

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

Response to the COVID-19 Pandemic

DOCKET U-200281

**COMMENTS OF
THE OFFICE OF THE ATTORNEY GENERAL
PUBLIC COUNSEL UNIT**

April 30, 2021

I. INTRODUCTION

1. Pursuant to the Utilities and Transportation Commission's ("Commission") Notice of Opportunity to File Written Comments dated March 31, 2021 ("Notice"), the Public Counsel Unit of the Washington State Attorney General's Office ("Public Counsel") submits the following comments.
2. This docket continues to be important to Washingtonians' safety and wellbeing during the COVID-19 pandemic. Having extended the disconnection and late fee moratorium through July 2021, the Commission will review the status and progress of certain Utility efforts and available health and economic data to determine whether to lift or extend the moratorium further. In Order 02, the Commission stated, "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." The Commission correctly understands the fluid nature of the pandemic and the need for protections.
3. Public Counsel will first address available health and economic data, and then utility efforts.¹ Additionally, Public Counsel's comments from February 12, 2021 remain relevant. Public Counsel incorporates them with this reference and attaches a copy of the February 12th comments as Appendix A for the reader's convenience.

¹ Because information is still developing regarding utility efforts, Public Counsel may provide additional written comments before the May 12, 2021 Open Meeting.

II. PANDEMIC OVERVIEW AND AVAILABLE HEALTH AND ECONOMIC DATA

4. In early 2020, it was uncertain how long the pandemic would last, how it would progress, or the depth of its impact. Deep economic impact arose almost immediately, sending millions into unemployment or significantly reduced work hours. In many regards, the uncertainty from the beginning of the pandemic persists today; however, available information gives greater context to the issues before the Commission. That context continues to demonstrate that the Commission should exercise caution to ensure that customers do not unnecessarily experience disconnections during the pandemic and associated economic impact. The disconnection moratorium should not be lifted before sufficient opportunity for recovery is available.
5. While the Utilities will file updated data in this docket, Public Counsel has engaged with the Utilities through their Low-Income Advisory Groups. Through those groups, Public Counsel understands that the data continues to demonstrate that 30- and 60-day past due balances are comparable to balances from 2019. The 90-day past due balances, however, were significantly greater for 2020 than they were in 2019, and that trend has continued into the first quarter of 2020. The charts, Figures 1 and 2 below, show the comparison of Avista's and Pacific Power's 90-day past due balances for 2020 and 2019.

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Figure 1

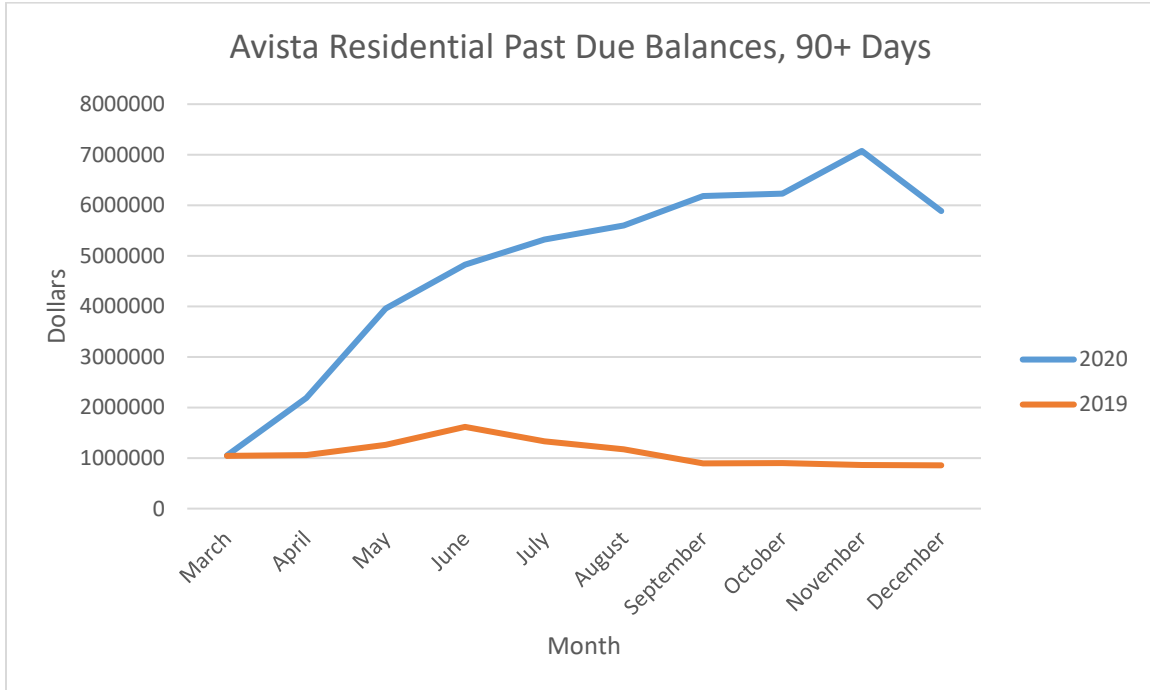
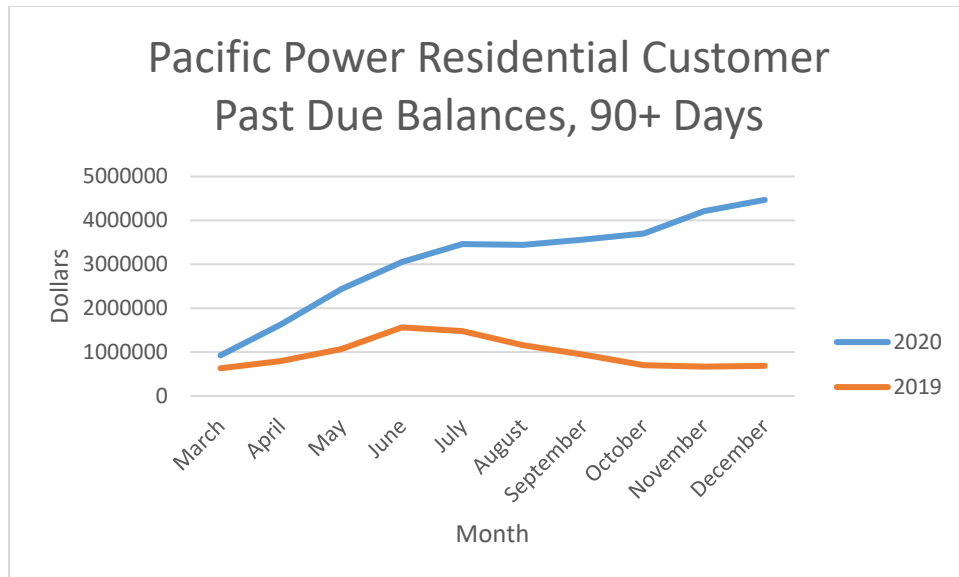


Figure 2



6. Data from both of these Utilities show that those suffering the most economic pain under normal circumstances are suffering even more economic pain as a result of the pandemic. This

same pattern exists across all five of Washington's energy Utilities. This fact has long been discussed in this docket. The question that will have the most impact on vulnerable households is how policymakers will protect these households to avoid additional, unnecessary harm. To date, the Commission's actions in this docket have provided a solid framework to protect customers through the pandemic.

A. The Health and Economic Pictures Continue to be Uncertain

7. More vaccines are available in Washington, lending hope that the end of the pandemic is in sight. For example, in King County, the weekly allocation of doses has increased from 18,525 in early December 2020 to 180,070 in late April 2021, representing a nearly 1,000 percent increase. King County has administered approximately 1.9 million doses, with 62.7 percent of residents age 16 and older receiving one dose. Fully vaccinated residents over the age of 16 totals 40.5 percent.² Statewide, approximately 31 percent of eligible Washingtonians are fully vaccinated, which is on par with other states.³ Walk-up appointments and extended hours for vaccination are available in south King County,⁴ providing greater opportunity for those who may not have previously been able to schedule an appointment.

² King County, *Summary of COVID vaccination among King County residents; Updated daily, Monday-Friday*. Available at, <https://kingcounty.gov/depts/health/covid-19/data/vaccination.aspx> (Last visited April 30, 2021).

³ Audrey Carlsen et al., *How Is The COVID-19 Vaccination Campaign Going In Your State?* NPR, available at, <https://www.npr.org/sections/health-shots/2021/01/28/960901166/how-is-the-covid-19-vaccination-campaign-going-in-your-state> (Last visited April 28, 2021). See Interactive Chart: Which States Have Vaccinated More of Their Population; Interactive Chart: When Might a Majority of People in Your State Be Fully Vaccinated?

⁴ KOMO News Staff, *No appointment needed at 2 King County COVID vaccination sites*, KOMO NEWS (Apr. 29, 2021), available at <https://komonews.com/news/local/no-appointment-needed-at-2-king-county-covid-vaccination-sites>.

8. Despite the good vaccination news, Governor Jay Inslee declared that Washington is entering a fourth surge of the virus at a recent press conference.⁵ The Department of Health's COVID-19 Dashboard Epidemiologic Curves show that cases and hospitalizations are increasing.⁶ Furthermore, King County's Public Health Director recently stated that the county, currently in Phase 3 of reopening, may move back into Phase 2 in the first week of May 2021.⁷ Pierce, Cowlitz, and Whitman Counties all reverted from Phase 3 to Phase 2 earlier in April 2020 due to negative trends.⁸ The increased case counts and hospitalizations, along with the backward Phase movement, illustrate the uncertainty that shrouds this pandemic.

9. In terms of economic recovery, the data is also mixed. Unemployment levels were approximately 13 percent during earlier periods of the pandemic. Washington's current unemployment rate is 6.4 percent.⁹ While this is encouraging, a number of industries have not recovered from the impacts of the pandemic. For example, the leisure and hospitality industry still employs 28 percent less people than a year ago. Manufacturing employs 12 percent less than a year ago and education services and other services, which includes personal services, both employ 13 percent less. Moreover, the number of people receiving basic food assistance during

⁵ Joseph O'Sullivan, *Inslee: Washington has entered its fourth wave of COVID-19* (Last Updated April 23, 2021), THE SEATTLE TIMES, available at <https://www.seattletimes.com/seattle-news/politics/inslee-washington-has-entered-its-fourth-wave-of-covid-19/>.

⁶ Wash. Dep't of Health, *COVID-19 Dashboard* (Last Updated Apr. 28, 2021), available at <https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard>. Epidemiologic Curves showing cases and hospitalizations rising. Deaths are relatively flat, but deaths lag behind hospitalizations.

⁷ David Gutman, *King County likely to move back to COVID reopening phase 2, public health director says*, THE SEATTLE TIMES (Apr. 27, 2021), available at <https://www.seattletimes.com/seattle-news/health/king-county-likely-to-move-back-to-covid-reopening-phase-2-public-health-director-says/>.

⁸ *Ibid.*

⁹ Wash. Dep't of Com., *Economic Recovery Dashboard*, available at <https://www.commerce.wa.gov/datadashboard/> (Last visited on April 29, 2021).

January and February 2021 were higher than all months in 2020.¹⁰ The number of people receiving Temporary Assistance for Needy Families (TANF) is slightly lower in January and February 2021 than during 2020.¹¹ This data does not indicate that utility customers at risk of disconnection will be able to successfully navigate resumption of credit and collections and utility disconnection activities.

B. Disparate Impacts on BIPOC Communities Persist

10. The recovery from the pandemic continues to be uneven, with marginalized communities continuing to bear the brunt of the crisis. As stated previously, utility customers with arrearages of 90 or more days continue to face difficulty staying current on their utility bills. These customers may have been economically vulnerable prior to the pandemic or work in low-wage service and leisure industry jobs that have not returned. In previous comments, Public Counsel and the Joint Advocates have noted the disparate health and economic impacts on BIPOC communities throughout the pandemic. Unfortunately, these inequities are also present in vaccination efforts, a critical component of reopening and recovery.

11. King County vaccination data shows that 58.8 percent of all white/Caucasian residents have initiated or completed vaccination, whereas only 44.6 percent of Latinx and 44.1 percent of Black/African American residents have initiated or completed vaccination.¹² King County Public

¹⁰ Wash. Dep't of Com., *Economic Recovery Dashboard*, available at <https://www.commerce.wa.gov/datadashboard/> (Last visited on April 29, 2021). Support Programs, Participants by Month (Basic Food).

¹¹ Wash. Dep't of Com., *Economic Recovery Dashboard*, available at <https://www.commerce.wa.gov/datadashboard/> (Last visited on April 29, 2021). Support Programs, Participants by Month (TANF).

¹² King County, *Summary of COVID vaccination among King County residents; Updated daily, Monday-Friday*. Available at, <https://kingcounty.gov/depts/health/covid-19/data/vaccination.aspx> (Last visited April 29, 2021).

Health officials have undertaken efforts to improve disparities in vaccine availability and administration, but disparities still exist.

C. Localized Arrearage Data Can Inform Utility Relief Efforts

12. Public Counsel is analyzing arrearage, zip code, and income data. This analysis relates service territory geography to income data and total arrearages on a zip code level. Below, Figure 3, depicting PSE’s service territory, and Figure 4, depicting PSE’s service territory in King County, show two critical types of information: median income and total arrearages in each zip code. Median household income¹³ in each zip code is depicted with a yellow to green scale, with yellow being lower income and green being higher income. If a zip code is more yellow, the median household income is lower. If a zip code is more green, the median household income is higher. Arrearages in each zip code are visualized with the blue circles, and the larger the circle, the higher the respective total arrearages.

13. In Figure 3, the data shows that arrearages exist throughout PSE’s service territory, but are concentrated in a few areas: South King County, the Kitsap Peninsula, and Whatcom County.

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¹³ Median household income is derived from 2019 American Community Survey data, available at <https://data.census.gov/cedsci/>.

Figure 3

Arrearages and Median Income in PSE's Service Territory

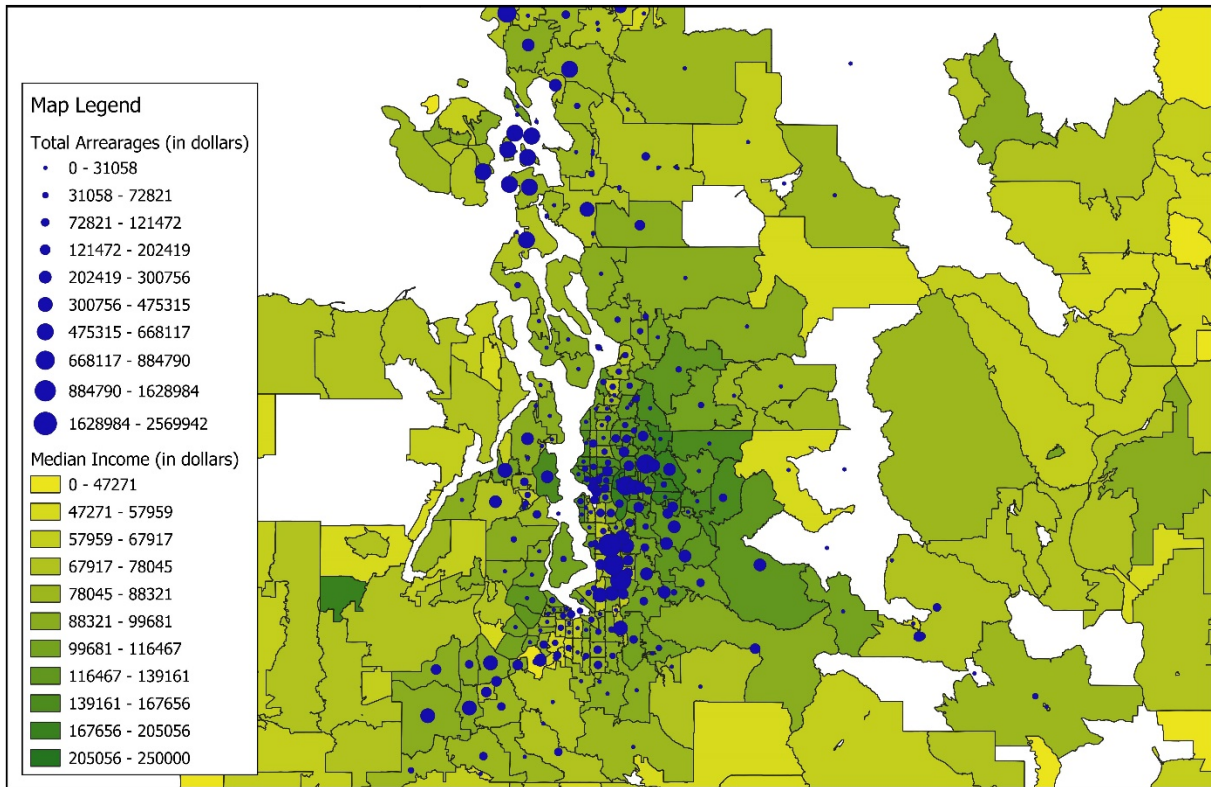
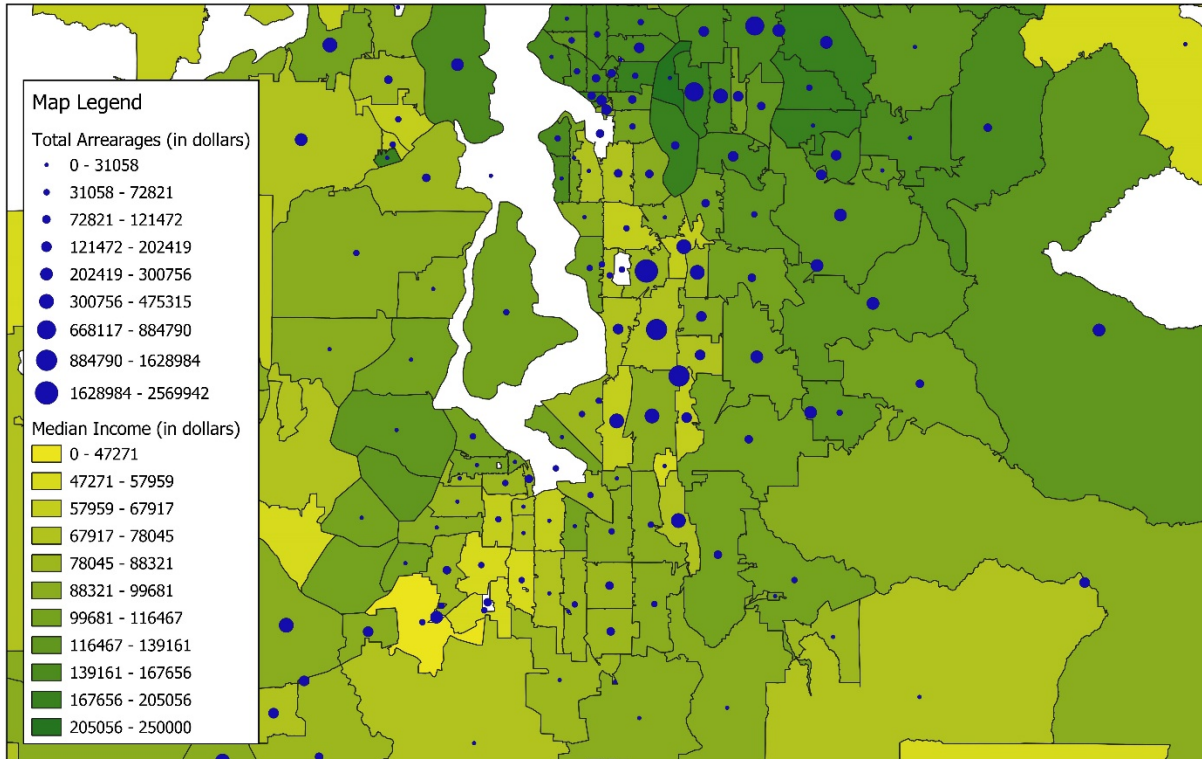


Figure 4

Income and PSE Arrearages in King County



14. Figure 4 above illustrates that, particularly in South King County, arrearages tend to be higher in relatively lower income zip codes. However, arrearages exist even in relatively higher income zip codes. By using this type of data, Utilities can identify areas with higher concentrations of arrearages and can localize their outreach efforts in those areas. At the same time, however, outreach must be comprehensive in that attempts are made to reach customers throughout the service territory, even in areas with relatively higher incomes such as East King County.

15. As more information is provided by the Utilities regarding arrearages, Public Counsel will update this analysis.

III. UTILITY EFFORTS TO ADDRESS CUSTOMER DEBT HAVE BEGUN

16. As Public Counsel noted in our February 12, 2021 comments, the disconnection moratorium has successfully kept customers connected to essential services, saving lives during the pandemic.¹⁴ Debt relief is a critical component to the response to the pandemic and the associated economic crisis. Debt relief will prevent customers from falling off the disconnection cliff once the disconnection moratorium is lifted and will allow customers an opportunity to stay current on their energy bills.

17. The Commission recognized that the economic crisis created a situation where vulnerable customers were accruing debt that was likely to be impossible to address without assistance. In October 2020, the Commission required the utilities to take important steps to address debt relief, including developing specific COVID relief programs.¹⁵ All five of the Commission-regulated electric and natural gas utilities have established programs to relieve up to \$2,500 of arrearages for income-qualifying customers. These programs have only recently been approved and, through Public Counsel's engagement in the utilities' Low-Income Advisory Groups, we understand that funds have reached only a small portion of eligible customers. Indeed, most utility debt relief programs did not go into effect until April 1, 2021, and Northwest Natural Gas' program did not begin until mid-April. The dollars simply have not had sufficient time to reach vulnerable customers and materially address the accrued past-due balances.

¹⁴ Comments of Public Counsel, ¶ 5 (Feb. 12, 2021).

¹⁵ Order 01 Extending Suspension of Disconnection of Energy Services for Nonpayment and Adopting Related Requirements, ¶ 18 (Oct. 20, 2020).

18. For example, Puget Sound Energy is still in the earliest phases of making funds available to customers. At the time of this filing, only customers who have received bill assistance in the last two program years *and* have arrearages of 60 or more days have received debt-relief funds. All other eligible customers will not receive funds until May at the earliest, and it will take time to administer the program. As a result, many customers have not been able to adequately address their debt.
19. The Utilities each have automatic assistance programs that immediately qualify people who have accessed low-income bill assistance in the past. While this is a good first step, this will reach only a small portion of eligible people. Not only have Utilities not had time to reach out to eligible customers who have not been previously enrolled in an assistance program, but the effects of long-standing under-enrollment in assistance programs are also playing out with pandemic-related relief. Existing bill assistance programs have historically reached between 15 and 25 percent of eligible customers, and while there are on-going efforts to reach more vulnerable customers, the fact remains that many of those customers have not been connected to assistance programs.
20. The Utilities need to engage in dramatic outreach to effectively reach their vulnerable customers. Dramatic outreach goes beyond automated systems, emails, and flyers, which are all part of a comprehensive communication plan, but are inadequate by themselves. Dramatic outreach involves identifying vulnerable communities and engaging those communities to determine what they need, both in terms of resources and communications preferences. Dramatic outreach involves building relationships with trusted community leaders and organizations that serve vulnerable and marginalized communities. This takes time to develop and is necessary to effective implementation of the Utilities' COVID relief programs.

21. As such, it is critical that the Commission continue to monitor the rollout of relief efforts and exercise caution before disconnections and collections resume. Prematurely initiating these processes would only serve to undermine the tremendous efforts Washingtonians have made to remain healthy and the beneficial policies supported by the Commission in this docket to protect customers.

IV. RECOMMENDATION AND CONCLUSION

20. Public Counsel recommends that the Commission extend the disconnection moratorium, at least until assistance dollars have been applied to the arrearages that have built up over the last year or so. The Commission expressed its concern that customers have adequate time and opportunity to seek and obtain financial assistance.¹⁶ Because assistance programs have only recently been implemented, the dollars have not reached customers, and extending the disconnection moratorium beyond July 31, 2021, would allow the programs to positively impact customers carrying past-due balances. For the length of this proceeding, Public Counsel and others have raised the concern about pushing customers off the disconnection cliff. Allowing the moratorium to end prior to effective assistance program implementation and recovery makes that disconnection cliff more likely.

21. Public Counsel recommends that the disconnection moratorium be extended by 60 days to September 30, 2021, to allow programs to operate. Public Counsel is concerned that 60 days may be inadequate, and we may update this recommendation based on new utility information

¹⁶ Order 02 Extending Suspension of Disconnection of Energy Services for Nonpayment and Adopting Related Requirements, ¶ 20 (Feb. 18, 2021).

anticipated in this docket. However, we believe at this time that 60 days is reasonable to allow for additional Commission review of the moratorium.

22. Additionally, the Commission should not allow the Utilities to resume credit and collection activities before the disconnection moratorium is lifted. From a customer's perspective, a notice saying that the utility will disconnect service for nonpayment upon expiration of the disconnection moratorium essentially ends the moratorium. The customer is not concerned with the nuance that the disconnection will occur after the moratorium ends. For that customer, the disconnection is a real possibility upon receiving that notice. Moreover, receiving a disconnection notice before the end of the moratorium is potentially confusing to customers, who are navigating the pandemic and the resources available to them.

23. Public Counsel appreciates the opportunity to submit these comments. Questions about these comments may be directed to Lisa W. Gafken at lisa.gafken@atg.wa.gov or (206) 464-6595 or Corey Dahl at corey.dahl@atg.wa.gov or (206) 646-6380. We look forward to continued discussion with the Joint Advocates, the Utilities, and the Commission on these important topics at the May 12, 2021 Recessed Open Meeting.

Dated this 30th of April, 2021.

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Appendix A
Public Counsel Unit
February 12, 2021 Comments

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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Response to the COVID-19 Pandemic

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**COMMENTS OF
THE OFFICE OF THE ATTORNEY GENERAL
PUBLIC COUNSEL UNIT**

February 12, 2021

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I. INTRODUCTION

1. Pursuant to the Utilities and Transportation Commission’s (“Commission”) Notice of Opportunity to File Written Comments dated January 26, 2021 (“Notice”), the Public Counsel Unit of the Washington State Attorney General’s Office (“Public Counsel”) submits the following comments. The Commission established a workgroup in this docket consisting of Puget Sound Energy, Avista Corporation, PacifiCorp d/b/a Pacific Power & Light Company, Cascade Natural Gas Company, and NW Natural Gas Company,¹ Public Counsel, The Energy Project, NW Energy Coalition, Front & Centered, Puget Sound Sage, and Sierra Club.² Throughout this proceeding, the Joint Advocates have worked closely to collectively advance the strongest consumer protections in response to the COVID-19 pandemic. The Joint Advocates continue to coordinate with that shared goal. In this round of comments, the Joint Advocates file separately to focus on different aspects of the issues presented for the Commission’s February 17, 2021 recessed open meeting. Overall, Public Counsel supports the other Joint Advocates’ recommendations.

II. OVERVIEW

2. The COVID-19 pandemic presents a large-scale crisis well outside our normal experience. Jobs rapidly disappeared and have been slow to return due to the public health crisis caused by a highly contagious, deadly disease that requires us to socially distance to prevent the spread of the coronavirus. This situation remains fluid, and while no one can predict with

¹ Collectively referred herein as “Utilities.”

² Collectively, Public Counsel, The Energy Project, NW Energy Coalition, Front & Centered, Puget Sound Sage, and Sierra Club are referred to herein as “Joint Advocates.”

specificity when the pandemic will conclude, vaccines being administered offer some hope. The pandemic has not yet subsided, though, so connection to vital utility services remains critical.

3. Generally, disconnection from essential utility service is viewed as a negative outcome, and Washington policies protect customers while addressing a company's need to receive payment for services.³ The pandemic, however, created a situation in which millions lost their ability to earn their wages and were instructed to stay home to minimize transmission of the disease. The pandemic economically devastated customers, particularly those already struggling economically, while also posing a tangible life-or-death situation. Maintaining connection to essential utility service has been imperative to both individual and community safety.

4. Governor Inslee recognized early during the pandemic that keeping people connected to essential utility service “supports the fundamental public purpose of protecting public health and welfare.”⁴ The disconnection moratorium established in Proclamation 20-23.2 has been extended from time to time and is currently set to expire on April 30, 2021. The Commission similarly recognized the pandemic's gravity, and convened a workgroup “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.*”⁵

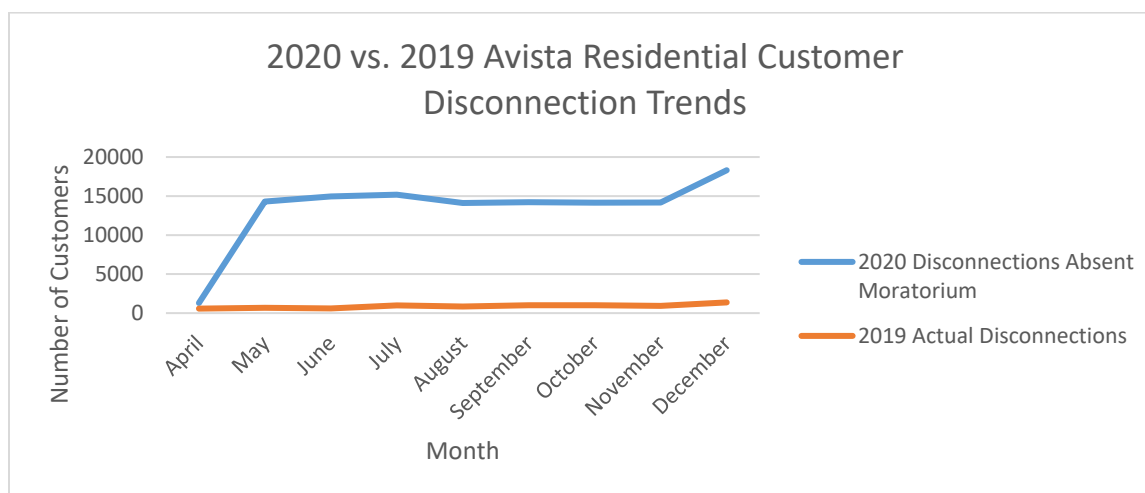
³ See, WAC 480-100-128, WAC 480-100-133, WAC 480-90-128, WAC 480-90-133.

⁴ Wash. Exec. Order No. 20-23.2 (Apr. 17, 2021) (Ratepayer Assistance and Preservation of Essential Services), available at <https://www.governor.wa.gov/sites/default/files/proclamations/20-23.2%20-%20COVID-19%20Ratepayer%20Assistance.pdf>.

⁵ *In the Matter of Response to COVID-19 Pandemic*, Docket U-200281, Order 01: Extending Suspension of Disconnection of Energy Services for Nonpayment and Adopting Related Requirements, ¶ 3 (Oct. 20, 2020)(emphasis added).

5. The Commission established one of the strongest disconnection moratoria in the nation when it required regulated Utilities to continue the moratorium on disconnections for nonpayment until April 30, 2021 and waiver of deposits and late fees through October 27, 2021.⁶ The disconnection moratorium has been successful in keeping vulnerable customers connected to essential services, and this policy has undoubtedly saved lives.⁷ Figure 1 shows avoided potential disconnections during 2020 compared to actual disconnections in 2019 for Avista.

Figure 1: Avista Potential COVID-19 Disconnections



6. During 2019, Avista’s residential disconnection rate was relatively stable, with a slight uptick during the winter heating season. In 2020, Avista’s data shows a sharp increase in avoided potential disconnections as the disconnection moratorium was implemented and a second uptick

⁶ See *Map of Disconnection Moratoria, Status of State Moratoria on Disconnections and Payment Plans*, NARUC, available at <https://www.naruc.org/compilation-of-covid-19-news-resources/map-of-disconnection-moratoria/> (last visited Feb. 10, 2021).

⁷ Kay Jowers, Christopher Timmins, and Nrupen Bhavsar, *Policy in the Pandemic: Housing Security Policies Reduce U.S. COVID-19 Infection Rates*, DUKE UNIVERSITY NICHOLAS INSTITUTE FOR ENVIRONMENTAL POLICY SOLUTIONS (June 29, 2020), available at <https://nicholasinstitute.duke.edu/articles/policy-pandemic-housing-security-policies-reduce-us-covid-19-infection-rates>. The study shows that “the CARES Act and eviction, water, and utility moratoria significantly reduced daily infection growth rates as compared to a simulation of growth rate if no policies were implemented.”

towards the end of the year as the temperature declined and COVID-19 infections increased. As Figure 1 illustrates, Avista’s residential customers avoided thousands of potential disconnections as a result of the moratorium, and were thus able to remain in their homes regardless of their ability to pay for utility services.

7. The Commission recognized that the pandemic is fluid, dynamic, and unstable. In that regard, the Commission determined that it must evaluate the pandemic conditions — both health and economic conditions — closer to the time the disconnection moratorium might be lifted.⁸ As the Commission considers how to move forward now, the Commission should evaluate whether conditions have changed since October 2020, whether those changed conditions significantly improve the risk to public health, whether certain conditions have remained similar, and whether the conditions remaining similar necessitate continuation of customer protections. In considering whether to continue the moratorium or allow some level of collection activity to resume, the Commission should give weight to the ability of customers to fairly avoid disconnection and the potential impact on both customers and their communities if disconnections are allowed. The disconnection moratorium will continue to save lives so long as the crisis exists and it remains in place to protect customers.

8. Public Counsel’s comments herein address metrics that may be useful in evaluating the need for a moratorium, the length of the moratorium, and suggested next steps. In prior comments, Public Counsel and others underscored the need to consult a variety of metrics to

⁸ *In the Matter of Response to COVID-19 Pandemic*, Docket U-200281, Order 01: Extending Suspension of Disconnection of Energy Services for Nonpayment and Adopting Related Requirements, Appendix A under “Disconnection Moratorium” (Oct. 20, 2020) (“Assess the health and economic conditions during its first open meeting of February 2021, or at a recessed open meeting around the same time.”).

adequately understand the state’s health and economic condition in the context of the Utilities’ service territories. We noted that “no single indicator can provide all of the information the Commission needs to determine whether conditions have improved enough to relax the moratorium.”⁹ Public Counsel believes these considerations continue to be relevant.

III. RESPONSE TO NOTICE: METRICS AND MORATORIUM

9. At several points throughout this docket, Public Counsel noted that economic recovery will lag behind economic reopening, and economic reopening can only occur once the pandemic is under control. Moreover, Public Counsel and the Joint Advocates noted that customers face impossible choices regarding whether to pay for food, rent, medicine, utilities, or other expenses. As long as the pandemic poses a significant health risk including death, communities must be protected from the spread of coronavirus by ensuring that people can maintain access to essential utility services regardless of their household’s ability to pay.
10. Indeed, collections activity (up to and including disconnection) can only resume when the practice is fair. It is not fair to engage in collection activities when customers lack the ability to pay their bills because their jobs have been lost or hours have been drastically reduced due to a global pandemic. Adequate bill assistance is an alternative to jobs in ensuring that customers can address their arrearages and avoid disconnection. Order 01 allows for additional funding for

⁹ *In the Matter of Response to COVID-19 Pandemic*, Docket U-200281, Comments of Joint Advocates, ¶ 7 (Dec. 1, 2020).

customer programs, including temporary COVID-19 assistance programs.¹⁰ Public Counsel understands that the Utilities will have programs available to customers by April 1. At minimum, the moratorium must be extended so these funds have an opportunity to meaningfully reduce or eliminate customer arrearages.

11. Ultimately, the goal is to keep protections in place until they are no longer needed. Prematurely lifting the moratorium to return to practices that resemble “business-as-usual” will harm customers and ultimately decrease public safety. Customers who are unable to pay their utility bills now due to the pandemic and associated economic crisis, will not likely be any better positioned to pay their bills without sufficient economic recovery. By relying on sufficient health and economic data to guide when the disconnection moratorium should be lifted, the Commission will provide customers an opportunity to recover the ability to pay their bills before facing the threat of disconnection.

12. Public Counsel is cognizant that the Commission considers the Utilities’ ability to maintain its earnings and operations. Each of the Utilities filed petitions for accounting orders to track certain costs associated with the pandemic response.¹¹ Each of the Utilities made statements about the unpredictable and unprecedented nature of the pandemic, indicating that they are incurring costs not currently in rates, and that the costs are outside normal business risk.

¹⁰ *In the Matter of Response to COVID-19 Pandemic*, Docket U-200281, Order 01: Extending Suspension of Disconnection of Energy Services for Nonpayment and Adopting Related Requirements, ¶18 (Oct. 20, 2020).

¹¹ Puget Sound Energy (UE-200780 and UG-200782); Avista Corporation (UE-200407 and UG-200408); PacifiCorp (UE-200234); Cascade Natural Gas Company (UG-200479); and NW Natural Gas Company (UG-200264).

None of the Utilities, however, demonstrated that it was experiencing financial jeopardy. They generally stated that they are “fully capable of executing [their] obligation to provide safe, reliable . . . service to [their] customers.”¹²

13. Importantly, recent public financial disclosures do not indicate any acute financial need stemming from the pandemic. For example, in its SEC Form 10Q dated November 4, 2020, PSE describes COVID-19 impacts upon its business in considerable detail, but characterized the net financial impacts as “immaterial.” PSE stated, “Due to business disruptions caused by the COVID-19 pandemic, the Company has incurred increased costs and partially offsetting cost savings that have been immaterial through the period ended September 30, 2020.”¹³ PSE further explains that its operating expenses were actually lower during the nine month period ending September 30, 2020, compared to the comparable period in 2019, in spite of COVID-19 cost impacts.¹⁴

14. Avista similarly presents positive financial results. While Avista is seeing current short-term reductions in earnings, it continues to experience positive earnings. Further, Avista continues to project earnings growth and continued dividend growth. Indeed, Avista expects to increase its dividends by 4.5 percent over 2019 levels.¹⁵

¹² See e.g., Amended Petition of Avista Corporation, ¶¶ 5–6, *In the Matter of the Petition of Avista Corp. For an Ord. Approving Deferral of Costs Associated with the COVID-19 Pub. Health Emergency* (Oct. 21, 2020) (Dockets UE-200407 and UG-200408).

¹³ Puget Energy SEC Form 10Q, at 43 (Nov. 4, 2020), available at <https://www.pugetenergy.com/pages/filings.html>.

¹⁴ *Id.* at 64.

¹⁵ Avista Corp., *Our Customers, Our People, Perform, Invent*, at Slide 6 (Nov. 2020), available at <https://investor.avistacorp.com/static-files/0f00e8d8-65b0-4997-a525-27769c9acc12>.

15. PacifiCorp’s parent company, BH Energy, stated in its Form 10Q that the impacts of COVID-19 on the Company’s financial results and operations through September 30, 2020, have not been material.¹⁶
16. Cascade’s parent company, MDU Resources Group, stated in its Form 10Q that, “the Company has assessed the impacts of the COVID-19 pandemic on its results of operations for the three and nine months ended September 30, 2020, and *determined there were no material adverse impacts.*”¹⁷ Significantly, MDU approved somewhat higher Q3 dividends in 2020 than were approved in Q3 2019, an indication of confidence in its financial condition in spite of the pandemic.¹⁸
17. Furthermore, the Commission has approved accounting orders to allow deferral of various pandemic costs, including bad debt resulting from customers being unable to pay their bills. When considering how to move forward with respect to the disconnection moratorium, the Commission can be assured that the Utilities will remain financially healthy and will continue to provide reliable service. Customers, however, remain vulnerable and require protections to ensure that they are able to successfully weather the pandemic.

¹⁶ Berkshire Hathaway Energy Co. SEC Form 10Q (Nov. 6, 2020), available at https://www.brkenenergy.com/assets/upload/financial-filing/20200930_89_pc_quarterly.pdf.

¹⁷ MDU Resources Group, Inc. Form 10Q (Nov. 5, 2020) (emphasis added), available at https://sec.report/Document/0000067716-20-000053/#i72b97b9efa354f7091e63f8a5fab37c7_13.

¹⁸ *Id.* (MDU declared a dividend of \$0.6075 per common share for Q3 2019 and a dividend of \$0.6225 per common share for Q3 2020.).

A. Metrics Available to Evaluate Moratorium Status Address Both Economic Recovery and Health Indicators

18. Unfortunately, there is no single metric that the Commission can rely upon to gauge when it is safe and reasonable to resume collection and disconnection activity. Rather, to ensure that customers have a fair ability to avoid disconnection, the Commission should consider a variety of factors that inform both economic recovery and progress in addressing the public health crisis. Public Counsel recommends that the Commission should consider the following six factors.¹⁹

19. **Economic tools.** First, the Commission should determine whether the Utilities are prepared to address customers' need for bill assistance, including whether they have adequate funding and delivery systems to administer the funds.²⁰ This will require an understanding of the anticipated need and how that need will be addressed. This will also require an assessment of the Utilities' communications with customers who have past-due balances. Companies should clearly communicate with customers regarding (1) the impact of the disconnection moratorium, (2) that customers continue to be responsible for paying their utility bills, and (3) that customers having troubles paying their bills should contact their utility as soon as possible regardless of whether they think they are eligible for bill assistance. Utility communications should be widely

¹⁹ In December, the Joint Advocates provided comments to the Commission regarding factors to consider now in relation to the Resumption Date. The six factors listed in Public Counsel's current comments reflect the recommendations made in December. These six factors are intended to provide the Commission with information and data specific to the pandemic, which is different than general economic distress. While the economy has experience general distress from time to time, resulting in job loss and customer hardship, the pandemic poses a unique and specific threat to both livelihood and health. As a result, it is imperative that the Commission base its decisions on information relevant to the pandemic and the related economic crisis.

²⁰ Evaluation of this factor would also include reviewing the utilities' use of long-term payment plans and plans around establishing arrearage management programs or other plans to address customer arrearages.

broadcasted, both directly to customers through direct mailings, telephone calls, and electronic communications and generally through social media postings, utility websites, and press releases. The Utilities should provide these communications in multiple languages as appropriate for their service territories.

20. Second, the Commission should consult the Department of Commerce’s Economic Recovery Dashboard, which provides information about employment, retail sales, taxable business income, exports, support programs, and consumer behaviors including credit card spending and time spent outside of the home. This will inform the Commission about overall economic recovery and whether overall employment has stabilized, whether businesses are operating at levels similar to pre-pandemic levels, whether people are experiencing food insecurity and seeking assistance, and whether consumer spending is returning to normal.
21. Third, the Commission may also consider whether restrictions that limit the availability of employment have been lifted, such as restrictions on restaurants, hospitality, and retail businesses. This will inform the Commission on whether jobs are reasonably available for customers, relieving them of the inability to pay their bills.
22. Fourth, in previous comments, the Joint Advocates identified an index being developed by the Department of Social and Health Services’ Equitable Recovery Technical Advisory Group. As Public Counsel understood it, the index was intended to measure equitable economic recovery from the pandemic, allowing the Commission to examine disaggregated unemployment numbers by industry, race, and income to provide a clearer picture of recovery for those populations who have borne the brunt of the pandemic. To the extent that the index has been

developed, it would provide valuable information to the Commission regarding the impact on vulnerable communities.

23. **Health tools.** Fifth, the Commission should consider the “effective reproductive number” as a tool to determine whether an infectious outbreak is growing, remaining stable, or shrinking.²¹ The effective reproductive number identifies how many other people will become infected on average from each person infected with COVID-19.²² When the effective reproductive number is greater than one, each infected person spreads the infection to more than one other person, and the outbreak grows larger. The faster the outbreak is growing, the larger the effective reproductive number is.²³ If the effective reproductive number is less than one, the outbreak will shrink because each infected person infects less than one other person.²⁴

24. Sixth, the Commission should monitor public health dashboards tracking COVID-19 trends across the state. In particular, the Commission should monitor the Department of Health’s COVID-19 Data Dashboard at <https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard#dashboard> and the state’s new reopening dashboard at <https://coronavirus.wa.gov/what-you-need-know/roadmap-recovery-metrics>. By doing so, the Commission will appropriately rely on the public health expertise of the Department of Health and other state and local agencies. Moreover, utilizing public health

²¹ Washington State Coronavirus Response. *COVID-19 Risk Assessment Dashboard*, available at <https://coronavirus.wa.gov/what-you-need-know/covid-19-risk-assessment-dashboard>. Please refer to COVID-19 Disease Activity, Effective reproductive number (R).

²² Interview by Seattle and King County Public Health Insider with Health Officer for Public Health Dr. Jeff Duchin, *Public Health Publishes New COVID-19 Key Indicators Dashboard*, (May 27, 2020), available at <https://publichealthinsider.com/2020/05/27/public-health-publishes-new-covid-19-key-indicators-dashboard/> (“Is the outbreak growing, shrinking or staying stable?”).

²³ *Id.*

²⁴ *Id.*

expertise will better inform the Commission as it establishes appropriate steps forward for the Utilities. This is especially critical given the role that the disconnection moratorium has played in slowing the spread of the coronavirus.

B. Length of Moratorium

25. At minimum, Public Counsel recommends that the Commission extend the disconnection moratorium for 90 days, resulting in a new resumption date of July 31, 2021, for residential and small business customers. The Commission should retain jurisdiction and continue to monitor current health and economic conditions and re-evaluate whether to lift or continue the moratorium after July 31, 2021. The Commission should direct the Utilities to communicate to customers that they may face disconnection if they maintain past-due balances after July 31 and require Utilities to take steps to avoid disconnecting customers.²⁵ Such actions may include affirmative outreach, calls from live agents, emails, door hangs, social media, radio, bill inserts, customer newsletters, reminder letters, and collaboration with trusted community organizations.²⁶

26. If disconnections are allowed to resume, and if the pandemic is still posing a health risk to Washingtonians, Utilities must take measures to reconnect disconnected customers within 24 hours of being disconnected to address the heightened health risk posed by the disconnection. These measures may include directly contacting the customer, affirmatively engaging to

²⁵ Public Counsel's proposal anticipates that collection activities would potentially begin after July 31, 2021.

²⁶ Public Counsel is aware that Utilities are take some of these actions now, and commend the Utilities for doing so. For example, Avista has worked closely with community organizations to educate customers about the disconnection moratorium and the options available to them if they have past due balances.

determine what type of assistance is needed, and identifying barriers that the customer may be experiencing with respect to paying the charges or obtaining assistance. While these actions may not be necessary under ordinary circumstances, the pandemic warrants additional vigilance in protecting customers and ensuring safe and healthy communities.

1. How to mitigate the length of the moratorium

27. The Commission's Notice frames the question regarding the length of the moratorium in terms of how it may be mitigated. Ultimately, the moratorium is intended to keep customers connected to essential utility services regardless of ability to pay due because the pandemic poses critical health and safety risks. Public Counsel firmly believes that measures must remain in place until the pandemic is controlled to the extent that it does not pose a serious health risk and economic opportunities are reasonably available to customers. Any less puts customers and communities at risk of serious illness or death from COVID-19.

28. Effective utilization of customer assistance programs is one clear way Utilities can mitigate the need for a disconnection moratorium. Implementing adequate customer assistance programs advances the goal of keeping customers connected throughout the pandemic. Such programs include bill assistance, long term payment plans, or arrearage management programs.

29. It is not enough to create the programs, but they also need the opportunity to be effective before the moratorium is lifted. In other words, the assistance must be given a chance to reduce or eliminate customer arrearages before customers are placed at risk for disconnection. To evaluate whether programs have mitigated the need for a disconnection moratorium, the Commission could evaluate the Utilities' communications with customers about the availability

of programs, can assess whether the Utilities have identified and reduced barriers to accessing assistance, and can assess the utilities' success by reviewing how many customers with past-due balances are successfully addressing their arrearages. While the Utilities cannot control how well the pandemic is being managed or how quickly economic recovery occurs, they can control how they assist and communicate with their customers.

30. Public Counsel acknowledges with appreciation that the Utilities, with varying degrees, are taking extra steps to communicate with their customers and provide assistance as a result of the pandemic. Despite these efforts, the Utilities are not reaching some customers who require assistance, as demonstrated by trends that customers are entering payment plans at a lower rate than this time last year. Public Counsel recommends that the Utilities affirmatively work towards understanding what barriers exists for customers to engage with the Utilities. Barriers could include accessibility, disability, language, technology, or other circumstances.²⁷

31. Linking resumption of disconnection and collection practices to certain performance metrics may also be a way to mitigate the need for the disconnection moratorium. If the performance metrics address customers' ability to pay their bills, address their arrearages, and stay current, the goal of keeping people connected during the pandemic could be met. Developing metrics related to customers served would be one example of how this could be implemented.

²⁷ Forming partnerships with community organizations will assist the Utilities in identifying and addressing barriers some customers face in accessing assistance.

2. Appropriate indicators to evaluate length of moratorium and disconnection restrictions

32. The factors identified in Section III.A above would be appropriate to evaluate how long the moratorium and disconnection restrictions should continue. As noted, the moratorium should remain in place until it is no longer needed because premature lifting of the moratorium will harm customers and decrease public safety. Thus, the Commission should rely on metrics that are less volatile, or that have been sustained for a sufficient period of time, to ensure that conditions are indicative of sustained, rather than merely temporary, improvement. For example, some metrics are measured as rolling averages to capture longer-term trends. Even so, all metrics represent a snapshot in time. The Commission should consider whether the metrics it chooses need to be established over a period of time, along with what time period will provide the best assurances of economic recovery and virus containment.

IV. NEXT STEPS AND DATE TO DISCUSS POTENTIAL CHANGES TO ORDER 01

33. Public Counsel understands that the February 17 recessed open meeting will be an information-gathering session for the Commission as the Commission seeks information from stakeholders. Going forward, Commission action regarding the moratorium will be necessary to address the April 31, 2021 resumption date. This action could come in the form of a stipulation or agreement among the stakeholders, and it may be worthwhile to engage in a brief series of workshops to see if consensus is possible. Public Counsel would welcome the opportunity to engage further with the Utilities and has found recent engagements beneficial.

34. Absent stakeholder consensus, the Commission will need to decide whether to extend the moratorium. Utilities and stakeholders must be afforded the opportunity to be heard at a meaningful time and in a meaningful manner.²⁸ The process the Commission has engaged in through this docket has and continues to provide Utilities and stakeholders with meaningful opportunities to make their positions known and to provide the Commission with data and information on which to base its decision.

35. With the current resumption date of April 30, 2021, a Commission decision no later than early April is needed. Of course, the Governor may extend the statewide disconnection and late fee moratorium. If that occurs, then the regulated Utilities would be required to comply with the Governor's proclamation. Regardless, the Commission has the authority to act in the public interest with respect to the regulated Utilities and their customers.²⁹

V. CONCLUSION

36. The Commission requires information about the state of the pandemic before it can determine whether to lift, modify, or continue the disconnection and fee moratorium. The metrics and data proposed above are designed to provide the Commission with a well-rounded, comprehensive look at whether the health crisis is abating and whether economic recovery is occurring.

²⁸ *Mathews v. Eldridge*, 424 U.S. 319, 321 and 333, 96 S.Ct 893, 47 L.Ed.2d 18 (1976).

²⁹ RCW 80.01.040; 80.28.010.

37. In particular, the Commission should consider the following six factors to evaluate whether the disconnection moratorium should continue beyond April 30, 2021:
- Utility preparedness to address customers’ need for bill assistance and the quality of the Utility’s communication to customers about the availability of assistance,
 - Department of Commerce’s Economic Recovery Dashboard,
 - Whether restrictions that limit the availability of employment have been lifted,
 - Department of Social and Health Services’ Equitable Recovery Technical Advisory Group index,
 - Effective productive number less than one, and
 - Public health dashboards and the agencies maintaining them.

38. Public Counsel recommends that any mitigation of the length of time the moratorium is needed be linked to the ultimate purpose for having the moratorium. In particular, the moratorium is in place to keep people connected to essential utility services so they can maintain the social distancing needed to address the pandemic. Developing and implementing adequate bill assistance and using performance metrics related to how successful the assistance is in addressing arrearages is one way to mitigate the need for a moratorium while also protecting customers and communities from the pandemic.

39. Public Counsel also recommends that stakeholders engage in brief workshops to see if they can reach consensus on the disconnection moratorium. With or without consensus, Public Counsel recommends that the Commission address the April 30, 2021 resumption date no later than early April.

40. Public Counsel appreciates the opportunity to submit these comments. We also look forward to continued discussion on these important topics with the Joint Advocates, the Utilities, and the Commission.

Dated this 12th of February, 2021.

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