



TAUD COVID-19 UPDATE: Suspension of Utility Service Terminations for Non-Payment

April 10, 2020

TAUD has received several calls and emails regarding whether utility districts, utility authorities, and municipal and county utility systems can or should suspend the termination of utility service for non-payment during the COVID-19 crisis. This issue has been the subject of media stories in Tennessee. Calls have been made to state legislators and the Comptroller's office about water and wastewater utilities which have continued to terminate services for non-payment. This Update will describe the legal authority of utilities in Tennessee to continue to terminate utility service for non-payment and will describe the issues which may arise or need to be considered when a utility decides to suspend the termination of utility service for nonpayment.

Legal Right of Utilities to Continue to Terminate Service for Non-Payment

- To date, the Governor has issued no directive in any Executive Order which prohibits a public utility from terminating utility service for nonpayment due to the COVID-19 crisis.
- On March 31, 2020, the Tennessee Public Utility Commission (TPUC) issued an Order which prohibits public utilities regulated by TPUC from disconnecting natural gas, electric, water, or wastewater service to any customer for reason of nonpayment during the course of Governor Bill Lee's March 12, 2020 declaration of a public health emergency related to the COVID-19 virus. This prohibition will continue throughout the length of the State of Tennessee's public health emergency declaration, including any future extensions, until the declaration expires or is lifted.
- This TPUC Order *does not apply* to a public utility which is not subject to regulation by TPUC.
- Therefore, utility districts, utility authorities and municipal and county utility systems continue to have the legal right to terminate utility service for non-payment under their existing rules, regulations and policies.

Reasons for Considering the Suspension of Utility Service Terminations

- Customers need access to clean drinking water, need to be able to practice good hygiene by washing their hands frequently, and need water for proper medical treatment.

- Residential customers must have water, sewer, natural gas and electricity available at home to comply with Governor Lee’s safer at home directive in Executive Order No. 22. This Order will remain in effect until April 14, 2020, but will probably be extended.
- President Trump’s Coronavirus Guidelines for America which have been extended through April 30, 2020, include the following precautions, among others:
 - (1) Working from home whenever possible; and
 - (2) Practicing good personal hygiene, including washing hands, especially after touching any frequently used item or surface, avoiding touching the face, and disinfecting frequently used items and surfaces as much as possible.
- The substantial number of job losses and the economic hardship of many businesses in Tennessee due to the coronavirus outbreak are making it more difficult for residential and commercial customers to pay their bills, including their utility bills.

Substantial reasons exist for public utilities to suspend the termination of utility services for non-payment in light of the vital role public utility services play in the ability of Tennessee citizens and businesses to cope with the unprecedented challenges of the coronavirus outbreak.

Whether to suspend the termination of utility services for nonpayment and the terms and conditions under which such suspensions will occur is a decision for each utility district, utility authority, municipal utility, or county utility to make for itself.

Factors to Consider in Deciding Whether to Suspend the Termination of Service for Nonpayment

- The length of time the utility will suspend service terminations (15 days; 30 days; through April 30 or May 31; as long as Governor Lee’s safer at home order remains in place)
- Whether to waive late payment penalties or service reconnection fees
- The potential loss of revenue which the utility will experience should it decide to suspend service terminations for nonpayment and waive such fees
- The amount of cash reserves the utility has available and is willing to use to meet on-going operating expenses and debt payments when monthly revenues may not be sufficient to cover these expenses and payments
- The suspension of service terminations implemented by neighboring utilities
- Whether to condition the suspension of service terminations on the customer paying a portion of the monthly bill, such the monthly minimum bill amount or some other amount
- The availability of charities, religious organizations, or local assistance programs in the utility’s service area to assist with the payment of utility bills
- How the utility will address the large account balances for customers whose services are not terminated for nonpayment due to the suspension of service terminations

Generally, the authority to decide whether to suspend utility service terminations for nonpayment and the terms and conditions under which such suspensions will be permitted rests with the utility's governing board.

TAUD will continue to monitor new Executive Orders issued by Governor Lee and any developments at the federal level which may affect the discretion of utilities to continue to terminate utility service for nonpayment. Any changes will be timely communicated to TAUD members.

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