



October 2, 2019

Pennsylvania Public Utility Commission  
Attn: Rosemary Chiavetta, Secretary  
400 North Street  
Harrisburg, PA 17120

Re: Chapter 56 Working Group  
Other Court Order  
Docket No. L-2015-2508421

Dear Secretary Chiavetta:

Please find attached written comments submitted on behalf of the Pennsylvania Coalition Against Domestic Violence (PCADV) related to one of three issues deferred to the Chapter 56 working group in the Final Rulemaking Order adopted by the Commission on February 28, 2019, specifically the other court order provision contained in Section 1417.

If you have any questions, please feel free to contact Virginia Lucy, Sr. Government Relations Specialist, by email at [vlucy@pcadv.org](mailto:vlucy@pcadv.org) or by telephone at 717.545.6400 x157.

Sincerely,

Virginia Lucy  
Sr. Government Relations Specialist  
[vlucy@pcadv.org](mailto:vlucy@pcadv.org)

Enclosure

cc: Patricia T. Wiedt – [pwiedt@pa.gov](mailto:pwiedt@pa.gov)  
Matthew Hrivnak – [mhrivnak@pa.gov](mailto:mhrivnak@pa.gov)

## Before the Pennsylvania Public Utility Commission

Chapter 56 Working Group  
Other Court Order  
Docket No. L-2015-2508421

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### **Comments of the Pennsylvania Coalition Against Domestic Violence Regarding “Other Court Order” Provision Related to Non-Applicability to Survivors of Domestic Violence**

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The Pennsylvania Coalition Against Domestic Violence (PCADV) appreciates the opportunity to provide comments on behalf of its network of 59 local domestic violence programs serving all 67 counties of the Commonwealth, and the many victims, survivors, and families impacted by domestic violence.

Domestic violence is a pattern of coercive behavior used by one person to gain power and control over another in an intimate or familial relationship. Domestic violence can include physical, emotional, psychological, and economic/financial abuse. The latter is perhaps the least known form of abuse, yet one of the most powerful tactics an abuser can employ to exert power and control over a victim.

Economic abuse, in which an intimate partner has control over the other partner’s access to economic resources, diminishing a victim’s self-sufficiency, occurs in nearly 98 percent of domestic abuse situations. Limiting a victim’s access to credit, or destroying their credit, sabotaging current and future access to utilities, accruing debt, creating barriers to meaningful employment, and intentionally withholding their name from a lease are some of the most common tactics an abuser can use to prevent a victim from achieving long-term financial independence and safety. Further, the inability of many victims to secure safe and affordable housing, including the existence of utility-related barriers, remains a major obstacle to the ability of survivors to break free of abusive relationships. The utilities exemptions created for domestic violence survivors are necessary to assist them in the building of independent, productive lives. However, regulatory clarity will help ensure all eligible survivors of domestic violence are able to access this powerful tool.

The Pennsylvania General Assembly was clear in its recognition of survivors of domestic violence within the non-applicability section of Chapter 14 of the Public Utility Code as deserving of protection from certain collection, billing, and termination policies and procedures. However, statutory and subsequent rule-making language contain inherent ambiguities which must be resolved in order to consistently implement the exemption for all victims of domestic violence.

First, it is unclear as to what “other court orders,” in addition to Protection from Abuse orders (PFA), may help victims qualify for these exemptions. There are many reasons why a victim of domestic violence does not file for or ultimately obtain a PFA and this in no way negates the abuse they have experienced. Domestic violence is vastly underreported and unfortunately victims continue to find their experiences stigmatized by the courts and society, leading many to seek other, less intrusive options to the PFA process. Seeking a PFA for some victims of domestic violence puts them at even greater risk for retaliation by placing them in close and often repeated proximity with their abuser during courthouse

proceedings. The time in which a victim leaves an abusive relationship is typically the most dangerous time and carries a high risk of lethality. Violent behavior typically escalates during this time as abusers often believe they are losing control of the victim when they seek a PFA order. Therefore, the inclusive language of the exemption provision has the potential to provide relief to a greater number of domestic violence survivors who do not have PFAs due to these types of risks they face in obtaining an order.

There are myriad ways that a survivor of domestic violence may be touched by the judicial system, resulting in a number of civil and criminal orders that potentially contain “clear evidence of domestic violence.” Orders governing criminal actions involving the abuser, divorce, child custody, and criminal convictions are but a few examples. No guidance currently exists as to which, if any of these orders, would be acceptable by utility companies considering an exemption for a domestic violence survivor. Any order should not be required to include a finding of abuse or be signed by a specific judicial officer as orders differ in nature, content, and legal standard and different actions are heard by different fact-finders. For instance, certain actions may be handled by a Magistrate, while others are heard before a Court of Common Pleas Judge.

Additionally, “clear evidence of domestic violence” in itself is sufficiently broad. The statute and current regulations do not define what behavior is defined as domestic violence, which can include a plethora of conduct such as financial and psychological abuse, which is sometimes more damaging to a victim’s financial capability than physical acts of violence. It is possible for a court order, such as a criminal charging order, to contain clear evidence of an act of domestic violence having occurred at the hands of an abuser, but lack information attesting to the nature of the relationship between the offender and victim, requiring interpretation by the utility company.

Guidance is also necessary to eliminate ambiguities surrounding the requirement that an order be issued by a “court of competent jurisdiction in this Commonwealth.” Are all court orders issued by a court from another jurisdiction that are enforceable in Pennsylvania acceptable to meet this requirement? Protection orders issued by courts outside of Pennsylvania are explicitly recognized and enforceable by Pennsylvania Courts, while court orders issued in one state are recognized and enforceable in all other states pursuant to the Full Faith and Credit Clause of the United States Constitution.

Regulatory guidance should specify that the exemption not be limited to currently active PFAs and other court orders, but instead all PFAs, including emergency, temporary, and final, and other court orders that were either active for the time during which there was a dispute with the utility or can be reasonably tied to the time period of the dispute. It is very common for victims to not pursue the PFA process to a final PFA order due to fear of retaliation, having the issue handled through another legal action, or various other reasons. Further, there are instances, often following the separation from their abuser, when a survivor of domestic violence no longer has two household incomes to rely on to pay their utilities or rent, or when an abuser has been ordered to pay support but fails to do so. These issues can occur outside of the time period of an active PFA, and yet the abuse is the root cause of the utility issue and the exemption should apply.

While the regulatory language mirrors statute, additional clarification on what types of court orders, from what courts, and containing what types of evidence are required for proper implementation of the exception for survivors of domestic violence. Utility companies should not be expected or permitted to use their own discretion in interpreting these orders. Employees often lack experience and education on

the issue of domestic violence and trauma. Uniform implementation of the rules will ensure victims and survivors of domestic violence are treated fairly and allowed the appropriate exemption under the law while reducing the work and training required by companies if they were to have employees each making individualized determinations on a case-by-case basis.

Adequate regulatory clarification and guidance regarding this language is imperative to ensuring that survivors of domestic violence are afforded an opportunity to live safe, independent lives. PCADV would also recommend convening separate workgroups on each of the three issues deferred to the Chapter 56 working group in the Final Rulemaking Order adopted by the Commission on February 28, 2019, so as to offer each issue thorough and adequate consideration. PCADV sincerely appreciates the opportunity to submit comments on this issue and looks forward to participating in the working group to help ensure domestic violence survivors have access to affordable utility service in their pursuit of long-term financial independence and safety.