ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-881
October 19, 2020

STATE OF EMERGENCY RELATING TO UTILITIES

The novel coronavirus (COVID-19) is a respiratory disease causing illness that can range from very mild to severe, including illness resulting in death, and many cases of COVID-19 have been confirmed in the Commonwealth.

The Kentucky Constitution and Kentucky Revised Statutes, including KRS Chapter 39A, empower me to exercise all powers necessary to promote and secure the safety and protection of the civilian population. Under those powers, I declared by Executive Order 2020-215 on March 6, 2020, that a State of Emergency exists in the Commonwealth.

On May 8, 2020, I issued Executive Order 2020-323, encouraging Kentuckians to remain Healthy at Home to help protect the Commonwealth from the spread of COVID-19, including by ensuring Kentuckians have power, shelter, and water, but also to allow Kentuckians to be Healthy at Work. Paragraph 6. of Executive Order 2020-323 suspended utility disconnections due to non-payment by all entities that provide natural gas, water, wastewater, or electric utility service within the Commonwealth, including, but not limited to entities created under KRS Chapters 96 and 279. The provision expressly provided that nothing within the Order shall be construed as relieving any individual of the obligation to pay for a utility service provided, or to comply with any other obligation that an individual may have with a utility.

Even as efforts have been made to reopen the economy, the Commonwealth and the United States remain in a daily battle with COVID-19. Kentuckians must work together to ensure our citizens have power, water, wastewater and other utility services to remain Healthy at Home in order to protect the public from the transmission of the disease.

NOW THEREFORE, I, Andy Beshear, by virtue of authority vested in me pursuant to the Kentucky Constitution and by KRS Chapter 39A, do hereby Order and Direct as follows:

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1. Pursuant to the authority vested in me by KRS Chapter 39A, paragraph 6. of Executive Order 2020-323, the suspension of disconnections due to non-payment by all entities that provide natural gas, water, wastewater, or electric service within the Commonwealth, including, but not limited to entities created under KRS Chapters 96 and 279, shall be rescinded effective November 6, 2020, subject to the conditions in this Order.

2. All entities that provide natural gas, water, wastewater, or electric service within the Commonwealth, including, but not limited to entities created under KRS Chapters 96 and 279, shall continue to waive the assessment of late payment fees for residential customers through December 31, 2020.

3. Between the date of this Order and November 6, 2020, all entities that provide the services to residential customers as described in paragraph 1. of this Order shall:

   a. By default for all affected residential customers, create payment plans for all arrearages accumulated from service rendered on or after May 8, 2020, and before October 25, 2020, to the extent that past due balances exist. The term of the default payment plan shall be no less than six months. Regardless of the length of the default payment plan, each default payment plan shall only require the customer to pay a fixed, equal installment over the term of the plan. For example, a default payment plan of six months for an arrearage of $120.00 would have a monthly payment of $20.00. It shall not be required to automatically enroll customers in a default payment plan for an arrearage of $25 or less, provided that the customers will not be disconnected for the arrearage and that the utility shall enroll the customer in a payment plan at the customer's request identical to a default payment plan described above. An entity may maintain current payment plans entered into voluntarily provided that the utility convert the existing payment plan to the required default payment plan upon either the customer's default on their existing plan or at the request of the customer.; and

   b. Take all reasonable efforts to contact all customers who have received default payment plans to convey information about their accounts, including, but not limited to, customer arrearages, ways to pay, details of payment plans, and sources of potential assistance; and

   c. Work with any customer who requests an alternative to the default payment plan under this Order on a payment plan that accommodates the customer's circumstances while balancing the concern of the entity, including the entity's income and cash flow. Nothing in this or any other Executive Order shall be construed to prohibit an entity that provides electric, gas, water or wastewater service to enter into a payment plan with a customer that requests an alternative to the required default payment plan as long as the request is made by the customer and the customer is made explicitly aware of their right to the default payment plan.; and

d. Consider any customer with arrearages subject to a payment plan "on-time" for all purposes, except those explicitly exempted in this Order, so long as the customer timely pays his or her bill for current service and the amount required under a default, existing, or alternative, agreed-upon payment plan.

4. If a customer fails to maintain an "on-time" status with regard to current service and a default, existing, or agreed-upon payment plan, the customer may be subject to disconnection beginning on November 6, 2020. To ensure continuity of service during a global pandemic, entities are encouraged to offer subsequent payment plans to customers who have an initial payment plan for arrearage amounts between May 8, 2020, and October 25, 2020, and are unable to maintain an "on-time" status as explained in this Order. When a customer is no longer considered "on-time" regarding arrearage amounts accumulated between May 8, 2020, and October 25, 2020, entities shall follow their tariffed or written procedures for disconnection should they choose to disconnect a customer.

5. To allow eligible customers to seek relief under any assistance program that requires customers to be late or subject to disconnection in order to qualify for utility assistance, any customer with a default or agreed-upon payment plan for a minimum of six months after November 6, 2020, is late and subject to disconnection for assistance program purposes only.

6. Entities that provide natural gas, water, wastewater, or electric service to nonresidential customers within the Commonwealth, including, but not limited to entities created under KRS Chapters 96 and 279, are encouraged to establish nondiscriminatory payment plans to customers as described in paragraph 3. of this Order.

7. Federal Coronavirus Relief Funds in the amount of $15 million will be dedicated for a Healthy at Home Utility Relief Fund that will be created to provide relief from utility service disconnection, primarily relief from disconnection of water and wastewater services.

8. Other funds exist that may also help some utility service customers in Kentucky, including, but not limited to: the Team Kentucky Fund; the Salvation Army; United Way; Catholic Charities; federal Coronavirus Relief Funds distributed to local governments; the One Louisville: COVID-19 Response Fund in Jefferson County; the Association of Community Ministries in Jefferson County; the Financial Assistance Program of the Louisville Metro Department of Community Services; the Emergency Financial Assistance Program of the Lexington-Fayette County Urban Government Division of Community Services; the Kentucky Low-Income Home Energy Assistance Program (LIHEAP); Home Energy Assistance programs administered by Community Action Kentucky; Community Winterhelp, Inc. in Jefferson County; the Federal Emergency Management Agency Individuals and Households Assistance Program; and the Kentucky American Water program named H20.

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9. No provision contained within this Order shall be construed as relieving any individual of the obligation to pay for a utility service provided, or to comply with any other obligation that an individual may have with an entity subject to this Order's terms.

10. Although entities that provide natural gas, water, wastewater, or electric service within the Commonwealth will be permitted to resume service disconnection due to non-payment on November 6, nothing in this Order should be interpreted as requiring these entities to disconnect those services. Any entity may continue to or voluntarily choose to suspend disconnections due to non-payment.

11. Nothing in this Order should be construed to prevent or prohibit any entity that provides provide natural gas, water, wastewater, or electric service within the Commonwealth to voluntarily enter into payment plans with customers for arrearages accumulated for service rendered before or after the time period of May 8, 2020 to October 25, 2020.

12. Any communication related to this Order should be directed to the Kentucky Public Service Commission.

13. Nothing in this Order is intended to supersede the orders of the Kentucky Public Service Commission for utilities under its jurisdiction. The Kentucky Public Service Commission's orders continue in full effect until rescinded or modified by the Kentucky Public Service Commission.

14. Nothing in this Order should be interpreted to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority.

This Order is effective on October 19, 2020, and shall be in effect through the duration of the State of Emergency under Executive Order 2020-215, or until this Order is rescinded by further order or by operation of law, and shall be subject to renewal if necessary to protect the lives, property, or welfare of the citizens of the Commonwealth.

ANDY BESHEAR, Governor
Commonwealth of Kentucky

MICHAEL G. ADAMS
Secretary of State