

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

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

ORDER

On March 9, 2020, Governor Gina Raimondo declared a state of emergency in Rhode Island as part of the State’s response to the COVID-19 virus. Subsequently, Governor Raimondo closed school buildings, closed restaurants for inside dining, and limited public gatherings. Several municipalities were also under states of emergency with various limitations on businesses and gatherings.

On March 16, 2020, the Public Utilities Commission (Commission) ordered all electric, natural gas, water, and sewer utilities to immediately cease certain collections activities, including termination of service for nonpayment, sending past due accounts to collections agencies, and sending termination notices with disconnection dates prior to the end of the stated period.¹ The order was in effect through April 14, 2020 for residential customer accounts and March 31, 2020 for nonresidential customer accounts, subject to further review. The Order was extended on March 30, 2020, April 13, 2020, May 6, 2020, and May 28, 2020 for all customers through July 17, 2020.² The May 28, 2020 decision also required the regulated utilities to suspend late fees, interest charges, credit card fees, debit card fees, and ACH fees subject to further review in September 2020. The remainder of the May 28, 2020 decision scheduled to be revisited on July 13, 2020.

¹ Order No. 23786. The order allowed collections activities included billing, reminder notices, entering payment plans, and other activities not prohibited by the order. It encouraged customers to continue to pay their bills to the extent they have the financial ability, noting that nonpayment results in higher balances that can become even more challenging over time. It also directed utilities to offer flexible payment plans to all customers facing financial hardship, even short-term, during this time.

² Order No. 23836 (June 2, 2020).

On July 13, 2020, the Commission lifted the moratorium on termination of service for all utilities other than National Grid. The moratorium was lifted for National Grid applicable to their non-residential customers. It was continued through September 30, 2020 for residential customers who do not qualify for the income eligible bill discount. For those customers qualifying for the income eligible bill discount (Rate A-60), the moratorium was extended through November 1, 2020, the start of the winter moratorium covered by the Rules and Regulations Governing the Termination of Residential Electric, Gas, and Water Utility Service. This effectively protected those customers through April 15, 2021. The Commission also extended the special payment plans that had been included in the July 14, 2020 Order applicable to all residential customers of National Grid. Arrearage Management Plans were also to be offered to customers of the electric distribution company who otherwise qualified but for the receipt of a termination notice. Finally, on July 13, 2020, the Commission extended the order requiring all regulated utilities to suspend late fees, interest charges, credit card fees, debit card fees, and ACH fees.³

On March 19, 2021, the Commission, on its own motion, considered whether an emergency and circumstances still existed to necessitate the need to extend the utility termination moratorium as defined in the Termination Rules beyond April 15, 2021 for National Grid's customers. After a review of comments from, among others, National Grid, the Wiley Center, and the Division of Public Utilities and Carriers (Division), the Commission voted to extend the moratorium on utility service terminations for National Grid's protected customers as defined in the Termination Rules through June 25, 2021, the last day of the statewide school calendar to ensure no further disruption in these students' remote learning activities. All other directives in the July 13, 2020 Order of the Commission remained in effect.⁴

³ Order No. 23866 (July 15, 2020).

⁴ Commission Minutes (Mar. 19, 2021).

On June 14, 2021, the George Wiley Center sought direction from the Commission on whether the moratorium on shutoffs for protected status customers would be continued beyond June 25, 2021 based on a June 9, 2021 extension of the declaration of a state of emergency by Governor McKee.⁵ The Commission solicited comments. National Grid, the Division, the George Wiley Center, and the Center for Justice submitted written comments.

The George Wiley Center and Center for Justice supported extending the moratorium through at least July 25, 2021 and tying further extensions to the whether there is a State of Emergency in effect. The Center for Justice proposed expanding the protections to all residential customers, extending the modified payment plans previously ordered, and ensuring coordination of federal assistance funding with termination activities to avoid shut-offs when customers are awaiting processing of their assistance funds.

In their comments, the Division noted that as of June 24, 2021, Rhode Island had one of the highest vaccination rates in the United States, with approximately 56% of its population fully vaccinated. Additionally, Rhode Island's unemployment rate in May 2021 fell to 5.8%, matching the national rate. Professional and business services, manufacturing, health care, and accommodation and food services sectors of the Rhode Island economy all added jobs last month with the State of Rhode Island recovering approximately 64% of the roughly 108,000 jobs lost in March and April of 2020. The State of Rhode Island has now added jobs for five consecutive months. The Division indicated that along with the wide availability of vaccines and the dramatic improvement of the Rhode Island economy, \$200,000,000 in federal funding is now available for rental and utility assistance. In sum, the Division concluded that the rationale for extending the current moratorium is no longer applicable.

⁵ Email to Luly Massaro; <http://www.ripuc.ri.gov/eventsactions/docket/5022-WileyCtr-Request%206-14-2021.pdf>.

Further, the Division expressed concern that further extensions tied to the state of emergency will only exacerbate the growing arrearages of utility customers. Regardless, the Division recommended that the Commission extend the current moratorium to July 25, 2021 to provide an opportunity to communicate to the low income community the resources that are available to assist in paying their bills. Additionally, communicating a moratorium end date will encourage customers to work with the utility on payment arrangements to avoid disconnections.

Absent unforeseen changes in circumstances, the Division stated that it did not anticipate supporting any further extensions of the moratorium due to the Division's concerns regarding National Grid's growing accounts receivables. The growth in accounts receivables leads to higher costs and rates that, in turn, makes bills less affordable. The Division agrees with the Center for Justice's request that no one may be terminated for their arrearages while seeking federal assistance for their arrearages so long as customers remain current on their monthly bills.

At an Open Meeting held on June 24, 2021, the Commission considered the comments, the state of the economy, availability of federal assistance, and vaccination rates. The Commission voted unanimously the moratorium on terminations then in effect for National Grid's protected status customers, including customers on National Grid's low-income rate, be extended through July 25, 2021, and there will be no further extensions unless there is substantial evidence of a major resurgence of the COVID-19 pandemic. All other directives in the July 13, 2020 Order of the Commission remained in effect.⁶

The remaining directives of the Commission included a prohibition on the charging of late fees, interest, and so called "convenience fees" on credit card/ACH payments. National Grid was also still required to provide modified extended payment plans as set forth in the prior orders. In

⁶ Commission Minutes (June 24, 2021).

August 2021, the Commission sought information from the utilities about the quantification of the waived fees. On October 25, 2021, the Commission sought comments about whether to lift the prohibitions. The Commission requested the comments specifically address whether the prohibition should be lifted, the amount of notice to be given to customers prior to the lifting of the prohibition, and the rationale for the position. Comments were received from four utilities, the Center for Justice, and the Division.

National Grid, Pawtucket Water Supply Board,⁷ Newport Water, and Narragansett Bay Commission (NBC) all supported lifting the prohibition on the assessment of late fees and/or interest charges on overdue balances, asserting that these fees affect customer payment behavior where a customer may prioritize bills that have these fees over those that do not.⁸ With respect to the assessment of credit card/ACH fees, National Grid did not specifically comment on the reinstatement of those. Newport Water and NBC both supported reinstatement of those fees specifically because recovery of those costs are not included in their respective cost of service. NBC noted that if they had cost recovery, they would rather not reinstate the fees. The utilities suggested they be required to provide 30-60 days advance notice prior to reinstating those fees. This was consistent with all of the utilities' responses to previous data requests.⁹

The Center for Justice advocated for continued waiver of these fees for low income residential customers who are either eligible for a low-income rate from any utility or if they are eligible for Rent Relief RI. The Center for Justice also advocated for waiver of the credit

⁷ Pawtucket Water absorbs "convenience fees" for credit card/ACH payments.

⁸ National Grid does not charge late fees/interest on residential accounts. National Grid does not pass through the cost of ACH payments except in limited instances where a customer does not initiate payment through National Grid's website.

⁹ National Grid, Pascoag Utility District, Block Island Utility District, Providence Water Supply Board, Pawtucket Water Supply Board, Woonsocket Water Department, Kent County Water Authority, Newport Water Department, and Narragansett Bay Commission all responded to data requests issued in August 2021 for a quantification of waived fees and questions about the reinstatement and notice provisions. All responses can be found on the Commission's website.

card/ACH “convenience fee” for low income customers. Additionally, the Center for Justice suggested that if the fees were to be reinstated, the Commission require two notices to customers prior to the reinstatement of any fees. The Center for Justice asserted that if a customer is unable to pay their bills due to financial hardship, reinstatement of the fees would not provide the incentive to pay suggested by the utilities. Finally, the Center for Justice noted that National Grid had (or would) received payments of over \$16 million thus far under the federal utility relief funds, thus reducing the amount that would be subject to the late/interest charges.

The Division submitted a letter recommending the reinstatement of only interest and late fees at this time with a continued prohibition on the assessment of “convenience fees” related to credit card/ACH payments. The Division indicated it would support a ratemaking mechanism to address the utilities’ concerns that these fees were not included in their respective cost of service. The Division noted that there has been an alarming trend in the aging of arrearages which may be addressed, in part, by the reinstatement of late fees/interest charges, particularly among those customers who may be able to pay their bills but have not prioritized them. The Division, however, noted that many of the utilities noted that credit card/ACH fee waivers have resulted in better collections. The Division recommended customers receive 30-days notice prior to the reinstatement of the fees and advocated for a requirement that utilities include information about the Rent and Utility Relief Program, including links to Rhode Island Housing’s website.¹⁰

At an Open Meeting held on November 5, 2021, the Commission considered the comments and previous discovery responses. The Commission noted that National Grid does not assess late fees/interest charges on residential accounts and that few, if any renters pay water or sewer bills. The Commission voted unanimously to allow reinstatement of the late fees/interest charges after

¹⁰ Division Letter (Oct. 25, 2021).

at least 30-days' notice to affected customers prior to reinstating the fees. The Commission accepted the Division's recommendation that notices should provide customers with information about assistance that may be available, including a link and telephone number associated with The Rent and Utility Relief Program. The interest will be applied to the total arrearage starting with the first bill received after the 30-day period even if the arrearage has been accruing for several months.

The Commission also voted unanimously to require the utilities to continue to absorb any online payment transaction fees and to allow the utilities who do not have those costs included in their cost of service the opportunity to file for rate recovery on a going forward basis through a specific ratemaking mechanism that would be in effect through the utility's next rate case. It should be designed to recover no more than actually expended by the utility to absorb the fees. The Commission did not address previously accrued costs associated with the waived fees because some of the utilities have indicated they may not seek back cost recovery. Additionally, the Commission did not design a cost recovery mechanism because each utility may have different needs or timing of their respective request. The Division noted that they would support recovery in a future ratemaking proceeding on the basis that such extraordinary costs would qualify for an exception to retroactive ratemaking prohibitions. This, however, also appears to qualify for a time-limited exception to the restrictions on single-issue ratemaking. In the utility's next base rate case (general or abbreviated), the costs should be included in their cost of service in the same manner as all other billing costs, taking into account any cash flow benefits that result from online payments.

The Commission adjusted the timing of National Grid's COVID-19 related reporting requirements from weekly to monthly and closed the docket. The July 14, 2020 Order in this

docket required National Grid to provide modified extended payment arrangements to customers until further order of the Commission. The Commission did not make any further order and therefore, those payment arrangements shall continue to be offered.

Accordingly, it is hereby,

(24424) ORDERED:

1. Utilities subject to this order shall continue to suspend credit card fees, debit card fees, and ACH fees. Each utility that ordinarily charges late fees, interest charges, or passes through credit card, debit card, or ACH fees may, but is not required to seek recovery of the waived fees in a separate petition.
2. Utilities subject to this order that charge late fees or interest fees may reinstate those after providing at least 30-days' notice to each affected customer consistent with the requirements of this order. The interest will be applied to the total arrearage starting with the first bill received after the 30-day period even if the arrearage has been accruing for several months.
3. Until further order of the Commission, any residential customer whose utility service has been terminated by National Grid for non-payment or who has a Termination date scheduled will be entitled to have such service restored by National Grid upon satisfaction of certain conditions:
 - (a) for a customer owing less than \$1000, 10% of the balance owed must be paid and the remainder of that balance must be paid within 18 months;
 - (b) for a customer owing at least \$1000 but less than \$2500, 10% of the balance owed must be paid and the remainder of that balance must be paid within 24 months;
 - (c) for a customer owing \$2500 or more, 10% of the balance owed must be paid and the remainder of that balance must be paid within 36 months unless the Company chooses to extend such time period;

In addition to the down payments specified above, customers must pay current bills within the time period allowed by National Grid. A formal commitment to receive funds from any social service agency for all or part of the additional down payment shall be considered compliance with the provisions of the Rules, provided that the customer has satisfied the other conditions set forth above.

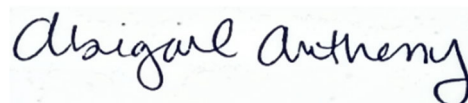
4. Until further order of the Commission, The Narragansett Electric Company d/b/a National Grid shall continue to file financial reports required by the Commission's First Set of Data Requests in this docket but monthly instead of weekly. The reports will be filed under Docket No. 5026.
5. The docket is closed.

EFFECTIVE AT WARWICK, RHODE ISLAND ON NOVEMBER 5, 2021, PURSUANT TO AN OPEN MEETING DECISION ON NOVEMBER 5, 2021. WRITTEN ORDER ISSUED ON JUNE 6, 2022.

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairman



Abigail Anthony, Commissioner



John C. Revens, Jr., Commissioner

NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the Commission may, within seven (7) days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.