

**BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

**Chapter 14 Implementation**

**Docket No. M-2014-2448824**

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**COMMENTS OF TENANT UNION REPRESENTATIVE NETWORK AND ACTION  
ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA**

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## I. INTRODUCTION

These comments are submitted by Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, TURN et al.), through counsel Community Legal Services, Inc. The comments respond to the Pennsylvania Public Utility Commission's ("Commission" or "PUC") January 15, 2015 Tentative Order in the above-captioned docket.

Tenant Union Representative Network is a not-for-profit corporation and membership organization with many low and lower income members whose mission is to advocate on behalf of low and moderate income tenants. Action Alliance of Senior Citizens of Greater Philadelphia is a not-for-profit corporation and membership organization whose mission is to advocate on behalf of senior citizens on a wide range of consumer matters vital to seniors, including utility service. The members of these organizations rely directly or indirectly on the service of the Philadelphia Gas Works and/or PECO Energy Company for home heating, cooking, hot water, and electricity.

In these comments, TURN et al. urge the Commission to adopt simplified, flexible standards and procedures for medical certificates. Also, TURN et al. request that the Commission mandate utility reporting of additional data points to improve utility reporting requirements created by Act 155. Finally, TURN et al. urge the Commission, in implementation of Act 155, to direct public utilities to make reasonable efforts to determine whether a customer or applicant is eligible for a waiver of a security deposit, and to provide interim guidance to public utilities to update or finally implement certain protective policies for victims of domestic abuse.

## II. BACKGROUND

In 2004, Pennsylvania enacted Act 201, which added Chapter 14, the Responsible Utility Customer Protection Act, to the Pennsylvania Public Utility Code.

In 2014, the legislature reauthorized and amended Chapter 14 through Act 155. Act 155 was signed into law by Governor Corbett on October 22, 2014 and became effective on December 22, 2014. Act 155 amended Chapter 14 to include a revised definition of medical certificate and established new utility reporting requirements concerning accounts with arrearages in excess of \$10,000 and medical certificate usage. Act 155 also amended Chapter 14 to prohibit utilities from requiring a cash deposit from a customer or applicant that is confirmed to be eligible for a customer assistance program and expanded the domestic violence exemption contained in Chapter 14.

On December 10, 2014 the Commission issued a Secretarial Order to all electric, gas, water, steam and wastewater distribution utilities reminding the utilities that the reauthorized Chapter 14 supersedes some existing Chapter 56 Regulations. The Commission issued a second Secretarial Letter to all steam heat, wastewater, and natural gas distribution utilities reminding these utilities that Chapter 14 now applies to them.

On January 15, 2015, the Commission issued a Tentative Order inviting comments on Act 155 amendments concerning medical certificates and utility reporting requirements. The Commission also invited comments on any other issues regarding implementation of Act 155 that require immediate attention.

### III. DISCUSSION OF ISSUES

#### A. Medical Certificates

Act 155 of 2014 modified the definition of Medical Certificate, to state that a medical certificate is:

A written document, in a form approved by the commission:

- (1) certifying that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition; and
- (2) signed by a licensed physician, nurse practitioner or physician's assistant.<sup>1</sup>

In its Tentative Order, the Commission invited parties to comment on "what 'form' should be sufficient for a medical certificate."<sup>2</sup> The Commission asked parties to:

[K]eep in mind that the "form" of a medical certificate needs to be convenient for customers and medical professionals to use and understand, especially given the time-demands upon medical professionals. At the same time, medical certificates have to include the information necessary for the utility to effectively and equitably apply the medical certificate regulations.<sup>3</sup>

The Commission further noted that the regulation does not require it to approve the literal medical certificate form to be used.<sup>4</sup>

In response to this request for comment, TURN et al. urge the Commission to accept medical certificates in any form that complies with the definition in 66 Pa. C.S. § 1403 and make clear to medical professionals that they can create their own forms or use forms provided by the utility. Additionally, TURN et al. assert that a medical certificate should contain only the information necessary to determine that a physician, nurse practitioner or physician's assistant

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<sup>1</sup> 66 Pa. C.S. § 1403.

<sup>2</sup> Tentative Order at 4.

<sup>3</sup> Id.

<sup>4</sup> "The phrase the statute uses is '*in* a form approved by the commission'; not '*on* a form approved by the commission.' 66 Pa. C.S. § 1403 (emphasis added)." Id.

has certified that a customer or member of the customer's household is seriously ill or diagnosed with a medical condition which requires the continuation of service to treat the medical condition and should not require the disclosure of sensitive medical information regarding the underlying illness or condition.

1. *The Commission should approve medical certificates in any form that complies with the definition at 66 Pa. C.S. § 1403.*

The Commission can ensure convenience and equitable application of the regulations, without mandating the specific medical certificate form to be used, by allowing medical certificates in any form that complies with the definition at 66 Pa. C.S. § 1403. The definition of medical certificate contains three elements: (1) the certificate must be in writing; (2) the certificate must certify that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition; and (3) the certificate must be signed by a licensed physician, nurse practitioner or physician's assistant.<sup>5</sup> TURN *et al.* urge the Commission to clarify in its interim guidelines that any form that contains these three elements is sufficient for a medical certificate.<sup>6</sup>

- i. The Commission should clarify that customers and medical professionals are not required to use a utility provided medical certificate form.

In its Tentative Order, the Commission stated that a letter from a licensed physician or nurse practitioner is an acceptable form for a medical certificate.<sup>7</sup> The Commission also advised utilities that they can "continue to use their current medical certificate procedures, as long as they now also accept medical certificates from physician assistants as well as physicians and nurse

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<sup>5</sup> 66 Pa. C.S. § 1403.

<sup>6</sup> Note that Chapter 14 does not prescribe any form for which medical certification renewals should take. Once a health care provider has certified that a patient has a serious medical condition, oral renewals should be accepted to create a simplified and more efficient process.

<sup>7</sup> Tentative Order at 4.

practitioners.”<sup>8</sup> TURN et al. agree with the Commission that a letter from a medical professional is an acceptable form for a medical certificate. TURN et al. are concerned, however, that medical certificate procedures employed by some utility providers create the impression that a utility provided form is the only acceptable form for a medical certificate. TURN et al. urge the Commission to direct utilities to inform customers and medical professionals that a utility provided form is not required.

More specifically, the Commission should take steps to ensure that the medical certificate process remain flexible enough to provide the necessary protections under extremely diverse circumstances. Further, customers seeking the protections afforded by a medical certificate may be experiencing a medical emergency and need the medical certificate procedures to be flexible. One example of where such flexibility is needed involves utility practice concerning postponement of termination pending the receipt of a medical certificate. Chapter 56 provides the standard for postponement and states, in relevant part, that:

if, prior to termination of service, the public utility is informed that an occupant is [eligible for a medical certificate] and that a certificate will be procured, termination may not occur for at least 3 days. If a certification is not produced within that 3-day period, the utility may resume its termination process [...].<sup>9</sup>

Current utility practice that allows for an oral notification triggering a three day stay of any shutoff until a written verification is submitted provides an important cushion for customers to maintain service while obtaining a medical certificate and TURN et al. fully support preserving this practice. However, delay can result when a utility fails to inform the customer or medical professional that a utility provided form is not the only acceptable form for the medical certificate. Such delay can lead to termination of utility service.

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<sup>8</sup> *Id.* at 5.

<sup>9</sup> 52 Pa. Code § 56.112

In practice, upon this initial contact with the utility, some utilities require the customer to provide contact information for a licensed physician. The utilities then forward a medical certificate form to the physician's office via fax. The medical professional then completes the utility provided form and faxes it back to the utility. While this can be an efficient process for most customers, others can be harmed—especially in an emergency situation—when a medical certificate is not properly transmitted by the utility, when there is a problem with the physician's fax machine, or when the form never makes it off of the fax machine and to the provider's desk. If the form is not properly transmitted, the customer may not be able to produce the certificate within the three day period and may be at risk of termination.

In addition, this utility procedure can cause administrative burden for healthcare practices that may lack the capacity to timely separate out utility forms from the high volume of faxes received every day in their offices. This is a significant issue at community health centers and health care facilities serving vulnerable populations. In these settings, providers often come and go, working only a few days per week. If a patient requests a medical certificate and the form is not received via fax until the next day, it could be several additional days until the provider is back in the office to sign the form and get it to the person who then is responsible for faxing it back.

The current multi-step process encouraged by utility companies is rigid and can lead to unnecessary delay, confusion, and administrative burden on the office. This type of utility medical certificate procedure can create the impression that the utility's form is required when the customer or medical professional is not informed by the utility that the customer can simply obtain a letter from a medical professional. By broadening the understanding of customers and medical professionals that multiple forms are acceptable, utilities can maintain their current

processes and also allow for a range of other processes that lessen the risk of delay and accommodate a variety of emergency situations.

- ii. The Commission should clarify that medical professionals may create their own medical certificate forms.

TURN et al. further urge the Commission to state, in its interim guidelines, that medical professionals may create their own medical certificates and that these certificates may take a variety of forms. Medical professionals often rely on utility provided forms. Further guidance from the Commission will create an atmosphere in which medical professionals feel confident that they can submit their own certificates.

One issue that the Commission's guidelines should address is what is meant by Section 1403's requirement that the certificate be in writing. The Commission has already noted that a licensed physician, nurse practitioner or physician's assistant may submit a letter. The Commission should further clarify that other types of written documents are also permissible. For example, physicians routinely write prescriptions on official prescription pads and may seek to do so for the purpose of completing a medical certificate. In addition, some healthcare practices may prefer to create their own template instead of drafting a letter for each patient who seeks a medical certificate. As long as these other types of writings comply with the requirements of Chapter 14, the Commission should clarify that they are acceptable forms for a medical certificate.

2. *A medical certificate should contain only the information necessary to determine that a physician, nurse practitioner or physician's assistant has certified that a customer or member of the customer's household is seriously ill or diagnosed with a medical condition which requires the continuation of service to treat the medical condition and should not require the disclosure of sensitive medical information.*

In its Tentative Order, the Commission invited parties to comment on “what information a medical certificate should contain.”<sup>10</sup> TURN et al. urge the Commission to require only that the certificate certify the existence of a serious illness or medical condition without disclosure of the underlying illness or condition. The Commission should clarify in its interim guidelines that only statutorily required information is necessary.

Section 1403 does not require a physician, nurse practitioner, or physician’s assistant to disclose sensitive medical information about the customer or member of a customer’s household who seeks the medical certificate.<sup>11</sup> Again in Section 1406(f), the express purpose of a medical certificate is to “verif[y] the condition” of the ill household member.<sup>12</sup> There is no requirement to disclose bodily or psychological medical details. Some interpretations of Chapter 56 and utility medical certificate procedures, however, could require a medical certificate to contain potentially sensitive medical information. The Commission should clarify in its interim guidelines that a medical certificate does not need to contain this sensitive information.

The simplest way for the Commission to protect potentially sensitive medical information is for the Commission to clarify that a physician, nurse practitioner, or physician’s assistant’s certification that the customer is either seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition, without disclosure of the underlying illness or condition, is sufficient to meet the requirements for a

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<sup>10</sup> Tentative Order at 4.

<sup>11</sup> See 66 Pa. C.S. § 1403 (requiring only that the medical certificate “certify[] that a customer or member of the customer’s household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition” and that it be signed by a designated health care provider).

<sup>12</sup> 66 Pa. C.S. § 1406(f).

medical certificate. Without this clarification, medical certificates may needlessly contain sensitive medical information.<sup>13</sup>

3. *The information standards contained in the current regulation at 52 Pa. Code § 56.113 are adequate; however, the Commission should clarify that they do not require a medical professional to include more information on a medical certificate than is required by Chapter 14*

The Commission has invited parties to comment on “the adequacy of the information requirements standards contained in the current regulation at 52 Pa. Code § 56.113.”<sup>14</sup>

Currently, Section 56.113 states as follows:

**§ 56.113. Medical certifications.**

Certifications initially may be written or oral, subject to the right of the public utility to verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days. Certifications, whether written or oral, must include the following:

- (1) The name and address of the customer or applicant in whose name the account is registered.
- (2) The name and address of the afflicted person and relationship to the customer or applicant.
- (3) The nature and anticipated length of the affliction.
- (4) The specific reason for which the service is required.
- (5) The name, office address and telephone number of the certifying physician or nurse practitioner.<sup>15</sup>

TURN et al. believe these standards adequately explain the required contents of a medical certificate. TURN et al. are concerned, however, that Sections 56.113(3) and 56.113(4) can be interpreted to require medical professionals to provide information beyond what is necessary to satisfy the requirements of Chapter 14. TURN et al. urge the Commission to clarify that Chapter

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<sup>13</sup> A medical professional’s statement that, “I certify that [household member] is seriously ill” should be sufficient. Similarly, a medical professional’s statement that, “I verify that [household member] has been diagnosed with a medical condition which requires the continuation of service to treat the condition” should satisfy the requirements of Chapter 14.

<sup>14</sup> Tentative Order at 4.

<sup>15</sup> 52 Pa. Code § 56.113.

14 does not require more than a written certification of eligibility signed by a medical professional.

TURN et al. are concerned that Section 56.113(3), which requires information about the “nature” of the affliction, can be interpreted to require a medical professional to describe the household member’s illness or condition. This information could be of a sensitive or embarrassing nature and should not be disclosed to a utility. Such disclosure poses a significant risk to customer privacy. Even when medical certificates are ultimately denied, the utility will have been provided with this information.

TURN et al. are also concerned that Section 56.113(4), which requires information about the “specific reason for which the service is required,” can be interpreted to require specific information about the household member’s illness or condition. A medical professional may think that he or she can only answer this question by disclosing details about the household member’s illness or condition.

The Commission should clarify that Commission regulations do not require the disclosure of sensitive medical information. TURN et al.’s position that the medical professional’s certification of the existence of a serious illness or condition is sufficient without disclosure of the underlying illness or condition is supported by Chapter 56, which provides that, “the determination of whether a medical condition qualifies [...] resides entirely with the physician or nurse practitioner and not with the public utility.”<sup>16</sup> TURN et al. question why a utility should be allowed to collect sensitive information about its customers’ medical conditions if the determination of what condition qualifies for the purpose of a medical certificate resides exclusively with the medical professional. The Commission should eliminate this significant

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<sup>16</sup> 52 Pa. Code § 56.111

privacy concern by clarifying that Sections 56.113(3) and 56.113(4) do not require this information.<sup>17</sup>

## B. Utility Reporting Requirements

1. *Reporting requirements regarding accounts exceeding \$10,000 in arrears, (1410.1(3)) should include information to help improve usage reduction programs and exclude balances subject to CAP arrearage forgiveness or subject to protection under domestic violence exemptions*

Act 155 adds a new utility reporting requirement to Chapter 14 regarding accounts exceeding \$10,000 in arrearages.<sup>18</sup> The Commission proposes a possible interim guideline for utilities in complying with this new requirement.<sup>19</sup> TURN et al. share the Commission's concern with "how to report the necessary information without compromising the customer's privacy,"<sup>20</sup> and support the Commission's recommendation that a unique label be used for each account and that any information that could be used to identify the customer be omitted.<sup>21</sup>

The Commission recommends the reporting of limited data concerning each account.<sup>22</sup> TURN et al. recommend below additional data points that should be collected in order to assist the Commission, utilities, consumer advocates and the legislature to develop policies and programs that may reduce instances of such high account balances. As proposed by the Commission in the Tentative Order, the information concerning each of the accounts shall include:

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<sup>17</sup> One way the Commission can do this is to clarify that Section 52.113(3) is satisfied when the medical professional certifies that the household member is either seriously ill or has a medical condition. Similarly, the Commission could establish that 52.113(4) is satisfied when the medical professional certifies that the household member has been diagnosed with a medical condition which requires the continuation of service to treat the condition.

<sup>18</sup> 66 Pa. C.S. § 1410.1(3)

<sup>19</sup> Tentative Order at 8.

<sup>20</sup> Id. at 6.

<sup>21</sup> Id. at 8.

<sup>22</sup> Id.

- the time period over which that arrearage accrued (in years or months, with the same time period to cover the data below);
- the average monthly bill amount;
- number of Commission informal or formal complaints; and –
- the number of company payment arrangements.<sup>23</sup>

It is not uncommon for accounts with high balances to have a history of complaints and payment arrangements. Without more, the data will be unfairly skewed to point to a recommendation that the complaint process and company payment arrangement policies should be further limited beyond the already stringent restrictions imposed by Chapter 14.

Counsel for TURN et al. has already heard comments from utility company representatives that this reporting requirement at 1410.1(3) indicates to the company that it must not exercise discretion to allow for payment agreements beyond the minimum requirements of Chapter 14. This is inconsistent with the Commission’s “Prepare Now” message each winter encouraging the utilities to exercise leniency and discretion with regard to service terminations and reconnections in cold weather. In providing instructions to the utilities regarding the reporting mandates of Act 155, TURN et al. urge the Commission also to reiterate its encouragement to utilities to maintain and/or initiate discretionary policies to reduce the number of households entering winter without a central heating source.

The Commission has suggested the collection of other account information including:

- the rate class;
- whether the ratepayer is the landlord<sup>24</sup>

TURN et al. recommend the collection of these two suggested data points for each account.

Regarding rate class, the regulations at Chapter 56 pertain to residential accounts, so accordingly, any interim reporting requirements should focus on residential accounts and not include non-

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<sup>23</sup> Id.

<sup>24</sup> Id. at 7.

residential accounts that can include very high commercial and industrial utility usage. Also, landlord accounts, even if categorized as residential, may include multiple dwelling units, which should be treated differently from single dwelling accounts with similar balances. TURN et al. recommend that the *number of dwelling units* on the account also be collected.

TURN et al. submit that without further information the Commission will miss opportunities to make improvements in programs that may help reduce these account balances, including but not limited to improvement of the utilities' Low-Income Usage Reduction Programs (LIURP) and implementing programs to address de facto electric heating. De facto electric heating occurs when a household must resort to inefficient electric space heaters due to the inoperability of a furnace requiring a different fuel source, such as a broken gas furnace or oil furnace. Accordingly, TURN et al. recommend the collection of the following additional data:

- History of LIURP services offered and provided;
- For EDCs, indicate whether de facto electric heating is occurring at the premises (i.e., due to inability to restore the primary heating source, such as a furnace requiring natural gas, oil, propane or other non-electric source).

TURN et al. agree with CAUSE-PA in its recommendation to exclude certain accounts from the 1410.1(3) reporting, particularly: (1) accounts of customers enrolled in an arrearage forgiveness program through the public utility's Customer Assistance Program, and (2) accounts of customers with a Protection From Abuse Order (PFA) or other protective order that would exempt the account from Chapter 14 billing and collections standards.

In addition, TURN et al. recommend exclusion of a third type of account: accounts with balances being paid through and/or subject to discharge under a bankruptcy plan. During the economic decline and mortgage foreclosure crisis of recent years, many low and moderate income households filed for bankruptcy in efforts to save their homes and obtain a fresh start.

Multi-year Chapter 13 plans may still now include large unpaid balances but are being paid through and/or subject to discharge through the bankruptcy plan. These balances are governed by federal bankruptcy law and are not subject to the same billing and collection rules that apply to balances not addressed within a bankruptcy. Therefore, these accounts should be excluded from the reporting requirements of 1410.1(3).

2. *Medical certificate reporting requirements (66 Pa. C.S. § 1410.1(4)) should include information on the number of renewals for customer accounts that are meeting the obligation to pay current undisputed bills.*

Act 155 amends Chapter 14 to require utilities to report to the Commission on an annual basis the number of medical certificates and renewals submitted and accepted in the service territory.<sup>25</sup> In its Tentative Order, the Commission asked parties to comment on what is intended by “renewals.”<sup>26</sup> The Commission offered a proposal, which includes the following provision:

The medical certificates shall be classified and reported as: number of initial medical certificates submitted and the number of initial medical certificates accepted; number of renewal medical certificates submitted; and number of renewal medical certificates accepted.<sup>27</sup>

TURN et al. submit that the Commission’s proposal in its present form will result in a distorted picture of the payment patterns of customers who are receiving service under a medical certificate. The proposal will not allow the Commission to determine to what degree the number of medical certificate renewal submissions and acceptance is due to customers making satisfactory payment on current undisputed bills while under the protection of a medical certificate. Absent this determination, the reporting will likely give the impression that all medical certificate renewals reflect customers not meeting their current payment obligations.

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<sup>25</sup> 66 Pa. C.S. § 1410.1(4).

<sup>26</sup> Tentative Order at 9.

<sup>27</sup> Id.

TURN et al. encourage the Commission to require, in addition to what has been proposed, utility reporting on the number of renewals for customer accounts that are meeting the obligation to pay current undisputed bills.

Chapter 56 provides the requirements for length of postponement and renewals of medical certificates. It states:

**Length of postponement; renewals.**

Service may not be terminated for the time period specified in a medical certification; the maximum length of the certification shall be 30 days.

- (1) Time period not specified. If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.
- (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 filed for the same set of arrearages. In these instances the public utility is not required to honor a third renewal of a medical certificate and is not required to follow § 56.118(3) (relating to 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). When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.<sup>28</sup>

The Commission has stated that the regulations require customers to "make payment on all current undisputed bills or budget billing amount while under the protection of a medical certificate."<sup>29</sup> The Commission has further stated that "failure of a customer to comply with the requirement to make payment on all current undisputed bills or budget billing amount will result in the utility restricting the customer to an original medical certificate and two renewals."<sup>30</sup>

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<sup>28</sup> 52 Pa. Code 56.114

<sup>29</sup> Tentative Order at 3-4.

<sup>30</sup> Id.

Customers who are meeting the obligation to pay current undisputed bills are, therefore, eligible for more than two medical certificate renewals. Absent an analysis of whether customers seeking renewal are also paying current undisputed bills, the Commission may be presented with reporting that does not accurately represent the payment patterns of customers receiving service under a medical certificate. The Commission should require that this additional data be captured in utility reporting on medical certificate usage.

### **C. Additional Issues of Concern**

The Commission has invited parties to comment on any other issues that need immediate attention that were not raised in its Tentative Order.<sup>31</sup> In addition to the recommendations addressed above in these Comments, TURN et al. request that the Commission direct public utilities to make reasonable efforts to determine whether a customer or applicant is eligible for a waiver of a security deposit and to establish a Policy Statement relating to the treatment of victims of domestic abuse.

- 1. The Commission should require public utilities to make reasonable efforts to determine whether a customer or applicant is eligible for a waiver of a security deposit.*

Act 155 amends Chapter 14 to prohibit public utilities from requiring a customer or applicant that is confirmed to be eligible for a customer assistance program to provide a cash deposit.<sup>32</sup> The Act does not require a customer or applicant to be enrolled in a customer assistance program but does require a confirmation of eligibility for a customer assistance program. The Commission has yet to provide guidance on the public utilities' obligation to confirm eligibility for the purpose of determining whether the household should be afforded a

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<sup>31</sup> Tentative Order at 10.

<sup>32</sup> 66 Pa. C.S. § 1404(a)(A.1)

waiver of a security deposit. The Commission should issue immediate guidance and establish that a utility should make reasonable efforts to determine whether a customer or applicant is eligible for a customer assistance program.

In order to determine whether a customer or applicant is income eligible for a customer assistance program, a public utility should be required to make reasonable efforts to assess whether the household has income at or below 150% of the Federal Poverty Level (FPL). Such efforts should include acceptance of proxy information already in the utility's records, such as whether the household is in recent receipt of a Low Income Home Energy Assistance Program (LIHEAP) grant<sup>33</sup> or other grants or services that are only available to customers or applicants with household income at or below 150% FPL.

2. *The Commission should provide express interim guidance to the utilities to update current exemption policies and to fix incorrect interpretations of 66 Pa. C.S. § 1417 and should establish, in an upcoming, separate proceeding, a Policy Statement relating to the treatment of victims of domestic abuse.*

In reauthorizing Chapter 14, through Act 155 of 2014, the legislature expanded the domestic violence exemptions of Section 1417. Section 1417 had initially exempted from Chapter 14 implementation victims with a protection from abuse order, and now more broadly exempts victims with “a court order ... which provides clear evidence of domestic violence against the applicant or customer.” Orders that provide such evidence include a range of civil and criminal matters including divorce, custody, criminal convictions, and sentencing. TURN et al. recommend that the Commission provide express interim guidance to the utilities to update current exemption policies and to fix incorrect interpretations of Section 1417. TURN et al. support CAUSE-PA's recommendation that the Commission reach out to subject-matter experts,

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<sup>33</sup> In years when LIHEAP income eligibility and customer assistance program income eligibility are the same.

such as the Legal Department at the Pennsylvania Coalition Against Domestic Violence for assistance, such as how to determine whether there is “clear evidence of domestic violence.”

In the experience of counsel for TURN et al., some, if not all, regulated utilities have varying and inconsistent policies that often fail to provide the relevant exemptions to victims of domestic violence. In some instances, company policies that may nominally comply with 1417 requirements are not implemented by frontline customer service representatives. Interim guidance from the Commission on this issue will make the implementation and correction of these policies a higher priority, which should not wait until completion of the longer formal rulemaking process.

Further, TURN et al. recommend that the Commission establish, in an upcoming, separate proceeding, a Policy Statement relating to the many significant issues of victims of domestic abuse, which may not be appropriately placed in the regulations. The Commission proposed in 2009 to develop such a Policy Statement, but it has not yet done so.<sup>34</sup> A separate proceeding will allow for participation of the various organizations who provide supportive services to victims of domestic abuse and whose staff will provide practical recommendations regarding training, consumer education, record keeping, confidentiality and other related matters. Issues of protection for victims of domestic violence are appropriately a subject of a separate proceeding and separate Policy Statement where these issues can be addressed “in a comprehensive and flexible fashion.”<sup>35</sup>

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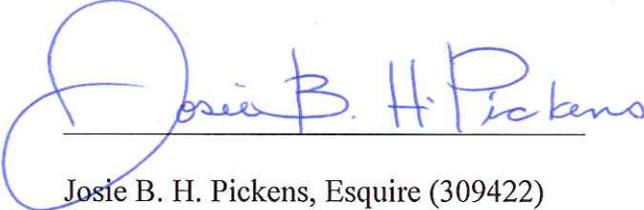
<sup>34</sup> Proposed Rulemaking Order, published in the *Pennsylvania Bulletin* on February 14, 2009, 39 Pa.B. 7.

<sup>35</sup> Id., Attachment One, at 8.

#### IV. CONCLUSION

In consideration of its comments above, TURN et al. urge the Commission to adopt simplified, flexible standards and procedures for medical certificates and to require reporting of additional data points to improve utility reporting requirements created by Act 155. In addition, TURN et al. encourage the Commission to direct public utilities to make reasonable efforts to determine whether a customer or applicant is eligible for a waiver of a security deposit and to establish interim guidance and then a Policy Statement relating to the treatment of victims of domestic abuse.

Respectfully submitted,



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