

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oa

 /pennoca

FAX (717) 783-7152
consumer@paoca.org

August 18, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Public Utility Service Termination Moratorium
Proclamation of Disaster Emergency –
COVID-19 Emergency Order
Docket No. M-2020-3019244

Dear Secretary Chiavetta:

Attached for electronic filing are the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAappleby@paoca.org

Enclosures:

cc: PUC Secretary Rosemary Chiavetta (**email only**)
Bureau of Technical Utility Services (**email only**)
Law Bureau (**email only**)
Office of Special Assistants (**email only**: ra-OSA@pa.gov)
Certificate of Service

*294240

CERTIFICATE OF SERVICE

Re: Public Utility Service Termination Moratorium :
Proclamation of Disaster Emergency – COVID-19 : Docket No. M-2020-3019244
Emergency Order :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 18th day of August 2020.

SERVICE BY E-MAIL ONLY

Richard A. Kanaskie, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

John R. Evans, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

Elizabeth R. Marx, Esquire
John W. Sweet, Esquire
Ria Pereira, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Robert W. Ballenger, Esquire
Josie B.H. Pickens, Esquire
Joline Price, Esquire
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19140

/s/ Christy M. Appleby
Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: August 18, 2020
*294239

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Public Utility Service Termination Moratorium :
Proclamation of Disaster Emergency – COVID-19 : Docket No. M-2020-3019244
Emergency Order :

COMMENTS
OF THE
OFFICE OF CONSUMER ADVOCATE

Tanya J. McCloskey
Acting Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: tmccloskey@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAappleby@paoca.org

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: August 18, 2020

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I. INTRODUCTION

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency (Disaster Proclamation).¹ On March 13, 2020, pursuant to the Governor's Disaster Proclamation and Section 1501 of the Public Utility Code, Chairman Gladys Brown Dutrieuille issued an Emergency Order (March 13 Emergency Order or Emergency Order) establishing a moratorium on service terminations for all electric, natural gas, water, wastewater, telecommunications, and steam utilities subject to the Commission's jurisdiction to coincide with the duration of the Governor's Disaster Proclamation.² The Emergency Order also encouraged the reconnection of service for those customers who could be safely restored for the duration of the Disaster Proclamation and March 13 Emergency Order or a time otherwise set forth by the Commission.³ On June 4, 2020, the Proclamation of Disaster Emergency was extended by the Governor for an additional 90 days until September 2, 2020⁴ and by its terms, the Commission's Emergency Order was also extended. The Governor's extension of the Proclamation of Disaster Emergency also extended the moratorium on evictions so that Pennsylvania citizens can remain in their homes during this difficult time. As of the time of the filing of these Comments, it is not known whether the Governor will further extend the Disaster Proclamation.

¹ See Proclamation of Disaster Emergency, (March 6, 2020) <https://www.governor.pa.gov/wpcontent/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>

² See Emergency Order, Docket No. M-2020-3019244, Statement of Chairman Gladys Brown Dutrieuille (March 13, 2020)

³ On March 16, 2020, the Commission issued a second Emergency Order that prohibited door-to-door, public events and in-person sales and marketing of energy supply services in Pennsylvania. On March 20, 2020, the Commission issued a third Emergency Order that authorized the suspension of regulatory and statutory deadlines.

⁴ See Renewal of Proclamation of Disaster Emergency, (June 4, 2020) <https://www.governor.pa.gov/newsroom/gov-wolf-renews-covid-19-disaster-declaration-for-state-response-and-recovery-stay-at-home-order-ends-june-4/>

On August 10, 2020, Chairman Brown Dutrieuille issued a Secretarial Letter requesting comments regarding lifting the moratorium on utility service terminations. The Secretarial Letter stated:

It is time to reconsider the March 13th Emergency Order. Maintaining a total moratorium for a time-period that is too lengthy may only work to accelerate the accrual of arrearages for many utility customers and place them at increased risk of default and termination in the future, when large bills inevitably become due.

Secretarial Letter at 1. The Secretarial Letter requested Comments by August 18, 2020 and stated that the Emergency Order would be addressed at the August 27, 2020 Public Meeting.

The Office of Consumer Advocate (OCA) appreciates the opportunity to provide comments on this important issue and appreciates the efforts taken by the Commission to protect the health and safety of Pennsylvania consumers. The situation surrounding the COVID-19 pandemic is unprecedented, and although all Pennsylvania counties are now in the “green phase,” Pennsylvania remains in the early, tentative stages of managing the safe reopening of our businesses, our schools and our communities. Many citizens, especially our senior citizens and those with underlying health conditions, will need to remain sheltered in their homes for their safety. And, it now appears that many families will spend portions, or all, of each school week in remote learning circumstances from their homes. The OCA respectfully submits that it remains premature to lift the termination moratorium.

It is important to note that although Pennsylvania has begun the reopening process, unemployment in Pennsylvania remains high. To put the issue into perspective, in 2018, Pennsylvania had a workforce of approximately 6,576,000 people,⁵ and in the time period between March and July 2020, approximately 2.29 million people had filed initial unemployment claims.

⁵ U.S. Census Bureau, 2018 American Community Survey, Table S2301: Employment Status.

That is approximately 35% of the Pennsylvania workforce. The U.S. Census Bureau has been conducting weekly surveys of households since April 23. In the first week, 46.9% of Pennsylvania households reported a loss of at least some employment income since March 13. By the twelfth week of the survey (the week ending July 21), that had risen to about 50% of households.⁶

The OCA would also note that while the federal government has provided a wide array of assistance to citizens and businesses, much of that assistance is ending, leaving consumers with fewer avenues of available assistance. Most critically, the additional \$600 per week unemployment benefit that has assisted many households in meeting their bills has ended and in Pennsylvania, the additional LIHEAP Recovery Program will end on August 31, 2020. While there is the potential for some portion of the state's share of the Coronavirus Aid, Relief and Economic Security Act (CARES Act) funding to be provided to assist with utility arrearages, there has been no final determination on this use.

Public utility service is essential to the health and safety of all residents and businesses in the Commonwealth. The impacts of the loss of utility service cannot be overstated. The loss of utility service is even more critical an issue in the midst of a pandemic when such service is necessary for sanitation and for making homes habitable when many citizens need to remain in their homes for health, safety, school, and work. The OCA recognizes the concern that the potential for growing arrearages may place additional burdens on ratepayers in the future. The OCA shares this concern. The OCA respectfully submits, however, that it remains premature to lift the Emergency Order prohibiting terminations at this time. In order to protect the health and safety of Pennsylvania consumers and the public, and to sustain our struggling businesses, the Emergency Order should be continued.

⁶ <https://www.census.gov/data/tables/2020/demo/hhp/hhp12.html#tables>

This, however, does not mean that no action, plans or programs should be pursued at this time. As an initial matter, the OCA submits that the collection of data to understand the scope and magnitude of the arrearages, the causes of any arrearages (whether it be from loss of income, increased usage, both or some other factor), and the responses to collection efforts that may have already been undertaken by our utilities is necessary. We also need further data to understand the impact on the utilities' operations and what efforts are underway at the utilities to manage expenses. Clearly most other businesses in Pennsylvania have experienced significant loss of revenue and income, have had to assess their priorities and "tighten their belts" during this pandemic. More information is necessary to properly determine the proper way forward and the proper time to move forward.

The OCA would also urge the Commission, the utilities and the interested parties to redouble efforts to reach out to customers in arrears to encourage payment, or payment arrangements, before the arrearages become overwhelming for the customer. Credit and collection activities, short of the use of termination notices or termination, should continue. As Chairman Brown Dutrieuille noted in her Motion of July 16, 2020, a "pre-termination" notice should be issued to residential and commercial customers with an unpaid balance advising them that they are at risk of termination at the conclusion of the moratorium. The OCA would also urge that a notice be sent to all customers that are more than 30-days in arrears encouraging the customer to address the arrearage. Such notices could serve to open the conversation with the customer about the arrears, and should be followed by additional outreach efforts.

The OCA further recommends the development of specialized programs for customers impacted by COVID-19 during this time frame that will allow customers to enter into special payment arrangements, with a minimal payment on the arrears, placement on budget billing, and

an arrearage forgiveness component. Such programs may encourage customers who are in arrears to enter payment arrangements without the threat of termination. Such a program can encourage customers to retire arrears in the near term, with some assistance of forgiveness, without facing the threat of immediate termination.

After these preliminary efforts and the collection of the necessary data, the OCA recommends that the Commission put in place a comprehensive plan that each utility will need to follow both before, and when, resuming termination of essential utility service. Many components of such a plan have been outlined by Chairman Brown Dutrieuille and Commissioner Coleman in their respective Motions and Statements. Some of these components have been voluntarily implemented by several utilities and the OCA commends those utilities for their proactive steps such as waiving late payment fees, entering into special payment arrangements with residential and business customers, engaging in additional outreach, and providing additional funding to their Hardship Programs. It is time, however, to have a comprehensive plan under the auspices of the Commission to ensure fair treatment for all utility customers.

Before providing more detailed comments, the OCA must stress that the entire burden of the COVID-19 pandemic cannot fall on the customers of the utility, whether residential, small business, commercial or industrial. All consumers are greatly affected by this pandemic, whether through loss of income, increased usage from work and school conducted at home, or health issues that have increased expenses of daily living. The Commission is tasked with balancing the interests of all relevant sectors of the public, but there are circumstances where it may not be possible to simultaneously satisfy all aspects of the public interest. The Commission should recognize that a proper balancing of the interests may require a sharing of this burden between shareholders and consumers. In making any determination under the unique circumstances that

we face today, the OCA respectfully submits that the Commission must be guided by the broad public interest and in particular, the need for public health and safety of consumers who must remain in their homes.

II. COMMENTS

A. Terminations Should Not Resume At This Time But The Commission Should Take Several Steps To Better Enable Payment Of Arrears.

As discussed above, the significant financial impacts of COVID-19 have not lessened for Pennsylvania consumers. It is the OCA's view that it is premature to lift the termination moratorium at this time when Pennsylvania remains in the midst of a public health crisis and an economic crisis that has not been seen since the Great Depression. Unemployment remains at 13% across Pennsylvania, with over 2.29 million Pennsylvania workers applying for unemployment in the first four months of the pandemic. Based on U.S. Census Bureau Household Pulse Survey, by the week ending July 14th, nearly 50% of Pennsylvania households reported a loss of at least some employment income since March 13. The Household Pulse Survey also found that more than one-fourth (28.9%) of Pennsylvania's workforce expected to suffer additional income loss during the upcoming four-week period (i.e., July 21 through August 18).⁷

The U.S. Census Bureau also surveyed small businesses beginning in May, 2020. By the end of June (the last week of data collected), more than 50% of Pennsylvania businesses said they would not return to normal operations for six months or expected to never return to the pre-pandemic level of operations.⁸

A recent survey conducted by the Electric Power Research Institute (EPRI) confirmed that customers are concerned about being able to afford their electric bills during this time. About two-

⁷ The U.S. Census Bureau survey also found that the lower a household's income, the greater the impact of the pandemic on the loss of income. Similarly, households categorized as being Black, Hispanic, or Asian were much more likely to have experienced an income loss and to expect additional income loss than are households headed by White and non-Hispanic persons.

⁸ U.S. Census Bureau, Small Business Pulse Survey, <https://www.census.gov/data/experimental-data-products/small-business-pulse-survey.html>

thirds of customers reported this concern, and approximately 20% of the survey respondents reported that their energy bills were higher because of the pandemic. The survey also found that more than 25% of the people who lost their jobs were planning to skip at least one utility payment, but that a much lower percentage were planning to contact their utility for assistance.⁹

This survey data begins to give us a picture of the circumstances faced by Pennsylvania citizens and businesses. Importantly, the surveys confirm that the economic circumstances of Pennsylvania citizens and businesses remain challenging, and the prospect for a rapid recovery in the Fall is not expected. The EPRI survey also confirms that more effort is needed by utilities to proactively reach out to consumers as consumers remain reluctant to contact the utility on their own to discuss any payment problems.

As an initial matter, the OCA submits that the Commission must collect more data on an on-going basis to understand the scope of the problem, the communities most affected, the reasons for non-payment, and the impact on the utility. The data collected by the Commission through June 15th provided some preliminary data on arrearages, but the data is incomplete and will likely change as many of the additional sources of income support are starting to end.¹⁰ The OCA submits that the Commission must obtain more detailed information from the utilities that is up to date, and that is continually updated throughout the process. The OCA has included, as Appendix A, a list of the data that should be collected to better inform the Commission's decisions. All of this information should be part of this record and available to the public.

⁹ Omar Siddiqui and Min Long, Impact of COVID-19 on Consumer Energy Use & Outlook: Results of EPRI National Survey (April 29, 2020), http://mydocs.epri.com/Docs/public/covid19/COVID-19_survey_report.pdf, pages 4, 7, and 12.

¹⁰ The special LIHEAP Crisis Recovery Program will end on August 31, 2020 and LIHEAP will not open until November 1, 2020. Many Hardship Fund Programs may also have had their funds depleted due to the unprecedented need. In addition, the federal supplement to unemployment has ended and it is not at all clear whether it will be continued and if so, at what level.

Before considering an end to the termination moratorium, the OCA recommends that the Commission require that all utilities begin substantial outreach and collection efforts for all customers who are more than 30 days in arrears. As the EPRI survey found, only a small percentage of customers were willing to reach out to their utility about their utility payment problems. That suggests that the utility should adopt a more proactive approach to reaching out to customers in arrears, and must enlist the assistance of community based organizations, churches, schools, senior centers, and many more agencies and organizations to reach customers. While some utilities have been engaging in additional outreach, further efforts through a notice promoted in multiple ways to each customer facing potential termination when the moratorium ends, is necessary.¹¹

To facilitate this collection activity, the OCA recommends that the Commission require all utilities to implement a short term COVID-19 Relief Plan directed toward customers who have found themselves in arrears since March 1, 2020.¹² Such a Plan would provide a means to offer some additional assistance to customers being contacted through the collection process. The additional assistance can serve as a one-time incentive to customers experiencing this disruption in their ability to pay -- an incentive to get back on track.

The critical elements of such a plan would include:

Eligibility: The customer is not otherwise participating in CAP and either:

- Has one or more workers in the household receiving unemployment benefits after March 1, 2020;

¹¹ Many of our energy utilities already have robust outreach plans for their Customer Assistance Programs, but the outreach should be broadened to reach the wider array of customers and businesses experiencing payment difficulties. Our water and wastewater utilities will also need to broaden their outreach and relationships with community based organizations to reach customers who are having difficulty paying their bills. Our telecommunications utilities may also need to do additional outreach especially in regard to the Lifeline Program.

¹² The OCA will provide additional discussion of Customer Assistance Programs later in these comments. It is important to consider, however, that our Customer Assistance Programs were not designed to be responsive to the type of pandemic situation we now face and may not be able to accommodate the needs of all customers.

- Has wage or salary income loss or reduction related to COVID-19 business disruption; or
- Has head of household over age 65 and has received a federal coronavirus relief check of \$1,200.

Certification: The customer can:

- Orally certify eligibility, with follow up documentation at a later time.
- Recertification of status periodically throughout the duration of the program.

Benefits:

- Waiver of all late payment fees.
- Freezing of arrearages at the time of enrollment from any collection activity or credit reporting.
- A write-off of a specific percentage or amount of the arrears with the written off amount placed in the utilities' COVID-19 deferral account for future consideration in a base rate case.¹³ The write off could occur immediately or monthly with each in full payment.
- A minimal payment towards the arrearage each month until such time as the program ends or eligibility ends.
- Placement on budget billing.
- A payment arrangement of the remaining amount at the end of the program term, or loss of eligibility, that reflects the longer of the payment time frames specified in Section 1405(b) or two times the length of time associated with the accrual of the arrearage.

Term:

¹³ The Commission has a long history of permitting recovery of deferred amounts for extraordinary circumstances over an appropriate amortization period with no return on the unamortized balance. See, UGI Corp. v. Pa.P.U.C., 49 Pa. Cmwlth 69, 77, 410 A.2d 923, 928 (1980) (a utility cannot “capitalize an item in its rate base and at the same time recover the item as an expense from ratepayers”); see also, Pa. Elec. Co. v. Pa.P.U.C., 53 Pa. Cmwlth 186, 193, 417 A.2d 819, 823 (1980); Butler Township Water Co. v. Pa. P.U.C., 81 Pa. Cmwlth. 40, 49, 473 A.2d 219, 223 (1984); Pa. P.U.C. v. Nat’l Fuel Gas Distribution Corp., 1994 Pa. PUC LEXIS 134, 219-220 (1994). This ratemaking treatment has served to effectuate a sharing of the burden and a balance of the interests. The OCA would urge the Commission to follow this long history when considering such deferrals.

- Continues until six months after the Governor ends the Disaster Proclamation.

A similar program could be developed for the many small businesses that are experiencing arrearages. As the data collected by the Commission on June 15th shows, small businesses are also experiencing increases in arrearages.

These initial steps of robust data collection, targeted collection and outreach activity, and specialized, targeted program to address the unique circumstances of the COVID-19 pandemic are designed to begin to address the arrearage balances for customers who have found themselves unable to fully pay their utility bills. Along with these efforts, it will be important for all stakeholders to continue efforts to secure additional resources to assist utility consumers, whether through additional donations to Hardship Funds or support for state and federal legislative efforts to direct funding to utility arrearage payment. These efforts will potentially lessen the scope of necessary terminations in the future and better inform our communications with consumers when the time comes that terminations resume in Pennsylvania.

Even before the time for resuming utility terminations comes in Pennsylvania, the OCA submits that additional consumer protections will be needed to safeguard the health and safety of the public.

B. Necessary Consumer Protections Must Be In Place Before Termination Activity Resumes.

When the Commission determines that terminations can resume in Pennsylvania, the OCA submits that it will be necessary to have adequate consumer protections in place to help prevent the loss of utility service. It is likely that the impacts of COVID-19 will be felt by Pennsylvania residents for many years to come, and some alterations in the currently existing consumer

protections may be needed during this time to assist consumers in maintaining service. Many of these protections were identified in Chairman Brown Dutrieuille's and Commissioner Coleman's Motions, and many have been voluntarily implemented by some utilities. While some utilities have taken action to put these protections in place, the OCA submits that Commission action is necessary to ensure that these protections remain in place and that the consumer protections are consistent across utilities to avoid any confusion or potential discrimination.

In addition, other utility programs, such as LIURP, Act 129 energy efficiency programs, and water conservation will need to play a part in addressing customers' needs. For energy utility customers, processes for directing customers to these energy efficiency programs will be critical, and it may be important to consider the use of Act 129 energy efficiency program audits to assist customers who are seeing increased energy usage as they spend more time at home engaged in work and school activity. For water utilities, further development of water conservation programs, or partnering with energy utilities in the delivery of conservation measures and information may be necessary.

Under the Commission's Emergency Order and under the Governor's Disaster Proclamation, the Commission should consider the temporary modification of certain Chapter 14 requirements and Chapter 56 regulations to address this public health crisis, many of which have already been implemented by several utilities. The Disaster Proclamation specifically provides:

FURTHER, I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency. Commonwealth agencies may implement emergency assignments without regard to procedures required by other laws, except mandatory constitutional requirements, pertaining to performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.

Disaster Proclamation at 2. The Commission’s Emergency Order in establishing the termination moratorium provided:

Under the unique circumstances presented by the COVID-19 pandemic, establishing a termination moratorium for utility services – including electric, natural gas, water, wastewater, telecommunications, and steam – is consistent with the Governor’s Proclamation of Disaster Emergency and the requirement of Section 1501.

Emergency Order at 1.

It is clear that the loss of utility service would “prevent, hinder, or delay necessary action in coping with this emergency.” The loss of utility service will greatly impact the health and safety of the public. Residential customers who lose service and attempt to remain in their home will be without necessary sanitation, light and heat. We know that even short periods without utility service can have tragic results. Customers may also be forced to leave their homes. The loss of habitability of residences can result in families being forced to live with one another in closer quarters, attempting to use shelters which may be overcrowded, or simply being homeless, which can contribute to the spread of this disease.

The Commission should act now to implement the necessary consumer protections whether terminations begin now or in the future. This action will help to guide the utilities in preparing to resume termination and in their current communications and collection efforts with customers.

1. Additional Consumer Protections That Should Be Implemented

Chairman Brown Dutrieuille and Commissioner Coleman have identified many of the critical consumer protections that will be necessary. The OCA captures below those protections and other recommendations. In order to address the significant health and safety concerns that could arise from the loss of utility service, the OCA recommends that the Commission consider the following:

- **Terminations should not resume until the Commission and the utilities have adequate staffing to address the increased Call Center volume and complaint volume that is likely to occur.**

Before the process of sending termination notices even begins, it will be essential for the Commission's Bureau of Consumer Service and the utility Call Centers to be operating at full staffing levels. Any termination process is going to increase the number of calls to establish payment arrangements and complaints about the termination notices, the accuracy of the account balance, and other such issues. It would be unconscionable to send large volumes of termination notices, or even "pre-termination" notices, without the staffing at the Commission level and the utility level necessary to address customers' concerns. The Commission's website states that BCS is only handling emergency calls, but this volume is likely small in comparison to what will occur with the sending of large volumes of termination notices. Each utility should be required to certify it has returned to full staffing levels with its customer service representatives and has adequate plans for overflow calls before being permitted to resume termination. The Commission should also be sure that BCS is fully staffed and able to handle all calls that may arise from any initiative.

- **The Commission should require at least a 20 day notice, and possibly a 30 day notice, prior to termination. (Section 1406(b)(1)(i) and 52 Pa. Code Section 56.91)**

Currently, the Commission provides for a written notice that specifies that service will be terminated in 10 days. Although the utility has up to 60 days to act on this notice, the notice itself provides the 10 day time frame and the utility may act in 10 days if all other conditions are met. Given the circumstances, additional time should be provided to the customer, the utility and the Commission. The notice begins the conversation between the utility and the consumer, and it also begins the contact with the

Commission over any disputes with the termination. It is likely that even with full staffing, it may be difficult for customers to timely reach the utility or the Commission to begin this conversation. Hardship funds, social service agencies and other assistance groups are also likely operating with limited hours and limited staffing. Given these restrictions, it seems as if a 10 day period is entirely too short. The OCA recommends at least a 20-30 day notice period before any termination could occur.

- **The Commission should require in-person personal contact with the customer or responsible adult on the day of termination before any termination and should require posting of a 48-hour notice if no contact is made regardless of the time of year. (Section 1406(b)(1)(iii) and (iv) and 52 Pa. Code Sections 56.94, 56.95)**

The in-person contact procedure on the day of termination helps to identify customers that may be in need, or perhaps have health or safety issues that must be addressed before termination. This procedure, often referred to as the “last knock,” gives the customer a final opportunity to make payment, enter payment arrangements, or make necessary plans for the household. It also gives the utility an opportunity to determine if a health or safety situation exists in the home. The additional 48 hour notice before the termination is completed if no contact has been made is also essential at all times of year under the current circumstances. Although the time period may be short under the circumstances faced today, it should be required to provide the customer with time to prepare.

- **The Commission should authorize an additional payment arrangement for a customer who has defaulted on a payment arrangement. (Section 1405 (d))**

Due to the economic devastation of COVID-19, many consumers lost their jobs or had decreased employment that impacted their ability to maintain payment arrangements. While many of these consumers may qualify for another payment arrangement due to

a “change in income,” some customers may not meet this technical requirement or may have had a significant change in expenses, including increased utility expense from the stay at home orders. Consumers should not be penalized for these circumstances, and the Commission should authorize consumers to be issued more than one payment arrangement if the consumer defaults on a payment arrangement or has previously defaulted on a payment arrangement.

- **For customers with incomes up to 250% of FPL (based on the customer’s current 30 day income annualized), utilities should be required to offer the maximum payment arrangement time period specified in Section 1405(b). (Section 1405(b)(1) and (2))**

Section 1405(b) provides payment arrangement time frames of 5 years for customers with gross monthly household incomes not exceeding 150% of the Federal Poverty level and a time frame of 3 years for customers with a gross monthly household income exceeding 150% of FPL but below 250% of FPL. While a customer may wish to enter into a shorter time frame for repayment depending on the amount of the arrearage and the customer’s circumstances, these time periods should be clearly conveyed and offered to customers as an initial matter during any collection activity.

- **For customers with incomes between 250% - 300% of FPL, the payment time frame should be for a minimum of 24 months. (Section 1405(b)(3))**

For customers with income between 250-300% of the Federal Poverty Level, Section 1405(b)(3) provides for a payment arrangement time frame of one year. For much of Pennsylvania, a sustainable income for a household is over 250% of FPL. One in four Pennsylvania households, over 846,000 households, lack the necessary income for self-sufficiency.¹⁴ For a household of 3 (including 2 adults and one school age child) in

¹⁴

https://pathwayspa.org/wp-content/uploads/2020/01/PA2019_OverlookedUndercounted_Web.pdf

Philadelphia County, the household would need a gross annual income of \$53,820. For the same household in Allegheny County, the household would need a gross annual income of \$46,366.¹⁵ Households with these income levels are not considered self-sufficient, yet they do not qualify for additional assistance such as LIHEAP, CAP or Hardship Funds. These customers have also likely seen an increase in home energy usage due to stay at home orders as well as a potential loss of income. To assist these customers, payment arrangements of at least 24 months should be offered to the customers.

- **For customers with income over 300% of the FPL, payment arrangement time frame should be for a minimum of 12 months. (Section 1405(b)(4))**

Under Section 1405(b)(4), customers with incomes above 300% of FPL are provided a six month payment arrangement. Under the circumstances of this pandemic, and given the fact that many of these customers may also be experiencing increased expenses, increased energy usage, and reductions in income, the OCA recommends extending the payment arrangement time frame to 12 months.

- **Waiver of all late payment fees, deposit requirements and reconnection fees should be required.**

The Commission should order the utilities to waive all late payment fees, deposits and reconnection fees during the duration of the COVID-19 pandemic. These fees present a barrier to retaining service or re-establishing service if a termination occurs. Customers with an inability to pay are not likely to be able to come up with these additional fees. In addition, if these fees are included in grant amounts from Hardship

¹⁵ <https://pathwayspa.org/2020standard/standardbycounty/>

Funds, other social service agencies, or community groups, it may unduly reduce the number of customers who can be served from these funds.

- **Additional medical certificates should be available to customers who may have already exhausted them, the time frame for securing the medical certificate should be extended, and verification requirements should be streamlined. ((52 Pa. Code Sections 56.112, 56.113 and 56.114)**

The Commission should allow for at least two, if not more, medical certificates for customers who have exhausted the number of medical certificates provided by the Commission regulations. It will be critical for consumers to have access to additional medical certificate extensions. The Commission should also consider allowing medical certification orally or by email from the medical professional as many medical facilities are working with reduced staffing, tele-visits, and limited access to patients and families. In addition, the Commission should extend the time necessary for the customer to obtain the verification of the medical condition if made orally from 3 days to 30 days. COVID-19 is been a public health crisis. These streamlined verification requirements will be necessary under these circumstances.

- **Streamlining and simplification of all income verification and documentation requirements.**

As government and private industry have been overwhelmed by this pandemic, it is increasingly difficult and time consuming for customers to obtain certain documentation. In addition, many customers who do not have access to the internet and utilize libraries for this purpose are unable to access libraries as they remain largely closed. Documentation requirements should not be a barrier to entering a payment arrangement or maintaining service. A streamlining of these requirements will be necessary for all customers.

- **Developing and allowing website application for all programs and payment arrangements.**

While it may be difficult for some customers to access the utilities' websites, others will have continued access. Ensuring that each utility has a website application process for each of its programs as well as for payment arrangements, may facilitate customer enrollment in the programs and in payment arrangements. The Commission must ensure that any descriptions and instructions clearly explain all available protections, but several utilities have had success with such a website process when the customer is reluctant to speak with a customer service representative. This process can also help to reduce time pressure on utility Call Centers.

- **Adverse credit reporting should be prohibited at this time.**

Several utilities report non-payment of utility bills to the credit reporting agencies which can adversely impact a customer's credit score. A reduced credit score can make borrowing more expensive for the consumer or perhaps preclude loans altogether. In this time frame, due to large scale unemployment, decreased hours of employment, and other financial impacts, adverse credit reporting could simply make matters worse. The additional financial impact of an adverse credit score will make it even more difficult for customers to remain current on their utility bills.

- **Streamlining the process to connect customers with energy efficiency and water conservation programs, as well as better coordination of the programs and making such programs broadly available is necessary.**

As customers remain at home for safety, school and work, it is likely that utility usage will increase. It is not only the reduction in income that affects a customer's ability to pay, but also the total bill that the customer has to pay. This total bill can be impacted by increased usage. An essential component of any plan to resume terminations will

be to maximize the use of the energy efficiency and water conservation programs that are in place. Efficient delivery of these programs, through energy and water utilities working together when a home is being treated, will be important to maximizing the energy efficiency and water conservation funding.

■ **Small Business and Commercial Programs providing similar flexible payment arrangements, waiver of fees, and flexible reconnection policies will be needed.**

As noted above, small businesses in particular are seeing loss of business income and increasing arrearages. Small businesses typically do not have the same protections afforded by the Public Utility Code to residential customers. In this situation, the OCA submits that small businesses are in need of additional protections. The OCA has focused its comments on residential customers and will defer to the Office of Small Business Advocate as to the full parameters of a program for small business customers. The OCA respectfully submits, however, that at a minimum, small businesses should be afforded flexible payment plans, a waiver of late payment fees, and flexible reconnection policies if a termination or self-disconnection of service occurs.

■ **Encouraging further shareholder contributions to the Hardship Funds and expanding Hardship Fund eligibility to at least 250% of the Federal Poverty Level if not 300% of FPL.**

The Hardship Funds play a vital role in assisting customers with payment difficulties. The Hardship Funds are largely supported by their fundraising efforts, as well as donations from shareholders, employees and customers. Several utilities have announced increased donations to the Hardship Funds from utility shareholders as well as an expansion of the eligibility requirements for receiving a grant. The OCA commends these utilities and strongly encourages the continuation of such additional donations and the expansion of the eligibility requirements. The OCA urges the

Commission to make clear that it too encourages utilities to take such actions in light of this pandemic. The OCA also recommends that Hardship Fund grants be available to customers with incomes up to at least 250% of FPL if not higher. As discussed above, an income below 250% of FPL is not considered a sustainable income in Pennsylvania yet many utilities do not allow customers with incomes up to 250% of FPL to receive Hardship Fund grants. These customers are often asked to bear the burden of increased utility costs, but have no assistance available to them. An increase in the eligibility requirements as well as in funding, should provide some means to assist customers that traditionally have had no other options.

The OCA submits that these steps are necessary to be in place when terminations resume to protect the health and safety of the public during these difficult times. While it may seem as if there are a large number of items to implement and develop, this challenge should be accepted by our stakeholders. The OCA stands ready to work with all stakeholders to further develop this framework in as efficient a manner as possible and in the best interests of the health and safety of all citizens of Pennsylvania.

2. Customer Assistance Programs for Energy Utilities and Some Water Utilities Should Be Modified To Address The Current Circumstances.

Many of the protections identified above will assist low income customers, those with an income at or below 150% of the Federal Poverty Level, with restoring on-time payment of utility bills and reducing arrearages. Many low income customers, however, are already participating in Customer Assistance Programs operated by the energy utilities or would have been eligible for such programs before the pandemic, but were managing their bills. As expenses within the home increased as a result of the pandemic, customers may now need this assistance and those customers

in the program will face more challenges in maintaining their participation. For water and wastewater utilities, customer assistance programs are limited and are unlikely to meet the need for assistance that is resulting from the current circumstances.

The OCA would caution, however, that our customer assistance programs may not be able to handle all customers whose income may now have fallen temporarily below 150% of Federal Poverty Level. Our CAPs were not designed for such a short term emergency and the cost consequences could be overwhelming for the other residential customers who must bear the costs of the program. As such, the OCA recommends that customers who might otherwise face termination as a result of the COVID-19 crisis not be automatically placed in CAP. Rather, if the customer is newly in arrears since March, 2020, or has not had recent arrearages, the customer should be screened for participation in the short-term COVID Relief Program described above or considered for placement on an extended payment arrangement. If placed in one of these programs, the customer should be periodically re-screened every few months to determine if moving the customer into CAP is appropriate. If the customer is placed in CAP during this time frame, the customer should be required to recertify income every six months to ensure that the customer remains eligible for CAP and is receiving the appropriate payment amount based on current income.

In addition to this process, the OCA would recommend the following for any assistance program offered to low income customers:

- **Water and wastewater utilities should expand assistance programs and participate in and donate to, Hardship Funds so that their customers can benefit from grants.**

As mentioned, water and wastewater utilities do not have the same type and scope of assistance programs as energy utilities in Pennsylvania. While it is time for water and

wastewater utilities to consider the implementation of such programs, that may not be possible in the short term. In the interim, the OCA recommends that water and wastewater utilities be directed to expand the existing programs they have to serve more customers and to participate in the local Hardship Funds to allow customers to receive grants to reduce arrearages.

- **CAP and Water Assistance Program recertification processes for current participants should be streamlined allowing for self-verification of income and different forms of documentation during the recertification process for the duration of the Disaster Proclamation.**

As discussed above, obtaining documentation can be difficult at this time as many agencies and employers are working with reduced staffing and unable to fulfill requests for documentation on a timely basis. To assist customers in retaining eligibility to participate, documentation requirements should be streamlined and minimized so as to not unnecessarily exclude customers from assistance programs.

- **Self-verification of income should be allowed with periodic re-verification of income for newly enrolled customers.**

Similar documentation problems exist for customers seeking to newly enroll in assistance programs. To facilitate participation, but still ensure eligibility throughout participation, the utility should allow self-verification and re-verify income at least every 6 months. The utility should require proper documentation and verification of income within 90 days of the end of any Commission Order or the Disaster Proclamation.

- **Assist all low income customers in applying for other low income assistance including LIHEAP and all other available programs.**

A fundamental component of universal service programs is the Customer Assistance Referral and Evaluation Program (CARES). CARES will be even more important

going forward as it will be necessary to bring all avenues of assistance to customers in helping them pay their bills. While participation in LIHEAP has not been a requirement for participation in CAP, the OCA submits that utilities should assist their low income customers in applying for LIHEAP and other assistance programs during this time. Water and wastewater utilities should also consider a CARES component to assist in directing customers to needed resources.

III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide these Comments. The OCA respectfully requests that the Commission determine that it is not yet time to lift the termination moratorium, implement the interim steps recommended by the OCA before further consideration of termination, and implement the necessary consumer protections.

Respectfully submitted,

/s/ Tanya J. McCloskey
Tanya J. McCloskey
Acting Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: tmccloskey@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAappleby@paoca.org

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
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APPENDIX A DATA COLLECTION

The following data should be reported beginning immediately and throughout the COVID-19 pandemic on a monthly basis:

- The amount of billed revenue for current service (2019 and 2020)
- The amount of receipts actually collected (2019 and 2020)
- The number of accounts in arrears (total and by income distribution) (2019 and 2020)
- If possible, the distribution by zip code of accounts in arrears (2019 and 2020)
- The dollars of arrears (both total and by vintage, i.e., 30-60 days, 60-90 days, 90+days) (2019 and 2020)
- The average arrearage of customers (2019 and 2020)
- The number of payment arrangements entered into since March 2020
- The average length of payment arrangements (2019 and 2020)
- The identification of the reason for arrearages as conveyed by the customer
- The number of failed payment arrangements (2019 and 2020)
- The number of failed payment arrangements since March 2020
- The number and dollar amount of LIHEAP Crisis Recovery Program Grants received by the energy utilities
- The number and dollar amount of LIHEAP Cash and Crisis received by energy utilities (2019 and 2020)
- The number and dollar amount of grants from Hardship Funds, social service agencies or other community organizations (2019 and 2020)
- The number of customers added to the Customer Assistance Program or the Water Assistance Program since March 2020
- The number and dollar value of accounts written off as uncollectible (2019 and 2020)
- The number of customer service representatives working each shift (2019 and 2020)

- The number of outbound collection calls (2019 and 2020)
- The number of inbound calls related to payment difficulties (2019 and 2020)
- The measures taken by the utility to reduce expenses, defer non-safety related or non-critical capital items, and the efforts to secure state or federal funding that may be available.

Once termination begins, additional data to be collected should include:

- The number of accounts sent a termination notice
- If possible, the distribution by zip code of the disconnection notices
- The number of accounts entering a payment arrangement following a termination notice
- If possible, the distribution by zip code of accounts entering payment arrangements following a termination notice
- The average length of the payment arrangements entered into after notice of termination
- The number of accounts disconnected for non-payment
- If possible, the distribution by zip code of accounts disconnected for non-payment
- The number of service restorations after disconnection for non-payment
- If possible, the distribution by zip code of the service restorations following disconnection by zip code
- The duration of the service disconnection in 5 day increments, *i.e.* 0-5 days, 6-10 days, 11-15 days, *etc.*

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