LOUISIANA PUBLIC SERVICE COMMISSION

SPECIAL ORDER NO. 44-2020

LOUISIANA PUBLIC SERVICE COMMISSION,
EX PARTE

In Re: Special Orders 22-2020 and 28-2020, ratification and termination of Executive Order dated March 13, 2020 regarding utilities prohibited from disconnecting customers during the statewide public health emergency associated with COVID-19.

(Decided at the Commission's Business and Executive Session held June 24, 2020)
Issued subject to, and in conjunction, with Special Order 43-2020

I. OVERVIEW

On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency, by issuance of Proclamation 25 JBE 2020. The Louisiana Public Service Commission, through the authority designated to the Executive Secretary in General Order dated November 3, 2005, issued Executive Order dated March 13, 2020 ("3/13/20 E.O.") in response to the COVID-19 pandemic. Specifically, 3/13/20 E.O. prohibited/suspended the disconnection of customers of Commission-jurisdictional public utilities for non-payment of service, with exceptions only when public safety concerns unrelated to non-payment require disconnection.

At the Commission's April 29, 2020 Business and Executive Session ("B&E"), the Commission unanimously ratified and terminated the 3/13/20 E.O., which was memorialized in Special Order 22-2020 issued on the same day. Special Order 22-2020 continued the suspension of disconnections until the State of Louisiana entered Phase II of the "Opening Up America Again" plan,[1] and allowed disconnection procedures to commence with the first billing cycle following the state entering Phase II. Special Order 22-2020 also included additional measures for jurisdictional utilities to provide notice, and work with, their customers on arrearages.

Along with ratifying the 3/13/20 E.O., Vice Chairman Greene specified he would like to continue considering other options jurisdictional utilities may implement to assist customers during this public health emergency. Following the April B&E, Vice Chairman Greene put forth proposed amendments to Special Order 22-2020 and sought comments from jurisdictional utilities as well as stakeholder groups. Based on comments provided, these proposed amendments were revised and placed on the agenda for consideration at the Commission's May 27, 2020 B&E as potential amendments to Special Order 22-2020.

At the Commission's May 27, 2020 B&E, Vice Chairman Greene's proposed amendments were discussed, as well as the continued suspension of disconnections of customers. Ultimately, Special Order 22-2020 was amended at the Commission's May 27, 2020 B&E to clarify that the suspension of disconnections would continue until the Commission took further action regarding suspension of disconnects. This amendment was to allow the Commission more time to receive information from jurisdictional utilities regarding the potential financial impacts from the 3/13/20 E.O. and Special Order 22-2020. The Commission's clarification was memorialized in Special Order 28-2020. Hereinafter, the 3/13/20 E.O. and Special Order Nos. 22-2020 and 28-2020 are collectively referred to as the "Commission's Disconnection Orders."

At the Commission's June 24, 2020 B&E, the Commission voted to terminate the Commission's Disconnection Orders, as memorialized in Special Order 43-2020. Specifically, Special Order 43-2020 lifted the suspension on disconnections and late fees included in Special Order Nos. 22-2020 and 28-2020, and required all jurisdictional utilities to temporarily provide payment plans or levelized billing as well as provide a report to Commission Staff identifying the payment plans as outlined therein.

[1] https://www.whitehouse.gov/openingamerica/ This link provides an overview of the three-phased approach, including the initial gating criteria, as well as the criteria to move to each phase, and what each phase entails.

II. JURISDICTION

The jurisdiction of the Commission is set forth by the Louisiana Constitution, Article IV, Section 21, which provides as follows:

> The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

III. TERMINATION OF COMMISSION DISCONNECTION ORDERS AND ADOPTION OF ADDITONAL MEASURES

Pursuant to Special Order 43-2020, the Commission's Disconnection Orders are terminated; however, there are additional measures that could be put in place to continue assistance to customers. Accordingly, the Commission adopts the following protocols.

A. Applicability of Late Payment fees/charges/penalties

Consistent with Special Order 43-2020, all public utilities subject to the jurisdiction of the Commission may commence assessing late payment fees/charges/penalties, according to the protocols outlined in Commission General Orders dated February 20, 1973, July 12, 1976, and October 11, 2019, on outstanding principal balances for services rendered after July 16, 2020 to customers not timely paying utility bills. Unpaid balances accrued between the 3/13/20 E.O.'s inception and July 16, 2020 shall not be subject to late fees.

B. Notification to Customers and Time Period for Recovery of Past Due Balances

Utilities will make reasonable efforts to personally contact and helpfully educate their delinquent customers on all payment options while still encouraging payment. All public utilities subject to the jurisdiction of the Commission shall commence communication with their delinquent customers in a manner most likely to lead the customer toward a payment plan. Such notification shall, at a minimum, inform the customer of the following: 1) the termination of the disconnect prohibition pursuant to Special Order 43-2020; 2) the delinquent customer's outstanding principal balance and their obligation to pay their outstanding balance; and 3) the existence of a payment plan and other utility-specific options that allow a delinquent customer to pay outstanding principal balances.

All communication must be meant to lead a delinquent customer toward helpful payment options and structured to educate the customer of different options available to help the customer during this time. Further, all communication should include a way for that customer to connect with a customer service representative of the utility or a voicemail where said representative can call the customer back.

Though other payment options may also be offered to each customer, the utility shall discuss and make available to each customer in arrears a billing plan that allows payback of all amounts in arrears by equal, affordable monthly payments over an extended period, such as levelized billing, extended deferred payment plans, or other payment plans a utility believes on a case by cases basis will be helpful to customers in arrears. The failure of the public utility to be able to contact a customer after a good faith effort to do so shall not excuse the customer from the obligation to pay all amounts due or affect the utility's right to disconnect in accordance with Commission General Orders dated February 20, 1973, July 12, 1976, and October 11, 2019, and Special Order 43-2020.

If a customer is already enrolled in a payment plan, nothing in this section requires that the utility reach back out to that customer and further explain their options.

No interest shall accrue on payment plans for the amount of past due arrearages for services rendered to a customer due to the Disconnection Orders.

C. Payment Plans for Recovery of Past Due Balances

Utilities shall continue to work with and provide payment plan options, levelized billing options, etc. to those customers who have outstanding principal balances on bills rendered prior and subsequent to July 16, 2020. While no specific timelines for payment plans are established herein, utilities shall comply with the requirements provided for in Special Order 43-2020, including providing a report of plans offered to Commission Staff.

D. Utility Recovery of Lost Revenue

All public utilities subject to the jurisdiction of the Commission are hereby authorized to record, as a regulatory asset, expenses incurred from the suspension of disconnections and collection of late fees imposed by the Disconnection Orders.

Additionally, all public utilities are entitled to formally petition the Commission to recover, at a later date, the direct costs incurred as a result of the effect of the Disconnection Orders, including but not necessarily limited to administrative costs and expenses associated with the customer notification. Should a utility request recovery beyond the direct costs incurred, such as, but not limited to equity or profits, the costs sought to be recovered shall be separately identified and not combined with any direct costs incurred. Such a request will be subject to Commission review and approval, and the Commission is not by this Order authorizing recovery of any direct or other costs. A utility may determine the method whereby it seeks such recovery (e.g. rate filing, annual review, request for asset) and may request such recovery on a dollar for dollar basis as limited by this paragraph and Order.

E. *Prohibition on Negative Credit Reporting*

All public utilities subject to the jurisdiction of the Commission are prohibited from taking part in negative credit reporting against those customers who have gathered arrears since the 3/13/20 E.O. until after July 16, 2020.

IV. COMMISSION CONSIDERATION

Commissioner Skrmetta made a motion, seconded by Vice Chairman Greene, to reconsider Special Order Nos. 22-2020 and 28-2020, which was unanimously adopted.

On motion of Vice Chairman Greene, and seconded by Commissioner Campbell, with Commissioner Boissiere concurring, Chairman Francis opposed, and Commissioner Skrmetta opposed specific to Section D, the Commission voted to adopt Vice Chairman Greene's May 27, 2020 proposed amendments.

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IT IS THEREFORE ORDERED THAT:

1. Special Order No. 44-2020, as outlined herein, is hereby adopted by the Commission.

2. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
July 1, 2020

OPPOSED
DISTRICT IV
CHAIRMAN MIKE FRANCIS

/S/ CRAIG GREENE
DISTRICT II
VICE CHAIRMAN CRAIG GREENE

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE, III
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

BRANDON M. FREY
SECRETARY

OPPOSED
DISTRICT I
COMMISSIONER ERIC F. SKRMETTA