



Filing Receipt

Received - 2022-05-19 08:59:50 AM
Control Number - 52405
ItemNumber - 8

PROJECT NO. 52405

REVIEW OF CERTAIN WATER
CUSTOMER PROTECTION RULES

§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

MSEC ENTERPRISES, INC.'S INITIAL COMMENTS TO PROPOSED RULES

MSEC Enterprises, Inc. (MSEC), submits these Comments to the Public Utility Commission of Texas (Commission) regarding Project No. 52405, *Review of Certain Water Customer Protection Rules*. The Commission requested that interested parties file public comments by May 19, 2022.¹ Therefore, these Comments are timely filed.

I. EXECUTIVE SUMMARY

- The entities described in proposed paragraph § 24.173(a) should be required to provide notice to customers of their right to request a payment schedule upon the occurrence of an extreme weather emergency.
- The rule should explicitly prescribe all valid means for providing such notice.
- Initial notice of the availability of payment schedules due to extreme weather emergencies should be provided to customers within 180 days of implementation of §§ 24.173 and 24.364.
- The timeframe during which the utility is prohibited from disconnecting a customer and imposing late fees should be clearly defined.
- Civil penalties should not apply to broad, catch-all violations of the proposed rules.
- The classification system under § 24.364 should be evaluated for ambiguity.
- As a broader policy point, utilities should be required to offer payment schedules at all times rather than only in response to an extreme weather emergency. Notice of this offering should be provided to customers at least annually.

II. INITIAL COMMENTS

MSEC is a retail public utility that values accessibility to service and taking reasonable steps to alleviate customer hardship. As such, MSEC supports the general principle of the proposed rules because they give customers certain safeguards in the event of an extreme weather

¹ Proposal for Publication of New 16 TAC §24.173 and New 16 TAC §24.364, as approved at the April 21, 2022 Open Meeting at 4 (Apr. 20, 2022); *See also* Commissioner Memorandum (Apr. 20, 2022).

emergency. MSEC respectfully offers comments on these proposed rules and suggests elaboration on specific components of the rule in order to define the relationship and expectations between utility and customer as succinctly as possible. This is especially important if a dispute arises based on interpretation of Commission rules.

A. The Commission’s Question: *Should the entities described in proposed paragraph § 24.173(a) be required to provide notice to customers of their right to request a payment schedule upon the occurrence of an extreme weather emergency? If so, how and when should the covered entities notify customers of this right?*

The entities described in proposed § 24.173(a) should be required to provide notice to customers of their right to request a payment schedule upon the occurrence of an extreme weather emergency. Offering options like payment schedules in response to an emergency aids accessibility by relieving customers of a burden that may be attributed to factors beyond their control. The rule should also contemplate the specific means for providing notice and the permitted means should be broad-reaching to ensure notice is communicated to as many customers as possible through as many forums as possible. For example, the rule could explicitly permit—or perhaps *require*—notice through bill inserts, email, mail, and a website or social media. Utilities should be required to give customers notice of the option within 180 days of the effective date of the proposed rule. This will ensure that customers are apprised of the payment schedule option prior to the next occurrence of an extreme weather emergency.

B. Additional Comments

Timeline for Prohibition of Disconnection and Late Fees

Under § 24.173(c)(2), disconnection is prohibited “...until the extreme weather emergency is over” without any explanation of how “over” is intended to be measured. “Over” could refer to the exact point at which an extreme weather emergency ends, or there may be a grace period following the end of the extreme weather emergency. Is a utility prohibited from conducting service disconnections only on the exact days classified as an extreme weather emergency? Or does the prohibition extend for a set duration before and after the extreme weather emergency occurs? The Commission should consider that the impacts of an extreme weather emergency may prevent customers from paying bills for a length of time beyond the timeline provided in the definition of “extreme weather emergency.”

Penalties Under Proposed § 24.364

The above-mentioned timeline considerations are also crucial to the language surrounding civil penalties. Section 24.364(b)(3) includes as a factor of consideration “the duration of the disconnection, both during the extreme weather emergency and afterwards.” The rule includes this as a penalty consideration without addressing how long a utility is prohibited from disconnecting a customer for non-payment *after* an extreme weather emergency. MSEC understands the value of imposing civil penalties for failures to comply with the proposed rules. However, certain aspects of proposed § 24.364 risk an interpretive dispute. For instance, one consideration in § 24.364 refers to “improper billing” without providing a definition or explanation. Subsection (b)(2)(B)(iii) appears to encompass “any other violation” not otherwise enumerated within the provision. The intent of this catch-all provision is not clear as written. Only specifically enumerated violations should be penalized and MSEC supports a detailed evaluation of the classification system under § 24.364(b).

Availability of Payment Schedules as a Broader Policy

MSEC also recommends that the Commission consider expanding a payment schedule mandate to apply not only during an extreme weather emergency, but at all times. Customers should not be deprived of essential services during any periods of financial hardship and utilities should take an active role in ensuring continued and reliable service during such a hardship. If the Commission considers a rulemaking to require utilities to offer a payment schedule at any time, the utility should be required to notify the customers of the option annually.

III. CONCLUSION AND PRAYER

WHEREFORE PREMISES CONSIDERED, MSEC respectfully submits these Initial Comments for consideration and requests that the Commission require the entities described in proposed paragraph § 24.173(a) to provide notice to customers of their right to request a payment schedule upon the occurrence of an extreme weather emergency.

Dated: May 19, 2022

Respectfully submitted,

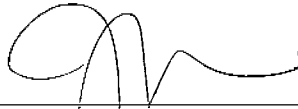
**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

Austin, Texas 78701

(512) 322-5800

(512) 472-0532 (Fax)



JAMIE L. MAULDIN

State Bar No. 24065694

jmauldin@lglawfirm.com

ROSLYN M. DUBBERSTEIN

State Bar No. 24117520

rdubberstein@lglawfirm.com

**ATTORNEYS FOR MSEC ENTERPRISES,
INC.**