

STATE OF TENNESSEE

Office of the Attorney General



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March 23, 2020

VIA ELECTRONIC FILING

Hon. Robin L. Morrison, Chair
c/o Ectory Lawless
Tennessee Public Utility Commission
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Emergency Petition to Suspend Service Disconnections

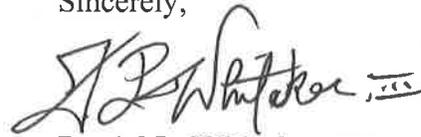
Dear Chair Morrison:

Attached for filing is the *Emergency Petition to Suspend Service Disconnections* (“*Emergency Petition*”) of the Consumer Advocate Unit of the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate”). In the *Emergency Petition*, the Consumer Advocate requests the Tennessee Public Utility Commission (“TPUC”) to institute a moratorium on utility service disconnections for nonpayment until such time as the state of emergency arising from the COVID-19 pandemic expires.ⁱ This formal moratorium would provide relief to struggling consumers as well as clarity to both consumers and utilities during uncertain times.

The COVID-19 pandemic has caused widespread confusion and disarray. Consumers and corporate members of the utility industry are in uncharted territory, and we appreciate the leadership on numerous issues displayed by TPUC. For instance, TPUC has already begun to address service disconnections by acknowledging voluntary moratoria on service disconnections from many public utilities.ⁱⁱ And on March 19, 2020, TPUC issued a request for information to public utilities requiring an initial public information filing on or before March 24, 2020, with subsequent weekly updates thereafter.ⁱⁱⁱ These items illustrate proactive oversight by TPUC and are important steps in providing clarity concerning utility services. The Consumer Advocate’s *Emergency Petition* simply requests additional relief.

As required, an original and thirteen hard copies of the *Emergency Petition* will follow as soon as possible. Further, it is the Consumer Advocate's understanding that the \$25.00 filing fee is not required by TPUC when the filing is made by a State organization such as the Office of the Tennessee Attorney General. If this is incorrect and a filing fee is due, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "D. P. Whitaker, III". The signature is fluid and cursive, with a horizontal line underlining the name.

Daniel P. Whitaker, III
Assistant Attorney General

ⁱ See *Executive Order No. 14*, Office of the Governor of Tennessee (March 12, 2020).

ⁱⁱ See *Public Notice of Utility Action to Assist Consumers During the Coronavirus COVID-19 Public Health Emergency*, Tennessee Public Utility Commission (March 17, 2020).

ⁱⁱⁱ See *Ongoing Request for Information Related to Measures Taken During the Coronavirus COVID-19 Public Health Emergency*, Tennessee Public Utility Commission (March 19, 2020).

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

**EMERGENCY PETITION OF THE
CONSUMER ADVOCATE UNIT IN THE
FINANCIAL DIVISION OF THE OFFICE
OF THE TENNESSEE ATTORNEY
GENERAL**

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Docket No. _____

EMERGENCY PETITION TO SUSPEND SERVICE DISCONNECTIONS

Herbert H. Slatery III, Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (“Consumer Advocate”), pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (“TPUC” or “Commission”) to order all public utilities under its jurisdiction to immediately suspend service disconnections for nonpayment of bills during the state of emergency declared by Governor Bill Lee. For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating or intervening as a party in any matter or proceeding before the Commission in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.*, and TPUC rules.

2. On March 12, 2020, in response to the COVID-19 pandemic, Governor Bill Lee issued Executive Order No. 14, thereby declaring a state of emergency in Tennessee and implementing, among other things, the State of Tennessee’s Emergency Management Plan. This was an expected course of action after overwhelming concern from agencies such as the World

Health Organization and Center for Disease Control. In the release, Governor Lee cited issues relating to vulnerable populations¹, public health, and safety.²

4. On March 18, 2020, the National Association of Regulatory Utility Commissions (“NARUC”) issued a statement.³ NARUC President Brandon Presley stated in part:

In the midst of these challenges, worrying about continued access to utility service should not be among anyone’s concerns. Many people are just beginning to fully realize how closely utility service – and its effective regulation – is tied to public health and the overall public welfare. On behalf of NARUC, I want to thank our commissioners for their attention to the many issues associated with COVID19.

He continued:

The regulators’ mission to serve the public interest by assuring the delivery of safe, reliable service at reasonable rates is critically apparent now. Members of the electricity, gas[,] and water industries have briefed state regulators with their plans to adhere to established health protocols to ensure the safety of both the public and utility personnel. We are pleased to see that many states have placed a moratorium on service disconnections during the pandemic.⁴

4. On March 16, 2020, Governor Lee issued a public statement requesting that schools in Tennessee close by March 20, 2020. Based on the Governor’s request, schools are anticipated to remain closed until at least March 31, 2020, and this period could be extended. Therefore, school-aged children will be forced to stay in their homes for the foreseeable future. Continued access to utility services is of paramount importance, especially for families already experiencing financial hardship.

¹ GOV. BILL LEE ISSUES EXECUTIVE ORDER DECLARING STATE OF EMERGENCY IN RESPONSE TO COVID-19 (March 12, 2020) (publicly available at <https://www.tn.gov/governor/news/2020/3/12/gov--bill-lee-issues-executive-order-declaring-state-of-emergency-in-response-to-covid-19.html>).

² *Executive Order No. 14* (March 12, 2020) (publicly available at <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee14.pdf>).

³ NARUC STATEMENT ON COVID-19, Contact: Regina L. Davis (March 18, 2020) (publicly available at <https://www.naruc.org/about-naruc/press-releases/naruc-statement-on-covid19/>).

⁴ *Id.*

5. Economic impact has been severe and is expected to become worse. Many reports indicate that employers are laying off workers at alarming rates, with some projections forecasting a loss of 4.6 million jobs.⁵ Businesses, and especially small businesses, are being forced to temporarily close, and many of these could still go bankrupt. Consumers who already struggle to make ends meet could be facing even more turmoil, which would only be exacerbated by the loss of essential services such as power or water.

6. Many state regulators have issued moratoria on service disconnections. For instance, the Kentucky Public Service Commission issued an *Order* on March 16, 2020, suspending utility service disconnections for nonpayment, finding that these activities are a waste of resources during crisis and constitute a public risk.⁶ Likewise, the Virginia State Corporation Commission issued a 60-day moratorium on service disconnections for customers or businesses who may be financially impacted by the COVID-19 pandemic.⁷

7. On March 17, 2020, this Commission issued its *Public Notice of Utility Action to Assist Consumers During the Coronavirus COVID-19 Public Health Emergency*. While the *Public Notice* commends some utilities who have voluntarily suspended service disconnections for nonpayment, pledged to reconnect disconnected consumers at no charge, and waived late fees and encourages other utilities to “do all they can to help”, the *Public Notice* does not order utilities in TPUC’s jurisdiction to suspend service disconnections.

⁵ CORONAVIRUS LAYOFFS SURGE ACROSS AMERICA, OVERWHELMING UNEMPLOYMENT OFFICES, REBECCA RAINEY, Politico (March 17, 2020) (publicly available at <https://www.politico.com/news/2020/03/17/coronavirus-layoffs-america-unemployment-134819>).

⁶ *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Public Service Commission, *Order* at 3 (March 16, 2020) (publicly available at https://psc.ky.gov/PSCSCF/2020%20cases/2020-00085/20200316_PSC_Order.pdf).

⁷ UTILITY COMPANIES ORDERED TO HALT DISCONNECTIONS FOR 60 DAYS IN VIRGINIA, IDA DOMINGO (March 17, 2020) (publicly available at <https://wcyb.com/news/nation-world/state-corporation-commission-orders-utility-services-in-va-to-halt-service-disconnections>).

8. Not only is there no requirement that service be continued for all public utilities, utility companies who have issued moratoria voluntarily would be free to rescind these policies. Additionally, while some consumers will benefit from the good-natured acts of their public utilities who have voluntarily undertaken consumer relief efforts, it is unfair, and not in the public interest, for other consumers to be left without similar relief.

9. Without an order requiring a temporary halt to service disconnections for nonpayment, public utilities are under no obligation to suspend these activities. Moreover, consumers may be confused as to whether the utilities who provide them service are continuing to disconnect service for nonpayment. This can add to already-existing stresses for financially impacted consumers.

Wherefore, the Consumer Advocate requests TPUC grant this *Emergency Petition* and issue a moratorium on service disconnections for nonpayment of customer bills until such time as the state of emergency issued by Governor Lee expires or is cancelled.

RESPECTFULLY SUBMITTED,



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