

# PENNSYLVANIA UTILITY LAW PROJECT

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May 17, 2010

**Via Electronic Filing (E-filing)**

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Petition of PPL Electric Utilities Corporation for a Declaratory Order Regarding a Pilot to Expand Website and Interactive Voice Response Capability to Allow Customers the Option of Setting Up a Payment Agreement or, in the Alternative, a Two-Year Waiver of 52 Pa. Code §56.97(a)  
Docket No. P-2010-2168786**

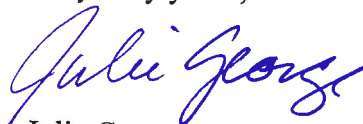
Dear Secretary Chiavetta:

Enclosed for filing is the Answer of Maryellen Nentwig, in the above referenced proceeding.

Copies have been provided to all parties as indicated on the enclosed Certificate of Service.

Please contact me directly if you have any questions. Thank you.

Very truly yours,

  
Julie George

Encl.

cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PPL Electric Utilities  
Corporation for a Declaratory Order  
Regarding a Pilot to Expand Website  
and Interactive Voice Response  
Capabilities to Allow Customers the  
Option of Setting Up Payments  
Agreements or, in the Alternative, a  
Two-Year Waiver of 52 Pa. Code §  
56.97(a)** :  
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**ANSWER OF MARYELLEN NENTWIG**

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Dated: May 17, 2010

## I. INTRODUCTION

PPL Electric Utilities Corporation (“PPL” or “the Company”) filed a Petition on April 7, 2010 which requests that the Public Utility Commission (“PUC” or “the Commission”) permit the Company to arrange payment agreements through the Company’s website or interactive voice response system (IVR) for customers facing termination. The Pennsylvania Code requires that before termination, an “authorized utility employe[*sic*]”<sup>1</sup> fully explain the reasons for and avenues to avoid termination under the “Procedures upon Ratepayer or Occupant Contact Prior to Termination.” 52 Pa. Code §56.97(a). PPL is seeking a Declaratory Order from the Commission to define the website and IVR system as “authorized utility employees” within the meaning of the code, or in the alternative, PPL request a two-year waiver of §56.97(a) to implement a pilot program that would allow customers facing termination to use the website or IVR make payment arrangements.

Maryellen Nentwig, a low income customer of PPL, has filed a Petition for Intervention in the above captioned proceeding. She respectfully requests that the Commission deny PPL’s request for declaratory order. PPL’s request for declaratory relief rests on the assertion that there is uncertainty in the phrase “authorized utility employee.” Petition at ¶9. There is none. A complete reading of §56.97(a) and (b) makes it clear that neither a website nor the Company’s IVR system could come under the meaning of an employee.

Additionally, Maryellen Nentwig does not support a two-year waiver of §56.97(a) for PPL to implement a pilot program to use their website and IVR as a means for customers to enter into payment agreements to avoid termination. First, the purpose of §56.97 is to afford customers in danger of termination the protection of speaking directly with a person in the form

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<sup>1</sup> Maryellen Nentwig notes the word “employee” is incorrectly spelled “employe” in the original text of the regulations and in PPL’s quotation of that regulation. That misspelling will be corrected throughout these comments without further notation.

of an authorized company employee to try to achieve a payment agreement in order to avoid termination. Second, the term “pilot program” incorrectly identifies the nature of the expansion of the website and IVR that PPL describes in its Petition. There is no control group identified and no safety net that insures that customers who participate are not harmed by the program. The “pilot program” is to be promoted to the entire customer base and there is no plan described to evaluate the effectiveness of the program or how customers may be harmed by the waiver. Finally, a waiver of §56.97(a) would lower the quality of consumer protections in violation of the Electric Choice and Competition Act §2807(d).

## II. COMMENTS

### A. Section 56.97 is Unambiguous on the Requirement of Actual Customer-Employee Contact for Ratepayers or Occupants Facing Termination

Maryellen Nentwig requests that PPL’s Petition for a declaratory order be denied. PPL’s request for declaratory relief rests on the premise that there is uncertainty in the §56.97(a) protections for customers at risk for termination. PPL claims a series of prompts through a telephone system or website could be interpreted to be an “authorized utility employee.” Petition at ¶31. The Company states that prompts and/or screens will have account information and “Payment Assistance Options,” as well as terms of other universal service programs. Petition at ¶19. PPL also encourages a wide interpretation of the requirement for an authorized employee to “‘explain’ the reasons for the termination.” Petition at ¶30. PPL seeks the Commission to declare that their Website and IVR system satisfies the requirements of §56.97(a).

Contrary to the assertion contained within PPL’s Petition, §56.97(a) does not leave room to interpret a website or automated phone system to be an “authorized utility employee.” The

regulation describes the information and procedures the employee is required to “fully explain.”

Section 56.97(a) states:

- (a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a ratepayer or occupant contacts the utility concerning a proposed termination, an authorized utility employee shall fully explain:
  - (1) The reasons for the proposed termination.
  - (2) All available methods for avoiding a termination, including the following:
    - (i) Tendering payment in full or otherwise eliminating the grounds for termination
    - (ii) Entering a settlement or payment agreement
  - (3) The medical emergency procedures

This regulation is a protection for both ratepayers and the occupants of the household; it requires that all the information be made clear to the customer. Interpreting an “authorized utility employee” to include the website or IVR devalues the role a live representative plays in helping customers at risk of termination. PPL acknowledges this value when they proposed to require personal contact when a customer is within three days of termination. PPL recognizes that customers who have received a termination notice are a vulnerable population. The proposed expansion of the website and IVR would prohibit customers from making a payment agreement through the new technologies and require them to contact a Customer Service Representative, if they are within three days of termination. Petition at ¶37. This extra protection for customers at risk of termination is vital, which is why the regulations require it for all recipients of a termination notice, not just those within three days of losing vital electric service.

PPL asserts that website and IVR will use the same criteria for establishing payment agreements as a Customer Service Representative. Petition at ¶20. This implies a static formula for every customer seeking to establish a payment agreement. PPL’s Petition makes no mention

of §56.97(b), which further supports that contact with an actual person is required and that “authorized utility employee” has a crucial and dynamic role in that interaction with a customer facing shutoff. Section 56.97(b) states:

- (b) The utility, ***through its employees, shall exercise good faith and fair judgment*** in attempting to enter a reasonable settlement of payment or otherwise equitably to resolve the matter. Factors to be taken into account when attempting to enter into a reasonable settlement or payment agreement include the size of the unpaid balance, the ability of the ratepayer to pay, the payment history of the ratepayer and the length of time over which the bill accumulated. If a settlement or payment agreement is not established, the company shall further explain the following: (emphasis added)
  - (1) The right of the ratepayer to file a dispute with the utility and, thereafter, an informal complaint with the Commission.
  - (2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania, 17105-3265, (800) 692-7380.
  - (3) The duty of the ratepayer to pay any portion of a bill which the ratepayer does not honestly dispute.

When read as a whole, §56.97 cannot be interpreted to substitute a website or an interactive voice response system for a customer representative. “Good faith” and “fair judgment” are uniquely human traits that cannot be simulated via a web or voice interface. Section 56.97 is worded so customers at risk of termination are given every opportunity to both understand their situation and their options and to enter into an agreement that is “reasonable” and “equitably” resolved; achieved through human interaction, not through automated response. PPL promotes the website and IVR as a logical method for customers to communicate with PPL in a convenient and timely manner. Petition ¶¶ 14-15. Maryellen Nentwig supports the expansion of communication methods for customers in general, but in expanding those methods of

communication, customers in vulnerable positions and facing potential loss of service should never have their available regulatory protections diminished.

PPL's argument that there is uncertainty in §56.97 is without merit and the Commission should deny their Petition.

B. Providing PPL with a Waiver for the §56.97(a) Requirements Would Improperly Eliminate Protection Provided to Customers at Risk of Termination

1. *The Protections Afforded by Actual Personal Contact are Valuable and Not a Hardship to PPL*

There is a public policy implication from the language used in the §56.97 protections that the Commission seeks to promote actual contact with a live representative and customers facing termination. The phrase "authorized utility employee" is a unique one and is not found anywhere else in Chapter 56. Its distinction makes clear the mandate the Commission was issuing to provide comprehensive support to help customers avoid termination of essential utility service. The PPL Petition asserts that granting the waiver will benefit customers. However, the true result would be negating existing protections for customers facing termination. The Company cites 52 Pa. Code §56.222 as grounds to justify a waiver. Petition at 1.

§56.222. Application for modification or exemption

- (a) If unreasonable hardship to a person or to a utility results from compliance with a section in this chapter, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

This section of the Code allows a person or utility to apply for a temporary exemption if "unreasonable hardship to a person or to a utility results from compliance with a section in this

chapter.” 52 Pa. Code §56.222(a). PPL has given many reasons why they would like to receive an exemption, such as increased call volume and to encourage customer participation. Petition at ¶¶16, 47. However, there is no support that in continuing to abide by §56.97(a) the Company would face any hardship, let alone an unreasonable one.

*2. The Program Described in PPL’s Petition is Too Broad and Vague to be Considered a Pilot*

PPL mistakenly describes their proposed expansion of the website and their IVR system as a pilot program and purports that its implementation would be in the public interest. PPL describes a system that would “permit customers to establish payment agreement to avoid termination.” Petition at ¶44. A two year waiver would give the Company “time to implement and, if needed, adjust its communications plan” and “encourage customer participation.” Petition at ¶47. The Company also plans to monitor customer usage of the website and IVR to establish payment agreements. Petition at ¶47. PPL’s description of this program is vague. There is no mention of any screening criteria. The only PPL customers that would be precluded from the “pilot” are customers who are within three days of a proposed termination date. Petition at ¶43. There is no establishment of a control or test group or any monitoring of the effects of the program. The stated goal of the waiver would be to “encourage customer participation” and that data would be the only information tracked.

Most importantly, there is no protocol in place to protect customers who would use this new option. Waiver of §56.97 eliminates important protections for customers facing termination. A pilot to explore other avenues for customers to avoid termination must ensure that those taking part in the pilot are not worse off for having done so. The program as described by the Company does not have a control group, a method to collect relevant data or a process to

protect customers who take this option. Considering this description, PPL's expansion of its website and IVR would be too uncontrolled and vague to be considered in the public interest, and accordingly, the Commission should deny their Petition for a waiver of §56.97(a).

C. Waiver of 52 Pa. Code §56.97(a) Would Violate the Electric Choice and Competition Act §2807(d) Prohibition on Decreasing the Quality of Consumer Protections and Services

In addition to the specific protections afforded customers at risk of termination by §56.97, the Electric Choice and Competition Act provides a more general one in §2807(d).

§2807. Duties of electric distribution companies

(d) Consumer protections and customer service. — The electric distribution company shall continue to provide customer service functions consistent with the regulations of the commission, including meter reading, complaint resolution and collections. Customer services shall, at a minimum, be maintained at the same level of quality under retail competition.

66 Pa.C.S. § 2807(d).

The quality of the consumer protection afforded under §56.97 would be substantially lowered if PPL were granted the waiver. The regulations use specific language, “employee,” “fully explain,” “good faith,” “good judgment,” to describe the methods the utility is required to use when contacted by a customer facing termination. This language mandates person-to-person communication. The customer can ask questions and explain his particular circumstances. The utility employee can help explain what protections or programs may best serve the customer or what other methods they might use to avoid termination. To say the quality level would stay the same if a customer were dealing with a website or IVR would be to assume unreasonably an advanced level of technological and legal sophistication among all PPL customers. It would be equally unreasonable to assert that a website or automated phone system could “fully explain” each customer's unique account situation at the same level of quality a live representative could.

A waiver of the regulation would also deny the goal of equity that §56.97(b) explicitly aims for. The regulation provides for a reasonable payment arrangement or “otherwise equitably to resolve the matter.” The expansion of the PPL website and IVR only provides for one type of payment agreement, a formulaically created one, and does not provide other means that a live representative may employ.

PPL’s Petition says that these new technologies will follow the same criteria set forth in 52 Pa. Code §1405(b). Petition at ¶20. However, following §1405(b) does not alleviate PPL of the obligation to abide by §56.97, as well. The Commission has recognized these requirements and the responsibilities utility companies retain by explicitly saying §56.97 is not superseded by any part of Chapter 14. It states in the First Implementation Order:

In addition, the obligations imposed by §56.97 are general and flexible in nature and do not impose strict formulas or payment term requirements. The Regulation requires that a utility demonstrate that it considered the factors found in the Regulation when negotiating a reasonable payment agreement.

Chapter 14 Implementation, Docket No. M-00041802F0002, First Implementation Order at 15 (March 4, 2005)

Customers in vulnerable positions and facing potential loss of service should never have their available regulatory protections diminished. Customers facing termination should not be placed into a communications network which would lower the quality of its customer service interactions and protections.

### **III. Conclusion**

Wherefore, Maryellen Nentwig respectfully requests that the Public Utility Commission deny PPL’s request of issuance of a declaratory order and deny PPL’s request for alternative relief through a waiver of Section 56.97(a).

Respectfully Submitted,



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Dated: May 17, 2010



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