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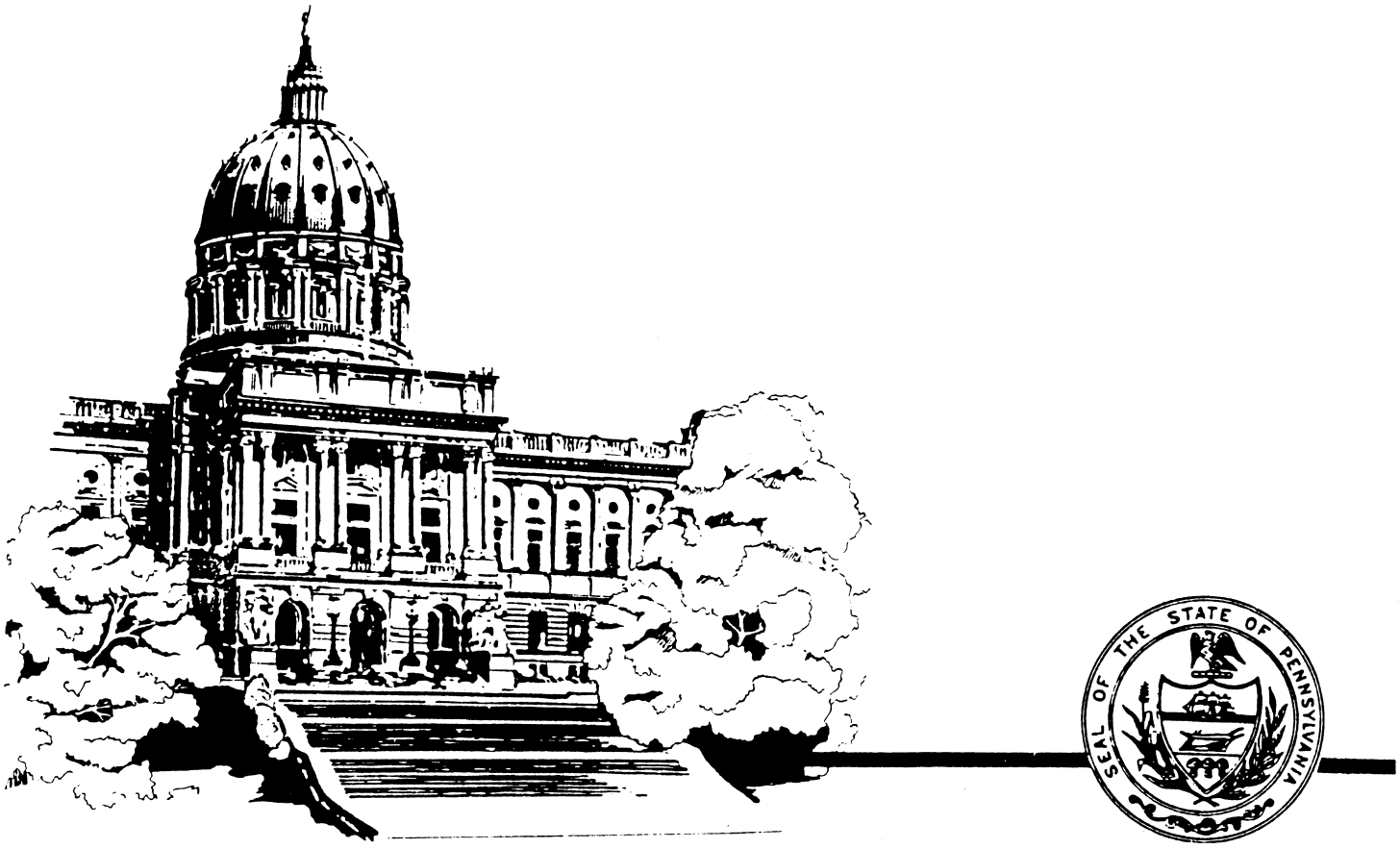
Part II

This part contains the
Pennsylvania Public Utility Commission's
Standards and Billing Practices for
Residential Public Utility Service Rulemaking



RULES AND REGULATIONS

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 56]

[L-2015-2508421]

Standards and Billing Practices for Residential Public Utility Service

Act 155 of 2014 reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa.C.S. §§ 1401—1419), Responsible Utility Customer Protection. The Act is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers by providing public utilities with the collection mechanisms and procedures to promote timelier collections, while protecting vulnerable customers by ensuring that utility service remains available to all customers on reasonable terms and conditions. The legislation is applicable to electric distribution utilities, water distribution utilities, natural gas distribution utilities, steam heat utilities, and wastewater utilities. Chapter 56 of the *Pennsylvania Code* at 52 Pa. Code §§ 56.1 et seq. (relating to standards and billing practices for residential utility service) must be revised because amended Chapter 14 supersedes a number of Chapter 56 regulations, and the Commission is directed to revise Chapter 56 and promulgate regulations to administer and enforce Chapter 14. Pursuant to the authority of Sections 501, 1301, 1501, and 1509 of the Public Utility Code, the Commission is amending its existing regulations in Chapter 56 (Standards and Billing Practices for Residential Utility Service) of the *Pennsylvania Code*.

The contact persons for this final rulemaking are Patricia T. Wiedt, Assistant Counsel, Law Bureau (717) 787-5000, (pwiedt@pa.gov); Laura Griffin, Regulatory Coordinator, Law Bureau, (717) 772-4597, (laurgriffi@pa.gov); Daniel Mumford, Office of Competitive Market Oversight (717) 783-1957, (dmumford@pa.gov); and Matthew Hrivnak in the Bureau of Consumer Services (717) 783-1678 (mhrivnak@pa.gov).

Public Meeting held
February 28, 2019

Commissioners Present: Gladys M. Brown, Chairperson; David W. Sweet, Vice Chairperson; Norman J. Kennard; Andrew G. Place, statement follows; John F. Coleman, Jr.

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14; L-2015-2508421

Final Rulemaking Order

By the Commission:

On October 22, 2014, Governor Corbett signed into law HB 939, or Act 155 of 2014. This law became effective on December 22, 2014. The Act reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa.C.S. §§ 1401—1419) (Responsible Utility Customer Protection). The Act is intended to protect responsible bill paying customers from rate increases attributable to other customers' delinquencies in payment. The Act provides public utilities with collection mechanisms and procedures that promote timelier collections, while protecting vulnerable customers by ensuring that utility service remains available to all customers on reasonable terms and conditions. The legislation is applicable to electric distribution utilities, water distribution utilities, natural gas distribution utilities, steam heat utilities, and wastewater utilities. In this Rulemaking Order, the Pennsylvania Public Utility Commission (Commission) finalizes its amended Standards and Billing Practices for Residential Utility Service regulations at 52 Pa. Code Chapter 56.

Background

Chapter 56 of the *Pennsylvania Code* (52 Pa. Code §§ 56.1—56.461, relating to the standards and billing practices for residential utility service) must be revised because the amended Chapter 14 supersedes a number of Chapter 56 regulations, and the Commission is directed to revise Chapter 56 and promulgate regulations to administer and enforce Chapter 14. Five years after the effective date and every five years thereafter, the Commission also must report to the General Assembly regarding the implementation and effectiveness of the amended Act. Chapter 14 expires on December 31, 2024, unless reenacted.

As the initial step of the implementation process, on December 10, 2014, the Commission issued a Secretarial Letter alerting all affected utilities to some of the more significant provisions of Chapter 56 that have been superseded by Act 155.[1] On that same day, the Commission issued another Secretarial Letter directed to steam heat, wastewater, and natural gas distribution utilities reminding them that Act 155 now makes Chapter 14 applicable to all of these entities.[2]

Thereafter, in a January 15, 2015, Tentative Order, the Commission proposed to start addressing the more urgent implementation matters of the Act. See Tentative Order, Chapter 14 Implementation, Docket Number M-2014-2448824 (Order entered January 15, 2015) (Tentative Implementation Order). The comments from this Tentative Implementation Order assisted with drafting these regulations.

In reviewing Act 155, the Commission identified in the Tentative Implementation Order two issues as being in need of immediate attention:

- Section 1403, Definition of Medical Certificate: The Commission is approving the "form" that a medical certificate must take.

- Section 1410.1(3) and (4): Utility reporting requirements concerning accounts with arrearages in excess of $10,000.00 and annual reporting of medical certificate usage.

Sixteen parties[3] submitted comments in response to the Tentative Implementation Order. On July 9, 2015, the Commission issued a Final Order, Chapter 14 Implemen-

[1] See Secretarial Letter re: Act 155 of 2014 Implementation, Docket No. M-2014-2448824 (December 10, 2014); and 52 Pa. Code Chapter 56.

[2] See Secretarial Letter re: Act 155 of 2014 Applicability and Implementation. Docket No. M-2014-2448824 (December 10, 2014).

[3] Aqua Pennsylvania; the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania; Columbia Gas of PA; the Consumer Advisory Council; the Disability Rights Network of Pennsylvania, MidPenn Legal Services, Neighborhood Legal Services Association and the Pennsylvania Health Law Project (collectively DRN); Duquesne Light; Energy Association of Pennsylvania; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively FirstEnergy); MidPenn Legal Services—Lancaster County; National Fuel Gas Distribution Corporation; the Office of Consumer Advocate; PECO Energy Company; Philadelphia Gas Works; Peoples Natural Gas; PPL Electric Utilities Corporation; and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively TURN).

tation, Docket No. M-2014-2448824 (Order entered July 9, 2015) (Final Implementation Order). In the Final Implementation Order, the Commission issued guidance as to the form and content of a medical certificate. Additionally, we summarized guidelines for 66 Pa.C.S. § 1410.1(3) (relating to public utility duties) regarding reporting requirements for accounts exceeding $10,000 in arrearages. We further summarized our guidelines for Section 1410.1(4) (relating to public utility duties) regarding reporting requirements for medical certificates.

On July 21, 2016, as provided for under law at 71 P.S. § 745.5, the Commission adopted a Notice of Proposed Rulemaking (NOPR) Order to solicit comments about amending and adding to the provisions of 52 Pa. Code Chapter 56, as proposed in Annex A of the NOPR.[4]

The NOPR addressed numerous issues involving the application of the amended Chapter 14 provisions including amending the definitions of applicant, customer, and public utility, and clarifying the 90-day deposit payment period and the expanded protection from abuse orders in the amended 66 Pa.C.S. § 1417 to include "a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer." We asked parties to include suggested language relating to these other court orders. We also sought comments from parties on material that should be included in the Commission's privacy guidelines as referenced in the amended 66 Pa.C.S. § 1406(b)(1)(ii)(D) (relating to notice of termination of service).

In addition to the changes to make Chapter 56 consistent with the amended Chapter 14, we also proposed changes to align with other recent regulatory changes such as those in Chapter 57 (relating to electric service) intended to accelerate the switching of electric generation service (52 Pa. Code §§ 57.1—57.259). We also proposed some minor revisions to § 56.100(i) to clarify what is expected of the February winter survey update. Additionally, we proposed a change to clarify that the burden of proof remains with parties who file the informal complaints at §§ 56.173 and 56.403. We proposed some minor revisions to the collections reporting data dictionary in the Appendix C to Chapter 56 to help alleviate confusion, and to make Chapter 56 reporting requirements more consistent with those found in Chapters 54 and 62 (relating to electricity generation customer choice and natural gas supply customer choice) (52 Pa. Code §§ 54.75 and 62.5). Finally, we asked commentators to include in their comments a specific estimate of the costs and/or savings associated with compliance with these proposed changes, including any legal, accounting, or consulting procedures which may be required and to explain how the compliance costs were derived.

Fourteen parties filed comments on April 18, 2017, including: Aqua Pennsylvania (Aqua); Columbia Gas of Pennsylvania (Columbia); Consumer Advisory Council (CAC); Duquesne Light Company (Duquesne); Energy Association of Pennsylvania (EAP); Joint Comments of Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania—collectively the "Low Income and Consumer Rights Group" (LICRG); Joint Comments of Community Justice Project, Disability Rights Pennsylvania, Health, Education and Legal Assistance Project: A Medical-Legal Partnership at Widener University, Homeless Advocacy Project, Housing Alliance of Pennsylvania, Pennsylvania Coalition Against Domestic Violence, Pennsylvania Health Law Project, Pennsylvania Utility Law Project, Women's Center, Inc. of Columbia & Montour Counties, and the Women's Resource Center—collectively the "Joint Commenters" (Joint Commenters); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (FirstEnergy); NRG Energy (NRG); Office of Consumer Advocate (OCA); PECO Energy Company (PECO); Pennsylvania American Water Company (PAWC); Philadelphia Gas Works (PGW); and PPL Electric Utilities Corporation (PPL). On May 19, 2017, the Independent Regulatory Review Commission (IRRC) filed their comments. All comments, in addition to the July 21 NOPR, are available on the Commission's website by searching using the docket number L-2015-2508421 or at this weblink: http://www.puc.pa.gov/about_puc/consolidated_case_view.aspx?Docket=L-2015-2508421.

Upon review of the initial comments filed, the Commission issued an order on July 13, 2017, providing parties an opportunity to file additional comments on our proposed revisions to Chapter 56.[5] This Order further asked for comment on two new matters: proposed revisions to §§ 56.131 and 56.361 that would enable supplier switching confirmation notices to be sent to third parties; and revisions to § 56.172 to clarify termination rules for customers appealing informal decisions issued by the PUC's Bureau of Consumer Services (BCS). Additionally, the Commission sought further comment on several other proposed changes to Chapter 56, including but not limited to the privacy guidelines relevant to termination notices in §§ 56.93 and 56.333, the usage of medical certificates and their impact on arrearages, and the cost and impact of the proposed regulatory changes.

In response, seventeen parties filed additional comments in September 2017: Aqua Pennsylvania (Aqua); Columbia Gas of Pennsylvania (Columbia); Duquesne Light Company (Duquesne); Energy Association of Pennsylvania (EAP); Joint Comments of Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania—collectively the "Low Income and Consumer Rights Group" (LICRG); Joint Comments of ACTION-Housing, Inc., Bringing Hope Home, Health, Education and Legal assistance Project: A Medical-Legal Partnership, Living Beyond Breast Cancer, Medha D. Makhlouf, Philadelphia Association of Community Development Corporations, Project HOME, Regional Housing Legal Services, Sisters R Us Circle of Survivors, The Self-Determination Housing Project of Pennsylvania—collectively the "Health & Housing Coalition" (Health & Housing Coalition); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (FirstEnergy); Office of Consumer Advocate (OCA); PECO Energy Company (PECO); Pennsylvania American Water Company (PAWC); Philadelphia Gas Works (PGW); and PPL Electric Utilities Corporation (PPL); The Center for Hunger-Free Communities (Hunger-Free Communities); National Fuel Gas Distribution Corporation (NFG); National Energy Marketers Association (NEM); Pennsylvania Energy Marketers Coalition (PEMC); and the Retail Energy Supply Association (RESA). All additional comments are available on the Commission's website by searching using the docket number L-2015-2508421 or at

[4] See Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14, Docket L-2015-2508421 (Order entered July 21, 2016).

[5] See Order Seeking Additional Comments re Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14, Docket No. L-2015-2508421 (Public Meeting of July 12, 2017).

this weblink: http://www.puc.pa.gov/about_puc/consolidated_case_view.aspx?Docket=L-2015-2508421.

Regulatory Review

Under section A of the Regulatory Review Act (71 P.S. §§ 745.1—745.15), the Commission submitted a copy of this final-form rulemaking, which was published as proposed at 47 Pa.B. 965 (February 18, 2017), and served February 6, 2017, to IRRC, 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 745.5(f) of the Regulatory Review Act, on February 23, 2017, the Commission resubmitted a copy of the notice of proposed rulemaking to the Senate Committee on Consumer Protection and Professional Licensure, the House Consumer Affairs Committee and IRRC. In compliance with section 5(b.1), the Commission also provided IRRC and the Committees with copies of all comments received as well as other documentation.

This final-form rulemaking was deemed approved by the House Committee on Consumer Affairs, was deemed approved by the Senate Committee on Consumer Protection and Professional Licensure, and was approved by IRRC on April 18, 2019, in accordance with section 5(g) of the Regulatory Review Act.

Conclusion

The Commission reviewed all comments and now issues this Final Rulemaking Order. The interested parties filed or had opportunity to file comments on three separate occasions, including the January 15, 2015, Tentative Implementation Order. The issues have narrowed and this Final Order attempts to resolve remaining issues. In some respects, this Final Rulemaking Order represents significant changes to the originally proposed rulemaking. We made changes in response to the issues and resolutions raised in comments filed by IRRC, consumer advocates and industry participants. We found merit with many of the comments and have made the necessary changes. The comments and our resolution of the issues are discussed in detail in Attachment One.

Accordingly, the Commission's implementation of Chapter 14, amending Chapter 56 regulations in compliance with the statute, establishes uniform, fair and equitable residential public utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. Chapter 56 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. See 52 Pa. Code § 56.1. As such, this Final Rulemaking Order is in the public interest. This Order, Attachment One and Annex A will be published on the Commission's website.

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); 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 seek to finalize the regulations set forth in Annex A, attached hereto; *Therefore*,

It Is Ordered:

1. That the Commission hereby adopts the revised final regulations set forth in Annex A.

2. That the Law Bureau shall submit this Order, Attachment One 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.

3. That the Law Bureau shall submit this Order, Attachment One and Annex A for review by the Legislative Standing Committees, and for review and approval by the Independent Regulatory Review Commission.

4. That the Law Bureau shall deposit this Order, Attachment One and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. That the regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

6. That 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 Order, Attachment One and Annex A shall be posted and made available electronically on the Commission's website.

7. The contact persons for this matter are Matthew Hrivnak in the Bureau of Consumer Services (717) 783-1678, Daniel Mumford in the Office of Competitive Market Oversight (717) 783-1957, and Patricia T. Wiedt in the Law Bureau (717) 787-5000.

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: Fiscal Note 57-315 remains valid for the final adoption of the subject regulations.

Attachment One

Cost and Impact of Regulatory Changes

In our July 2016 NOPR, we asked commentators to include in their comments a specific estimate of the costs and/or savings associated with complying with the Commission's proposed changes, including any legal, accounting, or consulting procedures which may be required. We further asked parties to explain how any dollar estimates they provide were derived.[6]

IRRC, in its comments in response to the NOPR, noted:

> We are particularly interested in the economic and fiscal impact of this regulation because it relates to the criteria that we must consider in determining whether the final regulation is in the public interest.

(IRRC at 6). Accordingly, we again invited parties to submit estimates of the costs and/or savings associated with compliance with the proposed regulations in our July 2017 Order Seeking Additional Comment.[7]

In response to these requests we received some cost estimates but, for the most part, utilities expressed a

[6] See Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14. Docket No. L-2015-2508421. (Public Meeting July 21, 2016) p. 5.

[7] See Order Seeking Additional Comment re Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14. Docket No. L-2015-2508421. (Public Meeting held July 12, 2017) p. 7.

reluctance to provide estimates. They often cited the difficulty and complexity of calculating costs and/or an inability to estimate costs until the final regulations and expectations are established.

Duquesne noted that it appreciates and understands the need for cost data but states that until a final determination is reached on some of the proposals, it is difficult for them to articulate what the cost and impact will be. (Duquesne Additional Comments at 6). Duquesne does offer some general costs of information system upgrades, especially in the context of providing switching notices to third parties. It opines that changes to its billing system for moderately complex operations can cost upward of $1 million for each change and can take over a year to develop, test and roll out. (Duquesne Additional Comments at 8).

Columbia submits that when regulations change, they will incur costs in order to achieve compliance with such a change and, like Duquesne, uses third-party notification for supplier switching as an example. Columbia estimates that the programming costs to implement such will be anywhere from $4,850 to $9,700. Further, Columbia requests that as the regulations change that the Commission allow the affected utilities the necessary time and flexibility to adapt to such regulatory changes, as each affected utility possesses its own unique systems and internal processes. (Columbia Additional Comments at 4-5).

Likewise, NFG also emphasizes that whenever there are regulatory changes there is always a cost associated with modifying systems to implement those changes. While NFG sees benefits in numerous items in this rulemaking, NFG suggests that the changes which are eventually implemented be reasonable and allow flexibility. Each utility has developed systems in different ways and has varied technological programs and capabilities. Additionally, each utility has varied geographic areas and diverse customer bases. It is important to recognize that changes which would benefit certain utility providers and its customers may be detrimental to others. NFG believes that the cost burden of third-party supplier switching notices outweighs its benefit. Many utility systems are not formatted to make this kind of notification happen readily and could require significant modifications to systems to meet the requirement. Furthermore, this would likely only positively impact a very small number of customers. For example, in NFG's service territory only 0.6% of customers would benefit from this change. Requiring utilities to bear a high cost and burden for a change that benefits such a limited subset of its customers serves as an example of why a cost-benefit analysis is necessary and that this specific change should accordingly be rejected. (NFG Additional Comments at 3-4).

With few exceptions, PPL is not able to provide cost impacts related to the Commission's proposed revisions to Chapter 56. Many of the cost impacts will be directly related to how many customers avail themselves of the Commission's proposed regulations, if adopted, and this is unknown at this time. (PPL Additional Comments at 2-3). PPL estimates that it would cost $25,000 to develop an automated process to provide notices to third parties and that there would be mailing costs as well. (PPL Additional Comments at 3). PPL also contends that the written consent notice proposal for electronic notices, requiring utilities to obtain them in writing, renew the consent, and update contact information periodically, creates an unnecessary expense for the utility. PPL estimates it would cost approximately $850,000 to send its 1.2 million residential customers written consent notices. This expense would be repeated, and perhaps increase, each time PPL would be required to renew the consent agreements. This expense would ultimately be borne by the ratepayers. (PPL Additional Comments at 5-6).

At the present time, PAWC does not have estimated cost and/or savings associated with compliance with the proposed changes. (PAWC Additional Comments at 5).

EAP defers to its member companies' responses concerning cost estimates. (EAP Additional Comments at 4-5). However, EAP commends the Commission for including the ability of utilities to contact customers by email, text message or other electronic messaging format into this section to satisfy attempted personal contact by the utility. Electronic communications afford utilities and customers with a myriad of benefits including reduced costs associated with paper, printing, reproduction, storage, and postage as well as increased speed of transactions. Information can be transmitted nearly instantaneously instead of days or weeks of wait time from the postal service. (EAP at 7).

FirstEnergy notes that they seek to avoid the potentially significant costs and resources associated with updating their billing system to accommodate a new method for charging deposits. Their billing system does not have the capability of billing an applicant or customer a deposit ninety days after the initiation of service. To implement such a change, the Companies expect that these accounts would require manual review after ninety days, followed by manual adjustments to customers' bills to reflect the deposit charge. (FirstEnergy at 15-16). In addition, the phrase "through its employees" should be removed from § 56.97(b). These changes to the regulations would permit utilities to utilize Interactive Voice Response (IVR), which represents a cost-saving opportunity for utilities and would likely expedite wait times for customers calling the Companies' contact centers. With IVR, instead of utility employees providing termination information to customers, the information required would be provided by a computer voice. (FirstEnergy at 19).

The OCA notes that it does not have access to compliance cost information and so cannot provide comment at this time. The OCA notes, however, that costs should be considered in the proper context as this rulemaking relates to important consumer protections, and it can be difficult to quantify the benefits of this type of regulation. The proposed regulations would help to prevent fraud, prevent consumers from becoming payment troubled, and prevent service terminations with their attendant economic consequences and risks to public health, safety, and even potential loss of life. While the OCA appreciates that the Commission and IRRC need to consider costs associated with regulatory proposals, the fact that the current proposal relates to important consumer protections should also be considered to place costs considerations in the appropriate context. (OCA Additional Comments at 5-6).

Discussion

We agree with IRRC that costs and benefits must be fully considered when determining if the final regulation is in the public interest. We also agree with the OCA that costs need to be considered in the proper context as this rulemaking relates to important consumer protections. OCA notes the difficulty in quantifying the benefits of this type of regulation, as many of the utilities likewise pointed to the difficulty in quantifying the costs of the regulations. We agree with OCA in that the proposed regulations, in many instances, would help to prevent

fraud, prevent consumers from becoming payment troubled, and prevent service terminations with their attendant economic consequences and risks to public health, safety, and even potential loss of life.

We point to some of the proposals as providing clear cost benefits, agreeing with FirstEnergy that the changes we are making to permit utilities to utilize IVR represents a cost-saving opportunity for utilities. Likewise, as EAP points out, our changes to allow electronic 3-day termination notices provide benefits including reduced costs associated with paper, printing, reproduction, storage, and postage. Water utilities that operate wastewater systems will also benefit under the new regulations because the rules will now be the same for both types of utilities—wastewater will no longer have different rules.

We have also listened to the objections about costs and have modified our proposals accordingly. One of the few areas where utilities were able to provide estimates and express concerns was our proposed third-party switching notices. In response, we have dropped this proposal from this proceeding. Likewise, in response to PPL's concerns with the costs of obtaining customer consent relating to electronic notices, we have agreed to consider customer privacy and consent issues in a separate collaborative proceeding that will allow us to vet the issue and related costs more comprehensively.

Finally, we note that the majority of proposals found in this rulemaking are simply codifying the requirements in the revised Chapter 14. Given that Chapter 14 requirements are a matter of law, they must be complied with, regardless of objections. Utilities have had to comply with these revisions since 2015, so any resulting compliance costs are likely to have already been incurred, so additional costs should be limited.

Supplier Consolidated Billing

Consistent with its Petition for Implementation of Electric Generation Supplier Consolidated Billing[8] ("SCB Petition") filed by NRG on December 8, 2016, NRG's comments and proposed revisions are primarily aimed at accommodating and facilitating the implementation of supplier consolidated billing ("SCB"). Under SCB, customers would have the option of receiving a consolidated bill from their electric generation supplier ("EGS"), containing all of the EGS charges, along with the tariffed delivery charges of the electric distribution company ("EDC"). In its comments, NRG urges the Commission to take advantage of this Chapter 56 rulemaking proceeding to establish a clear set of rules governing SCB so that no doubts exist about the enforceability of requirements to EGSs and EDCs. Additionally, as the current provisions of Chapter 56 set forth the rules applicable to deposits, payment arrangements, termination, reconnection and disputes, they can be easily tailored for use in the SCB context by simply adding the phrase "or billing entity" in situations that currently assume that the public utility will serve as the only consolidated billing entity. (NRG at 1-2).

NRG proposes a new subchapter outlining the requirements that would be applicable to EGSs and EDCs in the SCB context. It consists of four sections, with proposed § 56.471 establishing the availability of SCB in the electric industry by proclaiming that EGSs may render a consolidated bill to customers that contain charges for basic services, including the EDC's distribution services and the EGS's commodity services, and any charges for the EGS's non-basic services. The remaining three sections (§§ 56.472—56.474) propose numerous stringent financial and technical requirements that an EGS would need to fulfill in order to be a billing entity, establish the duties of the EGS in the billing entity role, and outline the duties of EDCs when an EGS is performing consolidated billing functions. (NRG at 6-7).

NRG further believes that it is necessary for the Commission to clarify the applicability of various Chapter 56 provisions to energy suppliers. While NRG recognizes that the Commission currently requires EGSs and NGSs to comply with Chapter 56, as applicable, the majority of the provisions of Chapter 56 relate to deposits, bills, termination, payment arrangements and reconnection, which are not applicable to entities that are not rendering bills or making decisions to terminate accounts. In the course of identifying the provisions of Chapter 56 with which billing entities (other than public utilities) would need to comply, NRG thinks that clarity around the applicability of Chapter 56 rules would likely facilitate regulatory compliance by energy suppliers. (NRG at 2-3).

RESA, in its comments, fully supports the implementation of SCB in Pennsylvania as an additional billing option for suppliers. Enabling suppliers to directly bill their customers through the implementation of SCB is an important and necessary evolution of the retail electricity marketplace which will allow EGSs to begin to deliver on the original promises of technological and services-related innovation that were an integral part of the Electricity Generation Customer Choice and Competition Act. RESA contends using this opportunity to modernize the existing Chapter 56 regulations to accommodate suppliers billing their own customers is logical and forward-looking.

In addition, RESA agrees with NRG's proposal to revise the existing regulations to clarify the applicability of various Chapter 56 provisions to energy suppliers. These revisions would provide welcome clarity to suppliers attempting to decipher which specific sections of Chapter 56 apply to them. The Commission directs suppliers to comply with Chapter 56 "as applicable" but the vast majority of the sections in Chapter 56 are not applicable to entities that do not bill or terminate service. As such, it can be difficult for suppliers to determine whether a specific section is applicable to them and, if so, how it applies to the particular service they are offering customers. This lack of certainty and clarity about regulatory requirements can create compliance difficulties and increase the time needed for staff to provide assistance and guidance to companies about the Commission's expectations. (RESA Additional Comments at 6-7).

LICRG opposes NRG's attempts to insert the issue of SCB into the Chapter 56 rulemaking. The Electric and Natural Gas Choice Acts each clearly provide that, throughout the competitive market transformation, "[t]he Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to access and maintain electric service." The implementation of SCB would undermine current statutory, regulatory, and programmatic protections for vulnerable consumers, in direct contradiction with the Competition Acts. If the Commission were to consider regulations which impact SCB, LICRG urges the Commission to do so in a separate proceeding to allow proper input from the public on the critical impact that such a shift would have on Pennsylvania's consumers. LICRG believes that it would be inappropriate to adopt NRG's

[8] Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing, Docket No. P-2016-2579249 (SCB Petition filed December 8, 2016).

proposed language in a final rulemaking without first vetting the topic with the public. (LICRG Additional Comments at 45—47).

EAP believes that the Electricity Generation Customer Choice and Competition Act does not provide for SCB as a customer billing option nor does it grant statutory authority to mandate the implementation of SCB. Sections 2807(c) and (d) of the Competition Act clearly provide that EDCs are to remain responsible for customer service functions, including billing for distribution service, meter reading, collections and complaint resolution. EAP asks the Commission to dismiss this attempt to circumvent the legally-established system of utility billing. (EAP Additional Comments at 9-10).

Duquesne submits that NRG's attempt to bootstrap suggested changes to accommodate SCB here is not only beyond the scope of this proceeding but is also illegal, as the Electricity Generation Customer Choice and Competition Act in no way contemplates or allows for SCB. (Duquesne Additional Comments at 12-13). Likewise, PPL submits that NRG's proposals regarding Chapter 56 should not be considered as part of this rulemaking. (PPL Additional Comments at 9).

FirstEnergy is opposed to NRG's proposed changes to Chapter 56—pointing to Chapter 14 which imposes a number of non-delegable duties on "public utilities" including retaining customer deposits; establishing and maintaining payment arrangements; termination and reconnection of service, as well as all related functions; payments to restore service; formal and informal complaints; and providing customer assistance information where a customer is seeking a payment arrangement. Most of these functions are inextricably linked to a public utility's ability to bill a customer for its services. A public utility cannot place a customer on a payment arrangement where the public utility is not the entity responsible for billing the customer. Similarly, a public utility cannot implement the termination or reconnection process without the ability to bill and receive payment from customers. Further, FirstEnergy points to Section 2807(d) of the Competition Act, which mandates that "[t]he electric distribution company shall continue to provide customer service functions." The legislature's use of the term "shall" leaves no doubt that the legislature intends for public utilities to be the entities responsible for customer service functions. A utility's customer service functions primarily include maintaining a customer's billing account.

While FirstEnergy believes that the illegality of NRG's proposed changes to Chapter 56 warrants outright rejection of NRG's comments in this proceeding, FirstEnergy also points to additional implementation challenges as well. If EGSs are involved in the billing process, utilities' termination and restoration procedures would become significantly more complicated, if not impossible. Utilities would be required to be in constant communication with EGSs regarding changes to each customer's account, including payments, payment arrangements, and medical certificates, all of which could have a different impact on a customer's termination or restoration process. Each of these changes creates different termination and restoration terms and timelines. First Energy continues stating that involving an EGS in this process would add unnecessary complexity into this process, likely increasing the chance of errors in the termination and reconnection process to the disadvantage of customers. For all the foregoing reasons, FirstEnergy opines that NRG's proposed changes to Chapter 56 should be disregarded. (FirstEnergy Additional Comments at 20—22).

Discussion

First, we note that at the Commission's January 18, 2018, Public Meeting, the Commission rejected NRG's petition to implement SCB.[9] However, the Commission motion that rejected NRG's petition also established a proceeding to further consider SCB in a more general, wider context.[10] This proceeding first called for comments from interested parties by May 4, 2018. This was followed by en banc hearings on June 14, 2018, and July 12, 2018, over which the Commissioners presided and that featured testimony from suppliers, utilities, consumer advocates and other interested parties. Parties then had an opportunity to file reply comments by August 24, 2018.

Given that SCB is now the subject of a separate, ongoing proceeding, we agree with LICRG, EAP, PPL, Duquesne and FirstEnergy that further consideration of it in this proceeding is neither appropriate nor necessary at this time. Addressing SCB in this Chapter 14/Chapter 56 proceeding could give the appearance of inappropriately pre-judging the ongoing SCB proceeding at Docket No. M-2018-2645254. Depending upon the outcome of the SCB proceeding, the Commission can always consider revisions to Chapter 56 later, along with other implementation issues should the decision be made to proceed with SCB.

In response to NRG's and RESA's request that we revise and clarify the applicability of Chapter 56 regulations for suppliers, we note that we received few if any comments in response to this proposal. Accordingly, we do not think that this proposal has been properly vetted by other stakeholders. We note that even if SCB is not pursued, the Commission can still initiate a proceeding to consider the applicability of Chapter 56 provisions in the context of competitive suppliers. Such a proceeding would provide all parties an opportunity to offer detailed comments.

Third-Party Notification of Supplier Switching

In our July 12, 2017 Order Seeking Additional Comments[11] we noted § 56.131 (and the identical § 56.361) that provides for a third-party to receive copies of various collection notices, including past due and termination notices. The intent of this notification is to provide information to a third-party that may be positioned to aid the third-party in assisting the customer with a collections-related problem. We asked parties to comment on a proposal to use this same mechanism in the context of energy supplier switching in instances where a third-party may want to be alerted as to a customer's supplier selections to help the customer with the process of selecting an energy supplier. We proposed adding §§ 57.173 (relating to Customer contacts the EGS to request a change in electric supply service) and 59.93 (relating to Customer contacts with NGSs) confirmation notices to the list of notices that a utility will provide under §§ 56.131 and 56.361. In addition, we proposed revising the enrollment form template currently in use and using a separate form for electric and natural gas distribution companies.

LICRG appreciates the proposed modification of § 56.131, noting that there are many vulnerable customers, particularly elderly and/or disabled individuals, who may have difficulty managing certain utility matters, and

[9] Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing. Docket No. P-2016-2579249 (Public Meeting of January 18, 2018).

[10] See Secretarial Letter re Notice of En Banc Hearing on Implementation of Supplier Consolidated Billing, Docket No. M-2018-2645254 (March 27, 2018).

[11] See Order Seeking Additional Comments re Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14, Docket No. L-2015-2508421 (Public Meeting of July 12, 2017), pp. 7—15.

who should be able to designate a trusted third-party to assist them. However, they believe that the Commission should provide clear guidance concerning who can be listed as a third-party and that under no circumstances should a supplier or other commercial, marketing, or for-profit business be listed as the third-party. (LICRG Additional Comments at 15—17).

The OCA very strongly supports this proposal and submits that third-party notification of supplier switching will provide a valuable and important consumer protection. The OCA notes that it hears from many consumers who have trouble navigating the competitive energy marketplace and may have switched to a competitive supplier without knowing it or without fully understanding the terms. The OCA believes that the Commission's proposal to add supplier switch confirmation notices to the list of notices provided to an authorized third-party is an excellent proposal that will help to prevent the harms associated with unauthorized or misunderstood switching among this subset of customers. (OCA Additional Comments at 7-8).

RESA supports the intent of this proposal and the right of customers to elect to share information, such as a decision to shop, with designated third parties. RESA suggests some language changes intended to make the revised regulation paragraph more consistent with the existing authorization form set forth in Appendix E. More specifically, the initial paragraph of the existing form is addressed to the customer and explains the roles and responsibilities for the third-party. In contrast, the newly added paragraph appears to be directed to the third-party designee. RESA's proposed revisions add language directed to the customer with an explanation of what the third-party designee would receive. In addition, a new sentence is added to more clearly state that only the customer of record or a person authorized to make changes to the customer's account can address any concern or potential problem with the decision to elect a supplier or return to default service. (RESA Additional Comments at 2-3).

NEM believes the proposal poses logistical issues that are not readily apparent on its face and that could lead to negative unintended consequences including consumer confusion and unwarranted consumer complaints. NEM believes that the logistical issues include restricting account changes to those being made by authorized persons, maintaining privacy of customer information, and adequate supplier notification of account termination, among others. NEM suggests that the Commission first convene the stakeholders to review, discuss and resolve these logistical issues. NEM states that there is an important difference between the current third-party notice that is sent regarding collection activity as opposed to the proposed third-party notice of supplier switching activity. In the case of a third-party's receipt of notice of collection activity, if the third-party receives the collection notice and responds by taking action and paying a past due balance on behalf of the customer, the net result is positive—the customer's account is maintained and restored to good standing. In contrast, under the proposal at issue, when a third-party notice is sent regarding supplier switching activity, a conceivable outcome is that the third-party will seek to terminate the competitive supplier relationship, whether they are authorized to do so and permitted under the regulations. The third-party may become upset and confused if they are unable to cancel the competitive supplier transaction and then lodge a complaint, notwithstanding that no party engaged in improper conduct. Additionally, the customer's account with the supplier could be unjustifiably ended, the customer could lose the benefit of its bargained for products and services and perhaps incur an early termination fee if the rescission period has expired. Communication protocols and dispute procedures also need to be considered, along with the rules that require suppliers and utilities to respect the privacy and confidentiality of customer account information. (NEM Additional Comments at 2—7).

PEMC understands and appreciates the intent behind these proposals: to ensure that customers, particularly customers in demographics with a greater degree of vulnerability, can be as protected as possible. In cases of a relative of a customer, or an individual with power of attorney or similar authority on behalf of a customer, the proposed revisions seem reasonable and in the customer's interest. Particularly in cases in which a customer's ability to manage their own affairs is limited and has already been recognized as such through the designation of power of attorney, any proposals for changes to a customer account should of course be handled by the designated individual. PEMC also views as appropriate the providing of notifications of a supplier switch when a family member may not have power of attorney but does provide informal assistance to a customer who may need additional help with making business decisions.

PEMC is concerned however, that unlike billing and collections notices, notification of a supplier enrollment transaction is a written confirmation of a positive choice made by the customer, which is already subject to the sales, marketing, enrollment, and verification regulations of the Commission, as well as the contract rescission period. The involvement of a third-party, particularly one that does not have power of attorney or any legal authority to negotiate on a customer's behalf, could add confusion to the supplier-customer relationship. It also adds ambiguity to the supplier responsibility to determine the legal authority of any third-party that attempts to communicate with a supplier on behalf of a customer after receiving an enrollment transaction notification. PEMC is also concerned with the language of paragraph (3), which explicitly relates to the utility encouraging community groups to receive third-party notices related to billing and collections in that utilities could interpret the changes proposed in these sections to require them to solicit community groups to accept third-party notifications of supplier change confirmation notices. PEMC asks that the proposed notifications of supplier change confirmation notices be limited to immediate family members over the age of 18, or individuals with legal authority, such as power of attorney, to act on behalf of a customer. (PEMC Additional Comments at 2—4).

EAP does not disagree with the Commission's proposal in principle—customers may in fact want or need additional assistance in navigating the energy marketplace. However, it believes the logistics of this proposal have not been thoroughly vetted. For example, utility information systems typically separate the functions that handle billing and termination notices from the portion that handles notices related to suppliers and switching. Integration of these systems so that one person could be a designated recipient of both billing and supplier notices may come at a cost that is unbalanced by the benefit provided. EAP would also recommend the Commission evaluate whether the option to provide supplier switching notices to third parties could be made without mandating their inclusion in regulation. (EAP Additional Comments at 5-6).

PECO does not believe that the benefit of this proposal would be sufficient to warrant the IT costs. To estimate

the scope of customers who might benefit from such a program, PECO first determined the number of PECO residential customers who both shop and subscribe to third-party notification. Approximately 3,000 customers (2/10ths of 1% of the residential population) fit those criteria and thus would receive additional notices under this proposal. PECO concludes that, on its system, only a very small percentage of its residential customers, perhaps 1/10th of 1% of the customer base, would have a need or desire for this additional service. The IT change costs, on the other hand, would be system-wide and paid for by the entire customer base. While PECO has not performed a scope estimate for the IT costs of making such a change, its experience is that such changes can easily cost in the hundreds of thousands of dollars. (PECO Additional Comments at 3-4).

FirstEnergy does not oppose this proposal, but requests that the implementation details and costs associated with this change be permitted to be recovered on a full and current basis through FirstEnergy's Default Service Support Riders, or other similar mechanisms, as appropriate for each utility. (FirstEnergy Additional Comments at 11-12).

PPL is not opposed to this proposal. If this proposal were adopted, however, PPL would need to develop an automated process that would send these notices out to the designated third-party and estimates that it would cost $25,000 to develop this automated process. PPL further notes that there would be mailing costs as well. (PPL Additional Comments at 3).

Duquesne recognizes that this proposal could be a valuable service for certain customers but has some concerns. First, the proposed notification, even if received by a third-party, does not prevent an unwise or unlawful switch that has already occurred. For example, receipt of a copy of the supply change confirmation notice by a third-party does not mean that the third-party designee can prevent the switch. The third-party designee has no authority to block the supplier transaction and could, at best, convince the customer to initiate a switch to default service or to another supplier. Depending on the terms of the supplier contract, a customer could be subject to termination fees or other costs to reverse a transaction. Secondly, various individuals or agencies serve as designated third parties receiving notifications of termination or delinquency notices. Just because one is a third-party recipient of notifications related to termination, it does not automatically follow that those individuals or agencies would also want supplier change confirmation notifications. Duquesne also notes that its current billing system is not able to bifurcate the types of notices to be provided to a third-party. By way of general cost estimates, changes to the billing system for moderately complex operations can cost upward of $1 million for each change and can take over a year to develop. Currently, Duquesne Light provides third-party notifications to approximately 2,100 customers, which is only approximately 0.003% of its customers. When evaluating the costs of implementing technical changes compared to the small number of customers who would potentially utilize this mechanism, Duquesne does not believe that this should be a mandated regulatory requirement. (Duquesne Additional Comments at 6—9).

Columbia submits that, although it is possible for it to revise its current procedures regarding third-party notifications to add supplier switch notifications, it will incur costs in order to do so, and therefore, Columbia does not support the addition of this third-party supplier switch notice. Less than 1% of Columbia's active residential customers maintain third-party notifications. Therefore, the benefits to a small percentage of customers to implement additional notifications to third-parties would be greatly outweighed by the costs to add such notifications. Third-party notifications come from its credit/collections database and if Columbia had to send supplier switch confirmation notifications, those notices would come from its Choice program database, which is separate and distinct from its credit/collections database. Columbia has estimated the programming cost to implement that additional notice to be anywhere from $4,850 to $9,700. (Columbia Additional Comments at 5—8).

NFG believes that while there may be some justification for this kind of proposal, the cost burden of changes to the notification requirements outweighs its benefit. Many utility systems are not formatted to make this kind of notification happen readily and could require significant modifications to systems. Furthermore, this would likely only positively impact a very small number of customers. NFG reports that only 0.6% of customers would benefit from this change. (NFG Additional Comments at 3-4).

Discussion

The parties provided a mix of comments: some that were very supportive, some that were supportive but conditional, and some that were not-at-all supportive. In considering and weighing the comments, while we agree with OCA that our proposed revisions to §§ 56.131 and 56.361 would provide a valuable and important consumer protection, on balance we conclude that this is a proposal that would be best addressed in a different proceeding. We agree with EAP that the logistics of this proposal have not been thoroughly vetted. There are too many unanswered questions raised by the utilities and the suppliers, including the impact on utility customer databases, who could qualify for third-party status, and the ability of those third-parties to interfere with the supplier switching process. We are also persuaded by the comments of PECO, Duquesne, PEMC and NEM that supplier confirmation notices and utility collection notices are distinct, very different things and, while consumers may want to use third-party notification for one of these things, it is very possible they would not want to do both. We think this type of proposal is better vetted in a proceeding specifically addressing the electric supplier switching regulations in Chapter 57 and the natural gas supplier switching regulations at Chapter 59. This would allow parties and the Commission to consider third-party supplier confirmation notices in the proper context.

§ 56.2. Definitions.

We proposed revising the definitions of applicant, customer, and public utility to reflect the revised Chapter 14 definitions at 66 Pa.C.S. § 1403. We also proposed adding the definitions of creditworthiness and medical certificate to this Section because they now appear in the revised 66 Pa.C.S. § 1403. We proposed changing the definition of payment agreement to payment arrangement to reflect the change in terminology in Chapter 14. We proposed changing this term throughout subchapters B—K wherever the term payment agreement was used. We proposed adding the definitions of small natural gas distribution utility, steam heat utility and wastewater utility to this section to reflect that these entities are now covered by subchapters B—K (see above concerning Section 56.1, Statement of purpose and policy). Because these entities are now all considered public utilities by Chapter 14 and are no longer treated distinctly, we changed the term

"utility" to "public utility" throughout the chapter. We also proposed adding a definition of physician assistant since Chapter 14 now permits the filing of medical certificates by physician assistants.

AMR—Automatic meter reading

OCA commented that the Commission should update the old definition of AMR to include advanced metering infrastructure (AMI) due to new technology being deployed by utilities throughout the Commonwealth of Pennsylvania. OCA asserts that AMI provides a wide variety of updated functionalities that should be included in Chapter 56 regulations. (OCA at 6-7).

Discussion

In the NOPR, we made no proposal to change this definition. § 56.2 defines AMR—Automatic meter reading as, "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," and states that, "Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter." The definition of AMR includes AMI in that AMI is a metering technology. Section 56.2 definitions apply to the entire chapter—thus this definition that states that meter readings by an AMR shall be deemed as actual readings for the purposes of this chapter would also apply to § 56.12. We do not see a need to change this language.

Applicant and *Customer*

Duquesne and IRRC suggest that the definition of "Applicant" and "Customer" set forth in sections §§ 56.2 and 56.252 be changed for consistency. (Duquesne at 11; IRRC at 2).

Discussion

As noted previously in this rulemaking order, § 56.252 is located in the PFA subchapter which is not subject to Chapter 14. The definitions will not be consistent since § 56.2 has been modified pursuant to Chapter 14 and the PFA subchapter is specifically excluded.

Billing month

In the NOPR, we proposed revising the definition of billing month to allow short-period bills in instances where a customer's change of commodity supplier necessitates the issuance of a short-period bill in order to effectuate a timely switch of supplier. Recent regulatory changes intended to accelerate the switching of electric generation service now make it possible to switch commodity service in as little as three business days. See 52 Pa. Code §§ 57.173, 57.174 and 57.180 (relating to customer contacts the EGS to request a change in electric supply service; time frame requirement; and implementation). Some utilities, as part of the switching process, will issue a short-period bill to conclude the customer's connection with his or her current supplier, so that billing with the new supplier can start within the three-business day timeframe. The Commission has already issued temporary waivers of the current § 56.2 definition of billing month to facilitate this process,[12] and we believe it is necessary to codify this change in billing procedures to eliminate the need for repeated waivers in the future.

Discussion

We did not receive any comments on this proposed definition and will keep the billing month definition as proposed.

[12] See Petition of PECO Energy Company for Temporary Waiver of Regulations Related to the Required Days In a Billing Period, Docket P-2014-2446292 (Public Meeting December 4, 2014).

Clear evidence, Court of competent jurisdiction, Domestic violence

IRRC commented that the Commission is adding the phrase "A court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer," from the revised statute at 66 Pa.C.S. § 1417 throughout the regulation and that commentators had requested clarification of portions of the phrase including "clear evidence," "court of competent jurisdiction," and "domestic violence." IRRC commented that the public safety may not be adequately protected if these terms are not made clear to the regulated community and public affected. (IRRC at 1-2).

Discussion

As discussed later, LICRG, Joint Commentators, OCA and Duquesne all advise the Commission to form a working group on this section concerning the revised 66 Pa.C.S. § 1417 where these matters can be discussed by all interested parties. The definitions of these three terms should also be addressed in this working group.

Creditworthiness

OCA supports the proposed addition of the definition for creditworthiness that the Commission proposed which is identical that the one that is in the revised 66 Pa.C.S. § 1403. (OCA at 7).

Discussion

The proposed definition incorporated the definition as stated in the revised Chapter 14 at 66 Pa.C.S. § 1403. We will maintain the statutory definition of creditworthiness as proposed.

Fraud

PPL proposed at page 13 a definition for fraud. Section 56.35(b)(1) provides a four-year statute of limitations when seeking to collect an outstanding balance from an applicant, however this 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. PPL proposed that fraud be defined as:

> Deceitful actions used by individuals to acquire and/or maintain utility service. This includes the use of false identities and the making of false or misleading statements for the purpose of avoidance of bill payment.

(PPL at 13).

LICRG described PPL's proposed definition for fraud as "sweepingly broad." LICRG further stated that it was not consistent with Pennsylvania law, which requires proof of each of the following elements: a misrepresentation, a fraudulent utterance thereof, an intention by the maker that the recipient will thereby be induced to act, justifiable reliance by the recipient upon the misrepresentation, and damages to the recipient as the proximate result. (LICRG Additional Comments at 7-8). LICRG asserted that under PPL's definition of fraud, the customer's intent, a critical element of fraud, would be wholly disregarded. LICRG requested that the Commission reject utilities' attempts to relax long-standing rules of law governing the elements of fraud, especially since accusations of fraud can have consequences impacting a household's ability to maintain utility service as well as housing and employment. (LICRG Additional Comments at 8).

Discussion

Due to concerns raised by LICRG regarding the definition of fraud as proposed by PPL, we are reluctant to provide a definition for fraud in this rulemaking. PPL also acknowledged that its proposed definition was outside of the amendments to Chapter 14. The definition of fraud, to the extent that one is necessary, could be addressed in a subsequent rulemaking of Chapter 56, when revisions are next proposed to this Chapter. Furthermore, as noted in the discussion of § 56.113, the parties have not made a convincing argument that fraud is a problem. We conclude that a definition for fraud is not necessary and is outside of the scope of this rulemaking.

Medical certificate

Columbia and EAP suggest including the medical professional's license number on the medical certificate. Columbia asserts that this will enable it to confirm that each medical professional is legally licensed to practice medicine in this Commonwealth. Columbia further comments that this will reduce the likelihood of fraudulent requests. Columbia comments page 2-3. EAP also states that the medical certificate should be on the medical professional's letterhead or other official paperwork. (EAP at 14).

LICRG and CAC recommend that the Commission reference § 56.113 in its definition of medical certificate to clarify the substantive requirements of the medical certificate form. (LICRG at 8, CAC at 5-6).

LICRG further requests that since § 56.113 allows both customers and applicants to submit medical certificates, that the definition of medical certificate also include applicants. LICRG asserts that this is consistent with Chapter 14 at 66 Pa.C.S. §§ 1406(f) and 1407(b). (LICRG at 8-9).

The CAC supports the development of a statewide model medical certificate form that would be developed through a collaborative as suggested in the Commission's Chapter 14 Implementation Order, Docket No. M-2014-2448824, at 10 (July 9, 2015). (CAC at 5). CAC stated further that "some members of the [CAC] have heard from medical providers that it would facilitate their ability to issue medical certificates if there were a form that was available for download either on the utilities' website or the website of the Commission." CAC recommends then placing the form developed in collaboration on the Commission website as well as encouraging utilities to place the form on its websites. (CAC at 5-6).

EAP recommended clarifying the language for medical certificates by combining the § 56.2 definition of medical certificate with the § 56.113 provision regarding medical certificates. (EAP at 13).

IRRC suggested that the definition be consistent with the statutory definition and noted that the statutory definition of the term "medical certificate" begins with the phrase, "in a form approved by the commission. . ." 66 Pa.C.S. § 1403. (IRRC at 5).

Discussion

The definition of medical certificate that we proposed incorporates the statute and includes the phrase, "in a form approved by the commission. . ." We agree with LICRG and CAC's recommendation to reference § 56.113 in the definition of medical certificate and have added that reference to the definition. We agree with EAP that the definition of medical certificate and § 56.113 should be consistent and have reviewed both for consistency. We added the cross reference to § 56.113 to provide further consistency and clarity. With regard to IRRC's concerns that the Commission explain how the medical certificate provisions are reasonable and in the public interest, we have carefully reviewed the parties' comments as well as the past history of the medical certificate provisions in Chapter 56 with regard to medical certificates and have provided a reasonable definition consistent with amended Chapter 14 and the concerns of the parties. (See the additional discussion of § 56.113 regarding parties' comments and the history of the medical certificate sections—reasonableness discussion).

Nurse practitioner, Physician, Physician assistant

IRRC commented that it did not find the Commission's definitions for "physician assistant," "nurse practitioner" and "physician" to be completely consistent with the respective professional Boards' definitions which can introduce uncertainty to the required qualifications. To address that concern, IRRC suggested that the Commission use cross-references to the appropriate definitions in the professional Boards' regulations instead. IRRC further noted that Act 155 uses the term "nurse practitioner" and that the Professional Nursing Law includes several types of nurse licensures. IRRC suggests that, "there appears to be a presumption that the professional that can sign a medical certificate is a licensed Certified Registered Nurse Practitioner." IRRC suggests that the Commission clarify which licensure(s) under the State Board of Nursing qualify under the Public Utility Code to sign medical certificates. (IRRC at 2).

The Health & Housing Coalition and EAP also suggested changing the current definitions of nurse practitioner and physician in addition to making changes to the proposed definition of physician assistant. For physician, the definition should also include osteopathic medicine, and for the other two definitions, EAP also suggested cross-referencing to the appropriate definitions in the professional Boards' regulations. EAP suggested adding a new definition to § 56.2 for the term authorized medical certificate signatory—a physician, nurse practitioner, or medical physician assistant. EAP further proposed that the qualifier term "medical" be included before physician assistant to distinguish the medical professionals appropriately licensed to complete these forms as defined by the state board of licensure. (Health & Housing Coalition Additional Comments at 3-4; EAP at 12).

OCA suggests that the Commission revise its definition of physician assistant by shortening it to only reference the appropriate licensing regulation to ensure consistency and clarity with the appropriate state board of medicine regulations. (OCA at 8). PAWC also suggests making the definition of physician assistant consistent with the Pennsylvania licensing laws and regulations. (PAWC at 2).

Joint Commenters and LICRG also suggest changing the definition of nurse practitioner in addition to the added definition for physician assistant. Both the Joint Commenters and LICRG propose simplifying the definitions by referring directly to the Chapter of the *Pennsylvania Code* which pertain to these professionals. (Joint Commenters at 3-4; LICRG at 10-11).

Discussion

We agree with the commentators and are revising the definitions of these three terms, nurse practitioner, physician, and physician assistant, to be consistent with the respective state licensing laws and regulations. We agree with IRRC's suggestion that the professional that can

sign a medical certificate is a Certified Registered Nurse Practitioner and have defined Nurse Practitioner to include that profession.

Small natural gas distribution utility, Steam heat utility and Wastewater utility

We did not receive any comments on these proposed definitions.

Discussion

These definitions were taken directly from the amended Chapter 14. We will keep these definitions the same as proposed.

Finally, we note that NRG proposed various new definitions and revisions to the existing definitions at § 56.2, proposing to revise Chapter 56 to include the implementation of supplier consolidated billing (SCB). (NRG at 11—14).

Discussion

As indicated previously in this order, SCB is outside of the scope of this rulemaking. We will defer all SCB-needed revisions to another proceeding.

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

We proposed adding a new paragraph (6), Verification of automatic meter reading, to incorporate the new requirement at Section 1411 (relating to automatic meter readings) that utilities verify meter readings at the request of the customer.

Columbia agrees with the Commission's proposed language. (Columbia at 4).

OCA supports the addition of this provision, with one modification. As discussed regarding the definition at § 56.2, the OCA suggests that the Commission either update the definition of AMR to include AMI or add a separate new definition of AMI that should be reflected throughout these regulations. Consistent with that recommendation, the OCA submits that consumers should have the same right to verification for automatic meter readings obtained through AMI as is being included in this section for AMR. If the definition of AMR in § 56.2 is updated to include AMI, then automatic meter readings obtained through AMI will receive the same right of verification of automatic meter readings at the customer's request. If a separate definition of AMI is added to § 56.2, then language indicating that automatic meter readings obtained through AMI are also subject to verification on the customer's request will need to be inserted into this section. This modification will help to ensure that the regulations reflect the various metering technologies that are currently in use in the Commonwealth, and that customers have the right to verify automatic readings at their request. (OCA at 8).

EAP and FirstEnergy are concerned that the proposed language does not include the introductory statement from Section 1411 or from the present definition of AMR—automatic meter reading at § 52.1(iii) that reads, "All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title." (EAP at 3; FirstEnergy at 6).

FirstEnergy also recommends that the Commission eliminate the postcard requirement in § 56.12(i) and that the Commission should consider changes at § 56.15(2) to provide utilities with the option to identify total monthly usage on customers' bills instead of customers' beginning and ending register reads. (FirstEnergy at 7—9).

Discussion

AMR-Automatic meter reading is defined in § 56.2 Definitions.

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.

The definition of AMR includes AMI in that AMI is a metering technology. Section 56.2 definitions apply to the entire chapter. The definition states that meter readings by an AMR shall be deemed as actual readings for the purposes of this chapter which would include § 56.12. Therefore, we will keep our proposed language.

With regards to FirstEnergy's proposal, the Commission declines to eliminate the postcard requirement in § 56.12(i). Section 56.12(i) applies to not only electric and gas distribution utilities, but also wastewater and water distribution utilities. Not all of these public utilities possess smart meters or AMR's. Also, with advances in technology and smart meters being deployed estimated meter readings will be less likely to occur and postcards will be needed and used less. In addition, identifying the beginning and ending meter readings is an important piece of information for the customer.

§ 56.17. Advance Payments.

LICRG submits that the prepayment meter regulation, 52 Pa. Code § 56.17(3), is unnecessary, and contrary to statutory intent. As such, it should be eliminated from the Commission's regulations. Accordingly, the LICRG recommend that § 56.17(3) be eliminated and that section be reserved for future regulatory use. (LICRG at 11—18).

PPL disagrees with these recommendations. PPL believes that there may be interest among all customers for this service, including lower income customers. While PPL acknowledges that there are parties that have concerns with lower income customers participating in advanced payment programs, the company submits that this rulemaking proceeding is not the appropriate proceeding in which to address these concerns. (PPL Additional Comments at 8).

Discussion

To date, no utility has utilized these provisions to offer pre-payment metering, so unfortunately, we have no practical experience to rely upon when assessing the need to revise this section. There is a pre-payment plan proceeding that is currently being considered by the Commission.[13] Given that this matter is currently being considered elsewhere by the Commission, we are declining to make any changes to this regulation at this time.

Applications, Security and Deposits

Sections §§ 56.32 through 56.57 address the residential application procedures and standards for establishing security deposits. The revised Chapter 14 made significant changes to these rules, which prompted us to propose extensive revisions to these sections.

[13] See Peco Energy Company's Pilot Plan for an Advance Payment Program Submitted Pursuant to 52 Pa. Code § 56.17, Docket No. P-2016-2573023.

§ 56.31. Policy Statement.

Duquesne suggested that the Commission take this opportunity to update the Policy Statements contained in this Section and § 56.281 to include the broader scope of protections that have been afforded to citizens of the Commonwealth in other areas. Specifically, Duquesne recommended that we update this language to reflect Governor Wolf's Executive Order, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth. (Duquesne at 11-12).

Discussion

We received no other comments on the Policy statement. We agree with Duquesne that the Policy statement should be updated with the Governor's Executive Order and have revised these sections to incorporate these protections into our Policy Statements.

§ 56.32. Security and cash deposits.

We proposed to revise Subsection (a) and to add a new Subsection (d) to align with the new deposit payment timeframes provided for in Section 1404(a) (related to cash deposits and household information requirements). Additionally, we proposed revising Subsection (a)(2) to note that creditworthiness standards must be provided in a Commission-approved tariff, per Section 1404(a)(2). We proposed a new Subsection (e) to align with the new Section 1404(a.1) prohibition on customer assistance program (CAP)-eligible customers and applicants paying deposits.

§ 56.36. Written procedures.

We proposed revising Subsection (b) to include incorporation into the utility's written credit procedures the deposit exception for CAP-eligible applicants, per Section 1404(a.1). We also proposed including in the procedures the availability of alternative credit standards, pursuant to Section 1417, for applicants with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. We proposed revising Subsection (b)(1) to include a requirement that utilities provide this information to applicants in writing when credit is denied.

§ 56.38. Payment period for deposits by applicants.

We proposed revising Subsection (a) to align with the new deposit payment timeframes provided for in Section 1404(a) that an applicant has up to 90 days to pay the deposit.

§ 56.41. General rule.

We proposed adding a new Subsection (4) to align with the new 1404(a.1) prohibition on CAP-eligible customers and applicants paying deposits.

§ 56.42. Payment period for deposits by customers.

We proposed revising Subsection (d) to align with the new 90-day deposit payment timeframes provided for in § 1404(a).

§ 56.53. Deposit hold period and refund.

We proposed eliminating the 24-month deposit retention limit in Subsection (a) to align with the same elimination in Section 1404(c)(1).

§ 56.57. Interest rate.

We proposed changing the mechanism for determining the interest rate applied to security deposits to align with the change at Section 1404(c)(6).

OCA believes that the Commission should clarify that eligibility for CAP in this context is based on income eligibility, not on eligibility based on some other criteria. Many low-income individuals may be eligible for CAP based on their income but may not actually be enrolled in CAP for a variety of reasons. For example, many people may be income-eligible but are not enrolled in CAP because their "affordable bill" under CAP is greater than their actual bill.

OCA notes that the proposed revision to § 56.38 states that an applicant that is required to pay a deposit "shall have up to 90 days to pay the deposit *in accordance with Commission regulations*." (Emphasis added). However, it is not clear to which specific Commission regulations are being referred to in this section. The OCA submits that, instead of a vague reference to "Commission regulations," this language should be revised to cite specific regulations.

Regarding § 56.42(d), OCA supports allowing customers to pay the deposit in installments, with "50% billed upon 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" as this is consistent with previous Commission rulemakings. Finally, the OCA submits that § 56.53(b) should be modified to clarify that the relevant time period concerning refunding a deposit is any 12 consecutive months, and that this 12-month period is not tied to a calendar year. For example, if a customer pays in full and on time in January, but misses a payment in February, the 12-month clock should start again in March. (OCA at 9—12).

While a step in the right direction, LICRG asserts that the Commission's proposed revisions are insufficient to effectuate the intent of the General Assembly to protect low income households from cash deposits. They ask that the proposal be revised to ensure that the deposit prohibition includes both applicants and customers since the plain language of Section 1404(a.1) applies to both applicants and customers.

LICRG also asks the Commission to clarify that the cash deposit prohibition is based on "household income." As set forth in Chapter 14, the exemption applies to any customer or applicant who is confirmed to be "eligible" for a customer assistance program. LICRG asserts that the prohibition on cash deposits should apply to any customer or applicant who is eligible, based on household income, to participate in CAP, meaning they have income at or below the level indicated in the Commission's CAP policy statement, currently 150% of the Federal Poverty Level. This proposal is administratively simple and avoids the inequitable results that would arise if applicants or customers in one service territory are required to pay a deposit while similarly situated applicants and customers in another service territory are statutorily exempt.

LICRG notes that, over time, each utility has imposed a range of eligibility requirements, none of which are necessarily connected to an applicant or customer's ability to pay a security deposit. They offer as an example PPL, which excludes customers from CAP if they have not "entered into a payment agreement within the last 12 months." Thus, applicants for service are ineligible for PPL's CAP because they do not have arrears which would necessitate a payment arrangement. LICRG does not believe that nuances of each CAP eligibility requirement were what the General Assembly had in mind when it set out the prohibition. It is similarly important that utilities not require actual enrollment in CAP as a precondition to application of the security deposit exemption. Chapter 14

plainly contemplates that applicants and customers would not need to enroll in the program to be exempt from security deposit requirements, as it refers explicitly to those "eligible" for CAP.

LICRG opines that utilities often do not inform consumers of the prohibition on cash deposits at the time the deposit is requested, leaving many families struggling to scrape together money they do not have. While the Commission proposes to address that issue by requiring the utility's denial of credit letter to contain a statement about the cash deposit prohibition, they are concerned that consumers are unlikely to read the fine print in a credit denial letter. Credit determinations are often made at the time the customer calls for service, while they are still on the phone. Once assessed or quoted over the phone, customers who are unable to meet the deposit amount often panic, scrambling to come up with the money. Therefore, LICRG believes that it is critical that oral notice of the exemption, as well as clear instruction for how to verify income for the exemption to apply, should be provided to applicants and customers at the time the security deposit is quoted or assessed. Further, the income verification process should be simple; in-person processes can be onerous to many low-income households, requiring the head of household to take time off work, obtain childcare, and arrange for transportation.

LICRG asks that deposits held by public utilities should be refunded or credited to low-income customer accounts as it is inequitable for a public utility to hold a deposit collected from a customer upon later discovery that such customer is, or has become, low-income. Such deposits should be refunded within two billing periods after the discovery of such a deposit. (LICRG at 18—27).

LICRG asks the Commission to reject the argument that utilities should be able to terminate based on a single missed security deposit installment, rather than having to wait until the end of the 90 days to proceed with termination. LICRG argues that allowing households a full 90 days to pay a utility security deposit without risk of immediate termination is often critical to the household's financial stability, citing the costs of relocating and that these households often lack the upfront capital to pay an immediate cash deposit. Allowing the full 90 days for a household to pay the deposit ensures that the household has sufficient time to establish themselves at their new residence. (LICRG Additional Comments at 34).

LICRG also asks the Commission to reject any further modifications to the Commission's regulations to require certain applicants to assume responsibility for service rendered to third parties—as they contend that such proposals are contrary to the Public Utility Code. They argue that prior to the implementation of Chapter 14, the "general rule [was] that a public utility may not request payment of a residential service bill from a customer unless the residential service was provided in that customer's name" and that with Chapter 14, the General Assembly modified this general rule in very specific and for limited circumstances. Specifically, Section 1403 redefined customer to include "any adult occupant whose name appears on the mortgage, deed or lease of the property for which residential service is requested." Furthermore, following termination of service, Section 1407(d) authorized a utility to require payment of "any 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." Except as modified by these two provisions, the current Commission's regulations are clear in preserving the status quo prior to Chapter 14.

LICRG opines that the alterations proposed by some of the utilities would expose an indeterminate number of applicants to unexpected and unwarranted third-party liability. Individuals who did not previously occupy a property, nor benefit from service provided to that property, would nonetheless be personally responsible for service provided to a third-party solely because that third-party still resides at the premise. The effect would be to significantly and impermissibly broaden the narrow statutory language of "customer" set forth in Section 1403. A third party would effectively become a customer for purposes of a back balance without having been an adult occupant during the period service was provided, and without having had any formal relationship with the property, documented through a mortgage, deed or lease. LICRG concludes that the General Assembly did not intend for, nor authorize, such a broad scope of potential third-party liability in enacting and amending Chapter 14. Finally, as the Commission's regulations recognize, utilities maintain creditor rights and remedies against nonpaying customers and the utilities should exercise those rights against the former customers who are responsible for the debt. (LICRG Additional Comments at 34—37).

The CAC urges the Commission to ensure that for purposes of the cash deposit prohibition, the operative threshold concern regarding whether a household is or is not "confirmed to be eligible for a customer assistance plan" is the household's income level. This clarification would create uniformity across the state and among utilities, all of whom have slightly different customer assistance plan eligibility criteria, but nonetheless all abide by the 150% of federal poverty income guidelines. The CAC also urges the Commission to clarify that it is the duty of the utility to inquire about a customer or applicant's income status prior to or at the time of the cash deposit request. To that end, the CAC suggests that the Commission require utilities to include the following language in the deposit warning letters: "If your total household income is at or below 150% of the Federal Poverty Guidelines, you are exempt from paying any security or cash deposit. Please call [the utility] at [Customer service telephone number] to provide documentation of your income for this purpose."

The CAC also believes that the Commission should modify § 56.36 to specify that there are separate procedures and standards for victims with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence. The procedures must also specify that any applicant or customer who is confirmed to be eligible for CAP will not be required to pay a deposit, and shall set forth the process in which the utility assures that no deposit will be required and the way the applicant or customer is advised of this policy, and of the right to contest an incorrect deposit request. (CAC at 6—9).

EAP believes § 56.32(d) requires further clarification. In the process of initiating new service for an applicant, utilities do not wait for the deposit to be paid in full before establishing service in the applicant's name—the applicant is typically asked to pay 50% of the deposit initially, with 25% of the deposit to be paid after 30 days and the remaining 25% to be paid after 60 days. It does not seem practical for applicants or utilities to wait until

the end of a 90-day billing cycle for the deposit to be fully paid in order to establish service. EAP opines that this Subsection as written does not leave much time for the utility to begin its collections process if the applicant misses one or more of the payments in the deposit installment sequence and accordingly suggests that language be added to Subsection (d) to permit utilities to initiate collection practices in the event the applicant fails to pay any portion of the security deposit as required.

EAP also believes that the Commission needs to define further how a customer is "confirmed to be eligible" for CAP and is concerned that the cash deposit prohibition as proposed may leave the door open for customers who orally claim they are eligible for CAP to get connected, but ultimately never follow up with income verification. To address this issue at the start of the application process, EAP believes customers should agree to apply for a CAP program, which requires customers to provide verifiable income documents or other information as is routine to determine eligibility or prove to the utility that their income has been verified through another means, such as receipt of state benefits, e.g., LIHEAP or SNAP. Alternatively, this concern could be addressed by adding a term of "confirmed eligible" with a definition as explained in their comments relating to § 56.2.

Regarding § 56.35, although no substantial changes to this section have been proposed by the Commission, EAP suggests clarification is needed to assist utilities in improving their overall collection results. This regulation presently prohibits a utility from requiring payment for residential services previously furnished under an account in the name of a person other than the applicant as a condition of initiating service again at the same address. While some "name game" loopholes have been closed under Subsections (1) and (2), situations still arise where relatives, friends, or other non-occupants look to secure service in their name for an otherwise delinquent or uncreditworthy premises resident. EAP recommends the addition of a new Subsection to § 56.35(b) which would permit a utility to require the payment of an outstanding balance if a property is still occupied by a prior customer who accrued an outstanding balance at the property for which service is requested and that a utility could establish that a customer still resides at the property through the use of mortgage, deed or lease information, field visits, landlord confirmation, or other methods as approved by the Commission. EAP opines that this proposed addition would help protect good paying customers by eliminating further loopholes used by other residential customers to avoid paying overdue balances and still maintain active service.

Regarding §§ 56.38 and 56.42(d), EAP is concerned that the proposed language "shall have up to 90 days to pay the deposit in accordance with Commission regulations" is vague. EAP suggests adding language to indicate that an applicant's deposit must be paid in full by the end of the 90-day period—that is, the 50/25/25 payments each made—or the utility's typical collection practices may begin. (EAP at 4—6).

Duquesne suggests that the Commission take this opportunity to update the Policy Statements at §§ 56.31 and 56.281 to include a broader scope of protections that have been afforded citizens of the Commonwealth in other areas. Specifically, Duquesne recommends that the Commission incorporate the language as set forth in Governor Wolf's Executive Orders, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth. This Executive Order provides that people should be given opportunities for employment and contracting "without regard to race, color, religious creed, ancestry, union membership, age, gender, sexual orientation, gender expression or identity, national origin, AIDS or HIV status, or disability." Duquesne notes that while the current Policy Statements in Chapter 56 do mention "race, sex, age over 18 years of age, national origin or marital status," they are notably silent as to gender, sexual orientation, gender expression or identity, AIDS or HIV status or disability.

Duquesne seeks clarification of the new provision in § 56.32 as to the obligations of the utility should the deposit not be paid, specifically asking if deposits are required to be paid 50% initially, with 25% due after 30 days and the remaining 25% due after 60 days. It is conceivable that while an applicant may pay the first 50%, they could miss one of the other two required payment deadlines and then the question arises of when a utility may begin its collection process. Duquesne supports a clarification for Subsection (d) that allows a utility to pursue termination for collection if any of the installments are not paid timely. Duquesne also suggests including language that will clarify that the responsibility for confirming a customer's eligibility for CAP resides with the utility, which would include third parties (like CBOs) that work on behalf of a utility. This proposed change is designed to ensure against scenarios where, for example, an outside third party confirms the customer's eligibility but fails to timely communicate such information to the utility or its designee. This change would not, however, prevent the utility from accepting a third party's determination as confirmation of the customer's eligibility, provided that the third party demonstrates the validity of its determination in a manner acceptable to the utility.

Similar to their concerns about timing contained in § 56.32(a), Duquesne notes that in § 56.38 an applicant has up to 90 days to pay a deposit, but the rule is silent as to whether that payment can be installments. Duquesne suggests that any provision for payment of a deposit in a 90-day period contain language setting out the payment terms, i.e., what is the maximum that can be demanded upfront, followed by direction on the remainder. Finally, Duquesne suggests that the language in § 56.302(4) be revised to remove the 24-month maximum deposit hold to be consistent with changes made in the remaining provisions of Chapter 56, which requires that deposits be held until a timely payment history is established. (Duquesne at 11—14).

PPL is concerned that § 56.32(d) can be interpreted to provide applicants the full 90 days to pay any portion of the deposit, which would be a significant departure from PPL's current practice, whereby they request that the applicant pay the deposit in three installments and then commences the service termination process if the applicant fails to make any of the installment payments. PPL proposes that the Commission revise the language to clarify that utilities may request that applicants pay their deposits in installments over the 90-day period and that utilities may initiate the termination process if the applicant fails to make any of the installment payments. Concerning Subsection (e) of this same regulation, PPL believes that the qualifier "confirmed to be eligible for a customer assistance program" means that the utility has confirmation that the applicant is indeed income-eligible for a customer assistance program. PPL submits that confirmation should either be by the applicant providing verifiable income documents to the utility or agents of the utility, or by the applicant providing verification that he

or she has been determined eligible for state benefits with income thresholds that are consistent with those of the utility's CAP. (PPL at 2—6).

FirstEnergy notes that neither Act 155 nor the NOPR defines the phrase "a customer that is confirmed to be eligible for a customer assistance program." They recommend that this phrase be interpreted by the Commission as a customer who has provided proof of income to the utility or the utility's third-party administrator of CAP indicating that the customer is income-eligible for the utility's CAP. In FirstEnergy's case, customers are confirmed to be eligible for CAP once they are screened by the third-party CAP administrator, currently the Dollar Energy Fund (DEF). As part of DEF's screening process, DEF requests proof of income information that enables DEF to determine whether the customer is income-qualified for CAP and if DEF concludes the customer is income-qualified, FirstEnergy will not assess a cash deposit. FirstEnergy opines that income verification is necessary to achieve Act 155 objectives—by including the phrase "confirmed to be eligible for a customer assistance program," the legislature plainly intends for utilities to use some form of income verification to determine if a customer is eligible for a cash deposit waiver. Accordingly, the Commission should modify §§ 56.32 and 56.41 to require customers to submit proof of income information to qualify for a cash deposit waiver.

Although the Commission does not propose any changes to § 56.35, FirstEnergy recommends modification to this section to further promote the intent of Act 155. FirstEnergy believes that one method that some customers use to avoid payment or termination for a high balance is by asking a friend or relative to apply for service at their address—and that upon further investigation, FirstEnergy determines that the prior customer who accrued the account balance continues to live at the property. Based on the Commission's current regulations, FirstEnergy is required to put service in the applicant's name with an account balance of zero and, where collection efforts are unsuccessful, it must write off the prior customer's balance as uncollectible. In December 2016, FirstEnergy began tracking the amount of dollars that is written off as a result of third-party applicants applying for service at locations where prior customers continue to reside. FirstEnergy projects that its aggregate annual uncollectible expense is increased by approximately $842,184 as a result of these instances. Accordingly, FirstEnergy recommends that the Commission combine § 56.35(b)(1) and (2), and add a new Subsection allowing a public utility to require the payment of an outstanding balance or portion of an outstanding balance if the applicant is applying for service at a property still occupied by a prior customer who accrued an outstanding balance at the property for which service is requested and that a public utility may establish that a customer still resides at the property for which residential service is requested through the use of mortgage, deed or lease information, field visits, landlord confirmation, or other methods approved as valid by the Commission.

FirstEnergy does not oppose the Commission's proposed changes to §§ 56.32, 56.38 but requests that the Commission provide further explanation regarding the payment requirements during this 90-day period. Specifically, FirstEnergy requests that the Commission affirm that this 90-day requirement is satisfied where an applicant is permitted to pay the deposit in installments of 50%, 25%, and 25%. FirstEnergy adds that its system is already configured to provide customers and applicants with the option of paying their deposit in three installments of 50%, 25%, and 25% with the approximate timeframe of the current installment plan is 90 days. FirstEnergy seeks to avoid the potentially significant costs and resources associated with updating its billing system to accommodate a new method for charging deposits.

Along these same lines, FirstEnergy seeks additional clarification regarding the Commission's proposed changes to § 56.32(d), stating that a public utility is not required to provide service where an applicant fails to pay a deposit within the 90-day period. To the extent the Commission interprets this 90-day period as consisting of three installment payments of 50%, 25%, and 25%, FirstEnergy requests that the Commission clarify whether the applicant would be subject to termination after failing to make a single installment payment, or whether the applicant would only be subject to termination after failure to pay the entire deposit by the end of the 90-day period. (FirstEnergy at 9—16).

FirstEnergy questions whether proposals to require repeated notifications to customers of the deposit exemption rules are necessary, as utilities do not seek to collect security deposits from customers confirmed to be low income. They note that such proposals would require FirstEnergy to make changes to its scripting such that significant increases to call handling time may occur. Currently, First Energy only discusses security deposit waivers if customers answer affirmatively when the customer service representative asks if they might qualify for low-income assistance programs. Providing security deposit waiver information to all customers, many of whom are ineligible for the exemption, is not an efficient use of utility resources. FirstEnergy also questions the need to amend § 56.53 to require utilities to refund security deposits within two billing periods after discovering that a customer's income is at or below 150% of federal poverty income guidelines as utilities already have an obligation not to hold security deposits for customers who are confirmed to be eligible for CAP. FirstEnergy opposes any security deposit waiver requirement based on a customer merely calling in to inform a customer service center that his or her income has fallen below 150% of federal poverty income guidelines—the customer must first provide confirmatory information to the utility regarding his or her income level. (FirstEnergy Additional Comments at 13—15).

Columbia supports the Commission's proposed new Subsection (e) to § 56.32, as it will align Chapter 56 with the legislative prohibition on requesting security deposits from those applicants and customers who are confirmed to be CAP eligible. Columbia suggests a further refinement so that confirmed CAP eligible customers under § 56.32(e) be defined only as those with household income that is verified through a third-party CAP enrollment agency or those who recently received a LIHEAP grant or those enrolled in the company's Universal Services Program. This would exclude customers who simply self-declare their income with the company while negotiating a payment plan, or any customer or applicant who was previously removed from the company's CAP program. Columbia suggests similar language be included in § 56.41.

Columbia agrees with the Commission's defined period of 12 consecutive months of on time and in-full payments in § 56.53(b), when describing a "timely payment history" for holding a residential security deposit. If the customer meets their obligation of achieving a "timely payment history" with the company, it is reasonable that the company refund or apply the deposit with interest at the end of the 12-month period. (Columbia at 3—6).

NRG proposes the addition of "billing entity" to the provisions in the regulations involving deposits. Adding "billing entity" to § 56.31 would require billing entities to employ equitable and nondiscriminatory policies in establishing and applying credit and deposit policies. Inserting "billing entity" throughout § 56.32 would obligate billing entities to follow the Commission's rules concerning deposits, deposit payment periods and customer information, and to establish a standard for finding that a customer or applicant has demonstrated satisfactory creditworthiness. However, NRG does not agree with the Commission's existing language requiring the use of a credit scoring methodology that specifically assesses the risk of public utility bill payment because a supplier in the SCB role would initially not have this information. Also, NRG submits that using a credit rating through a consumer reporting agency, as defined by the Federal Trade Commission, more than adequately protects customers and applicants from unfair creditworthiness standards and ensures the use of an unbiased and neutral criterion.

Further, NRG explains that inserting "billing entity" in § 56.38 would require billing entities to inform applicants of the option to pay deposits in installments and adding the same phrase throughout § 56.41 would permit billing entities to require existing customers to post a deposit to reestablish credit under specific circumstances and in a manner that is consistent with the Commission's rules. Including "billing entity" throughout § 56.42 would require billing entities to follow the Commission's requirements for payment period of deposits by customers. However, NRG proposes to revise the due date of the initial installment from 21 to 10 days. Given that the deposit is being required due to a delinquent account or a failure to comply with a payment arrangement, a billing entity should be permitted to collect the first installment within a reasonable period of time.

Adding "billing entity" to § 56.51 would permit a billing entity to require a cash deposit in an amount as specified herein and adjust the amount of the deposit in the event of a material change in service and including "billing entity" throughout § 56.53 would allow a billing entity to hold a deposit until a timely payment history is established. Inserting "billing entity" in § 56.56 would obligate a billing entity to provide a written statement regarding the application or refund of a cash deposit. Adding "billing entity" to § 56.57 would mandate that the billing entity accrue interest on the deposit until it is returned or credited, following the formula set forth herein and finally, including "billing entity" in § 56.58 would authorize a billing entity to either pay interest to the customer or apply it to the bills. (NRG at 16-17).

Concerning § 56.32, IRRC notes that this Section uses the phrase "in accordance with Commission regulations" and that this phrase should be replaced with a cross-reference to the specific Commission regulation that applies. Subsection (d), to be consistent with the statute, should include the phrase "or customer." Also, concerning the phrase " . . . within the time period under Subsection (a)," IRRC notes that some commentators questioned what a utility should do if the applicant fails to pay a scheduled portion of the deposit during the 90-day period. IRRC advises that the regulation should clarify whether failure to pay a portion of the deposit during the 90-day period would require the utility to continue to provide service or not. And Subsection (e), to be consistent with the statute, should include the phrase "or applicant."

Regarding § 56.38, IRRC has two concerns. First, a commentator questioned what a utility should do if the applicant fails to pay a portion of the deposit during the 90-day period. The regulation should clarify whether failure to pay a scheduled portion of the deposit during the 90-day period would require the utility to continue to provide service or not. Second, this Subsection is amended to reflect statutory language found at Section 1404(a). IRRC recommends that the PUC clarify the phrase " . . . in accordance with Commission regulations" so that it is clear which regulations apply.

Concerning § 56.42, IRRC notes that Subsection (d) is proposed to be amended so that it is similar to existing Subsections (b) and (c). Related to IRRC's comment on § 56.38(a), IRRC recommends rewriting Subsections (b), (c) and (d) due to four clarity concerns. First, as amended, the first sentence of Subsection (d) is not clear regarding who makes the determination that the deposit may be required in three installments. Second, the last sentence of Subsection (d) is also not clear regarding what specific due date applies. Third, noting this Subsection provides a customer with the option to pay the full amount, IRRC questions if that option can be exercised by a customer who fails to pay one of the three installment payments. Fourth, IRRC notes that the deadlines in the first sentence are stated as "billed upon determination by the public utility that the deposit is required," whereas the deadline in the last sentence is "the due date." IRRC recommends that the PUC clarify Subsections (b), (c) and (d) in conjunction with their comments on § 56.38(a) so that the final regulation is clear regarding who determines the method by which the deposit is paid, the due date for all payment options and what actions are triggered when a customer does not make a valid payment on any of the three installments.

IRRC has two clarity concerns with § 56.57 relating to what interest rate is applied and when. First, paragraph (2) provides the interest rate shall remain in effect "until the date the deposit is refunded or credited, or December 31, whichever is later." IRRC notes while it may not be the PUC's intent, December 31 by default will always be the later of the three dates. Similarly, if the interest rate on a deposit remains in effect until December 31, it is not clear at what date the accrual of interest on a deposit ends. Second, paragraph (3) states "the new interest rate for that year will apply to the deposit." The language of the regulation is not clear as to whether this is a different interest rate than the "interest rate in effect when the deposit is required," in Paragraph (2). While IRRC recognizes that paragraphs (2) and (3) reflect Sections 1404(c)(6)(ii) and (iii), it recommends that the PUC clarify in the final regulation what specific interest rate it intends to be applied in each circumstance. (IRRC at 3-4).

Discussion

Application and credit procedures and standards directly impact consumer accessibility to utility service. We recognize the need to find a balance between providing consumers access to utility service in a manner that is transparent, equitable and reasonable while also providing utilities with the tools they need to protect themselves and other ratepayers from the impact of uncollectible monies. We are of course guided in this by the General Assembly, while acknowledging that some of the finer points of these rules are not specifically addressed in Chapter 14.

IRRC, along with many of the parties, asked the Commission to clarify the reference to the "90 days" deposit payment period in Section 1404(a) and (h)—and the meaning of the phrase "in accordance with commission regulations" in these same Subsections. Does this

mean that a customer/applicant has 90 days to pay a deposit in full—regardless of any installment payment plan? Can a utility pursue termination for nonpayment of any deposit installment, regardless whether 90 days passed?

Part of the difficulty here is that the Commission's Chapter 56 regulations have never referred to a "90-day" period for paying a deposit. Historically, these regulations have, depending upon the circumstances, either required full immediate payment of a deposit—or permitted an installment plan of 50% as an initial payment; followed by 25% billed 30-days later; followed by a final installment of 25% billed 60-days later. The 50/25/25% installment plan, when factoring in 20-day due dates (see 56 Pa. Code § 56.21), does get you into the proximity of "90-days," but not exactly in most cases. Further, we note that historically, the deposit rules have not specified if failure to pay any deposit installment is grounds for termination. We note the comments of parties like PPL, Duquesne, and FirstEnergy who offer that their current practice is to treat failure to pay any deposit installment as grounds for termination.

While the parties raise many points in both sides of this matter, and arguments could be crafted to support either position, we point to the phrase "in accordance with Commission regulations" at Section 1404(a). It is reasonable to assume that the General Assembly was familiar enough with the Commission's regulations to know that the regulations allowed for some deposits to be paid in installments. It is nonsensical to have a regulation providing for installment payments if the customer is not required to pay an installment. We therefore agree with PPL, Duquesne and FirstEnergy and conclude that failure to pay a deposit installment by the due date is grounds for termination. To declare otherwise would be to basically declare that installments are not needed at all—which we think is contrary to what the General Assembly intended. Accordingly, we will insert language in §§ 56.32, 56.38, 56.42, 56.288 and 56.292 to the effect the installment payments must be paid timely and that failure to do so is grounds for termination.

Concerning the proposed prohibition on requiring deposits from customers that are CAP-eligible at § 56.32(e), OCA, LICRG and CAC ask us to clarify that this standard is referring to eligibility based upon the customer's household income—not on other miscellaneous eligibility criteria that can vary by utility. We agree with LICRG that it is unlikely that the nuances of each utility's CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. Also, as CAC points out, using household income to determine eligibility has the benefit of establishing a uniform, statewide standard that can be consistently applied. Accordingly, we shall insert "based upon household income" into §§ 56.32, 56.36, 56.41, 56.282, 56.286, and 56.291.

Regarding the concerns expressed about this same section by LICRG that it is eligibility and not actual enrollment into CAP that determines the customer's exemption from deposit requirements, we agree and point out that this section specifies "eligible," not "enrolled" or "participating." We think this language is sufficient direction that the customer only has to be "eligible" and not actually enrolled in CAP to be exempt from a deposit request.

Several parties, including EAP, PPL, FirstEnergy and Columbia ask that we address income verification procedures in the context of the use of the word "confirmed" in Section 1404(a.1). In using the word "confirmed" in this section, we agree with FirstEnergy that the General Assembly likely intended that a self-declaration of eligibility was insufficient to qualify for exemption from a security deposit—that there would be some sort of burden upon the customer or applicant to provide some sort of proof of eligibility. At the same time, we are sensitive to the concerns expressed by some of the parties that any such confirmation procedure not be overly complex or burdensome. We think proposals like PPL's, FirstEnergy's and Columbia are reasonable. Enrollment in CAP or household income data submitted to the utility (or the utility's agent) or information indicating eligibility for state benefits with income thresholds consistent with the CAP program should all be acceptable means of establishing eligibility for a security deposit waiver. We will revise §§ 56.32, 56.41, 56.282 and 56.291 accordingly with this guidance. Further, LICRG believes that it is critical that verbal notice of the exemption, as well as instructions for how to verify income, should be provided to applicants and customers at the time the security deposit is assessed. We agree that this guidance should be in writing and will include this in §§ 56.36 and 56.286. Regarding verbal guidance, we think this is already covered by the current requirements at §§ 56.36(2) and 56.286(2) that "utility personnel shall fully explain the credit and deposit procedures of the public utility to each customer or applicant for service."

Regarding the refund of security deposits, OCA asks that we clarify that the relevant time period concerning refunding a deposit is any 12 consecutive months. We agree and will insert "any" in §§ 56.53(b) and 56.302(4). LICRG asks that we order deposits to be refunded if upon later discovery it is determined that the customer has become income-eligible to have a deposit waived. While we acknowledge FirstEnergy's objection to such language as being unnecessary as utilities already have an obligation not to hold security deposits for customers who are confirmed to be eligible for CAP, we think there is value in inserting this in the regulation as to make it clear to all utilities, consumers and advocates. Accordingly, we will insert language to this effect in §§ 56.53 and 56.302.

Duquesne suggests that we update the nondiscrimination standards found in the Policy Statement at §§ 56.31 and 56.281. We agree that it is time to update these sections to reflect a broader scope of protections and will use Governor Wolf's Executive Orders, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth, as an example. Accordingly, we will add "color, religious creed, ancestry, union membership, gender, sexual orientation, gender identity or expression, national origin, AIDS or HIV status or disability" to §§ 56.31 and 56.281.

EAP and FirstEnergy asks the Commission to broaden who can be held responsible for utility service by expanding the definitions of customer and applicant in some contexts. They point to the "name-game" and how this possibly exacerbates uncollectible amounts. While we understand the concerns of these parties, we agree with LICRG that if the General Assembly had intended to broaden the scope of potential third-party liability, they would have done so while amending Chapter 14. Also, as LICRG points out, utilities maintain creditor rights and remedies against nonpaying customers and can exercise those rights against the former customers who are responsible for the debt.

IRRC, OCA and EAP recommend that the PUC clarify the phrase " . . . in accordance with Commission regula-

tions" in §§ 56.32 and 56.38 so that it is clear which regulations apply. We agree and will replace this phrase with references to the specific regulations addressing deposit payment time periods.

Regarding § 56.42, we agree to revise the first sentence of Subsection (d) to clarify that it is the utility that makes the determination that the deposit may be required in three installments. The last sentence of Subsection (d) will be revised to specify that the customer has the option to pay the deposit amount in full anytime within 90 days upon determination by the public utility that the deposit is required. We will specify that the customer can pay in full anytime during the 90-day period regardless of whether an installment has been paid or not. We also agree to revise §§ 56.38, 56.42, 56.288 and 56.292 to clarify it is the utility that makes the determination that the deposit may be required in three installments and that the customer has the option to pay the deposit amount in full.

To clarify the applicability of the various sections, we note that in general, §§ 56.32, 56.35 and 56.38 apply to applicants; while §§ 56.41 and 56.42 apply to customers. We have revised the terminology in these sections accordingly.

Finally, in reference to IRRC's concerns with § 56.57 relating to which interest rate is applied and when, we acknowledge that the language is open to various interpretations. However, as IRRC points out, the language is from the statute. Accordingly, any changes or additions to this language must not change what was intended. We think it is reasonable to conclude that what the General Assembly intended in Section 1404(c)(6) is to establish a variable interest rate—a rate that changes every January 1. A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of that calendar year (December 31). Then on January 1, a new interest rate is determined, and that is the rate that will be applied to the deposit for the calendar year starting January 1 until December 31 of that year, and so on until the deposit is refunded or applied to the account. Accordingly, we propose adding language to §§ 56.57 and 56.306 that will provide some additional guidance (in **bold**) without changing the intent of this section:

(2) The interest rate in effect when the deposit is required to be paid shall remain in effect until the date the deposit is refunded or credited, or December 31, whichever is later. **A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of the calendar year.**

(3) On January 1 of each year, the new interest rate for that year will apply to the deposit. **The new interest rate will be applied to the deposit for the calendar year starting January 1 until December 31 of that same year. Revised interest rates are calculated every subsequent January 1 and applied to the deposit until the deposit is refunded or applied to the account.**

Termination Procedures

§ 56.82. Timing of Termination.

Section 1406(d) now only allows a utility to terminate service (for the grounds found at 1406(a) (relating to authorized termination)) Monday through Thursday. We proposed revising § 56.82 to align with this new restriction.

The OCA supports this revision as the language is consistent with Section 1406(d). (OCA at 12).

Discussion

The OCA supports the proposed language and no parties were opposed.

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

We proposed revising the information directed to customers on written 10-day termination notices in Subsection (b)(11) to include notice to customers that, pursuant to Section 1417, the special protections available for victims under a protection from abuse order are now also available to those customers with a court order providing clear evidence of domestic violence and issued by a court of competent jurisdiction in this Commonwealth.

OCA generally supports the addition of this language but submits that a stakeholder group should be convened to clarify ambiguities in the language relating to victims of domestic violence. (OCA at 12).

PECO notes that the new statutory and regulatory language—a court order that "provides clear evidence of domestic violence"—is sufficiently broad that PECO does not expect to be able to immediately proceduralize its determination of whether a proffered court order provides the needed "clear evidence." (PECO at 2).

PGW notes that § 56.11(b)(3) allows the electronic transmission of termination notices when the customer has affirmatively consented to this method of delivery and that the Commission proposes to add language recognizing the availability of electronic notice and to add a new § 56.93(a)(3) to provide further information about the permissible electronic notice options. However, § 56.91 does not reference the availability of electronic notices. PGW recommends that the Commission consider one of two options: (i) add language referencing § 56.11(a)(3) into § 56.91(a); or, (ii) add language from the newly proposed § 56.93(a)(3) into § 56.91. (PGW at 2).

Discussion

We agree with the OCA that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer's status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups exploration of these issues.

In their comments, PGW asks the Commission to add language at § 56.91 mentioning the electronic transmission of the 10-day termination notice. They note that § 56.11(b)(3) does allow this with customer consent. However, even with the customer's consent, we decline to create a regulation in which the issuance of an electronic 10-day termination notice would be the only means of communicating this notice. We believe electronic 10-day termination notices may complement the normal process—not replace it. We will retain the current language

at § 56.11(b)(3) that makes clear that the utility must still mail a 10-day notice regardless of electronic provision of the same.

To maintain consistency with the terms used in the Emergency Provisions at §§ 56.111—56.118, we will change the reference at § 56.91(8) from "serious illness notice" to "medical certificate notice."

§ 56.93. Personal contact.

We proposed revising this section to provide for the optional use of electronic messaging for providing three-day personal notice of termination, per Section 1406(b). We invited comments on the privacy protections and customer consent practices that should be required in the context of electronic messaging. See 66 Pa.C.S. § 1406(b)(1)(ii)(C) and (D).

Amended Chapter 14 referenced the Commission's privacy guidelines at 66 Pa.C.S. § 1406(b)(1)(ii)(D) (relating to notice of termination of service) that emails, text messages or other electronic messaging must be consistent with the Commission's privacy guidelines. In the NOPR, we asked for comments addressing what should be included in the Commission's privacy guidelines (NOPR at 4). We note that the privacy guidelines would be relevant to §§ 56.93 and 56.333 (relating to personal contact). In the NOPR, the Commission proposed changes to these two sections of Chapter 56, simply referencing "the Commission's privacy guidelines," but not explaining what they are.

Several parties offered suggestions on this topic. For example, OCA noted that the Commission does not allow the release of telephone numbers for any purpose and asked that the same treatment should be provided for e-mail addresses, numbers used for text messaging, etc. and that the data submitted to the public utility for purposes of personal contact should not be shared with third parties. (OCA at 2-3). The Joint Commentators and LICRG suggested that these guidelines be codified in the regulation and that written, informed consent be required and that this consent be refreshed periodically along with a provision allowing the customer to revoke consent at any time. (Joint Commenters at 22—24; LICRG at 27—31).

In contrast, EAP opined that guidelines, not regulations, are the best "path forward into a future where technology and the related privacy issues are ever-evolving." (EAP at 9). EAP adds that the Commission has existing privacy regulations at §§ 54.8 and 62.78 but notes that these specific regulations are in the context of customer choice. (EAP at 7-8). PPL submits that Chapter 14 requires that the utility get affirmative consent to use a particular form of electronic communication and as such, the Commission's proposed § 56.93(a)(3) captures the consent policy that utilities must comply with to use this method of communication in this context. Further concerning privacy, PPL recommends stakeholder discussions to identify best practices. (PPL at 6-7). Some parties noted that any requirements must also take into account other laws like the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227 (relating to restrictions on use of telephone equipment). (Aqua at 4-5).

Duquesne proposes that, similar to proposed § 56.93(1) and (2), guidance be given in regulation to enumerate what frequency satisfies "an attempt" for electronic messaging format. For example, in § 56.93(1), "Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence. . . . " Similarly, § 56.93(2) states that "If contact is attempted in person by a home visit, only one attempt is required." As proposed, however, § 56.93(3) only explains the ability of electronic messaging format and the requirements to obtain consent—it is silent on what is considered an "attempt."

As a proposed remedy, Duquesne suggests that the language in § 56.93(3) be revised as follows (see bold):

> (3) **Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. In the event the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.** Contact by email, text message or other electronic messaging format consistent with the Commission's privacy guidelines and approved by Commission order. The electronic notification option is voluntary and shall only be used if the customer has given prior consent approving the use of a specific electronic message format for the purpose of notification of a pending termination.

(Duquesne at 14-15).

IRRC questions how contact must be made if it is discovered an email address or text message connection is no longer valid. If the electronic contact is not successful, should the personal contact requirement revert to contact in person or by phone? IRRC asks the PUC to clarify in the regulation how a valid personal contact can be accomplished if the electronic contact is not successful. (IRRC at 6).

Discussion

It is also apparent from the comments that there are number of concerns related to this topic, including what type and form of consent is needed; the duration, expiration and revocation of consent; and the use and sharing of the contact information provided. However, we agree with EAP's suggestion that we not be overly prescriptive or detailed in the regulations, given ever-changing technology.

We also cannot ignore that the General Assembly referred to "guidelines," not "regulations" in Section 1406(b)(1)(ii)(C). This same section also refers to "approved by [C]ommission order." It is reasonable to assume that the General Assembly envisioned the development of guidelines that would be ratified by a Commission Order. Accordingly, we propose addressing this topic in a separate, but related, proceeding. We intend to use the comments submitted to date to propose, in an upcoming Tentative Order, privacy guidelines for Section 1406(b)(1)(ii)(D) (relating to notice of termination of service) and §§ 56.93 and 56.333.

In response to IRRC's and Duquesne's concerns about what should occur if an electronic contact attempt is not successful, we think Duquesne's proposed language has merit—

Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. In the event the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.

§ 56.94. Procedures immediately prior to termination.

We proposed revising paragraph (3), addressing procedures for handling dishonored payments in the context of the termination process, to align with Section 1406(h) (relating to termination of utility service) that termination of service may proceed if a customer tenders payment electronically that is subsequently dishonored, revoked, canceled or is otherwise not authorized and which has not been cured or otherwise made full payment within three business days of the utility's notice to the customer.

Aqua fully supports the Commission's proposed amendment to these sections to deter customers from attempting to avoid termination (or to have service reconnected) when there are insufficient funds available for the payment submitted. The proposed amendments do provide a valuable collection tool for the utilities. (Aqua at 5).

FirstEnergy disagrees with the Commission's proposed revisions to § 56.94 relating to the termination procedures for customers whose payments are subsequently dishonored. The Commission's proposed removal of the language "without additional notice" from § 56.94 is improper. The corresponding language within Section 1406(h) is still present and, therefore, the legislature did not intend for the removal of this language. In addition, utilities should not be required to provide an additional notice pursuant to § 56.93 as a result of a dishonored payment. As long as the § 56.93 notice includes reference to both the termination and the dishonored payment, no additional notice should be necessary. If the customer then does not cure the dishonored payment within three business days of the § 56.93 notice, termination may occur. To the extent utilities discover a dishonored payment after the § 56.93 notice was given, utilities would provide an additional notice regarding the dishonored payment allowing the customer an additional three business days to cure the dishonored payment before termination. Moreover, utilities may choose to provide separate notices regarding termination and the dishonored payment, but they should not be required to provide an additional notice regarding the dishonored payment. (FirstEnergy at 16—18).

The OCA supports this revision as it accurately reflects Chapter 14. (OCA at 16).

IRRC asks that since "contact by email, text message, or other electronic messaging format" was added to § 56.93(3), paragraph (3) of § 56.94 should be amended to include all contact methods in § 56.93(a). (IRRC at 5).

Discussion

FirstEnergy is correct, we did propose removing "without additional notice." We believe this provision is somewhat ambiguous in that the use of an "access device" under Subsection (3)(ii) can be viewed as being electronic in nature. It does not appear to be reasonable for the ability to cure an electronic payment within 3 business days to not apply when a customer tenders a payment which is subsequently dishonored, or when a customer tenders payment with an access device. As a practical matter, making a distinction would not necessarily help utilities, and would be confusing for customers. This may also be difficult for utilities to implement. But based on the comments raised by the parties, we agree to revise § 56.94 to clarify that termination may proceed without additional notice except as noted in § 56.94(3)(iii) in which the public utility will provide notice to the customer of the dishonored payment.

We agree with IRRC's suggestion and we will remove the word "telephone" to provide clarity in reference to § 56.93.

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

We proposed revising Subsection (a)(3) to require utilities to provide universal service program information to consumers upon contact from a consumer during the termination process pursuant to Section 1410.1(1) and (2) (relating to public utility duties).

EAP, PPL, and FirstEnergy do not believe it is appropriate to require utility employees to provide information on universal service programs to all customers in the termination process. Universal service program eligibility is limited to those with specific incomes. Having to explain universal service programs to all utility customers, regardless of income, would be overly burdensome, time-consuming, and ultimately prove confusing for customers who learn of these programs and are ultimately ineligible to participate. EAP recommends that this language be amended to require utilities to provide information on universal service and customer assistance programs only to those customers the utility knows or reasonably suspects to be low-income or customers who affirm their income would qualify them, or to allow for discretion by utility staff rather than a mandate. (EAP at 10; PPL at 7; FirstEnergy at 18).

OCA supports this revision as it provides consumers with valuable information regarding universal service programs during the termination process. (OCA at 16).

EAP, PPL, and PGW suggest removing the words "authorized," "personnel," and "employee" from this Subsection in order to allow for automated or self-service options. While customers would always be free to contact the utility to get more information about the termination process, some customers may prefer to receive this information via automation either over the phone or the internet. Having to talk to a live utility employee may feel intimidating to those customers who are under threat of termination; additional flexibility in this circumstance would be beneficial. To that end, EAP suggests a similar removal of the phrase "through its employees" from § 56.97(b), as many utilities also have the means to help customers establish payment arrangements via their website or other secure, automated methods. Again, this modification would not remove the option for customers to speak directly with utility customer service employees if they choose, but rather broaden the options for customers by removing the present limitation of person-only methods.

EAP recommends a similar change be made under § 56.97(a)(3) relating to the requirement to provide information about the utility's universal service programs. A broad spectrum of utility customer service employees are trained and equipped to explain and enroll applicants and customers into universal service programs, not only the program administrator. EAP believes that more than one "administrator" (by title) at each company is equipped to explain and enroll customers in universal service programs; EAP does not believe it is the Commission's intention to direct all such calls to one utility employee. Accordingly, EAP recommends striking this requirement from the Commission's proposed language. PGW requests that the Commission add additional definitional language regarding who can act as a company's universal service program administrator so as to better serve customers. (EAP at 9—11; PPL at 13—15; PGW at 2-3).

Discussion

The statute at Section 1410.1(1) is clear that public utilities shall provide information about universal service programs, including customer assistance programs to customers or applicants who contact a public utility to make a payment arrangement. If the General Assembly wanted information about universal services programs to only be shared with low-income customers, they could have so said. Instead, all customers or applicants who contact a public utility to make a payment arrangement should be provided information about the universal services program. If during the conversation the customer states they are not interested in additional information about universal service programs or the utility becomes aware the customer is not eligible, the utility is not obligated to go into detail. We will keep our proposed language.

We agree with the parties who suggest removing the word "authorized employee" and "through its employees" from this Subsection in order to allow for automated or self-service options. The Commission has granted utilities waivers of § 56.97(a) so that customers could have the option of using an automated interactive voice response (IVR) system to make payment arrangements or establish payment arrangements online. PPL reported that in 2016 it established 119,882 payment arrangements using the IVR and 25,599 payment arrangements using the web. In addition, 25,735 service terminations were prevented because residential customers used the self-serve system. PPL also reported that it received 13 PUC informal complaints regarding the use of the website or IVR.[14]

PECO reported that in 2017 it established 18,948 payment arrangements through their IVR. This is a slight decrease from the 22,239 payment arrangements established through the IVR in 2016. PECO reported that there were zero PUC informal complaints filed regarding the use of the IVR to establish payment arrangements in 2016.[15]

Regarding the "universal service program administrator" language, we do not think it is necessary to put this into the regulation. We do not expect utilities to refer customers or applicants to a single individual to determine eligibility for a program or to apply for enrollment in a program. A universal service program administrator can be a utility employee, representative of the utility, or a community-based organization employee who is trained to determine eligibility and provide enrollment information. We will also revise §§ 56.97(a) and 56.337 to allow for automated or self-service options.

§ 56.100. Winter termination procedures.

We proposed revising Subsection (i) to clarify that the February update of the survey of households without heating service in the winter is to include households terminated in December. Commission staff and utilities have encountered questions about this requirement because the current language is unclear on this point. By failing to include any December terminations, the survey result reported by utilities on February 1 is not a complete picture of the households without utility service in the winter. This proposed revision is intended to correct that possible problem.

PPL submits that landlord ratepayers are only covered by the winter termination provision of Chapter 14 if the household's income is at or below 250% of the Federal poverty level, and Chapter 14 explicitly provides that the Commission shall not prohibit a public utility from terminating service to customers with household incomes exceeding 250% of the Federal poverty level. PPL proposes that § 56.100(f) be revised to align with Chapter 14 as part of this rulemaking. FirstEnergy states that landlord ratepayers generally do not qualify as low-income customers, and therefore receive a benefit that is unavailable to all other customers. FirstEnergy has previously encountered challenges collecting payment from landlord ratepayers and this prohibition against winter termination for nonpayment permits landlords to further postpone payment and increase their arrearages. (PPL at 16; FirstEnergy at 22).

FirstEnergy also recommends that the Commission combine the December 15 and February 1 reports into a single report and modify the submission date for the report to January 15. This report would include survey results for all customers with heat related service who were terminated in the prior year. They further propose that utilities be permitted to conduct the survey in person, by telephone, by mail, or electronically, where authorized by the customer. Where utilities do not reach the customer using one method of contact, they will reach out to the customer via a different method of contact. (FirstEnergy at 21-22).

The OCA supports the Commission's proposed clarification as it helps to ensure that all households without heating service during the winter are appropriately accounted for in the Bureau of Consumer Services' report. (OCA at 17).

Discussion

FirstEnergy is proposing one survey that would be due in January and would include the December terminations. We are concerned about the elimination of the re-survey of customers that now occurs in January with the results due to the Commission on February 1. By eliminating the re-survey, there will be no way of knowing how many households restored their utility service. Therefore, we are going to keep our proposed language.

PPL and FirstEnergy propose that a public utility be permitted to terminate service to landlord ratepayer accounts during the period of December 1 through March 31. However, we are concerned that utilities have no way of knowing the income level of the tenants involved in landlord ratepayer accounts. It is then possible that low income tenants could be terminated while the law clearly prohibits the termination of low-income customers after November 30 and before April 1. As such we are rejecting this proposal.

§ 56.100(j). Reporting of deaths at locations where public utility service was previously terminated.

LICRG submits that the language limiting public access to information about deaths occurring where utility service had been terminated should be removed. It is clearly in the public interest in protecting the health and welfare of Commonwealth residents (neighbors as well as the customers and building occupants) that any structural or systemic failures or gaps in protecting the impoverished and other vulnerable populations are revealed. These may be related, for example, to the functioning of the service termination protections provided during the winter, to the processing of medical certificates, to the functioning of universal service programs,

[14] See Petition of PPL Electric Utilities Corporation for Waiver of 52 Pa. Code § 6.97(a) to Allow Customers to Establish Payment Agreements Online or Through an Automated Interactive Voice Response System. Docket No. P-2012-2327036. (Public Meeting December 22, 2016).

[15] See Petition of Peco Energy Company for a Temporary Waiver of 52 Pa. Code § 6.97(a) to Allow Customers to Establish Payment Agreements Through an Automated Interactive Voice Response System. Docket No. P-2015-2467894. (Public Meeting April 9, 2015).

the winter cold weather survey effectiveness, or to some other attempt to assist customers in maintaining service and public health and safety. Disclosure of fatalities following from the loss of utility service would help the Commission and interested stakeholders evaluate the possibilities for new interventions and universal service enhancements that can benefit low-income customers and avoid catastrophe. Accordingly, § 56.100(j) should be removed. (LICRG at 43—46).

In their additional comments, FirstEnergy opposes LICRG's request to make § 56.100(j) reports public. FirstEnergy believes that public availability of this information would constitute a violation of the Public Utility Code, Pennsylvania's Right-to-Know Law, and Commission precedent and regulations, as well as raise a host of public policy concerns. Section 56.100(j) reports are a subset of the reporting obligations required under 66 Pa.C.S. § 1508 and Section 1508 reports "shall not be open for public inspection, except by order of the commission, and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in such report." Accordingly, the same restrictions should apply to § 56.100(j) reports.

Additionally, the Right-to-Know Law bars disclosure of utilities § 56.100(j) reports to the public. Utilities prepare § 56.100(j) reports based on an internal investigation. When the Commission receives these reports, the Commission will review the reports and possibly seek additional information from utilities. Under the Right-to-Know Law, Pennsylvania agencies are prohibited from disclosing to the public any record related to a noncriminal investigation including "investigative materials, notes, correspondence and reports. . . . " Further, public availability of § 56.100(j) reports would raise significant customer privacy concerns. FirstEnergy, per Commission regulations, does not disclose a customer's name, address, phone number, account number, billing history, usage history, and status of termination or reconnection to any third party without that customer's consent. When a utility submits a report to the Commission pursuant to § 56.100(j), the entire report consists of customer-specific information. If the public may access this report, any third party would have access to this private customer information. (FirstEnergy Additional Comments at 16—19).

Discussion

We acknowledge the concerns expressed by the LICRG and the desire to make this reporting requirement public, but we decline to do so. 66 Pa.C.S. § 1508 specifically states that the report is not open for public inspection except by an order of the Commission and that the report is not to be admitted in evidence for any purpose in any damages action. In addition, as FirstEnergy notes, disclosing this information would likely result in divulging private customer information without the knowledge or consent of the customer and/or other individuals involved in the event.

MEDICAL EMERGENCY PROVISIONS

§ 56.111. General provision.

The revised Chapter 14 now includes a definition of medical certificate at Section 1403, so we proposed to remove the definitional information from § 56.111 and place it in the definitions at § 56.2. We also referred to physician assistant in addition to physician and nurse practitioner in order to align with the new definition at Section 1403.

EAP does not agree with the proposed removal of the present language in this section. EAP believes that the current medical certificate protection does apply to primary or permanent members of the customer's or applicant's household; and that this protection should continue to be limited to residents of the customer's household, such as children, other relatives, or roommates for whom the utility address is also their primary residence. EAP believes this limitation will help to protect those with serious medical conditions and their families as well as prevent medical certificate fraud or abuse that could occur if a medical certificate is submitted on behalf of a person not residing at the service address. EAP also believes a qualifier is needed in the Commission's proposed amendatory language to further protect all customers from potential medical certificate abuse. To address these concerns, EAP recommends the following addition (in bold) to the Commission's proposed language:

> 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 customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) has submitted **an accepted** medical certificate to the public utility for him or herself **or a permanent member of the customer or applicant's household.** The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician, [or] nurse practitioner or physician assistant 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.
>
> (EAP at 11-12).

While PGW recognizes the intent of the Commission in proposing to eliminate some of the definitional language in this section, they believe doing so removes some clarity from the regulation and could have a broader negative implication. The elimination of the language arguably removes the tying of the medical condition to "the customer's or applicant's household" at which the utility is seeking to terminate or refusing to restore service. The language as it currently exists states that the utility may not terminate or refuse to restore service "to a premises when" a medical professional has certified that "the customer or applicant seeking the restoration," or a member of the household, satisfies the medical condition requirement. PGW believes that it is clearly the intent of the Commission that the customer with the medical condition reside at the premises for which the utility is seeking to terminate service or refusing to restore service and that maintaining the current language would clearly uphold this requirement.

Another concern PGW has with the removal of the current language is that it eliminates the requirement that the health practitioner must verify the condition. The language that the Commission proposes to remove specifically states that that the termination stops when a qualifying professional verifies that the customer or applicant satisfies the medical emergency requirements. Re-

moving this language and replacing it with the proposed language could be read to mean that upon the production of a medical certificate to the utility, it is prohibited from terminating service or refusing to restore service. However, an incomplete medical certification or one not certified by the qualifying professional should not require the utility to forestall an otherwise valid termination of service. Accordingly, PGW supports maintaining the current language of § 56.111 as written, with only "physician's assistant" being added to the list of providers who can certify that the customer or applicant satisfies the medical emergency criteria. (PGW at 3-4).

PPL supports the Commission's objective of balancing the needs of customers who have serious medical conditions with the needs of utilities in managing their overdue receivables but believes that additional revisions are necessary to best reach this balance. PPL recommends that this section reference § 56.114, which addresses the time frames and renewals of medical certificates and that medical certificates be submitted by the medical professional who issued the medical certificate. PPL reports that, in their experience, having the medical professional send the medical certificate directly to the utility is the quickest method of obtaining the medical certificate, which benefits the customer. Moreover, by requiring the medical certificate to be submitted directly from the medical professional, utilities would also have better protection against attempts to misuse medical certificates.

PPL also recommends retaining the "definitional information" that the Commission proposed to remove in the interest of clarity. PPL also proposes that this section specify that the medical certificate is only applicable if it is for a primary residence. Additionally, since this provision applies to applicants, as well as customers, the provision should state that utilities may not refuse to "establish" service when a valid medical certificate is submitted. Accordingly, PPL offers the following revisions:

> Provided the customer or applicant has not exceeded the medical certificate allotments, as outlined in § 56.114, [A]a public utility may not terminate service, or refuse to restore or establish service, to a premise[s] when a physician, [or] nurse practitioner, or physician assistant has submitted a valid medical certificate. The medical certificate must certify that the customer, applicant, or member of the household, whose primary residence is at risk for service termination, or has been terminated, [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, or physician assistant 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.

(PPL at 8-9).

OCA submits that the revision in § 56.111 creates different treatments in very similar circumstances for a seriously ill customer; it can now be read to require the receipt of a written medical certificate to restore service, while § 56.112 continues to allow for an oral declaration of a serious illness or medical condition in relation to termination of service, but it does not apply to restoration of service. By way of example, if a utility customer is told by a doctor that a vital medical device requires the restoration of the customer's utility service, the doctor or a nurse practitioner could inform the utility that the customer requires utility service for their medical needs and that a medical certificate will be submitted within the next 3 days. In this example, the customer's utility service is off and a medical professional is informing the public utility that the utility service is needed. Under the current § 56.111, utility service would be restored for the utility customer while the medical certificate is being sent to the public utility. Under revised § 56.111, the utility customer's service would not be restored. While the OCA supports the revised regulation insofar as it now includes physician assistants, the OCA submits that the § 56.111 should clearly state that service must be restored for at least 3 days if a 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 provided. (OCA at 17—19).

Discussion

While we think the concerns with removing the definitional language from this section and placing it in a new definition at § 56.2 are overstated in that this would not have changed the substance of the rules—we do accept that for clarity and ease-of-use purposes that the current language in § 56.111 should be maintained. Accordingly, we will keep the current language as suggested by PGW—while adding appropriate references to "physician assistants." We decline to include references to other rules as requested by PPL as being unnecessary. We also decline to insert "establish" in this rule because while PPL is accurate in that this rule can apply to "applicants," it only applies to applicants seeking "restoration" of service under § 56.191, not "establishment" of new service.

§§ 56.112—56.118. Emergency Medical Provisions.

LICRG supports the Commission's determination that a medical certificate does not need to be on a prescribed form and recommends that the Commission consider adopting a form that utilities could implement as a safe harbor that complies with the requirements of § 56.113. They believe, based on what they have heard from medical providers, that if there were a form that was available for download either on the utilities' or the Commission's website, it could facilitate the provider's ability to issue medical certificates. A standard, statewide form would allow providers to feel more knowledgeable about the medical certificate process and would allow for easy access for busy medical professionals.

LICRG submits that, given that medical professionals may determine that a chronic or life-threatening illness is anticipated to extend beyond a period of 30 days, it is appropriate to provide for the certification of a medical need for service that corresponds to the affliction. Obtaining a medical certificate is not easy and requires customers to expend their limited financial resources every 30 days to pay expensive co-pays, secure transportation and childcare, and take time away from work to attend a medical appointment. For someone with a short-term condition which is likely to improve, the shorter timeframe may be reasonable; but for those with a chronic illness, the arbitrarily imposed 30-day limitation may have no relation to the underlying illness or condition.

Accordingly, LICRG asserts that the regulations should be further revised to clarify that, although a medical certificate shall be effective for a minimum of 30 days, in the cases in which the medical practitioner indicates the anticipated length of the affliction to be greater than 30 days, the length of the protection provided should correspond to the length of the affliction. In the event of a serious illness without specific ending date, the duration of the medical certificate protection should be extended for a period of up to 6 months. (LICRG at 34—37).

LICRG supports the Commission's long-standing interpretation of §§ 56.114 and 56.116, which allows households to renew a medical certificate for as long as is medically necessary provided the customer pays their current charges or budget bill amount as it comes due, irrespective of any arrears on the account at the time the medical certificate is first obtained. If customers were required to pay more than current, undisputed charges, the purpose of medical certificates and renewals would be thwarted. They note that the ability of a customer to maintain service beyond a limited period (one medical certificate and two renewals) is only available if the customer compensates the utility for the cost of service rendered during that period. LICRG believes this appropriately balances the needs of the customer and the utility by avoiding the accumulation of additional arrears while protecting the customer. (LICRG at 38-39).

While opponents of the Commission's longstanding medical certificate rules may submit that the Commission lacks the authority to authorize a customer to continue service using medical certificates, and that doing so somehow overreaches the statutory limitations on payment arrangements, LICRG asks that such assertions be dismissed. The limitations on the Commission's ability to grant payment arrangements are separate and distinct from the obligation of a utility to continue service when a medical certificate has been issued. A medical certificate is intended to interrupt the termination-collection path, while a payment arrangement is intended to supersede it. Requiring customers to make payments on arrears during a period covered by a medical certificate, would, in fact appear to create some form of payment arrangement which could potentially implicate the provisions of Section 1405 (limiting the availability of Commission-granted payment arrangements). LICRG also cites the Commission's recent rejection of such a proposal (See PECO Energy Co. Universal Service and Energy Conservation Plan for 2016—2018 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Final Order, Docket No. M-2015-2507139, at 20-21 (Aug. 11, 2016)). (LICRG at 31—41).

LICRG objects to claims that medical certificates are sometimes used by customers as a tool to avoid termination where the customers are not truly suffering from an illness, as utilities cannot make judgment calls pertaining to whether an individual is or is not "truly suffering from an illness." The Commission should pay no heed to unsubstantiated assertions by utilities that cannot be reliably demonstrated, and the Commission should be careful to not conflate actual, documented fraud with the utilities' frustration in serving vulnerable consumers with complicated lives and unique hardships. Accusations of fraud can have far-ranging consequences on the accused and can impact the household's ability to maintain utility service. To prove fraud, there must be evidence that an individual intentionally misrepresented fact which caused the utility to act in a manner that causes damages to occur. As such, the Commission should reject attempts by utilities to relax long-standing rules of law governing the elements of fraud, whether in the context of medical certificates, the 4-year rule, or otherwise. (LICRG Additional Comments at 6—8).

LICRG declares that § 56.112 prescribes the procedure for obtaining a medical certificate and does not attempt in any way to change the scope or definition of a medical certificate. Thus, this section remains wholly consistent with the language and intent of Chapter 14. Further, they assert that the procedure for obtaining medical certificates set forth in § 56.112 should not be eliminated or shortened but should instead be extended to account for the logistical barriers facing medically vulnerable households. (LICRG Additional Comments at 8—10).

LICRG urges the Commission to reject attempts to further complicate the medical certificate form requirements, including the inclusion of licensing information on all certificates, and a requirement that a medical certificate be produced on letterhead of the certifying medical professional. This would impede access to medical certificates particularly from nurse practitioners and physicians' assistants who may not have access to or authorization from a medical practice to utilize its letterhead. LICRG alleges that the utilities' positions are based entirely on unsupported claims of rampant fraud and abuse—while noting that there is no consistent view on these issues by the utilities themselves. For example, while some claim that making a medical certification form available online would encourage fraud, others have already made the form available electronically. In addition, the Commission should consider the burden that imposition of additional medical certificate requirements could impose on the medical community. The utility proposals to add additional requirements to the certification process fail to appreciate the harm that could result if providers are dissuaded from completing medical certificate forms due to additional form requirements.

LICRG agrees that households are often confused about the payment requirements for a medical certificate. They believe this confusion is understandable, given consumers most often receive unclear, incorrect, or misleading information from their utilities about the payment obligation for medical certificate renewals. The information available on bills and termination notices is frequently inadequate and provides insufficient detail for customers to clearly understand their payment obligations. LICRG asserts that the Commission should enhance the notice requirements to include clear information about the current payment requirement when a household obtains an initial or renewal medical certificate.

LICRG notes the arguments some parties raise to the effect that the regulations lack clarity regarding the relationship required for medical certification protections to apply; i.e. they should be limited to "permanent" household members. LICRG points out that Chapter 14 clearly defines a medical certificate as: "A written document. . .certifying that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition." There is no requirement that the household member be a "permanent" member of the customer's household. (LICRG Additional Comments at 6—15).

The Joint Commenters assert that the Commission's proposed revisions to § 56.113 strike the correct balance and provide necessary information without being unduly intrusive on a utility customer's privacy regarding their health status. However, the Joint Commenters oppose inclusion of a certifying professional's license number on a

medical certificate because requiring a medical professional to provide their license number on a medical certificate implies a level of personal liability and is likely to deter medical professionals from assisting patients. Medical license information is available to the public through a simple search, which utilities could easily refer to if they question the authenticity of the certificate.

Regarding the "form" requirement, the Joint Commenters agree with the Commission that no specific form should be required to be used if all the relevant information is presented by the medical professional. Flexible form requirements, which specify required content as opposed to dictating format, are critical to ensure that medically vulnerable Pennsylvanians can access timely relief. Nonetheless, they believe that there is inherent value to having a standard, voluntary, statewide form that is universally available and immediately recognizable to utilities, consumers, and medical professionals. The Joint Commenters report that a lack of clarity about the medical certifications has led several of the largest healthcare systems to prohibit physicians from issuing medical certificates for their patients—resulting in many of their clients being unable to obtain the protection from imminent termination afforded by the Legislature. Upon the conclusion of this rulemaking, the Joint Commenters recommend that the Commission institute a collaborative work group of interested stakeholders and staff from the Commission's Bureau of Consumer Services and Communications Department to develop a single, voluntary, standardized form. The form should include brief, plain language instructions and information for the certifying professional and the protected customer which explain the rights, duties, and obligations conferred by a medical certificate.

Concerning § 56.112, the Joint Commenters assert that three days is often insufficient to allow a medically vulnerable consumer adequate time to make an appointment with their medical professional, obtain a certificate, and provide it to their utility. They cite reports and surveys that show an average wait time of 21 days in the City of Philadelphia. The average wait-time is exacerbated even further for low income populations who rely on assistance from Medicaid because not all healthcare providers accept Medicaid. The Joint Commenters also point to studies indicating that healthcare shortages in Pennsylvania are wide-spread; portions of 65 of the state's 67 counties, both rural and urban, are designated as Health Professional Shortage Areas (HPSAs), Medically Underserved Areas (MUAs) or both. The Joint Commenters note that while it is true that retail health clinics and urgent care centers offer faster options to access healthcare professionals, these clinics have higher co-pay or coinsurance payments, and may not accept Medicaid. In addition to long wait times, transportation to and from the healthcare provider can also prove difficult, especially for elderly individuals and those in rural areas where there are few or no public transportation options.

In recognition of these barriers, the Joint Commenters urge the Commission to extend the time allotted in § 56.112 for postponement of termination to 14 days. Combined with the 10-day notice period in advance of termination, households would have up to 24 days to make an appointment, arrange transportation, obtain a medical certificate, and submit the certificate to the utility. This extended timeframe is consistent with the average healthcare provider wait times discussed above and would not pose an undue burden on the utility, which is empowered through the regulation at § 56.112 to commence with termination "at the point where it was suspended."

The Joint Commenters support the continuation of the longstanding policy regarding payment requirements during the pendency of a medical certificate, as it ensures that medically vulnerable Pennsylvanians can continue to access critical relief from a pending termination while the household deals with the financial hardship that most often accompanies serious illness. Requiring medically vulnerable consumers to pay more than the current amount due during the pendency of a medical certificate undermines the purpose of providing relief. The Joint Commenters assert that the Commission has the legal authority to continue its current policy. The limitation on the Commission's power to issue payment arrangements in Section 1405 is not implicated by the medical certification process as this process is a separate emergency process that prohibits termination of certain accounts if a medical certificate has been issued. The legislature was explicit that medical certificates unequivocally stop termination—there is no mention of a payment arrangement, nor is there any requirement that customers make payment to the utility as a condition to asserting the protection. Rather, the legislature simply defers to the Commission's regulatory authority to create a procedure that will implement the medical certificate protections.

The Joint Commenters suggest that the Commission should revise § 56.114 to extend the re-certification period for medical certificates where the customer or household member has a chronic or extended medical condition. Visiting a healthcare provider to obtain a medical certificate to prevent termination of critical, life-sustaining utility service comes at a cost as there are typically co-pays or office visit fees, which can range from a $10 co-pay for insured individuals to over $100 for an uninsured individual. And, for thousands of others who are underinsured, with high deductible plans, the cost of an office visit can be even higher. There are also often additional costs that further add to the household's financial burden, including transportation, time off work, and childcare. As currently structured, the medical certificate process requires a household to incur these costs every 30 days, even when the illness or medical condition will continue for more than 30 days. To minimize the added financial burden to households, the Joint Commenters urge the Commission to allow a certifying professional to specify the length of a medical certificate, based on the individual's health needs. (Joint Commenters at 5—17).

The CAC supports the Commission's proposed elimination of language concerning the "nature" of an affliction and "the specific reason for which service is required" and supports the current requirement of the "anticipated length of the affliction" for medical certificates to the extent that the medical professional believes that the duration of the illness will be greater than 30 days. This would enable the utility to accommodate a medical certificate of greater length. The CAC notes that there is nothing in the statute about a 30-day period and that there are chronic illnesses that persist for far longer periods of time. Accordingly, the CAC submits that the regulations should clarify that although a medical certificate shall be effective for a minimum of 30 days, in the cases in which the medical practitioner indicates the anticipated length of the affliction to be greater than 30 days, the length of the protection provided should correspond to the length of the affliction. In the event of a

chronic or terminal illness without specific ending date, medical certificates should be permitted for a period of a maximum of 6 months.

The CAC believes it is unnecessary and may go beyond the letter or intent of the amendments to Chapter 14 to require a medical professional's license number on a medical certificate. The intent of such a requirement is not clear nor is it clear whether there is a problem with fake or phony medical certificates. Imposing needless formality to the process of submitting a medical certificate is certain to deter medical professionals from freely exercising their professional judgment and assisting customers, if appropriate, to maintain service for health and safety reasons.

Concerning customer payment obligations per § 56.116, the CAC submits that the purpose of medical certificates and renewals would be thwarted by requirements to pay more than current, undisputed charges. Requiring a customer in a time of illness and increased vulnerability to make payments in excess of current charges would fail to effectuate the fundamental purpose of a medical certificate—to interrupt the utility's termination-collection path while a medical need for service exists. (CAC at 11—14).

The Center for Hunger-Free Communities reports that one in four Philadelphia families live in poverty, the highest rate in the 10 largest U.S. cities. Requiring a working caregiver to get paperwork from their child's doctor's office monthly is a hardship for a family already working to make ends meet and cutting off utilities in a household with a child with special healthcare needs puts that child's health and well-being at greater risk. Extending the renewal time for medical certifications would allow a greater buffer for families of those with special healthcare needs to get back on their feet. Additionally, they urge that information about medical certificate regulations should be clearly communicated to all applicants. (Center for Hunger-Free Communities at 3).

The Health & Housing Coalition notes that there are conditions for which customers need equipment that requires electricity to run—such as dialysis machines, hospital beds, oxygen concentrator, stair lifts, CPAP machines, breathing tubes, nebulizers, and more. Other people, like diabetics, rely on medicine that should be refrigerated. There are also conditions that are exacerbated by cold or heat (e.g. asthma, congenital heart failure, multiple sclerosis, lupus, fibromyalgia, arthritis, and sarcoidosis). The Health & Housing Coalition believes that the PUC's regulations rightly give medical professionals discretion about which conditions qualify for a medical certificate.

The Health & Housing Coalition reports that customers and social service providers find that there are widespread reports of utilities failing to tell customers that they can pay the new monthly balance and continue to get a new medical certificate, and many tell customers they are limited to three months whether they pay monthly or not and/or that they are limited to three medical certificates for the life of their accounts. (Health & Housing Coalition Additional Comments at 2—4).

The Health & Housing Coalition notes that as there is variation among how utilities implement medical certificates, there is also significant variance among medical providers. They each have different criteria for when they will provide medical certificates. In some instances, medical providers have defaulted to very strict interpretations of medical need, such as only writing certificates for a person who needs help keeping electric service when that person has a piece of equipment that requires electricity to work. There are also reports from across the state that several medical systems either prohibit or discourage staff from issuing any medical certificates.

The Health & Housing Coalition believes that the current system of requiring medical certificates every 30 days is a significant administrative burden for medical providers. All stakeholders need to consider the financial, time, and quality-of-care implications of the tasks that they are requiring of the medical system. Medical certificates designed to prevent utility termination, can, if not carefully designed and implemented, over-burden busy medical professionals. These burdens can be especially clear when repeated certifications are required for chronically ill persons. The Health & Housing Coalition urges the PUC to create a strategy for reaching out to medical providers and patient advocates to determine how to improve medical providers' understanding of the medical certificate system and to devise less onerous methods for submitting medical certificates. (Health & Housing Coalition Additional Comments at 5—8).

The Health & Housing Coalition notes that chronic medical conditions are not going to resolve in 30 days, so requesting a new certificate from a medical professional every 30 days is a burden without a benefit. They note that multiple states provide for medical certificates that last significantly longer than 30 days for persons with serious, chronic conditions, including Montana and Massachusetts that offer 180 days; New Hampshire, and Oregon up to 12 months. Other states, like Connecticut and Rhode Island, give more discretion to the medical provider about the length of the certificate. The Health & Housing Coalition urges the PUC to extend the duration of medical certificates for persons with serious, chronic conditions and to take steps to make sure that consumers and medical professionals are better informed about the medical certificate process.

Finally, the Health & Housing Coalition notes that they are concerned because medical certificates are difficult to get logistically—the primary mechanism for transmitting them is via fax. Most households do not have fax machines and must go to third parties to help them receive and transmit faxes. Many rely upon medical professionals to send the faxes. It is not uncommon for a utility to report that they did not receive a fax, but for the customer/patient to be told by the medical professional that they did send it. (Health & Housing Coalition Additional Comments at 8—11).

EAP suggests additional language at § 56.113 requiring the medical professional's license number as well as a requirement that the certification be on the medical professional's letterhead or other official paperwork if it is not on a utility-generated form to afford protection for the utility against fraud or medical certificate abuse. Licensed medical professionals utilize their license number for a variety of routine matters, including items such as prescriptions to ensure validity and avoid fraud, and medical certificates should be treated likewise; EAP reports that utilities have not had any issues requesting this information from medical professionals. In addition, EAP continues to agree with both the Commission's and advocates' position that utilities are not in the position to determine who qualifies for a medical certificate. Given the clear limitation in Commission's regulations that state that a medical certificate is valid for 30 days, there

seems to be no reason for the customer to provide or for the utility to know the anticipated length of the affliction on the form of a medical certificate unless such condition would last fewer than 30 days.

EAP agrees with the Commission's finding that the General Assembly gave clear and unambiguous direction that medical certificates must be written documents and that they be signed. Accordingly, § 56.113's allowance of verbal medical certificates is no longer legal. However, EAP disagrees with the Commission's finding that the law does not impact the regulations at § 56.112 which provides for a three-day postponement of termination pending receipt of a medical certificate. EAP notes that all customers, regardless of medical status, receive ample notice in the termination process to obtain a medical certificate if needed, including a 10-day notice prior to termination and an attempt at personal contact three days prior to the anticipated shut-off date. Section 56.112 now serves as a duplication of the three-day personal contact requirement prior to termination.

EAP does not agree with the Commission's proposed language to provide a utility-developed medical certificate form publicly on its website. EAP believes that making the form publicly available would open the door for increased medical certificate abuse by way of forgery. Any utility-generated form should instead be made readily available at a medical professional's request and not for download on a website.

Concerning the payment obligation of customers at § 56.116, EAP notes that low-income customers enrolled in universal service programs are asked to make good faith payments to the utility to address their debt. The purpose of this treatment is twofold: to encourage good payment behavior by the individual customer and to help ease the burden of uncollectable expenses on the remainder of the customer base. EAP believes those customers utilizing the protection of a medical certificate should be held to this same standard. Medical certificates are intended as a protection to ensure service is maintained, not as a bill forgiveness program. (EAP at 13—18).

Duquesne agrees with the Commission's characterization of revised Section 1403 that the use of the word "form" does not mean that a specific document must be used but instead medical certificates should be approved in a Commission-approved manner. Accordingly, Duquesne does not believe there is any need for a statewide mandated form for use by all utilities—noting that it makes its form generally available for use by medical professionals on its website or upon request. Duquesne is in favor of including the medical professional's license number as this provides the utility with a quick and easy method to investigate the validity of any questionable certificates. Further, such a requirement is consistent with other requirements for professionals (such as attorneys providing their license numbers on filings) and is not unduly burdensome or time consuming. (Duquesne at 7-8).

PPL proposes that the Commission require that medical certificates be submitted by the medical professional who issued the medical certificate. In PPL's experience, having the medical professional send the medical certificate directly to the utility is the quickest method of obtaining the medical certificate, which benefits the customer. Moreover, by requiring the medical certificate to be submitted directly from the medical professional, utilities would also have better protection against attempts to misuse medical certificates. PPL disagrees with the proposed requirement that a utility must post its medical certificate form on its website if the utility develops its own form because posting the form on its webpage could lead to the misuse of the form, such as forgery.

PPL recommends removing the current requirement that medical certificates include the anticipated length of the affliction, as required by § 56.113(3). PPL avers that this reference may be misinterpreted to suggest that the duration of the infliction affects the time period of a medical certificate. Further, PPL recommends that the medical professional certifying the medical certificate include his or her license identification number as an additional measure against fraud or abuse. (PPL at 8—11).

PPL submits that recommendations to extend the medical certificate period beyond 30 days offers a short-term solution that creates long term problems for customers and utilities. A customer who has a medical certificate that extends for several months could potentially stop paying for utility service during this extended period. Although this may seem a benefit for a household experiencing an illness, a medical certificate is not a free pass to customers unable to pay for utility service. The customer's charges during this period will accrue and eventually need to be paid to the utility, and at this point the balance may be unmanageable and lead to termination. As such, PPL submits that extending the duration of medical certificates for longer than 30 days neither balances the interests of customers with the utility, nor serves the intent behind medical certificates. (PPL Additional Comments at 6—8).

It is FirstEnergy's position that § 56.113 should be structured to facilitate medical certificates for those with legitimate medical issues, but also discourage fraudulent medical certificate use. Medical certificates provide an important mechanism for customers with serious illnesses to certify to their utility that their service may not be terminated. On the other hand, FirstEnergy opines that medical certificates are sometimes used by customers as a tool to avoid termination and further increase their arrearages where the customers are not truly suffering from an illness. In requiring all medical certificates to be in writing, the legislature seemed to acknowledge the potential for medical certificate abuse. FirstEnergy reports that following the adoption of Act 155, the elimination of oral medical certificates was effective in reducing instances of medical certificate fraud and abuse.

FirstEnergy notes that the Commission has not proposed any changes to § 56.114; however, they request clarification regarding the intended scope of this section in conjunction with § 56.116. Taken together, these regulations could be interpreted to allow a customer to apply for an unlimited number of medical certificates as long as they have met their obligation to pay current undisputed bills, even if the customer fails to reduce his or her arrearages. FirstEnergy encourages the Commission to clarify whether customers who fail to pay their arrearages are eligible for an unlimited number of medical certificates as long as they are paying current bills, or if they are eligible for only two medical certificate renewals until their arrearages are paid off. FirstEnergy does not believe the legislature intended for medical certificates to provide an indefinite loophole to termination. Accordingly, FirstEnergy requests that the Commission limit the number of medical certificates that may be obtained while customers continue to have an outstanding balance. (FirstEnergy at 23—27).

FirstEnergy asks that the Commission reject proposals to extend the 30-day time period for medical certificates for several reasons. Customers are already eligible to receive medical certificates for the length of their illness as long as they are paying current bills. In addition, customers are eligible for three medical certificates even if they stop paying current bills. Allowing medical professionals to determine the length of medical certificates could result in customers permanently avoiding their arrearages, as many conditions could result in medical professionals approving lifetime medical certificates. For example, one condition that may be used to justify the issuance of a medical certificate is sleep apnea, because individuals who experience sleep apnea are required to use a machine while they sleep. Sleep apnea is a condition that could exist throughout an individual's life. If asked to identify the length of this condition, medical professionals likely would identify the condition as permanent. A permanent or indefinite medical certificate would result in free electricity for the customer, which is undeniably inconsistent with Chapter 14 of the Public Utility Code.

FirstEnergy opposes the availability of medical certificate protections to applicants without payment towards their arrearages. When the applicant was a customer of the utility, he or she was provided all the opportunities and protections found within the Commission's regulations and customer assistance programs. The arrearages associated with the applicant's prior account with the utility may already be considered uncollectible when the applicant attempts to have service restored with a medical certificate. The Commission should continue to require payment from an applicant for restoration of service to avoid further increases in uncollectible accounts that are ultimately passed on to other customers.

FirstEnergy believes that posting medical certificates online exposes the process to an increase in medical certificate fraud as compared to the current preferred practice of faxing or emailing the forms directly to the relevant medical professional. Where the forms are available for download online, customers without legitimate medical issues would have unbridled access to the forms. Along the same lines, FirstEnergy believes the medical license number of medical professionals should be required information on a medical certificate form, particularly if medical certificate forms are posted online. Medical professional names, addresses, and phone numbers are easily accessible online. Although medical license numbers are also often accessible as well, they require additional research and can be confirmed, which provides an extra safeguard against forged medical certificates. (FirstEnergy Additional Comments at 5—9).

FirstEnergy does not support oral medical certificates for customers with PFAs or other court orders demonstrating evidence of domestic violence under § 56.353. To minimize the potential for medical certificate fraud and abuse, written medical certificates should be required for all customers. To the extent the Commission is concerned regarding the ease of obtaining a written medical certificate for these customers, FirstEnergy offers two different methods for obtaining a medical certificate: the customer may either request the utility to send a form to his or her physician, nurse practitioner, or physician assistant, or medical certificate information may be submitted on the letterhead of the medical professional. FirstEnergy does not believe the continued availability of oral medical certificates will increase customers' access to medical certificates. (FirstEnergy at 31).

While PECO supports the comments of EAP on the Commission's changes to the medical certificate regulations, there is one medical certificate issue that PECO would like to supplement with its individual comments concerning the obligation of customers to pay current bills and arrearages while protected by a medical certificate. PECO opines that everyone seems to agree that while the customer is receiving the protections of the medical certificate the customer must pay their bills for current service, and that failure to do so will cause the customer to lose the protections of the medical certificate process. However, PECO contends that there has been substantial regulatory debate about the scenario in which a customer with an arrearage receives a medical certificate and pays their bills for current service received during those months but pays nothing toward their arrearage. The debate is over whether the customer who pays their current bills for service is entitled to continue to receive additional medical certificates as long as they continue to pay their current monthly bills, or whether the medical certificate procedure ends after a medical certificate and two renewals.

PECO's position is that once three months have passed—the original medical certificate and two renewals, each of which is in force for nominally 30 days—in order to continue to receive protection from the termination process, the customer must continue to pay their ongoing bills "and also make arrangements to pay their arrearage." The arrearage can be paid as a lump sum or, if the customer is eligible for a payment arrangement pursuant to Section 1405, the Commission may order a payment arrangement over a period of time. As a third alternative, even if the customer is not eligible for a Section 1405 payment arrangement, the customer can contact the utility and offer an alternative payment arrangement in which the customer agrees to pay their arrearage over a period of time agreed to by the customer and the utility. PECO notes that what all three of these options have in common is that, once three months of medical certificate protection have elapsed, in order to continue receiving protection from the termination process the customer must pay their current bills and begin to pay (if under a payment arrangement) or fully pay (if no payment arrangement is available) the arrearage they had when they received their first medical certificate.

If the above is not required, then a customer who amasses an arrearage and then becomes ill can avoid paying their arrearage forever. PECO does not believe that the Commission's medical certificate regulations were ever intended to provide protection against termination in perpetuity. The most obvious reason for reaching this conclusion is found in the language of § 56.114(2) (medical certificate renewals), which speaks specifically about an initial medical certificate and two renewals but makes no mention of receiving additional medical certificates for a period longer than that, and certainly not forever. PECO opines that this is also the proper outcome from a policy perspective. PECO reports that, at times, their customers utilize the medical certificate process to such an extent that there may be tens of millions of dollars of arrearages held in termination suspension via the medical certificate process. PECO submits that the purpose of the Commission's medical certificate regulations is and always has been to give a brief respite of up to three months to a customer who falls ill and falls behind on their bills. This gives the customer three months to re-organize and explore alternative ways of paying the arrearage. (PECO at 3—6).

PGW supports the intent of the Commission to provide easy accessibility to a utility's medical certification form but does not support the requirement that the utility place the form on its website. PGW is concerned about the potential for fraud that could occur by making its medical certification form generally available. PGW's current practice is to provide its medical form to medical professionals upon request and PGW has not experienced any complaints with this current process. Importantly, the medical form is designed for the convenience of medical professionals, not for the public at large, and maintaining this current process protects against fraud. Also, to help prevent fraud, PGW fully supports a requirement that the certificate include the medical professional's license number. Being able to validate the veracity of a medical certification ensures that only those customers or applicants who qualify for a medical certification receive the benefits of such certification. In addition, a medical professional should easily have a record of their license number so this requirement is not likely to be burdensome.

PGW notes that the Commission proposes to revise the Medical Emergency Notice in Appendix A to include references to physician assistants. In addition to this revision, PGW recommends that the Commission also revise the notice to remove the 7-day and verbal certification language to be consistent with the new prohibitions that the Commission is proposing to incorporate in § 56.113. (PGW at 5-6).

To ensure the validity of the customer's medical request, Columbia suggests that the utility's medical certificate form or any correspondence submitted by the health care professional include the professional's state-issued license number. Furthermore, if the attending medical professional does not utilize the company's designated medical certificate form, Columbia suggests that that they be required to provide the required information on the medical practice's letterhead. Columbia submits that requiring this information will reduce the number of fraudulent medical requests received by the company. (Columbia at 6-7).

Aqua notes that its medical certificate form complies with the regulations and is available to medical professionals and customers on Aqua's website. Aqua asks the Commission to clarify or revise the payment obligation of customers while protected by a medical certificate. While the current regulations state that the customer has a duty to make payment on current bills, Aqua contends that customers do not usually abide by this duty when there is a medical certificate on an account. Aqua submits that revised language in the medical certificate sections strengthening the wording of the requirement to pay and/or possibly limiting the ability to renew a medical certificate could be added. (Aqua at 5-6).

IRRC notes that the statutory definition of the term "Medical certificate" at Section 1403 begins with the phrase "A written document, in a form approved by the commission [PUC] . . . " The requirement for this form to be approved by the PUC should be added to this section.

IRRC further notes that Sections 1403 and 1406(f) establish clear circumstances where a public utility "shall not terminate service when a customer has submitted a medical certificate to the public utility." These afflicted individuals are "seriously ill or diagnosed with a medical condition which requires the continuation of service to treat the condition." IRRC points to several electric utilities with comments alleging that medical certificate fraud might increase and for that reason certificates should not be readily available on their websites. The utility comments suggest adding more requirements to the medical certificate such as requiring the medical professional's license number and requiring information on the medical professional's letterhead.

IRRC comments that while fraud is frustrating, it is not clear from the comments submitted by the utilities to what degree this fraud has existed or might exist. IRRC asks the PUC to explain its historic experience with medical certificates including how many medical certificates are on file each year in relation to the overall number of customers, how medical certificate fraud has affected uncollectible accounts, and what proportion of the utility's overall revenue the impact of fraudulent medical certificates represent. IRRC concludes by asking the PUC to explain how the medical certificate provisions in the final regulation are reasonable and in the public interest relative to the PUC's experience in this area.

Regarding the medical certificate standards at § 56.353, IRRC notes two concerns. First, if the medical certificate form needs to be approved by the PUC, the regulation should include this requirement. Second, § 56.113 was amended to only permit medical certificates to be in writing. Should a similar amendment be made to § 56.353? IRRC asks the PUC to explain why § 56.113 and § 56.353 differ. (IRRC at 5-6).

Finally, IRRC asked the Commission to explain how the medical certificate provisions are reasonable and in the public interest relative to the Commission's experience in this area. (IRRC at 5).

Medical Certificate Usage and Fraud

Before discussing the Commission's proposed changes in detail, we first discuss the usage of medical certificates, their impact, and the extent of fraudulent use. Several parties discussed concerns with fraud, and in its comments IRRC asked that the Commission explain its historic experience with medical certificates, including how many medical certificates are on file each year and how medical certificate fraud has affected uncollectible accounts, and what proportion of the utility's overall revenue the impact of fraudulent medical certificates represent. (IRRC at 5).

Accordingly, in our July 2017 Order Seeking Additional Comments,[16] we asked parties to comment upon their experience with the use of medical certificates to avoid termination, the fraudulent use of medical certificates, how medical certificate fraud has affected uncollectible accounts, and what proportion of the utility's overall revenue is impacted by the use of fraudulent medical certificates. We further asked parties to submit any data they have to support their comments on these topics.

First, we offer the data the Commission has available based upon the utility reporting requirements concerning medical certificate usage at Section 1410.1(4):

[16] See Order Seeking Additional Comments re Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14, Docket No. L-2015-2508421 (Public Meeting of July 12, 2017), pp. 5-6.

MEDICAL CERTIFICATE USAGE IN 2015:				
	Number of Residential Customers (based upon § 56.231 reporting):	*Medical Certificates Submitted*:	*Medical Certificates Accepted*:	*Number of Medical Certificates Accepted as Percentage of Total Residential Customers*:
ELECTRIC UTILITIES	5,023,438	71,707	59,763	1.19%
NATURAL GAS UTILITIES	2,125,725	19,276	17,720	0.83%
WATER UTILITIES*	1,128,395	2,260	1,964	0.17%
TOTAL	8,277,558	93,243	79,447	0.96%
* Class A Water Utilities only. Class A water utility—A water utility with annual revenues greater than $1 million. (52 Pa. Code § 56.2).				

MEDICAL CERTIFICATE USAGE IN 2016:				
	Number of Residential Customers (based upon § 56.231 reporting):	*Medical Certificates Submitted*:	*Medical Certificates Accepted*:	*Number of Medical Certificates Accepted as Percentage of Total Residential Customers*:
ELECTRIC UTILITIES	5,044,234	56,983	47,531	0.94%
NATURAL GAS UTILITIES	2,135,044	17,771	15,702	0.73%
WATER UTILITIES*	1,132,948	2,305	1,367	0.12%
TOTAL	8,312,226	77,059	64,600	0.78%
* Class A Water Utilities only. Class A water utility—A water utility with annual revenues greater than $1 million. (52 Pa. Code § 56.2).				

MEDICAL CERTIFICATE USAGE IN 2017:				
	Number of Residential Customers (based upon § 56.231 reporting):	*Medical Certificates Submitted*:	*Medical Certificates Accepted*:	*Number of Medical Certificates Accepted as Percentage of Total Residential Customers*:
ELECTRIC UTILITIES	5,059,670	67,415	54,721	1.08%
NATURAL GAS UTILITIES	2,152,555	23,464	19,601	0.91%
WATER UTILITIES*	1,139,769	2,367	1,913	0.02%
TOTAL	8,351,994	93,246	76,235	0.91%
* Class A Water Utilities only. Class A water utility—A water utility with annual revenues greater than $1 million. (52 Pa. Code § 56.2).				

MEDICAL CERTIFICATES ACCEPTED 2015—2017:				
	2015	*2016*	*2017*	*PERCENT CHANGE 2015—2017*
ELECTRIC UTILITIES	59,763	47,531	54,721	- 8.4%
NATURAL GAS UTILITIES	17,720	15,702	19,601	+ 10.6%

MEDICAL CERTIFICATES ACCEPTED 2015—2017:				
WATER UTILITIES*	1,964	1,367	1,913	- 2.6%
TOTAL	79,447	64,600	76,235	- 4.1%
* Class A Water Utilities only. Class A water utility—A water utility with annual revenues greater than $1 million. (52 Pa. Code § 56.2).				

Next, we turn to the responses from the parties concerning the usage of medical certificates, their possible fraudulent use, and impact on customer arrearages.

Duquesne reported that in 2016 it received 3,282 applications for medical certificates and/or renewals. Of those applications, 3,248 (98.9%) were accepted. To quantify the impact of medical certificates on uncollectible account and the potential impact on overall revenue, Duquesne submitted the following information about 2017 usage:

Month	*Number of Accounts with Active Medical Certificates*	*Number of Accounts w/ Medical Certificates with Arrearages*	*Total Amount of Arrearages for Accounts with Medical Certificates*
January 2017	19	11	$5,940.58
February 2017	13	5	$4,774.15
March 2017	67	58	$69,975.04
April 2017	273	209	$318,326.95
May 2017	222	179	$206,641.96
June 2017	454	401	$498,160.74
July 2017	478	426	$654,533.08
August 2017	581	519	$796,992.87

Duquesne states that generally the medical certificates applications that are denied are due to misinformation or incompleteness of the requested information. In general, upon receipt of a medical certificate, Duquesne checks on the stated medical provider's license number and confirms that the information requested has been completed. While Duquesne may occasionally suspect fraud, beyond checking the veracity of the medical professional's license and the requested information, there is no practicable means available for Duquesne to investigate. (Duquesne Additional Comments at 4—6).

PPL reported that in 2016 it had 8,649 medical certificates or renewals submitted by customers and that they accepted 6,728 of those medical certificates. Of those accepted, approximately 98% of those customers were in the termination process. PPL states that it does not typically check for fraud when a customer submits a medical certificate except in unusual situations. (PPL Additional Comments at 2).

FirstEnergy reported that in 2015, they accepted 15,336 medical certificates associated with cumulative arrearages totaling $25,496,722; they rejected a total of 2,724 medical certificates. In 2016, they accepted 15,292 medical certificates associated with cumulative arrearages totaling $24,610,936; they rejected a total of 3,884 medical certificates. FirstEnergy reports that it manually conducted a random sampling of 300 recent medical certificate denials in an effort to identify possible instances of medical certificate fraud. Through their review of this sample, of the customers eligible to receive medical certificates, FirstEnergy concluded that 50% of medical certificates were denied by the medical professional for the following reasons: the medical professional refused to sign the certificate, the medical professional deemed the customer's condition as not eligible for a medical certificate, or the medical professional confirmed the customer was not a patient. In addition, 4% of eligible customers were denied medical certificates due to an unauthorized signature on the medical certificate. While only a small percentage of medical certificates were denied for unauthorized signatures, FirstEnergy believes this type of fraud is currently minimized because they typically fax or e-mail medical certificate forms directly to the medical professional. FirstEnergy is concerned that an online posting of the medical certificate form could increase the incidence of fraud by customers signing their own medical certificates or even attempting to forge the signature of their doctors. (FirstEnergy Additional Comments at 3—5).

PECO explains that when a customer calls PECO and claims they have a medical condition, PECO stays termination for three days to give the customer the opportunity to go to their doctor and obtain a medical certificate. Over the years, PECO reports that it has tended to receive about four such calls for every customer who finalizes the medical certificate process by having their medical service provider actually submit a signed medical certificate. PECO recognizes that there are many reasons that this occurs. For example, the customer might find resources to pay their bill and not need the medical certificate, or they might not be able to get to their doctor in a timely fashion. It is also possible that some of the customers who call to initiate the medical certificate process, but who do not complete it, do not meet the standards for seeking and receiving a medical certificate. However, PECO reports that it does not have data that differentiates the various reasons its customers initiate, but do not complete, the medical certificate process. (PECO Additional Comments at 2-3).

Columbia stated that the Commission's regulations do not require utilities to track fraudulent medical certificates, and that doing so is not necessary as the occurrences of customers attempting to use false medical certificates to avoid termination is rare on their system. However, Columbia does track high balance accounts and

notes a correlation between high balance accounts and the use of medical certificates. (Columbia Additional Comments at 3-4).

EAP notes that medical certificates are intended as a protection to ensure service is maintained, not as a bill forgiveness program or to avoid paying for utility service. EAP recommends the inclusion of the accounts' use of medical certificates on the annual utility report required under Section 1410.1(3) regarding residential accounts in arrears in excess of $10,000. (EAP Additional Comments at 3-4).

PAWC reports that they will typically investigate for medical certificate fraud only in the limited circumstances where the facts directly point to fraud. Generally, to the extent a customer who has submitted a medical certificate provides the required information, including a signature, PAWC typically will honor the customer's medical certificate. PAWC does not track the reason for not accepting or rejecting a medical certificate and, therefore, is unable to answer, without conjecture, the questions regarding the fraudulent use of medical certificates and how medical certificate fraud has affected uncollectible accounts. (PAWC Additional Comments at 3—5).

LICRG submits that the only relevant inquiry into assertions of medical certificate fraud is the number of petitions brought before the Commission by public utilities pursuant to section § 56.118, which expressly allows public utilities to "contest the validity of the certification." Other data points do not provide any reliable indication of fraud, and LICRG advises the Commission to carefully weed out hunches and speculation by the utilities. They believe that this is critically important because an assertion of medical certificate fraud not only implicates a utility's customer or applicant, but also the medical provider. They also state that the number and frequency of medical certificates and the amount of the arrears associated with medical certificates are irrelevant to assessing whether medical certificates are appropriately submitted. (LICRG Additional Comments at 5—7).

OCA notes the difference between the number of medical certificates submitted and those accepted and asks what the basis was for rejection of those medical certificates that were not accepted. Of those medical certificates that were not accepted, how many were due to evidence of fraud and what evidence was relied upon to make such a determination? (OCA Additional Comments at 4-5).

The Health and Housing Coalition opines that as with any system, there may be people who attempt to abuse it; however, it seems that the system suffers much more from underutilization due to misinformation and unnecessary barriers than it does from fraud or overuse. They would like the PUC to collect and share additional data to help all parties better understand how medical certificates are being utilized and how that may vary based on geography, utility, and medical system. They suggest that the PUC should collect and share data about not just the number of medical certificates submitted and accepted, but also the number of residential customers who submitted certificates and the number of residential customers who had certificates accepted. This data should be provided for the state, by utility, and also with either county or, ideally, zip code basis. This information would significantly improve the ability to understand where medical certificates are being used and to spot locations where they may be underutilized. (Health & Housing Coalition Additional Comments at 2—5).

Discussion

Our consideration of the emergency medical certification regulations requires a careful balancing of interests. These rules concern some of our most vulnerable of consumers—those with medical conditions that require utility service. At the same time, we must take care not to facilitate abuse or fraud, which would run counter to the intent of Chapter 14. In reauthorizing Chapter 14, the General Assembly did provide some specific guidance including, as an example, expanding the authority to issue medical certificates to physician assistants. At the same time, the General Assembly appears to also defer to the Commission on many of the details of these rules by retaining the phrase "The medical certification procedure shall be implemented in accordance with commission regulations" in Section 1406(f).

IRRC requested that the Commission explain how these final provisions are reasonable and in the public interest relative to our experience in this area. We are elaborating on this here at length by addressing the history of these medical certificate provisions, further summarizing the comments that we considered, and recommending an additional collaborative on some of the major issues of concern expressed by the commentators.

Some of the proposed changes to these rules are simply reflecting the revised Chapter 14 and are generally accepted and not the subject of controversy, including the expansion of medical professionals authorized to issue a medical certificate to physician assistants and that medical certificates must be in writing. But beyond these items, the parties raised several items of contention, some of which have long been sources of discussion and debate.

One such topic, which was also addressed in the 2011 rulemaking proceeding, is the 30-day limit per medical certificate found in § 56.114. LICRG, Joint Commenters, CAC, Center for Hunger-Free Communities, and the Health and Housing Coalition request that the Commission consider long-term medical certificates to address chronic or long-term illnesses. These parties raise several valid concerns about the burden the current 30-day limit imposes on patients and health-care professionals alike, such as the need to schedule repeated appointments with a medical professional, transportation to appointments and accessibility to medical care. However, we are reluctant to revise the regulations to this regard because the General Assembly had an opportunity to do so when it reauthorized Chapter 14 and declined. Long-term medical certificates were not provided for in the legislation and would be a very substantive addition to these regulations. We again note that in Section 1406(f), the General Assembly declared that the " . . . medical certificate procedure shall be implemented in accordance with Commission regulations." It is reasonable to assume that the General Assembly was familiar with the 30-day timeframe in the current regulations and was comfortable with it. It is also important to note that when it reauthorized Chapter 14, also as noted above, it expanded the list of medical professionals authorized to provide medical certificates to include physician assistants. It is not unreasonable to think that the General Assembly did this to help address the concerns with patients accessing medical care. We also remind everyone that there is no limit on medical certificates as long as the customer is paying bills per § 56.116. The limits on medical certificate usage only apply if the customer is not meeting their obligations under § 56.116.

Regarding § 56.116 and the customer's obligation to pay while under the protection of a medical certificate,

again the parties are continuing an argument that was also presented to the Commission in the 2011 proceeding. LICRG, Joint Commenters, and CAC urge the Commission to keep in place the regulation adopted in 2011 that requires a customer to pay current bill amounts while under the protection of a medical certificate. However, EAP, FirstEnergy, PECO and Aqua all argue that the customer's obligation to pay should be expanded to include either part of or all of the customer's arrearage, in addition to current bills. They argue that there is nothing to prevent a customer from filing unlimited medical certificates, and thus never having to pay toward their accumulated past arrearage. The reauthorization of Chapter 14 did not result in any new statutory language to guide us here or require us to revise the payment obligation of the customer.

While we understand the utility's concerns with the payment of the outstanding balance, we must reject their suggestion that we require an arrangement on all current and overdue balances because this likely would be considered a payment arrangement, which may conflict with the Section 1405(d) restriction on the Commission's authority to order payment arrangements. This same complication was present in 2011, and nothing in the reauthorized Chapter 14 provides us with anything to get past that complication. We point out that if the customer is paying their current bills as required by this section, the outstanding balance will not be increasing, so the customer's and the utility's problems with the account balance will not be aggravated. We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer. We also point to the petition process at § 56.118 that a utility may use to contest the validity of medical certificates that they believe are being filed with the intention of avoiding any payment toward the arrearages for an extended period of time.

Concerning the holding period in § 56.112 that gives customers three days to produce a medical certificate, LICRG and the Joint Commenters urge the Commission to retain this holding period, and even expand it, since they believe nothing in the reauthorization of Chapter 14 impacts it. However, EAP disagrees and believes that this requirement creates, in effect, a second 3-day notice of termination requirement, and thus is contrary to Chapter 14. We disagree with EAP because nothing in the reauthorized Chapter 14 impacts this holding period. This requirement is long-standing, and it is reasonable to assume that the General Assembly was aware of this holding period and could have struck it down had it so wished. Likewise, the General Assembly could have also expanded this holding period, as requested by LICRG and the Joint Commenters, but did not do so. Accordingly, while we will keep the three-day holding period, we decline to expand it. While we understand the concerns about the difficulties in accessing medical care in time to obtain a medical certificate, we again note that it appears that the General Assembly opted to address such concerns by expanding the number of medical professionals authorized to issue medical certificates by now including physician assistants. We also note that customers receive written notice of termination at least ten days prior to the termination, and that the written termination notice informs the customer of their right to a medical certificate along with an explanation of how to obtain such. As a result, a customer facing termination has at least ten days to make the arrangements to obtain a medical certificate.

There is general agreement with the Commission's position that the word form in the definition of Medical Certificate at Section 1403 does not literally mean a "form." There were also no objections voiced to the Commission's proposed removal of the "nature" of the medical condition and the "specific reason for which the service is required" from the medical certificate. Beyond these things however, there are differing opinions as to what elements should the form of a medical certificate include. LICRG and the Joint Commenters suggest that, while a standard form should not be required, there may be some use in creating an optional, standard, statewide format as to provide greater consistency in the application of the medical certificate rules. We think there is merit in their suggestions that some type of informal, statewide collaborative should be convened to develop such a format. Once these new rules are in place, the Bureau of Consumer Services will convene an informal stakeholder group consisting of advocates, utilities, medical professionals and any other interested party to discuss and recommend a standard statewide format to the Commission. This collaborative will help to ensure that the medical certificate provisions are reasonable and in the public interest.

Concerning the format, the parties had very differing views on whether the medical professional's license number should be required on the certificate. EAP, Duquesne, PPL, FirstEnergy, PGW and Columbia supported the idea as a possible means to prevent fraud. LICRG, Joint Commenters, and the CAC oppose the idea as imposing an unnecessary burden on medical professionals and not being an effective means to prevent supposed fraud. Because we had no medical professionals that submitted comments, we are uncomfortable deciding one way or the other on this matter. We think it would be preferable to leave this as a topic for discussion in the above-noted collaborative process intended to develop a standard format.

There were also divergent views on whether medical certificate formats should be posted on utility websites. LICRG thought this would be helpful in providing quick and easy access for both consumers and medical professionals. However, EAP, PPL, FirstEnergy and PGW expressed concerns that posting this information on their websites could facilitate forgeries, while Aqua noted that they already post the certificate format on their website. Again, we think this may be an issue best left to the above-noted statewide collaborative, where advocates, utilities and medical professionals can discuss this with each other and make a recommendation to the Commission. Accordingly, we will revise our proposed changes to §§ 56.113 and 56.353 to omit any reference to posting on the public utility's website.

In incorporating the Section 1403 definition of Medical Certificate into the Chapter 56 definitions at § 56.2, we agree with IRRC that we need to specify what is meant by the phrase "in a form approved by the Commission" by pointing to the regulation at § 56.113. We agree with LICRG and decline to tamper with the Section 1403 definition by inserting "permanent" in reference to the "member of the customer's household." We are not convinced that this is enough of an issue to lead us to alter a statutory definition.

We agree with PGW's recommendation that the Commission revise Appendix A and B to remove the reference to verbal certification language to be consistent with the new requirements found in the revised § 56.113; and will remove the reference to 7 days and replace this with 3

days as found in § 56.112. However, since the medical certificate rules are different for victims of domestic violence (see §§ 56.351—56.358), we will add language directed to these customers urging them to contact the utility to advise them of their status.

Finally, FirstEnergy and IRRC have concerns with verbal medical certificates and question why § 56.113 and § 56.353 differ. The reason for the difference is that § 56.113 reflects Chapter 14 requirements, while § 56.353 is the regulation for those customers exempt from Chapter 14 per Section 1417 (those with a PFA or a court order that provides clear evidence of domestic violence). For example, while the reauthorized Chapter 14 at Section 1403 specifies a Medical Certificate must be a "written document," this requirement does not apply to those customers covered by the Section 1417 exemption—thus permitting verbal medical certificates as Chapter 56 had traditionally allowed prior to Chapter 14. Verbal medical certificates provide an additional option for victims of domestic violence, as intended by Section 1417.

§ 56.163. Commission informal complaint procedures.

We proposed adding language to paragraph (1) to permit an informal complainant to receive a copy of the documents the utility provides Commission staff in response to an informal complaint. We acknowledged that there may be some relatively rare instances where these documents may refer to parties other than the complainant. In these instances, we proposed that the utility redact any information that may compromise the privacy or personal security of a third party.

Aqua proposes that an effective method to implement this change could be to ask the BCS investigator or intake representative to ask the customer, when they call to file the informal complaint, if they would like to receive copies of what the utility submits to BCS. If the customer does want to receive copies, Aqua suggests that it include this information in the form sent to the utility when opening the informal complaint. The utility can then send the information to the customer at the time it submits its report to BCS. Aqua believes this will accomplish the Commission's objective in amending this section in a cost effective and efficient manner. (Aqua at 6).

PGW is concerned about this newly proposed requirement and urges the Commission to reconsider it, particularly in light of issues that could arise in a Protection from Abuse case or similar instances. The Commission's proposed requirement places an unreasonable burden on the utility to consider every data point that is being provided to Commission staff and to somehow make a determination whether it "would possibly" impact a person's privacy or physical security. A minor error in this determination could have a significant impact on a person's life. PGW's responses to informal complaints often contain sensitive data about a customer's credit, medical certificates, PFAs, landlords, other customers at the premises, grants, payment documents and other internal utility records that would not otherwise be provided to a complaining party. Currently, in the informal process, PGW is able to gather this data and provide it to staff to enable a full evaluation of the case without factoring into the disclosure whether or not information might need to be redacted. Requiring PGW to factor that into this process will require additional resources to review every response and make a determination about each fact that is being provided. This will unnecessarily slow down a process that is working now. If, however, the Commission elects to pursue this process, then PGW urges the Commission to make clear that the complaint must be filed by the customer of record or customer-authorized person only so that the information being provided is only related to the person filing the complaint. (PGW at 6-7).

Columbia submits that as proposed the additional language is overbroad and does not provide utilities with the opportunity to challenge the submission of certain information to informal complainants. While the proposed language recognizes that the redaction of certain information would be appropriate, it does not account for the fact that some information could be confidential and proprietary or that the utility might otherwise object to the disclosure of certain information to a customer. (Columbia at 8-9).

PPL disagrees with this proposal due to potential privacy issues and the impact that this proposal will have on the informal complaint process and the utility's internal process. Although the proposed revision includes a requirement that utilities redact any information from these documents that could compromise the privacy or personal security of any individual other than the complainant, PPL is concerned that if the complainant is not the customer of record, that there is great potential that personal information could be released through this process. PPL submits that redaction is not an effective or efficient solution to protect personal information. To redact, utilities will need to have personnel review every document for potential personal information and redact such information prior to providing the complainant with a copy. To put this in perspective, between 2014 and 2016, PPL had an average of 16,000 consumer complaints per year. If the Commission's proposal is adopted, PPL would likely need to increase personnel simply to manage this process.

Furthermore, PPL submits that the redactions themselves will likely result in complaints and delays in the informal complaint process, as it is highly probable that complainants will challenge the redactions made by the utilities. Such challenges will require Commission staff to intervene and result in delays in the process. If utilities are required to redact, the utilities must be provided with clear guidance from the Commission regarding what information must be redacted to protect all parties involved. (PPL at 11-12).

FirstEnergy opposes the Commission's proposed modification to § 56.163 as these changes would require utilities to subject all informal complaint responses to the same level of review as formal complaint responses, which would require the expenditure of significant additional resources by utilities. Where confidential information is involved, such as information related to other utility customers, the utility's internal procedures, or settlement discussion, utilities may be required to redact this information before disclosure to the complainant. One reason the informal complaint process moves along expeditiously is because the utility's informal response is not subject to additional levels of legal scrutiny, as would occur for any documentation used as part of a formal complaint proceeding.

Requiring utilities to provide complainants with a copy of these responses would dramatically increase the amount of resources expended by utilities during the informal complaint process without creating a corresponding benefit to customers. Additional compliance employees and attorneys would need to be hired to provide supplemental review of all informal complaint responses, as well as redact all references to confidential information. The

current informal complaint process already successfully resolves the majority of disputes with customers. (FirstEnergy at 27-28).

EAP is concerned about the Commission's proposed language because the provision of such documents undermines the goal of the informal complaint process: the efficient, collaborative resolution of consumer complaints. EAP is further concerned that any change to the informal complaint process align with the Commission's future privacy policies and guidelines. Without such protections already in place, utilities are wary of how proprietary company information as well as the privacy or personal security of the complainant would be protected by this process and associated Right-to-Know requests.

The informal complaint process is designed for all parties to reach an agreement or compromise on the disputed issues before the formal stage. Should the Commission continue down a path that would require utilities or BCS staff to provide documents to complainants, it may, in effect, eliminate the informal complaint process. Utilities, knowing that the response documents will be viewed by customers and potentially the public, will be reluctant to offer any information which might be construed to compromise their own internal processes, procedures, security, or company or customer privacy information. This distinction between the present formal and informal process is further highlighted by the requirement that a formal complaint can only be filed by the customer of record or another authorized person on the account; an informal complaint can be filed on a customer's behalf.

Furthermore, EAP does not believe that the solution here is to provide redacted documents at the informal complaint stage, nor does EAP agree that, without such documents, a complainant's "due process rights" are compromised. The complainant's "due process" right, should he or she be dissatisfied with the informal complaint process, is to file a formal complaint, which is governed by the administrative code. (EAP at 18—20).

The CAC commends the Commission for making this information available to complainants as it is essential that individuals who have an informal complaint with their utility be able to see the information provided by the utility to the Commission. Additionally, the CAC understands and appreciates the Commission's concern for the privacy of third parties; however, it believes that the language as written may be overly restrictive. To be sure, there are circumstances in which the redaction or unavailability of information concerning third parties may impede the need for the complainant to receive information necessary to prosecute his or her claim. For instance, in the case of a tenant seeking to demonstrate that a utility has wrongfully terminated service in violation of the Discontinuance of Service to Leased Premises Act, the complainant would be specifically asserting a right as a non-customer and must divulge his/her information in order to do so. In such circumstance, the third party, the tenant's landlord or its agent, may be the utility's customer, and information about that third party is material to the complaint. While the CAC does not have a specific recommendation, the regulation should make clear that information relevant to the Commission's decision should be turned over to the complainant, unless the utility demonstrates that information would jeopardize the personal security of any third party, at which point the utility should provide redacted information and an explanation for the reason for the redaction. (CAC at 14—16).

While LICRG appreciates the Commission's concern for customers' due process rights and the privacy of third parties, they are aware of circumstances in which the redaction or unavailability of information concerning third parties may impede the due process rights the Commission seeks to protect. For example, in the case of a tenant seeking to demonstrate that a utility has wrongfully terminated service in violation of Subchapter B, Chapter 15, Title I of the Public Utility Code, the complainant is specifically asserting a right as a non-customer and must divulge his or her information in order to do so. In such circumstance, the third party, the tenant's landlord or its agent, may be the utility's customer, and information about that third party is material to the complaint. Redaction of that information would impede the complainant's right to due process, because the complainant would not be able to verify the existence of a landlord account. (LICRG at 45—48).

PECO supports EAP's comments on the Commission's changes to § 56.163 but offers one additional comment. PECO submits that there are some situations where a customer has not provided complete information to PECO but is nonetheless receiving service under the auspices of an informal complaint. In current practice, a customer can remain in that status for months, and then lose their informal complaint. Often, the customer does not pay for any of the service received during this period, either during the service period itself or after the decision denying their complaint. This outcome could be avoided by requiring that such complaints be closed in a specified period of days after the utility provides necessary information to the Commission. (PECO at 6).

Discussion

The parties provided a variety of comments; some supportive and some not supportive at all. Some parties were concerned redacting information would likely increase personnel and costs. Parties were also concerned that redacting information could delay the utilities' response to the informal complaint. Due to these concerns we are withdrawing the proposed revision of § 56.163 (and the analogous § 56.392). Commission staff reserves the right to have the utility provide individuals the company report when the situation warrants it. Though we are withdrawing the proposed language that the public utility provide the complainant with a copy of the documents submitted to the Commission staff in response to the informal complaint, we remind public utilities of the Public Utility Company Dispute Procedures found at § 56.151:

§ 56.151. General rule.

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

(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.

If a utility has correctly implemented the Chapter 56 dispute procedures, and if the customer files an informal complaint, the company should have a utility company report, in writing (§ 56.151(5)), on file at the time the

PUC informs the utility of the filing of an informal complaint. In addition, public utilities should also be informing complainants that the written report is available to them and can be sent to complainants.

Regarding PECO's proposal, the Commission declines to add an informal case-handling timeframe. We believe that matters such as these are best left to internal Commission procedures as provided for in § 56.166. In addition, this suggestion is outside the scope of the current rulemaking and has not been fully vetted by the parties.

§ 56.172 and the customer retaining utility service pending a formal appeal of a BCS informal decision.

Due to some confusion and uncertainty as to the automatic stay provision of § 56.172(d) and the expectation upon utilities of providing utility service to a complainant who has formally appealed an informal decision from BCS, in our July 2016 Order seeking additional comment, we asked parties to comment on a proposal to revise the regulations to more specifically state that utility service is to be maintained until a final formal determination is made.

OCA strongly agrees that the intent of this provision is for customers to have utility service maintained or restored while issues are in dispute. Even if the utility is appealing a determination, the customer should always maintain service or have service restored until there is a final determination. The OCA strongly supports this clarification and believes it will help remove any confusion about the effect of this regulation. (OCA Additional Comment at 8).

LICRG appreciates the Commission's attention to the needs of customers to continue to receive service while engaging in the Commission's complaint process; however, they suggest that the regulations be modified to be consistent with the provisions of § 56.166, which delegates authority to BCS to resolve "customer, applicant or occupant" informal complaints. This language importantly recognizes the rights of individuals who may not be customers, whether they are tenants, occupants who have been denied customer status, applicants who have been denied service, or other individuals, such as spouses or partners of customers, who may not satisfy Chapter 14's definition of "customer." All such persons may have standing to pursue a formal complaint pursuant to 52 Pa. Code § 5.21 and should be protected by the Commission's stay provisions. Accordingly, the first sentence of § 56.172(d) should read as follows:

> Upon the filing of a formal complaint by a customer, applicant or occupant within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

LICRG also supports the Commission's proposed second sentence of § 56.172(d) as continuing to ensure that customers, applicants or occupants for whom BCS has ordered restoration of service will not be deprived of service based on a utility-initiated formal complaint. (LICRG Additional Comment at 23-24).

Duquesne appreciates the attempts to clarify the provision of service during the formal complaint process; however, the proposed revisions create additional concerns. As written, the proposed revisions would require utilities to restore and maintain service during the pendency of any appeal of an informal complaint decision, regardless of the issues under dispute. This would unnecessarily impede collection of undisputed account balances. Specifically, during the pendency of an appeal, any undisputed amounts are still subject to collection efforts, even if a stay is on hold in connection with a formal complaint. For example, if there is a customer that is complaining about their generation supplier charges and not their distribution charges, the utility may still collect on the undisputed portion of the bill (even during the stay) while the disputed portion remains outstanding. Duquesne would like the PUC to make clear that the customer retains the responsibility to pay undisputed portions of the bill, along with any other conditions imposed to retain service, and confirm the interpretation that collection activities for undisputed charges may continue even during the stay related to an appeal of a BCS informal decision. In addition, Duquesne opposes the idea of being forced to restore service when they believe a safety issue exists or where customers do not meet the conditions required to restore service and recommends a clarification that restoration only be done when safe to do so. (Duquesne Additional Comment at 10).

Aqua agrees that the circumstances where a "customer receives a BCS informal decision with restoration terms and the customer pays according to the BCS informal decision, the utility must restore service." Aqua submits that proposed amendment to § 56.172(d) not impact the other regulatory requirements, particularly those found in § 56.174 (relating to ability to pay proceedings) and § 56.181 (Duties of Parties; disputing party's duty to pay undisputed portion of bills). Section 56.174 specifically states that 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." Likewise, § 56.181(1) and (2) requires the disputing party to pay the portion of the bill which is not disputed. (Aqua Additional Comment at 3-4).

EAP believes that the Commission has not thoroughly vetted the implications of this proposed amendment. The additional language would alter the established informal complaint process and change the role of BCS from arbiter to decision maker. The clear intent of Chapter 14 is that the informal complaint process is not a "legal proceeding" but rather a means by which to resolve disputes short of a formal complaint that the parties then agree to follow. The informal decision does not have the same binding effect as the decision made in a formal complaint process before an administrative law judge. By analogy, customers are presently protected by the automatic stay in place at § 56.172 whenever they file an informal complaint in response to a notice of termination. Termination processes are put on hold during the pendency of the informal complaint so long as the customer continues to pay current charges due and those charges in dispute, i.e., the status quo is maintained. In comparison, the proposed revision automatically alters the status quo without any further process. EAP recommends the Commission withdraw these proposed changes until such time as these ideas and issues can be fully vetted as regards the impact on the informal complaint process itself.

EAP and PECO further recommend consideration of the utility employee safety in situations where an informal decision seeks restoration of service for the customer. Some disputes regarding service termination involve situations that are unsafe (tampering, theft of service, unsanitary or unsafe condition of the home) for utility employees to enter into in order to restore service. Utilities maintain an obligation to protect their employees from harmful situations and should not be mandated to restore service, particularly at the informal complaint stage of the dispute and in contravention of the automatic

stay provisions, when it is unsafe to do so. (EAP Additional Comment at 6—8; PECO Additional Comment at 4).

PAWC supports the revision to the Commission's regulations as it is aligned with the purpose of the stay, which is to maintain utility service to a customer until a final formal determination is made. (PAWC Additional Comment at 6-7).

PPL does not oppose the proposed language clarifying the regulation, but does request that the revision clarify that utility service must be restored and maintained while the issue remains in dispute, unless the customer or applicant has not paid according to the terms set forth in the informal complaint decision or an imminent threat to life, health, or safety exists at the location at which the service had been terminated or disconnected. (PPL Additional Comment at 3-4).

FirstEnergy states that wherever possible, it strives to adhere to all BCS orders, and typically will restore service when ordered to do so by the BCS whether or not the decision is appealed. However, FirstEnergy occasionally disagrees with a BCS decision, which may then be appealed by either FirstEnergy or their customers. One primary reason FirstEnergy would disagree with the BCS over restoration of service is where a safety concern may exist. In these situations, FirstEnergy would strongly disagree with a requirement to restore service to a customer before a Commission decision on the matter is rendered. For instance, if a customer were to tamper with his or her meter, FirstEnergy would require an independent electrical inspection before restoration to ensure the customer's facilities are safe to reenergize. Often, customers dispute the requirement to secure such an inspection due to the out-of-pocket cost incurred by the customer to do so. If a customer were to dispute such a requirement and a BCS decision were issued directing immediate reconnection, such restoration could result in physical harm or injury to a customer, his neighbors, other members of the public, and FirstEnergy employees. In an instance such as this, the BCS should not have the authority to order FirstEnergy to ignore a safety issue and reconnect a customer.

Furthermore, the BCS informal complaint process does not properly afford due process to FirstEnergy to advance legal arguments regarding the issue at hand. Instead, the determinations issued are made by someone who, while familiar with the Commission's regulations and applicable statute, is not typically going to have a formal legal education nor is in an adjudicatory role with the Commission. Therefore, to require a utility to either expose individuals to safety hazards or to potentially continue incurring losses during a formal complaint proceeding appealing the BCS ruling (which in some cases can take up to several years to fully resolve) is wholly inappropriate. (FirstEnergy Additional Comment at 9—11).

PGW opposes the above-described proposed modifications to Subsection (d) of §§ 56.172 and 56.402 for several reasons. First, PGW submits that the proposed modifications to Subsection (d) are outside the proper scope of the subject rulemaking. Specifically, the proposed modifications are prohibited by the Regulatory Review Act that provides that modifications to proposed regulations may not enlarge the scope of the proposed regulations. Here, the Commission's original purpose of the rulemaking as stated in the NOPR, was to amend the existing Chapter 56 regulations to incorporate the amended statutory provisions in Chapter 14 that became effective in 2014. There does not appear to be any provision in Chapter 14, as reauthorized and amended, related to the "automatic stay" provided for in §§ 56.172(d) and 56.402. Moreover, the July Order does not identify any provision in Chapter 14, as reauthorized and amended, that justifies the proposed changes to these regulations, which have been in effect since 2011.

Second, regardless of the Commission's original intention, PGW submits that the proposed modifications are not reasonable, necessary, or in the public interest. PGW submits that the proposed modifications do not strike the appropriate balance between the rights of customers and utilities. Customers are protected by the current automatic stay whenever they file an informal complaint, including in response to a notice of termination. So long as they pay the current charges due and not in dispute, their service will not be terminated while they pursue a formal complaint before an Administrative Law Judge. The proposed modifications would make the informal complaint decision binding during the pendency of the proceeding, but only upon the utility. That different treatment is unreasonable and arbitrary.

PGW notes that the proposed language provides, in part, that "utility service must be restored and maintained while the issues remain in dispute." PGW insists that it should be made clear that a utility should not be required to provide service when the customer is not making payments, and that the intent behind Chapter 14 is to address the Legislature's concerns about the impact that utility uncollectible accounts have on the rates of timely paying customers. However, the proposed language does not provide that such service is contingent upon compliance with the payment terms in the BCS decision or the payment of current, undisputed bills (or both). The silence in the proposed language on payment could be interpreted as requiring a utility to continue to provide service, even if the customer is not complying with the payment terms in the BCS decision.

Third, PGW submits that informal complaint decisions should not legally be given any effect before a final formal determination is made, regardless of whether service is off or on. The automatic stay is intended to preserve the status quo pending a final determination of a formal complaint. The proposed modifications, as written, would give effect to an initial complaint decision during the pendency of the proceeding. This means that a matter is being adjudicated and relief is being granted before the utility has an opportunity to put on evidence, cross examine witnesses under oath or do a detailed investigation through discovery. The utility's rights do not evaporate when an informal complaint is decided by a BCS investigator. Giving binding effect to initial decisions before a final determination is made would violate the utility's due process rights as well as the rights protected by the Administrative Agency Law and the Public Utility Code.

Chapter 14 makes clear that an informal complaint is not a "legal proceeding" and, therefore, the informal complaint decision of a BCS investigator cannot legally be given binding effect during the pendency of the proceeding. The award of relief during the pendency of a Commission proceeding is typically only done by an emergency order of an ALJ or of a Commissioner, and only when claims are made that justify such emergency relief. The BCS investigator does not serve in either of those roles, and the Commission may grant interim relief only when all of the elements exist for the issuance of an emergency order. The Public Utility Code provides that some types of decisions of ALJs may become final deci-

sions of the Commission by operation of law; but nothing suggests that informal complaint decisions become final by operation of law or otherwise. (PGW Additional Comment at 4—11).

Discussion

We agree with OCA's comments that the intent of this provision is that if the utility appeals a BCS informal decision, the customer should maintain service or, if the customer pays according to the BCS informal decision, have service restored until there is a final determination. Based on BCS experience and current practice, the utility is restoring the service in the vast majority of informal decisions with restoration terms when the customer pays according to the BCS informal decision. We would expect that practice to continue. This is especially critical in the winter when utility service is of the utmost importance.

Some commentators were concerned that the proposed language would require utilities to restore service though it is unsafe to do so due to theft of service or meter tampering. We do not ask a utility to restore service which would endanger the safety of a person or the integrity of the public utility's delivery system; nor would we ask the public utility to put any utility employee in harm's way or danger. The Commission reiterates that the restoration of utility service should be done only when it is safe to do so.

As PGW notes in its comments, this proposed modification was not part of the NOPR whose purpose was to incorporate the statutory provisions of Chapter 14 to the existing Chapter 56 regulations. Based on the comments of PGW and other parties concerning the procedural issues raised, we are persuaded to withdraw the proposed language and to refrain from any changes at this time. However, the Commission may explore this subject further sometime in the future if needed.

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

We proposed adding language to paragraph (f) of § 56.173 relating to Commission review, stating that the burden of proof remains with the party who filed the informal complaint. We changed the word "formal" to "informal." We noted that this revision was simply to make this provision consistent with existing Commission practices.

OCA notes that this change is contextually located in the Standard and Billing Practices portion of Chapter 56 under the heading "Formal Complaints," and that this legal standard of burden of proof is misapplied in the context of an informal complaint. (OCA at 19—21).

Duquesne suggests further revising the last sentence of § 56.173(f) to make it clear that the party who originally filed the informal complaint retains the burden of proof regardless of the party that initiates the review and thus the docketing of a formal complaint. Duquesne further comments that the remainder of this Section, after § 56.173(b), only refers to formal complaints. Duquesne suggests that the final sentence be revised to state, "The burden of proof for the formal complaint remains with the party who filed the informal complaint." (Duquesne at 15).

Discussion

We agree with OCA and Duquesne and propose using the revised language proposed by Duquesne to clarify that this Section is referring to the burden of proof for the formal complaint. The proposed change to § 56.173 is also consistent with a recent Commission decision on this issue in *Kelvin E. Thomas v. Philadelphia Gas Works (Complainant/Appellant), Kelvin E. Thomas v. Philadelphia Gas Works*, Docket Nos. F-2017-2611788, C-2017-2621275 at 8-9 (Order entered August 31, 2018) (*Kelvin Thomas*).

In *Kelvin Thomas*, the Commission noted that, "[i]n a *de novo* appeal from a decision of the BCS, the burden of proof remains with the party who filed the original informal complaint, except for legal or policy issues raised by the utility on appeal." Id. at 8-9. The Commission continued that for legal or policy issues raised by the utility, "it would be absurd to impose the burden of proof concerning a legal and policy issue upon a customer who did not raise the issue and who probably has little knowledge of the issue itself." Id. We propose to modify the language in § 56.173 (and in the analogous § 56.403) consistent with the suggested language from Duquesne, and to modify it further to allow for the exception in the case of legal and policy issues as per the Commission decision in *Kelvin Thomas*.

§ 56.191. Payment and timing.

We proposed revising Subsection (c)(1) to ensure that the information notifying customers of the special protections that may be available for victims under a protection from abuse order may also now be available to those customers with a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence, pursuant to Section 1417. See 66 Pa.C.S. § 1417 (relating to nonapplicability).

We also added Subsection (f) to address procedures for handling dishonored payments tendered by a customer to reconnect service, per Section 1407(c)(3).

Aqua fully supports the Commission's proposed amendment to these sections to deter customers from attempting to avoid termination (or to have service reconnected) when there are insufficient funds available for the payment submitted. The proposed amendments do provide a valuable collection tool for the utilities. (Aqua at 5).

FirstEnergy has no comments regarding the Commission's proposed changes to § 56.191; however, they propose a few additional modifications to this section. Specifically, they recommend modifying § 56.191(b)(1) as follows:

> (vi) Within 5 calendar days where a public utility employee was previously threatened by the customer. Additional fees associated with the increased security required during reconnection may be charged to these customers as approved within a public utility's tariff.

(FirstEnergy at 29). FirstEnergy also supports similar changes to § 56.191(b)(2):

> (vi) Within 5 calendar days where a public utility employee was previously threatened by the applicant. Additional fees associated with the increased security required during reconnection may be charged to these applicants as approved within a public utility's tariff.

(FirstEnergy at 29). FirstEnergy recommends an increase to the reconnection timeframe where a utility employee was previously threatened by the applicant or customer. If a verbal or physical threat previously occurred, utilities will bring additional security or engage a police escort during the reconnection process. A five-day reconnection timeframe would provide sufficient time for utilities to obtain additional security forces. Sections 56.191(b)(1) and (b)(2) should be modified to permit

utilities to propose tariff language allowing for higher reconnection fees where additional security is needed. (FirstEnergy at 29).

LICRG is opposed to FirstEnergy's suggested revisions. Chapter 14 sets forth specific requirements for the timing of restoration of service. These requirements are reflected in existing Commission regulations at § 56.191(b)(1)-(2). FirstEnergy's proposal for additional delay in service restoration is not authorized by and, thus, is contrary to the Public Utility Code. LICRG is also concerned about the administration and oversight of FirstEnergy's proposal. It is not clear what FirstEnergy, or any utility company, perceives as a threat to utility personnel for this purpose and such a subjective determination is ripe for misuse. Similarly, it is not clear that the perception of such a threat justifies the delay in restoring utility service. Where the health and safety of utility customers is actually or potentially at stake, any delay in restoration could have dire consequences. LICRG is unaware of the existence of significant actual and actionable threats posed by customers to utility personnel and are not convinced that perceived threats should be deemed continuing among customers who have satisfied the applicable conditions to having service restored. LICRG submits that the proper course of action for utility personnel to take, when fearing for personal safety due to threats of violence, is to contact local law enforcement personnel. (LICRG Additional Comment at 39—41).

OCA submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 21).

PECO suggests that a minor change be made to § 56.191(c)(2). In the various provisions of that Subsection, the regulations state that a utility may or must take certain actions depending upon the income level of the customer or applicant. PECO generally believes that, when the regulations provide for disparate treatment based on income, the regulations should refer to "verified income" rather than merely "income." Otherwise, customers and applicants can receive preferential treatment whether they truly have lower income or not, by the simple artifice of claiming to have income levels low enough to receive preferential treatment, regardless of their actual income level. Requiring verification of income levels in order to receive preferential treatment reduces that possibility significantly. (PECO at 7).

Discussion

First, we agree with the commentators in that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer's status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups exploration of these issues.

We decline to tamper with the statutory language we are incorporating into this section by inserting "verified" as PECO wishes. For similar reasons, we have concerns with FirstEnergy's proposed five-day reconnection timeframe when a utility employee was previously threatened by an applicant or customer. In Section 1407, the General Assembly established various timeframes by which the service needed to be reconnected. For example, seven days to restore service that requires street or sidewalk digging or 24 hours upon receipt of a valid medical certificate. We agree with the LICRG in that the General Assembly set clear timeframes to reconnect service once an applicant has met all applicable conditions in Section 1407. We would not ask a utility to restore service which would endanger the safety of a person or the integrity of the public utility's delivery system. We would also not ask the public utility to put any utility employee in harm's way or danger. We agree with LICRG that threats of violence are more appropriately addressed by law enforcement. Therefore, we are declining FirstEnergy's proposal.

§ 56.201. Public information.

We changed Subsection (b)(1) to ensure that the information notifying customers of the special protections that may be available for victims under a protection from abuse order may also now be available to those customers with a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence, pursuant to Section 1417. See 66 Pa.C.S. § 1417 (relating to nonapplicability).

§ 56.231. Reporting requirements.

We proposed adding a new requirement at paragraph (a)(13) that requires the utility to report on its usage of electronic formats since Section 1406(b)(1)(ii)(C) now permits utilities to provide 3-day notice of termination by this method in addition to the current reporting of notices by telephone and in person.

We proposed adding Subsections (b)(11), (b)(12), and (c) to incorporate the new reporting requirement at Section 1410.1(3) and (4) involving the annual reporting of accounts exceeding $10,000 in arrears and the number of medical certificates used by consumers. Section 1410 (relating to public utility duties). In its Tentative Order, the Commission identified the new reporting requirements at Section 1410.1 as a priority and asked parties to submit comments.

Concerning the annual reporting of medical certificate usage, many parties summarized three possible interpretations of Section 1410.1(4), noting that it could be read as:

1. To require a single number: the number of medical certificates and renewals that have been submitted and accepted.

2. To require four separate numbers, as proposed in the Tentative Order: (1) the number of initial medical certificates submitted; (2) the number of initial medical certificates accepted; (3) the number of renewals submitted; and (4) the number of renewals accepted.

3. To require: (1) the number of medical certificates and renewals that have been submitted; and (2) the number of medical certificates and renewals that have been accepted.

Many parties found that the third of these approaches is reasonable, and the Commission agreed. The Commission opined that the first interpretation, a single number, would not provide enough detail on a utility's role in overseeing medical certificates, and the second interpretation may require too much information, especially given the limitations in utility data-gathering abilities. The

Commission stated that expanding this requirement to require further itemization is best left to the instant rulemaking where this issue can be fully vetted, and we accordingly invited parties to comment on this.

Concerning the annual reporting of accounts with arrears exceeding $10,000, the Commission noted that this reporting requirement appears to differ significantly from the traditional utility reporting requirements. Most traditional reporting requirements consist of aggregate data (numbers, sums, totals, averages, etc.). However, with the direction to report annually "residential customer accounts which have accumulated $10,000 or more in arrearages," it appears that the General Assembly envisioned the reporting of specific accounts in lieu of a "number of accounts" or "averages." If this section is interpreted to mean that utilities are expected to submit account specific data, this presents us with another series of questions. Assuming specific customer accounts are to be reported to the Commission, we asked parties to comment upon what information concerning these accounts is needed and appropriate. We noted that the information reported has to be sufficient for the effective monitoring of utility collection practices while at the same time not compromising the customers' privacy, especially in the context of the Commonwealth's Right-to-Know Law.[17] In the Implementation Order, we also noted that, while the statute specifies that this reporting should take place "annually," it is silent as to the precise timing and methodology. We invited comments as to whether the Commission should designate an annual "snapshot" date for these reports or possible alternatives to the "snapshot" approach.

Upon careful review of the comments submitted by the parties, we provided the following guidance concerning the data required to comply with Section 1410.1(3):

A. Utilities shall examine their active (i.e. accounts not final-billed) residential accounts at the conclusion of each calendar year. Any account with an arrearage at or exceeding $10,000 at the time of this "snapshot" shall be reported to the Commission by April 1 of the following year.

B. Accounts where someone has presented a Protection From Abuse (PFA) order, or a court order which provides clear evidence of domestic violence, to the utility shall not be included in the reporting regardless of the level of arrearages.

C. Each account reported shall be identified to the Commission with a unique label that the utility can match to the account in question. The same unique identifier for each account shall be used in any subsequent reporting to identify that same account.

D. Customer names, addresses, account numbers, phone numbers, email addresses, Social Security numbers or any other information that could be used to identify the customer shall not be included.

E. The information concerning each of the accounts shall include the following:

1. Unique account identifier;

2. The account balance as of the time of the "snapshot;"

3. The date the account was established;

4. The average monthly bill amount for the previous 12 months;

5. The number of Commission informal or formal complaints;

6. The number of company payment arrangements;

7. The number of times the customer's service was terminated for non-payment.

F. Reporting shall begin, under these interim guidelines, with calendar year 2015—with the first annual report due to the Commission by April 1, 2016.

G. The Commission may request more detailed follow-up information on specific accounts.

H. Reports shall be filed at Docket No. M-2014-2448824, with an electronic copy sent to the Director of the Commission's Bureau of Consumer Services.

I. Reports shall be formatted per a specific electronic spreadsheet format provided by Commission staff. The Commission will provide this electronic format by September 1, 2015.

(Implementation Order at page 18.)

Customer names, addresses, account numbers, phone numbers, email addresses, Social Security numbers or any other information that could be used to identify the customer shall not be included. "Rate class" is not necessary as a data point because this reporting is applicable only to residential customers, per the definition of "customer" at Section 1403 and the language of Section 1410.1(3), which specifies "residential customer accounts."

Finally, we proposed revising § 56.231 by adding new Subsection (d). It is important to note that this is not a new requirement. We are simply consolidating the utility reporting requirement rules in Chapter 56 into one section—§ 56.231. The new Subsection (d) can currently be found in § 56.461, which we propose to eliminate. Consolidation will assist utilities in locating and complying with these requirements.

PGW requests that the Commission reconsider this determination and exclude Customer Assistance Program (CAP) customers' frozen arrearages from the $10,000 reporting requirements. The reason for this request is because of the nature of the uncollectible amounts associated with CAP customers (in contrast to non-CAP residential customers). For CAP customers, pre-program arrears are essentially "frozen" with a fraction of the arrears being forgiven for every timely CAP payment. Thus, for CAP customers in good standing, PGW has no "collection" tools available for these amounts that will be forgiven over time and they are truly uncollectible. For non-CAP customers, however, PGW does not foresee forgiving debts on these accounts; they remain outstanding and collectible. Including both collectible and non-collectible amounts will not present an accurate picture of PGW's collection practices or its accounts. Therefore, excluding CAP customers' pre-CAP arrearages from this reporting is consistent with the intent of Section 1410.1. It is also consistent with the data that is currently reported for the Universal Services Reporting Requirements, as well as the remaining § 56.231 reporting requirements. (PGW at 8-9).

Columbia's comments echo those provided by the EAP as both Columbia and the EAP propose that additional data points (including but not limited to bankruptcies and theft of service) should be included in the reports given to the Commission by the utilities. (Columbia at 8-9; EAP at 20-21).

Duquesne recommends adoption of the April 1 deadline for both reports. Duquesne requests that the Commission

[17] Pennsylvania Right to Know Law (RTK), 65 P.S. §§ 67.101, et seq. For more information on the PUC's "Right to Know" procedures, see http://www.puc.pa.gov/filing_resources/obtain/file_information/right_to_know_policies_and_procedures.aspx.

provide further guidance on the accounts that should be excluded or included in the report. The concept of a "snapshot" in time, specifically the end of the calendar year, and the April 1 due date for the report are consistent with the requirements in § 53.231 as proposed and the company has no issue with either proposal. However, at that particular moment, an account that is in arrears and active (i.e., not final billed) can have both a balance in excess of $10,000 and be subject to other conditions that affect the collectability of the account. During preparation of its first annual report in 2016, Duquesne had several accounts that did not fall neatly into the definition of "active" above. For example, a question arose whether an account with a disputed amount that, if included, would reach the $10,000 threshold should be reported. Another instance involved an account in which a portion of the balance had been referred to an outside collection agency. Upon direction from Commission staff, Duquesne included disputed amounts in identifying reportable accounts, but did not include accounts where a portion had been referred to outside collection. While Duquesne is not requesting that an additional regulatory requirement be added or that § 56.231 as proposed be revised, they are seeking further clarification from the Commission that only amounts for which Duquesne can actively collect on should be reported, which excludes other amounts such as those associated with disputes, bankruptcy, or where final bills have been submitted.

Further, while Duquesne appreciates the Commission's attempts to clarify elements in the report requirements and definitions therein, unfortunately, changing definitions does not mean that information that is captured can be as easily changed. Specifically, Duquesne does not separately track the annual collections operating expenses directly attributable to customer assistance programs because it is not practical or cost efficient to create separate business practices to carve out the information that would be required to meet this requirement. Regarding the other definitions related to reporting requirements, Duquesne has no comments. If they are able to transition to email communications related to terminations, it will ensure that the requested information can be captured. (Duquesne at 6-7, 16).

EAP recommends the inclusion of the accounts' use of medical certificates. EAP also believes that the Commission and the legislature may be informed by the inclusion of other data points in this report not limited to: whether the accounts are involved in a bankruptcy filing; whether the accounts involved the termination process and a Utility Report; whether the accounts have engaged in theft of service; and whether the accounts have filed high bill disputes. EAP recommends that the Commission also consider the exclusion of CAP pre-program arrears, as these dollars are "frozen" by the customer's participation in the program and, therefore, are uncollectable by the utility. These additional data points can show whether, and potentially for how long, accounts have been able to accrue additional balances by way of continuing to delay payment and still avoid termination. (EAP at 20-21).

OCA submits that the implementation of the Chapter 14 reporting requirements should carefully balance the Commission's mandate to analyze utility collection practices against the significant consumer privacy concerns raised by providing specific customer account information to the Commission. The OCA submits that if customer account information is to be collected, great care must be taken to protect privacy. OCA submits that the data should not be a "snapshot" in time but should include all accounts that had a balance exceeding $10,000 during the reporting period. A snapshot would not provide an accurate picture as it could be subject to seasonality or even an effort by the utility to clear those accounts with arrearage balances which meet the reporting threshold just before the snapshot date.

OCA also submits that the Commission should require the utility to provide the Commission with information regarding the company's collections process and a clear explanation of the steps the utility takes to collect past due balances beginning with the first instance of an arrearage. The OCA submits that the utility should then be required to report to the Commission on the utility's collection steps over the life of the arrearage from its inception up to the time that the account crosses the $10,000 arrearage threshold for the accounts over $10,000. Again, aggregate data could be used. By way of example, if a phone call reminder is the first step, the total number of accounts that received such a reminder should be provided. Also, the total number of accounts with no collection activity should be identified.

If account level data reporting is required for all accounts with a balance exceeding $10,000, aggregated data should also be provided in addition to account level data. The OCA recommends the collection of additional data points for the aggregate set of consumers with arrearages in excess of $10,000 broken out by confirmed low income and total residential, as is the BCS collection reporting. This data should include:

- The number of accounts with arrears in excess of $10,000;
- The total dollars of arrears in accounts with arrears over $10,000 (not simply the dollars over $10,000, but the total dollars in accounts with arrears over $10,000);
- The number of accounts that have been treated through a company-sponsored usage reduction program;
- The length of time it took the arrearage to accumulate from the first past due balance until reaching the $10,000 threshold (a long-term equivalent of the aging of the arrears);
- The number of payment arrangements (i.e. a distribution analysis of the number of accounts receiving 1, 2, 3, etc. payment arrangements);
- The number of accounts that were subject to medical certificates; and
- The total number of accounts that were worked through each step of the utility's collections process.

The OCA submits that these data points will allow the Commission to determine whether the utility's collections processes and steps are effective and to provide the Commission with meaningful information about consumer accounts that have reached the reporting threshold. Regarding medical certificate reporting, the OCA supports the Commission's proposed guidelines as detailed in the Tentative Order. (OCA at 22—25).

Discussion

First, we will address the annual reporting of medical certificates. OCA submits that we should use our proposal from the Chapter 14 Implementation Tentative Order, Docket No. M-2014-2448824 (Order entered January 15, 2015). Parties commented on our initial proposal and in the Chapter 14 Implementation Final Order, Docket No. M-2014-2448824 (Order entered July 9, 2015) and we agreed with the parties that requiring two separate numbers was reasonable. Upon careful review and consid-

eration, we believe our proposal is sound. We think that requiring two separate numbers, (1) the number of medical certificates and renewals that have been submitted and (2) the number of medical certificates and renewals that have been accepted, strikes the correct balance.

Next, we will address the annual reporting of accounts exceeding $10,000. OCA believes that the General Assembly's purpose in monitoring utility collection activities can be fulfilled with the use of aggregate data and general descriptions of utility collection actions and procedures. While we agree that aggregate data can be of some use for these purposes, we think the intent of the General Assembly was to go beyond general data. If the General Assembly had just wanted general, aggregate data (totals, averages, percentages, etc.) easily it could have asked for such. In fact, it did just that in paragraph (4) where it specifies "number" when discussing the reporting of medical certificates. The lack of the word "number," as in "number of accounts," in paragraph (3) concerning the $10,000 arrearage reporting requirement cannot be ignored. Accordingly, we will maintain our proposal that this reporting requirement refers to specific, individual customer accounts.

The parties offered many different opinions on just what type of accounts should be or should not be included in the reporting. Several parties pointed out account-types that they think should be excluded from this reporting requirement for various reasons. These include:

- CAP accounts;
- Bankruptcy-related accounts;
- Accounts on an amortization or payment agreement;
- Accounts involving theft or unauthorized use;
- Accounts involving civil litigation;
- Accounts associated with a PFA.

The rationale offered for the possible exemption for most of these is that traditional collection tools are not necessarily available for these types of accounts. However, the reporting requirement at Section 1410.1 makes no mention of the applicability of various collection methods available; this section simply refers to "accounts." If the General Assembly had intended this reporting requirement to be specifically targeted to accounts subject to specific collection methods or subject to a specific law or regulation, it could have done so. To the contrary, it is reasonable to assume that the General Assembly created this reporting requirement to specifically gauge the impact of various collection practices and various regulations and laws. For the Commission to omit a variety of accounts to the extent advocated by the parties would impermissibly thwart the will of the General Assembly.

However, we agree with parties that sought to exempt from the reporting requirement those accounts that involve a customer with a PFA or other court order that provides evidence of domestic violence. Including PFA accounts could intrude on the privacy and security of PFA holders; a key to the security and privacy for any PFA holder is to limit the disclosure of such information to only those who have an important need to know. For the purposes of this reporting requirement, we do not find the grounds for asking for this information and including it in the reporting is sufficient to warrant the possible risks to the privacy and security of PFA holders. Accordingly, we will exclude these accounts among the accounts reported under the proposed § 56.231(c).

In addition to our proposed data points, parties also offered many suggestions on just what information about the accounts should or should not be included in this report. The total list of possible data points submitted by the parties is quite extensive and includes the following:

1. Account balance as of the time of the "snapshot;"
2. Time period over which the arrearage accrued (in years or months);
3. Average monthly bill amount;
4. Number of Commission informal or formal complaints;
5. Number of company payment arrangements;
6. Rate class;
7. Whether the ratepayer is a landlord ratepayer;
8. Multiple meter or single meter property;
9. History of LIURP services;
10. Indication of whether de facto electric heating is occurring at the premise;
11. Customer name;
12. Number of payments in the last 24 months;
13. Number of energy assistance payments in the last 24 months;
14. Participation in CAP;
15. Balance when removed from CAP;
16. Customer current income level;
17. Number of medical certificates filed;
18. Number of NSF checks or use of an invalid credit card;
19. Number of times the customer filed bankruptcy and dollars associated with bankruptcy;
20. Number of times customer reported a change in income;
21. Number of 10-day notices issued in last 24 months;
22. Number of times the customer was shut-off for non-payment;
23. Date of last shut-off;
24. Move-in date;
25. Last payment made;
26. Total customer payments;
27. Number of times dispute rights were offered;
28. Whether balance transfers from previous accounts contributed to the arrearage;
29. Whether a PFA has issued;
30. Indicator of meter-access problems.

While many of the above items that the parties suggested are interesting, most are not critical for our intended purposes at this time. We must be mindful of the burdens on utilities to compile this information. And, since the reporting of accounts exceeding $10,000 began in 2015, the number of accounts with a balance of $10,000 or more has declined. This requirement appears to be working as intended and does not need extensive changes.

Below is the data that has been filed under Docket No. M-2014-2448824:

Number of Residential Accounts with a balance of $10,000 or more			
	2015	*2016*	*2017*
ELECTRIC UTILITIES	539	474	424
NATURAL GAS UTILITIES	413	352	254
WATER UTILITIES	8	6	9
TOTAL	960	831	687
* Class A Water Utilities only. Class A Water Utility—A water utility with annual revenues greater than $1 million. (52 Pa. Code § 56.2).			

After considering the above and the comments of the parties, we are staying with our original proposal with one addition. We believe there is value in knowing what, if any, collection activity a utility has taken on these accounts. Therefore, we are adding the number of 10-day termination notices issued on an account. In addition, the Commission may request additional information on specific accounts.

To summarize, we will include the following data points in the reporting requirement:

1. Unique account identifier;

2. Account balance as of the time of the "snapshot;"

3. Date the account was established;

4. The average monthly bill amount for the previous 12 months;

5. The number of Commission informal or formal complaints;

6. The number of company payment arrangements;

7. Number of times the customer's service was terminated for non-payment;

8. Number of 10-day termination notices issued.

We would also like to provide some guidance for these reporting requirements. We did not receive sufficient comments one way or the other regarding establishing a timeframe for these reporting requirements and, therefore, are hesitant to add it to the regulations. We believe that items 5, 6, 7, and 8 should all be based on item 3, the date the account was established. We recognize the various record keeping rules and that some information may not be available beyond four years. In addition, if any problems or issues arise, we can revisit it later. Therefore, we are issuing guidance that public utilities will provide whatever information they can for items 5, 6, 7, and 8 from the date the account was established.

We reiterate that data points that can identify the customer such as their name, address, account number, and Social Security number are not to be included, nor should there be any mention of PFA-involvement. "Rate class" is not necessary because this reporting is applicable only to residential customers, per the definition of "customer" at Section 1403 and the language of Section 1410.1(3), which specifies "residential customer accounts."

Concerning the format of the reporting, several parties encouraged the Commission to allow for electronic submission via a secure web portal, similar to what is already currently used for 52 Pa. Code §§ 54.75 and 56.231 reporting. We agree that ultimately this is the preferred format. Once the final regulations are adopted concerning this reporting requirement, the Bureau of Consumer Services will set up a permanent web portal for this purpose. In the interim, as we proposed in the Tentative Order, an electronic spreadsheet should be sufficient for this purpose. Commission staff will develop and distribute a formatted electronic spreadsheet. In the interim, this docket can serve as the repository for the reports. Additionally, for consistency with the 52 Pa. Code §§ 54.75 and 56.231 reporting, these reports should be sent to the Director of the Bureau of Consumer Services by electronic mail. Electronic versions will allow for sorting and aggregation if desired. We note that per the discussion above, these reports will not include data that can be used to identify any customer; therefore, security is less of an issue. A key concept in data security is to limit the amount of sensitive data one is handling, and we have done that with these proposed regulations.

Section 1417 and Protections for Victims of Domestic Violence.

We invited parties to comment on any matters relating to the protection from abuse (PFA) subchapters L—V and the language in the amended 66 Pa.C.S. § 1417, "or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer." We further invited commentators to offer suggested language relating to these other court orders.

LICRG notes that these provisions provide critical protections for victims of domestic violence, who face extreme physical safety and economic instability when separating from an abusive intimate partner. For example, a victim cannot be held responsible for debts and arrearages accrued by an abuser, and they are provided with additional flexibility in negotiating a payment arrangement based on the individual's unique facts and circumstances, rather than falling within the rigid timeframes established in Chapter 14. In its Proposed Rulemaking Order, the Commission tracked language from the statute, without providing additional clarification on the scope of order that could be affected. However, LICRG believes that there are inherent ambiguities in the statute which must be resolved to fully implement the Chapter 14 exemption for victims of domestic violence in a manner consistent with the intent of the General Assembly.

LICRG points to several "orders" that may contain "clear evidence of domestic violence"—including civil and criminal orders, such as divorce, custody, child protection, criminal convictions, and sentencing. Moreover, many court orders contain clear evidence of domestic violence, but lack critical facts necessary for the utility to interpret the order. For example, a criminal charging order for assault by an abuser against a victim contains clear evidence of domestic violence; however, the charging order itself is unlikely to contain an attestation of the relationship between the offender and their victim. There is also potential for conflicting interpretation by utilities about

when a court order is from "a court of competent jurisdiction in this Commonwealth." For example, protection orders issued by a court from another jurisdiction are explicitly recognized and enforced by Pennsylvania's courts, pursuant to the Protection From Abuse Act. And, the Full Faith and Credit provision of the United States Constitution explicitly ensures that court orders issued in one state are recognized and enforceable in all other states.

LICRG believes that the implementation of the Chapter 14 exemption for victims of domestic violence is complicated and requires the input and advice of professionals who are not often before the Commission. LICRG suggests that the Commission commit to launching a work group comprised of representatives from BCS, Law Bureau, the utilities, statutory advocates, advocates for victims of domestic violence (such as PCADV), representatives of consumer groups, and other interested stakeholders. The purpose of this work group would be to provide specific recommendations to the Commission regarding necessary guidance and interpretation of the statutory exemption that could be developed into a policy statement to be universally applied across utility service territories. (LICRG at 48—52).

LICRG agrees with IRRC that the public safety is not adequately protected without clear guidance to ensure that the protections for victims of domestic violence are implemented appropriately to fulfill the intent of the General Assembly in exempting this vulnerable population from harsh credit, billing, collection, and termination standards. LICRG urges the Commission to proceed with care by setting forth explicit language and employing a deliberative process which considers responsive input and recommendations from a variety of stakeholders. The Commission should strongly encourage the participation of subject matter experts and organizations that provide assistance to domestic violence survivors. (LICRG Additional Comment at 31-32).

The Joint Commenters note that the domestic violence exemption recognizes that victims of domestic violence need unique protections from certain collection and billing practices which may place them at an increased risk of physical or financial harm. The Joint Commenters believe that the exemption has not been fully implemented and that they often have to assist clients who report that utility call center employees are confused when they disclose that they are a victim of domestic violence or that they have a PFA or other court order. As a result, many who qualify for the special billing, collections, and termination rules are not able to access these protections.

The Joint Commenters believe that there has never been clear and consistent policy guidance from the Commission to ensure that victims of domestic violence are held to the appropriate billing, collections, and termination standards, pursuant to Section 1417. They note that implementation of the domestic violence exemption is complicated; indeed, domestic violence is adjudicated across an array of legal matters and court jurisdictions, and there are nuances to each which require careful consideration before implementing policies and procedures. Accordingly, the Joint Commenters recommend that the Commission retain its proposed language codifying the expanded statutory exemption, and, like LICRG, ask the Commission to convene a working group. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of this statutory language that could be developed into a policy statement to be universally applied across utility service territories. It could also further assist the Commission with other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training materials, and confidentiality protocols for handling sensitive information about a customer's status as a victim of domestic violence. (Joint Commenters at 24—27).

Regarding the revised Section 1417, OCA declares that many terms included in this provision are unclear as to how they should be interpreted and applied. Questions raised by this language include: what types of orders qualify; how should an order from a court in another state be handled; what constitutes "domestic violence"; and what qualifies as "clear evidence" of domestic violence? This language is ambiguous in many respects and domestic violence is a complex issue and as such the OCA does not believe it is appropriate to propose specific language in these comments. Rather, the OCA, like LICRG and the Joint Commenters, submits that the Commission should convene a working group consisting of a variety of stakeholders, and that this group would work collaboratively to develop guidance as to how this language should be applied going forward. This guidance could then be the subject of a separate Policy Statement adopted by a final Commission Order. (OCA at 4-5).

Duquesne states that it supports efforts to reduce adverse effects of domestic violence and the havoc it wreaks on families and children in our community and it takes seriously its obligations as a utility to protect its customers who have been victims of such violence and has procedures to afford such protections as required. Duquesne reports that the courts within its service territory have developed consistent forms and procedures for PFA proceedings. The commonality of format afforded by the courts' actions has enabled Duquesne to develop, implement and adhere to consistent handling of matters involving PFAs. The additional language in Section 1417 that requires utilities to accept a "court order . . . which provides clear evidence of domestic violence," without more detail, places utilities in the untenable position of interpreting and then determining whether "clear evidence" of domestic violence exists.

While Duquesne is aware of suggestions to seek determination from in-house legal counsel or expertise from domestic violence agencies when faced with such dilemmas, it does not feel this is an adequate resolution of the issue. In addition to seeking guidance as to what types of court orders, other than PFAs, show "clear evidence of domestic violence," Duquesne is concerned about the lack of time limitation associated with such orders. The Pennsylvania Protection From Abuse Act, as codified in 23 Pa.C.S. § 6108(d), specifically provides that the protection order "shall be for a fixed period of time not to exceed three years." Upon petition to the court, a PFA can be extended and a new PFA can be obtained should it be necessary, extending protection for another three years. By contrast, a "court order" may be silent on the period of time it covers, which potentially translates into a permanent exemption from Chapter 14. Duquesne asks that the Commission consider the issues attendant with unspecified court orders and facilitate conversation around application of these orders through a working group or other process in order to remove these current ambiguities. (Duquesne at 8-9).

PPL is concerned that the broad language of the new PFA provisions puts the utility in the role of interpreting court orders and determining what constitutes "clear evidence" of domestic violence. Absent clear direction from

the Commission, PPL believes that this broad language could lead to customer complaints any time a utility determines that a customer's court order does not constitute "clear evidence" of domestic violence. Moreover, specific guidelines will help ensure that victims of domestic violence are properly identified by the utilities. PPL offers the following definitions that it believes could give utilities some guidance when determining whether a court order provides clear evidence of domestic violence:

> *Clear evidence*: defined as a statement or finding contained in the court order that the customer or member of the household is a victim of domestic violence;
>
> *Domestic violence*: defined as violence between family members, as defined in 23 Pa.C.S.A. § 6102, relating to PFAs (i.e., spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood); and
>
> *Court of competent jurisdiction*: is defined as a magisterial district court, court of common pleas, or appellate court.

(PPL at 12-13).

Discussion

The parties have provided helpful comments on addressing this critical issue. LICRG helpfully lists the types of court orders that could fall under Section 1417 and PPL offers some proposed language to define some key terms. Many of the parties have emphasized the complexity of the issues involved and the difficulty of formulating specific proposals in the context of a formal rulemaking. Concerns have also been expressed that we need to call on a wider range of expertise than those who traditionally participate in rulemakings, such as the current one. Accordingly, LICRG, Joint Commenters, OCA and Duquesne all advise the Commission to instead form a working group where these matters can be discussed by all interested parties.

We find this advice convincing and agree with the Joint Commenters that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer's status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups exploration of these issues.

Subchapters L—V and Protections for Victims of Domestic Violence

In Section 1417 (relating to nonapplicability), the General Assembly determined that Chapter 14 would not cover customers protected by a PFA order or customers with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer. Accordingly, at the same time the Commission is complying with the Act by amending the provisions of Chapter 56 regulations to comply with the revised legislation and declared policy, we still need to account for the General Assembly's decision to exclude these customers. We addressed this in the 2011 rulemaking by creating two separate bodies of regulation; one clearly reflecting Chapter 14 (subchapters A—K), and the other free of Chapter 14 requirements, except where the Chapter 14 requirement provides a consumer benefit (subchapters L—V).

This bifurcation is necessary because the General Assembly made it clear that Chapter 14 does not apply to certain customers (those with a PFA or a court order providing evidence of domestic violence). At the same time, we must account for provisions of Chapter 14 that provide benefits to consumers and extend these benefits to these consumers. It is nonsensical to think that the General Assembly wanted these consumers to have fewer protections than other customers.

We proposed continuing this approach to maintain separate subchapters (L—V) within Chapter 56 for customers not covered by Chapter 14, while expanding the applicability of subchapters L—V to not only all customers who have been granted protection from abuse orders but also to customers with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer, as to align with revised Section 1417. See 66 Pa.C.S. § 1417 (relating to nonapplicability). Additionally, as to align with the revised definition of public utility at Section 1403 (relating to definitions), we proposed to remove the applicability of these same subchapters to wastewater, steam heat, and small natural gas companies. The applicable subchapters for these entities will be B through K—the same as other utilities. See § 56.1, Statement of purpose and policy.

No party voiced serious objections or concerns with this proposal, so we will proceed with maintaining subchapters L—V with some revisions as we will now discuss in detail.

§ 56.252. Definitions.

The definitions of public utility, small natural gas distribution utility, steam heat utility, and wastewater utility have been revised to reflect the revised Chapter 14 definitions at Section 1403. See 66 Pa.C.S. § 1403 (relating to definitions).

A definition of physician assistant has been added since Chapter 14 now permits the filing of medical certificates by physician assistants. Accordingly, we think it is important that this term be defined. This revision provides additional protections to the customers covered by subchapters L—V. We kept this definition and the revised definitions for nurse practitioner and physician the same as those in § 56.2 for consistency.

We proposed revising the definition of billing month as to allow short-period bills in instances where a customer's change of commodity supplier necessitates the issuance of a short-period bill in order to effectuate a timely switch of supplier. Recent regulatory changes intended to accelerate the switching of electric generation service now make it possible to switch commodity service in as little as three business days. See 52 Pa. Code §§ 57.173, 57.174 and 57.180. Some utilities, as part of the switching process, will issue a final short-period bill for the customer's current supplier so that billing with the new supplier can start within the three-business day timeframe. The Com-

mission has already issued temporary waivers of the § 56.2 definition of billing month to facilitate this process,[18] and we believe it is necessary to codify this change in billing procedures to eliminate the need for repeated waivers in the future.

Duquesne believes that the definition of applicant and customer as set forth in § 56.2 should be aligned in § 56.252 for consistency of application of the regulations and to ensure that the definitions in § 56.252 adhere to the revised Chapter 14. When comparing these two Sections, § 56.2 is more specific and in line with Act 155, whereas § 56.252 needs some additions in order to be consistent with the definitions contained in § 56.2. (Duquesne at 11).

IRRC also notes that the definition of applicant differs significantly between §§ 56.2 and 56.252. In particular, the definitions use different time periods in Paragraph (ii) of 30 days versus 60 days and asks the PUC to explain why the definitions of this term need to differ between §§ 56.2 and 56.252.

Discussion

In response to the concerns expressed by IRRC and Duquesne, who point to the differences between the definitions of applicant and customer in § 56.252 compared to § 56.2, we note that this distinction was deliberate and based upon the directive in Section 1417 that Chapter 14 shall not apply to victims of domestic violence. The "missing" language in the proposed § 56.252 is language found in the revised Chapter 14 definitions of applicant and customer.

The current definition of applicant in § 56.252 gives a victim of domestic violence a 60-day window to obtain new utility service after a termination or discontinuance without being considered an applicant. In effect, they retain the rights of a customer, meaning that they do not have to submit to credit screening to transfer or establish service within the 60-day window. If we applied the new 30-day window as found in the reauthorized Chapter 14, we believe this would impermissibly apply a Chapter 14 provision that would result in less protection for a victim of domestic violence. Accordingly, we think it is appropriate to maintain the 60-day period in the definition of applicant as we proposed. The 60-day window also aligns with the pre-Chapter 14 definition of applicant as was found at § 56.2.

However, upon further consideration, we do think we need to reconsider our proposed definition of customer at § 56.252. The current § 56.252 definition has no mention of timeframe for which one remains a customer, and our proposed language did not change this. Upon further consideration, we are concerned that the lack of a timeframe may cause confusion for both customers and utilities and could possibly result in a victim of domestic violence receiving less protection than they are entitled to per Section 1417. Accordingly, we will add to the definition of customer the same 60-day window found in the definition of applicant. This 60-day period is also the same period found in the pre-Chapter 14 definition of ratepayer as was found at § 56.2.

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

We proposed adding a new paragraph (6), Verification of automatic meter reading, to incorporate the new requirement at Section 1411 that utilities verify meter readings at the request of the customer. See 66 Pa.C.S. § 1411 (relating to automatic meter readings). This revision provides additional protections to the customers covered by subchapters L—V.

Consistent with the OCA's comments regarding § 56.12 above, the OCA supports the addition of this provision, with one modification. The OCA suggests that the Commission either update the definition of AMR to include AMI or add a separate new definition of AMI that should be reflected throughout these regulations. Consistent with that recommendation, as well as the OCA's recommendation regarding § 56.12, the OCA submits that consumers should have the same right to verification for automatic meter readings obtained through AMI as is being included in this section for AMR. If the definition of AMR in § 56.252 is updated to include AMI, then automatic meter readings obtained through AMI will receive the same right to verification of automatic meter readings at the customer requests. If a separate definition of AMI is added to § 56.252, then language indicating that automatic meter readings obtained through AMI are also subject to verification on the customer's request will need to be inserted into this section. (OCA at 27-28).

Discussion

As discussed above relative to §§ 56.2 and 56.12, we think current references to AMR—Automatic meter reading are sufficient and additional revisions are unnecessary. While the definition does apply to an older technology that predates the advanced metering infrastructure (AMI) that is currently being deployed by many electric utilities, we think the language in this definition ("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") is general and broad enough to capture AMI as well.

§ 56.281. Policy Statement.

Duquesne suggests that we update the nondiscrimination standards found in the Policy Statement at § 56.281. (Duquesne at 11-12). We agree that it is time to update these sections to reflect a broader scope of protections and will use Governor Wolf's Executive Orders, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth as an example. Accordingly, we will add "color, religious creed, ancestry, union membership, gender, sexual orientation, gender identity or expression, national origin, AIDS or HIV status or disability" to § 56.281 as we did with § 56.31.

§ 56.282. Credit standards.

We proposed a new paragraph (4) to align with the new Section 1404(a.1) prohibition on CAP-eligible customers and applicants paying deposits. This revision provides additional protections to the customers covered by subchapters L—V.

OCA, as they discussed in relation to § 56.32(e), asks the Commission to clarify that eligibility for CAP in this context is based on income eligibility, not on eligibility based on some other criteria. (OCA at 28). Similar concerns expressed by LICRG, Joint Commenters, and CAC in relation to § 56.32(e) are also relevant to § 56.282. LICRG notes that it is unlikely that the nuances of each utility's CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. As CAC points out that using household income to determine eligibility has the benefit of establishing a uniform, statewide standard that can be consistently applied. And

[18] See Petition of PECO Energy Company for Temporary Waiver of Regulations Related to the Required Days In a Billing Period, Docket P-2014-2446292 (Order entered December 4, 2014).

the Joint Commenters note that we have to account for water utilities that do not have CAP programs and thus do not have CAP-eligibility criteria. (OCA at 9—12; LICRG at 18—27; CAC at 6—9; Joint Commenters at 18—21).

Discussion

Concerning the proposed prohibition on requiring deposits from customers that are CAP-eligible at § 56.32(e), OCA, LICRG and CAC ask us to clarify that this standard is referring to eligibility based upon the customer's household income, and not on other miscellaneous eligibility criteria that can vary by utility. This same concern is relevant to §§ 56.282 and 56.291. We agree with OCA and LICRG that it is unlikely that the nuances of each utility's CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. Also, as CAC points out, using household income to determine eligibility has the benefit of establishing a uniform, statewide standard that can be consistently applied. We agree with the Joint Commenters that the Commission's Policy Statement on Customer Assistance Programs at § 69.265 and the 150% of the Federal poverty level eligibility threshold is a logical reference. It is reasonable to assume that the General Assembly was aware of this threshold in reauthorizing Chapter 14. Accordingly, as we did with § 56.32, we shall insert language here to the effect that the customer is confirmed to be eligible for a customer assistance program if she or he provides income information to the public utility which verifies that the household income meets the program's income eligibility standard.

Regarding the concerns expressed about this same Section by LICRG that it is eligibility and not actual enrollment into CAP that determines the customer's exemption from deposit requirements, we agree and point out that this Section specifies "eligible"—not "enrolled" or "participating." We think this language is sufficient direction that the customer only has to be "eligible" and not actually enrolled in CAP to be exempt from a deposit request.

Several parties, including EAP, PPL, FirstEnergy and Columbia ask that we address income verification procedures in the context of the use of the word "confirmed" in Section 1404(a.1). (EAP at 5, PPL at 3-4, FirstEnergy at 10-11, Columbia at 4—6). In using the word "confirmed" in this Section, the General Assembly likely intended that a self-declaration of eligibility was insufficient to qualify for exemption from a security deposit—that there would be some sort of burden upon the customer or applicant to provide some sort of proof of eligibility. At the same time, we are sensitive to the concerns expressed by some of the parties that any such confirmation procedure not be overly complex or burdensome. We think proposals like PPL's, FirstEnergy's and Columbia's are reasonable. Enrollment in CAP or household income data submitted to the utility (or the utility's agent) or information indicating eligibility for state benefits with income thresholds consistent with the CAP program should all be acceptable means of establishing eligibility for a security deposit waiver. We will revise §§ 56.282 and 56.291 accordingly with this guidance. And as we discuss in reference to §§ 56.32 and 56.282, in response to concerns expressed by OCA and others about the protection of sensitive consumer information, we will add language to § 56.282 at Subsection (3)(iii) that reflects language in the analogous § 56.32 to the effect that "Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers."

Finally, as we did with the analogous §§ 56.32—56.42, we will clarify the applicability of the various sections, noting that in general, §§ 56.282 and 56.288 apply to applicants; while §§ 56.291 and 56.292 apply to customers. We have revised the terminology in these sections accordingly.

§ 56.286. Written procedures.

We proposed revising this regulation to include incorporation into the utility's written credit procedures the deposit exception in § 56.282 for CAP-eligible applicants, per Section 1404(a.1). We also proposed including in the procedures the availability of alternative credit standards for applicants with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, in addition to those applicants who have been granted protection from abuse orders, pursuant to Section 1417. We likewise proposed revising paragraph (1) to include a requirement that utilities provide this same information to applicants in writing when credit is denied. These revisions will provide additional protections to the customers covered by subchapters L—V.

For the reasons OCA discussed relating to §§ 56.32(e) and 56.282(4), OCA asks the Commission to clarify that eligibility for CAP in this context is based on income eligibility, not on eligibility based on some other criteria. Regarding §§ 56.286 and 56.286(1), OCA generally supports the addition of the proposed language but submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 29).

Discussion

We agree with OCA that eligibility for CAP in this context is based upon household income, as discussed previously in relation to § 56.282. We also agree to convene a stakeholder group to address the application of these provisions relating to victims of domestic violence.

§ 56.288. Payment period for deposits by applicants.

IRRC, along with many of the parties, asked the Commission to clarify the reference to the "90 days" deposit payment period in Section 1404 (a) and (h). Does this mean that a customer/applicant has 90 days to pay a deposit in full, regardless of any installment payment plan? Can a utility pursue termination for nonpayment of any deposit installment, regardless whether 90 days passed?

As we discussed earlier in reference to §§ 56.31—56.57, part of the difficulty here is that the Commission's Chapter 56 regulations have never referred to a "90-day" period for paying a deposit. Historically, these regulations have, depending upon the circumstances, either required full immediate payment of a deposit or permitted an installment plan of 50% as an initial payment, followed by 25% billed 30-days later, followed by a final installment of 25% billed 60-days later. The 50/25/25% installment plan, when factoring in 20-day due dates (see 56 Pa. Code § 56.271), does get you into the proximity of "90-days," but not exactly in most cases. Further, we note that historically, the deposit rules have not specified if failure to pay any deposit installment is grounds for termination. We note the comments of parties like PPL, Duquesne, and FirstEnergy who offer that their current practice is to treat failure to pay any deposit installment as grounds for termination.

While the parties raise many points in both sides of this matter, and arguments could be crafted to support

either position, as we discussed earlier in reference to §§ 56.31—56.57, it is nonsensical to have a regulation providing for installment payments if the customer is not required to pay an installment. Therefore, we agree with PPL, Duquesne, and FirstEnergy and conclude that failure to pay a deposit installment by the due date is grounds for termination. To declare otherwise would be to basically declare that installments are not needed at all. We also note that this requirement is not rooted in Chapter 14; therefore, it is not inappropriate to apply it to those customers who are covered by this section. Accordingly, we will insert language in §§ 56.288 and 56.292 to the effect the installment payments must be paid timely and that failure to do so is grounds for termination.

Also, as we did with § 56.42, we agree to revise this language to specify that the customer has the option to pay the deposit amount in full anytime within 90 days upon determination by the public utility that the deposit is required. We will specify that the customer can pay in full anytime during the 90-day period regardless of whether an installment has been paid or not.

§ 56.291. General rule.

We proposed new paragraph (4) to align with the new Section 1404(a.1) prohibition on CAP-eligible customers and applicants paying deposits. This revision provides additional protections to the customers covered by subchapters L—V.

For the same reasons OCA discussed in relation to §§ 56.32(e), 56.282(4), and 56.286, the OCA submits that the Commission should clarify that eligibility for CAP in this context is based on income eligibility, not on eligibility based on some other criteria. (OCA at 29).

Discussion

As we discussed in relation to §§ 56.32 and 56.282, we agree that it is unlikely that the nuances of each utility's CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. Accordingly, as we did with §§ 56.32 and 56.282, we shall insert language here to the effect that the customer is confirmed to be eligible for a customer assistance program if she or he provides income information to the public utility which verifies that the household income meets the program's income eligibility standard.

§ 56.292. Payment period for deposits by customers.

Duquesne suggests adding a sentence at the end of this section consistent with the language in § 56.42 that "The customer retains the option to pay the deposit amount in full before the due date." (Duquesne at 15).

Discussion

IRRC, along with many of the parties, asked the Commission to clarify the reference to the "90 days" deposit payment period in Section 1404(a) and (h). Does this mean that a customer/applicant has 90 days to pay a deposit in full, regardless of any installment payment plan? Can a utility pursue termination for nonpayment of any deposit installment, regardless whether 90 days passed? As we discussed above in reference to § 56.288, we conclude that failure of a customer to pay a deposit installment is grounds for termination. Accordingly, as we did with §§ 56.38, 56.42 and 56.288, we will insert language in § 56.292 to this effect.

Also, as we did with the above-noted sections, we agree to revise this language to specify that the customer has the option to pay the deposit amount in full anytime within 90 days upon determination by the public utility that the deposit is required. We will specify that they customer can pay in full anytime during the 90-day period regardless of whether an installment has been paid or not.

§ 56.302(4). Deposit hold period and refund.

Similar to the deletion in § 56.53, Duquesne suggests that the language in § 56.302(4) be revised to remove the 24-month maximum deposit hold to be consistent with changes made in the remaining provisions of Chapter 56, which requires that deposits be held until a timely payment history is established. (Duquesne at 14).

FirstEnergy notes that although the Commission does not propose any significant changes to 52 Pa. Code § 56.302, they propose one additional change to this section to create consistency throughout the regulations—elimination of the maximum 24-month hold period for deposits. While FirstEnergy acknowledges that Act 155 does not govern the Commission's regulations at 52 Pa. Code §§ 56.251, et seq., they opine that this change should be equally applicable to all customers, including customers with PFAs or other court orders evidencing domestic violence. If a cash deposit is refunded as a result of a maximum hold period, another cash deposit will be charged to the customer the following billing cycle. As a result, customers receive little, if any, benefit from this cash deposit refund. In addition, differentiating between classes of customers will create certain administrative inefficiencies for utilities including system configuration complications. (FirstEnergy at 30-31).

IRRC also notes that § 56.53(a) is being amended to delete the maximum period of 24 months and asks if the same amendment should be made to § 56.302(4). (IRRC at 5).

Discussion

Regarding the refund of security deposits, OCA asks that we clarify that the relevant time period concerning refunding a deposit is any 12 consecutive months. We agree and will insert "any" in § 56.302(4) as we did at § 56.53. LICRG asks that we order deposits to be refunded if upon later discovery it is determined that the customer has become income-eligible to have a deposit waived. While we acknowledge FirstEnergy's objection to such language as being unnecessary as utilities already have an obligation not to hold security deposits for customers who are confirmed to be eligible for CAP, we think there is value in inserting this in the regulation as to make it clear to all utilities, consumers and advocates. Accordingly, we will insert language to this effect in § 56.302 as we did at § 56.53.

IRRC questions our proposed retention of the 24-month holding period at § 56.302 and we think FirstEnergy makes a valid point in that retaining this maximum holding period provides very little if any consumer benefit because the utility can simply assess another deposit. While eliminating the maximum holding period is admittedly applying a Chapter 14 provision to victims of domestic violence, we think it has little if any impact from a consumer-benefit perspective. And as FirstEnergy points out, differentiating between classes of customers will create administrative burdens for utilities including system configuration complications, burdens not commensurate with the minimal benefits to customers. Accordingly, we will drop the 24-month maximum holding period in § 56.302 as we did with § 56.53.

§ 56.306. Interest rate.

We proposed changing the mechanism for determining the interest rate applied to security deposits to align with the change at Section 1404(c)(6). We believe this change is neutral from a customer protection perspective. Whether this change is beneficial compared to the existing language depends upon prevailing interest rates. At times, this revision will favor customers compared to the current rule; at other times, possibly not so. Since the impact on consumers can be both negative and positive, we think making the interest rate calculation the same for all security deposits is the most reasonable approach. Requiring utilities to assess and track differing interest rates on different deposits would impose burdens on utilities while providing no clear benefit to consumers.

Discussion

We acknowledge that IRRC's concerns with § 56.57 also apply to § 56.306, relating to what interest rate is applied and when and possible confusion with the statutory language. Again, we think it is reasonable to conclude that what the General Assembly intended in Section 1404(c)(6) is to establish a variable interest rate—a rate that changes every January 1. A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of that calendar year (December 31). Then on January 1, a new interest rate is determined, and that is the rate that will be applied to the deposit for the calendar year starting January 1 until December 31 of that year, and so on until the deposit is refunded or applied to the account. Accordingly, as we did with § 56.57, we propose adding language to § 56.306 (2) and (3) that will provide some additional guidance (in **bold**) without changing the intent of this section:

(2) The interest rate in effect when the deposit is required to be paid shall remain in effect until the date the deposit is refunded or credited, or December 31, whichever is later. **A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of the calendar year.**

(3) On January 1 of each year, the new interest rate for that year will apply to the deposit. **The new interest rate will be applied to the deposit for the calendar year starting January 1 until December 31 of that same year. Revised interest rates are calculated every subsequent January 1 and applied to the deposit until the deposit is refunded or applied to the account.**

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

We proposed revising the information directed to customers on written ten-day termination notices in paragraph (9) to include notice to customers that the special protections available for victims under a protection from abuse order are now also available to those customers with a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence, per Section 1417.

OCA generally supports the addition of the proposed language but submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 30).

Discussion

As discussed previously, we intend to convene a stakeholder group to discuss the application of the provisions concerning victims of domestic violence.

To maintain consistency with the terms used in the Emergency Provisions at §§ 56.351—56.358, we will change the reference at § 56.331(7) from "serious illness notice" to "medical certificate notice."

§ 56.333. Personal contact.

We proposed revising this section to provide for the optional use of electronic messaging for providing three-day personal notice of termination, per Section 1406(b). This revision provides additional protections to the customers covered by subchapters L—V. We invited comment on the privacy protections and the customer consent practices that should be required in the context of electronic messaging. See 66 Pa.C.S. § 1406(b)(1)(ii)(C) and (D).

As noted in their comments relating to § 56.93, Duquesne believes that having the option of utilizing a more efficient technology to deliver notices in lieu of in person visits or telephone calls should benefit all ratepayers with reduced costs and is more in line with customers' changing needs and preferences. Utilities should be given flexibility to implement procedures consistent with their billing software to allow customers to affirmatively consent to receive electronic notice of issues relating to their account, up to and including termination, and to identify the preferred means for communication of any electronic format such as text, email or a secured login. This consent could be obtained during the application process or during any customer contact—it does not (nor should not) need to be on a standalone basis. Duquesne offers proposed language that, similar to proposed § 56.93(1) and (2), provides guidance concerning what frequency satisfies "an attempt" for electronic messaging format, and what should happen if contact is unsuccessful. (Duquesne at 14-15).

As discussed in their comments regarding the proposed § 56.93, the OCA submits that channels for electronic communications, such as email or text messaging, should be treated in the same manner as telephone numbers and as such should not be disclosed to third parties. (OCA at 30).

IRRC questions how contact must be made if it is discovered an email address or text message connection is no longer valid. If the electronic contact is not successful, should the personal contact requirement revert to contact in person or by phone? IRRC asks the PUC to clarify in the regulation how a valid personal contact can be accomplished if the electronic contact is not successful. (IRRC at 6).

Discussion

In response to IRRC's and Duquesne's concerns about what should occur if an electronic contact attempt is not successful, we think Duquesne's proposed language has merit—

> Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. In the event the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.

(Duquesne at 15).

As we discussed relative to § 56.93, we intend to initiate a separate proceeding to establish privacy guidelines as referenced at Section 1406. While the Section

1406 privacy guidelines are pending, we provide the following guidance concerning maintaining the confidentiality of customer information. Electric Distribution Companies (EDCs) and Electric Generation Suppliers (EGSs) are reminded that 52 Pa. Code § 54.8(a) states that an "...EDC or EGS may not release private customer information to a third party unless the customer has been notified of the intent and has been given a convenient method of notifying the entity of the customer's desire to restrict the release of the private information." (52 Pa. Code § 54.8(a) relating to Privacy of customer information.) Further, EGSs are reminded that 52 Pa. Code § 54.43(d) states that a "...licensee shall maintain the confidentiality of a consumer's personal information including the name, address and telephone number, and historic payment information, and provide the right of access by the consumer to his own load and billing information." (52 Pa. Code § 54.43 relating to Standards of conduct and disclosure for licensees).

Likewise, Natural Gas Distribution Companies (NGDCs) and Natural Gas Suppliers (NGSs) are reminded that 52 Pa. Code § 62.78(a) requires that an "...NGDC or NGS may not release private customer information to a third party unless the customer has been notified of this intent and has been given a convenient method, consistent with Subsection (b), of notifying the entity of the customer's desire to restrict the release of the private information." (52 Pa. Code § 62.78 relating to Privacy of customer information). Further, NGSs are reminded that 52 Pa. Code § 62.114(3) specifies that an NGS "...shall maintain the confidentiality of a consumer's personal information including name, address and telephone number, and historic payment information, and provide the right of access by the consumer to the consumer's own load and billing information." (52 Pa. Code § 62.114 relating to Standards of conduct and disclosure for licensees).

Finally, all utilities that comply with Chapter 56 are reminded that 52 Pa. Code § 56.32 requires that "Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers." (52 Pa. Code § 56.32 relating to Security and cash deposits). As discussed above, we intend to add this language to § 56.282 as to make this same requirement apply to victims of domestic violence.

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

We proposed revising subparagraph (iv) to require utilities to provide universal service program information to consumers upon contact from a consumer during the termination process, pursuant to Section 1410.1(1) and (2).

As they discussed regarding § 56.97, the OCA supports the proposed revisions as it provides consumers with valuable information regarding universal service programs during the termination process. (OCA at 30).

EAP, PPL, and FirstEnergy do not believe it is appropriate to require utility employees to provide information on universal service programs to all customers in the termination process. Universal service program eligibility is limited to those with specific incomes. Having to explain universal service programs to all utility customers, regardless of income, would be overly burdensome, time-consuming, and ultimately prove confusing for customers who learn of these programs and are ultimately ineligible to participate. EAP recommends that this language be amended to require utilities to provide information on universal service and customer assistance programs only to those customers the utility knows or reasonably suspects to be low-income or customers who affirm their income would qualify them, or to allow for discretion by utility staff rather than a mandate. (EAP at 10; PPL at 7; FirstEnergy at 18).

In their comments to § 56.97, EAP, PPL, and PGW suggest removing the words "authorized," "personnel," and "employee" from this Subsection in order to allow for automated or self-service options. While customers would always be free to contact the utility to get more information about the termination process, some customers may prefer to receive this information via automation either over the phone or the internet. Having to talk to a live utility employee may feel intimidating to those customers who are under threat of termination; additional flexibility in this circumstance would be beneficial. To that end, EAP suggests a removal of the phrase "through its employees," similar to § 56.97(b), as many utilities also have the means to help customers establish payment arrangements via their website or other secure, automated methods. Again, this modification would not remove the option for customers to speak directly with utility customer service employees if they choose, but rather broaden the options for customers by removing the present limitation of person-only methods.

EAP recommends a change be made, similar to § 56.97(a)(3), relating to the requirement to provide information about the utility's universal service programs. A broad spectrum of utility customer service employees are trained and equipped to explain and enroll applicants and customers into universal service programs, not only the program administrator. EAP believes that more than one "administrator" (by title) at each company is equipped to explain and enroll customers in universal service programs. Accordingly, EAP recommends striking this requirement from the Commission's proposed language. PGW requests that the Commission add additional definitional language regarding who can act as a company's universal service program administrator so as to better serve customers. (EAP at 9—11, PPL at 13—15, PGW at 2-3).

Discussion

As we noted in our discussion relative to § 56.97, the statute at Section 1410.1(1) is clear that public utilities shall provide information about universal service programs, including customer assistance programs to customers or applicants who contact a public utility to make a payment agreement. If the General Assembly wanted information about universal services programs to only be shared with low-income customers, they could have specified such. Instead, all customers or applicants who contact a public utility to make a payment agreement should be provided information about the utility's universal services program.

However, we agree that it is nonsensical to provide detailed information and a referral to a customer who is clearly not eligible and/or has no desire in participating in a universal service program. We think a public utility complies with Section 1410.1(1) if they make a good faith effort to inform all termination-related callers about their universal service program (assuming the customer is not already enrolled), how it can benefit the customer, and briefly explain eligibility criteria. If at this point in the conversation it is apparent that the customer would not be eligible or is not interested, the explanation can end and the utility can move on to other matters relating to

the termination. If to the contrary the customer appears eligible and is interested, the utility is then obligated to provide additional details and a referral to the program.

We also, as to facilitate evolving technologies and alternative methods of utility-customer interaction, agree with EAP, PPL, and PGW to remove references to "employees" and "administrators." This will also make it unnecessary for the Commission to entertain repeated petitions from utilities related to these provisions.

§ 56.340. Winter termination procedures.

We proposed revising paragraph (5) to clarify that the February update of the survey of households without heating service in the winter is to include households terminated in December. Commission staff and utilities have encountered questions about this section because the current language is unclear on this point. By failing to include any December terminations, the survey result reported on February 1 is not a complete picture of the households without utility service in the winter. This proposed revision is intended to correct that possible problem.

OCA believes that the proposed language is consistent with Chapter 14 and they support this clarification as it helps to ensure that all households without heating service during the winter are appropriately accounted for in the Bureau of Consumer Services' report. (OCA at 31).

In their comments to the analogous § 56.100, PPL submits that landlord ratepayers are only covered by the winter termination provision of Chapter 14 if the household's income is at or below 250% of the federal poverty leve1. PPL points out that Chapter 14 explicitly provides that the Commission shall 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. Likewise, FirstEnergy states that landlord ratepayers generally do not qualify as low-income customers, and therefore receive a benefit that is unavailable to all other customers. FirstEnergy has previously encountered challenges collecting payment from landlord ratepayers and this prohibition against winter termination for nonpayment permits landlords to further postpone payment and increase their arrearages. (PPL at 16, FirstEnergy at 22).

FirstEnergy also recommends that the Commission combine the December 15 and February 1 reports into a single report and modify the submission date for the report to January 15. This report would include survey results for all customers with heat related service who were terminated in the prior year. FirstEnergy further proposes that utilities be permitted to conduct the survey in person, by telephone, by mail, or electronically, where authorized by the customer. Where utilities do not reach the customer using one method of contact, they will reach out to the customer via a different method of contact. (FirstEnergy at 21-22).

LICRG, in their comments referring to § 56.100(j), submit that the language limiting public access to information about deaths occurring where utility service had been terminated should be removed. They believe it is clearly in the public interest in protecting the health and welfare of Commonwealth residents that any structural or systemic failures or gaps in protecting the impoverished and other vulnerable populations are revealed. (LICRG at 43—46).

In their additional comments, FirstEnergy opposes LICRG's request to make § 56.100(j) reports public. FirstEnergy believes that public availability of this information would constitute a violation of the Public Utility Code, Pennsylvania's Right-to-Know Law, and Commission precedent and regulations, as well as would raise a host of public policy concerns. Section 56.100(j) reports are a subset of the reporting obligations required under 66 Pa.C.S. § 1508 and Section 1508 reports "shall not be open for public inspection, except by order of the commission, and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in such report." Accordingly, the same restrictions should apply to § 56.100(j) reports.

Additionally, the Right-to-Know Law bars disclosure of utilities' § 56.100(j) reports to the public. Utilities prepare 52 Pa. Code § 56.100(j) reports based on an internal investigation. When the Commission receives these reports, the Commission will review the reports and possibly seek additional information from utilities. Under the Right-to-Know Law, Pennsylvania agencies are prohibited from disclosing to the public any record related to a noncriminal investigation including "investigative materials, notes, correspondence and reports. . . . " Further, public availability of § 56.100(j) reports would raise significant customer privacy concerns. When a utility submits a report to the Commission pursuant to § 56.100(j), the entire report consists of customer-specific information. If the public may access this report, any third party would have access to this private customer information. (FirstEnergy Additional Comment at 16—19).

Discussion

FirstEnergy is proposing one survey that would be due in January and would include the December terminations. Staff is concerned about the elimination of the re-survey of customers that now occurs in January with the results due to the Commission on February 1. By eliminating the re-survey, there will be no way of knowing how many households restored their utility service. Therefore, we are keeping with our proposed language.

PPL and FirstEnergy propose that a public utility be permitted to terminate service to landlord-ratepayer accounts during the period of December 1 through March 31. The problem with this proposal is that utilities have little or no way of knowing the income level of the tenants involved in landlord-ratepayer accounts, given that they have little or no contact with tenants who are not their customers. It is then possible that low-income tenants could be terminated while the law clearly prohibits the termination of low-income customers after November 30 and before April 1. Accordingly, we must reject this proposal and will maintain the existing prohibition on terminating landlord-ratepayer accounts in the winter.

Regarding LICRG's comments that reports submitted under §§ 56.100(j) and/or 56.340(7) should be made public, we decline to do so. This reporting requirement is related to 66 Pa.C.S. § 1508; and this Section specifically states that reports are not open for public inspection. Also, as FirstEnergy points out, disclosing this information would likely result in divulging private customer information without the knowledge or consent of the customer and/or other individuals involved in the event.

§ 56.351. General provision.

We refer to physician assistants in addition to physician and nurse practitioner in order to align with the new definition at Section 1403. This revision provides additional protections to the customers covered by subchapters L—V.

The OCA supports this modification as it makes it possible for a variety of qualified medical professionals to submit documents necessary to obtain a medical certificate. (OCA at 31).

Discussion

No party questioned our proposed addition of physician assistants to physician and nurse practitioner as medical professionals qualified to authorize a medical certificate, so we will proceed as proposed.

§ 56.353. Medical certifications.

We refer to physician assistants in addition to physician and nurse practitioner in order to align with the new definition at Section 1403. We also proposed revising this section to make it similar to the changes we are proposing to the analogous § 56.113, specifically by removing the requirements in § 56.353(3) and (4), which require the medical certificate to include the "nature and anticipated length of the affliction" and the "specific reason for which the service is required." This section currently requires the medical professional to divulge information about the patient's medical condition to the utility—contrary to the privacy and confidentiality of personal medical information that patients have come to expect. Accordingly, we proposed eliminating the "nature" of the affliction and "the specific reason for which service is required" as part of this regulation. However, we do not see the "length of the affliction" at § 56.353(3) as being contrary to patient expectations of privacy; in fact, the utility needs to know this information to determine the duration of the medical certificate. See 52 Pa. Code § 56.354. Some parties have previously suggested that the medical professional's license number be included as a required element on a medical certificate. We invited parties to comment on this possibility.

Many of the comments filed in relation to § 56.113 are also of relevance to § 56.353. Per their comments in relation to § 56.113, the OCA supports the proposed revisions because it reflects the Commission's Implementation Order and provides clarity. (OCA at 31). The CAC believes it is unnecessary to require a medical professional's license number on a medical certificate and that this would impose needless formality to the process of submitting a medical certificate. (CAC at 11—14).

The Joint Commenters assert that the Commission's proposed revisions to § 56.113 strike the correct balance and provide necessary information without being unduly intrusive on a utility customer's privacy with regard to their health status. However, the Joint Commenters oppose inclusion of a certifying professional's license number on a medical certificate because requiring a medical professional to provide their license number on a medical certificate implies a level of personal liability and is likely to deter medical professionals from assisting patients.

Regarding the "form" requirement, the Joint Commenters agree with the Commission that no specific form should be required to be used if all the relevant information is presented by the medical professional. The Joint Commenters report that a lack of clarity about the medical certifications has led several of the largest healthcare systems to prohibit physicians from issuing medical certificates for their patients, resulting in many of their clients being unable to obtain the protection from imminent termination afforded by the Legislature. Upon the conclusion of this rulemaking, the Joint Commenters recommend that the Commission institute a collaborative work group of interested stakeholders and staff from the Commission's Bureau of Consumer Services and Communications Department to develop a single, voluntary, standardized form. (Joint Commenters at 5—17).

LICRG supports the Commission's determination that a medical certificate does not need to be on a prescribed form and recommends that the Commission consider adopting a form that utilities could implement as a safe harbor that complies with the requirements of § 56.113. (LICRG at 34—37). LICRG urges the Commission to reject attempts to further complicate the medical certificate form requirements, including the inclusion of licensing information on all certificates and a requirement that a medical certificate be produced on letterhead of the certifying medical professional. This would impede access to medical certificates particularly from nurse practitioners and physicians' assistants who may not have access to or authorization from a medical practice to utilize its letterhead. LICRG further notes the arguments some parties raise to the effect that the regulations lack clarity regarding the relationship required for medical certification protections to apply; i.e. they should be limited to "permanent" household members. LICRG points out that there is no requirement in Chapter 14 that the household member be a "permanent" member of the customer's household. (LICRG Additional Comment at 6—15).

FirstEnergy recommends the same changes to this regulation as they discussed relative to § 56.113. In addition, they do not support oral medical certificates for customers with PFAs or other court orders demonstrating evidence of domestic violence. To minimize the potential for medical certificate fraud and abuse, written medical certificates should be required for all customers. To the extent the Commission is concerned regarding the ease of obtaining a written medical certificate for these customers, FirstEnergy offers two different methods for obtaining a medical certificate: the customer may either request the utility to send a form to his or her physician, nurse practitioner, or physician assistant, or medical certificate information may be submitted on the letterhead of the medical professional. (FirstEnergy at 31).

FirstEnergy believes that posting medical certificates online exposes the process to an increase in medical certificate fraud as compared to the current preferred practice of faxing or emailing the forms directly to the relevant medical professional. Where the forms are available for download online, customers without legitimate medical issues would have unbridled access to the forms. Along the same lines, FirstEnergy believes the medical license number of medical professionals should be required information on a medical certificate form, particularly if medical certificate forms are posted online. Medical professional names, addresses, and phone numbers are easily accessible online. Although medical license numbers are also often accessible as well, they require additional research and can be confirmed, which provides an extra safeguard against forged medical certificates. (FirstEnergy Additional Comment at 5—9).

EAP suggests additional language at § 56.113 requiring the medical professional's license number as well as a requirement that the certification be on the medical professional's letterhead or other official paperwork if it is not on a utility-generated form, to afford protection for the utility against fraud or medical certificate abuse. Licensed medical professionals utilize their license number for a variety of routine matters, including items such as prescriptions to ensure validity and avoid fraud, and medical certificates should be treated likewise, with EAP reporting that utilities have not had any issues request-

ing this information from medical professionals. In addition, EAP continues to agree with the position of the Commission and the advocates that utilities are not in the position to determine who qualifies for a medical certificate. (EAP at 13—18).

PPL recommends removing the current requirement that medical certificates include the anticipated length of the affliction, as required by § 56.113(3). Further, PPL recommends that the medical professional certifying the medical certificate include his or her license identification number as an additional measure against fraud or abuse. (PPL at 8—11).

PGW supports the intent of the Commission to provide easy accessibility to a utility's medical certification form but does not support the requirement that the utility place the form on its website. PGW is concerned about the potential for fraud that could occur by making its medical certification form generally available. Also, to help prevent fraud, PGW fully supports a requirement that the certificate include the medical professional's license number. A medical professional should easily have a record of their license number so this requirement is not likely to be burdensome. (PGW at 5-6).

To ensure the validity of the customer's medical request, Columbia suggests that the utility's medical certificate form or any correspondence submitted by the health care professional include the professional's state issued license number. Furthermore, if the attending medical professional does not utilize the company's designated medical certificate form, Columbia suggests that that they be required to provide the required information on the medical practice's letterhead. (Columbia at 6-7).

Duquesne agrees with the Commission's characterization of revised Section 1403 that the use of the word "form" does not mean that a specific document must be used but instead a Commission-approved manner. Accordingly, Duquesne does not believe there is any need for a statewide mandated form for use by all utilities, noting that it makes its form generally available for use by medical professionals on its website or upon request. Duquesne is in favor of including the medical professional's license number as this provides the utility with a quick and easy method to investigate the validity of any questionable certificates. Further, such a requirement is consistent with other requirements for professionals (such as attorneys providing their license numbers on filings) and is not unduly burdensome or time consuming. (Duquesne at 7-8).

IRRC has two concerns. First, is the medical certificate form required to be approved by the PUC? If so, the regulation should include this requirement. Second, § 56.113 was amended to only permit medical certificates to be in writing. Should a similar amendment be made to this section? The PUC should explain why § 56.113 and this section differ. (IRRC at 6).

Discussion

As noted in our earlier discussion of § 56.113, there is general agreement with the Commission's position that the word form in the definition of Medical Certificate at Section 1403 does not literally mean a "form." There were also no objections voiced to the Commission's proposed removal of the "nature" of the medical condition and the "specific reason for which the service is required" from the medical certificate. Beyond these things however, there are differing opinions as to what elements should the form of a medical certificate include. LICRG and the Joint Commenters suggest that, while a standard form should not be required, there may be some use in creating an optional, standard, statewide format as to provide greater consistency in the application of the medical certificate rules. We think there is merit in their suggestions that some type of informal, statewide collaborative should be convened to develop such a format. Once these new rules are in place, the Bureau of Consumer Services will convene an informal stakeholder group consisting of advocates, utilities, medical professionals and any other interested party to discuss and recommend a standard statewide format to the Commission.

Concerning the format, the parties had very differing views on whether the medical professional's license number should be required on the certificate. EAP, Duquesne, PPL, FirstEnergy, PGW and Columbia supported the idea as a possible means to prevent fraud. LICRG, Joint Commenters, and the CAC oppose the idea as imposing an unnecessary burden on medical professionals and not being an effective means to prevent supposed fraud. Because we had no medical professionals that submitted comments, we are uncomfortable deciding one way or the other on this matter. We think it would be preferable to leave this as a topic for discussion in the above-noted collaborative process intended to develop a standard format.

There were also divergent views on whether medical certificate formats should be posted on utility websites. LICRG thought this would be helpful in providing quick and easy access for both consumers and medical professionals. However, EAP, PPL, FirstEnergy and PGW expressed concerns that posting this information on their websites could facilitate forgeries, while Aqua noted that they already post the certificate format on their website. Again, we think this may be an issue best left to the above-noted statewide collaborative, where advocates, utilities and medical professionals can discuss this with each other and make a recommendation to the Commission. Accordingly, we will revise our proposed changes to § 56.353 to omit any reference to posting on the public utility's website.

Regarding IRRC's question about the need to specify what it meant by the phrase "in a form approved by the Commission," we note that while we proposed allowing utilities to develop their own form (and some already do so), the Commission does not have to review or approve such forms. We note that the forms do have to comply with §§ 56.113 and 56.353. We agree with LICRG and decline to tamper with the Section 1403 definition by inserting "permanent" in reference to the "member of the customer's household." We are not convinced that this is enough of an issue to lead us to alter a statutory definition. Finally, FirstEnergy and IRRC have concerns with verbal medical certificates and question why § 56.113 and § 56.353 differ. The reason for the difference is that § 56.113 reflects Chapter 14 requirements while § 56.353 is the regulation for those customers exempt from Chapter 14 per Section 1417 (those with a PFA or a court order that provides clear evidence of domestic violence). For example, while the reauthorized Chapter 14 at Section 1403 specifies a Medical Certificate must be a "written document," this requirement does not apply to those customers covered by the Section 1417 exemption, thus permitting verbal medical certificates as Chapter 56 had traditionally allowed prior to Chapter 14. Verbal medical certificates provide an additional option for victims of domestic violence, as intended by Section 1417.

§ 56.354. Length of postponement; renewals.

While we proposed no revisions to this section, several parties filed comments related to the length of postponements provided by a medical certificate under § 56.114, which is also of relevance to § 56.354.

LICRG submits that, given that medical professionals may determine that a chronic or life-threatening illness is anticipated to extend beyond a period of 30 days, it is appropriate to provide for the certification of a medical need for service that corresponds to the affliction. Obtaining a medical certificate is not easy and requires customers to expend their limited financial resources every 30 days to pay expensive co-pays, secure transportation and childcare, and take time away from work to attend a medical appointment. For someone with a short-term condition which is likely to improve, the shorter timeframe may be reasonable; but for those with a chronic illness, the arbitrarily imposed 30-day limitation may have no relation to the underlying illness or condition. In the event of a serious illness without specific ending date, the duration of the medical certificate protection should be extended for a period of up to 6 months. (LICRG at 34—37).

The Joint Commenters suggest that the Commission should revise § 56.114 to extend the re-certification period for medical certificates where the customer or household member has a chronic or extended medical condition. Visiting a healthcare provider to obtain a medical certificate to prevent termination of critical, life-sustaining utility service comes at a cost as there are typically co-pays or office visit fees. There are also often additional costs—including transportation, time off work, and childcare—that further add to the household's financial burden. As currently structured, the medical certificate process requires a household to incur these costs every 30 days, even when the illness or medical condition will continue for more than 30 days. To minimize the added financial burden to households, the Joint Commenters urge the Commission to allow a certifying professional to specify the length of a medical certificate, based on the individual's health needs. (Joint Commenters at 5—17).

The CAC supports the Commission's proposed elimination of language concerning the "nature" of an affliction and "the specific reason for which service is required" and supports the current requirement of the "anticipated length of the affliction" for medical certificates to the extent that the medical professional believes that the duration of the illness will be greater than 30 days. This would enable the utility to accommodate a medical certificate of greater length. The CAC notes that there is nothing in the statute about a 30-day period and that there are chronic illnesses that persist for far longer periods of time. Accordingly, the CAC submits that the regulations should clarify that although a medical certificate shall be effective for a minimum of 30 days, in the cases in which the medical practitioner indicates the anticipated length of the affliction to be greater than 30 days, the length of the protection provided should correspond to the length of the affliction. In the event of a chronic or terminal illness without specific ending date, medical certificates should be permitted for a period of a maximum of 6 months. (CAC at 11—14).

Extending the renewal time for medical certifications would allow a greater buffer for families of those with special healthcare needs to get back on their feet. Additionally, they urge that information about medical certificate regulations should be clearly communicated to all applicants. (Center for Hunger-Free Communities at 3).

The Health & Housing Coalition note that chronic medical conditions are not going to resolve in 30 days, so requesting a new certificate from a medical professional every 30 days is a burden without a benefit. They note that multiple states provide for medical certificates that last significantly longer than 30 days for persons with serious, chronic conditions, including Montana and Massachusetts that offer 180 days; New Hampshire, and Oregon up to 12 months. Other states, like Connecticut and Rhode Island, give more discretion to the medical provider about the length of the certificate. The Health & Housing Coalition urges the PUC to extend the duration of medical certificates for persons with serious, chronic conditions and to take steps to make sure that consumers and medical professionals are better informed about the medical certificate process. (Health & Housing Coalition Additional Comment at 8—11).

PPL submits that recommendations to extend the medical certificate period beyond 30 days offers a short-term solution that creates long-term problems for customers and utilities. A customer that has a medical certificate that extends for several months could potentially stop paying for utility service during this extended period. Although this may seem a benefit for a household experiencing an illness, a medical certificate is not a free pass to customers unable to pay for utility service. The customer's charges during this period will accrue and eventually need to be paid to the utility, and at this point the balance may be unmanageable and lead to termination. As such, PPL submits that extending the duration of medical certificates for longer than 30 days neither balances the interests of customers with the utility, nor serves the intent behind medical certificates. (PPL Additional Comment at 6—8).

Discussion

This topic, the 30-day limit per medical certificate found in §§ 56.114 and 56.354, was addressed in the 2011 rulemaking proceeding. LICRG, Joint Commenters, CAC, Center for Hunger-Free Communities, and the Health and Housing Coalition request that the Commission consider long-term medical certificates to address chronic or long-term illnesses. These parties raise several concerns about the burden the current 30-day limit imposes on patients and health-care professionals alike, such as the need to schedule repeated appointments with a medical professional, transportation to appointments, and accessibility to medical care. However, we are reluctant to revise the regulations in this regard because the General Assembly had an opportunity to do so when it reauthorized Chapter 14 and declined. Long-term medical certificates were not provided for in the legislation and would be a very substantive addition to these regulations.

We again note that in Section 1406(f), the General Assembly declared that the " . . .medical certificate procedure shall be implemented in accordance with Commission regulations." It is reasonable to assume that the General Assembly was familiar with the 30-day timeframe in the current regulations and was comfortable with it. It is also important to note that when it reauthorized Chapter 14, also as noted above, it expanded the list of medical professionals authorized to provide medical certificates to include physician assistants. It is not unreasonable to think that the General Assembly did this to help address the concerns with patients accessing medical care. We also remind everyone that there is no limit on medical certificates as long as the customer is paying bills per §§ 56.116 and 56.356. The limits on medical certificate usage only apply if the customer is not meeting their obligations at §§ 56.116 and 56.356.

§ 56.356. Duty of customer to pay bills.

While we proposed no revisions to this section, several parties filed comments related to the duty of customers to pay bills while protected by a medical certificate under the analogous section § 56.116, as discussed in detail earlier.

LICRG supports the Commission's long-standing interpretation of §§ 56.114 and 56.116, which allows households to renew a medical certificate for as long as is medically necessary, provided the customer pays their current charges or budget bill amount as it comes due, irrespective of any arrears on the account at the time the medical certificate is first obtained. If customers were required to pay more than current, undisputed charges, the purpose of medical certificates and renewals would be thwarted. (LICRG at 38-39).

The CAC likewise submits that the purpose of medical certificates and renewals would be thwarted by requirements to pay more than current, undisputed charges. Requiring a customer in a time of illness and increased vulnerability to make payments in excess of current charges would fail to effectuate the fundamental purpose of a medical certificate—to interrupt the utility's termination-collection path while a medical need for service exists. (CAC at 11—14).

EAP notes that low-income customers enrolled in universal service programs are asked to make good faith payments to the utility to address their debt. The purpose of this treatment is twofold: to encourage good payment behavior by the individual customer and to help ease the burden of uncollectable expenses on the remainder of the customer base. EAP believes those customers utilizing the protection of a medical certificate should be held to this same standard. (EAP at 13—18).

FirstEnergy notes that these regulations could be interpreted to allow a customer to apply for an unlimited number of medical certificates as long as they have met their obligation to pay current undisputed bills, even if the customer fails to reduce his or her arrearages. FirstEnergy encourages the Commission to clarify whether customers who fail to pay their arrearages are eligible for an unlimited number of medical certificates as long as they are paying current bills, or if they are eligible for only two medical certificate renewals until their arrearages are paid off. FirstEnergy does not believe the legislature intended for medical certificates to provide an indefinite loophole to termination. Accordingly, FirstEnergy requests that the Commission limit the number of medical certificates that may be obtained while customers continue to have an outstanding balance. (FirstEnergy at 23—27).

Discussion

Regarding §§ 56.116 and 56.356 and the customer's obligation to pay while under the protection of a medical certificate, again the parties are continuing an argument that was also presented to the Commission in the 2011 proceeding. LICRG, Joint Commenters, and CAC urge the Commission to keep in place the regulation adopted in 2011 that requires a customer to pay current bill amounts while under the protection of a medical certificate. However, EAP, FirstEnergy, PECO and Aqua all argue that the customer's obligation to pay should be expanded to include either part of or all of the customer's arrearage, in addition to current bills. They argue that there is nothing to prevent a customer from filing unlimited medical certificates, and thus never having to pay toward their accumulated past arrearage.

The reauthorization of Chapter 14 did not result in any new statutory language to guide us here or require us to revise the payment obligation of the customer. While we understand the utilities' concerns with the payment of the outstanding balance, we must reject their suggestion that we require an arrangement on all current and overdue balances because this likely would be considered a payment arrangement, which may conflict with Section 1405(d)'s restrictions on the Commission's authority to order payment arrangements. This same complication was present in 2011, and nothing in the reauthorized Chapter 14 provides us with anything to get past that complication. We point out that if the customer is paying their current bills as required by this section, the outstanding balance will not be increasing, meaning that the customer's and the utility's problems with the account balance will not be aggravated. We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer. We also point to the petition process at §§ 56.118 and 56.358 that a utility may use to contest the validity of medical certificates that they believe are being filed with the intention of avoiding any payment toward the arrearages for an extended period of time.

§ 56.392. Commission informal complaint procedure.

We proposed adding language to paragraph (1) to permit an informal complainant to receive a copy of the documents the utility provides Commission staff in response to an informal complaint. The opportunity to review this information is intended to protect the complainant's due process rights. We acknowledged that there may be some relatively rare instances where these documents may refer to parties other than the complainant. In these instances, the utility is directed to redact any information that may compromise the privacy or personal security of a third party.

The CAC commends the Commission for making this information available to complainants as it is essential that individuals who have an informal complaint with their utility be able to see the information provided by the utility to the Commission. Additionally, while the Council understands the Commission's concern for the privacy of third parties, it believes that the proposed language as written may be overly restrictive. There are circumstances in which the redaction or unavailability of information concerning third parties may impede the need for the complainant to receive information necessary to prosecute his or her claim. For instance, in the case of a tenant seeking to demonstrate that a utility has wrongfully terminated service in violation of the Discontinuance of Service to Leased Premises Act, the complainant would be specifically asserting a right as a noncustomer. In such circumstance, the third party, the tenant's landlord or its agent, may be the utility's customer, and information about that third party is material to the complaint. There may be other circumstances in which the Commission's determination hinges on information concerning third parties and such information should not be categorically unavailable to an affected complainant. While the CAC does not have a specific recommendation, the regulation should make clear that information relevant to the Commission's decision should be turned over to the complainant, unless the utility demonstrates that information would jeopardize the personal security of any third party, at which point the utility should provide redacted information and an explanation of the reason for the redaction. (CAC at 14—16).

Discussion

As we discussed relative to § 56.163, we are withdrawing the proposed revision of § 56.392 (as we did with the analogous § 56.163) due to the concerns expressed by some of the parties that redacting information would likely increase personnel and costs and that redacting information could delay the utilities response to the informal complaint. However, Commission staff reserves the right to have the utility provide individuals with the company report when the situation warrants it.

Though we are withdrawing the proposed language that the public utility provide the complainant with a copy of the documents submitted to the Commission staff in response to the informal complaint, we remind public utilities of the Public Utility Company Dispute Procedures found at §§ 56.151 and 56.381:

§ 56.381. General rule.

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

(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 § 56.382 (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.

If a utility has correctly implemented the Chapter 56 dispute procedures, and if the customer files an informal complaint, the company should have a utility company report, in writing per the above-noted regulations, on file at the time the PUC informs the utility of the filing of an informal complaint. In addition, public utilities should also be informing complainants that the written report is available to them and can be sent to complainants.

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

We proposed revising this language to clarify that the burden of proof remains with the party who filed the informal complaint. This language simply makes this provision consistent with existing Commission practices.

As it similarly discussed regarding § 56.173, the OCA submits that the legal standard of burden of proof is misapplied in the context of an informal complaint, and as such the proposed change is not appropriate in this context. (OCA at 32).

Discussion

As we did with the analogous § 56.173, we will clarify that this Section is referring to the burden of proof for the formal complaint. The proposed change to §§ 56.173 and 56.403 is also consistent with a recent Commission decision on this issue in *Kelvin Thomas*.

In *Kelvin Thomas*, the Commission noted that, "[i]n a *de novo* appeal from a decision of the BCS, the burden of proof remains with the party who filed the original informal complaint, except for legal or policy issues raised by the utility on appeal." Id. at 8-9. The Commission continued that for legal or policy issues raised by the utility, "it would be absurd to impose the burden of proof concerning a legal and policy issue upon a customer who did not raise the issue and who probably has little knowledge of the issue itself." Id. It is also legally correct that a party bears the burden of proof and/or persuasion on defenses it may assert against a customer's complaint. We propose to modify the language in § 56.403 (and in the analogous § 56.173) further to allow for the exception in the case of legal and policy issues as per the Commission decision in *Kelvin Thomas*.

§ 56.421. Payment and timing.

We proposed revising paragraph (7) to ensure that the information notifying customers that the special protections that may be available for victims under a protection from abuse order may also now be available to those customers with a court order providing clear evidence of domestic violence and issued by a court of competent jurisdiction in this Commonwealth, per Section 1417.

OCA generally supports the addition of the proposed language but submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 32).

FirstEnergy filed comments regarding § 56.191 that are relevant to § 56.421, suggesting new language addressing restoration of service where the company employee was subject of previous threats by the customer. FirstEnergy asks for additional time to restore service and to assess additional fees when dealing with such situations and customers. (FirstEnergy at 29).

PECO suggests a change be made to § 56.191(c)(2) that is relevant to § 56.421, pointing to various provisions of the regulation that states a utility must take certain actions depending upon the income level of the customer or applicant. PECO believes that when the regulations provide for disparate treatment based on income, the regulations should refer to "verified income" rather than merely "income." Otherwise, customers and applicants can receive preferential treatment whether they truly have lower income or not. (PECO at 7).

Discussion

As we did regarding § 56.191, we agree with OCA that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer's status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups' exploration of these issues.

We decline to tamper with the statutory language we are incorporating into this section by inserting "verified" as PECO wishes. For similar reasons, we have concerns with FirstEnergy's proposed five-day reconnection timeframe when a utility employee was previously threatened by an applicant or customer. As we discussed relative to § 56.191, the General Assembly set clear timeframes to reconnect service once an applicant has met all applicable conditions in Section 1407 and we prefer not to alter those timeframes. Utilities are not required to do anything that would compromise the safety of a person or the integrity of the public utility's delivery

system, and threats of violence should be brought to the attention of local law enforcement.

§ 56.431. Public information.

We proposed revising paragraph (13) to ensure that the information directed to customers concerning the special protections that may be available for victims under a protection from abuse order may now also be available to those customers with a court order providing clear evidence of domestic violence and issued by a court of competent jurisdiction in this Commonwealth, per Section 1417.

OCA submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence, but in general the OCA supports the addition of the proposed language. (OCA at 32).

Discussion

As discussed previously, we intend to convene a stakeholder group, as suggested by OCA, to further address the language concerning victims of domestic violence.

§ 56.461. Reporting requirements.

We proposed removing § 56.461 and moving these requirements to the new § 56.231(d). Consolidating utility reporting requirements into one section of the regulations will assist utilities in locating and complying with these requirements.

Discussion

No party voiced objections with our proposal to consolidate the § 56.461 reporting requirements into a revised § 56.231, so we will proceed with this consolidation as proposed.

Appendices

We updated the Appendices with the revised statute to include the added PFA/domestic violence notification language. We also changed the cross references in these sections to be consistent with the other changes to each section that references the Appendices.

Statement of Commissioner Andrew G. Place

Before the Commission today for consideration is a Final Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14. The changes to Chapter 56 encompass certain standards and billing practices to comply with Act 155 of 2014, as well as other changes to update the regulations. Of these changes, I would like to highlight one. In Subchapter C, Credit and Deposit Standards Policy Procedures for Applicants, we are amending the policy statement to further identify protected classes of citizens and customers in Pennsylvania.

In Governor Tom Wolf's 2018 Executive Order establishing the Pennsylvania Commission on LGBTQ Affairs,[19] he acknowledges the "unique, diverse and valuable contributions to the culture, society and economy of Pennsylvania" from LGBTQ Pennsylvanians. Governor Wolf further indicates that the Commonwealth is committed to providing equality and opportunity for all its citizens. The Commission could not agree more, and as part of today's amendments to Chapter 56, we are expanding the anti-discrimination language of Chapter 56 to now include protections for "color, religious creed, ancestry, union membership, gender, sexual orientation, gender identity or expression, AIDS or HIV status or disability."

With these changes we can all ensure that continued and equal access to utility service is preserved for all of Pennsylvania's citizens.

ANDREW G. PLACE,
Commissioner

[19] Executive Order 2018-06 establishing the Pennsylvania Commission on LGBTQ Affairs. August 6, 2018. https//www.oa.pa.gov/Policies/eo/Documents/2018-06.pdf.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 56. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL PUBLIC 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.

* * * * *

(b) This subchapter and Subchapters B—K apply to electric distribution utilities, natural gas distribution utilities, wastewater utilities, steam heat utilities, small natural gas utilities and water distribution utilities. Subchapters L—V apply to all customers who have been granted protection from abuse orders as provided by 23 Pa.C.S. Chapter 61 (relating to Protection from Abuse Act) or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer.

§ 56.2. Definitions.

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

* * * * *

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, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.

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.

(v) Bills for less than 26 days shall be permitted when there is a change of the customer's electric generation or natural gas supplier.

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.

Creditworthiness—An assessment of an applicant's or customer's ability to meet bill payment obligations for utility service.

Customer—

(i) 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.

(ii) The term includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.

* * * * *

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 arrangement 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.

* * * * *

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 public utility or a system the public 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.

* * * * *

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.

Medical certificate—A written document, in a form approved by the Commission, and consistent with section 56.113, that:

(i) Certifies that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition.

(ii) Is signed by a licensed physician, nurse practitioner or physician assistant.

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

* * * * *

Nurse practitioner—An individual licensed in this Commonwealth by the State Board of Nursing as a certified registered nurse practitioner under 49 Pa. Code Chapter 21, Subchapter C (relating to certified registered nurse practitioners).

* * * * *

Payment arrangement—An arrangement 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 in this Commonwealth to practice medicine and surgery under 49 Pa. Code Chapter 17, Subchapter A (relating to licensure of medical doctors) or an individual licensed in this Commonwealth to practice osteopathic medicine and surgery under 49 Pa. Code Chapter 25, Subchapter A (relating to general provisions).

Physician assistant—An individual licensed by the State Board of Medicine in this Commonwealth as a physician assistant under 49 Pa. Code, Chapter 18, Subchapter D (relating to physician assistants) or an individual licensed by the State Board of Osteopathic Medicine in this Commonwealth as a physician assistant under 49 Pa. Code, Chapter 25, Subchapter C (relating to physician assistant provisions).

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

Public utility—An electric distribution utility, natural gas distribution utility, small natural gas distribution utility, steam heat utility, wastewater 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.

Small natural gas distribution utility—A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that meets one of the following:

(i) Has annual gas operating revenues of less than $6 million per year.

(ii) Is not connected to an interstate gas pipeline by means of a direct connection or any indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

Steam heat utility—An entity producing, generating, distributing or furnishing steam for the production of heat or to or for the public for compensation.

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

Unauthorized use of public 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 public utility service as defined in this section.

Wastewater utility—

(i) An entity owning or operating equipment or facilities for the collection, treatment or disposal of sewage to or for the public for compensation.

(ii) The term includes separate companies that individually provide water or wastewater service so long as the separate companies are wholly owned by a common parent company.

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.

* * * * *

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

* * * * *

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

* * * * *

§ 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.

* * * * *

(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:

* * * * *

(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) *Verification of automatic meter reading*. Upon a customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee, as provided in a Commission-approved tariff.

(7) *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).

(8) *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 public 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.

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

§ 56.17. 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 arrangement 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 arrangement which includes, but is not limited to, the following terms:

* * * * *

(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 public 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.

* * * * *

PAYMENTS

§ 56.21. 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 public utility to the customer.

* * * * *

§ 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 public 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 arrangement, 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.

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, age over 18 years of age, National origin, marital status, color, religious creed, ancestry, union membership, gender, sexual orientation, gender identity or expression, AIDS or HIV status, or disability.

§ 56.32. Security and cash deposits.

(a) In addition to the right to collect a deposit under any Commission regulation or order, the public utility may require a cash deposit, payable during a 90-day period in accordance with § 56.38 (relating to payment period for deposits by applicants), 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 public utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

* * * * *

(v) Failure to comply with the material terms of a payment arrangement.

* * * * *

(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, as provided in a Commission-approved tariff, and 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 public utility bill payment.

* * * * *

(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.

(d) A public utility is not required to provide service if the applicant fails to pay the full amount of the cash deposit within the time periods under § 56.38. If the applicant chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment in full by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service).

(e) Notwithstanding subsection (a), a public utility may not require a cash deposit from an applicant who is, based upon household income, confirmed to be eligible for a customer assistance program. An applicant is confirmed to be eligible for a customer assistance program by the public utility if the applicant provides income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirements that are consistent with those of the public utility's customer assistance programs.

§ 56.35. Payment of outstanding balance.

* * * * *

(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 public utility was not aware of because of fraud or theft on the part of the applicant.

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§ 56.36. Written procedures.

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(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 or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. The procedures must also specify that any applicant that is confirmed to be eligible for a customer assistance program will not be required to pay a deposit. 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, or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, that more lenient credit and liability standards may be available. The statement must also inform the applicant that if he or she is, based upon household income, confirmed to be eligible for a customer assistance program a deposit is not required. The public utility shall inform the applicant of the procedures and documentation necessary to qualify for an exemption from a security deposit requirement.

* * * * *

§ 56.38. Payment period for deposits by applicants.

(a) The due date for payment of a deposit or any installment payment toward a deposit, other than an initial installment or 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 applicant of notification of the amount due.

(b) An applicant required by a public utility to pay a deposit under § 56.32 (relating to security and cash deposits) or an applicant paying a deposit for the reconnection of service under § 56.41(2) may be required by the public utility 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 applicant of the option to pay the deposit in the installments described in this subsection. If the applicant chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service). The applicant retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

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.

* * * * *

(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 arrangement 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 arrangement*. 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 arrangement.

(4) *Cash deposit prohibition*. Notwithstanding paragraphs (1)—(3), a public utility may not require a customer that, based upon household income, is confirmed to be eligible for a customer assistance program to provide a cash deposit. A customer is confirmed to be eligible for a customer assistance program by the public utility when the customer provides income documents or other information that he or she is eligible for state benefits based upon household income eligibility requirements that are consistent with those of the public utility's customer assistance programs.

§ 56.42. Payment period for deposits by customers.

(a) *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. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service). The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

(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. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81. The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

(d) *Failure to comply with a payment arrangement*. A customer paying a deposit under § 56.41(3) may be required by the public utility to pay the 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. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service). The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

CASH DEPOSITS

§ 56.53. Deposit hold period and refund.

(a) A public utility may hold a deposit until a timely payment history is established.

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

* * * * *

(f) A public utility shall refund a deposit, along with any applicable interest, within 60 days upon determining that the customer or applicant from whom a deposit was collected is not subject to a deposit under § 56.32(e) (relating to security and cash deposits) or § 56.41(4) (relating to general rule).

§ 56.57. Interest rate.

The public utility shall accrue interest on the deposit until it is returned or credited.

(1) Interest shall be computed at the simple annual interest rate determined by the Secretary of Revenue for interest on the underpayment of tax under section 806 of The Fiscal Code (72 P.S. § 806).

(2) The interest rate in effect when the deposit is required to be paid shall remain in effect until the date the deposit is refunded or credited, or December 31, whichever is later. A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of the calendar year.

(3) On January 1 of each year, the new interest rate for that year will apply to the deposit. The new interest rate will be applied to the deposit for the calendar year starting January 1 until December 31 of that same year.

Revised interest rates are calculated every subsequent January 1 and applied to the deposit until the deposit is refunded or applied to the account.

Subchapter D. INTERRUPTION AND DISCONTINUANCE OF SERVICE

§ 56.72. Discontinuance of service.

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

* * * * *

(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 public utility bills until the public utility discontinues service.

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Subchapter E. TERMINATION OF SERVICE

GROUNDS 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:

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

§ 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 Thursday 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:

* * * * *

(6) Noncompliance with a payment arrangement 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 public utility ceased billing more than 4 years prior to the date the bill is rendered.

* * * * *

NOTICE PROCEDURES PRIOR TO TERMINATION

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

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

* * * * *

(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 arrangement 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 arrangement is received.

* * * * *

(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 arrangements 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 (public 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 medical certificate 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).

* * * * *

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

* * * * *

(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 public utility's service territory are using that language.

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

§ 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, by telephone or electronically with the customer's consent, to provide notice of the proposed termination at least 3 days prior to the scheduled termination using one of the methods in this section. If personal contact by one method is not possible, the public utility is obligated to attempt another method.

(1) 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.

(2) 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.

(3) Contact by e-mail, text message or other electronic messaging format consistent with the Commission's privacy guidelines and approved by Commission order. The electronic notification option is voluntary and shall only be used if the customer has given prior consent approving the use of a specific electronic message format for the purpose of notification of a pending termination. Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. If the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.

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

* * * * *

(c) The public utility shall ask the customer or occupant if he or she 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.

* * * * *

(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 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.

(iii) A customer tenders payment electronically that is subsequently dishonored, revoked, canceled or is otherwise not authorized and which has not been cured or otherwise paid in full within 3 business days of the public utility's dishonored payment notice to the customer under § 56.93(a).

§ 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, a public utility 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 arrangement.

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

(3) Information about the public utility's universal service programs, including the customer assistance program. Refer the customer or applicant to the universal service program of the public utility to determine eligibility for a program and to apply for enrollment in a program.

(4) The medical emergency procedures.

(b) The public utility shall exercise good faith and fair judgment in attempting to enter a reasonable payment arrangement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable payment arrangement 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 arrangements for heating customers shall be based upon budget billing as determined under § 56.12(8) (relating to meter reading; estimated billing; customer readings). If a payment arrangement is not established, the company shall further explain the following:

* * * * *

§ 56.100. Winter termination procedures.

* * * * *

(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 public 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 public 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 arrangement 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 public 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 public 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, including any accounts terminated in December. 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 public 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.

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, physician assistant, 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, physician assistant or nurse practitioner 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, nurse practitioner, or physician assistant 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.

§ 56.113. Medical certifications.

Medical certifications must be in writing. Public utilities may develop a medical certificate form. The public utility's medical certificate may not be mandatory. A medical certificate form developed by the public utility shall be made readily available. Medical certificates may be electronically transmitted and electronic signatures are valid. A medical certificate must include all of 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 anticipated length of the affliction.

(4) The name, office address and telephone number of the certifying physician, nurse practitioner or physician assistant.

(5) The signature of the certifying physician, nurse practitioner or physician assistant.

§ 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(8) (relating to meter reading; estimated billing; customer readings).

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

* * * * *

(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 public 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.

* * * * *

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

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 arrangement if the customer or occupant is eligible for a payment arrangement and claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment arrangement include, but are not limited to:

* * * * *

(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 public 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 public 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 public utility company report must include the following:

* * * * *

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

* * * * *

(7) If the matter in dispute involves a billing dispute, the public 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 arrangement 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 public utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the public 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 arrangement 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 public utility company report, whichever is later. If the public utility company report is in writing, the information in this paragraph must be prominently displayed.

INFORMAL COMPLAINT PROCEDURES

§ 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, public 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 informa-

tion requested by Commission staff shall be provided by the public utility within 5 business days of the request.

* * * * *

FORMAL COMPLAINTS

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

* * * * *

(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 for the formal complaint remains with the party who filed the informal complaint. For legal or policy issues raised by the public utility, the burden of proof for the formal complaint will be with the public utility raising the legal or policy issue.

Subchapter G. RESTORATION OF SERVICE

§ 56.191. Payment and timing.

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(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 or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. 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 public 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 arrangements. For purposes of this section, neither a payment arrangement 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 arrangement 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(8) (relating to meter reading; estimated billing; customer readings) may not be considered a default for the purposes of this section.

* * * * *

(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.

(f) *Dishonorable tender of payment for reconnection of service*. A public utility may immediately terminate service if a payment for reconnection of service is subsequently dishonored, revoked, canceled or otherwise not authorized and which has not been cured or otherwise paid in full within 3 business days of the public utility's dishonored payment notice to the customer under § 56.93(a) (relating to personal contact).

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 public 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:

* * * * *

(13) Information indicating that additional consumer protections may be available for victims of domestic violence who have a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, 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 arrangements made by the public utility company and a synopsis of the terms, conditions and standards upon which arrangements were made.

* * * * *

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 all of 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 arrangement.

(4) The total dollar amount in arrears for active residential accounts in arrears and not on a payment arrangement.

(5) The total number of active residential accounts in arrears and on a payment arrangement.

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

* * * * *

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

(13) The total number of 3-day termination notices completed by electronic messaging formats.

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

(15) The total number of terminations for nonpayment.

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

(17) 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.

(18) The total number of reconnections for full customer payment, partial payment or payment arrangement.

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

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

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

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

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

(24) 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 all of the following information concerning residential accounts for the previous year:

* * * * *

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

(11) The total number of medical certificates and renewals that have been submitted by customers.

(12) The total number of medical certificates and renewals that have been accepted by the public utility.

(c) 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 all of the following information concerning all active individual residential accounts for the previous year except accounts when someone has presented a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. Each account reported must be identified to the Commission with a unique account identifier that the public utility can match to the account. The unique identifier for an account shall be used in any subsequent reporting to identify that account. Customer names, addresses, account numbers, phone numbers, e-mail addresses, Social Security numbers or any other information that could be used to identify the customer may not be included.

(1) Any account with an arrearage at or exceeding $10,000 as of December 31 of the calendar year. The information concerning each individual reported account must include all of the following:

(i) Unique account identifier.

(ii) The account balance as of December 31 of the calendar year.

(iii) The date the account was established.

(iv) The average monthly bill amount for the previous 12 months.

(v) The number of Commission informal and formal complaints.

(vi) The number of company payment arrangements.

(vii) The number of times the customer's service was terminated for nonpayment.

(viii) The number of 10-day termination notices issued.

(2) The Commission may request more detailed information on an account.

(d) Within 90 days after the end of each calendar year, each small natural gas distribution utility and each steam heat utility shall file with the Commission a report containing all of 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.

(e) Public utilities shall refer to the data dictionaries in appendices C and D (relating to definitions (§ 56.231)) for additional guidance as to the terms used in this section.

Subchapter L. PROVISIONS FOR VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER OR A COURT ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION IN THIS COMMONWEALTH WHICH PROVIDES CLEAR EVIDENCE OF DOMESTIC VIOLENCE

§ 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) or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer as provided by 66 Pa.C.S. § 1417 (relating to nonapplicability). These subchapters establish and enforce 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. 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:

* * * * *

Applicant—

(i) A person at least 18 years of age who applies for residential public 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 public utility or to reinstate service at the same address.

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.

(v) Bills for less than 26 days shall be permitted in instances when there is a change of the customer's electric generation or natural gas supplier.

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 public 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. The term includes a person who, within 60 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.

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 § 56.312 (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.

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 public utility or a system the public 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 a public utility or a system the public utility is responsible for maintaining.

* * * * *

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.

* * * * *

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—An individual licensed in this Commonwealth by the State Board of Nursing as a certified registered nurse practitioner under 49 Pa. Code Chapter 21, Subchapter C (relating to certified registered nurse practitioners).

Occupant—A natural person who resides in the premises to which public 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 in this Commonwealth to practice medicine and surgery under 49 Pa. Code Chapter 17, Subchapter A (relating to licensure of medical doctors) or an individual licensed in this Commonwealth to practice osteopathic medicine and surgery under 49 Pa. Code Chapter 25, Subchapter A (relating to general provisions).

Physician assistant—An individual licensed by the State Board of Medicine in this Commonwealth as a physician assistant under 49 Pa. Code, Chapter 18, Subchapter D (relating to physician assistants) or an individual licensed by the State Board of Osteopathic Medicine in this Commonwealth as a physician assistant under 49 Pa. Code Chapter 25, Subchapter C (relating to physician assistant provisions).

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

Public utility—An electric distribution utility, natural gas distribution utility, small natural gas distribution utility, steam heat utility, wastewater 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.

Small natural gas distribution utility—A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that:

(i) Has annual gas operating revenues of less than $6 million per year.

(ii) Is not connected to an interstate gas pipeline by means of a direct connection or any indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

Steam heat utility—An entity producing, generating, distributing or furnishing steam for the production of heat or to or for the public for compensation.

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

Unauthorized use of public 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 public utility service as defined in this section.

Wastewater utility—

(i) An entity owning or operating equipment or facilities for the collection, treatment or disposal of sewage to or for the public for compensation.

(ii) The term includes separate companies that individually provide water or wastewater service so long as the separate companies are wholly owned by a common parent company.

Subchapter M. BILLING AND PAYMENT STANDARDS

GENERAL

§ 56.261. 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:

(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 §§ 56.331—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 public utility's hardship fund if the public 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 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 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 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 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, whichever is greater, the public utility shall comply with § 56.264 (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 § 56.411(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 public utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Verification of automatic meter reading*. Upon a customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee as provided in a Commission-approved tariff.

(7) *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).

(8) *Budget billing*. A 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 public 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.

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

§ 56.264. 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.

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§ 56.265. Billing information.

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

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(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) Public 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 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. If the public 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 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 § 56.331 (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 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 §§ 56.372—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 public 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 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 § 56.312(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 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 public 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.

* * * * *

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 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.

§ 56.272. 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 § 56.271 (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 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.

§ 56.273. 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 public utility service shall first be applied to the basic charges for residential public utility service.

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

In the absence of written instructions, a disputed bill or 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.

§ 56.275. 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 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

§ 56.281. 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, age over 18 years of age, National origin, marital status, color, religious creed, ancestry, union membership, gender, sexual orientation, gender identity or expression, AIDS or HIV status, or disability.

§ 56.282. Credit standards.

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

(1) *Prior public utility payment history*. The applicant has been a recipient of public 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 public 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 public 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 public utility may request and consider information including:

* * * * *

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

(iii) Public utilities shall take appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.

(4) *Cash deposit prohibition*. A public utility may not require a cash deposit from an applicant who is, based upon household income, confirmed to be eligible for a customer assistance program. An applicant is confirmed to be eligible for a customer assistance program by the public utility if the applicant provides income documents or other information attesting to his or her eligibility for State benefits based on household income eligibility requirements that are consistent with those of the public utility's customer assistance programs.

§ 56.283. Cash deposits; third-party guarantors.

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

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§ 56.285. Payment of outstanding balance.

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 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 public utility was not aware of because of fraud or theft on the part of the applicant. An outstanding residential account with the public 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 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 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 public utility otherwise permitted by law.

§ 56.286. Written procedures.

A public utility shall establish written procedures for determining the credit status of an applicant. 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. The written procedures must specify that there are separate procedures and standards for victims with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. The procedures must also specify that any applicant that is, based upon household income, confirmed to be eligible for a customer assistance program is not required to pay a deposit. 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. If the public utility is requiring payment of an unpaid balance in accordance with § 56.285 (relating to payment of outstanding balance), 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 § 56.283 (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 or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence that more lenient credit and liability standards may be available. The statement must also inform the applicant that if he or she is, based upon household income, confirmed to be eligible for a customer assistance program, a deposit is not required. The public utility shall inform the applicant or customer of the procedures and documentation necessary to qualify for an exemption from a security deposit requirement.

(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.

§ 56.287. 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 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 construction of facilities to provide the public utility service.

§ 56.288. Payment period for deposits by applicants.

The due date for payment of a deposit or an installment payment toward a deposit, other than an initial installment or 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 applicant of notification of the amount due. An applicant may elect to pay any required deposits in three installments: 50% payable upon the determination by the public utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A public utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested. If the applicant chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.321 (relating to authorized termination of service). The applicant retains the option to pay the deposit amount in full anytime before the due date regardless of any deposit installments previously paid.

PROCEDURES FOR EXISTING CUSTOMERS

§ 56.291. 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 § 56.264 (relating to previously unbilled public utility service), under the following conditions:

(A) The public 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 public utility may require a deposit as a condition to reconnection of service following a termination.

(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.

(4) *Cash deposit prohibition*. A public utility may not require a customer that, based upon household income, is confirmed to be eligible for a customer assistance program to provide a cash deposit. A customer is confirmed to be eligible for a customer assistance program by the public utility when the customer provides income documents or other information that he or she is eligible for State benefits based upon household income eligibility requirements that are consistent with those of the public utility's customer assistance programs.

§ 56.292. Payment period for deposits by customers.

The due date for payment of a deposit or any installment payment toward 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 public utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A public utility shall advise a customer of the option to pay the requested security deposit in installments at the time the deposit is requested. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.321 (relating to authorized termination of service). The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

CASH DEPOSITS

§ 56.301. Amount of cash deposit.

(a) *Applicants*. A public 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 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.

§ 56.302. 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 public utility shall promptly apply the deposit of the customer, including accrued interest, to any outstanding balance for public 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 public 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 public 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 any 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, the public utility shall refund any cash deposit, plus accrued interest.

(5) *Optional refund*. At the option of the public 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.

(6) A public utility shall refund a deposit, along with any applicable interest, within 60 days upon determining that the customer or applicant from whom a deposit was collected is not subject to a deposit under § 56.282 (relating to credit standards) or § 56.291 (relating to general rule).

§ 56.303. Application of deposit to bills.

The customer may elect to have a deposit applied to reduce bills for public 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 public utility shall review the account of the customer each succeeding billing period and make appropriate disposi-

tion 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 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.

§ 56.306. Interest rate.

The public utility shall accrue interest on the deposit until it is returned or credited.

(1) Interest shall be computed at the simple annual interest rate determined by the Secretary of Revenue for interest on the underpayment of tax under section 806 of The Fiscal Code (72 P.S. § 806).

(2) The interest rate in effect when deposit is required to be paid shall remain in effect until the date the deposit is refunded or credited, or December 31, whichever is later. A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of the calendar year.

(3) On January 1 of each year, the new interest rate for that year will apply to the deposit. The new interest rate will be applied to the deposit for the calendar year starting January 1 until December 31 of that same year. Revised interest rates are calculated every subsequent January 1 and applied to the deposit until the deposit is refunded or applied to the account.

Subchapter O. INTERRUPTION AND DISCONTINUANCE OF SERVICE

§ 56.311. 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 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 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 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 public 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 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 § 56.337 (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

GROUNDS FOR TERMINATION

§ 56.321. Authorized termination of service.

Public 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 public utility for the purpose of maintenance, repair or meter reading.

(4) Unauthorized use of the public 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 public utility service.

(7) Tampering with meters or other public 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 public utility.

§ 56.322. Timing of termination.

Except in emergencies—which include unauthorized use of public 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 public utility or on the day preceding the holiday. A holiday observed by a public utility means any day on which the business office of the public utility is closed to observe a legal holiday, to attend public 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 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.

(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 public 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 public utility service for which the public 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 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.

(11) Nonpayment of delinquent accounts when the amount of the deposit presently held by the public 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 public 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 public 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 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 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.

(6) The following statement: "If you have questions or need more information, contact us as soon as possible at (public 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 medical certificate 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 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.

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

(10) 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.

(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 public 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 public 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 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.

§ 56.333. 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 public utility may not interrupt, discontinue or terminate service without personally contacting the customer or a responsible adult occupant in person, by telephone or electronically with the customer's consent to provide notice of the proposed termination 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 public 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 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.

(3) Contact by e-mail, text message or other electronic messaging format consistent with the Commission's privacy guidelines and approved by Commission order. The electronic notification option is voluntary and shall only be used if the customer has given prior consent approving the use of a specific electronic message format for the purpose of notification of a pending termination. Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. If the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.

(4) 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.

(5) If the customer has not made the designation noted in paragraph (4), 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.

(6) If the public utility is not successful in establishing personal contact and the customer has not made the designation noted in paragraph (4) 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 all of 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.

(d) The public utility shall ask if the customer or occupant has questions about the 10-day written notice the public utility previously sent.

§ 56.334. 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.

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§ 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 public utility concerning a proposed termination, a public utility 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.

(3) Information about the public utility's universal service programs, including the customer assistance program. Refer the customer or applicant to the universal service program of the public utility to determine eligibility for a program and to apply for enrollment in a program.

(4) The medical emergency procedures.

(b) The public utility 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(8) (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.

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§ 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 public utility, the public utility may terminate service without written notice so long as the public utility reasonably believes grounds to exist. At the time of termination, the public 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 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.

§ 56.340. 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 public 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 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 public utility report as defined in § 56.382 (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) *Informal complaints*. 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 §§ 56.391—56.394 (relating to informal complaint procedures). 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 (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 public 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 including any accounts terminated in December. 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.

(6) *Landlord ratepayer accounts*. During the period of December 1 through March 31, a public 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 public 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 public utility service was off at the time of the incident. Within 1 working day of becoming aware of an incident, the public 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 public utility may not terminate service, or refuse to restore service, to a premises when a licensed physician, nurse practitioner or physician assistant 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, nurse practitioner or physician assistant 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, nurse practitioner or physician assistant and not with the public utility. A public 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 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 when it was suspended.

§ 56.353. 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, nurse practitioner or physician assistant, or to require written verification within 7 days. Public utilities may develop a medical certificate form but may not make its use mandatory. A medical certificate form developed by the public utility shall be made readily available. Medical certificates may be electronically transmitted and electronic signatures are valid. Certifications, whether written or oral, must include all of 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 anticipated length of the affliction.

(4) The name, office address and telephone number of the certifying physician, nurse practitioner or physician assistant.

(5) If a written certificate is provided, the signature of the certifying physician, nurse practitioner or physician assistant.

§ 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 public 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 public utility to petition the Commission). The public utility shall apply the dispute procedures in §§ 56.381 and 56.382 (relating to public 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 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.

§ 56.356. 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 under § 56.262(8) (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 public 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 con-

tents of termination notice). The public utility shall comply with §§ 56.333—56.336.

§ 56.358. 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 §§ 56.321—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 public utility has informed the customer of that duty under § 56.356.

(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 public utility report described in § 56.382 (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.

* * * * *

THIRD-PARTY NOTIFICATION

§ 56.361. 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.

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

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 public 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 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 § 56.381 (relating to general rule).

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§ 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 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.

§ 56.374. 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 public utility.

PUBLIC UTILITY COMPANY DISPUTE PROCEDURES

§ 56.381. General rule.

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

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(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 public utility company report must be in writing and conform to § 56.382 (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 public 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).

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§ 56.382. Contents of the public utility company report.

A public utility company report must include all of 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 public 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 § 56.391 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or is not deemed necessary by the public utility, the public utility shall provide the information in § 56.391(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 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 public utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the 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 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 public utility company report, whichever is later. If the public 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:

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(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.

* * * * *

§ 56.392. 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, public 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 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.

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§ 56.393. Termination pending resolution of the dispute.

In any case alleging unauthorized use of public 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; public utility's duty to pay interest whenever overpayment found), a public utility may terminate service after giving proper notice in accordance with §§ 56.331—56.338, whether or not a dispute is pending.

FORMAL COMPLAINTS

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

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(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.

* * * * *

(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 for the formal complaint remains with the party who filed the informal complaint. For legal or policy issues raised by the public utility, the burden of proof for the formal complaint will be with the public utility raising the legal or policy issue.

§ 56.404. Ability to pay proceedings.

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(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.

* * * * *

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 56.411. 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.

* * * * *

(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 R. RESTORATION OF SERVICE

§ 56.421. Payment and timing.

When service to a dwelling has been terminated, the public 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 public 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:

* * * * *

(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 public 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 public 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(8) (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 public 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 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.

(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 public utility shall provide for and inform the applicant or customer of a location where the customer may 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 or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, or is seriously ill or affected by a medical condition which will be aggravated without public utility service.

§ 56.422. 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 §§ 56.322 and 56.421 (relating to timing of termination; and payment and timing).

Subchapter S. PUBLIC INFORMATION PROCEDURES; 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 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 company 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 all of the following:

* * * * *

(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 who have a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, people with serious illnesses and low income households.

§ 56.432. 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.

* * * * *

Subchapter T. 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 public utility.

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

Subchapter U. GENERAL PROVISIONS

§ 56.451. 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.

§ 56.452. 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 V. (Reserved)

§ 56.461. (Reserved).

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, nurse practitioner or physician assistant certify 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: (Public Utility) Phone Number: (Public Utility) Address:

(d) Have your licensed physician, nurse practitioner or physician assistant send a letter to the public utility within 3 days verifying the medical condition.

If you are a victim of abuse and have an order issued by the courts, special medical emergency procedures and protections may be available. Call your public utility company to inform them so these special procedures and protections can be provided. Your public utility company may require you to provide them with a copy of your court order.

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, nurse practitioner or physician assistant certify 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: (Public Utility) Phone Number: (Public Utility) Address:

(d) Have your licensed physician, nurse practitioner or physician assistant send a letter to the utility within 3 days verifying the medical condition.

If you are a victim of abuse and have an order issued by the courts, special medical emergency procedures and protections may be available. Call your public utility company to inform them so these special procedures and protections can be provided. Your public utility company may require you to provide them with a copy of your court order.

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 Commission-related, dunning expenses and winter survey expenses." Report the cumulative total as of the

end of the calendar year. Exclude customer assistance program expenses including customer assistance program administrative expenses, customer assistance program credits, also known as revenue shortfall, customer assistance program arrearage forgiveness and any other expenses directly related to customer assistance programs.

Annual residential billings—Report the cumulative total dollar amount in residential billings as of the end of the calendar year. This includes "normal tariff billings," universal service program billings including customer assistance programs, 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 calendar 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 calendar 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 calendar 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 calendar year.

Total dollar amount of active residential accounts in arrears and not on a payment arrangement—Report the total dollar amount as of the end of the calendar 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 arrangement—Report the total dollar amount as of the end of the calendar 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 calendar year. Do not include customer assistance program credits, also known as 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 calendar 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. Include all residential recoveries regardless of the year the recovered dollars were actually written off. Report the cumulative total dollar amount as of the end of the calendar year. Do not include customer assistance program credits, also known as revenue shortfall, or customer assistance program arrearage forgiveness in this category.

Total dollar amount in security deposits on-hand—Report the dollar amount as of the end of the calendar 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 calendar 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 calendar month.

Total number of active residential accounts in arrears and not on a payment arrangement—Report the total as of the end of the calendar 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 arrangement—Report the total as of the end of the calendar 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 calendar month.

Total number of customers that are requested or billed a security deposit—Report the cumulative number as of the end of the calendar 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 calendar 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 calendar 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 calendar 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 calendar month. Include customer assistance program recipients.

Total number of reconnections for full customer payment, partial payment or payment arrangement—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 arrangement 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 arrangement 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 calendar 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 calendar month. This category includes any reconnection not reported under reconnections for payment/partial payment/payment arrangement or reconnections for submission of a medical certificate. Include customer assistance program recipients.

Total number of residential heating customers—Report the number as of the end of the calendar 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 calendar 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 calendar year.

Total number of 10-day termination notices issued by the public 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 calendar 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 calendar 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 calendar 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 calendar month. Include customer assistance program recipients.

Total number of 3-day termination notices completed by electronic messaging formats—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 calendar month. Include customer assistance program recipients. The customer was contacted using email, text message or other electronic messaging format in accordance with § 56.93.

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 calendar 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 calendar month. Include customer assistance program recipients. The customer was contacted using the telephone in accordance with § 56.93.

APPENDIX D. DEFINITIONS (§ 56.231(d))

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.231(d) (relating to reporting requirements).

Annual residential billings—Report the cumulative total dollar amount in residential billings during the calendar 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 calendar year. Do not include customer assistance program credits, also known as 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 calendar 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 calendar 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 calendar month. Include customer assistance program recipients.

Total number of residential customers—Report the number as of the end of the calendar 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 calendar 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 calendar month. Include customer assistance program recipients.

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