

Pennsylvania Coalition Against Domestic Violence

The Nation's First State Domestic Violence Coalition • Founded 1976

February 14, 2007

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Comments In Response to Advanced Notice of Proposed Rulemaking

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of the Comments of the Pennsylvania Coalition Against Domestic Violence (PCADV) in the above-referenced matter. A compact disk containing same in Microsoft Word format is also enclosed.

Sincerely,

Susan Kelly-Dreiss

Susan Kelly-Dreiss
Executive Director

Enclosures

Cc: Bureau of Consumer Services
Pennsylvania Public Utilities Commission
Commonwealth Keystone Building
400 North Street
2nd Floor, G-M East
Harrisburg, PA 17105-3265

Law Bureau
Pennsylvania Public Utilities Commission
Commonwealth Keystone Building
400 North Street
3rd Floor, 4 North
Harrisburg, PA 17105-3265

Terrence J. Buda
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Certification Letter for Victim of Family Violence for Waiver of Electric and Telephone Service Deposit

This letter serves to certify that _____ (Name of Applicant for Electric and/ or Telephone Service) is a victim of family violence as defined in Texas Family Code §71.004, and therefore has demonstrated satisfactory credit for the purposes of establishing electric and telephone service.¹

Requirement of deposit must be waived for the above named customer for electric service with an affiliated Retail Electric Provider or Provider of Last Resort and for telephone service with a Dominant Certificated Telecommunications Utility.

The following Certifying Entity has determined that the above named Applicant is a victim of family violence as defined in Texas Family Code § 71.004. (Only one certifying entity is required.)

Family Violence Center (Agency name): _____

Treating Medical Personnel (Name of clinic/ hospital): _____

Law Enforcement Personnel (Specify division): _____

Office of Attorney General (Specify division): _____

Office of Texas District or County Attorney (Specify division): _____

Texas Equal Access to Justice Foundation Grantee² (Name of grantee): _____

By my signature I certify that the above named Applicant has been determined to be a victim of family violence as defined in Texas Family Code § 71.004 and I am qualified to make that determination.

Signature

Date

Printed name

Telephone number

Job Title

¹The Applicant has met the criteria in P.U.C. Substantive Rules §25.478 (a)(3)(D) and/or §26.24 (a)(1)(B)(iv), respectively, applicable to affiliated Retail Electric Providers, Providers of Last Resort, and Dominant Certificated Telecommunications Utilities.

² Free civil legal services providers funded by the Texas Equal Access to Justice Foundation.
www.txiolta.org

TEXAS AFFILIATED RETAIL ELECTRIC PROVIDERS:

<u>A-REP</u>	<u>Letter of Guarantee Fax</u>	<u>POLR Fax</u>
Reliant	(800) 563-0120	same
CPL Retail Energy	(866) 791-4331	same
WTU Retail Energy	(866) 791-4331	same
First Choice	(866) 896-7311	same
TXU Energy	(800) 556-6753	same
TXU SESCO	(800) 556-6753	same
Sharyland Utility	(956) 664-1903	same

DOMINANT CERTIFICATED TELECOMMUNICATIONS UTILITIES:

<u>DCTU</u>	<u>Fax Number</u>	<u>Company Contact</u>
SBC	800-540-6379	Karen Bevill
Verizon	512-370-4275	Lisa McLaughlin
Sprint	888-436-7836	Kaye Failor
Valor	972-373-1812	Cynthia AyRes

RESOURCES FOR VICTIMS OF FAMILY VIOLENCE

LITE-UP Texas (Low –Income Telephone and Electric Utility Program):

This program provides discounts on the electric and telephone bills for customers who receive SSI, Food Stamps, Medicaid, federal public housing assistance, or Low Income Energy Assistance Program (LIHEAP) *or* who qualify based on their income. For more information and to apply for LITE-UP Texas, call (866) 454-8387 or go to:

<http://www.puc.state.tx.us/ocp/assist/liteup/index.cfm>.

Link Up Program:

The Link-Up program significantly reduces the cost of installation of telephone service. The customer must request the Link-Up discount from the telephone company when they are seeking new service or moving. For more information go to:

<http://www.puc.state.tx.us/ocp/assist/linkup/linkup.cfm>

Waivers of Deposit for Gas Service:

Waivers of deposit for gas service are also available to victims of family violence. To receive a waiver form, call the Texas Council on Family Violence at: (800) 525-1978 or you may download the form at: <http://www.tcfv.org/WaiverofGasServiceDeposit.pdf>.

DOMESTIC VIOLENCE VERIFICATION FORM

NAME:

CASE NUMBER:

PLEASE READ THESE INSTRUCTIONS CAREFULLY. - ONLY ONE OF THE COLORED BLOCKS MUST BE COMPLETED. BLOCK 2 OR 3 IS USED WHEN VERIFICATION IS AVAILABLE. BLOCK 4 IS USED WHEN VERIFICATION IS NOT READILY AVAILABLE AND THE CLIENT AFFIRMS THE DOMESTIC VIOLENCE. BLOCKS 1 AND 5 ARE COMPLETED FOR ALL GOOD CAUSE BASED ON DOMESTIC VIOLENCE CLAIMANTS.

1. GOOD CAUSE CLAIM

I, _____, request to be excused from the following TANF program or CCIS Child Care program requirement(s) because of domestic violence: support cooperation; RESET time limit (Time-Out); time limit (Extended TANF); or other TANF or CCIS program requirement (please specify) _____, I have been asked to provide verification to support my claim. I have cooperated/will cooperate in providing verification below.

2. RECORDS

I SUBMIT ONE OF THE FOLLOWING, IF AVAILABLE:

- | | |
|--|--|
| <input type="checkbox"/> LAW ENFORCEMENT RECORDS | <input type="checkbox"/> SOCIAL SERVICE RECORDS |
| <input type="checkbox"/> COURT RECORDS | <input type="checkbox"/> CHILD PROTECTIVE SERVICES RECORDS |
| <input type="checkbox"/> MEDICAL/TREATMENT RECORDS | <input type="checkbox"/> OTHER (SPECIFY) _____ |

3. AUTHORIZATION/VERIFICATION BY A THIRD PARTY

I authorize _____ to complete the verification below and to provide it to the Department of Public Welfare for the purpose of verifying my good cause.

DATE CLIENT SIGNATURE

THIS STATEMENT IS SUBMITTED BY:

(NAME)

(TITLE)

(ORGANIZATIONAL AFFILIATION)

(ADDRESS)

I AM: (CHECK ONE)

- | | |
|--|---|
| <input type="checkbox"/> A DOMESTIC VIOLENCE SERVICE PROVIDER | <input type="checkbox"/> A LEGAL REPRESENTATIVE |
| <input type="checkbox"/> A MEDICAL, PSYCHOLOGICAL OR SOCIAL SERVICE PROVIDER | <input type="checkbox"/> AN ACQUAINTANCE/FRIEND/RELATIVE/NEIGHBOR OF THE CLAIMANT |
| <input type="checkbox"/> A LAW ENFORCEMENT PROFESSIONAL | <input type="checkbox"/> OTHER (SPECIFY): _____ |
| <input type="checkbox"/> A COUNTY CHILDREN AND YOUTH REPRESENTATIVE | _____ |

I have knowledge of the claimant's experience with and/or steps to escape domestic violence and submit this statement to verify that compliance with the TANF/CCIS program requirement(s) checked above may place the claimant and/or household or family members at risk of further domestic violence; make it more difficult for the claimant and/or household or family members to escape domestic violence; or unfairly penalize the claimant and/or household or family members who is or has been victimized by domestic violence.

DATE THIRD PARTY SIGNATURE

4. SELF-AFFIRMATION

I affirm that compliance with the TANF/CCIS program requirement(s) checked above would place me and/or my household or family members at risk of further domestic violence; make it more difficult for me or a member of my family or household to escape domestic violence; or unfairly penalize me or a member of my family or household who is or has been victimized by domestic violence. I do not have and am unable to safely obtain evidence to verify the domestic violence.

DATE CLIENT SIGNATURE

5. GOOD CAUSE DECISION (CAO USE ONLY)

- EXCUSED NOT EXCUSED

WORKER DATE

Pennsylvania Coalition Against Domestic Violence
Comments in Response to Advanced Notice of Proposed Rulemaking on Act 201 of 2004
February 14, 2007

Introduction

The Pennsylvania Coalition Against Domestic Violence (PCADV) appreciates the Public Utility Commission's receptiveness to our concerns regarding the impact and implementation of Act 201 (a.k.a. "Chapter 14"), and Section 1417 thereof in particular, pertaining to victims of domestic violence. We recognize that the exception contained at Section 1417, rendering Chapter 14 inapplicable to certain domestic violence victims, reflects the shared goal of the Legislature of protecting the safety, financial security, and confidentiality of domestic violence victims. We are grateful for this opportunity to contribute to the process of formulating responsible regulations to implement Chapter 14 consistent with this goal.

We remain gravely concerned about the impact Chapter 14 is having on Pennsylvania's poor families, a group that includes domestic violence victims. We therefore support the Comments submitted by Community Legal Services, as they provide cogent analyses of the most problematic provisions contained in Chapter 14.

The domestic violence exception contained in Section 1417 of Chapter 14 is named first among the list of "most controversial and complex provisions of Chapter 14" enumerated in Appendix A to the Advanced Notice of Proposed Rulemaking. PCADV supports the Commission's proposal of creating a separate chapter to address domestic violence victims and others who are specifically excluded from Chapter 14. PCADV is eager to work with the Commission on crafting the specific language contained in such a separate chapter, and proposes setting a meeting to bring together relevant persons for the purpose of drafting precise language to be contained in the final regulations.

With respect to the implementation of Section 1417, PCADV submits the following Comments.

Chapter 14's Domestic Violence Exception Must Include Domestic Violence Victims Generally, Not Merely Those with PFA Orders.

Domestic violence is an insidious crime with complex dynamics that make each situation unique. Perpetrators use an array of tactics to maintain power and control over their victims, including psychological abuse, sexual abuse, economic coercion, and threatened or actual physical violence. Victims of domestic violence are forced to live in a perpetual state of fear, under circumstances constrained by the violent and controlling strategies of abusers who share their homes and know the most intimate details of their lives. Domestic violence victims are representative of diverse, underserved communities, including all races, genders, ages, national origins, abilities and disabilities, and socio-economic statuses, in urban, suburban, and rural areas throughout Pennsylvania.

It is well established through a wealth of research¹ and experience that when a batterer's control of his victim(s) is challenged, such as by a victim's attempt to leave or otherwise take steps to end the abuse, the threat of increased violence escalates, often exponentially so. Therefore, it should be no surprise that a victim's attempt to end the relationship and secure a Protection From Abuse (PFA) Order is one of the greatest risk factors indicating that a domestic violence offender will seriously injure or kill a victim.² This knowledge is particularly relevant in light of the fact that Pennsylvania has a strikingly high number of domestic violence related deaths: at least 180 in 2005, at least 153 in 2004, and at least 162 deaths in 2003.³ This elevated risk of increased violence upon victims' separation from their abusers mandates that extreme caution be taken to protect victims' safety, including confidential information as to their location and other personally identifying information that perpetrators may use to track them down.

PFA Orders are not the only, and sometimes not the best, means of protecting one's safety in the context of a violent and abusive relationship. The PFA process is one tool—albeit a critical one—among many for escaping a violent relationship. Ultimately, whether, how, and when a victim elects to end a violent relationship are decisions that can be made only by that victim. Faced with the known risk that getting a PFA Order is likely to intensify the perpetrator's violent behavior and place the victim in greater danger, obtaining a PFA Order is simply not an option for some victims. Indeed, many domestic violence victims suffer in complete isolation, telling not a single person about their plight. Known as “the silent epidemic,” domestic violence is grossly under-reported, yet even those who say nothing about their abuse deserve every possible protection once they are able to come forward, and their lack of documentation should not be held against them. In sum, it is critical to understand that victims of domestic violence who are

¹ See, e.g., Wilson, Margo and Daly, Martin. (1993). “Spousal Homicide Risk and Estrangement.” 8 *Violence & Victims* 3-16. Mahoney, Martha. (1991). “Legal Images of Battered Women: Redefining the Issue of Separation.” 90 *Michigan Law Review* 1-94.

² Farr, Kathryn Ann. (2002). “Battered Women Who Were ‘Being Killed and Survived It’: Straight Talk from Survivors,” 17 *Violence & Victims* 267-268.

³ Pennsylvania Coalition Against Domestic Violence (PCADV). “Domestic Violence Fatality Report 2005.” (2006); “Domestic Violence Fatality Report 2004.” (2005); Domestic Violence Fatality Report 2003.” (2004).

able to apply for and obtain a PFA Order represent only a smaller subset of victims of domestic violence.

The domestic violence exception to Chapter 14 appears at Section 1417 of Act 201, and states only:

“This chapter 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).”

Although utilities are not required by Chapter 14 to provide protections for victims of domestic violence who are not “under a protection from abuse order,” *nor are they prevented from choosing to provide broader protections*. The Commission therefore has the option and the power to extend the domestic violence exception contained in Section 1417 to include victims of domestic violence generally, rather than narrowing it to only the smaller subset of victims who have obtained a PFA Order. In light of the known risks of increased danger triggered by victims’ seeking PFA Orders, PCADV strongly advocates that the Commission elect to extend the exception contained in Section 1417 to victims of domestic violence generally. Narrowing the scope of Section 1417 to only those domestic violence victims who have been able to obtain PFA Orders does not do justice to the goal of protecting domestic violence victims’ safety, and thus undermines the very purpose of Section 1417.

Moreover, restricting the exemption to only those victims who have obtained PFA Orders is not only imprudent, but also unnecessary due to the availability of other means of determining eligibility for Section 1417’s exception. Alternative documentation of abuse other than PFA Orders is commonly and effectively used in a host of other contexts. Several institutions have devised procedures for providing waivers of requirements for domestic violence victims where complying with those requirements would make it more difficult for individuals to escape domestic violence, or place individuals at risk of further domestic violence, or unfairly penalize individuals because of domestic violence. Such alternative forms of documentation of domestic violence are demonstrably successful in other contexts, and are completely viable for use by public utilities in implementing Chapter 14.

For example, the Domestic and Sexual Violence Victim Address Confidentiality Act, which became law on November 30, 2004, requires that in order for victims to be eligible to participate in the Address Confidentiality Program, the applicant must be, “[a] victim of domestic violence *who files an affidavit with the Office of Victim Advocate stating the affiant’s eligibility for a protection from abuse order and further stating that the affiant fears future violent acts by the perpetrator of the abuse.*” See Pa. C.S.A. § 6704 (emphasis added). This victim affidavit is sufficient confirmation of victims’ status as such.

Likewise, in the context of utility service, other jurisdictions that provide certain waivers and/or exceptions to victims of domestic violence base eligibility therefor not on whether the victims have court-issued protection orders, but on other reliable documentation. For example, domestic

violence victims in Texas are allowed waiver of the gas service deposit upon producing a letter signed by a certifying entity, including a family violence service center, treating medical personnel, or a designee of the Attorney General in the Crime Victim Services Division of the Office of the Attorney General. (See attached form headed “Waiver of Gas Service Deposit, Letter For Victim of Family Violence.”) Such a certification letter accomplishes the goal of ensuring that those who invoke the waiver are indeed victims of domestic violence without penalizing those victims who do not have court-issued orders for protection from abuse.

In particular, in lieu of mandating that a victim obtain a PFA Order to qualify for the domestic violence exception to Chapter 14, PCADV proposes and encourages the PUC to implement a process similar to that used in the Department of Public Welfare’s (DPW) “Domestic Violence Verification Form” waiver. (See attached DPW form entitled “Domestic Violence Verification Form.”) For the purposes of various Temporary Assistance to Needy Families (TANF) work and child support enforcement exemptions, DPW allows verification by methods other than PFA Orders, such as third-party verification by certain service providers and professionals who have knowledge of the victim’s abuse, as well as self-affirmation by victims. To address any fear of potential misuse of such a form, it is important to note that after many years of use, this form has been minimally utilized—fewer than four percent of recipients request a waiver from child support, and just over one percent request waivers from work requirements—and has not been subject to widespread misuse.

The attached form used by DPW was carefully crafted over the course of several years and was vetted through all levels of DPW and PCADV, including the Secretary of DPW, the Executive Director of PCADV, and the legal offices of both agencies. PCADV urges the Commission to adopt regulations that provide for a similar procedure used by DPW for allowing waivers for domestic violence victims who do not have PFA Orders. We welcome the opportunity to develop a modified form for use by utility companies and the PUC.

Regulations Implementing the Domestic Violence Exception for Victims with PFA Orders Must Include Orders Obtained During the Relevant Period of Utility Usage or Billing Dispute.

With regard to those persons who have secured PFA Orders, PCADV urges the Commission to adopt regulations that specifically include both PFA Orders currently in effect and PFA Orders obtained during the relevant period of utility usage or billing dispute.⁴ Indeed, the language of Section 1417—“This chapter shall not apply to victims under a protection from abuse order”—says nothing as to *when* the PFA Order was obtained, or whether the Order is or was in effect at the time of utility termination, application for reinstatement after termination, or application as a new customer; during the period of actual utility service; or during the billing dispute. In fact, the language is general enough to include all such operative times, and the Commission should implement it equally broadly.

⁴ The PFA Act provides for emergency, temporary, and final orders. All three types of orders should qualify a victim for Section 1417’s domestic violence exception to Chapter 14.

Regulations implementing Chapter 14's exceptions for domestic violence victims who have secured PFA Orders must be specifically inclusive of the range of timing scenarios during which a victim/customer could obtain the required PFA Order. Regulations should thus clearly set forth that a customer who has experienced domestic violence and who has obtained a PFA Order that is currently in effect *or was in effect during the time utility service was rendered or during any billing dispute* qualifies for the exception to Chapter 14.

The legislative intent of the exception for domestic violence victims with PFA Orders was to protect such victims from further undue harm, and to recognize that utility service incurred in a victim's name or in the name of an abusive household member does not fairly reflect a debt that the victim should be held accountable for, at least not under the more stringent standards of Chapter 14. Restricting the scope of this exception to only those victims with a "current" PFA Order is therefore both an unnecessary, unwarranted interpretation of the statutory language, and in fact a disservice to the goal of protecting the safety, financial security, and confidentiality of domestic violence survivors. PCADV strongly urges the Commission to implement regulations that reflect the full extent of Section 1417, including victims/customers who have PFA Orders issued both during the relevant period of utility service and during the time of any billing dispute.

Implementing Regulations Must Establish Clear Rules and Procedures to Protect Domestic Violence Victims' Confidentiality.

Batterers can be relentless in their attempts to track down their victims, using innovative methods to do so, including representing themselves as entitled to victims' personal information and otherwise manipulating their way through safeguards designed to prevent disclosure of victims' non-public information. With regard to utilities, often victims and perpetrators shared the same residential address; perpetrators may thus attempt to locate victims by using utility billing or correspondence to track victims' new location.

Moreover, the increased usage of electronic billing and payment, electronic mail, and reliance on the Internet as a primary source of information creates additional opportunities for abuse of these media as tools for obtaining domestic violence victims' personal information, such as financial institutions and account numbers and/or the confidential addresses of relocated victims. This increased risk demands heightened attention to and protection of the utility account information of domestic violence victims, as disclosure poses a direct threat to their safety.

PCADV urges the Commission to enact regulations that require utilities to adopt clear policies ensuring the confidentiality of domestic violence victims' personal information. Such policies must, at a minimum, include:

- A mechanism for designating the account of a customer who has invoked the domestic violence exception of Section 1417. Such designation should be in neutral language (for example, "purple account" or "referred to (staff name)") that does not disclose the fact

that it is a domestic violence related issue. This “flag” must clearly and conspicuously appear on all internal documents, databases, or other methods of storing customer information so that all who access the account are readily aware of the status and are trained to protect this information.

- Provisions limiting access to customer information (including address, phone number, social security number, employment information, etc.) for those who invoke the domestic violence exception, allowing access to only those key staff who need it in order to perform their essential job functions;
- Provisions clearly prohibiting or otherwise preventing disclosure of domestic violence victims’ customer information to third parties without written customer consent regarding each instance of disclosure and specifically identifying to whom such information is to be disclosed;
- Provisions directing that all regulations concerning domestic violence victims’ confidentiality apply to both paper and electronic files and information; and
- Provisions setting forth the exact steps a customer may take to invoke the domestic violence victims’ exception, including to whom the victim/customer must speak; to whom copies of any related documents should be directed by either mail, facsimile, or in person; and the names, titles, and contact information for persons with whom the victim/customer may direct any inquiries or complaints concerning any breach of victim/customer confidentiality.

We strongly urge the Commission to require that supplemental training be provided to all utility company staff on the issue of domestic violence so that they are fully informed as to how they must inform customers of the availability of the domestic violence exception, how they must handle victim/customer information, and the need for such measures in light of the safety risks involved in disclosure. PCADV welcomes the opportunity to meet with Commission staff and other relevant persons to craft specific language of such confidentiality provisions, and to develop a plan for statewide training of utility staff.

Address Confidentiality Program

For the reasons articulated above regarding the need for confidentiality, PCADV urges the Commission to enact regulations that direct utilities to participate in the Address Confidentiality Program in order to ensure that perpetrators of abuse are not able to access records to locate their victims. A confidential address can be a critical component of safety planning for victims who fear further violence or even lethal retaliation from their batterers. Designed to provide domestic violence victims with an alternative mailing address in order to keep their home location confidential, the Address Confidentiality Program allows enrollees to use a legal, substitute address provided by the Office of the Victim Advocate (OVA) as their address of record.

Allowing victims to use the OVA substitute address for purposes of receiving bills and other correspondence from utility companies instead of their actual residential address would be a significant step toward protecting their safety. Therefore, PCADV strongly encourages the Commission to include in Chapter 14's implementing regulations a provision directing utilities to accept the substitute address for victims enrolled in the Address Confidentiality Program.

Regulations Must Provide for Targeted Consumer Education Via Regular, Widely Disseminated Notices and a Coordinated Statewide Training Plan.

PCADV has serious concerns that utility customers have not been adequately informed about Chapter 14 and the domestic violence exception contained therein. PCADV would like to see every customer receive a general fact sheet or other notice about Chapter 14 that includes information about the domestic violence exception and what is needed to invoke it. Widespread dissemination of such information will allow consumers who have been victims of domestic violence to receive the information without alerting an abusive family or household member to any specific action or request victims may make.

However, despite the need for widespread customer education efforts, such efforts would be premature and potentially inaccurate until there are final implementing regulations in place. At any time prior to the promulgation of regulations, there is simply no means for clearly directing utilities as to how they should be implementing Section 1417. We recommend that upon promulgation of the regulations, a broad-based education effort be implemented.

In particular, PCADV is concerned that the notice regarding the rights of domestic violence victims that is currently posted on the PUC's website (docket number M-00041802F0003) contains information on matters that are still pending final regulations. It is our understanding that this notice will be sent out by utilities as a bill insert in the fall of 2007. We believe that dissemination of this notice, as currently written, may result in confusion and erroneous implementation of Section 1417, and therefore strongly urge the Commission to revise the notice as soon as implementing regulations have been finalized to ensure consistency with such regulations.

As we have continually expressed, PCADV welcomes further opportunities to work with the Commission, the Energy Association, and other relevant agencies and advocates to develop appropriate content and strategies for dissemination of a written notice to customers. We strongly advocate developing a strategy of collaborating with existing community-based advocates, such as domestic violence advocates, welfare advocates, and consumer advocates, to educate customers about how Section 1417 may apply to them. Further, we strongly suggest that a statewide plan for education of trainers be developed and implemented, and look forward to further discussion of how our extensive statewide resources may be helpful in effectuating such a plan.

In addition to the primary notice to domestic violence victims eligible for an exception to Chapter 14, notice of this exception should also be given, via clear and conspicuous language, in

any notice of termination given during the winter months pursuant to Section 1406(e)(1) and/or Section 1406(e)(2). Such notice should clearly explain the precise steps that must be taken to invoke the domestic violence exception.

Additionally, PCADV urges the Commission to provide all notices explaining the domestic violence exception in particular, as well as all notices explaining the changes, terms, and rights of customers under Chapter 14 generally, in not only English and Spanish, but in all languages used by its customers. While current PUC regulations require that information be provided in both English and Spanish, there are many families in Pennsylvania who speak other languages, as well. In addition to the mandates of Title VI of the Civil Rights Act of 1964, which applies to entities receiving LIHEAP funds, fundamental fairness requires that such families be given every opportunity to fully comply with utility requirements and regulations, and full information concerning their rights and responsibilities regarding their utility billing. The Commission's regulations should therefore require utilities to assess what languages are common in their service areas; to provide written materials in those languages; and to have available an interpreter service available for oral telephone or in-person communications with customers.

Finally, we also urge the Commission to enact regulations that establish procedures to ensure that individuals with disabilities receive effective communications and access to service, pursuant to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Victims of domestic violence who are also coping with limited vision, limited hearing, mental health or cognitive impairments, or other disabilities or limitations, face additional barriers to safety in that they may have difficulty understanding and/or responding to conventional notices. Therefore, with regard to not only the notice regarding the domestic violence exception but also all notices generally, the Commission must take steps to ensure that all customers, including those with disabilities, have access to information in forms they are able to understand and act on.

The Commission Should Enact Regulations that Encourage Utility Companies to Remove Financial Barriers to Domestic Violence Victims' Safety Via Waivers of Deposits, Reconnection Fees, and Use of Credit History and Reporting.

Under Chapter 14, full payment of a cash deposit in the amount of one-sixth of an estimated annual bill is required in certain circumstances. This deposit may be held by the utility company for up to 24 months.⁵ Conversely, Chapter 56 requires a cash deposit equal to two months pf the estimated bill, which could be paid in installments.⁶ Further, under Chapter 56, the utility company could hold the deposit for only up to 12 months.⁷ Under either Chapter 14 or Chapter 56, the financial resources required to simply obtain essential utility service are substantial.

⁵ SB 677, § 1404 (A), (C), (E).

⁶ 52 Pa. C.S.A. § 56.38.

⁷ 52 Pa. C.S.A. §§ 56.51, 56.53.2

PCADV recommends that the Commission issue regulations intended to offer the fullest protection possible for domestic violence victims, including a waiver of any deposit or reconnection fee for victims who are relocating or whose service was terminated due to domestic violence. Economic barriers such as these deposits and fees create strong disincentives to victims seeking to escape abusive relationships, in effect preventing them from leaving the violence for lack of financial resources. Responsible policies should aim to remove those barriers wherever possible in order to encourage and assist in victims' ability to relocate and rebuild their lives free of violence. Other jurisdictions have created precisely the type of waiver as we here advocate. For example, utility companies in Texas provide a waiver of gas, electric, and telephone service deposits, allowing verification of domestic violence to satisfy the requisite demonstration of satisfactory credit. (See attached forms headed "Waiver of Gas Service Deposit, Letter for Victim of Family Violence" and "Certification Letter for Victim of Family Violence for Waiver of Electric and Telephone Service Deposit.")

Because domestic violence typically consists of a range of abusive tactics that includes economic coercion, isolation, and lack of access to household accounts, it is no surprise that victims of domestic violence suffer enormous consequences to their credit history as a result of their abuse. For victims struggling to rebuild their lives once free from their abusers, often the steps required in doing so—finding a new home, a new job, transportation, child care, etc.—are out of their reach because their credit history has been destroyed, leaving them few to no options. The relics of their abuse become the very reasons they cannot break free of it.

Again, it is the role of responsible public policy to do all possible to remove such barriers to achieving violent-free homes. Decisions as to whether to rely on domestic violence-tainted credit histories are the means by which we incrementally move toward a world in which victims are encouraged and supported in their decisions to live free of abuse. PCADV strongly encourages the Commission to provide regulations that direct or encourage utilities to exempt domestic violence victims from the required credit check used to determine whether and in what amount a deposit is required. Likewise, we ask the Commission to include in regulations an exemption for domestic violence victims from reporting to credit bureaus any delinquencies caused by the perpetrator or attributable to the abuse. Such measures are critical both to removing obstacles to victims' ability to escape violence, and to ending practices that unfairly penalize victims for their abusers' conduct.

Recognizing that deposits, reconnection fees, credit screening, and credit reporting constitute barriers to victims' escaping abusive relationships, and that the purpose of Section 1417 of Chapter 14 is to protect the safety, financial security, and confidentiality of domestic violence survivors, the Commission should enact regulations that encourage utility companies to provide for waivers of security deposits and reconnection fees, and exemptions from credit screening and reporting, upon a showing that a customer is a victim of domestic violence. PCADV is eager to assist the Commission in creating the forms to be used to invoke such waivers and exemptions, disseminating notice of the availability thereof, and training both utility personnel and community-based advocates on these provisions.

Other Provisions Affecting Domestic Violence Victims

Notification of All Adult Occupants

Chapter 14 states that a public utility “may” require the applicant to provide the names and proof of the occupant’s identity residing at the location. To the extent that providing this information to a utility company endangers a victim or a member of the victim’s family, the information should not be sought and is not required under the statutory language. PCADV encourages the PUC to craft appropriate regulatory relief.

Reconnection of Service Following a “Life Event”

Under Chapter 14, a utility may require the full payment of any outstanding balance before reconnection in certain circumstances. “If a customer or applicant with household income exceeding 300% of the federal poverty level experiences a life event the customer shall be permitted a period of not more than three months to pay the outstanding balance required for reconnection. For purposes of this paragraph, a life event is . . . *death* of the primary wage earner.” PCADV strongly recommends that the Commission expand this definition by recognizing a *loss* of a primary wage earner due to a victim escaping domestic violence.

Interpreting the “Medical Exception” to Protect Victims of Abuse

If a victim of domestic violence does not obtain a PFA Order and the Commission decides against expanding the domestic violence exception to reflect legislative intent, then PUC regulations should seek to include domestic violence under the medical exception. The medical exception states the following: “A public utility shall not terminate service to a premises when a licensed physician or nurse practitioner has certified that the customer or member of the customer’s household is seriously ill *or afflicted with a medical condition* that will be aggravated by cessation of service....”

Injuries, both physical and psychological/emotional, resulting from domestic violence should qualify as a “medical condition” under this section. “Medical” is defined as “pertaining to or requiring treatment by other than surgical means” and “condition” is defined as a “particular mode of being” or “state of health.”⁸ If a victim of domestic violence seeks treatment for injuries resulting from domestic violence, a nurse or physician could submit the necessary verification to the public utility. When a medical condition is reported as a result of domestic violence, there should be an automatic presumption that any cessation of services would aggravate the condition. Batterers are, in most cases, the primary source of income for victims and their children. If the utility is shut off following the injuries, the victim could be forced into subjecting her/himself to the batterer (hence additional danger or violence) in order to maintain a basic necessity. This would certainly “aggravate” the condition.⁹

⁸ Random House, Webster’s Dictionary, Second Edition (2001).

⁹ Interpretation of the emergency medical provisions, under Chapter 56, applied a medical certification to both long-term and short-term non-chronic illnesses. This interpretation by the Commonwealth Court shouldn’t preclude the recognition of a domestic violence related injury as a “medical condition” as herein suggested.

Application of Chapter 56 to Exempted Domestic Violence Victims

There are 11 subchapters to Chapter 56 that contain over 80 sections of regulations.¹⁰ It would take a significant amount of time to analyze how each section of Chapter 56 would be applied to a domestic violence victim qualifying for an exemption to the Chapter 14 provisions. While such a lengthy analysis is outside the scope of these comments, PCADV welcomes the opportunity to work directly with the Commission to craft language to be included in the final regulations concerning how Chapter 56 would apply to domestic violence victims exempted from Chapter 14.

In two ways, Chapter 14 provides greater protections and is thus more favorable than Chapter 56; in these limited situations, PCADV requests that the more favorable provision of Chapter 14 be applied even to domestic violence victims otherwise excepted therefrom by Section 1417. In particular, Chapter 14 provides a degree of greater protection against winter terminations for persons with very low incomes than does Chapter 56, and thus domestic violence victims with qualifying incomes should benefit from the more generous, protective application of the laws. Chapter 14 also adds to the medical exception to allow that certification be provided by a nurse practitioner, as well as a physician; PCADV requests that such allowance of nurse practitioner certification be extended to domestic violence victims otherwise excepted from Chapter 14.

¹⁰ 52 Pa. C.S.A. §§ 56.1-56.231.

Waiver of Gas Service Deposit Letter for Victim of Family Violence

Family violence service providers, medical personnel, law enforcement or a designee of the Attorney General in the Crime Victim Services Division of the office of the Attorney General can assist a victim of family violence in establishing gas service by completing this letter. The applicant should deliver the signed original to the gas company when applying for new service.

This letter serves to verify that _____
(Name of Applicant for Gas Service) is a victim of family violence as defined by Texas Family Code §71.004.

Pursuant to Railroad Commission Substantive Rules Applicable to Gas Utility Service, §7.45 (5)(C)(i)¹ (effective 06/22/04), the above named applicant has demonstrated satisfactory credit for the purposes of establishing gas service. This rule applies to investor-owned gas utilities under jurisdiction of the Railroad Commission of Texas².

The following Certifying Entity has determined that the above named Applicant is a victim of family violence as defined in Texas Family Code § 71.004.

Family violence center staff, treating medical personnel, law enforcement agency personnel, or designee of the Attorney General in the Crime Victim Services Division of the office of the Attorney General:

Signature

Date

Printed name

Telephone number

Agency Name

Job Title

¹ Railroad Commission Substantive Rule, §7.45(5)(C)(i): Each gas utility shall waive any deposit requirement for residential service for an applicant who has been determined to be a victim of family violence as defined in Texas Family Code, Section 71.004, by a family violence center, by treating medical personnel, by law enforcement agency personnel, or by a designee of the Attorney General in the Crime Victim Services Division of the office of the Attorney General. This determination shall be evidenced by the applicant's submission of a certification letter developed by the Texas Council on Family Violence and made available on its web site.

² A complete listing of investor-owned gas utilities under jurisdiction of the Railroad Commission of Texas is available at: <http://www.rrc.state.tx.us/divisions/gas/documents/TABLE11.pdf>.