

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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March 2, 2015

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

Re: Chapter 14 Implementation of Act 155 of 2014
Docket No. M-2014-2448824

Dear Secretary Chiavetta:

Attached for electronic filing are the Comments of the Office of Consumer Advocate to the Pennsylvania Public Utility Commission's Tentative Implementation Order entered in the above-referenced proceeding.

Respectfully Submitted,

A handwritten signature in black ink that reads "Hobart J. Webster".

Hobart J. Webster
Assistant Consumer Advocate
PA Attorney I.D. #314639

Attachment

cc: Dan Mumford
Patricia T. Wiedt

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Chapter 14 Implementation : Docket No. M-2014-2448824
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COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

On October 22, 2014, Act 155 of 2014 was signed in to law and became effective on December 22, 2014. The Act reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa. C.S. §§ 1401-1419), Responsible Utility Customer Protection. The Act is intended to protect responsible bill paying customers from rate increases attributable to uncollectible accounts; protect vulnerable customers by ensuring that utility service remains available to all on reasonable terms and conditions; and provide public utilities with the mechanisms and procedures to promote timelier collections. The statute is applicable to electric distribution utilities, water distribution utilities, natural gas distribution utilities, steam heat and wastewater utilities.

Act 155 supersedes a number of Chapter 56 regulations requiring the Commission to revise Chapter 56 and promulgate new regulations to administer and enforce Chapter 14. Five years after the effective date and every five years thereafter, the Commission must also report to the General Assembly on the implementation and effectiveness of the amended Act. Act 155 contains a 10 year sunset provision which expires on December 31, 2024, unless reenacted.

On January 22, 2015, the Pennsylvania Public Utility Commission (Commission) issued a Tentative Order in which it announced its intention to issue interim guidelines prior to promulgating a formal rulemaking to revise Chapter 56 of its regulations to conform to the amendments in Chapter 14. Noting that a rulemaking is a lengthy process but that some issues in Act 155 need immediate action, the Commission intends to issue guidance as to the implementation and interpretation of issues related to medical certificates and reporting requirements related to arrearage. In particular, the Commission has chosen to focus on the following three issues for immediate action: (1) Section 1403's Definition of *Medical Certificate* with regard to its form; (2) Section 1410.1(3) regarding utility reporting requirements for accounts with arrearages in excess of \$10,000.00; and (3) Section 1410.1(4)'s annual reporting of medical certificate usage.

The Office of Consumer Advocate (OCA) appreciates the opportunity to respond to the Commission's proposed interim guidelines and supports the Commission in its endeavors to move forward with the implementation of the updated Chapter 56 regulations. The OCA will also fully participate in the rulemaking proceeding to revise Chapter 56 when it is promulgated. The OCA offers the following Comments in response to the Commission's January 22 Tentative Order.

1. Section 1403 Definition of Medical Certificate:

The OCA supports the Commission's efforts to develop uniform and appropriate standards for the form that medical certificates take. Section 1403 of Act 155 of 2014 defines "Medical Certificate" as:

A written document, in a form approved by the commission:

(1) Certifying that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical

condition which requires the continuation of service to treat the medical condition; and

(2) Signed by a licensed physician, nurse practitioner or physician's assistant.

The OCA submits that medical certificates and their use have important public health and safety implications, and supports the Commission's efforts to offer guidance on this issue. In this context, medical certificates are intended to assist vulnerable consumers with serious health conditions in maintaining utility service or restoring service which has been terminated for non-payment more quickly. The OCA agrees with the Commission that medical certificates are not intended to allow a customer to avoid paying the appropriate and undisputed portion of the bill.

The OCA submits that medical certificates should be convenient for the medical professional to prepare and should include the information currently required by Section 56.113 of the Regulations. As such the written certifications should include the following: the name and address of the customer or applicant in whose name the account is requested; the name and address of the person to whom the certificate applies and his or her relationship to the customer; the nature and anticipated length of the affliction; the specific reason service is required; and the name, address, telephone number, and signature of the qualified medical professional. 52 Pa Code §56.113. At this time, the OCA does not see a need to modify the existing regulations at §56.113.

As to the form of a medical certificate, the OCA submits that a type of form letter may be the easiest for medical professionals to use. The form letter could identify the necessary information and provide a guide for preparation of the letter. The medical professional could then fill in the required information and prepare the letter on the proper letterhead. As the

Commission noted in its Tentative Order, “a medical certificate needs to be convenient for customers and medical professionals to use and understand, especially given the time-demands upon medical professionals.” Tentative Order at 4. The OCA strongly agrees with the Commission on this point. A type of form letter may best meet this objective.

The OCA also submits that each utility should make any form or form letter available upon request and through its website. In addition, the form or form letter could be made available on the Commission’s website for the convenience of medical professionals.

2. Reporting Requirements for Accounts Exceeding \$10,000 in Arrearages

The OCA supports the Commission’s decision to focus on the issue of implementing Section 1410.1(3) of Act 155 of 2014. Section 1410.1(3) contains a new utility reporting requirement for accounts exceeding \$10,000 in arrearages. It reads as follows:

(3) The public utility shall have an affirmative responsibility to attempt to collect payment on an overdue account. The utility shall report to the commission annually residential customer accounts which have accumulated \$10,000 or more in arrearages and shall demonstrate what efforts are being taken to collect the arrearages. Failure to make reasonable attempts to collect payments on overdue accounts with arrearages in excess of \$10,000 may result in civil fines or other appropriate sanctions by the commission.

The OCA agrees with the Commission that utilities will need time to prepare their systems to collect and report the information needed to comply with this requirement. The OCA also agrees with the Commission that providing early guidance will help to ensure that the information obtained by the Commission will be consistent across different utilities and that only appropriate types of information will be provided.

The OCA submits that implementation of Section 1410.1(3)’s reporting requirements should carefully balance the Commission’s mandate to analyze utility collection practices against the significant consumer privacy concerns raised by providing specific

customer account information to the Commission. The OCA submits that if customer specific account information is to be collected, great care must be taken to protect privacy. The OCA submits, however, that utilizing aggregate data may adequately meet the statutory requirements, and enable the Commission to assess the collection practices of utilities as the statute requires, while offering greater protection to customer privacy than would be afforded if the Commission requires reporting on specific accounts. For this reason, the OCA recommends that the reporting requirements collect aggregate data and not specific individual customer information.¹

The OCA submits that using aggregate data is the appropriate way for utilities to provide the necessary information to the Commission without compromising customer privacy. In addition, the OCA submits that the aggregate data should not be a “snapshot” in time but should include all accounts that had a balance exceeding \$10,000 during the Reporting Period. A snapshot would not provide an accurate picture as it could be subject to seasonality or even an effort by the utility to clear those accounts with arrearage balances which meet the reporting threshold just before the snapshot date. The aggregate number of accounts over the full annual reporting period that exceed the \$10,000 level will provide better information to the Commission about the arrearages.

The OCA also submits that the Commission should require the utility to provide the Commission with information regarding the company’s collections process and a clear explanation of the steps the utility takes to collect past due balances beginning with the first instance of an arrearage. The OCA submits that the utility should then be required to report to

¹ The OCA submits that if the Commission interprets this section to mean that utilities are required to submit account specific data to the Commission, the Commission is presented with a series of unnecessary challenges with regard to both the burden placed on the utilities and the threat to consumer privacy. If individual account information is required, the OCA submits that each utility should provide information as to arrearage amount, rate schedule, and billing activity. The OCA further submits that customer names and addresses are not needed to meet the goals of Act 155.

the Commission on the utility's collection steps over the life of the arrearage from its inception up to the time that the account crosses the \$10,000 arrearage threshold for the accounts over \$10,000. Again, aggregate data could be used. By way of example, if a phone call reminder is the first step, the total number of accounts that received such a reminder should be provided. Also, the total number of accounts with no collection activity should be identified.

In addition to data on collection activities, the OCA recommends the collection of additional data points for the aggregate set of consumers with arrearages in excess of \$10,000 broken out by confirmed low income and total residential as is the BCS collection reporting.

This data should include:

- The number of accounts with arrears in excess of \$10,000
- The total dollars of arrears in accounts with arrears over \$10,000 (not simply the dollars over \$10,000, but the total dollars in accounts with arrears over \$10,000).
- The bill amount distribution for these accounts during the Reporting Period
- The number of accounts that have been treated through a company-sponsored usage reduction program
- The length of time it took the arrearage to accumulate from the first past due balance until reaching the \$10,000 threshold (a long term equivalent of the aging of the arrears)
- The number of payment arrangements (i.e. a distribution analysis of the number of accounts receiving 1, 2, 3, etc. payment arrangements)
- The number of informal and formal complaints filed with the Commission by these account holders
- The number of ratepayers who are landlords versus residential consumers

- The number of accounts for whom the arrearage includes an arrears from a prior service address
- The number of accounts for whom the arrearage includes an arrears from a prior customer (even if at the same service address)
- The number of accounts that were subject to medical certificates as of the date of reporting
- The percentage of bills for current service paid within the 12 months immediately preceding the reporting date
- The total number of accounts that were worked through each step of the utility's collections process

The OCA submits that these data points will allow the Commission to determine whether the utility's collections processes and steps are effective and to provide the Commission with meaningful information about consumer accounts that have reached the reporting threshold while protecting consumer privacy.

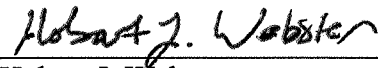
3. Section 1410.1(4): Utility Reporting Requirement For The Number Of New and Renewed Medical Certificates.

The OCA supports the Commission's proposed interim guidelines regarding Section 1410.1(4) which establishes a new utility reporting requirement. It reads as follows:

(4) The public utility shall report to the commission on an annual basis the number of medical certificates and renewals submitted and accepted in the service territory.

As the Commission notes in its Implementation Order, this reporting requirement is similar to many of the traditional reporting requirements found in 52 Pa. Code §§ 56.231 and 54.75, insofar as it requests aggregate data. The OCA supports the Commission's proposed guidelines for the implementation of Section 1410.1(4) as detailed in the Order.

Respectfully Submitted,



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