



Susan Simms Marsh P 717-531-3208
Deputy General Counsel F 717-531-3399
800 West Hersheypark Drive E susan.marsh@amwater.com
Hershey, PA 17033 I www.amwater.com

September 12, 2017

e-File

Rosemary Chiavetta, Secretary
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
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:

Pennsylvania-American Water Company is submitting the attached Comments in response to the Pennsylvania Public Utility Commission's Order entered July 13, 2017, in the above-captioned docket.

Should you have any questions concerning this filing, please contact me.

Thank you.

Sincerely,


Susan Simms Marsh

Attachment

cc: Matthew Hrivnak, Bureau of Consumer Services (via eMail)
Patricia Wiedt, Law Bureau (via eMail)
Daniel Mumford, Office of Competitive Market Oversight (via eMail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

COMMENTS OF
PENNSYLVANIA-AMERICAN WATER COMPANY

I. INTRODUCTION

Pennsylvania-American Water Company (“Pennsylvania American” or “PAWC”)¹ appreciates the opportunity to submit these comments to the Pennsylvania Public Utility Commission’s (“Commission’s”) Order Seeking Additional Comments, entered in the above-captioned docket on July 13, 2017. In the July 13, 2017 Order, the Commission sought additional comments on issues raised in the parties’ initial comments filed on April 19, 2017, in response to the Commission’s July 21, 2016, Notice of Proposed Rulemaking (“NOPR”) Order, and introduced two new issues to this proceeding and invited parties to comment on the new issues.

II. COMMENTS

A. Privacy Guidelines at 66 Pa. C.S. § 1406(b)(1)(ii)(D)

Section 1406(b)(1) requires a public utility to provide advance notice to a customer of a termination of service at least 10-days and 3-days prior to terminating service. The 10-day notice must be written, but the 3-day notice may take one of the permitted forms listed in

¹ Pennsylvania American is a water and wastewater public utility regulated by this Commission, and is engaged in the business of collecting, treating, storing, supplying, distributing and selling water to the public, and collecting, treating, transporting and disposing of wastewater for the public. Water and wastewater service is furnished by Pennsylvania American to the public in a service territory encompassing more than 36 counties and 400 communities across the Commonwealth with a combined population of approximately 2,300,000. Pennsylvania American is a wholly owned subsidiary of the American Water Works Company, Inc.

Section 1406(b)(1)(ii). The 3-day notice may be in person, by telephone or “by e-mail, text message or other electronic message format consistent with the [C]ommission’s privacy guidelines and approved by [C]ommission order.” Section 1406(b)(1)(ii)(A)-(C). In the case of an electronic notification under Section 1406(b)(1)(ii)(C), the amended Chapter 14, at Section 1406(b)(1)(ii)(D), requires a utility to obtain affirmative consent from the customer to be contacted using a specific electronic message format for purposes of termination.

In the July 13, 2017 Order, the Commission noted that the NOPR acknowledged the amended Chapter 14’s reference to the Commission’s “privacy guidelines” at 66 Pa. C.S. § 1406(b)(1)(ii)(C), and that the NOPR proposed changes to Sections 56.93 and 56.333 (relating to personal contact) references “the Commission’s privacy guidelines” generally, but that the NOPR did not define or explain, what such “guidelines” are to any degree of specificity. In the July 13, 2017 Order, the Commission noted that several parties offered suggestions on this topic. In the July 13, 2017 Order, the Commission stated it was reasonable to assume that the General Assembly envisioned the development by the Commission of guidelines that would be ratified by a Commission Order, as opposed to the development of regulations. The Commission stated that guidelines approved by order would not be overly prescriptive or detailed, as they would be in regulations, which is beneficial to the public interest given “ever changing technology.”

At the same time, in the July 13, 2017 Order, the Commission acknowledged that several parties offered comments with respect to a utility obtaining a customer’s consent to use an electronic form of communication for termination pursuant to 66 Pa. C.S. § 1406(b)(1)(ii)(D). The Commission stated in the July 13, 2017 Order that it was apparent from the comments that there are number of concerns related to this topic, including what type and form of consent is needed;

the duration, expiration and revocation of consent; and the use and sharing of the contact information provided.

In the July 13, 2017 Order, the Commission proposed addressing these topics in a separate, but related, proceeding, and stated its intention to use the comments submitted to date to propose a future Tentative Order addressing privacy guidelines for Section 1406(b)(1)(ii)(D) (relating to notice of termination of service) and Sections 56.93 and 56.333 of Title 52 of the Pennsylvania Code. In the July 13, 2017 Order, the Commission invited parties to comment further on these topics, and stated that it will consider such comments as the Commission prepares the future Tentative Order.

At this time, PAWC supports the Commission's proposal to issue a future Tentative Order to address these topics, and awaits the opportunity to provide comment to the Commission's proposals contained therein. In addition, PAWC reiterates its comments submitted on April 19, 2017. Specifically, with regard to the consent requirement appearing at 66 Pa. C.S. § 1406(b)(1)(ii)(D), in so much that this section does not require a customer's "affirmative consent" be in writing, PAWC believes such consent may be obtained in writing or orally. For ease of process for both the customer and the utility, PAWC recommends such oral consent can be obtained during the application phase for a new customer's request for utility service, after the customer receives an explanation by a utility representative of the purpose of such consent.

B. Data on the Usage of Medical Certificates

In the July 13, 2017 Order, the Commission made note of the following comments of the Independent Regulatory Review Commission ("IRRC") in this proceeding:

While fraud is frustrating, it is not clear from the comments to what degree this fraud has existed or might exist. We ask the PUC to explain its historic experience with medical certificates including how many medical certificates are on file each year in relation to the overall number of customers, how medical certificate fraud

has affected uncollectible accounts, and what proportion of the utility's overall revenue the impact of fraudulent medical certificates represent. (IRRC at 5).

The Commission, in the July 13, 2017 Order, offered the most complete data available to the Commission on medical certificate usage in 2016 based on the utility reporting requirements concerning medical certificate usage at Section 1410.1(4), and invited the parties to comment upon:

...their experience with the use of medical certificates to avoid termination, the fraudulent use of medical certificates, how medical certificate fraud has affected uncollectible accounts, and what proportion of the utility's overall revenue is impacted by the use of fraudulent medical certificates.

The Commission also requested parties to submit any data they have to support their comments on these topics.

Pennsylvania American believes the Commissions' regulations – which allow for a customer to submit a one 30-day medical certificate along with two renewals – protects customers subject to the collections process who may have a valid medical reason to avoid shut-off, while at the same time minimizing the affect that medical certificate fraud may have on a utility's uncollectible expense. Because of this, Pennsylvania American typically will investigate for medical certificate fraud only in the limited circumstances where the facts directly point to fraud. Generally, however, to the extent, a customer has submitted medical certificate provides the required information, including a signature; Pennsylvania American typically will honor the customer's medical certificate.

Pennsylvania American does not systematically track the reason for not accepting or rejecting a medical certificate and, therefore, is unable to answer, without conjecture, the questions posed in the July 13, 2017 Order, regarding the fraudulent use of medical certificates and how

medical certificate fraud has affected uncollectible accounts, and what proportion of the utility's overall revenue is impacted by the use of fraudulent medical certificates.

C. Cost and Impact of Regulatory Changes

In the July 13, 2017 Order, the Commission noted that the IRRC stated the following in their comments in this proceeding:

We are particularly interested in the economic and fiscal impact of this regulation because it relates to the criteria that we must consider in determining whether the final regulation is in the public interest. (IRRC at 6)

In the July 13, 2017 Order, the Commission invited parties:

to submit estimate[s] of the costs and/or savings associated with compliance with these proposed changes, including any legal, accounting, or consulting procedures which may be required and explain how the dollar estimates were derived. This includes the topics discussed in this Order.

At the present time, Pennsylvania American does not have estimated cost and/or savings associated with compliance with the proposed changes.

D. Third-Party Notification of Collection Notices (New topic)

In the July 13, 2017 Order, the Commission noted that Section 56.131 (and the identical Section 56.361) provides for a third party to receive copies of various collection notices, including past due and termination notices. As explained in the July 13, 2017 Order, the intent of such provision is to provide pertinent information to a third party who may aid or assist the customer with a collections-related problem. Also, as explained in the July 13, 2017 Order, the notification is voluntary and for informational purposes only and does not impose any obligation upon the receiver of the notice.

In the July 13, 2017 Order, the Commission noted that it has come to the Commission's Office of Competitive Market Oversight's attention that this same mechanism may be of service

in the context of energy supplier switching and proposed adding supplier switch confirmation notices to the list of notices that a utility will provide under Sections 56.131 and 56.361. In addition, the Commission proposed revising the enrollment form template currently in use and using a separate form for electric and natural gas distribution companies.

The Commission recognized, however, that supplier switching is not relevant for water, wastewater and steam heating utilities. However, the Commission did propose in the July 13, 2017 Order a new Appendix F for water and wastewater utilities, relating to the enrollment form template currently in use by water/wastewater utilities. The Commission explained that the proposed Appendix F is the same provision and language in the current regulation. The Commission invited parties to comment on the proposed revisions to third-party notice procedures, including the language in the appendices.

PAWC supports the Appendix F proposed by the Commission for water and wastewater utilities.

E. Customer Retaining Utility Service Pending Formal Appeal (New topic)

In the July 13, 2017 Order, the Commission noted that its Bureau of Consumer Services (“BCS”) has noticed some confusion and uncertainty as to the expectation upon utilities of providing utility service to a complainant who has formally appealed an informal decision from BCS and, therefore, proposed clarifying revisions to the language at Section 56.172 (relating to filing) and the analogous, identical provision at Section 56.402. The proposed revisions in the July 13, 2017 Order make clear that if a customer receives a BCS informal decision with restoration terms and the customer pays according to the BCS informal decision, the utility must restore service while a formal appeal of a BCS decision is pending.

PAWC supports the revision to the Commission's regulations as it is aligned with the purpose of the stay, which is to maintain utility service to a customer until a final formal determination is made.

III. CONCLUSION

Pennsylvania-American Water Company appreciates the opportunity to present additional comments to the Commission's Order dated July 13, 2017 entered at Docket No. L-2015-2508421 and requests that the Commission consider these comments as well as our initial comments filed on April 19, 2017 to amend the provisions of 52 Pa. Code, Chapter 56 to comply with the amended provisions of 66 Pa. C.S. Chapter 14.

Respectfully submitted,



Susan Simms Marsh, Esquire (PA ID # 44689)
Deputy General Counsel
Pennsylvania-American Water Company
800 West Hersheypark Drive
Harrisburg, PA 17103
Telephone: 717-531-3208
Facsimile: 717-531-3399
E-mail: susan.marsh@amwater.com

Date: September 12, 2017

Counsel for Pennsylvania-American Water Company