

EXECUTIVE ORDER NO. 246

WHEREAS, on March 9, 2020, I issued Executive Order No. 103, declaring the existence of a Public Health Emergency, pursuant to the Emergency Health Powers Act ("EHPA"), N.J.S.A. 26:13-1 et seq., and a State of Emergency, pursuant to the New Jersey Civilian Defense and Disaster Control Act (the "Disaster and Control Act"), N.J.S.A. App A:9-33 et seq., in the State of New Jersey for the Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, 210, 215, 222, 231, 235, and 240, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, November 22, 2020, December 21, 2020, January 19, 2021, February 17, 2021, March 17, 2021, April 15, 2021, and May 14, 2021, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey, I have issued a series of Executive Orders pursuant to my authority under the Disaster Control Act and the EHPA, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, Nos. 203-204, No. 207, and Nos. 210-211 (2020) and Nos. 214-216, Nos. 219-220, Nos. 222-223, No. 225, Nos. 228-235, and

Nos. 237-243 (2021), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, in response to the COVID-19 pandemic, on March 13, 2020, the Federal Communications Commission issued a request for the nation's telephone companies and internet providers to pledge to "Keep America Connected" and, among other things, not terminate service due to inability to pay because of disruptions caused by COVID-19 through June 30, 2020; and

WHEREAS, on March 19, 2020, the New Jersey Board of Public Utilities ("BPU") issued an order, Dkt. No. EO20030254, emphasizing the critical need to maintain essential services for New Jersey residents throughout the pandemic, and permitting broadband internet providers to continue to establish new connections and repair existing service for homes with school-aged children, those in need of internet access to meet job requirements, or other priority customers; and

WHEREAS, Executive Order No. 126 (2020) prohibited cable and telecommunications providers that provide residential internet and voice services to New Jersey residents from terminating such internet and voice service due to nonpayment to ensure that residents maintained sufficient residential internet and voice services to work and further their education in a home environment; and

WHEREAS, recognizing that access to heat, power, and clean water are essential to New Jersey residents as they stay, work, and learn at home in response to COVID-19, all gas and electric utilities in the State, as well as all privately and publicly owned water systems, voluntarily suspended service shutoffs due to nonpayment through October 15, 2020; and

WHEREAS, on August 13, 2020, I issued Executive Order No. 175, allowing public school districts to offer partial remote instruction, as well as full-time remote instruction under certain circumstances; and

WHEREAS, on October 15, 2020, I issued Executive Order No. 190, prohibiting a gas or electric public or municipal utility or privately or publicly owned water system from discontinuing any gas, electric, or water service to a New Jersey resident and from charging a fee for late or untimely payment; and

WHEREAS, Executive Order No. 190 (2020) further prohibited a cable or telecommunication provider that provides residential internet and voice services to New Jersey residents from terminating such internet or voice service due to nonpayment prior to November 15, 2020, and prohibited disconnection of internet or voice service due to nonpayment after November 15, 2020 if the service was used by one or more school-aged children for educational purposes; and

WHEREAS, Executive Order No. 190 (2020) also prohibited cable or telecommunications providers from imposing late fees, penalties, or reconnection costs as a condition of maintaining service; and

WHEREAS, on March 3, 2021, I issued Executive Order No. 229 extending the disconnection moratorium established in Executive Order No. 190 (2020), and all related protections provided therein, through June 30, 2021; and

WHEREAS, on June 4, 2021, I signed Assembly Bill No. 5820 into law as P.L.2021, c.103 and issued Executive Order No. 244, which terminated the Public Health Emergency declared in Executive Order No. 103 (2020) but maintained the State of Emergency declared in that same Order; and

WHEREAS, P.L.2021, c.103 provided that, following the termination of the Public Health Emergency, certain listed Executive Orders, including Executive Order No. 229 (2021), shall remain in effect until January 1, 2022; and

WHEREAS, P.L.2021, c.103 provides that the Governor may revoke or modify the listed Executive Orders, including Executive Order No. 229 (2021), prior to January 1, 2022; and

WHEREAS, the inclusion of this Order in P.L.2021, c.103 indicates a recognition that simply terminating the moratorium as of June 30, 2021, without any protections for residents would result in significant hardship for those who are facing utility arrearages; and

WHEREAS, in light of the termination of the Public Health Emergency, it is appropriate that the moratorium on gas, electric, water, and internet disconnections established in Executive Order No. 190 (2020) and continued in Executive Order No. 229 (2021) should come to an end, while still allowing a reasonable period of time during which individuals are protected while they try to address arrearages, including by applying to utility assistance programs; and

WHEREAS, since February 2021, the BPU has been holding public meetings and working groups on the impact of the COVID-19 pandemic on utility bill arrearages, public assistance programs, and related issues under Docket No. AO2006047; and

WHEREAS, as of April 30, 2021 (the most recent month for which data is available), approximately 830,000 New Jersey residents had gas and electric bills more than 30 days overdue with total gas and electric arrearages of approximately \$726 million; and

WHEREAS, as of the same date, there were also substantial arrearages in the water sector, and broadband internet arrearages were approximately \$75 million; and

WHEREAS, despite the end of the Public Health Emergency, many New Jersey residents may continue to experience obstacles to their ability to make payments for gas, electric, water, or internet services, including, but not limited to, financial hardship stemming from the Public Health Emergency, lack of access to in-person consumer assistance services during the Public Health Emergency, and lack of awareness of available assistance programs; and

WHEREAS, access to heat, power, and clean water remains essential to all New Jersey residents; and

WHEREAS, it is critical that, when the utility disconnection moratorium ends, customers are given adequate time to access assistance, enroll in repayment plans, and marshal resources for repayment before being subject to disconnection; and

WHEREAS, it is also critical that, when the moratorium ends, the State and its departments, agencies, authorities and entities, as well as the private and public utilities that serve New Jersey residents, identify and make available resources to assist customers facing financial hardship and make a concerted effort to connect customers with assistance programs; and

WHEREAS, the State has recently received \$6.2 billion in federal funding under the American Rescue Plan Act of 2021 ("ARPA"), and under the interim final rule promulgated by the U.S. Department of the Treasury, assistance to households, including utility assistance, is an eligible use of this funding; and

WHEREAS, the establishment of a grace period beyond June 30, 2021, will give the State the opportunity to distribute ARPA funding to help residents facing utility arrearages, should it choose to do so; and

WHEREAS, this Order is a modification of Executive Order No. 229 (2021), and thus consistent with P.L.2021, c.103;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The utility shutoff moratorium established in Executive Order No. 229 (2021) is terminated effective July 1, 2021.

2. For all New Jersey residents who were protected from the discontinuance of gas, electric, water, or internet service pursuant to Executive Order No. 229 (2021), a grace period shall be in effect from July 1, 2021 through December 31, 2021.

3. During the grace period, no gas or electric public or municipal utility or privately or publicly owned water system shall discontinue any gas, electric, or water service to New Jersey residents, which includes all residential accounts and any accounts primarily serving residential customers, due to nonpayment unless the disconnection is to prevent or ameliorate a risk to public health or safety.

4. During and after the termination of the grace period, no gas or electric public or municipal utility or privately or publicly owned water system shall collect any fee or charge imposed for late or otherwise untimely payments or service reconnections that have accrued during the Public Health Emergency and moratorium or that continue to accrue during the grace period.

5. During the grace period, no cable or telecommunications provider may disconnect the internet service provided to a residential account that is in effect as of the effective date of this Order that one or more school-aged children utilize for educational purposes. Prior to terminating internet service, a provider must ask the customer, either in writing or through a recorded verbal communication, whether the internet service is being used by a school-aged child for educational purposes. If the customer answers in the affirmative, then the provider shall not disconnect the internet service provided to that residential account.

6. During the grace period, where internet service has been disconnected for a residential account and there has been a change of circumstances such that one or more school-aged children will be using the account for educational purposes, the provider shall, upon

notification by a customer of such a change of circumstances, take immediate steps to reestablish service to that residential account. The provider shall develop and implement a process for customers to obtain reestablishment of services in those circumstances pursuant to a policy approved in writing by the BPU and shall provide notice of that policy in writing to all customers prior to the disconnection of internet services and on its website.

7. A cable or telecommunications provider that provides residential internet and voice services to New Jersey residents pursuant to paragraphs 5 and 6 may not downgrade or otherwise reduce the quality of residential internet services while this Order remains in effect unless acting pursuant to a policy approved in writing by the BPU.

8. Nothing in this Order prohibits a cable or telecommunications provider from implementing a policy of continuing to provide residential internet and voice services to all customers in New Jersey subject to approval from the BPU.

9. Before disconnecting gas, electric, water, internet, or voice services upon the termination of the grace period to a New Jersey resident who has an existing account with the gas or electric public or municipal utility or privately or publicly owned water system or cable or telecommunications provider ("service provider") as of the effective date of this Order, after the required notice of discontinuance is sent to the customer, the service provider shall offer to enroll the customer in an interest-free payment plan of at least twelve equal monthly installments that includes any outstanding balance due and owing, as well as the ongoing balance for any services provided during the payment plan period, provided that nothing in this provision prevents a customer from requesting a shorter payback period.

10. A service provider may provide additional flexibility to customers by offering a combined payment and payment forgiveness plan, involving forgiveness of at least 50% of the outstanding principal, in lieu of a twelve-month payment plan required by paragraph 9 of this Order, solely upon consent of the customer by written or recorded verbal communication, pursuant to a policy approved in writing by the BPU.

11. No service provider shall discontinue residential gas, electric, water, internet, or voice services to a New Jersey resident who has entered into a payment plan pursuant to paragraphs 9 or 10 of this Order so long as the customer makes timely payments under the payment plan selected by the customer, unless the disconnection is to prevent or ameliorate a risk to public health or safety.

12. No service provider shall require a down payment or deposit, or payment of any late fees, penalties, or other reconnection costs, to enroll a customer in a payment plan pursuant to Paragraphs 9 or 10 of this Order.

13. During the grace period, no service provider shall seek to impose or collect any late fees, penalties, or other reconnection costs on customers as a condition of maintaining service.

14. The notices to residential customers required pursuant to P.L.2021, c.97 shall include information concerning the grace period established by this Order. In no event shall a service provider inform a customer who is protected by this Order that the customer is subject to termination of service for nonpayment prior to the end of the grace period.

15. The expiration of the grace period shall not affect the disconnection protections provided through the Winter Termination Program as set forth in N.J.A.C. 14:3-3A.5, or any other applicable statutory or regulatory protections.

16. To the degree that they are inconsistent with this Order, the provisions of N.J.A.C. 14:3-3A.1a(3)-(4) and -3A.5 are suspended while this Order remains in effect. Any provisions of these regulations that are not inconsistent with this Order remain in full force and effect.

17. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 40:14A-21, N.J.S.A. 40:14B-41 and -42, N.J.S.A. 40A:26A-12, and N.J.S.A. 40A:31-12 are suspended while this Order remains in effect. Any provisions of these statutes that are not inconsistent with this Order remain in full force and effect.

18. Any actions taken by the BPU pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

19. Executive Order No. 229 (2021) is hereby superseded to the extent inconsistent with this Order.

20. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with any Administrative Orders issued pursuant to this Order.

21. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

22. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

23. This Order shall take effect immediately and shall remain in effect until December 31, 2021.

GIVEN, under my hand and seal this
14th day of June,
Two Thousand and Twenty-one,
and of the Independence of the
United States, the Two Hundred
and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor