

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
ESTABLISHING OBJECTIVES FOR THIS
PROCEEDING AND DESIGNATING
CHAIRMAN ACKERMANN HEARING COMMISSIONER**

Mailed Date: September 1, 2020
Adopted Date: August 26, 2020

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I. BY THE COMMISSION

A. Statement

1. When the Commission originally opened this Proceeding, we intended to accomplish two purposes. First, we sought to gather insights that could inform the issuance of a Notice of Proposed Rulemaking (NOPR) to implement Senate Bill (SB) 20-030, which was

signed into law on June 29, 2020. Second, we intended to collect information on the impact of the coronavirus (COVID-19) pandemic on utilities and their customers.

2. The aforementioned NOPR has since been issued in Proceeding No. 20R-0349EG.¹ Having considered participants' initial comments, and as the COVID-19 pandemic continues to affect Colorado residents and businesses, we determine there is a need to continue this Proceeding. Accordingly, this Decision establishes objectives for this Proceeding related to COVID-19.

3. We further designate Chairman Jeffrey P. Ackermann as Hearing Commissioner, pursuant to § 40-6-101(2)(a), C.R.S.

4. Future steps for this Proceeding will be addressed by a separate decision.

B. Background

5. 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 He 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. In response to the directive to report to the Office of the

¹ Decision No. C20-0622, issued August 27, 2020, Proceeding No. 20R-0349EG.

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).

Governor, the Commission developed a resource on measures utilities are taking to help customers manage bills during COVID-19.⁴

6. 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.⁵ Regulated utilities stated that their tariffs provide them with the discretion to suspend disconnections, and that they were doing so voluntarily. The Commission granted these initial waivers through August 1, 2020.⁶ Separately, on June 1, 2020, regulated utilities filed a joint petition seeking to track, record as a regulatory asset, and defer costs associated with their responses to the COVID-19 pandemic from March 1 through December 31, 2020.⁷

7. Subsequently, EO D 2020 098, issued on 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.⁸ EO D 2020 098 has been extended twice since, and these directives remain in effect.⁹

8. On June 19, 2020, the Commission issued Decision No. C20-0452, opening this Proceeding to collect comments and other information regarding the statutory changes in

⁴ Statewide Utilities' Measures Undertaken, *available at*: <https://docs.google.com/spreadsheets/d/1GcCzRlomS9pTdJrgh0JSNQvho7FMPynatj1-9ouv3IM/edit#gid=649411941>.

⁵ See Proceeding Nos. 20V-0133G; 20V-0150EG; 20V-0152G; 20V-0154E; and 20V-0158G.

⁶ See Decision Nos. C20-0225 issued April 7, 2020 in Proceeding No. 20V-0133G; C20-0246 issued April 14, 2020 in Proceeding No. 20V-0150EG; C20-0247 issued April 14, 2020 in Proceeding No. 20V-0152G; C20-0265 issued April 20, 2020 in Proceeding No. 20V-0154E; and C20-0269 issued April 20, 2020 in Proceeding No. 20V-0158G.

⁷ See Proceeding No. 20V-0159EG.

⁸ EO D 2020 098 (issued Jun. 12, 2020).

⁹ EO D 2020 132 (issued Jul. 11, 2020); EO D 2020 157 (issued Aug. 9, 2020).

SB 20-030. By that Decision, the Commission also requested that Colorado electric and gas investor-owned utilities answer questions regarding the utilities' responses to the COVID-19 pandemic and provide data to understand current levels of customer delinquencies and disconnections.

9. The following stakeholders submitted comments in response to the Commission's Decision No. C20-0452, touching both on SB 20-030 and COVID-19:

- Atmos Energy Corporation (Atmos)
- Black Hills Colorado Electric, LLC / Black Hills Colorado Gas, Inc. (Black Hills Energy)
- Colorado Natural Gas (CNG)
- Natural Resources Defense Council (NRDC)
- Public Service Company of Colorado (Public Service)
- Sierra Club

10. The Colorado Office of Consumer Counsel and Energy Outreach Colorado filed notices of participation in this Proceeding, but did not submit initial comments.

11. In their initial comments, the regulated utilities provided information about their potential delinquencies by customer class for April to June 2020 as compared to the prior year, some of which was marked as confidential. At the time of filing these initial comments, the regulated utilities stated that they did not have near-term plans to resume disconnections. Each utility discussed their options for engaging customers in diverse ways, including outbound calls, call center messaging, bill inserts, coordination with governmental entities and nonprofits, and web and social media resources. Utilities' initial comments emphasized the need for flexibility to work with customers on payment plans during COVID-19.

12. Other participants raised important policy issues associated with the continuing effects of COVID-19. NRDC raised concerns that Latino and Black families are disproportionately impacted by COVID-19 and are disproportionately energy-burdened. They recommended enacting comprehensive moratoriums on disconnections, reconnecting households without power, increasing access to energy assistance funds, increasing multi-lingual communications, expanding energy efficiency funds, and suspending credit bureau reporting, collection activities, and late fees or penalties. Sierra Club stated that access to utility services is critical during the COVID-19 pandemic due to the need to shelter in place. They suggested finding collaborative ways to increase bill assistance and energy efficiency funding for low-income customers, and expressed a willingness to identify additional participants who might be engaged in this proceedings.

13. By Decision No. C20-0533-I, issued July 22, 2020, the Commission decided to move forward with a July 29, 2020, Commissioners' Information Meeting focused on SB 20-030, while continuing to assess appropriate next steps related to COVID-19.

14. Subsequently, the regulated utilities petitioned to extend the variances in their electric, gas, and steam tariffs, in response to EO D 2020 132.¹⁰ With one exception, the Commission granted extension requests until January 31, 2021, or until the expiration of relevant EOs, whichever is sooner.¹¹

¹⁰ See Proceeding Nos. 20V-0133G; 20V-0299EG; 20V-0312E; 20V-0318G; and 20V-0316G.

¹¹ See Decision Nos. C20-0534 (granting the extensions for Black Hills Colorado Electric, LLC, and Black Hills Colorado Gas, Inc., until Sept. 7, 2020); C20-0587 issued August 11, 2020 in Proceeding No. 20V-0312E; C20-0589 issued August 12, 2020 in Proceeding No. 20V-316G; C20-0591 issued August 12, 2020 in Proceeding No. 20V-0318G; and C20-0617 issued August 25, 2020 in Proceeding No. 20V-0133G.

C. Discussion

15. As of the date of this Decision, Colorado has experienced over 56,000 cases of COVID-19, with over 1,800 attributable deaths.¹² The Colorado Department of Public Health and Environment is currently reporting over 300 new cases a day. State agencies have published figures showing high unemployment¹³ and entities like food banks report being strained.¹⁴ While Colorado has begun reopening schools and businesses, the state remains under “Safer at Home” status.¹⁵

16. Utilities and regulators across the country are taking steps to identify locally appropriate ways to respond to an unprecedented situation.¹⁶ For example, the Illinois Commerce Commission recently approved an agreement that suspends disconnections and directs \$47 million to utility bill assistance while requiring detailed utility reporting.¹⁷ The Minnesota Public Utilities Commission has solicited information from regulated utilities on options to accelerate approved projects to support economic recovery and job growth in the state.¹⁸

¹² Colorado Department of Public Health and the Environment, Colorado COVID-19 Data, <https://covid19.colorado.gov/data> (last visited Aug. 27, 2020).

¹³ Colorado Secretary of State, Secretary of State Business Filings Q2 2020 Data Analysis Summary, <https://www.sos.state.co.us/pubs/business/quarterlyReports/2020/2020-Q2SOSIndicatorsReport.pdf> (listing a state unemployment rate of 10.5 percent in June 2020).

¹⁴ *The Denver Post*, “1 in 3 are struggling to eat in Colorado: ‘It would be impossible without the food banks’” (Aug. 8, 2020), <https://www.denverpost.com/2020/08/08/food-banks-help-coronavirus-covid-colorado/>.

¹⁵ Colorado State Emergency Operations Center, Safer at Home:

<https://covid19.colorado.gov/safer-at-home>

(last visited Aug. 26, 2020).

¹⁶ For example, NARUC (<https://www.naruc.org/compilation-of-covid-19-news-resources/>) and E9 (<https://e9insight.com/covid-coverage/>) are tracking these activities.

¹⁷ Docket No. 20-0309, Final Order (June 18, 2020):

<https://www.icc.illinois.gov/docket/P2020-0309/documents/300566>.

¹⁸ Docket No. 20-492, available at <https://mn.gov/puc/newsroom/covid19/>.

17. Nationally and locally, COVID-19 could have many impacts on energy customers of all classes. Their usage patterns may change. Residents and businesses alike may struggle to pay power bills. These impacts may manifest differently depending on income, race, health, and geography.

D. Findings and Conclusions

18. We appreciate the actions that regulated utilities and other organizations have taken so far to address the related impact on residents and businesses who are dealing with health, safety, and economic concerns. However, we do not yet understand how significant or long-lasting the changes to our economy and society will be as a result of the pandemic. Accordingly, we seek to continue exploring COVID-19's impact in Colorado.

19. Given our concerns about utility customers' changing ability to pay during a period of economic uncertainty, we propose the following four objectives for this Proceeding going forward:

- Develop a body of knowledge on how COVID-19 is changing or may change how energy is consumed in Colorado, particularly as it pertains to consumers and their ability to pay, and its implications for utility revenues;
- Explore, using available data regarding ability-to-pay issues, how creativity in bill collection can increase customer retention while minimizing negative impacts and potentially leading to net-beneficial outcomes;
- Provide a forum for collaborative work to identify what actions utilities can take concerning creativity and flexibility in payment assistance options; and
- Understand whether specific regulatory actions or approvals are required related to the utility's role in economic recovery, with a focus on actions that can be taken quickly, outside existing proceedings.

20. We find good cause to assign Commissioner Jeffrey P. Ackermann as Hearing Commissioner as this Proceeding shall continue. The Hearing Commissioner will address further steps in the Proceeding, which may include reporting requirements or opportunities for additional participant engagement, by a future decision.

II. ORDER

A. It Is Ordered That:

1. This Proceeding shall continue notwithstanding the issuance of a Notice of Proposed Rulemaking on August 27, 2020 to implement Senate Bill 20-030 through Decision No. C20-0622 in Proceeding No. 20R-0349EG, consistent with the discussion above.

2. The Commission designates Chairman Jeffrey P. Ackermann as Hearing Commissioner.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 26, 2020.**

(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

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners