

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 13, 2015

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Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
P.O. Box 3265
Harrisburg, PA 17120

Rulemaking Re: Amendment to 52 Pa. Code
Chapter 53: Paper Billing Fees
Docket No. L-2014-2411278

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments, in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the enclosed Certificate of Service.

Sincerely yours,

A handwritten signature in black ink that reads "Barrett Sheridan".

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. #61138

Enclosure

cc: Terrence J. Buda/Law Bureau
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Re Amendment to :
52 Pa. Code Chapter 53; Paper Billing Fees : Docket No. L-2014-2411278

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: April 13, 2015

I. COMMENTS

The Pennsylvania Public Utility Commission (Commission) commenced this proposed rulemaking by Order entered December 4, 2014 and published in the Pennsylvania Bulletin on March 14, 2015. (45 Pa.B. 1264). Pursuant to the Commission's authority under Sections 501 and 1501 of the Public Utility Code, the Commission proposes to amend Chapter 53 of its regulations to include the following regulation:

§ 53.85. Paper billing fees.

A public utility may not impose a supplemental fee, charge or other rate for furnishing a paper bill or invoice for the services provided by the public utility.

Proposed Rulemaking, App. A, 45 Pa.B. at 1266; 66 Pa.C.S. §§ 501, 1501. The proposed regulation would apply to all noncommon carrier public utilities and telecommunications public utilities. Proposed Rulemaking, 45 Pa.B. at 1265.

The Office of Consumer Advocate (OCA) supports the Commission's proposed regulation, as necessary and appropriate to protect consumers and provide clear guidance to electric, natural gas, water, wastewater, steam, and telecommunications public utilities that the provision of public utility service includes the presentment of a paper bill or invoice, without separate fee, charge or other rate. The Commission's proposed regulation should be adopted without modification. The proposed regulation provides clear and needed notice to the subject public utilities that the imposition of fees for furnishing a paper bill or invoice for public utility service is not allowed.

The OCA submits that the proposed regulation is an appropriate exercise of the Commission's authority under Chapter 15 of the Public Utility Code to assure that public utilities provide reasonable and adequate service. Proposed Rulemaking, 45 Pa.B. at 1265, citing 66

Pa.C.S. § 1501. The proposed regulation is appropriately included in Chapter 53 which applies to electric, natural gas, water, wastewater, steam and telecommunications utilities. As the Commission has determined, public utilities have an obligation pursuant to Section 1509 to provide consumers with an itemized monthly bill for recurring public utility services. 66 Pa.C.S. § 1509. The OCA supports the proposed regulation which would assure that consumers are not confronted with a supplemental fee or charge in order to obtain a paper copy of the bill or invoice. The Commission has determined, pursuant to Section 1509 and 1501, that if a utility does charge a fee for a paper invoice, the consumer may receive unreasonable and inadequate service by being denied needed information to know what charges to pay, to verify the accuracy of the charges for services, and to make informed decisions where the utility service is subject to competitive pricing. See, Investigation of Practice of Paper Invoice Charges, Docket No. I-2010-2181481, Order at 25-27 (Mar. 24, 2014)(March 2014 Order), Order on Reconsideration at 8-9 (Dec. 4, 2014)(Final Investigation Order).

In its investigation of paper bill invoice fees practices among telecommunications utilities, the Commission determined that the provision of such public utility service inherently requires the presentment of a monthly bill and the billing itself is not a separate utility service subject to a fee or charge:

All telecommunications utilities, including IXCs [interexchange carriers] and ILECs [incumbent local exchange carriers], have the same billing obligations under Section 1509. These obligations directly relate to the ordering and disconnection of service. What the charges on the bill are for, i.e., basic service, toll service, or a combination, is not relevant to whether PBIFs [paper bill invoice fees] should be charged.

In addition, as previously stated, providing a monthly bill is not a stand-alone service, but a practice necessary to receive uninterrupted telecommunications service. Therefore, charging a PBIF is not the act of pricing a telecommunications service

March 2014 Order at 26-27, citing 66 Pa.C.S. § 1509. The OCA submits that the proposed regulation correctly provides notice to public utilities that the act of furnishing a monthly bill for utility services rendered is not, in and of itself, a separate utility service for which the utility may impose a charge, whether by tariffed rate, supplemental fee or otherwise.

The OCA supports the Commission's proposed regulation which requires monthly bills for public utility service to be furnished as paper bills or invoices, without separate fees or cost to the consumer. The Commission's proposed regulation reasonably preserves to consumers one option for receipt of their monthly bill or invoice for public utilities services without the additional cost or burden of an additional fee or the need to purchase internet access devices and services as the prerequisite to use of electronic billing, if offered by the public utility as an alternative. See March 2014 Order at 38-39. The Commission's proposed regulation preserves the rights of consumers to choose between billing alternatives, if offered, without penalty if the consumer prefers to continue to receive paper bills or invoices. In recent years, the Commission has amended certain Chapter 56 regulations concerning billing and provision of service by some fixed utilities to recognize that consumer acceptance of electronic billing should be a voluntary choice. See e.g., 56 Pa.Code §§ 56.11(b), 56.261(b). As the Commission summarized in its March 2014 Order:

The Commission has supported and encouraged this kind of paperless billing or online billing. In other words, online billing must be offered on a voluntary basis and free of any condition, such as to avoid a charge. In addition, customers should always be able to switch back to the conventional or traditional billing; namely, paper billing, at any time free of any charge.

Id. at 38, citing 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; Blanket Waiver


of 52 Pa. Code § 56.21 Relating to Physical Delivery of a Bill, Docket No. L-00060182, Order entered September 2, 2009; *see also* 73 Pa. C.S. § 2260.301(c) (Electronic Transactions Act) (A party who conducts one transaction electronically may refuse to conduct other transactions by electronic means).

The OCA submits that the Commission's March 2014 Order and Final Investigation Order regarding the billing practices of telecommunications public utilities, and the Commission's early consideration of the importance of consumer choice when electronic billing is offered by other public utilities subject to Chapter 56 of the Commission's regulations, provide a sound basis for adoption of the proposed regulation to protect consumers and assure the provision of reasonable public utility service.

II. CONCLUSION

The Office of Consumer Advocate supports adoption of the Commission's proposed amendment to Chapter 53 to include the new Section 53.85 Paper Bill Fee regulation for the reasons set forth above and in related comments submitted by the OCA in earlier Commission investigations.

Respectfully Submitted,



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DATED: April 13, 2015
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CERTIFICATE OF SERVICE

Re: Rulemaking Re: Amendment to 52 Pa. Code Chapter 53; Paper Billing Fees
Docket No. L-2014-2411278

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 13th day of April, 2015.

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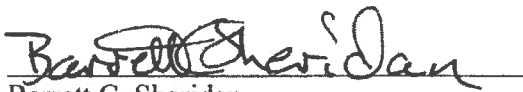
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