

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

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

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

MOTION OF VICE CHAIRMAN DAVID W. SWEET

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.¹ 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 Brown Dutrieuille issued an Emergency Order (March 2020 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.²

Subsequently, on October 13, 2020, the Commission entered an Order (October Order), moving from an absolute moratorium to a less restrictive phase. The Order allowed for terminations to resume effective November 9, 2020 for residential customers with incomes above 300% of the Federal Poverty Level (FPL) and for small business customers. Prior to terminating a customer, each utility was required to send a communication (“pre-termination notice”) to customers who had unpaid balances that put them at risk of termination at least ten days before sending the standard termination notice.³

The October Order also provided protection from termination for residential customers (“protected customers”) with incomes below 300% of the FPL who applied for all assistance programs for which the customer was eligible and requested a payment arrangement from the utility, if applicable. The Commission established other important consumer protections, including the waiver of all connection, reconnection, deposit and late payment fees for protected customers; an expansion of the medical certificate requirements; flexible income verification processes; and data reporting. The Commission also provided protections for small businesses, including the offering of a payment arrangement of no less than eighteen months to those customers. Utilities were directed to file monthly reports regarding the number of “at-risk” accounts, as well as total arrearages by customer class. These protections and reporting requirements are to remain in place until March 31, 2021 or until the Commission takes further action on this matter – whichever is sooner.

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, *Public Utility Service Termination Moratorium*, Docket No. M-2020-3019244 (Order entered March 13, 2020).

³ See *Public Utility Service Termination Moratorium – Modification of March 13th Emergency Order*, Docket No. M-2020-3019244 (Order entered October 13, 2020).

In December, after our October Order was entered, Congress approved a significant stimulus package, which directed roughly \$848,000,000 to Pennsylvania in funding for rent and utility assistance. A percentage of that funding was directly allocated to larger counties, which are currently establishing programs to ensure this much needed funding is received by residents. But a larger percentage—\$570,000,000 in total—was directed to the Commonwealth, and was this week distributed to all counties. The Pennsylvania General Assembly only recently passed legislation appropriating these funds and establishing a grant program overseen by the Department of Human Services (DHS) and administered by the counties.⁴ As DHS Secretary Miller notes in the comments submitted to this docket, the agency is currently working with the counties to operationalize the Emergency Rental Assistance Program (ERAP).⁵

Furthermore, Congress approved – just yesterday - a \$1.9 trillion COVID relief package, which includes \$4.5 billion in additional funding to the Low-Income Home Energy Assistance Program, or LIHEAP. Once approved, these LIHEAP funds, combined with assistance from ERAP, will significantly reduce the impact of lifting the moratorium, and prevent potentially hundreds of thousands of Pennsylvanians from termination of their utility service.

In order to maximize the use of all available funding streams to reduce or even eliminate the nearly \$1 billion in accumulated arrears,⁶ the Commission should retain the moratorium protections that are currently in place for “protected customers” and payment accommodations to small businesses until July 15, 2021.⁷

This extension is important for a number of reasons. First and foremost, it will provide more time for the disbursement of federal and state grants to reach customers and utilities, as noted in comments filed by Governor Wolf, Secretary Miller, public officials from both the General Assembly and the Philadelphia City Council, as well as several concerned citizens. The extra time will also provide interested parties the opportunity to openly and efficiently discuss post-moratorium customer protections that can be more easily offered and effectively implemented.

To expound on this point, I have found that the comments filed to this docket in response to the October Order illustrate the need for what I have been calling for throughout this entire proceeding – a stakeholder process in which the parties can (virtually) advance positions, including, importantly, practical limitations, with the goal of identifying areas of consensus. It is far more productive and beneficial to all utility customers in the Commonwealth to implement a post-moratorium plan that not only allows time for actual use of federal and state assistance but also is emblematic of a “give and take” approach rather than governmental directives that lack meaningful input from the very entities tasked with implementation. Therefore, with that in mind,

⁴ Act 1 of 2021 (SB 109); see also Pennsylvania Department of Human Services, Emergency Rental Assistance, <https://www.dhs.pa.gov/coronavirus/Pages/Emergency-Rental-Assistance-Program.aspx>.

⁵ See Pennsylvania Department of Human Services comments at 1-2, Docket No. M-2020-3019244.

⁶ The total residential and commercial account arrearages are based on the most recent arrearage data provided by utilities to this docket as of January 2021.

⁷ Current customer protections are those defined in the Order entered on October 13, 2020. Protections for small businesses include 18-month repayment terms.

I direct the Commission's Law Bureau, Bureaus of Consumer Services (BCS) and Technical Utility Services (TUS) to convene a stakeholder process on the following three issues:

- Identification of enhanced customer protections, payment arrangements, or assistance program offerings that can be practically implemented, while providing the most relief to struggling customers after the expiration of the moratorium.
- Suggested resolution for customer arrearages that have accrued since the Commission's March 2020 Emergency Order. For example, will the associated uncollectible amounts flow through rates as normal and/or be amortized through regulatory assets, or should some other model of "socialization" of costs be established or any arrearage "forgiveness" be contemplated?
- Additional data reporting requirements that would benefit the Commission's understanding of the short and long-term impact of COVID-19 on customer arrearages.

Within this timeframe, I also strongly urge utilities to develop effective outreach plans to notify and assist low-income customers in the enrollment of LIHEAP and their Customer Assistance Programs. I remain unconvinced that the threat of termination is the only real way to garner the much-needed attention to these programs. With the nearly \$1 billion now available but not yet disbursed in federal and state funding, it is imperative not just that our utilities find new ways of extending support to eligible customers, but also that these efforts work in concert with state and local initiatives led by the Department of Human Services, our General Assembly, our local officials, the Governor's Office, community leaders, and our own Communications team.

THEREFORE, I MOVE:

1. That the Commission's March 13, 2020 Emergency Order at Docket No. M-2020-3019244 as amended by the October 2020 Order remain in effect until July 15, 2021, or until the Commission takes further action, whichever is later.
2. That the Commission's Bureau of Consumer Services, Technical Utility Services and Law Bureau convene a stakeholder process within 15 days of the entry of this Order to address the three issues identified in this motion.
3. That the Commission's Bureau of Consumer Services, Technical Utility Services and Law Bureau provide a recommendation on the three issues in this motion to the Commission no later than July 6, 2021 to be acted on at a subsequent public meeting.
4. That the Law Bureau prepare an Order consistent with this motion.

Date: March 11, 2021



David W. Sweet
Vice Chairman