


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 4, 2019

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

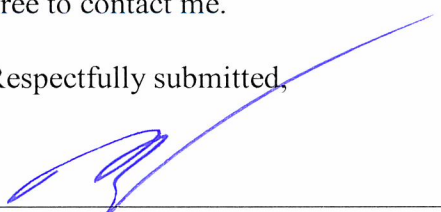
Re: Rulemaking to Amend the Provisions of 52 Pa.  
Code, Chapter 56 to Comply with the Amended  
Provisions of 66 Pa. C.S. Chapter 14  
Docket No. L-2015-2508421

Dear Secretary Chiavetta:

Attached for electronic filing are the Comments of the Office of Consumer Advocate in the above-referenced proceeding.

If you have any questions, please feel free to contact me.

Respectfully submitted,



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Attachment

cc: Matthew Hrivnak, Bureau of Consumer Services  
Patricia Wiedt, Assistant Counsel

\*279366

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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COMMENTS OF THE  
OFFICE OF CONSUMER ADVOCATE

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Dated: October 4, 2019

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## I. INTRODUCTION

On February 18, 2017, the Pennsylvania Public Utility Commission's (Commission) Notice of Proposed Rulemaking Order in the above-captioned docket was published in the *Pennsylvania Bulletin*. 47 Pa.B. 965. Through this Rulemaking, the Commission proposed amendments and modifications to its regulations regarding Standards and Billing Practices for Residential Utility Service found at 52 Pa. Code Chapter 56 (Chapter 56). The primary purpose of the Proposed Rulemaking was to promulgate regulations to implement Chapter 14 of the Public Utility Code. 66 Pa. C.S. §§ 1401-1418. Chapter 14, also known as the Responsible Utility Consumer Protection Act, was signed into law by Governor Rendell on November 30, 2004. On October 22, 2014, Governor Corbett signed Act 155 of 2014 into law, which reauthorized and amended Chapter 14. Chapter 14 applies to electric distribution companies (EDCs), natural gas distribution companies (NGDCs), water distribution utilities, wastewater utilities, and steam heat utilities.

As part of this rulemaking, the Commission sought comments on issues such as privacy guidelines, cost of compliance, credit methodology, protection from abuse orders, switching of electric generation service, the burden of proof for informal complaints, the 90-day deposit period, collections reporting, and amending the definitions of applicant, customer, and public utility. Proposed Rulemaking Order at 4-5. On April 19, 2017, the OCA submitted comments on the issues raised in the Proposed Rulemaking Order. See OCA Comments (filed Apr. 19, 2017). On July 13, 2017, the Commission entered an Order seeking additional comments on privacy guidelines, data on the usage of medical certificates, the cost and impact of regulatory changes, third-party notification of supplier switching, and customer retention of utility service pending formal appeal. See Order Seeking Additional Comments (Order entered July 13, 2017). On

September 12, 2017, the OCA submitted comments in response to the Commission's Order Seeking Additional Comments. See OCA Additional Comments (filed Sept. 12, 2017). On February 28, 2019, the Commission issued a Final Rulemaking Order adopting revised final regulations in response to stakeholder comments. See Final Rulemaking Order (Order entered Feb. 28, 2019).

On August 28, 2019, the Commission issued a Secretarial Letter establishing a Chapter 56 Working Group for interested stakeholders. Secretarial Letter at 2. The Commission has previously addressed a number of urgent issues in Chapter 56 that resulted from the Chapter 14 amendments. See Docket No. M-2014-2558824. The Secretarial Letter notes, however, that in the Commission's Final Rulemaking Order, the Commission deferred the following three issues to a working group: (1) Form of medical certificate – Section 1403; (2) Other court order – Section 1417 and; (3) Privacy guidelines – Section 1406(b)(1)(ii)(C). Secretarial Letter at 2-3. The Secretarial Letter further indicates that interested parties may file written comments on these issues on or before October 4, 2019. Id. at 4. The OCA submits the following Comments in furtherance of the issues to be discussed at the Chapter 56 Working Group.

## II. COMMENTS

### A. Form of Medical Certificate

The OCA supports the Commission's determinations regarding the form of medical certification and the Commission's modifications related to the revised Section 56.113 of the Commission's regulations, as these modifications reflect the Commission's Implementation Order and provide clarity. Moreover, the OCA agrees with the Joint Comments of Community Justice Project; Pennsylvania Utility Law Project (PULP); Disability Rights Pennsylvania; Health, Education and Legal Assistance Project: A Medical-Legal Partnership at Widener University; Homeless Advocacy Project; Housing Alliance of Pennsylvania; Pennsylvania Coalition Against Domestic Violence; Pennsylvania Health Law Project; Women's Center, Inc. of Columbia & Montour Counties; and the Women's Resource Center (collectively referred to as the Joint Commenters) regarding this important topic. See Joint Commenters Comments (filed Apr. 18, 2017) at 5-7. In the Secretarial Letter, the Commission states that the discussion reserved for the Chapter 56 Working Group includes what elements the form of a medical certificate should include, whether it should be optional, whether the medical professional's license number should be required on the certificate, and whether medical certificate formats should be posted on utility websites. Secretarial Letter at 2.

The OCA submits that medical certification should be easily accessible for both consumers and the medical community. As discussed in the comments submitted by the Joint Commenters, no specific form should be required as long as the relevant information is presented by the medical professional. Joint Commenters Comments at 5-7. Moreover, the OCA agrees with the Joint Commenters that requiring a medical professional to provide their medical license could imply to the medical community that they are open to personal liability, which could deter medical

professionals from completing medical certification for their patients. See id. at 5-6. Unfortunately, the Joint Commenters noted that the lack of clarity surrounding medical certifications “has led several of the largest healthcare systems in the state [to enact] policies that prohibit physicians from issuing medical certificates for their patients.” Id. at 7. Consumers who face a medical emergency may also be dealing with a multitude of issues, in addition to the potential loss of service. Merely scheduling and having an opportunity to meet with a medical professional can result in delays in obtaining medical certification. Medical certification should not be cumbersome or unduly time-consuming, but should instead be a simple and straightforward process. The OCA submits that medical certification procedures should ensure that medical certificates are readily accessible to consumers, the medical community, and utilities, and that no unnecessary barriers or concerns are presented to the medical community.

The OCA also agrees that a medical professional’s license number should not be required for medical certification. The medical community, in particular, tends to be overburdened with the demands of their field. Creating additional requirements for medical certification, such as requiring medical license numbers to be included in a medical certification, creates additional work for the medical field. As noted by the Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (collectively referred to as the Low Income and Consumer Rights Groups), the Commission has never requested medical license numbers for the submission of a medical certificate, and during decades of medical certification, the absence of a license number has not been an issue. Joint Comments of the Low Income and Consumer Rights Groups (filed Apr. 18, 2017) (hereinafter referred to as LICRG Comments) at 34. The OCA further agrees with the Low Income and Consumer Rights Groups that, although the General Assembly could

have required medical certification to include a medical license number, it did not choose to require a medical license number. Id.

While there is value in creating an optional, standard, statewide format to provide greater consistency regarding the application of the medical certificate rules, the OCA supports the Commission's determination that a specific standard form should not be required. Final Rulemaking Order, Attachment One at 99. The OCA agrees with the Joint Commenters and the Low Income and Consumer Rights Group that flexible form requirements would help ensure that medically vulnerable consumers can access timely relief. Joint Commenters Comments at 6; LICRG Comments at 32-35. The OCA looks forward to working with the Chapter 56 Working Group to develop a sample medical certification form that includes plain language instructions for the certifying medical professional and the consumer which clearly explains the respective obligations, rights, and responsibilities conferred by medical certification.

Moreover, the OCA agrees with Joint Commenters that the form should be publically available and easily accessible in a PDF or similar format on the Commission's website and that the Commission should encourage utilities to make the form publically available on their respective websites in order to increase visibility. See Joint Commenters Comments at 7. While the OCA acknowledges that several utility comments raised the issue of fraud regarding medical license numbers and the posting of information on utility websites,<sup>1</sup> the OCA notes that the starting point for determining whether a medical certification is proper should not be a presumption that

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<sup>1</sup> See Final Rulemaking Order, Attachment One at 100. It should be noted, however, that Aqua stated that it currently posts a medical certificate format on its website. Id.



consumers are potentially committing fraud. Instead, the medical certification process should encourage accessibility and ease of use for all parties.

Additionally, the OCA notes that it may be difficult for some consumers to obtain a timely appointment with a medical provider in order to obtain a written medical certification. The OCA looks forward to further discussion of this issue and potential solutions at the Chapter 56 Working Group. The OCA also encourages the Commission and public utilities to explore the potential of secure electronic submission of medical certificates to public utilities in order to provide further accessibility to the consumer, the medical community, and utilities. The OCA is unable to comment further on this issue without access to more data, but looks forward to attending the Chapter 56 Working Group and providing additional thoughts as this process moves forward.

B. Other Court Orders Regarding Victims of Domestic Violence

Section 56.191 is being revised to ensure that 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 customers with a court order issued by a court of competent jurisdiction in the Commonwealth, which provides clear evidence of domestic violence pursuant to Section 1417. Final Rulemaking Order, Attachment One at 116-120. The OCA notes its general agreement with the comments filed by the Joint Commenters regarding this issue. See Joint Commenters Comments at 24-27. The OCA supports the Commission's decision to convene a stakeholder meeting in order to clarify the language relating to victims of domestic violence and looks forward to participating in the discussion regarding this important issue.

C. Privacy Guidelines

In its Secretarial Letter, the Commission noted that amended Chapter 14 referenced the Commission's privacy guidelines in Section 1406 of the Public Utility Code, which relates to termination of service, and also states that electronic messaging must be consistent with the Commission's privacy guidelines. Secretarial Letter at 3; see also 66 Pa. C.S. § 1406. The Commission further noted, however, that in the Final Rulemaking Order, the Commission made changes to the corresponding regulations in Title 52, Sections 56.93 and 56.33, by simply referencing the Commission's privacy guidelines without explaining what the Commission's privacy guidelines entail. Secretarial Letter at 3. The Commission further stated that current regulations are in place that address customer confidentiality and privacy. Secretarial Letter at 3; see also Title 52 Pa C.S. §§ 54.8 (privacy of customer information), 54.43 (disclosure for licensees), 56.32 (security and cash deposits), 62.78 (privacy of customer information), and 62.114 (security of cash deposits).

As noted in the OCA's initial comments, the OCA submits that information provided by customers for purposes of personal contact should be treated as private information and should not be shared. See OCA Comments at 2-3. Currently, for example, the Commission does not allow the release of telephone numbers for any purpose.<sup>2</sup> The same treatment should be provided for e-mail addresses, numbers used for text messaging, etc. To ensure that the customer's confidential information is protected, the OCA submits that the data submitted to the public utility for purposes of personal contact should not be shared with third parties just as telephone numbers are not shared

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<sup>2</sup> See Interim Guidelines for Eligible Customer Lists, Docket No. M-2010-2183412, Final Order on Reconsideration, entered November 15, 2011; see also 52 Pa. Code § 54.8 (privacy of customer information); 52 Pa Code § 62.78 (privacy of customer information).

with third parties. The OCA appreciates the opportunity to participate in further discussion on this important topic at the upcoming stakeholder collaborative.

### III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide comments on the items to be addressed as part of the Chapter 56 Working Group. The OCA respectfully submits that the above comments will highlight the OCA's concerns relative to these specific topics and provide items to be further discussed by the Working Group.

Respectfully Submitted,



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