

**BEFORE THE PENNSYLVANIA
HOUSE DEMOCRATIC POLICY COMMITTEE**

Testimony Of

**TANYA J. McCLOSKEY
ACTING CONSUMER ADVOCATE**

**Public Hearing On:
Utility Terminations**

**Harrisburg, Pennsylvania
October 26, 2020**

**Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048 - Office
(717) 783-7152 - Fax
Email: tmccloskey@paoca.org
298216**

**Chairman Sturla, Representative Schweyer,
and Members of the House Democratic Policy Committee**

Thank you for inviting me to testify today regarding utility terminations in this time of the COVID-19 pandemic. My name is Tanya McCloskey and I am the Acting Consumer Advocate for the Office of Consumer Advocate. Let me first introduce the Members of the Committee to the Pennsylvania Office of Consumer Advocate (OCA). The OCA was established by the General Assembly in 1976 to fill a gap that had long existed in the representation of utility consumers – particularly residential consumers – before the Pennsylvania Public Utility Commission (PUC) and other state and federal agencies and courts that regulate the activities of Pennsylvania’s public utilities. Traditionally, utilities have always been well-represented at the PUC by lawyers and expert witnesses who could advocate for utility investors in matters such as rate increase requests for utility services. Our Office was created so that the consumers who have to pay those utility bills would be represented by professional attorneys and experts who could advocate for the consumer interest.¹

I commend the Committee for considering the topic of utility terminations during this critical time. Utility service is essential to the health and safety of all residents and businesses in the Commonwealth. It is particularly essential to homeowners and renters in maintaining a safe and habitable place to live. Next to the mortgage or the rent, the utility bill is one of the most

¹ In addition to our litigation activities, the OCA helps to educate consumers on matters involving their utility services. The Consumer Liaison and other members of the OCA staff help to plan and participate in consumer presentations, roundtables, and forums across the Commonwealth to help educate consumers about changes in the utility industry and to advise them about cases that affect them. The OCA has an active social media presence to provide consumers with helpful information about their utility service and we have a small staff of consumer service representatives who can assist individual consumers with utility problems. The OCA also serves as a resource to members of the General Assembly by responding to constituent concerns and by providing our views on how proposed legislation would affect the interests of Pennsylvania consumers.

important bills that a household faces. In a survey by the National Energy Assistance Directors' Association conducted in 2018 that included Pennsylvania, it was found that in order to pay the utility bill, 36% of LIHEAP (Low Income Home Energy Assistance Program) recipients went without food for at least one day, 41% went without medical or dental care, 31% did not fill a prescription or took less than prescribed and 25% kept their home at a temperature that was unsafe or unhealthy.² Customers go to great lengths to pay their utility bills as they recognize the importance of maintaining utility service.

The impact of the loss of utility service cannot be overstated. The loss of electric or natural gas service has led to fatal fires in Pennsylvania as families try to use candles for light or alternative, unsafe sources of heating. The loss of water and wastewater service compromises necessary sanitation and cleanliness. These impacts are greatly heightened during this pandemic where a critical part of slowing the spread of the pandemic is to have citizens stay at home as much as possible for health, safety, school, and work. Homes can quickly become uninhabitable from the loss of utility service, and the loss of utility service can place renters in violation of lease agreements that could lead to eviction. When this occurs, families are often forced to seek shelter with family and friends resulting in crowded living arrangements, to move into congregate emergency shelters, or to be homeless.

Utility arrearages can also have long term negative impacts on customers, even without a termination of utility service. Several of our utilities report late utility payments to the credit reporting agencies which can negatively impact a customer's credit score. A lowered credit score can have negative impacts for years to come on customers, greatly impacting things such as the ability to secure housing, either through rental or ownership, the ability to secure loans at

² 2018 National Energy Assistance Survey, Summary Report, National Energy Assistance Directors' Association, December 2018. (<https://neada.org/program-policy-reports/liheapsurvey/>)

reasonable rates, if at all, for necessary transportation to work, necessary repairs to homes and apartments, or just obtaining the necessities of daily living. For municipal utility debt, the municipality is often able to place a lien on the property for the amount of the arrearage, which can jeopardize homeownership. The PUC regulates two large municipal entities – the Philadelphia Gas Works and the Pittsburgh Water and Sewer Authority – that have this authority as municipal entities.

Despite customers’ recognition of the importance of keeping current on their utility bills, we know that it has become even more challenging for customers during this pandemic to pay those utility bills. While my Office does not have complete information from the utilities, some public reporting of information to the Public Utility Commission reveals that it is becoming harder and harder for households to keep current on their utility bills. From information provided to the Commission in October of 2020, there were approximately 862,000 electric and natural gas customers eligible for termination at the end of September, up from the 800,000 electric and natural gas customers eligible for termination in June of this year.³ In addition, recent information provided to the Commission indicated that there were approximately 78,000 regulated water/wastewater customers eligible for termination as of September 30, 2020 an increase of 28,000 customers over the summer months.⁴

I want to pause for a moment and emphasize the point that these numbers only represent customers whose service is regulated by the Public Utility Commission. For water/wastewater customers in particular, the great majority of customers do not receive service from a PUC-

³ See, COVID-19 Customer Service, Billing, and Public Outreach Provisions Request for Utility Information, PUC Docket M-2020-3020055.

⁴ See, Public Utility Service Termination Proclamation of Disaster Emergency – COVID-19, PUC Docket No. M-2020-3019244, Comments of National Association of Water Companies (Pennsylvania), <http://www.puc.state.pa.us/pcdocs/1673583.pdf>

regulated entity but are served by municipal water/wastewater entities or municipal authorities. I do not have information on how many customers of municipal entities or authorities, or rural electric cooperatives serving electric customers, may be facing termination. Recent press reports, however, indicate that some of the municipal entities have resumed termination of water service.

While the data on termination and arrearages varies by utility, recent data provided to the Commission about arrearages for PUC-regulated electric and natural gas utilities showed that for the March, 2020 to September 30, 2020 time frame, the dollars in arrears increased for electric residential customers by about 44%, gas residential customers by 31%, non-residential electric customers by 38%, and non-residential gas customers by about 42% compared to the same time period a year ago.⁵ For most utilities, customers were deeper in debt than they were a year ago, that is, the average amount of the arrearage had increased making it more difficult for a customer to pay off the debt.

It does not appear that the economic circumstances for households and businesses will improve very soon. Unemployment remains high, at about 8.1% across Pennsylvania, far in excess of the unemployment rate before the pandemic.⁶ Based on U.S. Census Bureau Household Pulse Survey, by the week ending October 12th, nearly 50% of Pennsylvania households reported a loss of at least some employment income since March 13th.⁷ The Household Pulse Survey also found that more than 23.6% of Pennsylvania's workforce expected

⁵ See, Public Utility Service Termination Proclamation of Disaster Emergency – COVID-19, PUC Docket No. M-2020-3019244, Energy Association of Pennsylvania Comments, <http://www.puc.state.pa.us/pcdocs/1673734.pdf>

⁶ U.S. Bureau of Labor Statistics, Economy at a Glance-Pennsylvania, <https://www.bls.gov/eag/eag.pa.htm>

⁷ U.S. Census Bureau, Measuring Household Experiences during the Coronavirus Pandemic Household Pulse Survey, 2020, <https://www.census.gov/programs-surveys/household-pulse-survey.html>

to suffer additional income loss during the upcoming four-week period (i.e., October 13 – November 9).⁸

The U.S. Census Bureau also surveyed small businesses beginning in May, 2020. By October 12th, more than 50% of Pennsylvania businesses said they would not return to normal operations for six months or expected to never return to the pre-pandemic level of operations.⁹

A recent national survey conducted by the Electric Power Research Institute (EPRI) confirmed that customers are concerned about being able to afford their electric bills during this time. About two-thirds of customers reported this concern, and approximately 20% of the survey respondents reported that their energy bills were higher because of the pandemic. The survey also found that more than 25% of the people who lost their jobs were planning to skip at least one utility payment.¹⁰

Without assistance for both regulated and non-regulated utility service providers, and a fair and comprehensive plan to address utility arrearages, the utility arrearage and termination issues will impact customers for years to come. It will be critical to obtain state and federal assistance to address utility arrearages. For this reason, I strongly support the use of a portion of the federal CARES Act funding for reducing utility arrearages, as has been proposed in recent Pennsylvania Bills. In my view, it will be critical for any state and federal assistance to be broadly based as our traditional definition of a low income household, that is, a household with

⁸ The U.S. Census Bureau survey also found that the lower a household's income, the greater the impact of the pandemic on the loss of income. Similarly, households categorized as being Black, Hispanic, or Asian were much more likely to have experienced an income loss and to expect additional income loss than are households headed by White and non-Hispanic persons.

⁹ U.S. Census Bureau, Small Business Pulse Survey, <https://www.census.gov/data/experimental-data-products/small-business-pulse-survey.html>

¹⁰ Omar Siddiqui and Min Long, Impact of COVID-19 on Consumer Energy Use & Outlook: Results of EPRI National Survey (April 29, 2020), http://mydocs.epri.com/Docs/public/covid19/COVID-19_survey_report.pdf. pages 4, 7, and 12.

an income at or below 150% of the Federal Poverty Level, does not capture many of the struggling families in Pennsylvania. For much of Pennsylvania, a sustainable income for a household is nearly 250% of FPL. One in four Pennsylvania households, over 846,000 households, lack the necessary income for self-sufficiency.¹¹ For a household of 3 (including 2 adults and one school age child) in Philadelphia County, the household would need a gross annual income of \$53,820 for sustainability. For the same household in Allegheny County, the household would need a gross annual income of \$46,366.¹² Households below these income levels are not considered self-sufficient, yet many of them do not qualify for additional assistance such as LIHEAP, utility Customer Assistance Programs or utility Hardship Funds.

Existing state and federal assistance alone is not likely to return arrearages to pre-pandemic levels or to enable many Pennsylvanians to retain essential utility service. I must stress, though, that the burden of the COVID-19 pandemic cannot fall solely on customers of the utility, whether residential, small business, large commercial or industrial. All consumers are greatly affected by this pandemic, whether through loss of income, increased utility bills due to work and school conducted from home, or health issues that have increased the expenses of daily living. It must be recognized that the proper balancing of interests in setting just and reasonable rates may require a close scrutiny of any request for a rate increase or cost recovery, and a sharing of this burden between utility shareholders and consumers. A fair and equitable sharing of the burden, along with a comprehensive plan for addressing utility arrearages would be in the public interest.

¹¹ https://pathwayspa.org/wp-content/uploads/2020/01/PA2019_OverlookedUndercounted_Web.pdf

¹² <https://pathwayspa.org/2020standard/standardbycounty/>

In recent Comments filed with the Pennsylvania Public Utility Commission, my Office laid out the critical elements of a comprehensive plan for beginning the work to address utility arrearages. I have included a link to these comments, filed at Docket No. M-2020-3019244, in the footnote below, and I have included a list of the OCA's key recommendations in Appendix A attached hereto.¹³ In those comments, the OCA argued that now was not the time to lift the moratorium on terminations of utility service for any utility customer. I recognize that the Commission has now taken steps to partially lift the termination moratorium for some customers and to provide additional consumer protections as customers try to work through the mounting arrearages. I would still urge utilities to first pursue appropriate collections efforts and utilize the threat of termination, and termination, as a last resort. We are still in very difficult times both in regard to our health and safety, as well as to our economic future. Termination of essential utility service could make matters worse for many of our citizens and businesses.

I would note that some of the additional protections included in the Commission's Order were recommended by the OCA. But I am still concerned that the additional protections provided in the Commission's Order may not be sufficient in the long term, and may end in March of 2021 when the Commission's Order will end, if not further extended.

One key element that was not adopted by the Commission was a directive for each utility to establish a special COVID-19 relief plan aimed at customers who have gone into arrears since March of 2020. I view this as a critical program since many customers who have recently fallen into arrears do not qualify for the traditional utility customer assistance programs. Additionally, many of the traditional customer assistance programs could become overwhelmed, both in participation and cost, with attempting to address the near term issues related to COVID-19. My

¹³ Public Utility Service Termination Proclamation of Disaster Emergency – COVID-19, PUC Docket No. M-2020-3019244, Comments of the Office of Consumer Advocate, <http://www.puc.state.pa.us/pcdocs/1673691.pdf>

Office recently entered into a settlement with UGI Gas Corporation that established a special COVID-19 relief plan and addressed the mitigation of the cost impact on customers. I would point to this approach as a sound model, and would commend UGI Gas for its willingness to address these matters in a fair and balanced manner. I would strongly recommend that all utilities look to this model and work to address their customers' immediate needs in a balanced way. I have included a link to this settlement in the footnote below.¹⁴

Another key point that I would make is the need for more attention to the issue of water affordability, and the need for water and wastewater companies to further develop and expand their customer assistance programs. Water and wastewater rates have been the fastest growing of our utility rates in Pennsylvania. Even before COVID-19, water affordability was becoming a concern for Pennsylvania consumers. It is time that we fully consider water and wastewater affordability and establish robust programs to assist customers in maintaining essential water and wastewater service.

In light of the pandemic, it may also be important to re-examine some of the limitations imposed by Chapter 14, particularly the limitations on the Commission's discretion in addressing critical consumer protections for essential service in a variety of circumstances. In both the Commission's Order partially lifting the termination moratorium and the OCA's recommendations to the Commission, modifications to Chapter 14 limitations were found to be necessary. This is likely a longer discussion that will need to happen as we work our way out of the pandemic, but the pandemic has clearly highlighted the concerns with the limitations placed upon the Commission by Chapter 14.

¹⁴ UGI Approved Settlement, <https://www.puc.pa.gov/press-release/2020/puc-approves-lower-rate-increase-than-requested-by-ugi-utilities-inc-gas-division>

Before closing, I would be remiss if I did not acknowledge the voluntary actions of many of our utilities, such as waiving late payment and reconnection fees, waiving deposits, extending payment arrangement time frames, offering payment arrangements to small business customers, simplifying the enrollment and certification requirements for assistance programs, expanding the eligibility criteria for Hardship Fund assistance, and providing additional shareholder contributions to the Hardship Funds. These voluntary actions are commendable and have assisted many consumers. Many of these voluntary actions were key recommendations of the OCA for additional consumer protections. I do believe that the Commission took the right steps in issuing its Order to require many of these actions for all utilities. The Commission's action will ensure that all consumers are treated fairly and equitably across the Commonwealth. If the Commission finds it is without authority to continue these protections, I would respectfully urge the General Assembly to consider providing such authority to the Commission.

Thank you again for having me here today to provide information on this important topic. I look forward to continuing to work on these important issues.

APPENDIX A

- Implementing a special COVID-19 relief plan for all customers who have fallen into arrears since March, 2020
- Adverse credit reporting should be prohibited at this time.
- Terminations should not resume until the Commission and the utilities have adequate staffing to address the increased Call Center volume and complaint volume that is likely to occur.
- The Commission should require at least a 20 day notice, and possibly a 30 day notice, prior to termination. (Section 1406(b)(1)(i) and 52 Pa. Code Section 56.91)
- The Commission should require in-person personal contact with the customer or responsible adult on the day of termination before any termination and should require posting of a 48-hour notice if no contact is made regardless of the time of year. (Section 1406(b)(1)(iii) and (iv) and 52 Pa. Code Sections 56.94, 56.95)
- The Commission should authorize an additional payment arrangement for a customer who has defaulted on a payment arrangement. (Section 1405 (d))
- For customers with incomes up to 250% of FPL (based on the customer's current 30 day income annualized), utilities should be required to offer the maximum payment arrangement time period specified in Section 1405(b). (Section 1405(b)(1) and (2))
- For customers with incomes between 250% - 300% of FPL, the payment time frame should be for a minimum of 24 months. (Section 1405(b)(3))
- For customers with income over 300% of the FPL, payment arrangement time frame should be for a minimum of 12 months. (Section 1405(b)(4))
- Waiver of all late payment fees, deposit requirements and reconnection fees should be required.
- Additional medical certificates should be available to customers who may have already exhausted them, the time frame for securing the medical certificate should be extended, and verification requirements should be streamlined. ((52 Pa. Code Sections 56.112, 56.113 and 56.114)
- Water and wastewater utilities should expand assistance programs and participate in and donate to, Hardship Funds so that their customers can benefit from grants.

- Streamlining and simplification of all income verification and documentation requirements.
- Developing and allowing website application for all programs and payment arrangements.
- Streamlining the process to connect customers with energy efficiency and water conservation programs, as well as better coordination of the programs and making such programs broadly available is necessary.
- Small Business and Commercial Programs providing similar flexible payment arrangements, waiver of fees, and flexible reconnection policies will be needed.
- Encouraging further shareholder contributions to the Hardship Funds and expanding Hardship Fund eligibility to at least 250% of the Federal Poverty Level if not 300% of FPL.