

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend the Provisions :
of 52 Pa. Code, Chapter 56 to Comply :
with the Provisions of 66 Pa. C.S., :
Chapter 14; General Review of : Dkt. No. L-00060182
Regulations :

Comments of National Fuel Gas Distribution Corporation

At its public meeting held on November 30, 2006, the Pennsylvania Public Utility Commission issued an Advanced Notice of Proposed Rulemaking Order (“ANOPR Order”) to initiate the process of promulgating regulations to administer and enforce 66 Pa. C.S. §§ 1401-1418 (commonly referred to as “Chapter 14” or “Act 201”). Pursuant to the ANOPR Order, interested parties are permitted to submit comments within 60 days from the date the ANOPR Order is published in the *Pennsylvania Bulletin*. The ANOPR Order was published in the *Pennsylvania Bulletin* on December 18, 2006.

Attached to the ANOPR Order is an Appendix A, which identifies ten primary topics that the Commission is particularly interested in receiving comments on. Regarding each topic, the Commission makes a number of specific proposed changes to its regulations at 52 Pa. Code Chapter 56. In addition to those proposals, the Commission also welcomed comments regarding any issues related to Chapter 56 that interested parties wish to raise. Although we agree that certain provisions in Chapter 56 of the regulations that are unrelated to Chapter 14 need to be updated, we caution the Commission on the practicality of allowing its rewrite of Chapter 56 to become too broad. The primary focus of the Commission and other interested parties must be those changes to the regulations that are necessary to implement Chapter 14. Opening this

process to a wide variety of topics and issues that are unrelated to Chapter 14 could substantially slow down this process and unreasonably delay the implementation of new regulations.

National Fuel Gas Distribution Corporation (“National Fuel”) appreciates this opportunity to submit comments to the Commission in advance of its Notice of Proposed Rulemaking in regards to Chapter 56 of the regulations. Some of the proposals set forth in the ANOPR Order we agree with, and some of them we do not. Regarding the issues addressed herein that we indicate we are in agreement with or not opposed to, we note that we are agreeing only with the principle of the changes proposed because most of the proposals in the ANOPR Order are general in nature. Therefore, we reserve the right to modify our opinions stated herein when the Commission later publishes its specific regulatory language for review and comment.

1. Rules that apply to victims with a protection from abuse (PFA) order and to customers of steam heating, wastewater and small natural gas companies.

Appendix A to the ANOPR Order proposes that a separate chapter to Title 52 of the Commission’s regulations needs to be created to address those customers and utilities who are excluded from the provisions of Chapter 14. National Fuel disagrees. Rather than creating a new chapter in the regulations, National Fuel submits that a better alternative is to include exceptions to individual regulations for customers with a PFA Order and utilities that are excluded from the provisions of Chapter 14.

Regarding the exclusion of steam heating, wastewater, and small natural gas companies from Chapter 56 provisions that are founded upon Chapter 14, this can be accomplished by defining two categories of utilities in the regulations. A “public utility” would be defined the same as it is in Chapter 14. A “utility” would be defined in such a way that it covers those entities that are not “public utilities” and therefore not subject to Chapter 14 provisions. Hence, if a Chapter 56 regulation applies to all utilities, it will reference both “public utilities and utilities” and if a regulation only applies to one defined group it will simply reference either

“public utilities” or “utilities”. This would avoid the unnecessary and potentially confusing duplication of a number of the regulations in Chapter 56 in a separate chapter.

Pursuant to 66 Pa. C.S. § 1417, customers with a valid PFA Order are not subject to the provisions of Chapter 14. Similar to the discussion above, rather than creating a separate chapter setting forth rules for customers with a PFA Order, it is more reasonable to include exclusions and specific rules in the regulations where necessary for customers with a PFA Order. The more difficult issue to address regarding PFA Orders is: what are the rules that apply to a customer with a PFA Order?

National Fuel submits that although Chapter 14 cannot be strictly applied to customers with a PFA Order, the Commission may look to Chapter 14 for guidance in crafting specific rules for PFA situations. For example, where a customer with a PFA Order is seeking a payment agreement, the 4 factors set forth in existing 52 Pa. Code § 56.151(3) should be used as a guideline. However the maximum length of a Commission ordered payment agreement for that customer should be limited to 5 years (regardless of their income), which is also the maximum time period for Commission payment agreements under § 1405.

National Fuel also suggests that the regulations provide some additional clarifications regarding PFAs. First, the Commission should clarify that the exclusions and special rules for PFA Orders will only be applied where it is the customer or applicant (or their minor children) that has a PFA Order. Thus, if an adult occupant of the household other than the customer or applicant has a PFA Order, Chapter 14 would still apply. Second, the Commission should clarify that the exclusions and special rules for PFAs will only be applied where a final PFA Order is in place. Where a customer or applicant has merely filed a petition for a PFA Order or acquired a Temporary PFA Order as described in 23 Pa. C.S. § 6107, Chapter 14 would still apply. Finally, the Commission should clarify that expired PFA Orders do not qualify a customer or applicant

for the exclusions and special rules applicable to PFA Orders. In accordance with 23 Pa. C.S. § 6108, the judge issuing the PFA Order will fix the duration of time the PFA Order will be effective; however, the duration may not exceed 18 months. Thus, after the time specified in the PFA Order has expired, the customer or applicant may not use it as a means to preclude application of Chapter 14 rules.

2. Previously unbilled utility service.

The Commission proposes in its ANOPR Order to amend the make-up bill rules at 52 Pa. Code § 56.14 to incorporate a 4-year limit on such billings and to maintain an obligation of the utility to offer a payment schedule for unbilled amounts consistent with the time over which the unbilled amounts accrued. National Fuel is not opposed to these proposed amendments to the regulations. However, we suggest that 52 Pa. Code § 56.14 be further modified to adjust the benchmarks that trigger this rule and to allow utilities to send customers an adjusted bill for unbilled amounts that includes a statement to the customer to contact the company if he/she desires a payment agreement.

The current benchmark for triggering the make-up bill rule is a make-up bill issued after four or more consecutive estimated bills and that exceeds the normal estimated bill by at least 50% and at least \$50. We suggest changing the standard from “at least 50% and at least \$50” to “50% or \$150, whichever is greater.” We believe that this is necessary because present gas costs are much higher than they were in 1998 when the dollar limit was added. As a result the current standard is too low, resulting in a larger number of make-up bills that require direct communications with the customers and the offer of a payment agreement. This creates an unreasonable administrative burden on companies to resolve what ultimately are minor billing errors. Our proposed change would allow a greater number of minor make-up bills to be dealt

with quickly and efficiently, avoiding unnecessary delays in collection and undue burdens on customers.

Last, we suggest that the current requirement to “review the bill with the customer and make a reasonable attempt to enter into a payment agreement” be modified to allow utilities to instead send an adjusted bill to the customer explaining the error. The current requirement significantly delays the collection process and in our experience, many customers do not want to be bothered in those circumstances where the amount in question is small. Most often they would prefer to simply pay the unbilled amount and be done with it. Under our proposed change, the customer will still receive an explanation in writing and will continue to have the ability to call the utility to seek further explanation/clarification or to request a payment agreement. Concerns about ensuring customers of their right to request a payment agreement can be addressed by requiring that such adjusted bills include a notice on the face of the bill regarding their right to call the utility to request a payment agreement.

Based on the Commission’s proposed changes and National Fuel’s proposed changes set forth above, we suggest that the regulation be modified as follows:

§ 56.14. Previously unbilled utility service.

When a **public utility or** utility renders a make-up bill for previously unbilled utility service resulting from utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill by at least 50% **and at least \$50 or \$150, whichever is greater:**

(1) The **public utility or** utility shall ~~review the~~ **send a make-up bill** ~~with to the ratepayer customer~~ **and the make-up bill shall include a conspicuous statement on its face that: “Customer may contact Company at <company phone number> to request a payment agreement.”** ~~make a reasonable attempt to enter into a payment agreement.~~

(2) The period of the payment agreement may, at the option of the ratepayer, extend at least as long as:

- (i) The period during which the excess amount accrued.
- (ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

(3) A public utility or utility may require payment of any unbilled amounts that accrued within the past 4 years for which the customer is legally responsible.

(Note – National Fuel’s changes are in **bold** type and underlined.)

3. Credit standards.

The Commission proposes a number of changes to the credit standards and procedures found in 52 Pa. Code §§ 56.31-56.38. The Commission desires to clarify acceptable applicant identification requirements; require utilities to include their credit scoring methods and standards in their tariffs; require utilities to include “other methods” of verifying occupancy for purposes of § 1407(e) in their tariffs; and a 4-year statute of limitations on assignment of liability under § 1407(d). With the exception of the proposed 4-year limitation on assignment of liability, National Fuel disagrees with the Commission’s proposals.

It is not necessary for the Commission to clarify acceptable applicant identification requirements in the regulations. In its July 14, 2005 Order re: Investigation In Re: Identity Theft at Docket No. M-00041811, the Commission acknowledged that public utilities are doing a very good job of protecting against fraud and identity theft, and therefore, we fail to see the necessity for any changes in this area. Also, regarding § 1404(d), there is no requirement in the statute that public utilities positively identify other adult occupants. Rather, it gives public utilities the right to request the names of other adult occupants and proof of their identity. Typically, the only information about other adult occupants that we may be able to acquire from an applicant is the person’s name and relationship to the applicant. To mandate positive identification of other

adult occupants is inconsistent with Chapter 14 and will only serve to lengthen and perhaps delay the application process.

The Commission should not require credit scoring methodologies and standards to be inserted in public utility tariffs because many public utilities use third party contractors for these functions and including them in the tariff would minimize flexibility. The credit scoring methodologies used by third party contractors such as Equifax and TransUnion are their trade secrets and they would likely reject any request to openly publish their methodologies in a public document like a utility tariff. Additionally, even requiring public utilities to state the name of the outside company they use in their tariffs would be too restrictive because any time a public utility desired to switch contractors due to service issues, price, etc., it would have to first make a tariff filing and receive Commission approval. Filing for a tariff change would take time and could have the unintended effect of placing the public utility's current contractor in an unfavorable bargaining position. Such a result could not have been intended by the General Assembly when it enacted § 1404(a)(2). Rather than requiring public utilities to explain in detail their credit scoring methodologies and standards, the Commission should consider providing guidance, perhaps through a policy statement rather than regulation, as to what qualifies as "a generally accepted credit scoring methodology which employs standards for using the methodology that fall within a range of general industry practice." 66 Pa. C.S. § 1404(a)(2). With that guidance in place, both the Commission and public utilities would both know what the minimum standards are and there would be no need to formalize credit scoring methodologies and standards in public utility tariffs. In this way, guidelines are established, but public utilities will still have the flexibility to change methodologies and contractors as they feel is necessary and in the best interests of their companies.

Similar to the credit scoring issue, it would likewise be too restrictive to require public utilities to specifically state in their tariffs the “other methods” used to verify that an applicant was an occupant of the premises during the time an outstanding balance accrued for purposes of § 1407(d) and (e). Creating a finite list of methods to verify residency would have an adverse impact on the variety of investigative options that public utilities currently utilize to prevent fraud and identity theft. As with the credit scoring discussion above, it would be better for the Commission to issue guidance, perhaps via a policy statement, regarding the broad types of verification techniques that are acceptable. Section 1407(e) only references formal methods of documenting a person’s residency; *i.e.*, mortgage, deed, lease, or credit report. Unfortunately, not all adult occupants are always listed in the mortgage, deed or lease, and regardless, if they were listed then they would be customers as defined in § 1403 and would clearly be responsible for the accrued balance. Although credit reports are a helpful tool we often acquire information regarding occupancy from other credible sources such as: our own business records documenting who contacted us with questions about the account/service, statements from the customer(s), statements from neighbors or landlords, etc. Usually, an applicant who is trying to perpetrate a fraud will quickly give up the ruse when challenged with supporting evidence as set forth above. However, if an applicant truly believes that the public utility is wrong, then the applicant can always file a complaint with the Commission which will approve or disapprove of the methods employed by the utility in that instance. Because proof of occupancy is a fact sensitive issue, evidence can come from a wide variety of sources that would be difficult to capture if utilities were subject to a rigid finite list of bright line rules.

4. Payment period for deposits.

As to payment of deposits, the Commission first proposes that for service restoration requests where service was terminated as described in § 1404(a)(1) that 50% of the deposit be

paid up-front as a condition of restoration with the balance due in 90 days. Second, the Commission proposes that where a customer or applicant is seeking service outside of the grounds set forth in § 1404(a)(1), that the entire deposit be paid as a condition of service. Last, the Commission proposes maintaining the existing regulations at 52 Pa. Code §§ 56.41-56.42, specifically that existing customers be permitted to pay the deposit in three installments over 60 days (ie, 50% up-front, 25% within 30 days, 25% within 60 days). National Fuel supports the proposed clarifications, however, § 56.41 will require some modification as paragraphs (2) and (3) are no longer necessary since they are addressed in Chapter 14.

5. Termination of service.

In its ANOPR Order, the Commission proposes a variety of changes to the regulations addressing termination of service. National Fuel agrees in part and disagrees in part with the Commission's proposed changes in this area.

The Commission proposes incorporating the grounds for termination set forth in § 1406(a) into 52 Pa. Code § 56.81; the termination notice provisions set forth in § 1406(b); and the grounds for immediate termination set forth in § 1406(c) into 52 Pa. Code § 56.98. National Fuel agrees with these proposals and we suggest that "user without a contract" be added as a basis for termination under § 56.81 consistent with the Commission's first *Implementation Order*, Docket No. M-00041802F0002, pgs 8-10 (Entered Order March 4, 2005).¹

The Commission also proposes maintaining 52 Pa. Code § 56.83 as it is currently written, to the extent it is found consistent with Chapter 14. This regulation provides guidance regarding circumstances where termination of service is not authorized. However, we propose eliminating subparagraphs 1, and 8-11. Subparagraph 1 allows customers to avoid payment based solely on the fact that the customer has multiple residences. This paragraph conflicts with the policy

¹ We also note that the first *Implementation Order* requires only a 3-day notice in a "user without a contract" situation as opposed to a 10-day and a 3-day notice. *Id.* at 10.

statement set forth in Chapter 14 which demands that customers pay their utility bills in a timely manner to minimize uncollectibles. Utilities should be permitted to transfer the unpaid final balance of a customer with multiple accounts from the customer's inactive service account to his/her active service account. This would avoid the delays and costs associated with trying to collect the customer's past due balance separate and apart from the customer's remaining active account(s). Subparagraph 8 excludes termination for nonpayment of bills for service already furnished in names of persons other than the ratepayer. This paragraph conflicts with § 1403, regarding the definition of customer. Subparagraph 9 excludes termination for nonpayment of charges based on estimated billings. The mere fact that a bill is based on estimated meter readings should not preclude termination of service for nonpayment. This rule delays timely collection of bills and implies that estimated billings may be paid at the discretion of the customer and as such it is inconsistent with the declaration of policy in Chapter 14 which states “. . . the General Assembly seeks to achieve greater equity by eliminating opportunities for customers capable of paying to avoid the **timely payment** of public utility bills . . . through this chapter, the General Assembly seeks to provide public utilities with an equitable means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections and by **increasing timely collections.**” 66 Pa. C.S. § 1402(2) and (3) (emphasis added). This statement of policy also requires the elimination of subparagraphs 10 and 11, which exclude termination where the total arrears are small and where the total arrears are within \$25 of the total deposit held by the public utility. Furthermore, § 1406(a)(1) imposes no minimum dollar limit on arrears, deposit balance versus total arrears or other restrictions on terminating service for “nonpayment of a delinquent account.” The limitations in subparagraphs 10 and 11 can also create difficulties with the administration of Customer Assistance Programs, particularly the default provisions of those programs.

The Commission also proposes evaluating the dispute procedures set forth in 52 Pa. Code §§ 56.92, 56.97, and 56.141-181. Regarding the dispute procedures, National Fuel submits that the regulations should be revised to distinguish between mediation/collection disputes (*i.e.*, inability to pay and payment agreement requests) and billing/service disputes. Mediation/collection disputes represent the majority of disputes received by public utilities. These types of disputes are not fact intensive and generally involve a disagreement between the utility and the customer regarding payment agreement terms. Rather than requiring submission of a formal report for these types of cases, we suggest that the Commission only require that the utility verbally provide the customer with their rights and that the utility document the discussion and the fact that rights were given in their records. Only where the dispute is about billing or utility service should a full report under 52 Pa. Code § 56.152 be required. This change would significantly streamline the dispute procedure to the mutual benefit of public utilities and customers.

Finally, the Commission stated that the procedures set forth in 52 Pa. Code § 56.94 do not appear to be impacted by Chapter 14. National Fuel disagrees and suggests the following changes:

§ 56.94. Procedures immediately prior to termination.

Immediately preceding the termination of service, a utility employee, who may be the utility employee designated to perform the termination, shall attempt to make personal contact with a responsible person at the residence of the ratepayer and shall attempt to make personal contact with the customer or a responsible person at the affected dwelling. Termination of service shall not be delayed for failure to make personal contact. The public utility shall not be required by the Commission to take any additional actions prior to termination.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists medical certification was submitted, or a dispute or complaint is properly

pending or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination shall not occur. However, if the disputing party does not pay all undisputed portions of the bill **are not paid in full**, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check **or access devices** unless the **ratepayercustomer** within the past year has tendered a **check which has been returned for insufficient funds or for which payment has been stopped payment that was subsequently dishonored, unauthorized, revoked, or cancelled.**

(Note – National Fuel’s changes are in **bold** type and underlined)

6. Winter termination procedures.

The Commission proposes a number of clarifications to the winter termination procedures set forth in 52 Pa. Code § 56.100, including verifying income and household size, eliminating the distinction between heat and nonheat accounts, making minor changes to the Cold Weather Survey, and reporting on deaths that may be linked to the lack of utility service. National Fuel agrees in part and disagrees in part with the Commission’s proposals regarding winter termination procedures.

Chapter 14 significantly modified the winter termination procedures by only restricting winter terminations for those customers whose household income is at or below 250% of the federal poverty level. The only aspect of the statute that arguably requires clarification is what duty if any is imposed upon the public utility to verify a customer’s household income and size prior to terminating service in the winter. The Commission has already addressed this issue (at least in part) in its Second Implementation Order at Dkt. No. M-00041802F0002. The Commission acknowledged that customers are the best source of information about household income and size and it acknowledged that public utilities regularly document this information in their records. Thus, the Commission determined that public utilities may use their existing records and data gathered from customers about household income and size to determine

whether a customer is part of the protected class under § 1407(e). Where the company has no information on a customer's household income and size, it shall make a diligent good faith effort to obtain that information before commencing termination procedures. However, to ensure that customers cooperate in providing this information, we suggest that the regulation state that where a customer refuses or is otherwise uncooperative in providing requested income and household information that the customer's household income be presumed to be greater than 300% of the federal poverty level. This would ensure that customers whose income is above 250% of the federal poverty level cannot avoid or delay termination of service by refusing to answer questions about household income and size.

The Commission also proposes eliminating the distinction between heat and nonheat accounts for purposes of the winter termination procedures. Although § 1406(e) does not expressly make a distinction between heat and nonheat accounts, such a distinction can be inferred because the provision is specific to cold weather months and was obviously intended to supersede 52 Pa. Code § 56.100 which is also limited to heat accounts. Nonheat accounts are not weather sensitive and there is no rational basis (*ie*, a health or safety reason) for providing protection for these accounts. The General Assembly cannot have intended to create a protection where protection is not justified. By limiting the protection to the winter months (and even titling the section "Winter termination") the General Assembly clearly intended to limit the applicability of § 1406(e) to heat accounts that are weather sensitive.

The Commission further proposes amending the survey provisions of 52 Pa. Code § 56.100 to require updates to the Commission throughout the winter. National Fuel is not opposed to this suggestion, however, we propose that only one update be required by the midpoint of the season, February 1st.

Regarding the cold weather survey, the Commission also proposes clarifying that all grounds for termination should be included in detail in the survey, and clarifying the timeframe for terminations that qualify for surveying. National Fuel questions the need to include a detailed breakdown of terminations other than nonpayment. Detailed information on terminations other than for nonpayment is not relevant to the cold weather survey, which is intended to document public utility attempts to reach agreements with customers who were shut off for non-payment. The Commission's proposal would add a new layer of detail that is not necessary to accomplishing the basic goal of the survey which is to document: 1) how many customers have their service off going into the winter, and 2) how many customers are off due to nonpayment. Regarding the timeframe for those terminations that should be included in the survey, National Fuel proposes limiting the survey to terminations that occurred in the current calendar year. Terminations occurring between the time the survey is performed and December 31 would be captured in the survey update referenced above. Customers who have been without gas service for more than a year have likely either vacated the premises or switched to an alternate heat source. That being the case, there is no benefit to including terminations that are more than one year old in the survey. In fact, including these older terminations would unreasonably bolster the total customers-off number included in the public utilities' survey reports.

Finally, the Commission proposes that public utilities provide a report to the Commission anytime they become aware of a death that may be linked to the lack of utility service. This proposal is unjustified and creates an unfair duty on public utilities. Requiring such a report would force public utilities to open the door to litigation because the report, even in the most general sense, would represent an admission by the public utility of some "possible" involvement in the decedent's death. The proposed report would establish a potential causal link that

plaintiffs' attorneys will not ignore and the report could be a very persuasive piece of evidence against the public utility's legal position, which will be crippled from the start due to the mere existence of the proposed report. Public utilities are already easy targets for frivolous litigation and the proposed report would only serve to exacerbate this problem.

7. Emergency medical procedures.

The Commission proposes clarifying the emergency medical procedures by establishing that a customer's household (*i.e.*, account) will be limited to one original and two renewal medical certifications filed for the same set of arrearages. If the customer eliminates the arrearage, the customer would again qualify for a medical certification. National Fuel is not opposed to these proposed modifications, and furthermore we suggest that a limitation be imposed on the timeframe for requesting renewals. We propose that renewal requests must run consecutively. For example, if a customer receives a medical certification just prior to winter, then they would not be able to request a renewal of the medical for the same condition in the Spring (3 or 4 months later). Allowing customers to spread out their renewals over extended periods of time would allow a loophole in the procedures whereby customers could game the system to avoid termination of service, which is a practice that Chapter 14 is intended to prevent.

Another aspect of medical certifications that needs to be clarified by the Commission is: what constitutes a serious illness or medical condition that will be aggravated by cessation of service? In answering this question, it is worthy to note that the subchapter for these procedures in the regulations is titled *Emergency Provisions*. The term "emergency" is defined as "a sudden unexpected happening; an unforeseen occurrence or condition; perplexing contingency or complication of circumstances; a sudden or unexpected occasion for action; exigency; pressing necessity." *Black's Law Dictionary*, Abridged 6th ed. p 361. Based on this definition, we question why a customer with a pre-existing chronic, lifelong or long-term illness or medical

condition such as asthma, diabetes, upper respiratory problems, etc., qualifies as an emergency condition that warrants approval of a medical certification to stay termination of service. This ambiguous aspect of the medical certifications has allowed for the procedures to change from their original (and still appropriate) intended purpose to provide short-term relief from a medical emergency to what is currently a free pass to avoid termination or have service reconnected based upon **any** medical condition that a customer can convince a physician to sign-off on. The Commission needs to narrow the qualifications for medical certifications by defining what a serious illness or medical condition is. We propose adding a definition similar to the following to the regulations:

Seriously ill or medical condition– a non-chronic illness or medical condition that arose or was diagnosed within the past 60 days, and that is likely to permanently or materially impair the health of the individual and, in the opinion of a physician or nurse practitioner, would be aggravated by cessation of public utility service.

Including a similar definition in the regulations would appropriately narrow the scope of the medical certification procedures to emergency situations. It is also unclear who qualifies as a “licensed physician” under § 1406(f). We recommend that the Commission clarify that a “licensed physician” is a professional with an M.D. or its equivalent.

8. Commission informal complaint procedures.

The Commission proposes making a number of changes to the informal complaint procedures to make them consistent with Chapter 14. For example, the Commission proposes incorporating the payment agreement limitations set forth in § 1405 and the prohibition on payment agreements for customers participating in a CAP. National Fuel agrees with these proposals and agrees with the Commission’s position that the Commission may still address CAP-related disputes and issues.

The Commission also proposes to make changes to address the role of the Commission in situations involving a reconnection of service. Although the ANOPR does not mention any

specific proposals regarding reconnections, we believe that § 1407 is clear and is controlling in a reconnection situation. However, we propose that the regulations incorporate the Commission's clarification in *Crawford v. National Fuel*, Pa. P.U.C. Docket No. C-20066348 (Initial Decision entered Oct. 26, 2006 and made final pursuant to 66 Pa. C.S. § 332(h) on December 1, 2006) that the Commission cannot issue a § 1405 payment agreement to a customer in a § 1407 reconnection situation. In *Crawford*, the Commission stated in its Conclusions of Law that:

“2. When a customer of a utility within the Commission's jurisdiction defaults on two payment agreements the customer entered into with the utility and the utility lawfully terminates the customer's service for nonpayment, the utility may demand that the customer pay the outstanding account balance and reconnection fee before reconnecting the customer's service. 66 Pa. C.S. § 1407.

3. Under the circumstances set forth in Conclusion of Law number two, if the customer files an informal complaint with the Commission's Bureau of Consumer Services, that bureau does not have the statutory authority to render a payment arrangement. 66 Pa. C.S. § 1407.”

Id. at 8.

Thus, the Commission should clarify that the Bureau of Consumer Services should issue payment agreements consistent with the guidelines set forth in § 1407 and if the customer has defaulted on two or more payment agreements, then the Bureau of Consumer Services does not have jurisdiction to provide a payment agreement to the customer and it should either refuse to accept the complaint or, if accepted, promptly dismiss it.

The Commission also proposes to modify 52 Pa. Code § 56.163 to establish a specific time frame for utilities to respond to informal complaints. Specifically, the Commission is proposing a time frame of 30 days and where the customer's service is off the time frame is narrowed to 5 days. National Fuel is not opposed to establishing time frames within which the utility is required to file its response to an informal complaint. However, the desire for strict time requirements for filing the utility company report further emphasizes the need for the Commission to distinguish between collection/mediation disputes (*i.e.*, a payment agreement

request) and a billing/service dispute as discussed in Section 5 above. If the Commission were to allow a short-form report for mediation/collection disputes, which represent the majority of informal complaints, then a 30-day filing requirement could be reasonable.² The current practice of requiring follow-up “random” long forms is unnecessarily time consuming for both parties.

National Fuel does not agree that in a reconnect situation that the utility should be required to file its report within 5 days. A special time frame for filing reports in a reconnect situation is not warranted. Where a customer fails to file a prompt informal/formal complaint with the Commission after receiving an unsatisfactory response from the public utility and the customer’s service is terminated or if the customer has been shut off for an extended period of time, the customer should not receive the benefit of expedited treatment of his/her case. Regardless of the substance of the complaint, the utility should be permitted at least 30 days to file its report.

Finally, if the Commission feels it is necessary to specify a time frame within which utilities are to submit their reports in response to informal complaints, then the Commission should likewise establish a specific time frame within which the Bureau of Consumer Services should issue a ruling on the informal complaint (*e.g.*, 60 days). Timely decisions on customer complaints would be mutually beneficial to all parties involved.

9. Restoration of service.

The Commission proposes requiring utilities to state in their approved tariffs the procedures and standards used to determine residency for purposes of § 1407(d) and (e). National Fuel disagrees that these procedures and standards should be included in company tariffs. Similar to the discussion on credit scoring above, including such specific standards in the tariff would be too restrictive and would have a chilling effect on the variety of standard and

² A short-form report would be limited to the utility’s position regarding that claim.

creative investigative options that public utilities currently utilize to verify a person's residency. However, it may be appropriate for the Commission to provide guidance via policy statement as to what are acceptable means of proving residency for purposes of § 1407(d) and (e).

The Commission also proposes applying a 4-year statute of limitations on collections under § 1407(d) and (e), clarifying that the reconnect time frames in §1407(b) refer to calendar days, and clarifying that a customer satisfying restoration requirements in the winter months shall have service turned on within 24 hours regardless of when the termination occurred.

National Fuel is not opposed to these proposals.

10. Reporting requirements.

Regarding the monthly collection reporting requirements in 52 Pa. Code § 56.231, the Commission proposes modifying the regulation to include Class A water utilities and to incorporate the guidance set forth in its Final Order of July 24, 2006 *re: Biennial Report to the General Assembly and Governor Pursuant to Section 1415* (M-00041802F0003). National Fuel agrees that the 231 Report in its current form is adequate and does not require further revision.

11. Miscellaneous.

In addition to the numerous proposals suggested in the ANOPR Order, National Fuel also suggests that the Commission consider making two changes regarding transfer of accounts and meter reading.

Transfer of accounts is generally addressed in 52 Pa. Code § 56.16. Under this regulation, a customer has a duty to provide notice to the utility at least 7 days in advance of having service discontinued. Problems arise, however, where the meter is located indoors and the utility requires access in order to get a final meter reading and to lock the meter.

Unfortunately, this regulation has been interpreted as precluding public utilities from billing customers for gas services provided beyond the 7-day notice period. As a result, the public

utilities have to write-off the amounts not billed beyond the 7-day notice period. Preferably, public utilities should be permitted to bill the customer for all amounts used at the premises through the date the utility is finally permitted access to read and lock the meter. The current practice rewards customers for their lack of cooperation with respect to both the advance notice requirement and their duty to allow access to our equipment and facilities. Public utilities should be permitted to bill customers for services provided beyond the 7-day notice period if the customer does not provide or arrange for access to the meter. Such a rule would be consistent with the declaration of policy set forth in § 1402.

National Fuel also suggests that two changes be made to 52 Pa. Code § 56.12. First, the Commission should modify paragraphs (a)(i) and (ii) to allow for customers to provide meter readings via the telephone or the internet. Technological advances in phone and web-based systems are less expensive and far superior to the existing postcard reporting method. Present phone and web-based systems allow for a user-friendly reporting system that allow data to be quickly and efficiently recorded in the billing system and that can provide immediate feedback to customers if the submitted reading is inconsistent with prior readings. Second, under paragraph (4), utilities may estimate bills where they are unable to gain access to their meter; however, at least once every 12 months the utility must acquire an actual reading. National Fuel requests that the Commission consider changing this paragraph to permit for “a company or a customer” reading every 12 months. In many households, all adult occupants work during the business day, which can make it difficult to acquire a company reading at the residence even once per year. This is not due to a lack of diligence on the utility’s part or a lack of cooperation on the customer’s part. Our schedules simply do not match up. To resolve this modern dilemma, the Commission should allow for customer readings at least once every 12 months. Additionally, technology used in calculating estimated bills has substantially improved and is much more

reliable than it was when this regulation was first written. This would be more convenient for both the utility and customers, who often become frustrated with and aggravated by repeated requests to provide us access to their residence.

Conclusion

In conclusion, we encourage the Commission to focus its efforts in this rulemaking proceeding on those changes to the regulations that are necessary to implement Chapter 14. The starting point should be a close review of those sections of the regulations that are specifically referenced in Section 4 of Act 201. Again, there are some provisions in the regulations that are unrelated to Chapter 14 that need to be reviewed and updated; however, the Commission's review of such provisions should be kept to a minimum.

Respectfully submitted,
National Fuel Gas Distribution Corporation

Date

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CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing was served upon the following in the manner indicated:

By U.S. Mail

PA Public Utility Commission
Bureau of Consumer Services
P.O. Box 3265
Harrisburg, PA 17105-3265

PA Public Utility Commission
Law Bureau
P.O. Box 3265
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Dated: February 13, 2007

Christopher M. Trejchel

February 14, 2007

James J. McNulty, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 1710503265

Re: Comments of National Fuel Gas
Distribution Corporation
Docket No. L-00060182

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen copies plus one copy on diskette of National Fuel Gas Distribution Corporation's comments in the above-referenced matter.

Very truly yours,

Christopher M. Trejchel

CMT/cjc

Enclosures