BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Public Hearing on Energy Prices and the Need to “Prepare Now”

En Banc
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COMMENTS OF THE PENNSYLVANIA UTILITY LAW PROJECT

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INTRODUCTION

Good afternoon, Commissioners. My name is Harry Geller, and I am the Executive Director of the Pennsylvania Utility Law Project. Thank you for inviting me here today to speak to you on behalf of low income, residential ratepayers.

The Pennsylvania Utility Law Project (“PULP”) has been representing low income ratepayers before the Public Utility Commission for 3 decades, and I have been privileged to work in my present position since 1988. I can not remember a time when I was as concerned for the well being of low income, residential ratepayers as I am now. Certainly, now is the time to prepare as well as the time to act.

I commend the Commission for recognizing the unique and difficult situation now facing ratepayers, particularly low income, residential ones. I thank the Commission for convening this hearing on rising energy prices and on the need to prepare now for those price increases. It is important to inform consumers that energy prices are rising and that there are ways that they can attempt to cope with these rising costs through energy efficiency and conservation. Additionally, I commend the Commission for its part in building an array of universal service programs in Pennsylvania that are intended to help low income residential ratepayers maintain life essential utility service.

In regard to the plans regarding the Prepare Now initiative, which have been released thus far, I particularly endorse the Commission’s intention to issue a press release in the fall regarding the Cold Weather Survey, to issue a “Prepare Now” letter to utilities, reminding them of their responsibilities when it comes to terminations and urging them to be compassionate with consumers seeking reconnection and to inform consumers and the public about changes in the law relating to service shut-off. These efforts surrounding the critical issue of service termination are essential and PULP submits that these potentially life threatening termination of service matters should be the central issue upon which the Prepare Now campaign is based.

The ever increasing number of households whose service has been terminated is at a crisis level and must be addressed now as part of this campaign. Tragically, unless we act now to address current service termination levels among our most vulnerable households, low income service termination numbers will grow at an even more dramatic rate after the elimination of electric rate caps. Consider these dire present realities: electric utilities terminate low income households at more than 5 times the rate of their general residential customer base; the latest Termination and Reconnection Report indicates that, for the first 7 months of the year (3 of which were during the moratorium), involuntary gas and electric service terminations continued to increase at record numbers; through July 2008, there were 100,291 electric service terminations and 64,273 natural gas service terminations, for a total of 164,564 involuntary service terminations.

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number is astounding, up 24% from the same time the prior year.\textsuperscript{2} In 2004, immediately prior to the effective date of Chapter 14, the number of natural gas and electric service terminations for the entire year was 171,091. \textsuperscript{3}

Although reconnection numbers have also increased, the numbers continue to reflect a significant termination/reconnection gap. At least 30% of households whose electric service has been terminated are not accounted for in the reconnection numbers. Many households remain without electric service or have been forced to move or abandon their homes. In addition, the reconnection rate itself provides inadequate information. It does not tell us what hardships families suffer when they are without service. We do not know how long a household has gone without service; whether family members have been forced to separate and/or abandon their homes; or whether there has been an eviction or children’s service intervention as a result of the service termination. Finally, it does not tell us whether a family went without food or medicine (or both) so that restoration of service requirements could be met.

I relate these facts because the Commission’s intention to address the issue of service termination by highlighting the Cold Weather Survey, by submitting a letter to utilities urging compassion as part of the Prepare Now initiative and by educating the public concerning the changes in the law which have led to greater numbers of shut-offs provides unique opportunities. Information may be gathered through the Cold Weather Survey which will provide valuable information to the Commission concerning the actual extent of the current payment and termination problem. The Commission could both impart and receive information concerning how long households going into the winter have been without service and what the barriers to restoration of service have been. Is it inability to pay a security deposit; refusal of the utility to accept the LIHEAP Crisis Grant; inability to secure a second payment agreement; or inability of a former CAP customer to secure even one payment agreement? These are the essential facts which the Commission and other policy makers need to know in order to prepare to adequately address the effect of the rate increases still to come.

PULP therefore proposes the following suggestions in regard to the Cold Weather Survey and the Commission’s letter to utilities:

\textbf{The Cold Weather Survey should take place at least twice-} In December and again on February 1. For several years the Commission has made a February resurvey a company-optional event. Because of the high number of terminations as the high number of households without service during cold weather months, I recommend that the Commission strongly encourage all companies to conduct a resurvey in February.

\textsuperscript{2} See Terminations And Reconnections: Year To Date 2007 Vs. 2008 Through July(Reported By Utilities Pursuant To Monthly Reporting Requirements At 52 Pa. Code 56.231), http://www.puc.state.pa.us/general/pdf/Terminations_Table_Jan-July07-08.pdf

\textsuperscript{3} PUC figures distributed to the CAC
● **The Cold Weather Surveys should attempt to obtain additional relevant information** concerning the length of the service termination and the actual barriers to service restoration;

● **The Commission should issue press releases prior to and following the Cold Weather Surveys.** The Commission’s intention to have a pre as well as post survey press release is excellent. It is an excellent opportunity to get the public and the affected families aware of what may be done and as to how they can cooperate.

● **The Commission letter to utilities should request compassion and flexibility by the companies prior to the terminations as well as compassion for those who seek service restoration.** All parties agree that termination of service should be considered only as a last resort. The consequences to health and safety are too great, but to do otherwise. The Commission should emphasize compassionate termination avoidance in its letter to utilities to the same extent it intends to emphasize compassionate service restoration.

Within the context of service termination, the Customer Assistance Program (CAP) and the Low Income Usage Reduction Program (LIURP), combined with LIHEAP, are the key methods available to help low income, residential ratepayers afford to maintain service. PULP respectfully suggests that one of the best ways to prepare now is for the Commission to aggressively act to enable both CAP and LIURP to meet the needs of low income customers and perform as they were intended: Ensure that the programs are adequately funded, that enrollment is increased and that all programs are designed to promote affordability, reduce service terminations, and enable a greater number of low income consumers to conserve energy and reduce usage by the installation of LIURP program measures. The Commission can help customers prepare now by acting now on several opportunities.

● The Commission should act to ensure that all eligible low income, residential customers be enrolled into CAP programs so that the CAPs are fully utilized prior to the expected rate increases. Unfortunately, although there has generally been consistent CAP enrollment growth, CAP programs are not yet approaching full enrollment, with most companies having significantly fewer than 50% of their confirmed, low income customers enrolled in their programs. It is time to proactively step up enrollment. PULP submits that this outreach and enrollment effort be incorporated into the Prepare Now campaign through the letter the Commission will be sending to utilities and through the press releases and media efforts it will be undertaking. In addition, Commission efforts at greater CAP enrollment could be greatly enhanced through cooperative efforts undertaken with the various state agencies invited to participate at today’s hearing.

● The Commission should articulate clear guidelines concerning maximum energy burdens for CAP customers; and act to ensure that all CAP programs comply with those Commission guidelines. The Commission has recognized that CAP customers can have

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an energy burden of more than 17% even after the application of a LIHEAP grant. CAP bills this high can not reasonably be called affordable. Generally, 6% -10% of income for energy costs is considered to be an affordable energy burden; in NJ, the Universal Service Fund program has set a 6% energy affordability standard. This is the level which PULP supports. The public should be made aware of these goals as part of the campaign to support low-income assistance in these difficult days.

- In addition to the important task of informing the public about the changes brought about by the enactment of Chapter 14, the Commission can move forward the proceedings implementing Chapter 14 and promulgating regulations for Chapters 56 and 14. In particular, the Commission can use these proceedings to incorporate compassion and reasonableness to mitigate some of the more extraordinarily harsh interpretations of Chapter 14 that have stripped away long-standing and important consumer protections.

- The Commission can ensure the Biennial Report to the Governor and General Assembly regarding the impact of Chapter 14 reveals that, beyond increased collectibles and utility profits, the true impact has been an increasing hardship to citizens of the Commonwealth in the form of rising termination levels and of greater numbers of households entering the winter without utility service. The findings should also be part of the public information effort surrounding Prepare Now. The public, other state officials and the media need to be informed of the full scope of the law’s impact.

- The Commission should ensure that there is proper funding for universal service and energy efficiency programs by spreading the financial burden over all ratepayer classes, not just the residential one.

I will now address some of the other issues posed by the Commission through its specific inquiries.

1) Conservation/Energy Efficiency Education

   a) What actions are utilities taking to reinforce conservation/energy efficiency education this winter?

   PULP strongly supports enhanced efforts at conservation/energy efficiency education this winter. Since low income families are often unable to afford their energy bill, they most certainly would benefit by additional education targeted to their specific needs. It is gratifying to know that utilities are taking active steps to reinforce conservation and energy efficiency. It is important that specific messages be tailored and targeted toward the low income demographic group. This can most effectively be accomplished in conjunction with the CAP and LIURP programs.
b) Are there any new energy efficiency or conservation programs available to customers this winter? If so, please describe them.

The Alternative Energy Investment Act (“AEIA”) was signed into law by Governor Edward G. Rendell on July 9, 2008. The AEIA will provide a number of important opportunities for residential and small business customers to receive significant assistance for energy efficiency projects and may provide new opportunities as early as this winter.

PULP encourages the Commission to take a proactive role as early as possible. Many of the initiatives funded by the AEIA have been delegated to departments in various agencies. The Commission should attempt to participate as early as possible in these proceedings so these other agencies can benefit from the Commission’s expertise and experience. Whenever possible, the programs of each of the agencies should be targeted to those with the greatest need and opportunity to benefit and should therefore include specific opportunities for the low income.

In particular, PULP would be happy to work with the Commission, utilities and other consumer advocates within the Prepare Now initiative to ensure that utility consumers are aware of and tap into these programs as they are created.

2) Low-Income Programs

a) What actions are utilities taking to ensure that consumers in need of assistance are informed of these programs and know what steps to take to enroll? What is the optimal time to commence these efforts?

Utilities use a number of different kinds of outreach efforts to bring the message about assistance programs to low income customers. Each company uses one or more method such as direct mailings, bill inserts and other correspondence; direct outreach via utility staff members and through partnerships with community groups; electronic outreach via internet, website, and e-mail; and via contact with utility customer service representatives on the telephone.

The optimal time to reach out to low income customers is now, and the outreach efforts should be a year round, ongoing effort. It is important to recognize that the Commission has been requiring utilities to engage in communications efforts with their low income customers regarding assistance programs for years. We can not expect to get new results by using the same outreach efforts. The time is at hand for the Commission to work in conjunction with other state agencies and utilities as part of the Prepare Now and Stay Warm campaigns to actively enroll and not just inform or refer individuals into low-income programs. Press releases and media initiatives may be undertaken by each of the agencies separately or in a coordinated effort. Eligibility for LIHEAP, weatherization, HEMAP, TANF or a range of other programs should trigger a potential enrollment action.
b) Please provide comments about the adequacy of LIURP funding. In your opinion, is the current LIURP funding level adequate in meeting the needs of our electric and natural gas heating customers?

The 2007 Universal Services Program Report projected that there will be fewer LIURP production jobs in 2008 as compared to 2007. This is clearly the wrong trend. The present level of LIURP funding, which enables fewer than 25,000 jobs per year, is clearly inadequate.

c) Do electric and natural gas companies have plans to expand LIURP?

The 2008 projections appear to represent either a regression or stagnancy of activity. PULP submits that all companies engage in expanded LIURP efforts.

d) Do we have the proper balance between LIURP and LIHEAP funding in light of rising energy prices?

The state of Pennsylvania annually transfers 15% of the Federal LIHEAP block grant to weatherization activities through DCED. This transfer recognizes the important interrelationship of the two programs. LIURP and Weatherization are aimed at long-term energy reduction. LIHEAP grants are aimed at supplementing the very limited resources available to low income households. In light of rising energy prices, the relatively low level of LIURP resources and the immediate need to stem and reverse the increasing numbers of service terminations, PULP strongly submits that each of these categories merits significantly increased levels of funding.

e) Economists are reporting that rising prices for various goods and services, including energy costs, have resulted in diminished purchasing power for households. Currently, our low-income program eligibility is set at or below 150 percent of the Federal Poverty Level. Is this income level still appropriate and adequate for CAP and LIURP?

The Commission should maintain the current low income eligibility level at 150% of the Federal Poverty Level (FPIG). PULP is aware of and sympathetic to the reality that rising prices have resulted in diminishing purchasing power for all households. However, it seems inexpedient to discuss raising eligibility levels when we still have not reached full low income enrollment of those families at 150% of the FPIG who are currently eligible, nor achieved affordable CAP payment levels which do not exceed the proposed maximum energy burden, nor stemmed the tide of terminations for those households who are presently confirmed low income customers (150% or below). As I mentioned earlier, universal service programs are currently under enrolled and are reaching fewer than half of those eligible for their services. Only after we achieve better saturation rates and success levels for existing eligible populations should we consider expanding eligibility levels.
Moreover, any discussion of an increase in the eligibility threshold for the CAP and LIURP programs only makes sense if there is are significant increases in the overall funding levels for these programs that will enable benefit levels to remain constant or increase. It does not make sense to increase eligibility levels and the corresponding number of enrollees into CAP and LIURP if that is going to cause a reduction in the current benefit levels received by those with lesser financial means.

The Commission should reject any increase in eligibility that is not coupled with an increase in funding that will enable all future enrollees to receive the same or better benefits than current enrollees receive.

f) Do current energy prices and lower allocation of federal LIHEAP funding, along with any other factors, establish a need for the $10 million allocated in Special Session House Bill 1, the Alternative Energy Investment Act, Act 1 of Special Session 1, 2007-08?

There are a number of factors that justify the release of the $10 million allocated in Special Session House Bill 1, the Alternative Energy Investment Act, Act 1 of Special Session 1, 2007-08.

First, the overall current cost of energy is sufficient to justify the release of the $10 million. All energy costs are up. Releasing the $10 million would enable the Department of Public Welfare to better deal with the effect of these high energy costs.

Second, insufficient Federal funding levels are a sufficient justification for the release of the $10 million. In general, Federal LIHEAP funding has been stagnant for years, and the purchasing power of the average LIHEAP grant has been eroded to a startling point. This year’s funding is particularly troubling. Even before the addition of a $10 million emergency allocation from Pennsylvania, our most current information places this year’s LIHEAP program at about $142.4 million, which is about $58 million less than last year. Releasing the $10 million would offset to a certain degree the general insufficiency of the Federal under funding.

Third, weather considerations justify the release of the $10 million. Releasing the $10 million would better enable the Department of Public Welfare to proactively deal with the cold weather needs and complications of the program.

PULP strongly urges the Commission to advise the administration of its strong support for release of these funds.
When would be the best time of year for the funds to be administered by the Department of Public Welfare to effectively meet the needs of low-income consumers?

The best time of year for DPW to administer the $10 million dollars in emergency funding is now, in conjunction with and at the beginning of the LIHEAP Program Year. Given the present inadequacy of LIHEAP funding, it is important that the emergency funds be used by DPW as part of LIHEAP. By providing these funds immediately, as part of the official start of the program year, the Governor would afford the Department of Public Welfare ample opportunity to determine how to use the funds most effectively.

It would be more administratively efficient to use the funds now as the program is being rolled out rather than using them later as an additional distribution of funds.

How will DPW allocate these funds to the public, i.e., as cash or crisis grants? Is one method of allocation preferable in comparison to the other?

There is no language in the statute requiring DPW to allocate the funds in any particular manner, but PULP recommends that the Department be provided the greatest discretion in determining how the funds can best meet immediate low income needs.

Allocation to either Cash or Crisis grants can provide valuable assistance. A Cash grant, which is used to supplement the annual costs of home heating can be applied to a customer’s home heating bill as a normal part of doing business. It is an efficient form of assistance and may often act to eliminate a potential crisis. A Crisis grant, provided to meet specific home heating emergencies is often an extraordinary part of business, being triggered by the utility’s starting the collection process or by a customer running out of a deliverable fuel. These grants are often more expensive to administer and may sometimes be refused by the utility or the deliverable fuel vendor as being inadequate in amount. However, Crisis grants are life-savers in the heart of winter.

At this time, with Federal LIHEAP funding levels still unknown and Pennsylvania presently projected to have a shortfall of $58 million as compared to last year’s levels, PULP would advocate immediate release of the $10 million to DPW to be used in conjunction with LIHEAP and with the discretion provided to DPW to be used at it best determines will meet the needs of low income households this winter.
3) **Home Heating Safety**

   a) *What safety tips should be given to customers whose service is terminated and still off going into the cold weather heating season?*

A home without utility service going into the cold weather heating season is inherently unsafe and the dangers of fire, asphyxiation, and hypothermia among others need to be pointed out to the specific customers affected as well as to the general public. This information should be widely distributed through all state agencies and the media. However, given the inherent dangers involved, PULP strongly advocates that all steps be taken to prevent the termination or to effect a service restoration, rather than to rely on the provision of safety tips to a household undergoing a severe crisis and in a dangerous situation.

Respectfully submitted,

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