

**BEFORE
THE PENNSYLVANIA HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE**

Testimony of

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Regarding HB 1405

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Good Morning Chairpersons Harper, Freeman, and Members of the House Local Government Committee. I want to thank you and Representative Bernstine for the invitation to testify today concerning House Bill 1405. My name is Patrick Cicero. I am the Executive Director of the Pennsylvania Utility Law Project (PULP). PULP is a designated statewide specialty project of the non-profit Pennsylvania Legal Aid Network focused exclusively on low income utility access. For almost four decades, PULP has provided legal representation, support, information, consultation, and advocacy in conjunction with local legal aid and community based organizations representing the interests of the Commonwealth's low-income residential utility consumers. Much of our advocacy focuses on energy issues because the ability of low income Pennsylvanians to connect to and maintain essential services, including heat, light, and running water, under reasonable terms and conditions and at affordable rates is an ongoing concern.

As currently proposed, House Bill 1405 would require boroughs which regulate the use of and charge for electricity pursuant to their powers under Title 8 of the Pennsylvania Consolidated Statutes to do so pursuant to "reasonable and uniform rates." In turn, HB 1405 would require that those rates be designed to generate sufficient revenue solely for the purpose of providing for the production and distribution of electricity and repair and maintenance of the borough's facilities and properties. Before approval of proposed rates, HB 1405 would also provide the public with an opportunity to provide input on any proposed rate change at a borough council meeting prior to the adoption of the rate change.

Most critically, HB 1405 provides for a host of consumer protections that would be available to consumers who have no choice but to receive electric service from their borough. The proposed consumer protections are consistent with some of the most critical protections available to consumers of regulated electric companies pursuant to Title 66, Chapter 14 of the

Pennsylvania Consolidated Statutes and Title 52, Chapter 56 of the Public Utility Code.

Specifically, section 2 of the proposed legislation would:

- Place limitations on security deposit requirements;
- Provide for payment agreement terms that are based on household income;
- Provide for critical protections from termination of service during winter months;
- Provide medically vulnerable households with the ability to delay service termination where the household submits a medical certificate verifying that continued service is necessary to treat an illness.

If the protections provided in section 2 remain, and are clarified as outlined below, PULP supports the principles of this bill due to the inherent vulnerability of low-income households to excessive energy bills. Each of these protections provides critical support for vulnerable residents without placing an undue restriction on a municipality's ability to collect sufficient revenue.

Each year, PULP represents hundreds of low-income households facing the loss of critical utility service. Some of these households receive electric service by municipal electric utilities. Unfailingly, these are among the most difficult cases for us to handle because of the lack of statutory and regulatory protections. When we are unable to adequately resolve municipal electric issues, our clients often end up facing more costly and often devastating eviction, foreclosure, and even child dependency proceedings as a consequence of the loss of electric service. The list of consumer protections provided in section 2 would go a long way toward ensuring that households receiving service from a municipal utility have the tools needed to maintain service during economically vulnerable periods.

It is important for the Committee to recognize that low-income households face burdens when they are required to purchase their electricity from a municipal monopoly. Unlike electricity provided by public utilities regulated by the Public Utility Commission, municipal electric providers do not generally have low-income rates or programs designed to help households reduce energy bills. These households also do not receive the benefit of a host of well-developed regulatory and statutory protections or the ability to have a dispute determined by a neutral third party. Despite this, low income households served by municipal utilities face the same affordability problems as other low-income households across the state – that is, they quite often cannot afford to pay their bills.

An energy burden is the percentage of gross household income that the household pays for home energy sources. The cost of home energy is a crippling financial burden for Pennsylvania’s most economically vulnerable households. Recent analysis shows that in 2016, low-income households faced staggering energy burdens:

Chart 1.

| Federal Poverty Level | Number of Pennsylvania Households who live at the respective poverty level | Percentage of annual income spent on home energy |
|------------------------------|---|---|
| Below 50% | 300,208 | 28% |
| 50% - 100% | 369,373 | 15% |
| 100% - 125% | 202,445 | 10% |
| 125% - 150% | 213,973 | 8% |
| 150% - 185% | 304,593 | 7% |
| 185% - 200% | 130,777 | 6% |

Source: Fisher, Sheehan & Colton, *The Home Energy Affordability Gap 2017* (2nd Series)
Published April 2017.

The information presented in Chart 1, above, demonstrates that many Pennsylvania households – more than 1.5 million – have a total household income below 200% of the federal poverty level and that these households pay a significant portion of their monthly income for home energy. Reproduced below are the various federal poverty income guideline tiers for 2016 at different household sizes:

Chart 2.

| Household Size | 50% of FPL | 100% of FPL | 150% of FPL | 185% of FPL | 200% of FPL |
|----------------|------------|-------------|-------------|-------------|-------------|
| 1 | \$5,940 | \$11,880 | \$17,820 | \$21,978 | \$23,760 |
| 2 | \$8,010 | \$16,020 | \$24,030 | \$29,637 | \$32,040 |
| 3 | \$10,080 | \$20,160 | \$30,240 | \$37,269 | \$40,320 |
| 4 | \$12,150 | \$24,300 | \$36,450 | \$44,955 | \$48,600 |

Source: Department of Human Services Federal Poverty Guidelines for 2016. Available at: <https://www.federalregister.gov/documents/2016/01/25/2016-01450/annual-update-of-the-hhs-poverty-guidelines>.

To give you a sense of context, a single mother with two children working full time (40 hours/week) at minimum wage (\$7.25/hour) makes approximately \$13,920/year. Her income puts her just above 50% of the federal poverty guidelines. Based on the above data, she likely pays nearly 30% of her income on energy costs alone, leaving very little for her to pay for rent, child care or school costs, transportation, food, water, and other of life's most basic necessities.

Pennsylvanians with income at or below the poverty guidelines are very poor and struggle each month to pay all of their bills. However, unlike most other goods and services, there are no ready substitutes for electricity. When families cannot pay, they are forced to go without service for periods of time. Of course, living without electric service is much more than an inconvenience: lack of refrigeration causes food to spoil, families cannot cook hot meals or take hot showers, and – most often – furnaces are not operational, even if they run on an

alternative fuel source such as oil or natural gas. HB 1405 is not a panacea for these problems, but it is a start.

In reviewing the legislation as it is currently constructed – PN 1765 – there are several changes that should be made to clarify the intent. First, page 5, lines 2-5, should be amended to read:

(b) Cash deposit prohibition.--Notwithstanding subsection (a), no borough may require a customer or applicant with household income at or below 150% of the federal poverty level ~~[that is confirmed to be eligible for a customer assistance program]~~ to provide a cash deposit.

The current reference to “customer assistance program” would be difficult to administer because municipal utilities are not required to operate customer assistance programs (CAPs). We recommend that the legislation reference the income guidelines used to determine eligibility for CAP programs rather than require eligibility for CAP. Similarly, the language on page 7, lines 21-23, referencing CAP plans should be eliminated. It makes little sense to prohibit municipal utilities from entering payment agreements for CAP rates when they do not have CAP programs or CAP rates.

Second, language should be added to page 7, at lines 3-4, that would require a municipality to enter into at least one payment agreement with households. Currently, the language only says that a borough “may” enter into a payment agreement. It is critical that households receive second chances. Because of the nature of poverty, households often have to juggle bills each month and cannot always pay every bill on time and in full. If a customer falls behind on the electric bill, they should be provided a reasonable period of time to catch up.

I know that some members of the Committee are concerned about the impact HB 1405 would have on the ability to generate revenue for other municipal functions. I am not insensitive to the concerns of municipalities in managing revenue streams to provide needed service.

However, it is important to remember that electricity rates – unlike say property taxes – are typically regressive in nature. That is, poor households pay the same rate per kWh as wealthy and middle income households, but do so with far less income – which is why they have such high energy burdens. Furthermore, there is no ready substitute for a household to do without electricity.

Every rate design and rate mechanism comes with positive and negative attributes in terms of customer bill impacts, revenue, and public interest concerns. Utilities and municipalities often seek rate designs and rate recovery mechanisms that guarantee recovery of costs and to meet other needs, but rarely do they recognize or address the need for assistance programs that are designed to help economically vulnerable households to afford service. HB 1405 appears targeted to ensure that utilities have the revenue needed for the public service provided. With the additional consumer protections contained in section 2, we believe that bill goes a long way in leveling the playing field for low and moderate income households and, with the corrections suggested here, should be adopted by this Committee.

Thank you for the invitation and opportunity to provide this testimony. I am available to entertain any questions that you may have.