

Deanne M. O'Dell
Direct Dial: (717) 255-3744
Direct Fax: (717) 237-6019
E-mail: dodell@eckertseamans.com

April 20, 2009

Via Electronic Filing

James McNulty
Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
2nd Fl., 400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary McNulty:

On behalf of Philadelphia Gas Works ("PGW") enclosed for filing please find its original Comments along with the electronic filing confirmation page with regard to the above-referenced matter.

Very truly yours,



Deanne M. O'Dell
For Eckert Seamans Cherin & Merlott, LLC

DMO/lww
Enclosure

cc: Terrence J. Buda (via email only)
Patti Wiedt (via email only)
Cyndi Page (via email only)
Daniel Mumford (via email only)

**BEFORE THE
PENNSYLVANIA UTILITY COMMISSION**

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

COMMENTS OF PHILADELPHIA GAS WORKS

I. INTRODUCTION

Philadelphia Gas Works (“PGW”) respectfully submits these Comments to the Pennsylvania Public Utility Commission (“Commission”) in response to the Proposed Rulemaking Order (“RO”) entered on September 25, 2008.¹ The purpose of the RO is to promulgate regulations to implement the Responsible Utility Customer Protection Act (“Chapter 14”).² Chapter 14 requires the Commission to amend its current Chapter 56 regulations³ governing residential utility service standards to comply with the provisions of Chapter 14. Chapter 14 also permits the Commission, if necessary, to promulgate other regulations which may be necessary to administer and enforce Chapter 14. On December 4, 2006, the Commission issued an Advanced Notice of Proposed Rulemaking Order⁴, to which PGW provided comments. While PGW offers suggestions and feedback

¹ 39 Pa.B. 925 (February 14, 2009).
² 66 Pa. C.S. §1401, et seq.
³ 56 Pa. Code § 56.1, et seq.
⁴ 36 Pa.B. 7614 (December 16, 2006).

on all the proposals set forth in the RO, it does so without waiving its rights to continue to assert that a proposed regulation is a violation of law.

As a threshold matter, PGW respectfully submits that in some instances the Commission's RO fails to implement the central task – promulgating a set of rules that are consistent with Chapter 14. In these instances, the opposite results – a rule that materially violates Chapter 14. In some other crucial areas, the Commission's proposals fail to fully conform to Chapter 14 mandates by not deleting various sections from the old rules which are no longer lawfully permitted. In still other areas, the RO sets forth new proposals which in practice resurrect certain aspects of the old regulations – regulations specifically targeted for elimination and in fact superseded by Chapter 14. As discussed in the next section, all of these must be removed as they violate Chapter 14.

Moreover, some of the proposals create new burdens on PGW which will be costly and will significantly undermine one of Chapter 14's goals: protecting PGW's ability to provide natural gas for the benefit of the residents of the City of Philadelphia and to protect timely paying customers from unnecessary rate increases. To the extent the Commission ultimately decides to impose new requirements, consideration must be given to the programming time, training and costs necessary to implement related system and operational changes. Even a requirement that may seem simple, i.e., requiring a larger font size on a report, may involve a substantial and costly reprogramming of systems for PGW to accommodate it. The time and cost of undertaking such activities will necessarily be borne by PGW customers and may not result in the benefit that is anticipated by the Commission. In such areas, PGW urges the Commission to exercise

restraint and err on the side of giving utilities discretion in how to accommodate the goals of the regulations.

In this proceeding, the Commission should remain focused on the policies set forth in Chapter 14 which should guide the final revisions to Chapter 56, namely:

- (i) protecting timely paying customers against rate increases due to other customers' delinquencies;
- (ii) eliminating opportunities for customers capable of paying to avoid timely payment;
- (iii) providing an equitable means for utilities to reduce their uncollectible accounts;
- (iv) ensuring that service remains available to all customers on reasonable terms and conditions; and, most importantly to PGW; and
- (v) providing additional tools to PGW to recognize the financial circumstances of its operations and to protect its ability to provide natural gas for the benefit of the residents of the City of Philadelphia.

To the extent the proposed regulations contravene or undermine Chapter 14, they must be rejected. PGW appreciates this opportunity to provide the Commission with its comments on the Commission's proposed regulatory language. With respect to the modifications made to regulatory language herein (utilizing the version published in The Pennsylvania Bulletin), PGW adopted the regulation as proposed and marked-up the proposed language.

II. EXAMPLES OF PROPOSALS THAT VIOLATE CHAPTER 14 AND MUST BE DELETED

A. Provisions that Violate Chapter 14

In some sections, proposed changes to regulations directly violate Chapter 14 and, therefore, these changes must be removed. For example, proposed Section 56.100(i) requires a utility to make a good faith attempt to reach a payment agreement with a consumer who may no longer be statutorily authorized to receive another payment agreement. Chapter 14 only requires utilities to comply with 66 Pa. C.S. § 1407(c)(2)

which sets forth payment agreement parameters for restoring service. The Commission is prohibited by Chapter 14 from creating an additional requirement as proposed.

Similarly, proposed Section 56.97(a)(2)(iii) obligates the utility to explain that it will accept a partial payment to “cure” a material default of a payment agreement and stop a termination. This proposal violates 66 Pa. C.S. §§ 1405(f) and 1406(a). The Commission cannot require a utility to take any additional actions other than those required in Chapter 14 prior to termination. 66 Pa. C.S. § 1406(b)(2). Furthermore, absent a change in income, the Commission cannot override the utility’s discretion regarding whether to provide a customer with a second or subsequent utility payment agreement. 66 Pa. C.S. § 1405(d). Similarly, proposed Section 56.97(a)(2)(iv) requires utility employees to explain that enrolling in a CAP will stop the termination even though the customer may have already broken a CAP agreement. Such a requirement violates Chapter 14 as a CAP agreement is a utility payment agreement and the Commission lacks statutory authority to place additional burdens on the ability of the utility to terminate service.

Further, Section 56.2 proposes to expand the definition of “customer” to include someone whose service has been terminated until the date the person's final bill is past due. Chapter 14 is very clear that an “applicant” is a “person not currently receiving service,” while, in contrast, a “customer” has a “residential service account” in his or her name and is responsible for bills rendered. 66 Pa. C.S. § 1403. Once a person is no longer receiving service, whether due to voluntarily discontinuance or termination, he or she cannot be considered a customer under the plain language of Chapter 14. The

Commission's proposal directly contravenes the authority and purposes of Chapter 14 and must be revised to define "customer" in accordance with Chapter 14.

Finally, as another example, Section 56.35(b) appears to somehow attempt to limit a utility from requiring, as a condition of furnishing service, payment for service previously furnished under an account in the name of another person. This directly conflicts with 66 Pa. C.S. § 1407(d), which specifically permits a utility to require such payment if evidence exists that the applicant resided at the same address during the time that the arrearage accrued.

B. Failure to Remove Superseded Regulatory Language

While it incorporates Section 56.35, proposed Section 56.83(8) also continues the old regulatory requirement that the way a utility may hold a customer responsible for residential service provided in the name of another person is pursuant to a court, district justice or administratively agency determination that such person is legally obligated to pay. Including this requirement is confusing and it directly contradicts Chapter 14 which permits a utility to require payment of an outstanding balance incurred during occupancy at a property. 66 Pa. C.S. § 1407(d). In fact, this statutory requirement was specifically intended to delete the cumbersome, costly and administratively burdensome practice set forth in the prior regulations. As this section has been superseded by Chapter 14, it must be deleted from the RO.

C. Resurrection of Requirements Superseded by Chapter 14

Chapter 14 has abolished the ability of the Commission to require activities beyond those set forth in Chapter 14 prior to a noticed termination. See 66 Pa. C.S. § 1406(b)(2). Nonetheless, several of the proposed regulations create obligations that the

utility must meet before being able to terminate an account. Proposed Section 56.93 adds conditions on the type of home contact required if attempted before a termination, even though 66 Pa. C.S. § 1406(b) does not include such conditions.

Also, proposed Section 56.100(e) requires utilities to determine which accounts are not eligible for winter termination based on household income and make-up. This proposal is inconsistent with 66 Pa. C.S. § 1406(e) which authorizes winter termination for certain income level customers in certain households and does not require the utility to verify the eligibility of a customer for termination. 66 Pa. C.S. § 1406(e).

From this summary, it should be clear that the Commission is required to make some significant and material revisions in its proposed rules if it is to be compliant with the requirements of Chapter 14 – the act that the PUC ostensibly is seeking to incorporate into its regulations.

III. SPECIFIC COMMENTS AND SUGGESTED REGULATORY LANGUAGE SPECIFICALLY ADDRESSING THE RO

(i) 56.1(a)

Suggested Revision: PGW recommends deletion or modification of the language requiring that “[p]ublic utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages.”

Justification: One of the essential purposes of Chapter 14 is to provide timely paying customers with protections against rate increases by eliminating the opportunities for customers who are capable of paying for utility service to avoid paying for such service. 66 Pa. C.S. § 1402. Chapter 14 provides PGW with additional collection tools to achieve this purpose. Placing a newly created burden of “account management” on

utilities is unreasonable and outside the scope of Chapter 14. Chapter 14 does not, as this proposed language seems to suggest, place a requirement on utilities to manage customer accounts. Moreover, utilities cannot nor should they be held responsible for the payment behavior of their customers.

The language proposed in this regulation also creates a standard, i.e., “large, unmanageable arrearages,” which would vary from service territory to service territory and from customer to customer - not to mention that the exact amount that becomes “large” and “unmanageable” for a particular customer is neither defined nor something within the knowledge of a utility.

This new requirement would be especially burdensome for PGW because of the demographics of its service territory – urban, lower income and with a high cost of living. PGW estimates that a very substantial majority of the households in its territory earn less than \$50,000 a year (a large majority of households earn far less than that amount) and many of them experience arrearages in their gas bills either occasionally or frequently. It is unclear to PGW what would rise to the level of “large” or “unmanageable” arrears for such customers and their families. Accordingly, this new utility obligation could place PGW in the position of “managing” the accounts of tens of thousands of customers for whom one bill might arguably be considered “large” or “unmanageable” – even though most of its customers are fully able to pay their utility bills.

Therefore, the end result of this new requirement is that it would be virtually impossible for PGW to ever achieve its purpose, its purpose directly violates Chapter 14’s policy of providing additional tools to PGW, and it should be deleted. In fact, it

could strongly discourage PGW from offering a customer an additional payment agreement when PGW believes it is in the best interests of the customer and PGW.

(ii) 56.1(b) and 56.2

Suggested Revision: The term Protection from Abuse (“PFA”) Orders should be specifically defined so it is clear that such term refers only to PFA Orders issued in accordance with Pennsylvania's PFA law, and the utility must have been provided with a copy of the valid PFA in order for the utility to be obligated to apply the appropriate sections of the regulations.

Justification: PGW recognizes the vulnerability of, and fully supports providing additional protections to, victims protected by a PFA. However, PFA Orders under these regulations should be limited to those recognized under Pennsylvania's statute since the law provides for a *court* to determine the validity of a foreign protection order. 23 Pa. C.S. § 6104(a). Thus there is a legitimate process to certify a foreign PFA in Pennsylvania, and requiring utility employees to verify that a foreign PFA order is valid would require utility employees to become familiar with the PFA laws of different states and to make a legal determination about the validity of the foreign order. Such requirements are inappropriate and burdensome. By making it clear that PFA protections are provided under Pennsylvania law, the Commission's regulations would disclose exactly what obligations apply. Further, the appropriate regulations should not apply to a consumer until the utility is aware of and has been provided with a copy of a valid PFA in accordance with its established rules.

Suggested Regulatory Language: The following definition should be added to 56 Pa. Code § 56.2:

Protection from Abuse Order – A Protection From Abuse Order recognized under 23 Pa. C.S. § 6104, as amended, and provided to the public utility in accordance with its established rules.

(iii) 56.2

Suggested Revisions: Revise definitions of “customer,” “electronic billing,” “electronic notification of payment,” “household income,” “informal dispute settlement agreement,” and “user without a contract.”

Justification, Customer: Status as a customer should end at the time of utility termination. The protections provided to a customer in Chapter 56 are extensive, and, in its efforts to further protect timely paying customers, the legislature specifically distinguished the term customer from applicant in Chapter 14. Under Chapter 14, an applicant is a “person not currently receiving service,” while, in contrast, a customer has a “residential service account” in his or her name. 66 Pa. C.S. § 1403. Thus, it is unambiguous that a person not receiving service cannot be considered a customer. The extension of Chapter 56 protections to customers who fail to pay their bills timely and, thus, have been terminated, is directly contrary to the authority and purposes of Chapter 14. The Chapter 14 definition limits a “customer” to a “person in whose name a residential account is listed and who is primarily responsible for payment of bills rendered for the service. . . .” Once a customer has been terminated he/she is no longer responsible for “bills,” but for all the arrearages owed to the utility. In fact, it is unreasonable to deem a consumer who is not currently receiving utility service to be a customer of a utility. The consumer has failed to meet his/her obligation to timely pay for utility service and should not be afforded customer rights to the detriment of customers who pay timely.

Suggested Regulatory Language, Customer:

Customer – A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or an adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. A natural person remains a customer after discontinuance or termination until the final bill for service is past due. person's status as a customer shall terminate at the time of termination or discontinuance of utility service.

Justification, Electronic Billing: Electronic billing should not include “any process” that permits customers to pay their bills electronically. This definition fails to consider the broad array of electronic payments available today. Customers may utilize a variety of electronic payment processes, such as through the bill pay services of the customer's personal bank or through a third party bill payor. PGW does not have control over bill payment processes other than its own.

Suggested Regulatory Language, Electronic Billing:

Electronic billing – (i) The electronic delivery and presentation of bills and related information sent by a public utility to its customers. (ii) This term also includes ~~any process that permits customers to pay their bills electronically~~ any electronic payment system and procedure provided through the system of and administered by a public utility for its customers. Customers shall have the ability to make payments via third party processors, such as electronic banking services and other bill payors.

Justification, Electronic Notification of Payment: Similar to the modifications to the phrase “electronic billing,” a description for the notification of payment via an electronic system must recognize that PGW receives electronic payments from various paths, many of which do not utilize PGW's secure electronic payment system. Confirmation of payment to the customer is not always within PGW's control, such as when a payment has been made via a third party payor.

Suggested Regulatory Language, Electronic Notification of Payment:

~~Electronic notification of payment – A notification generated by the electronic payment system upon receipt of payment. The notification will inform the customer of successful receipt and amount of payment and the date and time the payment was received.~~ generated by a public utility’s electronic payment system which informs the customer of successful receipt of payment by the public utility’s secure electronic payment system.

Justification, Household Income: Household income should not exclude income intended for a minor – such as Social Security income provided for a minor, child support, Supplemental Security income for a minor or grants from the Department of Public Welfare for a minor. While these items may or may not be characterized as “income” of the responsible adult in other contexts, they should be deemed part of the gross adult income for the purpose of paying public utility obligations.

Currently, utilities utilize the household income requirements of the Pennsylvania Low Income Home Energy Assistance Program (“LIHEAP”), which includes the total earned and non-earned income of, among others, all household members, as defined in the Pennsylvania Code. 55 Pa. Code §§ 601.81, 601.82, 601.84. Non-earned income includes social security benefits and supplemental security income. PGW asserts that the LIHEAP income definitions are reasonable and result in the provision of utility service customer assistance based on true household need. Since all of the income excluded under the proposed regulation is available to the entire household to pay for utility bills, counting it toward the household income is appropriate and ensures an accurate picture of the household’s financial situation.

Varying the definition of household income from the terms for LIHEAP would have several consequences. First, PGW would need to retrain customer service

representatives about the different definitions of “household income” depending on the reason for the assessment. Second, by excluding certain types of income, an inappropriate, and potentially dramatic increase in PGW’s obligation to offer long payment agreements and other income eligible rights - to households which do not have a true need for such assistance - might result. Such a change will have a significant impact on other PGW customers; for example it could increase uncollectible expenses. All of these results are inconsistent with the purposes of Chapter 14.

In any event, in fairness and recognition of the fact that income intended for use of a minor is income available for utility service for the minor and the rest of the household, if the income of a minor is excluded from household income, the minor should not be counted as a member of the household. PGW also requests affirmation that the definition of this term will not alter CAP eligibility, since CAP eligibility is not addressed in Chapter 56 or Chapter 14.

Suggested Regulatory Language, Household Income:

Household income – (i) ~~The combined gross income of all adults in a residential household who benefit from the public utility service.~~ (ii) ~~The term does not include income intended for the use of a minor. Examples of a minor’s income include Social Security, child support, SSI, earnings and grants from the Department of Public Welfare.~~ Gross income as determined by 55 Pa. Code §§ 601.81, et seq., as amended.

Justification, Informal Dispute Settlement Agreement: A separate definition for informal dispute settlement agreement and payment agreement is unnecessary and confusing. Resolution of a dispute results in a payment agreement in which the customer accepts liability and is permitted to amortize payments over time. Such an agreement is wholly consistent with the definition of payment agreement under Chapter 14 and should not be distinguished in any way from a “payment agreement” as defined in these

regulations. Because it is unclear how this term is different from a payment agreement and what the purpose of this term is, PGW respectfully requests that the Commission provide clarification of both questions. In the event the Commission decides to include separate terms, informal dispute settlement agreements should count as a payment agreement under the regulations.

In addition, one of the advantages of engaging in settlement from the perspective of the public utility is to avoid the costs associated with litigation. Therefore, when a settlement is reached with a consumer, it should be clear that acceptance of the terms of an informal dispute settlement agreement will result in a waiver of the right to a hearing on the subject matter of the settlement unless the utility has failed to comply with the terms of the agreement. Including language to address this concept as suggested below is important because it educates the consumer making an agreement that he/she is bound by the terms of the agreement. It also provides the public utility with the appropriate assurance that working to negotiate an agreement is not a futile effort. If proposed dispute settlement terms are unacceptable, the consumer has direct recourse to the Commission.

Suggested Regulatory Language, Informal Dispute Settlement Agreement:

Informal dispute settlement agreement – A mutually agreeable statement of a claim or dispute by a customer or applicant including a proposed resolution of the claim or dispute. An informal dispute settlement agreement is a written document that is provided to the parties or their representatives and is considered a payment agreement as defined in these regulations. An informal dispute settlement agreement offered by a utility shall contain the following statement: “If you are not satisfied with this agreement, immediately notify the utility that you are not satisfied. You may file either an informal complaint or a formal complaint before the Public Utility Commission without making yourself subject to retaliation by the Utility. Except for good cause shown, if you do not file an informal complaint or formal complaint within ten (10) days of the mailing date of

this agreement you will give up your right to a hearing before the Commission on any matter involved in this dispute unless the utility fails to follow the terms of this agreement.” The informal dispute settlement agreement shall also contain the information necessary to contact the Public Utility Commission either in writing or by telephone.

Justification, User Without a Contract:

Chapter 14 does not allow a distinction between the terms “user without a contract” and “unauthorized use.” 66 Pa. C.S. § 1406(c) undoubtedly permits immediate termination of service for all unauthorized use of service and for fraud. The common definition of “unauthorized” is “not endowed with authority . . . without official authorization.”⁵ Accordingly, using gas service without PGW’s authority or approval - using without a contract - is unauthorized use.

Again, without waiving any of its rights to continue to assert and maintain the above argument, and in light of the Commission’s historical view of such usage, PGW has provided comments below addressing the unreasonableness of the proposed definition of user without a contract. User without a contract must be specifically limited to a “reasonable” use of public utility service without the approval of the public utility. Examples of such “reasonable” use include a situation where the person listed on the bill has died and the spouse continues to receive the bills in the name of the deceased for a period of time. However, even in this situation, at some point it is no longer reasonable for a widow/widower to continue to receive bills in the name of the deceased and the occupant should, therefore, be expected in good faith to change the billing name. Likewise, it should neither be acceptable to accept service for an extended period of time

⁵ American Heritage Dictionary of the English Language, <http://www.thefreedictionary.com/unauthorized> (4th ed. 2006).

under the name of a person benefiting from CAP who no longer lives at the property; nor should it be acceptable for a consumer to accept service for many months or even years when he/she knows that he/she should be billed for such service. Allowing these situations to occur creates an increased possibility of manipulation and fraud - which harm all of the utility's customers and creates unnecessary costs and burdens on the utility. For these reasons, PGW suggests that the definition of User Without a Contract include clear language indicating when the user without a contract becomes an "unauthorized user."

Suggested Regulatory Language, User Without a Contract:

~~Taking or acceptance of~~ Unreasonable use of public utility service without the knowledge or explicit approval of the public utility, other than unauthorized use of service as defined in this section. User without a contract becomes unauthorized use of utility service on the earlier of the date of utility compliance with §§ 56.93--56.97 or the day which is 2 months after the date the user began using public utility service without establishing an account for the utility service in the user's name.

(iv) 56.11 (b)

Suggested Revisions: Electronic billing ("e-billing") provisions must acknowledge the realities of processes for electronic methods of communication.

Justification: In compliance with the secretarial letter issued March 31, 2009, PGW describes its current e-billing program below and answers the questions raised in the secretarial letter. PGW's concerns regarding e-billing have been set forth herein for consideration by the Commission.

E-billing is a beneficial and convenient service for PGW and its customers, and saves natural resources. PGW customers may elect to receive their bill via an email option. This program is wholly voluntary and is provided as an alternative to continuing

to receive a paper bill. The program has not changed since its inception. Customers sign up for the program on PGW's website and receive their usual bill via an email delivery notice. This notice directs the customer to PGW's website where the customer logs on utilizing a confidential password and views the entire bill in .pdf format. The bill viewed is identical to a paper bill and may be printed by the customer if desired. One reason customers ask for this service is to be "green" and thus avoid a duplicate paper copy, which is not sent. The customer may cancel e-bill delivery at any time and revert to paper bills. PGW's e-billing option was not the subject of a formal filing at the Commission, as it is still rendering a bill once a month in accordance with its tariff.

PGW's e-billing has been increasingly used by customers. The current level of participation is over 47,000 residential customers. PGW expects customer demand for e-billing to continue to increase in the future. In order to operate most effectively and to realize all the benefits of e-billing, the election to receive an e-bill should not be coupled with a requirement that the utility also provide the right to receive a paper bill. Such a requirement is unnecessary and burdensome - the customer may, within one full billing cycle, opt to receive a paper bill instead of an e-bill and may, at any time, print out hard copies of an e-bill. As indicated above, the e-bill provided by PGW, via an email with a link to PGW's website, is an exact visual duplicate of the paper bill and bill inserts are provided via links after the customer has logged in to view his/her bill. If desired, the customer may also print bill inserts. Attached hereto as Exhibit "A" is a copy of one of PGW's Good Gas News, which were inserted into bills and describe e-billing.

Regarding the privacy of customer information, PGW requires the customer to provide certain confidential information to log in to the bill view website. While PGW

complies with privacy laws and maintains general security on its website, it cannot realistically assure customer privacy or ensure the delivery of e-bills. Customers provide PGW with an email address for bill delivery and retain the ability (and obligation) to update this email address at any time. Further, email is inherently insecure for many reasons; for example the customer may share his/her email access and e-bill sign-in passwords with others or the customer may not utilize an adequate computer security program. In such scenarios, PGW could not possibly guarantee the security of the customer information. However, PGW does provide its customers with security – it maintains its system security in accordance with industry standards.

PGW also does not support a requirement that it ensure the delivery of e-bills. PGW does not have control over how a customer uses his/her email address. For example, customers may change their primary email address without PGW's knowledge. In such situation, it is unreasonable to place a burden on the utility to know that the customer has changed his or her email address and to contact the customer to try to find out the new email address. If the Commission is concerned about ensuring that customers who want to receive emails continue to receive emails, then the burden should be placed on the customer to inform the utility of any changes in his or her email address. As long as the utility provides the e-bill to the email address on file and updates its records upon customer notice of a change in the email address, then the Commission should not place any additional burdens on the utility.

Finally, PGW believes that some customers may prefer the option of receiving all notices, such as termination notices, by email through the e-billing process and this option should remain open to the customer.

Suggested Regulatory Language:

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

(1) The electronic billing option is voluntary ~~and the customer retains the option of continuing to receive a paper bill if desired~~. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a ~~1-month~~ advance notice of a request to revert to paper billing and the public utility shall comply with such request within 1 full billing cycle.

(2) A customer shall receive a visual presentation of an electronic bill in the same format as the paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and required educational messages that are required for paper bills. The electronic transmission of termination notices is voluntary and the customer may elect to have termination and other notices sent by email.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format, such as through a web link.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility ~~shall maintain a system to ensure delivery of~~ may email electronic bills ~~if the bill is emailed~~ to a customer.

~~(8) The public utility shall maintain sufficient system security to assure customer privacy.~~

(v) 56.12(7)

Suggested Revisions: The Commission should not require an additional payment arrangement for a customer for budget billing reconciliation amounts as low as \$25.

Justification: Under its current budget billing program, PGW reviews accounts four times a year and adjusts the monthly budget account accordingly. These reviews ensure that the customer is able to budget the amounts due over an annual period. In

addition, once a year in conjunction with a review PGW performs a “true-up” assessment where the customer is credited for overpayment and billed for underpayment. For the customer, this billing process is easily understood, and if a quarterly review shows that the monthly budget amount is insufficient the customer experiences an adjustment in future monthly bills which should reduce any amount owed at the time of the annual true-up.

Although the Commission disagrees, PGW submits that Commission required amortization of the yearly reconciliation amounts in excess of \$25 is actually a second Commission issued payment arrangement for budget billing customers. Many of PGW’s customers on budget billing have already received and broken payment arrangements, including Commission issued payment arrangements. By requiring PGW to enter into another payment arrangement (i.e., amortizing unpaid reconciled amounts for a period of time), the Commission proposes to require the utilities to enter into a second payment arrangement. As Chapter 14 does not allow a second Commission payment arrangement unless there has been a change in income, this provision of the Commission’s proposed regulations should be deleted.

Without waiver of the above, PGW is amenable to setting a reasonable dollar amount over which a true up payment could be amortized when the customer indicates that he or she is unable to pay a true-up amount. For example, if the quarterly true-up shows an amount between \$100 and \$300 will be owed, then PGW would spread out the payments of the amount over the next six months; if the amount is in excess of \$300, PGW would spread out the payments over the next twelve months. It will be burdensome for PGW and potentially burdensome and confusing for a customer if minor amounts less

than \$100 due upon true-up are amortized over a longer period of time. Further, a customer should have the ability to elect to pay the true-up in full.

Suggested Regulatory Language:

Budget billing. A gas, electric and steam heating utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The public utility shall review accounts at least three times during the optional billing period and shall reconcile actual usage against amounts paid once a year. A resulting unpaid reconciled amount shall be billed in full. If the customer notifies the public utility that the customer cannot pay a resulting reconciliation amount which exceeds \$100, then: a reconciliation amount between \$100 to \$300 shall be amortized over a 6 month period; and an amount exceeding \$25 \$300 shall be amortized over a 3-12 month period. Payment agreements for heating customers shall be based upon equal monthly billing.

(vi) 56.16(a)

Suggested Revisions: Customers have an obligation to act in good faith, and to provide a utility with access to its meters. See 52 Pa. Code § 59.24. If a public utility is unable to obtain access to a meter for discontinuance because the customer has not shown up for an appointment, the customer should remain responsible for the bill until access is obtained or a new consumer requests service.

Justification: Customers who request shut off often fail to show up for an appointment for physical discontinuance. In the event of a customer's failure to provide access, the customer should remain responsible for the bill unless the failure is caused by an inability to provide meter access (for example, in a multi-premise building). This revision would also provide an incentive for the customer to allow access – which is often necessary for safety reasons.

Suggested Regulatory Language:

(a) A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice to the public utility and a non-customer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice or if the customer provides notice but fails to attend the appointment made with the public utility to allow discontinuance, the customer shall be responsible for services rendered until access has been provided to the meter or service is transferred to another customer. If the public utility ~~is not able to~~ does not attempt to access the meter for discontinuance or if the customer is unable to provide access because the customer attends the appointment made with the public utility to allow discontinuance but does not have access to the meter, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading and can determine the actual consumption used by the customer.

(vii) 56.16(d)

Suggested Revisions: This section should be revised for consistency with 52 Pa. Code § 56.33 and 66 Pa. C.S. § 1404(b).

Justification: Under 66 Pa. C.S. § 1404(b), third party guarantors are responsible for all missed payments owed to the utility.

Suggested Regulatory Language:

(d) In the event of a termination or discontinuance 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~~ including but not limited to the cash deposit requirement of the customer.

(viii) 56.21

Suggested Revision: An e-bill sent by email should be deemed to have been transmitted upon the date the email is sent.

Justification: Similar to a paper bill which is transmitted on the date it is mailed, an email is transmitted on the date it is emailed. Therefore, the transmittal date should be the date of mailing, emailing or physical delivery.

Suggested Regulatory Language:

The due date for payment of a bill may be no less than 20 days from the date of transmittal; that is, the date of mailing, emailing or hand delivery of the bill by the public utility to the customer.

(ix) 56.21(4)

Suggested Revision: The effective date for payments electronically transmitted outside of the electronic payment system provided and administered by a public utility for its customers should be the date of actual receipt of the payment monies.

Justification: PGW does not control the notification and payment procedures of third parties and may not have sufficient knowledge to determine when the payment was made by the customer to the third party. When a customer uses a third party to pay its bills, PGW recommends that the date the payment is received by PGW should be the effective date of the payment.

Suggested Regulatory Language:

Electronic transmission. The effective date of a payment electronically transmitted to a public utility pursuant to the electronic payment system provided and administered by a public utility for its customers is the date of actual receipt of the electronic notification of payment. The effective date of a payment electronically transmitted to a public utility by a third party is the date of actual receipt of the payment by the public utility.

(x) 56.21(5)

Clarification. With respect to the fees for payment options, PGW notes that certain third party payment processors assess and collect a fee/charge for credit

card payments to PGW. While PGW may have a contractual relationship with some such processors, PGW does not assess or collect such fees – these fees are paid directly by the consumer to the third party (with no commission paid to PGW). PGW does not process the credit card payments themselves. The amount of such fees may be subject to contract negotiation with payment processors selected pursuant to a public bidding process (RFP) and, thus, a requirement to publish any such fees in a tariff would add undue time and expense to a process that works for its customers. Of course, PGW has a strong incentive to increase the number of valid credit card payments and thus, as an advocate for our customers, to attempt to demand a low processing fee.

(xi) 56.25

Suggested Revisions: Electronic bill payment requirements should be linked to utility provided and administered systems. Disclosure of electronic bill payment terms, and notice of changes to the program, should be allowed via a utility's website. Instead of a receipt, the electronic notification of payment should be a confirmation number. Finally, PGW has account verification processes in place for electronic bill payments but cannot necessarily protect against non-customer access.

Justification: In addition to the justification set forth herein for Sections 56.2 and 56.11(b) with respect to electronic billing issues, it is easier and more appropriate for an electronic bill payor to view terms for the payment electronically. It is also less wasteful, and cheaper for the utility. Of course, the customer can print out the terms if desired. Similarly, receipt of a confirmation number as evidence of

payment is easier for the customer-payor to retain and serves as the electronic receipt.

As explained in more detail in the comments on Section 56.11, while PGW maintains general security on its website, it cannot necessarily protect against access to customer information and customer accounts since a customer may share with others his/her account and other information.

Suggested Regulatory Language:

(3) The terms of the public utility's electronic billing system payment procedures shall be fully disclosed to the customer in writing on the public utility's electronic billing website before the customer enters the program. Program changes shall be conveyed to the customer in writing on the public utility's electronic billing website and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The public utility shall provide ~~a receipt~~ electronic notification of payment, in the form of a confirmation number or by electronic receipt ~~either electronically or on paper,~~ to the customer upon payment through the ~~electronic method~~ public utility's electronic billing website.

(5) The public utility's electronic billing system shall require account verification by the user ~~maintain sufficient system security to protect customer information and access to customer accounts~~.

(xii) 56.32

Suggested Revisions and Justification: Since this section applies only to applicants, customers should be removed and the section should be made consistent with Chapter 14 by indicating that the utility does not have to provide service if there is a failure to pay a deposit. Further, considering PGW's limited service area and housing stock and the financial restraints on its ability to modify its systems, PGW should have the ability to calculate a deposit based on the average annual bill of its customers in the same rate class.

Moreover, in an effort to combat identity theft, if one or more of the additional identifications provided to the utility is suspicious, the utility should have the authority to request additional identification. While PGW takes steps to protect applicant and consumer privacy, it cannot ensure such privacy and confidentiality.

Finally, liens are valid for 20 years so a 4 year limitation would not be applicable to a lien. 53 P.S. § 7183.

Suggested Regulatory Language:

§ 56.32. Security and cash deposits.

(a) A public utility may require a cash deposit in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

(i) Nonpayment of an undisputed delinquent account.

(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.

(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.

(v) Failure to comply with the material terms of an informal dispute settlement agreement or payment agreement.

(vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.

(vii) Tampering with meters, including, but not limited to, bypassing a meter or removal of an automatic meter reading device or other public utility equipment.

(viii) Violating tariff provisions on file with the Commission which so as to endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) An 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. The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment.

(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:

(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required.

(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer assistance program made available by the city natural gas distribution operation are not subject to this paragraph.

(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application and this amount shall not be subject to any time limitations on liability set forth in this Chapter 56.

(c) Prior to providing public utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two credible alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of or in addition to requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall ~~take all appropriate actions needed to ensure~~ implement procedures which attempt to protect the privacy and confidentiality of identification information provided by their applicants and customers.

(d) Estimated annual bill. When used in this section, an estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months, or, if unavailable, a similar dwelling in close proximity or if there is not a similar dwelling in close proximity similarly situated housing stock. A city natural gas distribution operation may calculate the estimated annual bill on the basis of the average annual bill of its customers in the same rate class.

(e) Failure to pay full amount of cash deposit. A public utility shall not be required to provide service if the applicant fails to pay the full amount of the cash deposit. Applicants required to pay a deposit upon reconnection under subsection (a)(1) shall have up to 90 days to pay the deposit.

(xiii) 56.33(2)

Suggested Revision: The proposed third-party guarantor should be required to establish creditworthiness under 52 Pa. Code § 56.32 and should be a current ratepayer.

Justification: The purpose of this section of the Code is to provide assurance of payment. If an applicant cannot establish credit, the best way of assuring payment is by requiring a deposit or allowing another person, who is creditworthy, to assure payment. In order to easily facilitate any necessary collection activity, the guarantor should be a current customer.

Suggested Regulatory Language:

(2) Third-party guarantor. This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty and the guarantor must be a customer who can establish creditworthiness to the satisfaction of the public utility through use of a generally accepted credit scoring methodology. The guarantor shall be responsible for all missed payments owed to the public utility.

(xiv) 56.35(b) and (b)(2) and (3)

Suggested Revision: The regulation should allow the utility to require an applicant to pay arrearage consistent with 66 Pa. C.S. § 1407(d), and for a time period which exceeds four years in instances of theft. In addition to any other method deemed reasonable, the rules should specifically authorize the following means of determining that the applicant is responsible for a prior arrearage: (i) address data on a driver's license or PennDOT issued Identification Card; and (ii) information in the company's own

records, such as a previous application for CRP (PGW's CAP program), LIHEAP, or medical certification.

Justification: 66 Pa. C.S. § 1407(d) authorizes a utility to hold an applicant responsible for service used during the time the applicant resided at the property for which service is requested.

Further, the Commission should approve as a valid method of establishing that an applicant is responsible for a prior arrearage the use of a driver's license and a PennDOT issued Identification Card (issued to persons who cannot or do not wish to obtain a driver's license)⁶. A driver's license shows a person's legal residence address and the date on which the license was issued.⁷ By law, a driver's license must contain a "residence address."⁸ Moreover, a person is legally required to keep the residence address current:

Whenever any person after applying for or receiving a driver's license moves from the address named in the application or in the driver's license issued or when the name of a licensee is changed, such person shall, within 15 days thereafter, notify the department of the old and new addresses or of such former and new names and of the number of any license then held by the person. The department shall be notified of a change of name in writing.⁹

A person is permitted only one valid driver's license at any one time, and is required to surrender any prior licenses from Pennsylvania or any other state.¹⁰ Failure to comply with these provisions is unlawful.¹¹ Moreover, service of process may be made

⁶ 75 Pa. C.S. § 1510(b).

⁷ 75 Pa. C.S. § 1510(a). A person may only have one driver's license, 74 Pa. C.S. § 1501(c).

⁸ 75 Pa. C.S. § 1510(a).

⁹ 75 Pa. C.S. § 1515(a).

¹⁰ 75 Pa. C.S. § 1501(c).

¹¹ 66 Pa. C.S. § 1571(a).

at the address listed on one's driver's license,¹² and an out-of-date address on one's driver's license is not a valid basis for claiming lack of notice of motor vehicle violations¹³ or driver's license suspensions sent to the address on the driver's license.¹⁴ Therefore, Pennsylvania motor vehicle law considers the address listed on a driver's license to be that person's legal residence. Further, the Commission has proposed permitting utilities to utilize "one government issued photo identification" as proof of identity of occupants. Permitting the use of a driver's license and/or PennDOT issued Identification Card is thus consistent with this allowance and should be approved as part of this rulemaking process.

In addition, a utility's own records sometimes reveal that the applicant for service at a particular location has in fact resided there during the time that the arrearage accrued. For example, for PGW, if a LIHEAP or CRP application lists the applicant as a resident at the subject location, this is reasonable evidence that the applicant resided there. Both applications are submitted with the specific promise that the information is true and correct. There are other types of customer record data that have similar indices of reliability including Payment Agreements, Medical Certifications, Customer Contacts and prior Application for service, PUC informal and formal complaints, bankruptcy petition information, and other correspondence in the utility's file such as letters from a customer or a customer's attorney indicating the persons living at the property. All have a high level of reliability as the address information is provided voluntarily in context where it is to the person's benefit to be accurate about his/her residence address.

¹² *Ball v. Barber*, 423 Pa. Super. 358, 621 A.2d 156 (1993).

¹³ *Redebach v. Com. Dept. of Transportation*, 817 A.2d 1230 (Pa. Cmwlth. 2003).

¹⁴ *Maxion v. Com. Dept. of Transportation, et seq.*, 728 A.2d 442 (Pa. Cmwlth. 1999).

Chapter 14 gives the Commission the discretion to approve these methods as part of this regulatory process. 66 Pa. C.S. § 1407(e). These methods are common to all utilities and should be approved here, without requiring further utility filings. Requiring each utility to file tariff revisions specifically requesting approval to use these methods at some later date would be burdensome and unnecessarily delays resolution of this issue.

Suggested Regulatory Language:

(b) A public utility may ~~not~~ require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant.

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years except for instances of fraud and theft at the property during the time the applicant resided at the property.

(2) 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, a Pennsylvania Department of Transportation issued driver's license or identification card, a LIHEAP application, a CAP application, a Payment Agreement, a Medical Certification, public utility customer contacts, a prior application for service, an Informal Complaint, a Formal Complaint, bankruptcy petition information, and other correspondence in the public utility's file such as letters from a customer or a customer's attorney indicating the persons living at the property or other methods approved as valid by the Commission.

(3) Public utilities shall include in their tariffs filed with the Commission the procedures and standards other methods proposed to be approved as valid under 56.35(b)(2) ~~used~~ to determine the applicant's liability for any outstanding balance. Any outstanding residential account with the public utility may be amortized in accordance with § 56.191 (relating to the general rule).

(xv) 56.36

Suggested Revisions: The regulations should allow the use of a credit scoring methodology of one of the three major national credit reporting agencies (“CRA”), Transunion, Equifax or Experian. The determination of credit status and responsibility for unpaid balances has been clearly set forth in Chapter 14 and should not be limited by these regulations. Further, denial of credit notification has been provided for in federal law and this federal law preempts the notification requirements set forth in the RO.

Justification: In the United States, there are only three major national CRAs. The Federal Trade Commission has oversight of these CRAs and the Fair Credit Reporting Act (“FCRA”) allows consumers to obtain a free credit report from each of these CRAs annually. Under the FCRA, CRAs are not required to disclose to a consumer any information “concerning credit scores or any other risk scores or predictors relating to the consumer.” 15 U.S.C. § 1681g(a)(1)(B). Except for specific areas, the FCRA does not exempt compliance with state laws that are not inconsistent with the FCRA. 15 U.S.C. § 1681t(a). A PUC requirement that a CRA reveal to a public utility its scoring methodologies for disclosure to consumers is inconsistent with the FCRA. Such a requirement would strip PGW of the ability to utilize credit reports as authorized in Chapter 14, since no CRA would agree to reveal its proprietary scoring methodologies to PGW, particularly for public disclosure in its tariff. Given that the three major national CRAs are highly regulated by federal law and a federal agency, and that Chapter 14 specifically authorizes the use of a “generally accepted credit scoring methodology” and “commercially available consumer credit reporting service”, the regulations must allow

the use of a generally accepted credit scoring methodology of one of these CRAs in accordance with the plain language of Chapter 14. 66 Pa. C.S. §§ 1404(a)(2) and 1407(e). In fact, Chapter 14 provides that the creditworthiness of a customer or applicant must be established “to the satisfaction of the public utility,” as opposed to a Commission reviewed and approved tariff. 66 Pa. C.S. § 1404(a)(2).

Further, the FCRA provides very specific requirements on users of credit reports that take adverse action based on a report. 15 U.S.C. § 1681m. For example, the user must provide oral, or written or electronic notice of the adverse action and provide, orally, or in writing or electronically, the name, address and telephone number of the CRA used and the ability of the consumer to obtain a free credit report from such CRA and to dispute with the CRA the accuracy or completeness of information in the report furnished by the CRA. 15 U.S.C. § 1681m(a). Under the FCRA, “[n]o requirement or prohibition may be imposed under the laws of any State . . . with respect to subject matter regulated under . . . subsections (a) and (b) of section 615 [15 USCS § 1681m], relating to the duties of a person who takes any adverse action with respect to a consumer.” 15 U.S.C. § 1681t(b)(1)(c). Accordingly, the FCRA expressly preempts the Commission from imposing notice requirements or prohibitions on public utilities taking adverse action on the basis of information contained in a consumer credit report.

52 Pa. Code 56.35(b)(2) already provides for how a determination of credit status of an applicant may be determined, and 56.41 as revised herein provides for a determination of credit status of a customer, in accordance with Chapter 14.

Finally, the public utility should have broad discretion in its determination that a third party request for service is valid, in order to prevent identity theft and fraud.

Suggested Regulatory Language:

~~(a) Public utilities shall include in their tariffs filed with the Commission their credit and application procedures along with their credit scoring methodology and standards.~~

(b) A public utility shall establish ~~written procedures for determining the credit status of an applicant and for determining responsibility for unpaid balances in accordance with § 56.35 (relating to payment of outstanding balance).~~ The written procedures must specify that there are separate procedures and standards for determining the credit status of victims with a protection from abuse order. A public utility employee processing applications or determining the credit status of applicants victims with a protection from abuse order shall be supplied with or have ready access to a copy of these written procedures of the public utility. ~~A and a~~ copy of these procedures shall be maintained on file in each of the business offices of the public utility and made available, upon request, for inspection by members of the public and the Commission and be included on the public utility's web site.

~~(1) *Reasons for denial of credit.* If credit is denied, the public utility shall inform the customer or applicant orally and in writing of the reasons for the denial within 3 business days of the denial. The written denial statement must include the applicant or customer's credit score, the provider of the credit score, information on the customer or applicant's ability to challenge the accuracy of the credit score, and how to contact the credit score provider. If the public utility is requiring payment of an unpaid balance in accordance with § 56.35, the public utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third party guarantor in accordance with § 56.33 (relating to third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a Protection from Abuse Order that more lenient credit and liability standards may be available.~~

(2) *Informing applicants of procedures.* Public utility personnel shall fully explain the credit and deposit procedures of the public utility to each customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish public utility service, on behalf of an applicant, will not be honored until the public utility has verified determined, to the satisfaction of the utility, the legitimacy of the request. Verification Such determination may be accomplished by any means deemed appropriate by by

the utility to confirm that the applicant consents to service being established ~~or~~ and that the third party is authorized to act on the applicant's behalf.

(xvi) 56.37

Suggested Revision and Justification: Chapter 14 allows 7 days for reconnection for proper terminations which required street or sidewalk digging. 66 Pa. C.S. § 1407(b)(5).

Suggested Regulatory Language:

Once an applicant's application for service is accepted by the public utility, the public utility shall provide service within 3 days or, in the event of a termination that required street or sidewalk digging within 7 days, provided that the applicant has met all requirements. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3/7, as relevant, business days commencing the date after the application is made, the public utility shall provide service pending completion of the investigation.

(xvii) 56.38

Suggested Revision and Justification: Deposits required by PGW under 66 Pa. C.S. § 1404(f) must be paid in full at the time PGW determines a deposit is required. Chapter 14 does not allow 90 days for new PGW customers or certain applicants (i.e., unable to establish creditworthiness) to pay a deposit. 66 Pa. C.S. §§ 1404(a)(1), (e), (h). The proposed Section 56.38 should be amended to make clear its application.

Suggested Regulatory Language:

An applicant required to pay a deposit under § 56.32(a)(1) may elect to pay any required deposits in three installments: 50% payable upon the determination by the public utility that the deposit is required, 25% payable 30 days after the determination, and 25% payable 60 days after the determination. A public utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.

(xviii) 56.41

Suggested Revision and Justification: Under Chapter 14, a utility may require an existing customer to provide a deposit if the customer is unable to establish creditworthiness. 66 Pa. C.S. § 1404(a)(2).

Suggested Regulatory Language:

(2) Creditworthiness. Whenever a customer is unable to establish creditworthiness to the satisfaction of the public utility through the use of a commercially available consumer credit reporting service.

(xix) 56.42

Suggested Revision: Under Chapter 14 only certain applicants have up to 90 days to pay a deposit – this regulation applies only to customers.

Justification: Chapter 14 authorizes applicants who were terminated for a reason set forth in 1404(a)(1) up to 90 days to pay the deposit. 66 Pa. C.S. § 1404(h). The plain language of Chapter 14 allows only certain applicants to pay in installments upon reconnection, not “customers.” As proposed Section 56.42 enables customers to pay a deposit in installments, it is in contravention of the plain language of Chapter 14 and must be deleted.

Suggested Regulatory Language:

~~The due date for payment of a customer deposit other than a deposit required as a condition for the reconnection of service under § 56.41 (2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due. A customer may elect to pay a required deposit in three installments: 50% payable upon the determination by the public utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A customer paying a deposit based on the grounds in § 56.41(2) may be required to pay 50% as part of the conditions for restoration, with 25% payable 60 days later and 25% payable 90 days later.~~

(xx) 56.51 and 52

Suggested Revision and Justification: Deposits for requirements for applicants have already been addressed in 56.32 and, therefore, do not need to be restated as set forth in the proposed Section 56.51. This proposed regulation should address only the amount of deposits for customers.

Further, the Commission does not have any proposed regulatory language for Section 56.52.

Suggested Regulatory Language:

Amount of cash deposit for customers.

- (a) ~~*Applicants.* A public utility may require a cash deposit equal to 1/6 of the applicant's estimated annual bill under the following circumstances:~~
- ~~—(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:~~
 - ~~—(i) Nonpayment of an undisputed delinquent account.~~
 - ~~—(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.~~
 - ~~—(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.~~
 - ~~—(iv) Unauthorized use of the utility service delivered on or about the affected dwelling.~~
 - ~~—(v) Failure to comply with the material terms of a settlement or payment agreement.~~
 - ~~—(vi) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.~~
 - ~~—(vii) Tampering with meters, including, but not limited to, bypassing a meter or removal of an automatic meter reading device or other public utility equipment.~~
 - ~~—(viii) Violating tariff provisions on file with the Commission to endanger the safety of a person or the integrity of the delivery system of the public utility.~~
 - ~~—(2) An 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 a material term or condition of a settlement or payment agreement.~~

~~—(b) *City natural gas operation.* A city natural gas distribution operation may require a cash deposit from an applicant with a household income no greater than 300% of the Federal poverty level in an amount not in excess of 1/12 of the applicant's estimated annual bill. A city natural gas operation may require a cash deposit from an applicant with a household income level above 300% of the Federal poverty level in the amount of 1/6 of the applicant's estimated annual bill. An estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months, or, if unavailable, a similar dwelling in close proximity.~~

~~—(e) *Existing customers.* For an existing a customer, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of water utilities and 2 months in the case of gas and electric utilities, with a minimum of \$5.~~

~~(d**b**) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the customer or the public utility whenever the character or degree of the usage of the customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.~~

(xxi) 56.82

Suggested Revision: The regulations should not limit the specific Chapter 14 sanction of Friday terminations.

Justification: Chapter 14 specifically authorizes Friday service terminations. 66 Pa. C.S. § 1406(d). The only Chapter 14 limitations on Friday terminations are that the utility must be able to “accept payment to restore service on the following day” and “restore service consistent with section 1407.” *Id.* Despite this clear statutory language, the proposed Section 56.82 creates a new burden - that the public utility can only terminate on Friday if it “has offices open on the following day during regular business hours.” Chapter 14 does not require that the utility have “offices” open “during regular

business hours" as a precondition to a Friday termination. In addition to requiring that utility offices remain open for a full day of business, the proposed language also seems to require that the utility remain open to provide full access to customers. These proposed requirements exceed the requirements of Chapter 14 and place the utility in the position of choosing between incurring the costs to open offices for a full business day or the costs of continuing service to customers for an additional period of time who should rightfully be noticed for termination. Chapter 14 has made clear that utilities should not be required by the Commission to make this choice as long as the utility can accept payment on a Saturday and restore service consistent with Chapter 14.

PGW can comply with Chapter 14. A PGW District Office, and PGW's call center, are both open on Saturdays from 9 am to 1 pm, an adequate enough time to handle these issues. PGW notices will reflect these hours. Thus, the Commission's proposal to add additional requirements to the statutory right of Friday terminations is unnecessary, clearly contravenes Chapter 14 and must be deleted.

Suggested Regulatory Language:

A public utility may terminate service for the reasons in § 56.81 (relating 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,~~ can accept payment to restore service on the following day and can restore service, consistent with § 56.191 (relating to the general rule).

(xxii) 56.83

Act 201 supersedes inconsistent requirements imposed by law on public utilities, including those imposed by this Section 56.83. PGW addresses subsections 4 and 8 in more detail below. PGW also asserts that the following subsections are inconsistent with

Chapter 14: (1), (2), (3), (5), (7), (8), (9), (10) and (11). Specifically, Chapter 14 allows termination for non-payment of an undisputed delinquent account (regardless of the amount, type of service or charges, age of the debt), failure to comply with the terms of a payment agreement, failure to pay a full deposit and failure to permit access to meters. 66 Pa. C.S. 1406(a). The above subsections are inconsistent with these Chapter 14 rights.

(xxiii) 56.83(4) and (8)

Suggested Revision: With respect to subsection (4), only customers are subject to service termination. With respect to subsection (8), a utility is no longer required to establish responsibility for a bill in a court or related proceeding.

Justification: Chapter 14 allows utilities to hold consumers responsible for bills incurred during the time of their occupancy of a premise. 66 Pa. C.S. §§ 1403 (definition of applicant and customer) and 1407(d). The utility may establish applicant occupancy under Chapter 14 by use of a mortgage, deed, lease, credit report and other methods approved by the Commission. 66 Pa. C.S. § 1407(e). The Commission's proposal for subsection (8) is confusing and ignores Chapter 14 because it continues to include language requiring utilities to establish occupancy through a court, district justice or administrative agency determination. This requirement is from the previous version of the regulations and was specifically considered and superseded by Chapter 14. The statute makes clear how occupancy is to be determined and that a court determination is not required. 66 Pa. C.S. § 1407(d) (i.e., “[a] public utility may also require the payment of an outstanding balance . . . if the applicant resided at the property for which service is requested during the time the outstanding balance accrued . . .”). In allowing the utility to establish occupancy outside of a judicial proceeding, the legislature intended to give

the utilities an easier, more reasonable, and less expensive way to ensure that a person who directly benefited from gas usage pay for that usage. Making it easier to combat the “name game” was one of the primary goals of Section 1407(e). Under the prior law utilities could not – without a court or PUC order – assign a prior arrearage to an applicant even when it was clear that the applicant had been living at the premises during the time that the arrearage had accrued.

This is important because to inhibit, in any way, the ability to respond to “name game” fraud imposes costs on other paying customers - who will be forced to pay for service that is required to be given away because the utility cannot afford to or must go through an expensive and time consuming process to discontinue such service. Continuing the prior obligation that the utility seek a judicial determination of occupancy ignores the new statutory direction given to the Commission and disserves other customers, who did not directly benefit from gas usage but must pay for those that did. For these reasons, the Commission should redo its first attempt and delete the Commission's prior requirement that utilities must obtain authority from a court, district justice or administrative agency to hold a ratepayer responsible for a utility bill.

Regarding the establishment of occupancy, two sections of the proposed regulations address apply. The first is Section 56.32(c) which permits the establishment of occupancy prior to providing public utility service. The second is Section 52.35(b) which applies when determining responsibility for payment of an outstanding balance. In subsections (4) and (8) of the proposed Section 56.83, the Commission only identifies the establishment of occupancy referenced in 56.35. As both sections may be used to establish occupancy, both sections should be referenced in the proposed sections of

56.83. Further, as discussed under Section 56.35 above, the Commission should now recognize additional basis for proving prior occupancy of customers.

Suggested Regulatory Language:

(4) Nonpayment of bills for delinquent accounts of the prior customer at the same address unless the public utility has, under § 56.35 (relating to payment of outstanding balance), or under 56.32(c) (relating to security and cash deposits), established that the ~~applicant or~~ customer was an occupant at the same address during the time period the delinquent amount accrued.

(8) Nonpayment for residential service already furnished in the names of persons other than the customer unless ~~a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished or~~ unless the public utility has, under § 56.35 (relating to payment of outstanding balance) or under 56.32(c) (relating to security and cash deposits), established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued, or established that the customer was an occupant at the same address during the time period the delinquent amount accrued through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service, a Pennsylvania Department of Transportation issued driver's license or identification card, a LIHEAP application, a CAP application, a Payment Agreement, a Medical Certification, public utility customer contacts, a prior application for service, an Informal Complaint, a Formal Complaint, bankruptcy petition information, and other correspondence in the public utility's file such as letters from a customer or a customer's attorney indicating the persons living at the property or other methods approved as valid by the Commission. This paragraph does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

(xxiv) 56.91(b)(2) and (17)

Suggested Revision: A termination notice should be simple, so that the customer understands exactly what amount of money the utility will require in order for the customer to avoid termination.

Justification: Proposed Section 56.91(b)(2) requires an itemized statement of accounts currently due. Itemizing all a customer's prior accounts, along with the current account, could add a significant level of detail to the termination notice which would be

confusing for the customers. The purpose of the termination notice is to inform the customer of the exact amount the company will accept to avoid termination. This information needs to be clear, concise and stated in an understandable format. As an example, PGW's current termination notice indicates the exact amount the customer must pay to avoid termination, and also includes language indicating that if service is shut off the consumer may also be required to pay for all gas service provided by the company. Such language provides the customer with notice that they continue to be responsible for all accounts they had with the company. Adding itemized details to the termination notice – which has an urgent and focused purpose – will only result in diminishing the value of the notice for customers. For this reason, PGW recommends that the Commission not require utilities to add additional account information on the termination notice.

Proposed Section 56.91(b)(17) requires the termination notice to add information in other languages "when census data indicates a significant population using that language resides in the public utility's service territory." This is an unnecessary requirement for several reasons. First, the 2000 census indicated that 17.7% of Philadelphia residents speak a language other than English at home. *See U.S. Census Bureau website.* According to the U.S. Census Bureau website, in general "[m]ost people who reported speaking a language other than English at home also speak English." http://quickfacts.census.gov/qfd/meta/long_POP815200.htm It is unnecessary and burdensome to require a utility serving a large urban population, like PGW, to provide various languages on termination notices when the bulk of its customers likely speak English. Second, PGW already has procedures in place to address foreign language

speaking customers. When a customer who calls the phone number listed on the termination notice or visits a PGW district office does not speak English, the PGW representative will immediately contact a foreign language service company PGW has retained for this purpose. An appropriate interpreter will be identified and will translate a conversation with PGW for the customer.

Third, the regulations do not provide any guidance as to what will rise to the level of a “significant population” of residents using another language. For example, is 1% of the population in a service territory speaking French enough of a population to require the provision of a notice in French or is such notice only necessary when 80% of the population speaks French? Depending on how this is answered and given the diverse and constantly changing population of Philadelphia, PGW’s notices could increase dramatically in size - potentially creating more confusion for customers and significant and unnecessary expense for PGW and its customers. Instead of implementing an inflexible and unclear regulatory requirement, the Commission should permit utilities the flexibility to address this issue as appropriate. The utilities have a strong incentive to effectively communicate with their customers and obtain bill payments. As evidence of this incentive, as PGW explained above it has already implemented a protocol to address the issue the Commission seeks to address in this proposal. For these reasons, it is unnecessary for the Commission to mandate the requirements set forth in Section 56.91(b)(17).

Suggested Regulatory Language:

- (b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:
 - (2) An ~~itemized~~ statement of ~~accounts currently~~ the amount due to avoid termination, including any required deposit.

(17) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. ~~Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility's service territory.~~

(xxv) 56.93

Suggested Revision: This section should be revised consistent with Chapter 14.

Justification: For noticed terminations, Chapter 14 requires an attempt to make contact with a customer or occupant either in person or by phone at least three days prior to the scheduled termination. 66 Pa. C.S. § 1406(b)(1)(ii). During the winter, unless personal contact has been made with a customer or responsible adult, Chapter 14 requires a utility to post a notice of proposed termination within 48 hours of the scheduled date of termination. 66 Pa. C.S. § 1406(b)(1)(iii). Finally, at the time service is terminated Chapter 14 requires an attempt to make personal contact with the customer or responsible adult. 66 Pa. C.S. § 1406(b)(1)(iv). Chapter 14 does not add a requirement of “conspicuousness” notice posting or of attempting to contact a “responsible adult occupant.” In addition, Chapter 14 specifically authorizes termination even if there has not been personal contact. 66 Pa. C.S. § 1406(b)(1)(iv). Any additional requirements would make it far more difficult and costly to terminate a non-paying customer, to the point that the additional burdens could effectively reinstate a de facto winter shut-off moratorium. Re-establishing a “virtual” winter termination moratorium like that which existed prior to the passage of Chapter 14 – a moratorium that protected high income deadbeats and utility bill scammers – would be

tremendously disconcerting. The Commission should replace its first attempt with the exact language of Section 1406(b)(1)(ii), (iii) and (iv).

Suggested Regulatory Language:

(a) Except when authorized by §§ 56.71, 56.72 or 56.98 (relating to interruption of service; discontinuation of service; and immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without attempting to contact the customer or ~~responsible adult~~ occupant, either in person or by telephone, to provide notice of the proposed termination at least 3 days prior to the scheduled termination. If personal contact by one method is not possible attempted, the public utility is obligated to attempt the other method.

(b) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 7 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m and at least 2 hours apart.

(c) ~~If contact is attempted in person by a home visit, only one attempt is required, but the public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant.~~ During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, the public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location.

(d) After complying with paragraphs (b) and (c), the public utility shall attempt to make personal contact with the customer or responsible adult at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.

(xxvi) 56.94(1) and (3)

Suggested Revision and Justification: This section should provide that, in accordance with 66 Pa. C.S. § 1406(a)(1), customers maintain responsibility for undisputed bills and termination for undisputed bills should not be prohibited or delayed

in event of a dispute or complaint. Further, the section on dishonorable payment should include the word “or”, consistent with Chapter 14, to clarify that payment by either a bad check or an invalid credit card will not stop termination. 66 Pa. C.S. § 1406 (h).

Suggested Regulatory Language:

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending for the termination amount in question or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(3) *Dishonorable tender of payment after receiving termination notice.* After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted telephone contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when:

- (i) A customer tenders payment which is subsequently dishonored under 13 Pa. C.S. § 3502 (relating to dishonor); or
- (ii) A customer tenders payment with an access device, as defined in 18 Pa. C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

(xxvii) 56.95

Suggested Revision: Given the addition of correct winter termination language in 56.93, above, this section is unnecessary.

(xxviii) 56.97(a)(2)(iii) and (iv)

Suggested Revision: In accordance with Chapter 14, the regulations must allow a public utility to terminate for failure to comply with a payment agreement. Further, if a customer has broken a payment agreement or CAP agreement, the customer is not entitled to another utility agreement or to re-enroll in CAP to avoid termination.

Justification: Proposed Section 56.97(a)(2)(iii) requires the utility to explain to customers that they can avoid termination by "[p]aying what is past-due on the most recent previous company negotiated or Commission payment arrangement." In actuality, the Commission is requiring the utility to accept a payment to cure material default on a payment agreement to stop a termination. This violates the terms of Chapter 14 in two important ways. First, Chapter 14 allows a public utility to terminate a customer for failure to comply with the material terms of a payment agreement. 66 Pa. C.S. §§ 1405(f) and 1406(a). Further, once the utility has provided the necessary termination notices, the Commission may not require the utility to take any additional actions prior to termination. 66 Pa. C.S. § 1406(b)(2). A customer who fails to make agreed upon payments is clearly in breach of the material terms of a payment agreement and the utility has the legal right to terminate that customer without qualification and without additional requirements imposed by the Commission. Chapter 14 does not require the utility to stop the termination because the customer has made a payment to cure a breach and Chapter 14 does not permit the Commission to place additional obligations on the utility before it proceeds to termination.

Second, Chapter 14 specifically addresses the issue of whether a customer is entitled to a second or subsequent utility issued payment agreement by leaving that to the discretion of the utility. 66 Pa. C.S. § 1405(d). Section 56.97(a)(2)(iii) proposes to take away this discretion by requiring the utility to accept a cure payment which, in effect, is the establishment of a second or subsequent utility payment agreement. As the Commission is without statutory authority to require a utility to allow the payment of past-due payment agreement amounts to prevent a termination, this proposed requirement

must be removed. Once a payment agreement has been broken, the customer immediately owes the entire undisputed amount and discretion must be left to the utility to address how to proceed on a case-by-case basis, as intended by Chapter 14. Again, eliminating the ability of a recidivist non-paying customer to continually fail to live up to his/her obligations and then avoid the full consequences by simply making the missed payment(s) was one of the practices that Chapter 14 was designed to eliminate.

Proposed Section 56.97(a)(2)(ii) and (iv) require utility employees to explain that entering a utility payment agreement or enrolling in a CAP will stop the termination. For the reasons discussed above, such requirements violate Chapter 14; a CAP agreement is a utility payment agreement and the Commission lacks statutory authority to place additional burdens on the ability of the utility to terminate service. In addition, customer assistance program rates must be timely paid and shall not be the subject of payment agreements negotiated or approved by the Commission. 66 Pa. C.S. § 1405(c). Therefore, once a customer has broken a payment agreement or CAP agreement, the customer should not be entitled to avoid termination with another agreement.

Suggested Regulatory Language:

(ii) Entering an informal dispute settlement agreement or payment agreement, if eligible.

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

(iv) Enrolling in the public utility's customer assistance program or universal service program, if the public utility has these programs and the customer has not breached a customer assistance program or universal service program agreement.

(xxix) 56.100(c) and (d)

Suggested Revision: The regulations should clarify that PGW may terminate non-heat related service in the winter and should allow heat related termination in accordance with Chapter 14. Subsection (d) should be linked to PGW's winter termination procedures.

Justification: As the Commission is aware, Chapter 14 did not modify PGW's right to terminate non-heat related service in the winter period and the regulation specifically addressing PGW should clarify this right. In addition, Chapter 14 authorized PGW to terminate certain heat related service customers in the winter period, which runs from December 1 through March 31. 66 Pa. C.S. § 1406(e)(2). The mention of January 1 in 66 Pa. C.S. § 1406(e)(2) is related to the evaluation of the charges paid by the customer, not to the time period when PGW's additional termination right is permitted. *Id.* Finally, notification to the Commission under 66 Pa. C.S. § 1406(e)(3) is required only in event of a termination notice issued for winter termination under § 1406(e)(2).

Suggested Regulatory Language:

(c) *City natural gas distribution utility.* In addition to the winter termination authority in subsection (b), a city natural gas distribution operation may terminate service after ~~January 1~~ November 30 and before April 1 to a non-heat related customer, and to a heat related customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of charges for each of the prior 2 months unless the customer has done one of the following:

- (1) Proven in accordance with Commission rules, that the household contains one or more persons who are 65 years of age or over.
- (2) Proven in accordance with Commission rules, that the household contains one or more persons 12 years of age or younger.
- (3) Obtained a medical certification, in accordance with Commission rules.

(4) Paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last 2 months.

(d) *Notice to the Commission.* At the time that the notice of termination required by § 56.91 (relating to general notice provisions and contents of termination notice) is provided to the customer for termination under 56.100(c), the city natural gas distribution operation shall provide notice to the Commission. The Commission will not stay the termination of service unless the Commission finds that the customer meets the criteria in subsection (c)(1), (2), (3) or (4).

(xxx) 56.100(e)

Suggested Revision: The regulations should specifically allow that if a utility does not have household income and size information in its records, it may provide notice of termination to the customer. Also, in light of the fact that household make-up affects PGW's winter termination rights, this factor should be part of the regulation. Further, if the customer does not contact the utility with relevant income and size information the utility should have the authority to terminate the service.

Justification: Proposed Section 56.100(e) requires utilities to determine whether an account cannot be terminated during the winter. This section does not address the situation where a utility does not have account information in its records. PGW, for example, does not have household income and size information in its records for all of its customers for various reasons, such as the customer has refused to provide this information or has not previously contacted the utility in response to a termination notice. In the absence of information indicating that the customer is protected from winter termination, the regulation creates unnecessary rights and obligations of the parties in such a situation. Prohibiting utilities from terminating service in the winter for accounts lacking household information is inconsistent with Section 1406(e) which authorizes

certain winter terminations and does not require that the utility determine with certainty the eligibility of a customer for termination. In the *Second Implementation Order* the Commission affirmatively found that Chapter 14 does not prohibit “the issuance of a winter termination notice to a delinquent account for which the Company doesn’t know household size and income. However . . . a utility must not complete the process and physically terminate service to a delinquent account . . . unless it makes a diligent, good faith attempt to verify that the household [qualifies for termination].” *Re: Chapter 14 Implementation Second Implementation order*, M-00041802-F0002 Opinion and Order at 10. Indeed, the PUC has already determined that requiring PGW to “verify with certainty the income level of customers prior to issuing a winter termination is neither practical nor required by Chapter 14. . . . It would frustrate legislative intent to interpret § 1406 to prohibit the issuance of a winter termination notice in all situations where the utility does not have income information for a customer.” *Re: Chapter 14 Implementation*, M-00041802-F0002 Declaratory Order at 10. Once the notice has been issued, if there is no updated information on file, it is reasonable to provide that the customer should bear the responsibility to provide the utility with household information. If the customer fails to provide the information, the utility should have authority to proceed with termination.

The rule as proposed is not only inconsistent with Chapter 14 but creates an incentive for customers to refuse to provide this information to the utility and could stymie utilities from sending any termination notices. Oddly, there is no requirement in the regulation that customers provide this information. In fact, customers would have no incentive to reveal household information if it indicates that they are eligible for winter shut off. Therefore, PGW requests that this section be revised to be clear that the utility’s

lack of information cannot be used to prohibit the utility from proceeding with a winter termination and the customer should bear the responsibility to respond to the shut off notice and contact the utility to address the notice and ineligibility for termination.

In addition, PGW's right to shut off certain customers in the winter is affected by household make-up. 66 Pa. C.S. § 1406(e)(2)(i) and (ii). Therefore, this factor should be part of the regulations.

Suggested Regulatory Language:

(e) *Identification of accounts protected during the winter.* Public utilities shall determine the eligibility of an account for termination during the period of December 1 through March 31 under the criteria in subsections (b) and (c) before terminating service. Public utilities are to use household income, and size and make-up information they have on record provided by customers to identify accounts that are not to be terminated during the period of December 1 through March 31. If the public utility does not have updated household income, size and household make-up information on record, the public utility may assume that the account is eligible for termination in accordance with this section 56.100 during the period of December 1 through March 31. Public utilities are expected to solicit from customers, who contact the utility in response to notices of termination, household size and income information and to use this information to determine eligibility for termination. Customers are responsible for contacting the utility upon receipt of a shut office notice and providing household income, size and make-up information.

(xxxi) 56.100(f)

Suggested Revision and Justification: Consistent with Section 56.72(2), a utility should have permission to discontinue service to a landlord ratepayer account when a landlord requests discontinuance and the conditions set forth in § 56.72(2) have been met.

Suggested Regulatory Language:

(f) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a public utility may not terminate service to a premise when the account is in the name of a landlord ratepayer as defined in 66 Pa. C.S. § 1521 (relating to definitions) except for the grounds in § 56.72(2) or 56.98.

(xxxii) 56.100(i)

Suggested Revision: Utilities should not be required to make a payment agreement with a consumer who is not entitled to one.

Justification: Under Chapter 14, a public utility does not have to reach a payment agreement with all terminated consumers for restoration of service. Instead, the utility must only comply with 66 Pa. C.S. § 1407(c)(2). Accordingly, the regulations may not require that the utility make a good faith attempt to reach a payment agreement with a person who is no longer statutorily authorized to obtain a payment agreement. Such a requirement voids one of the purposes of Chapter 14, ensuring that those who can make payment do so.

Suggested Regulatory Language:

(i) *Reporting of survey results.* Electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall file a brief report outlining their pre-December 1 survey and personal contact results with the Bureau of Consumer Services on or before December 15 of each year. The filing must categorize the accounts by the first three digits of the customer's postal code. Each utility shall update the survey and report the results to the Bureau of Consumer Services on January 15 and February 15 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. The utility shall attempt to contact by telephone, if available, a responsible occupant at each residence in a ~~good faith attempt to reach an agreement regarding an effort to obtain~~ payment of any arrearages and necessary for restoration of service.

(xxxiii) 56.100(j)

Suggested Revision and Justification: The Commission does not have the statutory authority to extend the scope of 66 Pa. C.S. § 1508 in the manner proposed by this regulation. 66 Pa. C.S. § 1508 applies only to accidents in or about or in connection with the “operation of” a utility’s “service and facilities.” An incident which occurs

when utility service is off has not happened in connection with the operation of a utility's service and facilities. In fact, the utility service may have been off for a number of months or even *years*, and a lack of gas service may have been irrelevant to the incident.

While PGW understands the Commission's interest in investigating whether there is any connection between a termination of service and a death caused by household fires, hypothermia or carbon monoxide poisoning deaths, the proposed regulations far expands the scope of this type of factual inquiry. Rather, it requires the utility to set forth "initial findings as to the cause of the incident." There are several substantial problems with this proposal which require the Commission to revise it.

The first relates to what knowledge the utility could have about a death. As the regulation is limited to instances where the utility had shut service off, utility service should not have been the cause of the incident. Rather, the death would have been caused by the fire, hypothermia or carbon monoxide poisoning identified in the regulation. These are not areas within the expertise of the utility and, therefore, the utility will not have the ability to explain the cause of a death. The utility's knowledge would be limited to the facts regarding the termination of service and, as such, this is the only information that the utility should be required to provide to the Commission.

The second issue is the potential distribution and use of the information in violation of the utility's due process rights. While the regulation does attempt to protect the confidentiality of this information, there is very little precedent interpreting Pennsylvania's recently expanded Right to Know Law, which is intended to make more – not less – information available to the public. By requiring utilities to set forth a determination of causation without any real guarantee about the protection of this

information, this regulation rises to the level of violation of law. Information provided to the Commission or Bureau may be demanded from the PUC and utilized by third parties to assert that the utility has conceded liability, without the utility having had the opportunity to fully investigate an incident, and without the benefit of a final, litigated decision – all of which violate the utility’s due process rights. For these reasons, a utility should not be obligated to provide a statement of the “circumstances involved” in a death or “findings” as to the cause of an incident and the source of that information. At most, they should be requested to pass along any reports that come into their possession that sets forth an actual cause for the incident.

Finally, stating that the Bureau or Commission may request additional information is unnecessary verbiage. The Commission already has the statutory authority to request this type of information from a utility on a case-by-case basis under 66 Pa. C.S. § 501 and the utility has been required by the Public Utility Code to provide such information. Adding this language in the context of this regulation is unnecessary.

Suggested Regulatory Language:

(j) *Reporting of deaths at locations where public utility service was previously terminated.* Throughout the year, public utilities shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning that resulted in a death and that the utility service was off at the time of the incident. Within 1 business day of becoming aware of an incident, the public utility shall submit a telephone or electronic report to the Director of the Bureau of Consumer Services including, if available, the name, address and account number of the last customer of record, and the date of the incident, a brief statement of the circumstances involved, and, if applicable, the initial findings as to the cause of the incident and the source of that information. ~~The Bureau or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this subsection will be treated in accordance with 66 Pa.C.S. § 1508 (relating to the reports of accidents) and may not be open for public inspection~~

~~except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.~~

(xxxiv) 56.101

Suggested Revision: The regulations should allow limited notice when a consumer has failed to appeal from a formal determination.

Justification: When a consumer has been provided with a utility company report or informal or formal complaint decision ruling in favor of the utility, the consumer should have an obligation to either timely appeal from such determination or comply with it. If the consumer accepts the determination, as evidenced by a failure to appeal from the decision, the original grounds for termination should be revived. Otherwise, consumers could abuse the dispute and complaint process to fraudulently delay termination and require utilities to undertake an unnecessarily costly and duplicative process to proceed with termination of the customer's service.

Suggested Regulatory Language:

§ 56.101. Limited notice upon noncompliance with report or order
(a) The original grounds for terminations may be revived provided a 10-day termination notice was previously issued to the customer. The original grounds for termination shall be revived and utilities may proceed with termination as provided in this Chapter upon the failure to timely appeal from or comply with any of the following:

(1) A utility company report required by § 56.151 (relating to the general rule).

(2) An informal complaint report required by § 56.161 (relating to general rule; time for filing).

(3) An order from a formal complaint, under § 56.173 or § 56.174 (relating to formal complaint procedures other than appeals from mediation decisions of the Bureau of Consumer Services; and formal complaint procedures for appeals from mediation decisions of the Bureau of Consumer Services).

(xxxv) 56.111 and 56.113(5)

Suggested Revision and Justification: While Chapter 14 does require a utility to refrain from terminating service when a licensed physician or nurse practitioner has certified that the customer or member of household is seriously ill, a medical certificate is only required when a licensed physician provides a letter verifying the medical condition. 66 Pa. C.S. § 1406(f). Despite this, Section 56.111 proposes to permit a letter of certification from either the licensed physician or a nurse practitioner. This is an impermissible expansion of the statute and unnecessary. PGW stays a termination upon an initial notification (either orally or in writing) from either a licensed physician or nurse practitioner. Requiring the utility to accept a certification from either a physician or a nurse practitioner adds another layer of complexity. First, it is sensible to assume that a physician is the appropriate medical professional to verify the condition since she/he will have had the required medical training to make such determination. Second, nurse practitioners are not physicians and in Pennsylvania they must work in collaboration with and under a physician's direct supervision. 49 Pa. Code § 18.21. Therefore, it is not appropriate to require public utilities to rely on the written diagnosis of a nurse practitioner in lieu of a supervising physician. Finally, verifying that a certification is signed by a properly licensed nurse practitioner places an additional burden on utilities to become familiar with the nurse practitioner rules of certification and registration. These are unnecessary burdens and are beyond those required by Chapter 14. Therefore, requiring utilities to accept a nurse practitioner's written certification of a medical condition should be removed.

Suggested Regulatory Language:

56.111. General provision.

A public utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to the general rule) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician ~~or nurse practitioner~~ verifying the condition and promptly forward it to the public utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician ~~or nurse practitioner~~ and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

56.113. Medical certifications.

- (5) The name, office address and telephone number of the certifying physician ~~or nurse practitioner~~.

(xxxvi) 56.114(2)

Suggested Revision and Justification: A customer's compliance with his/her obligation to pay bills should determine whether the customer is entitled to more than one medical certificate and the related two renewals. Of course, once a customer has paid the arrearages connected with the medical certificate, the ability to obtain a new medical certificate should again be unrestricted. If, however, the customer does not pay the arrearage connected with the medical certificate, in violation of § 56.116, the regulation must clarify that the customer is not entitled to a third renewal of that medical certificate regardless of the "termination action." Further, the utility's rejection of a request for another renewal when the customer has not met his/her payment obligation should not become a dispute. The customer's obligation is unmistakable upon receipt of the medical

certificate, and the two renewals will have allowed the customer a relief period – allowing a grace period in which the customer has not been required to make a payment for a total of 90 days.

Suggested Regulatory Language:

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the customer has met the obligation under § 56.116 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications that concern the medical certificates filed for the same set of arrearages ~~and same termination action~~. When the customer eliminates these arrearages, the customer is eligible to file new medical certificates. In these instances the public utility is not required to honor a third medical certificate and is not required to follow § 56.118(3) (relating to the right of public utility to petition the Commission). ~~The public utility shall apply the dispute procedures in §§ 56.151 and 56.152 (relating to public utility company dispute procedures).~~

(xxxvii) 56.115

Suggested Revision and Justification: Chapter 14 requires that a utility restore service to a dwelling within 24 hours upon receipt of a valid medical certification. 66 Pa. C.S. § 1407(b)(1). Chapter 14, therefore, does not place an obligation on the utility to “make a diligent effort” to restore on the date of receipt and, therefore, this requirement must be removed.

Additionally, the regulation should recognize that there may be access and safety reasons why a utility may not be able to restore service within 24 hours. As an example, a defective heater may prevent 24 hour restoration as it would be unsafe for the occupants to restore gas service to such a dwelling. Further, in some instances the utility may need to gain access to the home before it can restore service. If the utility is unable to gain

such access, it does not have the ability to force such access and, therefore, would not be able to comply with a 24 hour restoration requirement. The Commission's regulation should be revised to take into account these situations.

Suggested Regulatory Language:

When service is required to be restored under this section and §§ 56.111, 56.114 and 56.116--56.118, the public utility shall, except in event of failure to obtain access or endangerment of safety, make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected service within 24 hours upon receipt by the public utility of a valid medical certification. Each public utility shall have employees available or on call to restore service in emergencies. Customers are required to provide access or other information as may be needed by the utility to restore service.

(xxxviii) 56.116

Suggested Revision: Delete the reference to budget billing from this regulation.

Justification: A customer's current undisputed bill is the same as the asked to pay monthly budget amount. It is unnecessary to include a reference to equal monthly billing in this regulation and could lead to customer confusion.

Suggested Regulatory Language:

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills ~~or equal monthly billing amount as determined by § 56.12(7) (relating to meter reading; estimated billing; ratepayer readings).~~

(xxxix) 56.151(3)

Suggested Revision and Justification: When a customer raises a dispute, the utility is not obligated to negotiate a utility payment agreement if the customer is not entitled to one. In accordance with 66 Pa. C.S. § 1405(d), the Commission may not require the utility to establish a second or subsequent payment agreement.

Suggested Regulatory Language:

Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant claims a temporary inability to pay an undisputed bill and is entitled to a payment agreement under these regulations. Factors which shall be considered in the negotiation of a payment agreement include, but are not be limited to:

(xl) 56.152(8)(ii)

Suggested Revision: The utility report should state the date on or after which termination should commence, not the date on which “termination action” will commence. The information required in this paragraph should be in the same format as other information on the utility report.

Justification: It is unclear to PGW what activity will constitute the commencement of a “termination action.” Is it the date on which PGW can start the termination process, the date PGW sends a termination notice or the date PGW acts to physically terminate service? PGW presumes a complaining party would also not understand such language. Instead, the regulation should focus on the information that is useful and desired. In this case, the complaining party will want notice of the date on or after which service will be physically terminated. If the Commission remains focused on this core, relevant information, then it would not be necessary to dictate the font and typeface by which the information is contained, thereby eliminating unnecessary burdens on the utility in terms of layout, paper and printing expenses. In order for PGW to modify the formatting of its utility report to include different font size and bolding, PGW would incur unnecessary costs. Modifying its system is not the same as making a minor modification in a word processing document. Instead, these seemingly minor changes would require PGW to make an extensive, costly programming change. As the

complaining party should have an obligation to read the utility report, which would remain focused on identifying the date on or after which service will be terminated, the proposed attempts to modify the report and impose costly formatting obligations are not necessary.

Suggested Regulatory Language:

(ii) The date on or after which service will be terminated ~~the utility will commence termination action in accordance with the applicable requirements~~ unless the report is complied with, informal dispute settlement agreement or payment agreement entered or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility report, whichever is later. ~~If the utility report is in writing, the information in this paragraph must be presented in a bold font that is at least two font sizes larger than the font used in other sections of the utility report.~~

(xli) 56.161

Suggested Revision: PGW requests that the Commission reinsert this regulation particularly since it allows relief from the time required for filing for good cause shown.

(xlii) 56.163

Suggested Revision: Commission staff should have a response time imposed on its issuance of informal decisions.

Justification: When a consumer files an informal complaint, the utility stays termination action on bills relevant to the complaint. Even though Commission staff may have no control over the number of consumers who file complaints, under changes to this regulation, the utility will have time limitations imposed on it for responding to Commission staff requests for information and documentation. Therefore, Commission staff will have sufficient information to make a decision on an informal complaint within,

as relevant, five or thirty days of a request for information. For each day a termination is stayed, the utility expends money and resources to continue to provide service without payment. In some complaint situations for PGW, stays of termination have exceeded 730 days due to staff failure to issue a decision. Prolonged and unnecessary periods of providing service where no payment will be received increases PGW's uncollectible expenses which, in turn, increases the amount all customers must pay. In addition, lengthy stays of termination due to the failure of Commission staff to issue decisions likely violates Chapter 14 in many instances since the Commission is not authorized to establish a second or subsequent payment agreement absent a change in income and a prolonged period of time may be inconsistent with the time requirements for payment agreements. 66 Pa. C.S. § 1405(b) and (d). To address this problem, PGW recommends that the regulation require Commission staff to provide a decision within 60 days of the date the utility provides staff with sufficient information – for a total of 90 days from the date of the filing - and 15 days for those whose service is off. By working cooperatively and in a timely manner, the Commission staff and the utility can ensure that complaints are properly processed so that those who may not have been properly terminated can be restored and those who should be properly terminated are not able to continue to receive a prolonged period of unpaid service at the expense of other customers.

Suggested Regulatory Language:

Upon the filing of an informal complaint, which shall be captioned as "(Complainant) v. (public utility)," Commission staff will immediately notify the public utility; review the dispute; and, ~~within a reasonable period of time~~ 90 days, issue to the public utility and the complaining party an informal report with findings and a decision. If the complainant is without public utility service, or in other emergency situations as identified by Commission staff, the Commission staff informal report with findings and a decision shall be provided within 15 days. Parties may

represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports will be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(xliii) 56.172(e)

Suggested Revision: BCS decisions should be recognized as final and binding.

Justification: Under § 56.163(3), a BCS decision is a binding decision unless appealed. Thus, this regulation recognizes that the customer or utility must take action based upon the finality of this decision. Except in the event of good cause shown, allowing the untimely filing of a formal complaint based upon the same complaint finally determined in a BCS decision undermines the finality and strength of a BCS decision.

Suggested Regulatory Language:

The Except for good cause shown, the failure to request review of the BCS decision by filing a formal complaint within the 30 day period does not foreclose a party from filing a formal complaint at a later time on the same cause of action, except as otherwise may be provided in 66 Pa.C.S. (relating to public utility code).

(xliv) 56.173

Suggested Revision and Justification: In fairness to a complainant and respondent, the regulation should continue to provide that the Commission or administrative law judge will hold a hearing within a reasonable time period after the filing of an answer.

Suggested Regulatory Language:

(d) Hearings. The presiding officer will conduct hearings, if necessary, within a reasonable period of time after the filing of the answer.

(xiv) 56.191(b)(1)

Suggested Revision and Justification: In order to avoid shut off, a customer should make payment before the date scheduled for shut off and payment on the date of termination should not constitute an erroneous termination. From a practical standpoint, PGW field services employees executing a shut off will not have the ability to determine whether a customer has made a valid payment on the day of shut off. Further, customers noticed for termination have had a sufficient amount of time to make payment prior to the date of termination.

Additionally, the regulation establishes that the trigger for 24 hours with respect to a medical certificate is receipt of the certificate. The regulation should also provide a trigger for the 24 hours with respect to erroneous terminations. Logically a public utility must have notice that it shut off service erroneously in order for the 24 hour restoration obligation to apply. Obviously, without notice, it is impossible for the utility to ever meet the 24 hour requirement.

Suggested Regulatory Language:

(1) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. The 24 hours for erroneous terminations will start upon public utility receipt of notice of an erroneous termination. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the day of termination of the service.

(xlv) 56.191(c)(2)(iii) and (iv)

Suggested Revision and Justification: A customer/applicant should have the option of paying an amount in excess of statutory minimums towards an outstanding balance at restoration. Further, the regulation should not alter the statutory language in

ways that would conflict – such as use of the word “may” instead of “shall.” 66 Pa. C.S. § 1407(c)(2)(iii).

Suggested Regulatory Language:

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. Unless there is customer or applicant consent, the ~~The~~ initial payment toward the outstanding balance required as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. Unless there is customer or applicant consent, the ~~The~~ initial payment toward the outstanding balance required as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation except that this ~~This~~ requirement ~~may~~ shall not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(xlvii) 56.191(d) and (e)

Suggested Revision and Justification: § 56.35 addressed the establishment of residency and applicant liability and repetition is not required in this regulation. In the event the regulations restate the requirements in this section, it should be clear that an applicant is responsible for fraud and theft at the time during which he/she resided at the property. Further, PGW incorporates its argument set forth in 56.35 herein.

Suggested Regulatory Language:

(d) *Payment of outstanding balance at premises.* A public utility may also require the payment of any outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and

for the time the applicant resided there, not exceeding 4 years, except for instances of fraud and theft at the property during the time the applicant resided at the property.

(e) *Approval.* 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, a Pennsylvania Department of Transportation issued driver's license or identification card, a LIHEAP application, a CAP application, a Payment Agreement, a Medical Certification, public utility customer contacts, a prior application for service, an Informal Complaint, a Formal Complaint, bankruptcy petition information, and other correspondence in the public utility's file such as letters from a customer or a customer's attorney indicating the persons living at the property or other methods approved as valid by the Commission. ~~Public utilities shall include in their tariffs filed with the Commission the procedures and standards used to determine liability for outstanding balances.~~

(xlviii) 56.192

Suggested Revision and Justification: PGW incorporates its argument set forth in § 56.82 herein.

Suggested Regulatory Language:

A public utility shall have adequate personnel available ~~between 9 a.m. and 5 p.m.~~ on each working day ~~or for a commensurate period of 8 consecutive hours~~ to restore service when required under this chapter, specifically in §§ 56.82 and 56.191 (relating to timing of termination; and the general rule).

(xlix) 56.231(a)(7),(8),(21) and (22)

Suggested Revision and Justification: The monthly report on inactive accounts should provide only accounts which became inactive in that month, otherwise, the utility might provide stale information on accounts which became inactive a substantial time past. PGW does not maintain records of the numbers of consumers from whom a security deposit has been requested - it has a substantial number of contacts with

consumers which do not result in the billing of a security deposit because the consumer immediately refuses to pay the deposit.

Suggested Regulatory Language:

(7) The total number of inactive residential accounts in arrears which became inactive in that month.

(8) The total dollar amount of inactive residential accounts in arrears which became inactive in that month.

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

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

(I) Appendix A and B

Suggested Revision and Justification: PGW incorporates its argument set forth in § 56.111 herein.

Suggested Regulatory Language:

(a) Have a physician **or nurse practitioner** certify by phone ~~or~~ and a physician certify in writing that such illness exists and that it may be aggravated if your service is stopped; and

IV. CONCLUSION

PGW appreciates the opportunity to present comments to this proposed rulemaking. PGW's comments have been provided with the objective of maintaining the purposes of Chapter 14 and defending the interests of PGW and its customers.

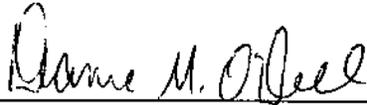
Respectfully Submitted,

/s/ Denise Adamucci

Denise Adamucci, Esq.
Senior Attorney
Philadelphia Gas Works
800 W. Montgomery Avenue, 4th Floor
Philadelphia, PA 19122
Phone (215) 684-6745
Facsimile (215) 684-6798

Counsel for Philadelphia Gas Works

Of Counsel:



Daniel Clearfield, Esq.
Deanne M. O'Dell, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101

April 20, 2009

EXHIBIT A

Good Gas News

Showered By High Bills?

Our Bill Analyzer Can Help

While energy costs continue to rise across the nation, PGW wants to help you understand the reasons why your gas bill could be higher than expected.

With our online Bill Analyzer feature, PGW residential customers with access to the Internet can view their current billing and usage information and compare it with the last 24 months. You can also learn energy saving tips to help lower your gas bills.

To get started, visit us at www.pgworks.com and click on the My Account button. This will take you to the Log In page where you can register. It is easy and it is free. Most of the information you need to register is right on your monthly bill.

Once registered, you can go to the PGW home page, under "My Account" and log in anytime to view, pay or analyze your current bill and have access to the following detailed information about your bill:

- **Understanding Your Gas Bill** - View a side by side comparison of your monthly bills and see how your usage and gas rates impact them.
- **Reasons Bills Vary** - Bills vary due to the type of appliances you use, changes in the weather, the price of natural gas, how you set your thermostat and how well your home is insulated.
- **Energy Saving Tips** - Did you know that sealing up leaks can reduce heating costs by up to 20 percent? Lowering your thermostat by as little as 1 degree typically reduces your heating bill by 1 to 3 percent.



Save money and help the environment all at the same time when you Go Green with PGW's E-Bill and Auto Pay billing and payment options.

With E-Bill, PGW sends you an e-mail notification each month informing you that your bill is ready to be viewed online. A paper bill will not be sent through the regular mail, thus helping the environment by reducing paper waste.

With Auto Pay, customers may have their PGW payment deducted safely and conveniently from their bank, credit union or financial institution account on the due date each month. Auto Pay will save you money. There is no need to buy stamps or order checks.

Visit us at www.pgworks.com or call us at 215-235-1000 for more information.

GOOD GAS NEWS

Your Rights and Responsibilities

As a residential utility customer, you have many important rights and responsibilities to ensure fair dealings between you and your utility company.

These rights and responsibilities include:

- Your right to know how your utility bill is figured
- Your right to check your utility bill for accuracy
- Your right to fair credit and deposit policies
- Your right to question or disagree with the utility company
- Your right to receive continuous utility service if you meet your responsibilities
- Your right to a clear and concise bill
- Your responsibility to pay your bill
- Your responsibility to provide access to the utility's meter and equipment

Your utility company has the responsibility to honor all of these rights. You, the customer, have the responsibility to know your rights and to know how your utility should provide you with service.

A document was prepared by the Pennsylvania Public Utility Commission (PUC) to summarize the regulations regarding Standards and Billing Practices for Residential Service and is available on PGW's Web site at www.pgworks.com. Click on Customer Service, then Understanding Your Gas Bill and then Customer Rights and Responsibilities.

If you still have questions about your service, call us at 215-235-1000.



ReadyNotifyPA - Find Out First!

Emergencies. Severe weather. Threats to homeland security. When situations arise in Philadelphia that may affect you and your family,



ReadyNotifyPA lets local officials notify you quickly. Be among the first to find out and stay informed during an emergency.

ReadyNotifyPA can send you an E-mail or send a text message to your cell phone or other device. You let ReadyNotifyPA know how you'd like to be notified. Alerts are free; however, your cellular provider may charge for text messaging.

Receiving text messages is easy and not just for kids. All subscribers will get emergency alerts. You may also choose to get other alerts, such as severe weather, transportation delays and crime alerts if offered by your county.

In addition to alerts from Philadelphia, you can choose to receive alerts from Bucks, Chester, Delaware and Montgomery counties. Pick the county or counties where you spend most of your time—it can be where you live, work or play.

ReadyNotifyPA is a Ready Region service provided by the Southeastern Pennsylvania Regional Task Force and the emergency management coordinators of Bucks, Chester, Delaware, Montgomery and Philadelphia counties.

Sign up today at www.ReadyNotifyPA.org. For more information on being prepared for emergencies in Philadelphia, visit www.phila.gov/ready.



Coming soon... Parts and Labor Plan

With today's high cost of home appliance repairs, it's more important than ever to sign up for PGW's Parts and Labor Plan contract. Whether it's your house heater, hot water heater, gas dryer or electric central air conditioner, with PGW's Parts and Labor Plan, all repairs are performed by trained professionals. Watch for your application in the mail and sign up as soon as you receive it.

