PENNSYLVANIA

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

# 

**Re: Suspension of Regulatory and Statutory Deadlines;**

**Modification to Filing and Service Requirements**

## EMERGENCY ORDER

Docket No. M-2020-3019262

On March 6, 2020, pursuant to subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. §§ 7101, *et seq.*, Governor Tom Wolf issued a Proclamation of Disaster Emergency proclaiming the existence of a disaster emergency throughout the Commonwealth for a period of up to ninety (90) days, unless renewed by the Governor. Shortly thereafter, on March 11, 2020, the World Health Organization declared COVID-19 – the coronavirus – a pandemic.

The Proclamation of Disaster Emergency authorizes and directs the suspension of “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 . . . would in any way prevent, hinder, or delay necessary action in coping with this emergency.” https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf.

In response to the COVID-19 pandemic, the Commission has implemented telework for its entire staff. This means that the physical locations of the Commission, the Keystone Building in Harrisburg as well as satellite state office buildings in Philadelphia, Pittsburgh, and elsewhere across Pennsylvania, are not in use until further direction from the Commission. Obviously, this presents many challenges for the Commission, the regulated community, and the public. For example, the receipt and sending of all mail from the United States Postal Service and other couriers has been interrupted while the Commission has limited, or no, access to its physical facilities.

Under these circumstances, it has become necessary to take additional measures to ensure continued operations during this period. These measures are intended to prevent regulatory or statutory procedural rules, including those providing for the calculation of time periods for final Commission action, from interfering with the overall conduct of Commission business in the public interest during the emergency. For the benefit of the public, we encourage the cooperation of all persons having business before the Commission to assist with implementing measures necessary for continuing Commission operations during the effective dates of this Order and the COVID-19 disaster emergency.

**Suspension/Extension of Deadlines**

The Commission and the regulated community operate under reasonable statutory and regulatory deadlines necessary to ensure timely administration of the Public Utility Code. (See, e.g., 66 Pa C.S. Chapter 3, 52 Pa Code Chapters 1, 3, and 5). Given the unprecedented nature of this emergency, the Commission is aware that some deadlines or obligations may hinder the public service mission of the Commission and its affected stakeholders.

Similar to other actions where we have delegated various duties to Commission bureaus, we now delegate the authority to determine the suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines to individual Commission Bureau Directors whose bureaus are tasked with matters before the Commission. Each Bureau Director will make decisions regarding the necessity of modifying such deadlines. Modifications may result from a request by a party or the tribunal/bureau staff itself. These modifications will be treated as an action of staff and will be reviewable by the Commission pursuant to 52 Pa. Code § 5.44 (regarding petitions for reconsideration from actions of the staff).

In addition, stakeholders are advised thatthe Commission reserves the right during this emergency period to waive any statutory or regulatory deadline for action *sua sponte*, without request by any other party, in any proceeding in which it has determined that strict adherence to an established deadline will interfere with its ability to administer the Public Utility Code.

**Suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines shall not exceed ninety (90) days except upon expedited certification of the question by the Chief Administrative Law Judge or Bureau Director to the Commission.**

For example, in pending rate case litigation, the Chief Administrative Law Judge is authorized to establish reasonable deadlines under the circumstances after consideration of the positions of the parties and the presiding Administrative Law Judge. The Chief Administrative Law Judge’s decision would then be subject to review by the Commission. Similarly, in uncontested proceedings, e.g. the filing of an annual universal service report, the utility may request an extension of time to file the report. The Bureau Director is hereby authorized to grant a reasonable extension of time for the filing of that report subject to review by the Commission.

Under the Proclamation of Disaster Emergency, it is both necessary and appropriate to provide this flexibility to ensure operations continue as smoothly as possible and to prevent any regulatory statute or rule prescribing procedures for the conduct of Commission business from unreasonably interfering with the public interest.

**Filing and Service Requirements During Emergency**

The Commission is not currently sending or receiving mail from or to any of its principal places of business, including the Keystone Building in Harrisburg. In order to continue operations during this emergency, the Commission shall waive the requirement for paper filings and shall accept only e-filings of all documents. 52 Pa. Code § 1.4.

Any filings containing confidential or proprietary information should be emailed to the Secretary of the Commission at [rchiavetta@pa.gov](file://C:\Users\rmatz\AppData\Local\Microsoft\Windows\INetCache\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.IE5\OneDrive\Emergency\rchiavetta@pa.gov). Use of encryption with the prior consent of the Secretary is permitted.

In addition, service by the Commission on parties will be exclusively electronic and service on Commission staff, as a party or otherwise, also shall be exclusively electronic.

Finally, similar to prior delegations of matters involving routine, ministerial or non-policy making matters, we delegate to the Secretary of the Commission the authority to modify any procedural rules found in Chapter 1 of our regulations, to the extent necessary for the conduct of Commission business during this pandemic emergency.

**Emergency Relief**

Pursuant to the Commission’s regulations governing emergency relief, an Emergency Order will be issued only when there exists a clear and present danger to life or property or when the relief requested is uncontested and action is required prior to the next scheduled public meeting. 52 Pa. Code § 3.1. Additionally, Commission regulations at 52 Pa. Code § 3.2 provide that, in addition to the existence of an emergency, an emergency order is appropriate where the need for relief is immediate, there would be irreparable injury if relief is not granted, and the relief is not injurious to the public interest.

The issuance of an emergency order is necessary and appropriate under these unique circumstances.

**THEREFORE, IT IS ORDERED:**

1. Parties to proceedings before the Commission are encouraged to cooperate regarding the suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines in connection with the performance of any obligation prescribed by the Public Utility Code or other applicable law.
2. All statutory and regulatory deadlines may be suspended, extended, waived or changed during the pendency of the Proclamation of Disaster Emergency.
3. Following the termination of the Proclamation of Disaster Emergency, all deadlines suspended may be extended by an additional thirty (30) days.
4. All Bureau Directors are hereby delegated the authority to suspend, extend, waive or change a statutory or regulatory deadline which may hinder, rather than further, the mission of the Commission, after consultation with all interested parties, as deemed necessary and appropriate.
5. Suspension, extension, waiver or change of any regulatory, statutory or procedural deadlines shall not exceed ninety (90) days except upon expedited certification of the question by the Chief Administrative Law Judge or Bureau Director to the Commission.
6. A decision of a Bureau Director to suspend, extend, waive or change a statutory or regulatory deadline is subject to Commission review under 52 Pa. Code § 5.44.
7. During the pendency of the Proclamation of Disaster Emergency, the Commission shall only accept e-filings in lieu of paper filings, for all documents. 52 Pa. Code § 1.4.

1. All service *upon* the Commission or its staff, and service *by* the Commission, shall be performed electronically, consistent with this Order, until further notice.

1. All filings containing confidential or proprietary information shall be filed with the Commission by e-mailing the Secretary at [rchiavetta@pa.gov](file://C:\Users\rmatz\AppData\Local\Microsoft\Windows\INetCache\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.IE5\OneDrive\Emergency\rchiavetta@pa.gov). Use of encryption with the prior consent of the Secretary is permitted.
2. The Secretary of the Commission is authorized to modify any procedural rules in 52 Pa. Code Chapter 1, to the extent those rules are routine, ministerial or non-policy making, during the pendency of the Proclamation of Disaster Emergency.

11. The Commission reserves the right during this emergency period to waive any statutory or regulatory deadline for action *sua sponte*, without request by any other party, in any proceeding in which it has determined that strict adherence to an established deadline will interfere with its ability to administer the Public Utility Code.

Date: March 20, 2020 

Gladys Brown Dutrieuille, Chairman