

**Before the
Consumer Affairs & Professional Licensure Committee
Senate of Pennsylvania**

**Hearing on Reauthorization of Chapter 14 of the Public Utility Code
May 1, 2023**

**Testimony of
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Good morning Chairman Stefano, Chairman Boscola and members of the Senate Consumer Affairs & Professional Licensure Committee. I am Terry Fitzpatrick, President and CEO of the Energy Association of Pennsylvania (“EAP” or “Association”), a trade association comprised of electric and natural gas utilities—also known as electric and natural gas distribution companies—operating in Pennsylvania. EAP advocates for its members before the General Assembly and state agencies, assists its members by facilitating sharing of information and best practices, and provides educational opportunities for employees of its members and others through its operations and consumer services conferences. Thank you for this opportunity to provide testimony regarding reauthorization of Chapter 14 of the Public Utility Code.

Chapter 14 is entitled “Responsible Utility Customer Protection.” It was enacted in 2004 and reauthorized with some revisions in 2014. Chapter 14 establishes standards for key aspects of the collections process of public utilities, including payment arrangements for customers who fall behind in paying their bills and the process that governs termination and reconnection of utility service. The Declaration of Policy section of Chapter 14 states that the rules the Public Utility Commission applied in this area prior to passage of the Chapter “. . . have not successfully managed the issue of bill payment. Increasing amounts of unpaid bills now threaten paying customers with higher rates due to other customers’ delinquencies.” This section goes on to state that “[t]he General Assembly seeks to achieve greater equity by

eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.”¹

Prior to the enactment of Chapter 14, there were no specific limits on the PUC’s discretion on issues such as the length of payment arrangements. Over time, this led to payment arrangements in which customers were granted periods of 10, 20, 50, and even 100 years to repay past due amounts. I observed this trend during my service as an assistant counsel in the PUC law bureau, as counsel on the staff of a Commissioner, and later as a member of the Commission from 1999 to 2007. The result of this approach was that total residential arrearages in the Commonwealth grew to over \$700 million in 2004 according to information compiled at EAP. I was Chairman of the Commission when Chapter 14 was being debated in the General Assembly, and I thought then, and think now, that it was necessary to establish some limits on the PUC’s discretion in this area.

The language from the declaration of policy section that I quoted above uses the word “equity” to describe the goal of the collections process. A similar word often used to describe the goal of utility regulation is “balance.” As applied to the collections process, almost everyone would agree that you need a balance between the rights of customers who pay their bills on time and customers who, for whatever reason, fall behind in paying their bills. This is so because unpaid bills eventually become part of the bad debt expense that is included in setting utility rates that are paid by all customers.

From the perspective of electric and natural gas utilities, Chapter 14 establishes a fair balance between the interest of paying and non-paying customers and it should be reauthorized without changes that would significantly weaken it. If anything, we believe amendments should be considered to address the problem of a growing number of accounts with very high balances due. I have attached to this testimony a markup of Chapter 14 that shows these amendments

¹ 66 Pa.C.S. Sec. 1402 (1), (2).

along with some others that would improve the efficiency of the collections process, respond to changes in technology, and improve safety for utility workers.

To provide some perspective, I will summarize briefly some of the major provisions of Chapter 14. It requires multiple notices to customers before termination of service, including both a written notice and multiple attempts to make personal contact.² If customers contact their utility but cannot agree on a resolution of the issues, they can file an informal or formal complaint with the PUC seeking a payment arrangement on their past due balance; the effect of filing such a complaint is suspension of the termination process pending a resolution of the complaint.³ Customers seeking a payment arrangement have a right to one payment arrangement with their utility and one payment arrangement from the PUC, and utilities have discretion to enter into second or subsequent payment arrangements.⁴ Customers may seek new payment arrangements if they have a change in income.⁵ Chapter 14 allows the PUC to grant payment arrangements of up to five years for customers with income at or below 150% of the federal poverty level.⁶ The length of payment arrangements can be extended for customers at or below 300% of the federal poverty level if they have a “significant change in circumstance,” which includes the onset of an illness or an increase in the number of dependents in the household.⁷ In addition, customers can prevent termination of service by submitting a medical certificate indicating that a member of the customer’s household is seriously ill or has a medical condition that requires continuation of utility service.⁸ During the four winter months of December through March, electric and gas utilities may not terminate service to customers with

² 66 Pa.C.S. Sec. 1406 (b).

³ 66 Pa.C.S. Sec. 1410.

⁴ 66 Pa.C.S. Sec. 1405 (d).

⁵ *Id.*

⁶ 66 Pa.C.S. Sec. 1405 (b).

⁷ 66 Pa.C.S. Secs. 1403 (definition of “significant change in circumstance”), 1405 (e).

⁸ 66 Pa.C.S. Secs. 1403 (definition of “medical certificate”), 1406 (f).

household income at or below 250% of the federal poverty level; this provision is commonly referred to as the “winter moratorium.”⁹

I would submit that the average customer looking at this process would conclude that there is a myriad of protections for those who fall behind in paying their utility bills.

In considering the balance between customers who pay their bills and those who fall behind in paying them, you also have to consider the costs paying customers absorb related to past due debt and to support universal service programs for low-income customers. I have attached to my testimony a chart showing total customer arrearages, gross write offs, and costs of universal service programs from 2014 to 2021. The chart shows that these totals have increased sharply starting in 2019. The increase in arrearage totals from 2019 to 2021—from \$311 million to \$550 million—is due mostly to the pandemic and the related termination moratorium imposed by the PUC. This moratorium, imposed via an Order in March 2020, initially banned all utility service terminations and was later modified in October 2020 and March 2021 to restore aspects of the residential collections process under Chapter 14.

For universal service costs, the chart shows that after years of steady to declining costs, expenditures increased by \$97 million from 2020 to 2021, to a total of \$458 million. This increase is due to a combination of higher energy costs and a PUC policy statement that increased assistance to customers at the lowest income levels. The ratepayer-funded assistance programs administered by electric and gas utilities in Pennsylvania are among the most generous programs of their kind in the country.

Taking all of this information together further supports the observation that paying customers are picking up a large and increasing amount of costs to support those who fall behind on their bills, and the utility collections process under Chapter 14 should not be weakened.

⁹ 66 Pa.C.S. Sec. 1406 (e).

Finally, I will briefly discuss the amendments we are proposing to address the problem of customers who accumulate very high arrearages. The PUC recently decided a complaint case involving a customer who had an arrearage of \$32,000, upholding the decision of the Administrative Law Judge that the complainant had abused the administrative process to avoid termination of service and that, as a result, the customer should be barred from filing further complaints.¹⁰ In that case, Vice Chairman DeFrank issued a statement expressing concern that the number of customer accounts with balances due over \$10,000 had tripled from 2019 to 2021. He concluded his statement: "I highlight this case for those currently looking at the reauthorization of Chapter 14 as an example of an area where more guidance could be provided."

The amendments set out our thoughts on how to address this problem. First, we propose in section 1410 (4) to expedite decisions by the PUC on informal and formal complaints where the customer has an arrearage over \$2,500 or has not made a payment in the past six months. We are not finding fault here with the PUC's current process, as we believe many or most of the PUC's decisions already meet these timelines. But we think it will be helpful to all involved to highlight cases that have some urgency to resolve due to the large amount of debt involved or possible abuses of the process. Second, we are proposing that where a customer has an arrearage of \$3,500 or greater and has broken two or more payment arrangements with the utility and one PUC-ordered payment arrangement, the requirements under Chapter 14 no longer apply and the utility may require payment of the full balance in order to continue service. Here we are creating a remedy similar to the one the PUC applied in the *Curry* case but applying it before the customer's arrearage grows to an amount that few households could cure. We believe this remedy is balanced and fair to all customers.

Thank you for the opportunity to testify and I'll be happy to answer questions.

¹⁰ *Curry v. Pennsylvania Electric Co.*, Docket No. C-2022-3032454, Order entered March 16, 2023.