

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: SUSPENSION OF SERVICE TERMINATIONS :
AND CERTAIN COLLECTIONS ACTIVITIES : DOCKET NO. 5022
DURING THE COVID-19 EMERGENCY :

PUBLIC COMMENT
Submitted by the R.I. Center for Justice
on behalf of the George Wiley Center
May 27, 2020

On March 16, 2020, March 30, 2020, April 13, 2020 the Public Utilities Commission (PUC) voted to enter emergency orders, effective through May 31, 2020, to prohibit regulated electric, natural gas, water, and sewer utilities to cease termination of service for nonpayment, cease sending past due accounts to collection agencies, and to refrain from sending termination notices with shut-off dates prior to May 28, 2020 for all customers. Absent a vote to continue the order or modify the orders, they will both terminate at 12:01 a.m. on May 31, 2020. The PUC will consider whether to continue or modify the order on May 28, 2020.

We write once again to request that the PUC Emergency Orders be continued in effect at least until the conclusion of the declared state of emergency for all customers, and for residential customers and low-income customers, for specific periods beyond the conclusion of the state of emergency.

Current Conditions Require Continuation of Utility Protections
for All Customers through the End of June
(Projected Transition from Phase 2 to Phase 3 of Reopening)

In Executive Order 20-37, issued on May 21, 2020, the Governor continued aspects of the State of Emergency through at least June 20, 2020.

On May 26, the Director of Health announced 73 new cases of COVID-19, bringing Rhode Island's case count to 14,210, and 13 additional fatalities elevating Rhode Island's COVID-19 fatalities to 634. Although Rhode Island has struggled mightily to "flatten the curve" and has achieved a reduction in the rate of infection, new cases are continuing to be identified and fatalities continue to occur each day at fairly consistent rates on a statistical plateau. Rhode Islanders are by no rational estimation out of danger. In fact, epidemiologists caution that as restrictions on public contact are gradually relaxed, a second surge of infection is not only possible but probable, which in turn may lead to:

[A] return to the severe lockdowns of April and most of May. “The virus may be with us for a good part of the next year,” said Barry Bloom, a professor and former dean of Harvard T.H. Chan School of Public Health. “The public has to be prepared that there will be continuous monitoring of the numbers.” Bloom said that reopening may not be a straight path toward a new normal. Rather, restrictions may ease in fits and starts — or even backtrack...periodically relapsing into total lockdown. From the very start of the coronavirus outbreak, those inside and outside of the scientific community have feared a second wave. History shows that several pandemics have returned with a vengeance after months of seeming calm. The Spanish flu of 1918 lasted two years. Its second peak was its deadliest.¹

One of the key criteria for transitioning to increased phases of reopening for Rhode Island is the reduced rate of spread of the COVID-19 virus as measured by the “R-value” or “reproduction” value – the average number of people that a single infected person will pass the virus to. The global R-value is currently at 3 and Rhode Island has succeeded for the moment in reducing its R-value from a high of over 3 to hovering around 1. However, if the state’s R-value rises even to 1.1 or greater a backward movement in the phased reopening may become necessary.²

In discussing the movement from Phase 1 to Phase 2 Governor Raimondo commented: “The R value is absolutely in our control. If we wear our masks, wash our hands, stay six feet apart, don’t congregate, and stay home if sick.”³ These variables are only “absolutely in our control” if all Rhode Islanders have hot water and power in their homes and places of work to maintain basic public health hygiene and nutrition requirements, to support continued working and learning from home, and to have safe homes with utility service to remain in if sick and for social distancing.

The emergency Executive Orders issued by the Governor (37 as of May 26, 2020) and daily briefings by the Governor and Director of Health underscore that Rhode Islanders should help stop the spread of the virus by, among other things,

- washing their hands with warm water and soap throughout the day;
- staying at home if they are ill; and
- working from home if at all possible.

In addition, all school children are required to remain at home and participate in their public education from home electronically at least until the start of the next school year.

¹ *With Reopening Comes the Threat of a Second Wave of COVID-19 Scientists Warn*, Boston Globe, May 25, 2020; https://www.bostonglobe.com/2020/05/25/metro/with-reopening-comes-threat-second-wave-covid-19-scientists-warn/?p1=Article_Recirc_Most_Popular

² *Rhode Island Won’t Start Phase 2 of Reopening the Economy Until June*, Boston Globe, May 15, 2020; <https://www.bostonglobe.com/2020/05/15/metro/another-11-rhode-islanders-die-coronavirus/>

³ Ibid.

As Rhode Island enters Phase 2 of the gradual reduction of emergency restrictions, continued limitations imposed in Phase 2 profoundly impact the necessity for a continuation of the PUC emergency orders:

- Those who can work from home are required to continue to do so;
- Businesses conducted in an office setting are only permitted to return one third of workers to the workplace, and then only if it is possible to do so following strict hygiene, masking and distancing measures – the remaining two thirds must continue to work from home;
- Anyone who is sick is still required to stay home and self-isolate (unless going out for testing or healthcare);
- The people who live with a sick person and who have been in direct close contact with that person are required to self-quarantine for 14 days after the last day that that person was in isolation.

The Governor has estimated that each Phase will need to remain in place for approximately a month before the next Phase can be implemented.⁴ This means that the work from home, learn from home, and public health isolation and quarantine requirements of Phase 2 militate in favor of a continuation of the PUC emergency orders at least through the end of June for all customers.

Rhode Island's unemployment rate for April was 17%, up from just over 3% in March 2020 and representing a loss of over 93,000 jobs since April 2019. Unemployment is expected to continue to rise even as the economy gradually reopens. This supports the importance of continuing the PUC emergency protections for all customers during Phase 2 of the reopening of the economy through the end of June so that more workers will have a functioning workplace, with water and power, to return to. This is underscored by the reports of current conditions filed by utilities in response to the information requests of the PUC. For example, National Grid reports that business customers contacted, even those who are aware of federal and other resources for business continuation support, are still scrambling to access those supports and the vast majority of businesses contacted do not yet have those in place.

**Economic Recovery and Public Health Needs for Utility Continuity
During the Pandemic Continue to Require
the Continuation of the PUC Emergency Orders for All Customers**

On May 15 and May 22, the PUC received detailed information from all regulated utilities concerning:

- (1) proposed plans for customer outreach and assistance to address arrearages incurred during the pandemic as well as proposals for resumption of collection activities up to and including termination of service, and
- (2) the economic impact of the PUC emergency orders on utility revenues and continuity of operations.

⁴ Ibid.

Rhode Islands regulated utilities continue to report that while most have experienced some diminution of revenue from customers during the effective period of the PUC emergency orders, their financial stability and ability to meet their current financial obligations is not in immediate jeopardy. The issue of how much of COVID-19 related arrearages for all customers can be addressed through outreach and flexible payment plans, versus write-off mechanisms for uncollectible debt is an important consideration. This longer term issue must be addressed, but it does not overcome the immediate need for the continuation of the PUC emergency orders for all customers at least through the end of June in order that Phase 2 of the reopening can be successful both in terms of economic recovery and in terms of preventing a renewed surge in the spread of the virus. If the PUC emergency orders are not continued at this time for all customers, then many small businesses may not be able to reopen, newly unemployed Rhode Islanders will be plummeted into lengthier joblessness, and many Rhode Islanders will be unable to follow public health requirements for work from home, school at home, social distancing, isolation and quarantine, which will take Rhode Island backward into a more prolonged shutdown, deeper economic crisis and the tragedy of preventable deaths.

As it relates to plans for outreach and payment plans prior to the reinstatement of potential utility terminations, concerning themes emerged in the May 15 filings of the regulated utilities. Laudably, utilities universally reported that they would outreach to customers who have fallen behind on their utility bills during the pandemic and would seek to enter into payment plans with these customers. However, alarmingly, most of the responses indicated that payment plans would be those generally available before the pandemic rather than citing new approaches responsive to the utter totality of financial collapse being experienced by so many businesses and families in Rhode Island. Most utilities referenced a return to their pre-existing payment plans, ranging from three months to twelve months duration, for customers to pay down arrearages while still paying for current bills. These traditional approaches are going to be insufficient to enable most COVID-19 impacted businesses and individuals, many of whom have experienced and will continue to experience a total absence of revenue and income for many months, to “catch up.” This is not going to be a successful approach if arrearages for businesses are going to be fully paid off over time. Longer periods for arrearage payoff, going beyond the plans routinely available before the pandemic, will be needed for businesses and individuals impacted by the pandemic. The loss of business revenue and loss of employment income is literally without precedent going all the way back to the Great Depression of the 20th Century. This calls for the development of significantly different (and more extended) arrearage paydown plans for the foreseeable future if lost revenues from the pandemic period are to be recovered rather than written off. Meanwhile, arrearages for the most vulnerable low-income consumers will predictably need to be forgiven in a systematic and equitable manner.

Continued reliable access to affordable utilities as Rhode Island attempts to move forward into recovery and reopening depends upon the ability of businesses and individuals to pay down their arrearages over time, rather than walk away from insurmountable indebtedness by closing their businesses and losing stable housing in the face of premature utility termination. Based on the information shared with the PUC by the regulated utilities, Phase 2 of the recovery cannot succeed unless the PUC continues its emergency protective orders for all customers at least through June. This will, in part, provide the time necessary for the PUC to expand upon the utilities’ submissions and require the implementation of new and different COVID-19 outreach

and payment plan approaches that are not a return to the business as usual of the pre-pandemic and are in proportion to the severity of the loss of revenue and income experienced by Rhode Island utility consumers since March. For example, references to plans for water termination to start up immediately after the PUC emergency orders of protection expire are particularly chilling when considering the public health drumbeat of “wash your hands” and ensure the frequent cleansing of all surfaces on which a virus can spread at home or at work. A continuation of the PUC emergency orders is necessary to prevent a premature return to utility terminations and to provide time for the development and implementation of new COVID-19 recovery payment plans that meet the dual goals of utility sustainability and utility affordability.

The Governor and the Director of Health need Rhode Islanders to stay at home in order to save lives. They continue to ask most businesses to severely curtail their public operations. The continuation of the PUC’s appropriate action in protecting businesses and individuals from utility termination activities at this critical time is strongly supportive of these public health imperatives. Businesses and individuals will be less able to accept these necessary public health restrictions if they are concerned that their compliance will result in utility terminations. Essential hygiene and public health requirements continue to make it absolutely imperative that utility service continue in homes where Rhode Islanders continue to be asked to remain.

Public Health Requirements for Continued Work from Home, School Closure, Social Distancing, Isolation and Quarantine Require the PUC Emergency Orders Be Continued Until at Least the End of July for Residential Customers And Particularly Low-Income Residential Customers

With Governor’s Emergency Orders extended at least until June 20, and with this continuation of the state of emergency projected to extend beyond that date and perhaps well into the next school year, it is essential that the PUC emergency order of protection continue for residential customers at least until the end of July (successful implementation of Phase 3) and beyond as the state of emergency continues. The ongoing state of emergency in Rhode Island continues to be accompanied by a wide array of Executive Orders significantly curtailing public activity designed to support social distancing, isolation at home for the ill, and self-quarantine of those exposed to the virus. These measures serve to slow the spread of the virus and save lives in Rhode Island.

Other major institutions, including the Courts, have issued new Administrative Orders, extending into the fall, that substantially revise and limit the conduct of business in service to slowing the spread of the virus. The R.I. Federal District Court will not conduct in-person proceedings until at least September. The state courts have announced seriously curtailed in-person proceedings following social distancing and other public health and hygiene requirements for the foreseeable future. These actions are being taken to avoid the congregation of the public in courthouses and thus serves to slow the spread of the virus and save lives in Rhode Island. All of these new administrative orders continue these public health protections beyond June and are relevant to and argue for the parallel continuation of the PUC’s emergency orders.

All Rhode Island elementary and secondary schools remain closed until September. Rhode Island institutions of higher education have closed their physical campuses and are operating exclusively online. Higher education institutions may remain engaged in remote learning in the fall and even if they resume in-person instruction it will be under severely constrained parameters following essential public health needs. The Governor and the Director of Health have determined that these drastic measures are necessary to save lives.

In order to prevent the second wave of illness that so many experts both fear and predict, residential customers should be protected from utility terminations at least during the duration of the official state of emergency. Because the progression of the pandemic is unpredictable, the PUC emergency orders should be continued at least until the end of July (successful implementation of Phase 3) with a review of the necessity of further continuation at that time. This protection is absolutely critical to the ability of Rhode Islanders to *safely and gradually* return to their economic activities and thus enable them to pay their utility bills when they are able to resume post-state of emergency activity. Everyone is harmed if residential consumers are forced from their homes by a premature lifting of the PUC's emergency orders of protection from termination given the risk for an upsurge in the spread of the virus.

Finally, as stated with specificity in our prior public comments on this docket, the need for residential consumers to maintain utility service in support of the delivery of public education in the home setting demands a continuation of PUC emergency orders for residential consumers at least through the return of Rhode Island's children to their school buildings, perhaps at the end of the summer. As previously asserted, the requirement for access to public education is specifically provided for in the Rhode Island Constitution⁵ and in a myriad of statutes found at Title 16 of the R.I. General Laws. The most basic of these is the mandatory attendance or truancy law⁶. Without utility service Rhode Island's students literally cannot access their public education as long as their physical school sites remain closed. Distance learning does not exist without utility service in the home. A utility termination during a pandemic-imposed period of distance learning becomes a public education termination. Rhode Island's schoolchildren are relying on the PUC to extend protection from utility termination for at least low-income residential customers until such time as they are again able to attend a physical school.

Conclusion

For the reasons stated above, the PUC's emergency orders prohibiting utility termination should continue for **all customers through the end of June** with a review at that time to monitor the state of the public health and economic emergency, and the readiness of Rhode Island's utilities to implement meaningfully differing outreach and repayment plans that are not a return to the status quo ante, but are materially altered in scope and duration to reflect the magnitude of the current pandemic. Further, **residential households should be protected from utility termination at least during the duration of the state of emergency** and the many Executive Orders restricting their economic activity **with a review at the end of July** to determine if Phase 3 has been successfully implemented and to assess the status of the ongoing state of emergency. This protection is needed to literally save lives by slowing the spread of the virus. Finally, **low-**

⁵ R.I. Constitution, Art. XII, §1

⁶ R.I.G.L. 16-19-1

income utility consumers should be protected for a further specific period, best determined in consultation with public health officials at the appropriate time, in order to ensure that the basic residential public health and hygiene requirements for which utility continuity is essential are met in order to prevent a second round of epidemic spread. **Low-income consumers should also receive targeted arrearage forgiveness pursuant to a PUC emergency order specifically addressing COVID-19 related arrearages** which will be insurmountable for these most vulnerable Rhode Islanders.

Respectfully submitted,



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Massaro, Luly (PUC)

From: Elizabeth Huh <ehuh0915@gmail.com>
Sent: Thursday, May 28, 2020 4:44 AM
To: Massaro, Luly (PUC)
Cc: georgewileycenterri@gmail.com
Subject: [EXTERNAL] : [Public Comment] In Support of Increasing Accessibility to Utilities

Dear Ms. Massaro,

Hello. As a former resident of Rhode Island and an advocate for utility rights, I am writing in support of increasing accessibility to utilities for low-income households. First off, I would like to commend the much needed public order to suspend service terminations and collection activities of all regulated electric, natural gas, water, and other utilities during the COVID-19 emergency.

Yet, I would also like to emphasize that the uncertainty and the economic hardship brought by COVID-19 have been the lived reality for low-income households even before the pandemic. It has been the daily experience of low-income households to live in fear, financially struggling while being stripped of basic rights to water and electricity in the "comforts" of their own homes. Perhaps shut-offs seem particularly unethical and cruel during a time where lives are flipped completely upside down by an unprecedented virus, yet there is something ironic in this thought when we realize that this struggle has never been unusual for the marginalized who have been perpetually deprived of utilities.

Furthermore, COVID-19 and its impact on our lives are not as clean-cut as the public orders and the legal measures that can so easily be terminated or be assigned a duration date. The effects of the virus and the hardships brought on by the pandemic will reverberate for years to come—it is not a matter of whether there will be long-term effects, but a question of to what extent and how long they will impact our lives. On this note, I implore the PUC to consider the following measures:

- A Permanent Moratorium on shut-offs for low-income households
- Emergency Utility Restorations for all low-income households without any down payment
- Immediate Implementations of the Percentage Income Payment Plan (PIPP)

In addition to extending the order beyond April, the abovementioned measures should be implemented to fully protect *all* residents of Rhode Island. Thank you.

Sincerely,

Elizabeth Huh