

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

Background

On June 16, 2020, the Washington Utilities and Transportation Commission (Commission) held a virtual special open meeting to receive status updates from regulated utilities and interested persons regarding their general experiences responding to the COVID-19 pandemic, and to discuss utilities' transition plans related to the Governor's moratorium on disconnections and late or reconnection fees. The Commission also received written comments on these issues both before and after the special open meeting.

During the June 16 open meeting, the Commission indicated that it would initiate a workgroup to facilitate development of guidelines for ensuring that customers experiencing economic hardship as a result of COVID-19 pandemic maintain access to essential services after Proclamation 20-23 expires and the moratorium on disconnections and late fees is no longer in effect.

The COVID-19 Response Workgroup (Workgroup) included the five energy utilities, Commission Staff, and a non-utility advocate group that consisted of: The Public Counsel Unit of the Washington Attorney General's Office, The Energy Project, NW Energy Coalition, Sierra Club, Front and Centered, and Puget Sound Sage (Advocates). To date, the Workgroup held three meetings that were facilitated by Administrative Law Judge Greg Kopta. The broad categories of issues to be addressed, per the initial agenda on July 22, 2020, were: (1) the possible continuance of a moratorium, either voluntary or directed; (2) customer communication and reporting; (3) cost recovery; and (4) documentation of agreement, by stipulation, guidelines, tariff revision, or other options as deemed appropriate by the Workgroup.

As part of the Workgroup process, draft term sheets were developed by the Utility group and Advocate group and further refined as agreements were reached. While the workshops and document exchanges were helpful, and some agreement was reached, significant issues remain outstanding. Staff was asked to draft a terms sheet based on the areas of agreement and provide proposals for resolving the open issues. Following are Staff's recommendations for comment, discussion, and consideration.

1. Disconnection Moratorium

Staff understands that the Utilities regulated by the Commission voluntarily suspended disconnecting customers prior to Governor's Proclamation 20-23 issued on March 18, 2020. The current moratorium expires on October 15, 2020 with no assurance of another extension. The Workgroup agreed that each utility will continue to voluntarily suspend disconnections of utility service for residential and small commercial customers (*i.e.*, those commercial customers not served on a large consumption tariff) until April 30, 2021 (Resumption Date). Staff appreciates

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

the Utilities' and Advocates' agreement on a voluntary disconnection moratorium through April 30, 2021. This is a responsible action to ensure customers maintain access to essential services during the continued pandemic recovery efforts and the winter heating season. However, the Utilities and Advocates do not agree to a process, or metrics for evaluating the health and economic conditions by that date, or if a moratorium should even be considered after the Resumption Date.

Staff Recommendation

Staff recommends the Commission assess the health and economic conditions during its first open meeting of February 2021, or at a recessed open meeting around the same time. The landscape may be significantly different in five months and a decision today may not be the best course of action for unknown future circumstances. Staff provides additional recommendations in other portions of this term sheet to provide guidance regarding the data and reporting needed to assist the Commission in that future evaluation.

Further, regardless of the final Resumption Date, Staff recommends the Utilities be required to ensure the following provisions prior to resuming disconnections for residential and small commercial customers:

- (1) Provide a 30 day notice, that is one bill cycle in advance of the resumption of disconnection, to customers in writing (at a minimum in English and Spanish), or by the customer's preferred method of receiving communications, to all of its residential and small commercial customers to include:
 - a. The resumption date of utility service disconnections and late fees,
 - b. All flexible payment options that are available to avoid disconnection and how to enroll in each flexible payment option,
 - c. For residential customers, outline any program that may provide financial assistance,
 - d. Utility contact information,
 - e. Commission contact information including the commission's toll-free number 888-333-WUTC (9882), email consumer@utc.wa.gov, web address www.utc.wa.gov, and mailing address PO Box 47250, Olympia, WA 98504-7250.
- (2) Make a good faith effort to contact the residential or small commercial customer to inform the customer of flexible payment options, financial assistance programs, and any other means to avoid disconnection.
- (3) Provide on the utility website, in a prominent location, all information regarding the flexible payment options and financial assistance programs available to customers.
- (4) Issue disconnection notices(s) specified in WAC 480-90-128 (natural gas) and/or 480-100-128 (electric) and the utility's tariff where not consistent with the rules.
- (5) Follow any applicable disconnection processes outlined in WAC and the utility tariff.

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

- (6) Customers applying for, receiving, and/or participating in a long-term payment arrangement, bill assistance, or medical certification protection will not be disconnected from service.
- (7) Ensure language barriers are removed by providing translation services either through its own customer service center or a contracted language translation service provider.

2. Reconnection of previously disconnected customers

Reconnection of previously disconnected customers is an area of general agreement between the Utilities and Advocates, and Staff's recommendation is a combination of the respective term sheet language.

Staff Recommendation

Staff recommends the Utilities make a good faith effort to contact residential customers who were disconnected for nonpayment between January 1, 2020 and April 17, 2020, and offer reconnection, except for when: (1) reconnection could compromise safe operations, (2) the Utility has proof that the customer benefitted from theft or tampering, or (3) the premises are vacant or unoccupied. If reconnection is denied, the utility must provide commission contact information so the customer can dispute the utility's decision. Reconnections will only be offered for the same service address that was previously disconnected for nonpayment, and each Utility shall waive any fees for reconnections provided under this paragraph. The Utilities must offer any applicable flexible payment plans or other assistance programs to these customers.

3. Fees

Staff recommends accepting the Utility proposed term sheet to waive late fees and deposit requirements for new or existing residential customers until 180 days after the Resumption Date. Additionally, through the Workgroup discussions, Staff understands that the applicability of disconnection and reconnection fees is not consistent across the five utilities (*i.e.*, some utilities do not have disconnection fees in their respective tariff or advanced metering infrastructure eliminates the cost to disconnect or reconnect customers). Staff recommends the Utilities waive any applicable disconnection and reconnection fees in the same fashion as late fees.

The Advocates proposed linking the cessation of waiving fees with a Commission rulemaking docket for a review of disconnection and consumer protection rules. Specifically, an investigation of the potential long-term changes and improvements to the customer notice, credit and collection rules and possible permanent elimination of late fees, disconnection and reconnection fees, and deposits. Staff agrees that an investigation into consumer protection rules with particular attention to the experience of those with limited English proficiency and customers of color is warranted, but is not confident with all other matters before the Commission in the next 12 months that a rulemaking schedule requiring an order issued by

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

November 15, 2021 is feasible. Therefore, Staff recommends the Commission initiate a CR-101 for these issues no later than July 1, 2021.

4. Additional Customer Programs

The Utilities and Advocates recognized through their respective draft term sheets a need for additional bill assistance to provide relief from high arrearages (past due balances) due to the financial hardship caused by the COVID-19 pandemic. No consensus was reached on the details of any potential bill assistance program. The Advocates propose that community action agencies be responsible for administering these funds and that the Utilities permanently modify their existing bill assistance programs to provide this additional benefit with more flexible eligibility standards. The Utilities do not wish to modify existing programs through a COVID-19 response plan and propose the funds be distributed by the individual Utility. However, there is agreement on the funding level of 1 percent of Washington retail revenues, and that no increase to that funding level occurs without prior Commission approval.

Staff Recommendation

Staff recommends each Utility establish a COVID-19 bill payment assistance program, subject to cost recovery under Section 8.e. below, to provide eligible residential customers to include customers earning up to 200 percent of the FPL with annual maximum award amount of \$2500 per household. Additionally, Staff recommends each Utility work with its Low-Income or Energy Assistance Advisory Group to implement its bill assistance program, which may include direct utility assistance, but not require existing program modification or require fund administration by the community action agencies unless the Utility believes that is the more efficient strategy.

5. Long-term Payment Arrangements

While each Utility currently offers payment plans of various durations, the COVID-19 pandemic necessitates more flexible payment arrangements to assist customers financially impacted by the pandemic. The Utilities and Advocates groups agreed to the concept of long-term payment arrangements (TPAs) but not to the specific details of such plans.

Staff Recommendation

Staff recommends the Commission accept the proposed Utility group terms with some modifications based on the Advocates term sheet. Each Utility should offer extended TPAs for up to 18 months for residential customers and 6 months for small commercial customers. For natural gas Utilities, TPA's under this section are not available to transportation customers. Each Utility will offer the availability of these TPAs for 180 days after the Resumption Date. Additional plan requirements or parameters are provided below:

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

- A residential or small commercial customer whose financial condition changes during the term of a TPA, or a customer who defaults on a TPA and who seeks to reestablish payment arrangements, may do so one time under the same terms described above.
- Missing up to two consecutive payments does not constitute default on the payment plan.
- Financial hardship may be verbally expressed and does not require documentation.
- The Utility must disclose to customers seeking long-term payment arrangements of all the programs available to address arrearages, including bill assistance.

6. Arrearage Management Plans

The Advocates propose that the Utilities establish arrearage management plans (AMPs) by a specified date and with minimum eligibility requirements. However, this issue was not discussed at length during the Workgroup sessions. In its draft term sheet, the Utilities group offered to explore the development of such plans.

Staff Recommendation

To address potential long-term solutions for customers' energy burden beyond TPAs, Staff recommends the Commission require the Utilities to explore development of an AMP, Percentage of Income Payment Plan (PIPP), or other potential programs, as well as barriers to access, with their Low-Income or Energy Assistance Advisory Group, including the cost of development and implementation, with such discussions starting within 60 days of Commission action in this proceeding. Further, an update on the progress of those discussions should be provided during the February 2021 open meeting referenced in Section 1. Finally, the Utilities should provide the Commission with either a proposed plan, or if the Utility decides not to pursue a plan, its rationale for that decision, no later than 180 days after the Resumption Date.

7. Credit and Collections Processes

Staff supports more flexible credit and collections processes to advance the goal of keeping customers connected to essential utility services during the COVID-19 pandemic. This is also an area of general agreement between the Utilities and Advocates groups. During the Workgroup sessions, Staff observed that under normal operating conditions, the five utilities had differing practices regarding credit and collections processes. Both groups agreed that the Utilities should continue the practice of not sending active customer accounts to credit bureaus or reporting agencies. However, the draft term sheets did not provide a timeframe for this customer protection to remain in place.

Staff Recommendation

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

Staff recommends that the Utilities continue to refrain from sending active customer accounts to collections agencies, credit bureaus or reporting agencies until 180 days after the Resumption Date. This mirrors the time period that the specified fees are being waived.

8. Cost Recovery

Each utility filed COVID-19 related deferred accounting petitions with the Commission. However, many of those petitions include overly broad requests to defer expenditures and certain revenues. While it is neither normal Commission practice, nor Staff's preference, to allow the deferral of revenues, this is an unprecedented time and the future financial stability and liquidity of the regulated utilities is of equal importance to the immediate customer protections needs. However, Staff does not support the deferral of lost revenues due to the reduction in customer usage.

Cost recovery issues were a significant area of disagreement among Workgroup members. Very little common ground exists. Therefore, Staff provides the following guiding principles for the Commission to consider with regard to COVID-19 deferred accounting. If the Commission agrees with Staff's proposal, Utilities may wish to consider whether they re-file their previous petitions that are currently scheduled to come before the Commission at its November 24, 2020, open meeting or provide additional argument in support of their original request at that later date. Staff expresses support here for any accounting petition that aligns with the guiding principles below. Possible recovery of those amounts deferred will be subject to a future Commission proceeding for prudence review as per the Commission's normal practice.

Staff Recommendation

Staff recommends the Commission approve COVID-19 petitions for deferred accounting through establishing regulatory asset accounts that provide for specific expenditure and revenue categories and regulatory liability accounts for identified benefits. However, due to the unprecedented nature of the COVID-19 pandemic, Staff understands that not all costs and benefits may be known at this time and does not recommend the Commission require the Utilities to provide the estimated deferral amounts at this time. Specifically, Staff supports the following for deferral treatment:

- a. Direct costs for reasonable measures taken by the Utility in response to the COVID-19 pandemic, including incremental costs associated with: personal protective equipment, cleaning supplies and services, contact tracing, medical testing, financing costs to secure liquidity, information technology updates, equipment needed for remote work options, and the administrative needs to implement the term sheet components accepted by the Commission. Direct costs are net of savings, credits, payments, or other benefits received by the Utility from a federal, state, or local government that are directly related to a COVID-19 direct cost, including federal, state, or local tax credits or benefits.

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

- b. Any amount of bad debt expense accrued in 2020 and 2021 above the bad debt baseline as defined below. While the Utilities will defer the bad debt expense that is accrued above the baseline being collected from customers today, it will not collect any amount above the actual amount that is written-off. The bad debt expense baseline is the amount that is currently being collected from customers for bad debt, as determined in their last general rate proceeding as of October 1, 2020.
- c. The average annual amount of late payment fees collected over the previous five years (2015-2019) less the actual amount collected by the Utility from January 1, 2020 through March 1, 2020 for calendar year 2020. For 2021, the Utility may defer that same average prorated on a monthly basis for the period of January 1, 2021 through the Resumption date plus 180 days.
- d. The average annual amount of reconnection charges collected over the previous five years (2015-2019) less the actual amount collected by the Utility from January 1, 2020 through March 1, 2020 for calendar year 2020. For 2021, the Utility may defer that same average prorated on a monthly basis for the period of January 1, 2021 through the Resumption date plus 180 days. However, Utilities with Advanced Metering Infrastructure must prorate the average annual amount by the percentage of AMI meters installed as of March 1, 2020 for calendar year 2021 and January 1, 2021 for calendar year 2021.
- e. Costs to fund a COVID-19 bill payment assistance program, as described in Section 4.

Further, Staff recommends the Commission require each Utility to provide future reports that itemize the utility costs in any approved COVID-19 petitions for deferred accounting in the docket approving the petition. The first report shall be filed by December 1, 2020, and cover the period between March 1, 2020, and September 30, 2020. Thereafter, reports should be required 30 days after the close of each quarter and shall include information from the previous quarter. These quarterly reports should be required until the conclusion of the proceeding in which the Utility requests recovery of the deferred expenses, or until such time the Commission determines the reports no longer provide benefit.

9. Data and Reporting

Staff recommends the Commission request the Workgroup members to submit suggested health and economic metrics for consideration by December 1, 2020, if the Commission agrees with the Staff recommendation to reassess the COVID-19 pandemic conditions in early February 2021. However, Staff provides some initial thoughts for consideration.

Health Considerations:

- What Safe Start Phase are each of the counties in by utility service territory?

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

- Has public education returned to in-person learning?

Economic Considerations:

- Unemployment rate and trends by county
- United States Census Bureau Economic Indicators (Source www.census.gov)
- Consumer Price Index, West Region (Source www.bls.gov)
- Monthly GDP Trends (Source www.bea.gov)

Staff also recommends the following data (by month) be provided to this docket no later than December 1, 2020, for the period of March 1, 2020 through September 30, 2020. This same data should be reported to the Commission no later than February 1, 2021 for the period of October 1, 2020 through December 31, 2020, and on a quarterly basis until 180 days after the Resumption Date. Further, Staff requests the Utilities work with Staff to develop a reporting template for ease of review by the Advocates, Staff, and interested members of the public.

1. General

- a. The number of customers, by customer class; and
- b. The retail load by customer class.

2. Disconnections

- a. The number of customers, by customer class, disconnected each month during the period;
- b. Average duration of disconnection by customer class;
- c. The number of customers, by customer class, receiving disconnection notices each month during the period;
- d. The number of customers, by customer class, who would have been disconnected each month for non-payment but for the moratorium; and

3. Fees

- a. The number of customers, by customer class, assessed late payment fees, disconnection fees, or reconnection fees or charges each month during the period, and the aggregate amount of each type of fee charged; and

4. Long-term Payment Agreement, Arrearage Management Plans (AMPs), and debt relief

- a. The number of customers, by customer class, taking service at the beginning of each month during the period under existing long-term payment agreements;
- b. The number of customers by customer class, completing long-term payment agreements each month during the period;
- c. The number of customers, by customer class, enrolling in new long-term payment agreements each month during the period;
- d. The number of customers, by customer class, renegotiating long-term payment agreements each month during the period;

UTC Staff Proposed COVID-19 Response Term Sheet Memo

Docket U-200281

September 17, 2020

5. Medical Certificate Data

- a. The number of customers taking service at the beginning of each month during the period under existing medical payment arrangements;
- b. The number of customers completing medical payment arrangements each month during the period;
- c. The number of customers enrolling in new medical payment arrangements each month during the period;
- d. The number of customers renegotiating medical payment arrangements plans each month during the period; and

6. Deposits

- a. The number of customers, by customer class, with required deposits with the company at the beginning of each month during the period;
- b. The number of customers, by customer class, required to submit new deposits or increased deposits each month during the period;
- c. The number of customers, by customer class, whose required deposits were reduced in part or foregone each month during the period; and
- d. The number of customers, by customer class, whose deposits were returned in full each month during the period;

7. Bill Assistance

- a. Number of premises receiving bill assistance or enrolled in any other assistance program;

8. Past Due Balances

- a. The number of customers by customer class with past-due balances (arrearages);
- b. The amount of past-due balances, by customer class, that are 30, 60, 90, and more than 90 days past due, and the total amount of arrearages;
- c. The amount of past-due balances for known low-income households that are 30, 60, 90, and more than 90 days past due, and the total amount of these arrearages;
- d. The amount of past-due balances classified as uncollectible;
- e. If different than item d, the amount of past-due balances written off and classified as bad debt; and
- f. The number of customer accounts referred to collection agencies, the total amount of debt referred for collection, and total revenue to the company from the collection process.

Reporting on Utility costs in responding to COVID-19 should be reported as recommended in the Cost Recovery section of this document.