

**BEFORE THE
PENNSYLVANIA SENATE
CONSUMER PROTECTION AND PROFESSIONAL LICENSURE
COMMITTEE**

Testimony of

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CONSUMER ADVOCATE**

Regarding

Chapter 14 of the Public Utility Code

**Harrisburg, Pennsylvania
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Good morning, Chairman Stefano, Chairwoman Boscola, and Members of the Senate Consumer Protection and Professional Licensure Committee. My name is Patrick Cicero. I have the privilege of serving as Pennsylvania's Consumer Advocate. Thank you for the opportunity to provide comments this morning about the changes needed to Chapter 14 of the Public Utility Code. My office, the Pennsylvania Office of Consumer Advocate (OCA), was created in 1976 to serve as an advocate for Pennsylvania consumers before the Public Utility Commission (PUC).

Let me state at the outset that I urge this Committee to adopt substantive amendments to Chapter 14 as part of any consideration of the continuation of its provisions. Currently, Chapter 14 is set to expire on December 31, 2024, unless reauthorized by the General Assembly. The existing provisions of Chapter 14 were originally added to the Public Utility Code in 2004, largely in response to utility collection problems at one municipally owned natural gas utility – Philadelphia Gas Works (PGW). Indeed, many of the provisions of Chapter 14 still apply only to PGW. In 2014, the General Assembly reauthorized Chapter 14 for an additional ten years and added some provisions that provided a few protections to consumers. The balance remains skewed, however, in favor of termination of service rather than the continuation of service. In my view, Chapter 14 continues to provide inadequate

protection for households to maintain service or to expediently reconnect service if they have their service terminated for non-payment.

Chapter 14 was never intended to ensnare customers who cannot pay because of economic vulnerability, medical hardship or because of domestic violence. Indeed, this body declared that the intended policy was to “provide protection against rate increases for timely paying customers resulting from other customers’ delinquencies” by “eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.” 66 Pa. C.S. § 1402(2). At the same time, the General Assembly sought “to ensure that service remains available to all customers on reasonable terms and conditions.” *Id.* at § 1402(3). As Consumer Advocate, I share the goal that those who can pay should pay and that utilities be equipped with appropriate tools for collection when necessary to avoid imposing costs on other ratepayers. However, it is important to contextualize that utility uncollectible expenses, while important to contain, are not the paramount driver of rate increases by utilities. In addition, while collection practices of utilities are critical, there are many things that both the PUC and the General Assembly could do to contain rate increases. While outside the scope of this hearing, I would welcome the opportunity to discuss effective and practical ways to limit rate increases that lead to unaffordable bills and would urge members of this Committee to reach out to my office to discuss this further.

Unfortunately, as it relates to Chapter 14, over the past twenty (20) years, what we have seen is that the pendulum has swung too far in favor of the utilities' collection rights – resulting in a dramatic and wholly avoidable increase in utility terminations – without considering the truly life and death needs of customers who try to pay their bills but are unable to do so in a timely manner. As a result, there are certain necessary reforms to Chapter 14 to ensure a more appropriate balance.

The major concern with Chapter 14 when it was enacted – and over the past 20 years – is that it deprived the PUC of too much of its discretion in developing standards and resolving disputes between utilities and customers, and instead gave greater discretion to the utilities. This discretion by utilities meant more terminations because soon after Chapter 14 was enacted, the number of utility terminations increased substantially. Among electric and natural gas utilities, the number of customers whose service was terminated went from 186,695 in 2004 to 273,677 in 2005, an increase of 46.6%. By 2014, when Chapter 14 was last reauthorized, electric, and natural gas utility terminations increased to 341,710 per year, despite the much lower natural gas costs. This represents an increase of 83% over pre-Chapter 14 levels and 25% above 2005 levels. As evidenced by Charts 1 and 2 below, these numbers have not gone down except for the extraordinary period during the COVID-19 moratorium on terminations.

Chart 1 – Residential Electric

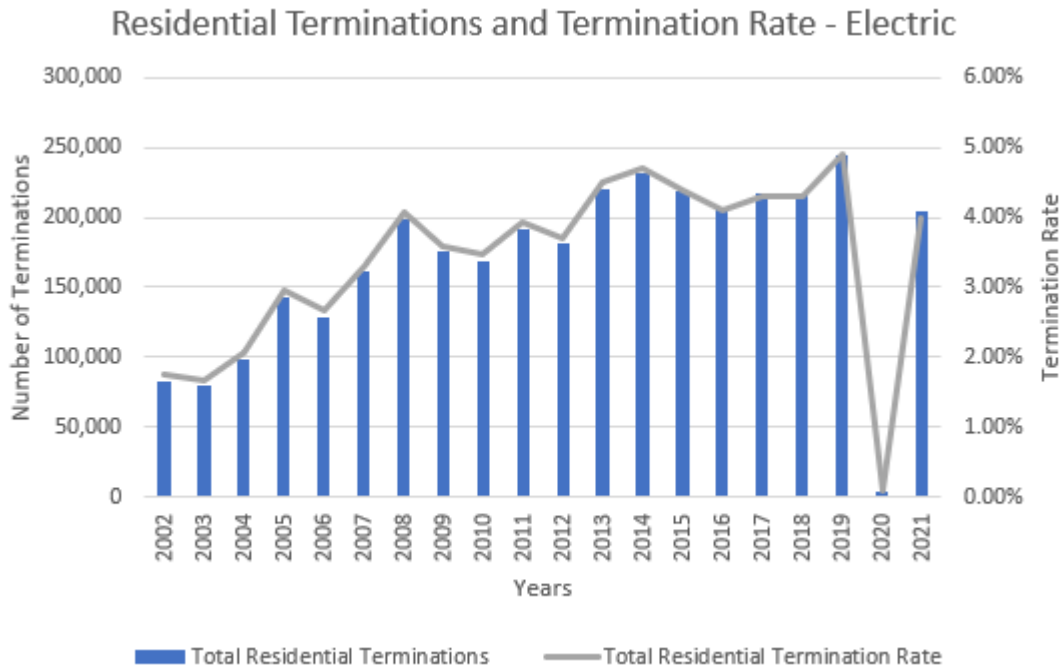
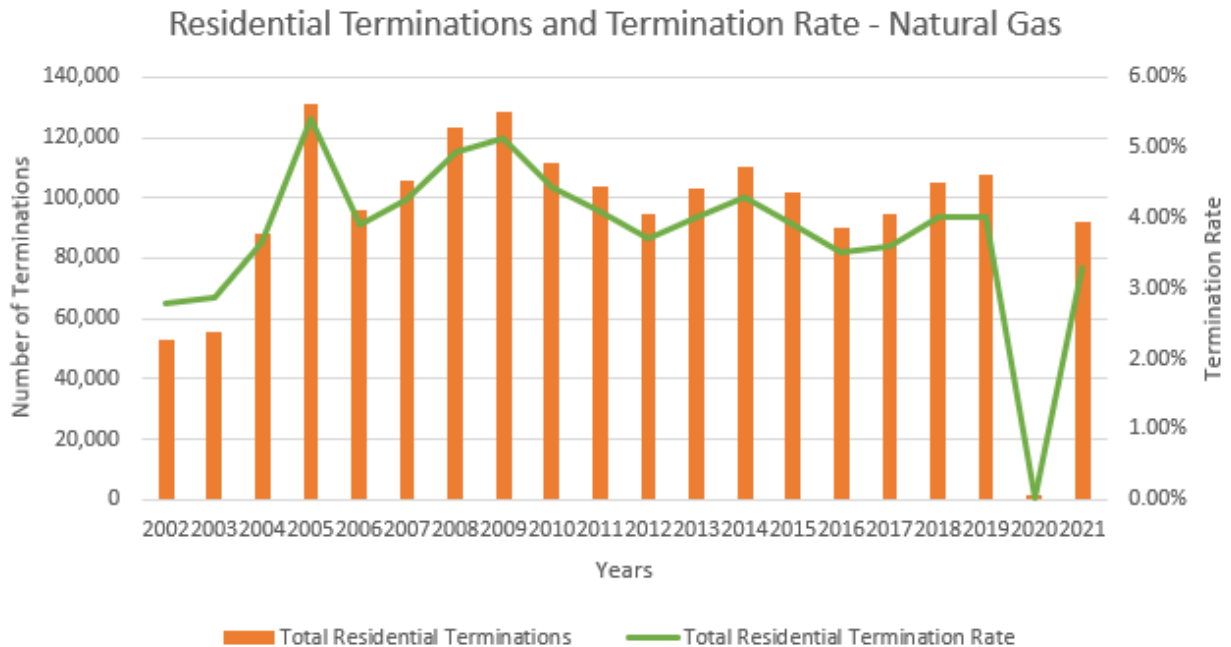


Chart 2 – Residential Natural Gas



Termination numbers and rates are even worse for utilities' low-income customers – in some years approaching a 20% termination rate for electric customers.

Chart 3 – Low Income Terminations and Termination Rate - Electric

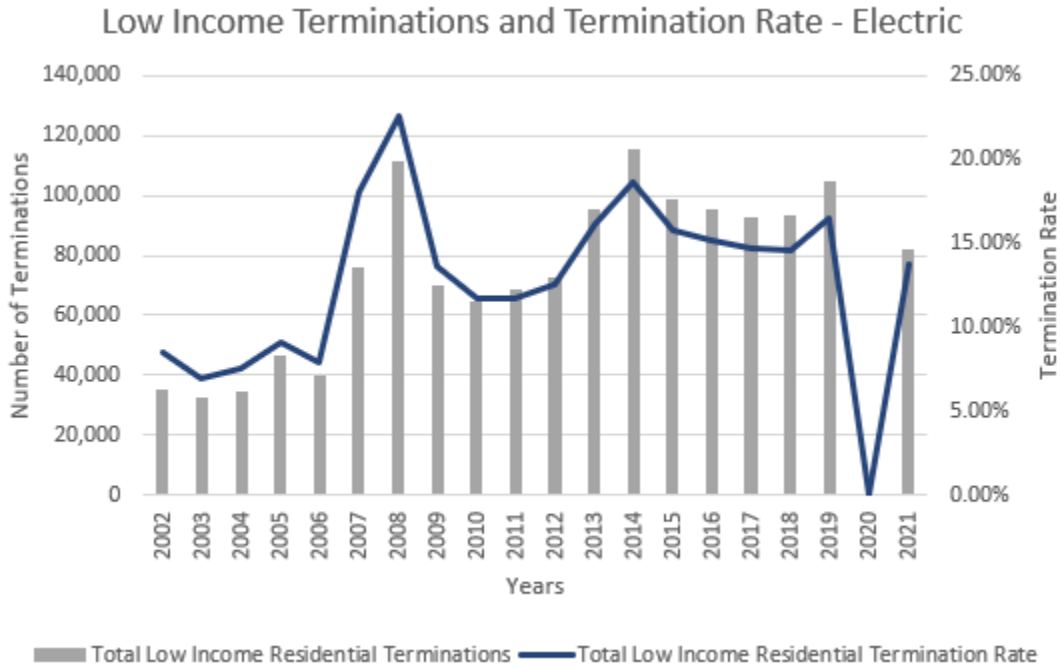
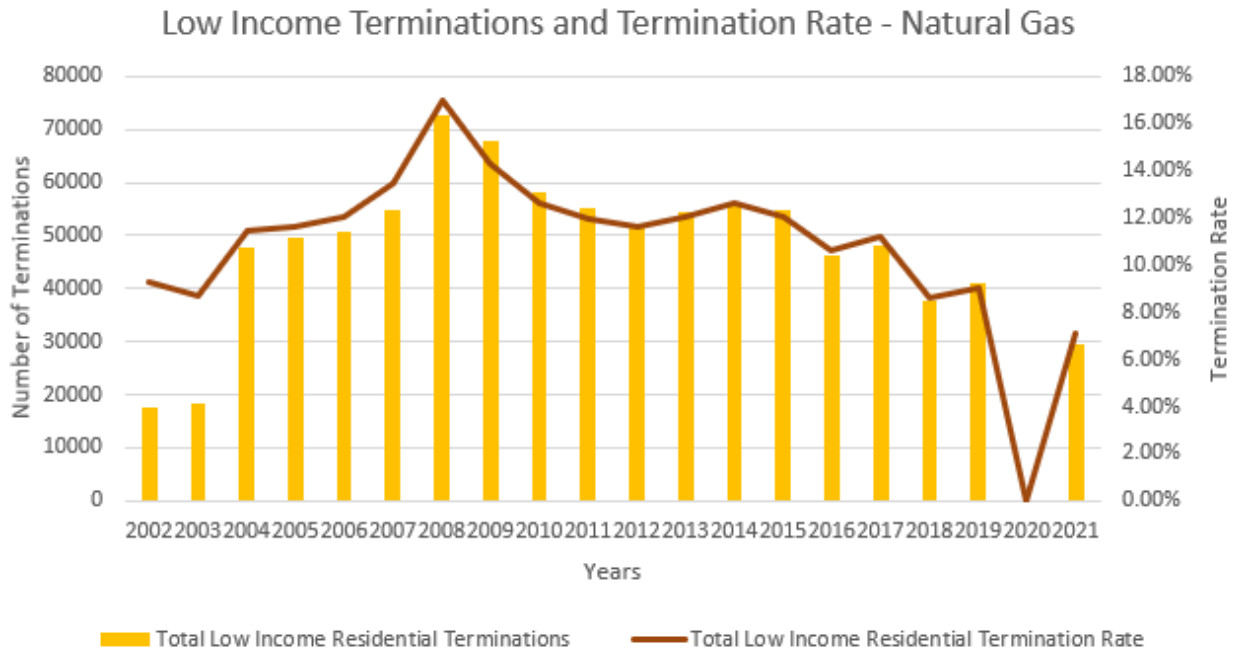


Chart 4 – Low Income Terminations and Termination Rate – Natural Gas



While the charts above only look at electric and gas utilities through 2021, we know that total termination numbers in 2022 have not improved based on the PUC’s published data. The table below shows that in 2022, there were 322,096 households who had their service terminated for non-payment across all industries covered by Chapter 14.

**Terminations and Reconnections: Year-to-Date December 2021 vs. Year-to-Date December 2022
As Reported by Utilities Pursuant to Monthly Reporting Requirements at 52. Pa. Code 56.231**

Company	Terminations ¹	Terminations	Percent Change	Reconnections	Reconnections	Percent Change
	2021	2022		2021	2022	
Duquesne Light	30,945	30,467	-2%	24,848	23,976	-4%
Met-Ed	26,941	28,816	7%	23,842	25,389	6%
PECO	76,487	75,694	-1%	66,909	62,113	-7%
Penelec	20,354	20,488	1%	16,094	16,268	1%
Penn Power	2,416	3,244	34%	1,844	2,473	34%
PPL	30,843	35,241	14%	22,309	24,378	9%
UGI Electric	1,493	1,607	8%	1,143	1,218	7%
West Penn Power	16,147	21,021	30%	12,882	17,148	33%
Total - Electric	205,626	216,578	5%	169,871	172,963	2%
Columbia Gas	9,760	11,380	17%	5,503	6,760	23%
National Fuel	7,091	6,861	-3%	5,095	5,003	-2%
Peoples	23,754	15,335	-35%	18,349	11,840	-35%
Philadelphia Gas Works	15,669	14,410	-8%	10,567	9,716	-8%
UGI Gas	23,013	26,882	17%	17,239	19,924	16%
Total - Gas	79,287	74,868	-6%	56,753	53,243	-6%
Total (Electric & Gas)	284,913	291,446	2%	226,624	226,206	0%
Aqua Pennsylvania	7,070	5,585	-21%	5,090	4,879	-4%
Pennsylvania-American	20,340	24,625	21%	14,239	16,663	17%
Pittsburgh Water & Sewer Authority	177	440	149%	257	151	-41%
Water - Total	27,587	30,650	11%	19,586	21,693	11%
Total (Elec., Gas & Water)	312,500	322,096	3%	246,210	247,899	1%

This data paints a clear picture of increasing utility terminations for Pennsylvania households over the past 20 years that can be directly attributed to the enactment of Chapter 14. What Chapter 14 did was take away discretion from the PUC. For decades prior to Chapter 14, the PUC sought to maximize revenue collection while treating the termination of essential utility service as a last resort for those who failed to meet reasonable payment arrangements. Chapter 14 removed much of the discretion from the PUC and instead placed that discretion in the hands of the utilities. This has not been positive for consumers. The evidence suggests that in contrast to maximizing revenue collection, utilities have exercised their discretion by increasing utility termination. My view is that this does not protect ratepayers, the public, or our communities. These new tools provided to utilities also did nothing to reduce arrears as arrearage balances have remained either flat or grown since 2004 as evidenced by the two charts, below:

Chart 5 – Residential Arrears (Electric)

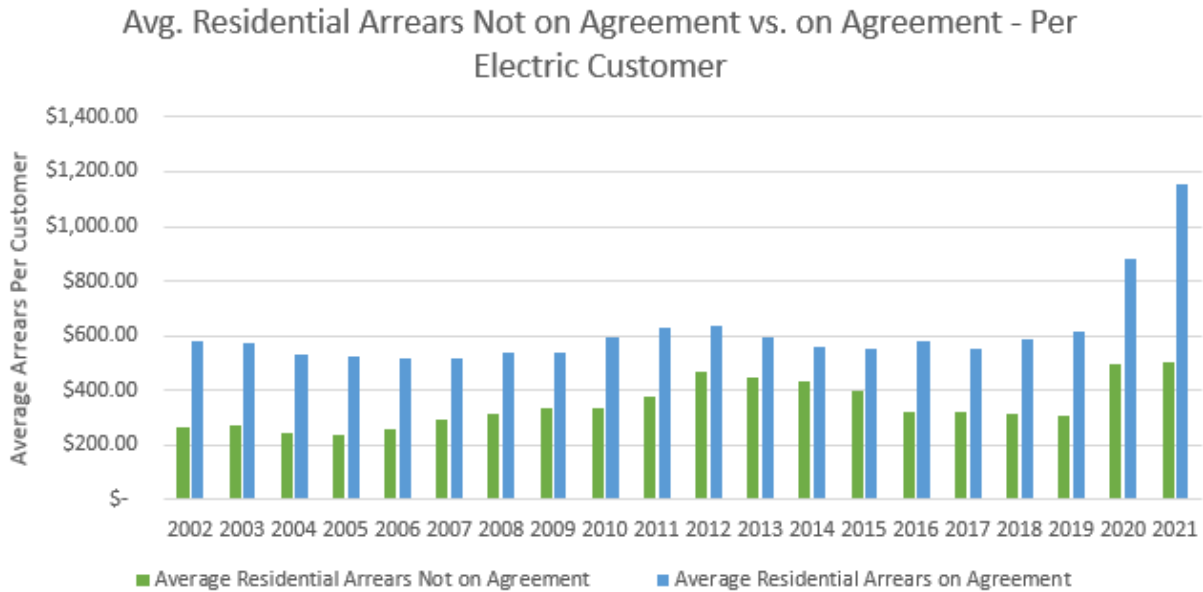
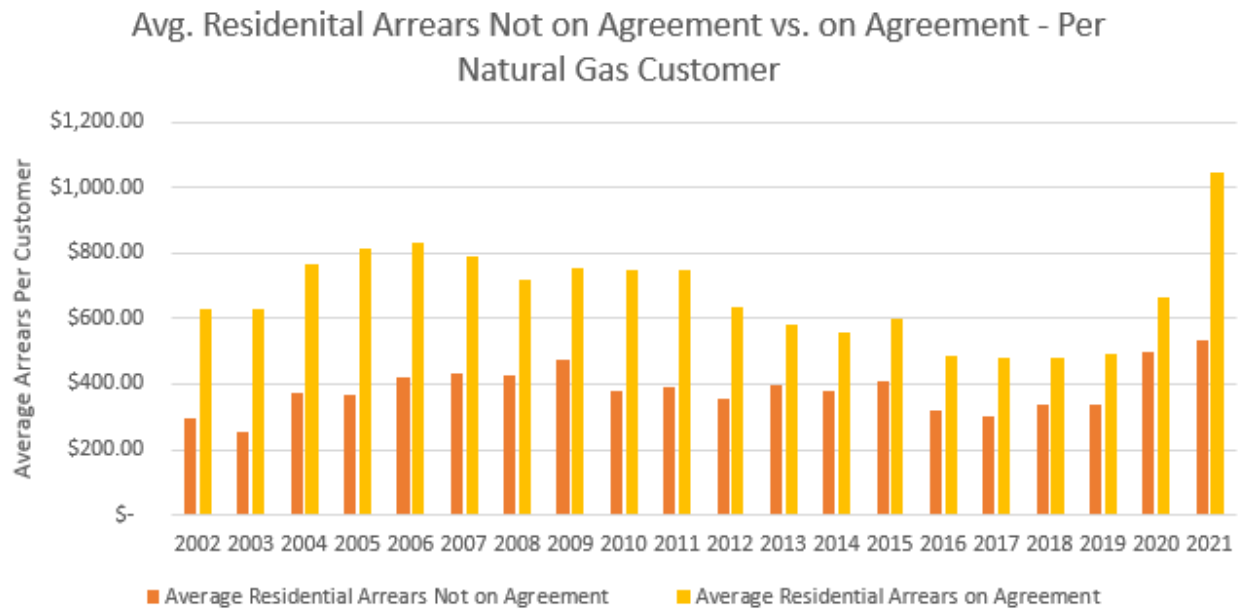


Chart 6 - Residential Arrears (Gas)



In sum, the collection of data that we have demonstrates the failure of Chapter 14. Arrearages have not decreased, but terminations have significantly

increased. Almost 100% more households are without service for some part of the year because of the decreased flexibility provided to the PUC to manage arrears, but ratepayers overall are no better off. To be sure, Chapter 14 has increased hardship for vulnerable communities, but it has not improved rates or reduced uncollectible expenses. It has merely compounded misery without material benefit to the public.

The simple reality is that utility terminations have a significantly devastating impact on communities as they pose acute threats to the health and safety of individuals and families. Lack of stable utility services to a home exacerbates negative health outcomes, interrupts family unity, hinders child learning and development, and has a long-term impact on consumer credit and housing stability – making it difficult to connect to utility service in the future. The loss of electricity renders homes unsafe to live in during both the cold winters and hot summers of Pennsylvania. It means that kids can't participate in remote learning or have access to the internet for school or recreation. Parents may not be able to work or look for work. Critically, the loss of water and wastewater service also poses a direct and immediate threat to households and the broader community, as it prevents proper sanitation necessary to protect health and safety and can result in the immediate condemnation of properties. Without running water and wastewater, you cannot wash your hands, shower, clean your home, wash dishes, flush a toilet,

or do any of the activities necessary to protect against the spread of illness. We should be taking all reasonable measures to preserve utility service for households and utility terminations should be an absolute last option with low barriers for households to reconnect to service if they lose service for non-payment.

While utilities have the right to be paid for the service they provide, and ratepayers should be protected from the accumulation of unreasonable uncollectible amounts that could result in higher rates, Chapter 14 has not resulted in these outcomes. Chapter 14 is a failure, and it needs to be amended to better restore the balance between the Commission's authority and the utility's discretion. While continued vigilance is needed to ensure payment from those customers who can afford to pay, it is imperative that the PUC's ability to balance the interests of the utility, the public, and the customers is restored in a reasonable manner.

To that end, I highlight some of the provisions of Chapter 14 that I believe need further consideration and amendment to correct the imbalances and assure that the PUC can address the literally life and death consequences of decisions involving essential utility service. All the OCA's recommended amendments are designed to minimize disconnection of service and lessen the duration of any disconnection if it does occur. We believe that it should be the policy of the Commonwealth that loss of utility service is the absolute last resort. If this is the case, all efforts should be made to ensure that households with limited means,

medical hardships, and other social vulnerabilities have the tools needed to remain connected. This requires restoring flexibility to the PUC to maximize bill payment and lessen disconnection.

Remove all PGW specific provisions

When originally introduced, Chapter 14 was intended only to apply to PGW, which had at that time recently come under the jurisdiction of the PUC but was amended to provide additional tools to all electric and gas utilities.¹ However, the General Assembly inserted some specific provisions applicable only to PGW, reasoning that it had “unique financial circumstances.” In the last 20 years, to our knowledge, PGW has not routinely used this additional authority. To be clear, what was provided to PGW was the ability to impose more stringent requirements on its customers, PGW customers were not being provided with more protection from loss of service they were provided *less* protection. None of these PGW specific rights are needed and all should be repealed. While PGW is different than other utilities because it is owned by the City of Philadelphia and is a cash flow utility, it is no longer unique. In the last few years, the Pittsburgh Water and Sewer Authority has also been placed under PUC authority and it too is a cash flow utility without shareholders. Furthermore, PGW has come a long way in the last 20 years

¹ Water and wastewater utilities were added to Chapter 14 in 2014.

in stabilizing its operations in large part because of the PUC's oversight and, as such, all the PGW specific provisions of Chapter 14 should be eliminated as outlined more fully in Appendix A.

Definitions (Section 1403)

In Appendix A, you will see the full text of the proposed changes that my office recommends. I will not address the definitions contained here at length but will talk about them in the context of the substantive sections to which they apply and outline why I think the proposed changes are appropriate. In brief, however, we propose amending the following definitions:

- ***“Change in income.”*** This definition relates to second and subsequent payment agreements under Section 1405(d). The language change suggested would improve the ability of the PUC to adjust payment agreements where a household's income decreases by 10%.
- ***“Creditworthiness.”*** This definition should be updated and changed if the current security deposit language remains. It is the OCA's position that security deposits should be assessed, if at all, only against applicants for service not customers.
- ***“Customer Assistance Program.”*** This definition should be updated to include water and wastewater assistance programs.

- ***“Medical certificate.”*** The additions to this section are meant to reflect the realities of access to medical care of Pennsylvania households, including access to mental health professionals.
- ***“Significant change in circumstance.”*** This section relates to whether and under what circumstances the PUC can extend a payment agreement under Section 1405(e). The added language would provide the necessary flexibility for the PUC to extend a payment agreement when needed to account for additional situations where there is not only a reduction of income, but also an increase in expenses, as well as other hardships such as death, injury, divorce or other substantial hardship.

Security Deposits (Section 1404)

Under Chapter 14, a utility can demand upfront cash deposits of two months payments from both applicants applying for electric, natural gas, and water service and from current customers. These combined deposits can add up to several hundred dollars for an individual or family seeking to obtain necessary utility services. The inability to pay these large sums in advance can delay access to these vital services.

The OCA advocates for full elimination of the right or ability of a utility to assess a security deposit. This would help restore the balance in relationship between utilities and customers, would eliminate the screening that is necessary for

income or other creditworthiness determinations, and would recognize the irreplaceable, monopoly nature of utility service where there are no alternatives for distribution providers. In this regard, the OCA suggests that Section 1404 be amended as follows:

Section 1404 – Security Deposits

Notwithstanding any other provision of law or commission regulation, a public utility may not require a cash deposit as a condition for applicants or customers to obtain or continue public utility service.

This change is necessary to ensure that households seeking to obtain service are not denied service because of determinations of creditworthiness as there is no substitute for public utility service and households are not able to, nor should they be asked to, go without service for any significant length of time.

In the absence of the full elimination of these requirements, the rules should be amended to reduce the hardship that a security deposit may impose.

Specifically, the OCA recommends the following amendments in the absence of a full repeal of this section:

- Reduce the required security deposit from 2 months (1/6th of the estimated annual bill) to 1 month (1/12th of the estimated annual bill) (Section 1404(a)).
- Remove the ability of utilities to impose a deposit requirement on existing customers. (Section 1404(a)(2)).
- Eliminate the ability to impose a deposit if a household breaches a payment agreement; this is already grounds for termination and should not result in a deposit. (Section 1404(a)(2)). There is no reason to think that a household who is having difficulty maintaining a payment agreement can pay a deposit *and* get caught up on a missed payment agreement.

- Broaden the current cash deposit prohibition contained in Section 1404(a.1) to prohibit a deposit from a *customer* seeking to restore service post-termination or from any applicant whose household income is at or below 300% of the poverty guidelines. A customer who loses service for non-payment should not have to pay a deposit to have service reconnected as it imposes an additional barrier to reconnection. There is no reasonable basis to believe that imposing a security deposit improves the likelihood of reconnection and the benefits to other customers and a utility's uncollectible expenses are minimal.
- At the end of the deposit hold period, allow a household to determine whether the deposit is returned to them or credited to the customer's account.
- Define the term "Adult occupant" for purposes of this code section to mean an individual who is over the age of 18 at the time the request for service is made and is a resident of the location.
- Consistent with other areas, remove the special rules for PGW that provide them with more rights than other utilities to impose security deposits and other restrictions to service.

Payment Agreements (Section 1405)

The most significant limitation imposed upon the PUC when Chapter 14 was enacted was the limitation on the number and length of payment arrangements that the PUC could order. Prior to Chapter 14, the PUC routinely ordered payment arrangements that were based on a household's ability to pay and when the household fell on difficult circumstances the PUC routinely modified, amended, and lengthened those arrangements. All of this was done to ensure that households remained connected to service and to maximize revenue for utilities. After Chapter 14, the PUC has been constrained and limited to ordering a single payment

arrangement absent a change in income. (Section 1405(d).) In addition to limiting the number of payment arrangements to one, Chapter 14 also prescribed the duration of a PUC-ordered payment arrangement to a formulaic exercise that only considered the income of a household as opposed to a combination of a household's income and the size of the arrears. (Section 1405(b)).

The effect of both changes means that we now have high balances, growing arrears, and significantly higher termination rates than we did prior to Chapter 14. It is instructive to recall that in 2003, the year before Chapter 14 was enacted, there were approximately 135,000 utility terminations and average arrearages on payment arrangements were \$590, whereas in 2019, the last year pre-COVID, there were more than 350,000 utility terminations and average arrearages on payment arrangements was \$695. Thus, what we got from Chapter 14 was both higher balances and more terminations. One can draw a reasonable inference that it is because of the constraints placed on the PUC's ability to order multiple payment arrangements of reasonable lengths that we have the utility termination crisis that we do today.

I am sure that this body has and will hear horror stories of 100-year payment arrangements and never ending second, third, and fourth chances for consumers with delinquent balances. I urge you to take these with a grain of salt as I am not calling for unfettered discretion; instead, I am calling for what I consider to be

relatively modest additional flexibility for the PUC in assessing the facts of each consumer's circumstances. The language changes that I am proposing can be found at Appendix A, and are summarized here:

- **Add Section 1405(b.1).** While maintaining the formulaic, income based requirements already contained in Section 1405(b), I recommend that an additional section be added (Section 1405(b.1)) that would allow the PUC to extend the length of the payment arrangement, not to exceed two times the length already permitted, in situations where the PUC determines that a customer's balance would not reasonably be able to be paid based on the household's income and the size of the balance in question.
- **Modify Section 1405(d) and (e).** These sections concern the number of payment arrangements that the PUC can order (Section 1405(d)) and the ability to extend a payment arrangement once entered (Section 1405(e)). I am also proposing amendments to both with the goal of allowing the PUC to ensure that households are paying down balances and reducing terminations.
 - **Section 1405(d).** Propose to allow the PUC to order two payment arrangements rather than just one. In addition, this is the section where the definition **change in income** comes into play and my amendment to that section would reduce the income loss needed for an additional payment arrangement above two to require only a 10% reduction in income.
 - **Section 1405(e).** This would allow the PUC to extend an existing payment arrangement for a period not greater than that allowed in the newly added Section 1405(b.1) or if already extended by that section by an additional six months. This section is where the definition **significant change in circumstances** is relevant and my proposed amendment to that section would allow the PUC to consider more situations as significant change in circumstances while still requiring some affirmative showing by the household.

Both changes are meant to vest discretion with the PUC to react to a household's particular circumstances and not simply order a payment arrangement that may be destined to fail if a household cannot reasonably be said to be able to afford the payment.

- **Modify Section 1405(c).** The proposed modification would make clear that the limitation of ordering a payment arrangement for customers enrolled in a Customer Assistance Program (CAP) applies only while they were enrolled in CAP, and that nothing in that section prevents the PUC from ordering a payment arrangement for a customer who is not in CAP including for arrears incurred while in CAP and all other arrears. This change is meant to clarify that the prohibition is for a simultaneous CAP discount plus a payment arrangement not for a payment arrangement for individuals who are no longer in CAP even if those individuals have CAP arrears.

Termination of Service (Section 1406)

As indicated throughout, it is the OCA's position that utility termination should be a last resort for utilities and not a means of routine collection. However, when necessary, changes are needed to ensure that a household receives adequate notice of a proposed termination of service so that they can prepare. Under current rules, a utility must send a notice by mail providing no less than ten (10) days' notice prior to service termination. The clock begins to run when the notice is mailed, not when it is received by the household. Additionally, while a utility must provide no less than 10 days' notice before terminating service, the termination notice can be acted on for sixty (60) days from the date on the notice. There are multiple problems with the current rules. First, the average time for the Postal Service to deliver a mail piece is 2.5 days.² Depending on when a termination notice is mailed, this alone eliminates at least 25% of the minimum notice period.

² [USPS Reports Consistent Performance Across All Mail Categories - Newsroom - About.usps.com](#) (last visited 4/22/23).

Moreover, many of us are aware of the erosion of the timeliness of U.S. mail delivery that occurred during the COVID pandemic.

Even assuming timely delivery, many consumers, including low-income consumers, have transitioned from receiving all important notices by mail and now routinely receive notices via text message and email. In 2004, when Chapter 14 was enacted, smart phones did not exist. In 2021, 85% of all adults in the U.S. reported that they owned a smart phone and 77% of adults have access to home broadband,³ although the level of ownership varied significantly depending on income and age. Even so, according to Pew, some 76% of households with income less than \$30,000 per year and 61% of persons over the age of 65 owned a smartphone in 2021.⁴ While recognizing the significant gap in access to technology and even with access, adoption of that technology for managing one's affairs, we are recommending that utilities be required to send termination by both U.S. Mail and via electronic means (text and/or email) when a household consents to receive these notices electronically. Receipt of a termination notice by mail does and will remain important for the foreseeable future, however, requiring utilities to send the notice electronically will also benefit many households. These households will have the ability to receive the notice as soon as it is sent, providing additional time

³ [Mobile Technology and Home Broadband 2021 | Pew Research Center](https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021) (<https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021>) (Last visited 4/22/23)

⁴ Id.

to allow them to make plans for a payment arrangement or seek financial assistance with the balance.

In addition to requiring a utility to send notice by both U.S. Mail and through electronic means with affirmative consent, our office also proposes to eliminate the absolute prohibition in the statute stating that the PUC cannot require any additional actions prior to termination. This prohibition found in Section 1406(b)(2), is overly broad and does not allow for appropriate discretion by the PUC in times of extraordinary circumstances. The proposed change is not *carte blanche* for the PUC to impose additional requirements, as we are proposing that the prohibition remain “absent special circumstances.” There is no reason to believe that the PUC will abuse its discretion or authority in this regard; instead, this change will restore the balance the PUC needs to effectively protect the public if the circumstances require.

Chapter 14 also eliminated the longstanding PUC policy that prohibited utilities from terminating service during the winter months without specific PUC approval. It should be noted that it was the death of an elderly woman in Munhall whose utility service had been cut off in the winter of 1976 that gave rise to the Commission’s original protections against winter shutoffs. These protections were in place for decades for all customers without issue. In general, the OCA would support a rule that prohibits winter shutoffs for all customers without specific PUC

authorization so that the PUC can evaluate all the circumstances. However, for purposes of the proposed amendments, our office is requesting a simple clarification that the current rule prohibiting winter shutoffs without PUC approval for households with incomes below 250% of the federal poverty level include *all* public utilities not just gas and electric utilities. In addition, like other sections, we are advocating that the PGW-specific rules that only apply this prohibition to households at or below 150% of the poverty level be stricken so that all Pennsylvanians are similarly protected. Customers of PGW with income between 151% - 250% of poverty are as deserving of protection from winter termination as households of other utilities. The current rules also set up a strange scenario whereby someone living in Philadelphia at 175% of poverty could have their gas turned off by PGW but not their electricity turned off by PECO.

Reconnection of Service (Section 1407)

To obtain reconnection of service after termination, Chapter 14 currently requires the customer to pay a reconnection fee and, in some cases, 100% of any balance owed in full before service can be restored. Both are barriers to reconnection of service. The OCA's principal position is that Chapter 14 should be amended to prohibit a utility from charging a reconnection fee. Reconnection fees create barriers for households to reconnect service and do nothing to eliminate or

reduce high balances because they do not reduce arrears. The goal should be to ensure that households who are disconnected from service can be reconnected with as few barriers as possible and that any money paid to the utility should reduce balances so that the household can remain connected and reduce the future risk to service termination. If reconnection fees are eliminated, a utility can be made whole by having reconnection costs included as a part of a utilities' operating expenses for ratemaking purposes. This is not dissimilar to other costs of operation currently. The OCA suggests the following language:

Section 1407 -Reconnection of Service

(a) Fee. Notwithstanding any other provision of the law or commission regulation, a public utility may not require a reconnection fee to be paid prior to the reconnection of service.

If elimination of the reconnection fee is not adopted, the OCA proposes a series of changes that would reduce the punitive nature of these fees. The text of these changes can be found in Appendix A, but what follows is a summary of the OCA's proposed changes to 1407(a):

- Prohibiting charging a reconnection fee for any household which is seeking to restore service during the winter months (November 30th through April 1st).
- Prohibiting charging a reconnection fee at any time for households with income at or below 300% of the federal poverty guidelines.

These changes are designed to recognize the special circumstances created by winter reconnections so that households can be reconnected as quickly as possible, as well as the economic hardships associated with households below 300% of

poverty and the need to ensure that these households are able to allocate scarce economic resources to paying down balances rather than the fees associated with reconnection.

In addition to changes eliminating reconnection fees, consideration should be given to the length of time a household should be reasonably afforded to repay outstanding balances. Under current rules, households with income above 300% of poverty who have not experienced a job loss, a serious illness, or death of a primary wage earner or households who have defaulted on two or more payment arrangements must pay the full balance prior to reconnection of service. Longer periods are provided for households with less income – 12 months for those with income between 150% - 300% of poverty and 24 months for households with income less than 150% – and more restrictive rules for households served by PGW.

Like other areas of my testimony, we are proposing to eliminate the stricter rules for PGW customers. As in other areas, there is simply no reason to be less flexible for households who are served by PGW than other utilities.

We believe other changes are needed to this section as well. First, a new section should be added that specifically permits a customer seeking to be reconnected to service to also be allowed to obtain a Section 1405 payment arrangement if the customer has not already had one. The distinction here is that

Chapter 14 defines a customer as continuing to be a customer for at least 30 days from the date their final bill is past due. In our view, if a customer has not already received a more favorable Section 1405 payment arrangement, they should be entitled to receive one to get their service reconnected. This would encourage households to reach out quickly post-termination to take advantage of these more favorable reconnection terms.

Second, we believe that the requirement that a household who has defaulted on two or more payment arrangements must pay their full balance is unreasonable and should be eliminated. Again, our office's goal in suggesting this change is to reduce the incidence, frequency, and duration of utility termination. Households who have defaulted on payment arrangements and as a result have had their service terminated should, at the very least, receive a 1407 arrangement as a final opportunity to get reconnected.

Other changes

The OCA has proposed several other changes in its redlined revisions to Chapter 14 attached hereto as Appendix A. Most of them are clarifications and refinements of existing rules and responsibilities, as well as some additional reporting by utilities, and coordination between utilities, customers, and other agencies. One specific additional change that I would like to highlight is the change to Section 1417, which exempts victims of domestic violence from the

provisions of Chapter 14. In this section, the OCA believes that the phrase “in this Commonwealth” should be stricken to make it clear that court orders from other states will also be recognized by the PUC and utilities as evidencing domestic violence so as not to impose additional barriers to utility service for individuals fleeing violence.

The OCA is aware that others have also proposed changes to this Committee. Specifically, the low-income advocates with the Pennsylvania Utility Law Project and Community Legal Services, Inc. of Philadelphia. Many of the changes suggested by these groups are complementary to those suggested by the OCA and are worthy of consideration by this body including the possibility of a summer moratorium on utility termination because of heat related dangers, changes to the medical certificate process to recognize chronic and long-term illness, and additional protections for low-income households. I would urge the Committee to facilitate a dialogue with these groups as well as our office, the utilities and their trade associations, and the PUC. This approach was effective in 2014 when changes were made as it led to significant consensus between the parties.

My office stands ready to be a resource to this Committee throughout the process of determining what changes are needed to Chapter 14 prior to its reauthorization. I look forward to working together collaboratively for the benefit of all Pennsylvanians.

Thank you for permitting me to testify. I would be happy to answer any questions you may have about my testimony, the changes that we have proposed, or those proposed by others.

SUGGESTIONS OF THE OFFICE OF CONSUMER ADVOCATE

MAY 1, 2023

Sec.

CHAPTER 14

RESPONSIBLE UTILITY CUSTOMER PROTECTION

- 1401. Scope of chapter.
- 1402. Declaration of policy.
- 1403. Definitions.
- 1404. Cash deposits and household information requirements.
- 1405. Payment arrangements.
- 1406. Termination of utility service.
- 1407. Reconnection of service.
- 1408. Surcharges for uncollectible expenses prohibited.
- 1409. Late payment charge waiver.
- 1410. Complaints filed with commission.
- 1410.1. Public utility duties
- 1411. Automatic meter readings.
- 1412. Reporting of delinquent customers.
- 1413. Reporting of recipients of public assistance.
- 1414. Liens by city natural gas distribution operations.
- 1415. Reporting to General Assembly and Governor.
- 1416. Notice.
- 1417. Nonapplicability.
- 1418. Construction.
- 1419. Expiration.

Enactment. Chapter 14 was added November 30, 2004, P.L.1578, No.201, effective in 14 days.

Special Provisions in Appendix. See sections 4, 5 and 6 of Act 201 of 2004 in the appendix to this title for special provisions relating to applicability, expiration and administration and enforcement of chapter.

§ 1401. Scope of chapter.

This chapter relates to protecting responsible customers of public utilities.

§ 1402. Declaration of policy.

The General Assembly finds and declares as follows:

(1) Formal service rules were first adopted by the Pennsylvania Public Utility Commission in 1978 with the stated goal of enforcing uniform, fair and equitable residential utility service standards governing eligibility criteria, credit and deposit practices, account billing, termination and restoration of service procedures and customer complaint procedures. These rules 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.

(2) The General Assembly believes that it is now time to revisit these rules and provide protections against rate increases for timely paying customers resulting from other customers' delinquencies. The General Assembly seeks to achieve greater equity by eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.

(3) Through this chapter, the General Assembly seeks to protect public utilities with an equitable means to reduce

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their uncollectible accounts by modifying the procedures for delinquent account collections and by increasing timely collections. At the same time, the General Assembly seeks to ensure that service remains available to all customers on reasonable terms and conditions.

~~(4) The General Assembly believes that it is appropriate to provide additional collection tools to city natural gas distribution operations to recognize the financial circumstances of the operations and protect their ability to provide natural gas for the benefit of the residents of the city.~~

Commented [CM1]: From OCA: PGW specific provisions are no longer needed.

§ 1403. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Applicant." A natural person not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. The term does not include a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.

~~"Change in income." A decrease in household income of 120% or more of the customer's household income. level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the Federal poverty level.~~

~~"Creditworthiness." An assessment of an applicant's ex-customer's ability to meet bill payment obligations for utility service.~~

Commented [CPM2]: OCA Comment: This definition relates to second and subsequent payment agreements under Section 1405(d). Language change suggested here would improve the ability of the PUC to make adjustments to payment agreements.

"Customer." A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. The term includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.

Commented [CPM3]: OCA Comment: Security deposits should be assessed for "creditworthiness" only for applicants, not customers.

~~"Customer assistance program." A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined by section 2202 (relating to definitions) or 2803 (relating to definitions), or other assistance programs offered by a public utility, including a water distribution utility or a wastewater utility, in which customers make monthly payments based on household income and household size and under which customers must comply with certain responsibilities and restrictions in order to remain eligible for the program.~~

Commented [CPM4]: OCA Comment: The terms water distribution utility and wastewater utility are defined below. They were added in 2014. Should be included here to capture the fact that more and more water and wastewater utilities are adding programs.

"Electric distribution utility." An entity providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners or operators that manage the internal distribution system serving such building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

"Formal complaint." A complaint filed before the Pennsylvania Public Utility Commission requesting a legal proceeding before a Pennsylvania Public Utility Commission administrative law judge or a mediation under the management of a Pennsylvania Public Utility

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Commission administrative law judge.

"Household income." The combined gross income of all adults in a residential household who benefit from the public utility service.

"Informal complaint." A complaint filed with the Pennsylvania Public Utility Commission by a customer that does not involve a legal proceeding before a Pennsylvania Public Utility Commission administrative law judge or a mediation under the management of a Pennsylvania Public Utility Commission administrative law judge.

"LIHEAP" or "Low Income Home Energy Assistance Program." A federally funded program that provides financial assistance in the form of cash and crisis grants to low-income households for home energy bills and is administered by the Department of Public Welfare.

"Medical certificate." A written document, in a form approved by the commission:

(1) certifying that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition; and

(2) signed by a licensed physician, nurse practitioner, ~~or~~ physician's assistant, registered nurse, or licensed social worker.

"Natural gas distribution service." The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution utility.

"Natural gas distribution utility." 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.

"Natural gas supply services." The sale or arrangement of the sale of natural gas to retail gas customers and services that may be unbundled by the Pennsylvania Public Utility Commission under section 2203(3) (relating to standards for restructuring of natural gas utility industry). The term does not include natural gas distribution service.

"Occupant." (Reserved).

"Payment arrangement." An agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

"Public utility." Any electric distribution utility, natural gas distribution utility, small natural gas distribution utility, steam heat utility, wastewater utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Pennsylvania Public Utility Commission.

Commented [CPM5]: OCA Comment: These additions reflect the realities of who consumers see for medical care, including mental health professionals.

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"**Significant change in circumstance.**" Any of the following criteria ~~when verified by the public utility and~~ experienced by customers with household income less than 300% of the Federal poverty level:

(1) The onset of a chronic or acute illness resulting in a significant loss in the customer's household income ~~or a significant increase in medical or other household expenses.~~

(2) ~~Catastrophic~~ damage to the customer's residence resulting in a significant net cost to the customer's household.

(3) Loss of the customer's residence.

(4) Increase in the customer's number of dependents in the household.

~~(4)~~(5) Other circumstances to be considered in the Commission's discretion such as a change in employment status, death, injury, divorce, separation, or other substantial hardship.

"**Small natural gas distribution utility.**" A public utility providing natural gas distribution services subject to the jurisdiction of the commission that:

(1) has annual gas operating revenues of less than \$6,000,000 per year; or

(2) is not connected to an interstate gas pipeline by means of a direct connection or any indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

"**Steam heat utility.**" An entity producing, generating, distributing or furnishing steam for the production of heat or to or for the public for compensation.

"**Wastewater utility.**" An entity owning or operating equipment or facilities for the collection, treatment or disposal of sewage to or for the public for compensation. The term includes separate companies that individually provide water or wastewater service so long as the separate companies are wholly owned by a common parent company.

"**Water distribution utility.**" An entity owning or operating equipment or facilities for diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

2014 Amendment. Act 155 amended the defs. of "applicant," "customer," "payment agreement," and "public utility" and added the defs. of "creditworthiness," "medical certificate," "small natural gas distribution utility," "steam heat utility" and "wastewater utility."

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 1404. Cash deposits and household information requirements.

(a) **General rule.**--In addition to the right to collect a deposit under any commission regulation or order, the commission shall not prohibit a public utility from requiring a cash deposit, payable during a 90-day period in accordance with commission regulations, in an amount that is equal to ~~one-sixth~~one-twelfth of the applicant's estimated annual bill, at the time the public utility determines a deposit is required, from the following:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following

Commented [CPM6]: OCA Comment: This relates to whether the PUC can extend a payment agreement under section 1405(e). Added language would provide the necessary flexibility for the PUC to extend a payment agreement when needed to account for the lived experiences of Pennsylvania households.

Commented [CM7]: OCA Comment: This does not seem necessary to the OCA.

Commented [CPM8]: OCA Comment: This was added because someone might have significant new debts or expenses without a change in income due to unexpected, and potentially large, medical expenses causing income constraints. It is simply the other side of the equation.

Commented [CM9]: OCA Comment: This does not seem necessary given the phrase "significant net cost" that is already there.

Commented [CPM10]: OCA Comment: The OCA supports full elimination of the right or ability of a utility to assess a security deposit. Doing so would eliminate the screening that is necessary for income or other creditworthiness determinations and would recognize the irreplaceable, monopoly nature of utility service where there are no alternatives for distribution providers. In this regard, the OCA suggests that Section 1404 be amended to state:

Section 1404 - Security Deposits
Notwithstanding any other provision of the law or commission regulation, a public utility may not require a cash deposit as a condition for applicants or customers to obtain or continue public utility service.

If this is adopted, the remainder of Section 1404 could be eliminated.

In the alternative, the OCA provides suggested revisions to Section 1404.

Commented [CPM11]: OCA Comment: Improves accessibility and affordability. Consistent with rental situations where one pays one-month's rent as deposit.

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reasons:

- (i) Nonpayment of an undisputed delinquent account.
- (ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.
- (iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.
- (iv) Unauthorized use of the utility service delivered on or about the affected dwelling.
- (v) Failure to comply with the material terms of a settlement or payment arrangement.
- (vi) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.
- (vii) Tampering with meters, including, but not limited to, bypassing a meter or removal of an automatic meter reading device or other public utility equipment. Violating tariff provisions on file with the commission so as to endanger the safety of a person or the integrity of the delivery system of the public utility.

- (2) Any applicant ~~or customer~~ who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology, as provided in a commission-approved tariff, and which employs standards for using the methodology that fall within the range of general industry practice.

~~A customer who fails to comply with a material term or condition of a settlement or payment arrangement.~~

Commented [CPM12]: OCA Comment: Utilities should be permitted to assess security deposits only on applicants for purposes of creditworthiness. Not customers.

Commented [CPM13]: OCA Comment: If you fail to comply with a material term of the payment agreement, you cannot likely pay a deposit. This should result in termination notice being sent (see 1405(f) and 1406(a)(2)); not additional money sent to the utility that does not reduce arrears.

Commented [CPM14]: OCA Comment: Other sections of the Code recognize this as a threshold below which households need assistance (see 1405). Furthermore, it is consistent with evidence that households at this income level are at or below the self-sufficiency standard and thus need assistance.

Commented [CPM15R14]: OCA Comment: Customers who lose service for non-payment should not have to pay a security deposit to get service reconnected. This imposes an unnecessary barrier to re-establishing utility service.

Commented [CPM16]: OCA Comment: Proposed changes here enable the customer to decide where the funds are applied.

(a.1) Cash deposit prohibition.--Notwithstanding subsection

(a), no public utility may require a ~~security or cash deposit from a customer seeking to restore service or from an applicant with income at or below 300% of the poverty line. that is confirmed to be eligible for a customer assistance program to provide a cash deposit.~~

(b) Third-party guarantor.--Nothing in this section shall be construed to preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty shall be in writing and shall state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility.

(c) Deposit hold period.--

(1) A public utility may hold a deposit until a timely payment history is established.

(2) A timely payment history is established when a customer has paid in full and on time for twelve consecutive months.

(3) ~~At the end of the deposit holding period as established in paragraph (1), the public utility shall deduct the any outstanding balance from the deposit and return or credit any positive difference to the customer. The decision about whether the deposit is returned to the customer or credited on the customer's account belongs to the customer.~~

(4) If service is terminated before the end of the deposit holding period as established in paragraph (1), the public utility shall deduct the outstanding balance from the deposit and return any positive difference to the customer within 60 days of the termination.

(5) If a customer becomes delinquent before the end of the deposit holding period as established in paragraph (1), the public utility may deduct the outstanding balance from the deposit.

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(6) The public utility shall accrue interest on the deposit until it is returned or credited.

(i) Interest shall be computed at the simple annual interest rate determined by the Secretary of Revenue for interest on the underpayment of tax under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(ii) The interest rate in effect when deposit is required to be paid shall remain in effect until the later of:

(A) the date the deposit is refunded or credited;

or

(B) December 31.

(iii) On January 1 of each year, the new interest rate for that year will apply to the deposit.

(d) Adult occupants.--Prior to providing utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. ~~For purposes of this section, the term "adult occupant" means an individual who is over the age of 18 at the time the request for service is made and is a resident at the location.~~

(e) Failure to pay full amount of cash deposit.--A public utility shall not be required to provide service if the applicant or customer fails to pay the full amount of the cash deposit within the time period under subsection (a).

~~**(f) City natural gas distribution operation; additional deposit rules for city natural gas distribution operations.**-- Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:~~

~~(1) If an applicant has household income above 300% of the Federal poverty level, one sixth of the applicant's estimated annual bill paid in full at the time the city natural gas distribution operation determines a deposit is required; or~~

~~(2) If an applicant has household income no greater than 300% of the Federal poverty level, one twelfth of the applicant's estimated annual bill paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the Customer Assistance Program made available by the city natural gas distribution operation are not subject to this paragraph.~~

~~**(g)(f) Estimated annual bill.**--When used in this section, an estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months or, if unavailable, a similar dwelling in close proximity.~~

~~**(h)(g) Time for paying deposits upon reconnection.**-- Applicants and customers required to pay a deposit upon reconnection under subsection (a)(1) shall have up to 90 days to pay the deposit in accordance with commission regulations. (Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)~~

2014 Amendment. Act 155 amended subsecs. (a) intro. par., (1) (v), (2) and (3), (c)(1) and (6), (e) and (f) and added subsec. (a.1).

Commented [CM17]: OCA Comment: This is meant to clarify that it is the age of the person at the time the request for service was made and that the individual has to be a resident of the address not just a guest. Other alternative is to define the term Adult Occupant in definitions (Sec. 1401) above.

Commented [CPM18]: From OCA: The OCA generally believes the PGW-specific rules in Ch. 14 should be eliminated as they have run their course. Other municipal utilities (PWSA) are under the PUC jurisdiction. There does not seem to be a reasonable basis to provide PGW more tools than other utilities.

§ 1405. Payment arrangements.

(a) **General rule.**--The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

(b) **Length of payment arrangements.**--Except as provided in (b.1), below, the length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

(1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.

(2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.

(3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.

(4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

(b.1) If the commission determines that a customer's balance would not reasonably be able to be paid, based on the duration established in section (b), the commission may establish a payment arrangement of a length not to exceed two times the length of the payment arrangement the household would be entitled to under section (b). In reaching a determination about whether to extend the payment arrangement length set forth above, the commission should consider such factors as are set forth in 52 Pa. Code § 56.97(b) and whether the amount of the additional monthly payment for the customer would exceed 20% of the customer's average monthly bill.

(c) **Customer assistance programs.**--Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission while the customer is enrolled in a customer assistance program. Nothing in this section prevents the commission from approving a payment arrangement for a customer who is not in a customer assistance program, including for arrears incurred while in the customer assistance program, and any and all other arrears.

(d) **Number of payment arrangements.**--Absent a change in income, the commission shall not establish or order a public utility to establish a ~~second~~ third or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a commission order or decision. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

(e) **Extension of payment arrangements.**--If the customer defaults on a payment arrangement established under subsections (a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment arrangement and extend the remaining term for a period not greater than that set forth in (b.1) if not already previously extended by that section, or, if already initially extended pursuant to (b.1) for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown.

(f) **Failure to comply with payment arrangement.**--Failure of a customer to comply with the terms of a payment arrangement shall be grounds for a public utility to terminate the customer's

Commented [CPM19]: OCA Comment: This language is meant to provide some discretion to the PUC to manage arrears that are too large for a household to reasonably pay. Larger balances may take longer to pay than smaller balances and the added language creates boundaries to the PUC's discretion.

Commented [CPM20R19]: 52 Pa Code 56.97(b) factors include: "Factors to be taken into account when attempting to enter into a reasonable payment arrangement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated."

Commented [CPM21]: OCA Comment: The easiest thing to do would be to remove this prohibition, but this is an alternative.

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service. Pending the outcome of a complaint filed with the commission, a customer shall be obligated to pay that portion of the bill which is not in dispute and subsequent bills which are not in dispute.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

2014 Amendment. Act 155 amended the section heading and subsecs. (a), (b) intro. par. and (2), (c), (d), (e) and (f).

§ 1406. Termination of utility service.

(a) Authorized termination.--A public utility may notify a customer and terminate service provided to a customer after notice as provided in subsection (b) for any of the following actions by the customer:

- (1) Nonpayment of an undisputed delinquent account.
- (2) Failure to comply with the material terms of a payment arrangement.
- (3) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.
- (4) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(b) Notice of termination of service.--

- (1) Prior to terminating service under subsection (a), a public utility:
 - (i) Shall provide written notice of the termination to the customer at least twenty (20) ~~ten~~ days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. The written notice shall be mailed by first class mail to the customer and provided by electronic means if the customer affirmatively consents to receive electronic notice of termination. Electronic notice of termination shall mean by either email, text, or both if both are provided to the utility with appropriate consent.
 - (ii) Shall attempt to contact the customer or occupant to provide notice of the proposed termination at least three days prior to the scheduled termination, using one or more of the following methods:
 - (A) in person;
 - (B) by telephone. Phone contact shall be deemed complete upon attempted calls on two separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day; or
 - (C) by e-mail, text message or other electronic messaging format consistent with the commission's privacy guidelines and approved by commission order.
 - (D) In the case of electronic notification only, the customer must affirmatively consent to be contacted using a specific electronic messaging format for purpose of termination.
 - (iii) During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, the public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location.
 - (iv) After complying with paragraphs (ii) and (iii), the public utility shall attempt to make personal contact with the customer or responsible adult at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.
- (2) Absent special circumstances, #the public utility

Commented [CPM22]: OCA Comment: Ten days is not enough time. Our experience is that the utility rarely executes on the termination notice on the 11th day anyway and so providing this additional time -- given that notices are valid for 60 days -- does not harm the utility but provides more notice to customers.

Commented [CPM23]: OCA Comment: This is meant to ensure both mail AND electronic submission of notice.

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shall not be required by the commission to take any additional actions prior to termination.

(c) Grounds for immediate termination.--

(1) A public utility may immediately terminate service for any of the following actions by the customer:

(i) Unauthorized use of the service delivered on or about the affected dwelling.

(ii) Fraud or material misrepresentation of the customer's identity for the purpose of obtaining service.

(iii) Tampering with meters or other public utility's equipment.

(iv) Violating tariff provisions on file with the commission so as to endanger the safety of a person or the integrity of the public utility's delivery system.

(v) Tendering payment for reconnection of service that is subsequently dishonored, revoked, canceled or otherwise not authorized under subsection (h) and which has not been cured or otherwise made full payment within three business days of the utility's notice to the customer, made in accordance with the notice provisions of subsection (b) (1) (ii), of the dishonored payment.

(2) Upon termination, the public utility shall make a good faith attempt to provide a post termination notice to the customer or a responsible person at the affected premises, and, in the case of a single meter, multiunit dwelling, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.

(d) Timing of termination.--Notwithstanding the provisions of section 1503 (relating to discontinuance of service), a public utility may terminate service for the reasons set forth in subsection (a) from Monday through Thursday as long as the public utility can accept payment to restore service on the following day and can restore service consistent with section 1407 (relating to reconnection of service).

(e) Winter termination prohibited.--

(1) Unless otherwise authorized by the commission, after November 30 and before April 1, a ~~public utility or electric distribution utility, or natural gas distribution utility~~ shall not terminate service to customers with household incomes at or below 250% of the Federal poverty level except for customers whose actions conform to subsection (c) (1). ~~The commission shall not prohibit an electric distribution utility or natural gas distribution utility from terminating service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.~~

~~(2) In addition to the winter termination authority set forth in paragraph (1), a city natural gas distribution operation may terminate service to a customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of his charges for each of the prior two months unless the customer has done one of the following:~~

~~(i) Has proven in accordance with commission rules that his household contains one or more persons who are 65 years of age or over.~~

~~(ii) Has proven in accordance with commission rules that his household contains one or more persons 12 years of age or younger.~~

~~(iii) Has obtained a medical certification in accordance with commission rules.~~

~~(iv) Has paid to the city natural gas distribution operation an amount representing at least 15% of the~~

Commented [CPM24]: OCA Comment: This broadens the prohibition to include all public utilities not just electric and natural gas service.

Commented [CPM25]: OCA Comment: There are times when the PUC may need to act that cannot be reasonably contemplated by statute.

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~~customer's monthly household income for each of the last two months.~~

~~(3) At the time that the notice of termination required by subsection (b)(1)(i) is provided to the customer, the city natural gas distribution operation shall provide notice to the commission. The commission shall not stay the termination of service unless the commission finds that the customer meets the criteria in paragraph (2)(i), (ii), (iii) or (iv).~~

(f) Medical certification.--A public utility shall not terminate service to a premises when a customer has submitted a medical certificate to the public utility. The customer shall obtain a medical certificate verifying the condition and shall promptly forward it to the public utility. The medical certification procedure shall be implemented in accordance with commission regulations.

(g) Qualification for LIHEAP or other utility assistance.—A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer with the requisite income level to receive a LIHEAP Crisis Grant, ~~or other utility assistance,~~ from the Department of ~~Human Services~~Public Welfare or its designee as soon as practicable after the date of the notice. Termination of service is not necessary to demonstrate sufficient proof of crisis.

(h) Dishonorable tender of payment after receiving termination notice.--

(1) After a public utility has provided a written termination notice under subsection (b)(1)(i) and attempted telephone contact as provided in subsection (b)(1)(ii), termination of service may proceed without additional notice if:

- (i) a customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor);
- (ii) a customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled; or
- (iii) a customer tenders payment electronically that is subsequently dishonored, revoked, canceled or is otherwise not authorized and which has not been cured or otherwise made full payment within three business days of the utility's notice to the customer, made in accordance with the notice provisions of subsection (b)(1)(ii), of the dishonored payment.

(2) The public utility shall not be required by the commission to take any additional actions prior to the termination.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

2014 Amendment. Act 155 amended subsecs. (a)(2), (b)(1)(ii), (d), (f), (g) and (h) and added subsec. (c)(1)(v).

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 1406 is referred to in section 1407 of this title.

Commented [CPM26]: OCA Comment: These PGW-specific exceptions should be eliminated. They are not needed.

Commented [CPM27]: OCA Comment: Meant to cover LIHWAP or other assistance that may be in place in the future.

§ 1407. Reconnection of service.

- (a) **Fee.**--A public utility may require a reconnection fee based upon the public utility's cost as approved by the commission prior to reconnection of service following lawful termination of the service except that a public utility may not assess a reconnection fee for any household whose service is restored during the period of November 30th through April 1st or at any time for any household with total household income at or below 300% of the federal poverty guidelines.
- (b) **Timing.**--When service to a dwelling has been terminated and provided the applicant has met all applicable conditions, the public utility shall reconnect service as follows:
- (1) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification.
 - (2) Within 24 hours for terminations occurring after November 30 and before April 1.
 - (3) Within three days for erroneous terminations requiring street or sidewalk digging.
 - (4) Within three days from April 1 to November 30 for proper terminations.
 - (5) Within seven days for proper terminations requiring street or sidewalk digging.
- (c) **Payment to restore service.**--
- (1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service.
 - (2) A public utility may require:
 - (i) Customers to pay any outstanding balance pursuant to the terms of a payment arrangement established by Section 1405 if the customer had not already had a section 1405 established payment arrangement.
 - ~~(i)~~ (ii) Full payment of any outstanding balance incurred together with any reconnection fees by the customer who is not covered by section (c) (2) (i), above, or an applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level. or has defaulted on two or more payment arrangements. If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer or applicant shall be permitted a period of not more than three-six months to pay the outstanding balance required for reconnection. For purposes of this subparagraph, a life event is:
 - (A) A job loss that extended beyond nine months.
 - (B) A serious illness that extended beyond nine months.
 - (C) Death of the primary wage earner.
 - ~~(ii)~~ (iii) Full payment of any reconnection fees together with Repayment over 12 months of any outstanding balance incurred by the customer who is not covered by section (c) (2) (i), above, or applicant if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level.
 - ~~(iii)~~ (iv) Full payment of any reconnection fees together with Repayment over 24 months of any outstanding balance incurred by the customer who is not covered by section (c) (2) (i), above, or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. A customer or applicant of a city natural gas distribution operation whose household income does not

Commented [CPM28]: OCA Comment: The OCA would support elimination of reconnection fees in their entirety. Reconnection fees create barriers for households to reconnect service and do nothing to eliminate or reduce high balances. The goal should be to ensure that households who are disconnected from service can be reconnected with as few barriers as possible. Reconnection costs could be part of a utilities O&M expenses for ratemaking purposes. The OCA suggests the following language:

Section 1407 -Reconnection of Service (a) Fee. Notwithstanding any other provision of the law or commission regulation, a public utility may not require a reconnection fee to be paid prior to the reconnection of service.

If elimination of the reconnection fee is not adopted, the OCA proposes the following text amendments for Section 1407(a).

Commented [CPM29]: OCA Comment: Households whose service is reconnected during the winter should not face additional barriers to the restoration of service. Households at or below the self-sufficiency standard have little additional income to pay reconnection fees and would be better served having those funds available to pay bills. Even if LIHEAP funds can currently be used to pay reconnection fees, these funds are better used to pay down utility arrears and utility bills.

Commented [CPM30]: OCA Comment: Customers should be entitled to a 1405 payment agreement even when seeking to restore service. Note, the distinction here is that someone remains a customer for at least 30 days after termination of service. 1407 should only apply to applicants or customers who have already received a 1405 agreement.

Commented [CPM31]: OCA Comment: OCA's addition to 1407(a) would eliminate reconnection fees for households below 300% FPL.

Commented [CPM32]: OCA Comment: OCA's addition to 1407(a) would eliminate reconnection fees for households below 300% FPL.

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~~exceed 135% of the Federal poverty level shall be reinstated pursuant to this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation except that this requirement shall not apply if the financial benefits to such customer or applicant are greater if served outside of that assistance program.~~

Commented [CPM33]: OCA Comment: These PGW specific provisions should be eliminated.

(3) Payment tendered by a customer to reconnect service that is subsequently dishonored, revoked, canceled or is otherwise not authorized under section 1406(h)(1) (relating to termination of utility service) and which has not been cured or otherwise made full payment within three business days of the utility's notice to the customer, made in accordance with the notice provisions of section 1406(b)(1)(ii), of the dishonored payment is grounds for immediate termination under section 1406(c). A public utility may require a customer or applicant to cure a dishonored payment, as provided for in section 1406(h), as a condition of entering into a payment agreement with the customer or applicant for a remaining account balance

(d) Payment of outstanding balance at premises.--A public utility may also require the payment of any outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there.

(e) Approval.--A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the commission. (Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

2014 Amendment. Act 155 amended subsec. (c)(2)(i) and added subsec. (c)(3).

Cross References. Section 1407 is referred to in section 1406 of this title.

§ 1408. Surcharges for uncollectible expenses prohibited.

The commission shall not grant or order for any public utility a cash receipts reconciliation clause or another automatic surcharge mechanism for uncollectible expenses. Any orders by the commission entered after the effective date of this chapter for a cash receipts reconciliation clause or other automatic surcharge for uncollectible expenses shall be null and void. This section shall not affect any clause associated with universal service and energy conservation.

§ 1409. Late payment charge waiver.

A public utility shall waive late payment charges on any customer accounts if the charges were improperly assessed. The commission may order a waiver of any late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding ~~150~~300% of the Federal poverty level.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

§ 1410. Complaints filed with commission.

The following apply:

(1) The commission shall accept formal and informal complaints only from customers or applicants who affirm that they have first ~~attempted to~~ contacted the public utility for the purpose of resolving the problem about which the customer wishes to file a complaint. If the customer has not ~~attempted to~~ contacted the public utility, the commission shall direct the customer to the public utility.

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(2) Pending the outcome of a formal or informal complaint filed with the commission, the customer shall be obligated to pay that portion of the bill which is not in dispute and subsequent bills which are not in dispute.

(3) For a formal complaint filing to be valid, the customer or applicant must provide a statement attesting to the truth as to the facts alleged in the complaint. All testimony in formal complaint proceedings must be under oath.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

Cross References. Section 1410 is referred to in section 1410.1 of this title.

§ 1410.1. Public utility duties.

When a customer or applicant contacts a public utility to make a payment agreement as required by section 1410 (relating to complaints filed with commission), the public utility shall:

(1) Provide information about the public utility's universal service programs, including a customer assistance program.

(2) Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for a program and to apply for enrollment in a program.

(3) ~~Negotiate a good faith payment agreement with the customer pursuant to the requirements of 52 Pa Code § 56.97.~~

~~(4) If after issuing a termination notice, the utility makes an offer in writing to accept less than the amount that would satisfy the termination notice, that amount must be a firm and binding amount that would prevent termination of service with the terms for payment, including timing and method of payment, set out in writing.~~

(5) Have an affirmative responsibility to attempt to collect payment on an overdue account. The utility shall report to the commission annually residential customer accounts which have accumulated \$10,000 or more in arrearages and shall demonstrate what efforts are being taken to collect the arrearages. Failure to make reasonable attempts to collect payments on overdue accounts with arrearages in excess of \$10,000 may result in civil fines or other appropriate sanctions by the commission.

(6) Report to the commission on an annual basis the number of medical certificates and renewals submitted and accepted in the service territory.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

2014 Amendment. Act 155 added section 1410.1.

§ 1411. Automatic meter readings.

All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title. Upon a customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee, as provided in a commission-approved tariff.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

~~§ 1412. Reporting of delinquent customers. A city natural gas distribution operation shall report to the Pennsylvania Intergovernmental Cooperation Authority established pursuant to the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of~~

Commented [CPM34]: OCA Comment: This would become a statutory requirement for the utility to make a diligent attempt at a payment agreement before the household contacts the PUC.

Commented [CPM35]: OCA Comment: This requirement is intended to prevent a scenario where a customer is told orally that they can pay an amount less than the noticed amount to avoid termination only to pay that amount and be told again that it is insufficient. This happens with regularity under current rules.

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~~the First Class, an assisted city or corporate entity of an assisted city, as those terms are defined in the Pennsylvania Intergovernmental Cooperation Authority Act, that has not paid in full for charges for service by the due dates stated on the bill or otherwise agreed upon.~~

§ 1413. Reporting of recipients of public assistance.

The Department of Human Services ~~Public Welfare~~ shall ~~annually~~ make available to all utilities with signed LIHEAP or other ~~utility assistance~~ vendor agreements, ~~provide a city natural gas distribution operation with the~~ listing of recipients of LIHEAP or any other public assistance, ~~including other utility assistance administered by DHS,~~ that has income guidelines at or below 150% of the federal poverty income level. ~~in a city of the first class.~~ A utility ~~city natural gas distribution operation~~ shall not use the listing for anything but qualification and continued eligibility for a customer assistance program, ~~or other assistance program administered by the utility.~~ ~~or LIHEAP.~~

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 1414. Liens by city natural gas distribution operations.

(a) General rule.--A city natural gas distribution operation furnishing gas service to a property is entitled to impose or assess a municipal claim against the property and file as liens of record claims for unpaid natural gas distribution service and other related costs, including natural gas supply, in the court of common pleas of the county in which the property is situated or, if the claim for the unpaid natural gas distribution service does not exceed the maximum amount over which the Municipal Court of Philadelphia has jurisdiction, in the Municipal Court of Philadelphia, pursuant to sections 3 and 9 of the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, and Chapter 22 (relating to natural gas competition).

~~**(b) Residential field visit charge.**--A city natural gas distribution operation is authorized to charge a minimum fee of \$10 for each instance in which its representative is required to visit the residence of a customer in the process of attempting to complete required service termination steps.~~

~~**(c) Refusal of service.**--The commission shall permit a city natural gas distribution operation to refuse to provide service to an applicant if the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.~~

§ 1415. Reporting to General Assembly and Governor.

No later than five years following the effective date of this chapter and every five years thereafter, the commission shall submit a report to the Governor, the Chief Clerk of the House of Representatives and the Secretary of the Senate reviewing the implementation of the provisions of this chapter. The report shall include, but not be limited to:

- (1) The degree to which the chapter's requirements have been successfully implemented.
- (2) The effect upon the cash working capital or cash flow, uncollectible levels and collections of the affected public utilities.
- (3) The level of access to utility services by residential customers, including low-income customers.
- (4) The effect upon the level of consumer complaints and

Commented [CPM36]: OCA Comment: These PGW specific requirements should be eliminated.

Commented [CPM37]: OCA Comment: These PGW specific provisions should be eliminated.

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mediations filed with and adjudicated by the commission. Public utilities affected by this chapter shall provide data required by the commission to complete this report. In its recommendations, the commission may also propose any legislative or other changes which it deems appropriate to the Governor and the General Assembly.

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

2014 Amendment. Act 155 amended the intro. par.

§ 1416. Notice.

Within 30 days of the effective date of this chapter, public utilities affected by this chapter shall provide notice to the customers explaining the changes to be implemented.

§ 1417. Nonapplicability.

This chapter shall not apply to victims under a protection from abuse order as provided by 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or a court order issued by a court of competent jurisdiction ~~in this Commonwealth~~, which provides clear evidence of domestic violence against the applicant or customer. (Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

§ 1418. Construction.

Nothing in this chapter shall affect any rights or procedure under the act of November 26, 1978 (P.L.1255, No.299), known as the Utility Service Tenants Rights Act, or the provisions of Subchapter B of Chapter 15 (relating to discontinuance of service to leased premises).

(Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

§ 1419. Expiration.

This chapter shall expire December 31, 20~~23~~4. (Oct. 22, 2014, P.L.2545, No.155, eff. 60 days)

2014 Amendment. Act 155 added section 1419.

Commented [CPM38]: OCA Comment: Courts in the Commonwealth recognize court orders from other jurisdictions. If a victim of domestic violence has a protective order from another state, they should be permitted to use that order, not just orders issued in the Commonwealth.