

No. 2014-155

AN ACT

HB 939

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in administration, further providing for assessment for regulatory expenses upon public utilities; in responsible utility customer protection, further providing for definitions, for cash deposits and household information requirements, for payment agreements, for termination of utility service, for reconnection of service, for late payment charge waiver and for complaints filed with commission, providing for public utility duties, further providing for automatic meter readings, for reporting to General Assembly and Governor, for nonapplicability and for construction and providing for expiration; in natural gas competition, further providing for requirements for natural gas suppliers; and, in restructuring of electric utility industry, further providing for requirements for electric generation suppliers.

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

Section 1. The General Assembly finds and declares as follows:

(1) Responsible utility customer protection is a fundamental goal of Title 66 of the Pennsylvania Consolidated Statutes for public utilities and licensed entities.

(2) Amendments to 66 Pa.C.S. Ch. 14 in this act are necessary to achieve the goal under paragraph (1).

(3) In order to implement paragraph (2), funding changes are necessary in:

(i) assessment for regulatory expenses under 66 Pa.C.S. § 510(a);
and

(ii) fees for oversight of electric generation suppliers and natural gas suppliers.

Section 1.1. Section 510(a) of Title 66 of the Pennsylvania Consolidated Statutes is amended to read:

§ 510. Assessment for regulatory expenses upon public utilities.

(a) Determination of assessment.—Before November 1 of each year, the commission shall estimate its total expenditures in the administration of this part for the fiscal year beginning July of the following year, which estimate shall not exceed three-tenths of 1% of the total gross intrastate operating revenues of the public utilities *and licensed entities* under its jurisdiction for the preceding calendar year[.], *except that the estimate may exceed this amount to reflect Federal funds received by the commission and funds received from other sources to perform functions that are unrelated to the regulation of public utilities and licensed entities.* Such estimate shall be submitted to the Governor in accordance with section 610 of the act of April 9, 1929 (P.L.177, No.175), known as ["]The Administrative Code of 1929.["] At the same time the commission submits its estimate to the Governor, the commission shall also submit that estimate to the General Assembly. The commission or its designated representatives shall be

afforded an opportunity to appear before the Governor and the Senate and House Appropriations Committees regarding their estimates. The commission shall subtract from the final estimate:

(1) The estimated fees to be collected pursuant to section 317 (relating to fees for services rendered by commission) during such fiscal year.

(2) The estimated balance of the appropriation, specified in section 511 (relating to disposition, appropriation and disbursement of assessments and fees), to be carried over into such fiscal year from the preceding one.

The remainder so determined, herein called the total assessment, shall be allocated to, and paid by, such public utilities in the manner prescribed. If the General Assembly fails to approve the commission's budget for the purposes of this part, by March 30, the commission shall assess public utilities on the basis of the last approved operating budget. At such time as the General Assembly approves the proposed budget the commission shall have the authority to make an adjustment in the assessments to reflect the approved budget. If, subsequent to the approval of the budget, the commission determines that a supplemental budget may be needed, the commission shall submit its request for that supplemental budget simultaneously to the Governor and the chairmen of the House and Senate Appropriations Committees.

* * *

Section 1.2. The definitions of "applicant," "customer," "payment agreement" and "public utility" in section 1403 of Title 66 are amended and the section is amended by adding definitions to read:

§ 1403. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Applicant." A natural person not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. *The term does not include a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.*

* * *

"Creditworthiness." An assessment of an applicant's or customer's ability to meet bill payment obligations for utility service.

"Customer." A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. *The term includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.*

* * *

"Medical certificate." *A written document, in a form approved by the commission:*

(1) certifying that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition; and

(2) signed by a licensed physician, nurse practitioner or physician's assistant.

* * *

"Payment [agreement] arrangement." An agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

"Public utility." Any electric distribution utility, natural gas distribution utility, *small natural gas distribution utility*, *steam heat utility*, *wastewater utility* or water distribution utility in this Commonwealth that is within the jurisdiction of the Pennsylvania Public Utility Commission.

* * *

"Small natural gas distribution utility." *A public utility providing natural gas distribution services subject to the jurisdiction of the commission that:*

(1) has annual gas operating revenues of less than \$6,000,000 per year; or

(2) is not connected to an interstate gas pipeline by means of a direct connection or any indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

"Steam heat utility." *An entity producing, generating, distributing or furnishing steam for the production of heat or to or for the public for compensation.*

"Wastewater utility." *An entity owning or operating equipment or facilities for the collection, treatment or disposal of sewage to or for the public for compensation. The term includes separate companies that individually provide water or wastewater service so long as the separate companies are wholly owned by a common parent company.*

* * *

Section 2. Section 1404(a) introductory paragraph, (1)(v), (2) and (3), (c)(1) and (6), (e) and (h) of Title 66 are amended and the section is amended by adding a subsection to read:

§ 1404. Cash deposits and household information requirements.

(a) General rule.—In addition to the right to collect a deposit under any commission regulation or order, the commission shall not prohibit a public utility[~~prior to or as a condition of providing utility service,~~] from requiring a cash deposit, *payable during a 90-day period in accordance with commission regulations*, in an amount that is equal to one-sixth of the applicant's estimated annual bill, at the time the public utility determines a deposit is required, from the following:

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

* * *

(v) Failure to comply with the material terms of a settlement or payment **[agreement] arrangement**.

* * *

(2) Any applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology, *as provided in a commission-approved tariff, and* which employs standards for using the methodology that fall within the range of general industry practice.

(3) A customer who fails to comply with a material term or condition of a settlement or payment **[agreement] arrangement**.

(a.1) Cash deposit prohibition.—Notwithstanding subsection (a), no public utility may require a customer or applicant that is confirmed to be eligible for a customer assistance program to provide a cash deposit.

* * *

(c) Deposit hold period.—

(1) A public utility may hold a deposit until a timely payment history is established **[or for a maximum period of 24 months]**.

* * *

(6) The public utility shall accrue *interest* on the deposit until it is returned or credited **[the legal rate of interest pursuant to section 202 of the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law, and return such interest with the deposit]**.

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

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

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

(B) December 31.

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

* * *

(e) Failure to pay full amount of cash deposit.—A public utility shall not be required to provide service if the applicant *or customer* fails to pay the full amount of the cash deposit *within the time period under subsection (a)*.

* * *

(h) Time for paying deposits upon reconnection.—Applicants *and customers* required to pay a deposit upon reconnection under subsection (a)(1) shall have up to 90 days to pay the deposit in accordance with commission regulations.

Section 2.1. Section 1405 heading, (a), (b) introductory paragraph and (2), (c), (d), (e) and (f) of Title 66 are amended to read:

§ 1405. Payment **[agreements] arrangements**.

(a) General rule.—The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment **[agreements] arrangements** between a public utility, customers and applicants within the limits established by this chapter.

(b) Length of payment **[agreements] arrangements**.—The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment **[agreement] arrangement** that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

* * *

(2) **[Two] Three** years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.

* * *

(c) Customer assistance programs.—Customer assistance program rates shall be timely paid and shall not be the subject of payment **[agreements] arrangements** negotiated or approved by the commission.

(d) Number of payment **[agreements] arrangements**.—Absent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment **[agreement] arrangement** if a customer has defaulted on a previous payment **[agreement] arrangement established by a commission order or decision**. A public utility may, at its discretion, enter into a second or subsequent payment **[agreement] arrangement** with a customer.

(e) Extension of payment **[agreements] arrangements**.—If the customer defaults on a payment **[agreement] arrangement** established under subsections (a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment **[agreement] arrangement** and extend the remaining term for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown.

(f) Failure to comply with payment **[agreement] arrangement**.—Failure of a customer to comply with the terms of a payment **[agreement] arrangement** shall be grounds for a public utility to terminate the customer's service. Pending the outcome of a complaint filed with the commission, a customer shall be obligated to pay that portion of the bill which is not in dispute and subsequent bills which are not in dispute.

Section 3. Section 1406(a)(2), (b)(1)(ii), (d), (f), (g) and (h)(1) of Title 66 are amended and subsection (c)(1) is amended by adding a subparagraph to read:

§ 1406. Termination of utility service.

(a) Authorized termination.—A public utility may notify a customer and terminate service provided to a customer after notice as provided in subsection (b) for any of the following actions by the customer:

* * *

(2) Failure to comply with the material terms of a payment **[agreement] arrangement**.

* * *

(b) Notice of termination of service.—

(1) Prior to terminating service under subsection (a), a public utility:

* * *

(ii) Shall attempt to contact the customer or occupant[, either in person or by telephone, to provide notice of the proposed termination at least three days prior to the scheduled termination.] *to provide notice of the proposed termination at least three days prior to the scheduled termination, using one or more of the following methods:*

(A) in person;

(B) by telephone. Phone contact shall be deemed complete upon attempted calls on two separate days to the residence between the hours of [7] 8 a.m. and 9 p.m. if the calls were made at various times each day[.]; *or*

(C) by e-mail, text message or other electronic messaging format consistent with the commission's privacy guidelines and approved by commission order.

(D) In the case of electronic notification only, the customer must affirmatively consent to be contacted using a specific electronic messaging format for purpose of termination.

* * *

(c) Grounds for immediate termination.—

(1) A public utility may immediately terminate service for any of the following actions by the customer:

* * *

(v) Tendering payment for reconnection of service that is subsequently dishonored, revoked, canceled or otherwise not authorized under subsection (h) and which has not been cured or otherwise made full payment within three business days of the utility's notice to the customer, made in accordance with the notice provisions of subsection (b)(1)(ii), of the dishonored payment.

* * *

(d) Timing of termination.—Notwithstanding the provisions of section 1503 (relating to discontinuance of service), a public utility may terminate service for the reasons set forth in subsection (a) from Monday through [Friday] *Thursday* as long as the public utility can accept payment to restore service on the following day and can restore service consistent with section 1407 (relating to reconnection of service).

* * *

(f) Medical certification.—A public utility shall not terminate service to a premises when [a licensed physician or nurse practitioner has certified that the customer or a member of the customer's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service] *a customer has submitted a medical certificate to the public utility.* The customer shall obtain a [letter from a licensed physician] *medical certificate* verifying the condition and shall promptly

forward it to the public utility. The medical certification procedure shall be implemented in accordance with commission regulations.

(g) Qualification for LIHEAP.—A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer with the requisite income level to receive a LIHEAP Crisis Grant from the Department of Public Welfare or its designee *as soon as practicable after the date of the notice. Termination of service is not necessary to demonstrate sufficient proof of crisis.*

(h) Dishonorable tender of payment after receiving termination notice.—

(1) After a public utility has provided a written termination notice under subsection (b)(1)(i) and attempted telephone contact as provided in subsection (b)(1)(ii), termination of service may proceed without additional notice if:

(i) a customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor); [or]

(ii) a customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled[.]; or

(iii) a customer tenders payment electronically that is subsequently dishonored, revoked, canceled or is otherwise not authorized and which has not been cured or otherwise made full payment within three business days of the utility's notice to the customer, made in accordance with the notice provisions of subsection (b)(1)(ii), of the dishonored payment.

* * *

Section 4. Section 1407(c)(2)(i) of Title 66 is amended and subsection (c) is amended by adding a paragraph to read:

§ 1407. Reconnection of service.

* * *

(c) Payment to restore service.—

* * *

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment [agreements] *arrangements*. If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than three months to pay the outstanding balance required for reconnection. For purposes of this subparagraph, a life event is:

* * *

(3) Payment tendered by a customer to reconnect service that is subsequently dishonored, revoked, canceled or is otherwise not authorized under section 1406(h)(1) (relating to termination of utility service) and which has not been cured or otherwise made full payment within three business days of the utility's notice to the customer, made

in accordance with the notice provisions of section 1406(b)(1)(ii), of the dishonored payment is grounds for immediate termination under section 1406(c). A public utility may require a customer or applicant to cure a dishonored payment, as provided for in section 1406(h), as a condition of entering into a payment agreement with the customer or applicant for a remaining account balance.

* * *

Section 5. Sections 1409 and 1410 of Title 66 are amended to read:

§ 1409. Late payment charge waiver.

A public utility **[may]** *shall* waive late payment charges on any customer accounts *if the charges were improperly assessed*. The commission may **[only]** order a waiver of any late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level.

§ 1410. Complaints filed with commission.

The following apply:

(1) The commission shall accept *formal and informal* complaints only from customers *or applicants* who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the customer wishes to file a complaint. If the customer has not contacted the public utility, the commission shall direct the customer to the public utility.

(2) Pending the outcome of a *formal or informal* complaint filed with the commission, the customer shall be obligated to pay that portion of the bill which is not in dispute and subsequent bills which are not in dispute.

(3) For a formal complaint filing to be valid, the customer **[needs to]** *or applicant must* provide a statement attesting to the truth as to the facts alleged in the complaint. All testimony in formal complaint proceedings must be under oath.

Section 6. Title 66 is amended by adding a section to read:

§ 1410.1. *Public utility duties.*

When a customer or applicant contacts a public utility to make a payment agreement as required by section 1410 (relating to complaints filed with commission), the public utility shall:

(1) *Provide information about the public utility's universal service programs, including a customer assistance program.*

(2) *Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for a program and to apply for enrollment in a program.*

(3) *Have' an affirmative responsibility to attempt to collect payment on an overdue account. The utility shall report to the commission annually residential customer accounts which have accumulated \$10,000 or more in arrearages and shall demonstrate what efforts are being taken to collect the arrearages. Failure to make reasonable attempts to collect payments on overdue accounts with arrearages in*

¹"The public utility shall have" in enrolled bill.

excess of \$10,000 may result in civil fines or other appropriate sanctions by the commission.

(4) Report¹ to the commission on an annual basis the number of medical certificates and renewals submitted and accepted in the service territory.

Section 7. Sections 1411, 1415 introductory paragraph, 1417 and 1418 of Title 66 are amended to read:

§ 1411. Automatic meter readings.

All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title. ***Upon a customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee, as provided in a commission-approved tariff.***

§ 1415. Reporting to General Assembly and Governor.

No later than [two] *five* years following the effective date of this chapter and every [two] *five* years thereafter, the commission shall submit a report to the Governor, the Chief Clerk of the House of Representatives and the Secretary of the Senate reviewing the implementation of the provisions of this chapter. The report shall include, but not be limited to:

* * *

§ 1417. Nonapplicability.

This chapter shall not apply to victims under a protection from abuse order as provided by 23 Pa.C.S. Ch. 61 (relating to protection from abuse) ***or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer.***

§ 1418. Construction.

Nothing in this chapter shall affect any rights or procedure under the act of November 26, 1978 (P.L.1255, No.299), known as the Utility Service Tenants Rights Act, ***or the provisions of Subchapter B of Chapter 15 (relating to discontinuance of service to leased premises).***

Section 8. Title 66 is amended by adding a section to read:

§ 1419. ***Expiration.***

This chapter shall expire December 31, 2024.

Section 9. Sections 2208 and 2809 of Title 66 are amended by adding subsections to read:

§ 2208. Requirements for natural gas suppliers.

* * *

(h) Annual fees.—The commission may establish, by order or rule, on a reasonable cost basis, fees to be charged for annual activities related to the oversight of natural gas suppliers.

§ 2809. Requirements for electric generation suppliers.

* * *

(g) Annual fees.—The commission may establish, by order or rule, on a reasonable cost basis, fees to be charged for annual activities related to the oversight of electric generation suppliers.

¹The public utility shall report" in enrolled bill.

Section 10. This act shall take effect in 60 days.

APPROVED—The 22nd day of October, A.D. 2014

TOM CORBETT