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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Standards and Billing Practices for
Residential Utility Services

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Docket No. L-00060182/57-265

INDEPENDENT REGULATORY
REVIEW COMMISSION

COMMENTS OF T. W. PHILLIPS GAS AND OIL CO.
TO PROPOSED RULEMAKING ORDER

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

I. Introduction

In accordance with the Pennsylvania Public Utility Commission's ("the Commission") Proposed Rulemaking Order issued in the above-captioned proceeding on September 25, 2008 (the "Order") and published in the Pennsylvania Bulletin on February 14, 2009, T. W. Phillips Gas and Oil Co. ("T. W. Phillips") does hereby submit the following Comments in response to said Order and to the proposed regulatory changes set forth in Annex A attached thereto.

II. Comments by Section

1. Section 56.2 - Definitions

Applicant – The second sentence of the revised definition of the term 'Applicant' is made confusing and unclear by the addition of the concluding phrase 'provided that the final bill for service is not due and payable'. In order to be consistent with the proposed new definition of the term 'Customers', which states that a 'person remains a customer after discontinuance or termination until the final bill for service is past due', T. W. Phillips believes that the last sentence of the revised definition of 'Applicant' should read as follows:

'The term (Applicant) does not include a person who seeks to (i) transfer service within the service territory of the same public utility or (ii) reinstate

service at the same address, except where the final bill for the discontinued or terminated service at said same address is past due.

Household income – T. W. Phillips objects to the exclusion from the definition of Household income of all ‘income intended for the use of a minor’, including Social Security, child support, SSI, earnings and grants from the Department of Public Welfare. This restated definition is not consistent with household income guidelines used by the Dollar Energy Fund or the Low Income Home Energy Assistance Program (“LIHEAP”), both of which include most of such income in determining that which is available to a household. LIHEAP’s Gross income definition, however, which encompasses ‘total earned and unearned income of the household’ does exclude ‘wage earnings of a dependent child under 18’. Because of the regular interplay between the Customer Service Departments of Pennsylvania’s public utilities and the major assistance agencies and programs like Dollar Energy and LIHEAP, T. W. Phillips urges the Commission to conform the definition of ‘Household income’ in these regulations as closely as possible to that which is employed by these other agencies and programs.

User without contract – In light of the difficulties sometimes experienced in getting applicants/customers to sign contracts or agreements confirming contractual arrangements with their distribution utilities for public utility service, T. W. Phillips recommends that the definition of ‘User without contract’ be expanded to include applicants/customers who are receiving public utility service, but have failed or refused to sign service contracts or agreements and return them to the distribution utility providing such service.

2. Section 56.12(7) – Budget Billing

In order to avoid the logistic and administrative burden of having to monitor transactions involving extremely small amounts, T. W. Phillips recommends that the minimum budget billing reconciliation amount requiring amortization over a 3 to 12-month period be increased from \$25 to no less than \$100.

3. Section 56.13 – Billings for merchandise, appliances and nonrecurring and recurring service

The proposed additional language in Section 56.13 would require that any charges on customer billing statements which pertain to products or services other than basic utility service “...appear after charges for basic service and appear distinctly separate”. T. W. Phillips includes charges for service line warranty services, for example, on the bills of its customers who have elected to purchase such ‘non-basic’ services, displaying them on a separate line of its billing statement which line is after and distinct from the lines on the billing statement which address basic services. T. W. Phillips believes that this billing statement configuration complies with the intent of the proposed regulation, but in order to make clear that the term ‘distinctly separate’ includes its existing billing statement format, T. W. Phillips proposes the following amendment to the end of the final sentence of Section 56.13:

“...after charges for basic services and appear distinctly separate, which requirement shall be satisfied where the charges for non-basic services appear on lines of the customer bill which are different or separate from those which address basic services.”

4. Section 56.25(3) – Electronic bill payment

Section 56.25(3) would require the terms of any electronic payment program to “...be fully disclosed to the customer in writing before the customer enters the program...”. T. W. Phillips plans to begin offering electronic billing and payment options to its customers by and through its website. Under this scenario, customers will be able to go to T. W. Phillips’ website and select or click on an option to pay their gas service bill by electronic payment. In the context of making such an option available to its customers, T. W. Phillips will include the written terms of the applicable electronic bill payment procedure among the materials made available to the customer at T. W. Phillips’ website. In fact, T. W. Phillips’ customers will be able to actually implement an electronic bill payment option by making the appropriate selections at the website. Accordingly, T. W. Phillips recommends that the term ‘in writing’, as used in Section 56.25(3), be expanded as follows:

'(3) The terms of the payment procedure shall be fully disclosed to the customer in writing before the customer enters the program, which requirement shall be deemed satisfied when such written terms of payment procedures are made available to the customer electronically, as a result of a customer's having made an election to exercise an electronic bill payment option at the public utility's website.'

5. Section 56.25(5) – Electronic bill payment

T. W. Phillips is not aware of any means by which it can guarantee unequivocally '...to protect all customer information and all access to customer accounts...' as suggested in proposed Section 56.25(5). Of course, effective security measures to protect against unauthorized access to customer information must be identified and used, but T. W. Phillips is aware of no security system that is foolproof. Accordingly, T. W. Phillips would propose that Section 56.25(5) be modified as follows:

"(5) The public utility shall maintain sufficient system security and, in so doing, take all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have such access".

6. Section 56.32(c) - Security and cash deposits

T. W. Phillips contends that public utilities should have the right to require an applicant's Social Security Number, if credit evaluation methods which do not require an applicant's Social Security Number have not provided the utility with the means to conduct an adequate evaluation of an applicant's creditworthiness. Accordingly, T. W. Phillips proposes the following addition to the end of the fourth sentence in Section 56.32(c):

“, unless the public utility has been unable to secure an adequate evaluation of the applicant's creditworthiness without access to the applicant's social security number.”

7. Section 56.33 – Third-party guarantors

T. W. Phillips proposes that Section 56.33(2) be revised to clarify that third party guarantors offered by applicants for service, as an alternative to a cash deposit, must themselves satisfy the creditworthiness requirements of the public utility. Furthermore, the form of guaranty provided to the public utility by the applicant in such circumstances should be satisfactory to the public utility. Accordingly, T. W. Phillips offers the following revised Section 56.33(2):

“(2) Third party guarantor. This section does not preclude an applicant from furnishing a third party guaranty in lieu of a cash deposit. The guaranty, from a guarantor who satisfies the public utility’s creditworthiness requirements, shall be in writing, on a form acceptable to the public utility, and shall state the terms of the guaranty. The guarantor shall, upon demand by the public utility, be responsible to pay all bills for utility service that the applicant/customer, whose payments are being guaranteed, fails to pay when due.”

8. Section 56.35(2) – Payment of outstanding balance

In order to facilitate a public utility’s collection of outstanding account balances and to prevent adults who owe delinquent balances from avoiding their responsibilities, T. W. Phillips proposes to add the following to the end of Section 56.35(2):

“... in the name of a person other than the applicant, except with respect to any unpaid balance for utility service previously furnished to any other adult who will be residing with the applicant at the address where residential service is sought.”

9. Section 56.37 – General rule

In order to encourage the prompt return of a signed gas service contract from an applicant to the public utility, T. W. Phillips proposes the following addition to the new first sentence of Section 56.37(2):

“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 and has signed and returned any gas service agreement or contract required by the public utility to commence service.”

10. Sections 56.53 and 56.54 – Security Deposits

The customer election as to the disposition of a security deposit, as set forth in Section 56.54, appears to be in conflict with the options reserved to the public utility at Sections 56.53(c), (d) and (e). Accordingly, T. W. Phillips proposes that the following phrase be added at the beginning of Section 56.54:

“Subject to the rights or options of the public utility, as set forth herein at Sections 56.53 (c), (d) and (e), (t)he customer may elect to have a deposit...”

11. Section 56.91(b)(4)(iv) – General notice provisions and contents of termination notice

Section 56.91(b) lists the required content of a notice of termination issued by a public utility to a customer. Among other things, Section 56.91(b)(4) requires said notice to indicate the date on which service will be terminated, unless at least one of four specific actions are taken. The inclusion on that list of the fourth of those actions, namely ‘(iv) Enrollment is made in a universal service program’, suggests that such an enrollment could be available to forestall termination of service multiple times. T. W. Phillips believes that enrollment in a universal service program, such as T. W. Phillips’ Energy Help Fund (“EHF”) program, should only be available to a customer for purposes of Section 56.91(b)(4) one time.

One important feature of T. W. Phillips’ EHF program is a credit paid to participating customers (up to \$600 in aggregate over a period of three years) to reduce their arrearage each time a timely EHF payment is made. One important object of the credit is to provide participating EHF customers with a clear incentive to make timely payments and thus stay in the EHF program, continuing to benefit from its discounted

rates for current service. Creating a circumstance where customers may have an incentive to break their EHF payment obligations, drop out of the program, and seek re-enrollment each time they receive a notice of termination, would serve only to counteract one of the primary objectives of the EHF program, namely, to encourage the habit of regular and timely utility payments every month. Accordingly, T. W. Phillips recommends that the following phrase be added to the end of Section 56.91(b)(4)(iv):

“, provided, however, that such enrollment shall not be available to forestall termination of service to a customer more than one time at any particular service address.”

12. Section 56.91(b)(17) – General notice provisions and content of termination notice

Since there are very few Spanish-speaking customers in the western Pennsylvania territory served by T. W. Phillips, T. W. Phillips requests that the same provision referring to census data which appears at the end of the second sentence of Section 56.91(b)(17) also be added to the end of the first sentence of that Section.

13. Section 56.97(a)(2)(iv) – Procedures upon customer or occupant contract prior to termination

Consistent with its comments made above in paragraph 11 with respect to Section 56.91(b)(4)(iv), T. W. Phillips objects to the use of a customer's enrollment in a customer assistance program, such as T. W. Phillips' EHF program, as a means of avoiding termination more than one time at any service address. Accordingly, T. W. Phillips proposes that the same qualifier be added at the end of Section 56.97(a)(2)(iv) as it has recommended be added to the end of Section 56.91(b)(4)(iv).

14. Section 56.98(b) – Immediate termination for unauthorized use, fraud, tampering or tariff violations

T. W. Phillips questions the need for or appropriateness of requiring utilities to provide post-termination notice to a customer who has stolen utility service, obtained such service by fraudulent means, tampered with utility equipment in violation of safety requirements or otherwise endangered the safety of others. Under such circumstances,

T. W. Phillips believes that the burden of inquiry and action should be placed upon the customer who has engaged in such activity, and not upon the public utility victim of such activity.

15. Section 56.163(1) – Consumer informal complaint procedure

T. W. Phillips requests that the new sentence added at the end of sub-Section (1) be revised to clarify that the public utility shall have 5 business days in which to respond to Commission information requests in the stated informal complaint procedure context. Certainly, if a quicker response is possible, T. W. Phillips will do so, but it believes that 5 business days should be the outside time limit to respond to such requests.

16. Section 56.191(b)(1) – General rule

In this new rule pertaining to the restoration of utility service, T. W. Phillips proposes that the first sentence of Section 56.191(b)(1) be revised as follows to give the public utility time to recognize that a termination action it has taken is, in fact, erroneous, before the 24-hour clock begins to run:

“(1) Within 24 hours after the public utility’s recognition of erroneous terminations or upon receipt...”

In some circumstances it is reasonable that a utility’s good faith recognition of an erroneous termination may be delayed until, for example, after its receipt of a payment dropped at an off-site payment collection center is reported to the utility, or after a customer calls in to explain circumstances which, if known prior to termination, would have stopped the termination process. T. W. Phillips’ objective with this comment is not to avoid its obligation to promptly correct erroneous terminations, but only to have the 24-hour clock commence after the public utility has received actual notice that its termination action was erroneous.

17. Section 56.191(c)(1) – General rule

In view of the responsibilities that public utilities will have under these regulations to know and inform applicants and customers of the impact of protection from abuse

orders on their public utility service, T. W. Phillips proposes that these regulations include a specific requirement that applicants/customers provide their serving public utility with a complete and accurate copy of any currently effective protection from abuse order affecting them promptly upon their receipt of such an order.

Furthermore, T. W. Phillips recommends that these regulations (i) include either a summary or list of the ways in which victims of domestic violence who possess valid protection from abuse orders can expect to receive different or special consideration by their serving public utilities, or (ii) a reference to other resources in which such information is clearly presented.

18. Section 56.191(d) – General rule

T. W. Phillips requests clarification of the phrase 'except for customers of fraud and theft', which appears at the end of Section 56.191(d). T. W. Phillips believes that said phrase serves only to confuse the meaning of the entire Section. Accordingly, T. W. Phillips recommends that the phrase be deleted, with a period inserted after the word 'years'. If one were to interpret the phrase to mean that an applicant should not be held responsible for another person's fraud or theft, it does not necessarily follow, for example, that an applicant who resided at the place where and when such fraud or theft occurred was not compliant in the fraud and theft. If the applicant can establish to the utility's satisfaction that he/she had no part in such illegal activity by another person, then it is unlikely that the utility would require payment of an outstanding balance that the applicant was not responsible for accumulating. If they cannot, however, the public utility should not be automatically precluded from seeking a recovery of an outstanding balance from an adult person who may have had a role in obtaining prior service illegally. T. W. Phillips thus questions the need for the phrase which serves only to confuse the meaning of Section 56.191(d).

19. Section 56.231 – Reporting requirements

T. W. Phillips has carefully examined the much expanded monthly public utility reporting requirements set forth in the proposed new Section 56.231(a), as well as the detailed definitions of the terms used in Section 56.231(a) which appear in Appendix C,

and the following comments identify difficulties that T. W. Phillips will have in complying with some of the new reporting requirements.

T. W. Phillips' existing customer information system will not permit the generation of a monthly report which incorporates the level of detail required by Sections 56.231(a)(17-20), specifically that which would be necessary to provide the required information by the four distinct income categories set forth in subparts (i) to (iv) of each Section. Very substantial and costly system changes and a considerable period of time would be necessary to amend T. W. Phillips' existing customer information system to the point where a report containing such detail could be generated.

Similar difficulties are associated with an annual report which would require T. W. Phillips to generate a total dollar amount of annual collection operating expenses pursuant to proposed Section 56.231(b)(3). In order to generate such a report, the current customer information system and the current payroll system would require substantial and costly changes.

T. W. Phillips is currently in the process of negotiating with a contractor on the development of a new customer information system. T. W. Phillips expects to have a new customer information system in full operation by the end of 2010 and will incorporate in that new system the capacity to generate monthly and annual reports to the Commission which comply with all of the new requirements proposed in Section 56.231. Accordingly, T. W. Phillips requests that public utilities be permitted a reasonable period of time (extending to at least December 31, 2010) to make such adjustments to existing customer information systems and/or to implement such new systems as may be needed to generate monthly and annual reports containing all of the information described in whatever new versions of Sections 56.231 (a) and (b) are finally adopted and approved.

Of course, T. W. Phillips will comply with the requirements of Section 56.231 in whatever final form the new regulations ultimately adopted by the Commission, as thoroughly and completely as it can upon their effective date. With respect to those parts of Section 56.231 identified above where it may be unable to generate reports

which comply completely, T. W. Phillips will make a good faith effort to submit its monthly/annual reports with as much information as it can, in a format as close to that which the Commission requires, until such time as its new customer information system is fully operational and will permit the generation of monthly and annual reports which are fully compliant with all of the regulatory requirements.

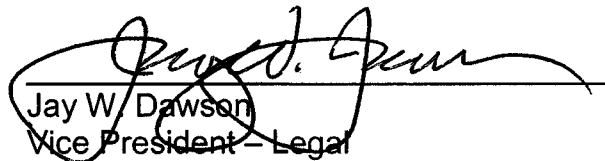
III. Conclusion

T. W. Phillips appreciates the opportunity to offer these Comments in response to the Commission's Proposed Rulemaking Order on the Standards and Billing Practices for Residential Utility Services and trusts that they will be given due consideration.

Respectfully submitted

T. W. Phillips Gas and Oil Co.

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Jay W. Dawson
Vice President - Legal

T. W. Phillips Gas and Oil Co.
205 North Main Street
Butler, Pennsylvania 16001
724 287-2751 (Ext. 224)