

RULES AND REGULATIONS

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 56]

[L-00060182]

Standards and Billing Practices for Residential Utility Services

The Pennsylvania Public Utility Commission (Commission) on June 9, 2011, adopted a revised final rulemaking order which amends Chapter 56 to comply with the provisions of 66 Pa.C.S. Chapter 14.

Executive Summary

By Order entered September 26, 2008, at Docket No. L-00060182, the Commission adopted a Proposed Rulemaking Order which amends Chapter 56 of the Commission regulations, 52 Pa. Code §§ 56.1, et seq. By Order entered March 22, 2011, at this docket, the Commission adopted the Final Rulemaking Order. By Order entered June 13, 2011, at this docket, the Commission adopted the Revised Final Rulemaking Order.

The purpose of this Revised Final Rulemaking Order is to promulgate regulations to implement Chapter 14 (66 Pa.C.S. §§ 1401—1418, Responsible Utility Customer Protection). In particular, Section 6 of Act 201 requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.

On November 30, 2004, the Governor signed into law SB 677, or Act 201. This law went into effect on December 14, 2004. Act 201 amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401—1418, Responsible Utility Customer Protection). Complying with the Section 6 obligation imposed by the Act is the main purpose of this rulemaking. In addition, the Commission reviewed the entire Chapter 56 to revise when necessary given our experience and the technological advances in the industries.

Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. The legislation is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of \$6,000,000). Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

Public Meeting held
June 9, 2011

Commissioners Present: Robert F. Powelson, Chairperson; John F. Coleman, Jr., Vice Chairperson; Tyrone J. Christy; Wayne E. Gardner; James H. Cawley

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;
Doc. No. L-00060182

Revised Final Rulemaking Order

By the Commission:

On September 26, 2008, the Commission issued a Proposed Rulemaking Order to amend our Chapter 56

Standards and Billing Practices for Residential Utility Service to comply with Chapter 14 of Title 66 and to undertake a general review of the regulations. On November 30, 2004, the Governor signed into law SB 677, or Act 201. This law went into effect on December 14, 2004. Act 201 amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401—1418), Responsible Utility Customer Protection. The purpose of the Proposed Rulemaking Order was to promulgate regulations to implement Chapter 14. In particular, Section 6 of the Act requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.¹ Complying with this obligation imposed by the Act is the main purpose of this rulemaking. In addition, we are taking this opportunity to review the entire Chapter 56 and make revisions when necessary given our experience and the technological advances in the industries.

Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. The legislation is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of \$6,000,000).² Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

In response to the disapproval order issued by the Independent Regulatory Review Commission (IRRC) of the Commission's Final Rulemaking Order adopted February 24, 2011, as well as the other comments to that order, the Commission is hereby adopting this Revised Final Rulemaking Order.

Background

Chapter 14 of the Public Utility Code seeks to eliminate opportunities for customers capable of paying to avoid paying their utility bills, and to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections. The goal of these changes is to increase timely collections while ensuring that service is available to all customers based on equitable terms and conditions. 66 Pa.C.S. § 1402.

Chapter 14 supersedes certain Chapter 56 regulations, all ordinances of the City of Philadelphia and any other regulations that impose inconsistent requirements on the utilities. Chapter 14 expires on December 31, 2014, unless re-enacted. Two years after the effective date and every two years thereafter, the Commission must report to the General Assembly regarding the implementation and effectiveness of the Act.³

On January 28, 2005, the Commission issued a Secretarial Letter identifying general subject areas for discussion and encouraged interested parties to file written comments. In addition, on February 3, 2005, the Commission held a "Roundtable Forum" to address the implementation and application of Chapter 14.

¹ Section 6 further provides that "promulgation of any such regulation shall not act to delay the implementation or effectiveness of this chapter."

² Small natural gas companies may voluntarily "opt in" to Chapter 14. 66 Pa.C.S. § 1403.

³ On December 14, 2006, the Commission issued the First Biennial Report to the General Assembly and the Governor pursuant to Section 1415. On December 14, 2008, the Commission issued the Second Biennial Report. On January 14, 2011, the Commission issued the Third Biennial Report.

Written comments were filed by the following interested parties: Energy Association of Pennsylvania (EAP), PECO Energy Company (PECO Energy), PPL Electric Utilities Corporation and PPL Gas Utilities Corporation (PPL), Philadelphia Gas Works (PGW), Aqua Pennsylvania, Inc. (Aqua), Pennsylvania-American Water Company (PAWC), Office of Consumer Advocate (OCA), Community Legal Services (CLS), Pennsylvania Utility Law Project (PULP), Pennsylvania Coalition Against Domestic Violence (PCADV), Pennsylvania Apartment Association, Housing Alliance of Pennsylvania, and American Association of Retired Persons (AARP).

Based upon our review of the comments filed by interested parties pursuant to our January 28, 2005 Secretarial Letter and the oral comments expressed at the Roundtable Forum, we issued an Implementation Order on March 4, 2005 that addressed seven threshold issues. Although we considered these issues to be the most fundamental, we understood that this was an ongoing process and that other implementation issues would need to be resolved in the future.

Therefore, by Secretarial Letter issued June 27, 2005, we informed interested parties of the next Chapter 14 Roundtable, July 1, 2005, and established agenda items for this meeting. At this second Chapter 14 Roundtable, we again sought to engage in a discussion that promoted an exchange of ideas and views so that all interested parties would better understand differing positions and the rationales underlying them. It was intended that the parties would benefit from this discussion of the issues and assist in the effective development of procedures, interim guidelines and subsequent regulations necessary to implement the new requirements of Chapter 14.

Written comments were again submitted by the EAP, PECO Energy, PGW, OCA, CLS, and PULP. The comments were also intended to supplement oral representations at the July 1, 2005 Roundtable. Another Roundtable discussion was held on July 21, 2005 to discuss PGW-Specific Chapter 14 issues, and written comments were filed by PGW, the OCA, CLS, and PULP. On September 12, 2005, we issued the Second Implementation Order addressing unresolved issues identified for review and disposition as follows:

- Section I—Termination/Reconnection
- Section II—Payment Arrangements (PARS)
- Section III—Applications—Deposits
- Section IV—Protection from Abuse (PFA)/Consumer Education
- Section V—PGW-Specific Issues

Thereafter, we continued to address issues at this docket number. On August 24, 2005, we issued a Section 703(g) Order Seeking Comments on one of these threshold issues—the interpretation of the payment agreement restrictions in Section 1405(d). On October 31, 2005, we issued the Reconsideration of Implementation Order (page 23) amending the Implementation Order by concluding “that § 1405(d) permits the Commission (in addition to instances where there has been a change of income) to establish one payment agreement that meets the terms of Chapter 14 before the prohibition against a second payment agreement in § 1405(d) applies.” Finally, on November 21, 2005, we issued a Declaratory Order pursuant to 66 Pa.C.S. § 331(f) that Chapter 14 does not authorize public utilities to require upfront payments greater than those amounts specified in § 1407(c)(2).

Up to this point in the implementation process, we had addressed and resolved numerous issues involving the

application of Chapter 14 provisions. However, as indicated previously, we are required by the legislation to open a rulemaking proceeding. In order to facilitate the completion of our responsibility under the Act, we issued an Advance Notice of Proposed Rulemaking Order (Advance Notice) on December 4, 2006. This Advance Notice enabled us to gather input from the industry, consumer groups, and advocates before drafting the proposed revisions and provided us the opportunity to conduct a general review of this Chapter to identify, modify, and/or rescind certain provisions of Chapter 56. See, e.g., General Review of Regulations; Advance Notice of Proposed Rulemaking, Docket No. L-00950103, adopted April 27, 1995, 25 Pa. B. 2188 (June 3, 1995). We have offered all parties the opportunity to address other issues as well.

For example, we explained in the December 4, 2006 Advance Notice that since the most recent revision of Chapter 56, there have been technological advances including electronic billing and payment, email, the internet, etc. Parties were invited to comment as to how these technological advances should be addressed in the regulations, especially the billing and payment sections. Furthermore, we asserted that the rulemaking proceeding will also review all of our outstanding ad hoc reporting requirements for the same purpose.

In the Advance Notice, we recognized that Chapter 14 will necessitate significant changes to the winter termination rules at § 56.100; this is an area of crucial importance and is central to the Commission’s obligation to protect the health and safety of all citizens of the Commonwealth.

Chapter 14 also changes the procedures utilities may use when screening applicants for service and credit worthiness. Related to this are provisions in Chapter 14 that expand a utility’s ability to assign liability for account balances that may have accrued under the name of someone other than the customer or applicant. The Commission requested comments on these procedures of winter terminations and screening and asked for the assistance of all parties in formulating regulations to address these important areas.

The Commission sought comments on the most controversial and complex provisions of Chapter 14 identified in questions set forth in Appendix A to the Advance Notice. Comments were received from the following 22 parties: EAP, PECO Energy, Allegheny Power, PPL, Duquesne Light Company (DLC), the FirstEnergy Companies (FirstEnergy), PGW, Columbia Gas of Pennsylvania, Inc. (Columbia), TW Phillips Gas Company (TWP), National Fuel Gas Distribution Corporation (NFG), Equitable Gas Company Division of Equitable Resources, Inc. (Equitable), The National Association of Water Companies (NAWC), PAWC, Aqua, OCA, PULP, Action Alliance of Senior Citizens, Tenant Union Representative Network and ACORN (Action Alliance), AARP, PCADV, Women’s Law Project (WLP), Women Against Abuse (WAA), and the Consumer Advisory Council (CAC). As indicated previously, we encouraged the commentators to raise any matters or issues that they feel we have overlooked or missed, including the need to revise Chapter 56 sections unrelated to Chapter 14.

Proposed Rulemaking Order

Upon consideration of the new requirements of Chapter 14 and all of the comments received to date, we proposed the adoption of the regulations set forth in Annex A to the September 26, 2008 Proposed Rulemaking Order. A summary of the comments along with discussion of such were

attached to this Order as Attachment One. The Order was published February 14, 2009 at 39 Pa.B. 925 and the public comment period concluded on April 20, 2009. This action continued the process of revising our Chapter 56 regulations. As provided for under law, the Commission next sought to finalize the proposed regulations.

Comments in response to the Order were submitted by Action Alliance, Allegheny Power, Aqua, Citizens' Electric Company (Citizens), Columbia, DLC, CAC, Dominion Peoples (Dominion), EAP, Equitable, FirstEnergy, MidPenn Legal Service (MidPenn), OCA, PULP, PECO Energy, PAWC, PGW, PPL, TWP, UGI Distribution Company (UGI), United Water (United), West Philadelphia Coalition of Neighborhoods and Businesses (WPCNB), York Water (York), as well as the Independent Regulatory Review Commission (IRRC). All comments are available at the Commission's public internet domain at www.puc.state.pa.us, as well as IRRC's at www.irrc.state.pa.us.

The Commission reviewed all the comments and the issues that developed in this rulemaking and issued a Final Rulemaking Order. The interested parties have now filed or had an opportunity to file comments on five separate occasions, including the December 4, 2006 Advance Notice. The issues have narrowed and the Commission's final order attempted to resolve the remaining issues. Many of the issues had already been the subject of previous Commission actions and the interested parties, as I have indicated, had numerous opportunities to comment on these issues, as set forth below:

- definition of customer (First Implementation Order)
- user without contract (First Implementation Order)
- landlord winter termination (First Implementation Order)
- PUC payment agreements (Reconsideration of Implementation Order)
- curing a payment agreement to avoid termination (First Implementation Order)
- verification of households eligible for winter termination (Second Implementation Order)

Final Rulemaking Order

By Order adopted February 24, 2011, and entered March 22, 2011, the Commission adopted a Final Rulemaking Order.

Our Final Rulemaking Order reflected changes in areas such as income definitions and CAP eligibility, winter surveys, paper receipts for electronic payments, budget billing payment arrangements, tariffs and credit scoring, etc. In some aspects, our Final Rulemaking Order represented substantial changes to the originally proposed amendment. We made changes in response to the issues and resolutions raised in comments by IRRC, consumer advocates and industry participants. We found merit with many of the comments and made the necessary changes.

The Commission believes that our implementation of Chapter 14 by amending Chapter 56 regulations to comply and be consistent with the statute will allow utilities to reduce their uncollectible accounts and provide additional collection tools to PGW. However, we did not draft proposed regulations that provide utilities and PGW additional methods or practices that were not specifically set forth or contemplated by the legislation. Although this was advocated by a few commentators, that is not the agency's role. The General Assembly enacted this legislation that provided these tools and the regulations implement the statute.

As previously indicated, we reviewed IRRC's comments and the Final Rulemaking Order attempted to address the concerns raised by IRRC. In addition, IRRC also made recommendations with respect to additional matters to be included and discussed in the Order. First, IRRC suggested that the Commission provide a section by section explanation of what revisions are being made. We addressed that request in Attachment Two, which provided a summary of the significant revisions to the Proposed Rulemaking Order. In addition, Attachment Three provided a regulatory analysis of the savings and efficiencies that will result from the revisions established in the Final Rulemaking Order. Furthermore, the Commission anticipated minimal additional costs to utilities reflecting possible computer software changes and increased training for customer service representatives and the additional reporting requirement costs. In Section 1402, the General Assembly declared that revision of the Chapter 56 rules would be in the public interest. We believe that the following substantive changes are consistent with that declaration of policy:

- Chapter 14 expanded the ability of a utility to ask for a deposit and we implemented this change.
- Chapter 14 expanded the ability of a utility to assign liability for an account without first seeking permission from the Commission or a court.
- The Commission expanded the ability of utilities and PGW to terminate in the winter.
- The Commission made the termination notice requirements less stringent than existing Chapter 56 requirements.

IRRC also suggested a cross-reference of Chapter 14 provisions that have been incorporated into Chapter 56 regulations. We also cross-referenced where Chapter 56 provisions have been revised to incorporate Chapter 14. These cross-references were provided in Attachment Four and Five, respectively. Finally, Attachment Six cross-referenced the traditional Chapter 56 subchapters with the new subchapters covering excluded utilities and PFA holders.

The Commission made these and other changes described above and below based on its oversight authority, experience in consumer service standards for residential service, and the requirements of Chapter 14. Chapter 14 (Section 4) supersedes inconsistent Chapter 56 regulations. We believed that this Order and Annex A did not reflect inconsistencies with Chapter 56 provisions or language. Although we amended 24 sections listed in Section 4, Chapter 56 addresses a number of topics that are not touched by Chapter 14, e.g., third-party notice, 4-year statute of limitation period for outstanding bills, make-up bills, existing customer deposits, unauthorized termination of service, procedures immediately prior to termination, post-termination notices, the right to petition the Commission to terminate customers protected by the winter termination prohibitions, and all the medical emergency provisions that are consistent with Chapter 14. We do not believe that these provisions are inconsistent with Chapter 14. We also made additional changes in response to comments from IRRC and other commentators that were intended to clarify and otherwise improve the rulemaking.

On April 7, 2011, the final-form regulation was delivered to the standing Committees of the Pennsylvania Senate and House of Representatives and (IRRC).

The next stage for the regulation within the Regulatory Review Act (Act) was review and approval at an IRRC public meeting. The regulation was scheduled for consideration and action at the May 19, 2011 public meeting. However, on May 13, 2011, the Commission issued a Secretarial Letter requesting disapproval of the regulation. The Secretarial Letter was served on all the parties to the rulemaking giving these parties an opportunity to file comments with IRRC. Notice of the May 19, 2011 public meeting was posted on IRRC's web site and the parties had an opportunity to provide oral comments at the meeting.

According to Section 745.2(a) of the Regulatory Review Act, 71 P. S. § 745.2(a), the legislative intent of the Act is to encourage the resolution of objections to a regulation and the reaching of a consensus among IRRC, the standing committees, interested parties and the agency. At this final stage in the regulatory review process, we determined that it was necessary to revise the regulation. In order to accomplish this result, it was necessary to seek disapproval of the regulation.

The Commission submitted in its Secretarial Letter that the modifications will not improperly enlarge the scope of regulation. The Commission further submitted that the final-form regulation may be inconsistent with the intention of the General Assembly in the enactment of Chapter 14. Therefore, pursuant to Section 745.7(a), we requested that the IRRC disapprove the subject regulation which would allow this agency to revise the final-form rulemaking consistent with subsection (c). The response and recommendations contemplated by the agency shall be submitted in a report to the Committees and the IRRC, within 40 days of the agency's receipt of the IRRC's disapproval order. The matters to be addressed and identified in the Secretarial Letter are set forth below:

§ 56.2 Definition of Household Income
 § 56.17 Advance Payments
 § 56.111 General Provision
 § 56.191 Payment and Timing
 § 56.252 Definition of Household Income
 § 56.267 Advance Payments
 Appendix B

On May 26, 2011, IRRC issued its Disapproval Order. In addition to the matters identified above, IRRC requested further explanation of the Commission's statutory authority for Subchapters L through V and a more detailed cost-benefit and fiscal impact analysis of the regulation. IRRC also noted that commentators have expressed concern with additional sections. IRRC's final concern related to clarity and lack of ambiguity with two sections. The Commission's Report to Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions contains the final-form regulation, the findings of IRRC, and our response and recommendations regarding the revised regulation, including responses to the concerns expressed by IRRC and the commentators. The Commission respectfully submits that it has addressed the concerns expressed by the Independent Regulatory Review Commission in its Disapproval Order. The Commission made substantive changes to the revised final-form regulation to address IRRC's concerns, and has explained the basis for the changes in this Report. Based on the attached revised final-form regulation, the findings of the Independent Regulatory Review

Commission and the Commission's response and recommendations regarding the regulation, the Commission submits that this Revised Final Rulemaking Order is in the public interest. This Order, Report, Attachments and Annex A will be published on the Commission's web site.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 4, 2009, the Commission submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 925 (February 14, 2009), to IRRC and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Commission has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 20, 2011, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 19, 2011, and disapproved the final-form rulemaking. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 21, 2011, and approved the final-form rulemaking.

Conclusion

Accordingly, under Sections 501, 504, and 1401—1418 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504 and 1401—1418; Sections 201 and 202 of the Act of July 31, 1968, P. L. 769 No. 240, 45 P. S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b); Sections 745.5 and 745.7 of the Regulatory Review Act, 71 P. S. §§ 745.5 and 745.7; and Section 612 of the Administrative Code of 1929, 71 P. S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the revised final regulations set forth in Annex A; *Therefore,*

It Is Ordered That:

1. The regulations of the Commission, 52 Pa. Code Chapter 56, are amended by adding §§ 56.25, 56.166, 56.251, 56.252, 56.261—56.267, 56.271—56.275, 56.281—56.288, 56.291, 56.292, 56.301—56.307, 56.311, 56.312, 56.321—56.323, 56.331—56.340, 56.351—56.358, 56.361, 56.371—56.374, 56.381, 56.382, 56.391—56.394, 56.401—56.404, 56.411, 56.421, 56.422, 56.431, 56.432, 56.441, 56.451, 56.452, 56.453 and 56.461, Appendix C, Appendix D and Appendix E; by deleting §§ 56.43, 56.54, 56.55, 56.101, 56.161 and 56.211; and by amending §§ 56.1, 56.2, 56.11—56.17, 56.21-56.24, 56.31—56.33, 56.35—56.38, 56.41, 56.42, 56.51, 56.53, 56.56—56.58, 56.71, 56.72, 56.81—56.83, 56.91—56.100, 56.111—56.118, 56.131, 56.140—56.143, 56.151, 56.152, 56.162—56.165, 56.172—56.174, 56.181, 56.191, 56.192, 56.201, 56.202, 56.221, 56.222 and 56.231, Appendix A and Appendix B to read as set forth in Annex A.

2. The Commission hereby adopts the Report to the Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions (Report to IRRC).

3. The Secretary shall submit this order, Report to IRRC, Attachments One through Six and Annex A to the

Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review for fiscal impact.

4. The Secretary shall submit this order, Report to IRRC, Attachments and Annex A for review by the Legislative Standing Committees and for review and approval by IRRC.

5. The Secretary shall certify this order, Report to IRRC and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

6. The regulations in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

7. The Secretary shall serve this order upon all jurisdictional electric utilities, natural gas utilities, steam, water and wastewater utilities, electric generation suppliers, natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate and all parties that submitted comments at this Docket. The Report to IRRC, order, attachments and Annex A shall be posted and made available electronically on the Commission's web site.

8. The contact persons for this matter are Daniel Mumford, Manager, Field Review, Bureau of Consumer Services, (717) 783-1957, dmumford@state.pa.us; Terrence J. Buda, Assistant Counsel, Law Bureau, (717) 783-3459, tbuda@state.pa.us; and Patricia Wiedt, Assistant Counsel, Law Bureau, (717) 787-5755, pwiedt@state.pa.us. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597, sdelbiondo@state.pa.us.

ROSEMARY CHIAVETTA,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 41 Pa.B. 4265 (August 6, 2011).)

Fiscal Note: Fiscal Note 57-265 remains valid for the final adoption of the subject regulations.

Report to the Independent Regulatory Review Commission: Disapproved Regulation Submitted with Revisions

The Commission is submitting this Report to the Independent Regulatory Review Commission (IRRC) and the standing Committees of the Pennsylvania Senate and House of Representatives pursuant to Section 745.7(c) of the Regulatory Review Act, 71 P.S. § 745.7(c), and regulatory requirements at 1 Pa. Code Chapter 311 (relating to procedures for review of disapproved final regulations). The Commission has decided to revise this disapproved final-form regulation in order to respond to objections raised by IRRC and adopt this regulation with revisions. This Report contains the attached revised final-form regulation which includes the Revised Final Rulemaking Order, Annex A, and Attachments One through Six. In addition, this Report contains the findings of IRRC, and our response and recommendations regarding the final-form regulation. The regulation is identified by IRRC as Regulation No. 57-265 (#2743).

Background

By Order adopted February 24, 2011, and entered March 22, 2011, the Commission adopted the Final Rulemaking Order. On April 7, 2011, the final-form regulation was delivered to the standing Committees of the Pennsylvania Senate and House of Representatives and IRRC.

The next stage for the regulation with the Regulatory Review Act (ACT) was review and approval at an IRRC meeting. The regulation was scheduled for consideration and action at the May 19, 2011 public meeting. However, on May 13, 2011, the Commission issued a Secretarial Letter requesting disapproval of the regulation. The Secretarial Letter was served on all the parties to the rulemaking giving these parties an opportunity to file comments with IRRC. Notice of the May 19, 2011 public meeting was posted on IRRC's website and the parties had an opportunity to provide oral comments at the meeting.

According to Section 745.2(a) of the Regulatory Review Act, 71 P.S. § 745.2(a), the legislative intent of the Act is to encourage the resolution of objections to a regulation and the reaching of a consensus among IRRC, the standing committees, interested parties and the agency. At this final stage in the regulatory review process, we determined that it was necessary to revise the regulation. In order to accomplish this result, it was necessary to seek disapproval of the regulation.

The Commission submitted in the Secretarial Letter that the modifications will not improperly enlarge the scope of regulation. The Commission further submitted that the final-form regulation may be inconsistent with the intention of the General Assembly in the enactment of Chapter 14. Therefore, pursuant to Section 745.7(a), we requested that IRRC disapprove the subject regulation which will then allow this agency to revise the final-form rulemaking consistent with subsection (c). The response and recommendations contemplated by the agency shall be submitted in the report to the Committees and the IRRC, within 40 days of the agency's receipt of the IRRC's disapproval order. The matters to be addressed and identified in the Secretarial Letter are set forth below:

- § 56.2 Definition of Household Income
- § 56.17 Advance Payments
- § 56.111 General Provision
- § 56.191 Payment and Timing
- § 56.252 Definition of Household Income
- § 56.267 Advance Payments
- Appendix B

On May 26, 2011, IRRC issued its Disapproval Order. A true and correct copy of the subject Disapproval Order is appended to this report as "Exhibit A" and is incorporated herein.

Disapproval Order and Findings

In the Disapproval Order, IRRC first cites the Commission's acknowledgement that certain sections of the regulation may be inconsistent with Chapter 14. IRRC then cited the sections of the rulemaking identified in the Commission's May 13, 2011 Secretarial Letter. The basis of IRRC's disapproval is that without support from the promulgating agency, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P.S. § 745.5b(b)(3).

In addition to this conclusion, IRRC expressed other concerns with the rulemaking. First, IRRC requests further explanation of the Commission's statutory authority for promulgating Subchapters L through V. 71 P.S. § 745.5b(a).

Second, IRRC requests a more detailed fiscal impact analysis that includes actual dollar amounts to determine the true economic or fiscal impact the regulation will

have on the Commonwealth, political subdivisions and the private sector. 71 P. S. § 745.5b(b)(1).

Third, IRRC notes that commentators have expressed concern with sections of the rulemaking not included in the Commission's Secretarial Letter of May 13, 2011. These commentators share similar concerns pertaining to the manual reading of utility meters and a utility communicating with non-English and non-Spanish speaking customers. IRRC submits that the sections cited by the commentators are as follows:

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

According to IRRC, the commentators believe that the language in these sections does not adequately protect the public health, safety and welfare of the citizens of the Commonwealth. In the report submitted with our revised final-form regulation, IRRC requests that the Commission analyze the sections noted above in conjunction with the comments and explain how the regulation adequately protects the public health, safety and welfare of the citizens of the Commonwealth. 71 P. S. § 745.5b(b)(2).

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

Revised Final-form rulemaking

A true and correct copy of the revised final-form regulation is attached in front of this report and is incorporated herein. The inclusion of the revised final-form regulation is in accordance with Section 745.7(c) of the Regulatory Review Act and IRRC's regulation at 1 Pa. Code § 311.4(1). Although the entire final-form regulation is attached, the only changes to the final-form regulation appear on the following pages:

- 5 (household income 56.2)
- 12 (inserted cross-reference in 56.13)
- 14-15 (advance payment 56.17)
- 22 (removed the word customer 56.36)
- 35 (term notice languages 56.91)
- 43 (med cert 56.111)
- 57 (med cert—restoration 56.191)
- 69 (household income 56.252)
- 75 (inserted cross reference in 56.263)
- 77-78 (advance payment 56.267)
- 83 (removed the word customer 56.286)
- 92 (term notice, changed reference to appendix B 56.331)
- 92-93 (term notice languages 56.331)
- 95 (post-term notice; changed reference to appendix B 56.336)
- 115 (appendix B)
- 122 (appendix F)

Commission Response and Recommendations Regarding the Final Regulation

Pursuant to Section 745.7(c), this Commission has decided to revise the final-form regulation in order to

respond to objections raised by IRRC in the Disapproval Order and adopt the regulation with revisions or modifications. In addition, pursuant to Section 7(c), the Commission is submitting this agency report to contain the revised final-form regulation, the findings of the IRRC and the agency's response and recommendations regarding the revised final-form. This response and recommendation is also offered in accordance with IRRC's regulation at 1 Pa. Code § 311.4(3).

First, the Commission submits that it has revised the final-form regulation to address the issues raised in the May 13, 2011 Secretarial Letter and the other objections raised by IRRC in its May 26, 2011 Disapproval Order. In summary, the definition of "Household income" will be revised to mirror the definition provided in 66 Pa.C.S. § 1403. Additional guidance as to what is not to be included in the definition will be deleted. The section on "Advanced payments" will be revised to restore the traditional prohibition on low-income customers participating in these programs. The section on medical certifications in the Emergency Provisions will be revised to restore the traditional language that allows a medical certificate to be used to restore a customer's service. In addition, the section on Payment and Timing will be revised to align it with the revisions to § 56.111, in that medical certificates may be used to restore a customer's service that has been terminated. Additionally, the section on Payment and Timing will be revised to set forth different provisions for customer and applicant. The revisions to the definition of "Household income" and the restoration of the traditional prohibition on low-income customers participating in advance payment programs will also be made in subchapters L-V that cover small gas companies, wastewater, steam heat and PFA customers. Finally, Appendix B, the Medical Emergency Notice, attached to Annex A, will be revised to align it with the revisions in § 56.111 and § 56.191 that allow a medical certificate to be used to restore a customer's service. Given that Appendix B will apply to all customers, Appendix F (applying to small gas companies, wastewater, steam heat and PFA customers) will be removed. We have made the necessary revisions to Annex A and Attachment One to implement these revisions.

In addition, to respond to IRRC's two other concerns, we have first revised the Discussion section in Attachment One, § 56.251 Statement of purpose and policy, to provide further explanation and justification that the Commission has statutory authority for promulgating Subchapters L through V. With respect to IRRC's request that we provide a detailed fiscal impact analysis that includes actual dollar amounts to determine the true economic or fiscal impact of the regulation, we shall address IRRC's concern in the Regulatory Analysis Form, under Section III: Cost and Impact Analysis.

As indicated previously, IRRC identified additional concerns that were raised by commentators. The comments of Action Alliance of Senior Citizens and Tenant Union Representative Network (Action Alliance) raised the issue of "Automatic meter readings" and its definition in Section 1411 that "[a]ll readings by an automatic reading device shall be deemed actual readings for purposes of this title." Action Alliance believes that this statutory language would supersede and override all existing statutory provisions and Commission regulations designed to ensure accurate billings. Citing Section 1922(1) of the Regulatory Construction Act, 1 Pa. C.S. § 1922(1), Action Alliance believes that interpreting Section 1411 to override long-settled consumer protections is an absurd result and would constitute an unwarranted repeal by implica-

tion. Action Alliance further believes that § 56.12(5) as modified in the Proposed Rulemaking Order now requires no manual, physical meter reading to ensure accuracy because, by definition, a remote reading obtained through an AMR is an actual meter reading. Action Alliance asserts that the General Assembly did not intend to relieve public utilities from their responsibility to ensure accurate billing. Finally, Action Alliance concludes that there appears to be no conflict or repugnancy between Chapter 14 and Section 1504 (Standards of service and facilities.) and Commission regulations designed to ensure accurate billing. Similarly, Representative W. Curtis Thomas believes it is absurd to not require a manual, physical meter reading to ensure accuracy.

We first want to clarify the definition of automatic meter reading (AMR). Per the definition we are providing at §§ 56.2 and 56.252, an AMR is “Metering using technologies that automatically read and collect data from metering devices and transfer the data to a central database for billing and other purposes.” Basically, the meter reads itself and automatically transmits the reading (using various technologies) to the utility. An AMR system allows a utility to obtain regular meter readings without sending a company employee to physically interrogate the meter for obtaining a meter read. The technology also eliminates the need for issuing customer bills based on an estimated meter reading when the utility is not able to obtain a meter reading (for example, when a meter read is not possible because of poor weather or the meter is not accessible because it is in a basement or behind a locked fence, etc.). The cost-saving benefits for the utility, in that they no longer have to deploy meter readers, are obvious. However, customers also benefit in that they no longer receive bills based on estimated meter readings.

The commentators identified by IRRC appear to have concerns with the accuracy of AMR meters. Of course an AMR meter, like any other meter, may malfunction, rare as this may be. As a result, there are Commission regulations that address the testing, accuracy and replacement of meters (electric, refer to 52 Pa. Code §§ 57.20—57.25; gas §§ 59.16—59.22; water §§ 65.7—65.9). We stress that nothing in this rulemaking impacts these meter testing, accuracy and replacement standards. Concerning the accuracy of AMR meters as opposed to conventional meters, we believe this question is well beyond the scope of this rulemaking. Any party with concerns along these lines should bring the matter to the Commission in a separate proceeding.

If these commentators want AMR metering to be treated the same as “remote metering devices” under § 56.12(5), again, we believe at this point, this is beyond the scope of this rulemaking. This would in effect require examination of every AMR meter every five years. This would be a dramatic and costly expansion of current meter inspection requirements found in the above mentioned regulations. For example, the electric meter inspection requirements at 52 Pa Code § 57.20 require meters manufactured after 1940 to be tested every 8—20 years (depending on the type of meter). Shortening these timeframes to five years, and using this rulemaking to do so, would be inappropriate, especially given the significant costs involved and the fact that this subject was not fully aired in this proceeding. Again, if a party wants to bring this matter to the attention of the Commission, they should do so in a separate proceeding.

We believe that the General Assembly’s intent in Section 1411 was clear. The General Assembly is clearly

convinced of the benefits of AMR metering for both utilities and consumers, and want the cost-saving benefits and billing accuracy benefits to be fully realized. That is why Section 1411 clearly states that “All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title.” We believe that any attempt by us to impose costly additional testing and inspection requirements on these metering systems would thwart the intention of the General Assembly, and would not be legally supportable.

IRRC also notes that commentators shared concerns about a utility communicating with non-English and non-Spanish speaking customers. Nationalities Service Center, SEAMAAC, Inc., Welcoming Center for New Pennsylvanians, and the Pennsylvania Immigration and Citizenship Coalition raised this issue. The commentators identified § 56.91(b)(17), § 56.331(b)(13), § 56.201, § 56.431, § 56.93 and § 56.333 for revision. In particular, it was commented that the Proposed Rulemaking Order under § 56.91(b)(17) and § 56.331(b)(13), included termination notice information directing customers to a number to call for information and translation assistance in Spanish and in non-Spanish “languages when census data indicates a significant population using that language resides in the public utility’s service territory.” The IRRC recommended that the Commission clarify what constitutes a “significant population.” Instead, the commentators submit that the Commission, in the final regulation, eliminated the entire non-Spanish language proposal, as follows:

(17) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. ~~Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility’s service territory.~~

The commentators recommend the following amendments to the regulations at § 56.91(b)(17) and § 56.331(b)(13):

Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility’s service territory. A SIGNIFICANT POPULATION CONSTITUTES 5% OF PERSONS ELIGIBLE TO BE SERVED OR 1,000 MEMBERS OF THE LANGUAGE GROUP, WHICHEVER IS LESS.

The commentators recommend the same amendment for billing information under § 56.201 and § 56.431 as follows:

... A **public utility** which serves a substantial number of Spanish-speaking [**ratepayers**] customers shall provide billing information in English, [**and**] in Spanish, **AND IN OTHER LANGUAGES WHEN CENSUS DATA INDICATES THAT A SIGNIFICANT POPULATION USING THE PARTICULAR LANGUAGE RESIDES IN THE PUBLIC UTILITY’S SERVICE TERRITORY. A SIGNIFICANT POPULATION CONSTITUTES 5% OF PERSONS ELIGIBLE TO BE SERVED OR 1,000 MEMBERS OF THE LANGUAGE GROUP, WHICHEVER IS LESS.**

Finally, the commentators believe that § 56.93 and § 56.333, which describe a utility employee’s personal

contact with customers, should be amended to require the personal contact, whether in person or by phone, be in the primary language of the customer.

IRRC asked us to consider the comments of various parties about the utilization of languages other than English in utility communications with consumers. We first want to note that IRRC and some other parties had concerns with what the Commission proposed in our September 2008 Proposed Rulemaking Order concerning the use of other languages on 10-day written termination notices (§§ 56.91 and 56.331). We had proposed that utilities should provide taglines in other languages “when census data indicates a significant population using that language resides in the public utility’s service territory.” IRRC and others suggested that the requirement was too “vague,” and we agreed.

We want to clarify by what the Commission intended in its original proposal. It was never intended or proposed that the entire termination notice be provided in different languages. The intent was to just include a line in the foreign language directing the reader to the phone number to call for assistance. As PPL and PGW pointed out in their comments, utilities retain foreign language translation services. The line on the termination notice would simply direct the reader to call this service for assistance. Regardless, we admitted that the original proposal was too vague, and we removed the proposed requirement in the February 2011 Final Order.

We must also note that the use of Spanish is not at issue. Current termination notices, and the proposed regulations, continue to require that termination notices contain taglines in Spanish that direct Spanish speakers where they can call for assistance. This has not been an issue of debate in this rulemaking and no change in this current practice was ever proposed. Instead, the issue has been providing similar information in languages other than English and Spanish.

Upon reconsideration, we now believe that we can revise this requirement while at the same time making it less vague. We will do this revising § 56.91 and § 56.331 by adding to the requirement a threshold of 5% of the population, based on census data, as advocated by parties such as Action Alliance. The requirement will now read “Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5 % or more of the residents of the utility’s service territory are using that language.”

However, we do not agree with the recommendations of various parties to also incorporate a minimum threshold of 1,000 customers (5 percent or 1,000 customers, whichever is less). We believe that a minimum threshold of 1,000 is too low. As PECO and PGW pointed out in their comments, the City of Philadelphia has a very diverse population with many different languages being spoken. A 1,000 threshold could have the effect of requiring several different taglines on the termination notices; further crowding an already crowded 2-page written notice. PPL points out that such a requirement could even lead to an additional notice page, significantly increasing costs. Expanding the notice to a 3-page document would also not serve consumers well from a plain-language perspective. The longer a document is, the less likely it is to be fully read and comprehended. We believe the five percent threshold (1 out of every 20), is a reasonable middle ground that will help protect significant vulnerable populations while not imposing additional burdensome costs on the utilities.

Some of the parties also want us to go further still and to require the provision of 3-day personal contact termination notices (§§ 56.93, 56.333) in the language of the customer. This would require a utility, when calling or visiting a customer’s residence to provide a notice of termination, to provide such in the customer’s language. We believe that this has serious practical concerns (such as necessitating the utility to somehow know and keep record of each customer’s language) and cost issues, none of which have been fully aired in this proceeding. As such, we believe it is inappropriate to expand the scope of this rulemaking in this direction at this time. Furthermore, we believe this requirement is unnecessary in that, as we have discussed above, we are revising § 56.91 and § 56.331 to direct that the 10-day written notice of termination include information in other languages if five percent or more of the customer base uses that language. We believe it is more important that the 10-day written notice (which every customer facing termination receives) contains this information, so that the customer has the information and phone number to call in writing, in their language, making it less likely they will forget. The 3-day personal contact notice is not nearly as critical, especially considering that a utility only has to attempt to deliver a 3-day notice; meaning that not every customer facing termination actually receives a 3-day notice. As such, we believe providing the information in other languages on the 10-day written notice is far more effective from a public health and safety perspective, and is also the more cost-conscious solution.

Concerning the request of some of the parties that the Commission require utilities to provide other customer communications in other languages (§§ 56.201 and 56.431), we note that the current regulation and the proposed regulations require this for Spanish. However, we believe that expanding this requirement to include other languages presents significant cost issues for both utilities and the Commission. Given the costs and the fact that this issue has not been fully aired in this proceeding, we believe it is inappropriate to expand the scope of this rulemaking in this direction at this time. Parties with concerns such as these can bring them to the attention of the Commission through other proceedings. We point to the Commission’s Policy Statement on Plain Language Guidelines (52 Pa Code § 69.251) as an example of possible other alternative methods of addressing concerns with utility communications.

IRRC’s last concern expressed in its Disapproval Order addressed clarity and a lack of ambiguity. We agree and will cross-reference § 56.83(3) in § 56.13 and delete the reference to “customer” in § 56.36(b)(1).

Conclusion

The Commission respectfully submits that it has addressed the concerns expressed by the Independent Regulatory Review Commission in its Disapproval Order. The Commission made substantive changes to the revised final-form regulation to address IRRC’s concerns, and has explained the basis for the changes in this Report. The Commission respectfully requests IRRC’s approval of this Report, in accordance with Section 7(c.1) of the Regulatory Review Act (71 P.S. § 745.7(c.1)). Based on the attached revised final-form regulation, the findings of the Independent Regulatory Review Commission and the Commission’s response and recommendations regarding the regulation, the Commission further requests that the Independent Regulatory Review Commission find that promulgation of the regulation is in the public interest.

“Exhibit A”

Independent Regulatory Review Commission

Disapproval Order

INDEPENDENT REGULATORY REVIEW COMMISSION
DISAPPROVAL ORDER

Commissioners Voting:

Public Meeting Held May 19, 2011

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BY ORDER OF THE COMMISSION:

This regulation is disapproved.



Silvan B. Lutkewitte, III, Chairman

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

Honorable Robert F. Powelson
Chairman

Kim Bellmer

DATE: 5-26-11

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

Honorable Robert M. Tomlinson
Majority Chairman

Mary Walmer

DATE: 5/26/11

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


Honorable Lisa M. Boscola
Minority Chairman

Stephen B. Smith

DATE: 5/26/11

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

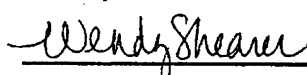
Honorable Robert W. Godshall
 Majority Chairman



 DATE: 5/26/11

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

Honorable Joseph Preston, Jr.
 Minority Chairman



 DATE: 5/26/11

Annex A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 56. STANDARDS AND BILLING
PRACTICES FOR RESIDENTIAL
UTILITY SERVICE

Subchapter A. PRELIMINARY PROVISIONS FOR
UTILITIES AND CUSTOMERS SUBJECT TO
CHAPTER 14 OF THE PUBLIC UTILITY CODE

§ 56.1. Statement of purpose and policy.

(a) This chapter establishes and enforces uniform, fair and equitable residential public utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint

procedures. This chapter assures adequate provision of residential public utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service while eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills and protecting against rate increases for timely paying customers resulting from other customers' delinquencies. Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages. Every privilege conferred or duty required under this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

(b) This subchapter and Subchapters B—K apply to electric distribution utilities, natural gas distribution utilities and water distribution utilities. Subchapters L—V apply to wastewater utilities, steam heat utilities, small natural gas utilities and to all customers who have been granted protection from abuse orders from courts of competent jurisdiction.

§ 56.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AMR—Automatic meter reading—

(i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii) The term does not include remote meter reading devices as defined by this section.

(iii) Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.

*Account balance—*The amount of current service which has been properly billed in addition to any accrued arrearages.

Applicant—

(i) A natural person at least 18 years of age not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested.

(ii) The term does not include a person who seeks to transfer service within the service territory of the same public utility or to reinstate service at the same address provided that the final bill for service is not past due.

Basic services—

(i) Services necessary for the physical delivery of residential public utility service.

(ii) The term also includes default service as defined in this section.

*Billing month—*A period of not less than 26 days and not more than 35 days except in the following circumstances:

(i) An initial bill for a new customer may be less than 26 days or greater than 35 days. However, if an initial bill exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the initial bill without penalty.

(ii) A final bill due to discontinuance may be less than 26 days or greater than 35 days but may never exceed 42 days. In cases involving termination, a final bill may be less than 26 days.

(iii) Bills for less than 26 days or more than 35 days shall be permitted if they result from a rebilling initiated by the company or customer dispute to correct a billing problem.

(iv) Bills for less than 26 days or more than 35 days shall be permitted if they result from a meter reading route change initiated by the public utility. The public utility shall informally contact the Director of the Bureau of Consumer Services at least 30 days prior to the rerouting and provide information as to when the billing will occur, the number of customers affected and a general description of the geographic area involved. If a

bill resulting from a meter rerouting exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the bill without penalty.

*Billing period—*In the case of public utilities supplying gas, electric and steam heating service, the billing period must conform to the definition of “billing month.” In the case of water and wastewater service, a billing period may be monthly, bimonthly or quarterly as provided in the tariff of the public utility. Customers shall be permitted to receive bills monthly and be notified of their rights thereto.

*Class A water utility—*A water utility with annual revenues greater than \$ 1 million.

*Customer—*A natural person at least 18 years of age in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or an adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. A natural person remains a customer after discontinuance or termination until the final bill for service is past due.

*Customer assistance program—*A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined in 66 Pa.C.S. § 2202 or § 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers shall comply with certain responsibilities and restrictions to remain eligible for the program.

*Cycle billing—*A system of billing employed by a public utility which results in the normal rendition of bills for public utility service to a group or portion of customers on different or specified days of one billing period.

*Default service—*Electric generation supply service provided under a default service program to a retail electric customer not receiving service from an electric generation supplier.

*Delinquent account—*Charges for public utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment agreement with the public utility has been entered into by the customer, a timely filed notice of dispute is pending before the public utility, or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

*Discontinuance of service—*The cessation of service with the consent of the customer and otherwise in accordance with § 56.72 (relating to discontinuance of service).

*Dispute—*A grievance of an applicant, customer or occupant about a public utility’s application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, customer or occupant indicates satisfaction with the resulting resolution or explanation of the subject of the grievance, the contact will not be considered a dispute.

*Dwelling—*A house, apartment, mobile home or single meter multiunit structure being supplied with residential service.

Electric distribution utility—An entity providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners or operators that manage the internal distribution system serving the building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

Electronic billing—The electronic delivery and presentation of bills and related information sent by a public utility to its customers using a system administered by the public utility or a system the public utility is responsible for maintaining.

Electronic notification of payment—A notification generated by an electronic payment system upon receipt of a payment from a customer using an electronic billing and payment system administered by the utility or a system the utility is responsible for maintaining. The notification must inform the customer of successful receipt and amount of payment and the date and time the payment was received.

Electronic remittance of payment—The electronic receipt of payment from customers to a public utility using a system administered by the public utility or a system the public utility is responsible for maintaining.

Emergency—An unforeseen combination of circumstances requiring temporary discontinuance of service to effect repairs or maintenance or to eliminate an imminent threat to life, health, safety or property.

Federal poverty level—The poverty guidelines updated periodically in the *Federal Register* by the United States Department of Health and Human Services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C.A. § 9902(2)).

Formal complaint—A complaint filed before the Commission requesting a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

Household income—The combined gross income of all adults in a residential household who benefit from the public utility service.

Informal complaint—A complaint with the Commission submitted by a customer that does not involve a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

Initial inquiry—A concern or question of an applicant, customer or occupant about a public utility's application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If a public utility, with the consent of the applicant, customer or occupant, offers to review pertinent records and call back the applicant, customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, customer or occupant with the company's response. If the company cannot reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

Natural gas distribution service—The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution utility.

Natural gas distribution utility—

(i) A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services.

(ii) The term does not include the following:

(A) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that has annual gas operating revenues of less than \$6 million per year, except when the public utility voluntarily petitions the Commission to be included within this definition or when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory.

(B) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that is not connected to an interstate gas pipeline by means of a direct connection or an indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

Natural gas supply services—

(i) The sale or arrangement of the sale of natural gas to retail gas customers and services that may be unbundled by the Commission under 66 Pa.C.S. § 2203(3) (relating to standards for restructuring of natural gas utility industry).

(ii) The term does not include natural gas distribution service.

Nonbasic services—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of public utility service or default service.

Nurse practitioner—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

Occupant—A natural person who resides in the premises to which public utility service is provided.

Payment agreement—An agreement in which a customer or applicant who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

Person—An individual, partnership, corporation, association, including any lessee, assignee, trustee, receiver, executor, administrator and other successors in interest.

Physician—An individual licensed to engage in the practice of medicine and surgery in all of its branches, or in the practice of osteopathy or osteopathic surgery by a jurisdiction within the United States of America.

Premises or affected premises—Unless otherwise indicated, the residence of the occupant.

Public utility—An electric distribution utility, natural gas distribution utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Commission.

Remote reading device—

(i) A device which by electrical impulse or otherwise transmits readings from a meter, usually located within a residence, to a more accessible location outside of a residence.

(ii) The term does not include the following:

(A) AMR devices as defined in this section.

(B) Devices that permit direct interrogation of the meter.

Residential service—

(i) Public utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) The term does not include public utility service provided to a hotel or motel.

*Termination of service—*Cessation of service, whether temporary or permanent, without the consent of the customer.

*Unauthorized use of utility service—*Unreasonable interference or diversion of service, including meter tampering (any act which affects the proper registration of service through a meter), by-passing unmetered service that flows through a device connected between a service line and customer-owned facilities and unauthorized service restoral.

*User without contract—*A person as defined in 66 Pa.C.S. § 102 (relating to definitions) that takes or accepts public utility service without the knowledge or approval of the public utility, other than the unauthorized use of utility service as defined in this section.

*Water distribution utility—*An entity owning or operating equipment or facilities for diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

Subchapter B. BILLING AND PAYMENT STANDARDS

BILLING

§ 56.11. Billing frequency.

(a) A public utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary and only with the prior consent of the customer. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a one billing cycle notice of a request to revert to paper billing.

(2) A customer shall receive the same information that is included with a paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted unless the customer has affirmatively consented to this method of delivery. The electronic delivery of a termination notice does not relieve the public utility of the obligation to provide termination notices as required under §§ 56.91—56.98.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund if the utility is able to accept hardship fund contributions by this method.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall maintain a system to deliver electronic bills if the bill is emailed to a customer.

(8) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.

§ 56.12. Meter reading; estimated billing; customer readings.

Except as provided in this section, a public utility shall render bills based on actual meter readings by public utility company personnel.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the public utility.

(2) *Estimates for bills rendered on a monthly basis.* If a public utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

(i) Upon the request of the customer, the public utility shall, at least annually, provide preaddressed postcards on which the customer may report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The public utility may establish due dates by which the customer supplied reading shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer or occupant is not received by that due date, the public utility may estimate the quantity of usage. The public utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A public utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when public utility personnel are unable to gain access.* A public utility may estimate the bill of a customer if public utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The public utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading or the telephone reporting of the reading.

(ii) The public utility, at least every 6 months, or every four billing periods for public utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The public utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric public utilities.* A public utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water public utility uses readings from a remote reading device to render bills, the public utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the public utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the public utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least \$50, the public utility shall comply with § 56.14 (relating to previously unbilled public utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the public utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.181(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found).

(iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Limitation of liability.* If a water public utility has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water public utility was unable to gain access and has complied with paragraph (4).

(7) *Budget billing.* A gas, electric and steam heating public utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The public utility shall review accounts at least three times during the optional billing period. At the conclusion of the budget billing year, a resulting reconciliation amount exceeding \$100 but less than \$300 shall be, at the request of the customer, amortized over a 6-month period. Reconciliation amounts exceeding \$300 shall be amortized over at least a 12-month period at the request of the customer. Shorter amortization periods are permissible at the request of the customer.

(8) *Notice.* The public utility shall inform existing customers of their rights under this section and 66 Pa.C.S. § 1509 (relating to billing procedures).

§ 56.13. Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges and other nonrecurring charges, except as provided in this chapter—must appear after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. See § 56.83(3) (relating to unauthorized termination of service).

§ 56.14. Previously unbilled public utility service.

When a public utility renders a make-up bill for previously unbilled public utility service which accrued within the past 4 years resulting from public utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make-up bill is issued by at least 50% or at least \$50, whichever is greater:

(1) The public utility shall explain the bill to the customer and make a reasonable attempt to amortize the bill.

(2) The period of the amortization may, at the option of the customer, extend at least as long as:

(i) The period during which the excess amount accrued.

(ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

§ 56.15. Billing information.

A bill rendered by a public utility for metered residential public utility service must state clearly the following information:

(1) The beginning and ending dates of the billing period.

(2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it shall contain a clear and conspicuous marking of the word "Estimated."

(3) The due date on or before which payment shall be made or the account will be delinquent.

(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges. The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

(5) Amounts due for reconnection charges.

(6) Amounts due for security deposits.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.22 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to “register any question or complaint about the bill prior to the due date,” with the address and telephone number where the customer may initiate the inquiry or complaint with the public utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility’s web site.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the public utility.

(14) Electric distribution utilities and natural gas distribution utilities shall incorporate the requirements in §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

§ 56.16. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. After a reasonable attempt to obtain meter access, 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.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a public utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.91 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of that notice, the customer requests a transfer of service to a new location, the termination process in §§ 56.91—56.99 may continue at the new location.

(1) When notifications set forth under § 56.91 and § 56.95 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the public utility may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.141—56.143 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint).

§ 56.17. Advance payments.

Payments may be required in advance of furnishing any of the following services:

(1) Seasonal service.

(2) The construction of facilities and furnishing of special equipment.

(3) Gas and electric rendered through prepayment meters provided:

(i) The customer is nonlow income. For purposes of this section, “nonlow income” is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines and has a delinquency for which the individual is requesting a payment agreement but offering terms that the public utility, after consideration of the factors in § 56.97(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.

(ii) The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) The customer and public utility enter into a payment agreement which includes, but is not limited to, the following terms:

(A) The customer voluntarily agrees to the installation of a prepayment meter.

(B) The customer agrees to purchase prepayment credits to maintain service until the total balance is retired and the public utility agrees to make new credits available to the customer within 5 days of receipt of prepayment.

(C) The public utility agrees to furnish the customer with emergency backup credits for additional usage of at least 5 days.

(D) The customer agrees that failure to renew the credits by making prepayment for additional service constitutes a request for discontinuance under § 56.72(1) (relating to discontinuance of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup credits runs out.

(iv) The public utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v) During the first 2 years of use of prepayment meters, the public utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

(4) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.

PAYMENTS

§ 56.21. Payment.

The due date for payment of a bill may not be no less than 20 days from the date of transmittal; that is, the date of mailing, electronic transmission or physical delivery of the bill by the public utility to the customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the public utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) *Branch offices or authorized payment agents.* The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a public utility is the date of actual receipt of payment.

(5) *Fees.* Fees or charges assessed and collected by the public utility for utilizing a payment option must be included in the public utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a public utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.

§ 56.22. Accrual of late payment charges.

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility may waive late payment charges on any customer accounts. The Commission may only order a waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level. See 66 Pa.C.S. § 1409 (relating to late payment charge waiver).

§ 56.23. Application of partial payments between public utility and other service.

Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service.

§ 56.24. Application of partial payments among several bills for public utility service.

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

§ 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary. A public utility may not require a customer to enroll in electronic bill payment as a condition for enrolling in electronic billing.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's financial account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, either by mail or electronically, before the customer enters the program. Program changes shall be conveyed to the customer in writing, either by mail or electronically, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The public utility shall provide a receipt, or a confirmation, transaction or reference number, either electronically or on paper, to the customer upon payment through the electronic method. This requirement does not apply if the payment method is through a preauthorized automated debit from a customer's financial account.

(5) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.

Subchapter C. CREDIT AND DEPOSITS STANDARDS POLICY

PROCEDURES FOR APPLICANTS

§ 56.31. Policy statement.

An essential ingredient of the credit and deposit policies of each public utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies must be based upon the credit risk of the individual applicant or customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which the applicant or customer lives and without regard to race, sex, age over 18 years of age, national origin or marital status.

§ 56.32. Security and cash deposits.

(a) A public utility may require a cash deposit in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

- (i) Nonpayment of an undisputed delinquent account.
- (ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.
- (iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.
- (iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.
- (v) Failure to comply with the material terms of a payment agreement.
- (vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.
- (vii) Tampering with meters, including bypassing a meter or removal of an AMR device or other public utility equipment.
- (viii) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) An applicant 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. The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment.

(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:

(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required.

(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer assistance program made available by the city natural gas distribution operation are not subject to this paragraph.

(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.

(c) Prior to providing public utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.

§ 56.33. Third-party guarantors.

If an applicant does not establish credit under § 56.32 (relating to security and cash deposits), the public utility shall provide residential service when one of the following requirements is satisfied:

(1) *Cash deposit.* The applicant posts a cash deposit.

(2) *Third-party guarantor.* This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility. For the purposes of this section, the term "guarantor" means a third-party who has or can establish credit under § 56.32.

§ 56.35. Payment of outstanding balance.

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly.

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, except as provided for in paragraphs (1) and (2).

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years from the date of the service request. The 4-year limit does not apply if the balance includes amounts that the utility was not aware of because of fraud or theft on the part of the applicant.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this paragraph, used to determine the applicant's liability for any outstanding balance.

(3) Any outstanding residential account with the public utility may be amortized in accordance with § 56.191 (relating to payment and timing).

(c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

§ 56.36. Written procedures.

(a) Public utilities shall include in their tariffs filed with the Commission their credit and application procedures along with a general description of their credit scoring methodology and standards.

(b) A public utility shall establish written procedures for determining the credit status of an applicant and for determining responsibility for unpaid balances in accordance with § 56.35 (relating to payment of outstanding balance). The written procedures must specify that there are separate procedures and standards for victims with a protection from abuse order. A public utility employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the public utility. A copy of these procedures shall be maintained on file in each of the business offices of the public utility and made available, upon request, for inspection by members of the public and the Commission and be included on the public utility's web site.

(1) *Reasons for denial of credit.* If credit is denied, the public utility shall inform the applicant in writing of the reasons for the denial within 3 business days of the denial. This information may be provided electronically to the applicant with the applicant's consent. The written denial statement must include the provider of the credit score, information on the applicant's ability to challenge the accuracy of the credit score and how to contact the credit score provider. If the public utility is requiring payment of an unpaid balance in accordance with § 56.35, the public utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third-party guarantor in accordance with § 56.33 (relating to third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a protection from abuse order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* Public utility personnel shall fully explain the credit and deposit procedures of the public utility to each customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish public utility service on behalf of an applicant will not be honored until the public utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third party is authorized to act on the applicant's behalf.

§ 56.37. General rule.

Once an applicant's application for service is accepted by the public utility, the public utility shall make a bona fide attempt to provide service within 3 business days, provided that the applicant has met all regulatory requirements. A bona fide attempt to provide service within 7 business days is permissible if street or sidewalk digging is required. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the public utility shall provide service pending completion of the investigation. If the public utility cannot provide service by the time

frames specified in this section, the public utility shall inform the customer of this fact and provide a reasonable estimate of when service will be provided. These requirements do not apply to new service installations and service extensions that require the construction of facilities to provide the public utility service.

§ 56.38. Payment period for deposits by applicants.

(a) An applicant required to pay a deposit under § 56.32 (relating to security and cash deposits) may be required by the public utility to pay the deposit in full prior to the provision of public utility service.

(b) An applicant paying a deposit for the reconnection of service under § 56.41(2) (relating to general rule) may be required to pay 50% prior to, and as a condition of, the reconnection of service with 25% billed 30 days after the reconnection of service and 25% billed 60 days after the reconnection of service. The public utility shall inform the applicant of the option to pay the deposit in the installments described in this subsection. The applicant retains the option to pay the deposit amount in full before the due date.

PROCEDURES FOR EXISTING CUSTOMERS

§ 56.41. General rule.

A public utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the public utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the customer together with a bill for public utility service.

(C) Notification must set forth the address and phone number of the public utility office where complaints or questions may be registered.

(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the public utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to budget billing plans, a public utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled public utility service) under the following conditions:

(A) The public utility has complied with § 56.14. Compliance with a payment agreement by the customer discharges the delinquency and a notification or request for deposit may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the

customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A public utility may require a deposit as a condition to reconnection of service following a termination in accordance with § 56.191 (relating to payment and timing).

(3) *Failure to comply with payment agreement.* A public utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a payment agreement.

§ 56.42. Payment period for deposits by customers.

(a) *Initial due date.* The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.41(2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due.

(b) *Delinquent account.* A customer paying a deposit under § 56.41(1) may elect to pay a required deposit in three installments: 50% billed upon the determination by the public utility that the deposit is required, 25% billed 30 days after the determination and 25% billed 60 days after the determination. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. The customer retains the option to pay the deposit amount in full before the due date.

(c) *Reconnection of service.* A customer paying a deposit for the reconnection of service under § 56.41(2) may be required to pay 50% prior to, and as a condition of, the reconnection of service with 25% billed 30 days after reconnection of service and 25% billed 60 days after the reconnection of service. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. The customer retains the option to pay the deposit amount in full before the due date.

(d) *Failure to comply with a payment agreement.* A customer paying a deposit under § 56.41(3) may be required to pay the deposit in full upon the determination of the utility that a deposit is required.

§ 56.43. (Reserved).

CASH DEPOSITS

§ 56.51. Amount of cash deposit.

(a) *Applicants.* A public utility may require a cash deposit equal to 1/6 of the applicant's estimated annual bill calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months or, if unavailable, a similar dwelling in close proximity.

(b) *City natural gas operation.* A city natural gas distribution operation may require a cash deposit from an applicant with a household income no greater than 300% of the Federal poverty level in an amount not in excess of 1/12 of the applicant's estimated annual bill. A city natural gas operation may require a cash deposit from an applicant with a household income level above 300% of the Federal poverty level in the amount of 1/6 of the applicant's estimated annual bill. An estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months or, if unavailable, a similar dwelling in close proximity.

(c) *Existing customers.* For an existing customer, the cash deposit may not exceed the estimated charges for

service based on the prior consumption of that customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of water utilities and 2 months in the case of gas and electric utilities.

(d) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the customer or the public utility whenever the character or degree of the usage of the customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

§ 56.53. Deposit hold period and refund.

(a) A public utility may hold a deposit until a timely payment history is established or for a maximum period of 24 months.

(b) A timely payment history is established when a customer has paid in full and on time for 12 consecutive months.

(c) At the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return or credit any positive difference to the customer. At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

(d) If service is terminated before the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return any positive difference to the customer within 60 days of the termination.

(e) If a customer becomes delinquent before the end of the deposit holding period as established in subsection (a), the public utility may deduct the outstanding balance from the deposit.

§ 56.54. (Reserved).

§ 56.55. (Reserved).

§ 56.56. Refund statement.

If a cash deposit is applied or refunded, the public utility shall mail or deliver to the customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

§ 56.57. Interest rate.

The public utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known as the Loan Interest and Protection Law, and return the interest with the deposit.

§ 56.58. Application of interest.

Interest shall be paid to the customer or, at the option of either the public utility or the customer, shall be applied to service bills.

Subchapter D. INTERRUPTION AND DISCONTINUANCE OF SERVICE

§ 56.71. Interruption of service.

A public utility may temporarily interrupt service when necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency.

(1) *Interruption with prior notice.* When the public utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to customers and occupants who may be affected.

(2) *Interruption without prior notice.* When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration of the interruption shall be given as soon as possible to customers and occupants who may be affected.

(3) *Notification procedures.* When customers and occupants are to be notified under this section, the public utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected customers and occupants of the cause and expected duration of the interruption.

(4) *Permissible duration.* Service may be interrupted for only the periods of time as are necessary to protect the health and safety of the public, to protect property or to remedy the situation which necessitated the interruption. Service shall be resumed as soon as possible thereafter.

§ 56.72. Discontinuance of service.

A public utility may discontinue service without prior written notice under the following circumstances:

(1) *Customer's residence.* When a customer requests a discontinuance at the customer's residence, when the customer and members of the customer's household are the only occupants.

(2) *Other premises or dwellings.* Other premises or dwellings as follows:

(i) When a customer requests discontinuance at a dwelling other than the customer's residence or at a single meter multifamily residence, whether or not the customer's residence but, in either case, only under either of the following conditions:

(A) The customer states in writing that the premises are unoccupied. The statement must be on a form conspicuously bearing notice that information provided by the customer will be relied upon by the Commission in administering a system of uniform service standards for public utilities and that any false statements are punishable criminally. When the customer fails to provide a notice, or when the customer has falsely stated the premises are unoccupied, the customer shall be responsible for payment of utility bills until the public utility discontinues service.

(B) The occupants affected by the proposed cessation inform the public utility orally or in writing of their consent to the discontinuance.

(ii) When the conditions set forth in subparagraph (i) have not been met, the public utility, at least 10 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(A) When the premises is a multifamily residence, notice shall also be posted in common areas.

(B) Notices must, at a minimum, state: the date on or after which discontinuance will occur; the name and address of the public utility; and the requirements necessary for the occupant to obtain public utility service in the occupant's name. Further termination provisions of this chapter, except § 56.97 (relating to procedures upon customer or occupant contact prior to termination), do not apply in these circumstances.

(C) This section does not apply when the customer is a landlord ratepayer. See 66 Pa.C.S. §§ 1521—1533 (relating to discontinuance of service to leased premises).

Subchapter E. TERMINATION OF SERVICE

GROUND FOR TERMINATION

§ 56.81. Authorized termination of service.

A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91—56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer:

(1) Nonpayment of an undisputed delinquent account.

(2) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.

(3) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(4) Failure to comply with the material terms of a payment agreement.

§ 56.82. Timing of termination.

A public utility may terminate service for the reasons in § 56.81 (relating to authorized termination of service) from Monday through Friday as long as the public utility is able to accept payment to restore service on the day of termination and on the following day and can restore service consistent with § 56.191 (relating to payment and timing).

§ 56.83. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the public utility, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part, of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; meter testing fees; special construction charges; and other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior customer at the same address unless the public utility has, under § 56.35 (relating to payment of outstanding balance), established that the applicant or customer was an adult occupant at the same address during the time period the delinquent amount accrued.

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously

unbilled public utility service) and the customer has complied with § 56.41(1)(ii)(A) or (B) (relating to general rule).

(6) Noncompliance with a payment agreement prior to the due date of the bill which forms the basis of the agreement.

(7) Nonpayment of charges for public utility service for which the utility ceased billing more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the customer unless a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished or unless the public utility has, under § 56.35, established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued. This paragraph does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because public utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the customer or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

(10) Nonpayment of delinquent accounts which accrued over two billing periods or more, which remain unpaid in whole or in part for 6 months or less, and which amount to a total delinquency of less than \$25.

NOTICE PROCEDURES PRIOR TO TERMINATION

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall provide written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. In the event of a user without contract as defined in § 56.2 (relating to definitions), the public utility shall comply with §§ 56.93—56.97, but need not provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

- (1) The reason for the proposed termination.
- (2) An itemized statement of amounts currently due, including any required deposit.
- (3) A statement that a reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the public utility on file with the Commission. The statement must include the maximum possible dollar amount of the reconnection fee that may apply.
- (4) The date on or after which service will be terminated unless one of the following occurs:
 - (i) Payment in full is received.
 - (ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement is established.

(iv) Enrollment is made in a customer assistance program or its equivalent, if the customer is eligible for the program.

(v) A dispute is filed with the public utility or the Commission.

(vi) Payment in full of amounts past due on the most recent payment agreement is received.

(5) A statement that specifies that the notice is valid for 60 days.

(6) A statement that the customer should immediately contact the public utility to attempt to resolve the matter. The statement must include the address and telephone number where questions may be asked, how payment agreements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility.

(7) The following statement: "If you have questions or need more information, contact us as soon as possible at (utility phone number). After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call 1 (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(8) A serious illness notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to post-termination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(9) If the public utility has universal service programs, information indicating that special assistance programs may be available and how to contact the public utility for information and enrollment, and that enrollment in the program may be a method of avoiding the termination of service.

(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty level and the required documentation or information the customer shall supply to avoid termination.

(11) Information indicating that special protections are available for victims under a protection from abuse order and how to contact the public utility to obtain more information on these protections.

(12) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(13) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered "customers" and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, an adult occupant who has been living at the premise may have to pay all or portions of the bill that accrued while the adult occupant lived there to have service turned back on.

(15) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service turned back on.

(17) Information in Spanish directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5% or more of the residents of the utility's service territory are using that language.

(18) Contact information for customers with disabilities that need assistance.

§ 56.92. Notice when dispute pending.

A public utility may not mail or deliver a notice of termination if a notice of initial inquiry, dispute, informal or formal complaint has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

§ 56.93. Personal contact.

(a) Except when authorized under § 56.71, § 56.72 or § 56.98 (relating to interruption of service; discontinuance of service; and immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without attempting to contact the customer or responsible adult occupant, either in person or by telephone, to provide notice of the proposed termination at least 3 days prior to the scheduled termination. If personal contact by one method is not possible, the public utility is obligated to attempt the other method.

(b) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence.

(c) If contact is attempted in person by a home visit, only one attempt is required. The public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit.

(d) The content of the 3-day personal contact notice must include the earliest date at which termination may occur and the following information:

- (1) The date and grounds of the termination.
- (2) What is needed to avoid the termination of service.
- (3) How to contact the public utility and the Commission.
- (4) The availability of the emergency medical procedures.
- (e) The public utility shall ask the customer or occupant if he has questions about the 10-day written notice the public utility previously sent.

§ 56.94. Procedures immediately prior to termination.

Immediately preceding the termination of service, a public utility employee, who may be the public utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

(3) *Dishonorable tender of payment after receiving termination notice.* After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted telephone contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor).

(ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

§ 56.95. Deferred termination when no prior contact.

During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, a public utility shall, 48 hours prior to the scheduled date of termination, post a notice of the proposed termination at the service location.

§ 56.96. Post-termination notice.

When service is actually terminated, notice that reflects the requirements in § 56.91 (relating to general notice provisions and contents of termination notice) as well as a medical emergency notice in the form which appears in Appendix B (relating to medical emergency notice) shall be conspicuously posted or delivered to a responsible adult person or occupant at the residence of the customer and at the affected premises.

§ 56.97. Procedures upon customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the public utility concerning a proposed termination, an authorized public utility employee shall fully explain:

- (1) The reasons for the proposed termination.
- (2) All available methods for avoiding a termination, including the following:
 - (i) Tendering payment in full or otherwise eliminating the grounds for termination.

- (ii) Entering a payment agreement.
- (iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.

(iv) Enrolling in the public utility's customer assistance program or its equivalent, if the public utility has these programs and the customer is eligible for the program.

(3) The medical emergency procedures.

(b) The public utility, through its employees, shall exercise good faith and fair judgment in attempting to enter a reasonable payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable payment agreement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. Payment agreements for heating customers shall be based upon budget billing as determined under § 56.12(7) (relating to meter reading; estimated billing; customer readings). If a payment agreement is not established, the company shall further explain the following:

(1) The right of the customer to file a dispute with the public utility and, thereafter, an informal complaint with the Commission.

(2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17105-3265, (800) 692-7380.

(3) The duty of the customer to pay any portion of a bill which the customer does not dispute.

§ 56.98. Immediate termination for unauthorized use, fraud, tampering or tariff violations.

(a) A public utility may immediately terminate service for any of the following actions by the customer:

(1) Unauthorized use of the service delivered on or about the affected dwelling.

(2) Fraud or material misrepresentation of the customer's identity for the purpose of obtaining service.

(3) Tampering with meters or other public utility equipment.

(4) Violating tariff provisions on file with the Commission which endanger the safety of a person or the integrity of the public utility's delivery system.

(b) Upon termination, the public utility shall make a good faith attempt to provide a post-termination notice to the customer or a responsible adult person or occupant at the affected premises. If providing a post-termination notice to the customer or responsible person at the affected premises is not possible, the public utility shall conspicuously post the notice at the affected premises. In the case of a single meter, multiunit dwelling, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.

§ 56.99. Use of termination notice solely as collection device prohibited.

A public utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter. Notice of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures under this chapter, unless the

customer or occupant remedies the situation which gave rise to the enforcement efforts of the public utility.

§ 56.100. Winter termination procedures.

(a) *Water distribution utilities.* Notwithstanding any provision of this chapter, during the period of December 1 through March 31, water distribution utilities subject to this subchapter may not terminate heat related service between December 1 and March 31 except as provided in this section or § 56.98 (relating to immediate termination for unauthorized use, fraud, tampering or tariff violations).

(b) *Electric distribution and natural gas distribution utilities.* Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution utility may not terminate service to customers with household incomes at or below 250% of the Federal poverty level except as provided in this section or in § 56.98. The Commission will not prohibit an electric distribution utility or natural gas distribution utility from terminating service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

(c) *City natural gas distribution utility.* In addition to the winter termination authority in subsection (b), a city natural gas distribution operation may terminate service after January 1 and before April 1 to a customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of charges for each of the prior 2 months unless the customer has done one of the following:

(1) Proven in accordance with Commission rules, that the household contains one or more persons who are 65 years of age or older.

(2) Proven in accordance with Commission rules, that the household contains one or more persons 12 years of age or younger.

(3) Obtained a medical certification, in accordance with Commission rules.

(4) Paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last 2 months.

(d) *City natural gas distribution utility notice to the Commission.* At the time that the notice of termination required under § 56.91 (relating to general notice provisions and contents of termination notice) is provided to the customer, the city natural gas distribution operation shall provide notice to the Commission. The Commission will not stay the termination of service unless the Commission finds that the customer meets the criteria in subsection (c)(1), (2), (3) or (4).

(e) *Identification of accounts protected during the winter.* Public utilities shall determine the eligibility of an account for termination during the period of December 1 through March 31 under the criteria in subsections (b) and (c) before terminating service. Public utilities are to use household income and size information they have on record provided by customers to identify accounts that are not to be terminated during the period of December 1 through March 31. Public utilities are expected to solicit from customers, who contact the utility in response to notices of termination, household size and income information and to use this information to determine eligibility for termination. Public utilities who intend to require verification of household income information submitted by

consumers relating to this subsection shall include, in their tariffs filed with the Commission, the procedures they intend to implement to obtain verification. The procedures should specify the proof or evidence the utility will accept as verification of household income.

(f) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a public utility may not terminate service to a premises when the account is in the name of a landlord ratepayer as defined in 66 Pa.C.S. § 1521 (relating to definitions) except for the grounds in § 56.98.

(g) *Right of public utility to petition the Commission for permission to terminate service to a customer protected by the prohibitions in this section.*

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

(2) If at the conclusion of the notification process defined in §§ 56.91—56.95, a reasonable agreement cannot be reached between the public utility and the customer, the public utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.152 (relating to contents of the public utility company report). At the same time, the public utility shall serve the customer a copy of the written request registered with the Commission.

(3) If the customer has filed an informal complaint or if the Commission has acted upon the public utility's written request, the matter shall proceed under §§ 56.161—56.165. Nothing in this section may be construed to limit the right of a public utility or customer to appeal a decision by the Bureau of Consumer Services under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.171—56.173 and 56.211.

(h) *Survey of terminated heat related accounts.* For premises where heat related service has been terminated within the past year for any of the grounds in § 56.81 (relating to authorized termination of service) or § 56.98, electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall, within 90 days prior to December 1, survey and attempt to make post-termination personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(i) *Reporting of survey results.* Electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall file a brief report outlining their pre-December 1 survey and personal contact results with the Bureau of Consumer Services on or before December 15 of each year. Each utility shall update the survey and report the results to the Bureau of Consumer Services on February 1 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. For the purposes of the February 1 update of survey results, the public utility shall attempt to contact by telephone, if available, a responsible adult person or occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(j) *Reporting of deaths at locations where public utility service was previously terminated.* Throughout the year, public utilities shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning or other event that resulted in a death and

that the utility service was off at the time of the incident. Within 1 business day of becoming aware of an incident, the public utility shall submit a telephone or electronic report to the Director of the Bureau of Consumer Services including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved and, if available from an official source or the media, the initial findings as to the cause of the incident and the source of that information. The Bureau or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this subsection will be treated in accordance with 66 Pa.C.S. § 1508 (relating to reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

§ 56.101. (Reserved).

EMERGENCY PROVISIONS

§ 56.111. *General provision.*

A public utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician verifying the condition and promptly forward it to the public utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

§ 56.112. *Postponement of termination pending receipt of certificate.*

If, prior to termination of service, the public utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. If a certification is not produced within that 3-day period, the public utility may resume the termination process at the point where it was suspended.

§ 56.113. *Medical certifications.*

Certifications initially may be written or oral, subject to the right of the public utility to verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days. Certifications, whether written or oral, must include the following:

- (1) The name and address of the customer (or applicant in whose name the account is registered).
- (2) The name and address of the afflicted person and relationship to the customer or applicant.
- (3) The nature and anticipated length of the affliction.
- (4) The specific reason for which the service is required.
- (5) The name, office address and telephone number of the certifying physician or nurse practitioner.

§ 56.114. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification; the maximum length of the certification shall be 30 days.

(1) *Time period not specified.* If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the customer has met the obligation under § 56.116 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages. In these instances the public utility is not required to honor a third renewal of a medical certificate and is not required to follow § 56.118(3) (relating to right of public utility to petition the Commission). The public utility shall apply the dispute procedures in §§ 56.151 and 56.152 (relating to public utility company dispute procedures). When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.

§ 56.115. Restoration of service.

When service is required to be restored under this section and §§ 56.114, 56.116—56.118 and 56.191, the public utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each public utility shall have employees available or on call to restore service in emergencies.

§ 56.116. Duty of customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or budget billing amount as determined under § 56.12(7) (relating to meter reading; estimated billing; customer readings).

§ 56.117. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the public utility may terminate service without additional written notice, if notice previously has been mailed or delivered within the past 60 days under § 56.91 (relating to general notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93—56.96.

§ 56.118. Right of public utility to petition the Commission.

(a) A public utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) *Contest the validity of a certification.* To request an investigation and hearing by the Commission or its designee when the public utility wishes to contest the validity of the certification.

(2) *Terminate service prior to expiration of certification.* To request permission to terminate service for the failure of the customer to make payments on current undisputed bills.

(3) *Contest the renewal of a certification.* To request permission to terminate service, under this section and §§ 56.81—56.83 and 56.91—56.99 when the customer has not met the duty under § 56.116 (relating to duty of customer to pay bills), provided that the public utility has informed the customer of that duty under § 56.116.

(b) A public utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.152 (relating to contents of the public utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

(c) Upon the filing of a petition for waiver of medical certification, Commission staff will review the facts and issue an informal written decision.

(d) A party to the proceeding may, within 20 days of mailing of the informal decision, and not thereafter except for good cause shown, appeal by filing with the Secretary of the Commission a letter stating the basis for appeal. An appeal from the informal decision will be assigned to the Office of Administrative Law Judge for hearing and decision.

THIRD-PARTY NOTIFICATION

§ 56.131. Third-party notification.

Each public utility shall permit its customers to designate a consenting individual or agency which is to be sent, by the public utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that public utility. When contact with a third party is made, the public utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A public utility shall institute and maintain a program:

(1) To allow customers to designate third parties to receive copies of a customer's or group of customers' notices of termination of service.

(2) To advise customers at least annually of the availability of a third-party notification program and to encourage its use thereof. The public utility shall emphasize that the third party is not responsible for the payment of the customer's bills.

(3) To solicit community groups to accept third-party notices to assist in preventing unnecessary terminations and protecting the public health and safety.

(4) To make available a standard enrollment form in compliance with the form in Appendix E (relating to third-party notification).

Subchapter F. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

GENERAL PROVISIONS

§ 56.140. Follow-up response to inquiry.

When a customer is waiting for a follow-up response to an initial inquiry under § 56.2 (relating to definitions), termination or threatening termination of service for the subject matter relating to the inquiry in question shall be prohibited until the follow-up response and, when applicable, subsequent dispute resolution is completed by the public utility.

§ 56.141. Dispute procedures.

A notice of dispute, including termination disputes, must proceed, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a customer advises the public utility that the customer disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of public utility metering or billing or the proper party to be charged, the public utility shall attempt to resolve the dispute in accordance with § 56.151 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint. However, the disputing party shall pay undisputed portions of the bill.

§ 56.142. Time for filing an informal complaint.

To be timely filed, an informal complaint—which may not include disputes under §§ 56.35 and 56.191 (relating to payment of outstanding balance; and payment and timing)—shall be filed prior to the day on which the public utility arrives to terminate service. If the public utility arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing an informal complaint shall be extended until the end of the business day prior to the public utility again arriving to terminate service.

§ 56.143. Effect of failure to timely file an informal complaint.

Failure to timely file an informal complaint, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the public utility.

PUBLIC UTILITY COMPANY DISPUTE PROCEDURES

§ 56.151. General rule.

Upon initiation of a dispute covered by this section, the public utility shall:

(1) Not issue a termination notice based on the disputed subject matter.

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant is eligible for a payment agreement and claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.152 (relating to contents of the public utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.152(1), (2) and, when applicable, § 56.152(7)(ii) or (8)(ii).

(iii) The information and documents required under this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them electronically.

§ 56.152. Contents of the public utility company report.

A utility company report must include the following:

(1) A statement of the claim or dispute of the customer and a copy thereof if the claim or notice of dispute was made in writing.

(2) The position of the public utility regarding that claim.

(3) A statement that service will not be terminated pending completion of the dispute process, including both informal and formal complaints, so long as there is compliance with all requirements of the Commission.

(4) A statement that if the complaining party does not agree with the utility company report, an informal complaint shall be filed with the Commission to ensure the preservation of all of the complaining party's rights.

(5) The office where payment may be made or information obtained listing the appropriate telephone number and address of the public utility.

(6) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.162 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or is not deemed necessary by the public utility, the public utility shall provide the information in § 56.162(1), (2) and (5). In addition, the public utility shall always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(7) If the matter in dispute involves a billing dispute, the utility company report must include the following:

(i) An itemized statement of the account of the complaining customer specifying the amount of credit, if any, and the proper amount due.

(ii) The date on or after which the account will become delinquent unless a payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the utility company report must also state the following:

(i) The action required to be taken to avoid the termination of service.

(ii) The date on or after which service will be terminated in accordance with the applicable requirements unless the report is complied with, or a payment agree-

ment entered into or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility company report, whichever is later. If the utility company report is in writing, the information in this paragraph must be prominently displayed.

INFORMAL COMPLAINT PROCEDURES

§ 56.161. (Reserved).

§ 56.162. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and must include the following information:

- (1) The name and address of the complainant and, if different, the address at which service is provided.
- (2) The telephone number of the complainant.
- (3) The account number of the complainant, if applicable.
- (4) The name of the public utility.
- (5) A brief statement of the dispute.
- (6) Whether the dispute formerly has been the subject of a public utility company investigation and report. The complainant shall affirm having first contacted the public utility for the purpose of resolving the problem about which the complainant wishes to file a complaint. If the complainant has not contacted the public utility, the Commission shall direct the complainant to the public utility.
- (7) Whether the dispute formerly has been the subject of a Commission informal or formal complaint.
- (8) The date, if any, of proposed termination.
- (9) The relief sought.

§ 56.163. Commission informal complaint procedure.

Upon the filing of an informal complaint, which shall be captioned as “(Complainant) v. (public utility),” Commission staff will immediately notify the public utility; review the dispute; and, within a reasonable period of time, issue to the public utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports will be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures will be designed to ensure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. Information and documents requested by Commission staff as part of the review process shall be provided by the public utility within 30 days of the request. 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.

(2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff will confirm that all parties understand the terms of the settlement and document the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.171—56.174 (relating to formal complaints).

§ 56.164. Termination pending resolution of the dispute.

In any case alleging unauthorized use of public utility service, as defined in § 56.2 (relating to definitions), or the customer’s failure to pay undisputed bills as required under § 56.181 (relating to duties of parties; disputing party’s duty to pay undisputed portion of bills; public utility’s duty to pay interest whenever overpayment found), a public utility may terminate service after giving proper notice in accordance with §§ 56.91—56.98, whether or not a dispute is pending.

§ 56.165. Conference procedures.

Conferences held under §§ 56.161—56.164 and this section will be informal and may be held by conference telephone call, when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint.

§ 56.166. Informal complaints.

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to resolve customer, applicant or occupant informal complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement this chapter.

(1) The Commission will accept complaints only from complainants who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the complainant wishes to file a complaint. If the complainant has not contacted the public utility, the Commission will direct the complainant to the public utility.

(2) Only after the complainant and the public utility have failed to resolve the dispute will BCS initiate an investigation.

FORMAL COMPLAINTS

§ 56.172. Filing.

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) shall be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary of the Commission will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of the decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a later time except as otherwise may be provided in 66 Pa.C.S. (relating to Public Utility Code).

§ 56.173. Review from informal complaint decisions of the Bureau of Consumer Services.

(a) *Assignment.* Review of informal complaint decisions will be heard de novo by a law judge or special agent.

(b) *Filing and docketing.* A complaint will be filed and docketed as a formal Commission complaint, under §§ 1.31—1.38 (relating to documentary filings).

(c) *Captions.* The parties to a review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a public utility, the phrase “Complaint Appellant” will be added after its name.

(d) *Hearings.* Hearings conducted by an administrative law judge or special agent will be held within a reasonable period of time after the filing of the answer. The parties may incorporate portions of the conference report or informal decision that they shall agree upon.

(e) *Formal complaint decision.* The administrative law judge or special agent assigned to the formal complaint will issue a decision within a reasonable period of time after the receipt of the transcribed testimony. The following will be included in the decision:

- (1) A description of the matter.
- (2) A findings of fact.
- (3) The conclusions of law.
- (4) Other discussion and opinion as appropriate.

(f) *Commission review.* The Commission will review the decision of the assigned administrative law judge or special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or special agent for further development of the record or issue a final order. The burden of proof remains with the party who filed the formal complaint.

§ 56.174. Ability to pay proceedings.

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

(b) *Stay of informal complaint decision.* Upon the filing of a formal complaint in a case seeking review from the decision of the BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The public utility may request that the presiding officer remove the stay and order payment of amounts in the informal complaint decision. When current bills are not at issue, the customer shall be responsible for payment of current, undisputed bills pending issuance of a final Commission order.

(c) *Hearings.* The presiding officer will conduct hearings within a reasonable period after filing of the review and answer. If the presiding officer is a special agent, the special agent will have all powers of an administrative law judge.

(1) The presiding officer will attempt to hold hearings by telephone, unless one or more parties object. Hearings will be held after the filing of an answer.

(2) The presiding officer will hear the case de novo, but may request a stipulation of the parties as to undisputed facts.

(3) Hearings will be tape recorded and will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape or other circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that made by the presiding officer.

(d) *Proposed findings of fact and conclusions of law or briefs.* The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the presiding officer. Notice of intent to submit findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

(e) *Initial decision.* The presiding officer will render a written decision after the hearings or after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision will be in writing and contain a brief description of the matter, findings of fact and conclusions of law. The initial decision shall be subject to the filing of exceptions under the procedures in Chapters 1 and 5 (relating to rules of administrative practice and procedure; and formal proceedings).

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 56.181. Duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found.

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section.

(1) *Pending informal complaint.* Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed. An amount ultimately determined, by the parties or the Commission, to have been validly due but not paid may be paid with interest at the tariff rate filed under § 56.22 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representative determines is not disputed.

(3) *Overpayments reimbursed with interest.* An amount ultimately determined to have been overpaid by the disputing party shall be reimbursed with interest at the tariff rate filed under § 56.22.

(4) *Effect of offer of payment.* An offer by a customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a public utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the public

utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

Subchapter G. RESTORATION OF SERVICE

§ 56.191. Payment and timing.

(a) *Fee.* A public utility may require a reconnection fee based upon the public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service. The amount of this fee must be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, the public utility shall reconnect service as follows:

(1) *Customers.*

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(2) *Applicants.* When the applicant has met all applicable conditions:

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. The public utility is not required to modify or eliminate the payment required to restore service if a medical certificate is presented. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(c) *Payment to restore service.*

(1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order. A public utility shall also inform the applicant or customer that the timing and conditions for restoration of service may differ if someone in the household is seriously ill or affected by a medical condition which will be aggravated without utility service.

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal

poverty level or has defaulted on two or more payment agreements. For purposes of this section, neither a payment agreement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled public utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment agreement that has been paid in full by the customer, are to be considered a default. Budget billing plans and amortization of budget plan reconciliation amounts under § 56.12(7) (relating to meter reading; estimated billing; customer readings) may not be considered a default for the purposes of this section.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months to pay the outstanding balance required for reconnection. For purposes of this subparagraph, a life event is:

(A) A job loss that extends beyond 9 months.

(B) A serious illness that extends beyond 9 months.

(C) Death of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises as a condition to restore service.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant or customer resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant or customer resided there, not exceeding 4 years prior to the date of requesting that service be restored. The 4-year limit does not apply in instances of fraud and theft.

(e) *Approval.* A public utility may establish that an applicant or customer previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this subsection, used to determine liability for outstanding balances.

§ 56.192. Personnel available to restore service.

A public utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a

commensurate period of 8 consecutive hours to restore service when required under this chapter, specifically in §§ 56.82 and 56.191 (relating to timing of termination; and payment and timing).

Subchapter H. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

§ 56.201. Public information.

(a) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its customers affected by the change. Summaries will be mailed by the public utility to each customer of the public utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the public utility and its customers in accordance with this chapter, shall be in writing, reproduced by the public utility, displayed prominently, available on the public utility's web site if the utility has one and available at all public utility office locations open to the general public. The public utility shall inform new customers of the availability of this information and direct where to locate it on the public utility's web site. The public utility shall deliver or mail a copy upon the request of a customer or applicant.

(b) A public utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

- (1) Billing and estimated billing procedures.
- (2) Methods for customer verification of billing accuracy.
- (3) Explanation of operation of purchased gas adjustment clauses.
- (4) Payment requirements and procedures.
- (5) Security deposit and guarantee requirements.
- (6) Procedures for discontinuance and reconnection of service.
- (7) Dispute, informal complaint and formal complaint procedures.
- (8) Explanation of meter reading procedures which would enable a customer or occupant to read his own meter.
- (9) Procedure whereby customers or occupants may avoid discontinuance of service during extended periods of absence.
- (10) Third-party notification procedures.
- (11) Telephone numbers and addresses of the public utility and of the nearest regional office of the Commission where further inquiries may be made.
- (12) Definitions of terms or abbreviations used by the public utility on its bills.
- (13) Information indicating that additional consumer protections may be available for victims of domestic violence, people with serious illnesses and low income households.

§ 56.202. Record maintenance.

A public utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, keep the records accessible within this Commonwealth at an office

located in the territory served by it and make the records available for examination by the Commission or its staff. Information to be maintained includes the following:

- (1) The payment performance of each of its customers.
- (2) The number of payment agreements made by the public utility company and a synopsis of the terms, conditions and standards upon which agreements were made.
- (3) The number of service terminations and reconnections.
- (4) Communications to or from individual customers regarding interruptions, discontinuances, terminations and reconnections of service, including the name and address of the customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

Subchapter I. (RESERVED)

§ 56.211. (Reserved).

Subchapter J. GENERAL PROVISIONS

§ 56.221. Availability of normal Commission procedures.

Nothing in this chapter prevents a person or a public utility from pursuing other Commission procedures in a case not described in this chapter.

§ 56.222. Applications for modification or exception.

(a) If unreasonable hardship to a person or to a public utility results from compliance with a section in this chapter, or a technological advance permits an enhanced level of customer service, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or public utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

Subchapter K. PUBLIC UTILITY REPORTING REQUIREMENTS

§ 56.231. Reporting requirements.

(a) Within 15 days after the end of each month, each electric distribution utility, natural gas distribution utility and class A water distribution utility shall file with the Commission a report containing the following information concerning residential accounts for that month:

- (1) The total number of residential heating customers.
- (2) The total number of residential nonheating customers.
- (3) The total number of active residential accounts in arrears not on a payment agreement.
- (4) The total dollar amount in arrears for active residential accounts in arrears and not on a payment agreement.
- (5) The total number of active residential accounts in arrears and on a payment agreement.

(6) The total dollar amount in arrears for active residential accounts in arrears and on a payment agreement.

(7) The total number of inactive residential accounts in arrears.

(8) The total dollar amount of inactive residential accounts in arrears.

(9) The total number of 10-day termination notices sent out by company.

(10) The total number of dwellings receiving termination notices sent to occupants other than the customer.

(11) The total number of 3-day termination notices completed by contact in person.

(12) The total number of 3-day termination notices completed by telephone.

(13) The total number of 48-hour termination notices posted.

(14) The total number of terminations for nonpayment.

(15) The total number of terminations for reasons other than nonpayment.

(16) The total number of terminations for nonpayment and for reasons other than nonpayment categorized by the first three digits of each account's postal code.

(17) The total number of reconnections for full customer payment, partial payment or payment agreement.

(18) The total number of reconnections for customer submission of medical certification.

(19) The total number of reconnections for reasons other than customer payment or medical certification.

(20) The total number of applicants that are requested to pay or are billed a security deposit.

(21) The total dollar amount in security deposits that are requested of or billed to applicants.

(22) The total number of customers that are requested to pay or are billed a security deposit.

(23) The total dollar amount in security deposits that are requested of or billed to customers.

(b) Within 90 days after the end of each year, each electric distribution utility, natural gas distribution utility and class A water distribution utility shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

(1) The total number of security deposits on hand.

(2) The total dollar amount in security deposits on hand.

(3) The total dollar amount of annual collection operating expenses.

(4) The total dollar amount of annual residential billings.

(5) The total dollar amount of annual gross residential write-offs.

(6) The total dollar amount of annual net residential write-offs.

(7) The average monthly bill for the previous year for a heating customer.

(8) The average monthly bill for the previous year for a nonheating customer.

(9) The average monthly usage for a heating customer.

(10) The average monthly usage for a nonheating customer.

(c) Public utilities shall refer to the data dictionary in Appendix C (relating to definitions (§ 56.231)) for additional guidance as to the terms used in this section.

Subchapter L. PROVISIONS FOR WASTEWATER, STEAM HEAT AND SMALL NATURAL GAS DISTRIBUTION UTILITIES AND VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER

Sec.

56.251. Statement of purpose and policy.

56.252. Definitions.

§ 56.251. Statement of purpose and policy.

Subchapters L—V apply to victims under a protection from abuse order as provided by 23 Pa.C.S. Chapter 61 (relating to Protection from Abuse Act) and 66 Pa.C.S. § 1417 (relating to nonapplicability). These subchapters also apply to wastewater, steam heating and natural gas distribution utilities with annual gas operating revenues of less than \$6 million per year, except when the utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided by 66 Pa.C.S. § 1403 (relating to definitions). These subchapters establish and enforce uniform, fair and equitable residential utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. This chapter assures adequate provision of residential utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service. Every privilege conferred or duty required under this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

§ 56.252. Definitions.

The following words and terms, when used in this subchapter and Subchapters M—V, have the following meanings, unless the context clearly indicates otherwise:

AMR—Automatic meter reading—

(i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii) The term does not include remote meter reading devices as defined by this section.

(iii) Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.

Applicant—

(i) A person at least 18 years of age who applies for residential utility service.

(ii) The term does not include a person who, within 60 days after termination or discontinuance of service, seeks to transfer service within the service territory of the same utility or to reinstate service at the same address.

Basic services—

(i) Services necessary for the physical delivery of residential utility service.

(ii) The term also includes default service as defined in this section.

Billing month—A period of not less than 26 days and not more than 35 days except in the following circumstances:

(i) An initial bill for a new customer may be less than 26 days or greater than 35 days. However, if an initial bill exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the initial bill without penalty.

(ii) A final bill due to discontinuance may be less than 26 days or greater than 35 days but may never exceed 42 days. In cases involving termination, a final bill may be less than 26 days.

(iii) Bills for less than 26 days or more than 35 days shall be permitted if they result from a rebilling initiated by the company or customer dispute to correct a billing problem.

(iv) Bills for less than 26 days or more than 35 days shall be permitted if they result from a meter reading route change initiated by the utility. The utility shall informally contact the Director of the Bureau of Consumer Services at least 30 days prior to the rerouting and provide information as to when the billing will occur, the number of customers affected and a general description of the geographic area involved. If a bill resulting from a meter rerouting exceeds 60 days, the customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the bill without penalty.

Billing period—In the case of utilities supplying gas, electric and steam heating service, the billing period must conform to the definition of "billing month." In the case of water and wastewater service, a billing period may be monthly, bimonthly or quarterly as provided in the tariff of the utility. Customers shall be permitted to receive bills monthly and be notified of their rights thereto.

Customer—A person at least 18 years of age in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service.

Customer assistance program—A plan or program sponsored by a utility for the purpose of providing universal service and energy conservation, as defined in 66 Pa.C.S. § 2202 or § 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers shall comply with certain responsibilities and restrictions to remain eligible for the program.

Cycle billing—A system of billing employed by a utility which results in the normal rendition of bills for utility service to a group or portion of customers on different or specified days of one billing period.

Default service—Electric generation supply service provided under a default service program to a retail electric customer not receiving service from an electric generation supplier.

Delinquent account—Charges for utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment agreement with the utility has been entered into by the customer, a timely filed notice of dispute is pending before the utility or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

Discontinuance of service—The cessation of service with the consent of the customer and otherwise in accordance with § 56.312 (relating to discontinuance of service).

Dispute—A grievance of an applicant, customer or occupant about a utility's application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, customer or occupant indicates satisfaction with the resulting resolution or explanation of the subject of the grievance, the contact will not be considered a dispute.

Dwelling—A house, apartment, mobile home or single meter multiunit structure being supplied with residential service.

Electronic billing—The electronic delivery and presentation of bills and related information sent by a utility to its customers using a system administered by the utility or a system the utility is responsible for maintaining.

Electronic notification of payment—A notification generated by an electronic payment system upon receipt of a payment from a customer using an electronic billing and payment system administered by the utility or a system the utility is responsible for maintaining. The notification must inform the customer of successful receipt and amount of payment and the date and time the payment was received.

Electronic remittance of payment—The electronic receipt of payment from customers to a utility using a system administered by a utility or a system the utility is responsible for maintaining.

Emergency—An unforeseen combination of circumstances requiring temporary discontinuance of service to effect repairs or maintenance or to eliminate an imminent threat to life, health, safety or property.

Federal poverty level—The poverty guidelines updated periodically in the *Federal Register* by the United States Department of Health and Human Services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C.A. § 9902(2)).

Formal complaint—A complaint filed before the Commission requesting a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

Household income—The combined gross income of all adults in a residential household who benefit from the public utility service.

Informal complaint—A complaint with the Commission submitted by a customer that does not involve a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

Initial inquiry—A concern or question of an applicant, customer or occupant about a utility's application of a provision covered by this chapter, including, but not limited to, subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If a utility, with the consent of the applicant, customer or occupant, offers to review pertinent records and call back the applicant, customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, customer or occupant with the company's response. If the company cannot reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes

the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

Natural gas distribution service—The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution utility.

Natural gas distribution utility—A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services.

Natural gas supply services—

(i) The sale or arrangement of the sale of natural gas to retail gas customers and services that may be unbundled by the Commission under 66 Pa.C.S. § 2203(3) (relating to standards for restructuring of natural gas utility industry).

(ii) The term does not include natural gas distribution service.

Nonbasic services—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of utility service or default service.

Nurse practitioner—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

Occupant—A natural person who resides in the premises to which utility service is provided.

Payment agreement—A mutually satisfactory written agreement whereby a customer or applicant who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments over a reasonable period of time.

Person—An individual, partnership, corporation, association, including any lessee, assignee, trustee, receiver, executor, administrator and other successors in interest.

Physician—An individual licensed to engage in the practice of medicine and surgery in all of its branches or in the practice of osteopathy or osteopathic surgery by a jurisdiction within the United States of America.

Premises or affected premises—Unless otherwise indicated, the residence of the occupant.

Remote reading device—

(i) A device which by electrical impulse or otherwise transmits readings from a meter, usually located within a residence, to a more accessible location outside of a residence.

(ii) The term does not include the following:

(A) AMR devices as defined in this section.

(B) Devices that permit direct interrogation of the meter.

Residential service—

(i) Utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) The term does not include utility service provided to a hotel or motel.

Termination of service—Cessation of service, whether temporary or permanent, without the consent of the ratepayer.

Unauthorized use of utility service—Unreasonable interference or diversion of service, including meter tampering (any act which affects the proper registration of service through a meter), by-passing (unmetered service that flows through a device connected between a service line and customer-owned facilities) and unauthorized service restoral.

User without contract—A person as defined in 66 Pa.C.S. § 102 (relating to definitions) that takes or accepts utility service without the knowledge or approval of the utility, other than the unauthorized use of utility service as defined in this section.

Utility—

(i) A public utility or a municipality, subject to Commission jurisdiction, which provides wastewater services or steam heating services.

(ii) The term also includes natural gas distribution utilities with annual gas operating revenues of less than \$6 million per year, except when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided under 66 Pa.C.S. § 1403 (relating to definitions).

Subchapter M. BILLING AND PAYMENT STANDARDS

GENERAL

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PAYMENTS

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GENERAL

§ 56.261. Billing frequency.

(a) A utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules.

(b) A utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following:

(1) The electronic billing option is voluntary and only with the prior consent of the customer. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the utility with a one billing cycle notice of a request to revert to paper billing.

(2) A customer shall receive the same information that is included with a paper bill issued by the utility.

(3) The electronic bill must include the same disclosures and educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted unless the customer has affirmatively consented to this method of delivery. The

electronic delivery of a termination notice does not relieve the public utility of the obligation to provide termination notices as required under §§ 56.331—56.338.

(4) The electronic bill must include all required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the utility's hardship fund if the utility is able to accept hardship fund contributions by this method.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The utility shall maintain a system to deliver electronic bills if the bill is emailed to a customer.

(8) The utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access.

§ 56.262. Meter reading; estimated billing; customer readings.

Except as provided in this section, a utility shall render bills based on actual meter readings by utility company personnel.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the utility.

(2) *Estimates for bills rendered on a monthly basis.* If a utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

(i) Upon the request of the customer, the utility shall, at least annually, provide preaddressed postcards on which the customer may report the reading. The utility shall provide additional preaddressed postcards on request. The utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The utility may establish due dates by which the customer supplied reading shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer or occupant is not received by that due date, the utility may estimate the quantity of usage. The utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when utility personnel are unable to gain access.* A utility may estimate the bill of a customer if utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading or the telephone reporting of the reading.

(ii) The utility, at least every 6 months, or every four billing periods for utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric utilities.* A utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water utility uses readings from a remote reading device to render bills, the utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least \$50, whichever is greater, the utility shall comply with § 56.264 (relating to previously unbilled utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.411(3) (relating to duties of parties: disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found).

(iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Limitation of liability.* If a water utility has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water utility was unable to gain access and has complied with paragraph (4).

(7) *Budget billing.* A gas, electric and steam heating utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The utility shall review accounts at least three times during the optional billing period. At the conclusion of the budget billing year, a resulting reconciliation amount exceeding \$100 but less than \$300 shall be, at the request of the customer, amortized over a 6-month period. Reconciliation amounts exceeding \$300 shall be amortized over at least a 12-month period at the request of the customer. Shorter amortization periods are permissible at the request of the customer.

(8) *Notice.* The utility shall inform existing customers of their rights under this section and under 66 Pa.C.S. § 1509 (relating to billing procedures).

§ 56.263. Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges and other nonrecurring charges, except as provided in this chapter—must appear after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. See § 56.323(3) (relating to unauthorized termination of service).

§ 56.264. Previously unbilled utility service.

When a utility renders a make-up bill for previously unbilled utility service which accrued within the past 4 years resulting from utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make-up bill is issued by at least 50% or at least \$50, whichever is greater:

- (1) The utility shall explain the bill to the customer and make a reasonable attempt to amortize the bill.
- (2) The period of the amortization may, at the option of the customer, extend at least as long as:
 - (i) The period during which the excess amount accrued.
 - (ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

§ 56.265. Billing information.

A bill rendered by a utility for metered residential utility service must state clearly the following information:

- (1) The beginning and ending dates of the billing period.
- (2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it must contain a clear and conspicuous marking of the word “Estimated.”
- (3) The due date on or before which payment shall be made or the account will be delinquent.
- (4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State Sales Tax if applicable and other similar charges. The bills should also indicate that a State Gross Receipts Tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).
- (5) Amounts due for reconnection charges.
- (6) Amounts due for security deposits.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.272 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to “register any question or complaint about the bill prior to the due date,” with the address and telephone number where the customer may initiate the inquiry or complaint with the utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language, of the various charges, if applicable, is available for inspection in the local business office of the utility and on the utility’s web site.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the utility.

(14) Utilities shall incorporate the requirements in §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

§ 56.266. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with utility service or who wishes to have service discontinued shall give at least 7 days notice to the utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. If the utility is not, after a reasonable attempt to obtain meter access, 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 utility has obtained an actual meter reading.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.331 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of that notice, the customer requests a transfer of service to a new location, the termination process in §§ 56.331—56.339 may continue at the new location.

(1) When notifications set forth under § 56.331 and § 56.335 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the utility may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.372—56.374 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint).

§ 56.267. Advance payments.

Payments may be required in advance of furnishing any of the following services:

- (1) Seasonal service.
- (2) The construction of facilities and furnishing of special equipment.
- (3) Gas and electric rendered through prepayment meters provided:

(i) The customer is nonlow income. For purposes of this section, "nonlow income" is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines and has a delinquency for which the individual is requesting a payment agreement but offering terms that the utility, after consideration of the factors in § 56.337(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.

(ii) The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) The customer and utility enter into a payment agreement which includes, but is not limited to, the following terms:

(A) The customer voluntarily agrees to the installation of a prepayment meter.

(B) The customer agrees to purchase prepayment credits to maintain service until the total balance is retired and the utility agrees to make new credits available to the customer within 5 days of receipt of prepayment.

(C) The utility agrees to furnish the customer with emergency backup credits for additional usage of at least 5 days.

(D) The customer agrees that failure to renew the credits by making prepayment for additional service constitutes a request for discontinuance under § 56.312(1) (relating to discontinuance of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup credits runs out.

(iv) The utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v) During the first 2 years of use of prepayment meters, the utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

(4) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.

PAYMENTS

§ 56.271. Payment.

The due date for payment of a bill may not be less than 20 days from the date of transmittal; that is, the date of mailing, electronic transmission or physical delivery of the bill by the utility to the customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) *Branch offices or authorized payment agents.* The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a utility is the date of actual receipt of payment.

(5) *Fees.* Fees or charges assessed and collected by the utility for utilizing a payment option must be included in the utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.

§ 56.272. Accrual of late payment charges.

(a) Every utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue utility bill, as defined in § 56.271 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A utility may waive late payment charges on any customer accounts.

§ 56.273. Application of partial payments between utility and other service.

Payments received by a utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic

charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential utility service.

§ 56.274. Application of partial payments among several bills for utility service.

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

§ 56.275. Electronic bill payment.

A utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary. A utility may not require a customer to enroll in electronic bill payment as a condition for enrolling in electronic billing.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's financial account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing, either by mail or electronically, before the customer enters the program. Program changes shall be conveyed to the customer in writing, either by mail or electronically, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The utility shall provide a receipt, or a confirmation, transaction or reference number, either electronically or on paper, to the customer upon payment through the electronic method. This requirement does not apply if the payment method is through a preauthorized automated debit from a customer's financial account.

(5) The utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and prevent access to customer account records by persons who are not properly authorized to have access.

Subchapter N. CREDIT AND DEPOSITS STANDARDS POLICY

PROCEDURES FOR APPLICANTS

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PROCEDURES FOR APPLICANTS

§ 56.281. Policy statement.

An essential ingredient of the credit and deposit policies of each utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies must be based upon the credit risk of the individual applicant or customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which the applicant or customer lives and without regard to race, sex, age over 18 years of age, National origin or marital status.

§ 56.282. Credit standards.

A utility shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Prior utility payment history.* The applicant has been a recipient of utility service of a similar type within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for the service, so long as:

(i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

(ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.

(iii) The applicant does not have an unpaid balance from that prior service.

(2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting the applicant's place of residence under a lease of 1 year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as a utility customer within 2 years prior to the application for service.

(3) *Credit information.* The applicant provides information demonstrating that the applicant is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.

(ii) The utility may request and consider information including:

- (A) The name of the employer of the applicant.
- (B) The place and length of employment.
- (C) Residences during the previous 5 years.
- (D) Letters of reference.
- (E) Credit cards.

(F) Significant source of income other than from employment.

§ 56.283. Cash deposits; third-party guarantors.

If an applicant does not establish credit under § 56.282 (relating to credit standards), the utility shall provide residential service when one of the following requirements is satisfied:

(1) *Cash deposit.* The applicant posts a cash deposit.

(2) *Third-party guarantor.* The applicant furnishes a written guarantee from a responsible customer which, for the purposes of this section, means a customer who has

or can establish credit, under § 56.282, to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee must be in writing and state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.302 and 56.303 (relating to deposit hold period and refund; and application of deposit to bills).

§ 56.284. Deposits for temporary service.

Deposits for applicants for temporary service may be required in accordance with § 53.82 (relating to deposits).

§ 56.285. Payment of outstanding balance.

A utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the utility which accrued within the past 4 years from the date of the service request for which the applicant is legally responsible and for which the applicant was billed properly. The 4-year limit does not apply if the balance includes amounts that the utility was not aware of because of fraud or theft on the part of the applicant. An outstanding residential account with the utility may be amortized over a reasonable period of time. Factors to be taken into account include the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant. This section does not affect the creditor rights and remedies of a utility otherwise permitted by law.

§ 56.286. Written procedures.

A utility shall establish written procedures for determining the credit status of an applicant. A utility employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the utility. A copy of these procedures shall be maintained on file in each of the business offices of the utility and made available, upon request, for inspection by members of the public and the Commission and be included on the utility's web site.

(1) *Reasons for denial of credit.* If credit is denied, the utility shall inform the applicant in writing of the reasons for the denial within 3 business days of the denial. This information may be provided electronically to the applicant with the applicant's consent. If the utility is requiring payment of an unpaid balance in accordance with § 56.285 (relating to payment of outstanding balance), the utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued, and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third-party guarantor in accordance with § 56.283 (relating to cash deposits; third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a protection from abuse order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* Utility personnel shall fully explain the credit and deposit procedures of the utility to each customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish utility service on behalf of an applicant will not be honored until the utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third-party is authorized to act on the applicant's behalf.

§ 56.287. General rule.

Once an applicant's application for service is accepted by the utility, the utility shall make a bona fide attempt to provide service within 3 business days, provided that the applicant has met all regulatory requirements. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the utility shall provide service pending completion of the investigation. If the utility cannot provide service by the time frames specified in this section, the utility shall inform the customer of this fact and provide a reasonable estimate of when service will be provided. These requirements do not apply to new service installations and service extensions that require construction of facilities to provide the utility service.

§ 56.288. Payment period for deposits by applicants.

An applicant may elect to pay any required deposits in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination.

PROCEDURES FOR EXISTING CUSTOMERS

§ 56.291. General rule.

A utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the customer together with a bill for utility service.

(C) Notification must set forth the address and phone number of the utility office where complaints or questions may be registered.

(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to budget billing plans, a utility may issue a notification or subsequent

request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility service), under the following conditions:

(A) The utility has complied with § 56.264. Compliance with a payment agreement by the customer discharges the delinquency and a notification or request for deposit may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A utility may require a deposit as a condition to reconnection of service following a termination.

(3) *Failure to comply with payment agreement.* A utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a payment agreement.

§ 56.292. Payment period for deposits by customers.

The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.291(2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due. A customer may elect to pay a required deposit in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.

CASH DEPOSITS

§ 56.301. Amount of cash deposit.

(a) *Applicants.* A utility may not require a cash deposit from an applicant in excess of the average estimated bill of the applicant for a period equal to one billing period plus 1 additional month's service, not to exceed 4 months in the case of water and wastewater utilities and 2 months in the case of gas, electric and steam heat utilities, with a minimum deposit of \$5.

(b) *Existing customer.* For an existing customer, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of wastewater utilities and 2 months in the case of gas and steam heat utilities, with a minimum of \$5.

(c) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the customer or the utility whenever the character or degree of the usage of the customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

§ 56.302. Deposit hold period and refund.

A cash deposit shall be refunded under the following conditions:

(1) *Termination or discontinuance of service.* Upon termination or discontinuance of service, the utility shall promptly apply the deposit of the customer, including accrued interest, to any outstanding balance for utility

service and refund or apply the remainder to the customer's account. A transfer of service from one location to another within a service area may not be deemed discontinuance within the meaning of this chapter.

(2) *Credit established.* When a customer establishes credit under § 56.282 (relating to credit standards), the utility shall refund or apply to the customer's account, any cash deposit plus accrued interest.

(3) *Third-party guarantor.* When a customer substitutes a third-party guarantor in accordance with § 56.283(2) (relating to cash deposits; third-party guarantors), the utility shall refund any cash deposit, plus accrued interest, up to the limits of the guarantee.

(4) *Prompt payment of bills.* After a customer has paid bills for service for 12 consecutive months without having service terminated and without having paid a bill subsequent to the due date or other permissible period as stated in this chapter on more than two occasions or for a maximum period of 24 months, the utility shall refund any cash deposit, plus accrued interest.

(5) *Optional refund.* At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

§ 56.303. Application of deposit to bills.

The customer may elect to have a deposit applied to reduce bills for utility service or to receive a cash refund.

§ 56.304. Periodic review.

If a customer is not entitled to refund under § 56.302 (relating to deposit hold period and refund), the utility shall review the account of the customer each succeeding billing period and make appropriate disposition of the deposit in accordance with § 56.302 and § 56.303 (relating to application of deposit to bills).

§ 56.305. Refund statement.

If a cash deposit is applied or refunded, the utility shall mail or deliver to the customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

§ 56.306. Interest rate.

The utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known as the Loan Interest and Protection Law, and return the interest with the deposit.

§ 56.307. Application of interest.

Interest shall be paid annually to the customer, or, at the option of either the utility or the customer, shall be applied to service bills.

Subchapter O. INTERRUPTION AND DISCONTINUANCE OF SERVICE

- Sec.
- 56.311. Interruption of service.
- 56.312. Discontinuance of service.

§ 56.311. Interruption of service.

A utility may temporarily interrupt service when necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency.

(1) *Interruption with prior notice.* When the utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to customers and occupants who may be affected.

(2) *Interruption without prior notice.* When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration of the interruption shall be given as soon as possible to customers and occupants who may be affected.

(3) *Notification procedures.* When customers and occupants are to be notified under this section, the utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected customers and occupants of the cause and expected duration of the interruption.

(4) *Permissible duration.* Service may be interrupted for only the periods of time necessary to protect the health and safety of the public, to protect property or to remedy the situation which necessitated the interruption. Service shall be resumed as soon as possible thereafter.

§ 56.312. Discontinuance of service.

A utility may discontinue service without prior written notice under the following circumstances:

(1) *Customer's residence.* When a customer requests a discontinuance at the customer's residence, when the customer and members of the customer's household are the only occupants.

(2) *Other premises or dwellings.* Other premises or dwellings as follows:

(i) When a customer requests discontinuance at a dwelling other than the customer's residence or at a single meter multifamily residence, whether or not the customer's residence but, in either case, only under either of the following conditions:

(A) The customer states in writing that the premises are unoccupied. The statement must be on a form conspicuously bearing notice that information provided by the customer will be relied upon by the Commission in administering a system of uniform service standards for utilities and that any false statements are punishable criminally. When the customer fails to provide a notice, or when the customer has falsely stated the premises are unoccupied, the customer shall be responsible for payment of utility bills until the utility discontinues service.

(B) The occupants affected by the proposed cessation inform the utility orally or in writing of their consent to the discontinuance.

(ii) When the conditions in subparagraph (i) have not been met, the utility, at least 10 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(A) When the premises is a multifamily residence, notice shall also be posted in common areas.

(B) Notices must, at a minimum, state: the date on or after which discontinuance will occur; the name and address of the utility; and the requirements necessary for the occupant to obtain utility service in the occupant's name. Further termination provisions of this chapter, except § 56.337 (relating to procedures upon customer or occupant contact prior to termination), do not apply in these circumstances.

(C) This section does not apply when the customer is a landlord ratepayer. See 66 Pa.C.S. §§ 1521—1533 (relating to discontinuance of service to leased premises).

Subchapter P. TERMINATION OF SERVICE

GROUND FOR TERMINATION

- Sec.
56.321. Authorized termination of service.
56.322. Timing of termination.
56.323. Unauthorized termination of service.

NOTICE PROCEDURES PRIOR TO TERMINATION

- 56.331. General notice provisions and contents of termination notice.
56.332. Notice when dispute pending.
56.333. Personal contact.
56.334. Procedures immediately prior to termination.
56.335. Deferred termination when no prior contact.
56.336. Post-termination notice.
56.337. Procedures upon customer or occupant contact prior to termination.
56.338. Exception for terminations based on occurrences harmful to person or property.
56.339. Use of termination notice solely as collection device prohibited.
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EMERGENCY PROVISIONS

- 56.351. General provision.
56.352. Postponement of termination pending receipt of certificate.
56.353. Medical certifications.
56.354. Length of postponement; renewals.
56.355. Restoration of service.
56.356. Duty of customer to pay bills.
56.357. Termination upon expiration of medical certification.
56.358. Right of utility to petition the Commission.

THIRD-PARTY NOTIFICATION

- 56.361. Third-party notification.

GROUND FOR TERMINATION

§ 56.321. Authorized termination of service.

Utility service to a dwelling may be terminated for one or more of the following reasons:

- (1) Nonpayment of an undisputed delinquent account.
- (2) Failure to post a deposit, provide a guarantee or establish credit.
- (3) Unreasonable refusal to permit access to meters, service connections and other property of the utility for the purpose of maintenance, repair or meter reading.
- (4) Unauthorized use of the utility service delivered on or about the affected dwelling.
- (5) Failure to comply with the material terms of a payment agreement.
- (6) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.
- (7) Tampering with meters or other utility equipment.
- (8) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the energy delivery system of the utility.

§ 56.322. Timing of termination.

Except in emergencies—which include unauthorized use of utility service—service may not be terminated, for nonpayment of charges or for any other reason, during the following periods:

- (1) On Friday, Saturday or Sunday.
- (2) On a bank holiday or on the day preceding a bank holiday.
- (3) On a holiday observed by the utility or on the day preceding the holiday. A holiday observed by a utility means any day on which the business office of the utility

is closed to observe a legal holiday, to attend utility meetings or functions or for any other reason.

(4) On a holiday observed by the Commission or on the day preceding the holiday.

§ 56.323. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the utility, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; meter testing fees; special construction charges; and other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior customer at the same address.

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility service) and the customer has complied with § 56.291(1)(ii)(A) or (B) (relating to general rule).

(6) Noncompliance with a payment agreement prior to the due date of the bill which forms the basis of the agreement.

(7) Nonpayment of charges for utility service for which the utility ceased billing more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the customer unless a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished. This paragraph does not affect the creditor rights and remedies of a utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the customer or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

(10) Nonpayment of delinquent accounts which accrued over two billing periods or more, which remain unpaid in whole or in part for 6 months or less, and which amount to a total delinquency of less than \$25.

(11) Nonpayment of delinquent accounts when the amount of the deposit presently held by the utility is within \$25 of account balance.

NOTICE PROCEDURES PRIOR TO TERMINATION

§ 56.331. General notice provisions and contents of termination notice.

(a) Prior to a termination of service, the utility shall mail or deliver written notice to the customer at least 10 days prior to the date of the proposed termination. In the event of a user without contract as defined in § 56.252 (relating to definitions), the utility shall comply with §§ 56.333—56.337, but does not need to provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of amounts currently due, including any required deposit.

(3) A statement that a reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the utility on file with the Commission. The statement must include the maximum possible dollar amount of the reconnection fee that may apply.

(4) The date on or after which service will be terminated unless one of the following occurs:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement is established.

(iv) Enrollment is made in a customer assistance program or its equivalent, if the customer is eligible for the program.

(v) A dispute is filed with the utility or the Commission.

(vi) Payment in full of amounts past due on the most recent payment agreement is received.

(5) A statement that the customer should immediately contact the utility to attempt to resolve the matter. The statement must include the address and telephone number where questions may be asked, how payment agreements may be negotiated and entered into with the utility, and where applications can be found and submitted for enrollment into the utility's universal service programs, if these programs are offered by the utility.

(6) The following statement: "If you have questions or need more information, contact us as soon as possible at (utility phone number). After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(7) A serious illness notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.336 (relating to post-termination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(8) If the utility has universal service programs, information indicating that special assistance programs may be available and how to contact the utility for information and enrollment, and that enrollment in the program may be a method of avoiding the termination of service.

(9) Information indicating that special protections are available for victims under a protection from abuse order and how to contact the utility to obtain more information on these protections.

(10) Information indicating that special protections are available for tenants if the landlord is responsible for paying the utility bill and how to contact the utility to obtain more information on these protections.

(11) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(12) Information indicating that if service is shut off, the customer shall contact the utility after payment has been made to arrange reconnection of the service.

(13) Information in Spanish directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5% or more of the residents of the utility's service territory are using that language.

(14) Contact information for customers with disabilities that need assistance.

§ 56.332. Notice when dispute pending.

A utility may not mail or deliver a notice of termination if a notice of initial inquiry, dispute, informal or formal complaint has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

§ 56.333. Personal contact.

(a) Except when authorized under § 56.311, § 56.312 or § 56.338 (relating to interruption of service; discontinuance of service; and exception for terminations based on occurrences harmful to person or property), a utility may not interrupt, discontinue or terminate service without personally contacting the customer or a responsible adult occupant at least 3 days prior to the interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required under this chapter or other Commission directive.

(b) For purposes of this section, "personal contact" means:

(1) Contacting the customer or responsible adult occupant in person or by telephone. Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence.

(2) If contact is attempted in person by a home visit, only one attempt is required. The utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit.

(3) Contacting another person whom the customer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(4) If the customer has not made the designation noted in paragraph (3), contacting a community interest group or other entity, including a local police department, which

previously shall have agreed to receive a copy of the notice of termination and to attempt to contact the customer.

(5) If the utility is not successful in establishing personal contact as noted in paragraphs (1) and (2) and the customer has not made the designation noted in paragraph (3) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing.

(c) The content of the 3-day personal contact notice must include the earliest date at which termination may occur and the following information:

(1) The date and grounds of the termination.

(2) What is needed to avoid the termination of service.

(3) How to contact the utility and the Commission.

(4) The availability of the emergency medical procedures.

(d) The utility shall ask if the customer or occupant has questions about the 10-day written notice the utility previously sent.

§ 56.334. Procedures immediately prior to termination.

Immediately preceding the termination of service, a utility employee, who may be the utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

§ 56.335. Deferred termination when no prior contact.

If a prior contact has not been made with a responsible adult occupant either at the residence of the customer, as required under § 56.334 (relating to procedures immediately prior to termination) or at the affected dwelling, the employee may not terminate service but shall conspicuously post a termination notice at the residence of the customer and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting.

§ 56.336. Post-termination notice.

When service is actually terminated, notice that reflects the requirements in § 56.331 (relating to general notice provisions and contents of termination notice) as well as a medical emergency notice in the form which appears in Appendix B (relating to medical emergency notice) shall be delivered to a responsible adult occupant at the residence of the customer or conspicuously posted at the affected premises.

§ 56.337. Procedures upon customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the utility concerning a proposed termination, an authorized utility employee shall fully explain the following:

- (1) The reasons for the proposed termination.
- (2) The available methods for avoiding a termination, including the following:
 - (i) Tendering payment in full or otherwise eliminating the grounds for termination.
 - (ii) Entering a payment agreement.
 - (iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.
 - (iv) Enrolling in the utility's customer assistance program or its equivalent, if the utility has a program and the customer is eligible for the program.
- (3) The medical emergency procedures.

(b) The utility, through its employees, shall exercise good faith and fair judgment in attempting to enter a reasonable payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable informal dispute settlement agreement or payment agreement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. Payment agreements for heating customers shall be based upon budget billing as determined under § 56.262(7) (relating to meter reading; estimated billing; customer readings). If a payment agreement is not established, the company shall further explain the following:

- (1) The right of the customer to file a dispute with the utility and, thereafter, an informal complaint with the Commission.
- (2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17105-3265, (800) 692-7380.
- (3) The duty of the customer to pay any portion of a bill which the customer does not dispute.

§ 56.338. Exception for terminations based on occurrences harmful to person or property.

Notwithstanding any other provision of this chapter, when a service termination is based on an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without written notice so long as the utility reasonably believes grounds to exist. At the time of termination, the utility shall make a bona fide attempt to deliver a notice of termination to a responsible adult occupant at the affected premises and, in the case of a single meter, multiunit dwelling, shall conspicuously post the notice at the dwelling, including common areas when permissible.

§ 56.339. Use of termination notice solely as collection device prohibited.

A utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter. Notice of the intent to terminate shall be used only as a warning that

service will in fact be terminated in accordance with the procedures under this chapter, unless the customer or occupant remedies the situation which gave rise to the enforcement efforts of the utility.

§ 56.340. Winter termination procedures.

Notwithstanding any provision of this chapter, during the period of December 1 through March 31, utilities subject to this subchapter shall conform to the provisions of this section. The covered utilities may not terminate service between December 1 and March 31 except as provided in this section or § 56.338 (relating to exception for terminations based on occurrences harmful to person or property).

(1) *Termination notices.* The utility shall comply with §§ 56.331—56.335 including personal contact, as defined in § 56.333 (relating to personal contact), at the premises if occupied.

(2) *Request for permission to terminate service.* If at the conclusion of the notification process defined in §§ 56.331—56.335, a reasonable agreement cannot be reached between the utility and the customer, the utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.382 (relating to contents of the utility company report). At the same time, the utility shall serve the customer a copy of the written request registered with the Commission.

(3) *Informal complaints.* If the customer has filed an informal complaint or if the Commission has acted upon the utility's written request, the matter shall proceed under §§ 56.391—56.394 (relating to informal complaint procedures). Nothing in this section may be construed to limit the right of a utility or customer to appeal a decision by the Bureau of Consumer Services (BCS) under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.401—56.403 and 56.441.

(4) *Survey of premises previously terminated.* For premises where heat related service has been terminated prior to December 1 of each year, covered utilities shall, within 90 days prior to December 1, survey and attempt to make post-termination personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(5) *Reporting of survey results.* Utilities subject to this subchapter shall file a brief report outlining their pre-December 1 survey and personal contact results with the BCS on or before December 15 of each year. Each utility shall update the survey and report the results to the BCS on February 1 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. For the purposes of the February 1 update of survey results, the utility shall attempt to contact by telephone, if available, a responsible adult person or occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(6) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a utility subject to this subchapter may not terminate service to a premises when the account is in the name of a landlord ratepayer as defined at 66 Pa.C.S. § 1521 (related to definitions) except for the grounds in § 56.338.

(7) *Reporting of deaths at locations where utility service was previously terminated.* Throughout the year, utilities subject to this subchapter shall report to the Commission

when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning or another event that resulted in a death and that the utility service was off at the time of the incident. Within 1 working day of becoming aware of an incident, the utility shall submit a telephone or electronic report to the Director of the BCS including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved and, if available from an official source or the media, the initial findings as to the cause of the incident and the source of that information. The BCS or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this paragraph shall be treated in accordance with 66 Pa.C.S. § 1508 (relating to reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

EMERGENCY PROVISIONS

§ 56.351. General provision.

A utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking reconnection of previously terminated service under § 56.421 (relating to payment and timing) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer or applicant shall obtain a letter from a licensed physician or nurse practitioner verifying the condition and promptly forward it to the utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the utility. A utility may not impose any qualification standards for medical certificates other than those listed in this section.

§ 56.352. Postponement of termination pending receipt of certificate.

If, prior to termination of service, the utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. If a certification is not produced within that 3-day period, the utility may resume the termination process at the point when it was suspended.

§ 56.353. Medical certifications.

Certifications initially may be written or oral, subject to the right of the utility to verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days. Certifications, whether written or oral, must include the following:

- (1) The name and address of the customer or applicant in whose name the account is registered.
- (2) The name and address of the afflicted person and the relationship to the customer or applicant.
- (3) The nature and anticipated length of the affliction.
- (4) The specific reason for which the service is required.
- (5) The name, office address and telephone number of the certifying physician or nurse practitioner.

§ 56.354. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification. The maximum length of the certification shall be 30 days.

(1) *Time period not specified.* If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.352 and 56.353 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the customer has met the obligation under § 56.356 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.356 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages. In these instances, the utility is not required to honor a third renewal of a medical certificate and is not required to follow § 56.358(3) (relating to right of utility to petition the Commission). The utility shall apply the dispute procedures in §§ 56.381 and 56.382 (relating to utility company dispute procedures). When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.

§ 56.355. Restoration of service.

When service is required to be restored under this section and §§ 56.351, 56.354, 56.356—56.358 and 56.421, the utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each utility shall have employees available or on call to restore service in emergencies.

§ 56.356. Duty of customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or budget billing amount as determined when § 56.262(7) (relating to meter reading; estimated billing; customer readings).

§ 56.357. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the utility may terminate service without additional written notice, if notice previously has been mailed or delivered within the past 60 days under § 56.331 (relating to general notice provisions and contents of termination notice). The utility shall comply with §§ 56.333—56.336.

§ 56.358. Right of utility to petition the Commission.

(a) A utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) *Contest the validity of a certification.* To request an investigation and hearing by the Commission or its designee when the utility wishes to contest the validity of the certification.

(2) *Terminate service prior to expiration of certification.* To request permission to terminate service for the failure of the customer to make payments on current undisputed bills.

(3) *Contest the renewal of a certification.* To request permission to terminate service, under this section and §§ 56.321—56.323 and 56.331—56.339 when customer has not met the duty under § 56.356 (relating to duty of customer to pay bills), provided that the utility has informed the customer of that duty under § 56.356.

(b) A utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.382 (relating to contents of the utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

(c) Upon the filing of a petition for waiver of medical certification, Commission staff will review the facts and issue an informal written decision.

(d) A party to the proceeding may, within 20 days of mailing of the informal decision, and not thereafter except for good cause shown, appeal by filing with the Secretary of the Commission a letter stating the basis for appeal. An appeal from the informal decision will be assigned to the Office of Administrative Law Judge for hearing and decision.

THIRD-PARTY NOTIFICATION

§ 56.361. Third-party notification.

Each utility shall permit its customers to designate a consenting individual or agency which is to be sent, by the utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that utility. When contact with a third party is made, the utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A utility shall institute and maintain a program:

(1) To allow customers to designate third parties to receive copies of a customer's or group of customers' notices of termination of service.

(2) To advise customers at least annually of the availability of a third-party notification program and to encourage its use thereof. The utility shall emphasize that the third party is not responsible for the payment of the customer's bills.

(3) To solicit community groups to accept third-party notices to assist in preventing unnecessary terminations and protecting the public health and safety.

(4) To make available a standard enrollment form in compliance with the form as set forth in Appendix E (relating to third-party notification).

Subchapter Q. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

GENERAL PROVISIONS

- Sec. 56.371. Follow-up response to inquiry.
- 56.372. Dispute procedures.
- 56.373. Time for filing an informal complaint.
- 56.374. Effect of failure to timely file an informal complaint.

UTILITY COMPANY DISPUTE PROCEDURES

- 56.381. General rule.
- 56.382. Contents of the utility company report.

INFORMAL COMPLAINT PROCEDURES

- 56.391. Informal complaint filing procedures.
- 56.392. Commission informal complaint procedure.
- 56.393. Termination pending resolution of the dispute.
- 56.394. Conference procedures.

FORMAL COMPLAINTS

- 56.401. General rule.
- 56.402. Filing.
- 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.
- 56.404. Ability to pay proceedings.

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

- 56.411. Duties of parties: disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found.

GENERAL PROVISIONS

§ 56.371. Follow-up response to inquiry.

When a customer is waiting for a follow-up response to an initial inquiry under § 56.252 (relating to definitions), termination or threatening termination of service, for the subject matter relating to the inquiry in question, shall be prohibited until the follow-up response and, when applicable, subsequent dispute resolution is completed by the utility.

§ 56.372. Dispute procedures.

A notice of dispute, including termination disputes, must proceed, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a customer advises the utility that the customer disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of utility metering or billing or the proper party to be charged, the utility shall attempt to resolve the dispute in accordance with § 56.381 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint. However, the disputing party shall pay undisputed portions of the bill.

§ 56.373. Time for filing an informal complaint.

To be timely filed, an informal complaint—which may not include disputes under §§ 56.285 and 56.421 (relating to payment of outstanding balance; and payment and timing)—shall be filed prior to the day on which the utility arrives to terminate service. If the utility arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing an informal complaint shall be extended until the end of the business day prior to the utility again arriving to terminate service.

§ 56.374. Effect of failure to timely file an informal complaint.

Failure to timely file an informal complaint, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the utility.

UTILITY COMPANY DISPUTE PROCEDURES

§ 56.381. General rule.

Upon initiation of a dispute covered by this section, the utility shall:

(1) Not issue a termination notice based on the disputed subject matter.

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.382 (relating to contents of the utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the utility deems it necessary.

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.382(1) and (2) and, when applicable, § 56.382(7)(ii) or (8)(ii).

(iii) The information and documents required under this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them electronically.

§ 56.382. Contents of the utility company report.

A utility company report must include the following:

(a) A statement of the claim or dispute of the customer and a copy thereof if the claim or notice of dispute was made in writing.

(b) The position of the utility regarding that claim.

(c) A statement that service will not be terminated pending completion of the dispute process, including both informal and formal complaints, so long as there is compliance with all requirements of the Commission.

(d) A statement that if the complaining party does not agree with the utility company report, an informal complaint shall be filed with the Commission to ensure the preservation of all of the complaining party's rights.

(e) The office where payment may be made or information obtained listing the appropriate telephone number and address of the utility.

(f) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.391 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or is not deemed necessary by the utility, the utility shall provide the information in § 56.391(1), (2) and (5). In addition, the utility shall always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(g) If the matter in dispute involves a billing dispute, the report must include the following:

(1) An itemized statement of the account of the complaining customer specifying the amount of credit, if any, and the proper amount due.

(2) The date on or after which the account will become delinquent unless a payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(h) If the matter involves a dispute other than a billing dispute, the report must also state the following:

(1) The action required to be taken to avoid the termination of service.

(2) The date on or after which service shall be terminated in accordance with the applicable requirements unless the report is complied with or a payment agreement entered into or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility company report, whichever is later. If the utility company report is in writing, the information in this paragraph shall be prominently displayed.

INFORMAL COMPLAINT PROCEDURES

§ 56.391. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and must include the following information:

(1) The name and address of the complainant and, if different, the address at which service is provided.

(2) The telephone number of the complainant.

(3) The account number of the complainant, if applicable.

(4) The name of the utility.

(5) A brief statement of the dispute.

(6) Whether the dispute formerly has been the subject of a utility company investigation and report.

(7) Whether the dispute formerly has been the subject of a Commission informal or formal complaint.

(8) The date, if any, of proposed termination.

(9) The relief sought.

§ 56.392. Commission informal complaint procedure.

Upon the filing of an informal complaint, which shall be captioned as "(Complainant) v. (utility)," Commission staff will immediately notify the utility; review the dispute; and, within a reasonable period of time, issue to the utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports will be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures will be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other

material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. Information and documents requested by Commission staff as part of the review process shall be provided by the utility within 30 days of the request. If the complainant is without utility service, or in other emergency situations as identified by Commission staff, the information requested by Commission staff shall be provided by the utility within 5 business days of the request.

(2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff will confirm that all parties understand the terms of the settlement and document the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.401—56.404 (relating to formal complaints).

§ 56.393. Termination pending resolution of the dispute.

In any case alleging unauthorized use of utility service, as defined in § 56.252 (relating to definitions), or the customer's failure to pay undisputed bills as required under § 56.411 (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found), a utility may terminate service after giving proper notice in accordance with §§ 56.331—56.338, whether or not a dispute is pending.

§ 56.394. Conference procedures.

Conferences held under §§ 56.391—56.393 (relating to informal complaint filing procedures; Commission informal complaint procedure; and termination pending resolution of the dispute) and this section will be informal and may be held by conference telephone call, when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint.

FORMAL COMPLAINTS

§ 56.401. General rule.

Except as otherwise provided in this chapter, formal complaint proceedings will proceed according to the rules and regulations of the Commission governing complaint proceedings.

§ 56.402. Filing.

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) shall be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary of the Commission will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of the decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a

later time except as otherwise may be provided in 66 Pa.C.S. (relating to Public Utility Code).

§ 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.

(a) *Assignment.* Review of informal complaint decisions will be heard de novo by an administrative law judge or special agent.

(b) *Filing and docketing.* A complaint will be filed and docketed as a formal Commission complaint, under §§ 1.31—1.38 (relating to documentary filings).

(c) *Captions.* The parties to a review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a utility, the phrase "Complaint Appellant" will be added after its name.

(d) *Hearings.* Hearings conducted by an administrative law judge or a special agent will be held within a reasonable period of time after the filing of the answer. The parties may incorporate portions of the conference report or informal complaint decision that they shall agree upon.

(e) *Formal complaint decision.* The administrative law judge or special agent assigned to the formal complaint will issue a decision with the Commission within a reasonable period of time after the receipt of the transcribed testimony. Included in the decision will be a description of the matter, findings of fact, conclusions of law and other discussion and opinion as is appropriate.

(f) *Commission review.* The Commission will review the decision of the assigned administrative law judge or special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or special agent for further development of the record or issue a final order. The burden of proof remains with the party who filed the formal complaint.

§ 56.404. Ability to pay proceedings.

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

(b) *Stay of informal complaint decision.* Upon the filing of a formal complaint in a case seeking review from the decision of the BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The utility may request that the presiding officer remove the stay and order payment of amounts in the informal complaint decision. When current bills are not at issue, the customer shall be responsible for payment of current, undisputed bills pending issuance of a final Commission order.

(c) *Hearings.* The presiding officer will conduct hearings within a reasonable period after filing of the review and answer. If the presiding officer is a special agent, the special agent will have all powers of an administrative law judge.

(1) The presiding officer will attempt to hold hearings by telephone, unless one or more parties object. Hearings will be held after the filing of an answer.

(2) The presiding officer will hear the case de novo, but may request a stipulation of the parties as to undisputed facts.

(3) Hearings will be tape recorded and will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape or other

circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that made by the presiding officer.

(d) *Proposed findings of fact and conclusions of law or briefs.* The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the presiding officer. Notice of intent to submit findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

(e) *Initial decision.* The presiding officer will render a written decision after the hearings or after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision will be in writing and contain a brief description of the matter, findings of fact and conclusions of law. The initial decision will be subject to the filing of exceptions under the procedures in Chapters 1 and 5 (relating to rules of administrative practice and procedure; and formal proceedings).

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 56.411. Duties of parties: disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found.

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section.

(1) *Pending informal complaint.* Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed. An amount ultimately determined, by the parties or the Commission, to have been validly due but not paid may be paid with interest at the tariff rate filed under § 56.272 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representative determines is not disputed.

(3) *Overpayments reimbursed with interest.* An amount ultimately determined to have been overpaid by the disputing party shall be reimbursed with interest at the tariff rate filed under § 56.272.

(4) *Effect of offer of payment.* An offer by a customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

Subchapter R. RESTORATION OF SERVICE

Sec.

56.421. Payment and timing.

56.422. Personnel available to restore service.

§ 56.421. Payment and timing.

When service to a dwelling has been terminated, the utility shall reconnect service within 24 hours after receiving one of the following:

(1) Full payment of an outstanding charge plus the reconnection fee specified in the utility's tariff on file with the Commission. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to a payment agreement, plus a reasonable reconnection fee, which may be a part of the payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the customer has defaulted on at least two payment agreements, an informal complaint decision or a formal complaint order. For purposes of this section, neither an amortization of a make-up bill under § 56.264 (relating to previously unbilled utility service) or the definition of "billing month" in § 56.252 (relating to definitions) nor a payment agreement that has been paid in full by the customer, are to be considered defaults. Budget billing plans and amortization of budget plan reconciliation amounts under § 56.262(7) (relating to meter reading; estimated billing; customer readings) may not be considered defaults for the purposes of this section.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.

(4) Service shall be restored within 24 hours for erroneous terminations or upon receipt by the utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(5) Service shall be restored within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(6) A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this section only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(7) A utility shall provide for and inform the applicant or customer of a location where the customer may make payment to restore service. A utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order or is seriously ill or affected by a medical condition which will be aggravated without utility service.

§ 56.422. Personnel available to restore service.

A utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a commensurate period of 8 consecutive hours to restore service when required under this chapter, specifically §§ 56.322 and 56.421 (relating to timing of termination; and payment and timing).

Subchapter S. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

Sec.

- 56.431. Public information.
- 56.432. Record maintenance.

§ 56.431. Public information.

(a) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the utility and its customers affected by the change. Summaries will be mailed by the utility to each customer of the utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the utility and its customers in accordance with this chapter, shall be in writing, reproduced by the utility, displayed prominently, available on the utility's web site, if the company has one, and available at all utility office locations open to the general public. The public utility shall inform new customers of the availability of this information and direct where to locate it on the utility's web site. The utility shall deliver or mail a copy upon the request of a customer or applicant.

(b) A utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

- (1) Billing and estimated billing procedures.
- (2) Methods for customer verification of billing accuracy.
- (3) Explanation of operation of purchased gas adjustment clauses.
- (4) Payment requirements and procedures.
- (5) Security deposit and guarantee requirements.
- (6) Procedures for discontinuance and reconnection of service.
- (7) Dispute, informal complaint and formal complaint procedures.
- (8) Explanation of meter reading procedures which would enable a customer or occupant to read their own meter.
- (9) Procedure whereby customers or occupants may avoid discontinuance of service during extended periods of absence.
- (10) Third-party notification procedures.
- (11) Telephone numbers and addresses of the utility and of the nearest regional office of the Commission where further inquiries may be made.
- (12) Definitions of terms or abbreviations used by the utility on its bills.

(13) Information indicating that additional consumer protections may be available for victims of domestic violence, people with serious illnesses and low income households.

§ 56.432. Record maintenance.

A utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, keep the records accessible within this Commonwealth at an office located in the territory served by it, and make the records available for examination by the Commission or its staff. Information to be maintained includes the following:

- (1) The payment performance of each of its customers.
- (2) The number of payment agreements made by the utility company and a synopsis of the terms, conditions and standards upon which agreements were made.
- (3) The number of service terminations and reconnections.
- (4) Communications to or from individual customers regarding interruptions, discontinuances, terminations and reconnections of service, including the name and address of the customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

Subchapter T. INFORMAL COMPLAINTS

Sec.

- 56.441. Informal complaints.

§ 56.441. Informal complaints.

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to resolve customer, applicant or occupant complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement the provisions of this chapter.

- (1) Absent good cause, the BCS will handle only Chapter 56 informal complaints in which the customer first attempted to resolve the matter with the utility.
- (2) Only after the customer and the utility have failed to resolve the dispute will BCS initiate an investigation.

Subchapter U. GENERAL PROVISIONS

Sec.

- 56.451. Availability of normal Commission procedures.
- 56.452. Applications for modification or exception.
- 56.453. Inconsistent tariff provisions.

§ 56.451. Availability of normal Commission procedures.

Nothing in this chapter prevents a person or a utility from pursuing other Commission procedures in a case not described in this chapter.

§ 56.452. Applications for modification or exception.

(a) If unreasonable hardship to a person or to a utility results from compliance with a section in this chapter or a technological advance permits an enhanced level of customer service, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

§ 56.453. Inconsistent tariff provisions.

A tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter.

Subchapter V. UTILITY REPORTING REQUIREMENTS

Sec.

56.461. Reporting requirements.

§ 56.461. Reporting requirements.

(a) Within 90 days after the end of each calendar year, each natural gas distribution utility with annual gas operating revenues of less than \$6 million per year, and each steam heat utility shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

(1) The total number of residential customers as of the end of each month for the calendar year.

(2) The total number of terminations for nonpayment for each month of the calendar year.

(3) The total number of terminations for reasons other than nonpayment for each month of the calendar year.

(4) The total number of reconnections for customer payment for each month of the calendar year.

(5) The total number of reconnections for customer submission of medical certification for each month of the calendar year.

(6) The total number of reconnections for reasons other than customer payment or medical certification for each month of the calendar year.

(7) The total dollar amount of annual residential billings.

(8) The total dollar amount of annual gross residential write-offs.

(b) Utilities shall refer to the data dictionary in Appendix D (relating to definitions (§ 56.461)) for additional guidance as to the terms used in this section.

APPENDIX A. MEDICAL EMERGENCY NOTICE

Let us know if someone living in your home is seriously ill or has a medical condition that will be aggravated by the cessation of service. We will not shut off your service during such illness provided you:

(a) Have a licensed physician or nurse practitioner certify by phone or in writing that such illness exists and that it may be aggravated if your service is stopped; and

(b) Make some equitable arrangement to pay the company your current bills for service.

(c) Contact us by calling the following number: (Utility) Phone Number: (Utility) Address:

(d) Have your licensed physician send a letter to the utility within 7 days verifying the medical condition.

APPENDIX B. MEDICAL EMERGENCY NOTICE

Let us know if someone living in your home is seriously ill or has a medical condition that will be aggravated by the cessation of service. We will restore your utility service within 24 hours during such illness provided you:

(a) Have a licensed physician or nurse practitioner certify by phone or in writing that such illness exists and that it may be aggravated if your service is not restored; and

(b) Make some equitable arrangement to pay the company your current bills for service.

(c) Contact us by calling the following number: (Utility) Phone Number: (Utility) Address:

(d) Have your licensed physician send a letter to the utility within 7 days verifying the medical condition.

APPENDIX C. DEFINITIONS (§ 56.231)

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.231 (relating to reporting requirements).

Annual collections operating expenses—Use the definition in § 54.72 or § 62.2, “include administrative expenses associated with termination activity, field visits, negotiating payment arrangements, budget counseling, investigation and resolving informal and formal complaints associated with payment arrangements, securing and maintaining deposits, tracking delinquent accounts, collection agencies’ expenses, litigation expenses other than already included, dunning expenses and winter survey expenses.” Report the cumulative total as of the end of the reporting period/year. Exclude customer assistance program expenses.

Annual residential billings—Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes “normal tariff billings” and “miscellaneous billings.” The latter category includes billings for late payment fees.

Average monthly bill for the previous year for a heating customer—Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for heating customers. Report the average as of the end of the reporting period/year.

Average monthly bill for the previous year for a nonheating customer—Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for nonheating customers. Report the average as of the end of the reporting period/year.

Average monthly usage for a heating customer—Report the aggregate average monthly usage by calculating the average of the 12 monthly average usages for heating customers. Report the average as of the end of the reporting period/year.

Average monthly usage for a nonheating customer—Report the aggregate average monthly usage by calculating the average of the twelve monthly average usages for nonheating customers. Report the average as of the end of the reporting period/year.

Total dollar amount of active residential accounts in arrears and not on a payment agreement—Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total dollar amount of active residential accounts in arrears and on a payment agreement—Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total dollar amount of gross residential write-offs—Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

Total dollar amount of inactive residential accounts in arrears—An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

Total dollar amount of net residential write-offs—Net write-offs are calculated by subtracting recoveries from gross write-offs. Report the cumulative total dollar amount as of the end of the reporting period/year.

Total dollar amount in security deposits on-hand—Report the dollar amount as of the end of the reporting period/year. Exclude accrued interest.

Total dollar amount in security deposits that are requested or billed to applicants—Report the cumulative total dollar amount as of the end of the reporting period/month.

Total dollar amount in security deposits that are requested or billed to customers—Report the cumulative total dollar amount as of the end of the reporting period/month.

Total number of active residential accounts in arrears and not on a payment agreement—Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total number of active residential accounts in arrears and on a payment agreement—Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total number of applicants that are requested or billed a security deposit—Report the cumulative number as of the end of the reporting period/month.

Total number of customers that are requested or billed a security deposit—Report the cumulative number as of the end of the reporting period/month.

Total number of dwellings receiving termination notices sent to occupants other than the customer—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Use this category when the termination notice was delivered to someone other than the customer, for example, a termination notice to a tenant because of nonpayment of a

landlord-ratepayer. This does not include copies of termination notices sent in accordance with the third-party notification procedures in § 56.131. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of 48-hour termination notices posted—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The termination notice was posted at the customer's residence in accordance with § 56.95.

Total number of inactive residential accounts in arrears—An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

Total number of reconnections for customer submission of medical certification—Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of reconnections for full customer payment, partial payment or payment agreement—A reconnection is any residential account that was terminated for any reason covered under § 56.81 or § 56.98 and subsequently restored after the customer paid in full the outstanding balance of the account, made a partial payment or entered into a payment agreement regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.2. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment and/or customer payment agreement are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of reconnections for reasons other than customer payment or medical certification—Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of residential heating customers—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of residential nonheating customers—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of security deposits on-hand—Report the number as of the end of the reporting period/year.

Total number of 10-day termination notices issued by the utility—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment and reasons other than nonpayment categorized by the first three digits of each account's postal code—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit, failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. Categorize by the first three digits of the postal code of the customer's service address.

Total number of terminations for reasons other than nonpayment—The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of 3-day termination notices completed by personal contact in person—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted in person in accordance with § 56.93.

Total number of 3-day termination notices completed by telephone—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted using the telephone in accordance with § 56.93.

APPENDIX D. DEFINITIONS (§ 56.461)

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.461 (relating to reporting requirements).

Annual residential billings—Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes “normal tariff billings” and “miscellaneous billings.” The latter category includes billings for late payment fees.

Total dollar amount of gross residential write-offs—Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

Total number of reconnections for customer payment—A reconnection is any residential account that was terminated for any reason covered under § 56.321 or § 56.338

and subsequently restored after the customer paid in full the outstanding balance of the account, or made a partial payment or entered into a payment agreement regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.252. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment or customer payment agreement, or both, are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of reconnections for customer submission of medical certification—Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of reconnections for reasons other than customer payment or medical certification—Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of residential customers—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of terminations for nonpayment—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for reasons other than nonpayment—The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

APPENDIX E. THIRD-PARTY NOTIFICATION

Once in a while, for one reason or another, a customer fails to pay his or her <UTILITY> bill. Under the Third-Party Notification program, <UTILITY> will notify you and another person you choose to receive copies of shut-off notices. The third-party can be a trusted relative, friend, clergy member, or social service agency. The Third-Party Notification program is voluntary and can help you if you are hospitalized, away from home for extended periods of time or homebound. The third-party is not responsible for paying your bills and this program will not stop <UTILITY> from shutting off your <UTILITY> service if you do not pay your bills. When a third-party contacts <UTILITY> about the shut off notice, we will tell them what you can do to stop the shut off. The third-party does not have the right to make a payment agreement for you.

To sign up, both you and the third-party must complete and sign the form below. Do not return this with your bill, return it to:

<UTILITY NAME>

<UTILITY ADDRESS>

<CITY, STATE, POSTAL CODE>

IMPORTANT THINGS TO REMEMBER:

* Notify us immediately if you want to change or drop your third-party.

* Notify us if your third-party moves.

* Notify us if you move and you want the third-party transferred to your new address.

Please sign me up for the third-party Notification program. By completing this form and returning it to <UTILITY>, I request that a copy of any shut off notice be given to the person or agency named below.

CUSTOMER NAME:

<UTILITY> ACCOUNT/CUSTOMER NUMBER:

CUSTOMER ADDRESS:

CUSTOMER SIGNATURE:

DATE:

Receipt of a copy of a shut off notice by the third-party does not place any obligation on that party to pay the <UTILITY> bill for the customer named above nor will it necessarily stop shut off if payment is not made. The notice simply reminds the third-party of a chance to help the customer solve the problem.

THIRD-PARTY NAME:

THIRD-PARTY ADDRESS:

THIRD-PARTY SIGNATURE:

DATE:

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