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VIA U.P.S. NEXT DAY

April 20, 2009

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: **Standards and Billing Practices for Residential Utility Services;
Docket No. L-00060182**

Dear Secretary McNulty:

Enclosed is the original copy of the Comments of West Penn Power Company d/b/a Allegheny Power concerning the proposed regulation for Standards and Billing Practices for Residential Utility Services. Copies have been served electronically upon the persons shown below and a diskette containing the comments is also provided herein. This filing is also made electronically. The original copy is filed by UPS Next Day and electronically and is deemed filed today.

Very truly yours,


John L. Munsch
Attorney

JLM:sac

Enclosures

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Comments of West Penn Power Company d/b/a Allegheny Power

West Penn Power Company d/b/a Allegheny Power (“Allegheny Power” or “the Company”) is an electric distribution company serving approximately 700,000 customers in 24 counties in central and western Pennsylvania. It submits comments in response to the Proposed Rulemaking Order adopted September 25, 2008 at Docket No. L-00060182 to amend Chapter 56 of the Pennsylvania Public Utility Commission (“Commission”) regulations to comply with the provisions of Chapter 14 of the Public Utility Code.

On November 30, 2004, the Governor signed Act 201 of 2004 into law with an effective date of December 14, 2004. The new law, entitled the Responsible Utility Customer Protection Act, added Chapter 14 to the Public Utility Code. 66 Pa.C.S. §§1401-1418.

In its Declaration of Policy in Chapter 14 the General Assembly stated that residential customer service rules originally adopted by the Commission in 1978 and found in Chapter 56 of the Pennsylvania Code had impeded the ability of utilities to collect bills from certain residential customers. As set forth in the Legislative Declaration of Policy:

The rules have not successfully managed the issue of bill payment. Increasing amounts of unpaid bills now threaten paying customers with higher rates due to other customers’ delinquencies....it is now time to revisit these rules and provide protections against rate increases for timely paying customers resulting from other customers delinquencies. The General Assembly seeks to achieve greater equity by eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.

66 Pa.C.S. §1402 (emphasis added).

The General Assembly clearly provided that the rules governing eligibility criteria, credit and deposit practices, account billing, termination and restoration of service procedures and customer complaint procedures need to be revised to provide utilities greater means to collect bills from utility customers who are capable of paying their bills.

Against that background the General Assembly also recognized that improved and strengthened collection efforts needed to be balanced with the obligation to ensure that utility service remains available to all customers on reasonable terms and conditions. 66 Pa.C.S. §1402(3).

Allegheny Power submits that Chapter 14 has gone a long way to achieving its dual goals of improving customer payment patterns and maintaining customer protections afforded by Chapter 56. Allegheny Power recognizes and respects the balance that must be maintained between collection efforts from customers able to pay and maintaining service to customers who are struggling to pay for utility service.

With regard to the Chapter 56 amendments to comply with the provisions of Chapter 14, Allegheny Power maintains that the regulations need not restate legislative language because the General Assembly's language in several areas of Chapter 14 is specific and totally supplants Chapter 56 regulations. This is the case with respect to payment agreements (§1405) and terminations (§1407). In certain other areas, such as the use of medical certificates, the General Assembly's enactment is non-specific and requires embellishment.

As a general comment, Allegheny Power suggests that all parties recognize the likelihood that many provisions of Chapter 56 will be rendered obsolete as time and technology advance.

For example, §56.12(i) provides that utilities must provide customers with preaddressed postcards to report meter readings. This provision is likely to become obsolete in the near future as smart meters become the norm. The following specific Comments of Allegheny Power follow the numerical order of the Chapter 56 provisions listed in Annex A of the Proposed Rulemaking.

§56.1. Statement of purpose and policy.

(a) *This chapter establishes and enforces uniform, fair and equitable residential public utility service standards....Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages.* As pointed out in the following comments, some of the proposed regulations in this chapter would prevent utilities from effectively managing arrearages.

Overall, the changes brought about by Chapter 14 in Pennsylvania have been extremely beneficial and fair to both Allegheny Power and its customers. The Company's arrearages are being controlled without a negative impact to customers. By terminating service to nonpaying customers before debt gets out of control, both Allegheny Power and the customer can better manage debt while it is low. Allegheny Power's average residential debit charge-off balance in 2008 was \$302.27, which is a decrease of \$66.53 from 2005, which is a 36% improvement since 2005. Moreover, the Company's percentage of customer reconnects to customer disconnects has remained consistent.

§56.2. Definitions.

Several terms used throughout the document are not defined in this section: specifically *Change in Income, Complainant, Federal Poverty Level, and Significant Change in*

Circumstance are not defined. Allegheny Power recommends that the Chapter 14 definitions for *Change in Income* and *Significant Change in Circumstance* be included in these definitions. In addition, it is recommended that a definition be provided for Complainant, to clarify who can file a complaint on the customer's behalf. Allegheny Power suggests that the term Complainant include the customer, occupant, third-party designate, applicant, or someone with Power of Attorney. This would limit the ability to file complaints to only those having a true interest in the matter, and would not allow neighbors, visitors, relatives, etc. to file complaints on behalf of the customer.

The definition of *Household Income* excludes income intended for the use of a minor, listing examples of a minor's income to include Social Security, child support, SSI, and earnings and grants from the Department of Public Welfare. Allegheny Power is opposed to the language in this definition. Exclusion of unearned income intended for minors, such as social security, child support, SSI, and earnings and grants from the Department of Public Welfare, would have a severe impact on Allegheny Power's CAP program, as it exposes Allegheny Power to roughly \$2.5 million more in supplemental grant money (difference between true current bill and CAP-required customer payment) to be paid, and would incur an additional \$2.0 million in shortfall amortization. In addition, the unearned income exclusions will result in additional customers qualifying for CAP, and will expose Allegheny Power to even more shortfall amortizations and supplemental grant payments.

The unearned income monies are intended to provide appropriate care, including but not limited to, utilities and shelter for the individuals. Even the LIHEAP State Plan includes these income sources, with the exception of the first \$50 of child support, in determining a customer's eligibility for federal grant programs, and likewise, utility payment agreement and CAP

programs should include them as well. It is Allegheny Power's opinion that earned income from a child's employment should be excluded from household earnings; however, all unearned income from the sources listed above as well as earned income of each adult occupant should be included in the household income. The industry is seeking to move in the direction of consolidating applications for all federal and state assistance, and utility programs. In order for consolidation to be effective, it will be necessary that all parties use the same criteria.

The term *Informal Dispute Settlement Agreement* is not a term or document introduced by Chapter 14, and Allegheny sees no purpose for it. A customer is already provided with a payment agreement letter or dispute rights letter as appropriate, and is already informed of the right to file an informal or formal Commission complaint even without this new document. The Company recommends removal of the definition and removal of all references to the *Informal Dispute Settlement* agreement used throughout the document.

The definition of *Electronic Notification of Payment* requires a notification be sent to the customer upon receipt of the electronic payment. Compliance with this requirement will be very costly, potentially \$1 million per year, with little or no benefit to the customer. Paper receipts would be necessary to fulfill this requirement because many of Allegheny Power's customers utilizing the direct debit payment option have no web or email access, and Allegheny Power does not have email addresses for all customers utilizing electronic payment options. The customers utilizing the electronic options are doing so to be environmentally friendly and to avoid paper. Allegheny Power has been offering these electronic payment options to its customers for a number of years, and payment deductions noted on the customer's bank statement and shown on the customer's following electric bill have proven sufficient notification of payment receipt. A customer may also contact the company for a balance inquiry at any time. The proposed

requirement to provide a receipt for each electronic payment will make the electronic payment programs cost-prohibitive

The definition of *Remote Meter Reading* should include language clarifying that this does not include AMR technology (since AMR definition likewise excludes Remote Meter Reading).

§56.11. Billing frequency.

The language in §56.11(b)(1) appears to allow the customer to continue to receive a paper bill when the electronic billing option is chosen. It would not be cost effective to provide a paper bill in addition to electronic billing. It would cost Allegheny Power an additional \$228,000 per year to provide a paper bill in addition to electronic billing. The customer may print a copy of the electronic bill if a paper copy of the bill is desired. Allegheny Power believes the intent of the language in §56.11(b)(1) would not allow the customer to receive both electronic billing and a paper bill at the same time, and that §56.11(b)(1) is simply an inadvertent misstatement. As clarification, Allegheny Power offers the following suggested language: “(1) The electronic billing option is voluntary and the customer retains the option of reverting back to receive a paper bill if desired.”

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

The language in §56.12(2)(i) requires the utility at least annually to provide pre-addressed postcards on which the customer may provide the reading. With improvements in technology, utilities are able to offer other avenues by which customers can provide meter readings. Allegheny Power offers two suggestions for changes to the language in §56.12(2)(i):

Suggestion 1: Upon the request of the customer, the public utility shall provide a means by which the customer may report a meter reading.

Suggestion 2: Upon the request of the customer, the public utility shall provide preaddressed postcards on which the customer may report the reading. In lieu of postcards, the public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

The language in §56.12(2)(ii) requires the public utility to establish due dates by which the postcards shall be received for a bill to be based upon the meter reading of the customer or occupant. In an effort to allow for technological improvements, Allegheny Power suggests the word “postcard” be changed to “reading”. The new language would read as follows, *“The public utility may establish due dates by which the readings shall be received for a bill to be based upon the meter reading of the customer or occupant.”*

The provision of §56.12(7) allows the customer the opportunity to have estimated annual usage billed evenly over a 12-month period. Some customers who take advantage of this opportunity request removal from the budget billing plan once the actual monthly usage amounts are lower than the budgeted amount. This often results in a sizable outstanding balance, and reduces the effectiveness of the budget billing plan. Allegheny Power suggests language incorporating the addition of a “mandatory” 12-month stay-in provision for customers who request budget billing, or a “mandatory” 12-month stay-out provision for customers who request removal of budget billing. This added provision would promote effective use of the budget billing option.

§56.16. Transfer of accounts.

The language in §56.16(d) states that in the event of a termination of service to a residential customer, a public utility may transfer to the account of a third-party guarantor any portion of the unpaid balance which is equivalent to the cash deposit requirement of the customer. Transferring only the portion of the bill equal to the cash deposit directly contradicts both the statute, §1404(B), and the regulation, §56.33, both of which state that the guarantor shall be responsible for all missed payments owed to the public utility. Allegheny Power believes this error in §56.16(d) was an oversight in the proposed rewrite, and that the provision should state *“In the event of a termination of service to a residential customer, a public utility may transfer to the account of a third-party guarantor the entire unpaid balance of the customer.”*

§56.21. Payment.

Allegheny Power suggests the language in §56.21(3) be changed to clarify that the payment agent needs to be one authorized by the public utility. The effective date of payment to a branch office or payment agency authorized by the public utility, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

Payment agents authorized by the public utility have technology in place to timely report payments to the utility. The absence of this technology may potentially result in delayed reporting of payments or lost payments. The recommended language clarification in this section would strengthen the customer’s accountability and reduce the utility’s liability for late or lost payments encountered by the customer by paying at agents not authorized by the company.

§56.25. Electronic bill payment.

The provision in §56.25(4) requires a notification be sent to the customer upon receipt of the electronic payment. Compliance with this requirement will be very costly, potentially \$1 million per year, with little or no benefit to the customer. Paper receipts would be necessary to fulfill this requirement because many of Allegheny Power's customers utilizing the direct debit payment option have no web or email access, and Allegheny Power does not have email addresses for all customers utilizing electronic payment options. As noted earlier in the Company's comments concerning the definition of *electronic bill payment*, customers choosing electronic options do so to be environmentally friendly and to avoid paper. Allegheny Power has been offering these electronic payment options to its customers for a number of years, and payment deductions noted on the customer's bank statement and shown on the customer's following electric bill have proven sufficient notification of payment receipt. A customer may also contact the company for a balance inquiry at any time. The proposed requirement to provide a receipt for each electronic payment will make the electronic payment programs cost-prohibitive.

§56.32. Security and cash deposits.

The statement in §56.32(a)(2) that reads, *The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment*, goes beyond the changes imposed by Chapter 14. That is, the first sentence of §56.32(a)(2) restates verbatim the language of §1404(a)(2) -- "*Any applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of*

general industry practice” – but then §56.32(a)(2) adds gratuitously that the credit scoring method must assess the risk of utility bill payment. This addition to the language of §1404 significantly limits the discretion of the utility and circumvents §1404(a)(2). It is Allegheny Power’s position that credit scoring should not be limited to only utility bill payment risk, and that this statement should be removed from the regulations.

§56.33. Third-party guarantors.

The proposed language mirrors the legislation in §1404(b). However, the elimination of §56.33(2) also eliminates clarification that a third-party guarantor must be a ratepayer who has or can establish credit under §56.32. Allegheny Power recommends either a provision be added to reinstate this clarification, or a definition for *Third Party Guarantor* be added to §56.2, specifying that a third-party guarantor must be a ratepayer who is in good standing.

§56.35. Payment of outstanding balance.

Allegheny Power recommends the phrase “*except as noted in (a) and (b) below*” be added at the end of the §56.35(2) language to clarify that (a) and (b) are subparts of §56.35(2). The §56.35(2) provision would read: *A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, except as noted in (a) and (b) below.* The provisions for (a) and (b) would follow as shown below:

(a) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during

the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years.

(b) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved by the Commission.

In reference to §56.35(2)(b) Allegheny Power submits that the methods to determine that an applicant previously resided at a property in §56.35(2)(b), as well as in §56.191(e), should include a combination of information provided by a landlord at the property in question and historical company records such as contacts, income and expense information, and CAP applications, in addition to the methods already described in §56.35(2)(b) and §56.191(e), such as mortgages, leases, deeds, and commercially available credit reporting services .

In reference to §56.35(c), as well as the last sentence of §56.191(e), Allegheny Power is opposed to listing in its tariff the procedures and standards used to determine the applicant's liability for any outstanding balance. There should be no requirement to list detailed procedures in the utility tariff. Furthermore, if these procedures and standards are tariffed as the Commission proposes, the utility's flexibility to revise its business practices is hindered since a tariff revision would be required before the utility could make any changes. This would amount to the Commission interfering with the business practices of management.

§56.36. Written procedures.

Chapter 14 at §1404(a)(2) states: *Any applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted*

credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice. 66 Pa.C.S.A §1404(a)(2).

The Commission's proposed regulation in §56.36 requires the public utility to include in its tariff filed with the Commission the utility's credit and application procedures along with its credit scoring methodology and standards. In this manner, the Commission is violating the utility's management discretion by attempting to oversee how a utility establishes creditworthiness by way of tariff approval. The statutory language is clear that an applicant or customer is to establish creditworthiness **to the satisfaction of the public utility** (emphasis added) using generally accepted credit scoring methods which employ methodologies that fall within the range of general industry practice.

Allegheny Power uses a generally accepted credit scoring method; however, Allegheny Power is opposed to the Commission's proposal to place credit scoring procedures and methodologies in its tariff. Credit scoring procedure and methodology is proprietary information belonging to the credit scoring agency. It would be inappropriate to place this confidential information in the tariff since public utilities are required to keep copies of tariffs open to public inspection. See 66 Pa.C.S. §1302. Furthermore, if credit scoring procedures are tariffed as the Commission proposes, the utility's flexibility to revise its business practices is hindered since a tariff revision would be required before the utility could make any changes. Again, this would amount to the Commission interfering with the business practices of management.

Allegheny Power takes strong exception to the proposed §56.36(1) which would require utilities to include in the credit denial letter to a customer or applicant detailed information including the credit score and credit score provider. First of all, as a practical matter, the utility often does not have such detailed information because, if the utility uses a third-party consumer

credit reporting agency, the third party agency does not provide the credit score to the utility. Second, and more important, the requirement of providing such detailed information contravenes the federal Fair Credit Reporting Act. 15 U.S.C. §1681 *et seq.* Section 1681g(a)(1)(B) of the Fair Credit Reporting Act, 15 U.S.C. §1681g(a)(1)(B), provides that a consumer reporting agency shall not be required to disclose to a consumer any information concerning credit scores or any other risk scores or predictors relating to the consumer.

§56.37. General rule.

Allegheny Power recommends that while amendments are being made, language be added to this provision to clarify that the three-day requirement for providing service to applicants pertains to standard reconnects, and does not include new service installations/line extension type conditions.

§56.38. Payment period for deposits by applicants.

Allegheny Power submits there are generally two scenarios for applicants – those seeking restoration of service and those seeking new service. In its proposed regulations, the Commission is attempting to maintain the requirements in §56.38 for all applicants, which contradicts Chapter 14. Allegheny Power submits that §56.38 as proposed should pertain only to applicants seeking to restore service after being terminated for any of the grounds in §1404(a)(1). Applicants seeking to restore service should be required to pay 50 percent of the deposit as a condition of restoration, and the balance of the deposit should be due in two additional installments, the next 25 percent due after 30 days, and the final 25 percent due after another 30 days. In all cases, the deposit must be paid within the 90-day time period specified by section

1404(h). This approach is consistent with §1404(h) which states: *Applicants required to pay a deposit upon reconnection under subsection (a)(1) shall have up to 90 days to pay the deposit in accordance with Commission regulations.*

Allegheny Power submits that section 1404(h) applies only to “applicants” required to pay reconnection security deposits and therefore paying the deposit in installments would be applicable in that instance. This approach is also consistent with the Commission’s First Implementation Order of March 5, 2005.

On the other hand, Allegheny Power believes applicants seeking service outside the grounds in §1404(a)(1) should be required to pay the full amount of the security deposit before service is provided. This is consistent with §§1404(a)(2) and (3) which provide that *“in addition to the right to collect a deposit under any commission regulation or order, the commission shall not prohibit a public utility, prior to or as a condition of providing utility service, from requiring a cash deposit in an amount that is equal to one-sixth of the applicant’s estimated annual bill, at the time the public utility determines a deposit is required, from the following: (2) Any applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice. (3) A customer who fails to comply with the material terms of a settlement or payment agreement.”* This full deposit payment approach is also consistent with §1404(e) that states that a public utility shall not be required to provide service if the applicant fails to pay the full amount of the cash deposit.

§56.54. Application of deposit to bills.

This section states that a customer may elect to have a deposit applied to reduce bills for public utility service or to receive a cash refund. Allegheny Power suggests that §56.54 be eliminated because it conflicts with §56.53(4)(c) and §66.1404(c)(3), which state that at the end of the deposit holding period, any outstanding bills should be deducted from the held deposit, and any credit difference should be returned or credited to the customer. Allegheny Power agrees with the proposal for §56.53(4)(c), which is in agreement with Chapter 14, that the held deposit should be applied to the outstanding bill, and the customer could then elect to have the credit difference, if any, refunded.

§56.82. Timing of Termination.

The proposed language for this section states: *A public utility may terminate service for the reasons set forth in §56.81 (related to authorized termination of service) from Monday through Friday as long as the public utility has offices open on the following day during regular business hours and personnel on duty who can negotiate conditions to restore service, accept emergency medical certificates, accept payment to restore service and can restore service, consistent with §56.191 (relating to the general rule).*

Allegheny Power submits that this proposed language places additional limitations upon the public utility, and is contrary to the intent of Chapter 14. As clearly stated in §1406(d), *Timing of termination.—Notwithstanding the provisions of section 1503 (relating to discontinuance of service), a public utility may terminate service for the reasons set forth in subsection (a) from Monday through Friday as long as the public utility can accept payment to restore service on the following day and can restore service, consistent with section 1407*

(relating to reconnection of service). Allegheny Power recommends that the proposed language in §56.82 be replaced with the language in §1406(d).

§56.83. Unauthorized termination of service.

Allegheny Power submits that sections §56.83(10) and (11) are inconsistent with the Chapter 14 declaration of policy in §1402 and should be eliminated.

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

With reference to §56.91(10), Allegheny Power proposes removing the requirement to publish specific Federal Poverty Level guidelines on the termination notice for several reasons:

- Maintaining the income level grid on termination notices creates a costly and undue burden on the utilities to revise their termination notices annually.
- The income figures are to be updated when the Federal Poverty Level Guidelines are published on or around February each year. The timely update on termination notices depends on a utility's ability to make quick changes.
- Customer confusion results because the timing of the FPL guideline updates do not coincide with the LIHEAP season. Thus, a timely update (around February each year) on the termination notice shows different eligibility figures than what the LIHEAP offices are using since they are still finishing up their program year, essentially with the previous years' FPL figures.
- Switching to the new income figures becomes a training issue for Customer Service Representatives and assistance agency representatives.

- FPL guidelines are published on other materials and are not necessary on termination notices.

The provisions of §56.91(17) requires information in Spanish be added to termination notices, directing Spanish-speaking customers to the numbers to call for information and translation assistance, and similar information included in other languages when census data indicates a significant population using that language resides in the public utility's service territory. The directive that termination notices contain foreign language information is beyond the requirements of Chapter 14. This rule is beyond what is required of other industries concerning foreign language information, and the Company submits that such a directive is best made by the General Assembly.

§56.100 Winter termination procedures.

With reference to §56.100(e) Allegheny Power suggests that direct contact with a customer during the termination process will enable the Company to gather the necessary information to verify income status. In the absence of direct contact, mailing the 10-day termination notice followed by posting of at least one (72-hour or 48-hour) termination notice at the residence constitutes a diligent, good-faith attempt to verify that the household does not fall into the protected low-income category. The responsibility then lies with the customer to respond to the utility's notices by contacting the utility and providing the required income and household size information. If the customer fails to respond to the notices, the utility should be permitted to follow through with the pending termination. Should this practice result in erroneous termination to a low-income customer, the utility service would be restored within 24 hours, as directed by §§1407(b) (1) and (2).

With regard to the Cold Weather Survey provisions in §56.100(h), the Commission is proposing a requirement to categorize accounts by the first three digits of the zip code. This concept is not found in Chapter 14. Additional cost to the utility would be incurred for programming to meet this requirement, with no benefit to the customer

The Commission is also proposing in §56.100(h) a requirement for the utilities to provide survey updates to the Commission on January 15 and February 15 of each year. This did not come from Chapter 14. An additional cost of approximately \$33,000 will be incurred by the utility to continue the survey for two additional months. Few accounts change status between December 15 and February 15 and Allegheny Power fails to see the benefit in this additional requirement, unless the Commission would use the information to act on behalf of the customer to obtain state or federal funding for customers to have their services restored.

With regard to §56.100(j) Allegheny Power opposes the required reporting of a death following a termination of utility service. The requirement inappropriately implies a causal connection between the termination and the fatality. This proposed new regulation is not required under any provision of Chapter 14 and does not promote its policy or intent. If the reporting requirement remains, the time-frame for utilities to provide the report to the Commission “within 1 business day of becoming aware of an incident” is unreasonable. Utilities need ample time to review the account and assemble the required information.

§56.111. General provisions. (EMERGENCY PROVISIONS)

The use of medical certificates has been abused over the past several years, and Allegheny Power submits that the proposed regulations will not alleviate the abuse. Any proposed regulation should be written to prevent unscrupulous abuse. Allegheny Power

recommends removal of the term “applicants” from the medical emergency provisions. Medical emergency provisions should not pertain to new applicants or applicants seeking service restoration. New applicants would be aware of the service status before moving into a residence, and should take necessary precautions for dealing with an existing medical condition. Applicants seeking service restoration after termination would have had ample time to exercise their rights under the medical emergency provisions while still a customer, and before reverting back to the applicant status. For example, a customer receives a termination notice at least 10 days prior to termination informing him of his right to file a medical certificate, among other things, to avoid termination. If no action is taken, service is terminated. In Allegheny Power’s case, if service to an account is not reconnected within 10-14 days of the termination, the account is final-billed, with a final bill due date 20 days later. The customer remains a customer status until the final bill is past due. Though the time frame for final-billing the accounts may differ among utilities, it is clear that a customer would have approximately 40 days (from the issuance of the termination notice 10 days prior to termination to the due date of the final bill at approximately 30 days after termination), which is ample time in which to exercise his rights by filing a medical certificate. If a customer does not exercise those medical certificate rights until after the final bill is past due, essentially changing the status of the customer back to an applicant, the seriousness of the medical condition is questionable.

Any customer with a medical condition truly serious enough to warrant a medical certificate would surely act more quickly to protect the welfare of the patient. If the medical certificate is not supplied to the utility in the approximate 40-day time frame while it is available to a customer, a medical certificate should not have to be accepted once the customer status changes back to an applicant.

Allegheny Power recommends that language be added to the regulations to clarify that the medical condition must be one for which the customer is currently under a physician's care. Allegheny Power also recommends language be added to the regulations that the physician's license number be required on medical certificates. This requirement would help to eliminate fraudulent practices.

§56.113 Medical certifications.

The Company reiterates that the use of medical certificates has been abused over the past several years. Any proposed regulation should be written to prevent unscrupulous abuse. Allegheny Power recommends removal of the phrase "or applicant" in both §56.113(1) and (2). Medical certificates should not be made available to applicants. See supporting comments for §56.111.

§56.114 Length of postponement; renewals.

The proposed language in §56.114(2) suggests a customer is entitled to an initial and two medical certificate renewals for the same set of arrearages and same termination action. These provisions are new, and were in neither Chapter 56 nor Chapter 14. To the extent the "same set of arrearages" implies that once a customer eliminates his arrearages, he is entitled to another three medical certificates, Allegheny Power is in agreement.

However, Allegheny Power is opposed to the phrase "and same termination action," which indicates that each time a new termination notice is issued the customer is entitled to an initial medical certificate and two medical certificate renewals. Termination notices may be acted upon for 60 days. If a customer obtains one 30-day medical certificate and one 30-day

renewal, the termination notice would then expire and the Company may need to issue another termination notice to pursue collection. According to the Commission's proposal, once a new termination notice is issued, the customer would again be entitled to an initial medical certificate and two medical certificate renewals. The termination notice would again expire during the medical certificate process, and another termination notice would need to be issued to pursue collection. This new termination notice would again entitle the customer to 3 medical certificates, etc.

It is recognized that §56.117 allows the original grounds for termination to be revived without further written notice upon the expiration of the medical certificate and renewals; however in most cases, the customer would have accumulated additional arrearages while the medical certificate process was ongoing. The utility would not want to revive the original grounds but would rather issue a new termination notice to pursue collection of the updated full arrearage amount. Thus, the customer would be entitled to another three medical certificates.

As demonstrated by the example shown above, the language "and same termination action" would provide the customer with an endless supply of medical certificates, and an endless loop of opportunity to avoid payment of the bill. This is in direct contrast to the intent of Chapter 14.

§56.141. Dispute procedures.

Proposed §56.141(2) provides that when a termination dispute is filed, termination shall be prohibited until resolution of the dispute or complaint; however, the disputing party shall pay undisputed portions of the bill. This is also supported by §1410(2) and §56.181(1)(2). In accordance with these sections and §56.163, upon notification of an informal complaint filed

with the Commission, the utility places the disputed balance on “hold” while the informal complaint is pending; however, the customer is responsible for payment of current bills during that time. In its present complaint handling procedure referenced in §56.163, the Commission requests from the utility updates on the customer’s account balance, and renders the decision and resulting payment agreement on the entire unpaid balance, which oftentimes includes multiple unpaid current bills. Allegheny Power believes this practice is contrary to the spirit and intent of Chapter 14, specifically §1410(2), and that language should be added to §56.141(2) and/or to §56.163(3) to clarify that the Commission decision, and resulting payment agreement, should be rendered only on the disputed amount. The remainder of the customer’s account balance, which includes unpaid undisputed bills, should be due immediately, and not included in an amortized payment agreement.

§56.142. Time for filing an informal complaints.

The title for this section should be corrected to read: “Time for filing an informal complaint.” (singular.)

Likewise, with regard to the language “*To be timely filed, an informal complaint –which may not include disputes under §§56.35 and 56.191(relating to payment of outstanding balance; and general rule)-and informal complaints shall be filed...*,” Allegheny Power recommends the phrase “and informal complaints” be removed as being redundant with the first few words of the statement.

§56.162. Informal complaint filing procedures.

This section pertains to the information required by the complainant upon filing an informal complaint with the Commission. Allegheny Power recommends that “*The date the complainant contacted the utility about the dispute, and results of that contact*” be added as an additional item, preferably after §56.162(6). This further supports the intent behind §66.1410(1) and §56.166(1) both of which state “The Commission will accept complaints only from customers who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the customer wishes to file a complaint. If the customer has not contacted the public utility, the Commission will direct the customer to the public utility.”

Allegheny Power also recommends that “*Household information including number of occupants, names and ages of all occupants, household income, and names listed on mortgage, lease or deed for the subject dwelling*” be added as an additional item required by the complainant to facilitate the handling and resolution of the complaint.

§56.163. Commission informal complaint procedure.

The regulations say that upon the customer’s filing of an informal complaint, Commission staff will review the complaint and issue a decision within a reasonable period of time. Allegheny Power questions whether a year and a half is a reasonable period of time. Currently, 758 cases are open at the Commission, which amounts to approximately \$387,000 in delayed collections, and has an estimated reserve impact of \$335,000 from carrying these balances. Of the total informal cases outstanding at the Commission, 35 cases are more than a year old, with 6 remaining open from 2007, and 391 are more than 90 days old. It is recommended that language be added to this provision requiring that informal complaints be

handled and closed by the Commission within a 3-month period. This stipulation would be more in line with the spirit and intent of Chapter 14, as well as with the requirements imposed upon the utilities in §56.163(1) which provides a 5-day and 30-day restriction on utility responses to the Commission on such informal complaint cases. Imposing a time limit on both the Commission and the utility would improve efficiency and prevent delinquent monies from being tied up for lengthy periods of time.

In reference to §56.163(1) Allegheny Power generally agrees with the 30-day response time standard; however, a five-day standard for OFF cases may be unattainable due to volume, may be discriminatory, and in some instances may not be beneficial to customers seeking assistance. Allegheny Power proposes a 10-day standard is more reasonable for utility responses for OFF cases to be prepared and submitted to the Commission.

Upon notification of an informal complaint filed with the Commission, as referenced in §56.163, the utility places the disputed balance on “hold” while the informal complaint is pending, in accordance with §56.141(2). However, the customer is responsible for payment of current bills during that time (§56.141(2), §56.181(1)(2), and §66.1410(2)). In its present informal complaint handling procedure, the Commission requests from the utility updates on the customer’s account balance, and renders the decision and resulting payment agreement on the entire unpaid balance, which oftentimes includes multiple unpaid current bills. Allegheny Power believes this practice is contrary to the spirit and intent of Chapter 14. Specifically §66.1410(2), and recommends that language be added to §56.141(2) and/or to §56.163(3) to clarify that the Commission decision, and resulting payment agreement, should be rendered only on the disputed amount. The remainder of the customer’s account balance, which includes unpaid undisputed bills, should be due immediately, and not included in an amortized payment agreement.

With regard to its handling of CAP cases, the Commission is prohibited from establishing payment arrangements for CAP customers. However, its present practice of reviewing CAP disputes is questionable. By taking in a CAP case and marking it as a CAP dispute, the Commission forces the utility to place a stay on the collection activity of CAP customers. In essence, this creates the payment extension the CAP customer is seeking.

§56.174. Ability to pay proceedings.

The requirements for timely formal complaint handling by the Commission in §§56.174(i) and (e) have been removed in the proposed regulations, yet time limitations for customer and utility actions remain in place, as in §56.174(d). Allegheny Power recommends that language be reinstated to §§56.174(i) and (e), and added to §56.174(c), imposing reasonable time restrictions on the Commission. This stipulation would be more in line with the spirit and intent of Chapter 14, as well as with the 30-day restrictions imposed upon the utilities to respond to the Commission on informal complaints (§56.163(1)), and with Allegheny Power's recommended change from 5-day to 10-day response time standard for OFF case responses, and with Allegheny Power's recommended 3-month limitation on the Commission's handling of an informal complaint (§56.163(1)). Imposing a time limit on both the Commission and the utility, at both informal and formal complaint levels, would expedite the handling of complaints, and would improve efficiency and prevent delinquent monies from being tied up for lengthy periods of time.

§56.191. General Rule. (RESTORATION OF SERVICE)

In reference to §56.191(c)(1), the proposed regulations require the utility to inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order. Allegheny Power recommends this requirement be removed. In its description of a victim under a protection from abuse order, Chapter 14 at §1417 was unclear whether the protection from abuse order pertained to the customer or to any member of the household. Section 1417 merely points out that Chapter 14 does not apply to victims under a protection from abuse order, and does not require that utilities solicit the information from the customer. The utility termination notice advises the customer to notify the company if under a protection from abuse order. The utility will follow appropriate restoration terms if notified of a victim under protection from abuse order.

Section 56.191(e), like §56.35(b), reads: *A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved by the Commission.*

Allegheny Power submits that the methods to determine that an applicant previously resided at a property in §56.191(e), as well as §56.35(b), should include a combination of information provided by a landlord at the property in question and historical company records such as contacts, income and expense information, and CAP applications, in addition to the methods (mortgage, lease, deed, and commercially available credit reporting service) already described in §56.191(e) and §56.35(b).

In reference to the last sentence of §56.191(e), as well as §56.35(c), Allegheny Power is opposed to listing in its tariff the procedures and standards used to determine the applicant's

liability for any outstanding balance. There should be no requirement to list detailed procedures in the utility tariff. Furthermore, if these procedures and standards are tariffed as the Commission proposes, the utility's flexibility to revise its business practices is hindered since a tariff revision would be required before the utility could make any changes. This would amount to the Commission interfering with the business practices of management.

56.231 Reporting Requirements.

It is recognized that in its proposed rewrite of this section, the Commission has attempted to consolidate the Chapter 14 Biennial Reporting Requirements with the §56.231 Reporting Requirements. However, this report as well as several other reports required of utilities are duplicative, overly time consuming and burdensome. Several required reports should be consolidated. Allegheny Power proposes consolidation of required reporting data and elimination of duplicate reporting requirements. This would enable increased focus of time and effort on customers rather than reporting requirements. The following reports could be subject to monthly or annual consolidation:

- Monthly 56.231 residential collections and termination reports, due the 15th of each month;
- Quarterly 55.5 non-residential collections and termination reports, due the 15th of each month;
- Annual Quality of Service Benchmarking Report, due February 1 each year;
- Annual Residential Usage and Billing Statistics Report, due February 28 each year;

- Annual Universal Service Reporting Requirements, due April 1 each year; and
- Chapter 14 Biennial Report to the General Assembly, due April 1 each year, beginning 2008.

Conclusion

The General Assembly has clearly explained its intent in passing Chapter 14. In the declaration of policy in §1402 the legislature states the goals of Chapter 14:

- Provide protections against rate increases for timely paying customers resulting from other customers' delinquencies;
- Achieve greater equity by eliminating opportunities for customers capable of paying to avoid timely payment of public utility bills;
- Provide public utilities with an equitable means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections and by increasing timely collections; and
- Ensure that service remains available to all customers on reasonable terms and conditions.

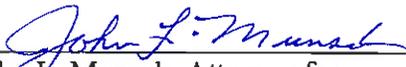
The General Assembly specifically found that Chapter 56 of the Commission's regulations has "not successfully managed the issue of bill payment," and the legislature sought "to achieve greater equity by eliminating opportunities for customers capable of paying to avoid timely payment. . . ." §1402(1) and (2). Yet, the legislature recognized the need for balance, stating: "the General Assembly seeks to ensure that service remains available to all customers on reasonable terms and conditions." §1402(3). Allegheny Power believes Chapter 14 is

successfully accomplishing its legislative intent as statewide uncollectible accounts and arrearages continue to decline while basic public safeguards continue to operate effectively. As proposed, the Chapter 56 revisions would reverse the success of Chapter 14.

Respectfully submitted,

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