

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 13-M-0061 - In the Matter of Customer Outage Credit Policies and Other Consumer Protection Policies Relating to Prolonged Electric or Natural Gas Service Outages.

NOTICE SOLICITING COMMENTS

(Issued March 22, 2013)

At the Commission session held on December 13, 2012, the Commission stated its interest in developing a consistent policy covering customer outage credit policies and other consumer protection policies as they relate to prolonged electric or natural gas service outages. In view of the extraordinary impact of super storm Sandy on the utility systems and service to customers in New York State, the Commission directed utilities to take a number of actions to ameliorate the impacts of the outages on their customers. A number of regulations and tariff provisions were identified for temporary suspension or waiver for customers who were significantly adversely impacted, including forgoing the assessment of late payment charges and pro-rating and crediting customers for the portion of the customer charge related to the period of loss of service. The Commission also approved utility proposals that shareholders absorb the lost revenues associated with waiver of a portion of the customer charge, rather than allow utilities to recover such lost revenues through their revenue decoupling mechanism (RDM). In addition, utilities ceased their normal

collection and service termination practices during and after the completion of restoration efforts¹.

The Commission has rarely taken similar action to waive tariff provisions for customers adversely impacted by outages; however, the recurrence of lengthy service outages has caused the Commission to consider, *inter alia*, whether it should formally adopt a policy requiring utilities to offer similar waivers of tariff charges automatically in the future under a defined set of circumstances. At the Commission session, the Commission also considered whether it should further direct utilities to modify their 'business as usual' collection and termination practices during such times.

The attached proposal sets forth a uniform policy of minimum utility practices that would be applicable as a result of prolonged outages, such as those caused by storms of the size and scope of super storm Sandy, as well as other emergency events. Utilities may choose to do more than the minimum utility practices proposed herein, provided that the Commission has authorized waivers of the applicable tariff provisions in advance.

¹ See *e.g.*, Case 12-M-0533 - Petition of Consolidated Edison Company of New York, Inc. for Waiver of Certain Tariff Charges; Case 12-M-0545 - Petition of Orange and Rockland Utilities, Inc. for Waiver of Certain Tariff Charges; Case 12-M-0554 - Petition of New York State Electric and Gas Corporation for Waiver of Certain Tariff Charges; Case 12-G-0555 - Petition of the Brooklyn Union Gas Company d/b/a National Grid NY; Keyspan Gas East Corporation d/b/a National Grid for Waiver of Certain Tariff Charges, Order Approving Waiver of Certain Tariff Charges (issued December 14, 2012) and Case 12-M-0501, In the Matter of a Temporary Waiver and Suspension of Late Payment Charges Due to Payment Barriers Caused by Hurricane Sandy, Order Extending Temporary Waiver and Suspension of Late Payment Charges (issued December 14, 2012).

The attached proposed policy is hereby issued for public comment. Interested parties may submit comments on the draft policy and any additional information pertinent to implementing uniform policy electronically by e-filing through the Department's Document Matter and Management System (DMM)² or to the Secretary at Secretary@dps.ny.gov. Those unable to submit electronically may mail or deliver their comments to the Hon. Jeffrey C. Cohen, Acting Secretary, Three Empire State Plaza, Albany, New York 12223-1350. Initial comments are requested no later than May 15, 2013. Reply comments will be accepted through May 28, 2013. All comments submitted to the Secretary will be posted on the Commission's website and become part of the official case record.

Any questions may be directed to Marty Insogna, at 518-486-2493.

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

Attachment

² Why Register with DMM, http://www.dps.ny.gov/DMM_Registration.html
How to Register with DMM, <http://www.dps.ny.gov/e-file/registration.html>

PROPOSED CONSUMER POLICIES RELATING TO PROLONGED OUTAGES

I. Customer Credits and Recovery of Lost Delivery Revenue

A. For any event resulting from an emergency in which utility customers are out of service for a period exceeding three days resulting from an emergency,¹ utilities should credit customer charges incurred during the period of the outage, for any customer who was out of service for a period exceeding three days with the exception of interruptible gas customers. For gas service, and for electric service classes that do not have a customer charge (e.g., Con Edison's SC8), credits should be based on the "functional equivalent" of the customer charge (e.g., for gas service, the monthly minimum charge). Credits should be applied automatically for any customer the utility knows was out of service for a period exceeding three days, and upon customer request for other customers who contact the Company to credibly claim they suffered outages of such duration. The credit would be calculated on a proportional basis (e.g., customers out of service for six days would receive a credit in the amount of 6/30ths of the customer charge for that service classification) and applied to customer bills within 60 days of the outage.

¹ This criterion is consistent with the Commission's reporting requirements as specified in 16 NYCRR Part 105 - Electric Utility Emergency Plan. As specified in that regulation, emergencies include storms and other causes of electrical emergencies with storm-like characteristics.

The purpose of this policy is to avoid the imposition of charges to customers who did not receive service.

- B. Two alternative proposals for the treatment of lost delivery revenues resulting from prolonged outages are offered for comment.² Parties should address in their comments the pros and cons of each alternative and identify which alternative is preferred, and why.
1. RDMs should be designed so that the volumetric portion of delivery bills that was not collected from customers who were out of service more than three days for outages identified above, as well as the lost revenue from customer credits identified above, is excluded from the RDM targets. The purpose of this policy is to re-establish incentives for prompt service restoration that were in place before RDMs. This policy change may alter the balance of risk between utilities and customers that is reflected in Commission-approved rate plans. Parties should discuss in their comments at what level the duration and scope of the outages and the amount of lost utility revenue may materially alter the balance struck in Commission-approved

² The Commission has established Revenue Decoupling Mechanisms (RDMs) that true-up forecast and actual delivery service revenues thus eliminating potential disincentives to utilities' promoting and implementing more efficient energy use. The true-up includes, among other things, net lost revenues attributable to achievement of more efficient energy use as well as net lost revenues from prolonged outages. The true-ups are calculated no less frequently than once per year.

rate plans. Parties should also comment on how the amount of lost revenues for outages should be calculated.

2. The Commission should maintain the present design of RDMs and allow utilities to recover the lost revenues associated with lost delivery revenue as well as storm-related customer credits, unless the Commission finds fault with a particular utility's restoration activities.

II. Other Policies Applicable to Customers Affected by Outages

Utilities may assess late payment charges on amounts due after the date designated on a customer's bill, as detailed in utility tariffs. Utilities also conduct a range of activities to collect amounts owed by customers, including making outbound calls to customers, issuing service termination notices and, where consistent with the Public Service Law, terminating service. Assessment of late payment charges as prescribed in utility tariffs, as well as business-as-usual collection and service termination practices, may not be appropriate during prolonged outages and immediately after restoration of such outages.

- A. For all outages for which The Federal Emergency Management Agency (FEMA) declares a region as eligible for Individual and Public Assistance, utilities should take the actions listed in the table below, both for all residential customers located in the designated area, and for any residential or non-residential customer who notifies the utility and provides credible support that his/her financial circumstances have changed as a result of the

underlying emergency (e.g., permanent or temporary loss of job or income, or damage to home or business). Concerning the non-tariff issues of collection activities and suspension of service for non-payment, this proposal is to be construed as guidance that could be modified in consultation with Department of Public Service (DPS) Staff as circumstances dictate, such as to ensure customer accessibility to heating-related financial assistance. The purpose of this policy is to provide customers affected by prolonged outages, a reasonable amount of time to recover from those outages.

Action	Duration (from date when the service was restored)
Suspend late payment charges	30 days
Suspend all collection activity ³ and assessment of security deposits	30 days
Suspend termination for non-payment	30 days

B. For all outages where utility customers are out of service for more than three days resulting from an emergency event (consistent with 16 NYCRR Part 105), utilities should take the actions described below, for all residential customers who suffered such outages, and for any residential or non-residential customer who notifies the utility and provides credible support that his/her financial circumstances have changed as a result of the underlying emergency

³ With the exception of issuance of service termination notices.

(e.g., permanent or temporary loss of job or income, or damage to home or business). The Commission could direct utilities to extend the duration of these actions, on a case-by-case basis. The purpose of this policy is to provide customers affected by prolonged outages, a reasonable amount of time to recover from the prolonged outages.

Action: All collection-related activities⁴, terminations of service for non-payment, and assessments of late payment charges should be suspended during the outage, and for an additional number of days, equal to the duration of the outage. For example, normal collection-related activity for customers who were out of service for five days, would resume after the fifth day following service restoration. The Commission could direct utilities to extend the duration of suspended collection activity, service termination and assessment of late payment charges on an event specific basis. Concerning the non-tariff issues of collection activities and suspension of service for non-payment, this proposal is to be construed as guidance that could be modified in consultation with DPS Staff to address special circumstances.

⁴ With the exception of issuance of service termination notices.