

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1014 Session of
2005

INTRODUCED BY M. WHITE, WASHINGTON, KITCHEN, A. WILLIAMS,
RAFFERTY, ORIE, ERICKSON, WAUGH, FONTANA, MUSTO, KASUNIC,
EARLL, BROWNE, REGOLA AND THOMPSON, NOVEMBER 14, 2005

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
NOVEMBER 14, 2005

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing, in responsible
3 utility customer protection, for definitions, for cash
4 deposits and household information requirements, for payment
5 agreements, for termination of utility service, for
6 reconnection of service, for liens by city natural gas
7 distribution operations and for reporting to General Assembly
8 and Governor.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The definitions of "payment agreement" and
12 "significant change in circumstance" in section 1403 of Title 66
13 of the Pennsylvania Consolidated Statutes are amended and the
14 section is amended by adding definitions to read:

15 § 1403. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 * * *

20 ["Payment agreement." An agreement whereby a customer who

admits liability for billed service is permitted to amortize or
pay the unpaid balance of the account in one or more payments.]

* * *

PUC payment agreement." An agreement ordered or approved by
the Pennsylvania Public Utility Commission whereby a customer
who admits liability for billed service is permitted to amortize
or pay the unpaid balance of the account in one or more
payments.

"Significant change in circumstance." Any of the following
criteria when verified by the public utility and experienced by
customers with household income less than 300% of the Federal
poverty level:

(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) Loss of the customer's residence.

(4) Increase in the customer's number of dependents in
the household.

"Utility payment agreement." An agreement entered into
between a public utility and a customer whereby a customer who
admits liability for billed service is permitted to amortize or
pay the unpaid balance of the account in one or more payments.

* * *

Section 2. Sections 1404(a), (b), (c) and (d), 1405, 1406,
1407, 1414 and 1415 of Title 66 are amended to read:

§ 1404. Cash deposits and household information requirements.

(a) General rule.--In addition to the right to collect a
deposit under any commission regulation or order, the commission

1 shall not prohibit a public utility, prior to or as a condition
2 of providing utility service, from requiring a cash deposit in
3 an amount that is equal to [one-sixth] one-twelfth of the
4 applicant's estimated annual bill, at the time the public
5 utility determines a deposit is required, from the following:

6 (1) An applicant who previously received utility
7 distribution services and was a customer of the public
8 utility and whose service was terminated for any of the
9 following reasons:

10 (i) Nonpayment of an undisputed delinquent account.

11 (ii) Failure to complete payment of a deposit,
12 provide a guarantee or establish credit.

13 (iii) Failure to permit access to meters, service
14 connections or other property of the public utility for
15 the purpose of replacement, maintenance, repair or meter
16 reading.

17 (iv) Unauthorized use of the utility service
18 delivered on or about the affected dwelling.

19 (v) Failure to comply with the material terms of a
20 settlement or payment agreement.

21 (vi) Fraud or material misrepresentation of identity
22 for the purpose of obtaining utility service.

23 (vii) Tampering with meters, including, but not
24 limited to, bypassing a meter or removal of an automatic
25 meter reading device or other public utility equipment.

26 (viii) Violating tariff provisions on file with the
27 commission so as to endanger the safety of a person or
28 the integrity of the delivery system of the public
29 utility.

30 (2) Any applicant or customer who is unable to establish

1 creditworthiness [to the satisfaction of the public utility]
2 through the use of a generally accepted credit scoring
3 methodology which [employs standards for using the
4 methodology that fall within the range of general industry
5 practice] is approved by the commission.

6 (3) A customer who fails to comply with a material term
7 or condition of a settlement or payment agreement.

8 (b) Third-party guarantor.--Nothing in this section shall be
9 construed to preclude an applicant from furnishing a third-party
10 guarantor in lieu of a cash deposit. The guaranty shall be in
11 writing and shall state the terms of the guaranty. The guarantor
12 shall be responsible for [all missed payments owed to the public
13 utility] the amount of the deposit that would otherwise be
14 required under this section.

15 (c) Deposit hold period.--

16 (1) A public utility may hold a deposit until a timely
17 payment history is established [or for a maximum period of]
18 but no longer than 24 months.

19 (2) A timely payment history is established when a
20 customer has paid in full and on time for twelve consecutive
21 months.

22 (3) At the end of the deposit holding period as
23 established in paragraph (1), the public utility shall deduct
24 the outstanding balance from the deposit and return or credit
25 any positive difference to the customer.

26 (4) If service is terminated before the end of the
27 deposit holding period as established in paragraph (1), the
28 public utility shall deduct the outstanding balance from the
29 deposit and return any positive difference to the customer
30 within 60 days of the termination.

1 (5) If a customer becomes delinquent before the end of
2 the deposit holding period as established in paragraph (1),
3 the public utility may deduct the outstanding balance from
4 the deposit.

5 (6) The public utility shall accrue on the deposit until
6 it is returned or credited the legal rate of interest
7 pursuant to section 202 of the act of January 30, 1974
8 (P.L.13, No.6), referred to as the Loan Interest and
9 Protection Law, and return such interest with the deposit.

10 (d) Adult occupants.--Prior to providing utility service, a
11 public utility may require the applicant to provide the [names]
12 name of each adult occupant residing at the location [and proof
13 of their identity] whose name appears on a mortgage, deed or
14 lease for the property.

15 * * *

16 § 1405. Payment agreements.

17 (a) General rule.--The commission is authorized to
18 investigate complaints regarding payment disputes between a
19 public utility, applicants and customers. The commission is
20 authorized to establish payment agreements between a public
21 utility, customers and applicants [within the limits established
22 by this chapter].

23 (b) Length of PUC payment agreements.--The length of time
24 for a customer to resolve an unpaid balance on an account that
25 is subject to a PUC payment agreement [that is investigated by
26 the commission and is entered into by a public utility and a
27 customer] shall not extend beyond:

28 (1) Five years for customers with a gross monthly
29 household income level not exceeding 150% of the Federal
30 poverty level.

1 (2) [Two] Three years for customers with a gross monthly
2 household income level exceeding 150% and not more than 250%
3 of the Federal poverty level.

4 (3) One year for customers with a gross monthly
5 household income level exceeding 250% of the Federal poverty
6 level and not more than 300% of the Federal poverty level.

7 (4) Six months for customers with a gross monthly
8 household income level exceeding 300% of the Federal poverty
9 level.

10 (c) Customer assistance programs.--[Customer assistance
11 program rates shall be timely paid and shall not be the subject
12 of payment agreements negotiated or approved by the commission.]
13 When a customer contacts the public utility to make payment
14 arrangements, the public utility shall notify the customer
15 verbally and in writing about the public utility's customer
16 assistance program, inquire about the customer's eligibility and
17 enroll eligible customers into the customer assistance program,
18 if agreeable to the customer.

19 (d) Number of payment agreements.--Absent a change in income
20 or other significant change in circumstances, the commission
21 shall not [establish or] order a public utility to establish a
22 second or subsequent PUC payment agreement if a customer has
23 defaulted on a previous PUC payment agreement. [A public utility
24 may, at its discretion, enter into a second or subsequent
25 payment agreement with a customer.]

26 (e) Extension of PUC payment agreements.--If the customer
27 defaults on a PUC payment agreement [established under
28 subsections (a) and (b) as a result of a significant change in
29 circumstance], the commission may reinstate the payment
30 agreement and extend the remaining term for an initial period of

1 six months. The initial extension period may be extended for an
2 additional six months for good cause shown.

3 (f) Failure to comply with PUC payment agreement.--Failure
4 of a customer to comply with the terms of a payment agreement
5 shall be grounds for a public utility to terminate the
6 customer's service. Pending the outcome of a complaint filed
7 with the commission, a customer shall be obligated to pay that
8 portion of the bill which is not in dispute and subsequent bills
9 which are not in dispute.

10 (g) Utility payment agreement.--A public utility may enter
11 into one or more utility payment agreements in accordance with
12 regulations established by the commission.

13 § 1406. Termination of utility service.

14 (a) Authorized termination.--A public utility may notify a
15 customer and terminate service provided to a customer after
16 notice as provided in subsection (b) for any of the following
17 actions by the customer:

18 (1) Nonpayment of an undisputed delinquent account.

19 (2) Failure to comply with the material terms of a
20 payment agreement.

21 (3) Failure to complete payment of a deposit, provide a
22 guarantee of payment or establish credit.

23 (4) Failure to permit access to meters, service
24 connections or other property of the public utility for the
25 purpose of replacement, maintenance, repair or meter reading.

26 (5) Fraud or material misrepresentation of the
27 customer's identity for the purpose of obtaining service.

28 (b) [Notice of termination of service] Pretermination
29 notices, contacts and duties.--

30 (1) Prior to terminating service under subsection (a), a

1 public utility:

2 (i) Shall provide written notice of the termination
3 to the customer at least ten days prior to the date of
4 the proposed termination. The termination notice shall
5 remain effective for 60 days.

6 (ii) Shall [attempt to] contact the customer or
7 occupant, [either] in person [or by telephone], to
8 provide notice of the proposed termination at least three
9 days prior to the scheduled termination. [Phone contact
10 shall be deemed complete upon attempted calls on two
11 separate days to the residence between the hours of 7
12 a.m. and 9 p.m. if the calls were made at various times
13 each day.]

14 (iii) [During the months of December through March,
15 unless] Unless personal contact has been made with the
16 customer or responsible adult by personally visiting the
17 customer's residence, the public utility shall, within 48
18 hours of the scheduled date of termination, post a notice
19 of the proposed termination at the service location.

20 (iv) After complying with paragraphs (ii) and (iii),
21 the public utility shall [attempt to] make personal
22 contact with the customer or responsible adult at the
23 time service is terminated. [Termination of service shall
24 not be delayed for failure to make personal contact.

25 (2) The public utility shall not be required by the
26 commission to take any additional actions prior to
27 termination.]

28 (2) For each notice and contact under paragraph (1) and
29 when the customer contacts the utility prior to termination,
30 the public utility shall notify the customer verbally and in

1 writing about the public utility's customer assistance
2 program, inquire about the customer's eligibility and enroll
3 eligible customers into the customer assistance program, if
4 agreeable to the customer.

5 (3) An application for a public utility's customer
6 assistance program shall stay termination of service for
7 nonpayment until a decision has been made on the application,
8 and the utility shall cancel the termination of service upon
9 approval for enrollment in the assistance program.

10 (c) Grounds for immediate termination.--

11 (1) A public utility may immediately terminate service
12 for any of the following actions by the customer:

13 (i) Unauthorized use of the service delivered on or
14 about the affected dwelling.

15 [(ii) Fraud or material misrepresentation of the
16 customer's identity for the purpose of obtaining
17 service.]

18 (iii) Tampering with meters or other public
19 utility's equipment.

20 (iv) Violating tariff provisions on file with the
21 commission so as to endanger the safety of a person or
22 the integrity of the public utility's delivery system.

23 (2) Upon termination, the public utility shall [make a
24 good faith attempt to] provide a post termination notice to
25 the customer or a responsible person at the affected
26 premises, and, in the case of a single meter, multiunit
27 dwelling, the public utility shall conspicuously post the
28 notice at the dwelling, including in common areas when
29 possible.

30 (d) Timing of termination.--Notwithstanding the provisions

1 of section 1503 (relating to discontinuance of service), a
2 public utility may terminate service for the reasons set forth
3 in subsection (a) from Monday through Friday as long as the
4 public utility can accept payment to restore service on the
5 following day and can restore service consistent with section
6 1407 (relating to reconnection of service).

7 (e) Winter termination.--

8 (1) Unless otherwise authorized by the commission, after
9 November 30 and before April 1, an electric distribution
10 utility or natural gas distribution utility shall not
11 terminate service to customers [with household incomes at or
12 below 250% of the Federal poverty level] except for customers
13 whose actions conform to subsection (c)(1). [The commission
14 shall not prohibit an electric distribution utility or
15 natural gas distribution utility from terminating service in
16 accordance with this section to customers with household
17 incomes exceeding 250% of the Federal poverty level.

18 (2) In addition to the winter termination authority set
19 forth in paragraph (1), a city natural gas distribution
20 operation may terminate service to a customer whose household
21 income exceeds 150% of the Federal poverty level but does not
22 exceed 250% of the Federal poverty level, and starting
23 January 1, has not paid at least 50% of his charges for each
24 of the prior two months unless the customer has done one of
25 the following:

26 (i) Has proven in accordance with commission rules
27 that his household contains one or more persons who are
28 65 years of age or over.

29 (ii) Has proven in accordance with commission rules
30 that his household contains one or more persons 12 years

1 of age or younger.

2 (iii) Has obtained a medical certification in
3 accordance with commission rules.

4 (iv) Has paid to the city natural gas distribution
5 operation an amount representing at least 15% of the
6 customer's monthly household income for each of the last
7 two months.

8 (3) At the time that the notice of termination required
9 by subsection (b)(1)(i) is provided to the customer, the city
10 natural gas distribution operation shall provide notice to
11 the commission. The commission shall not stay the termination
12 of service unless the commission finds that the customer
13 meets the criteria in paragraph (2)(i), (ii), (iii) or (iv).]

14 (f) Medical certification.--A public utility shall not
15 terminate service to a premises when a licensed physician or
16 nurse practitioner has certified that the customer or a member
17 of the customer's household is seriously ill or afflicted with a
18 medical condition that will be aggravated by cessation of
19 service. The customer shall obtain a letter or other form of
20 verification from a licensed physician or nurse practitioner
21 verifying the condition and shall promptly forward it to the
22 public utility. If, prior to termination of service, the utility
23 employee is informed that an occupant is seriously ill or is
24 affected with a medical condition which will be aggravated by a
25 cessation of service and that a medical certification will be
26 procured, termination may not occur for at least three days. The
27 medical certification procedure shall be implemented in
28 accordance with commission regulations.

29 (g) Qualification for LIHEAP.--A notice of termination to a
30 customer of a public utility shall be sufficient proof of a

1 crisis for a customer with the requisite income level to receive
2 a LIHEAP Crisis Grant from the Department of Public Welfare or
3 its designee. Between November 1 and March 31, a public utility
4 shall accept assignment of a LIHEAP Crisis Grant from the
5 Department of Public Welfare or its designee on behalf of a
6 customer enrolled in the utility's customer assistance program.

7 (h) Dishonorable tender of payment after receiving
8 termination notice.--

9 (1) After a public utility has provided a written
10 termination notice under subsection [(b)(1)(i) and attempted
11 telephone contact as provided in subsection (b)(1)(ii)]
12 (b)(1)(i), (ii) and (iii), termination of service may proceed
13 without additional notice if:

14 (i) a customer tenders payment which is subsequently
15 dishonored under 13 Pa.C.S. § 3502 (relating to
16 dishonor); or

17 (ii) a customer tenders payment with an access
18 device, as defined in 18 Pa.C.S. § 4106(d) (relating to
19 access device fraud), which is unauthorized, revoked or
20 canceled.

21 [(2) The public utility shall not be required by the
22 commission to take any additional actions prior to the
23 termination.]

24 § 1407. Reconnection of service.

25 (a) Fee.--A public utility may require a reconnection fee
26 based upon the public utility's cost as approved by the
27 commission prior to reconnection of service following lawful
28 termination of the service.

29 (b) Timing.--When service to a dwelling has been terminated
30 and provided the applicant has met all applicable conditions,

1 the public utility shall reconnect service as follows:

2 (1) Within 24 hours for erroneous terminations or upon
3 receipt by the public utility of a valid medical
4 certification.

5 (2) Within 24 hours for terminations occurring after
6 November 30 and before April 1.

7 (3) Within [three days] 48 hours for erroneous
8 terminations requiring street or sidewalk digging.

9 (4) Within [three days] 24 hours from April 1 to
10 November 30 for proper terminations.

11 (5) Within [seven days] 72 hours for proper terminations
12 requiring street or sidewalk digging.

13 (c) Payment to restore service.--

14 (1) A public utility shall provide for and inform the
15 applicant or customer of a location where the customer can
16 make payment to restore service. When there is a contact
17 between a public utility and an applicant or customer
18 concerning restoration of service, the utility shall also
19 notify the applicant or customer verbally and in writing
20 about the public utility's customer assistance program,
21 inquire about the person's eligibility and enroll those
22 eligible into the customer assistance program, if agreeable
23 to the applicant or customer.

24 (2) A public utility may require:

25 (i) Full payment of any reconnection fees together
26 with repayment over six months of any outstanding balance
27 incurred [together with any reconnection fees] by the
28 customer or applicant [prior to reconnection of service]
29 if the customer or applicant has an income exceeding 300%
30 of the Federal poverty level, [or has defaulted on two or

1 more payment agreements. If a customer or applicant with
2 household income exceeding 300% of the Federal poverty
3 level experiences a life event, the customer shall be
4 permitted a period of not more than three months to pay
5 the outstanding balance required for reconnection. For
6 purposes of this subparagraph, a life event is:

7 (A) A job loss that extended beyond nine months.

8 (B) A serious illness that extended beyond nine
9 months.

10 (C) Death of the primary wage earner.]

11 (ii) Full payment of any reconnection fees together
12 with repayment over 12 months of any outstanding balance
13 incurred by the customer or applicant if the customer or
14 applicant has an income exceeding [150%] 250% of the
15 Federal poverty level but not greater than 300% of the
16 Federal poverty level.

17 (iii) Full payment of any reconnection fees together
18 with repayment over 36 months of any outstanding balance
19 incurred by the customer or applicant if the customer or
20 applicant has an income exceeding 150% of the Federal
21 poverty level but not greater than 250% of the Federal
22 poverty level.

23 [(iii)] (iv) Full payment of any reconnection fees
24 together with payment over [24] 60 months of any
25 outstanding balance incurred by the customer or applicant
26 if the customer or applicant has an income not exceeding
27 150% of the Federal poverty level. A customer or
28 applicant of a [city natural gas distribution operation]
29 public utility whose household income does not exceed
30 [135%] 150% of the Federal poverty level shall be

1 reinstated pursuant to this subsection only if the
2 customer or applicant enrolls in the customer assistance
3 program of the [city natural gas distribution operation]
4 public utility except that this requirement shall not
5 apply if the financial benefits to such customer or
6 applicant are greater if served outside of that
7 assistance program.

8 (v) For customers enrolled in a public utility's
9 customer assistance program at the time of termination,
10 full payment of any reconnection fees together with a
11 portion of their unpaid customer assistance program
12 payments, to be determined according to standards
13 established by the commission.

14 (3) Between November 1 and March 31, a public utility
15 shall accept assignment of a LIHEAP Crisis Grant from the
16 Department of Public Welfare or its designee to restore
17 service to a customer enrolled in the utility's customer
18 assistance program.

19 (d) Payment of outstanding balance at premises.--A public
20 utility may also require the payment of any outstanding balance
21 or portion of an outstanding balance if the applicant [resided]
22 was a customer at the property for which service is requested
23 during the time the outstanding balance accrued and for the time
24 the applicant [resided there] was a customer.

25 (e) Approval.--A public utility may establish that an
26 applicant previously [resided] was a customer at a property for
27 which residential service is requested through the use of
28 mortgage, deed or lease information, a commercially available
29 consumer credit reporting service or other methods approved as
30 valid by the commission.

1 § 1414. [Liens] Fees by city natural gas distribution
2 operations.

3 [(a) General rule.--A city natural gas distribution
4 operation furnishing gas service to a property is entitled to
5 impose or assess a municipal claim against the property and file
6 as liens of record claims for unpaid natural gas distribution
7 service and other related costs, including natural gas supply,
8 in the court of common pleas of the county in which the property
9 is situated or, if the claim for the unpaid natural gas
10 distribution service does not exceed the maximum amount over
11 which the Municipal Court of Philadelphia has jurisdiction, in
12 the Municipal Court of Philadelphia, pursuant to sections 3 and
13 9 of the act of May 16, 1923 (P.L.207, No.153), referred to as
14 the Municipal Claim and Tax Lien Law, and Chapter 22 (relating
15 to natural gas competition).

16 (b) Residential field visit charge.--]A city natural gas
17 distribution operation is authorized to charge a minimum fee of
18 \$10 for each instance in which its representative is required to
19 visit the residence of a customer in the process of attempting
20 to complete required service termination steps.

21 [(c) Refusal of service.--The commission shall permit a city
22 natural gas distribution operation to refuse to provide service
23 to an applicant if the applicant has a pending lien or civil
24 judgment by the city natural gas distribution operation
25 outstanding against the applicant or against property owned in
26 whole or in part by the applicant unless the applicant enters
27 into a payment arrangement for the payment of the amount
28 associated with the lien or judgment that remains outstanding at
29 the time of the application.]

30 § 1415. Reporting [to General Assembly and Governor].

1 (a) General Assembly and Governor.--No later than two years
2 following the effective date of this chapter and every two years
3 thereafter, the commission shall submit a report to the
4 Governor, the Chief Clerk of the House of Representatives and
5 the Secretary of the Senate reviewing the implementation of the
6 provisions of this chapter. The report shall include, but not be
7 limited to:

8 (1) The degree to which the chapter's requirements have
9 been successfully implemented.

10 (2) The effect upon the cash working capital or cash
11 flow, uncollectible levels and collections of the affected
12 public utilities.

13 (3) The level of access to utility services by
14 residential customers, including low-income customers.

15 (4) The effect upon the level of consumer complaints and
16 mediations filed with and adjudicated by the commission.

17 (b) General public.--The commission shall report the
18 following on its publicly accessible Internet website:

19 (1) Termination of service data of each utility on a
20 monthly basis.

21 (2) Immediate reporting of utility-related deaths,
22 injuries, fires and property damage resulting from denial of
23 termination of utility service.

24 (3) Numbers of customers eligible for a public utility's
25 customer assistance program and actual numbers enrolled in
26 the assistance program for each public utility on a monthly
27 basis.

28 (c) Data submission.--Public utilities affected by this
29 chapter shall provide data required by the commission to
30 complete [this report.] the reports required by this section.

1 (d) Recommendations.--In its recommendations, the commission
2 may also propose any legislative or other changes which it deems
3 appropriate to the Governor and the General Assembly.

4 Section 3. This act shall take effect in 60 days.