



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 North Street, Harrisburg, Pennsylvania 17120

IN REPLY PLEASE
REFER TO OUR FILE
M-2020-3019775

May 13, 2020

**Re: COVID-19 Cost Tracking and Creation of Regulatory Asset
Docket No. M-2020-3019775**

To whom it may concern:

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency in response to the COVID-19 pandemic (*Emergency Proclamation*).¹ Among other things, the *Emergency Proclamation* directed the suspension of the provision 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 the emergency.

Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501, provides that every public utility has a duty to furnish and maintain adequate, efficient, safe, and reasonable service as is necessary for the accommodation, convenience, and safety of its patrons, employees, and the public. Section 1501 explicitly requires such service to be reasonably continuous and without unreasonable interruptions. 66 Pa. C.S. § 1501.

Consistent with the *Emergency Proclamation*, and Section 1501 of the Public Utility Code, on March 13, 2020 Pennsylvania Public Utility Commission (“Commission”) Chairman Gladys Brown Dutrieuille issued an Emergency Order which prohibited regulated utilities from terminating service during the pendency of the *Emergency Proclamation*, unless necessary to ameliorate a safety emergency or unless otherwise determined by the Commission, and also encouraged reconnection of service if such action could be done safely. *Public Utility Service Termination Moratorium Proclamation of Disaster Emergency-COVID-19*, Docket No. M-2020-3019244 (Emergency Order ratified March 26, 2020) (*Emergency Order*).

In an effort to accurately account for prudently incurred incremental extraordinary, nonrecurring expenses related to COVID-19, which result from compliance with the *Emergency Proclamation* and *Emergency Order*, the Commission directs all utilities to review and comply with the following provisions, as applicable.

¹ <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>

I. COVID-19 Expense Tracking/Loan and Grant Tracking

The Commission hereby directs all jurisdictional electric, natural gas, water, wastewater, steam and telecommunications utilities to track extraordinary, nonrecurring incremental COVID-19 related expenses and to maintain detailed accounting records of such expenses. Utilities must maintain detailed records of the incremental expenses incurred for the provisioning of utility services used to maintain the health, safety and welfare of Pennsylvania customers during the COVID-19 pandemic. With the exception of the separate regulatory authorization afforded uncollectible expenses below, this Secretarial Letter does not grant authorization for utilities to defer any other potential COVID-19 related expenses.

Utilities shall also track any loans, grants, assistance or benefit they receive in connection with COVID-19, regardless of form or source, that would offset any COVID-19-related expenses.

II. Regulatory Asset for COVID-19 Uncollectible Expenses Resulting from Compliance with the *Emergency Order*

Electric, Natural Gas, Water, Wastewater, Steam, and All Rate Base/Rate of Return Telecommunications Utilities²

The Commission recognizes that compliance with its *Emergency Order* may increase uncollectible expenses for utilities. Consequently, the Commission authorizes electric, natural gas, water, wastewater, steam and all rate base/rate of return telecommunications utilities to create a regulatory asset for any incremental uncollectible expenses incurred above those embedded in rates since the issuance of the *Emergency Order*. In order to be eligible for inclusion in a utility's COVID-19 designated regulatory asset, the utility must maintain detailed records of the incremental extraordinary, nonrecurring expenses incurred as a result of compliance with the *Emergency Order*, as outlined in Part I of this Secretarial Letter.

² There are currently three classes of price/revenue regulated incumbent local exchange carriers (ILECs): (1) Price Cap (Price Change Opportunity or Price Stability Mechanism) carriers – these carriers operate under an alternative form of regulation and have an approved Chapter 30 plan under which the ILECs may only change revenues based on an annual filing that ties revenue changes to changes in the Gross Domestic Product Price Index; (2) Streamlined Rate Base/Rate of Return ILECs – these carriers operate under an alternative form of regulation and have an approved Chapter 30 plan under which the ILECs may file a “streamlined” base rate case which still employs elements of rate base/rate of return price/revenue regulation; and (3) four small rural ILECs that were granted a waiver from the Chapter 30 requirement that all ILECs file an alternative regulation plan – these carriers continue to operate under traditional rate base/rate of return regulation.

III. Chapter 30 Price Cap Regulated Incumbent Local Exchange Carriers

The Commission recognizes that compliance with its *Emergency Order* and the Federal Communications Commission’s Keep Americans Connected Pledge (*FCC Pledge*),³ which most if not all of Pennsylvania’s certificated ILEC providers have committed to abide by, may result in extraordinary revenue or expense impacts that may constitute an “exogenous event” under the price cap regulated ILECs’ Chapter 30 alternative regulation plans.⁴ In order to be eligible for consideration for recovery as a COVID-19 exogenous event, the utility must maintain detailed records of the extraordinary, nonrecurring incremental expenses incurred as a result of compliance with the *Emergency Order* and the *FCC Pledge*, as outlined in Part I of this Secretarial Letter.

IV. Effect of this Secretarial Letter

A utility shall file a notice with the Commission upon establishing a regulatory asset as described in this letter. Such notification shall be served on the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate. The Commission will consider in future proceedings whether each utility’s request for recovery of any regulatory asset or exogenous event recovery related to the *Emergency Order*⁵ is just and reasonable pursuant to 66 Pa. C.S. §§ 1301, 1308 (as applicable), and applicable Chapter 30 plans. The Commission will also consider during those proceedings other issues, such as the appropriate period of recovery for the approved amount of the regulatory asset or exogenous event treatment, any amount of carrying costs thereon, and other related matters. Regulated entities shall claim the deferred expenses at their first available opportunity.

The Commission’s instructions that utilities track expenses as described in Section I above are intended to provide the Commission with information to understand the extent of the COVID-19 pandemic’s impact on utilities’ finances.

This letter shall be served upon all electric, natural gas, water, wastewater, steam, and telecommunications utilities under the Commission’s jurisdiction.

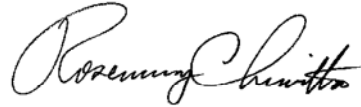
³ <https://www.fcc.gov/keep-americans-connected>

⁴ <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/66/00.030..HTM> 66 Pa. C.S. §§ 3011-3019.

⁵ This would include the *FCC Pledge* as well.

If you have any questions in this matter, please contact Renardo L. Hicks, Chief Counsel, at rehicks@pa.gov, or John Herzog, Executive Deputy Chief Counsel at jherzog@pa.gov.

Sincerely

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

Rosemary Chiavetta
Secretary

cc: Renardo L. Hicks, Chief Counsel
John E. Herzog, Executive Deputy Chief Counsel
Office of Consumer Advocate
Office of Small Business Advocate
Bureau of Investigation and Enforcement