**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

Harrisburg, PA 17105-3265

 Public Meeting held August 27, 2009

Commissioners Present:

 James H. Cawley, Chairman

 Tyrone J. Christy, Vice Chairman

 Kim Pizzingrilli

 Wayne E. Garnder

 Robert F. Powelson

Rulemaking to Amend the Provisions of 52 Pa. Code, Docket No. L-00060182

Chapter 56 to Comply with the Provisions of 66

Pa. C.S., Chapter 14; General Review of Regulations;

Blanket Waiver of 52 Pa. Code § 56.21 Relating to

Physical Delivery of a Bill

**ORDER**

**BY THE COMMISSION:**

 By order entered March 12, 2009 at P-2009-2082012, the Commission granted a petition filed by T.W. Phillips Gas and Oil Co. (“T.W. Phillips”) for a limited waiver of the provisions of 52 Pa. Code §§ 56.11 and 56.21 to permit T.W. Phillips to provide an electronic billing (“e-billing”) option to its customers in lieu of a traditional paper bill. Pursuant to that same order, the Commission issued a Secretarial Letter seeking comments from all utilities that have implemented e-billing programs regarding the successes and failures of their individual programs by April 20, 2009. Commission staff was thereafter to review all comments filed and issue a report to the Commission with a recommendation on whether the Commission should issue a blanket waiver permitting e-billing pending final disposition of the rulemaking at the above-captioned docket.

 For the reasons set forth in this order, we will grant a blanket waiver of 52 Pa. Code §§ 56.11 and 56.21 to allow all fixed utilities the ability to provide an e-billing option in lieu of a traditional paper bill pending the promulgation of the final regulations of Chapter 56 in the instant proceeding.

**Background**

 Many gas, electric, water, and telephone utilities have begun to offer voluntary e-billing services. Some utilities have sought waivers from the Commission to do so, while others have not. As stated above, the order entered March 12, 2009, at P-2009-2082012, granted a petition filed by T.W. Phillips for a limited, partial, and temporary waiver of 52 Pa. Code §§ 56.11 and 56.21, allowing T.W. Phillips the ability to provide an e-billing option to its customers in lieu of a traditional paper bill.

 In the Secretarial Letter dated March 31, 2009, that was directed to be sent in the same order, the Commission asked all utilities that have implemented e-billing programs, whether or not they first obtained a waiver from the Commission, to file comments regarding the successes and failures of their individual programs. Specifically, the Commission asked the fixed utilities to address the following aspects of e-billing:

 1) The scope and description of current e-billing programs;

 2) The current levels of participation in current e-billing programs;

 3) Any changes to tariffs made or which should be made to tariffs to implement e-billing;

 4) Description of any changes made to current e-billing programs ` since the inception of the programs;

 5) Information that was or will be contained in bill inserts and other communications to customers explaining e-billing along with copies of those documents; and

 6) Any other concerns regarding e-billing that the PUC should consider.[[1]](#footnote-2)

 Nineteen parties filed comments in response to the Commission’s Secretarial letter on e-billing and payment. The nineteen parties are: PECO Energy (“PECO”), Citizens Electric of Lewisburg (“Citizens”), Duquesne Light, FirstEnergy, PPL Electric Utilities (“PPL”), Allegheny Power, Equitable Gas (“Equitable”), National Fuel Gas (“NFG”), UGI Distribution Companies (“UGI”), T.W. Phillips, Columbia Gas, Philadelphia Gas Works, Aqua Pennsylvania, United Water Pennsylvania and United Water Bethel, York Water, Energy Association of Pennsylvania, Office of Consumer Advocate, Action Alliance, and Public Utility Law Project.

 The following is a brief summary of the comments filed by the nineteen parties organized by the six topics noted above.

 **1. The scope and description of current e-billing programs**

 Most of the e-billing programs implemented by the fixed utilities are relatively new, beginning in the last ten years. The programs used by the varying utilities are similar, with the main distinction being that some utilities choose to use a third-party vendor to operate their program, while others operate their program in-house. Regardless of who operates the program, generally the customer will receive an e-mail notification when their e-bill is ready for viewing. The e-mail will include a link that connects a customer to a secure, password-protected website where they can view their electronic bill. On this website, the customer may also view bill messages, inserts, newsletters, etc. that usually accompany a paper bill, and can pay their bill with a credit card, or can choose an option of having their bill directly debited from their bank account each month. No fee is charged to participate in e-billing, and a customer can cancel the service at any time.

 **2. The current levels of participating in current e-billing programs**

Currently, most utilities have reported that 10% or less of their customers are enrolled in their e-billing programs. For example, 8.3% of PECO’s customers currently partake in e-billing, whereas only 0.5% of Equitable’s customers are enrolled in their e-billing program.

 **3. Any changes to tariffs made or which should be made to tariffs to implement e-billing**

 The consensus from the comments made by the participating utilities is that no changes need to be made to their tariff language in order to implement e-billing since the tariff is not an effective communications tool for most residential customers.

 **4. Describe any changes you have made to your e-billing programs since the inception of the programs**

Overall, few parties have made substantial changes to their e-billing programs. Most of the reported changes are ministerial, that have little effect on the programs as a whole. For example, Citizens added hyperlinks to bill inserts, and PPL began implementing its program in-house.

 **5. Information that was or will be contained in bill inserts and other communications to customers explaining e-billing along with copies of those documents**

The fixed utilities commented that they use a variety of ways to inform their customers about their e-billing programs. Most use bill inserts, and include messages on their websites. Others like PPL and Equitable have “on-hold messages” that explain the service to callers. Further, PPL ran a television advertisement in 2007 and includes information about e-billing on the outside of their customer’s printed bill.

 **6. Any other concerns regarding e-billing that the PUC should consider**

 Overall, the fixed utilities have reported that their programs are successful. PECO recommended that the Commission not regulate the form of electronic bills because it would allow the utilities to have more flexibility in implementing their programs and using technology. PPL believes the reason participation in e-billing is low is because customers still have some security concerns.

 In addition to the above topics, NFG and UGI stated in their comments that it would be an inefficient use of Commission resources to have each fixed utility apply separately for a waiver of its regulations in relation to the e-billing option. NFG and UGI stated that they were in favor of the Commission issuing a blanket waiver of 52 Pa. Code §§ 56.11 and 56.21 to allow the use of an e-billing option in lieu of a traditional paper bill.

**Discussion**

 As discussed above, the e-billing process that has routinely been approved by the Commission in waiver requests filed by fixed utilities allows the utilities to administer to its customers who voluntarily enroll, electronic notifications regarding their bill, in lieu of sending a traditional paper bill. Participation in e-billing is voluntary and customers can stop the service at any time. Furthermore, many other utility providers have already begun to offer e-billing services without seeking a waiver.

 Section 56.21 states that a bill is due within 20 days of transmittal, or “the date of mailing or physical delivery.” 52 Pa. Code § 56.21. Section 56.11 requires that a utility “render” a bill every month. 52 Pa. Code § 56.11. Since “render” is not defined, this portion of section 56.21 must be waived before e-billing can be offered. In addition, fixed utilities must provide notice to their customers who may be affected by the exemptions from sections 56.21 and 56.11 by including a bill insert notifying the customers about the exemption or providing notice in some other reasonable manner. 52 Pa. Code § 56.222.

 The Chapter 56 regulations were first promulgated in 1978, well before e-mail was readily available to customers. Currently, section 56.21 is being reviewed as part of a rulemaking proceeding at L-00060182 to facilitate the move towards a greater use of technology. As part of this rulemaking, the Commission is proposing revisions to facilitate the use of e-billing while safeguarding the interests of customers. Currently, the proposed regulation expressly authorizes a utility to provide e-billing in lieu of mailing a traditional paper bill to customers. It also provides that participation in e-billing is voluntary, that customers may revert to receiving a bill by regular mail at any time, and that the electronic bill will contain all the information normally included in a paper bill.

 The T.W. Phillips order at P-2009-2082012, directed certain steps to occur before we could determine whether to grant a blanket waiver. These steps included first issuing a Secretarial Letter and asking fixed utilities to file comments on e-billing. This step was completed on March 31, 2009. Next, Commission staff had to review the comments and provide a recommendation. The staff report and recommendation to grant a blanket waiver as to the e-billing option pending final disposition of the rulemaking was issued on July 10, 2009. After reviewing the staff report and the comments filed by participating fixed utilities in response to the Secretarial Letter, we agree that the continued use of e-billing and the issuance of a blanket waiver of that portion of section 56.21, which will allow for the use of e-billing pending promulgation of final regulations in this proceeding, is in the public interest; **THEREFORE,**

 **IT IS ORDERED:**

 1. That a blanket waiver of the Commission’s regulation at 52 Pa. Code

§ 56.21 that specifies “the due date for payment of a bill may be no less than 20 days from the date of transmittal; that is, the date of mailing or physical delivery by the utility to the customer” is granted to allow for e-mail notifications of billing to customers who have voluntarily elected to participate in e-billing. In the event of a failed delivery of the first e-mail communication, the utility or its designee must mail the customer a hard copy of the bill via United States Postal Service, using the bill address on file, with the new date commencing 20 days from the transmittal of the hard copy.

 2. That any fixed utility that adopts an e-billing option pursuant to this order will provide, consistent with 52 Pa. Code § 56.222, all customers with a bill insert explaining the e-billing program and notifying the customers of their option to choose e-billing.

 3. That all other provisions of 52 Pa. Code § 56.21 remain in effect.

 4. That a copy of this order will be served on the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff.



 **BY THE COMMISSION**

James J. McNulty

 Secretary

(SEAL)

ORDER ADOPTED: August 27, 2009

ORDER ENTERED: September 2, 2009

1. Unless otherwise indicated, all background information is from Staff Report on Electronic Billing and Payment March 31, 2009, Secretarial Letter L-00060182 (Report dated July 10, 2009). [↑](#footnote-ref-2)