

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

IR 20-089

NEW HAMPSHIRE PUBLIC UTILITIES

**Investigation into the Effects of the COVID-19 Emergency
on Utilities and Utility Customers**

**Order Denying Petition for Emergency Rulemaking or
Evidentiary Hearing and Scheduling Public Hearing**

ORDER NO. 26,379

July 8, 2020

In this order, the Commission finds the Office of the Consumer Advocate's Petition for Emergency Rulemaking or Evidentiary Hearing to be premature and denies it at this time. This order also schedules a public hearing to receive comments and argument regarding rate-regulated utilities' and New Hampshire Electric Cooperative's agreements regarding collection activities, payment plans, late fees, and customer disconnections.

I. PROCEDURAL BACKGROUND

The Commission opened this proceeding to investigate the impacts of the COVID-19 pandemic on New Hampshire public utilities with rates regulated by the Commission and on the New Hampshire Electric Cooperative (NHEC), and on their customers. The Commission opened the proceeding with the purpose of considering necessary and appropriate changes to existing policies and practices regarding utility operations, collections, revenues, finances, accounting, customer assistance measures, and ratemaking impacts, in light of the pandemic.

A status conference was held on June 17, 2020, at which the utilities and NHEC made presentations and answered questions regarding the effects of the pandemic on their operations,

finances, and accounting. The utilities subsequently submitted additional detailed information as directed in the Order of Notice for this proceeding.

On June 30, 2020, Governor Christopher T. Sununu issued Emergency Order #58 Pursuant to Executive Order 2020-04 (Emergency Order #58), terminating the temporary moratorium on disconnection and discontinuance of service by public utilities and other providers of specified essential services that had been implemented by his Emergency Order #3 issued on March 17, 2020, (Emergency Order #3). Emergency Order #58 provides in Paragraph 3 that:

Covered providers whose rates are regulated by the Public Utilities Commission (“Commission”), and the New Hampshire Electric Cooperative, may begin customer outreach immediately and shall offer payment arrangements, refrain from charging late fees, and begin normal collection activity and disconnections consistent with an agreement between a utility or utilities and the Commission’s Consumer Services and External Affairs Division, subsequent order of the Commission, and/or rules adopted by the Commission pursuant to RSA 541-A. The Commission shall provide assistance and guidance to rate-regulated public utilities and the New Hampshire Electric Cooperative in implementing the provisions of this Order.

II. THE OCA’S PETITION

On July 1, 2020, the Office of the Consumer Advocate (OCA) filed a Petition for Emergency Rulemaking or Evidentiary Hearing (OCA Petition). The OCA stated its understanding that the termination of Emergency Order #3 and its replacement with new agreements with the electric and gas utilities “were negotiated among representatives of the Governor’s Office, the Commission, and one or more regulated public utilities.” The OCA did not “contest the Governor’s decision to rescind [Emergency] Order #3, [or] his reasons for doing so.”

According to the OCA, however, the “abrupt termination of the protections contained in” Emergency Order #3 and their replacement with the guidelines for

disconnections and payment arrangements, at least some of which are significantly less favorable for residential ratepayers than the protections afforded to them under [Emergency] Order #3, constitute, or at least may constitute, an “imminent peril to the public health or safety” within the meaning of RSA 541-A:18, I, so as to justify the adoption by the Commission of emergency rules.

The OCA asserted that the issuance of Emergency Order #58 has transformed this investigation docket “into a far more urgent inquiry,” that warrants the Commission invoking “its authority under RSA 541-A:18 to promulgate emergency rules or, in the alternative, its authority under RSA 541-A:31 et seq. to conduct an evidentiary hearing and issue an order.”

The OCA maintained that an alternative approach to emergency rulemaking would be “to transform this docket into an adjudicative proceeding and conduct a hearing on an emergency basis.” In either case, the OCA characterized the future customer protections that will replace Emergency Order #3 as “a question that should be addressed publicly so that ratepayer representatives can be heard and have a fair opportunity to influence the Commission’s decision making.”

III. COMMISSION ANALYSIS

Under RSA 541-A:4, I, “[a]ny interested person may petition an agency to adopt, amend, or repeal a rule.” Within 30 days of receipt of a request for rulemaking, the Commission must either initiate the requested rulemaking procedures, or deny the request in writing, stating the reasons for denial. N.H. Admin. R., Puc 205.03(h). As discussed further below, the Commission finds the OCA Petition to be premature and accordingly denies it at this time.

Pursuant to the emergency powers under Part II, Article 41 of the New Hampshire Constitution and RSA 4:45 and RSA 4:47, Governor Sununu declared a state of emergency as a

result of the coronavirus pandemic in Executive Order 2020-04, and that state of emergency has been subsequently extended several times. Paragraph 18 of Executive Order 2020-04 stated that “additional temporary orders, directives, rules and regulations may be issued either by the Governor or by designated State officials with written approval of the Governor.” Emergency Order #58 terminated the earlier Emergency Order #3.

Emergency Order #58 expressly provides that rate-regulated utilities and NHEC may begin customer outreach immediately and “shall offer payment arrangements, refrain from charging late fees, and begin normal collection activity and disconnections” through three separate alternatives: (1) consistent with an agreement between a utility or utilities and the Commission’s Consumer Services and External Affairs Division; (2) as set forth by subsequent order of the Commission; or (3) through rules adopted by the Commission pursuant to RSA 541-A. The Commission therefore has the option of using one or more of those procedures to determine any additional customer-protective measures to be implemented following the termination of Emergency Order #3. Those specified options effectively expand the range of procedural alternatives that would be available for the Commission to determine such matters under non-emergency circumstances.

We applaud the efforts of the rate-regulated utilities, NHEC, and the Consumer Division to reach an agreement that would provide uniformity and consistency to ratepayers during this time. We also, however, appreciate the timing, the importance of the issue, and the desire of others to be heard.

Accordingly, we believe that it would be appropriate to receive additional input regarding the agreements reached – by the Consumer Services and External Affairs Division with the

rate-regulated electric and gas utilities and NHEC – from the OCA, other ratepayer advocates, and other interested persons in a public forum.

We therefore schedule a public hearing to be held remotely on July 14, 2020, at which the OCA and other interested persons may provide comments or argument regarding rate-regulated utilities' and NHEC's collection activities, payment plans, late fees, and customer disconnections, and the utilities and NHEC may respond to those comments and arguments. If, after receiving that additional input, we determine that another procedural option should be pursued, we will provide notice of that determination through a subsequent order.

For the reasons articulated above, we find the OCA Petition to be premature, and we deny it at this time.

Based upon the foregoing, it is hereby

ORDERED, that the Petition of the Office of the Consumer Advocate for Emergency Rulemaking or Evidentiary Hearing is DENIED; and it is

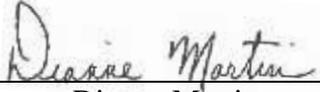
FURTHER ORDERED, that, consistent with Governor Christopher T. Sununu's Emergency Order #12, the Commission shall hold a web-enabled remote public hearing on July 14, 2020 at 1:30 p.m., at which the OCA and other interested persons may provide comments or argument regarding rate-regulated utilities' and NHEC's collection activities, payment plans, late fees, and customer disconnections, and the utilities and NHEC may respond to those comments and arguments; detailed information regarding remote participation at the public hearing will be provided at a later date; and it is

FURTHER ORDERED, that members of the public who wish to access the public hearing may do so by clicking <https://www.puc.nh.gov/Regulatory/Calendar-Remote.html>; **if**

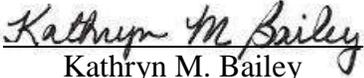
members of the public experience difficulty obtaining access to this remote event, please notify the Commission by calling (603) 271-2431, and it is

FURTHER ORDERED, that, immediately following the public hearing, the rate-regulated utilities, NHEC, the OCA, Commission Staff, and other interested persons will hold a web-enabled remote technical session to review and discuss the rate-regulated utilities' and NHEC's collection activities, payment plans, late fees, and customer disconnections.

By order of the Public Utilities Commission of New Hampshire this eighth day of July, 2020.



Dianne Martin
Chairwoman

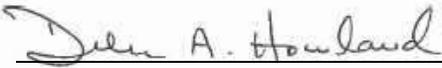


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List – COVID-19 Orders

Printed: 7/8/2020

Email Addresses

ExecutiveDirector@puc.nh.gov
robert.bersak@eversource.com
michelle.bunnemeyer@puc.nh.gov
richard.chagnon@puc.nh.gov
mdean@mdeanlaw.net
epler@unitil.com
matthew.fossum@eversource.com
tom.frantz@puc.nh.gov
steve.frink@puc.nh.gov
larry.goodhue@pennichuck.com
Paul.Kasper@puc.nh.gov
randy.knepper@puc.nh.gov
jayson.laflamme@puc.nh.gov
Corrine.Lemay@puc.nh.gov
robert.meehan@consolidated.com
steven.mullen@libertyutilities.com
Erik.newman@eversource.com
amanda.noonan@puc.nh.gov
ocalitigation@oca.nh.gov
michael.sheehan@libertyutilities.com
taylorp@unitil.com
donald.ware@pennichuck.com
regulatory@ageraenergy.com
pzacharie@ambitenergy.com
compliance@ambitenergy.com
daniels@calpine.com
regulatory@cleanchoiceenergy.com
regulatory@clearviewenergy.com
Amy.klaviter@constellation.com
rdesrosiers@csberlinops.com
Marc.Hanks@directenergy.com
Emily.black.huynh@edfenergyservices.com
mleclerc@sparkenergy.com
martha.lopez@sparkenergy.com
legal@criusenergy.com
Naveen.rabie@na.engie.com
julian.mithani@gdfsuezna.com
nfield@firstpointpower.com

mmorgan@megaenergyllc.com
regulatory@mp2energy.com
aundrea.williams@nexteraenergyservices.com
Isabel.Montalvo@champion.energy
RetailRegulatory@calpine.com
info@powerne.com
lindsay.cervenak@nrg.com
john.holtz@nrg.com
regulatory@smartenergy.com
jescalante@summerenergy.com
regulatory@gosunwave.com
hsmith@texasretailenergy.com
wgardner@genieretail.com
mbell@genieretail.com
stephaniekueffner@nrg.com
NERetailRegulatory@nrg.com
CustomerRelations@directenery.com
roberta.orris@shell.com
customercare@spragueenergy.com
jhager@ugies.com
pphillips@primmer.com
robert.meehan@consolidated.com
jmiranda@rc.com
Joseph.A.Doiron@goferr.nh.gov
jared.chicoine@osi.nh.gov