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October 4, 2019

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

Re: Chapter 56 Working Group | Docket No. L-2015-2508421

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Commission's August 28, 2019 Secretarial Letter at the above-referenced docket.

Sincerely,

A handwritten signature in blue ink that reads "Nicole W. Luciano". The signature is fluid and cursive, with the first name being the most prominent.

Nicole W. Luciano
Manager, Policy & Research

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Chapter 56 Working Group

: Docket No. L-2015-2508421

**COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA**

I. INTRODUCTION

Act 155 of 2014 reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa. C.S. §§ 1401 – 1419), Responsible Utility Customer Protection Act (“Act”). The Act is applicable to electric and natural gas distribution utilities and required revisions to Chapter 56 of the Pennsylvania Code, 52 Pa. Code §§ 56.1 *et seq.*, relating to the standards and billing practices for residential utility service. The Pennsylvania Public Utility Commission (“PUC” or “Commission”) began the process of these necessary revisions to its regulations at Chapter 56 in 2015. The Commission adopted a *Final Rulemaking Order* revising 52 Pa. Code Chapter 56 regulations on February 28, 2019.¹ On June 1, 2019, these final regulations were published in the *Pennsylvania Bulletin*, and were effective upon publication.

The Commission deferred its revisions related to the amendments to 66 Pa. C.S. §§ 1403, 1406, and 1417 to allow for a working group to further discuss and address necessary changes. These issues include: form of a medical certificate (Section 1403); other court order (Section 1417); and privacy guidelines (Section 1406). A Secretarial Letter issued on August 28, 2019

¹ *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, February 28, 2019, “Final Rulemaking Order.”

established this Chapter 56 Working Group, solicited written comments to be submitted by October 4, 2019, and set the first working group meeting date for October 29, 2019.

The Energy Association of Pennsylvania (“EAP or “Association”) respectfully submits these comments regarding the remaining open issues under amendments to Chapter 56 pursuant to the amendments to Chapter 14 by Act 155 of 2014 on behalf of its electric distribution company (“EDC”) and natural gas distribution company (“NGDC”) members.² EAP defers at this time to its member utilities regarding the practicality or cost implications of any specific suggestions that arise during the course of the working group process but reserves the right to comment further in the future. EAP encourages the Commission to allow the working group to be as collaborative and consensus-driven as possible.

II. COMMENTS

A. Form of a Medical Certificate

The Commission’s August 28, 2019 Secretarial Letter notes that the discussion of this issue will include “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.”³ EAP reiterates its earlier comments on these issues regarding the use and form of a medical certificate.

EAP continues to support the required inclusion of an authorized medical professional’s license number on any form or format of a medical certificate. These numbers are readily

² Electric Utility Members: Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities, Inc.-Electric Division; Wellsboro Electric Company; and West Penn Power Company. Gas Utility Members: Columbia Gas of Pennsylvania, Inc.; Pike County Light & Power Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company LLC; Peoples Gas Company LLC; Philadelphia Gas Works; UGI Central Penn Gas, Inc.; UGI Penn Natural Gas, Inc.; UGI Utilities Inc.; and, Valley Energy Inc.

³ August 28, 2019 Secretarial Letter, *Chapter 56 Working Group*, Docket No. L-2015-2508421, p. 2

accessible to the professional and therefore do not present an undue burden on the practice or the customer seeking a medical certificate. Licensed medical professionals utilize their license number for a variety of routine matters, including items such as prescriptions, in order to ensure validity and avoid fraud. Medical certifications should be included in this, and many utilities have not had any issue within their service territories successfully requesting this information from practicing professionals. Requiring the number up front saves both utility and medical staff personnel time and expedites the process for the customer.

EAP also supports a requirement that a medical certificate be on the medical professional's letterhead or other official paperwork if it is not on a utility-generated form. EAP agrees with the Commission's assessment that if the word "form" in the definition at Section 1403 were to mean a specific document, it would be too limiting given the existing practice and experience with medical certificates; it is more practical to continue to allow "form" to mean "manner" approved by the Commission. This way both a utility-generated document and one originating from the provider can be equally valid for the purpose of the requesting customer.

EAP does not agree with any proposed amendatory language to require a utility-developed medical certificate form be available publicly on the utility website. EAP member utilities believe that making the form publicly available, should they choose to develop one, would open the door for increased medical certificate abuse by way of forgery. Not all utilities will want or plan to make their own forms⁴, but in order to protect utilities and other customers from potential abuse of this protection, the utility-generated form should instead be made readily available at a medical professional's request as contrasted with one available to download on a website.

⁴ Final amended regulations at § 56.113 currently read "Public utilities *may* develop a medical certificate form." Emphasis added. Furthermore, "[t]he public utility's medical certificate may not be mandatory." EAP notes that in the course of previous discussions under this docket, EDCs and NGDCs have worked toward standardizing their medical certificate forms across the industry.

Finally, a number of commenters question the validity or scope of the fraud experienced or likely in connection with the misuse and abuse of medical certificates. Initially, utilities have already seen the elimination of oral medical certificates pursuant to Act 155 reduce instances of abuse. EAP also believes that were the medical certificate reporting required by Act 155 done on a monthly basis, instead of annually, data would show a seasonal uptick in medical certificate requests once customers are no longer protected from termination at the end of the winter moratorium.⁵ Given that the utility is not – nor should be – in the position of truly “validating” the accuracy of any particular medical condition, fraud and abuse in this area is limited to those who are willing to forge signatures or sign their own medical certificates. Beyond checking the validity of a medical professional’s license and ensuring all the required information is included, there is no practicable means for utilities to police the validity of medical certificates. The commonsense suggestions offered by EAP herein are an attempt to maintain the integrity of the process and protection for customers by discouraging abuse.

B. Other Court Order

The Commission’s August 28, 2019 Secretarial Letter indicates that the working group discussion will 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, and whether these other orders should have time limitations.”⁶ The Commission also indicates a desire to discuss the development of appropriate notice of domestic

⁵ See Final Rulemaking Order, *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, Attachment One, p. 92 regarding chart provided by Duquesne Light Company showing 19 accounts with active medical certificates in January 2017 as compared to 581 accounts with active medical certificates in August 2017.

⁶ August 28, 2019 Secretarial Letter, *Chapter 56 Working Group*, Docket No. L-2015-2508421, p. 2

violence exemptions to customers and the confidentiality expectations for handling these customers' status.

EAP reiterates its previous position that utilities are not – and should not be required to be – equipped to make judgments about what constitutes domestic violence, “clear evidence” of domestic violence, or the validity of other court orders. These are determinations best left to the courts. EAP encourages the Commission to utilize definitions already codified in other areas of Pennsylvania statute or regulation.

C. Privacy Guidelines

The Commission's August 28, 2019 Secretarial Letter notes that the working group will discuss “the Commission's privacy guidelines,” specifically what type and form of consent is needed, how that consent can be revoked or whether it expires, and allowable use or sharing of contact information provided.⁷ EAP agrees with the Commission's assessment that the General Assembly, in amending Chapter 14 via Act 155, referred to “guidelines” and not “regulations.”⁸ Guidelines, and not prescriptive regulations, are the best path forward into a future where technology and the related privacy issues are ever-evolving. Guidelines that can be easily revisited and revised as circumstances require will benefit all parties.

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,

⁷ August 28, 2019 Secretarial Letter, *Chapter 56 Working Group*, Docket No. L-2015-2508421, p. 3.

⁸ Final Rulemaking Order, *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, Attachment One, p. 56.

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 notes that existing regulation already indicates that a utility must notify the customer of the company's intent to share any data with a third party. *See* 52 Pa. Code § 54.8. Additionally, it must provide a convenient method of notifying the entity of the customer's desire to restrict the release of the private information before providing customer information to a third party. Customers may restrict the information in three ways: by returning a signed form, orally, or electronically. *Id.* The Commission could consider adding a subsection (3) under § 54.8(a) to include e-mail address.⁹

For natural gas utilities, some privacy protections are written into similar regulations on customer choice at 52 Pa. Code § 62.78. EAP notes, however, that both these privacy guidelines for utilities are contained in sections of Commission regulation that deal with consumer choice, not necessarily utility service more broadly. EAP believes it may be prudent to build upon or utilize these regulations as a basis or foundation for its own privacy guidelines going forward.

EAP believes the most straightforward way to address this issue is for utilities to clearly indicate when / where customers provide their email address that they are agreeing to permit the utility to contact them for all routine matters, which include billing, newsletters, service outage notices, and termination. Insofar as this information is clearly explained at the time the customer

⁹ § 54.8. Privacy of customer information.

(a) 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. Specifically, a customer may restrict the release of either the following:

- (1) The customer's telephone number.
- (2) The customer's historical billing data.

(b) Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, orally or electronically.

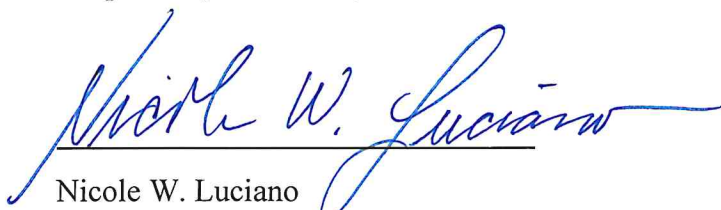
(c) Nothing in this section prohibits the EGS and EDC from performing their mandatory obligations to provide electricity service as specified in the disclosure statement and in the code.

provides the information to the utility, a separate notice regarding consent for electronic notification for termination should not be necessary. Customers should also be responsible for updating their contact information, should they opt-in to these services, as they are responsible to do with other service providers who offer electronic messaging. In fact, e-mail address protections may already be covered by individual utility company privacy practices, which also includes company business partners, agents, contractors, and affiliates.

III. CONCLUSION

The goal of the comments contained herein is to encourage the Commission to continue to strive toward an optimum balance between the two main goals of Chapter 56: protecting vulnerable customers and helping them to maintain essential utility service while minimizing costs for the remainder of the residential rate base. Any and all proposed changes to how utilities currently meet the regulations of Chapter 56 will incur costs. EAP respectfully requests that the Commission consider these comments as it attempts to resolve the above issues via this working group process.

Respectfully submitted,

A handwritten signature in blue ink that reads "Nicole W. Luciano". The signature is written in a cursive style and is positioned above a horizontal line.

Nicole W. Luciano
Manager, Policy & Research
nluciano@energypa.org

October 4, 2019