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April 20, 2009

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VIA E-FILING

Secretary James J. McNulty
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

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

Dear Secretary McNulty:

Enclosed for filing, please find the Comments of the Pennsylvania Public Utility Project in the above-referenced proceeding.

Pursuant to the Commission's Proposed Rulemaking Order, an electronic copy of these Comments have been sent to Terrence J. Buda at tbuda@state.pa.us, Patti Wiedt at pwiedt@state.pa.us, Cyndi Page at cypage@state.pa.us, and Dan Mumford at dmumford@state.pa.us.

If you have any questions about this filing, please do not hesitate to contact me.

Very truly yours,

Harry S. Geller, Esq.
Executive Director

Enclosure

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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

Docket No. L-00060182

COMMENTS OF THE
PENNSYLVANIA UTILITY LAW PROJECT

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Dated: April 20, 2009

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I. INTRODUCTION

The Pennsylvania Utility Law Project ("PULP"), as part of the nonprofit Pennsylvania Legal Aid Network, provides statewide representation, advice, and support in energy and utility matters on behalf of low income, residential utility customers. PULP submits these Comments on behalf of the low income consumers we represent.

Chapter 56 of Title 52 of the Pennsylvania Code, Standards and Billing Practices for Residential Utility Service is intended to balance the interests of utility consumers and companies. It contains important protections for public utility consumers, particularly low income consumers. The array of rules and protections in Chapter 56 improves the likelihood that public utility companies will provide safe, reasonable, and reliable service; where they do not provide such service, Chapter 56 provides mechanisms with which consumers can seek redress. Chapter 56 protections have never been more important than now, and the Pennsylvania Public Utility Commission should take this opportunity to strengthen and improve these protections.

II. BACKGROUND

The instant proceeding is the culmination of a long process initiated by the passage and enactment of the *Responsible Utility Customer Protection Act*, 66 Pa.C.S. §§ 1401 *et seq.* ("Chapter 14"). Chapter 14 supersedes certain regulations contained in Chapter 56 of the Pennsylvania Code, 52 Pa. Code §§56.1 *et seq.*, 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.

On January 28, 2005, the Pennsylvania Public Utility Commission ("Commission") issued a Secretarial Letter beginning the process of implementing Chapter 14 by identifying general subject areas for discussion and encouraged interested parties to file written comments. The Secretarial Letter was followed by a Roundtable Forum on February 3, 2005 in which the Commission invited interested parties to meet and discuss the implementation and application of Chapter 14. Many parties, including the Pennsylvania Utility Law Project ("PULP"), participated and filed comments. As a result of these initial comments and based upon the discussion during the Roundtable Forum, the Commission issued an Implementation Order on March 4, 2005.

By Secretarial Letter issued June 27, 2005, the Commission initiated a second Chapter 14 Roundtable that was held on July 1, 2005. Again, written comments were solicited from interested parties and submitted. A third Roundtable meeting, focused on issues specific to the Philadelphia Gas Works ("PGW"), was held on July 21, 2005, and written comments were again solicited. On September 12, 2005, as a result of these ongoing meetings, the Commission issued a second Chapter 14 Implementation Order addressing several specific, unresolved topics: termination and reconnection issues; payment arrangements; applications and cash deposits; protection from abuse orders; consumer education; and PGW specific issues.

On August 24, 2005, the Commission issued a Section 703(g) Order Seeking Comments to address ongoing concerns about the interpretation of payment agreement restrictions in Section 1405(d). On October 31, 2005, the Commission issued the Reconsideration of Implementation Order which amended its initial Implementation Order of March 4, 2005 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, the Commission issued a Declaratory Order pursuant to 66 Pa.C.S. § 331(f), which stated that Chapter 14 does not authorize public utilities to require upfront payments greater than those amounts specified in § 1407(c)(2).

The Commission continued the implementation process by issuing an Advance Notice of Proposed Rulemaking Order on December 4, 2006, again requesting comments from interested parties. Now, in the instant proceeding, the Commission has issued this *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*, Docket No. L-00060182, (Order entered September 26, 2008) ("Chapter 56 Order"), published in the *Pennsylvania Bulletin* on February 14, 2009, to finalize the amendments to Chapter 56 as a result of the passage of Chapter 14. PULP respectfully submits these comments in response.

III. COMMENTS

These comments are arranged by section or subject matter, as noted. Where appropriate, PULP provides sample language for the Commission's consideration based upon the Commission's proposed language; language additions will be double underlined and in bold font, and deletions will be double struck through.

A. SUPPORT FOR SPECIFIC COMMISSION RECOMMENDATIONS

PULP supports much of what is proposed in the Commission's Chapter 56 Order and thanks the Commission for taking this opportunity to clarify and strengthen regulations that protect the interests of Pennsylvania's utility consumers, in particular low income residential customers who struggle daily to maintain life essential utility service. The following specific policies enumerated in this section and endorsed by the Commission deserve special mention and merit support and retention in the final promulgated regulations.

Special Rules for Victims with a Protection From Abuse Order. PULP supports the Commission's decision to include a new subchapter with regulations for victims of domestic violence with a Protection From Abuse order (PFA). Chapter 56 Order, Attachment One, at 6. This decision appropriately responds to Chapter 14's exception of this population from coverage under the statute.

PULP supports the Commission's decision to include within this new subchapter regulations reflecting levels of consumer protection that are higher than Chapter 56 where Chapter 14 provides for higher protections. Chapter 56 Order, Attachment One, at 6. It is clear that the General Assembly sought to provide victims of abuse special protection in light of their unique and difficult situations. By ensuring that holders of PFAs enjoy enhanced protections where such protections are present in Chapter 14, the Commission appropriately advances the General Assembly's clear intent.

PULP supports the Commission's decision to require regulated utilities actively to publicize on important utility documents the exceptions from Chapter 14 to which victims of domestic violence with a PFA are entitled. Chapter 56 Order, Attachment One, at 7. This requirement will ensure victims of domestic violence are aware of and

know how to invoke this enhanced protection. The Commission's decision to include this requirement appropriately advances the General Assembly's clear intent to provide heightened protections to this population.

Finally, PULP supports the Commission's choice to address in a separate proceeding the special ancillary issues concerning victims of domestic violence with a PFA. Chapter 56 Order, Attachment One, at 7. These ancillary issues are complex, and the expertise of advocates and specialists will provide immeasurable assistance to the Commission in crafting sensible, fair, and effective protections for a vulnerable population. To ensure prompt treatment of the issue, PULP respectfully recommends that the Commission should not put off this separate proceeding for more than six (6) months after the submission of these comments.

Procedures in regard to §56.14 "Make-up bills." PULP supports proposed Section 56.14's retention of the current Chapter 56 threshold amounts required to trigger the issuance of make-up bills by public utilities (50% of the current bills or at least $50, whichever is greater). The current levels are appropriate and presently working in an adequate fashion; any increase would pose significant burdens on many utility customers, most particularly on low income consumers.

PULP also supports the Commission's recognition that Chapter 14 does not apply to Section 56.14 make-up bills. The definition of payment agreements contained in §1403 relates specifically to amounts previously billed to the consumer which have gone unpaid. Make-up bills, not having been billed to the consumer, fall outside the parameters of Chapter 14.

Credit standards. PULP supports the Commission's imposition of the obligation that credit standard procedures be as transparent as possible. The Chapter 14 credit standard procedures contained within §1404 are marked changes from prior practice. The utility is granted the unique ability to impose on a case by case format costs which may result in significant barriers to service. The Commission is correct in stating that these procedures need to be as transparent and fair as possible and subject to challenge whenever error or misuse is suspected. All credit related methodologies must be included in the tariff.

PULP also supports the Commission determination that § 56.31 is still fully in effect and has not been superseded by any section of Chapter 14. In accord with that policy, the credit and deposit policies and practices of each utility must be equitable, nondiscriminatory, and based on the credit risk of the individual, without regard to area in which they live and without regard to race, sex, age over 18, national origin or marital status.

PULP supports the requirement that applicants and customers be provided with detailed and complete information when denied credit from a utility. Credit reporting and scoring are prone to error. To avoid placing any inappropriate burden upon the consumer, applicants or customers 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 or customers who have additional obligations imposed upon them as a result of credit reports or scoring must be informed of such obligations.

PULP supports the requirement that applicants and customers be informed of their rights to provide a third party guarantor and that a more lenient credit standard is available for victims of domestic violence with a PFA order.

PULP supports the requirement that all "alternate" credit procedures receive Commission approval prior to implementation. Utilities that choose to use procedures other than those previously sanctioned by the Commission should have the obligation to ensure that those procedures are clear, equitable, and adequately communicated.

Deposit payment periods. PULP supports the determination by the Commission that §1404, except in the case of the Philadelphia Gas Works, does not require immediate, up-front payments of the deposit amount and may be paid over a full 90-day period. This determination will create greater simplicity and understanding of the payment procedure and corresponds to the correct statutory construction and legislative intent.

Termination of service. PULP supports the requirement that termination notices must include and itemize critical information. Termination of service creates conditions consequential to the economic, physical, and emotional well-being of individual households. In keeping with the legislative intent of Chapter 14, each termination notice must alert the consumer to programs and options available to them to help maintain crucial utility service. The protective information must include reference to universal service programs, emergency medical certification procedures, protections for tenants, and protections for victims of domestic violence with a PFA.

PULP supports the requirement that, as a condition of terminating service on a Friday, a public utility must be able to accept emergency medical certificates, negotiate payment agreements, and restore service on the day after the Friday termination of

service. This requirement helps all parties understand the obligations that must be assumed by utilities when they avail themselves of this additional opportunity to terminate service on Fridays.

"User without a contract" and "Unauthorized use." PULP supports the Commission's decision to maintain the distinction between "user without contract" and "unauthorized use." The inclusion of a new definition of "user without contract" in the new regulations provides needed clarity and assistance to consumers and utilities in recognizing the distinction between a "user without contract" and "unauthorized use." There are inherent differences between the two situations; common sense and equity require that they should be treated differently. For example, a widow continuing to use the service provided to her in her deceased husband's name is markedly different from someone who has illegally tampered with a meter to avoid paying for service. PULP supports the Commission's decision to craft the regulations in a manner that recognizes this difference.

Winter termination procedures. PULP supports the Commission's requirement that utilities must first verify that an account is eligible for winter-time termination before terminating service. Chapter 14's Section 1406 restriction on winter termination without Commission permission is a critical consumer protection. Regulations promulgated to clarify the intent of this section must be unambiguous and incapable of evasion, avoidance, or misunderstanding. The utility should use household size and income information from its own records and should solicit such information from its customers at every opportunity. The requirement that a utility must verify a household's income *prior* to winter termination acts to clarify utility responsibility.

PULP supports the Commission's improvement of the cold weather survey through the introduction of survey updates by public utilities on January 15 and February 15 of each year. Under Chapter 14, more families now enter winter without safe central heating service and exist this way for longer periods. Winter terminations can and do occur more readily under Chapter 14. In order for the Commission and for policy makers to understand the true impact of Chapter 14 and winter terminations, it is essential that they have sufficient relevant information. The expansion of survey dates and of the information required to be obtained in those surveys is appropriate because it will help to provide this information.

Emergency provisions and medical certificates. PULP supports maintaining in the proposed regulations the longstanding protections associated with medical certificates. PULP is particularly pleased the Commission has maintained the standard of "...seriously ill or affected with a medical condition which will be aggravated by a cessation of service..." and has left the determination of that standard solely in the hands of medical professionals. Emergency medical determinations are important safeguards intended to protect the health and welfare of a household's occupants. Neither the Commission nor a utility is in a position to substitute its judgment for that of a medical practitioner.

PULP also supports a number of other measures proposed by the Commission associated with medical certificates that clarify the role of medical professionals in the process. For instance, incorporating the definition of Certified Registered Nurse Practitioner found at 49 Pa. Code § 21.251 into these regulations will enable the Commission to be consistent with other statewide definitions and usage. Additionally,

eliminating from the definition of physician at § 56.2 the requirement that a physician must be licensed by the Commonwealth of Pennsylvania will aid the many individuals in the Commonwealth who are treated by out-of-state physicians, particularly individuals who live in communities bordering other states or who require specialists or treatments located in other states.

PULP also supports the Commission's clear specification that any refusal to honor a medical certificate under conditions recognized by the Commission should be treated as a dispute by the utility, requiring that the customer will be referred to the Commission.

Finally, PULP supports the Commission's attempt to clarify the requirements of §56.116 by specifying that payment of current bills be considered an equitable effort at payment.

Restoration of service. PULP supports the Commission's decision that the rule governing restoration of service at Section 56.191 uses calendar days, not business days, in the calculation of time for restoration. There is no justification to delay restoration of life essential utility service. This is particularly true within the context of Chapter 14 where utilities are now able to terminate service during winter and on Fridays and must have available the means of reconnecting the next day.

Utility reporting requirements. PULP supports the recognition by the Commission that comprehensive and current data collection is essential in allowing the Commission to fulfill its obligations under Section 1415. Part of this recognition is the inclusion of class A water companies within the reporting requirements. Both the costs and termination activities of water companies have increased dramatically, and the Commission should be kept abreast of the activities of these companies.

Language access. PULP supports the Commission's decision to require that termination notices must include information in Spanish that informs the reader of who to call for assistance. Language access is a serious issue, especially when termination of service is involved. This proposal by the Commission is a modest advance toward the goal of informing a growing sector of the population.

B. PRELIMINARY NOTES

Consumer Status: Customer, Applicant, or Occupant. PULP supports the Commission's inclusion of new and modified definitions of applicant, customer, and occupant. The language of Chapter 14 differentiates between customers and applicants, and therefore it is necessary to be able to define the consumer's status in order to know how to apply the regulations and statute. Because there are defined differences between applicants, customers, and occupants, these words should be used carefully and conscientiously in Chapter 56 regulations. Throughout the following comments, PULP will point out inconsistencies in the use of the terms and suggest modifications to the language in order to avoid confusion in the future.

Identity Theft Issues. PULP notes that the issue of identity theft does not appear to be addressed within the proposed regulations. In a motion concluding the Commission's *Investigation In Re: Identity Theft*, Docket M-00041811, at Public meeting on July 14, 2005, Chairman Holland noted "... with regard to Chapter 56 regulations, it is anticipated that this issue will be addressed, as warranted, during the regulatory review necessitated by Chapter 14." (At page 6.) Identity theft is an issue warranting inclusion in Chapter 56 regulations. PULP respectfully submits that the Commission specifically

addresses this issue and state that individuals, whose name appears on company records as customer, applicant, or occupant as a result of identity theft, not be considered liable for that service. Further, PULP requests that the Commission direct each company to develop a procedure, subject to Commission approval, which permits raising the issue of identity theft by an applicant, customer, or occupant.

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

Section 56.1. Statement of purpose and policy. PULP respectfully recommends the Commission state in these regulations that it is the policy of the Commonwealth to prevent service termination where possible, particularly for low income customers who often can not afford to pay for service. Chapter 14's stated goal is to pursue customers who are capable of paying but who choose not to pay. Since low income customers can not afford to pay, they should not be a target of Chapter 14. See 66 Pa.C.S. § 1402(2).

The General Assembly recognizes the plight of low income utility customers and has included protections for low income households in various pieces of legislation. In both of the restructuring statutes, the General Assembly included clear language maintaining the operation of universal service and energy conservation programs, a key safeguard for low income customers. 66 Pa.C.S. §§ 2203(1), (3), (7), and (8); 2802(9), (10), and (17); 2804(8) and (9). Just recently in Act 129, the General Assembly required electric distribution companies to create special initiatives directed to low income households to help these households reduce energy consumption and the cost of energy.

66 Pa. C.S. § 2806.1(b)(1)(G). Importantly, these Act 129 initiatives are in addition to existing utility activities in the Low Income Usage Reduction Programs mandated under 52 Pa. Code, Chapter 58. Chapter 14 itself states the General Assembly's intent "that service remains available to all customers on reasonable terms and conditions" and creates special statutory winter termination protections for low and lower income households. 66 Pa. C.S. §§ 1402(3) and 1406(e). The Governor cited the inclusion of these protections for low income customers as a reason for his supporting the passage of Chapter 14.[1] Given these many statutory examples, it is without question that the General Assembly intended to protect low income individuals and households.

The flood of service terminations since Chapter 14's enactment suggests that Chapter 14's implementation may not be meeting the General Assembly's expectations, particularly given the level of protection for low income consumers expressed in so many other related laws. 296,451 households had electric or natural gas utility service involuntarily terminated from January to December of 2008, a 20% increase from the previous year. *Terminations & Reconnections Year to Date Report for December 2008,* Bureau of Consumer Services. Even after reconnections are considered, 82,684 households remained unaccounted for as of the end of 2008 after having their service involuntarily terminated. This astounding and growing number of terminations suggests that the General Assembly's intention to protect low income citizens is not being achieved.

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[1] See the letter of Governor Edward Rendell incorporated as part of the record of the Senate Journal at the time of consideration of the legislation to become Act 201 of 2004. Commonwealth of Pennsylvania (2004). *Session of 2004, Legislative Journal of the Senate, No. 66, Saturday, November 20, 2004,* p. 2443. Harrisburg, PA.

In order to swing the pendulum back to a more balanced place, the Commission should make it its policy and the policy of utilities to avoid service terminations wherever possible. PULP provides the following sample language for the Commission's consideration:

> (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~~ restricts unreasonable termination of or refusal to provide that service, and ~~to~~ provides 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 and recognize the need to provide meaningful alternatives for low-income customers with financial limitations**.

Section 56.2. Definitions. PULP respectfully recommends the Commission make changes to several definitions provided in this section in order to clarify their meaning and harmonize them with other parts of these regulations.

"*Applicant.*" PULP supports the Commission's clarifying the definition of applicant but requests a minor modification seen below:

> *Applicant*— [A person who-applies for residential utility service.] **(i) 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.** (ii) The term does not include a person who[, within 60 days after termination or discontinuance of service,] seeks to transfer service within the service territory of the same **public** utility or to reinstate service at the same address **provided that the final bill for service is not past due ~~and payable~~.**

This modification will synchronize language from this definition of applicant with that of the definition of customer, which reads in part, "[a] **natural person remains a customer after discontinuance or termination until the final bill for service is past due."** Synchronizing these two definitions will make absolutely clear that after termination of service a customer reverts to applicant status again when the final bill is past due.

"*Customer assistance program.*" PULP recommends the Commission specifically include within the definition of customer assistance program the requirement that a monthly CAP payment be set at a level that is affordable for the customer. To qualify as affordable, the payment should be set in accord with the maximum energy burdens listed at 52 Pa. Code § 69.265(2). Sample language is provided below:

> **A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined in 66 Pa.C.S. § 2202 or 2803 (relating to definitions), in which customers make monthly payments based on household income and household size, such payments being affordable and set in accord with the maximum energy burdens at 52 Pa. Code § 69.265(2), and under which customers shall comply with certain responsibilities and restrictions to remain eligible for the program.**

A requirement of this kind is necessary because only if CAP bills are affordable will low income customers have a realistic chance of being able to pay them. Furthermore, a requirement of this kind is necessary if Chapter 14 is to be given reasonable meaning, have each of its sections interpreted and treated in a consistent manner, and have each of its sections interpreted and treated in a manner consistent with 66 Pa. C.S. §§ 2202 and 2803.

It is undisputed that Chapter 14 intends to eliminate opportunities to avoid paying for utility service by individuals *capable of paying*. However, it is also clear that Chapter

14 intends to maintain protections for low income customers *who are not capable of paying at full rates*. This is clearly illustrated by the references to 66 Pa. C.S. §§ 2202 and 2803 in the Chapter 14 definition of customer assistance programs. When with Section 1405(c) the General Assembly eliminated the ability of the Commission to provide payment agreements based upon CAP rates, it must have understood and expected that CAP rates and bills would be affordable for low income families. That is, the General Assembly must have believed that multiple payment agreements would be unnecessary *because* CAP bills would be affordable for low income customers. Depriving the Commission of the power to provide payment agreements based on CAP rates can only be understood rationally if the need for those payment agreements is alleviated by the provision of affordable CAP bills. To hold otherwise would result in an inconsistent and absurd result that the General Assembly clearly would not have intended. The definition of customer assistance programs therefore should clearly reference the affordability standards set forth in 52 Pa. Code § 69.265(2).

"*Dispute.*" PULP respectfully suggests that the term "dispute" requires some modifications to clarify aspects of its meaning and its use within the administrative process of the Commission.

First, PULP respectfully requests that the Commission amend the definition of dispute so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to a dispute by an applicant, customer, or occupant. These important programs are essential to the well-being of low income consumers, and the Commission has a statutory obligation to provide oversight of them. Furthermore, the programs are quite complex to administer, factually sensitive, and often subject to

differences of opinion between participants and utility companies. Given this complexity and the Commission's obligation to provide oversight, informing applicants, customers, and occupants that they have a right to dispute a utility's decision is an important procedural safeguard.

Second, PULP respectfully recommends the Commission make changes to the wording of the definition to clarify a dispute's place within the chain of administrative process. As PULP reads Chapter 56, there may be a four step progression in the "complaint" process before the Commission: a customer makes an initial inquiry with the public utility; where that initial inquiry is not resolved to the satisfaction of the customer, the initial inquiry converts into a dispute; where a dispute is not resolved to the satisfaction of the customer, then the customer may register an informal complaint with the Commission; where the informal complaint is not resolved to the satisfaction of either party, then the dissatisfied party may file a formal complaint with the Commission. To clarify the definition of dispute, PULP respectfully recommends that in two spots within the definition the Commission replace the term "initial contact" with the term "initial inquiry." This change will harmonize the definitions of dispute and initial inquiry and will clarify that a dispute may begin as an initial inquiry.

Third, according to the definition of dispute, the trigger that converts an initial inquiry into a dispute is the level of satisfaction felt by the applicant, customer, or occupant regarding the resolution of the issue forming the basis of their initial inquiry. Therefore, it is important that public utilities carefully discern that satisfaction level. However, at the end of a contact with an applicant, customer, or occupant, a general question by a utility representative, such as "Are you satisfied with this contact?," may be

misleading. It is important that applicants, customers, and occupants understand that their level of satisfaction with the customer service (i.e., was the public utility representative clear, polite, or helpful?) is not the driving meaning behind this question. Rather, the satisfaction that matters regards the resolution of the underlying issue (i.e., did the utility properly follow the standards for utility billing practices?). It is incumbent upon the public utility to ensure that its representative makes this difference clear to the applicant, customer, or occupant during the contact.

PULP provides sample language below to alleviate these issues:

> *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**, the administration of universal service and energy conservation programs,** or the proper party to be charged. If, at the conclusion of an initial ~~contact~~ **inquiry** or, when applicable, a follow-up response, the applicant, [ratepayer] **customer** or occupant indicates satisfaction with the resulting resolution or explanation, the ~~contact~~ **inquiry** will not be considered a dispute. **Public utilities must ensure applicants, customers, and occupants understand that their satisfaction is to be based upon the resolution of their complaint, not with the quality of customer service provided by the public utility.**

"*Household income.*" PULP supports the Commission's inclusion of a definition of household income that excludes a minor's income from being considered part of the household income total. This definition tracks the statutory language which clearly intends to include only the income of adult household members.

"*Informal complaint.*" PULP recommends the Commission alter its definition of informal complaint. The current definition defines an informal complaint as one which is "filed with" the Commission. Since it is current Commission policy to accept informal complaints by telephone (52 Pa. Code § 56.162), wording should be added to clarify that

an informal complaint may be made orally or in writing. Additionally, the definition provided by the Commission only refers to a customer. It is possible and likely that an applicant or an occupant might also make an informal complaint. To capture this aspect of informal complaints, PULP recommends the Commission delete the reference to customer, thereby making the definition of more general applicability. PULP provides the following language for the Commission's consideration:

> ***Informal complaint*– A complaint filed with the Commission, orally or in writing, ~~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.*" PULP respectfully recommends several changes to this definition to clarify its meaning and place within the Commission's administrative process. It appears that the informal dispute settlement agreement is intended to be a resolution that occurs at the dispute stage, prior to any party advancing the issue to the informal or formal complaint stage of the administrative process and prior to the Commission's active involvement in the resolution of the issue. The definition's use of the words "informal" and "claim" seem to obscure this intent because the word "informal" may lead individuals to believe mistakenly that this agreement pertains to an informal complaint, which seems not to be the case, and the term "claim" is not one used in the definitions of dispute or initial inquiry. PULP recommends the Commission use in this definition terms it has defined elsewhere within Chapter 56; this will harmonize the Chapter and make its interpretation easier. Furthermore, it seems important to clarify each party's responsibilities within the interaction. For example, it seems reasonable that the utility is the default party made

responsible for reducing the agreement to writing since the utility is more likely to have the expertise and staff necessary to write such a document properly. Finally, it appears that the Commission's definition inadvertently omits the word "occupant" when listing the parties to whom this definition applies.

To resolve these issues, PULP provides the following sample language:

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

"*Initial inquiry.*" PULP respectfully requests that the Commission amend the definition of initial inquiry so it more clearly reflects that the administration of universal service and energy efficiency programs may be subject to an inquiry by an applicant, customer, or occupant. As PULP noted in its comments above regarding the definition of dispute, universal service and energy efficiency programs are essential to the well-being of low income customers. Given the complexity of these programs and the Commission's obligation to provide oversight of them, informing applicants, customers, and occupants that they have a right to inquire about their administration is an important procedural safeguard. PULP proposes changing the first sentence of the definition of initial inquiry and provides sample language below:

> *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, the administration of universal service and energy conservation programs, or the proper party to be charged.

"*LIHEAP.*" PULP respectfully notes that the current definition for LIHEAP reads "**Low Income Heating Energy Assistance Program**," but it should read "**Low Income ~~Heating~~ Home Energy Assistance Program**."

"*Occupant.*" PULP respectfully requests that the Commission make a minor modification to the definition of occupant by adding the phrase "or requested":

> "*Occupant*—A person who resides in the premises to which **public** utility service is provided **or requested**.

The addition of this phrase will capture the idea that the public utility's relationship with the household can often extend beyond the time when public utility service is currently provided. For example, in situations where a customer loses service and the final bill is past due, the public utility may still have interactions with occupants of the household. Because of this fact, the definition of occupant should be more expansive.

D. BILLING AND PAYMENT STANDARDS

(1) Billing

Section 56.11. Billing frequency. Section 56.11(b)(1) states that a customer must provide the utility with one month's notice if the customer wants to revert from electronic billing back to paper billing. PULP recommends modifying this requirement because there may be circumstances that prevent a customer from giving one month's

notice. For example, if the internet service provider or the provider of e-mail services goes bankrupt, out of business, or experiences unforeseen technical difficulties, the customer will not have the time to provide one month's notice to the utility. PULP provides the following modified language for the Commission's consideration:

> **(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, where such notice is possible.**

Section 56.12. Meter reading, estimated billing; customer readings.

PULP respectfully recommends the Commission amend the final sentence of Section 56.12(5)(i), which refers to occupant. This reference appears to be a generic reference to the new occupant of the dwelling. Given that the word "occupant" has taken on a specific meaning under these regulations, that word choice may now be inapt and confusing. PULP respectfully recommends it be replaced as follows:

> (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**~~ **applicant or customer**, to secure an actual meter reading.

PULP supports the Commission's choice in Section 56.12(7) to require year-round, rolling enrollment into the budget billing program, where this means that at no time in the year would a customer be denied enrollment into the program. Budget billing enables a customer to have fairly consistent bills each month of the year, reducing the

billing volatility caused by seasonal changes in energy use. This facilitates a household's ability to maintain a fairly regular bill amount, appropriately budget, and build a consistent payment history. As such, PULP supports the Commission's introduction of language requiring open enrollment into the program.

Section 56.14. Previously unbilled public utility service. PULP respectfully requests that the Commission eliminate references to the term "payment agreement" in this section. The proposed definition of payment agreement contained in Section 56.2 says that a payment agreement refers to a "liability for *billed* service" (emphasis added). Section 56.14, however, deals with previously *unbilled* service. Therefore, it seems inappropriate and potentially confusing to use the term "payment agreement" to refer to the repayment methodology of Section 56.14. PULP respectfully recommends the Commission use a different term for Section 56.14 repayments. Sample language is provided below:

> 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**~~ **amortize the payments**.
>
> (2) The period of the ~~**payment agreement**~~ **amortization** may, at the option of the [ratepayer] **customer**, extend at least as long as:

Section 56.15. Billing information. PULP respectfully submits for the Commission's consideration two minor clarifications to this section in the sample language provided below:

(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 dispute** ~~**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 **and online at the public utility's website in an easily accessible location**.

Section 56.16. Transfer of accounts. PULP respectfully recommends the Commission include an exception to the rule in this section. The general rule enunciated in Section 56.16(a) is that a customer must provide the utility with seven (7) days notice prior to discontinuing service at a residence. In the absence of this notice, the customer remains liable for services rendered. While this requirement seems reasonable in most cases, there are also certain situations where an exception is reasonable and should be afforded. For example, where a victim of domestic violence is fleeing her abuser, she will clearly and understandably not be of the mindset to notify the utility of the desire to discontinue service. Quite frankly, making this notification might draw the abuser's attention and actually place the victim in physical danger. There are several other reasonable situations that could justify affording an exception to this rule: in association with an unlawful self-help eviction by the landlord where an evicted tenant may not be able to provide proper notice; in a situation of fire or other emergency where a customer may inadvertently fail to provide sufficient notice; in situations of a disabling illness requiring immediate hospitalization or movement without eventual return to the premises. Given these likely possibilities, PULP recommends that the Commission carve out an

exception to this rule that allows an individual to provide good cause to avoid liability for service used after that individual's departure.

(2) Payments

Section 56.21. Payment. Section 56.21(4) concerns the electronic payment of utility bills and reads as follows:

> **(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.**

PULP respectfully recommends that this language inappropriately places on the customer the risks of a failure to electronic systems that are not under the customer's control. For example, a partial or full failure of the bank's systems, of the internet service provider's systems, or of the utility's systems all could lead to the delay or failure of a timely electronic payment made by the customer, often totally unbeknownst to the customer. Under the proposed regulations, the customer could be deemed liable for a late payment made under such circumstances. Furthermore, as a result of an electronic mishap a CAP customer making electronic payments or a customer making electronic payments on a payment agreement could be deemed to have defaulted on CAP or on their payment agreement. This seems unfair and unnecessary. PULP recommends the inclusion of the following language to safeguard against this possibility:

> **(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.**
>
> **(i) Where a customer can establish that a late electronic payment is the result of a failure of the electronic systems not under the**

customer's control, then the utility shall not impose a late fee associated with that electronic payment.

(ii) Where a customer can establish that a late electronic payment is the result of a failure of the electronic systems not under the customer's control, then a customer shall not be deemed to have defaulted on payment, on a payment agreement, or on a CAP payment.

Section 56.22. Accrual of late payment charges. PULP has several comments on particular subsections of 56.22.

PULP respectfully submits that Section 56.22(c) should be altered to make it clear that only denial of access to the meter by the customer can result in the imposition of late fees. Section (c) currently reads:

> (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.

This language is problematic because there are a variety of situations in which utility personnel might be denied access to a meter through no fault of the customer of record. In these instances, an innocent customer should not be penalized for actions not his or her own. For example, where a landlord forbids access to a meter on the landlord's premises, the customer of record should not be penalized with a late fee as a result. PULP respectfully submits the addition of the following language can resolve this potential inequity:

> (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 **by the customer** to the affected premises to obtain an actual meter reading.

Section 56.22(d) provides public utilities with the discretion to waive a late payment charge on any customer's account and confirms the Commission's authority to compel utilities to waive fees for low income customers. PULP supports this subsection. Many low income customers find it exceptionally difficult simply to pay for service, much less added fees. Empowering utilities to waive late fees enables them to relieve some of the burden on these vulnerable customers and, if this discretion is exercised liberally by utilities, may help reduce the number of households without service. Where that discretion is not exercised, the Commission clearly has the authority to compel the waiver and should do so wherever possible.

PULP supports the inclusion of Section 56.22(e), which limits the time frame during which late payment charges may be imposed on an account balance. Once an account is inactive, utility late fees cease to serve a purpose and thereafter become merely punitive in nature, with no bearing on actual costs of collection or providing service. Therefore, such fees are appropriately prohibited by Section 56.22(e).

PULP respectfully submits, however, that Section 56.22(e) is somewhat ambiguous about when an account becomes inactive or, in the words of the regulation, "is no longer actively billed by the public utility." PULP respectfully suggests this problem can be solved with a minor change that harmonizes the language of subsection (e) with other parts of these regulations, such as the definitions of customer and applicant at Section 56.2:

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

E. CREDIT AND DEPOSITS STANDARDS POLICY

PULP respectfully suggests that Section 56.31 (Policy Statement) should be moved so that it appears before the heading "PROCEDURES FOR NEW APPLICANTS." As it is positioned currently, Section 56.31 falls under the heading "PROCEDURES FOR NEW APPLICANTS." However, it appears from the content of Section 56.31 that it applies to both applicants and customers. Therefore, PULP respectfully recommends the Commission move Section 56.31 so that it falls after the heading "SUBCHAPTER C: CREDIT AND DEPOSITS STANDARDS POLICY" and before the heading "PROCEDURES FOR NEW APPLICANTS."

(1) Procedures For New Applicants

Title. As a preliminary point, PULP notes that the title of the first subsection in Subchapter C is "PROCEDURES FOR NEW APPLICANTS." PULP submits that this title may be confusing because it appears from the content of the subchapter that one does not have to be a "new" applicant in order for the subchapter to apply. One could also have applicant status as a result of losing service and having a final bill past due (see Section 56.2's definition of "applicant"). In that instance, the individual would be an applicant but not a "new" applicant. To clarify this ambiguity, PULP respectfully recommends the Commission remove the word "NEW" from the title of the first section of Subchapter C so it reads "PROCEDURES FOR APPLICANTS."

Section 56.32. Security and cash deposits. PULP respectfully submits that Section 56.32 requires a close review by the Commission. First, Sections 56.32(a) and 56.32(b) appear to be updated and very similar versions of Section 56.51 Amount of cash deposit, subsections (a) and (b). Minor differences which do exist are noted here:

1. Section 56.32(a)(1)(iv) and 56.32(a)(1)(vi) both say **public** utility service, whereas the corresponding sections of 56.51(a)(1)(iv) and 56.51(a)(1)(vi) speak only of utility service.
2. Section 56.32(a)(1)(v) refers to "material terms of an informal dispute settlement or payment agreement" whereas 56.51(a)(1)(v) has "material terms of a settlement or payment agreement."
3. Section 56.32(a)(1)(vii) has "including bypassing a meter" whereas 56.51(a)(1)(vii) has "including, but not limited to, bypassing a meter."
4. Section 56.32(a)(1)(viii) has "Violating tariff provisions on file with the Commission which endanger the safety of a person..." whereas 56.51(a)(1)(viii) has "Violating tariff provisions on file with the Commission to endanger the safety of a person...."
5. The final sentence of Section 56.32(a)(2) is "**The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment.**" This sentence is omitted from the parallel Section 56.51(a)(2).
6. Section 56.32(b)(2) requires an applicant with a household income no greater than 300% of the Federal poverty level to pay 1/12 of the applicant's estimated annual bill at the time the city natural gas distribution operation determines a deposit is required. An exception is made for applicants who enroll into the customer assistance program. In the parallel Section 56.51(b), no such exception is made.

Second, while Section 56.32 falls under the heading "Procedures for New Applicants," subsection 56.32(a)(2) reads, in part, "An applicant or customer who is unable to establish creditworthiness...." It is not clear why a reference to a customer is being included in this section. And the same inconsistency can be found in the parallel Section 56.51(a)(2), which should not refer to applicants since the section applies only to customers.

PULP respectfully recommends that the Commission, in order to consolidate regulations and avoid confusion, consider reorganizing Subchapter C. Credit and Deposits Standards Policy so that subsections, specifically "Procedures for New Applicants" and "Deposits," do not duplicate information and so that references to applicants and customers are used consistently.

Section 56.33. Third party guarantor. PULP respectfully submits that the language in this section referring to third-party guarantors is potentially confusing and requires clarification and that the Section 56.33 would be more appropriately position in a general subsection, not in its current position within a subsection applying only to applicants. The problematic passage is included below:

> **This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility.**

The final two sentences of this segment, an almost verbatim quotation from 66 Pa.C.S. § 1404(b)[2], are potentially contradictory. "The guaranty must be in writing and state the terms of the guaranty" seems to suggest that the guaranty instrument can be structured so it limits the guarantor's liability to only those missed payments constituting the security deposit. However, the regulations go on to state, "the guarantor shall be responsible for **all** missed payments owed to the public utility" (emphasis added). This could be interpreted to mean the guarantor is responsible for both missed security deposit payments and any other outstanding balance the customer owes the utility.

That this potential conflict exists in the statutory language is troubling, but the Commission may use this opportunity to introduce clarity through the regulations. It is reasonable to read the language from Section 1404(b) referring to "all missed payments" to mean all missed payments only on the security deposit. This interpretation is reasonable because Section 1404(b) is part of the security deposit section of the statute so

[2] "Nothing in this section shall be construed to preclude an applicant from furnishing a third-party guarantor in lieu of 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." 66 Pa.C.S. § 1404(b).

it makes sense to read it as applying only to security deposits. It is further reasonable because Section 1404(b) specifically states the purpose of the third-party guarantor is to stand in lieu of the cash deposit, not the customer or applicant's entire debt. This interpretation is also sound statutory construction because it eliminates a potential conflict on the face of the statute.

Moreover, the rules governing guarantees for security deposits apply both to applicants and to customers. Section 56.33 is currently positioned in a subsection dealing with only applicants. This should be remedied by adding a reference to customers in Section 56.33 and by relocating the section to a more general subsection of the regulations.

For these reasons, PULP submits the following language for the Commission's consideration:

> ~~**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.**~~
>
> **An applicant or customer may furnish a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty to pay the deposit. The guarantor shall be responsible for all missed security deposit payments owed to the public utility pursuant to the guaranty.**

Section 56.35. Payment of outstanding balance. PULP has comments about several parts of Section 56.35.

PULP supports the Commission's modification of Section 56.35(b)(3), which requires public utility companies to include in their tariffs the procedures and standards they will use to determine an applicant's liability for an outstanding balance accrued at a

residence for which the applicant was not the customer of record. Section 56.35 implements Chapter 14's measures intended to end the so-called "name game" and gives utilities the authority to request from an applicant payment of an outstanding balance that accrued at the residence for which the applicant is seeking service, even where the applicant was not the customer of record but may have been an occupant at the residence when the balance accrued. It is critical that applicants have ready access to the procedures by which utilities make their decisions in this regard because an applicant may be denied service simply on the word of the utility. In particular, the tariffs should include the procedures by which an applicant can challenge the validity of a utility claim that the applicant was indeed an occupant of the residence during the time the outstanding balance accrued. PULP supports the Commission's requirement that these procedures be placed into company tariffs so applicants have the tools they need to safeguard their interests and challenge utility allegations when those allegations are inaccurate.

PULP requests a point of clarification from the Commission regarding Section 56.35(b)(3), which states in part:

> **(3) Public utilities shall include in their tariffs filed with the Commission the procedures and standards used to determine the applicant's liability for any outstanding balance. Any** outstanding residential account with the **public** utility may be amortized ... **in accordance with § 56.191 (relating to the general rule).**

PULP accepts using Section 56.191 as a basis for amortizing outstanding balances, but requests that the Commission provide guidance in how utilities may apply the terms of Section 56.191 to applicants pursuant to Section 56.35. When an applicant is required to pay for service pursuant to Section 56.35, the applicant should be judged based on the

applicant's payment history with the utility, not on the customer of record's payment history.

For example, there may be situations where a customer builds up an arrearage, breaks two or more Commission issued payment agreements, and then has service terminated. Where in the course of reconnecting service the utility attempts to make an occupant of that household responsible for a portion of the outstanding balance pursuant to Section 56.35, the utility should not be allowed to apply Section 56.191(c)(2)(i) and request full payment up front from the applicant (the prior occupant) based on the prior customer's poor payment history. Rather, it should be the applicant's (the prior occupant's) payment history that drives the application of Section 56.191. Section 56.35 should work to require an applicant (the prior occupant) to pay for service s/he enjoyed where the customer of record does not pay; it should not be used to assign blame to the applicant (the prior occupant) for the prior customer's poor payment activity. PULP respectfully requests the Commission clarify that it is the applicant's (the prior occupant's) payment history that drives the application of Section 56.191, not the payment history associated with the outstanding balance or the customer who accrued it.

Finally, PULP suggests that there may be times when it is inappropriate to assign liability to an applicant under this section, particularly when the applicant can establish that it is not a name game situation. PULP recommends that the Commission add to this section some clarification about when exceptions to the rule might apply. For example, it is not infrequently the case that an adult child temporarily stays with a sick and/or dying parent to provide medical care. After the customer/parent's death, the adult child may seek to have service placed into his or her name at the residence. It would be

inappropriate, in this case, to use Section 56.35 to require payment of an outstanding balance from the adult child applicant. PULP requests that the Commission introduce some form of exception to the rule of Section 56.35 so that these kinds of eventualities can be handled.

Section 56.36. Written procedures. PULP has comments about several parts of this section. Initially, PULP notes that the section uses both of the terms "applicant" and "customer." The section, however, falls under the heading dealing with only "applicants." To prevent confusion, PULP respectfully recommends the Commission move Section 56.36 so that it falls after the heading "SUBCHAPTER C: CREDIT AND DEPOSITS STANDARDS POLICY" and before the heading "PROCEDURES FOR NEW APPLICANTS."

PULP supports the Commission's requirement that utilities must include in their tariffs their credit and application procedures along with their credit scoring methodology and standards. By requiring these procedures to be included in tariffs, the Commission will ensure they receive proper scrutiny by advocates and the Commission itself. Inclusion in the tariff also will make these procedures more accessible to residential customers, the customer class most likely to be affected detrimentally by these policies and procedures.

PULP supports the Commission's decision to require multiple forms of publication of these procedures at Section 56.36(b). PULP respectfully asks the Commission to clarify that these procedures should be made available on the company website in a standalone section in addition to being included within the company's tariff posted on the website:

> "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 web site in an easily accessible location**."

These procedures for establishing creditworthiness and for determining responsibility for unpaid balances are important to customers. The balance of power in these situations lies heavily in favor of the utility in making decisions about identity and credit status. The applicant who can not afford a security deposit or pay an outstanding balance remains without service while she contests an improper identification or assessment of poor credit. It is critical that she have easy access to the policies and procedures the utility uses in making these decisions so she can quickly challenge the utility assessment. By making these policies and procedures easily available on the website in a standalone section, not just buried within the tariff, the Commission will help equalize the balance of power and will better inform and protect customers.

PULP supports the Commission's inclusion of Section 56.36(b)(1). In particular, PULP supports the requirement that utilities provide to applicants and customers the facts and rationale for the denial of creditworthiness or the assignment of responsibility for an outstanding balance. However, PULP respectfully submits the Commission should go further in the kinds of information it requires utilities to provide in these situations. The proposed regulations do not obligate utilities to provide applicants with specific information about their right to dispute with the utility the denial of creditworthiness or how they may appeal the utility decision before the Commission. The proper time at which to inform an individual about an appeal right is at the time the right is potentially

infringed upon. Therefore, PULP respectfully requests the inclusion of the following language:

> **Section 56.36(b)(1)(a)**
>
> **At the time a utility denies creditworthiness or assigns responsibility for an outstanding balance, the utility will provide the applicant with a notice including the following language: "If you are dissatisfied with the utility's decision regarding creditworthiness or responsibility for an outstanding balance and you have informed the utility of your dissatisfaction, then you have the right to file an informal complaint with the Public Utility Commission 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."**

Section 56.37. General rule. PULP respectfully requests clarification from the Commission on how the three (3) day time limit in this section reconciles with the reconnection timing requirements at Section 56.191 and those at 66 Pa.C.S. § 1407. Section 56.37 states:

> **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.

In situations where an applicant is seeking to restore service, Section 56.191 and Section 1407 provide different time frames than the three day time frame in Section 56.37. It is unclear which time frame will apply. PULP respectfully requests clarification on this point from the Commission.[3]

[3] PULP's argument rests on the assumption that the Commission accepts PULP's prior argument that the

Section 56.38. Payment period for deposits by applicants. For reasons PULP will explain in the Comments to Section 56.42, PULP respectfully recommends eliminating section 56.38 in its entirety.

(2) Procedures for Existing Customers

Section 56.41. General rule. PULP respectfully recommends the elimination of the word "informal" in the two spots it appears in Section 56.41(3) as shown below:

> (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.

This recommendation follows from the comments made in association with the definition of "informal dispute settlement agreement" under Section 56.2 above.

Section 56.42. Payment period for deposits. PULP respectfully observes that the Commission's statement in Attachment One to its Chapter 56 Order regarding the payment of security deposits is at odds with the proposed regulations at both Sections 56.38 and 56.42. PULP respectfully recommends the Commission correct this problem by adopting the standard enunciated in Attachment One, a standard which is simpler, more easily implemented by practitioners, and which provides a single standard for security deposit payment.

The Commission in Attachment One states:

> 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

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word "new" should be removed from the heading of this sections, thereby rendering the section applicable to both new applicants and applicants who had been prior customers of the public utility.

> 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 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.

Chapter 56 Order, Attachment One, at 21-22. Unfortunately, the proposed regulations do not meet the Commission's stated goal in two ways. First, the proposed regulations continue to treat security deposits in a "complex and confusing manner:" there are different sections for customers and applicants, Section 56.38 and Section 56.42; there are three different payment periods enunciated, one in Section 56.38 and two in Section 56.42; there are different standards for reconnections versus new applications. Secondly, neither the proposed regulations at Section 56.38 nor those at Section 56.42 actually use the language provided by the Commission in Attachment One.

Given the Commission's clearly stated preference in Attachment One for the simplicity and clarity of a single payment structure for all parties, PULP recommends the regulatory language should directly reflect the Commission's intent. Furthermore, given the Commission's stated desire to have a single standard for all parties, PULP recommends the Commission eliminate Section 56.38 and relocate Section 56.41 from the subsection dealing exclusively with existing customers into the "Cash deposit" section, a subsection of general applicability.

PULP provides the following sample language based upon the Commission's Attachment One:

> ~~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 or applicant** 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.~~ **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).**

(3) Cash Deposits

Section 56.51. Amount of cash deposit. PULP has several comments regarding this section. PULP respectfully requests that the Commission refer to the discussion above of Section 56.32(a), recommending a clarification of the regulations on cash deposits.

PULP also submits that Section 56.51(a)(1)(iii) requires some clarification. The subsection permits utilities to require a cash deposit where there was a service termination resulting from the utility being denied access to the meter or service connections. This language is problematic because there are a variety of situations in which utility personnel might be denied access to a meter through no fault of the customer of record. In these instances, a customer should not be penalized for actions not his or her own. For example, where a landlord forbids access to a meter on the landlord's

premises or where the meter is in a common area over which the customer has no exclusive control, the customer of record should not be penalized with the assessment of a security deposit as a result of the utility's inability to access the meter. PULP respectfully submits the addition of the following language can resolve this inequity:

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

Section 56.53. Deposit hold period and refund. PULP supports the Commission's inclusion of a section that lays out clear rules for how long a security deposit may be held. PULP respectfully recommends the addition of the following language: "**(a) A public utility may hold a deposit until a timely payment history is established or for a maximum period of 24 months, whichever is shorter.**" This will clarify that a customer can receive back a security deposit by achieving a sound payment history and so should encourage good bill payment.

F. INTERRUPTION AND DISCONTINUANCE OF SERVICE

Section 56.72. Discontinuation of service. PULP respectfully requests that the Commission strengthen the provisions at Section 56.72(1) regarding a customer's residence. PULP is concerned that some less sophisticated customers may not understand the gravity of confirming that other customers of record agree to a discontinuation of service. Strengthening that language will highlight the gravity of the situation.

Additionally, the regulations propose reducing the notice period for discontinuance of service from 10 to 3 days. There is no good policy basis for reducing this notice period and ample reasons for maintaining the 10 day notice requirement.

Chapter 14 sets the notice period for involuntary terminations at 10 days. 66 Pa. C.S. § 1406(b)(1). Discontinuance of service absent affirmative consent of all occupants is comparable to involuntary termination. An occupant of a household where discontinuance has been requested may be totally unaware of the proposed discontinuance and may be totally unprepared to move or secure alternative service in his or her name. These individuals should have a full 10 day notice to deal with the impending loss of service.

Domestic violence situations provide a perfect illustration of the need for 10 day notice. It is not uncommon for an abuser who has been removed from a residence, either through the action of the victim or through the intervention of the courts, to seek to have utility service that is in his name discontinued to that residence as a means of continuing his abuse upon the victim. Victims of abuse are under extreme physical and emotional stress, and 3 days may simply be insufficient time within which to resolve this situation. Under PULP's recommendation, the victim of abuse still residing in the premises would have a 10 day notice of the attempted discontinuance of service and have ample time to secure service in her own name.

Given these facts, it seems ill advised to reduce the notice provisions associated with discontinuance of service, particularly given that no party has openly or actively petitioned the Commission for this reduction in notice and no public policy rationale has been put forth supporting such a reduction. PULP respectfully offers the alternative language below for the Commission's consideration:

> (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. 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. If consent by all occupants is not provided, the public utility, at least ~~3~~ 10 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises. When the customer has falsely stated consent has been given, the customer shall be responsible for payment of utility bills until the public utility discontinues service.**
>
> **(2)(ii) [Where] When** the conditions set forth in subparagraph (i) have not been met, the **public** utility, at least **~~[10] 3~~ 10** days prior to the proposed **[termination] discontinuance**, shall conspicuously post notice of termination at the affected premises.

G. TERMINATION OF SERVICE

(1) Grounds For Termination

Section 56.83. Unauthorized termination of service. PULP respectfully submits that the Commission should clarify Section 56.83(4). The section prohibits termination of service without prior Commission approval for:

> (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.**

In its proposed form, Section 56.83(4) might be read to mean that a child occupant, upon reaching maturity and requesting to have utility service placed in his or her name, could be held responsible for the delinquent account of a parent. PULP respectfully submits that it is unlikely the General Assembly, the Commission, or public utilities intend for

this section to apply where the occupant was a minor at the time the delinquent balance accrued. This would unjustifiably visit the sins of the parents on the children. Therefore, PULP respectfully requests that the Commission insert the word "adult" immediately prior to the word "occupant" in Section 56.83(4) to prevent the possibility of the misinterpretation of the term "occupant."

Section 56. 91. General notice provisions and contents of termination notice. PULP has several comments and requests for clarification regarding Section 56.91(b), which sets out the required elements of a termination notice.

PULP respectfully submits that Section 56.91(b)(6) is unclear in parts and could benefit from some slight changes in its language. PULP submits the following language for the Commission's consideration:

> **(6) A statement that the customer shall immediately contact the public utility to attempt to resolve the matter. ~~, including~~ The statement shall include the address and telephone number where questions may be ~~filed~~ asked, where payment agreements may be negotiated and entered into with the public utility, and ~~questions and~~ where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility.**

Subsection (b)(10) deals with notices sent to low income households, including information about the household's responsibility to document with the utility pertinent household information. PULP respectfully submits that it is not reasonable for a low income household to resubmit information to a utility where the household has submitted this information to the utility in the past and the information has not changed. To clarify that a utility may not require the submission of redundant information from the low

income household, PULP recommends the inclusion of the following phrase at the end of Section 56.91(b)(10):

> **(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the federal poverty guidelines by household size, the protections available to customers at or below 250% of the federal poverty line, and the required documentation or information the customer shall supply to avoid termination, unless this information has already been submitted to the utility and has not subsequently changed within the past 12 months.**

Section 56.91(b)(12) requires utilities to provide in their termination notices language telling customers of the special protections available to tenants, including protections associated with foreign load and protections associated with the discontinuation of service for leased premises. PULP respectfully recommends that it would be helpful for customers if the termination notices, in addition to telling customers to contact the utility about these protections, also directed customers to the specific statutory cite. This would enable customers to better and more easily identify the statutory basis for their rights.

PULP submits that Section 56.91(b)(14) needs to be clarified. This section requires utilities to include in termination notices information telling recipients that all adult occupants who have been living at the premises where service is shut off may be required to pay all or portions of the bill to have service restored. This is a somewhat inaccurate statement. Adult occupants of the premise are responsible only for the delinquent amounts that accrued during the time of their residency and only that accrued at that premises for which they are seeking service. See 66 Pa.C.S. § 1407(d). PULP

respectfully requests the Commission include the following language in subsections (14) to make this clear:

> **(14) Information indicating that if service is shut off, any adult occupant who has been living at the premise may, in order to have service restored to that premise, have to pay all or portions of the bill that accrued while they lived there ~~to have service restored~~.**

Finally, PULP requests that another subsection be added to 56.91 informing customers that they retain customer status until the final bill is past due. This arcane bit of knowledge is almost certainly unknown to anyone other than Commission staff and practitioners. Yet, this information is important and may goad customers into acting promptly after a termination occurs. As such, PULP respectfully requests the Commission to include the following:

> **(20) Information indicating that customers retain their status as a customer until the final bill is past due. Once the final bill is past due, customer status and important rights may be lost.**

Section 56.92. Notice when dispute pending. PULP respectfully submits that this section requires clarification from the Commission. Section 56.92 prohibits the mailing of termination notices to households where a dispute is pending and where the termination is concerned with the subject matter under dispute. However, it is somewhat unclear what exactly constitutes a "dispute." There appear to be four ways in these regulations in which a customer can voice and resolve a problem with a utility: an initial inquiry, a dispute, an informal complaint, and a formal compliant. It is unclear whether all of these are disputes. In other words, does the dispute process include inquiry, dispute, informal complaint, and formal complaint? Or is a dispute somewhat narrower?

Given other sections of the regulations, PULP holds that there is reason to believe Section 56.92 is using the term dispute in a more general fashion so that it includes the process from initial inquiry, dispute, and informal complaint through the formal compliant. For example, Section 56.140 has a prohibition analogous to the one in Section 56.92. At Section 56.140, the Commission prohibits utilities from terminating or threatening to terminate service based on the subject matter constituting an initial inquiry until the customer receives a response to that inquiry or until a subsequent dispute resolution is completed while inquiry is pending.

PULP respectfully submits that the Commission should change the language in Section 56.92 as set forth below to clarify this situation:

> **§ 56.92. Notice when inquiry, dispute, informal complaint or formal complaint 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~~ **during the pendency of an inquiry, dispute, informal complaint, or formal complaint proceeding** if the subject matter of the ~~dispute~~ **proceeding** forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

Section 56.93. Personal contact. PULP supports the Commission's clarification about what constitutes appropriate telephone contact in the context of notification for termination, particularly Section 56.93(b), which makes clear that "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." This regulation will ensure calls are placed at more various times when a customer might actually be home to receive the call and act on the information provided.

Section 56.94. Procedures immediately prior to termination. PULP supports the Commission's substantially maintaining Section 56.94(1) in its historical form, prohibiting the completion of a termination where, at the time of termination, utility personnel make personal contact with the customer and the customer makes payment, makes known the existence of a serious illness or a medical certificate, or disputes the termination. This is a critical aspect of preventing terminations and protecting the health and welfare of customers. Even with notice procedures, for whatever reasons, it is possible for a customer to be unaware of or unable to stop a termination until the moment of termination. Section 56.94 serves as the final safeguard enabling customers to prevent service loss. PULP supports its inclusion in these proceedings.

It is important to note that in order for this regulation to have any real meaning, utilities must empower their personnel conducting terminations to accept payments, register disputes, and stop terminations. Utilities may frustrate the benefits of this regulation by simply denying their personnel this authority. The Commission should strongly encourage utilities to fully empower their workers to take all steps necessary to accept payments at the time of termination as a means of stopping the termination.

Section 56.95. Deferred termination when no prior contact. PULP supports Section 56.95 as an important safeguard to customers during the winter months; however, PULP respectfully requests a slight rewording of the section so that it achieves what PULP thinks is its real purpose. This section traditionally has held that, where no personal contact with a customer or responsible adult occupant has been made regarding an impending termination, then the utility personnel must post a termination notice at the residence at least 48 hours prior to the date of the termination. This gives a customer two

days to resolve the issue and avoid the termination. PULP supports this traditional reading.

The new proposed wording at Section 56.95, however, says a utility must post a notice, "**within 48 hours of the scheduled date of termination.**" This wording, rather than ensuring the posting must be done at least 48 hours before the date of termination, requires the posting take place within the two days before the termination. The General Assembly could not have intended such an absurd result, and PULP believes this language is not the result of an intentional policy change. PULP respectfully provides the following alternative language:

> **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, at least 48 hours prior to the date of the proposed termination a public utility shall~~, within 48 hours of the scheduled date of termination,~~ post a notice of the proposed termination at the service location.**

PULP also respectfully submits that the Commission can improve this section by specifying the content of this required posting as it does for other notice sections of these regulations. For example, Sections 56.93(d) and 56.96 both mandate that the notices adhere to the requirements at Section 56.91. PULP recommends the Commission achieve that same clarity by including a subsection (a) with the following language:

> **(a) The posted notice shall substantially reflect the requirements of § 56.91 (relating to the general notice provisions and contents of a termination notice).**

Section 56.97. Procedures upon customer or occupant contact prior to termination. PULP respectfully submits several comments about this section.

First, PULP requests the Commission make a single deletion from the wording of Section 56.97(a)(2)(ii) as follows: "(ii) Entering a **[settlement]** ~~**informal**~~ **dispute settlement agreement** or payment agreement." As PULP presented for the definition of informal dispute settlement agreement earlier in these comments, the term "informal" may be confusing. Its elimination removes this risk and harmonizes the term with other definitions in Chapter 56.

Second, PULP supports the Commission's inclusion of Section 56.97(a)(2)(iii), which requires utilities prior to termination to inform customers that they can stop a termination by paying what is past-due on their most recent company negotiated or Commission issued payment agreement. This section provides an important tool to customers by allowing customers to cure their defaulted payment agreements. Allowing customers to cure defaulted payment agreements recognizes that sometimes temporary events occur which could cause an otherwise good paying, low income customer to fall off track and miss some payments. Cures allow these low income customers to resolve the temporary problem, catch up on missed payments, and continue their history of good payment. PULP supports the inclusion of cures in these regulations.

Third, PULP supports the Commission's inclusion of Section 56.97(a)(2)(iv), which requires utilities prior to termination to inform customers that they can avoid termination by enrolling into the utility's customer assistance or universal service programs if they are eligible. These programs are the primary way that low income households can maintain service after having become payment troubled and fallen behind on their bills. Because these programs are the most important tool for low income customers, PULP supports the Commission's decision to require utilities to notify

customers of their existence and to help customers enroll into them prior to terminating service.

Section 56.98. Immediate termination for unauthorized use, fraud, tampering or tariff violations. PULP respectfully submits that the notice provisions associated with this section are insufficient, and the Commission should expand them. The basis for an immediate termination is often an unchallenged allegation by the utility against the customer, with no chance prior to termination for the customer to defend himself or state his side of the story. Where the utility is in error, it is possible that the first time the customer even has an indication that there is a problem is when he returns to his home to find it without service.

Section 56.98(b) only requires the utility to make a good faith attempt at providing post termination notice. There is no requirement to physically post the house with notice after the termination and no requirement to contact the customer by mail.[4] Therefore, if the customer is not present at the time of termination (probably it happens during business hours so this is not a stretch of the imagination), the customer simply will come home to no service.

At a minimum, the utility should be required to post a notice physically at the residence at the time of termination. This notice should instruct the customer that a termination happened, why it happened, and how to rectify it. This notice should also provide information on how to petition the Commission for expedited assistance if the customer disagrees with the utility's allegation of unauthorized use, fraud, tampering, or tariff violations. It simply is a matter of due process that a customer at least has this

[4] Only where the residence is a single meter, multifamily dwelling is there a requirement to physically post the residence. See 52 Pa. Code § 56.98(b).

information so the customer can rectify incorrect allegations and the incorrect terminations that flow from them. Given that utility personnel are already at the premises to conduct the termination, this requested posting of the premises after the termination is completed is not unduly burdensome or costly to the utility. Therefore, PULP respectfully requests the Commission alter the language of Section 56.98(b) as follows:

> **(b) Upon termination, the public utility shall make a good faith attempt to provide a posttermination notice to the customer or a responsible person at the affected premises, and, ~~in the case of a single meter, multiunit dwelling~~ where such personal notice fails, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.**

Section 56.100. Winter termination provisions. PULP has several comments about parts of Section 56.100.

It is of significant concern that, within the proposed rulemaking, the Commission has retained a distinction between heat-related and non-heat-related service within the winter termination process. This is contrary to Chapter 14 and to sound public policy.

Chapter 14, 66 Pa.C.S. §1406(e), makes no distinction regarding heat or non-heat service within the winter termination provisions for electric distribution utility and natural gas utility distribution company customers at or below 250% of the Federal poverty level. It states:

> Unless otherwise authorized by the commission, after November 30 and before April 1, an electric distribution utility or natural gas utility shall not terminate service to customers with household incomes at or below 250% of the Federal poverty level except for customers whose actions conform to subsection (c)(1). The commission shall not prohibit an electric distribution utility or natural gas distribution utility from terminating service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

Winter protections pursuant to Chapter 14 protect all electric and all gas customers meeting its qualifications. The protections make no distinction regarding the use or purpose of the service. The Commission has recognized that this is a change from section 56.100 practice prior to enactment of Section 1406(e). In its *Second Implementation Order,* the Commission noted that, unlike the existing Chapter 56 provisions, Chapter 14 did not make a distinction between heat-related and non-heat-related service in regard to winter termination. In its Advanced Rulemaking, the Commission proposed to eliminate this distinction. See *Proposed Rulemaking Order*, Att. 1 at 33. However, contrary to the clear language of the statute and contrary to recognition by the Commission in its *Second Implementation Order* of this significant change, this outdated distinction between heat- and non-heat-related service remains in the winter termination provisions.

The retention of the distinction is also contrary to public policy and safety. Electric service, for example, is generally an essential component for the operation of heating systems fueled by oil or natural gas. The heating furnace is unable to function without electric service and therefore loss of electricity is a de facto loss of heat. Loss of heat in winter creates imminent peril. It is precisely the avoidance of this peril which the statute addresses through a prohibition against termination, regardless of the nature of the electric or gas service.

The Department of Public Welfare (DPW) has long recognized the essential nature of non-heat related electric service in winter. For decades, DPW has provided LIHEAP Crisis grants to those income eligible applicants who have lost or are in danger of losing electric service. DPW considers electric service not primarily used for heating

as a secondary heat source, as opposed to a primary heat source. Because of the critical nature of electric service in relation to enabling a furnace to function, Crisis grants are provided to non-electric heating customers.

To accurately reflect §1406(e) and to ensure the safety of low-income households, proposed Section 56.100(b) regulation should be amended as follows:

> **(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.**

PULP strongly endorses the Commission's decision in Section 56.100(a) to prohibit water distribution companies from terminating water service during the winter months. It is clear from Chapter 14 that only electric distribution companies and natural gas distribution companies were intended to have different winter termination rules as a result of Chapter 14. See 66 Pa.C.S. § 1406(e)(1) which refers only to electric distribution companies and natural gas distribution companies. Because water distribution companies are not specifically cited in Chapter 14 for this special winter treatment, the old Chapter 56 regulation completely prohibiting winter terminations should still apply. PULP supports the Commission's decision not to change these Chapter 56 provisions as they apply to water companies.

PULP respectfully submits that the arguments provided above relating to Section 56.98 hold even more strongly to Section 56.100(b) permitting immediate terminations in

winter. If, as some parties have argued and the Commission seems to have accepted, Chapter 14 permits winter terminations without prior notice in situations where there is an allegation of unauthorized use, fraud, tampering or tariff violations, then it is incumbent upon the Commission to put into place sure measures that enable customers quickly to challenge these terminations where the utility allegation is unfounded and/or inaccurate. It is unconscionable for a customer to go without essential utility service during the winter because of a mistaken allegation by a utility, particularly where the customer has no process for challenging that allegation prior to the actual utility termination. Therefore, PULP respectfully requests the Commission has in place and requires utilities to have in place expedited procedures for hearing customer complaints about immediate terminations pursuant to Section 56.100(b).

PULP respectfully requests the Commission make minor changes to the language in 56.100(e) to strengthen protections for low income customers. Low income households enjoy certain protections from service termination during the winter months. Section 56.100(e) places the burden upon utilities to determine household income levels before terminating service during the winter months. The Commission states that utilities are to use their information on hand in identifying accounts not to be terminated during the winter (i.e. low income households). To ensure that utilities have the most up-to-date household information in their records and to ensure utilities are most likely to base their winter termination decisions on reliable information, PULP encourages the Commission to strengthen the language in Section 56.100 so that utilities are obligated to ask about household income information at every possible opportunity. If the Commission is going to rely on utility information to ensure that low income customers receive protection, then

the Commission should do everything in its power to ensure utilities are collecting this information at every opportunity. Therefore, PULP submits the following changes to Section 56.100(e) for the Commission's consideration:

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

PULP also supports the Commission's decision to include in the Section 56.100(i) winter survey three reports, one on December 15, an update on January 15, and a final update on February 15. The winter survey contains critical information about how many households go without service during the winter and about the kinds of alternative heating techniques families use. It provides the Commission and policymakers with much needed information with which they can make informed decisions. Therefore, PULP supports the inclusion of Section 56.100(i) in these regulations.

Finally, PULP supports the inclusion of Section 56.100(j) concerning the reporting by utilities of deaths at locations where public utility service was previously terminated, particularly given that the Commonwealth has once again this year experienced fatalities in households where utility service was previously terminated. This reported information is essential to an objective and thorough analysis by the

Commission, the General Assembly, interested stakeholders, and the public as Chapter 14 is reviewed periodically.

While PULP strongly supports the effort to obtain this information, it is respectfully submitted that this section requires further modification. PULP recommends the inclusion of a requirement to report serious injuries; that the Commission clarify that the requirement for these reports applies regardless of the date of termination or the date of the serious injury or death; and that the section be amended to delete language prohibiting the availability of the information within the reports to public review and judicial use.

PULP continues to assert, as it did in its Comments to the Advanced Notice of Proposed Rulemaking, that utilities should be required to report to the Commission anytime they are aware of a death or serious injury following a termination of utility service. Service terminations are at high levels. Deaths and serious injuries as a result of fire, hypothermia, hyperthermia, asphyxiation, or other causes can be a tragic reality and consequence of utility terminations. Visitors and neighbors to the service-terminated household may also be affected. Although much attention is justifiably and properly focused on termination-related deaths, the responsibility of the Commission to protect the health and welfare of Pennsylvania citizens is one which requires a broader data base beyond just death-related incidents. We therefore recommend including "serious injuries" within the report.

Reporting an event only if and when a utility becomes 'aware' of it sets an indefinite and unreliable standard. PULP respectfully requests that the Commission require that utilities develop a specific plan to ensure that they obtain current and

comprehensive information from reliable sources within their service territory such as fire departments, health clinics, or hospitals.

Termination-related deaths and serious injuries may occur at any time and should be reported year-round

PULP submits that all proposed language that would keep these reports from public view or preclude them from use in a court of law be deleted. As PULP has previously stated, the information contained in these reports should be available to the public and to Commonwealth policymakers as well as to the Commission. For an objective review of implementation, the policies, and the impact of Chapter 14, this information is relevant and necessary. Information concerning serious injury and death is critical to a fully considered evaluation, and that information should not be barred from public scrutiny.

PULP is equally concerned about the inclusion in the proposed rulemaking of a prohibition regarding the use of these reports by the judiciary. The Commission's proposal to bar the reports from being admitted into evidence in a court of law would appear to usurp the prerogative of the judiciary to determine the relevant contents of the factual record before it. PULP, therefore, respectfully requests that the Commission modify proposed Section 56.100(j) through deletion of the final sentence:

> (j) *Reporting of deaths <u>or injuries</u> 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 <u>or hyperthermia</u>, or carbon monoxide poisoning that resulted in a death <u>or injury</u> 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.~~

(2) **Emergency Provisions**

Section 56.111. General Provision. PULP supports the Commission's inclusion of Section 56.111. The Commission has clarified in this section several important aspects of the emergency provisions that have been contested since the passage of Chapter 14. PULP supports the Commission's clarification that medical certificates stop terminations and are sufficient to require the restoration of terminated service. PULP supports the Commission's clarification that medical certificates apply to customers, applicants, and members of the applicant's or customer's household. PULP supports the Commission's clear statement that the medical determination is solely the medical practitioner's, not the utility's. And, finally, PULP supports the Commission's clear and affirmative statement that utilities may not impose qualification standards for medical certificates other than those in this Section 56.111.

It is clear that the Commission has established in Section 56.111 a strong, expansive, and effective policy around medical certificates. This policy recognizes that the customers' health and welfare is the paramount concern and that medical professionals are the parties best suited to evaluate medical concerns. PULP supports the Commission in establishing this progressive and thoughtful regulation.

Section 56.114. Length of postponements; renewals. PULP supports the Commission's amendments to Section 56.114. The Commission has made an important clarification in Section 56.114(2):

> 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.**

This clarification establishes that the elimination of arrearages associated with a defaulted medical certificate enables a customer to apply for and receive another medical certificate on another set of arrearages. In essence, as with a payment agreement, see Section 56.97(a)(2)(iii), customers can now cure defaulted medical certificates. This is a reasonable amendment for the Commission to make because it provides flexibility and compassion in the face of inability to pay caused by medical problems. This policy also recognizes that households, particularly low income or elderly households, may suffer multiple debilitating illnesses over time. Allowing these households to access multiple medical certificates recognizes this reality.

PULP respectfully requests that the Commission make one expansion to the existing policy. It is reasonable to assert that there are two types of illness or medical condition that can lead to the use of medical certificates: short-term or time-limited conditions and chronic conditions. In the case of chronic conditions, it seems reasonable for utilities to develop policies that involve less frequent than monthly recertification. It would be less difficult administratively for the utility and less burdensome on the sick

customer and the customer's medical professional to have a quarterly or less frequent recertification process where it is likely the illness will be protracted.

Other jurisdictions have adopted this kind of practice for chronic illnesses, and it has proven both manageable and helpful for utilities and customers. For example, the Massachusetts Department of Public Utilities allows renewals quarterly for customers with a serious illness and every six (6) months for customers with a chronic illness. Massachusetts also includes physician's assistants along with licensed physicians and nurse practitioners as allowable medical personnel for issuing medical certificates. This process reduces the cost, time, and annoyance of administering medical certificates for customers, utilities, medical professionals, and the Commission.[5]

Given this, PULP respectfully asks the Commission to include the following subsection:

> **(3) *Chronic illness.* Public utilities shall maintain procedures that allow customers suffering from chronic illness to recertify at 6-month intervals. A diagnosis of chronic illness is to be under the sole determination of the physician or nurse practitioner.**

Section 56.116. Duty of customer to pay bills. PULP supports the Commission's emendation of Section 56.116. The Commission clarifies that a customer or applicant with a medical certificate retains a duty to make payments on current undisputed bills. This reasonable policy recognizes that customers and applicants

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5 (4) Renewal of Certification.

In all cases where service is continued or restored pursuant to a claim under 220 CMR 25.03(1), the customer shall renew the financial hardship form quarterly. If the financial hardship is shown to be ongoing for the period, November 15th to March 15 , renewal shall be waived for that period. However, the provisions of 220 CMR 25.03(3) shall govern where certification of financial hardship occurs due to participation in a fuel assistance program the prior winter.

Certifications of serious illness shall be renewed quarterly, except that where illness is certified as chronic, the serious illness certificate shall be renewed every six months.

Certification of infancy shall remain in effect without renewal until the child reaches 12 months of age. 220 CMR 25.03(4).

requiring medical certificates often have their lives disrupted by their illness, often resulting in decreased or sporadic income. By requiring payment on only the current bills, the Commission recognizes this disruptive nature of serious illness and allows customers to wait until after their illness or condition is corrected to resolve past due amounts, amounts associated with a payment agreement, or amounts associated with settlements. PULP supports the Commission's reasonable and equitable approach.

Section 56.117. Termination upon expiration of medical certificate. PULP respectfully suggests that Section 56.117 requires revision. The regulation currently reads:

> 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.

PULP respectfully suggests that when the initial and renewed medical certificates have expired, it is unreasonable to begin the termination process where it left off. Depending on the nature of the illness or medical condition, months or years can pass between the time of the initial medical certificate submission and the expiration of the original certificate or renewal certificate. It is unreasonable to expect customers to remember where the termination process stood at the time of their initial submission of a medical certificate. It is not particularly burdensome for the utility to begin the termination process at the written notice stage so that the customer can have a written explanation of the state of their account, with the detailed enumeration of the content of their bill. PULP

encourages the Commission to consider requiring the termination process to begin over rather than picking up at Section 56.93.

H. DISPUTES; TERMINATION DISPUTES; INFORMAL & FORMAL COMPLAINTS

Section 56.142 Time for filing informal complaints. PULP respectfully recommends that this section should be modified slightly for clarity's sake by removing one repetitious phrase as listed below:

> 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.

Section 56.163. Commission informal complaint procedure. PULP respectfully requests that the Commission clarify the time frame by which an informal complaint decision must be issued by the Bureau of Consumer Services. Currently, the only guideline in the regulations is that Commission staff will issue a decision on informal complaints in a "reasonable period of time." In cases in which service has been terminated, the need for the issuance of an expedited decision for informal complaints is of greater consequence than in other cases and essential to protecting the health and well-being of the household. PULP respectfully requests that the Commission clarify this

standard either with a specific time period or with a range of times to address the differing circumstances.

PULP also requests clarification regarding the terms of settlement under Section 56.163(2). The proposed regulations have eliminated some language and are difficult to fully understand, reading as follows:

> (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] that all parties understand the terms of the settlement and mark the informal complaint as closed.**

In prior regulations, it was clear that these settlement agreements would be reduced to writing by the Commission; under the proposed regulations it is unclear whether settlements are reduced to writing, which party is responsible for reducing the settlement to writing, and whether the document will be filed in some way with the Commission or somehow stored at the Bureau of Consumer Services. PULP respectfully offers the following language to clarify these points:

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

Section 56.164. Termination pending resolution of the dispute. PULP respectfully recommends that the Commission consider implementing some form of emergency expedited hearing in instances of public utility allegations of unauthorized use of utility service. Section 56.164 reads:

> 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.

PULP recognizes the Commission's concern that the unauthorized use of public utility service may place human life and personal property in harm's way. However, PULP also respectfully asks the Commission to recognize that public utility companies do make mistakes, and that public utility companies may have indeed made incorrect allegations of unauthorized use in the past. When a public utility mistakenly alleges a customer is engaging in unauthorized use and proceeds to terminate that customer's service without any substantive notice, that customer may face the same kinds of dangers to person and property that unauthorized use itself imposes.

The Commission can rectify this problem by instituting expedited procedures that quickly allow a customer accused of unauthorized use to challenge the public utility's allegations. These expedited procedures should include a guaranteed hearing before an Administrative Law Judge within no more than 72 hours after the initiation of a complaint by the customer. During the pendency of this procedure, the public utility should be required to reconnect utility service. If the Commission does not support reconnecting service during the challenge to the utility's allegations, then PULP recommends that, at a minimum, the Commission should guarantee that its own processes occur within 24 hours of the complaint being filed.

The loss of essential utility service creates a clear hardship to the customer. The Commission cannot award compensatory damages to a customer who, wrongly accused of unauthorized use, loses utility service and as a result suffers personal or property losses. Given this inability, the Commission should do everything in its power to prevent or mitigate damages that customers may suffer as a result of the loss of service based on a wrongful allegation by the utility company of unauthorized use.

Section 56.173. Review from informal complaint decisions of the Bureau of Consumer Services. PULP respectfully recommends that the Commission clarify or, if necessary, reconsider the change it proposes to Section 56.173(a):

> (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] law judge or special agent[:].**

It is unclear why the Commission proposes removing a requirement that appeals from informal complaints be heard de novo by an Administrative Law Judge or special agent. With the removal of this explicit requirement, the Commission opens the door for the possibility that complaints filed from BCS decisions are considered appeals from that decision. It is PULP's understanding that this is precisely what the removal of the words "Appeals from" and the substitution of the words "review of" was intended to avoid. In addition, this change conflicts with exactly what is proposed in ability to pay cases by the amended Section 56.174(c).[6] It would appear unlikely that removing the de novo hearing before an Administrative Law Judge or special agent in all cases other than ability to pay cases was the Commission's intent. PULP asks the Commission to correct this inconsistency by reinstating the words "de novo" prior to "law judge or special agent."

[6] PULP also objects to proposed Section 56.174 but will deal with those objections later in the comments.

Should it have been the Commission's intent to eliminate the opportunity to have a de novo hearing before an Administrative Law Judge or special agent, then PULP strongly disagrees with this change in policy and respectfully requests that the Commission reinstitute the requirement that appeals from informal complaints be heard de novo by an Administrative Law Judge or special agent.

BCS is not a body that is meant or suited to act in a judicial capacity. BCS investigators do not have the training or authority to act in a judicial role. BCS investigators are not acting in the role of a judge when they conduct a review as a result of an investigation into an informal complaint; they are acting as mediators.[7] To allow or even contemplate allowing the factual record developed during the informal complaint to be introduced into an appeal violates basic assumptions of a fair and balanced judicial process. By eliminating the requirement that appeals from informal complaints be heard de novo, the Commission runs the risk of undermining the credibility of the appeal process and seriously impeding the rights of customers.

Additionally, while many if not most residential customers approach the Commission without any legal counsel or representation, utility companies enjoy robust legal representation at every stage of the process. Utility companies and their personnel who participate in the informal and formal proceedings are knowledgeable of and experienced with the process. Residential customers who have proceeded in the informal process are at a strategic disadvantage almost from the start. It would be inequitable to bind those customers to the record created through an "informal" process. Having a de novo hearing for a complaint filed because of dissatisfaction with the result of an

[7] See Commission website at http://www.puc.state.pa.us/general/filecomplaints.aspx.

informal complaint is a simple and effective way for the Commission to provide procedural protections to customers.

Finally, the elimination of de novo hearings may unintentionally mislead customers approaching the Commission for relief. The Commission represents on its web page that the informal complaint and the formal complaint are distinct procedures. The Commission advises customers to use the informal process because it is simpler and quicker and states that a BCS investigator will work as a mediator in the process.[8] Alternatively, the formal complaint is presented as a legal process before an administrative law judge.[9] These characterizations can and probably do lead customers to approach the two processes with much different expectations and certainly with different levels of preparation. By having appeals heard de novo, the Commission guarantees that parties who approach the informal complaint in a more casual fashion are always given the opportunity in a formal complaint to more diligently and robustly develop their factual claims. By eliminating the requirement for de novo appeals, the Commission removes this safeguard and introduces the possibility that customers may be misled.

Given these reasons, PULP strongly encourages the Commission to maintain its requirement that formal complaints which are filed subsequent to BCS decisions of informal complaints be heard de novo.

Section 56.174 Ability to pay proceedings. PULP respectfully recommends that the Commission amend certain portions of Section 56.174 which suffer from internal inconsistency and which undermine important consumer protections.

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[8] See Commission website at http://www.puc.state.pa.us/general/filecomplaints.aspx.
[9] Id.

Section 56.174(c) appears to be inconsistent internally with its own subsection (c)(ii). The two subsections read as follows:

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

Section (c) appears to establish the rule that BCS factual documents from an underlying informal complaint will be entered into the record of the formal complaint. Only where a party makes a valid evidentiary objection will this rule be broken. On the other hand, section (c)(ii) seems to hold the opposite rule that cases will be heard de novo (i.e., with a blank factual record), and only where parties so stipulate will facts from the underlying informal record be introduced. PULP respectfully recommends that the Commission clarify this situation by holding that all formal complaints, whether they involve ability to pay or not, shall be heard de novo. PULP presented several arguments regarding the importance of de novo hearings above in comments regarding Section 56.173. Those same arguments hold true in this section.

In addition, PULP strongly encourages the Commission to promulgate a rule requiring all administrative law judges, in situations where there are pro se litigants, to fully and completely describe to these litigants the ramifications of stipulating to the

inclusion of the informal complaint's record in the formal complaint and to advise them of their right to object to such inclusion.

I. RESTORATION OF SERVICE

Section 56.191. General rule. PULP has several comments regarding proposed Section 56.191.

PULP respectfully suggests that the terms "customer" and "applicant" are used inconsistently throughout this section, and their usage requires clarification so as to avoid confusion. Since the Commission is proposing in these regulations that a customer whose service is terminated will retain customer status until a final bill is past due, there will be situations where a customer is seeking restoration of service. Therefore, whenever Section 56.191 refers to applicant, it should also make mention of customer. PULP respectfully provides sample language below:

> **(b) *Timing*. When service to a dwelling has been terminated, provided the applicant or customer has met all applicable conditions, the public utility shall reconnect service as follows:**
>
> **(1) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the applicant or customer paying the amount needed to avoid termination prior to the termination of the service.**
>
> ****
>
> **(c) *Payment to restore service.***
>
> **(1) A public utility shall provide for and inform the applicant or customer of a location where the applicant or 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 the definition of "billing month" in § 56.2 (relating to definitions), nor a payment agreement that has been paid in full by the customer or applicant, 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 or applicant 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:

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(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 or customer resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant or customer resided there, not exceeding 4 years, except for instances of fraud and theft.

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

Additionally, PULP respectfully requests the Commission clarify Section 56.191(c)(1), which discusses payment to restore service. The proposed regulation

clearly requires utilities to inform applicants and customers that conditions for restoration may differ for households containing victims of domestic violence with a Protection From Abuse order. PULP respectfully submits that at the same time utilities should be required to inform customers and applicants that conditions for restoration may also differ for households containing individuals suffering from an illness or medical condition. Just as victims of domestic violence with a Protection From Abuse order require special protections because of their fragile status, similarly people with illnesses and chronic conditions require special protections because of their fragile status. Given these similarities, both populations merit special notifications from utilities. PULP provides the following sample language:

> **(1) A public utility shall provide for and inform the applicant or customer of a location where the applicant or 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 seriously ill, is afflicted with a medical condition that will be aggravated by the cessation of service, or is a victim of domestic violence with a protection from abuse order.**

PULP supports the Commission's clarification in Section 56.191(c)(2)(i) of what constitutes a payment agreement. This added section clarifies that there are certain types of arrangements which do not qualify as a payment agreement for purposes of calculating the requisite level of payment to effectuate restoration. These arrangements include payment agreements intended to amortize Section 56.14 make up bills and payment agreements which have been successfully paid in full by the customer.

PULP respectfully requests that the Commission clarify Section 56.191(d). The proposed regulation states:

> **(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.**

PULP requests that the Commission clarify that occupants who were minors during the time the outstanding balance accrued and while they resided at the premises are not to be covered by this rule. As presented earlier in these Comments, it is unlikely any party wants to hold a minor responsible for the faulty payment behavior of a parent. Therefore, PULP requests that the Commission insert language providing an exception for minors.

PULP submits that in order to ensure clarity, proposed Section 56.191(c)(2)(i) would benefit by amendment. Under Chapter 14 Section 1407(c)(2)(i), if a customer has previously "defaulted on two or more payment agreements", a utility may require that a customer or applicant, whose service has been previously terminated for non-payment, pay the full outstanding balance. In contrast, a customer or applicant who has not "defaulted on two or more payment agreements," will qualify for a payment agreement and thus a reduced upfront payment. Access to a payment agreement therefore assists greatly in lowering a barrier to reconnection, thus usually reducing the length of time a household must go without utility service.

The Commission proposal specifies exceptions to the general rule: neither a payment agreement intended to amortize a make-up bill under § 56.14 nor an initial bill covering more than 60 days constitutes a "payment agreement" for Section 1407(c)(2)(i) purposes. In addition, the Commission proposes that any defaults on a "payment agreement that has been paid in full" should not be considered a defaulted agreement for the purposes of Section 1407(c)(2)(i).

PULP supports the exceptions and their intent, however, as presently written, the possibility exists that it may be interpreted to preclude a customer from a payment agreement who has previously defaulted on a payment agreement but cured the default prior to termination.

PULP respectfully request that the Commission clarify this section by specifically stating that when a customer cures a default on a payment agreement, by bringing the payment agreement current prior to termination, the default that has been cured should not be counted as a "defaulted" payment agreement for Section 1407(c)(2)(i) purposes.

PULP submits that, for greater clarity, the current section which reads:

> (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.

Should be amended as follows:

> (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 ~~default on a~~ payment agreement ~~in which a default was cured prior to termination,~~ are to be considered.

J. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

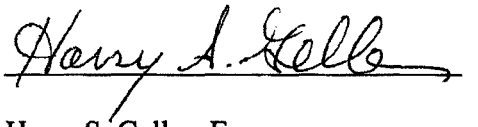
Section 56.201. Public Information. PULP supports the Commission's requirement that utilities must publicize changes to the regulations in Chapter 56. PULP respectfully asks that the Commission expand Section 56.201(13) so that it more fully covers specially identified fragile populations. PULP submits this sample language:

> **(13) Information indicating that additional consumer protections are available for victims of domestic violence, people with serious illness or chronic medical conditions, and low income households.**

IV. CONCLUSION

PULP respectfully thanks the Commission for this opportunity to comment on these regulations. Chapter 56 is a critical piece of the safety net that stretches beneath some of our most fragile utility consumers, a safety net that has been significantly weakened by the passage of Chapter 14. PULP thanks the Commission for using this opportunity to strengthen the safeguards that Chapter 56 provides.

Respectfully submitted,



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