

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[ 58 PA. CODE CH. 65 ]

### Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

#### A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2016.

#### B. *Contact Person*

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The proposed amendments to § 65.6 (relating to delayed harvest artificial lures only areas) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

#### D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

#### E. *Summary of Proposal*

The Delayed Harvest Artificial Lures Only (DHALO) Program was established in 1983. As a first-of-its-kind regulation in the country, Delayed Harvest management was designed to provide for an extended period of catch and release angling for stocked trout. As angler interest for stocked trout fishing declined on these waters and stream conditions became less favorable for stocked hatchery trout survival (due to decreased flow and elevated water temperatures) later in the year, harvest using a low creel limit was permitted. The harvest season was designed to allow for harvest of stocked trout before they were lost to natural mortality. Since the DHALO Program's inception, it has been one of the Commission's most popular programs.

In the 31 years since the DHALO Program began, angler attitudes, preferences and interest in stocked trout fishing have changed as evidenced by on-the-water angler interviews conducted by Commission biologists as well as data from contracted Statewide trout angler telephone surveys conducted in 1991 and 2008. Furthermore, Commission biologists have a better understanding of the performance of this regulation through evaluations of the biology and water temperatures of the streams that are managed in the DHALO Program. Through these observations, the Commission has determined that modifications to the DHALO Program can be made that will simplify the regulation, increase angler success for stocked trout, allow for a more efficient use of expensive hatchery raised trout and encourage use by more anglers.

Following are specific proposed amendments to the DHALO Program:

(1) Move the start of the trout harvest period from June 15 to the Saturday before Memorial Day.

*Rationale:* Moving the start of the trout harvest period from June 15 to late May coincides with a period of time when anglers are still most interested in fishing for stocked trout and water conditions are more conducive to trout feeding activity. This proposed amendment is intended to increase angler participation, increase angling success and improve utilization of stocked trout prior to their loss to natural mortality. The anticipated results of this proposed amendment are increased angler use and increased return on the investment of stocked trout.

(2) Allow the use of bait by all anglers during the trout harvest period.

*Rationale:* This proposed amendment will generate additional angling opportunities for a segment of the angling population that is currently unable to fish in a DHALO area utilizing the preferred method of angling. The anticipated results of this proposed amendment are increased angler use during the harvest period, increased harvest of stocked trout prior to their loss to natural mortality and increased return on the investment of stocked trout. Additionally, the Commonwealth is the only state among the nine eastern states that have Delayed Harvest regulations for stocked trout that does not allow bait to be used in a Delayed Harvest area during the harvest period. Allowing bait during the harvest period in this Commonwealth could result in increased use of these waters by out-of-State anglers that enjoy the Delayed Harvest program in neighboring states.

(3) Allow youth anglers under 16 years of age to use bait year-round in DHALO areas.

*Rationale:* This proposed amendment will generate additional angling opportunities for a segment of the angling population that may not have mastered the use of flies or lures, especially youth and families. With this proposed amendment, a mentor will be able to fish in Delayed Harvest waters with flies and lures while the youth utilize bait. This approach is consistent with the Commission's commitment to secure this Commonwealth's angling heritage by introducing more opportunities to engage youth in angling. The anticipated results of this proposed amendment are increased angler use by both adults and youth in waters managed with Delayed Harvest regulations and increased return on the investment of stocked trout.

(4) Change the minimum length limit from 9 inches to 7 inches.

*Rationale:* This proposed amendment will simplify the regulation by reducing the number of different trout length limit requirements that anglers in this Commonwealth need to remember. The length limit change will be the same as the Statewide minimum length limit. Because the length of stocked trout exceeds 10 inches, a change in the length limit from 9 inches to 7 inches will not have an effect on the harvest of these fish.

The Commission proposes to amend § 65.6 to read as set forth in Annex A.

#### F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

### G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

### H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 60 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,  
*Executive Director*

**Fiscal Note:** 48A-263. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

##### Subpart B. FISHING

#### CHAPTER 65. SPECIAL FISHING REGULATIONS

##### § 65.6. Delayed harvest artificial lures only areas.

(a) The Executive Director, with the approval of the Commission, may designate waters as delayed harvest[, **artificial lures only areas**]. The designation of waters as delayed harvest[, **artificial lures only areas**] shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in **areas** designated and posted delayed harvest[, **artificial lures only areas**] except in compliance with the following requirements:

[ (1) **Fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear.**

(2) **The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.**

(3) **Minimum size is: 9 inches, caught on, or in possession on, the waters under regulation.**

(4) **The daily creel limit is: three combined species except during the period after Labor Day and before June 15 when the daily limit shall be zero trout combined species, caught on or in possession on the waters under regulation. ]**

(1) **The catch and release period for trout is the day after Labor Day to the Friday before Memorial Day. During the catch and release period, anglers 16 years of age and older may fish with artificial lures only constructed of metal, plastic, rubber or**

**wood, or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Use or possession of other lures or substances is prohibited. For anglers under 16 years of age, all tackle is permitted. The daily creel limit for trout for all anglers is zero.**

(2) **The harvest period for trout is the Saturday before Memorial Day to Labor Day. During the harvest period, all tackle is permitted. The daily creel limit for trout is three combined species. The minimum size for trout is 7 inches.**

(3) **Delayed harvest areas are open to fishing year-round.**

[ (5) ] (4) Taking of baitfish or fishbait is prohibited.

[ (6) ] (5) A current trout/salmon permit is required.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in effect for the water from which taken, provided that the boat angler floats through the delayed harvest artificial lures only area without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the delayed harvest artificial lures only area.

[Pa.B. Doc. No. 15-456. Filed for public inspection March 13, 2015, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 54 ]

[ L-2014-2421001 ]

### Automatic Adjustment Clauses Related to Electric Default Service

The Pennsylvania Public Utility Commission (Commission), on October 2, 2014, adopted a proposed rulemaking order establishing a symmetrical rate of interest which will be applicable to both over and under collections resulting from the reconciliation of utilities' actual costs and revenue collected through automatic adjustment clauses regarding electric default service.

#### *Executive Summary*

On May 22, 2014, the Pennsylvania Public Utility Commission (Commission) issued an Advance Notice of Proposed Rulemaking Order (ANOPR Order) proposing to establish a symmetrical rate of interest which will be applicable to both over and under collections resulting from the reconciliation of utilities' actual costs and revenue collected through automatic adjustment clauses regarding electric default service. In order to fully recover the cost of providing service, public utilities are permitted to utilize automatic adjustment clauses to increase or decrease rates to reflect changes in certain costs. The Commission received comments in response to the May 22, 2014 ANOPR Order from the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania, PPL Electric Utilities Corporation (PPL), PECO Energy Company, and the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company.

The Commission proposed to establish a symmetrical rate of interest applicable to over and under collections resulting from reconciliation of automatic adjustment clause costs and revenues related to electric default service to better ensure that utilities' current prices reflect current costs as accurately as is feasible. Based upon our review and consideration of the comments filed in response to our May 22, 2014 ANOPR Order, the Commission proposes the regulations as set forth in Annex A of the Proposed Rulemaking Order.

Public Meeting held  
October 2, 2014

*Commissioners Present:* Robert F. Powelson, Chairperson;  
John F. Coleman, Jr., Vice Chairperson; James H.  
Cawley; Pamela A. Witmer; Gladys M. Brown

*Automatic Adjustment Clauses Related to Electric Default  
Service; Doc. No. L-2014-2421001*

### **Proposed Rulemaking Order**

*By the Commission:*

On May 22, 2014, the Pennsylvania Public Utility Commission (Commission) issued an Advance Notice of Proposed Rulemaking Order (ANOPR Order) proposing to establish a symmetrical rate of interest which will be applicable to both over and under collections resulting from the reconciliation of default service providers' (DSPs) actual costs and revenue collected through automatic adjustment clauses regarding electric default service. In order to fully recover the cost of providing service, DSPs, which currently are electric distribution companies (EDCs), are permitted to utilize automatic adjustment clauses to increase or decrease rates to reflect changes in certain costs. The Commission has identified that traditional methods of reconciliation accounting could, however, cause a great deal of volatility in default service rates associated with the recovery of revenue and cost imbalances created by the use of these automatic adjustment clauses. In order to alleviate these concerns, the Commission proposes to establish a uniform policy regarding whether interest is recoverable when reconciling costs through automatic adjustment clauses and the rate of interest that is paid or collected. Based upon our review and consideration of the comments filed in response to the May 22, 2014 ANOPR Order by the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Energy Association of Pennsylvania (EAP), PPL Electric Utilities Corporation (PPL), PECO Energy Company (PECO), and the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, the FirstEnergy Companies), we propose the regulations as set forth in Annex A to this Order.

#### *Background*

Section 1307(a) of the Public Utility Code, 66 Pa.C.S. § 1307(a), generally provides that public utilities may establish automatic adjustment clauses. Automatic adjustment clauses allow utilities to increase or decrease rates to reflect changes in specific costs without the extensive filing requirements and review process of a traditional base rate case. 66 Pa.C.S. § 1307(a). Some examples of costs that are recovered through automatic adjustment clauses include, but are not limited to: Electric Default Service, Act 129 Energy Efficiency and Conservation Programs, Smart Meter, Universal Service, Distribution System Improvement Charges and the Alternative Energy Portfolio.

Before implementing an automatic adjustment clause, public utilities must file a tariff, or tariff rider, for the

Commission's approval. Id. The tariff or tariff rider will outline the specifics of each automatic adjustment clause, including: to which customers the rate applies, how often the rate is adjusted (i.e. monthly, quarterly, semi-annually, or annually), which costs are recoverable and the reconciliation period.

Within thirty days following the end of the reconciliation period set forth in the tariff, each public utility using an automatic adjustment clause must file with the Commission a statement specifying the total revenues received pursuant to the adjustment clause, the total amount of expenses incurred pursuant to the adjustment clause and the difference between the total revenues received and the total expenses incurred. 66 Pa.C.S. § 1307(e). The difference between the total revenues received and the total expenses incurred is referred to as the over or under collection. After reconciling their actual costs with what was recovered from consumers, utilities then make adjustments to their rates to either refund over-collected amounts to customers or collect under-collected amounts from customers.

Ideally, utilities would reasonably forecast and match expenses to sales, resulting in only minor over or under collections. Unfortunately, this may not always be the case going forward. Traditional methods of reconciliation accounting and of allocating costs to rate classes could cause a great deal of volatility, especially in the electric default service market. In addition, the rules vary as to whether interest is paid or collected on over and under collections and also as to the rate of interest that is paid or collected. Further, these interest rates are often not reflective of current market conditions. As a result, utilities may have little or no incentive to accurately forecast expenses and sales and the amount of costs that are over-collected or under-collected could potentially be significant.

The Commission believes that many of the utilities' costs are currently being forecasted accurately. However, in order to specifically meet the Commission's objective that utilities' current prices reflect current costs as accurately as is feasible, the Commission desires to set forth uniform rules regarding default service related automatic adjustment clauses. Specifically, the Commission desires to create uniformity as to whether interest is to be paid or collected on over or under collections and the rate of interest that is paid or collected.

#### *Discussion*

##### *A. Current Varying Interest Rate Structure*

By way of background, the Public Utility Code (Code) and the Commission's Regulations expressly permit reconciliation by DSPs for default service costs through automatic adjustment clauses. 66 Pa.C.S. § 2807(e)(3.9); 52 Pa. Code § 54.187(b). Section 2807(e)(3.9) of the Code specifically provides that DSPs may recover all costs incurred under a Commission-approved competitive procurement plan pursuant to a reconcilable automatic adjustment clause under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments). 66 Pa.C.S. § 2807(e)(3.9). As previously stated, however, the rules vary as to whether interest is paid or collected on over and under collections and also as to the rate of interest that is paid or collected.

The guiding principal of any adjustable rate approved under Section 1307 of the Code, in addition to its being in the public interest, is that it comply with the just and reasonable mandate of 66 Pa.C.S. § 1301 (relating to just and reasonable rates). Section 1307 specifically seeks to

ensure that qualifying rates provide utilities with the opportunity to achieve a just and reasonable return. Thus, a primary purpose of Section 1307 is to provide qualified adjustable rate relief to utilities that may be subject to significant expense swings.

The adjustable expense recovery permitted under Section 1307 of the Code is limited to those expenses expressly authorized, or those easily identifiable, variable and beyond a utility's control. In the wake of electric restructuring, the Commission has approved a host of automatic adjustment clauses for EDCs to recover, including default service expenses related to their role as DSPs. Costs recoverable through automatic adjustment clauses related to electric default service include, but are not limited to, the costs to procure energy, capacity, ancillary services, Federal Energy Regulatory Commission approved transmission charges and administrative costs associated with portfolio procurements for the default services supply.

This Order focuses only on those automatic adjustment clauses related to electric default service as bulleted in the following list. The Commission has limited the proposed application of a uniform interest rate paid or collected on over or under collections resulting from reconciliation of automatic adjustment clauses to electric default service for several reasons. First, all EDCs, as DSPs, use automatic adjustment clauses related to electric default service. Second, default service represents the largest dollar amount on most default service customers' electric bills and invoices (other than distribution). Third, default service is still the electric service used by a majority of customers in Pennsylvania. Accordingly, the proposals set forth herein regarding the uniform interest rates applicable to over and under collections are limited to the following automatic adjustment clauses related to electric default service filed with the Commission pursuant to 52 Pa. Code § 54.187(b) (relating to default service rate design and the recovery of reasonable costs):

- Price-to-Compare (PTC)
- Hourly Pricing Default Service Rider (HPDSR)
- Transmission Service Charge (TSC)
- Generation Supply Charges 1 & 2 (GSC-1 & GSC-2)
- Generation Supply Adjustment 1, 2, 3, 4 (GSA 1, 2, 3, 4)
- Generation Supply Service Rate (GSSR)
- Default Service (DS)
- Default Service Supply (DSS)

To provide an example of varying interest rates set forth in these automatic adjustment clauses, PPL, an EDC acting as a DSP within its service territory, utilizes the following automatic adjustment clauses related to electric default service: a Transmission Service Charge (TSC), a Generation Supply Charge-1 (GSC-1) and a Generation Supply Charge-2 (GSC-2). PPL's TSC is computed separately for each of the following four customer classes: (1) residential, (2) small commercial and industrial, (3) large commercial and industrial-primary and (4) large commercial and industrial-transmission. PPL's GSC-1 applies to residential and small commercial and industrial customers. PPL's GSC-2 applies to large commercial and industrial customers.

For the TSC, interest is calculated at an "appropriate rate" under Section 1308(d) of the Code. 66 Pa.C.S. § 1308(d). Section 1308(d) defines interest as "the average rate of interest specified for residential mortgage lending by the Secretary of Banking in accordance with the act of January 30, 1974 (P. L. 13, No. 6), referred to as the Loan Interest and Protection Law." 66 Pa.C.S. § 1308(d). This Residential Mortgage Interest Rate is based on the monthly index of long term United States Government Bond Yields. Loan Interest and Protection Law, Act of Jan. 30, 1974, P. L. 13, No. 6. (Loan Interest Act). The Pennsylvania Residential Mortgage Interest Rate changes monthly. In 2013, the Residential Mortgage Interest Rate ranged from a low of 4.5% to a high of 6.0%.

For the Generation Supply Charges, interest on under collections is calculated at the legal rate of interest, and interest on over collections is calculated at the legal rate of interest plus two percent annual interest. The legal rate of interest was also defined by the Loan Interest Act and codified at 41 P. S. § 202. Section 202 reads, in pertinent part, "[r]eference in any law or document . . . to 'legal rate of interest' . . . shall be construed to refer to the rate of interest of six per cent per annum." 41 P. S. § 202. Under this statutory definition of legal interest, PPL recovers under collections of its Generation Supply Charges with six percent (6%) interest. PPL refunds over collections of its Generation Supply Charges with eight percent (8%) interest. 52 Pa. Code § 54.187(g).

In addition to the residential mortgage interest rate and the legal interest rate, there is also the prime interest rate. The prime interest rate is the interest rate charged by banks to their most creditworthy customers. The prime interest rate is almost always the same amongst major banks, and adjustments to the prime interest rate are made by banks at the same time. The prime interest rate is usually adjusted at the same time and in correlation to the adjustments of the Federal Funds Rate (the interest rate that banks charge each other for overnight loans made to fulfill reserve funding requirements). As of September 2014, the prime interest rate is 3.25% in the United States.<sup>1</sup>

As exemplified by PPL's Generation Supply Charges, interest rates on under and over collections are often asymmetrical. Asymmetrical interest rates create an incentive for the DSPs to under project or under collect in order to avoid over collection penalties and to receive an interest rate higher than that which can be found in the market. This practice can lead to an understated price-to-compare (PTC). An understated PTC undermines the competitive market because electric generation suppliers (EGSs) cannot under collect and then make-up that under collection later as can the utilities. This Order will recommend the use of symmetrical interest rates for both under and over collections.<sup>2</sup>

The Commission's current use of the legal rate of interest for under collections and the legal rate of interest plus 2% for over collections, used for most electric default service automatic adjustment clauses, results in interest rates that are well above current market-based rates. This Order will recommend the use of the prime interest rate for the calculation of interest on both over and under collections resulting from automatic adjustment clauses

<sup>1</sup> *The Wall Street Journal*, Market Data Center, [http://online.wsj.com/mdc/public/page/2\\_3020-moneyrate.html](http://online.wsj.com/mdc/public/page/2_3020-moneyrate.html) (September 10, 2014).

<sup>2</sup> The proposals set forth herein are supported by the comments filed in response to the Commission's Default Service Reconciliation Interim Guidelines at Docket No. M-2012-2314313 (Order entered August 14, 2012).

related to electric default service.<sup>3</sup> The Commission believes that using the prime interest rate is most appropriate here as this rate is most commensurate with market rates. Additionally, the prime interest rate is publicly known and available, and transparent. Further, the prime interest rate also reflects the terms and risks inherent in the utility reconciliation process.

At this time the Commission is not aware of any intentional over or under collecting being done by DSPs in order to earn more interest. However, in addition to the volatility of rates caused by unpredictable weather and shopping patterns of customers, there is the widely-recognized possibility that a DSP could attempt to use the automatic adjustment clause methodology related to electric default service to increase interest earnings. In general, DSPs have a 50/50 split in over collections versus under collections relating to electric default service. Additionally, the over and under collections by month are well within a reasonable percentage of allowable costs in the associated months. However, in order to ensure accurate projections and to create uniformity, the Commission proposes to apply a symmetrical interest rate, reflective of market conditions, to under and over collections as set forth as follows.

#### B. Proposed Uniform Interest Rate Structure

By way of this Order, the Commission proposes to establish a symmetrical rate of interest which will be applicable to over and under collections resulting from the reconciliation of DSPs' costs and revenues resulting from automatic adjustment clauses related to electric default service. The proposed applicable rate of interest on over and under collections would be interest at the prime rate for commercial borrowing in effect on the last day of the month the over or under collection occurred, as reported in the *Wall Street Journal*. For example, the interest rate applied to over or under collections in the month of March would be the prime rate that was in effect on March 31 as reported in the *Wall Street Journal*. This rate of interest will be computed monthly from the month the over collection or under collection occurs to the effective month that the over collection is refunded to customers or the under collection is collected from customers. Additionally, this rate of interest will apply universally to all over and under collections reconciled through the automatic adjustment clauses related to electric default service, as bulleted in Part A of this Order.

The Commission recognizes that the interest rate structure proposed herein does not currently comply with the Commission's regulations, 52 Pa. Code §§ 1.1—111.14, and/or public utilities' current tariffs regarding electric default service. As such, the Commission's Final Rulemaking Order may direct DSPs to revise their tariffs and tariff riders to reflect this proposed interest rate structure.

Although the Commission cannot completely eradicate all imbalances in the amount of costs that are over and under collected, the proposed symmetrical interest rate structure set forth herein will deter DSPs from inaccurately

forecasting costs and sales to improperly increase interest earnings. This symmetrical application of interest to over and under collections uses the prime rate of interest which is not only commensurate with market rates, but is also publicly known, available and transparent. Overall, application of the symmetrical rate of interest, at prime rate, to over and under collections reflects the terms and risks inherent in the utility reconciliation process.

In addition to the proposed interest rate structure set forth herein, the Commission reminds DSPs to consider filing an interim rate adjustment and/or cost reconciliation when the DSP anticipates substantial over or under collections. In fact, the Commission recognizes that such interim rate adjustments and cost reconciliations are in the public interest as they provide DSPs with a mechanism to reduce significant imbalances in over and under collections. For example, Section 69.1809(c) of the Commission's regulations regarding default service provide in relevant part that:

It may be in the public interest to reconcile default service costs more frequently than at each PTC [price-to-compare] adjustment interval. The DSP [default service provider] should propose interim reconciliation prior to the next subsequent PTC adjustment interval when current monthly revenues have diverged from current monthly costs, plus any cumulative over/under recoveries, by greater than 4% since the last rate adjustment . . . . Interim reconciliation proposals should result in a PTC adjustment that will resolve cumulative under or over recoveries by the time of the next PTC adjustment interval.

52 Pa. Code § 69.1809(c).

#### C. Comments

All of the commentators to the May 22, 2014 ANOPR Order generally support the Commission's proposal to establish a symmetrical rate of interest which will be applicable to over and under collections resulting from the reconciliation of electric default service rates. Specifically, PECO provided that using a symmetrical rate of interest "will provide equity for both customers and EDCs as each would be compensated at the true cost of money." PECO Comments at 2. Similarly, the FirstEnergy Companies noted in their comments that "[e]stablishing symmetrical interest rates for over and under collections is equitable to both customers and EDCs because it allows for identical treatment." FirstEnergy Companies Comments at 2. Additionally, the OCA commented that a "symmetric market-based approach to the application of interest might make some EDCs more amenable to reconciliation periods which will better serve customers and make price comparisons easier." OCA Comments at 3.

Additionally, all of the commentators agree that the proposed prime rate of interest is the appropriate interest rate to apply when reconciling over and under collections through automatic adjustment clauses related to electric default service. In their comments, EAP noted that "making interest rates market-based makes sense because it more accurately reflects the true time value of money." EAP Comments at 3. The OCA also commented that they agree with the Commission "that the interest rate should be more closely aligned with current market rates," as the prime rate of interest is the rate most reflective of market conditions. OCA Comments at 3. Further, the OSBA commented that the prime rate of interest is "market-based and much more reflective of DSP [Default Service Provider] costs than is the current mechanism." OSBA Comments at 2.

<sup>3</sup> As additional support for the proposals contained in this Order, the Commission analyzed House Bill 1188, H.R. 1188, Printer's No. 1484 (Pa. 2013). House Bill 1188, currently under consideration by the General Assembly,<sup>3</sup> would amend the Gas Choice Act, 66 Pa.C.S. § 1307(d), to change the interest rate from the legal rate of interest to the prime interest rate for both over and under collections. The proposed language specifically states that "[r]efunds to customers shall be made with and recoveries from customers shall include interest at the prime rate for commercial borrowing in effect 60 days prior to the tariff filing made under paragraph (1) [relating to the filing of tariffs by natural gas distribution companies] and as reported in a publicly available source identified by the commission or at an interest rate which may be established by the commission by regulation." Id.

In the May 22, 2014 ANOPR Order, the Commission proposed that the applicable rate of interest on over and under collections would be interest at the prime rate for commercial borrowing “as reported in the *Wall Street Journal* or other publically available source identified by the Commission.” In their comments, PECO requests that the Commission state with specificity which market based index will be used when determining the prime rate of interest. PECO Comments at 3. PECO specifically asks that the Commission determine whether it will use the *Wall Street Journal* index or reserve the right to switch to a different index in the future. Because the Commission cannot predict whether the *Wall Street Journal* will continue to be the most appropriate market index for purposes of determining the prime rate of interest, the Commission will continue to reserve the right to switch to a more appropriate market index in the future. If the Commission is required to switch to a different index in the future, the Commission will ensure that proper notification of such switch is provided to all interested parties.

PECO also comments that the adoption of the Commission’s proposed symmetrical interest rate should be structured to not conflict with an EDC’s currently approved default service plan. PECO Comments at 2. Specifically, PECO requests that the Commission allow EDCs to implement the proposed interest rate method commencing with the first reconciliation filing after the effective date of any regulations adopted pursuant to this rulemaking process. In order to maintain the integrity of these default service plans, the Commission intends to require DSPs to implement these proposed interest rates with the first reconciliation filing after the effective date of any new regulations adopted pursuant to this Order. As such, if the proposed regulations set forth herein are approved, the Final Rulemaking Order will specifically direct DSPs to implement this proposed interest rate structure commencing with the first reconciliation filing after the effective date of such regulations.

In the May 22, 2014 ANOPR Order, the Commission proposed that the interest applicable to over and under collections would be computed monthly from the month the over collection or under collection occurs to the effective month that the over collection is refunded to customers or the under collection is collected from customers. In their comments, the FirstEnergy Companies request that the Commission permit an alternative interest calculation currently being used by the companies. Specifically, the FirstEnergy Companies request that interest be calculated monthly using the average opening and closing default service balance. FirstEnergy Companies Comments at 3. Alternatively, the FirstEnergy Companies request that the proposed interest methodology be “phased-in” so that the companies can “changeover” their practices.

At this point in time, all electric default service providers, other than the FirstEnergy Companies, are using the interest calculation proposed by the Commission in Part B of this Order for purposes of their automatic adjustment clauses related to electric default service. For consistency purposes, the Commission does not intend to propose an alternative interest rate computation that would only apply to the FirstEnergy Companies’ automatic adjustment clauses related to electric default service. Additionally, as previously set forth, the Commission will only require DSPs to implement the proposed interest rate methodology commencing with the first reconciliation filing after the effective date of any regulations adopted pursuant to this rulemaking process. As such, the

FirstEnergy Companies will have a reasonable amount of time to “changeover” their current interest calculation practices.

In the May 22, 2014 ANOPR Order, the Commission proposed that in the event the Commission finds that the application of the symmetrical rate of interest does not adequately prevent DSPs from using automatic adjustment clause methodology related to electric default service to increase interest earnings, the Commission may consider the application of a modified interest rate applicable to “excessive” portions<sup>4</sup> of over and under collections. Specifically, the Commission proposed that in addition to the prime rate of interest applicable to the “non-excessive” portion of all over and under collections, the Commission may consider applying a modified interest rate of prime rate plus 100 basis points on the “excessive” portion of all over collections and a modified interest rate of prime rate minus 100 basis points on the “excessive” portion of all under collections.<sup>5</sup>

All of the commentators to the May 22, 2014 ANOPR Order generally agree that this proposed application of a modified interest rate to “excessive” portions of over and under collections may not be necessary at this time. As previously mentioned, the Commission recognizes that we are not aware of any intentional over or under collecting being done by DSPs in order to earn more interest. Additionally, the commentators have provided that significant over and under collections may occur due to circumstances outside of the DSPs’ control.<sup>6</sup> Specifically, the FirstEnergy Companies noted that “the Companies have occasionally experienced under-collections as a result of unpredictable weather and default service sales which cannot be forecasted when rates are initially established” (for example, experiencing considerable under-collections during the “polar vortex”). FirstEnergy Companies Comments at 4. Similarly, PPL commented that “there are numerous factors that contribute to over or under collections, many of which are not within the Company’s control.” PPL Comments at 4. Based upon our review and consideration of these comments, the Commission will not propose the application of a modified interest rate to “excessive” portions of over or under collections at this time.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 27, 2015, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory

<sup>4</sup> The Commission proposed that when determining whether a portion of an over or under collection is “excessive,” the Commission would use a threshold equal to a percentage of certain costs of the EDC related to the relevant automatic adjustment clause.

<sup>5</sup> This modified interest rate, adjusted up or down by 100 basis points, would only apply to the “excessive portion” of the over or under collection. This modified rate of interest would not apply to the “non-excessive” portion of the over or under collection.

<sup>6</sup> These circumstances may include billing lag, unpredictable weather, customer shopping rates, default service sales and unforeseen price spikes in energy costs at the wholesale level. PPL Comments at 2; PECO Comments at 5; FirstEnergy Companies Comments at 4; EAP Comments at 5.

Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

*Conclusion*

Establishing a symmetrical rate of interest applicable to over and under collections resulting from reconciliation of automatic adjustment clause costs and revenues will better ensure that DSPs' current prices reflect current costs as accurately as is feasible. By this Proposed Rulemaking Order, the Commission proposes to implement the foregoing regulations. The Commission, therefore, formally commences its rulemaking process to implement proposed regulations consistent with Annex A to this Proposed Rulemaking Order.

Accordingly, pursuant to its authority under sections 501, 1301, 1307 and 2804 of the Public Utility Code (66 Pa.C.S. §§ 501, 1301, 1307 and 2804) and sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 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)); section 745.5 of the Regulatory Review Act (71 P. S. § 745.5); 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 proposed regulations as set forth in Annex A; *Therefore*

*It Is Ordered That:*

1. A proposed rulemaking be opened to consider the regulations set forth in Annex A.
2. The Secretary shall submit this Proposed Rulemaking Order 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 of fiscal impact.
3. The Secretary shall submit this Proposed Rulemaking Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. The Secretary shall certify this Proposed Rulemaking Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. An original of any written comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.
6. A copy of this Proposed Rulemaking Order and Annex A shall be served on the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, all jurisdictional electric distribution companies and all parties who commented on the May 22, 2014 Advance Notice of Proposed Rulemaking Order.
7. The contact person for legal matters for this proposed rulemaking is Krystle J. Sacavage, Assistant Counsel, Law Bureau, (717) 787-5000. 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.

ROSEMARY CHIAVETTA,  
*Secretary*

**Fiscal Note:** 57-307. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart C. FIXED SERVICE UTILITIES**  
**CHAPTER 54. ELECTRICITY GENERATION**  
**CUSTOMER CHOICE**  
**Subchapter G. DEFAULT SERVICE**

**§ 54.187. Default service rate design and the recovery of reasonable costs.**

\* \* \* \* \*

**[(g) A DSP may collect interest from retail customers on the recoveries of under collection of default service costs at the legal rate of interest. Refunds to customers for over recoveries shall be made with interest, at the legal rate of interest plus 2%.]**

**[(h) ] (g)** The default service rate schedule must include rates that correspond to demand side response and demand side management programs, as defined in section 2 of the Alternative Energy Portfolio Standards Act (73 P. S. § 1648.2), when the Commission mandates these rates pursuant to its authority under 66 Pa.C.S. Chapter 1 (relating to general provisions).

**[(i) ] (h)** Default service rates may not be adjusted more frequently than on a quarterly basis for all customer classes with a maximum registered peak load up to 25 kW, to ensure the recovery of costs reasonably incurred in acquiring electricity at the least cost to customers over time. DSPs may propose alternative divisions of customers by maximum registered peak load to preserve existing customer classes.

**[(j) ] (i)** Default service rates shall be adjusted on a quarterly basis, or more frequently, for all customer classes with a maximum registered peak load of 25 kW to 500 kW, to ensure the recovery of costs reasonably incurred in acquiring electricity at the least cost to customers over time. DSPs may propose alternative divisions of customers by maximum registered peak load to preserve existing customer classes.

**[(k) ] (j)** Default service rates shall be adjusted on a monthly basis, or more frequently, for all customer classes with a registered peak load of equal to or greater than 500 kW to ensure the recovery of costs reasonably incurred in acquiring electricity at the least cost to customers over time. DSPs may propose alternative divisions of customers by registered peak load to preserve existing customer classes.

**[(l) ] (k)** When a supplier fails to deliver electric generation supply to a DSP, the DSP shall be responsible for acquiring replacement electric generation supply consistent with its Commission-approved contingency plan. When necessary to procure electric generation supply before the implementation of a contingency plan, a DSP shall acquire supply at the least cost to customers over time and fully recover all reasonable costs associated with this activity that are not otherwise recovered through its contract terms with the default supplier. The DSP shall follow acquisition strategies that reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3), when selecting from the various options available in these energy markets.

*(Editor's Note: The following section is new and printed in regular type to enhance readability.)*

**§ 54.190. Universal interest applicable to over collections and under collections resulting from reconciliation of automatic adjustment clauses costs and revenues related to electric default service.**

(a) *General rule.* This section applies to automatic adjustment clauses related to electric default service filed with the Commission by a DSP under § 54.187(b) (relating to default service rate design and the recovery of reasonable costs).

(b) *Definitions.* The following words and terms, when used in this section, have the following meaning, unless the context clearly indicates otherwise:

*Commission*—The Pennsylvania Public Utility Commission.

*Costs*—The total amount of expenses, or class of expenses incurred, which is the basis of the automatic adjustment clause.

*Over collection*—The amount equal to revenues received under an automatic adjustment clause which exceeds the amount of costs incurred.

*Revenue*—The total proceeds received under the automatic adjustment clause.

*Under collection*—The amount equal to costs incurred under an automatic adjustment clause which exceeds the amount of revenues received.

(c) *Interest collectible on over collections and under collections.* When revenues exceed costs, the over collections shall be refunded to customers with interest. When costs exceed revenues, the under collections shall be collected from customers with interest. Interest on over collections and under collections shall be computed at the prime rate of interest for commercial banking in effect on the last day of the month the over collection or under collection occurs, as reported in the *Wall Street Journal* or other publically available source identified by the Commission. Interest shall be computed monthly from the month the over collection or under collection occurs to the effective month that the over collection is refunded or the under collection is collected.

[Pa.B. Doc. No. 15-457. Filed for public inspection March 13, 2015, 9:00 a.m.]

[ 52 PA. CODE CH. 53 ]  
[ L-2014-2411278 ]  
**Paper Billing Fees**

The Pennsylvania Public Utility Commission (Commission), on December 4, 2014, adopted a proposed rulemaking order amending existing regulations to prohibit tariff provisions that charge customers a fee to receive a paper bill.

*Executive Summary*

Section 1509 of the Public Utility Code imposes the obligation on all energy, water, wastewater and telecommunications utilities, including all varieties of telecommunications utilities certificated by the Commission, to send customers a monthly bill and it establishes the right of the customer to receive that bill. In addition, recovering costs regarding monthly bills allows for an excessive recovery of these costs and failing to provide customers with an itemized monthly bill free of charge constitutes unreasonable and inadequate service, actionable under

Section 1501 of the Public Utility Code. 66 Pa.C.S. §§ 1501 and 1509. Pursuant to that authority and Section 501 of the Public Utility Code, the Pennsylvania Public Utility Commission (Commission) is amending its existing regulations in Chapter 53 (Tariffs for Noncommon Carriers) of the *Pennsylvania Code* to add Section 53.85 as a new section.

In an Opinion and Order entered June 7, 2010, the Commission initiated an investigation into the practice of charging a paper billing invoice fee (PBIF). On March 20, 2014, the Commission concluded the Investigation issued and an Order finding that imposing a separate line item charge to recover the costs for the provision of monthly paper bills is not consistent with the Public Utility Code, Commission regulations, long standing precedent, and well-established practices of Pennsylvania public utilities.

Public Meeting held  
December 4, 2014

*Commissioners Present:* Robert F. Powelson, Chairperson; John F. Coleman, Jr., Vice Chairperson; James H. Cawley; Pamela A. Witmer; Gladys M. Brown

*Amendment to 52 Pa. Code Chapter 53; Paper Billing Fees; Doc. No. L-2014-2411278*

**Proposed Rulemaking Order**

*By the Commission:*

In accordance with Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Commission formally commences its rulemaking process to amend its existing regulations in Chapter 53 (Tariffs for Noncommon Carriers) of the *Pennsylvania Code*. Specifically, the rulemaking proposes to add Section 53.85 as a new section and is in Annex A.

This matter came before the Commission when Cordia Communications Corporation (Cordia) filed, on October 1, 2008, a Petition for Designation as an Eligible Telecommunications Carrier (ETC) for applicable federal universal service funding purposes (Petition). The Office of Consumer Advocate (OCA) filed formal comments to Cordia's Petition, wherein the OCA disclosed that Cordia is charging a fee of \$1.25 to customers who elect to receive a paper bill.

In an Opinion and Order entered June 7, 2010, the Commission denied Cordia's petition without prejudice, directed the draft of a policy statement on ETC Standards, and initiated an investigation into the practice of paper invoice charges and whether tariff provisions of certain facility-based and non-facility-based telecommunication carriers for paper billing invoice fees (PBIFs) are inconsistent with the Public Utility Code, Commission billing regulations, and other relevant authority. Petition of Cordia Communication Corp., for Designation as an Eligible Telecommunications Carrier under Section 214(e) of the Telecommunications Act of 1996 and 47 C.F.R. §§ 54.101, 201—207, P-2008-2014444 (June 7, 2010). Pending the results of the investigation, the Commission did not rule on Cordia's tariff in the June 7, 2010 Opinion and Order.

On May 14, 2010, Cavalier Telephone Mid-Atlantic, LLC (Cavalier) filed with the Commission revised local tariff pages for its Telephone Tariff Pa. P.U.C. No. 1, seeking to introduce a PBIF of \$3.95 for business customers who wish to receive paper invoices rather than electronic invoices (Tariff Supplement 35). On May 26, 2010, Cavalier filed revised intrastate interexchange tariff pages for its Tariff Pa. P.U.C. No. 2, seeking to introduce a PBIF for long-distance business customers

who wish to receive paper invoices rather than electronic invoices (Tariff Supplement 3). FUS staff requested that Cavalier withdraw both proposed tariff supplements because of its belief that Cavalier was in violation of the law and regulations.

Cavalier filed a Petition for Review and Answer to a Material Question (Petition for Review) on June 11, 2010. The question presented was: should Cavalier's proposed Tariff Supplements introducing a Paper Bill Invoice Fee for business customers be permitted to become effective on July 1, 2010. On June 21, 2010, Cavalier filed a Brief in Support of its Petition for Review, in which it reiterated and expanded upon the arguments made in its Petition for Review and Answer to a Material Question. In its Brief, Cavalier also noted that its proposed tariff supplements would apply only to business customers, as distinguished from residential customers in the Cordia's ETC Petition.

In an Order entered July 29, 2010, the Commission, *inter alia*, permitted Cavalier's proposed tariff supplements to go into effect, subject to the results of a final Commission Order in Investigation of Practice of Paper Invoice Charges (Investigation) at Docket No. I-2010-2181481. *Pennsylvania Public Utility Commission v. Cavalier Telephone Mid-Atlantic, L.L.C.*, R-2010-2176403 and R-2010-2179527 (July 29, 2010). The Commission also ordered that the Investigation include additional issues referenced in the body of the Order. Finally, Cavalier's Petition for Review was granted in part, and denied in part, consistent with this Order, without prejudice to the right of Cavalier to raise the PBIF issues in the Investigation at Docket No. I-2010-2181481. *Id.* at pages 6—7.

The Commission followed this with a Notice of Investigation secretarial letter, published August 14, 2010, in the *Pennsylvania Bulletin* (40 Pa.B. 4728). The Notice identified the PBIF issues and sought comment from interested parties. On September 8, 2010, as part of this Investigation, the Commission issued a secretarial letter that enclosed a questionnaire seeking information on paper billing practices of all telecommunication carriers.

The Notice sought comments about billing practices in general. Comments were sought from interested parties on the issues of "tariff parity," the legality of the application of paper billing fees for customers receiving bundled services, whether the paper billing fee is a price deregulated rate, and the effect of the ETA on the interpretation of Section 1509. Comments were received from Verizon Companies (Verizon),<sup>1</sup> AT&T,<sup>2</sup> Cavalier, the OCA, the Pennsylvania Utility Law Project (PULP), and the Pennsylvania Telephone Association (PTA). OCA, Cavalier, Verizon, and AT&T also filed reply comments.

The Commission concluded, in the March 20, 2014 Order, that imposing a separate line item charge to recover the costs for the provision of monthly paper bills is not consistent with the Public Utility Code, Commission regulations, long standing precedent, and well-established practices of Pennsylvania public utilities. The Commission also concluded that recovering costs regarding monthly bills allows for an excessive recovery of these costs and failing to provide customers with an itemized

monthly bill free of charge constitutes unreasonable and inadequate service, actionable under Section 1501. 66 Pa.C.S. § 1501.

On April 4, 2014, Verizon filed a Petition for Reconsideration of the Commission's March 20, 2014 Order. See 52 Pa. Code § 5.572. Verizon argued that the Order contravenes the plain language of the Public Utility Code and exceeds the Commission's legal authority. On July 24, 2014, the Commission denied Verizon's Petition for Reconsideration and found that the regulation of paperless billing is clearly within the bounds of the law and the Commission's legal authority.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 27, 2015, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

#### *Conclusion*

The Commission's March 20, 2014 Order directed Law Bureau to prepare a narrowly focused Notice of Proposed Rulemaking addressing the paper billing fee issue. The Commission, therefore, formally commences its rulemaking process to amend its existing regulations by adding 52 Pa. Code § 53.85 to prohibit tariff provisions that charge customers a fee to receive a bill. The proposed regulation identified in Annex A is applicable to the entire telecommunications industry and implements the Commission's March 20, 2014 Order to prohibit the charging of a fee for paper bills. In addition, the language and location of the proposed regulation in Subpart C. Fixed Service Utilities shall make the prohibition applicable to all noncommon carrier public utility industries.

Accordingly, pursuant to its authority under sections 501 and 1501 of the Public Utility Code (66 Pa.C.S. §§ 501 and 1501) and sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 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)); section 745.5 of the Regulatory Review Act (71 P. S. § 745.5); 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 proposed regulations as set forth in Annex A; *Therefore*

#### *It Is Ordered That:*

1. A proposed rulemaking be opened to consider the regulations set forth in Annex A.

<sup>1</sup> Verizon Companies' filed on behalf of Verizon Pennsylvania, Inc.; Verizon North Retain Co.; Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance; MCI Metro Access Transmission Service, LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services, Inc.

<sup>2</sup> AT&T filed on behalf of its three Pennsylvania-certificated entities-AT&T Communications of Pennsylvania, LLC, TCG Pittsburgh, and TGG New Jersey Inc. (collectively "AT&T").

2. The Secretary shall submit this proposed rulemaking Order 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 of fiscal impact.

3. That the Secretary shall submit this proposed rulemaking Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. The Secretary shall submit this proposed rulemaking Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. An original of any written comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.

6. A copy of this Proposed Rulemaking Order and Annex A shall be served on the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and The Office of Small Business Advocate.

7. The contact person for this proposed rulemaking is Terrence J. Buda, Assistant Counsel, Law Bureau, (717) 787-5000. Alternate formats of this document are avail-

able to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

ROSEMARY CHIAVETTA,  
*Secretary*

**Fiscal Note:** 57-308. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**Subpart C. FIXED SERVICE UTILITIES**

**CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS**

**PAYMENTS, DEPOSITS AND CHARGES**

**§ 53.85. Paper billing fees.**

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

[Pa.B. Doc. No. 15-458. Filed for public inspection March 13, 2015, 9:00 a.m.]