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September 11, 2017

E-FILED

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201
400 North Street
Harrisburg, PA 17120

**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**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Comments in response to the July 13, 2017 Order Seeking Additional Comments in the above-referenced proceeding.

Upon receipt, if you have any questions regarding the information contained in this filing, please contact the undersigned or Audrey Waldock at 412-393-6334 or awaldock@duqlight.com.

Sincerely,

A handwritten signature in blue ink that reads "Shelby A. Linton-Keddie".

Shelby A. Linton-Keddie
Manager, State Regulatory Strategy
And Senior Legal Counsel

Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. INTRODUCTION

On October 22, 2014, Governor Corbett signed into law HB 939, or Act 155 of 2014. This law, which reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa. C.S. §§ 1401-1419), became effective on December 22, 2014. Due to the amendments in the law, certain regulations in Chapter 56 of the Pennsylvania Code that relate to the standards and billing practices for residential utility service must be revised. The Pennsylvania Public Utility Commission (“PUC” or “Commission”) has been charged with revising the current regulations in Chapter 56 to implement the amended statute.

As an initial step of the implementation process, on December 10, 2014, the Commission issued two Secretarial Letters, one summarizing pertinent parts of Chapter 56 that had been superseded and the other reminding steam heat, wastewater and natural gas distribution utilities that Chapter 14 now applies to these entities.¹ In addition, on January 15, 2015, the PUC issued a Tentative Order at Docket No. M-2014-2448824, in an effort to address “more urgent implementation matters” pertaining to medical certificates (Section 1403) and utility reporting requirements concerning accounts with arrearages in excess of \$10,000 and annual reporting of

¹ See Secretarial Letters dated December 10, 2014 advising affected utilities of the more significant changes to Chapter 56 and advising steam heat, wastewater and natural gas distribution utilities of Act 155 provisions making Chapter 14 applicable to such utilities.

medical certificate usage (Sections 1410.1(3), (4)). The proposals in this Order were finalized on July 9, 2015.²

On July 21, 2016, the PUC issued a *Notice of Proposed Rulemaking Order* (“NOPR”) to amend Chapter 56 of the Commission’s regulations in Title 52 of the Pennsylvania Code to comply with the amended provisions of 66 Pa. C.S. Chapter 14. The July 21, 2016 NOPR sought additional input on the guidance issued in July 2015, and suggested further regulatory revisions related to Chapter 57 (relating to electric service), intended to accelerate the switching of electric generation service (52 Pa. Code §§ 57.1 – 57.259), and proposed minor revisions to 52 Pa. Code § 56.100(i) regarding the February winter survey update and the collections reporting data dictionary found in Chapter 56 Appendix C.

The NOPR was published in the *Pennsylvania Bulletin* on February 18, 2017. *See* 47 Pa.B. 965. Duquesne Light Company (“Duquesne Light” or “Company”) along with fourteen other parties filed comments on April 18, 2017.³ Additionally, the Independent Regulatory Review Commission (“IRRC”) filed comments on May 19, 2017.

After review of the April 2017 comments, on July 12, 2017, the Commission issued an *Order Seeking Additional Comments*, which was published in the *Pennsylvania Bulletin* on July 29, 2017. *See* 47 Pa.B. 4135. Through the July 2017 Order, the PUC seeks additional comments on select new proposals and on the issues raised in the April comments. Specifically, the Commission explained its future plans for developing privacy guidelines and seeks further specific comments on matters pertaining to medical certificate fraud, costs associated with proposed

² *See Final Order, Chapter 14 Implementation* at Docket No. M-2014-2448824 (hereinafter, “Ch. 14 Final Order”).

³ In addition to Duquesne Light, commenters include: Aqua Pennsylvania, Columbia Gas of Pennsylvania, Consumer Advisory Council, Energy Association of Pennsylvania, Low Income and Consumer Rights Group, Joint Commenters, FirstEnergy, NRG Energy, Office of Consumer Advocate, PECO Energy Company, Pennsylvania American Water Company, Philadelphia Gas Works and PPL Electric Utilities Corporation.

regulatory changes, potential regulations regarding third party notification of supplier switching and suggested clarification on a utility's obligation to provide service during the formal complaint process.

Pursuant to the *Order for Additional Comments*, and consistent with the deadline enumerated in the *Pennsylvania Bulletin*, interested parties have forty-five (45) days from the date of publication to file comments, *i.e.*, on or before September 12, 2017. In accordance with this schedule, Duquesne Light Company respectfully submits these additional comments for the Commission's consideration.

II. COMMENTS

As indicated above, on October 22, 2014, Act 155 of 2014 was signed into law and became effective December 22, 2014. The Act reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa. C.S. §§ 1401-1419, entitled Responsible Utility Customer Protection). As a result, Chapter 56 of the Pennsylvania Code at 52 Pa. Code §§ 56.1-56.461 must be revised because the amended Chapter 14 supersedes a number of Chapter 56 regulations, and the Commission is directed to revise Chapter 56 and promulgate regulations to administer and enforce Chapter 14.

The Commission began its efforts to administer and enforce Chapter 14 as revised by Act 155 of 2014 through a series of Secretarial Letters and Tentative Orders.⁴ In the instant proceeding, the Commission seeks to address the remaining amended Chapter 14 provisions and propose numerous revisions to Chapter 56 to incorporate amended statutory provisions to ensure consistency in Commission regulations.

⁴ Secretarial Letters dated December 10, 2014 advising affected utilities of the more significant changes to Chapter 56 and advising steam heat, wastewater and natural gas distribution utilities of Act 155 provisions making Chapter 14 applicable to such utilities. On January 15, 2015 the Commission issued a *Tentative Order, Chapter 14 Implementation* and on July 9, 2015 the Commission entered a *Final Order, Chapter 14 Implementation* at Docket No. M-2014-2448824 ("Ch. 14 Final Order").

Duquesne Light is a public utility as the term is defined under Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, and is certificated by the Commission to provide electric distribution service in portions of Allegheny County and Beaver County in Pennsylvania. Duquesne Light is also an electric distribution company (“EDC”) as that term is defined under Section 2803 of the Public Utility Code. *See* 66 Pa.C.S. § 2803. As a result, both Chapter 14 of the Public Utility Code and Chapter 56 of the Commission’s regulations pertain to the Company.

As indicated *supra*, the July 12 Order explains the Commission’s plan to separate the issue of privacy guidelines from this proceeding and propose, in an upcoming Tentative Order, privacy guidelines for Section 1406(b)(1)(ii)(D) (relating to notice of termination of service) and Sections 56.93 and 56.333 of Title 52 of the Pennsylvania Code.⁵ In addition, the July 2017 Order seeks further information on two topics and introduces two new topics for review and comment. Duquesne Light’s response to these requests are found below.

A. Data On The Usage of Medical Certificates

In its July 2017 *Order Seeking Additional Comment*, the Commission notes that IRRC asked the PUC for further explanation of its historical experience with medical certificates, specifically including information with regard to the number filed each year, evidence of fraud and effects on uncollectible accounts as well as a utility’s overall revenue. To gather this information, the Commission has asked commenters to provide the following information:

- Utilities’ experiences with the use of medical certificates to avoid termination;
- The fraudulent use of medical certificates;
- How medical certificate fraud has affected uncollectible accounts; and,

⁵ *See Order Seeking Additional Comments* at 5.

- What proportion of the utility’s overall revenue is impacted by the use of fraudulent medical certificates.⁶

In 2016, Duquesne Light reported receipt of 3,282 applications for medical certificates and/or renewals.⁷ Of those applications, 3,248 (98.9%) were accepted. Generally, medical certificate applications that are denied by the Company are due to either the discovery of misinformation or incompleteness of the requested information. While there is no specific tracking mechanism to determine whether a medical certificate is being fraudulently presented, the Company notes that a majority of medical certificates are generally applied for within days upon receipt of a termination notice by the customer. For example, between March 2017 and April 2017 (the end of the winter termination moratorium), the number of accounts with medical certificates increased by 307%. Between March 2017 and June 2017, the number of accounts with medical certificates increased by 578%.

In general, upon receipt of a medical certificate, Duquesne Light checks the stated medical provider’s license number, confirms that the information requested has been completed and appropriately puts a “hold” on collection activities or notes on the account as needed. Anecdotally, the Company may occasionally suspect fraud but, beyond checking the veracity of the medical professional’s license and the requested information, there is no practicable means available for the Company to investigate.

Moreover, while Chapter 56 does allow for a process for utilities to question the validity of medical certificates (*See* Section 56. 118), any formal Commission legal process takes well more than 30 days to resolve. Because the utility is obligated to continue to provide service during

⁶ *See id.* at 6.

⁷ *See Medical Certificates and Account with Arrearages in Excess of \$10,000*, Docket No. M-2014-2448824 (filed Mar. 30, 2017).

the pendency of this review (*See* Section 56.118(3)(b)), taking an action to prove fraud essentially becomes useless, as the customer successfully maintains service throughout the proceeding.

To the extent the Company is able to quantify the impact of medical certificates on uncollectible accounts and the potential impact on overall revenue, Duquesne Light submits the following:

| Month | Number of Accounts with Active Medical Certificates | Number of Accounts with Medical Certificates with Arrearages | Total Amount of Arrearages for Accounts with Medical Certificates |
|---------------|--|---|--|
| January 2017 | 19 | 11 | \$5,940.58 |
| February 2017 | 13 | 5 | \$4,774.15 |
| March 2017 | 67 | 58 | \$69,975.04 |
| April 2017 | 273 | 209 | \$318,326.95 |
| May 2017 | 222 | 179 | \$206,641.96 |
| June 2017 | 454 | 401 | \$498,160.74 |
| July 2017 | 478 | 426 | \$654,533.08 |
| August 2017 | 581 | 519 | \$796,992.87 |

B. Cost and Impact of Regulatory Changes

In the July Order, the Commission again asks Companies, to the extent possible, to estimate the cost and impact of regulatory changes as a result of this proceeding. While Duquesne Light appreciates and understands the need for the inquiry, until a final determination is reached on some of the proposals in this rulemaking, it is difficult for the Company to articulate what the cost and impact will be, beyond general estimates.

C. Third Party Notification of Supplier Switching

In the *Order Seeking Additional Comments*, the Commission has proposed adding language to Sections 56.131 and 56.361 related to third party notification of certain collection notices.

Specifically, in addition to the existing right for an agency or consenting individual to receive a duplicate of termination notices, the PUC sees potential value in suggesting that customers also be given the option to designate a consenting individual or agency to receive duplicate copies of a supplier change confirmation notice.

Duquesne Light recognizes that this suggestion could be a valuable service for certain customers; however, the Company has some concerns about this proposal. First, the proposed notification, even if received by a third party, does not prevent an unwise or unlawful switch that has already occurred. For example, receipt of a copy of the supply change confirmation notice by a third party does not mean that the third party designee can prevent the switch. The confirmation notice, by definition, occurs after a customer has already consented to a particular product. Further, the third party designee has no authority to block the supplier transaction and could, at best, convince the customer to initiate a switch to default service or to another supplier. Depending on the terms of the supplier contract, a customer could be subject to termination fees or other costs to reverse a transaction.

Secondly, various consenting individuals or agencies, as appropriate, serve as designated third parties receiving notifications of termination or delinquency notices.⁸ Just because one is a third party recipient of notifications related to termination, it does not automatically follow that those individuals or agencies would also want supplier change confirmation notifications. As a result, the addition of this one notification results in three possibilities: (1) a designee receives duplicates of reminder notices, past due notices, delinquent account notices or termination notices only; (2) the designee receives only supplier change confirmation notices; or (3) the designee

⁸ While the current regulations dictate that termination notifications can go either to consenting individuals or agencies the relationship between the customer and the recipient of third party notifications vary and include family members, property managers or other third party agencies such as housing authorities.

receives duplicates of reminder notices, past due notices, delinquent account notices, termination notices and supplier confirmation change notices.

These resulting additional options cause the need for an IT upgrade where one currently does not exist. The Company's current billing system is not able to bifurcate the types of notices to be provided to a third party. While it is possible in future upgrades to build in a more complex notification matrix to address these multiple levels of information if it becomes a regulatory requirement, such a design is not incorporated in the Company's roadmap at this time. By way of general cost estimates, changes to the billing system for moderately complex operations can cost upward of \$1 million for each change and can take over a year to develop, test and roll out. In addition to the time and ratepayer cost to implement such a change as the one explained above, it would likely require complex custom code. Such customized solutions make the entire system more unstable and unwieldy.

Should the Commission require EDCs to provide this third party notification, it would also be impossible to implement manually. Currently, the Company provides third party notifications to approximately 2,100 customers, which is only approximately 0.003% of its customers. Initially, each of these 2,100 customers would need to be contacted to determine if the existing designee should receive switching notifications. The responses would need to be manually tracked in a spreadsheet. Further, customer service representatives would need to be trained to explain the different options for third party notifications (see the three options, *supra*), and then add any new customers to the spreadsheet, designating which of the three possible options each designee is to receive. Every day an employee would need to run a report of the switching customers and then cross check against the list of customers with third party notice requests and manually generate a

second switching notice to manually mail out. The cost to manage such a process manually would be unreasonable since a small number of customers would likely benefit.

The Company recognizes the value of providing third party notification of supplier switches to interested customers. However, when evaluating the costs of implementing moderately complex technical changes compared to the small number of customers who would potentially utilize this mechanism, Duquesne Light does not believe that this should be a mandated regulatory requirement at this time.

D. Customer Retaining Service Pending Formal Appeal

In the *Order Seeking Additional Comments*, the Commission noted that its current regulations do not entirely reflect the original intent with regard to providing utility service to a complainant who has formally appealed an informal decision from BCS.⁹ As articulated by the Commission, the original intention is that “the stay should operate to maintain utility service while the issues remain in dispute.”¹⁰ In order to better clarify this intent, the Commission proposes revising the language at Section 56.172 (relating to filing) and the analogous, identical provision at Section 56.402 to state as follows:

... (d) Upon the filing of a formal complaint by a customer within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision. Informal complaint decisions directing the restoration of utility service are not subject to an automatic stay, and utility service must be restored and maintained while the issues remain in dispute.¹¹

The Commission believes that this change is necessary to clarify that customers with a formal appeal of a BCS decision that includes restoration terms and the customer pays according to the

⁹ See *Order Seeking Additional Comment* at 12.

¹⁰ *Id.*

¹¹ See *id.* at 13.

terms of the BCS decision will maintain service through the pendency of the formal complaint.¹² This includes the restoration of service, if necessary.¹³

While the Company appreciates the attempts to clarify the provision of service during the formal complaint process, the proposed revisions create additional concerns. As written, the proposed revisions would require utilities to restore and maintain service during the pendency of *any* appeal of an informal complaint decision, regardless of the issues under dispute. This would unnecessarily impede collection of undisputed account balances. Specifically, during the pendency of an appeal, any undisputed amounts are still subject to collection efforts, even if a stay is on hold in connection with a Formal Complaint. For example, if there is a customer that is complaining about their generation supplier charges and not their distribution charges, the Company may still collect on the undisputed portion of the bill (even during the stay) while the disputed portion remains outstanding. Through this proceeding, Duquesne Light would like the PUC to make clear that the customer retains the responsibility to pay undisputed portions of the bill, along with any other conditions imposed to retain service, and confirm the Company's interpretation that collection activities for undisputed charges may continue even during the stay related to an appeal of a BCS Informal Decision.

In addition, the Company opposes the idea of being forced to restore service when they believe a safety issue exists or where customers do not meet the conditions required to restore service. A possible reason Duquesne Light may disagree with a requirement to restore service is where a safety concern exists either for the Company's personnel or the premises at issue. Accordingly, the Company recommends a clarification that restoration only be done when safe to do so.

¹² *Id.*

¹³ *Id.*

E. Deaths at Premises Where Utility Service Was Terminated

In comment, a collective group composed of the Tenant Union Representative Network (“TURN”), the Action Alliance of Senior Citizens of Greater Philadelphia (“Action Alliance”) and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”) submit that the protection of information supplied by utilities when deaths occur in locations where utility service was previously terminated should be publicly available.

Currently, Section 56.100(j) provides, in part:

Information submitted to the Commission in accordance with this subsection will be treated in accordance with 66 Pa. C.S. §1508 (relating to reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

Ignoring the fact that this provision has been in effect for the past 6 years without problems, the Joint Commenters cite general concerns that access to such information is “vital to the representation of the public interest in ensuring that there are neither gaps nor flaws in safeguarding life and in ensuring universal service.” Joint Comments at 45.

As a threshold matter, Section 56.100(j) addresses circumstances in which public utilities learn, “in the normal course of business,” about a fatality caused by a household fire, incident of hypothermia, hyperthermia, carbon monoxide poisoning, or other event following a termination of utility service. In such instances, utilities provide information to the Commission and BCS about the last customer of record (including the customer’s name, address, and account number), the date of the incident, a brief statement of circumstances involved and initial findings (notably from either the media or an official source), as to the cause of the incident. Because the information requested through 56.100(j) is not meant “to infer liability or causation,”¹⁴ on the part of a utility, public

¹⁴ See *Re Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa. C.S., Chapter 14*, Docket No. L-00060182 (Order entered Jun. 11, 2011).

availability of reports made in accordance with this section is prohibited, absent a Commission order. Similarly, any other information related to deaths (or injuries) in connection with the provision of utility service are protected from public view (*see* Public Utility Code §1508). The Joint Commenters have failed to provide a compelling reason why this information, just because it involves death after a termination has taken place, should be treated any differently.

Section 56.100(j) properly reflects the purpose of this information to serve as an alert and information in the event of exigencies. Because utilities' reports are due within one business day of an incident, they may necessarily be preliminary, incomplete, and/or based in significant part on unverified information culled from non-utility sources. Section 56.100(j) helps to ensure that utilities can candidly share such information with the Commission in a timely fashion. Furthermore, utilities' reports include personally identifiable information, the publication of which would directly violate customers' privacy interests.

F. Supplier Consolidated Billing

As part of this proceeding, NRG Energy, via comment, makes numerous suggestions and recommendations to Chapter 56 in order to incorporate the concept of Supplier Consolidated Billing, consistent with its Petition at Docket No. P-2016-2579249.¹⁵ Duquesne Light respectfully submits that, although the Commission did invite comment on any aspect of Chapter 56, NRG's attempt to bootstrap suggested changes to accommodate supplier consolidated billing here is not only beyond the scope of this proceeding, but is also illegal, as the Electricity Generation Customer Choice and Competition Act in no way contemplates or allows for supplier consolidated billing. For a deeper discussion of the Company's opposition to NRG's Petition, please refer to Duquesne

¹⁵ *See generally* Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing, Docket No. P-2016-2579249.

Light's Petition to Intervene, Answer, and Comments, as well as the Company's Reply Comments, filed at Docket No. P-2016-2579249.

III. CONCLUSION

Duquesne Light appreciates the work undertaken by the Commission to continue the implementation of Act 155 in order to ensure consumer protections and conformity of Commission regulations with the law. The Company respectfully requests that the Commission consider these additional comments as the PUC moves forward with this rulemaking proceeding.

Respectfully submitted,

Date: September 11, 2017



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