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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held February 28, 2019 |
| Commissioners Present: |  |

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| Gladys M. Brown, Chairman | |  | |
| David W. Sweet, Vice Chairman | |  | |
| Norman J. Kennard | |  | |
| Andrew G. Place, Statement  John F. Coleman, Jr. |  | |
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| 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]](#footnote-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]](#footnote-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]](#footnote-3) submitted comments in response to the *Tentative Implementation Order.* On July 9, 2015, the Commission issued a Final Order*, Chapter 14 Implementation*, 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]](#footnote-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]](#footnote-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 this weblink: <http://www.puc.pa.gov/about_puc/consolidated_case_view.aspx?Docket=L-2015-2508421>

**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.

**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: February 28, 2019

ORDER ENTERED: February 28, 2019

1. *See* Secretarial Letter re: *Act 155 of 2014 Implementation*,Docket No. M‑2014‑2448824 (December 10, 2014);and *52 Pa. Code Chapter 56.* [↑](#footnote-ref-1)
2. *See* Secretarial Letter re: *Act 155 of 2014 Applicability and Implementation.* Docket No.

   M-2014-2448824 (December 10, 2014). [↑](#footnote-ref-2)
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). [↑](#footnote-ref-3)
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). [↑](#footnote-ref-4)
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). [↑](#footnote-ref-5)