

Annotated by Gallucci to reflect Commission's decision at its April 30th open meeting.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Memorandum

April 24, 2020

FOR COMMISSION AGENDA

TO: The Commission

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RE: 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

Suggested Minute: The Commission (approved/did not approve) Commission staff's proposed findings related to the investigation of the Commission's Own Motion to Ensure Safe, Reliable and Affordable Access to Utility Services During Declared Public Health Emergency for COVID-19.

Background

On March 12, 2020, Governor Evers issued Executive Order #72,¹ declaring a public health emergency in response to the COVID-19 (Coronavirus Disease).² In response, the Commission initiated this investigation into activities that are required to ensure safe, reliable and affordable access for all customers to electric, gas, water, and steam services during the

¹ <https://evers.wi.gov/Documents/EO/EO072-DeclaringHealthEmergencyCOVID-19.pdf>

² COVID-19 is a virus that has not previously infected humans. On March 11, 2020, the World Health Organization officially declared COVID-19 a pandemic.

declared public health emergency for COVID-19. In its order of March 24, 2020, the Commission temporarily altered the tariffs of all public utilities in this state, until further order of the Commission, in order to prevent injury to the business and interests of the people and the public utilities of the state, pursuant to its authority under Wis. Stat. §§ 196.02(1) and 196.70, and Wis. Admin. Code §§ PSC 113.01(2), PSC 134.01(2), and PSC 185.11(4). ([PSC REF#: 386373](#))

The Commission instructed utilities seeking clarification or alteration of the provisions of the order to submit a petition in this docket, and instructed Commission staff to report back on such requests within 30 days of the order. The Commission also requested that interested parties submit comments on several specified issues no later than April 10, 2020, and submit comments responsive to the initial comments no later than April 21, 2020. ([PSC REF#: 386370](#), [PSC REF#: 387592](#)).

This memorandum discusses the issues and comments submitted in response to the Commission's request, as well the requests and inquiries received from utilities and customers regarding the Commission's order of March 24, 2020. This memorandum includes three appendices.³

Summary and Analysis of Issues from Comments Received and Contacts Submitted to Consumer Affairs Staff

In response to the Commission's requests for comment, eleven organizations submitted comments as summarized by Commission staff in Appendix A and Appendix B, and as described under each issue heading below. In addition, from the date of the Commission's order of

³ Appendix A summarizes initial comments submitted in response the Commission's March 24, 2020, request; Appendix B summarizes comments responsive to the initial comments, submitted pursuant to the Commission's April 16, 2020, request; and Appendix C summarizes the requests and inquiries regarding the Commission's order of March 24, 2020.

March 24, 2020, through April 10, 2020, the Commission's Bureau of Consumer Affairs (CA) staff received a total of 5 complaints, 11 inquiries and 18 utility inquiries related to the utility service issues discussed in this docket.⁴ These comments and contacts touched on the following 11 issues as discussed below.⁵

Issue 1: Whether and how the utility could offer any customer, regardless of customer class, a budget payment plan, if the Commission were to require this during the public health emergency, and until further order of the Commission.

The Wisconsin Utilities Association (WUA), Municipal Electric Utilities of Wisconsin (MEUW), WPPI Energy, and several individual utilities⁶ submitted comments opposing the expansion of budget billing requirements beyond residential electric and gas customers. They explained that complying with such a requirement would require costly changes to billing systems, be time-intensive due to the difficulty of estimating bills for certain customer classes, and would potentially result in cash flow difficulties for the utilities.

MEUW and WPPI stated that the financial challenges faced by nonresidential, commercial and industrial (C&I) customers are better addressed through deferred payment agreements, and that deferred payment agreements are currently being offered pursuant to the Commission's order of March 24, 2020. They recommended that, if the Commission chooses to

⁴ 5-UI-120, Comment Appendix C

⁵ In addition to these 11 issues, comments were received suggesting that the Commission consider relaxing the time requirements for marking transmission facilities (including water facilities) in response to locate requests under Wis. Stat. § 182.0175(2m)(a). These comments included suggestions of extending the response time up to ten additional days. The Pipeline and Hazardous Materials Safety Administration (PHMSA) has indicated that no other states have authorized extending the time periods for responding to transmission facility locate requests during the health emergency. Commission staff does not believe there is a compelling basis at this time to consider options relaxing the transmission facility marking response times as compared to the important public safety function that the timely locating of transmission facilities provides. Commission staff will continue to work with operators and stakeholders on a case-by-case basis to address transmission facility marking concerns. Commission staff have also worked extensively with stakeholders and customers to develop systems and processes to maintain utility locates and safety compliance measures while adjusting to the new social distancing measures and minimizing utility/customer/contractor interactions.

⁶ La Crosse Water Utility, City of Appleton Water Utility, North Central Power, Inc., Dahlberg Light and Power Company (DLP), Northwestern Wisconsin Electric Company (NWE), Green Bay Water Utility (GBWU), and North Central Power Company Co., Inc. (NCP).

require utilities to offer budget billing to C&I customers, the Commission limit the requirement to apply only to smaller customers and authorize the utilities to manage the potential financial impacts, such as through periodic true-ups of the payment amount. ([PSC REF#: 387325](#)).

Unlike gas and electric utilities, which are required to offer budget billing to residential customers, water utilities are authorized but not required to offer budget billing to residential customers. Wis. Admin. Codes §§ PSC 113.0406, PSC 134.13, and PSC 185.33(16). Several water utilities stated that, because they do not offer budget billing to any customers, adding this requirement would entail cost and complexity. They also stated that, because they bill customers on a quarterly basis, customers are able to make monthly payments in amounts that work for their budgets.

Citizens Utility Board (CUB) supported offering a 12-month budget payment plan to any customer regardless of class because it would provide flexibility to allow customers to weather the economic impacts of the COVID-19 pandemic. CUB recognized that it would be imprudent to require utilities to incur significant expense if customers were not interested in using budget billing. Therefore, CUB suggested that the Commission staff work with utilities to assess the feasibility of budget billing and identify customer classes that would potentially benefit. ([PSC REF#: 387786](#)). Wisconsin Industrial Energy Group (WIEG) did not oppose the requirement, but stated that none of its members had expressed interest in budget billing. ([PSC REF#: 387334](#).)

Since the date the Commission's order in this docket was issued, CA staff has not received customer complaints or contacts related to requests for a budget payment plan. However, several customer contacts, while not directly related to budget billing, requested temporary rate reductions for C&I customers and special payment plans, due to business closures and steep declines in sales.

To assess the feasibility and impact of requiring utilities to offer budget billing to a subset of customers, as discussed by MEUW and CUB, Commission staff would need to work with utilities to obtain additional information regarding customers on lower energy usage rate schedules, as well as on the term length and frequency of review that would be appropriate for such plans.

Commission Alternatives: Budget Payment Plans

Alternative One: Require utilities to offer a budget payment plan, regardless of customer class, to all customers.

Alternative Two: Do not require utilities to offer a budget payment plan, regardless of customer class, to all customers.

Alternative Three: Direct Commission staff to investigate/provide additional information for the Commission's consideration at a future date.

Issue 2: The Commission's determination that the utility can request application, identification, and residency information, but cannot delay reconnection or turning on new service if the customer has not provided the information, until such a time the Commission issues an order reauthorizing disconnection and refusal of service for these reasons.

WUA stated that providing service without first receiving identification information will cause an increase in identify theft and uncollectible expenses. However, WUA stated that it does not oppose continuing this portion of the Commission's order at this time if deferral or escrow accounting treatment of bad debt is allowed. ([PSC REF#: 387340](#)).⁷

NWE, DLP, and NCP stated that requiring proper identification from customers reduces fraud, but indicated that they respect the Commission's decision to only allow disconnection or

⁷ In related Commission docket 5-AF-105, Accounting Treatment for Utility Costs Incurred Due To and During Declared Public Health Emergency for COVID-19, the Commission authorized deferral accounting treatment for costs incurred and determined it is appropriate to include the incremental increase in bad debt or uncollectible expense above what is currently included in authorized rates related to the health crisis in the deferral authorization. ([PSC REF#: 387977](#).)

refusal of service for safety reasons. They also recommended that bad debt expenses be deferred and recovered in a future rate case. ([PSC REF#: 387780](#), [PSC REF#: 387779](#), and [PSC REF#: 387778](#)).

CUB and WIEG support the Commission's decision to prohibit disconnection or refusal of service for failure to supply identification documents. ([PSC REF#: 387334](#).)

MEUW and WPPI stated that they found the Commission's determination reasonable. They also requested that, following the Commission's order reauthorizing disconnection or refusal of service for these reasons, the Commission authorize utilities to use an expedited process for disconnecting customers that did not provide proper identification or residency information. ([PSC REF#: 387325](#).)

CA staff has received contacts from several utilities seeking additional guidance related to processes for handling uncollectible accounts and tracking lost revenue due to the pandemic. In addition, the Commission has provided guidance on these points through docket 5-AF-105.

Commission staff does not have sufficient information to provide the Commission with an estimate of the uncollectible amounts associated with this issue. Nor does Commission staff have information on the extent or number of customers applying for new service without sufficient residency or identification information at this time. For context, Commission staff notes that the temporary alteration of the identification and residency requirements imposed through the Commission's order in this docket are similar to those already observed by utilities providing heat-related service to dwellings during the winter moratorium period from November 1 to April 15 each year. During that period, water, gas, and electric utilities may not disconnect or refuse residential service if that service provides or affects the primary heating source of the household, for public health and safety reasons similar to those associated with the current situation.

The federal CARES Act provided an additional \$900 Million for the Low Income Energy Assistance Program (LIHEAP) funding. The Division of Division of Energy, Housing, and Community Resources at the Wisconsin Department of Administration estimates to receive about \$8 million in additional funding, of which a significant portion will be released in energy assistance awards to gas and electric utilities. While the stimulus funds will not solve the issue of an expected increase in bad debt and uncollectible accounts, the additional LIHEAP funding will help many electric and gas utilities and low-income customers decrease arrears.

With regard to MEUW and WPPI's request for an expedited disconnection process, Commission staff notes that in the example of the winter moratorium, the administrative code does not currently allow for a deviation from the disconnection notice requirements⁸ for disconnections of service for failure to provide identification information during the moratorium period. However, the Commission has authority to provide for an expedited disconnection process pursuant to its authority under this investigation. At this time, Commission staff does not have sufficient information to develop alternatives for what a reasonable expedited disconnection process would entail.

Commission Alternatives: Application, Identification, and Residency Information

Alternative One: Take no new action. The Commission's order that a utility can request application, identification, and residency information, but cannot delay reconnection or turning on new service if the customer has not provided the information remains in effect until further order of the Commission.

NOWAK DISSENTING: She supported alternative 2 on the basis that the risk of fraud outweighs the problem.

⁸ See Wis. Admin. Code §§ PSC 113.0301(10)(a), 113.0302(10)(a), 134.062(8)(a), 134.0622(8)(a), and 185.37(11)(a) for the 10-day (electric and water) and 8-day (gas) disconnection notice requirements applicable to failure to provide identification and residency information.

Alternative Two: Modify the Commission’s order that a utility can request application, identification, and residency information, but cannot delay reconnection or turning on new service if the customer has not provided the information.

Alternative Three: Direct Consumer Affairs staff to investigate and provide additional information for the Commission’s consideration at a future date.

Issue 3: Issuance of Securities (from WUA Comments item c)⁹

WUA requested flexibility in the event utilities need to issue additional debt to ensure adequate capital and cash flow for their essential services. Utilities may encounter unique cash flow challenges and constraints as a result of various aspects of the public health emergency, including but not limited to declining revenues and volumes, as well as increases in bad debt expense if customers are unable to pay their bills. These factors will limit a utility’s internal cash flow generation and likely increase its reliance on external sources of liquidity. When capital markets are unusually volatile and access is tighter, or during times of financial distress at the individual company level, liquidity from the short-term credit markets is critically important in order to manage cash flow fluctuations inherent in operating the business and maintaining its financial obligations. It is critical to ensure Wisconsin’s regulated utilities maintain financial health in order to ensure sufficient access to liquidity and have flexibility needed to weather a potentially prolonged period of financial volatility and turbulent capital markets.

Issuances of debt and equity securities by investor-owned utilities are regulated under Wis. Stat. § 201.03, which requires that a Certificate of Authority be obtained from the Commission prior to entering into a transaction to issue securities:

⁹ This memorandum does not address the first two items from the WUA comments (accounting treatment and uncollectibles/bad debt) because those items are being addressed in docket 5-AF-105 and are discussed in the staff memorandum associated with that docket. [PSC REF#: 387587](#)

No securities shall be issued by any public service corporation until it shall first have obtained from the commission, and recorded upon its books a certificate authorizing such issue; and the commission shall not authorize the issuance of securities for any purposes which are not proper corporate purposes, or in an amount greater than is reasonably necessary for such corporate purposes, having in view the immediate requirements of the corporation and its prospective requirements over a reasonable period in the future, and other relevant considerations.

In March 2020, the Commission delegated to the Administrator of the Division of Energy Regulation and Analysis authority to issue, pursuant to Wis. Stat. § 201.03, future authorizations for the issuance of short-term or line-of-credit debt securities by investor owned utilities on the condition that the proposed terms and parameters of the borrowing program are materially unchanged relative to prior years and continue to be consistent with market conditions.

Additionally, the Commission delegated to the Administrator of the Division of Energy Regulation and Analysis authority to issue, pursuant to Wis. Stat. §§ 201.03 and 201.05(4), future authorizations for the issuance of long-term debt securities by all investor owned utilities which: (1) contain financial features materially similar to the applicant's outstanding long-term debt securities, (2) contain financial terms consistent with the parameters qualifying for issuance of the securities under the one-step procedure approved by the Commission in 1990, and (3) would not result in a material deviation from the financial capital structure authorized in the utility's most recent rate case.¹⁰

While Commission staff understands the reasoning for the parties' request that the Commission allow securities to be issued before a Certificate of Authority is granted, such an exemption is not permitted under Wis. Stat. § 201.03. However, it may be reasonable for the Commission to consider a narrow expansion of the delegation authority related to short-term debt issuances as a way to provide additional flexibility to the utilities and accelerate the processing

¹⁰ For the purposes of defining materiality as it relates to fluctuations in financial capital structure, Commission staff uses a threshold of plus/minus 5 percentage points in the ratio of long-term debt to total capitalization.

such requests. If the delegation authority is expanded, the Commission may find it appropriate to stipulate certain risk controls, including but not limited to the following:

1. Requests to increase short-term borrowing authority may only be delegated as a result of a declared emergency.
2. The requested expansion of short-term borrowing authority must be for securities containing financial features materially similar to the applicant's existing short-term borrowing authority.
3. The requested expansion of short-term borrowing authority would not result in a material deviation from the financial capital structure authorized in the utility's most recent rate case. For the purposes of defining materiality as it relates to fluctuations in financial capital structure, Commission staff suggest a threshold of five percentage points in the ratio of short-term debt to total capitalization.
4. Requiring utilities with expanded short-term borrowing authority to report on a monthly basis the status of each class of short-term debt securities, the monthly maximum short-term debt outstanding, and the terms of such borrowing.

Commission Alternatives: Issuance of Securities

Alternative One: Authorize delegation to Administrator as outlined above.

Alternative Two: Authorize delegation with any criteria set by the Commission.

Alternative Three: Do not authorize any additional delegation of security issuance requests.

Issue 4: Extension of Regulatory Filing Deadlines (from WUA Comments item d)

WUA requested that all regulatory filings be extended by 30 days, with the ability to make requests for additional extensions. ([PSC REF#: 386276.](#)) Providing timing flexibility is an

important issue for utilities. Where permitted by law, Commission staff has worked with utilities to develop realistic timelines for providing all necessary submittals. For instance, many utilities requested and received annual report filing deadline extensions by working with the Division Administrators for the Division of Energy Regulation (DERA) and Analysis and the Division of Water Utility Regulation and Analysis (DWURA).

The WUA comments and the other comments submitted in this investigation did not provide a list of the specific deadlines for which a 30-day extension is being requested. Commission staff notes that regulatory deadlines are prescribed in various statutes, and whether the Commission may extend a deadline depends on the applicable statute. While the Commission does not have blanket authority to grant a 30-day extension for all deadlines, 2019 Act 185 vested new authority in the Commission to address deadlines during the “emergency period.”¹¹ Act 185 provided that “Each agency...may toll for the duration of the emergency period any deadline falling within that period that the agency or local governmental unit administers or enforces.” Wis. Stat. § 323.265 (2). However, Commission staff notes that the effect of tolling a deadline depends on the purpose of the applicable deadline, and Commission staff does not have sufficient information to provide an analysis of the reasonableness of or impacts of extending all deadlines administered and enforced by the Commission.

The Commission may wish to direct utilities and other parties subject to deadlines that the Commission administers and enforces to submit requests for deadline tolling and extension via petition in this docket. Alternatively, the Commission may wish to delegate to the Division Administrators of DACEA, DERA, and DWURA the authority to grant deadline tolling and extension requests, except for under circumstances that would compromise public safety or

¹¹ “Emergency period” means the period covered by the public health emergency declared on March 12, 2020, by executive order 72, plus 30 days. Wis. Stat. § 323.265 (1) (c).

provision of essential service, in which case the Administrator would be required to elevate a request to the full Commission.

Commission Alternatives: Extension of Regulatory Filing Deadlines

Alternative One: Direct utilities and other parties subject to deadlines that the Commission administers and enforces to submit requests for deadline tolling and extension via petition in this docket.

Alternative Two: Delegate to the Division Administrators of DACEA, DERA, and DWURA the authority to grant deadline tolling and extension requests, except for under circumstances that would compromise public safety or provision of essential service, in which case the Administrator would be required to elevate a request to the full Commission.

Alternative Three: Order other action consistent with the Commission's discussion of this issue.

Alternative Four: Take no action.

Issue 5: Waiver of Certain Tariff Provisions (from WUA Comments item e)

The Commission's order of March 24, 2020, delegated to the division administrators of DACEA, DERA, and DWURA the authority to provide clarification of the order points and to approve a utility request to disconnect a customer for a reason other than as provided in the order. However, the order directed a public utility seeking to request a modification of the requirements of the order, other than a disconnection request, to make such request by submitting a petition to the Commission in this docket.

WUA requested that the Commission establish an expedited process to allow utilities to request additional tariff provision waivers on a case-by-case basis to address specific circumstances that may arise in the future. In response to WUA's comments, CUB and WIEG

submitted comments supporting WUA's request for an expedited process, and further identified specific tariff provisions that they requested the Commission temporarily waive, relating to:

- Minimum term provisions that would otherwise prevent a customer from switching off of an optional rate offering, such as residential time-of-use or residential demand billing;
- Tariff provisions which assess charges for non-continuous use/service, or would otherwise penalize or prevent customers for temporarily disconnecting utility service during the health emergency;
- Minimum energy and/or demand requirements that would otherwise require the customer to be billed under a different rate schedule due to decreased electricity use; and,
- Tariff provisions that limit revisions to customer baseline usage levels and tariff provisions that require minimum usage levels relative to a customer's baseline usage levels.

CUB and WIEG recommend these provisions remain in effect until 60 days after the state of emergency is lifted, to allow time for business operations and residential activities to normalize and recover from the public health emergency. ([PSC REF#: 387334.](#))

WUA opposed WIEG and CUB's suggested additional waiver provisions. ([PSC REF#: 387785.](#))

Commission Alternatives: Waiver of Certain Tariff Provisions

Alternative One: Order staff to create an expedited process for processing case-by-case requests, and delegate authority to Division Administrators to approve, deny, or elevate as appropriate those requests, and approve the temporary waiver of tariffs suggested by CUB and WIEG.

Alternative Two: Order staff to create an expedited process for case-by-case requests, and delegate authority to Division Administrators to approve, deny, or elevate as

appropriate those requests, but do not approve the temporary waiver of tariffs suggested by CUB and WIEG.

Alternative Three: Order other action consistent with the Commission’s discussion of this issue.

Alternative Four: Take no action.

Issue 6: Safety Compliance Work (from WUA Comments item g)

WUA requested relief for justified requests to avoid entering a residence or business to perform certain utility work.

Of the five complaints filed with CA, two were related to “safety compliance work” as WUA described in its original comments. This issue relates to whether a utility is required to continue to perform certain types of utility work that require entry into a residence or business. In one case, the customer filed a complaint because they were not able to make a payment in person at the utility office. The utility advised that the office would be closed to the public during the public health emergency and reviewed with the customer payment options, including a drop box option. The other complaint was regarding concerns over utility staff entering the customer’s home to conduct a meter exchange. The utility assured the customer that the meter technician would take every precaution necessary and intended to install an Automatic Meter Reading (AMR) meter so that meter technicians would not enter his home in the future. Wisconsin’s statutory and administrative code provisions governing the provision of utility service include a number of requirements that may involve entry into a dwelling or place of business. Sometimes these requirements specifically provide for exceptions under extenuating or specific circumstances, and are intended to provide the flexibility to allow for case-specific determinations to be made. In other cases, the requirements do not expressly include exceptions.

Commission Alternatives: Safety Compliance Work

Alternative One: Direct staff to work with utilities to investigate and report back to the Commission.

Alternative Two: Direct utilities to continue to work with Commission staff on case-specific questions or concerns, and direct staff to continue to report back to the Commission on questions received.

Alternative Three: Take no action.

Issue 7: Requests for Alteration and Clarification of Requirements Related to Disconnection and Refusal of Service

WUA believes the moratorium on disconnections is too broad and recommends that the disconnection moratorium apply only to cases with reasons related to non-payment. WUA specifically noted the disconnection moratorium should not apply in cases involving violations of utility rules, meter tampering, failure to provide utility access, and creation of a hazard. ([PSC REF#: 387340](#).) CUB did not object to WUA's suggestion. ([PSC REF#: 387786](#).) Staff notes that the moratorium under order point #2 carved out exceptions for utilities, pursuant to Wis. Admin. Code §§ PSC 113.0301(4) and (5), 113.0302(4) and (5), 134.062(3) and (4), 134.0622(3) and (4), and 185.37(3), to disconnect or refuse service where a dangerous condition exists, for as long as it exists, and where unsafe devices or methods are in use.¹² In instances of meter tampering and hazards, a dangerous condition or unsafe method generally exists, and therefore in many of the cited cases this distinction is moot. In the case of failure to provide access or comply with any other specific utility service rule, the Commission may wish to consider whether it is prudent to

¹² Order point #2 states: No public utility may disconnect or refuse service to any customer in any class for any reason other than those specified in Wis. Admin. Code §§ 113.0301(4) and (5), 113.0302(4) and (5), 134.006(3) and (4), 134.0622(3) and (4), 185.37(3).

maintain the prohibition against disconnection under the current social distancing environment, unless a dangerous condition or unsafe method exists.

In addition, one utility petitioned the Commission for a waiver of the disconnection requirements in a specific circumstance. ([PSC REF#: 387725.](#)) That petition and matter is currently under review pursuant to the delegation and procedure outlined in the March 24, 2020 order in this docket; therefore, substantive discussion of the petition is not included in this memo.

Commission Alternatives: Disconnection Requirements

Alternative One: Modify order point #2 of the March 24, 2020 Order in this docket to allow for disconnection in cases involving violations of utility rules, meter tampering, failure to provide utility access, and creation of a hazard where a dangerous condition or unsafe method generally does not already exist.

Alternative Two: Modify order point #2 consistent with the Commission's discussion.

Alternative Three: Do not modify order point #2.

Alternative Four: Direct Consumer Affairs staff to investigate/provide additional information for the Commission's consideration at a future date.

Issue 8: Deferred Payment Agreement Requirement Clarification

WUA noted in its comments that order point #4 in this docket regarding DPAs does not include the qualifying language that DPAs be offered if the "customer is unable to pay a bill in full" and seeks clarification. ([PSC REF#: 387340.](#)) CUB is primarily concerned about economic hardship and customers' ability to pay. As such, CUB does not object to WUA's suggested clarification. ([PSC REF#: 387786.](#)) Commission staff have confirmed for utilities making informal inquiries that a DPA is to be offered if the customer indicates that they are unable to pay

the bill in full, as opposed to a requirement to offer a DPA to each and every customer of record regardless whether the customer indicates inability to pay the bill in full.

Commission Alternatives: Deferred Payment Agreement Requirement Clarification

Alternative One: Modify order point #4 to include the qualifying language, “if the customer is unable to pay a bill in full.”

Alternative Two: Do not modify order point #4.

Alternative Three: Direct Consumer Affairs staff to investigate/provide additional information for the Commission’s consideration at a future date.

Issue 9: Deposits and Reconnection of Seasonal Customers

CA staff received questions and concerns from customers and utilities regarding the provisions of the Commission’s order of March 24, 2020, regarding customer deposits and the process for reconnecting seasonal customers. The order states no public utility may require a cash deposit or other guarantee as a condition of new service.¹³ Utilities expressed confusion regarding when and to whom they could assess a deposit. One residential customer suggested that the moratorium on deposits should apply to both new and existing customers. Moreover, several nonresidential customers indicated that the deposit was unaffordable due to the downturn in business during the pandemic.¹⁴ Several customers contacted the Commission requesting a waiver or early refund of their deposit due to financial hardship as a result of the public health emergency. CA staff advised that the Commission’s order prohibited utilities from requiring a cash deposit as a condition of new service, but did not waive or change the refund terms of existing deposits.

¹³ 5-UI-120, Commission order signed and served March, 24, 2020.

¹⁴ 5-UI-120, Comment Appendix C

Many utilities and customers had questions about the reconnection of seasonal customers. CA staff has informed utilities that they may not refuse service to a customer due to the customer being seasonal.

Commission Alternatives: Deposits and Reconnection of Seasonal Customers

Alternative One: Take no new action.

Alternative Two: Direct Consumer Affairs staff to investigate/provide additional information for the Commission's consideration at a future date.

Issue 10: Duration and Conclusion of any Commission Action Related to these Topics

Finally, WUA requests clarification on whether the order points in docket 5-UI-120 will be rescinded when the Governor declares the public health emergency to be over ([PSC REF#: 387340](#)). The order states that the Commission finds it necessary to temporarily alter the tariff provisions of all public utilities in the state, which will not be rescinded when the Governor lifts the public health emergency, but rather will be in place until further order of the Commission ([PSC REF#: 386373](#)).

WUA and CUB both commented on the duration of the order and the timeline for lifting requirements. WUA indicated it believed the requirements would be needed for some time, but not indefinitely, and should be revisited when more information is available. ([PSC REF#: 387785](#).) CUB commented all parties would benefit from greater clarity regarding the Commission's intentions related to the term of the requirements, and that it may be appropriate for provisions of the Commission's order to also remain in effect for some period beyond the lifting of the state of emergency. ([PSC REF#: 387786](#).)

As discussed in the Commission's order of March 24, 2020, the Commission has specific authority under Wis. Stat. § 196.70(1) to temporarily alter or amend any existing rates, schedules, or orders when the Commission deems it "necessary to prevent injury to the business or interest

of the people or any public utility in case of any emergency to be judged of by the [C]ommission...”

Because the statute authorizes the Commission to take such action in case of an emergency “to be judged by the [C]ommission,” the Commission has discretion to determine when circumstances no longer warrant the temporary tariff alterations that the Commission has ordered in this investigation. Although the status of the public health emergency determines whether the rule suspensions remain in effect, as discussed in the Commission’s order of March 24, 2020, the Commission’s authority to order tariff provisions that are different from the requirements otherwise applicable under the rules is not contingent upon the suspensions. Rather, the rules themselves specifically state that the Commission has discretion to order tariff requirements that are greater, lesser, or different from the requirements otherwise applicable under the administrative code. Wis. Admin Code §§ PSC 113.01(2), 134.01(2), and 185.11(4). Therefore, the duration of the declared public health emergency or any other order of the Governor or another agency will only determine the duration of the Commission’s order to the extent that the status of such orders informs the Commission’s judgment in its exercise of its discretionary authority.

Commission Alternatives: Duration and Conclusion

Alternative One: Direct staff to report back at set intervals on each issue for the Commission to make determinations on an as-appropriate basis regarding conclusion or winding down of any part of the Commission’s order of March 24, 2020 or any order stemming from this memorandum.

Alternative Two: Request comments from stakeholders at a future date set by the Commission on the continued appropriateness or necessity of each order point from the Commission’s order of March 24, 2020, and any order stemming from this memorandum.

Alternative Three: Take no action.

DECISION: PSC will move forward with data requests; response date is May 15th.

Issue 11: Other Discussion

In addition to the foregoing issues, CA staff received five utility inquiries requesting guidance on the process for waiving credit card transaction fees. CA staff directed utilities to file a request through the Commission's Electronic Records Filing (ERF) system. Several utilities requested guidance on the processes for assessing deposits. Additional utility inquiries related to concerns over waiving late fees, Non-Sufficient Funds (NSF) charges, reconnection fees and requirements, safety of utility workers, collections, tracking lost revenue and future plans and protections for customers once the Commission issues an order suspending the requirements in 5-UI-120.

Commission Alternatives: Other Discussion

Alternative One: Direct staff to report back further on any of these issues

Alternative Two: Take no action at this time

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Key Background Documents

Appendix A: 5-UI-120 March 24, 2020 NOI Comment Summary

Appendix B: 5-UI-120 April 16, 2020 Notice and Request for Comments Reply Summary

Appendix C: Consumer and Utility Contacts Regarding 5-UI-120 Summary