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COMMONWEALTH of VIRGINIA
Office of the Attorney General

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March 13, 2020

BY ELECTRONIC FILING

Joel H. Peck, Clerk
c/o Document Control Center
State Corporation Commission
1300 East Main Street
Richmond, Virginia 23219

Re: *Petition of Office of Attorney General, Division of Consumer Counsel
For emergency order to suspend utility service disconnections during
State of Emergency*
Case No. PL11-2020-00048

Dear Mr. Peck:

Please accept for electronic filing in the above-styled matter the attached Petition of the Office of the Attorney General's Division of Consumer Counsel.

Yours truly,

/s/ C. Meade Browder Jr.

C. Meade Browder Jr.
Senior Assistant Attorney General

Enclosure

cc: Service List

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

PETITION OF

OFFICE OF THE ATTORNEY GENERAL,
DIVISION OF CONSUMER COUNSEL

CASE NO. PLK-2020-00048

For emergency order to suspend utility service disconnections
during State of Emergency

**PETITION OF THE
OFFICE OF THE ATTORNEY GENERAL,
DIVISION OF CONSUMER COUNSEL
FOR EMERGENCY ORDER TO
SUSPEND UTILITY SERVICE DISCONNECTIONS DURING
STATE OF EMERGENCY**

Pursuant to the State Corporation Commission’s (“Commission”) authority under Va. Code §§ 12.1-12 and 56-35, the Office of Attorney General’s Division of Consumer Counsel (“Consumer Counsel”) respectfully requests that the Commission issue an emergency order prohibiting any public utility furnishing in Virginia power, heat, light, or water from disconnecting or terminating service for reason of non-payment during the term of the State of Emergency declared by Executive Order 51. Virginia law recognizes, in broad¹ and specific² terms, the authority of the Commission to take such action. Satisfactory evidence exists that the requirements of Virginia consumers in their need for power, heat, light, and water service have escalated due to the public health threat posed by the continued spread of novel coronavirus, or COVID-19. The temporary suspension of service disconnections for reason of non-payment is needed to minimize adverse impacts on the

¹ Va. Code §§ 12.1-12 and 56-35.

² Va. Code § 56-250.

public health and safety by maintaining normal service to all customers during the emergency period.

On March 12, 2020, Virginia Governor Ralph Northam issued Executive Order 51, a Declaration of a State of Emergency Due to the Novel Coronavirus (COVID-19).³ The stated purpose of the Declaration is “to continue to prepare and coordinate our response to the potential spread of COVID-19, a communicable disease of public health threat.” In support of the Declaration, the Governor has directed “state and local governments to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible.” The Governor’s Declaration of the State of Emergency is effective March 12, 2020, and will remain in effect through June 10, 2020, absent further action.

It is clear that the continued provision of utility service – including electricity, natural gas, and water – will be essential to prevent the continued spread of COVID-19. For example, the Center for Disease Control (“CDC”) recommends that individuals wash hands “often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.”⁴ Access to hot water – which requires both the provision of heat (either electricity or natural gas) and water – is essential for Virginians to follow this advice.

In addition, the CDC recommends that individuals protect others by “stay[ing] home if . . . sick, except to get medical care.”⁵ For Virginians who must stay home – either in an attempt to self-quarantine, as directed by an employer, or to care for a sick family member – it is imperative

³ Attachment A.

⁴ *Steps to Prevent Illness*, Center for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/about/prevention.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fabout%2Fprevention-treatment.html

⁵ *Id.*

that all utility services continue uninterrupted. Without uninterrupted access to “power, heat, light, [and] water” it would be virtually impossible for Virginians to remain in their homes to protect public health and safety.

Consumer Counsel understands that other voluntary policies or other requirements⁶ may prevent the disconnection of service due to non-payment during the Virginia state of emergency. Nonetheless, the Commission should take action to ensure no gaps exist for any Virginian.

Due to urgent nature of the issue, Consumer Counsel respectfully requests that the Commission enter promptly an order temporarily suspending the ability of any public utility furnishing in Virginia power, heat, light, or water from disconnecting or otherwise terminating service due to non-payment. Consumer Counsel recommends that such suspension continue through the duration of Virginia’s state of emergency, as described in Executive Order 51, or for such additional period as the Commission finds appropriate.

WHEREFORE, for the reasons provided above, Consumer Counsel respectfully requests that the Commission: (i) enter promptly an emergency order prohibiting any public utility furnishing in Virginia power, heat, light, or water from disconnecting or terminating service for reason of non-payment to run concurrently with Executive Order 51, or for such additional period as the Commission finds appropriate; (ii) suspend the applicability of late payment charges

⁶ See e.g., 20 Va. Admin. Code § 5-330-10 (“Furthermore, nothing in this chapter shall be interpreted to prohibit an investor-owned electric utility, electric cooperative, or public utility providing water service from terminating service in the event of an emergency or in the event an investor-owned electric utility, electric cooperative, or public utility providing water service reasonably believes that theft of service or meter tampering has occurred in connection with the service.”); 20 Va. Admin. Code § 5-330-40 D (“An investor-owned electric utility, electric cooperative, or public utility providing water service shall permit a residential customer to delay termination of service under this chapter two times within a 12-month period. The 30-calendar day delays may be consecutive. Nothing in this chapter shall prohibit an investor-owned electric utility, electric cooperative, or public utility providing water service from providing to a customer additional delay from the termination of service beyond the delay required.”).

allowing public utilities to charge up to one and one-half percent per month on any customer charges not timely paid;⁷ and (iii) provide for any other relief deemed necessary.

Respectfully submitted,

DIVISION OF CONSUMER COUNSEL
OFFICE OF THE ATTORNEY GENERAL

/s/ C. Meade Browder Jr.

Mark R. Herring
Attorney General of Virginia

Samuel T. Towell
Deputy Attorney General

C. Meade Browder, Jr.
Senior Assistant Attorney General

C. Mitch Burton, Jr.
Assistant Attorney General

COMMONWEALTH OF VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
202 N. Ninth Street
Richmond, Virginia 23219
(804) 786-2071

March 13, 2020

⁷ 20 Va. Admin. Code 5-10-10.

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CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2020, a true copy of the foregoing was served by first-class mail, postage prepaid, and electronic mail to:

William H. Chambliss, Esquire
Office of General Counsel
State Corporation Commission
P. O. Box 1197
Richmond, Virginia 23218

/s/ C. Meade Browder Jr.

Counsel



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER FIFTY-ONE (2020)

DECLARATION OF A STATE OF EMERGENCY DUE TO NOVEL CORONAVIRUS (COVID-19)

Importance of the Issue

The Commonwealth of Virginia is monitoring an outbreak of a respiratory illness referred to as the coronavirus (COVID-19), which has spread from Wuhan, Hubei Province, China to more than 80 other locations internationally, including the Commonwealth. The Virginia Department of Health (VDH) has been working with local, state, and federal officials, healthcare and emergency management experts, and various state agencies to form a COVID-19 Taskforce to prepare for and respond to this threat. Given recent confirmed occurrences of COVID-19 within the Commonwealth and in neighboring states, as well as information from the Centers for Disease Control and Prevention, it is anticipated that the disease will spread.

Therefore, on this date, March 12, 2020, I declare that a state of emergency exists in the Commonwealth of Virginia to continue to prepare and coordinate our response to the potential spread of COVID-19, a communicable disease of public health threat. The anticipated effects of COVID-19 constitute a disaster as described in § 44-146.16 of the *Code of Virginia (Code)*. By virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, by §§ 44-146.17 and 44-75.1 of the *Code*, as Governor and Director of Emergency Management and Commander-in-Chief of the Commonwealth's armed forces, I proclaim a state of emergency. Accordingly, I direct state and local governments to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible. Emergency services shall be conducted in accordance with § 44-146.13 *et seq.* of the *Code*.

In order to marshal all public resources and appropriate preparedness, response, and recovery measures, I order the following actions:

- A. Implementation by state agencies of the Commonwealth of Virginia Emergency Operations Plan, as amended, along with other appropriate state plans.

- B. Activation of the Virginia Emergency Operations Center and the Virginia Emergency Support Team, as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to state, local, and tribal governments and to facilitate emergency services assignments to other agencies.
- C. Authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by agencies shall be posted on their websites.
- D. Activation of § 59.1-525 *et seq.* of the *Code* related to price gouging.
- E. Activation of the Virginia National Guard to State Active Duty.
- F. Authorization of a maximum of \$10,000,000 in state sum sufficient funds for state and local government mission assignments and state response and recovery operations authorized and coordinated through the Virginia Department of Emergency Management allowable by The Stafford Act, 42 U.S.C. § 5121 *et seq.* Included in this authorization is \$1,000,000 for the Department of Military Affairs, if it is called to State Active Duty.

Effective Date of this Executive Order

This Executive Order shall be effective March 12, 2020, and shall remain in full force and in effect until June 10, 2020 unless sooner amended or rescinded by further executive order. Termination of this Executive Order is not intended to terminate any federal type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 12th day of March, 2020.



Handwritten signature of Ralph S. Northam in black ink.

Ralph S. Northam, Governor

Attest:

Handwritten signature of Kelly Thomasson in black ink.

Kelly Thomasson, Secretary of the Commonwealth