

**BEFORE THE PENNSYLVANIA
HOUSE CONSUMER AFFAIRS COMMITTEE**

Testimony of

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Regarding

House Bill 1047

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**Chairman Godshall, Chairman Daley
And Members of the House Consumer Affairs Committee**

My name is Tanya McCloskey. I am serving as the Acting Consumer Advocate of Pennsylvania since the retirement of Sonny Popowsky at the end of October of 2012. I have worked at the Office of Consumer Advocate since 1987 with a primary focus on energy issues. Thank you for inviting me to give comments before this Committee regarding House Bill 1047 that would repeal Section 5 of Act 201 of 2004 thus making the provisions of Chapter 14 of the Public Utility Code permanent.

The provisions of Chapter 14 were added to the Public Utility Code by Act 201 partially in reaction to utility collection problems at the municipally owned natural gas utility – Philadelphia Gas Works (PGW). Indeed, several of the provisions of Chapter 14 apply only to PGW. While the most serious collection problems were occurring at PGW, the General Assembly took the opportunity in 2004 to address concerns raised by other electric and natural gas utilities regarding the Public Utility Commission’s interpretation and enforcement of existing customer service regulations.

Significantly, Chapter 14 specifically required the PUC to submit a Report to the General Assembly every two years regarding the effects of the chapter’s provisions on utilities and consumers. Act 201 also contained a self-executing expiration date of December 31, 2014, unless sooner re-enacted by the General Assembly. It is this self-executing expiration date that is the subject of House Bill 1047.

In accordance with Act 201, the PUC issued its most recent Biennial Report on the implementation of Chapter 14 on December 14, 2012. Overall, the latest PUC Report, as did the previous Report, concludes that Pennsylvania utilities “have successfully implemented Chapter 14 since its passage” in 2004. The PUC Report points to a number of improvements in

utility collections data, particularly for PGW. At the same time, the Report sets forth a number of statistics and issues that raise concerns about the effects of Chapter 14 on payment-troubled customers.

For example, the 2012 Report notes that “terminations have increased dramatically since the passage of Chapter 14.” In the electric industry, terminations increased by 95.2% since 2004 with some of our electric companies increasing terminations by 200% to 300%. The Report goes on to state that “more customers now enter the winter without a central heating source and the Commission is concerned about the health and safety of the occupants in these homes.” Particularly relevant here, as of December 19, 2011, the Report indicates that 17,475 Pennsylvania homes entered the winter heating season without heat-related service and an additional 2,559 residences were using unsafe heating sources bringing the total number of homes not using a central heating system to 20,034. This is a 34% increase from the average pre-Chapter 14 level of 14,992 homes without a central heating system at the start of the winter heating season.

Equally relevant is the Report’s statement that through 2011 “the Commission has turned away 134,218 customers who are ineligible to receive a PAR [payment agreement request] since the passage of Chapter 14.” But even this may understate the number of utility customers that the Commission was not able to assist. As the detailed charts in the Report show, as of September 28, 2012 the Commission turned away 74,044 non-CAP customers because of ineligibility, turned away 73,293 CAP customers because the Commission is forbidden from establishing a payment agreement for customers who participate in a utility’s Customer Assistance Program, and dismissed 58,008 payment agreement requests without a decision due to ineligibility.

The Report notes that low income consumers have benefitted in recent years from the substantial growth in enrollment in Customer Assistance Programs (CAPs), which has increased by 66% from 2004 to 2011. I agree with that conclusion, but I would not attribute that increase to the provisions of Chapter 14. Rather, I would point to the General Assembly's enactments in 1996 and 1999 of electric and natural gas restructuring laws, both of which contained strong "universal service" provisions and, I believe, have helped lead to some of the best utility low-income programs in the Nation.

From the consumer's perspective, the major concern with Chapter 14 when it was enacted was that it deprived the Public Utility Commission of too much of its discretion in developing standards and resolving disputes between utilities and customers, and instead gave greater discretion to the utilities. This is best illustrated by the 134,218 customers who, as noted above, were "turned away" by the Commission because the PUC could no longer help them under the terms of Chapter 14 and the 58,008 customers whose cases were dismissed without a decision because of ineligibility under Chapter 14.

Utilities have a right to be paid for their service, and to the extent that some customers do not pay their bills, those "uncollectible" expenses can be passed on to other customers. The Public Utility Commission's regulations traditionally sought to maximize revenue collection while treating the termination of essential utility service as a last resort for those who fail to meet reasonable payment arrangements. Chapter 14 removed much of the discretion from the Public Utility Commission and instead placed that discretion in the hands of the utilities.

I understand that at the time Chapter 14 was under consideration, many utilities expressed strong objections to the manner in which the Commission was interpreting and

enforcing some of its regulations, particularly with respect to the imposition of successive payment agreements for many customers who did not pay their bills and developed large arrearages. The purpose of Chapter 14, though, was to eliminate opportunities for customers capable of paying to avoid the timely payment of public utility bills. In my view, however, Chapter 14 may have imposed too many restrictions on the PUC that may prevent it from assisting those customers who cannot pay their bills.

I believe that our goal should be to protect consumers who truly cannot afford to pay their bills on time from undue hardship, while at the same time seeking to ensure that utilities are able to collect full and prompt payment from those customers who can pay their bills but who choose not to do so. In my view, Chapter 14 may have swung the pendulum too far in favor of the utilities' collection efforts without leaving the Commission adequate authority to consider the needs of customers who try to pay their bills but are unable to do so in a timely manner.

As this Committee considers House Bill 1047 and the future of Chapter 14, I would urge that Chapter 14 not simply be allowed to become permanent without consideration of the necessary amendments to restore an appropriate balance. I would urge the Committee to re-examine some of the proposals that were sponsored by then Chairman Preston and other House members in prior legislative sessions. Several of those proposals were included in House Bill 824 of 2007 and House Bill 1399 of 2009. House Bill 824 in particular recognized the need for continued vigilance in ensuring payment from those customers who can afford to pay, but also would have restored some of the Commission's ability to balance the interests of the utility and the customer in the most reasonable manner. These bills would have modified some of the provisions of Chapter 14 while leaving the necessary framework in place under which utilities

and the PUC can assure that customers who can afford to pay their bills must do so in a timely manner.

I look forward to working with this Committee on necessary amendments to Chapter 14 so that the framework established can continue in a manner that balances the Commission's authority and the utility's discretion in a number of areas. Thank you for permitting me to present this testimony here today. I would be happy to answer any questions you may have at this time.

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