

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

Response to the COVID-19 Pandemic

DOCKET U-200281

ORDER 01

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

**BACKGROUND**

- 1 On April 17, 2020, Governor Inslee issued Proclamation 20-23.2, which prohibits all energy, water, and telecommunications providers from (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. The prohibition was set to expire on May 4, 2020, but subsequent proclamations have extended that date through December 31, 2020. Proclamation 20-23.4, issued on May 29, 2020, also requires utilities to develop COVID-19 Customer Support Programs, consistent with state guidance from the Governor’s office and that will address payment plan options for residential customers who are in arrears due to the COVID-19 pandemic.
- 2 On June 16, 2020, the Washington Utilities and Transportation Commission (Commission) conducted a virtual special open meeting to receive status updates from regulated utilities and interested persons regarding their general experiences responding to the COVID-19 pandemic, and to discuss utilities’ transition plans related to the Governor’s moratorium on disconnections and late or reconnection fees. The Commission also received written comments on these issues both before and after the special open meeting.
- 3 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access to essential services after Proclamation 20-23 expires and the moratorium on disconnections and late fees is no longer in effect.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 Commission staff (Staff), energy utilities Puget Sound Energy, Avista Corporation, d/b/a Avista Utilities, PacifiCorp, d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company (collectively Joint Utilities), and consumer, social justice, and environmental

advocates the Public Counsel Unit of the Washington Attorney General’s Office, The Energy Project, Front and Centered, Northwest Energy Coalition, Puget Sound Sage, and the Sierra Club (collectively Joint Advocates).

- 4 Workgroup members exchanged proposed term sheets and participated in several workshops. The participants agreed on some of the issues presented but were unable to reach consensus on a single proposed set of guidelines or requirements. Accordingly, 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).
- 5 On September 17, 2020, the Commission issued a Notice of Opportunity to Comment and Notice of Recessed Open Meeting (Notice), requesting written responses to the Term Sheet and scheduling a recessed open meeting to consider Staff’s recommendations. The Notice also requested that the utilities provide updated data on past due balances, bill assistance and payment plan participation, and bad debt expenses.
- 6 The Commission received over 1,700 written comments in response to the Notice on or about September 30, 2020. The vast majority of those comments were from members of the public who described the economic hardships they have endured and continue to experience and urged the Commission to take appropriate action to provide relief. The Joint Utilities filed comments largely supporting the Term Sheet with few modifications. In their comments, the Joint Advocates also agreed with much of the Term Sheet and recommended several changes.
- 7 On October 6, 2020, the Commission conducted a recessed open meeting to address the Term Sheet. The Commission heard oral comments from members of the public and presentations from Staff, the Joint Utilities, and the Joint Advocates.
- 8 Staff revised the Term Sheet to reflect the Commission discussion during the recessed open meeting (Revised Term Sheet). The Commission heard additional comment on the Revised Term Sheet at the regularly scheduled open public meeting on October 15, 2020.

### **DISCUSSION**

- 9 The COVID-19 pandemic and the measures taken to combat it have affected every person in Washington. While we are all navigating the same storm, we are doing so in different boats. Our hearts go out to those who have lost their livelihoods or loved ones and are struggling to stay afloat. We initiated this docket and the workgroup to explore ways to assist those people who continue to need essential utility services but are unable to pay for them because of this crisis.

10 We are not alone in this effort. The Joint Utilities have been proactive and suspended disconnections voluntarily before the Governor issued his proclamation. The Joint Advocates, each in their own way, have been assisting beleaguered consumers. Both groups fully participated in negotiations to develop improved conditions to relieve energy customers of hardships associated with the pandemic. The participants agreed on many of those conditions although they did not reach consensus on all issues.

11 Staff has built on the terms to which the Joint Utilities and Joint Advocates have agreed. The resulting Revised Term Sheet includes reasonable conditions that will assist consumers to retain their energy services during this challenging time.<sup>1</sup> We adopt those conditions with several modifications and require compliance with them as described below.

*Disconnection Moratorium*

12 The Revised Term Sheet recommends Disconnection Moratorium terms, including but not limited to suspending through April 30, 2021, the disconnection of electric and natural gas service to residential and small commercial customers for nonpayment of bills (Resumption Date); an assessment of the state's health and economic conditions in early February 2021 to determine the propriety of the Resumption Date; and customer notice requirements prior to the resumption of disconnection activities. The Commission adopts these recommendations and requires the Joint Utilities to comply with them.

13 All stakeholders agree on the April 30, 2021, date, but the Joint Advocates urge the Commission not to permit a utility to resume disconnections until all counties in the utility's service territory are in Phase 4 of the state's Safe Start Plan. We find such a condition to be premature. The health and economic assessment the Commission will make in early February next year will better enable us to determine the conditions that will likely exist at the end of April than we can predict today. Accordingly, we will accept the utilities' and stakeholders' agreement of an April 30, 2021, Resumption Date subject to our re-evaluation of that date in February.

14 The Joint Advocates also express concern about the meaning of "good faith effort to contact" customers when utilities resume disconnection activities, and the Joint Advocates propose additional language to clarify and expand on that term. We agree that further explanation would be useful. Accordingly, we amend section 4.b of this portion of

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<sup>1</sup> The Joint Utilities represented at the October 15, 2020, open meeting that they support the Revised Term Sheet without modification. We nevertheless address the concerns the Joint Utilities expressed in their comments on the original Term Sheet that the Revised Term Sheet does not incorporate.

the Revised Term Sheet to include the following at the end of that subsection:  
“Communications plans should be developed in consultation with low-income advisory groups and community-based organizations, with the intent to provide widely broadcasted communication with consumers.”

- 15 The Joint Utilities recommend that they be required to serve notices 30 days in advance of the Resumption Date only to customers with past due bills. We disagree. There may be customers who become delinquent in their accounts within that 30-day period, and all utility customers need to be aware of the resumption of the possibility that their service may be disconnected for nonpayment of their bills.

*Reconnection of Previously Disconnected Customers*

- 16 The Revised Term Sheet includes recommended terms on Reconnection of Previously Disconnected Customers with which the Joint Utilities and Joint Advocates agree. The Commission adopts and orders the Joint Utilities to comply with these terms. Indeed, the Joint Utilities represent that they have already begun or have completed actions necessary to comply with these requirements.

*Fees*

- 17 The Revised Term Sheet includes Fee terms, including but not limited to waiving late fees, deposit requirements, and any applicable disconnection or reconnection fees until 180 days after the Resumption Date. The Joint Utilities and Joint Advocates agree with these terms. The Commission adopts and orders the Joint Utilities to comply, as applicable, with these terms. Staff must open a docket and prepare a CR-101 when reasonably practicable to consider potential long-term changes and improvements to customer notice, credit and collection rules, including permanent elimination of late fees, disconnection and reconnection fees, and deposits, with the understanding that such consideration may or may not result in proposed rules, an interpretive and policy statement, or Commission action.

*Additional Funding for Customer Programs*

- 18 The Revised Term Sheet recommends terms for Additional Funding for Customer Programs, including but not limited to each of the Joint Utilities establishing a temporary COVID-19 assistance program for residential customers earning up to 200 percent of the Federal Poverty Level with annual maximum award amount of \$2500 per household, funded at a level of one percent of each utility’s Washington retail revenues. The Joint Utilities generally agree with these terms. The Commission adopts these terms with the

understanding that additional funding may be applied to existing utility and non-utility customer assistance programs, including application to customer arrearages, and accepts the Joint Utilities' commitment to provide funding for these programs, subject to the resolution of cost recovery issues.

- 19 The Joint Advocates agree with the concept and some of the specific terms but propose prescriptive requirements on the distribution of the funds and on notification of the availability of this support. We do not adopt these additional requirements. Rather, we find that each utility's flexible implementation of this additional funding, in conjunction with the utility's Low-Income or Energy Assistance Advisory Group, will best ensure that the support will efficiently and effectively reach eligible customers. We expect the utilities to work with the advisory groups and within existing programs to ensure customers receive complete and consistent information about assistance programs.

*Long-Term Payment Arrangements*

- 20 The Revised Term Sheet recommends terms for Long-Term Payment Arrangements, which both the Joint Utilities and Joint Advocates support. The Commission adopts and orders the Joint Utilities to implement or otherwise comply with these terms.

*Arrearage Management Plans*

- 21 The Revised Term Sheet recommends terms for Arrearage Management Plans (AMPs), which both the Joint Utilities and the Joint Advocates support. The Commission adopts and orders the Joint Utilities to implement or otherwise comply with these terms.

*Credit and Collection Process*

- 22 The Revised Term Sheet recommends Credit and Collection Process terms, which both the Joint Utilities and the Joint Advocates support. The Commission adopts and orders the Joint Utilities to implement or otherwise comply with these terms.

*Cost Recovery*

- 23 The Revised Term Sheet recommends that the Commission adopt certain guiding principles to consider with regard to COVID-19 deferred accounting. With minor modifications, both the Joint Utilities and Joint Advocates agree with these principles. So do we. Accordingly, we adopt these principles as stated in the Revised Term Sheet for use in evaluating the deferred accounting petitions the utilities have filed or intend to file with respect to their recovery of costs related to responding to the COVID-19 pandemic.

- 24 The Joint Advocates, however, urge the Commission to adopt three additional principles: (1) utilities should approach cost recovery requests with the spirit of shared sacrifice; (2) recovery of deferred COVID-19 costs in rates should be subject to an earnings test; and (3) utilities should zealously pursue and document cost savings. We decline to adopt these proposals. All stakeholders agree with the guiding principles in the Revised Term Sheet, which are largely procedural and focus on the specificity of information the utilities should provide, future proceedings, and reports. There is no agreement on the additional proposed principles, which primarily reflect the Joint Advocates' advocacy positions.
- 25 The Cost Recovery terms in the Revised Term Sheet also include Staff's position on the types of costs for which it will support deferral treatment. The Joint Utilities agree with many of these recommendations but request that the Commission clarify some of the terms, including terms related to direct costs, bad debt, late payment fees, and reconnection charges. The Joint Advocates contend that any decision on specific cost deferral issues in this docket is premature and that the Commission should resolve those issues in the dockets in which the Commission will consider each utility's deferred accounting petitions.<sup>2</sup> The Joint Advocates nevertheless address and take issue with many of the types of costs Staff is willing to accept for deferral.
- 26 The dockets in which the Commission will consider each utility's deferred accounting petition(s) are the appropriate venues for resolving those petitions, and we will not prejudge them here. The Revised Term Sheet characterizes its discussion of the types of costs for deferral treatment as Staff's position on those issues, and that is how we view them – as Staff's position, not a Commission determination. Utilities may incorporate Staff's views into their accounting petitions, with or without their proposed modifications, and interested persons may take issue with those petitions, including provisions that reflect Staff's positions. Ultimately, the Commission will consider each petition on its merits and render a decision based on the record compiled in each docket. For purposes of this docket, we adopt only the four guiding principles in Staff's Cost Recovery recommendations and make no binding resolutions of the remaining cost recovery issues.
- 27 We recognize that the Joint Utilities consider the Revised Term Sheet to be a "package deal." Our deferral of the cost recovery issues to the accounting petition dockets does not alter that view. To the extent that the Joint Utilities' commitment to provide additional

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<sup>2</sup> The Alliance of Western Energy Consumers also makes this recommendation in its written comments.

funding for temporary COVID-19 relief is contingent on recovering those costs, we do not expect the Joint Utilities to implement such funding until the Commission resolves the cost recovery issues. Once we resolve those issues, however, that resolution will become a part of the requirements we adopt in this Order.

*Data and Reporting/List of Requested Data*

- 28 The Revised Term Sheet recommends terms for Data and Reporting of the List of Requested Data. The Joint Utilities and the Joint Advocates largely support these recommendations, but each proposes additional or revised terms. The Commission adopts and orders the Joint Utilities to comply with the terms in this section of the Revised Term Sheet except as described below.
- 29 The Joint Advocates propose that the utilities compile the requested data by zip code (nine digit, if possible) or census tract and that the utilities provide comparable data from 2019 as a baseline for comparison with this year. The Joint Utilities represented at the October 15, 2020, open meeting that they could provide this data, although it would take some effort, and they may be limited in their ability to retrieve historical data with the same level of granularity. We agree with the Joint Advocates that data by zip code will better enable the Commission and interested persons to assess the disparate impacts of the pandemic, particularly as compared to data from last year. Accordingly, we require the Joint Utilities, to the extent practicable, to provide the data specified in the Revised Term Sheet by zip code (nine digit, if practicable) and by December 1, 2020, to provide the same type of data for the period March 1, 2019 through December 31, 2019.<sup>3</sup>
- 30 The Joint Utilities propose that the utilities be permitted to explain the omission of any data they cannot provide and that each utility be authorized to provide the data in their own format, rather than use a single template as Staff recommends. As with any data a company must provide to the Commission, we expect an explanation for why the company does not provide that data. Whether that explanation is sufficient to excuse the omission depends on the individual circumstances, and we will not exempt a utility in advance for failure to provide the data listed in the Revised Term Sheet. Nor do we

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<sup>3</sup> The Joint Advocates also recommend that the reported data include the number of customers who would have been assessed late payment fees, disconnection fees, reconnection fees, or deposits each month but for the moratorium, as well as the number of customers taking advantage or who tried to take advantage of AMPs once a utility has established one. We decline to do so. We do not find it useful for utilities to create hypothetical data that might have existed if circumstances were different, and until each utility establishes an AMP, it is premature to require the utilities to collect data associated with the AMPs they eventually develop.

believe that data is sufficiently idiosyncratic to justify using company-specific formatting. Staff and interested parties will need to compare the data provided by all utilities and can best do so if that data is provided in the same format.

### FINDINGS OF FACT

- 31 (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.
- 32 (2) Puget Sound Energy, Avista Corporation, d/b/a Avista Utilities, PacifiCorp, d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company are public service companies regulated by the Commission, providing service as electric companies or natural gas distribution companies.
- 33 (3) On April 17, 2020, Governor Inslee issued Proclamation 20-23.2, which prohibits all energy providers from (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. That prohibition currently expires on December 31, 2020.
- 34 (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.
- 35 (5) Workgroup members exchanged proposed term sheets and participated in several workshops. The participants agreed on many of the issues presented but were unable to reach consensus on a single proposed set of guidelines or requirements.
- 36 (6) Staff prepared the Term Sheet reflecting the terms on which the workgroup participants agreed and Staff's recommended resolutions of the disputed issues.
- 37 (7) The Commission received written comments on Staff's Term Sheet and oral comments at a recessed open meeting on October 6, 2020.
- 38 (8) Staff prepared a Revised Term Sheet to reflect the Commission discussion during



the recessed open meeting. The Commission heard additional comment on the Revised Term Sheet at the regularly scheduled open public meeting on October 15, 2020.

**CONCLUSIONS OF LAW**

- 39 (1) The Commission has jurisdiction over the subject matter of this proceeding and over Puget Sound Energy, Avista Corporation, d/b/a Avista Utilities, PacifiCorp, d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company.
- 40 (2) The recommended terms in the Revised Term Sheet are fair, just, reasonable, and sufficient as modified in this Order.
- 41 (3) The Commission should adopt and require the Joint Utilities to implement or otherwise comply with the recommended terms in the Revised Term Sheet as described in and modified by this Order.
- 42 (4) The Commission should not adopt the modifications the Joint Utilities and Joint Advocates propose to the recommended terms in the Revised Term Sheet except as otherwise provided in this Order.

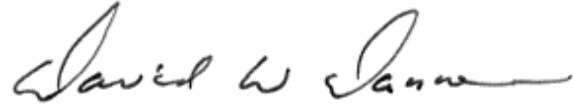
**ORDER**

**THE COMMISSION ORDERS:**

- 43 (1) The Commission adopts the recommendations in the Revised Term Sheet attached to this Order as Appendix A as modified by and incorporated into this Order as described in the body of this Order.
- 44 (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.
- 45 (3) The Commission delegates to the Secretary the authority to approve submissions in compliance with this Order.
- 46 (4) The Commission retains jurisdiction to enforce this Order.

DATED at Lacey, Washington, and effective October 20, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

A handwritten signature in black ink that reads "David W. Danner". The signature is fluid and cursive, with the first name being the most prominent.

DAVID W. DANNER, Chair

A handwritten signature in black ink that reads "Ann E. Rendahl". The signature is cursive and somewhat stylized.

ANN E. RENDAHL, Commissioner

A handwritten signature in blue ink that reads "Jay M. Balasbas". The signature is cursive and includes a long, sweeping underline.

JAY M. BALASBAS, Commissioner