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April 20, 2009

#### HAND DELIVERY

James J. McNulty, Secretary Pennsylvania Public Utility Commission Commonwealth Keystone Building 400 North Street P. O. Box 3265 Harrisburg, PA 17105-3265

In re: Docket No. L-00060182

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

Dear Secretary McNulty:

Enclosed on behalf of Equitable Gas Company, LLC are an original and fifteen (15) copies of its Comments to the Public Utility Commission's Proposed Rulemaking Order entered September 26, 2008 in above matter. A copy in electronic format is also provided on the enclosed CD-R.

Very truly yours,

THOMAS, LONG, NESEN & KENNARD

By

Thomas T. Niesen

CC:

Terrence J. Buda (by email w/encl.)

Patti Wiedt (by email w/encl.) Cyndi Page (by email w/encl.) Daniel Mumford (by email w/encl.)

Sandra L. Gagorik (w/encl.)

Daniel L. Frutchey, Esquire (w/encl.)

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#### Before the PENNSYLVANIA PUBLIC UTILITY COMMISSION

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** 

MISSION

Docket No. L-00060182

#### **EQUITABLE GAS COMPANY'S** COMMENTS TO THE PROPOSED RULEMAKING ORDER ENTERED SEPTEMBER 26, 2008

AND NOW, comes Equitable Gas Company, LLC ("Equitable" or "Company"), by its attorneys, and, submits the following Comments in accordance with the Public Utility Commission's ("Commission") Proposed Rulemaking Order ("Order") entered September 26, 2008 in the above captioned proceeding:

- On September 26, 2008, the Commission entered an Order adopted at its Public Meeting of September 25, 2008, opening a rulemaking proceeding to consider revisions of the regulations appearing in 52 Pa. Code Chapter 56 relating to the standards and billing practices for residential utility service.
- 2. The Order invites interested parties to submit comments on the proposed regulations set forth in Annex A to the Order.
- Equitable is pleased to have the opportunity to comment on the Proposed Rulemaking Order at 3. Docket No. L-00060182. Equitable's Comments are presented in the Appendix A attached hereto for discussion purposes in response to the Commission's invitation and without prejudice to any position Equitable might take in any subsequent proceeding or proceedings involving these or any other matters.

WHEREFORE, Equitable Gas Company, LLC submits these Comments to the Public Utility Commission's Proposed Rulemaking Order entered September 26, 2008.

Respectfully submitted,

Charles E. Thomas, Jr., Fsquire

Thomas T. Niesen, Esquire

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Attorneys for Equitable Gas Company, LLC

Date: April 20, 2009

#### APPENDIX A

EQUITABLE GAS COMPANY, LLC

("Equitable" or "Company")

Comments to the Public Utility Commission's

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

#### General

In the Proposed Rulemaking Order, the Public Utility Commission ("Commission") states that the Governor signed into law SB 677 or Act 201 on November 30, 2004. The Act amended Title 66 by adding Chapter 14 (66 Pa. C.S. §§ 1401-1418) and became effective December 14, 2004.

The Commission subsequently issued an Implementation Order on March 4, 2005, a Second Implementation Order dated September 12, 2005, a Reconsideration of Implementation Order on October 31, 2005 amending the Implementation Order and a Declaratory Order on November 21, 2005. On December 4, 2006, the Commission entered the Advance Notice of Proposed Rulemaking Order ("ANOPR") requesting interested parties to submit comments on Chapter 14 questions set forth in Appendix A of the ANOPR.

Equitable believes it is important to consumers and regulated utilities to expeditiously amend Chapter 56 consistent with the provisions of Chapter 14. Therefore, the Company again recommends addressing those sections of Chapter 56 specifically identified in Chapter 14 as requiring modification due to their inconsistency with Chapter 14, i.e. §§56.32, 56.33, 56.35, 56.41, 56.51, 56.53, 56.81, 56.82, 56.83, 56.91, 56.93, 56.94, 56.95, 56.96, 56.100, 56.101, 56.111, 56.112, 56.113, 56.114, 56.115, 56.116, 56.117, 56.181 and 56.191. Equitable believes that maintaining a narrow focus consistent with 66 Pa. C.S. Chapter 14, Sections 4 and 6 of Subsection 1418 will permit a smooth, manageable and timely conclusion to this process.

The following are Equitable's comments to the items identified in Annex A of the Proposed Rulemaking Order entered September 26, 2008.

# 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

Equitable suggests the following sentence should be deleted from this section:

Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages.

The General Assembly noted in 66 Pa. C.S. §§ 1402 (Declaration of Policy) that the rules adopted in 1978 "have not successfully managed the issue of bill payment." Since the later part of the proposed revisions are essentially the same as those adopted in 1978 and will remain in effect for wastewater, steam heat and small natural gas distribution utilities and victims of domestic violence with a PFA Order, it cannot be assumed that there will not be customer accounts that accumulate large arrearages even though the public utility may utilize the Chapter 56 procedures effectively.

#### §56.2 Definitions

#### Household Income

A definition of household income has been added and is defined as the combined gross income for all adults in a residential household. The definition specifically states that the term does not include income intended for the use of a minor and provides examples of income to be excluded, including social security, child support, SSI and Department of Public Welfare grants. The latter portion of this definition is not part of 66 Pa. C.S. §§ 1401-1418 and is inconsistent with federal and state assistance programs.

For example, at §§601.81-601.84 of the Low Income Home Energy Assistance Program (LIHEAP), Commonwealth of Pennsylvania, Fiscal Year 2009, Final State Plan, income is described as the gross income for all household members regardless of relationship. The following are the only income exclusions related to minor children:

- Wage earnings of a dependent child under 18
- Up to the first \$50 of child support

The definition proposed is also inconsistent with the treatment of household income by the Internal Revenue Service and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Equitable, therefore, suggests that the second and subsequent sentences of the definition of household income be deleted.

#### Informal Dispute Settlement Agreements

This term is a rework of the term "Settlement Agreements" in the current version of 52 Pa. Code Chapter 56. Neither term is used in 66 Pa. C.S. §§ 1401-1418 (Chapter 14). Payment agreement is the only similar term used in Chapter 14. The definition of Informal Dispute Settlement Agreements and all references to such agreements should be deleted

#### §56.14 and 56.264 Previously unbilled public utility service

Equitable suggests that theft and fraud be expressly excluded from the four-year rule for rendering a make-up bill. When a utility discovers theft or fraud, the utility should be permitted to recover the amount previously unbilled without regard to the timeframe. This revision would then be consistent with the proposed language at §56.191(d).

#### §56.15 and 56.265 Billing information

Item 12 states that the 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. In this age of electronic billing and reduction in local business offices, Equitable suggests that the wording be changed as follows:

(12) A statement that a rate schedule and an explanation of how to verify the accuracy of a bill is available on the public utility's website or by calling the public utility's customer service center.

An explanation of the various charges is addressed under Item 14 and, therefore, does not need to be included in Item 12.

#### §56.16 Transfer of accounts

Under §§56.12(4)(ii) and (iii), the public utility is required to obtain an actual meter reading and, when not permitted access by the customer, should initiate termination proceedings as identified in §56.81(3). Additionally, 52 Pa. Code §59.24(a) requires public utilities to have access to meters, service connections and other property owned by it on the premises of customers, for purposes of maintenance, operation and meter reading. Refusal to provide such access "shall constitute sufficient cause for discontinuance of service."

However, under §56.16(a), the customer is only required to notify the utility, at least seven days in advance, "specifying the date on which it is desired that service be discontinued." As long as the utility is notified, the customer must be taken out of billing without regard to whether or not the utility was provided access to the meter to secure service. As indicated above, this interpretation is contrary to §§56.12(4) and 59.24(a).

In situations involving inside meters where there is more than one meter on the service line, the issue can be one of safety, i.e. was a valve cap installed if an appliance was disconnected? Equitable makes every effort to schedule the discontinuance at a time and date convenient to the customer to ensure access to the meter; however, there remain many situations when the Company is not provided access to discontinue the service.

Additionally, §56.16(a) states that the utility will estimate the final reading if unable to gain access and adjust the final bill once a reading is obtained. However, the proposed regulation is silent on who is responsible for the utility service consumed during the period between the time the customer vacated the premises and the utility is provided access.

For the above reasons, Equitable recommends changing §56.16(a) to read:

(a) A 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 noncustomer occupant, specifying the date on which it is desired that service be discontinued and provide access to the utility meter. In the absence of a notice or meter access, the customer shall be responsible for services rendered until the meter is secured or service is transferred to another party.

The above recommendation also applies to §56.266(a).

Under §56.16(d), it is noted that the unpaid balance "which is equivalent to the cash deposit requirement" may be transferred to the account of a third party guarantor. This statement is inconsistent with 66 Pa. C.S. § 1404(b) which states that the "guarantor shall be responsible for all missed payments owed to the public utility" and conflicts with the proposed wording in §56.33. Therefore, §56.16(d) should be changed to read:

(d) In the event of a termination of service to a residential customer, a public utility may transfer all missed payments owed to the public utility to the account of a third-party guarantor.

#### §56.32 Security and cash deposits

Section §56.32(a)(2) indicates that the credit scoring methodology used by the public utility must assess the risk of utility bill payment. This requirement is not specified either in the current 52 Pa. Code Chapter 56 or 66 Pa. C.S. §§ 1401-1418. The requirement that the public

utility utilize a methodology consistent with general industry practice is sufficient. Therefore, Equitable recommends deleting the last sentence in §56.32(a)(2).

#### §56.33 Third-party guarantors

Equitable recommends that the proposed regulations include a definition of Third-Party Guarantor either under Definitions or in this section. The definition should read:

(2) *Third-party guarantor*. For the purposes of this section, the term shall mean a customer who has established credit under §56.32

#### §56.35 Payment of outstanding balance

The Company believes that §56.35(2) and §56.35(2)(a) are slightly conflicting in that §56.35(2) states that the utility may not require payment for residential service previously furnished under an account in the name of someone else; however, §56.35(2) states the applicant may be required to pay all or a portion of an outstanding bill if the applicant resided at the property during the time the outstanding bill accrued.

To clarify the proposed regulation, Equitable suggests changing the wording of §56.35(2) as follows:

(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, unless the applicant resided at the property for which service is requested during the time the outstanding balance accrued not exceeding 4 years.

Equitable suggests adding a new section (3) to address those situations where an existing customer requests an additional account and the existing account is delinquent. In these situations, the customer does not intend to discontinue the existing account but is merely adding another account.

(3) A public utility may require the payment of an outstanding bill or portion of an outstanding balance as a condition of furnishing an additional account to an existing customer whose current account is not being cancelled and is delinquent. This section does not apply to a customer who is canceling service at one location and opening service at a new location.

Finally, the four-year restriction on outstanding bills should not include fraud or theft and should be consistent with the debt collection laws. This section should include language similar to the proposed language at §56.191(d).

#### §56.36 Written procedures

Equitable maintains the position it articulated in its comments to the ANOPR submitted on February 14, 2007, stating that it contracts with a third-party credit agency to determine creditworthiness. The methodology is owned by the third-party credit agency and is proprietary. The agency would not allow its proprietary methodology to be included in a publicly filed tariff and Equitable believes this requirement is inconsistent with credit reporting rules. Equitable again suggests that the use of a recognized third-party credit agency should be sufficient assurance of generally accepted credit scoring methodology and standards.

#### §56.38 Payment period for deposits by applicants

Equitable disagrees with the Commission that the argument put forward by PULP in its comments to the ANOPR indicates that 66 Pa. C.S. §§ 1404 does not require immediate up-front payments of the entire amount except in the case of PGW. The language at 66 Pa. C.S. §§ 1404 states, "...the commission shall not prohibit a public utility, **prior to** or as a condition of **providing utility service**, from requiring a cash deposit..." [Emphasis added.] The Company contends that the phrase "prior to...providing utility service" denotes the utility has a right to collect a security deposit before providing service.

Based on the above, Equitable believes that §56.38 should be changed as follows:

Upon determination that a security deposit is required in accordance with §56.32, a public utility may require full payment of the security deposit prior to providing utility service.

#### §56.54 Application of deposit to bills

This section should be deleted in its entirety as it conflicts with §56.53(4)(c).

#### §56.91 & §56.331 General notice provisions and contents of termination notice

Subsequent to the enactment of 66 Pa. C.S. §§ 1401-1418, the Bureau of Consumer Services ("BCS") and the Energy Association of Pennsylvania ("EAPA") collaborated on the changes that needed to be made to the notices to comply with Chapter 14. On November 1, 2005, the BCS issued the revised 10-Day Shut Off Notice, 48-Hour Notice and Post Termination Notice that had been reviewed and finalized by Commission staff. These notices are in plain language format and include all pertinent information.

Equitable suggests that the Commission provide the 10-Day Shut Off Notice as an Appendix in the regulations and has included a copy herein as Attachment A. The Company also suggests that since the 10-Day Shut Off Notice includes the Medical Emergency Notice, the 10-Day Shut Off Notice could replace the Medical Emergency Notice currently in Appendix A.

Also, Section (7) should be changed to be consistent with the plain language wording in the Commission-finalized termination notice as follows:

(7) The following statement: "If you have questions or need more information, please call us today at XXX-XXXX-XXXX. After you talk with us, if you are not satisfied, you may file a complaint with the Public Utility Commission (PUC). The PUC may delay the shutoff if you file the complaint before the shut-off date. To contact them call (800) 692-7380 or write to: Pennsylvania Public Utility Commission, Box 3265, Harrisburg, PA 17105-3265."

The serious illness notice found in Appendix B and referred to in Section (8) should be changed to:

Appendix B

#### MEDICAL EMERGENCY NOTICE

Let us know if someone living in your home is seriously ill or has a medical condition. WE WILL RESTORE YOUR SERVICE provided you:

1. Have your licensed physician or nurse practitioner certify by phone and in writing that such an illness exists and that it may be aggravated if you service is not restored.

#### AND

2. Make arrangements to pay this bill. You must provide us with household income and occupant information to determine your payment terms while protected under the medical certification.

#### §56.93 & §56.333 Personal contact

Sections 56.93(b) and 56.333(b)(1) state a phone contact may be made between the hours of 7 a.m. and 9 p.m.; however, the Debt Collections Practices Act prohibits calls before 8 a.m. Therefore, Equitable recommends changing the hours in this section from 7 a.m. to 8 a.m.

#### §56.100 Winter termination procedures

In §56.100(i), the Commission is proposing that each category of accounts should be identified by the first three digits of the customer's postal code. The current format of the Survey Results section contains five major categories and an additional 15 secondary categories. Not only will it be necessary to undertake extensive programming to comply with this requirement, the Company is unaware of the purpose and relevance of this additional data. Equitable, therefore, suggests deleting the requirement to provide the data by the first three digits of the customer's postal code.

With regard to §56.100(j), Equitable suggests changing the proposed regulation to state that the utility make the BCS aware of an incident within one business day; however, the utility should be given up to five days to provide the other information identified. Additionally, the proposed 1 business day reporting obligation should be limited to incidents that occur within 30 days of termination. The second and subsequent sentences in §56.100(j) would read as follows:

Within 1 business day of becoming aware of an incident, the public utility shall telephone or electronically report to the Director of the Bureau of Consumer Services if the incident occurred within 30 days following termination. The initial information provided will include the name, address and account number of the last customer of record and the date of the incident. Following such notification, the public utility shall submit a telephone or electronic report within 5 days providing the following:

- The date service was initiated
- The date service was terminated
- The balance owed
- The grounds for termination
- A brief statement of the circumstances involved, to the extent know.

The section would then continue with the sentence beginning, "The Bureau or Commission may request..."

The above recommendation also applies to §56.340(7).

#### §56.114 & §56.354 Length of postponement; renewals

Equitable recommends deleting the words "same termination action" related to limiting the household to two 30-day medical certificate renewals. The sentence would read:

In instances when a 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.

#### §56.163 & §56.392 Commission informal complaint procedure

The proposed revisions to this section require the public utility to respond to complaints involving lack of utility service or other emergency within 5 days and all other complaints within 30 days. The Company agrees with the Commission that it is in the customer's best interest to resolve complaint issues within the shortest possible timeframe. However, the utility response to a complaint is only one step in the process. A decision must be issued by the BCS to resolve the complaint at the informal level. A review of Equitable's records shows that 466 cases have been awaiting decisions for more than 90 days since the Company filed its response with the BCS. Of

that number, 64 cases are over one year old. Equitable, therefore, recommends changing the utility response requirement to 10 days when service is off and within 30 days for other complaints and requiring the BCS to issue a decision within 30 days for service off complaints and within 90 days for all other complaints.

The last two sentences of Section 1 would be changed as follows:

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 10 days of the request. Upon receipt of the requested information, the Bureau of Consumer Services will issue a decision within 90 days. If the complainant is without public utility service or other emergency situation as identified by Commission staff, the Bureau of Consumer Services will issue a decision within 30 days of receipt of the requested information from the utility.

#### §56.231 Reporting Requirements

There is a substantial increase in the amount of data required monthly by this section. While Equitable has always made every effort to provide the Commission with all the data sought, the Company questions the usefulness of additional data. Of particular concern is the additional data required in Nos. 17, 18, 19, and 20.

The current regulations request the number of reconnections in each of the categories identified in the above numbers. However, the proposed regulation requests substantially more data which will require extensive programming. The Company questions the purpose and relevance of this additional data.

#### Conclusion

Equitable thanks the Commission for the opportunity to comment on the Proposed Rulemaking Order.

#### **COMPANY NAME / LOGO**

## ADDRESS OF UTILITY PHONE NUMBER OF UTILITY

<NAME>
<BILLING ADDRESS>
<CITY, STATE ZIP CODE>
<CUSTOMER ACCOUNT NUMBER>

## 10 DAY SHUT-OFF NOTICE AVISO DE SUSPENCION DE SERVICIO

	vice May Be Shut Off! e, we will shut off the service to			
on or after 8:00 a.m. on We may act on this notice for up to 60 days.				
We will NOT Shut off yo	our gas/electric service if you do ONE of the following:			
<ul> <li>Pay the amount you</li> <li>Show us a paid rec</li> <li>Call XXX-XXX-XXX occupant information</li> </ul>	C-XXXX to arrange to pay your past due bill of \$  Lowe on your payment plan. Call us at 1-xxx-xxxx for this amount.  Leipt for the past due amount.  LX right away if you dispute this bill or to provide us with household income and on. You may be eligible for a payment agreement or special assistance programs.  Lelectric service, you may have to pay all of the following before we can			
Past Due Bill	\$			
Security Deposit	\$			
Turn-on Charge	\$			
Total	<b>\$</b>			

• To talk about your bill, please call our office at 1-800-000-0000.

#### MEDICAL EMERGENCY NOTICE

**Let us know** if someone living in your home is seriously ill or has a medical condition. **WE WILL NOT SHUT OFF YOUR SERVICE provided you:** 

- 1. Have your licensed physician or nurse practitioner certify by phone or in writing that such an illness exists and that it may be aggravated if your service is shut off. Written certification is needed within 7 days: AND
- 2. Make arrangements to pay this bill. You must provide us with household income and occupant information to determine your payment terms while protected under the medical certification.

#### **IMPORTANT TO KNOW**

Before we shut off your utility service please read the back of this notice. You may be eligible for certain protections from shut off.

Attencion! Este es en mensaje muy importante. Si usted no lo entiende, favor de llama a 1-800-000-0000.

#### IMPORTANT TO KNOW - BEFORE WE SHUT OFF YOUR UTILITY SERVICE

- If you have questions or need more information, please call us today at XXX-XXXX. After you talk with us, if you are not satisfied, you may file a complaint with the Public Utility Commission (PUC). The PUC may delay the shutoff if you file the complaint before the shut-off date. To contact them call (800) 692-7380 or write to: Pennsylvania Public Utility Commission, Box 3265, Harrisburg, PA 17105-3265.
- If we shut off your service during the winter months (between Dec.1 Mar. 31) we will restore your service within 24 hours of your meeting all requirements/conditions to have service reconnected. Where street digging is required it may take up to 7 days.
- If you currently have a valid Protection From Abuse order from a court your service cannot be terminated during
  the winter without PUC permission. There are some additional protections available to you. Call us
  immediately at XXX-XXXX. (You will be required to provide us with a copy of the order.)
- You may be eligible for a payment agreement or special assistance programs. Call 1-XXX-XXXX right
  away to provide us with household income and occupant information. Documentation of your income may be
  required, such as pay stubs or tax documents.
- If your landlord pays your utility bill: You have certain legal protections. Please call us at XXX-XXX-XXXX.
- If you have trouble understanding or speaking English or have a disability please call us at XXX-XXXX for free interpretation.
- If your service is shut off, you may be required to pay more than the amount listed on the front of this notice to have your service turned back on. You may have to pay any additional bills that have become past due.
- All adult occupants of the premise whose names are on the mortgage, deed, or lease are considered the 'customer' and are responsible for payment of this bill.
- If service is shut off, ANY adult occupant who has been living at the premise may have to pay all or portions of this bill to have service restored.
- If your service is shut off, you must contact us after your payment has been made to be sure you have met all conditions to have the service turned back on and to arrange access to your premises.
- After all conditions have been met to have the service turned back on, it may take up to seven days to have your service restored. Please contact us to discuss the details.

#### WINTER NOTICE PROVISIONS (between December 1 – March 31)

- Contact us BEFORE the shut off date to give us household income & occupant information to see if you qualify for any assistance programs.
- If your income is at or below 250% of the federal poverty guidelines, we must first ask the PUC for permission to shut off your service. Add together the monthly income of the adults in your household. If that number is the same or less than the amount listed in chart below for your household size, call us immediately at XXX-XXX-XXXX. You may need to provide us with proof of your income.

Monthly Income at 250% of Federal Poverty Level: 2005					
Household Size	1	2	3	4	
Monthly Income	\$1,994	\$2,673	\$3,352	\$4,031	

Add \$679 for each additional household member.

Attencion! Este es en mensaje muy importante. Si usted no lo entiende, favor de llama a 1-800-000-0000.