



MISSISSIPPI STATE DEPARTMENT OF HEALTH

Date: 3/16/2020

To: Officials and Operators of Public Water Systems

From: MS State Department of Health
Bureau of Public Water Supply

In response to the COVID-19 Pandemic, please be aware that on March 15, 2020, the Public Service Commission (PSC) released the attached order, which states in part, “that no utility shall disconnect any water, sewer, gas, or electricity service to any customer unless there exists a threat to public safety unrelated to nonpayment for services for a period of sixty (60) days from the date of this order.”

Furthermore, it is our understanding that the Commission has the ability to suspend disconnections of ALL water, sewer, gas, and electricity during the state of emergency. While the Commission typically does not have rate jurisdiction over rural water associations and municipal utilities for those customers who live within one mile of the corporate limits of the municipality, the Governor’s declaration of a state of emergency clearly allows the Commission to take the action directed in its order suspending disconnections. Here are some points that support this ability:

- The Commission issues certificates of public convenience and necessity. During this public health emergency, the necessity of these utilities is more vital than ever to ensure the public health and safety of the citizens of the State of Mississippi.
- This action was also developed in conjunction with, and at the request of, Mississippi public health officials and emergency management officials.

- The disconnection prohibition is temporary, narrowly focused, and will be continuously monitored in conjunction with the Mississippi State Department of Health and the Mississippi Emergency Management Agency.
- The Commission's actions in this regard are specifically designed to protect the public health, and to help prevent the spread of the novel coronavirus that causes COVID-19. Indeed, the Commission is statutorily charged with ensuring the availability of utility services in order to protect the public health and safety and the promotion of the general welfare. Miss. Code Ann. Sec. 77-3-2(f).
- The Commission has at its disposal various avenues to enforce its orders.
 - The first is to impose fines of up to \$5,000.00 per day, per violation for failure to abide by the Commission order against the utility that disobeys the Commission order. Miss. Code Ann. Sec. 77-1-53.
 - The second is to go directly to court to have the court enforce the Commission's order via any of the remedies available to the court. Miss. Code Ann. Sec. 77-3-75.
 - The third is that violation of a Commission order is also a crime, punishable by a \$2,500.00 fine, per violation. Miss. Code Ann. Sec. 77-3-81.

While the Commission does not wish to have to travel down any of those paths, it will take the actions it deems necessary during the public health emergency.

Enclosed: Full text of the Public Service Commission order.

For other updates visit our website.

MS State Department of Health www.HealthyMS.com

or <http://HealthyMS.com/covid-19>

Bureau of Public Water Supply emergency/after hours (769)-798-4258

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSISSIPPI

MISSISSIPPI PUBLIC SERVICE COMMISSION

DOCKET NO. 2018-AD-141

IN RE: MISSISSIPPI PUBLIC SERVICE COMMISSION
OMNIBUS DOCKET

ORDER TEMPORARILY SUSPENDING
DISCONNECTION OF CERTAIN UTILITY SERVICES

COMES NOW the Mississippi Public Service Commission ("Commission"), *sua sponte*, and temporarily suspends the disconnection of certain utility services,¹ and in support thereof, the Commission finds as follows, to wit:

1) On March 14, 2020, the Governor of the State of Mississippi declared a State of Emergency in an effort to stem the transmission of the novel coronavirus that causes COVID-19. In that declaration, the Governor ordered that "[p]ursuant to Miss. Code Ann. § 33-15-11(c)(1) the provisions of state statutes, rules, regulations or orders may be temporarily suspended or modified if compliance with such provisions would prevent, hinder, or delay action necessary to cope with this outbreak."²

¹ Mississippi is not alone in the fight to curb the spread of the novel coronavirus that causes COVID-19 by suspending utility service disconnections. According to the Energy Policy Institute, seven (7) other states, and numerous other jurisdictions, have suspended utility service disconnections for non-payment of services as a result of this virus: Connecticut, Louisiana, Massachusetts, New Jersey, New York, Ohio, and Wisconsin. <https://www.energyandpolicy.org/utilities-disconnect-coronavirus/>.

² Exec. Order, State of Miss. (March 15, 2020).

2) On March 9, 2020, prior to the Declaration of a State of Emergency, the Mississippi State Department of Health invoked¹ the protocols already in place in the State of Mississippi for handling an Influenza pandemic.⁴ Said protocols specifically charge the Commission with the duty to conduct contingency planning with public utilities to ensure continued service during the pandemic.⁵

3) On March 14, 2020, the Mississippi State Department of Health further advised the Commission that it sought the Commission's assistance in maintaining utility services for the citizens of the State of Mississippi based on the rapid spread of the novel coronavirus at issue by limiting the ability of utilities to disconnect utility services when it wrote:

During the state response to COVID-19, it will be important for Mississippians to have access to safe drinking water and electricity. COVID-19 will impact many Mississippians as cases, contacts to cases, through isolation or quarantine, and in employer work practice adjustments. I would ask that if the Governor declares a State of Emergency that provides for regulatory flexibility, the PSC consider issuing an order prohibiting new water or electricity cut-offs for 60 days during the COVID-19 response.⁶

4) Also, on March 14, 2020, the Mississippi Emergency Management Agency requested similar relief from the Commission:

I am reaching out you collectively with a request based on the guidance from Dr. Dobbs with the Mississippi Department of Health, MEMA Executive Director Michel and numerous other concerned stakeholders/partners. With regard to the recommended guidance of social distancing, school closings, work place closures, encouragement of teleworking, and isolation (for potential and confirmed exposures) we recommend messaging be sent to utility providers and water associations to request that disconnects and shutoffs be suspended for a timeframe of 60 days. I believe the timeframe of 60 days has been recommended or requested for situations similar to this one in the past. I appreciate each of you being willing to stay engaged remotely with the response and operational aspects of the COVID-19 Pandemic.⁷

¹ See electronic mail from Dr. Thomas Dobbs (via Jenny Griffin) to State Agency Directors (March 9, 2020 at 3:09:07 PM CDT).

⁴ *Mississippi Pandemic Influenza Incident Index* (June 14, 2019).

⁵ *Id.* at p. 6.

⁶ See electronic mail from Jim Craig to the Commission (March 14, 2020 at 10:47:49 AM CDT).

⁷ See electronic mail from Andrew McMillin to the Commission (March 14, 2020 at 4:38:14 PM CDT).

5) The Commission is also charged with the duty to “foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of service needed for the protection of public health and safety and for the promotion of the general welfare”⁸

6) Cognizant of said duties, the current State of Emergency, and acutely aware of the threat posed by this pandemic,⁹ particularly with regard to those who are more vulnerable citizens of our state, the Commission finds that access to utility services including water, sewer, gas, and electricity is in the public interest and is vital to ensuring the “protection of public health and safety and for the promotion of the general welfare.”¹⁰

7) The Commission finds that this matter is within the Commission’s jurisdiction, and that it has the authority to enter this order.

8) The Commission further finds that disconnecting the utility services outlined herein for any reason other than preventing a threat to public safety – specifically water, sewer, gas, and electricity – will prevent, hinder, or delay action necessary to cope with this outbreak. The Centers for Disease Control and Prevention¹¹ and the Mississippi State Department of Health¹² have both outlined appropriate personal hygiene steps and common sense measures that should be utilized in order to prevent transmission of this virus, and utility service is necessary to appropriately carry out those recommendations. Common among those recommendations are frequent hand-washing, sanitizing commonly touched surfaces, and the ability to remain at home should symptoms develop, among others.

⁸ Miss. Code Ann. § 77-3-2(f).

⁹ The United States Department of Health and Human Services declared a public health emergency on January 31, 2020, based on the spread of COVID-19. The World Health Organization Declared the COVID-19 health emergency a “global pandemic” on March 11, 2020. On March 13, 2020, the President of the United States declared a nationwide state of emergency based on the COVID-19 pandemic.

¹⁰ Miss. Code Ann. § 77-3-2(f).

¹¹ See <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>.

¹² See https://msdh.ms.gov/msdhsite/_static/14,0,420.html#prevention.

9) The Commission specifically acknowledges that certain public utilities have already voluntarily implemented internal procedures regarding the disconnection of certain utility services in order to assist in efforts to stop the transmission of this virus. Those utilities include, but may not be limited to, Atmos Energy Corporation, CenterPoint Energy Resources Corporation, Mississippi Power Company, and Entergy Mississippi, LLC.

10) In consultation with the Mississippi State Department of Health, the Mississippi Emergency Management Agency, and based on authority granted in the Governor's Declaration of a State of Emergency and other Mississippi law, the Commission hereby finds that the steps ordered herein will assist in protecting the public health of the citizens of the State of Mississippi.

THEREFORE, IT IS ORDERED that no utility shall disconnect any water, sewer, gas, or electricity service to any customer unless there exists a threat to public safety unrelated to non-payment for services for a period of sixty (60) days from the date of this order.

IT IS FURTHER ORDERED that the Commission reserves the right, should the Mississippi State Department of Health so request, to enter additional orders relative to the connection, reconnection, or disconnection of utility services during this State of Emergency.

IT IS FURTHER ORDERED that the Commission will, in consultation with the Mississippi State Department of Health and the Mississippi Emergency Management Agency, continue to evaluate and assess the conditions surrounding this outbreak, and reserves the right to revisit this order in thirty (30) days.

IT IS FURTHER ORDERED that this order does not eliminate the requirement that utility customers continue to pay utility bills during this temporary suspension. Customers should continue

paying their bills and understand that they will ultimately be responsible for utility services accrued during this suspension.

VOTE: Chairman Dane Maxwell voted: AYE X, NAY ____;
Commissioner Brent Bailey voted: AYE X, NAY ____; and
Commissioner Brandon Presley voted: AYE X, NAY ____.

SO ORDERED, this the 15th day of March, 2020.

MISSISSIPPI PUBLIC SERVICE COMMISSION



Dane Maxwell
Dane Maxwell, Chairman

Brent Bailey
Brent Bailey, Commissioner

Brandon Presley
Brandon Presley, Commissioner

ATTEST: A True Copy

Katherine Collier
Katherine Collier
Executive Secretary

Effective this the 15th day of March, 2020.