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From: Sullivan-Leshin, Isaac, PRC
Sent: Thursday, February 4, 2021 3:21 PM
To: Records, PRC, PRC
Subject: 20-00205-UT; Filing Submission
Attachments: 20-00205-UT, Order Setting Transition Periods and Moratoriums on Disconnections of Residential Customer Utility Service Due to the Governor's Executive Orders.pdf

IN THE MATTER OF THE TEMPORARY MORATORIUM ON RESIDENTIAL)
UTILITY DISCONNECTIONS DURING THE TIME PERIOD COVID-19)
PANDEMIC EMERGENCY ORDERS ARE IN EFFECT AS AUTHORIZED BY) Case No. 20-00205-UT
RULES 17.9.560, 17.10.650 AND 17.12.760 NMAC)
_____)

Please file the attached ORDER SETTING TRANSITION PERIODS AND MORATORIUMS ON DISCONNECTIONS OF RESIDENTIAL CUSTOMER UTILITY SERVICE DUE TO THE GOVERNOR'S EXECUTIVE ORDERS RELATED TO THE COVID-19 PANDEMIC PURSUANT TO RULES 17.9.560.12.G, 17.10.650.11.G AND 17.12.760.9 NMAC into the above captioned case.

Thank you.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE TEMPORARY MORATORIUM)
ON RESIDENTIAL UTILITY DISCONNECTIONS DURING)
THE TIME PERIOD COVID-19 PANDEMIC EMERGENCY) Case No. 20-00205-UT
ORDERS ARE IN EFFECT AS AUTHORIZED BY RULES)
17.9.560, 17.10.650 AND 17.12.760 NMAC)**

**ORDER SETTING TRANSITION PERIODS AND MORATORIUMS ON
DISCONNECTIONS OF RESIDENTIAL CUSTOMER UTILITY SERVICE DUE TO
THE GOVERNOR'S EXECUTIVE ORDERS RELATED TO THE COVID-19
PANDEMIC PURSUANT TO RULES 17.9.560.12.G, 17.10.650.11.G AND 17.12.760.9
NMAC**

THIS MATTER comes before the New Mexico Public Regulation Commission (the "Commission") upon its January 6, 2021 Temporary Order Prohibiting Disconnection of Residential Customer Utility Service (January 6th Temporary Order") to issue a temporary order instituting and continuing the moratorium on disconnections of residential customer utility service for a temporary period of time between January 6, 2021 and January 27, 2021 due to the Governor's Executive Orders related to the COVID-19 pandemic wherefore, being duly advised in its premises:

THE COMMISSION FINDS AND CONCLUDES:

1. Since March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, (the "Governor") has declared, in numerous Executive Orders, that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act and invoked the All Hazards Emergency Management Act, and has directed all cabinets, departments and agencies to comply with the directives of the declaration and the further instructions of the Department of Health due to the COVID-19 pandemic. As a consequence of the numerous Emergency Executive Orders and the COVID-19 pandemic, and the subsequent closures or limits on business activity, there have been negative economic effects upon New Mexico's and the

world's economy, caused by the requirements of social distancing, remote working, and the laying off of workers. Many New Mexico residential customers continue to be without sufficient funds to timely make full payment of their public utility bills during the time period of the COVID-19 public health emergency.¹

2. On March 15, 2020, the Commission issued an Order in Case No. 20-00069-UT, which issued immediate temporary emergency rules prohibiting the discontinuation of residential customer utility service during the time period of the Governor's Executive Orders were in effect and opened docket 20-00159-UT to make permanent rule changes.

3. On October 21, 2020, the Commission issued the Final Order adopting, repealing and replacing Rules 17.9.560.12.G, 17.10.650.11.G and 17.12.760.9 NMAC to prohibit discontinuation of residential customer utility service for the duration of time that any of the Governor's Executive Orders issued under the Public Health Emergency Response Act and the All Hazards Emergency Management Act, as modified by Staff's written comments, and as modified by Paragraph 13 the Final Order.

4. The repealed and replaced Rules 17.9.560.12.G, 17.10.650.11.G and 17.12.760.9 NMAC authorized the Commission, by a subsequent temporary Order, to prohibit disconnections of residential service in general anytime the Governor issues any emergency order under the Public Health Emergency Response Act and the All Hazards Emergency Management Act rather than

¹ The Governor, since the original statewide public health emergency proclaimed in Executive Order 2020-04 on March 11, 2020, has issued the following Executive Orders which continued the statewide public health emergency: 2020-12, 2020-16, 2020-21, 2020-25, 2020-37, 2020-39, 2020-56, 2020-63, 2020-72, 2020-73, 2020-75, 2020-80, 2020-83 and 2020-85 (2020-85 was effective December 11, 2020 through January 8, 2021). On December 30, 2020, the New Mexico Department of Health (NMDOH), Secretary Designee- Tracie C. Collins, M.D., issued a Public Health Emergency Order which clarified and amended previous Public Health Emergency Orders and extended the Emergency Orders until January 29, 2021. On January 8, 2021, the Governor issued Executive Order 2021-01 which extended until February 5, 2021 the original statewide public health emergency proclaimed in Executive Order 2020-04.

only in the COVID-19 Emergency Order situation.²

5. On October 28, 2020, the Commission issued the October 28th Temporary Order finding that the Governor's Executive Orders pertaining to the COVID-19 pandemic were still in effect and continued to have negative economic effects upon New Mexico's and the world's economy. The October 28th Temporary Order prohibited the disconnection of residential customer utility service until January 6, 2021, due to the Governor's Executive Orders related to the COVID-19 pandemic and found that all public utilities should educate residential utility customers about the existence of and procedures for entering into installment payment plans regarding their past due utility bill arrearages, in accordance with Commission Rule 17.5.410.

6. On December 23, 2020, the Commission issued a bench request which ordered: 1) NMPRC Utility Division Staff to file updated comments on whether to continue the temporary moratorium on disconnections of residential electric utility customers due to the continuing COVID-19 pandemic and the Governor's Emergency Orders related thereto; and if so, for how long; 2) all other participants may file updated comments on whether to continue the temporary moratorium on disconnections of residential electric utility customers due to the continuing COVID-19 pandemic and the Governor's Emergency Orders related thereto; and if so, for how long; 3) PNM, EPE, SPS, NM Gas Co., and the NMRECA to file a report detailing the outreach and/or education efforts made by utilities to residential electric customers regarding the Commission's temporary moratorium, including but not limited to, copies of documents evidencing: a) communications made by the utilities to its residential electric customers; b) payment plan arrangements made; and c) other federal, state or privately funded grant programs that were instituted for low-income customers that were unable to pay their electric bill during the

² Effective November 10, 2020.

period of the Governor's Executive Orders.

7. On January 6, 2021, the Commission issued an Order that extended the temporary moratorium on disconnections of residential customers until January 29, 2021, and ordered Staff, PNM, EPE, SPS, NM Gas Co., and the NMRECA to file transition plans³ and ordered that a public workshop be held to collaboratively work with utilities, ratepayers and other stakeholders to determine the parameters of any future temporary disconnection moratoriums during the Transition Period following the expiration or termination of any and all future Governor Emergency Order or NMDOH Public Health Emergency Orders.⁴

8. Written comments were filed and a public workshop was held on January 19, 2021. By both of these methods, the Commission has received public written and/or oral comments from all IOUs including NM Gas Co., NMRECA and certain electric cooperatives, public interest consumer groups, small water companies including EPCOR, certain small gas companies and Staff.

9. After considering all written comments filed in this docket and public comments orally received at the public workshop, and balancing the interests of consumers and the utilities, the Commission finds the temporary mandatory moratorium on disconnections of residential utility customers shall be in effect from the date of this Order for 100 days for electric investor owned utilities and gas companies with over 100,000 meters and for 45 days for small water utilities,

³ The Transition Plans were to include: a) the length of the Transition Period; b) whether and to what extent there will be a continuation of the temporary disconnection moratorium during the Transition Period; c) who would be eligible for continuation of the temporary disconnection moratorium during the Transition Period i.e., low income customers and/or other economically disadvantaged customers due to the pandemic; d) whether public utilities and/or ratepayers would be receiving state and/or federal funds for customer bill assistance and arrearages due to the pandemic; e) suggested benchmarks for determining low income customers and economically disadvantaged customers and [this is already stated in c), above]; and g) whether and how Rule 410 should be amended to accommodate long term installment payment plans for all customers affected by the pandemic and other possible amendments.

⁴ On January 8, 2021, the Governor issued Executive Order 2021-01 which extended until February 5, 2021 the original statewide public health emergency proclaimed in Executive Order 2020-04.

small gas companies and the rural electric cooperatives. At the end of the temporary mandatory moratorium on disconnections of residential customers ends (either 100 days or 45 days) the Transition Period will begin as defined herein during which the temporary moratorium on disconnections should continue and provide the utilities additional time to assist residential customers with arrearages to enter into installment agreements. The Transition Period is defined as the time from the end of the temporary mandatory moratorium on disconnections to the end of the Transition Period, and will be the beginning of lifting the moratorium on disconnections, which is when utilities are permitted to begin disconnection in accordance with Rule 410. The Transition Period may be a mandatory continuation of the temporary moratorium on disconnections, if the Governor's Executive Orders remain in effect or may be a consensual continuation of the moratorium on disconnections if the Governor's Executive Orders terminate or expire prior to the end of the Transition Period.

10. Specifically, regarding the Transition Period, if the date of termination or expiration of the Governor's Public Health Orders precedes the end of the 100 day mandatory moratorium on residential disconnections for IOUs and gas companies with over 100,000 meters or precedes the end of the 45 day mandatory moratorium on residential disconnections for small water utilities, small gas companies and the rural electric cooperatives or precedes the end any Transition Periods subsequent to the aforementioned mandatory moratoriums, then, for the remainder of any Transition Period, public utilities consent to a continued moratorium on disconnections until the end of each Transition Period. All regulated public utilities may begin disconnections in accordance with Rule 410 at the end of the Transition Period.

11. Subject to Paragraph 10 in bold, for electric investor-owned utilities (IOUs) and

larger gas companies with over 100,000, the Commission finds the Transition Period should begin 100 days from the date of this Order and should remain in effect for 90 days from that date.

12. Subject to Paragraph 10 in bold, for small water companies, small gas companies with less than 100,000 meter and all rural electric cooperatives, the Commission finds the Transition Period should begin 45 days from the date of this Order should remain in effect for 45 days from that date.

13. Further, the Commission finds that all public utilities regulated by the Commission under the Public Utility Act, Sections 62-2-1 et seq. NMSA 1978, including but not limited to, rural electric cooperatives, investor owned electric and gas utilities and water utilities, should immediately and continually make reasonable, persistent efforts to enter into installment agreements with all residential utility customers who have arrearages since the beginning of the temporary moratorium on disconnections due to the COVID 19 pandemic. Such customers are found not be “chronically delinquent” as the phrase is used in 17.5.410 NMAC.

14. Specifically, regarding installment agreements, the Commission finds installment agreements should be tailored to the customer’s request but should not be shorter than ending at the beginning of the LIHEAP moratorium (November 15, 2021) and should be extended as long as needed for the customer to be able to fulfill the terms. The residential customers and the utilities each should be responsible as follows regarding communications negotiating the installment agreements. Customers should make contact by mail, email, or telephone requesting an installment agreement to pay COVID 19 arrearages. Utilities should endeavor to have sufficient number of customer representatives on staff to promptly respond to calls and emails and to have limited COVID safe office in-person appointments. Utilities should establish a call-back phone option for telephone appointments, to prevent long telephone wait times for customers. Utilities

should document efforts at negotiations made and/or failures to make contact with customers with arrearages. Late fees should be waived during the term of the installment agreement.

15. Subject to Paragraph 10, in bold, the Commission finds, pursuant to the repealed and replaced Rules 17.9.560.12.G, 17.10.650.11.G and 17.12.760.9 NMAC, and in accordance with the Governor's and the NMDOH Public Health Emergency Orders,⁵ the following prohibitions should be applicable to investor-owned electric utilities and to gas companies with greater than 100,000 meters for 100 days from the date of this Order and for small water companies, gas companies with under 100,000 meters and rural electric cooperatives for 45 days from the date of this Order:

Irrespective of any conflict with 17.5.410 NMAC as it pertains to electric and gas utilities:

- (a) all utilities are prohibited from discontinuing residential utility service for non-payment;
- (b) any late fees on residential accounts that would be incurred shall be waived;
- (c) utilities may be permitted to open in-person bill payment locations in accordance with the Public Health Orders or may be permitted to close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment may be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;
- (d) medical certificates set to expire shall not and;
- (e) irrespective of this temporary Order, public utilities are not prohibited from disconnecting service to residential customers due to: a) an emergency; b) safety; or c) a request to disconnect from the residential customer.

16. The Commission finds that all public utilities should file monthly informational filings within 15 days of the expiration of each monthly billing period, on the same date as required by Decretal Paragraph G., June 24, 2020 Order⁶. These monthly informational filings shall begin

⁵ On January 8, 2021, the Governor issued Executive Order 2021-01 which extended until February 5, 2021 the original statewide public health emergency proclaimed in Executive Order 2020-04.

⁶ See, Decretal Paragraph G., June 24, 2020 Order: "Public utilities shall make monthly informational filings within 15 days of the expiration of each monthly billing period detailing the monthly and total delinquencies from the November 2019 billing period to that month, the number of residential customers that would be subject to

after the expiration of any Transition Period set forth herein, that detail, with respect to residential ratepayers: a) the number of disconnection notices issued; b) number of disconnections actually made; c) number of subsequent reconnections made; d) the communications or attempts at communication made between the utility and the customer who was actually disconnected; and e include a summary of call notes or emails in order to express the circumstances surrounding the disconnections.

17. Effective as of the date of this Order, all public utilities should file monthly informational filings within 15 days of the expiration of each monthly billing period, on the same date as required by Decretal Paragraph G., June 24, 2020 Order, providing the total amounts of federal, state and other funds/aid applied for and/or received and include how much has been expended and for what purposes.

18. All public utilities that have created shareholder funds to provide assistance with arrearages for residential customers that have accumulated arrearages since March 18, 2020, the beginning of the temporary moratorium on disconnections, are encouraged not to revert unexpended funds before the beginning of the next LIHEAP moratorium on November 15, 2021 and should endeavor to expend those funds for the stated purposes when the fund was established.

IT IS THEREFORE ORDERED:

A. Subject to Paragraph 10, in bold, pursuant to the repealed and replaced Rules 17.9.560.12.G, 17.10.650.11.G and 17.12.760.9 NMAC, and in accordance with the Governor's and the NMDOH Public Health Emergency Orders, the following prohibitions shall be applicable to investor owned electric utilities and to gas companies with greater than 100,000 meters for 100 days from the date of this Order and for small water companies, gas companies with under 100,000

termination under the utility's normal procedures, the average value of arrearage for individual delinquent accounts and the total value of arrearage for all delinquent accounts

meters and rural electric cooperatives for 45 days from the date of this Order:

Irrespective of any conflict with 17.5.410 NMAC as it pertains to electric and gas utilities: (a) all utilities are prohibited from discontinuing residential utility service for non-payment; (b) any late fees on residential accounts that would be incurred shall be waived; (c) utilities may be permitted to open in-person bill payment locations in accordance with the Public Health Order or may be permitted to close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment may be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs; (d) medical certificates set to expire shall not and; (e) irrespective of this temporary Order, public utilities are not prohibited from disconnecting service to residential customers due to: a) an emergency; b) safety; or c) a request to disconnect from the residential customer.

B. Subject to Paragraph 10, in bold, for electric investor-owned utilities (IOUs) and larger gas companies with over 100,000 meters, the Transition Period shall begin 100 days from the date of this Order and shall remain in effect for 90 days from that date.

C. Subject to Paragraph 10, in bold, for small water companies, small gas companies with less than 100,000 meters and all rural electric cooperatives, the Transition Period shall begin 45 days from the date of this Order and shall remain in effect for 45 days from that date.

D. All public utilities regulated by the Commission under the Public Utility Act, Sections 62-2-1 et seq. NMSA 1978, including but not limited to, rural electric cooperatives, investor owned electric and gas utilities and water utilities, should immediately and continually make reasonable, persistent efforts to enter into installment agreements with all residential utility customers who have arrearages since the beginning of the temporary moratorium on disconnections due to the COVID 19 pandemic. Such customers are not “chronically delinquent” as the phrase is used in 17.5.410 NMAC. Installment agreements should be tailored to the customer’s request but should not be shorter than ending at the beginning of the LIHEAP moratorium (November 15, 2021) and should be extended as long as needed for the customer to be able to fulfill the terms. The residential customers and the utilities each should be responsible

as follows regarding communications negotiating the installment agreements. Customers should make contact by mail, email, or telephone requesting an installment agreement to pay COVID 19 arrearages. Utilities should endeavor to have sufficient number of customer representatives on staff to promptly respond to calls, and emails and to have limited COVID safe office in-person appointments. Utilities should establish a call-back phone option for telephone appointments, to prevent long telephone wait times for customers. Utilities should document efforts at negotiations made and/or failures to make contact with customers with arrearages. Late fees should be waived during the term of the installment agreement and utilities may request permission to include waived late fees as a regulatory asset in Case No. 20-00069-UT subject to Commission approval or disapproval.

E. All public utilities should file monthly informational filings within 15 days of the expiration of each monthly billing period, on the same date as required by Case No. 20-00069-UT, Decretal Paragraph G., June 24, 2020 Order, beginning after the expiration of any Transition Period set forth herein, that detail, with respect to residential ratepayers: a) the number of disconnection notices issued; b) number of disconnections actually made; c) number of subsequent reconnections made; d) the communications or attempts at communication made between the utility and the customer who was actually disconnected; and e include a summary of call notes or emails in order to express the circumstances surrounding the disconnections.

F. Effective as of the date of this Order, all public utilities should file monthly informational filings within 15 days of the expiration of each monthly billing period, on the same date as provided in Paragraph G. of the June 24, 2020 Order in Case No. 20-00069-UT, providing the total amounts of federal, state and other funds/aid applied for and/or received and include how much has been expended and for what purposes.

G. All public utilities that have created shareholder funds to provide assistance with arrearages for residential customers that have accumulated arrearages since March 18, 2020, the beginning of the temporary moratorium on disconnections, are encouraged not to revert unexpended funds before the beginning of the next LIHEAP moratorium on November 15, 2021 and should endeavor to expend those funds for the stated purposes when the fund was established.

H. Copies of this Order shall be e-mailed to all persons listed on the attached Certificate of Service if their e-mail addresses are known, and if not known, mailed to such persons via regular mail.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 3rd day of
February, 2021.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Cynthia B. Hall, electronically signed

CYNTHIA B. HALL, COMMISSIONER DISTRICT 1



/s/ Jefferson L. Byrd, electronically signed

JEFFERSON L. BYRD, COMMISSIONER DISTRICT 2

/s/ Joseph M. Maestas, electronically signed

JOSEPH M. MAESTAS, COMMISSIONER DISTRICT 3

/s/ Theresa Becenti-Aguilar, electronically signed

THERESA BECENTI-AGUILAR, COMMISSIONER DISTRICT 4

/s/ Stephen Fischmann, electronically signed

STEPHEN FISCHMANN, COMMISSIONER DISTRICT 5

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE TEMPORARY MORATORIUM)
ON RESIDENTIAL UTILITY DISCONNECTIONS DURING)
THE TIME PERIOD COVID-19 PANDEMIC EMERGENCY) Case No. 20-00205-UT
ORDERS ARE IN EFFECT AS AUTHORIZED BY 17.9.560,)
17.10.650 & 17.12.760 NMAC)**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Order Setting Transition Periods and Moratoriums on Disconnections of Residential Customer Utility Service Due to the Governor’s Executive Orders Related to the COVID-19 Pandemic Pursuant to Rules 17.9.560.12.G, 17.10.650.11.G AND 17.12.760.9 NMAC** issued by the New Mexico Public Regulation Commission on February 3rd, 2021 was sent via email to the parties indicated below on February 4th, 2021:

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DATED this 4th day of February, 2021.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Isaac Sullivan-Leshin, electronically signed

Isaac Sullivan-Leshin, Paralegal

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