

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held March 10, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
John F. Coleman, Jr., Vice Chairman  
Ralph V. Yanora

Waiver of Regulations Regarding Service  
Requirements

M-2021-3028321

**ORDER**

**BY THE COMMISSION:**

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 (Proclamation) proclaiming the existence of a disaster emergency throughout the Commonwealth, which Proclamation was timely renewed throughout the last fifteen months. The Proclamation authorized and directed 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.”

In response to the COVID-19 pandemic, the Commission implemented telework for its entire staff. That meant 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, were not in use until further direction

from the Commission. This presented many challenges for the Commission, the regulated community, and the public.

Under these circumstances, it was necessary for the Commission to take additional measures to ensure continued operations. These measures were intended to prevent regulatory or statutory procedural rules from interfering with the overall conduct of Commission business during the emergency. Therefore, on March 20, 2020, Chairman Gladys Brown Dutrieuille issued an Emergency Order that provided for the suspension of regulatory and statutory deadlines under appropriate circumstances and modified filing and service requirements. The Commission unanimously ratified the March 20 Emergency Order at its March 26, 2020, Public Meeting.

Our March 26, 2020, Order provided, *inter alia*, that the Commission shall accept only e-filings of all documents. 52 Pa. Code § 1.4. Additionally, that Order provided that any filings containing confidential or proprietary information should be emailed to the Secretary of the Commission at [rchiavetta@pa.gov](mailto:rchiavetta@pa.gov). Finally, and significant to our present Order, we directed that 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.

On June 10, 2021, the Pennsylvania Legislature passed a Concurrent Resolution (HR106) which terminated the Governor's Proclamation originally declared on March 6, 2020, and as amended and renewed. In a related action, Governor Wolf signed into law HB 854 on June 11, 2021, which provides "temporary regulatory flexibility authority" to "Commonwealth agencies" which issued an Order suspending a regulatory statute prescribing the procedures for conduct of Commonwealth business, or an Order, rule or regulation of a Commonwealth agency which was suspended under 35 Pa. C.S §7301(F)(1). Under HB 854, such Orders are extended *until September 30, 2021, unless sooner terminated by the authority initially authorizing them.*

In light of the termination of the Proclamation of Disaster Emergency and the “temporary regulatory flexibility authority” provided in HB 854, the Commission revised the March 26, 2020, Order by adopting an expiration date of September 30, 2021.

On September 15, 2021, we issued an order concerning service of documents by and on the Commission. We recognized that the electronic service requirements we adopted were essential to ensuring continued, uninterrupted operations, providing needed flexibility. Specifically, we recognized that that the pandemic and its changing nature require certain procedural flexibility for the public, the regulated community, and the Commission.

Toward this end, we continued to permit electronic service *by* the Commission on all parties, regardless of whether a particular party has agreed to electronic service. An exception to this general waiver is where the Public Utility Code requires service by specified means, e.g., Section 702; or where our regulations require a specific service type, e.g., 52 Pa. Code § 3.391. We directed that the Commission memorialize proof of electronic service on its electronic docketing system. Additionally, we directed that service *on* Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise. *We directed that this waiver will expire on April 1, 2022, without further Commission action, unless renewed prior to that date.*

Currently, while the Commission’s physical facilities are open for business, some of the operational restraints occasioned by the pandemic remain. The pandemic and its changing nature require procedural flexibility for the public, the regulated community, and the Commission. Furthering this objective, we find that the waiver of the service requirements in our regulations, as outlined above, shall continue until October 1, 2022. Our authority to waive our regulations is provided at Section 501 of the Public Utility

Code.<sup>1</sup> Additionally, our regulations allow for waiver of procedural regulations at 52 Pa. Code §§ 1.2, 1.91, and 5.43. We reiterate that our action today is not based on the prior Proclamation of Disaster Emergency, but rather our general regulatory authority and the need for continued flexibility in response to the pandemic; **THEREFORE,**

**IT IS ORDERED:**

1. Consistent with this Order, 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.
2. The service requirements set forth in the Commission's regulations at 52 Pa Code §§ 1.53 and 1.54 regarding are hereby waived, consistent with this Order.
3. That this waiver will expire on October 1, 2022, without further Commission action, unless renewed prior to that date.

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<sup>1</sup> § 501. **General powers.**

**(a) Enforcement of provisions of part.**--In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.

4. That the Law Bureau shall publish a copy of this Order in the *Pennsylvania Bulletin*.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: March 10, 2022

ORDER ENTERED: March 10, 2022