

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

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

PUBLIC COMMENT
Submitted by the R.I. Center for Justice
on behalf of the George Wiley Center

On March 16, 2020, March 30, 2020, April 13, 2020, May 8, 2020, and May 28, 2020, the Public Utilities Commission (PUC) voted to enter emergency orders, effective through July 17, 2020, to prohibit regulated electric, natural gas, water, and sewer utilities to cease termination of service for nonpayment, cease sending past due accounts to collection agencies, and to refrain from sending termination notices with shut-off dates prior to July 17, 2020 for all customers. Absent a vote to continue the order or modify the orders, they will terminate at 12:01 a.m. on July 18, 2020. The PUC will consider whether to continue or modify the order on July 17, 2020.

We write to request that the PUC Emergency Orders be continued in effect for all residential customers through November 1, 2020, thus extending utility shutoff protections to connect with the winter moratorium.

Although “residential customers” covers a broad spectrum of Rhode Islanders in varied circumstances, we recommend not limiting utility shutoff protections solely to low-income residential customers, as doing so will fail to protect a large number of struggling families whose household income has plummeted in recent months due to coronavirus-related job losses. These newly low-income or no-income consumers may not have realized that they may be eligible for enrollment in low-income programs, or have been unable to take steps to enroll during their family economic and/or health emergency. Although 13,000 jobs were restored in Rhode Island during May, and the unemployment rate dropped to 16.3% from 18.1% in April, Rhode Island still has approximately 80,000 fewer jobs than this time last year, which means that tens of thousands of families are newly low-income.¹ Continuing protection for all residential customers will also provide a degree of crossover protection for some of the state’s most vulnerable small

¹ *Rhode Island Adds Jobs, Unemployment Rate Drops to 16.3%*, June 25, 2020;
<https://www.usnews.com/news/best-states/rhode-island/articles/2020-06-25/rhode-island-adds-jobs-unemployment-rate-drops-to-163>

businesses, even if the PUC chooses not to extend its Emergency Orders for commercial and industrial customers. For the most vulnerable family-owned small businesses, there is often a large overlap between the owners' personal capital and income and their business's capital and income, meaning that the continuation of residential utility protections will at least provide some mitigation to their economic circumstance in total.

Extending the PUC's utility protections for residential customers is not only imperative from a public health perspective; based on National Grid's filings in this Docket, it is also reasonable and sustainable from an economic perspective. From March through June, National Grid's overall cash receipts have dropped by 7.1% -- a reduction that, according to National Grid, was "driven mainly by the Commercial and Industrial customer segments."² Protections for residential customers, it is clear, have led to just a small fraction of a small fraction of income reduction for the utility. Despite the small (7.1%) decrease in cash receipts, most of which is not attributable to residential customers, National Grid has attested that the company "has been able to meet its obligations and expects to be able to meet all its obligations" in the near future.³ Nearly a third of working Rhode Islanders are struggling and have lost so much more than a few percentage points of their income. Weighing the public health and public education requirements for continuing the Emergency Orders for residential customers -- discussed more fully below -- against the small proportion of the reduction in utility income associated with residential customers, it is not only reasonable but essential for the Emergency Orders protecting residential customers to be maintained through November 1, at which point winter moratorium protections for the most vulnerable Rhode Island residents will take effect.

The Current Status of the Coronavirus Pandemic, and Uncertainty Regarding a Possible COVID-19 Resurgence in the Fall, Militate Against Lifting Utility Protections for Residential Customers Through the Beginning of November

In Executive Order 20-49, issued on June 26, 2020, the Governor continued aspects of the State of Emergency through at least July 26, 2020. Thanks to this committed leadership, and effective measures like the PUC's COVID-19-related Emergency Orders, Rhode Island is one of only two states that is seeing a decline in new coronavirus cases.⁴ Still, Rhode Island continues to report many dozens of new cases every day, and -- tragically -- multiple deaths. This bears repeating: nearly every single day, multiple Rhode Islanders continue to die from COVID-19. At 1,604 per 100,000 residents, Rhode Island still has the third-highest cumulative infection rate in the

² R.I. Pub. Util. Commission, Docket No. 5022, Nat'l Grid Response (July 6, 2020).

³ *Id.*

⁴ *Connecticut and Rhode Island are the only 2 states where coronavirus cases are declining as the virus surges in the US*, Business Insider, June 28, 2020; <https://www.businessinsider.com/where-coronavirus-cases-are-declining-connecticut-rhode-island-2020-6>

country.⁵ And our hardest-hit communities stand out even further -- there are only 14 counties in the US that have more cases per 100,000 residents than Central Falls at 4,762/100,000.⁶

While we should be proud of how we have responded relative to other states, the fact that coronavirus infections are rising so much more precipitously across most of the country is not an argument for complacency; rather, it should serve as a warning of how important our continued vigilance is, an exhortation to keep successful policies like our PUC Emergency Moratorium on utility termination in place, and a reminder that our COVID-19 journey is still in its beginning stages. As one epidemiologist at the University of Minnesota put it, “We are in the second inning of a nine inning game.”⁷

Thankfully for all of us here in Rhode Island, we now have a great deal of evidence regarding the disastrous consequences that can result -- or, perhaps more appropriately, are likely to result -- when states fail to maintain and extend emergency public health measures and protections that support social isolation, such as the utility shutoff moratorium, as long as they should. As of last week, COVID-19 cases were rising in 36 states. The counties home to Dallas, Phoenix and Tampa all reported record-high averages on at least 15 straight days in the month of June.⁸ And just a few days ago, our country hit an all-time one-day high of 40,000 new cases.⁹

It is clear that this pandemic can come roaring back at a moment’s notice. It is also relevant to note, relative to our recent positive trends in Rhode Island, that the places that are currently being hardest hit include a number of jurisdictions that had previously believed they had the virus under control, like Utah and Oregon.¹⁰ In Beijing, China, an outbreak of coronavirus cases last month came following 55 days in which the city had not reported any locally transmitted infections. Nevertheless, within a matter of days, the entire city was once again in partial lockdown, with residential neighborhoods sealed off, schools closed, and other restrictive

⁵ *The coronavirus hit Central Falls and Providence harder than almost any community in the country*, The Boston Globe, July 6, 2020; <https://www.bostonglobe.com/2020/07/06/metro/coronavirus-hit-central-falls-providence-harder-than-almost-any-community-country/>

⁶ *Id.*

⁷ *Coronavirus ‘second wave’ debate ‘misses the whole point,’ experts say*, ABC News, June 18, 2020; <https://abcnews.go.com/Health/coronavirus-wave-debate-misses-point-experts/story?id=71312024>

⁸ *Reopenings, record cases and full hospitals: America’s dissonant response to the pandemic*, Washington Post, June 25, 2020; <https://www.washingtonpost.com/graphics/2020/national/coronavirus-new-cases-june-spike/>

⁹ *Connecticut and Rhode Island are the only 2 states where coronavirus cases are declining as the virus surges in the US*, Business Insider, June 28, 2020; <https://www.businessinsider.com/where-coronavirus-cases-are-declining-connecticut-rhode-island-2020-6>

¹⁰ *Reopenings, record cases and full hospitals: America’s dissonant response to the pandemic*, Washington Post, June 25, 2020; <https://www.washingtonpost.com/graphics/2020/national/coronavirus-new-cases-june-spike/>

measures back in full force. Similar scenarios are playing out in states such as Texas, Arizona, and Florida, where industries are being forced to re-close in response to renewed outbreaks.¹¹

More troubling even than the upward trends in infection rates around the country is the reality that these viral resurgences are not even the feared “second wave” of coronavirus that epidemiologists have warned about. Infectious disease specialists are in broad agreement that *recent spikes are still part of a first wave of infection* that Rhode Island -- like the rest of the world -- is continuing to experience.¹² Sadly, this means there is a very real possibility that the worst is yet to come regarding COVID-19’s impact on our state. **Policies that are working in Rhode Island to keep people adhering to social distancing and other public health restrictions must remain in place.**

History points to the strong possibility of a major coronavirus resurgence in the fall. Respiratory viruses tend to transmit better in cooler months with lower humidity, and seven of eight major pandemics since the 18th century included a second substantial peak approximately six months after the first peak. Indeed, a report by top epidemiologists at the Center for Infectious Disease Research and Policy (CIDRAP) predicted the current wave of COVID-19 will be followed by a larger wave in the fall or winter of 2020, which will require the reinstatement of mitigation measures to drive down infection rates and prevent health care systems from being overwhelmed.¹³

With so many examples to remind us that coronavirus can ramp back up at any moment, and with the real probability of an even greater resurgence of the pandemic in the fall, this is not the time to lift a highly successful and minimally disruptive public health measure like the PUC’s protection of Rhode Island families from utility termination activities. The Rhode Island Department of Health has advised that among the best preventive measures for reducing the spread of the virus are **hand washing, cleaning and disinfecting**, and routinely monitoring one’s health. Without running water and electricity, residents are significantly impaired in their ability to wash their hands, do laundry, clean their homes, and contact their medical providers, among other measures necessary to help contain the spread of the virus.

¹¹ *Restaurants are starting to close again in reopened states after employees contract COVID-19*, Restaurant Hospitality, June 17, 2020; <https://www.restaurant-hospitality.com/operations/restaurants-are-starting-close-again-reopened-states-after-employees-contract-covid-19>

¹² *New coronavirus spread isn’t the feared ‘second wave’ – it’s still the first, researchers say*, CNBC, June 12, 2020; <https://www.cnbc.com/2020/06/12/coronavirus-spread-isnt-the-feared-second-waveits-still-the-first.html>

¹³ *COVID-19: The CIDRAP Viewpoint*, Center for Infectious Disease Research and Policy, April 30, 2020; https://www.cidrap.umn.edu/sites/default/files/public/downloads/cidrap-covid19-viewpoint-part1_0.pdf

Perhaps even more concerning, we know that in a significant number of cases termination of utilities leads to displacement of housing. In the midst of a pandemic, these events are more than just a tragedy for the directly impacted individuals -- they also represent a concrete challenge to state efforts to contain the virus, and a public health risk for all of us. Epidemiologists have warned that group settings such as homeless shelters can rapidly become the epicenters of new coronavirus outbreaks, which can spread far beyond those initial populations.¹⁴ As Gina Neff, a researcher at the University of Oxford, said, “What we’re seeing in this first wave in the US is that the largest clusters are in populations where people don’t have a lot of agency. These populations will become the sources of new outbreaks, even when we feel like we kind of have it under control.”¹⁵

Although a number of policies are set to change as Rhode Island moves from Phase 2 to Phase 3 of reopening, many guidelines remain the same. Rhode Islanders are still being asked to wash their hands with warm water and soap throughout the day. They are still being asked to stay at home if they feel ill. They are still being encouraged to work from home when possible. All of these public health measures remain possible only when Rhode Islanders have the utility services necessary to wash their hands, clean their residences, contact their medical providers, and remain comfortably in their homes for extended periods of time. If we want to keep Rhode Island off the path of so many other states, we cannot afford to force significant numbers of families to sit in their houses without any way to abide by necessary public health measures -- and we certainly cannot risk pushing people out onto the streets, where they will be more likely to contract the virus and become COVID-19 spreaders themselves. As such, it is critical for the public health and safety of our state that the PUC extend utility shutoff protections for residential customers through the fall and winter of 2020.

Extending Utility Protections is Critical to Rhode Island’s Ability to Successfully Accomplish its Back to School Initiative

Governor Gina Raimondo and State Education Commissioner Angélica Infante-Green have announced that some form of in-person classroom education will return to Rhode Island starting on August 31, 2020.¹⁶ Raimondo said that with the virtual-learning experience honed over the last few months, the state’s education system can “be even better than it was before,” and that the

¹⁴ *Coronavirus is spreading under the radar in US homeless shelters*, Nature, May 7, 2020; <https://www.nature.com/articles/d41586-020-01389-3>

¹⁵ *Id.*

¹⁶ Tom Mooney, *Raimondo plans to have students back in classrooms this fall -- but school will be different*, Providence J. (Jun. 10, 2020), <https://www.providencejournal.com/news/20200610/raimondo-plans-to-have-students-back-in-classrooms-this-fall--but-school-will-be-different>.

biggest challenge is “not holding on to the old way of doing things.”¹⁷ What does this mean for Rhode Island’s public schools?

By July 17, all school districts will be required to submit three contingency plans to the R.I. Department of Elementary and Secondary Education (RIDE): a return to in-person instruction with health, hygiene and distancing modifications; a hybrid model involving both in-person and distance learning; and a return to fully remote learning for all students, in the event that schools have to close again due to the second wave of infection.¹⁸ Hybrid model learning is a part of what Governor Raimondo refers to as a “perfect attendance” culture which will include students taking part in lessons when they are at home sick, calls for full classroom itineraries on snow-days, and distance learning for students on the eight scheduled professional days in the newly adopted statewide common calendar.¹⁹ “The snow days the way we knew them before are gone,” Education Commissioner Angelica Infante-Green said. “We can do distance learning.”²⁰

Governor Raimondo acknowledged that “the virus hasn’t gone away, it’s still here, it’s very much still with us,” and that low-income communities such as Central Falls, Providence, and Pawtucket have been hit the hardest and will have difficulties meeting in-person back-to-school goals.²¹ These are the same communities that historically experience the highest proportion of utility terminations due to inability to pay utility bills, and the very same communities that have been hardest hit by job and income losses, as well as infection and mortality rates, during this crisis.

To meet the Governor and Education Commissioner’s goals, it is imperative -- particularly for low-income communities that have been disproportionately impacted by COVID-19 -- that the PUC extend the current utility protections to November 1, 2020, when the winter moratorium will begin. The educational plans required by the Governor and Commissioner have distance learning as a required component for at least professional development days, sick days, and snow days. The state’s policy objectives, articulated by the Governor, are to have “no disruption in education.”²² Lifting the moratorium during an ongoing and potentially reoccurring viral pandemic, where many low-income families have been left with even less income than they had before, runs counter to the state’s education policy goals and will exacerbate racial and economic

¹⁷ *Id.*

¹⁸ Rachel Nunes, *What To Expect When RI Schools Open*, Patch (Jun. 10, 2020), <https://patch.com/rhode-island/cranston/rhode-island-schools-open-fall-raimondo>.

¹⁹ *Id.*; See Mooney, *supra* note 1.

²⁰ See Nunes, *supra* note 4.

²¹ See Mooney, *supra* note 1; See also Mark Pratt, *Rate of coronavirus cases in cities worries top R.I. officials*, The Westerly Sun, Jun. 1, 2020; https://www.thewesterlysun.com/news/covid-19/rate-of-coronavirus-cases-in-cities-worries-top-r-i-officials/article_14d9cd68-a469-11ea-b5d7-4f42894a6e6d.html

²² See Mooney, *supra* note 1.

equity gaps. Students without the utilities necessary to access distance education -- and to do it safely and consistently, in a way that promotes actual learning -- will be deprived of access to an equitable education.

Furthermore, as previously discussed, students require access to utilities to promote hygiene at home and limit viral spread in schools. If students do not have access to utilities, other students and teachers are placed at risk. It is notable that the State of Rhode Island places such primary importance on limiting contagious disease spread in the public schools that historically the only thing that can cause a child to be barred from enrollment in-person education in Rhode Island is the failure to provide evidence of vaccination.²³ This underscores the recognition that schools and public health authorities have had for decades: schools are a primary vector for community spread of infectious disease without proper public health precautions in place. Of course, there currently is no vaccine for COVID-19 so it is absolutely essential that schoolchildren and their families have continuing reliable access to utilities in their homes to sustain public health precautions.

In-person education is only one of three scenarios that may prevail in Rhode Island in September. For the reasons stated above, even in-person education during a pandemic requires that students have continuous reliable access to utilities in their homes. However, this is even more acute if education cannot be entirely or even partially in-person, as is likely to be the case in some heavily impacted communities. Rhode Island public school superintendents have expressed serious concerns with Governor Raimondo's in-person learning announcement.²⁴ Officials believe that full in-person back-to-school operation would be "impossible under the CDC's guidelines."²⁵ The CDC guidelines will leave the districts scrambling to find sufficient bus drivers to transport students and will require additional teaching staff to manage the staggered school schedules necessary to de-densify classrooms, necessitating a "massive infusion of cash" that is not available from the state.²⁶ Based on the limitations and frustrations that have been expressed by local superintendents, it seems possible -- perhaps even quite likely -- that full in-person learning in the fall will be impossible.²⁷ Because of this, many students will be at home participating in distance learning, meaning that a failure by the PUC to extend utility protections for residential customers will deny access to public education to many low-income children. This will only exacerbate the existing severe equity gaps in education and opportunity that have been so graphically exposed during this pandemic.

²³ R.I. Gen. Laws § 16-38-2.

²⁴ Linda Borg, *Beyond Frustrated: R.I. school superintendents see lots of problems with Aug. 31 reopening*, The Providence J. (Jun. 11, 2020).

²⁵ *See id.*

²⁶ *See id.*

²⁷ *See id.*

As Governor Raimondo has said, Rhode Island students and teachers have excelled at virtual learning over the last three months: “In truth, [they’ve] done it ... better than any state I can find.”²⁸ It is vital that Rhode Island continues to lead in COVID-19 containment, and that requires extending utility protections to provide relief for low-income and disproportionately affected families during this pandemic. For these reasons, the utility shutoff moratorium must be extended for residential customers so that all Rhode Island students will have the tools necessary to accomplish the state’s back-to-school initiatives and access the public education that is both their right and a statutory requirement.

In Response to Mounting Arrearages During the COVID-19 Crisis, and Increasing Economic Instability Moving Forward, the PUC Should Consider Implementing a Percentage of Income Payment Plan in an Appropriate Future Docket

While we understand that an emergency order is not the proper mechanism for creating a new permanent payment plan, Rhode Island’s experience with coronavirus has dramatically underscored how profoundly our state needs a new approach to utility payments -- one that can generate a sustainably and reliably payable bill for utility customers during and through the public health emergencies, economic and environmental crises, and other shocks we are likely to face with potentially more frequency in the coming years. As such, we recommend that the PUC give consideration to implementing a Percentage of Income Payment Plan (PIPP) in an appropriate future docket under the Commission’s existing statutory authority.

Rhode Islanders owe the PUC a debt of gratitude for taking decisive action to provide families and businesses with emergency utility shutoff protections during the COVID-19 pandemic. But it must be noted that emergency actions such as these would not be as critically necessary if Rhode Island utilized a PIPP-approach to utility rates for the lowest-income Rhode Islanders in the ordinary course of business.

One of the advantages of a PIPP is its ability to adapt to and absorb the changing economic circumstances of customers. When disaster strikes and thousands of Rhode Islanders lose a significant portion of their household income, under a PIPP they can continue paying their bills in a sustainable manner. That is vital for consumers -- and it also means that utilities are not forced to deal with the kinds of mounting arrearages that are inevitable in a crisis of this magnitude without an income-linked payment arrangement for the most vulnerable consumers in the most heavily impacted communities.

²⁸ See Mooney, *supra* note 1.

This adaptability is important for the current public health emergency, which is far from over. As has been discussed previously, the COVID-19 pandemic is likely to continue causing systemic shocks and economic consequences for at least the next 18 months, and possibly longer. This reality underscores the importance of adopting a payment framework that can shift to meet the exigencies of this crisis and subsequent crises in ways that are predictable and viable for both utilities and customers facing economic distress.

We also know that COVID-19 is not the only disaster Rhode Island is likely to face in the coming years. Climate scientists agree that the climate crisis is going to increase the frequency of natural disasters, and their resulting human catastrophes and economic shocks and that these will occur with greater consistency and intensity.

Just last month, the Arctic Circle experienced a hundred-degree day, an occurrence that without climate change would have been a 1-in-100,000 year event.²⁹ Records like these are now being broken with regularity. Houston has been struck by five “500-year storms” since 2015.³⁰ Since 1980, there were, on average, six natural disasters per year in the United States that caused more than \$1 billion in damage, with total average annual losses from natural disasters of less than \$50 billion.³¹ From 2016 through 2018, by contrast, our country experienced 45 natural disasters causing over \$1 billion each, and the average annual economic losses from these natural disasters totaled about \$150 billion.³²

We live in a profoundly interconnected world. In 2008, the failure of what was effectively one industry -- home mortgages -- was enough to bring the entire global economy crashing down. It strains reason to imagine Rhode Island will not be experiencing more frequent and more severe economic shocks in the years ahead, causing similar spikes in unemployment to those we faced this spring.

This reality calls for long term planning. An income-linked payment requirement for low-income consumers is simply a better system for absorbing severe economic fluctuations and crises, whether caused by a resurgence of coronavirus over the next 18 months or other crises in the future.

²⁹ *Global Warming Is Melting Our Sense of Time*, New York Magazine, June 27, 2020; <https://nymag.com/intelligencer/2020/06/global-warming-is-melting-our-sense-of-time.html>

³⁰ *Id.*

³¹ *Climate Change Threatens the Stability of the Financial System*, Center for American Progress, November 21, 2019; <https://www.americanprogress.org/issues/economy/reports/2019/11/21/477190/climate-change-threatens-stability-financial-system/>

³² *Id.*

Conclusion

The PUC's critically important emergency orders prohibiting utility termination have proven to be a highly successful policy and have played an important role in helping Rhode Island to "flatten the curve" of viral spread. This critically important and successful emergency intervention should remain in place for all residential customers through November 1, 2020. Rhode Island is still in a declared state of emergency and Rhode Islanders continue to need the PUC's protection. This protection is still needed to literally save lives by slowing the spread of the virus and is also critical to support equitable access to public education for Rhode Island's students regardless of what form the return to school takes in late August.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer L. Wood", is centered below the text "Respectfully submitted,".

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