



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

January 24, 2006

DAVE EPPL
ENERGY ASSN OF PENNSYLVANIA
800 NORTH THIRD STREET
HARRISBURG PA 17102

Dear Mr. Epple:

The purpose of this letter is to remind utilities of the new winter termination rules and to note some important differences from the previous rules.

Please be advised that pursuant to 52 PA Code §1.96, this informal opinion is provided solely as an aid to you. It is not binding upon the Commonwealth or the Commission. Informal opinions are subject to withdrawal or change at any time to conform to new or different interpretations of the law.

As you know, historically, the winter termination rules were found at 52 Pa. Code §56.100. These rules prohibited the termination of any heat – related utility service in the winter months (December – March) without first obtaining PUC permission. However, as you also know, effective December 14, 2004, new rules at 66 Pa. C.S. 66 §1406(e) went into effect. These new rules are in addition to the previous rules, and to the extent that they are inconsistent with the previous rules, supersede the previous rules (please refer to Section 4 of Act 201).

The winter termination rules at 66 Pa. C.S. 66 §1406(e) apply only to electric distribution utilities or natural gas distribution utilities. And in the case of a natural gas distribution utility, that utility must meet the definition of "Natural Gas Distribution Utility" found at 66 Pa. C.S. §1403:

A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services. The term does not include either of the following:

(1) Any public utility providing natural gas distribution services subject to the jurisdiction of the Pennsylvania Public Utility Commission that has annual gas operating revenues of less than \$6,000,000 per year, except where the public utility voluntarily petitions the Commission to be included within this definition or where the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory.

(2) Any public utility providing natural gas distribution services subject to the jurisdiction of the Commission that is not connected to an interstate gas pipeline by means of a direct connection or an indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

This means that the winter termination rules at 66 Pa. C.S. 66 §1406(e) do not apply to natural gas distribution utilities that fail to meet the standards found in the definition nor does it apply to water distribution utilities or steam heat utilities. For these entities, 52 Pa. Code §56.100 remains in full effect, and nothing has changed regarding winter termination rules.

For those electric distribution and gas distribution utilities that apply 66 Pa. C.S. 66 §1406(e), please note that this section makes no distinction or reference to "heat related service." The prohibition in 66 Pa. C.S. 66 §1406(e) against terminating service to customers at or below 250% of the federal poverty level unless authorized by the Commission applies to both heating and non-heating accounts. This is a significant difference from the prohibition found in 52 Pa. Code §56.100, which does make a distinction between heat and non-heat related accounts. For those utilities in which 52 Pa. Code §56.100 still governs their winter termination activity (water, steam heat, and small gas companies as noted above), the distinction between heating and non-heating accounts remains.

The Bureau of Consumer Services urges every utility to immediately review their winter termination procedures to ensure that they are in

compliance with the above provided guidance. If you have any questions about this, please contact Dan Mumford at dmumford@state.pa.us or (717) 783-1957. Thank you for your attention to this important matter.

Very truly yours,

A handwritten signature in cursive script that reads "Mitchell Miller".

Mitchell Miller, Director
Bureau of Consumer Services