

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held October 8, 2020

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
David W. Sweet, Vice Chairman, Statement, Dissenting
John F. Coleman, Jr.
Ralph V. Yanora

Public Utility Service Termination Moratorium –
Modification of March 13th Emergency Order

M-2020-3019244

ORDER

BY THE COMMISSION:

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency (Proclamation) that identified the COVID-19 pandemic as a disaster emergency affecting the entire Commonwealth. On March 13, 2020, relying on both the Proclamation and the Commission’s authority under the provisions of Section 1501 of the Public Utility Code, Chairman Gladys Brown Dutrieuille issued an Emergency Order (March 13 Emergency Order) establishing a prohibition on the termination of public utility service and directing the reconnection of service to customers previously terminated, to the extent it could be done safely, for the duration of the Proclamation, or until a time otherwise established by the Commission.¹ That Order was ratified by the Commission at its March 26, 2020 Public Meeting.

¹ March 13, 2020 Emergency Order issued at the instant Docket.

Currently, Pennsylvania’s COVID-19 daily diagnosis statistics remain high, and many businesses are not operating at full capacity which means that our economy is still exhibiting a downturn. However, the situation has improved since earlier this year in that the Governor, under the advisement of Secretary of Health Rachel Levine, has lifted the “shelter-in-place” directive and permitted the reopening of businesses in each of our 67 counties. Of significance, the Commonwealth’s unemployment numbers have improved from 16.1% in April 2020 to the 10.3%² in August 2020.³ As the pandemic and economic situation has evolved, it is appropriate for the Commission to revisit the March 13 Emergency Order. The moratorium on utility service terminations was the right decision to make in March, but the moratorium cannot be the sole solution for assisting vulnerable utility customers. Many other states have moved or are moving from moratoriums by designing plans to assist payment troubled customers keep utility service.⁴

² For comparison, Pennsylvania’s unemployment following the Great Recession of 2008 peaked at 8.8% in 2010. *Economy at a Glance, Pennsylvania*, U.S. Bureau of Labor Statistics (Last accessed October 8, 2020) available at <https://www.bls.gov/eag/eag.pa.htm>.

³ A Pennsylvania specific unemployment number for September 2020 is not yet available. While the current national unemployment statistic for September 2020 is 7.9%, Pennsylvania’s number has historically tracked slightly higher than the national average during the pandemic. *Economy at a Glance, Pennsylvania*, U.S. Bureau of Labor Statistics (Last accessed October 8, 2020) available at <https://www.bls.gov/eag/eag.pa.htm>.

⁴ *State Response Tracker*, National Association of Regulatory Utility Commissioners (August 3, 2020) available at <https://www.naruc.org/compilation-of-covid-19-news-resources/state-response-tracker/>; *Order on COVID-19 Emergency Measures*, Maryland Public Service Commission (September 22, 2020) available at <https://www.psc.state.md.us/wp-content/uploads/Order-No.-89636-PC53-Order-on-COVID-19-Emergency-Measures.pdf>; *In Re: Special Orders 22-2020 and 28-2020, ratification and termination of Executive Order dated March 13, 2020*, Louisiana Public Service Commission (June 24, 2020) available at <http://www.lpsc.louisiana.gov/docs/Orders/44-2020.pdf>; *Inquiry into Establishing Policies and Practices for Electric and Gas Companies*, Keegan Williams LLP (September 18, 2020) available at <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/12677392>; *Governor Announces Financial Assistance to Protect Residential and Commercial Utility Customers*, State of New Jersey, (August 21, 2020) available at <https://nj.gov/governor/news/news/562020/approved/20200821a.shtml>; *PSC Starts Proceeding Aimed at Addressing Impacts of COVID Crisis on Customers and Utilities*, New York Public Service Commission (June 11, 2020) available at [https://www3.dps.ny.gov/pscweb/webfileroom.nsf/ArticlesByCategory/0B1B92611B7E4DD1852585840062EE46/\\$File/pr20050.pdf?OpenElement](https://www3.dps.ny.gov/pscweb/webfileroom.nsf/ArticlesByCategory/0B1B92611B7E4DD1852585840062EE46/$File/pr20050.pdf?OpenElement); *Order Lifting Disconnection Moratorium and Allowing Collection of Arrearages Pursuant to Special Repayment Plans*, North Carolina Utilities Commission (July 29, 2020) available at <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=73f62403-d0c3-4932-bc25-54a25d940ee6>.

Moving from an absolute moratorium to a less restrictive phase, while still acknowledging that the pandemic and its economic effects have not disappeared, requires us to put in place a mix of holistic, short-term and long-term solutions to offer customers protections and ensure the payment of bills from customers that are able to pay. Our goal is to put customer protections in place that can work for the short term. It is unknown, however, how long we are going to have to live with this pandemic or its economic consequences. For these reasons, we must also convene a stakeholder process to consider whether longer term options may be needed, and whether the actions herein are serving the public interest.

It is vital that utilities inform customers they are behind in payment and at-risk of termination so that those customers can be evaluated for participation in various assistance programs, including, but not limited to, the Low Income Home Energy Assistance Program (LIHEAP),⁵ Customer Assistance Programs (CAP), Lifeline, and Hardship Funds (Assistance Programs). We recognize that it is vital that utilities work with customers before their accounts get to a point that is impossible for the customers to overcome. Customers with arrears need to contact their utilities to seek available assistance.

Phase 2 of the Termination Moratorium

The absolute utility service termination moratorium is lifted and disconnections may commence effective November 9, 2020. Ten-day termination notices pursuant to Section 1406(b) of the Public Utility Code, 66 Pa. C.S. § 1406(b), may issue after the issuance of the ten-day communication provided for in Paragraph 1 below to begin the process for collecting debt owed by customers. The following modifications to existing

⁵ Fifteen million dollars remained unspent at the close of the LIHEAP Recovery Crisis Program grant season which closed on August 31, 2020. The regular grant season will reopen on November 2, 2020, and is scheduled to run through April 9, 2021, or until funds are exhausted – whichever comes first. *LIHEAP Recovery Crisis Program*, Department of Human Services (Last accessed October 8, 2020) available at <https://www.dhs.pa.gov/providers/Providers/Pages/LIHEAP-Recovery-Crisis-Program.aspx>.

termination policies shall apply to all electric, natural gas, water, wastewater, telecommunications, and steam utilities subject to the Commission’s jurisdiction:

1. Upon entry of this Order, utilities shall issue at least one communication to customers whose unpaid balances will put them at risk of termination after the lifting of the moratorium. The communication shall: (1) inform the customer that they are at-risk of service termination after the moratorium is lifted (November 9, 2020); (2) indicate a general time range when the customer will likely be terminated unless the customer takes appropriate steps; (3) inform the customer of available options including the customer’s right to file an informal complaint with the Commission if the customer is not satisfied with the arrangement offered by the utility; and, (4) be sent to the customer at least ten days prior to the issuance of the standard ten-day termination notice contained in 66 Pa. C.S. § 1406(b). The additional ten-day communication provided for in this paragraph is a one-time requirement.
2. Unless otherwise authorized by the Commission, a utility shall not terminate service to residential customers at 300% and below of federal poverty income guidelines (FPIG)⁶ (hereinafter “protected customers”). To receive protection from termination, a protected customer must apply for all Assistance Programs for which the customer is eligible and must request a payment arrangement from the utility, if appropriate. A protected customer denied a stay by the utility may file a complaint with the Commission for review of the utility’s decision.
3. Unless otherwise authorized by the Commission, a utility shall offer a payment arrangement for a period of no less than eighteen (18) months to small business customers, as defined by a utility’s tariff, with past due amounts. A small business

⁶ Protected residential customers remain subject to 66 Pa. C.S. § 1406(c)(1).

customer which remains current on its payment arrangement and current bill shall not be terminated. A small business customer which is denied a payment arrangement by a utility may file a complaint with the Commission.

4. Utilities shall waive all connection, reconnection, and deposit fees otherwise required for service for protected customers.
5. Utilities shall waive late payment charges for protected customers.
6. Utilities shall accept at least two additional medical certificates for eligible customers who may have otherwise exhausted the three available in 52 Pa. Code §§ 56.111-56.118, 56.351-56.358. Because medical professionals may be dealing with increased patient loads, an additional 7 days are allotted for medical professionals to return medical certificates to the utility. Medical certificates on the doctor's/medical facility's letterhead will be accepted.
7. Utilities and the Commission's Bureau of Consumer Services shall accept income verification and business status information obtained through flexible means, for example, over-the-phone or via electronic mail, for the purpose of qualifying customers for protected status, payment arrangements, or universal service programs.
8. The Commission recognizes that compliance with the March 13 Emergency Order and this Order may increase expenses for utilities. Consistent with our May 13, Secretarial letter, utilities shall continue tracking extraordinary, nonrecurring incremental COVID-19 related expenses and shall maintain detailed accounting records of such expenses. Additionally, the Commission authorizes electric, natural gas, water, wastewater, steam and all rate base/rate of return telecommunications utilities to create a regulatory asset for any incremental

expenses incurred above those embedded in rates resulting from the directives contained in this Order. To be eligible for inclusion in a utility's COVID-19 designated regulatory asset, the utility must maintain detailed records of the incremental extraordinary, nonrecurring expenses incurred as a result of compliance with the Commission's March 13 Emergency Order, and this Order.

9. Utilities shall report the following information to the Commission. The first report shall be filed with the Secretary of the Commission by December 15, 2020, for the preceding month. Thereafter, the report shall be filed by the 15th of each month, until this requirement is revised or lifted by the Commission. The information shall be separated by residential and commercial accounts.
 - a. Total number of residential and non-residential accounts at risk of termination at the end of the month and for the same month of the year prior.
 - b. Total aggregate dollars of arrears, broken down by the same account categories, at the end of the month and for the same month of the year prior.
 - c. The number of residential and non-residential accounts disconnected for non-payment with dollar amounts owed.

Commission Approved COVID-19 Protection Plans

Commission approved utility COVID-19 customer protection plans will remain in effect according to their individual terms.

Ongoing Evaluation/Public Comment

Because of the dynamic nature of the pandemic, the Commission will revisit these protections during the first quarter of 2021. We invite comments and proposals from interested parties regarding any revisions to the protections outlined herein. Responsive

comments shall be due by February 16, 2021. We believe that this stakeholder process will refresh input from interested parties based upon the trajectory of the pandemic and the status of the economy at that time, so that both customer and utility interests continue to be considered;

THEREFORE,

IT IS ORDERED:

1. The Commission's March 13, 2020 Emergency Order is modified consistent with this Order.
2. Paragraphs 2-9 herein of this Order shall remain in effect until the earlier of: (1) March 31, 2021; (2) the date on which the Governor's Proclamation of Disaster Emergency is rescinded; or, (3) a time otherwise established by the Commission.
3. Comments and proposals regarding any revisions to the protections outlined herein must be efiled at this docket number by opening and using an efilng account through the Commission's website. If comments or proposals contain confidential or proprietary information, they should NOT be efiled but should be emailed directly to the Secretary of the Commission at rchiavetta@pa.gov. All comments and proposals must be filed by the close of business (4:30 p.m. EST) on Tuesday, February 16, 2021. Comments received after this deadline will not be considered.
4. The Commission's Law Bureau, with assistance from the Bureau of Consumer Services, and Bureau of Technical Utility Services shall review any comments or proposals received from interested parties and provide a recommendation to the Commission.

5. That the Law Bureau shall publish a copy of this Order in the *Pennsylvania Bulletin*.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta
Secretary

SEAL)

ORDER ADOPTED: October 8, 2020

ORDER ENTERED: October 13, 2020