

## STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 9, 2020

*Document Control Center 04/09/20@3.17 PM*COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2020-00048*Ex Parte: Temporary Suspension of Tariff Requirements*

PETITION OF

OFFICE OF THE ATTORNEY GENERAL,  
DIVISION OF CONSUMER COUNSEL

CASE NO. PUR-2020-00049

For emergency order to suspend utility service  
disconnections during State of EmergencyORDER EXTENDING SUSPENSION OF SERVICE DISCONNECTIONS

In response to the coronavirus (COVID-19) public health emergency, on March 16, 2020, the State Corporation Commission ("Commission") docketed *ex parte* a new proceeding, Case No. PUR-2020-00048. Taking judicial notice of the emergency, we therein ordered each jurisdictional electric, gas, water or sewer utility to suspend disconnection of service to any customer, pending further order of the Commission ("March 16 Order"). In addition, the March 16 Order suspended any and all provisions of tariffs on file that prevent or condition the disconnection of service by such utility. Such suspension was made effective for sixty (60) days from the date thereof, a period extending to May 15, 2020, again pending further order of the Commission.

Also on March 16, 2020, the Commission issued an order scheduling responsive pleadings attendant to a Petition for Emergency Order to Suspend Utility Service Disconnections During State of Emergency ("Petition") filed by the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"). The following submitted comments related to the

Petition: Virginia Electric and Power Company ("Dominion"); Virginia, Maryland and Delaware Association of Electric Cooperatives ("Cooperatives"); Virginia Natural Gas; United States Senators Mark R. Warner and Tim Kaine; Columbia Gas of Virginia; Appalachian Power Company; Virginia American Water Company; and Virginia Poverty Law Center. Consumer Counsel filed a reply on April 6, 2020.

Case Nos. PUR-2020-00048 and PUR-2020-00049 both concern the coronavirus public health emergency, and the Commission herein issues the instant Order in consideration of both dockets concurrently.

*March 16 Order*

The unprecedented public health crisis now faced by our country and the Commonwealth requires both our March 16 Order suspending service disconnections for sixty days, as well as the extension we order today. While we extend the period of our March 16 Order, we recognize, as Consumer Counsel does,<sup>1</sup> that customers still owe payment for utility services received. If such bills are never paid, the costs of these unpaid bills are ultimately borne by paying customers as operational costs of the utility. These costs do not disappear; they are shifted to other customers, who themselves may be struggling to make ends meet in the economic catastrophe caused by the COVID-19 pandemic. Non-payment of bills also impacts a utility's liquidity and could even threaten its ability to continue providing service to all of its customers, a factor particularly salient with regard to electric cooperatives, who have no stockholders to provide equity capital and are owned by their own customers.

The purpose of our March 16 Order in this proceeding was and remains to protect those Virginia residential and business customers who, through no fault of their own, become

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<sup>1</sup> Consumer Counsel Reply at 9.

temporarily unable to access sufficient cash to pay their utility bills on a timely basis due to the severe economic consequences of the public health emergency. Accordingly, our March 16 Order was and remains prospective in application, not retroactive. It does not apply to accounts disconnected because they were unacceptably in arrears under existing tariffs for billing periods prior to March 16, 2020. Nor did our March 16 Order extinguish past-due amounts owed for utility services received in billing periods prior to March 16, 2020.<sup>2</sup> Our Order did not require reconnections of customers whose service had already been terminated prior to the COVID-19 crisis under existing tariffs, as those disconnections by definition could not have been caused by the COVID-19 emergency. At the same time, we did not prohibit utilities from choosing to reconnect past customers, as several have voluntarily done.<sup>3</sup>

While our March 16 Order was not retroactive, we strongly urge utilities to make extraordinary efforts to avoid disconnections for medically vulnerable customers. We also urge utilities to work with customers who were already in arrears or disconnected, but who are now seeking reconnection. We urge utilities to offer extended or flexible payment plans that may allow residential customers suffering temporary unemployment or business customers facing unforeseeable revenue shortfalls to resume or continue receiving vital utility services until the

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<sup>2</sup> The Cooperatives urge in their response in Case No. PUR-2020-00049 that we limit our March 16 Order to service disconnections only for non-payment, not for other reasons such as voluntary disconnections requested by a customer, "meter tampering" or "safety" reasons. Cooperatives Response at 4. To the extent necessary, we clarify that our March 16 Order applied to service disconnections for non-payment caused by the coronavirus public health emergency, of which we took judicial notice in such order. The Cooperatives also ask us to limit our March 16 Order to service disconnections for residential customers only. Cooperatives Response at 2. If the Cooperatives wish to make such a request, which could have enormous implications for Virginia businesses struggling with the devastating economic effects of the pandemic, it should be filed as a formal petition to which other interested parties may respond, and in which the Commission could act expeditiously. In addition, the Cooperatives may limit such petition and seek an expeditious waiver of this Order for specific non-residential customers, if the Cooperatives believe individual factual circumstances support such a waiver.

<sup>3</sup> Consumer Counsel Reply at 3.

coronavirus emergency has passed. We also urge utilities to waive reconnection fees for such customers.

#### *Suspension of Late Fees*

We supplement our March 16 Order by directing that for customers whose payment arrearages are due to the coronavirus emergency, late payment fees shall not be assessed.

#### *Pre-paid Meters*

Pre-paid meters, used predominantly by electric cooperatives for some residential customers, present a difficult issue from a practical standpoint. Customers pre-pay and service is disconnected automatically if the amount pre-paid runs to zero. The problem of a sudden utility disconnection presents the same threat, however, to customers who find themselves suddenly unemployed due to the coronavirus emergency and unable to "feed the meter" on a timely basis. Accordingly, we direct utilities to include these pre-paid customers in our directive to continue service. This continued service is not free, and such customers are responsible for eventual payment.<sup>4</sup> If it is technically impossible to re-program the pre-paid meter to run past zero, utilities using such meters must arrange alternative methods to prevent a service shut-off during the pendency of this Order. We urge utilities to work with customers on flexible or extended re-payment plans.

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<sup>4</sup> We direct utilities using pre-paid meters to work with the Commission's Division of Public Utility Regulation on appropriate communications to their pre-paid customers regarding notification of these conditions.

*Extension of Period for Suspending Disconnects*

While we fervently wish otherwise, at this time it appears that the devastating economic effects of the COVID-19 pandemic are unlikely to abate significantly by May 15th.<sup>5</sup> Therefore, we find it necessary to extend the period prohibiting service disconnections, as well as the other directives set forth in this Order, for an additional thirty (30) days, through June 14, 2020, pending further order of the Commission.<sup>6</sup>

*Tariff Waivers*

We grant any individual tariff waivers necessary to implement this Order for the duration of the period during which this Order remains in effect; to wit, through June 14, 2020, pending further order of the Commission.<sup>7</sup>

*Case No. PUR-2020-00049*

Finally, we grant Consumer Counsel's Petition to the extent it is consistent with our orders in Case No. PUR-2020-00048, including the Order issued today, and dismiss the proceeding. We will keep open our docket in Case No. PUR-2020-00048 during the COVID-19 emergency for consideration and action on such additional issues as may be necessitated by the crisis.

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<sup>5</sup> We also note that Gov. Ralph S. Northam issued a statewide "Stay at Home" order on March 30, 2020, which will remain in effect until June 10, 2020. *See* Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus, COVID-19.

<sup>6</sup> In Dominion's responsive pleading filed in Case No. PUR-2020-00049, Dominion stated it had already pledged to observe the suspension of service disconnections through June 10, 2020, consistent with the Governor's order. Dominion Response at 2. Virginia Natural Gas and Appalachian Power Company also pledged to suspend service disconnections through the duration of the Governor's emergency declaration. Virginia Natural Gas Response at 1, and Appalachian Power Company Response at 1, respectively.

<sup>7</sup> To the extent consistent with the instant Order, we grant the tariff waivers requested by Dominion, Virginia Natural Gas, and Columbia Gas of Virginia in their responsive pleadings in Case No. PUR-2020-00049.

Accordingly, IT IS SO ORDERED, Case No. PUR-2020-00048 is CONTINUED pending further order of the Commission, and Case No. PUR-2020-00049 is DISMISSED.

A COPY hereof shall be sent electronically by the Clerk of the Commission to the utilities providing electricity, gas, water, and sewer services in the Commonwealth that are subject to regulation by the Commission as identified in the attached service list.