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ISSUES RELATED TO THE STATE OF § PUBLIC UTILITY COMMISSION  
DISASTER F OR THE FEBRUARY 2021 §  
WINTER WEATHER EVENT § OF TEXAS

**RESPONSE OF TEXAS LEGAL SERVICES CENTER TO  
JUNE 1, 2021 MEMORANDUM OF COMMISSSIONER WILL MCADAMS ON  
EXPIRATION OF MORATORIUM ON DISCONNECTIONS**

**I. Introduction**

Texas Legal Services Center (TLSC) offers this response to Commissioner Will McAdams Memorandum filed on June 1, 2021 proposing that the Commission end the disconnect moratorium at its June 11, 2021 open meeting. We are not in favor of lifting the moratorium until residential consumers are able to maintain utility service throughout the summer months. We also have questions and concerns related to pre-paid customers who may have accumulated arrearages as a result of the Winter Storm.

**II. Background**

Because of COVID-19, the Winter Storm is not an isolated event. The aftermath of the Winter Storm is piled on top of the highest unemployment rates since the Great Recession. The Texas Workforce Commission (TWC) reports that from January 4, 2020 to March 22, 2021, 5.1 million initial unemployment claims have been filed.<sup>1</sup> A recent TWC press release indicates 881,300 Texans are still unemployed as of May 21, 2021.<sup>2</sup> The Texas unemployment rate was 3.6% in January 2020. In March 2021 Texas unemployment remained at 6.9%.<sup>3</sup> Nationally, the hardest hit sectors are leisure and hospitality, wholesale and retail trade, agriculture and

<sup>1</sup> <https://www.twc.texas.gov/files/agency/claims-taken-since-january-2020-large.png>

<sup>2</sup> <https://www.twc.texas.gov/news/texas-unemployment-rate-falls-67-percent>

<sup>3</sup> Congressional Research Service, Unemployment Rates during the COVID-19 Pandemic, R46554, Updated May 20, 2021, p.6.

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construction. This month, claimants will stop receiving the \$300 weekly federal unemployment benefit<sup>4</sup> and this will make it even more difficult for those unemployed persons to meet basic shelter needs. The point is that many Texas families are struggling to keep a roof over their heads, feed their families and yes, pay their utility bills. It may take years, if ever, for many households to economically recover.

### **III. Disconnection is an Additional Problem for Struggling Families, Not a Solution.**

Disconnection is a big stick. Combined with a switch-hold a REP has all the advantages. Under Substantive Rule §25.480(l) the customer is captive because of a switch-hold. There are only two options available, pay up or be blocked from taking power from another REP.

We are personally unaware of utility customers who have money and are playing the system and not paying their utilities bills, however, we do not doubt that such a customer example exists. What we do know is what usually happens for most customers after a threat of disconnection is that they rearrange priorities and do without other necessities or try to borrow money from a family member or go to a payday lender or a car title lender for money. Still others live without electricity and water and risk health, safety, eviction and homelessness.

Apart from the loss of energy for the family, there are societal dangers that put others at risk and increase costs for all taxpayers. Every year there are reports of apartment fires when families use candles or extend a frayed extension cord to a neighbor's home. For seniors and families who live in public housing, the loss of utility service is a lease violation and is grounds for immediate eviction. Often the loss of subsidized housing begins the path to homelessness.

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<sup>4</sup> <https://www.twc.texas.gov/news/frequently-asked-questions-about-unemployment-insurance-benefits-related-covid-19>

Customers with medically fragile and disabled family members face life threatening consequences when they have no power.

**IV. The Deferred Payment Plan Rules as Written are an Insufficient Remedy for Struggling Consumers**

The remedy suggested by Commissioner McAdams is a deferred payment plan (DPP) pursuant to Substantive Rule §25.480(j). Because of these exceptional times we would ask the Commission to require REPs to go beyond the minimum requirements of the rule to do the most they can prevent customers from having their service disconnected.

These are some temporary amendments we recommend that will be helpful to many consumers.

1. Require REPs to offer a DPP and not require the customer to request one.
2. Require no money down to ease the financial impact of the DPP to the customer.
3. Because high bill months are around the corner, the DPP payments should begin in October or November when bills are lower.
4. Require REPS to initially offer a DPP of 18 billing cycles instead of five billing cycles as provided in §25.480(2)(B)(i).
5. Insure that customer agreements are honored by REPs and new fees are not imposed on customers who are blocked from changing REPS by switch-holds.

TLSC and other Legal Aid programs are assisting people facing eviction and in danger of the loss of utility service. Putting people at risk with too short of a payment plan, when debts may be for thousands of dollars, will almost guarantee that people are left without power. When the City of Austin's billing system failed years ago, customer service agents were instructed to

offer payment plans extending up to 18 months. Such an extension would assure that termination of service does not occur in months where there are freezing temperatures or scalding heat.

**V. A Concerted Effort is Needed to Deliver Benefits to Eligible Customers**

PUC Commissioners broke new ground with the invitation of TDHCA director Bobby Wilkinson to discuss the Rent Relief and the LIHEAP programs. Both programs serve a critical need to mitigate the ultimate need for disconnections. But, there have been significant problems with the Rent Relief Program as widely reported in news media<sup>5</sup>. The documentation for benefits can be challenging, particularly for seniors who lack modern technology. Similarly, most community action agencies that administer LIHEAP benefits have been closed to walk-in applicants. These agencies struggle to help people who lack modern camera phones and or have them and don't know how to use them. To make sense of it all, the timing of deferred payment plans should be unified with assurances from TDHCA that adequate staff are available to complete applications on a timely basis.

Furthermore, the commission should encourage REPs to establish special funds to create debt forgiveness programs. While some REP's have confirmed availability of their bill payment assistance programs during the moratorium, other REP's have failed to make similar commitments. In prior years, information about company sponsored bill payment assistance plans was available from the commission. However, that information is now filed confidentially as part of a REP's annual report. The PUC should publish on its website information about each program.

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<sup>5</sup> [https://www.texastribune.org/2021/04/02/texas-eviction-moratorium/?utm\\_source=articleshare&utm\\_medium=social](https://www.texastribune.org/2021/04/02/texas-eviction-moratorium/?utm_source=articleshare&utm_medium=social)

**VI. Prepaid Customers Have Added Fees for Making Payments that Unfairly Raise the Cost of Repayment**

We specifically note concerns with DPPs for prepaid customers. Substantive Rule §25.498 (i) sets forth the rules for DPPs and prepaid plans. Under a pre-paid plan most customers are required to pay a fee every time a payment is made. The fee is as high as \$5.00 per transaction. Thus, a customer with \$20.00 to pay for electricity only gets \$15.00 worth. Such a fee is in violation of §25.498(i)(10) The REP shall not charge the customer a fee for placing the customer on a deferred payment plan. A continuing fee on individual payments violates this provision and is inconsistent with §25.480(j)(5)(D) which states that a REP shall not include finance charge in a DPP. The terminology of the prepaid DPP is not technically a finance charge, however, the fee on individual payments has the effect of increasing costs to the prepaid customer and makes it more, not less difficult to pay down the utility debt.

**VII. Establish the Timing of Disconnection and Notice**

Substantive Rule §25.483(l)(2) states that a disconnection date must be at least ten days after the customer receives notice. Even when a disconnection moratorium is in effect many REPs send disconnection notices. If this has been the practice a disconnection can “legally” be carried out immediately under the rules. To give customers every opportunity to seek assistance, negotiate DPPs, and explore other alternatives that may be available the Commission should determine the notice and timing requirements that REPs must follow to disconnect a customer when the moratorium ends. We recommend that customers be given at least a 60 day notice before a disconnection is carried out. This will allow individuals to contact assistance programs and seek other help that may be available to them.

### **VIII. Summary of Recommendations**

We request that the Commission take a number of specific steps to be fair to both customers and their REPS. These steps include providing transparency of the debt problem and looking for alternatives to disconnection as remedies that would better serve residential consumers and allow REPs to recover amounts owed to them. These steps are as follows:

- Measure the extent of the combined Pandemic and Winter Storm debt. How many customers would be subject to disconnection under the proposed June 11, 2021 expiration of the moratorium? How much do they owe? This could be accomplished as an aggregate number for all REPs to comply with confidentiality protection laws for individual companies.
- Establish standards for DPP payments by prepaid customers to eliminate payment fees to make the DPPs an effective debt relief tool for the customer.
- Convene a workshop to explore how the PUC, other government offices and nongovernmental organizations distributing Recovery Act and Low-Income Home Energy Assistance Program funds and REP's can work together to make help available for customers to recover from the disasters.
- Encourage REPs to establish special funds to create debt forgiveness programs and the PUC should publish information about each program on its website.
- Establish disconnection timing and notice requirement to be applied when the moratorium ends.
- Be specific about the timing and type of disconnection notices required before a disconnection is made.

### **IX. Summary Conclusion**

Disconnection of Service Substantive Rule §25.483(a) states in part: “If a REP *chooses* to have a customer’s electric service disconnected, it shall comply with the requirements in this section. *Nothing in this section requires a REP to request that a customer’s service be disconnected.*” Under the rules, disconnection should be used as a last resort for collecting on unpaid utility bills. Lifting the moratorium now-- at the beginning of our Texas summer as temperatures begin to spike-- will harm vulnerable Texans who continue to face unemployment challenges and economic insecurity, and will cause many to become homeless. We urge you not to lift the moratorium without putting our recommendations and other safeguards in place to protect residential customers.

Respectfully submitted:



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Karen Miller, Executive Director  
SBN 00789643  
kmiller@tlsc.org



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Randall Chapman, Special Counsel  
SBN 04129800  
Randall.Chapman@gmail.com  
Carol Biedrzycki  
biedzcki@att.net  
1920 E. Riverside Dr. Suite A-120, #501  
Austin, TX 78741