

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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May 13, 2020

Executive Secretary
Michigan Public Service Commission
P.O. Box 30221
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Dear Executive Secretary:

Attorney General Reply Comments on utility accounting for COVID-19 related expenses and additional comments.

MPSC Case No. U-20757 – In the matter, on the Commission’s own motion, to review its response to the novel coronavirus (COVID-19) pandemic, including the statewide state of emergency, and to provide guidance and direction to energy and telecommunications providers and other stakeholders.

On April 15, 2020, the Michigan Public Service Commission (Commission) issued an order in Case No. U-20757 directing the utilities under its jurisdiction to undertake certain actions to ease the financial burden on low income customers from the financial hardship posed by the coronavirus pandemic. The Commission also defined certain procedures for the utilities to account for certain costs and revenues that the utilities may incur as a result of addressing the pandemic and implementing emergency programs to lessen the financial hardship on customers.

The Attorney General is very supportive of the actions taken to date by the Commission and the actions promulgated in its April 15, 2020 order. The Attorney General offers the following comments for consideration by the Commission when issuing any subsequent orders in this or other proceedings on this subject matter:

- A. Restoration of Service, Data Reporting and Energy Assistance – In addition to the bi-weekly reporting requirements outlined in the Commission order, the Commission should also require each utility to report the following information on a bi-weekly basis in order to assess customer payment trends:
 1. The number of customers and related dollar amounts of bill payments in arrears 30 days, 60 days, 90 days and more than 90 days past the payment due date. This information should be provided in total by

customer class in two-week intervals beginning with the end of February 2020.

2. The number of customers who are under an extended payment plan and the related amount still unpaid for each customer class at the end of each two-week interval beginning with the end of February 2020.
3. The number of customers who have defaulted on their extended payment plan for each customer class at the end of each two-week interval and cumulative since the beginning of March 2020.
4. The amount of funds obtained from federal, state and local sources to go toward reducing customer bill payment obligations at the end of each two-week interval and cumulative since the beginning of March 2020.

B. Utility Accounting and Cost Tracking – In addition to the list of requirements outlined in the Commission order, the Commission should consider the following items:

1. Increased costs, cost savings and revenue gains or losses from Covid-19 need to be considered on a net revenue requirement basis in the context of the annual revenue requirement established in the utility's last rate case.
2. In the spirit of shared sacrifice and to instill an appropriate incentive for cost control, the Commission should limit the recovery of net costs to only 80% of the amount actually incurred, subject to the limitations discussed in item 3 below.
3. The reconciliation of costs and revenues should be performed at the end of the utility's fiscal year, and should be based on actual costs and revenues, and not on a forecasted basis. In other words, if for the fiscal year the utility still earns its authorized ROE (on a weather-normalized and regulatory-basis) despite having incurred incremental costs due to the coronavirus impact, the utility would not be allowed to recover any incremental costs. If the utility's actual ROE, as adjusted, falls below the authorized level, then the utility would be allowed to recover 80% of any incremental net costs up to the authorized ROE level.
4. To minimize the impact on customer bills for the coming year, any increased costs should be offset by any gains recorded by the utility for sale of assets or other refundable amounts to customers, such as, excess earnings, acceleration of refunds of excess accumulated deferred income taxes for unprotected assets, and adjustments to reserves on the books of the utility.

5. The Commission should make it clear that it expects the utilities to take appropriate actions to reduce costs and maximize revenue during the duration of the pandemic, including reducing and postponing capital projects that are not critical to maintaining service or safety. These actions are critical to assist customers who may ultimately face the burden of potentially higher costs incurred by the utilities.
6. The Commission should discourage utilities from claiming recovery of non-measurable or difficult to measure costs, such as employee productivity costs or lost opportunity costs.
7. The Commission should discourage the use of carrying charges or the impression of making the utilities whole on their increased cost of operation given the financial hardship suffered by customers during this unusual time, including many businesses who will never be made whole for the financial losses they suffered from Covid-19.
8. Any reductions in power costs or natural gas costs due to lower prices or reduction in sales should be passed on to customers as much as possible during 2020 by lowering the PSCR and GCR factors, or through special refunds.

C. Rate Case and Other Commission Proceedings – Given the difficulties encountered with multi-party video conferencing during cross examination of witnesses, the Commission should consider other alternatives in order not to prejudice the right of parties to the proceedings to mount an effective defense of the issues. In this regard, the Commission should direct Administrative Law Judges (ALJs) that in lieu of videoconferencing or in-person cross examination during this unusual period, the parties to the proceeding would have the option to file surrebuttal testimony.

D. NASUCA May 12th Resolution – The National Association of State Utility Consumer Advocates issued a resolution concerning the effects of the public health and economic crises resulting from COVID-19 upon utility rates and services provided to consumers by public utilities. The Commission should consider implementing many of the recommendation in Michigan where applicable.

Sincerely,

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