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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

May 26, 2011

Honorable Robert F. Powelson, Chairman  
Pennsylvania Public Utility Commission  
Keystone Building, 3rd Floor  
400 North Street  
Harrisburg, PA 17105

Re: Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential Utility Services

Dear Chairman Powelson:

The Independent Regulatory Review Commission disapproved your regulation on May 19, 2011. Our order is enclosed and will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

Within 40 days of receipt of our order, Section 7(a) of the Regulatory Review Act requires you to select one of the following options: (1) proceed with promulgation under Section 7(b); (2) proceed with promulgation under Section 7(c); or (3) withdraw the regulation. If you do not take any action within this period, the regulation is deemed withdrawn.

If you or your staff have any questions, please contact Fiona Wilmarth, our Acting Executive Director, at 783-5417.

Sincerely,

Silvan B. Lutkewitte, III

Chairman

sfh

Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Robert W. Godshall, Majority Chairman, House Consumer Affairs Committee  
Honorable Joseph Preston, Jr., Minority Chairman, House Consumer Affairs Committee

**INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held May 19, 2011

Silvan B. Lutkewitte, III, Chairman  
George D. Bedwick, Vice Chairman  
Arthur Coccodrilli  
John F. Mizner, Esq., by phone  
Lawrence J. Tabas, Esq.

Regulation No. 57-265 (#2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services

On February 4, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking amends 52 Pa. Code Chapter 56. The proposed regulation was published in the February 14, 2009 *Pennsylvania Bulletin* with a 65-day public comment period. The final-form regulation was submitted to the Commission on April 7, 2011.

This regulation implements that portion of the law commonly known as Chapter 14 or the Responsible Utility Customer Protection Act. It includes provisions necessary to administer and enforce Chapter 14, as well as language added as a result of the PUC's review of Chapter 56 in its entirety.

On May 13, 2011, the PUC submitted a letter that asked this Commission to disapprove the rulemaking. The PUC stated that certain sections of the regulation may be inconsistent with Chapter 14. The sections of the rulemaking cited by the PUC are:

- §§ 56.2 and 56.252, pertaining to the definition of "household income";
- §§ 56.17 and 56.267, pertaining to advance payments;
- § 56.111, pertaining to general provision;
- § 56.191, pertaining to payment and timing; and
- Appendix B, pertaining to medical emergency notice.

Without support from the promulgating agency, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest.  
71 P.S. § 745.5b(b)(3).

In addition, we have other concerns with the rulemaking. First, in our comments on the proposed rulemaking, we asked the PUC to explain its statutory authority for promulgating Subchapters L through V. We have reviewed the PUC's response to this comment and request further explanation of its statutory authority for Subchapters L through V. 71 P.S. §745.5b(a).

Second, our comments on the proposed rulemaking asked for a more detailed cost-benefit and fiscal impact analysis of the regulation. We appreciate the time and effort spent by the PUC in preparing Attachment Three of the final regulatory package, entitled "Revisions to Chapter 56 That Will Promote Greater Efficiencies and Cost-Savings." However, an analysis that includes

actual dollar amounts is needed to determine the true economic or fiscal impact the regulation will have on the Commonwealth, political subdivisions and the private sector.  
71 P.S. § 745.5b(b)(1).

Third, commentators have expressed concern with sections of the rulemaking not included in the PUC's letter of May 13, 2011. These commentators share similar concerns pertaining to the manual reading of utility meters and a utility communicating with non-English and non-Spanish speaking customers. The sections cited by the commentators are:

- § 56.12, pertaining to meter reading, estimated billing and customer readings;
- § 56.91, pertaining to general notice provisions and contents of termination notice;
- §§ 56.93 and 56.333, pertaining to personal contact;
- §§ 56.201 and 56.431, pertaining to public information; and
- § 56.331, pertaining to general notice provisions and contents of termination notice.

The commentators believe that the language in these sections does not adequately protect the public health, safety and welfare of the citizens of the Commonwealth. In light of these comments, we question whether these sections could have a detrimental effect on the well-being of some citizens of the Commonwealth. In the report submitted with the revised final regulation, we ask the PUC to analyze the sections noted above in conjunction with the comments and explain how the regulation adequately protects the public health, safety and welfare of the citizens of the Commonwealth. 71 P.S. § 745.5b(b)(2).

Our fourth and final concern relates to clarity and lack of ambiguity. 71 P.S. § 745.5b(b)(3)(ii). Under § 56.13, a cross-reference to § 56.83(3) would improve the clarity of the regulation. Also, under § 56.36, the comment and response document submitted with the final regulation states that references to "customer" in Subsection (b)(1) were deleted. However, the references are still in the regulation.

Having considered the PUC's request for disapproval of the regulation and all of the criteria of the Regulatory Review Act, we find promulgation of this regulation is not in the public interest.

**BY ORDER OF THE COMMISSION:**

This regulation is disapproved.



Silvan B. Lutkewitte, III, Chairman

**Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services**

**Honorable Robert F. Powelson  
Chairman**

Kim Blinn

DATE: 5-26-11

**Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services**

**Honorable Robert M. Tomlinson  
Majority Chairman**

Mary Walmer

DATE: 5/26/11

**Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services**

**Honorable Lisa M. Boscola  
Minority Chairman**

Stephen J. Smith

DATE: 5/26/11

Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services

Honorable Robert W. Godshall  
Majority Chairman

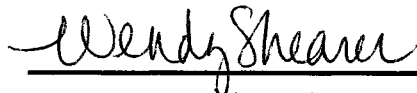


DATE: \_\_\_\_\_

5/26/11

Regulation #57-265 (IRRC #2743)  
Pennsylvania Public Utility Commission  
Standards and Billing Practices for Residential  
Utility Services

Honorable Joseph Preston, Jr.  
Minority Chairman



DATE: \_\_\_\_\_

5/26/11