

Prepared Testimony of

*Gladys Brown Dutrieuille*

Chairman, Pennsylvania Public Utility Commission

*before the*

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Pennsylvania Public Utility Commission

400 North Street

Harrisburg, Pennsylvania 17120

Telephone (717) 787-4301

<http://www.puc.pa.gov>

Good afternoon, Chairman Sturla, Representative Flynn, and other members of the House Democratic Policy Committee.

I am Gladys Brown Dutrieuille, Chairman of the Pennsylvania Public Utility Commission. On behalf of the Commission, I thank you for the invitation to testify today regarding House Bill 2275.

A central focus of the Commission – since its creation more than 80 years ago – has been to ensure safe and reliable public utility service at fair and reasonable rates.

As noted in the cosponsorship memo, this legislation is intended to address fairness in tenant utility billing. Given that “fairness” is a key guiding principle for the Commission, we appreciate the opportunity to offer some PUC-related insights into this proposal.

## **Background**

Given that this legislation is directed at situations where landlords are billing tenants for various utility services – typically involving multi-unit residential dwellings – it is important to understand how and when this can occur, and the PUC’s authority in those situations.

Regarding electric service, since the early 1980’s electric distribution companies (EDCs) have required all new multiunit residential dwellings to be individually metered with each resident receiving an electric bill directly from the EDC.

For natural gas service, most natural gas distribution companies (NGDC) allow for service, through one meter, for multifamily dwellings but provide a cap on the number of individual dwellings. For example, Columbia’s definition of residential service permits one meter serving up to three units in multifamily housing, whereas NFG permits one meter for up to four dwellings and PECO permits up to five dwellings.

With water and wastewater service, use of a single meter to serve multi-family residential units is common – but apartment complexes or similar multi-family dwelling units are typically considered to be commercial customers and typically benefit from lower volumetric rates for water and/or wastewater service as compared with residential customers.

Section 1313 of the Public Utility Code mandates that any resale of electric service shall not exceed the amount the public utility would otherwise directly bill its residential customers. In

other words, when reselling utility service it must not exceed the tariffed rate in effect at the time of use. The specific statutory provision is only applicable to resale to residential customers. The provision was of keen interest at the Commission recently, as we reviewed its applicability to the sale of electricity to charge electric vehicles. In that proceeding we determined 1313 should not apply to electric vehicle charging stations in order to facilitate innovation and competition in electric vehicle charging rates.

### **Scope Limitations**

Given that EDCs have required multiunit residential dwellings to be individually metered for several decades, this bill would only impact service at multiunit dwellings in existence prior to the early 1980's.

Similarly, NGDCs typically limit the number of units that can be served by a single meter.

Water and wastewater services is likely to see the greatest potential impact of HB2275, because sub-metering for those services is generally not required.

Additionally, it is important to note that the legislation appears to only applies to PUC regulated utilities, and many water utilities in Pennsylvania are municipal systems, outside the jurisdiction of the PUC. This could leave a large portion of the state's population not covered by this legislation.

The same "coverage gap" would apply to consumers in communities served by municipal electric systems and/or electric cooperatives, which are also outside the jurisdiction of the PUC.

### **Challenges Calculating Electric Energy Costs**

It should also be noted that all EDC customers can shop for generation service with an electric generation supplier (EGS), where the EGS rate is not regulated by the PUC. The products offered by an EGS may include solar or other renewable generation, or other energy source that may involve a premium that exceeds the EDC's default service rate as it is not equivalent to the EGS product offering. Accordingly, it may prove difficult for anyone to determine if the landlord is overcharging these tenants as there is no EDC equivalent rate.

In addition, the EDC's price to compare (PTC) varies either quarterly or semiannually and includes adjustments for over- or under-collections that skew the rate default customers pay that does not necessarily correlate to the EDC's actual cost for generation.

Thus, the PTC may not be the appropriate comparison against EGS rates paid by landlords and passed onto customer, making the validity of any potential claimed violation of this provision difficult to prove.

### **Challenges Calculating Natural Gas Costs**

As with electric service, customers can shop to gas service from a natural gas supplier (NGS) where the NGS rate is not regulated by the PUC.

Like EDCs, NGDCs have various methods for determining the cost of gas for provider of last resort (POLR) service that may not provide the appropriate or accurate comparison to NGS rates charged to landlords that pass these costs onto tenants, again making the validity of any potential claimed violation of this provision difficult to prove.

### **Challenges Calculating Water & Wastewater Costs**

Water bills virtually always include: (1) a fixed charge based on the size of the customer's service line; and (2) a variable charge based on the volume of water consumed by the customer.

Wastewater bills usually include a fixed charge based on one of the following: (1) the size of the customer's service line; (2) an approximation of the amount of wastewater the customer will produce based upon the characteristics of the property; or (3) a flat rate for each customer.

Where water consumption data is available, wastewater bills may include a lower fixed charge and a separate variable charge based on the volume of water consumed.

### **Enforcement Challenges**

In addition to the above noted difficulty in proving a violation when comparing EGS/NGS rates charged to the EDC's PTC or the NGDC's POLR rates, the Commission has limited authority related to landlords:

- Identify qualifying service locations would prove challenging without some mechanism to report and/or track these locations.
- Even if the Commission could identify qualifying service locations, the Commission has no authority to require landlords to report lease agreements and tenant charges to the Commission.
- Without standardized and itemized billing by landlords it will be difficult to determine if there are any other charges associated with the bill and if those charges are appropriate.
- The primary method the Commission would have to identify any potential violations would be through tenant complaints filed at the Commission – but it could prove difficult to compel landlords to appear and answer complaints filed with the Commission.
- Finally, other than Section 3302, 66 Pa. C.S. § 3302 (relating to criminal penalties for violations) or filing another action in court, the Commission has no authority to compel landlords to change lease agreements and tenant charges without a court order.

### **Potential Alternatives**

Given the Pennsylvania Attorney General’s authority related to landlord-tenant disputes, the Attorney General’s Consumer Protection Bureau may be a more fitting entity to identify, track and enforce this proposed legislation.

Alternately, Pennsylvania may wish to consider mechanisms used in other states – such as Texas – which has laws regarding sub-metering and allocated billing for water and wastewater, and other resources that may be helpful. The Texas proposal requires landlords who intend to bill tenants for utility service to register with the Texas PUC, and requires charges and calculations for billing to be performed in a standardized manner.

### **Conclusion**

I hope my testimony today has detailed the PUC’s perspective concerning this important topic.

We are committed to working with the legislature and other stakeholders across the state to ensure that consumers interests are safeguarded, and the PUC stands ready as a resource for any further discussions about this proposed legislation or other similar initiatives.

I appreciate the opportunity to testify today and would be happy to address any of your questions.