

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

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

**Public Meeting July 16, 2020
3020853-CMR
Docket No. M-2020-3019244**

**JOINT STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.
AND COMMISSIONER RALPH V. YANORA**

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. Pursuant to this Proclamation, the Governor subsequently ordered the closure of all schools and non-life sustaining businesses, banned large gatherings, and ordered all Pennsylvania citizens to stay at home except under very limited circumstances.

On March 13, 2020, relying on both this Proclamation and in anticipation of expected travel and work restrictions, under the provisions of Section 1501 of the Public Utility Code, the Commission issued an Emergency Order establishing a prohibition on the termination of public utility service and directing the reconnection of service to customers previously terminated for the duration of the Proclamation, or until a time otherwise established by the Commission. This Emergency Order was ratified at the March 26, 2020 Public Meeting.

On May 29, 2020, the Commission issued a Secretarial Letter to all public utilities requesting information on a number of topics, including the number of customers that would be subject to termination, and a comparison with the same information from this time in 2019.¹ Nearly all of our electric, gas, water and telecommunication utilities of any size responded to the letter. In addition, various stakeholders have communicated with the Commission as to preferred approaches to ending the termination moratorium.

Based on this information, at the June 18, 2020 Public Meeting, I proposed a Motion to revisit and modify the Commission-imposed termination moratorium. That Motion failed on a 2-2 vote, and the moratorium currently remains in effect. Today, we oppose a motion in which the Commission does not take responsibility for its own termination moratorium and proposes that an incomplete group of stakeholders participate in an off-the-record process that directs these participants to produce what

¹ *COVID-19 Customer Service, Billing, and Public Outreach Provisions Request for Utility Information*, Docket M-2020-3020055 (Secretarial Letter issued May 29, 2020)

may be a rushed and potentially one-sided result regarding an end date for the termination moratorium.

Commissioner Yanora and I do not agree with that approach. Rather, we believe the Commission should take responsibility for the consequences of imposing the termination moratorium. This includes the consequence of asking those who have paid their utility bills on time to pay for those who have not. The difficult choices surrounding this matter will only become more cumbersome over time. It is now time for the Commission to provide leadership and certainty on the dates and terms under which terminations may resume and, separately, on a careful and considered approach to the long-term management of delayed or unremitting utility payments during the COVID-19 pandemic. It is well within the Commission's ability to provide this leadership and certainty based on the information already in hand from interested stakeholders and the expertise at its disposal.

Reevaluation of the Moratorium

We believe it appropriate to revisit the duration of the moratorium at this juncture. We incorporate by reference the following points made in my prior Motion:

- Other states have reached similar conclusions and established end dates for their moratorium. Since June 18, additional states, including but not limited to West Virginia, Delaware, and New Hampshire have chosen to end their moratoriums this month. See <https://www.naruc.org/compilation-of-covid-19-news-resources/state-response-tracker/>
- The Commission must balance the needs of customers and utilities. The continued trends of undercollections due to the moratorium may negatively impact utility operations and result in costly short-term financing to replace lost revenues. The prolonged moratorium may result in significant financial risks for residential customers. Without the obligation to stay current with their bills, customers may develop large balances they can never repay, to the resulting detriment to their personal credit and ability to obtain utility service in their name. Unfortunately, it is not uncommon for the Commission to review cases where arrearages in excess of \$10,000 have built up due to effects of the winter moratorium, use of medical certificates, and the filing of complaints. At such a point, most balances of this size are not repaid, and most customers are faced with the loss of service or the filing of bankruptcy.

Further, on July 10, 2020, the Energy Association of Pennsylvania sent a letter to the Commission asking that we lift the moratorium effective August 1, 2020. In its letter, the Association observed:

- Customers are not taking full advantage of the supplemental Low Income Home Energy Assistance Program (LIHEAP), or applying for utility provided universal service programs at the expected levels. Its members believe that the resumption of the normal termination and collection process would prompt customers to use these programs.
- Its membership has engaged in substantial outreach to customers to advise them of these programs and how they can benefit from using them.
- Its members have voluntarily waived various requirements or gone beyond what the law requires to assist customers, including but not limited to the following:
 - Offering special payment agreements not bound by usual income or term requirements.
 - Maintaining Customer Assistance Program enrollment for customers who did not meet the annual recertification requirement.
 - Facilitating website enrollment in assistance programs.
 - Offering company-funded grant programs for customers not otherwise eligible for assistance.
 - Waiving late payment fees.
 - Considering payment agreements for small business customers.

We conclude that the actions already undertaken by many of our largest utilities, and the risks associated with further inaction, justify a modification of the moratorium. We remind everyone that Pennsylvania customers already benefit from very robust protections under our regulations and Chapter 14, and those benefits will ensure that customers are adequately protected going forward. Pennsylvania's customer protections and assistance programs are substantially larger than many other states, almost all of which have significantly smaller universal service programs. Therefore, we believe that the Commission should have taken action today to rescind the termination moratorium by permitting the issuance of 20-day termination notices in early August.

By failing to do so, a time-sensitive opportunity has been lost. This includes some opportunity for utilities and customers to take advantage of the time limited supplemental LIHEAP program, which expires on August 31, 2020. We have also lost the opportunity to formalize certain actions already undertaken by many of our utilities, as a condition for lifting the moratorium. These include various waivers through December 31, 2020, including, but not limited to:

- Waiver of late fees for residential customers.
- Waiver of connection and reconnection fees for residential customers.
- Waiver of security deposits for residential customers.

In addition to the above, we would have encouraged utilities to voluntarily undertake additional actions through December 31, 2020 to assist those customers otherwise ineligible for payment assistance under the Public Utility Code. While we do not believe the Proclamation authorizes the Commission to expand its statutory authority under Chapter 14 without the approval of the General Assembly, the Proclamation does afford us the flexibility to encourage utilities to:

- Accept additional medical certificates for customers who may have otherwise exhausted them.
- Use flexible income verification methods.
- Establish flexible payment arrangements for residential customers outside the specific formula established in Chapter 14 of the Code utilizing the theme of affordability and prudence.
- Establish flexible payment arrangements for small commercial customers.
- Establish additional, and flexible, payment arrangements for customers whom a utility would not otherwise have offered an arrangement due to payment history.

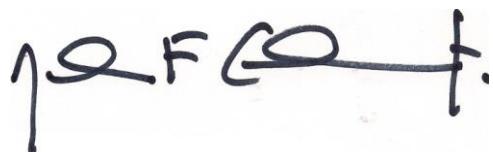
We believe that the Commission should also have acted today to establish ongoing reporting requirements related to the numbers of disconnections, customers at risk of disconnection and those that have entered into payment agreements. By failing to do so, utilities, and ratepayers by extension, will incur additional costs that could have been avoided. Our ability to offset these costs with federal aid will also be compromised. Because of this delay, the conditions we might attach to a modification of the moratorium in the future may be very different than what we would have supported today.

In addition, we have missed an opportunity to clarify the availability of expense and cost recovery mechanisms related to the Commission's imposition of the termination moratorium given its extended duration. For example, additional expenses associated with connections and reconnections, unrecovered through fees, and any other additional expenses incurred as a result of compliance with the moratorium should be eligible for inclusion in a utility's COVID-19 designated regulatory asset. In addition, recovery, including carrying costs, of a company's regulatory asset should be included in the company's next base rate case or proposed in a separate proceeding within three years to avoid generational issues. The failure to address this issue adds even more uncertainty to a difficult situation.

As already stated, we oppose the additional stakeholder process proposed today and believe that it is duplicative of the Commission's efforts to obtain data from the utilities regarding terminations thus far. Rather, we would have supported a clear end-date to the termination moratorium with additional stakeholder processes put in place to focus on the development of long-term solutions to manage the future impacts of COVID-19 on our regulated utilities and ratepayers. Public utilities could have been

given the opportunity to begin the process of focusing customer's attention on overdue balances, negotiating payment arrangements, and discussing assistance options. Those conversations should have essentially been allowed to proceed in parallel with a longer, more deliberate review of long-term issues.

With the continued uncertainty surrounding the moratorium, it is even more important that all customers proactively manage their utility service status. If you are concerned about your ability to pay your bill, please begin by contacting your utility. They will review various options with you, including payment agreements, budget billing, universal service programs, and the supplemental LIHEAP program. If a resolution cannot be achieved, customers may request that the Commission mediate and consider a payment arrangement.



JOHN F. COLEMAN, JR.
COMMISSIONER



RALPH V. YANORA
COMMISSIONER

Date: July 16, 2020