

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20M-0267EG

IN THE MATTER OF THE COMMISSION'S IMPLEMENTATION OF SENATE BILL 20-030
RELATING TO INCREASED CONSUMER PROTECTIONS FOR INVESTOR OWNED
UTILITIES.

**INTERIM COMMISSION DECISION DIRECTING BLACK
HILLS COLORADO ELECTRIC TO FILE
SUPPLEMENTAL INFORMATION REGARDING
DISCONNECTION PRACTICES**

Mailed Date: January 28, 2021
Adopted Date: January 27, 2021

I. BY THE COMMISSION

A. Statement

1. On June 19, 2020, the Colorado Public Utilities Commission issued Decision No. C20-0452, opening this miscellaneous proceeding to receive comments and other information regarding the statutory changes in Senate Bill (SB) 20-030 concerning increased consumer protections for customers of investor-owned utilities.¹ The Commission also directed electric and gas investor-owned regulated utilities to provide information on how they were responding to the COVID-19 pandemic.

2. By this Decision, we direct Black Hills Colorado Electric, LLC to submit a filing that responds to concerns raised about its disconnection practices during COVID-19 and voluntary actions it will take to reduce disconnections, as further specified below.

¹ SB20-030 implementation is currently ongoing in Proceeding No. 20R-0349EG.

B. Discussion

3. On March 11, 2020, Governor Jared Polis issued Executive Order (EO) D 2020-003, declaring a disaster emergency in Colorado due to COVID-19.² Subsequently, Governor Polis temporarily limited utility disconnections by EO D 2020-012 and subsequent extensions.³ The EO directed the Commission to work with public utilities to suspend disconnections for nonpayment for residents and small businesses, as well as to waive certain fees and to offer bill payment assistance.

4. Resulting from these EOs, regulated utilities filed petitions for approval of temporary waivers from their electric, gas, and/or steam tariffs related to fees associated with late or missed payments.⁴ Regulated utilities stated that their tariffs provide them with the discretion to suspend disconnections, and that they were doing so voluntarily.

5. Subsequently, EO D 2020-098, issued June 12, 2020, directed the Commission to work with regulated utilities to continue waiving fees and to develop and prioritize payment assistance, but did not extend the suspension of disconnections for nonpayment. EO D 2020-098 continues to be extended, most recently through EO D 2021-001, dated January 1, 2021.

6. By Decision No. C20-0636-I, issued September 1, 2020, the Commission set forth objectives related to COVID-19 and assigned former Chairman Jeffrey P. Ackermann as Hearing Commissioner. These objectives included developing a body of knowledge around the impact of COVID-19 on consumers and utilities; exploring creative options related to bill collection; and understanding specific regulatory actions that may be required related to economic recovery, with a focus on actions that can be taken quickly.

² EOs are available at <https://www.colorado.gov/governor/2020-executive-orders>.

³ EO D 2020-012 (issued Mar. 20, 2020); EO D 2020 031 (issued Apr. 6, 2020); EO D 2020-051 (issued Apr. 30, 2020); and EO D 2020-088 (issued May 29, 2020).

⁴ See Proceeding Nos. 20V-0133G; 20V-0150EG; 20V-0152G; 20V-0154E; and 20V-0158G.

7. Proceeding No. 08M-305EG, a Repository Proceeding, was originally opened on July 18, 2008, to continually gather residential arrearage and service termination data across Colorado's gas and electric utilities. Reports subsequently filed in that proceeding suggest that residential customer arrears were increasing during COVID-19, potentially resulting in an increased risk of disconnection for residential customers. Based in part on that assessment, Decision No. R20-0664-I, issued September 16, 2020, directed regulated utilities to file monthly reports including information on delinquencies, numbers of customers that were eligible for disconnection, geographic information about disconnections, and participation in payment plans. The first reports were submitted on October 1, 2020, and covered data through August 31, 2020.

8. Public Service Company of Colorado indicated in the report dated October 1, 2020, that it resumed issuing notices of discontinuance on August 10, 2020, and conducting field disconnections on August 31, 2020.⁵

9. In its report dated October 1, 2020, Black Hills Colorado Electric, LLC (BHCE) and Black Hills Colorado Gas (together, Black Hills) indicated that they had reinstated their collections process for nonpayment on September 8, 2020.⁶

10. In its report dated October 1, 2020, Colorado Natural Gas indicated that it resumed issuing notices of discontinuance on September 9, 2020.⁷

11. Decision No. R20-0916-I, issued December 28, 2020, subsequently modified the reporting requirements for regulated utilities to promote consistency and collect more specific data regarding actual disconnections of service for nonpayment, whether service was reconnected, and

⁵ Supplemental Report and Comments of Public Service Company of Colorado, Attachment 1 (Oct. 1, 2020).

⁶ Comments in Response to Decision No. R20-0664-I of Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy (Oct. 1, 2020).

⁷ Colorado Natural Gas, Inc., Responses to Interim Decision of Hearing Commissioner Jeffrey P. Ackermann Establishing Reporting Requirements and Soliciting Comments (Oct. 1, 2020).

whether reconnection was made through payment plans or energy assistance, if known. The Decision further summarized modifications utilities have made to disconnection practices, including increasing the threshold at which they would issue a notice of discontinuance for past-due bills, and promoting payment plans and other assistance options.

12. As of January 15, 2021, Atmos Energy stated that it had not yet resumed issuing notices of discontinuance or conducting field disconnections for delayed or missed payments for residential and small business customers.⁸

13. In Public Attachment 1 of its report dated January 15, 2021, BHCE reported that it had disconnected 1,861 residential customers for nonpayment from September through December 2020, including 1,019 residential customers in October 2020.

14. We are concerned that this level of disconnections is approaching the level of disconnections BHCE undertakes in years when COVID-19 is not a factor; that it may represent a disproportionate percent of BHCE's residential customers as compared to other utilities; and that it is unclear how long customers are disconnected before they are reconnected. We are further concerned that high levels of disconnections may have significant impacts to residential customers, including housing displacement, and that disconnections could be disproportionately impacting vulnerable communities, such as income-qualified customers, given the demographics of the zip codes that BHCE has indicated include the highest number of customers who are eligible for disconnection. Time is of the essence in understanding these issues.

15. Accordingly, we direct BHCE to submit an explanatory filing on or before February 1, 2021, that addresses at least the following issues:

1. Responses to the Commission's concerns as set forth above, including:

⁸ Atmos Energy Corporation's Fifth Monthly Report, Non-Confidential (Jan. 15, 2021).

- a. What proportion of its total residential customers has been disconnected since collections practices were reinstated in September 2020;
 - b. Progress and timelines for reconnecting those customers;
 - c. Whether the number of disconnections BHCE is undertaking during the COVID-19 pandemic is appropriate and comparable to prior years; and
 - d. Whether disconnections may be disproportionately impacting vulnerable communities, such as income-qualified customers;
2. Whether anticipated corporate donations and additional state or federal energy assistance may impact future customer disconnections;
 3. Any voluntary actions that BHCE is willing to take to reduce residential disconnections; and
 4. Any other information that is necessary for the Commission to understand BHCE's current practices with regard to disconnections.

II. ORDER

A. The Commission Orders That:

1. Black Hills Colorado Electric shall submit a responsive filing on or before February 1, 2021, consistent with the discussion above.
2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 27, 2021.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners