

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

Investigation for the purpose of keeping track
of COVID-19 Related Informational Filings

DOCKET U-200281

**PUBLIC COUNSEL RESPONSE TO THE JULY 1ST
NOTICE OF OPPORTUNITY FOR COMMENT**

July 15, 2020

I. INTRODUCTION

1. The Utilities and Transportation Commission (“Commission”) created a COVID-19 response workgroup to participate in a workshop to “develop guidelines for ensuring that customers experiencing economic hardship as a result of the COVID-19 pandemic maintain access to essential services” after Governor Inslee’s Proclamation 20-23 expires. The Public Counsel Unit of the Attorney General’s Office (“Public Counsel”) is one of 12 stakeholders participating in the workgroup. Additionally, investor-owned utilities, low income advocates, environmental advocates, and public interest and social justice advocates are participating in the workgroup and will share their valuable input.¹
2. Public Counsel provides written comments pursuant to the Commission’s Notice of Opportunity for Comment dated July 1, 2020. Ensuring that customers remain connected to essential services during the COVID-19 global pandemic and the related near and long-term economic impact is critically important to the customers, the utilities, and our state’s overall response to the pandemic. While telecommunication, water, natural gas, and electric utilities in Washington are currently prohibited from disconnecting customers for nonpayment and from charging late fees through August 1, 2020,² significant consumer protections will prevent a spike in disconnections if and when the disconnection moratorium is lifted.
3. Public Counsel has provided prior comments on June 16, 2020, and July 1, 2020. The

¹ Workgroup participants are Commission Staff, Public Counsel, Puget Sound Energy, Avista Corporation, PacifiCorp, Cascade Natural Gas Corporation, Northwest Natural Gas Company, The Energy Project, Front and Centered, Northwest Energy Coalition, Puget Sound Sage, and the Sierra Club.

² Wash. Exec. Order No. 20-23 (Mar. 18, 2020) (“UTC – Ratepayer Assistance”); Wash. Exec. Order No. 20-23.2 (Apr. 17, 2020) (“Ratepayer Assistance and Preservation of Essential Services”); Wash. Exec. Order No. 20-23.6 (July 2, 2020) (“Ratepayer Assistance and Preservation of Essential Services”). All three proclamations are available at <https://www.governor.wa.gov/office-governor/official-actions/proclamations> (please enter in the proclamation number into the ‘Search Terms’ field to filter for the specific proclamation).

prior written and oral comments are incorporated herein by this reference.

II. PROTECTING CUSTOMERS' ABILITY TO REMAIN CONNECTED TO ESSENTIAL UTILITY SERVICES DURING THE PANDEMIC IS GOOD PUBLIC POLICY

4. Customers face many challenges with the COVID-19 pandemic. Those challenges include job loss, food instability, inability to pay bills, mounting debt, balancing child care and education with full-time jobs, working from home and relying on sometimes unreliable internet access, and trying to stay healthy. Protecting customers' access to vital utility services is good public policy because the absence of those services would harm both the individual and our overall ability to combat the coronavirus. Several commenters, including Public Counsel, have expressed the ways in which utility services are essential, including allowing people to connect to the internet and jobs, maintaining safety at home, and maintaining hygiene.
5. Public Counsel defines essential utility services to include energy (both electric and natural gas), water, and telecommunications. This is consistent with Governor Inslee's Proclamation 20-23 and the inquiry made by the Commission during the June 16th Special Open Meeting. While these industries share a common public worth, they vary from each other in terms of company size, customer base, and resources. Despite these differences, the Commission should apply the same underlying policy of keeping customers connected. How that underlying policy is specifically implemented may be modified, if appropriate, to address the industry differences.

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III. PUBLIC COUNSEL IDENTIFIED NINE MEASURES THE COMMISSION SHOULD TAKE TO PROTECT CUSTOMERS DURING THE PANDEMIC AND THE RESULTING ECONOMIC IMPACT

6. In our July 1, 2020, comments, and during the Special Open Meeting on June 16, 2020, Public Counsel identified nine measures the Commission should take to protect customers in response to COVID-19. Rather than repeating the details regarding these nine measures here, Public Counsel will list them below and then focus on the timing of when these measures are needed.

- First, the Commission should require utilities to file the results of reviewing their existing credit, collection, and disconnection policies with the Commission.
- Second, the Commission should extend the disconnection moratorium for an appropriate period of time.
- Third, certain credit and collection activities should be suspended to remove unnecessary barriers.³
- Fourth, utilities should be required to offer long term payment plans of 12 to 24 months to consumers with past-due balances.
- Fifth, the Commission should require utilities to design and implement bill assistance programs that address arrearages.
- Sixth, adequate data is very important to decision-making regarding response to the pandemic.
- Seventh, similar protections should apply to small businesses who are following safety guidelines and making a good faith effort to meet its obligations.
- Eighth, the Commission should require that utilities proactively communicate with all ratepayers and with those ratepayers who carry past-due balances.
- Ninth, the Commission should require utilities to actively seek ways to reduce the administrative burden of requesting assistance.⁴

7. The response to COVID-19 presents both short-term, immediate opportunities as well as longer term opportunities to review the programs available to the most vulnerable ratepayers.

Even during normal economic times, there is a population of ratepayers who live in poverty and

³ At the Special Open Meeting, this item was listed as two separate items: waiver of fees and waiver of disconnection requirements. Because both categories are components of credit and collection, it is appropriate to combine them.

⁴ Public Counsel did not include this in the original expression of nine measures during the Special Open Meeting, but believes this is an important consideration to include in the discussion.

have difficulty paying their bills. This population most certainly has been affected by COVID-19, and the pandemic has increased the number of customers who are struggling. The majority of the measures are needed immediately, but the response to COVID-19 should address first the need to keep people connected and second how to address arrearages. The second step should be planned and anticipated, and it should not be delayed, but it likely requires some work before specific measures can be fully implemented.

8. To the extent utilities are not yet doing this, it is critical that utilities proactively communicate with their customers about arrearages now. This communication should clarify that the disconnection moratorium is not bill forgiveness and should kindly counsel the ratepayer to pay as much as possible to keep arrearages as low as possible. This communication should also begin to determine what assistance customers require and include information about available assistance.
9. The disconnection and fee moratorium is needed immediately to avoid the cliff of disconnections that may occur with arrearages increasing. The moratorium should extend past expiration of Proclamation 20-23 because the economic impact will undoubtedly extend past the state of emergency caused by the public health emergency.
10. Obtaining data about utility arrearages, etc., allows the response to COVID-19 to be based on actual conditions being experienced by ratepayers and the utilities. This data should be provided as soon as practicable to the Commission. Similarly, reviewing credit, collection, and disconnection policies should be done in the near-term so that timely adjustments can be made to adequately respond to COVID-19.
11. Designing guidance related to small business customers is also a near-term need. As noted in earlier comments, small businesses have been hard-hit by the pandemic. The industry

has developed its own guidelines to reopening consistent with information from public health officials. Small businesses that return need an opportunity to succeed. This benefits, of course, the small business, but also the utility by keeping its customer. The business's employees also benefit by earning wages, which mitigates ongoing negative economic impact of COVID-19 on those individuals.

12. As arrearages mount, immediately requiring longer term payment plans designed with individual customer circumstances is needed to ensure that customers are able to pay their arrearages while still affording their current charges. This measure dovetails with the need to examine and implement programs that address arrearage management. Public Counsel assumes that implementation of arrearage management programs (AMPs) or percent of income payment plans (PIPPs) may not be immediately possible, but may require planning and program development. As a result, Public Counsel recommends that the Commission issue guidance that such programs be evaluated and, where appropriate, developed and implemented. AMPs and PIPPs effectively address arrearages to the benefit of the struggling ratepayer, the company, and ratepayers who would otherwise pay for bad debt.⁵

13. At some point in time, utility disconnections will resume. Utilities have been asked to review their credit and collection policies, and the Commission should consider whether waiver of fees, late charges, and deposit requirements should be waived permanently. Such practices do not increase ratepayers' ability to pay their utility bills or reconnect quickly in the event of a disconnection. Rather, these practices serve to increase the amounts a ratepayer is required to pay, which simply creates barriers to remaining connected to vital utility services.

⁵ It is important to note that "bad debt" (the uncollectable amounts associated with some disconnections for nonpayment) are not simply written off by utilities. Rather, bad debt is quantified and included in a utilities' general rates and paid by all ratepayers.

14. Evaluating the administrative burdens associated with requesting assistance is both a near- and longer-term consideration. Utilities have reduced the administrative burden when developing programs early in the pandemic to provide assistance dollars quickly to people. Looking forward, we should closely evaluate how to reduce administrative burdens on vulnerable ratepayers so they can access the assistance they need with minimal hurdles. Efforts to reduce administrative burden should be conducted cooperatively between utilities and community action agencies responsible for administering the lion's share of bill assistance funds. The need to ensure that a customer qualifies for assistance should be balanced with the need to remove barriers to receiving needed assistance.
15. In addition to the nine areas discussed above, Public Counsel urges the Commission to establish a general principle that anyone experiencing economic hardship, manifested in an inability to pay some or all of their utility bill, is facing these difficulties as a result of COVID-19. Requiring customers to demonstrate how they are impacted by COVID would unnecessarily burden customers who are already facing deep challenges.
16. Similarly, Public Counsel recommends that the Commission not rely on utilities to continue voluntary customer protections. Many utilities voluntarily suspended disconnections and late fees before the Governor issued Proclamation 20-23. While the utilities' voluntary action early during the pandemic is commendable, the Commission should set the minimum customer protections that all customers may expect. This will prevent customers, who have very little choice regarding utility service, receiving different treatment based on the utility from which they receive service.

IV. GOVERNOR’S GUIDANCE RELATED TO PROCLAMATION 20-23

17. The Governor has issued guidance along with the most recent versions of Proclamation 20-23. In its current form, it incorporates many of the recommendations contained in these comments.⁶ The Commission should provide guidance to regulated utilities that complements the Governor’s guidance, provides specific guidance to regulated utilities, and extends protections to utility ratepayers. Public Counsel believes the recommendations listed above would accomplish this.
18. Additionally, the Governor’s guidance separates energy, water, and telecom, while also providing guidance that applies to all industries. That approach works well because it allows for modification where needed, while also allowing for all industries to be held to appropriately high standards. For example, the Commission can require all utilities to communicate with their customers, but leave how that communication occurs to the industry-specific guidance.

V. RESPONSE TO STAKEHOLDER COMMENTS

19. The critical importance of the issues being handled in this docket is reflected in the numerous written comments received. Many of the comments, both from public interest organizations and individual Washington utility customers, center around a handful principles: long-term suspension of disconnections and related fees, no utility customer debt, and fair repayment plans. Public Counsel understands and echoes the need for these principles to be enacted into policy by the Commission. Among the nine principles iterated by Public Counsel,

⁶ Wash. Exec. Order No 20-23.6 (July 2, 2020) (“Ratepayer Assistance and Preservation of Essential Services”) available at https://www.governor.wa.gov/sites/default/files/proclamations/proc_20-23.6.pdf; Wash. Exec. Order No 20-23.6, COVID-19 Utility Customer Support Program Guidance (July 2, 2020), available at <https://www.governor.wa.gov/sites/default/files/COVID19%20Utility%20Customer%20Support%20Guidance.pdf>.

principles two through five are aligned with stakeholder requests. Underlying economic distress faced by Washingtonians pre-dated the pandemic and will persist into the future. As such, stakeholder requests are a reasonable and vital response to the financial and public health crises facing Washingtonians.

VI. CONCLUSION

20. Public Counsel looks forward to reading the comments filed by other stakeholders and participating in the workshop on July 22, 2020. Any questions about these comments may be directed to Lisa W. Gafken, Assistant Attorney General and Public Counsel Unit Chief, at Lisa.Gafken@ATG.WA.GOV or (206) 714-3551, or to Corey Dahl, Regulatory Analyst, at Corey.Dahl@ATG.WA.GOV or (206) 482-3523. Both Ms. Gafken and Mr. Dahl will be present for the workshop.

Dated this 15th day of July, 2020.

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