.76	3.48	3.05	3.56	3.36	3.04	5.53	-26.4	58.9
Peoples	10.15	6.99	7.21	6.39	8.33	7.64	6.33	7.94	-29.0	10.1
Equitable	5.32	4.00	3.84	3.52	3.87	3.36	2.91	3.39	-27.8	-11.7
NFG	2.50	2.49	2.63	2.32	2.46	2.44	2.24	2.75	5.2	4.6
PGW*			5.85	4.93	5.04	4.56	4.64	4.94	*	-15.6
UGI-Gas	2.20	2.39	2.33	2.46	2.19	2.53	2.43	2.48	5.9	6.4
UGI Penn Natural	2.46	2.71	2.61	2.15	2.73	2.48	2.52	2.66	6.1	1.9
Total	**5.11**	**3.99**	**4.77**	**4.11**	**4.45**	**4.06**	**3.71**	**4.38**	*	**-8.2**

*PGW did not come under reporting requirements until 2004.

The weighted arrearage for the gas industry, excluding PGW, improved significantly, decreasing by 20.7 percent from 2002-04. The gas industry showed a very slight improvement following the passage of Chapter 14 as the decline measured 0.7 percent from 2004-09. PGW's weighted arrearage improved more dramatically than that of its industry peers since the passage of Chapter 14 as the weighted arrearage declined by 15.6 percent from 2004-09.

Weighted Arrearage - Active Accounts



	2002	2003	2004	2005	2006	2007	2008	2009
Electric	3.99	3.91	4.13	3.47	3.24	3.91	4.24	4.02
Gas-Excluding PGW	5.11	3.99	4.05	3.65	4.22	4.06	3.32	4.02
PGW			5.85	4.93	5.04	4.56	4.64	4.94

*PGW did not come under reporting requirements until 2004

The following tables show the gross residential write-offs ratio for electric and gas utilities from 2002 through 2009. The gross residential write-off ratio is the percentage of billings written off as uncollectible. The percentage of residential billings written off as uncollectible is the most commonly used long-term measure of collections system performance. This measure is calculated by dividing the annual total gross dollars written off for residential accounts by the annual total dollars of residential billings.

Table 14 – Percentage of Gross Residential Write-Offs Ratio – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	1.65	1.82	1.86	1.58	1.17	1.09	1.01	0.93	12.7	-50.0
Duquesne	5.19	3.69	3.15	2.58	2.62	1.15	1.26	1.76	-39.3	-44.1
GPU*	2.49									
Met-Ed		1.80	2.11	2.14	1.89	1.93	1.91	1.71	17.2***	-19.0
PECO**	2.31	2.00	2.12	2.01	1.84	2.24	2.11	2.22	-8.2	4.7
Penelec		2.16	2.33	2.58	2.20	2.07	2.00	1.76	7.9***	-24.5
Penn Power	1.35	1.28	1.69	2.27	1.93	1.74	1.81	1.82	25.2	7.7
PPL	1.51	1.61	1.99	1.50	1.63	1.68	1.78	2.36	31.8	18.6
Total	**2.27**	**1.97**	**2.14**	**1.95**	**1.81**	**1.87**	**1.83**	**2.00**	**-5.7**	**-6.5**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas.
***Percent change from 2003-04.

The percentage of gross residential write-offs ratio for the electric industry declined by 5.7 percent prior to the passage of Chapter 14. The residential write-offs ratio continued to decline after the passage of Chapter 14, as indicated by the 6.5 percent decrease from 2004-09.

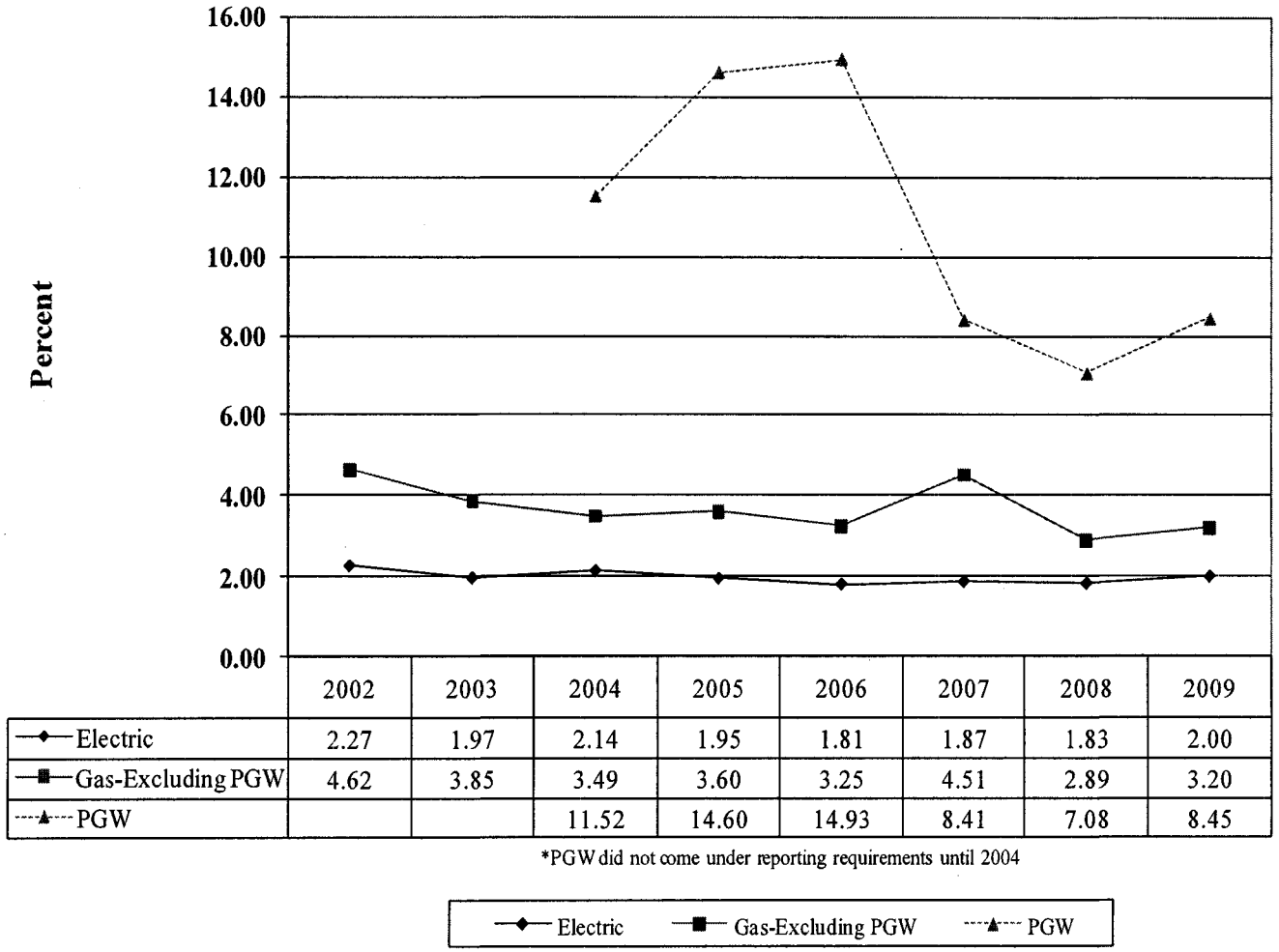
Table 15 – Percentage of Gross Residential Write-Offs Ratio – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	3.87	5.89	4.81	4.07	3.04	2.61	2.26	3.11	24.3	-35.3
Peoples	7.70	5.01	4.79	4.01	3.23	3.86	2.87	4.06	-37.8	-15.2
Equitable	7.44	3.82	2.79	5.00	5.32	3.73	3.46	2.97	-62.5	6.5
NFG	3.61	1.93	2.45	2.69	2.55	3.17	2.09	2.33	-32.1	-4.9
PGW*			11.52	14.60	14.93	8.41	7.08	8.45	*	-26.6
UGI-Gas	2.56	2.75	2.60	2.45	2.73	2.93	3.39	3.08	1.6	18.5
UGI Penn Natural	2.17	2.13	2.79	2.85	2.53	2.81	3.57	3.83	28.6	37.3
Total	**4.62**	**3.85**	**5.61**	**6.38**	**6.25**	**4.51**	**3.90**	**4.58**	*	**-18.4**

*PGW did not come under reporting requirements until 2004.

The percentage of gross residential write-offs ratio for the gas industry, excluding PGW, declined by 24.5 percent prior to the passage of Chapter 14 and continued to decline after the passage of Chapter 14, as indicated by the 8.3 percent decrease from 2004-09. PGW did even better than its industry peers following the passage of Chapter 14 as indicated by the decline of 26.6 percent.

Percentage of Gross Residential Write-Off Ratio



	2002	2003	2004	2005	2006	2007	2008	2009
Electric	2.27	1.97	2.14	1.95	1.81	1.87	1.83	2.00
Gas-Excluding PGW	4.62	3.85	3.49	3.60	3.25	4.51	2.89	3.20
PGW			11.52	14.60	14.93	8.41	7.08	8.45

*PGW did not come under reporting requirements until 2004

The following tables show total universal service costs for electric and gas utilities from 2002 through 2009. Universal Service programs are targeted to low-income customers and include the Customer Assistance Program (CAP), the Low Income Usage Reduction Program (LIURP), Customer Assistance and Referral Evaluation Services (CARES) and Hardship Funds. Universal Service Programs offer an alternative payment strategy for low-income customers aimed at making bills more affordable. Customers who participate in CAP are removed from mainstream collections data and are tracked under Universal Service Program Costs, consistent with the Commission's treatment of such costs for ratemaking purposes. Consistent with reporting in the Commission's annual Universal Service Report, the total Universal Service Program Costs include CAP, LIURP and CARES.

Table 16 – Total Universal Service Program Costs – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	$5,464,748	$6,911,996	$7,109,745	$8,862,571	$9,759,595	$10,275,264	$9,529,798	$9,252,313	30.1	30.1
Duquesne	$7,740,834	$8,087,000	$6,396,250	$8,709,846	$11,566,730	$13,027,031	$14,816,236	$17,508,094	-17.4	173.7
GPU*	$12,965,640									
Met-Ed		$6,493,938	$6,686,226	$7,059,772	$7,989,825	$9,995,788	$16,144,867	$22,015,084	3.0***	229.3
PECO**	$66,179,850	$84,649,953	$86,102,371	$73,335,950	$82,440,873	$100,361,093	$120,605,511	$115,914,246	30.1	34.6
Penelec		$7,805,548	$8,571,959	$8,927,448	$10,422,216	$12,694,954	$21,988,893	$27,570,954	9.8***	221.6
Penn Power	$2,498,900	$2,603,145	$2,353,117	$2,338,615	$2,333,840	$3,182,635	$6,183,737	$9,725,640	-5.8	313.3
PPL	$16,235,685	$18,822,373	$20,334,191	$22,552,129	$24,579,346	$27,672,369	$31,868,731	$37,859,371	25.2	86.2
Total	**$111,085,657**	**$135,373,953**	**$137,553,859**	**$131,786,331**	**$149,092,425**	**$177,209,134**	**$221,137,773**	**$239,845,702**	**23.8**	**74.4**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Spending on Universal Service programs increased dramatically prior to the passage of Chapter 14, and this trend continued after the passage of Chapter 14 as the electric companies continued to expand these programs for low-income customers.

Table 17 – Total Universal Service Program Costs – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	$10,408,791	$23,459,213	$16,344,747	$24,467,999	$27,380,104	$24,816,225	$25,879,596	$31,551,847	57.0	93.0
Peoples	$2,214,685	$4,166,512	$6,161,196	$6,557,505	$8,389,190	$23,570,907	$9,448,364	$11,046,754	178.2	79.3
Equitable	$2,717,462	$4,719,898	$6,596,751	$10,294,719	$16,745,551	$12,506,073	$16,675,577	$30,380,400	142.8	360.5
NFG	$3,098,569	$4,543,118	$5,833,965	$7,721,233	$10,015,338	$7,884,198	$9,420,781	$8,119,399	88.3	39.2
PGW*			$59,808,697	$86,621,290	$105,440,734	$108,307,951	$105,892,522	$108,636,123	*	81.6
UGI-Gas	$1,097,623	$1,461,256	$2,615,634	$2,565,408	$4,119,883	$5,075,209	$5,749,679	$6,781,836	138.3	159.3
UGI Penn Natural	$686,930	$923,336	$1,036,120	$1,347,401	$1,763,766	$1,604,466	$2,963,411	$4,450,767	50.8	329.6
Total	**$20,224,060**	**$39,273,333**	**$98,397,110**	**$139,575,555**	**$173,854,566**	**$183,765,029**	**$176,029,930**	**$200,967,126**	*	**104.2**

*PGW did not come under reporting requirements until 2004.

Spending on Universal Service programs increased prior to the passage of Chapter 14, and this trend increased dramatically after the passage of Chapter 14 as gas companies expanded these programs for low-income customers during the era of volatile gas prices since 2002.

The following table is a summary of various significant collections data variables and collections data performance measures that appear in Section II, Section III and in various appendices in this report. For both the electric and gas industries, the pre-Chapter 14 trend is shown in the columns indicating the change from 2002-04 and the post-Chapter 14 analysis is shown in the columns indicating the change from 2004-09.

Table 18 – Summary of Collections Measures – Percent Change 2002-04 and Percent Change 2004-09

Collections Measure	Electric Industry 2002-04	Electric Industry 2004-09	Gas Industry 2002-04*	Gas Industry 2004-09*	PGW 2004-09
Billings	4.8	28.5	38.8	10.5	10.0
Gross Write-Offs Ratio	-5.7	-6.5	-24.5	-8.3	-26.6
Percent of Billings in Debt	8.1	2.1	-7.6	-23.3	-45.7
Percent of Customers in Debt**	-4.4	7.2	19.4	-24.2	-37.5
Weighted Arrearage	3.5	-2.7	-20.7	-0.7	-15.6
Universal Service Programs Costs	23.8	74.4	90.8	139.3	81.6

*Excludes PGW – PGW did not come under reporting requirements until 2004.
**See Appendix 2 for the explanation of variability among the companies for reporting when they consider an account to be overdue and see Appendix 3 for the explanation of variability of when they move an account from active status to inactive status following a termination or discontinuance of service.

Conclusion: Section II – The Effect Upon the Cash Working Capital or Cash Flow, Uncollectible Levels and Collections of the Affected Public Utilities

The overall collections performance for the electric industry continues to show some deterioration since the passage of Chapter 14. Specifically, the 28.5 percent increase in residential revenues since 2004 has been offset by an increasing number and percentage of customers who are in arrears and who owe an increasing amount of money. On the positive side, the gross residential write-offs ratio declined by 6.5 percent from 2004-09. The electric industry has also expanded CAP spending by 79.6 percent since the passage of Chapter 14.

Looking ahead, the Commission is concerned about the collections performance of the electric industry as rate caps are lifted for Met-Ed, PECO, Penelec and Allegheny on Dec. 31, 2010. While less than originally predicted, the increases in post-rate cap generation rates combined with additional base-rate increases are cause for concern – especially when combined with diminishing purchasing power for customers in the current economic climate. In support of the evidence of the economic downturn, the Commission offers the increase in the percentage of Pennsylvania households at or below 150 percent of the Federal Poverty

Level, as the statewide percentage increased from 19 percent in 2000 to 25 percent in 2008. These factors may make it more challenging and difficult for the electric industry to manage its collections performance and costs.

The overall collections performance for the gas industry improved from 2004-09. This improvement reflects the continuation of a trend that had already begun in the pre-Chapter 14 period from 2002-04. During the post-Chapter 14 years, the percentage of customers in debt declined by 29.7 percent while the total dollars in debt declined by 27.5 percent. The gross residential write-offs ratio declined by 18.4 percent since the passage of Chapter 14. Finally, the gas industry has expanded CAP spending by 108.4 percent since 2004.

Overall, the analysis of the various collections data continues to show a dramatic pattern of improvement for PGW since the passage of Chapter 14. Significantly fewer customers owe money to PGW while the amount of debt has also significantly declined since 2004. PGW also stands out for the 26.6 percent decrease in its gross residential write-offs ratio. PGW's improved collections performance and overall financial health is reflected by its recently upgraded bond rating.

As shown above, the impact on residential collections continues to be more developed since our initial report. The collections data presented in this report do not include CAP accounts, consistent with the Commission's historical treatment of CAP accounts. For ratemaking purposes, CAP costs are recovered as a Universal Service Program Expense and not as a collections expense. The increase in the enrollment in CAP since the passage of Chapter 14 is a factor in the overall collections trend line. Based on data from the previously released annual reports on Universal Service programs, the corresponding year-end CAP enrollments increased from 305,303 in 2004 to 463,461 in 2009. The net effect in the growth of the CAP programs is that these customer arrearages are removed from the amount of current arrearages.

Section III - The Level of Access to Utility Services by Residential Customers, Including Low-Income Customers

This report also is designed to measure the impact of Chapter 14 on access to utility services by residential customers, including low-income customers.

To help measure access, the PUC uses monthly termination and reconnection data received from the electric and gas distribution companies. The Commission also uses limited information on terminated households through the annual Cold Weather Survey (CWS). The CWS data gathering is conducted by the electric and natural gas distribution companies annually during the fall months. The utilities survey residential properties where heat-related service was terminated during the calendar year and not reconnected. Survey results are reported to the Commission and categorized according to income status. The CWS does not provide any indication as to how long the household has been without utility service. A further limitation of the CWS is that customers whose service was terminated in a prior year will not be in the pool of customers to be surveyed in the current year.

Termination of utility service is the most serious consequence of customer nonpayment. The termination of utility service is a last resort when customers fail to meet their payment obligations. The following tables contain information on the number of terminations for electric and gas utilities from 2002 through 2009.

Table 19 – Terminations – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	8,777	9,941	12,007	19,980	21,514	21,689	19,650	17,057	36.8	42.1
Duquesne	9,307	9,138	10,694	22,132	20,885	22,624	22,081	23,143	14.9	116.4
GPU*	9,268									
Met-Ed		3,552	4,506	7,599	8,465	15,432	16,359	12,915	26.9***	186.6
PECO**	46,040	42,529	55,098	61,063	42,336	53,729	84,323	76,862	19.7	39.5
Penelec		5,247	5,881	11,430	11,307	14,061	13,442	9,878	12.1***	68.0
Penn Power	1,483	1,110	1,446	2,795	3,016	4,598	4,030	3,196	-2.5	121.0
PPL	7,736	8,174	9,061	17,795	21,221	25,873	38,917	33,247	17.1	266.9
Total	**82,611**	**79,691**	**98,693**	**142,794**	**128,744**	**158,006**	**198,802**	**176,298**	**19.5**	**78.6**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas.
***Percent change from 2003-04.

Terminations for the electric industry were on the rise prior to the passage of Chapter 14. For example, terminations increased by 19.5 percent from 2002-04. Since 2004, terminations have reached record levels, increasing 78.6 percent during the period from 2004 to 2009.

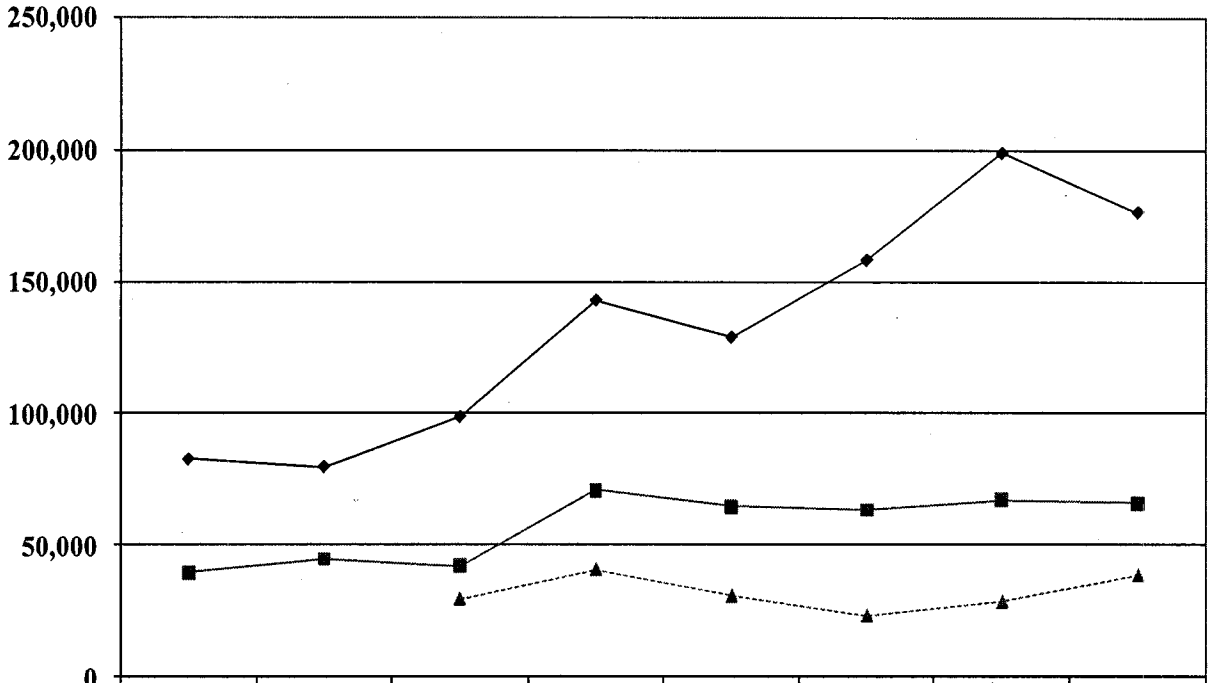
Table 20 – Terminations – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	5,832	6,153	7,545	18,819	14,571	12,825	12,188	11,662	29.4	54.6
Peoples	5,131	6,529	6,054	6,768	5,083	5,302	7,867	7,640	18.0	26.2
Equitable	11,012	11,106	7,023	13,075	12,793	12,593	11,979	10,836	-36.2	54.3
NFG	5,880	6,051	7,422	14,125	13,243	11,138	11,022	12,290	26.2	65.6
PGW*			29,695	40,663	30,808	23,437	28,674	38,536	*	29.8
UGI-Gas	7,824	10,409	8,911	12,830	13,778	14,571	16,415	14,891	13.9	67.1
UGI Penn Natural	4,041	4,547	5,169	5,334	5,179	7,065	7,735	8,672	27.9	67.8
Total	**39,720**	**44,795**	**71,819**	**111,614**	**95,455**	**86,931**	**95,880**	**104,527**	*	**45.5**

*PGW did not come under reporting requirements until 2004.

Terminations for the gas industry, excluding PGW rose to record levels since the passage of Chapter 14, with an overall increase of 56.7 percent from 2004-09. This followed a period of a more modest increase of 6.1 percent from 2002-04. Meanwhile, PGW has shown a 29.8 percent increase in terminations since 2004, while also showing improvement across the board for the residential collections performance measures presented in this report.

Terminations



	2002	2003	2004	2005	2006	2007	2008	2009
Electric	82,611	79,691	98,693	142,794	128,744	158,006	198,802	176,298
Gas-Excluding PGW	39,720	44,795	42,124	70,951	64,647	63,494	67,206	65,991
PGW			29,695	40,663	30,808	23,437	28,674	38,536

*PGW did not come under reporting requirements until 2004

The following tables show termination rates for electric and gas utilities from 2002 through 2009. The termination rate is calculated by dividing the number of terminations by the number of customers.

Table 21 – Termination Rate – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	1.48	1.66	2.00	3.31	3.54	3.55	3.21	2.78	35.1	39.0
Duquesne	1.77	1.74	2.03	4.22	3.98	4.31	4.21	4.41	14.7	117.2
GPU*	0.98									
Met-Ed		0.79	0.98	1.63	1.78	3.22	3.39	2.67	24.1***	172.4
PECO**	3.32	3.02	3.95	4.36	3.01	3.82	5.95	5.43	19.0	37.5
Penelec		1.04	1.17	2.26	2.24	2.78	2.66	1.96	12.5***	67.5
Penn Power	1.10	0.81	1.05	2.02	2.17	3.30	2.88	2.29	-4.5	118.1
PPL	0.68	0.71	0.78	1.51	1.79	2.16	3.23	2.75	14.7	252.6
Total	**1.75**	**1.67**	**2.06**	**2.97**	**2.66**	**3.25**	**4.07**	**3.60**	**17.7**	**74.8**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas
***Percent change from 2003-04.

Terminations for the electric industry have risen to record high levels since the passage of Chapter 14, increasing from 2.06 to 3.60 from 2004-09. Overall, the termination rate has increased by 75 percent from 2004-09.

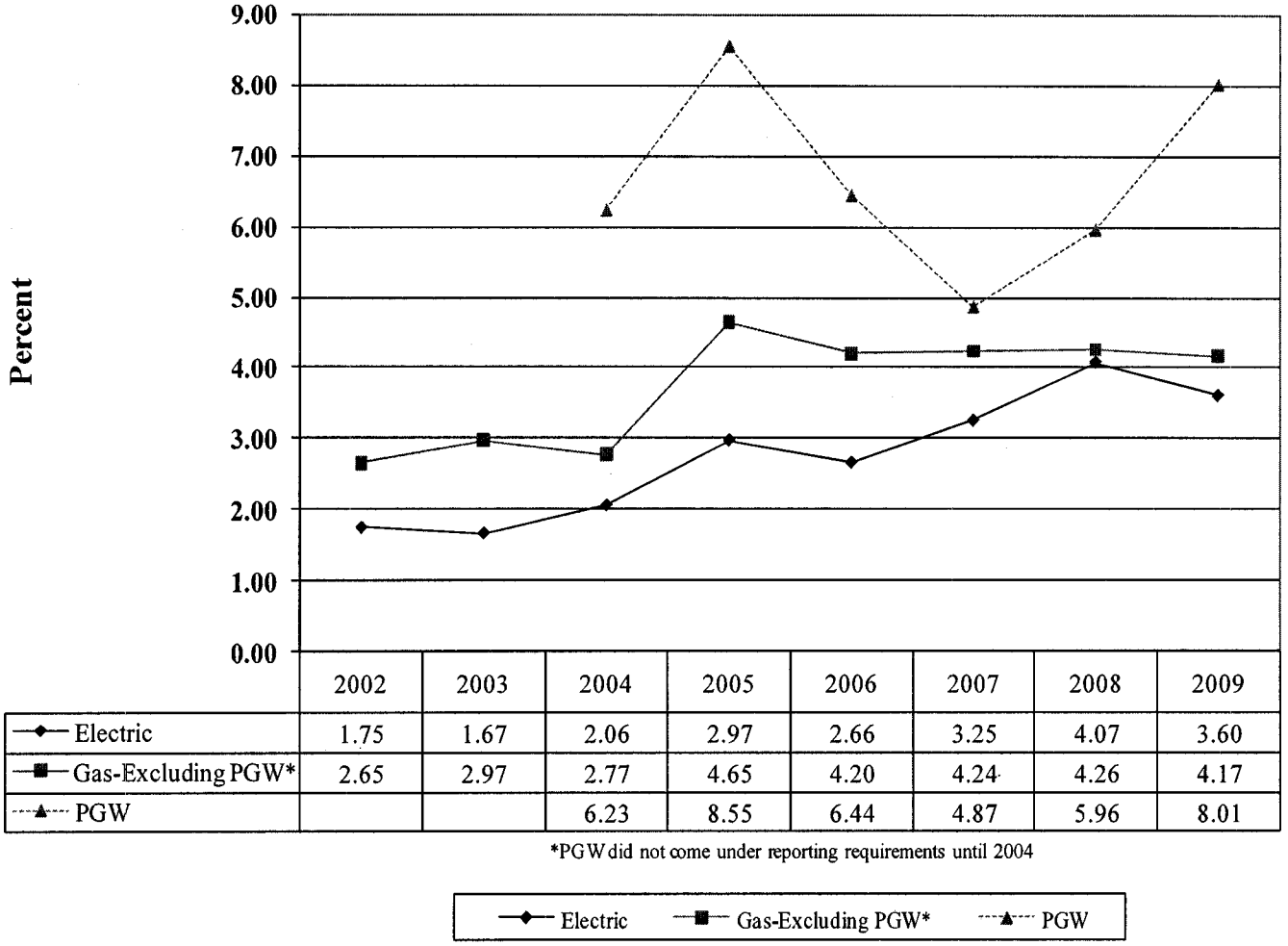
Table 22 – Termination Rate – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	1.67	1.74	2.11	5.22	4.00	3.48	3.29	3.14	26.3	48.8
Peoples	1.59	2.02	1.87	2.09	1.57	1.63	2.41	2.34	17.6	25.1
Equitable	4.66	4.71	3.00	5.62	5.51	5.28	5.01	4.52	-35.6	50.7
NFG	3.01	3.10	3.81	7.29	6.86	5.62	5.57	6.22	26.6	63.3
PGW*			6.23	8.55	6.44	4.87	5.96	8.01	*	28.6
UGI-Gas	3.06	3.96	3.30	4.64	4.85	4.96	5.50	4.92	7.8	49.1
UGI Penn Natural	2.91	3.26	3.69	3.80	3.68	4.95	5.38	5.99	26.8	62.3
Total	**2.65**	**2.97**	**3.60**	**5.57**	**4.73**	**4.24**	**4.66**	**5.07**	*	**40.8**

*PGW did not come under reporting requirements until 2004.

The termination rate for the gas industry, excluding PGW, has risen to record high levels since the passage of Chapter 14, going from 2.77 in 2004 to 4.17 in 2009. Similarly, PGW reported an increase in the termination rate from 6.23 in 2004 to 8.01 in 2009. Nevertheless, PGW has shown significant improvement in overall collections performance under Chapter 14.

Termination Rate



	2002	2003	2004	2005	2006	2007	2008	2009
Electric	1.75	1.67	2.06	2.97	2.66	3.25	4.07	3.60
Gas-Excluding PGW*	2.65	2.97	2.77	4.65	4.20	4.24	4.26	4.17
PGW			6.23	8.55	6.44	4.87	5.96	8.01

*PGW did not come under reporting requirements until 2004

Reconnection of service occurs when a customer pays his/her debt in full or makes a significant up-front payment and agrees to a payment agreement for the balance owed to the company. The following tables contain information on the number of reconnections for electric and gas utilities from 2002 through 2009.

Table 23 – Reconnections – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	4,176	4,857	6,084	11,969	13,766	14,184	12,308	10,500	45.7	72.6
Duquesne	4,461	5,238	6,182	15,124	14,587	16,360	16,443	16,877	38.6	173.0
GPU*	3,205									
Met-Ed		1,359	1,953	4,306	6,338	12,457	14,002	10,279	43.7***	426.3
PECO**	30,118	28,262	35,469	41,157	24,874	36,468	58,296	52,281	17.8	47.4
Penelec		1,869	2,558	7,060	7,482	10,162	10,754	7,603	36.9***	197.2
Penn Power	550	344	589	1,824	2,178	3,740	3,687	2,739	7.1	365.0
PPL	3,742	3,423	3,681	11,398	15,578	18,595	29,053	23,424	-1.6	536.3
Total	**46,252**	**45,352**	**56,516**	**92,838**	**84,803**	**111,966**	**144,543**	**123,703**	**22.2**	**118.9**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas
***Percent change from 2003-04.

Reconnections for the electric industry were on the rise prior to the passage of Chapter 14, by 22.2 percent. Since 2004, electric reconnections have increased dramatically, 118.9 percent from 2004-09.

Table 24 – Reconnections – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	4,670	4,520	2,797	10,669	7,973	7,489	7,212	6,559	-40.1	134.5
Peoples	2,384	2,394	2,320	2,699	1,854	2,380	4,048	4,597	-2.7	98.1
Equitable	4,225	6,496	1,964	7,765	10,529	9,393	7,988	7,392	-53.5	276.4
NFG	2,923	2,720	3,304	9,144	8,284	7,234	7,192	8,249	13.0	149.7
PGW			24,937	26,573	22,873	22,247	27,434	33,815	*	35.6
UGI-Gas	6,235	3,589	2,819	7,413	8,639	9,182	10,018	8,752	-54.8	210.5
UGI Penn Natural	2,495	2,882	3,131	3,409	2,853	3,716	4,524	4,871	25.5	55.6
Total	**22,932**	**22,601**	**41,272**	**67,672**	**63,005**	**61,641**	**68,416**	**74,235**	*	**79.9**

As with terminations, reconnections for the gas industry, excluding PGW, rose to record levels since the passage of Chapter 14, with an overall increase of 147.4 percent from 2004-09. PGW also showed an increase (35.6 percent) in reconnections during this same period.

The following tables show the reconnection ratios of electric and gas utilities from 2002 through 2009. The reconnect ratio is calculated by dividing the number of reconnections by the number of terminations in a calendar year.

Table 25 – Reconnect Ratio – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	47.6	48.9	50.7	59.9	64.0	65.4	62.6	61.6	6.5	21.5
Duquesne	47.9	57.3	57.8	68.3	69.8	72.3	74.5	72.9	20.7	26.1
GPU*	34.6									
Met-Ed		38.3	43.3	56.7	74.9	80.7	85.6	79.6	13.1***	83.8
PECO**	65.4	66.5	64.4	67.4	58.8	67.9	69.1	68.0	-1.5	5.6
Penelec		35.6	43.5	61.8	66.2	72.3	80.0	77.0	22.2***	77.0
Penn Power	37.1	31.0	40.7	65.3	72.2	81.3	91.5	85.7	9.7	110.6
PPL	48.4	41.9	40.6	64.1	73.4	71.9	74.7	70.5	-16.1	73.6
Total	**56.0**	**56.9**	**57.3**	**65.0**	**65.9**	**70.9**	**72.7**	**70.2**	**2.3**	**22.5**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO statistics include electric and gas.
**Percent change from 2003-04.

The electric industry's reconnect ratio showed little improvement prior to the passage of Chapter 14. The overall reconnection ratio for the electric industry improved with a 22.5 percent increase from 2004-09.

Table 26 – Reconnect Ratio – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	80.1	73.5	37.1	56.7	54.7	58.4	59.2	56.2	-53.7	51.5
Peoples	46.5	36.7	38.3	39.9	36.5	44.9	51.5	60.2	-17.6	57.2
Equitable	38.4	58.5	28.0	59.4	82.3	74.6	66.7	68.2	-27.1	143.6
NFG	49.7	45.0	44.5	64.7	62.6	65.0	65.3	67.1	-10.5	50.8
PGW			84.0	65.4	74.2	94.9	95.7	87.8	*	4.5
UGI-Gas	79.7	34.5	31.6	57.8	62.7	63.0	61.0	58.8	-60.4	86.1
UGI Penn Natural	61.7	63.4	60.6	63.9	55.1	52.6	58.5	56.2	-1.8	-7.3
Total	**57.7**	**50.5**	**57.5**	**60.6**	**66.0**	**70.9**	**71.4**	**71.0**	*	**23.5**

From 2002 to 2004, the reconnection ratio for the gas industry, excluding PGW, declined by 32.8 percent. The reconnection ratio for the gas industry, excluding PGW, increased 58 percent since the passage of Chapter 14. PGW's reconnection ratio also increased 4.5 percent during this time.

Cold Weather Survey (CWS)

Every December, the PUC releases its CWS results, which assess the number of households without heat-related service entering the winter months. As part of the survey, the PUC requires natural gas and electric utilities to check residential properties where service has been shut off. Contact is attempted through both telephone calls and in-person visits to the homes. In the pre-Chapter 14 period of 2001-04, there was an average of 12,049 households that entered the winter heating season without heat-related utility service. This number peaked in 2005 at 17,057 households. The 2009 number continues to be at a near peak level of 17,037.

Homes using potentially unsafe heating sources also are counted because the home is not relying on a central heating system. According to the National Fire Protection Association, potentially unsafe sources of heat include kerosene heaters, kitchen stoves or ovens, electric space heaters, fireplaces and connecting extension cords to neighbors' homes. According to the 2009 survey, there were 3,992 residences using potentially unsafe heating sources, bringing the total homes not using a central heating system to 21,029. The total number of homes not using a central heating system continues to be considerably higher than the pre-Chapter 14 average of 14,979.

The 2009 survey results also show that as of Dec. 15, 2009:

- 3,669 residential households were without electric service; 14,332 residences where service was terminated now appear to be vacant; and 80 households are heating with potentially unsafe heating sources. The total electric residences without safe heating are 3,749.

- 13,368 residential households that heat with natural gas are without service; 7,438 residences where service was terminated now appear to be vacant; and 3,912 households are heating with potentially unsafe heating sources. The total natural gas residences without safe heating are 17,280.

- PGW reported that 8,397 households that heat with natural gas are without service - the highest number of all utilities. A total of 10,300 or 49 percent of the total off accounts that have no service live in the Philadelphia area.

The Commission urges customers to call their utility and the PUC for help in getting their service restored.

The CWS Charts that follow show the number of residential properties without service for each of the major, regulated electric and natural gas distribution companies in the Commonwealth. The charts show only post-Chapter 14 results, which include the average of the years 2004-2007 and individual results for 2008 and 2009. The years 2008 and 2009, as shown in Tables 27 and 28, represent the two most recent years of available data.

Table 27
4-Year Average, 2008 & 2009 Cold Weather Survey Results – Electric

Survey Outcome	Allegheny	Duquesne	Met-Ed	PECO[1]	Penelec	Penn Power	PPL	UGI-Electric	Total	Percent Change from Avg. of 2004-07 to 2008	Percent Change from Avg. of 2004-07 to 2009	Percent Change 2008-09
Total Vacant Residences												
Avg. of 2004-07	1,961	1,524	625	2,335	943	500	1,960	146	9,994			
2008	2,218	1,484	1,163	3,391	1,070	613	3,619	37	13,595	36 percent		
2009	2,082	1,548	1,582	3,422	1,476	588	3,509	125	14,332		43 percent	5 percent
Total Households Using Potentially Unsafe Heating Sources[2]												
Avg. of 2004-07	35	21	12	26	16	3	3	3	119			
2008	40	8	11	1	4	3	0	1	68	-43 percent		
2009	50	2	2	8	10	2	0	6	80		-33 percent	18 percent
Total Households Without Service After Completion of the Survey (Excludes Households Using Potentially Unsafe Heating Sources, Other Central Heating Sources and Vacant)												
Avg. of 2004-07	130	962	155	1,983	200	69	106	7	3,612			
2008	139	703	274	2,505	370	45	0	2	4,038	12 percent		
2009	265	906	210	1,895	261	21	0	111	3,669		2 percent	-9 percent
Total Households Without a Central Heating Source Due to Termination of Utility Service (Includes Households Using Potentially Unsafe Heating Sources and Excludes Other Central Heating Sources and Vacant Residences)												
Avg. of 2004-07	165	983	167	2,009	216	72	109	10	3,731			
2008	179	711	285	2,506	374	48	0	3	4,106	10 percent		
2009	315	908	212	1,903	271	23	0	117	3,749		0 percent	-9 percent

[1] PECO statistics include electric and gas.

[2] Potentially Unsafe Heating Sources include kerosene heaters, electric space heaters, oil-filled space heaters, fireplaces, kitchen stoves or ovens, and use of extension cords to neighbor's service.

Table 28
4-Year Average, 2008 & 2009 Cold Weather Survey Results – Gas

Survey Outcome	Columbia	Equitable	NFG	Peoples	PGW[1]	T.W. Phillips	UGI Central Penn	UGI-Gas	UGI Penn Natural	Total	Percent Change from Avg. of 2004-07 to 2008	Percent Change from Avg. of 2004-07 to 2009	Percent Change 2008-09
Total Vacant Residences													
Avg. of 2004-07	863	746	977	723	1,775	183	212	553	574	6,606			
2008	967	712	921	930	1,225	173	213	706	595	6,442	-2 percent		
2009	938	771	877	961	2,153	144	227	849	518	7,438		13 percent	15 percent
Total Households Using Potentially Unsafe Heating Sources[2]													
Avg. of 2004-07	232	416	604	120	951	114	161	319	279	3,196			
2008	324	261	468	112	1,110	42	215	379	394	3,305	3 percent		
2009	469	356	654	123	1,062	57	308	522	361	3,912		22 percent	18 percent
Total Households Without Service After Completion of the Survey (Excludes Households Using Potentially Unsafe Heating Sources, Other Central Heating Sources and Vacant)													
Avg. of 2004-07	1,078	1,563	539	714	6,575	179	106	1,050	55	11,859			
2008	926	1,036	457	823	5,187	115	99	1,340	351	10,334	-13 percent		
2009	829	931	548	948	7,335	119	508	1,429	721	13,368		13 percent	29 percent
Total Households Without a Central Heating Source Due to Termination of Utility Service (Includes Households Using Potentially Unsafe Heating Sources and Excludes Other Central Heating Sources and Vacant Residences)													
Avg. of 2004-07	1,310	1,979	1,143	834	7,526	293	267	1,369	334	15,055			
2008	1,250	1,297	925	935	6,297	157	314	1,719	745	13,639	-9 percent		
2009	1,298	1,287	1,202	1,071	8,397	176	816	1,951	1,082	17,280		15 percent	27 percent

[1] PGW did not come under reporting requirements until 2004.

[2] Potentially Unsafe Heating Sources include kerosene heaters, electric space heaters, oil-filled space heaters, fireplaces, kitchen stoves or ovens, and use of extension cords to neighbor's service.

Media Reported Incidents Related to Lack of Utility Service

When alerted to a possible utility-related tragedy, historically through media reports, the Commission investigates the incident by contacting the utilities involved, and, if necessary, health and safety officials in the municipality. If it appears that a lack of utility service was involved, staff initiates a preliminary investigation into possible compliance issues. If possible compliance issues are identified staff refers the matter to the appropriate bureau for possible enforcement action. The Commission tracks the incidents as well as subsequent informal and formal investigations and settlements or other outcomes.

To make the investigating and reporting of these instances more consistent and comprehensive, on Jan. 16, 2009, the Commission issued a Secretarial Letter instituting an interim reporting requirement. Electric and gas utilities were directed to report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning or another event that resulted in a death at a residence where the utility service was off at the time of the event. Additionally, the Commission has proposed revising the Chapter 56 regulations to include a requirement that directs utilities to report to the Commission anytime they become aware of a death at a residence lacking utility service.

Conclusion: Section III – The Level of Access to Utility Services by Residential Customers, Including Low-Income Customers

As for access to utility service, the CWS data is the most important indicator of the level of access to utility service because the status of the service is verified through the actual survey. The companies reported that as of Dec. 15, 2009, there were 17,037 households that entered the winter season without heat-related service. This total is comparable to 2005 levels. Terminations increased by 78.6 percent for the electric industry and by 45.5 percent for the gas industry from 2004-09. Reconnections increased by 118.9 percent for the electric industry and by 79.9 percent by the gas industry during this time. While the corresponding increase in reconnections has helped maintain reasonable access to utility service, overall these results show that more Pennsylvanians are without electric and gas service since the passage of Chapter 14.

Low-income households that are placed into a CAP program and that successfully manage to pay their CAP bills represent the success of the safety net that is in place for our poorest households. Thus, it is essential that utilities design CAP programs to be reasonably affordable. The Commission will examine and focus on CAP affordability on a case-by-case basis as utilities submit their triennial Universal Service Plans to the Commission.

Lastly, the Commission continues to promote energy efficiency and conservation as well as customer responsibility as tools for maintaining access to utility service.

Section IV - The Effect Upon the Level of Consumer Complaints and Mediations Filed with and Adjudicated by the Commission

The Commission measures the effect of Chapter 14 on the level of consumer complaints and payment agreement requests filed with and adjudicated by the Commission.

Generally, customer contacts to BCS fall into three basic categories: consumer complaints, requests for payment agreements and inquiries. BCS classifies contacts regarding complaints about utilities' actions - including those related to billing, service delivery and repairs - as consumer complaints. Contacts involving payment negotiations for unpaid utility service are regarded as PARs (payment agreement or payment arrangement requests). Consumer complaints and PARs are often collectively referred to as informal complaints. Inquiries include information requests and opinions from consumers, most of which do not require investigation by BCS.

The fourth section of this report includes a comparison of the number of consumer complaints and PARs received pre-Chapter 14 from 2002-2004 versus post-Chapter 14 from 2004-2009. This report also includes data on the number of non-CAP customers who were denied a PAR by the Commission for eligibility or other reasons, beginning in 2005. As the data shows, the number of consumer complaints and PARs received has decreased significantly since the passage of Chapter 14.

Consumer Complaints

The following represents the number of residential consumer complaints to the BCS from 2002-10. As shown by the table, the number of residential customer complaints referred to the BCS since the passage of Chapter 14 has declined significantly.

Table 29 – Consumer Complaints

	2002	2003	2004	2005	2006	2007	2008	2009	2010*
Electric	4,680	5,194	5,330	4,720	4,212	5,106	5,214	4,826	3,922
Gas	4,346	5,313	5,992	6,200	5,912	4,666	4,150	3,942	1,882
Water	1,064	1,230	1,189	1,298	1,104	1,261	1,233	1,072	757
Totals	**10,090**	**11,737**	**12,511**	**12,218**	**11,228**	**11,033**	**10,597**	**9,840**	**6,561**

*The 2010 data is based on data as of Oct. 8, 2010. It is included in this report because it provides the most current and comprehensive data as possible.

PARs

PARs primarily include contacts to the BCS or to utilities involving requests for payment terms in one of the following situations:

- Termination of service is pending;
- Service has been terminated and the customer needs payment terms to have service restored; and
- The customer wants to retire an arrearage.

The table below represents the number of PARs to BCS from 2002-10. As with residential customer complaints, the number of PARs to BCS has declined considerably since the passage of Chapter 14.

Table 30 – Payment Agreement Requests

	2002	2003	2004	2005	2006	2007	2008	2009	2010*
Electric	41,735	50,015	45,758	29,636	25,048	28,173	38,661	34,948	30,315
Gas	29,612	36,435	40,378	24,059	18,271	16,112	16,537	14,777	9,845
Water	3,073	4,021	3,805	4,977	3,499	4,171	4,027	4,547	3,952
Totals	**74,420**	**90,471**	**89,941**	**58,672**	**46,818**	**48,456**	**59,225**	**54,272**	**44,112**

*The 2010 data is based on data as of Oct. 8, 2010. It is included in this report because it provides the most current and comprehensive data as possible.

Number of Non-Cap Customers Denied a Payment Agreement by the Commission

Beginning in 2005, BCS started tracking the number of customers who called the Commission's termination hotline seeking assistance to avoid termination, but were turned away because the customer was not eligible for assistance. Section 1405(d) of Chapter 14 prohibits the Commission from establishing a second payment agreement if the customer has defaulted on a previous payment agreement. The only permitted exception is if the customer has experienced a change in income since the previous agreement as defined in Section 1403 definitions: "A decrease in household income of 20 percent or more if the customer's household income level exceeds 200 percent of the federal poverty level or a decrease in household income of 10 percent or more if the customer's household income level is 200 percent or less of the federal poverty level."

The table below represents the number of customers turned away by the Commission because it was determined that the customer was not eligible for a payment agreement per the above mentioned section of Chapter 14. These customers are not participating in the utility's CAP.

Table 31

Non-CAP Customers Turned Away by Call Center Because of Ineligibility							
	2005	**2006**	**2007**	**2008**	**2009**	**2010***	**TOTAL**
Service is on	23,326	6,812	6,888	5,597	6,679	11,547	**60,849**
Service is off	4,760	523	191	274	221	377	**6,346**
Totals	**28,086**	**7,335**	**7,079**	**5,871**	**6,900**	**11,924**	**67,195**

*The 2010 data is based on data as of Oct. 8, 2010. It is included in this report because it provides the most current and comprehensive data possible.

In addition to the above noted restrictions, Section 1405(c) forbids the Commission from establishing a payment agreement for customers who participate in a utility's CAP. The table below represents the number of customers turned away by the Commission because it was determined the customer was not eligible for a payment agreement because they were a participant in the utility's CAP.

Table 32

CAP Customers Turned Away by Call Center Because of Ineligibility							
	2005	**2006**	**2007**	**2008**	**2009**	**2010***	**TOTAL**
CAP Customers	5,403	5,240	7,114	7,861	13,888	11,118	**50,624**

*The 2010 data is based on data as of Oct. 8, 2010. It is included in this report because it provides the most current and comprehensive data possible.

PARs Dismissed Without a Decision

In addition to those already described as ineligible for a PUC payment agreement, occasions also exist where a PAR will be opened with the BCS but will be subsequently dismissed because the customer is not eligible for a new payment agreement. This is usually for the reasons previously discussed, namely the customer has previously defaulted on a payment agreement and is not eligible for a second.

The table below represents the number of customers that had their BCS case dismissed because it was determined they were not eligible for a subsequent payment agreement.

Table 33

Payment Agreement Requests Dismissed Without a Decision							
	2005	**2006**	**2007**	**2008**	**2009**	**2010***	**TOTAL**
Cases Dismissed	14,225	7,328	6,005	6,411	5,969	4,571	**44,509**

*The 2010 data is based on data as of Oct. 8, 2010. It is included in this report because it provides the most current and comprehensive data possible.

Customers Under a Protection From Abuse (PFA) Order Who Received a Payment Agreement from the PUC

Section 1417 of Chapter 14 specifies that the chapter "shall not apply to victims under a PFA Order as provided by 23 Pa. C.S. Ch. 61 (relating to protection from abuse)." In May 2005, the BCS modified its complaint tracking system to allow the tracking of complaints that involved customers with PFA orders. The table below represents the number of such complaints.

Table 34

Complaints From Customers With PFA Order							
	2005*	**2006**	**2007**	**2008**	**2009**	**2010****	**TOTAL**
Number of Complaints	2	21	14	10	5	0	**52**

*The Bureau of Consumer Services started tracking PFA cases in mid-2005.
**The 2010 data is based on data as of Oct. 8, 2010. It is included in this report because it provides the most current and comprehensive data possible.

Conclusion: Section IV – The Effect Upon the Level of Consumer Complaints and Mediations Filed with and Adjudicated by the Commission (Mediations are Currently Known as Payment Agreement Requests Under § 1415)

Chapter 14 has had an impact on the number of PARs. PARs decreased 40 percent from 2005-09 and have been well below the 2004 level in each year since then. The Commission opened 58,672 PAR cases in 2005, but dismissed 14,225 because of Chapter 14

restrictions. The total number of PARs decreased from 2004-06 and have leveled off at over 48,000 in both 2008 and 2009. The Commission turned away 20,788 callers in 2009 due to the restrictions on its ability to grant payment agreements. Since the passage of Chapter 14 through the end of 2009, the Commission has turned away 94,777 customers seeking PARs.

However, an annual average of about 6,000 of these cases have been dismissed because in late 2005 the Commission revised its interpretation of Section 1405(d) to permit the issuance of at least one payment agreement for all customers, including those whose service was terminated. While the Commission continues to issue payment terms for customers whose service has been terminated, this authority is exercised judiciously and only in instances where the customer has made a good-faith effort to pay the bill.

In addition, informal consumer complaint volume has declined by 21 percent from 2004-09.

Appendices

Appendix 1 – Collections Data Variables

Collections data variables include the total:

1. Number of residential customers;

2. Dollar amount of annual collections operating expenses;

3. Dollar amount of annual residential billings;

4. Dollar amount of gross residential write-offs;

5. Number of active residential accounts in arrears and not on a payment agreement;

6. Dollar amount in arrears for active residential accounts in arrears and not on a payment agreement;

7. Number of active residential accounts in arrears and on a payment agreement;

8. Dollar amount in arrears for active residential accounts in arrears and on a payment agreement;

9. Number of inactive residential accounts in arrears;

10. Dollar amount in arrears for inactive residential accounts in arrears;

11. Number of terminations for non-payment as defined at § 1406(a)(1) or § 1406(a)(2) or § 1406(a)(3);

    Number of terminations for other reasons including failure to permit access, unauthorized use of service, fraud, meter tampering and safety as defined at § 1406(a)(4), § 1406(c)(1)(i), § 1406(c)(1)(ii), § 1406(c)(1)(iii) and § 1406(c)(1)(iv);

12. Number of reconnections for customer payment by income level;

13. Number of reconnections for medical certification by income level;

14. Number of reconnections for reasons other than customer payment or medical certification;

15. Number of applicants that are billed a security deposit;

16. Dollar amount of security deposits billed to applicants;

17. Number of customers that are billed a security deposit;

18. Dollar amount of security deposits billed to customers;

19. Number of security deposits on-hand;

20. Dollar amount of security deposits on-hand;

21. Dollar amount of actual LIURP spending for the previous year;

22. Dollar amount of CAP administrative costs for the previous year;

23. Dollar amount of CAP credits for the previous year;

24. Dollar amount of CAP pre-program arrearage forgiveness for the previous year;

25. Dollar amount of Customer Assistance and Referral Evaluation Services (CARES) program costs for the previous year; and

26. Dollar amount of hardship fund administrative costs assessed to ratepayers for the year just completed.

The BCS has advocated that the bill due date is equal to day zero, the starting point for determining when an account should be considered overdue, and this position is clarified in the Collections Data Dictionary filed at the Docket M-00041802F0003. The table below shows the individual company variations for the historical data set presented in this report and applies to all tables that show overdue customers or overdue dollars.

Appendix 2 – When is an Account Considered to be Overdue?

Company	When is Day Zero (0)	How Many Days Overdue	Days of Variance from BCS Interpretation
Allegheny	Bill Due Date	10 Days	20 Days Sooner
Duquesne	Bill Due Date	30 Days	0 Days
Met-Ed and Penelec	Bill Due Date	30 Days	0 Days
PECO-Electric	Bill Transmittal Date	30 Days	20 Days Sooner
Penn Power	Bill Due Date	30 Days	0 Days
PPL	Bill Transmittal Date	60 Days	10 Days Later
Columbia	Bill Due Date	30 Days	0 Days
Peoples	Bill Transmittal Date	30 Days	20 Days Sooner
Equitable	Bill Due Date	30 Days	0 Days
NFG	Bill Rendition Date*	60 Days	9 Days Later
PECO-Gas	Bill Transmittal Date	30 Days	20 Days Sooner
PGW	Bill Transmittal Date	30 Days	20 Days Sooner
UGI-Gas	Bill Due Date	30 Days	0 Days
UGI Penn Natural	Bill Due Date	30 Days	0 Days

*Bill Rendition Date is one day prior to the Bill Transmittal Date.

After an account is terminated or discontinued, it is no longer considered to be an active account. These accounts then become "inactive" accounts. Ultimately, these accounts are either paid or written-off according to each company's accounting or write-off procedures. The Commission began to quantify the number of inactive accounts and corresponding arrearages beginning with 2007 collections data.

Appendix 3 – When Does an Account Move from Active to Inactive Status?

Company	After an Account is Terminated	After an Account is Discontinued
Allegheny	10 Days after Termination Date	0 to 1 Day after Final Bill Transmittal Date
Duquesne	7 Days after Termination Date	3 to 5 Days after Discontinuance
Met-Ed and Penelec	10 Days after Termination Date	Same Day as Discontinuance
PECO-Electric	30 to 32 Days after Termination Date	Same Day as Discontinuance
Penn Power	10 Days after Termination Date	Same Day as Discontinuance
PPL	5 to 8 Days after Termination Date	Bill Transmittal Date
Columbia	5 to 7 Days after Termination Date	Same Day as Discontinuance
Peoples	10 Days after Termination Date	10 Days after Discontinuance
Equitable	3 Days after Termination Date	3 Days after Discontinuance
NFG	Same Day as Termination Date	Same Day as Discontinuance
PECO-Gas	30 to 32 Days after Termination Date	Same Day as Discontinuance
PGW	0 to 30 Days after Termination Date	0 to 1 Day after Final Bill Transmittal Date
UGI-Gas	Same Day as Termination Date	Same Day as Discontinuance
UGI Penn Natural	Same Day as Termination Date	Same Day as Discontinuance

Gross Residential Write-Offs that are reported below represent the cumulative total dollar amount written off as of the end of the calendar year. CAP Preprogram Arrearage Forgiveness dollars are excluded.

Appendix 4 – Gross Residential Write-Offs – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	$7,772,522	$8,244,929	$8,571,821	$7,643,658	$5,810,269	$5,951,335	$5,616,484	$5,561,835	10.3	-35.1
Duquesne	$17,390,593	$11,152,960	$9,909,654	$9,371,658	$9,642,363	$5,171,219	$5,931,737	$8,233,551	-43.0	-16.9
GPU*	$19,772,525									
Met-Ed		$8,003,623	$9,690,456	$10,439,196	$9,238,677	$10,749,694	$11,169,498	$10,684,730	21.1***	10.3
PECO**	$41,668,666	$38,524,511	$41,562,593	$44,664,754	$41,995,496	$55,042,062	$51,306,178	$52,491,564	-0.3	26.3
Penelec		$8,049,454	$8,748,857	$10,034,340	$8,591,608	$9,328,168	$9,374,695	$8,313,201	8.7***	-5.0
Penn Power	$1,844,651	$1,757,606	$2,361,062	$3,340,752	$2,592,509	$3,027,132	$3,342,208	$3,335,176	28.0	41.3
PPL	$16,149,965	$17,921,631	$22,326,252	$19,078,568	$21,194,274	$23,284,516	$25,774,438	$35,132,218	38.2	57.4
Total	**$104,598,922**	**$93,654,714**	**$103,170,695**	**$104,572,926**	**$99,065,196**	**$112,554,126**	**$112,515,238**	**$123,752,275**	**-1.4**	**19.9**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Appendix 5 – Gross Residential Write-Offs – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	$7,285,213	$20,560,091	$16,079,652	$17,178,358	$12,725,454	$10,505,925	$10,874,843	$12,039,187	120.7	-25.1
Peoples	$13,941,290	$13,217,708	$13,926,284	$14,287,551	$10,408,974	$11,069,703	$9,514,663	$10,537,331	-0.1	-24.3
Equitable	$16,153,080	$10,107,445	$7,922,823	$15,624,609	$15,314,485	$11,270,907	$12,591,877	$9,187,767	-51.0	16.0
NFG	$6,644,662	$4,409,616	$6,001,579	$7,560,399	$7,316,442	$8,320,871	$6,116,105	$6,040,660	-9.7	0.7
PGW*			$65,949,043	$93,852,735	$94,470,467	$52,392,930	$45,999,914	$53,230,377	*	-19.3
UGI-Gas	$5,949,289	$6,729,271	$6,790,705	$7,694,431	$8,474,161	$9,767,598	$11,659,360	$9,595,433	14.1	41.3
UGI Penn Natural	$3,235,694	$3,788,934	$5,157,851	$6,059,579	$5,037,797	$6,198,446	$8,329,440	$9,181,367	59.4	78.0
Total	**$53,209,228**	**$58,813,065**	**$121,827,937**	**$162,257,662**	**$153,747,780**	**$109,526,380**	**$105,086,202**	**$109,812,122**	*	**-9.9**

*PGW did not come under reporting requirements until 2004.

The number of customers in debt as reported below is a combination of customers in arrears who are on a payment agreement with customers in arrears who are not on a payment agreement. The Commission considers these customers to represent active accounts, i.e., accounts that have not been either discontinued or terminated (the service is still on).

Appendix 6 – Number of Customers in Debt – Active Accounts – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	111,052	107,930	105,331	101,026	94,543	98,215	97,390	103,346	-5.2	-1.9
Duquesne	83,376	82,457	61,960	59,352	53,472	49,799	49,812	49,326	-25.7	-20.4
GPU*	194,607									
Met-Ed		88,429	86,297	86,297	88,711	90,217	92,292	96,298	-2.4***	11.6
PECO**	274,073	289,904	275,634	271,463	373,315	327,346	337,267	336,140	0.6	22.0
Penelec		103,684	100,221	98,282	100,071	99,151	97,151	98,246	-3.3***	-2.0
Penn Power	28,943	27,790	26,442	26,860	26,664	26,753	26,202	26,998	-8.6	2.1
PPL	177,723	187,639	185,375	183,113	204,206	206,966	208,037	212,255	4.3	14.5
Total	**869,774**	**887,833**	**841,260**	**826,393**	**940,982**	**898,447**	**908,151**	**922,609**	**-3.3**	**9.7**

*Met-Ed and Penelec reported combined under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Appendix 7 – Number of Customers in Debt – Active Accounts – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	36,396	45,201	50,485	51,296	47,845	47,274	49,365	42,606	38.7	-15.6
Peoples	58,298	54,866	58,319	57,610	50,692	47,658	46,357	41,708	0.0	-28.5
Equitable	40,177	38,756	64,152	37,415	33,057	32,007	29,445	28,398	59.7	-55.7
NFG	29,337	32,968	32,266	29,384	26,675	23,935	24,389	23,837	10.0	-26.1
PGW*			180,908	143,992	126,396	121,335	115,559	114,115	*	-36.9
UGI-Gas	36,113	41,169	41,142	40,051	37,295	48,773	52,292	49,602	13.9	23.8
UGI Penn Natural	23,137	24,898	24,524	22,636	23,955	24,454	25,755	27,781	6.0	12.7
Total	**223,458**	**237,858**	**451,796**	**382,384**	**345,915**	**345,436**	**343,162**	**328,047**	*	**-27.4**

*PGW did not come under reporting requirements until 2004.

The total amount of money in debt has an impact on a company's expenses. The specific expense category is called Cash-Working-Capital and is part of a company's distribution charge.

Appendix 8 – Dollars in Debt – Active Accounts – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	$16,994,925	$15,920,992	$15,613,294	$11,983,193	$10,145,305	$11,000,827	$11,292,516	$13,215,351	-8.1	-15.4
Duquesne	$39,381,306	$34,393,745	$22,386,725	$18,362,776	$15,684,578	$15,647,727	$18,753,698	$19,688,979	-43.2	-12.1
GPU*	$45,600,237									
Met-Ed		$24,886,732	$24,996,155	$23,598,693	$25,944,388	$28,116,879	$28,352,528	$30,141,424	0.4***	20.6
PECO**	$88,648,050	$98,388,139	$123,606,844	$95,551,200	$93,578,748	$141,578,061	$196,946,691	$174,966,336	39.4	41.6
Penelec		$24,007,204	$24,821,329	$23,305,624	$24,512,581	$26,135,992	$24,843,496	$24,874,089	3.4***	0.2
Penn Power	$5,339,438	$6,791,695	$8,023,260	$8,319,766	$8,328,922	$9,221,929	$9,742,309	$10,319,699	50.3	28.6
PPL	$48,804,828	$56,903,599	$57,647,458	$58,759,075	$76,242,112	$81,192,011	$86,117,707	$90,442,588	18.1	56.9
Total	**$244,768,784**	**$261,292,106**	**$277,095,065**	**$239,880,327**	**$254,436,634**	**$312,893,426**	**$376,048,945**	**$363,648,466**	**13.2**	**31.2**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Appendix 9 – Dollars in Debt – Active Accounts – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	$10,573,365	$15,815,881	$15,990,488	$16,586,441	$17,495,368	$15,042,071	$17,009,255	$19,839,351	51.2	24.1
Peoples	$39,827,219	$35,462,120	$42,105,099	$43,092,421	$49,198,137	$37,045,039	$34,394,910	$31,599,923	5.7	-24.9
Equitable	$18,457,221	$15,908,667	$26,808,380	$15,911,998	$15,436,814	$12,663,147	$11,760,342	$12,335,719	45.2	-54.0
NFG	$5,679,036	$7,831,978	$8,664,869	$7,999,265	$7,903,032	$6,410,084	$6,746,330	$7,176,682	52.6	-17.2
PGW*			$104,917,102	$78,684,785	$68,349,548	$60,206,779	$60,523,636	$62,740,950	*	-40.2
UGI-Gas	$5,036,542	$7,764,599	$7,927,107	$8,868,469	$7,263,727	$11,596,233	$11,801,753	$10,968,226	57.4	38.4
UGI Penn Natural	$5,040,940	$7,070,736	$6,952,897	$5,868,880	$8,115,685	$7,519,359	$8,588,592	$10,007,648	37.9	37.4
Total	**$84,614,323**	**$89,853,981**	**$213,365,942**	**$178,127,400**	**$173,762,311**	**$150,482,712**	**$150,824,818**	**$154,668,499**	*	**-27.5**

*PGW did not come under reporting requirements until 2004.

Average arrearage is calculated by dividing the total dollars in debt by the number of customers in debt. Larger average arrearages may take more time for customers to pay off and, as such, pose more of an uncollectible risk than smaller arrearages.

Appendix 10 – Average Arrearage – Active Accounts – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	$153.04	$147.51	$148.23	$118.61	$107.31	$112.01	$115.95	$127.87	-3.1	-13.7
Duquesne	$472.33	$417.11	$361.31	$309.39	$293.32	$314.22	$376.49	$399.16	-23.5	10.5
GPU*	$234.32									
Met-Ed		$281.43	$289.65	$273.46	$292.46	$311.66	$307.20	$313.00	2.9***	8.1
PECO**	$323.45	$339.38	$448.45	$351.99	$250.67	$432.50	$583.95	$520.52	38.6	16.1
Penelec		$231.54	$247.67	$237.13	$244.95	$263.60	$255.72	$253.18	7.0***	2.2
Penn Power	$184.48	$244.39	$303.43	$309.75	$312.37	$344.71	$371.82	$382.24	64.5	26.0
PPL	$274.61	$303.26	$310.98	$320.89	$373.36	$392.30	$413.95	$426.10	13.2	37.0
Total	**$281.42**	**$294.30**	**$329.38**	**$290.27**	**$270.39**	**$348.26**	**$414.08**	**$394.15**	**17.0**	**19.7**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Appendix 11 – Average Arrearage – Active Accounts – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	$290.51	$349.90	$316.74	$323.35	$365.67	$318.19	$344.56	$465.65	9.0	47.0
Peoples	$683.17	$646.34	$721.98	$748.00	$970.53	$777.31	$741.96	$757.65	5.7	4.9
Equitable	$459.40	$410.48	$417.89	$425.28	$466.98	$395.64	$399.40	$434.39	-9.0	3.9
NFG	$193.58	$237.56	$268.54	$272.23	$296.27	$267.81	$276.61	$301.07	38.7	12.1
PGW*			$579.95	$546.45	$540.76	$496.20	$523.75	$549.80	*	-5.2
UGI-Gas	$139.47	$188.60	$192.68	$221.43	$194.76	$237.76	$225.69	$221.12	38.2	14.8
UGI Penn Natural	$217.87	$283.99	$283.51	$259.57	$338.79	$307.49	$333.47	$360.23	30.1	21.9
Total	**$378.66**	**$377.76**	**$472.26**	**$462.92**	**$502.33**	**$435.63**	**$439.51**	**$471.48**	*	**-0.2**

*PGW did not come under reporting requirements until 2004.

Annual collections operating expenses include administrative expenses associated with termination activity, field visits, negotiation of payment agreements, budget counseling, investigation and resolution of informal and formal complaints associated with payment agreements, the securing and maintenance of security deposits, the tracking of delinquent accounts, collection agencies' expenses, litigation expenses other than those already included, dunning expenses and winter survey expenses.

Appendix 12 – Annual Collections Operating Expenses – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	$14,287,272	$14,287,272	$14,313,568	$14,237,964	$13,488,737	$14,498,093	$13,140,612	$13,872,516	0.2	-3.1
Duquesne	$28,100,000	$19,317,000	$16,164,612	$23,434,478	$16,221,301	$12,707,668	$16,384,435	$21,347,215	-42.5	32.1
GPU*	$26,489,856									
Met-Ed		$11,147,927	$13,567,289	$13,226,480	$12,131,756	$14,428,576	$14,927,475	$13,874,375	21.7***	2.3
PECO**	$31,173,745	$28,579,370	$9,576,151	$6,699,373	$4,460,572	$7,130,283	$16,112,191	$15,056,392	-69.3	57.2
Penelec		$12,158,796	$13,526,387	$13,302,200	$12,313,795	$13,385,070	$13,490,269	$11,592,885	11.2***	-14.3
Penn Power	$2,529,787	$2,657,298	$3,619,639	$4,297,228	$3,606,710	$4,280,996	$4,804,770	$4,450,336	43.1	22.9
PPL	$3,372,022	$4,340,787	$4,878,365	$7,932,252	$9,403,446	$9,947,961	$9,202,775	$9,455,645	44.7	93.8
Total	**$105,952,682**	**$92,488,450**	**$75,646,011**	**$83,129,975**	**$71,626,317**	**$76,378,647**	**$88,062,527**	**$89,649,364**	**-28.6**	**18.5**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Appendix 13 – Annual Collections Operating Expenses – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	$1,523,315	$2,964,264	$2,463,992	$4,182,531	$3,535,836	$3,636,146	$3,597,442	$3,271,167	61.8	32.8
Peoples	$1,963,339	$3,664,471	$3,224,084	$2,844,234	$2,430,649	$1,927,923	$1,125,826	$1,083,342	64.2	-66.4
Equitable	$3,817,120	$4,220,428	$3,950,187	$4,438,459	$4,746,027	$3,739,605	$3,317,026	$2,999,286	3.5	-24.1
NFG	Not Available	$1,166,589	$1,154,535	$1,018,618	$961,454	$945,881	$910,088	$662,580	-1.0*	-42.6
PGW**			$10,102,014	$10,263,836	$9,629,280	$9,694,140	$9,821,543	$8,884,858	**	-12.0
UGI-Gas	$3,108,658	$5,104,519	$3,349,562	$3,211,452	$3,061,646	$2,877,793	$3,035,334	$2,549,522	7.7	-23.9
UGI Penn Natural	$1,967,380	$2,391,243	$2,403,614	$2,449,067	$2,673,634	$2,837,916	$3,094,913	$2,483,722	22.2	3.3
Total	**$12,379,812**	**$19,511,514**	**$26,647,988**	**$28,408,197**	**$27,038,526**	**$25,659,404**	**$24,902,172**	**$21,934,477**	**	**-17.7**

*Percent change from 2003-04.
**PGW did not come under reporting requirements until 2004.

Collections operating expenses as a percentage of billings is calculated by dividing the collections operating expenses by the annual residential billings. The higher the percentage the more a company is spending on collections operating expenses. Appendices 14 and 15 show the percentage for the year 2009, which is the most current data available.

Appendix 14 – 2009 Collections Operating Expenses as a Percentage of Residential Billings – Electric

Company	2009 Billings	2009 Collections Operating Expenses	Collections Operating Expenses as a Percent of Billings
Allegheny	$599,340,971	$13,872,516	2.3
Duquesne	$466,507,432	$21,347,215	4.6
Met-Ed	$626,478,569	$13,874,375	2.2
PECO*	$2,366,957,059	$15,056,392	0.6
Penelec	$472,113,272	$11,592,885	2.5
Penn Power	$183,328,312	$4,450,336	2.4
PPL	$1,487,538,825	$9,455,645	0.6
Total	**$6,202,264,440**	**$89,649,364**	**1.4**

*PECO data includes electric and gas.

Appendix 15 – 2009 Collections Operating Expenses as a Percentage of Residential Billings – Gas

Company	2009 Billings	2009 Collections Operating Expenses	Collections Operating Expenses as a Percent of Billings
Columbia	$387,454,010	$3,271,167	0.8
Peoples	$259,501,732	$1,083,342	0.4
Equitable	$308,905,022	$2,999,286	1.0
NFG	$259,746,550	$662,580	0.3
PGW	$629,654,666	$8,884,858	1.4
UGI-Gas	$311,515,001	$2,549,522	0.8
UGI Penn Natural	$239,555,679	$2,483,722	1.0
Total	**$2,396,332,660**	**$21,934,477**	**0.9**

The aggregate spending for Universal Service programs is shown in Appendices 16 and 17 for the year 2009 and that spending is also shown as a percentage of residential billings for 2009.

Appendix 16 – 2009 Universal Service Program Costs* as a Percentage of Residential Billings – Electric

Company	2009 Billings	2009 Universal Service Costs*	Universal Service Costs as a Percent of Billings
Allegheny	$599,340,971	$9,252,313	1.5
Duquesne	$466,507,432	$17,508,094	3.8
Met-Ed	$626,478,569	$22,015,084	3.5
PECO**	$2,366,957,059	$115,914,246	4.9
Penelec	$472,113,272	$27,570,954	5.8
Penn Power	$183,328,312	$9,725,640	5.3
PPL	$1,487,538,825	$37,859,371	2.5
Total	**$6,202,264,440**	**$239,845,702**	**3.9**

*Includes CAP, LIURP, and CARES.
**PECO data includes electric and gas.

Appendix 17– 2009 Universal Service Program Costs* as a Percentage of Residential Billings – Gas

Company	2009 Billings	2009 Universal Service Costs*	Universal Service Costs as a Percent of Billings
Columbia	$387,454,010	$31,551,847	8.1
Peoples	$259,501,732	$11,046,754	4.3
Equitable	$308,905,022	$30,380,400	9.8
NFG	$259,746,550	$8,119,399	3.1
PGW	$629,654,666	$108,636,123	17.3
UGI-Gas	$311,515,001	$6,781,836	2.2
UGI Penn Natural	$239,555,679	$4,450,767	1.9
Total	**$2,396,332,660**	**$200,967,126**	**8.4**

*Includes CAP, LIURP, and CARES.

Customer Assistance Programs (CAPs) provide an alternative to traditional collections methods for low-income, payment troubled customers. Customers make regular monthly payments, which may be for an amount that is less than the current bill for utility service.

Appendix 18 – Annual Total CAP Costs – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	$3,069,116	$5,070,059	$4,987,081	$6,948,175	$7,551281	$8,043,013	$7,680,209	$7,922,756	62.5	58.9
Duquesne	$5,275,000	$6,135,000	$5,275,000	$7,517,421	$10,375,795	$11,508,948	$13,460,999	$14,977,956	0.0	183.9
GPU*	$9,457,535									
Met-Ed		$4,897,055	$4,966,221	$5,167,977	$6,149,163	$8,087,480	$14,167,515	$19,321,710	1.4***	289.1
PECO**	$59,078,443	$77,799,717	$79,088,439	$66,373,108	$75,017,655	$93,096,247	$113,300,164	$106,871,181	33.9	35.1
Penelec		$6,102,536	$6,914,194	$7,017,094	$8,494,452	$10,683,202	$19,470,323	$24,480,070	13.3***	254.1
Penn Power	$1,882,134	$1,982,273	$1,825,678	$1,743,141	$1,705,114	$2,461,202	$5,346,829	$8,964,942	-3.0	391.0
PPL	$10,829,095	$12,851,819	$14,691,811	$16,223,414	$17,090,500	$20,919,308	$24,149,702	$28,929,342	35.7	96.9
Total	**$89,591,323**	**$114,838,459**	**$117,748,424**	**$110,990,330**	**$126,383,960**	**$154,754,400**	**$197,575,741**	**$211,467,957**	**31.4**	**79.6**

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Appendix 19 – Annual Total CAP Costs – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	$8,894,938	$21,869,084	$14,708,222	$22,941,685	$25,788,593	$23,214,621	$24,358,427	$28,084,379	65.4	90.9
Peoples	$1,399,490	$3,363,454	$5,358,196	$5,754,505	$7,586,249	$22,767,942	$8,645,396	$10,266,754	282.9	91.6
Equitable	$2,098,071	$3,829,239	$5,694,802	$9,301,115	$15,801,900	$11,496,437	$15,735,516	$29,451,600	171.4	417.2
NFG	$2,137,966	$3,236,087	$4,613,226	$6,507,394	$9,074,207	$6,595,173	$8,118,056	$6,743,167	115.8	46.2
PGW*			$57,800,000	$84,498,182	$105,440,734	$106,027,731	$102,525,112	$105,782,371	*	83.0
UGI-Gas	$555,482	$926,753	$1,898,609	$1,858,522	$3,396,393	$4,335,537	$4,721,569	$5,051,419	241.8	166.1
UGI Penn Natural	$271,454	$430,366	$590,454	$933,642	$1,322,719	$1,131,095	$1,989,428	$3,520,853	117.5	496.3
Total	**$15,357,401**	**$33,654,983**	**$90,663,509**	**$131,795,045**	**$165,703,174**	**$175,568,536**	**$166,093,504**	**$188,900,543**	*	**108.4**

*PGW did not come under reporting requirements until 2004.

The LIURP is a statewide, utility-sponsored, residential usage reduction program mandated by PUC regulations at 52 Pa. Code, Chapter 58. The primary goal of LIURP is to assist low-income residential customers in lowering energy bills through usage reduction (energy conservation) and thereby making bills more affordable.

Appendix 20 – Annual Total LIURP Costs – Electric

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Allegheny	$2,217,965	$1,782,036	$2,053,981	$1,835,729	$2,133,124	$2,125,938	$1,752,070	$1,278,715	-7.4	-37.7
Duquesne	$2,365,834	$1,852,000	$1,021,250	$1,092,425	$1,090,935	$1,393,083	$1,230,237	$2,405,138	-56.8	135.5
GPU*	$3,508,105									
Met-Ed		$1,596,863	$1,720,005	$1,891,795	$1,840,662	$1,908,308	$1,977,352	$2,693,374	7.7***	56.6
PECO**	$6,475,000	$6,475,000	$6,475,000	$6,474,315	$6,474,997	$6,475,000	$6,475,000	$7,825,001	0.0	20.8
Penelec		$1,703,012	$1,657,765	$1,910,354	$1,927,764	$2,056,752	$2,518,570	$3,090,884	-2.7***	86.4
Penn Power	$599,649	$620,872	$527,439	$595,474	$628,726	$721,433	$836,908	$760,698	-12.0	44.2
PPL	$5,406,590	$5,970,554	$5,642,380	$6,328,715	$7,488,846	$6,753,061	$7,719,029	$8,930,029	4.4	58.3
Total	**$20,573,143**	**$20,000,537**	**$19,087,820**	**$20,128,807**	**$21,585,054**	**$21,433,575**	**$22,509,166**	**$26,983,839**	**-7.2**	41.4

*Met-Ed and Penelec reported jointly under GPU in 2002.
**PECO data includes electric and gas.
***Percent change from 2003-04.

Appendix 21 – Annual Total LIURP Costs – Gas

Company	2002	2003	2004	2005	2006	2007	2008	2009	Percent Change 2002-04	Percent Change 2004-09
Columbia	$1,376,403	$1,369,822	$1,399,634	$1,338,772	$1,364,003	$1,326,765	$1,127,535	$3,148,334	1.7	124.9
Peoples	$610,856	$610,058	$610,000	$610,000	$609,941	$609,965	$609,968	$610,000	-0.1	0.0
Equitable	$393,834	$610,054	$602,699	$637,110	$704,128	$644,006	$542,207	$548,056	53.0	-9.1
NFG	$943,743	$1,289,497	$1,199,392	$1,191,073	$924,211	$1,272,306	$1,285,326	$1,364,323	27.1	13.8
PGW*			$2,008,697	$2,123,108	$2,118,621	$1,691,250	$2,578,214	$2,046,452	*	1.9
UGI-Gas	$460,280	$474,433	$648,025	$671,237	$659,649	$693,374	$989,233	$1,682,262	40.8	159.6
UGI Penn Natural	$335,481	$409,247	$365,191	$334,466	$358,619	$393,014	$911,409	$917,614	8.9	151.3
Total	**$4,120,597**	**$4,763,111**	**$6,833,638**	**$6,905,766**	**$6,739,172**	**$6,630,680**	**$8,043,892**	**$10,317,041**	*	**51.0**

*PGW did not come under reporting requirements until 2004.

The following two appendices show the three major collections cost categories and the Universal Service program costs for the year 2009. The corresponding residential billings are also shown as a basis for comparison against the four cost categories in the tables. Please note that only a fraction of the total dollars in debt is recovered in rates, perhaps up to 10 percent of the total dollars in debt.

Appendix 22 – Summary of 2009 Collections and Universal Service Program Costs* – Electric

Company	2009 Residential Billings	2009 Collections Operating Expenses	2009 Gross Write-Offs	2009 Total Dollars in Debt	2009 Universal Service Programs*
Allegheny	$599,340,971	$13,872,516	$5,561,835	$13,215,351	$9,252,313
Duquesne	$466,507,432	$21,347,215	$8,233,551	$19,688,979	$17,508,094
Met-Ed	$626,478,569	$13,874,375	$10,684,730	$30,141,424	$22,015,084
PECO**	$2,366,957,059	$15,056,392	$52,491,564	$174,966,336	$115,914,246
Penelec	$472,113,272	$11,592,885	$8,313,201	$24,874,089	$27,570,954
Penn Power	$183,328,312	$4,450,336	$3,335,176	$10,319,699	$9,725,640
PPL	$1,487,538,825	$9,455,645	$35,132,218	$90,442,588	$37,859,371
Total	**$6,202,264,440**	**$89,649,364**	**$123,752,275**	**$363,648,466**	**$239,845,702**

*Includes CAP, LIURP, and CARES.
** PECO data includes electric and gas.

Appendix 23 – Summary of 2009 Collections and Universal Service Program Costs* – Gas

Company	2009 Residential Billings	2009 Collections Operating Expenses	2009 Gross Write-Offs	2009 Total Dollars in Debt	2009 Universal Service Programs*
Columbia	$387,454,010	$3,271,167	$12,039,187	$19,839,351	$31,551,847
Peoples	$259,501,732	$1,083,342	$10,537,331	$31,599,923	$11,046,754
Equitable	$308,905,022	$2,999,286	$9,187,767	$12,335,719	$30,380,400
NFG	$259,746,550	$662,580	$6,040,660	$7,176,682	$8,119,399
PGW	$629,654,666	$8,884,858	$53,230,377	$62,740,950	$108,636,123
UGI-Gas	$311,515,001	$2,549,522	$9,595,433	$10,968,226	$6,781,836
UGI Penn Natural	$239,555,679	$2,483,722	$9,181,367	10,007,648	$4,450,767
Total	**$2,396,332,660**	**$21,934,477**	**$109,812,122**	**$154,668,499**	**$200,967,126**

*Includes CAP, LIURP, and CARES.

For the purpose of showing individual company variations and differences in collections costs, collections operating expenses, gross write-offs and Universal Service program costs are added together and shown as a percentage of the residential billings.

Appendix 24 – 2009 Collections Costs* as a Percentage of Billings – Electric

Company	2009 Billings	2009 Collections Operating Expenses	2009 Gross Write-Offs	2009 Universal Service Programs	2009 Total Collections Costs*	Collections Costs* as a Percent of Billings
Allegheny	$599,340,971	$13,872,516	$5,561,835	$9,252,313	$28,686,664	4.8
Duquesne	$466,507,432	$21,347,215	$8,233,551	$17,508,094	$47,088,860	10.1
Met-Ed	$626,478,569	$13,874,375	$10,684,730	$22,015,084	$46,574,189	7.4
PECO**	$2,366,957,059	$15,056,392	$52,491,564	$115,914,246	$183,462,202	7.8
Penelec	$472,113,272	$11,592,885	$8,313,201	$27,570,954	$47,477,040	10.1
Penn Power	$183,328,312	$4,450,336	$3,335,176	$9,725,640	$17,511,152	9.6
PPL	$1,487,538,825	$9,455,645	$35,132,218	$37,859,371	$82,447,234	5.5
Total	**$6,202,264,440**	**$89,649,364**	**$123,752,275**	**$239,845,702**	**$453,247,341**	**7.3**

*Includes collections operating expenses, gross write-offs and Universal Service program costs.
** PECO data includes electric and gas.

Appendix 25 – 2009 Collections Costs* as a Percentage of Billings – Gas

Company	2009 Billings	2009 Collections Operating Expenses	2009 Gross Write-Offs	2009 Universal Service Programs	2009 Total Collections Costs*	Collections Costs* as a Percent of Billings
Columbia	$387,454,010	$3,271,167	$12,039,187	$31,551,847	$46,862,201	12.1
Peoples	$259,501,732	$1,083,342	$10,537,331	$11,046,754	$22,667,427	8.7
Equitable	$308,905,022	$2,999,286	$9,187,767	$30,380,400	$42,567,453	13.8
NFG	$259,746,550	$662,580	$6,040,660	$8,119,399	$14,822,639	5.7
PGW	$629,654,666	$8,884,858	$53,230,377	$108,636,123	$170,751,358	27.1
UGI-Gas	$311,515,001	$2,549,522	$9,595,433	$6,781,836	$18,926,791	6.1
UGI Penn Natural	$239,555,679	$2,483,722	$9,181,367	$4,450,767	$16,115,856	6.7
Total	**$2,396,332,660**	**$21,934,477**	**$109,812,122**	**$200,967,126**	**$332,713,725**	**13.9**

*Includes collections operating expenses, gross write-offs and Universal Service program costs.

Appendices 26 and 27 show the percentage of billings for collections operating expenses, gross residential write-offs and Universal Service Programs costs. These two tables, though similar to Appendices 28 and 29, differ in that they show the individual contributions to the overall collections costs for the three specific expenses, rather than showing the dollar amounts of each expense category.

Appendix 26 – 2009 Individual Expense Categories as a Percentage of Billings – Electric

Company	2009 Billings	2009 Collections Operating Expenses as a Percent of Billings	2009 Gross Write-Offs as a Percent of Billings	2009 Universal Service Programs as a Percent of Billings	2009 Total Collections Costs*	2009 Collections Costs* as a Percent of Billings
Allegheny	$599,340,971	2.3	0.9	1.5	$28,686,664	4.8
Duquesne	$466,507,432	4.6	1.8	3.8	$47,088,860	10.1
Met-Ed	$626,478,569	2.2	1.7	3.5	$46,574,189	7.4
PECO**	$2,366,957,059	0.6	2.2	4.9	$183,462,202	7.8
Penelec	$472,113,272	2.5	1.8	5.8	$47,477,040	10.1
Penn Power	$183,328,312	2.4	1.8	5.3	$17,511,152	9.6
PPL	$1,487,538,825	0.6	2.4	2.5	$82,447,234	5.5
Total	**$6,202,264,440**	**1.4**	**2.0**	**3.9**	**$453,247,341**	**7.3**

*Includes collections operating expenses, gross write-offs and Universal Service program costs.
**PECO data includes electric and gas.

Appendix 27 – 2009 Individual Expense Categories as a Percentage of Billings – Gas

Company	2009 Billings	2009 Collections Operating Expenses as a Percent of Billings	2009 Gross Write-Offs as a Percent of Billings	2009 Universal Service Programs as a Percent of Billings	2009 Total Collections Costs*	2009 Collections Costs* as a Percent of Billings
Peoples	$387,454,010	0.8	3.1	8.1	$46,862,201	12.1
Dominion	$259,501,732	0.4	4.1	4.3	$22,667,427	8.7
Equitable	$308,905,022	1.0	3.0	9.8	$42,567,453	13.8
NFG	$259,746,550	0.3	2.3	3.1	$14,822,639	5.7
PGW	$629,654,666	1.4	8.5	17.3	$170,751,358	27.1
UGI-Gas	$311,515,001	0.8	3.1	2.2	$18,926,791	6.1
UGI Penn Natural	$239,555,679	1.0	3.8	1.9	$16,115,856	6.7
Total	**$2,396,332,660**	**0.9**	**4.6**	**8.4**	**$332,713,725**	**13.9**

*Includes collections operating expenses, gross write-offs and Universal Service program costs.

Customers are classified as either heating or non-heating. Heating and non-heating bills are shown for the beginning (2002) and end (2009) of the historical collections data period for this report. The size of customer bills is impacted by both company rates and customer usage levels. Appendices 28 and 29 also show the percent change in bills from 2002-09.

Appendix 28 – Monthly Average Bill: Heating vs. Non-Heating Accounts 2002-09 – Electric

Company	2002 Average Bill – Heating Customers	2009 Average Bill – Heating Customers	Percent Change 2002-09	2002 Average Bill – Non Heating Customers	2009 Average Bill – Non Heating Customers	Percent Change 2002-09
Allegheny	$94.67	$128.57	35.8	$55.61	$75.55	35.9
Duquesne	$95.33	$110.72	16.1	$51.45	$64.20	24.8
Met-Ed*	$111.00	$150.00	35.1	$63.00	$96.00	52.4
PECO**	$137.86	$118.93	-13.7	$110.87	$101.78	-8.2
Penelec*	$111.00	$118.00	6.3	$63.00	$72.00	14.3
Penn Power	$87.72	$173.00	97.2	$47.66	$99.00	107.7
PPL	$110.42	$138.66	25.6	$61.08	$83.54	36.8

*In 2002 Met-Ed and Penelec were reported jointly under GPU and the 2002 data shown in this table was reported by GPU. This data does not reflect the actual bills for either Met-Ed or Penelec, but rather reflects a combination of the bills for these two companies.
**PECO data includes electric and gas.

Appendix 29 - Monthly Average Bill: Heating vs. Non-Heating Accounts 2002-09 – Gas

Company	2002 Average Bill – Heating Customers	2009 Average Bill – Heating Customers	Percent Change 2002-09	2002 Average Bill – Non Heating Customers	2009 Average Bill – Non Heating Customers	Percent Change 2002-09
Columbia	$62.39	$85.48	37.0	$21.93	$30.32	38.3
Peoples	$68.25	$96.58	41.5	$22.32	$29.28	31.2
Equitable	$86.88	$128.95	48.4	$27.12	$38.76	42.9
NFG	$78.54	$110.81	41.1	$40.15	$59.21	47.5
PGW*	*	$116.87	*	*	$41.55	*
UGI-Gas	$72.89	$98.00	34.4	$21.90	$29.00	32.4
UGI Penn Natural	$94.17	$141.80	50.6	$23.17	$38.64	66.8

*PGW did not come under reporting requirements until 2004.

Appendix 30 – Inactive Accounts

Company	Number of Inactive Accounts	Dollars in Debt	Average Debt
Allegheny	1,762	$411,550	$234
Duquesne	7,745	$2,702,355	$349
Met-Ed	7,237	$2,666,371	$368
PECO*	16,983	$17,419,202	$1,026
Penelec	7,512	$2,001,507	$266
Penn Power	1,824	$830,024	$455
PPL	17,965	$11,311,471	$630
Electric – Total	**61,028**	**$37,342,480**	**$612**
Columbia	2,735	$1,775,270	$649
Peoples	45,673	$4,777,556	$105
Equitable	942	$484,738	$515
NFG	14,264	$7,707,884	$540
PGW	16,356	$26,074,321	$1,594
UGI-Gas	4,601	$2,273,044	$494
UGI Penn Natural	2,878	$2,306,678	$801
Gas – Total	**87,449**	**$45,399,491**	**$519**

*PECO data includes electric and gas.

Appendix 31 – Security Deposits on Hand

Company	Number of Security Deposits	Dollars on Hand	Average Deposit on Hand
Allegheny	76,672	$14,488,285	$189
Duquesne	31,978	$4,151,783	$130
Met-Ed	57,928	$5,661,940	$98
PECO*	134,575	$16,064,035	$119
Penelec	49,976	$4,120,987	$82
Penn Power	14,249	$1,501,188	$105
PPL	28,235	$4,445,417	$157
Electric – Total	**393,613**	**$50,433,635**	**$128**
Columbia	8,153	$1,844,270	$226
Peoples	43,030	$5,876,834	$137
Equitable	7,461	$1,697,337	$227
NFG	424	$126,896	$299
PGW	24,883	$4,553,733	$183
UGI-Gas	18,888	$4,184,468	$222
UGI Penn Natural	11,942	$3,049,863	$255
Gas – Total	**114,781**	**$21,333,401**	**$186**

*PECO data includes electric and gas.

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION
400 NORTH STREET
HARRISBURG, PA 17120

ROBERT F. POWELSON
CHAIRMAN

June 14, 2011

The Honorable Silvan B. Lutkewitte, III
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Re: L-00060182/57-265 Revised Final Rulemaking To Amend Provisions of 52 Pa. Code Chapter 56 to Comply with the Provisions of Chapter 14 of Title 66, 52 Pa. Code, Chapter 56

Dear Chairman Lutkewitte:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on February 4, 2009, submitted a copy of the Notice of Proposed Rulemaking to the Senate Consumer Protection and Professional Licensure Committee, the House Committee on Consumer Affairs and the Independent Regulatory Review Commission (IRRC). This notice was published at 39 Pa.B. 925 on February 14, 2009. The Commission also provided the Committees and IRRC with copies of all comments received in compliance with Section 745.5(b.1).

In preparing this revised final form rulemaking, the Commission has considered all comments received from the Committees, IRRC and the public.

Very truly yours,

Robert F. Powelson
Chairman

Enclosures
pc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Buda
Assistant Counsel Wiedt
Mr. Mumford
Regulatory Coordinator DelBiondo

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L00060182/57-265

Subject: Rulemaking To Amend Chapter 56 to Comply with the Provisions of 66 Pa. C.S. Chapter 14; General Review of Regulations

Pennsylvania Public Utility Commission

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TYPE OF REGULATION

_____ Proposed Regulation

_____ Final Regulation with Notice of Proposed Rulemaking Omitted.

__X__ Final Regulation

_____ 120-day Emergency Certification of the Attorney General

_____ 120-day Emergency Certification of the Governor

FILING OF REPORT

Date	Signature	Designation
6/14/11	S Godshall	HOUSE COMMITTEE (Godshall) Consumer Affairs
6/14/11	Mary Walmer	SENATE COMMITTEE (Tomlinson) Consumer Protection and Professional Licensure
6/14/11	K Cooper	Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau