

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC EMERGENCY DOCKET RELATED) CASE NO.
TO THE NOVEL CORONAVIRUS COVID-19) 2020-00085

ORDER

The Commission, on its own motion, establishes this docket to address the pressing issues related to utility service arising across the Commonwealth of Kentucky as a result of the novel coronavirus COVID-19. This Order is necessary to provide initial direction to the many utilities under the Commission's jurisdiction with service obligations, and this docket will serve as a venue to address on-going concerns resulting from COVID-19. This Order is in effect until further notice.

The Commission, pursuant to KRS 278.040(1), regulates utilities in this state and has the authority to enforce the provisions of KRS Chapter 278. Additionally, pursuant to KRS 278.040(2), the Commission has exclusive jurisdiction over the rates and services of the utilities in the Commonwealth.¹ The Commission has "the plenary authority to regulate and investigate utilities" pursuant to both KRS 278.030 and KRS 278.040.² Pursuant to the Commission's statutory and plenary authority, the Commission will use this docket to address the myriad and constantly changing issues associated with COVID-

¹ Notably, the Commission's jurisdiction does not extend the provision of retail services offered by municipal-owned utilities. The Commission, however, urges such entities to undertake a similar review of their disconnection practices and policies and to coordinate with local community action agencies to ensure continuity of service during the declared emergency.

² *Kentucky Public Service Com'n v. Commonwealth ex rel. Conway*, 324 S.W.3d 373, 383 (Ky. 2010).

19. The issues in this docket will take precedence over all other matters before the Commission, except for those matters in which the Commission is directed by statute to do otherwise.

Pursuant to Executive Order 2020-215³, there exists a State of Emergency in the Commonwealth of Kentucky. Due to COVID-19, many, if not all, public schools in the Commonwealth are closed.⁴ Many places of business are either closed or anticipating closing for an indeterminate time.⁵ Those exhibiting symptoms or those who have had contact with someone who has, or is likely to develop, COVID-19 are asked to self-isolate or quarantine in their home,⁶ thus depriving them of the opportunity to work.

Due to the current state of emergency, several utilities in the Commonwealth have informed the Commission that they will temporarily cease service disconnections due to non-payment and have taken efforts to reduce person-to-person contact. For example, several parent companies of utilities in Kentucky, such as Duke Energy Corporation,⁷ American Water Works Company, Inc.,⁸ American Electric Power Company, Inc.,⁹ Central States Water Resources,¹⁰ and Atmos Energy have all announced that their local

³ Attached as Appendix.

⁴ See, e.g., https://www.wdrb.com/in-depth/public-school-districts-across-kentucky-closed-for-at-least-two/article_0b796c14-6531-11ea-8c34-57abc0d37640.html (Last accessed Mar. 16, 2020).

⁵ See, e.g., <https://www.kentucky.com/lexgoeat/restaurants/article241166831.html> (Last accessed Mar. 16, 2020).

⁶ <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

⁷ <https://www.duke-energy.com/home>

⁸ <https://amwater.com/corp/about-us/our-states-subsidiaries>

⁹ <https://twitter.com/AEPnews/status/1238612324937859081>

¹⁰ <https://www.centralstateswaterresources.com/bluegrass-water/>

affiliates would be suspending disconnection for non-payment. Several of the Commonwealth's smaller utilities also have contacted the Commission requesting guidance on how to best implement policies to forestall disconnection for non-payment. As of the date of this Order, many utilities in Kentucky have yet to officially announce that they are voluntarily suspending disconnections due to non-payment.

Based on the foregoing and being otherwise sufficiently advised, the Commission finds that good cause exists in light of the nature of the emergency to relieve jurisdictional utilities of certain non-essential requirements; further, the Commission strongly urges flexibility with regard to pressing matters. Specifically, for at least the next 30 days, and until further notice from the Commission, utilities should suspend disconnections due to non-payment and waive the assessment of late payment fees. Disconnection processes ordinarily lead to in-person contact and, as such, pose a significant health risk due to the potential for transmission of COVID-19. Pursuant to KRS 278.030, utilities are obligated to furnish adequate, efficient, and reasonable service. Given the pressing need to ensure continuity, and thus adequacy, of service in this time of emergency, the Commission finds that disconnections for non-payment are a waste of valuable resources and pose a significant risk. Disconnection to protect health and safety, or for reasons unrelated to non-payment, may continue if necessary and reasonable. Several other state utility commissions have already taken similar action to prevent disconnections for non-

payment, including New Jersey,¹¹ Connecticut,¹² New York,¹³ Ohio,¹⁴ Louisiana,¹⁵ and Wisconsin.¹⁶

With regard to disconnections for non-payment, non-payment generally, and penalties for late payment for services, the Commission urges utilities to implement their tariffs and regulations liberally. Most utilities are provided flexibility in their tariffs to offer payment plans or to waive late fees for non-payment. The Commission expects utilities to use this flexibility given the current circumstances for both residential customers and, when necessary or reasonable, businesses. If utilities believe their tariffs or Commission regulations preclude them from ceasing disconnections, waiving or extending the payment of late fees, or any other action that could relieve the hardship that exists due to COVID-19, this docket is available to provide any and all relief sought by those utilities, should the Commission believe such relief is reasonable and in the public interest. If, due to the current state of emergency, a utility finds it necessary to deviate from its tariff or Commission regulations, the utility should file its request with the Commission in this docket. If a formal request for relief from tariffs or regulations is burdensome, utilities may convey information directly to the Commission's Executive Director by electronic mail.¹⁷

¹¹ <https://twitter.com/GovMurphy/status/1238535584907497472>

¹² <https://portal.ct.gov/PURA/Press-Releases/2020/Cease-Residential-Shut-offs-During-COVID-19-Outbreak>

¹³ <https://www.politico.com/states/new-york/albany/story/2020/03/13/new-jersey-new-york-suspending-utility-shut-offs-amid-coronavirus-pandemic-1266923>

¹⁴ <https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=f3a5d5ff-6a2a-4556-8e00-c0b9d648e5c9>

¹⁵ http://www.lpsc.louisiana.gov/_docs/_General/Covid-19%20executive%20order.pdf

¹⁶ <http://apps.psc.wi.gov/vs2017/NewsReleases/default.aspx>

¹⁷ The electronic mail address is PSCED@ky.gov.

Upon receipt of informal requests for relief, the communications will be introduced into this record and considered by the Commission.

Nothing in this Order should be conveyed as relieving customers from the obligation to pay for service rendered. Instead, the Commission is taking this extreme measure to ensure that the many consumers who are confined to their homes in a time of emergency are provided necessary services required to maintain health and safety. The Commission expects utilities to establish lenient and flexible payment plans for any unpaid balances. Utilities may also seek Commission approval, by written request filed in this docket, to offer free or reduced-rate service pursuant to KRS 278.170(2), which allows a utility to provide free or reduced-rate service during times of epidemic or calamity.

The Commission finds that, to the degree possible, the filing of physical documents with the Commission should be temporarily suspended. Accordingly, the Commission will suspend the filing of original paper documents with the Commission, except for the filing of confidential information. The Commission urges all parties that have non-electronic cases before the Commission to petition the Commission to convert the cases to electronic cases pursuant to 807 KAR 5:001, Section 8. If a non-electronic case is not converted to an electronic case, the Commission will grant a deviation from the filing requirements 807 KAR 5:001, Section 7(1), insofar that a filer will not be required to file an original document and ten copies with the Commission; the filer may file one original document with no copies, or send an electronic mail message with an electronic copy of the document to the Commission and to parties to the matter, with the expectation that the original(s) will be filed with the Commission once the state of emergency has ceased.

Any electronic email filed in this manner should be sent to this email: PSCED@ky.gov, and each message should include the case number in the subject line of the message and a read receipt to ensure the Commission received the message and documents. If electronic mail is used, please limit the size of documents to 5 MB. For electronic cases, the Commission will grant a deviation from all regulations requiring the filing of a physical copy of the document¹⁸ with the expectation that documents will be filed once the state of emergency has ceased, or service of a physical copy of a document,¹⁹ which can be accomplished via electronic mail. Likewise, applications filed pursuant to 807 KAR 5:063 must be filed using the Commission's electronic filing procedures, with the expectation that a physical copy be filed when the state of emergency has ceased.

If a utility needs to send a letter to the Commission or Executive Director, it should do so by electronically mailing the letter to the Executive Director.²⁰ Any other document that a utility is required to transmit to the Commission may be sent via electronic mail to the following address: PSCED@ky.gov.

Utilities have several ongoing reporting obligations to the Commission, such as quarterly meter reports,²¹ disconnection reports,²² and non-recurring charges reports.²³ The Commission finds that utilities should be granted temporary deviation from these

¹⁸ 807 KAR 5:001, Section 8(12)(a)(2)

¹⁹ 807 KAR 5:001Section 8(7)(c)

²⁰ The electronic mail address of the Executive Director is Kent.Chandler@ky.gov

²¹ 807 KAR 5:006, Section 4(4)

²² 807 KAR 5:006, Section 4(5)

²³ 807 KAR 5:006, Section 9

requirements and that it expects the utilities to file these reports in a reasonable time after the state of emergency ends.

Utilities have a host of other obligations, such as monitoring of customer usage,²⁴ quarterly meter readings,²⁵ maintaining certain business hours and contact information,²⁶ and inspections of its systems.²⁷ In order to limit in-person contact, and also to allow the utility focus on essential functions of the utility, the Commission finds that utilities, until otherwise ordered, should be granted a temporary deviation from: the quarterly meter reading requirements in 807 KAR 5:006, Section 7(5)(b), the requirement to monitor customer usage in 807 KAR 5:006, Section 11(3); the requirements of maintaining certain business hours in 807 KAR 5:006, Section 14(1)(a),(b), and (c);²⁸ and the requirement for periodic inspections of its system in 807 KAR 5:006, Section 26.

The Commission anticipates that its day-to-day functions will continue uninterrupted, and that it will be able to discharge its statutory duties. However, in order to reduce person-to-person contact and minimize transmission risk, the Commission will take the following actions. The Commission will temporarily cease all in-person inspections conducted by its Staff. The Commission will not allow visitors into its building. Any conference or meeting that was scheduled to be held at the Commission's offices will be conducted by teleconference or videoconference. If a meeting or hearing cannot be conducted remotely, it will be rescheduled for another date.

²⁴ 807 KAR 5:006, Section 11(3).

²⁵ 807 KAR 5:006, Section 7(5)(b).

²⁶ 807 KAR 5:006, Section 14.

²⁷ 807 KAR 5:006, Section 26.

²⁸ This will exempt a utility from keeping its office open to the public.

The Commission will promptly address all requests for relief filed in this docket. The Commission may address informal concerns via informal means such as telephone or electronic mail. The Commission encourages interested persons to notify the Commission of suggestions that the Commission should consider in order to avoid the imposition of a service continuity hardship on customers or the creation of unnecessary COVID-19 risks associated with social contact. Comments may be filed in this docket electronically.

Based on the foregoing and being otherwise duly advised, IT IS HEREBY ORDERED that:

1. Until otherwise ordered by the Commission, utilities shall cease disconnections for non-payment.

2. Until otherwise ordered by the Commission, utilities shall waive all late payment charges.

3. Until otherwise ordered by the Commission, filers are granted deviation from filing or transmitting physical documents pursuant to the following requirements:

- a. 807 KAR 5:001, Section 7(1);
- b. 807 KAR 5:001, Section 8(12)(a)(2);
- c. 807 KAR 5:063; and
- d. 807 KAR 5:001Section 8(7)(c).

4. Documents required by 807 KAR 5:001, Section 7(1), and 807 KAR 5:063 may be filed with the Commission by electronic mail at PSCED@ky.gov. An original of the documents exempted from filing in ordering paragraph 3(a), (b), and (c), shall be filed within 30 days of the lifting of the state of emergency.

5. A utility, in this docket, shall petition the Commission for relief from the provisions of its tariff or Commission, if not already granted deviation in this docket or if it is unable to comply with its tariff or Commission regulations due to COVID-19 related issues.

6. Any non-case related documents shall be filed with the Commission by electronic mail at PSCED@ky.gov.

7. Until further ordered by the Commission, utilities are granted deviation from the requirements found in:

- a. 807 KAR 5:006, Section 4(4);
- b. 807 KAR 5:006, Section 4(5);
- c. 807 KAR 5:006, Section 9;
- d. 807 KAR 5:006, Section 7(5)(b);
- e. 807 KAR 5:006, Section 11(3);
- f. 807 KAR 5:006, Section 14(1)(a),(b), and (c); and
- g. 807 KAR 5:006, Section 26.

8. The Commission may modify this proceeding by subsequent order.

9. This case shall remain open until further order by the Commission.

By the Commission

ENTERED
MAR 16 2020
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2020-00085 DATED **MAR 16 2020**

FOUR PAGES TO FOLLOW



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-215
March 6, 2020

STATE OF EMERGENCY

WHEREAS, On January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for the novel coronavirus (COVID-19), beginning on January 27, 2020; and

WHEREAS, there are numerous confirmed lab cases of COVID-19 throughout the United States; and

WHEREAS, COVID-19, a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person; and

WHEREAS, the CDC identifies the potential public health threat posed by COVID-19 both globally and in the United States as "high", and has advised that person-to-person spread of COVID-19 will continue to occur globally, including within the United States; and

WHEREAS, the World Health Organization currently indicates there are 98,192 confirmed cases of COVID-19 worldwide, and the CDC currently indicates that 164 of those cases are in the United States; and

WHEREAS, the planning and preparedness of all state and local agencies for a COVID-19 public health emergency in the Commonwealth is a concern to all Kentuckians; and

WHEREAS, the Kentucky Department of Emergency Management has special personnel and equipment resources to assist the state and local authorities in the protection of life, public health and safety, to promote the public welfare, to prevent undue loss and suffering, and to mitigate the effects of such an event; and

WHEREAS, the Kentucky Department of Public Health has specially trained personnel and resources to assist the state and local authorities in the protection of life, public health and safety, through coordinating a response to this emergency; and

WHEREAS, it is both appropriate and desirable to combine the resources of the ~~the~~ Kentucky Department of Emergency Management and the Kentucky Department of Public Health in joint operations with selected federal, state and local agencies to attain the maximum effective response to the circumstances described herein;

CLARENCE G. BISHOP
STATE OF KENTUCKY
GOVERNOR



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

NOW, THEREFORE, I, Andy Beshear, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by Chapter 39A of the Kentucky Revised Statutes, declare that a State of Emergency exists in the Commonwealth of Kentucky and do hereby order and direct the issuance of appropriate state active duty orders for the necessary officers, troops, personnel, equipment, including the resources of the Kentucky National Guard and other logistical support necessary for an immediate response to the novel coronavirus (COVID-19) emergency in the Commonwealth. I further order and direct as follows:

- 1. The Division of Emergency Management within the Department of Military Affairs and the Kentucky Department of Public Health shall coordinate the response and relief activities of all state agencies and private relief organizations in response to the COVID-19 emergency described herein.**
- 2. The Division of Emergency Management within the Department of Military Affairs shall execute the Kentucky Emergency Operations Plan and, from the Kentucky Emergency Operations Center, shall coordinate the relief and response activities of all state agencies and private relief organizations in response to this emergency.**
- 3. The Adjutant General is authorized to issue active duty orders for the mobilization of such National Guard personnel and equipment as he may determine to protect life and safety, to continue essential public services, and to prevent undue loss and suffering.**
- 4. The Division of Emergency Management is authorized to request assistance, federal, state, local, private sector, volunteer, and donated resources as may be available to minimize human suffering and to restore essential services to the general population and to assist state and local governments and individuals impacted by this emergency.**
- 5. The Finance and Administration Cabinet is directed to provide assistance with incident resource management, procurements, and contracting and to fund the urgent operational and/or response of the Division of Emergency Management and the unbudgeted expenditures and obligations of other state agencies that are incurred in response and recovery from this emergency incident and in executing the provisions of this Executive Order.**
- 6. The Kentucky Department of Public Health and all other state agencies shall provide sufficient personnel required for the staffing of the Kentucky Emergency Operations Center or other command, control, and coordination points as may be designated by the Division of Emergency Management's Director and shall provide such personnel, vehicles, equipment, and other resources needed to protect life and property and to ensure continuation, restoration, and recovery of essential public services.**



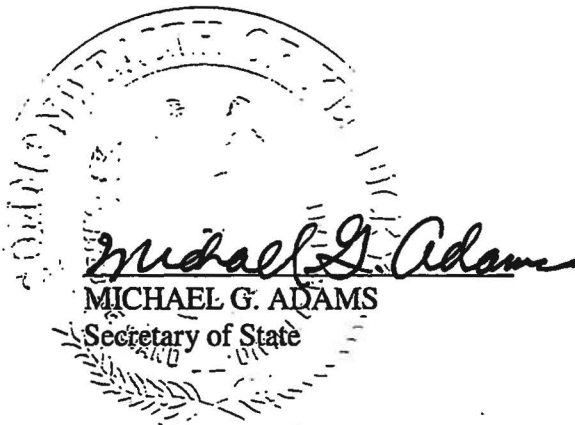
ANDY BESHEAR
GOVERNOR


EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

7. The Kentucky Office of Homeland Security ("KOHS") shall provide information to individuals and private organizations, including volunteer and religious organizations, regarding how they can best prepare for and respond to the COVID-19 emergency described herein and whom to contact to volunteer help or services. Further, the KOHS shall specifically identify and encourage private organizations to commit to provide food, shelter, personnel, equipment, materials, consultation, and advice, or other services needed to respond to the COVID-19 emergency. Additionally, the KOHS shall coordinate its efforts with the federal Department of Homeland Security, as necessary, and administer the Kentucky Intelligence Fusion Center to facilitate information sharing about COVID-19 among public safety and public service agencies at the federal, state, and local levels, as well as the private sector.

This order is effective March 6, 2020.




ANDY BESHEAR, Governor
Commonwealth of Kentucky

RECEIVED AND FILED

DATE 3/6/2020

**MICHAEL G. ADAMS
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY**

BY 