



Governor's Advisory Council for Exceptional Citizens (GACEC)
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January 31, 2025

Crystal Beenick
Public Service Commission
Cannon Building
861 Silver Lake Blvd., Suite 100
Dover, DE 19904

RE: 28 DE Reg. 522 Department of State/Public Service Commission Proposed Regulation Governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Non-Payment During Extreme Seasonal Temperature Conditions (January 1, 2025)

Dear Ms. Beenick:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Department of State/Public Service Commission (PSC) regulation governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Nonpayment during Extreme Seasonal Temperature Conditions. PSC summarizes the change as a proposal to lower the Heat Index metric used during the Cooling Season and eliminate the requirement that a utility attempt to make personal contact at a customer's premises prior to disconnection. Council **opposes** this proposed regulatory change as it removes important safeguards that help to ensure people with disabilities are not put at risk during extreme weather.

Utility termination poses significant public health and safety concerns for people with disabilities who rely on utilities to use medically necessary equipment, such as oxygen, suction, and more. For those who are not technology dependent, the lack of electricity can pose a health risk for individuals with disabilities that are impacted by the weather or humidity (e.g. asthma and humidity). For these reasons, Delaware has elected to protect individuals with disabilities by disallowing utility termination "if any occupant of any dwelling unit shall be so ill that the termination of such sale or service shall adversely affect the occupant's health or recovery, which has been so certified by a signed statement from any duly licensed physician, physician assistant or advanced nurse practitioner, of this State or of a state with similar accreditation and received by any employee or officer of such person engaging in the distribution or sale of gas, water or electricity." 26 Del. C. § 117(d).

The intent of the law is compromised by the proposed regulatory amendment. The proposal removes the use and definition of the term "Personal Contact", which presently means "a face-to-face meeting between the customer or responsible occupant of the premises served and an employee of the covered utility who is authorized to receive payment and issue a receipt or make other arrangements for payment" and PSC proposes to remove in the entirety the current personal contact requirements that follows (emphasis added in bold):

3.3 Final Contact Prior to Termination.

The employee of the utility who is to disconnect service shall make a reasonable good faith attempt to make personal contact at the premises to be disconnected. If personal contact is made, the employee shall:

3.3.1 Identify himself or herself to the customer or some responsible person then upon the premises and shall announce the purpose of his or her presence.

3.3.2 Identify and record the name of the person contacted.

3.3.3 Accept payment of all amounts tendered which are necessary to avert disconnection and issue a receipt for such payment. If the form of payment is unacceptable to the utility, the employee can make other payment arrangements with the customer.

3.3.4 Record and report to his or her supervisor any statements disputing the accuracy of the utility's findings concerning the cause for termination of service.

3.3.5 Record and report to his or her supervisor statements or other information concerning the existence of any condition on the premises which would result in a medical emergency if service were terminated.

3.3.6 Receive written certification from a duly licensed Delaware physician or accredited Christian Science practitioner that a named occupant of the dwelling unit is so ill that termination of service will adversely affect the occupant's health or recovery. Upon receipt of such certification, the utility shall not disconnect service.

The proposed striking of the “personal contact” requirements removes three safeguards, that are of particular importance to people with disabilities, prior to the termination of the utility services: 1) the ability to provide payment at the personal contact to stop the termination; 2) the ability of a utility worker to record and report to his or her supervisor that a condition on the premises exists which would result in a medical emergency if service were terminated; and 3) the ability of the occupant to provide a medical certification at the “personal contact” prior to disconnect.

Individuals with disabilities have varied communication needs and may or may not have independent access to mail or phone service. Relying on indirect contact only means that some people with disabilities may not receive or understand the notice to disconnect their utility. The personal contact requirement helps to ensure that there is direct communication of the impending shut off, and gives the person with a disability the opportunity to prevent the shut of via one of the means described in 3.3.

PSC also proposes to remove from the regulation the following:

6.2 Deferred termination

Where termination of service, otherwise authorized, has been deferred by virtue of § 6.1 [heating season conditions below 32 degrees], notice of such fact shall be left at the subject dwelling unit on the date on which termination was to be effected, notifying the occupant that unless proper payment arrangements are made, service will be terminated thereafter on a day when § 6.1 does not apply. If the termination of service involves an apartment complex, trailer park, or other grouping of individual residential dwelling units to which service is provided directly or indirectly through a master meter without individual meters, the notice required by this section shall be deemed sufficient if the notice is given in accordance with § 5.3 [notice to occupants of a multi-occupant dwelling].

This additional step helps ensure actual notice and is an additional safeguard that PSC proposes to remove.

Council would like to meet with PSC to discuss 1) the proposed rulemaking and why it would be so problematic for people with disabilities. Council would also like to discuss potential modifications to utilities practices under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, such as the possibility of creating a means for disability service agencies, or other designated individuals, to receive a copy of the notification and resources prior to a termination.

We appreciate your consideration of our concern and opposition to the proposed amendment. We look forward to the opportunity to discuss our misgivings.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc