

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Emergency Order Re: Establishing Public Utility
Service Termination Moratorium

:

M-2020-3019244

**COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA IN RESPONSE TO
PUC ORDER ENTERED ON OCTOBER 13, 2020**

I. INTRODUCTION

The Energy Association of Pennsylvania (“EAP” or “Association”) submits these comments on behalf of its electric distribution company and natural gas distribution company¹ members in response to the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) October 13, 2020 Order regarding the Public Utility Service Termination Moratorium – Modification of March 13th Emergency Order.

In addition to modifications to its March 13th Emergency Order, the October 2020 Moratorium Order requested interested parties file “comments and proposals ... regarding any revisions to the protections ... based upon the trajectory of the pandemic and the status of the economy at that time, so that both customer and utility interests continue to be considered.”

¹ Citizens’ Electric Company; Columbia Gas of Pennsylvania, Inc.; Duquesne Light Company; Leatherstocking Gas Company, LLC; Metropolitan Edison Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Peoples Natural Gas Company LLC; Peoples Gas Company LLC; Philadelphia Gas Works; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities Inc.-Electric Division; UGI Utilities, Inc.-Gas Division; Valley Energy Inc.; Wellsboro Electric Company; and West Penn Power Company.

October 2020 Order at p.6. EAP submits the following for the Commission’s consideration pursuant to this request.

EAP submits that given the dramatic increase in dollars owed – 76% more in 2020 than in 2019 – and the approximately 40% decrease in LIHEAP dollars received by electric and natural gas utilities², the Commission should allow the full, regular collections process to resume at this time. As outlined below, the negative impacts of these growing arrearages will be exacerbated and much-needed, available energy assistance funds will go unused unless and until the full collections process is reinstated.

II. BACKGROUND

EAP and its member companies have provided the Commission with utility perspective and information throughout the duration of the pandemic and the Emergency Moratorium. On August 10, 2020, Chairman Gladys Brown Dutrieuille issued a letter requesting comments on the modified moratorium and on protections available to customers if the moratorium were to be lifted. EAP’s comments to that letter are incorporated by reference herein, as they outline the various robust consumer protections – both in the form of utility-run assistance programs and PUC regulatory procedural protections – available to Pennsylvania households. EAP’s members have also voluntarily gone above these protections to offer support to customers during these unprecedented circumstances. Examples include providing expanded corporate giving to hardship funds, food banks, and other community support organizations as well as increased outreach campaigns to bolster customer awareness of assistance available during the COVID-19 pandemic. In addition, depending on the circumstances facing their customers during the pandemic, which vary significantly by utility based on a number of factors, utilities have

² See *infra* at p.4 and p. 6.

exercised their discretion to adopt other policies such as: waiving late payment charges and reconnection fees; halting customer assistance program removals; allowing for flexible income verification methods; and offering payment agreements to small business customers. Some of these protections were then adopted by the Commission in its October 2020 Order.

The modified moratorium required:

- One additional communication to customers whose unpaid balances will put them at risk of termination.
- Prohibition of termination to customers at or below 300% of Federal Poverty Income Guidelines (“FPIG”), creating a newly “protected” customer.
- Payment arrangements of no less than eighteen months for small business customers.
- Waiver of all connection, reconnection, and deposit fees for protected customers.
- Waiver of all late payment charges for protected customers.
- Acceptance of two additional medical certificates for eligible customers.
- Acceptance of flexible income verification for the purpose of qualifying customers for protected status, payment arrangements, or universal service programs.

In addition to these extraordinary protections, the October 2020 Order required utilities to submit monthly information to the Commission regarding number of customers and dollars in arrears for 2020 as compared to 2019. This new reporting also required utilities to submit number of residential and non-residential terminations for the prior month.³

³ See attached Appendix A.

III. COMMENTS

A. The Commission Should End the Blanket Prohibition on Service Terminations to Restrain the Growth of Customer Arrearages and to Encourage Customers to Enroll in Available Assistance Programs

Continuing a moratorium indefinitely will exacerbate the problem of nonpayment, which is contrary to the interests of both customers with growing arrearages and the general body of customers who will eventually be called upon to pay growing uncollectible expenses.

Experience over the last few months reveals that residential customers of a number of utilities are not applying for the assistance offered by either their utilities or by federally-funded LIHEAP.

EAP collected information from its members showing that arrearage totals from March 2020 to June 30, 2020 increased 39% for residential customers, 23% for low-income residential customers, and 54% for non-residential customers compared to the same period in 2019.⁴ The Commission's requested data under the October 2020 Order shows that while the number of residential customers in arrears in November and December 2020 increased only 14% for electric and natural gas companies as compared to the same months of 2019, the amount owed increased 73% and 76% respectively.⁵ These figures imply that a subset of customers is continuing to build up arrearages, some who may have not made a utility payment since the winter moratorium of 2019-2020. Continuation of nonpayment will allow balances to grow even larger, making customers' ability to surmount them and maintain service once the moratorium is

⁴ Internal data collection showed that for 2019, members had customers in arrears in the total amount of \$290.6 million (residential), \$147.3 million (low-income), and \$48.6 million (non-residential) for this period in 2019. For 2020, dollars owed increased to \$403.7 million (residential), \$181.2 million (low-income), and \$74.9 million (non-residential).

⁵ Combining totals for EAP member companies from reported data shows that in November 2019, 627,057 residential customers were in arrears; in November 2020, the number of customers in arrears was 717,442. For those same months, dollars arrears were \$396 million and \$683.1 million respectively. Similarly, in December 2019, number of residential customers in arrears totaled 642,613; for December 2020, 730,264 customers. The dollars owed increased from \$422.6 million in 2019 to \$ 743.2 million in 2020.

fully lifted more difficult if not impossible. Reinstating the full collection process on April 1 at the end initially anticipated by the October 2020 Order – which naturally coincides with the end of the annual winter moratorium – will motivate customers to take more immediate advantage of available assistance.

B. Increased Outreach and Assistance Will Continue to Yield Mixed Results Unless the Full Collections Process Authorized by Existing Law is Reinstated

EAP member utility experience to date with the additional outreach required by the modified moratorium has been mixed. On the whole, the additional 10-day notice has not been producing the level of customer engagement companies would hope to see. Many companies have been proactively reaching out (e.g., outbound calling overdue customers) and are met with no response or refusal to give income information that would qualify the customer for protected status. Without updated income information, companies have little to work from with regard to either enrolling customers in assistance programs, offering payment agreements, or confidently engaging in allowable termination activity.

The information submitted by the companies to date under the October 2020 Order indicate that utilities continue to use discretion when deciding whether or not to terminate. Of over 700,000 residential accounts past due and at risk for termination⁶, only slightly more than 1,000 accounts were terminated in December 2020 – less than 0.001%. This level of termination activity implies that perhaps not only are utilities continuing to be judicious in use of termination notices, but also that many of the eligible accounts are already protected from termination due to the regular winter moratorium or receipt of LIHEAP; that is, resumption of regular termination

⁶ Combined total for EAP member companies; some households may be double counted if they are past due on both their electric and natural gas bills.

activity would not harm the most vulnerable customers and might instead spur them toward assistance programs already available given the ample safety net that already exists.

Without a viable prospect of termination, customers have been reluctant to avail themselves of other assistance. Public records from the Pennsylvania Department of Human Services (“DHS”), which administers Pennsylvania’s federally-funded LIHEAP program, show a marked decrease in grants awarded in 2020-2021 as compared to the 2019-2020 program year. In 2019, 5,399 electric utility customers received \$1.8 million in Crisis grants and 4,638 natural gas customers received \$1.7 million by the middle of January 2020. For the same period this year, only 2,286 electric customers received \$1.1 million and only 1,709 natural gas customers received just \$921,566.⁷ Grants received this year dropped by 38% for electric customers and by 46% for natural gas customers, even though customer arrearages have grown exponentially. While DHS has altered its typical LIHEAP operations policy to allow for a past due bill (if the balance would otherwise be subject to termination absent the emergency moratorium on regulated utility customers) to serve as evidence of Crisis, households are still not taking full advantage of available assistance absent the typical termination notice. The foregoing facts demonstrate that, unfortunately, customers are not motivated to act until receipt of a termination notice. It is necessary that the Commission reinstate the legally authorized collection process following the end of the regular winter moratorium so that customers at or below 150% of FPIG can access these available monies and avoid returning energy assistance dollars back to the federal government.⁸

⁷ Department of Human Services’ Weekly Energy Assistance Summaries (“EASUM”) Reports for weeks ending 1/23/2020 and 1/16/2021. See attached Appendix B.

⁸ This will be further compounded with the new Emergency Rental Assistance Program initiated by Act 1 of 2021, which allows for eligible rental households impacted by COVID to receive assistance for past due utility bills. Federal funds will be recaptured and redistributed from states who do not obligate their allocations to states that do.

C. Utility Systems are Designed to Existing Regulatory Requirements and Further Moratorium Adjustments Will Require Time to Implement

Utility customer information technology systems are built around existing PUC regulation, a majority of which for assistance programs is for an income threshold level of 150% of FPIG. Similarly, the notice process for termination as outlined in 52 Pa. Code § 56.91 and 52 Pa. Code § 56.93. with proscribed timeframes and varying notification methods is likewise built into utility systems. The modified moratorium instead asked utilities to redesign these systems to accommodate protections for customers with up to 300% of FPIG and issue additional notices ahead of the existing regulatory scheme. These adjustments cost time and money, and likewise a reversion to normal termination procedures will require further adjustments.⁹ EAP asks the Commission keep the programmatic aspects of further revisions in mind as it weighs next steps. Resumption of all collection activity on April 1, 2021 remains the most cost-effective path forward, not only for utilities but for customers who will ultimately pay to cover the costs. A ten-day termination notice is the most effective way to encourage customers to enroll in available assistance. 52 Pa Code § 56.91. Additionally, there have been a number of changes in the state of the pandemic since the October 2020 Order – vaccines are available and being distributed, customers have weathered the initial adjustments required due to the pandemic, and the federal government has made funds available in the form of direct payments, added unemployment dollars, additional LIHEAP funding, and rental and utility assistance funds.

⁹ In order to alleviate costs, some utilities did not make programmatic changes, instead using burdensome manual processes to comply with the October Order, and will confront further complications if the notice requirement continues.

D. The Commission Can Continue to Monitor Circumstances Moving Forward to Adjust Policies and Seek Further Input from Stakeholders

Taken as a whole, the procedural protections and financial assistance historically available to customers constitute a comprehensive safety net to utility customers in Pennsylvania to help households maintain access to essential utility service. Still, uncertainty regarding the magnitude and duration of the economic damage wrought by the pandemic may create accompanying uncertainty. In this situation, it would be reasonable for the Commission to closely review the monthly reports already provided under 52 Pa. Code § 56.231 which include detailed information on, for example, the number of 10-day, 3-day and 48-hour termination notices issued, the number of residential accounts terminated for nonpayment, the number of residential accounts restored, and the number of accounts subject to a payment agreement. Moreover, to the extent the Commission believes additional information is needed, it could continue to exercise its authority under section 504 of the Public Utility Code, 66 Pa. C. S. § 504 to request additional reporting as was done under the October 2020 Order.

IV. CONCLUSION

While the full effects of the pandemic have not yet subsided, much assistance still remains available to utility customers. LIHEAP has been fully funded by the federal government. The last federal action on COVID relief allocated \$825 million to Pennsylvania for rent and utility assistance.¹⁰ Unemployment benefits and moratoriums on evictions and student loan payments have likewise been extended. Further, EAP notes that its members may elect to extend additional customer protections that are informed by the particular needs and demographics of their individual service territories.

For the reasons explained above, EAP respectfully requests that the Commission adopt an Order restoring the collections process, including terminations, authorized under the Public Utility Code and the Commission's regulations effective April 1, 2021 for all classes of customers.

Respectfully submitted,



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¹⁰ The Consolidated Appropriations Act, 2021 passed on December 28, 2020 allocated \$25 billion nationwide for rental and utility assistance, including arrearages. Pennsylvania Act 1 of 2021 made further provisions for the Commonwealth's allocation.

APPENDIX A

GAS COMPANIES	Number of Customers in Arrears Dec 2019	Number of Customers in Arrears Dec 2020	% change	\$ owed Dec 2019	\$ owed Dec 2020	% change
Residential	282,472	309,849	9.7%	\$ 136,318,175	\$ 180,598,429	32.5%
Non-Residential	13,164	18,805	42.9%	\$ 12,392,422	\$ 18,330,134	47.9%

ELECTRIC COMPANIES	Number of Customers in Arrears Dec 2019	Number of Customers in Arrears Dec 2020	% change	\$ owed Dec 2019	\$ owed Dec 2020	% change
Residential	360,141	420,415	16.7%	\$ 286,335,235	\$ 562,662,319	96.5%
Non-Residential	25,709	41,537	61.6%	\$ 32,500,663	\$ 74,750,525	130.0%

EAP MEMBERS	Number of Customers in Arrears Dec 2019	Number of Customers in Arrears Dec 2020	% change	\$ owed Dec 2019	\$ owed Dec 2020	% change
Residential	642,613	730,264	14%	422,653,410	\$ 743,260,748	76%
Non-Residential	38,873	60,342	55%	44,893,085	\$ 93,080,659	107%

*Numbers aggregated from individual company filings at Docket No. M-2020-3019244 dated on or about January 15, 2021 for the month ending December 2020.

APPENDIX B

Energy Assistance Summary (EASUM)

9/21/2019 - 1/23/2020

STATE WIDE

Crisis Demographic Report By Household (LIH660-R03)

	ITEM	COUNT	AMOUNT	%	AVG		ITEM	COUNT	AMOUNT	%	AVG
HOUSING	Owner	20,190	\$8,431,146	46	\$418	PAYMENT SENT	Electric	5,399	\$1,776,833	12	\$329
	Renter	20,446	\$8,015,590	46	\$392		FuelOil	26,422	\$11,213,721	60	\$424
	RenterWithHeat	68	\$21,740	0	\$320		Coal	823	\$426,718	2	\$518
	SubsidizedWithHeat	103	\$25,300	0	\$246		NaturalGas	4,638	\$1,761,690	10	\$380
	SubsidizedNoHeat	2,587	\$959,559	6	\$371		Kerosene	2,053	\$907,525	5	\$442
	Roomer	1	\$600	0	\$600		Propane	3,793	\$1,205,386	9	\$318
	Other	864	\$360,649	2	\$417		WoodOrOther	581	\$305,753	1	\$526
						BlendedFuel	550	\$216,959	1	\$394	
RACE	AmericanIndian	91	\$32,439	0	\$356	INCOME RANGE	0 - 999	745	\$292,134	2	\$392
	Other	2,138	\$838,475	5	\$392		1000 - 1999	137	\$51,568	0	\$376
	NativeHawaiian	22	\$8,565	0	\$389		2000 - 2999	126	\$52,469	0	\$416
	Black	6,919	\$2,766,929	16	\$400		3000 - 3999	199	\$78,370	0	\$394
	White	34,691	\$14,011,294	78	\$404		4000 - 4999	237	\$94,101	1	\$397
	Asian	106	\$42,302	0	\$399		5000 - 5999	233	\$92,918	1	\$399
	Unknown	292	\$114,580	1	\$392		6000 - 6999	352	\$146,977	1	\$418
DISABLED	YES	20,906	\$8,401,682	47	\$402		7000 - 7999	495	\$201,433	1	\$407
	NO	23,353	\$9,412,902	53	\$403		8000 - 8999	766	\$297,332	2	\$388
AGE 60 & ABV	YES	16,043	\$6,597,417	36	\$411		9000 - 9999	5,560	\$2,197,137	13	\$395
	NO	28,216	\$11,217,166	64	\$398		10000 - 10999	1,666	\$672,454	4	\$404
AGE 5 & BLW	YES	9,539	\$3,787,408	22	\$397		11000 - 11999	2,056	\$817,117	5	\$397
	NO	34,720	\$14,027,176	78	\$404		12000 - 12999	2,119	\$840,908	5	\$397
PAY_TYPE	DIRECT	104	\$31,312	0	\$301		13000 - 13999	2,317	\$932,829	5	\$403
	PROVIDER	44,181	\$17,791,116	100	\$403	14000 - 14999	2,621	\$1,066,654	6	\$407	
REFUNDS						15000 - 15999	2,306	\$940,827	5	\$408	
		696	\$11,840		\$17	16000 - 16999	2,306	\$932,319	5	\$404	
						17000 - 17999	1,816	\$733,656	4	\$404	
						18000 - 18999	1,575	\$649,109	4	\$412	
						19000 - 19999	1,965	\$778,049	4	\$396	
						> 19999	14,647	\$5,941,456	33	\$406	
						Not Reported	0	\$0	0	\$0	
						PAYMENT TYPE	Regular	44,259	\$17,814,584		\$403
					Reissue		3	\$627		\$209	
					Secondpay		3	\$1,374		\$458	
					Underpay		0	\$0		\$0	
					Extraordinary		20	\$5,843		\$292	
						TOTAL PMT	44,285	\$17,822,428		\$402	
						RECOUPMENTS	13	\$2,822		\$217	
					NET PAID		\$17,819,606				

AVERAGE HOUSEHOLD SIZE: 2.70

* Counts, Amounts (\$), % and AVG from HOUSING, RACE, DISABLED, OVER-60 and INCOME RANGE category are from Regular payments only

** Counts, Amounts (\$), % and AVG from PAY_TYPE category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)

*** Counts, Amounts (\$), % and AVG from PAYMENT_SENT category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)

Energy Assistance Summary (EASUM)

9/27/2020 - 1/14/2021

STATE WIDE

Crisis Demographic Report By Household (LIH660-R03)

	ITEM	COUNT	AMOUNT	%	AVG		ITEM	COUNT	AMOUNT	%	AVG
HOUSING	Owner	9,337	\$3,390,462	47	\$363	PAYMENT SENT	Electric	2,286	\$1,164,647	11	\$509
	Renter	9,353	\$3,535,028	47	\$378		FuelOil	11,814	\$3,774,746	59	\$320
	RenterWithHeat	28	\$16,325	0	\$583		Coal	500	\$310,200	2	\$620
	SubsidizedWithHeat	39	\$12,333	0	\$316		NaturalGas	1,709	\$921,566	9	\$539
	SubsidizedNoHeat	860	\$369,755	4	\$430		Kerosene	938	\$326,876	5	\$348
	Roomer	0	\$0	0	\$0		Propane	2,217	\$694,315	11	\$313
	Other	410	\$149,221	2	\$364		WoodOrOther	324	\$214,620	2	\$662
						BlendedFuel	239	\$66,154	1	\$277	
RACE	AmericanIndian	44	\$15,527	0	\$353	INCOME RANGE	0 - 999	326	\$158,424	2	\$486
	Other	879	\$342,884	4	\$390		1000 - 1999	33	\$17,175	0	\$520
	NativeHawaiian	17	\$7,948	0	\$468		2000 - 2999	42	\$25,531	0	\$608
	Black	2,523	\$1,157,890	13	\$459		3000 - 3999	53	\$22,176	0	\$418
	White	16,351	\$5,870,693	82	\$359		4000 - 4999	85	\$40,391	0	\$475
	Asian	57	\$22,390	0	\$393		5000 - 5999	87	\$43,196	0	\$497
	Unknown	156	\$55,793	1	\$358		6000 - 6999	120	\$50,913	1	\$424
DISABLED	YES	3,989	\$1,458,164	20	\$366		7000 - 7999	144	\$59,085	1	\$410
	NO	16,038	\$6,014,959	80	\$375		8000 - 8999	316	\$123,856	2	\$392
AGE 60 & ABV	YES	7,139	\$2,511,904	36	\$352		9000 - 9999	2,186	\$817,631	11	\$374
	NO	12,888	\$4,961,220	64	\$385		10000 - 10999	672	\$256,537	3	\$382
AGE 5 & BLW	YES	4,371	\$1,714,844	22	\$392		11000 - 11999	782	\$288,504	4	\$369
	NO	15,656	\$5,758,280	78	\$368		12000 - 12999	979	\$365,806	5	\$374
PAY_TYPE	DIRECT	45	\$15,009	0	\$334		13000 - 13999	1,000	\$369,743	5	\$370
	PROVIDER	20,869	\$7,750,657	100	\$371	14000 - 14999	1,259	\$435,346	6	\$346	
REFUNDS						15000 - 15999	1,056	\$375,067	5	\$355	
		459	\$31,951		\$70	16000 - 16999	1,079	\$379,814	5	\$352	
						17000 - 17999	887	\$314,801	4	\$355	
						18000 - 18999	887	\$321,815	4	\$363	
						19000 - 19999	944	\$348,643	5	\$369	
						> 19999	7,082	\$2,656,613	35	\$375	
						Not Reported	0	\$0	0	\$0	
						PAYMENT TYPE	Regular	20,027	\$7,473,124		\$373
					Reissue		6	\$2,124		\$354	
					Secondpay		15	\$2,455		\$164	
					Underpay		0	\$0		\$0	
				Extraordinary	866		\$287,964		\$333		
					TOTAL PMT	20,914	\$7,765,667		\$371		
					RECOUPMENTS	207	\$41,210		\$199		
					NET PAID		\$7,724,457				

AVERAGE HOUSEHOLD SIZE: 3.79

* Counts, Amounts (\$), % and AVG from HOUSING, RACE, DISABLED, OVER-60 and INCOME RANGE category are from Regular payments only

** Counts, Amounts (\$), % and AVG from PAY_TYPE category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)

*** Counts, Amounts (\$), % and AVG from PAYMENT_SENT category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)