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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

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

Dear Chairman Powelson and Chairman Lutkewitte:

I am submitting the following based on a review of IRRC # 2743, PUC Docket #L-0060182 by Community Legal Services. I urge the Independent Regulatory Review Commission to disapprove the final-form regulations that were submitted by the Public Utility Commission on April 7, 2011, to amend 52 Pa. Code Chapter 56 to implement Act 201 of 2004. The proposed regulation is contrary to legislative language and intent and contrary to the public interest in risking the health and safety of vulnerable utility customers. Of particular concern are proposed customer service regulations that only made their initial appearance in these recently submitted final-form regulations after a six (6) year long rulemaking process.

Before enactment of Act 201 of 2004, the only discussion of the proposed legislation was on the floor of the House of Representatives. Representative Dwight Evans explained the most recent version of the bill. In response to a direct question from myself on the floor of the House concerning how the bill would affect the medical certification protections currently available, Mr. Evans replied: "if you look on page 9,

24, (f), it is consistent with current law” (emphasis added).<sup>1</sup> Moreover, the emphasis in the House of Representatives was on changing the behavior of customers capable of paying who were utilizing “fraud and deception”, particularly the so-called “name game” in order to avoid payment of their utility bills.<sup>2</sup> There were no allegations that customers were abusing the PUC’s medical certification processes.

It is notable that when the Senate passed Senate Bill 677, which became Act 201 of 2004, the sole relevant legislative history item was a letter by Governor Rendell opining that S.B. 677 “contains a balanced set of measures designed to address the problems of rising delinquencies while at the same time ensuring that service remains available under reasonable terms to customers with legitimate *financial, medical* and other problems.”

The following critical issues must be addressed prior to final approval of the regulations:

1. Fully preserve medical certificates to reconnect utility service.

Proposed 52 Pa. §§ 56.191(b), 56.191(b)(1) and 56.191(c)(1) reduce and virtually eliminate the medical certification protections historically provided by the PUC’s Chapter 56 customer service regulations to customers with medical emergencies whose service has recently been shut off for non-payment. As PUC Commissioner John F. Coleman, Jr. wrote in his dissent from this aspect of the PUC majority’s proposed regulations, “[r]equiring the payment of reconnection fees or the entire arrearage may effectively nullify the legislature’s expressed preference for the rapid restoration of service when a valid emergency medical condition exists.”<sup>3</sup>

This result, endangering health and safety, is not authorized by the plain statutory language of Act 201, does not reflect the legislative intent and is not in the public interest. The regulation therefore does not satisfy the IRRC criteria for approval as set forth in the Regulatory Review Act, 71 P.S. § 745.5b. The proposed reconnection provisions requiring payments along with the medical certifications should be eliminated.

2. Preserve prohibition against installation of pre-paid meters in low-income homes.

Proposed 52 Pa. Code § 56.17 regarding advance utility payments was passed by the PUC without notice and opportunity for comment. In 1994, when the PUC considered permitting the use of pre-paid meters in residential households, it specifically limited the use of such meters only to non-low income households with ability to pay. Termination of utility service without prior notice should only occur when there is no

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<sup>1</sup> *Commonwealth of Pennsylvania Legislative Journal*, Friday, November 19, 2004, No. 72, at 2222.

<sup>2</sup> *Ibid.*, at 2218, 2223, 2224.

<sup>3</sup> *Re: 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 (Public Meeting, February 24, 2011) Partial Dissenting Statement of Commissioner John F. Coleman, at 1-2.

evidence of harm to the health and safety of any person. The final-form regulation should be disapproved.

3. Properly define the term “household income” and provide the broadest protections.

Act 201 defines “household income” as “the combined gross income of all *adults* in a residential household who benefit from the public utility service.” 66 Pa.C.S. § 1403. “Household income” levels, especially low and lower income levels, are important in determining eligibility for payment agreements, certain cash deposits, protection against winter shut-off, more affordable reconnection terms and waiver of late payment charges. The exclusion of children’s income reflects the intent to include a broader group of people within its protections for low and lower income households. The final-form Chapter 56 regulations improperly and ambiguously define household income to only exclude “wage earnings of a minor or government benefits that are received wholly in the name of a minor.” 52 Pa. Code §§ 56.2; 56.252. The definition of “household income” proposed prior to the final-form regulations should be implemented, which more clearly excluded “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.”

4. Preserve billing accuracy.

As modified by the PUC, proposed § 56.12(5) now requires no manual, physical meter reading to ensure accuracy because, by definition, a remote reading obtained through an AMR is an actual meter reading for all purposes. Such an absurd result cannot reasonably have been intended.

Respectfully submitted,

Representative W. Curtis Thomas

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