

But How Will I keep the Lights on? Addressing Utility Needs for Survivors of Domestic Violence

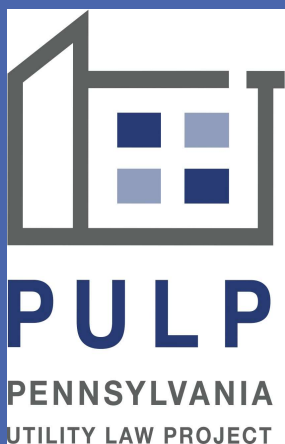
2021 VOCA Grantee Training

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Ria Pereira, Supervising Attorney & Elizabeth Marx, Executive Director
Pennsylvania Utility Law Project



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PULP is a statewide specialty project within the legal aid system, and is administratively housed within Regional Housing Legal Services.

Mission:

To assist low income residential utility and energy consumers connect to and maintain affordable utility and energy services within their homes.

- Training and Education
- Supportive Services
- Technical Assistance
- Representation
- Advocacy

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Agenda

- Domestic Violence and Utilities, in Context
- Utility Affordability
- Preventing Termination
- Assisting with Reconnection
- Other Relief for Survivors of DV
- Utility Dispute Process
- Resources

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What is Domestic Violence?

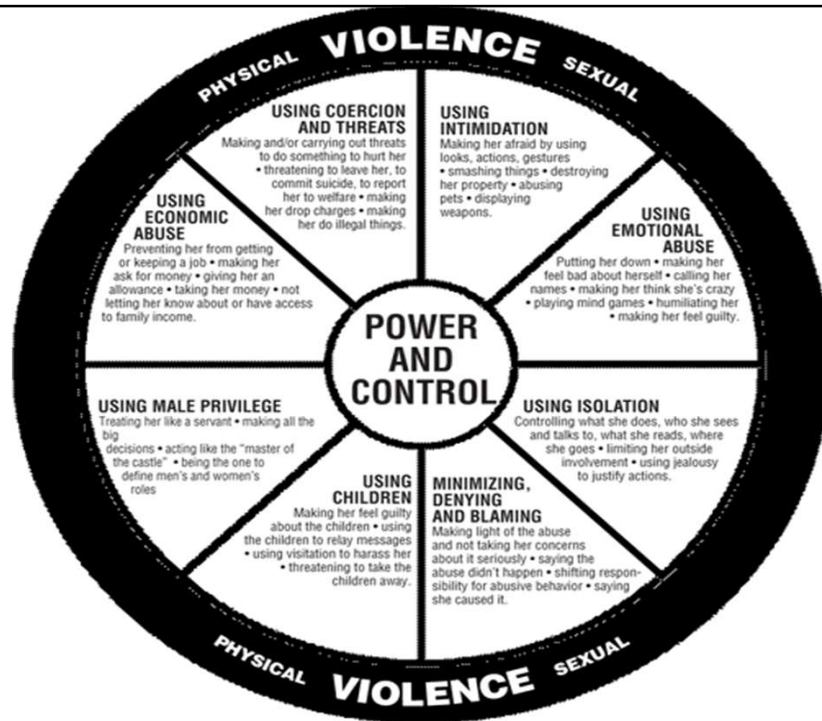
Department of Justice
Office of Violence Against Women:

A pattern of abusive behavior in any relationship that is used by one partner to gain or maintain **power and control** over another intimate partner. Domestic violence can be physical, sexual, emotional, **economic**, or psychological actions or threats of actions that influence another person.

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Power and Control

Domestic Violence Intervention Project,
<http://www.theduluthmodel.org/training/wheels.html>



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Economic Abuse

- **Finances / Credit**
 - Opening / Abusing Credit
 - Bouncing Checks
 - Forging Checks / Financial Documents
 - Denying Access to Finances / Credit
 - Accumulating Debt / Filing Bankruptcy
- **Employment & Workplace**
 - Stalking / Abuse at Workplace
 - Sabotaging Performance / Reputation
 - Causing Tardiness / Repeated Absences / Leave Early
- **Child Support**
 - Refusing to Pay Support / Work Reduced Hours / Not Reporting Income
 - Denying Paternity
 - Not Providing Available Insurance / Health Care
- **Housing**
 - Repeated Police Visits / Eviction
 - Interference with Lease / Public Housing Agreements
- **Public Assistance**
 - Causing Infractions / Threatening to Report
 - Stealing Checks
 - Causing Sanctions
- **Legal Issues**
 - Abuse of Process

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Why DV and Utilities?

- Ease Transitional Barriers
- Access to Public Housing
- Child Custody
- Safety
- Health
- Achieve Economic Stability

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Regulated vs. Unregulated Utilities

Regulated Utilities

- Large electric, natural gas, and water companies
- Subject to jurisdiction of the Public Utility Commission
- Consumer complaints filed with PUC
- Must follow rules/regulations for billing, collections, and terminations
- Must offer assistance programs

Unregulated Utilities

- Municipal utilities & Electric Co-Op (except PGW & PWSA)
- Consumer complaints filed with Court of Common Pleas
- Must follow Water Services Act, Utility Services Tenants Rights Act, and other broad consumer laws
- No standard billing, collection, and termination standards
- No requirement to offer assistance programs or payment arrangements

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Utility Affordability: Utility-Specific Programs

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Customer Assistance Program

- Benefits:
 - Discounted Bill
 - Frozen Past Debt (Arrearage)
 - Arrearage Forgiveness
 - Portion of arrears forgiven with each in-full CAP payment.
- General Eligibility:
 - Income no greater than 150% FPIG
 - Payment Troubled (utility-specific)
 - Willingness to verify income

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Hardship Funds

Hardship Fund Programs

- **Benefit**
 - Cash grant, typically up to \$500 to resolve crisis
- **Eligibility and program terms vary by utility**
 - Typical terms include:
 - 200% FPL or below
 - Recent payments / Attempts to make payments
 - *utility may make exceptions, but you have to ask!
 - Temporary hardship
 - Some utilities prohibit CAP customers from also receiving hardship fund grant assistance, but will often make exceptions if asked, especially for survivors of DV.

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Low Income Usage Reduction Program

- **Each major electric and natural gas company must operate a Low Income Usage Reduction Program**
 - Provides free energy efficiency and conservation services to low income consumers with high usage.
 - Measures vary based on the individual home, but often include energy efficient appliances, weather stripping, pipe wrapping, insulation, etc.
 - General Eligibility:
 - Income at or below 200% FPL
 - High average usage
 - Tenants are eligible, but often must have had service for at least 12 months, and required to obtain landlord permission.

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CARES

- The program is targeted to customers who:
 - Are having trouble paying their bill, and
 - Have short term problems that are causing the inability to pay
- Offer several types of services:
 - Referrals to social service agencies,
 - Budget counseling, and
 - Special arrangements for bill payment

Advocacy Tip: CARES is a little-used program, and the utility has wide discretion to resolve the customer issue.

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Low Income Home Energy Assistance Program (LIHEAP)

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Low Income Home Energy Assistance Program (LIHEAP)

Typically Open November – April

- Grant recipients from prior year program may receive a post card / application to apply early in October.
- Apply in person at local County Assistance Office or online at Pa. COMPASS
<https://www.compass.state.pa.us/>
- LIHEAP 2020-2021 Program
 - Cash Grant - \$200 (min) to \$1,000 (max)
 - Crisis Grant - \$25 (min) to \$800 (max)
 - Crisis Interface / Emergency Furnace Repair or Replacement
- **Supplemental Summer Program Pending**
 - *Will include some form of supplemental cash and crisis \$ for those who received LIHEAP assistance last year.*
- **LIHEAP 2021-2022 Program Details Pending**
 - *Proposed plan will be available June 12*

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LIHEAP: Cash and Crisis (Criteria)

Eligibility: CASH

- (1) Household Income
- (2) Home Heating Responsibility
- (3) Residency

Eligibility: CRISIS

- (1) Household Income
- (2) Home Heating Responsibility
- (3) Residency
- (4) Actual or imminent home heating emergency
Crisis is TYPICALLY shown by:
Termination notice
15 days of fuel or less (oil/propane/wood/coal)
- (5) Grant will resolve the crisis

A utility may accept LESS than the total amount owed to resolve the crisis – But you have to ask!

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LIHEAP Immigration

- Certain lawfully admitted non-citizens are eligible to receive LIHEAP regardless of when they arrived in the United States.
 - Must meet other LIHEAP eligibility requirements.
- Eligible non-citizens include:
 - Lawful permanent residents
 - Asylees
 - Refugees
 - Cuban/Haitian entrants
 - Non-citizens who have been battered or subjected to extreme cruelty in the United States.
- [Appendix B to the State Plan](#) contains a full list of eligible immigration status and acceptable documentation.
- **Ineligible adults with eligible children can apply for LIHEAP.**
 - Adult's income counts for purpose of eligibility, but ineligible individuals do not count for household size determination.

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Emergency Rental Assistance Program (ERAP)

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Emergency Rental Assistance Program (ERAP)

Eligibility

- 80% Area Median Income – Priority for 50% AMI

Based on 2020 income or at time of application

- Reduction in income, incurred substantial costs, or experienced financial hardship due to COVID-19
- Risk of housing instability / homelessness

Benefits

- Rent debt, plus 3 months of future rent

Additional rent may be provided after 3 months.

- **Utility and home energy costs and arrears**

Electricity, gas, water, sewer, trash, and deliverable fuels (oil/propane/wood/coal)

- Other direct/indirect expenses incurred due to COVID-19

May include broadband/telecommunication services.

- Housing stability services

• Applications are available through COMPASS:

- <https://www.dhs.pa.gov/coronavirus/Pages/Emergency-Rental-Assistance-Program.aspx>

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Termination and Reconnection

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Utility Moratorium Status

COVID-19 Emergency Moratorium

- "Protected Customers" cannot be shut off
- Income at or below 300% of the Federal Poverty Level
- Must apply for all available assistance and request a payment arrangement
- Ended **March 31, 2021**
- **As of April 1, the prohibition on utility terminations was lifted for all customers. The PUC has put in place more flexible payment arrangement terms for customers as a result of the COVID-19 pandemic.**

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Terminations

- **Authorized Termination**
 - Nonpayment of **undisputed** delinquent account.
 - Failure to:
 - comply with terms of payment agreement
 - complete security deposit
 - permit access to equipment
- **Terminations may only occur Monday - Thursday**
 - ***No Friday Terminations***
- **Termination Exception – 52 Pa. Code 56.323**
 - A victim of domestic violence with a PFA or other court order may NOT be terminated for "nonpayment for residential service already furnished in the names of persons other than the customer..."

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Terminations

Notice Requirements

- Written Notice
 - Written notice must be provided at least 10 days before termination, but may be provided up to 60 days prior to the termination.
- “Personal *Contact*”
 - 3 days prior to termination, utility must **attempt** to contact customer in person, by phone, or electronically through email/text.
 - Customer must **AFFIRMATIVELY CONSENT** to receive notice electronically.
 - Often consent is given at the time the customer signs up for service.
- Additional Notice for Customers with PFA / Court Order
 - Attempted “personal contact” immediately preceding termination
 - If no personal contact, notice is posted at the property and termination is delayed for 48 hours.

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Strategies for Preventing Utility Termination

- Assistance Programs
 - CAP, Hardship Funds, LIHEAP.
- Protections for Customers with PFA or Other Court Order
 - Cannot be charged for debt accrued in someone else’s name – even if they lived at the home when debt accrued.
 - Additional / longer payment arrangements
 - Additional notice of termination
- Payment Arrangements
- Medical Certificates
- Winter Moratorium
 - Households with income at or below 250% FPIG cannot be terminated from December 1 – March 31.
 - **Not a guarantee to have service restored if already off!*
- 4-year Rule
 - Arrears over 4 years old cannot form the basis of termination.

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Preventing Utility Termination: Payment Arrangements

A payment arrangement (PAR) is an agreement to accept liability for debt and pay it in one or more payments over a period of time.

- Do not accept liability for debt that you do not agree you owe.
- Do not agree to a payment arrangement that you cannot afford to pay.

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Payment Arrangements (Cont.)

Utility Issued Payment Arrangements (PARs)

- Utilities have broad discretion to enter into reasonable PARs. Consumers can negotiate for a better arrangement.
- Avoid "TVR" / automated payment arrangements, which are not based on household income.
- **Until December 31, 2021, ALL utilities must offer the following PAR terms, based on household income:**
 - 60-month (5-year) PAR to customers with income at/below 250% FPL
 - 24-month (2-year) PAR to customers with income between 250-300% FPL
 - 12-month (1-year) PAR to customers with income over 300% FPL
 - 18-month PAR for small businesses

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Payment Arrangements (Cont.)

PUC-Issued Payment Arrangements (PARs)

- The PUC can generally issue one payment arrangement.
- Can only order a second if the household has a change in income.
- CAP customers are not eligible for a PAR for debt accrued while in CAP.
- PAR can be extended if household has a significant change in income.

Payment Arrangements for Current Customers

- Customers who are on or who were terminated at same address within 30 days
- The PUC can generally issue one PAR based on income:
 - 60 months – at/below 150% FPL
 - 24 months – between 150-250 FPL
 - 12 months – between 250-300% FPL
 - 6 months – over 300% FPL

Payment Arrangements for Reconnection

- Reconnection fee (cost-based), plus a PAR:
 - 24 months – Income at/below 150% FPL
 - 12 months – Income between 151-300% FPL
- Full payment may be required if customer defaulted on 2 or more PARs

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Payment Arrangements (Cont.)

- **Temporary PUC-Issued PAR Terms:**
- Until Dec. 31, 2021, the PUC can issue:
 - One PAR for residential customers:
 - 60 months – at/below 250% FPL
 - 24 months – between 251-300% FPL
 - 12 months – over 300% FPL
 - One additional PAR for a customer who has previously defaulted on a PUC-issued PAR, regardless of a change in income.
 - One 18-month PAR for small business customers.
- Unclear if CAP customers can get a PAR.

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Payment Arrangements

Payment Arrangement Exceptions:

- **Customers with PFA / Other Order:**
 - ...An outstanding residential account with the utility may be amortized over a **reasonable period of time**.
 - Factors to be taken into account include:
 - the size of the unpaid balance
 - the ability of the applicant to pay
 - the payment history of the applicant and
 - the length of time over which the bill accumulated
 - 56 Pa Code Section 56.285
- **CAP Arrears**
 - Arrears accrued on discounted bills while in CAP are not eligible for a payment arrangement from the PUC; however, the customer or applicant is typically able to pay **ONLY** their missed CAP payments to be reinstated into the program.
 - Reinstatement in CAP should re-freeze the non-CAP debt and allow forgiveness over time.

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Medical Certificates

- **A household may obtain a medical certificate to stop termination if a household member has a serious illness OR a medical condition which requires utility service to treat their illness.**
 - Examples: asthma requires air conditioning in summer / diabetes requires refrigeration for medication)
 - Medical professional not utility gets to decide which conditions qualify.
- **A medical certificate stops termination for 30 days.**
 - A customer may submit a new certificate every 30 days if she/he pays all current charges by due date.
 - A customer may renew medical certificates two times (90 days of protection) even if they do not pay current charges by due date.

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Connecting / Reconnecting Service

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Strategies for Connecting / Reconnecting Service

- **No Security Deposit for CAP-Eligible Households**
 - Not required to actually enroll in CAP to waive security deposit, but may be required to provide proof of income.
- **Protections for Customers with PFA or Other Court Order**
 - Cannot charge victim arrears accrued in someone else's name, even if they lived at the residence when the arrears were accrued.
 - Flexible payment arrangements based on individual facts and circumstances.
- **4-Year Rule**
 - Arrears which are more than 4 years cannot be required to be paid as a condition to providing service.
- **Utility-Issued Payment Arrangements**
 - Utilities have broad discretion to enter into any number of payment arrangements for any length of time.
 - If utility refuses to issue a payment arrangement, client can go to PUC for PUC-issued payment arrangement
- **PUC-issued 1407 Payment Arrangement (For Service Restoration)**
 - 150-300% FPL → 12 month
 - 150% FPL or below → 24 months
 - No payment arrangement if defaulted on two or more arrangements for the same balance.

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Other Protections

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Other Important Account Protections

- Third Party Notifications
- Account Passwords / Alerts
- Account Activity Notices

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Requesting Utility Relief in PFA

- **Request Utility Relief in PFA Order**

- 23 Pa. C.S. 6108(8)
 - “Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including ... **relocation and moving expenses**, ... **loss of earnings or support**, ... and other out-of-pocket losses for injuries sustained.”
- 23 Pa. C.S. 6108(10)
 - “Granting any other appropriate relief sought by the plaintiff.”

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Commission Dispute Process

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Negotiating with Utilities

- Negotiation is Required Before Filing Complaint
- Utilities have Significant Discretion
- Start by Asking Utility to Review Account
- Be Direct with Request
- Ask for Stay of Termination to Review Case
- Develop Relationship

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PUC Complaints

- Informal Complaint
 - PUC Bureau of Consumer Services (BCS)
 - 1-800-692-7380
 - *Filing an informal complaint will temporarily stop termination, if filed before the day of termination.*
- Formal Complaint
 - Administrative hearing before ALJ
 - Appeals go to Commonwealth Court
- *Note: Must be licensed attorney to represent client before PUC, but advocates/paralegals can refer a client to file pro se and provide information about rights.*

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Resources

- **Pennsylvania Utility Law Project (PULP)**
 - Utility Hotline (for clients):
 - 844-645-2500
 - utilityhotline@palegalaid.net
 - Technical Assistance / Case Assistance (for advocates)
 - 717-236-9486
 - pulp@palegalaid.net
- **Office of Consumer Advocate (OCA)**
 - www.oca.state.pa.us
 - 800-684-6560
 - consumer@paoca.org
- **Pennsylvania Legal Aid Network**
 - www.palegalaid.net/resources/clients
(Find Help by County)

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Thank you!

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