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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1405 Session of  
2017

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INTRODUCED BY BERNSTINE, SNYDER, SAYLOR, SIMS, CHRISTIANA, DUSH, GABLER, METCALFE, PHILLIPS-HILL, ROAE, RYAN, SACCONI, SANKEY, WALSH, WARD, WHEELAND, FITZGERALD, RABB, SOLOMON, BLOOM, CEPHAS, CHARLTON, COOK, COX, BAKER, CUTLER, DAWKINS, DIAMOND, DIGIROLAMO, DOWLING, DUNBAR, ELLIS, ENGLISH, EVANKOVICH, EVERETT, FRITZ, GILLESPIE, GROVE, A. HARRIS, HENNESSEY, HILL-EVANS, IRVIN, KAUFER, KEEFER, M. K. KELLER, KULIK, LAWRENCE, LEWIS, MAHER, MAKO, MARSICO, McCLINTON, MCGINNIS, MICCARELLI, MILLARD, MILNE, MOUL, MUSTIO, ORTITAY, PICKETT, PYLE, RADER, ROE, ROTHMAN, SCHLOSSBERG, SIMMONS, STEPHENS, TALLMAN, TOOHIL, TOPPER, WARNER, WARREN, WHITE, D. COSTA, NELSON AND SAMUELSON, MAY 18, 2017

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REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 18, 2017

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AN ACT

1 Amending Title 8 (Boroughs and Incorporated Towns) of the  
2 Pennsylvania Consolidated Statutes, in manufacture and supply  
3 of electricity, further providing for specific powers and  
4 providing for security deposits, for payment agreements and  
5 for restrictions on termination.

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

8 Section 1. Section 24A03(a)(2) of Title 8 of the  
9 Pennsylvania Consolidated Statutes is amended to read:

10 § 24A03. Specific powers.

11 (a) Specific powers enumerated.--In addition to exercising  
12 its general powers under section 24A02 (relating to general  
13 powers), a borough, through its governing body, shall have the  
14 following powers:

1 \* \* \*

2 (2) To regulate the use of and the charge for  
3 electricity furnished by the borough for use throughout the  
4 borough[.], subject to the following:

5 (i) A borough may fix, establish, maintain and  
6 collect or authorize by contract or otherwise the  
7 establishment, levying and collection of the rates, fees,  
8 rental or other charges, including connection charges,  
9 [for the services afforded by or in connection with any  
10 properties which the borough constructs, erects, owns,  
11 acquires, operates or manages and for the sale or  
12 transmission of electric energy and power as it deems  
13 necessary, proper, desirable and reasonable.] in the area  
14 served by borough facilities at reasonable and uniform  
15 rates to be determined exclusively by the borough for the  
16 purpose of providing for the payment of the expenses of  
17 the borough for the production and distribution of  
18 electricity and the construction, improvement, repair,  
19 maintenance and operation of the borough's facilities and  
20 properties.

21 (ii) A person questioning the reasonableness or  
22 uniformity of a rate fixed by a borough or the adequacy,  
23 safety and reasonableness of the borough's services,  
24 including extensions thereof, may bring suit against the  
25 borough in the court of common pleas of the county where  
26 the project is located or, if the project is located in  
27 more than one county, in the court of common pleas of the  
28 county where the principal office of the project is  
29 located. The court of common pleas shall have exclusive  
30 jurisdiction to determine disputes involving rates or

1 services under this paragraph.

2 (iii) A rate change under this paragraph shall be  
3 discussed at a publicly advertised meeting of the borough  
4 council prior to adoption of the rate change. A borough  
5 may not adjust the rates more than once every three  
6 months.

7 (iv) A borough may include a purchase power  
8 agreement formula in the calculation of the rates to  
9 adjust for the changing cost of the production of  
10 electricity. The purchase power agreement shall be  
11 published with the rate information.

12 (v) A borough that generates its own electricity in  
13 accordance with the guidelines and regulations  
14 promulgated by the Pennsylvania-New Jersey-Maryland  
15 Interconnection shall have the power, and is not subject  
16 to subparagraphs (i), (ii), (iii) and (iv), to regulate  
17 the use of and the charge for electricity furnished by  
18 the borough for use throughout the borough. A borough may  
19 fix, establish, maintain and collect or authorize by  
20 contract or otherwise the establishment, levying and  
21 collection of the rates, fees, rental or other charges,  
22 including connection charges, for the services afforded  
23 by or in connection with any property that the borough  
24 constructs, erects, owns, acquires, operates or manages  
25 and for the sale or transmission of electric energy and  
26 power as the borough deems necessary, proper, desirable  
27 and reasonable.

28 \* \* \*

29 Section 2. Title 8 is amended by adding sections to read:

30 § 24A06. Security deposits.

1 (a) General rule.--If a borough electric provider requires a  
2 security deposit, the security deposit shall be payable during a  
3 90-day period, in an amount that is equal to one-sixth of the  
4 applicant's estimated annual bill, from the following:

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

9 (i) Nonpayment of an undisputed delinquent account.

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

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

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

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

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

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

25 (2) An applicant or customer who is unable to establish  
26 creditworthiness to the satisfaction of the borough through  
27 the use of a generally accepted credit scoring methodology  
28 that employs standards for using the methodology that fall  
29 within the range of general industry practice.

30 (3) A customer who fails to comply with a material term

1 or condition of a settlement or payment arrangement.

2 (b) Cash deposit prohibition.--Notwithstanding subsection  
3 (a), no borough may require a customer or applicant that is  
4 confirmed to be eligible for a customer assistance program to  
5 provide a cash deposit.

6 (c) Third-party guarantor.--Nothing in this section shall be  
7 construed to preclude an applicant from furnishing a third-party  
8 guarantor in lieu of a cash deposit. The guaranty shall be in  
9 writing and shall state the terms of the guaranty. The guarantor  
10 shall be responsible for all missed payments owed to the  
11 borough.

12 (d) Deposit hold period.--

13 (1) A borough may hold a deposit until a timely payment  
14 history is established.

15 (2) A timely payment history is established when a  
16 customer has paid in full and on time for 12 consecutive  
17 months.

18 (3) At the end of the deposit holding period as  
19 established in paragraph (1), the borough shall deduct the  
20 outstanding balance from the deposit and return or credit any  
21 positive difference to the customer.

22 (4) If service is terminated before the end of the  
23 deposit holding period as established in paragraph (1), the  
24 borough shall deduct the outstanding balance from the deposit  
25 and return any positive difference to the customer within 60  
26 days of the termination.

27 (5) If a customer becomes delinquent before the end of  
28 the deposit holding period as established in paragraph (1),  
29 the borough may deduct the outstanding balance from the  
30 deposit.

1           (6) The borough shall accrue interest on the deposit  
2 until it is returned or credited as follows:

3           (i) Interest shall be computed at the simple annual  
4 interest rate determined by the Secretary of Revenue for  
5 interest on the underpayment of tax under section 806 of  
6 the act of April 9, 1929 (P.L.343, No.176), known as The  
7 Fiscal Code.

8           (ii) The interest rate in effect when deposit is  
9 required to be paid shall remain in effect until the  
10 later of:

11           (A) the date the deposit is refunded or  
12 credited; or

13           (B) December 31.

14           (iii) On January 1 of each year, the new interest  
15 rate for that year shall apply to the deposit.

16           (e) Adult occupants.--Prior to providing utility service, a  
17 borough may require the applicant to provide the names of each  
18 adult occupant residing at the location and proof of their  
19 identity.

20           (f) Failure to pay full amount of cash deposit.--A borough  
21 shall not be required to provide service if the applicant or  
22 customer fails to pay the full amount of the cash deposit within  
23 the time period under subsection (a).

24           (g) Estimated annual bill.--For purposes of this section, an  
25 estimated annual bill shall be calculated on the basis of the  
26 annual bill to the dwelling at which service is requested for  
27 the prior 12 months or, if unavailable, a similar dwelling in  
28 close proximity.

29           (h) Time for paying deposits upon reconnection.--Applicants  
30 and customers required to pay a deposit upon reconnection under

1 subsection (a)(1) shall have up to 90 days to pay the deposit.

2 § 24A07. Payment agreements.

3 (a) General rule.--A borough may enter into a payment  
4 agreement with a delinquent customer.

5 (b) Length of payment arrangement.--The length of time for a  
6 customer to resolve an unpaid balance on an account that is  
7 subject to a payment arrangement between the borough and the  
8 customer may not extend beyond:

9 (1) Five years, if the customer has a gross monthly  
10 household income level not exceeding 150% of the Federal  
11 poverty level.

12 (2) Three years, if the customer has a gross monthly  
13 household income level exceeding 150% and not more than 250%  
14 of the Federal poverty level.

15 (3) One year, if the customer has a gross monthly  
16 household income level exceeding 250% of the Federal poverty  
17 level and not more than 300% of the Federal poverty level.

18 (4) Six months, if the customer has a gross monthly  
19 household income level exceeding 300% of the Federal poverty  
20 level.

21 (c) Customer assistance programs.--Customer assistance  
22 program rates shall be timely paid and shall not be the subject  
23 of payment arrangements negotiated or approved by the borough.

24 (d) Number of payment arrangements.--Absent a change in  
25 income, the borough shall not be required to establish a second  
26 or subsequent payment arrangement if the customer has defaulted  
27 on a previous payment arrangement with the borough. The borough  
28 may, at its discretion, enter into a second or subsequent  
29 payment arrangement with the customer.

30 (e) Extension of payment arrangement.--If the customer

1 defaults on a payment arrangement established under subsections  
2 (a) and (b) as a result of a significant change in circumstance,  
3 the borough may reinstate the payment arrangement and extend the  
4 remaining term for an initial period of six months. The initial  
5 extension period may be extended for an additional six months  
6 for good cause shown.

7 (f) Failure to comply with payment arrangement.--Failure of  
8 a customer to comply with the terms of a payment arrangement  
9 shall be grounds for the borough to terminate the customer's  
10 service. The customer shall pay that portion of the bill that is  
11 not in dispute and subsequent bills that are not in dispute.  
12 § 24A08. Restrictions on termination.

13 (a) Winter termination.--

14 (1) (i) After November 30 and before April 1, a borough  
15 electric provider may not terminate service to customers  
16 with household incomes at or below 250% of the Federal  
17 poverty level except for customers whose actions conform  
18 to subsection (c) (1).

19 (ii) The borough may terminate service in accordance  
20 with this section to customers with household incomes  
21 exceeding 250% of the Federal poverty level.

22 (2) In addition to the winter termination authority  
23 specified in paragraph (1), the borough may terminate service  
24 to a customer whose household income exceeds 150% of the  
25 Federal poverty level but does not exceed 250% of the Federal  
26 poverty level and, starting January 1, has not paid at least  
27 50% of the charges for each of the prior two months unless  
28 the customer has done one of the following:

29 (i) proven that the customer's household contains  
30 one or more persons who are 65 years of age or older;

1           (ii) proven that the customer's household contains  
2           one or more persons 12 years of age or younger; or

3           (iii) paid to the borough an amount representing at  
4           least 15% of the customer's monthly household income for  
5           each of the last two months.

6           (b) Medical certification.--A borough may not terminate  
7           service to a premises when a customer has submitted a medical  
8           certificate to the borough. The customer must obtain a medical  
9           certificate verifying the condition and promptly forward the  
10           certificate to the borough.

11           (c) Grounds for immediate termination.--

12           (1) The borough may immediately terminate service for  
13           any of the following actions by the customer:

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

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

18           (iii) Tampering with a meter or other equipment of a  
19           public utility.

20           (iv) Tendering payment for reconnection of service  
21           that is subsequently dishonored, revoked or canceled and  
22           has not been cured or otherwise paid in full, within  
23           three business days of the borough's notice to the  
24           customer, in accordance with the notice of the dishonored  
25           payment.

26           (2) Upon termination, the borough shall make a good  
27           faith attempt to provide a post-termination notice to the  
28           customer or a responsible person at the affected premises  
29           and, in the case of a single-meter, multiunit dwelling, the  
30           borough shall conspicuously post the notice at the dwelling,

1 including in common areas when possible.

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