



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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September 27, 2012

Ms. Patricia Gannon
Public Services Commission
81 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19904

RE: Proposed Changes to Utility Termination Procedures

Dear Ms. Gannon:

I write on behalf of the State Council for Persons with Disabilities (SCPD) to oppose the proposal by Delmarva Power which is seeking the right to disconnect customers remotely instead of having to follow the current regulation that requires utilities to make a reasonable good faith attempt to contact the resident in person prior to manual disconnection (see attached September 12, 2012 News Journal article). SCPD is very concerned that such a policy would have a negative impact on the lives, safety and well-being of persons with disabilities, and Council endorses the comments provided by the Disabilities Law Program in the attached September 21, 2012 letter.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding this issue.

Sincerely,

A handwritten signature in black ink that reads "Daniese McMullin-Powell".

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Jack Markell, Governor, State of Delaware
The Honorable Matt Denn, Lt. Governor, State of Delaware
Ms. Deborah Gottschalk, Chief Policy Advisor, DHSS
Mr. Brian Posey, AARP
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens



Remote disconnection sought

PSC to consider Delmarva's plan

12:20 AM, Sep 12, 2012 | Comments

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Written by Aaron Nathans The News Journal

Delmarva Power is seeking the right to disconnect customers remotely, using their newly installed smart meters.

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Under current Public Service Commission regulations, if Delmarva wishes to disconnect customers for failure to pay, it must make a "reasonable good faith attempt" to make contact with the resident in person prior to disconnection. The rules require the disconnection to be manual.

Delmarva is proposing to replace this requirement with a mandate that it make one attempt to reach the resident by telephone then disconnect using the remote capabilities of the smart meter.

Delmarva would still need to make a site visit to natural gas customers prior to shutoff, according to a PSC staff memo.

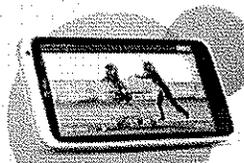
The PSC staff has not yet taken a position on the matter, said Matt Hartigan, PSC spokesman. But because Delmarva has previously made the case that this will save money, as long as this can be verified, staff will probably support it, he said.

But Hartigan said it remains to be seen which alternative method Delmarva will be allowed to employ to notify customers of an imminent disconnection.

The PSC has opened a docket on the matter and will hold a workshop session Monday at 2 p.m. at the PSC's Dover offices. At this event, the proposed rules are expected to be written. The public will have the opportunity to attend and can probably speak on the matter, although there will be no court reporter there to record their comments, Hartigan said.

The changes would require the proposed rules to be published and to allow for formal public comment before the commissioners will vote, Hartigan said.

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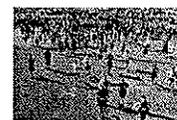
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Contact Aaron Nathans at 324-2786 or anathans@delawareonline.com.

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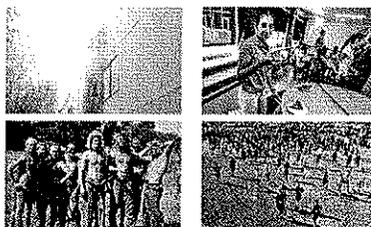
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DISABILITIES LAW PROGRAM

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9/21/2012

Public Services Commission
Attn: Patricia Gannon
81 Silver Lake Boulevard
Cannon Building Suite 100
Dover, DE 19904

RE: Proposed Changes to Utility Termination Procedures

Dear Ms. Gannon:

I am writing in follow up to my email to you. The Disabilities Law Program ("DLP") is the Protection and Advocacy system appointed by the Governor to provide advocacy for people with disabilities in Delaware. The DLP has numerous concerns about proposed amendments to regulations governing in- person notification of impending electricity termination. I will give you a brief overview, with the understanding that more extensive comments will be filed during the Comment Period, should that occur.

As I understand it, Delmarva is proposing to make only one telephone contact attempt before remotely terminating electric service at a residence using new Smart Meter technology. I haven't seen the proposal, but I am assuming that no changes are being proposed to the written and telephonic notification requirements of 3002 PSC Regulations, Sections 3.1 and 3.2.

Current regulation requires that a utility company make a good faith effort to make an in-person contact with a consumer prior to termination. (3002 PSC Regulation Section 3.3). The regulation also provides a final opportunity to pay, make arrangements to pay or claim a dispute during this home visit. More importantly, the visiting employee is required to note and report any conditions that would lead to a medical emergency if service is terminated, and accept a medical certification pursuant to 26 Del. Code Section 117(d). If such a certification is provided during the contact, the utility company is prohibited from terminating service.

All of these profoundly important consumer protections would be lost if Regulation 3.3 is changed to allow remote disconnection after one attempt at telephone contact. There are many individuals living in the community whose health would be substantially threatened by a termination in service. Providing in- person contact is a minimal safeguard that can prevent life-threatening emergencies from occurring, or worse. A simple Google search reveals numerous

examples nationwide of vulnerable individuals dying as a result of utility terminations. Some die of health-related emergencies, while others die from fires or from freezing to death.

The General Assembly provides statutory protection for medically vulnerable individuals, including the elderly and adults and children with disabilities, by disallowing termination if a medical provider has certified that termination will adversely affect health or recovery. 26 Del Code Section 117(d). The newly amended statute requires consumers to make a good faith effort to pay for services in order to extend a medical certification, minimizing any financial burden that might be caused by this provision. A utility company may not terminate services while a dispute is pending with the Commission under this provision. The statute also requires a utility company to contact any known case manager or coordinator prior to any termination taking place, the idea being that a case worker can assist the customer in finding financial assistance and/or a safe place to go.

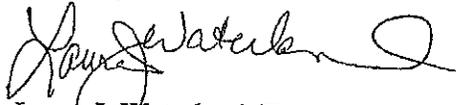
It is our position that the proposed amendments are inconsistent with this statute. Requiring only a cursory attempt at contact eliminates many of the safeguards that are in place to prevent catastrophe from occurring for vulnerable consumers and their families. The General Assembly has provided Delaware residents with protections to prevent unnecessary terminations. The need for these protections is greater now than ever, as more individuals age in place and individuals with disabilities live in the community with supports, including energy-dependent technology such as ventilators.

The proposed change also undercuts the purpose of Chapter 3002 of the PSC Regulations. The purpose of the Regulations is to "protect public health, safety and property by making sure that the individual has the opportunity to act to avoid termination." Section 1.2. In addition to protecting the medically fragile, minimizing shut-offs also helps to prevent dangerous practices such as illegal hook-ups and the use of space heaters. The termination process should be focused on maintaining service in the home if possible, instead of looking for more efficient ways to cut people off. This is a circumstance when public policy trumps cost-effectiveness.

On a more practical level, the requirement of one phone call attempt is not an effective method for reaching many households or individuals. First, the utility company may not have accurate contact information. A phone number may have changed or the resident may not have a phone. Second, the resident may not have the capacity to operate a phone. Third, the person may be homebound and rely on or require the assistance of others who are not living at the house. The person may not even get their mail, or their bills. Many individuals on fixed income, such as SSI or SSDI, have representative payees or otherwise rely on third parties to manage their finances. Calling the home number will not notify the person who may in the best position to assist in avoiding termination. Finally, because only one attempt is required, there is a good chance that the person will not be there or be unavailable when the call comes in. This is not a reasonable good faith effort, and it goes against the policy that terminations should be avoided if possible.

Finally, the proposed change is bad public policy. Financial considerations must take a backseat to safeguards that protect people from harm. The current system balances consumer protections with the operating requirements of utility companies. Individuals who cannot pay their balances will ultimately lose service. Requiring good faith efforts to make in- person contact allows the consumer one last opportunity to come current, to document a serious medical need, or to make arrangements to find a safe place to go. We encourage the Commission to refrain from amending the Regulation, and to keep important consumer protections in place.

Sincerely,



Laura J. Waterland, Esq.
Community Legal Aid Society
(302) 575-0660, Extension 231

cc: Deborah Gottschalk, Chief Policy Advisor, DHSS
Brian Posey, AARP
Kyle Hodges, State Council for Persons with Disabilities
Wendy Strauss, Governor's Council for Exceptional Citizens
Pat Maichle, Developmental Disabilities Council