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Item Number: 64

Addendum StartPage: 0

Public Utility Commission of Texas


Commissioner Memorandum

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PUBLIC UTILITY COMMISSION
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TO: Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Chairman DeAnn T. Walker 

DATE: March 22, 2020

RE: Open Meeting of March 22, 2020
Project No. 50664 – *Issues Related to the State of Disaster for Coronavirus Disease 2019*

On March 13, 2020, Governor Abbott issued “[a] proclamation certifying that COVID-19 poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas.” Since the open meeting on March 16, 2020, I have continued to consider rules that should be granted exceptions as well as other actions that the Commission should take to address this emergency.

Due to the importance of the continued provision of electric, water, and sewer services within the state of Texas, I believe that the ongoing state of disaster constitutes good cause to, and the Commission should grant, exceptions for the rules set forth below. In addition, I recommend that the Commission issue an order, as provided by 16 Texas Administrative Code (TAC) §§ 25.480(j)(1)(B) and 25.498(i)(1)(B), directing retail electric providers to offer a deferred payment plan to customers, upon request. A proposed order is attached as Attachment A.

- Water and Sewer Rules
 - 16 TAC § 24.165(c), which relates to assessment of late fees on customers for delinquent bills.
 - 16 TAC § 24.165(i), which relates to requirements for estimated bills.
 - 16 TAC § 24.167(a)(2)(A), which allows a retail public utility to disconnect water or sewer service for nonpayment.
 - 16 TAC § 24.167(e), which requires a retail public utility to disconnect water service for nonpayment of sewer charges.

- Electric Rules
 - 16 TAC § 25.28(b), which relates to assessment of late fees on customers for delinquent bills.
 - 16 TAC § 25.29(b)(1), which allows an electric utility to disconnect electric service for nonpayment.
 - 16 TAC § 25.480(c), which relates to assessment of late fees on customers for delinquent bills.

In addition, I recommend that the Commission issue an order allowing electric utilities and water and sewer utilities to accrue a regulatory asset to address costs related to the effects of COVID-19, including but not limited to, costs related to unpaid accounts. At this time, I do not believe that we should limit the order to costs related to unpaid accounts only, because it is unknown the extent of the costs that will be incurred to address this emergency. For instance, I am aware that several utilities have contracted with outside, specialized cleaning companies to disinfect their control rooms. I have attached a proposed order as Attachment B for consideration.

Lastly, I recommend that the Commission issue an order to accomplish the actions set forth in Attachment C to establish a COVID-19 Electricity Relief Program. The details of the program must be worked out in the coming days, but I believe that the COVID-19 Electricity Relief Program should be established today by the Commission to provide certainty to the electric utilities, the retail electric providers, and most importantly, the citizens of Texas impacted by this emergency. I have attached a proposed order as Attachment D for consideration.

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

Attachment A

**PROPOSED ORDER DIRECTING CERTAIN ACTIONS AND
GRANTING EXCEPTIONS TO CERTAIN RULES**

PROJECT NO. 50664

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

**ORDER DIRECTING CERTAIN ACTIONS AND
GRANTING EXCEPTIONS TO CERTAIN RULES**

On March 13, 2020 pursuant to Texas Government Code § 418.014, 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. Pursuant to 16 Texas Administrative Code (TAC) §§ 25.480(j)(1)(B) and 25.498(i)(1)(B), the Commission directs all retail electric providers to offer a deferred payment plan to customers, upon request.

Furthermore, under the authority found in 16 TAC § 22.5(a), the Commission finds that there exists a public emergency and imperative public necessity that constitutes good cause for granting exceptions to the following rules:

- Water and Sewer Rules
 - 16 TAC § 24.165(c), which relates to assessment of late fees on customers for delinquent bills.
 - 16 TAC § 24.165(i), which relates to requirements for estimated bills.
 - 16 TAC § 24.167(a)(2)(A), which allows a retail public utility to disconnect water or sewer service for nonpayment.
 - 16 TAC § 24.167(e), which requires a retail public utility to disconnect water service for nonpayment of sewer charges.

- Electric Rules
 - 16 TAC § 25.28(b), which relates to assessment of late fees on customers for delinquent bills.
 - 16 TAC § 25.29(b)(1), which allows an electric utility to disconnect electric service for nonpayment.
 - 16 TAC § 25.480(c), which relates to assessment of late fees on customers for delinquent bills.

Such suspension will best serve the public interest and will not prejudice the rights of any party.

Accordingly, it is ordered that, until the Governor's disaster declaration is terminated,

1. All retail electric providers must offer a deferred payment plan to customers, upon request.
2. Exceptions are granted to the following water and sewer rules: 16 TAC § 24.165(c), which relates to assessment of late fees on customers for delinquent bills; 16 TAC § 24.165(i), which relates to requirements for estimated bills; 16 TAC § 24.167(a)(2)(A), which allows a retail public utility to disconnect water or sewer service for nonpayment; and 16 TAC § 24.167(e), which requires a retail public utility to disconnect water service for nonpayment of sewer charges.
3. Exceptions are granted to the following electric rules: 16 TAC § 25.28(b), which relates to assessment of late fees on customers for delinquent bills; 16 TAC § 25.29(b)(1), which allows an electric utility to disconnect electric service for nonpayment; and 16 TAC § 25.480(c), which relates to assessment of late fees on customers for delinquent bills.

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

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

Attachment B

Proposed Order Related to Accrual of Regulatory Assets

PROJECT NO. 50664

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

**ORDER
RELATED TO ACCRUAL OF REGULATORY ASSETS**

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. This Commission Order addresses the effects of COVID-19 for services provided by electric utilities and water and sewer utilities in the state of Texas.

Through this Order, the Commission takes steps to provide regulated utility companies some regulatory certainty by authorizing the use of an accounting mechanism and a subsequent process through which regulated utility companies may seek future recovery of expenses resulting from the effects of COVID-19.

The Commission issues this accounting order under its statutory authority to preserve on utilities' books the effects of unpaid customer accounts until the Commission approves rate changes that adjust charges to Texas customers.¹ The Commission authorizes each electric, telecommunication, and water and sewer utility to record as a regulatory asset expenses resulting from the effects of COVID-19, including but not limited to non-payment of qualified customer bills as specified by separate order issued on this same date. In future proceedings, the Commission will consider whether each utility's request for recovery of these regulatory assets is reasonable and necessary. The Commission will also consider in the future proceeding other issues, such as the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, and other related matters.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. § 14.151 (West 2016 & Supp. 2017); Tex. Water Code Ann. § 13.131(a) (West 2008 & Supp. 2017).

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

1. Each electric utility and water and sewer utility in the state of Texas shall record as a regulatory asset expenses resulting from the effects of COVID-19.
2. In future proceedings, the Commission will consider, on a case-by-case basis, the appropriate adjustment to a utility's rates to reflect the recovery of the approved amount of regulatory assets recorded in accordance with this Order.

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

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

Attachment C

COVID-19 Electricity Relief Program

COVID-19 Electricity Relief Program

Overview

- During the duration of Governor Abbott’s COVID-19 Disaster Declaration and any extensions, the Commission authorizes creation of a customer assistance program for residential customers meeting eligibility criteria approved by the Commission (COVID-19 Electricity Relief Program).
- 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 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. Retail electric providers (REPs) will contact residential customers to place the customer on deferred payment plans before submitting reimbursement claims.
- As previously recommended, the Commission will issue 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 the state of disaster Governor Abbott has declared for 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.
- The moratorium on disconnections for non-payment currently implemented by the transmission and distribution utilities (TDUs) will end upon the implementation of the COVID-19 Electricity Relief Program as described below.

Mechanism

- TDUs will implement 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 will collect funds to be utilized to reimburse TDUs and REPs for unpaid bills from eligible residential customers experiencing unemployment due to the impacts of COVID-19 and to ensure continuity of electric service for those residential customers.
- The rider will be a set amount per kilowatt hour (“kWh”) with funds collected and administered by the TDUs across all customer classes. The initial rider will be based on \$0.65 per megawatt hour (MWh). The TDUs will implement the rider within ten

days of the Commission's order establishing the COVID-19 Electricity Relief Program. The rider will have an immediate effective date.

- For the initial balance of the fund, each TDU will verify the amount it needs based upon estimated reimbursement requests. ERCOT will provide the initial contribution of up to a total of \$15 million to create the TDUs' initial fund balance from the cash reserves that it has for implementation of the real-time co-optimization project. Each TDU must repay ERCOT for the initial balance contributions received from ERCOT. Amounts to be repaid to ERCOT will be collected through the TDU riders and repaid prior to the end of the COVID-19 Electricity Relief Program.
- If the rider is collecting insufficient 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 eligible residential customers with an unpaid, past due electric bill subject to a disconnection for non-payment notice; TDUs for delivery charges related to eligible residential customers with an unpaid, past due electric bill subject to a disconnection for non-payment notice; 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.
- 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 who cannot pay their electric bill due to unemployment or low-income 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. 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 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).

- TDUs will cease charging REPs for delivery charges related to customers identified as eligible for the COVID-19 Electricity Relief Program.
- The suspension of disconnections for non-payment and addition of residential customers to the COVID-19 Electricity Relief Program will end six months after implementation unless extended by the Commission. If the disaster declaration has not been lifted at the end of the six-month period, the COVID-19 Electricity Relief Program may be extended for an additional period based upon a reassessment of the need for the COVID-19 Electricity Relief Program by the Commission and based upon the status of the disaster declaration. The riders will remain in place and reimbursements to the TDUs and REPs will continue after the COVID-19 Electricity Relief Program has otherwise ended to complete any remaining COVID-19 Electricity Relief Program cost recovery and to disburse all reimbursement amounts or remaining balances.
- Final claims for reimbursement must be submitted to TDUs not later than 90 days after the end of the COVID-19 Electricity Relief Program. For any amounts recovered under the rider that remain after the end of the COVID-19 Electricity Relief Program, the TDUs will issue a refund through REPs to end-use customers in the same manner the rider was charged. REPs must pass through any monies refunded to customers.
- TDUs will 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 will submit one spreadsheet with reimbursement claims to TDUs monthly 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; and Invoice Number. Reimbursement payments to REPs will be processed within 14 days.
- REPs will 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.
- The Commission will waive all relevant deadlines within its rules related to required changes to the REP's Terms of Service and Electricity Facts Labels contract documents relevant to the COVID-19 Electricity Relief Program.
- The Commission will issue 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. The rider will stay in effect until the regulatory asset balance is zero and ERCOT has been reimbursed.

Attachment D

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

PROJECT NO. 50664

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

**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. This Commission Order addresses the effects of COVID-19 for electric services provided in the areas of the state of Texas that are open to customer choice.

Through this Order, the Commission authorizes a customer assistance program for certain residential customers of electric service in areas of the state open to customer choice. The details of that plan, the COVID-19 Electricity Relief Program, are detailed in attachment C to a memorandum filed by Chairman Walker on March 24, 2020 in this project. The portions of that memorandum addressing the COVID-19 Electricity Relief Program are 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 the Electric Reliability Council of Texas, Inc. (ERCOT) as the independent organization.

The Commission recognizes that further details of the COVID-19 Electricity Relief Program will need to be addressed in the coming days and the plan will need to be supplemented and may need to be modified. The Commission also recognizes that the current state of disaster is bringing new challenges that may also need to be addressed and may require changes to the COVID-19 Electricity Relief Program. Accordingly, the Commission will continue to evaluate the issues addressed by the program and monitor the operation of the program and will supplement and modify the program in future orders as needed to address these issues.

Consistent with the above discussion, including the portions of the adopted memorandum, the Commission orders the following:

1. The COVID-19 Electricity Relief Program is established as a customer assistance program for eligible residential customers of retail electric service in the areas of this state open to customer choice.
2. Each transmission and distribution utility (TDU) in the ERCOT region must file within 10 days of the date of this order a tariff rider to implement the terms of the COVID-19 Electricity Relief Program. Docket Management must give those filings its highest priority to process. Each TDU must comply with all other applicable provisions of the program.
3. Retail electric providers must cease disconnections of retail electric customers in areas open to customer choice as provided by other orders of the Commission and the COVID-19 Electricity Relief Program and must comply with all other applicable provisions of the program.
4. ERCOT must provide the initial contribution to the TDUs for the COVID-19 Electricity Relief Program and must comply with all other applicable provisions of the program.
5. The COVID-19 Electricity Relief Program fund must make reimbursements in accordance with the COVID-19 Electricity Relief Program.
6. The Commission may supplement and modify the COVID-19 Electricity Relief Program by subsequent order.

Signed at Austin, Texas the 26th day of March 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER