

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION 2011-3

URGING STATES TO REQUIRE CONSUMER PROTECTIONS
AS A CONDITION FOR APPROVAL OF
PREPAID RESIDENTIAL GAS AND ELECTRIC SERVICE

1 *Whereas*, the National Association of State Utility Consumer Advocates (“NASUCA”)
2 has a long-standing interest in issues and policies that affect the access of residential
3 consumers to essential gas and electric services; and

4 *Whereas*, some gas and electric utilities have sought to replace traditional credit-based
5 service to some residential customers with prepaid service delivered through prepayment
6 meters or digital meters with remote connection and disconnection capabilities; and

7 *Whereas*, prepaid gas and electric service requires customers to pay in advance for their
8 service, with prepaid account balances decreasing as service is delivered; and

9 *Whereas*, automated and remote disconnection of service can and does occur when
10 prepaid account balances are depleted; and

11 *Whereas*, experience in the United States and United Kingdom demonstrates that prepaid
12 metering and prepaid billing (1) is targeted toward and concentrated among customers
13 with low or moderate incomes that are facing service disconnections for nonpayment, (2)
14 results in more frequent service disconnections or interruptions, and (3) is delivered at a
15 higher rate than traditional credit-based service;¹ and

16 *Whereas*, most of the current state consumer protection requirements regarding the
17 disconnection of service were not developed in anticipation of prepaid services, and such
18 protections may be bypassed or eliminated when services are provided on prepaid basis;
19 and

20 *Whereas*, proponents of prepaid service have sought legislation in at least one state
21 providing that automated, remote disconnection of service upon depletion of prepaid
22 account balances be considered a voluntary termination of service by the customer and
23 not a disconnection by the utility subject to consumer protection laws and regulations
24 regarding the disconnection of service;² and

25 *Whereas*, the proliferation of digital meters with remote connection and disconnection
26 capabilities makes implementation of prepaid service more feasible economically for
27 utilities; and

28 *Whereas*, prepaid utility service reduces or eliminates utility incentives to negotiate
29 effective, reasonable payment agreements and to implement effective bill payment
30 assistance and arrearage management programs; and

31 **Whereas**, increased service disconnections of vital gas and electric service that come
32 with implementation of prepaid service and prepaid metering threaten the health and
33 safety of customers, particularly those who are most vulnerable to the effects of a loss of
34 service, including the elderly, disabled and low-income families, as detailed and
35 documented in a companion resolution encouraging state legislatures and state public
36 utility commissions to institute programs to reduce the incidence of disconnection of
37 residential gas and electric service based on nonpayment; and

38 **Whereas**, utilities offering prepaid service benefit financially from reduced cash working
39 capital requirements, uncollectibles amounts and credit and collections risk; and

40 **Whereas**, utilities in at least one state require customers to pay deposits for a customer
41 prepayment device or system;³ and

42 **Whereas**, providers of residential electric service in at least one state impose additional
43 fees on customers choosing to make payments more frequently than once every thirty
44 days and under other circumstances;⁴ and

45 **Whereas**, in at least one instance, a company has reportedly gone out of business after
46 receiving prepayment funds from customers, resulting in large unpaid fines and more
47 distressingly in an undetermined number of customers having lost their money;⁵

48 **Now, therefore, be it resolved**, that NASUCA continues its long tradition of support for
49 the universal provision of essential residential gas and electric service for all customers;

50 **Be it further resolved**, that proposals by utility companies that seek to replace traditional
51 credit-based service to some residential customers with prepaid service delivered through
52 prepayment meters or digital meters with remote connection and disconnection
53 capabilities should not be approved unless they guarantee that current consumer
54 protections are not bypassed or eliminated and that adequate and comparable consumer
55 protections are developed and in place. At a minimum, if prepaid services are offered, a
56 utility should be required to satisfy each of the following conditions:

57 (1) All regulatory consumer protections and programs regarding disconnection
58 limitations or prohibitions, advance notice of disconnection, premise visits, availability of
59 payment plans or deferred payment agreements, availability of bill payment assistance or
60 arrearage forgiveness, and billing disputes are maintained or enhanced;

61 (2) In the event that the billing credits of a customer receiving prepaid residential
62 electric or natural gas service are exhausted, the customer shall be given a reasonable
63 disconnection grace period, after which the customer shall revert to traditional, credit-
64 based service, subject to all rules and customer protections applicable to such service;

65 (3) Prepayment households include no one who is

- 66 (a) income-eligible to participate in the federal Low Income Home Energy
67 Assistance Program (LIHEAP); or
- 68 (b) protected under state law from disconnection for health or safety reasons;
- 69 (4) Prepaid service is only marketed as a purely voluntary service and is not marketed
70 to customers facing imminent disconnection for non-payment;
- 71 (5) Utilities offering prepaid service also offer effective bill payment assistance and
72 arrearage management programs for all customers, including customers with arrearages
73 who choose prepayment service;
- 74 (6) Rates for prepaid service are lower than rates for comparable credit-based service,
75 reflecting the lower costs associated with reduced cash working capital requirements,
76 uncollectibles amounts and shareholder risk affecting a utility's return on equity;
- 77 (7) Utilities demonstrate the cost effectiveness of any proposed prepaid service
78 offerings through a cost versus benefit analysis and reveal how costs will be allocated
79 among various classes of customers;
- 80 (8) Prepayment customers are not subjected to any security deposits or to additional
81 fees of any kind, including but not limited to initiation fees or extra fees assessed at any
82 time customers purchase credits;
- 83 (9) Utilities ensure there are readily available means for prepayment customers to
84 purchase service credits on a 24-hour a day, seven-day a week basis;
- 85 (10) Prepayment customers can return to credit-based service at no higher cost than the
86 cost at which new customers can obtain service;
- 87 (11) Payments to prepaid accounts are promptly posted to a customer's account so as
88 to prevent disconnection or other action adverse to the customer under circumstances in
89 which the customer has in fact made payment; and
- 90 (12) Adequate financial mechanisms are developed and in place within the state to
91 guarantee that funds prepaid by customers are returned to the customers who prepaid
92 them if and when a company becomes insolvent, goes out of business or is otherwise
93 unable to provide the services for which the funds were prepaid;
- 94 ***Be if further resolved***, that the implementation of prepaid service programs should be
95 monitored to ensure that it does not in practice result in an increased rate of service
96 disconnections for non-payment;
- 97 ***Be it further resolved***, that utilities implementing prepaid service programs should track
98 and report to the state regulatory commission separately for credit-based and prepayment
99 customers each of the data points delineated in the companion resolution urging the states

100 to gather uniform statistical data on billings, arrearages and disconnections of residential
101 gas and electric service;

102 ***Be it further resolved***, that NASUCA authorizes its Executive Committee to develop
103 specific positions and take appropriate actions consistent with the terms of this resolution.
104 The Executive Committee shall advise the membership of any proposed action prior to
105 taking action if possible. In any event the Executive Committee shall notify the
106 membership of any action pursuant to this resolution.

Submitted by Consumer Protection Committee

Approved June 28, 2011
San Antonio, Texas

Abstention: Tennessee

¹“SRP’s prepaid electricity plan found to have higher rates,” *The Arizona Republic*, (July 11 2010), www.azcentral.com/private/cleanprint/?1299004402750; Electric Power Research Institute, “Paying Upfront: A Review of Salt River Project’s M-Power Prepaid Program, (October 2010); Talbot, “Prepayment meters: A scourge penalising the poor” (June 2009), <http://www.energychoices.co.uk/prepayment-meters-a-scourge-penalising-the-poor.html>; Centre for Sustainable Energy and National Right to Fuel Campaign, “Counting the Hidden Disconnected,” (1998).

²See 2011 Iowa Proposed Legislation, House Study Bill158, <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=false&hbill=hsb158>.

³“Paying Upfront” A Review of Salt River Project’s M-Power Prepaid Program,” EPRI, Palo Alto, CA: (2010), http://www.srpnet.com/environment/earthwise/pdfx/spp/EPRI_MPower.pdf.

⁴Biedrzycki, “New Fees On Residential Electric Bills Complicate Cost Comparisons For Consumers Shopping For A Better Deal And Penalize Those Who Save Electricity And Those Struggling To Pay Their Bill” (February 2011), <http://www.scribd.com/doc/49467979/Fees-Report-FINAL-2232011>.

⁵Texas Public Utility Commission, News Release, “PUC orders \$3.7 million in penalties: two former retail electric providers fined millions (Jan. 14, 2010), <http://www.puc.state.tx.us/nrelease/2010/011410.pdf>; “Consumer group: Electricity companies have big fees hidden in small print,” KHOU11 Houston (April 30, 2011), <http://www.khou.com/news/local/Consumer-group-Electricity-companies-have-big-fees-hidden-in-small-print--121014164.html>.