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INDEPENDENT REGULATORY REVIEW COMMISSION

Direct Dial: 215.841.6863

April 24, 2009

COPY

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

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 Mr. McNulty:

Attached for filing please find an original and 15 copies of PECO Energy's comments in this docket. Also enclosed is an additional copy of this letter, which I request that you date stamp and return to me in the attached self-addressed envelope.

PECO is filing these comments several days late, and requests that they be accepted *nunc pro tunc*. Counsel on this matter is also PECO's counsel on vegetation management issues. On Thursday, April 16, PECO was served with a request for injunction filed by Chadds Ford Township, in which the Township requests an order that PECO will not be allowed to perform needed vegetation management work on a 230 kV transmission line right-of-way in the Township. This vegetation management work must be completed in order to comply with PECO's FERC/NERC vegetation management plan and is important to system reliability. The request for injunction was quickly followed by court orders setting the matter for evidentiary hearing and oral argument on Monday, April 20 and Thursday, April 23. This interfered with PECO's ability to finalize its comments in this docket.

There is no reply period for these comments. Moreover, this rulemaking has been pending at the Commission since at least 2006. Consequently, PECO avers that no party or entity, including the Commission, will be prejudiced by this few-day delay in filing comments. PECO thus requests that these comments be accepted *nunc pro tunc*.

Very truly yours,

Ward L. Smith
Counsel for PECO Energy Company

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APR 24 2009
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

PECO Energy Company

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APR 24 2009

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend the Provisions of	:	
52 Pa. Code, Ch. 56 to Comply with the	:	
Provisions of 66 PA.C.S., Chapter 14;	:	**Docket No. L-00060182**
General Review of Regulations	:	

COMMENTS OF PECO ENERGY COMPANY

PECO Energy Company ("PECO") appreciates the opportunity to provide comments on the Commission's proposed new regulations, which alter the Commission's regulations at Chapter 56 to implement statutory Chapter 14. The Commission published its Proposed Rulemaking Order in this docket on September 25, 2008.

PECO's comments are organized around the issue list originally set forth in the Appendix to the Commission's December 4, 2006 Advance Notice of Proposed Rulemaking ("ANOPR") in this docket. The Commission also followed that organizational format in Attachment A to the September 2008 Proposed Rulemaking Order.

In addition, PECO's comments address certain "e-billing" issues on which the Commission requested comment by Secretarial Letter of March 31, 2009.

1. Protection from Abuse Orders

PECO supports the Commission's conclusion that the protections of 66 Pa. C.S. § 1417 apply only to victims under a protection from abuse order as provided by 23 Pa. C.S. Chapter 61, and not to a larger group of victims of domestic violence. The statute

clearly limits these protections in the manner included in the Commission's proposed new regulations. PECO also supports the inclusion of the specific reference to 23 Pa. C.S. Chapter 61 in the Commission's proposed new Subchapter L, 52 Pa. Code § 56.251, as that specific reference will help avoid any future confusion as to the scope of these protections.

In comments on the ANOPR, PECO and other parties suggested that the rules for customers with Protection from Abuse orders should be interspersed within the Chapter 56 regulations, rather than developed as a separate subchapter. In the Proposed Rulemaking, the Commission rejected that approach, choosing to group Protection from Abuse situations with customers of steam heating, wastewater, and small natural gas companies.

PECO notes the Commission intends to further develop its regulations related to Section 1417 in a separate proceeding, and looks forward to participating in that proceeding. PECO respectfully notes that customers who have a Protection from Abuse order are actually quite differently situated than customers of steam heating, wastewater, and small natural gas companies. Thus, while PECO understands the attraction of placing PFA customers in that same group on the theory that all such customers are excluded from Chapter 14, there is a course of action that will certainly be better for PFA customers.

Given that the Commission is going to have a separate proceeding to deal with Section 1417, PECO recommends that the Commission should await the factual development in that case before enacting any regulations with respect to PFA customers. That will allow the Commission to have the focused comments of a working group that is highly concentrated on the unique needs of this specific category of customers. There is no inherent reason to believe that the needs of a customer of a wastewater utility and the needs of a customer who is under a PFA order are identical, or even very much like each other. Grouping them together and treating them the same merely because both were excluded from Chapter 14 is convenient, but may be inappropriate. In the current docket, there is not sufficient information to make that judgment. Comments in the separate Section 1417 rulemaking will give the Commission a much better basis for making such a determination.

2. "Make-Up Bills" – Previously Unbilled Utility Service

In the revised 52 Pa. Code § 56.14, the Commission has chosen to state that "make-up bills" for previously unbilled utility service "resulting from a billing error, meter failure, leakage that could not reasonably have been detected or loss of service or four or more consecutive estimated bills" will be limited to a period of four years of retrospective billing.

In its comments on the ANOPR, PECO noted its support for this proposal, and it re-expresses that support at this time.

PECO also supports the Commission's conclusion that an across-the-board discount of 20% on all residential make-up bills is not appropriate. While PECO gives discounts in some make-up bill situations to reflect its view of the individual circumstances involved with a given customer, a mandated 20% discount would, in PECO's view, violate the filed rate doctrine and therefore the Commission has properly concluded that such a discount should not be included in the regulations.

In its ANOPR comments, PECO requested (as did other parties) that the Commission make clear that the four-year limit does not apply in instances of fraud or theft. In those cases, there should be no limit on the make-up bill; any and all service that was obtained via fraud or theft should be paid for when that fraud or theft is discovered, regardless of how many years the fraud or theft had been taking place.

The Commission did not introduce specific language to address this issue. However, PECO notes that the four-year limit, by the language of the new regulations, is limited to previously unbilled utility service "resulting from a billing error, meter failure, leakage that could not reasonably have been detected or loss of service or four or more consecutive estimated bills." Neither fraud nor theft are on that list of triggering events, and PECO therefore understands that, by the explicit terms of the regulation, the four-year limit does not apply to instances of fraud or theft.

PECO would also like to comment with respect to § 56.22(e) , which states that: "Additional late payment charges may not be assessed on account balances once the

account is no longer actively billed by the public utility." PECO finds nothing in Chapter 14 that supports this change. It is also a bad idea. Late charges represent the cost to the utility of having provided service, but not having been paid for the service. It is the equivalent of interest on a loan. When a customer account is terminated, either through the customer's own choice or through utilization of Chapter 14, and the customer then chooses to leave an unpaid balance, that is effectively the same as the customer getting a loan from PECO. PECO should be allowed to charge interest on that loan. If it cannot, its operating capital costs will increase, and those costs will then be passed on the other customers in its next base rate case.

Fundamentally, the issue is that the use of money has a cost associated with it. If a customer is the one who is using money by virtue of not paying their bill, then they are the cost-causer and should pay those costs. If they do not, then other customers will.

3. Credit Standards

PECO would like to make the following comments with respect to the Commission's new credit standard regulations.

First, § 56.57 (Interest Rate) has been changed in a manner that is less customer-friendly than PECO's current practice, yet implementation of the new standard would cause PECO to spend considerable re-programming dollars to achieve this less customer-friendly outcome. PECO currently returns deposit interest over the course of holding that

deposit. The new § 56.57 would require utilities to accrue interest until the deposit is returned or credited.

This issue can be resolved by adding the following language at the end of § 56.57: "Alternatively, the utility may pay periodically credit the customer account for interest as it accrues over the period that it is holding the deposit."

Second, PECO reiterates its ANOPR comments with respect to the use of credit scoring agencies, as set forth in the statute at 66 Pa. C.S § 1404(a)(2) and the proposed regulations at 52 Pa. Code §§ 56.32(a)(2) and 56.36. The regulations appear to be at complete odds with the statutory provisions.

66 Pa. C.S § 1404(a)(2) provides that a utility may charge a deposit to:

> Any applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice.

Under this statute, PECO intends to continue its current practice – it contracts with one or more of the normal credit scoring companies, such as Equifax, to review the credit of customers and applicants. It provides the credit scoring company with a risk tolerance level that reflects current conditions, and then asks the credit scoring company to apply the credit scoring company's proprietary, but generally accepted, credit scoring methodology to determine whether a customer is an acceptable credit risk. The credit rating company gives PECO either a "yes," or "no" outcome, with no additional

information. This practice is within the range of general industry practice for other utilities in the nation. In PECO's experience, this approach provides a method of determining creditworthiness that is satisfactory to PECO as providing reasonable credit information. In PECO's opinion, this practice is clearly authorized by the statutory language quoted above.

Under the proposed new regulations, this practice would be difficult or impossible to continue for numerous reasons:

• Under §56.36(1) (Written procedures) (reasons for denial of credit), the proposed regulations state that the denial of credit shall include the customer's credit score. As discussed above, in the normal course PECO never gets the credit score and therefore cannot provide it. Again, this requirement effectively means that PECO cannot use the normal commercially-available methods of determining creditworthiness.

• Under §56.36 (Written procedures) the proposed regulations state utilities shall file in their tariffs "their credit scoring methodologies and standards." As discussed above, the credit scoring methodologies used by PECO are not its own to publish. Moreover, the statute does not require PECO to use a utility-owned or utility-developed credit scoring methodology. To the contrary, it clearly contemplates use of "generally accepted" commercially available methodologies.

• Under §56.32(a)(2), the "credit scoring methodology . . . must specifically assess the risk of utility bill payment." At this time, PECO does obtain its credit scoring results from Equifax, using Equifax's utility score, which is designed to predict the likelihood of paying utility bills. However, there are other commercially-available and generally accepted approaches that, under the statute, PECO should also be able to use. This regulatory requirement would eliminate PECO's ability to choose from this broader array of providers and methodologies. In addition, the language is directly contrary to the statute, which allows use of any generally accepted methodology. Any regulation that leads to a different conclusion is in conflict with the statute and should not be implemented.

PECO requests that the Commission change its proposed regulations so that the credit scoring aspects of the regulations closely track the statutory language. The numerous additions to that language which are included in the current regulations have caused a complete reversal of legislative intent on this issue. The legislature clearly intended for utilities to be able to access generally accepted commercially available credit scoring from a credit scoring company and, if that information satisfied the utility that the customer or applicant is not creditworthy, to apply a deposit. The regulations effectively require the utility to use a utility-owned or –developed methodology that has unique characteristics that are not part of the generally accepted methodologies.

PECO notes that it will be entirely possible to inform customers that: "PECO's credit inquiry resulted in the imposition of a deposit on your account. The imposition of

this deposit was based upon inquiry to [Credit Company A.] If you wish to inquire as to the basis for the imposition of a deposit, [Credit Company A] can be contacted at [address.] Anything more than that would require utilities to use something other than generally accepted credit scoring methodologies.

4. Payment Period for Deposits

In the ANOPR, the Commission initially proposed a series of differing payment periods for deposits, depending upon the underlying situation leading to the deposit. In this Proposed Rulemaking, the Commission has simplified those regulations so that, with the exception of certain deposits to PGW, the payment period is standardized for all situations: 50% "up-front" – that is, as a condition of either service connection or restoration – 25% billed 30 days after that, and 25% billed another 30 days later. All deposits would thus be due and payable within 90 days of the determination that a deposit is required.

n its ANOPR comments, PECO noted that it is willing to work with the 50%/25%/25% approach, as it believes that approach does offer some of the simplicity benefits noted by the Commission. However, PECO does not have the flexibility to work with the precise language proposed by the Commission – that is, that the second and third payments will be "payable 60 days later" and "payable 90 days later." §56.42. PECO, like all utilities, issues its bills each month in a series of batches, or routes, with the due dates for all charges on those bills set according to the date of issuance of the bill.

Reprogramming to have separate due dates for current charges vs. deposits is simply not doable. PECO therefore recommends that final sentence of new §56.42 should be revised to read: "A customer paying a deposit based on the grounds at §56.41(2) may be required to pay 50% as part of the condition for restoration, with 25% to be billed on the customer's next regular monthly billed and due on the due date for all charges on that bill, and the remaining 25% charged on the following month's bill with payment due on the due date for all charges on that bill

5. Termination of Service

As the Commission notes in its Attachment 1 (p. 22), termination of utility service can have serious consequences, and it is therefore important to clearly articulate the rules for termination of service. PECO also notes that termination of service is the final step in making certain that customers who can pay their bills do pay their bills.

In passing Chapter 14, the legislature made it clear, via the Section 1402 Declaration of Policy, that the rules prior to Chapter 14 had "not successfully managed the issue of bill payment." 66 Pa. C.S. § 1402(1). Thus, while termination of utility service is a serious matter, one purpose of Chapter 14 was to move away from the old rules and thus to "provide public utilities with an equitable means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections and by increasing timely collections." 66 Pa. C.S. § 1402(3). PECO's comments, as set forth below, are made within the framework of that legislative Declaration of Policy.

First, PECO notes that the Commission has added language to §56.1 (Statement of purpose and policy) that states that: "Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages." PECO intends to pursue that goal with vigor, and it appreciates this clear statement of policy by the Commission supporting future initiatives to utilize the tools of Chapter 14 and Chapter 56 more broadly.

Of course, there are many customers who developed large, unmanageable arrearages prior to Chapter 14, and prior to the implementation of these new Chapter 56 regulations by the Commission. These legacy accounts with high balances will continue to be a difficult challenge for utilities, their customers, and the Commission. For example, PECO is sending termination notices now to customers who developed high balances in the prior legislative and regulatory regime, but who to this time have used the Commission's prior rules and regulations to avoid either payment of those balances or termination of service.

In addition to legacy high balances, there undoubtedly will be customers who manage to develop high balances even with the new tools granted to utilities under Chapter 14 and now implemented through these regulations. These rules still contain, as they should, customer protections that provide a customer numerous opportunities to avoid termination – via the limits on winter terminations, dispute procedures, payment arrangements, medical certificates, informal complaints, formal complaints, etc. While the opportunities for gaming the system have been significantly reduced by Chapter 14,

and PECO expects to see a reduction to overall uncollectible expense due to Chapter 14 initiatives, innovative individual customers will still undoubtedly find a way to run up bills.

A utility that fully and appropriately utilizes the Chapter 14 tools and consequently reduces its uncollectible expenses, but which also respects the customers' rights under Chapter 14 and Chapter 56 – and PECO counts itself in that group of utilities – will undoubtedly have customers who develop new, high balances notwithstanding the use of Chapter 14 and these new rules to "effectively manage customer accounts."

Moreover, it is important to realize that customers bear the primary and ultimate responsibility to manage their own accounts and to make full and timely payments for services rendered. Indeed, PECO recommends that the new language of §56.1 should be expanded to recognize those respective responsibilities. PECO recommends that the new language should state that:

> The Commission recognizes that customers have the primary obligation to manage their accounts and to make full and timely payment for utility service that is rendered to them and from which they benefit. However, when customers do not meet that primary obligation, public utilities should utilize the procedures in this chapter to effectively manage customer accounts with the goal of preventing the accumulation of large, unmanageable arrearages. When the procedures in this chapter are applied to a customer's account, the customer should recognize that it is the Commission's stated policy that the utility should use these procedures to keep the customer's arrearage at a manageable level, and the customer should therefore take such steps as are available to the customer to assist in accomplishing that goal.

As to changes to the termination regulations, PECO notes that the Commission proposes a key revision to its termination regulations based, at least in part, on PECO's

ANOPR comments. In proposed new §§ 56.83 (4) and (8), the Commission is now proposing language that recognizes that adult occupants of a residence who benefit from service are financially responsible for that service. This proposed new language is an important aspect of implementing the new protections against "name game" and other historic abuses in which various adult occupants would enjoy the benefits of service, but escape responsibility for payment of that service on the grounds that they had not been listed as a customer. PECO commends the Commission for these changes.

PECO also has the following comments with respect to some of the specific new language contained in the Commission's proposed termination regulations:

§ 56.82 Friday terminations. Chapter 14 created an important new tool for utilities – the ability to perform terminations on Fridays, thus increasing by 25% the time opportunity available in each work week to utilize this important tool. Section 1406(d) provides a clear statement of the legislative authority for this new tool, stating in relevant part that:

> . . . . a public utility may terminate service for reasons set forth in subsection (a) from Monday through Friday as long as the public utility can accept payment to restore service on the following day and can restore service consistent with section 1407 (relating to reconnection of service).

The Commission's proposed new regulations at §56.82 provide different language on this issue:

> A public utility may terminate service for the reasons set forth in §56.81 (relating to authorized termination of service) from Monday through Friday, as long as the public utility has offices open on the following business day during regular business hours and personnel on duty who can

> negotiate conditions to restore service, accept emergency medical certificates, accept payment to restore service and can restore service consistent with §56.91 (relating to the general rule).

When PECO engages in Friday terminations, it has personnel available on Saturday who can negotiate conditions to restore service, accept emergency medical certificates, etc., as listed above. Those personnel are located at a PECO call center location, just as they are during the regular work week. The office that PECO has open on Saturdays for this purpose is thus a call center that offers the same services offered to its customers during the week. PECO also notes that it keeps its call center open during some, but not all, regular business hours on Saturday. This practice is consistent with the requirement to have an office open during regular business hours, as well as the statutory requirement at § 1406(d) that Friday terminations are available as long as the utility "can payment to restore service on the following day and can restore service consistent with Section 1407."

§ 56.91 Contents of termination notices. PECO notes that the Commission specifically and purposefully retained flexibility for utilities to craft their own termination notices, as long as the termination notices present the information set forth in § 56.91. *See* Attachment A, p. 31. PECO supports this approach, as it will allow PECO the opportunity to refine and fine-tune its notices as PECO gains experience with the extensive information that will now be required on termination notices.

Some of the specific informational requirements, however, may need minor modification to be implementable.

First, PECO notes that proposed §56.91(b)(3) currently requires that the ten day notice shall include "A statement that a specific reconnection fee will be required to have service restored . . . . " PECO has no objection to stating that a reconnection fee will be required. However, the specific amount of the reconnection fee is typically not known as the time the ten-day notice is issued because reconnection fees vary depending upon customer behavior at the time of termination. A customer who allows access to the meter will typically have a low reconnection fee. A customer who is unavailable, denies access to the meter, or who for other reasons has termination occur by cutting at the taps or through digging will typically have a much higher reconnection fee. The specific amount of that fee is not known and cannot be known at the time the termination notice is issued.

PECO believes that customers will be properly notified by language such as "a significant reconnection fee" or "a reconnection fee of as much as $x" or "a reconnection fee of from $y to $z." Consistent with the Commission's desire to allow utilities to have flexibility in crafting the precise language of the notice, PECO recommends that the word "specific" be removed from §56.91(b)(3).

Second, proposed §56.91 (b) (13) requires a statement that all adults "whose names appear on the mortgage, deed are lease are considered 'customers' and are responsible for payment of the bill." PECO suggests that, while the concept here is excellent, the language should be broader. Consistent with the Commission's proposed new language at §56.83(4) and (8), which PECO commended earlier in these comments,

the notice should contain: "Information indicating that if service is shut off, any adult occupant who was an occupant at this address during the period in which the delinquency developed are considered 'customers' and are responsible for payment of the bill."

Third, while PECO recognizes that language access is a serious issue, proposed §56.91 (b) (17) is both onerous and so vague as to virtually invite parties to sue each other. This section requires that the notice contain information regarding translation assistance and that information be printed in Spanish and "other languages when census data indicate a *significant population* using that language resides in the public utility's service territory." (PECO notes that, under this approach, it would have to provide these notices in other languages even if the population at issue also speaks English.)

Perhaps more importantly, the phrase "significant population" is left undefined. According to the U.S Census Bureau's online "Quick Facts" service, http://quickfacts.census.gov/qfd/states/42/42101.html, as of 2007 9.0% of the population of Philadelphia County is foreign-born, and 17.7% speak a language other than English at home, which may mean as much as 26.7% of the population could fall within this restriction. The 2007 census estimate for the population of Philadelphia County is 1,449,634 persons. This means that there are, potentially, as many as 387,000 people in Philadelphia alone who "use a language" other than English – and an additional smaller, but still significant, population in the suburbs.

How many of these individuals must use a given language before it constitutes a "significant population?" Five hundred? Five thousand? Fifty thousand? And how many different languages, dialects, etc. are represented in this group? Depending upon the numeric threshold of "significance," the number of different languages represented could be in the dozens.

PECO respectfully suggests that, while this proposal may seem innocuous on first look, it is far from it. Moreover, the record in this proceeding does not contain sufficient information regarding the costs and benefits of such a proposal. PECO recommends that this proposal should be eliminated.

§56.93 – Personal contact. There are two aspects of this proposed regulation on which PECO would like to comment.

First, PECO notes that customers often give contact phone numbers other than land lines when they initiate service as the number that they desire PECO to use in contacting them. PECO therefore recommends that the Commission should allow calls to numbers given to the utility by customer as their contact number. This can be accomplished by adding a sentence, at the end of § 56.93(b), stating that: "Calls made to contact numbers provided by the customer shall be deemed to be calls to the residence."

Second, PECO notes that proposed new § 56.93 (d) requires that "The content of the 3 day personal contact notice must comply with the requirements in §56.91," which

requirements were discussed in the immediate preceding portion of PECO's comments. Those requirements are very extensive and, while they make sense for a written notice, they make no sense at all for a phone notification. Aside from the sheer magnitude of having a phone call that addresses all 19 items listed in §56.91, some of those items either do not apply to personal contact or could not be done via a phone call. For example, proposed §56.91(5) requires a statement that the notice is valid for 60 days, which is true for a 10-day notice, but is not true for a personal contact notice. §56.91(10) requires information on federal poverty levels – important information that is typically provide in tabular form in a written notice, but which is virtually impossible to communicate effectively over the phone. §56.91(17), discussed previously in these requirements, requires that PECO provide information "in other languages." This means that each call, to comply with the requirements of §56.91(17), would need to include a statement in each language used by a "significant population." As noted earlier in these comments, this could involve dozens of languages depending upon how "significant population" is defined; consequently in order to incorporate this provision into a phone call, one would need to include verbal information in each of the calls in dozens of languages!

The costs of conducting calls with this level of detail would be overwhelming compared to the benefits to customers. Indeed, it is not at all clear that customers would benefit from receiving such an extensive call, and being required to process such an extensive amount of information aurally in real time. This is especially true given that such notices are often made using automated calling systems. One can imagine a ½ hour recording hitting on each on the 19 items in §56.91.

PECO respectfully submits that it personal contact telephone call should not try to provide every piece of information that would be provided in a written notice. To the contrary, the purpose of a personal contact call is to let the customer know of the pending termination and to induce the customer to reach out to the utility to discuss their situation and seek an alternative to termination. If the customer makes that return call, the conversation can then involve all or as many of the 19 items as are appropriate for that customer. To that end, PECO recommends that §56.93(d) should be revised to read:

> (d) If the utility makes personal contact via a home visit, the utility must provide or post a written notice that complies with all applicable requirements in §56.91 (relating to general notice provisions and contents of termination notices); if the utility makes personal contact through phone, the content of the phone call or any message left on a recording device must clearly state that termination of utility service is imminent, provide a contact number at the utility, and urge the customer to contact the utility as soon as possible to discuss whether alternatives to termination are available.

PECO would also like to comment on an issue related to voluntary termination of service (discontinuation). The Commission proposes to add language to §56.16(a) that states that, if a customer calls to discontinue service but does not provide access to the meter, the utility nonetheless must create a final bill – based on estimated readings, with the potential for an actual true-up upon access – thus relieving the customer of responsibility for paying for service after that point.

PECO understands the Commission's concern in this area. A customer could, in good faith, be preparing to move from the residence, call for discontinuance of service

and, in the rush of moving, be unable to coordinate an access visit for the meter. The customer then moves and is no longer taking service at the residence. As PECO understands it, the Commission wishes to ensure that such a customer does not pay for service rendered after they notified the utility of their move, and then moved.

The difficulty with the proposed new language in §56.16(a) is that it will also give relief to a very different group of customers. Some customers, upon receiving a termination (or even sooner if they fall behind on their bills and can forsee the possibility of a termination notice) will call the utility to discontinue service – but then refuse to provide access for a final reading or physical termination of service. This set of customers then may simply remain in the residence. The electricity is still on because no access to the meter has been granted to allow a final read and disconnect of service. The customer is still there, and benefiting from the service. But the customer is no longer being billed for that service.

The proposed new language of §56.16(a) would allow that customer to actually be relieved of legal responsibility for those bills merely because they called to discontinue service. PECO believes that the Commission does not intend that result. In can be avoided by changing the new language of §56.16(a) to read as follows:

> If the public utility is not able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading and the determine the actual consumption used by the consumer. In addition, the customer will be liable for charges for services used after the discontinuance date if the customer enjoyed the benefit of that utility

service by remaining at the property past the discontinuance date or through any other action.

PECO would also like to comment briefly on the definition of "delinquent account" found in § 56.2. While this is an existing definition that is not being materially changed in the new rules, PECO believes that the Commission may wish to take this opportunity to add language this definition to clarify that amounts that accrue for service provided during resolution of a dispute are not included within the "disputed account." This follows long-standing Commission practice that customers are required to pay their current bills during the resolution of a dispute. This could be accomplished by adding a final sentence to the definition that states: "Charges for public utility service that is provided after the initiation of a dispute or after the filing of an informal or formal complaint, whichever occurs first, are included in the delinquent account balance and will be considered delinquent if not timely paid.

6. Winter Termination Procedures

Winter termination is, as the Commission notes (p. 32) in its Attachment A, of critical importance. PECO notes that a key element related to winter terminations is which populations a utility will be allowed to put through termination during winter. There are four groups under discussion:

(a) Customers with verified income levels of 250% of the federal poverty level, or lower. The statute is clear that service to these customers may not be terminated, except in specific circumstances set forth in the statute and the Commission's regulations. PECO recognizes the need to provide significant termination protections to this group in the winter months.

(b) Customers with verified income levels above 250% of the federal poverty level. The statute and regulations are clear that service to these customers may be terminated, as long as the utility follows the prescribed notice and other requirements.

(c) Customers for whom the utility has no income information. In its Attachment A (p. 42), the Commission stated that it "shall decline to absolutely prohibit utilities from sending termination notices in the winter to accounts in which they do not have income information because the receipt of such a notice may encourage the customer to contact the utility and provide this information." PECO agrees with and supports the Commission's conclusion that sending termination notices to this population is appropriate. PECO agrees with the Commission that such notices may induce the customer to provide income information, and also notes for customers who have financial resources, but who have not had any need to previously give PECO income information, the termination notice may well result in more than just the provision of income information – it may result in payment by the customer of their outstanding balance.

(d) Customers for whom the utility has unverified information that the customer's income is at or below 250% of the federal poverty level. The Commission's new regulations, § 56.100(e), appear to create a binding presumption that income and related information that is reported to the utility, but not verified, will result in a bar to winter termination if the reported information claims an income level of 250% or below.

PECO recognizes that this final group is the most difficult group to deal with for winter terminations. On the one hand, if these customers are truly in the protected group then they should not be subject to termination except on the grounds available for that protected group. On the other hand, allowing the use of unverified information to create this customer project is an open invitation to customer abuse, with customers claiming a low income solely for the purpose of avoiding winter termination.

In PECO's ANOPR comments, it addressed this issue at length and proposed a procedure to balance these two elements. In that procedure, a utility would make multiple efforts to obtain income verification but, after a series of failed verification attempts, the presumption would shift so that the customer's service could be terminated. PECO provided a detailed markup of proposed regulations to implement this procedure.

A copy of the relevant pages of PECO's ANOPR comments, with the regulation markup, is attached to these comments as Attachment A.

PECO urges the Commission to reconsider its stance on this issue. It may be helpful for the Commission to have a few global numbers in mind in determining whether the potential for abuse in this area is sufficiently large to warrant the procedure that PECO recommends.

- According to 2000 Census Data, approximately 264,000 households who live in PECO's service territory have income at or below 150% of the FPL and therefore would, if they are customers of PECO and provide income verification, be eligible for some amount of rate discount through PECO's CAP Rate.

- More than 275,000 customers have claimed to PECO that they have income at or below 150% of the FPL. Taking into consideration that many low-income customers take service through landlords or other approaches that do not result in becoming a PECO customer, it is obvious that many customers are claiming to have income lower than their actual income.

- Of those households, only about 125,000 have verified their income sufficiently to obtain CAP discounts.

- This means that there are over 150,000 households who have claimed to have income below 150% of the FPL have not verified their income – even though they could presumably get rate discounts if they did so.

PECO respectfully suggests that these global numbers strongly demonstrate that there may be large numbers of customers who claim an income level other than their actual income level. This potential for abuse is inherent in any system that gives significant customer advantages based upon an <u>unverified</u> claim of income. There should be a procedure to test such claims and, if the customer repeatedly does not provide appropriate verification of their income level, the presumption should shift so that service to that account can be terminated in the winter.

Such a system provides protections for low-income customers while also protecting against abuse. Absent such a system of checks, the regulations will provide protections to low-income customers and to customers who are abusing the system by falsely claiming to be low income. This outcome can be avoided by allowing utilities to terminate after a series of opportunities for customers to verify their income claims. PECO urges the Commission to implement a procedure to control this potential abuse. As the Commission noted with respect to customers who have never given income information to PECO, "the receipt of such a [termination] notice may encourage the customer to contact the utility and provide this information." In the case of customers who have previously claimed, but not verified, their income level, the motivation will be exactly the same: "The receipt of such a [termination] notice may encourage the customer to contact the utility and verify this information."

The Commission's new regulations allow a utility to make such good faith efforts to obtain information and then terminate service to a customer if that customer does not provide any income information. PECO recommends that utilities also be allowed to terminate service if it has made repeated good faith efforts to obtain verification of claims of low income.

PECO would also like to briefly discuss another portion of the regulations that deals with income levels and will therefore affect winter terminations and other rights based upon income. In § 56.2 (definitions), the Commission is recommending that

"Household income" should be defined as including only the income of adult occupants, not of children.

This is a significant change from current Commission practice and, frankly, does not appear to have any basis in good policy. If a child has income, including Social Security, child support, SSI, earnings, and grants from the Department of Public Welfare, then that income exists and is available for the purpose of providing that child with shelter, heat, security, entertainment, food, clothing, etc. Utility service is part and parcel of that package – it is the basis of heat, light, cooking, entertainment, etc. Payment for such services is precisely why social service agencies provide, and courts order, funds to be dedicated to the child.

Moreover, the child's income is in fact income of the home, and there is no basis for excluding it from the definition of income. For example, the child's income is used to determine eligibility for CAP, LIHEAP, LIURP, and other low-income programs. If the Commission intends to establish two separate methods of determining income levels, one for Chapter 56 and the second for low-income programs, then PECO strongly counsels against this approach. It is difficult enough to collect, verify, and manage one set of income information per household. Applying two different definitions per household would be virtually impossible.

If, on the other hand, the Commission intends to change the definition of household income to exclude the child's income for all Commission purposes, including

the determination of eligibility for low-income programs, PECO also strongly counsels against that approach. Eliminating a child's income from such eligibility calculations will cause an entire new tranche of households to become eligible for these programs, and will cause another group that is currently in the programs to qualify for additional benefits and discounts. There has been no analysis of the costs of doing so, nor of whether such an initiative would drive discounts for customers beyond the Commission's energy burden goals as set forth in 52 Pa. Code Chapter 69. Such an analysis, incidentally, is done by each utility every three years as part of its Three-Year Plan filing. The analysis requires extensive data evaluation by experts, and is typically then the subject of intense litigation by multiple parties to determine whether, and to what extent, the outcome of that analysis warrants changes to the CAP and other low-income programs. The Commission should obviously not drive to the same outcome via a casual change to a definition.

In short, PECO suggests that it is bad policy to change the definition of household income to exclude a child's income. Doing so will either cause utilities to have to manage two sets of income data for their customers, or will constitute an unexamined change to low-income programs. Either of those outcomes should be avoided.

7. Emergency Medical Procedures

The Commission's new regulations on emergency medical procedures implement a great deal of tested Commission practice and knowledge from recent years. PECO

particularly supports two elements of the new regulations. First, PECO supports the new provision found at §56.114(2) which states that a utility does not need to Petition the Commission in order to deny a renewal of a medical certificate when the customer seeks a third renewal on the same arrearage. PECO has previously attempted to use the Petition process to challenge medical certificates on various bases and agrees with the Commission that the Petition pathway is typically a burden, rather than a benefit, in administering the medical certificate programs. Allowing the medical certificate process to function without resort to the Petition process is an appropriate goal.

Second, PECO supports the Commission's clarification, also in §56.114(2), that utilities need not issue a third medical certificate unless the customer has resolved the underlying arrearage that was in place at the time the first medical certificate was issued. This balances the needs of customers to have access to medical certificates when needed, while at the same time ensuring that the medical certification process will not be abused by continuously seeking medical certificates to avoid payment of the same underlying balance.

PECO notes, however, that the phrase "and same termination action" in §56.114(2) could create significant confusion. If the "same termination action" is understood to mean the same 10-day notice, the Commission may unintentionally have created a loophole in its regulations. Since 10-day notices are valid only for 60 days, it might be claimed that a customer who obtains two 30-day medical certificates and who then applies for third medical certificate is not filing a medical certificate for "the same set of arrearages <u>and the same termination action</u>," on the theory that a new 10-day notice

constitutes a new termination action. This argument, if valid, would apply to every situation in which a customer sought a third medical certificate and would completely defeat the Commission's new language. Put differently, under this reading every request for a third medical certificate would have to be granted because, by definition, the initial10-day notice would have expired and the request for a third medical certificate would not be for "the same termination action." PECO assumes that the Commission does not intend to have this result, because if it did intend such a result there was not reason to take the trouble to write this new regulatory language. PECO recommends that this unintended loophole can be eliminated by deleting the phrase "and the same termination action."

PECO also notes the Commission has included reference to "applicants" twice in the proposed medical certificate regulations. (§§56.113(1) and (2)). When a medical certificate is filed pursuant 66 Pa. C.S. § 1406(f), the utility may not "terminate service." On its face, this does not apply to applicants, as applicants do not yet have service. PECO is not aware of any Commission or legislative precedent to suggest that applicants are entitled to a medical certificate in order to initiate service. PECO therefore assumes that the references to "applicant" in this section are an oversight, and recommends that they be removed to avoid confusion.

PECO also notes that, in §114(2), the reference to a "third medical certificate" needs to be revised to refer to a "third renewal of a medical certificate." This makes clear that the utility shall, in the described circumstances, take an initial medical certificate and

two renewals, and that the limitation described by the Commission is on the third renewal.

8. Commission Informal Complaint Procedures

In this section of the proposed regulations, the Commission's incorporates provisions of Chapter 14 into the procedural regulations regarding the informal and formal complaint process. PECO would like to comment on two aspects of these changes.

First, in describing the required content of a utility report pursuant to §56.152, the Commission proposes to require that certain information "must be presented in a bold font that is at least two font sizes larger than the font used in other sections of the report." §56.152(8)(ii).

PECO respectfully suggests that this level of detail and direction is inappropriate for regulations. The Commission should, similar to the conclusions that it reached with respect to the content of termination notices in §56.91, leave flexibility for utilities to implement such notices as they deem appropriate to meet the general requirements set forth in the regulations. If the Commission wishes to note in regulations that the information found in this section should be "prominently displayed" in the utility report, PECO has no concerns with that approach. But the specific designation of "bold font two sizes larger" will require PECO to reprogram its entire utility report template software.

The costs associated with that were obviously not anticipated or intended by the Commission, and can be avoided using the approach noted by PECO.

Second, PECO wishes to address the new proposed rule, set forth at §56.163(1), stating that if a complainant is without public utility service then the utility must prepare its response to Commission staff within 5 days of the staff's request.

This issue was discussed at length by PECO and other parties in the ANOPR comments. Since the time of the ANOPR, PECO has informally been attempting to meet the 5-day standard, and has found it very difficult to do so. It requests again that the time for answering such requests be extended to 10 days.

The difficult in answering within 5 days is compounded when the calculation is done in calendar days. If a request comes in on a Monday morning, and the response is due "within 5 [calendar] days of the request, then the utility must have its response in by Saturday morning – meaning, by Friday evening, or 4 ½ days later. If a request comes in on a Tuesday morning, and the response is due "within 5 [calendar] days of the request, then the utility must have its response in by Sunday morning – meaning, by Friday evening, and the utility therefore actually only has four days to prepare its response. If a request comes in on a Wednesday morning, and the response is due "within 5 [calendar] days of the request, then the utility must have its response in by Monday morning – meaning that the utility really only has three days (Wednesday, Thursday, and Friday) to prepare its response. If a request comes in on a Thursday morning, and the response is due "within 5 [calendar] days of the request, then the utility must have its response in by

Tuesday morning – meaning that the utility really only has three days (Thursday, Friday, and Monday) to prepare its response. If a request comes in on a Friday morning, and the response is due "within 5 [calendar] days of the request, then the utility must have its response in by Wednesday morning – meaning that the utility really only has three days (Friday, Monday, and Tuesday) to prepare its response.

In making the request for a longer reply period, PECO is cognizant of the statement made by the Commission (Attachment A, p. 61) that, because these requests involve situations in which no utility service is being provided, there is a public health and safety component to the Commission's decision. PECO is also aware of the Commission's related statement (p. 61) that utilities, through their complaint handling and collection policies, can have significant influence on complaint volume.

PECO wishes to point out, however, that customers also have significant influence on their own complaint and whether it is processed in a pre-termination or post-termination mode. For post-termination complaints, one is typically dealing with a customer who fails to pay their bill and then receives a termination notice – a notice that under the Commission's new regulations at §56.91 will be absolutely replete with statements regarding the customer's options to avoid termination – and who still does not call either the utility or the Commission to initiate a dispute, or ask about a payment, or a low-income program, or a medical certificate, or any other method of avoiding termination. Instead, this customer simply waits until service is actually terminated – and then calls and complains. Such a customer has ample opportunity – in fact, the best

opportunity of all players involved -- to control their own destiny by initiating a dispute, etc., and thus keeping service on.

Moreover, while the Commission is correct that a utility can also affect the flow of complaints, a utility should not have to give up rights granted to it by the legislature – to seek deposits, or terminations, etc. – in order to control the flow of complaints about its use of those legislatively-granted rights. PECO respectfully submits that it has the right to implement programs that fall under Chapter 14, and it should not have to artificially limit those programs in order to limit the number of complaints from customers who ignore all notices and do nothing until termination occurs.

On balance, PECO recommends that a 10-day reply for "service off" complaints is the proper balancing between the statutory right of the utility to implement programs under Chapter 14, and the responsibility of customers who receive a termination notice to actually call the utility or the Commission prior to termination to initiate discussions.

PECO also notes that the Commission has, in §56.2, proposed a new definition of "Informal dispute settlement agreements." The new definition appears to create an entirely new requirement to create a written document associated with every "claim or dispute" by a customer; this document must be "mutually agreeable" and contain a statement of the customer's claim or dispute, including a proposed resolution of the claim.

The term is used only one other time in the proposed regulations, in the section on reporting. PECO must now report the number of "informal dispute settlement agreements" it enters into.

It is not at all clear what the Commission intends to impose on utilities, if anything, via this new definition. The term "Informal dispute" is not itself a defined term, so one cannot tell when the new requirement attaches. However, PECO does not believe that the requirement is a good idea, regardless of where in the process it is intended to attach.

Informal complaints filed with the BCS are already subject to extensive regulations and Commission procedures, and are typically closed by a Commission report. It would be very confusing to have a second written report also required.

Formal complaints are handled by the Administrative Law Judges and mediators, and similarly should not have a parallel requirement. They also probably do not fit any definition of "informal dispute."

This appears to leave only "disputes," which is a defined term that refers broadly to customer "grievances." These disputes are typically raised via phone calls to PECO's customer call centers – although they may be raised in other ways – and are often resolved on the call or on some subsequent call. If the issue is resolved, a notation is made on the customer's account records and the matter is closed; if the issue is not

resolved, the customer is informed that they may appeal the matter to the BCS. Hundreds of thousands of such calls are received each year. PECO is not aware of any problem with this existing system that needs to be "fixed" by adding a requirement that a written report be prepared for each such dispute. Moreover, preparing such a report for each call would be incredibly burdensome. Assume, for example, that the average dispute call takes 10 minutes to resolve verbally. If the call taker must then write a written report to the specifications contained in this new definition, one would assume that it would take an additional 10-30 minutes to write the report – thus doubling, tripling, or quadrupling the time for each call. Since call center costs are essentially driven by employee time, this equates to a doubling, tripling, or quadrupling of call center costs. The Commission should not casually impose such a requirement when there is no identified benefit of the new requirement, and when no cost-benefit analysis has been done of it.

9. Restoration of Service

PECO offers two comments on the Commission's new restoration regulations.

First, PECO reiterates its concern with the new requirement at §56.191(d), which requires that a utility include in its tariff the methods for determining whether an applicant previously resided at the residence for which service is being sought. The statutory provision underlying this regulation, 66 Pa. C.S. §1407(d), was specifically designed to bring a halt to one variant of "name game," in which various members of a household sequentially run up bills and then change utility service into the name of a new household member. By definition, this is a practice that is undertaken with the specific

intention of "gaming" the system in order to avoid payment for utility services rendered, and by definition it is an activity undertaken by "gamers." PECO strongly cautions against providing a roadmap for such gamers to find new ways to beat the system, and publication of verification methods in a tariff is precisely such a roadmap.

PECO recognizes that the Commission also received many comments suggesting that complete transparency on this issue is a good objective, and indeed requesting that the Commission itself provide regulations limiting the methods of determining prior occupancy. PECO supports the Commission in resisting that effort. PECO also suggests that, if the Commission does continue with the view of having these procedures specified in tariff, the Commission should allow utilities to propose broad language in those tariffs that does not provide a roadmap.

Second, PECO does not believe that the Commission should – or indeed has the power to – limit the requirement of payment in these instances to service over the prior 4 years. Name gaming is inherently about hiding information from the utility, and customers should not be rewarded for successfully hiding information for over 4 years. Perhaps more importantly, however, this new provision does not, as the Commission suggests (Attachment A, p. 62) reflect the same time restrictions found in other sections of the regulations. Put most simply, at no other point in the regulations does the Commission indicate that the passage of time frees customers from responsibility for **paying** their bills – which is exactly the suggestion made here. It is correct that a utility may not terminate service for failure to pay bills more than 4 years old – but the customer

still owes that money, and the utility can use all credit and collection methods to pursue it, short of termination.

For example, 52 Pa. Code §56.83 states that "Service may not be terminated nor will a termination notice be sent for any of the following reasons: (7) Nonpayment of charges for public utility service furnished more than 4 years prior to the date the bill is rendered." The regulations are clear – when an account balance includes amounts for service rendered more than 4 years previously, certain specified utility activities are prohibited – no termination notices, and no terminations. The customer still owes for the service, however, and the remaining credit and collection options -- other than terminations and termination notices -- are still available to the utility.

In PECO's opinion, it would violate the filed doctrine for the Commission to say, on the one hand, that a customer is responsible for bills rendered during that customer's occupancy of the residence but to also say that, on the other hand, that responsibility for payment is limited to four years. That responsibility is not so limited. Under §56.83(7), PECO is prohibited from terminating service for amounts that have remained unpaid for more than 4 years, but the customer is not relieved from making payment for those services by the mere passage of time. Similarly, if a person lives at a residence for 10 years and enjoys the benefits of utility service during that time, and then tries to avoid paying for that service by switching the name on the account to their own name, there is no justification for limiting their liability to 4 years.

10. Reporting Requirements

PECO has no additional comments on this section.

11. E-Billing

In a March 31, 2009 Secretarial Letter, the Commission directed utilities to file comments with respect to certain e-billing issues. The Commission described the requested scope of comments:

> The comments required to be filed pursuant to this Secretarial Letter should address at least the following aspects of e-billing:
>
> 1. The scope and description of PECO's current e-billing programs.
>
> 2. The current levels of participation in current ebilling programs.
>
> 3. Any changes to tariffs made or which should be made to tariffs to implement e-billing.
>
> 4. Describe any changes you have made to your e-billing programs since the inception of the programs.
>
> 5. Information that was or will be contained in bill inserts and other communications to customers explaining e-billing along with copies of those documents;
>
> 6. Any other concerns regarding e-billing that the PUC should consider.

1. The scope and description of PECO's current e-billing programs.

PECO has had a voluntary e-billing program since the mid-1990s. The program is marketed to customers through PECO's website and periodic mailings.

The e-billing program is available to both residential and business customers. A customer can sign up for paperless e-bill and e-payment through the third party vendor web site www.mycheckfree.com. When a customer signs up for e-billing, the customer's paper billing is automatically shut off. (That is, PECO does not allow customers to receive both electronic and paper bills.) Customer can opt to use Checkfree's electronic payment options or choose the other e-payment options such as auto pay and mail in checks directly with PECO or through their own home banking option.

Every month, when the customer's bill is ready, Checkfree sends a notification email to the customer, with a link in the email to let customer log in their account to view and pay their bill. On the email there is a link for PECO information and notice (back bill and bill inserts, E@H news letter)

2. The current levels of participation in current e-billing programs.

At this time, approximately 130,000 customer use PECO's e-bill option. That is approximately 8.3% of PECO's customer base. Usage is dominated by residential usage; only 1,312 participants are small business customers.

3. Any changes to tariffs made or which should be made to tariffs to implement e-billing.

PECO's Tariff does not designate the use of paper bills, and therefore no change to the Tariff was needed in order to allow the use of e-bills. If the Commission so directs, PECO will craft language for insertion into its Tariff that specifically notes the availability of an e-billing option, and file that Tariff language with the Commission.

4. Describe any changes you have made to your e-billing programs since the inception of the programs.

The basic parameters of the program have remained the same. PECO has transitioned service providers during the life of its program.

PECO is currently engaged in a n RFP process to improve and enhance its eBill/ePay offer to customers by Q4 2009 or Q1 2010. This effort will involved changes, but the scope of those changes is not yet known.

5. Information that was or will be contained in bill inserts and other communications to customers explaining e-billing along with copies of those documents.

A copy of PECO's "Go Paperless!" bill insert is attached as Attachment B.

6. Any other concerns regarding e-billing that the PUC should consider.

E-bills, by definition, are a different form of presentation that a paper bill. They have different parameters, functionalities, and advantages. In order to implement those advantages, e-bills often "look" different than a paper bill.

For example, a paper bill will have all of the bill detail and bill messages printed on the face of the bill, with bill inserts in the same envelope. An e-bill gives greater flexibility. It can contain an easily read summary of information, with hyperlinks to full bill detail and bill inserts.

Because of this, PECO recommends that the Commission should not attempt to regulate the form of e-bills. PECO believes that e-bills should include all of the information required of paper bills (including notices regarding disputes, etc., and regulatory notifications of upcoming rate cases) but that the utility should be allowed flexibility to fully utilize evolving web technologies to present that information in ways that fully utilize those technologies, including linking to information at other web locations. Put bluntly, requiring e-bills to "look" exactly like paper bills would not only be extremely difficult, it would be a waste of the opportunity to communicate more effectively via the internet.

Conclusion

PECO respectfully submits these comments and requests that the Commission incorporate them into the Commission's new Chapter 56 regulations.

Respectfully submitted,

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Date: April 24, 2009

Attachment A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Advanced Notice of Proposed Rulemaking	:	
for Amendment to 52 Pa. Code Chapter 56	:	**Docket No. L-00060182**
to Comply with the Provisions of 66 Pa. C.S.,	:	
Chapter 14; General Review of Regulations	:	

Comments of PECO Energy Company

PECO Energy Company ("PECO Energy") hereby submits comments in the above-captioned docket in response to the Pennsylvania Public Utility Commission's ("Commission") Advanced Notice of Proposed Rulemaking Order ("ANOPR") and Request for Comments on the proposed revisions of the regulations appearing in 52 Pa. Code Chapter 56, relating to standard and billing practices for residential utility service. The Proposed Order was issued by the Commission on December 4, 2006, and published in the Pennsylvania Bulletin on December 16, 2006 (36 Pa. B. 7614).

I. Introduction

PECO Energy appreciates this opportunity to file comments responding to the Commission's ANOPR on the proposed revisions of Chapter 56. In the ANOPR, the Commission requests that utilities comment on specific provisions of Chapter 56 to bring the regulations in alignment with Chapter 14, which issues are identified in Appendix A of the ANOPR. (ANOPR at 5). In order to provide a helpful response to the Commission's request, PECO Energy's comments are organized to address each Appendix issue as stated.[1] Where appropriate, PECO Energy's Comments include suggested text for the revised regulations.

[1] In the ANOPR, the Commission requests comments on how Chapter 56 should address technological advances, such as electronic billing and payment, email, the internet, etc. PECO Energy believes that these important issues

service in this situation. To the extent such a prohibition still exists, those situations should be incorporated into the rules governing such termination or liability.

(3) Section 5 relating to nonpayment of a deposit. Chapter 14 has created very specific rules about when a utility may collect a deposit and when termination may occur for that deposit. This provision is unnecessary in light of those rules.

(4) Section 7 relating to nonpayment of charges for utility service furnished more than 4 years prior to the date the bill is rendered. The ability of a utility to issue and require payment for a make-up bill is addressed in Chapter 14 and will be addressed in the revised Chapter 56. Therefore, this provision is unnecessary.

(5) Section 11 relating to nonpayment of delinquent accounts when the deposit held by the utility is within $25 of the account balance. With delayed billing, a utility's account balance does not reflect usage by the customer not yet billed. If the utility is required to wait until the balance of the account exceeds the deposit amount prior to terminating service, the purpose of the deposit is lost. A deposit of two months is required to cover the potential loss associated with the delayed billing cycle. This provision defeats the purpose of the deposit and creates additional risk of loss to the utility.

6. <u>Winter Termination Procedures.</u>

The winter termination procedures in Chapter 14 may be the most valuable tool provided to utilities in its efforts to reduce uncollectibles. As the Commission points out, these rights must be weighed against the health and safety of customers. Therefore, it is of critical importance that the regulations properly reflect the winter termination provisions of Chapter 14 and provide clear guidance to utilities, and clear warning to nonpaying customers.

In the ANOPR, the Commission requests specific and detailed comments on the necessary revisions to § 56.100. Attached as Exhibit B is PECO Energy's proposed revised § 56.100. PECO Energy proposes defining a good faith effort to obtain income information by balancing the utility's obligation with the customer's obligation to provide such information. In most instances, if a customer contacts a utility to discuss a past due balance, income information is requested to determine if the customer is eligible for special terms or rates. If the customer declines to provide that information, an inference should be drawn that the customer does not qualify for the special terms and/or rates and, therefore, also qualifies for termination under the winter termination procedures. That is, a customer eligible for lower rates or financial assistance would not reasonably be expected to decline income information if providing it would benefit them. Therefore, a single refusal by the customer to provide information should be sufficient to presume eligibility for winter termination.

In the event that the customer does not contact the utility or if the income information is not refused in a telephone call by the customer, the utility should be permitted to fulfill its good faith obligation by initiating contact with the customer and specifically requesting the information. At least one of these requests should be in writing, in the event that the customer cannot be contacted by telephone. If the written notification clearly states that the refusal to provide such information will lead to a presumption of eligibility for winter termination, the utility should be permitted to presume eligibility for winter termination. If the customer specifically refuses to provide income information in a utility-initiated contact, the customer should be presumed eligible for winter termination. If the customer does not respond to 3

attempted contacts (including at least one written attempt), the customer should be presumed eligible for winter termination.

Furthermore, the utility should be given procedures for verifying income information and the Commission should require customers to comply with the verification requirements. A customer may provide income and occupancy information by telephone which suggests that they are not eligible for winter termination. If the customer is not then required to substantiate that claim, the customer is provided an avenue for fraudulent avoidance of payment and the utility is helpless to act upon that fraud. PECO Energy proposes that if a utility makes a written request for income verification and includes in that request a warning that the customer must comply or be deemed eligible for winter termination, the onus should then shift to the customer to provide proof of income. Similar processes are in place to protect against CAP related fraud. A customer is not placed in CAP unless proof of income is provided. The proposed process would also assist utilities in obtaining information necessary to enroll low income customers in their valuable low income assistance programs while ensuring that the process is not used by customers who are not low income and are merely trying to avoid payment.

The Commission also proposes revisions to the winter survey requirements. First, the Commission proposes requiring updates to the winter survey throughout the winter period. PECO Energy notes that the monthly report required by § 56.231 includes information about termination notices sent, terminations completed, and reconnections completed. PECO Energy submits that this report, provided throughout the winter period, will provide ample information to the Commission on winter terminations. The primary purpose of the winter survey is to provide customers with financial assistance information to get service restored. If the

Commission determines that it is necessary for utilities to provide assistance information to customers terminated during the winter, PECO Energy proposes to provide that information to the customers with the post-termination notices, instead of conducting a winter survey on a customer who may have been terminated (and received all the required notices) only two weeks prior.

PECO Energy also proposes limiting the initial winter survey to involuntary terminations occurring only in the current year of the survey. If a customer requested a discontinuance of service at a property and no new request for service was received, that property should not be included in the winter survey. Likewise, if a property was terminated for nonpayment 18 months prior and no restoration of service at the property has occurred, that property would have been included in the prior year winter survey and repeated surveys should not be required. These limitations will assist the utilities in focusing their efforts on the properties and customers intended to be targeted by the survey – customers who were terminated for nonpayment and who may be eligible for financial assistance or payment terms to restore heat-related service through the winter period.

Finally, the Commission proposes requiring utilities to report to the Commission "anytime they become aware of a death following a termination of utility service where it appears that the death may be linked to the lack of utility service." PECO Energy strenuously opposes any such requirement. First, there is no such requirement in Chapter 14, which is the subject of the current revision of Chapter 56. Second, the suggestion is that the utility would be required to investigate each and every death in the Commonwealth and make a determination of causal factors. The cost of such investigations alone would be prohibitive to many utilities. The

only way to properly comply with such a requirement would be to assign resources to review obituaries and examine each account for service status. Resources would also be required to investigate when a lack of service is found – keeping in mind that such investigation may interfere with an ongoing police or fire department investigation and the utility would not have access to the information gathered by those departments.

Finally, if a utility completes such investigation, the utility is then required to potentially incriminate itself by reporting that there ***may be a link*** to lack of service. The only situation in which such a link would be of concern to the Commission or to the public would be if the lack of service was the *cause* of the death and if the utility did not follow proper procedures in terminating that service. In that event, requiring a report would be tantamount to requiring the utility to admit liability in a death. No other industry would ever be required to bear the burden of investigating the deaths of all of its customers, make a causal determination of such death and then submit an incriminating statement to a regulatory authority.

The current process is that utilities respond to all Commission requests for information relating to any utility service account. If the Commission believes that a death or injury is related to utility service, the Commission need only call or email the utility and request information. PECO Energy believes that this process is sufficient to meet the concerns raised by the Commission in the ANOPR and believes that its cooperation in all Commission requests to date supports the fact that the process is working.

7. Emergency Medical Procedures.

In Appendix A, the Commission proposes revising all of the emergency medical provisions to include "nurse practitioner." However, Chapter 14 only extends the ***oral***

REVISED §56.100

(1) **Notwithstanding any other provision of this chapter** and unless otherwise authorized by the Commission, **during the period of December 1 through March 31,**~~,~~ a utility shall not terminate heating service to customers with household incomes at or below 250% of the Federal Poverty Level unless such termination is authorized ~~utilities subject to this chapter shall conform to the provisions of this section. The covered utilities may not be permitted to terminate heat related service between December 1 and March 31 except as provided in this section or in~~ by **§~~ ~~56.98 (relating to exception for terminations based on occurrences harmful to person or property).**

(2) In addition to the notice requirements of §§ 56.91 - 56.93, prior to terminating service under this section, the utility shall, at least 48 hours prior to the scheduled date of termination, post a notice of the proposed termination at the service location. The public utility shall attempt to make personal contact with the customer or responsible adult at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.

~~(1) The utility shall comply with § § 56.91 - 56.95 including personal contact, as defined in § 56.93(1) (relating to personal contact), at the premises if occupied.~~

~~(2)~~(3) If the utility is unsuccessful in obtaining household income and occupancy information after having made a good faith effort to do so, or if a customer refuses to provide such information, the utility may presume that the customer's household income is greater than 250% of the Federal Poverty Level.

A utility will be deemed to have made a good faith effort to obtain household income and occupancy information if:

(a) the utility requested such information in a telephone call with the customer in the ninety (90) days prior to the scheduled termination date and the customer specifically declined or refused to provide such information, or

(b) the utility requests such information from the customer at least three (3) times in the ninety (90) day period prior to the scheduled date of termination, at least one (1) of such requests being a written request (including a request in the utility's notice of termination).

(4) The utility shall be permitted to require verification of household income and occupancy information. The customer must provide such verification to the utility within 30 days of a written request. If the written request includes a notice to the customer that he/she will be deemed eligible for termination under this section absent

Attachment B

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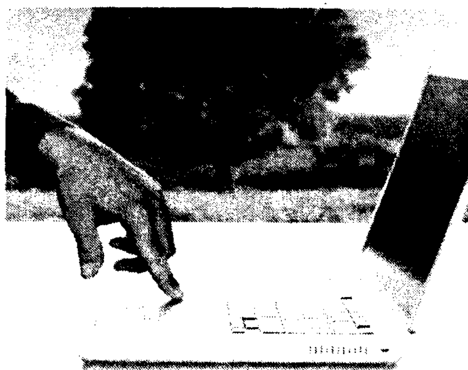

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- Report an outage/Check outage status

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