

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

**Public Utility Service
Termination Moratorium**

**Public Meeting March 11, 2021
3019244-CMR
Docket No. M-2020-3019244**

STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.

Governor Wolf issued a Proclamation of Disaster Emergency on March 6, 2020 that identified the COVID-19 pandemic as a disaster emergency. Pursuant to this Proclamation, the Governor 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 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 for all customers for the duration of the Proclamation, or until a time otherwise established by the Commission. The Commission reasoned that the continued provision of utility service to all customers, even those substantially behind on their bills for utility service, was necessary for the safety of the public. My support for this Emergency Order was strongly influenced by the “stay at home” provision of the Proclamation. If customers were under an order to stay home, it would be inappropriate to allow utilities to disconnect their service without very good reasons. Over the course of last summer and fall, many of the restrictions put in place on travel, schools, and businesses were lifted by the Governor. On that basis, the Commission voted to end the absolute moratorium on October 8, 2020.

There may be some confusion on the status of the moratorium, so I will reaffirm that point: On October 8, 2020, the Commission voted to end the termination moratorium. Relevantly, the Commission stated that:

“The absolute utility service termination moratorium is lifted and disconnections may commence effective November 9, 2020.”¹

Public utilities were permitted to resume the disconnection process by issuing notices to customers. Residential customers at or below 300% of the federal poverty level were classified as “protected.” Protected customers could avoid termination through March 31, 2021, if they met certain conditions.

¹ *Public Utility Service Termination Moratorium – Modification of the March 13th Emergency Order*, Docket M-2020-3019244 (Order entered October 13, 2020).

Despite having the power to resume the termination process for past due balances, public utilities elected to use this option for relatively few accounts. The level of terminations appears to be roughly consistent with numbers from the 2019-2020 period. Some utilities announced that they would not utilize their termination and collection processes at all during this period.

Three weeks after our termination moratorium ended, the “winter moratorium”, which is unrelated to the COVID pandemic, began on December 1. The winter moratorium, which has been part of the Public Utility Code since 2004, prohibits terminations to residential gas or electric customers at or below 250% of the Federal Poverty Level from December 1 through March 31. Both the winter moratorium and the special protections put in place in the October 8 Order expire on March 31, 2021. The question now before us is whether to renew or modify the special protections we put in place in October 2020.

In considering this question I have reviewed the comments filed in response to the October 8, 2020 Order. I have also reviewed the reports prepared and filed by public utilities regarding the number of accounts and amount of dollars in arrears. I have also taken notice of enacted state and federal legislation that has provided, or will provide, financial assistance to public utility customers with arrearages. Some of the funds initially allocated to Pennsylvania remain unspent. Meanwhile, new sources of funding are already being made available to customers by county governments.

The public utilities have reaffirmed that the disconnection of service is a last resort. They would much prefer to keep than lose customers, and the utilities have an array of programs and services designed to achieve just that. However, utility service, like any service, must eventually be paid for. The Commission affirmed the constitutional right of utilities to recover their costs through the creation of regulatory assets that track the costs associated with the termination moratorium. Public utilities will be given the opportunity to recover those costs from ratepayers, including those who have stayed current with their bills. Need it be said, the Commission is obligated to consider and balance the interests of all customers, not just those who, understandably, had difficulty remaining current with their utility bills over the past twelve months. Most residential utility customers, including most low-income customers, are presently current with their bills.

Based on a review of the data and comments, it appears that not as many customers as we hoped took advantage of the opportunity to enter into agreements, apply for assistance, or satisfy their arrearages. While the overall number of customers in arrears has fluctuated, the size of the arrearages has continued to grow substantially and disproportionately. The comments filed by utilities suggest that the moratorium, and the public attention it has drawn, has affected historic customer practices regarding the management of arrearages and maintenance of service. While well intentioned, the extended termination moratorium of 2020, which overlapped with the 2019-2020 winter moratorium and ended just three weeks prior to the 2020-2021 winter moratorium, may have worked to discourage the normal customer practice of entering into payment

agreements, applying for assistance, and thereby reducing arrearages. This seems to be confirmed by the level of customer participation in utility assistance programs, which has remained relatively stable despite very significant economic dislocations over the past year. As utilities resume recertifications for these programs, participation levels are expected to decrease significantly.

Accordingly, I find it appropriate to reaffirm our prior decision regarding the moratorium. However, I do support maintaining special rules for payment arrangements through the end of 2021, as outlined in the Motion of the Chair. Otherwise, I believe that public utilities are able to and should resume normal operations, and that they will work diligently to help customers maintain service. I am also assured, and the citizens of this Commonwealth should be assured, that strong consumer protections are already in place for public utility customers.

The Commission's consumer protections are embodied in Chapter 56 of its regulations. These regulations were reviewed and updated in 2019 by a unanimous Commission vote. The Commission's final rule was reviewed by our oversight committees in the General Assembly, the Pennsylvania Office of Attorney General, and were given unanimous approval by the bipartisan Independent Regulatory Review Commission on April 18, 2019.

I think it is worth reviewing some of the key elements of Chapter 56 for those members of the public not already familiar with them. As it pertains to termination of service, Chapter 56 requires that:

- Public utilities must give customers 10 days' notice before termination, which will include a detailed explanation for how to maintain service.
- An additional attempt at personal contact must be made 3 days prior to termination.
- Finally, one last attempt is to be made by the utility immediately prior to termination.
- Customers have four options to avoid termination of service:
 - Pay their arrearage in full.
 - Enter into a payment arrangement with the utility.
 - Enroll in a customer assistance program.
 - File a dispute over the arrearage with the Commission.

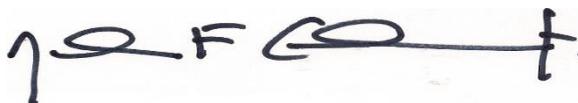
If a customer believes that the proposed payment arrangement is unreasonable, they may request that the Commission review the matter and set an alternative payment arrangement. The utility may not terminate service for disputed charges while a dispute is pending with the Commission. As a general rule, public utilities will give customers a payment arrangement unless there is a prior history of breaking multiple agreements. Our utilities maintain a large staff of customer service representatives who are well trained and ready to assist customers in navigating this process. Public utilities'

compliance with Chapter 56 is tracked, measured, and audited on a regular basis and in my view, performance has been excellent.

Separate and apart from Chapter 56, the Commission's electric and gas utilities are required to fund and operate universal service programs to assist low income customers in maintaining service. For the larger electric and gas utilities, these programs include customer assistance programs, which offer customers the opportunity to receive a reduced rate for as long as they are income-eligible, and to have their outstanding arrearages forgiven by making regular payments on their current balance. As of a report released several years ago, Pennsylvania's universal service programs were the second largest, as measured by funding levels, in the nation.² Over the past year, utilities have modified existing programs or sponsored new programs to provide customer assistance. I encourage our utilities to continue these efforts as appropriate.

I also agree with comments offered last year that the Commission may not go beyond the substantive parameters of its enabling legislation in its response to the pandemic. The Emergency Proclamation provides the Commission additional, but limited, latitude in response to this crisis. The Commission has concluded that it may not disregard the substantive provisions of the Public Utility Code that involve the rights, duties, and obligations of utilities and customers.³

In conclusion, I believe that today's Motion strikes the right approach in protecting and balancing the interests of all customers and utilities, which is one of the goals of any Commission action.



Date: March 11, 2021

**JOHN F. COLEMAN, JR.
COMMISSIONER**

² Office of Consumer Advocate Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907, Appendix B.

³ *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania*, Docket R-2020-3018835 (Opinion and Order entered August 20, 2020); *Pennsylvania Public Utility Commission v. Pennsylvania American Water Company*, Docket R-2020-3019369 (Opinion and Order entered August 20, 2020)