

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

Response to the COVID-19 Pandemic

DOCKET U-200281

ORDER 06

AMENDING ORDER 03;
EXEMPTING GAS AND
ELECTRIC COMPANIES
FROM WAC 480-100-113 AND
WAC 480-90-113

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 extended that date through July 31, 2021.
- 2 The Commission formed a COVID-19 response workgroup of stakeholders to facilitate development of guidelines for ensuring that electric and natural gas customers experiencing economic hardship due to the COVID-19 pandemic maintain access to essential services after Proclamation 20-23 expired and the moratorium on disconnections and late fees is no longer in effect. The workgroup included the five investor-owned utilities regulated by the Commission: Puget Sound Energy (PSE), Avista Corporation d/b/a Avista Utilities (Avista), PacifiCorp d/b/a Pacific Power & Light (Pacific Power), Cascade Natural Gas Corporation (Cascade), and Northwest Natural Gas Company d/b/a NW Natural (NW Natural) (collectively, Joint Utilities). 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).

- 3 On October 20, 2020, the Commission entered Order 01 in this Docket, which adopted the Revised Term Sheet with modifications that (1) clarified how customer communication plans should be developed, and (2) directed 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.
- 4 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, consistent with the Governor's most recent proclamation at that time 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.
- 5 The Commission revisited this matter at a recessed open meeting on May 12, 2021. Staff prepared a Third Revised Term Sheet, which recommended the Commission maintain its suspension of disconnecting electric and natural gas 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 contained other minor, ministerial changes.
- 6 On May 18, 2021, the Commission entered Order 03, adopting Staff's Third Revised Term Sheet, which maintained the moratorium on disconnections for nonpayment until July 31, 2021, established by the Governor's moratorium and memorialized in Order 02 in this Docket, and allowed the Joint Utilities to resume disconnection notice activities 30 days prior to that date.
- 7 On May 28, 2021, the Public Counsel Unit of the Attorney General Office (Public Counsel) filed with the Commission a Petition for Reconsideration of Order 03 and a Petition for Stay (Petitions). Public Counsel requested the Commission extend the disconnection moratorium until September 30, 2021.
- 8 On July 2, 2021, the Commission issued Order 04 in this docket extending the disconnection moratorium to September 30, 2021, to align with Gov. Inslee's extension

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

of the disconnection moratorium in Proclamation 20-23.16. Order 04 authorized the Joint Utilities to begin charging the waived fees on April 1, 2022, 180 days after the Resumption Date. Specifically, the following term sheet provisions will expire:

- Waived fees and deposits.
- Long-term payment arrangements for up to 18 months for residential customers and up to 12 months for small commercial customers.
- Refrain from sending active customer accounts to collection agencies, credit bureaus, or reporting agencies.

- 9 On October 19, 2021, as required by Order 01 in this docket, Staff opened a rulemaking in Docket U-210800 to consider whether changes to the Commission’s credit and collection rules are appropriate.² Staff anticipates this docket will lead to a rulemaking that will address a larger, national conversation examining whether these fees are effective to dissuade late payments.³
- 10 Staff reached out to the Joint Utilities and public advocates the week of March 7, 2022. No energy companies oppose Staff’s recommendations, but the Joint Utilities question how this action might affect cost recovery. Staff notes that the Joint Utilities may file a request to amend their existing accounting petitions if they believe the Commission’s action in this docket requires changes to those petitions, and that cost recovery would most likely be addressed in the context of a general rate case.
- 11 On March 18, 2022, The Energy Project (TEP), The Public Counsel Unit of the Washington State Attorney General’s Office (Public Counsel), NW Energy Coalition, Front and Centered, Puget Sound Sage, and Sierra Club (collectively, Consumer Advocates) filed comments supporting Staff’s recommendations.
- 12 The Consumer Advocates recommend extending the deadline for offering long-term payment arrangements and continuing to require the Joint Utilities to refrain from sending active customer accounts to collection agencies, credit bureaus, or reporting agencies.

² On March 18, 2022, the Commission filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) in Docket U-210800. Initial comments are due April 29, 2022.

³ Food or power: Energy bill late fees force tough choices, The Associated Press, <https://federalnewsnetwork.com/government-news/2022/03/major-power-utilities-charge-higher-than-average-late-fees/>, accessed Mar. 15, 2022.

- 13 At its March 24, 2022, regularly scheduled open meeting, the Commission heard comments from Staff, the Joint Utilities, Public Counsel, Sierra Club, and TEP.
- 14 Staff recommends the Commission extend the suspension of fees and deposits until 30 days after the Commission issues its order adopting rules or otherwise determines the propriety of the fee and deposit rules in Docket U-210800. Staff further recommends exempting electric and gas utilities from WAC 480-100-113 and WAC 480-90-113 related to residential service deposit requirements. Staff recommends these exemptions continue until 30 days after the Commission issues its order adopting rules or otherwise determines the propriety of fee and deposit rules in Docket U-210800.
- 15 The Consumer Advocates support Staff’s recommendation. The Joint Utilities did not object to Staff’s recommendation but expressed concerns about growing arrearages.
- 16 Public Counsel additionally recommends the Commission extend the Joint Utilities’ reporting requirements until 30 days after the Commission issues its order adopting rules or otherwise determines the propriety of the fee and deposit rules in Docket U-210800.
- 17 TEP presented data from its report summarizing the effects of COVID-19 on the Joint Utilities’ residential customers. Among other things, TEP’s report demonstrates that a significant portion of total residential and known low-income arrearages are concentrated in zip codes that contain areas designated as Highly Impacted Communities,⁴ and that utility bill assistance programs were not sufficient to offset residential arrearages.

DISCUSSION

- 18 We concur with Staff’s recommendation and, on our own motion, exempt the Joint Utilities from the application of WAC 480-100-113 and WAC 480-90-113, which authorize electric and gas companies to collect a deposit from residential customers in certain circumstances. These exemptions will continue until 30 days after the Commission issues its final order adopting rules or otherwise determines the propriety of the fee and deposit rules in Docket U-210800. The Commission also amends Order 03 to extend the suspension of fees and deposits, and to extend reporting requirements, until 30 days after the Commission issues its final order or otherwise determines the propriety of the fee and deposit rules in Docket U-210800. Staff’s Fourth Revised Term Sheet reflects

⁴ Pursuant to RCW 19.405.020(23), “Highly Impacted Community” means a community designated by the Washington Department of Health based on cumulative impact analyses in RCW 19.405.140 or a community located in a census tracts that are fully or partially on “Indian Country” as defined in 18 U.S.C. Sec. 1151.

these changes and is attached as Appendix A to this Order.

- 19 Pursuant to WAC 480-07-110(1), the Commission, in response to a request or on its own initiative, may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Consistent with due process and the public interest, the Commission may modify the application of procedural rules on its own initiative without following the process identified in WAC 480-07-110(2).
- 20 We agree with Staff that the suspension of fees and deposits until the rulemaking is complete will prevent further harm to customers who are struggling to manage household debts during an ongoing pandemic and will allow the Commission to better understand the impact of these fees on the Joint Utilities' most vulnerable customers. Accordingly, we find that suspending all fees, including waiving the Commission's deposit rules, is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 21 Revised Code of Washington (RCW) 80.04.210 and Washington Administrative Code (WAC) 480-07-875(1) provide that the Commission may amend any order it has entered and requires the Commission to provide notice of the proposed Commission action to the affected public service companies and to all parties in the underlying proceeding, and in WAC 480-07-875(1), provide an opportunity for parties to respond in writing or at a hearing consistent with due process.
- 22 The Commission modifies the application of WAC 480-07-875(1) to waive the notice requirements contained therein. Because the Commission gave notice that this matter would be considered at the Commission's regularly scheduled open meeting on March 24, 2022, interested persons and stakeholders were provided an opportunity to respond. In addition, no interested person or stakeholder opposes Staff's proposed amendments to Order 03. Accordingly, due process does not require any further opportunity to respond to Staff's proposal.

ORDER

THE COMMISSION ORDERS:

- 23 (1) Order 03 is amended as described in this Order, and as reflected in the Fourth
Revised Term Sheet attached to this Order as Appendix A.
- 24 (2) The Commission retains jurisdiction to enforce this Order.

DATED at Lacey, Washington, and effective March 29, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner