

PUBLIC SERVICE COMMISSION OF WISCONSIN

Investigation on the Commission's Own Motion to Ensure Safe, Reliable and Affordable Access to Utility Services During Declared Public Health Emergency for COVID-19

5-UI-120

ORDER ON RESIDENTIAL DISCONNECTION

This is the Order staying until September 1, 2020, Order Point No. 1 of the Supplemental Order-Second with regard to the first date on which a utility may disconnect or refuse to serve a residential customer for nonpayment.

Background

At its open meeting of April 30, 2020, the Commission found that making a determination regarding the duration of the provisions of its orders in this docket requires information on the effects of those orders as well as information on the economic and public health concerns and conditions facing utilities and customers. (Supplemental Order-First, [PSC REF#: 390567](#).) Therefore, the Commission directed staff to obtain and report back by June 1, 2020, on data from stakeholders on the continued appropriateness, necessity, duration, and impacts of actions taken by the Commission. ([PSC REF#: 390567](#)).

At its open meeting of June 11, 2020, the Commission considered the information submitted by stakeholders, staff's analysis, and information available at that time regarding the economic and public health concerns and conditions facing utilities and customers. Among other provisions, the Commission ordered any utilities wishing to resume disconnecting customers for nonpayment to file with the Commission a disconnection plan containing an estimate as to the number of customers that may be subject to disconnection under the plan, at least 5 days prior to implementing the plan. The Commission further provided that the authority of such utilities to

send disconnection notices would take effect on July 15, 2020, and the authority of such utilities to disconnect customers would take effect on July 25, 2020. (See Supplemental Order – Second, Order Point Nos. 1 and 12, [PSC REF#: 392763](#).)

Commission staff reviewed utility disconnection plans filed, along with other available data related to the economic and public health concerns and conditions facing utilities and customers since the issuance of the Commission’s Supplemental Order-Second, as summarized in the Commission staff’s memorandum of July 22, 2020. ([PSC REF#: 394131](#)). The Commission discussed this matter at its open meeting of July 23, 2020.

Opinion

The Commission has jurisdiction under Wis. Stat. § 196.02(1) to regulate every public utility in this state and to do all things necessary and convenient to its jurisdiction. Wisconsin Stat. § 196.70 authorizes the Commission to temporarily alter or amend any existing rates, schedules, or orders. The Commission has discretion to determine when circumstances no longer warrant the temporary tariff alterations, and to prescribe for how long the order will be in effect. Wis. Stat. §§ 196.40 and 196.70(2). In making such alterations, the Commission also exercises its discretion under Wis. Adm. Code §§ PSC 113.01(2), PSC 134.01(2), and PSC 185.11(4) to adopt requirements that are greater, lesser, or different from the requirements otherwise applicable under the administrative code, based upon considerations relating to “exceptional or unusual situations.”

The Commission initiated this investigation to determine the steps necessary to ensure that the public utilities and customers of this state have the flexibility and protections needed to ensure that all customers continue to receive adequate service under terms that are reasonable,

given the public health and economic circumstances associated with the COVID-19 pandemic. Wis. Stat. §§ 196.03(1) and 196.37(2).

In its order of March 24, 2020, the Commission found that the continued availability of and access to electric, gas, and water service in the home is essential for enabling residential utility customers to abide by guidelines issued by public health agencies relating to personal hygiene and “social distancing” by remaining in the home to the fullest extent possible. Therefore, the Commission prohibited all utilities from disconnecting any customer due to nonpayment until further order of the Commission. ([PSC REF#: 386373](#)). In its Supplemental Order – First, the Commission found that the duration of this prohibition should be based on information on the effects of the order as well as information on the economic and public health concerns and conditions facing utilities and customers. ([PSC REF#: 390567](#)).

To appropriately address the unprecedented and evolving nature of the COVID-19 pandemic, the Commission has kept this investigation open to ensure that it continues to receive the most accurate and up-to-date information. Because this docket and associated orders affect all utilities and customers in the state, the Commission has taken several measures to provide an orderly and ongoing opportunity for the views and positions held by utilities and stakeholders to be heard, including by providing all utilities the opportunity to file comments and present data regarding the appropriate duration of the Commission’s March 24, 2020, order provision prohibiting the disconnection of customers for nonpayment. ([PSC REF#: 389134](#)).

Based in part on utilities’ comments that the duration of the prohibition on disconnection should be determined by balancing customer and community health with the financial health of utilities, the Commission established a process for utilities to submit up-to-date information by ordering that any utility that wishes to disconnect customers for nonpayment shall file a

disconnection plan that includes an estimate as to the number of customers that may be subject to disconnection under the plan. Similarly, based on utilities' comments and public health data available at the time regarding when the health risk to utility customers and employees of resuming disconnection would be reasonable, the Commission further provided that the authority of utilities to send disconnection notices would take effect on July 15, 2020, and the authority to disconnect customers for nonpayment would take effect on July 25, 2020. ([PSC REF#: 392763](#)).

As of July 20, 2020, 173 utilities of all service types had submitted disconnection plans with the associated number of customers that may be subject to disconnection, as discussed in the Commission staff's memorandum of July 22, 2020. ([PSC REF#: 394131](#)). Based on the number of individuals likely subject to disconnection, the statewide trend in the number of new positive COVID-19 cases per day, and the utility financial impacts associated with compliance with the Commission's orders in this docket as reported in docket 5-AF-105, the Commission finds that allowing utilities' authority to disconnect residential customers for nonpayment to take effect on July 25, 2020, would not be just and reasonable.

The Commission has a duty to use its authority to prescribe how long its emergency order under Wis. Stat. § 196.70 is in effect for the purpose of ensuring that the order remains in effect for the time necessary to protect the business and interests of the people and public utilities of the state. Wis. Stats. § 196.70(2). The facts before the Commission indicate that, on July 25, 2020, the risk posed to residential customers and their communities of removing those customers' access to the services needed to abide by hygiene standards and "social distancing" guidelines will be of such a serious nature that prohibiting disconnection will continue to be necessary to prevent injury to the interests of the people. The financial interests of the public utilities of the state continues to be protected through the Commission's actions in docket 5-AF-105.

Similarly, the Commission has a duty to use its general authority to specify the date on which its orders take effect for the purpose of ensuring that the Commission's finding that an order is just and reasonable is supported by the facts before the Commission regarding the likely effects of the order at the time that it becomes effective. Wis. Stat. §§ 196.37(2), 196.40, 196.70(2). The facts before the Commission indicate that, if the Commission's order authorizing disconnections were to take effect on July 25, 2020, the order would be unjust and unreasonable with regard to residential customers as it would put such customers at risk by denying them access to services in their residences needed to abide by hygiene standards and "social distancing" guidelines and instead force these customers to seek such access in communal spaces thereby increasing the public health risks to those customers and others in the community. Therefore, the Commission stays disconnections in Order Point No. 1 of the Supplemental Order – Second for residential customers until September 1, 2020.

The Commission's order authorizing utilities to send disconnection notices to customers in accordance with disconnection plans filed with the Commission took effect on July 15, 2020. Disconnection notices play an important role in the financial health of utilities by initiating processes for customers to obtain financial assistance and take steps to address amounts owed to utilities. To ensure that customers receive accurate information, the Commission orders that utilities' notices shall not indicate a disconnection date prior to the earliest date on which the Commission's stay may be lifted, which is September 1, 2020.

The Commission cautions customers who receive a disconnection notice or who otherwise have unpaid balances with their utility not to wait until September 1, 2020, to take remedial action to address their obligation to pay for the service they use. The Commission strongly urges customers to immediately seek a payment plan with their utility or apply for

energy assistance, in order to avoid incurring a large debt and experiencing eventual disconnection. Customers having difficulty paying their energy bills may be eligible for assistance from the Wisconsin Home Energy Assistance Program (WHEAP).¹ If customers cannot reach an agreement with their utility, they are encouraged to contact the Commission.²

Given the unprecedented and evolving nature of the COVID-19 pandemic, and the large number of utilities and customers affected by this investigation, the Commission finds it reasonable to keep this investigation open and continue to provide an opportunity for the positions of utilities and other stakeholders to be heard on an ongoing basis. Therefore, the Commission orders utilities and other stakeholder organizations wishing to present positions and information on the reasonableness of having the Commission's authorization of disconnection of residential customers take effect on September 1, 2020, to file with the Commission no later than August 10, 2020, so that the Commission may consider such information in advance of its meeting on August 20, 2020. The Commission also welcomes utilities and other stakeholder organizations to present information regarding the terms and conditions of Deferred Payment Agreements to further inform any future Commission action.

Pursuant to Order Point No. 12 of the Supplemental Order – Second, utilities wishing to send disconnection notices must continue to file a disconnection plan and updated plan with the Commission. The Commission further orders that, in addition to the information specified in that order point, disconnection plans involving residential customers shall also supply monthly information related to credit and collection protocols, including information on: changes to disconnection plans reported to the Commission, disconnection notices, arrears balances and the

¹ Information on eligibility for WHEAP and on how to apply is available at <http://homeenergyplus.wi.gov/> and by calling 1-866-HEATWIS.

² To contact the Commission, call 1-800-225-7729 or file a complaint through the Commission's website.

number of customers in arrears, deferred payment agreements and terms and other collection activities such as deposits.

ORDER

1. Order Point No. 1 of the Supplemental Order – Second is stayed until September 1, 2020, with regard to utilities’ authority to disconnect residential customers. Utilities and organizations may file comments by no later than August 10 (for consideration at August 20 meeting) relating to duration and conditions of staying disconnections or refusal to serve customers for nonpayment.
2. Order Point 12 remains in force and, for disconnection plans (and updates thereto) involving residential customers, the utilities shall also supply monthly information related to credit and collection protocols, including information on: changes to reported disconnection plans, disconnection notices, arrears balances and customers in arrears, deferred payment agreements (DPAs) and terms, and other collection activities such as deposits. Utilities and organizations may file comments by no later than August 10 (for consideration at August 20 meeting) relating to DPAs and disconnections. The matter shall be returned to the Commission on August 20 for further discussion.
3. This order takes effect immediately upon service.

Dissent

Commissioner Nowak dissents and writes separately (see attached).

Dated at Madison, Wisconsin, the 24th day of July, 2020.

A handwritten signature in cursive script that reads "Steffany Powell Coker".

By the Commission:

Steffany Powell Coker
Secretary to the Commission

SP: DL:01756414

PUBLIC SERVICE COMMISSION OF WISCONSIN

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DISSENT OF COMMISSIONER ELLEN NOWAK

I dissent from the Commission's decision to extend the moratorium on residential utility customer disconnections for non-payment through September 1, 2020, in docket 5-UI-120.

I am incredibly sympathetic to those who have been directly and indirectly impacted by COVID-19, from those who have been stricken with the virus to those who have lost their jobs because of the virus. Our country is facing a challenge that impacts every American in ways that we could not have ever imagined.

However, extending the moratorium on utility disconnections for residential customers is a short-sighted solution and ignores the tools already available to those who have a hardship paying utility bills.

If a customer or a member of a customer's household has COVID-19, pursuant to the Commission's June 26, 2020 order, utility services are automatically considered a medical emergency for the purposes of a 21-day medical extension of service.

If a customer has experienced economic hardship and cannot pay their utility bill, there are several tools available. One, utilities will work with customers to implement deferred payment agreements. Utilities have reported increased flexibility in implementing deferred payment plans and providing assistance to customers in need. Two, state and local governments have funds for energy assistance. In fact, those programs have ample funds to assist customers.

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If we don't encourage customers to make use of energy assistance programs, what is the point of having those?

The Commission's decision today sets the tools aside and tells every customer, regardless of ability to pay, that they don't have to pay a utility bill when it is due. Of course, the funds will be due eventually. For some, they will never pay. In that case, those bills are paid by all other customers. Socializing costs should be the last resort but today's decision makes that scenario much more likely.

Information provided to the Commission since our June 26, 2020 order also does not provide evidence to extend the moratorium. While the number of COVID-19 cases in the state has increased, the unemployment rate has decreased. There was no evidence presented that suggested a correlation between an increase in the number of COVID-19 cases and an increase in the inability to pay one's utility bills. The lack of evidence supporting a one month extension makes further extensions appear more likely. As it stands today, a bill that was due in October of 2019 could remain unpaid nearly a year later. Further extensions make it likely that bill could remain unpaid in April of 2021 with no impact on service. The cost of that year and a half of service will be borne by ratepayers who pay their bills, even though we tell them they don't have to.

If, as seems probable, further extensions are granted, families in need are unlikely to receive assistance with the bill they already have, leaving them with a bigger problem and less help next year. We are helping families dig a hole they can't get out of. That's wrong.

The Legislature recognized the need to provide assistance to families who were unable to pay their full bill. They met that need through the Energy Assistance Program at the Department

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of Administration, not this Commission. Staff have reported that expenditures to date from this program are actually lower than at this time last year and that additional federal funds have been made available. This program and others direct assistance based on income and need. In contrast to that efficiency, the Commission's action today could not have been less targeted or efficient. The decision allows millionaires to put off paying at a cost to responsible ratepayers.

If an extraordinary effort were made to help a group of families, I would have supported a provision ensuring that residents who had applied for but not received timely action on their Unemployment Compensation claims not be subject to disconnection. These are folks who, through no fault of their own, are prevented from accessing to benefits they earned. We should do everything within our power to help these families until they receive their just benefits from the state.

SP: DL:01758037