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February 13, 2007

**VIA FEDERAL EXPRESS**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to  
Comply with the Provisions of 66 Pa. C.S., Chapter 14; General  
Review of Regulations; Doc. No. L-00060282**

Dear Secretary McNulty:

Enclosed please find an original and 15 copies of the **Comments of Allegheny Power** in the above-captioned rulemaking. The Comments are provided pursuant to the Order of Pennsylvania Public Utility Commission published in the Pennsylvania Bulletin December 16, 2006. 36 Pa. B. 7614. Copies of the Comments are being served as directed in the published Order. Electronic copies of the Comments are being e-mailed to the persons listed below. This filing is made by Federal Express and is deemed filed today, February 13, 2007.

Very truly yours,

  
John L. Munsch  
Senior Attorney

Enclosure

cc: Terrence J. Buda ([tbuda@state.pa.us](mailto:tbuda@state.pa.us))  
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**Rulemaking to Amend the Provisions of** :  
**52 Pa. Code Chapter 56 to Comply with** : **Docket No.: L-00060182**  
**the Provisions of 66 Pa. C. S., Chapter 14;** :  
**General Review of Regulations** :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served by first-class mail, postage prepaid, the

**Comments of Allegheny Power** addressed as follows:

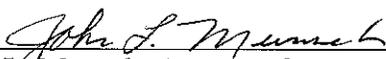
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Date: February 13, 2007

  
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John L. Munsch, Attorney for  
WEST PENN POWER COMPANY,  
dba Allegheny Power

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**COMMENTS OF ALLEGHENY POWER**

West Penn Power Company dba Allegheny Power (“Allegheny Power” or “the Company”) provides Comments in response to the Advance Notice of Proposed Rulemaking (“ANOPR”) entered December 6, 2006 in the above-referenced docket. The ANOPR seeks to implement Section 6 of the Responsible Utility Customer Protection Act, 66 Pa. C.S. §1401 et seq. (“Chapter 14”) in relation to pre-existing regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code Chapter 56 (“Chapter 56”). The Comments of Allegheny Power, provided sequentially below, follow the numerical order of the issues as listed in the ANOPR. The Comments also address the question raised by Commissioner Pizzingrilli in the Statement attached to the ANOPR.

1. **Rules that Apply to Victims with a Protection from Abuse (PFA) Order and to Customers of Steam Heating, Wastewater and Small Natural Gas Companies.**

Allegheny Power agrees that, in accordance with §1417, regulations promulgated pursuant to Chapter 14 shall not apply to PFA holders.

2. **Previously unbilled utility service.**

Section 1405(b) sets minimum parameters for the length of payment agreements based on federal poverty levels. It is within the discretion of utilities to extend the length of the payment period beyond the lengths prescribed in §1405 (b).

3. **Credit Standards**

Allegheny Power uses a generally accepted credit scoring method. Credit scoring formulae are considered trade secrets and are therefore proprietary. Credit scoring methodology should not be placed in the tariff because of the likelihood of frequent changes.

4. **Payment period for deposits.**

Applicants or customers seeking to restore service after having been terminated for any of the grounds in §1404(a)(1) should be required to pay 50 percent of the deposit as a condition of restoration. The Commission should also clarify that the balance of the deposit be due in two additional installments; that is, the next 25 percent due after 30 days, and the final 25 percent due after another 60 days. This approach is consistent with §1404(h) which provides that the time for paying deposits upon reconnection is up to 90

days in accordance with Chapter 56. This approach is also consistent with the Commission's First Implementation Order of March 5, 2005.

Customers or applicants seeking service outside the grounds in §1404(a)(1) should be required to pay the full amount of the security deposit before service is provided. This is consistent with §§1404(a)(2) and (3) which provide that “the commission shall not prohibit a public utility, prior to or as a condition of providing utility service, from requiring a cash deposit ... at the time the public utility determines a deposit is required, from the following: .... (2) Any applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology.... (3) A customer who fails to comply with the material terms of a settlement or payment agreement.” It is also consistent with §1404(e) that states that a public utility shall not be required to provide service if the applicant fails to pay the full amount of the cash deposit.

With respect to existing customers with service who are required to pay a deposit, Allegheny Power does not agree with the proposal to maintain the existing rules at §§56.41—42 which allow for deposits to be paid in three installments over 60 days. Allegheny Power does not agree that Chapter 14 is silent on rules for collecting deposits from customers with service, and Allegheny Power believes further the provisions of Chapter 56 are inconsistent with the credit-related provisions in Chapter 14. The provisions in §1404(a) (2) and (3) also support the approach that existing customers should be required to pay their deposit in full.

## 5. Termination of Service.

Allegheny Power agrees with the Commission's ANOPR that §56.81 and 1406(a), which list authorized grounds for termination, should be integrated to the extent consistent with Chapter 14. It also agrees that §56.98 and §1406(c), which list grounds for immediate termination without notice, should be integrated to the extent consistent with Chapter 14. Allegheny Power notes in this regard that §56.81 allows termination of service upon notice for eight reasons. Section 1406 divides those eight reasons into two separate categories. The first category, contained in §1406(a), requires notice prior to termination, and the second category, contained in §1406(c), does not require notice prior to termination. Integration may not be possible because §1406 is quite specific and appears totally to abrogate and supplant §56.81.

Allegheny Power submits that §56.83(4) should be eliminated or amended to prevent the "name game" scenario. Utilities should be allowed to terminate a customer's service for an unpaid balance accumulated by a prior ratepayer at the residence, if the current customer lived at the residence and benefited from the prior service. Subsections 56.83(8), (10) and (11) are also inconsistent with §1402 and should be eliminated.

Allegheny proposes removing the income level grid from the termination notices for several reasons:

- Maintaining the grid on termination notices creates an undue burden on the utilities to revise their termination notices annually;
- The figures are to be updated when the Federal Poverty Level Guidelines are published on or around February each year. The timely update on termination notices depends on a utility's ability to make quick changes;
- Confusion results because timing of the FPL guideline updates do not coincide with the LIHEAP season. Thus, a timely update (around

February each year) on the termination notices shows different eligibility figures than what the LIHEAP agencies are using since they are still finishing up their program year, essentially with the previous years' FPL figures;

- Switching over the new sets of income figures becomes a training issue for Customer Service Representatives and assistance agency reps; and
- FPL guidelines are published on other materials and it is not necessary on termination notices.

**6. Winter termination procedures.**

Allegheny Power suggests that direct contact with a customer during the termination process will enable the Company to gather the necessary information to verify income status. In the absence of direct contact, mailing the 10-day termination notice followed by posting of at least one (72-hour or 48-hour) termination notice at the residence constitutes a diligent, good-faith attempt to verify that the household does not fall into the protected low-income category. The responsibility then lies with the customer to respond to the utility's notices by contacting the utility and providing the required income and household size information. If the customer fails to respond to the notices, the utility should be permitted to follow through with the pending termination. Should this result in erroneous termination to a low-income customer, the utility service would be restored within 24 hours, as directed by §§1407(b) (1) and (2).

The winter termination provisions in §56.100 have been largely abrogated and supplanted by §1406(e) and it is questionable if any provisions of §56.100 remain. In the event that the cold-weather survey provisions of §§56.100 (4) and (5) remain effective, Allegheny Power suggests limiting the cold-weather survey as follows:

- The survey could be conducted by sending a certified letters;

- Conduct one field visit, and after that, turn the account over to a social service agency; and
- Although Allegheny Power does not red-tag appliances, it agrees with other comments that there should be no requirement to survey accounts whose appliance is red-tagged because facilities beyond the customer's meter socket are the customer's responsibility and do not belong in the cold weather survey.

Allegheny Power opposes the required reporting of a death following a termination of utility service. The requirement would imply an inappropriate finding of a causal connection between the termination and the fatality. This proposed new regulation is not required under any provision of Chapter 14 and does not promote its policy or intent.

#### **7. Emergency Medical Procedures.**

The use of medical certificates has been abused over the past several years. Any new regulations covering medical certificates should be drafted to prevent unscrupulous abuse.

The current interpretation allowing for three medical certificates (one original and two renewals) for each instance of arrearages is questionable, particularly where the customer's arrearage is paid off by LIHEAP and DEF grants. Once the arrearages are paid off, even by grants, the customer would be able to obtain another three medical certificates, in effect allowing unlimited use of medical certificates.

If the customer pays off the balance, Allegheny Power agrees the customer could again be entitled to three medical certificates, and that the "three medical certificates" should apply to the entire household. However, the medical certificates should not have

to be consecutive, and the account should not have to remain in the same name. If the limits apply to the entire household, and for the same set of arrearages, it should not matter in whose name the account is listed.

While under the protection of a medical certificate, according to §56.116, a customer is to make equitable arrangements for bill payment. Allegheny Power proposes that once the customer has exhausted payment agreement opportunities, and is not entitled to more, balance in full should be required upon expiration of the medical certificate.

Allegheny Power agrees that utilities need not petition the Commission for waiver of medical certificates using the procedures at §56.118 if the utility is simply enforcing the restrictions of §56.114. Petitioning is necessary only if the utility does not want to honor a medical certificate that does not fall under the restrictions. Requiring a petition in all circumstances where a utility does not want to honor a medical certificate would essentially make the restrictions at §56.114(2) meaningless, when the intent of this section when it was proposed in 1996 was to "clarify, simplify and remove excessive and burdensome requirements from the parties dealing with our Bureau of Consumer Services" (26 Pa. B. 2908).

**8. Commission informal complaint procedures.**

The term "payment agreement" as defined in §1403 includes both utility agreements and Commission agreements. Section 1405 entitles a customer to a payment arrangement, and subsequent payment arrangements at the utility's discretion, but specifically prohibits the Commission from establishing a subsequent payment

arrangement if a customer has defaulted on a previous payment agreement. It is believed that utilities have generally agreed to one BCS-supplied payment arrangement, the terms of which are in compliance with §1405, and in accordance with the First Implementation Order, but Allegheny Power submits that a second BCS payment arrangement should not be authorized in the regulations, since neither Chapter 56 nor Chapter 14 provide the Commission with that right.

With respect to CAP payments and disputes, the Commission is prohibited from establishing payment arrangements for CAP customers, and the use of the word “default” is questionable in relation to the Commission reserving the right to handle matters involving “default.” The First Implementation Order clearly states that the Commission’s role in restoration cases is limited to making sure that the utility is properly applying the provisions of §1407(c) and that “life events” are properly considered for those consumers above 300% of the federal poverty level.

Allegheny Power generally agrees with the 30-day response time standard; however, a five-day standard for OFF cases may be unattainable due to volume, may be discriminatory, and in some instances may not be beneficial to customers seeking assistance. In addition to the utilities’ standard response time on informal complaints, and in conjunction with the requirements of timely formal complaint handling found at §56.174(4), (5), (6) and (7), Allegheny Power proposes §56.163 be further amended to include the imposition of a BCS case-handling time-standard of no more than 30 days from the date BCS receives the utility report, in order to expedite the handling of informal complaints.

**9. Restoration of Service.**

Allegheny Power refers to its Response No. 3 concerning credit standards.

Allegheny Power disagrees that the 24-hour restoration requirement applies to all services being restored in December regardless of when the termination occurred. Section 1407(b) clearly provides that if service is terminated after November 30 and before April 1, service must be restored within 24 hours provided the applicant meets all applicable conditions for reconnection.

Allegheny Power believes §1405 payment arrangement terms do not apply to customers whose service has been terminated. Furthermore, §1407(c) (2) clearly lists the terms the public utility may require prior to restoring terminated service.

**10. Reporting requirements.**

Many reports required of utilities are duplicative, overly time consuming and burdensome. Several required reports should be consolidated. Allegheny Power proposes consolidation of required reporting data and elimination of duplicate reporting requirements. This would enable increased focus of time and effort on customers rather than reporting requirements. The following reports could be subject to monthly or annual consolidation:

- Monthly 56.231 residential collections and termination reports, due the 15th of each month;
- Quarterly 56.231 non-residential collections and termination reports;
- Annual Quality of Service Benchmarking Report , due February 1 each year;

- Annual Residential Usage and Billing Statistics Report, due February 28 each year;
- Annual Universal Service Reporting Requirements, due April 1 each year; and
- Additional data collection for the Biennial Report to the General Assembly, due April 1 each year, beginning 2008.

#### **11. Commissioner Pizzigrilli Issue**

In a Statement accompanying the ANOPR Commissioner Pizzigrilli requested that commentators address the question of whether it is appropriate or necessary to incorporate portions of the statute directly into the regulations. Allegheny Power would answer this question in the negative. The regulations should not restate legislative language because the General Assembly's language in several areas of Chapter 14 is specific and totally supplants Chapter 56 regulations. This is the case with respect to payment agreements (§1405) and termination (§1406). In certain other areas, such as the use of medical certificates, the General Assembly's enactment is non-specific and requests embellishment.

#### **Conclusion**

The intent of Chapter 14 is clearly explained in §1402:

- Provide protections against rate increases for timely paying customers resulting from other customers' delinquencies;
- Achieve greater equity by eliminating opportunities for customers capable of paying to avoid timely payment of public utility bills;
- Provide public utilities with an equitable means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections and by increasing timely collections; and

- Ensure that service remains available to all customers on reasonable terms and conditions.

The General Assembly specifically found that Chapter 56 has “not successfully managed the issue of bill payment,” and it sought “to achieve greater equity by eliminating opportunities for customers capable of paying to avoid timely payment. . . .” §1402(1) and (2). Yet, the legislature recognized the need for balance, stating: “the General Assembly seeks to ensure that service remains available to all customers on reasonable terms and conditions.” §1402(3). Allegheny Power believes Chapter 14 is successfully accomplishing its legislative intent as statewide uncollectible accounts and arrearages continue to decline while basic public safeguards continue to operate effectively.

Respectfully submitted,

Date: February 13, 2007

By:

  
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