

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 19, 2024

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COMMONWEALTH OF VIRGINIA

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00138

Ex Parte: In the matter concerning
limiting service terminations for utility customers
with serious medical conditions

ORDER ESTABLISHING PROCEEDING

Chapter 637 (House Bill 275) of the 2024 Virginia Acts of Assembly ("2024 Act") directed the State Corporation Commission ("Commission") in an uncodified enactment to conduct a proceeding for the purpose of establishing limitations on the authority of public utilities to terminate service for residential electric, gas, water, and wastewater utility customers with serious medical conditions, stating as follows:

1. § 1. That the State Corporation Commission (the Commission), in order to promote public health and safety, shall conduct a proceeding for the purpose of establishing limitations on the authority of public utilities and cooperatives that provide electric, gas, water, or wastewater services to terminate service to the residence of any customer who provides the certification of a licensed physician or a nurse practitioner that the customer has a serious medical condition or the customer resides with a family member with a serious medical condition. The limitations shall be consistent with the public interest. In the proceeding establishing such limitations, the Commission shall consult with the Commissioner of Health, the Commissioner of Social Services, the Virginia Poverty Law Center, the Virginia League of Social Services Executives, public utilities and cooperatives that provide electric, gas, water, or wastewater services, and any other persons that the Commission deems appropriate. As a part of the proceeding, the Commission shall adopt regulations to implement such limitations. The regulations shall include a form by which a residential utility customer with a serious medical condition may apply for a delay in termination of service as provided by this act. The Commission shall make all reasonable efforts to ensure that this form is as accessible as possible for residential electric, gas, water, and wastewater utility customers. The regulations shall (i) be adopted in accordance with the Commission's Rules of Practice and Procedure; (ii) be effective not later than July 1, 2025; (iii) establish a cost recovery mechanism under which utilities and cooperatives that provide electric, gas, water, or wastewater services shall be authorized to recover, from approved rates collected

from other customers or other sources of revenue, any losses on customer accounts the balance of which is written off or otherwise determined to be uncollectible as the result of the implementation of the regulations; and (iv) define "serious medical condition." No later than November 1, 2026, and every three years thereafter, the Commission shall submit a report to the General Assembly on the effectiveness of the serious medical condition policy after implementation and shall include any suggested changes to improve accessibility to such policy for residential utility customers.

As set forth above, the 2024 Act requires the Commission to adopt regulations placing limitations on utility service terminations related to customers with serious medical conditions or when a customer resides with a family member with a serious medical condition. In that regard, the 2024 Act's provisions are virtually identical to Chapters 500, 662 and 673 of the 2011 Virginia Acts of Assembly ("2011 Acts") which cumulatively required the Commission to adopt regulations (i) placing limits on the authority of investor owned electric utilities, electric cooperatives, and public utilities providing water service to terminate utility services to customers with serious medical conditions, or to customers with family members residing with them with such medical conditions, and (ii) establishing a mechanism by which such limitations could be implemented.¹ The Commission adopted regulations implementing the 2011 Acts and the regulations were made effective October 31, 2011.²

The 2024 Act broadens the scope of the 2011 Acts to include natural gas³ and wastewater services as utility services to which such limitations on utility disconnections apply.

¹ Chapters 662 and 673 applied to investor-owned electric utilities and electric cooperatives and Chapter 500 applied to public utilities providing water service.

² See 20 VAC 5-330-10 *et seq.*, Limitations on Disconnection of Electric and Water Service ("Chapter 330 Rules"). These regulations were adopted by the Commission in *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 (Oct. 18, 2011).

³ For purposes of this proceeding, the Commission construes the 2024 Act's reference to "gas" to encompass and mean "natural gas" utility service.

Additionally, the 2024 Act newly authorizes nurse practitioners to certify that utility customers, or family members residing with utility customers, have serious medical conditions.⁴ The 2024 Act requires regulations implementing its provisions to be adopted by July 1, 2025.

The 2024 Act also requires that in this proceeding, the Commission shall consult with the Commissioner of Health, the Commissioner of Social Services, the Virginia Poverty Law Center, the Virginia League of Social Services Executives, public utilities and cooperatives that provide electric, natural gas, water, or wastewater services, and any other persons that the Commission deems appropriate (collectively, "Designated Entities").

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that a proceeding should be established to implement the 2024 Act's provisions. In light of the procedural history described above, the Commission further finds that implementing the 2024 Act may be accomplished in substantial part by conforming the current Chapter 330 Rules to the 2024 Act's provisions, *i.e.*, by incorporating appropriate references to natural gas and wastewater utilities, and nurse practitioners as described above.

At the Commission's direction, Staff has prepared proposed amendments to the Chapter 330 Rules ("Proposed Amendments") making these rules applicable to natural gas and wastewater utilities, and newly authorizing nurse practitioners to certify serious medical conditions. The Proposed Amendments are appended to this Order. The Commission finds that notice of this proceeding should be given to the public, and that interested persons should be provided an opportunity to file written comments concerning the provisions of the 2024 Act and the Proposed Amendments. Additionally, the Staff of the Commission ("Staff") shall transmit

⁴ The 2011 legislation required that serious medical conditions be certified by licensed physicians; the Chapter 330 Rules adopted in 2011 define licensed physicians as persons "licensed to practice medicine or osteopathic medicine (M.D. or D.O.)." *See* 20 VAC 5-330-20.

this Order, together with the Proposed Amendments, to the Designated Entities and solicit their input.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2024-00138.

(2) All comments and other documents and pleadings filed in this matter shall be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure.⁵ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and shall comply with Rule 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5 VAC 5-20-140, Filing and service, of the Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) The Commission's Division of Information Resources shall forward a copy of this Order Establishing Proceeding to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.

⁵ 5 VAC 5-20-10 *et seq.* ("Rules of Practice").

(5) Within ten (10) business days hereof, Staff shall transmit electronically or by first-class mail copies of this Order and Proposed Amendments to the Designated Entities and solicit their input. Staff shall file with the Clerk of the Commission a certificate of transmission and include a list of names and addresses of the persons and entities to whom the Order was transmitted.

(6) An electronic copy of the Proposed Amendments may be obtained by submitting a request to Mike Cizenski, Deputy Director in the Commission's Division of Public Utility Regulation at the following email address: mike.cizenski@scc.virginia.gov. An electronic copy of the Proposed Amendments can also be found at the Division of Public Utility Regulation's website: scc.virginia.gov/pages/Rulemaking. Interested persons may also download unofficial copies of the Order and the Proposed Amendments from the Commission's website: scc.virginia.gov/pages/Case-Information.

(7) On or before December 2, 2024, any interested person may comment on, or request a hearing concerning, the 2024 Act or the Proposed Amendments, following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit such documents electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All such documents shall refer to Case No. PUR-2024-00138. Individuals should be specific in their comments, proposals, or supplements to the Proposed Amendments and should address only those issues pertaining to the 2024 Act. Issues outside the scope of the 2024 Act or the Proposed Amendments will not be open for consideration. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request

for hearing is not received, the Commission may consider the matter and enter an order based upon the comments, documents or other pleadings filed in this proceeding.

(8) On or before January 17, 2025, the Staff shall file with the Clerk of the Commission a report on or a response to any comments or requests for hearing submitted to the Commission pursuant to this Order.

(9) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

Project 8028 - Proposed**State Corporation Commission****Chapter 330 Limitations on Disconnection of Electric and Water Service**

Chapter 330

Limitations on Disconnection of Electric and ~~Water Service~~ , Water, Wastewater, and Natural Gas Service**20VAC5-330-10. Applicability and scope.**

This chapter is promulgated pursuant to Chapters 500, 662, and 673 of the 2011 Acts of Assembly, and pursuant to Chapter 637 of the 2024 Acts of Assembly. The provisions in this chapter apply to investor-owned electric utilities, electric cooperatives, natural gas utilities and public utilities providing water or wastewater service. In order to promote public health and safety, this chapter is designed to establish reasonable limitations, consistent with the public interest, on the ability of investor-owned electric utilities, electric cooperatives, natural gas utilities and public utilities providing water or wastewater service to terminate service consistent with Virginia Code §§ 44-146.29:4, 56-245.1:3 and 56-245.1:4, as applicable, to residential customers who have a serious medical condition or to residential customers who reside with a family member with a serious medical condition and to provide such residential customers adequate time prior to the termination of electric or water service to either enter into a payment plan with the utility or make other arrangements for housing or medical care. Nothing in this chapter shall be interpreted to require an investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service to terminate service after the expiration of the timelines established herein.

Furthermore, nothing in this chapter shall be interpreted to prohibit an investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service

from terminating service in the event of an emergency or in the event an investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service reasonably believes that theft of service or meter tampering has occurred in connection with the service.

20VAC5-330-20. Definitions.

The following terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Licensed physician" means a person licensed to practice medicine or osteopathic medicine (M.D. or D.O.) in any of the 50 states or the District of Columbia.

"Licensed nurse practitioner" means a person licensed as a nurse practitioner in any of the 50 states or the District of Columbia.

"Serious medical condition" means a physical or psychiatric condition that requires medical intervention to prevent further disability, loss of function, or death. Such conditions are characterized by a need for ongoing medical supervision or the consultation of a physician or licensed nurse practitioner. A serious medical condition carries with it a risk to health beyond that experienced by the majority of children and adults in their day-to-day minor illnesses and injuries. Individuals with a serious medical condition may require administration of specialized treatments and may be dependent on medical technology such as ventilators, dialysis machines, enteral or parenteral nutrition support, or continuous oxygen. Medical interventions may include medications with special storage requirements, use of powered equipment, or access to water.

"Serious Medical Condition Certification Form" means a written document, approved by the State Corporation Commission, signed by (i) a licensed physician or licensed nurse practitioner, (ii) the customer, and (iii) the patient or the patient's legal guardian or power of attorney. The Serious Medical Condition Certification Form shall (i) identify the medical condition of the

customer or family member who resides with the customer, (ii) include a certification by a licensed physician or licensed nurse practitioner that the medical condition meets the definition of a serious medical condition, (iii) identify the anticipated length of time that the serious medical condition will persist, and (iv) identify any equipment prescribed or treatment required for the medical condition.

20VAC5-330-30. General provisions.

A. A request for a waiver of any of the provisions of this chapter shall be considered by the State Corporation Commission on a case-by-case basis, and may be granted upon such terms and conditions as the State Corporation Commission may impose.

B. An investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall use the Serious Medical Condition Certification Form (Form SMCC) provided in English and Spanish on the State Corporation Commission's website at <http://www.scc.virginia.gov/puc/rules.aspx> <http://www.scc.virginia.gov/pages/Rules>, unless the State Corporation Commission approves the use of an alternative form.

C. An investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service may require a customer to provide it a new Serious Medical Condition Certification Form either annually or upon the expiration of the anticipated length of time that the serious medical condition will persist if such time is less than 12 months.

D. An investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service may take reasonable actions to verify the validity of the Serious Medical Condition Certification Form. Such actions include, but are not limited to, contacting (i) the licensed physician or licensed nurse practitioner to confirm the medical condition of the patient and the treatment or treatments associated therewith; (ii) the Virginia Department of Health Professions, or the applicable state's licensing board, to verify that the physician or

nurse practitioner is a licensed physician or licensed nurse practitioner; or (iii) the customer to verify that the patient currently resides at the residence.

E. In the event that the investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service is of the opinion that the information provided on the Serious Medical Condition Certification Form is invalid, or otherwise is of the opinion that there has been fraud or abuse of the process provided in this chapter, it may petition the State Corporation Commission for redress pursuant to 5VAC5-20-100 B, State Corporation Commission's Rules of Practice and Procedure.

20VAC5-330-40. Limitations on service termination to residential customers.

A. Following the issuance of a notice of intent to terminate service pursuant to § 56-247.1 A 4 or 6, or § 56-245.1:4 of the Code of Virginia, and subject to the provisions of §§ 44-146.29:4 and 56-245.1:3 of the Code of Virginia, an investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall, upon request from a residential customer who has a Serious Medical Condition Certification Form filed with the utility, delay termination of service for a minimum of an additional 30 calendar days beyond the expiration of the notice.

B. Following the issuance of a notice of intent to terminate service pursuant to § 56-247.1 A 4 or 6, or § 56-245.1:4 of the Code of Virginia, and subject to the provisions of §§ 44-146.29:4 and 56-245.1:3 of the Code of Virginia, an investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall, upon request from a residential customer who does not have a Serious Medical Condition Certification Form filed with the utility, delay termination of service for 10 calendar days upon oral or written notification from a residential customer that such customer or a family member residing with the customer has a serious medical condition. The 10-calendar day delay in service termination shall commence on the date the investor-owned electric utility, electric cooperative, natural gas utility or public utility

providing water or wastewater service receives notification. At the time of such notification, the investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall:

1. Advise the residential customer that service termination will be delayed for 10 calendar days pending receipt of the Serious Medical Condition Certification Form;
2. Provide the customer access to the Serious Medical Condition Certification Form via its website or advise the consumer that access can be obtained via the Commission's website;
3. Not later than two business days after receiving notification, mail, email, or deliver via facsimile transmission a copy of the Serious Medical Condition Certification Form upon a request from the customer; and
4. Not later than two business days after receiving notification, mail the customer a letter advising the customer:
 - a. The date notification was received;
 - b. The date that the 10-calendar day delay expires; and
 - c. That upon receipt of a Serious Medical Condition Certification Form within the 10-calendar day time period provided for in this subsection, it will delay the termination of service 30 calendar days from the date of termination initially noticed.

Upon receipt of a Serious Medical Condition Certification Form within the 10-calendar day time period provided for in this subsection, an investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall provide the 30-calendar day delay in termination of service required in subsection A of this section. An investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or

wastewater service shall not be required to provide a 10-calendar day delay in service termination pursuant to this subsection more than once in a 12-month period.

C. In the event an investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service has terminated service to a residential customer within the preceding 14 calendar days, the investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall promptly restore service upon (i) receipt of a Serious Medical Condition Certification Form, or confirmation of such a form on file; and (ii) a request from the customer to reconnect service. The investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall not be permitted to require any payment as a condition to reconnect; however, it may charge the customer, on the next monthly bill, any applicable reconnection fees that are on file in its State Corporation Commission approved tariffs and terms and conditions of service. Following the reconnection of service, the investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall delay termination of service for a minimum of 30 calendar days from the date it reconnects the customer.

D. An investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater 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, natural gas utility or public utility providing water or wastewater service from providing to a customer additional delay from the termination of service beyond the delay required.

E. During the delay in service termination pursuant to subsections A and C of this section, the investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall:

1. In the event the investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service is able to establish payment arrangements with the customer, mail to the customer a letter detailing the agreement not later than three business days after the agreement on payment arrangements is made; or
2. In the event the investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service is unable to establish payment arrangements with the customer, mail the customer a letter, not later than 10 calendar days prior to the expiration of the 30-calendar day delay required by this chapter, advising the customer of (i) the date that service may be terminated and (ii) any payment arrangements available to the customer. The letter shall also advise the customer of his right to delay service termination pursuant to this chapter twice within a 12-month period.

F. The investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall (i) maintain a copy of any letters required under this section for a minimum of 12 months and (ii) provide such copies to the State Corporation Commission's Division of Energy Regulation upon request.

20VAC5-330-50. Cost recovery mechanism.

A. An investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall be permitted to recover losses on customer accounts resulting from the implementation of this chapter in the same manner as other uncollectable costs are recovered through rates.

B. An investor-owned electric utility, electric cooperative, natural gas utility or public utility providing water or wastewater service shall maintain write-offs and recoveries of uncollectable accounts in such a manner that would allow those amounts written off as a result of the implementation of this chapter to be separately identified.

FORMS (20VAC5-330)

~~Serious Medical Condition Certification Form, Form SMCC (rev. 1/2017)~~

Serious Medical Condition Certification Form, Form SMCC (rev. 8/2024)

Serious Medical Condition Certification Form

Form SMCC (08/2024)

To Be Completed by the Customer:		
Customer Name:	Electric Account Number:	Natural Gas Account Number:
Customer Address:	Water Account Number:	Wastewater Account Number:
	Contact Telephone Number:	
City:	State:	Zip Code:
		Alternate Telephone Number:
<i>I certify that the information provided above is accurate and the patient is the customer or a family member of the customer residing at this residence.</i>		
Customer Signature:		Date:
To Be Completed by the Patient/ Legal Guardian/ Power of Attorney:		
Patient Name:	Patient Relationship to Customer:	
Contact Telephone Number:	Alternate Telephone Number:	
<i>I hereby authorize my physician to release the following information about the above-named patient to the utility's representatives and/or the State Corporation Commission and to answer related questions to help determine if the identified medical condition(s) meets the definition of a serious medical condition which is defined below. I certify that the patient lives at the address listed above and that all information provided is accurate.</i>		
Patient/ Legal Guardian/ Power of Attorney Signature:		Date:
To Be Completed by the Physician (M.D. or D.O. or Nurse Practitioner):		
Physician/Nurse Practitioner Name:	Contact Telephone Number:	
Physician/Nurse Practitioner Office Address:	Alternate Telephone Number:	
City:	State:	Zip Code:
		Fax Number:
Current License Number:	Licensing State:	
Patient's Diagnosis/Serious Medical Condition:		
Required Treatment for Condition:		
Equipment prescribed and/or equipment required for treatment of condition (If any): (Check all that apply):		
--	Mechanical Ventilator	--
--	Feeding Pump	--
--	Infant Apnea Monitor	--
--	Continuous Oxygen	--
--	Home Dialysis	--
--	CPAP Machine	--
--	Nebulizer	--
--	Hospital Bed	--
--	Refrigeration	--
--	HVAC	--
--	Ventricular Assist Device	--
--	Other:	--
Expected Duration of Condition:		
<i>I certify that the above patient has a serious medical condition which is defined as a physical or psychiatric condition that requires medical intervention to prevent further disability, loss of function, or death. Such conditions are characterized by a need for ongoing medical supervision or the consultation of a physician or nurse practitioner. A serious medical condition carries with it a risk to health beyond that experienced by the majority of children and adults in their day-to-day minor illnesses and injuries. Individuals with a serious medical condition may require administration of specialized treatments and may be dependent on medical technology such as ventilators, dialysis machines, enteral or parenteral nutrition support, or continuous oxygen. Medical interventions may include medications with special storage requirements, use of powered equipment, or access to water. I certify that the preceding information is correct.</i>		
Physician's/Nurse Practitioner's Signature:		Date:

This form was developed pursuant to: 20VAC 5-330 "Limitations on Disconnection of Electric and Water Service"