

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EXECUTIVE DIVISION

**RESOLUTION M-4848
December 17, 2020**

R E S O L U T I O N

**Resolution M-4848 - Approval of Moratorium on Disconnection for
Non-Payment and Fees Late Payment for Telephone Service During the
Governor's Declared State of Emergency Due to the COVID-19
Pandemic**

SUMMARY

The California Public Utilities Commission (Commission or CPUC) issues this Resolution on its own motion in response to Governor Gavin Newsom's declaration of a state of emergency and the request in executive orders due to the novel coronavirus (COVID-19) pandemic. Specifically, this Resolution orders telephone corporations in California to file a Tier 2 Advice Letter notifying the Communications Division (CD) of their implementation of a moratorium on disconnections for non-payment and on late-payment fees for voice service for residential and small business customers for the duration of the Governor's declared State of Emergency due to the COVID-19 pandemic.

BACKGROUND

In 2017, the Commission issued two resolutions, M-4833 and M-4835 adopting emergency customer protections for residential and small business customers of utilities affected by major fires in California.¹ Both resolutions based their authority to adopt

¹ <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M221/K550/221550832.pdf>

customer protections on Governor Brown's emergency proclamations regarding the October 2017 and December 2017 fires.²

On March 4, 2020, Governor Newsom declared a State of Emergency in California related to COVID-19.³ The Governor took additional actions, including issuing an Executive Order requesting that the Commission monitor the measures undertaken by public and private utility providers to implement customer service protections in response to COVID-19.⁴

On March 17, 2020, based on the holdings of Decision (D.) 19-08-025, a decision issued in the Emergency Disaster Relief proceeding, Rulemaking (R.) 18-03-011 CPUC Executive Director Alice Stebbins sent a letter to utilities outlining customer protection measures to prevent disconnections for unpaid bills during the pendency of the state of emergency due to the Covid-19 pandemic.⁵

CPUC Resolution M-4842, issued on April 16, 2020, followed the Executive Director's letter. Consistent with the directives in D.19-08-025, Resolution M-4842 ordered electric,

² Subsequently, the Commission opened a new proceeding, R.18-03-011, regarding an emergency disaster relief program. In R.18-03-011, the Commission issued D.18-08-004, which affirmed that the emergency customer protections adopted in Resolutions M-4833 and M-4835 to support residential and small business customers of utilities affected by disasters and which affect utility service shall go into effect in the event of a state of emergency declared by the Governor of California. D.18-08-004 held that the protections adopted in Resolutions M-4833 and M-4835 are controlling, interim authority while the Rulemaking 18-03-011 remains ongoing and until it concludes.

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M221/K552/221552166.PDF>

³ <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>

Governor Newsom also issued a Proclamation of a State of Emergency regarding Covid-19 on March 17, 2020. <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>

⁴ Executive Order N-28-20, available at <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.16.20-Executive-Order.pdf>

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https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News_Room/NewsUpdates/2020/Exec%20Director%20Letter%20to%20Communications%20Companies%20re%20COVID-19%20March%2017,%202020.pdf

gas, communications, and water and sewer corporations in California to file a Tier 2 Advice Letter describing all reasonable and necessary actions to implement the Emergency Customer Protections contained in this resolution to support California customers; and authorized the electric, gas, communications, and water and sewer corporations to establish memorandum accounts to track incremental costs associated with complying with this resolution. The Emergency Customer Protections apply to customers for up to one year from the date of this resolution.⁶

The Commission took specific steps in Resolution M-4842,⁷ in response to the Governor's emergency proclamation and executive orders, to provide continuity and consistency between all utility actions resulting from the COVID-19 pandemic. The customer protections included in that Resolution did not cover telephone customer disconnections for non-payment and fees for late payment, because those protections were included in the voluntary Keep Americans Connected Pledge, issued by the Federal Communications Commission, (FCC) which began on March 13, 2020 and ended on June 30, 2020.⁸ The Keep Americans Connected Pledge was a promise for broadband and telephone service providers to do the following for residential and small business customers:

- Not terminate service to any residential or small business customers because of their inability to pay their bills due to the disruptions caused by the coronavirus pandemic.
- Waive any late fees that any residential or small business customers incur because of their economic circumstances related to the coronavirus pandemic.
- Open Wi-Fi hotspots to any American who needs them.⁹

Because the Keep Americans Connected Initiative has expired, residential and small business customers could lose voice service, and late fees could be placed back on residential and small business customers' bills.

⁶ Emergency Authorization and Order Directing Utilities to Implement Emergency Customer Protections to Support California Customers During the CoVID-19 Pandemic, April 16, 2020. <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M333/K482/333482381.docx>

⁷ *Id.*

⁸ <https://www.fcc.gov/keep-americans-connected>

⁹ *Id.* The CPUC referenced the Keep America Connected Initiative on its website (<https://www.cpuc.ca.gov/covid19protections/#Telco>).

By the middle of November 2020, more than 1,047,789 of Covid-19 cases had been confirmed in California, and over 18,360 deaths reported¹⁰ from the disease in this state. On November 16, 2020, Governor Newsom announced that 41 of the state's 58 counties, encompassing about 37 million people, will remain in or roll back to the purple tier, the strictest tier of the state's four-part, color-coded reopening roadmap.¹¹ The situation continues to evolve, with the number of confirmed cases rising at a rapid rate and predicted to continue to rise. Many small businesses remain closed, and the unemployment rate is at a record high.

From an economic perspective, a \$600 weekly federal supplement for unemployed workers expired at the end of July, and a \$300 replacement for some workers ran out in October. An emergency benefit for the self-employed and for independent contractors, who do not qualify for state unemployment aid, is slated to end in December. And to the extent that the federal CARES Act¹² provided relief to American small businesses with the emergency small business loan program, that money is exhausted.¹³

The Commission's Consumer Affairs Branch continues to receive calls from residential and small business voice customers who have been disconnected for non-payment or have been charged late fees.

DISCUSSION

The public health response to COVID-19 has been extremely disruptive to all Californians and has impacted many Californians' ability to work. The Commission has dealt with highly disruptive events, most recently with the devastating wildfires in Northern and Southern California. In response to reoccurring natural and manmade

¹⁰ California Department of Public Health website, data as of Nov. 18, 2020.
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx#COVID-19%20by%20the%20Numbers>

¹¹ <https://covid19.ca.gov/safer-economy/>; <https://www.gov.ca.gov/2020/11/16/governor-newsom-announces-new-immediate-actions-to-curb-covid-19-transmission/>

¹² The Coronavirus Aid, Relief, and Economic Security (CARES) Act is a \$2.2 trillion stimulus package signed into law on March 27, 2020.

¹³ <https://www.google.com/amp/s/www.nytimes.com/2020/04/09/business/smallbusiness/small-business-disaster-loans-coronavirus.amp.html>
<https://www.google.com/amp/s/www.forbes.com/sites/sarahhansen/2020/04/16/the-350-billion-small-business-loan-program-is-officially-out-of-money-lawmakers-cant-agree-on-what-happens-next/amp/>

disasters, the CPUC initiated an emergency disaster relief Rulemaking, R.18-03-011 and adopted a series of requirements for utility companies (electric, gas, water and sewer) and communications providers, culminating in customer protection measures adopted in D.19-07-015 and D.19-08-025).¹⁴

The customer protection measures adopted in R.18-03-011 apply in cases where a gubernatorial or presidential declared emergency relates to the disruption or degradation of service. The COVID-19 pandemic represents a different type of emergency, one where the threat -- in this case, a virus -- necessitates a response which impacts Californians' ability to pay for utility service. Social distancing, shelter-in-place requirements, executive and county orders, and proclamations have required the closure of non-essential businesses including bars, dine-in restaurants, and shops, and subsequent employee layoffs have created a risk that customers may fall behind on utility payments due to the COVID-19 pandemic at the same time that shelter-in-place orders will likely cause increased usage of utility services resulting in higher utility bills.

Having access to essential utility voice services is critical to maintaining Californians' health and safety during the COVID-19 pandemic. Therefore, because of the COVID-19 pandemic, the Commission, through this resolution, imposes a moratorium on telephone corporations¹⁵ from disconnecting voice service for non-payment and from charging fees for late payment of voice services.¹⁶ During the pendency of this moratorium, telephone corporations shall also cease sending late fee and disconnection notices for voice services to residential and small business customers. This moratorium on disconnections and late fees will last through the date that the Governor lifts the

¹⁴ Other issues related specifically concerning backup power for communications providers have also been considered in this proceeding.

¹⁵ A "telephone corporation" includes "every corporation or person owning, controlling, operating, or managing any telephone line for compensation in this state." (Pub. Util. Code § 234.) A "telephone line" includes "all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, or controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires." (*Id.* at § 233.) California's Constitution specifically extends the Commission's jurisdiction to companies engaged in "the transmission of telephone and telegraph messages."¹⁵ (Cal. Const., Art. XII, § 3.)

¹⁶ The definition of "telephone corporations" includes Voice over Internet Protocol (VoIP) providers and wireless service providers, consistent with D.18-08-004, D.18-09-025, and D.20-07-011.

declared state of emergency regarding the COVID-19 pandemic in California, with an option to extend. The Commission takes this action in response to extraordinary circumstances and the current state of emergency to ensure continuity of essential service to customers during this health and safety crisis. This Resolution does not establish precedent for standard Commission ratemaking or customer protection processes.

All residential and small business customers who receive voice service in California are eligible for the emergency customer protections set forth in this Resolution.

These customer protections are a floor, not a ceiling.¹⁷ As we stated in D.19-07-015 and D.19-08-025, we support and encourage telephone corporations to do more to help Californians in this time of need.¹⁸ Telephone corporations have the discretion to add additional customer relief efforts that are unique to their customers' experience, or the specific type of damage a customer may suffer from as a result of COVID-19.¹⁹

This moratorium on disconnections for non-payment and fees for late payment of voice services does not replace the customer protections put in place with D.19-07-015 and D.19-08-025, but rather, supplements those customer protections.

ADVICE LETTER FILING

The telephone corporations subject to this Resolution shall take the following immediate actions and file a Tier 2 Advice Letter no later than 20 days after this Resolution's approval demonstrating compliance to the Commission's Energy Division

COMMENTS ON DRAFT RESOLUTION

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived "in an unforeseen emergency." Rule 14.6 of the Commission's Rules of Practice and Procedure (Rules) also state that public review and comment may be waived or reduced in an "unforeseen emergency situation" such as when there are "[a]ctivities

¹⁷ D.19-07-015 at 24-25; see also D.19-08-025 at 34.

¹⁸ *Id.*

¹⁹ *Id.*

that severely impair or threaten to severely impair public health or safety,”²⁰ “[c]rippling disasters that severely impair public health or safety,”²¹ or “[r]equests for relief based on extraordinary conditions in which time is of the essence.” The 30-day comment period is reduced pursuant to Public Utilities Code section 311(g) and Rule 14.6(a) due to the extraordinary nature of the pandemic. Opening comments are due on December 9, 2020 days and reply comments are due on December 14, 2020. This resolution shall be served on the service list of R.18-03-011, the proceeding that developed the customer protection measures discussed herein. Interested persons may participate in the forthcoming Advice Letter processes.

FINDINGS

1. On March 4, 2020, Governor Newsom declared a State of Emergency in California related to COVID-19.
2. On March 19, 2020, Governor Newsom ordered Californians to shelter in place except to meet essential needs.
3. On November 16, 2020, Governor Newsom announced that 41 of the state’s 58 counties, encompassing about 37 million people, will remain in or roll back to the purple tier, the strictest tier of the state’s four-part, color-coded reopening roadmap.
4. Social distancing and shelter-in-place requirements have required the closure of non-essential businesses and resulted in layoffs.
5. Employee layoffs due to the COVID-19 pandemic have created a risk that residential customers may fall behind on utility payments through no fault of their own.
6. Some companies have already implemented customer protections in response to the COVID-19 pandemic, including observing moratoria on disconnections for nonpayment and lifting broadband data caps.
7. In order to assist Californians affected by the COVID-19 pandemic, it is reasonable to provide continuity and consistency between all utility actions related to the pandemic.
8. The Commission has previously issued Resolutions and opened Rulemakings to address highly disruptive events, most recently in response the devastating wildfires in Northern and Southern California.
9. In response to the reoccurring natural and manmade disasters, the Commission opened Rulemaking (R.) 18-03-011 and adopted customer protection measures adopted in decisions (D.) 19-07-015 and D.19-08-025.

²⁰ Rule 14.6(a)(1).

²¹ Rule 14.6(a)(2).

10. Having access to essential utility services is critical to maintaining Californians' health and safety during the COVID-19 pandemic.
11. In order to expeditiously assist Californians affected by the COVID-19 pandemic, it is reasonable to apply the emergency customer protections adopted in D.19-07-015 and D.19-08-025 during the pendency of the pandemic.
12. Public Utilities Code section 311(g)(2) and Rule 14.6(a)(1) allow the Commission to reduce or waive the public review and comment period in an unforeseen emergency.

THEREFORE, IT IS ORDERED that:

1. Telephone corporations subject to this Resolution shall apply the moratorium on telephone disconnections for non-payment and fees for late payment for residential and small business voice services customers as of the date of this resolution.
2. Telephone corporations subject to this Resolution shall not send residential and small business voice services customers late fee or disconnection notices during the pendency of this moratorium.
3. Telephone corporations subject to this Resolution shall file a Tier 2 Advice Letter describing all reasonable and necessary actions to implement the moratorium to support California residential and small businesses voice services customers.
4. This order is effective today.

I certify that the foregoing resolution was adopted by the California Public Utilities Commission at its regular meeting of _____, and the following Commissioners approved favorably thereon:

Rachel Peterson
Acting Executive Director