

Prepared Testimony of
Stephen M. DeFrank
Chairman
Pennsylvania Public Utility Commission,
before the

House Consumer Protection, Technology, and Utilities
Committee

January 17, 2024



Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120
Telephone (717) 787-4301
<http://www.puc.pa.gov>

Introduction

Good morning, Chairman Matzie, Chairman Marshall, and members of the House Consumer Protection, Technology, and Utilities Committee. I am Stephen DeFrank, Chairman of the Pennsylvania Public Utility Commission (Commission or PUC). I appreciate the opportunity to offer testimony on behalf of the PUC as you continue the important process of considering the reauthorization of Chapter 14 of the Pennsylvania Public Utility Code, commonly referred to as the Responsible Utility Customer Protection Act or Chapter 14. 66 Pa.C.S. §§ 1401-1419.

As you know, Chapter 14 includes key safeguards for Pennsylvania consumers related to public utility service. The sunset provisions of the chapter provide for the current decennial review. When the General Assembly first enacted Chapter 14 in 2004, it declared that the Commission's prior formal utility service rules did not successfully manage the issue of bill payment and that there was a need to provide protections against rate increases for timely paying customers resulting from other customers' delinquencies. Chapter 14's declared policy was to achieve greater equity by providing public utilities procedures for delinquent account collection while ensuring that service remains available to all customers on reasonable terms and conditions.

Today, I would like to highlight the pressing need to address affordability of payment arrangements for customers who have fallen behind on their current bills.

At the core of current proposals, including House Bill 1077, Senate Bill 1017, and the Commission's recommendations to the General Assembly, there is recognition that modifications related to payment arrangements (PARs) are necessary. Many customers struggling to pay their utility bills need more affordable, manageable, and effective payment terms that will help keep their households connected to essential services.

As we all know, the Commission's administration of Chapter 14 seeks to strike a balance to maintain service for income-challenged customers while trying to ensure customers pay the charges for which they are responsible. The single best tool the Commission has to ensure this happens is a payment arrangement. Sometimes these arrangements do not work and customers default, but an appropriate balance can be achieved by giving the Commission reasonable latitude within statutory parameters.

The last PUC Chapter 14 report, published in January 2020, recognized the need to amend the statute with regard to payment arrangements. The current Chapter 14 sets standards for Commission-issued payment arrangements that may be

unaffordable for a customer from the very start. Allowing more flexibility, particularly with options for extending the repayment period, is a necessary tool.

In the current post-pandemic environment, as customers work to address arrearages that may have accumulated during the extended period of economic stress, this is even more important.

At its most basic level, our data in the report indicated that a customer with arrears that is *not on a payment arrangement* is at the greatest risk for default and termination. A customer with arrears *on a payment arrangement* is more likely to keep the account active through monthly payments and is more likely to make payments to the public utility to maintain service.

Additionally, uncollectable balances written off by the utility after a defined period burden other ratepayers when the offset uncollectable amount is recovered in a later rate case. So, keeping the customer on a payment arrangement and paying toward the arrears also prevents that financial burden from being shifted to other utility customers in the future.

While House Bill 1077 and the PUC recommendations take different approaches to reform affordability and consumer protections, common proposals for amendment of the statute include:

- Giving the Commission authority to set longer repayment terms than what is currently included in Section 1405(b).
- Requiring utilities to establish longer repayment terms for reconnection of service in Section 1407.
- Modifying the definition of “change in income” (CII), and “significant change in circumstance” (SCIC) in Section 1403.
- Providing the PUC with authority to grant more than one payment arrangement.
- Extending medical certificate protections.

While the Commission’s proposals sought to take a measured approach to the recommended changes to Chapter 14, House Bill 1077 proposes additional changes including:

- Allowing verbal attestation of household income for the purposes of determining eligibility for Universal Service Programs and the provisions of Chapter 14.

- Allowing medical certificates to be implemented for up to 120 days with no limit on the number of renewals or requirement to make equitable payment.
- Allowing a licensed social worker or registered nurse to sign a medical certificate certifying that a member of the household is seriously ill.
- Introducing a summer moratorium on termination of utility service to low-income households.
- Eliminating security deposits and reconnection fees.

Closing

On behalf of the Commission, I thank the Committee for considering the process and impact of Chapter 14 on customers who struggle to pay public utility bills. I would like to recognize that the Commission and House Bill 1077 share the same priority to make the repayment of utility debt more affordable in an effort to safeguard Pennsylvania households from unnecessary loss of service, while ensuring that utilities continue to have the tools required to prevent the accumulation of uncollectable debt that impacts all rate payers. As we have stated previously in written correspondence to the General Assembly, the PUC continues to urge additional substantive recommended changes, as well as correction of technical issues within the statute, and I am happy to provide the committee those changes. The Commission stands ready to follow up with any further recommendations or suggestions regarding Chapter 14 amendatory language and looks forward to an ongoing dialogue as this process moves forward.

Access to safe and affordable public utility service is a universal and wide-reaching concern. Such access touches on economics, health, public safety, and viability of our community. We must find a way to ensure that Pennsylvania households remain safe and connected to essential public utility services while curbing the accumulation of large uncollectable past-due balances that eventually may increase the cost of service for other public utility customers.

The PUC is committed to working with the General Assembly and other stakeholders across the Commonwealth to ensure the continuation of essential public utility services to Pennsylvania's residents.

**BEFORE THE
HOUSE CONSUMER PROTECTION,
TECHNOLOGY AND UTILITIES COMMITTEE**

Testimony of

Patrick M. Cicero
Consumer Advocate

Regarding
HB1077

Chapter 14 of the Public Utility Code

Harrisburg, Pennsylvania
January 17, 2024

Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 599-8953
Email: pcicero@paoca.org

4876-2667-3306

**House Consumer Protection, Technology, and Utilities Committee
Public Hearing on HB 1077 (Chapter 14)**

Good morning, Chairman Matzie, Chairman Marshall, and Members of the House Consumer Protection, Technology and Utilities Committee. My name is Patrick Cicero. I have the privilege of serving as Pennsylvania’s Consumer Advocate. Thank you for allowing me to provide comments this morning about HB 1077 and the changes needed to Chapter 14 of the Public Utility Code. My office, the Pennsylvania Office of Consumer Advocate (OCA), was created in 1976 to serve as an advocate for Pennsylvania consumers before the Public Utility Commission (PUC).

I urge this Committee to adopt most of the substantive amendments to Chapter 14 set out in HB 1077 as part of any consideration of the continuation of its provisions. Currently, Chapter 14 is set to expire on December 31, 2024, unless reauthorized by the General Assembly. The existing provisions of Chapter 14 were originally added to the Public Utility Code in 2004, largely in response to utility collection problems at one municipally owned natural gas utility – Philadelphia Gas Works (PGW). Indeed, many of the provisions of Chapter 14 still apply only to PGW. In 2014, the General Assembly reauthorized Chapter 14 for an additional ten years and added provisions that provided moderate protections to consumers. The balance remains skewed, however, in favor of termination of service rather than the continuation of service. This is the failure of Chapter 14. In my view, Chapter 14 continues to provide inadequate protection for households to maintain service or to expediently reconnect service if their service is terminated for non-payment.

Chapter 14 was never intended to ensnare customers who cannot pay because of economic vulnerability, medical hardship, or domestic violence. Indeed, this body declared that the intended policy was to “provide protection against rate increases for timely paying customers resulting from other customers’ delinquencies” by “eliminating opportunities for customers

capable of paying to avoid the timely payment of public utility bills.” 66 Pa. C.S. § 1402(2). At the same time, the General Assembly sought “to ensure that service remains available to all customers on reasonable terms and conditions.” Id. at § 1402(3).

As Consumer Advocate, I share the goal that those who can pay should pay and that utilities be equipped with appropriate tools for collection when necessary to avoid imposing costs on other ratepayers. However, it is necessary to contextualize that utility uncollectible expenses, while important to contain, are not the paramount driver of rate increases by utilities.

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

The major concern with Chapter 14 is that it deprives the PUC of too much of its discretion in developing payment arrangement standards and resolving disputes between utilities and customers, and instead gives greater discretion to the utilities. This discretion by utilities has meant more terminations because soon after Chapter 14 was enacted, the number of utility terminations increased substantially. Among electric and natural gas utilities, the number of customers whose service was terminated went from 186,695 in 2004 to 273,677 in 2005, an increase of 46.6%. By 2014, when Chapter 14 was last reauthorized, electric, and natural gas utility terminations increased to 341,710 per year. This represents an increase of 83% over pre-Chapter 14 levels and 25% above 2005 levels. As evidenced by Charts 1 and 2 below, these

numbers have not gone down except for the extraordinary period during the COVID-19 moratorium on terminations.

Chart 1 – Residential Electric

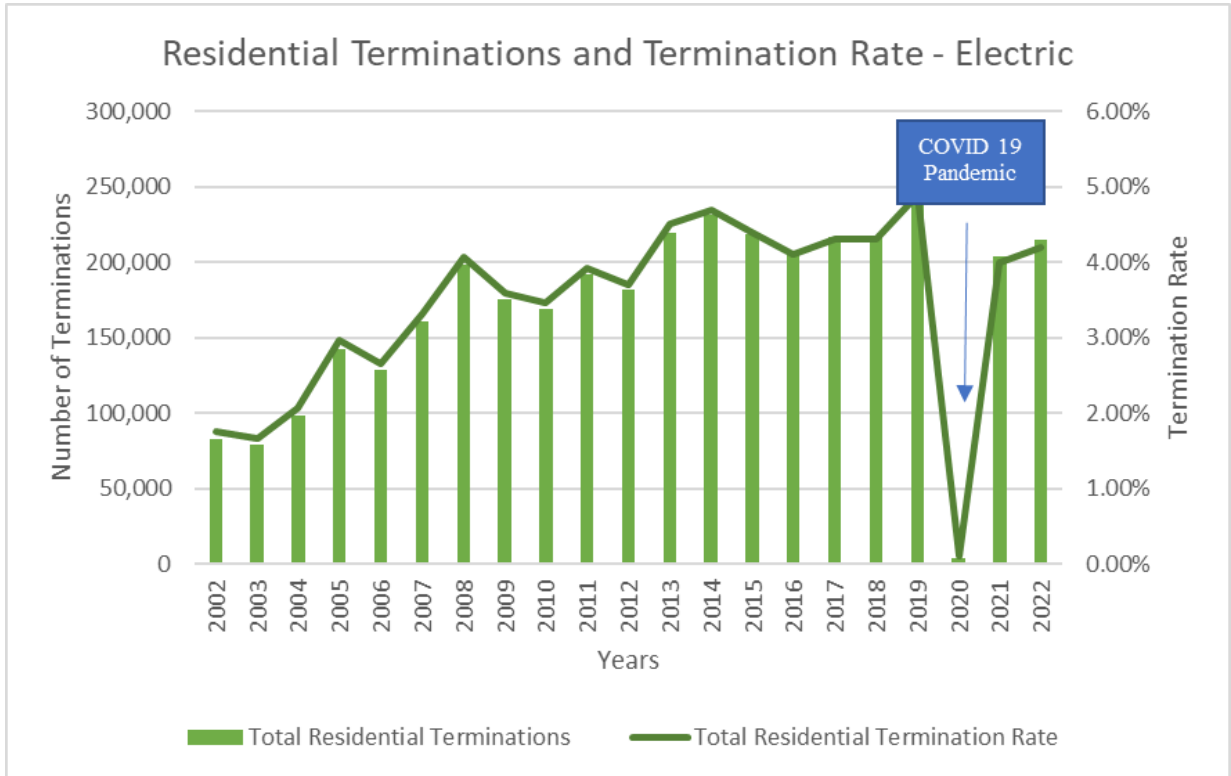
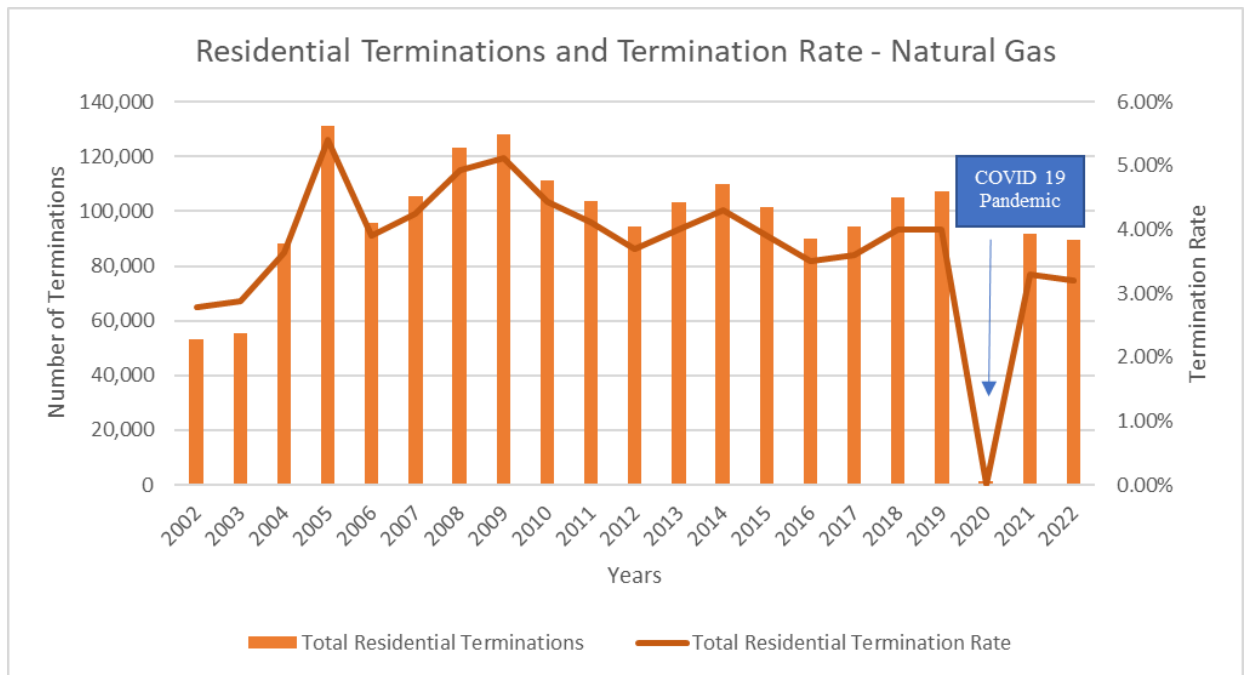


Chart 2 – Residential Natural Gas



While the charts above only look at electric and gas utilities through 2022, we know that total termination numbers in 2023 have not improved based on the PUC’s published data. The table below shows that through November 2023, there were 330,046 households who had their service terminated for non-payment across all industries covered by Chapter 14.

Table 1 – Terminations and Reconnections January 2023 - November 2023

**Terminations and Reconnections: Year-to-Date November 2022 vs. Year-to-Date November 2023
As Reported by Utilities Pursuant to Monthly Reporting Requirements at 52. Pa. Code 56.231**

Company	Terminations	Terminations	Percent Change	Reconnections	Reconnections	Percent Change
	2022	2023		2022	2023	
Duquesne Light	30,451	24,802	-19%	23,917	19,448	-19%
Met-Ed	28,548	26,400	-8%	25,184	23,023	-9%
PECO	75,689	87,488	16%	61,374	75,240	23%
Penelec	20,385	19,317	-5%	16,190	15,273	-6%
Penn Power	3,197	4,005	25%	2,453	3,153	29%
PPL	35,157	17,640	-50%	24,270	11,158	-54%
UGI Electric	1,606	1,450	-10%	1,210	1,030	-15%
West Penn Power	20,921	19,962	-5%	17,070	16,009	-6%
Total - Electric	215,954	201,064	-7%	171,668	164,334	-4%
Columbia Gas	11,376	10,454	-8%	6,511	5,466	-16%
National Fuel	6,861	6,981	2%	4,884	5,024	3%
Peoples	15,335	21,400	40%	11,544	17,212	49%
Philadelphia Gas Works	14,410	34,681	141%	9,275	23,400	152%
UGI Gas	26,882	31,066	16%	19,314	22,071	14%
Total - Gas	74,864	104,582	40%	51,528	73,173	42%
Total (Electric & Gas)	290,818	305,646	5%	223,196	237,507	6%
Aqua Pennsylvania	5,497	6,011	9%	4,723	4,951	5%
Pennsylvania-American	23,578	18,181	-23%	15,799	10,363	-34%
Pittsburgh Water & Sewer Authority	440	208	-53%	151	76	-50%
Water - Total	29,515	24,400	-17%	20,673	15,390	-26%
Total (Elec., Gas & Water)	320,333	330,046	3%	243,869	252,897	4%

12/20/2023

Terminations for non-payment.

Reconnections for full customer payment, partial payment or payment arrangement; for customer submission of a medical certification; and for reasons other than customer payment or medical certification.

This data paints a clear picture of increasing utility terminations for Pennsylvania households over the past 20 years that can be directly attributed to the enactment of Chapter 14. What Chapter 14 did was to remove discretion from the PUC. For decades prior to Chapter 14, the PUC sought to maximize revenue collection while treating the termination of essential utility service as a last resort for those who failed to meet reasonable payment arrangements. Chapter 14 removed much of the discretion from the PUC and instead placed that discretion in the hands of the utilities. This has not been positive for consumers. The evidence suggests that in contrast to maximizing revenue collection, utilities have exercised their discretion by increasing utility termination. My view is that this does not protect ratepayers, the public, or our communities. The

tools provided by Chapter 14 to utilities also did nothing to reduce arrears as arrearage balances have remained either flat or grown since 2004 as evidenced by Charts 3 and 4, below:

Chart 3 – Residential Electric Terminations and Residential Arrears

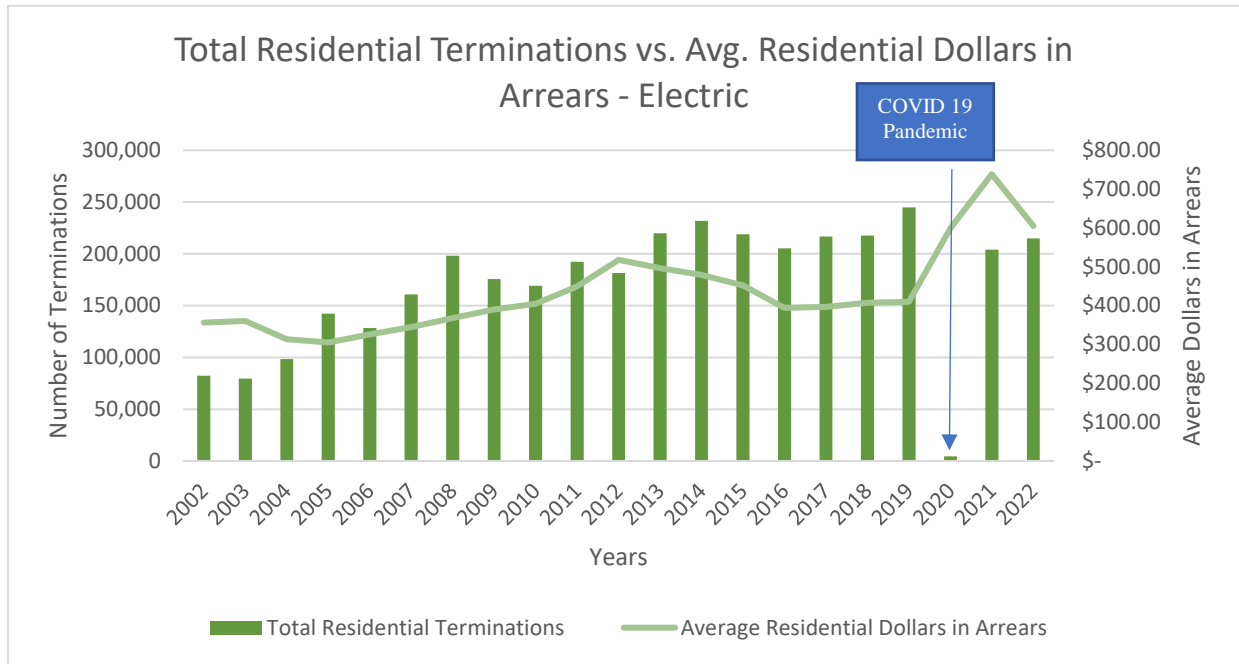
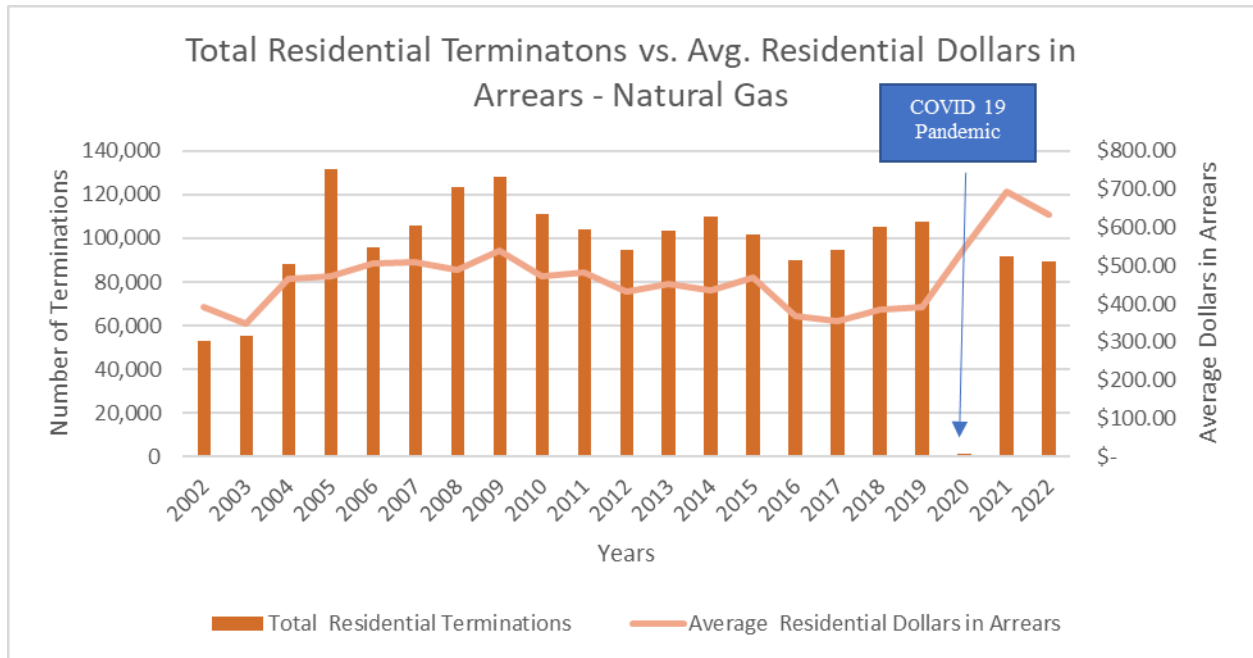


Chart 4 - Residential Gas Terminations and Residential Arrears



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

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

To that end, I highlight some of the provisions of Chapter 14 that I believe need further consideration and amendment to correct the imbalances and assure that the PUC can address the literally life and death consequences of decisions involving essential utility service. All the OCA's recommended amendments, many of which are contained within HB 1077, are designed to minimize disconnection of service, and lessen the duration of any disconnection if it does occur. It should be the policy of the Commonwealth that loss of utility service is the absolute last resort. If this is the case, all efforts should be made to ensure that households with limited means, medical hardships, and other social vulnerabilities have the tools needed to remain connected. This requires restoring flexibility to the PUC to maximize bill payment and lessen disconnection.

The OCA supports the removal the PGW specific provisions.

When originally introduced, Chapter 14 was intended only to apply to PGW, which had at that time recently come under the jurisdiction of the PUC but was amended to provide additional tools to all electric and gas utilities.¹ However, the General Assembly inserted some specific provisions applicable only to PGW, reasoning that it had “unique financial circumstances.” In the last 20 years, to our knowledge, PGW has not routinely used this additional authority. To be clear, what was provided to PGW was the ability to impose *more stringent requirements on its customers*, PGW customers were not being provided with more protection from loss of service they were provided *less* protection. None of these PGW specific rights are needed and all should be repealed. While PGW is different than other utilities because it is owned by the City of Philadelphia and is a cash flow utility, it is no longer unique. In the last few years, the Pittsburgh Water and Sewer Authority has also been placed under PUC authority and it too is a cash flow utility without shareholders. Furthermore, PGW has come a long way in the last 20 years in stabilizing its operations in large part because of the PUC’s oversight and, as such, all the PGW specific provisions of Chapter 14 should be eliminated as set forth in HB 1077.

Definitions (Section 1403)

The OCA supports the list of amendments to Section 1403 as outlined in HB 1077. I will not address the definitions contained here at length but will talk about them in the context of the substantive sections to which they apply and outline why I think the proposed changes are appropriate.

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

Security Deposits (Section 1404)

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

The OCA supports the full repeal and elimination of the right or ability of a utility to assess a security deposit. This change would help to restore balance in the relationship between utilities and customers, would eliminate the screening that is necessary for income or other creditworthiness determinations, and would recognize the irreplaceable, monopoly nature of utility service where there are no alternatives for distribution providers.

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

Payment Arrangements (Section 1405)

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

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

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

While I would go further than HB 1077 does in restoring discretion to the PUC, I support the amendment in HB 1077 that would add Section 1405(b.1) that would allow for an alternative payment arrangement not to exceed two times the length of the payment arrangement that the household would otherwise be entitled to if the customer's monthly payment on the arrangement would exceed 20% of the customer's average monthly bill. I would recommend adding a language clarification: that the 20% threshold outlined in 1405(b.1) would be of the payment arrangement amount, that is, (b.1.) would be applicable if a customer's payment arrangement payment exceeds 20% of a customer's average monthly bill. This change would seek to ensure that households on payment arrangements would have a reasonable likelihood of making their

payments on those arrangements and thereby eliminating or reducing the potential for other customers to have to pay those arrears.

In addition to the change to add Section 1405(b.1), I support the modifications to Sections 1405(d) and (e). These sections concern the number of payment arrangements that the PUC can order (Section 1405(d)) and the ability to extend a payment arrangement once entered (Section 1405(e)). The proposed amendments to both would allow the PUC to ensure that households are paying down balances and reducing terminations.

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

Notice of Termination of Service (Section 1406(b))

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

² [USPS Reports Consistent Performance Across All Mail Categories - Newsroom - About.usps.com](#) (last visited 1/03/24).

eliminates at least 25% of the minimum notice period. Moreover, many of us are aware of the erosion of the timeliness of U.S. mail delivery that occurred during the COVID pandemic.

Even assuming timely delivery, many consumers, including low-income consumers, have transitioned from receiving all important notices by mail and now routinely receive notices via text message and email. In 2004, when Chapter 14 was enacted, smart phones did not exist. In 2021, 85% of all adults in the U.S. reported that they owned a smart phone and 77% of adults have access to home broadband,³ although the level of ownership varied significantly depending on income and age. Even so, according to Pew, some 76% of households with income less than \$30,000 per year and 61% of persons over the age of 65 owned a smartphone in 2021.⁴

While recognizing the significant gap in access to technology and even with access, adoption of that technology for managing one's affairs, we support the changes contained in Section 1406(b) requiring utilities to send termination by both U.S. Mail and via electronic means (text and/or email) when a household consents to receive these notices electronically. Receipt of a termination notice by mail does and will remain important for the foreseeable future, however, requiring utilities to send the notice electronically will also benefit many households. These households will have the ability to receive the notice as soon as it is sent, providing additional time to allow them to make plans for a payment arrangement or seek financial assistance with the balance.

I also support increasing the minimum notice requirement from 10 days to 20 days as proposed in Section 1406(b)(1)(i).

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

⁴ Id.

In addition to requiring a utility to send notice by both U.S. Mail and through electronic means with affirmative consent, our office also supports the elimination of the absolute prohibition in the statute stating that the PUC cannot require any additional actions prior to termination. This prohibition is currently found in Section 1406(b)(2) and is overly broad and does not allow for appropriate discretion by the PUC in times of extraordinary circumstances. The proposed change in HB 1077 is not carte blanche for the PUC to impose additional requirements, as it is proposing that the prohibition remain “absent special circumstances.” There is no reason to believe that the PUC will abuse its discretion or authority in this regard; instead, this change will restore the balance the PUC needs to effectively protect the public if the circumstances require.

Winter Termination (Section 1406(e))

In general, the OCA would support a more expansive rule that prohibits winter shutoffs for *all* residential customers without specific PUC authorization during the winter months. This would require the removal of the income limitation currently contained in the bill. However, for purposes of the proposed amendments, our office supports the simple clarification in HB 1077 that would prohibit winter shutoffs by *all* public utilities without PUC approval for households with incomes below 250% of the federal poverty level. This would bring in water and wastewater utilities not just gas and electric utilities. In addition, like other sections, we support the elimination of the PGW-specific rules that only apply this prohibition to households at or below 150% of the poverty level be stricken so that all Pennsylvanians are similarly protected. Customers of PGW with income between 151% - 250% of poverty are as deserving of protection from winter termination as households of other utilities. The current rules also set up a strange

scenario whereby someone living in Philadelphia at 175% of poverty could have their gas turned off by PGW but not their electricity turned off by PECO.

Summer Termination Moratorium (Section 1407(e.1))

In general, the OCA remains cautious about the addition of a summer moratorium on utility termination as it is currently written but would support a more targeted moratorium for uniquely vulnerable households at or below 150% of the federal poverty level.

The OCA also believes that if a summer moratorium is permitted it may make sense to apply it only to electric and water utilities rather than natural gas utilities. There is likely an insufficient nexus between summer cooling needs and natural gas service to justify a prohibition on natural gas service termination in the summer months.

Medical Certificates (Section 1406(f))

The OCA supports changes proposed to the medical certificate provisions of Chapter 14. The changes proposed by HB 1077 would allow for a seven (7) day period, prior to termination of service, for a household to temporarily delay termination to allow them to obtain a medical certificate. Given the delays in access to primary care, this is a reasonable length of time for a household that would not unduly delay the termination of service process for households unable to obtain a medical certificate.

In addition, the section would create a statutory period of 90 days from the date a medical certificate is issued where service cannot be terminated or 6 months for households with long-term or chronic illness. While some regulatory clarity may be required about what constitutes long term or chronic illness, the OCA supports these expanded timeframes. In addition, utilities should be statutorily obligated to attempt to negotiate a good faith payment arrangement with a medically vulnerable household or enroll the household in CAP if eligible. The goal of medical

certifications is a temporary pause in the termination process to allow a medically vulnerable household time to address their medical care and their utility debt and, thus, a longer period should be coupled with an obligation by the household and the utility to negotiate a payment arrangement that the household can afford to pay that allows them to remain connected beyond the duration of the medical certificate.

Reconnection of Service (Section 1407)

To obtain reconnection of service after termination, Chapter 14 currently requires the customer to pay a reconnection fee and, in some cases, 100% of any balance owed in full before service can be restored. Both are barriers to reconnection of service. The OCA's position is that Chapter 14 should be amended to prohibit a utility from charging a reconnection fee. HB 1077 does this with the addition of Section 1407(a.1) for households at or below 300% of poverty. The OCA supports this addition. Reconnection fees create barriers for households to reconnect utility service and do nothing to eliminate or reduce high balances because they do not reduce arrears. The goal should be to ensure that households who are disconnected from service can be reconnected with as few barriers as possible and that any money paid to the utility should reduce balances so that the household can remain connected and reduce the future risk to service termination. If reconnection fees are eliminated, a utility can be made whole by having reconnection costs included as a part of a utilities' operating expenses for ratemaking purposes. This is not dissimilar to other costs of operation currently.

The OCA also supports the changes to Section 1407(c) that would lengthen the time allowed to make repayment on past due debt to get reconnected to service. The OCA supports these expanded time periods and is particularly supportive of the addition of 1407(c)(iv) that

would provide Section 1405 payment arrangements for customers or applicants who have not already had one.

Other changes

The OCA supports the other changes added by HB 1077, in particular the expansion of the late payment charge waiver to household up to 300% of poverty contained in Section 1409, the additional duties placed on public utilities under Section 1401.1, the addition of reporting that was added under new Section 1415.1, and the expansion of and clarification of Section 1417's non-applicability to make it less onerous on victims of domestic violence to have more permissive rules to remain connected to utility service.

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

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

**BEFORE THE PENNSYLVANIA HOUSE CONSUMER PROTECTION, TECHNOLOGY,
AND UTILITIES COMMITTEE**



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

Regarding HB 1077

**The Prevention-Focused Reforms in HB 1077 will Help Ensure All Pennsylvanians Can
Access and Maintain Safe and Affordable Energy and Water Services**

January 17, 2023

Greetings, Chairman Matzie, Chairman Marshall, and Members of the House Consumer Protection, Technology, and Utilities Committee. Thank you for the invitation and opportunity to provide testimony to aid in the Committee's examination of HB 1077, which contains critical prevention-based reforms to Chapter 14 of the Public Utility Code. 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. PULP is a statewide specialty legal services project of Regional Housing Legal Services and a member program of the statewide 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 and terminations 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.

At the outset, I want to express our full-throated support for HB 1077 and urge the Committee to pass this important legislation without amendment. At its heart, HB 1077 is prevention legislation. It is designed to rebalance the scales, eliminating punitive collections policies that have compounded energy and water insecurity and exacerbated bad-debt expenses for the last two decades. While there are always further reforms that could be made, we believe the legislation – as written – strikes the right balance, and urge its passage without delay.

My written testimony is organized into three sections and is designed to provide the Committee with a deep dive into the issue – offering critical context and comprehensive data necessary to understand the impact of Chapter 14 in its current form and how amendments proposed in HB 1077 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 over 1.2 million Pennsylvanians. 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 the critical reforms contained in HB 1077 that address each concern.

When Chapter 14 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.”ⁱ

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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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 families living at or near the federal poverty level are already struggling to afford basic needs, and face intersectional housing, food, and utility insecurity.

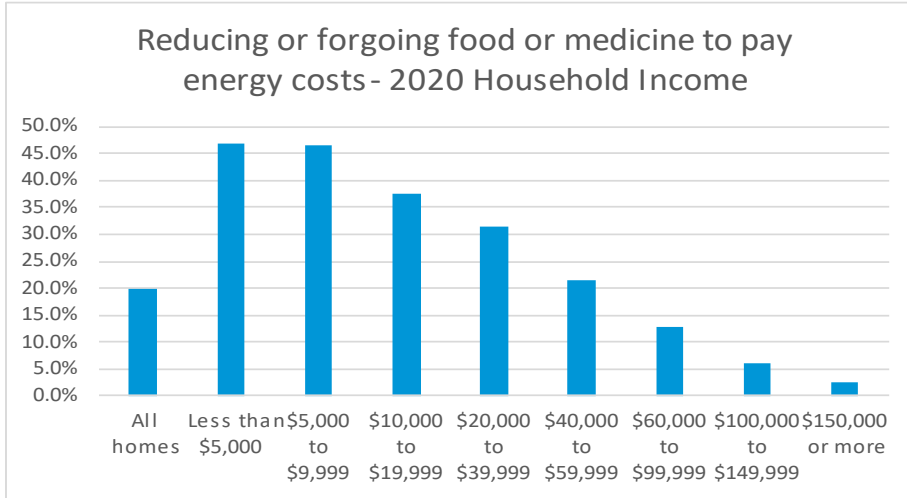
Experts in utility affordability often refer to a household’s “utility burden,” the percent of gross household income spent on home utility (energy and water/wastewater) costs, to determine whether service is reasonably affordable for all consumers.

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.ⁱⁱ

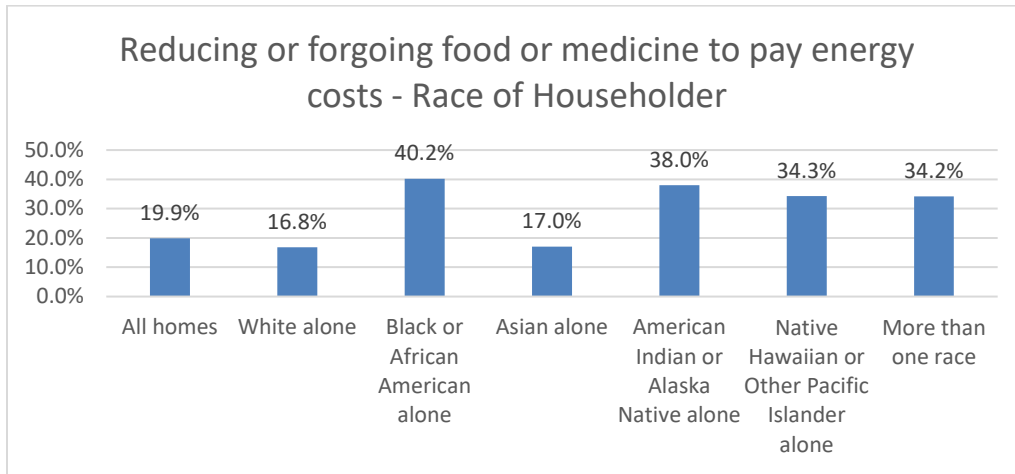
2022 Home Energy Affordability Gap (Fisher, Sheehan, & Colton)ⁱⁱⁱ

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

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.^{iv} 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.^v



There are also clear race-based disparities in utility insecurity that cannot be ignored.^{vi}



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.^{vii} 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.^{viii}

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.^{ix} 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.

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.^x 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, as they often do not have 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.^{xi}

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 sanitize surfaces can all serve to expose household members to serious health consequences.^{xii}

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.

* * * * *

Chapter 14 Exacerbates Utility Insecurity

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.^{xiii} 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.

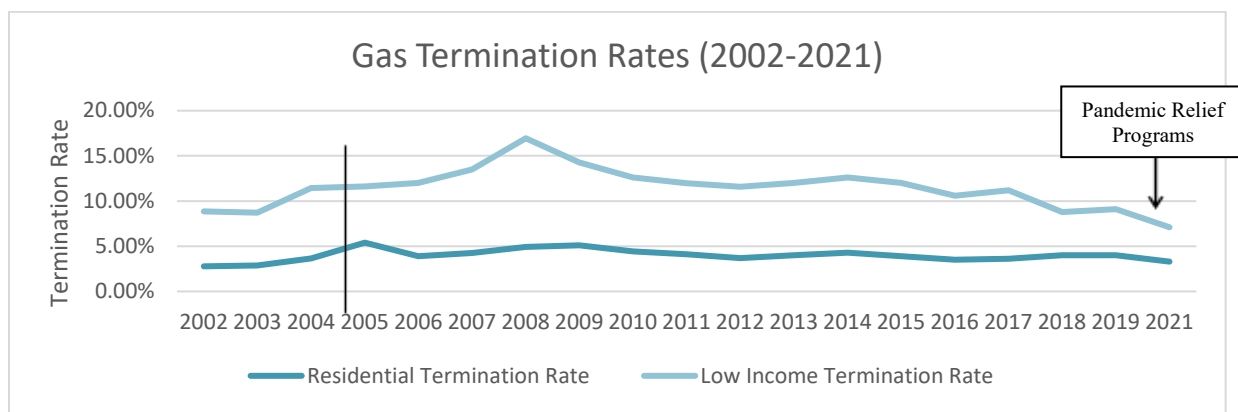
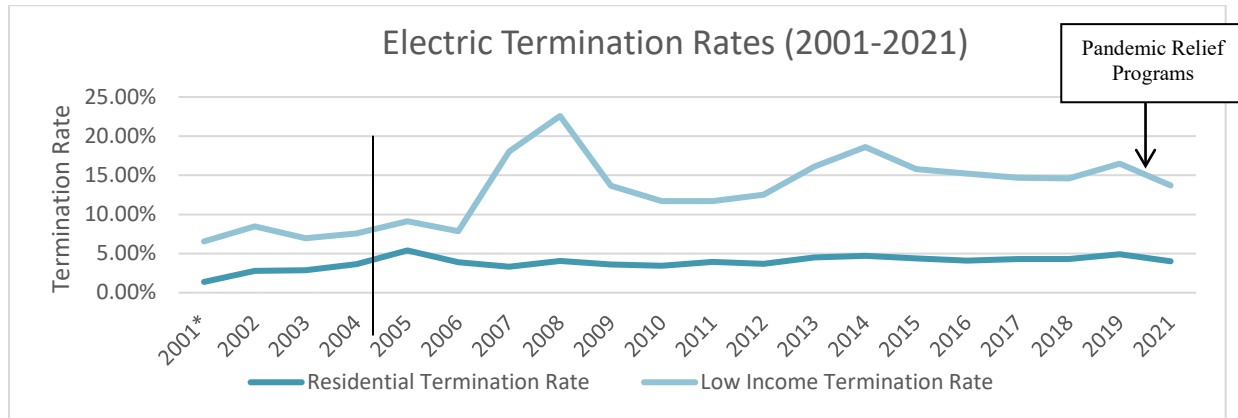
Residential and Low Income Customer Debt, 2021^{xiv}

	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.

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. ^{xv}



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.

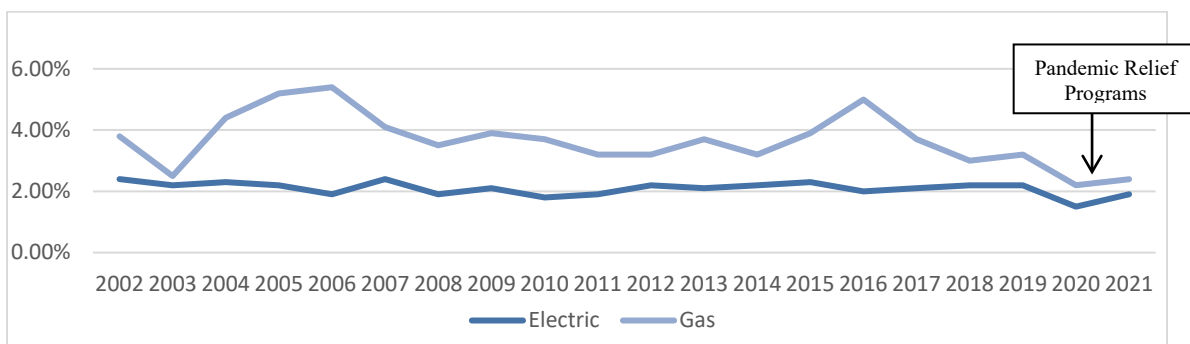
On the gas side, the delta in termination rates between low income and residential customers has declined. While noteworthy, this decline is likely attributable to the decline in gas prices due to increased gas production in our state. As of November 2023, after high gas prices plagued the 2022/2023 winter heating season, gas termination rates increased 40% year over year. ^{xvi}

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 is 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 these extraordinary energy and water assistance funds, involuntary termination rates have again increased. Year over year, involuntary terminations of residential electric, gas, and water services were up 3% in 2022, and another 3% in 2023.^{xvii} According to the National Energy 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.^{xviii} 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 Utilities^{xix}



The gross write-off ratio has remained relatively stagnant for electric utilities and increased significantly 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 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 increase further under Chapter 14’s punitive collections paradigm.

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.

* * * * *

HB 1077 Offers Prevention-Based Solutions to Address Utility Insecurity

The prevention-based reforms included in HB 1077 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 urges the Committee to advance the critical improvements to Chapter 14 included in HB 1077 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.

➤ HB 1077 Improves Access to Reasonably Affordable Payment Arrangements

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. The reforms included in HB 1077 would rebalance the payment arrangement standards, ensuring residential customers have access to an affordable payment arrangement from the start so they can reasonably afford to pay down debt and prevent additional debt from accruing.

The current payment arrangement standards in Chapter 14 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 PUC-issued payment arrangements, it does not set minimum standards for utility-issued payment arrangements.^{xx} 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 termination, consumers will most often accept the terms as quoted – even if the 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

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 could cause the consumer to fall behind.

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

HB 1077 improves access to reasonably affordable payment arrangements by:

- Amending the definitions of “*change in income*” and “*change in circumstances*” to better account for the financial impact of a reduction in income and to include a broader range of circumstances that may impact a consumer’s ability to pay.
- Restoring discretion to the PUC to issue equitable payment arrangements.
- Allowing the PUC to extend income-based payment arrangements if necessary to ensure a monthly payment is reasonably affordable – no to exceed 20% of the average bill.
- Increasing income thresholds to provide an affordable arrangement to more families.
- Allowing households enrolled in a Customer Assistance Program to access an equitable payment arrangement if they fall behind on their bill.

➤ **HB 1077 Utilizes Universal Service Programs as an Effective Prevention Tool**

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. The reforms included in HB 1077 would improve the availability of and access to universal service programs for electric, gas, and water/wastewater utilities, ensuring the program are effectively serving as a front-line defense – before unmanageable debts are accrued.

If consumers can afford to pay their bill, they most often do. Research conducted by the National Bureau of Economic Research demonstrated that, when low income households can afford to cover other basic needs, the likelihood of late payment is reduced 35.6%, the likelihood of termination is reduced by 64%, and outstanding balances drop by 67%.^{xxi}

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.^{xxii}

There is often 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 currently requires utilities to “provide information about the public utility’s universal service programs” to consumers who call requesting a payment arrangement.^{xxiii} 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.

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.

HB 1077 effectively deploys universal service programs as a front-line defense to prevent accrual of unmanageable debts by:

- Amending 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.
- Requiring utilities to actively screen applicants and customers for household income to facilitate enrollment in available universal service and energy conservation programs.
- Improving universal service and collections data reporting requirements and public disclosure, and ensure consistent reporting for electric, gas, and water/wastewater utilities.

➤ **HB 1077 Improves Medical Protections and Incentivizes 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 population from the loss of service.

HB 1077 advances comprehensive amendments to the medical certificate process to remove egregious barriers to obtaining a medical protections, improve payment options for medically vulnerable households, and ensure that medically vulnerable family members can focus on getting better – without worrying that their service will be shut off.

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.^{xxiv} 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.^{xxv}

Chapter 14 currently provides limited, short-term protection from involuntary termination for medically vulnerable households. However, the process for accessing these existing protections 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 certificate must make payment on current charges to renew a medical certificate beyond the first 90 days of protection.^{xxvi} 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.

HB 1077 improves medical protections and incentivizes equitable payment by:

- Requiring utilities to stop termination for at least 7 days if a utility is informed that a household member is seriously ill or has a medical condition to allow time to obtain a medical certificate.
- Extending 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.
- Expanding approved signatories to include licensed social workers and registered nurses.
- Requiring utilities to track and report on pertinent medical certificate data.

➤ **HB 1077 Protects Vulnerable Households in the Hottest and Coldest Months**

Chapter 14 currently 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.^{xxvii} 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).^{xxviii} 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 and should be protected from termination through the cold winter months.

With summer heat intensifying, heat-related deaths are also increasing.^{xxix} 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.^{xxx} 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.

HB 1077 protects vulnerable households in the hottest and coldest months by:

- Extending the winter moratorium to all water and wastewater services.
- Imposing a credit-related moratorium on utility terminations from July 1 to August 31.

➤ **HB 1077 Improves Termination Notice, Ensuring Time for Preventive Action**

Chapter 14 only requires utilities to mail a written termination notice ten calendar days in advance of a service termination^{xxxii} – 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 are 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.

HB 1077 improves notice requirements to ensure a consumer has the time, information, and tools to prevent a pending shut off by:

- Prohibiting termination on the day prior to and the day of a federal and state holiday.
- Requiring utilities to provide notice of termination at least 20 days before termination and requiring notice to be provided by first class mail and electronic means, with consent.
- Requiring utilities to translate termination notices and other essential documents in English, Spanish, and other commonly spoken languages.

➤ **HB 1077 Eliminates Punitive Charges and Fees that Compound Debt**

Chapter 14 authorizes utilities to levy security deposits, late fees, and reconnection fees on payment-troubled customers,^{xxxii} 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.

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.

HB 1077 eliminates punitive fees and charges that compound debt by:

- Prohibiting utilities from charging reconnection fees to low income customers and requiring utilities to inform customers of this prohibition at the time any reconnection fee is assessed.
- Prohibiting utilities from requiring upfront payment of a reconnection fees for moderate income customers.
- Prohibiting utilities from assessing late fees on low and moderate income customers.
- Prohibiting utilities from charging a security deposit as a condition of providing or continuing service.

➤ **HB 1077 Expands 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.

HB 1077 will help ensure survivors of domestic violence can access utility service by:

- Allowing 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.
- Ensuring protection orders from other states are afforded full faith and credit.

➤ **HB 1077 Improves Utility Data Reporting and 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.

HB 1077 meaningfully improves public utility reporting and disclosure requirements by:

- Standardizing utility reporting requirements to improve consistency, expand available data points, and allow for cross-utility analysis.
- Requiring large water and wastewater utilities to report on universal service and collections data, consistent with the requirements for electric and gas utilities.
- Requiring the Commission to include water and wastewater utility data in its annual Universal Service and Collections Performance Reports.

* * * * *

This concludes my written testimony. It is an honor and 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,



Elizabeth R. Marx, Esq.
Executive Director
Pennsylvania Utility Law Project
118 Locust Street | Harrisburg, PA 17101
267-240-3089
emarx@pautilitylawproject.org

- ⁱ 66 Pa. C.S. § 1402(2)-(3) (declaration of policy) (emphasis added).
- ⁱⁱ 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>.
- ⁱⁱⁱ Fisher, Sheehan, & Colton, The Home Energy Affordability Gap: 2022 (April 2023) (hereinafter Home Energy Affordability Gap), http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html.
- ^{iv} U.S. Department of Energy, Energy Information Administration, 2020 Residential Energy Consumption Survey (released 2022), <https://www.eia.gov/consumption/residential/data/2020/>.
- ^v Id.
- ^{vi} Id.
- ^{vii} See Testimony of the 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>.
- ^{viii} 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>.
- ^{ix} According to estimates from the Office of Consumer Advocate, water and wastewater acquisitions have added over \$68 million to rates *each year* – substantially increasing monthly water and wastewater bills for residential consumers.
- ^x 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).
- ^{xi} 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/fip/documents/HR550%201%20page%20summary%204-6-2016.pdf>.
- ^{xii} 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/>.
- ^{xiii} Universal Service Report at 7-8, 11.
- ^{xiv} Universal Service Report at 23-24. *Water and wastewater utilities are not currently required to publicly report this information.
- ^{xv} 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. 2020 termination data was excluded from the chart, as terminations were largely prohibited by a pandemic-related moratorium on terminations.
- ^{xvi} Pa. PUC, Terminations and Reconnections: Year-to-Date Nov. 2022 vs. Year-to-Date Nov. 2023, <https://www.puc.pa.gov/filing-resources/reports/terminations-for-electric-gas-water-companies/>.
- ^{xvii} Pa. PUC, Terminations and Reconnections: Year-to-Date Dec. 2021 vs. Year-to-Date Dec. 2022. The Commission only publishes the most recent year-over-year termination data on its website, though the historical data is maintained on file with PULP. Pa. PUC, Terminations and Reconnections: Year-to-Date Nov. 2022 vs. Year-to-Date Nov. 2023, <https://www.puc.pa.gov/filing-resources/reports/terminations-for-electric-gas-water-companies/>. 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.
- ^{xviii} NEADA, Winter Heating Price Outlook (released Sept. 20, 2023), <https://neada.org/wp-content/uploads/2023/09/winteroutlook2023.pdf>
- ^{xix} 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.
- ^{xx} 66 Pa. C.S. § 1405, 1407.
- ^{xxi} Nat’l Bureau Econ. Res.; Bulletin of Retirement & Disability: How Bill Timing Affects Low-Income and Aged Households (May 2, 2020).
- ^{xxii} Universal Service Report at 7-8, 60.
- ^{xxiii} 66 Pa. C.S. § 1410.1
- ^{xxiv} 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
- ^{xxv} 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/>.
- ^{xxvi} 52 Pa. Code §§ 56.114(2), 56.116.
- ^{xxvii} 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.
- ^{xxviii} 66 Pa. C.S. § 1406(e).
- ^{xxix} Cory Sharber, Philadelphia Confirms Heat-Related Deaths, WHYY (July 28, 2022).
- ^{xxx} CDC, Nat’l Ctr. for Environmental Health, Tracking in Action: Extreme Heat, <https://www.cdc.gov/nceh/features/trackingheat/index.html>.
- ^{xxxi} 66 Pa. C.S. § 1406(b).
- ^{xxxii} 66 Pa. C.S §§ 1404, 1407, 1409.



**CONSUMER PROTECTION, TECHNOLOGY, AND UTILITIES COMMITTEE
PENNSYLVANIA HOUSE OF REPRESENTATIVES**

Hearing on House Bill 1077

January 17, 2024

**Testimony of Joline Price
Supervising Attorney in the Energy Unit
Community Legal Services of Philadelphia**

Greetings, Chairman Matzie, Chairman Marshall and Members of the House Consumer Protection, Technology, and Utilities Committee. Thank you for the invitation and opportunity to provide testimony in support of House Bill 1077, which amends Chapter 14 of the Public Utility Code.

My name is Joline Price. I am a Supervising Attorney in the Energy Unit of Community Legal Services, also known as CLS. CLS provides free civil legal assistance to low-income Philadelphians when they face the threat of losing their utility service, homes, incomes, health care, and even their families, serving nearly 13,000 clients in 2023. The Energy Unit specifically works to ensure that every Philadelphian has equitable access to utility services. We believe that affordable home utility services are vital to the health and safety of all Philadelphians. As a unit, we do direct legal representation, community engagement, impact litigation and advocacy. In my role as a Supervising Attorney, I work directly with clients, represent organizational clients in litigation at the Public Utility Commission (PUC), engage in systemic advocacy, and supervise three full-time case handlers.

The Energy Unit serves more than 500 clients every year, all of whom are struggling to afford and stay connected to their gas, electric and water service. The vast majority of our clients have been impacted by the strict rules and standards contained in Chapter 14 as it is currently written. Almost all of our clients have received a termination notice at some point. Many

medically vulnerable clients are unable to access a needed medical certificate to maintain service. Others are unable to access payment agreements through the PUC that would help them maintain affordable utility service. We see clients who can afford their ongoing utility bills denied access, because they can't afford to pay a restoration fee or deposit needed to turn service back on. Many clients receive notices of impending shutoff without adequate time to gather the money to make a payment, seek grant assistance or obtain a medical certificate. Others are simply unable to understand what the notices say due to language barriers.

This past September, our unit worked with a client, Ms. B, who came to our offices after her electric services were terminated. Ms. B lives with her 11-year-old daughter and one year old granddaughter, and is a diabetic who needs electricity to refrigerate her insulin. She was also at risk of losing her subsidized housing due to her utility service being terminated. Ms. B works as a home health aide, which means her income can vary from month to month. Even so, she attempted to make payments as often as she could. Despite her health needs and the young children in the home, Ms. B was denied access to a medical certificate by the utility, because she had used medical certificates in 2016, 2019 and 2022. Despite making payments towards her bill, she was ineligible for additional medical certificates under current rules. Because her service had been cut off, the utility would only offer a payment arrangement that required Ms. B to pay 50% of the full balance – which was more than the income she makes in a month. The PUC was unable to assist her, due to the strict limits placed on their discretion by Chapter 14. After more than a month without electric service, we were only able to get Ms. B's electricity restored using a grant through the Low Income Home Energy Assistance Program (LIHEAP), which opened in November and is only available during certain months of the year.

Chapter 14 creates tremendous struggles for our clients, many with stories similar to Ms. B's, to connect to and afford basic utility services. Chapter 14 has failed to protect low and moderate income utility customers, leading to a dramatic rise in terminations since its passage. While Ms. B's story ends with service back on, she could have just as easily fallen through the cracks. She was at risk of losing her subsidized housing and her kids because her service was off – not to mention the risk to her own health and the health of her family.

Chapter 14 is known as the “Responsible Utility Customer Protection Act” and was intended “to achieve greater equity by eliminating opportunities for customers capable of paying

to avoid the timely payment of public utility bills.”¹ The provisions of Chapter 14 cover a broad swath of topics, including service connection, billing, involuntary shut-offs, fees and deposits, delinquent bills, payment plans, and other collections related issues. Ironically, Chapter 14, as written, prevents people from paying utility bills by creating barriers to reconnection for people who could otherwise pay a monthly bill, and also preventing people from getting into payment agreements because of restrictions placed on the PUC.

An increasing number of Pennsylvanians are unable to afford basic energy and water services to their home, and Chapter 14 does little to protect them. Low income Pennsylvanians often pay upwards of 30% of their household income on energy costs alone.² By way of comparison, a median income household pays just 4% of income towards utility costs, and the PUC’s own policy states that affordable bills for electricity and heating should be no more than 10% of income.³

As of November 2023, Pennsylvania utilities had shut off more than 330,000 households in 2023 – each household representing a Pennsylvania family that went without water, electricity, gas, or sanitation services.⁴ Chapter 14, as currently written and implemented, disproportionately harms economically vulnerable families – causing deep and lasting consequences to the health, safety, and stability of Pennsylvanians experiencing poverty and financial hardship. Many moderate income customers – just above eligibility for Customer Assistance Programs, but still struggling to make ends meet, are also shut out from utility service by the current terms of Chapter 14.

Chapter 14 must be amended to address the overarching issue of keeping these customers connected to service and paying their bills – and HB 1077 does just that. For Ms. B, the extended notice of termination and the availability of additional and longer medical certificates likely would have enabled her to find the resources she needed to maintain service and make a payment toward her balance – whether through LIHEAP or other avenues. Likewise, given her variable

¹ 66 Pa. C.S. 1402 (declaration of policy).

² Fisher, Sheehan, & Colton, *The Home Energy Affordability Gap: 2022* (April 2023), http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html.

³ PA PUC, *Home Energy Affordability for Low-Income Customers* (Jan. 2019) at 87, <https://www.puc.pa.gov/pdocs/1602386.pdf>; 52 Pa. Code 69.265.

⁴ PA PUC, *Terminations and Reconnections: Year to Date November 2022 vs. Year to Date November 2023*, <https://www.puc.pa.gov/media/2709/terminations-reconnectionsyt-d-nov2022vs23.pdf>.

income and mitigating circumstances, the additional PUC discretion included in HB 1077 may have enabled her to get a better payment arrangement that she would have been able to afford.

The proposed amendments in HB 1077 directly address many of our clients' struggles to stay connected and remain paying customers of the utilities, and would positively impact the lives of all of our clients. For that reason, I urge this committee and the entire legislature to pass this bill.

HB 1077 introduces needed reforms that will:

- **Keep residential utility customers connected to and paying for utility services,**
- **Ensure people with chronic medical conditions, seniors, young children, and survivors of domestic violence remain connected to life essential services, and**
- **Ensure consistency and equity across the Commonwealth in how utility customers are treated, regardless of which county they live in.**

1. HB 1077 will help utility customers stay connected to service, eliminating unnecessary barriers to establishing, maintaining or reestablishing service.

HB 1077 helps low and moderate income utility customers by eliminating security deposits, expanding the availability of payment arrangements for reconnection, and limiting reconnection fees for low and moderate income households.

Requiring a security deposit to establish or continue utility service is punitive, imposing an unreasonable barrier to life-sustaining service for vulnerable populations, and exacerbating economic insecurity. Similarly, customers who had their utility service disconnected due to inability to pay are unlikely to be able to pay a reconnection fee – on top of the debts that led to the termination. As with cash deposits, reconnection fees present a punitive barrier for low and moderate income households to re-establish life-sustaining service and compounds economic instability. Removing barriers like deposits and reconnection fees will make it easier for households to connect to service and pay their monthly bills on an ongoing basis.

HB 1077 keeps bills affordable by eliminating late payment fees and ensuring PUC discretion to tailor payment arrangements to a specific household's individual circumstances.

Payment arrangement standards need to be aligned with the real-life, practical hardships and financial obstacles facing low and moderate income households. CLS recently worked with a client, Ms. A, who lives in her childhood home, which is in need of serious repairs. She could not afford to make the needed repairs, but the disrepair caused her to amass a large heating bill. The household income – her social security and a family member's employment income – puts their household just over income for the utility's Customer Assistance Program and for LIHEAP. At the same time, it does not provide them with enough income to make the repairs needed to reduce usage.

Ms. A has serious health issues which require multiple medical appointments a week. Like Ms. B, she had already used medical certificates, so despite these serious health conditions, she was unable to access additional certificates. We are working with Ms. A to address the underlying repair issues that are driving up her bills – she is getting assistance from various repair and weatherization programs, but applying for and getting that assistance has also taken time.

With our assistance, Ms. A sought a payment arrangement from the PUC, which got the services restored. At that time, based on the current Chapter 14 payment arrangement rules, the payment arrangement combined with monthly charges came out to almost \$1000 a month – far from affordable. Despite making partial payments as much as possible, this past summer, she received additional shut off notices for her gas service. Because she had already received a PUC payment arrangement, another arrangement was not possible. However, we had helped Ms. A apply for utility assistance through the Homeowner's Assistance Fund when she first came in and, after almost a year, she received a grant, finally paying down the utility bill and preventing shutoff at least through the winter months. That was one time assistance and won't be available to her again.

The updated provisions in HB 1077 that provide the PUC with additional flexibility in granting payment arrangements would have enabled Ms. A to get a more affordable payment arrangement

from the beginning – and would have been critical to keep Ms. A connected while her home receives the repairs it needs if grant funding hadn't been available.

HB 1077 keeps bills affordable by requiring utilities to gather income information and direct income-eligible customers to a utility's Customer Assistance Program.

Customer Assistance Programs (CAPs) are a valuable tool in ensuring that low income households receive affordable bills. In my experience, households are more likely to pay if presented with an affordable bill. However, these programs are dramatically undersubscribed. Statewide, only 52% of confirmed electric low-income customers and 35% of confirmed natural gas low income customers were enrolled in utility CAPs in 2022.⁵ And these numbers reflect only the households that the utility has confirmed to be income-eligible – not the entire universe of eligible households. Currently, Chapter 14 only requires utilities to refer customers to universal services if a customer calls about a payment agreement.⁶ Many of the clients we see at CLS would have lower arrears had they enrolled in CAP prior to accruing the large balance. HB 1077 would help address this issue by requiring utilities to screen customers and applicants for income at the time service was established, and by requiring referral of customers to universal services programs.

2. HB 1077 will ensure vulnerable households remain connected to life-essential utility service.

HB 1077 provides vulnerable households – families with small children, elderly adults, survivors of domestic violence and individuals with chronic and ongoing medical concerns – with additional tools to remain connected to service.

The current strict medical certificate rules mean that many medically vulnerable households are unable to maintain services. Utility service is medically necessary and life-essential for utility customers facing a variety of significant health conditions, including conditions that require the refrigeration of medications or electricity to power medical equipment. We recently worked with a client, Ms. C, who is 95 years old and bedridden while recovering from infected bed sores. She

⁵ PA PUC, Universal Service Programs & Collections Performance, 2022 Report (Sept. 2023) at 59, <https://www.puc.pa.gov/media/2573/2022-universal-service-report-final.pdf>.

⁶ 66 Pa. C.S. 1410.1.

was given a hospital bed which relied on electricity to operate. Despite the necessity of electricity for Ms. C's health, the utility shut off her service and refused to accept additional medical certificates and refused to accept anything less than 50% of her balance to restore, an amount that was out of her reach on her social security income. Ms. C was forced to live with a neighbor for several weeks while her service was shut off. We were only able to get Ms. C's electricity restored with our advocacy using a LIHEAP grant, which as discussed above is only available during certain months. The proposed amendments to Chapter 14 in HB 1077 expand access to medical certificates and extend the length of medical certificates. These changes would have allowed Ms. C to obtain longer medical certificates and remain safe in her home.

HB 1077 expands access to the existing domestic violence exemption by allowing certified domestic violence counselors to confirm a customer is a survivor.

Survivors of domestic violence must be able to start fresh. The existing domestic violence 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. However, currently, the only way for a survivor of domestic violence to access an exemption is with a court order. In my experience, many of our clients have not obtained or are unable to locate these court orders. Allowing a certified domestic violence counselor or advocate to confirm with a public utility that a consumer is a survivor would greatly expand protections to this particularly vulnerable population of utility customers.

HB 1077 protects households from the dangers of extreme temperatures. Extreme heat is dangerous to health and safety – especially for older adults, people with disabilities, and young children.

The winter moratorium keeps customers connected to utility service during the coldest months of the year, avoiding the preventable deaths that result from the involuntary termination of home heating service in the 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, forcing them to live in unsafe, sweltering conditions.

3. HB 1077 will ensure consistency and equity across the Commonwealth in how utility customers are treated, and their rights and responsibilities, regardless of which county they live in.

HB 1077 eliminates unnecessary special provisions for Philadelphia Gas Works.

Chapter 14 contains numerous special provisions for Philadelphia Gas Works (PGW). These provisions include exceptions to the winter moratorium,⁷ additional deposit rules,⁸ additional requirements for reconnection,⁹ and refusal of service based on liens.¹⁰ CLS supports the removal of these provisions in HB 1077. At the time Chapter 14 was enacted, PGW had only recently come under PUC jurisdiction and was the only large municipally owned utility under the jurisdiction of the Public Utility Commission. Prior to PUC oversight, PGW had faced collections difficulties and mismanagement. And, even when Chapter 14 was initially enacted, PGW's collections performance had already begun to improve. There is no clear evidence that Chapter 14's passage had any influence on PGW's improving collections performance.¹¹ Twenty years later, PGW's rolling 24 month collection rate has stayed consistent around 96% - even during the months of the pandemic when many of the tools PGW claims it needs were unavailable.¹² PGW has now been subject to PUC oversight for 25 years. The expectation should be that PGW can abide by the same rules that all other utilities can, and PGW should be held to the same – or better - standards.

HB 1077 establishes utility data reporting and public disclosure requirements and maintains the sunset provision.

Requiring specific, annual, publicly disclosed reporting requirements of the public utilities provides the General Assembly, the Commission, and the public with the necessary tools to evaluate the effectiveness of policies included in Chapter 14. CLS also supports the continuation

⁷ 66 Pa. C.S. 1406(e)(2).

⁸ 66 Pa. C.S. 1404(f).

⁹ 66 Pa. C.S. 1407(c)(1)(iii).

¹⁰ 66 Pa. C.S. 1414(c).

¹¹ Although it is true that PGW's financial condition before Chapter 14 was bleak, it is incorrect to attribute PGW's improvement to Chapter 14. In fact, the data suggests PGW's financial condition was improving before Chapter 14 was implemented. According to a January 2006 report, "PGW's collections experience was improving before the enactment of Act 201." Rhodes, Jr., Joseph, Final Report – Inquiry into the Implementation and Correctness of Act 201, January 27, 2006, at 16.

¹² See Appendix A – PGW Report October 2023 Report to Philadelphia Gas Commission.

of the sunset provision in HB 1077. A lot has changed for utilities and utility customers in the last 20 years since Chapter 14 was initially adopted, and more will change over the next ten. We believe that the terms and conditions by which households access life-essential utility services should be subject to periodic review by the General Assembly.

HB 1077 ensures that Limited English Proficient customers are able to read and understand termination notices and other important documents.

CLS supports the amendments to HB 1077 that require utilities to ensure notices of termination are provided in both English and Spanish, and ensures written notices of termination include notices in additional languages that inform the customer they are receiving a termination notice. At CLS, we serve a large Limited English Proficient population, and frequently encounter clients who simply don't understand their rights and responsibilities when they receive a termination notice, because little to no information is provided in their native language.

For all of these reasons, and on behalf of all of the low and moderate income residential utility customers CLS works with on a daily basis, I urge the committee to support HB 1077. Thank you for your consideration of this testimony.

Respectfully Submitted,



Joline Price
Supervising Attorney
Energy Unit

Community Legal Services of Philadelphia
1410 W. Erie Ave
Philadelphia, PA 19140

215-227-4378
jprice@clsphila.org

Appendix A: PGW October 2023 Presentation to
Philadelphia Gas Commission



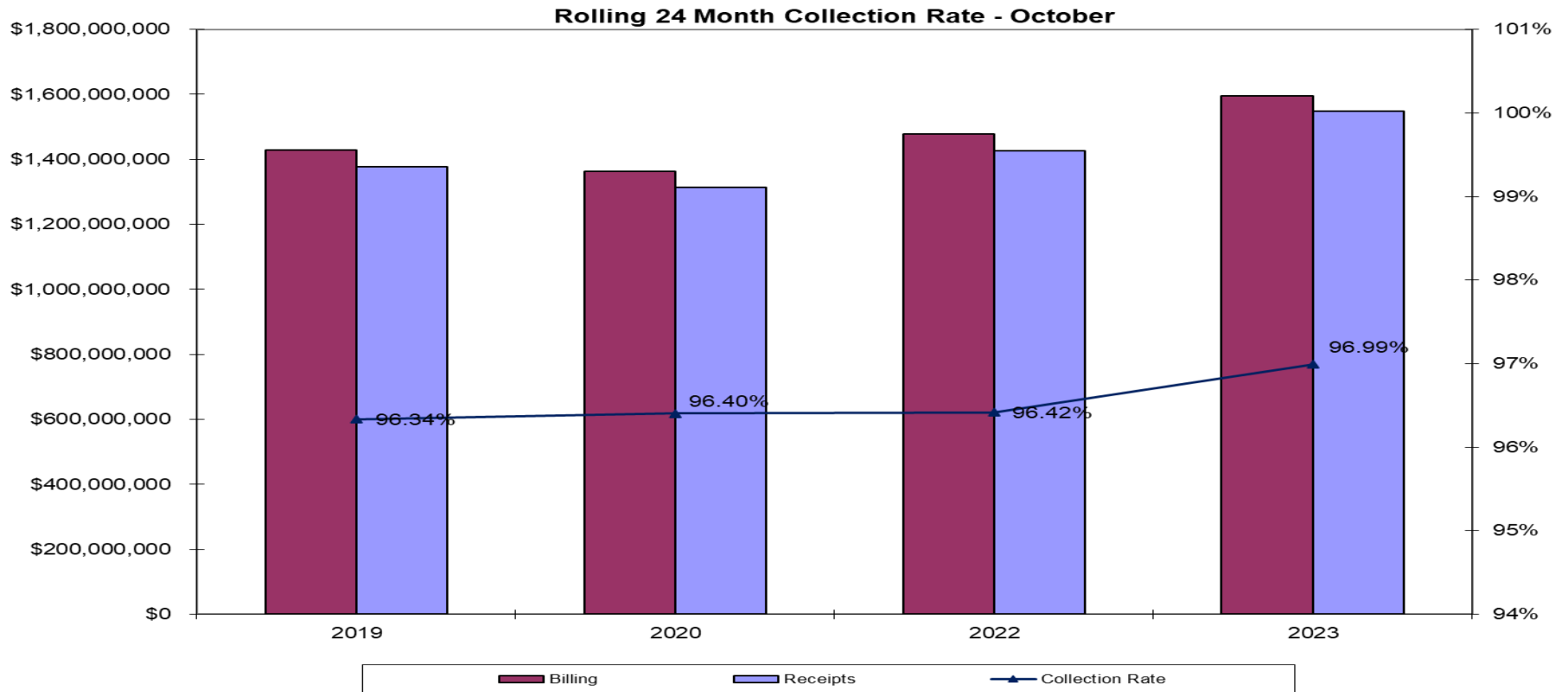
PGC OCTOBER PRESENTATION

November 28, 2023

Twenty-Four Month Collection Rate



The Twenty-four month rolling collection rate through October is 96.99% compared to 96.42% last year for the same period. Billings for this period are \$117.42 million more than prior year and customer receipts are \$122.37 million more than prior year.



**Before the
Consumer Protection, Technology & Utilities Committee
Pennsylvania House of Representatives**

**Hearing on House Bill 1077
Reauthorization of Chapter 14 of the Public Utility Code
January 17, 2024**

**Testimony of
Terrance J. Fitzpatrick, President and CEO
Energy Association of Pennsylvania**

Good morning, Chairman Matzie, Republican Chairman Marshall and members of the House Consumer Protection, Technology & Utilities Committee. I am Terry Fitzpatrick, President and CEO of the Energy Association of Pennsylvania (“EAP” or “Association”), a trade association comprised of electric and natural gas utilities—also known as electric and natural gas distribution companies—operating in Pennsylvania. EAP advocates for its members before the General Assembly and state agencies, assists its members by facilitating sharing of information and best practices, and provides educational opportunities for employees of its members and others through its operations and consumer services conferences. Thank you for this opportunity to provide testimony regarding House Bill 1077 and reauthorization of Chapter 14 of the Public Utility Code.

The History and Purpose of Chapter 14

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

section goes on to state that “[t]he General Assembly seeks to achieve greater equity by eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills.”¹

Prior to the enactment of Chapter 14, there were no specific limits on the PUC’s discretion on collections issues such as the length or number of payment arrangements. Over time, the PUC established extended payment arrangements in which customers were granted periods of 10, 20, 50, and even 100 years to repay past due amounts. I observed this troubling trend during my service as an assistant counsel in the PUC law bureau, as counsel on the staff of a Commissioner, and later as a member of the Commission from 1999 to 2007. I was Chairman of the Commission when Chapter 14 was being debated in the General Assembly, and I thought then, and think now, that it was necessary to establish some limits on the PUC’s discretion in this area.

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

Chapter 14 Contains Extensive Customer Protections

Chapter 14 establishes a fair balance between the interest of paying and non-paying customers and we believe this balance should be preserved in reauthorizing the law. Chapter 14 presently contains extensive protections for customers who fall behind on their bills:

¹ 66 Pa. C.S. Sec. 1402 (1), (2).

- **Multiple notice requirements prior to termination**—this includes a written notice and attempts to make personal contact.² Under PUC rules, the written notice must include information about assistance programs.³
- **The right of customers to stop the termination process by filing a complaint with the PUC**⁴—customers can allege billing errors or just that they disagree with the terms of a payment arrangement offered by the utility.
- **The right of customers to stop the termination process by filing a medical certificate**—these certificates indicate that a member of the household has a medical condition that requires continuation of utility service.⁵
- **A ban on termination of service during winter months**—this provision applies to all customers below 250% of the federal poverty level.⁶
- **The right of customers to at least one payment arrangement from their utility and also one from the PUC**--these arrangements are essentially interest-free loans that give customers a maximum of five years depending on income to repay past-due balances.⁷

I submit that the average person looking at these protections would conclude that the utility collection process it is very fair to those who fall behind in paying their utility bills.

The Existing Customer Protections in Chapter 14 are Subject to Abuse

While the protections in Chapter 14 are intended to help customers who are struggling but trying to pay their bills, the hard truth is that these same protections are also tools that can be used to avoid paying for utility service. The customer service representatives of utilities could provide examples of customers who break multiple payment arrangements (in fact, for some utilities, over half of payment arrangements are broken within the first year), do not make any payments during the winter moratorium, file repeated complaints with the PUC to take advantage of the stay that places on the collections process, and file multiple medical

² 66 Pa. C.S. Sec. 1406 (b).

³ 52 Pa. Code Sec. 56.91(b)(4-9).

⁴ 66 Pa. C.S. Sec. 1410.

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

⁶ 66 Pa. C.S. Sec. 1406 (e).

⁷ 66 Pa. C.S. Sec. 1405(d).

certificates to stop the collections process. As each of these actions take place and the termination process is delayed, arrearages that start as manageable can quickly spiral out of control.

The PUC recently decided a complaint case involving a customer who had an arrearage of \$32,000, upholding the decision of the Administrative Law Judge that the complainant had abused the administrative process to avoid termination of service and that, as a result, the customer should be barred from filing further complaints.⁸ A review of the record in that case shows that over many years the customer took advantage of customer protections in the manner described earlier. In that case, then Vice Chairman DeFrank of the PUC issued a statement expressing concern that the number of customer accounts with balances due over \$10,000 had tripled from 2019 to 2021, to a total of 1,921 statewide. Unfortunately, this is not the only example of misusing the available protections to avoid termination over an extended period of time, resulting in the accrual of large bills.⁹ The many millions of dollars of bad debt expense attributable to these customers will eventually result in higher rates for all residential customers.

The experience during the pandemic also provides a cautionary tale on the need for an effective utility collections process. Recent experience with the extended COVID-related moratorium on terminations ordered by the PUC showed that without the accountability provided by the collections process, many customers put off paying utility bills. Despite an unprecedented level of federal and state assistance, fewer customers applied for assistance than before the

⁸ *Curry v. Pennsylvania Electric Co.*, Docket No. C-2022-3032454, Order entered March 16, 2023.

⁹ A recent sampling of such cases where the PUC found abuse of process against complainants utilizing the protections of the collections process to avoid payment include: *Brown v. PGW*, Docket No. C-2022-3032000, Order entered November 10, 2022; *Moyer v. PPL*, Docket No. C-2022-3031294, Order entered December 8, 2022; *Herr v. West Penn*, Docket No. C-2021-3028202, Order entered September 15, 2022; *Jennifer Potora v. PAWC*, Docket No. C-2017-2627873, Order entered August 8, 2019; *Jennifer Porta v. UGI*, Docket No. C-2018-3003485, Order entered August 8, 2019;

pandemic. This resulted in a 43% drop in LIHEAP receipts¹⁰ for utility customers. Meanwhile, arrearages grew by over 70%.¹¹ This experience shows that, human nature being what it is, many customers will not apply for assistance or pay for service without an effective collections process in place to enforce the customer's obligation to pay for service.

The potential for abuse of the protections in Chapter 14 is a critical consideration when contemplating statutory changes to expand protections for two reasons. First, it drives up the uncollectible expense of utilities. Since this expense is a component of utility rates, higher uncollectible expense puts upward pressure on the rates paid by all customers, including customers of modest means who struggle but manage to pay their bills. It should be noted that this uncollectible expense is likely to grow because total customer arrearages have increased in recent years. I have attached to my testimony a chart showing total customer arrearages, gross write offs, and costs of universal service programs from 2014 to 2022. Gross write offs and arrearages were steady to declining between 2014-2018, showing that the balance achieved by Chapter 14 was working to accomplish its original goal of getting those with the ability to pay, to pay. The COVID related moratorium, imposed via an Order in March 2020, initially banned all utility service terminations and was later modified in October 2020 and March 2021 to restore aspects of the residential collections process under Chapter 14.¹² The subsequent increase in arrearage totals from 2019 to 2022—from \$311 million to \$496 million---is due mostly to the pandemic and the related termination moratorium imposed by the PUC.

Second, the reality that these customer protections can be abused should be kept in mind when considering whether to add new protections or expand existing ones in reauthorizing Chapter 14. For example, just as some customers do not make payments during the winter

¹⁰ Department of Human Services' Weekly Energy Assistance Summaries ("EASUM") Reports for weeks ending 1/23/2020 and 1/16/2021.

¹¹ Compilation of individual company arrearage filings pursuant to PA PUC Docket No. M-2020-3019244, *Emergency Order Re: Establishing Public Utility Service Termination Moratorium*.

¹² *Public Utility Service Termination Moratorium Proclamation of Disaster Emergency – COVID-19*, Emergency Order March 13, 2020, PUC Docket No. M-2020-3019244.

moratorium, this same type of behavior can be expected if a moratorium is imposed during the summer months. Such avoidance behavior not only increases uncollectible expense for utilities and their bill-paying customers, it raises the risk of termination and leads to bills so high as to be unmanageable even with assistance.

Generous Assistance Programs are Available for Customers

There are a number of federal and utility-run assistance programs in place for customers who fall behind on their utility bills. For low-income customers, utilities administer universal service programs under which customers pay discounted rates and can have arrearages forgiven. Electric and gas utilities spent \$567 million dollars on these programs in 2022, and that cost is generally recovered from the general body of residential customers. Low-income customers may also qualify for the federal Low Income Home Energy Assistance Program (LIHEAP). Pennsylvania received just over \$200 million for LIHEAP in 2022. All customers can sign up for budget billing which allows them to spread costs over a year and reduce fluctuations in their monthly bill. Finally, utilities provide financial assistance for customers to make energy efficiency improvements to their homes and free home weatherization for low-income customers.

The attached chart shows that universal service costs have risen from \$361 million per year to \$567 million per year over the past three years. This increase is due to a combination of higher energy costs and a PUC policy statement that increased assistance to customers at the lowest income levels. The ratepayer-funded assistance programs administered by electric and gas utilities in Pennsylvania are among the most generous programs of their kind in the country.¹³ Again, the cost of these programs is recovered from all residential customers – even those who are just above the income guidelines to receive assistance and who also struggle to

¹³ In 2022, New York utility ratepayers funded \$307 million in assistance; Ohio utilities spent \$187 million; New Jersey utilities spent \$215 million. Only California (\$2.1 billion) spends more in ratepayer funded assistance than Pennsylvania utilities.

afford the essentials – and this should be kept in mind when balancing the interest of the general body of customers who pay their bills and customers who fall behind on their bills.

The Potential Impact of House Bill 1077

House Bill 1077 would reauthorize Chapter 14 until the end of 2034 and would make a number of changes to its provisions. Some of these changes include:

- Prohibiting termination of service during the summer months for certain income groups.
- Expanding the scope of the existing winter moratorium to cover all income groups.
- Increasing the number and length of payment arrangements and expanding eligibility.
- Eliminating the ability of utilities to require cash deposits.
- Prohibiting utilities from collecting reconnection fees on certain income groups.
- Lengthening and allowing an unlimited number of medical certificates.
- Removing provisions that are specific to the Philadelphia Gas Works.

Electric and natural gas utilities have concerns regarding these provisions. While providing these additional rights to customers who fall behind on their bills may help those customers in some instances, we believe it will come at an untenable cost to the general body of residential customers who have to pay for these programs and the associated uncollectible costs. Moreover, while the utility collections process should be (and is) fair to all customers and termination is used as a last resort, it is asking too much to have the collections process serve as a means to retain service for customers who cannot afford to pay for that service. Again, it is a hard truth, but we would ask you to consider that all of these additional protections are subject to abuse and that the cost of further obstructing the utility collections process will fall on the general body of customers.

We recognize the difficult task this Committee faces with Chapter 14 reauthorization due to the complex, sensitive issues involved and the divergent views of stakeholders on where to draw the line as to the appropriate balance between the interests of customers who fall behind on their bills and the general body of customers. We look forward to working with you to try and resolve these issues. Electric and gas utilities also have some relatively modest suggestions for changes to Chapter 14 to improve the efficiency of the collections process, address the problem of customers with very high balances, and protect the safety of utility workers, and we hope these recommendations can be considered in any upcoming discussions on the legislation.

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

APPENDIX

