

Prepared Testimony of

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before the

Pennsylvania House of Representatives
Consumer Affairs Committee

Regarding Chapter 14 of the Pennsylvania Public Utility Code

November 1, 2011



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Thank you, Chairman Godshall, Chairman Preston and committee members for the opportunity to talk with you about Act 201 of 2004, known as the "Responsible Utility Customer Protection Act," now Chapter 14 of the state's Public Utility Code. I commend you for your continued attention and review of Chapter 14 because the creation of this chapter seven years ago continues to have a profound impact on consumers and how utilities address uncollectible accounts.

The Commission has implemented Chapter 14 in a manner that guards the rights of consumers while protecting the fiscal health of the state's natural gas, electric and water utilities. We strive to ensure compliance with the law while protecting the health and safety of customers.

Chapter 14 Biennial Report

On Jan. 14, 2011, the Commission delivered its third biennial report to the General Assembly and Governor. In it, the PUC offered a collection of data and analyses of factors as outlined in Chapter 14. In reporting, we keep in mind the stated goals of Chapter 14 of increasing utility account collections and eliminating the subsidization of bad debt costs by paying customers while not eroding consumer protections.

The report analyzes the overall collection performance of electric and natural gas industries. Highlights from the report earlier this year include findings that:

- Terminations increased dramatically since the passage of Chapter 14 but have leveled off in recent years. Utilities are using termination as a collections tool to manage customer debt effectively. Our annual Cold Weather Survey, however, has shown that more customers now enter the winter without a central heating source. The Commission is concerned about the health and safety of the occupants of these dwellings.
- Both the electric and gas industries have seen a significant increase in Customer Assistance Program (CAP) enrollment since the passage of Chapter 14. This has led to a corresponding increase in CAP spending, which is borne by all residential ratepayers.
 - The **electric** industry has increased CAP spending 79.6 percent since 2004.
 - The **gas** industry has increased CAP spending 108.4 percent since 2004.
- The report concludes that, while some instances of non-compliance remain, overall the utilities have effectively complied with Chapter 14. The Commission continues to take action when compliance issues arise.
- Chapter 14 has had an impact on the number of Payment Agreement Requests (PARs) filed with and awarded by the Commission. The Commission has turned away 94,777 customers who were ineligible under the law to receive a payment arrangement since the passage of Chapter 14.
- The overall collections performance for the **electric** industry continues to show mixed results since the passage of Chapter 14.
 - A 28.5 percent increase in residential revenues since 2004 has been offset by an increasing number of customers who are in arrears.

- The gross residential write-offs ratio, which is the percentage of billings written off as uncollectible, declined by 6.5 percent from 2004-09.
- The overall collections performance for the **gas** industry improved from 2004-09.
 - The percent of customers in arrears declined by 29.7 percent while the total amount of arrearages declined by 27.5 percent.
 - The gross residential write-offs ratio declined by 18.4 percent since the passage of Chapter 14. This has a long-term downward effect on consumer rates.
 - Regarding PGW, the analysis of the various collections data continues to show a dramatic pattern of improvement since the passage of Chapter 14.
 - Significantly fewer customers owe money to PGW, while the amount of arrearages has also significantly declined since 2004.
 - PGW also saw a 26.6 percent decrease in its gross residential write-offs ratio.

Chapter 56/14 Rulemaking

On June 9, 2011, the Commission voted to finalize efforts to bring Chapter 56 of the Public Utility Code – also known as the Standards and Billing Practices for Residential Utility Service – into compliance with Chapter 14. While promulgating the final regulations, the Commission was implementing and following the provisions contained within Chapter 14.

Twenty-four interested parties, including consumer advocates and utility representatives, participated in the process by providing input concerning the Chapter 56 provisions that were affected by the enactment of Chapter 14 and how the Commission should make the law and the regulations compatible.

The rulemaking was not restricted to just Chapter 14 issues. Parties also commented on other issues that they believed the Commission needed to address regarding Chapter 56, which was last revised in the mid-1990s. Since that time, utilities and consumers have employed numerous technological advances such as electronic billing and payment, the Internet, and e-mail. The Commission encouraged parties to comment on how these advances should be incorporated into the regulations as well.

The rulemaking covered a variety of issues including the termination process; winter termination rules; application and credit procedures; service restoration requirements; and collection reporting requirements. The revised regulations were published in final form in the *Pennsylvania Bulletin* on Oct. 8, 2011.

Recommendations

Defining Payment Arrangement

When it comes to Chapter 14 itself, a few areas of concern exist. We continue to have concerns regarding the definition of payment arrangement as provided in the law. The Commission respectfully suggests that this concern could be addressed by adding language to Section 1405(d) that specifies that the restrictions in this section only apply if the previous defaulted payment agreement was a payment agreement ordered by the Commission (suggested addition in **bold**):

*Absent a change in income, the Commission shall not establish or order a public utility to establish a second or subsequent payment agreement if a customer has defaulted on a previous payment agreement **ordered by the Commission.***

The PUC ought to be the final judge of consumers' rights, as I stated in my October 27, 2005 motion in our order implementing Chapter 14 (attached hereto). If that is not the case, then that leaves the utilities as the final arbiter, which is unacceptable. Because of the infinite number of personal situations, a certain amount of flexibility must be provided to the Commission to deal with individual circumstances – both good and bad.

Time and time again, we have conveyed that receiving a Commission-approved payment agreement is a privilege, not a right. We have ruled that, if a customer does not act in good faith in making payments on previously established utility-based payment agreements, it is not a foregone conclusion that he or she will receive a Commission-approved payment agreement.*

We have repeatedly shown that those who abuse the process receive little or no sympathy from the Commission. As I mentioned before, the PUC has turned away 94,777 customers who are ineligible to receive a PUC payment arrangement since the passage of Chapter 14. If, however, someone has made a good-faith effort to pay, we have tried to work with them in order to maintain vital utility service.

Friday Terminations

We also are concerned about termination of service that occurs on a Friday as permissible under Chapter 14. On Friday, Nov. 2, 2007, an electric utility terminated service to a residence and on Saturday evening a fire destroyed that home, killing two children. Again, on Aug. 8, 2008 – a Friday – an elderly woman's service was mistakenly terminated and a fire destroyed her home that evening, killing the woman.

While we cannot directly link the utility terminations to the causes of these tragedies, we believe a true health and safety issue exists. If customers are terminated on a Friday and do not discover that their heat is off until they return home for the evening, their options are limited. The utility may have someone answering phones, but the assistance offices (including the state Department of Welfare and community-based organizations) and the PUC are all closed.

We will never know if the customers mentioned above had access to other assistance agencies on Saturday morning, or if those tragedies could have been prevented. As part of a settlement agreement with the PUC's prosecutory staff in one of the incidents, the utility agreed not to discontinue service to customers on Fridays through June 2013. We respectfully ask that you consider amending the law to provide that terminations are only permitted if one full working business day follows, unless the company petitions the PUC for permission to terminate a customer.

* *Crawford v. National Fuel Gas Distribution Company*, Docket No. C-20066348 (Order entered December 1, 2007).

Medical Certificates

Another issue we have encountered during the last seven years concerns medical certificates. As it stands now, utility service may not be shut off if you or someone living in the home is certified as seriously ill by a licensed physician or nurse practitioner.

The law is silent regarding the ability of physician's assistants to sign a medical certificate to prevent a utility termination. The use of physician's assistants has become much more prevalent in today's medical environment. As a result, we respectfully ask that you consider an amendment that would allow a medical certificate to be provided by a physician's assistant as well as a licensed physician or nurse practitioner.

Low Income Home Energy Assistance Program (LIHEAP)

Although not specifically mandated by Chapter 14, the Commission has respectfully requested continued support for the federally funded Low-Income Home Energy Assistance Program (LIHEAP) by lobbying Congress to maintain the current level of assistance. In better budgetary years, we have gone so far as to ask the General Assembly to consider introducing legislation directing additional state dollars to assist low-income households in Pennsylvania as part of our Chapter 14 biennial report.

As you know, LIHEAP is a federally funded program that enables states to help low-income households meet their home heating needs. It consists of three components: 1) cash benefits to help customers pay for their home heating fuel; 2) crisis benefits to resolve energy-related emergencies; and 3) weatherization benefits to assist in energy conservation.

Historically, the state Department of Public Welfare (DPW) provides LIHEAP benefits to approximately 37 percent of the eligible population. The current LIHEAP funding, when combined with the existing utility and Commission safeguards, are generally inadequate to help low-income households significantly reduce their energy burdens to a manageable level to maintain utility service.

The DPW's LIHEAP policies also prohibit giving LIHEAP Crisis grants (January 3 to March 31) to customers whose utility service, by law, cannot be terminated during the winter (the PUC's termination moratorium begins on November 1 and ends on March 31). DPW did institute a Crisis Exception program (from November 1 to January 2) in order to assist a customer who may be without heat prior to the opening of the Crisis program. Under this policy, a customer who is without heat may receive a Crisis payment prior to the January 3 opening of the program. In order to qualify for a Crisis Exception Payment the customer's heating source must be completely shut off, the customer's Cash grant must be insufficient to reconnect the service, and the combination of the Cash grant plus the Crisis grant must be enough to have the service turned on.

The Commission is concerned that customers of regulated utilities will be shortchanged in receiving LIHEAP Crisis funds because the Crisis program occurs entirely within the PUC's termination moratorium, and because the Crisis Exception Program has not been sufficiently advertised.

With that said, we respectfully encourage a continued dialogue on LIHEAP, its funding, and how we can all work together to ensure that those in need can restore and maintain their utility service. We are committed to working with DPW and others to be certain that those who are eligible for the funding receive the help they need.

Conclusion

As always, the Commission remains committed to balancing the needs of consumers and their ability to pay with the need to maintain the fiscal health of utilities. We respectfully ask for your consideration of the issues outlined above that we believe require further action. The Commission has worked to apply Act 201 in a way that is consistent with legislative intent while protecting the health and safety of Pennsylvanians.

Thank you for allowing me to testify today. I look forward to any questions that you may have.