

**BEFORE THE PENNSYLVANIA HOUSE CONSUMER PROTECTION, TECHNOLOGY,  
AND UTILITIES COMMITTEE**



**Testimony of Elizabeth R. Marx, Esq.  
Executive Director, Pennsylvania Utility Law Project**

**Regarding HB 1077**

**The Prevention-Focused Reforms in HB 1077 will Help Ensure All Pennsylvanians Can  
Access and Maintain Safe and Affordable Energy and Water Services**

January 17, 2023

Greetings, Chairman Matzie, Chairman Marshall, and Members of the House Consumer Protection, Technology, and Utilities Committee. Thank you for the invitation and opportunity to provide testimony to aid in the Committee's examination of HB 1077, which contains critical prevention-based reforms to Chapter 14 of the Public Utility Code. It is an honor to come before you to discuss this critically important matter.

My name is Elizabeth Marx, I am the Executive Director of the Pennsylvania Utility Law Project – known as PULP. PULP is a statewide specialty legal services project of Regional Housing Legal Services and a member program of the statewide Pennsylvania Legal Aid Network. We provide legal representation, policy advocacy, education, and support services in furtherance of our mission to ensure that Pennsylvanians with limited economic means can connect to and maintain safe and affordable utility services to their homes. The collections and terminations policies in Chapter 14 deeply influence our work. Each year, we represent the interests of tens of thousands of low income Pennsylvanians facing utility insecurity in all corners of the state – helping keep the lights on and the water running to their homes. We see firsthand the severe economic strain of high energy and water prices on Pennsylvania families, and bear witness to the profound and lasting consequences when a family cannot afford to pay.

At the outset, I want to express our full-throated support for HB 1077 and urge the Committee to pass this important legislation without amendment. At its heart, HB 1077 is prevention legislation. It is designed to rebalance the scales, eliminating punitive collections policies that have compounded energy and water insecurity and exacerbated bad-debt expenses for the last two decades. While there are always further reforms that could be made, we believe the legislation – as written – strikes the right balance, and urge its passage without delay.

My written testimony is organized into three sections and is designed to provide the Committee with a deep dive into the issue – offering critical context and comprehensive data necessary to understand the impact of Chapter 14 in its current form and how amendments proposed in HB 1077 could dramatically improve the lives of residential utility customers in the Commonwealth. In the first section, I provide an overview of utility insecurity, explaining the drivers and the consequences of this pervasive issue which impacts the daily lives of over 1.2 million Pennsylvanians. In the second section, I explain how collections policies in Chapter 14 directly

contribute to utility insecurity in the Commonwealth. As illustrated by two decades of collections data, the tools enshrined in Chapter 14 have worked to exacerbate utility insecurity without any measurable improvement in uncollectible expenses. Finally, in the third section, my testimony will walk the Committee through our specific concerns with various collections tools included in Chapter 14 and the critical reforms contained in HB 1077 that address each concern.

When Chapter 14 was first passed in 2004, the General Assembly was explicit that its goal was “to achieve greater equity by eliminating opportunities for customers *capable of paying* to avoid the timely payment of public utility bills” – while ensuring service is “available to all customers on reasonable terms and conditions.”<sup>i</sup>

**In practice, and contrary to the stated purpose and goals of Chapter 14, the collections tools enshrined in the Chapter have had a punitive impact on households experiencing utility insecurity – punishing economically vulnerable households that are *incapable of paying the ever-increasing cost of energy and water services*.** As discussed throughout my testimony, the provisions of Chapter 14 have served to compound debts - driving increasing disparities in termination rates and resulting in a cascade of harsh consequences to low income families and the communities in which they live and work.

**If we continue to take a punitive approach to utility collections, utility insecurity and the associated costs to other ratepayers will only grow more pronounced over time as water and energy costs continue to rise.**

Our aim in pursuing comprehensive reforms to Chapter 14 is to chart a new path forward for utility collections in Pennsylvania - striking a more equitable balance that serves the needs of every Pennsylvanian to access clean, safe, and stable water and energy services in their home.

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## Contextualizing Utility Insecurity in Pennsylvania

To fully understand how utility collections policies, like those included in Chapter 14, can be so impactful, it is imperative to understand the significance of the problem of utility insecurity – and the resulting ripple effects. Utility insecurity is, indeed, pervasive across our Commonwealth and has increased in breadth and severity in recent years as energy and water prices have continually outpaced inflation. Well over 1.2 million Pennsylvania families living at or near the federal poverty level are already struggling to afford basic needs, and face intersectional housing, food, and utility insecurity.

Experts in utility affordability often refer to a household’s “utility burden,” the percent of gross household income spent on home utility (energy and water/wastewater) costs, to determine whether service is reasonably affordability for all consumers.

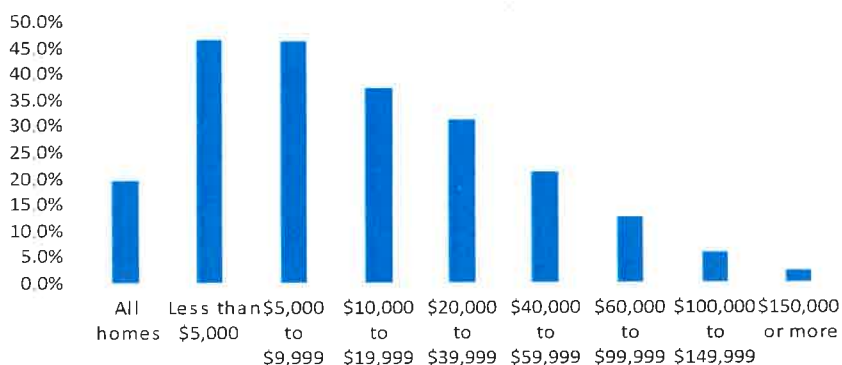
On the energy side, there is general agreement across the field that, to be affordable, a combined energy burden should not exceed 6%. On average, residential energy consumers in Pennsylvania (inclusive of all income levels) typically face a combined average energy burden of between 3-4%, while low income residential consumers in Pennsylvania face much higher combined energy burdens, ranging between 7-33%, depending on income tier.<sup>ii</sup>

### 2022 Home Energy Affordability Gap (Fisher, Sheehan, & Colton)<sup>iii</sup>

Federal Poverty Level	Home Energy Burden
Below 50%	33%
50-100%	18%
100-125%	12%
125-150%	10%
150-185%	8%
185-200%	7%

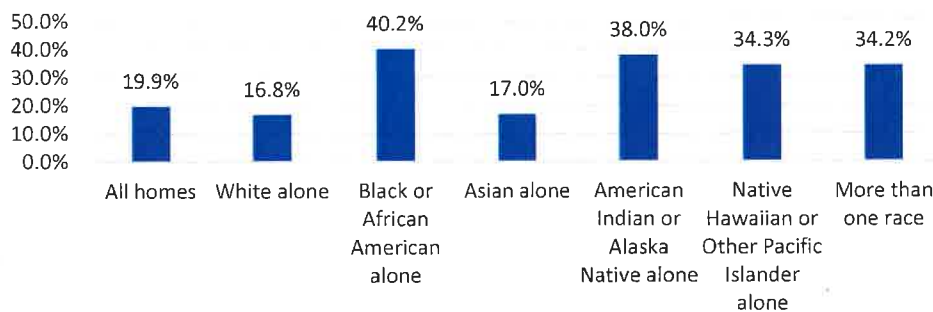
Families facing such high energy burdens must make difficult choices between whether to heat their home or feed their family – this is well known as the “heat or eat” dichotomy. According to the federal Energy Information Administration’s Residential Energy Consumption Survey, over 20% of households nationwide report forgoing other life-sustaining necessities to pay for energy costs.<sup>iv</sup> When broken down by income, the disparities are clear: Low and moderate income families face disproportionate levels of utility insecurity, regularly forgoing food, medicine, and other basic necessities to afford energy services to their home.<sup>v</sup>

Reducing or forgoing food or medicine to pay energy costs - 2020 Household Income



There are also clear race-based disparities in utility insecurity that cannot be ignored.<sup>vi</sup>

Reducing or forgoing food or medicine to pay energy costs - Race of Householder



Utility insecurity is not solely the consequence of inadequate income, it is also driven by disparities in housing quality and access to home energy and water efficiency upgrades that can help reduce high usage.

While not squarely at issue in this hearing, it is important to recognize that issues in the residential competitive market are also driving disparities in energy burden for low income families across the Commonwealth. From 2015 to 2020, Pennsylvania’s residential electric shopping customers were charged over \$1.5 billion more than they would have been charged if they remained on default service.<sup>vii</sup> These excessive prices have had a significant impact on involuntary termination rates and utility write-offs – particularly for low income consumers, who are more susceptible to promised savings and sign-on incentives.<sup>viii</sup>

Like energy, water and wastewater costs are also rising across the Commonwealth at an alarming rate. While some increased costs are driven in part by the cost of infrastructure investments to remove lead and forever chemicals from our water systems, acquisition costs in the sale of public water and wastewater systems have resulted in steep increases to water and wastewater rates.<sup>ix</sup> While water and wastewater bills were a relatively small portion of household expenses a decade ago when Chapter 14 was last reauthorized, we now regularly assist families facing monthly water and wastewater bills that exceed 10-20% of household income. Even a small leak – such as a running toilet – can cause a family’s water and wastewater costs to skyrocket, further burdening already overwhelmed families.

Pennsylvania’s water utilities lack consistent standards of what burden level is considered affordable and have often fallen back on federal system-wide standards utilized by the Environmental Protection Agency that examine affordability from the standpoint of an entire community – not individual low income families.<sup>x</sup> The absence of distinct water and wastewater affordability standards has made it difficult to systematically address water insecurity felt by Pennsylvania’s consumers as rates for water and wastewater services continue to rise.

The consequences of utility insecurity are vast and have reverberating impacts on individuals and the communities in which they live and work. When a consumer falls behind on their utility bills, they often must take time away from work to negotiate with the utility and/or apply for assistance. This is no small task, and often requires access to fax machines and hours of time on hold with multiple agencies and/or customer service. For hourly workers, time to handle personal matters during business hours is often severely limited and could result in disciplinary action. Low-wage workers often face additional working constraints compared to higher-wage workers, as they often do not have leave time or flexible working schedules – further limiting their ability to navigate the stringent requirements of Chapter 14 to stay connected to services.

Unresolved utility debt can also serve as an immediate catalyst for eviction and/or the loss of public housing assistance and may disqualify a family from future public or private housing rental options – driving short and long-term housing insecurity and homelessness.<sup>xi</sup>

When unresolved utility debt reaches the point of involuntary service termination, the loss of electricity, heat, and running water can have severe short- and long-term impacts on the health,

safety, and financial stability of families and individuals – especially for uniquely vulnerable populations, including Seniors, individuals with a disability, and young children. The loss of refrigeration, exposure to extreme temperatures, and the inability to prepare food, bathe, or sanitize surfaces can all serve to expose household members to serious health consequences.<sup>xii</sup> Involuntary service termination can also trigger other state intervention by the local health department, code enforcement, children and youth services and/or area agencies on aging. These stark consequences of utility insecurity come at a great cost to families – as well as the local, state, and federal agencies, schools, health providers, and nonprofits that must devote increased resources to stabilize families and communities.

Universal service programs play a critical role in alleviating utility insecurity and offer an alternative path to traditional collections for low income consumers that cannot reasonably afford service. However, as I discuss in further depth below, existing programs are severely under-subscribed and can be difficult to access in time to prevent the loss of service. There are also currently no statutory requirements that PUC-regulated water and wastewater utilities develop and maintain universal services programs, nor are there any specific regulatory standards governing oversight of water and wastewater programs. While a few large water utilities have developed rate assistance programs through the course of individual utility rate proceedings to address broad unaffordability, the programs are in their infancy and lack comprehensiveness necessary to address the multifaceted issues that arise in addressing water insecurity.

In the coming years, utility costs will continue to rise across the state as we work to repair aging infrastructure, cope with increasingly severe storms and temperatures that threaten grid stability, remove forever chemicals and lead from our drinking water, and navigate the rapid transformation of our energy and water systems. In grappling with these challenges, we must enact policies that promote universal access regardless of individual wealth. As I will discuss in the final section of my testimony, there are a multitude of ways that the Committee can reform Chapter 14 to address utility insecurity – ensuring all Pennsylvanians can reasonably afford to connect and maintain services to their home.

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## Chapter 14 Exacerbates Utility Insecurity

The collections tools in Chapter 14 have ensnared Pennsylvanians experiencing utility insecurity – resulting in the disproportionate loss of utility service for those who are categorically *unable* to pay, contrary to the explicit goals of the Act. At the same time, while the impetus of Chapter 14 was to reign in uncollectible expenses borne by other ratepayers, there has not been a proportional decrease in uncollectible expenses since Chapter 14 took effect in 2004.

In 2021, confirmed low income customers accounted for roughly 12% of residential electric customers and 15% of residential gas customers, yet this same customer group accounted for over one-third (35%) of payment troubled electric customers and two-thirds (66%) of payment troubled gas customers.<sup>xiii</sup> Confirmed low income customers also carried the lion’s share of utility debt – shouldering 51% of residential electric debts and 30% of residential gas debts.

**Residential and Low Income Customer Debt, 2021<sup>xiv</sup>**

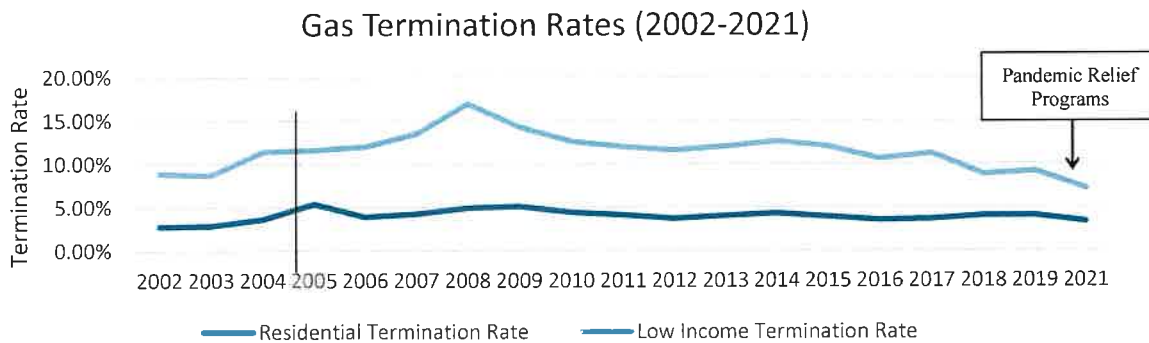
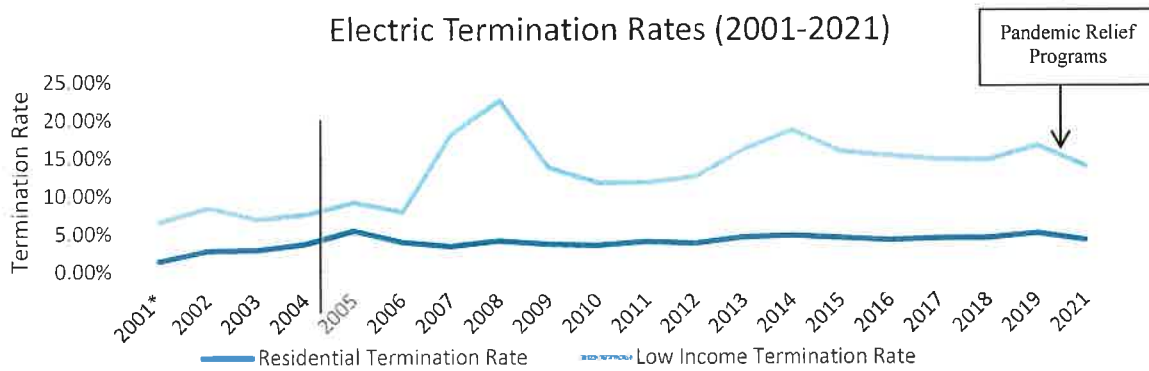
	Residential \$ In Debt	Confirmed Low Income \$ In Debt	% of Debt Carried by Confirmed Low Income Customers
Electric	\$375,388,503	\$190,842,367	51%
Gas	\$175,246,559	\$52,674,654	30%
Water/WW	Unknown*	Unknown*	Unknown*

The disproportionately high debt levels carried by confirmed low income customers are not an indication that low income customers do not want to pay – it is an indication that they are unable to pay. As discussed above, low income families often face energy and water burdens in excess of 10-33% of household income, leaving very little left to pay for all of life’s basic needs.

The consequences of loss of utility services are severe and potentially long lasting. As discussed, termination of service to the home can jeopardize a parent’s custody of their children and is often cited as a cause of evictions from private and public housing, leading to increased rates of housing insecurity and homelessness. Utility consumers who can afford to pay will continue to do so to prevent these harsh consequences.



Low income households have long carried higher debts relative to residential customers as a whole. However, following implementation of Chapter 14, the delta between residential and low income termination rates as a result of higher debts increased exponentially.<sup>xv</sup>



Notably, there was a significant increase in electric and gas termination rates in 2008 coinciding with the Great Recession, and again in 2014 following the Polar Vortex, when prices in the competitive electric market spiked dramatically due to prolonged negative temperatures and correspondingly high demand. However, residential consumers as a whole did not experience the same dramatic increase in termination rates through these volatile economic periods, evidencing a direct correlation between the *inability* to pay and the loss of service under Chapter 14 collection standards.

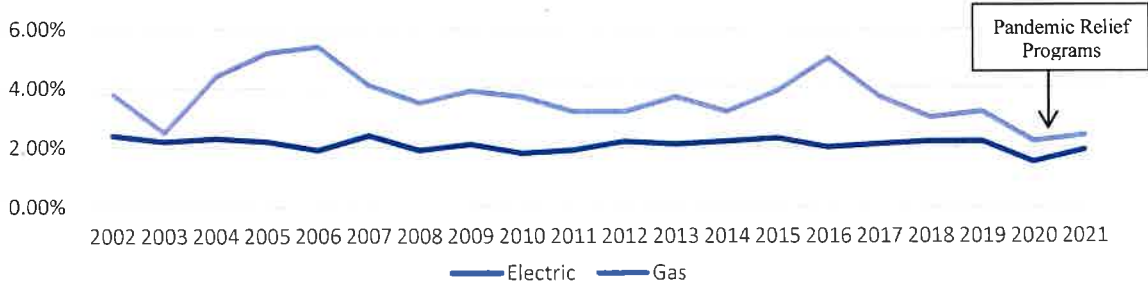
On the gas side, the delta in termination rates between low income and residential customers has declined. While noteworthy, this decline is likely attributable to the decline in gas prices due to increased gas production in our state. As of November 2023, after high gas prices plagued the 2022/2023 winter heating season, gas termination rates increased 40% year over year.<sup>xvi</sup>

In 2021, following record levels of utility debt incurred as a result of the pandemic and the economic pressures that followed, low income termination rates declined for both gas and electric utilities. This decline is most likely attributable to the fact that many regulated Pennsylvania utilities had not yet fully resumed termination activities following the pandemic-related moratorium on utility terminations – coupled with the extraordinary levels of emergency utility assistance funding administered through the Low Income Home Energy Assistance Program (LIHEAP), the Emergency Rental Assistance Program, and the Low Income Household Water Assistance Program (LIHWAP), which helped families to catch up with rising utility debt.

Unfortunately, with the expiration of these extraordinary energy and water assistance funds, involuntary termination rates have again increased. Year over year, involuntary terminations of residential electric, gas, and water services were up 3% in 2022, and another 3% in 2023.<sup>xvii</sup> According to the National Energy Assistance Director’s Association’s Winter Heating Price Outlook, released just last week, winter heating costs are projected to remain high through 2023/2024 heating season.<sup>xviii</sup> Given the high energy costs we experienced through winter 2023, coupled with the extreme temperatures in winter and summer driving increased usage and the prospect of another season with high winter heating costs, we expect the corresponding termination rate to further increase through the remainder of 2023 and well into 2024.

**While involuntary termination rates continue to climb, there has not been a corresponding decline in uncollectible expenses since Chapter 14 was first enacted in 2004.**

**Gross Write-Off Ratio, Residential Electric and Gas Utilities<sup>xix</sup>**



The gross write-off ratio has remained relatively stagnant for electric utilities and increased significantly for gas utilities in most years following enactment of Chapter 14. As explained

above with regard to recent termination data, extraordinary levels of federal relief received in 2020 and 2021 helped suppress the write-off ratio – though the ratio nevertheless remained largely consistent with pre-Chapter 14 levels. Given the persistently high energy and water costs through 2023, which are expected to continue into 2024, we anticipate the residential write-off ratios for gas and electric will increase further under Chapter 14’s punitive collections paradigm.

**Simply put, Chapter 14 does not provide the right tools for the hard job of alleviating utility insecurity, and in many ways serves to compound collections costs and write-offs that are ultimately borne by other ratepayers.** As a practical matter, in the days before or immediately following a utility termination, many households end up in bankruptcy proceedings, while others go for extended stretches of time without service or relocate out of the service territory. Regardless of the path, the end result is the same...and nobody wins. The household is without service, the utility is without a customer, and the debt is written off and recovered through rates from other residential ratepayers. The bottom line? We need common-sense reforms that are rooted in prevention to ensure that all Pennsylvanians, regardless of wealth, can maintain service to their home.

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## **HB 1077 Offers Prevention-Based Solutions to Address Utility Insecurity**

The prevention-based reforms included in HB 1077 would meaningfully improve access to utility services for all Pennsylvanians, regardless of wealth. Currently, Chapter 14 uses punitive tools to compel payment, permitting utilities to levy various fees and charges which serve to compound affordability challenges and increases the likelihood of termination. What we need are preventative tools that equitably address affordability challenges, promote regular payment, and keep people connected to life-sustaining services.

PULP urges the Committee to advance the critical improvements to Chapter 14 included in HB 1077 that emphasize prevention of debt accrual from the start, and provide the Commission, consumers, and utilities with the right tools to equitably address arrears when they accrue.

### **➤ HB 1077 Improves Access to Reasonably Affordable Payment Arrangements**

To be successful, payment arrangement standards need to be aligned with the real-life, practical hardships and financial obstacles facing low and moderate income households. The reforms included in HB 1077 would rebalance the payment arrangement standards, ensuring residential customers have access to an affordable payment arrangement from the start so they can reasonably afford to pay down debt and prevent additional debt from accruing.

The current payment arrangement standards in Chapter 14 are inflexible, and do not account for the day-to-day realities faced by economically vulnerable households. While Chapter 14 restricts the number and length of PUC-issued payment arrangements, it does not set minimum standards for utility-issued payment arrangements.<sup>xx</sup> In our experience, utilities often offer payment arrangement terms that do not account for a customer's income – or the facts and circumstances leading the customer to fall behind. Standard six-month or one-year payment arrangements are often provided on a “take-it or leave-it” basis, often through an automated phone system, without consideration for what a consumer can reasonably pay. When faced with termination, consumers will most often accept the terms as quoted – even if the payment is unaffordable.

When an initial utility-issued payment arrangement is unaffordable, it sets consumers up for failure – making matters worse down the road. Given the high cost of energy and water, it only takes a few missed payments for a relatively small debt to balloon into a few thousand dollars. By the time a consumer reaches the PUC to request an income-based payment arrangement

pursuant to the stringent provisions of Chapter 14, they may owe several thousand dollars. In this scenario, even the maximum 60-month payment arrangement may be unaffordable for a low income family. Customers who cannot afford these unrealistic payment arrangements often quickly default and are ineligible for additional payment arrangements – issued by *either* the PUC or their utility. With no viable path to make reasonable payments on their debt, consumers in this situation often end up on a path to bankruptcy.

The inability to obtain an adjusted payment arrangement, absent a significant change in income of 10% or more, or extreme change of circumstances such as the death of a primary wage earner, does not match real-life circumstances that impact the ability of a consumer to make payments toward a payment arrangement. For many households, especially those living paycheck to paycheck, any change in income or unexpected expense could cause the consumer to fall behind.

Finally, the prohibition on payment arrangements for consumers enrolled in a Customer Assistance Program (CAP) is unduly harsh and contributes to high low income termination rates. CAPs provide rate assistance but do not always produce a consistent level of affordability. Like all families, low income families encounter unexpected expenses that cause them to fall behind. If that happens, they should have the opportunity to obtain a reasonable payment arrangement.

**HB 1077 improves access to reasonably affordable payment arrangements by:**

- Amending the definitions of “*change in income*” and “*change in circumstances*” to better account for the financial impact of a reduction in income and to include a broader range of circumstances that may impact a consumer’s ability to pay.
- Restoring discretion to the PUC to issue equitable payment arrangements.
- Allowing the PUC to extend income-based payment arrangements if necessary to ensure a monthly payment is reasonably affordable – no to exceed 20% of the average bill.
- Increasing income thresholds to provide an affordable arrangement to more families.
- Allowing households enrolled in a Customer Assistance Program to access an equitable payment arrangement if they fall behind on their bill.

➤ **HB 1077 Utilizes Universal Service Programs as an Effective Prevention Tool**

When accessed early, before debt is accrued, universal service programs can serve an important prevention role – helping stabilize utility costs before they get out of control. The reforms included in HB 1077 would improve the availability of and access to universal service programs for electric, gas, and water/wastewater utilities, ensuring the program are effectively serving as a front-line defense – before unmanageable debts are accrued.

If consumers can afford to pay their bill, they most often do. Research conducted by the National Bureau of Economic Research demonstrated that, when low income households can afford to cover other basic needs, the likelihood of late payment is reduced 35.6%, the likelihood of termination is reduced by 64%, and outstanding balances drop by 67%.<sup>xxi</sup>

Despite the fact that confirmed low income customers (who are *known* to the utility to be eligible for CAP) carry disproportionate levels of utility debt, enrollment in gas and electric Customer Assistance Programs (CAPs) – which offer comprehensive rate assistance and the opportunity to earn arrearage forgiveness – reaches less than 25% of estimated eligible customers.<sup>xxii</sup>

There is often confusion concerning payment arrangements and CAPs. Customers, especially those under duress who are looking for recourse to stay connected to utility service, frequently have trouble evaluating their options as they do not understand which service would most benefit them, a payment arrangement or enrolling in their utility’s CAP.

Chapter 14 currently requires utilities to “provide information about the public utility’s universal service programs” to consumers who call requesting a payment arrangement.<sup>xxiii</sup> However, in practice, we find that most utilities only make passing reference to universal service programs, and do not explain the benefits of the program, help determine whether the customer is eligible, or assist with the application process. Some utilities use an automated system to offer payment arrangements and do not speak directly with a consumer who is requesting a payment arrangement, so a referral to CAP is never made.

Even when an effective referral is made, it is often too late for the household to enroll in a program to prevent termination. CAP enrollment can take several weeks and sometimes even months to fully process. In the interim, low income households face termination, as there is no

requirement for a utility to maintain service while a universal service program application is pending review. Once terminated, a consumer must make substantial upfront payments for services to be restored. This is why enrolling eligible customers in a CAP early is of vital importance and consequence.

Utilities should not wait until a consumer is “payment troubled” to assist the household to enroll in universal service programs. Indeed, when it comes to collections, prevention is the best cure. Improving the availability and access to universal service programming – *before debts are accrued* – will help to measurably improve payment frequency and payment coverage, reducing uncollectible expenses and termination rates.

**HB 1077 effectively deploys universal service programs as a front-line defense to prevent accrual of unmanageable debts by:**

- Amending the definition of “customer assistance program” to apply to all customer assistance programs operated by a public utility, including programs operated by water and wastewater utilities.
- Requiring utilities to actively screen applicants and customers for household income to facilitate enrollment in available universal service and energy conservation programs.
- Improving universal service and collections data reporting requirements and public disclosure, and ensure consistent reporting for electric, gas, and water/wastewater utilities.

➤ **HB 1077 Improves Medical Protections and Incentivizes Equitable Payment**

Expanding access to and building in the means for equitable payment for medically vulnerable households is another meaningful way of ensuring utility payment can be made and that debts do not accrue, while at the same time protecting this vulnerable population from the loss of service.

HB 1077 advances comprehensive amendments to the medical certificate process to remove egregious barriers to obtaining a medical protections, improve payment options for medically vulnerable households, and ensure that medically vulnerable family members can focus on getting better – without worrying that their service will be shut off.

There are thousands of medically vulnerable individuals across our state who rely on running water, electricity, heat, and air conditioning to treat a range of conditions and illnesses. Many

households have significant medical-related usage, such as oxygen machines, hospital beds, motorized wheelchairs, and breathing machines, which drive up home energy costs – contributing to energy insecurity. For medically vulnerable individuals, the ability to maintain stable utility service can be a matter of life and death.<sup>xxiv</sup> Given the shift in focus of healthcare to in-home care, especially for aging Seniors and individuals with a disability that are largely reliant on fixed income, the need for comprehensive medical protections to prevent utility termination has grown.<sup>xxv</sup>

Chapter 14 currently provides limited, short-term protection from involuntary termination for medically vulnerable households. However, the process for accessing these existing protections imposes unnecessarily burdensome requirements that are especially difficult for individuals with chronic illnesses and those that lack access to affordable health care options. As it stands, the medical certificate process requires a household to see a doctor or nurse practitioner every 30 days. It is both untenable and unrealistic to require *any* household to be able to access the health care services required for the completion of a medical certificate every 30 days – especially those who may have inadequate health coverage or high co-pays. Indeed, the addition of a co-pay only detracts from the ability of a consumer to keep up with utility costs.

Medical certificates are not only difficult to obtain, the payment requirements for consumers protected by a medical certificate are confusing and difficult for medically vulnerable consumers to navigate. Pursuant to the Commission's regulations, a consumer protected by a medical certificate must make payment on current charges to renew a medical certificate beyond the first 90 days of protection.<sup>xxvi</sup> But in practice, we find that medically vulnerable consumers are rarely informed of this ongoing payment requirement, or of the consequences if they do not continue to pay their current charges while the medical certificate is in place. Typically, a household only resorts to the burdensome process of obtaining a medical certificate as last resort, after they have defaulted on a payment arrangement – leaving very few options once the medical certificate expires. Indeed, we regularly serve clients with extreme medical vulnerabilities who are unable to obtain a payment arrangement from the utility following issuance of a medical certificate. As a result, following the short-term extension, service is often terminated to medically vulnerable households regardless of the severe consequences to the health and safety of the consumer.



**HB 1077 improves medical protections and incentivizes equitable payment by:**

- Requiring utilities to stop termination for at least 7 days if a utility is informed that a household member is seriously ill or has a medical condition to allow time to obtain a medical certificate.
- Extending the duration of a medical certificate from 30 to 90 days, or up to six months for households with a chronic illness or long-term condition.
- Expanding approved signatories to include licensed social workers and registered nurses.
- Requiring utilities to track and report on pertinent medical certificate data.

➤ **HB 1077 Protects Vulnerable Households in the Hottest and Coldest Months**

Chapter 14 currently includes a winter shut-off moratorium. It is not an exaggeration to state that this provision saves lives. The winter utility service moratorium keeps customers connected to utility service during the coldest months of the year, avoiding the preventable deaths that result from a lack of access to safe home heating.<sup>xxvii</sup> However, the winter moratorium does not currently apply to water and wastewater, unless the consumer relies on water services to heat their home (e.g., steam or geothermal heat).<sup>xxviii</sup> Even when water and wastewater services are not required to operate home heating equipment, running water and sanitation services are nevertheless essential to health and safety and should be protected from termination through the cold winter months.

With summer heat intensifying, heat-related deaths are also increasing.<sup>xxix</sup> To prevent heat related illness or death, the U.S. Center for Disease Control notes that access to air conditioning and hydration are essential protective factors against heat-related illness.<sup>xxx</sup> Customers disconnected from water and electricity service during the hottest months of the year are disconnected from protective lifelines, and disconnection is especially risky for Seniors, young children, and individuals with underlying conditions.

**HB 1077 protects vulnerable households in the hottest and coldest months by:**

- Extending the winter moratorium to all water and wastewater services.
- Imposing a credit-related moratorium on utility terminations from July 1 to August 31.

➤ **HB 1077 Improves Termination Notice, Ensuring Time for Preventive Action**

Chapter 14 only requires utilities to mail a written termination notice ten calendar days in advance of a service termination<sup>xxxii</sup> – leaving very few business days for a consumer to research, apply for, and receive assistance that may prevent the termination. We regularly serve clients who indicate that the first notice they received of a pending termination was the three-day phone call or email – while others are unaware until service was shut off.

We also have a growing population for whom English is a second language, and there are scant requirements for utilities to translate critical notices into other commonly spoken languages.

Customers facing termination of their utility service require proper notification and adequate time and assistance to work with their utility, the Commission, social service providers, and universal service program administrators to seek assistance, obtain a medical certificate, or otherwise work to resolve a pending termination.

**HB 1077 improves notice requirements to ensure a consumer has the time, information, and tools to prevent a pending shut off by:**

- Prohibiting termination on the day prior to and the day of a federal and state holiday.
- Requiring utilities to provide notice of termination at least 20 days before termination and requiring notice to be provided by first class mail and electronic means, with consent.
- Requiring utilities to translate termination notices and other essential documents in English, Spanish, and other commonly spoken languages.

➤ **HB 1077 Eliminates Punitive Charges and Fees that Compound Debt**

Chapter 14 authorizes utilities to levy security deposits, late fees, and reconnection fees on payment-troubled customers,<sup>xxxiii</sup> which serves to compound underlying affordability challenges and makes it more difficult for families to catch up. While Chapter 14 contains a prohibition on security deposits for low income customers, this prohibition has been difficult to enforce without a corresponding requirement for utilities to disclose the prohibition and affirmatively request income information for all customers to determine whether the prohibition applies.

Cash deposits and reconnection fees compound payment trouble and economic insecurity, and there is little to no evidence that these fees do anything to incentivize payment. To the contrary,

these types of pecuniary charges and fees serve as a punitive barrier for low and moderate income households to re-establish service following an involuntary termination.

**HB 1077 eliminates punitive fees and charges that compound debt by:**

- Prohibiting utilities from charging reconnection fees to low income customers and requiring utilities to inform customers of this prohibition at the time any reconnection fee is assessed.
- Prohibiting utilities from requiring upfront payment of a reconnection fees for moderate income customers.
- Prohibiting utilities from assessing late fees on low and moderate income customers.
- Prohibiting utilities from charging a security deposit as a condition of providing or continuing service.

➤ **HB 1077 Expands Protections for Survivors of Domestic Violence**

The existing domestic violence exemption is another life-saving provision currently included in Chapter 14. The exemption is critical for the health and safety of domestic violence survivors and their families – helping to ensure that utility debts accrued by a third party do not prevent a survivor from establishing a safe home.

To be eligible for the domestic violence exemption, Chapter 14 currently requires a survivor to have a Protection from Abuse Order or another court order which contains clear evidence of domestic violence. This standard is difficult for utilities to administer and does not reach many of the most at-risk survivors of domestic violence, who are unable to access protection from the courts. Utilities should not be empowered to make a judgement call as to whether a court order contains sufficient evidence that an individual is a victim of domestic violence. In turn, requiring a survivor to provide their utility with a copy of their PFA can disclose extremely sensitive information about the nature of abuse and often includes graphic detail about the survivor's victimization.

**HB 1077 will help ensure survivors of domestic violence can access utility service by:**

- Allowing a certified domestic violence counselor or advocate, as defined in section 23 Pa. C.S. § 6102 to certify that a consumer is a victim of domestic violence.
- Ensuring protection orders from other states are afforded full faith and credit.

➤ **HB 1077 Improves Utility Data Reporting and Disclosure Requirements**

As explained throughout, water and wastewater utilities are not currently required to adhere to the same universal service and collections reporting requirements that electric and gas utilities must adhere to. This means that there is very little publicly available data to assess the effectiveness of water and wastewater programs or collections policies. At the same time, while electric and gas utilities are subject to specific reporting requirements, there are often inconsistencies in how a utility collects and reports on each data point.

Imposing specific, annual, publicly disclosed reporting requirements of all public utilities will provide the General Assembly, the Commission, and the public with the necessary tools to evaluate the effectiveness of, and thus continually improve, policies included in Chapter 14.

**HB 1077 meaningfully improves public utility reporting and disclosure requirements by:**

- Standardizing utility reporting requirements to improve consistency, expand available data points, and allow for cross-utility analysis.
- Requiring large water and wastewater utilities to report on universal service and collections data, consistent with the requirements for electric and gas utilities.
- Requiring the Commission to include water and wastewater utility data in its annual Universal Service and Collections Performance Reports.

\* \* \* \* \*

This concludes my written testimony. It is an honor and privilege to provide testimony to the Committee on this critically important issue, and I look forward to working with each of you in the coming weeks and months to ensure that all Pennsylvanians can establish and maintain affordable, safe, and clean water and energy services to their home.

Respectfully,



Elizabeth R. Marx, Esq.  
Executive Director  
Pennsylvania Utility Law Project  
118 Locust Street | Harrisburg, PA 17101  
267-240-3089  
[emarx@putilitylawproject.org](mailto:emarx@putilitylawproject.org)

<sup>1</sup> 66 Pa. C.S. § 1402(2)-(3) (declaration of policy) (emphasis added).

<sup>2</sup> Fisher, Sheehan, & Colton, The Home Energy Affordability Gap: 2022 (April 2023) (hereinafter Home Energy Affordability Gap), [http://www.homeenergyaffordabilitygap.com/03a\\_affordabilityData.html](http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html); see also Pa. PUC, Home Energy Affordability for Low-Income Customers in Pennsylvania (Jan. 2019), <https://www.puc.pa.gov/pcdocs/1602386.pdf>.

<sup>3</sup> Fisher, Sheehan, & Colton, The Home Energy Affordability Gap: 2022 (April 2023) (hereinafter Home Energy Affordability Gap), [http://www.homeenergyaffordabilitygap.com/03a\\_affordabilityData.html](http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html).

<sup>4</sup> U.S. Department of Energy, Energy Information Administration, 2020 Residential Energy Consumption Survey (released 2022), <https://www.eia.gov/consumption/residential/data/2020/>.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> See Testimony of the Pennsylvania Utility Law Project In Opposition of HB 1789,

[https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2022\\_0073\\_0002\\_TSTMNY.pdf](https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2022_0073_0002_TSTMNY.pdf); see also Scott Patterson & Tom McGinty, Deregulation Aimed to Lower Home-Power Bills. For Many, It Didn't, Wall Street Journal (March 8, 2021), <https://www.wsj.com/articles/electricity-deregulation-utility-retail-energy-bills-11615213623?page=16>.

<sup>8</sup> Marcus Dieterle, Energy Supplier Choice Aimed to Lower Marylanders' Bills, But Some Customers Are Left Feeling Powerless (Dec. 28, 2021), <https://baltimorefishbowl.com/stories/energy-supplier-choice-aimed-to-lower-marylanders-bills-but-some-customers-are-left-feeling-powerless/> (providing an interactive map of door-to-door marketing activities in Maryland, which reveals higher marketing activities in predominately Black and low income zip codes); see also MA Attorney General, Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts: 2021 Update, at viii-ix (Mar. 2021) <https://www.mass.gov/doc/2021-competitive-electric-supply-report/download>.

<sup>9</sup> According to estimates from the Office of Consumer Advocate, water and wastewater acquisitions have added over \$68 million to rates *each year* – substantially increasing monthly water and wastewater bills for residential consumers.

<sup>10</sup> See Pa. PUC v. Aqua, CAUSE-PA St. 1 at 39-40, Docket Nos. R-2021-3027385, 3027386 (CAUSE-PA St. 1 dated Nov. 10, 2021) (providing an in-depth examination of water and wastewater affordability standards).

<sup>11</sup> See Joint State Government Commission, General Assembly of the Commonwealth of Pennsylvania, Homelessness in Pennsylvania: Causes, Impacts, and Solutions: A Task Force and Advisory Committee Report (2016), <http://jsg.legis.state.pa.us/resources/documents/ftp/documents/11R550%201%20page%20summary%204-6-2016.pdf>.

<sup>12</sup> Diana Hernández, Understanding 'energy insecurity' and why it matters to health, Soc Sci Med. at 167: 1-10 (Oct. 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5114037/>.

<sup>13</sup> Universal Service Report at 7-8, 11.

<sup>14</sup> Universal Service Report at 23-24. \*Water and wastewater utilities are not currently required to publicly report this information.

<sup>15</sup> Compiled from data in the 2001-2021 Universal Service Reports, <https://www.puc.pa.gov/filing-resources/reports/universal-service-programs-and-collections-performance-reports/>. Note that electric data was first available in 2001, whereas gas data was not available until 2002. 2020 termination data was excluded from the chart, as terminations were largely prohibited by a pandemic-related moratorium on terminations.

<sup>16</sup> Pa. PUC, Terminations and Reconnections: Year-to-Date Nov. 2022 vs. Year-to-Date Nov. 2023, <https://www.puc.pa.gov/filing-resources/reports/terminations-for-electric-gas-water-companies/>.

<sup>17</sup> Pa. PUC, Terminations and Reconnections: Year-to-Date Dec. 2021 vs. Year-to-Date Dec. 2022. The Commission only publishes the most recent year-over-year termination data on its website, though the historical data is maintained on file with PULP. Pa. PUC, Terminations and Reconnections: Year-to-Date Nov. 2022 vs. Year-to-Date Nov. 2023, <https://www.puc.pa.gov/filing-resources/reports/terminations-for-electric-gas-water-companies/>. This increase in termination rates would have been even higher if PPL Electric had not paused terminations through July as a result of wide-spread billing errors through early 2023.

<sup>18</sup> NEADA, Winter Heating Price Outlook (released Sept. 20, 2023), <https://neada.org/wp-content/uploads/2023/09/winteroutlook2023.pdf>

<sup>19</sup> Compiled from data in the 2001-2021 Universal Service Reports, <https://www.puc.pa.gov/filing-resources/reports/universal-service-programs-and-collections-performance-reports/>. The “Gross Write-Off Ratio” is calculated by dividing the annual total gross dollars written off for residential accounts by the annual total dollars of residential billings. According to the PUC, “The measure offers an equitable basis for comparison of gross residential dollars written off to the annual total dollars of residential billings.” Id. 2021 Universal Service Report at 44.

<sup>20</sup> 66 Pa. C.S. § 1405, 1407.

<sup>21</sup> Nat’l Bureau Econ. Res.; Bulletin of Retirement & Disability: How Bill Timing Affects Low-Income and Aged Households (May 2, 2020).

<sup>22</sup> Universal Service Report at 7-8, 60.

<sup>23</sup> 66 Pa. C.S. § 1410.1

<sup>24</sup> See NCLC, Protecting Seriously Ill Consumers From Utility Disconnections: What States Can Do To Save Lives Now (Feb. 2021), [https://www.nclc.org/wp-content/uploads/2022/09/Serious\\_Illness\\_Rpt.pdf](https://www.nclc.org/wp-content/uploads/2022/09/Serious_Illness_Rpt.pdf)

<sup>25</sup> Dr. Peter Kahn et al., Regulators Can Save Lives by Protecting Medically Vulnerable Utility Users, The Hill (Sept. 10, 2022), <https://thehill.com/opinion/energy-environment/3637206-regulators-can-save-lives-by-protecting-medically-vulnerable-utility-users/>.

<sup>26</sup> 52 Pa. Code §§ 56.114(2), 56.116.

<sup>27</sup> U.S. Consumer Product Safety Commission; A Preliminary Analysis of Hyperthermia Deaths Associated with Electric Room/Space Heaters: March 2019 (Updated February 2022); [https://www.cpsc.gov/s3fs-public/A\\_Preliminary\\_Analysis\\_of\\_Hyperthermia\\_Deaths\\_Associated\\_with\\_Electric\\_Room\\_and\\_Space\\_Heaters\\_1.pdf?VersionId=m8FAQVmd9\\_sezNiQHwApM8y\\_4UTZ8do\\_](https://www.cpsc.gov/s3fs-public/A_Preliminary_Analysis_of_Hyperthermia_Deaths_Associated_with_Electric_Room_and_Space_Heaters_1.pdf?VersionId=m8FAQVmd9_sezNiQHwApM8y_4UTZ8do_); accessed September 25, 2023.

<sup>28</sup> 66 Pa. C.S. § 1406(e).

<sup>29</sup> Cory Sharber, Philadelphia Confirms Heat-Related Deaths, WHYY (July 28, 2022).

<sup>30</sup> CDC, Nat’l Ctr. for Environmental Health, Tracking in Action: Extreme Heat, <https://www.cdc.gov/nceh/features/trackingheat/index.html>.

<sup>31</sup> 66 Pa. C.S. § 1406(b).

<sup>32</sup> 66 Pa. C.S. §§ 1404, 1407, 1409.