**ATTACHMENT ONE**

**Cost and Impact of Regulatory Changes**

In our July 2016 NOPR, we asked commentators to include in their comments a specific estimate of the costs and/or savings associated with complying with the Commission’s proposed changes, including any legal, accounting, or consulting procedures which may be required. We further asked parties to explain how any dollar estimates they provide were derived.[[1]](#footnote-1)

IRRC, in its comments in response to the NOPR, noted:

*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). Accordingly, we again invited parties to submit estimates of the costs and/or savings associated with compliance with the proposed regulations in our July 2017 *Order Seeking Additional Comment*.[[2]](#footnote-2)

In response to these requests we received some cost estimates but, for the most part, utilities expressed a reluctance to provide estimates. They often cited the difficulty and complexity of calculating costs and/or an inability to estimate costs until the final regulations and expectations are established.

Duquesne noted that it appreciates and understands the need for cost data but states that until a final determination is reached on some of the proposals, it is difficult for them to articulate what the cost and impact will be. (Duquesne Additional Comments at 6). Duquesne does offer some general costs of information system upgrades, especially in the context of providing switching notices to third parties. It opines that changes to its billing system for moderately complex operations can cost upward of $1 million for each change and can take over a year to develop, test and roll out. (Duquesne Additional Comments at 8).

Columbia submits that when regulations change, they will incur costs in order to achieve compliance with such a change and, like Duquesne, uses third-party notification for supplier switching as an example. Columbia estimates that the programming costs to implement such will be anywhere from $4,850 to $9,700. Further, Columbia requests that as the regulations change that the Commission allow the affected utilities the necessary time and flexibility to adapt to such regulatory changes, as each affected utility possesses its own unique systems and internal processes. (Columbia Additional Comments at 4 – 5).

Likewise, NFG also emphasizes that whenever there are regulatory changes there is always a cost associated with modifying systems to implement those changes. While NFG sees benefits in numerous items in this rulemaking, NFG suggests that the changes which are eventually implemented be reasonable and allow flexibility. Each utility has developed systems in different ways and has varied technological programs and capabilities. Additionally, each utility has varied geographic areas and diverse customer bases. It is important to recognize that changes which would benefit certain utility providers and its customers may be detrimental to others. NFG believes that the cost burden of third-party supplier switching notices outweighs its benefit. Many utility systems are not formatted to make this kind of notification happen readily and could require significant modifications to systems to meet the requirement. Furthermore, this would likely only positively impact a very small number of customers. For example, in NFG’s service territory only 0.6% of customers would benefit from this change. Requiring utilities to bear a high cost and burden for a change that benefits such a limited subset of its customers serves as an example of why a cost-benefit analysis is necessary and that this specific change should accordingly be rejected. (NFG Additional Comments at 3 – 4).

With few exceptions, PPL is not able to provide cost impacts related to the Commission's proposed revisions to Chapter 56. Many of the cost impacts will be directly related to how many customers avail themselves of the Commission’s proposed regulations, if adopted, and this is unknown at this time. (PPL Additional Comments at 2 – 3). PPL estimates that it would cost $25,000 to develop an automated process to provide notices to third parties and that there would be mailing costs as well. (PPL Additional Comments at 3). PPL also contends that the written consent notice proposal for electronic notices, requiring utilities to obtain them in writing, renew the consent, and update contact information periodically, creates an unnecessary expense for the utility. PPL estimates it would cost approximately $850,000 to send its 1.2 million residential customers written consent notices. This expense would be repeated, and perhaps increase, each time PPL would be required to renew the consent agreements. This expense would ultimately be borne by the ratepayers. (PPL Additional Comments at 5 – 6).

At the present time, PAWC does not have estimated cost and/or savings associated with compliance with the proposed changes. (PAWC Additional Comments at 5).

EAP defers to its member companies’ responses concerning cost estimates. (EAP Additional Comments at 4 – 5). However, EAP commends the Commission for including the ability of utilities to contact customers by email, text message or other electronic messaging format into this section to satisfy attempted personal contact by the utility. Electronic communications afford utilities and customers with a myriad of benefits including reduced costs associated with paper, printing, reproduction, storage, and postage as well as increased speed of transactions. Information can be transmitted nearly instantaneously instead of days or weeks of wait time from the postal service. (EAP at 7).

FirstEnergy notes that they seek to avoid the potentially significant costs and resources associated with updating their billing system to accommodate a new method for charging deposits. Their 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. (FirstEnergy at 15 - 16). In addition, the phrase “through its employees” should be removed from § 56.97(b). These changes to the regulations would permit utilities to utilize Interactive Voice Response (IVR), which represents a cost-saving opportunity for utilities and would likely expedite wait times for customers calling the Companies’ contact centers. With IVR, instead of utility employees providing termination information to customers, the information required would be provided by a computer voice. (FirstEnergy at 19).

The OCA notes that it does not have access to compliance cost information and so cannot provide comment at this time. The OCA notes, however, that costs should be considered in the proper context as this rulemaking relates to important consumer protections, and it can be difficult to quantify the benefits of this type of regulation. The proposed regulations would help to prevent fraud, prevent consumers from becoming payment troubled, and prevent service terminations with their attendant economic consequences and risks to public health, safety, and even potential loss of life. While the OCA appreciates that the Commission and IRRC need to consider costs associated with regulatory proposals, the fact that the current proposal relates to important consumer protections should also be considered to place costs considerations in the appropriate context. (OCA Additional Comments at 5 – 6).

**Discussion**

We agree with IRRC that costs and benefits must be fully considered when determining if the final regulation is in the public interest.We also agree with the OCA that costs need to be considered in the proper context as this rulemaking relates to important consumer protections. OCA notes the difficulty in quantifying the benefits of this type of regulation, as many of the utilities likewise pointed to the difficulty in quantifying the costs of the regulations. We agree with OCA in that the proposed regulations, in many instances, would help to prevent fraud, prevent consumers from becoming payment troubled, and prevent service terminations with their attendant economic consequences and risks to public health, safety, and even potential loss of life.

We point to some of the proposals as providing clear cost benefits, agreeing with FirstEnergy that the changes we are making to permit utilities to utilize IVR represents a cost-saving opportunity for utilities. Likewise, as EAP points out, our changes to allow electronic 3-day termination notices provide benefits including reduced costs associated with paper, printing, reproduction, storage, and postage. Water utilities that operate wastewater systems will also benefit under the new regulations because the rules will now be the same for both types of utilities – wastewater will no longer have different rules.

We have also listened to the objections about costs and have modified our proposals accordingly. One of the few areas where utilities were able to provide estimates and express concerns was our proposed third-party switching notices. In response, we have dropped this proposal from this proceeding. Likewise, in response to PPL’s concerns with the costs of obtaining customer consent relating to electronic notices, we have agreed to consider customer privacy and consent issues in a separate collaborative proceeding that will allow us to vet the issue and related costs more comprehensively.

Finally, we note that the majority of proposals found in this rulemaking are simply codifying the requirements in the revised Chapter 14. Given that Chapter 14 requirements are a matter of law, they must be complied with, regardless of objections. Utilities have had to comply with these revisions since 2015, so any resulting compliance costs are likely to have already been incurred, so additional costs should be limited.

**Supplier Consolidated Billing**

Consistent with its Petition for Implementation of Electric Generation Supplier Consolidated Billing[[3]](#footnote-3) (“SCB Petition”) filed by NRG on December 8, 2016, NRG’s comments and proposed revisions are primarily aimed at accommodating and facilitating the implementation of supplier consolidated billing (“SCB”). Under SCB, customers would have the option of receiving a consolidated bill from their electric generation supplier (“EGS”), containing all of the EGS charges, along with the tariffed delivery charges of the electric distribution company (“EDC”). In its comments, NRG urges the Commission to take advantage of this Chapter 56 rulemaking proceeding to establish a clear set of rules governing SCB so that no doubts exist about the enforceability of requirements to EGSs and EDCs. Additionally, as the current provisions of Chapter 56 set forth the rules applicable to deposits, payment arrangements, termination, reconnection and disputes, they can be easily tailored for use in the SCB context by simply adding the phrase “or billing entity” in situations that currently assume that the public utility will serve as the only consolidated billing entity. (NRG at 1 – 2).

NRG proposes a new subchapter outlining the requirements that would be applicable to EGSs and EDCs in the SCB context. It consists of four sections, with proposed § 56.471 establishing the availability of SCB in the electric industry by proclaiming that EGSs may render a consolidated bill to customers that contain charges for basic services, including the EDC’s distribution services and the EGS’s commodity services, and any charges for the EGS’s non-basic services. The remaining three sections (§§ 56.472–56.474) propose numerous stringent financial and technical requirements that an EGS would need to fulfill in order to be a billing entity, establish the duties of the EGS in the billing entity role, and outline the duties of EDCs when an EGS is performing consolidated billing functions. (NRG at 6 – 7).

NRG further believes that it is necessary for the Commission to clarify the applicability of various Chapter 56 provisions to energy suppliers. While NRG recognizes that the Commission currently requires EGSs and NGSs to comply with Chapter 56, as applicable, the majority of the provisions of Chapter 56 relate to deposits, bills, termination, payment arrangements and reconnection, which are not applicable to entities that are not rendering bills or making decisions to terminate accounts. In the course of identifying the provisions of Chapter 56 with which billing entities (other than public utilities) would need to comply, NRG thinks that clarity around the applicability of Chapter 56 rules would likely facilitate regulatory compliance by energy suppliers. (NRG at 2 – 3).

RESA, in its comments, fully supports the implementation of SCB in Pennsylvania as an additional billing option for suppliers. Enabling suppliers to directly bill their customers through the implementation of SCB is an important and necessary evolution of the retail electricity marketplace which will allow EGSs to begin to deliver on the original promises of technological and services-related innovation that were an integral part of the Electricity Generation Customer Choice and Competition Act. RESA contends using this opportunity to modernize the existing Chapter 56 regulations to accommodate suppliers billing their own customers is logical and forward-looking.

In addition, RESA agrees with NRG’s proposal to revise the existing regulations to clarify the applicability of various Chapter 56 provisions to energy suppliers. These revisions would provide welcome clarity to suppliers attempting to decipher which specific sections of Chapter 56 apply to them. The Commission directs suppliers to comply with Chapter 56 “as applicable” but the vast majority of the sections in Chapter 56 are not applicable to entities that do not bill or terminate service. As such, it can be difficult for suppliers to determine whether a specific section is applicable to them and, if so, how it applies to the particular service they are offering customers. This lack of certainty and clarity about regulatory requirements can create compliance difficulties and increase the time needed for staff to provide assistance and guidance to companies about the Commission's expectations. (RESA Additional Comments at 6 – 7).

LICRG opposes NRG’s attempts to insert the issue of SCB into the Chapter 56 rulemaking. The Electric and Natural Gas Choice Acts each clearly provide that, throughout the competitive market transformation, “[t]he Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to access and maintain electric service.” The implementation of SCB would undermine current statutory, regulatory, and programmatic protections for vulnerable consumers, in direct contradiction with the Competition Acts. If the Commission were to consider regulations which impact SCB, LICRG urges the Commission to do so in a separate proceeding to allow proper input from the public on the critical impact that such a shift would have on Pennsylvania’s consumers. LICRG believes that it would be inappropriate to adopt NRG’s proposed language in a final rulemaking without first vetting the topic with the public. (LICRG Additional Comments at 45 – 47).

EAP believes that the Electricity Generation Customer Choice and Competition Act does not provide for SCB as a customer billing option nor does it grant statutory authority to mandate the implementation of SCB. Sections 2807 (c) and (d) of the Competition Act clearly provide that EDCs are to remain responsible for customer service functions, including billing for distribution service, meter reading, collections and complaint resolution. EAP asks the Commission to dismiss this attempt to circumvent the legally-established system of utility billing. (EAP Additional Comments at 9 – 10).

Duquesne submits that NRG’s attempt to bootstrap suggested changes to accommodate SCB here is not only beyond the scope of this proceeding but is also illegal, as the Electricity Generation Customer Choice and Competition Act in no way contemplates or allows for SCB. (Duquesne Additional Comments at 12 – 13). Likewise, PPL submits that NRG’s proposals regarding Chapter 56 should not be considered as part of this rulemaking. (PPL Additional Comments at 9).

FirstEnergy is opposed to NRG’s proposed changes to Chapter 56 – pointing to Chapter 14 which imposes a number of non-delegable duties on “public utilities” including retaining customer deposits; establishing and maintaining payment arrangements; termination and reconnection of service, as well as all related functions; payments to restore service; formal and informal complaints; and providing customer assistance information where a customer is seeking a payment arrangement. Most of these functions are inextricably linked to a public utility's ability to bill a customer for its services. A public utility cannot place a customer on a payment arrangement where the public utility is not the entity responsible for billing the customer. Similarly, a public utility cannot implement the termination or reconnection process without the ability to bill and receive payment from customers. Further, FirstEnergy points to Section 2807(d) of the Competition Act, which mandates that “[t]he electric distribution company shall continue to provide customer service functions.” The legislature’s use of the term “shall” leaves no doubt that the legislature intends for public utilities to be the entities responsible for customer service functions. A utility’s customer service functions primarily include maintaining a customer's billing account.

While FirstEnergy believes that the illegality of NRG’s proposed changes to Chapter 56 warrants outright rejection of NRG’s comments in this proceeding, FirstEnergy also points to additional implementation challenges as well. If EGSs are involved in the billing process, utilities’ termination and restoration procedures would become significantly more complicated, if not impossible. Utilities would be required to be in constant communication with EGSs regarding changes to each customer’s account, including payments, payment arrangements, and medical certificates, all of which could have a different impact on a customer’s termination or restoration process. Each of these changes creates different termination and restoration terms and timelines. First Energy continues stating that involving an EGS in this process would add unnecessary complexity into this process, likely increasing the chance of errors in the termination and reconnection process to the disadvantage of customers. For all the foregoing reasons, FirstEnergy opines that NRG’s proposed changes to Chapter 56 should be disregarded. (FirstEnergy Additional Comments at 20 – 22).

**Discussion**

First, we note that at the Commission’s January 18, 2018, Public Meeting, the Commission rejected NRG’s petition to implement SCB.[[4]](#footnote-4) However, the Commission motion that rejected NRG’s petition also established a proceeding to further consider SCB in a more general, wider context.[[5]](#footnote-5) This proceeding first called for comments from interested parties by May 4, 2018. This was followed by *en banc* hearings on June 14, 2018, and July 12, 2018, over which the Commissioners presided and that featured testimony from suppliers, utilities, consumer advocates and other interested parties. Parties then had an opportunity to file reply comments by August 24, 2018.

Given that SCB is now the subject of a separate, ongoing proceeding, we agree with LICRG, EAP, PPL, Duquesne and FirstEnergy that further consideration of it in this proceeding is neither appropriate nor necessary at this time. Addressing SCB in this Chapter 14 / Chapter 56 proceeding could give the appearance of inappropriately pre-judging the ongoing SCB proceeding at Docket No. M-2018-2645254. Depending upon the outcome of the SCB proceeding, the Commission can always consider revisions to Chapter 56 later, along with other implementation issues should the decision be made to proceed with SCB.

In response to NRG’s and RESA’s request that we revise and clarify the applicability of Chapter 56 regulations for suppliers, we note that we received few if any comments in response to this proposal. Accordingly, we do not think that this proposal has been properly vetted by other stakeholders. We note that even if SCB is not pursued, the Commission can still initiate a proceeding to consider the applicability of Chapter 56 provisions in the context of competitive suppliers. Such a proceeding would provide all parties an opportunity to offer detailed comments.

**Third-Party Notification Of Supplier Switching**

In our July 12, 2017 *Order Seeking Additional Comments*[[6]](#footnote-6) we noted § 56.131 (and the identical § 56.361) that provides for a third-party to receive copies of various collection notices, including past due and termination notices. The intent of this notification is to provide information to a third-party that may be positioned to aid the third-party in assisting the customer with a collections-related problem. We asked parties to comment on a proposal to use this same mechanism in the context of energy supplier switching in instances where a third-party may want to be alerted as to a customer’s supplier selections to help the customer with the process of selecting an energy supplier. We proposed adding §§ 57.173 (relating to Customer contacts the EGS to request a change in electric supply service) and 59.93 (relating to Customer contacts with NGSs) confirmation notices to the list of notices that a utility will provide under §§ 56.131 and 56.361. In addition, we proposed revising the enrollment form template currently in use and using a separate form for electric and natural gas distribution companies.

LICRG appreciates the proposed modification of § 56.131, noting that there are many vulnerable customers, particularly elderly and/or disabled individuals, who may have difficulty managing certain utility matters, and who should be able to designate a trusted third-party to assist them. However, they believe that the Commission should provide clear guidance concerning who can be listed as a third-party and that under no circumstances should a supplier or other commercial, marketing, or for-profit business be listed as the third-party. (LICRG Additional Comments at 15 – 17).

The OCA very strongly supports this proposal and submits that third-party notification of supplier switching will provide a valuable and important consumer protection. The OCA notes that it hears from many consumers who have trouble navigating the competitive energy marketplace and may have switched to a competitive supplier without knowing it or without fully understanding the terms. The OCA believes that the Commission’s proposal to add supplier switch confirmation notices to the list of notices provided to an authorized third-party is an excellent proposal that will help to prevent the harms associated with unauthorized or misunderstood switching among this subset of customers. (OCA Additional Comments at 7 – 8).

RESA supports the intent of this proposal and the right of customers to elect to share information, such as a decision to shop, with designated third parties. RESA suggests some language changes intended to make the revised regulation paragraph more consistent with the existing authorization form set forth in Appendix E. More specifically, the initial paragraph of the existing form is addressed to the customer and explains the roles and responsibilities for the third-party. In contrast, the newly added paragraph appears to be directed to the third-party designee. RESA’s proposed revisions add language directed to the customer with an explanation of what the third-party designee would receive. In addition, a new sentence is added to more clearly state that only the customer of record or a person authorized to make changes to the customer’s account can address any concern or potential problem with the decision to elect a supplier or return to default service. (RESA Additional Comments at 2 – 3).

NEM believes the proposal poses logistical issues that are not readily apparent on its face and that could lead to negative unintended consequences including consumer confusion and unwarranted consumer complaints. NEM believes that the logistical issues include restricting account changes to those being made by authorized persons, maintaining privacy of customer information, and adequate supplier notification of account termination, among others. NEM suggests that the Commission first convene the stakeholders to review, discuss and resolve these logistical issues. NEM states that there is an important difference between the current third-party notice that is sent regarding collection activity as opposed to the proposed third-party notice of supplier switching activity. In the case of a third-party’s receipt of notice of collection activity, if the third-party receives the collection notice and responds by taking action and paying a past due balance on behalf of the customer, the net result is positive - the customer’s account is maintained and restored to good standing. In contrast, under the proposal at issue, when a third-party notice is sent regarding supplier switching activity, a conceivable outcome is that the third-party will seek to terminate the competitive supplier relationship, whether they are authorized to do so and permitted under the regulations. The third-party may become upset and confused if they are unable to cancel the competitive supplier transaction and then lodge a complaint, notwithstanding that no party engaged in improper conduct. Additionally, the customer’s account with the supplier could be unjustifiably ended, the customer could lose the benefit of its bargained for products and services and perhaps incur an early termination fee if the rescission period has expired. Communication protocols and dispute procedures also need to be considered, along with the rules that require suppliers and utilities to respect the privacy and confidentiality of customer account information. (NEM Additional Comments at 2 – 7).

PEMC understands and appreciates the intent behind these proposals: to ensure that customers, particularly customers in demographics with a greater degree of vulnerability, can be as protected as possible. In cases of a relative of a customer, or an individual with power of attorney or similar authority on behalf of a customer, the proposed revisions seem reasonable and in the customer’s interest. Particularly in cases in which a customer’s ability to manage their own affairs is limited and has already been recognized as such through the designation of power of attorney, any proposals for changes to a customer account should of course be handled by the designated individual. PEMC also views as appropriate the providing of notifications of a supplier switch when a family member may not have power of attorney but does provide informal assistance to a customer who may need additional help with making business decisions.

PEMC is concerned however, that unlike billing and collections notices, notification of a supplier enrollment transaction is a written confirmation of a positive choice made by the customer, which is already subject to the sales, marketing, enrollment, and verification regulations of the Commission, as well as the contract rescission period. The involvement of a third-party, particularly one that does not have power of attorney or any legal authority to negotiate on a customer’s behalf, could add confusion to the supplier-customer relationship. It also adds ambiguity to the supplier responsibility to determine the legal authority of any third-party that attempts to communicate with a supplier on behalf of a customer after receiving an enrollment transaction notification. PEMC is also concerned with the language of paragraph (3), which explicitly relates to the utility encouraging community groups to receive third-party notices related to billing and collections in that utilities could interpret the changes proposed in these sections to require them to solicit community groups to accept third-party notifications of supplier change confirmation notices. PEMC asks that the proposed notifications of supplier change confirmation notices be limited to immediate family members over the age of 18, or individuals with legal authority, such as power of attorney, to act on behalf of a customer. (PEMC Additional Comments at 2 – 4).

EAP does not disagree with the Commission’s proposal in principle – customers may in fact want or need additional assistance in navigating the energy marketplace. However, it believes the logistics of this proposal have not been thoroughly vetted. For example, utility information systems typically separate the functions that handle billing and termination notices from the portion that handles notices related to suppliers and switching. Integration of these systems so that one person could be a designated recipient of both billing and supplier notices may come at a cost that is unbalanced by the benefit provided. EAP would also recommend the Commission evaluate whether the option to provide supplier switching notices to third parties could be made without mandating their inclusion in regulation. (EAP Additional Comments at 5 – 6).

PECO does not believe that the benefit of this proposal would be sufficient to warrant the IT costs. To estimate the scope of customers who might benefit from such a program, PECO first determined the number of PECO residential customers who both shop and subscribe to third-party notification. Approximately 3,000 customers (2/10ths of 1% of the residential population) fit those criteria and thus would receive additional notices under this proposal. PECO concludes that, on its system, only a very small percentage of its residential customers, perhaps 1/10th of 1% of the customer base, would have a need or desire for this additional service. The IT change costs, on the other hand, would be system-wide and paid for by the entire customer base. While PECO has not performed a scope estimate for the IT costs of making such a change, its experience is that such changes can easily cost in the hundreds of thousands of dollars. (PECO Additional Comments at 3 – 4).

FirstEnergy does not oppose this proposal, but requests that the implementation details and costs associated with this change be permitted to be recovered on a full and current basis through FirstEnergy’s Default Service Support Riders, or other similar mechanisms, as appropriate for each utility. (FirstEnergy Additional Comments at 11 – 12).

PPL is not opposed to this proposal. If this proposal were adopted, however, PPL would need to develop an automated process that would send these notices out to the designated third-party and estimates that it would cost $25,000 to develop this automated process. PPL further notes that there would be mailing costs as well. (PPL Additional Comments at 3).

Duquesne recognizes that this proposal could be a valuable service for certain customers but has some concerns. First, the proposed notification, even if received by a third-party, does not prevent an unwise or unlawful switch that has already occurred. For example, receipt of a copy of the supply change confirmation notice by a third-party does not mean that the third-party designee can prevent the switch. The third-party designee has no authority to block the supplier transaction and could, at best, convince the customer to initiate a switch to default service or to another supplier. Depending on the terms of the supplier contract, a customer could be subject to termination fees or other costs to reverse a transaction. Secondly, various individuals or agencies serve as designated third parties receiving notifications of termination or delinquency notices. Just because one is a third-party recipient of notifications related to termination, it does not automatically follow that those individuals or agencies would also want supplier change confirmation notifications. Duquesne also notes that its current billing system is not able to bifurcate the types of notices to be provided to a third-party. By way of general cost estimates, changes to the billing system for moderately complex operations can cost upward of $1 million for each change and can take over a year to develop. Currently, Duquesne Light provides third-party notifications to approximately 2,100 customers, which is only approximately 0.003% of its customers. When evaluating the costs of implementing technical changes compared to the small number of customers who would potentially utilize this mechanism, Duquesne does not believe that this should be a mandated regulatory requirement. (Duquesne Additional Comments at 6 – 9).

Columbia submits that, although it is possible for it to revise its current procedures regarding third-party notifications to add supplier switch notifications, it will incur costs in order to do so, and therefore, Columbia does not support the addition of this third-party supplier switch notice. Less than 1% of Columbia’s active residential customers maintain third-party notifications. Therefore, the benefits to a small percentage of customers to implement additional notifications to third-parties would be greatly outweighed by the costs to add such notifications. Third-party notifications come from its credit/collections database and if Columbia had to send supplier switch confirmation notifications, those notices would come from its Choice program database, which is separate and distinct from its credit/collections database. Columbia has estimated the programming cost to implement that additional notice to be anywhere from $4,850 to $9,700. (Columbia Additional Comments at 5 – 8).

NFG believes that while there may be some justification for this kind of proposal, the cost burden of changes to the notification requirements outweighs its benefit. Many utility systems are not formatted to make this kind of notification happen readily and could require significant modifications to systems. Furthermore, this would likely only positively impact a very small number of customers. NFG reports that only 0.6% of customers would benefit from this change. (NFG Additional Comments at 3 – 4).

**Discussion**

The parties provided a mix of comments: some that were very supportive, some that were supportive but conditional, and some that were not-at-all supportive. In considering and weighing the comments, while we agree with OCA that our proposed revisions to §§ 56.131 and 56.361 would provide a valuable and important consumer protection, on balance we conclude that this is a proposal that would be best addressed in a different proceeding. We agree with EAP that the logistics of this proposal have not been thoroughly vetted. There are too many unanswered questions raised by the utilities and the suppliers, including the impact on utility customer databases, who could qualify for third-party status, and the ability of those third-parties to interfere with the supplier switching process. We are also persuaded by the comments of PECO, Duquesne, PEMC and NEM that supplier confirmation notices and utility collection notices are distinct, very different things and, while consumers may want to use third-party notification for one of these things, it is very possible they would not want to do both. We think this type of proposal is better vetted in a proceeding specifically addressing the electric supplier switching regulations in Chapter 57 and the natural gas supplier switching regulations at Chapter 59. This would allow parties and the Commission to consider third-party supplier confirmation notices in the proper context.

**§ 56.2. Definitions.**

We proposed revising the definitions of *applicant, customer*, and *public utility* to reflect the revised Chapter 14 definitions at 66 Pa.C.S. § 1403. We also proposed adding the definitions of *creditworthiness* and *medical certificate* to this Section because they now appear in the revised 66 Pa.C.S. § 1403. We proposed changing the definition of *payment agreement* to *payment arrangement* to reflect the change in terminology in Chapter 14. We proposed changing this term throughout subchapters B-K wherever the term *payment agreement* was used. We proposed adding the definitions of *small natural gas distribution utility, steam heat utility* and *wastewater utility* to this section to reflect that these entities are now covered by subchapters B-K (see above concerning Section 56.1, Statement of purpose and policy). Because these entities are now all considered *public utilities* by Chapter 14 and are no longer treated distinctly, we changed the term “utility” to “public utility” throughout the chapter. We also proposed adding a definition of *physician assistant* since Chapter 14 now permits the filing of medical certificates by physician assistants.

*AMR – Automatic meter reading*

OCA commented that the Commission should update the old definition of AMR to include advanced metering infrastructure (AMI) due to new technology being deployed by utilities throughout the Commonwealth of Pennsylvania. OCA asserts that AMI provides a wide variety of updated functionalities that should be included in Chapter 56 regulations. (OCA at 6 – 7).

**Discussion**

In the NOPR, we made no proposal to change this definition. § 56.2 defines *AMR—Automatic meter reading* as, “Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes,” and states that, “Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.” The definition of AMR includes AMI in that AMI is a metering technology. Section 56.2 definitions apply to the entire chapter – thus this definition that states that meter readings by an AMR shall be deemed as actual readings for the purposes of this chapter would also apply to § 56.12. We do not see a need to change this language.

*Applicant* and *Customer*

Duquesne and IRRC suggest that the definition of “Applicant” and “Customer” set forth in sections §§ 56.2 and 56.252 be changed for consistency. (Duquesne at 11; IRRC at 2).

**Discussion**

As noted previously in this rulemaking order, § 56.252 is located in the PFA subchapter which is not subject to Chapter 14. The definitions will not be consistent since § 56.2 has been modified pursuant to Chapter 14 and the PFA subchapter is specifically excluded.

*Billing month*

In the NOPR, we proposed revising the definition of *billing month* to allow short-period bills in instances where a customer’s change of commodity supplier necessitates the issuance of a short-period bill in order to effectuate a timely switch of supplier. Recent regulatory changes intended to accelerate the switching of electric generation service now make it possible to switch commodity service in as little as three business days. *See* 52 Pa. Code §§ 57.173, 57.174 and 57.180 (relating to customer contacts the EGS to request a change in electric supply service; time frame requirement; and implementation). Some utilities, as part of the switching process, will issue a short-period bill to conclude the customer’s connection with his or her current supplier, so that billing with the new supplier can start within the three-business day timeframe. The Commission has already issued temporary waivers of the current § 56.2 definition of *billing month* to facilitate this process,[[7]](#footnote-7) and we believe it is necessary to codify this change in billing procedures to eliminate the need for repeated waivers in the future.

**Discussion**

We did not receive any comments on this proposed definition and will keep the *billing month* definition as proposed.

*Clear evidence, Court of competent jurisdiction, Domestic violence*

IRRC commented that the Commission is adding the phrase “A court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer,” from the revised statute at 66 Pa.C.S. § 1417 throughout the regulation and that commentators had requested clarification of portions of the phrase including “*clear evidence,”* “*court of competent jurisdiction,”* and *“domestic violence.”* IRRC commented that the public safety may not be adequately protected if these terms are not made clear to the regulated community and public affected. (IRRC at 1-2).

**Discussion**

As discussed later, LICRG, Joint Commentators, OCA and Duquesne all advise the Commission to form a working group on this section concerning the revised 66 Pa.C.S. § 1417 where these matters can be discussed by all interested parties. The definitions of these three terms should also be addressed in this working group.

*Creditworthiness*

OCA supports the proposed addition of the definition for creditworthiness that the Commission proposed which is identical that the one that is in the revised 66 Pa.C.S. § 1403. (OCA at 7).

**Discussion**

The proposed definition incorporated the definition as stated in the revised Chapter 14 at 66 Pa.C.S. § 1403. We will maintain the statutory definition of *creditworthiness* as proposed.

*Fraud*

PPL proposed at page 13 a definition for *fraud.* Section 56.35(b)(1) provides a four-year statute of limitations when seeking to collect an outstanding balance from an applicant, however this does not apply if the balance includes amounts that the utility was not aware of because of fraud or theft on the part of the applicant. PPL proposed that *fraud* be defined as:

*Deceitful actions used by individuals to acquire and/or maintain utility service. This includes the use of false identities and the making of false or misleading statements for the purpose of avoidance of bill payment.*

(PPL at 13).

LICRG described PPL’s proposed definition for fraud as “sweepingly broad.” LICRG further stated that it was not consistent with Pennsylvania law, which requires proof of each of the following elements: a misrepresentation, a fraudulent utterance thereof, an intention by the maker that the recipient will thereby be induced to act, justifiable reliance by the recipient upon the misrepresentation, and damages to the recipient as the proximate result. (LICRG Additional Comments at 7 – 8). LICRG asserted that under PPL’s definition of fraud, the customer’s intent, a critical element of fraud, would be wholly disregarded. LICRG requested that the Commission reject utilities’ attempts to relax long-standing rules of law governing the elements of fraud, especially since accusations of fraud can have consequences impacting a household’s ability to maintain utility service as well as housing and employment. (LICRG Additional Comments at 8).

**Discussion**

Due to concerns raised by LICRG regarding the definition of fraud as proposed by PPL, we are reluctant to provide a definition for fraud in this rulemaking. PPL also acknowledged that its proposed definition was outside of the amendments to Chapter 14. The definition of *fraud,* to the extent that one is necessary, could be addressed in a subsequent rulemaking of Chapter 56, when revisions are next proposed to this Chapter. Furthermore, as noted in the discussion of § 56.113, the parties have not made a convincing argument that fraud is a problem. We conclude that a definition for fraud is not necessary and is outside of the scope of this rulemaking.

*Medical certificate*

Columbia and EAP suggest including the medical professional’s license number on the medical certificate. Columbia asserts that this will enable it to confirm that each medical professional is legally licensed to practice medicine in this Commonwealth. Columbia further comments that this will reduce the likelihood of fraudulent requests. Columbia comments page 2-3. EAP also states that the medical certificate should be on the medical professional’s letterhead or other official paperwork. (EAP at 14).

LICRG and CAC recommend that the Commission reference § 56.113 in its definition of medical certificate to clarify the substantive requirements of the medical certificate form. (LICRG at 8, CAC at 5-6).

LICRG further requests that since § 56.113 allows both customers and applicants to submit medical certificates, that the definition of medical certificate also include applicants. LICRG asserts that this is consistent with Chapter 14 at 66 Pa.C.S. §§ 1406(f) and 1407(b). (LICRG at 8-9).

The CAC supports the development of a statewide model medical certificate form that would be developed through a collaborative as suggested in the Commission’s *Chapter 14 Implementation Order,* Docket No. M-2014-2448824, at 10 (July 9, 2015). (CAC at 5). CAC stated further that “some members of the [CAC] have heard from medical providers that it would facilitate their ability to issue medical certificates if there were a form that was available for download either on the utilities’ website or the website of the Commission.” CAC recommends then placing the form developed in collaboration on the Commission website as well as encouraging utilities to place the form on its websites. (CAC at 5-6).

EAP recommended clarifying the language for medical certificates by combining the § 56.2 definition of medical certificate with the § 56.113 provision regarding medical certificates. (EAP at 13).

IRRC suggested that the definition be consistent with the statutory definition and noted that the statutory definition of the term “medical certificate” begins with the phrase, “in a form approved by the commission . . .” 66 Pa.C.S. § 1403. (IRRC at 5).

**Discussion**

The definition of medical certificate that we proposed incorporates the statute and includes the phrase, “in a form approved by the commission…” We agree with LICRG and CAC’s recommendation to reference § 56.113 in the definition of medical certificate and have added that reference to the definition. We agree with EAP that the definition of medical certificate and § 56.113 should be consistent and have reviewed both for consistency. We added the cross reference to § 56.113 to provide further consistency and clarity. With regard to IRRC’s concerns that the Commission explain how the medical certificate provisions are reasonable and in the public interest, we have carefully reviewed the parties’ comments as well as the past history of the medical certificate provisions in Chapter 56 with regard to medical certificates and have provided a reasonable definition consistent with amended Chapter 14 and the concerns of the parties. (See the additional discussion of § 56.113 regarding parties’ comments and the history of the medical certificate sections – reasonableness discussion).

*Nurse practitioner, Physician, Physician assistant*

IRRC commented that it did not find the Commission’s definitions for “*physician assistant,”* *“nurse practitioner”* and *“physician”* to be completely consistent with the respective professional Boards’ definitions which can introduce uncertainty to the required qualifications. To address that concern, IRRC suggested that the Commission use cross-references to the appropriate definitions in the professional Boards’ regulations instead. IRRC further noted that Act 155 uses the term “nurse practitioner” and that the Professional Nursing Law includes several types of nurse licensures. IRRC suggests that, “there appears to be a presumption that the professional that can sign a medical certificate is a licensed Certified Registered Nurse Practitioner.” IRRC suggests that the Commission clarify which licensure(s) under the State Board of Nursing qualify under the Public Utility Code to sign medical certificates. (IRRC at 2).

The Health & Housing Coalition and EAP also suggested changing the current definitions of *nurse practitioner* and *physician* in addition to making changes to the proposed definition of physician assistant. For *physician*, the definition should also include osteopathic medicine, and for the other two definitions, EAP also suggested cross-referencing to the appropriate definitions in the professional Boards’ regulations. EAP suggested adding a new definition to § 56.2 for the term *authorized medical certificate signatory – a physician, nurse practitioner, or medical physician assistant.* EAP further proposed that the qualifier term “medical” be included before physician assistant to distinguish the medical professionals appropriately licensed to complete these forms as defined by the state board of licensure. (Health & Housing Coalition Additional Comments at 3-4; EAP at 12).

OCA suggests that the Commission revise its definition of *physician assistant* by shortening it to only reference the appropriate licensing regulation to ensure consistency and clarity with the appropriate state board of medicine regulations. (OCA at 8). PAWC also suggests making the definition of *physician assistant* consistent with the Pennsylvania licensing laws and regulations. (PAWC at 2).

Joint Commenters and LICRG also suggest changing the definition of *nurse practitioner* in addition to the added definition for *physician assistant.* Both the Joint Commenters and LICRG propose simplifying the definitions by referring directly to the Chapter of the Pennsylvania Code which pertain to these professionals. (Joint Commenters at 3-4; LICRG at 10-11).

**Discussion**

We agree with the commentators and are revising the definitions of these three terms, *nurse practitioner, physician,* and *physician assistant,* to be consistent with the respective state licensing laws and regulations. We agree with IRRC’s suggestion that the professional that can sign a medical certificate is a Certified Registered Nurse Practitioner and have defined Nurse Practitioner to include that profession.

*Small natural gas distribution utility, Steam heat utility* and *Wastewater utility*

We did not receive any comments on these proposed definitions.

**Discussion**

These definitions were taken directly from the amended Chapter 14. We will keep these definitions the same as proposed.

Finally, we note that NRG proposed various new definitions and revisions to the existing definitions at § 56.2, proposing to revise Chapter 56 to include the implementation of supplier consolidated billing (SCB). (NRG at 11-14).

**Discussion**

As indicated previously in this order, SCB is outside of the scope of this rulemaking. We will defer all SCB-needed revisions to another proceeding.

**§ 56.12. Meter reading; estimated billing; customer readings.**

We proposed adding a new paragraph (6), *Verification of automatic meter reading*, to incorporate the new requirement at Section 1411 (relating to automatic meter readings) that utilities verify meter readings at the request of the customer.

Columbia agrees with the Commission’s proposed language. (Columbia at 4).

OCA supports the addition of this provision, with one modification. As discussed regarding the definition at § 56.2, the OCA suggests that the Commission either update the definition of AMR to include AMI or add a separate new definition of AMI that should be reflected throughout these regulations. Consistent with that recommendation, the OCA submits that consumers should have the same right to verification for automatic meter readings obtained through AMI as is being included in this section for AMR. If the definition of AMR in § 56.2 is updated to include AMI, then automatic meter readings obtained through AMI will receive the same right of verification of automatic meter readings at the customer’s request. If a separate definition of AMI is added to § 56.2, then language indicating that automatic meter readings obtained through AMI are also subject to verification on the customer’s request will need to be inserted into this section. This modification will help to ensure that the regulations reflect the various metering technologies that are currently in use in the Commonwealth, and that customers have the right to verify automatic readings at their request. (OCA at 8).

EAP and FirstEnergy are concerned that the proposed language does not include the introductory statement from Section 1411 or from the present definition *of AMR — automatic meter reading* at § 52.1(iii) that reads, “All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title.” (EAP at 3; FirstEnergy at 6).

FirstEnergy also recommends that the Commission eliminate the postcard requirement in § 56.12(i) and that the Commission should consider changes at § 56.15(2) to provide utilities with the option to identify total monthly usage on customers’ bills instead of customers’ beginning and ending register reads. (FirstEnergy at 7 – 9).

**Discussion**

AMR-Automatic meter reading is defined in § 56.2 Definitions.

    *AMR—Automatic meter reading—*

(i)   Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii)   The term does not include remote meter reading devices as defined by this section.

(iii)   Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.

The definition of AMR includes AMI in that AMI is a metering technology. Section 56.2 *definitions* apply to the entire chapter. The definition states that meter readings by an AMR shall be deemed as actual readings for the purposes of this chapter which would include § 56.12. Therefore, we will keep our proposed language.

With regards to FirstEnergy’s proposal, the Commission declines to eliminate the postcard requirement in § 56.12(i). Section 56.12(i) applies to not only electric and gas distribution utilities, but also wastewater and water distribution utilities. Not all of these public utilities possess smart meters or AMR’s. Also, with advances in technology and smart meters being deployed estimated meter readings will be less likely to occur and postcards will be needed and used less. In addition, identifying the beginning and ending meter readings is an important piece of information for the customer.

**§ 56.17 Advance Payments.**

LICRG submits that the prepayment meter regulation, 52 Pa. Code § 56.17(3), is unnecessary, and contrary to statutory intent. As such, it should be eliminated from the Commission’s regulations. Accordingly, the LICRG recommend that § 56.17(3) be eliminated and that section be reserved for future regulatory use. (LICRG at 11-18).

PPL disagrees with these recommendations. PPL believes that there may be interest among all customers for this service, including lower income customers. While PPL acknowledges that there are parties that have concerns with lower income customers participating in advanced payment programs, the company submits that this rulemaking proceeding is not the appropriate proceeding in which to address these concerns. (PPL Additional Comments at 8).

**Discussion**

To date, no utility has utilized these provisions to offer pre-payment metering, so unfortunately, we have no practical experience to rely upon when assessing the need to revise this section. There is a pre-payment plan proceeding that is currently being considered by the Commission.[[8]](#footnote-8) Given that this matter is currently being considered elsewhere by the Commission, we are declining to make any changes to this regulation at this time.

**Applications, Security and Deposits**

Sections §§ 56.32 through 56.57 address the residential application procedures and standards for establishing security deposits. The revised Chapter 14 made significant changes to these rules, which prompted us to propose extensive revisions to these sections.

**§ 56.31. Policy Statement.**

Duquesne suggested that the Commission take this opportunity to update the Policy Statements contained in this Section and § 56.281 to include the broader scope of protections that have been afforded to citizens of the Commonwealth in other areas. Specifically, Duquesne recommended that we update this language to reflect Governor Wolf’s Executive Order, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth. (Duquesne at 11-12).

**Discussion**

We received no other comments on the Policy statement. We agree with Duquesne that the Policy statement should be updated with the Governor’s Executive Order and have revised these sections to incorporate these protections into our Policy Statements.

**§ 56.32. Security and cash deposits.**

We proposed to revise Subsection (a) and to add a new Subsection (d) to align with the new deposit payment timeframes provided for in Section 1404(a) (related to cash deposits and household information requirements). Additionally, we proposed revising Subsection (a)(2) to note that creditworthiness standards must be provided in a Commission-approved tariff, per Section 1404(a)(2). We proposed a new Subsection (e) to align with the new Section 1404(a.1) prohibition on customer assistance program (CAP)‑eligible customers and applicants paying deposits.

**§ 56.36. Written procedures.**

We proposed revising Subsection (b) to include incorporation into the utility’s written credit procedures the deposit exception for CAP‑eligible applicants, per Section 1404(a.1). We also proposed including in the procedures the availability of alternative credit standards, pursuant to Section 1417, for applicants with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. We proposed revising Subsection (b)(1) to include a requirement that utilities provide this information to applicants in writing when credit is denied.

**§ 56.38. Payment period for deposits by applicants.**

We proposed revising Subsection (a) to align with the new deposit payment timeframes provided for in Section 1404(a) that an applicant has up to 90 days to pay the deposit.

**§ 56.41. General rule.**

We proposed adding a new Subsection (4) to align with the new 1404(a.1) prohibition on CAP-eligible customers and applicants paying deposits.

**§ 56.42. Payment period for deposits by customers.**

We proposed revising Subsection (d) to align with the new 90-day deposit payment timeframes provided for in § 1404(a).

**§ 56.53. Deposit hold period and refund.**

We proposed eliminating the 24-month deposit retention limit in Subsection (a) to align with the same elimination in Section 1404(c)(1).

**§ 56.57. Interest rate.**

We proposed changing the mechanism for determining the interest rate applied to security deposits to align with the change at Section 1404(c)(6).

OCA believes that the Commission should clarify that eligibility for CAP in this context is based on *income* eligibility, not on eligibility based on some other criteria. Many low-income individuals may be eligible for CAP based on their income but may not actually be enrolled in CAP for a variety of reasons. For example, many people may be income-eligible but are not enrolled in CAP because their “affordable bill” under CAP is greater than their actual bill.

OCA notes that the proposed revision to § 56.38 states that an applicant that is required to pay a deposit “shall have up to 90 days to pay the deposit *in accordance with Commission regulations*.”(Emphasis added). However, it is not clear to which specific Commission regulations are being referred to in this section. The OCA submits that, instead of a vague reference to “Commission regulations,” this language should be revised to cite specific regulations.

Regarding § 56.42(d), OCA supports allowing customers to pay the deposit in installments, with “50% billed upon determination by the public utility that the deposit is required; 25% billed 30 days after the determination; and 25% billed 60 days after the determination” as this is consistent with previous Commission rulemakings. Finally, the OCA submits that § 56.53(b) should be modified to clarify that the relevant time period concerning refunding a deposit is *any* 12 consecutive months, and that this 12-month period is not tied to a calendar year. For example, if a customer pays in full and on time in January, but misses a payment in February, the 12-month clock should start again in March. (OCA at 9-12).

While a step in the right direction, LICRG asserts that the Commission’s proposed revisions are insufficient to effectuate the intent of the General Assembly to protect low income households from cash deposits. They ask that the proposal be revised to ensure that the deposit prohibition includes both applicants and customers since the plain language of Section 1404(a.1) applies to both applicants and customers.

LICRG also asks the Commission to clarify that the cash deposit prohibition is based on “household income.” As set forth in Chapter 14, the exemption applies to any customer or applicant who is confirmed to be “eligible” for a customer assistance program. LICRG asserts that the prohibition on cash deposits should apply to any customer or applicant who is eligible, based on household income, to participate in CAP, meaning they have income at or below the level indicated in the Commission’s CAP policy statement, currently 150% of the Federal Poverty Level. This proposal is administratively simple and avoids the inequitable results that would arise if applicants or customers in one service territory are required to pay a deposit while similarly situated applicants and customers in another service territory are statutorily exempt.

LICRG notes that, over time, each utility has imposed a range of eligibility requirements, none of which are necessarily connected to an applicant or customer’s ability to pay a security deposit. They offer as an example PPL, which excludes customers from CAP if they have not “entered into a payment agreement within the last 12 months.” Thus, applicants for service are ineligible for PPL’s CAP because they do not have arrears which would necessitate a payment arrangement. LICRG does not believe that nuances of each CAP eligibility requirement were what the General Assembly had in mind when it set out the prohibition.It is similarly important that utilities not require actual enrollment in CAP as a precondition to application of the security deposit exemption. Chapter 14 plainly contemplates that applicants and customers would not need to enroll in the program to be exempt from security deposit requirements, as it refers explicitly to those “eligible” for CAP.

LICRG opines that utilities often do not inform consumers of the prohibition on cash deposits at the time the deposit is requested, leaving many families struggling to scrape together money they do not have. While the Commission proposes to address that issue by requiring the utility’s denial of credit letter to contain a statement about the cash deposit prohibition, they are concerned that consumers are unlikely to read the fine print in a credit denial letter. Credit determinations are often made at the time the customer calls for service, while they are still on the phone. Once assessed or quoted over the phone, customers who are unable to meet the deposit amount often panic, scrambling to come up with the money. Therefore, LICRG believes that it is critical that oral notice of the exemption, as well as clear instruction for how to verify income for the exemption to apply, should be provided to applicants and customers at the time the security deposit is quoted or assessed. Further, the income verification process should be simple; in-person processes can be onerous to many low-income households, requiring the head of household to take time off work, obtain childcare, and arrange for transportation.

LICRG asks that deposits held by public utilities should be refunded or credited to low-income customer accounts as it is inequitable for a public utility to hold a deposit collected from a customer upon later discovery that such customer is, or has become, low-income. Such deposits should be refunded within two billing periods after the discovery of such a deposit. (LICRG at 18 – 27).

LICRG asks the Commission to reject the argument that utilities should be able to terminate based on a single missed security deposit installment, rather than having to wait until the end of the 90 days to proceed with termination. LICRG argues that allowing households a full 90 days to pay a utility security deposit without risk of immediate termination is often critical to the household’s financial stability, citing the costs of relocating and that these households often lack the upfront capital to pay an immediate cash deposit. Allowing the full 90 days for a household to pay the deposit ensures that the household has sufficient time to establish themselves at their new residence. (LICRG Additional Comments at 34).

LICRG also asks the Commission to reject any further modifications to the Commission’s regulations to require certain applicants to assume responsibility for service rendered to third parties – as they contend that such proposals are contrary to the Public Utility Code. They argue that prior to the implementation of Chapter 14, the “general rule [was] that a public utility may not request payment of a residential service bill from a customer unless the residential service was provided in that customer’s name” and that with Chapter 14, the General Assembly modified this general rule in very specific and for limited circumstances. Specifically, Section 1403 redefined customer to include “any adult occupant whose name appears on the mortgage, deed or lease of the property for which residential service is requested.” Furthermore, following termination of service, Section 1407(d) authorized a utility to require payment of “any outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there.” Except as modified by these two provisions, the current Commission’s regulations are clear in preserving the status quo prior to Chapter 14.

LICRG opines that the alterations proposed by some of the utilities would expose an indeterminate number of applicants to unexpected and unwarranted third-party liability. Individuals who did not previously occupy a property, nor benefit from service provided to that property, would nonetheless be personally responsible for service provided to a third-party solely because that third-party still resides at the premise. The effect would be to significantly and impermissibly broaden the narrow statutory language of “customer” set forth in Section 1403. A third party would effectively become a customer for purposes of a back balance without having been an adult occupant during the period service was provided, and without having had any formal relationship with the property, documented through a mortgage, deed or lease. LICRG concludes that the General Assembly did not intend for, nor authorize, such a broad scope of potential third-party liability in enacting and amending Chapter 14. Finally, as the Commission’s regulations recognize, utilities maintain creditor rights and remedies against nonpaying customers and the utilities should exercise those rights against the former customers who are responsible for the debt. (LICRG Additional Comments at 34 – 37).

The CAC urges the Commission to ensure that for purposes of the cash deposit prohibition, the operative threshold concern regarding whether a household is or is not “confirmed to be eligible for a customer assistance plan” is the household’s income level. This clarification would create uniformity across the state and among utilities, all of whom have slightly different customer assistance plan eligibility criteria, but nonetheless all abide by the 150% of federal poverty income guidelines. The CAC also urges the Commission to clarify that it is the duty of the utility to inquire about a customer or applicant’s income status prior to or at the time of the cash deposit request. To that end, the CAC suggests that the Commission require utilities to include the following language in the deposit warning letters: “If your total household income is at or below 150% of the Federal Poverty Guidelines, you are exempt from paying any security or cash deposit. Please call [the utility] at [Customer service telephone number] to provide documentation of your income for this purpose.”

The CAC also believes that the Commission should modify § 56.36 to specify that there are separate procedures and standards for victims with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence. The procedures must also specify that any applicant or customer who is confirmed to be eligible for CAP will not be required to pay a deposit, and shall set forth the process in which the utility assures that no deposit will be required and the way the applicant or customer is advised of this policy, and of the right to contest an incorrect deposit request. (CAC at 6 – 9).

EAP believes § 56.32(d) requires further clarification. In the process of initiating new service for an applicant, utilities do not wait for the deposit to be paid in full before establishing service in the applicant's name - the applicant is typically asked to pay 50% of the deposit initially, with 25% of the deposit to be paid after 30 days and the remaining 25% to be paid after 60 days. It does not seem practical for applicants or utilities to wait until the end of a 90-day billing cycle for the deposit to be fully paid in order to establish service. EAP opines that this Subsection as written does not leave much time for the utility to begin its collections process if the applicant misses one or more of the payments in the deposit installment sequence and accordingly suggests that language be added to Subsection (d) to permit utilities to initiate collection practices in the event the applicant fails to pay any portion of the security deposit as required.

EAP also believes that the Commission needs to define further how a customer is “confirmed to be eligible” for CAP and is concerned that the cash deposit prohibition as proposed may leave the door open for customers who orally claim they are eligible for CAP to get connected, but ultimately never follow up with income verification. To address this issue at the start of the application process, EAP believes customers should agree to apply for a CAP program, which requires customers to provide verifiable income documents or other information as is routine to determine eligibility or prove to the utility that their income has been verified through another means, such as receipt of state benefits, e.g., LIHEAP or SNAP. Alternatively, this concern could be addressed by adding a term of "confirmed eligible" with a definition as explained in their comments relating to § 56.2.

Regarding § 56.35, although no substantial changes to this section have been proposed by the Commission, EAP suggests clarification is needed to assist utilities in improving their overall collection results. This regulation presently prohibits a utility from requiring payment for residential services previously furnished under an account in the name of a person other than the applicant as a condition of initiating service again at the same address. While some “name game” loopholes have been closed under Subsections (1) and (2), situations still arise where relatives, friends, or other non-occupants look to secure service in their name for an otherwise delinquent or uncreditworthy premises resident. EAP recommends the addition of a new Subsection to § 56.35(b) which would permit a utility to require the payment of an outstanding balance if a property is still occupied by a prior customer who accrued an outstanding balance at the property for which service is requested and that a utility could establish that a customer still resides at the property through the use of mortgage, deed or lease information, field visits, landlord confirmation, or other methods as approved by the Commission. EAP opines that this proposed addition would help protect good paying customers by eliminating further loopholes used by other residential customers to avoid paying overdue balances and still maintain active service.

Regarding §§ 56.38 and 56.42(d)*,* EAP is concerned that the proposed language “shall have up to 90 days to pay the deposit in accordance with Commission regulations” is vague. EAP suggests adding language to indicate that an applicant’s deposit must be paid in full by the end of the 90-day period — that is, the 50/25/25 payments each made — or the utility’s typical collection practices may begin. (EAP at 4 – 6).

Duquesne suggests that the Commission take this opportunity to update the Policy Statements at §§ 56.31 and 56.281 to include a broader scope of protections that have been afforded citizens of the Commonwealth in other areas. Specifically, Duquesne recommends that the Commission incorporate the language as set forth in Governor Wolf’s Executive Orders, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth. This Executive Order provides that people should be given opportunities for employment and contracting “without regard to race, color, religious creed, ancestry, union membership, age, gender, sexual orientation, gender expression or identity, national origin, AIDS or HIV status, or disability.” Duquesne notes that while the current Policy Statements in Chapter 56 do mention “race, sex, age over 18 years of age, national origin or marital status,” they are notably silent as to gender, sexual orientation, gender expression or identity, AIDS or HIV status or disability.

Duquesne seeks clarification of the new provision in § 56.32 as to the obligations of the utility should the deposit not be paid, specifically asking if deposits are required to be paid 50% initially, with 25% due after 30 days and the remaining 25% due after 60 days. It is conceivable that while an applicant may pay the first 50%, they could miss one of the other two required payment deadlines and then the question arises of when a utility may begin its collection process. Duquesne supports a clarification for Subsection (d) that allows a utility to pursue termination for collection if any of the installments are not paid timely. Duquesne also suggests including language that will clarify that the responsibility for confirming a customer’s eligibility for CAP resides with the utility, which would include third parties (like CBOs) that work on behalf of a utility. This proposed change is designed to ensure against scenarios where, for example, an outside third party confirms the customer’s eligibility but fails to timely communicate such information to the utility or its designee. This change would not, however, prevent the utility from accepting a third party’s determination as confirmation of the customer’s eligibility, provided that the third party demonstrates the validity of its determination in a manner acceptable to the utility.

Similar to their concerns about timing contained in § 56.32(a), Duquesne notes that in § 56.38 an applicant has up to 90 days to pay a deposit, but the rule is silent as to whether that payment can be installments. Duquesne suggests that any provision for payment of a deposit in a 90-day period contain language setting out the payment terms, *i.e.*, what is the maximum that can be demanded upfront, followed by direction on the remainder. Finally, Duquesne suggests that the language in § 56.302(4) be revised to remove the 24-month maximum deposit hold to be consistent with changes made in the remaining provisions of Chapter 56, which requires that deposits be held until a timely payment history is established. (Duquesne at 11 – 14).

PPL is concerned that § 56.32(d) can be interpreted to provide applicants the full 90 days to pay any portion of the deposit, which would be a significant departure from PPL’s current practice, whereby they request that the applicant pay the deposit in three installments and then commences the service termination process if the applicant fails to make any of the installment payments. PPL proposes that the Commission revise the language to clarify that utilities may request that applicants pay their deposits in installments over the 90-day period and that utilities may initiate the termination process if the applicant fails to make any of the installment payments. Concerning Subsection (e) of this same regulation, PPL believes that the qualifier “confirmed to be eligible for a customer assistance program” means that the utility has confirmation that the applicant is indeed income-eligible for a customer assistance program. PPL submits that confirmation should either be by the applicant providing verifiable income documents to the utility or agents of the utility, or by the applicant providing verification that he or she has been determined eligible for state benefits with income thresholds that are consistent with those of the utility's CAP. (PPL at 2 – 6).

FirstEnergy notes that neither Act 155 nor the NOPR defines the phrase “a customer that is confirmed to be eligible for a customer assistance program.” They 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 CAP indicating that the customer is income-eligible for the utility's CAP. In FirstEnergy’s case, customers are confirmed to be eligible for CAP once they are screened by the third-party CAP administrator, 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 CAP and if DEF concludes the customer is income-qualified, FirstEnergy will not assess a cash deposit. FirstEnergy opines that income verification is necessary to achieve 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. Accordingly, the Commission should modify §§ 56.32 and 56.41 to require customers to submit proof of income information to qualify for a cash deposit waiver.

Although the Commission does not propose any changes to § 56.35, FirstEnergy recommends modification to this section to further promote the intent of Act 155. FirstEnergy believes that 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 – and that upon further investigation, FirstEnergy determines that the prior customer who accrued the account balance continues to live at the property. Based on the Commission’s current regulations, FirstEnergy is required to put service in the applicant’s name with an account balance of zero and, where collection efforts are unsuccessful, it must write off the prior customer’s balance as uncollectible. In December 2016, FirstEnergy 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. FirstEnergy projects that its aggregate annual uncollectible expense is increased by approximately $842,184 as a result of these instances. Accordingly, FirstEnergy recommends that the Commission combine § 56.35(b)(1) and (2), and add a new Subsection allowing a public utility to 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 and that 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.

FirstEnergy does not oppose the Commission’s proposed changes to §§ 56.32, 56.38 but requests that the Commission provide further explanation regarding the payment requirements during this 90-day period. Specifically, FirstEnergy requests that the Commission affirm that this 90-day requirement is satisfied where an applicant is permitted to pay the deposit in installments of 50%, 25%, and 25%. FirstEnergy adds that its system is already configured to provide customers and applicants with the option of paying their deposit in three installments of 50%, 25%, and 25% with the approximate timeframe of the current installment plan is 90 days. FirstEnergy seeks to avoid the potentially significant costs and resources associated with updating its billing system to accommodate a new method for charging deposits.

Along these same lines, FirstEnergy seeks additional clarification regarding the Commission's proposed changes to § 56.32(d), stating that a public utility is not required to provide service where an applicant fails to pay a deposit within the 90-day period. To the extent the Commission interprets this 90-day period as consisting of three installment payments of 50%, 25%, and 25%, FirstEnergy requests 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 90-day period. (FirstEnergy at 9 – 16).

FirstEnergy questions whether proposals to require repeated notifications to customers of the deposit exemption rules are necessary, as utilities do not seek to collect security deposits from customers confirmed to be low income. They note that such proposals would require FirstEnergy to make changes to its scripting such that significant increases to call handling time may occur. Currently, First Energy only discusses security deposit waivers if customers answer affirmatively when the customer service representative asks if they might qualify for low-income assistance programs. Providing security deposit waiver information to all customers, many of whom are ineligible for the exemption, is not an efficient use of utility resources. FirstEnergy also questions the need to amend § 56.53 to require utilities to refund security deposits within two billing periods after discovering that a customer's income is at or below 150% of federal poverty income guidelines as utilities already have an obligation not to hold security deposits forcustomers who are confirmed to be eligible for CAP.FirstEnergy opposes any security deposit waiver requirement based on a customer merely calling in to inform a customer service center that his or her income has fallen below 150% of federal poverty income guidelines - the customer must first provide confirmatory information to the utility regarding his or her income level. (FirstEnergy Additional Comments at 13 – 15).

Columbia supports the Commission’s proposed new Subsection (e) to § 56.32, as it will align Chapter 56 with the legislative prohibition on requesting security deposits from those applicants and customers who are confirmed to be CAP eligible. Columbia suggests a further refinement so that confirmed CAP eligible customers under § 56.32(e) be defined only as those with household income that is verified through a third-party CAP enrollment agency or those who recently received a LIHEAP grant or those enrolled in the company’s Universal Services Program. This would exclude customers who simply self-declare their income with the company while negotiating a payment plan, or any customer or applicant who was previously removed from the company’s CAP program. Columbia suggests similar language be included in § 56.41.

Columbia agrees with the Commission’s defined period of 12 consecutive months of on time and in-full payments in § 56.53(b), when describing a “timely payment history” for holding a residential security deposit. If the customer meets their obligation of achieving a “timely payment history” with the company, it is reasonable that the company refund or apply the deposit with interest at the end of the 12-month period. (Columbia at 3 – 6).

NRG proposes the addition of “billing entity” to the provisions in the regulations involving deposits. Adding “billing entity” to § 56.31 would require billing entities to employ equitable and nondiscriminatory policies in establishing and applying credit and deposit policies. Inserting “billing entity” throughout § 56.32 would obligate billing entities to follow the Commission’s rules concerning deposits, deposit payment periods and customer information, and to establish a standard for finding that a customer or applicant has demonstrated satisfactory creditworthiness. However, NRG does not agree with the Commission’s existing language requiring the use of a credit scoring methodology that specifically assesses the risk of public utility bill payment because a supplier in the SCB role would initially not have this information. Also, NRG submits that using a credit rating through a consumer reporting agency, as defined by the Federal Trade Commission, more than adequately protects customers and applicants from unfair creditworthiness standards and ensures the use of an unbiased and neutral criterion.

Further, NRG explains that inserting “billing entity” in § 56.38 would require billing entities to inform applicants of the option to pay deposits in installments and adding the same phrase throughout § 56.41 would permit billing entities to require existing customers to post a deposit to reestablish credit under specific circumstances and in a manner that is consistent with the Commission’s rules. Including “billing entity” throughout § 56.42 would require billing entities to follow the Commission’s requirements for payment period of deposits by customers. However, NRG proposes to revise the due date of the initial installment from 21 to 10 days. Given that the deposit is being required due to a delinquent account or a failure to comply with a payment arrangement, a billing entity should be permitted to collect the first installment within a reasonable period of time.

Adding “billing entity” to § 56.51 would permit a billing entity to require a cash deposit in an amount as specified herein and adjust the amount of the deposit in the event of a material change in service and including “billing entity” throughout § 56.53 would allow a billing entity to hold a deposit until a timely payment history is established. Inserting “billing entity” in § 56.56 would obligate a billing entity to provide a written statement regarding the application or refund of a cash deposit. Adding “billing entity” to § 56.57 would mandate that the billing entity accrue interest on the deposit until it is returned or credited, following the formula set forth herein and finally, including “billing entity” in § 56.58 would authorize a billing entity to either pay interest to the customer or apply it to the bills. (NRG at 16 – 17).

Concerning § 56.32, IRRC notes that this Section uses the phrase “in accordance with Commission regulations” and that this phrase should be replaced with a cross-reference to the specific Commission regulation that applies. Subsection (d), to be consistent with the statute, should include the phrase “or customer.” Also, concerning the phrase “. . . within the time period under Subsection (a),” IRRC notes that some commentators questioned what a utility should do if the applicant fails to pay a scheduled portion of the deposit during the 90-day period. IRRC advises that the regulation should clarify whether failure to pay a portion of the deposit during the 90-day period would require the utility to continue to provide service or not. And Subsection (e), to be consistent with the statute, should include the phrase “or applicant.”

Regarding § 56.38, IRRC has two concerns. First, a commentator questioned what a utility should do if the applicant fails to pay a portion of the deposit during the 90-day period. The regulation should clarify whether failure to pay a scheduled portion of the deposit during the 90-day period would require the utility to continue to provide service or not. Second, this Subsection is amended to reflect statutory language found at Section 1404(a). IRRC recommends that the PUC clarify the phrase “. . . in accordance with Commission regulations” so that it is clear which regulations apply.

Concerning § 56.42, IRRC notes that Subsection (d) is proposed to be amended so that it is similar to existing Subsections (b) and (c). Related to IRRC’s comment on § 56.38(a), IRRC recommends rewriting Subsections (b), (c) and (d) due to four clarity concerns. First, as amended, the first sentence of Subsection (d) is not clear regarding who makes the determination that the deposit may be required in three installments. Second, the last sentence of Subsection (d) is also not clear regarding what specific due date applies. Third, noting this Subsection provides a customer with the option to pay the full amount, IRRC questions if that option can be exercised by a customer who fails to pay one of the three installment payments. Fourth, IRRC notes that the deadlines in the first sentence are stated as “billed upon determination by the public utility that the deposit is required,” whereas the deadline in the last sentence is “the due date.” IRRC recommends that the PUC clarify Subsections (b), (c) and (d) in conjunction with their comments on § 56.38(a) so that the final regulation is clear regarding who determines the method by which the deposit is paid, the due date for all payment options and what actions are triggered when a customer does not make a valid payment on any of the three installments.

IRRC has two clarity concerns with § 56.57 relating to what interest rate is applied and when. First, paragraph (2) provides the interest rate shall remain in effect “until the date the deposit is refunded or credited, or December 31, whichever is later.” IRRC notes while it may not be the PUC’s intent, December 31 by default will always be the later of the three dates. Similarly, if the interest rate on a deposit remains in effect until December 31, it is not clear at what date the accrual of interest on a deposit ends. Second, paragraph (3) states “the new interest rate for that year will apply to the deposit.” The language of the regulation is not clear as to whether this is a different interest rate than the “interest rate in effect when the deposit is required,” in Paragraph (2). While IRRC recognizes that paragraphs (2) and (3) reflect Sections 1404(c)(6)(ii) and (iii), it recommends that the PUC clarify in the final regulation what specific interest rate it intends to be applied in each circumstance. (IRRC at 3 – 4).

**Discussion**

Application and credit procedures and standards directly impact consumer accessibility to utility service. We recognize the need to find a balance between providing consumers access to utility service in a manner that is transparent, equitable and reasonable while also providing utilities with the tools they need to protect themselves and other ratepayers from the impact of uncollectible monies. We are of course guided in this by the General Assembly, while acknowledging that some of the finer points of these rules are not specifically addressed in Chapter 14.

IRRC, along with many of the parties, asked the Commission to clarify the reference to the “90 days” deposit payment period in Section 1404 (a) and (h) – and the meaning of the phrase “in accordance with commission regulations” in these same Subsections. Does this mean that a customer/applicant has 90 days to pay a deposit in full – regardless of any installment payment plan? Can a utility pursue termination for nonpayment of any deposit installment, regardless whether 90 days passed?

Part of the difficulty here is that the Commission’s Chapter 56 regulations have never referred to a “90-day” period for paying a deposit. Historically, these regulations have, depending upon the circumstances, either required full immediate payment of a deposit – or permitted an installment plan of 50% as an initial payment; followed by 25% billed 30-days later; followed by a final installment of 25% billed 60-days later. The 50/25/25% installment plan, when factoring in 20-day due dates (see 56 Pa. Code § 56.21), does get you into the proximity of “90-days,” but not exactly in most cases. Further, we note that historically, the deposit rules have not specified if failure to pay any deposit installment is grounds for termination. We note the comments of parties like PPL, Duquesne, and FirstEnergy who offer that their current practice is to treat failure to pay any deposit installment as grounds for termination.

While the parties raise many points in both sides of this matter, and arguments could be crafted to support either position, we point to the phrase “in accordance with Commission regulations” at Section 1404(a). It is reasonable to assume that the General Assembly was familiar enough with the Commission’s regulations to know that the regulations allowed for some deposits to be paid in installments. It is nonsensical to have a regulation providing for installment payments if the customer is not required to pay an installment. We therefore agree with PPL, Duquesne and FirstEnergy and conclude that failure to pay a deposit installment by the due date is grounds for termination. To declare otherwise would be to basically declare that installments are not needed at all – which we think is contrary to what the General Assembly intended. Accordingly, we will insert language in §§ 56.32, 56.38, 56.42, 56.288 and 56.292 to the effect the installment payments must be paid timely and that failure to do so is grounds for termination.

Concerning the proposed prohibition on requiring deposits from customers that are CAP-eligible at § 56.32(e), OCA, LICRG and CAC ask us to clarify that this standard is referring to eligibility based upon the customer’s household income – not on other miscellaneous eligibility criteria that can vary by utility. We agree with LICRG that it is unlikely that the nuances of each utility’s CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. Also, as CAC points out, using household income to determine eligibility has the benefit of establishing a uniform, statewide standard that can be consistently applied. Accordingly, we shall insert “based upon household income” into §§ 56.32, 56.36, 56.41, 56.282, 56.286, and 56.291.

Regarding the concerns expressed about this same section by LICRG that it is eligibility and not actual enrollment into CAP that determines the customer’s exemption from deposit requirements, we agree and point out that this section specifies “eligible,” not “enrolled” or “participating.” We think this language is sufficient direction that the customer only has to be “eligible” and not actually enrolled in CAP to be exempt from a deposit request.

Several parties, including EAP, PPL, FirstEnergy and Columbia ask that we address income verification procedures in the context of the use of the word “confirmed” in Section 1404(a.1). In using the word “confirmed” in this section, we agree with FirstEnergy that the General Assembly likely intended that a self-declaration of eligibility was insufficient to qualify for exemption from a security deposit – that there would be some sort of burden upon the customer or applicant to provide some sort of proof of eligibility. At the same time, we are sensitive to the concerns expressed by some of the parties that any such confirmation procedure not be overly complex or burdensome. We think proposals like PPL’s, FirstEnergy’s and Columbia are reasonable. Enrollment in CAP or household income data submitted to the utility (or the utility’s agent) or information indicating eligibility for state benefits with income thresholds consistent with the CAP program should all be acceptable means of establishing eligibility for a security deposit waiver. We will revise §§ 56.32, 56.41, 56.282 and 56.291 accordingly with this guidance. Further, LICRG believes that it is critical that verbal notice of the exemption, as well as instructions for how to verify income, should be provided to applicants and customers at the time the security deposit is assessed. We agree that this guidance should be in writing and will include this in §§ 56.36 and 56.286. Regarding *verbal* guidance, we think this is already covered by the current requirements at §§ 56.36(2) and 56.286(2) that “utility personnel shall fully explain the credit and deposit procedures of the public utility to each customer or applicant for service.”

Regarding the refund of security deposits, OCA asks that we clarify that the relevant time period concerning refunding a deposit is *any* 12 consecutive months. We agree and will insert “any” in §§ 56.53(b) and 56.302(4). LICRG asks that we order deposits to be refunded if upon later discovery it is determined that the customer has become income-eligible to have a deposit waived. While we acknowledge FirstEnergy’s objection to such language as being unnecessary as utilities already have an obligation not to hold security deposits forcustomers who are confirmed to be eligible for CAP, we think there is value in inserting this in the regulation as to make it clear to all utilities, consumers and advocates. Accordingly, we will insert language to this effect in §§ 56.53 and 56.302.

Duquesne suggests that we update the non-discrimination standards found in the Policy Statement at §§ 56.31 and 56.281. We agree that it is time to update these sections to reflect a broader scope of protections and will use Governor Wolf’s Executive Orders, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth, as an example. Accordingly, we will add “color, religious creed, ancestry, union membership, gender, sexual orientation, gender identity or expression, national origin, AIDS or HIV status or disability” to §§ 56.31 and 56.281.

EAP and FirstEnergy asks the Commission to broaden who can be held responsible for utility service by expanding the definitions of *customer* and *applicant* in some contexts. They point to the “name-game” and how this possibly exacerbates uncollectible amounts. While we understand the concerns of these parties, we agree with LICRG that if the General Assembly had intended to broaden the scope of potential third-party liability, they would have done so while amending Chapter 14. Also, as LICRG points out, utilities maintain creditor rights and remedies against nonpaying customers and can exercise those rights against the former customers who are responsible for the debt.

IRRC, OCA and EAP recommend that the PUC clarify the phrase “. . . in accordance with Commission regulations” in §§ 56.32 and 56.38 so that it is clear which regulations apply. We agree and will replace this phrase with references to the specific regulations addressing deposit payment time periods.

Regarding § 56.42, we agree to revise the first sentence of Subsection (d) to clarify that it is the utility that makes the determination that the deposit may be required in three installments. The last sentence of Subsection (d) will be revised to specify that the customer has the option to pay the deposit amount in full anytime within 90 days upon determination by the public utility that the deposit is required. We will specify that the customer can pay in full anytime during the 90-day period regardless of whether an installment has been paid or not. We also agree to revise §§ 56.38, 56.42, 56.288 and 56.292 to clarify it is the utility that makes the determination that the deposit may be required in three installments and that the customer has the option to pay the deposit amount in full.

To clarify the applicability of the various sections, we note that in general, §§ 56.32, 56.35 and 56.38 apply to applicants; while §§ 56.41 and 56.42 apply to customers. We have revised the terminology in these sections accordingly.

Finally, in reference to IRRC’s concerns with § 56.57 relating to which interest rate is applied and when, we acknowledge that the language is open to various interpretations. However, as IRRC points out, the language is from the statute. Accordingly, any changes or additions to this language must not change what was intended. We think it is reasonable to conclude that what the General Assembly intended in Section 1404(c)(6) is to establish a variable interest rate – a rate that changes every January 1. A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of that calendar year (December 31). Then on January 1, a new interest rate is determined, and that is the rate that will be applied to the deposit for the calendar year starting January 1 until December 31 of that year, and so on until the deposit is refunded or applied to the account. Accordingly, we propose adding language to §§ 56.57 and 56.306 that will provide some additional guidance (in **bold**) without changing the intent of this section:

(2)  The interest rate in effect when the deposit is required to be paid shall remain in effect until the date the deposit is refunded or credited, or December 31, whichever is later. **A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of the calendar year.**

(3)  On January 1 of each year, the new interest rate for that year will apply to the deposit. **The new interest rate will be applied to the deposit for the calendar year starting January 1 until December 31 of that same year. Revised interest rates are calculated every subsequent January 1 and applied to the deposit until the deposit is refunded or applied to the account.**

**Termination Procedures**

**§ 56.82. Timing of Termination.**

Section 1406(d) now only allows a utility to terminate service (for the grounds found at 1406(a) (relating to authorized termination)) Monday through Thursday. We proposed revising § 56.82 to align with this new restriction.

The OCA supports this revision as the language is consistent with Section 1406(d). (OCA at 12).

**Discussion**

The OCA supports the proposed language and no parties were opposed.

**§ 56.91. General notice provisions and contents of termination notice.**

We proposed revising the information directed to customers on written 10-day termination notices in Subsection (b)(11) to include notice to customers that, pursuant to Section 1417, the special protections available for victims under a protection from abuse order are now also available to those customers with a court order providing clear evidence of domestic violence and issued by a court of competent jurisdiction in this Commonwealth.

OCA generally supports the addition of this language but submits that a stakeholder group should be convened to clarify ambiguities in the language relating to victims of domestic violence. (OCA at 12).

PECO notes that the new statutory and regulatory language – a court order that “provides clear evidence of domestic violence” – is sufficiently broad that PECO does not expect to be able to immediately proceduralize its determination of whether a proffered court order provides the needed “clear evidence.” (PECO at 2).

PGW notes that § 56.11(b)(3) allows the electronic transmission of termination notices when the customer has affirmatively consented to this method of delivery and that the Commission proposes to add language recognizing the availability of electronic notice and to add a new § 56.93(a)(3) to provide further information about the permissible electronic notice options. However, § 56.91 does not reference the availability of electronic notices. PGW recommends that the Commission consider one of two options: (i) add language referencing § 56.11(a)(3) into § 56.91(a); or, (ii) add language from the newly proposed § 56.93(a)(3) into § 56.91. (PGW at 2).

**Discussion**

We agree with the OCA that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer’s status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups exploration of these issues.

In their comments, PGW asks the Commission to add language at § 56.91 mentioning the electronic transmission of the 10-day termination notice. They note that § 56.11(b)(3) does allow this with customer consent. However, even with the customer’s consent, we decline to create a regulation in which the issuance of an electronic 10-day termination notice would be the only means of communicating this notice. We believe electronic 10-day termination notices may complement the normal process - not replace it. We will retain the current language at § 56.11(b)(3) that makes clear that the utility must still mail a 10-day notice regardless of electronic provision of the same.

To maintain consistency with the terms used in the Emergency Provisions at §§ 56.111 – 56.118, we will change the reference at § 56.91(8) from “serious illness notice” to “medical certificate notice.”

**§ 56.93. Personal contact.**

We proposed revising this section to provide for the optional use of electronic messaging for providing three-day personal notice of termination, per Section 1406(b). We invited comments on the privacy protections and customer consent practices that should be required in the context of electronic messaging. *See* 66 Pa.C.S. § 1406(b)(1)(ii)(C) and (D).

Amended Chapter 14 referenced the Commission’s privacy guidelines at 66 Pa. C.S. § 1406(b)(1)(ii)(D) (relating to notice of termination of service) that emails, text messages or other electronic messaging must be consistent with the Commission’s privacy guidelines. In the NOPR, we asked for comments addressing what should be included in the Commission’s privacy guidelines (NOPR at 4). We note that the privacy guidelines would be relevant to §§ 56.93 and 56.333 (relating to personal contact). In the NOPR, the Commission proposed changes to these two sections of Chapter 56, simply referencing “the Commission’s privacy guidelines,” but not explaining what they are.

Several parties offered suggestions on this topic. For example, OCA noted that the Commission does not allow the release of telephone numbers for any purpose and asked that the same treatment should be provided for e-mail addresses, numbers used for text messaging, etc. and that the data submitted to the public utility for purposes of personal contact should not be shared with third parties. (OCA at 2-3). The Joint Commentators and LICRG suggested that these guidelines be codified in the regulation and that written, informed consent be required and that this consent be refreshed periodically along with a provision allowing the customer to revoke consent at any time. (Joint Commenters at 22-24; LICRG at 27-31).

In contrast, EAP opined that guidelines, not regulations, are the best “path forward into a future where technology and the related privacy issues are ever-evolving.” (EAP at 9). EAP adds that the Commission has existing privacy regulations at §§ 54.8 and 62.78 but notes that these specific regulations are in the context of customer choice. (EAP at 7-8). PPL submits that Chapter 14 requires that the utility get affirmative consent to use a particular form of electronic communication and as such, the Commission’s proposed § 56.93(a)(3) captures the consent policy that utilities must comply with to use this method of communication in this context. Further concerning privacy, PPL recommends stakeholder discussions to identify best practices. (PPL at 6-7). Some parties noted that any requirements must also take into account other laws like the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227 (relating to restrictions on use of telephone equipment). (Aqua at 4-5).

Duquesne proposes that, similar to proposed § 56.93(1) and (2), guidance be given in regulation to enumerate what frequency satisfies “an attempt” for electronic messaging format. For example, in § 56.93(1), “Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence ....” Similarly, § 56.93(2) states that “If contact is attempted in person by a home visit, only one attempt is required.” As proposed, however, § 56.93(3) only explains the ability of electronic messaging format and the requirements to obtain consent – it is silent on what is considered an “attempt.”

As a proposed remedy, Duquesne suggests that the language in §56.93(3) be revised as follows (see bold):

(3) **Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. In the event the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.**  Contact by email, text message or other electronic messaging format consistent with the Commission’s privacy guidelines and approved by Commission order. The electronic notification option is voluntary and shall only be used if the customer has given prior consent approving the use of a specific electronic message format for the purpose of notification of a pending termination.

(Duquesne at 14-15).

IRRC questions how contact must be made if it is discovered an email address or text message connection is no longer valid. If the electronic contact is not successful, should the personal contact requirement revert to contact in person or by phone? IRRC asks the PUC to clarify in the regulation how a valid personal contact can be accomplished if the electronic contact is not successful. (IRRC at 6).

**Discussion**

It is also 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. However, we agree with EAP’s suggestion that we not be overly prescriptive or detailed in the regulations, given ever-changing technology.

We also cannot ignore that the General Assembly referred to “guidelines,” not “regulations” in Section 1406(b)(1)(ii)(C). This same section also refers to “approved by [C]ommission order.” It is reasonable to assume that the General Assembly envisioned the development of guidelines that would be ratified by a Commission Order. Accordingly, we propose addressing this topic in a separate, but related, proceeding. We intend to use the comments submitted to date to propose, in an upcoming Tentative Order, privacy guidelines for Section 1406(b)(1)(ii)(D) (relating to notice of termination of service) and §§ 56.93 and 56.333.

In response to IRRC’s and Duquesne’s concerns about what should occur if an electronic contact attempt is not successful, we think Duquesne’s proposed language has merit –

*Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received.**In the event the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section*.

**§ 56.94. Procedures immediately prior to termination.**

We proposed revising paragraph (3), addressing procedures for handling dishonored payments in the context of the termination process, to align with Section 1406(h) (relating to termination of utility service) that termination of service may proceed if a customer tenders payment electronically that is subsequently dishonored, revoked, canceled or is otherwise not authorized and which has not been cured or otherwise made full payment within three business days of the utility’s notice to the customer.

Aqua fully supports the Commission’s proposed amendment to these sections to deter customers from attempting to avoid termination (or to have service reconnected) when there are insufficient funds available for the payment submitted. The proposed amendments do provide a valuable collection tool for the utilities. (Aqua at 5).

FirstEnergy disagrees with the Commission’s proposed revisions to § 56.94 relating to the termination procedures for customers whose payments are subsequently dishonored. The Commission's proposed removal of the language “without additional notice” from § 56.94 is improper. The corresponding language within Section 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 § 56.93 as a result of a dishonored payment. As long as the § 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 § 56.93 notice, termination may occur. To the extent utilities discover a dishonored payment after the § 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 notices regarding termination and the dishonored payment, but they should not be required to provide an additional notice regarding the dishonored payment. (FirstEnergy at 16-18).

The OCA supports this revision as it accurately reflects Chapter 14. (OCA at 16).

IRRC asks that since “contact by email, text message, or other electronic messaging format” was added to § 56.93(3), paragraph (3) of § 56.94 should be amended to include all contact methods in § 56.93(a). (IRRC at 5).

**Discussion**

FirstEnergy is correct, we did propose removing “without additional notice.” We believe this provision is somewhat ambiguous in that the use of an “access device” under Subsection (3)(ii) can be viewed as being electronic in nature. It does not appear to be reasonable for the ability to cure an electronic payment within 3 business days to not apply when a customer tenders a payment which is subsequently dishonored, or when a customer tenders payment with an access device. As a practical matter, making a distinction would not necessarily help utilities, and would be confusing for customers. This may also be difficult for utilities to implement. But based on the comments raised by the parties, we agree to revise § 56.94 to clarify that termination may proceed without additional notice except as noted in § 56.94(3)(iii) in which the public utility will provide notice to the customer of the dishonored payment.

We agree with IRRC’s suggestion and we will remove the word “telephone” to provide clarity in reference to § 56.93.

**§ 56.97. Procedures upon customer or occupant contact prior to termination.**

We proposed revising Subsection (a)(3) to require utilities to provide universal service program information to consumers upon contact from a consumer during the termination process pursuant to Section 1410.1(1) and (2) (relating to public utility duties).

EAP, PPL, and FirstEnergy do not believe it is appropriate to require utility employees to provide information on universal service programs to all customers in the termination process. Universal service program eligibility is limited to those with specific incomes. Having to explain universal service programs to all utility customers, regardless of income, would be overly burdensome, time-consuming, and ultimately prove confusing for customers who learn of these programs and are ultimately ineligible to participate. EAP recommends that this language be amended to require utilities to provide information on universal service and customer assistance programs only to those customers the utility knows or reasonably suspects to be low-income or customers who affirm their income would qualify them, or to allow for discretion by utility staff rather than a mandate. (EAP at 10; PPL at 7; FirstEnergy at 18).

OCA supports this revision as it provides consumers with valuable information regarding universal service programs during the termination process. (OCA at 16).

EAP, PPL, and PGW suggest removing the words “authorized,” “personnel,” and “employee” from this Subsection in order to allow for automated or self-service options. While customers would always be free to contact the utility to get more information about the termination process, some customers may prefer to receive this information via automation either over the phone or the internet. Having to talk to a live utility employee may feel intimidating to those customers who are under threat of termination; additional flexibility in this circumstance would be beneficial. To that end, EAP suggests a similar removal of the phrase “through its employees” from § 56.97(b), as many utilities also have the means to help customers establish payment arrangements via their website or other secure, automated methods. Again, this modification would not remove the option for customers to speak directly with utility customer service employees if they choose, but rather broaden the options for customers by removing the present limitation of person-only methods.

EAP recommends a similar change be made under § 56.97(a)(3) relating to the requirement to provide information about the utility’s universal service programs. A broad spectrum of utility customer service employees are trained and equipped to explain and enroll applicants and customers into universal service programs, not only the program administrator. EAP believes that more than one “administrator” (by title) at each company is equipped to explain and enroll customers in universal service programs; EAP does not believe it is the Commission's intention to direct all such calls to one utility employee. Accordingly, EAP recommends striking this requirement from the Commission's proposed language. PGW requests that the Commission add additional definitional language regarding who can act as a company’s universal service program administrator so as to better serve customers. (EAP at 9-11; PPL at 13-15; PGW at 2-3).

**Discussion**

The statute at Section 1410.1(1) is clear that public utilities shall provide information about universal service programs, including customer assistance programs to customers or applicants who contact a public utility to make a payment arrangement. If the General Assembly wanted information about universal services programs to only be shared with low-income customers, they could have so said. Instead, all customers or applicants who contact a public utility to make a payment arrangement should be provided information about the universal services program. If during the conversation the customer states they are not interested in additional information about universal service programs or the utility becomes aware the customer is not eligible, the utility is not obligated to go into detail. We will keep our proposed language.

We agree with the parties who suggest removing the word “authorized employee” and “through its employees” from this Subsection in order to allow for automated or self-service options. The Commission has granted utilities waivers of § 56.97(a) so that customers could have the option of using an automated interactive voice response (IVR) system to make payment arrangements or establish payment arrangements online. PPL reported that in 2016 it established 119,882 payment arrangements using the IVR and 25,599 payment arrangements using the web. In addition, 25,735 service terminations were prevented because residential customers used the self-serve system. PPL also reported that it received 13 PUC informal complaints regarding the use of the website or IVR.[[9]](#footnote-9)

PECO reported that in 2017 it established 18,948 payment arrangements through their IVR. This is a slight decrease from the 22,239 payment arrangements established through the IVR in 2016. PECO reported that there were zero PUC informal complaints filed regarding the use of the IVR to establish payment arrangements in 2016.[[10]](#footnote-10)

Regarding the “universal service program administrator” language, we do not think it is necessary to put this into the regulation. We do not expect utilities to refer customers or applicants to a single individual to determine eligibility for a program or to apply for enrollment in a program. A universal service program administrator can be a utility employee, representative of the utility, or a community-based organization employee who is trained to determine eligibility and provide enrollment information. We will also revise §§ 56.97(a) and 56.337 to allow for automated or self-service options.

**§ 56.100. Winter termination procedures.**

We proposed revising Subsection (i) to clarify that the February update of the survey of households without heating service in the winter is to include households terminated in December. Commission staff and utilities have encountered questions about this requirement because the current language is unclear on this point. By failing to include any December terminations, the survey result reported by utilities on February 1 is not a complete picture of the households without utility service in the winter. This proposed revision is intended to correct that possible problem.

PPL submits that landlord ratepayers are only covered by the winter termination provision of Chapter 14 if the household's income is at or below 250% of the Federal poverty level, and Chapter 14 explicitly provides that the Commission shall not prohibit a public utility from terminating service to customers with household incomes exceeding 250% of the Federal poverty level. PPL proposes that § 56.100(f) be revised to align with Chapter 14 as part of this rulemaking. FirstEnergy states that landlord ratepayers generally do not qualify as low-income customers, and therefore receive a benefit that is unavailable to all other customers. FirstEnergy has 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. (PPL at 16; FirstEnergy at 22).

FirstEnergy also recommends 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. They 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 via a different method of contact. (FirstEnergy at 21- 22).

The OCA supports the Commission’s proposed clarification as it helps to ensure that all households without heating service during the winter are appropriately accounted for in the Bureau of Consumer Services’ report. (OCA at 17).

**Discussion**

FirstEnergy is proposing one survey that would be due in January and would include the December terminations. We are concerned about the elimination of the re-survey of customers that now occurs in January with the results due to the Commission on February 1. By eliminating the re-survey, there will be no way of knowing how many households restored their utility service. Therefore, we are going to keep our proposed language.

PPL and FirstEnergy propose that a public utility be permitted to terminate service to landlord ratepayer accounts during the period of December 1 through March 31. However, we are concerned that utilities have no way of knowing the income level of the tenants involved in landlord ratepayer accounts. It is then possible that low income tenants could be terminated while the law clearly prohibits the termination of low-income customers after November 30 and before April 1. As such we are rejecting this proposal.

**§ 56.100(j). Reporting of deaths at locations where public utility service was previously terminated.**

LICRG submits that the language limiting public access to information about deaths occurring where utility service had been terminated should be removed. It is clearly in the public interest in protecting the health and welfare of Commonwealth residents (neighbors as well as the customers and building occupants) that any structural or systemic failures or gaps in protecting the impoverished and other vulnerable populations are revealed. These may be related, for example, to the functioning of the service termination protections provided during the winter, to the processing of medical certificates, to the functioning of universal service programs, the winter cold weather survey effectiveness, or to some other attempt to assist customers in maintaining service and public health and safety. Disclosure of fatalities following from the loss of utility service would help the Commission and interested stakeholders evaluate the possibilities for new interventions and universal service enhancements that can benefit low-income customers and avoid catastrophe. Accordingly, § 56.100(j) should be removed. (LICRG at 43-46).

In their additional comments, FirstEnergy opposes LICRG’s request to make § 56.100(j) reports public. FirstEnergy believes that public availability of this information would constitute a violation of the Public Utility Code, Pennsylvania's Right-to-Know Law, and Commission precedent and regulations, as well as raise a host of public policy concerns. Section 56.100(j) reports are a subset of the reporting obligations required under 66 Pa. C.S. § 1508 and Section 1508 reports “shall not be open for public inspection, except by order of the commission, and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in such report.” Accordingly, the same restrictions should apply to § 56.100(j) reports.

Additionally, the Right-to-Know Law bars disclosure of utilities § 56.100(j) reports to the public. Utilities prepare § 56.100(j) reports based on an internal investigation. When the Commission receives these reports, the Commission will review the reports and possibly seek additional information from utilities. Under the Right-to-Know Law, Pennsylvania agencies are prohibited from disclosing to the public any record related to a noncriminal investigation including “investigative materials, notes, correspondence and reports....” Further, public availability of § 56.100(j) reports would raise significant customer privacy concerns. FirstEnergy, per Commission regulations, does not disclose a customer’s name, address, phone number, account number, billing history, usage history, and status of termination or reconnection to any third party without that customer's consent. When a utility submits a report to the Commission pursuant to § 56.100(j), the entire report consists of customer-specific information. If the public may access this report, any third party would have access to this private customer information.(FirstEnergy Additional Comments at 16 – 19).

**Discussion**

We acknowledge the concerns expressed by the LICRG and the desire to make this reporting requirement public, but we decline to do so. 66 Pa. C.S. § 1508 specifically states that the report is not open for public inspection except by an order of the Commission and that the report is not to be admitted in evidence for any purpose in any damages action. In addition, as FirstEnergy notes, disclosing this information would likely result in divulging private customer information without the knowledge or consent of the customer and/or other individuals involved in the event.

**MEDICAL EMERGENCY PROVISIONS**

**§ 56.111. General provision.**

The revised Chapter 14 now includes a definition of medical certificate at Section 1403, so we proposed to remove the definitional information from § 56.111 and place it in the definitions at § 56.2. We also referred to *physician assistant* in addition to *physician* and *nurse practitioner* in order to align with the new definition at Section 1403.

EAP does not agree with the proposed removal of the present language in this section. EAP believes that the current medical certificate protection does apply to primary or permanent members of the customer’s or applicant’s household; and that this protection should continue to be limited to residents of the customer’s household, such as children, other relatives, or roommates for whom the utility address is also their primary residence. EAP believes this limitation will help to protect those with serious medical conditions and their families as well as prevent medical certificate fraud or abuse that could occur if a medical certificate is submitted on behalf of a person not residing at the service address. EAP also believes a qualifier is needed in the Commission’s proposed amendatory language to further protect all customers from potential medical certificate abuse. To address these concerns, EAP recommends the following addition (in bold) to the Commission's proposed language:

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

(EAP at 11 – 12).

While PGW recognizes the intent of the Commission in proposing to eliminate some of the definitional language in this section, they believe doing so removes some clarity from the regulation and could have a broader negative implication. The elimination of the language arguably removes the tying of the medical condition to “the customer’s or applicant’s household” at which the utility is seeking to terminate or refusing to restore service. The language as it currently exists states that the utility may not terminate or refuse to restore service “to a premises when” a medical professional has certified that “the customer or applicant seeking the restoration,” or a member of the household, satisfies the medical condition requirement. PGW believes that it is clearly the intent of the Commission that the customer with the medical condition reside at the premises for which the utility is seeking to terminate service or refusing to restore service and that maintaining the current language would clearly uphold this requirement.

Another concern PGW has with the removal of the current language is that it eliminates the requirement that the health practitioner must verify the condition. The language that the Commission proposes to remove specifically states that that the termination stops when a qualifying professional verifies that the customer or applicant satisfies the medical emergency requirements. Removing this language and replacing it with the proposed language could be read to mean that upon the production of a medical certificate to the utility, it is prohibited from terminating service or refusing to restore service. However, an incomplete medical certification or one not certified by the qualifying professional should not require the utility to forestall an otherwise valid termination of service. Accordingly, PGW supports maintaining the current language of § 56.111 as written, with only “physician’s assistant” being added to the list of providers who can certify that the customer or applicant satisfies the medical emergency criteria. (PGW at 3 – 4).

PPL supports the Commission’s objective of balancing the needs of customers who have serious medical conditions with the needs of utilities in managing their overdue receivables but believes that additional revisions are necessary to best reach this balance. PPL recommends that this section reference § 56.114, which addresses the time frames and renewals of medical certificates and that medical certificates be submitted by the medical professional who issued the medical certificate. PPL reports that, in theirexperience, having the medical professional send the medical certificate directly to the utility is the quickest method of obtaining the medical certificate, which benefits the customer. Moreover, by requiring the medical certificate to be submitted directly from the medical professional, utilities would also have better protection against attempts to misuse medical certificates.

PPL also recommends retaining the “definitional information” that the Commission proposed to remove in the interest of clarity. PPL also proposes that this section specify that the medical certificate is only applicable if it is for a primary residence. Additionally, since this provision applies to applicants, as well as customers, the provision should state that utilities may not refuse to “establish”service when a valid medical certificate is submitted. Accordingly, PPL offers the following revisions:

Provided the customer or applicant has not exceeded the medical certificate allotments, as outlined in § 56.114, [A]a public utility may not terminate service, or refuse to restore or establish service, to a premise[s] when a physician, [or] nurse practitioner, or physician assistant has submitted a valid medical certificate. The medical certificate must certify that the customer, applicant, or member of the household, whose primary residence is at risk for service termination, or has been terminated, [licensed physician or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) or a member of the customer's or applicant’s household] is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. [The customer shall obtain a letter from a licensed physician verifying the condition and promptly forward it to the public utility.] The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician, [or] nurse practitioner, or physician assistant and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

(PPL at 8 – 9).

OCA submits that the revision in § 56.111 creates different treatments in very similar circumstances for a seriously ill customer; it can now be read to require the receipt of a written medical certificate to restore service, while § 56.112 continues to allow for an oral declaration of a serious illness or medical condition in relation to termination of service, but it does not apply to restoration of service. By way of example, if a utility customer is told by a doctor that a vital medical device requires the restoration of the customer’s utility service, the doctor or a nurse practitioner could inform the utility that the customer requires utility service for their medical needs and that a medical certificate will be submitted within the next 3 days. In this example, the customer’s utility service is off and a medical professional is informing the public utility that the utility service is needed. Under the current § 56.111, utility service would be restored for the utility customer while the medical certificate is being sent to the public utility. Under revised § 56.111, the utility customer’s service would not be restored. While the OCA supports the revised regulation insofar as it now includes physician assistants, the OCA submits that the § 56.111 should clearly state that service must be restored for at least 3 days if a public utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be provided. (OCA at 17 – 19).

**Discussion**

While we think the concerns with removing the definitional language from this section and placing it in a new definition at § 56.2 are overstated in that this would not have changed the substance of the rules – we do accept that for clarity and ease-of-use purposes that the current language in § 56.111 should be maintained. Accordingly, we will keep the current language as suggested by PGW – while adding appropriate references to “physician assistants.” We decline to include references to other rules as requested by PPL as being unnecessary. We also decline to insert “establish” in this rule because while PPL is accurate in that this rule can apply to “applicants,” it only applies to applicants seeking “restoration” of service under § 56.191, not “establishment” of new service.

**§§ 56.112 – 56.118 Emergency Medical Provisions:**

LICRG supports the Commission’s determination that a medical certificate does not need to be on a prescribed form and recommends that the Commission consider adopting a form that utilities could implement as a safe harbor that complies with the requirements of § 56.113. They believe, based on what they have heard from medical providers, that if there were a form that was available for download either on the utilities’ or the Commission’s website, it could facilitate the provider’s ability to issue medical certificates. A standard, statewide form would allow providers to feel more knowledgeable about the medical certificate process and would allow for easy access for busy medical professionals.

LICRG submits that, given that medical professionals may determine that a chronic or life-threatening illness is anticipated to extend beyond a period of 30 days, it is appropriate to provide for the certification of a medical need for service that corresponds to the affliction. Obtaining a medical certificate is not easy and requires customers to expend their limited financial resources every 30 days to pay expensive co-pays, secure transportation and childcare, and take time away from work to attend a medical appointment. For someone with a short-term condition which is likely to improve, the shorter time-frame may be reasonable; but for those with a chronic illness, the arbitrarily imposed 30-day limitation may have no relation to the underlying illness or condition. Accordingly, LICRG asserts that the regulations should be further revised to clarify that, although a medical certificate shall be effective for a minimum of 30 days, in the cases in which the medical practitioner indicates the anticipated length of the affliction to be greater than 30 days, the length of the protection provided should correspond to the length of the affliction. In the event of a serious illness without specific ending date, the duration of the medical certificate protection should be extended for a period of up to 6 months. (LICRG at 34 – 37).

LICRG supports the Commission’s long-standing interpretation of §§ 56.114 and 56.116, which allows households to renew a medical certificate for as long as is medically necessary provided the customer pays their current charges or budget bill amount as it comes due, irrespective of any arrears on the account at the time the medical certificate is first obtained. If customers were required to pay more than current, undisputed charges, the purpose of medical certificates and renewals would be thwarted. They note that the ability of a customer to maintain service beyond a limited period (one medical certificate and two renewals) is only available if the customer compensates the utility for the cost of service rendered during that period. LICRG believes this appropriately balances the needs of the customer and the utility by avoiding the accumulation of additional arrears while protecting the customer. (LICRG at 38 – 39).

While opponents of the Commission’s longstanding medical certificate rules may submit that the Commission lacks the authority to authorize a customer to continue service using medical certificates, and that doing so somehow overreaches the statutory limitations on payment arrangements, LICRG asks that such assertions be dismissed. The limitations on the Commission’s ability to grant payment arrangements are separate and distinct from the obligation of a utility to continue service when a medical certificate has been issued. A medical certificate is intended to interrupt the termination-collection path, while a payment arrangement is intended to supersede it. Requiring customers to make payments on arrears during a period covered by a medical certificate, would, in fact appear to create some form of payment arrangement which could potentially implicate the provisions of Section 1405 (limiting the availability of Commission-granted payment arrangements). LICRG also cites the Commission’s recent rejection of such a proposal (*See* PECO Energy Co. Universal Service and Energy Conservation Plan for 2016-2018 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Final Order, Docket No. M-2015-2507139, at 20-21 (Aug. 11, 2016)). (LICRG at 31 – 41).

LICRG objects to claims that medical certificates are sometimes used by customers as a tool to avoid termination where the customers are not truly suffering from an illness, as utilities cannot make judgment calls pertaining to whether an individual is or is not “truly suffering from an illness.” The Commission should pay no heed to unsubstantiated assertions by utilities that cannot be reliably demonstrated, and the Commission should be careful to not conflate actual, documented fraud with the utilities’ frustration in serving vulnerable consumers with complicated lives and unique hardships. Accusations of fraud can have far-ranging consequences on the accused and can impact the household’s ability to maintain utility service. To prove fraud, there must be evidence that an individual intentionally misrepresented fact which caused the utility to act in a manner that causes damages to occur. As such, the Commission should reject attempts by utilities to relax long-standing rules of law governing the elements of fraud, whether in the context of medical certificates, the 4-year rule, or otherwise. (LICRG Additional Comments at 6 – 8).

LICRG declares that § 56.112 prescribes the procedurefor obtaining a medical certificate and does not attempt in any way to change the scope or definition of a medical certificate. Thus, this section remains wholly consistent with the language and intent of Chapter 14. Further, they assert that the procedure for obtaining medical certificates set forth in § 56.112 should not be eliminated or shortened but should instead be extended to account for the logistical barriers facing medically vulnerable households. (LICRG Additional Comments at 8 – 10).

LICRG urges the Commission to reject attempts to further complicate the medical certificate form requirements, including the inclusion of licensing information on all certificates, and a requirement that a medical certificate be produced on letterhead of the certifying medical professional. This would impede access to medical certificates particularly from nurse practitioners and physicians’ assistants who may not have access to or authorization from a medical practice to utilize its letterhead. LICRG alleges that the utilities’ positions are based entirely on unsupported claims of rampant fraud and abuse - while noting that there is no consistent view on these issues by the utilities themselves. For example, while some claim that making a medical certification form available online would encourage fraud, others have already made the form available electronically. In addition, the Commission should consider the burden that imposition of additional medical certificate requirements could impose on the medical community. The utility proposals to add additional requirements to the certification process fail to appreciate the harm that could result if providers are dissuaded from completing medical certificate forms due to additional form requirements.

LICRG agrees that households are often confused about the payment requirements for a medical certificate. They believe this confusion is understandable, given consumers most often receive unclear, incorrect, or misleading information from their utilities about the payment obligation for medical certificate renewals. The information available on bills and termination notices is frequently inadequate and provides insufficient detail for customers to clearly understand their payment obligations. LICRG asserts that the Commission should enhance the notice requirements to include clear information about the current payment requirement when a household obtains an initial or renewal medical certificate.

LICRG notes the arguments some parties raise to the effect that the regulations lack clarity regarding the relationship required for medical certification protections to apply; i.e. they should be limited to “permanent” household members. LICRG points out that Chapter 14 clearly defines a medical certificate as: “A written document ... 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.” There is no requirement that the household member be a “permanent” member of the customer’s household. (LICRG Additional Comments at 6 – 15).

The Joint Commenters assert that the Commission’s proposed revisions to § 56.113 strike the correct balance and provide necessary information without being unduly intrusive on a utility customer’s privacy regarding their health status. However, the Joint Commenters oppose inclusion of a certifying professional’s license number on a medical certificate because requiring a medical professional to provide their license number on a medical certificate implies a level of personal liability and is likely to deter medical professionals from assisting patients. Medical license information is available to the public through a simple search, which utilities could easily refer to if they question the authenticity of the certificate.

Regarding the “form” requirement, the Joint Commenters agree with the Commission that no specific form should be required to be used if all the relevant information is presented by the medical professional. Flexible form requirements, which specify required content as opposed to dictating format, are critical to ensure that medically vulnerable Pennsylvanians can access timely relief. Nonetheless, they believe that there is inherent value to having a standard, voluntary, statewide form that is universally available and immediately recognizable to utilities, consumers, and medical professionals. The Joint Commenters report that a lack of clarity about the medical certifications has led several of the largest healthcare systems to prohibit physicians from issuing medical certificates for their patients – resulting in many of their clients being unable to obtain the protection from imminent termination afforded by the Legislature. Upon the conclusion of this rulemaking, the Joint Commenters recommend that the Commission institute a collaborative work group of interested stakeholders and staff from the Commission’s Bureau of Consumer Services and Communications Department to develop a single, voluntary, standardized form. The form should include brief, plain language instructions and information for the certifying professional and the protected customer which explain the rights, duties, and obligations conferred by a medical certificate.

Concerning § 56.112, the Joint Commenters assert that three days is often insufficient to allow a medically vulnerable consumer adequate time to make an appointment with their medical professional, obtain a certificate, and provide it to their utility. They cite reports and surveys that show an average wait time of 21 days in the City of Philadelphia. The average wait-time is exacerbated even further for low income populations who rely on assistance from Medicaid because not all healthcare providers accept Medicaid. The Joint Commenters also point to studies indicating that healthcare shortages in Pennsylvania are wide-spread; portions of 65 of the state’s 67 counties, both rural and urban, are designated as Health Professional Shortage Areas (HPSAs), Medically Underserved Areas (MUAs) or both. The Joint Commenters note that while it is true that retail health clinics and urgent care centers offer faster options to access healthcare professionals, these clinics have higher co-pay or co­insurance payments, and may not accept Medicaid. In addition to long wait times, transportation to and from the healthcare provider can also prove difficult, especially for elderly individuals and those in rural areas where there are few or no public transportation options.

In recognition of these barriers, the Joint Commenters urge the Commission to extend the time allotted in § 56.112 for postponement of termination to 14 days. Combined with the 10-day notice period in advance of termination, households would have up to 24 days to make an appointment, arrange transportation, obtain a medical certificate, and submit the certificate to the utility. This extended timeframe is consistent with the average healthcare provider wait times discussed above and would not pose an undue burden on the utility, which is empowered through the regulation at § 56.112 to commence with termination “at the point where it was suspended.”

The Joint Commenters support the continuation of the longstanding policy regarding payment requirements during the pendency of a medical certificate, as it ensures that medically vulnerable Pennsylvanians can continue to access critical relief from a pending termination while the household deals with the financial hardship that most often accompanies serious illness. Requiring medically vulnerable consumers to pay more than the current amount due during the pendency of a medical certificate undermines the purpose of providing relief. The Joint Commenters assert that the Commission has the legal authority to continue its current policy. The limitation on the Commission’s power to issue payment arrangements in Section 1405 is not implicated by the medical certification process as this process is a separate emergency process that prohibits termination of certain accounts if a medical certificate has been issued. The legislature was explicit that medical certificates unequivocally stop termination - there is no mention of a payment arrangement, nor is there any requirement that customers make payment to the utility as a condition to asserting the protection. Rather, the legislature simply defers to the Commission’s regulatory authority to create a procedure that will implement the medical certificate protections.

The Joint Commenters suggest that the Commission should revise § 56.114 to extend the re-certification period for medical certificates where the customer or household member has a chronic or extended medical condition. Visiting a healthcare provider to obtain a medical certificate to prevent termination of critical, life-sustaining utility service comes at a cost as there are typically co-pays or office visit fees, which can range from a $10 co-pay for insured individuals to over $100 for an uninsured individual. And, for thousands of others who are underinsured, with high deductible plans, the cost of an office visit can be even higher. There are also often additional costs that further add to the household’s financial burden, including transportation, time off work, and childcare. As currently structured, the medical certificate process requires a household to incur these costs every 30 days, even when the illness or medical condition will continue for more than 30 days. To minimize the added financial burden to households, the Joint Commenters urge the Commission to allow a certifying professional to specify the length of a medical certificate, based on the individual’s health needs. (Joint Commenters at 5 – 17).

The CAC supports the Commission’s proposed elimination of language concerning the “nature” of an affliction and “the specific reason for which service is required” and supports the current requirement of the “anticipated length of the affliction” for medical certificates to the extent that the medical professional believes that the duration of the illness will be greater than30 days. This would enable the utility to accommodate a medical certificate of greater length. The CAC notes that there is nothing in the statute about a 30-day period and that there are chronic illnesses that persist for far longer periods of time. Accordingly, the CAC submits that the regulations should clarify that although a medical certificate shall be effective for a minimum of 30 days, in the cases in which the medical practitioner indicates the anticipated length of the affliction to be greater than 30 days, the length of the protection provided should correspond to the length of the affliction. In the event of a chronic or terminal illness without specific ending date, medical certificates should be permitted for a period of a maximum of 6 months.

The CAC believes it is unnecessary and may go beyond the letter or intent of the amendments to Chapter 14 to require a medical professional’s license number on a medical certificate. The intent of such a requirement is not clear nor is it clear whether there is a problem with fake or phony medical certificates. Imposing needless formality to the process of submitting a medical certificate is certain to deter medical professionals from freely exercising their professional judgment and assisting customers, if appropriate, to maintain service for health and safety reasons.

Concerning customer payment obligations per § 56.116, the CAC submits that the purpose of medical certificates and renewals would be thwarted by requirements to pay more than current, undisputed charges. Requiring a customer in a time of illness and increased vulnerability to make payments in excess of current charges would fail to effectuate the fundamental purpose of a medical certificate – to interrupt the utility’s termination-collection path while a medical need for service exists. (CAC at 11 – 14).

The Center for Hunger-Free Communities reports that one in fourPhiladelphia families live in poverty, the highest rate in the 10 largest U.S. cities. Requiring a working caregiver to get paperwork from their child’s doctor’s office monthly is a hardship for a family already working to make ends meet, and cutting off utilities in a household with a child with special healthcare needs puts that child’s health and well-being at greater risk. Extending the renewal time for medical certifications would allow a greater buffer for families of those with special healthcare needs to get back on their feet. Additionally, they urge that information about medical certificate regulations should be clearly communicated to all applicants. (Center for Hunger-Free Communities at 3).

The Health & Housing Coalition notes that there are conditions for which customers need equipment that requires electricity to run - such as dialysis machines, hospital beds, oxygen concentrator, stair lifts, CPAP machines, breathing tubes, nebulizers, and more. Other people, like diabetics, rely on medicine that should be refrigerated. There are also conditions that are exacerbated by cold or heat (e.g. asthma, congenital heart failure, multiple sclerosis, lupus, fibromyalgia, arthritis, and sarcoidosis). The Health & Housing Coalition believes that the PUC’s regulations rightly give medical professionals discretion about which conditions qualify for a medical certificate.

The Health & Housing Coalition reports that customers and social service providers find that there are widespread reports of utilities failing to tell customers that they can pay the new monthly balance and continue to get a new medical certificate, and many tell customers they are limited to three months whether they pay monthly or not and/or that they are limited to three medical certificates for the life of their accounts. (Health & Housing Coalition Additional Comments at 2 – 4).

The Health & Housing Coalition notes that as there is variation among how utilities implement medical certificates, there is also significant variance among medical providers. They each have different criteria for when they will provide medical certificates. In some instances, medical providers have defaulted to very strict interpretations of medical need, such as only writing certificates for a person who needs help keeping electric service when that person has a piece of equipment that requires electricity to work. There are also reports from across the state that several medical systems either prohibit or discourage staff from issuing any medical certificates.

The Health & Housing Coalition believes that the current system of requiring medical certificates every 30 days is a significant administrative burden for medical providers. All stakeholders need to consider the financial, time, and quality-of-care implications of the tasks that they are requiring of the medical system. Medical certificates designed to prevent utility termination, can, if not carefully designed and implemented, over-burden busy medical professionals. These burdens can be especially clear when repeated certifications are required for chronically ill persons. The Health & Housing Coalition urges the PUC to create a strategy for reaching out to medical providers and patient advocates to determine how to improve medical providers’ understanding of the medical certificate system and to devise less onerous methods for submitting medical certificates. (Health & Housing Coalition Additional Comments at 5 – 8).

The Health & Housing Coalition notes that chronic medical conditions are not going to resolve in 30 days, so requesting a new certificate from a medical professional every 30 days is a burden without a benefit. They note that multiple states provide for medical certificates that last significantly longer than 30 days for persons with serious, chronic conditions, including Montana and Massachusetts that offer 180 days; New Hampshire, and Oregon up to 12 months. Other states, like Connecticut and Rhode Island, give more discretion to the medical provider about the length of the certificate. The Health & Housing Coalition urges the PUC to extend the duration of medical certificates for persons with serious, chronic conditions and to take steps to make sure that consumers and medical professionals are better informed about the medical certificate process.

Finally, the Health & Housing Coalition notes that they are concerned because medical certificates are difficult to get logistically - the primary mechanism for transmitting them is via fax. Most households do not have fax machines and must go to third parties to help them receive and transmit faxes. Many rely upon medical professionals to send the faxes. It is not uncommon for a utility to report that they did not receive a fax, but for the customer/patient to be told by the medical professional that they did send it. (Health & Housing Coalition Additional Comments at 8 – 11).

EAP suggests additional language at § 56.113 requiring the medical professional’s license number as well as a requirement that the certification be on the medical professional’s letterhead or other official paperwork if it is not on a utility-generated form to afford protection for the utility against fraud or medical certificate abuse. Licensed medical professionals utilize their license number for a variety of routine matters, including items such as prescriptions to ensure validity and avoid fraud, and medical certificates should be treated likewise; EAP reports that utilities have not had any issues requesting this information from medical professionals. In addition, EAP continues to agree with both the Commission’s and advocates’ position that utilities are not in the position to determine who qualifies for a medical certificate. Given the clear limitation in Commission’s regulations that state that a medical certificate is valid for 30 days, there seems to be no reason for the customer to provide or for the utility to know the anticipated length of the affliction on the form of a medical certificate unless such condition would last fewer than 30 days.

EAP agrees with the Commission’s finding that the General Assembly gave clear and unambiguous direction that medical certificates must be written documents and that they be signed. Accordingly, § 56.113’s allowance of verbal medical certificates is no longer legal. However, EAP disagrees with the Commission's finding that the law does not impact the regulations at § 56.112 which provides for a three-day postponement of termination pending receipt of a medical certificate. EAP notes that all customers, regardless of medical status, receive ample notice in the termination process to obtain a medical certificate if needed, including a 10-day notice prior to termination and an attempt at personal contact three days prior to the anticipated shut-off date. Section 56.112 now serves as a duplication of the three-day personal contact requirement prior to termination.

EAP does not agree with the Commission’s proposed language to provide a utility-developed medical certificate form publicly on its website. EAP believes that making the form publicly available would open the door for increased medical certificate abuse by way of forgery. Any utility-generated form should instead be made readily available at a medical professional's request and not for download on a website.

Concerning the payment obligation of customers at § 56.116, EAP notes that low-income customers enrolled in universal service programs are asked to make good faith payments to the utility to address their debt. The purpose of this treatment is twofold: to encourage good payment behavior by the individual customer and to help ease the burden of uncollectable expenses on the remainder of the customer base. EAP believes those customers utilizing the protection of a medical certificate should be held to this same standard. Medical certificates are intended as a protection to ensure service is maintained, not as a bill forgiveness program. (EAP at 13 – 18).

Duquesne agrees with the Commission’s characterization of revised Section 1403 that the use of the word “form” does not mean that a specific document must be used but instead medical certificates should be approved in a Commission-approved manner. Accordingly, Duquesne does not believe there is any need for a statewide mandated form for use by all utilities – noting that it makes its form generally available for use by medical professionals on its website or upon request. Duquesne is in favor of including the medical professional’s license number as this provides the utility with a quick and easy method to investigate the validity of any questionable certificates. Further, such a requirement is consistent with other requirements for professionals (such as attorneys providing their license numbers on filings) and is not unduly burdensome or time consuming. (Duquesne at 7 – 8).

PPL proposes that the Commission require that medical certificates be submitted by the medical professional who issued the medical certificate. In PPL’s experience, having the medical professional send the medical certificate directly to the utility is the quickest method of obtaining the medical certificate, which benefits the customer. Moreover, by requiring the medical certificate to be submitted directly from the medical professional, utilities would also have better protection against attempts to misuse medical certificates. PPL disagrees with the proposed requirement that a utility must post its medical certificate form on its website if the utility develops its own form because posting the form on its webpage could lead to the misuse of the form, such as forgery.

PPL recommends removing the current requirement that medical certificates include the anticipated length of the affliction, as required by § 56.113(3). PPL avers that this reference may be misinterpreted to suggest that the duration of the infliction affects the time period of a medical certificate. Further, PPL recommends that the medical professional certifying the medical certificate include his or her license identification number as an additional measure against fraud or abuse. (PPL at 8 – 11).

PPL submits that recommendations to extend the medical certificate period beyond 30 days offers a short-term solution that creates long term problems for customers and utilities. A customer who has a medical certificate that extends for several months could potentially stop paying for utility service during this extended period. Although this may seem a benefit for a household experiencing an illness, a medical certificate is not a free pass to customers unable to pay for utility service. The customer’s charges during this period will accrue and eventually need to be paid to the utility, and at this point the balance may be unmanageable and lead to termination. As such, PPL submits that extending the duration of medical certificates for longer than 30 days neither balances the interests of customers with the utility, nor serves the intent behind medical certificates. (PPL Additional Comments at 6 – 8).

It is FirstEnergy’s position that § 56.113 should be structured to facilitate medical certificates for those with legitimate medical issues, but also discourage fraudulent medical certificate use. 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, FirstEnergy opines that 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 medical certificates to be in writing, the legislature seemed to acknowledge the potential for medical certificate abuse. FirstEnergy reports that following the adoption of Act 155, the elimination of oral medical certificates was effective in reducing instances of medical certificate fraud and abuse.

FirstEnergy notes that the Commission has not proposed any changes to § 56.114; however, they request clarification regarding the intended scope of this section in conjunction with § 56.116. 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. FirstEnergy encourages 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. FirstEnergy does not believe the legislature intended for medical certificates to provide an indefinite loophole to termination. Accordingly, FirstEnergy requests that the Commission limit the number of medical certificates that may be obtained while customers continue to have an outstanding balance. (FirstEnergy at 23 – 27).

FirstEnergy asks that the Commission reject proposals to extend the 30-day time period for medical certificates for several reasons. Customers are already eligible to receive medical certificates for the length of their illness as long as they are paying current bills. In addition, customers are eligible for three medical certificates even if they stop paying current bills. Allowing medical professionals to determine the length of medical certificates could result in customers permanently avoiding their arrearages, as many conditions could result in medical professionals approving lifetime medical certificates. For example, one condition that may be used to justify the issuance of a medical certificate is sleep apnea, because individuals who experience sleep apnea are required to use a machine while they sleep. Sleep apnea is a condition that could exist throughout an individual's life. If asked to identify the length of this condition, medical professionals likely would identify the condition as permanent. A permanent or indefinite medical certificate would result in free electricity for the customer, which is undeniably inconsistent with Chapter 14 of the Public Utility Code.

FirstEnergy opposes the availability of medical certificate protections to applicants without payment towards their arrearages. When the applicant was a customer of the utility, he or she was provided all the opportunities and protections found within the Commission's regulations and customer assistance programs. The arrearages associated with the applicant’s prior account with the utility may already be considered uncollectible when the applicant attempts to have service restored with a medical certificate. The Commission should continue to require payment from an applicant for restoration of service to avoid further increases in uncollectible accounts that are ultimately passed on to other customers.

FirstEnergy believes that posting medical certificates online exposes the process to an increase in medical certificate fraud as compared to the current preferred practice of faxing or emailing the forms directly to the relevant medical professional. Where the forms are available for download online, customers without legitimate medical issues would have unbridled access to the forms. Along the same lines, FirstEnergy believes the medical license number of medical professionals should be required information on a medical certificate form, particularly if medical certificate forms are posted online. Medical professional names, addresses, and phone numbers are easily accessible online. Although medical license numbers are also often accessible as well, they require additional research and can be confirmed, which provides an extra safeguard against forged medical certificates. (FirstEnergy Additional Comments at 5 – 9).

FirstEnergy does not support oral medical certificates for customers with PFAs or other court orders demonstrating evidence of domestic violence under § 56.353. 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, FirstEnergy offers 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. FirstEnergy does not believe the continued availability of oral medical certificates will increase customers’ access to medical certificates. (FirstEnergy at 31).

While PECO supports the comments of EAP on the Commission’s changes to the medical certificate regulations, there is one medical certificate issue that PECO would like to supplement with its individual comments concerning the obligation of customers to pay current bills and arrearages while protected by a medical certificate. PECO opines that everyone seems to agree that while the customer is receiving the protections of the medical certificate the customer must pay their bills for current service, and that failure to do so will cause the customer to lose the protections of the medical certificate process. However, PECO contends that there has been substantial regulatory debate about the scenario in which a customer with an arrearage receives a medical certificate and pays their bills for current service received during those months but pays nothing toward their arrearage. The debate is over whether the customer who pays their current bills for service is entitled to continue to receive additional medical certificates as long as they continue to pay their current monthly bills, or whether the medical certificate procedure ends after a medical certificate and two renewals.

PECO’s position is that once three months have passed – the original medical certificate and two renewals, each of which is in force for nominally 30 days – in order to continue to receive protection from the termination process, the customer must continue to pay their ongoing bills “and also make arrangements to pay their arrearage.” The arrearage can be paid as a lump sum or, if the customer is eligible for a payment arrangement pursuant to Section 1405, the Commission may order a payment arrangement over a period of time. As a third alternative, even if the customer is not eligible for a Section 1405 payment arrangement, the customer can contact the utility and offer an alternative payment arrangement in which the customer agrees to pay their arrearage over a period of time agreed to by the customer and the utility. PECO notes that what all three of these options have in common is that, once three months of medical certificate protection have elapsed, in order to continue receiving protection from the termination process the customer must pay their current bills and begin to pay (if under a payment arrangement) or fully pay (if no payment arrangement is available) the arrearage they had when they received their first medical certificate.

If the above is not required, then a customer who amasses an arrearage and then becomes ill can avoid paying their arrearage forever. PECO does not believe that the Commission’s medical certificate regulations were ever intended to provide protection against termination in perpetuity. The most obvious reason for reaching this conclusion is found in the language of § 56.114(2) (medical certificate renewals), which speaks specifically about an initial medical certificate and two renewals but makes no mention of receiving additional medical certificates for a period longer than that, and certainly not forever. PECO opines that this is also the proper outcome from a policy perspective. PECO reports that, at times, their customers utilize the medical certificate process to such an extent that there may be tens of millions of dollars of arrearages held in termination suspension via the medical certificate process. PECO submits that the purpose of the Commission’s medical certificate regulations is and always has been to give a brief respite of up to three months to a customer who falls ill and falls behind on their bills. This gives the customer three months to re-organize and explore alternative ways of paying the arrearage. (PECO at 3 – 6).

PGW supports the intent of the Commission to provide easy accessibility to a utility’s medical certification form but does not support the requirement that the utility place the form on its website. PGW is concerned about the potential for fraud that could occur by making its medical certification form generally available. PGW’s current practice is to provide its medical form to medical professionals upon request and PGW has not experienced any complaints with this current process. Importantly, the medical form is designed for the convenience of medical professionals, not for the public at large, and maintaining this current process protects against fraud. Also, to help prevent fraud, PGW fully supports a requirement that the certificate include the medical professional’s license number. Being able to validate the veracity of a medical certification ensures that only those customers or applicants who qualify for a medical certification receive the benefits of such certification. In addition, a medical professional should easily have a record of their license number so this requirement is not likely to be burdensome.

PGW notes that the Commission proposes to revise the Medical Emergency Notice in Appendix A to include references to physician assistants. In addition to this revision, PGW recommends that the Commission also revise the notice to remove the 7-day and verbal certification language to be consistent with the new prohibitions that the Commission is proposing to incorporate in § 56.113. (PGW at 5 – 6).

To ensure the validity of the customer’s medical request, Columbia suggests that the utility’s medical certificate form or any correspondence submitted by the health care professional include the professional's state-issued license number. Furthermore, if the attending medical professional does not utilize the company's designated medical certificate form, Columbia suggests that that they be required to provide the required information on the medical practice's letterhead. Columbia submits that requiring this information will reduce the number of fraudulent medical requests received by the company. (Columbia at 6 – 7).

Aqua notes that its medical certificate form complies with the regulations and is available to medical professionals and customers on Aqua’s website. Aqua asks the Commission to clarify or revise the payment obligation of customers while protected by a medical certificate. While the current regulations state that the customer has a duty to make payment on current bills, Aqua contends that customers do not usually abide by this duty when there is a medical certificate on an account. Aqua submits that revised language in the medical certificate sections strengthening the wording of the requirement to pay and/or possibly limiting the ability to renew a medical certificate could be added. (Aqua at 5 – 6).

IRRC notes that the statutory definition of the term “Medical certificate” at Section 1403 begins with the phrase “A written document, in a form approved by the commission [PUC]...” The requirement for this form to be approved by the PUC should be added to this section.

IRRC further notes that Sections 1403 and 1406(f) establish clear circumstances where a public utility “shall not terminate service when a customer has submitted a medical certificate to the public utility.” These afflicted individuals are “seriously ill or diagnosed with a medical condition which requires the continuation of service to treat the condition.” IRRC points to several electric utilities with comments alleging that medical certificate fraud might increase and for that reason certificates should not be readily available on their websites. The utility comments suggest adding more requirements to the medical certificate such as requiring the medical professional’s license number and requiring information on the medical professional’s letterhead.

IRRC comments that while fraud is frustrating, it is not clear from the comments submitted by the utilities to what degree this fraud has existed or might exist. IRRC asks 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 concludes by asking the PUC to explain how the medical certificate provisions in the final regulation are reasonable and in the public interest relative to the PUC’s experience in this area.

Regarding the medical certificate standards at § 56.353, IRRC notes two concerns. First, if the medical certificate form needs to be approved by the PUC, the regulation should include this requirement. Second, § 56.113 was amended to only permit medical certificates to be in writing. Should a similar amendment be made to § 56.353? IRRC asks the PUC to explain why § 56.113 and § 56.353 differ. (IRRC at 5 – 6).

Finally, IRRC asked the Commission to explain how the medical certificate provisions are reasonable and in the public interest relative to the Commission’s experience in this area. (IRRC at 5).

**Medical Certificate Usage and Fraud**

Before discussing the Commission’s proposed changes in detail, we first discuss the usage of medical certificates, their impact, and the extent of fraudulent use. Several parties discussed concerns with fraud, and in its comments IRRC asked that the Commission explain its historic experience with medical certificates, including how many medical certificates are on file each year and 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).

Accordingly, in our *July 2017 Order Seeking Additional Comments*,[[11]](#footnote-11) we asked 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. We further asked parties to submit any data they have to support their comments on these topics.

First, we offer the data the Commission has available based upon the utility reporting requirements concerning medical certificate usage at Section 1410.1(4):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **MEDICAL CERTIFICATE USAGE IN 2015:** | | | | |
|  | Number of Residential Customers (based upon § 56.231 reporting): | Medical Certificates Submitted: | Medical Certificates Accepted: | Number of Medical Certificates Accepted as Percentage of Total Residential Customers: |
| **ELECTRIC UTILITIES** | 5,023,438 | 71,707 | 59,763 | 1.19 % |
| **NATURAL GAS UTILITIES** | 2,125,725 | 19,276 | 17,720 | 0.83 % |
| **WATER UTILITIES\*** | 1,128,395 | 2,260 | 1,964 | 0.17 % |
| **TOTAL** | 8,277,558 | 93,243 | 79,447 | 0.96 % |
| \* Class A Water Utilities only. *Class A water utility*—A water utility with annual revenues greater than $1 million. (52 Pa Code § 56.2). | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **MEDICAL CERTIFICATE USAGE IN 2016:** | | | | |
|  | Number of Residential Customers (based upon § 56.231 reporting): | Medical Certificates Submitted: | Medical Certificates Accepted: | Number of Medical Certificates Accepted as Percentage of Total Residential Customers: |
| **ELECTRIC UTILITIES** | 5,044,234 | 56,983 | 47,531 | 0.94 % |
| **NATURAL GAS UTILITIES** | 2,135,044 | 17,771 | 15,702 | 0.73 % |
| **WATER UTILITIES\*** | 1,132,948 | 2,305 | 1,367 | 0.12 % |
| **TOTAL** | 8,312,226 | 77,059 | 64,600 | 0.78 % |
| \* Class A Water Utilities only. *Class A water utility*—A water utility with annual revenues greater than $1 million. (52 Pa Code § 56.2). | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **MEDICAL CERTIFICATE USAGE IN 2017:** | | | | |
|  | Number of Residential Customers (based upon § 56.231 reporting): | Medical Certificates Submitted: | Medical Certificates Accepted: | Number of Medical Certificates Accepted as Percentage of Total Residential Customers: |
| **ELECTRIC UTILITIES** | 5,059,670 | 67,415 | 54,721 | 1.08 % |
| **NATURAL GAS UTILITIES** | 2,152,555 | 23,464 | 19,601 | 0.91 % |
| **WATER UTILITIES\*** | 1,139,769 | 2,367 | 1,913 | 0.02 % |
| **TOTAL** | 8,351,994 | 93,246 | 76,235 | 0.91 % |
| \* Class A Water Utilities only. *Class A water utility*—A water utility with annual revenues greater than $1 million. (52 Pa Code § 56.2). | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **MEDICAL CERTIFICATES ACCEPTED 2015 - 2017:** | | | | |
|  | **2015** | **2016** | **2017** | **PERCENT CHANGE**  **2015 - 2017** |
| **ELECTRIC UTILITIES** | 59,763 | 47,531 | 54,721 | - 8.4 % |
| **NATURAL GAS UTILITIES** | 17,720 | 15,702 | 19,601 | + 10.6 % |
| **WATER UTILITIES\*** | 1,964 | 1,367 | 1,913 | - 2.6 % |
| **TOTAL** | 79,447 | 64,600 | 76,235 | - 4.1 % |
| \* Class A Water Utilities only. *Class A water utility*—A water utility with annual revenues greater than $1 million. (52 Pa Code § 56.2). | | | | |

Next, we turn to the responses from the parties concerning the usage of medical certificates, their possible fraudulent use, and impact on customer arrearages.

Duquesne reported that in 2016 it received 3,282 applications for medical certificates and/or renewals. Of those applications, 3,248 (98.9%) were accepted. To quantify the impact of medical certificates on uncollectible account and the potential impact on overall revenue, Duquesne submitted the following information about 2017 usage:

|  |  |  |  |
| --- | --- | --- | --- |
| **Month** | **Number of Accounts  with Active Medical  Certificates** | **Number of Accounts  w/ Medical Certificates with Arrearages** | **Total Amount of  Arrearages for Accounts with  Medical Certificates** |
| January 2017 | 19 | 11 | $ 5,940.58 |
| February 2017 | 13 | 5 | $ 4,774.15 |
| March 2017 | 67 | 58 | $ 69,975.04 |
| April 2017 | 273 | 209 | $ 318,326.95 |
| May 2017 | 222 | 179 | $ 206,641.96 |
| June 2017 | 454 | 401 | $ 498,160.74 |
| July 2017 | 478 | 426 | $ 654,533.08 |
| August 2017 | 581 | 519 | $ 796,992.87 |

Duquesne states that generally the medical certificates applications that are denied are due to misinformation or incompleteness of the requested information. In general, upon receipt of a medical certificate, Duquesne checks on the stated medical provider’s license number and confirms that the information requested has been completed. While Duquesne may occasionally suspect fraud, beyond checking the veracity of the medical professional’s license and the requested information, there is no practicable means available for Duquesne to investigate. (Duquesne Additional Comments at 4 – 6).

PPL reported that in 2016 it had 8,649 medical certificates or renewals submitted by customers and that they accepted 6,728 of those medical certificates. Of those accepted, approximately 98% of those customers were in the termination process. PPL states that it does not typically check for fraud when a customer submits a medical certificate except in unusual situations. (PPL Additional Comments at 2).

FirstEnergy reported that in 2015, they accepted 15,336 medical certificates associated with cumulative arrearages totaling $25,496,722; they rejected a total of 2,724 medical certificates. In 2016, they accepted 15,292 medical certificates associated with cumulative arrearages totaling $24,610,936; they rejected a total of 3,884 medical certificates. FirstEnergy reports that it manually conducted a random sampling of 300 recent medical certificate denials in an effort to identify possible instances of medical certificate fraud. Through their review of this sample, of the customers eligible to receive medical certificates, FirstEnergy concluded that 50% of medical certificates were denied by the medical professional for the following reasons: the medical professional refused to sign the certificate, the medical professional deemed the customer’s condition as not eligible for a medical certificate, or the medical professional confirmed the customer was not a patient. In addition, 4% of eligible customers were denied medical certificates due to an unauthorized signature on the medical certificate. While only a small percentage of medical certificates were denied for unauthorized signatures, FirstEnergy believes this type of fraud is currently minimized because they typically fax or e-mail medical certificate forms directly to the medical professional. FirstEnergy is concerned that an online posting of the medical certificate form could increase the incidence of fraud by customers signing their own medical certificates or even attempting to forge the signature of their doctors. (FirstEnergy Additional Comments at 3 – 5).

PECO explains that when a customer calls PECO and claims they have a medical condition, PECO stays termination for three days to give the customer the opportunity to go to their doctor and obtain a medical certificate. Over the years, PECO reports that it has tended to receive about four such calls for every customer who finalizes the medical certificate process by having their medical service provider actually submit a signed medical certificate. PECO recognizes that there are many reasons that this occurs. For example, the customer might find resources to pay their bill and not need the medical certificate, or they might not be able to get to their doctor in a timely fashion. It is also possible that some of the customers who call to initiate the medical certificate process, but who do not complete it, do not meet the standards for seeking and receiving a medical certificate. However, PECO reports that it does not have data that differentiates the various reasons its customers initiate, but do not complete, the medical certificate process. (PECO Additional Comments at 2 – 3).

Columbia stated that the Commission’s regulations do not require utilities to track fraudulent medical certificates, and that doing so is not necessary as the occurrences of customers attempting to use false medical certificates to avoid termination is rare on their system. However, Columbia does track high balance accounts and notes a correlation between high balance accounts and the use of medical certificates. (Columbia Additional Comments at 3 – 4).

EAP notes that medical certificates are intended as a protection to ensure service is maintained, not as a bill forgiveness program or to avoid paying for utility service. EAP recommends the inclusion of the accounts’ use of medical certificates on the annual utility report required under Section 1410.1(3) regarding residential accounts in arrears in excess of $10,000. (EAP Additional Comments at 3 – 4).

PAWC reports that they will typically investigate for medical certificate fraud only in the limited circumstances where the facts directly point to fraud. Generally, to the extent a customer who has submitted a medical certificate provides the required information, including a signature, PAWC typically will honor the customer’s medical certificate. PAWC does not track the reason for not accepting or rejecting a medical certificate and, therefore, is unable to answer, without conjecture, the questions regarding the fraudulent use of medical certificates and how medical certificate fraud has affected uncollectible accounts. (PAWC Additional Comments at 3 – 5).

LICRG submits that the only relevant inquiry into assertions of medical certificate fraud is the number of petitions brought before the Commission by public utilities pursuant to section § 56.118, which expressly allows public utilities to “contest the validity of the certification.” Other data points do not provide any reliable indication of fraud, and LICRG advises the Commission to carefully weed out hunches and speculation by the utilities. They believe that this is critically important because an assertion of medical certificate fraud not only implicates a utility’s customer or applicant, but also the medical provider. They also state that the number and frequency of medical certificates and the amount of the arrears associated with medical certificates are irrelevant to assessing whether medical certificates are appropriately submitted. (LICRG Additional Comments at 5 – 7).

OCA notes the difference between the number of medical certificates submitted and those accepted and asks what the basis was for rejection of those medical certificates that were not accepted. Of those medical certificates that were not accepted, how many were due to evidence of fraud and what evidence was relied upon to make such a determination? (OCA Additional Comments at 4 – 5).

The Health and Housing Coalition opines that as with any system, there may be people who attempt to abuse it; however, it seems that the system suffers much more from underutilization due to misinformation and unnecessary barriers than it does from fraud or overuse. They would like the PUC to collect and share additional data to help all parties better understand how medical certificates are being utilized and how that may vary based on geography, utility, and medical system. They suggest that the PUC should collect and share data about not just the number of medical certificates submitted and accepted, but also the number of residential customerswho submitted certificates and the number of residential customerswho had certificates accepted. This data should be provided for the state, by utility, and also with either county or, ideally, zip code basis. This information would significantly improve the ability to understand where medical certificates are being used and to spot locations where they may be underutilized. (Health & Housing Coalition Additional Comments at 2 – 5).

**Discussion**

Our consideration of the emergency medical certification regulations requires a careful balancing of interests. These rules concern some of our most vulnerable of consumers – those with medical conditions that require utility service. At the same time, we must take care not to facilitate abuse or fraud, which would run counter to the intent of Chapter 14. In reauthorizing Chapter 14, the General Assembly did provide some specific guidance including, as an example, expanding the authority to issue medical certificates to *physician assistants*. At the same time, the General Assembly appears to also defer to the Commission on many of the details of these rules by retaining the phrase “*The medical certification procedure shall be implemented in accordance with commission regulations*” in Section 1406(f).

IRRC requested that the Commission explain how these final provisions are reasonable and in the public interest relative to our experience in this area. We are elaborating on this here at length by addressing the history of these medical certificate provisions, further summarizing the comments that we considered, and recommending an additional collaborative on some of the major issues of concern expressed by the commentators.

Some of the proposed changes to these rules are simply reflecting the revised Chapter 14 and are generally accepted and not the subject of controversy, including the expansion of medical professionals authorized to issue a medical certificate to *physician assistants* and that medical certificates must be in writing. But beyond these items, the parties raised several items of contention, some of which have long been sources of discussion and debate.

One such topic, which was also addressed in the 2011 rulemaking proceeding, is the 30-day limit per medical certificate found in § 56.114. LICRG, Joint Commenters, CAC, Center for Hunger-Free Communities, and the Health and Housing Coalition request that the Commission consider long-term medical certificates to address chronic or long-term illnesses. These parties raise several valid concerns about the burden the current 30-day limit imposes on patients and health-care professionals alike, such as the need to schedule repeated appointments with a medical professional, transportation to appointments and accessibility to medical care. However, we are reluctant to revise the regulations to this regard because the General Assembly had an opportunity to do so when it reauthorized Chapter 14 and declined. Long-term medical certificates were not provided for in the legislation and would be a very substantive addition to these regulations. We again note that in Section 1406(f), the General Assembly declared that the “…medical certificate procedure shall be implemented in accordance with Commission regulations.” It is reasonable to assume that the General Assembly was familiar with the 30-day timeframe in the current regulations and was comfortable with it. It is also important to note that when it reauthorized Chapter 14, also as noted above, it expanded the list of medical professionals authorized to provide medical certificates to include *physician assistants*. It is not unreasonable to think that the General Assembly did this to help address the concerns with patients accessing medical care. We also remind everyone that there is no limit on medical certificates as long as the customer is paying bills per § 56.116. The limits on medical certificate usage only apply if the customer is not meeting their obligations under § 56.116.

Regarding § 56.116 and the customer’s obligation to pay while under the protection of a medical certificate, again the parties are continuing an argument that was also presented to the Commission in the 2011 proceeding. LICRG, Joint Commenters, and CAC urge the Commission to keep in place the regulation adopted in 2011 that requires a customer to pay current bill amounts while under the protection of a medical certificate. However, EAP, FirstEnergy, PECO and Aqua all argue that the customer’s obligation to pay should be expanded to include either part of or all of the customer’s arrearage, in addition to current bills. They argue that there is nothing to prevent a customer from filing unlimited medical certificates, and thus never having to pay toward their accumulated past arrearage. The reauthorization of Chapter 14 did not result in any new statutory language to guide us here or require us to revise the payment obligation of the customer.

While we understand the utility’s concerns with the payment of the outstanding balance, we must reject their suggestion that we require an arrangement on all current and overdue balances because this likely would be considered a *payment arrangement*, which may conflict with the Section 1405(d) restriction on the Commission’s authority to order payment arrangements. This same complication was present in 2011, and nothing in the reauthorized Chapter 14 provides us with anything to get past that complication. We point out that if the customer is paying their current bills as required by this section, the outstanding balance will not be increasing, so the customer’s and the utility’s problems with the account balance will not be aggravated. We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer. We also point to the petition process at § 56.118 that a utility may use to contest the validity of medical certificates that they believe are being filed with the intention of avoiding any payment toward the arrearages for an extended period of time.

Concerning the holding period in § 56.112 that gives customers three days to produce a medical certificate, LICRG and the Joint Commenters urge the Commission to retain this holding period, and even expand it, since they believe nothing in the reauthorization of Chapter 14 impacts it. However, EAP disagrees and believes that this requirement creates, in effect, a second 3-day notice of termination requirement, and thus is contrary to Chapter 14. We disagree with EAP because nothing in the reauthorized Chapter 14 impacts this holding period. This requirement is long-standing, and it is reasonable to assume that the General Assembly was aware of this holding period and could have struck it down had it so wished. Likewise, the General Assembly could have also expanded this holding period, as requested by LICRG and the Joint Commenters, but did not do so. Accordingly, while we will keep the three-day holding period, we decline to expand it. While we understand the concerns about the difficulties in accessing medical care in time to obtain a medical certificate, we again note that it appears that the General Assembly opted to address such concerns by expanding the number of medical professionals authorized to issue medical certificates by now including *physician assistants*. We also note that customers receive written notice of termination at least ten days prior to the termination, and that the written termination notice informs the customer of their right to a medical certificate along with an explanation of how to obtain such. As a result, a customer facing termination has at least ten days to make the arrangements to obtain a medical certificate.

There is general agreement with the Commission’s position that the word *form* in the definition of *Medical Certificate* at Section 1403 does not literally mean a “form.” There were also no objections voiced to the Commission’s proposed removal of the “nature” of the medical condition and the “specific reason for which the service is required” from the medical certificate. Beyond these things however, there are differing opinions as to what elements should the *form* of a medical certificate include. LICRG and the Joint Commenters suggest that, while a standard form should not be required, there may be some use in creating an optional, standard, statewide format as to provide greater consistency in the application of the medical certificate rules. We think there is merit in their suggestions that some type of informal, statewide collaborative should be convened to develop such a format. Once these new rules are in place, the Bureau of Consumer Services will convene an informal stakeholder group consisting of advocates, utilities, medical professionals and any other interested party to discuss and recommend a standard statewide format to the Commission. This collaborative will help to ensure that the medical certificate provisions are reasonable and in the public interest.

Concerning the format, the parties had very differing views on whether the medical professional’s license number should be required on the certificate. EAP, Duquesne, PPL, FirstEnergy, PGW and Columbia supported the idea as a possible means to prevent fraud. LICRG, Joint Commenters, and the CAC oppose the idea as imposing an unnecessary burden on medical professionals and not being an effective means to prevent supposed fraud. Because we had no medical professionals that submitted comments, we are uncomfortable deciding one way or the other on this matter. We think it would be preferable to leave this as a topic for discussion in the above-noted collaborative process intended to develop a standard format.

There were also divergent views on whether medical certificate formats should be posted on utility websites. LICRG thought this would be helpful in providing quick and easy access for both consumers and medical professionals. However, EAP, PPL, FirstEnergy and PGW expressed concerns that posting this information on their websites could facilitate forgeries, while Aqua noted that they already post the certificate format on their website. Again, we think this may be an issue best left to the above-noted statewide collaborative, where advocates, utilities and medical professionals can discuss this with each other and make a recommendation to the Commission. Accordingly, we will revise our proposed changes to §§ 56.113 and 56.353 to omit any reference to posting on the public utility’s website.

In incorporating the Section 1403 definition of *Medical Certificate* into the Chapter 56 definitions at § 56.2, we agree with IRRC that we need to specify what is meant by the phrase “in a form approved by the Commission” by pointing to the regulation at § 56.113. We agree with LICRG and decline to tamper with the Section 1403 definition by inserting “permanent” in reference to the “member of the customer’s household.” We are not convinced that this is enough of an issue to lead us to alter a statutory definition.

We agree with PGW’s recommendation that the Commission revise Appendix A and B to remove the reference to verbal certification language to be consistent with the new requirements found in the revised § 56.113; and will remove the reference to 7 days and replace this with 3 days as found in § 56.112. However, since the medical certificate rules are different for victims of domestic violence (see §§ 56.351 – 56.358), we will add language directed to these customers urging them to contact the utility to advise them of their status.

Finally, FirstEnergy and IRRC have concerns with verbal medical certificates and question why § 56.113 and § 56.353 differ. The reason for the difference is that § 56.113 reflects Chapter 14 requirements, while § 56.353 is the regulation for those customers exempt from Chapter 14 per Section 1417 (those with a PFA or a court order that provides clear evidence of domestic violence). For example, while the reauthorized Chapter 14 at Section 1403 specifies a *Medical Certificate* must be a “written document,” this requirement does not apply to those customers covered by the Section 1417 exemption – thus permitting verbal medical certificates as Chapter 56 had traditionally allowed prior to Chapter 14. Verbal medical certificates provide an additional option for victims of domestic violence, as intended by Section 1417.

**§ 56.163. Commission informal complaint procedures.**

We proposed adding language to paragraph (1) to permit an informal complainant to receive a copy of the documents the utility provides Commission staff in response to an informal complaint. We acknowledged that there may be some relatively rare instances where these documents may refer to parties other than the complainant. In these instances, we proposed that the utility redact any information that may compromise the privacy or personal security of a third party.

Aqua proposes that an effective method to implement this change could be to ask the BCS investigator or intake representative to ask the customer, when they call to file the informal complaint, if they would like to receive copies of what the utility submits to BCS. If the customer does want to receive copies, Aqua suggests that it include this information in the form sent to the utility when opening the informal complaint. The utility can then send the information to the customer at the time it submits its report to BCS. Aqua believes this will accomplish the Commission’s objective in amending this section in a cost effective and efficient manner. (Aqua at 6).

PGW is concerned about this newly proposed requirement and urges the Commission to reconsider it, particularly in light of issues that could arise in a Protection from Abuse case or similar instances. The Commission’s proposed requirement places an unreasonable burden on the utility to consider every data point that is being provided to Commission staff and to somehow make a determination whether it “would possibly” impact a person’s privacy or physical security. A minor error in this determination could have a significant impact on a person’s life. PGW’s responses to informal complaints often contain sensitive data about a customer’s credit, medical certificates, PFAs, landlords, other customers at the premises, grants, payment documents and other internal utility records that would not otherwise be provided to a complaining party. Currently, in the informal process, PGW is able to gather this data and provide it to staff to enable a full evaluation of the case without factoring into the disclosure whether or not information might need to be redacted. Requiring PGW to factor that into this process will require additional resources to review every response and make a determination about each fact that is being provided. This will unnecessarily slow down a process that is working now. If, however, the Commission elects to pursue this process, then PGW urges the Commission to make clear that the complaint must be filed by the customer of record or customer-authorized person only so that the information being provided is only related to the person filing the complaint. (PGW at 6-7).

Columbia submits that as proposed the additional language is overbroad and does not provide utilities with the opportunity to challenge the submission of certain information to informal complainants. While the proposed language recognizes that the redaction of certain information would be appropriate, it does not account for the fact that some information could be confidential and proprietary or that the utility might otherwise object to the disclosure of certain information to a customer. (Columbia at 8-9).

PPL disagrees with this proposal due to potential privacy issues and the impact that this proposal will have on the informal complaint process and the utility’s internal process. Although the proposed revision includes a requirement that utilities redact any information from these documents that could compromise the privacy or personal security of any individual other than the complainant, PPL is concerned that if the complainant is not the customer of record, that there is great potential that personal information could be released through this process. PPL submits that redaction is not an effective or efficient solution to protect personal information. To redact, utilities will need to have personnel review every document for potential personal information and redact such information prior to providing the complainant with a copy. To put this in perspective, between 2014 and 2016, PPL had an average of 16,000 consumer complaints per year. If the Commission’s proposal is adopted, PPL would likely need to increase personnel simply to manage this process.

Furthermore, PPL submits that the redactions themselves will likely result in complaints and delays in the informal complaint process, as it is highly probable that complainants will challenge the redactions made by the utilities. Such challenges will require Commission staff to intervene and result in delays in the process. If utilities are required to redact, the utilities must be provided with clear guidance from the Commission regarding what information must be redacted to protect all parties involved. (PPL at 11-12).

FirstEnergy opposes the Commission’s proposed modification to § 56.163 as 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 discussion, utilities may be required to redact this information before disclosure to the complainant. One reason the informal complaint process moves along expeditiously is because the utility’s informal response is not subject to additional levels of legal scrutiny, as would occur for any documentation used as part of a formal complaint proceeding.

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 current informal complaint process already successfully resolves the majority of disputes with customers. (FirstEnergy at 27-28).

EAP is concerned about the Commission’s proposed language because the provision of such documents undermines the goal of the informal complaint process: the efficient, collaborative resolution of consumer complaints. EAP is further concerned that any change to the informal complaint process align with the Commission’s future privacy policies and guidelines. Without such protections already in place, utilities are wary of how proprietary company information as well as the privacy or personal security of the complainant would be protected by this process and associated Right-to-Know requests.

The informal complaint process is designed for all parties to reach an agreement or compromise on the disputed issues before the formal stage. Should the Commission continue down a path that would require utilities or BCS staff to provide documents to complainants, it may, in effect, eliminate the informal complaint process. Utilities, knowing that the response documents will be viewed by customers and potentially the public, will be reluctant to offer any information which might be construed to compromise their own internal processes, procedures, security, or company or customer privacy information. This distinction between the present formal and informal process is further highlighted by the requirement that a formal complaint can only be filed by the customer of record or another authorized person on the account; an informal complaint can be filed on a customer’s behalf.

Furthermore, EAP does not believe that the solution here is to provide redacted documents at the informal complaint stage, nor does EAP agree that, without such documents, a complainant’s “due process rights” are compromised. The complainant’s “due process” right, should he or she be dissatisfied with the informal complaint process, is to file a formal complaint, which is governed by the administrative code. (EAP at 18-20).

The CAC commends the Commission for making this information available to complainants as it is essential that individuals who have an informal complaint with their utility be able to see the information provided by the utility to the Commission. Additionally, the CAC understands and appreciates the Commission’s concern for the privacy of third parties; however, it believes that the language as written may be overly restrictive. To be sure, there are circumstances in which the redaction or unavailability of information concerning third parties may impede the need for the complainant to receive information necessary to prosecute his or her claim. For instance, in the case of a tenant seeking to demonstrate that a utility has wrongfully terminated service in violation of the Discontinuance of Service to Leased Premises Act, the complainant would be specifically asserting a right as a non-customer and must divulge his/her information in order to do so. In such circumstance, the third party, the tenant’s landlord or its agent, may be the utility’s customer, and information about that third party is material to the complaint. While the CAC does not have a specific recommendation, the regulation should make clear that information relevant to the Commission's decision should be turned over to the complainant, unless the utility demonstrates that information would jeopardize the personal security of any third party, at which point the utility should provide redacted information and an explanation for the reason for the redaction. (CAC at 14-16).

While LICRG appreciates the Commission’s concern for customers’ due process rights and the privacy of third parties, they are aware of circumstances in which the redaction or unavailability of information concerning third parties may impede the due process rights the Commission seeks to protect. For example, in the case of a tenant seeking to demonstrate that a utility has wrongfully terminated service in violation of Subchapter B, Chapter 15, Title I of the Public Utility Code, the complainant is specifically asserting a right as a non-customer and must divulge his or her information in order to do so. In such circumstance, the third party, the tenant’s landlord or its agent, may be the utility’s customer, and information about that third party is material to the complaint. Redaction of that information would impede the complainant’s right to due process, because the complainant would not be able to verify the existence of a landlord account. (LICRG at 45-48).

PECO supports EAP’s comments on the Commission’s changes to § 56.163 but offers one additional comment. PECO submits that there are some situations where a customer has not provided complete information to PECO but is nonetheless receiving service under the auspices of an informal complaint. In current practice, a customer can remain in that status for months, and then lose their informal complaint. Often, the customer does not pay for any of the service received during this period, either during the service period itself or after the decision denying their complaint. This outcome could be avoided by requiring that such complaints be closed in a specified period of days after the utility provides necessary information to the Commission. (PECO at 6).

**Discussion**

The parties provided a variety of comments; some supportive and some not supportive at all. Some parties were concerned redacting information would likely increase personnel and costs. Parties were also concerned that redacting information could delay the utilities’ response to the informal complaint. Due to these concerns we are withdrawing the proposed revision of § 56.163 (and the analogous § 56.392). Commission staff reserves the right to have the utility provide individuals the company report when the situation warrants it. Though we are withdrawing the proposed language that the public utility provide the complainant with a copy of the documents submitted to the Commission staff in response to the informal complaint, we remind public utilities of the Public Utility Company Dispute Procedures found at § 56.151:

**§ 56.151. General rule.**

  Upon initiation of a dispute covered by this section, the public utility shall: ……

(5)  Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.

      (i)   If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.152 (relating to contents of the public utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.

If a utility has correctly implemented the Chapter 56 dispute procedures, and if the customer files an informal complaint, the company should have a utility company report, in writing (§ 56.151(5)), on file at the time the PUC informs the utility of the filing of an informal complaint. In addition, public utilities should also be informing complainants that the written report is available to them and can be sent to complainants.

Regarding PECO’s proposal, the Commission declines to add an informal case-handling timeframe. We believe that matters such as these are best left to internal Commission procedures as provided for in § 56.166. In addition, this suggestion is outside the scope of the current rulemaking and has not been fully vetted by the parties.

**§ 56.172 and the customer retaining utility service pending a formal appeal of a BCS informal decision.**

Due to some confusion and uncertainty as to the automatic stay provision of § 56.172(d) and the expectation upon utilities of providing utility service to a complainant who has formally appealed an informal decision from BCS, in our July 2016 Order seeking additional comment, we asked parties to comment on a proposal to revise the regulations to more specifically state that utility service is to be maintained until a final formal determination is made.

OCA strongly agrees that the intent of this provision is for customers to have utility service maintained or restored while issues are in dispute. Even if the utility is appealing a determination, the customer should always maintain service or have service restored until there is a final determination. The OCA strongly supports this clarification and believes it will help remove any confusion about the effect of this regulation. (OCA Additional Comment at 8).

LICRG appreciates the Commission’s attention to the needs of customers to continue to receive service while engaging in the Commission’s complaint process; however, they suggest that the regulations be modified to be consistent with the provisions of § 56.166, which delegates authority to BCS to resolve “customer, applicant or occupant” informal complaints. This language importantly recognizes the rights of individuals who may not be customers, whether they are tenants, occupants who have been denied customer status, applicants who have been denied service, or other individuals, such as spouses or partners of customers, who may not satisfy Chapter 14’s definition of “customer.” All such persons may have standing to pursue a formal complaint pursuant to 52 Pa. Code § 5.21 and should be protected by the Commission’s stay provisions. Accordingly, the first sentence of § 56.172(d) should read as follows:

Upon the filing of a formal complaint by a customer, applicant or occupant within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

LICRG also supports the Commission’s proposed second sentence of § 56.172(d) as continuing to ensure that customers, applicants or occupants for whom BCS has ordered restoration of service will not be deprived of service based on a utility-initiated formal complaint. (LICRG Additional Comment at 23-24).

Duquesne appreciates the attempts to clarify the provision of service during the formal complaint process; however, the proposed revisions create additional concerns. As written, the proposed revisions would require utilities to restore and maintain service during the pendency of any appeal of an informal complaint decision, regardless of the issues under dispute. This would unnecessarily impede collection of undisputed account balances. Specifically, during the pendency of an appeal, any undisputed amounts are still subject to collection efforts, even if a stay is on hold in connection with a formal complaint. For example, if there is a customer that is complaining about their generation supplier charges and not their distribution charges, the utility may still collect on the undisputed portion of the bill (even during the stay) while the disputed portion remains outstanding. Duquesne would like the PUC to make clear that the customer retains the responsibility to pay undisputed portions of the bill, along with any other conditions imposed to retain service, and confirm the interpretation that collection activities for undisputed charges may continue even during the stay related to an appeal of a BCS informal decision. In addition, Duquesne opposes the idea of being forced to restore service when they believe a safety issue exists or where customers do not meet the conditions required to restore service and recommends a clarification that restoration only be done when safe to do so. (Duquesne Additional Comment at 10).

Aqua agrees that the circumstances where 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.” Aqua submits that proposed amendment to § 56.172(d) not impact the other regulatory requirements, particularly those found in § 56.174 (relating to ability to pay proceedings) and § 56.181 (Duties of Parties; disputing party’s duty to pay undisputed portion of bills). Section 56.174 specifically states that when current bills are not at issue, “the customer shall be responsible for payment of current, undisputed bills pending issuance of a Final Commission order.” Likewise, § 56.181(1) and (2) requires the disputing party to pay the portion of the bill which is not disputed. (Aqua Additional Comment at 3-4).

EAP believes that the Commission has not thoroughly vetted the implications of this proposed amendment. The additional language would alter the established informal complaint process and change the role of BCS from arbiter to decision maker. The clear intent of Chapter 14 is that the informal complaint process is not a “legal proceeding” but rather a means by which to resolve disputes short of a formal complaint that the parties then agree to follow. The informal decision does not have the same binding effect as the decision made in a formal complaint process before an administrative law judge. By analogy, customers are presently protected by the automatic stay in place at § 56.172 whenever they file an informal complaint in response to a notice of termination. Termination processes are put on hold during the pendency of the informal complaint so long as the customer continues to pay current charges due and those charges in dispute, i.e., the status quo is maintained. In comparison, the proposed revision automatically alters the status quo without any further process. EAP recommends the Commission withdraw these proposed changes until such time as these ideas and issues can be fully vetted as regards the impact on the informal complaint process itself.

EAP and PECO further recommend consideration of the utility employee safety in situations where an informal decision seeks restoration of service for the customer. Some disputes regarding service termination involve situations that are unsafe (tampering, theft of service, unsanitary or unsafe condition of the home) for utility employees to enter into in order to restore service. Utilities maintain an obligation to protect their employees from harmful situations and should not be mandated to restore service, particularly at the informal complaint stage of the dispute and in contravention of the automatic stay provisions, when it is unsafe to do so. (EAP Additional Comment at 6 – 8; PECO Additional Comment at 4).

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. (PAWC Additional Comment at 6 – 7).

PPL does not oppose the proposed language clarifying the regulation, but does request that the revision clarify that utility service must be restored and maintained while the issue remains in dispute, unless the customer or applicant has not paid according to the terms set forth in the informal complaint decision or an imminent threat to life, health, or safety exists at the location at which the service had been terminated or disconnected. (PPL Additional Comment at 3 – 4).

FirstEnergy states that wherever possible, it strives to adhere to all BCS orders, and typically will restore service when ordered to do so by the BCS whether or not the decision is appealed. However, FirstEnergy occasionally disagrees with a BCS decision, which may then be appealed by either FirstEnergy or their customers. One primary reason FirstEnergy would disagree with the BCS over restoration of service is where a safety concern may exist. In these situations, FirstEnergy would strongly disagree with a requirement to restore service to a customer before a Commission decision on the matter is rendered. For instance, if a customer were to tamper with his or her meter, FirstEnergy would require an independent electrical inspection before restoration to ensure the customer's facilities are safe to reenergize. Often, customers dispute the requirement to secure such an inspection due to the out-of-pocket cost incurred by the customer to do so. If a customer were to dispute such a requirement and a BCS decision were issued directing immediate reconnection, such restoration could result in physical harm or injury to a customer, his neighbors, other members of the public, and FirstEnergy’ employees. In an instance such as this, the BCS should not have the authority to order FirstEnergy to ignore a safety issue and reconnect a customer.

Furthermore, the BCS informal complaint process does not properly afford due process to FirstEnergy to advance legal arguments regarding the issue at hand. Instead, the determinations issued are made by someone who, while familiar with the Commission’s regulations and applicable statute, is not typically going to have a formal legal education nor is in an adjudicatory role with the Commission. Therefore, to require a utility to either expose individuals to safety hazards or to potentially continue incurring losses during a formal complaint proceeding appealing the BCS ruling (which in some cases can take up to several years to fully resolve) is wholly inappropriate. (FirstEnergy Additional Comment at 9 – 11).

PGW opposes the above-described proposed modifications to Subsection (d) of §§ 56.172 and 56.402 for several reasons. First, PGW submits that the proposed modifications to Subsection (d) are outside the proper scope of the subject rulemaking. Specifically, the proposed modifications are prohibited by the Regulatory Review Act that provides that modifications to proposed regulations may not enlarge the scope of the proposed regulations. Here, the Commission’s original purpose of the rulemaking as stated in the NOPR, was to amend the existing Chapter 56 regulations to incorporate the amended statutory provisions in Chapter 14 that became effective in 2014. There does not appear to be any provision in Chapter 14, as reauthorized and amended, related to the “automatic stay” provided for in §§ 56.172(d) and 56.402. Moreover, the July Order does not identify any provision in Chapter 14, as reauthorized and amended, that justifies the proposed changes to these regulations, which have been in effect since 2011.

Second, regardless of the Commission’s original intention, PGW submits that the proposed modifications are not reasonable, necessary, or in the public interest. PGW submits that the proposed modifications do not strike the appropriate balance between the rights of customers and utilities. Customers are protected by the current automatic stay whenever they file an informal complaint, including in response to a notice of termination. So long as they pay the current charges due and not in dispute, their service will not be terminated while they pursue a formal complaint before an Administrative Law Judge. The proposed modifications would make the informal complaint decision binding during the pendency of the proceeding, but only upon the utility. That different treatment is unreasonable and arbitrary.

PGW notes that the proposed language provides, in part, that “utility service must be restored and maintained while the issues remain in dispute.” PGW insists that it should be made clear that a utility should not be required to provide service when the customer is not making payments,and that the intent behind Chapter 14 is to address the Legislature’s concerns about the impact that utility uncollectible accounts have on the rates of timely paying customers. However, the proposed language does not provide that such service is contingent upon compliance with the payment terms in the BCS decision or the payment of current, undisputed bills (or both). The silence in the proposed language on payment could be interpreted as requiring a utility to continue to provide service, even if the customer is not complying with the payment terms in the BCS decision.

Third, PGW submits that informal complaint decisions should not legally be given any effect before a final formal determination is made, regardless of whether service is off or on. The automatic stay is intended to preserve the status quopending a final determination of a formal complaint. The proposed modifications, as written, would give effect to an initial complaint decision during the pendency of the proceeding. This means that a matter is being adjudicated and relief is being granted before the utility has an opportunity to put on evidence, cross examine witnesses under oath or do a detailed investigation through discovery. The utility’s rights do not evaporate when an informal complaint is decided by a BCS investigator. Giving binding effect to initial decisions before a final determination is made would violate the utility’s due process rights as well as the rights protected by the Administrative Agency Law and the Public Utility Code.

Chapter 14 makes clear that an informal complaint is not a “legal proceeding” and, therefore, the informal complaint decision of a BCS investigator cannot legally be given binding effect during the pendency of the proceeding. The award of relief during the pendency of a Commission proceeding is typically only done by an emergency order of an ALJ or of a Commissioner, and only when claims are made that justify such emergency relief. The BCS investigator does not serve in either of those roles, and the Commission may grant interim relief only when all of the elements exist for the issuance of an emergency order. The Public Utility Code provides that some types of decisions of ALJs may become final decisions of the Commission by operation of law; but nothing suggests that informal complaint decisions become final by operation of law or otherwise. (PGW Additional Comment at 4 – 11).

**Discussion**

We agree with OCA’s comments that the intent of this provision is that if the utility appeals a BCS informal decision, the customer should maintain service or, if the customer pays according to the BCS informal decision, have service restored until there is a final determination. Based on BCS experience and current practice, the utility is restoring the service in the vast majority of informal decisions with restoration terms when the customer pays according to the BCS informal decision. We would expect that practice to continue. This is especially critical in the winter when utility service is of the utmost importance.

Some commentators were concerned that the proposed language would require utilities to restore service though it is unsafe to do so due to theft of service or meter tampering. We do not ask a utility to restore service which would endanger the safety of a person or the integrity of the public utility’s delivery system; nor would we ask the public utility to put any utility employee in harm’s way or danger. The Commission reiterates that the restoration of utility service should be done only when it is safe to do so.

As PGW notes in its comments, this proposed modification was not part of the NOPR whose purpose was to incorporate the statutory provisions of Chapter 14 to the existing Chapter 56 regulations. Based on the comments of PGW and other parties concerning the procedural issues raised, we are persuaded to withdraw the proposed language and to refrain from any changes at this time. However, the Commission may explore this subject further sometime in the future if needed.

**§ 56.173 Review from informal complaint decisions of the Bureau of Consumer Services.**

We proposed adding language to paragraph (f) of § 56.173 relating to Commission review, stating that the burden of proof remains with the party who filed the informal complaint. We changed the word “formal” to “informal.” We noted that this revision was simply to make this provision consistent with existing Commission practices.

OCA notes that this change is contextually located in the Standard and Billing Practices portion of Chapter 56 under the heading “Formal Complaints,” and that this legal standard of burden of proof is misapplied in the context of an informal complaint. (OCA at 19-21).

Duquesne suggests further revising the last sentence of § 56.173(f) to make it clear that the party who originally filed the informal complaint retains the burden of proof regardless of the party that initiates the review and thus the docketing of a formal complaint. Duquesne further comments that the remainder of this Section, after § 56.173(b), only refers to formal complaints. Duquesne suggests that the final sentence be revised to state, “The burden of proof for the formal complaint remains with the party who filed the informal complaint.” (Duquesne at 15).

**Discussion**

We agree with OCA and Duquesne and propose using the revised language proposed by Duquesne to clarify that this Section is referring to the burden of proof for the formal complaint. The proposed change to § 56.173 is also consistent with a recent Commission decision on this issue in *Kelvin E. Thomas v. Philadelphia Gas Works (Complainant/Appellant), Kelvin E. Thomas v. Philadelphia Gas Works*, Docket Nos. F-2017-2611788, C-2017-2621275 at 8-9 (Order entered August 31, 2018) (*Kelvin Thomas*).

In *Kelvin Thomas*, the Commission noted that, “[i]n a *de novo* appeal from a decision of the BCS, the burden of proof remains with the party who filed the original informal complaint, except for legal or policy issues raised by the utility on appeal.” *Id*. at 8-9. The Commission continued that for legal or policy issues raised by the utility, “it would be absurd to impose the burden of proof concerning a legal and policy issue upon a customer who did not raise the issue and who probably has little knowledge of the issue itself.” *Id*. We propose to modify the language in § 56.173 (and in the analogous § 56.403) consistent with the suggested language from Duquesne, and to modify it further to allow for the exception in the case of legal and policy issues as per the Commission decision in *Kelvin Thomas*.

**§ 56.191. Payment and timing.**

We proposed revising Subsection (c)(1) to ensure that the information notifying customers of the special protections that may be available for victims under a protection from abuse order may also now be available to those customers with a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence, pursuant to Section 1417. *See* 66 Pa.C.S. § 1417 (relating to nonapplicability).

We also added Subsection (f) to address procedures for handling dishonored payments tendered by a customer to reconnect service, per Section 1407(c)(3).

Aqua fully supports the Commission’s proposed amendment to these sections to deter customers from attempting to avoid termination (or to have service reconnected) when there are insufficient funds available for the payment submitted. The proposed amendments do provide a valuable collection tool for the utilities. (Aqua at 5).

FirstEnergy has no comments regarding the Commission’s proposed changes to § 56.191; however, they propose a few additional modifications to this section. Specifically, they recommend modifying § 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.*

(FirstEnergy at 29). FirstEnergy also supports similar changes to § 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.*

(FirstEnergy at 29). FirstEnergy recommends 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. Sections 56.191(b)(1) and (b)(2) should be modified to permit utilities to propose tariff language allowing for higher reconnection fees where additional security is needed. (FirstEnergy at 29).

LICRG is opposed to FirstEnergy’s suggested revisions. Chapter 14 sets forth specific requirements for the timing of restoration of service. These requirements are reflected in existing Commission regulations at § 56.191(b)(1)-(2). FirstEnergy’s proposal for additional delay in service restoration is not authorized by and, thus, is contrary to the Public Utility Code. LICRG is also concerned about the administration and oversight of FirstEnergy’s proposal. It is not clear what FirstEnergy, or any utility company, perceives as a threat to utility personnel for this purpose and such a subjective determination is ripe for misuse. Similarly, it is not clear that the perception of such a threat justifies the delay in restoring utility service. Where the health and safety of utility customers is actually or potentially at stake, any delay in restoration could have dire consequences. LICRG is unaware of the existence of significant actual and actionable threats posed by customers to utility personnel and are not convinced that perceived threats should be deemed continuing among customers who have satisfied the applicable conditions to having service restored. LICRG submits that the proper course of action for utility personnel to take, when fearing for personal safety due to threats of violence, is to contact local law enforcement personnel. (LICRG Additional Comment at 39 – 41).

OCA submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 21).

PECO suggests that a minor change be made to § 56.191(c)(2). In the various provisions of that Subsection, the regulations state that a utility may or must take certain actions depending upon the income level of the customer or applicant. PECO generally believes that, when the regulations provide for disparate treatment based on income, the regulations should refer to “verified income” rather than merely “income.” Otherwise, customers and applicants can receive preferential treatment whether they truly have lower income or not, by the simple artifice of claiming to have income levels low enough to receive preferential treatment, regardless of their actual income level. Requiring verification of income levels in order to receive preferential treatment reduces that possibility significantly. (PECO at 7).

**Discussion**

First, we agree with the commentators in that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer’s status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups exploration of these issues.

We decline to tamper with the statutory language we are incorporating into this section by inserting “verified” as PECO wishes. For similar reasons, we have concerns with FirstEnergy’s proposed five-day reconnection timeframe when a utility employee was previously threatened by an applicant or customer. In Section 1407, the General Assembly established various timeframes by which the service needed to be reconnected. For example, seven days to restore service that requires street or sidewalk digging or 24 hours upon receipt of a valid medical certificate. We agree with the LICRG in that the General Assembly set clear timeframes to reconnect service once an applicant has met all applicable conditions in Section 1407. We would not ask a utility to restore service which would endanger the safety of a person or the integrity of the public utility’s delivery system. We would also not ask the public utility to put any utility employee in harm’s way or danger. We agree with LICRG that threats of violence are more appropriately addressed by law enforcement. Therefore, we are declining FirstEnergy’s proposal.

**§ 56.201 Public information.**

We changed Subsection (b)(1) to ensure that the information notifying customers of the special protections that may be available for victims under a protection from abuse order may also now be available to those customers with a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence, pursuant to Section 1417. *See* 66 Pa. C.S. § 1417 (relating to nonapplicability).

**§ 56.231. Reporting requirements.**

We proposed adding a new requirement at paragraph (a)(13) that requires the utility to report on its usage of electronic formats since Section 1406(b)(1)(ii)(C) now permits utilities to provide 3-day notice of termination by this method in addition to the current reporting of notices by telephone and in person.

We proposed adding Subsections (b)(11), (b)(12), and (c) to incorporate the new reporting requirement at Section 1410.1(3) and (4) involving the annual reporting of accounts exceeding $10,000 in arrears and the number of medical certificates used by consumers. Section 1410 (relating to public utility duties). In its *Tentative Order*, the Commission identified the new reporting requirements at Section 1410.1 as a priority and asked parties to submit comments.

Concerning the annual reporting of medical certificate usage, many parties summarized three possible interpretations of Section 1410.1(4), noting that it could be read as:

1. To require a single number: the number of medical certificates *and* renewals that have been submitted *and* accepted.

2. To require four separate numbers, as proposed in the *Tentative Order*: (1) the number of initial medical certificates submitted; (2) the number of initial medical certificates accepted; (3) the number of renewals submitted; and (4) the number of renewals accepted.

3. To require: (1) the number of medical certificates and renewals that have been submitted; and (2) the number of medical certificates and renewals that have been accepted.

Many parties found that the third of these approaches is reasonable, and the Commission agreed. The Commission opined that the first interpretation, a single number, would not provide enough detail on a utility’s role in overseeing medical certificates, and the second interpretation may require too much information, especially given the limitations in utility data-gathering abilities. The Commission stated that expanding this requirement to require further itemization is best left to the instant rulemaking where this issue can be fully vetted, and we accordingly invited parties to comment on this.

Concerning the annual reporting of accounts with arrears exceeding $10,000, the Commission noted that this reporting requirement appears to differ significantly from the traditional utility reporting requirements. Most traditional reporting requirements consist of aggregate data (numbers, sums, totals, averages, etc.). However, with the direction to report annually “residential customer accounts which have accumulated $10,000 or more in arrearages,” it appears that the General Assembly envisioned the reporting of specific accounts in lieu of a “number of accounts” or “averages.” If this section is interpreted to mean that utilities are expected to submit account specific data, this presents us with another series of questions. Assuming specific customer accounts are to be reported to the Commission, we asked parties to comment upon what information concerning these accounts is needed and appropriate. We noted that the information reported has to be sufficient for the effective monitoring of utility collection practices while at the same time not compromising the customers’ privacy, especially in the context of the Commonwealth’s Right-to-Know Law.[[12]](#footnote-12) In the *Implementation Order*, we also noted that, while the statute specifies that this reporting should take place “annually,” it is silent as to the precise timing and methodology. We invited comments as to whether the Commission should designate an annual “snapshot” date for these reports or possible alternatives to the “snapshot” approach.

Upon careful review of the comments submitted by the parties, we provided the following guidance concerning the data required to comply with Section 1410.1(3):

A. Utilities shall examine their active (i.e. accounts not final-billed) residential accounts at the conclusion of each calendar year. Any account with an arrearage at or exceeding $10,000 at the time of this “snapshot” shall be reported to the Commission by April 1 of the following year.

B. Accounts where someone has presented a Protection From Abuse (PFA) order, or a court order which provides clear evidence of domestic violence, to the utility shall not be included in the reporting regardless of the level of arrearages.

C. Each account reported shall be identified to the Commission with a unique label that the utility can match to the account in question. The same unique identifier for each account shall be used in any subsequent reporting to identify that same account.

D. Customer names, addresses, account numbers, phone numbers, email addresses, Social Security numbers or any other information that could be used to identify the customer shall not be included.

E. The information concerning each of the accounts shall include the following:

1. Unique account identifier;

2. The account balance as of the time of the “snapshot;”

3. The date the account was established;

4. The average monthly bill amount for the previous 12 months;

5. The number of Commission informal or formal complaints;

6. The number of company payment arrangements;

7. The number of times the customer’s service was terminated for

non-payment.

F. Reporting shall begin, under these interim guidelines, with calendar year 2015 – with the first annual report due to the Commission by April 1, 2016.

G. The Commission may request more detailed follow-up information on specific accounts.

H. Reports shall be filed at Docket No. M-2014-2448824, with an electronic copy sent to the Director of the Commission’s Bureau of Consumer Services.

I. Reports shall be formatted per a specific electronic spreadsheet format provided by Commission staff. The Commission will provide this electronic format by September 1, 2015.

(*Implementation Order* at page 18*.*)

Customer names, addresses, account numbers, phone numbers, email addresses, Social Security numbers or any other information that could be used to identify the customer shall not be included. “Rate class” is not necessary as a data point because this reporting is applicable only to residential customers, per the definition of “customer” at Section 1403 and the language of Section 1410.1(3), which specifies “residential customer accounts.”

Finally, we proposed revising § 56.231 by adding new Subsection (d). It is important to note that this is not a new requirement. We are simply consolidating the utility reporting requirement rules in Chapter 56 into one section – § 56.231. The new Subsection (d) can currently be found in § 56.461, which we propose to eliminate. Consolidation will assist utilities in locating and complying with these requirements.

PGW requests that the Commission reconsider this determination and exclude Customer Assistance Program (CAP) customers’ frozen arrearages from the $10,000 reporting requirements. The reason for this request is because of the nature of the uncollectible amounts associated with CAP customers (in contrast to non-CAP residential customers). For CAP customers, pre-program arrears are essentially “frozen” with a fraction of the arrears being forgiven for every timely CAP payment. Thus, for CAP customers in good standing, PGW has no “collection” tools available for these amounts that will be forgiven over time and they are truly uncollectible. For non-CAP customers, however, PGW does not foresee forgiving debts on these accounts; they remain outstanding and collectible. Including both collectible and non-collectible amounts will not present an accurate picture of PGW’s collection practices or its accounts. Therefore, excluding CAP customers’ pre-CAP arrearages from this reporting is consistent with the intent of Section 1410.1. It is also consistent with the data that is currently reported for the Universal Services Reporting Requirements, as well as the remaining § 56.231 reporting requirements. (PGW at 8 – 9).

Columbia’s comments echo those provided by the EAP as both Columbia and the EAP propose that additional data points (including but not limited to bankruptcies and theft of service) should be included in the reports given to the Commission by the utilities. (Columbia at 8-9; EAP at 20 – 21).

Duquesne recommends adoption of the April 1 deadline for both reports. Duquesne requests that the Commission provide further guidance on the accounts that should be excluded or included in the report. The concept of a “snapshot” in time, specifically the end of the calendar year, and the April 1 due date for the report are consistent with the requirements in § 53.231 as proposed and the company has no issue with either proposal. However, at that particular moment, an account that is in arrears and active (*i.e.,* not final billed) can have both a balance in excess of $10,000 and be subject to other conditions that affect the collectability of the account. During preparation of its first annual report in 2016, Duquesne had several accounts that did not fall neatly into the definition of “active” above. For example, a question arose whether an account with a disputed amount that, if included, would reach the $10,000 threshold should be reported. Another instance involved an account in which a portion of the balance had been referred to an outside collection agency. Upon direction from Commission staff, Duquesne included disputed amounts in identifying reportable accounts, but did not include accounts where a portion had been referred to outside collection. While Duquesne is not requesting that an additional regulatory requirement be added or that § 56.231 as proposed be revised, they are seeking further clarification from the Commission that only amounts for which Duquesne can actively collect on should be reported, which excludes other amounts such as those associated with disputes, bankruptcy, or where final bills have been submitted.

Further, while Duquesne appreciates the Commission’s attempts to clarify elements in the report requirements and definitions therein, unfortunately, changing definitions does not mean that information that is captured can be as easily changed. Specifically, Duquesne does not separately track the annual collections operating expenses directly attributable to customer assistance programs because it is not practical or cost efficient to create separate business practices to carve out the information that would be required to meet this requirement. Regarding the other definitions related to reporting requirements, Duquesne has no comments. If they are able to transition to email communications related to terminations, it will ensure that the requested information can be captured. (Duquesne at 6 – 7, 16).

EAP recommends the inclusion of the accounts’ use of medical certificates. EAP also believes that the Commission and the legislature may be informed by the inclusion of other data points in this report not limited to: whether the accounts are involved in a bankruptcy filing; whether the accounts involved the termination process and a Utility Report; whether the accounts have engaged in theft of service; and whether the accounts have filed high bill disputes. EAP recommends that the Commission also consider the exclusion of CAP pre-program arrears, as these dollars are “frozen” by the customer’s participation in the program and, therefore, are uncollectable by the utility. These additional data points can show whether, and potentially for how long, accounts have been able to accrue additional balances by way of continuing to delay payment and still avoid termination. (EAP at 20 – 21).

OCA submits that the implementation of the Chapter 14 reporting requirements should carefully balance the Commission’s mandate to analyze utility collection practices against the significant consumer privacy concerns raised by providing specific customer account information to the Commission. The OCA submits that if customer account information is to be collected, great care must be taken to protect privacy. OCA submits that the data should not be a “snapshot” in time but should include all accounts that had a balance exceeding $10,000 during the reporting period. A snapshot would not provide an accurate picture as it could be subject to seasonality or even an effort by the utility to clear those accounts with arrearage balances which meet the reporting threshold just before the snapshot date.

OCA also submits that the Commission should require the utility to provide the Commission with information regarding the company’s collections process and a clear explanation of the steps the utility takes to collect past due balances beginning with the first instance of an arrearage. The OCA submits that the utility should then be required to report to the Commission on the utility’s collection steps over the life of the arrearage from its inception up to the time that the account crosses the $10,000 arrearage threshold for the accounts over $10,000. Again, aggregate data could be used. By way of example, if a phone call reminder is the first step, the total number of accounts that received such a reminder should be provided. Also, the total number of accounts with no collection activity should be identified.

If account level data reporting is required for all accounts with a balance exceeding $10,000, aggregated data should also be provided in addition to account level data. The OCA recommends the collection of additional data points for the aggregate set of consumers with arrearages in excess of $10,000 broken out by confirmed low income and total residential, as is the BCS collection reporting. This data should include:

* + The number of accounts with arrears in excess of $10,000;
  + The total dollars of arrears in accounts with arrears over $10,000 (not simply the dollars over $10,000, but the total dollars in accounts with arrears over $10,000);
  + The number of accounts that have been treated through a company-sponsored usage reduction program;
  + The length of time it took the arrearage to accumulate from the first past due balance until reaching the $10,000 threshold (a long-term equivalent of the aging of the arrears);
  + The number of payment arrangements (i.e. a distribution analysis of the number of accounts receiving 1, 2, 3, etc. payment arrangements);
  + The number of accounts that were subject to medical certificates; and
  + The total number of accounts that were worked through each step of the utility's collections process.

The OCA submits that these data points will allow the Commission to determine whether the utility's collections processes and steps are effective and to provide the Commission with meaningful information about consumer accounts that have reached the reporting threshold. Regarding medical certificate reporting, the OCA supports the Commission’s proposed guidelines as detailed in the Tentative Order. (OCA at 22 – 25).

**Discussion**

First, we will address the annual reporting of medical certificates. OCA submits that we should use our proposal from the *Chapter 14 Implementation Tentative Order,* Docket No. M-2014-2448824 (Order entered January 15, 2015). Parties commented on our initial proposal and in the *Chapter 14 Implementation Final Order,* Docket No. M-2014-2448824 (Order entered July 9, 2015) and we agreed with the parties that requiring two separate numbers was reasonable. Upon careful review and consideration, we believe our proposal is sound. We think that requiring two separate numbers, (1) the number of medical certificates and renewals that have been submitted and (2) the number of medical certificates and renewals that have been accepted, strikes the correct balance.

Next, we will address the annual reporting of accounts exceeding $10,000. OCA believes that the General Assembly’s purpose in monitoring utility collection activities can be fulfilled with the use of aggregate data and general descriptions of utility collection actions and procedures. While we agree that aggregate data can be of some use for these purposes, we think the intent of the General Assembly was to go beyond general data. If the General Assembly had just wanted general, aggregate data (totals, averages, percentages, etc.) easily it could have asked for such. In fact, it did just that in paragraph (4) where it specifies “number” when discussing the reporting of medical certificates. The lack of the word “number,” as in “number of accounts,” in paragraph (3) concerning the $10,000 arrearage reporting requirement cannot be ignored. Accordingly, we will maintain our proposal that this reporting requirement refers to specific, individual customer accounts.

The parties offered many different opinions on just what type of accounts should be or should not be included in the reporting. Several parties pointed out account-types that they think should be excluded from this reporting requirement for various reasons. These include:

* CAP accounts;
* Bankruptcy-related accounts;
* Accounts on an amortization or payment agreement;
* Accounts involving theft or unauthorized use;
* Accounts involving civil litigation;
* Accounts associated with a PFA.

The rationale offered for the possible exemption for most of these is that traditional collection tools are not necessarily available for these types of accounts. However, the reporting requirement at Section 1410.1 makes no mention of the applicability of various collection methods available; this section simply refers to “accounts.” If the General Assembly had intended this reporting requirement to be specifically targeted to accounts subject to specific collection methods or subject to a specific law or regulation, it could have done so. To the contrary, it is reasonable to assume that the General Assembly created this reporting requirement to specifically gauge the impact of various collection practices and various regulations and laws. For the Commission to omit a variety of accounts to the extent advocated by the parties would impermissibly thwart the will of the General Assembly.

However, we agree with parties that sought to exempt from the reporting requirement those accounts that involve a customer with a PFA or other court order that provides evidence of domestic violence. Including PFA accounts could intrude on the privacy and security of PFA holders; a key to the security and privacy for any PFA holder is to limit the disclosure of such information to only those who have an important need to know. For the purposes of this reporting requirement, we do not find the grounds for asking for this information and including it in the reporting is sufficient to warrant the possible risks to the privacy and security of PFA holders. Accordingly, we will exclude these accounts among the accounts reported under the proposed § 56.231(c).

In addition to our proposed data points, parties also offered many suggestions on just what information about the accounts should or should not be included in this report. The total list of possible data points submitted by the parties is quite extensive and includes the following:

1. Account balance as of the time of the “snapshot;”
2. Time period over which the arrearage accrued (in years or months);
3. Average monthly bill amount;
4. Number of Commission informal or formal complaints;
5. Number of company payment arrangements;
6. Rate class;
7. Whether the ratepayer is a landlord ratepayer;
8. Multiple meter or single meter property;
9. History of LIURP services;
10. Indication of whether de facto electric heating is occurring at the premise;
11. Customer name;
12. Number of payments in the last 24 months;
13. Number of energy assistance payments in the last 24 months;
14. Participation in CAP;
15. Balance when removed from CAP;
16. Customer current income level;
17. Number of medical certificates filed;
18. Number of NSF checks or use of an invalid credit card;
19. Number of times the customer filed bankruptcy and dollars associated with bankruptcy;
20. Number of times customer reported a change in income;
21. Number of 10-day notices issued in last 24 months;
22. Number of times the customer was shut-off for non-payment;
23. Date of last shut-off;
24. Move-in date;
25. Last payment made;
26. Total customer payments;
27. Number of times dispute rights were offered;
28. Whether balance transfers from previous accounts contributed to the arrearage;
29. Whether a PFA has issued;
30. Indicator of meter-access problems.

While many of the above items that the parties suggested are interesting, most are not critical for our intended purposes at this time. We must be mindful of the burdens on utilities to compile this information. And, since the reporting of accounts exceeding $10,000 began in 2015, the number of accounts with a balance of $10,000 or more has declined. This requirement appears to be working as intended and does not need extensive changes.

Below is the data that has been filed under Docket No. M-2014-2448824:

|  |  |  |  |
| --- | --- | --- | --- |
| Number of Residential Accounts with a balance of $10,000 or more | | | |
|  | **2015** | **2016** | **2017** |
| ELECTRIC UTILITIES | 539 | 474 | 424 |
| NATURAL GAS UTILITIES | 413 | 352 | 254 |
| WATER UTILITIES | 8 | 6 | 9 |
| TOTAL | 960 | 831 | 687 |
| \* Class A Water Utilities only. Class A Water Utility—A water utility with annual revenues greater than $1 million. (52 Pa Code §56.2). | | | |

After considering the above and the comments of the parties, we are staying with our original proposal with one addition. We believe there is value in knowing what, if any, collection activity a utility has taken on these accounts. Therefore, we are adding the number of 10-day termination notices issued on an account. In addition, the Commission may request additional information on specific accounts.

To summarize, we will include the following data points in the reporting requirement:

1. Unique account identifier;
2. Account balance as of the time of the “snapshot;”
3. Date the account was established;
4. The average monthly bill amount for the previous 12 months;
5. The number of Commission informal or formal complaints;
6. The number of company payment arrangements;
7. Number of times the customer’s service was terminated for non-payment;
8. Number of 10-day termination notices issued.

We would also like to provide some guidance for these reporting requirements. We did not receive sufficient comments one way or the other regarding establishing a timeframe for these reporting requirements and, therefore, are hesitant to add it to the regulations. We believe that items 5, 6, 7, and 8 should all be based on item 3, the date the account was established. We recognize the various record keeping rules and that some information may not be available beyond four years. In addition, if any problems or issues arise, we can revisit it later. Therefore, we are issuing guidance that public utilities will provide whatever information they can for items 5, 6, 7, and 8 from the date the account was established.

We reiterate that data points that can identify the customer such as their name, address, account number, and Social Security number are not to be included, nor should there be any mention of PFA-involvement. “Rate class” is not necessary because this reporting is applicable only to residential customers, per the definition of “customer” at Section 1403 and the language of Section 1410.1(3), which specifies “residential customer accounts.”

Concerning the format of the reporting, several parties encouraged the Commission to allow for electronic submission via a secure web portal, similar to what is already currently used for 52 Pa. Code §§ 54.75 and 56.231 reporting. We agree that ultimately this is the preferred format. Once the final regulations are adopted concerning this reporting requirement, the Bureau of Consumer Services will set up a permanent web portal for this purpose. In the interim, as we proposed in the *Tentative Order*, an electronic spreadsheet should be sufficient for this purpose. Commission staff will develop and distribute a formatted electronic spreadsheet. In the interim, this docket can serve as the repository for the reports. Additionally, for consistency with the 52 Pa. Code §§ 54.75 and 56.231 reporting, these reports should be sent to the Director of the Bureau of Consumer Services by electronic mail. Electronic versions will allow for sorting and aggregation if desired. We note that per the discussion above, these reports will not include data that can be used to identify any customer; therefore, security is less of an issue. A key concept in data security is to limit the amount of sensitive data one is handling, and we have done that with these proposed regulations.

**Section 1417 and Protections for Victims of Domestic Violence**

We invited parties to comment on any matters relating to the protection from abuse (PFA) subchapters L-V and the language in the amended 66 Pa.C.S. § 1417, “or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer.” We further invited commentators to offer suggested language relating to these other court orders.

LICRG notes that these provisions provide critical protections for victims of domestic violence, who face extreme physical safety and economic instability when separating from an abusive intimate partner. For example, a victim cannot be held responsible for debts and arrearages accrued by an abuser, and they are provided with additional flexibility in negotiating a payment arrangement based on the individual’s unique facts and circumstances, rather than falling within the rigid timeframes established in Chapter 14. In its Proposed Rulemaking Order, the Commission tracked language from the statute, without providing additional clarification on the scope of order that could be affected. However, LICRG believes that there are inherent ambiguities in the statute which must be resolved to fully implement the Chapter 14 exemption for victims of domestic violence in a manner consistent with the intent of the General Assembly.

LICRG points to several “orders” that may contain “clear evidence of domestic violence” – including civil and criminal orders, such as divorce, custody, child protection, criminal convictions, and sentencing. Moreover, many court orders contain clear evidence of domestic violence, but lack critical facts necessary for the utility to interpret the order. For example, a criminal charging order for assault by an abuser against a victim contains clear evidence of domestic violence; however, the charging order itself is unlikely to contain an attestation of the relationship between the offender and their victim. There is also potential for conflicting interpretation by utilities about when a court order is from “a court of competent jurisdiction in this Commonwealth.” For example, protection orders issued by a court from another jurisdiction are explicitly recognized and enforced by Pennsylvania’s courts, pursuant to the Protection From Abuse Act. And, the Full Faith and Credit provision of the United States Constitution explicitly ensures that court orders issued in one state are recognized and enforceable in all other states.

LICRG believes that the implementation of the Chapter 14 exemption for victims of domestic violence is complicated and requires the input and advice of professionals who are not often before the Commission. LICRG suggests that the Commission commit to launching a work group comprised of representatives from BCS, Law Bureau, the utilities, statutory advocates, advocates for victims of domestic violence (such as PCADV), representatives of consumer groups, and other interested stakeholders. The purpose of this work group would be to provide specific recommendations to the Commission regarding necessary guidance and interpretation of the statutory exemption that could be developed into a policy statement to be universally applied across utility service territories. (LICRG at 48 – 52).

LICRG agrees with IRRC that the public safety is not adequately protected without clear guidance to ensure that the protections for victims of domestic violence are implemented appropriately to fulfill the intent of the General Assembly in exempting this vulnerable population from harsh credit, billing, collection, and termination standards. LICRG urges the Commission to proceed with care by setting forth explicit language and employing a deliberative process which considers responsiveinput and recommendations from a variety of stakeholders. The Commission should strongly encourage the participation of subject matter experts and organizations that provide assistance to domestic violence survivors. (LICRG Additional Comment at 31 – 32).

The Joint Commenters note that the domestic violence exemption recognizes that victims of domestic violence need unique protections from certain collection and billing practices which may place them at an increased risk of physical or financial harm. The Joint Commenters believe that the exemption has not been fully implemented and that they often have to assist clients who report that utility call center employees are confused when they disclose that they are a victim of domestic violence or that they have a PFA or other court order. As a result, many who qualify for the special billing, collections, and termination rules are not able to access these protections.

The Joint Commenters believe that there has never been clear and consistent policy guidance from the Commission to ensure that victims of domestic violence are held to the appropriate billing, collections, and termination standards, pursuant to Section 1417. They note that implementation of the domestic violence exemption is complicated; indeed, domestic violence is adjudicated across an array of legal matters and court jurisdictions, and there are nuances to each which require careful consideration before implementing policies and procedures. Accordingly, the Joint Commenters recommend that the Commission retain its proposed language codifying the expanded statutory exemption, and, like LICRG, ask the Commission to convene a working group. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of this statutory language that could be developed into a policy statement to be universally applied across utility service territories. It could also further assist the Commission with other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training materials, and confidentiality protocols for handling sensitive information about a customer’s status as a victim of domestic violence. (Joint Commenters at 24 – 27).

Regarding the revised Section 1417, OCA declares that many terms included in this provision are unclear as to how they should be interpreted and applied. Questions raised by this language include: what types of orders qualify; how should an order from a court in another state be handled; what constitutes “domestic violence”; and what qualifies as “clear evidence” of domestic violence? This language is ambiguous in many respects and domestic violence is a complex issue and as such the OCA does not believe it is appropriate to propose specific language in these comments. Rather, the OCA, like LICRG and the Joint Commenters, submits that the Commission should convene a working group consisting of a variety of stakeholders, and that this group would work collaboratively to develop guidance as to how this language should be applied going forward. This guidance could then be the subject of a separate Policy Statement adopted by a final Commission Order. (OCA at 4 – 5).

Duquesne states that it supports efforts to reduce adverse effects of domestic violence and the havoc it wreaks on families and children in our community and it takes seriously its obligations as a utility to protect its customers who have been victims of such violence and has procedures to afford such protections as required. Duquesne reports that the courts within its service territory have developed consistent forms and procedures for PFA proceedings. The commonality of format afforded by the courts’ actions has enabled Duquesne to develop, implement and adhere to consistent handling of matters involving PFAs. The additional language in Section 1417 that requires utilities to accept a “court order ... which provides clear evidence of domestic violence,” without more detail, places utilities in the untenable position of interpreting and then determining whether “clear evidence” of domestic violence exists.

While Duquesne is aware of suggestions to seek determination from in-house legal counsel or expertise from domestic violence agencies when faced with such dilemmas, it does not feel this is an adequate resolution of the issue. In addition to seeking guidance as to what types of court orders, other than PFAs, show “clear evidence of domestic violence,” Duquesne is concerned about the lack of time limitation associated with such orders. The Pennsylvania Protection From Abuse Act, as codified in 23 Pa. C.S. § 6108(d), specifically provides that the protection order “shall be for a fixed period of time not to exceed three years.” Upon petition to the court, a PFA can be extended and a new PFA can be obtained should it be necessary, extending protection for another three years. By contrast, a “court order” may be silent on the period of time it covers, which potentially translates into a permanent exemption from Chapter 14. Duquesne asks that the Commission consider the issues attendant with unspecified court orders and facilitate conversation around application of these orders through a working group or other process in order to remove these current ambiguities. (Duquesne at 8 – 9).

PPL is concerned that the broad language of the new PFA provisions puts the utility in the role of interpreting court orders and determining what constitutes “clear evidence” of domestic violence. Absent clear direction from the Commission, PPL believes that this broad language could lead to customer complaints any time a utility determines that a customer’s court order does not constitute “clear evidence” of domestic violence. Moreover, specific guidelines will help ensure that victims of domestic violence are properly identified by the utilities. PPL offers the following definitions that it believes could give utilities some guidance when determining whether a court order provides clear evidence of domestic violence:

*Clear evidence:* defined as a statement or finding contained in the court order that the customer or member of the household is a victim of domestic violence;

*Domestic violence:* defined as violence between family members, as defined in 23 Pa. C.S.A. § 6102, relating to PFAs (i.e., spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood); and

*Court of competent jurisdiction*: is defined as a magisterial district court, court of common pleas, or appellate court.

(PPL at 12 – 13).

**Discussion**

The parties have provided helpful comments on addressing this critical issue. LICRG helpfully lists the types of court orders that could fall under Section 1417 and PPL offers some proposed language to define some key terms. Many of the parties have emphasized the complexity of the issues involved and the difficulty of formulating specific proposals in the context of a formal rulemaking. Concerns have also been expressed that we need to call on a wider range of expertise than those who traditionally participate in rulemakings, such as the current one. Accordingly, LICRG, Joint Commenters, OCA and Duquesne all advise the Commission to instead form a working group where these matters can be discussed by all interested parties.

We find this advice convincing and agree with the Joint Commenters that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer’s status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups exploration of these issues.

**Subchapters L – V and Protections for Victims of Domestic Violence**

In Section 1417 (relating to nonapplicability), the General Assembly determined that Chapter 14 would not cover customers protected by a PFA order or customers with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer. Accordingly, at the same time the Commission is complying with the Act by amending the provisions of Chapter 56 regulations to comply with the revised legislation and declared policy, we still need to account for the General Assembly’s decision to exclude these customers. We addressed this in the 2011 rulemaking by creating two separate bodies of regulation; one clearly reflecting Chapter 14 (subchapters A – K), and the other free of Chapter 14 requirements, except where the Chapter 14 requirement provides a consumer benefit (subchapters L – V).

This bifurcation is necessary because the General Assembly made it clear that Chapter 14 does not apply to certain customers (those with a PFA or a court order providing evidence of domestic violence). At the same time, we must account for provisions of Chapter 14 that provide *benefits* to consumers and extend these benefits to these consumers. It is nonsensical to think that the General Assembly wanted these consumers to have *fewer* protections than other customers.

We proposed continuing this approach to maintain separate subchapters (L-V) within Chapter 56 for customers not covered by Chapter 14, while expanding the applicability of subchapters L - V to not only all customers who have been granted protection from abuse orders but also to customers with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer, as to align with revised Section 1417. *See* 66 Pa. C.S. § 1417 (relating to nonapplicability). Additionally, as to align with the revised definition of *public utility* at Section 1403 (relating to definitions), we proposed to remove the applicability of these same subchapters to wastewater, steam heat, and small natural gas companies. The applicable subchapters for these entities will be B through K – the same as other utilities. *See* § 56.1, Statement of purpose and policy.

No party voiced serious objections or concerns with this proposal, so we will proceed with maintaining subchapters L – V with some revisions as we will now discuss in detail.

**§ 56.252. Definitions.**

The definitions of *public utility*, *small natural gas distribution utility*, *steam heat utility*, and *wastewater utility* have been revised to reflect the revised Chapter 14 definitions at Section 1403. *See* 66 Pa. C.S. § 1403 (relating to definitions).

A definition of *physician assistant* has been added since Chapter 14 now permits the filing of medical certificates by physician assistants. Accordingly, we think it is important that this term be defined. This revision provides additional protections to the customers covered by subchapters L – V. We kept this definition and the revised definitions for *nurse practitioner* and *physician* the same as those in § 56.2 for consistency.

We proposed revising the definition of *billing month* as to allow short-period bills in instances where a customer’s change of commodity supplier necessitates the issuance of a short-period bill in order to effectuate a timely switch of supplier. Recent regulatory changes intended to accelerate the switching of electric generation service now make it possible to switch commodity service in as little as three business days. *See* 52 Pa. Code §§ 57.173, 57.174 and 57.180. Some utilities, as part of the switching process, will issue a final short-period bill for the customer’s current supplier so that billing with the new supplier can start within the three-business day timeframe. The Commission has already issued temporary waivers of the § 56.2 definition of *billing month* to facilitate this process,[[13]](#footnote-13) and we believe it is necessary to codify this change in billing procedures to eliminate the need for repeated waivers in the future.

Duquesne believes that the definition of *applicant* and *customer* as set forth in § 56.2 should be aligned in § 56.252 for consistency of application of the regulations and to ensure that the definitions in § 56.252 adhere to the revised Chapter 14. When comparing these two Sections, § 56.2 is more specific and in line with Act 155, whereas § 56.252 needs some additions in order to be consistent with the definitions contained in § 56.2. (Duquesne at 11).

IRRC also notes that the definition of *applicant* differs significantly between §§ 56.2 and 56.252. In particular, the definitions use different time periods in Paragraph (ii) of 30 days versus 60 days and asks the PUC to explain why the definitions of this term need to differ between §§ 56.2 and 56.252.

**Discussion**

In response to the concerns expressed by IRRC and Duquesne, who point to the differences between the definitions of applicant and customer in § 56.252 compared to § 56.2, we note that this distinction was deliberate and based upon the directive in Section 1417 that Chapter 14 shall not apply to victims of domestic violence. The “missing” language in the proposed § 56.252 is language found in the revised Chapter 14 definitions of *applicant* and *customer*.

The current definition of *applicant* in § 56.252 gives a victim of domestic violence a 60-day window to obtain new utility service after a termination or discontinuance without being considered an *applicant*. In effect, they retain the rights of a customer, meaning that they do not have to submit to credit screening to transfer or establish service within the 60-day window. If we applied the new 30-day window as found in the reauthorized Chapter 14, we believe this would impermissibly apply a Chapter 14 provision that would result in less protection for a victim of domestic violence. Accordingly, we think it is appropriate to maintain the 60-day period in the definition of *applicant* as we proposed. The 60-day window also aligns with the pre-Chapter 14 definition of *applicant* as was found at § 56.2.

However, upon further consideration, we do think we need to reconsider our proposed definition of *customer* at § 56.252. The current § 56.252 definition has no mention of timeframe for which one remains a customer, and our proposed language did not change this. Upon further consideration, we are concerned that the lack of a timeframe may cause confusion for both customers and utilities and could possibly result in a victim of domestic violence receiving less protection than they are entitled to per Section 1417. Accordingly, we will add to the definition of *customer* the same 60-day window found in the definition of *applicant*. This 60-day period is also the same period found in the pre-Chapter 14 definition of *ratepayer* as was found at § 56.2.

**§ 56.262. Meter reading; estimated billing; customer readings.**

We proposed adding a new paragraph (6), *Verification of automatic meter reading*, to incorporate the new requirement at Section 1411 that utilities verify meter readings at the request of the customer. *See* 66 Pa. C.S. § 1411 (relating to automatic meter readings). This revision provides additional protections to the customers covered by subchapters L – V.

Consistent with the OCA’s comments regarding § 56.12 above, the OCA supports the addition of this provision, with one modification. The OCA suggests that the Commission either update the definition of AMR to include AMI or add a separate new definition of AMI that should be reflected throughout these regulations. Consistent with that recommendation, as well as the OCA’s recommendation regarding § 56.12, the OCA submits that consumers should have the same right to verification for automatic meter readings obtained through AMI as is being included in this section for AMR. If the definition of AMR in § 56.252 is updated to include AMI, then automatic meter readings obtained through AMI will receive the same right to verification of automatic meter readings at the customer requests. If a separate definition of AMI is added to § 56.252, then language indicating that automatic meter readings obtained through AMI are also subject to verification on the customer’s request will need to be inserted into this section. (OCA at 27 – 28).

**Discussion**

As discussed above relative to §§ 56.2 and 56.12, we think current references to *AMR — Automatic meter reading* are sufficient and additional revisions are unnecessary. While the definition does apply to an older technology that predates the advanced metering infrastructure (AMI) that is currently being deployed by many electric utilities, we think the language in this definition (“*Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes”*) is general and broad enough to capture AMI as well.

**56.281. Policy Statement.**

Duquesne suggests that we update the non-discrimination standards found in the Policy Statement at § 56.281. (Duquesne at 11 – 12). We agree that it is time to update these sections to reflect a broader scope of protections and will use Governor Wolf’s Executive Orders, signed on April 7, 2016, which provide protections for employment and contracting within the Commonwealth as an example. Accordingly, we will add “color, religious creed, ancestry, union membership, gender, sexual orientation, gender identity or expression, national origin, AIDS or HIV status or disability” to § 56.281 as we did with § 56.31.

**56.282. Credit standards.**

We proposed a new paragraph (4) to align with the new Section 1404(a.1) prohibition on CAP-eligible customers and applicants paying deposits. This revision provides additional protections to the customers covered by subchapters L – V.

OCA, as they discussed in relation to § 56.32(e), asks the Commission to clarify that eligibility for CAP in this context is based on income eligibility, not on eligibility based on some other criteria. (OCA at 28). Similar concerns expressed by LICRG, Joint Commenters, and CAC in relation to § 56.32(e) are also relevant to § 56.282. LICRG notes that it is unlikely that the nuances of each utility’s CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. As CAC points out that using household income to determine eligibility has the benefit of establishing a uniform, statewide standard that can be consistently applied. And the Joint Commenters note that we have to account for water utilities that do not have CAP programs and thus do not have CAP-eligibility criteria. (OCA at 9 – 12; LICRG at 18 – 27; CAC at 6 – 9; Joint Commenters at 18 – 21).

**Discussion**

Concerning the proposed prohibition on requiring deposits from customers that are CAP-eligible at § 56.32(e), OCA, LICRG and CAC ask us to clarify that this standard is referring to eligibility based upon the customer’s household income, and not on other miscellaneous eligibility criteria that can vary by utility. This same concern is relevant to §§ 56.282 and 56.291. We agree with OCA and LICRG that it is unlikely that the nuances of each utility’s CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. Also, as CAC points out, using household income to determine eligibility has the benefit of establishing a uniform, statewide standard that can be consistently applied. We agree with the Joint Commenters that the Commission’s *Policy Statement on Customer Assistance Programs* at § 69.265 and the 150% of the Federal poverty level eligibility threshold is a logical reference. It is reasonable to assume that the General Assembly was aware of this threshold in reauthorizing Chapter 14. Accordingly, as we did with § 56.32, we shall insert language here to the effect that the customer is confirmed to be eligible for a customer assistance program if she or he provides income information to the public utility which verifies that the household income meets the program’s income eligibility standard.

Regarding the concerns expressed about this same Section by LICRG that it is eligibility and not actual enrollment into CAP that determines the customer’s exemption from deposit requirements, we agree and point out that this Section specifies “eligible” – not “enrolled” or “participating.” We think this language is sufficient direction that the customer only has to be “eligible” and not actually enrolled in CAP to be exempt from a deposit request.

Several parties, including EAP, PPL, FirstEnergy and Columbia ask that we address income verification procedures in the context of the use of the word “confirmed” in Section 1404(a.1). (EAP at 5, PPL at 3-4, FirstEnergy at 10-11, Columbia at 4-6). In using the word “confirmed” in this Section, the General Assembly likely intended that a self-declaration of eligibility was insufficient to qualify for exemption from a security deposit – that there would be some sort of burden upon the customer or applicant to provide some sort of proof of eligibility. At the same time, we are sensitive to the concerns expressed by some of the parties that any such confirmation procedure not be overly complex or burdensome. We think proposals like PPL’s, FirstEnergy’s and Columbia’s are reasonable. Enrollment in CAP or household income data submitted to the utility (or the utility’s agent) or information indicating eligibility for state benefits with income thresholds consistent with the CAP program should all be acceptable means of establishing eligibility for a security deposit waiver. We will revise §§ 56.282 and 56.291 accordingly with this guidance. And as we discuss in reference to §§ 56.32 and 56.282, in response to concerns expressed by OCA and others about the protection of sensitive consumer information, we will add language to § 56.282 at Subsection (3)(iii) that reflects language in the analogous § 56.32 to the effect that “*Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.”*

Finally, as we did with the analogous §§ 56.32 – 56.42, we will clarify the applicability of the various sections, noting that in general, §§ 56.282 and 56.288 apply to *applicants*; while §§ 56.291 and 56.292 apply to *customers*. We have revised the terminology in these sections accordingly.

**§ 56.286. Written procedures.**

We proposed revising this regulation to include incorporation into the utility’s written credit procedures the deposit exception in § 56.282 for CAP-eligible applicants, per Section 1404(a.1). We also proposed including in the procedures the availability of alternative credit standards for applicants with a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, in addition to those applicants who have been granted protection from abuse orders, pursuant to Section 1417. We likewise proposed revising paragraph (1) to include a requirement that utilities provide this same information to applicants in writing when credit is denied. These revisions will provide additional protections to the customers covered by subchapters L – V.

For the reasons OCA discussed relating to §§ 56.32(e) and 56.282(4), OCA asks the Commission to clarify that eligibility for CAP in this context is based on income eligibility, not on eligibility based on some other criteria. Regarding §§ 56.286 and 56.286(1), OCA generally supports the addition of the proposed language but submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 29).

**Discussion**

We agree with OCA that eligibility for CAP in this context is based upon household income, as discussed previously in relation to § 56.282. We also agree to convene a stakeholder group to address the application of these provisions relating to victims of domestic violence.

**§ 56.288. Payment period for deposits by applicants.**

IRRC, along with many of the parties, asked the Commission to clarify the reference to the “90 days” deposit payment period in Section 1404 (a) and (h). Does this mean that a customer/applicant has 90 days to pay a deposit in full, regardless of any installment payment plan? Can a utility pursue termination for nonpayment of any deposit installment, regardless whether 90 days passed?

As we discussed earlier in reference to §§ 56.31 – 56.57, part of the difficulty here is that the Commission’s Chapter 56 regulations have never referred to a “90-day” period for paying a deposit. Historically, these regulations have, depending upon the circumstances, either required full immediate payment of a deposit or permitted an installment plan of 50% as an initial payment, followed by 25% billed 30-days later, followed by a final installment of 25% billed 60-days later. The 50/25/25% installment plan, when factoring in 20-day due dates (see 56 Pa Code § 56.271), does get you into the proximity of “90-days,” but not exactly in most cases. Further, we note that historically, the deposit rules have not specified if failure to pay any deposit installment is grounds for termination. We note the comments of parties like PPL, Duquesne, and FirstEnergy who offer that their current practice is to treat failure to pay any deposit installment as grounds for termination.

While the parties raise many points in both sides of this matter, and arguments could be crafted to support either position, as we discussed earlier in reference to §§ 56.31 – 56.57, it is nonsensical to have a regulation providing for installment payments if the customer is not required to pay an installment. Therefore, we agree with PPL, Duquesne, and FirstEnergy and conclude that failure to pay a deposit installment by the due date is grounds for termination. To declare otherwise would be to basically declare that installments are not needed at all. We also note that this requirement is not rooted in Chapter 14; therefore, it is not inappropriate to apply it to those customers who are covered by this section. Accordingly, we will insert language in §§ 56.288 and 56.292 to the effect the installment payments must be paid timely and that failure to do so is grounds for termination.

Also, as we did with § 56.42, we agree to revise this language to specify that the customer has the option to pay the deposit amount in full anytime within 90 days upon determination by the public utility that the deposit is required. We will specify that the customer can pay in full anytime during the 90-day period regardless of whether an installment has been paid or not.

**§ 56.291. General rule.**

We proposed new paragraph (4) to align with the new Section 1404(a.1) prohibition on CAP-eligible customers and applicants paying deposits. This revision provides additional protections to the customers covered by subchapters L – V.

For the same reasons OCA discussed in relation to §§ 56.32(e), 56.282(4), and 56.286, the OCA submits that the Commission should clarify that eligibility for CAP in this context is based on income eligibility, not on eligibility based on some other criteria. (OCA at 29).

**Discussion**

As we discussed in relation to §§ 56.32 and 56.282, we agree that it is unlikely that the nuances of each utility’s CAP eligibility requirements were what the General Assembly had in mind when it set out this restriction on requiring security deposits. Accordingly, as we did with §§ 56.32 and 56.282, we shall insert language here to the effect that the customer is confirmed to be eligible for a customer assistance program if she or he provides income information to the public utility which verifies that the household income meets the program’s income eligibility standard.

**§ 56.292. Payment period for deposits by customers.**

Duquesne suggests adding a sentence at the end of this section consistent with the language in § 56.42 that “The customer retains the option to pay the deposit amount in full before the due date.” (Duquesne at 15).

**Discussion**

IRRC, along with many of the parties, asked the Commission to clarify the reference to the “90 days” deposit payment period in Section 1404 (a) and (h). Does this mean that a customer/applicant has 90 days to pay a deposit in full, regardless of any installment payment plan? Can a utility pursue termination for nonpayment of any deposit installment, regardless whether 90 days passed? As we discussed above in reference to § 56.288, we conclude that failure of a customer to pay a deposit installment is grounds for termination. Accordingly, as we did with §§ 56.38, 56.42 and 56.288, we will insert language in § 56.292 to this effect.

Also, as we did with the above-noted sections, we agree to revise this language to specify that the customer has the option to pay the deposit amount in full anytime within 90 days upon determination by the public utility that the deposit is required. We will specify that they customer can pay in full anytime during the 90-day period regardless of whether an installment has been paid or not.

**§ 56.302(4). Deposit hold period and refund.**

Similar to the deletion in § 56.53, Duquesne suggests that the language in § 56.302(4) be revised to remove the 24-month maximum deposit hold to be consistent with changes made in the remaining provisions of Chapter 56, which requires that deposits be held until a timely payment history is established. (Duquesne at 14).

FirstEnergy notes that although the Commission does not propose any significant changes to 52 Pa. Code § 56.302, they propose one additional change to this section to create consistency throughout the regulations – elimination of the maximum 24-month hold period for deposits. While FirstEnergy acknowledges that Act 155 does not govern the Commission’s regulations at 52 Pa. Code §§ 56.251, et seq., they opine that this change should be equally applicable to all customers, including customers with PFAs or other court orders evidencing domestic violence. 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 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 including system configuration complications. (FirstEnergy at 30 – 31).

IRRC also notes that § 56.53(a) is being amended to delete the maximum period of 24 months and asks if the same amendment should be made to § 56.302(4). (IRRC at 5).

**Discussion**

Regarding the refund of security deposits, OCA asks that we clarify that the relevant time period concerning refunding a deposit is *any* 12 consecutive months. We agree and will insert “any” in § 56.302(4) as we did at § 56.53. LICRG asks that we order deposits to be refunded if upon later discovery it is determined that the customer has become income-eligible to have a deposit waived. While we acknowledge FirstEnergy’s objection to such language as being unnecessary as utilities already have an obligation not to hold security deposits forcustomers who are confirmed to be eligible for CAP, we think there is value in inserting this in the regulation as to make it clear to all utilities, consumers and advocates. Accordingly, we will insert language to this effect in § 56.302 as we did at § 56.53.

IRRC questions our proposed retention of the 24-month holding period at § 56.302 and we think FirstEnergy makes a valid point in that retaining this maximum holding period provides very little if any consumer benefit because the utility can simply assess another deposit. While eliminating the maximum holding period is admittedly applying a Chapter 14 provision to victims of domestic violence, we think it has little if any impact from a consumer-benefit perspective. And as FirstEnergy points out, differentiating between classes of customers will create administrative burdens for utilities including system configuration complications, burdens not commensurate with the minimal benefits to customers. Accordingly, we will drop the 24-month maximum holding period in § 56.302 as we did with § 56.53.

**§ 56.306. Interest rate.**

We proposed changing the mechanism for determining the interest rate applied to security deposits to align with the change at Section 1404(c)(6). We believe this change is neutral from a customer protection perspective. Whether this change is beneficial compared to the existing language depends upon prevailing interest rates. At times, this revision will favor customers compared to the current rule; at other times, possibly not so. Since the impact on consumers can be both negative and positive, we think making the interest rate calculation the same for *all* security deposits is the most reasonable approach. Requiring utilities to assess and track differing interest rates on different deposits would impose burdens on utilities while providing no clear benefit to consumers.

**Discussion**

We acknowledge that IRRC’s concerns with § 56.57 also apply to § 56.306, relating to what interest rate is applied and when and possible confusion with the statutory language. Again, we think it is reasonable to conclude that what the General Assembly intended in Section 1404(c)(6) is to establish a variable interest rate – a rate that changes every January 1. A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of that calendar year (December 31). Then on January 1, a new interest rate is determined, and that is the rate that will be applied to the deposit for the calendar year starting January 1 until December 31 of that year, and so on until the deposit is refunded or applied to the account. Accordingly, as we did with § 56.57, we propose adding language to § 56.306 (2) and (3) that will provide some additional guidance (in **bold**) without changing the intent of this section:

(2)  The interest rate in effect when the deposit is required to be paid shall remain in effect until the date the deposit is refunded or credited, or December 31, whichever is later. **A deposit initially accrues interest at the interest rate in effect at the time the deposit was required. This interest rate remains in effect until the end of the calendar year.**

(3)  On January 1 of each year, the new interest rate for that year will apply to the deposit. **The new interest rate will be applied to the deposit for the calendar year starting January 1 until December 31 of that same year. Revised interest rates are calculated every subsequent January 1 and applied to the deposit until the deposit is refunded or applied to the account.**

**§ 56.331. General notice provisions and contents of termination notice.**

We proposed revising the information directed to customers on written ten-day termination notices in paragraph (9) to include notice to customers that the special protections available for victims under a protection from abuse order are now also available to those customers with a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence, per Section 1417.

OCA generally supports the addition of the proposed language but submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 30).

**Discussion**

As discussed previously, we intend to convene a stakeholder group to discuss the application of the provisions concerning victims of domestic violence.

To maintain consistency with the terms used in the Emergency Provisions at §§ 56.351 – 56.358, we will change the reference at § 56.331(7) from “serious illness notice” to “medical certificate notice.”

**§ 56.333. Personal contact.**

We proposed revising this section to provide for the optional use of electronic messaging for providing three-day personal notice of termination, per Section 1406(b). This revision provides additional protections to the customers covered by subchapters L  –  V. We invited comment on the privacy protections and the customer consent practices that should be required in the context of electronic messaging. *See* 66 Pa. C.S. § 1406(b)(1)(ii)(C) and (D).

As noted in their comments relating to § 56.93, Duquesne believes that having the option of utilizing a more efficient technology to deliver notices in lieu of in person visits or telephone calls should benefit all ratepayers with reduced costs and is more in line with customers’ changing needs and preferences. Utilities should be given flexibility to implement procedures consistent with their billing software to allow customers to affirmatively consent to receive electronic notice of issues relating to their account, up to and including termination, and to identify the preferred means for communication of any electronic format such as text, email or a secured login. This consent could be obtained during the application process or during any customer contact – it does not (nor should not) need to be on a standalone basis. Duquesne offers proposed language that, similar to proposed § 56.93(1) and (2), provides guidance concerning what frequency satisfies “an attempt” for electronic messaging format, and what should happen if contact is unsuccessful. (Duquesne at 14 – 15).

As discussed in their comments regarding the proposed § 56.93, the OCA submits that channels for electronic communications, such as email or text messaging, should be treated in the same manner as telephone numbers and as such should not be disclosed to third parties. (OCA at 30).

IRRC questions how contact must be made if it is discovered an email address or text message connection is no longer valid. If the electronic contact is not successful, should the personal contact requirement revert to contact in person or by phone? IRRC asks the PUC to clarify in the regulation how a valid personal contact can be accomplished if the electronic contact is not successful. (IRRC at 6).

**Discussion**

In response to IRRC’s and Duquesne’s concerns about what should occur if an electronic contact attempt is not successful, we think Duquesne’s proposed language has merit –

*Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received.**In the event the utility receives notification that the transmittal was undeliverable or otherwise not received, the utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section*.

(Duquesne at 15).

As we discussed relative to § 56.93, we intend to initiate a separate proceeding to establish privacy guidelines as referenced at Section 1406. While the Section 1406 privacy guidelines are pending, we provide the following guidance concerning maintaining the confidentiality of customer information. Electric Distribution Companies (EDCs) and Electric Generation Suppliers (EGSs) are reminded that 52 Pa. Code § 54.8(a) states that an “…EDC or EGS may not release private customer information to a third party unless the customer has been notified of the intent and has been given a convenient method of notifying the entity of the customer’s desire to restrict the release of the private information.” (52 Pa. Code § 54.8(a) relating to Privacy of customer information.) Further, EGSs are reminded that 52 Pa. Code § 54.43(d) states that a “…licensee shall maintain the confidentiality of a consumer’s personal information including the name, address and telephone number, and historic payment information, and provide the right of access by the consumer to his own load and billing information.” (52 Pa. Code § 54.43 relating to Standards of conduct and disclosure for licensees).

Likewise, Natural Gas Distribution Companies (NGDCs) and Natural Gas Suppliers (NGSs) are reminded that 52 Pa. Code § 62.78(a) requires that an “…NGDC or NGS may not release private customer information to a third party unless the customer has been notified of this intent and has been given a convenient method, consistent with Subsection (b), of notifying the entity of the customer’s desire to restrict the release of the private information.” (52 Pa. Code § 62.78 relating to Privacy of customer information). Further, NGSs are reminded that 52 Pa. Code § 62.114(3) specifies that an NGS “…shall maintain the confidentiality of a consumer’s personal information including name, address and telephone number, and historic payment information, and provide the right of access by the consumer to the consumer’s own load and billing information.” (52 Pa. Code § 62.114 relating to Standards of conduct and disclosure for licensees).

Finally, all utilities that comply with Chapter 56 are reminded that 52 Pa. Code § 56.32 requires that “Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.” (52 Pa. Code § 56.32 relating to Security and cash deposits). As discussed above, we intend to add this language to § 56.282 as to make this same requirement apply to victims of domestic violence.

**§ 56.337. Procedures upon customer or occupant contact prior to termination.**

We proposed revising subparagraph (iv) to require utilities to provide universal service program information to consumers upon contact from a consumer during the termination process, pursuant to Section 1410.1(1) and (2).

As they discussed regarding § 56.97, the OCA supports the proposed revisions as it provides consumers with valuable information regarding universal service programs during the termination process. (OCA at 30).

EAP, PPL, and FirstEnergy do not believe it is appropriate to require utility employees to provide information on universal service programs to all customers in the termination process. Universal service program eligibility is limited to those with specific incomes. Having to explain universal service programs to all utility customers, regardless of income, would be overly burdensome, time-consuming, and ultimately prove confusing for customers who learn of these programs and are ultimately ineligible to participate. EAP recommends that this language be amended to require utilities to provide information on universal service and customer assistance programs only to those customers the utility knows or reasonably suspects to be low-income or customers who affirm their income would qualify them, or to allow for discretion by utility staff rather than a mandate. (EAP at 10; PPL at 7; FirstEnergy at 18).

In their comments to § 56.97, EAP, PPL, and PGW suggest removing the words “authorized,” “personnel,” and “employee” from this Subsection in order to allow for automated or self-service options. While customers would always be free to contact the utility to get more information about the termination process, some customers may prefer to receive this information via automation either over the phone or the internet. Having to talk to a live utility employee may feel intimidating to those customers who are under threat of termination; additional flexibility in this circumstance would be beneficial. To that end, EAP suggests a removal of the phrase “through its employees,” similar to § 56.97(b), as many utilities also have the means to help customers establish payment arrangements via their website or other secure, automated methods. Again, this modification would not remove the option for customers to speak directly with utility customer service employees if they choose, but rather broaden the options for customers by removing the present limitation of person-only methods.

EAP recommends a change be made, similar to § 56.97(a)(3), relating to the requirement to provide information about the utility’s universal service programs. A broad spectrum of utility customer service employees are trained and equipped to explain and enroll applicants and customers into universal service programs, not only the program administrator. EAP believes that more than one “administrator” (by title) at each company is equipped to explain and enroll customers in universal service programs. Accordingly, EAP recommends striking this requirement from the Commission’s proposed language. PGW requests that the Commission add additional definitional language regarding who can act as a company’s universal service program administrator so as to better serve customers. (EAP at 9-11, PPL at 13-15, PGW at 2-3).

**Discussion**

As we noted in our discussion relative to § 56.97, the statute at Section 1410.1(1) is clear that public utilities shall provide information about universal service programs, including customer assistance programs to customers or applicants who contact a public utility to make a payment agreement. If the General Assembly wanted information about universal services programs to only be shared with low-income customers, they could have specified such. Instead, all customers or applicants who contact a public utility to make a payment agreement should be provided information about the utility’s universal services program.

However, we agree that it is nonsensical to provide detailed information and a referral to a customer who is clearly not eligible and/or has no desire in participating in a universal service program. We think a public utility complies with Section 1410.1(1) if they make a good faith effort to inform all termination-related callers about their universal service program (assuming the customer is not already enrolled), how it can benefit the customer, and briefly explain eligibility criteria. If at this point in the conversation it is apparent that the customer would not be eligible or is not interested, the explanation can end and the utility can move on to other matters relating to the termination. If to the contrary the customer appears eligible and is interested, the utility is then obligated to provide additional details and a referral to the program.

We also, as to facilitate evolving technologies and alternative methods of utility-customer interaction, agree with EAP, PPL, and PGW to remove references to “employees” and “administrators.” This will also make it unnecessary for the Commission to entertain repeated petitions from utilities related to these provisions.

**§ 56.340. Winter termination procedures.**

We proposed revising paragraph (5) to clarify that the February update of the survey of households without heating service in the winter is to include households terminated in December. Commission staff and utilities have encountered questions about this section because the current language is unclear on this point. By failing to include any December terminations, the survey result reported on February 1 is not a complete picture of the households without utility service in the winter. This proposed revision is intended to correct that possible problem.

OCA believes that the proposed language is consistent with Chapter 14 and they support this clarification as it helps to ensure that all households without heating service during the winter are appropriately accounted for in the Bureau of Consumer Services’ report. (OCA at 31).

In their comments to the analogous § 56.100, PPL submits that landlord ratepayers are only covered by the winter termination provision of Chapter 14 if the household’s income is at or below 250% of the federal poverty leve1. PPL points out that Chapter 14 explicitly provides that the Commission shall not prohibit an electric distribution utility or natural gas distribution utility from terminating service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level. Likewise, FirstEnergy states that landlord ratepayers generally do not qualify as low-income customers,and therefore receive a benefit that is unavailable to all other customers. FirstEnergy has 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. (PPL at 16, FirstEnergy at 22).

FirstEnergy also recommends 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. FirstEnergy further proposes 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 via a different method of contact. (FirstEnergy at 21–22).

LICRG, in their comments referring to § 56.100(j), submit that the language limiting public access to information about deaths occurring where utility service had been terminated should be removed. They believe it is clearly in the public interest in protecting the health and welfare of Commonwealth residents that any structural or systemic failures or gaps in protecting the impoverished and other vulnerable populations are revealed. (LICRG at 43-46).

In their additional comments, FirstEnergy opposes LICRG’s request to make § 56.100(j) reports public. FirstEnergy believes that public availability of this information would constitute a violation of the Public Utility Code, Pennsylvania’s Right-to-Know Law, and Commission precedent and regulations, as well as would raise a host of public policy concerns. Section 56.100(j) reports are a subset of the reporting obligations required under 66 Pa.C.S. § 1508 and Section 1508 reports “shall not be open for public inspection, except by order of the commission, and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in such report.” Accordingly, the same restrictions should apply to § 56.100(j) reports.

Additionally, the Right-to-Know Law bars disclosure of utilities’ § 56.100(j) reports to the public. Utilities prepare 52 Pa. Code § 56.100(j) reports based on an internal investigation. When the Commission receives these reports, the Commission will review the reports and possibly seek additional information from utilities. Under the Right-to-Know Law, Pennsylvania agencies are prohibited from disclosing to the public any record related to a noncriminal investigation including “investigative materials, notes, correspondence and reports....” Further, public availability of § 56.100(j) reports would raise significant customer privacy concerns. When a utility submits a report to the Commission pursuant to § 56.100(j), the entire report consists of customer-specific information. If the public may access this report, any third party would have access to this private customer information.(FirstEnergy Additional Comment at 16 – 19).

**Discussion**

FirstEnergy is proposing one survey that would be due in January and would include the December terminations. Staff is concerned about the elimination of the re-survey of customers that now occurs in January with the results due to the Commission on February 1. By eliminating the re-survey, there will be no way of knowing how many households restored their utility service. Therefore, we are keeping with our proposed language.

PPL and FirstEnergy propose that a public utility be permitted to terminate service to landlord-ratepayer accounts during the period of December 1 through March 31. The problem with this proposal is that utilities have little or no way of knowing the income level of the tenants involved in landlord-ratepayer accounts, given that they have little or no contact with tenants who are not their customers. It is then possible that low-income tenants could be terminated while the law clearly prohibits the termination of low-income customers after November 30 and before April 1. Accordingly, we must reject this proposal and will maintain the existing prohibition on terminating landlord-ratepayer accounts in the winter.

Regarding LICRG’s comments that reports submitted under §§ 56.100(j) and/or 56.340(7) should be made public, we decline to do so. This reporting requirement is related to 66 Pa.C.S. § 1508; and this Section specifically states that reports are not open for public inspection. Also, as FirstEnergy points out, disclosing this information would likely result in divulging private customer information without the knowledge or consent of the customer and/or other individuals involved in the event.

**§ 56.351. General provision.**

We refer to *physician assistants* in addition to *physician* and *nurse practitioner* in order to align with the new definition at Section 1403. This revision provides additional protections to the customers covered by subchapters L – V.

The OCA supports this modification as it makes it possible for a variety of qualified medical professionals to submit documents necessary to obtain a medical certificate. (OCA at 31).

**Discussion**

No party questioned our proposed addition of *physician assistants* to *physician* and *nurse practitioner* as medical professionals qualified to authorize a medical certificate, so we will proceed as proposed.

**§ 56.353. Medical certifications.**

We refer to *physician assistants* in addition to *physician* and *nurse practitioner* in order to align with the new definition at Section 1403. We also proposed revising this section to make it similar to the changes we are proposing to the analogous § 56.113, specifically by removing the requirements in § 56.353(3) and (4), which require the medical certificate to include the “nature and anticipated length of the affliction” and the “specific reason for which the service is required.” This section currently requires the medical professional to divulge information about the patient’s medical condition to the utility – contrary to the privacy and confidentiality of personal medical information that patients have come to expect. Accordingly, we proposed eliminating the “nature” of the affliction and “the specific reason for which service is required” as part of this regulation. However, we do not see the “length of the affliction” at § 56.353 (3) as being contrary to patient expectations of privacy; in fact, the utility needs to know this information to determine the duration of the medical certificate. *See* 52 Pa. Code § 56.354. Some parties have previously suggested that the medical professional’s license number be included as a required element on a medical certificate. We invited parties to comment on this possibility.

Many of the comments filed in relation to § 56.113 are also of relevance to § 56.353. Per their comments in relation to § 56.113, the OCA supports the proposed revisions because it reflects the Commission's *Implementation Order* and provides clarity. (OCA at 31). The CAC believes it is unnecessary to require a medical professional’s license number on a medical certificate and that this would impose needless formality to the process of submitting a medical certificate. (CAC at 11–14).

The Joint Commenters assert that the Commission’s proposed revisions to § 56.113 strike the correct balance and provide necessary information without being unduly intrusive on a utility customer’s privacy with regard to their health status. However, the Joint Commenters oppose inclusion of a certifying professional’s license number on a medical certificate because requiring a medical professional to provide their license number on a medical certificate implies a level of personal liability and is likely to deter medical professionals from assisting patients.

Regarding the “form” requirement, the Joint Commenters agree with the Commission that no specific form should be required to be used if all the relevant information is presented by the medical professional. The Joint Commenters report that a lack of clarity about the medical certifications has led several of the largest healthcare systems to prohibit physicians from issuing medical certificates for their patients, resulting in many of their clients being unable to obtain the protection from imminent termination afforded by the Legislature. Upon the conclusion of this rulemaking, the Joint Commenters recommend that the Commission institute a collaborative work group of interested stakeholders and staff from the Commission’s Bureau of Consumer Services and Communications Department to develop a single, voluntary, standardized form. (Joint Commenters at 5 – 17).

LICRG supports the Commission’s determination that a medical certificate does not need to be on a prescribed form and recommends that the Commission consider adopting a form that utilities could implement as a safe harbor that complies with the requirements of § 56.113. (LICRG at 34 – 37). LICRG urges the Commission to reject attempts to further complicate the medical certificate form requirements, including the inclusion of licensing information on all certificates and a requirement that a medical certificate be produced on letterhead of the certifying medical professional. This would impede access to medical certificates particularly from nurse practitioners and physicians’ assistants who may not have access to or authorization from a medical practice to utilize its letterhead. LICRG further notes the arguments some parties raise to the effect that the regulations lack clarity regarding the relationship required for medical certification protections to apply; i.e. they should be limited to “permanent” household members. LICRG points out that there is no requirement in Chapter 14 that the household member be a “permanent” member of the customer’s household. (LICRG Additional Comment at 6 – 15).

FirstEnergy recommends the same changes to this regulation as they discussed relative to § 56.113. In addition, they 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, FirstEnergy offers 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. (FirstEnergy at 31).

FirstEnergy believes that posting medical certificates online exposes the process to an increase in medical certificate fraud as compared to the current preferred practice of faxing or emailing the forms directly to the relevant medical professional. Where the forms are available for download online, customers without legitimate medical issues would have unbridled access to the forms. Along the same lines, FirstEnergy believes the medical license number of medical professionals should be required information on a medical certificate form, particularly if medical certificate forms are posted online. Medical professional names, addresses, and phone numbers are easily accessible online. Although medical license numbers are also often accessible as well, they require additional research and can be confirmed, which provides an extra safeguard against forged medical certificates. (FirstEnergy Additional Comment at 5 – 9).

EAP suggests additional language at § 56.113 requiring the medical professional’s license number as well as a requirement that the certification be on the medical professional’s letterhead or other official paperwork if it is not on a utility-generated form, to afford protection for the utility against fraud or medical certificate abuse. Licensed medical professionals utilize their license number for a variety of routine matters, including items such as prescriptions to ensure validity and avoid fraud, and medical certificates should be treated likewise, with EAP reporting that utilities have not had any issues requesting this information from medical professionals. In addition, EAP continues to agree with the position of the Commission and the advocates that utilities are not in the position to determine who qualifies for a medical certificate. (EAP at 13 – 18).

PPL recommends removing the current requirement that medical certificates include the anticipated length of the affliction, as required by § 56.113(3). Further, PPL recommends that the medical professional certifying the medical certificate include his or her license identification number as an additional measure against fraud or abuse. (PPL at 8 – 11).

PGW supports the intent of the Commission to provide easy accessibility to a utility’s medical certification form but does not support the requirement that the utility place the form on its website. PGW is concerned about the potential for fraud that could occur by making its medical certification form generally available. Also, to help prevent fraud, PGW fully supports a requirement that the certificate include the medical professional’s license number. A medical professional should easily have a record of their license number so this requirement is not likely to be burdensome. (PGW at 5 – 6).

To ensure the validity of the customer’s medical request, Columbia suggests that the utility’s medical certificate form or any correspondence submitted by the health care professional include the professional’s state issued license number. Furthermore, if the attending medical professional does not utilize the company’s designated medical certificate form, Columbia suggests that that they be required to provide the required information on the medical practice's letterhead. (Columbia at 6 – 7).

Duquesne agrees with the Commission’s characterization of revised Section 1403 that the use of the word “form” does not mean that a specific document must be used but instead a Commission-approved manner. Accordingly, Duquesne does not believe there is any need for a statewide mandated form for use by all utilities, noting that it makes its form generally available for use by medical professionals on its website or upon request. Duquesne is in favor of including the medical professional’s license number as this provides the utility with a quick and easy method to investigate the validity of any questionable certificates. Further, such a requirement is consistent with other requirements for professionals (such as attorneys providing their license numbers on filings) and is not unduly burdensome or time consuming. (Duquesne at 7 – 8).

IRRC has two concerns. First, is the medical certificate form required to be approved by the PUC? If so, the regulation should include this requirement. Second, § 56.113 was amended to only permit medical certificates to be in writing. Should a similar amendment be made to this section? The PUC should explain why § 56.113 and this section differ. (IRRC at 6).

**Discussion**

As noted in our earlier discussion of § 56.113, there is general agreement with the Commission’s position that the word *form* in the definition of *Medical Certificate* at Section 1403 does not literally mean a “form.” There were also no objections voiced to the Commission’s proposed removal of the “nature” of the medical condition and the “specific reason for which the service is required” from the medical certificate. Beyond these things however, there are differing opinions as to what elements should the *form* of a medical certificate include. LICRG and the Joint Commenters suggest that, while a standard form should not be required, there may be some use in creating an optional, standard, statewide format as to provide greater consistency in the application of the medical certificate rules. We think there is merit in their suggestions that some type of informal, statewide collaborative should be convened to develop such a format. Once these new rules are in place, the Bureau of Consumer Services will convene an informal stakeholder group consisting of advocates, utilities, medical professionals and any other interested party to discuss and recommend a standard statewide format to the Commission.

Concerning the format, the parties had very differing views on whether the medical professional’s license number should be required on the certificate. EAP, Duquesne, PPL, FirstEnergy, PGW and Columbia supported the idea as a possible means to prevent fraud. LICRG, Joint Commenters, and the CAC oppose the idea as imposing an unnecessary burden on medical professionals and not being an effective means to prevent supposed fraud. Because we had no medical professionals that submitted comments, we are uncomfortable deciding one way or the other on this matter. We think it would be preferable to leave this as a topic for discussion in the above-noted collaborative process intended to develop a standard format.

There were also divergent views on whether medical certificate formats should be posted on utility websites. LICRG thought this would be helpful in providing quick and easy access for both consumers and medical professionals. However, EAP, PPL, FirstEnergy and PGW expressed concerns that posting this information on their websites could facilitate forgeries, while Aqua noted that they already post the certificate format on their website. Again, we think this may be an issue best left to the above-noted statewide collaborative, where advocates, utilities and medical professionals can discuss this with each other and make a recommendation to the Commission. Accordingly, we will revise our proposed changes to § 56.353 to omit any reference to posting on the public utility’s website.

Regarding IRRC’s question about the need to specify what it meant by the phrase “in a form approved by the Commission,” we note that while we proposed allowing utilities to develop their own form (and some already do so), the Commission does not have to review or approve such forms. We note that the forms do have to comply with §§ 56.113 and 56.353. We agree with LICRG and decline to tamper with the Section 1403 definition by inserting “permanent” in reference to the “member of the customer’s household.” We are not convinced that this is enough of an issue to lead us to alter a statutory definition. Finally, FirstEnergy and IRRC have concerns with verbal medical certificates and question why § 56.113 and § 56.353 differ. The reason for the difference is that § 56.113 reflects Chapter 14 requirements while § 56.353 is the regulation for those customers exempt from Chapter 14 per Section 1417 (those with a PFA or a court order that provides clear evidence of domestic violence). For example, while the reauthorized Chapter 14 at Section 1403 specifies a *Medical Certificate* must be a “written document,” this requirement does not apply to those customers covered by the Section 1417 exemption, thus permitting verbal medical certificates as Chapter 56 had traditionally allowed prior to Chapter 14. Verbal medical certificates provide an additional option for victims of domestic violence, as intended by Section 1417.

**§ 56.354. Length of postponement; renewals.**

While we proposed no revisions to this section, several parties filed comments related to the length of postponements provided by a medical certificate under § 56.114, which is also of relevance to § 56.354.

LICRG submits that, given that medical professionals may determine that a chronic or life-threatening illness is anticipated to extend beyond a period of 30 days, it is appropriate to provide for the certification of a medical need for service that corresponds to the affliction. Obtaining a medical certificate is not easy and requires customers to expend their limited financial resources every 30 days to pay expensive co-pays, secure transportation and childcare, and take time away from work to attend a medical appointment. For someone with a short-term condition which is likely to improve, the shorter time-frame may be reasonable; but for those with a chronic illness, the arbitrarily imposed 30-day limitation may have no relation to the underlying illness or condition. In the event of a serious illness without specific ending date, the duration of the medical certificate protection should be extended for a period of up to 6 months. (LICRG at 34 – 37).

The Joint Commenters suggest that the Commission should revise § 56.114 to extend the re-certification period for medical certificates where the customer or household member has a chronic or extended medical condition. Visiting a healthcare provider to obtain a medical certificate to prevent termination of critical, life-sustaining utility service comes at a cost as there are typically co-pays or office visit fees. There are also often additional costs – including transportation, time off work, and childcare – that further add to the household’s financial burden. As currently structured, the medical certificate process requires a household to incur these costs every 30 days, even when the illness or medical condition will continue for more than 30 days. To minimize the added financial burden to households, the Joint Commenters urge the Commission to allow a certifying professional to specify the length of a medical certificate, based on the individual’s health needs. (Joint Commenters at 5 – 17).

The CAC supports the Commission’s proposed elimination of language concerning the “nature” of an affliction and “the specific reason for which service is required” and supports the current requirement of the “anticipated length of the affliction” for medical certificates to the extent that the medical professional believes that the duration of the illness will be greater than30 days. This would enable the utility to accommodate a medical certificate of greater length. The CAC notes that there is nothing in the statute about a 30-day period and that there are chronic illnesses that persist for far longer periods of time. Accordingly, the CAC submits that the regulations should clarify that although a medical certificate shall be effective for a minimum of 30 days, in the cases in which the medical practitioner indicates the anticipated length of the affliction to be greater than 30 days, the length of the protection provided should correspond to the length of the affliction. In the event of a chronic or terminal illness without specific ending date, medical certificates should be permitted for a period of a maximum of 6 months. (CAC at 11 – 14).

Extending the renewal time for medical certifications would allow a greater buffer for families of those with special healthcare needs to get back on their feet. Additionally, they urge that information about medical certificate regulations should be clearly communicated to all applicants. (Center for Hunger-Free Communities at 3).

The Health & Housing Coalition note that chronic medical conditions are not going to resolve in 30 days, so requesting a new certificate from a medical professional every 30 days is a burden without a benefit. They note that multiple states provide for medical certificates that last significantly longer than 30 days for persons with serious, chronic conditions, including Montana and Massachusetts that offer 180 days; New Hampshire, and Oregon up to 12 months. Other states, like Connecticut and Rhode Island, give more discretion to the medical provider about the length of the certificate. The Health & Housing Coalition urges the PUC to extend the duration of medical certificates for persons with serious, chronic conditions and to take steps to make sure that consumers and medical professionals are better informed about the medical certificate process. (Health & Housing Coalition Additional Comment at 8 – 11).

PPL submits that recommendations to extend the medical certificate period beyond 30 days offers a short-term solution that creates long-term problems for customers and utilities. A customer that has a medical certificate that extends for several months could potentially stop paying for utility service during this extended period. Although this may seem a benefit for a household experiencing an illness, a medical certificate is not a free pass to customers unable to pay for utility service. The customer’s charges during this period will accrue and eventually need to be paid to the utility, and at this point the balance may be unmanageable and lead to termination. As such, PPL submits that extending the duration of medical certificates for longer than 30 days neither balances the interests of customers with the utility, nor serves the intent behind medical certificates. (PPL Additional Comment at 6 – 8).

**Discussion**

This topic, the 30-day limit per medical certificate found in §§ 56.114 and 56.354, was addressed in the 2011 rulemaking proceeding. LICRG, Joint Commenters, CAC, Center for Hunger-Free Communities, and the Health and Housing Coalition request that the Commission consider long-term medical certificates to address chronic or long-term illnesses. These parties raise several concerns about the burden the current 30-day limit imposes on patients and health-care professionals alike, such as the need to schedule repeated appointments with a medical professional, transportation to appointments, and accessibility to medical care. However, we are reluctant to revise the regulations in this regard because the General Assembly had an opportunity to do so when it reauthorized Chapter 14 and declined. Long-term medical certificates were not provided for in the legislation and would be a very substantive addition to these regulations.

We again note that in Section 1406(f), the General Assembly declared that the “…medical certificate procedure shall be implemented in accordance with Commission regulations.” It is reasonable to assume that the General Assembly was familiar with the 30-day timeframe in the current regulations and was comfortable with it. It is also important to note that when it reauthorized Chapter 14, also as noted above, it expanded the list of medical professionals authorized to provide medical certificates to include *physician assistants*. It is not unreasonable to think that the General Assembly did this to help address the concerns with patients accessing medical care. We also remind everyone that there is no limit on medical certificates as long as the customer is paying bills per §§ 56.116 and 56.356. The limits on medical certificate usage only apply if the customer is not meeting their obligations at §§ 56.116 and 56.356.

**§ 56.356. Duty of customer to pay bills.**

While we proposed no revisions to this section, several parties filed comments related to the duty of customers to pay bills while protected by a medical certificate under the analogous section § 56.116, as discussed in detail earlier.

LICRG supports the Commission’s long-standing interpretation of §§ 56.114 and 56.116, which allows households to renew a medical certificate for as long as is medically necessary, provided the customer pays their current charges or budget bill amount as it comes due, irrespective of any arrears on the account at the time the medical certificate is first obtained. If customers were required to pay more than current, undisputed charges, the purpose of medical certificates and renewals would be thwarted. (LICRG at 38 – 39).

The CAC likewise submits that the purpose of medical certificates and renewals would be thwarted by requirements to pay more than current, undisputed charges. Requiring a customer in a time of illness and increased vulnerability to make payments in excess of current charges would fail to effectuate the fundamental purpose of a medical certificate – to interrupt the utility’s termination-collection path while a medical need for service exists. (CAC at 11 – 14).

EAP notes that low-income customers enrolled in universal service programs are asked to make good faith payments to the utility to address their debt. The purpose of this treatment is twofold: to encourage good payment behavior by the individual customer and to help ease the burden of uncollectable expenses on the remainder of the customer base. EAP believes those customers utilizing the protection of a medical certificate should be held to this same standard. (EAP at 13 – 18).

FirstEnergy notes that 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. FirstEnergy encourages 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. FirstEnergy does not believe the legislature intended for medical certificates to provide an indefinite loophole to termination. Accordingly, FirstEnergy requests that the Commission limit the number of medical certificates that may be obtained while customers continue to have an outstanding balance. (FirstEnergy at 23 – 27).

**Discussion**

Regarding §§ 56.116 and 56.356 and the customer’s obligation to pay while under the protection of a medical certificate, again the parties are continuing an argument that was also presented to the Commission in the 2011 proceeding. LICRG, Joint Commenters, and CAC urge the Commission to keep in place the regulation adopted in 2011 that requires a customer to pay current bill amounts while under the protection of a medical certificate. However, EAP, FirstEnergy, PECO and Aqua all argue that the customer’s obligation to pay should be expanded to include either part of or all of the customer’s arrearage, in addition to current bills. They argue that there is nothing to prevent a customer from filing unlimited medical certificates, and thus never having to pay toward their accumulated past arrearage.

The reauthorization of Chapter 14 did not result in any new statutory language to guide us here or require us to revise the payment obligation of the customer. While we understand the utility’s concerns with the payment of the outstanding balance, we must reject their suggestion that we require an arrangement on all current and overdue balances because this likely would be considered a *payment arrangement*, which may conflict with Section 1405(d)’s restrictions on the Commission’s authority to order payment arrangements. This same complication was present in 2011, and nothing in the reauthorized Chapter 14 provides us with anything to get past that complication. We point out that if the customer is paying their current bills as required by this section, the outstanding balance will not be increasing, meaning that the customer’s and the utility’s problems with the account balance will not be aggravated. We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer. We also point to the petition process at §§ 56.118 and 56.358 that a utility may use to contest the validity of medical certificates that they believe are being filed with the intention of avoiding any payment toward the arrearages for an extended period of time.

**§ 56.392. Commission informal complaint procedure.**

We proposed adding language to paragraph (1) to permit an informal complainant to receive a copy of the documents the utility provides Commission staff in response to an informal complaint. The opportunity to review this information is intended to protect the complainant’s due process rights. We acknowledged that there may be some relatively rare instances where these documents may refer to parties other than the complainant. In these instances, the utility is directed to redact any information that may compromise the privacy or personal security of a third party.

The CAC commends the Commission for making this information available to complainants as it is essential that individuals who have an informal complaint with their utility be able to see the information provided by the utility to the Commission. Additionally, while the Council understands the Commission’s concern for the privacy of third parties, it believes that the proposed language as written may be overly restrictive. There are circumstances in which the redaction or unavailability of information concerning third parties may impede the need for the complainant to receive information necessary to prosecute his or her claim. For instance, in the case of a tenant seeking to demonstrate that a utility has wrongfully terminated service in violation of the Discontinuance of Service to Leased Premises Act, the complainant would be specifically asserting a right as a non-customer. In such circumstance, the third party, the tenant’s landlord or its agent, may be the utility’s customer, and information about that third party is material to the complaint. There may be other circumstances in which the Commission’s determination hinges on information concerning third parties and such information should not be categorically unavailable to an affected complainant. While the CAC does not have a specific recommendation, the regulation should make clear that information relevant to the Commission’s decision should be turned over to the complainant, unless the utility demonstrates that information would jeopardize the personal security of any third party, at which point the utility should provide redacted information and an explanation of the reason for the redaction. (CAC at 14 – 16).   
  
**Discussion**

As we discussed relative to § 56.163, we are withdrawing the proposed revision of § 56.392 (as we did with the analogous § 56.163) due to the concerns expressed by some of the parties that redacting information would likely increase personnel and costs and that redacting information could delay the utilities response to the informal complaint. However, Commission staff reserves the right to have the utility provide individuals with the company report when the situation warrants it.

Though we are withdrawing the proposed language that the public utility provide the complainant with a copy of the documents submitted to the Commission staff in response to the informal complaint, we remind public utilities of the Public Utility Company Dispute Procedures found at §§ 56.151 and 56.381:

**§ 56.381. General rule.**

  Upon initiation of a dispute covered by this section, the public utility shall: ……

(5)  Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.

      (i)   If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.382 (relating to contents of the public utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.

If a utility has correctly implemented the Chapter 56 dispute procedures, and if the customer files an informal complaint, the company should have a utility company report, in writing per the above-noted regulations, on file at the time the PUC informs the utility of the filing of an informal complaint. In addition, public utilities should also be informing complainants that the written report is available to them and can be sent to complainants.

**§ 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.**

We proposed revising this language to clarify that the burden of proof remains with the party who filed the informal complaint. This language simply makes this provision consistent with existing Commission practices.

As it similarly discussed regarding § 56.173, the OCA submits that the legal standard of burden of proof is misapplied in the context of an informal complaint, and as such the proposed change is not appropriate in this context. (OCA at 32).

**Discussion**

As we did with the analogous § 56.173, we will clarify that this Section is referring to the burden of proof for the formal complaint. The proposed change to §§ 56.173 and 56.403 is also consistent with a recent Commission decision on this issue in *Kelvin Thomas*.

In *Kelvin Thomas*, the Commission noted that, “[i]n a *de novo* appeal from a decision of the BCS, the burden of proof remains with the party who filed the original informal complaint, except for legal or policy issues raised by the utility on appeal.” *Id*. at 8-9. The Commission continued that for legal or policy issues raised by the utility, “it would be absurd to impose the burden of proof concerning a legal and policy issue upon a customer who did not raise the issue and who probably has little knowledge of the issue itself.” *Id*. It is also legally correct that a party bears the burden of proof and/or persuasion on defenses it may assert against a customer’s complaint. We propose to modify the language in § 56.403 (and in the analogous § 56.173) further to allow for the exception in the case of legal and policy issues as per the Commission decision in *Kelvin Thomas*.

**§ 56.421. Payment and timing.**

We proposed revising paragraph (7) to ensure that the information notifying customers that the special protections that may be available for victims under a protection from abuse order may also now be available to those customers with a court order providing clear evidence of domestic violence and issued by a court of competent jurisdiction in this Commonwealth, per Section 1417.

OCA generally supports the addition of the proposed language but submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence. (OCA at 32).

FirstEnergy filed comments regarding § 56.191 that are relevant to § 56.421, suggesting new language addressing restoration of service where the company employee was subject of previous threats by the customer. FirstEnergy asks for additional time to restore service and to assess additional fees when dealing with such situations and customers. (FirstEnergy at 29).

PECO suggests a change be made to § 56.191(c)(2) that is relevant to § 56.421, pointing to various provisions of the regulation that states a utility must take certain actions depending upon the income level of the customer or applicant. PECO believes that when the regulations provide for disparate treatment based on income, the regulations should refer to “verified income” rather than merely “income.” Otherwise, customers and applicants can receive preferential treatment whether they truly have lower income or not. (PECO at 7).

**Discussion**

As we did regarding § 56.191, we agree with OCA that the Commission should retain its proposed language codifying the expanded statutory exemption, and then convene a working group of all interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of Section 1417 that could lead to the development of a policy statement to be applied across utility service territories. This group could also advise the Commission on other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training and consumer education materials, and confidentiality expectations for handling information about a customer’s status as a victim of domestic violence. The comments submitted on these matters, as noted above, can serve as the initial discussion points for the working groups’ exploration of these issues.

We decline to tamper with the statutory language we are incorporating into this section by inserting “verified” as PECO wishes. For similar reasons, we have concerns with FirstEnergy’s proposed five-day reconnection timeframe when a utility employee was previously threatened by an applicant or customer. As we discussed relative to § 56.191, the General Assembly set clear timeframes to reconnect service once an applicant has met all applicable conditions in Section 1407 and we prefer not to alter those timeframes. Utilities are not required to do anything that would compromise the safety of a person or the integrity of the public utility’s delivery system, and threats of violence should be brought to the attention of local law enforcement.

**§ 56.431. Public information.**

We proposed revising paragraph (13) to ensure that the information directed to customers concerning the special protections that may be available for victims under a protection from abuse order may now also be available to those customers with a court order providing clear evidence of domestic violence and issued by a court of competent jurisdiction in this Commonwealth, per Section 1417.

OCA submits that a stakeholder group should be convened to clarify the language relating to victims of domestic violence, but in general the OCA supports the addition of the proposed language. (OCA at 32).

**Discussion**

As discussed previously, we intend to convene a stakeholder group, as suggested by OCA, to further address the language concerning victims of domestic violence.

**§ 56.461. Reporting requirements.**

We proposed removing § 56.461 and moving these requirements to the new § 56.231(d). Consolidating utility reporting requirements into one section of the regulations will assist utilities in locating and complying with these requirements.

**Discussion**

No party voiced objections with our proposal to consolidate the § 56.461 reporting requirements into a revised § 56.231, so we will proceed with this consolidation as proposed.

**Appendices**

We updated the Appendices with the revised statute to include the added PFA/domestic violence notification language.  We also changed the cross references in these sections to be consistent with the other changes to each section that references the Appendices.

1. *See 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. (Public Meeting July 21, 2016) p. 5. [↑](#footnote-ref-1)
2. *See Order Seeking Additional Comment 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. (Public Meeting held July 12, 2017) p. 7. [↑](#footnote-ref-2)
3. *Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing*,

   Docket No. P-2016-2579249 (SCB Petition filed December 8, 2016). [↑](#footnote-ref-3)
4. *Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing.* Docket No. P-2016-2579249 (Public Meeting of January 18, 2018). [↑](#footnote-ref-4)
5. *See Secretarial Letter re Notice of En Banc Hearing on Implementation of Supplier Consolidated Billing*, Docket No. M-2018-2645254 (March 27, 2018). [↑](#footnote-ref-5)
6. *See Order Seeking Additional Comments 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 (Public Meeting of July 12, 2017), pp. 7 - 15. [↑](#footnote-ref-6)
7. See *Petition of PECO Energy Company for Temporary Waiver of Regulations Related to the Required Days In a Billing Period*, Docket P-2014-2446292 (Public Meeting December 4, 2014). [↑](#footnote-ref-7)
8. *See Peco Energy Company’s Pilot Plan for an Advance Payment Program Submitted Pursuant to 52 Pa. Code §56.17*, Docket No. P-2016-2573023 [↑](#footnote-ref-8)
9. *See Petition of PPL Electric Utilities Corporation for Waiver of 52 Pa. Code §56.97(a) to Allow Customers to Establish Payment Agreements Online or Through an Automated Interactive Voice Response System.* Docket No. P-2012-2327036. (Public Meeting December 22, 2016). [↑](#footnote-ref-9)
10. *See* *Petition of Peco Energy Company for a Temporary Waiver of 52 Pa. Code §56.97(a) to Allow Customers to Establish Payment Agreements Through an Automated Interactive Voice Response System.* Docket No. P-2015-2467894. (Public Meeting April 9, 2015). [↑](#footnote-ref-10)
11. *See Order Seeking Additional Comments 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 (Public Meeting of July 12, 2017), pp. 5-6. [↑](#footnote-ref-11)
12. Pennsylvania Right to Know Law (RTK), 65 P.S. §§67.101, *et seq*. For more information on the PUC’s “Right to Know” procedures, see <http://www.puc.pa.gov/filing_resources/obtain/file_information/right_to_know_policies_and_procedures.aspx>. [↑](#footnote-ref-12)
13. See *Petition of PECO Energy Company for Temporary Waiver of Regulations Related to the Required Days In a Billing Period*, Docket P-2014-2446292 (Order entered December 4, 2014). [↑](#footnote-ref-13)