There is a policy failure in Pennsylvania, causing epidemic levels of utility service terminations. Social service agencies across the state are being flooded with requests from families needing help to prevent utility shut offs. People without utility service are facing illness and even death, from hypothermia, carbon monoxide poisoning or fires caused by efforts to warm their homes through other means. Especially at risk are the elderly (who are generally living on fixed incomes), the young, and the sick. In the face of this public emergency, the Pennsylvania General Assembly is poised to reenact Chapter 14, a primary cause of these problems. This paper looks at the massive problem of utility shutoffs in Pennsylvania and proposes solutions, including the sunset or amendment of Chapter 14. It also urges the adoption of sensible affordability standards for low-income families. These measures are necessary to reverse the dangerous trends which, year after year, place increasing numbers of families out in the cold.

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OUT IN THE COLD: RECORD NUMBERS OF PENNSYLVANIANS ARE LIVING WITH UTILITY SHUT-OFFS

A Report of the Energy Unit of Community Legal Services, Philadelphia, PA

There is a policy failure in Pennsylvania, causing epidemic levels of utility service terminations. Social service agencies across the state are being flooded with requests from families needing help to prevent utility shut offs. Without essential utility services – such as gas, electricity and water – these families’ problems can spiral out of control. Loss of utility service can lead to disastrous consequences such as eviction or social services removing a child from a home. People without utility service face illness and even death, from hypothermia, carbon monoxide poisoning or fires caused by efforts to warm their homes through other means.

Unaffordable utility bills are especially prevalent among low-income consumers because many low-income consumers simply do not have the financial resources to make ends meet. Utility costs are significantly higher for those who live in older, poorly weatherized houses and apartments. Unexpected expenses, such as a major car repair, heater repair, or medical bill can also cause a family to fall behind on bills. Because of unbalanced state laws and policies, there are very few, if any, opportunities for families to catch up on missed payments.

More and more Pennsylvanians are running out of options and losing utility service each day, contributing to the record high levels of service terminations that have been occurring over the past 10 years. Especially at risk are the elderly (who are generally living on fixed incomes), the young, and the sick.

These issues are magnified in Philadelphia where a third of the population lives in poverty. Pennsylvania utility company customer assistance programs are inadequate. As a percentage of income, the poorest Pennsylvania customers are expected to pay up to three times more for utility service than low-income customers in neighboring states.

Incredibly, in the face of this public emergency, the Pennsylvania General Assembly is poised to reenact Chapter 14, a primary cause of these problems. From 2004, when Chapter 14 was added to the Public Utility Code, the annual rate of electric terminations has more than doubled. Chapter 14 sunsets at the end of this year, and the utilities are insistent...
that it must be renewed without the needed reforms.

To fight this epidemic and protect the stability of Pennsylvania’s neediest citizens, almost a quarter of which (nearly 1.2 million households) earn less than $25,000 per year, Pennsylvania must:

1) Allow Chapter 14 to sunset, or make significant amendments that reverse the growth of utility service terminations; and
2) Adopt realistic utility affordability standards for low-income families.

Record High Levels of Utility Shut Offs

In 2004, the legal landscape in Pennsylvania shifted heavily in favor of regulated utility companies when Chapter 14 was added to the Public Utility Code. Prior to the implementation of Chapter 14, low income customers had flexible payment agreement options, which could mitigate some of the harm caused by Pennsylvania’s unrealistic utility affordability standards. When a customer could not obtain an affordable payment agreement from the utility, the customer could seek assistance from the Pennsylvania Public Utility Commission (PUC). Chapter 14 reduced shut off notice requirements and payment agreement opportunities, and allowed for Friday terminations, making it easier for utilities to shut off customers. At the same time, Chapter 14 imposed stringent security deposit and restoration terms, making it much harder for customers to reconnect service. Further, Chapter 14 completely eliminated the ability of many low income customers to seek more affordable payment terms from the PUC. Although legislators intended Chapter 14 to eliminate opportunities for customers capable of paying to avoid timely payment, the annual termination numbers show, over time, the increasing struggles of families unable to afford to maintain or restore service under Chapter 14’s restrictive provisions. Instead of targeting the bad actors, Chapter 14 has ensnared vulnerable low income households that are simply too poor to afford to pay their utility bills on time every month. As Chapter 14 is due to sunset or expire at the end of 2014, Pennsylvania should seize the opportunity to reverse the troubling loss of service trends discussed further below.

Since 2004, the PUC has issued four Chapter 14 biennial reports, with the most recent report published on December 14, 2012. The PUC reports that terminations for the electric and gas industries have risen to “record high levels” since passage of Chapter 14. From 2004 through 2013, the annual rate of electric terminations more than doubled, increasing by 124%, with PECO, the Philadelphia-area local electric distribution company, shutting off
as many as 84,323 customers in one year, or 1 in 17 customers. PGW, serving only Philadelphia, shut off gas to 38,536 customers in 2009, or more frequently than 1 in 12 customers.

Record High Utility Terminations Have Occurred Due to Chapter 14,
Combined Utility Termination Data from PUC Biennial Reports

Each December, the PUC announces the results of the *Cold Weather Survey*, which counts the number of families who were shut off in that calendar year for inability to pay and still remain without safe heating. These families have been without heat since December 15th or earlier, because they were unable to negotiate truly affordable payment arrangement terms with the utilities. *The total number of households in Pennsylvania, reported by the utilities, entering winter without service*¹ has risen steadily from less than 28,000 in 2003 to a high of over 42,000 households in 2009, and has remained at or around 40,000 per year thereafter.

¹ This includes households using potentially unsafe heating sources and homes that appear vacant after service termination.
Massive numbers of utility shut offs create dangers every year, as families resort to alternate sources of heat – such as kerosene heaters, the kitchen stove, and even charcoal grills – to keep from freezing, resulting in home fires whose causes are generally not reported. In a city like Philadelphia where most residents share walls with their neighbors, the potential spread of fire due to unsafe heat sources cannot be taken lightly. Families, neighborhoods, and entire communities are at risk because those who are struggling financially are left with no choice but to freeze or risk using unsafe heating methods.

**Creating an Underclass Without Access to Utilities**

Chapter 14 severely limits the number of payment agreements that a utility can be required to provide, allowing utilities to require full payment of outstanding balances, in addition to security deposits and reconnection fees, before service will be restored. Utilities have the discretion to implement more lenient reconnection policies but generally will not do so. This means that even when the customer can make a substantial down payment, or pay the bill in its entirety if given more affordable payment agreement terms, the utility does not
have to negotiate an agreement or restore service. Each year more customers face difficulty trying to obtain reconnection on affordable terms.

It is telling that PGW has seen its residential customer population decline by more than 12,500 from 2007 to 2013. At the same time, the years 2007-2013 marked seven consecutive years of population growth for Philadelphia, during which Philadelphia’s population rose by more than 64,000 people. As economic recovery in Philadelphia continues to progress very slowly, these signs point to an increasing number, likely in excess of 10,000 families, falling off the system and creating an underclass of citizens excluded from life-essential utility services.

Many of these families have already called the utilities and even the PUC for help, only to be turned away. Grant programs, such as the Federal LIHEAP and Philadelphia-based Utility Emergency Services Fund, provide some limited relief, but grant levels have not increased with the rate of inflation while utility and other bills skyrocket.

Some of the harshest cases involve termination of utility service to households with seriously ill persons or persons needing utility service to run medical equipment. Even with protections in place for persons with medical conditions, seriously ill customers are still running out of options as medical delays are very limited and do not require utilities to provide ill customers with a fair chance to catch up on bills.

Statewide, over a third of households without heat-related utility service as of December 15th, 2013 were able to get restored by February 1, 2014. However, PGW only restored heat service to 22% of Philadelphia households who have been without heat since December 15. PGW’s reconnection percentage is the lowest of all PUC-regulated Pennsylvania utilities. At the same time, PECO leads Pennsylvania in conducting by far the most utility terminations, on average, per year. PECO consistently accounts for more than 40% of the Commonwealth’s electric utility terminations, even though it serves less than 30% of the Commonwealth’s residential electric customers. Although utility termination policies may cater to utilities’ cost-benefit analyses, the health and safety of many families and their neighbors is at risk.
Recommendations

The pendulum has swung too far away from basic consumer protections resulting in record levels of utility service terminations in Pennsylvania. Too many utility customers are prematurely running out of options and losing service. Balance should be restored so that residential utility customers have a fair chance to keep up with their bills. Community Legal Services recommends the changes below to reverse the increasingly alarming high levels of utility service terminations.

Sunset of Chapter 14

Chapter 14 should be allowed to sunset or expire at the end of 2014, and the harsh termination policies that accompanied Chapter 14 should be eliminated.

Amend Chapter 14

In the alternative, Chapter 14 should be amended to restore basic consumer protections and provide a reasonable opportunity to maintain utility service. Pending legislation in Harrisburg should be amended to include the following improvements:

- Lawmakers should be required to assess how the law is impacting customers and make further changes if necessary. The best way to do this is to require the amended Chapter 14 to sunset or expire in no more than five years unless it is reenacted by the General Assembly.
- Low income customers should not be required to pay burdensome security deposits that jeopardize access to service.
- If a utility cannot make personal contact with a customer about a past-due bill, it should be required to post a notice at the customer’s residence 48-hours before termination of service in order to ensure that a customer is not shut off during a time of emergency.
- Low-income customers should be given the same opportunity as every other customer to apply to the PUC for a payment agreement to catch up on their bills.
- Utilities should not be able to terminate residential service on Friday because customers may not be able to access resources from banks, government assistance programs, or charities, over the weekend to help catch up and maintain service.
- Longstanding health and safety protections should be maintained for persons who are
seriously ill or afflicted with medical conditions that would be aggravated without utility service. Persons submitting medical certifications should be given a fair chance to catch up on their bills.

Create Low-Income Programs with Real Affordability

Pennsylvania needs to achieve real affordability with utility low-income programs. In 2006, the PUC addressed the need to reduce the energy burden of low-income households, stating:

We agree with commenters who submit that our policy requiring a low-income household to pay 17% of their household income for home energy services compared with an average household who pays about 5% of their income may need to be revised.

CLS recommends that such proposals be revived in light of the great need presented by the record levels of utility customers experiencing shut offs due to unaffordable bills.

Pennsylvania’s policy of imposing a 17% of household income energy burden is clearly not working. Our neighboring state of New Jersey recognizes that a 6% energy burden is about the most that is affordable. Pennsylvania should adopt an energy burden of not more than 3% of gross household income for electric usage, not more that 3% of gross household income for gas usage, and not more than 6% of gross household income for electric heating accounts or gas heating and electric non-heating accounts combined. This is the standard which has been adopted for the New Jersey Universal Service Fund.

Pennsylvania needs to act now in order the reverse the dangerous trend of utility service terminations that are leaving more and more customers in the cold.

Resources:


Gas and Electric Cold Weather Survey Results, PA PUC, accessed at http://www.puc.state.pa.us/filing_resources/gas_and_electric_cold_weather_survey_results.aspx


“Heat or Eat: The Low Income Home Energy Assistance Program and Nutritional and Health Risks Among Children Less Than 3 Years of Age,” Pediatrics, November 9, 2006.


*About Community Legal Services, Inc.:*
Community Legal Services, Inc. was established by the Philadelphia Bar Association in 1966. Since then, CLS has provided legal services to more than one million low-income Philadelphia residents, representing them in individual cases and class actions, and advocating on their behalf for improved regulations and laws that affect low-income Philadelphians. As the city's largest provider of free legal services, CLS assists more than 11,500 of Philadelphia’s poorest residents with their legal problems each year. For more information, contact 215-981-3700 or visit [www.clsphila.org](http://www.clsphila.org).