Before the
House Commerce Committee

Hearing on
"What Comes Next—
The Impacts of the COVID-19 Crisis"

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Testimony of

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Good morning Chairman Delozier, Chairman Galloway and members of the House Commerce Committee. I am Terry Fitzpatrick, President and CEO of the Energy Association of Pennsylvania ("EAP" or "Association"), a trade association comprised of electric and natural gas utilities—also known as electric and natural gas distribution companies—operating in Pennsylvania.[1] EAP advocates for its members before the General Assembly and state agencies, assists its members by facilitating sharing of information and best practices, and provides educational opportunities for employees of its members and others through its operations and consumer services conferences. Thank you for this opportunity to provide testimony on "What comes next—the impacts of the COVID-19 crisis" with regard to electric and natural gas utilities.

Since the pandemic began earlier this year, I have participated in numerous calls and virtual meetings with the Pennsylvania Chamber of Business & Industry and with other industry trade associations. From these interactions, I am aware that all industries have been impacted by the pandemic and associated restrictions on business, but the extent of that impact varies significantly by industry. While utilities have not been hit as hard as some others such as airlines or restaurants, we still face a number of challenges.

Two major governmental actions in the early stages of the pandemic had a significant impact on electric and gas utilities. The Governor's Executive Order of March 19, 2020 allowed "life sustaining" industries to continue operating, with some health-based restrictions, while closing other industries. Utilities were designated life sustaining and continued operations, however, construction activities involving utility infrastructure were not designated life sustaining and only "emergency repairs" were authorized. In conversations with the administration, this

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[1] Citizens' Electric Company; Columbia Gas of Pennsylvania, Inc.; Duquesne Light Company; Leatherstocking Gas Company, LLC; Metropolitan Edison Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Peoples Natural Gas Company LLC; Peoples Gas Company LLC; Philadelphia Gas Works; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities Inc.; Valley Energy Inc.; Wellsboro Electric Company; and West Penn Power Company.

restriction on utility infrastructure projects—e.g., work to replace natural gas pipes, electric poles and wires, etc.--was later eased so that utilities were given some leeway to decide which projects should continue in order to maintain safe and reliable service.

The other major decision was an Emergency Order by the Public Utility Commission ("PUC") on March 13, 2020 that placed a moratorium on all service terminations by regulated utilities for the duration of the Governor's declaration of emergency "unless otherwise determined by the Commission." When this Order was issued, most utilities had already voluntarily halted all terminations. The Governor's original emergency proclamation was for a period of ninety days, and the Governor has since extended it twice for additional periods of ninety days, so that the state of emergency will continue until at least November 30, 2020. As I will discuss later, the PUC has not acted to lift the moratorium on service terminations, so the moratorium may continue until at least the end of November, when the "winter moratorium" on termination of service to certain customers takes effect under existing law.[2]

Following these decisions in March, utilities found a "new normal" mode of operations throughout the spring and summer. Infrastructure projects picked up, although some projects may lag behind their original schedules due to pandemic-related restrictions. Also, the PUC issued an Order providing regulatory flexibility so that, for example, utility personnel could minimize personal contact with customers.[3] Utility administrative and support staffs transitioned to working remotely and continue to do so.

During this period, utilities have maintained safe and reliable service to customers. This service has been particularly important during a period of great anxiety due to the pandemic and social unrest, and as many customers have been compelled to spend more time at home. On their own initiative, utilities have also taken a number of steps to help customers. These policies

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[2] 52 Pa. Code § 56.100. Winter termination procedures.

[3] *Emergency Order Regarding Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*, Docket No. M-2020-3019262, March 20, 2020

have varied among utilities because the circumstances facing utilities and their customers have differed based on a number of factors, including the industry and area of the Commonwealth they serve. These policies include enhanced outreach to inform customers of available assistance programs, special payment agreements not linked to income levels, empathy training related to the pandemic for call center employees, waiver of late payment and reconnection fees, and payment agreements with business customers who have fallen behind in paying their bills.

Over the longer term, utilities face a major challenge as some customers struggle to pay their bills due to the economic fallout of the pandemic and as customer debt grows due to the combined impact of the pandemic and the termination moratorium. The PUC took action in May 2020 to authorize utilities to establish a "regulatory asset" for increases in uncollectible (bad debt) expenses. This action provided some limited assurance that utilities would eventually be able to recover these expenses. Essentially, questions surrounding the recovery of these expenses are deferred until the utility's next rate case or a separate filing, which can create long-term financial uncertainty and impacts available cash flow for other operations costs. Utilities are also at some risk for decreased revenue resulting from the economic downturn. These factors cast shadows over the future financial prospects of utilities. It is important for utilities to maintain a stable, healthy financial posture in order to continue to make investments in their infrastructure that are necessary to provide safe and reliable service.

From the perspective of utilities, as we move into fall the continuation of the absolute ban on all utility service terminations imposed in March is a major concern. The present moratorium is a blunt instrument in that it applies to all customers regardless of their particular circumstances. It applies to customers who have been financially impacted by the pandemic, and also to customers who have not been affected. In fact, it applies to customers who may be better off financially than they were before the pandemic. It is also unprecedented in that it applies to all classes of customers, including business customers. The winter moratorium under existing law only applies to low-income residential customers.

It is clear that the inability of utilities to implement the full collections process, including termination where necessary, is causing the accelerated accumulation of bad debt. EAP has collected data from its members showing that, comparing the end of August 2020 to the same time in 2019, residential arrearages are up 76%, low income customer arrearages are up 84%, and small business arrearages are up 50%. This situation is bad for the customers who are falling farther into arrears, because they are digging a hole that it may be difficult to climb out of once the moratorium is lifted. It is bad for the general body of utility customers, because they will pay at least some part of that growing bad debt expense via increased rates. And it is bad for utility shareholders, who face the risk that the utility will not be able to recover this expense.

Over the past few months, the PUC has considered lifting the moratorium at three different meetings, but each time it has deadlocked on a 2-2 vote. The key sticking point is over inserting additional procedural protections into the utility collections process, some of which go beyond the Commission's statutory authority under the Public Utility Code, as a condition for ending the moratorium.

We would offer two thoughts on the issue of additional procedural / customer protections. First, the essential problem facing many customers is that they lost income because of the pandemic and associated business downturn. The most direct solution to that problem is to provide them with financial assistance to replace that lost income, not to weigh down the already heavily-regulated utility collections process, described below. The federal and state government have already provided a tremendous amount of new assistance in the form of enhanced unemployment benefits and grants to small businesses, etc., and there is ongoing debate over providing even more. Congress also provided an additional $34.9 million in funding which the Pennsylvania Department of Human Resources (DHS) used to create a special LIHEAP Recovery (Crisis) Program in the summer of 2020. (This program closed at the end of

August with a $15 million balance, which shows that with the moratorium in place, many customers do not feel an incentive to apply for existing assistance programs.)

Customers also can access assistance through utility-administered "universal service" programs. The largest component of these programs are customer assistance programs, or "CAPs," which provide discounted rates based on financial need. The total amount of assistance provided by these programs in 2018 was $383 million[4], and it is possible that even greater amounts could be available in the future as needs increase. Pennsylvania's utility assistance programs are nearly double what the federal government provides in energy assistance via the federal Low Income Home Energy Assistance Program (LIHEAP) every year and have historically been more generous than neighboring states' programs. Compared to Pennsylvania's $383 million, New York utilities spent $136 million[5] and New Jersey utilities spent $157.6 million[6]; and eligibility is also much more limited than in Pennsylvania.

Second, Pennsylvania also has very robust procedural protections in place for customers as part of the utility collections process. These include multiple notice requirements before termination, availability of payment agreements with the utility and also a PUC-ordered agreement, budget billing (spreading costs over an entire year to avoid large bills in some months), an automatic stay on termination whenever there is a dispute between the customer and utility, availability of medical certificates precluding termination when a member of the household has a serious medical condition, a moratorium on terminations in the winter for low-income customers (referenced above), a ban on termination on Fridays, Saturdays, Sundays, and holidays, and protections for victims of domestic abuse.

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[4] 2018 Report on Universal Service Programs & Collections Performance, Pennsylvania Public Utility Commission, http://www.puc.state.pa.us/filing_resources/universal_service_reports.aspx

[5] U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. "New York Ratepayer Funded Programs." https://liheapch.acf.hhs.gov/dereg/states/nyork.htm

[6] U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. "New Jersey Ratepayer Funded Programs." https://liheapch.acf.hhs.gov/dereg/states/njsnapshot.htm

A majority of the PUC Commissioners have recognized that the continuation of the termination moratorium is making the problem of non-payment / bad debt expense even worse. Several utilities have reported that, counter to what one might expect, *fewer* customers than normal are now applying for available assistance programs and for payment agreements. In addition, utilities normally see that when the winter moratorium ends in the spring, customers become more active in seeking assistance and entering into payment agreements. But that did not happen in the spring of 2020. The reason for this is that many customers do not feel an incentive to take actions to deal with the arrearages on their utility bills when they know that the utility must continue serving them whether they pay or not.

Further, the extended moratorium puts utility customers at a distinct disadvantage in receipt of available federal energy assistance. While a summer recovery program run by DHS with CARES funding allowed for a past due utility bill to serve as evidence of crisis, the regular LIHEAP program which opens on November 2 will offer no such accommodation. A termination notice is typically required to show "proof" a customer is in crisis to access additional financial assistance; however, with the moratorium in place preventing utilities from sending such notices, utility customers will effectively be prevented from accessing this help.

Utilities support further efforts to provide financial assistance to customers, and have advocated that the legislature allocate additional CARES Act funding to provide grants to low income customers, customers with incomes slightly above current income guidelines, and small business customers. House Bill 2816 (Quinn) and Senate Bill 1307 (Killion) would achieve this result, and EAP supports this legislation.

Thank you for the opportunity to testify and I would be happy to answer questions.