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June 17, 2020

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: Docket No. IR 20-089
Investigation into Effects of the COVID-19 Emergency on
Utilities and Utility Customers

Dear Ms. Howland:

As requested by Commissioner Giaimo today at the status conference in the above-referenced investigative proceeding, below is a written version of the comments and recommendations I offered orally. It is not a verbatim transcript and I have made a few small and non-substantive updates for purposes of clarity.

My counterpart from West Virginia, Consumer Advocate Jackie Roberts, testified at a Senate hearing in Washington yesterday on behalf of the National Association of State Utility Consumer Advocates (NASUCA). She told the Committee on Energy and Natural Resources that two "key take-aways" are

One, affordable access to electricity, natural gas, clean water and wastewater and communication services are essential for modern life; and two, that economic recovery of utility customers lags significantly behind the opening of the economy. For many, the economic and unemployment crisis will continue for beyond the near term. Congress has an important role to play in providing the support that families, children, the elderly and other at-risk consumers will need to afford and maintain these essential utility services. Ultimately choosing to keep people in their homes will help avoid the potential for a much greater health and economic crisis.

In my opinion, these two key take-aways as eloquently stated by Ms. Roberts should also guide the Commission as it investigates the effects of COVID-19 on utility service in New Hampshire.

I listened carefully to the presentations made by the state's electric and natural gas utilities (including the mostly deregulated New Hampshire Electric Cooperative) and was greatly encouraged by what I heard. Not only do the utilities seem to be rising to the operational challenges they confront; they are also doing a laudable job of helping customers at a time when many of them, in both the residential

and commercial sectors, face the very real prospect of being unable to pay their electric bills once the moratorium on disconnections and late charges imposed by Governor Sununu expires (and the subsequent six-month forbearance period he ordered elapses).

In the judgment of the Office of the Consumer Advocate, in light of the proactive stance of these seven utilities, the most important thing the Commission can do is study the best practices as adopted around the state and order them to be implemented on a uniform statewide basis. This will likely require some rules waivers and perhaps some emergency rulemaking. The Commission should act nevertheless. I stress that uniformity is really important, to minimize confusion, uncertainty, and upheaval, particularly with respect to credit and collections. Several utilities reported significant discretion they have vested in their customer service representatives; while that sort of “human touch” can be virtuous, the help available to customers should not turn on the sympathy they elicit from whatever utility employee they happen to reach on the telephone.

At the status conference I offered a list of best practices I had compiled by reviewing what my counterparts are doing around the country. I would add here that the relevant page on the NASUCA web site, available at <https://www.nasuca.org/resources/covid-19/>, is a useful compendium of what is occurring around the country as ratepayer advocates and regulators work with utilities to meet pandemic-induced challenges. My semi-authoritative list of best practices, some of which have been adopted by one or more utilities in New Hampshire, includes

- No late payment fees for 12 months after end of state of emergency
- Deferred payment arrangements that extend well beyond six months – 18 months for the general population and 24 months for customers who self-certify as low income
- “Self certification” in this context should mean attestation of job or wage loss *or* enrollment in any program that is means-tested (e.g., LIHEAP, Supplemental Security Income, SNAP, TANF, etc.)
- A “Second chance” for customers otherwise eligible for disconnection if they have made timely consecutive monthly payments in the past
- Clear description of newly available program on bills and via a separate notice to customers
- Arrearage management (as proposed by Eversource in its pending rate case, DE 19-057)
- Assurance of adequate access to the community action agencies while their physical offices are not open or access to them is limited
- Reconnection of all disconnected customers sheltering in place if this has not already occurred

- Waive new deposits for residential customers
- Application of existing deposits to outstanding balances
- No collection activity under ban on disconnections is lifted
- Moratorium on migration of residential customers from default energy service

As I explained at the status conference, I am aware that the last of my bullet points could be controversial. However, I am aware of, and the Commission should study, the extensive research conducted by Consultant Susan Baldwin on behalf of my counterparts in Massachusetts and Connecticut. See <https://www.mass.gov/doc/2019-ago-competitive-electric-supply-report> and <https://www.hartfordbusiness.com/article/report-low-income-customers-pay-more-using-third-party-electric-suppliers> These extensive reports, compiled well before the pandemic, demonstrate conclusively that consumers, particularly low-income consumers, have paid more for competitive electric supply than they would have paid by remaining on their electric distribution utility's default service. I have no reason to suppose the results are any different here in New Hampshire. At the very least, the Commission should impose a ban on door-to-door solicitations by competitive suppliers during both the state of emergency and the ensuing six-month period.

I also recommend that the Commission investigate requiring utilities to institute an aggressive on-bill financing program, beyond that which is already offered on a limited basis as part of the Energy Efficiency Resource Standard (EERS), to allow customers to make investments in energy-saving and money-saving devices without borrowing money. Earlier this week, at a meeting of the EERS Committee of the Energy Efficiency and Sustainable Energy Board, a representative of Eversource described a significant uptick of interest among small commercial customers in on-bill financing. The need for growing this opportunity, not necessarily within the confines of the ratepayer-funded EERS programs, deserves a thorough investigation. The utilities presently have no capital deployed to this end. That should change.

Although the utilities did not mention the question of cost recovery, the Office of the Consumer Advocate acknowledges that as utilities confront the need to help customers with pandemic-related challenges, the companies should be entitled to recover their prudently and reasonably incurred costs. I do not think the Commission can order utilities to “eat” any pandemic-related costs, given the constitutional prohibition on confiscatory rates. I do think each utility should consider, as a matter of corporate conscience, what its shareholders would be willing to contribute voluntarily to the challenges at hand. In any event, to the extent cost recovery becomes necessary, this should only be allowed on an after-the-fact basis, so that such costs can be audited and evaluated for their prudence.

As I said at the status conference, the Office of the Consumer Advocate is justifiably obsessed with data – so, perhaps not surprisingly, we believe that data collection is a vital component of developing and refining the right approach to addressing the pandemic crisis. With respect to delinquencies and disconnections, I am not alone in assigning great importance to the need to develop robust data. In 2019, NASUCA and the National Association of Regulatory Utility Commissioners (NARUC) adopted a joint resolution on this very topic, marking the first time these two organizations have coordinated their policy deliberations in such fashion. See <https://www.nasuca.org/nwp/wp->

[content/uploads/2018/11/2019-07-NASUCA-Data-Collection-Resolution-Joint-with-NARUC-Final.pdf](#) (noting that “data collection and sharing play an integral role in providing information for developing evidence-based policies”).

Thus I am indebted to my colleague Raymond Burke, an attorney with New Hampshire Legal Assistance and the director of his organization’s Energy and Utility Justice Program, for compiling and sharing with me this list of data points we believe each utility should report monthly, *by zip code*, for both the run of residential customers and specifically for low-income customers:

- Number of customers,
- Dollar amount billed
- Number of customers with an arrearage balance by vintage
 - 30 - 60 days
 - 60 - 90 days
 - 90+ days
- Dollar value of arrearages by vintage
 - 30 - 60 days
 - 60 - 90 days
 - 90+ days
- Number of new deferred payment agreements entered into,
- Average repayment term of new deferred payment agreements
- Successfully completed deferred payment agreements,
- Average repayment term of payment agreements,
- Number of disconnection notices sent
- Number of disconnections for nonpayment
- Number of service restorations after disconnection for nonpayment
- Average duration of disconnection
- Number of customers charged a late payment fee,
- Dollar value of late fees collected,
- Dollar value of security deposits collected, and
- Number of security deposits collected.

As Mr. Burke explained during his presentation, provision of this data by zip code is important because this level of granularity will allow the Commission to detect the existence of geographical disparities that may require special attention.

During their presentations, some of the utilities alluded to ongoing discussions with the Commission’s Consumer Services and External Affairs Division. We have not been involved in these discussions but request the opportunity to participate in them as they occur in the future.

Finally, I note that today’s proceedings were described in the Commission’s Order of Notice as a “status conference,” but the proceedings that actually took place resembled an evidentiary hearing (i.e., most utilities presented one or more witnesses, who testified under oath). Given that neither we nor any other non-utilities had an opportunity to present testimony, to cross-examine other witnesses, or to conduct discovery, at the Status conference I reserved the right to object on those grounds to any binding determinations arising out of today’s proceedings. I did not leave the status conference with

any particular concerns along these lines; I am merely making this point for the record. I readily agree that the Commission has the authority to conduct this investigation and I thank the Commission for doing so as publicly as possible.

The approach I would urge the Commission to adopt with respect to the pandemic and the challenges it presents to utility service can be succinctly stated. Strict and customer-favorable standards, applicable uniformly across the state, are necessary if the utilities are to remain compliant with the basic obligation in RSA 374:1 to “furnish such service and facilities as shall be reasonably safe and adequate and in all other respects just and reasonable.” Today’s proceedings left me confident that this is precisely what will unfold. Thank you for the opportunity to share my views.

Consistent with the Commission’s recent general directive, I am transmitting this letter electronically without filing any hard copies with the Commission.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Maurice Kreis".

D. Maurice Kreis
Consumer Advocate

cc: Service List, via e-mail