

Regulatory Analysis Form

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(1) Agency

Pennsylvania Public Utility Commission

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(2) I.D. Number (Governor*s Office Use)

L-00060182/57-265

INDEPENDENT REGULATORY
REVIEW COMMISSION

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 & Telephone Numbers

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

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

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The rulemaking order amends 52 Pa. Code §§ 56.1 et seq. to implement Chapter 14, the Responsible Utility Customer Protection Act.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The authority for the regulation is 66 Pa.C.S. §§ 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.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and 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.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The purpose of this Proposed Rulemaking Order 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.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

None.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

In the Commonwealth of Pennsylvania, all electric distribution companies, water distribution companies, natural gas distribution companies, steam heating utilities, wastewater utilities and victims under a protection from abuse order (PFA).

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

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

(15) 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.)

Utility companies and their customers.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Not applicable.

(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.

The Commission does not anticipate any additional costs to consumers as a result of compliance with the proposed regulation.

Regulatory Analysis Form

(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.

Not applicable.

(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.

Not applicable.

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(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:	\$	\$	\$	\$	\$	\$
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) Explain how the cost estimates listed above were derived.

Not applicable.

Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Not applicable.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

None.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

None.

Regulatory Analysis Form

(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 regulation.

None.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

It is believed that the regulation will not put Pennsylvania at a competitive disadvantage with other states.

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

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

Not at this time.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

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

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will become final following publication in the Pennsylvania Bulletin after review of all comments submitted to the Commission and approval by IRRC. The Commission hopes to have final regulations in place by the end of calendar year 2009.

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

None.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

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INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY *Amy M. Elliott*
(DEPUTY ATTORNEY GENERAL)

JAN 16 2009

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00060182/57-265

DATE OF ADOPTION September 25, 2008

BY *James J. McNulty*
James J. McNulty

TITLE *Secy*
(SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

Bohdan R. Pankiw
Bohdan R. Pankiw
Chief Counsel

9-25-08

DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00060182/57-265
Proposed 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 September 25, 2008, adopted a proposed 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

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.*

The purpose of this *Proposed Rulemaking Order* is to promulgate regulations to implement Chapter 14 (66 Pa.C.S. §§ 1401-1418, *Responsible Utility Customers 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.

In order to facilitate the completion of our responsibility under the Act, we issued an *Advanced Notice of Proposed Rulemaking Order* 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 provides us the opportunity to conduct a general review of this Chapter to identify, modify, and/or rescind certain provisions of Chapter 56. We have offered all parties the opportunity to address other issues as well. The *Advanced Notice* was published in the *Pennsylvania Bulletin* on December 16, 2006. The Commission sought comments on the most controversial and complex provisions of Chapter 14. Comments were received by 22 parties.

The contact persons for this proposed rulemaking are Daniel Mumford, 717-783-1957 (technical), and Terrence J. Buda, 717-783-3459 (legal).

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265**

Public Meeting held September 25, 2008

Commissioners Present:

James H. Cawley, Chairman
Tyrone J. Christy, Vice Chairman
Robert F. Powelson
Kim Pizzingrilli
Wayne E. Gardner

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

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

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*. 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).¹ Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

The purpose of this *Proposed Rulemaking Order* is 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 14.² Complying with this obligation imposed by the Act is the main purpose of this rulemaking. In addition, we shall take this opportunity to review the entire Chapter 56 and make revisions when necessary given our experience and the technological advances in the industries.

BACKGROUND

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.

66 Pa.C.S. § 1402.

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

¹ Small natural gas companies may voluntarily “opt in” to Chapter 14. 66 Pa.C.S. § 1403.

² Section 6 further provides that “promulgation of any such regulation shall not act to delay the implementation or effectiveness of this chapter.”

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 is an ongoing process and that other implementation issues will need to be resolved in the future.

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

³ On December 14, 2006, the Commission issued the *First Biennial Report to the General Assembly and the Governor pursuant to Section 1415*.

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).

At this point in our implementation process, we have 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* 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 provides 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 *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), 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 Consumer Advisory Council (CAC). As indicated previously, we encouraged the commenters 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. A summary of the comments along with discussion of such are attached to this order as Attachment One.

CONCLUSION

Upon consideration of the new requirements of Chapter 14 and all of the comments received to date, we propose adoption of the regulations set forth in Annex A. This action here today continues the process of revising our Chapter 56 regulations. As provided for under law, the Commission now seeks comments on the proposed regulations. Persons submitting comments are requested to provide supporting justification for requested revisions, and to propose suggested regulatory language for incorporation into the final-form regulations.

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); Section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5; 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 proposed regulations set forth in Annex A, attached hereto;

THEREFORE,

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the regulations set forth in Annex A.

2. That the Secretary shall submit this Order, Attachment One 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.

3. That the Secretary shall submit this Order, Attachment One and Annex A for review and comment to the Independent Regulatory Review Commission and Legislative Standing Committees.

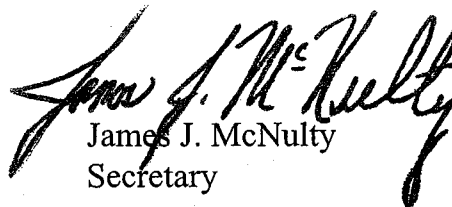
4. That the Secretary shall certify this Order and Annex A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. That interested parties may submit written comments, original and 15 copies, within 60 days from the date the notice is published in the *Pennsylvania Bulletin*, to James McNulty, Secretary of the Pennsylvania Public Utility Commission, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. The comments should reference the docket number of the proposed rulemaking. In addition, one copy in electronic format (Microsoft Word ® 2002 or readable equivalent) on diskette shall be provided to the Secretary and copies shall be emailed to Terrence J. Buda (tbuda@state.pa.us), Patti Wiedt (pwiedt@state.pa.us), Cyndi Page (cypage@state.pa.us), and Daniel Mumford (dmumford@state.pa.us). All comments shall be posted on the Commission website.

6. That copies of this Order shall be served upon all jurisdictional electric utilities, gas, water, and wastewater utilities, the Office of Consumer Advocate, the Office of Small Business Advocate, and those parties who already submitted comments at this Docket. Attachment One and Annex A shall be posted on the Commission's website.

7. The contact persons for this matter are Daniel Mumford in the Bureau of Consumer Services (717) 783-1957, and Terrence J. Buda in the Law Bureau (717) 783-3459.

BY THE COMMISSION


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: September 25, 2008

ORDER ENTERED: **SEP 26 2008**

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) Subchapters A through K apply to electric distribution utilities, natural gas distribution utilities, and water distribution utilities. Subchapters L through 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:

Account balance—The amount of current service which has been properly billed in addition to any accrued arrearages.

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

Applicant— [A person who applies for residential utility service.] A natural person 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. 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.

Basic services—Services necessary for the physical delivery of residential public utility service.

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.

(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) [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.

Billing period—In the case of public utilities supplying gas, electric and steam heating service, the billing period shall 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 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 by 66 Pa. C.S. § 2202 (relating to definitions) or § 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers must comply with certain responsibilities and restrictions in order 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.

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 of service—The cessation of service with the consent of the [ratepayer] customer and otherwise in accordance with § 56.72 (relating to discontinuation 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 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, 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 such building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

Electronic billing - the electronic delivery and presentation of bills and related information sent by a public utility to its customers. This term also includes any process that permits customers to pay their bills electronically.

Electronic notification of payment - A notification generated by the electronic payment system upon receipt of a payment. The notification will inform the customer of successful receipt and amount of payment and the date and time the payment was received.

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.

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 - The combined gross income of all adults in a residential household who benefit from the public utility service. 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.

Informal complaint - A complaint filed with the Commission 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 shall 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 shall also contain the information necessary to contact the Public Utility 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 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 - A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services. The term does not include the following:

(i) 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.

(ii) 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 - 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). 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.

[*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 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 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 who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

Person—An individual, partnership, corporation, association, including any lessee, assignee, trustee, receiver, executor, administrator and other successors in interest.

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.

Premises or affected premises— Unless otherwise indicated, the residence of the occupant.

[*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 reinstatement of service at the same location within 60 days following termination or discontinuance of service.]

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.

Remote reading device—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.

Residential service—[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. [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.

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 restoration.

User without contract – Taking or acceptance of public utility service without the knowledge or approval of the public utility, other than unauthorized use of 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

§ 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, at its option, may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs shall 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. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a 1 month 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 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.

(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 public utility's hardship fund.

(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 electronic bills if the bill is emailed to a customer.

(8) The public utility shall maintain sufficient system security to assure customer privacy.

§ 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 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 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).

(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 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 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. A resulting reconciliation amount exceeding \$25 shall be amortized over a 3-12 month period. 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 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.

§ 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 the bill with the [ratepayer] customer and make a reasonable attempt to enter into a payment agreement.

(2) The period of the payment agreement may, at the option of the [ratepayer] 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%.

§ 56.15. Billing information.

A bill rendered by a public utility for metered residential public utility service shall 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 shall 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 [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).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(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 of the various charges, if applicable, is available for inspection in the local business office of the public utility.

(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 the bill format requirements 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 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 notice, a [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 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 informal complaints; 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:

- (1) Seasonal service.
- (2) The construction of facilities and furnishing of special equipment.
- (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) 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) The [ratepayer] customer and public utility enter into a [settlement] informal dispute settlement agreement or 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 to maintain service until the total balance is retired and the public utility agrees to make new cards available to the [ratepayer] customer within 5 days of receipt of prepayment.

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

(D) The [ratepayer] customer agrees that failure to renew the card by making prepayment for additional service constitutes a request for discontinuance under § 56.72(1) (relating to discontinuation of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup card runs out.

(iv) [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 pre-payment 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 public 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) [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.]

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 pre-payment 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 public 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

§ 56.21. 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 [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:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The public 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 public utility is the date of actual receipt of the electronic notification of payment.

(5) Fees. Any 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.

[4] (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 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 at its discretion may waive a late payment charge on any customer accounts.

The Commission may direct the waiver of late payment charges, at its discretion, for customers with a gross income less than or equal to 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.

§ 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] 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, at its option, 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.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's checking 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 before the customer enters the program. Program changes shall be conveyed to the customer in writing 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, either electronically or on paper, to the customer upon payment through the electronic method.

(5) The public utility shall maintain sufficient system security to protect all customer information and all access to customer accounts.

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 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 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 shall consist of one government issued photo identification. If one government issued photo identification is not available, then 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:

(1) *Cash deposit.* The applicant posts a cash deposit.

(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 shall be in writing and shall state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility.

§ 56.34. Deposits for temporary service.

Deposits for applicants for temporary service may be required in accordance with § 53.82(1) (relating to deposits).

§ 56.35. Payment of outstanding balance.

(1) 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.

(2) 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.

(a) 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.

(b) 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.

(c) Public utilities must include in their tariffs filed with the Commission the procedures and standards used to determine the applicant's liability for any outstanding balance. [However, any] Any such 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). [This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.]

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

§ 56.36. Written procedures.

Public utilities shall include in their tariffs filed with the Commission their credit and application procedures along with their credit scoring methodology and standards.

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 shall specify that there are separate procedures and standards for victims with a protection from abuse order. A public

utility employe 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. 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. 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 guarantor in accordance with § 56.33 (relating to third-party guarantors) and the right to contact the Commission. The statement shall 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 provide service within 3 days, provided that the applicant has met all 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 public utility shall provide service pending completion of the investigation.

§ 56.38. 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 public 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.

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 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).

(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.

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. A [ratepayer] customer may elect to pay a required deposit 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. A customer paying a deposit based on the grounds at § 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.

§ 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 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 so as to endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) Any 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.

([b] 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] security and cash deposits), 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.]

(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.

[(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.]

§ 56.54. Application of deposit to bills.

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 (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 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.

(4) *Permissible duration.* Service may be interrupted for only the periods of time as are 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.

§ 56.72. Discontinuation 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 residence, when the [ratepayer] customer and members of his 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] their residence or at a single meter multifamily residence, whether or not [his] their 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.

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

(A) When the premises is a multi-family residence, notice shall also be posted in common areas.

(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:

(1) Nonpayment of an undisputed delinquent account.

(2) [Failure to post a deposit, provide a guarantee or establish credit.] Failure 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 set forth 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, accept payment to restore service and can restore service, consistent with § 56.191 (relating to the general rule).

§ 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 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).

(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 public utility service furnished 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.

(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 public utility is within \$25 of account balance.

NOTICE PROCEDURES PRIOR TO TERMINATION

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

[Prior to a termination of service, the utility shall mail or deliver written notice to the ratepayer customer at least 10 days prior to the date of the proposed termination.] (a) Prior to 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 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] 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 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.

(4) The date on or after which service will be terminated unless:

(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.

(iv) Enrollment is made in a universal service program.

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

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

(6) A statement that the customer shall immediately contact the public utility to attempt to resolve the matter, including the address and telephone number where questions may be filed, payment agreements entered into with the public utility, and 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, 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 Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(8) 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 § 56.96 (relating to post termination notice), the notice shall comply with the form as set forth in Appendix B (relating to medical emergency notice).

(9) When the public utility has universal service programs, information indicating that special assistance programs are available and how to contact the public utility for information and enrollment, and that enrollment in the program is 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 shall include information on the federal poverty guidelines by household size, the protections available to customers at or below 250% of the federal poverty line, and the required documentation or information the customer must 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 adult occupant who has been living at the premise may have to pay all or portions of the bill to have service restored.

(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.

(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.

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

(19) Notices shall 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 dispute 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 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 employe 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, then 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 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.

(c) If contact is attempted in person by a home visit, only one attempt is required, but 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.

(d) The content of the 3 day personal contact notice must comply with the requirements in § 56.91 (relating to general notice provisions and contents of termination notice).

§ 56.94. Procedures immediately prior to termination.

Immediately preceding the termination of service, a public utility employe, who may be the public utility employe 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 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 the scheduled date of termination, post a notice of the proposed termination at the service location.

§ 56.96. 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 person 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 shall fully explain:

- (1) The reasons for the proposed termination.
- (2) All available methods for avoiding a termination, including the following:
 - (i) Tendering payment in full or otherwise eliminating the grounds for termination.
 - (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, if the public utility has these programs.

(3) The medical emergency procedures.

(b) The public utility, through its employes, 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. If a [settlement] informal dispute settlement agreement or 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.
- (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 [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 notice to the customer or a responsible person at the affected premises, and, 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 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 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 provision of this chapter, during the period of December 1 through March 31, water distribution utilities subject to this chapter [shall conform to the provisions of this section. The covered utilities may] are 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 (relating to immediate termination for unauthorized use, fraud, tampering or tariff violations). 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 set forth 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 their charges for each of the prior 2 months unless the customer has done one of the following:

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

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

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

(4) Has 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) *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 subsections (c) (1), (2), (3) or (4).

(e) *Identification of accounts protected during the winter.* Public utilities must 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.

(f) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a public utility may not terminate service to a premise when the account is in the name of a landlord

ratepayer as defined at 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).

(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 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 at § 56.81 or § 56.98 (relating to authorized termination of service; and 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 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 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. The utility shall attempt to contact by telephone, if available, a responsible 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 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, 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 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.

{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 shall 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 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 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.
- (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.

§ 56.114. 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.

(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 §§ 56.112 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 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 at §§ 56.151 and 56.152 (relating to public utility company dispute procedures).

§ 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, 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 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 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 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 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.

§ 56.121. [Reserved].

§ § 56.122 – 56.126. [Reserved].

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) At least annually [To advise ratepayers] advising customers of the availability of a third-party notification program and to encourage their use thereof. The public utility 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 in order to assist in preventing unnecessary terminations and protecting the public health and safety.
- (4) Making available a standard enrollment form substantially in compliance with the form as set forth in Appendix E (relating to 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 inquiry under § 56.2 (relating to the definition of initial inquiry), termination or threatening termination of service for the subject matter 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 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 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)—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:

- (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 [ratepayer] customer or occupant.
- (3) Make a diligent attempt to negotiate a reasonable payment agreement if the [ratepayer] customer or occupant claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement shall include, but not be limited to:
 - (i) The size of the unpaid balance.
 - (ii) The ability of the [ratepayer] customer to pay.
 - (iii) The payment history of the [ratepayer] customer.
 - (iv) The length of time over which the bill accumulated.
- (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.

(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 § 56.152(1), (2), and, when applicable, § 56.152(7)(ii) or (8)(ii).

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

(iv) 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.

§ 56.152. Contents of the 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.
- (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 shall be filed with the Commission within 10 days of the mailing date of the report to insure 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 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 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:

(i) The action required to be taken to avoid the termination of service.

(ii) The date on or after which [service will be terminated] the utility will commence termination action in accordance with the applicable requirements unless the report is complied with, [settlement] 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.

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.

(5) A brief statement of the dispute.

(6) Whether the dispute formerly has been the subject of a public 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.

§ 56.163. 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 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 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] shall confirm that all parties understand the terms of the settlement and mark 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), 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 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 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) The Commission will accept complaints only from customers who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the customer wishes to file a complaint. If the customer has not contacted the public utility, the Commission will direct the customer to the public utility.

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

FORMAL COMPLAINTS

§ 56.171. 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.

§ 56.172. [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 must be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the Bureau of Consumer Services, the Secretary 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 decision of the Bureau of Consumer Services 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 Bureau of Consumer Services 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] by an Administrative Law Judge or special agent.[:]

[(1)] (b) Filing and docketing. [Appeals] Complaints 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[.]. If the party requesting review is a public utility, [with] 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) *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 filing 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.]

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

[(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.]

[(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, 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] customer [will] 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, the special agent [shall] 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 shall enter into the record Bureau of Consumer Services' documents on the complainant's income, the utility report to the Bureau of Consumer Services from the utility, and the Bureau of Consumer Services' decision when the formal complaint was the subject matter of a Bureau of Consumer Services' informal decision.

(i) 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) 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) Hearings shall 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)] (e) [Formal complaint report]. 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 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 pursuant to the procedures set forth in Chapters 1 and 5 of the Pennsylvania Code.

[(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[:].

(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 § 56.22 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission in order 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 [ratepayer] 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 § 56.22.

(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.

[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 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.

(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 § 56.2 definition of billing month (relating to definitions), nor a payment agreement that has been paid in full by the customer, are to be considered.

(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 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 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 pursuant to 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.* A public utility may require the payment of any 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, except for instances of fraud and theft.

(e) *Approval.* 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 procedures and standards 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 § 56.82 (relating to timing of termination) and § 56.191 (relating to the general rule).

Subchapter H. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

§ 56.201. Public information.

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 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] must be in writing, shall be reproduced by the public utility, shall be displayed prominently, and shall be available at all public utility office locations open to the general public. This information shall be delivered or mailed to each new [ratepayer] customer of the public utility upon the commencement of service and shall be available at all times upon request. 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:

- (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 [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.

(10) Third-party notification procedures.

(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 available for victims of domestic violence.

§ 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 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.

(3) The number of service terminations and reconnections.

(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] 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 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, 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.

§ 56.223. Inconsistent tariff provisions.

A tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter.

**Subchapter K. [MONTHLY] PUBLIC UTILITY REPORTING
REQUIREMENTS**

§ 56.231. Reporting requirements.

(a) Within 15 days after the end of each month, each electric distribution utility, natural gas distribution utility, class A water distribution utility [,gas] 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.]

(1) The total number of residential heating customers.

(2) The total number of residential non-heating 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 non-payment.

(15) The total number of terminations for reasons other than non-payment.

(16) The total number of terminations for non-payment and reasons other than non-payment categorized by the first three digits of each account's postal code.

(17) The total number of reconnections for full customer payment. 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) 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) 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) The total number of applicants that are requested or billed a security deposit.

(22) The total dollar amount in security deposits that are requested or billed to applicants.

(23) The total number of customers that are requested or billed a security deposit.

(24) The total dollar amount in security deposits that are requested or billed to customers.

(b) Within 90 days after the end of each year, each electric distribution utility, natural gas distribution utility, 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 non-heating customer.

(9) The average monthly usage for a heating customer.

(10) The average monthly usage for a non-heating customer.

(c) Public utilities shall refer to the data dictionary at 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 PFA 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. Ch. 61 (relating to protection from abuse) and 66 Pa. C.S. § 1417 (relating to nonapplicability). 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.

The following words and terms, when used in subchapters L - V, have the following meanings, unless the context clearly indicates otherwise:

Account balance—The amount of current service which has been properly billed in addition to any accrued arrearages.

AMR (automatic meter reading) - 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. The term does not include remote meter reading devices as defined in this section.

Applicant—A person who applies for residential utility service. 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.

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.

Billing period—In the case of public utilities supplying gas, electric and steam heating service, the billing period shall 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.

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

Customer —A person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service.

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.

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 of service—The cessation of service with the consent of the customer and otherwise in accordance with § 56.312 (relating to discontinuation of service).

Dispute—A grievance of an applicant, customer or occupant about a utility's application of a provision covered by this chapter, including 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, 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 notification of payment – A notification generated by the electronic payment system upon receipt of a payment. The notification will inform the customer of successful receipt and amount of payment and the date and time the payment was received.

Electronic billing - the electronic delivery and presentation of bills and related information sent by a public utility to its customers. This term also includes any process that permits customers to pay their bills electronically.

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.

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 shall 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 shall also contain the information necessary to contact the Public Utility Commission either in writing or by telephone.

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 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.

Nonbasic services—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of utility 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 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.

Premises or affected premises—Unless otherwise indicated, the residence of the occupant.

Remote reading device—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.

Residential service—Utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto. 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 customer.

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 restoration.

User without contract – Taking or acceptance of utility service without the knowledge or approval of the utility, other than unauthorized use of service as defined in this section.

Utility— A public utility or a municipality, subject to Commission jurisdiction, which provides wastewater services or steam heating services. This 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 by 66 Pa. C.S. § 1403 (relating to definitions).

Subchapter M. BILLING AND PAYMENT STANDARDS

§ 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, at its option, 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. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the utility with a 1 month 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 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.

(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.

(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 electronic bills if the bill is emailed to a customer.

(8) The utility shall maintain sufficient system security to assure customer privacy.

§ 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 shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer 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 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 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. Any resulting reconciliation amount exceeding \$25 shall be amortized over a 3-12 month period. All 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—shall 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.

§ 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 the bill with the customer and make a reasonable attempt to enter into a payment agreement.

(2) The period of the payment agreement 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 shall 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 shall 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 of the various charges, if applicable, is available for inspection in the local business office of the utility.
- (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 the bill format requirements for residential and small business customers).
- (15) The Plain Language Policy Guidelines at § 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 non-customer 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 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 notice, a 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 at § 56.337(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.

(ii) 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) 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 to maintain service until the total balance is retired and the utility agrees to make new cards available to the customer within 5 days of receipt of prepayment.

(C) The utility agrees to furnish the customer an emergency backup card for additional usage of at least 5 days.

(D) The customer agrees that failure to renew the card by making prepayment for additional service constitutes a request for discontinuance under § 56.312(1) (relating to discontinuation of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup card runs out.

(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.

(v) 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 pre-payment 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 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. Any 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 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, at its option, 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.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's checking 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 before the customer enters the program. Program changes shall be conveyed to the customer in writing 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, either electronically or on paper, to the customer upon payment through the electronic method.

(5) The utility shall maintain sufficient system security to protect all customer information and

all access to customer accounts.

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 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: 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.

§ 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 refund of deposit; 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 for which the applicant is legally responsible and for which the applicant was billed properly. However, 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 employe 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. 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 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 provide service within 3 days, provided that the applicant has met all 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.

§ 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 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, such 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.

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 his 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 refund of deposit), 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 pursuant to section 202 of the act of January 30, 1974 (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 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 as are 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 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 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.

(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 residence or at a single meter multifamily residence, whether or not his 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.

(ii) When the conditions set forth 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

GROUND 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.

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 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 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 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 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.

(4) The date on or after which service will be terminated unless:

(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.
- (iv) Enrollment is made in a universal service program.
- (v) A dispute is filed with the utility or the Commission.
- (5) A statement that the customer shall immediately contact the utility to attempt to resolve the matter, including the address and telephone number where questions may be filed, payment agreements entered into with the utility, and questions and applications can be found for the utility's universal service programs, if these programs are offered by the utility.
- (6) 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 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 post termination notice), the notice shall substantially comply with the form as set forth in Appendix B (relating to medical emergency notice).
- (8) When the utility has universal service programs, information indicating that special assistance programs are available and how to contact the utility for information and enrollment, and that enrollment in the program is 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 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 dispute 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 by § 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 the hours of 7 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.

(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 employe 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 the requirements at § 56.331 (relating to general notice provisions and contents of termination notice).

§ 56.334. Procedures immediately prior to termination.

Immediately preceding the termination of service, a utility employe, who may be the utility employe 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 employe 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 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 employe 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 (relating to medical emergency notice) shall be 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 employe shall fully explain:

(1) The reasons for the proposed termination.

(2) All 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, if the utility has such programs.

(3) The medical emergency procedures.

(b) The utility, through its employes, 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. If a informal dispute settlement agreement or 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 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 set forth by 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 provision of this chapter, during the period of December 1 through March 31, utilities subject to this chapter 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).

(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 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 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 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 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. The utility shall attempt to contact by telephone, if available, a responsible 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 may not terminate service to a premise 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 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 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 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, 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 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 of 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.

§ 56.352. Postponement of termination pending receipt of certificate.

If, prior to termination of service, the utility employe 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 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 medical certificate and is not required to follow § 56.358(3) (relating to the right of utility to petition the Commission). The utility shall apply the dispute procedures in §§ 56.381 and 56.382 (relating to informal complaint procedures).

§ 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, 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 billing amount as determined by § 56.262(7) (relating to meter reading; estimated billing; ratepayer 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 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 the customer has not met their 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 advise customers of the availability of a third-party notification program and to encourage its use thereof. The utility must 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 in order 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 inquiry under § 56.252 (relating to the definition of initial inquiry), termination or threatening termination of service for the subject matter 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 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)—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 shall conform with § 56.382, in its entirety.

(iv) 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.

§ 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 shall be filed with the Commission within 10 days of the mailing date of the report to insure the preservation of all of their 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 deemed necessary by the utility, the utility shall provide the information in § 56.391(1), (2) and (5). In addition, the utility should 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 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.

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 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 shall confirm that all parties understand the terms of the settlement and mark 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 § 56.252 (relating to definitions), 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—56.394 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 must be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the Bureau of Consumer Services, the Secretary 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 decision of the Bureau of Consumer Services 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 Bureau of Consumer Services 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 the 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 by an administrative law judge or special agent.

(b) *Filing and docketing.* Complaints will be filed and docketed as a formal Commission complaint, under § 1.31-1.38 (relating to documentary filings).

(c) *Captions.* The parties to 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) 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 filing the formal complaint.

§ 56.404. Ability to Pay Proceedings.

(a) Assignments. Requests for review of decisions of the Bureau of Consumer Services 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 Bureau of Consumer Services, 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 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 Bureau of Consumer Services' documents on the complainant's income, the utility report to the Bureau of Consumer Services from the utility, and the Bureau of Consumer Services' decision when the formal complaint was the subject matter of a Bureau of Consumer Services' 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 shall 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 pursuant to the procedures set forth in Chapters 1 and 5 of the Pennsylvania Code.

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 in order 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.

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 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 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.

(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.

§ 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 (relating to days termination of service is prohibited) and § 56.421 (relating to the general rule).

Subchapter S. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

§ 56.431. Public information.

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 shall 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 be in writing, shall be reproduced by the utility, shall be displayed prominently, 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. 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 available for victims of domestic violence.

§ 56.432. Record maintenance.

A utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, keep the records 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, 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 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 non-payment for each month of the calendar year.
 - (3) The total number of terminations for reasons other than non-payment 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 shall refer to the data dictionary at Appendix D (relating to definitions) 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, WE WILL NOT CUT OFF YOUR SERVICE during such illness provided you:

(a) Have a 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:

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, WE WILL RESTORE YOUR [GAS OR ELECTRIC] UTILITY SERVICE during such illness provided you:

(a) Have a 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.

(c) Contact us by calling the following number:

(Utility) Phone Number:

(Utility) Address:

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).

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) Total Number of Ten-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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) Total Number of Terminations for Non-Payment - 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.

(15) Total Number of Terminations for Reasons Other Than Non-payment - 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.

(16) Total Number of Terminations for Non-Payment and Reasons Other than Non-payment 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.

(17) Total Number of Reconnections for Full Customer Payment - 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, 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: 1) the reconnection is for the same customer/applicant that was terminated; 2) the location of the reconnection is the same location as the location of the termination; 3) 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 4) 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.

(18) 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: 1) the reconnection is for the same customer/applicant that was terminated; 2) the location of the reconnection is the same location as the location of the termination; 3) 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 4) 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.

(19) 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.

(20) 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.

(21) 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.

(22) 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.

(23) 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.

(24) 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.

(25) Total Number of Security Deposits on-hand - Report the number as of the end of the reporting period/year.

(26) Total Dollar Amount in Security Deposits on-hand - Report the dollar amount as of the end of the reporting period/year. Exclude accrued interest.

(27) 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.

(28) 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.

(29) 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.

(30) 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.

(31) Average Monthly Bill for the Previous Year for a Heating Customer - Report the aggregate average monthly bill by calculating the average of the twelve monthly average bills for heating customers. Report the average as of the end of the reporting period/year.

(32) Average Monthly Bill for the Previous Year for a Non-heating Customer - Report the aggregate average monthly bill by calculating the average of the twelve monthly average bills for non-heating customers. Report the average as of the end of the reporting period/year.

(33) Average Monthly Usage for a Heating Customer - Report the aggregate average monthly usage by calculating the average of the twelve monthly average usages for heating customers. Report the average as of the end of the reporting period/year.

(34) Average Monthly Usage for a Non-heating Customer - Report the aggregate average monthly usage by calculating the average of the twelve monthly average usages for non-heating customers. Report the average as of the end of the reporting period/year.

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).

(1) 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.

(2) 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.

(3) 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.

(4) 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 at § 56.252. Four criteria must be met: 1) the reconnection is for the same customer/applicant that was terminated; 2) the location of the reconnection is the same location as the location of the termination; 3) 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 4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

APPENDIX E

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 Notification program, <UTILITY > will notify you and another person you choose to receive copies of shut off notices. The Third Party can be a trusted relative, friend, clergy member, or social service agency.

The 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 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 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 does not have the right to make a payment agreement for you.

To sign up, both you and the 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.
- Notify us if your Third Party moves.
- Notify us if you move and you want the Third Party transferred to your new address.

Please sign me up for the 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 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 of a chance to help the customer solve the problem.

THIRD PARTY NAME:

THIRD PARTY ADDRESS:

THIRD PARTY SIGNATURE:

DATE:

ATTACHMENT ONE

SUMMARY OF COMMENTS AND DISCUSSION

EAP and some of the other industry commentators have raised as an issue the scope of the rulemaking and taken the position that the implementation of Chapter 14 should be the primary focus of this rulemaking. The concern expressed by some of the commentators is that consideration of issues in addition to those relating to the implementation of Chapter 14 will result in an unwieldy proceeding that will slow the final implementation of Chapter 14. In fact, EAP believes that adding issues will expand the docket contrary to the legislative intent to implement Chapter 14 in a timely manner. PPL believes that the Commission should guard against entanglement in unrelated issues. PGW asserts that the Commission should amend Chapter 56 without unnecessary delay. Duquesne is of the opinion that the focus of this rulemaking should be to implement the policy declarations set forth in Section 1402 of the Act. The OCA submits on a slightly different tack that given the history and case law accompanying the operation of the Chapter 56 regulations, the Commission should not undertake unnecessary or major revisions to the regulations.

We do not agree that the implementation of Chapter 14 will be adversely affected in any manner given our approach to this rulemaking. We believe we have adequate resources to follow through with this project in a timely manner. Moreover, a number of parties have already taken this opportunity to comment on these omnibus issues. PPL, NFG, OCA, and the Action Alliance have raised and addressed a number of issues related to revising Chapter 56. We have considered these comments and other issues that we believe need to be addressed. We look forward to reviewing comments we receive on our proposed revisions to Chapter 56.

ISSUES

The Commission's December 4, 2006 *Advance Notice* listed specific questions that commentators were asked to address. We will discuss these questions and the corresponding comments received seriatim. Furthermore, we shall discuss general Chapter 56 issues not necessarily related to the implementation of Chapter 14.

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.

In the Appendix A that accompanied the Advanced Notice the Commission identified ten subject areas that all parties were specifically invited to comment upon. These ten issues concern the most complex and/or controversial provisions of Chapter 14. The first of the ten issues concerns the 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. Chapter 14 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 and steam heat and wastewater utilities. The Commission proposes 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.

Many of the parties voiced support for the Commission's proposal in their comments. Aqua, CAC, Action Alliance, Equitable, OCA, PCADV, PULP, WAB and

WLP all expressed support for a separate chapter. However, several of these parties, including CAC, PCADV, PULP, WAA and WLP insist that the separate chapter should not simply reflect the current Chapter 56, but should also incorporate the sections of Chapter 14 that provide a higher level of consumer protection than the current Chapter 56. CLS, PULP, WLP and WAA point out that Chapter 14 provides greater protections in some instances; examples including the ability of nurse practitioners to submit medical certifications, the 24-hour timeframe for service restoration upon receipt of a medical certificate, restoration of service upon payment of a reconnection fee and entry into the Customer Responsibility Program (CRP program), and winter termination rules that apply to all accounts instead of just heat-related accounts. In these parties' opinion, it was the legislature's intent to provide a greater level of protection to individuals with a PFA order and that the only way to ensure this level of protection is to amend any separate chapter to include the additional protections found in Chapter 14.

DLC, FirstEnergy, NFG, PECO Energy, PGW, and PPL do not support the Commission's proposal for a separate chapter. DLC believes that the utilities and customers excluded should be noted at the beginning of Chapter 56. Columbia, EAP, FirstEnergy, PECO Energy, PGW and PPL believe that the exceptions should be noted throughout the chapter as needed. NFG believes that the small gas company, steam heating and wastewater exclusions can be addressed by defining two categories of utilities in the regulations; "public utility" as defined in Chapter 14 and a new "utility" definition that would apply to cover the above-noted excluded entities. NAWC and PAWC suggest that the wastewater exclusion from Chapter 14 be addressed by specifically including wastewater utilities in the revised Chapter 56 regulations. They point out that some customers receive water and wastewater service from the same utility and having differing regulations for each service presents many administrative complexities for the utility and confusion for the customers.

In addition to commenting on the regulations that should apply to PFA holders, several parties took the opportunity to comment on other aspects of the PFA provisions found at Section 1417. Columbia, EAP, PECO Energy and PGW suggest that “Protection From Abuse” needs to be defined in a revised Chapter 56. PGW adds that the definition needs to specify that only a PFA granted under the laws of the Commonwealth of Pennsylvania is valid as to avoid utilities having to understand the PFA procedures in multiple jurisdictions. NFG suggests that the PFA exclusions be limited only to customers, applicants or their minor children; that the exclusions only apply where there is a final PFA order in place and would not apply if the customer or applicant has a temporary PFA or has just filed a petition for such; and that expired PFA orders would not qualify from exclusion from Chapter 14.

Action Alliance, PCADV, PULP, WAA and WLP suggest that the Commission extend the protections found at Section 1417 to victims of domestic violence in general. These parties believe that there is nothing in Chapter 14 that prevents the Commission from requiring broader protections and that a more inclusive interpretation of Section 1417 would more faithfully reflect the intention of the General Assembly in protecting the victims of domestic violence. These parties suggest that broader protections are also appropriate because of situations where obtaining a PFA actually places the victim in greater danger. This can occur when the abuser attempts to retain control by escalating the violence when a victim attempts to leave the relationship. Because of this concern, other institutions, such as the Pennsylvania Department of Public Welfare, have devised procedures for victims when complying with PFA requirements would place the victim in greater danger. These parties suggest that utilities and the Commission adopt similar procedures and that the Commission issue a statement of policy encouraging utilities to provide protections to victims of domestic violence who are unable to safely obtain a PFA order.

Action Alliance, PCADV, PULP, WAA and WLP also suggest that it is inappropriate to limit the applicability of Section 1417 to “current” PFA’s or to just “customers.” These parties point out that the language at Section 1417 does not mention “customers” and instead mentions “victims” and that the word “current” is also not used. Domestic violence can involve other household members including children. PULP, WAA and WLP also point out that limiting the protections of Section 1417 to just current PFA orders makes no sense because many of the issues raised by the changes in Chapter 14 are often linked to past time periods; examples include credit worthiness, liability for past balances and limitations on the number of payment agreements. PCADV suggests language that specifies that a PFA order that is currently in effect or was in effect during the time utility service was rendered or during any billing dispute qualifies for the exception to Chapter 14. Action Alliance, PULP, WAA and WLP suggest that utilities should be required to accept a copy of a PFA order by mail, fax or electronically and that in-person visits not be required. They are also of the opinion that utilities should be required to accept delayed or alternative verification of a PFA order if necessary due to abuse or a delay in the legal process, paperwork, etc.

Action Alliance, PCADV, PULP, WAA and WLP also address the public notice and consumer education efforts they believe are necessary to effectively implement the protections at Section 1417. They suggest that notification of the PFA protections be provided to all applicants and once a year to all customers. However, these parties believe the current notification should be amended to more fully describe who is eligible for these protections and the types of abuse covered by a PFA and against whom a PFA can be obtained; and also a note that the utility will keep account information confidential in such cases. These parties also opine that application forms, termination notices and any other relevant communications should include information about PFA protections. The parties also insist that neither the Commission nor utilities should second guess the role of the courts in issuing a PFA order. This includes not using the term “valid” in conjunction with “PFA” as to avoid the impression that some PFA orders are not valid.

Discussion

Concerning the Commission's proposal to establish a separate chapter for the customers and utilities specifically excluded from Chapter 14, the Commission recognizes that there is no simple method to address this. Whereas Chapter 56 traditionally applied to all residential customers, the General Assembly passed Chapter 14 with the clear intent to establish different rules for some selected customer groups and utilities. Based on the support of several parties, we believe that the best method for handling the customers and utilities specifically excluded from Chapter 14 is to create new subchapters of regulations specifically for this group. While we understand the complexity of this issue and do not lightly create new subchapters, we believe this is the soundest and simplest approach to ensure that this group is exempted from Chapter 14 as specifically intended by the General Assembly. Some parties voiced preference for simply noting somewhere in Chapter 56 the provisions that do not apply to this group. However, simply noting the provisions is not sufficient; we would also have to then specify and insert the alternative provision. This would result in a Chapter 56 that would have different regulations and standards intertwined, which does not appear any simpler than the option originally proposed by the Commission.

We also agree with the parties that insist where Chapter 14 provides a higher level of customer protection, all customers should enjoy these same protections. It certainly was not the intent of the General Assembly to provide victims with a PFA order with a lesser level of consumer protections than other customers. As a result, the new subchapters we are proposing for the groups exempted from Chapter 14, while exempting these groups from Chapter 14 provisions, will apply selected Chapter 14 provisions when the provisions provide enhanced consumer protections not found in the current Chapter 56. At the same time, we decline to apply all Chapter 14 provisions to wastewater utilities as advocated by NAWC and PAWC. If the General Assembly had wanted

Chapter 14 to apply to wastewater utilities they certainly would have done so, and, as such, we do not believe it is appropriate for the Commission to do so.

Many parties commented on different aspects of the procedures that apply to victims with a protection from abuse order per Section 1417, including customer education and public notice standards. We agree that information concerning the PFA exemption must be provided on important utility documents intended for consumers. As a result, the proposed regulations require the inclusion of such information on 10-day written termination notices, 3-day personal contact notices, post-termination notices, credit-denial letters, the rights and responsibilities summary provided to every customer and written utility application procedures that are made publicly available.

In addition to the public notices discussed above, several parties also suggested the Commission address broader consumer education efforts to inform customers of Section 1417 protections and also urged the Commission to specify training requirements, record maintenance and reporting as it relates to Section 1417. Several parties also asked the Commission to specify and define acceptable documentation of domestic violence situations. Some parties asked the Commission to expand the acceptable documentation to include alternatives forms such as affidavits, while other parties want the Commission to limit the applicability of Section 1417 in a more restrictive manner.

While we believe that the Commission, in the proposed rules, has appropriately applied the Section 1417 protections as discussed above, we question if this rulemaking and these regulations are the appropriate place to address the many ancillary issues related to the Section 1417 provisions concerning protection from abuse raised by many of the parties. As an alternative, we find merit in the suggestion from some of the parties that the Commission address these issues in a separate policy statement. We propose addressing, in an upcoming, separate proceeding, the Section 1417 requirements as it relates to utility and Commission training, consumer education, record keeping, reporting

requirements, confidentiality, acceptable alternative documentation, use of substitute addresses and any other matter related to protections for victims of domestic violence any party may want to raise. The use of a separate proceeding and a separate policy statement will allow the parties and the Commission to address this vital area in a comprehensive and flexible fashion, and to address areas that are outside of the traditional scope of the Chapter 56 regulations and this rulemaking.

2. Previously unbilled utility service.

The “make-up” bill rules at § 56.14 address the procedures to be used when a utility bills for previously unbilled service resulting from a billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills. In the ANOPR, we proposed incorporating into this section a four-year limit on such billings. This four-year limit reflects the same time restrictions found in other sections of the regulations, i.e., § 56.35 (relating to payment of outstanding balance) for example, and the record maintenance requirements found at § 56.202. In addition, this would reflect the four-year limit found at 66 Pa. C.S.A. § 1312 (relating to refunds). We also declared that we see no conflict with the limitations on the number of payment agreements found in Chapter 14 at §1405(d) since § 56.14 involves charges that were not previously billed and are not overdue.

Many of the parties, Aqua, CAC, Action Alliance, NFG, OCA, PECO, PPL and PULP either expressed support or expressly did not oppose the four-year limit on make-up bills. First Energy suggests such a limitation should apply to both credits and debits. PPL and PECO, while supporting the four-year limit, suggest that it should not apply in cases of fraud. In cases of theft or fraud, PPL believes a six-year limit is appropriate. EAP, Equitable and First Energy insist that if a four-year limit is imposed, it should not include instances of fraud and theft. NFG, while not opposing the four-year limit, believes that the dollar amount that triggers this provision should be raised from \$50.00

to \$150.00 to account for the increase in energy prices since the last time this section was revised in 1998. PPL supports raising the threshold to \$100.00. NFG also suggests that § 56.14 be modified to allow utilities to send an adjusted bill to the customer explaining the error. Action Alliance, CAC and PULP support the four-year limit, but also suggest that the make-up bill should be discounted under certain circumstances. These three parties suggest that the make-up bill be discounted by 20% if it resulted from a utility's failure to comply with regulations, such as a failure to obtain actual meter readings within a 6-month time period. These parties cite Commission case history in supporting such a provision. *Robinson v. Philadelphia Gas Works*, F-01039065, (March 24, 2004).

Columbia, DLC, and PGW were the only three parties to expressly oppose the Commission's proposal to limit make-up bills to four years. All three parties suggest that any limitation on make-up bills is contrary to the policy intent of Chapter 14. Columbia adds to this its belief that such a limitation violates the filed-rate doctrine, in that it would prohibit a utility from charging the approved rate for services provided in some instances.

Many of the parties, Aqua, CAC, Action Alliance, Columbia, DLC, NFG, OCA, PECO, PGW, PPL and PULP support the Commission's statement in the ANOPR that Chapter 14 does not conflict with the payment agreement obligation found in § 56.14. These parties believe that a payment agreement should be offered when a make-up bill is presented to the customer. Columbia, DLC, and PECO note that payment agreements should not have to be offered in instances of fraud or theft. Only three parties, Allegheny, EAP and Equitable, disagree with the Commission's proposal. These three parties believe the limitations on payment agreements found in Section 1405 should include payment agreements on make-up bills, and that the utility should have the discretion to determine if a payment agreement is offered when a customer is billed for previously unbilled service.

Discussion

Based on the comments of the parties, we see no reason not to impose a four-year limit on make-up bills and note that this is merely stating in regulation what has been long-established Commission practice. *See Roderick Berry v. Philadelphia Gas Works*, F-01184412, (April 15, 2004). We also believe it is appropriate to retain the obligation to offer a payment agreement on make-up bills since such agreements concern “unbilled” amounts, not “billed” amounts, and, as such, are not considered a payment agreement in the context of Chapter 14. *See* 66 Pa. C.S.A. § 1403 (Definition of “Payment Agreement”).

We decline at this time to raise the dollar amount threshold that a bill must reach to be considered a make-up bill since this threshold was raised in the most recent revision to this regulation. In addition, increasing the threshold from the current amount of 50% or \$50 could pose significant burdens, especially on low-income consumers. At the same time, we decline to require discounts on make-up bills that result from a possible utility failure to comply with Commission regulations. Given the practical issues involved, such as the responsibility of determining utility misapplication of a regulation, and the general right of a utility to receive payment for the utility service provided, we do not propose requiring a discount. While the Commission reserves the right to order such a remedy based on individual circumstances, and utilities are urged to consider such individual circumstances, we decline to require such in every such instance.

3. Credit Standards

Credit standards and procedures are found in §§ 56.31 – 56.38. In the ANOPR, in addition to incorporating the requirements of §§1404(a), 1404(d) - (f), 1407(d), 1414(c) and the §1403 definitions of *applicant* and *customer*, into these sections, we proposed

revising these sections to clarify acceptable applicant identification requirements, use of social security numbers, and third-party service requests, in the context of preventing fraud and identify theft. *See Order re: Investigation In Re: Identity Theft*, M-00041811 (July 14, 2005). This includes the identification standards that should be applied to “each adult occupant” per § 1404(d).

Chapter 14 at Section 1404(a) (2) specifies utilities are to use “a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice.” In order to insure that the credit standards being used meet these conditions and are being applied in an equitable and nondiscriminatory manner, we proposed requiring utilities to include their credit scoring methodologies and standards in their Commission-approved tariffs.

Chapter 14 at Section 1407(d) allows a utility to hold an applicant seeking reconnection at a location, terminated for non-payment, responsible for utility service previously furnished at the same address but in another party’s name(s) for the period during which the applicant resided at the same address. Section 1407(e) addresses how a utility may establish such liability, including “...other methods approved as valid by the Commission.” We proposed requiring utilities to seek approval from the Commission before using the “other methods” mentioned in this section by requiring utilities to include the “other methods” in their Commission-approved tariffs. We also proposed including a four-year statute of limitations on such assignments of liability. This four-year limit reflects the same time restrictions found in other sections of the regulations; § 56.35 (relating to payment of outstanding balance) for example, and the record maintenance requirements found at § 56.202. In addition, this would reflect the four-year limit found at 66 Pa. C.S.A. § 1312 (relating to refunds).

Allegheny Power, CAC, Columbia, DLC, EAP, Equitable, FirstEnergy, NFG, PECO Energy, PGW, and PPL all oppose the Commission’s proposal to place credit

scoring procedures and methodologies in utility tariffs. These parties all comment that credit scoring methodologies are proprietary, belonging to the credit reporting agencies that develop them. As a result, these methodologies are confidential and thus inappropriate to place in a utility tariff. These parties also insist that placing credit scoring procedures in the tariffs will take away the flexibility utilities believe they need to revise their procedures as they see fit. These changes could include switching to a different credit scoring vendor and adjusting the acceptable credit score for applicants up or down as needed to secure the appropriate number of accounts. Placing these items in a tariff would force utilities to file tariff revisions with the Commission on each of these occasions.

Some of these parties suggest a number of possible alternatives to including credit scoring procedures in utility tariffs. FirstEnergy suggests that the existing requirement at 52 Pa. Code § 56.36 that requires utilities to have written credit procedures available to applicants is sufficient. An alternative NFG prefers is that the Commission address the credit screening procedures using a policy statement. PGW suggests that credit scoring be addressed in the regulations and should specify the use of a utility credit scoring model for any one of the nationally recognized credit scoring agencies. PPL believes that the tariff should only include a general description of credit scoring procedures and their interface with the credit scoring vendor. Aqua comments that the company tariff may be one way of informing customers of applicable credit policies, but it is not the only appropriate way to do so. CAC recommends that the Commission not adopt a “company-by-company” tariff approach and instead proposes that a state-wide regulatory standard be adopted.

AARP, Action Alliance, OCA, and PULP support the Commission’s proposal to place credit screening procedures in the company tariff but also join the CAC in advocating that the Commission adopt statewide standards. AARP states that the use of credit scores by utilities raises questions of fair practice and access to essential services,

especially for low-income consumers. AARP is concerned because credit scores are based on reports that often contain erroneous information; not all credit scoring models include utility payment history; a consumer's credit score can vary depending upon which credit bureau the information was obtained from; and that some consumers are penalized if they do not often use credit or if they use alternative financial institutions that do not report to the credit bureau. AARP believes Chapter 56 should require that applicants who are required to pay a security deposit as a result of a credit score should be provided an opportunity to demonstrate creditworthiness through other means; that they be provided a written explanation of the utility's action and the credit score and an opportunity to dispute the credit score and how to do so; that the use of credit scores be disclosed to all applicants and applied uniformly to all applicants; and that the Commission should track the number of complaints concerning deposits to determine if a particular credit bureau or methodology is resulting in a disproportionate number of deposit requests.

OCA adds that credit scores are calculated by a privately held algorithm that is not available for public review or approval. OCA suggests that the Commission specify in the regulation that the only acceptable credit scoring methodologies are ones that assess utility bill payment history and risk. In addition, the regulations should require that a utility must submit its credit score policy to the Commission for approval, which should include the methodology, the deposit trigger score and the basis for the trigger score. The OCA submits that the regulations should require the uniform application of credit screening and that any applicant who is required to pay a deposit based on a credit score should receive both an oral and written disclosure. The written disclosure should include the applicant's credit score; the agency used to obtain the score; how to contact the agency; third party guarantor information; and Commission dispute procedures. In addition, if a dispute concerning the accuracy of a credit score is pending before the credit scoring agency longer than three business days, the utility should provide service pending the resolution of the dispute.

Action Alliance and PULP also suggest that the written disclosure provided to an applicant should also include specific information as to what the applicant must do to obtain service. These two parties also ask the Commission to reaffirm the continued validity of 52 Pa. Code § 56.32(3)(i) and clarify that the absence of a credit score is not, in itself, grounds for requiring a deposit. According to these parties, low-income applicants should not be required to pay deposits because they cannot afford them, instead low income applicants should be referred to CAP programs. PULP and Action Alliance also urge the Commission to place in regulation the Commission's previous determination in the first Chapter 14 *Implementation Order* that defined the distinction between "applicants" and "customers" and that a transfer of service from one address to another does not turn a "customer" into an "applicant."

With respect to applicant identification requirements, CAC, Action Alliance, and PULP ask that the Commission make it clear that applicants should not be required to provide social security numbers. PULP points out that not all individuals, including those with immigration visas, have social security numbers. PULP adds that no other state explicitly authorizes utilities to demand social security numbers, and that other Commonwealth agencies, such as the Department of Public Welfare, do not require social security numbers. CAC, Action Alliance and PULP urge that the Commission require utilities to accept alternative forms of identification, such as government issued licenses, passports, visas, birth certificates, and job and school photo ID's.

NFG believes identification requirements do not have to be addressed in the regulations. PECO Energy urges the Commission to be careful with identification requirements in that they do not inconvenience customers nor deny utilities needed flexibility. Any regulations should permit reasonable identification requirements while permitting the utility to require in-person verification where appropriate to address possible identity theft. PPL believes that if a social security number is not available, other government issued photo identification should be acceptable. Equitable notes that

most service applications are taken over the telephone and that identification requirements must accommodate this practice.

PECO Energy opposes the Commission's proposal that these identification methods must be placed in a company tariff. FirstEnergy also opposes the Commission's proposal and instead believes that utilities should use the formal petition process instead. NFG opposes tariff requirements and prefers that the Commission address this in a separate policy statement. PGW likewise opposes a tariff requirement but believes this should be addressed in the regulation instead. PPL believes that a company should only have to tariff "other methods" not specifically listed at § 1407(e) if the utility intends to use "other methods." Equitable comments that utilities should be allowed to rely on, but not be limited to, information from mortgages, deeds, leases, occupant and income data supplied by the customer, utility contact logs and checks rendered for utility payment. Aqua suggests that the tariff is just one of many possible methods to address this.

AARP supports the Commission's proposal to require tariff language addressing how a utility will determine the applicant's liability for a previous bill and adds that the rules should clearly place the burden of proof on the utility for accurately determining residency under Section 1407(d) and that the applicant must be provided a clear explanation of the determination and an opportunity to dispute the determination. Action Alliance and PULP suggest that the Commission should specify that Section 1407(e) does not establish an irrebuttable or rebuttable presumption that a mortgagor or lessee resided at the property in question, for the applicant may have resided elsewhere for all or a part of the time in question. According to Action Alliance and PULP, the applicant should be able to present other documentation and evidence indicating that they were not an occupant at the address while the unpaid balance accrued. In addition, these parties believe that an oral lease should not be used to make such determinations since the statute specifies that the name must "appear" on the mortgage, deed or lease; meaning that the names of tenants must be "in sight," which is not possible with an oral lease. If the

utility is relying on credit reporting services to make a liability determination, Action Alliance and PULP ask the Commission to specify that it is not sufficient for the utility to report the credit agency's conclusion; rather, the utility should provide the applicant the material facts on which the conclusion is based. Action Alliance and PULP cite Commission authority that a denial of credit based on the report of a credit reporting service must provide not merely the credit reporting service's conclusion, but a description of the circumstances upon which it was based. *See Bookstaber v. PECO Energy Company, Docket 20031314, (November 23, 2004).*

CAC suggests that utilities be allowed to use "other methods" of determining liability only after a public comment period is made available. OCA believes the term "other methods" is vague and raises significant privacy and safety concerns, especially if the individual(s) involved are victims of domestic violence. OCA wants the Commission to strictly prohibit utility inquiries that could endanger applicants or violate their privacy; such inquiries should be restricted to publicly available data and the utility's own database.

PCADV, WAA and WLP share OCA's concerns with privacy and confidentiality and urge the Commission not to allow practices that may place individuals, especially those protected by a PFA order, in danger. These parties note that requiring the naming and identification of all parties at a location may force the disclosure of a protected victim of abuse. Utilities and the Commission should put into place practices that will prevent the release of sensitive information obtained from PFA holders, such as placing special neutrally labeled flags and codes on accounts, restricting access to certain information on those accounts, and allowing face-to-face conversations to discuss sensitive information. Utilities should also be required to accept from applicants substitute addresses provided by the Office of Victim Advocate per Act 188 of 2004. These parties note that the credit and deposit rules in Chapter 14 do not apply to applicants with a PFA order, and that this protection applies if anyone in the household

has a PFA since the statute at Section 1417 specifies “victims” and not “customer” or “applicant.” Moreover, they submit that utilities should also inform all applicants of the protections provided to victims of domestic violence.

Aqua, CAC, NFG, OCA, and PPL support the Commission’s proposal to limit assignments of liability to 4 years. DLC opposes the proposal. EAP, Equitable, and First Energy insist that if a 4 year limit is enacted, it should exclude instances of theft and fraud.

Discussion

The Commission believes that the statement of policy at § 56.31 is still fully in effect and has not been superseded by any section of Chapter 14. This statement of policy declares that the credit and deposit policies of each utility shall 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. In keeping with the intent of this policy, we agree with the parties that suggest utility application and credit policies must be as transparent as possible. As a result, we propose in the regulations that utilities must place their procedures and standards in their tariffs so that they are visible and available to all applicants, customers and policy makers. There is no convincing argument submitted by any party for keeping such policies concealed. Requiring tariff approval will allow the Commission to review and ensure that such standards are appropriately evaluating the risk of nonpayment for utility service and are in keeping with the intent of § 56.31. For these same reasons, the Commission agrees with the parties that suggest that the standards and methods a utility will use to determine an applicant’s responsibility should also be placed in each utility’s tariff and fully disclosed.

The Commission also agrees that applicants and consumers must be provided detailed and complete information when they are denied credit from a utility. As some parties point out, credit reporting and scoring is prone to error. As a result, we propose

that applicants must be informed of why they are being denied credit, what they must do to obtain credit and how to dispute a credit determination. Applicants must also be informed of their rights to provide a third party guarantor and that more lenient credit standards are available for victims of domestic violence with a PFA order.

Concerning identification requirements, the Commission is convinced that given recent concerns with identity theft, it would not be responsible to ignore applicant identification standards in the proposed regulations. However, we are also sensitive to concerns expressed by various parties, especially utilities, that any standards need to be flexible. As a result, in the proposed regulations we decline to mandate a specific identification method, and instead provide a number of options that can be utilized.

We also propose maintaining the existing four-year limit on account liability determinations because no party made a convincing case that this limit has been superseded by any section of Chapter 14.

4. Payment period for deposits.

The Commission first provided some direction with respect to deposit payment timeframes in the first *Implementation Order*, pp. 15-17, but at the same time also declared that the "...Commission will undertake a review of these sections of its Regulations in a subsequent rulemaking proceeding." The Commission proposed that in situations where a customer or applicant is seeking restoration of service after having been terminated for any of the grounds found in Section 1404(a)(1) that 50% of the deposit can be required up-front as a condition of restoration, with the balance of the deposit due within 90 days of restoration.

For situations when a customer or applicant is seeking service outside of the grounds found in Section 1404(a)(1), the full amount of the security deposit can be required before service is provided per Section 1404(e). For existing customers with

service who are required to pay a deposit, we propose maintaining the existing rules at §§ 56.41– 42 which allow for the deposit to be paid in three installments over 60 days since Chapter 14 is silent on rules for collecting deposits from customers with service, and since these Chapter 56 provisions do not appear to be inconsistent with the credit related provisions in Chapter 14.

Perhaps reflecting the complexity and at times contradictory nature of the deposit provisions in Chapter 14, the comments in response to the Commission deposit payment timeframe proposals were likewise varied and at times widely divergent. Columbia, EAP, Equitable, First Energy, NFG, PGW and PPL supported the Commission's proposal and the original guidance provided by the Commission in the first *Implementation Order*. These parties believe that this reflects as best as possible the requirements found in Chapter 14. First Energy also notes that utilities have already enacted procedures and programmed their systems to reflect the first *Implementation Order*.

Aqua, to avoid confusion, advocates standardizing 50% up front, followed by monthly installments of 25% and 25% for all customers and applicants in all circumstances under which a deposit is required.

Allegheny Power disagrees with the Commission's proposal in that they believe that existing customers required to pay a deposit per § 56.41-42 be required to pay the deposit in full upfront. DLC disagrees with the Commission's proposal in that DLC believes that applicants and customers who have had service terminated should be required to pay a deposit in full as a condition of restoration due to the credit risk behavior they have displayed. TWP agrees that customers and applicants who have had service terminated should not be given more time to pay a deposit than other customers and applicants. PECO Energy cautions the Commission to avoid broad language such as "...within 90 days" for it will create confusion. They support 50% up front followed by monthly payments of 25% and 25% for restoration of service.

CAC and Action Alliance believe that security deposits act as a serious barrier to utility service, especially for low-income consumers and urge the Commission to enact deposit regulations that reflect these concerns. CAC notes the increase in the number of accounts that are without a safe source of central heat in the winter since the enactment of Chapter 14 as reported in the Commission's annual cold-weather survey. CAC suggests that the security deposit requirements in Chapter 14 may be extending the periods of service deprivation and endangering the health and welfare of Pennsylvania households. CAC and Action Alliance want all customers and applicants to have the full 90-days to pay a deposit, with 25% initially, 25% at 30 days; 25% at 60 days; and 25% at 90 days.

OCA agrees with the Commission's guidance in the *Implementation Order* concerning the definitions of "customer" and "applicant." OCA also agrees with the Commission's proposal on security deposit timeframes except that OCA believes that *customers* should not have to pay a deposit to reconnect service since Section 1404(a)(1) uses the terms *applicant* and "...was a *customer*." Since the Commission ruled in the *Implementation Order* that a customer remains a customer until the final bill is due and payable, a customer should be able to reconnect service without paying a deposit. OCA supports the Commission's proposal for existing customers but points out that a customer does not need to have service to be considered a customer.

PULP is also concerned that deposits bar low-income customers from obtaining utility service, and that deposit rules and procedures should be clear and comprehensible. PULP believes the Commission's proposal is unduly complicated and confusing. PULP joins CAC and Action Alliance in advocating a 25%-25%-25%-25% deposit payment installment schedule. PULP also contends that the Commission has misinterpreted Section 1404(e) to mean that a deposit must be paid in full immediately to obtain service. PULP believes that the language at Section 1404(e) does not address the timing of the payment; it only specifies that a deposit must be paid in full. PULP points out that only PGW can require full payment up-front because the PGW-specific Section 1404(f) states

that a deposit be "...paid in full at the time the city natural gas operation determines a deposit is required..." This specific language is lacking in Section 1404(e). If the General Assembly intended Section 1404(a) to require immediate payment, it would have used this same clear language that is only found in Section 1404(f) for PGW. PULP also believes that Section 1404(a) should mean that deposits are to be calculated based on the prior 12 months usage history. For existing customers required to pay a deposit, PULP suggests that they should have 90 days to pay the deposit. While Section 1404(h) refers to "commission regulations" it is reasonable to assume that the General Assembly anticipated the promulgation of new regulations and that §§ 56.41-42 should be revised to include a 90-day payment period.

PCADV cautions the Commission that economic barriers such as security deposits create strong disincentives for victims seeking to escape abusive relationships. According to PCADV, responsible public policies should seek to remove these barriers and utilities should waive deposits in these situations and remember that Chapter 14 deposit rules do not apply to victims of domestic abuse. WAA and WLP ask that utilities be required to tell all consumers from whom a deposit is required that deposit requirements are more lenient if they or a member of the household is a victim of abuse with a PFA.

Discussion

Upon review of the comments, the Commission agrees that its original proposal is too complex and confusing. It is important that the rules be simple enough for consumers to understand and for utilities to effectively train their staffs in and implement. The original proposal to link deposit payment periods to the consumer's status as an applicant, customer, applicant seeking restoration and customer seeking restoration requires everyone to understand the intricate rules and subtle distinctions that differentiate these different statuses. No party is well served by this complexity.

We find convincing the argument put forward by PULP that Section 1404 does not require immediate up-front payments of the entire deposit amount, except in the case of PGW. As pointed out by this party, if the General Assembly had wished to impose the same requirements on all applicants that they impose on PGW applicants, they could have clearly done so by using the same language for all and not making a separate distinction for PGW, which they clearly did. Section 1404 merely specifies that deposit amounts must ultimately be paid in full by the established timeframes and that the failure to do so is a grounds for termination of service.

We propose 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. In all cases, the deposit must be paid within the 90 day time period specified by Section 1404(h). This timeframe also conforms with the Section 1404(h) requirement that the deposit payment period conform with Commission regulations.

5. Termination of service.

Regulations governing the termination of service are found in Chapter 56 §§56.81– 56.131. Termination of service can have serious consequences, not only for the customers immediately affected but also for neighbors and the surrounding community. The Commission requested comments that reflect careful consideration of the health and safety factors for those immediately affected by termination of essential utility service, as well as the Commission's duty to protect the health and safety of all citizens of the Commonwealth.

Chapter 14 includes grounds for authorized termination at Section 1406(a) and we proposed incorporating these grounds into § 56.81. Section 1406(c) lists grounds for which immediate termination without prior notice is authorized and we proposed incorporating these into § 56.98. However, Chapter 14 does not specifically list grounds

for which termination of service is not authorized as currently found at § 56.83. This section includes prohibitions on terminating utility service for nonpayment of nonbasic charges, for charges of a different rate class, for overdue account balances less than \$25.00 and for unpaid concurrent service, etc. We proposed maintaining § 56.83 to the extent that it is found to be consistent with Chapter 14. We also proposed maintaining the distinction between “user without contract” and “unauthorized use” as determined and supported by the Commission in the first *Implementation Order*, pp, 7-10.

Moreover, we proposed revising the termination notice process to incorporate the new termination notice procedures found in Chapter 14 at Section 1406(b). We also proposed to address the interaction of dispute procedures (§§ 56.92, 56.97, 56.141 - 181) with the termination procedures, including the obligation of the utility to stay termination pending resolution of a dispute, and the obligation to provide the consumer with an opportunity to file an informal complaint after a dispute is addressed by the utility and the customer remains dissatisfied.

OCA agrees with the Commission that the termination of essential utility service can be a matter of life and death and is central to the Commission’s obligation to protect the health and safety of all citizens of the Commonwealth. OCA notes that deadly fires from households trying to use candles for light, and carbon monoxide poisoning, have been well-documented in Pennsylvania when families have been without utility service. OCA submits that the Commission should reduce existing termination protections in Chapter 56 only to the extent necessary to reflect the mandates of Chapter 14. This includes minimal, if any, changes needed in § 56.81, authorized grounds for termination, to implement Section 1406(a), and changes to § 56.83 addressing unauthorized termination, and maintaining the distinction between user without contracts and unauthorized use. OCA believes that the procedures immediately prior to termination under § 56.94 are not affected by Chapter 14 and should remain intact, and that the changes to the termination notice procedures should not impact §56.131 third party notice

rights. Termination notice formats should be attached to Chapter 56 as an appendix and utilities should be directed to use these standard formats. OCA also agrees with the Commission's proposal in that dispute rights are not affected by Chapter 14 since the grounds for termination at Section 1406(a) specify "undisputed" delinquent accounts.

OCA suggests that § 56.82 and § 56.192 need to be revised to clarify that utility personnel must be available to accept payment and restore service; more specifically, the OCA explains that it is not enough just to have personnel answer a phone and direct the customer to an electronic payment method. Personnel must be available to discuss the account, resolve disputes, negotiate payment agreements, refer customers to assistance programs and receive payments.

While § 56.98 needs to be revised to include fraud and material representation as grounds for immediate termination, OCA urges the Commission to further define what constitutes fraud or material representation so that utilities do not have unfettered discretion to decide what constitutes such, particularly in the winter. The OCA submits that because the drastic action of termination without notice should not occur without a proper basis, it is reasonable for the Commission to promulgate regulations to further delineate the specific elements of fraud or material misrepresentation. An example is the Commission's declaration in the *Second Implementation Order* that a bounced check is not fraud. In addition, there must be a procedure in place in which a customer can immediately challenge such a termination. This should include expedited/emergency review at the Commission with an ALJ or Special Agent if necessary.

Action Alliance joins with OCA in urging the Commission to adopt procedures allowing for expedited review of any disputes arising from the immediate termination of service due to allegations of fraud or material misrepresentation. This is especially necessary when the utility is relying on a third party source of information, such as a credit agency, for determining instances of fraud. Action Alliance believes that utilities should be required to have evidence, not just suspicion, before immediately terminating

for fraud. The post-termination notice in such cases should contain detailed information concerning the allegations and facts and also should include specific terms for the restoration of service.

Action Alliance agrees with the Commission's proposal to maintain a distinction between user without contract and unauthorized use and also agrees that dispute rights remain intact because Section 1406(d) only addresses notice requirements, not other requirements. According to Action Alliance, § 56.83 should be maintained and in particular § 56.83(4) and (8) involving third-party liability should remain impermissible grounds for termination. While Section 1407(d) allows a utility to condition reconnection of service on payment of that portion of the outstanding balance of the prior named customer for the time that the applicant resided at the premises for which service is requested; it does not provide a ground for termination of service.

Action Alliance believes Section 1406(d) should be read narrowly to require that a utility can terminate service on Fridays so long as the utility can both accept payment and restore service the following day. In addition, terminations should not be allowed on holidays or days preceding a holiday. When a low-income consumer contacts the utility while under the threat of termination, Action Alliance wants utilities to be required to determine if the customer is eligible for CAP and to stay the termination of service while eligibility is determined.

Action Alliance, WAA and WLP want PFA information to be provided orally and in writing and termination of service stayed to give the customer time to provide the utility with a PFA. WAA and WLP also want information about PFA protections on all pre and post termination notices. WAA and WLP note that victims with a PFA are exempt from Chapter 14 termination provisions including Friday terminations, immediate terminations for fraud, and should also still receive 48-hour notices. Because of these protections, it is essential that utilities provide PFA information at every opportunity.

PULP prefaces its comments by declaring that service termination is the most important issue facing the Commission today. Since the passage of Chapter 14, PULP contends that termination levels have skyrocketed; which is at odds with the intent of Chapter 14 to ensure that service remains available to all customers on reasonable terms and conditions. PULP further believes it is imperative that reasonable regulations establish clear post-termination notice requirements, maintain § 56.83 regarding authorized terminations, incorporate new Chapter 14 notice procedures, maintain automatic stays of termination, protect users without a contract, and incorporate new regulations regarding days of the week.

Section 1406(c)(2) requires a utility to “make a good faith attempt to provide a post termination notice to the customer...” when service is terminated without prior notice. PULP believes that the “good faith” standard is fairly ambiguous and needs to be more fully defined by the Commission by requiring that the utility employee must give personal notice at the time of termination and this communication should address all actions an individual must take to have service reconnected and what assistance may be available. If personal contact is not possible, then a written notice providing detailed information along with assistance information should be conspicuously posted. This should be followed up with a letter sent to the customer within 72 hours of the termination, again including the same information.

PULP maintains that § 56.83 should be preserved in its current form because it helps ensure that service remains available to all while not frustrating the other intent of Chapter 14 in requiring those that can afford to pay do pay their bills. PULP submits that § 56.83(4) and (8) should be maintained because it prohibits termination of service for nonpayment of bills of the prior ratepayer at the same address. In other words, PULP believes that a party not having to pay for someone else’s utility service is basic fairness and is not incompatible with Chapter 14 and a utility should have to establish the facts of liability before the Commission before terminating service. Likewise, PULP believes

§56.94 and § 56.141 should be maintained as is, and should not exclude CAP participants since nothing at Section 1405(c) eliminates the stay on termination while a CAP account dispute is investigated. Moreover, PULP states that § 56.91 only needs to be amended to include the 60-day effective life of a 10-day notice and § 56.82 should maintain the prohibition on termination on holidays and the day before a holiday.

CAC points to the more than a quarter million service terminations each year since the enactment of Chapter 14 when urging the Commission to maintain § 56.83 to the extent it is consistent with Chapter 14. CAC also recommends that the Commission maintain the distinction between user without contract and unauthorized use, maintain stays of termination pending dispute resolution, and maintain § 56.94 as is.

AARP is also concerned with the termination notices a utility must provide a customer before terminating service. AARP insists that termination notices must include all rights and remedies available to the customer, including medical and income-related prohibitions on termination, and that this should be provided in different languages as needed. AARP also believes § 56.94 and dispute procedures should be maintained as is and supports the Commission's proposal regarding § 56.83.

Aqua supports the Commission's termination proposals. However, Allegheny Power disagrees with the Commission's proposal in that they believe Section 1406 totally abrogates §56.81. In addition, Allegheny Power argues that § 56.83(4) should be eliminated as to prevent the "name game" and § 56.83(8), (10) and (11) should also be eliminated because they are inconsistent with the policy goals of Chapter 14 found at Section 1402. Allegheny Power also wants to omit the income level grid from termination notices because they must be changed annually which creates an undue burden on utilities; are inconsistent with the timing found in the LIHEAP program eligibility rules; and is a training issue for customer service representatives. DLC also disagrees with the Commission's proposals in that § 56.83 should not be maintained and that § 56.94 has been superseded.

EAP disagrees with the Commission's proposal to maintain the distinction between user without contract and unauthorized use because this distinction does not minimize uncollectible expenses nor encourage timely payment. They also disagree that dispute procedures have not changed and insist that § 56.92, § 56.97, and § 56.141 through §56.181 are inconsistent, in part, with Chapter 14. EAP also points out that the Commission can no longer waive late payment charges and those customers disputing their bills now run the risk of a late payment charge. EAP also believes that § 56.83(1), (9), (10), and (11) should be eliminated as inconsistent with Chapter 14 and that if §56.83(7) is maintained it should have an exception for fraud and theft.

Equitable states that §56.83(1), (2), (3), (4), (7), (8), (9), (10) and (11) are inconsistent with Chapter 14. FirstEnergy believes that § 56.83(1), (4), (5), (8), and (9) are inconsistent. FirstEnergy also suggests that the Commission make §56.141 and §56.142 consistent by specifying in each that a dispute has to be filed prior to the day the utility arrives to terminate service. First Energy submits that the Commission should also declare that utilities do not have to provide customers with dispute rights within 120 days of a Bureau of Consumer Services decision.

NFG agrees in part and disagrees in part with the Commission's proposals. NFG asks that user without contract be added as a basis for termination under §56.81 consistent with the first *Implementation Order*. NFG believes that § 56.83(1), (8), (9), (10), and (11) should be eliminated as being inconsistent with Chapter 14. According to NFG, §56.83(1) allows a customer to avoid payment based solely on the fact that the customer has multiple residences, § 56.83(8) conflicts with the definition of customer found in Section 1403 and the \$25 threshold on terminations at § 56.83(10) and (11) is not mentioned in Section 1406(a)(1). NFG submits that §56.94 has been superseded in that a medical certificate is needed to stop the termination of service; solely the claim of a medical condition is no longer sufficient. Concerning dispute procedures, NFG requests that the Commission distinguish between two different types of disputes,

mediation/collection and billing/service. NFG submit that mediation/collection disputes should be able to be addressed by the company using a verbal report to the customer. However, billing/service disputes would still require the full § 56.152 utility report to the customer.

PECO Energy suggests that § 56.81 be a comprehensive list of all grounds for which termination of service is authorized. PECO Energy explains that § 56.83(1) and (2) relate to concurrent service and should be eliminated because they are inconsistent with the policy goals of Chapter 14; §56.83 (4) and (8) relate to the nonpayment of bills of other ratepayers and have been superseded by Chapter 14; § 56.83(5) is not necessary because Chapter 14 has created very specific rules about deposits and termination; § 56.83 (7) concerns service furnished more than 4 years ago and is not necessary since this is proposed to be addressed in the make-up bill regulations; and § 56.83 (11) should be eliminated since it defeats the purpose of a security deposit and creates additional risk of loss to the utility.

PGW advocates incorporating Section 1406(a) into §56.81 and § 56.98 and § 56.83 should be deleted or modified to remove all inconsistent requirements. PGW disagrees with the Commission's distinction between user without contract and unauthorized use because they believe that Section 1406(c) allows for immediate termination for all unauthorized use. If the Commission maintains this distinction, PGW submits that user without contract should be limited to a 2-month time period.

PPL prefaces its comments by pointing out that termination is always a last resort and that PPL has the lowest residential termination rate among electric and gas utilities. PPL supports the Commission's proposal concerning § 56.81 but asks that this section also include dishonorable tender of payment as a grounds for termination. This is important because of the increasing use by customers of electronic payments methods. Concerning § 56.83, PPL believes it is not possible to retain this section as is. PPL submits that a new § 56.83 should retain as unauthorized grounds for termination (1)

service of a different class at a different location, (2) nonpayment of merchandise and fees, (3) nonpayment of a deposit arising out of a make-up bill, (4) nonpayment of a payment agreement before the due date, and (5) nonpayment of estimated charges unless the estimated bills were required due to denial of access to the meter. PPL supports the Commission's distinction between user without contract and the use of 3-day notices before terminating such accounts, and also supports the Commission's proposal that dispute procedures at §§ 56.92, 56.97 and 56.141-181 are not abrogated by Chapter 14. However, PPL believes § 56.94 has been impacted by Chapter 14 because utilities are not required to leave a 48-hour notice between April 1 and November 30.

PPL also requests that the Commission reformat the 10-day termination notice. It is PPL's experience that the current 10-day notice has had the unintended consequence of causing customers not to contact the company in response to the notice. PPL believes this is happening because the current notice has a possibly confusing statement on the front indicating that the company may act on the notice for up to 60 days. PPL proposes moving this statement to the second page of the notice. PPL also suggests other format changes, such as rewording and simplifying the four statements informing customers of what they need to do to avoid termination and eliminating duplicate phone numbers. PPL also requests a 45-day window to update the annual change of the federal poverty level information that is presented on the current notices.

Discussion

We agree with the parties that supported our original proposal to maintain the distinction between user without contract and unauthorized use as an important consumer protection. User without contract situations can include instances of a widower using the utility service that is still in a deceased customer's name or a roommate using utility service that is still in a departed roommate's name. Scenarios such as these are inherently different than someone tampering with utility equipment to obtain service illegally. To

treat all of these scenarios the same and to allow immediate termination for user without contract situations would needlessly expose innocent consumers to serious harm. To help assist consumers and utilities in making the distinction between user without contract and unauthorized use, we propose including a definition of user without contract in the new regulations.

We agree with the parties that urge us to make termination notices more helpful by including critical information on the notices that alerts the consumer to programs and options available to them to help them maintain critical utility service. This includes universal service programs, emergency medical procedures, protections for tenants, and protections for victims of domestic violence with a PFA. However, we disagree with the parties that ask us to mandate a specific notice format. This approach is too inflexible and might prevent future modifications that could even benefit consumers. Instead, we propose removing the definition of “notice or termination notice” and the termination notice information requirements contained within the definition from the definitions section (§ 56.2) of the current Chapter 56 and inserting the information into a revised section, § 56.91. While we do not mandate a specific format, we do propose itemizing the important information that must be provided on all termination notices. Utilities will be free to modify the formats of their notices as they see best to meet the needs of their consumers as long as the specified information is provided.

Chapter 14 significantly expanded the days that termination activity can occur by permitting such actions on Fridays as long as the public utility can accept payment to restore service on the following day and can restore service consistent with Section 1407. We agree with the parties that asked us to expand upon and specify just what the obligations of the utility are if they wish to terminate service on Fridays. We agree that it is important that both consumers and utilities understand what these obligations are and that, in keeping in compliance with Section 1407, the utility must be able to accept

emergency medical certificates and negotiate payment agreements, and restore service, if required, the day after a termination of service.

Regarding unauthorized and authorized grounds for termination, we agree with the parties that suggest these should be maintained in their current state as much as possible, while recognizing that Chapter 14 has impacted them somewhat. For example, while we do not see where Chapter 14 has superseded the current prohibition against terminating utility service for concurrent service at different locations, we must acknowledge that Chapter 14 does now permit termination action for charges that in some cases may have accrued in the name of a different customer. We likewise believe it is necessary to revise the grounds for authorized termination by creating a distinction, based on Chapter 14, between grounds for termination with notice and grounds for immediate termination without notice. We believe making this distinction clearer will benefit both consumers and utilities, especially in understanding grounds that can lead to immediate termination without prior notice.

6. Winter termination procedures.

Termination of utility service in the winter-time is of critical importance. As noted previously, the Commission takes seriously its obligation to protect the health and safety of citizens of the Commonwealth and enforcing the winter termination procedures is an important aspect of this duty. As a result, the revisions to § 56.100 are of great importance and the Commission urged all parties to seriously consider the many issues involved and invited specific and detailed comments on this section in particular.

Section 1406(e) restricts termination without Commission permission to customers at or above 250% of the federal poverty level (150% for PGW). However, there is no direction provided regarding utility obligations to determine and confirm a customer's eligibility for winter-time termination based on their income and the customer's obligation to cooperate with such procedures. The Commission addressed this to some

extent in the *Second Implementation Order* and we proposed incorporating this guidance into this regulation. To align § 56.100 with the statute, we also proposed eliminating the distinction between heat and nonheat accounts.

In addition, one of the major tools used by policy makers and other parties is the information obtained per the provisions of § 56.100(4) and (5). These subsections require utilities to annually, at the beginning of the winter, survey the heat-related accounts they have terminated and to make a good faith effort to restore service to as many as possible. The utilities are then required to report to the Commission by December 15 of each year on these efforts and the number of heat-related accounts still without service.

Given that Chapter 14 now allows utilities to terminate some utility service throughout the winter without our permission, we proposed revising the survey provisions (§ 56.100(4) and (5)) to require updates throughout the winter consistent with the Final Order of July 20, 2006 re: *Biennial Report to the General Assembly and Governor Pursuant to Section 1415 (M-00041802F0003)*. We also proposed to clarify what grounds for termination should be included in the survey in addition to nonpayment (safety, meter non-access, etc.). Finally, we proposed to clarify how far back a termination had to have occurred to be included in the accounts surveyed. As a related matter we proposed that utilities report to the Commission anytime they become 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.

Many of the comments received urged the Commission to carefully consider winter termination procedures in the context of the serious public health and safety aspects involved. AARP points out that older Americans devote a higher percentage of total household spending to residential energy costs than others. For seniors, heat during the winter at an affordable rate is an absolute necessity and that the drastic changes made by Chapter 14 to Pennsylvania's winter shut-off rules puts vulnerable households in a

literal life or death situation. AARP insists that the burden should be on the utilities to properly determine household size and income prior to sending a termination notice and that no termination should occur if the utility does not have this information.

Action Alliance believes that the changes to the winter termination procedures resulting from Chapter 14 place all customers at risk of accidental termination in the winter. Like AARP, they believe the burden of obtaining household size and income information is on the utility and that the utility should collect such data at every possible opportunity, starting with applications for service and all calls to the utility in response to termination notices. Action Alliance submits that if the customer's income cannot be determined, then no termination should occur. In addition, no termination notices should be sent to low-income consumers in the winter-time due to the prohibition against using a termination notice solely as a collection device at § 56.99. Furthermore, Action Alliance contends that any notices sent in the winter to low-income customers should specify that termination will occur "on or after April 1" instead of the current "in 10 days" language. The notices should also include a household income form that the customer can complete and return to the utility. In addition, the notices should include information concerning the rights of PFA holders and termination should be stayed to give the customer time to produce the PFA. Action Alliance supports the Commission's proposal to eliminate the heat/non-heating distinction currently found in § 56.100 but also requests that termination for suspected "user without contract" also be included in this section. Action Alliance also supports the proposed updating of cold weather survey results, but wants updates on 12/31, 1/15, 2/1, 2/15, 3/1, and 3/15 and also requests that this data be made publicly available within 15 days. Action Alliance wants to expand the Commission's proposed reporting of possible termination-related death to also include reporting of incidents involving injury and property damage because they believe this information is crucial to the Commission's monitoring of the societal impacts of Chapter 14.

OCA believes it is of critical importance that all the protections allowed under law are provided to prevent unnecessary hardships and tragedies, while noting that the changes in Chapter 14 to winter procedures do not apply to customers of water and small natural gas utilities, and do not apply to customers with a PFA. According to the OCA, a separate chapter should address these customers and a special subsection will also be needed for the unique and complex provisions specific to PGW. A subsection should also be added to specify unauthorized grounds for winter termination which should include dishonored payments in addition to the grounds at § 56.83.

OCA suggests that Chapter 14 places an affirmative duty on utilities to ascertain whether a customer is at or below 250% of the federal poverty line and the regulations need to specify the steps a utility is to take to qualify as a good faith effort to verify this information. The OCA contends that a revised § 56.100 should also mention the obligation to provide 48-hour notices in the winter-time if contact with an occupant is not established at the time of termination.

Like the Action Alliance, OCA thinks that the Commission's proposal to require the reporting of incidents involving death should be expanded to include serious injury or a health crisis following a termination. This would assist the Commission greatly in assessing the impact of the changes resulting from Chapter 14 and the need to modify the Chapter if necessary. For the same reasons, OCA supports the Commission's proposal to require updates throughout the winter of the winter survey.

PULP agrees with the Commission's proposal that Section 1406(e) eliminates the distinction between heating and non-heating accounts found in the current § 56.100 and that the General Assembly clearly extended the winter-time prohibitions on termination to non-heating accounts. However, PULP disagrees with the Commission's previous guidance in the *Second Implementation Order* that allows a utility to issue a termination notice in the winter-time to an account in which it does not know the household income. PULP believes that the General Assembly's use of the phrase "shall not" in Section

1406(e) specifically prohibits the action of termination for protected accounts in the winter-time and that a utility has to affirmatively confirm the income level of a household before issuing a termination notice. PULP asserts that the requirement at Section 1407(b) to restore service within 24 hours of an accidental termination does not relieve the utility of the responsibility to make sure that accidental terminations do not occur in the first place. In addition, PULP states that no termination notices should be sent to low-income customers between November 20 and February 1 which would violate the § 56.99 prohibition on using termination notices solely as a collection device. Utilities should presume that a household is low income if they have a record within the last four years of LIHEAP, weatherization, CAP or other assistance.

PULP comments further that termination notice information requirements are all the more important in the winter-time. These notices should include information on the protections offered low-income customers and those with a PFA; the federal poverty guidelines; what is needed to avoid termination and who and how to contact for assistance; and the notices that should accommodate those with disabilities or foreign languages.

PULP, while supporting the Commission's proposal to require updates to the winter survey, believes this proposal should be expanded to require utilities to report if customers who have been out of service for more than 6 months have ever been referred to CAP or other assistance, have ever used medical certificates and if they have ever had a payment agreement. PULP also believes the survey timeframe should be expanded to all accounts terminated within 2 years of the survey. PULP supports the proposal to require the reporting of all possible utility-related deaths, but believes it should be specified that this concerns any account terminated within the previous 2 years.

The CAC finds troubling the number of customers that enter the winter heating season without a source of safe central heat. CAC supports the Commission's proposal to eliminate the heat/non-heating distinction currently in § 56.100 and also supports the

Commission's proposals regarding the winter survey and the reporting of deaths. However, in keeping with the Commission's responsibility to protect the health and welfare of all citizens, CAC believes that both proposals need to be strengthened; "serious injuries" should be added to death as reportable incidents and utilities should be required to develop a specific action plan for identifying and reporting the incidents.

CAC submits that the winter survey should include all accounts terminated within the previous 2 years that are still without service and those without service for 6 months or longer should be noted. CAC would also include accounts terminated for reasons of safety and non-access. Finally, the survey results should be updated on February 1 and March 1 and utilities should be prohibited from issuing termination notices to any household protected from winter termination by Chapter 14.

WAA and WLP note that victims of domestic violence with a PFA are exempt from the Chapter 14 changes that permit termination in the winter. As a result, it is critical that utilities provide customers with information concerning the protections available for customers with PFA orders. WAA and WLP ask that, in addition to annual notices, all termination and post-termination notices include PFA information and that this information should also be provided orally at each personal contact. According to these parties, the termination process should be stayed to give customers time to produce a PFA or an alternative when obtaining a PFA places the victim in too much danger.

Allegheny Power questions if any provision of § 56.100 remains as a result of Chapter 14. If the winter survey does remain, Allegheny Power submits that it should be conducted by sending a certified letter and one field visit, then the account should be referred to a social service agency. However, the survey should not include red-tagged accounts. Allegheny opposes the reporting of possible utility-related deaths since it would require an inappropriate finding of casual connection between termination and fatalities. Allegheny Power suggests that eligibility for winter-time termination should be determined by direct contact with the customer to obtain the customer's income status.

Absent such contact, the 10- day, 72 and 48 hour notices should constitute a good-faith effort to obtain income information and if the customer does not respond, the company should be able to proceed with the termination of service.

DLC also believes that § 56.100 has been superseded in its entirety by Section 1406, and that any revisions to the winter survey are contrary to the intent of Chapter 14 and should not be addressed. However, DLC believes the distinction found in § 56.100 between heating and non-heating accounts should remain. DLC objects to the Commission's proposal to require the reporting of possible termination-related deaths because they claim that utilities lack the legal and forensic expertise to make such determinations.

EAP suggests that the statute's lack of a heat/non-heat distinction does not necessitate the elimination of this collection tool for natural gas utilities. EAP also contends that the reporting of possible deaths should not be required because it would create an impermissibly vague reporting requirement and would violate a utility's due process rights by requiring an admission of liability without hearing. In addition, EAP believes updates to the winter survey are not necessary because the current § 56.231 reporting of monthly termination activity provides this information.

Equitable believes that the fact that the legislature created a separate section in Chapter 14 for winter termination denotes its intent to distinguish between heat and non-heating utility service and as such the existing distinction at § 56.100 should remain. Equitable also opposes the proposal to require reporting of possible termination-related deaths because utilities should not be forced to make assumptions about matters that are more a duty of law enforcement officials. However, Equitable is willing to provide such information upon request from the Commission as long as the utility is not required to search for these incidents, the reporting is not construed as a connection to the event, the utility is not cited for not reporting due to unawareness, and the timeframe for the occurrence is within 30 days of termination.

NFG agrees with Equitable in that a heating/non-heating distinction in Section 1406(e) can be inferred because this provision is specific to cold-weather months and that there is no basis for providing protection for non-heating accounts. Accordingly, utilities should be able to terminate accounts not involving heat, and for heating accounts the procedures provided in the *Second Implementation Order* should apply. NFG believes that the winter survey should only consist of accounts terminated in the current calendar year for nonpayment and that the results should only be updated once, on February 1. Finally, NFG also maintains that the reporting of possible termination-related deaths would create an unfair duty in that it would represent an admission on the part of the utility of involvement in the death.

FirstEnergy suggests that the regulations must reflect that it is the customer's responsibility to contact and alert the utility as to their financial situation so that eligibility for winter-time termination can be determined. Concerning the winter survey, First Energy asserts that one field visit should be all that is necessary, and the survey should consist solely of accounts terminated in the current calendar year. FirstEnergy objects to the reporting of possible termination-related deaths based on the company's opinion that it would in effect require the utility to admit liability without proper due process.

PECO Energy believes that the winter termination procedures may be the most valuable of the tools provided to utilities by Chapter 14 in its efforts to reduce uncollectibles. A utility should be permitted to fulfill its good faith obligation in determining a customer's eligibility for winter-time termination by initiating three contacts with the customer and specifically requesting household information - at least one of these contacts should be in writing if the customer cannot be contacted by phone. PECO Energy believes that if the written notification clearly states that refusal to provide such information will lead to the presumption of eligibility the utility should be permitted to presume eligibility for winter termination. PECO Energy agrees that the winter survey

should only include accounts involuntarily terminated in the current year and does not need to be updated throughout the winter because the monthly § 56.231 reporting will provide similar information. PECO Energy strenuously opposes any termination-related death reporting requirements because of the costs it would impose and that it would also require the utilities to possibly incriminate themselves.

PGW notes that it has exclusive statutory provisions addressing winter-time termination in recognition of the special financial circumstances facing PGW. As such, the Commission should not place requirements on PGW that are more burdensome than those imposed on other regulated utilities. PGW believes that Section 1406(b)(1) places the obligation on the customer to cooperate and contact PGW to avoid termination and that failure to do so should allow PGW to assume they are eligible for winter termination. In addition, PGW believes Section 1406(e) gives the Commission the legal authority to exempt non-heating utility service from the winter procedures and that protecting non-heating service is contrary to the purposes of Chapter 14. Concerning the winter survey, PGW suggests that only one update during the winter should be required because more than this would be redundant and expensive. PGW also opposes the reporting of possible termination-related deaths because the utility would not always know the cause of death or have enough facts to determine if the death was linked to utility service. Furthermore, PGW believes that it would also force the utility to concede liability without the benefit of a litigated decision. Moreover, PGW believes that the Commission already has the statutory authority to request such information when needed and if the Commission ends up requiring such reporting, the information provided should not be open to public inspection and should not be allowed as evidence in any action for damages.

PPL generally supports the Commission's guidance found in the *Second Implementation Order* concerning winter termination and the obligation of utilities and customers to identify accounts eligible for winter termination. According to PPL, utilities should use two phone attempts and a letter in attempting to obtain this information. PPL

believes the utility should not be prohibited from terminating service if the customer fails to cooperate with these attempts.

For PPL, the distinction between heat and non-heating accounts is not much of an issue for electric utilities since almost all electric accounts involve heating. However, for the gas industry this is an issue and including non-heating accounts in the winter-time procedures would be counterproductive and will exacerbate overdue receivables. PPL believes the winter survey should only cover accounts terminated in the current year because previous year surveys would have captured the previous year's terminated accounts. In addition, updates throughout the winter should not be necessary because accounts terminated in the winter should be included in the monthly § 56.231 reporting. According to PPL, the reporting of termination-related deaths is also not necessary. In 1994, the Commission initiated a similar 2-year reporting program but opted not to continue it upon expiration.

TWP supports winter survey updates on January 15 and February 15 as long as they are limited to a report on accounts terminated per Section 1406(e) prior to each update. However, TWP opposes the termination-related death reporting proposal because utilities have no greater access to such information than others including the Commission and that reporting of such by the utility could be considered an admission of linkage.

NAWC raises the following questions for the Commission to address: (1) how is a customer's income is to be determined; (2) what is the customer's obligation to cooperate; (3) how is verification to be accomplished; (4) and how will "timely" be defined. Aqua asks the Commission to maintain the heat/non-heating distinction and to allow non-heating accounts to be terminated in the winter-time regardless of the customer's income.

Discussion

In regard to the issue of accounts eligible for winter-time termination, we are persuaded by the comments that generally support what the Commission required in the *Second Chapter 14 Implementation Order*. We proposed requiring utilities to first verify that an account is eligible for winter-time termination before terminating service. The utility should use household size and income information from their own records and should solicit such information from their customers at every opportunity. We shall decline to absolutely prohibit utilities from sending termination notices in the winter to accounts in which they do not have income information because the receipt of such a notice may encourage a customer to contact the utility and provide this information. We also believe that the traditional distinction between heating and non-heating accounts should be maintained. Chapter 56 has always included this distinction and we see no convincing argument why utility service that is not heating related should receive special protections in the winter-time. The General Assembly also clearly did not apply the Chapter 14 winter-time rules to small natural gas distribution utilities, steam heat utilities and to victims of domestic violence with a PFA. Therefore, we propose that the winter-time rules in the revised Chapter 56 will not apply to these groups and will be addressed in separate subchapters. As noted previously, we propose requiring information on termination notices that inform victims of domestic violence with a PFA, low-income customers and tenants of the special protections from winter-time termination that are available for them.

As we noted and several parties agreed, the winter survey of terminated accounts is a crucial tool used by policymakers and others. And now that winter terminations can occur more readily under Chapter 14, many parties agree that it is appropriate to require survey results to be updated throughout the winter. However, we believe that more than two updates is not necessary and would impose undue burdens on utilities. Therefore, we

propose requiring updates on January 15 and February 15 of each year. We also propose to specify that any account terminated for grounds under § 56.81 or § 56.98 should be included in the survey. This clarification of long standing policy should help utilities properly identify and report the appropriate accounts. We decline to expand the timeframe of surveyed accounts to more than one year because we are convinced by the parties that an expansion to include accounts terminated in previous years would risk double-reporting, could invalidate the data, and would place additional undue burdens on the utilities for no effective purpose. However, we do see a benefit in proposing that utilities, when reporting survey results, should itemize the results by the first three digits of the residence's postal code. This will allow all to see not only the number of residences without heating service in the winter, but also identify where the residences are located. This is similar to the long-standing § 56.231 reporting regulations that require utilities to report to the Commission the monthly total of service terminations per each postal code.

The Commission carefully reviewed the comments submitted concerning the Commission's proposal to require the reporting of possible utility-related deaths. We agree with the parties that believe these are important matters that should be brought to the attention of policymakers. However, we decline to expand the proposal to include injuries because this possibly imposes a much larger obligation upon utilities and also presents possible definitional disputes as to what is considered an injury, serious injury, etc. However, we note that the Commission has the authority to investigate any incident in which it believes it has a regulatory responsibility and this role is not impacted by the proposed reporting requirement one way or the other. We are also sensitive to the concerns expressed by many of the parties that such a reporting obligation could be construed as an admission of liability on the part of the utility. To address this concern, we propose treating these reports in accordance with 66 Pa. C.S.A. § 1508; meaning that the reports will not be open for public inspection and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of the matter. We also

note that the proposed reporting of these incidents is similar to a requirement imposed by a 1995 Secretarial Letter (*Major Electric and Gas Utility Reporting of Deaths Due to Household Fires and Hypothermia*, M-00940603, March 30, 1995) that utilities should be familiar with. In addition, the proposed regulation only requires the reporting of incidents that the utility becomes aware of through the normal course of business.

7. Emergency Medical Procedures.

Section 56.111 refers only to a “physician” as being eligible to file a medical certificate. However, Section § 1406(f), in addition to physician, also refers to “nurse practitioner.” We proposed amending all of the emergency medical provisions in Chapter 56 (§§ 56.111–118) to include “nurse practitioner” consistent with Section §1406(f).

Much of the language at § 56.114 concerning limitations on renewal of medical certificates has only been in effect since 1998. Since that time utility experience in implementing these sections has resulted in numerous informal inquiries to Commission staff about details not currently specified in the current regulation. We proposed answering these questions in a way that balances the need of the utility to effectively manage account collections with the needs of consumers with medical conditions to obtain necessary, temporary relief from the threat of termination. It is important to point out that the restrictions at § 56.114 only apply if the customer is not meeting his or her obligation to arrange payment on all bills as required per § 56.116. We proposed amending the medical certificate renewal provisions at § 56.114 to clarify that the limit of two renewal certifications applies to medical certificates filed for the same set of arrearages, meaning that if the customer subsequently eliminates the arrearage, the customer is once again eligible to file medical certificates, regardless of the number of medical certificates filed previously. We would also apply these restrictions to the

household and the same account; meaning that the limits apply to the entire household as long as the account remains in the same name(s).

We also proposed in the ANOPR that a utility does not have to petition the Commission using the procedures at § 56.118 if it is simply enforcing the restrictions at § 56.114; petitioning is necessary only if the utility does not want to honor a medical certificate that does not fall under the restrictions. Requiring a petition in all circumstances where a utility does not want to honor a medical certificate would essentially make the restrictions at § 56.114(2) meaningless, when the intent of this section when it was proposed in 1996 was to “clarify, simplify and remove excessive and burdensome requirements from the parties dealing with our Bureau of Consumer Services” (26 *Pa. B.* 2908).

AARP urges the Commission to ensure that utilities always err on the side of caution with regard to termination of service to a household with a medical condition. AARP believes this involves life and death and that the Commission needs to ensure that the frail, elderly or other ill consumers are not placed at risk because of overzealous terminations. Seeking to “balance” this obligation with the utility’s desire to collect money is, according to AARP, a completely inappropriate standard when termination of service would end a life. AARP suggests that utilities should always have to petition the Commission anytime it seeks to terminate service to a household with a medical certificate and that there should be no limits on medical certificate usage. However, if limits are imposed, they should be limited to one set of arrearages rather than a life-time limit.

CAC joins AARP in requesting that a utility always petition the Commission anytime it wishes to refuse a medical certificate because the life-preserving importance of maintaining medical certification protection is of greater importance than a regulatory concern to “clarify, simplify and remove excessive and burdensome requirements from the parties dealing with our Bureau of Consumer Services.” CAC points out that Section

1406(f) does not specify any limits on medical certificates and that the length of a medical certificate should be based upon the medical impairment of the individual as stated by the physician or nurse practitioner. In addition, payment agreements negotiated while a medical certificate is in effect should be equitable agreements adhering to the concepts contained within § 56.97.

Action Alliance insists that the Commission's primary focus should be on protecting against the harm which a lack of utility service would cause to sick or disabled persons. The Commission should reaffirm that the three-day stay at § 56.112 remains in effect; that § 56.113 does not require the use of standard forms; that utilities should refrain from intimidating and threatening medical professionals and customers; and that utilities should refrain from using standards such as "life threatening" or "dangerous" that do not appear in the regulations. In addition, Action Alliance believes that the Commission should also reaffirm that reconnection fees and deposits cannot be required as a condition of restoration when a medical certificate is involved and that the utility's phone and fax numbers that medical professionals use to submit medical certificates need to be readily available.

OCA prefaces their comments by suggesting that the medical certification procedures are some of the most important procedures to safeguarding the health and safety of the most vulnerable residents of Pennsylvania. As such, OCA agrees with AARP's position in that seeking a "balance" between managing accounts and addressing customers with medical conditions is not the appropriate framework for considering this issue. While OCA generally supports the Commission's proposal concerning renewal provisions, they suggest that as long as the customer is meeting their duty to pay current bills, service should remain available to the customer until the medical certificate is removed. According to OCA, a medical certificate is to protect against termination during the course of the illness for the accrued arrearage. OCA also supports the Commission's proposal to include "nurse practitioner" along with "physician" throughout

§§ 56.111 – 118 but disagrees with the Commission’s proposal that a utility does not have to petition the Commission to vacate a medical certificate if it is enforcing the restrictions at § 56.114. OCA believes that the language in Section 1406(f) requires a petition to be necessary anytime a utility wants to refuse a medical certificate and that such refusals should be rare and not be based on technical defects that can be addressed by other means. Medical professionals should not be unnecessarily or lightly called away from their duties to respond to a utility. OCA also asks the Commission to consider allowing medical certificates longer than a term of 30 days to accommodate longer term and chronic illnesses. The OCA believes the current 30-day limit can present a burden for a seriously ill individual and also can waste a medical professional’s valuable time to review a condition every 30 days when the medical condition is unlikely to change.

PULP insists that the health and welfare of a sick person remain squarely at the forefront of any discussion of the medical certification process. PULP offers that it was the poor and sick that the General Assembly was concerned with and excluded from the more rigorous collection goals of Chapter 14. PULP supports the proposal to include “nurse practitioner” in §§ 56.111-118 because the legislation clearly intended to permit nurse practitioners to certify medical conditions and reflects the reality of increasing use of nurse practitioners in place of physicians. However, PULP strongly opposes the Commission’s proposals on medical certificate restrictions. PULP insists that limiting the medical certificates to a household would frustrate the General Assembly’s attempt to prevent the aggravation of individual medical conditions. PULP submits that it is individuals that get sick, not accounts or residences. Linking the restrictions to a set of arrearages is also artificial and is unrelated to the principal concern, the state of the sick individual. PULP also recommends that length of stay of termination related to a medical certificate should correlate to the medical need that gave rise to the certificate. PULP believes that the current 30-day limit has given rise to numerous difficulties for medical professionals, patients and utilities and the burden of monthly recertification is greater for an individual with a long-term illness. Moreover, this also imposes additional burdens on

medical professionals who are already over-burdened with administrative activity which diverts from patient care. PULP acknowledges that the final sentence of Section 1406(f) states, "The medical certification process shall be implemented in accordance with commission regulations" but PULP believes this does not prevent the Commission from modifying the medical certification regulations and that it is reasonable to see that sentence as referring to current and future regulations.

PCADV recommends that the medical certification regulations include domestic violence under the medical exception to termination activity. PCADV explains that physical, psychological and emotional injuries resulting from domestic violence should qualify as medical conditions eligible for inclusion in these procedures. PCADV submits that when a medical condition is reported to the utility that is the result of domestic violence, there should be an automatic presumption that any cessation of service would aggravate the condition. If utility service is shut-off, the abuse victim could be forced to subject themselves to the batterer in order to maintain a basic necessity.

Allegheny Power insists that the use of medical certificates has been abused over the past several years and any new regulations should be drafted to prevent unscrupulous abuse. The proposal to link the limitation on renewals to the same arrearage is questionable, particularly when the arrearage is paid off with a grant. Allegheny Power agrees that the limitations should apply to the entire household, but the certificates should not have to be consecutive and the account should not have to be in the same name. Once a customer has exhausted payment agreement opportunities and is not entitled to more, Allegheny Power believes that the balance in full should be required upon expiration of the medical certificate.

DLC requests that the Commission place in the regulations a definition of Certified Registered Nurse Practitioner (CRNP) as currently found in 49 Pa. Code § 21.251. DLC disagrees with the Commission's proposal that the limitations on medical certificate usage apply to the household. DLC believes this is contrary to the definitions

of “customer” and “applicant” at Section 1402. DLC also disagrees with the position that utilities do not have to petition the Commission if they are enforcing the limitations at §56.114 because §§ 56.113 – 118 have been superseded by Chapter 14.

EAP believes that the term “licensed nurse practitioner” needs to be added whenever a regulation in Chapter 56 references an oral notice, but that the written certification is still only acceptable coming from a licensed physician. Equitable disagrees with the proposal to apply the medical certificate restrictions on households. According to Equitable, Section 1407(d) permits the transfer of arrearages to another adult occupant and the medical certificates connected to that arrearage should also be transferred as well.

FirstEnergy asks that the regulations address payment terms for a customer with a medical certification. First Energy believes that a customer with a medical certificate should enter into a new payment agreement, if eligible, or pay the catch-up amount on the existing payment agreement before the expiration of the medical certificate. First Energy supports the Commission’s proposal concerning restrictions on medical certificate use, but also recommends that a definition of certified registered nurse practitioner (CRNP) be added to the regulations.

NFG asks the Commission to clarify what constitutes a serious illness or medical condition that will be aggravated by cessation of service. NFG points out that the subchapter for these procedures is titled *Emergency Procedures* and that the term “emergency” is defined by Black’s Law Dictionary as “a sudden unexpected happening; an unforeseen occurrence or condition; perplexing contingency or complication of circumstances; a sudden or unexpected occasion for action; exigency; pressing necessity.” Based on this definition, NFG questions why pre-existing, chronic or long-term illnesses should qualify for a medical certificate. NFG claims that this ambiguous standard has allowed the procedures to change from the intended purpose of providing

short-term relief from a medical emergency to what is currently a free-pass to avoid termination.

PECO Energy disagrees with the Commission's proposal to add "nurse practitioner" to §§ 56.111 – 118 because nurse practitioners can only provide an oral medical certificate. PECO Energy states that the follow-up, written certificate must come from a physician. However, PECO Energy supports the Commission's proposals on the restrictions that apply to medical certificates under § 56.114.

PGW agrees with PECO that while a nurse practitioner may provide the initial, oral certificate, this must be followed by a physician filing a written certificate. PGW agrees with the Commission's proposals concerning the restrictions at § 56.114 but insists that entitlement to renewal and additional certificates must be linked directly to arrearages. In addition, arrearages must be paid prior to the expiration of the certificate.

PPL reports that while other utilities have seen a significant increase in medical certifications, they continue to have a relatively low number of active medical certifications. PPL agrees with the Commission's objective of balancing the needs of utilities in managing overdue collections with needs of consumers with serious medical problems. PPL supports our medical certificate proposals but asks that the Commission clarify that the procedure does not start all over again if the name on the account simply switches from one household occupant to another. PPL also requests that the Commission make clear that only "customers" and not "applicants" are eligible for medical certificates and that "nurse practitioner" be defined.

TWP questions the appropriateness of the Commission's proposal to amend all of §§56.111 – 118 to include nurse practitioners. TWP claims that nurse practitioners do not have the same legal standing as physicians and that written medical certificates must come from a physician.

Aqua supports the Commission's medical certificate proposals. NAWC also supports the proposals, but asks for clarification as to what are the valid uses of a medical certificate; does the nature of an incident factor into the acceptance of a medical certificate, and is a need for service required to be established.

Discussion:

We disagree with the parties that ask us to specify what kinds of illnesses and conditions qualify for emergency medical procedures. This would place this agency into the position of making medical judgments and distinctions, something we are clearly not qualified to do. Instead, we prefer to maintain 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 to leave the medical determinations to medical professionals. We note that this standard does not specify or exclude chronic or non-chronic illnesses, nor physical, psychological or emotional conditions. Again, these determinations are best left to medical professionals. And in keeping with the intent of Section 1406, the Commission proposes adding nurse practitioners as medical professionals qualified to issue emergency medical certificates. As suggested by some of the parties, we propose to define Certified Registered Nurse Practitioner using the definition found at 49 Pa. Code § 21.251. We agree with many of the parties that urged us to consider the demands upon medical professionals and we believe that including nurse practitioners will relieve physicians of some of these demands in addition to aiding consumers who live in locales that have few physicians. We also propose eliminating from the definition of physician at § 56.2 the requirement that a physician must be licensed by the Commonwealth of Pennsylvania. This is to reflect the reality that many Pennsylvanians who live in border communities or have serious conditions that require specialists rely on out-of-state physicians.

We also propose incorporating into the regulation existing policies that relieve the utilities of the burden of petitioning the Commission if they are merely enforcing the existing restrictions at § 56.114(2). To require otherwise would effectively negate these restrictions. We also propose placing in the regulation more detailed guidance as to the application of the restrictions at § 56.114(2). This includes specifying that the restrictions apply to the entire household and same set of arrearages. We believe these are reasonable restrictions that will protect customers with serious medical conditions while allowing utilities to collect arrears that are due to them. However, we also propose specifying that any such refusal to honor a medical certificate under these restrictions should be treated as a dispute by the utility; meaning that the customer will be referred to the Commission.

We also decline to expand the current 30-day limit on a single medical certificate, while at the same time urging utilities to work with customers with long-term illnesses to arrange methods in which they can maintain utility service, such as universal service and CARES programs. We also again note that restrictions on medical certificate usage only apply if the customer is not making an equitable effort to pay utility bills per § 56.116. To make this requirement less vague, we propose to specify that at least current bills should be paid in order to be considered an equitable effort at payment. The current language in § 56.116, in addition to being vague when it refers to "...equitably arrange to make payment..." is also problematic in that Chapter 14 specifies that the Commission cannot require a utility, absent a significant change in circumstances, to enter into more than one payment agreement. By requiring the payment of at least current bills or budget amounts, the customer's account balance will not accrue additional charges while protected by a medical certificate.

8. Commission informal complaint procedures.

Chapter 14 includes sections that affect the Commission's informal and formal complaint procedures. An example is the length of payment arrangement formulae found at Section 1405(b) that dictate the length of the payback period for a customer's payment arrangement based upon the customer's income in relation to the federal poverty level. Another is the prohibition at Section 1405(c) on establishing payment arrangements for customers participating in a CAP program. We proposed revising the Commission's informal and formal complaint procedures found at §§ 56.161-181 to develop some of the details that are necessary to effectively integrate the requirements of Chapter 14 into these sections.

Regarding the restriction at § 1405(c), we proposed applying the restriction to any balance that reflects application of CAP program rates and also to any account balance comprised of both CAP rates and standard rates. Although the Commission will not be establishing payment agreements on CAP balances consistent with the above noted restrictions, the Commission can still address CAP-related disputes. These disputes can address issues like billing, eligibility requirements and default as part of the Commission's obligation at 66 Pa. C.S. § 2203(8) and § 2804(9) to ensure that the utility's CAP is operated in a cost-effective manner through compliance with its approved CAP plan, including the proper calculation of a participant's CAP payment amount.

We also proposed clarifying the role of the Commission in establishing payment agreement restoration terms for customers whose service has been terminated as addressed, to some extent, in the first *Implementation Order* (pages 11-12) and in the *Reconsideration of Implementation Order, M-00041802F0002, October 27, 2005*.

In addition to addressing Commission procedures as noted above, we proposed that § 56.163 be amended to include the imposition of a standard upon the utility in

response to consumer informal complaints filed at the Commission. To facilitate the handling of informal consumer complaints, we proposed a company response standard of 30 days as found in the analogous telephone regulations at 52 Pa. Code § 64.153. For informal complaints where the customer's service has been terminated, we proposed a five-day standard.

The CAC supports the Commission's proposals except that CAC believes the Commission goes too far in refusing to issue a payment agreement for any account that includes CAP dollars because being on CAP should not have such a punitive effect. CAC also asks that it be made clear that informal complaints can be filed by letter, phone, fax, email and InfoMAP and that no filing fee should ever be imposed.

Action Alliance also objects to the Commission's proposal not to issue payment agreements on account balances that include CAP dollars. Action Alliance believes that this is an unnecessarily expansive interpretation of Section 1405(c) that unreasonably denies former CAP customers the one Commission payment agreement that Chapter 14 entitles them to. According to Action Alliance, this policy has a particularly discriminatory impact on customers who leave CAP programs because of an increase in household income but who are still considered working poor (earning less than 250% of the poverty level). In some cases, unforgiven pre-CAP arrears may be returned to the account requiring either immediate payment or a payment agreement. Action Alliance states that "Customer assistance program" is a statutorily defined term which encompasses customers "making monthly payments based on household income and household size" and thus Section 1405(c) refers only to treatment of CAP customers at the time when they are actual CAP customers; not when they are former CAP customers.

In addition, Action Alliance asks the Commission to clarify what constitutes a valid payment agreement for Section 1407(c)(2)(i) purposes. Action Alliance opines that Section 1405(b) provides guidance as to what payment terms should be offered as to be considered a valid payment agreement but payment extensions should not be considered

valid. Action Alliance explains that payment agreements entered into for the purposes of § 56.14 should not be counted either because these concern unbilled service and for the same reason, budget billing true-ups should also not be counted.

Furthermore, Action Alliance argues that medical certificate payment agreements should not be counted because these are outside of the collection process and are granted for remedial purposes. CAPs should also not be counted as payment agreements because these are two distinct concepts; each with its own definition in the statute. Finally, in keeping with the Commission's declaration in the *Second Implementation Order* that a termination of service can be avoided by paying what is owed on a payment agreement, a payment agreement that is paid to date prior to termination should not be considered defaulted.

Action Alliance opines that the Commission clearly has the authority to issue payment agreements for customers whose service has been terminated because Section 1405(a) authorizes the Commission "...to establish payment agreements between a public utility, customers and applicants..." To limit payment agreements just to "customers" would make the inclusion of the term "applicants" meaningless and thus would violate a rule of statutory interpretation which requires that meaning be given to every word in a provision. Action Alliance also states that there is also no conflict between the directives at Section 1405(b) given to the Commission when issuing payment agreements and the directives at Section 1407(c) given to the utilities when specifying restoration requirements to customers whose service has been terminated. The purpose of Section 1407(c) is to give utilities permission, without fear of Commission citation, to demand the maximums allowed in § 1407 but it is inconceivable that the legislature would have chosen to deprive the Commission of the ability to intervene in these situations.

OCA agrees with Action Alliance and CAC in stating that the Commission's proposal to not issue payment agreements to CAP customers is not reasonable or required by Chapter 14. OCA believes customers should not be penalized for being in a CAP and

that utilities should be responsible for distinguishing CAP balances from balances accrued while on standard rates. As such, customer with mixed balances should be eligible for at least one Commission payment agreement. The OCA also disagrees with the Commission's proposal to require a response from the utility within five days if the complaint concerns service that was terminated. If the complaint is in the winter-time and involves the loss of central heat, OCA thinks that the standard should instead be 24 hours.

PULP prefaces its comments by insisting that the parties should not read into Chapter 14 a broad divestment of Commission authority that Chapter 14 does not support. While the Chapter does contain some limited restrictions on Commission authority, PULP believes that the Commission retains many of its traditional powers. PULP asks that the Commission make clear that some of the restrictions do not apply in specific situations, such as payment agreements for make-up bills. These payment agreements are required at § 56.14 and are for previously unbilled service, not overdue monies, and thus should not be impacted by Chapter 14. For the same reason, PULP contends that budget billing should be similarly exempt and that there is no language in Chapter 14 applying the Section 1405 limitations to security deposits or to payment agreements when addressing terminated service. PULP also requests that the proposal not to issue payment agreements for CAP customers not be extended to customers with balances consisting of both CAP and standard rates. By denying these customers a payment agreement, the Commission is impermissibly expanding the restriction at Section 1405(c) to beyond customer assistance program rates to also include standard rates.

PCADV, WLP and WAA ask that the Commission put in place a confidentiality program for itself and the utilities it regulates that protects PFA information collected in the process of handling formal and informal complaints from accidental disclosure. According to these parties, such disclosures can place PFA holders in danger. Access to

information concerning victims of domestic violence needs to be restricted to only employees with a need to know and the information should only be identified with codes and flags that do not disclose abuse. These parties also note that the Commission is clearly covered by Act 188 of 2004 that requires government agencies to accept a substitute address provided by the Office of Victim Advocate. In addition, both formal and informal complaint forms should inform complainants that special protections are available for those with a PFA order and should specifically ask if the customer or a member of the household has a PFA order. Complainants should also be informed that all of their information will be kept confidential. The parties explain that with this assurance, domestic violence victims will more likely feel safe enough to disclose the existence of a PFA.

Aqua supports the Commission's proposals. Allegheny Power believes that the term "payment agreement" as defined in Section 1403 includes both utility and Commission agreements. As such, the Commission is prohibited from making a second payment agreement. Furthermore, Allegheny Power submits that the Commission is also prohibited from making payment agreements for CAP customers. According to Allegheny Power, the Commission's role in restoration cases should be limited to making sure that the utility is properly applying provisions of Section 1407(c) per the first *Implementation Order*. Allegheny Power generally agrees with the proposal for a 30-day response standard to informal complaints but believes that the 5-day standard for "off" cases may be unattainable due to volume and may be discriminatory. In addition, Allegheny Power asserts that a 30-day standard should be imposed on the handling of informal complaints by the Bureau of Consumer Services.

DLC states its position that the Commission's formal and informal complaint procedures at §§ 56.161 – 174 have not been superseded by Chapter 14 with the exception of the new definitions of informal and formal complaints in Section 1403 and the requirement that complainants first contact the utility at Section 1410. The

prohibition on CAP payment agreements is clear and does not need to be addressed in regulation. Furthermore, DLC believes that the Commission should not be issuing payment agreements for customers whose service has been terminated per the first *Implementation Order*. DLC submits that a 30-day complaint response standard should not be included in this docket because it is not related to Chapter 14 and is already a long-standing practice. Finally, a 5-day standard for terminated cases is not necessary since the Commission lacks the authority to issue decisions on these cases.

EAP opines that § 56.181 has been eliminated by Sections 1405, 1406(h), 1409 and 1410 and that §§ 56.92, 56.97, and 56.141-181 are inconsistent in part with Chapter 14. In addition, the Commission does not have the authority to delay payment of bills by a CAP customer due to a desire to review the specifics of CAP programs, billing, eligibility and default because extending the time for payment has the same effect as establishing CAP payment agreements which is contrary to Section 1405(c). EAP believes that this specific section takes precedence over the general provisions of 66 Pa. C.S.A. § 2203(8) and § 2804(9). Also, EAP states that the Commission is only authorized to waive late payment charges for consumers with a household income not exceeding 150% of the poverty level. As a result, a consumer may have to pay late payment charges on any charges held in abeyance while a dispute is pending should the customer's disputed claims be denied.

Equitable agrees with EAP that the filing of a CAP dispute should not permit a CAP customer to delay or postpone CAP payments because this would constitute a CAP payment agreement which is expressly prohibited by § 1405(c). Concerning the proposed 30-day informal complaint response timeframe, Equitable believes that if one is put in place, a reciprocal timeframe should also be put in place for the issuance of an informal decision. FirstEnergy agrees that any such requirement should be applied to all parties.

NFG agrees with the Commission's proposals concerning payment agreements for CAP program participants. However, concerning cases where service is terminated, NFG believes that Section 1407 is clear and controlling. While NFG is not opposed to establishing timeframes for which informal complaints must be responded to, it believes that the Commission must distinguish between collection/mediation disputes and billing/service disputes, and allow for a short-form response for the former. If this is done, NFG explains, then a 30-day filing requirement would be reasonable. However, a 5-day filing requirement for cases where service is terminated is not warranted. A timeframe for a ruling from the Bureau of Consumer Services such as 60 days would be mutually beneficial to all parties involved.

PECO Energy generally agrees with the Commission's proposals regarding CAP payment agreements but encourages the Commission to consider alternative methods for addressing CAP-related disputes such as utilizing 3-way calling. PECO Energy also suggests that Section 1407 controls service restoration and that the Commission is not involved with such. In addition, PECO urges the Commission not to adopt a 30-day response timeframe to informal complaints and instead asks that it be managed as an internal administrative matter within the Commission. Finally, PECO Energy submits that a 5-day limit for "off" cases is inappropriate because customers whose service has been terminated should not go to the "head of the line."

PGW agrees with the Commission's proposals concerning CAP payment agreements. However, PGW believes that Section 1407 controls restoration terms and that Section 1405 is not applicable. PGW does not oppose the imposition of standard response time for all consumer complaints, but believes that five days is too short. In addition, PGW recommends that a 30-day limit should be imposed on the Bureau of Consumer Services for issuing a decision and non-jurisdictional complaints should be dismissed immediately, and the Commission should declare that all informal decisions are valid for three months from the date of decision.

PPL also agrees that while the Commission cannot establish payment agreements for CAP customers it can certainly address CAP-related disputes like billing, eligibility, etc. PPL also agrees that the Commission plays a fundamental role in serving as the final arbiter of consumers' rights regarding payment agreements and that the Commission has the authority to establish a second payment agreement, but does not have the authority to establish a second Commission payment agreement if the customer defaulted the previous Commission payment agreement absent a change in income. PPL also agrees with the establishment of a 30-day response time for consumer complaints but believes the 5-day response time for terminated accounts is too short and instead recommends a 10-day standard.

Discussion:

Upon review of the comments, we have reconsidered some of our original proposals concerning our handling of CAP-related payment agreements and accounts where service has been terminated. We now believe these matters do not rise to the level of regulation and are more appropriately addressed using usual Commission internal procedures that are developed under § 56.211. In addition, as many parties commented, the restrictions on issuing payment agreements for CAP customers is fairly clear and explicit in Section 1405(c) and does not need to be reiterated or expanded upon in regulation. We do remind all parties that while we cannot issue a payment agreement for such charges, the Commission can still address factual disputes concerning CAP programs.

We are going forward with our original proposal to place timeframes on the utility responses to informal complaints filed with the Bureau of Consumer Services. We believe that a 30-day limit is appropriate and reflects the exact same time period that is currently part of the analogous telephone regulations at 52 Pa. Code § 64.153. We believe that this timeframe for responding to the Bureau should not place an undue

burden on utilities since this does not involve newly initiated disputes here. Section 1410 clearly requires consumers to first contact their utility with a dispute and to give the utility the opportunity to address the disputed matter before appealing to the Commission. This means that once a consumer has filed a complaint with the Commission, the disputed matter should already have been investigated by the utility and the utility should be able to forward the documentation and records of that investigation to the Commission within 30 days. We also propose a 5-day time limit in response to cases where the customer's service is off. We believe the inherent health and safety issues apparent in such cases justify a 5-day time period. We reject suggestions from some parties to impose a time limit on the handling of complaints by the Commission. The Commission, unlike a utility, has no control over the volume of consumers that call it seeking assistance. In fact, utilities, through their complaint handling and collection policies, can have significant influence on Commission complaint volume.

We also propose modifying the rules governing formal complaints. The changes basically clarify the procedures, make the timeframes more explicit and eliminate obsolete terminology in favor of current terms. This should help all parties to more clearly understand the procedures used to appeal an informal decision to the formal level.

9. Restoration of Service.

Chapter 14 provides utilities with expanded opportunities for assigning liability for balances that accrued in another party's name if some other party seeks restoration of service. Section 1407(d) allows a utility to "...also require the payment of any 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." This section is elaborated on in subsection §1407(e), *i.e.*, "[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.”

We proposed requiring utilities to include in their tariffs the procedures and standards the utility will use to determine whether an applicant or customer has previously resided at a property and whether an applicant or customer is responsible for an unpaid account balance per Section 1407(d) and (e) and specify the means for providing acceptable proof of such. We also proposed incorporating a 4-year limit on such determinations. This 4-year statute of limitations reflects the same time restrictions found in other sections of the regulations such as § 56.35 (relating to payment of outstanding balance) and the record maintenance requirements found at § 56.202. In addition, this would reflect the 4-year limit found at 66 Pa. C.S.A. § 1312 (relating to refunds).

Chapter 14 at Section 1407(b) includes service restoration timeframes which we proposed incorporating into § 56.191, while clarifying that the timeframes refer to “calendar” days and hours as opposed to “business” days and hours. We also proposed to clarify that the timeframes found in this section are based upon what time of the year it is when the customer or applicant has met all applicable restoration conditions, regardless of when the termination of service occurred.

Allegheny Power, Columbia, FirstEnergy, NFG, PECO Energy, and PGW all oppose the Commission’s proposal to require utilities to tariff their liability determination procedures per Section 1407(d) and (e). Columbia believes tariffing would discourage utilities from seeking innovative processes for making these determinations. FirstEnergy thinks that these methods may evolve over time and should simply be disclosed to customers, applicants and the Commission upon request. NFG believes placing this information in a tariff is too restrictive and would have a chilling effect on the variety of standard and creative investigative options that utilities currently utilize to verify a person’s identity and suggests that a Commission policy statement may be a more

appropriate option. PECO Energy objects based on its belief that placing this information in a tariff will provide a roadmap for people who want to avoid detection and liability. PECO Energy adds that there is nothing in Chapter 14 that requires that they have proof before assigning liability and requiring the payment before service is restored.

Aqua comments that a tariff is one method, but not the only method that can be used to provide this information to customers and applicants. PPL suggests that utilities only need to include this information in a tariff if the utility intends to utilize methods other than those specified as acceptable in Section 1407(e).

CAC also opposes tariffing the procedures utilities use to implement Sections 1407(d) and (e) because this will not lead to a statewide system of consistency, equity and clarity. Instead, these standards should be articulated by regulations that are generally available and consistently interpreted. CAC contends that utilities must also provide applicants and customers in writing any liability determinations including the facts upon which the determination is based. An opportunity to dispute such findings should also be required. PULP also opposes placing these standards in the tariff because it will lead to a patchwork of methodologies which will present difficulties for customers, advocates and the Commission. PULP instead suggests regulations that are carefully crafted as to insure that liability is assigned only to appropriate parties. According to PULP, determining liability is a fact-intensive process that is open to considerable debate and these situations will be of an urgent nature because individuals may be without service while any disputes are pending. PULP recommends a unified system be put in place across the Commonwealth that will enable all parties to more efficiently address these disputes. Furthermore, it needs to be specified that these procedures do not apply to new applicants since Section 1407(d) falls under the reconnection section of Chapter 14. Moreover, it needs to be specified that individuals who are or were minors at the time account balances were accrued are exempt from liability for such balances.

Action Alliance suggests that in addition to the tariff, statewide regulatory guidance must also be provided. This guidance should specify that an applicant's name on a mortgage, deed or lease does not establish an irrebuttable presumption of prior residency. Action Alliance explains that if the information used in the determination of liability is coming from a credit agency, then the utility must still provide the applicant a reasonable summary of the factual basis for the determination and all such determinations must be in writing and include an explanation along with information as to how to dispute the findings. OCA also asks that the standards for determining liability be in regulation as to avoid the potential for discrimination, foster uniformity, and reduce interpretational disputes.

AARP insists that determinations of liability must be done in an equitable and nondiscriminatory manner and, in addition to standards being placed in utility tariffs, the regulations need to clearly place the burden of proof on the utility. Utilities must also provide a full and clear explanation of how liability was determined and they must provide an opportunity to dispute. AARP supports the Commission's proposal regarding using "calendar" days as opposed to "business days."

Aqua, CAC and OCA support the Commission's proposal to place a 4-year limit on transfers of liability from one consumer to another. NFG does not oppose such a limit. PPL does not oppose a 4-year limit but suggests a 6-year limit in cases involving fraud or theft. Action Alliance and PULP believe that a 2-year limit is more appropriate because a consumer may not have the means to establish where they lived more than two years ago. A 2-year limit would also reflect 42 Pa. C.S. § 5524(3) which covers actions for conversion and unjust enrichment.

Columbia opposes a 4-year limit on transfers of liability because no such limit is mentioned in Chapter 14 and that this is a matter for General Assembly consideration rather than administrative regulations. DLC and PGW agree that the 4-year limit

contradicts the intent of Chapter 14. PECO Energy believes that a 4-year limit rewards people with free service.

CAC, PECO, PPL, and OCA support the Commission's proposal to impose the 24-hour winter restoration timeframe to all service restorations occurring between December 1 and March 31 regardless when termination of service occurred. OCA believes the proposal is reasonable given the potential hazardous and life-threatening conditions that can result from a lack of utility service in the winter. NFG does not oppose this proposal. Columbia, DLC and PGW oppose this proposal with PGW insisting that the proposal conflicts with the plain language of the statute.

No party opposed the Commission interpreting the word "days" in Section 1407(b) to mean "calendar days." However, PGW did request that the Commission clarify that "day" also means an entire day.

Concerning the payments a utility can require to restore terminated service, DLC believes that Section 1407 is clear and precise and that no further direction is needed. Equitable also believes Section 1407 is clear but that it needs to be incorporated into the new regulations. Action Alliance asks that the Commission specify that terminated service must be restored upon enrollment into a CAP program. Section 56.97 requires a utility to offer all available methods to avoid termination and this should include CAP. PULP asks that the Commission continue with its position concerning payments needed to restore service as stated in the *Second Implementation Order*.

PCADV states that economic barriers such as deposits and fees create strong disincentives to victims seeking to escape abusive relationships. Responsible policies should aim to remove these barriers. PCADV also urges the Commission to expand the definition of "life event" in Section 1407(c) to recognize a loss of primary wage earner due to a victim escaping domestic violence.

WAA and WLP point out that the restoration requirements in Chapter 14 do not apply to victims of domestic violence with a PFA. As a result, utilities should be required to provide information about the availability of more lenient terms on all notices concerning restoration of service, denial of credit and when requiring a deposit. These parties maintain that victims of domestic violence are particularly vulnerable to problems resulting from non-payment of a prior bill by an abuser and utilities should therefore be encouraged to provide broader protections to victims of abuse, including an alternate verification procedure for individuals who were unable to obtain a PFA order because it would be too dangerous to do so.

Discussion:

Based on the comments urging us to make the assignment of liability as transparent and equitable as possible, we are proposing going forward with our proposal to require utilities to place in their tariffs the standards and procedures they will use to hold one party responsible for another party's bill under Section 1407. This means we decline to mandate a statewide standard in the regulations, which would be too inflexible and difficult to modify if so needed. It is possible that once utilities start using the procedures to assign liability, it may become apparent that modifications are needed one way or the other. We believe the tariff process is the appropriate method of ensuring that the standards are fair and equitable and open to modification as needed. We also agree that victims of domestic violence with a PFA are not affected by these procedures or the other restoration requirements in Section 1407. For this reason, we find it unnecessary to expand the list of "life events" to include domestic violence. As discussed previously, a separate subchapter will address restoration standards for these customers.

Concerning the service restoration timeframes in Section 1407, we agree that these timeframes are for most part self-explanatory. However, we do propose adding some guidance where we believe it is needed. We propose specifying that when the rule refers

to “days” we mean “calendar days.” We also offer an example of what should be considered an erroneous termination, and also clarify that the winter restoration timeframes apply to both terminations and reconnections occurring in the winter-time. We think requiring a single restoration timeframe of 24 hours for the winter will facilitate uniform utility procedures and training and be easier to comply with than a variety of timeframes. In our view, at this time, we believe that the 24 hour period is also important given the obvious hazards of being without utility service in the winter.

Concerning the payment amounts required for restoration, we again agree that these are mostly self-explanatory but that some appropriate guidance is needed. For example, we propose that neither the payment agreements issued under the requirements of § 56.14 or payment agreements that have been honored should be counted toward the application of Section 1407(c)(2)(i). The initial payments required for restoration should reflect the Commission’s *Second Implementation Order*. Section 1407(c) is clear in that PGW is required to restore service upon entry into a CAP if eligible, but we must disagree with the parties that asked us to impose this requirement on all utilities. We believe this would impermissibly exceed the intent of the General Assembly, which could have simply specified the same conditions for all utilities had it wanted to do so.

10. Reporting requirements.

The monthly collections data reporting requirements are specified at § 56.231. Under this regulation, electric, gas and steam heating utilities report to the Commission monthly on a variety of collection variables including the number of service terminations, overdue customers, service restorations and arrearages. Policy makers, utilities and the general public use this information to measure the effectiveness of utility collection activities. We proposed revising this section to also include Class A water utilities. In addition, we proposed revising this section to incorporate the *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).

Aqua believes it is too early in the process to determine that Class A water utilities should be required to submit monthly the data currently in the § 56.231 reports. If this regulation is revised to incorporate the Section 1415 data requirements, then Aqua believes that this will result in significant alteration of the regulation.

PAWC disagrees with the rationale behind the Commission's proposal to require Class A water utilities to provide monthly § 56.231 reports. According to PAWC, this would present an undue burden that will require additional resources to implement. As an alternative, PAWC suggests that water utilities submit the data found in the data dictionary for the Section 1415 biennial reporting.

OCA and PPL support the Commission proposals, as does CAC. However, CAC asks that a reporting requirement concerning termination-related deaths and injuries be added. Columbia, Equitable, FirstEnergy, and PGW request that § 56.231 and Section 1415 be consolidated so as to eliminate duplicative requirements. Allegheny Power comments that many current reports are duplicative and time consuming. Allegheny Power comments that the § 56.231 report, the quarterly non-residential report, the annual quality of service report, the annual residential usage and billing statistics report, the annual universal service report and the biennial report should be consolidated to eliminate duplicate requirements.

DLC does not support the Commission's proposal and instead believes the regulation needs to be rewritten to include Section 1415 requirements. NFG believes that § 56.231 in its current form is adequate and does not require revision.

PULP states that a comprehensive and current data warehouse is essential to enable the Commission to fulfill its obligation to monitor utility collections and credit

processes and to protect the health and welfare of Pennsylvania residents. Section 1415 specifically requires the Commission to monitor the impact of Chapter 14. PULP believes that some important data is not available to the Commission. PULP supports the Commission's proposal to include Class A water utilities in the monthly § 56.231 reporting by noting that the two largest water utilities in the state terminated service more than 25,000 times in 2005 and 2006. While PULP also supports the Commission's proposal to revise §56.231 to incorporate the Section 1415 report requirements, it asks that the Commission revisit the list of collection data variables and expand the data required. For example, while the annual winter survey may provide the number of households without central heating service in the winter-time, it does not tell us for how long those households were without service. PULP submits that the winter survey should be revised to include this information along with the first three digits of each household's address so that the impact on communities can be determined. The utilities should also be required to report any termination-related death or injury and should have a specific plan to ensure that this occurs.

Action Alliance, PULP, WAA and WLP also ask that the reporting requirements be revised to include information on instances involving a victim of domestic violence with a PFA order. They ask that utilities report the number of applicants and customers who disclose to the utility that they are victims of domestic violence and were able to produce a PFA; the number of applicants and customers who disclosed that they are victims of domestic violence who were unable to provide a copy of a PFA as a result of abuse but were permitted by the utility to provide alternative or delayed verification; the number of applicants and customers who disclosed that they are victims of domestic violence who were unable to provide a copy of a PFA due to dangerousness but were permitted by the utility to provide alternative or delayed verification; and the number of applicants and customers who disclosed that they are victims of domestic violence who were unable to provide a copy of a PFA and were not permitted by the utility to provide alternative or delayed verification. These parties believe these reporting requirements are

necessary to determine whether or not the legislature's goal of ensuring that victims of domestic violence are not further harmed by the more stringent requirements of Chapter 14 is being met.

Discussion:

We agree that comprehensive and current data collection is essential in allowing the Commission to fulfill its obligations under Section 1415. At the same time, we are sensitive to the burden that tracking and reporting can impose on utilities and we strive to limit adding any additional requirements to the data that is needed to meet the Commission's obligations. For example, we believe it is appropriate to now include the water industry in the monthly reporting requirements. Termination activity in the water industry has increased substantially in recent years since the enactment of Chapter 14, and water rates have also increased significantly. However, recognizing that this may be too burdensome for the Commonwealth's many smaller water systems, we will limit this obligation to only the Class A water utilities. We will also revise the reporting requirements for all applicable utilities so as to eliminate duplicative reporting and to align the requirements with the existing Section 1415 reporting requirements. To assist utilities in complying with these requirements, we propose attaching an appendix to the regulations that will provide specific guidance and describe each individual reporting variable. In this proceeding, we decline to include any reporting variables for PFA usage and as noted previously, we believe this should be addressed in a separate policy making proceeding.

Other Issues Raised by the Parties:

CAC requests that the Commission revise the regulations concerning formal complaints as follows: § 56.172 should be revised to include a 30-day timeframe for the filing of a formal complaint; § 56.173 should be revised to replace the term "report" with

“decision”; and § 56.174 should be revised to specify that exceptions currently directed to the presiding officer should instead be directed to the Commission. CAC also requests that the guidance provided by *Waldron v. Philadelphia Electric Company*, C-77100047, March 14, 1980, in addressing the burden of proof in billing cases be incorporated into the regulations.

Action Alliance requests that the Commission address the issue of Limited English Proficient (LEP) customers and to develop regulations to ensure that LEP customers receive effective communications. The increasing number of LEP individuals in the Commonwealth should compel the Commission to consider the issue of language access, especially in the context of winter termination. For example, Action Alliance cites year 2000 census data indicating that significant populations who speak English “less than very well” can be as high as 16.9% in Lancaster and 18.6% in York. Title VI of the Civil Rights Act of 1964 and LIHEAP policy guidance require that entities directly or indirectly receiving federal assistance, such as LIHEAP, accommodate LEP individuals. Action Alliance urges the Commission to require the use of oral interpretation providers and taglines in multiple languages on important notices.

Action Alliance also recommends that the Commission clarify that equal monthly billing (budget billing) is not considered a “payment agreement” for Chapter 14 purposes. “Payment agreements” in Chapter 14 involve billed service whereas budget billing involves unbilled service. This is also true of any reconciliation of “true-up” amounts and any amortization plans for the paying of such. Finally, Action Alliance asks the Commission to specify that “household income” as defined in Section 1403 includes only adult income and should exclude the income of minors from SSI, Social Security, welfare, child support and earnings.

NFG suggests changes to the transfer of accounts provisions in § 56.16. This section requires a departing customer to provide the utility with at least a 7-day notice when requesting discontinuance. NFG states that this provision has been interpreted to

preclude billing a customer beyond the 7-day period, even if the company cannot access the meter to discontinue service. NFG believes this section should be changed to allow utilities to bill beyond the 7-day period if the customer fails to provide the company with access. NFG also wants the meter reading requirements at § 56.12 to be modified to allow the submission of customer meter readings by telephone and internet. According to NFG, § 56.12(4) should be modified to require a customer meter reading at least once every 12 months instead of the current 6-month standard. NFG believes that technology used in calculating estimated bills has substantially improved and that the current requirement unnecessarily aggravates customers with repeated utility requests for access to their residence.

OCA notes that electronic billing can be an important and useful option for many customers as well as utilities. Customers may prefer receiving their bills electronically and savings can accrue to the utility through reduced supply and postage costs. However, if not properly implemented and if protections are not in place, electronic billing could prove problematic. OCA submits that Chapter 56 should recognize the existence of electronic billing options but should also establish the following protections that need to accompany the offer of electronic billing: (1) electronic bills should be voluntary; (2) visual format of an electronic bill should be the same as a paper bill; (3) electronic bills must include the same disclosures and messages required of paper bills; (4) electronic bills must include all bill inserts in an easily accessed and readable format; (5) electronic bills must include the option to contribute to the utility's hardship fund; (6) the customer should retain the option of continuing to receive a paper bill; (7) no extra fees should be imposed to receive an electronic bill; (8) the utility must maintain a system to ensure delivery of electronic bills and (9) customer privacy must be assured.

In addition to these recommendations, OCA believes Chapter 56 needs to address electronic payment options, which often accompany electronic billing. These payment options include automatic bank account debiting, credit cards and electronic checks.

Similar to electronic billing, OCA suggests the following standards for electronic payments: (1) electronic payment should be voluntary and should not be required in conjunction with electronic billing; (2) the utility must specify the date that payments are made; (3) all terms and procedures must be fully disclosed along with any changes in terms and conditions; (4) customers must be given the opportunity to withdraw if they do not wish to continue under the new terms; (5) the utility must provide an electronic or paper receipt for all payments, and (6) customer information must be kept secure.

OCA notes that some utilities currently offer credit and debit card payment methods without a fee while others offer these payment options through a third party vendor, and that the vendor charges a fee. OCA questions the appropriateness of requiring a fee for utilizing a payment option when paying a regulated utility bill. The effect of such a fee is to increase the price of service without regulatory oversight. OCA submits that creating a regulatory distinction between a fee charged directly by a utility or a fee charged by a vendor is not sound public policy. Any fees or expenses incurred by the utility to offer payment options may be more properly reflected in the utility's revenue requirement.

OCA also requests that the guidance provided by the Commission *In Re: Insuring Consistent Application of 52 Pa. Code § 56.12(7) Equal Monthly Billing*, M-00051925, (November 14, 2006), be incorporated into the regulations. OCA submits that this revision will ensure the consistent and fair application of the budget billing regulations for all utility customers.

Finally, OCA requests that Chapter 56 address standards for timely collections. Under Chapter 14, there are narrowly prescribed time limits for payment agreement repayment periods. OCA submits that the utility's billing and collection practices must take into account the limited period in which arrearages must be paid. If a utility allows a customer to accumulate large arrearages before the utility takes steps to manage the account, significant problems for both the utility and the customer can result. The

Commission should promulgate regulations to establish a framework for responsible utility collection practices and that practices that allow a household to accrue extraordinary arrearages before contacting the customer in an attempt to implement a payment agreement should not be permitted. As an example, OCA offers that under previous BCS informal guidelines, a low-income customer may have been ordered to pay \$15 monthly towards an arrearage. However, if you apply Section 1405(b)(1) requirements of a payment agreement of 60 months, you find that any arrearage beyond \$900 may result in an inability of the household to manage the payment agreement.

PAWC agrees with the Commission that the regulations need to reflect the advancement of technology particularly in the area of online customer service options. PAWC suggests that it is incumbent upon the Commission to promulgate billing and payment regulations in such a manner to promote the continued investment in this technology. However, Aqua disagrees and asks the Commission to instead address electronic payment and billing in a later, separate regulatory proceeding. Columbia likewise agrees that technological advances are more appropriately addressed in the context of a policy statement rather than in an amendment to regulations.

PPL recommends changing the term "ratepayer" to "customer" and using the term "public utility" throughout Chapter 56 when appropriate. Definitions of "Automated Meter Reading," "Federal Poverty Level," "Registered Practical Nurse," and "Protection from Abuse (PFA)" should also be added to the definitions at § 56.2. In addition, PPL recommends clarifying the following provisions: (1) § 56.24 addressing partial payments; (2) § 56.43 addressing third-party guarantors; (3) § 56.57 addressing interest rates on deposits; (4) § 56.151(3) addressing payment agreements for a disputed bill; (5) § 56.192 addressing personnel available to restore service and (6) § 56.225 addressing qualification for LIHEAP. In addition, to address electronic billing and payment PPL suggests revising §§ 56.12, 56.15 and 56.21.

In a statement that accompanied the Commission's December 4, 2006 *Advance Notice of Proposed Rulemaking Order*, Commissioner Pizzigrilli invited parties to address the question of whether it is appropriate or necessary to incorporate portions of the statute directly into the regulations. In their comments, Allegheny Power and EAP stated that it is not necessary for the regulations to restate verbatim statutory language. PGW generally opposes copying statutory language into the regulations; but that some copying may be prudent. DLC stated that it may be appropriate to incorporate statutory language from Chapter 14 in many instances.

Discussion:

We agree that our regulations addressing formal complaints need to be revised to include more current terminology and explicit timeframes and we propose to do so. We will also propose a procedure in which certain Bureau of Consumer Services (BCS) documents obtained during the informal complaint proceeding will be incorporated into the record of the formal complaint proceeding. Absent a valid evidentiary objection from the parties, the Bureau of Consumer Services' documents that become part of the formal complaint record will include Bureau of Consumer Services' records on the complainant's income, the utility report to BCS from the Company, and the BCS decision when the formal complaint was the subject matter of a BCS informal decision. We believe the result of such a process will produce a more consistent record upon which to base a decision.

We also agree that language access is a serious issue, especially when termination of service is involved. We propose requiring that termination notices include information in Spanish that inform the reader of who to call for assistance. Similar information is required if there are significant other language populations in the utility's service area.

We also propose clarifying the transfer of accounts provision at § 56.16. We disagree with parties that ask us to allow utilities to continue to bill beyond the seven-day

period after a request to discontinue service. The failure to obtain a meter reading to discontinue service can be the fault of either the consumer or the utility, and to hold a consumer responsible for all such situations is patently unfair, especially when the consumer does not have access to the property in question. A reasonable alternative is to close the account with an estimated meter reading, which then can be adjusted once the utility obtains access to the meter.

We believe now is the appropriate time to address electronic billing and payment in the regulations. These technology-driven options have become quite common and present several compelling advantages for both utilities and consumers. We believe that it is important to maximize the availability of electronic billing and payment to bring the benefits of cost and time savings to as many parties as possible. For this to happen, consumers must be protected from possible harm so that they reach a level of trust and comfort with these new options. As a result, we generally agree with the comments of OCA and have incorporated these into the proposed regulations. Budget billing (equal monthly billing) is another important billing option that can present advantages to both consumers and utilities. Again, we generally agree with the comments of OCA and have incorporated much of the guidance from the Commission's *Equal Monthly Billing* order into the proposed regulations. *In Re: Insuring Consistent Application of § 56.12(7) Equal Monthly Billing*, M-00051925 (November 14, 2006). Third-party notice is another important consumer protection, and we propose placing a standard third-party notice enrollment form in the appendix. The use of a standard form will hopefully encourage consumers to utilize this important protection.

We decline to include specific standards for timely collections in the regulations and instead propose adding language to the statement of policy at § 56.1 reminding utilities of their obligation to effectively manage accounts to prevent the accumulation of unmanageable arrearages. We believe specific rules and standards addressing such would be difficult to develop and enforce. We agree with parties that ask us to replace

the term "ratepayer" with "customer" and to replace the term "utility" with "public utility" as to align with Chapter 14.



PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG, PENNSYLVANIA

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INDEPENDENT REGULATORY
REVIEW COMMISSION

JAMES H. CAWLEY
CHAIRMAN

February 4, 2009

The Honorable Arthur Coccodrilli
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Re: L-00060182/57-265
Proposed 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

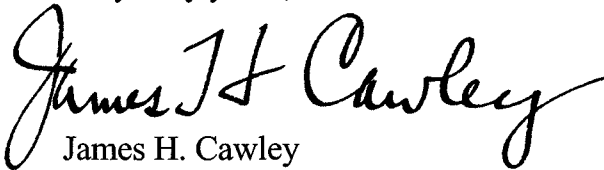
Dear Chairman Coccodrilli:

Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission.

The purpose of this proposal is to amend Chapter 56 to comply with the provisions of Chapter 14 of Title 66. The contact persons are Terrence J. Buda, Law Bureau, 783-3459 and Daniel Mumford, BCS, 783-1957.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,


James H. Cawley
Chairman

Enclosures

cc: 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
Mr. Mumford
Regulatory Coordinator DelBiondo
Judy Bailets, Governor's Policy Office

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

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking
Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney
General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
2/4/09	<u>Mauro Santoro</u>	<u>HOUSE COMMITTEE</u> (Preston) Consumer Affairs
2/4/09	<u>Mary Walmer</u>	<u>SENATE COMMITTEE</u> (Tomlinson) Consumer Protection and Professional Licensure
2/4/09	<u>Kristine M. Sharp</u>	Independent Regulatory Review Commission Attorney General
		Legislative Reference Bureau