



VIA E-FILE

August 5, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

**Re: Public Utility Service Termination Proclamation of Disaster Emergency, Docket No.
M-2020-3019244**

Joint Petition of CAUSE-PA and TURN et al. for Due Process Relief

Dear Secretary Chiavetta:

Attached for filing, please find the Joint Petition of the Tenant Union Representative Network (TURN), Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance), and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA) (collectively, the Low Income Advocates) for Due Process Relief.

Respectfully submitted,

A handwritten signature in blue ink that reads "Elizabeth R. Marx".

Elizabeth R. Marx
Counsel for CAUSE-PA

A handwritten signature in blue ink that reads "Robert W. Ballenger".

Robert W. Ballenger
Counsel for TURN et al.

CC: Certificate of Service
Renardo L. Hicks, Esq., Chief Counsel

Enclosure.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

JOINT PETITION OF
TENANT UNION REPRESENTATIVE NETWORK (TURN),
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA, AND
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)
FOR DUE PROCESS RELIEF

On Behalf of CAUSE-PA

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I. INTRODUCTION

Tenant Union Representative Network (TURN)¹ and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance)², together with the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)³ (collectively referred to herein as the Low Income Advocates), respectfully Petition the Public Utility Commission (Commission), pursuant to 52 Pa. Code § 5.41, for Due Process Relief.⁴ Specifically, and before taking any further action to lift the current moratorium on the involuntary termination of utility service, the Low Income Advocates urge the Commission to initiate a robust public review process to fairly evaluate, on the record, whether the termination of utility service to a person's home will exacerbate the current public health crisis or otherwise hinder the response and recovery from COVID-19. Through that process, the Commission should also seek to develop a just and equitable statewide plan to address the accrual of utility debts as a result of the economic devastation created by COVID-19, without creating a clear and present danger to the health, safety, and welfare of Pennsylvanians.

¹ TURN is a not-for-profit organization whose mission is to advance and defend the rights and interests of tenants and homeless people. TURN provides a wide range of tenant programs and advocacy, including organizing a tenant network whose members support each other in improving the quality of their housing. TURN membership is composed of moderate and low income tenants.

² Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance) is a not-for-profit corporation and membership organization whose mission is to advocate on behalf of senior citizens on a wide range of consumer matters vital to seniors, including utility service. As part of advancing the respective interests of tenants and seniors, TURN and Action Alliance advocate on behalf of low and moderate income residential customers of public utilities in Philadelphia in proceedings before the PUC.

³ CAUSE-PA is a statewide unincorporated association of low income individuals which advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating and telecommunication services. CAUSE-PA membership is open to moderate- and low-income individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low income families maintain affordable access to utility services and achieve economic independence and family well-being.

⁴ The Low Income Advocates have a direct and substantial interest in the continued protection of economically vulnerable consumers and their ability to access uninterrupted utility services in their home. As discussed in the paragraphs that follow, we submit that involuntary termination of utility service to a home during the pandemic is likely to cause irreparable harm to the life and property interests of vulnerable consumers, placing them at added risk of increased exposure to the COVID-19 virus. The Low Income Advocates' respective membership include economically vulnerable Pennsylvanians from all corners of the state, many of whom may themselves face the loss of utility service if the moratorium is lifted while the ongoing crisis persists.

In support thereof, the Low Income Advocates submit the following:

1. On March 6, 2020, Governor Wolf issued a Proclamation of Disaster Emergency (Proclamation) which authorized and directed the suspension of “provisions of any regulatory statute... 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.”⁵
2. Pursuant to the Governor’s Proclamation, and coextensive therewith, the Commission entered an Emergency Order on March 13, 2020, ratified on March 26, 2020, suspending involuntary termination of utility service and encouraging regulated utilities to reconnect service to households that were previously terminated.
3. On June 3, 2020, Governor Wolf renewed the Proclamation for an additional 90 days, extending the disaster emergency through September 2, 2020.
4. The Commission’s Emergency Order explicitly recognized that, under the challenges which led to the Governor’s Proclamation: “Irreparable injury to the public is likely to occur with disruption of service, creating a clear and present danger to life.” (Emergency Order at 2).
5. As the Commission is aware, there were over 700,000 electric and natural gas customers alone who, without the moratorium, would have been eligible for termination in early June – nearly two months ago.⁶ An additional 50,000 regulated water and wastewater customers were likewise at risk of termination at the start of June.⁷ The Low Income Advocates are

⁵ See Gov. Wolf Signs COVID-19 Disaster Declaration to Provide Increased Support for State Response (March 6, 2020), <https://www.governor.pa.gov/newsroom/gov-wolf-signs-covid-19-disaster-declaration-to-provide-increased-support-for-state-response/>.

⁶ See COVID-19 Customer Service, Billing, and Public Outreach Provisions Request for Utility Information, Docket No. M-2020-3020055.

⁷ See id.

concerned that this number has and will continue to grow as we progress through the ongoing crisis. However, there is no current publicly available data to assist the Commission in assessing the current scope of the issue, including but not limited to up-to-date information about the number of Pennsylvanians who may be subject to termination or the level of accrued arrearages.

6. On June 18, 2020, Commissioners Coleman and Yanora moved to lift the moratorium, and on July 16, 2020, Chairman Brown Dutrieuille and Vice Chairman Sweet moved to establish a stakeholder initiative, including various interested parties, statutory parties, utility companies, and community organizations, to develop recommendations to the Commission for appropriate consumer protections and to identify an appropriate time to lift the moratorium. Both motions failed to gain a majority vote.
7. In light of this current impasse regarding the continuation of the moratorium on utility terminations, and the substantial factual information necessary to make a fully informed decision of this weight, the Low Income Advocates submit that it is squarely in the public interest to commence an on-the-record, public process to fairly and fully evaluate whether the involuntary termination of utility service to a person's home will hinder the response and recovery from COVID-19, as directed in the Governor's Proclamation of Emergency Disaster. That process should also be used to develop a just and equitable plan to address the accrual of utility debts as a result of the unprecedented economic devastation experienced by Pennsylvanians in all corners of the state – without exposing Pennsylvanians to the loss of critical utility service.
8. The Low Income Advocates offer the following observations regarding the current trend in positive COVID-19 cases in Pennsylvania:

- a. The daily rate of new COVID-19 infections immediately after the Commission’s Emergency Order was 26 (March 16, 2020).⁸
 - b. The daily rate of new infections rose to a height of 2,062 on April 8, 2020.
 - c. Spread of the virus showed signs of improvement in early June, falling to 304 new daily infections.⁹
 - d. In recent weeks, the daily infection rate has again increased – rising to 1,184 as of July 23, 2020.¹⁰
 - e. Rates of COVID-19 related deaths have continuously lagged behind infections, suggesting that Pennsylvania may experience increasing death tolls in the coming weeks consistent with the increase in the daily infection rate.¹¹
9. The ongoing crisis presents a clear and profound threat to the health, safety, and financial stability of Pennsylvanians across the state. While the virus continues to spread, and nearly 2,000,000 Pennsylvanians have applied for unemployment compensation since March 15,¹² the Federal Pandemic Unemployment Compensation program has now expired – eliminating a critical source of emergency income to assist struggling families to pay for vital necessities like utility service.
10. Evidence is emerging to show that the pandemic is inflicting greater harm to the health and safety of low income communities of color. It is well documented that economically

⁸ <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx>

⁹ Id.

¹⁰ Id.

¹¹ Harvard Center for Population and Development Studies, Visualizing the Lagged Connection Between COVID-19 Cases and Deaths in the United States: An Animation Using Per Capita State-Level Data, HCPDS Working Paper Vol. 19-4 (July 10, 2020), https://cdn1.sph.harvard.edu/wp-content/uploads/sites/1266/2020/07/HCPDS-WP_19_4_testa-et-al_Visualizing-Lagged-Connection-Between-COVID-19-Cases-and-Deaths-in-US_final_07_10_with-cover.pdf (data shows an estimated 2-8 week lag time between identified cases of COVID-19 and associated death rates).

¹² <https://www.uc.pa.gov/COVID-19/Pages/UC-Claim-Statistics.aspx>.

vulnerable households are often forced to make dangerous choices between utility services and critical medical care, food, clothing, and other basic necessities. These trade-offs have become even more critical through the pandemic. Emerging data indicates that the public health crisis is worse in low income communities of color, where Black and Latinx people are disproportionately likely to experience disastrous economic and health outcomes associated with COVID-19.¹³ The potential for utility terminations to further exacerbate negative health outcomes in low income communities, and most profoundly among Black and Latinx individuals, is a matter of both racial and economic justice in Pennsylvania that cannot be ignored.

11. The economic and health conditions that Pennsylvanians now face are worse, not better, than when the Commission's Emergency Order took effect. Utility customer service centers, energy assistance programs, community based organizations, state County Assistance Offices, and even the Commission remain closed to the public, with no date for reopening in sight. Importantly, the Commission's Bureau of Consumer Services is also limited in its capacity to fully address and resolve consumer complaints, and is currently only equipped to address emergency calls. These widespread closures have complicated the ability of low income consumers to access relief.

12. If the Commission is to consider lifting its Emergency Order, the Low Income Advocates assert that there is a significant factual analysis that must be conducted to determine whether and under what circumstances involuntary termination of service may proceed

¹³ See Pitt. Univ., Ctr. for Social & Urban Research, Initial Labor Force Impacts of the COVID-19 Pandemic in Allegheny County (June 2020), available at https://www.ucsur.pitt.edu/files/center/AlleghenyCountyLaborForceReport_June172020.pdf; Graff, M. & Carley, S. COVID-19 Assistance Needs to Target Energy Insecurity, *J. Nature Energy* 5, 352–354 (May 2020), available at <https://doi.org/10.1038/s41560-020-0620-y>; CDC, COVID-19 in Racial and Ethnic Minority Groups (June 25, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>.

without posing a risk of irreparable injury and loss of life and impeding vital pandemic response and recovery efforts. That analysis must include opportunity for public and stakeholder input to ensure the Commission is fully informed of the public health implications of allowing utilities to terminate service as a collections tool while Pennsylvania remains in an active public health emergency and subject to the Governor's Proclamation of Disaster Emergency.

13. Unless and until conditions exist to demonstrate that utility terminations will not jeopardize public health and impede the Commonwealth's response to and recovery from the pandemic, the Low Income Advocates submit that the moratorium on involuntary termination of service to a Pennsylvanians' homes must remain in effect consistent with the Governor's Proclamation of Disaster Emergency. The potential existence of such conditions, together with the mitigating policies and procedures that would be necessary to lift the moratorium in a just and equitable manner, requires a factual analysis. As such, the Low Income Advocates submit that these issues demand further due process consideration and the creation of an on-the-record proceeding which allows the public and stakeholders to be heard.

WHEREFORE, for the reasons explained more fully above, the Low Income Advocates urge the Commission to initiate a public review process to fairly evaluate, on the record, whether the involuntary termination of utility service to a person's home would exacerbate current risks to public health and hinder the response and recovery from COVID-19. In turn, this process must seek to develop a just and equitable plan to address the accrual of utility debts as a result of the unprecedented economic devastation created by COVID-19 without posing a clear and present danger to the health, safety, and welfare of Pennsylvanians.

Respectfully submitted,

On Behalf of TURN and Action Alliance



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Dated: August 5, 2020

VERIFICATION

I, **Elizabeth R. Marx**, legal counsel for the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleadings are true and correct to the best of my knowledge, information, and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Elizabeth R. Marx, Esq.

On behalf of CAUSE-PA

DATED: August 5, 2020

VERIFICATION

I, Robert W. Ballenger, legal counsel for Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*), hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

A handwritten signature in black ink, appearing to read 'RWB', with a long horizontal line extending to the right from the end of the signature.

Robert W. Ballenger, Esq.
On behalf of TURN et al.

DATED: August 5, 2020

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the **Joint Petition of TURN et al. and CAUSE-PA** in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

SERVICE BY EMAIL ONLY	
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Dated: August 5, 2020

Respectfully submitted,



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