

Teresa K. Harrold, Esq.
(610) 921-6783
(330) 315-9263 (Fax)

November 6, 2020

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Public Utility Service Termination Moratorium – Modification of March 13th Emergency Order; Docket No. M-2020-3019244

Dear Secretary Chiavetta:

Attached please find the Answer of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company to the Petition for Clarification regarding the above-referenced matter. This document has been served on the parties as shown in the Certificate of Service.

Please contact me if you have any questions.

Very truly yours,



Teresa K. Harrold

Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Public Utility Service Termination

Moratorium – Modification of March 13th : Docket No. M-2020-3019244

Emergency Order :

**ANSWER OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC
COMPANY, PENNSYLVANIA POWER COMPANY, AND WEST PENN POWER
COMPANY TO PETITION FOR CLARIFICATION**

Teresa K. Harrold, Attorney No. 311082
Tori L. Giesler, Attorney No. 207742
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Counsel for Metropolitan Edison Company,
Pennsylvania Electric Company, Pennsylvania
Power Company, and West Penn Power Company

Dated: November 6, 2020

I. INTRODUCTION AND BACKGROUND

On March 13, 2020, the Pennsylvania Public Utility Commission (“Commission”) issued an Emergency Order in response to the COVID-19 pandemic establishing a moratorium on service terminations by utilities.¹ As the pandemic continued, Pennsylvania utilities began to experience a growing arrearage problem as indicated in the comments filed at both the above-referenced docket on August 18, 2020, as well as comments submitted at Docket No. M-2020-3020055. For Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, the “Companies”), arrearage levels grew by 21% and 91% between January and July 2020 for residential customers and non-residential customers, respectively.² Although the Companies sent monthly delinquent notices to customers with past due balances, and conducted targeted outreach to customers regarding Pennsylvania Customer Assistance Program (“PCAP”) and other assistance opportunities, the arrearage levels continued to grow.³ Based on the other comments submitted on August 18, 2020 at this docket, this growing arrearage problem exists for the Companies’ peers as well. Without the possibility of service termination, customers were less likely to contact utilities and pursue payment assistance.

On October 13, 2020, the Commission issued an order (“October 13 order”) that lifted moratorium effective November 9, 2020 and adopted a number of customer protections to assist customers in the immediate term. In addition, the Commission initiated a stakeholder process with comments due on February 16, 2021, to consider additional measures in recognition of the fact that the pandemic will require a mix of short- and long-term solutions to provide the necessary

¹ *Public Utility Service Termination Moratorium*, Docket No. M-2020-3019244 (Emergency Order dated Mar. 13, 2020).

² *Public Utility Service Termination Moratorium*, Docket No. M-2020-3019244 (Companies Comments dated Aug. 18, 2020), p. 4.

³ By October 2020, the Companies arrearage levels were 39% and 144% higher than January 2020 levels for residential and non-residential customers, respectively.

assistance to customers.⁴ Increasing customer engagement is the primary purpose of the October 13 order. The October 13 order requires utilities to notify customers regarding their past due balances and requires customers to contact their utilities to seek payment arrangements and assistance.⁵ Service termination is a last resort, but must remain an option to address utilities' growing arrearage problem. If past due balances continue to grow, it will become increasingly difficult for customers to pay off their balances, which in turn may result in a higher uncollectible expense charged to the utilities' other customers.

On October 27, 2020, Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (collectively, the "Petitioners") jointly filed a petition for clarification ("Petition") of the October 13 order. Although entitled a petition for clarification, the Petition seeks modifications to the October 13 order and requests that the Commission address additional issues on which the order is silent. However, the Petitioners fail to present any new information that would justify reconsideration or modification of the October 13 order. For the reasons articulated herein, the Commission should deny the Petition.

II. LEGAL STANDARD

The Petitioners filed their Petition under 52 Pa. Code § 5.572, which applies to all petitions for relief related to Commission orders, including petitions for reconsideration, clarification, and rehearing.⁶ As with petitions for reconsideration, the Commission's standard for granting clarification is well-established and set out in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1982):

⁴ October 13 order, p. 3.

⁵ *Id.*

⁶ Petition, p. 6.

A Petition for Reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard, we agree with the court in the Pennsylvania Railroad Company case, wherein it was stated that “[p]arties...cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them....” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked by the Commission.⁷

As required under *Duick*, the Commission’s ability to grant clarification or reconsideration is discretionary. In order for the Commission to exercise its discretion here, the Petitioners must raise new and novel arguments, or present considerations which have been overlooked by the Commission. As further detailed below, the Petitioners fail to establish that any new or novel position exists or that the Commission overlooked any information when issuing the October 13 order. Accordingly, the Petition should be denied.

III. ANSWER

The Petition does not satisfy the standard articulated in *Duick*; specifically, the Petitioners do not raise any new arguments or identify any information that the Commission overlooked when issuing the October 13 order. The Petitioners’ requested modifications to the October 13 order may be grouped in two categories: issues in the order the Petitioners oppose, but which the Commission expressly rejected; and issues on which the order is silent, but which the Petitioners believe should be included. The Companies will address each of these categories in turn and explain why none of the issues warrant clarification or modification of the Commission’s October 13 order.

⁷ *Duick*, 56 Pa. P.U.C. at 559 (quoting *Pa. Railroad Co. v. Pa. Pub. Serv. Comm’n*, 179 A. 850, 854 (Pa. Super. Ct. 1935)).

On August 18, 2020, the Petitioners, along with other stakeholders, submitted comments in this proceeding and raised many of the same issues that they discuss in the Petition.⁸ These issues include recommending a standardized pre-termination notice, self-attestation of household income, and the waiver of medical certificate requirements for protected customers.⁹ The Commission considered and ruled on each of these issues in the October 13 order. The Commission's decision not to incorporate the Petitioners' specific recommendations in the order does not provide appropriate grounds for reconsideration or clarification. The Petitioners have not offered any new arguments for why their recommendations on these issues should be adopted; they simply disagree with the Commission's findings. Disagreement with certain aspects of the October 13 order does not satisfy the *Duick* standard.

In addition to failing to meet the legal standard required for clarification, the Petitioners' recommendations regarding these issues raise implementation concerns as well. In the October 13 order, the Commission clearly articulated the necessary components for the pre-termination notices and utilities have shared their notices with the Commission's Bureau of Consumer Services.¹⁰ Under the pretext of needing clarification, the Petitioners seek to significantly expand the information included in the notice and require all utilities to develop a standardized pre-termination notice.¹¹ However, utilities, including the Companies, are already in the process of printing and distributing these pre-termination notices. Further standardization of these forms is unnecessary, would create additional costs, and would result in longer delays in the utility collections process, causing customer arrears to further increase.

⁸ See, e.g., *Public Utility Service Termination Moratorium*, Docket No. M-2020-3019244 (Petitioners Comments dated Aug. 18, 2020), pp. 16-20.

⁹ *Id.*

¹⁰ October 13 order, p. 4.

¹¹ Petition, pp. 14-15.

The October 13 order also increases the number of medical certificates a customer can receive without paying down their account balance from three to five.¹² However, the Petitioners disagree with this finding and instead request that the Commission modify the October 13 order to provide unlimited medical certificates to protected customers, *i.e.*, customers with household income levels at or below 300% of federal poverty income guidelines. This recommendation squarely conflicts with Chapter 56 of the Commission’s regulations and would require the Companies to adopt (perhaps significant) information technology system changes to comply.¹³

For similar reasons, the Commission’s findings regarding income verification also must remain in place. Due to the different information technology systems, programs, and procedures of the utilities, utilities must have some level of flexibility in how they implement the directives from the October 13 order. This flexibility is crucial when addressing income verification methods and utilities’ customer assistance programs since each utility has different universal service programs and procedures. The Petitioners’ request that the Commission modify the October 13 order to further define the phrases “all assistance programs for which the customer is eligible” and “through flexible means” should be denied.¹⁴ The Commission purposefully included flexible language in the October 13 order to allow utilities to comply with the order in a manner consistent with their current universal service programs, processes, and procedures.

The second category of issues raised in the Petition were not specifically addressed in the October 13 order, such as additional protections for victims of domestic violence. Customers with protection from abuse orders are currently subject to a number of additional protections under the

¹² *Id.* at 5.

¹³ Petition, p. 18; *see also* 52 Pa. Code §§ 56.111-56.118, 56.351-56.358.

¹⁴ *See* Petition, pp. 9-12, 16.

Commission's regulations.¹⁵ The Petitioners' recommendations for victims of domestic violence go above and beyond the protections already included in Chapter 56.¹⁶ Although the October 13 order was silent on this topic, the Commission clearly stated that the order would be followed by a stakeholder process in which additional long-term customer protections would be considered.¹⁷ Therefore, the Commission did not overlook these issues, but instead reserved consideration of these and other issues for the upcoming comment period. In the meantime, the protections within Chapter 56 for victims of domestic violence remain fully in place.

The Petitioners also raise two additional items that are not specifically discussed in the October 13 order. The Petitioners seek clarification on whether winter moratorium will still begin on December 1 for customers with household income levels at or below 250% of federal poverty income guidelines, and whether customers will be permitted to file complaints at the Commission for issues other than payment arrangement disputes.¹⁸ However, winter moratorium and the ability for customers to file complaints based on any customer service-related dispute with a utility are explicitly provided for in the Public Utility Code and the Commission's regulations.¹⁹ No clarification of the October 13 order is necessary regarding these issues when these rules are clearly articulated elsewhere.

Finally, the Petitioners cite to the continuing COVID-19 pandemic as justification for the Petition.²⁰ The Commission's October 13 order also recognizes that the pandemic is not over, but that an absolute moratorium must be lifted in order to engage customers and ensure they seek

¹⁵ 52 Pa. Code §§ 56.251, *et seq.*

¹⁶ Petition, p. 20.

¹⁷ October 13 order, p. 3.

¹⁸ Petition, pp. 19, 21.

¹⁹ 66 Pa.C.S. § 1406(e); 52 Pa. Code §§ 56.140, *et seq.*

²⁰ Petition, p. 7.

payment assistance.²¹ The Commission is expressly continuing to review whether additional long-term protections are needed to respond to the pandemic in the upcoming stakeholder process. The Companies also continue to work with customers and provide flexible payment options in light of the hardships imposed by COVID-19. For purposes of this Petition, the continuing COVID-19 pandemic is not new or novel information to the Commission and cannot provide the basis for the Commission granting clarification.

None of the issues raised by the Petitioners represent new or novel arguments or issues overlooked by the Commission in the October 13 order. Therefore, the Petitioners fail to meet the *Duick* standard and their Petition should be denied.²² However, such a denial does not mean that utilities are not open to continued stakeholder feedback regarding this process. The Companies will continue to work in good faith with customers, the Commission, and stakeholders to help customers during the COVID-19 pandemic. Throughout the pandemic, the Companies have been sending monthly delinquent notices to customers with past due balances and providing targeted outreach to customers regarding assistance opportunities, but customer arrears are continuing to grow. The Companies' and the Companies' peers' experience since March clearly demonstrates that lifting moratorium is necessary to increase customer engagement and persuade customers to contact the Companies to pursue payment assistance before their balances become unmanageably large.

²¹ October 13 order, p. 3.

²² To the extent the Commission disagrees and modifies any aspect of the October 13 order, the incremental costs to utilities associated with such a modification should be included in utilities' COVID-19 regulatory assets.

IV. CONCLUSION

WHEREFORE, for the reasons detailed in this Answer, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company respectfully request that the Petition for Clarification of Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania be denied.

Respectfully submitted,

Dated: November 6, 2020



Teresa K. Harrold
Attorney No. 311082
Tori L. Giesler
Attorney No. 207742
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6783
(610) 921-6658
tharrold@firstenergycorp.com
tgiesler@firstenergycorp.com

Counsel for Metropolitan Edison Company,
Pennsylvania Electric Company, Pennsylvania Power
Company, and West Penn Power Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Public Utility Service Termination

Moratorium – Modification of March 13th : **Docket No. M-2020-3019244**
Emergency Order :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic mail, as follows:

Terrance J. Fitzpatrick
Donna Clark, Esq.
Energy Association of Pennsylvania
800 North Third Street
Harrisburg, PA 17102
tfitzpatrick@energypa.org
dclark@energypa.org

Richard Kanaskie, Esq.
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. 3265
Harrisburg, PA 17105-3265
rkanaskie@pa.gov

Christy Appleby, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
cappleby@paoca.org

Steven Gray, Esq.
Office of the Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
sgray@pa.gov

Amy E. Hirakis, Esq.
Theodore J. Gallagher, Esq.
Meagan B. Moore, Esq.
Columbia Gas
800 North 3rd Street, Suite 204
Harrisburg, PA 18101
ahirakis@nisource.com
tjgallager@nisource.com
mbmoore@nisource.com

Robert Ballenger, Esq., PA ID 93434
Joline Price, Esq., PA ID 315405
Josie B.H. Pickens, Esq., PA ID 309422
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102-2505
rballenger@clsphila.org
jpickens@clsphila.org
jprice@clsphila.org

Charles E. Thomas III
Pa. Rural Electric Association
212 Locust Street, Suite 100
Harrisburg, PA 17101
charles_thomas@ccsenergy.com

Craig W. Berry, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
craig.berry@pgworks.com

Danielle Jouenne, Esq.
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
jouenned@ugicorp.com

Erik Ross
Milliron & Goodman
200 North Third Street, Suite 1500
Harrisburg, PA 17101
erik@millirongoodman.com

Jennifer Petrisek, Esq.
375 North Shore Drive
Pittsburgh, PA 15212
Jennifer.Petrisek@peoples-gas.com

Mark Szybist, Esq.
NRDC
1152 15th Street NW
Suite 300
Washington, DC 20005
mszybist@nrdc.org

Kimberly A Klock, Esq.
Michael J Shafer, Esq.
PPL Services Corp
2 N 9th Street GENTW3
Allentown, PA 18101
kklock@pplweb.com
mjshafer@pplweb.com

Mary McFall Hopper, Esq.
Aqua Pennsylvania
762 W Lancaster Avenue
Bryn Mawr, PA 19010
mmhopper@aquaamerica.com
Steven J. Samara
Pennsylvania Telephone Association
30 N. 3rd St., Suite 780
Harrisburg, PA 17101
steve.samara@patel.org

Emma Horst Martz
PennPIRG
1429 Walnut St
Suite 1100
Philadelphia, PA 19102
emma@pennpirg.org

Tom Schuster
Sierra Club
PO Box 51
Windber, PA 15963
tom.schuster@sierraclub.org

Ward L. Smith, Esq.
PECO
Legal Department S23-1
2301 Market Street
Philadelphia, PA 19103
ward.smith@exeloncorp.com

Michael Zimmerman, Esq.
Lindsay Baxter
Duquesne Light Company
411 Seventh Avenue
Pittsburgh, PA 15219
lbaxter@duqlight.com
mzimmerman@duqlight.com

Deanne M. O'Dell, Esq.
Kristine E. Marsilio, Esq.
Eckert Seamans Cherin & Mellott LLC
600 Grant Street 44th Floor
Pittsburgh, PA 15219
dodell@eckertseamans.com
kmarsilio@eckertseamans.com

Pamela C Polacek, Esq.
McNees Wallace & Nurick
100 Pine Street
Harrisburg, PA 17108-1166
ppolacek@mcneeslaw.com
Suzan D Paiva, Esq.
Verizon
900 Race St., 6th Floor
Philadelphia, PA 19107
Suzan.D.Paiva@Verizon.com

Thomas J Sniscak, Esq.
Whitney E. Snyder, Esq.
HAWKE McKEON AND SNISCAK LLP
100 N Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com

Robert Ballenger, Esq., PA ID 93434
Joline Price, Esq., PA ID 315405
Josie B.H. Pickens, Esq., PA ID 309422
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102-2505
rballenger@clsphila.org
jpickens@clsphila.org
jprice@clsphila.org

Elizabeth R. Marx, Esq., PA ID 309014
Ria M. Pereira, Esq., PA ID: 316771
John W. Sweet, Esq., PA ID 320182
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
717-236-9486
pulp@palegalaid.net

Bill Johnston-Walsh
AARP Pennsylvania
30 North 3rd Street #750
Harrisburg, PA 17101
pa@aarp.org

Dated: November 6, 2020



Teresa K. Harrold
Attorney No. 311082
Tori L. Giesler
Attorney No. 207742
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6783
(610) 921-6658
tharrold@firstenergycorp.com
tgiesler@firstenergycorp.com

Counsel for Metropolitan Edison Company,
Pennsylvania Electric Company, Pennsylvania Power
Company, and West Penn Power Company