

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

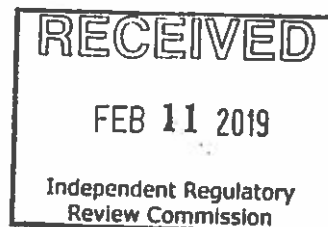
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

3161

September 12, 2017

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



Re: Rulemaking to Amend the Provisions of 52 Pa.
Code, Chapter 56 to Comply with the Amended
Provisions of 66 Pa. C.S. Chapter 14
Docket No. L-2015-2508421

Dear Secretary Chiavetta:

Attached for electronic filing are the Additional Comments of the Office of Consumer Advocate in the above-referenced proceeding.

If you have any questions, please feel free to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "La M. Burge".

Lauren M. Burge
Assistant Consumer Advocate
PA Attorney I.D. # 311570

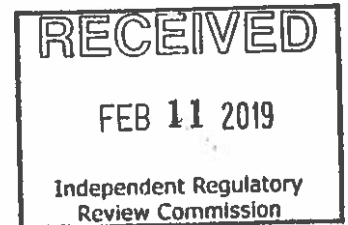
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cc: Daniel Mumford, Office of Competitive Market Oversight
Matthew Hrivnak, Bureau of Consumer Services
Kriss Brown, Law Bureau

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION



Rulemaking to Amend the Provisions of
52 Pa. Code, Chapter 56 to Comply with
the Amended Provisions of
66 Pa. C.S. Chapter 14

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Docket No. L-2015-2508421

ADDITIONAL COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

Lauren M. Burge
Assistant Consumer Advocate
PA Attorney I.D. #311570
E-Mail: LBurge@paoca.org

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. #320580
E-Mail: HBreitman@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: September 12, 2017

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I. INTRODUCTION

On February 18, 2017, the Pennsylvania Public Utility Commission's (Commission) Notice of Proposed Rulemaking Order (Proposed Rulemaking Order) in the above-captioned docket was published in the *Pennsylvania Bulletin*. 47 Pa.B. 965. Through this Rulemaking, the Commission is proposing amendments and modifications to its regulations regarding Standards and Billing Practices for Residential Utility Service found at 52 Pa. Code Chapter 56 (Chapter 56). The primary purpose of the Proposed Rulemaking Order is to promulgate regulations to implement Chapter 14 of the Public Utility Code. 66 Pa. C.S. §§ 1401-1418. Chapter 14, also known as the Responsible Utility Consumer Protection Act, was signed into law by Governor Rendell on November 30, 2004. On October 22, 2014, Governor Corbett signed Act 155 of 2014 into law, which reauthorized and amended Chapter 14. Chapter 14 applies to electric distribution companies (EDCs), natural gas distribution companies (NGDCs), water distribution utilities, wastewater utilities, and steam heat utilities.

The Commission has previously addressed a number of urgent issues in Chapter 56 that resulted from the Chapter 14 amendments. See Docket No. M-2014-2558824. The remaining issues that the Proposed Rulemaking Order seeks to address include: amending definitions of applicant, customer, and public utility; clarifying the 90-day deposit payment period; revising the credit methodology; and expanding protections for individuals with Protection from Abuse Orders (PFAs) to include individuals with other types of court orders related to domestic violence. As part of this rulemaking, the Commission is also seeking comment on issues such as privacy guidelines, cost of compliance, and collections reporting. Proposed Rulemaking Order at 4-5.

On April 19, 2017, the OCA filed its Comments on the issues raised in the Proposed Rulemaking Order. On July 13, 2017, the Commission entered an Order Seeking Additional

Comments (Order). Through this Order, the Commission is seeking additional comments on three specific issues raised in the first round of comments, as well as two new related proposals. This Order was published in the *Pennsylvania Bulletin* on July 29, 2017. 47 Pa.B. 4135. Pursuant to this notice, the OCA submits the following additional comments.

II. ADDITIONAL COMMENTS

A. Privacy Guidelines at 66 Pa. C.S. Section 1406(b)(1)(ii)(D)

The Commission stated in the Order that it intends to develop privacy guidelines relating to Section 1406(b)(1)(ii)(C) of the Public Utility Code and 52 Pa. Code Sections 56.93 and 56.333 in an upcoming Tentative Order. Order at 4-5. The OCA looks forward to addressing privacy in this separate proceeding and to providing further input on these important and evolving issues. The OCA submits, however, that the Commission should provide guidance on how public utilities must handle sensitive information in the interim. The timeline for the upcoming proceeding and when final privacy guidelines will be in place is unknown. Meanwhile, utilities currently have access to and are collecting and holding customer information such as cell phone numbers, email addresses, Social Security numbers, and a variety of other sensitive data. While the OCA appreciates that the Commission will be reviewing privacy issues in more detail in a separate proceeding, the OCA submits that until final privacy guidelines are in place the Commission should be clear that data submitted to public utilities for purposes of personal contact should not be shared with third parties.

The OCA discussed privacy issues in its April 19, 2017 Comments. In those Comments, the OCA stated that information provided by customers for purposes of personal contact should be treated as private information and should not be shared. Currently, for example, the Commission does not allow the release of telephone numbers for any purpose.¹ The same treatment should be provided for e-mail addresses, numbers used for text messaging, etc. This approach should be followed until final privacy guidelines are in place in order to ensure that the customer's confidential information is protected.

¹ See Interim Guidelines for Eligible Customer Lists, Docket No. M-2010-2183412, Final Order on Reconsideration, entered November 15, 2011; see also, 52 Pa. Code § 54.8 (privacy of customer information); 52 Pa Code § 62.78 (privacy of customer information).

Additionally, the OCA submits that the Commission should address a broader range of privacy issues in its upcoming Tentative Order. There are a number of other privacy issues that are unclear and evolving and which would benefit from further guidance from the Commission. For example, smart meters are being widely deployed and are collecting a significant amount of customer usage and other data. Utilities are collecting and holding more sensitive customer information, such as Social Security numbers, and at the same time the risk of data breaches or cyber security attacks is increasing. The OCA urges the Commission to undertake a comprehensive evaluation of privacy concerns related to customer information and to protect consumers from having their information disclosed to third parties.

B. Data on the Usage of Medical Certificates

In its Order, the Commission requested additional comment and data on the usage of medical certificates. In its Comments, the Independent Regulatory Review Commission (IRRC) noted that “[w]hile fraud is frustrating, it is not clear from the comments to what degree this fraud has existed or might exist.” IRRC Comments at 5. IRRC requested that the Commission provide additional data on the impact of fraud related to medical certificates. *Id.*; Order at 5-6.

The OCA does not have data regarding medical certificates in its possession, but looks forward to the responses from utilities that may be able provide greater information on this issue. The OCA notes, however, that the chart provided on page 6 of the Order raises a number of questions that should be addressed. This chart provides information on Medical Certificate Usage in 2016, including total number of residential customers, number of medical certificates submitted, and number of medical certificates accepted for the electric, natural gas, and water sectors. Additional information should be gathered about the numbers in this chart.

First, there is a significant difference between the number of medical certificates submitted and those accepted. For example, for electric utilities, 9,452 medical certificates were submitted but not accepted in 2016. What was the basis for rejection of those medical certificates that were not accepted? The Commission should require the utilities to provide a breakdown of reasons for these rejections. Second, of those medical certificates that were not accepted, how many were due to evidence of fraud, and what evidence was relied upon to make such a determination? This information is necessary to assess both the impact of fraud as well as areas where the medical certificate process could be improved to better protect customers with serious medical conditions.

The OCA is unable to comment further without access to more data, but looks forward to providing additional thoughts as this process moves forward.

C. Cost and Impact of Regulatory Changes

The Commission requested that commenters submit information regarding estimated costs and/or savings associated with compliance with the proposed changes. Order at 7; see also IRRC Comments at 6. The OCA does not have access to compliance cost information and so cannot provide comment at this time. The OCA notes, however, that costs should be considered in the proper context. This rulemaking relates to important consumer protections, and it can be difficult to quantify the benefits of this type of regulation. The proposed regulations would help to prevent fraud, prevent consumers from becoming payment troubled, and prevent service terminations with their attendant economic consequences and risks to public health, safety, and even potential loss of life. While the OCA appreciates that the Commission and IRRC need to consider costs associated with regulatory proposals, the fact that the current proposal relates to

important consumer protections should also be considered to place costs considerations in the appropriate context.

III. COMMENTS ON NEW TOPICS

A. Third-Party Notification of Supplier Switching

In its Order, the Commission proposes to add supplier switch confirmation notices to the list of notices that a utility will provide to a third party under Sections 56.131 and 56.361. Order at 7-12. The OCA very strongly supports this proposal and submits that third party notification of supplier switching will provide a valuable and important consumer protection.

Currently, Sections 56.131 and 56.361 allow customers to designate a third-party to whom the utility will provide duplicate copies of notices such as reminder notices, past due notices, delinquent account notices, or termination notices. This system is particularly helpful for customers who may have trouble navigating their utility bills by providing notice to a third party that the customer's utility service may be in jeopardy. This would allow, for example, an adult child to be notified if an elderly parent had received a termination notice. The OCA hears from many consumers who similarly have trouble navigating the competitive energy marketplace and may have switched to a competitive supplier without knowing it or without fully understanding the terms. The OCA believes that the Commission's proposal to add supplier switch confirmation notices to the list of notices provided to an authorized third party is an excellent proposal that will help to prevent the harms associated with unauthorized or misunderstood switching among this subset of customers.

In addition, the OCA submits that this change should require utilities to provide supplier switching notifications to third parties that are already receiving notifications on a customer's behalf. This will ensure that these third parties will receive notices without going through the

process of requesting additional notifications a second time, and ensure that vulnerable customers receive all the benefits associated with important consumer protection.²

The OCA applauds the Commission for its proposal to add third party notification for supplier switch confirmation notices, and strongly supports the inclusion of the proposed language in the final rulemaking.

B. Customer Retaining Utility Service Pending Formal Appeal

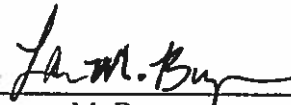
The Commission has proposed to clarify the automatic stay provision in Section 56.172(d) to “more specifically state that the benefit of the stay is to maintain utility service until a final formal determination is made.” Order at 12. The OCA strongly agrees that the intent of this provision is for customers to have utility service maintained or restored while issues are in dispute. Even if the utility is appealing a determination, the customer should always maintain service or have service restored until there is a final determination. The OCA strongly supports this clarification and believes it will help remove any confusion about the effect of this regulation.

² If the third party does not wish to receive this type of notification, they may contact the utility and opt out.

IV. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide additional comments on these important issues. The OCA respectfully submits that the above comments will ensure that the updated regulations will be consistent with Chapter 14 and will continue to provide essential protections to consumers throughout the Commonwealth.

Respectfully Submitted,



Lauren M. Burge
Assistant Consumer Advocate
PA Attorney I.D. # 311570
E-Mail: LBurge@paoca.org

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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555 Walnut Street, 5th Floor, Forum Place
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Phone: (717) 783-5048
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