

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend the Provisions of : Docket No. L-2015-2508421  
52 Pa. Code, Chapter 56 to Comply with the :  
Amended Provisions of 66 Pa. C.S. Chapter 14 :

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**Joint Comments of**  
**Community Justice Project**  
**Disability Rights Pennsylvania**  
**Health Education and Legal Assistance Project: A Medical-Legal Partnership at Widener**  
**University (HELP-MLP)**  
**The Homeless Advocacy Project**  
**The Housing Alliance of Pennsylvania**  
**The Pennsylvania Coalition Against Domestic Violence**  
**The Pennsylvania Health Law Project**  
**The Pennsylvania Utility Law Project**  
**The Women's Center, Inc. of Columbia & Montour Counties**  
**The Women's Resource Center**

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April 18, 2017

## **INTRODUCTION**

These comments are submitted jointly on behalf of the following organizations: Community Justice Project (CJP); Disability Rights Pennsylvania (DRP); Health, Education and Legal Assistance Project: A Medical-Legal Partnership at Widener University (HELP-MLP); The Homeless Advocacy Project (HAP); The Housing Alliance of Pennsylvania; The Pennsylvania Coalition Against Domestic Violence (PCADV); The Pennsylvania Health Law Project (PHLP); The Pennsylvania Utility Law Project (PULP); The Women's Center, Inc. of Columbia & Montour Counties (TWC); and The Women's Resource Center (WRC) (together, "Joint Commenters"), as well as the thousands of economically vulnerable Pennsylvanians we serve. A statement of interest from each of our respective organizations is attached to these comments.

While we represent a diverse group of low income consumers on a variety of issues, the Joint Commenters share a common thread in that the majority of our clients and constituencies are uniquely vulnerable. Many suffer from serious short- and long-term health conditions or disabilities for which utility service is an essential component to treatment. Many others struggle to establish a safe and healthy home after escaping violence by a current or former intimate partner. These unique vulnerabilities often pose acute financial obstacles which exacerbate their hardship, and create significant barriers to establishing and maintaining essential utility services.

We join together to answer the Public Utility Commission's (PUC) call for comment on the Commission's proposed revisions to Chapter 56 of the Pennsylvania Utility Code, which governs the billing, collections, and termination standards for regulated electric, gas, water, and wastewater utility services. In particular, these jointly filed comments address the Commission's proposed changes to the medical certification procedure and process (52 Pa. Code §§ 56.113 - .116), implementation of the security deposit prohibition (52 Pa. Code §§ 56.32, 56.41), proposed

electronic notification standards (52 Pa. Code § 56.93), and the imposition of standards and procedure for implementation of the domestic violence exemption pursuant to 14 Pa. C.S. § 1417 (52 Pa. Code Ch. 56, Subch. L-V).

## A. MEDICAL CERTIFICATION PROCESS AND PROCEDURE

### i. Medical Certificate Definitions – Physician Assistant

**The definition of *physician assistant* should be revised to be consistent with the definition of physician assistant in Title 49, Chapter 18, Section 18.122 of the Pennsylvania Code.**

#### § 56.2, Definitions

The Commission’s proposed definition of physician assistant is unduly restrictive.<sup>1</sup> The Joint Commenters recommend that, in setting forth a definition of Physician Assistant, the Commission refer directly to the Chapter of the Pennsylvania Code which pertains to Physician Assistants, at Title 49, Chapter 18, Subchapter D. Specifically, section 18.122 defines the term physician assistant as: “An individual who is licensed as a physician assistant by the Board.” 49 Pa. Code § 18.122. The licensing requirements are then enumerated in that subchapter. We suggest incorporating this succinct definition by reference into the Commission’s definition of physician’s assistant, and deleting further descriptions of the current licensing requirements and standards.

Adopting a simpler definition, with a direct link to the applicable section of the Pennsylvania Code, will ensure that Chapter 56 keeps pace with this changing norms of the health profession. From 2010 to 2015, the profession grew 35.9% nationally.<sup>2</sup> In fact, Pennsylvania ranks in the top three states with the highest per capita concentration of physician assistants, outranked only by Alaska and South Dakota.<sup>3</sup> Physician assistants play an increasingly expanded role in providing

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<sup>1</sup> The Commission’s Notice of Proposed Rulemaking cites to a section of the Pennsylvania Consolidated Statutes (49 Pa. C.S. § 18.51(b)) that has not been promulgated and, thus, it is not clear what the Commission was referring to when it indicates that its proposed definition was based on that section. *See Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa. C.S. Chapter 14*, Docket No. L-2015-2508421 (Notice of Proposed Rulemaking Order, July 21, 2016), Attachment One at 1 (hereinafter “Notice of Proposed Rulemaking Order”).

<sup>2</sup> Nat’l Comm’n of Physician Assistants, 2015 Statistical Profile of Certified Physician Assistants, at 5 (2016), available at <https://www.nccpa.net/Uploads/docs/2015StatisticalProfileofCertifiedPhysicianAssistants.pdf>.

<sup>3</sup> *Id.* at 7-8

healthcare to marginalized, low income, and rural communities. These communities, in turn, are precisely the population which most often rely on the protection of a medical certificate to maintain critical electric service. It is therefore critical to ensure that the definition of physician assistant in Chapter 56 of the Public Utility Code be drafted with sufficient flexibility to allow for potential changes to the definition by the State Board of Medicine in Title 49, Chapter 18 of the Pennsylvania Professional and Vocational Standards Code. The Joint Commenters recommend the following revisions to section 56.2 (definitions):

**Suggested Language – § 56.2. Definitions**

*Physician assistant*—An individual licensed by the State Board of Medicine in this Commonwealth pursuant to Title 49, Chapter 18, Subchapter D of the Pennsylvania Code (Physician Assistants), or any successor provision(s). ~~who provides any medical service, as directed by the supervising physician licensed to practice medicine in this Commonwealth, when the service is within the physician assistant’s skills, training and experience, forms a component of the physician’s scope of practice, is included in the written agreement and is provided with the amount of supervision in keeping with the accepted standards of medical practice. See 49 Pa. C.S. § 18.51(b) (relating to the role of physician assistant)~~

In line with the recommendations above regarding the definition of “physician assistant”, the Joint Commenters suggest similar revisions to the definition of “nurse practitioner.” Rather than set forth a set of criteria that may or may not be in line with the licensing requirements of a nurse practitioner in Pennsylvania, the Low Income Consumer Groups suggest that the Commission refer directly to the definition for nurse practitioner used by the State Board of Medicine:

**Suggested Language – § 56.2. Definitions**

*Nurse practitioner*—A registered nurse licensed in this Commonwealth by the State Board of Nursing pursuant to Title 49, Chapter 21, Subchapter C of the Pennsylvania Code. ~~in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth~~

## ii. Medical Certificate “Form” and Content Requirements

**The Joint Commenters support the Commission’s interpretation of the medical certification form and content requirements, and recommend establishing a work group at the conclusion of this rulemaking to develop a universally accessible and voluntary standardized form.**

### § 56.113. Medical Certifications

The Joint Commenters support the Commission’s conclusions regarding the form and content requirements for medical certification, and supports revised section 56.113 as drafted by the Commission as related thereto.<sup>4</sup>

First, with regard to the content requirements, the Joint Commenters assert that the Commission’s proposed revisions to section 56.113 (which eliminate the requirements that medical certificates include the nature of the medical condition and the “specific reason for which the service is required”) strike the correct balance, and provide necessary information without being unduly intrusive on a utility customer’s privacy with regard to their health status.<sup>5</sup> Indeed, it is not necessary for the utility to know the “nature” of the health problem or the specific reason why service is required. Inclusion of these components on a medical certificate infringes on the robust right to medical privacy and encourages the utility to substitute its judgment for that of the certifying professional.

Further, the Joint Commenters oppose inclusion of a certifying professional’s license number on a medical certificate. Requiring a medical professional to provide their license number on a medical certificate implies a level of personal liability, and is likely to deter medical

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<sup>4</sup> The Joint Commenters oppose inclusion of additional information on the form, such as

<sup>5</sup> See Chapter 14 Implementation, Final Order, Docket M-2014-2448824, at 12-13 (July 9, 2015) (hereinafter Chapter 14 Implementation Order); see also Joint Comments of the Disability Rights Network of Pennsylvania, Laurel Legal Services, MidPenn Legal Services, Neighborhood Legal Services, and the Pennsylvania Health Law Project, Chapter 14 Implementation, Docket No. M-2014-2448824, at 2-3 (March 2, 2015).

professionals from assisting patients to access this critically important avenue for relief. Medical license information is available to the public through a simple search, which utilities could easily refer to if they question the authenticity of the certificate.<sup>6</sup>

With regard to the form requirement, the Joint Commenters agree with the Commission that no specific form should be required to be used as long as all of the relevant information is presented by the medical professional. Flexible form requirements – specifying required content as opposed to dictating format – are critical to ensure that medically vulnerable Pennsylvanians can access timely relief. Nonetheless, as the Commission has recognized, there is inherent value to having a standard, statewide form that is universally available and immediately recognizable to utilities, consumers, and medical professionals. A voluntary universal form encourages consistency in the information requested and familiarizes certifying professionals with the medical certification process. The Commission recognized the potential merit of a voluntary, statewide form in its Chapter 14 Implementation Order:

As for [the] suggestion that a collaborative develop a single, statewide standard form – this idea may have merit but it is premature. Any such collaborative should await the promulgation of the Chapter 56 medical certification regulations.<sup>7</sup>

Joint Commenters submit that such a form would help alleviate some of the concern and confusion by medical professionals about this process. Many of the Joint Commenters work in a medical / legal partnership,<sup>8</sup> and have often encountered confusion by medical professionals about the certification process – as well as the rights and responsibilities that attach. A common

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<sup>6</sup> See <https://www.pals.pa.gov/#/page/search>.

<sup>7</sup> Chapter 14 Implementation Order at 10.

<sup>8</sup> “Medical-legal partnership (MLP) unites the medical community and the legal community under a common mission to address and prevent health-harming social conditions for patients and for communities. An MLP embeds attorneys and paralegals in a health care setting to work with and alongside other members of the health care team. Together they screen for and treat human-harming legal needs – related to insurance, public benefits, housing, education, legal status, and safety – to improve health and well-being, and reduce health care utilization.” Nat’l Ctr. for Medical Legal Partnership, FAQ, <http://medical-legalpartnership.org/faq/>.

misconception is that a certifying professional will incur personal liability – or that a the medical certificate process is relieving a consumer of debts, rather than merely providing additional time for the consumer to stabilize their financial standing and arrange to make payment. This lack of clarity about the medical certifications has led several of the largest healthcare systems in the state policies that prohibit physicians from issuing medical certificates for their patients.

Unfortunately, as a result of this fundamental misunderstanding of the medical certificate process, many of our clients have been unable to obtain the protection from imminent termination afforded by the Legislature.

The Joint Commenters recommend that – upon the conclusion of this rulemaking – the Commission institute a collaborative work group of interested stakeholders and staff from the Commission’s Bureau of Consumer Services and Commission’s Communications Department to develop a single, voluntary, standardized form which is capable of integration into common medical case management software. The form should include brief, plain language instructions and information for the certifying professional and the protected customer which explain the rights, duties, and obligations conferred by a medical certificate. Additionally, once developed, Joint Commenters believe that the form should be publically available and easily accessible in .pdf or similar format on the Commission’s website and that the Commission should encourage each of the utilities to make the form publically available on their respective websites.

### iii. Oral Certification Pending Submission of Written Form

**The Commission should extend the three-day postponement of termination pursuant to section 52 Pa. Code § 56.112 to fourteen (14) days to allow for a reasonable amount of time for a household to obtain a medical certificate.**

#### **§ 56.112. Postponement of termination pending receipt of medical certificate**

In its Chapter 14 Implementation Order, the Commission concluded that, because Chapter 14 now specifically defines a medical certificate as a written document, section 56.113 – which allowed medical professionals to provide an oral certification, and follow-up with written certification within seven (7) days -- “is no longer valid.”<sup>9</sup> Notwithstanding, the Commission further concluded that section 56.112 – which provides consumers with a three-day postponement of termination pending receipt of a medical certificate – retained its validity.<sup>10</sup>

The Joint Commenters respectfully assert that three days is often insufficient to allow a medically vulnerable consumer adequate time to make an appointment with their medical professional, obtain a certificate, and provide it to their utility. A 2014 survey of primary healthcare provider wait times showed an average wait of 21 days in the city of Philadelphia – more than double the 9-day average wait time in 2009.<sup>11</sup> The average wait-time is exacerbated even further for low income populations who rely on assistance from Medicaid: Only 67% of primary healthcare providers who participated in the study accept Medicaid.<sup>12</sup> While there is not a directly comparable study of the appointment wait times outside of the city of Philadelphia, data

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<sup>9</sup> Chapter 14 Implementation Order at 11-12.

<sup>10</sup> Chapter 14 Implementation Order at 12.

<sup>11</sup> Meritt Hawkins, Physician Appointment Wait Times and Medicaid and Medicare Acceptance Rates, at 12 (2014), available at <https://www.merritthawkins.com/uploadedfiles/merritthawkins/surveys/mha2014waitsurvpdf.pdf>; see also Elisabeth Rosenthal, The Health Care Waiting Game: Long Waits for Doctors' Appointments Have Become the Norm, NY Times (July 5, 2014), [https://www.nytimes.com/2014/07/06/sunday-review/long-waits-for-doctors-appointments-have-become-the-norm.html?\\_r=0](https://www.nytimes.com/2014/07/06/sunday-review/long-waits-for-doctors-appointments-have-become-the-norm.html?_r=0).

<sup>12</sup> Id. at 13.

confirms that rural Pennsylvania households likely face even longer wait times.<sup>13</sup> According to the Pennsylvania Rural Health Association, healthcare shortages in Pennsylvania are wide-spread: “based on 2015 estimates, portions of 65 of the state’s 67 counties, both rural and urban, are designated as Health Professional Shortage Areas (HPSAs), Medically Underserved Areas (MUAs) or both.”<sup>14</sup> Indeed, this is consistent with the Joint Commenters’ experience working directly with these populations, which often have a difficult time accessing healthcare services.

While it is true that the burgeoning market of retail health clinics and urgent care centers offer faster options to access healthcare professionals, these clinics have higher co-pay or co-insurance payments – and may not accept Medicaid.<sup>15</sup> This, in turn, creates a perverse impact on the household’s ability to pay their utility bill to prevent termination – fueling a vicious cycle of economic instability and uncertainty.

Long wait times are not the only obstacle facing low income households with acute medical needs. Transportation to and from the healthcare provider also proves difficult, especially for elderly individuals and those in rural areas where there is little or no public transportation options.<sup>16</sup>

In recognition of the barriers facing economically and medically vulnerable households attempting to access relief from termination, the Joint Commenters urge the Commission to extend the time allotted in section 56.112 for postponement of termination to 14 days. Combined with the 10-day notice period in advance of termination, households would have up to 24 days to

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<sup>13</sup> See The Pennsylvania Rural Health Ass’n, Pennsylvania Rural Health Care: Status Check VI (Nov. 2016), <http://www.paruralhealth.org/Status-Check-VI.Final.pdf>.

<sup>14</sup> Id. at 16.

<sup>15</sup> See Medicaid.gov, Helping Connect Enrollees to Care, <https://www.medicaid.gov/medicaid/outreach-tools/helping-connect-enrollees-to-care/index.html>.

<sup>16</sup> Id. at 36.

make an appointment, arrange transportation, obtain a medical certificate, and submit the certificate to the utility. This extended timeframe is consistent with the average healthcare provider wait times, discussed above, and would afford the household a more reasonable time-frame to avoid potentially life-threatening consequences to their health as a result of termination. In turn, the Joint Commenters assert that the addition of 14 days would not pose an undue burden on the utility - which is empowered through the regulation to commence with termination “at the point where it was suspended.”<sup>17</sup> In balance, the relatively harsh and potentially deadly consequences to a medically vulnerable household which is unable to obtain a medical certificate within a 3-day time-frame far outstrips the cost of any additional charges that the household could incur by providing an additional 11 days to obtain a medical certificate. The Joint Commenters note that extending the time-frame for a temporary hold on termination is consistent with Chapter 14, which provides the Commission with broad discretion to set forth the procedure for the medical certification process.<sup>18</sup>

**Suggested Language - § 56.112**

If, prior to termination of service, the public utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 14 days. If a certification is not produced within that 3 14 -day period, the public utility may resume the termination process at the point where it was suspended.

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<sup>17</sup> 52 Pa. Code § 56.112.

<sup>18</sup> 66 Pa. C.S. § 1406(f) (“The medical certification procedure shall be implemented in accordance with commission regulations.”).

#### **iv. Medical Certificate Renewal**

- a. The Commission should affirm its longstanding policy that medical certificate renewal requires only the payment of current bills. This action is consistent with the Commission’s authority and furthers important public policy; namely, the protection of medically vulnerable individuals and their families.**

##### **§ 56.116. Duty of Customer to Pay Bills**

The Commission invited parties “to comment on any other medical certificate issues they think need to be addressed” – specifically noting that “some parties have asked that the obligation to pay include not only current bills, but also payment towards the arrears.”<sup>19</sup> The Commission asked that parties commenting on this issue also provide an assessment of the Commission’s legal authority “to order payment arrangements be negotiated in these situations in the context of the restrictions upon the Commission found in Section 1405.”<sup>20</sup>

As the Commission clarified in its Chapter 14 Implementation Order, its long-standing medical certification policy provides that a customer who is subject to a medical certificate may renew that medical certificate every thirty (30) days without limitation if the customer continues to pay current charges or their budget bill amount as it comes due, irrespective of any arrears on their account.<sup>21</sup> If the customer does not pay their current charges or their budget bill amount as it comes due, they are only able to renew their certificate two times (or a total of 90 days).<sup>22</sup> The Joint Commenters support the continuation of this longstanding policy regarding payment requirements during the pendency of a medical certificate, as it ensures that medically vulnerable Pennsylvanians can continue to access critical relief from a pending termination while the

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<sup>19</sup> Notice of Proposed Rulemaking Order, Attach. One at 9.

<sup>20</sup> Id.

<sup>21</sup> Chapter 14 Implementation Order at 15; 56 Pa. Code § 56.116.

<sup>22</sup> Id.; 56 Pa. Code §§ 56.114, .116.

household deals with the financial hardship that most often accompany serious illness.

The essential purpose of having a medical certification process is to allow medically vulnerable customers to hit the “pause” button – allowing them time to regain financial stability without exacerbating current health problems. Requiring medically vulnerable consumers to pay more than the current amount due during the pendency of a medical certificate undermines the purpose of providing relief, pulling the rug out from under the household before they even have a chance to get their footing.

The Commission explicitly recognized this fact in promulgating its most recent amendments to section 56.116, noting that the current bill payment requirement “**recognizes the disruptive nature of serious illness on customers.**”<sup>23</sup> At the same time, the Commission’s policy of requiring payment on current or budget bills during the pendency of a medical certificate “**prevent[s] the accumulation of additional arrearages while a customer is under the protection of a medical certificate.**”<sup>24</sup> This Commission’s analysis here is absolutely correct

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<sup>23</sup> Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa. C.S., Chapter 14; *Final Order: Attachment 1, Summary of Comments and Discussion*, Docket No. L-00060182, at 148-49 (Mar. 22, 2011) (emphasis added).

<sup>24</sup> Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa. C.S., Chapter 14; *Final Order: Attachment 1, Summary of Comments and Discussion*, Docket No. L-00060182, at 148-49 (Mar. 22, 2011) (emphasis added).

[I]f the customer is paying their current bills as required by this section, the outstanding balance will not be increasing, meaning that the customer’s and the utility’s problems with the account balance will not be aggravated. We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer. We also point to the petition process at § 56.118 that a utility may use to possibly void a medical certificate that a utility believes is being used to avoid the payment of the account balance.

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[T]he proposed language requiring payment on all current bills or budget bills brings much needed clarity to this section, and recognizes the disruptive nature of serious illness on customers. At the same time, we believe this proposal will aid both consumers and utilities in preventing the accumulation of additional arrearages while a customer is under the protection of a medical certificate.

Id.

and evidences the strong and compelling public policy reasons to continue allowing medical certificate renewals so long as the customer is making payments on their current or budget bill charges as they come due.

In response to the Commission's inquiry into whether the current bill / budget bill payment standard is consistent with section 1405 (payment arrangements), the Joint Commenters assert that the Commission has the legal authority to continue its current policy. The limitation on the Commission's power to issue payment arrangements in section 1405 is not implicated by the medical certification process as this process is a separate emergency process that prohibits termination of certain accounts if a medical certificate has been issued. Section 1406(f) of the Pennsylvania Consolidated Statutes provides:

*A public utility shall not terminate service to a premises when a customer has submitted a medical certificate to the public utility. The customer shall obtain a medical certificate verifying the condition and shall promptly forward it to the public utility. The medical certification procedure shall be implemented in accordance with commission regulations.*<sup>25</sup>

In other words, the legislature was explicit that medical certificates unequivocally stop termination, and that the Commission has the authority to establish procedure to allow consumers to access that protection. There is no mention of a payment arrangement, nor is there any requirement that customers subject to a medical certificate make payment to the utility as a condition to asserting the protection. Rather, the legislature simply defers to the Commission's regulatory authority to create a procedure that will implement the medical certificate protections.

A customer's submission of a medical certificate - and the resultant prohibition on termination - does not dictate the manner in which the underlying arrears will be addressed after

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<sup>25</sup> 66 Pa. C.S. § 1406(f) (emphasis added).

the protection of the medical certificate no longer applies. As such, it cannot be characterized as a payment arrangement because it fails to meet the definition set forth in Chapter 14, which defines a payment arrangement as: “An agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.” A medical certificate does not require admission of liability for or payment of underlying arrears -- nor does it provide for or dictate a schedule for amortization of existing arrears.

At the same time, the medical certification process does not prohibit or prevent the utility and the consumer from negotiating terms for repayment during the pendency of the medical certificate. A medical certificate simply provides that a customer under its protection cannot be legally terminated for as long as the medical certificate remains in place. As noted above, the Commission has itself explained: “We expect that once the medical certificate expires, the utility would address the outstanding balance with the customer.”<sup>26</sup> This eventual resolution of the underlying debt upon the expiration of the medical certificate may be accomplished through a payment arrangement, but it also may be handled through the customer’s enrollment in a Customer Assistance Program (CAP) or through the application of LIHEAP or Hardship Fund grants.

Based on the foregoing, the Joint Commenters recommend the following revisions to section 56.116 to clarify the payment requirements for customers protected by a medical certificate:

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<sup>26</sup> Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa. C.S., Chapter 14; *Final Order: Attachment 1, Summary of Comments and Discussion*, Docket No. L-00060182, at 148-49 (Mar. 22, 2011).

**Suggested Language - § 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 ~~basic charges bills~~ or budget billing amount charges for the billing period covered by the medical certificate as determined under § 56.12(7) (relating to meter reading; estimated billing; customer readings).

- b. The Commission should revise section 56.114 to extend the re-certification period for medical certificates where the customer or household member has a chronic or extended medical condition.**

**§ 56.114. Length of Postponement; renewals**

A medical certificate offers critical protection for households to prevent adverse consequences to medically vulnerable Pennsylvanians. But it is important to remember that access to this protection is not without its own added costs, which takes away from limited financial resources available to the consumer to pay their energy bills. Visiting a healthcare provider to obtain a medical certificate to prevent termination of critical, life-sustaining utility service comes at a cost. There is typically a co-pay or office visit fee, which can range from a \$10 co-pay for insured individuals to over \$100 for an uninsured individual.<sup>27</sup> And, for thousands of others who are underinsured – with high deductible plans - the cost of an office visit can be even higher.<sup>28</sup> There are also often additional costs – including transportation, time off work, and childcare – that further add to the household’s financial burden. All of these expenses take away from the

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<sup>27</sup> Research by Johns Hopkins Bloomberg School of Public Health found that uninsured Pennsylvanians pay an average of \$128 for an office visit to a primary care physician. See Johns Hopkins Bloomberg School of Public Health, Primary Care Visits Available to Most Uninsured But at a High Price (May 5, 2015), <http://www.jhsph.edu/news/news-releases/2015/primary-care-visits-available-to-most-uninsured-but-at-a-high-price.html>.

<sup>28</sup> See The Commonwealth Fund, The Problem of Underinsurance and How Rising Deductibles will Make It Worse: Findings from the Commonwealth Fund Biennial Health Insurance Survey (2014), <http://www.commonwealthfund.org/publications/issue-briefs/2015/may/problem-of-underinsurance>.

household's limited resources, which of course could otherwise be used to address the underlying debt to the utility.

As currently structured, the medical certificate process requires a household to incur these costs every 30 days, even when the illness or medical condition will continue for more than 30 days. This creates a vicious cycle, whereby the household's ability to meet their monthly financial obligations – and eliminate the need to continue renewing the medical certificate – is repeatedly undermined by the costs necessary to renew the medical certificate.

To minimize the added financial burden to households, the Joint Commenters urge the Commission to allow a certifying professional to specify the length of a medical certificate, based on the individual's health needs.

Based on the foregoing with regard to both the medical certificate payment obligations and the length of renewal, the Joint Commenters propose the following revisions to section 56.114:

**§ 56.114. Length of postponement; renewals.**

Service may not be terminated for the time period specified in a medical certification; the minimum ~~maximum~~ length of the certification shall be 30 days.

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(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section ~~if the customer has met the obligation under § 56.116 (relating to duty of customer to pay bills).~~ A customer or applicant shall be entitled to renew a medical certificate a minimum of two times, regardless of payment. Thereafter, a customer or applicant shall be entitled to successive medical certificate renewals if the customer or applicant has paid current basic charges or budget bill charges for the billing period covered by the bill on bills issued since the medical certificate was submitted. A customer or applicant submitting a medical certificate will retain the obligation under § 56.116 (relating to duty of customer to pay bills). ~~In instances when a customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages. In these instances the public utility is not required to honor a third~~

~~renewal of a medical certificate and is not required to follow § 56.118(3) (relating to right of public utility to petition the Commission).~~ The public utility shall apply the dispute procedures in § § 56.151 and 56.152 (relating to public utility company dispute procedures). When the customer eliminates these arrearages that caused the notice of termination prior to the issuance of the customer's medical certificate, the customer is eligible to file new medical certificates.

## **B. SECURITY DEPOSIT PROHIBITION**

In its Chapter 14 Implementation Order, the Commission declined to provide interim guidance to the utilities regarding implementation of low income security deposit prohibition contained in section 1404(a.1) -- instead reserving the issue for consideration in this rulemaking proceeding.<sup>29</sup> Notwithstanding its reservation, the Commission nevertheless explained that section 1404(a.1)

[A]ppear[s] to impose an obligation upon utilities, when asking for a security deposit from a consumer, to determine whether the customer is exempt from such. It is not unreasonable to think that a utility should first refer to the income information it may have available for the customer, obtained either at the time of application, when negotiating a payment arrangement, or when having previously screened the customer for assistance. If the utility has no income data available for the customer, then it is reasonable for the utility to ask for such data either prior to or at the time it asks for a deposit. For example, the deposit warning letters per 52 Pa. Code §§ 56.41 and 56.291 and credit denial statements per 52 Pa. Code §§ 56.36 and 56.286 that utilities send to customers and applicants could include language asking the consumer to contact the utility to determine their eligibility for assistance programs and the possible waiver of a deposit. Likewise, it seems reasonable to expect that utilities mention possible waiver of security deposit requirements in their written credit procedures that are made available to applicants per 52 Pa. Code §§ 56.36 and 56.286.<sup>30</sup>

In relevant part, the Commission's proposed revisions added the prohibition on cash deposits to sections 56.32(e) and 56.41; required utilities to incorporate the cash deposit prohibition into its written credit procedures pursuant to section 56.36(b); and required utilities to inform

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<sup>29</sup> Chapter 14 Implementation Order at 44.

<sup>30</sup> Id.

applicants of the cash deposit prohibition in writing as part of its denial of credit notice pursuant to section 56.32(b)(1). Unfortunately, as drafted, the Commission’s proposed regulations fall short of providing the guidance needed to ensure consistent implementation of the security deposit prohibition, as intended by the General Assembly, and in some cases misalign the regulations with the explicit terms of the prohibition contained in the statute.

The security deposit prohibition is a critical low income consumer protection, targeted to ensure that economically vulnerable applicants and customers are not faced with insurmountable financial barriers to establishing and/or maintaining critical electric, natural gas, and water service. However, the targeted relief provided in Chapter 14 to low income households - in the form of a blanket prohibition on security deposits - lacks clarity and specificity to enact equal protections across the state. The definition of “CAP eligible” is unclear, and has the potential for wide variations across the state, given the broad variation in CAPs and CAP program rules -- and the applicable terms and conditions across the state. And, of course, the complete lack of CAPs for regulated water companies. As such, it is of paramount importance that the Commission set forth adequate guidance to ensure that utilities are in full compliance with the statutory prohibition.

The Joint Commenters suggest the following to provide adequate and consistent guidance to the utilities regarding the security deposit prohibition.

- i. Revise section 56.32(e) to include applicants as well as customers, consistent with the plain language in section 1404(a.1).**

The Commission explained in its Notice of Proposed Rulemaking that its proposed amendment to section 56.32(e) was intended to “align with the new Section 1404(a.1) prohibition on customer assistance program (CAP) eligible customers and applicants paying deposits. But section 56.32(e) makes a critical omission in its alignment with the statute in that it fails to include

*applicants* as well as customers. Indeed, section 1404(a.1) specifically includes applicants and customers -- terms which are distinctly and uniquely defined in section 1403.

**ii. Define “CAP eligible” in a consistent manner, based on verified household income.**

As set forth in Chapter 14, the statutory exemption applies to any customer or applicant who is confirmed to be “eligible” for a customer assistance program. General guidelines for CAP eligibility are set forth in the Commission’s Policy Statement on Customer Assistance Programs.<sup>31</sup> The Policy Statement, while providing general guidelines, does not have the same force and effect as a regulation. Over time, each utility has imposed a range of eligibility requirements, none of which are necessarily connected to an applicant or customer’s ability to pay a security deposit.

Joint Commenters assert that the Commission’s regulations must provide clarity and uniformity concerning the proper application of this prohibition. An applicant or customer should not be required to pay a cash deposit based on criteria such as the existence of arrears or the customer’s average usage levels, as it would categorically exclude applicants from the prohibition. Likewise, an applicant or customer should not be assessed a cash deposit based

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<sup>31</sup> “The CAP applicant should meet the following criteria for eligibility:

- (i) Status as a utility ratepayer or new applicant for service is verified.
- (ii) Household income is verified at or below 150% of the Federal poverty income guidelines.
- (iii) The applicant is a low income, payment troubled customer. When determining if a CAP applicant is payment troubled, a utility should select one of the following four options to prioritize the enrollment of eligible, payment troubled customers:
  - (A) A household whose housing and utility costs exceed 45% of the household’s total income. Housing and utility costs are defined as rent or mortgage/taxes and gas, electric, water, oil, telephone and sewage.
  - (B) A household who has \$100 or less disposable income after subtracting all household expenses from all household income.
  - (C) A household who has an arrearage. The utility may define the amount of the arrearage.
  - (D) A household who has received a termination notice or who has failed to maintain one payment arrangement.

purely on their geographic location and utility service territory. Such a result would be inconsistent with the General Assembly's intent to alleviate the insurmountable barrier that a substantial upfront payment requirement presents to low income households attempting to establish or maintain water, heat, and electricity service in their home.

To ensure equitable and consistent application of the cash deposit prohibition, the Joint Commenters assert that the cash deposit prohibition should apply to all customers or applicants who, *based on household income*, are eligible to participate in CAP. This proposal is administratively simple and avoids the inequitable result that would arise if applicants and customers in one service territory are required to pay a deposit while similarly situated applicants and customers in other service territories are exempt. To effectuate this proposal, the Joint Commenters propose changes to 52 Pa. Code §§ 56.32(e) and 56.41(4) (clarifying household income-based application of deposit prohibition for applicants and customers, respectively), and 56.36(b) (updating utility written procedures to reflect deposit prohibition):

**§ 56.32. Security and cash deposits**

...

(e) *Cash deposit prohibition.* Notwithstanding subsection (a), a public utility may not require a customer or applicant that is confirmed to be eligible for a customer assistance program to provide a cash deposit. For the purposes of this section, an applicant or customer is confirmed to be eligible for a customer assistance program if she or he provides income information to the public utility which verifies that the household income is no greater than 150% of the federal poverty guidelines or such other income eligibility standard as the Commission has approved for the public utility's Customer Assistance Program.

**§ 56.36. Written procedures.**

...

(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 or customer that is confirmed to be eligible for a customer assistance program will not be required to pay a deposit. The procedure shall set forth with particularity the process that the utility will adopt to assure that no deposit will be required and, at a minimum, shall provide for

verbal notice of the cash deposit prohibition at the time a cash deposit is quoted or assessed; the method by which an applicant and customer may submit proof of income to the utility; and the right of applicants or consumers to dispute a cash deposit. A public utility employee processing applications or determining the credit status of applicants shall be supplied 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.

**§ 56.41. General rule.**

(4) *Cash deposit prohibition.* Notwithstanding paragraphs (1), (2) and (3), a public utility may not require a customer or an applicant that is confirmed to be eligible for a customer assistance program to provide a cash deposit. For the purposes of this section, an applicant or customer is confirmed to be eligible for a customer assistance program if she or he provides income information to the public utility which verifies that the household income is no greater than 150% of the federal poverty guidelines or such other income eligibility standard as the Commission has approved for the public utility's Customer Assistance Program.

**C. ELECTRONIC NOTICE OF TERMINATION**

Act 155 authorized customers to agree to obtain electronic notification of attempted personal contact of a proposed termination, under specific terms and conditions to be established by the Commission. In its proposed changes to section 56.93, the Commission refers directly to the Commission's "privacy guidelines" and notes that electronic notice is voluntary and may 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."<sup>32</sup>

Joint Commenters submit that the Commission's proposed regulation must be further revised to ensure that applicants or customers provide *knowing and informed* consent to receive electronic notice of termination, and to impose reasonable safeguards to ensure that electronic notice is actually accomplished.

First, with regard to the manner in which consent for electronic notification is obtained, the Joint Commenters submit that - given the extraordinary consequences of termination - the

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<sup>32</sup> Notice of Proposed Rulemaking, Annex A, at 20.

Commission's regulations should require public utilities to ensure that consent is in writing and given with clear information provided to the customer concerning the effect of such consent. The process that a utility uses to request consent from an applicant or customer must be distinct from other information routinely provided or requested by a utility, and should not be buried within an application for service or within the contact information routinely collected when a customer applies for service.

Second, in addition to having a separate and distinct consent form, utilities should be required to periodically update the consumer's approved electronic message format, *at least annually*, and to request updated electronic contact information at all points of contact with the consumer. Frequent updates are particularly important for economically vulnerable households, which often have unreliable access to advance communication devices, and regularly rely on pre-paid telephone and internet services as their sole source of technology. As a result, these households frequently change their telephone number or run out of available minutes in a given month, which means that these households are at high risk of missing electric notifications. In light of the distinct possibility that consumers will change their electronic messaging platforms, public utilities must take precaution to periodically confirm the customer's consent to receive electronic notification and verify the contact information necessary to deliver termination notices.

Finally, public utilities should be required to attempt contact through another method (in person or by phone) if the utility knows or reasonably should know that electronic notice failed. As noted above, electronic contact information is subject to change – especially for low income populations that have unreliable access to telecommunication and internet services. Public utilities should not be permitted to disregard information it acquires which reasonably indicates

that notice was not received. Delivery failure and error messages, for example, should not be considered a sufficient attempt to contact the consumer. Rather, public utilities should be required to attempt to contact consumers about termination through an alternative method if they know or reasonably should have known that electronic notice was unsuccessful.

To better ensure that consumers receive electronic notice of termination, the Joint Commenters propose the following changes to 52 Pa. Code §§ 56.93 and 56.97:

**§ 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 or by telephone or electronically with the customer's written consent, to provide notice of the proposed termination at least 3 days prior to the scheduled termination using one of the following methods in this section. If personal contact by one method is not possible, or the public utility knows or reasonably should have known that the notification method was unsuccessful, the public utility is obligated to attempt another method.

\* \* \* \* \*

(3) Contact by email, 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 written consent approving the use of a specific electronic message format for the purpose of notification of a pending termination. Electronic contact shall be deemed incomplete if the public utility fails to obtain written consent; fails to periodically affirm the customer's continuing consent or the continued accuracy of the information previously provided; or receives a response to an attempted electronic notification indicating that the customer did not contemporaneously receive the notification.

Upon receiving consent, a public utility shall have the obligation to periodically affirm the customer's continued consent and the approved electronic message format. Written consent shall be obtained on a form dedicated to such purpose, and shall contain the following:

(1) The customer's signature, affirming that the customer may be contacted through a specified electronic message format for the purpose of delivering notice of termination of public utility service.

(2) Conspicuous notice of the customer's right to freely revoke such consent, at any time, by contacting the public utility.

**§ 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 concerning a proposed termination, an authorized public utility employee shall fully explain:

\* \* \* \* \*

(5) That if the customer has given written consent to electronic notification of proposed termination pursuant to § 56.93, the customer may freely revoke such consent. The authorized public utility employee must confirm the accuracy of the email, text message or other electronic messaging information previously provided by the customer.

**D. DOMESTIC VIOLENCE EXEMPTION**

When it initially passed Chapter 14 in 2004, the legislature explicitly exempted victims of domestic violence with a protection from abuse order (PFA) from the stringent billing, collection, and termination standards imposed in the law. In reauthorizing Chapter 14 in 2014, the legislature further expanded the domestic violence exemption to include victims with either 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 against the applicant or customer.”<sup>33</sup>

The domestic violence exemption recognizes, expressly, that victims of domestic violence are in need of unique protections from certain collection and billing practices which may place them at an increased risk of physical or financial harm. As the Pennsylvania Coalition Against Domestic Violence has explained to the Commission in the past, the Chapter 14 exemption is “designed to prevent further harassment, physical harm, and mental anguish for the service recipient.”<sup>34</sup> Victims of domestic violence that fall within the exemption are entitled to additional

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<sup>33</sup> 66 Pa. C.S. § 1417

<sup>34</sup> Retail Markets Investigation, *Comments of the Pennsylvania Coalition Against Domestic Violence Regarding the March 21, 2012 En Banc Hearing*, PUC Docket No. I-2011-2237952, at 4 (2012).

consumer protections which are critical to the safety and economic stability of victims of domestic violence by providing:

- No liability for debts and arrearages accrued by an abuser;
- Additional flexibility to make up-front payment of arrearages and security deposits;
- Additional payment agreements and/or longer repayment period for arrearages;
- Increased notice of termination.<sup>35</sup>

These protections provide essential help for victims to establish and maintain a safe, violence-free home.

Unfortunately, to date, the exemption has not been fully implemented to protect victims of domestic violence from the more stringent requirements in Chapter 14. Indeed, many of the Joint Commenters have assisted clients who report that utility call center employees are confused when they disclose that they are a victim of domestic violence or that they have a PFA or other court order. As a result, many who qualify for the special billing, collections, and termination rules are not able to access the protections. Indeed, there has never been clear and consistent policy guidance from the Commission to ensure that victims of domestic violence are held to the appropriate billing, collections, and termination standards, pursuant to 66 Pa. C.S. § 1417. This disconnection between law and policy can cause significant added harm to victims of domestic violence.

In addition to lacking clear procedural guidelines to ensure full implementation of the domestic violence exemption, there are also inherent ambiguities in the expanded statutory exemption, which are now incorporated into the Commission's proposed regulations. There are a number of "orders" that may contain "clear evidence of domestic violence," including a broad range of civil and criminal orders such as divorce, custody, child protection, criminal convictions,

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<sup>35</sup> See 52 Pa. Code § 56.285; see generally 52 Pa. Code, Ch. 56, Subsections L-V.

and sentencing orders. However, the exemption does not offer any guidance on what types of orders can be considered. It is also unclear how utilities should interpret the requirement that orders be issued by “a court of competent jurisdiction in this Commonwealth.” For example, would an immigration court order evidencing domestic violence be sufficient? Would a protection order issued by a court from another jurisdiction be sufficient, or could a utility require the order to be filed with a Pennsylvania court, notwithstanding 23. Pa.C.S.A. § 6104(a) (relating to general enforceability in Pennsylvania of protection orders entered by courts outside the Commonwealth)?

In its Chapter 14 Implementation Order, the Commission acknowledged these ambiguities, but reserved further guidance for this rulemaking:

We urge all utilities to make sure that they have revised their procedures to take into account this expansion of Section 1417 exemptions. As CAUSE notes, these matters may be beyond the usual expertise of the utilities and the Commission. Accordingly, we advise utilities, when encountering questions and difficulties with the new requirements of Section 1417, to carefully consult their in-house counsel and, if needed, to consult with outside experts. For example, CAUSE identifies the Legal Department at the Pennsylvania Coalition Against Domestic Violence. We encourage the utilities to engage in a dialogue with the community organizations that deal with domestic violence issues, especially if they have questions or problems with implementing Section 1417. Finally, we advise consumers, community organizations or utilities to contact the Commission with any Section 1417 exemption problems to contact the Commission. This matter will of course be addressed more fully in the upcoming rulemaking.<sup>36</sup>

Despite the Commission’s express assurance that it would provide additional guidance for proper implementation of the Chapter 14 domestic violence exemption, the Commission’s proposed regulations do not describe or further define the exemption to ensure equitable and consistent application of the exemption. Rather, the Commission tracked the language from the

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<sup>36</sup> Chapter 14 Implementation Order at 44.

statute without providing additional clarification on what type of court order, other than a protection from abuse order, would satisfy the exemption.<sup>37</sup>

Proper implementation of the domestic violence exemption is complicated, and requires the input and advice of professionals who are not often before the Commission. Indeed, domestic violence is adjudicated across an array of legal matters and court jurisdictions, and there are nuances to each which require careful consideration before implementing policies and procedures. However, at this stage in the current proceeding, there is no opportunity for responsive comments that could help identify and appropriately resolve potential unintended consequences that may arise from any specific recommendations. As such, rather than making specific suggestions about regulatory revisions, the Joint Commenters recommend that the Commission retain its proposed language codifying the expanded statutory exemption, and commit to launching a working group comprised on representatives from BCS, Law Bureau, the utilities, statutory advocates, advocates for victims of domestic violence (such as PCADV), representatives of consumer groups, and other interested stakeholders. The purpose of this working group would be to develop recommendations to the Commission about guidance and interpretation of this statutory language that could be developed into a policy statement to be universally applied across utility service territories. It could also further assist the Commission with other implementation issues, such as developing appropriate notice of the domestic violence exemption to consumers, training materials, and confidentiality protocols for handling sensitive information about a customer's status as a victim of domestic violence. Policy guidance adopted in consultation with a work group of diverse stakeholders, as recommended herein, will best aid utilities in applying the domestic violence exemption as intended.

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<sup>37</sup> See, e.g., Notice of Proposed Rulemaking, Attachment One, §§ 56.36; .91, .191, .201; .331; .333; .421; .431.

## CONCLUSION

For the reasons outlined at length above, the Joint Commenters urge the Commission to make the changes outlined above to better implement the intent of the General Assembly in its reauthorization of and amendment to Chapter 14.

Respectfully Submitted,

/s/ Don Driscoll

Don Driscoll, Esq.

Attorney

**Community Justice Project**

/s/ Rachel Haynes Pinsker

Rachel Haynes Pinsker, Esq.

Legal Services Manager

**The Pennsylvania Coalition Against Domestic Violence**

/s/ Peri Jude Radecic

Peri Jude Radecic

Chief Executive Officer

**Disability Rights Pennsylvania**

/s/ Laval Miller-Wilson

Laval Miller-Wilson, Esq.

Executive Director

**The Pennsylvania Health Law Project**

/s/ Jordan G. Mickman

Jordan G. Mickman, Esq.

Attorney

**Health, Education, and Legal Assistance Project: A Medical-Legal Partnership (HELP-MLP) at Widener University**

/s/ Patrick M. Cicero

Patrick M. Cicero, Esq.

Executive Director

**The Pennsylvania Utility Law Project**

/s/ Michele Levy

Michele Levy, Esq.

Managing Attorney

**Homeless Advocacy Project**

/s/ Zabrina Finn

Zabrina Finn

Executive Director

**The Women's Center, Inc. of Columbia and Montour Counties**

/s/ Phyllis Chamberlin

Phyllis Chamberlin

Executive Director

**The Housing Alliance of Pennsylvania**

/s/ Margaret Ruddy

Margaret Ruddy

Executive Director

**The Women's Resource Center**



# COMMUNITY JUSTICE PROJECT

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April 10, 2017

The Community Justice Project provides broad impact legal support for eligible low income people who live in Pennsylvania. Through this advocacy, the CJP seeks to protect the basic needs of low income individuals and families, and to assist them in their efforts to become self-sufficient or to otherwise improve their lives and the communities in which they live. In numerous instances we have recognized that these basic needs include the ability to obtain and maintain adequate utility services.

Utility collections, billing, and termination standards including such issues as medical certifications, domestic violence protections, security deposit exemptions, and electronic notice of termination are vitally important to those we represent.

We join in and fully support the comments submitted by the Pennsylvania Utility Law Project and request your serious consideration in taking action consistent with these comments.

Yours truly,

A handwritten signature in blue ink, appearing to read 'D. Driscoll', is written over a light blue horizontal line.

Donald Driscoll  
Community Justice Project  
100 Fifth Ave. Suite 900  
Pittsburgh Pa. 15222  
412-434-6012



## DISABILITY RIGHTS PENNSYLVANIA

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[www.disabilityrightspa.org](http://www.disabilityrightspa.org)

April 17, 2017

Disability Rights Pennsylvania (DRP) is the organization designated by the Commonwealth under federal law to protect the rights of and advocate for Pennsylvanians with disabilities. DRP works to ensure that individuals with disabilities are able to live the lives they choose, free from abuse, neglect, discrimination, and segregation. DRP works with children and adults with disabilities to access special education services, obtain needed health and mental health care, gain access to employment and housing, obtain assistive technology devices and services, and intervenes to stop the abuse, neglect and rights violations of Pennsylvanians with disabilities.

DRP signs on to the comments today as all of our clients are individuals with disabilities. Many of our clients rely on utilities to operate necessary medical equipment and devices, such as lifts, oxygen machines, ventilators, power wheelchairs, and many other medically necessary items. Often our clients have limited financial means and termination of utilities would result in a significant risk of harm.

Sincerely,

Peri Jude Radecic  
Chief Executive Officer

**Protecting and advancing the rights of people with disabilities**

Health, Education, and Legal assistance Project:  
A Medical-Legal Partnership (HELP: MLP)  
at Widener University – Delaware Law School and  
Philadelphia Nurse-Family Partnership  
1080 N. Delaware Ave., Suite 300D  
Philadelphia, PA 19125  
Telephone: 267-225-0136      Fax: 610-514-9814

The Health, Education, and Legal assistance Project: A Medical- Legal Partnership at Widener University (HELP: MLP) provides free civil legal services to low-income individuals in order to improve their overall health and well-being. HELP: MLP serves the southeastern Pennsylvania region through its health care partners, Crozer-Keystone Healthy Start and Philadelphia Nurse-Family Partnership. The majority of clients represented by HELP: MLP are pregnant women and families with children two years old and younger. Because safe, reliable, and affordable access to utilities are critical to the health and wellbeing of our clients, HELP: MLP routinely represents clients who have difficulty accessing or are at risk for termination of utility services. We fully support regulatory efforts intended to prevent the interruption, delay, or termination of utility services for at-risk and vulnerable populations including people who are pregnant, people with disabilities, and people with limited financial resources.



HOMELESS ADVOCACY PROJECT

“...helping to break the cycle of poverty and homelessness.”

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**Statement of Interest**

The **Homeless Advocacy Project (HAP)** provides free civil legal services to individuals and families experiencing homelessness, or at risk of becoming homeless, in Philadelphia. In addition to broader advocacy efforts, HAP directly serves approximately 3,000 homeless individuals and families each year in a wide range of areas including: establishing eligibility for benefits programs such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), medical assistance and food stamps (SNAP); establishing eligibility for Veterans Compensation and Pension benefits and services; enforcing custody, support and other family law rights; accessing shelter, behavioral health services and other supportive services; replacing lost or stolen identity documents; preserving private and subsidized housing eligibility; and protecting consumer rights.

HAP is concerned about utility processes regarding billing, collection and termination standards. Homeless individuals must overcome multiple barriers in order to access stable housing for themselves and their families, including the critical ability secure utility service. Moreover, given the woefully inadequate number of shelter beds – especially for persons suffering from medical impairments – the termination of utility service will almost surely render a sick or even healthy individual homeless and most likely without access to shelter. HAP, therefore, joins the attached Comments to the Public Utility Commission’s proposed revisions to Chapter 56 of the Pennsylvania Utility Code.

Michele Levy  
Managing Attorney  
Homeless Advocacy Project

Date

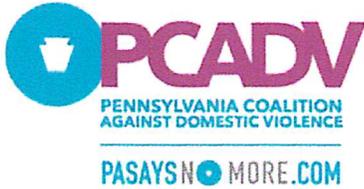


Housing Alliance  
of Pennsylvania

## Statement of Interest

The Housing Alliance is a statewide coalition working to provide leadership and a common voice for policies, practices and resources to ensure that all Pennsylvanians, especially those with low incomes, have access to safe, decent and affordable homes. We promote common-sense solutions to balance Pennsylvania's housing market and increase the supply of safe, decent homes for low-income people.

Utilities are an essential part of a safe, decent and affordable home. The Housing Alliance has been involved in a number of projects to ensure access to utility service for low-income Pennsylvanians, including fair billing, collection, and termination standards, while seeking a balance that benefits utility providers and other ratepayers as well as those in need of assistance.



April 17, 2017

Re: Statement of Interest of the Pennsylvania Coalition Against Domestic Violence  
PUC Docket No. L-2015-2508421

Dear Commissioners:

We are writing to join the comments issued by the Pennsylvania Utility Law Project in response to the notice of proposed rulemaking referenced above.

PCADV is a private nonprofit organization working at the state and national levels to eliminate domestic violence, secure justice for victims, enhance safety for families and communities, and create lasting systems and social change. PCADV was established in 1976 as the nation's first domestic violence coalition, now comprising 60 funded community-based domestic violence programs across Pennsylvania. Coalition members provide a range of life-saving services, including safe houses, hotlines, counseling programs, safe home networks, medical advocacy projects, transitional housing and civil legal representation services for victims of abuse and their children.

Throughout our history, PCADV has contributed to the development of many key legislative and administrative protections for survivors of domestic violence. PCADV's current initiatives to assist domestic violence survivors and hold domestic violence offenders accountable include the Economic Justice and Empowerment Project. Through this initiative, PCADV employs multiple strategies to improve the social conditions that prevent long-term independence and safety for survivors of domestic violence. The initiative also empowers survivors to overcome a broad range of financial obstacles that have interfered with their ability to break free of abusive relationships. The inability to obtain adequate housing, including utilities, too often remains a major obstacle to domestic violence survivors' ability to leave abusive relationships. When implemented effectively, the domestic violence utilities exemption is a powerful tool to aid survivors to establish or maintain utility service that could otherwise be jeopardized by domestic violence.

As provided in the joint comments, we urge the Commission to develop guidance to assist regulated utilities to identify and apply the domestic violence exemption for all eligible survivors of domestic violence.

Sincerely,  
  
Rachel Haynes Pinsker  
Legal Services Manager

# PENNSYLVANIA HEALTH LAW PROJECT

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April 17, 2017

Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

RE: Comments on PUC's Rulemaking Impacting Low Income Consumers

Dear Commissioners:

The Pennsylvania Health Law Project (PHLP) submits these comments on the Public Utility Commission's (PUC) proposed revisions to Chapter 56 of the Pennsylvania Utility Code, which governs the billing, collections, and termination standards for regulated electric, gas, water, and wastewater utility services. In particular, our comments address PUC's proposed changes to the medical certification procedure and process.

PHLP is a non-profit law firm founded to protect and advance the health rights of low-income and underserved Pennsylvanians. We represent 1) uninsured and underinsured clients who need legal assistance to secure Pennsylvania-operated health insurance AND 2) clients who have Pennsylvania-operated health insurance coverage but have been denied medically necessary services prescribed by their health care provider. We are especially concerned about vulnerable populations--e.g., children with special health care needs, adults with disabilities, and seniors.

Many of our clients suffer from serious short- and long-term health conditions or disabilities for which utility service is an essential component to treatment. These unique vulnerabilities often pose acute financial obstacles which exacerbate their hardship, and create significant barriers to establishing and maintaining essential utility services. We urge the Commission to make the changes we've outlined.

Sincerely,



Laval Miller-Wilson  
Executive Director



April 18, 2017

Re: Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa. C.S. Chapter 14, Docket No. L-2015-2508421

Joint Comments – Statement of Interest, Pennsylvania Utility Law Project

The Pennsylvania Utility Law Project is a statewide legal services project which specializes in providing information, assistance, and advice about residential utility and energy matters affecting low-income consumers. We also represent individual and group clients before the Pennsylvania Utility Commission in cases which impact low income individuals and/or the low income community as a whole. Our mission is to ensure that Pennsylvania's low-income residential utility and energy consumers are able to connect to and maintain affordable utility and energy services within their homes.

We join and fully support the Joint Comments submitted for the Commission's consideration in the above captioned proceeding. The recommendations therein are targeted to address the most pressing issues raised in the Commission's rulemaking, as they impact the most vulnerable subsections of the low income population. However, PULP notes that the positions taken herein are not necessarily exhaustive. PULP also fully support the Comments separately submitted at this docket by its client CAUSE-PA. PULP urges the Commission to adopt the recommendations contained herein, as well as those advanced by CAUSE-PA, to help ensure that vulnerable, low income households are able to access and maintain safe, affordable utility services – now and in the future.

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April 10, 2017

To whom it may concern,

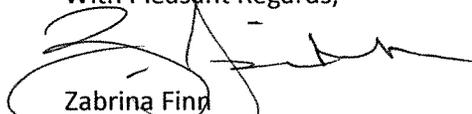
The Women's Center, Inc. of Columbia and Montour counties has been providing a variety of practical and emotional support services to victims of domestic and sexual violence for over 40 years. Domestic and sexual violence are indiscriminate crimes. Anyone, regardless of financial status, education, race, gender or any other factor can be a victim or otherwise impacted by these crimes.

Although these crimes can happen to anyone, victims with better economic standing tend to have less need for practical services; such as emergency shelter, transitional housing, relocation assistance and legal assistance, from centers like ours than those with little or no economic resources.

Victims who are transitioning from life with their batterer to a life free of violence face a plethora of challenges already. Safe housing options are at a premium and child custody can restrict housing options even further. The availability of full-time employment that pays a living wage, particularly in rural communities, is slim. Being confronted with an enormous electric bill when your 'variable' rate takes hold, or being socked with hundreds of dollars in fees, or being forced to take on arrears and face interruption/termination of utility service can significantly impact the long term success of individuals and families who are attempting to live a violence free life.

As advocates who assist victims we recognize that it is critically important that victims have options. We believe that having adequate protections that ensure ongoing utility service for vulnerable Pennsylvanians is paramount. We fully support the Joint Comments of The Pennsylvania Utility Law Project regarding Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa. C.S. Chapter 14.

With Pleasant Regards,

  
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April 17, 2017

To Whom It May Concern:

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The Women's Resource Center is a non-profit organization serving survivors of domestic and sexual violence in Lackawanna and Susquehanna Counties. WRC's mission is to end domestic and sexual violence through advocacy, education, and social change in both counties. Services that the WRC provides to survivors of domestic and sexual includes advocacy, crisis hotline, and safe housing to survivors of domestic violence and sexual assault.

In 2002 the Women's Resource Center (WRC) established the Barbara J. Hart Justice Center (JC) with a vision for its attorneys to base their legal expertise in an extensive understanding of domestic and sexual violence. The JC's purpose is to provide quality, holistic civil legal assistance and representation to domestic violence, sexual assault, dating violence, and stalking survivors in Lackawanna and rural Susquehanna County. By combining the skills of JC attorneys and WRC advocates, the WRC strives to address the myriad of barriers survivors encounter when attempting to leave an abusive relationship and when navigating the legal system.

Though there are myriad reasons why someone remains in an abusive relationship, including that someone is at an increased risk for physical violence when they attempt to leave or leave, one of greatest barriers to a survivor leaving an abusive relationship and remaining free from violence is obtaining economic stability and resources. Survivors economic stability is undermined because both pre and post separation abusers engage in patterns of economic abuse.<sup>1</sup>

Economic abuse is an abuser's distinct tactics to control a partner's ability to acquire, access, and maintain economic resources, hinder her economic self-sufficiency, and to damage her economic self-sufficiency.<sup>2</sup> Economic abuse often involves an abuser placing utilities in survivor's name alone, running up utility debt in survivors name and not paying utility bills. Pre and post separation

P.O. Box 975, Scranton, PA 18501  
(570) 346-4671, Hotline  
(570) 346-4460, Business  
(570) 346-3413, Fax

P.O. Box 202, Montrose, PA 18801  
1-800-257-5765, Hotline  
570-278-1800, Hotline

[www.wrcnepa.org](http://www.wrcnepa.org)

<sup>1</sup> "One of the first studies to measure the prevalence of economic abuse found that an overwhelming 99% of survivors reported economic abuse during the abusive relationship." Sara J. Shoener and Erika A. Sussman, Economic Ripple Effect of IVP: Building Partnerships for Systemic Change. 2013.

<sup>2</sup> Wider Opportunities for Women



United Way

economic abuse, including utility debt, results in long-term negative impacts on survivors' economic situation.<sup>3</sup>

As attorneys and advocates assisting survivors of domestic and sexual violence we recognize that it is critically important for survivors to obtain economic stability to remain free from violence. Any protections that ensure that survivors have on-going utility service and ensure that survivors are not paying for debt incurred by abusers assist survivors in achieving economic stability. WRC, therefore, full support the Joint Comments of The Pennsylvania Utility Law Project regarding Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 55 Pa. C.S. Chapter 14.

Sincerely,

*Margaret A. Puddy*  
*Executive Director*

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<sup>3</sup> See Sara J. Shoener and Erika A. Sussman, Economic Ripple Effect of IVP: Building Partnerships for Systemic Change, 2013.