

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of Addressing the COVID-19)
Pandemic in the State of Kansas.) Docket No. 20-GIMX-393-MIS

**NOTICE OF FILING OF COMMISSION STAFF'S REPORT AND
RECOMMENDATION**

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), hereby files this Report and Recommendation (R&R) pertaining to Kansas electric, natural gas, and water public utilities. Specifically, Staff recommends the following:

- All jurisdictional electric, natural gas, and water utilities be required to offer their residential and small commercial ratepayers the following minimum customer protections:
 - ✓ A payment plan of up to 12-months to pay off any delinquent account balances that arose during the Commissions' prohibition on disconnections;
 - ✓ The waiver of all late fees during the period of delinquency and repayment.

Staff recommends these protections continue until at least the end of 2020 for any customer or small commercial customer that has experienced negative financial impact during the COVID-19 pandemic. In the likely event that the COVID-19 pandemic stretches into 2021, Staff will file a recommendation in the Docket recommending an extension of these protections.

- That these customer protections be viewed as the minimum a utility must offer. If a utility elects to offer a customer payment plan or customer care plan that contains greater customer protections, it should continue to do so, with the specifics of any such plan addressed in a utility-specific Application or applicable pending Accounting Authority Order request.
- All jurisdictional electric, natural gas, and water utilities be allowed to defer any extraordinary bad debt expenses and foregone fee revenue that may arise from these customer protections into a regulatory asset. These deferrals will be for accounting purposes only, with all justifications related to whether these costs are appropriate for recovery, the application of any carrying charges, and the proper amortization period deferred until the utility's next rate case or alternative rate recovery filing.
- The Commission issue an Order prior to disconnection and collection activities resuming on May 31, 2020. Staff will continue to monitor the impact of COVID-19 on customers and their utility companies and make additional recommendations in this Docket as appropriate.

WHEREFORE, Staff submits its R&R pertaining to Kansas electric, natural gas, and water public utilities, dated May 5, 2020 and attached hereto, for Commission consideration.

Respectfully Submitted,

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REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Susan K. Duffy
Commissioner Shari Feist Albrecht
Commissioner Dwight D. Keen

FROM: Justin Grady, Chief of Accounting and Financial Analysis
Jeff McClanahan, Director of Utilities

DATE: May 5, 2020

SUBJECT: Docket No. 20-GIMX-393-MIS
In the Matter of Addressing the COVID-19 Pandemic in the State of Kansas.

EXECUTIVE SUMMARY

On May 5, 2020, the Commission issued its Third Emergency Order Suspending Disconnects. This requires all jurisdictional public utilities to suspend the practice of disconnecting service for non-payment through May 31, 2020. Prior to the expiration of this Order and the resumption of disconnection and collection activities, Staff contends that it is in the public interest to establish baseline customer protections for residential and small commercial customers of all electric, natural gas, and water utilities. These customer protections, consisting of an offer of a payment plan up to 12-months and the waiver of any late fees, would apply to any residential or small commercial customer that was unable to pay their bill during the period that disconnections were prohibited.

Once disconnection and collection activities resume, Staff recommends these protections apply to any residential or small commercial customer that has experienced negative financial impact during the COVID-19 pandemic. These protections would remain in place for the remainder of 2020, with an extension likely in the event that the COVID-19 pandemic stretches into 2021.

Additionally, Staff recommends that all jurisdictional electric, natural gas, and water utilities be allowed to defer any extraordinary bad debt expenses and foregone fee revenue that may arise from these customer protections into a regulatory asset. These deferrals should be for accounting purposes only, with all justification related to whether these costs are appropriate for recovery, the application of any carrying charges, and the proper amortization period deferred until the utility's next rate case or alternative rate recovery filing.

Staff recommends the Commission rule on this request prior to the expiration of the existing disconnection moratorium so that utilities and customers have certainty regarding how customer arrearage balances and late fees are to be treated for at least the remainder of 2020.

Lastly, Staff makes the recommendations contained in this R&R based on the information that is currently known about the effect of COVID-19 on customers and business activity within the State. Staff will continue to monitor these developments through formal and informal reporting efforts, and stands ready to supplement these recommendations in the future should it become necessary.

BACKGROUND

On March 16, 2020, the Commission issued an Emergency Order Suspending Disconnects, pursuant to K.S.A. 77-536(b) to prevent or avoid the immediate danger to the public health, safety or welfare, and directed all public utilities under the Commission's authority to suspend the practice of disconnecting service for nonpayment while customers and communities are experiencing potential hardship from the COVID-19 virus. The Commission's Emergency Order Suspending Disconnects was effective for 30 days, through April 15, 2020.

Because the threat of the COVID-19 pandemic remained, the Commission issued a Second Emergency Order Suspending Disconnects on April 14, 2020. The Order was effective immediately and is to remain in effect until May 15, 2020. On May 5, 2020, the Commission issued a Third Emergency Order Suspending Disconnects until May 31, 2020.

Arrearage Payment Plans

Staff has been in regular communication with the Commission's jurisdictional electric, gas, and water companies beginning with the onset of the COVID-19 pandemic to determine financial, operational, and customer impacts, as well as the utilities' mitigation efforts. During the course of these communications, several utilities have informed Staff that they plan to offer customers that have been unable to pay their bill during the disconnection prohibition period, the ability to repay their arrearages over a period up to 12-months. This is similar to the protection offered to customers under the Cold Weather Rule (CWR).¹ In addition, several utilities have communicated their intent to continue waiving late fees and disconnects through June 1.

Pursuant to the CWR, utility companies are required to offer a 12-month payment plan to allow residential consumers to maintain or re-establish utility service. Payment plan terms to maintain or restore service require that customers agree to pay 1/12th of the total amount owed, 1/12th of the current bill, the full amount of any disconnection or reconnection fee, plus any applicable deposit to the utility.² The remaining balance must be paid in equal payments over the next 11 months, in addition to the current monthly bill.³

Outside of the CWR, the Commission's Billing Standards require utilities in Kansas to offer residential customers the ability to repay their arrearage balances over a 12-month period. To be eligible for this plan, customers are required to have repaid any balances from any previous

¹ The jurisdictional utilities that have indicated their intent to offer a 12-month payment plan are Evergy, Atmos Energy, Black Hills, Kansas Gas Service, Southern Pioneer, and Suburban Water.

² Billing Standards, Section V, C (3).

³ The Commission adopted the Cold Weather Rule in 1983 to prevent utility companies from disconnecting a customer's natural gas, electric or water service during periods of extreme cold. The Cold Weather Rule begins each year on November 1 and remains in effect through March 31 and prohibits jurisdictional natural gas, electric and water companies from disconnecting a customer's service when temperatures are forecast to be at or below 35 degrees over the following 24 hours. See: <https://kcc.ks.gov/consumer-information/cold-weather-rule>

payment plan.⁴ For example, the following language appears in Black Hills' General Terms and Conditions (GT&C):

- (4.2-f) Arrearage Average Payment Plan: An average payment plan must be one of the options available to residential Customers with arrears. The Customer will have up to 12 months to pay off an arrearage with the initial payment being the arrearage plus the bill for consumption during the most recent billing period for which service was provided, divided by 12. Arrearage from a previous Cold Weather Rule plan or an Arrearage Average Payment Plan must be paid off before entering into this plan. Customers must be informed of this option.

Similar language appears in Kansas Gas Service's GT&C:

4.08 Extended Payment Plan: An Extended Payment Plan similar to the CWR average payment plan shall be available to residential customers with arrears. A customer shall make an initial payment of 1/12 of the arrearage amount, 1/12 of the bill for current consumption, the full amount of any disconnection or reconnection fees, plus any applicable deposit, and enter into a payment plan for up to 12 months to pay the rest of the arrearage. Arrearages from a previous CWR plan or Extended Payment Plan must be paid off before entering into this plan. Customers shall be informed of this option.

While these provisions in the Commission's Billing Standards would be helpful for the customer arrearage balances that have accumulated during the COVID-19 pandemic, they are limited in that all previous payment balances must have been paid to qualify and these provisions only apply to residential customers.

Late Payment Fees

The Commission's Billing Standards call for the application of delayed payment charges in the event a customer's bill becomes delinquent. For residential customers, a delinquent bill is charged a 2% late payment charge, that is, 2% of the unpaid balance is added to the customers billing statement and that late fee adds to the size of the arrearage a customer must eventually pay.⁵ Non-residential customers have the option to be assessed a 1% late payment charge for the option to gain an additional 14 days to pay their bill.⁶ As mentioned above, several utilities in Kansas have announced that they are waiving late fees for residential and small commercial customers during the COVID-19 pandemic.

Accounting Authority Order Requests

On April 14, 2020, Black Hills Kansas Gas Utility Company, LLC (Black Hills); Kansas Gas Service, a Division of ONE Gas, Inc. (KGS); and Atmos Energy Corporation (Atmos) (collectively referred to herein as Gas Utilities) filed a Joint Application seeking an accounting authority order (AAO) that would authorize the Gas Utilities to accumulate and defer for recovery in their next

⁴ Billing Standards, Section II, E.

⁵ Billing Standards, Section II, B.

⁶ Billing Standards, Section II, D.

rate case filings certain costs incurred and revenues lost related to the COVID-19 virus, plus associated carrying costs beginning March 1, 2020. The Joint Application (Application) was docketed as 20-GIMG-423-ACT (20-423 Docket). The Application specifically requests the following:

The Gas Utilities will incur extraordinary costs related to the COVID-19 virus, which they could not have anticipated and which are not currently included in their base rates. *Some of those extraordinary costs, such as bad debt expense, waiver of late payment fees and reconnection charges incurred as a result of the suspension of disconnecting service for non-payment, are currently mandated by the Commission and the State of Kansas. The Gas Utilities will also lose revenues due to the shut-down of businesses ordered by the State of Kansas.* The Gas Utilities request an AAO permitting them to identify, track, document, accumulate in a proper and separate account or sub-account and defer their actual reasonable and prudently incurred costs related to the COVID-19 virus and lost revenues, plus carrying costs, in order to request recovery of said costs and lost revenues in their next respective general rate case filing. [Application at ¶ 6] [Emphasis added].

The Application also outlines the Gas Utilities agreement to maintain supporting documentation that will be subject to review and determination of the amount to be recovered by the Gas Utilities in their next rate cases, file an annual report that provides costs incurred and revenues lost due to COVID-19, and determine an appropriate amortization period and the amount of carrying costs.

On April 16, 2020, the Empire District Electric Company (Liberty-Empire) filed an Application for an AAO that would authorize Liberty-Empire to accumulate and defer for recovery in their next rate case filings certain costs incurred and revenues lost related to the COVID-19 virus, plus associated carrying costs beginning March 1, 2020. Liberty-Empire's Application was docketed as 20-EPDE-427-ACT and is effectively the same as the Gas Utilities' Application.

Through Staff's recent communications with jurisdictional utilities, it is our understanding that Evergy Kansas Central, Inc. (formerly Westar) and Evergy Metro, Inc. (Evergy Kansas Metro, formerly KCPL) (collectively Evergy) will be filing an Application for an AAO within the next few weeks. At this time, it does not appear that Southern Pioneer Electric Company or the Commission's jurisdictional water utilities will be making an Application for the deferral of any type of COVID-19 costs or lost revenues.⁷

The Commission's jurisdictional Incumbent Local Exchange Carriers are addressed in a separate report and recommendation filed concurrent with this report and recommendation.

ANALYSIS

As noted previously, the Commission's Third Emergency Order Suspending Disconnects issued on May 5, 2020, expires on May 31, 2020. Prior to the resumption of disconnection and collection activities, it is in the public interest for the Commission to ensure that certain customer protections are in place. Staff recommends that the Commission require all natural gas, electric, and water

⁷ Southern Pioneer has an Application pending before the Commission in Docket No. 19-SPEE-240-MIS to extend its current Formula Based Rate (FBR) plan, making an Application for an AAO unnecessary at this time. In the event that Southern Pioneer's current FBR is denied or delayed, Southern Pioneer may reevaluate the need to file for an AAO.

utilities to offer residential and small commercial⁸ customers a payment plan of up to 12-months to pay off any arrearage balances that have accumulated during the pendency of the Commission's prohibition on disconnections.⁹ Additionally, Staff recommends that the Commission require these utilities to waive the application of all late fees for these customers.¹⁰ Once the Commission allows disconnection and collection activities to resume, Staff recommends that the Commission require utilities to offer these basic customer protections (12-month payout plans and waived late fees) for any residential or small commercial customer that has experienced negative financial impact during the COVID-19 pandemic.¹¹ These customer protections should be in place through 2020, with a likely extension into 2021 in the event the COVID-19 pandemic continues that long.¹² In the event that Staff believes these customer protections should be extended beyond the end of 2020, Staff will file a report and recommendation in this Docket requesting Commission approval of that action.

As discussed above, while the Commission's Billing Standards contain a provision requiring customers be allowed to repay arrearages over 12-months, there are limitations to those provisions. For example, the requirement that a customer has previously paid all prior payment arrangements may be difficult to meet given the fact that the CWR period was just ending as the COVID-19 pandemic led to a Commission Order requiring a suspension of disconnects. This timing could be interpreted to mean that a customer has not successfully completed a previous payment plan. Therefore, Staff recommends that customers affected by COVID-19 during the pendency of the pandemic be offered a payment plan of up to 12-months regardless of any other tariff provisions that may prohibit such an offer. Additionally, Staff recommends these payment plans be offered to small commercial customers despite the fact that the Billing Standards limit this option to residential customers.

These customer protections will help provide a clear and reasonable path forward for customers that have been unable to pay their electric bills during the COVID-19 pandemic. While these provisions will be felt directly by customers who have been unable to pay their bills during the last few months, all customers' interests are protected by establishing safeguards that make it more

⁸ The definition of "small commercial" customers may differ based on the tariffs of each utility. Staff's recommendation is to follow the tariffs of each utility for the determination of eligible small commercial customers. If there is the need for clarification of this customer classification, Staff intends to work with each affected utility to achieve consensus regarding eligible customers.

⁹ This does not prohibit customers from agreeing to pay the balance over a period shorter than 12-months, but customers must be offered the option of the 12-month payment period.

¹⁰ Both the 2% delinquent payment fee and the 1% for 14-day payment extension fee should be waived during this time for residential and small commercial ratepayers.

¹¹ Staff is open to discussions to define or refine the term "negative financial impact." The concept here is that if someone has experienced job loss, significant income deterioration, business disruption, etc., then these customer protections would be available to them after the expiration of the Commission's prohibition on disconnects.

¹² There are several reports from those in the medical community that the COVID-19 pandemic may exist in some form until a vaccine is widely available. While there exists substantial uncertainty surrounding the timing of the development and manufacture of a vaccine, most publicly available estimates are twelve to eighteen months.

likely that delinquent accounts can be paid off over a reasonable period. Every delinquent account balance that is paid off is a reduction to bad debt expense that the utility would otherwise incur. Bad debt expenses, like all reasonable expenses associated with providing utility service, are eventually recovered from ratepayers.

Staff notes that these customer protections should be considered the baseline or minimum customer protection a utility must offer. Staff is aware of several utilities that are planning on offering customer protections in excess of these minimums, and Staff encourages those utilities to continue with those plans. Any customer protection in advance of those offered in this Report can be addressed in individual utility Applications for waivers of tariff provisions or an Accounting Authority Order (AAO).

While the customer protections described above are necessary to protect customers' interests and promote public safety, these actions may also have negative financial implications for utilities. As discussed above, Staff is currently reviewing the Gas Utilities' and Liberty-Empires' AAO Applications, but some utilities have yet to file an AAO, and there are utilities that may not file an AAO due to their structure and other ratemaking mechanisms. Therefore, Staff has bifurcated the discreet issues of bad debt expense and foregone fee revenue from the AAO Applications and recommends the Commission allow these deferrals for all electric, natural gas, and water utilities that desire them. Because the COVID-19 pandemic was unforeseen, extraordinary, material, and outside the control of utility management, it fits the criteria typically used to evaluate a utility request for an AAO or other extraordinary ratemaking accommodation.

Staff recommends that the Commission issue an Order prior to the resumption of disconnections and collections activity on May 31, 2020.

There exists considerable uncertainty amongst the government and business community as to what the ultimate effect of COVID-19 will be on employment levels, economic activity, and utility consumption. Staff has developed the recommendations in this R&R based on our assessment of the customer protections in place for other regulated utility customers operating in other states, and based on discussions and informal reporting of several KCC-jurisdictional utilities in the State. Staff will continue to monitor the impact of COVID-19 on customers and utilities during the pendency of the pandemic. Staff is monitoring unemployment filings in Kansas by county and will be developing detailed reporting requirements in the AAO Applications that have been filed and that are expected to be filed shortly. For the smaller utilities and for utilities that are not expected to file an AAO request, Staff will continue to monitor the impact of COVID-19 on these utilities and its customers on an informal basis. Based on the results of this reporting and the effect of COVID-19 on the Kansas economy, Staff stands ready to make further recommendations to the Commission as appropriate.

RECOMMENDATION

Staff recommends that all jurisdictional electric, natural gas, and water utilities should be required to offer their residential and small commercial ratepayers the following minimum customer protections:

- A payment plan of up to 12-months to pay off any delinquent account balances that arose during the Commissions' prohibition on disconnections;
- The waiver of all late fees during the period of delinquency and repayment.

While the above customer protections apply to any delinquent payment balance that arose during the Commission's prohibition on disconnections, once the Commission's disconnection moratorium is lifted, these customer protections should continue until at least the end of 2020 for any customer or small commercial customer that has experienced negative financial impact during the COVID-19 pandemic. In the likely event that the COVID-19 pandemic stretches into 2021, Staff will file a recommendation in the Docket recommending an extension of these protections.

These customer protections should be viewed as the minimum a utility must offer. If a utility elects to offer a customer payment plan or customer care plan that contains greater customer protections, it should continue to do so, with the specifics of any such plan addressed in a utility-specific Application or the pending AAO requests.

Additionally, Staff recommends that all jurisdictional electric, natural gas, and water utilities be allowed to defer any extraordinary bad debt expenses and foregone fee revenue that may arise from these customer protections into a regulatory asset. These deferrals should be for accounting purposes only, with all justifications related to whether these costs are appropriate for recovery, the application of any carrying charges, and the proper amortization period deferred until the utility's next rate case or alternative rate recovery filing.

Staff recommends the Commission issue an Order prior to disconnection and collection activities resuming on May 31, 2020. Staff will continue to monitor the impact of COVID-19 on customers and their utility companies and make additional recommendations in this Docket as appropriate.

CERTIFICATE OF SERVICE

20-GIMX-393-MIS

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing of Staff Report and Recommendation was placed in the United States mail, postage prepaid, or electronically served this 6th day of May, 2020, to the following:

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