

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

Response to the COVID-19 Pandemic

DOCKET U-200281

ORDER 02

EXTENDING SUSPENSION
OF DISCONNECTION OF
ENERGY SERVICES FOR
NONPAYMENT AND
ADOPTING RELATED
REQUIREMENTS

BACKGROUND

- 1 On April 17, 2020, Governor Inslee issued Proclamation 20-23.2, which prohibits all energy, water, and telecommunications providers from (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. The prohibition was set to expire on May 4, 2020, but subsequent proclamations have extended that date through April 30, 2021. Proclamation 20-23.4, issued on May 29, 2020, also requires utilities to develop COVID-19 Customer Support Programs consistent with state guidance from the Governor's office, and that will address payment plan options for residential customers who are in arrears due to the COVID-19 pandemic.
- 2 The Commission formed a COVID-19 response workgroup of stakeholders to facilitate development of guidelines for ensuring that customers experiencing economic hardship due to the 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access to essential services after Proclamation 20-23 expires and the moratorium on disconnections and late fees is no longer in effect. Workgroup members included Commission staff (Staff), energy utilities Puget Sound Energy, Avista Corporation, d/b/a Avista Utilities, PacifiCorp, d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company (collectively Joint Utilities), and consumer, social justice, and environmental advocates the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel), The Energy Project, Front and Centered, Northwest Energy Coalition (NWECC), Puget Sound Sage, and the Sierra Club (collectively Joint Advocates).
- 3 Workgroup members exchanged proposed term sheets and participated in several workshops. Based on those discussions, Staff prepared a term sheet that reflected the terms on which the workgroup agreed and Staff's recommended resolutions of the disputed issues (Term Sheet).

- 4 On October 6, 2020, the Commission conducted a recessed open meeting to address the Term Sheet. The Commission heard oral comments from members of the public and presentations from Staff, the Joint Utilities, and the Joint Advocates.
- 5 Staff revised the Term Sheet to reflect the Commission’s discussion during the recessed open meeting (Revised Term Sheet). The Commission heard additional comment on the Revised Term Sheet at its regularly scheduled open public meeting on October 15, 2020.
- 6 On October 20, 2020, the Commission entered Order 01 in this docket, which adopted the Revised Term Sheet with modifications that (1) clarify how customer communication plans should be developed, and (2) direct Staff to open a docket to prepare a CR-101 when reasonably practicable to consider potential long-term changes and improvements to customer notice, credit, and collection rules. Order 01 extended the moratorium on disconnections for nonpayment of services by residential and small commercial customers until April 30, 2021, and further provided that the Commission would assess the health and economic conditions in early February 2021 to evaluate requirements prior to the April 30, 2021, disconnection moratorium expiration date.
- 7 On January 26, 2021, the Commission issued a Notice of Opportunity to File Written Comments and Notice of Recessed Open Meeting set for February 17, 2021. The Commission received 614 written comments, all of which support extending the moratorium on disconnections due to nonpayment until at least September 2021. Commenters highlighted a recent study by the National Bureau of Economic Research that showed lower infection and death rates in communities that banned disconnections.¹ Commenters also expressed concern that up to 2.2 million people in Washington could be struggling to pay for food and noted that utilities are more essential than ever to keep communities healthy and safe.
- 8 Staff engaged in ongoing discussions with the Joint Utilities and Joint Advocates, which produced a range of potential outcomes that considered health data, economic data, and growing customer arrearages. Based on these three data points, Staff recommends extending the disconnection moratorium until July 31, 2021, to balance the need to address the continuing impacts of the pandemic and limiting the growth of customer arrearages. Staff prepared a Second Revised Term Sheet to reflect its recommendations. The Second Revised Term Sheet changes the date the disconnection moratorium expires and the timeframe to resume providing notice to customers who are at risk of being

¹ See <https://nicholasinstitute.duke.edu/articles/moratoria-utility-shutoffs-and-evictions-reduced-covid-19-infection-rates-duke-analysis>.

disconnected for nonpayment and adds a requirement to review the Joint Utilities' preparedness to assist customers at the Commission's first regularly scheduled or recessed open meeting in May 2021. The Second Revised Term Sheet contains other minor, ministerial changes, but is otherwise identical to the Revised Term Sheet approved by Order 01 in this docket.²

- 9 This matter came before the Commission at its recessed open meeting on February 17, 2021. The Commission heard oral comments from members of the public and presentations from Staff, the Joint Utilities, and the Joint Advocates.
- 10 Staff and the Joint Utilities recommend extending the disconnection moratorium until July 31, 2021, as reflected in Staff's Second Revised Term Sheet. Each of the Joint Utilities will file COVID-19 plans in late February, which will be implemented on April 1, 2021. The plans will detail the Joint Utilities' approach to customer outreach related to disconnection notices, payment plans, and resources for financial assistance prior to resuming disconnections for nonpayment.
- 11 Staff recommends the Commission revisit this matter at a regularly scheduled or recessed open meeting in May 2021, prior to the Joint Utilities resuming disconnection notice activities, to discuss customer outreach efforts, COVID-19 plan updates, and the Joint Utilities' readiness to support vulnerable customers.
- 12 Many public commenters expressed concerns about resuming disconnections prematurely and urged the Commission to extend the moratorium until at least July 31, 2021. Other commenters urged the Commission to extend the moratorium until September 2021.
- 13 The Joint Utilities support extending the moratorium until July 31, 2021, and clarifying that they can resume disconnection notice activities in June. The Joint Utilities also presented data related to customer arrearages and described their customer outreach efforts, communication plans, and available and planned financial assistance.
- 14 Public Counsel supports Staff's recommendation to extend the moratorium through July 31, 2021, but disagrees with the proposal in Staff's Second Revised Term Sheet that disconnection notice activities should resume prior to that date. Public Counsel supports

² Specifically, Section A.1 of the Second Revised Term Sheet changes the date for resumption of disconnection activities from April 30 to July 31, 2021. New Section A.2 clarifies that the Joint Utilities may begin the notification process described in Section A.5 during the June billing cycle and now includes a diagram of the disconnection notice timeline. Section A.4 outlines the activities for the May 2021 open meeting. Lastly, past reporting dates and the completed request for comments on economic metrics, which were filed December 1, 2020, were deleted from Section I.

revisiting this matter in May 2021 to reevaluate the moratorium expiration date, and emphasized that customers' inability to pay, rather than unwillingness to pay, has resulted in increased arrearages.

- 15 The Energy Project echoed Public Counsel's concerns and urged the Commission to delay the onset of disconnection notice activities to allow customers adequate time to seek and obtain assistance from community action agencies. The Energy Project further recommends the Commission prohibit the Joint Utilities from disconnecting the most vulnerable customers until those customers are able to receive financial assistance. The Energy Project also advocates that the Joint Utilities engage in focused outreach with their most vulnerable customers.
- 16 NWEC expressed similar concerns that customers be given sufficient time to obtain financial assistance. NWEC urges the Commission to consider multiple factors when making that determination, including company readiness and health and economic data, and to work with other state agencies to ensure that resuming disconnections will not cause further harm to vulnerable customers.
- 17 Front and Centered and the Sierra Club expressed concerns over the disproportionate impacts of COVID-19 on BIPOC (Black, indigenous, and people of color) communities, and urged the Commission to require better outreach and communication from the Joint Utilities to ensure customers stay connected without threatening disconnection.
- 18 Finally, Puget Sound Sage provided statistics regarding COVID-19-related deaths, which disproportionately impact BIPOC communities. Puget Sound Sage agrees with the other Joint Advocates that disconnection efforts, including disconnection notice activities, should not resume before July 31, 2021, at the earliest.

DISCUSSION

- 19 The Commission adopts Staff's Second Revised Term Sheet, which extends the moratorium on disconnections for nonpayment until July 31, 2021, and allows the Joint Utilities to resume disconnection notice activities 60 days prior to that date. We recognize, however, that the economic issues impacting utility customers are ongoing. To that end, we will reassess the status of the pandemic and its health and economic impacts at a regular or recessed open meeting in early May, prior to the Joint Utilities resuming disconnection notice activities, and revisit the possibility of extending the moratorium.
- 20 At the Commission's recessed open meeting on February 17, 2021, the Joint Utilities provided data to demonstrate that disconnection notices provide an effective incentive to

customers with past due balances to contact and work with their utility to address those arrearages. The Joint Advocates, on the other hand, made compelling arguments that the means and methods utilities use to provide such notice can create additional stress for economically vulnerable customers in these trying times. Like the Joint Advocates, we are also concerned that customers have adequate time and ability to seek and obtain financial assistance.

- 21 Accordingly, we encourage the Joint Utilities to work with stakeholders to ensure that disconnection notices use nonconfrontational and nonthreatening language, and present options for customers to seek financial assistance or payment plans to prevent service interruptions. We also expect the Joint Utilities to reach out to new community partners to explore additional ways to communicate with hard-to-reach customers, to remove barriers that prevent customer engagement, and to facilitate the process for eligible customers to obtain financial assistance.
- 22 Revisiting the Second Revised Term Sheet in May will be crucial to assessing how the Joint Utilities are addressing long-term and extensive arrearages, as well as customer outreach and engagement. Most importantly, it will provide the Commission an opportunity to engage with stakeholders about the need to further extend the moratorium based on health and economic data available at that point in time, which will inform how we will move forward. The pandemic continues, and efforts to combat it are evolving. The Commission is committed to remaining flexible when addressing the changing circumstances in these challenging times.
- 23 We therefore direct Staff to place this item on a regular or recessed open meeting agenda in early May to consider this matter again in light of the conditions that then exist. Our decision today is an interim, necessary step to extend the current moratorium until July 31, 2021. We remain open, however, to the possibility of further extending the disconnection moratorium and taking other action if the circumstances so warrant.
- 24 The Commission appreciates hearing from the public and all stakeholders on this matter. We remain committed to addressing equity issues that impact utility customers, and we look forward to continuing to engage with stakeholders and the public to protect Washington's most vulnerable communities.

FINDINGS OF FACT

- 25 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including investor-owned electric companies and natural gas

distribution companies.

- 26 (2) Puget Sound Energy, Avista Corporation, d/b/a Avista Utilities, PacifiCorp, d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company are public service companies regulated by the Commission, providing service as electric companies or natural gas distribution companies.
- 27 (3) On April 17, 2020, Governor Inslee issued Proclamation 20-23.2, which prohibits all energy providers from (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. That prohibition currently expires on April 30, 2020.
- 28 (4) The Commission formed a COVID-19 response workgroup of stakeholders to facilitate development of guidelines for ensuring that customers experiencing economic hardship as a result of the 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. Workgroup members included Staff, Joint Utilities, and Joint Advocates.
- 29 (5) Based on its discussions with workgroup members, Staff developed a Term Sheet with guidelines and directives to address the issues the Commission presented to the workgroup. Staff revised the Term Sheet after the Commission considered it at a recessed open meeting on October 6, 2020, and the Commission adopted Staff's Revised Term Sheet in Order 01 entered on October 20, 2020.
- 30 (6) Staff continued to engage in discussions with the Joint Utilities and Joint Advocates to consider the impacts of health data, economic data, and growing customer arrearages on the Revised Term Sheet. Based on these discussions, Staff prepared the Second Revised Term Sheet reflecting the terms on which Staff and the Joint Utilities agree.
- 31 (7) The Commission received written comments on Staff's Second Revised Term Sheet and oral comments at a recessed open meeting on February 17, 2021.

CONCLUSIONS OF LAW

- 32 (1) The Commission has jurisdiction over the subject matter of this proceeding and over Puget Sound Energy, Avista Corporation, d/b/a Avista Utilities, PacifiCorp,

d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company.

- 33 (2) The recommended terms in the Second Revised Term Sheet are fair, just, reasonable, and sufficient as modified in this Order.
- 34 (3) The Commission should adopt and require the Joint Utilities to implement or otherwise comply with the recommended terms in the Second Revised Term Sheet as described in and modified by this Order.
- 35 (4) The Commission should not adopt the modifications the Joint Advocates propose to the recommended terms in the Second Revised Term Sheet.
- 36 (5) The Commission should direct Staff to schedule further Commission discussion of this matter at a recessed or regularly scheduled open meeting in early May.

ORDER

THE COMMISSION ORDERS:

- 37 (1) The Commission adopts the recommendations in the Second Revised Term Sheet attached to this Order as Appendix A and incorporated into this Order as described in the body of this Order.
- 38 (2) Commission Staff, where applicable, and Puget Sound Energy, Avista Corporation, d/b/a Avista Utilities, PacifiCorp, d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company must implement or otherwise comply with the terms set forth in Appendix A as modified by and described in the body of this Order.
- 39 (3) The Commission will reassess the Second Revised Term Sheet and related issues at a recessed or regularly scheduled open meeting in May 2021.
- 40 (4) The Commission delegates to the Secretary the authority to approve submissions in compliance with this Order.
- 41 (5) The Commission retains jurisdiction to enforce this Order.

DATED at Lacey, Washington, and effective February 18, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner