

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

Response to the COVID-19 Pandemic

DOCKET U-200281

ORDER 05

RELATED TO THE
SUSPENSION OR
DISCONNECTION OF
WATER SERVICES FOR
NONPAYMENT AND
ADOPTING RELATED
REQUIREMENTS

BACKGROUND

- 1 On April 17, 2020, Governor Inslee issued Proclamation 20-23.2, which prohibits all energy, water, and telecommunications providers from (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. The prohibition was set to expire on May 4, 2020, but subsequent proclamations have extended that date through September 30, 2021. Proclamation 20-23.4, issued on May 29, 2020, also required utilities to develop COVID-19 Customer Support Programs consistent with state guidance from the Governor's office to address payment plan options for residential customers who are in arrears due to the COVID-19 pandemic.
- 2 The Washington Utilities and Transportation Commission (Commission or UTC) formed a COVID-19 response workgroup of energy stakeholders to facilitate development of a term sheet with guidelines for ensuring that customers experiencing economic hardship due to the COVID-19 pandemic maintain access to essential services after Proclamation 20-23 expires and the moratorium on disconnections and late fees is no longer in effect.
- 3 Workgroup members exchanged proposed term sheets and participated in several workshops. Based on those discussions, Commission staff (Staff) prepared a term sheet that reflected the terms on which the energy stakeholder workgroup agreed and Staff's recommended resolution for each disputed issue. Following the October 6, 2020, recessed open meeting, Staff revised the Term Sheet to reflect the discussion and filed it in this docket (Revised Term Sheet).

- 4 On October 20, 2020, the Commission entered Order 01 in this Docket, which adopted the Revised Term Sheet. The Revised Term Sheet applied only to regulated electric and natural gas companies.
- 5 On February 17, 2021, the Commission issued Order 02 in this Docket extending the moratorium until July 31, 2021. On March 18, 2021, Governor Inslee issued Proclamation 20-23.15, which extended the moratorium until July 31, 2021.
- 6 The Commission revisited this matter at its recessed open meeting on May 12, 2021. Staff prepared a Third Revised Term Sheet, and on May 18, 2021, the Commission entered Order 03 adopting Staff's Third Revised Term Sheet, attached to Order 03 as Appendix A. The Third Revised Term Sheet only applies to regulated electric and gas companies. Order 03 maintained the moratorium on disconnections for nonpayment until July 31, 2021. On July 2, 2021, Governor Inslee issued Proclamation 20-23.16, which extended the disconnection moratorium until September 30, 2021.
- 7 Recognizing the need to create similar guidance for regulated water companies, Staff developed the UTC Staff Water Utility Options COVID-19 Recovery Term Sheet (Water Term Sheet), attached to this Order as Appendix B. The Water Term Sheet was circulated to regulated water companies on June 25, 2021, and those companies were asked to provide feedback on its contents at the July 8 open meeting, or to file written comments by 5 p.m., July 7, 2021.
- 8 The Water Term Sheet provides that Staff will convene a water industry stakeholders' workgroup in July or August. Staff recommends water utilities work with the Commission's regulatory and consumer protection staff to ensure that appropriate transition plans and consumer protections are in place for their respective companies. The Water Term Sheet also includes provisions that address:
- disconnection notice requirements,
 - customer outreach and payment plans,
 - fees related to disconnection, reconnection, late payment, and deposits,
 - credit and collection processes,
 - cost recovery, and
 - data reporting.

- 9 On July 7, 2021, Cascadia Water, LLC, (Cascadia) filed comments with the Commission. Cascadia generally supports the Water Term Sheet, but objects to Staff’s proposal to include a provision requiring that Staff open an informal complaint in each customer’s name prior to disconnection for nonpayment. Cascadia expressed concerns that Staff does not have the resources to investigate each individual account prior to disconnection. Suncadia Water Company, LLC, (Suncadia) filed identical comments.
- 10 Washington Water Company also filed comments that included the following recommendations:
- Water companies should only be required to notify Staff prior to disconnecting customers for debt incurred between March 1, 2020, and September 30, 2021.
 - The language related to default payments should be modified for clarity.
 - Efforts to disconnect customers for nonpayment should be made only after available aid, if any, is applied.
- 11 This matter came before the Commission at its regularly scheduled open meeting on July 8, 2021. The Commission heard presentations from Staff, Cascadia, and the Public Counsel Unit of the Attorney General’s Office (Public Counsel).
- 12 Cascadia reiterated its concerns related to contacting the Commission prior to disconnecting any customer for nonpayment and suggested using an alternative process to opening informal complaints for each customer.
- 13 Public Counsel observes that the COVID-19 pandemic has disproportionately impacted Black people, Indigenous people, people of color, and other marginalized communities, and requested the Commission establish appropriate safeguards to address the resulting social inequities. Specifically, Public Counsel requests the Commission modify the Water Term Sheet to prohibit water companies from resuming any disconnection activities until after the moratorium expires. With respect to the informal complaint process, Public Counsel supports Staff’s proposal because it will allow Staff to assist customers with establishing payment arrangements. Public Counsel objects to Washington Water’s proposal to limit informal complaints to only those customers who incurred debt between March 2020 and September 2021. Finally, Public Counsel recommends the Commission adopt Staff’s Water Term Sheet with the modification that disconnection activity may not resume until after the moratorium expires on September 30, 2021.

- 14 Consumer protection Staff clarified that the informal complaint process is designed to ensure that notice rules are followed. Staff states that it will make at least two attempts to contact each customer to negotiate payment arrangements prior to allowing a water company to proceed with disconnection for nonpayment.
- 15 Staff recommends the Commission adopt Staff's Water Term Sheet as reflected in Appendix B, attached to this Order.

DISCUSSION

- 16 The Commission adopts Staff's Water Term Sheet with the modifications described below. The Water Term Sheet, which is attached as Appendix B to this Order, recognizes the moratorium on disconnections for nonpayment until September 30, 2021, established by the Governor's proclamation, and allows regulated water companies to resume disconnection notice activities 30 days prior to that date.

Staff Review of Disconnections for Nonpayment

- 17 Cascadia and Suncadia argue that Staff's proposal to open an informal complaint on behalf of each customer eligible for disconnection would be unduly burdensome. We agree. In addition to creating an administrative burden that requires specific actions from, and imposes strict deadlines on, regulated water companies, opening informal complaints — which are tracked and displayed publicly on the Commission's website — would create the appearance that numerous consumers are complaining to the Commission about the business practices of regulated companies.
- 18 Although Staff correctly observes that the informal complaint process halts disconnection activities, WAC 480-110-355(3)(h) also prohibits water companies from disconnecting service when a customer is engaged in discussions with the Commission. Accordingly, it is not necessary to invoke the informal complaint process to prevent disconnection of service. In addition, the Water Term Sheet contains a provision that prohibits disconnection until Staff's review is complete. Considering these factors, we are comfortable changing the language in the Water Term Sheet from directing Staff to "open an informal complaint in the affected customer's name" to "commence a review of the affected customer's account."
- 19 As Staff described in its presentation, Staff will review the timing and sufficiency of disconnection notices and make at least two attempts to contact a customer to establish a mutually acceptable payment plan. Following its review, Staff will notify the company that it may proceed with disconnection. A water company may not disconnect a customer

until Staff notifies the company in writing that Staff's review is complete.

- 20 We decline to adopt Public Counsel's proposal to prohibit disconnection activities prior to September 30, 2021. Allowing water companies to begin sending disconnection notices one billing cycle prior to the October 1 resumption date is consistent with our decision in Order 03 related to regulated energy companies. We are also satisfied that the Water Term Sheet puts robust consumer protections place to ensure that customers receive appropriate communications and are provided adequate time to negotiate payment plans with Staff's assistance.

Cost Recovery

- 21 Public Counsel objects to including Staff's recommended considerations for deferral treatment because cost recovery is not at issue in this Docket. Rather than remove this language, we decline to adopt Staff's recommendations for the purpose of our decision today. Any request to defer certain costs or to recover those deferred expenses will be addressed separately in a new docket, and Staff will have an opportunity to make its recommendations at that time on a case-specific basis.

Consecutive Payments

- 22 Washington Water objects to the following provision in the Water Term Sheet: "Missing two consecutive payments does not constitute default on the payment plan." Washington Water requests that the language be modified to define the conditions in which payment default would occur, *i.e.*, after three missed payments.
- 23 We decline to modify the Water Term Sheet. This term is parallel with the term used in Appendix A and is unambiguous; customers may not be considered in default until more than two consecutive payments are missed. In the unlikely event that issues arise related to this term, the Commission will address them at that time.

Timing of Arrearages

- 24 Washington Water proposed in its comments that disconnections for arrearages incurred after September 30, 2021, should be subject to normal disconnection procedures and exempted from the provisions of the Water Term Sheet. Washington Water did not specify whether its proposal would include only those customers who became delinquent for the first time after September 30, or customers with existing debt who continued to accrue arrearages after that date. A representative of Washington Water signed up to speak at the Commission's July 8, 2021, open meeting, and when called on to clarify its

position, no one from the company spoke. It appeared that a phone line remained muted despite several attempts for that person to speak. In the absence of such clarification, we decline to grant Washington Water's request. Instead, Staff and stakeholders should address this issue in the upcoming workgroup meetings and attempt to resolve it by agreement.

FINDINGS OF FACT

- 25 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including investor-owned water companies.
- 26 (2) On April 17, 2020, Governor Inslee issued Proclamation 20-23.2, which prohibits all water service providers from (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. The Proclamation was subsequently extended and currently expires on September 30, 2021.
- 27 (3) The Commission formed a COVID-19 response workgroup of energy stakeholders to facilitate development of guidelines for ensuring that customers experiencing economic hardship due to the COVID-19 pandemic maintain access to essential services after Proclamation 20-23 expires and the moratorium on disconnections and late fees is no longer in effect. Based on its discussions with workgroup members, Staff developed a Term Sheet, the most recent version of which was adopted by Order 03 in this Docket, and revised by Order 04, as Appendix A.
- 28 (4) Staff subsequently developed a Water Term Sheet based on Appendix A, which was circulated to regulated water companies on June 25, 2021. Those companies were asked to provide feedback on its contents at the July 8 open meeting, or to file written comments by 5 p.m., July 7, 2021.
- 29 (4) The Commission received written comments on Staff's Water Term Sheet and oral comments at its regularly scheduled open meeting on July 8, 2021.

CONCLUSIONS OF LAW

- 30 (1) The Commission has jurisdiction over the subject matter of this proceeding and over investor-owned water service companies.

- 31 (2) The recommended terms in Staff’s Water Term Sheet are fair, just, reasonable,
and sufficient with the modifications described in this Order.
- 32 (3) The Commission should adopt and require regulated water companies to
implement or otherwise comply with the recommended terms in Staff’s Water
Term Sheet, as modified by this Order and attached to this Order as Appendix B.

ORDER

THE COMMISSION ORDERS:

- 33 (1) The Commission adopts the recommendations in the UTC Staff Water Utility
Options COVID-19 Recovery Term Sheet attached to this Order as Appendix B
and incorporated into this Order as described in the body of this Order.
- 34 (2) Commission Staff, where applicable, and water companies regulated by the
Commission must implement or otherwise comply with the terms set forth in
Appendix B as modified by and described in the body of this Order.
- 35 (3) The Commission delegates to the Secretary the authority to approve submissions
made in compliance with this Order.
- 36 (4) The Commission retains jurisdiction to enforce this Order.

DATED at Lacey, Washington, and effective July 9, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner