

PROPOSED RULEMAKING

PHILADELPHIA PARKING AUTHORITY

Regulation of Transportation Network Companies; Advance Notice of Proposed Rulemaking; Re- quest for Public Comment; Public Comment Hearing

The act of November 4, 2016 (P.L. 1222, No. 164) (Act 164) legalized the services provided by transportation network companies (TNC), such as Uber and Lyft, to operate in Philadelphia under the exclusive regulatory jurisdiction of the Philadelphia Parking Authority (Authority). See 53 Pa.C.S. Chapter 57A (relating to transportation network companies).

While Act 164 provides a substantive framework as to the requirements for the regulation and enforcement of TNCs in Philadelphia, Act 164 empowers the Authority to promulgate rules and regulations necessary to govern the regulation of TNCs. Toward this end, the Authority's Taxicab and Limousine Division (TLD) is initiating this advance notice of proposed rulemaking.

Therefore, the TLD is seeking information and comment from the public at large, members of the taxicab, limousine, dispatcher and TNC industries, prospective and existing technology vendors, and other interested parties regarding suggestions as to the language and requirements of proposed TNC regulations. Comments should include specific section references to 53 Pa.C.S. Chapter 57A, delineate the rationale for the proposed regulations and specific proposed language for the regulations. The proposed rulemaking must be consistent with Act 164.

The TLD will hold a public comment hearing on Thursday, August 31, 2017, from 10 a.m. to 12 p.m. at the IATSE Ballroom, 2401 Swanson Street, Philadelphia, PA 19148.

Due to the comprehensive nature of this proposed rulemaking, interested parties will be given 60 days from the date of publication of this advance notice of proposed rulemaking in the *Pennsylvania Bulletin* for the submission of written comments, which is no later than September 27, 2017. Written comments shall be submitted to the attention of Christine A. Kirlin, Esq., TLD Director, Philadelphia Parking Authority, Taxicab and Limousine Division, 2415 South Swanson Street, Philadelphia, PA 19148-4113, ckirlin@philapark.org.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 17-1251. Filed for public inspection July 28, 2017, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 56]

[L-2015-2508421]

Standards and Billing Practices for Residential Public Utility Service; Request for Additional Comments

Public Meeting held
July 12, 2017

Commissioners Present: Gladys M. Brown, Chairperson;
Andrew G. Place, Vice Chairperson; John F. Coleman,
Jr.; Robert F. Powelson; David W. Sweet

*Rulemaking to Amend the Provisions of 52 Pa. Code,
Chapter 56 to Comply with the Amended Provisions of 66
Pa.C.S. Chapter 14; L-2015-2508421*

Order Seeking Additional Comments

By the Commission:

On July 21, 2016, the Pennsylvania Public Utility Commission (Commission) adopted a Notice of Proposed Rulemaking (NOPR) to solicit comments about amending and adding to the provisions of 52 Pa. Code Chapter 56 regarding the standards and billing practices for residential utility service.¹ These regulations are applicable to electric distribution utilities, water distribution utilities, natural gas distribution utilities, steam heat utilities, and wastewater utilities. Comments were filed on April 19, 2017. With this Order, the Commission seeks additional comments on issues raised in the initial comments. The Commission is also introducing two new issues to this proceeding and providing parties an opportunity to comment.

Background

On October 22, 2014, Governor Corbett signed into law HB 939, or Act 155 of 2014. This law became effective on December 22, 2014. The Act reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa.C.S. §§ 1401—1419) (Responsible Utility Customer Protection). Chapter 56 of the *Pennsylvania Code* at 52 Pa. Code §§ 56.1—56.461 (relating to the standards and billing practices for residential utility service) 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 addressed the more urgent implementation matters through Implementation Orders. See Tentative Order, Chapter 14 Implementation, Docket Number M-2014-2448824 (Order entered January 15, 2015) (Tentative Order). Upon reviewing comments to the Tentative Order, the Commission issued Final Order, Chapter 14 Implementation, Docket No. M-2014-2448824 (Order entered July 9, 2015) (Implementation Order). Upon consideration of the amended Chapter 14 and all of the comments received in response to the proposed Implementation Order, the Commission adopted a NOPR to solicit comments about amending and adding to the

¹ 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 L-2015-2508421 (Order entered July 21, 2016).

provisions of 52 Pa. Code Chapter 56, as proposed in Annex A of the NOPR.² In this NOPR, the Commission sought comments on the proposed regulations as outlined in the Annex A.

Fourteen parties filed comments on April 18, 2017, including: Aqua Pennsylvania (Aqua); Columbia Gas of Pennsylvania (Columbia); Consumer Advisory Council (CAC); Duquesne Light Company (Duquesne); Energy Association of Pennsylvania (EAP); Joint Comments of Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania—collectively the “Low Income and Consumer Rights Group” (LICRG); Joint Comments of Community Justice Project, Disability Rights Pennsylvania, Health, Education and Legal Assistance Project: A Medical-Legal Partnership at Widener University, Homeless Advocacy Project, Housing Alliance of Pennsylvania, Pennsylvania Coalition Against Domestic Violence, Pennsylvania Health Law Project, Pennsylvania Utility Law Project, Women’s Center, Inc. of Columbia & Montour Counties, and the Women’s Resource Center—collectively the “Joint Commenters” (Joint Commenters); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (FirstEnergy); NRG Energy (NRG); Office of Consumer Advocate (OCA); PECO Energy Company (PECO); Pennsylvania American Water Company (PAWC); Philadelphia Gas Works (PGW); and PPL Electric Utilities Corporation (PPL). On May 19, 2017, the Independent Regulatory Review Commission (IRRC) filed their comments. All comments, in addition to the July 21 NOPR, are available on the Commission’s website by searching using the docket number L-2016-2577413 or at this weblink: http://www.puc.pa.gov/about_puc/consolidated_case_view.aspx?Docket=L-2016-2577413.

With this Order, the Commission seeks additional comments on its proposals and on the issues raised by the comments. We also introduce two new proposals that we want to bring to everyone’s attention.

Discussion

Upon review of the initial comments and IRRC’s comments, Commission staff determined that parties raised several concerns and/or introduced new proposals that warrant further exploration. Accordingly, the Commission now invites any interested stakeholder to submit additional comments. While stakeholders are free to comment on any topic they believe warrants additional comment, the Commission wants to highlight a few specific matters raised in the initial comments that we believe need further vetting by the stakeholders and that we expressly invite further comment upon:

Privacy Guidelines At 66 Pa.C.S. 1406(b)(1)(ii)(D)

Amended Chapter 14 referenced the Commission’s privacy guidelines at 66 Pa.C.S. § 1406(b)(1)(ii)(D) (relating to notice of termination of service) that emails, text messages or other electronic messaging must be consistent with the Commission’s privacy guidelines. In the NOPR, we asked for comments addressing what should be included in the Commission’s privacy guidelines (NOPR at 4). We note that the privacy guidelines would be relevant to Sections 56.93 and 56.333 (relating to personal contact). In the NOPR, the Commission proposed

changes to these two sections of Chapter 56, simply referencing “the Commission’s privacy guidelines,” but not explaining what they are.

Several parties offered suggestions on this topic. For example, OCA noted that the Commission does not allow the release of telephone numbers for any purpose and asked that the same treatment should be provided for e-mail addresses, numbers used for text messaging, etc. and that the data submitted to the public utility for purposes of personal contact should not be shared with third parties. (OCA at 2-3). The Joint Commenters and LICRG suggested that these guidelines be codified in the regulation and that written, informed consent be required and that this consent be refreshed periodically along with a provision allowing the customer to revoke consent at any time. (Joint Commenters at 22–24; LICRG at 27–31).

In contrast, EAP opined that guidelines, not regulations, are the best “path forward into a future where technology and the related privacy issues are ever-evolving.” (EAP at 9). EAP adds that the Commission has existing privacy regulations at Sections 54.8 and 62.78—but notes that these specific regulations are in the context of customer choice. (EAP at 7-8). PPL submits that Chapter 14 requires that the utility get affirmative consent to use a particular form of electronic communication and as such, the Commission’s proposed subsection 56.93(a)(3) captures the consent policy that utilities must comply with to use this method of communication in this context. Further concerning privacy, PPL recommends stakeholder discussions to identify best practices. (PPL at 6-7). Some parties noted that any requirements must also take into account other laws like the Telephone Consumer Protection Act (TCPA), 47 U.S.C. 227 (relating to restrictions on use of telephone equipment). (Aqua at 4-5).

It is also apparent from the comments that there are number of concerns related to this topic, including what type and form of consent is needed; the duration, expiration and revocation of consent; and the use and sharing of the contact information provided. However, we agree with EAP’s suggestion that we not be overly prescriptive or detailed in the regulations, given ever changing technology.

We also cannot ignore that the General Assembly referred to “guidelines”—not “regulations” in Section 1406(b)(1)(ii)(C). This same section also refers to “approved by Commission order.” It is reasonable to assume that the General Assembly envisioned the development of guidelines that would be ratified by a Commission Order. Accordingly, we propose addressing this topic in a separate, but related, proceeding. We intend to use the comments submitted to date to 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*. We invite parties that want to comment further on these matters to do so, and we will also consider those comments as we prepare a future Tentative Order.

Data On The Usage Of Medical Certificates

Pursuant to the Regulatory Review Act (71 P.S. §§ 745.1—745.15), IRRC filed comments 30 days after the close of the public comment period. In its comments, IRRC responded to the commenters and noted:

While fraud is frustrating, it is not clear from the comments to what degree this fraud has existed or might exist. We ask the PUC to explain its historic

² 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 L-2015-2508421 (Order entered July 21, 2016).

experience with medical certificates including how many medical certificates are on file each year in relation to the overall number of customers, how medical certificate fraud has affected uncollectible accounts, and what proportion of the utility's overall revenue the impact of fraudulent medical certificates represent.

(IRRC at 5).

Based upon the utility reporting requirements concerning medical certificate usage at Section 1410.1(4), we offer the following data on medical certificate usage in 2016 (the most recent year we have complete data for):

Medical Certificate Usage in 2016:

	<i>Number of Residential Customers (based upon § 56.231 reporting):</i>	<i>Medical Certificates Submitted:</i>	<i>Medical Certificates Accepted:</i>
Electric Utilities	5,044,234	56,983	47,531
Natural Gas Utilities	2,135,043	17,771	15,702
Water Utilities*	1,132,948	2,305	1,367
Total	8,277,558	77,059	64,600

* Class A Water Utilities only. *Class A water utility*—A water utility with annual revenues greater than \$1 million. (52 Pa. Code § 56.2).

We invite the parties to comment upon their experience with the use of medical certificates to avoid termination, the fraudulent use of medical certificates, how medical certificate fraud has affected uncollectible accounts, and what proportion of the utility's overall revenue is impacted by the use of fraudulent medical certificates. We ask parties to submit any data they have to support their comments on these topics.

Cost And Impact Of Regulatory Changes

IRRC notes in their comments:

We are particularly interested in the economic and fiscal impact of this regulation because it relates to the criteria that we must consider in determining whether the final regulation is in the public interest.

(IRRC at 6)

We again invite parties to submit estimate of the costs and/or savings associated with compliance with these proposed changes, including any legal, accounting, or consulting procedures which may be required and explain how the dollar estimates were derived. This includes the topics discussed in this Order.

New Topics

Since the Commission issued the ANOPR in July 2016, a few additional Chapter 56 issues that may require revision have arisen, and we want to bring these to the attention of the parties and invite comment.

Third-Party Notification Of Supplier Switching

Section 56.131 (and the identical Section 56.361) provides for a third party to receive copies of various collection notices, including past due and termination notices. The intent of these notices is to provide information to the third party that may aid the third party in assisting the customer with a collections-related problem. For example, an adult child may elect to receive the notices sent by a utility to their parent, who may have limited abilities to handle utility matters. This notification is voluntary, and the notices are informational only and do not impose any obligation upon the receiver of the notice.

It has come to the Commission's Office of Competitive Market Oversight's attention that this same mechanism may be of service in the context of energy supplier

switching. A third party may want to be alerted as to a customer's supplier selections to help the customer with the process of selecting an energy supplier. Some consumers may have difficulty navigating the competitive energy marketplace and may require the assistance of a third party.

Pursuant to 52 Pa. Code §§ 57.173 (relating to Customer contacts the EGS to request a change in electric supply service) and 59.93 (relating to Customer contacts with NGSs), anytime the customer has enrolled with a competitive supplier, the utility is to send the customer a confirmation notice. This confirmation notice alerts the consumer to the switch of supplier and provides the date the switch will be effective. The notice then advises the customer to contact the utility immediately if there is a problem, such as a possible unauthorized switch of supply service.

We propose adding these supplier switch confirmation notices to the list of notices that a utility will provide under Sections 56.131 and 56.361. In addition, we propose revising the enrollment form template currently in use and using a separate form for electric and natural gas distribution companies. We think this will assist those individuals concerned about a customer's ability to participate effectively in the competitive market and will provide these individuals with the opportunity to intervene and assist the customer if needed. Accordingly, we propose to revise Sections 56.131 and 56.361 as follows:

Each public utility shall permit its customers to designate a consenting individual or agency which is to be sent, by the public utility, a duplicate copy of reminder notices, past due notices, delinquent account notices, [or] termination notices **or supplier change confirmation notices** of whatever kind issued by that public utility. When contact with a third party is made, the public utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination **or the change of supply service**. A public utility shall institute and maintain a program:

- (1) To allow customers to designate third parties to receive copies of a customer's or group of customers' notices of termination of service **or supplier change confirmation notices**.

(2) To advise customers at least annually of the availability of a third-party notification program and to encourage its use thereof. The public utility shall emphasize that the third party is not responsible for the payment of the customer's bills.

(3) To solicit community groups to accept third-party notices to assist in preventing unnecessary terminations and protecting the public health and safety.

(4) To make available a standard enrollment form in compliance with the form in **either Appendix E (relating to third-party notification for electric distribution utilities and natural gas distribution utilities) or Appendix F (relating to third-party notification for water distribution utilities, wastewater utilities, steam heat utilities and small natural gas distribution utilities not subject to the natural gas choice and competition act).**

Any change to Sections 56.131 and 56.361 will require a corresponding change to Appendix E, which is the enrollment form template that utilities are expected to utilize.

APPENDIX E. THIRD-PARTY NOTIFICATION FOR ELECTRIC DISTRIBUTION UTILITIES AND NATURAL GAS DISTRIBUTION UTILITIES:

Once in a while, for one reason or another, a customer fails to pay his or her (UTILITY) bill. Under the Third-Party Notification program, (UTILITY) will notify you and another person you choose to receive copies of shut-off notices. The third-party can be a trusted relative, friend, clergy member, or social service agency. The Third-Party Notification program is voluntary and can help you if you are hospitalized, away from home for extended periods of time or homebound. The third party is not responsible for paying your bills and this program will not stop (UTILITY) from shutting off your (UTILITY) service if you do not pay your bills. When a third party contacts (UTILITY) about the shut off notice, we will tell them what you can do to stop the shut off. The third party does not have the right to make a payment agreement for you.

We will also notify you anytime the customer switches their competitive supply service to a new supplier. You will receive a copy of the supplier change confirmation notice that we send to the customer whenever they enroll with a new supplier or return to the default service. This notice identifies the new supplier, how to contact them, the effective date of the change, and what to do if there is a problem or concern.

To sign up, both you and the third party must complete and sign the form below. Do not return this with your bill, return it to:

(UTILITY NAME)
(UTILITY ADDRESS)
(CITY, STATE, POSTAL CODE)

IMPORTANT THINGS TO REMEMBER:

- * Notify us immediately if you want to change or drop your third-party.
- * Notify us if your third-party moves.
- * Notify us if you move and you want the third party transferred to your new address.

Please sign me up for the third-party Notification program. By completing this form and returning it to (UTILITY), I request that a copy of any shut off notice **and supplier change confirmation notices** be given to the person or agency named below.

CUSTOMER NAME:
(UTILITY) ACCOUNT/CUSTOMER NUMBER:
CUSTOMER ADDRESS:
CUSTOMER SIGNATURE:
DATE:

Receipt of a copy of a shut off notice by the third-party does not place any obligation on that party to pay the (UTILITY) bill for the customer named above nor will it necessarily stop shut off if payment is not made. The notice simply reminds the third-party of a chance to help the customer solve the problem.

THIRD-PARTY NAME:
THIRD-PARTY ADDRESS:
THIRD-PARTY SIGNATURE:
DATE:

We recognize that supplier switching is not relevant for water, wastewater and steam heating utilities. Likewise, it is not relevant to small natural gas distribution utilities that are not subject to the Natural Gas Choice and Competition Act. Accordingly, we propose a new Appendix F for these utilities, which is basically the same provision and language in the current regulation:

APPENDIX F. THIRD-PARTY NOTIFICATION FOR WATER DISTRIBUTION UTILITIES, WASTEWATER UTILITIES, STEAM HEAT UTILITIES AND SMALL NATURAL GAS DISTRIBUTION UTILITIES NOT SUBJECT TO THE NATURAL GAS CHOICE AND COMPETITION ACT:

Once in a while, for one reason or another, a customer fails to pay his or her (UTILITY) bill. Under the Third-Party Notification program, (UTILITY) will notify you and another person you choose to receive copies of shut-off notices. The third party can be a trusted relative, friend, clergy member, or social service agency. The Third-Party Notification program is voluntary and can help you if you are hospitalized, away from home for extended periods of time or homebound. The third party is not responsible for paying your bills and this program will not stop (UTILITY) from shutting off your (UTILITY) service if you do not pay your bills. When a third party contacts (UTILITY) about the shut-off notice, we will tell them what you can do to stop the shut off. The third party does not have the right to make a payment agreement for you.

To sign up, both you and the third-party must complete and sign the form below. Do not return this with your bill, return it to:

(UTILITY NAME)
(UTILITY ADDRESS)
(CITY, STATE, POSTAL CODE)

IMPORTANT THINGS TO REMEMBER:

- * Notify us immediately if you want to change or drop your third party.
- * Notify us if your third party moves.
- * Notify us if you move and you want the third party transferred to your new address.

Please sign me up for the third-party Notification program. By completing this form and returning it to

(UTILITY), I request that a copy of any shut off notice be given to the person or agency named below.

CUSTOMER NAME:
 (UTILITY) ACCOUNT/CUSTOMER NUMBER:
 CUSTOMER ADDRESS:
 CUSTOMER SIGNATURE:
 DATE:

Receipt of a copy of a shut off notice by the third party does not place any obligation on that party to pay the (UTILITY) bill for the customer named above nor will it necessarily stop shut off if payment is not made. The notice simply reminds the third party of a chance to help the customer solve the problem.

THIRD-PARTY NAME:
 THIRD-PARTY ADDRESS:
 THIRD-PARTY SIGNATURE:
 DATE:

We invite parties to comment on these proposed revisions to third-party notice procedures, including the language in the appendices.

Customer Retaining Utility Service Pending Formal Appeal

The Commission's Bureau of Consumer Services (BCS) has noticed some confusion and uncertainty as to the expectation upon utilities of providing utility service to a complainant who has formally appealed an informal decision from BCS. Questions have been raised concerning the automatic stay provision of Section 56.172(d). The Commission's current regulations do not entirely reflect the original intention: that the stay should operate to maintain utility service while the issues remain in dispute. For this reason, we propose revising our regulations to more specifically state that the benefit of the stay is to maintain utility service until a final formal determination is made.

We propose to clarify expectations in this regard by revising the language at Section 56.172 (relating to filing) and the analogous, identical provision at Section 56.402 as follows:

- (a) A request for review of the decision of the Bureau of Consumer Services (BCS) shall be initiated in writing within 20 days of issuance.
- (b) Upon receipt of a request for review of the decision of the BCS, the Secretary of the Commission will mail a formal complaint form to the requesting person.
- (c) Within 30 days of the mailing of the formal complaint form, the party requesting review of the decision of the BCS shall file the completed complaint form with the Secretary.
- (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.**

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a later time except as otherwise may be provided in 66 Pa.C.S. (relating to Public Utility Code).

The Commission believes this revision is necessary to clarify that a customer must be provided utility service while a formal appeal of a BCS decision is pending. This is applicable for service maintenance and restoration. If a customer receives a BCS informal decision with restoration terms and the customer pays according to the BCS informal decision, the utility must restore service. We invite parties to comment on this proposed change and to offer alternative language if they differ.

Conclusion

We thank the parties for their thoughtful and helpful initial comments. We now invite parties to submit additional comments on the matters discussed in this order and on any other issue raised in the comments filed at this Docket that they think warrant further attention by the Commission. As we did in the NOPR, we urge parties to submit along with their comments any data supporting their position, including any cost data.

Upon careful review and consideration of the all comments received in this Docket thus far, the Commission intends to issue this Order seeking additional comments; *Therefore,*

It Is Ordered That:

1. The Secretary shall duly certify this Order and deposit it with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*. Copies may also be obtained by calling the Secretary's Bureau at 717-772-7777 or the Law Bureau at 717-787-5000.
2. Written comments referencing Docket No. L-2015-2508421 be submitted within 45 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments may also be filed electronically through the Commission's e-File System.
3. This Order proposing to revise the regulations appearing in Title 52 of the *Pennsylvania Code* Chapter 56 (relating to the standards and billing practices for residential utility service), be served on all jurisdictional electric utilities, natural gas utilities, steam, water, and wastewater utilities, electric generation suppliers, natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate, and all parties that submitted comments at this Docket in response to the July 21, 2016 Notice of Proposed Rulemaking Order.
4. The contact persons for this matter are Daniel Mumford in the Office of Competitive Market Oversight (717) 783-1957, dmumford@pa.gov, Matthew Hrivnak in the Bureau of Consumer Services (717) 783-1678, mhrivnak@pa.gov, and Patricia T. Wiedt in the Law Bureau (717) 787-5000, pwiedt@pa.gov.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 17-1252. Filed for public inspection July 28, 2017, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

[25 PA. CODE CH. 806]

Review and Approval of Projects; Correction

An error occurred in the proposed rulemaking published at 46 Pa.B. 6309, 6324 (October 8, 2016). The fiscal note was incorrect and is corrected as follows.

Fiscal Note: 72-13. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 17-1253. Filed for public inspection July 28, 2017, 9:00 a.m.]
