

No. 1978-297

AN ACT

HB 1785

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, adding provisions relating to the discontinuance of utility service to leased premises and limiting the amount paid by utilities for property and fuel.

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

Section 1. Title 66, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added July 1, 1978 (No.116), is amended by adding a section and by adding a subchapter heading and subchapter to Chapter 15 to read:

§ 1314. *Limitation on prices paid for property and fuel.*

The commission shall adopt regulations prohibiting public utilities subject to its jurisdiction from paying for or agreeing to pay for goods, services, equipment or fuels at prices in excess of those contained in contracts existing between the utilities and providers of such goods, services, equipment or fuel services.

CHAPTER 15
SERVICE AND FACILITIES

***SUBCHAPTER A
GENERAL PROVISIONS***

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SUBCHAPTER B
DISCONTINUANCE OF SERVICE TO LEASED PREMISES

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§ 1521. Definitions.

The following words and phrases when used in this subchapter shall have

the meanings given to them in this section unless the context clearly indicates otherwise:

"Landlord ratepayer." One or more individuals or an organization listed on a gas, electric, steam or water utility's records as the party responsible for payment of the gas, electric, steam or water service provided to one or more residential units of a residential building or mobile home park of which building or mobile home park the party is not the sole occupant.

"Mobile home." A transportable, single-family dwelling unit intended for permanent occupancy and constructed as a single unit, or as two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used without a permanent foundation.

"Mobile home park." Any site, lot, field or tract of land, privately or publicly owned or operated, upon which three or more mobile homes, occupied for dwelling or sleeping purposes, are or are intended to be located.

"Residential building." A building containing one or more dwelling units occupied by one or more tenants. The term does not include nursing homes, hotels and motels.

"Tenant." Any person or group of persons whose dwelling unit in a residential building or mobile home park is provided gas, electricity, steam or water pursuant to a rental arrangement for the dwelling unit, mobile home or plot of ground within a mobile home park but who is not the ratepayer of the utility which supplied the gas, electricity, steam or water. § 1522. Applicability of subchapter.

(a) General rule.—This subchapter applies to public utilities as defined in paragraph (1)(i) and (ii) of the definition of "public utility" in section 102 (relating to definitions) and to public utility service rendered by those public utilities.

(b) Municipal service beyond corporate limits.—

(1) Public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits shall be subject to the provisions of this subchapter establishing the procedures, rights, duties and remedies for the discontinuance of service to landlord ratepayers.

(2) Tenants and landlord ratepayers of a dwelling unit in residential buildings or mobile home parks receiving public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits shall be subject to the provisions of this subchapter establishing the procedures, rights, duties and remedies for the discontinuance of service, the right of the tenants to withhold rent, the prohibition of waiver and the prohibition against retaliation by the landlord ratepayer with respect to the public utility service.

§ 1523. Notices before service to landlord discontinued.

(a) Nonpayment of charges.—Except when required to prevent or alleviate an emergency as defined by the commission or except in the case of danger to life or property, before any discontinuance of service to a landlord ratepayer for nonpayment of charges, a public utility shall:

(1) Notify the landlord ratepayer of the proposed discontinuance in writing as prescribed in section 1525 (relating to delivery and contents of discontinuance notice to landlord) at least 37 days before the date of discontinuance of service.

(2) Notify the following agencies which serve the community in which the affected premises are located, in writing, at the time of delivery of notice to the tenants of the proposed discontinuance of service:

(i) The Department of Licenses and Inspections of any city of the first class.

(ii) The Department of Public Safety of any city of the second class, second class A or third class.

(iii) The city or county Public Health Department or, in the event that such a department does not exist, the Department of Health office responsible for that county.

(3) Notify each dwelling unit reasonably likely to be occupied by an affected tenant of the proposed discontinuance in writing as prescribed in section 1526 (relating to delivery and contents of first discontinuance notice to tenants) at least seven days after notice to the landlord ratepayer pursuant to this section and at least 30 days before the discontinuance of service. If within seven days of receipt of the notice issued pursuant to this section the landlord ratepayer files a complaint with the commission disputing the right of the utility to discontinue service, the notice shall not be rendered until the complaint has been adjudicated by the commission.

(b) Voluntary relinquishment of service.—Before any discontinuance of service by a public utility to a landlord ratepayer due to a request for voluntary relinquishment of service by the landlord ratepayer:

(1) the landlord ratepayer shall state in a form bearing his notarized signature that all of the affected dwelling units are either unoccupied or the tenants affected by the proposed discontinuance have consented in writing to the proposed discontinuance, which form shall conspicuously bear a notice that the information provided by the landlord ratepayer will be relied upon by the commission in administering a system of uniform service standards for public utilities, and that false statements are punishable criminally;

(2) all of the tenants affected by the proposed discontinuance shall inform the utility orally or in writing of their consent to the discontinuance; or

(3) the landlord ratepayer shall provide the utility with the names and addresses of the affected tenants pursuant to section 1524 (relating to request to landlord to identify tenants) and the utility shall notify the

community service agencies and each dwelling unit pursuant to this section and section 1526.

(c) Rights of tenants.—Under the voluntary relinquishment discontinuance procedures of subsection (b)(3) the tenants shall have all of the rights provided in section 1527 (relating to right of tenants to continued service) through section 1531 (relating to retaliation by landlord prohibited).

§ 1524. Request to landlord to identify tenants.

(a) Duty of landlord.—Upon receiving a lawful request for the names and addresses of the affected tenants pursuant to this subchapter, the landlord ratepayer shall provide the utility with the names and addresses of every affected tenant of any residential building or mobile home park for which the utility is proposing to discontinue service unless within seven days of receipt of the notice the landlord ratepayer pays the amount due the utility or makes an arrangement with the utility to pay the balance.

(b) Time for providing information.—The information shall be provided by the landlord ratepayer:

(1) within seven days of receipt of the notice to the landlord ratepayer required by section 1523 (relating to notices before service to landlord discontinued); or

(2) within three days of any adjudication by the commission that the landlord ratepayer must provide the requested information if the landlord files a complaint with the commission within seven days of receipt of the notice to the landlord disputing the right of the utility to discontinue service.

(c) Duty of public utility.—It shall be the duty of any public utility to pursue any appropriate legal remedy it has in order to obtain from the landlord ratepayer the names and addresses of all affected tenants of a residential building or mobile home park for which the utility is proposing discontinuance of service to the landlord ratepayer. The commission may order the public utility to obtain the information from the landlord ratepayer.

§ 1525. Delivery and contents of discontinuance notice to landlord.

(a) General rule.—The notice required to be given to a landlord ratepayer pursuant to section 1523 (relating to notices before service to landlord discontinued) shall contain the following information:

(1) The amount owed the utility by the landlord ratepayer for each affected account.

(2) The date on or after which service will be discontinued.

(3) The date on or after which the company will notify tenants of the proposed discontinuance of service and of their rights under sections 1527 (relating to right of tenants to continued service), 1529 (relating to right of tenant to recover payments) and 1531 (relating to retaliation by landlord prohibited).

(4) The obligation of the landlord ratepayer under section 1524 (relating to request to landlord to identify tenants) to provide the utility

with the names and addresses of every affected tenant or to pay the amount due the utility or make an arrangement with the utility to pay the balance including a statement:

(i) That the list must be provided or payment or arrangement must be made within seven days of receipt of the notice.

(ii) Of the penalties and liability which the landlord ratepayer may incur under section 1532 (relating to penalties) by failure to comply.

(5) The right of the landlord ratepayer to stay the notification of tenants by filing a complaint with the commission disputing the right of the utility to discontinue service.

(b) Service of notice.—Any one of the following procedures shall constitute effective notice to the landlord under section 1523:

(1) Notice by certified mail if the utility receives a return receipt signed by the landlord ratepayer or his agent.

(2) Notice by personal service of the landlord ratepayer or his agent.

(3) After unsuccessful attempts at personal delivery on two separate days, notice by first class mail and conspicuously posting at the landlord ratepayer's principal place of business or the business address which the landlord provided the utility as his address for receiving communications.

§ 1526. Delivery and contents of first discontinuance notice to tenants.

(a) General rule.—The notice required to be given to a tenant pursuant to section 1523 (relating to notices before service to landlord discontinued) shall be mailed or otherwise delivered to the address of each affected tenant and shall contain the following information:

(1) The date on which the notice is rendered.

(2) The date on or after which service will be discontinued.

(3) The circumstances under which service to the affected tenant may be continued specifically referring to the conditions set out in section 1527 (relating to right of tenants to continued service).

(4) The bill for the 30-day period preceding the notice to the tenants.

(5) The statutory rights of a tenant to:

(i) Deduct the amount of any direct payment to the utility from any rent payments then or thereafter due.

(ii) Protection against any retaliation by the landlord for exercising such statutory right.

(iii) Recover money damages from the landlord for any such retaliation.

(6) That tenants may make payment to the utility on account of nonpayment of charges by the landlord ratepayer only by check or money order drawn by the tenant to the order of the utility.

(7) A telephone number at the utility and at the commission which a tenant may call for an explanation of his rights.

(b) Information posted by utility.—The information in subsection (a) shall be posted by the utility in those common areas of the residential building or mobile home park where it is reasonably likely to be seen by the

affected tenants. Any officer or employee of the utility may at any reasonable time enter the common hallways and common areas of such building for the purpose of complying with the provisions of this section.

§ 1527. Right of tenants to continued service.

(a) Application for continued service.—At any time before or after service is discontinued by a public utility on account of nonpayment of charges by the landlord ratepayer, the affected tenants may apply to the utility to have service continued or resumed.

(b) Payment of charges by tenants.—A public utility shall not discontinue service or shall promptly resume service previously discontinued if it receives from the tenants an amount equal to the bill of the landlord ratepayer for the 30-day period preceding the notice to the tenants. Thereafter, the utility shall notify each tenant of the total amount of the bill for the second and each succeeding period of 30 days or less and, if the tenants fail to make payment of any bill within 30 days of the delivery of the notice to the tenants, the utility may commence discontinuance procedures except that no discontinuance may occur until 30 days after each tenant has received written notice of the proposed discontinuance as prescribed in section 1528 (relating to delivery and contents of subsequent discontinuance notice to tenants). All payments of charges by tenants to a utility on account of nonpayment by the landlord ratepayer shall be made by a check or money order drawn by the tenant to the order of the utility.

(c) Disposition of payment by utility.—Upon receiving any payment, the utility shall notify the landlord ratepayer who is liable for the utility service of the amount or amounts paid by any tenant and the amount or amounts credited to the landlord's bill for each tenant pursuant to this section. In the event that the tenants fail to satisfy the requirements of this section to maintain or restore service and service to the affected dwelling units is discontinued, the utility shall refund to each tenant the amount paid by the tenant toward the bill which the tenants failed to pay either upon the request of the tenant or after holding the tenant's payment during 60 consecutive days of discontinued service, whichever occurs first.

(d) Agreement for individual service.—Any tenant of a residential building or mobile home park who has been notified of a proposed discontinuance of utility service pursuant to section 1523 (relating to notices before service to landlord discontinued) shall have the right to agree to subscribe for future service individually if this can be accomplished without a major revision of distribution facilities or additional right-of-way acquisitions.

§ 1528. Delivery and contents of subsequent discontinuance notice to tenants.

Subsequent notices required to be given to a tenant pursuant to section 1527 (relating to right of tenants to continued service) shall be mailed or otherwise delivered to the address of each affected tenant and shall contain the following information:

- (1) The date on or after which service will be discontinued.

(2) The amount due which shall include the arrearage on any earlier bill due from tenants.

(3) A telephone number at the utility and at the commission which a tenant may call for an explanation of his rights.

(4) The right of a tenant to file a complaint with the commission to enforce any legal right that he may have under this part.

§ 1529. Right of tenant to recover payments.

Any tenant who has made a payment to a utility on account of nonpayment of charges by the landlord ratepayer pursuant to this subchapter may subsequently recover the amount paid to the utility either by deducting the amount from any rent or payment on account of taxes or operating expenses then or thereafter due from the tenant to the person to whom he would otherwise pay his rent or by obtaining reimbursement from the landlord ratepayer.

§ 1530. Waiver of subchapter prohibited.

Any waiver of a tenant's rights under this subchapter shall be void and unenforceable.

§ 1531. Retaliation by landlord prohibited.

(a) General rule.—It is unlawful for any landlord ratepayer or agent or employee thereof to threaten or take reprisals against a tenant because the tenant exercised his rights under section 1527 (relating to right of tenants to continued service) or section 1529 (relating to right of tenant to recover payments).

(b) Liability of landlord for damages.—Any landlord ratepayer or agent or employee thereof who threatens or takes such reprisals against any tenant shall be liable for damages which shall be two months rent or the actual damages sustained by the tenant, whichever is greater, and the costs of suit and reasonable attorneys' fees.

(c) Presumption of retaliation.—The receipt of any notice of termination of tenancy, an increase in rent or of any substantial alteration in the terms of tenancy within six months after the tenant has acted pursuant to section 1527 or 1529 to avoid discontinuance of utility service shall create a rebuttable presumption that the notice is a reprisal against the tenant for exercising his rights under section 1527 or 1529. However, the presumption shall not arise if the notice of termination of tenancy is for nonpayment of rent not withheld under section 1529 or lawfully withheld under any other right that the tenant may have by law.

§ 1532. Penalties.

(a) Failure to identify tenants.—Any landlord ratepayer who fails to provide a utility with the names and addresses of affected tenants pursuant to section 1524 (relating to request to landlord to identify tenants) shall forfeit and pay to the Commonwealth a civil penalty of not more than \$500 for each day of the landlord ratepayer's failure to respond. The court in its discretion may award the utility reasonable attorneys' fees, filing fees and reasonable costs of suit for any action against the landlord ratepayer which was necessary to obtain the names and addresses of affected tenants pursuant to section 1524.

(b) Tampering with posted notice.—Any person who removes, interferes or tampers with a notice to tenants of proposed discontinuance of service, posted pursuant to section 1526 (relating to delivery and contents of first discontinuance notice to tenants) commits a summary offense and shall, upon conviction, be sentenced to pay a fine not exceeding \$25.

Section 2. The act of October 7, 1976 (P.L.1108, No.226), entitled "An act mandating the Public Utility Commission to require certain utilities to refund to consumers certain sums of moneys," is repealed.

Section 3. This act shall take effect in 60 days.

APPROVED—The 26th day of November, A. D. 1978.

MILTON J. SHAPP