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Public Utility Commission of Texas

Commissioner Memorandum

2020 AUG 26 AM 9:43
PUBLIC UTILITY COMMISSION
COURTESY

TO: Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Chairman DeAnn T. Walker *DTW*

DATE: August 26, 2020

RE: Open Meeting of August 27, 2020 – Agenda Item No. 21
Project No. 50664 – *Issues Related to the State of Disaster for Coronavirus Disease 2019*

I propose adopting the attached order related to the COVID-19 Electricity Relief Program. A proposed fourth order is included as Attachment A.

I look forward to discussing this with you at the open meeting.

Attachment A

**Proposed Fourth Order Implementing
COVID-19 Electricity Relief Program**

PROJECT NO. 50664

**ISSUES RELATED TO THE STATE OF § PUBLIC UTILITY COMMISSION
DISASTER FOR THE CORONAVIRUS § OF TEXAS
DISEASE 2019 §**

**PROPOSED FOURTH ORDER
RELATED TO COVID-19 ELECTRICITY RELIEF PROGRAM**

On March 13, 2020, in response to the growing threat of the coronavirus disease (COVID-19), Governor Greg Abbott issued a Declaration of State of Disaster for all counties in Texas. In each subsequent month, and most recently on August 8, 2020, Governor Abbott has renewed the disaster declaration for all Texas counties.

On March 26, 2020, the Commission issued an order addressing the effects of COVID-19 for electric services provided in the areas of the state of Texas that are open to customer choice and established the COVID-19 Electricity Relief Program (the Program). On April 17, 2020, the Commission issued a second order in which it found the need for the Program to continue to exist and made clarifying modifications to the Program. That order set an ending date for the Program of July 17, 2020, unless extended by the Commission. On July 16, 2020, the Commission issued a third order, extending the Program until August 31, 2020.

Through this Order, the Commission provides the details to conclude the Program. The Commission determines that enrollments in the Plan should end on August 31, 2020 and benefits under the Program should end on September 30, 2020 to allow eligible customers a minimum of one month of benefits from the Program. In addition, the Commission determines that November 29, 2020 is the appropriate date by which retail electric providers must submit a request for reimbursement under the Program.

In its March 26, 2020 order, the Commission required the Electric Reliability Council of Texas, Inc. (ERCOT) to provide the initial contribution to transmission and distribution utilities (TDUs) for the Program, which it has done. The loan agreements entered into between ERCOT and each TDU currently require each TDU to reimburse ERCOT for ERCOT's initial contribution on or before September 26, 2020, unless the end date of the Program is extended by the Commission or a Commission order establishes a later date for repayment. To comport with the

process established by this Order to conclude the Program, the Commission extends the date by which each TDU must reimburse ERCOT from September 26, 2020 to December 15, 2020.

In addition, each TDU in the ERCOT region was required by the March 26, 2020 order to file a tariff rider to implement the terms of the Program. Each TDU filed its tariff rider between March 31 and April 1, 2020. In this Order, the Commission requires each TDU to make a filing to cancel this tariff rider when the TDU estimates it will recover its Program expenses. Further, because of the timing of this cancelation, the Commission authorizes a TDU to book a regulatory asset or liability for any final under- or over-recovery of expenses related to the Program.

Finally, under the Program, each TDU is required to file a report every 30 days. Through this Order, the Commission is requiring each TDU and REP to file a final report on the Program by January 15, 2021.

The Program, as modified by this Order, is attached to this Order and is adopted and incorporated into and made a part of this Order.

The Commission issues this Order under its statutory authority to regulate public utilities, to regulate the provision of wholesale and retail electric service, to provide protections to retail customers of electric service, and to oversee ERCOT as the independent organization.

The term *transmission and distribution utility* or *TDU* in this Order or in the COVID-19 Electricity Relief Program does not include a river authority.

Consistent with the above discussion, the Commission orders the following:

1. The Commission modifies the Program as provided in this Order.
2. Solix must not accept applications for the Program after August 31, 2020.
3. The exemption under the Program from disconnections for non-payment for eligible residential customers in areas open to customer choice ends September 30, 2020.
4. Financial assistance for eligible residential customers available under the COVID-19 Electricity Relief Program, as modified by this Order, is applicable to invoices received from the TDU by the REP and electric bills issued to eligible residential customers on or after March 26, 2020 and before October 1, 2020.

5. To be eligible for reimbursement, a REP must submit its request for reimbursement on or before November 29, 2020 and a TDU must not accept a request by a REP for reimbursement of energy charges after November 29, 2020.
6. As allowed in the loan agreements between ERCOT and the TDUs, the Commission extends the date by which each TDU must reimburse ERCOT for ERCOT's initial contribution from September 26, 2020 to December 15, 2020.
7. Seven days before the date on which a TDU estimates that its revenues under the Rider ERP are equal to, or approximately equal to, its Program expenses, the TDU must make a filing to that effect. The filing must include a tariff rider cancellation bearing a date certain for the rider cancellation and the rider will automatically terminate on that date without further action by the TDU, the Commission, or Commission Staff. Concurrently with this filing, the TDU must notify REPs of the rider cancellation date by an ERCOT market notice.
8. The Commission will audit and reconcile Program reimbursements and collections.
9. Each TDU may book a regulatory asset or regulatory liability, as applicable, for any final under- or over-collection of expenses incurred in connection with the Program. Each TDU must propose a tariff rider to extinguish any regulatory asset or regulatory liability related to the Program in the TDU's next rate proceeding, whether a transmission cost recovery factor case, a distribution cost recovery factor case, or a base-rate case.
10. On or before January 15, 2021, each TDU and REP must file a final Program report in Project No. 50703, *Reports on the COVID-19 Electricity Relief Program*.
11. Each TDU, REP, and ERCOT must continue to comply with all applicable provisions of the Program as modified by the Commission's second order issued on April 17, 2020, the Commission's third order issued on July 16, 2020, and this Order.
12. The Commission may supplement and modify the Program or the requirements of this Order by a subsequent order.

Signed at Austin, Texas the _____ day of August 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

Attachment

COVID-19 Electricity Relief Program

COVID-19 Electricity Relief Program

Overview

- On March 19, 2020, Governor Abbott issued Executive Order No. GA-08 that set forth four orders effective from March 20, 2020 until April 3, 2020, subject to extension. The orders state the following:
 - Order No. 1 - In accordance with the Guidelines from the President and the CDC, every person in Texas shall avoid social gatherings in groups of more than 10 people.
 - Order No. 2 - In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged throughout the limited duration of this executive order.
 - Order No. 3 - In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes or retirement or long-term care facilities unless to provide critical assistance.
 - Order No. 4 - In accordance with the Guidelines from the President and the CDC, schools shall temporarily close.
- On March 31, 2020, Governor Abbott issued Executive Order No. GA-14, which superseded Executive Order No. GA-08, to remain in effect until April 30, 2020, subject to extension. The order states the following:
 - In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain essential services, minimize social gatherings and minimize in-person contact with people who are not in the same household.
 - “Essential services” shall consist of everything listed by the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0, plus religious services conducted in churches, congregations, and houses of worship. Other essential services may be added to this list with the approval of the Texas Division of Emergency Management (TDEM). TDEM shall maintain an online list of essential services, as specified in this executive order and in any approved additions. Requests for additions should be directed to TDEM at EssentialServices@tdem.texas.gov or by visiting www.tdem.texas.gov/essentialservices.
 - In providing or obtaining essential services, people and businesses should follow the Guidelines from the President and the CDC by practicing good hygiene,

environmental cleanliness, and sanitation, implementing social distancing, and working from home if possible. In particular, all services should be provided through remote telework from home unless they are essential services that cannot be provided through remote telework. If religious services cannot be conducted from home or through remote services, they should be conducted consistent with the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19.

- In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms, massage establishments, tattoo studios, piercing studios, or cosmetology salons; provided, however, that the use of drive-thru, pickup, or delivery options for food and drinks is allowed and highly encouraged throughout the limited duration of this executive order.
 - This executive order does not prohibit people from accessing essential services or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other essential services, visiting parks, hunting or fishing, or engaging in physical activity like jogging or bicycling, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.
 - In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission.
 - In accordance with the Guidelines from the President and the CDC, schools shall remain temporarily closed to in-person classroom attendance and shall not recommence before May 4, 2020.
- The customer assistance program (COVID-19 Electricity Relief Program) applies to residential customers meeting the eligibility criteria of the program. It is meant to address the needs of residential customers that are unable to pay their electric bill due to loss of employment due to the COVID-19 situation.
 - The program became effective on March 26, 2020 and is applicable to invoices received from the transmission and distribution utility (TDU) by the Retail Electric Provider (REP) and electric bills issued to eligible residential customers on or after that date, until September 30, 2020. It does not apply to invoices or electric bills received prior to the effective date of the program. The program will not apply to invoices received from the TDU by the REP and electric bills issued to eligible residential customers after September 30, 2020.
 - The COVID-19 Electricity Relief Program creates a temporary exemption from disconnections for non-payment for eligible residential customers in areas open to

customer choice, thus protecting affected residential customers and reducing the some of the exposure of the competitive market from excessive COVID-19-related bad debt that could lead to industry upheaval and bankruptcies.

- Only the residential classes will be eligible for the COVID-19 Electricity Relief Program and suspension of disconnection for non-payment. REPs must contact residential customers to attempt to place the customer on deferred payment plans before submitting any claims for financial assistance from the program.
- The Commission has issued an order under 16 Texas Administrative Code (TAC) §§ 25.480(j)(1)(B) and 25.498(i)(1)(B) requiring REPs to offer deferred payment plans to customers who have experienced financial hardship due to COVID-19. As provided by those rules, REPs may implement switch-holds for customers who enter into a deferred payment plan. When a customer contacts a REP and indicates an inability to pay a bill, or to make a deferred payment plan installment, the REP will inform the customer of the COVID-19 Electricity Relief Program and will provide instructions for the customer to contact the Low-Income List Administrator (LILA) to self-enroll if the customer is experiencing unemployment due to the impacts of COVID-19.
- The moratorium on disconnections for non-payment implemented by the TDUs ended on or about March 29, 2020.

Mechanism

- TDUs implemented a rider to facilitate funding the COVID-19 Electricity Relief Program for customers within the customer choice areas of the Electric Reliability Council of Texas (ERCOT). The rider collects funds utilized to reimburse TDUs and REPs for unpaid bills from qualified residential customers experiencing unemployment due to the impacts of COVID-19 and to ensure continuity of electric service for those residential customers.
- The rider is a set amount per kilowatt hour (kWh) with funds collected and administered by the TDUs across all customer classes. The initial rider was based on \$0.33 per megawatt hour (MWh). The TDUs have implemented the rider.
- To assist the public interest under the COVID-19 Electricity Relief Program, ERCOT has provided the initial contribution to create the TDUs' initial fund balance. This contribution will be considered an allowable expense under 16 TAC § 25.363(c). For reporting purposes, ERCOT will process the contribution as an interest free receivable in its books until fully repaid by each TDU. ERCOT and each TDU have entered into an interest free loan agreement that will describe the payment terms and conditions and be consistent with the COVID-19 Electricity Relief Program. Each loan agreement will be filed with the Commission. Amounts to be repaid to ERCOT will be collected through the TDU riders and repaid by the date provided in the loan agreement, unless extended by the Commission.
- The fund administered by each TDU for the COVID-19 Electricity Relief Program can also receive donations and grants from governmental entities, corporations, and other entities.

Any funds received from other sources shall be administered and treated in the same manner by the TDU as the funds in the program from the rider.

- If the rider and donations or grants are not providing sufficient funds to cover the TDU and REP eligible costs, then the TDU will file a request for an adjustment to the rider. At any point during the pendency of the COVID-19 Electricity Relief Program, TDUs or REPs may petition the Commission for a review of or amendment to the COVID-19 Electricity Relief Program, including adjustments to the rider. The Commission will act on any petition within 30 days.
- The fund will reimburse the following entities and eligible costs: REPs with energy charges related to residential customers qualified for financial assistance; TDUs for delivery charges related to residential customers qualified for financial assistance; the third-party administrator to cover its reasonable costs of administering the COVID-19 Electricity Relief Program eligibility process; and ERCOT for the initial contribution. Disbursements to REPs will be calculated using a standardized energy charge based on an average energy cost of \$0.04 per kWh.
- Financial assistance under the COVID-19 Electricity Relief Program is a single benefit that consists of two components: (1) the suppression of delivery charges by the TDU and (2) an energy charge reimbursement of \$0.04 per kWh to the REP on behalf of the customer.
- The following customer identification process will be used, facilitated by the third-party vendor, who is the same entity as the Low-Income List Administrator (LILA). A residential customer experiencing hardship due to unemployment from the effects of the COVID-19 disaster must contact the LILA. The residential customer must provide the LILA with an attestation of unemployment (to be followed by documentation of unemployment within 30 days) and sufficient information to identify the customer's electric service account (e.g., service address, account number, and telephone number). The LILA will compare the customer's information to the lists of residential customers submitted by REPs to create files of matching residential customers eligible for the COVID-19 Electricity Relief Program. A customer who is automatically enrolled on the LILA list in cooperation with the Texas Department of State Health Services is also eligible for the COVID-19 Electricity Relief Program. Each REP must retrieve from the third-party vendor the list of residential customers served by that REP who are eligible for the COVID-19 Electricity Relief Program.
- REPs will cease submitting disconnection for non-payment orders for residential customers identified as eligible for the COVID-19 Electricity Relief Program.
- A REP must make meaningful attempts to offer the customer a deferred payment plan. A meaningful attempt to offer a customer a deferred payment plan does not include mass electronic communications to the REP's customers. A REP must demonstrate that it has made these customer specific attempts prior to qualifying the customer to receive financial assistance.

- If a customer enters into a deferred payment plan, the REP must allow the customer an opportunity to fulfill the terms of the plan prior to qualifying the customer to receive financial assistance.
- A REP must qualify a customer to receive financial assistance before submitting a request for delivery charges to be suppressed and an energy charge reimbursement for that customer.
- The REP should credit the qualified customer's account upon submitting the energy charge reimbursement request to the TDU. The customer's account should also reflect any suppression of TDU delivery charges. Any adjustments from the Program should also be reflected on the customer's next bill or Summary of Usage and Payment.
- A residential customer who demonstrates eligibility for the COVID-19 Electricity Relief Program is deemed as having established satisfactory credit for the purpose of 16 TAC § 25.478(a) until September 30, 2020.
- TDUs will cease charging REPs for delivery charges, except securitization-related charges, related to customers identified as qualified for the COVID-19 Electricity Relief Program financial assistance.
- The COVID-19 Electricity Relief Program financial assistance is forward-looking and will begin for each customer at the time that the customer would otherwise be subject to disconnection for non-payment, absent the Program. To provide for consistent implementation, when a REP submits a request to suppress TDU charges, the TDU will reissue the most recent TDU invoice with the charges suppressed. Only one invoice may be reissued. Following the suppression request, future TDU invoices to the REP will have delivery charges suppressed.
- A REP must submit the reimbursement requests for the same usage period during which the TDU charges are suppressed, and only for that period.
- The addition of eligible residential customers to the COVID-19 Electricity Relief Program, will end on August 31, 2020. The suspension of disconnections for non-payment for eligible residential customers under the COVID-19 Electricity Relief Program will end on September 30, 2020.
- The TDUs' riders will remain in place until the TDUs make a filing cancelling the tariff rider.
- Final claims for reimbursement must be submitted to TDUs on or before November 29, 2020.
- TDUs must prepare reports on the COVID-19 Electricity Relief Program to be filed at the Commission every 30 days providing data showing aggregate amounts of reimbursements to the TDUs and REPs. Reimbursements and collections will be subject to reconciliation and audit by the Commission.

- REPs must submit one spreadsheet with reimbursement claims to each TDU beginning on April 30, 2020 and all subsequent requests may be made on the 15th of each month. TDUs will create a standard spreadsheet format; however, the spreadsheet will include the following information: ESI IDs; kWh usage; kWh usage x \$0.04; REP invoice number and date of invoice. Reimbursement payments to REPs will be processed within 14 days.
- Concurrent with each request for energy charge reimbursement, a REP must file with the Commission a sworn statement from an executive officer of the REP attesting to the accuracy, in all material respects, of the information provided to the TDU in the requests for delivery charges to be suppressed and energy charge reimbursements. The Commission may request additional reporting from REPs during the program. A REP may not request reimbursement of energy charges after November 30, 2020.
- A final program report from each REP and each TDU must be submitted to the Commission no later than January 15, 2021, in a format determined by Commission Staff.
- REPs must reflect reimbursement sought through the COVID-19 Electricity Relief Program on the affected customer's account and cease to seek continued collection where funds are received from the program during the pendency of the program. REPs are allowed to recover the remaining balances from the qualified residential customer after the cessation of the program.
- The Commission waives all relevant deadlines within its rules related to required changes to the REP's Terms of Service, Prepaid Disclosure Statement, and Electricity Facts Labels contract documents relevant to the COVID-19 Electricity Relief Program.
- The Commission has issued an order granting authority for the TDUs to create a regulatory asset to capture all reimbursement amounts and the ERCOT contribution. The funds collected from the rider will be used to offset the regulatory asset and the ERCOT contribution repayment. Any over-or under-collection of Program expenses will be carried to a TDU's next rate proceeding as directed by Commission order.
- On April 10, 2020, Commission Staff released a response to various questions. The document is consistent with the intent of the second order, and it should be used by market participants in the implementation of the COVID-19 Electricity Relief Program.