

Nationalities Service Center

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2743

May 16, 2011

Silvan B. Lutkewitte, III, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Robert F. Powelson, Chairman
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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IRRC
2011 MAY 17 A 8:40

Re: IRRC # 2743, PUC Docket #L-0060182

Dear Chairman Powelson and Chairman Lutkewitte:

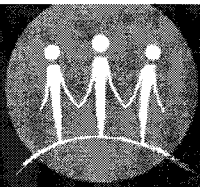
We write to urge that PUC customer service regulations comply with federal legal obligations and reflect the diversity and varying language ability of the utility customers of the Commonwealth.

Nationalities Service Center (NSC) is a non-profit organization that provides social, educational and legal services to immigrants and refugees in the Greater Philadelphia area. We serve about 4,000 clients each year from over 80 countries, mostly low-income immigrants who are recently arrived in the United States. They are in the process of learning English and learning to live in their new country, and of course they are utility consumers who are dealing with new linguistic and practical challenges of life in this area.

In the final regulation entitled "Standards and Billing Practices for Residential Utility Services," Sections 56.91 and 56.331 identify the information that must be



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provided in termination notices. The Notice of Public Rulemaking (NOPR) proposal, in subsections 56.91(b)(17) and 56.331(b)(13), added that the termination notices included information directing customers to a number to call for information and translation assistance in Spanish and in non-Spanish “languages when census data indicates a significant population using that language resides in the public utility’s service territory.”

The IRRC recommended that the PUC clarify what constitutes a “significant population.”

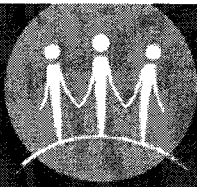
Subsection (b)(17) lacks clarity because it requires a utility to include certain information in a termination notice "when census data indicates a significant population using that language resides in the public utility's service territory." We recommend that the language be amended to clarify what constitutes a "significant population."

IRRC Comments, p. 12.

Instead, the PUC eliminated the entire non-Spanish language proposal. The PUC final-form regulation is as follows:

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

In Attachment 2 of the Final Rulemaking Order, the PUC explained that “Paragraph (17) was also revised to omit the requirement that information in additional languages is necessary if a five percent threshold is reached. This was done in reaction to comments that the NOPR proposal was impermissibly vague.” Attachment 2, p. 12. This explanation is puzzling because the proposed regulation had not included the “five percent threshold” requirement.



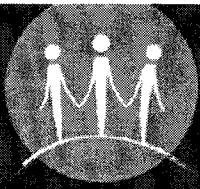
We urge the IRRC to disapprove subsections 56.91(b)(17) and 56.331(b)(13), and instruct the PUC again to clarify what constitutes “significant population.” We recommend that the following amendments to the regulations at § 56.91 (b)(17) and §56.331(b)(13):

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

Similar amendments should be made to other regulation sections that provide for information in the Spanish language. Sections 56.201 and 56.431, regarding billing information, should be amended as follows:

... A public utility which serves a substantial number of Spanish-speaking [ratepayers] customers shall provide billing information in English, [and] in Spanish, **AND IN OTHER LANGUAGES WHEN CENSUS DATA INDICATES THAT A SIGNIFICANT POPULATION USING THE PARTICULAR LANGUAGE RESIDES IN THE PUBLIC UTILITY’S SERVICE TERRITORY. A SIGNIFICANT POPULATION CONSTITUTES 5% OF PERSONS ELIGIBLE TO BE SERVED OR 1,000 MEMBERS OF THE LANGUAGE GROUP, WHICHEVER IS LESS.**

The regulations at § 56.93 and § 56.333, both relating to personal contact, should be amended to require the personal contact, whether in person or by phone, be in

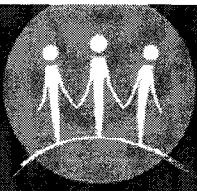


the primary language of the customer. In-person and phone contact can occur through bilingual staff or the use of interpreter services, including telephonic interpreter services. Posted written notice should be translated into Spanish and into the customer's primary (non-Spanish) language, if known. In the alternative, written notices should include a short statement translated into the other non-Spanish languages that meet the "5% or 1,000" threshold rule discussed above, explaining that this is a written notice of termination of utility service and that the customer should contact the utility company for free interpretation of the entire notice.¹ Because this personal contact section contains important legal rights, the IRRC and PUC should ensure that utilities uphold these rights for all consumers and not intentionally or inadvertently deny consumers' rights by failing to make appropriate contact with the consumer in the consumer's primary language. We propose amendments to § 56.93, as follows:

... a public utility may not interrupt, discontinue or terminate service without ...

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.

¹ The "5% or 1,000" threshold rule was adopted from the federal Department of Energy's Policy Guidance on Nondiscrimination in Federally Assisted Programs, Enforcement of Title VI of the Civil Rights Act of 1964--Prohibition Against National Discrimination Affecting Persons with Limited English Proficiency (LEP). 69 Fed. Reg. 50366 (Aug. 16, 2004). This guidance clarifies how recipients of financial assistance from the Department of Energy (DOE) can meet their obligation to ensure that persons with limited English proficiency have meaningful and timely access to their programs and services.



(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.

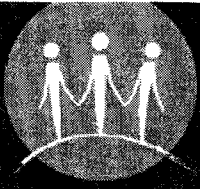
(c) If contact is attempted in person by a home visit, only one attempt is required, but the public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant.

(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), INCLUDING THE LANGUAGE REQUIREMENTS AT § 56.91 (b)(17).

(e) PERSONAL CONTACT, WHETHER IN PERSON OR BY PHONE, SHALL BE IN THE PRIMARY LANGUAGE OF THE CUSTOMER THROUGH BILINGUAL UTILITY STAFF OR THE USE OF INTERPRETER SERVICES, INCLUDING TELEPHONIC INTERPRETER SERVICES.

Comparable amendments should be made to the parallel personal contact provision at § 56.333.

We urge you to incorporate these basic provisions in the final regulation so that all utility customers have access to appropriate and meaningful communication, whether oral or in writing, from utility companies. Eliminating a requirement for communication, especially when significant rights and services are at stake, does not comply with federal obligations to take reasonable steps to ensure meaningful access.



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Thank you for your consideration.

Sincerely,

Dennis Mulligan
Executive Director

cc: PUC - dmumford@state.pa.us, tbuda@state.pa.us, and pwiedt@state.pa.us
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