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April 19, 2017

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa. C.S. Chapter 14; Docket No. L-2015-2508421

Dear Secretary Chiavetta:

Pursuant to the Commission's Notice of Proposed Rulemaking Order entered July 21, 2016 in the above-referenced proceeding, enclosed herewith for filing are the Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Teresa K. Schmittberger

Enclosures

c: As Per Certificate of Service
Matthew Hrivnak (mhrivnak@pa.gov)
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Amend the Provisions of	:	
52 Pa. Code, Chapter 56 to Comply with	:	Docket No. L-2015-2508421
the Amended Provisions of 66 Pa. C.S.	:	
Chapter 14	:	

**COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER
COMPANY AND WEST PENN POWER COMPANY**

I. INTRODUCTION AND BACKGROUND

On July 21, 2016, the Commission issued a Notice of Proposed Rulemaking Order (“NOPR”) proposing to amend Chapter 56 of the Commission’s regulations to incorporate changes enacted by the legislature in Act 155 of 2014 (“Act 155”), which modified Chapter 14 of the Public Utility Code.¹ Adopted on December 21, 2014, Act 155 revised the standards for residential utility service, including, but not limited to, reporting requirements for accounts with arrearages exceeding \$10,000; cash deposit terms; an amended definition for customers with protection from abuse (“PFA”) or related court orders; medical certificates; termination procedures; and reconnection procedures. Without the passage of Act 155, Chapter 14 would have expired on December 31, 2014.

The purpose of Chapter 14, and the manifest intent of the legislature in adopting Act 155, is described in 66 Pa.C.S. § 1402:

(1) Formal service rules were first adopted by the Pennsylvania Public Utility Commission in 1978 with the stated goal of enforcing uniform, fair and equitable residential utility service standards governing eligibility criteria, credit and deposit practices, account

¹ 66 Pa.C.S. §§ 1401-1419.

billing, termination and restoration of service procedures and customer complaint procedures. These rules have not successfully managed the issue of bill payment. Increasing amounts of unpaid bills now threaten paying customers with higher rates due to other customers' delinquencies.

(2) The General Assembly believes that it is now time to revisit these rules and provide protections against rate increases for timely paying customers resulting from other customers' delinquencies. The General Assembly seeks to achieve greater equity by eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.

(3) Through this chapter, the General Assembly seeks to provide public utilities with an equitable means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections and by increasing timely collections. At the same time, the General Assembly seeks to ensure that service remains available to all customers on reasonable terms and conditions.

(4) The General Assembly believes that it is appropriate to provide additional collection tools to city natural gas distribution operations to recognize the financial circumstances of the operations and protect their ability to provide natural gas for the benefit of the residents of the city.²

As it relates to electric distribution companies ("EDCs"), the three primary goals of Act 155 are (a) to reduce the rates paid by residential customers based on other customers' delinquencies; (b) to eliminate opportunities for customers capable of paying bills to avoid timely payment of bills; and (c) to reduce uncollectible accounts by modifying collections procedures and increasing timely collections while ensuring service remains available to all customers based on reasonable terms and conditions.

Due to the significant number of changes made by Act 155 throughout Chapter 14 of the Public Utility Code, many of the Commission's Chapter 56 regulations were superseded by Act 155. The Commission issued an Implementation Order on July 9, 2015, providing utilities with

² 66 Pa.C.S. § 1402.

interim direction until a comprehensive Chapter 56 rulemaking could occur.³ In the Implementation Order, the Commission addressed several topics, including the reporting requirements for accounts exceeding \$10,000 in arrearages and medical certificate formats. The Commission also informed stakeholders that the topics in the Implementation Order, as well as formal changes to the Chapter 56 regulations, would be addressed in a future rulemaking. In issuing this NOPR, the Commission has now begun the process of formally modifying its Chapter 56 regulations to implement Act 155.

The Commission requested that stakeholders submit comments regarding the NOPR within sixty days of the NOPR's publication in the Pennsylvania Bulletin. The NOPR was published in the Pennsylvania Bulletin on February 18, 2017, causing comments to be due by April 19, 2017. Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), and West Penn Power Company ("West Penn") (each of which may be referred to as "Company" and/or in combination as "Companies") respectfully submit the following comments in response to the NOPR.

II. COMMENTS

In adopting Act 155, the legislature authorized a major overhaul of Chapter 14 of the Public Utility Code. As a result, the Commission's Chapter 56 regulations, which implement Chapter 14, require significant revisions. The legislature did not only modify Chapter 14, but also reauthorized Chapter 14 as governing law for another decade. By reauthorizing and revising Chapter 14, the legislature emphasized the continuing need for utility procedures structured to reduce the rates paid by residential customers based on other customers' delinquencies; eliminate opportunities for customers capable of paying bills to avoid timely payment of bills; and reduce uncollectible

³ *Chapter 14 Implementation*, Docket No. M-2014-2448824 (Final Order entered Jul. 9, 2015) ("Implementation Order").

accounts by modifying procedures and increasing timely collections while ensuring service remains available to all customers based on reasonable terms and conditions.⁴

As signaled by the legislature, customer arrearages and utilities' uncollectible expenses continue to present significant concerns for utilities and their residential customer bases. To address these continuing issues, the Commission's Chapter 56 regulations should be crafted to both incorporate the new provisions within Act 155, as well as better reflect the intent of the legislature in Chapter 14. This rulemaking presents an opportunity to revise the regulations in a manner that more effectively achieves the goals of the legislature.

The Companies continually strive to improve their practices to better comport with the intent of Chapter 14. When a payment-troubled customer calls in to the Companies, the Companies will offer the customer payment arrangement options and, if relevant, provide information regarding the Companies' customer assistance programs. The Companies' customer assistance programs are open to both low income customers, as well as customers who are suffering recent hardships that caused them to fall behind on their bills. If the customer falls behind on bill payments again, the Companies may offer subsequent payment arrangements in an effort to assist the customer further. The Companies' primary goal is to provide customers with as many reasonable opportunities as possible to reduce their arrearages and avoid termination.

Sometimes, however, despite the Companies' best efforts to work with a customer to reduce his or her arrearages, the customer will continue to fall behind on bill payments or even fail to make bill payments altogether. It is under these circumstances the Companies will initiate termination procedures against the customer. The primary purpose of terminating service to such customers is to reduce the Companies' uncollectible expenses. As a customer's account balance

⁴ See 66 Pa.C.S. § 1402.

with a utility continues to increase, it becomes more and more likely that those arrearages will be passed on to other residential customers as uncollectible charges. Although the Companies would always prefer to keep rather than lose a customer, the Companies also must consider the negative monetary impact on their remaining residential customer bases. As part of Act 155, the legislature recognized the uncollectible problem associated with high arrearage accounts, and required utilities to track and report to the Commission information related to all active accounts with balances exceeding \$10,000.⁵ As a result, in the interest of other residential customers, the Companies devote a significant amount of time and resources enhancing their termination, reconnection, and collections procedures in order to reduce customers' arrearages and eliminate opportunities for customers to avoid bill payment.

Based on the Companies' experience working with payment-troubled customers and addressing high arrearage situations, the Companies have a number of recommendations regarding the structure of Chapter 56. The Companies recognize the need for the Commission to strike a careful balance between maintaining protections for payment-troubled customers while also eliminating opportunities for customers to accrue significant balances that are ultimately passed on to other residential customers, and offer the following Comments with these goals in mind. The Companies will comment regarding the Commission's proposed changes in the NOPR, as well as recommend other changes to the regulations that promote the underlying goals of Act 155.⁶ In addition, the Companies also recommend a few changes to the Chapter 56 regulations to recognize technological advancements and changing customer behavior since the Chapter 56 regulations

⁵ 66 Pa.C.S. § 1410.1(3).

⁶ The Companies' Comments are ordered to correspond sequentially to the NOPR, i.e., the Comments are presented in numeric order consistent with the regulations. In addition, because Chapter 56 includes separate sections related to different types of utilities and residential classes, the Companies will include footnotes where proposed changes would apply to both sections. Where a specific regulation is not addressed, the Companies do not have any comment on the regulation at this time. The Companies reserve their right to raise issues related to other regulations as part of any subsequent stages in this rulemaking.

were last revised. The Companies respectfully request that the Commission adopt the Companies' proposed modifications to Chapter 56 as they reflect both the plain language and manifest intent of Act 155.

A. 52 Pa. Code § 56.12⁷

Act 155 modified Chapter 14 of the Public Utility Code to permit customers with automatic meter reading devices, at their own expense, to request an in-person meter reading at the beginning or end of service. The Companies do not object to the Commission's modification of 52 Pa. Code § 56.12 to reflect this Act 155 requirement. Nevertheless, the Companies recommend that the Commission expand on this change to note the inapplicability of other sections in this regulation to automatic meter readings.

As currently crafted, 52 Pa. Code § 56.12 does not address smart meters or automatic meter readings. Presumably, the reason for this omission is that automatic meter readings are deemed "actual readings," and therefore not subject to the restrictions within 52 Pa. Code § 56.12.⁸ By establishing a subsection addressing automatic meter reading, confusion could be created regarding the applicability of this regulation to smart meters.

Accordingly, the Companies recommend that the Commission's proposed modification to 52 Pa. Code § 56.12 be expanded to state:

Inapplicability to automatic meter reading. This section does not apply to automatic meter readings, which are deemed actual readings for purposes of this chapter, except that upon customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee for this in-person meter reading, as provided in a Commission approved tariff.⁹

⁷ The comments in this section also apply to 52 Pa. Code § 56.262.

⁸ See 52 Pa. Code § 56.2.

⁹ Throughout the Companies' Comments, language in bold indicates proposed new language and language with a strike-through indicates a proposed deletion.

The Companies submit that this additional language helps to clarify that 52 Pa. Code § 56.12 does not generally apply to customers with functioning smart meters who are receiving automatic meter readings.

The Companies also propose another modification to 52 Pa. Code § 56.12 to recognize changing customer behavior, as well as minimize costs to public utilities. Specifically, the Companies recommend that the Commission eliminate the provision within 52 Pa. Code § 56.12(2)(i) requiring public utilities with estimated billing to provide customers with a preaddressed postcard to report their in-person meter readings. This postcard requirement imposes an unnecessary expense on utilities where customers have other more convenient means to inform utilities of their customer reads, including calling their utilities or submitting their customer reads online. In the Companies' experience, customers are significantly more likely to provide customer reads by phone or online than by mail. The Companies' customer service representatives are trained to record customer reads and initiate any required changes to customers' accounts. In addition, any customer who establishes an online account with the Companies is permitted to submit customer reads at the Companies' websites. Moreover, as EDCs throughout the Commonwealth transition to full smart meter deployment and functionality, the Companies expect that customer reads will no longer be required.¹⁰ The Companies recommend that the Commission eliminate this postcard requirement as a cost-saving measure.¹¹

¹⁰ West Penn currently has a Commission-approved waiver of 52 Pa. Code § 56.12(2)(i).

¹¹ To the extent the Commission is opposed to elimination of the postcard requirement in its entirety, the Commission could instead require utilities to provide postcards to customers upon request.

B. 52 Pa. Code § 56.15¹²

Although the Commission does not recommend any changes to 52 Pa. Code § 56.15, the Companies request that the Commission consider revising this section to reflect changing smart meter technology. Under 52 Pa. Code § 56.15(2), utilities are required to list the beginning and ending meter readings, also known as register reads, on each bill. For legacy meters, the previous meter reading is subtracted from the current meter reading to determine the customer's monthly usage. The Companies' smart meters are also programmed to record customers' beginning and ending meter readings; however, smart meters will also be tracking customer's hourly interval usage. As customers become more familiar with smart meter technology, the beginning and end meter readings will become less relevant. For example, a time-of-use customer's usage information is significantly more relevant for billing purposes than a customer's meter register reads at the beginning and end of a billing period. In addition, all customers will have access to their interval usage information online, which will increase customers' familiarity with their usage and permit customers to adjust their usage behavior. As a result, as part of this rulemaking, the Companies recommend that the Commission consider changes to 52 Pa. Code § 56.15(2) that permit utilities to present usage information instead of beginning and ending meter readings on the bills of customers with functioning smart meters.

The Companies recommend the following change to 52 Pa. Code § 56.15(2):

(2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it shall contain a clear and conspicuous marking of the word "Estimated." **For automatic meter reading devices, either the beginning and ending meter readings for the billing period or the total usage for the billing period.**

¹² The comments in this section also apply to 52 Pa. Code § 56.265.

This proposed change, or similar language advanced by the Commission, would recognize that register reads are no longer as important as usage information where smart meters are deployed. As customers gain more experience with smart meters, customers will likely become more familiar with their usage levels than their register reads, which will have the added benefit of encouraging customers to use electricity more efficiently. Accordingly, where smart meters are installed, the Companies believe the Commission should consider changes to 52 Pa. Code § 56.15(2) providing utilities with the option to identify total monthly usage on customers' bills instead of customers' beginning and ending register reads.

C. 52 Pa. Code §§ 56.32, 56.41¹³

The Commission is proposing to modify 52 Pa. Code §§ 56.32¹⁴ and 56.41 to state that “a public utility may not require a customer that is confirmed to be eligible for a customer assistance program to provide a cash deposit.” This change is consistent with language in Act 155; however, neither Act 155 nor the NOPR defines the phrase “a customer that is confirmed to be eligible for a customer assistance program.” The Companies recommend that this phrase be interpreted by the Commission as a customer who has provided proof of income to the utility or the utility’s third party administrator of customer assistance programs indicating that the customer is income-eligible for the utility’s customer assistance programs.

The cash deposit is a tool used by utilities to incentivize bill payments from customers with poor payment histories, as well as reduce potential arrearages that may ultimately be passed on to other customers. Where a customer establishes a good payment history for twelve months, the deposit will be reimbursed to the customer. Deposits, therefore, are only held on a customer’s

¹³ The comments in this section also apply to 52 Pa. Code §§ 56.282 and 56.291.

¹⁴ Comments regarding 52 Pa. Code § 56.32 are included in both subsection C and subsection E.

account where the customer maintains delinquent payment practices, causing a balance to accrue on the customer's account.

Although cash deposits provide a means to utilities for minimizing arrearages, in the case of low income customers, the potential hardship associated with the assessment of a deposit in addition to monthly bill payments motivated the legislature to eliminate deposits for customers "confirmed to be eligible for a customer assistance program."¹⁵ A customer is typically eligible for a customer assistance program when the customer's household income is at or below 150% of the federal poverty level.

Consistent with Act 155, the Companies do not assess a deposit to any customers who are confirmed to be eligible for the Companies' customer assistance programs. Customers are confirmed to be eligible for the Companies' customer assistance programs once they are screened by the third party administrator of the Companies' customer assistance programs, currently the Dollar Energy Fund ("DEF"). As part of DEF's screening process, DEF requests proof of income information that enables DEF to determine whether the customer is income-qualified for customer assistance programs. If DEF concludes the customer is income-qualified, the Companies will not assess a cash deposit and the customer will become eligible for the payment assistance and weatherization benefits available through the Companies' customer assistance programs.

The Companies recommend that the Commission formally adopt a definition for "confirmed to be eligible for a customer assistance program" that requires submission of proof of income information to the utility or the utility's third party administrator. This definition would preserve the benefits associated with cash deposits of promoting timely bill payments and reducing arrearages, but also ensure that a cash deposit waiver is available for low income customers.

¹⁵ 66 Pa.C.S. § 1404(a.1).

Income verification is necessary to achieve both of these Act 155 objectives. By including the phrase “confirmed to be eligible for a customer assistance program,” the legislature plainly intends for utilities to use some form of income verification to determine if a customer is eligible for a cash deposit waiver. To recognize both the advantages of cash deposits for residential customers and the need for a deposit waiver among low income customers, the Commission should modify 52 Pa. Code §§ 56.32 and 56.41 to require customers to submit proof of income information to qualify for a cash deposit waiver.

D. 52 Pa. Code § 56.35

Although the Commission does not propose any changes to 52 Pa. Code § 56.35, the Companies recommend modification to this section to further promote the intent of Act 155. The intent of the legislature in reauthorizing Chapter 14 through the adoption of Act 155 was to reduce arrearages; eliminate opportunities for customers to avoid timely bill payments; and reduce the uncollectible expense for other customers while maintaining reasonable terms and conditions for continued service.¹⁶ In an effort to advance these goals, Act 155 imposed an affirmative obligation on utilities to track customer accounts with arrearages exceeding \$10,000 and report information regarding these accounts to the Commission.¹⁷ Where a utility fails to make reasonable attempts to collect these arrearages, Act 155 states that utilities may be subject to civil fines or other sanctions by the Commission.¹⁸ This legislation provides a clear message to utilities that significant efforts should be taken to reduce high arrearage accounts for the benefit of other residential customers.

¹⁶ 66 Pa.C.S. § 1402.

¹⁷ 66 Pa.C.S. § 1410.1(3).

¹⁸ *Id.*

The Companies strive to work with customers to provide payment arrangements to reduce their arrearages and otherwise pursue termination when the arrearage amount increases to a significant level or customers are failing to make an effort towards payment. Once termination procedures begin, some customers will continue to search for ways to avoid termination, which cause their arrearages with the Companies to further increase. The Companies recognize that certain issues, such as illnesses and unexpected hardships, may warrant postponing termination. In a small percentage of cases, however, customers will take advantage of these opportunities for delaying termination, which ultimately causes these customers' balances to increase to an insurmountable level. The Companies are particularly interested in developing better tools for responding to these cases as the arrearages associated with these accounts are likely to be passed on to other residential customers as uncollectible expenses.

One method that some customers use to avoid payment or termination for a high balance is by asking a friend or relative to apply for service at their address. 52 Pa. Code § 56.35 establishes the requirements for holding an applicant accountable for a prior delinquent account at a service location. Pursuant to 52 Pa. Code § 56.35, a utility may hold an applicant responsible for an outstanding balance under a prior customer's name at the property for which service is requested where the applicant resided at the property during the period when the balance accrued.¹⁹ A utility may confirm that the applicant lives at the property through mortgage, lease, or deed information, credit reporting agencies, or other reasonable background search programs, as approved within the utilities' tariffs.²⁰ The Companies are able to rely on this regulation to hold many customers responsible for balances they are trying to avoid by asking another occupant to apply for service at the same property.

¹⁹ 52 Pa. Code § 56.35(b)(1).

²⁰ *Id.* § 56.35(b)(2).

In the Companies' experience, however, this regulation does not sufficiently eliminate opportunities for customers attempting to avoid payment and termination. The Companies frequently encounter friends or relatives attempting to put service in their name at a property with a high account balance under a prior customer's name. Upon further investigation, the Companies confirm that the prior customer who accrued the account balance continues to live at the property. Nevertheless, the Companies are unable to establish that the applicant resided at the property while the account balance was accrued. Based on the Commission's current regulatory scheme, the Companies are required to put service in the applicant's name with an account balance of zero and, where collection efforts are unsuccessful, the Companies must write off the prior customer's balance as uncollectible.

In December 2016, the Companies began tracking the amount of dollars that is written off as a result of third party applicants applying for service at locations where prior customers continue to reside. The Companies project that their aggregate annual uncollectible expense is increased by approximately \$842,184 as a result of these instances, despite no change in occupancy at the service location. This increased uncollectible expense becomes the responsibility of the Companies' other residential customers.

When a customer continues to reside at a service location where he or she accrued a significant balance, service should not continue or be reestablished without payment on that balance. As currently crafted, 52 Pa. Code § 56.35 provides customers with a relatively easy opportunity to fully avoid payment of their bills contrary to the goals of Act 155. Moreover, using this method, customers may quickly accrue collective account balances exceeding \$10,000, which Act 155 warns utilities to minimize. In an effort to modify 52 Pa. Code § 56.35 to further the

intent of Act 155, the Companies recommend that the Commission combine 52 Pa. Code § 56.35(b)(1) and (2), and add a new subsection to 52 Pa. Code § 56.35(b)(2), stating as follows:

A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant is applying for service at a property still occupied by a prior customer who accrued an outstanding balance at the property for which service is requested, not exceeding 4 years from the date of service request. A public utility may establish that a customer still resides at the property for which residential service is requested through the use of mortgage, deed or lease information, field visits, landlord confirmation, or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this paragraph, used to determine the applicant's liability for an outstanding balance.

The addition of this or similar language within 52 Pa. Code § 56.35 would prevent customers from avoiding payment of their outstanding balances through the introduction of a third party applicant. The Companies recommend the following information sources for confirming that a prior customer continues to live at the property: mortgage, deed or lease information, field visits, and landlord confirmation. Each of these methods has been used by the Companies to conclusively establish whether or not the prior customer still lives at the residence. Where the utility can establish through one of these methods that the customer lives at the property, service would not be transferred to the applicant without payment on the balance.

Where a third party applicant applies for service while the prior customer is still living at the property, the only purpose of this change in account holder is to permit the prior customer to avoid a high account balance, which occurs at the expense of the Companies' other residential customers. The Companies' proposed modification to 52 Pa. Code § 56.35 advances the goals of Act 155 to reduce customers' arrearages and uncollectibles. The Companies encourage the Commission to adopt this or similar language as part of this rulemaking.

E. 52 Pa. Code §§ 56.32, 56.38

The Commission is proposing to modify 52 Pa. Code §§ 56.32 and 56.38 to include language from Act 155, which permits any applicant to “have up to 90 days to pay” a deposit. Under the Commission’s current regulations, customers and applicants subject to 52 Pa. Code §§ 56.38(b), 56.288, and 56.292 are permitted to pay their deposits in three installments of 50%, 25%, and 25%. The Companies do not oppose the Commission’s proposed change; however, the Companies request that the Commission provide further explanation regarding the payment requirements during this ninety-day period. Specifically, the Companies request that the Commission affirm that this ninety-day requirement is satisfied where an applicant is permitted to pay the deposit in installments of 50%, 25%, and 25%.

The Companies’ system is already configured to provide customers and applicants with the option of paying their deposit in three installments of 50%, 25%, and 25%. The Companies currently charge 50% of the deposit when the applicant or customer calls to begin service. The additional 25% installments are charged in each of the next thirty-day billing periods. As customers have twenty additional days to pay each bill, the approximate timeframe of the Companies’ current installment plan is ninety days.

The Companies seek to avoid the potentially significant costs and resources associated with updating their billing system to accommodate a new method for charging deposits. The Companies’ billing system does not have the capability of billing an applicant or customer a deposit ninety days after the initiation of service. To implement such a change, the Companies expect that these accounts would require manual review after ninety days, followed by manual adjustments to customers’ bills to reflect the deposit charge. Accordingly, the Companies request that the Commission clarify that this ninety-day requirement is satisfied where applicants are

permitted to pay their deposit based on an installment plan of 50%, 25%, and 25%, consistent with the current approach identified in 52 Pa. Code §§ 56.38(b), 56.288, and 56.292.

Along these same lines, the Companies seek additional clarification regarding the Commission's proposed changes to 52 Pa. Code § 56.32(d), stating that a public utility is not required to provide service where an applicant fails to pay a deposit within the ninety-day period. To the extent the Commission interprets this ninety-day period as consisting of three installment payments of 50%, 25%, and 25%, the Companies request that the Commission clarify whether the applicant would be subject to termination after failing to make a single installment payment, or whether the applicant would only be subject to termination after failure to pay the entire deposit by the end of the ninety-day period.

F. 52 Pa. Code § 56.94

The Companies disagree with the Commission's proposed revisions to 52 Pa. Code § 56.94 relating to the termination procedures for customers whose payments are subsequently dishonored. Specifically, removal of the term "without additional notice" from 52 Pa. Code § 56.94(3) is inappropriate and inconsistent with Act 155 where corresponding language was not removed. Section 1406(h) of the Public Utility Code states that termination procedures may proceed without additional notice after a customer payment to avoid termination is subsequently dishonored.²¹ Act 155 modified Section 1406(h) to provide a customer who submits an electronic payment with three business days to cure the dishonored payment. This three-business day period begins after the utility's notice to the customer of the dishonored payment pursuant to 66 Pa.C.S. § 1406(b)(1)(ii). Where the customer fails to cure the dishonored payment within three business days, Section 1406(h) states that termination may proceed without additional notice.

²¹ 66 Pa.C.S. § 1406(h).

Under 66 Pa.C.S. § 1406(b)(1)(ii), a utility is required to provide customers with notice of termination in person, by telephone, or through approved electronic communication at least three days before termination. 66 Pa.C.S. § 1406(b)(1)(ii) does not include an additional notice requirement for dishonored payments. Therefore, when 66 Pa.C.S. § 1406(b)(1)(ii) is interpreted in conjunction with Section 1406(h), the notice provided pursuant to 66 Pa.C.S. § 1406(b)(1)(ii) may serve both as a notice of termination and a notice of a dishonored payment. In other words, where a payment in response to the initial ten-day termination notice is dishonored, a customer is not required to receive any additional notices as long as at least one of the notifications provided pursuant to 66 Pa.C.S. § 1406(b)(1)(ii) references both the termination and the dishonored payment.

The Commission’s proposed removal of the language “without additional notice” from 52 Pa. Code § 56.94 is improper. The corresponding language within 66 Pa.C.S. § 1406(h) is still present and, therefore, the legislature did not intend for the removal of this language. In addition, utilities should not be required to provide an additional notice pursuant to 52 Pa. Code § 56.93 as a result of a dishonored payment.²² As long as the 52 Pa. Code § 56.93 notice includes reference to both the termination and the dishonored payment, no additional notice should be necessary. If the customer then does not cure the dishonored payment within three business days of the 52 Pa. Code § 56.93 notice, termination may occur. To the extent utilities discover a dishonored payment after the 52 Pa. Code § 56.93 notice was given, utilities would provide an additional notice regarding the dishonored payment allowing the customer an additional three business days to cure the dishonored payment before termination. Moreover, utilities may choose to provide separate

²² 52 Pa. Code § 56.93 is the Commission regulation implementing 66 Pa.C.S. § 1406(b)(1)(ii).

notices regarding termination and the dishonored payment, but they should not be required to provide an additional notice regarding the dishonored payment.

G. 52 Pa. Code 56.97²³

The Commission proposes to modify 52 Pa. Code § 56.97(a)(3) to state that all customers who contact the utility regarding an impending termination should receive information regarding customer assistance programs. The Companies recommend that instead of providing customer assistance information to all customers, utilities should only be required to provide this information to customers potentially eligible for customer assistance programs, i.e., low income customers or customers communicating extenuating circumstances who may be eligible for the Companies' CARES program.²⁴

As proposed by the Commission, 52 Pa. Code § 56.97(a)(3) states:

Information about the public utility's universal service programs, including the customer assistance program. Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for a program and to apply for enrollment in a program.

Customer assistance program information is only relevant to the customers identified above. As a result, the Companies recommend that the phrase "where applicable" be added to the first sentence in 52 Pa. Code § 56.97(a)(3). Where the Companies have information that a customer is potentially eligible for customer assistance programs, the Companies would provide this information to the customer. Where the Companies have no income information for the customer, the Companies would request this information and provide customer assistance program information where the customer appears to be income-eligible. The Companies prefer that

²³ The comments in this section also apply to 52 Pa. Code § 56.337.

²⁴ The Companies' CARES program is available to any customer experiencing a recent hardship such as serious illness or injury to a member of a household; death of a wage earner; marital or family problems; handicapped or disabled person; sudden loss of income to the household; or any customer sixty years of age or over requiring special assistance.

customers only receive relevant information when assessing their options for responding to termination.

In addition, the Companies propose changes to 52 Pa. Code § 56.97(a) and (b) in order to recognize certain technological advancements in the Companies' contact centers. Both regulations specifically refer to public utility employees as the individuals responsible for conveying information related to terminations and payment arrangement options. In recent years, the Companies developed technology to automate this process through Integrated Voice Response ("IVR"). Instead of utility employees providing termination information to customers, the information required by 52 Pa. Code § 56.97(a) would be provided by a computer voice. In addition, the Companies have begun exploring the future use of customers' online portals to communicate termination information.²⁵ To the extent any customer opts to speak to an employee regarding termination, this option would still be available to the customer. As currently worded, however, 52 Pa. Code § 56.97(a) and (b) prevent the Companies from automating this process.

In order to recognize IVR technology and future online opportunities, the Companies propose that the phrase "an authorized public utility employee" be replaced with the phrase "a public utility" in 52 Pa. Code § 56.97(a). In addition, the phrase "through its employees" should be removed from 52 Pa. Code § 56.97(b). These changes to the regulations would permit utilities to utilize IVR, which represents a cost-saving opportunity for utilities and would likely expedite wait times for customers calling the Companies' contact centers. Moreover, this process change would not prevent a customer from speaking to a utility employee upon request. The Companies

²⁵ The Companies recognize that the Commission has yet to approve privacy guidelines associated with electronic termination notices. In the NOPR, the Commission requests feedback from stakeholders on the privacy issues associated with this practice. NOPR, p. 4. The Companies have yet to develop internal procedures related to electronic termination notices and currently do not have any specific recommendations for the Commission. The Companies commit to working with the Commission and other stakeholders to assist in developing future privacy guidelines.

encourage the Commission to consider these proposed modifications to 52 Pa. Code § 56.97(a) and (b) to allow for and promote technological advancements among utilities.

H. 52 Pa. Code § 56.100²⁶

Section 56.100 of the Commission's regulations relates to utilities' winter termination procedures. Pursuant to this section, between December 1 and March 31, EDCs and natural gas distribution companies may not terminate service for nonpayment to any customer with a household income at or below 250% of the federal poverty level.²⁷ In addition, utilities are required to conduct a survey of all customers with heat related service who were terminated in the past year in an effort to address customers' arrearages and evaluate whether a payment arrangement may be reached to allow for restoration of service.²⁸ The results of this survey are subsequently reported to the Commission on December 15 and supplemented on February 1. In the NOPR, the Commission proposes that utilities include the survey results for customers whose accounts were terminated in December as part of their February 1 filing of updated survey results. While the Companies would not oppose this change, the Companies believe this rulemaking provides an opportunity for additional modifications to improve the survey process.

The Companies recommend that the Commission combine the December 15 and February 1 reports into a single report and modify the submission date for the report to January 15. This report would include survey results for all customers with heat related service who were terminated in the prior year. The Companies further propose that utilities be permitted to conduct the survey in person, by telephone, by mail, or electronically, where authorized by the customer. Where utilities do not reach the customer using one method of contact, they will reach out to the customer

²⁶ The comments in this section also apply to 52 Pa. Code § 56.340.

²⁷ 52 Pa. Code § 56.100(b).

²⁸ *Id.* § 56.100(h).

via a different method of contact. To reflect these changes in the regulation, the Companies recommend that 52 Pa. Code § 56.100(h) and (i) be modified to state as follows:

(h) Survey of terminated heat related accounts. For premises where heat related service has been terminated within the past year for any of the grounds in § 56.81 (relating to authorized termination of service) or § 56.98, electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall, within 1290 days prior to **January 1**, survey and attempt to make post-termination personal contact, **in-person, by telephone, by mail, or, where authorized by the customer, electronically**, with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service. **Where survey results are not obtained by one means of personal contact, utilities will utilize a second alternative means of personal contact before January 1.**

(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. Each utility shall update the survey and a report of the survey results with~~ the Bureau of Consumer Services on **January 15** ~~February 1~~ of each year to reflect any change in the status of the accounts subsequent to the ~~December 15 filing. For the purposes of the February 1 update of survey results, the public utility shall attempt to contact by telephone, if available, a responsible adult person or occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.~~

These proposed changes to 52 Pa. Code § 56.100 present a few different advantages. Preliminarily, utilities would avoid the time and resources associated with preparing a second report. The Companies estimate that the cost associated with preparing a second report is approximately \$27,000 annually. The Companies seek to avoid this additional cost by requiring the submission of a single report that provides comprehensive information to the Commission. The Companies' proposed changes also identify additional types of permissible contact for this survey, including in-person, telephonic, mail, and electronic contact. By increasing the options

for how the survey may be conducted, customers will have more flexibility regarding the manner in which they participate in the survey. Where one form of contact is unsuccessful, utilities will attempt a second alternative form of contact before the January 1 deadline for the survey. Together, the Companies' proposed changes to 52 Pa. Code § 56.100(h) and (i) would provide increased flexibility to customers for survey participation and save the resources associated with preparation of a second winter survey report.

In addition, although the Commission does not propose any changes to 52 Pa. Code § 56.100(f) in the NOPR, the Companies request that the Commission revisit whether changes to this subsection may be appropriate as part of this rulemaking. 52 Pa. Code § 56.100(f) provides the same protection for low income customers, i.e., a prohibition against termination for nonpayment between December 1 and March 31, to landlord ratepayers. As applied to low income customers, this winter moratorium on termination for nonpayment is understandable, as low income customers may struggle more than other customers to make the necessary payment to restore service. By contrast, landlord ratepayers generally do not qualify as low income customers, and therefore receive a benefit that is unavailable to all other customers. The Companies have previously encountered challenges collecting payment from landlord ratepayers and this prohibition against winter termination for nonpayment permits landlords to further postpone payment and increase their arrearages.²⁹

The Companies are aware that certain landlord ratepayers may be the account holders for tenants who qualify as low income, in which case certain winter protections may be appropriate; however, a prohibition against winter termination for all landlord ratepayers is unduly broad. The Companies request that the Commission evaluate whether landlord ratepayer accounts are properly

²⁹ The termination process for landlord ratepayer accounts is often lengthier due to the additional procedures identified in 66 Pa.C.S. §§ 1521, *et seq.*

subject to a winter moratorium on termination, and if not, whether additional modifications are appropriate to more narrowly tailor 52 Pa. Code § 56.100(f).

I. 52 Pa. Code § 56.113

As part of Act 155, the legislature established a definition for medical certificate requiring all medical certificates to be in writing.³⁰ Before Act 155 was approved, medical certificates could either be written forms or provided orally by a customer's physician. The Companies' revisions to 52 Pa. Code § 56.113 remove reference to oral medical certificates, but also propose a few additional medical certificate requirements that were not identified by the legislature, namely requiring utilities to post their medical certificate forms online. It is the Companies' position that 52 Pa. Code § 56.113 should be structured to facilitate medical certificates for those with legitimate medical issues, but also discourage fraudulent medical certificate use. With these goals in mind, the Companies propose the following changes to the Commission's proposed language within 52 Pa. Code § 56.113:

All medical certificates must be in writing. Public utilities may develop a medical certificate form. The public utility's medical certificate may not be mandatory. Any medical certificate form developed by the public utility shall be **provided to the physician, nurse practitioner, or physician assistant upon request. Otherwise, medical certificate information should be provided on the letterhead of a physician, nurse practitioner, or physician assistant.** ~~made readily available and placed on the public utility's web site.~~ Medical certificates may be electronically transmitted and electronic signatures are valid.

Medical certificates provide an important mechanism for customers with serious illnesses to certify to their utility that their service may not be terminated. On the other hand, medical certificates are sometimes used by customers as a tool to avoid termination and further increase their arrearages where the customers are not truly suffering from an illness. In requiring all

³⁰ 66 Pa.C.S. § 1403.

medical certificates to be in writing, the legislature seemed to acknowledge the potential for medical certificate abuse. In fact, following the adoption of Act 155, the elimination of oral medical certificates was effective in reducing instances of medical certificate fraud and abuse.

If the Companies are required to post their medical certificate forms online, the Companies are concerned that medical certificate abuse could increase once again. Where customers are experiencing medical issues, customers typically will reach out to their utility to discuss the problem, at which point customers may request that the form be sent to their physician, nurse practitioner, or physician assistant. This process ensures that the medical certificate form is quickly made available to the medical professional who is responsible for filling out and signing the form. By contrast, if this form is searchable and available for download by the public, customers without legitimate medical issues could easily use this form in an attempt to avoid termination.

To offer additional flexibility to customers requiring medical certificates, the Companies propose that medical certificate information also could be submitted on the letterhead of the customer's physician, nurse practitioner, or physician assistant. If for any reason a medical certificate form is not obtained from a utility, the required information could be submitted instead on the letterhead of the medical professional seen by the customer. The Companies' proposed medical certificate options ensure that customers with medical issues may readily obtain medical certificate protections. In addition, because the customer's physician, nurse practitioner, or physician assistant is directly involved in this process, medical certificate abuse will likely be minimized.

Consistent with Act 155, the Commission further proposes to modify 52 Pa. Code § 56.113 to require that all medical certificates be signed by the customer's physician, nurse practitioner,

and physician assistant, and to remove the requirement that the nature of the customer's illness must be disclosed to the utility. The Companies do not oppose these proposed changes and suggest one additional modification as well. The Companies recommend that medical certificate forms require the physician, nurse practitioner, or physician assistant to provide his or her license number. It is the Companies' understanding that each of these medical professionals has a license number that could be readily provided by them as part of the medical certificate process. As the medical professional is charged with filling out and signing the form, the addition of a license number would not increase the time or effort associated with preparation of the form. The addition of a license number to the medical certificate form would further minimize medical certificate fraud and abuse.

J. 52 Pa. Code § 56.114

The Commission does not propose any changes to 52 Pa. Code § 56.114; however, the Companies request clarification regarding the intended scope of 52 Pa. Code § 56.114. 52 Pa. Code § 56.114 currently states, in relevant part, as follows:

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....When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.

52 Pa. Code § 56.116 provides that customers with medical certificates “retain a duty to make payment on all current undisputed bills or budget billing amount...” Taken together, these regulations could be interpreted to allow a customer to apply for an unlimited number of medical certificates as long as they have met their obligation to pay current undisputed bills, even if the customer fails to reduce his or her arrearages. As part of this rulemaking, the Companies encourage the Commission to clarify whether customers who fail to pay their arrearages are

eligible for an unlimited number of medical certificates as long as they are paying current bills, or if they are eligible for only two medical certificate renewals until their arrearages are paid off.

Based on the manifest intent of Act 155 to reduce arrearages and uncollectibles, the Companies do not believe the legislature intended for medical certificates to provide an indefinite loophole to termination. The Companies recognize that certain illnesses present challenges for customers to keep up with their utility bills. In these situations, the Companies are willing to work with customers to enter into payment arrangements to address any arrearages caused by the onset of an illness. Frequently, however, customers apply for a medical certificate only after they have accrued a significant balance with the Companies, sometimes as a last-ditch effort to avoid termination. To address these situations, the Companies request that the Commission limit the number of medical certificates that may be obtained while customers continue to have an outstanding balance.

To resolve this concern, the Companies propose the following modified language within 52 Pa. Code § 56.114(2) to clearly establish that customers with medical certificates are responsible for their arrearages after two renewals:

(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.

The Companies support the foregoing proposed changes or any similar language advanced by the Commission that would eliminate customers' ability to avoid their arrearages by obtaining medical certificates. Without such changes to 52 Pa. Code § 56.114, customers could postpone payment towards the arrearages on their account indefinitely contrary to the intent of Act 155.

K. 52 Pa. Code § 56.163³¹

The Companies oppose the Commission's proposed modification to 52 Pa. Code § 56.163, which would require utilities to produce their informal complaint responses to the BCS to a complainant upon request. These changes would require utilities to subject all informal complaint responses to the same level of review as formal complaint responses, which would require the expenditure of significant additional resources by utilities. Where confidential information is involved, such as information related to other utility customers, the utility's internal procedures, or settlement discussions, utilities may be required to redact this information before disclosure to the complainant. For these reasons, the Companies urge the Commission not to approve its proposed changes to 52 Pa. Code § 56.163.

Customers have two options for filing a complaint against a utility: they may either submit an informal complaint, which is investigated and decided by the BCS, or they may submit a formal complaint to the Commission. A BCS decision may be appealed by the customer as part of a subsequent formal complaint proceeding.³² A significant advantage of the informal complaint process is that the customer's concerns may be addressed quickly by the utility and the BCS, and the resources associated with a formal complaint proceeding are avoided. One reason the informal complaint process is able to move along expeditiously is because the utility's informal response is

³¹ The comments in this section also apply to 52 Pa. Code § 56.392.

³² See 52 Pa. Code § 56.172.

not subject to additional levels of legal scrutiny, as would occur for any documentation used as part of a formal complaint proceeding.

When the Companies receive an informal complaint, the Companies' compliance department is charged with responding to the Commission. Similar to many other submissions to the Commission, the Companies' informal complaint responses are prepared with the understanding that the responses will not be disclosed to the public. The responses provided to the BCS are comprehensive; i.e., they provide a complete history of the dispute without redaction of confidential information and without regard for legal strategy. Most informal complaint cases are resolved at the BCS and do not proceed to a formal complaint proceeding. The Companies greatly appreciate this process, which limits the amount of resources required to respond to informal complaints.

Requiring utilities to provide complainants with a copy of these responses would dramatically increase the amount of resources expended by utilities during the informal complaint process without creating a corresponding benefit to customers. Additional compliance employees and attorneys would need to be hired to provide supplemental review of all informal complaint responses, as well as redact all references to confidential information. The time, personnel, and resources associated with each response would increase dramatically, while, from the Companies' perspective, little to no additional value would be provided to the customer. The current informal complaint process already successfully resolves the majority of disputes with customers. Sufficient cause does not exist to require such a significant and costly overhaul to the informal complaint process.

L. 52 Pa. Code § 56.191

The Companies have no comments regarding the Commission's proposed changes to 52 Pa. Code § 56.191; however, the Companies are proposing a few additional modifications to this section. Specifically, the Companies recommend modifying 52 Pa. Code § 56.191(b)(1) as follows:

(vi) Within 5 calendar days where a public utility employee was previously threatened by the customer. Additional fees associated with the increased security required during reconnection may be charged to these customers as approved within a public utility's tariff.

The Companies also support similar changes to 52 Pa. Code § 56.191(b)(2):

(vi) Within 5 calendar days where a public utility employee was previously threatened by the applicant. Additional fees associated with the increased security required during reconnection may be charged to these applicants as approved within a public utility's tariff.³³

The Companies recommend an increase to the reconnection timeframe where a utility employee was previously threatened by the applicant or customer. If a verbal or physical threat previously occurred, utilities will bring additional security or engage a police escort during the reconnection process. A five-day reconnection timeframe would provide sufficient time for utilities to obtain additional security forces. The Companies further recommend that 52 Pa. Code §§ 56.191(b)(1) and (b)(2) be modified to permit utilities to propose tariff language allowing for higher reconnection fees where additional security is needed. Only those customers or applicants who are responsible for prior threatening behavior would be subject to the additional costs associated with reconnection. The amount of the reconnection fee should be determined on a

³³ The Companies' comments regarding new subsection (vi) also apply to 52 Pa. Code § 56.421 with a slight modification. For customers subject to 52 Pa. Code § 56.421, restoration of service would still occur within twenty-four hours, however, additional fees could be charged consistent with a utility's tariff where a utility employee was previously threatened by the customer.

utility-by-utility basis to ensure the fee is reflective of the respective costs for reconnection and security within each service territory.

M. 52 Pa. Code § 56.302

Chapter 14 of the Public Utility Code explicitly does not apply to customers with PFAs.³⁴ Act 155 expands this exemption to both customers with PFAs and customers with court orders providing clear evidence of domestic violence. Beginning at 52 Pa. Code §§ 56.251, *et seq.*, the Commission's regulations include a separate section related to steam heating, wastewater, small natural gas companies, and customers with PFAs, which occasionally differ from the conditions of service reflected in earlier sections of Chapter 56.

Although the Commission does not propose any significant changes to 52 Pa. Code § 56.302, the Companies propose one additional change to this section to create consistency throughout the regulations:

(4) *Prompt payment of bills.* After a customer has paid bills for service for 12 consecutive months without having service terminated and without having paid a bill subsequent to the due date or other permissible period as stated in this chapter on more than two occasions ~~or for a maximum period of 24 months~~, the public utility shall refund any cash deposit, plus accrued interest.

Act 155 eliminated the maximum twenty-four-month hold period for deposits, and instead requires customers to establish a timely payment history before a cash deposit will be refunded. Although Act 155 does not govern the Commission's regulations at 52 Pa. Code §§ 56.251, *et seq.*, this change should be equally applicable to all customers, including customers with PFAs or other court orders evidencing domestic violence. As established earlier in comments, where a customer has yet to reestablish a timely payment history, if a cash deposit is refunded as a result of a maximum hold period, another cash deposit will be charged to the customer the following billing

³⁴ 66 Pa.C.S. § 1417.

cycle. As a result, customers receive little, if any, benefit from this cash deposit refund. In addition, differentiating between classes of customers will create certain administrative inefficiencies for utilities. For example, a customer may be subject to a PFA when a cash deposit is assessed, but is no longer subject to the PFA when the twenty-four-month hold period expires. The Companies' IT systems are currently not configured to allow for the release of cash deposit based on PFA status, and any attempt to treat PFA customers differently would likely require manual work. To increase efficiencies among utilities' cash deposit processes, the Companies recommend that the twenty-four-month hold period within 52 Pa. Code § 56.302 be eliminated.

N. 52 Pa. Code § 56.353

The Companies recommend the same changes to this regulation as indicated for 52 Pa. Code § 56.113 above. In addition, the Companies do not support oral medical certificates for customers with PFAs or other court orders demonstrating evidence of domestic violence. To minimize the potential for medical certificate fraud and abuse, written medical certificates should be required for all customers. To the extent the Commission is concerned regarding the ease of obtaining a written medical certificate for these customers, the Companies offer two different methods for obtaining a medical certificate: the customer may either request the utility to send a form to his or her physician, nurse practitioner, or physician assistant, or medical certificate information may be submitted on the letterhead of the medical professional. The Companies do not believe the continued availability of oral medical certificates will increase customers' access to medical certificates. To promote consistency throughout the Commission's regulations and within utilities' internal procedures, the Companies request that the Commission remove all references to oral medical certificates within 52 Pa. Code § 56.353.

III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company appreciate the opportunity to provide Comments and respectfully request that the Pennsylvania Public Utility Commission consider and adopt the recommendations in the foregoing Comments.

Respectfully submitted,



Dated: April 19, 2017

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Amend the Provisions of :
52 Pa. Code, Chapter 56 to Comply with : **Docket No. L-2015-2508421**
the Amended Provisions of 66 Pa. C.S. :
Chapter 14 :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below.

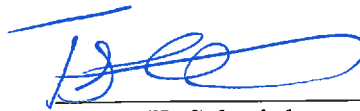
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