COMMONWEALTH OF PENNSYLVANIA

DARRYL A. LAWRENCE
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

@pa_oca
/pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

August 28, 2026

Via Electronic Filing
Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56
Docket No. L-2025-3058767

Dear Secretary Homsher:

Enclosed for electronic filing please find the Comments of the Office of Consumer Advocate in this proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
Email: CAppleby@paoca.org

Enclosures
cc: Assistant Counsel Stephanie A. Wilson (Via Email Only: stepwilson@pa.gov)
Executive Deputy Chief Counsel Kriss E. Brown (Via Email Only: kribrown@pa.gov)
Regulatory Review Assistant Karen Thorne (Via Email Only: kathorne@pa.gov)
Manager of Regulatory Compliance Bobbi Anderson (Via Email Only: robertannd@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56	: : : :	Docket No. L-2025-3058767

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, the Comments of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 28th day of August 2026.

SERVICE BY E-MAIL ONLY

Alison Kaster, Esq.
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
2nd Floor, Room-N201
Harrisburg, PA 17120
akaster@pa.gov
Director of I&E

NazAarah Sabree
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
ra-sba@pa.gov
Small Business Advocate

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
Email: CAppleby@paoca.org

Crystal Zook, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 334159
Email: CZook@paoca.org

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: 717-783-5048
Fax: 717-783-7152

Dated: August 28, 2026

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56	: :	Docket No. L-2025-3058767

COMMENTS
OF THE
OFFICE OF CONSUMER ADVOCATE

Counsel for:
Darryl A. Lawrence

Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Christy M. Appleby, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 81617
CAppleby@paoca.org

Crystal M. Zook
Assistant Consumer Advocate
PA Attorney I.D. # 334159
CZook@paoca.org

Dated: August 28, 2026

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I. INTRODUCTION

On February 19, 2026, the Pennsylvania Public Utility Commission (Commission) issued its Notice of Proposed Rulemaking (NOPR) regarding its Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56, Docket No. L-2025-3058767, Order (Feb 19, 2026) (*NOPR Order*). The purpose of this rulemaking is to amend the Commission's regulations at 52 Pa. Code Chapter 56 to incorporate provisions of the former Chapter 14 of the Code, as it was in effect prior to its sunset, including those currently being followed by the Commission via its Statement of Policy. *NOPR Order* at 1-2. Also on February 19, 2026, Vice Chair Barrow submitted a Statement in the docket, indicating her concerns that the NOPR was limited to implementing the remaining provisions of the sunset of Chapter 14. Vice Chair Barrow stated that "the time is right to determine next steps on utility and consumer protections."[1] The NOPR was published for comment in the *Pennsylvania Bulletin* on May 30, 2026, beginning the 60-day comment period. 54 Pa.B. 7361.

On June 5, 2026, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representation Network (TURN) requested an additional 45 days to file comments. On June 12, 2026, the Office of Small Business Advocate filed a letter in support of the request. On June 16, 2026, the Energy Association of Pennsylvania filed a letter clarifying the requested extension dates. The Commission granted the extension request on June 18, 2026, making the due date for comments August 28, 2026, and the reply comments due by October 13, 2026. The granted extension was published in the *Pennsylvania Bulletin* on July 4, 2026.

The Office of Consumer Advocate (OCA) appreciates this opportunity to provide Comments on the proposed regulations. Below, the OCA provides comments on the substantive

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[1] *Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56*, Statement of Vice Chair Kimberly Barrow, Docket No. L-2025-3058767 (Feb. 19, 2026).

rule changes proposed in the NOPR. If the OCA does not address below a proposed change in the NOPR, it means the OCA submits no comment on the proposed change. Below, the OCA also addresses the issues identified in the Statement of Vice Chair Barrow and raises additional comments and specific concerns regarding certain aspects of the Chapter 56 regulations that should be considered by the Commission in this rulemaking. The OCA specifically reserves the right to comment in its reply comments on other changes proposed by other parties even if not addressed in these comments. The OCA looks forward to continuing to work to develop improvements to the Commission's Chapter 56 regulations.

II. COMMENTS ON CHANGES WITHIN THE NOPR

A. Subchapter A. Preliminary Provisions For Utilities And Customers Subject To Chapter 14 Of The Public Utility Code

The language of Subchapter A provides to change the heading to:

Subchapter A: PRELIMINARY PROVISIONS FOR UTILITIES AND CUSTOMERS [SUBJECT TO CHAPTER 14 OF THE PUBLIC UTILITY CODE] WHO ARE NOT VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER OR A COURT ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION IN THIS COMMONWEALTH WHICH PROVIDES CLEAR EVIDENCE OF DOMESTIC VIOLENCE.

The Commission proposes an amendment to the existing title of Subchapter A to remove the reference to Chapter 14 of the Public Utility Code.[2] The Commission provided in its NOPR that:

> The former Section 1417 of the Code specified that former Chapter 14 did not apply to victims of domestic violence under a protection from abuse order as provided by Pa.C.S. Chapter 61 or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer. Accordingly, the Commission established Subchapters A-K of Chapter 56 to apply to customers subject to the former Chapter 14 and separately established Subchapters L-V of Chapter 56 to apply to victims of domestic violence with a protection from abuse order or a court order issued by a

[2] *Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56*, Order at 13, Docket No. L-2025-3058767 (Feb. 19, 2026) (*NOPR Order*).

> court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence. *See gen'ly*, 2019 Final Rulemaking Order. We are not altering this framework. However, we propose eliminating the reference to the former Chapter 14 in the title of Subchapter A and replacing it so that the title is "Preliminary provisions for utilities and customers who are not victims of domestic violence with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence." This title will maintain a clear distinction between Subchapters A-K and Subchapters L-V and the respective regulations therein.[3]

The OCA does not oppose the proposed change to the title of Subchapter A.

B. Proposed Amendments to Section 56.2 Definitions

The Commission proposes the addition of two definitions for "change in income" and "significant change in circumstances" to reflect the incorporation of the former Chapter 14 provisions. The proposed definition for "change in income" is "[a] decrease in household income of 20% or more if the customer's household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer's household income is 200% of less of the Federal poverty level."[4]

The Commission proposes to define "significant change in circumstance" as:

> Any of the following criteria when verified by the public utility and experienced by customers with household income less than 300% of the Federal poverty level:
> (i) The onset of a chronic or acute illness resulting in a significant loss in the customer's income.
> (ii) Catastrophic damage to the customer's residence resulting in a significant net cost to the customer's household.
> (iii) Loss of the customer's residence.
> (iv) Increase in the customer's number of dependents in the household.[5]

The Commission provides that these definitions are to incorporate the provisions of the former Chapter 14 of the Public Utility Code. The OCA does not oppose either definition.

[3] *NOPR Order* at 13.
[4] *NOPR Order* at 14; *Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56*, Annex A at 1-2, Docket No. L-2025-3058767 (Feb. 19, 2026) (*Annex A*)
[5] *NOPR Order* at 14; *Annex A* at 1-2.

However, the OCA has proposed a broader definition of life event for customers at or above 300% of the Federal Poverty Level regarding Section 56.191 below.

C. Proposed Section 56.22 Accrual Of Late Payment Charges

The Commission proposes to amend Section 56.22 regarding the accrual of late payment charges to provide:

> (d) A public utility may waive late payment charges on any customer accounts. A public utility shall waive late payment charges on any customer accounts if the charges were improperly assessed. The Commission may also ~~only~~ order a waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level. [See 66 Pa.C.S. § 1409 (relating to late payment charge waiver).][6]

The OCA agrees with the proposed addition to eliminate late charges for charges that were improperly assessed. The proposed change allows the public utility, and the Commission, the flexibility to address the waiver of late payment charges for all customers, not just customers under 150% of the Federal poverty level. The OCA recommends one minor modification for clarity. The OCA recommends that the word "only" be deleted and replaced with "also" in the last sentence to reflect the proposed addition.

D. Proposed Section 56.102 Residential Field Visit Charge

The Commission proposes that:

> A city natural gas distribution operation is authorized to charge a minimum fee of $10 for each instance in which its representative is required to visit the residence of a customer in the process of attempting to complete required service termination steps.[7]

The Commission's *NOPR* incorporates this provision of Chapter 14 without consideration of whether the provision is needed by PGW. The Commission provides that incorporation is

[6] *Annex A* at 3.
[7] *NOPR Order* at 15.

"consistent with the former Section 1414(b) of the Code and that "by creating a new regulation at Section 56.102 to address the residential field visit charge, we are incorporating the provisions of the former Chapter 14 of the Code, in accordance with the Motion."[8]

The OCA recommends that this proposed change should not be implemented. The OCA recommends that the proposed city natural gas distribution provisions in Chapter 56 of the Public Utility Code should be eliminated. The only "city natural gas distribution operation" under the Commission's jurisdiction is Philadelphia Gas Works (PGW). When Chapter 14 was originally passed in 2004, PGW had only been under the Commission's jurisdiction for four years.[9] PGW was in severe financial distress at the time, and the additional provisions were designed to provide greater assistance for collection efforts for PGW. PGW has now been under the jurisdiction of the Commission for more than 26 years and is no longer in the same financial distress that it was when PGW came under the jurisdiction of the Commission. There has been no demonstration that the continued additional special treatment for PGW is necessary under the law, and the OCA recommends that the special protections for PGW be eliminated.

E. Proposed Section 56.153 Public Utility Duties

In its *NOPR*, the Commission proposes to create a new regulation at Section 56.153 in order to address "certain public utility duties regarding customer or applicant contact for payment arrangements."[10] The *NOPR* provides:

> The former Section 1410.1 of the Code set forth duties for a public utility to follow when a customer or applicant contacts the utility to make a payment arrangement as required by the former Section 1410 of the Code. As such, by referring to the former Section 1410 of the Code, the former Section 1410.1 referred to the requirement that a customer first contact the public utility before filing a complaint. This requirement appears in existing Sections 56.162 and 56.166 for informal

[8] *NOPR Order* at 16; *Annex A* at 3.
[9] PGW officially came under the jurisdiction of the Commission effective July 1, 2000 pursuant to the Natural Gas Choice and Competition Act. 66 Pa.C.S. § 2212.
[10] *NOPR Order* at 16.

complaints and will now appear in Section 56.171 for certain formal complaints as discussed below.[11]

The Commission proposes that Section 56.153 will provide:

When a customer or applicant contacts a public utility to make a payment arrangement as required by § 56.166 (relating to informal complaints and § 56.171 (relating to general rule for formal complaints), the public utility shall:
(1) Provide information about the public utility's universal service programs, including a customer assistance program.
(2) Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for a program and to apply for enrollment in a program.
(3) Have an affirmative responsibility to attempt to collect payment on an overdue account. 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.[12]

The OCA has no objection to inclusion of the above portion of Section 1410.1. However, the Commission did not include subsection (4) in its proposed language. Subsection (4) of the former 1410.1 provided "(4) Report to the commission on an annual basis the number of medical certificates and renewals submitted and accepted in the service territory."[13] The OCA believes that it is important to maintain this reporting information to identify the number of medical certificates and renewals submitted and accepted. No explanation is provided in the *NOPR* regarding why the information has not been included. It appears that the reporting requirement was dropped because it may be duplicative of the reporting requirements included in Sections 56.31(b)(11) and 12 of the Commission's regulations.[14]

F. Proposed Section 56.171 General Rule

In its *NOPR*, the Commission proposes to add language to Section 56.171 regarding public utility contact prior to filing formal complaints consistent with the language of the former Section

[11] *NOPR Order* at 16 (footnote omitted).
[12] *Annex A* at 3.
[13] 66 Pa.C.S. § 1410.1 (expired)
[14] 52 Pa. Code §§ 56.31(b)(11), (12).

1410 of the Public Utility Code.[15] The Commission provided:

> The former Section 1410 of the Code required a customer or applicant to affirm that they have first contacted the public utility for the purpose of resolving the problem about which the customer wishes to file a complaint before the Commission will accept an informal or formal complaint. For informal complaints, the Commission's existing regulations at Sections 56.162 and 56.166 currently require a complainant to first contact the public utility for the purpose of resolving the problem about which they wish to file a complaint. The same requirement does not currently appear in Chapter 56 for formal complaints. However, requiring such public utility contact before the filing of a formal complaint that seeks review of a decision from BCS would be duplicative because the complainant was already required to contact the public utility prior to filing the informal complaint.[16]

The Commission avers that the language is consistent with the former Section 1410 of the Public Utility Code, with the Commission's Formal Complaint Form, and would "promote clarity."[17]

The Commission proposes the following language:

> 56.171 General rule <u>**for formal complaints**</u>
> (a) Except as otherwise provided in this chapter, formal complaint proceedings will proceed according to the rules and regulations of the Commission governing complaint proceedings.
> <u>(b) For a formal complaint that is not a request for review of an informal complaint decision of the Bureau of Consumer Services, the Commission will accept complaints only from complainants who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the complainant wishes to file a complaint. For the complainant has not contacted the public utility, the Commission will direct the complainant to the public utility.</u>[18]

The OCA does not have any opposition to the proposed additional language. However, the OCA notes that the requirement to discuss with the utility should not be applicable to formal complaints regarding base rate proceedings. To the extent that a customer opposes a proposed rate increase request, the OCA does not believe that the customer should need to first contact the utility. As different answer procedures are in place under the Commission's regulations, the utility would

[15] 52 Pa. Code § 56.171; 66 Pa. C.S. § 1410 (expired).
[16] *NOPR Order* at 18.
[17] *NOPR Order* at 19.
[18] *Annex A* at 4.

also not be under an obligation to answer the formal complaint.

G. Proposed Section 56.181. Duties Of Parties; Disputing Party's Duty To Pay Undisputed Portion Of Bills; Public Utility's Duty To Pay Interest Whenever Overpayment Found

In the *NOPR*, the Commission proposes modifying the existing Section 56.181 of the Commission's regulations to add language regarding the obligation to pay subsequent bills which are not in dispute.[19] The Commission provides:

> Consistent with the former Section 1410 of the Code, we propose language that provides, "[p]ending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed and subsequent bills which are not in dispute" and that, "[p]rior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representative determines is not disputed and subsequent bills which are not in dispute." By modifying the existing regulation at Section 56.161 to add language regarding the obligation to pay subsequent bills that are not in dispute, we are incorporating the provisions of the former Chapter 14 of the Code, in accordance with the Motion.[20]

The proposed revised portion of Section 56.181 would read:

> (1) *Pending informal complaint*. Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed and subsequent bills which are not in dispute. An amount ultimately determined, by the parties or the Commission, to have been validly due but not paid may be paid with interest at the tariff rate filed under § 56.22 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.
> (2) *Pending formal complaint*. Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representatives determines is not disputed and subsequent bills which are not in dispute.

The OCA does not have any objections to the proposed language.

H. Proposed Section 56.182 Payment Arrangement Procedures

[19] 52 Pa. Code § 56.181.
[20] *NOPR Order* at 20.

In the *NOPR*, the Commission proposes creating a new Section 56.182 to incorporate the payment arrangement procedures formerly found in Section 1405(a) – (e) of the Code, which include the general rule, length of payment arrangement, customer assistance program referrals, the number of payment arrangements, and the extension of payment arrangements.[21] Additionally, the Commission proposes modifying the existing heading under which the new regulations falls to make it "Payment of bills pending resolution of disputes and complaints, and payment arrangement procedures."[22]. Under the Commission's proposal, the new Section 56.182 would read:

> **§ 56.182. Payment arrangement procedures.**
>
> (a) *General rule.* The Commission may establish payment arrangements between a public utility, customers, and applicants within the limits established by this section.
>
> (b) *Length of payment arrangements*. The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the Commission and is entered into by a public utility and a customer must not extend beyond:
>
> 1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.
>
> (2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.
>
> (3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.
>
> (4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.
>
> (c) *Customer assistance programs*. Customer assistance program rates must be timely paid and must not be the subject of payment arrangements negotiated or approved by the Commission.
>
> (d) *Number of payment arrangements*. Absent a change in income, the Commission shall not establish or order a public utility to establish a second or

[21] *NOPR Order* at 11, 20.
[22] *NOPR* at 22.

subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a Commission order or decision. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

(e) *Extension of payment arrangements*. If the customer defaults on a payment arrangement established under subsections (a) and (b) as a result of a significant change in circumstance, the Commission may reinstate the payment arrangement and extend the remaining term for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown.

* * * * *

The OCA has significant concerns with maintaining the existing payment arrangement framework. In many recent base rate proceedings, OCA witness Roger Colton has examined the number of payments arrangements with Confirmed Low-Income (CLI) customers[23] that are entered into but which end in default. The OCA's concern is heightened by the fact that if someone defaults on a payment arrangement, a utility may, but is not required, to offer a second payment arrangement. However, this is entirely at the discretion of the public utility. If there were a relatively small number of defaulted payment arrangements, there might be some argument that customers are "gaming" the system, but pursuant to the OCA's review in recent base rate proceedings, the vast majority of CLI payment arrangements end in default because the payment arrangements are not affordable. This is not "gaming" the system. The system is broken. Payment arrangements should be available to customers on affordable and reasonable terms and conditions.

If a utility has a reasonable expectation that someone is "low-income" (i.e., the definition of "CLI") before they enter into a payment arrangement, and given that the payment arrangement requires that CLI person to pay their entire current bill (at standard rates) plus an installment toward

[23] An important distinction should be raised between low-income customers enrolled in the Customer Assistance Program (CAP) and Confirmed Low-Income Customers as proposed to be defined below.

arrears, the CLI customer should acknowledge that they decline to apply for a discounted rate with arrearage forgiveness as an alternative to the payment arrangement.

There is a statutory basis for this requirement. Pennsylvania statutes provide that:

> No public utility shall, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this part. *Any public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron*.[24] (emphasis added).

The Commission should not, in other words, require a customer, known to be a Confirmed Low-Income customer, to pay off arrears through a payment arrangement which arrears would be subject to forgiveness under the Company's CAP.

The Recommended Decision in the 2025 Columbia Gas rate proceeding agreed, providing that:

> Both CAUSE-PA and OCA propose that the Commission should require Columbia to implement routine screening of its applicants and customers to determine eligibility for CAP and other universal service programs. . .We agree with both CAUSE-PA and OCA on this issue. Improved screening and referrals could help ensure households are receiving the most advantageous available rate and is a statutory requirement.[25]

With the sunset of Chapter 14, the Commission is also no longer bound by the dictates and terms of Chapter 14, and there is no reason to implement practices which result in unaffordable and defaulted payment arrangements. The Commission should permit itself greater flexibility in establishing payment arrangements that will achieve the objective – of customers paying their

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[24] 66 Pa.C.S. § 1303.

[25] *Pennsylvania PUC v. Columbia Gas of Pennsylvania*, Recommended Decision at 549, Docket No. R-2025-3053499 (Oct. 3, 2025).

arrearages. As Vice Chair Barrow provided in her Statement,[26] the Commission should consider modifications to the length of the payment arrangements and the income levels at which the payment arrangements should be provided, and that those lengths of the payment arrangements be flexible based on the circumstances. The OCA agrees that these are important criteria to examine as part of the review of payment arrangements.

The OCA proposes that the language should instead provide:

§ 56.182. Payment arrangement procedures.

~~(a) *General rule*. The Commission may establish payment arrangements between a public utility, customers, and applicants within the limits established by this section.~~

~~(b) *Length of payment arrangements*. The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the Commission and is entered into by a public utility and a customer must not extend beyond:~~

~~1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.~~

~~(2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.~~

~~(3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.~~

~~(4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.~~

~~(c) *Customer assistance programs*. Customer assistance program rates must be timely paid and must not be the subject of payment arrangements negotiated or approved by the Commission.~~

~~(d) *Number of payment arrangements*. Absent a change in income, tThe Commission shall establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a Commission order or decision. A public~~

[26] *Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56*, Statement of Vice Chair Kimberly Barrow, Docket No. L-2025-3058767 (Feb. 19, 2026).

> ~~utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.~~
>
> ~~(e) *Extension of payment arrangements*. If the customer defaults on a payment arrangement established under subsections (a) and (b) as a result of a significant change in circumstance, the Commission may reinstate the payment arrangement and extend the remaining term for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown.~~

The OCA discusses below in Section IV(Z) regarding the OCA's recommendations for Section 56.97. The OCA does not believe that Chapter 14 should be incorporated for payment arrangements. The OCA agrees with Vice Chair Barrow that the Commission should consider "adjusting payment arrangement lengths and levels."[27] At a minimum, the requirements for the length of payment arrangements should be applicable to all payment arrangements offered to the customer and not just Commission-ordered payment arrangements. The utility offering the customer a much shorter payment arrangement, and then that customer either defaulting and possibly a subset of those customers appealing to the Commission seems to be an exercise in futility. Customers should be given a reasonable and affordable payment arrangement to begin with and the OCA recommends that the timeframes in the regulations be set forth as minimums rather than required timeframes.

The OCA also does not agree with subsection (c) that customers who are not currently enrolled in a customer assistance program are not eligible for a payment arrangement for their entire outstanding unpaid balance. As discussed below regarding Section 56.97, low-income customers should be eligible to receive a payment arrangement irrespective of whether all or some portion of that balance was incurred at the time the customer was enrolled in the customer assistance program. A bar from payment arrangements for customer assistance program balances

[27] *Barrow Statement* at 1.

presents an impediment to a customer maintaining essential utility service. While customer assistance program participation is often the best option for customers, low-income customers should still have the same payment arrangement options as all other customers to be able to maintain essential services.

In addition, the success rates of payment arrangements and whether they are achieving the desired outcomes should be evaluated. It's clear from the OCA's review of defaulted payment arrangements that the current payment arrangement framework does not work for confirmed low-income customers. Measuring the success of the payment arrangements will help the parties and the advocates to better understand what reforms should be made and where greater success can be achieved.

Consider, for example, the seasonality in the extent to which payment arrangements default. Given that people are required to pay their entire bill for current service plus the installment payment on their payment arrangement, customers who enter into payment arrangements during high cost cold (or hot) months are more likely to default early on due to their inability to pay their entire bill for current service plus an arrearage installment. Accordingly, offering a "Budget Payment Arrangement," through which customers may enter into Budget Billing along with their payment arrangement, makes sense. Offering such a payment arrangement option would not be just for low-income customers.

The OCA opposes the strict adoption of Chapter 14 and inclusion in Chapter 56. The Chapter 14 payment arrangements have not worked for customers and have resulted in customer defaults and impacted negatively customer affordability. The OCA recommends that greater flexibility be provided for payment arrangements, and that the Commission should also consider measuring the success of payment arrangements in order to develop solutions which will better target affordability of payment arrangements and lead to a win-win of fewer defaults and lower utility uncollectibles.

I. Proposed Section 56.225 Surcharges For Uncollectible Expenses Prohibited

In the NOPR, the Commission proposes to create a new regulation at Section 56.225 in order to incorporate the prohibition against surcharges for uncollectible expenses formerly found in Section 1408 of the Public Utility Code.[28] The proposed Section 56.225 would provide:

> A public utility may not implement a cash receipts reconciliation clause or another automatic surcharge mechanism for uncollectible expenses. This section shall not affect any clause associated with universal service and energy conservation.[29]

The Commission's NOPR provides:

> By creating a new regulation at Section 56.225 to address surcharges for uncollectible expenses, we are incorporating the provisions of the former Chapter 14 of the Code, in accordance with the Motion.[30]

The OCA supports continuation and inclusion of this prohibition against single-issue ratemaking without specific statutory authority.

J. Proposed Section 56.251. Statement Of Purpose And Policy

The Commission's NOPR proposes to modify the existing Section 56.251 by eliminating the reference to the former Section 1417 of the Public Utility Code.[31] The NOPR Order provided:

> The former Section 1417 specified that former Chapter 14 did not apply to victims of domestic violence under a protection from abuse order as provided by 23 Pa.C.S. Chapter 61 or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer. Accordingly, the Commission established Subchapters A-K of Chapter 56 to apply to customers subject to the former Chapter 14 and separately established Subchapters L-V of Chapter 56 to apply to victims of domestic violence with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic

[28] *NOPR Order* at 22.
[29] *Annex A* at 5.
[30] *NOPR Order* at 22-23.
[31] *NOPR Order* at 23.

violence.[32]

The Commission provides that they are not proposing to alter the framework.[33] The language provided in the NOPR achieves this objective. The language maintains the existing protections for survivors of domestic violence:

> **Subchapter L. PROVISIONS FOR VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER OR A COURT ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION IN THIS COMMONWEALTH WHICH PROVIDES CLEAR EVIDENCE OF DOMESTIC VIOLENCE**
> **§ 56.251. Statement of purpose and policy.**
> Subchapters L—V apply to victims under a protection from abuse order as provided by 23 Pa.C.S. Chapter 61 (relating to Protection from Abuse Act) or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer [as provided by 66 Pa.C.S. § 1417 (relating to nonapplicability)]. These subchapters establish and enforce uniform, fair and equitable residential public utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. This chapter assures adequate provision of residential public utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service. Every privilege conferred or duty required under this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.[34]

The OCA supports continuation of the heightened protections for survivors of domestic violence. Moreover, the OCA specifically supports the proposed liberal construction of the provisions in order to "fulfill its purpose and policy" and to ensure "justice for all concerned."[35]

[32] *NOPR Order* at 23.
[33] *NOPR Order* at 23.
[34] *Annex A* at 5-6.
[35] *Annex A* at 6.

III. COMMENTS ON ISSUES RAISED BY VICE CHAIR BARROW

Vice Chair Barrow in her Statement regarding the Notice of Proposed Rulemaking identified concerns that the NOPR did not take the opportunity to address additional issues with Chapter 56 and to improve upon the existing protections provided for in Chapter 56.[36] Each of the issues identified by Vice Chair Barrow's Statement are important considerations for the consideration of as Chapter 56 is re-examined. As proposed by Vice Chair Barrow, a consideration of potential modifications to Chapter 14 should also include, but not be limited to:

- Extension of universal service requirements to water and wastewater utilities, including a requirement for percentage of income programs (PIP) and a LIURP-type water conservation program;
- Extension of Chapter 14 requirements to water and wastewater utilities so that protections are standardized across electric, natural gas, water and wastewater utilities;
- Extension of the winter moratorium to the water and wastewater industries;
- Implement hot water shut-off protections in addition to cold weather protections;
- Whether the special protections afforded to the city natural gas distribution company continue to be necessary;
- Application of the definition of "confirmed low-income customers" and applicable protections to the water and wastewater industries;
- Modification of the definition of "confirmed low-income customers" to be uniform and to allow customers to be considered confirmed if they have received public assistance;
- Exemptions for "confirmed low-income customers" from fees including late fees, deposits and reconnection fees;

[36] *Barrow Statement* at 1-2.

- Modifications to the cash deposit requirements, including exemptions for "confirmed low-income customers;" the timeframe for cash deposits and how they should be refunded to customers;

- Restrictions on the use of cash deposits to only be in response to actual nonpayment disconnections by customers and no longer requiring deposits for applicants;

- Requirement to refund deposits after 12 months when a customer has a $0 balance, absent nonpayment disconnection and use as a protection against bad debt rather than a protection against late payments;

- Requirement that the decision whether the deposit is returned to the customer or credited on the customer's account belongs to the customer;

- Modifications to the length of payment arrangements, the income levels at which they should be provided and requirements that the timeframes apply to all payment arrangements and not just Commission-ordered payment arrangements;

- Modifications to what is considered a "change in income" or change in circumstances, consideration of additional measures or hardship definitions in order to provide discretion to the PUC to consider additional factors that may impact a consumer's ability to pay;

- Modifications to allow for payment arrangements if a customer is not enrolled in a customer assistance program even if the customer has arrears incurred in the customer assistance program;

- Requirement for expanded language access for all customer notices, including termination notices;

- Modifications to reconnection fees due to customer income and exclusion of CAP and confirmed low-income customers from assessment of reconnection fees;

- Requirement for "informed consent" for "confirmed low-income customers" regarding the availability of arrearage forgiveness and a discounted monthly rate when the customer is entering into deferred payment arrangements that would require them to pay their entire arrears plus their regular bills;

- Measurement of the success rates of payment arrangements and whether they are achieving the desired outcomes;

- Exclusion of earned and unearned income of minors, including income received on their behalf such as social security death benefits.

- Modifications to medical certifications, including extension of the timeframe for medical certificates to apply and consideration of expansion of the types of health care professionals who may sign.

- Examination of the policies and practices surrounding the collection, use and retention of Social Security numbers, including consideration of a phase-out of the collection of Social Security numbers and alternative uses of Social Security numbers.[37]

Chapter 14 has sunset and the Commission is no longer bound by the requirements of Chapter 14. In the next Section, the OCA addresses the concerns and issues raised by Vice Chair Barrow and recommends additional modifications to Chapter 56 beyond rotely implementing the provisions of Chapter 14 that were previously not integrated into Chapter 56 of the Commission's regulations. The OCA agrees with Vice Chair Barrow and believes that the Commission should take this opportunity to examine the lessons learned from Chapter 14 and to reexamine Chapter 56. Beyond the recommendations identified above in Section 1 related to incorporating the remaining provisions of Chapter 14, the OCA recommends that additional amendments be considered for this Chapter 56 rulemaking.

IV. ADDITIONAL AMENDMENTS SUPPORTED BY OCA

A. Overview

As set forth below, the OCA proposes additional amendments to Chapter 56 beyond those identified in the Commission's Notice of Proposed Rulemaking. As Vice Chair Barrow stated:

> The time is right to determine the next steps on utility and consumer protections. I fully supported the Commission taking the initiative to provide confidence and expectations for customers and utilities when facing such uncertain times as terminations or past due balances. However, I do not believe that the expired Chapter 14 provisions should be the ultimate goal for this rulemaking. The Commission's mission is to balance the needs of consumers and utilities; ensure safe and reliable utility service at reasonable rates; and protect the public interest. Ignoring lessons learned in the past 10-20 years Chapter 14 had been in place and

[37] *Barrow Statement* at 1-2.

> ignoring the current landscape of affordability and vulnerability faced by Pennsylvania customers today does not achieve this mission. Simply copying and pasting the prior Chapter 14 into our regulations is not in the public interest, and is frankly a disservice.[38]

The OCA is providing the comments on the lessons learned that Vice Chair Barrow requested. The OCA believes that a comprehensive review of Chapter 56 is needed, particularly in light of the affordability concerns that are impacting customers today. The world is not the same as it was in 2004 when Chapter 14 was initially passed, and not even the same as it was in 2014 when its reauthorization was passed. More than a rote flow-through of the measures from Chapter 14 that were not previously incorporated is necessary. The concerns of consumers and utilities are not the same as when Chapter 14 was initially passed. A fresh look at Chapter 56 and many of the issues identified by Vice Chair Barrow within Chapter 56 is important and the OCA sets forth its recommendations below.

B. General Applicability

In general, the OCA recommends that Chapter 56 be modified such that Chapter 56 applies to all PUC jurisdictional electric, natural gas, water, wastewater and steam heat utilities uniformly, and if the Commission believes that a specific regulation or subsection requires different treatment for a utility, then that reason should be specifically identified. The OCA does not believe there is any reason that a water or wastewater customer should have a different standard of consumer protection for termination or disconnection, payment arrangements, or any of the other consumer protections in Chapter 56. However, currently, there are inconsistencies of the application of the regulations to water and wastewater utilities. For example, even within a regulation such as Section 56.12(5)(i), the AMI provisions apply to electric, natural gas, and water, but within the same

[38] *Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56*, Statement of Vice Chair Kimberly Barrow, Docket No. L-2025-3058767 (Feb. 19, 2026)

regulation at Section 56.12(8) regarding budget billing, it appears to only apply to electric, natural gas, and steam heat.[39] There is no requirement for water or wastewater utilities to offer budget billing to customers.

Vice Chair Barrow recommended the "extension of universal service requirements to water and wastewater utilities, including a requirement for percentage of income programs (PIP) and a LIURP-type water conservation program."[40] In addition to the protections afforded under Chapter 56, the OCA similarly recommends that "universal service" requirements now applicable to energy utilities should also be made applicable to water/wastewater as well so that those protections are standardized. This would include: (1) having a water conservation plan; (2) filing a periodic Universal Service and Water/Wastewater Conservation Plan comparable to the energy Universal Service and Energy Conservation Plan; (3) reporting the same data to BCS that energy utilities now report, which data are then included in the annual report on Universal Service Programs and Collection Performance: (4) having a "Confirmed" Low-Income or Identified Low-Income designation; and (5) both cold and hot weather disconnection protections (the current winter shutoff protections only apply to water utilities if the water is used for heating purposes). Universal service requirements now applicable to only energy utilities should be extended to water/wastewater utilities as well.

Finally, the OCA recommends that the city natural gas distribution provisions in Chapter 56 of the Public Utility Code should be eliminated. The only "city natural gas distribution operation" under the Commission's jurisdiction is Philadelphia Gas Works (PGW). When Chapter 14 was originally passed in 2004, PGW had only been under the Commission's jurisdiction for

[39] 52 Pa. Code §§ 56.12(5)(i), 56.12(8).
[40] *Rulemaking to Further Amend the Provisions of 52 Pa. Code Chapter 56*, Statement of Vice Chair Kimberly Barrow, Docket No. L-2025-3058767 (Feb. 19, 2026).

four years. PGW was in severe financial distress at the time, and the additional provisions were designed to provide greater assistance for collection efforts for PGW. PGW has now been under the jurisdiction of the Commission for more than 26 years and is no longer in the same financial distress that it was when PGW came under the jurisdiction of the Commission. There has been no demonstration that the continued additional special treatment for PGW is necessary under the law.

C. Definitions

For the reasons discussed above regarding payment arrangements, the OCA proposes that the Commission revise its definition of a Confirmed Low-income customer or Identified Low-Income customer as follows:

> *Confirmed low-income residential account*—Accounts where the utility has obtained information that would reasonably place the customer in a low-income designation. This information may include receipt of LIHEAP funds (Low-Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon rate-payer or occupant contact prior to termination).[41]

Confirmed Low-Income customers are defined differently for electric and natural gas utilities. In the natural gas portion of the Commission's regulations, Confirmed Low-Income customer is defined as:

> *Confirmed low-income residential account*-Accounts where the NGDC has obtained information that would reasonably place the customer in a low-income designation. This information may include receipt of LIHEAP funds (Low-Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon rate-payer or occupant contact prior to termination).[42]

The OCA's proposed language mirrors the language from the natural gas regulations.

In the electric portion of the Commission's regulations, Confirmed Low-Income customer

[41] 52 Pa. Code § 56.2
[42] 52 Pa. Code § 62.2

is defined as:

> *Confirmed low-income residential account*-Accounts where the EDC has obtained information that would reasonably place the customer in a low-income designation.[43]

The definition should be standardized in Chapter 56 and applicable to all utilities, and it does not make sense to have separate definitions for electric and natural gas. The OCA believes through its experiences in proceedings with utilities that the term is often misunderstood. A better designation may be "Identified Low-Income customer" to better indicate the purpose of the designation. The purpose is not to confirm or verify a low-income customer's income through an application or verification process but instead to identify that a customer is low-income.

The OCA also recommends that the standardized definition should make clear that: (1) "confirmed" does not mean that the income must be verified through an application process or is enrolled in CAP without income verification; (2) that a customer may self-certify their low-income status; and (3) a household need not provide information on actual household size and household income (in dollars). If someone, for example, receives Medicaid or SNAP, there should be a hard stop. Nothing more should need to be shown to confirm that the customer is CLI and entitled to low-income customer protections. The "self-certification" of low-income status is not in contravention of the Commission's decision that utilities may not accept self-certification for purposes of enrolling into CAP (or a water Bill Discount Program). That involves an application process. Self-certification of low-income status for purposes of establishing being "CLI" is currently explicitly allowed by PUC regulation.

The first policy reason behind this is that if someone has demonstrated to the state's satisfaction that they are sufficiently low-income to qualify for a state public benefit program, no

[43] 52 Pa. Code § 54.72.

purpose is served by requiring them to do so AGAIN to the utility. The second policy reason is that low-income households frequently have what are called "complicated incomes." Those incomes are often paid in cash; they are often seasonal. They are, in other words, hard to document or to certify.

The OCA also recommends that some controls should be implemented as well including the length of the CLI status. The OCA has seen at least one utility argue in a rate proceeding that the status should last for only one year. The OCA does not agree with it lasting only one year, and that the timeframe for the status should last at least as long as the customer would otherwise be eligible for CAP enrollment.

The OCA also recommends that the utility should be affirmatively required to inquire at the time of the application and/or at the time someone changes the service address. To the extent that the utility receives information such as through a payment arrangement, the customer's designation should be adapted accordingly.[44]

In addition to defining Confirmed Low-Income customer, the OCA recommends that all of the consumer protections that apply to a Confirmed Low-Income customer should be included in one place so that the same definition applies. Those consumer protections could include exemption from deposits, exemptions from late fees, applicable income designations for payment arrangements, and for winter moratorium protections. Currently, those definitions for Confirmed Low-Income customer are applied differently. For example, if the customer is already a CLI customer, why should they be required to again prove their income before they are offered a Level 5 payment arrangement? Why should a customer have to document their eligibility for winter shutoff protections if they are already a CLI customer?

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[44] *See*, *Pennsylvania PUC v. Columbia Gas of Pennsylvania*, Order at 350-351, Docket No. R-2025-3053499 (Dec. 4, 2025).

The OCA recommends that the CLI or Identified Low-Income customer definition be standardized and applied to all utilities. Customers and utilities should have clarity regarding the protections afforded a customer who has been identified as low-income and how the protections will be applied.

D. Section 56.11 Billing Frequency

The OCA proposes the addition of the following language regarding billing frequency:

§ 56.11. Billing frequency.

(a) A public utility shall render a bill once every billing period to every residential customer in accordance with the presentation of the components of the approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary and only with the prior consent of the customer. Evidence of consent shall consist of a customer's selection of electronic billing for a specific electronic mail address when presented with billing options and such evidence shall be retained by the public utility for a minimum period of 4 years. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a one billing cycle notice of a request to revert to paper billing.

(2) A customer shall receive the same information that is included with a paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted unless the customer has affirmatively consented to this method of delivery. The electronic delivery of a termination notice does not relieve the public utility of the obligation to provide termination notices as required under §§ 56.91—56.98.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund if the public utility is able to accept hardship fund contributions by this method.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall adopt a procedure through which it will undertake a good-faith effort to contact an individual using more than one

> modality prior to terminating their service if either or both the bills underlying the disconnection or the written notice of disconnection has been returned to the utility as undeliverable as addressed.
>
> (8) The public utility shall maintain systems to ensure the current and accurate email address for its customers who have selected electronic billing and shall automatically revert a customer to paper bills when a customer's email address is rejected.
>
> (9) The public utility shall maintain a system to deliver electronic bills if the bill is emailed to a customer.
>
> (10) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.[45]

The OCA proposes the additional language in Section 56.11(a) to add "the presentation of components" in order to make clear that the presentation of the rate components in the approved rate schedule will determine the billing period. For example, if any component of the rate is presented as a monthly charge, the billing period must be monthly.

Under Section 56.11(b)(1), the OCA also proposes to add the following language:

> Evidence of consent shall consist of a customer's selection of electronic billing for a specific electronic mail address when presented with billing options and such evidence shall be retained by the public utility for a minimum period of 4 years.

The proposed additional language is designed to add more detail to the obligation of the public utility to present the option of electronic billing with a specific email address at the time of the presentation of all billing options. In addition, the evidence of the customer's voluntary selection must be retained for four years, the same time period used throughout Chapter 56 of the residential customer's liability of unpaid charges.

Finally, the OCA proposes the addition of subsection (7) and (8) to address "undeliverable as addressed" for United States Postal Service mail and for electronic mail :

[45] 52 Pa. Code § 56.11

(7) The public utility shall adopt a procedure through which it will undertake a good-faith effort to contact an individual using more than one modality prior to terminating their service if the either or both the bills underlying the disconnection or the written notice of disconnection has been returned to the utility as undeliverable as addressed.

(8) The public utility shall maintain systems to ensure the current and accurate email address for its customers who have selected electronic billing and shall automatically revert a customer to paper bills when a customer's email address is rejected.

This "undeliverable as addressed" subsection is necessary for both mail and email. Some Pennsylvania public utilities today continue to rely on mailing written monthly bills, as well as mailing written notices of a pending nonpayment service disconnection (hereafter collectively referred to as "written notices"). Problems arise, however, when those written notices are not received by the customer but, for whatever reason, are instead returned to the utility "Undeliverable as Addressed".

Undeliverable as Addressed (UAA) is a term-of-art used by the U.S. Postal Service to reference "all mail that cannot be delivered to the name and address specified on the mailpiece, and must be forwarded, returned to sender or properly treated as waste, as authorized for the class of mail and ancillary service endorsement on the mailpiece."[46] Mail may be considered UAA because:

- The individual, family, or business to which it is addressed has moved;
- The address is incomplete, incorrect, or illegible;
- The addressee is unknown or deceased;
- The addressee refuses or fails to claim the mail; or

[46] U.S. Postal Service, Undeliverable as Addressed (UAA) Mail Statistics, available at https://postalpro.usps.com/address-quality-solutions/undeliverable-addressed-uaa-mail

- The necessary postage has not been paid.

The U.S. Postal Service states that "While all UAA causes are considered and reported, the primary focus of the [USPS] UAA mail study is on the address-quality-related reasons; that is, UAA occurring because the addressee has moved, or because the address is incomplete, incorrect or illegible."

The reasons underlying mail being Undeliverable as Addressed may have nothing to do with factors within the control of a utility customer.

- Having no mail receptacle, for example, often occurs at rental units where the property owner, not the occupant, has failed to maintain a usable mailbox.
- An "insufficient address" often occurs when an apartment or unit number is placed in the "primary" address line (along with the street address) rather than in the "secondary" address line of the mailing address.
- Particularly in urban areas, cities rename streets and/or renumber housing units resulting in UAA errors of "no such number" or "no such street."
- The UAA error "attempted not known" often occurs when numbers in the address get inadvertently transposed, a circumstance also often yielding an "insufficient address" UAA error.

Indeed, a 2015 "Management Advisory Report" by the Office of the Inspector General for the USPS reported that "the Postal Service itself is responsible for about 23 percent due to sorting errors or failed deliveries."[47]

There is precedent for requiring the adoption of specific responses to mail returned as UAA. For example, on December 29, 2022, the Consolidated Appropriations Act, 2023 (P.L. 117-

[47] Office of Inspector General, United States Postal Service, Strategies for Reducing Undeliverable As Addressed Mail, Management Advisory Report, at 1, Report Number MS-MA-15-006 (May 1, 2015), https://www.uspsoig.gov/reports/audit-reports/management-advisory-strategies-reducing-undeliverable-addressed-mail.

328) (CAA, 2023) was enacted.[48] Pursuant to the new law, Section 5131 added a new subsection (f) to section 6008 of the Families First Coronavirus Response Act (FFCRA). States seeking additional federal Medicaid funding must, among other things, meet certain new conditions under section 6008(f) of the FFCRA. Those "new conditions" include "undertak[ing] a good-faith effort to contact an individual *using more than one modality prior to terminating their enrollment on the basis of returned mail*." (emphasis added)[49]

Finally, no less than the U.S. Supreme Court, in the 2006 case *Jones v. Flowers*, held that when notice is required,[50] due process requires the government to take "additional reasonable steps to notify a property owner when notice of a tax sale is returned undelivered." Given the importance of utility service in today's world, when a utility faces circumstances where its attempt at notice is *known to have failed*, the Company cannot be said to have delivered reasonably adequate service by ignoring that fact and taking no further action.

The Court noted that it had never previously "addressed whether due process entails further responsibility *when the government becomes aware prior to the taking that its attempt at notice has failed*. That is a new wrinkle."[51] (emphasis added). The Court reasoned:

> We do not think that a person who actually desired to inform a real property owner of an impending tax sale of a house he owns would do nothing when a certified letter sent to the owner is returned unclaimed. If the Commissioner prepared a stack of letters to mail to delinquent taxpayers, handed them to the postman, and then watched as the departing postman accidentally dropped the letters down a storm drain, one would certainly expect the Commissioner's office to prepare a new stack of letters and send them again. No one "desirous of actually informing" the owners would simply shrug his shoulders as the letters disappeared and say "I tried. "Failure to follow up would be unreasonable, despite the fact that the letters were reasonably calculated to reach their intended recipients when delivered to the postman.[52]

[48] https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf
[49] *Id.*, at section 6008(f)(2)(C).
[50] In this case, in a tax sale.
[51] *Jones v. Flowers*, *supra*, 547 U.S. 220 (2006).
[52] *Id.*

For the same reasons that it is important to have a process for handling UAA, it is also equally important for there to be a process for handling rejected emails as well. The new subsection (8) is proposed to impose a reasonable responsibility on the public utility to ensure that the customer's email address is accurate, updated when required, and that if the submission of an electronic bill is rejected, to revert the customer to paper billing.

E. Section 56.12 Meter Reading; Estimated Billing; Customer Readings.

The OCA proposes the addition of the following modifications to the language regarding meter reading, estimated billing, and customer relations:

§ 56.12. Meter reading; estimated billing; customer readings.

Except as provided in this section, a public utility shall render bills based on actual meter readings obtained by public utility company personnel or authorized agents.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the public utility.

(2) *Estimates for bills rendered on a monthly basis.* If a public utility has automatic meter reading systems, bills shall be issued monthly unless there is a malfunction in that system. Other public utilities that bill on a monthly basis may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

(i) Upon the request of the customer, the public utility shall, at least annually, provide preaddressed postcards or other electronic method agreed upon by the customer on which the customer may report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The public utility may establish due dates by which the customer supplied reading shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer or occupant is not received by that due date, the public utility may estimate the quantity of usage. The public utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A public utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when public utility personnel are unable to gain access.* A public utility may estimate the bill of a customer if public utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The public utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading <u>or the electronic</u> or telephone reporting of the reading.

(ii) The public utility, at least every 6 months, or every four billing periods for public utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The public utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric public utilities.* A public utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water public utility uses readings from a remote reading device to render bills, the public utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the public utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the public utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least $50, the public utility shall comply with § 56.14 (relating to previously unbilled public utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the public utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.181(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found).

> (iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.
>
> (6) *Verification of automatic meter reading*. Upon a customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee, as provided in a Commission-approved tariff <u>only if the public utility is required to conduct an in person reading and the customer is informed of the fee and agrees to pay such fee.</u>
>
> (7) *Limitation of liability*. If a water public utility has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water public utility was unable to gain access and has complied with paragraph (4).
>
> *(8) Budget billing*. A [gas, electric, <u>water, wastewater</u> and steam heating] public utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in public utility bills. <u>This optional billing procedure shall be made available if the utility can estimate an annual bill based either on the customer's prior usage or on the prior usage of previous customers at the same service address</u>. The public utility shall review accounts at least three times during the optional billing period. At the conclusion of the budget billing year, a resulting reconciliation amount exceeding $100 but less than $300 shall be, at the request of the customer, amortized over a 6-month period. Reconciliation amounts exceeding $300 shall be amortized over at least a 12-month period at the request of the customer. Shorter amortization periods are permissible at the request of the customer.
>
> (1) *Notice*. The public utility shall inform existing customers of their rights under this section and 66 Pa.C.S. § 1509 (relating to billing procedures).[53]

The OCA's proposed language reflects that public utilities may read meters by their own employees or by their authorized agents or contractors. In 56.12(2)(i), the proposed new language reflects the option of relying on electronic communications in addition to postcards to allow for

[53] 52 Pa. Code § 56.12.

customers to submit estimated readings. In addition, a new sentence is proposed to state that utilities with "automatic meter reading" systems (as defined) should be expected to bill monthly and avoid estimated meter readings.

In subsection 6, the proposed language would require the public utility that charges a fee for an in-person meter reading for an automatic meter reading device to inform the customer of the fee and obtain the customer's permission to charge such a fee. Disclosure and customer consent to the fee are important considerations for the consumer when considering whether they would like to proceed with an in-person testing.

Finally, the OCA recommends two modifications to the applicability of and the operation of Section 56.12(8). The OCA recommends that the provision for budget billing should be extended to water and wastewater utilities as well and have the opportunity to be able to utilize budget billing in a similar fashion as their other utilities.

Under 56.12(8) regarding budget billing, the OCA also recommends that the utility should not require the customer to have 12 months of complete bills at their address before entering into budget billing.[54] The OCA recommends that the following language be inserted: "this optional billing procedure shall be made available if the utility can estimate an annual bill based either on the customer's prior usage or on the prior usage of previous customers at the same service address." Given the frequent mobility of low-income customers, requiring 12 months of billing may keep low-income customers off of budget billing. The utility may argue that 12 months of billing may be needed to generate a reasonable budget bill, but the OCA would propose that the utility could use 12 months of bills from the service address in combination with the ability to modify a budget

[54] 66 Pa.C.S. § 56.12(8).

billing if there was some predesignated difference between what was budgeted and what was experienced in order to enroll someone into budget billing.

F. Section 56.13 Billings for merchandise, appliances and nonrecurring and recurring services.

The OCA proposes the following modifications to Section 56.13 regarding billings for merchandise, appliances and nonrecurring and recurring services:

> § 56.13 Billings for merchandise, appliances and nonrecurring and recurring services.
>
> Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges and other nonrecurring charges, except as provided in this chapter—must appear ~~after charges for basic services and appear~~ on a distinctly separate portion or page of the bill from basic services with a label entitled "Non-Basic Services." The total amount due to avoid collection action including termination of service shall be separately identified from any non-basic service included on the bill. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. See § 56.83(3) (relating to unauthorized termination of service).[55]

The proposed changes to this section reflect the evidence gathered by the OCA in numerous recent base rate cases that document that some public utilities include non-basic services as part of the list of regulated basic charges and include the necessary disclosures in fine print on the back or second page of the bill. Public utilities that include non-basic charges on the customer bill with the regulated public utility charges should present the non-basic charges on a separate page or distinctly separate section of the customer bill. Those charges should be labeled as "non-basic charges" and the total amount due to avoid further collection action (regulated charges) should be

[55] 52 Pa. Code § 56.13

presented separately from other non-basic charges. Non-payment of non-basic charges are not subject to termination for failure to pay, and that distinction should be clear on the customer's bills.

G. Section 56.15 Billing information.

The OCA proposes the following modifications to Section 56.15 regarding billing information:

§ 56.15. Billing information.

A bill rendered by a public utility for metered and flat rate residential public utility service must state clearly the following information:

(1) The beginning and ending dates of the billing period.

(2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it shall contain a clear and conspicuous marking of the word ''Estimated.''

(3) The due date on or before which payment of basic service shall be made or the account will be delinquent.

(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges. The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

(5) Amounts due for reconnection charges.

(6) Amounts due for security deposits.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.22 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to ''register any question or complaint about the bill prior to the due date,'' with the address and telephone number where the customer may initiate the inquiry or complaint with the public utility.

> (12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility's web site with a link to that portion of the web site for a current plain language presentation of approved rates and charges for each rate schedule.
>
> (13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the public utility.
>
> (14) Electric distribution utilities and natural gas distribution utilities shall incorporate the requirements in §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).[56]

The OCA has recommended that the provisions of Chapter 56 be extended to water and wastewater customers. As such, the OCA recommends that this section should be applicable to both metered and flat rate customers. While some of the provisions relating to metering information may not be applicable, other provisions relating to charges presented on the bill, billing due dates, etc. would be applicable to flat rate wastewater customers.

In subsection 56.15(3), the OCA recommends that the language be modified to include a reference to "basic service" in order to ensure that the bill's presentation of due dates is for basic or regulated service. A clear distinction should always be made between basic service and non-basic service.

For subsection 56.15(12), the OCA proposes that the language be modified to add a requirement that the public utility provides a link to a plain language presentation of approved rates and charges for each rate schedule on its web site. The current rule's reference to a "local business office" is obsolete since all the larger public utilities do not maintain a business office that is accessible to the public and all these same public utilities maintain a web site as the primary means of providing customer information.

H. Section 56.16. Transfer of Accounts

[56] 52 Pa. Code § 56.15

The OCA proposes the following modifications to Section 56.16 regarding the transfer of accounts:

§ 56.16. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice or a lesser notice period as required by a public utility with automatic meter reading to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. After a reasonable attempt to obtain meter access, if the public utility is not able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a public utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.91 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of that notice, the customer requests a transfer of service to a new location, the termination process in §§ 56.91—56.99 may continue at the new location.

(1) When notifications set forth under § 56.91 and § 56.95 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the public utility may condition ~~deny~~ service on payment arrangements for the prior debt at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.141—56.143 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint). When communicating to the customer about the provisions of this section or other requirements to continue service, the public utility shall inform the customer of the dispute procedures.[57]

The OCA proposes the addition of "or a lesser notice period as required by a public utility with automatic meter reading" to 56.16(a) in order to address the ability of automatic meter reading

[57] 52 Pa. Code § 56.16

the needed timeframe. With the advent of automatic meter reading and ability to essentially push a button for utilities with AMI, the 7 day requirement to notify the public utility of a discontinuance appears unreasonable since the utility does not need to conduct an in-person meter reading in order to disconnect service.

Under Section 56.16(c) (1), the OCA recommends a change in the language to condition rather than deny service at a new location. Presumably, the most likely reason that a utility would deny service would be due to a previously owed debt. A public utility should be required to offer conditions under which a customer can obtain service rather than "deny" service.

Under Section 56.16 (c) (2), the OCA proposes language to require the utility to inform the customer of their dispute rights. The proposed language will require the public utility to explain the dispute procedures to the customer rather than relying on a customer's knowledge of those dispute policies and procedures. It is unreasonable to assume that the customer understands the intricacies of the public utility rules and customer rights or rely on the customer's ability to articulate a "dispute."

I. Section 56.17. Advance payments.

The OCA does not believe that there is a need to continue subsection (3) regarding gas and electric prepaid meters in Section 56.17 and subsection 3 should be repealed.

§ 56.17. Advance payments.

Payments may be required in advance of furnishing any of the following services:

(1) Seasonal service.

(2) The construction of facilities and furnishing of special equipment.

~~(3) Gas and electric rendered through prepayment meters provided:~~

~~(i) The customer is nonlow income. For purposes of this section, "non-low income" is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines and has a delinquency for which the individual is requesting~~

~~a payment arrangement but offering terms that the public utility, after consideration of the factors in~~

~~§ 56.97(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.~~

~~(ii) The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.~~

~~(iii) The customer and public utility enter into a payment arrangement which includes, but is not limited to, the following terms:~~

~~(A) The customer voluntarily agrees to the installation of a prepayment meter.~~

~~(B) The customer agrees to purchase prepayment credits to maintain service until the total balance is retired and the public utility agrees to make new credits available to the customer within 5 days of receipt of prepayment.~~

~~(C) The public utility agrees to furnish the customer with emergency backup credits for additional usage of at least 5 days.~~

~~(D) The customer agrees that failure to renew the credits by making prepayment for additional service constitutes a request for discontinuance under § 56.72(1) (relating to discontinuance of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup credits runs out.~~

~~(E) That the public utility will not charge a fee for purchasing credits.~~

~~(iv) The public utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.~~

~~(v) During the first 2 years of use of prepayment meters, the public utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:~~

~~(A) *Content*. The evaluation should include both process and impact components. Process evaluation should focus on whether the use of pre-payment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of public utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.~~

~~(B) *Time frame*. The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of~~

~~the second year.~~
~~(4)~~ (3) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.[58]

The OCA proposes that subsection (3) be repealed. Prepaid metering presents a significant danger to consumers and should not be permitted. The risk of loss of service is significant for consumers. Without electric or natural gas service, households may resort to the use of unsafe heating, lighting, or cooling, such as portable space heaters, candles, stoves and generators, put the health and safety of the occupants of the household in peril. Use of alternative heating sources if there is a disconnection puts the customers at risk of loss of property or life. The customers who are likely to be most willing to use prepaid metering due to economic vulnerability are most likely to be the customers most at risk for health and safety impacts due to loss of service. Prepaid customers face frequent service disconnections or interruptions, may incur additional fees, and ultimately pay more for the same service than traditional post-pay customers.

If, however, this section is retained, an additional consumer protection should be added to prohibit the public utility (or its agent) from charging any fees to purchase credits for electric or natural gas service as highlighted above. Such credits constitute a penalty or rate increase to customers enrolled in the program and should not be permitted.

J. Section 56.21 Payment.

The OCA proposes the following amendments to modify Section 56.21 regarding payments:

§ 56.21. Payment.

The due date for payment of a bill may not be less than 20 days from the date of transmittal; that is, the date of mailing, electronic transmission or physical delivery of the bill by the public utility to the customer.

[58] 52 Pa. Code § 56.17,

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the public utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) Branch offices or authorized payment agents. The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) Electronic transmission. The effective date of a payment electronically transmitted to a public utility or its authorized agent identified on the public utility's web site is the date of the customer's submittal of the payment on the utility's web site.

(5) Fees. A public utility shall not charge a fee for the use of any payment method made available for payment methods that are authorized and implemented by the customer on the utility's web site. ~~Fees or charges assessed and collected by the public utility for utilizing a payment option must be included in the public utility's tariff on file at the Commission~~.

(6) Multiple notifications. When a public utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.[59]

The OCA has proposed the changes to Sections 56.21 (4) and (5) to clarify that a customer who makes a payment authorized on the public utility's web site (a common option) should have his/her payment credited to the account on the day of these payments. Furthermore, public utilities should not be allowed to charge a separate fee for the use of any payment option offered by and promoted on the public utility's web site, a policy reform that has been adopted by more public utilities recently. A charge for using an authorized and promoted payment method should be encouraged to avoid the use of more expensive paper checks.

K. 56.22 Accrual of late payment charges.

[59] 52 Pa. Code § 56.21.

The OCA proposes the following modifications to Section 56.22 regarding the accrual of late payment charges:

§ 56.22. Accrual of late payment charges.

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility shall not charge late payment charges on a payment plan or on customers enrolled in the public utility's universal service programs.

~~(d)~~ (e) A public utility may waive late payment charges on any customer accounts. ~~The Commission may only order a waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level. See 66 Pa. C.S. § 1409 (relating to late payment charges)~~. [60]

The OCA proposes the addition of Section 56.22(d) in order to eliminate late payment charges when a customer has enrolled in a utility's payment plan or for those customers enrolled in the public utility's universal service programs. Section 1409 of Chapter 14 has sunset and no longer binds the Commission regarding the application of late fees.

The OCA believes that late fees should be reconsidered as a part of the Commission's review of Chapter 56. It is the OCA's experience that late fees are not cost-based. Pennsylvania utilities have universally disclaimed having information which supports the conclusion that late payment fees serve any "incentive" function, or have any impact in reducing arrears or accelerating payments. Eliminating such fees will encourage customers to negotiate affordable payment plans and avoid contributing to unaffordable payments. Furthermore, low income customers enrolled in

[60] 52 Pa. Code § 56.22.

the utility's universal service programs should not be required to pay higher charges to participate in programs that are designed to assure more affordable service. The elimination of the language in subsection (d) [now (e)] conforms to this proposed change.

L. Section 56.24. Application of Partial Payments Among Several Bills for Public Utility Service.

The OCA proposes the following modification to Section 56.24 regarding the application of partial payments among several bills for public utility service:

§ 56.24. Application of partial payments among several bills for public utility service.

In the absence of written instructions, a disputed bill or a payment arrangement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior basic service.[61]

The OCA proposes the above modification to Section 56.24 to clarify that partial payments should be first applied to basic service. As utilities may include non-basic service on customer bills, the regulations should specify that the priority for partial payments should be to basic service that is subject to customer termination for non-payment and not to non-basic services.

M. Section 56.25 Electronic bill payment.

The OCA proposes the following modification to Section 56.25 regarding electronic bill payment:

§ 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary. A public utility may not require a customer to enroll in electronic bill payment as a condition for enrolling in electronic billing.

(2) A public utility shall not charge a fee for the use of any electronic bill payment option offered by the utility.

[61] 52 Pa. Code § 56.24

(3) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's financial account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(4) The terms of the payment procedures shall be fully disclosed to the customer in writing, either by mail or electronically, before the customer enters the program. Program changes shall be conveyed to the customer in writing, either by mail or electronically, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(5) The public utility shall provide a receipt, or a confirmation, transaction or reference number, either electronically or on paper, to the customer upon payment through the electronic method. This requirement does not apply if the payment method is through a preauthorized automated debit from a customer's financial account.

(6) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.[62]

The OCA has recommended in Section 56.21 that public utilities should not charge a fee for electronic bill payment. The OCA proposes that the same change be flowed through to Section 56.25, the electronic bill payment regulation for the same reasons set forth above regarding Section 56.21.

N. Section 56.32 Security and cash deposits.

The OCA proposes the repeal of Section 56.32 provisions regarding security and cash deposits for customers and applicants:

§ 56.32. Security and cash deposits.

~~(a) In addition to the right to collect a deposit under any Commission regulation or order, the public utility may require a cash deposit, payable during a 90-day period in accordance with § 56.38 (relating to payment period for deposits by applicants), in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:~~

~~(1) An applicant who previously received public utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:~~

~~(i) Nonpayment of an undisputed delinquent account~~.

[62] 52 Pa. Code § 56.25.

~~(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.~~

~~(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.~~

~~(iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.~~

~~(v) Failure to comply with the material terms of a payment arrangement.~~

~~(vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.~~

~~(vii) Tampering with meters, including bypassing a meter or removal of an AMR device or other public utility equipment.~~

~~(viii) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the delivery system of the public utility.~~

~~An applicant who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology, as provided in a Commission-approved tariff, and which employs standards for using the methodology that fall within the range of general industry practice. The credit scoring methodology utilized for this purpose must specifically assess the risk of public utility bill payment.~~

~~(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:~~

~~(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required.~~

~~(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer assistance program made available by the city natural gas distribution operation are not subject to this paragraph.~~

~~(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.~~

(c) Prior to providing public utility service, a public utility may require the applicant to provide the name~~s~~ of ~~each adult occupant~~ applicant or customer residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall not retain Social Security Numbers in their files if such information is provided once the confirmation of the individual's identify is completed. ~~take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.~~

~~(d) A public utility is not required to provide service if the applicant fails to pay the full amount of the cash deposit within the time periods under § 56.38. If the applicant chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment in full by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service).~~

(e) If an existing security deposit is refunded to a low-income customer, the refund must be refunded to the customer, and not as a bill credit, unless the customer has evidenced informed consent to receive a bill credit.[63]

The OCA's proposed edits to repeal Section 56.32(1) reflect additional consumer protections to limit the use of the deposit authority for public utilities since deposit requirements contribute to unaffordability for customers who have already demonstrated their inability to pay the required amount to avoid overdue bills. Security deposits exacerbate customer affordability and present a significant barrier for low to moderate income customers to have access to essential utility service.

Although the OCA recommends the repeal of Subsection 56.32, the OCA notes that Subsection 56.32(b) provides specific protections to the "city natural gas distribution company" which references only PGW. As discussed above, the OCA recommends that the proposed city natural gas distribution provisions in the Public Utility Code should be eliminated. The only "city natural gas distribution operation" under the Commission's jurisdiction is Philadelphia Gas Works (PGW). When Chapter 14 was originally passed in 2004, PGW had only been under the

[63] 52 Pa. Code § 56.32.

Commission's jurisdiction for four years. PGW was in severe financial distress at the time, and the additional provisions were designed to provide greater assistance for collection efforts for PGW. PGW has now been under the jurisdiction of the Commission for more than 26 years and is no longer in the same financial distress that it was when PGW came under the jurisdiction of the Commission. There has been no demonstration that the continued additional special treatment for PGW is necessary under the law.

Under the current regulation, Subsection 56.32(c) allows a public utility to demand the names and proof of identify for all adult occupants upon an application for service. The OCA recommends that this requirement be limited to the customer or applicant. While the OCA understands that utilities typically require proof of identity for the applicant/customer, we view the requirement that the applicant/customer be responsible for providing proof of identity (other than names) of all other adult occupants as a barrier to essential utility service. This would require, if implemented, that an individual provide such information for their spouse, partner, aunt, uncle, grandparents, roommate, and adult child if such individuals coinhabit the dwelling. Furthermore, this provision also allows the utility to "ask but may not require" the "individual's Social Security Number."

The OCA has found in several recent base rate proceedings that some utilities may be retaining Social Security Number (SSN) information in their files. Public utilities should not retain this information in their files after it is used to confirm the individual's identity. This proposed policy is also the norm for many public utilities and should be implemented for all public utilities to prevent the unauthorized access to this information since the individual's SSN is the basis for significant potential fraud and loss of benefits if it falls into the wrong hands. Once used for the purpose of confirming identity, there is no basis for the utility's retention of this personal information.

Ideally, utilities should develop an alternative to the use of Social Security numbers. Pursuant to the language change proposed by the OCA, if utilities collect the SSNs at the time of the application, they must delete those SSNs within 30 days after a customer becomes a customer. Utilities should also be barred from sharing SSNs with any non-utility entity such as a credit reporting agency. The Commission has no control over the data if the information is sold to a multi-national corporation like Experian. The only protection available would be to not share the data in the first instance.

O. <u>Section 56.35 Payment of outstanding balance.</u>

The OCA proposes the following modifications to Section 56.35 regarding the payment of outstanding balance:

§ 56.35. Payment of outstanding balance.

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly <u>based on records maintained by the public utility</u>.

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, except as provided for in paragraphs (1) and (2).

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years from the date of the service request. The 4-year limit does not apply if the balance includes amounts that the public utility was not aware of because of fraud or theft on the part of the applicant <u>and for which the public utility has evidence to support such allegation</u>.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the

> Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this paragraph, used to determine the applicant's liability for any outstanding balance.
> (3) Any outstanding residential account with the public utility may be <u>the subject of a negotiated payment arrangement</u> in accordance with § 56.191 (relating to payment and timing).
> (c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.[64]

The OCA has proposed the edits to Section 56.35(b)(1) and (3) to make clear that the public utility has the burden of documenting a prior unpaid amount based on their billing records. This obligation is important to ensure that an applicant who disputes the prior amount can access the records that document the prior bills, lack of payment, and legal obligation of the individual (particularly when that obligation is based on the individual's prior residence at the location while not a customer of record.

P. <u>Section 56.36 Written procedures.</u>

The OCA proposes the following modifications to Section 56.36 regarding written procedures:

> **§ 56.36. Written procedures.**
>
> (a) Public utilities shall include in their tariffs filed with the Commission their credit and application procedures along with a general description of their credit scoring methodology and standards.
> (b) A public utility shall establish written procedures for determining the credit status of an applicant and for determining responsibility for unpaid balances in accordance with § 56.35 (relating to payment of outstanding balance). The written procedures must specify that there are separate procedures and standards for victims with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. The procedures must also specify that any applicant that is confirmed to be eligible for a customer assistance program <u>or otherwise eligible for exemption based on income</u> will not be required to pay a deposit. A public utility employee processing applications or determining the credit status of applicants shall be supplied

[64] 52 Pa. Code § 56.35.

with or have ready access to a copy of the written procedures of the public utility. A copy of these procedures shall be maintained on file in each of the business offices of the public utility and made available, upon request, for inspection by members of the public and the Commission and be included on the public utility's web site <u>in a location conspicuous to the general public</u>.

(1) *Reasons for denial of credit*. If credit is denied, the public utility shall inform the applicant in writing of the reasons for the denial within 3 business days of the denial. This information may be provided electronically to the applicant with the applicant's consent. The written denial statement must include the provider of the credit score, information on the applicant's ability to challenge the accuracy of the credit score and how to contact the credit score provider. If the public utility is requiring payment of an unpaid balance in accordance with § 56.35, the public utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third-party guarantor in accordance with § 56.33 (relating to third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a protection from abuse order, or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, that more lenient credit and liability standards may be available. The statement must also inform the applicant that if he or she is, based upon household income, confirmed to be eligible for a customer assistance program a deposit is not required. The public utility shall <u>affirmatively</u> inform the applicant of the procedures and documentation necessary to qualify for an exemption from a security deposit requirement.

(2) *Informing applicants of procedures.* Public utility personnel shall fully explain the credit and deposit procedures of the public utility to each customer or applicant for service <u>and the qualifications for an exemption from a security deposit</u>.

(3) *Third-party requests for service.* Requests from third parties to establish public utility service on behalf of an applicant will not be honored until the public utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third party is authorized to act on the applicant's behalf.[65]

[65] 52 Pa. Code § 56.36.

The OCA's proposed edits to Section 56.36(b) are designed to conform the exemption from a deposit based on income as well as eligibility for the customer assistance program. In addition, as the Commission is well aware, most of the larger public utilities do not maintain a business office accessible to the general public, but instead base the majority of their interactions with customers and applicants with a customer call center and the utility's website. Public utilities should not bury their written procedures or tariffs on their website but should provide conspicuous location and link to these documents. The OCA's proposed amendments are designed to reflect these issues in the regulations.

The OCA's proposed edit to Section 56.36 (b)(2) is designed to reflect the Commission's policies regarding security deposits from low-income customers. This amendment continues our proposal that public utilities must affirmatively inform the applicant of how to qualify for an exemption from a security deposit. Such information that is provided in writing alone is insufficient.

Q. Section 56.37 General rule.

The OCA proposes the following edits to Section 56.37 regarding the "General rule":

§ 56.37. General rule.

Once an applicant's application for service is accepted by the public utility, the public utility shall make a bona fide attempt to provide service within 3 business days or within 24-hours if the public utility has the ability to remotely initiate service, provided that the applicant has met all regulatory requirements. A bona fide attempt to provide service within 7 business days is permissible if street or sidewalk digging is required. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the public utility shall provide service pending completion of the investigation. If the public utility cannot provide service by the time frames specified in this section, the public utility shall inform the customer of this fact and provide a reasonable estimate of when service will be provided. These requirements do not apply to new service installations and service extensions that require the construction of facilities to provide the public utility service.[66]

The OCA has proposed the modification to reflect the widespread installation of automatic metering that allows the utility to remotely turn on and turn off their meters to allow for prompt reconnection and connection of service when appropriate. The older 3 business days rule should reflect the functionality of the newer automatic (AMI) metering systems where installed.

R. Section 56.41 General rule. [Deposits for Existing Customers]

The OCA proposes the repeal of subsections 56.41(1) and (3) for security deposits from existing customers and modification to the regulation as follows:

> A public utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:
>
> ~~(1) *Delinquent accounts*. Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.~~
>
> ~~(i) Prior to requesting a deposit under this section, the public utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.~~
>
> ~~(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.~~
>
> ~~(B) Notification may be mailed or delivered to the customer together with a bill for public utility service.~~
>
> ~~(C) Notification must set forth the address and phone number of the public utility office where complaints or questions may be registered.~~
>
> ~~(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the public utility office where questions or complaints may be registered.~~
>
> ~~(ii) Except in the case of adjustments to budget billing plans, a public utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled public utility~~

[66] 52 Pa. Code § 56.37

~~service) under the following conditions:~~

~~(A) The public utility has complied with § 56.14. Compliance with a payment arrangement by the customer discharges the delinquency and a notification or request for deposit may not thereafter be issued based on the make-up bill.~~

~~(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.~~

(2) *Condition to the reconnection of service*. A public utility may require a deposit as a condition to reconnection of service following a termination in accordance with § 56.191 (relating to payment and timing).

~~(3) . *Failure to comply with payment arrangement*. A public utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a payment arrangement.~~

(4) *Cash deposit prohibition*. Notwithstanding paragraphs (1)—(3), a public utility may not require a customer that, based upon household income, is confirmed to be eligible for a customer assistance program to provide a cash deposit. A customer is confirmed to be eligible for a customer assistance program by the public utility when the customer provides income documents or other information that he or she is eligible for state benefits based upon house-hold income eligibility requirements that are consistent with those of the public utility's customer assistance programs.[67]

The OCA proposes that Section 56.41(1) be repealed. The OCA recommends that the rule that allows a public utility to demand a deposit from existing customers based on late payment of service be repealed. Deposits are intended only to protect against the loss of revenue due to bad debt. They are not intended to protection against late payments. Moreover, in response to repeated rate case discovery, no Pennsylvania utility has been able to produce information demonstrating that deposits have served the impact of accelerating payments, reducing nonpayment, or reducing bad debt.

[67] 52 Pa. Code § 56.41

Such a provision only exacerbates the unaffordability of essential utility service. If a customer does not pay as required and has exhausted their payment agreement or dispute rights, the proper course of action is to rely on the issuance of a termination notice with the rights and responsibilities associated with that collection process. Merely adding to the unpaid debt is not a widely documented policy that results in payment.

For the same reasons relating to subjection 56.41(1), the OCA recommends that Section 56.41(3) be repealed. Public utilities should not have the right to demand a security deposit for the failure to meet the terms of a payment arrangement. Requirement of an additional security deposit only exacerbates an existing customer's ability to catch up on a payment arrangement and serves as a further barrier to restoration of service or prevention of termination of service.

S. 56.42. Payment period for deposits.

Consistent with the OCA's recommendation to repeal security deposits for existing customers, the OCA similarly recommends the repeal of Section 56.42(d):

§ 56.42. Payment period for deposits by customers.

> (a) *Due date*. The due date for payment of a deposit, other than a deposit required as a condition for the reconnection of service under § 56.41(2) (relating to general rule), may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due.
>
> (b) *Delinquent account*. A customer paying a deposit under § 56.41(1) may elect to pay a required deposit in three installments: 50% billed upon the determination by the public utility that the deposit is required, 25% billed 30 days after the determination and 25% billed 60 days after the determination. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service). The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.
>
> (c) *Reconnection of service*. A customer paying a deposit for the reconnection of service under § 56.41(2) may be required to pay 50% prior to, and as a condition of, the reconnection of service with 25% billed 30 days

after reconnection of service and 25% billed 60 days after the reconnection of service. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81. The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

~~(d) *Failure to comply with a payment arrangement*. A customer paying a deposit under § 56.41(3) may be required by the public utility to pay the deposit in three installments: 50% billed upon the determination by the public utility that the deposit is required; 25% billed 30 days after the determination; and 25% billed 60 days after the determination. The public utility shall inform the customer of the option to pay the deposit in the installments described in this sub-section. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81. The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.~~ [68]

(d) The repeal of this subsection conforms to our proposal in Section 56.41 to eliminate the right to demand a deposit to a customer who fails to comply with a payment arrangement and should be adopted for the same reasons identified above regarding Section 56.41.

T. 56.53. Deposit hold period and refund.

The OCA proposes the following modifications to Section 56.53 regarding the deposit hold period and refunds:

§ 56.53. Deposit hold period and refund.

(a) A public utility may hold a deposit until ~~a timely~~ an adequate payment history is established.

(b) ~~A timely~~ An adequate payment history is established when a customer has paid in full ~~and on time~~ for any 12 consecutive months.

(c) At the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return or credit any positive difference to the customer. At the option of the public utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

(d) If service is terminated before the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return any positive difference to the customer

[68] 52 Pa. Code § 56.42.

within 60 days of the termination.

(e) If a customer becomes delinquent before the end of the deposit holding period as established in subsection (a), the public utility may deduct the outstanding balance from the deposit.

(f) A public utility shall refund a deposit, along with any applicable interest, within 60 days upon determining that the customer or applicant from whom a deposit was collected is not subject to a deposit under § 56.32(e) (relating to security and cash deposits) or § 56.41(4) (relating to general rule).

(g) If a security deposit is refunded to a low-income customer, the refund must be refunded to the customer, and not as a bill credit, unless the customer has evidenced informed consent to receive a bill credit.[69]

The OCA proposes a modification to delete the "on time" and "timely" provisions in subsection 56.53(a) and (b) that would trigger the refund of a security deposit. TA customer may be chronically late on their payments due to, for example, the timing of their bill and the timing of income received such as from Social Security. However, that customer may get caught up. A customer should not be penalized with the lack of refund of a deposit if they are paying their bills in full, but unable to do so by the due date. The customer deposit should be refunded if the customer has paid in full for any 12 month period. The requirement that the customer pay "on time" is a significant barrier that does not reflect the key criteria which is that the utility has received payment of the required amount for 12 consecutive months.

A comparable timeliness issue has arisen numerous times regarding arrearage forgiveness received for customer assistance program enrollment. The evidence has shown that people could pay a huge percentage of their bills, and yet may not receive any arrearage forgiveness, because they make late payments, or partial payments, and even though customers who miss a payment quickly cure that nonpayment. The Commission has eliminated this timeliness requirement from

[69] 52 Pa. Code § 56.53

the CAP Policy Statement, and the timeliness of bill payment for the return of a security deposit should be treated in a similar fashion.

As discussed above regarding Section 56.32(f), the OCA proposes here Section 56.53(g) regarding the refund of a deposit to a low-income customer. The OCA also recommends that low-income customers receive a refund, not in the form of a bill credit, unless informed consent is received. In particular, where that refund is being provided to a customer enrolling in CAP, that CAP customer may now have the arrearages be frozen and forgiven over time. The customer should have the informed right to understand that the deposit would be going towards a balance that would otherwise be forgiven with CAP payments. This modification to the regulation codifies the Commission's stated policy into the regulations. The Commission has made clear that when a deposit is refunded to a low-income customer, it must be refunded to the customer and not as a bill credit unless the customer has evidenced informed consent to receive a bill credit[70].

U. <u>Section 56.81. Authorized termination of service.</u>

The OCA proposes a modification to Section 56.81 regarding the authorized termination of service, specifically relating to termination due to failure to make a payment arrangement, as follows:

> **§ 56.81. Authorized termination of service.**
>
> A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91—56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer:
>
> (1) Nonpayment of an undisputed delinquent account in excess of $100.00.
>
> (2) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.
>
> (3) Failure to permit access to meters, service connections or other

[70] *Columbia Gas of Pennsylvania, Inc. Universal Service and Energy Conservation Plan for 2024-2028 Submitted in Compliance with 52 Pa. Code § 62.4*, Order at 31 Docket No. M-2023-3039487 (April 4, 2024).

property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(4) Failure to comply with the material terms of a payment arrangement. (i) For purposes of this section, material shall mean nonpayment of a bill of more than 90 days.[71]

The authorization to terminate service by a public utility should reflect a minimum delinquent amount to avoid adverse collection action and expensive utility attempts to contact the customer for *de minimus* amounts. The OCA suggests perhaps a an unpaid bill of more than 90 days in age would be the trigger the issuance of a termination notice.

This *de minimus* amount is in line with the Commission's analysis of a "material term" of a payment arrangement. The Commission has interpreted material on a fact-specific basis. In *Richards v. Peco* (2008 Pa. PUC LEXIS 2870), which addresses the definition of a "material term" in a payment arrangement.[72] The Commission in Richards compared "material term" to a material fact in contracts and defined it as "one which constitutes substantially the consideration of the contract, or without which it would not have been made."[73]

Richards states that a "material term" is similar to a material fact in contracts, defined as "one which constitutes substantially the consideration of the contract, or without which it would not have been made"[74] Additionally, the material term of a payment agreement is the term that relates to the payment schedule; "without the payment schedule the payment agreement would not have been consummated"[75] The Commission evaluated whether there had been substantial compliance with this material term of the agreement, the payment schedule.[76] The Commission

[71] 52 Pa. Code § 56.81.
[72] *Richards v. Peco,* 2008 Pa. PUC LEXIS 287 (May 20,2008). (*Richards*)
[73] *Richards* at 62.
[74] *Richards* at 62.
[75] *Richards* at 63
[76] *Richards* at 63.

further notes that we must look at whether there has been substantial compliance, which is defined as "compliance with the essential requirements, whether of a contract or of a statute."[77] The Commission continues on by examining whether there has been substantial compliance with this material term of the agreement, the payment schedule.[78]

V. Section 56.91. General notice provisions and contents of termination notice.

The OCA proposes the following modifications regarding general notice provisions and contents of termination notice:

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall ensure that the customer has been provided a ~~provide~~ written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. In the event of a user without contract as defined in § 56.2 (relating to definitions), the public utility shall comply with §§ 56.93—56.97, but need not provide notice 10 days prior to termination.

(b) No utility shall make a practice of delivering more than two consecutive notices of disconnection for past due bills without engaging in the collection identified in the notice.

(c)~~(b)~~ A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of amounts currently due, including any required deposit.

(3) A statement that a reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is authorized for this customer as ~~is a~~ part of the tariff of the public utility on file with the Commission. The statement must include the maximum possible dollar amount of the reconnection fee that may apply.

(4) The date on or after which service will be terminated unless one of the following occurs:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment arrangement is established.

(iv) Qualification for enrollment ~~Enrollment~~ is made in a customer

[77] *Richards* at 62.

[78] *Richards* at 63.

assistance program or its equivalent, if the customer is eligible for the program.

(v) A dispute is filed with the Public Utility or the Commission.

(vi) Payment in full of amounts past due on the most recent payment arrangement is received or alternative amount as agreed by the public utility.

(1) A statement that specifies that the notice is valid for 60 days.

(2) A statement that the customer should immediately contact the public utility to attempt to resolve the matter. The statement must include a toll free ~~the address and~~ telephone number or a physical location in the public utility's service territory where questions may be asked, how payment arrangements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility.

(3) The following statement: "If you have questions or need more information, contact us as soon as possible at (public utility phone number). After you talk to us, if you are not satisfied, you may file an informal complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call 1 (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(4) A medical certificate notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to post-termination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(5) If the public utility has universal service programs, information indicating that special assistance programs may be available and how to contact the public utility for information and enrollment, and that qualification pending enrollment in the program may be a method of avoiding the termination of service.

(6) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty level and the required documentation or information the customer shall supply to avoid termination.

(7) Information indicating that special protections are available for victims under a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence and how to contact the public utility to obtain more information on these protections.

(8) Information indicating that special protections are available for

tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(9) If the public utility has universal service programs, information indicating that special assistance programs may be available and how to contact the public utility for information and enrollment, and that qualification pending enrollment in the program may be a method of avoiding the termination of service.

(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty level and the required documentation or information the customer shall supply to avoid termination.

(11) Information indicating that special protections are available for victims under a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence and how to contact the public utility to obtain more information on these protections.

(12) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(13) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered ''customers'' and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, an adult occupant who has been living at the premise may have to pay all or portions of the bill that accrued while the adult occupant lived there to have service turned back on.

(15) Information indicating that if service is shut off, the customer may be required to pay a reconnection fee as set forth in the public utility's tariffs ~~more than the amount listed on the notice~~ to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service turned back on or no more than 24 hours if the public utility has a remote metering system.

(17) Information in Spanish directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5% or more of the residents of the public utility's service territory are using that language.

(18) Contact information for customers with disabilities that need assistance.[79]

[79] 52 Pa. Code § 56.91

The OCA has proposed the above changes for greater clarity in the termination notices to customers and refers to existing tariff provisions that limit or eliminate reconnection fees for certain customers. For Section 56.91(a), the OCA recommends that the language be amended from "provide" written notice to "ensure that the customer has been provided a written notice" prior to termination. The clarification requires greater clarity that the public utility has the responsibility to ensure that notice is effectuated to the customer.

The OCA is overall concerned about a deeper issue that disconnection notices appear to be issued and not acted upon by the utility. Under Section 55.105 of the Commission's regulations:

> A utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter. Notice of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures in this chapter, unless the customer or occupant remedies the situation which gave rise to the enforcement efforts of the utility.[80]

In the Commission's Seventh Report to the Governor and General Assembly Pursuant to Section 1415 (December 20, 2024) (pages 103-109) regarding the implementation of Chapter 14, the Commission reported the following as to the number of 10-day notices and number of actual nonpayment disconnections.

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[80] 52 Pa. Code § 55.105

Number of 10-Day Residential Termination Notices and Number of Nonpayment Disconnections (electric, natural gas, major water) (2023)								
Electricity			Natural Gas			Major Water		
Utility	Notices	Disconnects	Utility	Notices	Disconnects	Utility	Notices	Disconnects
DLC	227,434	24,820	CG	146,820	10,454	Aqua	189,389	6,197
ME	300,114	26,672	NFG	91,847	6,981	PAWC	288,073	16,638
PECO*	567,279	87,488	Peoples	122,493	21,462	PWSA	19.738	215
PN	285,035	19,379	PGW	280,225	34,682	Total	477,482	23,050
PP	74,952	4,006	UGI-Gas*	129,112	31,066			
PPL	226,311	17,915	Total	770,497	104,645			
WP	308,031	20,188						
Total	1,989,156	200,468						

As can be seen in the table, the electric industry issues 10 notices for every disconnection it actually pursues, while the natural gas industry issues more than seven notices. The three major water utilities issues nearly 21 notices for every disconnection they actually implement.

Even aside from the potential violation of the Section 55.105, there are multiple problems with routinely issuing these unacted-upon threats of a nonpayment disconnection. First, to threaten to take an action (e.g., "we will discontinue service") when the utility does not have a current intention of actually taking that action is an unfair and deceptive collection practice, irrespective of the date the notice is issued. The language is particularly deceptive, however, when issued in months when disconnections are barred, either by policy or by law. Second, utilities are required to provide both "timely" notice of a shutoff and "clear" notice of a pending shutoff. When the threat of a shutoff is an empty threat more often than not, it is no longer providing actual notice, let alone clear and timely notice. Finally, providing excessive notices is not only unproductive at collection, it is *counter*-productive to the collection of unpaid bills. When customers repeatedly receive false notices that their service "will be disconnected" unless their bill is paid "immediately," without such disconnections occurring, they learn to ignore those notices. This learning is known as "habituation." The American Psychological Association defines "habituation" as "growing accustomed to a situation or stimulus," which diminishes its effectiveness.[81]

The Commission may wish to build on the regulation which it has previously adopted, and the OCA recommends language to adopt the language used by the Illinois Commerce Commission in order to address the problem with duplicative termination notices. The Illinois Commerce Commission, for example, has adopted the following language: "No utility shall make a practice of delivering more than two consecutive notices of disconnection for past due bills without engaging in the collection identified in the notice."[82] This clear language makes it more difficult for a utility to avoid or ignore the plain provisions of the regulation.

In renumbered subsection 56.91(c)(13) and (14),[83] the OCA notes that they are internally inconsistent with each other. Subsection 13 provides that the notice must include "Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered ''customers'' and are responsible for payment of the bill." However, subsection 14 states that if the service is disconnected and someone else applies for service, all adult occupants are responsible for the debt. As the adult occupants may not all appear on the

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[81] APA Dictionary of Psychology, "Habituation."

[82] This section does not apply to those instances where a disconnection or other collection activity has been avoided because the customer has made an appropriate payment.

[83] The OCA has renumbered this section with the addition of subsection (b).

mortgage, deed or lease and are defined as the customers, subsection 14 is at least confusing as to whether or not an adult occupant is considered a customer. This distinction should be addressed.

The OCA recommends that the above-recommended clarifications be made and that the Commission address issues related to notifications being sent without action as it otherwise dilutes the efficacy of the notices.

W. Section 56.92. Notice when dispute pending.

The OCA proposes the following modification to Section 56.92 regarding notice required when a dispute is pending:

> **§ 56.92. Notice when dispute pending.**
>
> A public utility may not mail or deliver a notice of termination if a notice of initial inquiry, dispute, informal or formal complaint has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void. Any such notice issued in error shall require the public utility to immediately contact the customer by electronic and telephonic means to void the notice.[84]

The OCA's suggested new language requires the public utility to take prompt action to notify the customer of any notice sent in error. The public utility should take immediate steps to correct any known error to avoid undue customer confusion or the customer mistakenly taking corrective actions that are not necessary.

X. Section 56.93 Personal contact.

The OCA proposes the following modifications regarding Section 56.93 for personal contact requirements:

§ 56.93. Personal contact.

(a) Except when authorized under § 56.71, § 56.72 or § 56.98 (relating to

[84] 52 Pa. Code § 56.92

interruption of service; discontinuance of service; and immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without attempting to contact the customer or responsible adult occupant, either in person, by telephone or electronically with the customer's <u>prior</u> consent <u>to accept electronic communications relating to a pending notice of termination</u>, to provide notice of the proposed termination at least 3 days prior to the scheduled termination using one of the methods in this section. If personal contact by one method is not possible, the public utility is obligated to attempt another method.

(1) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence. <u>Any attempt by contact via telephone shall not be deemed completed if the telephone number is no longer in service. Any attempt at contact by electronic notice shall not be viewed as successful contact unless the electronic communication has been received and read by the customer. A notice to an address that is not received and operable is not an attempt at personal contact.</u>

(2) If contact is attempted in person by a home visit, only one attempt is required. The public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit. <u>Any such attempt shall require the public utility to knock on the customer's door unless there is objective evidence of safety or harm to the utility's employee or agent. If contact is achieved with the customer or other responsible adult, the utility representative shall inform the individual of the purpose of the attempt at contact and provide a toll free number for the customer to discuss the pending termination and all the ways to avoid the termination of service. A declaration by the individual that asserts any right to avoid termination shall delay any termination to allow the customer to exercise those rights.</u>

(3) Contact by e-mail, text message or other electronic messaging format consistent with the Commission's privacy guidelines and approved by Commission order. The electronic notification option is voluntary and shall only be used if the customer has given prior consent approving the use of a specific electronic message format for the purpose of notification of a pending termination. Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. If the public utility receives notification that the transmittal was undeliverable or otherwise not received, the public utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.

(b) The content of the 3-day personal contact notice must include the earliest date at which termination may occur and the following information:

(1) The date and grounds of the termination.
(2) What is needed to avoid the termination of service.
(3) How to contact the public utility and the Commission.

(4) The availability of the emergency medical procedures.

(c) The public utility shall ask the customer or occupant if he or she has questions about the 10-day written notice the public utility previously sent and be prepared to respond to the customer's questions and declarations.

(d) The public utility shall make available the option for a non-English speaking customer or responsible adult to explore their rights in the customer's native or preferred language.[85]

The OCA has proposed these amendments to this section and Section 56.94 in order to reflect the OCA's on-going compliance review of these procedures and policies in recent base rate proceedings. In those proceedings, the OCA has documented concerns that several public utilities do not maintain proper training materials and do not implement the intent of these provisions to initiate contact with the customer to avoid termination of service under the terms available to the customer in this Chapter. Considering the lack of clarity and uniformity of the application of these personal contact provisions, the OCA believes that additional clarity is needed.

The intent of the suggested changes to this section is to clarify and make explicit several requirements that govern the utility's obligation to attempt personal contact before the actual termination of service that is the subject of Section 56.94. The rule should clarify that a customer's prior consent to electronic billing should not be interpreted to allow electronic communications relating to a pending notice of termination without additional evidence of customer consent to these communications. Since the actual termination notice must be issued in writing and by U.S. mail, it is only reasonable to ensure that the customer has explicitly agreed to receive electronic attempts at contact concerning the termination notice. Further, merely issuing an electronic notice via email or text should not be viewed as an attempt at personal contact unless the utility has received notice of successful receipt and access by the customer to the notice.

[85] 52 Pa. Code § 56.93

If, pursuant to subsection (c), the utility conducts a premise visit, that premise visit must be conducted with an attempt at personal contact and reflect sufficient training by the utility representative to communicate with the customer or responsible adult on the customer's rights as stated in the termination notice. Any communication that raises concerns about the customer's understanding and exercise of those rights should result in providing the customer with the toll-free number to explore the customer's rights and delay any termination to allow the customer to pursue those rights.

Finally, public utilities should make translation services available to the customer or responsible adult for non-English speaking individuals for both in-person contact and notices. It is the OCA's understanding that most public utilities have such a feature available for its call centers, but that it may not always be utilized when field contact is made. Language access for notices and personal contact is essential to effectuate fair and reasonable termination procedures.

Y. Section 56.94 Procedures immediately prior to termination.

The OCA proposes the following amendments to Section 56.94 regarding procedures required immediately prior to termination:

§ 56.94. Procedures immediately prior to termination.

> Immediately preceding the termination of service, a public utility employee, who may be the public utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer. This attempt to make personal contact shall consist at a minimum of a knock on the customer's door unless there is clear evidence of a threat to the utility representative's safety.
>
> (1) *Termination prohibited in certain cases.* The public utility employee or representative shall inquire if the customer has received notice of their rights to avoid termination of service and offer to provide such information upon request. If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, 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 may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

(3) *Dishonorable tender of payment after receiving termination notice*. After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor).

(ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

(iii) A customer tenders payment electronically that is subsequently dishonored, revoked, canceled or is otherwise not authorized and which has not been cured or otherwise paid in full within 3 business days of the public utility's dishonored payment notice to the customer under § 56.93(a).

(4) A public utility shall create a training material to implement this section and maintain records of personal contact attempted and made pursuant to this section that includes information on the time of attempting personal contact immediately prior to termination of service, whether contact was achieved with the customer or responsible adult, the nature of the information exchanged, whether termination was halted and for what reason, and any information that might indicate the need for referral to other community organizations in and on the property.

(5) The public utility shall make available the option for a non-English speaking customer or responsible adult to explore their rights in the customer's native or preferred language.[86]

The OCA recommends that the intent of this section should be interpreted to require the public utility to attempt personal contact at the customer's door unless there is evidence of safety or potential harm to the utility's representative. This obligation should be implemented even if there was an attempt at personal contact prior to the actual termination of service. The proposed additions of (4) and (5) are designed to ensure that field services representatives are appropriately trained. Field services representatives are the gateway to the available consumer protections in Chapter 56. It is essential for field services representatives to understand when it is appropriate to

[86] 52 Pa. Code § 56.94

stop termination and for what reasons that they may be halted as well as what resources the Company and community may have available to assist a customer who is in danger of termination.

Moreover, personal contact must also consider whether there is a language barrier, and the Company should have defined assistance to ensure that non-English speaking customers understand their rights as well. Non-English speaking should include Spanish and any languages reasonably accessible through a language line service. Language access for notices and personal contact is essential to effectuate fair and reasonable termination procedures.

The proposed changes and expanded duties and obligations in this section reflect similar changes to Section 56.93.

Z. Section 56.97. Procedures upon customer or occupant contact prior to termination.

The OCA proposes the following modifications to Section 56.97 regarding the procedures when a customer or occupant contacts the utility prior to termination:

§ 56.97. Procedures upon customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the public utility or the public utility contacts the customer concerning a proposed termination, a public utility 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 payment arrangement.

(iii) Paying what is past-due on the most recent previous company negotiated or Commission payment arrangement.

(3) Information about the public utility's universal service programs, including the customer assistance program. Refer the customer or applicant to the universal service program of the public utility to determine eligibility for a program and to apply for enrollment in a program.

(4) The medical emergency procedures.

(b) The public utility shall exercise good faith and fair judgment in

> attempting to enter a reasonable payment arrangement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable payment arrangement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. Payment arrangements for heating customers shall be based upon budget billing as determined under § 56.12(8) (relating to meter reading; estimated billing; customer readings). <u>Customers who are not currently enrolled in a customer assistance program are eligible for a payment arrangement for their entire outstanding unpaid balance irrespective of whether all or some portion of that balance was incurred at the time the customer was enrolled in the customer assistance program.</u> If a payment arrangement is not established, the company shall further explain the following and <u>issue a written notice to the customer that contains</u>:
>
> (1) The right of the customer to file a dispute with the public 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 customer to pay any portion of a bill which the customer does not dispute.
>
> <u>(c) Confirmed low-income customers. Prior to entering into a payment arrangement with a Confirmed Low-Income customer, the utility shall obtain the written informed consent acknowledging that the customer chooses to enter into a payment arrangement in the alternative to applying for enrollment in the customer assistance program along with customer assistance forgiveness features. In the event that a customer expresses interest in applying for the customer assistance program, the utility will stay all collection activity directed toward the customer for 30 days to allow for such application.</u>
>
> <u>(d) Any customer entering into a payment arrangement pursuant to this section shall be given the option of entering into either: (i) an arrangement which requires the payment of a monthly installment toward the arrearage plus the entire bill for current service; or (ii) an arrangement which requires the payment of a monthly installment toward the arrears plus a monthly bill calculated as a budget billing among pursuant to Section 56.12(7).</u>[87]

This section governs the situation in which the customer or occupant initiates the contract with the public utility with respect to a pending termination. It is the OCA's view that the obligations of the public utility to respond to such contacts should be also reflected in the utility's

[87] 52 Pa. Code § 56.97

obligations for personal contact in Section 56.93 and 56.94. When the public utility contacts the customer about termination, the public utility should similarly be under an obligation to raise the identified issues as well.

Under Section 56.97(b) is the primary regulatory obligation of the public utility to negotiate a reasonable payment arrangement and this obligation continues in effect even with the granular details about the nature of that negotiation as reflected in Chapter 14. The new language of this section should require the public utility to issue a written communication to the customer on the terms of the payment agreement and the customer's right to dispute those terms. The need for a written communication is important to ensure a customer's understanding of their rights and how to exercise those rights with the appropriate contact information. Transmitting this information orally is likely to lead to confusion or failure to remember the specific terms and contact information.

Also under Section 56.97(b), the OCA recommends adding language providing that customers who are not currently enrolled in a customer assistance program are eligible for a payment arrangement for their entire outstanding unpaid balance irrespective of whether all or some portion of that balance was incurred at the time the customer was enrolled in the customer assistance program. A bar from payment arrangements for customer assistance program balances presents an impediment to a customer maintaining essential utility service. While customer assistance program participation is often the best option for customers, low-income customers should still have the same payment arrangement options as all other customers to be able to maintain essential services.

Under Sections 56.97(c), the OCA recommends that additional language be added to require written consent that a Confirmed Low-Income customer understands that they are entering into a payment arrangement instead of entering into the customer assistance program which provides for arrearage forgiveness. If the customer expresses interest, then collection activity would be stayed. The proposal underscores that it is important for Confirmed Low-Income customers to fully understand their options when entering into a payment arrangement and that there is a potential option for complete arrearage forgiveness.

Under Section 56.7(d), the OCA recommends that the payment arrangements either be an arrangement which requires the payment of a monthly installment toward the arrears plus the amount for current service or this arrangement calculated as a budget billing amount. The OCA recommends that budget billing be presented as an option for customers when entering into a payment arrangement to help the customer receive more consistent monthly payments.

AA. Section 56.111. General provision. [Emergency Provisions]

The OCA proposes the following modifications to Section 56.111 regarding emergency provisions governing medical certificates:

> **§ 56.111. General provision.**
>
> A public utility may not terminate service, or refuse to restore service, to a premises when a licensed health care provider [licensed physician, physician assistant, or nurse practitioner] has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. A licensed health care provider includes, but is not limited to, a licensed physician, physician assistant, nurse practitioner, registered nurse, home healthcare provider, or other type of health care provider as determined by the Commission. The customer shall obtain written or electronic communication from a licensed physician, physician assistant ~~or~~, nurse practitioner, registered nurse, home healthcare provider, or other type of health care provider as determined by the Commission verifying the condition and promptly forward it to the public utility. Electronic signatures are valid. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the health care provider, including but not limited to, physician, nurse practitioner, or physician assistant and not with the public utility. A public utility may not impose any

> qualification standards for medical certificates other than those specified in this section.[88]

One of the issues raised by Vice Chair Barrow in her Statement is expanding the group of people who can sign a medical certificate.[89] The OCA agrees with Vice Chair Barrow that this category should be expanded. The language identified is limited to a "licensed physician, physician assistant, or nurse practitioner" in Section 56.111. The language is too narrow and should be expanded to other healthcare professionals as applicable, and the Commission should have the discretion to make determinations about what healthcare providers may be included. There are a variety of healthcare professionals who may be caring for an individual. An individual may be under the care of a healthcare professional that does not fit into one of these categories. For example, a registered nurse or home healthcare provider may be the primary medical or health caregiver for someone who is homebound or elderly, and it may be easier for the registered nurse or home healthcare provider, as healthcare professionals, to assert that the customer has a medical condition subject to the Commission's regulations.

Under Section 56.111, flexibility should be provided to allow a customer the opportunity to receive either written or electronic communication from a healthcare provider using an electronic signature. The advent of electronic communications as a routine option for most consumer transactions should be reflected in this rule. Many customers may access their health care provider to request a medical certificate not through a visit through which they may incur a copay or fee but instead via email or via the healthcare provider's portal system. As currently set forth, Section 56.111 should also include that electronic signatures are legally valid. The regulation should be modified accordingly.

BB. Section 56.113. Medical certifications.

[88] 52 Pa. Code § 56.111

[89] *Barrow Statement* at 1.

The OCA proposes the following modifications to Section 56.113 regarding medical certifications:

§ 56.113. Medical certifications.

> Medical certifications must be in writing <u>or provided in electronic format</u>. Public utilities may develop a medical certificate form <u>and make available such form on their web site, the location of which shall be included on customer rights notices and termination notices</u>. The public utility's medical certificate may not be mandatory. A medical certificate form developed by the public utility shall be made readily available. Medical certificates may be electronically transmitted and electronic signatures are valid. A medical certificate must include all of the following:
>
> (1) The name and address of the customer or applicant in whose name the account is registered.
>
> (2) The name and address of the afflicted person and relationship to the customer or applicant.
>
> (3) The anticipated length of the affliction.
>
> (4) The name, office address and telephone number of the certifying physician, nurse practitioner or physician assistant.
>
> (5) The signature of the certifying physician, nurse practitioner or physician assistant.[90]

Under Section 56.113, flexibility should be provided to allow a customer the opportunity to receive either a written or electronic communication from a healthcare provider using an electronic signature. The advent of electronic communications and access to the internet to access required documents and forms as a routine option for most consumer transactions should be reflected in this rule. Many customers may access their health care provider to request a medical certificate not through a visit through which they may incur a copay or fee but instead via email or via the healthcare provider's portal system.

CC. <u>Section 56.115. Restoration of service.</u>

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[90] 52 Pa. Code § 56.113

The OCA proposes the following modifications to Section 56.115 regarding restoration of service:

> **§ 56.115. Restoration of service.**
>
> When service is required to be restored under this section and §§ 56.114, 56.116—56.118 and 56.191, the public utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each public utility shall have employees available or on call to restore service in emergencies. A public utility shall not charge a fee for restoration of service in these circumstances.[91]

When restoration of service is required due to a medical need, a customer should not be penalized with a fee for restoration of service. It is not clear from the regulation whether a restoration would be charged under these circumstances, and the regulation should add the requested language to provide that necessary clarity. The timeline for reconnection within 24 hours underscores the medical necessity, and a reconnection fee for a payment-troubled customer seeking to restore service will only further inhibit the customer's ability to regain service. As an essential utility service needed for medical reasons, no additional barriers of a reconnection fee should be charged to the customer.

DD. Section 56.116. Duty of customer to pay bills.

The OCA proposes the following modifications to Section 56.116 regarding the duty of a customer to pay bills:

> **§ 56.116. Duty of customer to pay bills.**
>
> Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or payment arrangement or budget billing amount as determined under § 56.12(8) (relating to meter reading; estimated billing; customer readings).[92]

[91] 52 Pa. Code § 56.115
[92] 52 Pa. Code §56.116

The OCA proposes to add the language "payment arrangement or" to Section 56.116. A medical emergency should allow the customer to negotiate a payment arrangement to pay current and undisputed bills. While it is reasonable for the public utility to expect payment while termination is halted, affected customers should not have any lesser right than other customers to negotiate a payment arrangement and that should be explicitly provided for in the regulation.

EE. Section 56.117. Termination upon expiration of medical certification.

The OCA proposes the following modifications to Section 56.117 regarding termination upon expiration of medical certification:

> **§ 56.117. Termination upon expiration of medical certification.**
>
> When the initial and renewal certifications have expired, the original ground for termination shall be revived and the public utility may attempt personal contact and terminate service without additional written notice, if notice previously has been mailed or delivered within the past 60 days under § 56.91 (relating to general notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93—56.96.[93]

The OCA proposes to add the language "attempt personal contact and" in order to provide greater clarity. While not clear, the OCA proposes that any termination upon expiration of the medical certification should follow the mandated process for personal contact in Sections 56.93 and 56.94.

FF. Section 56.191. Payment and timing.

The OCA proposes the following modifications to Section 56.191 regarding payment and timing for restoration of service:

> **§ 56.191. Payment and timing.**
>
> (a) *Fee.* A public utility may require a reconnection fee based upon the

[93] 52 Pa. Code § 56.117

public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service <u>except that public utilities that reconnect service via remote communication with its meter shall not charge any reconnection fee</u>. The amount of <u>an otherwise allowed reconnection</u> ~~this~~ fee must be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, the public utility shall reconnect service <u>as soon as possible given the technological or personnel resources available, but no later than</u> as follows:

(1) *Customers.*

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(2) *Applicants.* When the applicant has met all applicable conditions:

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. The public utility is not required to modify or eliminate the payment required to restore service if a medical certificate is presented. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(c) *Payment to restore service.*

A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. A public utility shall also inform the applicant or customer that the timing and conditions for restoration of service may differ if someone in the household is seriously ill or affected by a medical condition which will be aggravated without public utility service.

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the public utility has determined that customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment arrangements. For purposes of this section, neither a payment arrangement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled public utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment arrangement that has been paid in full by the customer, are to be considered a default. Budget billing plans and amortization of budget plan reconciliation amounts under § 56.12(8) (relating to meter reading; estimated billing; customer readings) may not be considered a default for the purposes of this section.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months to pay the outstanding balance required for reconnection. For purposes of this subparagraph, a life event is:

(A) A job loss or significant reduction in household income over a reasonable period of time preceding the customer's history of nonpayment ~~beyond 9 months~~.

(B) A serious illness ~~that extends beyond 9 months~~.

(C) Death or incapacitation of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises as a condition to restore service.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant or customer resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant or customer resided there, not exceeding 4 years prior to the date of requesting that service be restored. The 4-year limit does not apply in instances of fraud and theft.

(e) *Approval*. A public utility may establish that an applicant or customer previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission, any of which evidence that be provided to the affected individual. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this subsection, used to determine liability for outstanding balances.

(f) *Dishonorable tender of payment for reconnection of service*. A public utility may immediately terminate service if a payment for reconnection of service is subsequently dishonored, revoked, canceled or otherwise not authorized and which has not been cured or otherwise paid in full within 3 business days of the public utility's dishonored payment notice to the customer under § 56.93(a) (relating to personal contact).[94]

The OCA has proposed the changes to this section reflect the widespread use of automatic metering devices that do not require any in-person visit to reconnect service. Such reconnections should be implemented promptly given the technology that allows a remote turn on for the meter. Reconnection fees for such situations should not result in an additional charge to the customer since the functionality of the automatic metering system features is a benefit that should not result in additional charges.

[94] 52 Pa. Code § 56.191

In subsection (c)(2), the regulation addresses the income-based criteria for the negotiation of payment arrangements. The OCA proposes changes to the definition of life event in order to provide greater flexibility for customers. The regulation utilizes the timeframe of 9 months for both a serious illness and a job loss. The OCA believes that this language is too limiting. A customer who has experienced a job loss and a significant reduction in income can equally have a similar life event effect over 3 or 6 months. Similarly, with an illness, a 6 month period of treatment for cancer would equally be debilitating as a life event and would not diminish the impact. The OCA also added incapacitation as the primary earner may still be alive but may be incapacitated due to memory care or being in a long-term nursing home. The OCA believes that the bright lines set forth in the regulations with the 9-month time period and the lack of inclusion of incapacitation do not consider the full scope of life event impacts.

In Subsection 56.192(e), the OCA proposes a requirement that the individual be provided any evidence that the utility collects to determine the applicant or customer resident at the property. Moreover, Section 56.192(e) is in conflict with Section 56.91. Section 56.91 states the policy that uses the "mortgage, deed, or lease information" to determine responsibility for payment which is much narrower that just having resided at that location. This is the provision relied upon by utilities to ask for the SSN since that is the method by which these credit reporting services can provide information on prior addresses and locations. Public utilities should inform the applicant or customer of the evidence relied upon to make this determination of responsibility for debt at a previous location to allow the customer to dispute this information and seek to correct errors in the database of the credit reporting agency. The consumer should have the right to dispute the accuracy of the information received by utility, particularly as it relates to a commercial credit reporting agency. Commercial reporting agency reports may contain errors and may not be precise, particularly with regard to time of residency. The consumer should be provided the information and the opportunity to dispute that the information.

GG. Section 56.201. Public Information.

The OCA proposes the following modifications to Section 56.201 regarding public information:

§ 56.201. Public information.

(a) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its customers ~~affected by the change~~. Summaries will be mailed by the public utility to each customer of the public utility ~~affected by the change~~. These summaries, as well as a summary of the rights and responsibilities of the public utility and its customers in accordance with this chapter, shall be in writing, reproduced by the public utility, displayed prominently, available on the public utility's web site if the public utility has one and available at all public utility office locations open to the general public. The public utility shall inform new customers of the availability of this information and direct where to locate it on the public utility's web site and provide the option to download and print the information in widely available pdf format. The public utility shall notify customers of the option to deliver or mail a copy upon the request of a customer or applicant in the customer's native or preferred language.

(b) A public utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

(1) Billing and estimated billing procedures.
(2) Methods for customer verification of billing accuracy.
(3) Explanation of operation of purchased gas adjustment clauses.
(4) Payment requirements and procedures.
(5) Security deposit and guarantee requirements.
(6) Procedures for discontinuance and reconnection of service.
(7) Dispute, informal complaint and formal complaint procedures.
(8) Explanation of meter reading procedures which would enable a customer or occupant to read his own meter.
(9) Procedure whereby customers or occupants may avoid discontinuance of service during extended periods of absence.
(10) Third-party notification procedures.

> (11) Telephone numbers and addresses of the public utility and of the nearest regional office of the Commission where further inquiries may be made.
> (12) Definitions of terms or abbreviations used by the public utility on its bills.
> (13) Information indicating that additional consumer protections may be available for victims of domestic violence who have a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, people with serious illnesses and low income households.[95]

It is important that customers know and understand the changes to Chapter 56 as it impacts the rights and responsibilities of customers. The OCA recommends that all customers be mailed the information, and not just customers "affected by the change." The affected by the change leaves the interpretation of who is impacted by the change to the utility. Customers should also have access to the summary of rights and responsibilities in a widely accessible format provided by a link from the public utility's web site and such vital information should be provided in the customer's native or preferred language since such translation options are now widely available.

HH. Section 56.222. Applications for modification or exception.

The OCA proposes the following modifications to Section 56.222 regarding applications for modification or exception:

> **§ 56.222. Applications for modification or exception.**
>
> (a) If unreasonable hardship to a person or to a public utility results from compliance with a section in this chapter, or a technological advance permits an enhanced level of customer service, 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.
> (b) A person or public utility that files an application under this section shall provide notice to persons who may be affected by the modification or

[95] 52 Pa. Code § 56.201

> temporary exemption including statutory customer advocates. Notice may be made by a bill insert or in another reasonable manner.[96]

The option for a public utility to obtain a waiver from one or more requirements of this Chapter should result in notice to the statutory advocates and opportunity for comment or input by those advocates. This is particularly important when those filings seek widespread exemption of one or more provisions of this Chapter.

II. Section 56.223. Inconsistent tariff provisions.

The OCA proposes the following modifications to Section 56.223 regarding inconsistent tariff provisions:

> § 56.223. Inconsistent tariff provisions.
>
> A tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter. Public utilities have a duty to regularly review their tariffs and revise them to comply with this chapter.[97]

The OCA recommends that the language specifically also requires the utilities to revise inconsistent tariffs. Public utilities should have a duty to routinely review and revise their tariffs to conform to Chapter 56 (and other relevant Commission regulations). This obligation is particularly important since this Chapter requires that public utilities make their tariffs available to customers and point to the provisions of their tariffs to justify their actions.

[96] 52 Pa. Code § 56.222
[97] 52 Pa. Code § 56.223

VI. CONCLUSION

For the reasons set forth above, the OCA supports some of the changes and opposes some of the changes that the Commission proposed to incorporate the Chapter 14 provisions, but consideration should also be given to taking this opportunity to review Chapter 56 as a whole. The OCA has suggested necessary improvements and modifications to certain of the proposed regulations beyond those identified in the Commission's Notice of Proposed Rulemaking as set forth above. The OCA appreciates the opportunity to provide Comments on the Commission's Notice of Proposed Rulemaking. The OCA looks forward to reviewing other stakeholders' comments and reserves the right to respond to any issues raised in other stakeholders' comments in the OCA's Reply Comments.

Respectfully Submitted,

Counsel for:
Darryl A. Lawrence

Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Dated: August 28, 2026

/s/ Christy M. Appleby
Christy M. Appleby, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 81617
CAppleby@paoca.org

Crystal M. Zook
Assistant Consumer Advocate
PA Attorney I.D. # 334159
CZook@paoca.org

APPENDIX A
OCA's Proposed Changes to Chapter 56

§ 56.2 Definitions

Confirmed low-income residential account—Accounts where the utility has obtained information that would reasonably place the customer in a low-income designation. This information may include receipt of LIHEAP funds (Low-Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon rate-payer or occupant contact prior to termination).

§ 56.11. Billing frequency.

(a) A public utility shall render a bill once every billing period to every residential customer in accordance with the presentation of the components of the approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary and only with the prior consent of the customer. Evidence of consent shall consist of a customer's selection of electronic billing for a specific electronic mail address when presented with billing options and such evidence shall be retained by the public utility for a minimum period of 4 years. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a one billing cycle notice of a request to revert to paper billing.

(2) A customer shall receive the same information that is included with a paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted unless the customer has affirmatively consented to this method of delivery. The electronic delivery of a termination notice does not relieve the public utility of the obligation to provide termination notices as required under §§ 56.91—56.98.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility's hardship fund if the public utility is able to accept hardship fund contributions by this method.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall adopt a procedure through which it will

undertake a good-faith effort to contact an individual using more than one modality prior to terminating their service if either or both the bills underlying the disconnection or the written notice of disconnection has been returned to the utility as undeliverable as addressed.

(8) The public utility shall maintain systems to ensure the current and accurate email address for its customers who have selected electronic billing and shall automatically revert a customer to paper bills when a customer's email address is rejected.

(9) The public utility shall maintain a system to deliver electronic bills if the bill is emailed to a customer.

(10) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.

§ 56.12. Meter reading; estimated billing; customer readings.

Except as provided in this section, a public utility shall render bills based on actual meter readings obtained by public utility company personnel or authorized agents.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the public utility.

(2) *Estimates for bills rendered on a monthly basis.* If a public utility has automatic meter reading systems, bills shall be issued monthly unless there is a malfunction in that system. Other public utilities that bill on a monthly basis may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

(i) Upon the request of the customer, the public utility shall, at least annually, provide preaddressed postcards or other electronic method agreed upon by the customer on which the customer may report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The public utility may establish due dates by which the customer supplied reading shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer or occupant is not received by that due date, the public utility may estimate the quantity of usage. The public utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A public utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when public utility personnel are unable to gain access.* A public utility may estimate the bill of a customer if public utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The public utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading or the electronic or telephone reporting of the reading.

(ii) The public utility, at least every 6 months, or every four billing periods for public utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The public utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric public utilities.* A public utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water public utility uses readings from a remote reading device to render bills, the public utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the public utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the public utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least $50, the public utility shall comply with § 56.14 (relating to previously unbilled public utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the public utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.181(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found).

(iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Verification of automatic meter reading*. Upon a customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee, as provided in a Commission-approved tariff only if the public utility is required to conduct an in person reading and the customer is informed of the fee and agrees to pay such fee.

(7) *Limitation of liability*. If a water public utility has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water public utility was unable to gain access and has complied with paragraph (4).

(8) Budget billing. A [gas, electric, water, wastewater and steam heating] public utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in public utility bills. This optional billing procedure shall be made available if the utility can estimate an annual bill based either on the customer's prior usage or on the prior usage of previous customers at the same service address. The public utility shall review accounts at least three times during the optional billing period. At the conclusion of the budget billing year, a resulting reconciliation amount exceeding $100 but less than $300 shall be, at the request of the customer, amortized over a 6-month period. Reconciliation amounts exceeding $300 shall be amortized over at least a 12-month period at the request of the customer. Shorter amortization periods are permissible at the request of the customer.

(2) *Notice*. The public utility shall inform existing customers of their rights under this section and 66 Pa.C.S. § 1509 (relating to billing procedures).

§ 56.13 Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges and other nonrecurring charges, except as provided in this chapter—must appear ~~after charges for basic services and appear~~ on a distinctly separate portion or page of the bill from basic services with a label entitled "Non-Basic Services." The total amount due to avoid collection action including termination of service shall be separately identified from any non-basic service included on the bill. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. See § 56.83(3) (relating to unauthorized termination of service).

§ 56.15. Billing information.

A bill rendered by a public utility for metered and flat rate residential public utility service must state clearly the following information:

(1) The beginning and ending dates of the billing period.

(2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it shall contain a clear and conspicuous marking of the word ''Estimated.''

(3) The due date on or before which payment of basic service shall be made or the account will be delinquent.

(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges. The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

(5) Amounts due for reconnection charges.

(6) Amounts due for security deposits.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.22 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to ''register any question or complaint about the bill prior to the due date,'' with the address and telephone number where the customer may initiate the inquiry or complaint with the public utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility's web site with a link to that portion of the web site for a current plain language presentation of

approved rates and charges for each rate schedule.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the public utility.

(14) Electric distribution utilities and natural gas distribution utilities shall incorporate the requirements in §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

§ 56.16. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice or a lesser notice period as required by a public utility with automatic meter reading to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. After a reasonable attempt to obtain meter access, if the public utility is not able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a public utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.91 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of that notice, the customer requests a transfer of service to a new location, the termination process in §§ 56.91—56.99 may continue at the new location.

(1) When notifications set forth under § 56.91 and § 56.95 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the public utility may condition ~~deny~~ service on payment arrangements for the prior debt at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.141—56.143 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint). When communicating to the customer about the provisions of this section or other requirements to continue service, the public utility shall inform the customer of the dispute procedures.

§ 56.17. Advance payments.

Payments may be required in advance of furnishing any of the following services:

(1) Seasonal service.

(2) The construction of facilities and furnishing of special equipment.

~~(3) Gas and electric rendered through prepayment meters provided:~~

~~(vi) The customer is nonlow income. For purposes of this section, ''non-low income'' is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines and has a delinquency for which the individual is requesting a payment arrangement but offering terms that the public utility, after consideration of the factors in~~

~~§ 56.97(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.~~

~~(vii) The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.~~

~~(viii) The customer and public utility enter into a payment arrangement which includes, but is not limited to, the following terms:~~

~~(A) The customer voluntarily agrees to the installation of a prepayment meter.~~

~~(B) The customer agrees to purchase prepayment credits to maintain service until the total balance is retired and the public utility agrees to make new credits available to the customer within 5 days of receipt of prepayment.~~

~~(C) The public utility agrees to furnish the customer with emergency backup credits for additional usage of at least 5 days.~~

~~(D) The customer agrees that failure to renew the credits by making prepayment for additional service constitutes a request for discontinuance under § 56.72(1) (relating to discontinuance of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup credits runs out.~~

~~(E) That the public utility will not charge a fee for purchasing credits.~~

~~(ix) The public utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.~~

~~(x) During the first 2 years of use of prepayment meters, the public utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:~~

~~(C) *Content*. The evaluation should include both process and impact components. Process evaluation should focus on whether the use of pre-payment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of public utility service to participants at reasonable~~

~~cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.~~

~~(D) *Time frame*. The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.~~

~~(4)~~(3) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.

§ 56.21. Payment.

The due date for payment of a bill may not be less than 20 days from the date of transmittal; that is, the date of mailing, electronic transmission or physical delivery of the bill by the public utility to the customer.

(1) Extension of due date to next business day. If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the public utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) Date of payment by mail. For a remittance by mail, one or more of the following applies:

(iii) Payment shall be deemed to have been made on the date of the postmark.

(iv) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) Branch offices or authorized payment agents. The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) Electronic transmission. The effective date of a payment electronically transmitted to a public utility or its authorized agent identified on the public utility's web site is the date of the customer's submittal of the payment on the utility's web site.

(5) Fees. A public utility shall not charge a fee for the use of any payment method made available for payment methods that are authorized and implemented by the customer on the utility's web site. ~~Fees or charges assessed and collected by the public utility for utilizing a payment option must be included in the public utility's tariff on file at the Commission~~.

(6) Multiple notifications. When a public utility advises a customer of a balance owed by multiple notices or contacts which contain different due dates, the date on or before which payment is due shall be the latest due date contained in any of the notices.

§ 56.22. Accrual of late payment charges.

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.
(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.
(c)Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.
(d) A public utility shall not charge late payment charges on a payment plan or on customers enrolled in the public utility's universal service programs.
~~(d)~~ (e) A public utility may waive late payment charges on any customer accounts. ~~The Commission may only order a waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level. See 66 Pa. C.S. § 1409 (relating to late payment charges).~~

§ 56.24. Application of partial payments among several bills for public utility service.

In the absence of written instructions, a disputed bill or a payment arrangement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior basic service.

§ 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:
(1) Electronic bill payment shall be voluntary. A public utility may not require a customer to enroll in electronic bill payment as a condition for enrolling in electronic billing.
(2) A public utility shall not charge a fee for the use of any electronic bill payment option offered by the utility.
(3) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's financial account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.
(4) The terms of the payment procedures shall be fully disclosed to the customer in writing, either by mail or electronically, before the customer enters the program. Program changes shall be conveyed to the customer in writing, either by mail or electronically, and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.
(5) The public utility shall provide a receipt, or a confirmation, transaction or reference number, either electronically or on paper, to the customer upon payment

through the electronic method. This requirement does not apply if the payment method is through a preauthorized automated debit from a customer's financial account.

(6) The public utility shall employ all reasonable measures to protect customer information from unauthorized disclosure and to prevent access to customer account records by persons who are not properly authorized to have access.

§ 56.32. Security and cash deposits.

~~(a) In addition to the right to collect a deposit under any Commission regulation or order, the public utility may require a cash deposit, payable during a 90-day period in accordance with § 56.38 (relating to payment period for deposits by applicants), in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:~~

~~(1) An applicant who previously received public utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:~~

~~(i) Nonpayment of an undisputed delinquent account.~~

~~(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.~~

~~(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.~~

~~(iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.~~

~~(v) Failure to comply with the material terms of a payment arrangement.~~

~~(vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.~~

~~(vii) Tampering with meters, including bypassing a meter or removal of an AMR device or other public utility equipment.~~

~~(viii) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the delivery system of the public utility.~~

~~An applicant who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology, as provided in a Commission-approved tariff, and which employs standards for using the methodology that fall within the range of general industry practice. The credit scoring methodology utilized for this purpose must specifically assess the risk of public utility bill payment.~~

~~(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:~~

~~(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid~~

~~in full at the time the city natural gas distribution operation determines a deposit is required.~~

~~(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer assistance program made available by the city natural gas distribution operation are not subject to this paragraph.~~

~~(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.~~

(c) Prior to providing public utility service, a public utility may require the applicant to provide the name~~s~~ of ~~each adult occupant~~ applicant or customer residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall not retain Social Security Numbers in their files if such information is provided once the confirmation of the individual's identify is completed. ~~take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.~~

~~(d) A public utility is not required to provide service if the applicant fails to pay the full amount of the cash deposit within the time periods under § 56.38. If the applicant chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment in full by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service).~~

(e) If an existing security deposit is refunded to a low-income customer, the refund must be refunded to the customer, and not as a bill credit, unless the customer has evidenced informed consent to receive a bill credit.

Section 56.41 General rule. [Deposits for Existing Customers]

A public utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:

~~(1) *Delinquent accounts.* Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.~~

~~(i) Prior to requesting a deposit under this section, the public utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.~~

~~(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.~~

~~(B) Notification may be mailed or delivered to the customer together with a bill for public utility service.~~

~~(C) Notification must set forth the address and phone number of the public utility office where complaints or questions may be registered.~~

~~(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the public utility office where questions or complaints may be registered.~~

~~(ii) Except in the case of adjustments to budget billing plans, a public utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled public utility service) under the following conditions:~~

~~(A) The public utility has complied with § 56.14. Compliance with a payment arrangement by the customer discharges the delinquency and a notification or request for deposit may not thereafter be issued based on the make-up bill.~~

~~(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.~~

(2) *Condition to the reconnection of service*. A public utility may require a deposit as a condition to reconnection of service following a termination in accordance with § 56.191 (relating to payment and timing).

~~(3) . *Failure to comply with payment arrangement*. A public utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a payment arrangement.~~

(4) *Cash deposit prohibition*. Notwithstanding paragraphs (1)—(3), a public utility may not require a customer that, based upon household income, is confirmed to be eligible for a customer assistance program to provide a cash deposit. A customer is confirmed to be eligible for a customer assistance program by the public utility when the customer provides income documents or other information that he or she is eligible for state

benefits based upon house-hold income eligibility requirements that are consistent with those of the public utility's customer assistance programs.

§ 56.35. Payment of outstanding balance.

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly based on records maintained by the public utility.

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, except as provided for in paragraphs (1) and (2).

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years from the date of the service request. The 4-year limit does not apply if the balance includes amounts that the public utility was not aware of because of fraud or theft on the part of the applicant and for which the public utility has evidence to support such allegation.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this paragraph, used to determine the applicant's liability for any outstanding balance.

(3) Any outstanding residential account with the public utility may be the subject of a negotiated payment arrangement in accordance with § 56.191 (relating to payment and timing).

(c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

§ 56.42. Payment period for deposits by customers.

(a) *Due date*. The due date for payment of a deposit, other than a deposit required as a condition for the reconnection of service under § 56.41(2) (relating to general rule), may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due.

(b) *Delinquent account*. A customer paying a deposit under § 56.41(1) may elect to pay a required deposit in three installments: 50% billed upon the determination by the public utility that the deposit is required, 25% billed 30 days after the determination and 25% billed 60 days after the determination. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81 (relating to authorized termination of service). The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

(c) *Reconnection of service*. A customer paying a deposit for the reconnection of service under § 56.41(2) may be required to pay 50% prior to, and as a condition of, the reconnection of service with 25% billed 30 days after reconnection of service and 25% billed 60 days after the reconnection of service. The public utility shall inform the customer of the option to pay the deposit in the installments described in this subsection. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81. The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.

~~(d) *Failure to comply with a payment arrangement*. A customer paying a deposit under § 56.41(3) may be required by the public utility to pay the deposit in three installments: 50% billed upon the determination by the public utility that the deposit is required; 25% billed 30 days after the determination; and 25% billed 60 days after the determination. The public utility shall inform the customer of the option to pay the deposit in the installments described in this sub-section. If the customer chooses to pay the deposit in installments, installment payments must be paid in full by the due date. Failure to pay an installment by the due date is grounds for termination of service as provided in § 56.81. The customer retains the option to pay the deposit amount in full before the due date regardless of any deposit installments previously paid.~~

§ 56.53. Deposit hold period and refund.

(a) A public utility may hold a deposit until ~~a timely~~ <u>an adequate</u> payment history is established.

(b) ~~A timely~~ <u>An adequate</u> payment history is established when a customer has paid in full ~~and on time~~ for any 12 consecutive months.

(c) At the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return or credit any positive difference to the customer. At the option of the public utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

(d) If service is terminated before the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return any positive difference to the customer within 60 days of the termination.

(e) If a customer becomes delinquent before the end of the deposit holding period as established in subsection (a), the public utility may deduct the outstanding balance from the deposit.

(f) A public utility shall refund a deposit, along with any applicable interest, within 60 days upon determining that the customer or applicant from whom a deposit was collected is not subject to a deposit under § 56.32(e) (relating to security and cash deposits) or § 56.41(4) (relating to general rule).

(g) If a security deposit is refunded to a low-income customer, the refund must be refunded to the customer, and not as a bill credit, unless the customer has evidenced informed consent to receive a bill credit.

§ 56.81. Authorized termination of service.

A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91—56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer:

(1) Nonpayment of an undisputed delinquent account in excess of $100.00.

(2) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.

(3) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(4) Failure to comply with the material terms of a payment arrangement.

(i) For purposes of this section, material shall mean nonpayment of a bill of more than 90 days.

§ 56.91. General notice provisions and contents of termination notice.

The OCA proposes the following modifications regarding general notice provisions and contents of termination notice:

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall ensure that the customer has been provided a ~~provide~~ written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. In the event of a user without contract as defined in § 56.2 (relating to definitions), the public utility shall comply with §§ 56.93—56.97, but need not provide notice 10 days prior to termination.

(b) No utility shall make a practice of delivering more than two consecutive notices of disconnection for past due bills without engaging in the collection identified in the notice.

(c)~~(b)~~ A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(5) The reason for the proposed termination.

(6) An itemized statement of amounts currently due, including any

required deposit.

(7) A statement that a reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is authorized for this customer as ~~is a~~ part of the tariff of the public utility on file with the Commission. The statement must include the maximum possible dollar amount of the reconnection fee that may apply.

(8) The date on or after which service will be terminated unless one of the following occurs:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment arrangement is established.

(iv) Qualification for enrollment ~~Enrollment~~ is made in a customer assistance program or its equivalent, if the customer is eligible for the program.

(v) A dispute is filed with the Public Utility or the Commission.

(vi) Payment in full of amounts past due on the most recent payment arrangement is received or alternative amount as agreed by the public utility.

(14) A statement that specifies that the notice is valid for 60 days.

(15) A statement that the customer should immediately contact the public utility to attempt to resolve the matter. The statement must include a toll free ~~the address and~~ telephone number or a physical location in the public utility's service territory where questions may be asked, how payment arrangements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility.

(16) The following statement: "If you have questions or need more information, contact us as soon as possible at (public utility phone number). After you talk to us, if you are not satisfied, you may file an informal complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call 1 (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(17) A medical certificate notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to post-termination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(18) If the public utility has universal service programs, information indicating that special assistance programs may be available and how to contact the public utility for information and enrollment, and that qualification pending enrollment in the program may be a method of avoiding the termination of service.

(19) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty level and the required documentation or information the customer shall supply to avoid termination.

(20) Information indicating that special protections are available for victims under a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence and how to contact the public utility to obtain more information on these protections.

(21) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(22) If the public utility has universal service programs, information indicating that special assistance programs may be available and how to contact the public utility for information and enrollment, and that qualification pending enrollment in the program may be a method of avoiding the termination of service.

(23) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty level and the required documentation or information the customer shall supply to avoid termination.

(24) Information indicating that special protections are available for victims under a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence and how to contact the public utility to obtain more information on these protections.

(25) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(26) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered ''customers'' and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, an adult occupant who has been living at the premise may have to pay all or portions of the bill that accrued while the adult occupant lived there to have service turned back on.

(15) Information indicating that if service is shut off, the customer may be required to pay a reconnection fee as set forth in the public utility's tariffs ~~more than the amount listed on the notice~~ to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall

contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service turned back on or no more than 24 hours if the public utility has a remote metering system.

(17) Information in Spanish directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5% or more of the residents of the public utility's service territory are using that language.

(18) Contact information for customers with disabilities that need assistance.

§ 56.92. Notice when dispute pending.

A public utility may not mail or deliver a notice of termination if a notice of initial inquiry, dispute, informal or formal complaint has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void. Any such notice issued in error shall require the public utility to immediately contact the customer by electronic and telephonic means to void the notice.

§ 56.93. Personal contact.

(a) Except when authorized under § 56.71, § 56.72 or § 56.98 (relating to interruption of service; discontinuance of service; and immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without attempting to contact the customer or responsible adult occupant, either in person, by telephone or electronically with the customer's prior consent to accept electronic communications relating to a pending notice of termination, to provide notice of the proposed termination at least 3 days prior to the scheduled termination using one of the methods in this section. If personal contact by one method is not possible, the public utility is obligated to attempt another method.

(1) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence. Any attempt by contact via telephone shall not be deemed completed if the telephone number is no longer in service. Any attempt at contact by electronic notice shall not be viewed as successful contact unless the electronic communication has been received and read by the customer. A notice to an address that is not received and operable is not an attempt at personal contact.

(2) If contact is attempted in person by a home visit, only one attempt is

required. The public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit. <u>Any such attempt shall require the public utility to knock on the customer's door unless there is objective evidence of safety or harm to the utility's employee or agent. If contact is achieved with the customer or other responsible adult, the utility representative shall inform the individual of the purpose of the attempt at contact and provide a toll free number for the customer to discuss the pending termination and all the ways to avoid the termination of service. A declaration by the individual that asserts any right to avoid termination shall delay any termination to allow the customer to exercise those rights.</u>

(3) Contact by e-mail, text message or other electronic messaging format consistent with the Commission's privacy guidelines and approved by Commission order. The electronic notification option is voluntary and shall only be used if the customer has given prior consent approving the use of a specific electronic message format for the purpose of notification of a pending termination. Electronic contact shall be deemed complete if, after attempted transmittal, no message is received indicating that the transmittal was undeliverable or otherwise not received. If the public utility receives notification that the transmittal was undeliverable or otherwise not received, the public utility shall attempt to contact the customer either in person or by telephone, consistent with the requirements of this section.

(b) The content of the 3-day personal contact notice must include the earliest date at which termination may occur and the following information:

(1) The date and grounds of the termination.
(2) What is needed to avoid the termination of service.
(3) How to contact the public utility and the Commission.
(4) The availability of the emergency medical procedures.

(c) The public utility shall ask the customer or occupant if he or she has questions about the 10-day written notice the public utility previously sent <u>and be prepared to respond to the customer's questions and declarations.</u>

(d) <u>The public utility shall make available the option for a non-English speaking customer or responsible adult to explore their rights in the customer's native or preferred language.</u>

§ 56.94. Procedures immediately prior to termination.

Immediately preceding the termination of service, a public utility employee, who may be the public utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer. <u>This attempt to make personal contact shall consist at a minimum of a knock on the customer's door unless there is clear evidence of a threat to the utility representative's safety.</u>

(1) *Termination prohibited in certain cases.* <u>The public utility employee or representative shall inquire if the customer has received notice of their rights to avoid termination of service and offer to provide such information upon request.</u> If

evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, 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 may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) Methods of payment. Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

(3) Dishonorable tender of payment after receiving termination notice. After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor).

(ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

(iii) A customer tenders payment electronically that is subsequently dishonored, revoked, canceled or is otherwise not authorized and which has not been cured or otherwise paid in full within 3 business days of the public utility's dishonored payment notice to the customer under § 56.93(a).

(4) A public utility shall create a training material to implement this section and maintain records of personal contact attempted and made pursuant to this section that includes information on the time of attempting personal contact immediately prior to termination of service, whether contact was achieved with the customer or responsible adult, the nature of the information exchanged, whether termination was halted and for what reason, and any information that might indicate the need for referral to other community organizations in and on the property.

(5) The public utility shall make available the option for a non-English speaking customer or responsible adult to explore their rights in the customer's native or preferred language.

§ 56.97. Procedures upon customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the public utility or the public utility contacts the customer concerning a proposed termination, a public utility 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 payment arrangement.

(iii) Paying what is past-due on the most recent previous company negotiated or Commission payment arrangement.

(3) Information about the public utility's universal service programs, including the customer assistance program. Refer the customer or applicant to the universal service program of the public utility to determine eligibility for a program and to apply for enrollment in a program.

(4) The medical emergency procedures.

(b) The public utility shall exercise good faith and fair judgment in attempting to enter a reasonable payment arrangement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable payment arrangement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. Payment arrangements for heating customers shall be based upon budget billing as determined under § 56.12(8) (relating to meter reading; estimated billing; customer readings). Customers who are not currently enrolled in a customer assistance program are eligible for a payment arrangement for their entire outstanding unpaid balance irrespective of whether all or some portion of that balance was incurred at the time the customer was enrolled in the customer assistance program. If a payment arrangement is not established, the company shall further explain the following and issue a written notice to the customer that contains:

(1) The right of the customer to file a dispute with the public 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 customer to pay any portion of a bill which the customer does not dispute.

(c) Confirmed low-income customers. Prior to entering into a payment arrangement with a Confirmed Low-Income customer, the utility shall obtain the written informed consent acknowledging that the customer chooses to enter into a payment arrangement in the alternative to applying for enrollment in the customer assistance program along with customer assistance forgiveness features. In the event that a customer expresses interest in applying for the customer assistance program, the utility will stay all collection activity directed toward the customer for 30 days to allow for such application.

(d) Any customer entering into a payment arrangement pursuant to this section shall be given the option of entering into either: (i) an arrangement which requires the payment of a monthly installment toward the arrearage plus the entire bill for current service; or (ii) an arrangement which requires the payment of a monthly installment toward the arrears plus a monthly bill calculated as a budget billing among pursuant to Section 56.12(7).

§ 56.111. General provision.

A public utility may not terminate service, or refuse to restore service, to a premises when a licensed health care provider [licensed physician, physician assistant, or nurse practitioner] has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. A licensed health care provider includes, but is not limited to, a licensed physician, physician assistant, nurse practitioner, registered nurse, home healthcare provider, or other type of health care provider as determined by the Commission. The customer shall obtain written or electronic communication from a licensed physician, physician assistant ~~or,~~ nurse practitioner, registered nurse, home healthcare provider, or other type of health care provider as determined by the Commission verifying the condition and promptly forward it to the public utility. Electronic signatures are valid. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the health care provider, including but not limited to, physician, nurse practitioner, or physician assistant and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

§ 56.113. Medical certifications.

Medical certifications must be in writing or provided in electronic format. Public utilities may develop a medical certificate form and make available such form on their web site, the location of which shall be included on customer rights notices and termination notices. The public utility's medical certificate may not be mandatory. A medical certificate form developed by the public utility shall be made readily available. Medical certificates may be electronically transmitted and electronic signatures are valid. A medical certificate must include all of the following:

(1) The name and address of the customer or applicant in whose name the account is registered.

(2) The name and address of the afflicted person and relationship to the customer or applicant.

(3) The anticipated length of the affliction.

(4) The name, office address and telephone number of the certifying physician, nurse practitioner or physician assistant.

(5) The signature of the certifying physician, nurse practitioner or physician assistant.

§ 56.115. Restoration of service.

When service is required to be restored under this section and §§ 56.114, 56.116—56.118 and 56.191, the public utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each public utility shall have employees available or on call to restore service in emergencies. A public utility shall not charge a fee for restoration of service in these circumstances.

§ 56.116. Duty of customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or payment arrangement or budget billing amount as determined under § 56.12(8) (relating to meter reading; estimated billing; customer readings).

§ 56.117. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the public utility may attempt personal contact and terminate service without additional written notice, if notice previously has been mailed or delivered within the past 60 days under § 56.91 (relating to general notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93—56.96.

§ 56.191. Payment and timing.

(a) *Fee.* A public utility may require a reconnection fee based upon the public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service except that public utilities that reconnect service via remote communication with its meter shall not charge any reconnection fee. The amount of an otherwise allowed reconnection ~~this~~ fee must be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, the public utility shall reconnect service as soon as possible given the technological or personnel resources available, but no later than as follows:

(1) *Customers.*

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(2) *Applicants.* When the applicant has met all applicable conditions:

(i) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. The public utility is not required to modify or eliminate the payment required to restore service if a medical certificate is presented. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(ii) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(iii) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(iv) Within 3 calendar days from April 1 to November 30 for proper terminations.

(v) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(c) *Payment to restore service.*

A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. A public utility shall also inform the applicant or customer that the timing and conditions for restoration of service may differ if someone in the household is seriously ill or affected by a medical condition which will be aggravated without public utility service.

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service <u>if the public utility has determined</u> that customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment arrangements. For purposes of this section, neither a payment arrangement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled public utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment arrangement that has been paid in full by the customer, are to be considered a default. Budget billing plans and amortization of budget plan reconciliation amounts under § 56.12(8) (relating to meter reading; estimated billing; customer readings) may not be considered a default for the purposes of this section.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months to pay the outstanding balance required for reconnection. For purposes of this subparagraph, a life event is:

(A) A job loss <u>or significant reduction in household income over a reasonable period of time preceding the customer's history of nonpayment</u> ~~beyond 9 months~~.

(B) A serious illness ~~that extends beyond 9 months~~.

(C) Death <u>or incapacitation</u> of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment required toward the outstanding balance as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises as a condition to restore service.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant or customer resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant or customer resided there, not exceeding 4 years prior to the date of requesting that service be restored. The 4-year limit does not apply in instances of fraud and theft.

(e) *Approval*. A public utility may establish that an applicant or customer previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission, <u>any of which evidence that be provided to the affected individual</u>. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this subsection, used to determine liability for outstanding balances.

(f) *Dishonorable tender of payment for reconnection of service*. A public utility may immediately terminate service if a payment for reconnection of service is subsequently dishonored, revoked, canceled or otherwise not authorized and which has not been cured or otherwise paid in full within 3 business days of the public utility's dishonored payment notice to the customer under § 56.93(a) (relating to personal contact).

§ 56.201. Public information.

(a) In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its customers ~~affected by the change~~. Summaries will be mailed by the public utility to each customer of the public utility ~~affected by the change~~. These summaries, as well as a summary of the rights and responsibilities of the public utility and its customers in accordance with this chapter, shall be in writing, reproduced by the public utility, displayed prominently, available on the public utility's web site if the public utility has one and available at all public utility office locations open to the general public. The public utility shall inform new customers of the availability of this information and direct where to locate it on the public utility's web site <u>and provide the option to download and print the information in widely available pdf format</u>. The public utility <u>shall notify customers of the option</u> to deliver or mail a copy upon the request of a customer or applicant <u>in the customer's native or preferred language.</u>

(b) A public utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

(1) Billing and estimated billing procedures.
(2) Methods for customer verification of billing accuracy.
(3) Explanation of operation of purchased gas adjustment clauses.
(4) Payment requirements and procedures.
(5) Security deposit and guarantee requirements.
(6) Procedures for discontinuance and reconnection of service.
(7) Dispute, informal complaint and formal complaint procedures.
(8) Explanation of meter reading procedures which would enable a customer or occupant to read his own meter.
(9) Procedure whereby customers or occupants may avoid

discontinuance of service during extended periods of absence.

(10) Third-party notification procedures.

(11) Telephone numbers and addresses of the public utility and of the nearest regional office of the Commission where further inquiries may be made.

(12) Definitions of terms or abbreviations used by the public utility on its bills.

(13) Information indicating that additional consumer protections may be available for victims of domestic violence who have a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, people with serious illnesses and low income households.

§ 56.222. Applications for modification or exception.

(a) If unreasonable hardship to a person or to a public utility results from compliance with a section in this chapter, or a technological advance permits an enhanced level of customer service, 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.

(b) A person or public utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption <u>including statutory customer advocates</u>. Notice may be made by a bill insert or in another reasonable manner.

§ 56.223. Inconsistent tariff provisions.

A tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter. <u>Public utilities have a duty to regularly review their tariffs and revise them to comply with this chapter.</u>