





P. MICHAEL STURLA, CHAIRMAN
414 MAIN CAPITOL BUILDING
P.O. BOX 202096
HARRISBURG, PENNSYLVANIA 17120-2096
(717) 787-3555
FAX: (717) 705-1923



HOUSE DEMOCRATIC POLICY COMMITTEE

WEBSITE: www.pahouse.com/policycommittee
EMAIL: policy@pahouse.net
    @PADemPolicy

House of Representatives
COMMONWEALTH OF PENNSYLVANIA

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING

Topic: House Bill 2275

G-50 Irvis Office Building – Harrisburg, PA

September 9, 2020

AGENDA

- 2:00 p.m. Welcome and Opening Remarks
- 2:10 p.m. Gladys Brown Dutrieuille
Chairman
Pennsylvania Utility Commission
- 2:20 p.m. *Questions & Answers*
- 2:40 p.m. Panel from Conservice:
 - Marc Treitler
Partner/General Counsel
 - Sabrina Patterson
Legal Counsel
- 2:50 p.m. *Questions & Answers*
- 3:10 p.m. Michael Housely
President
Legacy Energy (on behalf of Pennsylvania Apartment Association)
- 3:20 p.m. *Questions & Answers*
- 3:40 p.m. Closing Remarks

[Home](#) / [House Co-Sponsorship Memoranda](#)

House Co-Sponsorship Memoranda

House of Representatives
Session of 2019 - 2020 Regular Session


MEMORANDUM

Posted: January 13, 2020 01:27 PM
From: [Representative Marty Flynn](#)
To: All House members
Subject: Ensuring Fairness for Tenant Utility Billing

Families and renters in Pennsylvania deserve the comfort in knowing that they are not being overcharged when they pay for utilities. With modern metering and billing methods, we can ensure that tenants are not being taken advantage of when they heat, cool, or use electricity in their homes.

For this reason, I am introducing legislation to provide for billing methods for renters: ratio utility billing systems (RUBS) and submetering. RUBS is a formula that the landlord uses to determine a flat rate for utilities, which is then included in the monthly rent payment. Alternately, submetering is when each apartment has its own meter for utilities and the tenant pays that amount, either directly to the utility company or to the landlord.

Simplifying utility billing ensures renters are given a fair deal. Please join me in supporting Pennsylvania families and providing protections when paying the monthly utility bills.

 Introduced as [HB2275](#)

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2275 Session of
2020

INTRODUCED BY FLYNN, McNEILL, ISAACSON, KOSIEROWSKI, KINSEY,
ROEBUCK, KENYATTA, READSHAW, HILL-EVANS, McCLINTON, NEILSON
AND CONKLIN, FEBRUARY 4, 2020

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 4, 2020

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in rates and distribution systems,
3 further providing for price upon resale of public utility
4 services.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 1313 of Title 66 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 1313. Price upon resale of public utility services.

10 Whenever any person, corporation or other entity, not a
11 public utility, electric cooperative corporation, municipality
12 authority or municipal corporation, purchases service from a
13 public utility and resells it to consumers, the bill rendered by
14 the reseller to any residential consumer shall not:

15 (1) if the bill is based on submetered consumption,
16 exceed the amount which the public utility would bill its own
17 residential consumers for the same quantity of service under
18 the residential rate of its tariff then currently in

1 effect[]; or

2 (2) if the bill is based on a formula agreed to by the
3 consumers in writing, exceed the amount billed by the public
4 utility to the reseller during the relevant period.

5 Section 2. This act shall take effect in 60 days.

Prepared Testimony of

Gladys Brown Dutrieuille

Chairman, Pennsylvania Public Utility Commission

before the

Pennsylvania House Democratic Policy Committee

September 9, 2020



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 apply 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:

- Identifying 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.

About Conservice:

Conservice is the largest utility management and billing company in the United States, working with multifamily properties and residents nationwide. The Utility Experts provide solutions that greatly reduce operating costs and promote conservation while maintaining an unmatched level of customer service to properties and residents alike.

With more than twenty years of industry experience, Marc Treitler is widely known as a leader on all aspects of utility management regulatory and legal issues. He leads Conservice's legal and regulatory teams. Sabrina Patterson serves as senior legal counsel to Conservice and has practiced exclusively in the area of utilities law for over thirteen years.

General Points on House Bill 2275:

- A bill to encourage utility conservation by clarifying how landlords may pass through utility costs to tenants.
- The outdated Section 1313 is over 40 years old and needs to be updated to reflect the advancement of utility billing programs and technology, while continuing to support conservation and ensure protections for the consumers.
- Studies have proven that when a tenant pays for utilities, the tenant will use up to 39% less. This saves critical amounts of water, gas and electricity throughout the state, and significantly reduces emissions that lead to global warming.
- Submetered properties use 18-39 percent less water than those properties that billed water service in rent.
- RUBS (ratio utility billing systems) properties use 6-27 percent less than the in-rent sample.
- The EPA has even studied the issue and issued a report in support of submetering as an effective method of water conservation.
- The EPA study provides that submetering results in water savings of 15.3 percent or the equivalent of 21.8 gallons per day per unit.
- Utility companies see results in the form of reduced water demand and property owners through decreased operating costs.
- Renters benefit in the long term as submetering/RUBS decreases the risk of rent increases due to rising water prices.
- Tenant protections will be clarified, unlike the outdated law that is silent on tenant protections.
- Tenants are not subject to credit checks, utility deposits, or shutoffs for submetering or RUBS, as they are if they have to sign up for utilities directly in their own name.

Testimony of Michael Housley

Good Afternoon Chairman Sturla & members of the committee. My name is Michael Housley. I am the President of Legacy Energy. Founded in 1999, Legacy provides comprehensive energy management services to clients throughout the United States. Legacy has significant experience serving multifamily housing clients in Pennsylvania, Delaware, and New Jersey.

Today, I am here representing Legacy Energy and the Pennsylvania Apartment Association where Legacy Energy is an active member. The Pennsylvania Apartment Association represents over 300 property owner and management companies with approximately 300,000 units in the Commonwealth.

The Association was initially approached by Conservice and its representatives regarding House Bill 2275, sponsored by Representative Flynn. Conservice is also a member of the Association. Given the importance of this issue to our members, we agreed to work with Conservice.

In general, multifamily properties have the option of procuring natural gas and electricity from the local utility or a third-party supplier. Distribution services must be purchased from the local utility. These costs have the potential to change significantly on a month-to-month basis. House Bill 2275 would primarily affect properties that invoice tenants for electricity and natural gas costs based on a cost allocation or formula method, generally referred to as a Ratio Utility Billing System (RUBS). Many properties utilize RUBS where submetering is not physically or economically viable due to the age property, or complexities associated with the design of the hot water, heating and cooling systems.

The Association does not oppose House Bill 2275. There are details that should be considered in future revisions to the current language. Under RUBS, utility costs are allocated to tenants based on formulas. It is not as precise as submetering. Specifically, natural gas and electric usage at the tenant level varies month-to-month. Natural gas and electricity usage and costs at the account /property level also vary month by month. Given these dynamics, there are months where the amount billed tenants under RUBS exceeds the amount billed by the local utility /supplier. Just as frequently, there are months where the amount billed tenants under RUBS is lower than the amount billed by the local utility/supplier. We believe that compliance with House Bill 2275 should take this into consideration. The Association believes that compliance should be determined on an annual basis, at the account or property level. Some of the Association's concerns have been addressed in the current version of the bill. We will continue to work with Conservice going forward to address any additional concerns with the legislation.

This concludes my testimony.