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Direct Dial: 215-841-6863

May 11, 2017

Rosemary Chiavetta, 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 Amended Provisions of 66 Pa. C.S. Chapter 14
Docket No.: L-2015-2508421**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are the *Comments of PECO Energy Company to Notice of Proposed Rulemaking Order* with regard to the matter referenced above.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ward L. Smith".

Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Daniel Mumford, OCMO
Matthew Hrivnak, BSC
Patricia Wiedt, Law Bureau

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF PECO ENERGY COMPANY
TO NOTICE OF PROPOSED RULEMAKING ORDER**

I. INTRODUCTION

PECO Energy Company (“PECO”) is pleased to provide its Comments to the Commission’s Notice of Proposed Rulemaking Order.¹ On April 19, 2017, the Energy Association of Pennsylvania (“EAP”) filed comments, and PECO supports and adopts the EAP Comments. In addition, PECO would like to comment on the following provisions of the Notice of Proposed Rulemaking.

¹ PECO requests that its Comments be accepted *nunc pro tunc*. Comments were due on April 19, 2017, but PECO’s counsel on this matter has been dealing with significant medical issues and was unable to complete work on PECO’s Comments. PECO’s counsel attests that he has not reviewed any of the Comments filed by other stakeholders, other than drafts of the EAP comments that PECO supports and adopts herein, and that the Comments offered by PECO today are therefore not in the nature of Reply Comments.

II. COMMENTS

A. Section 56.91(11) General notice provisions and contents of termination notice [as related to court orders that provide clear evidence of domestic violence].

The Commission proposes a revised Section 56.91 (11) stating that written termination notices must include (new language underlined):

(11) Information indicating that special protections are available for victims under a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence, and how to contact the public utility to obtain more information on those protections.

This new proposed regulatory language in §56.91(11) tracks the new statutory language in 66 Pa. C.S. §1417,² which was implemented as part of Act 155 of 2014.

The new statutory and regulatory language – a court order that “provides clear evidence of domestic violence” – is sufficiently broad that PECO does not expect to be able to immediately proceduralize its determination of whether a proffered court order provides the needed “clear evidence.” At this time, PECO therefore expects to route such requests for review by professional staff (legal or other) who have experience working with the legal “clear evidence” standard. Over time, PECO expects to develop a deeper understanding of what types of evidence may be proffered in support of such requests, and potentially to be able to develop procedures based on that additional knowledge. Until such time, however, PECO would like the Commission to be aware that it expects to largely handle review of these requests at a manual level after reference from its call center.

² 66 Pa. C.S. §1417 was revised as follows: “This subchapter shall not apply to victims under a protection from abuse order as provided by 23 Pa. C.S. Ch. 61 (relating to protection from abuse) or a court order issued by a court of competent jurisdiction in the Commonwealth, which provides clear evidence of domestic violence against the applicant or customer.”

B. Section 56.114 Medical certificates

The EAP provided extensive comments on the Commission's changes to the medical certificate regulations, found at 52 Pa. Code §§56.111 *et seq.* PECO supports those comments. There is one medical certificate issue that PECO would like to supplement with its individual comments. The Commission's Rulemaking, Attachment A, page 9, asks for additional comments on a specific medical certificate issue, stating that:

We also invite parties to comment on any other medical certificate issues they think need to be addressed. For example, some parties have previously asked the Commission to clarify or revise the payment obligations of customers while protected by a medical certificate. *See* 52 Pa Code § 56.116. Some parties have asked that the obligation to pay include not only current bills, but also payment towards the arrears. We ask parties that comment on this issue to include an analysis of the ability of the Commission to order payment arrangements be negotiated in these situations in the context of the restrictions upon the Commission found in Section 1405. *See* 66 Pa. C.S. § 1405 (relating to payment arrangements). (emphasis added).

Medical certificates give protection against termination activity. It is thus to be expected that, when customers utilize a medical certificate, the customer almost always has an arrearage that they are having trouble paying – they use the medical certificate to suspend the process of termination for non-payment.

Everyone seems to agree that, while the customer is receiving the protections of the medical certificate, the customer must pay their bills for current service – and that failure to do so will cause the customer to lose the protections of the medical certificate process.

Over the years, however, there has been substantial regulatory debate about the scenario in which a customer with an arrearage receives a medical certificate (and the two medical certificate renewals allowed by the regulations, 52 Pa. Code § 56.114(2)), and pays their bills for current service received during those three months – but pays nothing toward their arrearage.

The debate is over whether the customer who makes the payments described above is entitled to continue to receive additional medical certificates as long as they continue to pay their current monthly bills – or whether the medical certificate procedure ends after a medical certificate and two renewals.³

PECO's position is that, once three months have passed – the original medical certificate and two renewals, each of which is in force for nominally thirty days – that in order to continue to receive protection from the termination process, the customer must continue to pay their ongoing bills *and also make arrangements to pay their arrearage*. The arrearage can be paid as a lump sum or, if the customer is eligible for a payment arrangement pursuant to 66 Pa. C.S. § 1405, the Commission may order a payment arrangement over a period of time. As a third alternative, even if the customer is not eligible for a § 1405 payment arrangement, the customer can contact PECO and offer an alternative payment arrangement in which the customer agrees to pay their arrearage over a period of time agreed to by the customer and PECO.

What all three of these options have in common is that, once three months of medical certificate protection have elapsed, in order to continue receiving protection from the termination process the customer must pay their current bills AND begin to pay (if under a payment arrangement) or fully pay (if no payment arrangement is available) the arrearage they had when they received their first medical certificate.

If that is not required, then a customer who amasses an arrearage (for whatever reason) and then becomes ill can avoid paying their arrearage forever. PECO is aware of several

³ PECO's discussion in text does not involve the situation in which a customer pays their arrearage during the three-month period for medical certificates and two renewals. In that situation, PECO believes that if the customer has a future arrearage and a future illness, they can get additional medical certificates on that new arrearage. But the customer must pay the entire arrearage before again being eligible to use the medical certification provision.

proposals that would have this effect. Essentially, such proposals suggest that, as long as a customer continues to pay the current bills for service received under a medical certificate and two renewals, the customer is then entitled to a third, fourth, and fifth renewal. Indeed, some have even suggested that such a customer would be entitled to perpetual protection from termination -- an infinite number of medical certificate renewals. The customer would simply pay their current bills each month and they would never have to pay toward their arrearage, but would still be protected from termination in perpetuity.

PECO does not believe that the Commission's medical certificate regulations were ever intended to provide an infinite number of medical certificates, or to provide protection against termination in perpetuity. The most obvious reason for reaching this conclusion is found in the language of 52 Pa. Code §56.114(2) (medical certificate renewals), which speaks specifically about an initial medical certificate and two renewals, but makes no mention of receiving additional medical certificates for a period longer than that -- and certainly not forever.

This is also the proper outcome from a policy perspective. At times, PECO's customers utilize the medical certificate process to such an extent that there may be tens of millions of dollars of arrearages held in termination suspension via the medical certificate process. If those customers have the right to perpetually avoid payment of those arrearages by getting an infinite number of medical certificates, then those tens of millions of dollars of arrearages will become uncollectible expense, and the cost of that expense will have to be paid by other PECO customers.

PECO respectfully submits that the purpose of the Commission's medical certificate regulations is and always has been to give a brief respite -- up to three months -- to a customer who falls ill and falls behind on their bills. Absent the medical certificate program the customer

would owe their arrearage immediately at the onset of illness; the medical certificate procedures give the customer three months to re-organize and explore alternative ways of paying the arrearage. The medical certificate procedures are not and never were intended to provide the customer with infinite, perpetual, relief from that arrearage. The Commission should not adopt any medical certificate procedures or rules that provide such infinite relief.

C. Section 56.163 Commission informal complaint procedure

The EAP provided extensive comments on the Commission's changes to §56.163, and PECO supports those comments. PECO also offers one additional comment. This section of the regulations states that in certain situations the utility must respond to information requests within five days:

If the complainant is without public utility service, or in other emergency situations as identified by Commission staff, the information requested by Commission staff shall be provided by the public utility within 5 business days of the request.

PECO respectfully submits that there is another fact pattern in which timeliness is also a key. In some situations, a customer has not provided complete information to PECO, but is nonetheless receiving service under the auspices of an informal complaint. In current practice, a customer can remain in that status for months – and then lose their informal complaint. Often, the customer does not pay for any of the service received during this period, either during the service period itself or after the decision denying their complaint. This unfortunate outcome could be avoided by requiring that such complaints be closed in a specified period of days after the utility provides necessary information to the Commission.

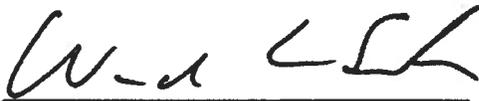
D. Section 56.191 Payment and timing

PECO also suggests that a minor change be made to 52 Pa. Code §56.191(2). In the various provisions of that subsection, the regulations state that a utility may or must take certain actions depending upon the income level of the customer or applicant. PECO generally believes that, when the regulations provide for disparate treatment based on income, the regulations should refer to “verified income” rather than merely “income.” Otherwise, customers and applicants can receive preferential treatment whether they truly have lower income or not, by the simple artifice of claiming to have income levels low enough to receive preferential treatment, regardless of their actual income level. Requiring verification of income levels in order to receive preferential treatment reduces that possibility significantly.

CONCLUSION

PECO respectfully requests that the Commission consider these comments as it develops a Final Order on these regulations.

Respectfully submitted,



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Date: May 11, 2017