

Prepared Testimony of
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before the

Senate Consumer Protection & Professional Licensure
Committee

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Introduction

Good morning, Chairman Stefano, Chair Boscola, and members of the Senate Consumer Protection & Professional Licensure 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.

Overview of the Chapter 14 Payment Arrangement and Termination Processes

The Committee asked the Commission to detail the processes customers go through and the options that are available to them when they have trouble paying their utility bills. To start this discussion, I will talk about the provisions in Chapter 14 at Section 1405, which pertain to payment arrangements. After that, I will discuss the service termination process that is set forth in Chapter 14 at Section 1406. As well, I'll highlight public utility universal service programs that are available to help income eligible utility households maintain service. I will conclude my testimony with some recommendations for your consideration as you contemplate amendments to Chapter 14.

Before the PUC may accept a customer's informal or formal complaint seeking to address a billing dispute with a public utility or to obtain a payment arrangement, the customer must first contact the public utility to attempt to resolve the issue. In that situation, a customer that has a past due balance may request a payment arrangement directly from a public utility. The public utility should attempt to make a reasonable payment arrangement with the customer. Additional

payment arrangements may be made available at the public utility's discretion. When a customer's service has been terminated for nonpayment, a public utility may require full payment of the balance due as well as reconnection fees to restore service if the customer has defaulted on two payment arrangements or has an income exceeding 300% of the Federal poverty level. 66 Pa.C.S. § 1407(c)(2).

In response to billing disputes or payment arrangement requests, the PUC is limited to granting only one payment arrangement on a set of arrearages, absent a "change in income" or a "significant change in circumstance" as those terms are defined in Section 1402. PUC payment arrangements are calculated using a standard formula set in Section 1405 that uses the Federal Poverty Income Guidelines, also known as FPIG, to determine length of the payment arrangement. The FPIG considers the number of people living at the premises, in addition to the gross income of all adult occupants residing there.

If a customer defaults on a Commission-issued payment arrangement and that customer later seeks to establish a second or subsequent payment arrangement or extend an existing payment arrangement with the PUC, the customer must provide proof of a "change in income" or a "significant change in circumstance" in order to qualify for new payment arrangement terms.

A "change in income" is defined in Section 1403 as a decrease of 20% or more if the customer's household income level exceeds 200% of the FPIG, or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the FPIG. When a customer provides documentation of a change in household income, the monthly amount that must be paid toward the past due balance is recalculated and the PUC may establish a new payment arrangement. 66 Pa.C.S. § 1405(d).

When a customer experiences a "significant change in circumstance" due to: (1) the onset of a chronic or acute illness resulting in a significant loss in the customer's household income, (2) catastrophic damage to the customer's residence resulting in a significant net cost to the customer's household, (3) the loss of the customer's residence, or (4) an increase in the customer's number of dependents in the household, and those circumstances are related to the reason why the payment arrangement was broken, the PUC may reinstate the original payment arrangement and provide a six month extension, which may be eligible for an additional six month extension for good cause shown. 66 Pa.C.S. § 1405(e).

Section 1405(c) prohibits the Commission from issuing a payment arrangement on arrears accrued in a public utility's customer assistance program, also known as CAP. However, customers that have CAP arrearages may still be eligible for a payment arrangement on any non-CAP arrearages.

On the topic of termination, the public utility may begin the service termination process when a customer has an undisputed past due balance. Likewise, if the customer had a payment arrangement but failed to fulfill the terms, the termination process may proceed.

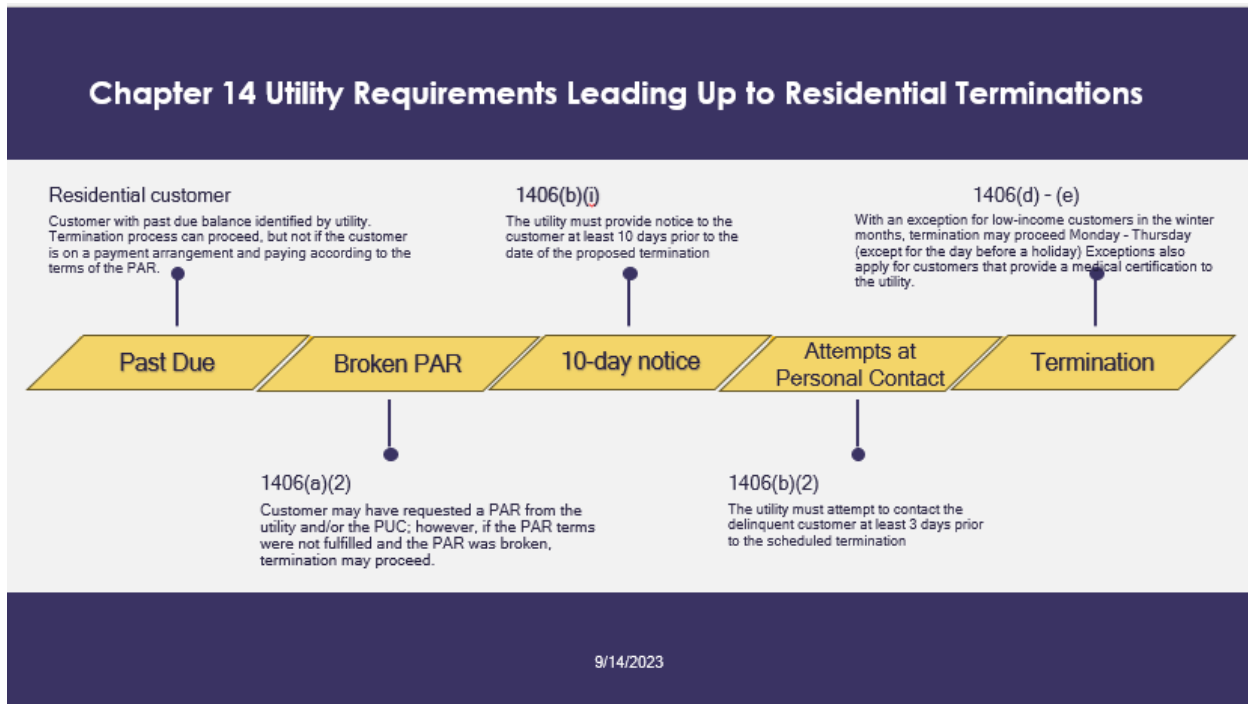
The public utility is required to provide notice of service termination to the customer in accordance with Section 1406(b). The public utility may pursue payment from the customer leading up to the service termination, and the public utility may reach out to the customer via telephone, text, e-mail, field visit, or the U.S. postal service to attempt to collect the arrearages or to set up a payment arrangement. If these efforts do not result in the customer paying the past due amount, establishing a payment arrangement with the public utility or the PUC, or enrolling an income-eligible customer in CAP, written notice of service termination at least ten days prior to the scheduled termination date must be provided to that customer. The service termination notice is effective for 60 days.

After the ten-day notice is issued, if the customer has not contacted the public utility to seek a payment arrangement or pay the past due balance, the public utility is required to attempt a contact with that customer at least three days prior to the scheduled service termination date. The attempted contact may be in person or by telephone and this attempted contact sometimes occurs weeks before the scheduled termination date. If the attempt is made via telephone, calls must be placed on two separate days between the hours of 8 a.m. and 9 p.m. E-mail, text message, or other electronic messages are permitted as means of contact as long as the public utility has obtained prior consent from the customer to be contacted that way.

The public utility must attempt to make personal contact at the time the service is terminated. In the winter months of December through March, if the public utility is not able to make personal contact with a responsible adult, the public utility must post a service termination notice at the premises 48 hours prior to the scheduled termination of service. If the customer provides a medical certificate to the public utility, service termination is stayed for 30 days, with an opportunity to extend the stay of termination up to two times for the same set of arrearages.

Utilities may conduct service terminations Monday through Thursday as long as the public utility can accept payment to restore service on the following day and can restore service consistent with the reconnection standards established in Section 1407. 66 Pa.C.S. § 1406(d). The winter moratorium provisions of Chapter 14 apply only to electric and natural gas utilities and to public water utility customers that use water as a source of heat for their homes. Unless authorized by the PUC, the statute prohibits utilities from terminating customers with household incomes at 250% of FPIG or below from December 1st through April 1st, but special rules found at Section 1406(e)(2) apply to customers of PGW.

The pictorial inserted below provides a general timeline of events that lead to termination. Please note that PAR stands for payment arrangement.



With regard to universal service programs, the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801-2815, and the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201-2212, require large electric and natural gas utilities to have universal service programs and to help income-eligible customers reduce energy usage and afford utility service. Eligibility for universal service programs varies by public utility and as mentioned earlier, eligibility is determined primarily by household income. All large electric and natural gas public utilities have the four following universal service programs.

- A CAP, that provides discounted bills and debt forgiveness.
- A low-income usage reduction program, or LIURP, that makes homes more energy efficient by replacing inefficient appliances, installing weatherization measures, and providing energy education.
- A Customer Assistance Referral and Evaluation Services program, also known as CARES, that connects customers with energy assistance programs and other community resources.
- A hardship fund program, that provides grants to pay for customer arrears.

The universal service plans of large electric and natural gas utilities are subject to a review and approval process, administered through the Commission’s Bureau of Consumer Services.

Finally, I note that water utilities are not statutorily required to have universal service programs. However, several of the large public water utilities have voluntary programs approved by the Commission.

Recommended Amendments to Chapter 14

Now that I have reviewed the process customers go through and the options that are available to them when they are having trouble paying their utility bills, I would like to take this opportunity to remind the Committee of some of the testimony provided by former PUC Chairman Gladys Brown Dutrieuille before you in May of this year. The PUC’s highest priority recommendation regarding Chapter 14 is revising the requirements for establishing Commission payment arrangements.

First and foremost, the PUC is seeking modifications related to payment arrangements in an effort to grant more manageable and effective payment terms that will help keep households connected to essential services, reduce arrearages, and minimize the transfer of uncollectable balances to other public utility customers. These potential modifications related to payment arrangements include:

- Giving the Commission authority to set longer repayment terms than what is currently included in Section 1405(b), with definitions for those longer terms defined in the statute.
- Modifying the definition of “change in income” (CII) in Section 1403, which allows for consideration of changes in the terms of a payment arrangement, in situations where household income decreases or increases by 10% or more, and eliminate the 200% FPIG standard in the definition for CII.

- Providing the PUC with authority to grant more than one payment arrangement, with discussions to consider the definition for a reasonable number of additional payment arrangements – potentially including granting up to three PUC payment arrangements.

As we all know, the Commission’s administration of Chapter 14 seeks to strike a balance of being able to maintain service for income-challenged customers while trying to ensure those customers pay the charges for which they are responsible. As our former Chairman Gladys Brown Dutrieuille testified earlier this year before this Committee, 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 PUC also recommends clarifying the definition of household income in Section 1403, which currently refers to the combined income for adults in a residential household. This definition should expressly exclude the earned and unearned income of and for minors from the calculation of household income, such as a minor’s supplemental security income paid to an adult occupant. Further, the Commission recommends this exclusion should be expressly applicable when determining eligibility for LIHEAP, with the same applicability to Section 1406(g).

Finally, the PUC requests the discretion to extend the length of Medical Certificates. The existing language and process for medical certifications, which provide up to a total of 90 days of service protection, is burdensome on all parties. This change would allow the PUC to extend the length of Medical Certificates without further administrative maintenance.

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. The recommendations offered today are an attempt to highlight key PUC concerns rather than provide an exhaustive list. While my testimony today highlights the PUC’s preferences and priorities of changes to Chapter 14, as we have stated before in written correspondence to the General Assembly, the PUC continues to urge other changes including technical issues within the statute. 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 drive up the cost of service for other public utility customers and negatively impact their households.

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.