

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



**Regarding the Chapter 14 of Title 66 of the Public Utility Code Residential
Utility Billing, Collections, and Termination Standards**

**Prevention-Focused Reform is Needed to Ensure All Pennsylvanians Can Access
and Maintain Safe and Affordable Energy and Water Services**

**Testimony of Elizabeth R. Marx, Esq.
Executive Director, Pennsylvania Utility Law Project**

October 3, 2023

Greetings, Chairman Stefano, Chairwoman Boscola, and Members of the Senate Consumer Protection and Professional Licensure Committee. Thank you for the invitation and opportunity to provide testimony to aid in the Committee's examination of Chapter 14 of the Public Utility Code, which governs consumer billing, collections, and terminations. It is an honor to come before you to discuss this critically important matter.

My name is Elizabeth Marx, I am the Executive Director of the Pennsylvania Utility Law Project – known as PULP. The Pennsylvania Utility Law Project is a statewide specialty legal services project of Regional Housing Legal Services and is a member of the Pennsylvania Legal Aid Network. We provide legal representation, policy advocacy, education, and support services in furtherance of our mission to ensure that Pennsylvanians with limited economic means can connect to and maintain safe and affordable utility services to their homes. The collections policies in Chapter 14 deeply influence our work. Each year, we represent the interests of tens of thousands of low income Pennsylvanians facing utility insecurity in all corners of the state – helping keep the lights on and the water running to their homes. We see firsthand the severe economic strain of high energy and water prices on Pennsylvania families, and bear witness to the profound and lasting consequences when a family cannot afford to pay.

My written testimony is organized into three sections. While lengthy, it is designed to provide the Committee with a deep dive – offering critical context and comprehensive data necessary to understand the impact of Chapter 14 in its current form and how amendments could dramatically improve the lives of residential utility customers in the Commonwealth. In the first section, I provide an overview of utility insecurity, explaining the drivers and the consequences of this pervasive issue which impacts the daily lives of well over 1.2 million Pennsylvania households. In the second section, I explain how collections policies in Chapter 14 directly contribute to utility insecurity in the Commonwealth. As illustrated by two decades of collections data, the tools enshrined in Chapter 14 have worked to exacerbate utility insecurity without any measurable improvement in uncollectible expenses. Finally, in the third section, my testimony will walk the Committee through our specific concerns with various collections tools included in Chapter 14 and offer recommendations for comprehensive reforms that emphasize prevention over punishment.

When Chapter 14 (known as the “Responsible Utility Customer Protection Act”) was first passed in 2004, the General Assembly was explicit that its goal was “to achieve greater equity by eliminating opportunities for customers *capable of paying* to avoid the timely payment of public utility bills” – while ensuring service is “available to all customers on reasonable terms and conditions.”¹

In practice, and contrary to the stated purpose and goals of Chapter 14, the collections tools enshrined in the Chapter have had a punitive impact on households experiencing utility insecurity – punishing economically vulnerable households that are *incapable* of paying the ever-increasing cost of energy and water services. As discussed throughout my testimony, the provisions of Chapter 14 have served to compound debts - driving increasing disparities in termination rates and resulting in a cascade of harsh consequences to low income families and the communities in which they live and work. If we continue to take a punitive approach to utility collections, utility insecurity, and the associated costs to other ratepayers, will only grow more pronounced over time as water and energy costs continue to rise.

Our aim in pursuing comprehensive reforms to Chapter 14 is to chart a new path forward for utility collections in Pennsylvania - striking a more equitable balance that serves the needs of every Pennsylvanian to access clean, safe, and stable water and energy services in their home.

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¹ 66 Pa. C.S. § 1402(2)-(3) (declaration of policy) (emphasis added).

Contextualizing Utility Insecurity in Pennsylvania

To fully understand how utility collections policies, like those included in Chapter 14, can be so impactful, it is imperative to understand the significance of the problem of utility insecurity – and the resulting ripple effects. Utility insecurity is, indeed, pervasive across our Commonwealth and has increased in breadth and severity in recent years as energy and water prices have continually outpaced inflation. Well over 1.2 million Pennsylvania households living at or near the federal poverty level are already struggling to afford basic needs, and face intersectional housing, food, and utility insecurity.

Experts in utility affordability often refer to a household’s “utility burden”, the percent of gross household income spent on home utility (energy and water/wastewater) costs, to determine whether service is reasonably affordability for all consumers.

On the energy side, there is general agreement across the field that, to be affordable, a combined energy burden should not exceed 6%. On average, residential energy consumers in Pennsylvania (inclusive of all income levels) typically face a combined average energy burden of between 3-4%, while low income residential consumers in Pennsylvania face much higher combined energy burdens, ranging between 7-33%, depending on income tier.²

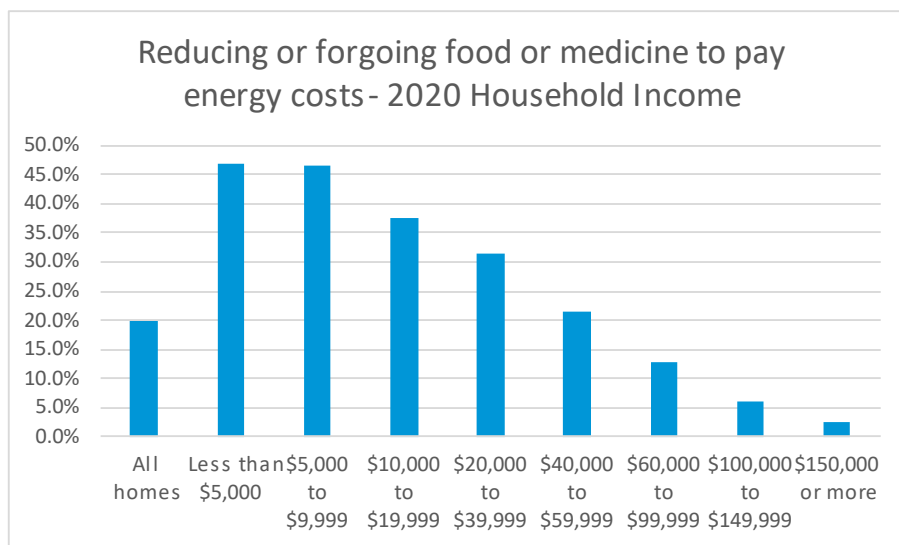
2022 Home Energy Affordability Gap (Fisher, Sheehan, & Colton)³

Federal Poverty Level	Home Energy Burden
Below 50%	33%
50-100%	18%
100-125%	12%
125-150%	10%
150-185%	8%
185-200%	7%

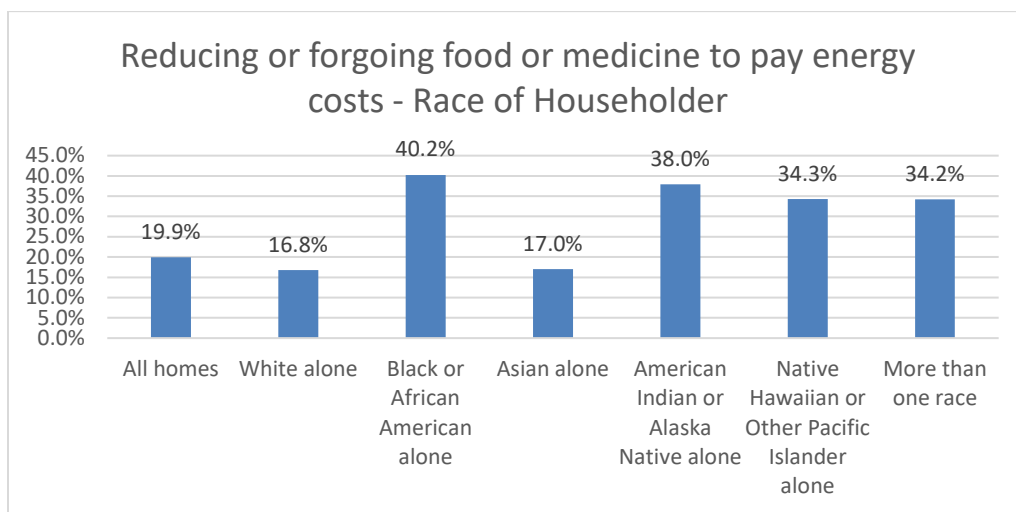
² Fisher, Sheehan, & Colton, The Home Energy Affordability Gap: 2022 (April 2023) (hereinafter Home Energy Affordability Gap), http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html; see also Pa. PUC, Home Energy Affordability for Low-Income Customers in Pennsylvania (Jan. 2019), <https://www.puc.pa.gov/pdocs/1602386.pdf>.

³ Fisher, Sheehan, & Colton, The Home Energy Affordability Gap: 2022 (April 2023) (hereinafter Home Energy Affordability Gap), http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html.

Families facing such high energy burdens must make difficult choices between whether to heat their home or feed their family – this is well known as the “heat or eat” dichotomy. According to the federal Energy Information Administration’s Residential Energy Consumption Survey, over 20% of households nationwide report forgoing other life-sustaining necessities to pay for energy costs.⁴ When broken down by income, the disparities are clear: Low and moderate income families face disproportionate levels of utility insecurity, regularly forgoing food, medicine, and other basic necessities to afford energy services to their home.⁵



There are also clear race-based disparities in utility insecurity that cannot be ignored.⁶



⁴ U.S. Department of Energy, Energy Information Administration, 2020 Residential Energy Consumption Survey (released 2022), <https://www.eia.gov/consumption/residential/data/2020/>.

⁵ Id.

⁶ Id.

Utility insecurity is not solely the consequence of inadequate income, it is also driven by disparities in housing quality and access to home energy and water efficiency upgrades that can help reduce high usage.

While not squarely at issue in this hearing, it is important to recognize that issues in the residential competitive market are also driving disparities in energy burden for low income families across the Commonwealth. From 2015 to 2020, Pennsylvania's residential electric shopping customers were charged over \$1.5 billion more than they would have been charged if they remained on default service.⁷ These excessive prices have had a significant impact on involuntary termination rates and utility write-offs – particularly for low income consumers, who are more susceptible to promised savings and sign-on incentives.⁸

Like energy, water and wastewater costs are also rising across the Commonwealth at an alarming rate. While some increased costs are driven in part by the cost of infrastructure investments to remove lead and forever chemicals from our water systems, acquisition costs in the sale of public water and wastewater systems have resulted in steep increases to water and wastewater rates.⁹ While water and wastewater bills were a relatively small portion of household expenses a decade ago when Chapter 14 was last reauthorized, we now regularly assist families facing monthly water and wastewater bills that exceed 10-20% of household income. Even a small leak – such as a running toilet – can cause a family's water and wastewater costs to skyrocket, further burdening already overwhelmed families.

⁷ See Testimony of Elizabeth R. Marx, Executive Director, Pennsylvania Utility Law Project In Opposition of HB 1789, https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2022_0073_0002_TSTMNY.pdf; see also Scott Patterson & Tom McGinty, *Deregulation Aimed to Lower Home-Power Bills. For Many, It Didn't*, Wall Street Journal (March 8, 2021), <https://www.wsj.com/articles/electricity-deregulation-utility-retail-energy-bills-11615213623?page=16>.

⁸ Marcus Dieterle, *Energy Supplier Choice Aimed to Lower Marylanders' Bills, But Some Customers Are Left Feeling Powerless* (Dec. 28, 2021), <https://baltimorefishbowl.com/stories/energy-supplier-choice-aimed-to-lower-marylanders-bills-but-some-customers-are-left-feeling-powerless/> (providing an interactive map of door-to-door marketing activities in Maryland, which reveals higher marketing activities in predominately Black and low income zip codes); see also MA Attorney General, *Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts: 2021 Update*, at viii-ix (Mar. 2021) <https://www.mass.gov/doc/2021-competitive-electric-supply-report/download>.

⁹ According to estimates from the Office of Consumer Advocate, recent water and wastewater acquisitions have added approximately \$68 million to water and wastewater rates *each year* – substantially increasing monthly water and wastewater bills for residential consumers.

Pennsylvania's water utilities lack consistent standards of what burden level is considered affordable and have often fallen back on federal system-wide standards utilized by the Environmental Protection Agency that examine affordability from the standpoint of an entire community – not individual low income families.¹⁰ The absence of distinct water and wastewater affordability standards has made it difficult to systematically address water insecurity felt by Pennsylvania's consumers as rates for water and wastewater services continue to rise.

The consequences of utility insecurity are vast and have reverberating impacts on individuals and the communities in which they live and work. When a consumer falls behind on their utility bills, they often must take time away from work to negotiate with the utility and/or apply for assistance. This is no small task, and often requires access to fax machines and hours of time on hold with multiple agencies and/or customer service. For hourly workers, time to handle personal matters during business hours is often severely limited and could result in disciplinary action. Low-wage workers often face additional working constraints compared to higher-wage workers. For example, low-wage workers often do not have access to leave time or flexible working schedules – further limiting their ability to navigate the stringent requirements of Chapter 14 to stay connected to services.

Unresolved utility debt can also serve as an immediate catalyst for eviction and/or the loss of public housing assistance and may disqualify a family from future public or private housing rental options – driving short and long-term housing insecurity and homelessness.¹¹

When unresolved utility debt reaches the point of involuntary service termination, the loss of electricity, heat, and running water can have severe short- and long-term impacts on the health, safety, and financial stability of families and individuals – especially for uniquely vulnerable populations, including Seniors, individuals with a disability, and young children. The loss of refrigeration, exposure to extreme temperatures, and the inability to prepare food, bathe, or

¹⁰ See Pa. PUC v. Aqua, CAUSE-PA St. 1 at 39-40, Docket Nos. R-2021-3027385, 3027386 (CAUSE-PA St. 1 dated Nov. 10, 2021) (providing an in-depth examination of water and wastewater affordability standards).

¹¹ See Joint State Government Commission, General Assembly of the Commonwealth of Pennsylvania, Homelessness in Pennsylvania: Causes, Impacts, and Solutions: A Task Force and Advisory Committee Report (2016), <http://jsg.legis.state.pa.us/resources/documents/ftp/documents/HR550%201%20page%20summary%204-6-2016.pdf>.

sanitize surfaces can all serve to expose household members to serious health consequences.¹²

Involuntary service termination can also trigger other state intervention by the local health department, code enforcement, children and youth services and/or area agencies on aging. These stark consequences of utility insecurity come at a great cost to families – as well as the local, state, and federal agencies, schools, health providers, and nonprofits that must devote increased resources to stabilize families and communities.

Universal service programs play a critical role in alleviating utility insecurity and offer an alternative path to traditional collections for low income consumers that cannot reasonably afford service. However, as I discuss in further depth below, existing programs are severely under-subscribed and can be difficult to access in time to prevent the loss of service. There are also currently no statutory requirements that PUC-regulated water and wastewater utilities develop and maintain universal services programs, nor are there any specific regulatory standards governing oversight of water and wastewater programs. While a few large water utilities have developed rate assistance programs through the course of individual utility rate proceedings to address broad unaffordability, the programs are in their infancy and lack comprehensiveness necessary to address the multifaceted issues that arise in addressing water insecurity.

In the coming years, utility costs will continue to rise across the state as we work to repair aging infrastructure, cope with increasingly severe storms and temperatures that threaten grid stability, remove forever chemicals and lead from our drinking water, and navigate the rapid transformation of our energy and water systems. In grappling with these challenges, we must enact policies that promote universal access regardless of individual wealth. As I will discuss in the final section of my testimony, there are a multitude of ways that the Committee can reform Chapter 14 to address utility insecurity – ensuring all Pennsylvanians can reasonably afford to connect and maintain services to their home.

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¹² Diana Hernández, Understanding 'energy insecurity' and why it matters to health. Soc Sci Med. at 167: 1-10 (Oct. 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5114037/>.

Chapter 14 Exacerbates Utility Insecurity

As noted at the outset of my testimony, the collections tools in Chapter 14 have ensnared Pennsylvanians experiencing utility insecurity – resulting in the disproportionate loss of utility service for those who are categorically *unable* to pay, contrary to the explicit goals of the Act. At the same time, while the impetus of Chapter 14 was to reign in uncollectible expenses borne by other ratepayers, there has not been a proportional decrease in uncollectible expenses since Chapter 14 took effect in 2004.

In 2021, confirmed low income customers accounted for roughly 12% of residential electric customers and 15% of residential gas customers, yet this same customer group accounted for over one-third (35%) of payment troubled electric customers and two-thirds (66%) of payment troubled gas customers.¹³ Confirmed low income customers also carried the lion's share of utility debt – shouldering 51% of residential electric debts and 30% of residential gas debts.

Residential and Low Income Customer Debt, 2021¹⁴

	Residential \$ In Debt	Confirmed Low Income \$ In Debt	% of Debt Carried by Confirmed Low Income Customers
Electric	\$375,388,503	\$190,842,367	51%
Gas	\$175,246,559	\$52,674,654	30%
Water/WW	Unknown*	Unknown*	Unknown*

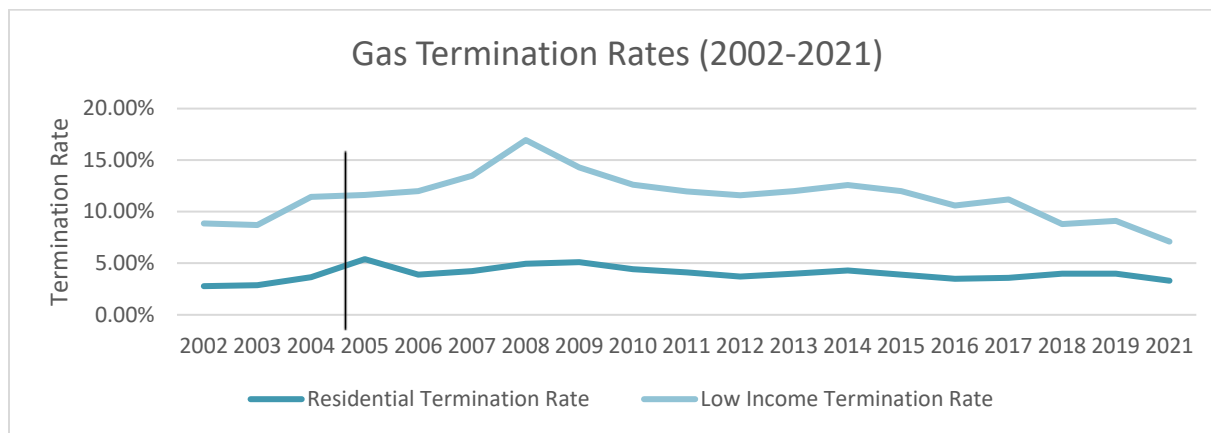
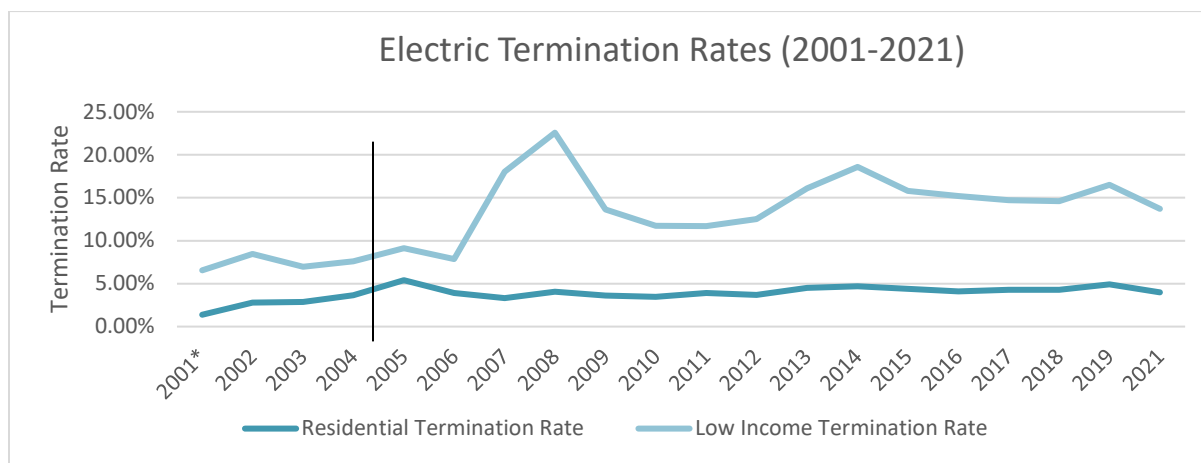
The disproportionately high debt levels carried by confirmed low income customers are not an indication that low income customers do not want to pay – it is an indication that they are unable to pay. As discussed above, low income families often face energy and water burdens in excess of 10-33% of household income, leaving very little left to pay for all of life's basic needs.

¹³ Universal Service Report at 7-8, 11.

¹⁴ Universal Service Report at 23-24. *Water and wastewater utilities are not currently required to publicly report this information.

The consequences of loss of utility services are severe and potentially long lasting. As discussed, termination of service to the home can jeopardize a parent’s custody of their children and is often cited as a cause of evictions from private and public housing, leading to increased rates of housing insecurity and homelessness. Utility consumers who can afford to pay will continue to do so to prevent these harsh consequences.

Low income households have long carried higher debts relative to residential customers as a whole. However, following implementation of Chapter 14, the delta between residential and low income termination rates as a result of higher debts increased exponentially.¹⁵



¹⁵ Compiled from data in the 2001-2021 Universal Service Reports, <https://www.puc.pa.gov/filing-resources/reports/universal-service-programs-and-collections-performance-reports/>. Note that electric data was first available in 2001, whereas gas data was not available until 2002. Termination data was excluded from the chart for 2020, as terminations were largely prohibited as a result of the pandemic-related moratorium on utility terminations.

Notably, there was a significant increase in electric and gas termination rates in 2008 coinciding with the Great Recession, and again in 2014 following the Polar Vortex, when prices in the competitive electric market spiked dramatically due to prolonged negative temperatures and correspondingly high demand. However, residential consumers as a whole did not experience the same dramatic increase in termination rates through these volatile economic periods, evidencing a direct correlation between the *inability* to pay and the loss of service under Chapter 14 collection standards.

On the gas side, the delta in termination rates between low income and residential customers has declined. While noteworthy, this decline is likely attributable to the decline in gas prices due to increased gas production in our state. As of August 2023, after high gas prices plagued the 2022/2023 winter heating season, gas termination rates have increased 42% year over year.¹⁶

In 2021, following record levels of utility debt incurred as a result of the pandemic and the economic pressures that followed, low income termination rates declined for both gas and electric utilities. This decline was most likely attributable to the fact that many regulated Pennsylvania utilities had not yet fully resumed termination activities following the pandemic-related moratorium on utility terminations – coupled with the extraordinary levels of emergency utility assistance funding administered through the Low Income Home Energy Assistance Program (LIHEAP), the Emergency Rental Assistance Program, and the Low Income Household Water Assistance Program (LIHWAP), which helped families to catch up with rising utility debt.

Unfortunately, with the expiration of extraordinary energy and water assistance funds, involuntary termination rates have again increased. In December 2022, involuntary terminations of residential electric, gas, and water services were up 3% year over year.¹⁷ **As of August 2023, involuntary terminations were up 8% year over year.**¹⁸ According to the National Energy

¹⁶ Pa. PUC, Terminations and Reconnections: Year-to-Date Aug. 2022 vs. Year-to-Date Aug. 2023, <https://www.puc.pa.gov/media/2514/terminations-reconnectionsyt-d-july22vs23.pdf>.

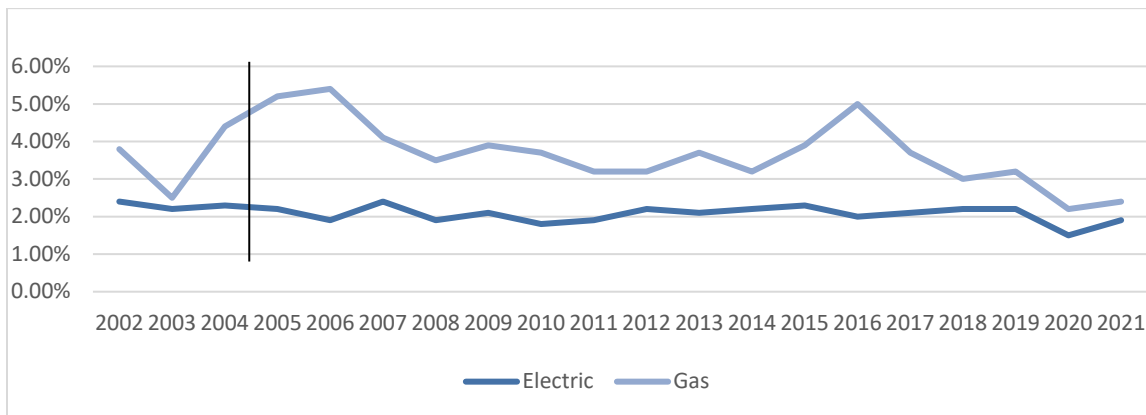
¹⁷ Pa. PUC, Terminations and Reconnections: Year-to-Date Dec. 2021 vs. Year-to-Date Dec. 2022 (distributed by the PUC, on file with PULP). Note that the Commission does not publish prior year-to-date termination data comparisons on its website.

¹⁸ Pa. PUC, Terminations and Reconnections: Year-to-Date Aug. 2022 vs. Year-to-Date Aug. 2023,

Assistance Director’s Association’s Winter Heating Price Outlook, released just last week, winter heating costs are projected to remain high through 2023/2024 heating season.¹⁹ Given the high energy costs we experienced through winter 2023, coupled with the extreme temperatures in winter and summer driving increased usage and the prospect of another season with high winter heating costs, we expect the corresponding termination rate to further increase through the remainder of 2023 and well into 2024.

While involuntary termination rates continue to climb, there has not been a corresponding decline in uncollectible expenses since Chapter 14 was first enacted in 2004.

Gross Write-Off Ratio, Residential Electric and Gas Utilities²⁰



As the above chart shows, the gross write-off ratio remained relatively stagnant for electric utilities, while the write-off ratio was higher for gas utilities in most years following enactment of Chapter 14. As explained above with regard to recent termination data, extraordinary levels of federal relief received in 2020 and 2021 helped suppress the write-off ratio – though the ratio

<https://www.puc.pa.gov/media/2514/terminations-reconnections-tytd-july22vs23.pdf>. This increase in termination rates would have been even higher if PPL Electric had not paused terminations through July as a result of wide-spread billing errors through early 2023.

¹⁹ NEADA, Winter Heating Price Outlook (released Sept. 20, 2023), <https://neada.org/wp-content/uploads/2023/09/winteroutlook2023.pdf>

²⁰ Compiled from data in the 2001-2021 Universal Service Reports, <https://www.puc.pa.gov/filing-resources/reports/universal-service-programs-and-collections-performance-reports/>. The “Gross Write-Off Ratio” is calculated by dividing the annual total gross dollars written off for residential accounts by the annual total dollars of residential billings. According to the PUC, “The measure offers an equitable basis for comparison of gross residential dollars written off to the annual total dollars of residential billings.” Id. 2021 Universal Service Report at 44.

nevertheless remained largely consistent with pre-Chapter 14 levels. Given the persistently high energy and water costs through 2023, which are expected to continue into 2024, we anticipate the residential write-off ratios for gas and electric will continue to increase.

Simply put, **Chapter 14 does not provide the right tools for the hard job of alleviating utility insecurity, and in many ways serves to compound collections costs and write-offs that are ultimately borne by other ratepayers.** As a practical matter, in the days before or immediately following a utility termination, many households end up in bankruptcy proceedings, while others go for extended stretches of time without service or relocate out of the service territory. Regardless of the path, the end result is the same...and nobody wins. The household is without service, the utility is without a customer, and the debt is written off and recovered through rates from other residential ratepayers. The bottom line? We need common-sense reforms that are rooted in prevention to ensure that all Pennsylvanians, regardless of wealth, can maintain service to their home.

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Recommended Chapter 14 Reforms

While Chapter 14 cannot, alone, solve utility insecurity, common-sense reforms would meaningfully improve access to utility services for all Pennsylvanians regardless of wealth. Currently, Chapter 14 uses punitive tools to compel payment, permitting utilities to levy various fees and charges which serve to compound affordability challenges and increases the likelihood of termination. What we need are preventative tools that equitably address affordability challenges, promote regular payment, and keep people connected to life-sustaining services.

PULP recommends this Committee advance critical improvements to Chapter 14 that emphasize prevention of debt accrual from the start, and provide the Commission, consumers, and utilities with the right tools to equitably address arrears when they accrue:

➤ *Improve Access to Reasonable Payment Arrangements*

Reforms to existing payment arrangement standards will help customers pay down debt and prevent additional debt from accruing. Chapter 14's current payment arrangement standards are inflexible, and do not account for the day-to-day realities faced by economically vulnerable households. While Chapter 14 restricts the number and length of payment arrangements the PUC may issue, it does not set minimum standards or requirements for utilities to issue reasonably affordable payment arrangements.²¹ In our experience, utilities often offer payment arrangement terms that do not account for a customer's income – or the facts and circumstances leading the customer to fall behind. Standard six-month or one-year payment arrangements are often provided on a “take-it or leave-it” basis, often through an automated phone system, without consideration for what a consumer can reasonably pay. When faced with the loss of electricity, heat, or water, payment-troubled consumers regularly accept the terms as quoted – even if the resulting payment is unaffordable.

When an initial utility-issued payment arrangement is unaffordable, it sets consumers up for failure – making matters worse down the road. Given the high cost of energy and water, it only takes a few missed payments for a relatively small debt to balloon into a few thousand dollars. By the time a consumer reaches the PUC to request an income-based payment arrangement

²¹ 66 Pa. C.S. § 1405, 1407.

pursuant to the stringent provisions of Chapter 14, they may owe several thousand dollars. In this scenario, even the maximum 60-month payment arrangement may be unaffordable for a low income family. Customers who cannot afford these unrealistic payment arrangements often quickly default and are ineligible for additional payment arrangements – issued by *either* the PUC or their utility. With no viable path to make reasonable payments on their debt, consumers in this situation often end up on a path to bankruptcy.

The inability to obtain an adjusted payment arrangement, absent a significant change in income of 10% or more, or extreme change of circumstances such as the death of a primary wage earner, does not match real-life circumstances that impact the ability of a consumer to make payments toward a payment arrangement. For many households, especially those living paycheck to paycheck, any change in income or unexpected expense such as a doctor's visit or car repair could cause the consumer to miss a payment.

Finally, the prohibition on payment arrangements for consumers enrolled in a Customer Assistance Program (CAP) is unduly harsh, and is a big contributor to high low income termination rates. CAPs provide critical rate assistance but do not always produce a consistent level of affordability. Like all families, low income families often encounter unexpected expenses that cause them to fall behind. If that happens, they should have the opportunity to obtain a reasonable payment arrangement if they fall behind on their bill.

To be successful, payment arrangement standards need to be aligned with the real-life, practical hardships and financial obstacles facing low and moderate income households.

We recommend the following payment arrangement reforms:

- Expand the definitions of “*change in income*” and “*change in circumstances*” to include a broader range of circumstances that may impact a consumer's ability to pay.
- Allow the PUC to issue additional equitable payment arrangements that consider facts and circumstances of the household, and to extend income-based payment arrangements if necessary to ensure a payment does not exceed 20% of their average monthly bill.
- Lengthen income-based payment arrangement terms for current customers and those seeking reconnection, and increase income thresholds to include low and moderate income families.
- Allow households enrolled in a Customer Assistance Program to access an equitable payment arrangement if they fall behind on their bill.

➤ *Ensure Universal Service Programs are a First Line Defense*

As noted above, universal service programs offer a critical tool for addressing utility insecurity. When accessed early, before debt is accrued, universal service programs can serve an important prevention role – helping stabilize utility costs before they get out of control.

When consumers can afford to pay their bill, they most often do. Research conducted by the National Bureau of Economic Research supports the concept that if low income households are able to pay their utility bills, they will. A study evaluating the timing of when benefits were provided to low income households showed that, if low income households could cover other basic needs, the likelihood of late payment was reduced 35.6% and the likelihood of service disconnection was reduced by 64%. Outstanding balances dropped by 67%.²²

Despite the fact that confirmed low income customers (who are *known* to the utility to be eligible for CAP) carry disproportionate levels of utility debt, enrollment in gas and electric Customer Assistance Programs (CAPs) – which offer comprehensive rate assistance and the opportunity to earn arrearage forgiveness – reaches less than 25% of estimated eligible customers.²³

We find that sometimes there is confusion concerning payment arrangements and CAPs. Customers, especially those under duress who are looking for recourse to stay connected to utility service, frequently have trouble evaluating their options as they do not understand which service would most benefit them, a payment arrangement or enrolling in their utility’s CAP.

Chapter 14 requires utilities to “provide information about the public utility’s universal service programs” to consumers who call requesting a payment arrangement.²⁴ However, in practice, we find that most utilities only make passing reference to universal service programs, and do not explain the benefits of the program, help determine whether the customer is eligible, or assist with the application process. Some utilities use an automated system to offer payment arrangements and do not speak directly with a consumer who is requesting a payment arrangement, so a referral to CAP is never made.

²² National Bureau of Economic Research; The Bulletin of Retirement and Disability: How Bill Timing Affects Low-Income and Aged Households; May 2, 2020.

²³ Universal Service Report at 7-8, 60.

²⁴ 66 Pa. C.S. § 1410.1

Even when an effective referral is made, it is often too late for the household to enroll in a program to prevent termination. CAP enrollment can take several weeks and sometimes even months to fully process. In the interim, low income households face termination, as there is no requirement for a utility to maintain service while a universal service program application is pending review. Once terminated, a consumer must make substantial upfront payments for services to be restored. This is why enrolling eligible customers in a CAP early is of vital importance and consequence.

Utilities should not wait until a consumer is “payment troubled” to assist the household to enroll in universal service programs. Indeed, when it comes to collections, prevention is the best cure. Improving the availability and access to universal service programming – *before debts are accrued* – will help to measurably improve payment frequency and payment coverage, reducing uncollectible expenses and termination rates.

We recommend adopting the following reforms to improve the availability of and access to universal service programs for electric, gas, and water/wastewater utilities:

- Define “universal service and energy conservation” consistent with the definitions contained in sections 2203 and 2802 of the Public Utility Code.
- Amend the definition of “customer assistance program” to:
 - Apply to all customer assistance programs operated by a public utility, including programs operated by water and wastewater utilities.
 - Require all “customer assistance programs” to produce affordable monthly bills based on Commission-established utility burden standards.
- Require utilities to screen applicants and customers for household income to facilitate enrollment in available universal service and energy conservation programs.
- Improve universal service program integration and streamline program enrollment.
- Require utilities to utilize data from the Department of Human Services to enroll eligible customers in their Customer Assistance Programs.
- Improve universal service and collections data reporting requirements and public disclosure, and ensure consistency in reporting across electric, gas, water, and wastewater utilities.

➤ *Reform Medical Certificate Process to Expand Access and Promote Equitable Payment*

Expanding access to and building in the means for equitable payment for medically vulnerable households is another meaningful way of ensuring utility payment can be made and that debts do not accrue, while at the same time protecting this vulnerable customer population from the loss of service. There are thousands of medically vulnerable individuals across our state who rely on running water, electricity, heat, and air conditioning to treat a range of conditions and illnesses. Many households have significant medical-related usage, such as oxygen machines, hospital beds, motorized wheelchairs, and breathing machines, which drive up home energy costs – contributing to energy insecurity. For medically vulnerable individuals, the ability to maintain stable utility service can be a matter of life and death.²⁵ Given the shift in focus of healthcare to in-home care, especially for aging Seniors and individuals with a disability that are largely reliant on fixed income, the need for comprehensive medical protections to prevent utility termination has grown.²⁶

While Chapter 14 provides short-term protection from involuntary termination for medically vulnerable households, the medical certification process imposes unnecessarily burdensome requirements that are especially difficult for individuals with chronic illnesses and those that lack access to affordable health care options. As it stands, the medical certificate process requires a household to see a doctor or nurse practitioner every 30 days. It is both untenable and unrealistic to require *any* household to be able to access the health care services required for the completion of a medical certificate every 30 days – especially those who may have inadequate health coverage or high co-pays. Indeed, the addition of a co-pay only detracts from the ability of a consumer to keep up with utility costs.

Medical certificates are not only difficult to obtain, the payment requirements for consumers protected by a medical certificate are confusing and difficult for medically vulnerable consumers to navigate. Pursuant to the Commission’s regulations, a consumer protected by a medical

²⁵ See NCLC, Protecting Seriously Ill Consumers From Utility Disconnections: What States Can Do To Save Lives Now (Feb. 2021), https://www.nclc.org/wp-content/uploads/2022/09/Serious_Illness_Rpt.pdf

²⁶ Dr. Peter Kahn et al., Regulators Can Save Lives by Protecting Medically Vulnerable Utility Users, The Hill (Sept. 10, 2022), <https://thehill.com/opinion/energy-environment/3637206-regulators-can-save-lives-by-protecting-medically-vulnerable-utility-users/>.

certificate must make payment on current charges to renew a medical certificate beyond the first 90 days of protection.²⁷ But in practice, we find that medically vulnerable consumers are rarely informed of this ongoing payment requirement, or of the consequences if they do not continue to pay their current charges while the medical certificate is in place. Typically, a household only resorts to the burdensome process of obtaining a medical certificate as last resort, after they have defaulted on a payment arrangement – leaving very few options once the medical certificate expires. Indeed, we regularly serve clients with extreme medical vulnerabilities who are unable to obtain a payment arrangement from the utility following issuance of a medical certificate. As a result, following the short-term extension, service is often terminated to medically vulnerable households regardless of the severe consequences to the health and safety of the consumer.

Notably, many large healthcare systems in the Commonwealth have developed policies prohibiting providers from issuing medical certificates, further limiting the options of vulnerable customers to utilize this important protection.

Protections for medically vulnerable households must be accessible and must account for the real-life challenges inherent in our health system. Comprehensive amendments to the medical certificate process are critical to remove barriers to obtaining a certificate, improve payment options, and ensure that medically vulnerable family members can focus on getting better – without worrying that their service will be shut off.

We recommend adopting the following medical certificate reforms:

- Extend the duration of a medical certificate from 30 to 90 days, or up to six months for households with a chronic illness or long-term condition.
- Allow consumers protected by a medical certificate to access an equitable payment arrangement, regardless of past payment history.
- Expand approved signatories to include licensed social workers and registered nurses.
- Allow medically vulnerable households that obtain a medical certificate to participate in universal service programs.

²⁷ 52 Pa. Code §§ 56.114(2), 56.116.

➤ *Prohibit Terminations in the Hottest and Coldest Months*

Chapter 14 includes a winter shut-off moratorium. It is not an exaggeration to state that this provision saves lives. The winter utility service moratorium keeps customers connected to utility service during the coldest months of the year, avoiding the preventable deaths that result from a lack of access to safe home heating.²⁸ However, the winter moratorium does not currently apply to water and wastewater, unless the consumer relies on water services to heat their home (e.g., steam or geothermal heat).²⁹ Even when water and wastewater services are not required to operate home heating equipment, running water and sanitation services are nevertheless essential to health and safety through the cold winter months.

With summer heat intensifying, a similar moratorium applied during the hottest summer months would likewise prevent heat-related deaths of customers whose electric service would otherwise be terminated. July of 2023 was one of the hottest months on record since humans have been recording temperature data.³⁰ Unsurprisingly, with rising temperatures, heat-related deaths are also increasing.³¹ To prevent heat related illness or death, the U.S. Center for Disease Control notes that access to air conditioning and hydration are essential protective factors against heat-related illness.³² Customers disconnected from water and electricity service during the hottest months of the year are disconnected from protective lifelines, and disconnection is especially risky for Seniors, young children, and individuals with underlying conditions.

We recommend the following reforms to ensure Pennsylvanians remain connected in the winter and summer months when temperatures are most extreme:

- Increase the current income threshold for winter protection to protect households with income at or below 300% of the Federal Poverty Level.
- Extend the moratorium to all water and wastewater services.
- Impose a credit-related moratorium on utility terminations from July 1 to August 31.

²⁸ U.S. Consumer Product Safety Commission; A Preliminary Analysis of Hyperthermia Deaths Associated with Electric Room/Space Heaters; March 2019 (Updated February 2022); https://www.cpsc.gov/s3fs-public/A_Preliminary_Analysis_of_Hyperthermia_Deaths_Associated_with_Electric_Room_and_Space_Heaters_1.pdf?VersionId=m8FAQVmd9_sezNiQHwApM8y.4UTZ8do; accessed September 25, 2023.

²⁹ 66 Pa. C.S. § 1406(e).

³⁰ NASA, NASA Closes July 2023 as Hottest Month on Record Ever Since 1880, <https://www.nasa.gov/press-release/nasa-closes-july-2023-as-hottest-month-on-record-ever-since-1880>.

³¹ Cory Sharber, Philadelphia Confirms Heat-Related Deaths, WHYY (July 28, 2022).

³² CDC, Nat'l Ctr. for Environmental Health, Tracking in Action: Extreme Heat, <https://www.cdc.gov/nceh/features/trackingheat/index.html>.

➤ *Improve Utility Policies and Practices for Notice to Customers of Service Termination*

Chapter 14 only requires utilities to mail a written termination notice ten calendar days in advance of a service termination³³ – leaving very few business days for a consumer to research, apply for, and receive assistance that may prevent the termination. We regularly serve clients who indicate that the first notice they received of a pending termination was the three-day phone call or email – while others explain that they were unaware until service was shut off.

We also have a growing population for whom English is a second language, and there are scant requirements for utilities to translate critical notices into other commonly spoken languages.

Customers facing termination of their utility service require proper notification and adequate time and assistance to work with their utility, the Commission, social service providers, and universal service program administrators to seek assistance, obtain a medical certificate, or otherwise work to resolve a pending termination.

We recommend the following notice reforms:

- Require utilities to provide an additional 30-day written notice of termination and a 10-day electronic notice of termination, sent in tandem with the current 10-day written notice.
- Require utilities to post notice at the service address in advance of termination.
- Require utilities to translate termination notices and other essential documents in English, Spanish, and other commonly spoken languages.
- Require utilities to provide an interpreter for individuals with limited English proficiency.

➤ *Eliminate Cash Deposits, Reconnection, and Late Fees*

Chapter 14 authorizes utilities to levy security deposits, late fees, and reconnection fees on payment-troubled customers,³⁴ which serves to compound underlying affordability challenges and makes it more difficult for families to catch up. While Chapter 14 contains a prohibition on security deposits for low income customers, this prohibition has been difficult to enforce without a corresponding requirement for utilities to disclose the prohibition and affirmatively request income information for all customers to determine whether the prohibition applies.

³³ 66 Pa. C.S. § 1406(b).

³⁴ 66 Pa. C.S §§ 1404, 1407, 1409.

Cash deposits and reconnection fees compound payment trouble and economic insecurity, and there is little to no evidence that these fees do anything to incentivize payment. To the contrary, these types of pecuniary charges and fees serve as a punitive barrier for low and moderate income households to re-establish service following an involuntary termination.

We recommend the following reforms to eliminate excessive fees and charges:

- Prohibit utilities from charging reconnection fees, late fees, and other charges that exacerbate barriers to reconnection.
- Increase the income-based prohibition on security deposits to households with income at or below 300% of the federal poverty level.
- Require cash deposits to be returned in full in the next billing cycle if a utility learns that a prohibition applies.
- Limit cash deposits to one-twelfth of the applicant's estimated annual bill.
- Prohibit cash deposits for current customers who fall behind on a payment arrangement.

➤ *Expand Protections for Survivors of Domestic Violence*

The existing domestic violence exemption is another life-saving provision currently included in Chapter 14. The exemption is critical for the health and safety of domestic violence survivors and their families – helping to ensure that utility debts accrued by a third party do not prevent a survivor from establishing a safe home.

To be eligible for the domestic violence exemption, Chapter 14 currently requires a survivor to have a Protection from Abuse Order or another court order which contains clear evidence of domestic violence. This standard is difficult for utilities to administer and does not reach many of the most at-risk survivors of domestic violence, who are unable to access protection from the courts. Utilities should not be empowered to make a judgement call as to whether a court order contains sufficient evidence that an individual is a victim of domestic violence. In turn, requiring a survivor to provide their utility with a copy of their PFA can disclose extremely sensitive information about the nature of abuse and often includes graphic detail about the survivor's victimization.

We recommend the following reform to the domestic violence exemption:

- Allow a certified domestic violence counselor or advocate, as defined in section 23 Pa. C.S. § 6102 to certify that a consumer is a victim of domestic violence.

➤ **Establish Utility Data Reporting and Public Disclosure Requirements**

As explained throughout, water and wastewater utilities are not currently required to adhere to the same universal service and collections reporting requirements that electric and gas utilities must adhere to. This means that there is very little publicly available data to assess the effectiveness of water and wastewater programs or collections policies. At the same time, while electric and gas utilities are subject to specific reporting requirements, there are often inconsistencies in how a utility collects and reports on each data point.

Imposing specific, annual, publicly disclosed reporting requirements of all public utilities will provide the General Assembly, the Commission, and the public with the necessary tools to evaluate the effectiveness of, and thus continually improve, policies included in Chapter 14.

We recommend the following reform to public utility reporting requirements:

- Require large water and wastewater utilities to report on universal service and collections data, consistent with the electric and gas utilities.
- Require the PUC to include water and wastewater utility data in its annual Universal Service and Collections Performance Reports.

* * * * *

This concludes my written testimony. Attached to my testimony is a section-by-section description and proposed redline of our Chapter 14 recommendations, offering practical guidance for how the Committee could incorporate the critical reforms I have discussed today.

It has been an honor and a privilege to provide testimony to the Committee on this critically important issue, and I look forward to working with each of you in the coming weeks and months to ensure that all Pennsylvanians can establish and maintain affordable, safe, and clean water and energy services to their home.

Respectfully,



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APPENDIX

Summary of Priorities Section-by-Section Recommended Reforms Proposed Redline of Chapter 14



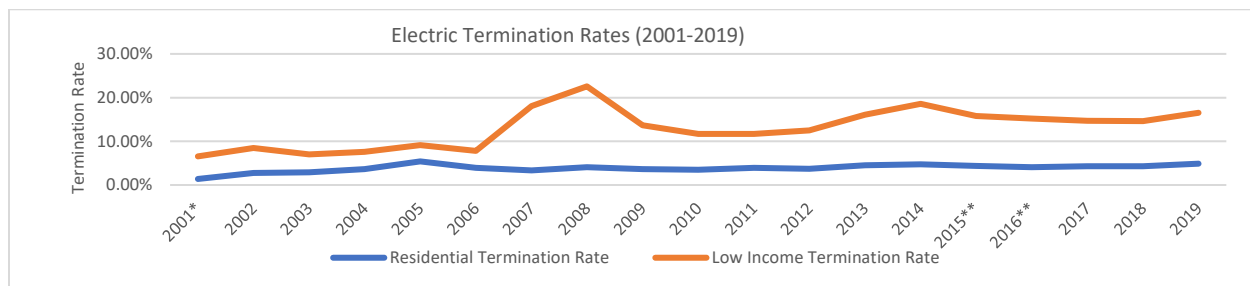
Critical Reforms Needed to Advance Equitable Access to Affordable Water and Energy

An increasing number of Pennsylvanians are unable to afford basic energy and water services to their home. Low income Pennsylvanians often pay upwards of 40% of their household income on energy and water costs alone. **In 2022, over 320,000 Pennsylvania families went without water, electricity, gas, and sanitation services because they could not afford to pay.**

In December 2024, Chapter 14 of the Public Utility Code, which governs consumer billing, collections, termination, and other consumer service standards, will expire.

The expiration of Chapter 14 provides a distinct opportunity to advance meaningful reforms to the Public Utility Code that rectify inequities and ensure access to safe and affordable utility services across Pennsylvania.

Shortly after adoption of Chapter 14 in 2004, the disparity in termination rates between low income consumers and residential consumers as a whole increased substantially and has remained persistently high ever since.



Chapter 14, known as the Responsible Utility Customer Protection Act, was explicitly passed “to achieve greater equity by eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.” 66 Pa. C.S. § 1402 (declaration of policy). In practice, however, the Act has increased involuntary terminations for economically vulnerable families that are incapable of paying, causing deep and lasting consequences to the health, safety, and stability of Pennsylvanians experiencing poverty and financial hardship.

For nearly two decades PULP has represented low income clients ensnared by the harsh collections and terminations policies enshrined in Chapter 14. Through our emergency utility hotline, we serve Pennsylvanians every day who are unable to reasonably afford essential services like drinking water, heat, sanitation, and electricity and have little recourse available to maintain life-sustaining service to their home.

All Pennsylvanians should have access to safe and affordable utility services in their home. Indeed, this simple principle of universal service is at the very heart of the regulatory compact.

It is critical that we transform Chapter 14 to remedy inequitable credit and collections policies and advance access to affordable energy and water services. To that end, we believe the following key reforms must be a top priority in any reauthorization of Chapter 14:

- **Safeguard Medically Vulnerable Pennsylvanians from Involuntary Termination**
 - Authorize registered nurses and licensed social workers to issue medical certificates.
 - Extend the length of medical protections to six months.
 - Improve rules for medical certificate renewal.
 - Allow medically vulnerable consumers to participate in universal service programs.
- **Advance Equitable Payment Terms**
 - Allow the Public Utility Commission to issue multiple equitable payment arrangements that consider facts and circumstances beyond household income.
 - Lengthen payment arrangement terms for low and moderate income households.
 - Allow households enrolled in a Customer Assistance Program to access an equitable payment arrangement if they fall behind on their bill.
 - Prohibit utilities from charging reconnection fees, late fees, and other costs that exacerbate barriers to reconnection.
- **Keep Pennsylvanians Connected in Heating and Cooling Months**
 - Require all utilities to adhere to the winter moratorium and expand winter moratorium to protect those with income up to 300% of the federal poverty level.
 - Impose a moratorium on credit-related termination from July 1 through August 31.
- **Improve Notice of Termination**
 - Require an additional 30 day written notice of termination, and add a 10-day electronic notice of termination in tandem with 10-day written notice.
 - Require utilities to post notice at the service address in advance of termination.
 - Require utilities to translate termination notices and other essential documents (including notices and bills) in English, Spanish, and other commonly spoken language.
 - Require utilities to provide an interpreter for individuals with limited English proficiency.
- **Strengthen Universal Service Requirements for Energy and Water**
 - Strengthen universal service and conservation program requirements and transparency.
 - Require the Public Utility Commission to promulgate regulations governing universal service and conservation programming, consistent with existing universal service policy.
 - Require utilities to screen applicants and customers for household income to facilitate referral to and enrollment in available universal service and conservation programs.
 - Improve universal service program integration and streamline program enrollment.

Utility costs will continue to rise across the state in the coming years as we work to repair aging infrastructure, cope with increasingly severe weather, and navigate the rapid transformation of our energy grid and water systems. In addressing these fundamental challenges, we must improve our universal service policies and programs to ensure our communities can thrive.

Detailed Summary of Proposed Chapter 14 Reforms

The following provides a section-by-section summary of proposed reforms to Chapter 14 contained in the redlines below to help provide additional context and explanation.

Section 1403, Definitions

- Amend the definition of “change in income” to encompass a change in income of 10% or more if the customer’s household income level exceeds 200% of the Federal poverty level (FPL) or a 5% or more if the customer’s household income level is 200% or less of the Federal poverty level.
 - *This amendment will help ensure that households experiencing a material loss of income will be able to negotiate a new payment arrangement. The loss of 5% of income can significantly impact the financial stability of a low income family.*
- Amend the definition of “customer assistance program” to apply more broadly to all customer assistance programs operated by a public utility, and to ensure the programs produce affordable monthly bills based on Commission-established utility burden standards.
 - *This amendment will help to standardize universal service programs, and ensure the programs operate as intended to ensure Pennsylvanians experiencing poverty can access basic services at reasonably affordable rates.*
- Amend the definition of “medical certificate” to protect households from termination if a household member is seriously ill or is diagnosed with a medical condition, and to allow a registered nurse or licensed social worker to issue a medical certificate.
 - *This amendment will better protect medically vulnerable households from the loss of life-sustaining services by allowing medical certificates to be issued by licensed health professionals that are most likely to serve low income populations, which often lack access to traditional healthcare services. Expanding the list of qualifying professionals will also match the realities of the current healthcare system, where an appointment with a physician or physician assistant may take several months – far longer than necessary to prevent an involuntary utility termination.*
- Amend the definition of “significant change in circumstances” to include other critical life circumstances that could substantially impact the financial stability of low income consumers.
 - *This amendment will better reflect the real-life hardships faced by low income families, who most often lack adequate income to meet basic needs and expenses.*
- Define “universal service and energy conservation” consistent with the definitions contained in sections 2203 and 2802 of the Public Utility Code.
 - *This term is used throughout Chapter 14 but is not currently defined within the Chapter. The proposed addition mirrors language in sections 2203 and 2802 and will help to clarify that the term applies to all universal service and energy conservation programs operated by a public utility – including electric, gas, water, and wastewater.*
- Amend the definition of “Water distribution utility” to clarify that a water distribution utility acting under the Water Services Act to terminate service on behalf of a wastewater utility is subject to the provisions under the Chapter.
 - *This amendment will ensure that water utilities comply with the terms of Chapter 14 in all instances where water service is involuntarily terminated, including when service is terminated as a result of wastewater debt owed to a utility not regulated by the Commission.*

Summary of Proposed Chapter 14 Reforms – Pennsylvania Utility Law Project

Section 1404, Cash Deposits and Household Information Requirements

Proposed amendments to section 1404 are intended to alleviate unreasonable barriers to service for vulnerable populations. It is punitive to impose a security deposit as a condition to establishing or continuing service and serves only to exacerbate economic insecurity. In turn, utilities should only require applicants for service to provide the name of adults (over 18 years of age) whose name appears on the mortgage, deed or lease, as these are the only household members who may be held jointly liable for incurred debt.

- Amend section 1404(a) to limit cash deposits to *one-twelfth* of the applicant's estimated annual bill, as opposed to the current one-sixth maximum deposit.
- Eliminate the grounds for requiring a cash deposit under Section 1404(a) where a customer falls behind on a payment arrangement.
- Amend section 1404(a.1) to prohibit public utilities from assessing a cash deposits for households with income at or below 300% FPL, and to require public utilities to inform applicants and customers of the prohibition at the time that a cash deposit is assessed.
- Amend section 1404(c)(1) to return cash deposits, including any interest, by the next billing cycle where a public utility obtains information indicating that a cash deposit is prohibited under 1404(a.1).
- Clarify section 1404(c)(3) to ensure the decision about whether the deposit is returned to the customer or credited to the customer's account belongs to the customer.
- Amend section 1404(d) allow a public utility to require applicants to provide the name of each *adult occupant* (18 and over) residing at the location *whose name appears on the mortgage, deed, or lease of the service residence*.
- Strike the unnecessary distinction contained at Section 1404(f) for city gas distribution utilities (namely, Philadelphia Gas Works), as this distinction is no longer necessary.

Section 1405, Payment Arrangements

Proposed amendments to section 1405 are intended to align the payment arrangement standards with the real-life, practical hardships and financial barriers facing low and moderate income households. As reflected in the recommended reforms, it is critical that the legislature allow the Commission to issue additional or longer-term payment arrangements when necessary to ensure payments are reasonable.

- Increase the income threshold for 5 and 3-year payment arrangement terms in section 1405(b) to better reflect the financial realities facing both low and moderate income households.
- Add section 1405(b.1) to indicate that, if a customer's monthly payment would exceed 20% of their average monthly bill, the Commission may further extend a payment arrangement length not to exceed two times the payment arrangement length entitled under Section 1405(b).
- Amend section 1405(c) to ensure that low income consumers are able to access a payment arrangement if they fall behind – even if they are actively enrolled in a utility's Customer Assistance Program.
- Amend section 1405(d) to require that the Commission establish a second payment arrangement for consumers who default on their first Commission-issued arrangement, and to allow the Commission to establish subsequent arrangements if the customer experienced a change in income or a significant change in circumstance.

Summary of Proposed Chapter 14 Reforms – Pennsylvania Utility Law Project

Section 1406, Termination of Utility Service

Proposed amendments to section 1406 are intended to help reduce the wide disparity in termination rates between low income households and other residential consumers. Involuntary termination of critical, life-sustaining energy and water services threatens the health, safety, and wellbeing of Pennsylvanians.

- Improving the notice provisions under Section 1406(b)(1) so that, prior to termination of service under Section 1406(a), a public utility must:
 - Provide 30-day written notice and post notice at the service residence at least ten days prior to the date of proposed termination.
 - Attempt to contact the customer or occupant to provide notice of the proposed termination at least 5 days prior to the scheduled termination, instead of the current 3-day contact requirement.
 - In the case of electronic notification, require utilities to update customer contact information and preferences annually.
- Clarify that, pursuant to section 1406(b)(1)(iv), a public utility must attempt to make personal contact with the customer or responsible adult at the residence at the time service is terminated.
- Amend the notice provisions under Section 1406(b) to indicate that all termination notices must be provided in English and Spanish, and require public utilities to post a copy of its written termination notices and a description of its termination process in on its publicly accessible website.
- Amend section 1406(d) to prohibit termination on a federal or state holiday or on the business day immediately prior to a federal or state holiday to ensure that consumers are able to apply for assistance programs, make a payment, or access other critical social, medical, or legal services necessary to prevent potential devastating consequences of termination.
- Amend section 1406(e) to indicate that prohibitions on winter termination apply to a public utility and to customers with household income at or below 300% FPL.
- Remove the distinction related to city natural gas distribution operation set forth in Section 1406(e)(2).
- Amending section 1406 to provide for a protection from termination during the hottest Summer months (July 1 through August 31) for customers with household income at or below 300% FPL.
- Amend the protections for medically vulnerable households to:
 - Provide a temporary hold on termination for 7 days if a consumer is attempting to obtain a medical certificate from their provider;
 - Allow medical certificates to remain valid for up to 90 days from the date of submission, or 6 months from the date of submission in the case of long-term of chronic illness; and
 - Prohibit utilities from limiting the number of medical certificates that a provider may issue to protect a medically vulnerable consumer from the loss of critical life-sustaining services.

Section 1407, Reconnection of Service

Proposed amendments to section 1407 are intended to ensure that low and moderate income consumers do not face unreasonable barriers that prevent reconnection of service following a termination. The loss of energy or water services to a home is often a catalyst for eviction and condemnation – and, if not addressed quickly, can cause long-term housing instability. It is critical that all consumers, regardless of wealth, are able to quickly reconnect service – without facing unreasonable financial or logistical barriers.

Summary of Proposed Chapter 14 Reforms – Pennsylvania Utility Law Project

- Amend section 1407 to prohibit reconnection fees for customers or applicants with income at or below 300% FPL, and require public utilities to inform consumers of this prohibition.
- Amend section 1406(c)(2) to allow households with income below 300% FPL to obtain a restoration payment arrangement even if they previously defaulted on 2 or more payment arrangements.
- Amend section 1406(c)(2)(ii) to allow consumers to obtain a longer-term payment arrangement, based on their household income tier.
- Amend section 1406(c)(2) to indicate that consumers who are eligible for a public utility's customer assistance program shall be permitted to reconnect to services through enrollment in the public utility's customer assistance program.
- Amend section 1406(c)(2) to remove the distinction related to a city natural gas distribution operation.

Section 1409, Late Payment Charge Waiver

The proposed amendment to section 1409 would strengthen the authority of the Commission to waive late payment fees for low and moderate income households, extending the protection from 150% FPL to 300% FPL – and changing the permissive “may” to a mandatory “shall”.

Section 1410.1, Public Utility Duties

The proposed amendments to section 1410.1 are intended to strengthen requirements for public utilities to screen consumers for eligibility in universal service programs and to ensure that critical income-based protections contained in Chapter 14 are appropriately implemented. This will help to ensure households receive an affordable rate BEFORE arrears begin to accrue – and will in turn help ensure that low and moderate income households are able to access the rights available to them through Chapter 14.

- Add subsection 1410.1(a), requiring public utilities to screen applicants and customers to determine their income level at the time of establishing service and annually thereafter.
- Adjusting the language of section 1410.1(b) (revised) to require public utilities to:
 - Provide information about the public utility's universal service programs in, at minimum, English and Spanish;
 - Assess whether the applicant/ customer is eligible for the public utility's universal service and conservation programs prior to negotiating a payment arrangement; and
 - Refer all potentially eligible customers/applicants to the public utility's universal service program administrator to determine eligibility and apply for these programs. The program administrator or other representative of the public utility must be able to communicate with the customer in, at minimum, English and Spanish.

Section 1412, Reporting of Delinquent Customers

- Eliminate the distinction for city natural gas distribution operations contained at Section 1412.

Section 1413, Reporting of Recipients of Public Assistance

The proposed amendments to section 1413 are intended to ensure that the Department of Human Services will share information about utility assistance recipients with public utilities for the limited purpose of enrolling the consumer in a utility-run universal service program.

Summary of Proposed Chapter 14 Reforms – Pennsylvania Utility Law Project

Section 1414, Liens by City Natural Gas Distribution Operations

- Eliminate the distinction for city natural gas distribution operations contained at Section 1414(b-c).

Section 1417, Nonapplicability

The proposed amendments to section 1417 would allow a certified domestic violence counselor or advocate, as defined by 23 Pa. C.S. 6102, to confirm with a public utility that a consumer is a victim of domestic violence and exempt from the provisions of this Chapter. The domestic violence exemption in section 1417 is critical for health and safety of domestic violence survivors and their families – helping to ensure that utility debts accrued by a third party do not prevent a survivor from establishing a safe home.

Section 1419, Expiration

Update section 1419 to provide that Chapter 14 will expire December 31, 2034. It is critical that the legislature continue to periodically review Chapter 14, and make adjustments based on available data and experience.

Additional Section: Public Utility Data Reporting and Public Disclosure

In addition to the proposed reforms, we recommend including an additional provision requiring annual, public reporting by public utilities to enable critical analysis of utility terminations. Specifically, we recommend requiring disaggregation of termination, reconnection, and universal service data based on race, ethnicity, and income status to help determine the extent to which Chapter 14 policies are having a disproportionate impact on certain populations.

CHAPTER 14

RESPONSIBLE UTILITY CUSTOMER PROTECTION

Sec.

- 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 provide public utilities with an equitable means to reduce 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.

Recommended Reforms, Pennsylvania Utility Law Project

(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.

§ 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 ~~20~~10% or more if the customer's household income level exceeds 200% of the Federal poverty level or a decrease in household income of ~~10~~5% 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 or customer's ability to meet bill payment obligations for utility service.

"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.

"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), in which customers make affordable monthly payments based on household income and household size~~ Commission-established utility burden standards and under which customers must comply with certain responsibilities and restrictions in order to remain eligible for the program.

"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 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

Commented [A1]: This definition is determinative to whether second and further payment arrangements may be issued under Section 1405(d). These adjustments will improve access to subsequent payment arrangements under Chapter 14.

Commented [A2]: We are removing reference to the Choice Acts and defining it here. The proposed amendment is intended to clarify that the term is not limited to electric and gas utilities, but instead applies to any public utility's Customer Assistance Program. Further down in definitions, we propose defining Universal service and energy conservation.

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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~~ **Human Services**.

"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, ~~registered nurse,~~ ~~or~~ physician's assistant, ~~or 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.

"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~~
- ~~(2) (1) significant loss in the customer's household income.~~
- ~~(3) (2) Catastrophic~~ ~~Damage to the customer's~~
residence ~~or vehicle~~ resulting in a significant net cost to the customer's household.
- ~~(4) (3) Loss of the customer's residence.~~

Commented [A3]: In addition to these improvements to accessibility of medical certificates outlined in this section, we are proposing improvements to medical certificates below. See our attached explanation of priority amendments.

Commented [A4]: Deletion of "verified by the public utility": eliminates an ambiguous standard and places the focus on the customers experience.

Deletion of "resulting in a significant loss in the customer's household income": a consumer may experience financial hardship as a result of chronic or acute illness (e.g. medical bills), regardless of change of income.

Deletion "catastrophic" related to damage of customer's residence: if resulting in significant net costs to a household, requiring a showing of catastrophic damage should not be required.

Inclusion of damage to a customer's vehicle: causes financial hardship to customers.

Inclusion of "loss or reduction in household income": this criteria should constitute, by itself, a significant change in circumstances.

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

(5) The loss or reduction in household income.

"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.

"Universal service and energy conservation." Policies, programs, and services that help low-income customers to maintain utility services to their home. The term includes customer assistance programs, arrearage management programs, bill discount programs, grant assistance programs, collections and termination policies, and programs that help low-income customers to reduce or manage consumption in a cost-effective manner.

"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. A water distribution utility acting under the Water Services Act to terminate services on behalf of wastewater utilities shall be subject to the provisions of this Chapter.

(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, and except as provided under subsection (a.1), 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-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 reasons:

- (i) Nonpayment of an undisputed delinquent account.
- (ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.

Commented [A5]: This addition provides important clarify the purpose of universal service and conservation programs.

Commented [A6]: We are adding this portion of the definition to protect customers who are facing termination of services for wastewater utilities, where a water distribution utility under the Water Service Act is acting to terminate services. This provides an important protection so that customers can access protections where a water utility acting under the Water Services Act.

Commented [A7]: This change improves accessibility and affordability and is consistent with rental situations where one pays one-month's rent as deposit.

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(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.

(viii) 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.

~~(3) A customer who fails to comply with a material term or condition of a settlement or payment arrangement.~~

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

(a), no public utility may require a customer or applicant ~~that is confirmed to be eligible for a customer assistance program with income at or below 300% of the federal poverty level~~ to provide a cash deposit. A public utility must inform applicants and customers of the prohibition on cash deposits set forth in this paragraph at the time a cash deposit is assessed.

(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. If a public utility obtains information indicating that a cash deposit is prohibited under Subsection (a.1) after collection of a deposit, the public utility shall return the deposit to the customer or applicant by the next billing cycle, including any interest accrued on the deposit.

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

(3) At 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 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

Commented [A8]: We support the following reasoning of OCA -- 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 [A9]: We support OCA's reasoning that this income threshold is consistent with evidence that households at this income level are at or below the self-sufficiency standard and thus need assistance.

Commented [A10]: We support the following reasoning by OCA -- 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.

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 [A11]: This is an important revision that recognizes the ongoing need to ensure that customers at or below the required income threshold prohibiting security deposits may timely receive a return of their deposits.

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deposit.

(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 ~~whose name appears on the mortgage, deed, or lease of the service residence 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 who resides at the address as the individual's residence.

(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).

§ 1405. Payment arrangements.

(a) **General rule.**--The commission is authorized to investigate complaints regarding payment disputes between a public utility,

Commented [A12]: We believe that this stands as a barrier to accessing services, and should be eliminated.

Commented [A13]: We support OCA's reasoning that "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 terms Adult and Occupant above."

Commented [A14]: There is no reasonable basis to continue applying stricter collections rules for PGW customers.

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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 subpart (b.1), t~~he 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~~250% of the Federal poverty level.

(2) Three years for customers with a gross monthly household income level exceeding ~~150~~250% and not more than ~~250~~300% of the Federal poverty level.

(3) One year for customers with a gross monthly household income level exceeding ~~250~~300% of the Federal poverty level and not more than ~~300~~400% of the Federal poverty level.

(4) Six months for customers with a gross monthly household income level exceeding ~~300~~400% of the Federal poverty level.

(b.1) If a customer's monthly payment would exceed 20% of their average monthly bill based on the duration established in subpart (b), the commission may further extend the applicable length of the payment arrangement not to exceed two times the length of the payment arrangement the customer would otherwise be entitled to under subpart (b).

(c) Customer assistance programs. ~~---Past due balances accrued while a customer is enrolled in a Universal Service and Conservation Program shall be treated as an eligible balance for a payment arrangement. Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission.~~

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

~~(d)~~ **(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 an initial period of ~~six~~twelve 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 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)

Commented [A15]: We are advocating for additional flexibility related to the length of payment arrangements that must be provided to customers based on the indicated FPL tiers. This additional flexibility will help to better address debts incurred by low and moderate income customers.

Commented [A16]: Existing language in this section stands as a barrier to customers being able to access payment arrangements and maintain services. We believe that additional flexibility should be included in this section to allow customers to access additional payment arrangements.

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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 ~~ten~~thirty days prior to the date of the proposed termination. In addition to mailing written notice of termination pursuant to these provisions, a public utility shall post a written notice of termination at the service residence at least ten days prior to the date of proposed termination. The termination notice shall remain effective for ~~60~~50 days.

(ii) Shall attempt to contact the customer or occupant to provide notice of the proposed termination at least ~~three~~five 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.

(E) A utility must update customer contact information and preferences for electronic and telephonic notification of termination annually.

(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 (i), (ii) and (iii), the public utility shall attempt to make personal contact with the customer or responsible adult at the residence at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.

(2) All notice of termination provided for under subsection (1) shall be provided in English and Spanish.

(3) A public utility shall post a copy of its written

Commented [A17]: We are advocating for improvements in notice provision under this Section for customers facing service termination. Improvements are needed in these notice provisions as a result of delays in mail service, as well as the need to provide customers with additional opportunities to resolve grounds for termination, including through enrollment in CAP.

These improvements include additional time for written notice of termination, and additional posting of notice of termination at a residence at least 10 days prior to the proposed termination to allow customers to be provided sufficient time and notice to resolve grounds for termination.

Additionally, protections in the case of electronic communication related to termination notices should be provided to help ensure that utilities have current information related to customer contact information and preferences.

Commented [A18]: This provision will help to ensure that public utilities have up-to-date contact information related to electronic notifications.

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termination notices and a description of its termination process in a conspicuous location on its publicly accessible website.

~~(2)~~ (4) Absent special circumstances, a public utility 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). Service may not be terminated on Fridays, holidays, or the business day immediately preceding a federal or state holiday.

(e) Winter termination.--

(1) Unless otherwise authorized by the commission, after November 30 and before April 1, ~~an electric distribution utility or natural gas distribution~~ a public utility shall not terminate service to customers with household incomes at or below ~~250~~300% 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~~ a public utility from terminating service in accordance with this section to customers with household incomes ~~exceeding 250~~300% 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~~300% 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.~~

Commented [A19]: As a result of delays in mailing and other issues with notices provided through mail, we recommend this additional means of notification.

Commented [A20]: Post-termination notices are critical to provide information related to reconnecting to services. It is important to strengthen this language to ensure that customer are receiving these notices.

Commented [A21]: The alterations in this subsection strengthen the protections related to winter termination to public utilities in acknowledgement of the critical role that utilities service in allowing customers to remain in their homes -- especially during months where temperatures create unsafe conditions.

Additionally, we have strengthened this winter protection to 300% FPL of household income to acknowledge the affordability faced by households at these income levels.

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~~(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)(i) Has paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last two months.~~

~~(3)(2)~~ 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).

Commented [A22]: There is no longer reasonable justification for imposing harsher collections and termination standards on Philadelphia residents.

(f) Summer Termination. ~~Unless otherwise authorized by the commission, after July 1 and before August 31, a public utility shall not terminate service to customers with household incomes at or below 300% of the Federal poverty level except for customers whose actions conform to subsection (c) (1). The commission shall not prohibit a public utility from terminating service in accordance with this section to customers with household incomes exceeding 300% of the Federal poverty level.~~

(g) 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.~~

Commented [A23]: We are recommending implementation of a summer moratorium on terminations for customers at or below 300% FPL. Summer months are accompanied by precipitous temperature increases that threaten customers health and safety, and require customers to be able to stay in their homes with working utility services.

(1) Temporary Holds. ~~If, prior to termination of service, a public utility employee is informed that an occupant is seriously ill or has a medical condition and that the customer is seeking a medical certification, termination may not occur for at least 7 days. If a certification is not produced within that 7-day period, the public utility may resume the termination process at the point where it was suspended;~~

(2) Duration. ~~Service may not be terminated for, at minimum, 90 days from the date of submission of a medical certificate, or 6 months from the date of submission where a medical certificate indicates a long-term or chronic illness.~~

(3) Renewals. ~~A public utility shall not limit the number of medical certificates which a licensed medical or social service provider is permitted to issue.~~

Commented [A24]: The additional proposed language below related to temporary holds, duration, and renewals regarding medical certificate are suggested as a result of the critical need to improve accessibility related to medical certificates. In particular, the proposed language related to temporary holds provides additional flexibility for customers to obtain medical certificates in light of longer waiting periods required by medical providers. The improvements to medical certificate duration recognizes the need for additional time to address and recover from medical conditions, and the unique nature of long term and chronic conditions. The proposed improvements to renewals of medical certificates recognizes the critical need of customers with medical conditions or illnesses to remain in their homes.

~~(f)(h)~~ **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 utility assistance from the Department of Public Welfare Human Services 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.~~

~~(g)(i)~~ **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),~~

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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.

§ 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.

(a.i) Reconnection Fee Prohibition. --Notwithstanding subsection (a), no public utility may require a customer or applicant with income at or below 300% of the federal poverty level to provide a reconnection fee. A public utility must inform applicants and customers of the prohibition on reconnection fees set forth in this paragraph at the time a reconnection fee is assessed.

(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) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal

Commented [A25]: This inclusion is in recognition that reconnection fees stand as an insurmountable barrier to low and moderate income households from reconnecting to services. It is essential that protections are established to eliminate the barrier that reconnection fees pose to these households and to require that households are adequately informed about this prohibition.

Commented [A26]: We have adjusted the language in this Subsection to provide additional flexibility related to payments of outstanding balances and reconnection fees. Low and moderate income households are often unable to meet these stringent requirements for payment. Additional provisions should be made to reasonably allow these households to meet payment obligations.

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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 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 ~~or reduction that extended beyond nine months~~.

(B) A serious illness ~~that extended beyond nine months~~.

(C) Death of the primary wage earner.

(ii) Full payment of any reconnection fees together with repayment over ~~12-24~~ months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income exceeding ~~150~~250% of the Federal poverty level but not greater than 300% of the Federal poverty level.

~~(iii) Full payment of any reconnection fees together with p~~Payment over ~~24-36~~ months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding ~~150~~300% of the Federal poverty level.

~~(iii)(iv)~~ A customer or applicant who is eligible for a public utility's customer assistance program shall be permitted to reconnect to services through enrollment in the public utility's customer assistance program, without any up-front payment of arrears. or applicant of a city-natural gas distribution operation whose household income does not 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.

(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)

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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~~ shall 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 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 contacted the public utility, the commission shall direct the customer to the public utility.

(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.

(a) A public utility shall be required to screen an applicant or customer to determine if the applicant or customer's household income is at or below 300% of the federal poverty level at the time service is established and on an annual basis thereafter. The public utility shall attempt to update income information at least once per year.

~~(a)~~ (b) 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), where the public utility has information that the customer or applicant is or was payment troubled; or where the public utility receives information that the applicant or customer's household may qualify the customer for a universal service and energy conservation program, the public utility shall:

(1) Provide information about the public utility's universal service programs, including a customer assistance program in, at minimum, English and Spanish.

Commented [A27]: We have included new Subsection (a) so that customers who are low/moderate income can more readily be identified by a public utility. This is an essential first step to these customers learning about and enrolling in available assistance.

Commented [A28]: These adjustments help to ensure that applicants/customers will be provided the below-indicated information and assistance in greater circumstances where they may be eligible for assistance, not just where they are requesting certain payment agreements.

Commented [A29]: The additions/adjustments in these Subsections will help a greater number of income-eligible customers to access services by requiring additional assessment by a public utility, and will help customers who are Limited English Proficient to have greater access to information and assistance.

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~~(1)~~ (2) Assess whether an applicant or customer is eligible for the public utility's universal service and conservation programs prior to negotiating a payment arrangement.

~~(2)~~ (3) Refer all the potentially eligible customers or applicants to the universal service program administrator of the public utility to determine eligibility for a program and to apply for enrollment in a program. The program administrator or other representative of the public utility must be able to communicate with the customer in, at minimum, English and Spanish.

~~(b)~~ (c) Public utilities 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.

~~(e)~~ (d) 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 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 ~~Public Welfare~~ Human Services shall annually provide ~~a city natural gas distribution operation~~ public utilities with ~~the a~~ listing of recipients of LIHEAP or other utility assistance administered by the Department of Human Services ~~public assistance in a city of the first class~~. A ~~city natural gas distribution operation~~ public utility shall not use the listing for anything but qualification and continued eligibility for a customer assistance program or LIHEAP. The public utility shall use this listing to enroll customers in their universal service programs.

Commented [A30]: The adjustments made in this Section eliminate the distinction related to city natural gas distribution operations and provide additional reporting from DHS to public utilities that will help to enroll additional customers in assistance programs.

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.

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§ 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 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); a written certification from a domestic violence counselor or advocate as defined by 23 Pa. C.S. 6102 or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence

Commented [A31]: The adjustments to this Section will provide additional means to show eligibility for utility protections for victims of domestic violence. These adjustments are in recognition that many victims of domestic violence may be unable to obtain PFAs or other court order, but have faced dangers and barriers as a result of domestic violence.

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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, ~~2024~~2034.

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

2014 Amendment. Act 155 added section 1419.

REPORTING REQUIREMENTS (RACE//Ethnicity/GENDER/TERMINATION DATA)

Within 30 days after the end of each calendar year, each public utility shall file with the Commission a public report containing the following minimum information:

- (1) The total number of residential customers, disaggregated by race;
- (2) The total number of residential confirmed low income customers, disaggregated by race;
- (3) The total number of residential customers terminated for nonpayment, disaggregated by race;
- (4) The total number of confirmed low income residential customers terminated for nonpayment, disaggregated by race;
- (5) The total number of residential confirmed low income customers;
- (6) The total number of residential confirmed low income customers in arrears;
- (7) The total number of residential confirmed low income customers terminated for nonpayment during the quarter;
- (8) The total number of residential confirmed low income customers in arrears and on a payment arrangement;
- (9) The total number of residential confirmed low income customers on arrears and not on a payment arrangement;
- (10) The total number of 10-day termination notices sent out by the Company to residential confirmed low income customers.

Commented [A32]:These additional annual reporting requirements for public utilities provide essential information related to residential and low income customers that will help determine affordability and access to utility services.