

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Chapter 14 Implementation

**Public Meeting June 11, 2015
2448824-LAW
Docket No. M-2014-2448824**

**MOTION OF
COMMISSIONER ROBERT F. POWELSON**

Before the Commission for disposition is the Final Chapter 14 Implementation Order, which will serve as guidance as to the effect of the changes to Chapter 14¹ made by Act 155 of 2014 (Act 155) until the Commission amends its relevant Regulations. One of the issues in this matter is the changes that Act 155 made to the Commission's practices and procedures related to medical certificates. Specifically, Act 155 added the following definition to Section 1403 of the Public Utility Code²:

"Medical Certificate." 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.

Prior to Act 155, the Public Utility Code contained no definition for medical certificates. Rather, the Commission's Regulations at Sections 56.111-56.118³ controlled. More specifically, Section 56.113 set forth the requirements for the form of medical certificates. That section provided as follows:

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.

¹ 66 Pa. C.S. § 1401, *et seq.*

² 66 Pa. C.S. § 1403.

³ 52 Pa. Code §§ 56.111-56.118.

(5) The name, office address and telephone number of the certifying physician or nurse practitioner.⁴

Duquesne Light Company (Duquesne) seeks guidance on whether the current practice of accepting verbal medical certificates is to be allowed following the General Assembly's insertion of the new definition of medical certificates into Chapter 14.⁵ Specifically, Duquesne explained that, when it receives a verbal medical certificate, it documents the information in the customer's account notes. Duquesne believes that these business records should be sufficient to meet the new requirement that medical certificates be a "written document."⁶

PPL Electric Utilities (PPL) and Columbia Gas of PA (Columbia) similarly request that the Commission provide flexibility such that utilities can still accept verbal medical certificates.⁷

In adding the above definition to Chapter 14, the General Assembly gave clear and unambiguous direction on two key aspects of medical certificates: that they be written documents and that they be signed. Section 56.113's allowance of verbal medical certificates is legally incompatible with this new definition. Further, while Duquesne's business records proposal may meet the mandate that medical certificates be written, it clearly would not fulfill the "signed by a licensed physician, nurse practitioner or physician's assistant" requirement.⁸ Moreover, I believe allowing the status quo regarding verbal medical certificates would subvert the intent of the legislature's inclusion of the "written" and "signed" requirements.

Therefore, it is clear that the portions of Section 56.113 that allow for verbal medical certificates have been superseded by Chapter 14 and are no longer valid. I note, however, that pursuant to Pennsylvania's Electronic Transactions Act, electronic signatures are legally valid.⁹ Thus, medical certificates that are electronically transmitted (i.e., faxed, emailed, etc.) meet the new requirements of Section 1403.

THEREFORE, I MOVE THAT the Law Bureau prepare a Final Order consistent with this Motion.


ROBERT F. POWELSON
COMMISSIONER

DATE: June 11, 2015

⁴ 52 Pa. Code § 56.113.

⁵ Duquesne Comments at 2.

⁶ *Id.*

⁷ PPL Comments at 2-3; Columbia Comments at 3.

⁸ Black's Law Dictionary defines "signed" as "Includes any symbol executed or adopted by a party with present intention to authenticate a writing. *See also* Signature." "Signature" is defined as "The act of putting one's name at the end of an instrument to attest its validity[.] . . . A signature may be written by hand, printed, stamped, typewritten, engraved, photographed, or cut from one instrument and attached to another." *Black's Law Dictionary*, 6th Ed., at 1381-1382.

⁹ *See generally* 73 P.S. § 2260.303. I note that the Electronic Transactions Act provides that it "applies only to parties each of which has agreed to conduct transactions by electronic means" and "[w]hether parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct." 73 P.S. § 2260.301(b). It is my belief that all utilities subject to Chapter 14 have engaged in e-commerce at a sufficient enough level that their conduct would make this Act applicable.