

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Advanced Notice of Proposed Rulemaking :
for Amendment to 52 Pa. Code Chapter 56 : **Docket No. L-00060182**
to Comply with the Provisions of 66 Pa. C.S., :
Chapter 14; General Review of Regulations :

Comments of PECO Energy Company

PECO Energy Company (“PECO Energy”) hereby submits comments in the above-captioned docket in response to the Pennsylvania Public Utility Commission’s (“Commission”) Advanced Notice of Proposed Rulemaking Order (“ANOPR”) and Request for Comments on the proposed revisions of the regulations appearing in 52 Pa. Code Chapter 56, relating to standard and billing practices for residential utility service. The Proposed Order was issued by the Commission on December 4, 2006, and published in the Pennsylvania Bulletin on December 16, 2006 (36 Pa. B. 7614).

I. Introduction

PECO Energy appreciates this opportunity to file comments responding to the Commission’s ANOPR on the proposed revisions of Chapter 56. In the ANOPR, the Commission requests that utilities comment on specific provisions of Chapter 56 to bring the regulations in alignment with Chapter 14, which issues are identified in Appendix A of the ANOPR. (ANOPR at 5). In order to provide a helpful response to the Commission’s request, PECO Energy’s comments are organized to address each Appendix issue as stated.¹ Where appropriate, PECO Energy’s Comments include suggested text for the revised regulations.

¹ In the ANOPR, the Commission requests comments on how Chapter 56 should address technological advances, such as electronic billing and payment, email, the internet, etc. PECO Energy believes that these important issues

II. Comments

1. Rules that apply to victims with a protection from abuse (PFA) order and to customers of steam heating, wastewater and small natural gas companies.

In Chapter 14, the Legislature specifically excluded from its applicability victims under a Protection from Abuse Order (PFA).² Therefore, in revising Chapter 56, special exceptions to the new regulations must be created to apply to PFA holders. In Appendix A of the ANOPR, the Commission proposes creating a separate chapter within Title 52 to include the rules that apply solely to PFA holders. PECO Energy believes that a better approach would be to create a subsection for each PFA exception within the generally applicable rule. PECO Energy believes that this approach would ensure clarity and compliance and that the public and the utilities would be better served by having the rules and the exceptions to those rules in one location. By way of example, the general deposit rules applicable to customers and applicants would include a separate subsection requiring utilities to waive the deposit for PFA holders if a deed or lease is provided. Keeping the exception within the rule will ensure that anyone reviewing the deposit regulations would immediately see the exception to the rule, without the need for additional reference to a separate chapter. PECO Energy's suggested text of the exceptions is attached as Exhibit A.

should be addressed by the Commission, but believes that the issues are too broad for the present rulemaking. PECO Energy recommends revisiting these issues after the Chapter 14 revisions are completed, but before the final regulations are enacted. PECO Energy has focused its efforts in the present comments on the issues requiring attention due to Chapter 14.

² As only the PFA exclusions are applicable to PECO Energy, the remaining exclusions are not discussed in PECO Energy's comments.

PECO Energy also proposes that certain definitions be added to the regulations to define the scope of the exceptions. Section 1417 states that Chapter 14 “shall not apply to victims under a Protection from Abuse Order as provided by 23 Pa. C.S. Ch. 61 (relating to protection from abuse).” PECO Energy proposes creating definitions of “PFA Holder” and “Protection from Abuse Order” using Chapter 61 to ensure that the Chapter 14 exclusions are properly applied. The proposed additional definitions are included in Exhibit A.

2. Previously unbilled service.

In Appendix A, the Commission proposes incorporating the four-year statute of limitations on “make-up” bills issued under § 56.14. PECO Energy supports a limitation of time for make-up bills issued due to a billing error, meter failure, and leakage; however, there should be no limitation on a utility’s right to issue a bill for greater than four years if the service was not billed due to fraud, theft of service or tampering with the utility’s meter. If a customer is stealing or using fraudulent means to avoid accurate billing (e.g., fraudulent enrollment in CAP Rate), that customer should be liable for all charges once that fraud or theft is discovered.

The Commission also proposes requiring the utility to provide a payment agreement based on previously unbilled service, regardless of the number of previously unkept agreements. PECO Energy supports the Commission’s proposal, but recommends a reciprocal limitation on the length of the agreement for the unbilled service. That is, customers should be entitled to an agreement for a period no longer than the length of the back-billing. For example, if a customer is billed for 3 years of prior service due to a meter error, that customer should be entitled to an agreement of no more than 3 years on the back-billing, regardless of income level.

Also, payment agreements should not be required for long period bills issued due to fraud, theft of service or tampering with the utility's meter. In those instances, the utility should be permitted to require full payment of the previously unbilled service prior to providing further service.

3. Credit Standards

Chapter 14 provides utilities with additional methods for securing its accounts and avoiding loss through an increased ability to apply more stringent credit standards. For example, the utilities may require information about all adult occupants in a household; the utilities may require deposits based on credit scoring; and the utilities may hold an applicant responsible for the payment of services provided to the property at which they resided even if the service was provided in someone else's name.

In the ANOPR, the Commission proposes creating regulations to clarify acceptable identification requirements, the use of social security numbers and third-party service requests in connection with the Commission's *Investigation In Re: Identity Theft*. PECO Energy participated in the Commission's investigation and provided substantial information supporting the security of its processes. PECO Energy requests that the Commission exercise caution in creating any identification requirements for service applicants which will unnecessarily burden customers and/or utilities. For example, in order to fully ensure against identity theft, the Commission could require in-person applications for all applicants. While this requirement would certainly limit the potential for identity theft, the burden on the customers and the utilities would be extreme.

Furthermore, identity thieves may adapt their methods in response to specific regulations. Some flexibility is needed to permit utilities to adjust their processes where needed to combat identity theft. PECO Energy recommends regulations requiring the utility applicant to provide all reasonable information required by a utility to verify identity and permitting the utility to require additional identification, including an in-person verification, where reasonably necessary to verify identity.

The Commission also proposes specifying the identification standards that should be applied to adult occupants under § 1404(d). It is PECO Energy's position that the same identification standards should be applied to adult occupants as is applied to the named customer. If any one occupant is unable to establish his/her identity, the entire application may be rejected pending verification of identity of all occupants. Because all occupants will be liable for the service provided to the property, PECO Energy believes it is imperative that all occupants meet the same identification standards.

The Commission proposes that utilities should include in their tariffs the credit scoring methodologies and standards used to determine deposit requests. For several reasons, PECO Energy does not support this proposal. First, most utilities use a third-party credit reporting agency to assess a customer's credit-worthiness. The methodologies used by those third-parties is proprietary information which the utilities may not know or may not be permitted to disclose. Even naming the third-party company in a tariff would be problematic, because utilities may change vendors.

Second, a utility company's standards may change if a determination is made that the standards are not serving the intended purpose of securing risky accounts. For example, PECO

Energy recently lowered the credit score required to avoid a deposit, because it found that too many customers were being billed a deposit than was necessary to avoid loss. If the score were part of PECO Energy' tariff, a tariff filing would have been required before making the policy change, subjecting non-risk customers to deposit requests in the interim. Furthermore, the credit scoring industry may change its scoring process, which would require a policy change to conform to new industry standards. For example, a customer with a credit score of 600 today may be more or less of a credit risk than a customer with the same score 5 years ago because of industry changes unrelated to the utility's methodologies or procedures.

The Commission also proposes requiring utilities to include in their tariffs such "other methods" that may be used to determine liability for utility service provided at an address but in another party's name. PECO Energy does not believe that a utility's tariff should include this information. In these situations, a utility uses many investigative methods to determine whether an individual resided at a property when service charges accumulated. It would be nearly impossible to list in detail all of the different methods of proof that may be used. Any attempt by the utility to do so may allow a customer to avoid detection, either because proof that is available is not listed in the tariff and therefore cannot be used against the individual or because the individual has reviewed the tariff and has acted in a manner to ensure that the utility cannot prove their liability.

If the Commission determines that it is necessary to include a provision in each utility's tariff, PECO Energy proposes a broad description which will provide flexibility to the utility. For example, PECO Energy's tariff could include the following provision: "Prior to restoring service to a location terminated for nonpayment, PECO Energy may require an applicant to pay

for service previously furnished to the same address for the period during which the applicant resided at the address. In addition to any methods approved for establishing liability in the applicable regulations, PECO Energy may use company records, public records, court records, or credit reporting agency information to establish liability.”

4. Payment period for deposits.

In Appendix A, the Commission proposes revising the deposit regulations to establish specific timeframes for the payment of deposits in the case of restoration requested under § 1404(a)(1), requests for service outside of § 1404(a)(1), and for current customers. PECO Energy supports the establishment of specific regulations in this area. However, PECO Energy proposes that the payment period for restoration under § 1404(a)(1) should mirror the payment period for current customers. Specifically, PECO Energy’s position is that customers requesting restoration of service under § 1404(a)(1) should be required to pay 50% upfront and 25% in each of the two subsequent bills. PECO Energy’s position is that the payment period established in § 56.42 is not inconsistent with Chapter 14. We believe that the legislature’s wording was intended solely to summarize the deposit payment period of § 56.42. If a deposit is billed in two subsequent bills, the second bill will have a due date in accordance with regulations. Therefore, the entire deposit will be due and should be paid “within 90 days.”

The broad language used by the legislature and the reference to existing Commission regulations suggests the legislature’s support for such a reading. Creating a regulation with broad language such as “within 90 days” will create confusion for the utilities on how to bill the deposit. For example, if the regulation permits a customer to pay “within 90 days,” the utility may be prohibited from issuing a bill for the deposit with a due date any early than the 90th day.

In order to comply with such a regulation, the utility may be required to create a separate bill solely for the deposit with the due date to be exactly the 90th day after restoration of service. Alternatively, the utility may be required to change the billing date of a restored customer such that the regulated due date matches the 90th day after restoration. The increased cost of such specialized billing would defeat the purpose of Chapter 14 to reduce the overall expenses of utilities, which may ultimately be passed on to its customers. Retaining the deposit payment requirements of § 56.42 will provide flexibility for the utilities' billing cycles and will maintain consistency for the customers and utilities.

For deposit requests outside of § 1404(a)(1), PECO Energy agrees with the Commission that the full amount of the deposit should be required prior to restoration of service.

5. Termination of Service.

In the Appendix, the Commission proposes incorporating into § 56.81 the grounds for authorized termination described in § 1406(a). Separately, the Commission proposes incorporating the grounds for immediate termination under § 1406(c) into § 56.98. PECO Energy agrees that the provisions of § 1406(c) should be incorporated into § 56.98. However, PECO Energy believes it is important to include those provisions in § 56.81, too. Section 56.81 should be maintained as a comprehensive list of *all authorized grounds* for termination of service. The subsequent sections, including § 56.98, describe the notice required prior to termination in specific situations. Under § 56.81, the utility would be *authorized* to terminate service if safety required it. Under § 56.98, the utility would not be required to provide any prior notice to the customer that the service was being terminated.

The Commission proposes maintaining § 56.83 to the extent that it is found to be consistent with Chapter 14. PECO Energy supports this recommendation; however, PECO Energy would ask the Commission, in its review of § 56.83, to bear in mind the goal of Chapter 14 to reduce uncollectible debts and to require payment from those customers who can pay. PECO Energy believes the following provisions of § 56.83 are inconsistent with the goals of Chapter 14 and should be excluded from revised § 56.83:

(1) Sections 1 and 2 relating to nonpayment of concurrent service of the same class received at a separate dwelling and nonpayment for a different class of service received at the same or a different location. The original intent of these provisions was to prevent termination of service at one address for a delinquency at another address. However, if a customer maintains service at two addresses for a period of time and disconnects service at one address, many utilities are able to transfer the final balance to the second address. In that situation, the balances are required to be kept separate and, even if the final balance is not paid, service cannot be terminated at the new address. In these situations, it is PECO Energy's position that the utility should be able to terminate service at the new address when the concurrent service is transferred to one bill. If the goal is to make customers responsible for payment of service provided, this provision simply does not support that goal. Likewise, if a customer is individually liable for service provided, the rate for the service charges should not impact the utility's ability to collect that debt.

(2) Sections 4 and 8 relating to nonpayment of bills for delinquent accounts of the prior ratepayer at the same address. Chapter 14 contains specific provisions allowing termination of

service in this situation. To the extent such a prohibition still exists, those situations should be incorporated into the rules governing such termination or liability.

(3) Section 5 relating to nonpayment of a deposit. Chapter 14 has created very specific rules about when a utility may collect a deposit and when termination may occur for that deposit. This provision is unnecessary in light of those rules.

(4) Section 7 relating to nonpayment of charges for utility service furnished more than 4 years prior to the date the bill is rendered. The ability of a utility to issue and require payment for a make-up bill is addressed in Chapter 14 and will be addressed in the revised Chapter 56. Therefore, this provision is unnecessary.

(5) Section 11 relating to nonpayment of delinquent accounts when the deposit held by the utility is within \$25 of the account balance. With delayed billing, a utility's account balance does not reflect usage by the customer not yet billed. If the utility is required to wait until the balance of the account exceeds the deposit amount prior to terminating service, the purpose of the deposit is lost. A deposit of two months is required to cover the potential loss associated with the delayed billing cycle. This provision defeats the purpose of the deposit and creates additional risk of loss to the utility.

6. Winter Termination Procedures.

The winter termination procedures in Chapter 14 may be the most valuable tool provided to utilities in its efforts to reduce uncollectibles. As the Commission points out, these rights must be weighed against the health and safety of customers. Therefore, it is of critical importance that the regulations properly reflect the winter termination provisions of Chapter 14 and provide clear guidance to utilities, and clear warning to nonpaying customers.

In the ANOPR, the Commission requests specific and detailed comments on the necessary revisions to § 56.100. Attached as Exhibit B is PECO Energy's proposed revised § 56.100. PECO Energy proposes defining a good faith effort to obtain income information by balancing the utility's obligation with the customer's obligation to provide such information. In most instances, if a customer contacts a utility to discuss a past due balance, income information is requested to determine if the customer is eligible for special terms or rates. If the customer declines to provide that information, an inference should be drawn that the customer does not qualify for the special terms and/or rates and, therefore, also qualifies for termination under the winter termination procedures. That is, a customer eligible for lower rates or financial assistance would not reasonably be expected to decline income information if providing it would benefit them. Therefore, a single refusal by the customer to provide information should be sufficient to presume eligibility for winter termination.

In the event that the customer does not contact the utility or if the income information is not refused in a telephone call by the customer, the utility should be permitted to fulfill its good faith obligation by initiating contact with the customer and specifically requesting the information. At least one of these requests should be in writing, in the event that the customer cannot be contacted by telephone. If the written notification clearly states that the refusal to provide such information will lead to a presumption of eligibility for winter termination, the utility should be permitted to presume eligibility for winter termination. If the customer specifically refuses to provide income information in a utility-initiated contact, the customer should be presumed eligible for winter termination. If the customer does not respond to 3

attempted contacts (including at least one written attempt), the customer should be presumed eligible for winter termination.

Furthermore, the utility should be given procedures for verifying income information and the Commission should require customers to comply with the verification requirements. A customer may provide income and occupancy information by telephone which suggests that they are not eligible for winter termination. If the customer is not then required to substantiate that claim, the customer is provided an avenue for fraudulent avoidance of payment and the utility is helpless to act upon that fraud. PECO Energy proposes that if a utility makes a written request for income verification and includes in that request a warning that the customer must comply or be deemed eligible for winter termination, the onus should then shift to the customer to provide proof of income. Similar processes are in place to protect against CAP related fraud. A customer is not placed in CAP unless proof of income is provided. The proposed process would also assist utilities in obtaining information necessary to enroll low income customers in their valuable low income assistance programs while ensuring that the process is not used by customers who are not low income and are merely trying to avoid payment.

The Commission also proposes revisions to the winter survey requirements. First, the Commission proposes requiring updates to the winter survey throughout the winter period. PECO Energy notes that the monthly report required by § 56.231 includes information about termination notices sent, terminations completed, and reconnections completed. PECO Energy submits that this report, provided throughout the winter period, will provide ample information to the Commission on winter terminations. The primary purpose of the winter survey is to provide customers with financial assistance information to get service restored. If the

Commission determines that it is necessary for utilities to provide assistance information to customers terminated during the winter, PECO Energy proposes to provide that information to the customers with the post-termination notices, instead of conducting a winter survey on a customer who may have been terminated (and received all the required notices) only two weeks prior.

PECO Energy also proposes limiting the initial winter survey to involuntary terminations occurring only in the current year of the survey. If a customer requested a discontinuance of service at a property and no new request for service was received, that property should not be included in the winter survey. Likewise, if a property was terminated for nonpayment 18 months prior and no restoration of service at the property has occurred, that property would have been included in the prior year winter survey and repeated surveys should not be required. These limitations will assist the utilities in focusing their efforts on the properties and customers intended to be targeted by the survey – customers who were terminated for nonpayment and who may be eligible for financial assistance or payment terms to restore heat-related service through the winter period.

Finally, the Commission proposes requiring utilities to report to the Commission “anytime they become aware of a death following a termination of utility service where it appears that the death may be linked to the lack of utility service.” PECO Energy strenuously opposes any such requirement. First, there is no such requirement in Chapter 14, which is the subject of the current revision of Chapter 56. Second, the suggestion is that the utility would be required to investigate each and every death in the Commonwealth and make a determination of causal factors. The cost of such investigations alone would be prohibitive to many utilities. The

only way to properly comply with such a requirement would be to assign resources to review obituaries and examine each account for service status. Resources would also be required to investigate when a lack of service is found – keeping in mind that such investigation may interfere with an ongoing police or fire department investigation and the utility would not have access to the information gathered by those departments.

Finally, if a utility completes such investigation, the utility is then required to potentially incriminate itself by reporting that there *may be a link* to lack of service. The only situation in which such a link would be of concern to the Commission or to the public would be if the lack of service was the *cause* of the death and if the utility did not follow proper procedures in terminating that service. In that event, requiring a report would be tantamount to requiring the utility to admit liability in a death. No other industry would ever be required to bear the burden of investigating the deaths of all of its customers, make a causal determination of such death and then submit an incriminating statement to a regulatory authority.

The current process is that utilities respond to all Commission requests for information relating to any utility service account. If the Commission believes that a death or injury is related to utility service, the Commission need only call or email the utility and request information. PECO Energy believes that this process is sufficient to meet the concerns raised by the Commission in the ANOPR and believes that its cooperation in all Commission requests to date supports the fact that the process is working.

7. Emergency Medical Procedures.

In Appendix A, the Commission proposes revising all of the emergency medical provisions to include “nurse practitioner.” However, Chapter 14 only extends the *oral*

certification of medical conditions to include certification by a nurse practitioner. Chapter 56 should continue to reflect the requirement that the oral certification be followed by written certification by a physician.

PECO Energy supports the Commission's proposal to revise the emergency medical provisions to reflect current processes, which have resulted from utilities working with BCS to ensure fair and safe application of the provisions. Specifically, the provisions should be revised to reflect that the limitations of § 56.114 apply per household, not per individual. Further, the provisions should be revised to reflect that a utility is not required to petition the Commission before rejecting a certification on the basis of § 56.114.

PECO Energy also proposes expanding the right of the utility to petition the Commission for review of specific conditions. The emergency medical provisions are intended to provide relief from termination for occupants with a "medical condition which will be aggravated by a cessation of service or failure to restore service." In some instances, certifications are submitted which clearly do not meet this requirement. However, the utility is not permitted to reject the certification without petitioning the Commission on an individual basis. PECO Energy proposes permitting a condition-based petition to the Commission to determine if a specific medical condition is one that meets the requirements of § 56.111.

8. Commission informal complaint procedures.

In the Appendix, the Commission proposes several changes related to the Commission's formal and informal complaint procedures. PECO Energy generally agrees with the Commission's conclusion that revisions to the Commission's regulations, at §§ 56.161-181 or elsewhere will be needed to implement the provisions of, for example, § 1405(b).

PECO Energy also agrees with the Commission that § 1405(c), which is a prohibition against establishing payment arrangements for customers participating in CAP programs, should apply to any balance that reflects application of CAP program rates and also to any balance comprised of both CAP and standard rates.

The Commission also makes clear that, while it will not be establishing payment arrangements for CAP customers, it can still address other CAP-related disputes, such as billing and eligibility requirements. PECO Energy notes that the Commission currently hears many such disputes, especially at the informal level. Often, such disputes are generated by a customer simply stating that he or she cannot afford to pay their bill, even though they are on CAP. This statement typically results in an informal investigation of whether the customer is in the correct tier of the CAP program; in PECO Energy's experience, it is very rare that a customer has been placed in the wrong tier unless the customer has provided incorrect or incomplete income information. Because of this, PECO Energy recommends that, in dealing with such non-payment arrangement CAP disputes, the Commission consider using procedures, such as a real-time three-way call between the Commission, the customer, and the utility, in lieu of the more extended informal complaint process. Put simply, if more income information is needed in order to put a customer in the correct tier, that information can be quickly obtained and the need for further proceedings can be eliminated; if the customer is on the correct tier and that can be determined in a quick call, then no further proceedings would be warranted. Of course, there may still be non-payment arrangement CAP disputes that would require use of the full informal or formal dispute resolution process, but PECO Energy believes that the bulk of such inquiries could be quickly resolved with a three-way call process.

The Commission also notes that it will clarify its role in establishing payment agreement restoration terms for customers whose service has been terminated, citing pages 11-12 of its first *Implementation Order* (March 4, 2005) and the *Reconsideration Order* (October 27, 2005). PECO Energy notes that, since those orders were issued, the Commission's Administrative Law Judges have properly found that payment terms for terminated customers is controlled by § 1407, not § 1405. The Commission's regulatory implementation of this matter should be consistent with those ALJ orders.

Finally, the Commission proposes to implement a regulatory response standard of 30 days for utilities to respond to complaints in general, with a proposed five-day standard where service has been terminated. This proposal does not spring from the requirements of Chapter 14, and PECO Energy urges the Commission not to adopt it. PECO Energy typically meets or betters these standards in its response time on complaints, and intends to continue to do so. However, PECO Energy believes that it is ill-advised to make major changes to the Chapter 56 regulations and simultaneously impose a new time standard for answering such complaints. Neither the Commission nor the utilities know at this time whether the new provisions will have a material impact on the utilities' response time. Where the proposal for a new standard is not driven by the statute, PECO Energy does not believe it should be overlain on the substantial new requirements.

Whether or not the Commission implements a regulatory standard for company response time, PECO Energy will continue its efforts – which have very successful in recent years – to answer informal complaints in less than 30 days. PECO Energy also urges the Commission to adopt similar time-based internal goals for issuing its report resolving informal disputes – albeit

any Commission-implemented time-based internal goals also need not be reduced to a regulatory requirement, but instead should be managed as an internal administrative matter.

Finally, while PECO Energy aims to, and succeeds in, answering informal complaints in 5 days for customers whose service has been terminated, it particularly urges the Commission not establish a regulatory time limit on answering such complaints. Customers who have been terminated will, in almost all cases, have had numerous opportunities to engage in the dispute process while their service is still active. Timely payment of bills will avoid termination. Contacting the utility when one starts to fall behind in one's bills can often result in a good faith payment arrangement to come back into compliance with one's financial obligations. If that fails, multiple notices prior to termination give ample opportunity to identify any dispute that exists and to contact the utility or engage the Commission's services in pursuit of such a dispute – all while service is still connected. The Commission should seek a process that encourages customers to use all of the above methods. If they are followed, it would be rare that, at the time of termination, there would be a meaningful dispute that had not been heard by the Commission. By putting termination disputes at the head of the line, the Commission would unfortunately send a message to customers that they can wait until the last minute – until termination actually occurs – without engaging in discussion or dispute identification, and then move to the head of the line at that time. This message should not be sent.

PECO Energy continues to answer termination disputes within 5 days whenever possible, and has an excellent record of doing so. But it is a far different matter to encode that requirement in regulations and make it the law to treat those who have waited preferentially better than those who have acted early.

9. Restoration of Service.

Section 1407(d) allows 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. Section 1407(e) provides the methods by which a utility may establish that an applicant previously resided at the property. In Appendix A, the Commission proposes requiring utilities to include in their tariffs: (1) the procedures and standards the utility will use to determine whether an applicant or customer has previously resided at a property and (2) the means for providing acceptable proof of such.

First, PECO Energy notes that Chapter 14 does not require utilities to “provide acceptable proof” prior to requiring payment. The language in Appendix A suggests that the utility must seek approval of an applicant’s liability prior to requiring payment of the liability. It is PECO Energy’s position that the applicant must pay the requested amount prior to restoration of service. If the applicant disputes his or her liability, that dispute must be resolved prior to restoration. There is no requirement in Chapter 14 that the utility restore service prior to full payment and PECO Energy urges the Commission not to read such a requirement into Chapter 14.

Second, PECO Energy does not believe that its investigation methods should be made a part of its tariff. The provisions of Chapter 14 were enacted to assist utilities in addressing the frequently encountered problem of “Name Game.” The operative word is “game.” Customers and applicants engaging in this behavior are playing a game to avoid payment. Detailing investigatory methods in the tariff will effectively provide these game players with a roadmap to avoid detection and liability.

PECO Energy also opposes the application of a four-year statute of limitations on such determinations. In instances where a household of individuals has effectively “passed around” their account in order to avoid payment, Chapter 14 now provides a tool for utilities to stop the games. PECO Energy has reviewed and provided documentation to BCS showing expert game players using various methods (such as filing bankruptcies in different names, using maiden names, transferring service, filing disputes, submitting medical certifications, delaying termination through CAP applications never completed) to avoid payment for up to 10 years. To permit those customers to get a “pass” for anything beyond 4 years is essentially rewarding their game with free service. This would be a direct contradiction of the intent of Chapter 14.³

PECO Energy agrees with the Commission’s recommendation to clarify that the timeframes in § 56.191 refer to calendar days and hours, as opposed to business days and hours. PECO Energy also agrees that the applicable time frame for restoration is when the requirements of restoration are met, not when the termination occurred.

10. Reporting Requirements.

In the Appendix, the Commission also proposes to extend the data reporting requirements at 52 Pa. Code § 56.231 to include water utilities – a proposal on which PECO Energy has no view – and to incorporate certain reporting protocols set forth in the Commission’s Final Order of July 24, 2006.

PECO Energy notes simply that the Final Order of July 24, 2006 incorporated many comments received at that time, including extensive comments by PECO Energy. PECO Energy

³ If the Commission does impose a 4-year statute of limitations in such instances, PECO Energy proposes that the 4-year period be counted starting on the last date service was provided to the customer, rather than a per bill application of the limitation.

is confident that, just as the Commission's Final Order reflected those comments, its implementation of the Final Order will do so as well.

III. Conclusion

PECO Energy respectfully submits these comments and looks forward to working with the Commission to revise Chapter 56 to implement the directives of Chapter 14.

Respectfully submitted,

Dated: February 14, 2007

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EXHIBIT A

PFA HOLDER EXCEPTIONS AND DEFINITIONS

PECO Energy proposes the following “exception text” to be included with the revised regulations:

Deposit Rules

To be included as an additional subsection to revised §56.33:

- (x) *Exception for PFA Holders.* If an applicant is a PFA Holder and does not establish his or her credit under § 56.32 (relating to credit standards), the utility shall provide residential service when one of the following requirements is satisfied:
 - (1) *Cash deposit.* The applicant posts a cash deposit.
 - (2) *Third-party guarantor.* The applicant furnishes a written guarantee from a responsible customer which, for the purposes of this section, shall mean a customer who has or can establish credit, under §56.32, to secure payment in an amount equal to that required for cash deposits.
 - (i) A guarantee shall be in writing and shall state the terms of the guarantee.
 - (ii) The guarantor shall be discharged when the applicant or customer has met the terms and conditions which apply under §§ 56.32-56.57.

To be included as an additional subsection to revised §56.41:

- (x) *Exception for PFA Holders.* If a customer is a PFA Holder, sections ____ above shall not apply.

To be included as an additional subsection to revised §56.32:

- (x) *Exception for PFA Holders.* A utility shall provide residential service without requiring a deposit when the applicant is a PFA Holder and satisfies one of the following requirements:
 - (1) *Prior utility payment history.* The applicant has been a recipient of the same type of utility service within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for such service, so long as:
 - (i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

- (ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.
 - (iii) The applicant does not have an unpaid balance from that prior service.
- (2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting his place of residence under a lease of one year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as an utility customer within 2 years prior to the application for service.
- (3) *Credit information.* The applicant provides information demonstrating that he is not an unsatisfactory credit risk.
 - (i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.
 - (ii) The utility may request and consider information including but not limited to: the name of the employer of the applicant, place and length of employment, residences during the previous 5 years, letters of reference, credit cards and any significant source of income other than from employment.

To be included as an additional subsection to revised §56.53 (incorporates existing §§ 56.53-56.58)

- (x) *Exception for PFA Holders.* If the customer is a PFA Holder, a cash deposit shall be refunded under the following conditions:
 - (1) *Termination or discontinuance of service.* Upon termination or discontinuance of service, the utility shall promptly apply the deposit of the customer, including accrued interest, to any outstanding balance for utility service and refund or apply to the customer's account, the remainder to the customer. 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 § 56.32 (relating to credit standards), the utility shall refund or apply to the customer's account, any cash deposit plus accrued interest.
 - (3) *Third-party guarantor.* When a customer substitutes a third-party guarantor in accordance with § 56.33(3) (relating to composite group; cash deposits; third-party guarantor), the utility shall refund any cash deposit, plus accrued interest, up to the limits of the guarantee.

- (4) *Prompt payment of bills.* After a customer has paid bills for service for 12-consecutive months without having service terminated and without having paid his bill subsequent to the due date or other permissible period as stated in this chapter on more than two occasions, the utility shall refund any cash deposit, plus accrued interest, so long as the customer currently is not delinquent.
- (5) *Application of deposit to bills.* The customer may elect to have a deposit applied to reduce bills for utility service or to receive a cash refund.
- (6) *Periodic Review.* If a customer is not entitled to refund under this section, the utility shall review the account of the customer each succeeding billing period and shall make appropriate disposition of the deposit in accordance with this section.
- (7) *Refund Statement.* If a cash deposit is applied or refunded, the utility shall mail or deliver to the customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.
- (8) *Interest Rate.* Interest at the rate of the average of 1-year Treasury Bills for September, October and November of the previous year is payable on deposits without deductions for taxes thereon unless otherwise required by law.
- (9) *Application of Interest.* Interest shall be paid annually to the customer, or, at the option of either the utility or the customer, shall be applied to service bills.

Termination of Service

To be included as an additional subsection to revised §56.82

- (x) *Exception for PFA Holders.* Except in emergencies – which include unauthorized use of utility service – service shall not be terminated to PFA holders, for nonpayment of charges or for any other reason, during the following periods:
 - (1) On Friday, Saturday, or Sunday.
 - (2) On a bank holiday or on the day preceding a bank holiday.
 - (3) On a holiday observed by the utility or on the day preceding such holiday. A holiday observed by a utility shall mean any day on which the business office of the utility is closed to observe a legal holiday, to attend utility meetings or functions, or for any other reason.

- (4) On a holiday observed by the Commission or on the day preceding such holiday.

To be included as an additional subsection to revised §56.83

- (x) *Exception for PFA Holders.* Unless expressly and specifically authorized by the Commission, service to a PFA Holder may not be terminated nor will a termination notice be sent for any of the following reasons:
- (1) Nonpayment of bills for delinquent accounts of the prior customer at the same address.
 - (2) Nonpayment for residential service already furnished in the names of persons other than the ratepayer unless a court, district justice or administrative agency has determined that the ratepayer is legally obligated to pay for the service previously furnished. This paragraph does not affect the creditor rights and remedies of a utility otherwise permitted by law.

To be included as an additional subsection to revised §56.35 (or other provision relating to payment of outstanding balances by applicants)

- (x) *Exception for PFA Holders.* A utility may require, as a condition of the furnishing of residential service to an applicant who is a PFA Holder, the payment of any outstanding residential account with the utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly. However, any such outstanding residential account with the utility may be amortized over a reasonable period of time. Factors to be taken into account include but are not limited to the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant, and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant. This section does not affect the creditor rights and remedies of a utility otherwise permitted by law.

To be included as an additional subsection to revised §56.94 (or other section relating to notices required prior to termination of service)

- (x) *Exception for PFA Holders.* If service is being terminated to a PFA holder and a prior contact has not been made with a responsible adult either at the residence of the PFA Holder, as required by §56.94 (relating to procedures immediately prior to termination) or at the affected dwelling, the utility may not terminate service but shall conspicuously post a termination notice at the residence of the PFA Holder and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting.

To be included as an additional subsection to revised §56.191

- (x) *Exception for PFA Holders.* When service to a dwelling has been terminated and the customer is a PFA Holder, the utility shall reconnect service by the end of the first full working day after receiving one of the following:
- (1) Full payment of an outstanding charge plus a reasonable reconnection fee. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account shall include, but not be limited to:
 - (i) The size of the unpaid balance.
 - (ii) The ability of the ratepayer to pay.
 - (iii) The payment history of the ratepayer.
 - (iv) The length of time over which the bill accumulated.
 - (2) Payment of amounts currently due according to a settlement or payment agreement, plus a reasonable reconnection fee, which may be a part of the settlement or payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the ratepayer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order.
 - (3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.

To be included in §56.2 as new definitions

PFA Holder – An applicant or customer who has provided to the utility a copy of a valid PFA Order showing the applicant/customer as the Plaintiff in a PFA Order.

Protection from Abuse Order or PFA Order – An order issued by a court pursuant to 23 Pa. C.S. Ch. 61, or registered within the Commonwealth of Pennsylvania pursuant to 23 Pa. C.S. Ch. 61, ordering or approving any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The PFA Order shall be valid if the duration of the PFA Order (as required under 23 Pa. C.S. §6108(d)) has not expired.

EXHIBIT B

REVISED §56.100

(1) Notwithstanding any other provision of this chapter and unless otherwise authorized by the Commission, during the period of December 1 through March 31, a utility shall not terminate heating service to customers with household incomes at or below 250% of the Federal Poverty Level unless such termination is authorized utilities subject to this chapter shall conform to the provisions of this section. The covered utilities may not be permitted to terminate heat related service between December 1 and March 31 except as provided in this section or in by §-56.98 (relating to exception for terminations based on occurrences harmful to person or property).

(2) In addition to the notice requirements of §§ 56.91 - 56.93, prior to terminating service under this section, the utility shall, at least 48 hours prior to the scheduled date of termination, post a notice of the proposed termination at the service location. The public utility shall attempt to make personal contact with the customer or responsible adult at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.

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

~~—(2)(3) If the utility is unsuccessful in obtaining household income and occupancy information after having made a good faith effort to do so, or if a customer refuses to provide such information, the utility may presume that the customer's household income is greater than 250% of the Federal Poverty Level.~~

A utility will be deemed to have made a good faith effort to obtain household income and occupancy information if:

(a) the utility requested such information in a telephone call with the customer in the ninety (90) days prior to the scheduled termination date and the customer specifically declined or refused to provide such information, or

(b) the utility requests such information from the customer at least three (3) times in the ninety (90) day period prior to the scheduled date of termination, at least one (1) of such requests being a written request (including a request in the utility's notice of termination).

(4) The utility shall be permitted to require verification of household income and occupancy information. The customer must provide such verification to the utility within 30 days of a written request. If the written request includes a notice to the customer that he/she will be deemed eligible for termination under this section absent

verification, the utility may presume that the customer's income is greater than 250% of the Federal Poverty Level.

~~If at the conclusion of the notification process defined in §§ 56.91—56.95, a reasonable agreement cannot be reached between the utility and the ratepayer, the utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.152 (relating to contents of the utility company report).~~

~~(3) If the ratepayer has filed an informal complaint or if the Commission has acted upon the 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 utility or ratepayer to appeal a decision by the mediation unit under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.171—56.173 and 56.211.~~

(4) For premises where heat related service has been terminated prior to December 1 of each the current 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) Companies 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.