

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 11, 2020

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman, concurring
James S. Alesi
Tracey A. Edwards
John B. Howard

CASE 20-M-0266 - Proceeding on Motion of the Commission
Regarding the Effects of COVID-19 on Utility
Service.

ORDER ESTABLISHING PROCEEDING

(Issued and Effective June 11, 2020)

BY THE COMMISSION:

INTRODUCTION

In response to the impact of the COVID-19 pandemic on New York's utilities and ratepayers, the Commission establishes a new proceeding to identify and address the effects on utility service in New York State.

BACKGROUND

The COVID-19 pandemic has meaningfully affected the public health and the daily lives of the people of the State of New York, and is creating a downturn for the economy of the State of New York, as well as the world. In response, Governor Cuomo has declared a Disaster Emergency and has called on State and local agencies to do their utmost to protect the public health and welfare of the people of the State. As related to

this Order, the pandemic is impacting the customers of multiple industries subject to Commission oversight and programs, including electric and gas distribution utilities, private water supplies, renewable and distributed energy generation, energy efficiency programs, telecommunications and cable television service. Further, it is impacting these industries, their operations, and could impact the ability to provide safe and reliable services at just and reasonable rates

To address the ramifications of the COVID-19 outbreak, Governor Cuomo issued Executive Order (EO) 202 on March 7, 2020, instructing all State agencies to "take appropriate action to assist local governments and individuals in containing, preparing for, responding to and recovering from this state disaster emergency, to protect state and local property, and to provide such other assistance as is necessary to protect public health, welfare, and safety." On March 18, 2020, Governor Cuomo issued EO 202.6 to ensure proper social distancing in the business sector by mandating that "[a]ll businesses and not-for-profit entities in the state shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize." On May 29, 2020, as the numbers of new COVID-19 positive cases, hospitalization rates, and other indicators had come down, the Governor announced a plan for the gradual phased re-opening of the State's regions.

Consistent with these EOs, the Commission has since undertaken several actions to address the ramifications of COVID-19 to industries subject to Commission oversight and programs. For example, on March 24, 2020, the Commission authorized the postponement of an authorized rate increase at the request of the Middleburgh Telephone Company.¹ In the

¹ Matter 20-00516, Middleburgh Telephone Company - Rates, Untitled Order (issued March 24, 2020).

following days, the Commission also postponed authorized tariff changes for Niagara Mohawk Power Corporation d/b/a National Grid (National Grid);² postponed a rate increase for New York American Water Company, Inc. (NYAW);³ and temporarily waived provisions of Central Hudson Gas and Electric Corporation's gas tariff in response to the reduced gas demand by commercial customers.⁴ The Commission also took actions to address the risk of direct contact between utility personnel and customers,⁵ and suspended requirements that would have resulted in adverse financial impacts to the distributed energy industry.⁶

While taking the multiple actions noted above, the Commission has yet to act on other filings related to ramifications from the COVID-19 pandemic. For example, the Public Utility Law Project (PULP) filed motions requesting the

² Case 17-E-0238 et al., Niagara Mohawk Power Corporation d/b/a National Grid et al. - Rates, Order Postponing Approved Electric and Gas Delivery Rate Increases and Updated Reduction to the Low Income Discount Credit and Temporarily Waiving Certain Tariff Fees (issued March 25, 2020). The National Grid rate increase has since been postponed until August 1, 2020. See Case 17-E-0238 et al., supra, Order Further Postponing Approved Electric and Gas Delivery Rate Increases and Updated Reduction to the Low Income Discount Credits (issued May 29, 2020).

³ Case 16-W-0259, New York American Water, Inc. - Rates, Order Postponing Approved Delivery Rate Increases and System Improvement Charge (issued March 25, 2020).

⁴ Case 20-G-0150, Central Hudson Gas and Electric Corporation - Rates, Order Temporarily Amending Certain Gas Tariff Provisions (issued March 31, 2020).

⁵ Cases 15-G-0244 and 20-G-0140, Gas Industry - COVID-19, Order Granting Extension of Time to Complete Gas Line Inspections and Leakage Surveys (issued April 15, 2020).

⁶ Case 20-E-0155, Interconnection Deadline Modifications, Order Suspending Certain Interconnection Payment Deadlines (issued April 6, 2020).

suspension of three pending rate cases pending the submission and consideration of updated financial information reflecting the COVID-19 outbreak.⁷ PULP also filed a Petition for Generic Proceeding, requesting that the Commission establish a generic proceeding to address the effects of the pandemic on Commission programs.⁸ For its part, Multiple Intervenors filed a petition seeking an order (i) temporarily suspending or substantially reducing the surcharges and collections supporting clean energy programs and projects administered by the State's electric and gas distribution utilities, where activity has stopped or slowed substantially due to the pandemic, and (ii) requiring any unspent funds from these programs to be returned to ratepayers.⁹

⁷ See Cases 19-G-0309 and 19-G-0310, The Brooklyn Union Gas Company d/b/a National Grid NY and Key Span Gas East Corp. d/b/a National Grid - Gas Rates, Request for New Rate Data and Testimony (filed March 30, 2020); Case 19-E-0378 et al., New York State Electric & Gas Corporation et al. - Electric and Gas Rates, Letter Motion (filed March 23, 2020); Case 19-W-0168, Suez Water New York, Inc. et al. - Rates and Merger, Letter Motion (March 26, 2020); and Case 19-E-0378 et al., New York State Electric & Gas Corporation et al. - Gas and Electric Rates, Letter Motion (filed March 23, 2020).

⁸ Case 20-M-0198, COVID-19 Generic Proceeding, PULP Petition for Generic Proceeding on Rates and Provision of Service by Utilities (filed April 21, 2020).

⁹ Case 20-M-0187, Multiple Intervenors - COVID-19, Petition of Multiple Intervenors Seeking Immediate, Material Rate Relief for Electric and Gas Customers, Including a Pause in Surcharges and Collections for Projects and Programs Delayed as a Result of the COVID-19 Pandemic (filed April 10, 2020). Multiple Intervenors is an unincorporated association of approximately 60 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State.

DISCUSSION

To date, the Commission has acted to address COVID-19 related impacts to jurisdictional entities or Commission programs as they emerged on a piecemeal, case-by-case basis. As the State's regions gradually re-open, there will likely be a need to continue to respond in a timely manner on case-specific issues that call for such response. At the same time, the Commission intends to address the ramifications from the ongoing pandemic in a more comprehensive manner as it develops policies that will guide the entities subject to Commission oversight and their customers through the current crisis.¹⁰ Accordingly, the purpose of this proceeding is to consider in both a timely and comprehensive manner the ramifications of the COVID-19 pandemic on the regulated entities, utility ratepayers and Commission-adopted programs. The Commission has determined that the optimum way to consider these critical issues is through a generic proceeding initiated through this Order and followed by the submission of public comments.

CONCLUSION

Through this Order, the Commission establishes a new proceeding dedicated to addressing the effects of the COVID-19 pandemic on: (i) all entities subject to Commission jurisdiction or permitting authority, including electric, gas and steam distribution utilities, independent power producers, energy service companies, private water supply companies, and

¹⁰ For example, while comments have been received from Multiple Intervenors, which represents large industrial consumers, and PULP, which advocates for low-income individuals, the Commission has not yet received insights from smaller commercial enterprises that comprise a significant part of utility customers.

telecommunications and cable television companies; (ii) utility ratepayers; and (iii) Commission-adopted programs, including those related to onshore and offshore renewable energy, distributed energy, energy efficiency and heat pumps.

This proceeding will include, but not be limited to, impacts on rate-setting, rate design, utility financial strength, low-income programs, regulatory priorities, collections and termination of service; ensuring the provision of safe and adequate service at just and reasonable rates in recognition of the ramifications from the COVID-19 pandemic; and the extent if any that the Commission's clean energy programs should be maintained or accelerated.

All petitions and other filings made with the Commission related to the ramifications of COVID-19, unless otherwise directed by the Commission,¹¹ will be addressed in this case and, accordingly, the filings made by PULP and Multiple Intervenors noted above, as well as Matter 20-01023,¹² are incorporated by reference into this case.¹³

The Commission invites utilities and other entities subject to Commission jurisdiction and programs, ratepayers, and all interested parties to provide comments on any issues related to the ramifications of COVID-19 on Commission-adopted tariffs, regulations, policies and programs, as well as on the regulated entities, utility ratepayers and Commission-adopted programs. The Commission seeks comments from all types of ratepayers including residential, commercial, and not-for-profit entities.

¹¹ If the Commission chooses to act in a separate proceeding, notice will be given in this case.

¹² Matter 20-01023, Bath Electric, Gas & Water Systems - COVID-19 Relief (commenced April 30, 2020).

¹³ All comments in these proceedings, including future filings, are made part of the record of this case.

Comments should address the topics and questions identified in the Appendix to this Order and be submitted within 30 days of issuance of this Order. This deadline may be extended as necessary by the Secretary.

The Commission orders:

1. A proceeding is established to address all matters related to the COVID-19 pandemic.

2. The petitions and all documents and comments filed in Cases 20-M-0198 and 20-M-0187, and Matter 20-01023, are incorporated into the newly established proceeding.

3. Comments regarding the topics listed in the Appendix to this Order may be filed within 30 days of issuance of this Order.

4. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

5. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

COMMENT TOPICS

Collections and Termination of Service

- How should the Commission direct the regulated entities (electric utilities, gas and steam distribution utilities, private water supply companies, and telecommunications companies) to address the post-crisis resumption of collections and terminations, in a manner that provides appropriate consideration in cases of hardship while preserving the entities' ability to continue to serve all customers safely, reliably and cost-effectively?
- How should the Commission direct the regulated entities to account for and manage the financial ramifications of such policies, so as to preserve financial integrity?
- How will terminations of service, if any, be affected by utility staffing levels?
- Should down payments be waived for deferred payment agreements (DPA)?
- Should the terms of DPAs be adjusted to reflect ratepayers' ability to pay?
- Should utilities be required to write off debt from HEAP qualified ratepayers?
- Should late fees be prohibited for COVID-19 related overdue payments?

Commission Priorities in Serving the Public Interest

- What should the Commission consider in determining whether and how rate relief should be provided for ratepayers?
- What should the Commission consider in determining whether and how measures other than rate relief can provide benefit to different classes of customers, including large and small business, residential, and low-income?
- In addition to program modifications under consideration in Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers; are temporary changes to the Commission's low-income programs warranted, including approaches to streamlining enrollment and similar actions?
- What actions can utilities take to eliminate or defer spending without compromising safe and adequate service and should these actions be reflected in customer rates?
- What types of utility expenditures and outlays are most beneficial and valuable?
- Should utilities be required to develop economic stimulus programs and, if so, how should the impact of these actions be reflected in customer rates?

Appendix

- Should investments in and collections for clean energy programs be modified during the pandemic and, if so, how should these actions be reflected in customer rates?
- How should the Commission and the Department of Public Service work with other governmental entities post-crisis to address ramifications related to COVID-19?
- What Commission actions (if any) are necessary to implement, or to maximize value of, federal assistance to utilities and/or utility customers?

Rate and Financial Aspects

- How should previously authorized rate increases and revenue adjustment mechanisms for regulated entities (electric utilities, gas and steam distribution utilities, private water supply companies, and telecommunications companies) be addressed?
- What has been the impact of COVID-19 on earnings, liquidity, cash flow, and access to capital?
- What long-term impacts due to COVID-19 are forecasted at this time in relation to earnings, liquidity, cash flow, other credit quality metrics and access to capital?
- Should the Commission consider passing back net regulatory liabilities outside of traditional rate-setting?
- Should revenue decoupling mechanisms be modified to address the impact of current economic conditions on different rate classes?
- Should reconciliation or deferral of any expenses related to COVID-19 be permitted and, if so, with what guidance?