

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG PENNSYLVANIA 17120**

**Public Utility Service Termination  
Proclamation of Disaster Emergency  
-COVID-19; Joint Petition of the Coalition  
for Affordable Utility Service and Energy  
Efficiency in Pennsylvania the Tenet Union  
Representative Network, and the Action  
Alliance of Senior Citizens of Greater Philadelphia  
For Due Process Relief**

**Public Meeting held September 17, 2020  
3019244-LAW  
Docket No. M-2020-3019244**

**STATEMENT OF VICE CHAIRMAN DAVID W. SWEET**

Before the Commission is the Joint Petition (Petition) of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Tenant Union Representative Network (TURN), and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance) (collectively, Joint Petitioners) in the above-captioned proceeding. The Joint Petitioners seek due process relief before the Commission takes any action to lift the moratorium on public utility service terminations established by the March 13, 2020 Emergency Order. At its heart, the Petition seeks a thorough evaluation of the impacts of lifting the termination moratorium and seeks to develop a statewide plan addressing the accrual of utility debts as a result of the COVID-19 pandemic.

The proposed Commission action dismisses the Petition as mooted by the Chair's August 10, 2020 letter which solicited comments regarding issues related to a termination of the moratorium. I do not believe that either of the legal concepts put forward – mootness or denial of due process – is determinative here. The real issue is finding the best public policy.

The Commission received numerous comments in response to the Chair's Letter, revealing varying perspectives on an appropriate path forward. I agree with the Joint Petitioners, and many of the other parties that filed comments on this matter, that the pandemic *continues* to present a clear threat to the health and economic well-being of residents and small businesses across the Commonwealth.<sup>1</sup> Demonstrating this point is the fact that 3.3 million Pennsylvanians – about 40 percent of the state's workforce - has sought some form of unemployment assistance since mid-March of this year.<sup>2</sup> The adverse economic consequences of this health crisis are far from over as

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<sup>1</sup> Those commenters opposing an abrupt end to the moratorium include the Governor, the Attorney General, Chair of the Montgomery County Commissioners, The Mayor of Philadelphia, as well as statutory advocates – OSBA and OCA – and the Joint Petitioners. Also, while taking a different view, many utilities that commented made thoughtful suggestions and have already made significant accommodations to their customers.

<sup>2</sup> Benschhoff, Laura. *As Deadline Looms to Renew \$600 Jobless benefits, PA Workers are Terrified*. WHYY. July 21, 2020. <https://whyy.org/articles/as-deadline-looms-to-renew-600-jobless-benefits-pa-workers-are-terrified/>

employers across the state, large and small, have announced future layoffs and permanent job losses.<sup>3</sup>

In July, I voted in support of the Chairman's motion to convene a stakeholder collaborative. It instructed the parties listed in this docket to provide guidance on a series of enhanced consumer protections, as well as an appropriate end to the Emergency Order issued on March 13th, 2020. The Commission's Law Bureau would have been tasked with facilitating this initiative, in addition to compiling the feedback for Commission consideration. This is not a novel process. Such a process has been used in other states, leading to the creation of mutually agreeable and legally enforceable plans that balance the needs of consumers and utilities during this truly unprecedented time. And that collaborative could have developed, by now, a consensus around a plan for moving beyond the moratorium. Unfortunately, the Chair's motion garnered only two votes, resulting in a tie vote and thus no action taken.

Like the Petitioners, I believe that prior to ending the moratorium there should be a plan in place. The elements of this plan should include the following:

First, an evaluation of the circumstances existing that would support ending the moratorium. The factors would include, but not be limited to, the state of the Commonwealth's health, the economy, whether schools are open or classes are being held largely online, and whether citizens are free to move about without worrying about contracting the virus.

Next, utilities must have a robust plan to notify customers who would be at risk of termination due to having accrued arrearages and must inform those customers of their universal service plans and any additional sources of funding that may be available. Additional payment arrangements should be offered, and additional medical certifications permitted. Utilities should be flexible when customers need proof of income for eligibility for customer assistance programs. Preferably, connection, reconnection, deposit fees and late payment charges should be waived.

Third, the moratorium should not be terminated based on a mere hope that the gridlock in Congress is soon resolved or that proposals in the Pennsylvania General Assembly are enacted. Ideally, these actions need to take place before the moratorium is terminated.

Finally, of critical importance to me is that the moratorium should remain in place for those customers whose income is 300% or less of the Federal Poverty Guidelines, or for residential and small business customers whose income was dramatically reduced by circumstances attributable to the pandemic. These are the hardest-hit customers and the most vulnerable. The moratorium for these customers should end when circumstances so dictate rather than on some arbitrary date. Without an improved economy, and significant additional public resources becoming available, it

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<sup>3</sup> Dunn, Catherine. *Airlines Warn of More Than 2,100 Potential Layoffs and Furloughs at PHL This Fall*. The Philadelphia Inquirer. July 23, 2020. <https://www.inquirer.com/business/tourism/american-airlines-united-airlines-furloughs-layoffs-philadelphia-international-airport-coronavirus-20200723.html>.

See also: Hanna, Maddie. *As Schools Go Virtual, Districts Look to Furlough Support Staff, Saying They Don't Have Enough Work For Them To Do*. August 25, 2020. <https://www.inquirer.com/education/school-district-furloughs-pennsylvania-support-staff-20200825.html>

would be ill-conceived and bad policy to subject over 800,000 Pennsylvania utility customers, families, and small businesses, to the termination of vital services like water, gas, electricity, or telecommunications while the deleterious effects of the pandemic remain.

I note that this Petition asks for an evidentiary proceeding to obtain facts, not just opinions, to facilitate a safe and humane ending to the moratorium. I do not agree that the Petition filed at this docket has been rendered moot by a letter seeking comments when those comments have not resulted in the formulation of a strategy, plan or process going forward. In the interest of public policy, it remains prudent now, as it was several months ago, to grant the Petition insofar as it seeks to establish a collaborative resulting in a well thought out, legally enforceable plan for ending the moratorium. It is unfortunate that we did not act to establish the collaborative then, and it remains unfortunate that we are not establishing it now. I would vote to grant the Petition.

Accordingly, I am dissenting on this matter.

September 17, 2020  
DATE



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DAVID W. SWEET  
VICE CHAIRMAN