

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

Response to the COVID-19 Pandemic

DOCKET U-200281

ORDER 03

RELATED TO THE
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 July 31, 2021. Proclamation 20-23.4, issued on May 29, 2020, also required utilities to develop COVID-19 Customer Support Programs consistent with state guidance from the Governor's office to 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access to essential services after Proclamation 20-23 expires and the moratorium on disconnections and late fees is no longer in effect.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 (PSE), Avista Corporation, d/b/a Avista Utilities (Avista), PacifiCorp, d/b/a Pacific Power & Light Company (Pacific Power), Cascade Natural Gas Corporation (Cascade), and Northwest Natural Gas Company (NW Natural) (collectively, Joint Utilities), and consumer, social justice, and environmental advocates comprised of 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). Following the October 6, 2020, recessed open meeting, Staff revised the Term Sheet to reflect the discussion and filed it in this docket (Revised Term Sheet).
- 4 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.
- 5 Following the Commission's recessed open meeting on February 17, 2021, the Commission issued Order 02 in this Docket extending the moratorium until July 31, 2021, and directing Staff to place this item on a regular or recessed open meeting agenda in May to assess health and economic conditions and discuss whether the moratorium should be extended. On March 18, 2021, Governor Inslee issued Proclamation 20-23.15, which extended the moratorium until July 31, 2021.
- 6 On March 31, 2021, the Commission issued a Notice of Opportunity to File Written Comments and Notice of Recessed Open Meeting (Notice.) The Notice required interested persons to file written comments by April 30, 2021, and set May 12, 2021, as the recessed meeting date to address the status and progress of the following Utility efforts:
- COVID-19 Debt Relief Programs, including number of customers served, remaining fund availability, and projected needs.
 - Communication and outreach actions for customers with past due balances and communications regarding the availability of energy assistance and the resumption of disconnections.
 - Current customer COVID-19 data as specified in Order 01.
 - Development of Arrearage Management Plans or Percentage of Payment Plans, including whether each utility intends to implement such plans.
 - Plans to resume credit and collection processes, including efforts to develop customer notices.

- 7 The Notice further stated that the Commission will also assess the July 31, 2021, disconnection moratorium expiration date based on available health and economic data and requested that the Joint Utilities and all stakeholders come prepared to discuss customer outreach efforts, COVID-19 low-income assistance program updates, and the Joint Utilities' efforts to ensure assistance funding is reaching underserved and vulnerable customers.
- 8 On April 30, 2020, Avista filed its COVID-19 Credit and Collections Report, which contained collections data for the period from January 1, 2021, to March 31, 2021. With its report, Avista also filed comments stating it is ready and prepared for the disconnection moratorium to be lifted, citing the availability of bill assistance, energy assistance, and flexible long-term payment arrangements. With these programs in place, Avista believes there is no reason any of its customers should find themselves facing disconnection. Avista further states it will not disconnect any customers until it has made numerous attempts to contact and work with them. Avista notes that debt relief is available to its customers through two programs: (1) an automatic, one-time COVID-19 Arrearage Forgiveness Grant of up to \$2,500 for customers with a history of low-income program eligibility (*i.e.*, the customer has received energy assistance within the past two years), or (2) an arrearage forgiveness grant of up to \$2,500 for residential customers at or below 200 percent of the Federal Poverty Level (FPL) that have not received energy assistance in the past 24 months and have arrears associated with hardship due to the COVID-19 pandemic.
- 9 Avista also describes its revised Low-Income Rate Assistance Program, which became effective April 1, 2021, and includes an arrearage management plan, a percentage of income payment plan, and a past-due payoff plan, all of which will become available on October 1, 2021. Finally, Avista describes its customer outreach and communications plan to make its customers aware of debt-relief program, and its planned credit and collections process once disconnection activities resume.
- 10 Also on April 30, 2021, Cascade filed its COVID-19 related data.
- 11 On April 30, 2021, Pacific Power filed its comments and data report. In its comments, Pacific Power: (1) describes its bill payment assistance program, noting that 65.6 percent of its funds remain available for distribution as of April 26, 2021, (2) describes its continued communication and outreach efforts in the form of outbound calls, emails regarding energy assistance, bill messages, flyers and notices, and information on its website, (3) states that it has no plans to implement a permanent arrearage management plan or percentage of payment plan, and (4) describes its plans to resume credit and

collection processes, noting it has included recommended changes to its reminder noticing.

- 12 On April 30, 2021, NW Natural filed its comments and data report. In its comments, NW Natural describes its debt relief programs, including the COVID-19 Assistance Program (CAP), which will be distributed to residential customers earning up to 200 percent of the FPL. NW Natural intends to automatically apply CAP assistance to accounts for past-due customers who have received energy assistance any time after January 1, 2019. Each household is eligible to receive a one-time award of \$2,500 under CAP. NW Natural also states that approximately \$140,000 of its GREAT assistance program remains available for the 2020-2021 program year, and that eligibility for GREAT assistance was increased from 150 percent to 200 percent of FPL.
- 13 NW Natural explains that it is discussing the potential development of an arrearage management program with the GREAT Advisory Group based on its Oregon model, and states it has been actively engaging its customers to inform them of bill payment arrangements and energy assistance options through its website that uses four languages, digital banner and social media advertising, customer newsletters, and public service announcements. NW Natural further states that it has proactively reached out to customers with past-due balances through its customer call center, targeted mailings, and emails. Prior to resuming disconnections, NW Natural intends to contact past-due customers by letter, phone, and email to advise them of all options to bring their accounts current. Finally, NW Natural states that it is engaging community-based organizations, and leveraging its employees to reach their school, faith-based, and community-based networks.
- 14 On April 30, 2021, PSE filed its comments and data report. PSE describes its revised Crisis Affected Customer Assistance Program (CACAP), which became available to customers on April 13, 2021, and awards low-income customers up to \$2,500 per year consistent with the eligibility guidelines described by other utilities. PSE also states that it automatically applied a total of \$8.7 million in CACAP awards to customers that had past-due balances greater than 60 days old and are known to be income-eligible. PSE notes that customers can apply for CACAP through its website, mobile app, or via paper application. To streamline the process, PSE will automatically create HELP applications for those who qualify for CACAP funds, and vice-versa.
- 15 PSE also describes its outreach and customer communication efforts, which include paid social media ads, digital banner ads, NPR sponsorship, and media partnerships with English and Spanish outlets. In addition, PSE sends monthly newsletters, employs email

marketing campaigns, and has radio sponsorships that will play on more than 20 radio stations in English and Spanish. PSE also plans to purchase advertisement spaces in the Seattle Chinese Post, NW Asian Weekly, The Seattle Medium, The Facts, South Seattle Emerald, Converge Media, and Tulalip News. Finally, PSE intends to engage directly with the community through presentations at virtual events and meetings, and circulating program information to local elected officials, government agency communications staff, community organizations, and Tribal leaders and personnel.

- 16 PSE states that it plans to develop a pilot for arrearage management plans in early 2022 and asserts that CACAP, which will run through September 30, 2022, meets the current need for an arrearage program. PSE states that disconnecting its customers is a last resort, but that customers do need to take action to avoid disconnection. When a disconnection does occur, PSE notes that multiple options are available to restore service quickly.
- 17 On April 30, 2021, and May 6, 2021, Public Counsel filed comments that contained arrearage data, addressed the disproportionate accumulation of arrearages in BIPOC (Black, Indigenous, and People of Color) communities, and highlighted the relatively low distribution of recently approved assistance dollars. Public Counsel asserts that allowing utilities to resume disconnection and collection activities before arrearages have been addressed through increased outreach efforts and an increased distribution of assistance dollars will disproportionately impact the most vulnerable populations. Public Counsel requests the Commission extend the moratorium to September 30, 2021, to allow for prompt and adequate outreach to distribute assistance dollars.
- 18 The Energy Project filed comments on April 30, 2021, and May 7, 2021, updating the Commission on its efforts to work with the low-income advisory groups and other stakeholders, as well as its assessment of the ongoing COVID-19 pandemic. Based on its analysis, the Energy Project found, like Public Counsel, that arrearages are disproportionately concentrated in BIPOC communities. The Energy Project states that there is sufficient assistance available to alleviate arrearages entirely, but insufficient time to dispense these funds to customers prior to the July 31, 2021, moratorium expiration date. The Energy Project urges the Commission to extend the moratorium until September 30, 2021.
- 19 On May 5, 2021, Cascade filed comments that include data on the number of customers under existing long-term payment arrangements, the number of customers completing those arrangements, the number of customers enrolling in new payment arrangements, and the number of customers re-negotiating long-term payment arrangements.

- 20 Cascade also describes its outreach activities in April 2021, which included publishing information on its website, letters, email, social media, Google ads, automated and manual phone calls, and bill inserts.
- 21 On May 7, 2021, NWECC filed comments requesting the Commission consider the actions of other government agencies when determining the appropriate date for utilities to resume disconnection activities. Additionally, NWECC referred to The Energy Project's findings that these arrearages are disproportionately impacting BIPOC communities. NWECC also recommends extending the moratorium on disconnections until September 30, 2021, and supports Staff's recommendation to require the Joint Utilities to submit customer arrearage data on a monthly basis.
- 22 On May 10, 2021, both PSE and Pacific Power filed updated data reports, which include data related to energy assistance disbursement, outreach efforts, and updated customer COVID-19 data for April 2021. On May 11, 2021, NW Natural filed its updated data report.
- 23 The Commission received 31 written comments from members of the public, all of whom request the Commission extend the disconnection moratorium to September 30, 2021.
- 24 This matter came before the Commission at its recessed open meeting on May 12, 2021. The Commission heard oral comments from members of the public and presentations from Staff, Avista, Cascade, Pacific Power, PSE, and several of the Joint Advocates.
- 25 Multiple members of the public expressed concerns about resuming disconnections prematurely and urged the Commission to extend the moratorium until at least September 30, 2021, to provide adequate time for consumers to obtain financial assistance. Each commenter also expressed concerns about the disproportionate impact of disconnection practices on BIPOC (Black, Indigenous, and People of Color) communities.
- 26 In its presentation, Staff stated that it has 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 maintaining the disconnection moratorium until July 31, 2021, to balance the need to address the continuing impacts of the pandemic and to limit the growth of customer arrearages. Staff noted in its presentation that there is approximately \$80 million in combined total arrearages for all Joint Utilities, and more than \$100 million in assistance available. Considering this information, Staff believes that the Joint Utilities can work diligently with community action agencies to ensure that all eligible customers receive assistance and bring their accounts current prior to, or soon

after, the July 31, 2021, moratorium expiration date. Staff prepared a Third Revised Term Sheet to reflect its position. The Third Revised Term Sheet recommends the Commission maintain its suspension of disconnecting utility services for residential and small commercial customers (*i.e.*, commercial customers not served on a large consumption tariff) until July 31, 2021, (Resumption Date), with additional reporting requirements for the Joint Utilities, including submitting monthly data for 180 days after the Resumption Date.¹ The Third Revised Term Sheet also contains other minor, ministerial changes.

- 27 PSE presented data related to its COVID-19 customer bill assistance, describing eligibility and auto-enrollment processes. PSE also described its communication and outreach efforts, stating that it has translated its website and videos into five languages – Spanish, Spanish, Mandarin, Vietnamese, Hindi, and Russian – and states that it believes it has done everything it can to prevent disconnections.
- 28 Cascade presented similar data and stated that it is committed to keeping customers connected that are participating in payment arrangements, making partial payments, have an appointment to receive assistance, who qualify for assistance if funds are available, and who communicate and work with Cascade.
- 29 Avista also presented data related to total past due amounts for customers in arrears, available energy assistance options, customer outreach and communications – including advertisements in 27 publications, two Spanish ads, social media ads, emails, website information, newsletters, community partner brochures, flyers and door hangers – debt relief totals by county, and a summary of residential customer assistance.
- 30 The Joint Utilities support maintaining the July 31, 2021, Resumption Date and clarifying that they can resume disconnection notice activities in June.
- 31 Public Counsel stated that it disagrees with Staff’s recommendation, citing barriers in BIPOC communities to receiving COVID-19 vaccines, and urging the Commission to consider that arrearages disproportionately impact BIPOC communities due to systemic inequities.
- 32 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 presented research supporting the conclusion that there are disproportionate impacts from COVID-19 on BIPOC communities and recommended the Commission prohibit the Joint

¹ Additional reporting requirements found in Section I – Data and Reporting.

Utilities from disconnecting the most vulnerable customers until those customers can receive financial assistance. The Energy Project also advocates that the Joint Utilities engage in focused outreach with their most vulnerable customers.

- 33 NWEC expressed similar concerns that customers be given sufficient time to obtain financial assistance. NWEC urges the Commission to consider multiple factors when making its 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. Finally, NWEC advocated that utilities be required to target their outreach by zip code to ensure that customers in the most vulnerable communities are connected with financial assistance.
- 34 Front and Centered advocated that the Commission should not allow collection activities to resume until the moratorium is lifted, that all arrearages should be forgiven, and that the utilities should be required to track rigorously their progress metrics. Front and Centered also highlighted the disproportionate impact that utility disconnections have on BIPOC communities, noting that the equity stakes are high and sufficient progress has not been made to address gaps in access. Finally, Front and Centered argued that disconnections are not useful in a pandemic considering the clear evidence that economic hardship remains ongoing.
- 35 The Sierra Club argued that returning to normal disconnection processes is premature, noting that the improvement metrics in Staff's presentation represent those customers who are most well-off, and fail to address systemic racism. As such, the Sierra Club asserts that BIPOC communities are on the fastest track to disconnection, and that this disproportionate impact cannot be allowed to continue. The Sierra Club contends that the utilities are making the most noise about resuming disconnections because they wish to collect money sooner rather than later, while those customers who are least well-off continue to be forced to choose between maintaining essential services and putting food on their tables.
- 36 Staff and the Joint Utilities recommend accepting the recommendation to maintain the July 31, 2021, Resumption Date as reflected in Staff's Third Revised Term Sheet. All other stakeholders recommend the Commission extend the moratorium until September 30, 2021.

DISCUSSION

- 37 The Commission adopts Staff's Third Revised Term Sheet, which maintains the moratorium on disconnections for nonpayment until July 31, 2021, established by the

Governor's moratorium and memorialized in Order 02, and allows the Joint Utilities to resume disconnection notice activities 30 days prior to that date. We modify the Third Revised Term Sheet to extend the date for reporting from 180 days to 12 months from the Resumption Date.

38 Although this is not an easy decision, we are cautiously optimistic. The amount of funding available currently exceeds the amount of debt owed by customers who are past due. As such, there is no reasonable set of circumstances under which *any vulnerable customer* should be disconnected. The Joint Utilities acknowledge that their outreach efforts have not been as effective as they should be. To be clear, we expect the utilities to increase their customer engagement and outreach to ensure that no customer who is eligible for assistance is disconnected.

39 As a safeguard, we modify the Third Revised Term Sheet to require each of the utilities to contact Bridgit Feeser, Assistant Director for Consumer Protection, prior to disconnecting *any* customer in the next 12 months. When such contact is made, consumer protection staff is directed to open an informal complaint in the affected customer's name and engage in additional efforts to contact the impacted consumer.² This additional step will add a layer of consumer protection that allows the Commission to intervene on behalf of the most marginalized ratepayers prior to a service interruption. Vulnerable consumers, a disproportionate number of whom are BIPOC, must be protected from losing access to essential services, and we take our role in that process very seriously.

40 We further expect the Joint Utilities to ensure that the most vulnerable consumers are provided access to assistance information through improved and robust outreach campaigns. We also reiterate our expectation that the Joint Utilities continue 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. Third, we expect the Joint Utilities to engage in ongoing conversations with both their low-income advisory groups and equity groups, which should be working in concert to address systemic inequities.

41 With these additional safeguards and requirements, we are comfortable allowing the moratorium to expire on July 31, 2021, as reflected in Staff's Third Revised Term Sheet.

² Pursuant to WAC 480-90-128(10) and WAC 480-100-128(10), a utility may not disconnect service while a customer is pursuing any remedy or appeal provided by these rules or while engaged in discussions with the utility's representatives or with the commission.

We also remain open to revisiting a possible extension of the disconnection moratorium if health or economic circumstances decline prior the scheduled Resumption Date. In addition, we reiterate our direction to Staff to open a rulemaking to examine the consumer protection rules related to disconnection practices, but to do so specifically through an equity lens.

42 Finally, by way of guidance, the Joint Utilities are prohibited from charging any “disconnection visit fees,” or “site visit fees” related to disconnection activities for 180 days after the moratorium is lifted. The Commission considers such fees to be “disconnection fees” as that term is used in the Third Revised Term Sheet.

FINDINGS OF FACT

- 43 (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.
- 44 (2) PSE, Avista, Pacific Power, Cascade, and NW Natural are public service companies regulated by the Commission, providing service as electric companies or natural gas distribution companies.
- 45 (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. The Proclamation was subsequently extended and currently expires on July 31, 2021.
- 46 (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.
- 47 (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.

- 48 (6) Through ongoing discussions with workgroup members, Staff developed the Second Revised Term Sheet after considering the impacts of health data, economic data, and growing customer arrearages on the Revised Term Sheet. The Commission adopted Staff's Revised Term Sheet in Order 02 entered on February 18, 2021.
- 49 (7) Staff continued to engage in discussions with the Joint Utilities and Joint Advocates regarding the current conditions based on the most recent health data, economic data, and growing customer arrearages on the Revised Term Sheet. Based on these discussions, Staff prepared the Third Revised Term Sheet reflecting the terms on which Staff and the Joint Utilities agree.
- 50 (8) The Commission received written comments on Staff's Third Revised Term Sheet and oral comments at its recessed open meeting on May 12, 2021.

CONCLUSIONS OF LAW

- 51 (1) The Commission has jurisdiction over the subject matter of this proceeding and over PSE, Avista, Pacific Power, Cascade, and NW Natural.
- 52 (2) The recommended terms in the Third Revised Term Sheet are fair, just, reasonable, and sufficient, as modified by this Order, because the current amount of assistance available exceeds accumulated arrearages for all regulated utilities, and the Commission has created additional safeguards to protect the most vulnerable consumers.
- 53 (3) The Commission should adopt and require the Joint Utilities to implement or otherwise comply with the recommended terms in the Third Revised Term Sheet as described in and modified by this Order.

ORDER

THE COMMISSION ORDERS:

- 54 (1) The Commission adopts the recommendations in the Third Revised Term Sheet attached to this Order as Appendix A and incorporated into this Order as described in the body of this Order.
- 55 (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.

56 (4) The Commission delegates to the Secretary the authority to approve submissions made in compliance with this Order.

57 (5) The Commission retains jurisdiction to enforce this Order.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner