

DAVID ESSAH, Ph.D.
DIRECTOR

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BY ELECTRONIC MAIL AND USPS

The Honorable Kathy J. Byron
Member, Virginia House of Delegates
Chairman, Committee on Commerce and Energy
P.O. Box 900
Forest, Virginia 24551
DelKByron@house.virginia.gov

The Honorable Richard L. Saslaw
Majority Leader, Senate of Virginia
Chairman, Committee on Commerce and Labor
P.O. Box 1856
Springfield, Virginia 22151
District35@senate.virginia.gov

The Honorable Irene Shin
Member, Virginia House of Delegates
Patron of HB 1054
DeIShin@house.virginia.gov

The Honorable G. Paul Nardo
Clerk of the Virginia House of Delegates
P.O. Box 406
Richmond, VA 23218
gpnardo@house.virginia.gov

The Honorable Susan Clarke Schaar
Clerk of the Senate of Virginia
P.O. Box 396
Richmond, VA 23218
sschaar@senate.virginia.gov

Dear Sirs and Madams:

This correspondence provides the background and conclusions of a letter study performed by the Division of Public Utility Regulation ("Division" or "Staff") of the State Corporation Commission ("SCC" or "Commission") at the request of the Chairs of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor.

Background

On February 14, 2022, and March 14, 2022, the Chairs of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor, respectively, sent letters ("Letters") to the Division requesting the Staff conduct a review of the issues raised by House Bill 1054 ("HB 1054") (Attachment 1 hereto).

As introduced by Delegate Shin, HB 1054 would have prohibited telecommunications, electric, gas, water, and wastewater utilities and broadband companies from disconnecting service to a residential customer for nonpayment of bills or fees during a declared state of emergency, emergency, major disaster, disaster, resource shortage, or local emergency as those terms are defined in Code § 44-146.16. The Letters requested that the Division "develop recommendations on how best to protect utility customers from disconnection of service during public health emergencies and weather extremes and, in doing so, review current disconnection and reconnection procedures, including notice requirements and the use of late charges and fees." The results of Staff's review are presented below in this Response Letter.

In developing a response to the issues requested in the Letters, Staff requested input from the various entities described in the Letters: electric utilities, water and wastewater utilities, natural gas utilities, consumer advocacy groups, and environmental organizations. Staff received input from seven electric utilities, five natural gas utilities, four water utilities, 24 telecommunications and broadband companies, and one telecommunications association.¹ Additionally, Staff received input from three advocacy groups.²

Staff's review will be broken down into the following sections:

1. Existing statutes and the Commission's role relative to utility disconnection practices;
2. Current utility disconnection policies for nonpayment for:
 - a. Electric service;
 - b. Natural gas service;
 - c. Telecommunications and broadband; and
 - d. Water and wastewater service;
3. Recommendations from the advocacy groups; and
4. Staff's conclusions and recommendations.

Although the Letters and Staff's review focuses on emergency conditions, Staff believes a discussion of disconnection policies during non-emergency conditions is also helpful background and is therefore included in this Response Letter.

Existing Statutes and the Commission's Role Relative to Utility Disconnection Practices

First, Staff notes that the Code of Virginia and certain existing Commission regulations provide various directives relative to disconnection practices of utilities subject to the Commission's jurisdiction.³ Utility adherence to these statutes and regulations is monitored and enforced by the Commission. Code § 56-247.1, for example, requires, among other things, that:

¹ A detailed listing of the responding parties is provided as Attachment 2. It should be noted that many of the telecommunication companies responded by stating that they have no residential customers in Virginia.

² See Attachment 2 for the list of advocacy groups.

³ It is important to note that the Commission does not have jurisdiction over certain utilities providing service to the public. For example, municipalities are not normally subject to the Commission's jurisdiction except under limited cases not applicable here. In addition, as discussed below, long-distance telephone service, cable TV, and broadband are not subject to SCC authority for disconnection.

- No electric or gas utility shall terminate a customer's service without 10 days' notice by mail to the customer.
- A public utility providing water service shall not terminate service for nonpayment until it first sends the customer written notice by mail 10 days in advance of making the termination but, in no event, shall it terminate the customer's service until 20 days after the customer's bill has become due.

A more detailed listing of pertinent statutes and Commission regulations is provided later in this Response Letter.

The Division also regularly takes actions pertaining to utility disconnections, such as the annual "Cold Weather" letters sent out annually by the Division Director to jurisdictional electric and natural gas utilities at the beginning of each winter heating season. In its essence, these letters urge each utility to continue its efforts to make such arrangements as are reasonably practicable to avoid service terminations during the extremes of winter weather when utility bills are likely to be higher. As further reasons for asking utilities to take such measures, the Cold Weather Letter also underscores specific prevailing conditions (e.g., high inflation, pandemic recovery, etc.) that might make it difficult for customers to pay their bills during the winter season.

Jurisdictional electric, gas, and water utilities are required to document their disconnection and reconnection policies and fees within their Commission-approved Terms and Conditions of their tariffs ("Tariffs") filed with the Commission.⁴ This information is routinely used by Staff to investigate customer complaints related to disconnections, high bills, and any claims of unfair practices by utilities.

Additionally, on a monthly basis, Staff collects information on delinquencies and service terminations for jurisdictional electric and natural gas utilities and investigates these when large increases are observed. This practice also helps Staff to verify utilities' adherence to disconnection moratoriums that might be in effect.

In terms of specific Commission actions to address service disconnections, as may be recalled, during the COVID-19 pandemic, the Commission issued a moratorium on utility disconnections for unpaid bills caused by the pandemic. Specifically, through several Orders, the Commission directed jurisdictional electric, natural gas, water, and sewer utilities to suspend service disconnections for unpaid bills. The utilities were also ordered to offer extended payment plans with no late fees or reconnection charges to residential and small business customers. This moratorium was in place from March 16, 2020, through October 5, 2020 and afforded the General Assembly and the Governor the needed time to legislatively address the economic impact of the pandemic on utility customers.⁵ Thereafter, the General Assembly in a November 2020 Special Session enacted budget legislation further prohibiting utility shut-offs during the then state of emergency declared by the Governor, subject to certain conditions and limitations.⁶

⁴ Pursuant to § 56-585.3 of the Code, starting in 2007, electric cooperatives are allowed to make adjustments to the charges found in Schedule F of their tariffs, which includes reconnection charges, upon affirmative resolution of their board of directors. Such tariff changes are filed with the Division for informational purposes only; they do not require Commission approval.

⁵ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Temporary Suspension of Tariff Requirements*, Case No. PUR-2020-00048, 2020 S.C.C. Ann. Rept. 467, Order Suspending Disconnection of Service and Suspending Tariff Provisions Regarding Utility Disconnections of Service (March 16, 2020); 2020 S.C.C. Ann. Rept. 467, Order Extending Suspension of Service Disconnections (April 9, 2020); 2020 S.C.C. Ann. Rept. 469, Order on Suspension of Service Disconnections (June 12, 2020); 2020 S.C.C. Ann. Rept. 473, Order on Moratorium (August 24, 2020); 2020 S.C.C. Ann. Rept. 475, Additional Order on Moratorium (September 15, 2020).

⁶ See, House Bill 5005, 2020 Va. Acts, Special Session I, ch. 56 (Item 4-14).

Electric Utility Disconnection Policies for Nonpayment

Part 1: Residential Disconnection Policy for Nonpayment During Normal Conditions

Codes and Guidelines

As previously noted, for utilities subject to the Commission's jurisdiction, there are certain existing statutes, Commission regulations, and utility filings that govern utility disconnections for nonpayment of bills. These are:

- § 56-247.1 of the Code - Commission to require public utilities to follow certain procedures;
- 20VAC5-330-10, *et. seq.* of the Virginia Administrative Code - Limitations on Disconnection of Electric and Water Service;
- The Commission's Final Order in Case No. PUE-2011-00060 related to medical conditions (discussed below);⁷ and
- Utilities' Tariffs.

Disconnection Policies

General Policy Information and Notice Requirements

Generally, customers are subject to service disconnection for nonpayment after their bill becomes 60 days past due. Every electric utility provides a written notice of intent to disconnect service to the customer, giving at least 10 days' prior notice. Additionally, many utilities provide phone call reminders prior to the disconnection of service. If the bill remains unpaid at the end of the 10 days' notice period, then customers are subject to disconnection. This means in practical terms that a customer first faces potential service disconnection about 70 days after the bill becomes past due unless they settle the bill in the interim.

Serious Medical Conditions

All electric utilities provide special accommodations for serious medical conditions if the appropriate procedures are followed by the residential customer.⁸ If a customer states that someone in the home has a medical condition, a Serious Medical Condition Certification ("SMCC") Form is offered to them.⁹ The customer must have the form completed by a doctor and returned to the utility. The SMCC, once on file, provides the customer up to two 30-day payment extensions within a 12-month period. In the instance where a customer has been disconnected and then requests an SMCC exemption, most electric utilities will reconnect the customer with no payment required at that time and no fees imposed, provided the customer has not been previously granted two extensions within the past 12 months.

Reconnection Policies

Generally, the electric utilities require payment of 100% of a customer's past due balance, a reconnection fee, and potentially a deposit before service will be reconnected. Some utilities reported that they charge a collection fee as well. The reconnection charges vary by utility and whether the customer is reconnected during normal working hours or outside of normal working hours. Reconnection charges are lower during normal working hours and higher after normal working hours, on weekends, and on

⁷ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In re: Establishing rules providing limitations on disconnection of electric and water service for persons with serious medical conditions*, Case No. PUE-2011-00060, 2011 S.C.C. Ann. Rept. 511, Order Adopting Regulations (October 18, 2011).

⁸ See, 20VAC5-330-10 *et seq.*, Limitations on Disconnection of Electric and Water Service.

⁹ The SMCC Form can be found at <https://scc.virginia.gov/pages/Rules>.

holidays. The range of reconnection charges during normal working hours is from \$15-\$45, and the range for non-working hours is from \$50-\$175.

Late Fees

In regard to late fees, most electric utilities responded that they apply a 1.5% late fee per month to past due balances.

Part 2: Residential Disconnection Policy for Nonpayment During States of Emergencies

All responding electric utilities reported that they comply with all disconnect directives issued by the Commission, state legislature, and Governor during an emergency.

Extreme Weather

While it is not a uniform approach, most electric utilities have informal or formal provisions for extreme weather events. Specifically, most utilities have a cold weather policy wherein they do not perform disconnects if the temperature falls below a specific temperature. Generally, the cold weather temperature threshold is near freezing (32 degrees Fahrenheit ("F")).¹⁰ Some utilities require the temperature to remain below their set threshold for a certain period of time, typically 24 hours, before their provisions come into effect. A few utilities reported that they do not perform disconnects for a certain number of days after the threshold is met. In addition to the cold weather policy, a handful of electric utilities also have a hot weather policy, wherein they do not perform disconnects if the temperature is above a specific temperature. Typically, the hot weather threshold is around 95 degrees F.

In addition to the extreme weather temperature criteria, a few electrical utilities reported that they do not perform disconnects after a major storm has significantly impacted their service territories. This suspension of disconnects is an informal policy and is conducted on a case-by-case basis.

It must be noted that the above policies are voluntary Company policies, and not required by Code or Commission regulation.

Public Health Emergencies

Some electrical utilities stated that they have no formal or informal policies for public health emergencies. Other utilities reported that adjustments to disconnection policies have been made on a case-by-case basis. Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") reported that late fees were suspended during the COVID-19 pandemic but were reinstated on September 1, 2022. Additionally, Dominion stated that while its normal practice is to collect 100% of a customer's past due balance, after the disconnection moratorium was lifted, from March 1, 2022 through November 1, 2022, the Company phased in the percentage required for reconnection from 25% to 100%. It was also reported that some electric cooperatives made an early retirement of capital credits, resulting in refunds to their members during the pandemic.

Payment Plans

Prior to the pandemic, some utilities did not offer payment plans to their customers. However, in its moratorium, the Commission required that residential and small business customers that were in arrears due to the COVID-19 crisis remain responsible for payment but must be offered extended payment plans of up to 12 months. Utilities were provided the flexibility to work with customers on a case-by-case basis to create extended payment plans for each customer, but no late fees or carrying charges were to be added to the arrearage. While there were some differences in plans, the payment plans generally included, but were not limited to: suspension/delay of disconnects for nonpayment; making

¹⁰ Temperature thresholds found have ranged anywhere from 28 to 35 degrees F.

customers aware of any specific energy assistance programs available to them; enhanced pay agreement eligibility guidelines; enhanced pay agreement terms; and increased lengths of time for payment. Kentucky Utilities Company d/b/a Old Dominion Power reported that it requested a partial payment of the past due amount upfront and then allowed customers to enter into a payment arrangement for the remaining amount, typically for up to as long as the emergency lasted.

Natural Gas Utility Disconnection Policies for Nonpayment

Part 1: Residential Disconnection Policy for Nonpayment During Normal Conditions

Codes and Guidelines

The same statutes, Commission regulations, and utility Tariffs govern natural gas utility disconnections for nonpayment of bills. Natural gas service provided by municipal corporations are not subject to the Commission's authority.

Disconnection Policies

General Policy Information and Notice Requirements

Generally, customers are subject to disconnection for nonpayment after their bill becomes 60 days past due. A few of the gas utilities determine disconnection based on the amount of delinquency, duration of delinquency, and customer payment history. Most gas utilities do not consider disconnection unless the amount of delinquency reaches approximately \$75-\$100. Every gas utility provides a written notice of intent to disconnect service to a customer, giving at least 10 days' prior notice. Generally, the utilities do not disconnect on Fridays to allow time for customers to make payment arrangements during business hours and avoid increased reconnection fees during non-working hours. Additionally, many gas utilities provide phone call reminders to customers prior to the disconnection of service. If the bill remains unpaid at the end of the 10 days' notice period, then customers are subject to disconnection. Prior to disconnection, many of the utilities provide information about possible options, including payment plans, budget billing, and assistance programs; they only implement disconnections after the collection efforts described above have been unsuccessful.

Serious Medical Conditions

Most gas utilities allow for a Physician Certification of Serious Medical Condition or Life Support form from a physician or licensed nurse practitioner indicating that a customer has a medical condition or is using life supporting equipment that necessitates the need for service. Such certifications are valid for up to 30 days, and the utility will not terminate service to customers who have submitted a valid form. There are no limits on the number of forms a customer may submit.

Reconnection Policies

Generally, the gas utilities require 100% of a customer's past due balance, a reconnection fee, and potentially a deposit before service will be reconnected. The reconnection charges vary by utility, and whether the customer is reconnected during normal working hours or outside of normal working hours. Reconnection charges are lower during normal working hours and higher after normal working hours, on weekends, and on holidays. During the months of December through March, once the conditions for disconnection are satisfied, all gas utilities responded that they strive to reconnect the customer by the end of the next business day after the request for reconnection is received. During the months of April through November, most gas utilities reconnect service by the end of the third business day after the request for reconnection is received.

Part 2: Residential Disconnection Policy for Nonpayment During States of Emergencies

All responding gas utilities reported that they comply with all disconnect directives issued by the Commission, state legislature, and Governor during an emergency.

Late Fees

In regard to late fees, several gas utilities responded that they apply a 1.5% late fee per month to past due balances.

Extreme Weather

Most gas utilities have informal or formal provisions for extreme weather events. Specifically, most utilities have a cold weather policy wherein they do not perform disconnects if the temperature falls below a specific temperature. Generally, the cold weather temperature threshold is 32 degrees F. Some utilities require the temperature to remain below their set threshold for a certain period of time before the policy begins, and a few utilities reported that they will not perform disconnects for a certain number of days after the threshold is met.

In addition to the extreme weather temperatures, several gas utilities reported that they will not perform disconnects after a major storm has significantly impacted their service territories. This suspension of disconnects is conducted on a case-by-case basis.

In summary, among natural gas utilities, there is no uniform policy surrounding disconnect policies during extreme weather events.

Public Health Emergencies

Some gas utilities stated that they have no formal or informal policies for public health emergencies. Other utilities reported that adjustments to disconnection policies have been on a case-by-case basis. Many of the gas utilities offer expanded payment options of up to 12 months with no down payments, no fees, and no interest to all customers. The larger gas utilities proactively reach out to customers through bill messaging, phone calls, emails and text messages, to provide information on assistance programs and extended payment plan options.

Payment Plans

Prior to the pandemic, some gas utilities did not offer payment plans to their customers. However, due to the extended duration of the pandemic and the associated financial hardships, and following the suspension of disconnects, all utilities reported that they offered payment plans. The terms of the plans differed on a case-by-case basis and was at the discretion of the utility. While there were some differences in plans, the payment plans generally included, but were not limited to: suspension/delay of disconnects for nonpayment; awareness and notification of any specific energy assistance, enhanced pay agreement eligibility guidelines, enhanced pay agreement terms, and enhancement of payment agreement lengths. The utilities connect customers to available resources for bill payment assistance through many programs, including EnergyShare, HeatShare and the Low-Income Home Energy Assistance Program ("LIHEAP").

Telecommunication and Broadband Disconnection Policies for Nonpayment

Part 1: Residential Disconnection Policy for Nonpayment During Normal Conditions

Codes and Guidelines

Disconnection for nonpayment is subject to the requirements of Code § 56-247.1 for Incumbent Local Exchange Carrier services, unless those services are found to be competitive. All other services, such as long-distance telephone service, cable TV, and broadband, are non-regulated and not subject to SCC authority for disconnection.

Disconnection Policies

General Policy Information and Notice Requirements

According to the responding telecommunications utilities, generally, customers are subject to temporary disconnection for nonpayment after their bill becomes 30 days past due. Once the 30-day timeline is reached, the telecommunications utility may discontinue service after providing 10 days' written notice at any time during such default. Accounts are disconnected once a billed amount reaches 90 days in arrears. At this point, the account is sent to a third-party collection agency. If a customer wishes to reconnect, the entire account balance and reconnect fees must be paid upfront.

Serious Medical Conditions

No responding telecommunications utilities have a medical condition policy; however, if customers are facing hardships, the utilities stated that payment arrangements can be discussed on a case-by-case basis.

Reconnection Policies

Generally, the providers require 100% of a customer's past due balance, a reconnection fee, and potentially a deposit to be paid before service will be reconnected. The reconnection charges vary by utility.

Part 2: Residential Disconnection Policy for Nonpayment During States of Emergencies

All telecommunications utilities reported that they comply with all disconnect directives issued by the Commission, state legislature, and Governor during an emergency.

Late Fees

In regard to late fees, several telecommunications utilities responded that they apply a 1.5% late fee per month to past due balances.

Extreme Weather

All responding utilities stated that they do not have a formal policy for dealing with weather issues. The suspension of disconnects is conducted on a case-by-case basis.

Public Health Emergencies

Similar to extreme weather situations, the responding telecommunications utilities have no formal policies regarding public health emergencies; however, each utility followed state guidance with regard to COVID-19.

Payment Plans

Each responding utility has some form of payment plan in order to work with customers facing hardships. Their terms are offered on a case-by-case basis and at the discretion of the utility. Adjustments to the payment terms included, but were not limited to, suspension/delay of disconnects for nonpayment. There is also a program utilized by some of the telecommunication utilities referred to as the Affordable Connectivity Program which offers financial assistance options, especially to households with currently enrolled students.

Water and Wastewater Utility Disconnection Policies for Nonpayment

Part 1: Residential Disconnection Policy for Nonpayment During Normal Conditions

Codes and Guidelines

The same statutes, Commission regulations, and utility Tariffs applicable to electric and natural gas utilities govern water and wastewater disconnections for nonpayment of bills. Water and wastewater service provided by municipalities corporations is not subject to the Commission's authority.

Disconnection Policies

General Policy Information and Notice Requirements

Generally, customers are subject to disconnection for nonpayment after their bill becomes 30 days past due. Once the 30-day limit is reached, the customer is notified that on a specified date the water service will be shut off until the account is paid up and returned to current status. Most responding utilities provide customers two payment extensions per year (on a 12-month rolling basis).

Serious Medical Conditions

Most responding water and wastewater utilities stated that they do not disconnect services to any customer with a medical condition and a physician's note on file stating that water services are a requirement for their health situation (e.g., customers on home dialysis treatment).

Reconnection Policies

Generally, the water utilities require 100% of a customer's past due balance, a reconnection fee, and potentially a deposit to be paid before service will be reconnected. The reconnection charges vary by utility.

Part 2: Residential Disconnection Policy for Nonpayment During States of Emergencies

All responding water utilities reported that they comply with all disconnect directives issued by the Commission, state legislature, and Governor during an emergency.

Late Fees

In regard to late fees, several utilities responded that they apply a 10% late fee per month to past due balances that are above \$25.

Extreme Weather

All utilities stated that they do not have a formal policy for dealing with weather issues. The suspension of disconnects is conducted on a case-by-case basis.

Public Health Emergencies

This is the same as the above; there are no formal policies regarding public health emergencies. However, during the pandemic each utility followed state guidance with regard to COVID-19, but for local occurrences they made payment arrangements with customers on a case-by-case basis.

Payment Plans

Each water and wastewater utility has some form of payment plan in place in order to work with customers facing hardships. The terms of these plans differed on a case-by-case basis during the COVID-19 pandemic and was at the discretion of the utility. While there were some differences in plans, the payment plans generally included, but were not limited to, suspension/delay of disconnects for nonpayment.

Advocacy Groups Recommendations

The three advocacy groups made comments that primarily focused on electric, gas, and water utilities. The comments identified disconnection policies found in other states, and there were several common themes observed among the three groups. Specifically, the themes primarily centered around: (i) shortcomings of current disconnection policies during extreme weather or states of emergencies; (ii) high-cost barriers for reconnection; (iii) lack of data reporting on disconnections performed; and (iv) limited payment plans and access to assistance programs. These topics are discussed in further detail below.

Shortcomings of current disconnection policies during extreme weather or states of emergencies

The advocacy groups stated that current disconnection policies do not adequately protect residential customers during extreme weather events or public health emergencies. The comments further argued that Virginia has some of the weakest disconnection policies for customers compared to other southeastern states.

Additionally, it was stated that current disconnection practices vary by utility, thereby subjecting residents to various policies based on their provider. All three advocacy groups recommended standardization of disconnection policies, particularly during emergency situations, to allow customers to know what to expect regardless of the utility.

Extreme Weather

The advocacy groups recommended implementation of date-based and temperature-based disconnection prohibitions. Specifically, Appalachian Voices stated that disconnections should be prohibited for residential customers if, within the 24 hours before or after a scheduled disconnection, the forecasted low temperature is 32 degrees F (or below) or the forecasted high temperature is 95 degrees F (or above). These temperature-based prohibitions should also apply for any legal holiday or weekend immediately following the scheduled disconnection. It was reported that North Carolina broadly prohibits disconnections on Fridays, weekends, legal holidays, or the day before a legal holiday. Additionally, it was stated that Georgia, Mississippi, and Texas prohibit disconnections in areas where weather warnings or advisories (e.g., excessive heat advisories and freeze warnings) have been issued.

In addition to the temperature-based policies, Appalachian Voices reported that several states have implemented date-based disconnection policies. For instance, according to Appalachian Voices, Arkansas prohibits gas utilities from disconnecting low-income customers from November to March; Connecticut prohibits disconnections of low-income customers from November to April; Georgia and

Kentucky prohibit disconnections from November through March if the customer enters into a payment plan; and Delaware prohibits disconnections during the cooling period from June to September.

Public Health Emergencies

The advocacy groups stated that disconnections policies for emergency situations appear to be ad hoc. As such, in order to standardize the disconnection policies, Appalachian Voices recommended that all utilities should implement the following policies:

- A prohibition on disconnection of residential service for nonpayment of bills or fees for 30 days should automatically and immediately go into effect upon the declaration of any of the following emergencies: major disasters, resource shortages, or state or federal states of emergency.¹¹
- The SCC should direct any utility to extend or otherwise modify a prohibition on disconnecting service to residential customers beyond 30 days if the Commission finds such an extension or modification to be necessary.
- Prior to issuing any such extension or modification, the SCC should seek input from utility representatives, local governments, advocates, and residential customers to inform whether a modification or extension of the prohibition is in the public interest.
- For local emergencies, a prohibition on disconnection of residential service for nonpayment should automatically and immediately go into effect in affected areas for the 30 days following that declaration.

Additionally, Appalachian Voices recommended that, following any moratorium period, utilities should establish higher than normal arrears thresholds for disconnection of service.

Serious Medical Conditions

Appalachian Voices stated that the process for acquiring an SMCC is not consistent with current medical practices due to the requirement for a physician's signature. According to Appalachian Voices, the best practice recommended by the Yale School of Medicine is to allow other types of health care providers (e.g., nurse practitioners, physician assistants, government agencies, local health boards, or social workers) to be able to complete such a form on behalf of a medically vulnerable patient.

Notice and Communication

VAIPL commented that there should be a requirement for a 30-day notice before disconnection. Appalachian Voices recommended that utilities should be required to make phone calls to customers prior to the disconnection, and should consider in-person notifications; furthermore, utilities should attempt to enroll the customer in a payment plan at that time. Appalachian Voices additionally stated that information about any emergency moratorium and related payment programs should be made public using a variety of multimedia platforms. This should include, but not be limited to, knocking on customer doors, hanging fliers, making phone calls, texting, putting advertisements on buses and at bus stops, using car wrappers, and handing out information at schools during parent pick-up times in neighborhoods with historically high disconnections. Additionally, Appalachian Voices and the Virginia Poverty Law Center ("VPLC") stated that utilities should develop a toolkit or standardized information regarding energy assistance programs and payment plans for non-utility partners and community advocates to use in their

¹¹ Virginia Interfaith Power & Light ("VAIPL") recommended that the prohibition should remain in effect for up to 60 days following the expiration of any such declaration.

outreach to energy-burdened and low-income communities. According to Appalachian Voices, this multimedia outreach and toolkit is utilized in Michigan.

High-cost barriers to reconnection

According to the advocacy groups, the following issues pose barriers to the restoration of service for lower-income residential customers: disconnection and reconnection fees; late charges; payment requirements for entire arrearages; high interest rates for arrears; and burdensome security deposits. Appalachian Voices stated that disconnection and reconnection fees, late fees, and interest charges should be suspended for six months following any moratorium period, especially for low-income households. VA IPL suggested that, during public emergencies, disconnection and reconnection fees should be incorporated into a payment plan and not be made a requirement for restoration of service. VPLC recommended that a statute of limitations on utility debt should be implemented and standardized across utilities. According to VPLC, having no statute of limitations on utility debt causes old arrearages that have been written off to continue to be a barrier to restoring service. VPLC suggested that a 3-year statute of limitations would be sufficient for large investor-owned utilities because base rate cases come before the Commission every three years.

Lack of data reporting on disconnections performed

The advocacy groups stated that the availability of data on disconnections is very limited. Appalachian Voices commented that data on disconnections and arrears should be made publicly available. Appalachian Voices and VA IPL stated that key data points should be reported to the SCC on a periodic basis. According to Appalachian Voices, this type of reporting is performed in Illinois, Michigan, and Arizona. Appalachian Voices further stated that the following information should be collected and reported:

- The number of disconnections for nonpayment, segmented by income bracket into low-income and non-low-income households, and indicating households with seniors or disabled residents. For privacy concerns, each of these brackets should be self-reported categories;
- Arrearage data for (self-reported) low-income households, and households with (self-reported) senior or disabled residents;
- The number of days in arrears by account and the number of accounts restored to service; and
- The number of customers on payment plans, also segmented by income and age brackets.

VPLC recommended that an affordability study be performed for each area within a utility's service territory during this most recent public health crisis, and every seven years thereafter to ensure that affordability is assessed regularly. Such research and reporting should be done by an independent, reputable, third-party research entity specific to Virginia, and the reports made publicly available.

Limited payment plans and access to assistance programs

The advocacy groups had several recommendations for revising payment plans during an emergency situation, with regard to eligibility, timeline, and plan duration. Specifically, Appalachian Voices recommended:

- Cooperative and municipal utilities should consider arrearage management programs, such as the Percentage of Income Payment Plan ("PIPP") authorized by the 2020 Virginia Clean Economy Act, and which is currently available only for customers of Phase I and Phase II electric utilities, or other deferred long-term payment arrangements that allow at least 6 months for repayment, but ideally, up to 24 months.

- When developing payment arrangements, utilities should allow customers to self-certify income, and learn what customers can afford to pay, rather than requiring a predetermined monthly amount.
- Using an automatic "opt-out" approach for payment plans for low-income customers should be considered as one method to encourage participation; any such plan should allow a minimum of six months for repayment.
- Utilities should consider matching credits for qualifying customers who enter into payment plans and maintain good standing over a defined period of time.
- Utilities should consider tiered discounts for low-income and senior customers, and for customers with an SMCC on file with the utility.

VPLC recommended that prior to a disaster or emergency, utilities should develop and provide their customers with information on their payment plan options during and following an emergency event (i.e., moratorium trigger event, income driven repayment/payment plan during the state of emergency – how to apply, where to find information, etc.). VPLC also recommended that utilities establish an opportunity for customers to apply for temporary payment relief at the onset of an emergency. Additionally, VPLC commented that the affordability study described above could be used to create income-based repayment programs.

In regard to access to assistance programs, Appalachian Voices recommended that:

- All customers with accounts that are 60 days or more in arrears should be automatically connected to social service agencies and matched with other aid programs.
- Low-income customers should be proactively enrolled in payment programs if they have received some other type of state or federal assistance (modeling such an approach after the Virginia PIPP program offered by Phase I and II utilities).
- Access to assistance programs should be streamlined as much as possible, such as by a single web portal that matches utility programs with other assistance programs, including those offered by private entities, municipalities, community-based organizations, and the state and federal government. VPLC also suggested using technology to assist with the accessibility of assistance programs.

Staff Conclusions and Recommendations

As previously mentioned, Staff asked utilities and advocacy groups for input on disconnection procedures and policies to research what is being implemented in Virginia at this time. This inquiry was mainly focused on gathering details regarding formal and informal policies and procedures utilities employ during public emergency and extreme weather events. While responding utilities overall did not have formal policies and procedures specific to public emergency and extreme weather events, Staff found that during the COVID-19 pandemic, most utilities adopted *informal* practices that were largely consistent within each industry sector. First, each responding utility informed Staff that they heeded the Commission moratorium that was placed on disconnects during the pandemic. Additionally, many of the informal policies adopted by the utilities during emergency conditions included consideration of extreme weather and payment arrangements and extensions.

The Letters requested, among other things that the Division "develop recommendations on how best to protect utility customers from disconnection of service during public health emergencies and weather extremes." Staff's recommendations are arranged into four main sections below:

(i) disconnection policies during emergency conditions; (ii) payment plans; (iii) reporting requirements; and (iv) broadband policies. These recommendations focus on regulated electric, gas, water and wastewater utilities, noting that the Commission does not regulate service by municipalities, has limited regulatory authority over telecommunication utilities, and no authority over broadband utilities.

The Division notes that these are high-level recommendations that could be implemented in a variety of ways, including through new or amended Commission administrative regulations, on a utility-by-utility basis through individual cases, or through legislation.

Disconnection policies during emergency conditions

While the informal disconnection policies employed by many utilities during the pandemic as well as utilities' extreme weather-related disconnection practices were and continue to be helpful to customers in navigating through difficult times, Staff believes that a formalization of these practices would be beneficial to consumers and recommends such formalization. One way to address this recommendation would be for each utility under Commission jurisdiction to review its current tariffs and amend them to include formal policies and procedures regarding public health emergencies and extreme weather conditions.

Many electric and gas utilities take into consideration temperature extremes when considering customer disconnections, either through formal or informal policies. The typical temperature thresholds for avoiding service disconnections are below freezing (32 degrees F) or above 95 degrees F. Staff supports this temperature-based practice and again recommends formalization of this policy if not already implemented. Staff notes that several states have already adopted a formal policy on temperature related disconnection suspensions.¹² In addition to temperature, Staff recommends such formalization should address policies that prohibit service disconnections on Fridays, weekends, legal holidays, or the day before a legal holiday.

In regard to customers with medical conditions, most utilities currently allow for serious medical condition considerations by allowing a customer to file a form that is signed by a medical professional. This form does not alleviate the payment responsibility of the customer; however, it does give the customer more leeway with respect to payment amounts and length of time to complete payment. Staff concurs with this practice and recommends formalization of this practice for all utilities.

With regard to reconnection fees and charges, these charges are currently documented in the filed tariffs of each jurisdictional electric, gas, water, and wastewater utility, and are regularly reviewed by Staff. Staff agrees with the advocacy groups and believes there is value in having all regulated utilities review their tariffs and re-examine aspects that may pose a barrier to the restoration of service, especially for lower-income residential customers. Measures could include reduction of disconnection and reconnection fees and late charges; elimination of payment requirements for the entire arrearage; reducing interest rates for arrears; and reducing security deposits.

Payment Plans

Staff's review shows that prior to the pandemic, some utilities did not offer payment plans. However, due to the devastating effect of the pandemic and its long duration, all responding utilities reported that they offered some form of payment options to their customers. Staff recommends that going forward, during a public health emergency, all customers with arrears and who are subject to disconnection for non-payment should be offered an opportunity to enroll in a payment plan to avoid disconnection. Each utility could be required to have a documented, formal policy to which customers could refer. Payment plans during emergency conditions should have longer repayment durations than

¹² See [Seasonal Termination Protection Regulations | The LIHEAP Clearinghouse \(hhs.gov\)](#)

those offered for normal conditions. Staff also believes that utilities should continue to utilize a case-by-case approach in reviewing each customer's hardship situation when considering the terms of the payment plan. This approach would allow utilities to take into consideration each customer's unique payment history, income, amount owed, and their specific hardship situation.

In addition to utility payment arrangements, Staff recognizes that utilities currently inform customers facing hardships about the many different non-utility offered assistance programs available to them such as those through EnergyShare, HeatShare, and LIHEAP.¹³ Since this information may not be readily known by all customers, Staff recommends that a list of assistance programs available for each area or locality within a utility's service territory be maintained by each utility and such utility advise customers facing hardships about these options to help alleviate customers' financial hardship.

Reporting Requirements

As previously mentioned, Staff already receives monthly disconnection statistics from all regulated electric and gas utilities. This data includes:

- Number of Residential Customers Disconnected for Nonpayment during the month, as of the last day of month. This includes:
 - Average Bill Amount owed by these customers at the time of disconnection.
- Number of Residential Customers in Arrears, but not disconnected, as of the last day of the month. This includes:
 - Average Bill Amount in Arrears owed by these customers.
 - Number of Residential Customers in Arrears of \$500 - \$1,000 for the month, as of the last day of the month.
 - Number of Residential Customers in Arrears of \$1,000 or more for the month, as of the last day of month.
- Total Number of Residential Customers served

This information allows Staff to identify trends within each regulated electric and gas utility's service territory. Additional reporting requirement with more detail could also be helpful. For example, submission of this information at a county level could provide greater insight into, and allow for the easy identification of specific regions that may be more impacted by disconnections and arrearages.

Broadband policies

In addition to the electric, gas, water and wastewater utilities, the pandemic brought to light the high importance of broadband internet service for the residents of Virginia. Among other things, access to broadband allows large percentages of the workforce in Virginia to work remotely, provides students the opportunity to learn from home, and for medical patients the opportunity to utilize tele-health options. While Staff acknowledges the importance of this service, broadband services providers do not currently fall under Commission jurisdiction. Furthermore, due to the absence of any response from the broadband advocacy groups contacted by Staff, Staff believes it would be worthwhile for an organization, such as the Broadband Advisory Council, to separately investigate broadband disconnection/service procedures and provide its recommendations to the Chairs of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor.

¹³ [Virginia | The LIHEAP Clearinghouse \(hhs.gov\)](https://www.hhs.gov/energy/liheap/)

Please let us know if you need additional information or assistance.

Respectfully submitted,

David N. Essah

David N. Essah, Ph.D.

Attachments

Attachment 1

Letters from the Chairs of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor dated February 14, 2022, and March 14, 2022



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

RECEIVED

FEB 16 2022

Public Utility Regulation
State Corporation Commission

KATHY J. BYRON
POST OFFICE BOX 900
FOREST, VIRGINIA 24551

TWENTY-SECOND DISTRICT

COMMITTEE ASSIGNMENTS:
COMMERCE AND ENERGY (CHAIR)
FINANCE
COMMUNICATIONS, TECHNOLOGY
AND INNOVATION
RULES

February 14, 2022

David N. Essah, Director
Division of Public Utility Regulation
State Corporation Commission
Post Office Box 1197
Richmond, Virginia 23218

Re: House Bill 1054

Dear Mr. Essah:

During the 2022 Session, the House Committee on Commerce and Energy tabled House Bill 1054 with the request that I ask the Division of Public Utility Regulation to conduct a review of the issues raised by the bill.

House Bill 1054, introduced by Delegate Shin, would prohibit telecommunications electric, gas, water, and wastewater utilities and broadband companies from disconnecting service to a residential customer for nonpayment of bills or fees during a declared state of emergency, emergency, major disaster, disaster, resource shortage, or local emergency. In conducting your review, I ask that you develop recommendations on how best to protect utility customers from disconnection of service during public health emergencies and weather extremes and, in doing so, review current disconnection and reconnection procedures, including notice requirements and the use of late charges and fees.

Your inclusion of interested parties, including representatives of electric utilities, water and wastewater utilities, natural gas utilities, consumer advocacy groups, and environmental organizations, in your work would be appreciated.

Please complete your work on and advise me by letter of the results of your assessment prior to the 2023 Session of the General Assembly.

Sincerely,

Kathy J. Byron, Chairman
Committee on Commerce and Energy

cc: The Honorable Irene Shin
Cathy Hooe, House Committee Operations
Tom Stevens, Division of Legislative Services
Marvi Ali, Division of Legislative Services

COMMONWEALTH OF VIRGINIA



SENATE

RICHARD L. SASLAW

MAJORITY LEADER
35TH SENATORIAL DISTRICT
ALL OF THE CITY OF FALLS CHURCH;
PART OF FAIRFAX COUNTY; AND PART
OF THE CITY OF ALEXANDRIA
POST OFFICE BOX 1856
SPRINGFIELD, VIRGINIA 22151

COMMITTEE ASSIGNMENTS:
COMMERCE AND LABOR, CHAIR
EDUCATION AND HEALTH
FINANCE AND APPROPRIATIONS
JUDICIARY
RULES

March 11, 2022



David N. Essah, Director
Division of Public Utility Regulation
State Corporation Commission
Post Office Box 1197
Richmond, Virginia 23218

Re: House Bill 1054

Dear Mr. Essah:

During the 2022 Session, HB 1054 was introduced by Delegate Shin, regarding the disconnection of utility service for certain customers under adverse conditions. Although the Senate Committee on Commerce and Labor was not referred HB 1054, the Committee is interested in the issues raised by the bill. I respectfully ask that the Division of Public Utility Regulation conduct a review of such issues.

House Bill 1054, would prohibit telecommunications, electric, gas, water, and wastewater utilities and broadband companies from disconnecting service to a residential customer for nonpayment of bills or fees during a declared state of emergency, emergency, major disaster, disaster, resource shortage, or local emergency. In conducting your review, I ask that you focus on developing recommendations on how best to protect utility customers from disconnection of service during public health emergencies and weather extremes and, in doing so, review current disconnection and reconnection procedures, including notice requirements and the use of late charges and fees.

Your inclusion of interested parties, including the Department of Housing and Community Development and representatives of electric utilities, water and wastewater utilities, natural gas utilities, consumer advocacy groups, and environmental organizations, in your work would be appreciated.

Please complete your work on and advise me by letter of the results of your assessment prior to the 2023 Session of the General Assembly.

Attachment 2
List of Respondents

Respondents

Electric

Appalachian Power Company

City Of Salem

Dominion Energy

Mecklenburg Electric Company

Northern Virginia Electric Company

Old Dominion Power / Kentucky Utilities

Virginia Maryland Delaware Association of Electric Cooperatives

Gas

Columbia Gas

Roanoke Gas

Southwest Virginia Gas

Virginia Natural Gas

Washington Gas

Water / Sewer

Louisa County Water Authority

Thomas Bridge Water Corporation

Town of Woodstock

Virginia Rural Water Association

Telecommunications (Reported to have Residential Customers)¹⁴

Burke's Garden Telephone Company, Inc.

Citizen's Telephone Cooperative

¹⁴ Respondents with no reported residential customers: Airespring, Atlantech Online, CBTS Virginia LLC, ExteNet Systems (VA) LLC, France Telecom Corporate Solutions LLC, Fusion Cloud Services LLC, Fusion LLC, Hudson Fiber Network (VA) LLC, Manhattan Telecommunications LLC, New Horizons Communications Corporation, Peerless Network of Virginia LLC, Summit, Unite Private Network, Windstream Communications, LLC.

...Continued from first page (Telecommunications)

Kinex Telecom Inc.

Lumos Fiber

Lumen Technologies

New Hope Telephone Cooperative

Pembroke Telephone Cooperative

Point Broadband Fiber Holding LLC

Verizon

Virginia Cable Telecommunications Association

Advocacy Groups

Appalachian Voices

Virginia Interfaith Power and Light

Virginia Poverty Law Center