2.600 COVID-19 EMERGENCY DISCONNECTION RULE

2.601 Purpose, Scope, and Period of Applicability

Due to the outbreak of the novel coronavirus, COVID-19, the Governor of Vermont declared a state of emergency. The state of emergency and the consequences of the pandemic persist. In response to the pandemic, the Commission ordered a moratorium on various utility disconnections. On October 16, 2020, the moratorium on gas, electric, and basic telephone disconnections will be lifted in order to encourage greater participation in the Vermont COVID-19 Arrearage Assistance Program that distributes federal funds. This emergency rule amends various procedural requirements to reduce or eliminate in-person contact between members of the public and utility staff to reduce the risk of exposure to the COVID-19 virus. This rule also provides enhanced consumer protections to customers who may be experiencing financial hardship due to COVID-19. This rule shall take effect on the date of its filing, and shall remain in effect for six months, or until the Commission withdraws it.

2.602 Amendments to Commission Rule 3.300 Relating to Disconnection of Residential Gas, Electric, and Water Service

All cross references in this rule refer to the language of the rule as modified by the emergency rule, if so modified.

The Commission amends Commission Rule 3.301(D) as follows. Physician's Certificate: a written statement by a duly licensed physician certifying that a ratepayer or resident within the ratepayer's household would suffer an immediate and serious health hazard by the disconnection of the company's service, or by failure to reconnect service, to that household. The certificate will be valid for 30 days, or the duration of the hazard, whichever is less, and may be renewed three times. Use of a physician's certificate by a customer to prevent disconnection or to cause a reconnection is limited to four consecutive 30-day periods and shall not exceed six 30-day periods in any calendar year, except upon written order of the Commission.

The Commission amends Commission Rule 3.302(B) as follows. Exceptions. During a state of emergency, disconnection shall not be permitted if prohibited by law or Commission order. The following exceptions shall not apply to payment(s) of deposits, but shall apply to the general rule of this section. Disconnection shall not be permitted if:

(1) the company bills at least as frequently as once every two months, and the delinquent bill or charge, or aggregate delinquent bills and charges, does not exceed $50.00, provided that this exception may not be used for more than two billing cycles in one calendar year;
(2) the only charges or bills constituting the delinquency are more than two years old;
(3) the delinquency is due solely to a disputed portion of a charge that has been referred to the Commission by the ratepayer or the company, and the Commission has advised the company not to disconnect service;

(4) the delinquency is due to a failure to pay a line extension, special construction charge, or other non-recurring charge, except that this exception shall not apply to reconnection charges or charges for personal visits to collect delinquent accounts;
(5) the disconnection would represent an immediate and serious hazard to the health of the ratepayer or a resident within the ratepayer's household, as set forth in a physician's certificate furnished to the company. (Notice by telephone or otherwise that such certificate will be forthcoming will have the effect of receipt, provided that the certificate is in fact received within seven days.);
(6) the ratepayer has not been given an opportunity to enter into (a) a reasonable repayment plan or, having entered into such a plan, has substantially abided by its terms in accordance with Section 3.305 (A); and (b) in the case of gas and electric utilities, a monthly installment plan for the payment of future bills; or
(7) the ratepayer has submitted a complete Vermont COVID-19 Arrearage Assistance Program ("VCAAP") application to the Vermont Department of Public Service and the ratepayer is awaiting a determination or has been approved and the funds have not been distributed.

The Commission amends Commission Rule 3.302(C) as follows. If a ratepayer requests that service be disconnected, the electric, gas, or water company must ask whether a tenant resides in the dwelling. An electric, water, or gas company may not disconnect a dwelling at the request of a lessor, owner, or agent ("landlord") or because the landlord (as a customer) has failed to pay an overdue amount, if it has reason to believe the dwelling is rented and unless the utility gives notice as described below.

A company must make every reasonable attempt with respect to each potentially affected dwelling unit to deliver a notice ten days prior to the scheduled disconnection to at least one adult occupant of that dwelling unit or mail a notice to the tenant of that dwelling unit. In buildings where service to two or more units is to be disconnected because of a landlord's request or non-payment, the utility must also post the notice in a secure and obvious place in the affected building or buildings. The notice must, in addition to the applicable disclosures of Section 3.303, inform the tenant how service can be continued and must provide the website for the Vermont Community Action Agencies (https://dcf.vermont.gov/partners/caps) and the website (https://vtlawhelp.org/how-we-can-help), telephone number (1-800-889-2047), and business hours of Vermont Legal Aid (8:30 a.m. to 4:30 p.m. Monday through Friday except holidays), and a statement that Legal Aid can provide information on housing, rental assistance, and the COVID-19 pandemic. Notwithstanding the provisions of Section 3.301(C), a disconnection notice containing a newly established disconnection date shall be provided to the tenant at least ten days prior to the newly established disconnection date. If the disconnection is due to the failure of the landlord to pay an overdue amount, the landlord shall be responsible for usage during the additional ten-day notice period.

A utility must offer the tenant the opportunity either to obtain service in the tenant's name or to otherwise assume responsibility for further payment. If the building has a single master meter for the whole building, the utility must make arrangements where possible to

provide individual meters to separate dwelling units. Where the wiring and metering arrangements allow, the utility must provide service upon request of the tenant. The utility may not require the tenant to pay any of the bill owed to the utility by the landlord.

If the utility disconnects a household because it is not aware that the household is occupied by a tenant, and the landlord is responsible for payment of the utility bill, the utility must reinstate service upon notification from the tenant. Under such circumstances, the utility shall not require advance payment of any deposit, and the customer shall have the option of paying the deposit, if required, in two equal payments, with one half due in 30 days and one half due in 60 days.

The Commission amends Commission Rule 3.302(G) as follows. When establishing a reasonable repayment plan, the company shall consider the income and income schedule of the customer, if offered by the customer, the customer's payment history, the size of the arrearage and current bill, the amount of time and reason for the outstanding bill, and whether the delinquency was caused by unforeseen circumstances. A reasonable repayment plan shall, at a minimum, provide the customer with 12 months to complete repayment of a delinquent balance unless the customer requests a shorter timeframe.

The Commission amends Commission Rule 3.303 as follows. Disconnection Notice Form. The notice form required under Section 3.302 and defined in Section 3.301 shall contain the following information:

(A) a statement that the ratepayer's account is delinquent, a statement of the amount of the delinquency, and a statement that service will be disconnected unless:
  (1) the delinquency is paid in full by a certain date; or
  (2) the ratepayer enters into a reasonable agreement with the utility to pay the delinquency by means of a repayment plan; or
  (3) the ratepayer denies the existence of any delinquency in excess of $50.00, submits the dispute to the Commission, and the Commission advises the utility not to disconnect service; or
  (4) the ratepayer presents to the utility (or gives actual notice that he or she will, within seven days, present to the utility) a statement from a duly licensed physician certifying that disconnection will result in an immediate and serious health hazard to the ratepayer or to a resident within the ratepayer's household, provided that use of a physician's certificate to prevent disconnection or to cause a reconnection is limited to four consecutive 30-day periods and shall not exceed six 30-day periods in any calendar year, except upon written order of the Commission;

(B) the dates and times of day when the utility may disconnect service if the ratepayer does not take appropriate action as described above;

(C) a statement that the utility will negotiate a reasonable agreement for payment of the delinquency by means of a repayment plan and that if, after entering such negotiations, the ratepayer does not believe the utility's terms to be reasonable, the ratepayer may

request the assistance of the Consumer Affairs Division of the Department of Public Service in conducting further negotiations;

(D) the name(s) or title(s), address(es), telephone number(s), and business hours of the company representatives with whom the ratepayer may make any inquiry or complaint, and a statement that telephone calls made from within Vermont for such purposes may be made collect or toll free;

(E) the address, telephone numbers (including the toll-free number), and business hours of the Consumer Affairs Division of the Department of Public Service, and a statement that, in addition to providing assistance or advice as to negotiations with utilities, the Division can provide information as to how to submit to the Commission a dispute over the existence of a delinquency;

(F) while the VCAAP is accepting applications, the website and phone number for the VCAAP as well as a notice that ratepayers who have submitted a complete application and are awaiting a determination or have been approved and the funds have not been disbursed are exempt from disconnection;

(G) the itemized cost that may be charged to the ratepayer for disconnection, collection, and later restoration of service and, if a deposit may be required for restoration of service, an explanation of how the amount will be calculated;

(H) in the case of gas and electric utilities, if disconnection is to occur between November 1 and March 31 (inclusive), a list as annually compiled and distributed by the Department of Public Service of the names, addresses and telephone numbers of governmental and private agencies that may provide assistance to ratepayers in paying their utility bills;

(I) in the case of gas and electric utilities, an offer to arrange a monthly installment plan for the payment of future bills, provided that such offer need not be made if the account is for service at premises not used as a principal residence;

(J) in the case of gas and electric utilities, a statement that service to households with any member aged 62 or older shall not be disconnected between November 1 and March 31 if outdoor temperatures are forecast to fall below 32 degrees Fahrenheit during a 48-hour period beginning at the anticipated time of disconnection, provided that the account holder furnishes advance written notice to the utility that the household qualifies under this paragraph and, if requested by the utility, furnishes reasonable proof of such qualification; and

(K) any other information not inconsistent with the above that has received prior approval of the Commission.

The Commission waives the requirement of "a personal visit to the premises at which service is provided" contained in Commission Rule 3.304(A) and referenced in its subdivisions.

The Commission amends Commission Rule 3.305 as follows.

(A) When a utility proposes to disconnect service because of a ratepayer's failure to abide by the terms of a repayment plan, it shall deliver or mail to the address at which service is to be disconnected (with a copy mailed to the ratepayer's billing address, if different)

a notice containing the information required by Sections 3.303, except (A)(2), (C), (I). In lieu of giving written notice, the utility may give notice orally, by telephone, but the content of the oral notice shall contain all information required in written notice. The timing of disconnection must follow the minimum requirements of Section 3.301(C). Substantial compliance with a repayment plan established under Section 3.307(B) or Section 3.302(B)(6) shall be demonstrated if the customer has paid at least 50 percent of each agreed-upon payment as due.

(B) [Redacted.]

(C) Disconnection resulting from failure to meet the terms of a repayment plan shall occur only after the utility has issued notice in accordance with Section 3.305(A).

The Commission amends Commission Rule 3.306 as follows. Disconnection of utility service shall occur only between the hours of 8:00 A.M. and 2:00 P.M. of the business day, specified on the notice of disconnection, or within four business days thereafter between April 1 and October 31 (inclusive), and within eight days thereafter between November 1 and March 31 (inclusive); except that if a company has available personnel authorized to reconnect service and enter into arrangements on behalf of the utility until 8:00 P.M. of a normal business day, the utility may disconnect service between the hours of 8:00 A.M. and 5:00 P.M. When service is disconnected at the premises of the ratepayer, which shall include disconnection at a pole at or near the premises of the ratepayer, the individual making the disconnection shall make reasonable attempts to inform the ratepayer or a responsible adult at the premises immediately, via telephone, that service has been disconnected and shall leave on the premises in a conspicuous and secure place a notification advising that service has been disconnected and what the ratepayer has to do to have service restored.

Reasonable attempts at telephone notice under this subsection means two phone calls made at least three hours apart to a telephone number provided by the ratepayer for this purpose or, if no such number has been provided, to the ratepayer's number as it appears in the telephone directory or as obtained from directory assistance. A telephone call to a telephone not removed from service that results in a busy signal or in any other condition preventing communication, or an unanswered call that has not been allowed to ring for at least 60 seconds, shall not count toward satisfaction of the requirement of this subsection. The unavailability of a ratepayer's telephone number shall excuse compliance with the requirement to attempt notification by telephone.

The Commission amends Commission Rule 3.307(B) as follows. The company shall restore service if the disconnected customer pays one half of the delinquent bill, or a lesser negotiated amount, before restoration and enters into a repayment plan to pay the balance over a minimum period of 12 months, except that the utility is not obliged to enter into more than two plans of this type with a particular customer within a calendar year. The company shall restore service if a customer submits a complete VCAAP application to the Vermont Department of Public Service.

The Commission amends Commission Rule 3.308(A) as follows. Within seven days after the effective date of this rule and prior to issuing any disconnection notice, all electric and gas utility companies subject to its provisions shall submit to the Commission for its review and approval a copy of the disconnection notice form described in Section 3.303. Within seven days after the expiration of the state of emergency triggering the prohibition on disconnection in Act 92 of 2020 and prior to issuing any disconnection notice, all water utility companies subject to the Commission's jurisdiction shall submit to the Commission for its review and approval a copy of the disconnection notice form described in Section 3.303.

2.603 Amendments to Commission Rule 3.400 Relating to Disconnection of Cable Television Service and Non-Residential Electric, Gas, and Water Service

All cross references in this rule refer to the language of the rule as modified by the emergency rule, if so modified.

The Commission amends Commission Rule 3.401(C) as follows. Notice:

(A) If electric, gas, or water service, except where otherwise provided or where the context otherwise requires, notice shall mean written notice on a form approved by the Commission, mailed or delivered within 40 days after delinquency, but not more than 20 days or less than 14 days prior to the disconnection of service. Where payment has been made by a check or other instrument that is subsequently dishonored, then the number of days between delivery to the utility of the dishonored instrument and receipt by the utility of notice of dishonor may be deducted from the minimum number of days prior to disconnection that notice must be sent, but in no event may that minimum number of days be less than four.

(B) If cable service, except where otherwise provided or where the context otherwise requires, notice shall mean written notice on a form approved by the Commission, mailed or delivered within 40 days after delinquency, but not more than 20 days or less than 14 days (seven if the ratepayer has failed to abide by the terms of an extended repayment plan) prior to the disconnection of service. Where payment has been made by a check or other instrument that is subsequently dishonored, then the number of days between delivery to the utility of the dishonored instrument and receipt by the utility of notice of dishonor may be deducted from the minimum number of days prior to disconnection that notice must be sent, but in no event may that minimum number of days be less than four.

The Commission amends Commission Rule 3.402 as follows. Except at the request of the ratepayer or upon order of the Commission, no utility shall disconnect cable television service or non-residential gas, electric, or water service unless payment of a valid bill or charge is delinquent as defined herein, and notice of disconnection has been provided previously to the ratepayer.

(A) This rule shall not apply to any disconnection or interruption of services made necessary for reasons of health or of safety of the ratepayer or the general public.

(B) Disconnection shall not be permitted if the delinquency is due solely to a disputed portion of a charge that has been referred to the Commission by the ratepayer or the utility, and the Commission has advised the utility not to disconnect service.

(C) Disconnection of electric, gas, or water service shall not be permitted if the ratepayer has submitted a complete VCAAP application to the Vermont Department of Public Service and the ratepayer is awaiting a determination or has been approved and the funds have not been distributed.

(D) Disconnection of electric, gas, or water service shall not be permitted unless the ratepayer has been given an opportunity to enter into a reasonable repayment plan or, having entered into such a plan, has not substantially abided by its terms. Any other utility may elect, at its option, to offer an extended repayment plan for delinquent bills.

(1) Substantial compliance with a repayment plan shall be demonstrated if the customer has paid at least 50 percent of each agreed-upon payment as due.

(2) When establishing a reasonable repayment plan, the company shall consider the income and income schedule of the customer, if offered by the customer, the customer's payment history, the size of the arrearage and current bill, the amount of time and reason for the outstanding bill, and whether the delinquency was caused by unforeseen circumstances. A reasonable repayment plan shall, at a minimum, provide the customer with 12 months to complete repayment of a delinquent balance unless the customer requests a shorter timeframe.

(3) When a utility proposes to disconnect service because of a ratepayer's failure to abide by the terms of a repayment plan, it shall deliver or mail to the address at which service is to be disconnected (with a copy mailed to the ratepayer's billing address if different) a notice containing the information required by Sections 3.403, except (A)(1)(c) and (F). In lieu of giving written notice, the utility may give notice orally, by telephone, but the content of the oral notice shall contain all information required in written notice. The timing of disconnection must follow the minimum requirements of Section 3.401(C). Disconnection resulting from failure to meet the terms of a repayment plan shall occur only after the utility has issued notice in accordance with this subsection.

(E) Any utility may elect, at its option, to offer a budget plan for future bills to ratepayers covered by this rule. Any customer who applies for the plan and has a delinquent balance shall have the right to pay the delinquency in an extended repayment plan concurrent with the budget plan.

The Commission amends Commission Rule 3.403 as follows. Disconnection Notice Form. The notice form required under Section 3.402 and defined in Section 3.401 shall contain the following information:

(A) a statement that the ratepayer's account is delinquent, a statement of the amount of the delinquency, and a statement that service will be disconnected unless:

(1) If electric, gas, or water service, (a) the delinquency is paid in full by a certain date; (b) the ratepayer submits any disputed portion of the charge to the

Commission and the Commission orders the utility not to disconnect service; or (c) the ratepayer enters into a reasonable agreement with the utility to pay the delinquency by means of a repayment plan;

(2) If cable service, (a) the delinquency is paid in full by a certain date; (b) the ratepayer submits any disputed portion of the charge to the Commission and the Commission orders the utility not to disconnect service; or (c) if the utility offers an extended repayment plan for delinquent bills, the ratepayer enters into such a plan;

(B) the dates and times of day when the utility may disconnect service if the ratepayer does not take appropriate action as described in Section 3.403(A) above;

(C) the names or positions, addresses, telephone numbers, and business hours of the company representatives with whom the ratepayer may discuss the delinquency or to whom the ratepayer may make an inquiry or complaint;

(D) the address, telephone numbers, including the toll-free number, and business hours of the Consumer Affairs Division of the Department of Public Service, and a statement that, in addition to providing assistance or advice as to negotiations with utilities, the Division can provide information as to how to submit to the Commission a dispute over the existence of a delinquency;

(E) the itemized cost that may be charged to the ratepayer for disconnection, collection, and later restoration of service and, if a deposit may be required for restoration of service, an explanation of how the amount will be calculated;

(F) in the case of electric, gas, and water utilities, a statement that the utility will negotiate a reasonable agreement for payment of the delinquency by means of a repayment plan and that if, after entering such negotiations, the ratepayer does not believe the utility's terms to be reasonable, the ratepayer may request the assistance of the Consumer Affairs Division of the Department of Public Service in conducting further negotiations;

(G) in the case of electric, gas, and water utilities, while the VCAAP is accepting applications, the website and phone number for the VCAAP as well as a notice that ratepayers who have submitted a complete application and are awaiting a determination or are approved and the funds have not been disbursed are exempt from disconnection; and

(H) any other information not inconsistent with the above that has received prior approval of the Commission.

The Commission amends Commission Rule 3.404 as follows. Disconnection of utility service shall occur only between the hours of 8:00 A.M. and 2:00 P.M. of the business day, specified on the notice of disconnection, or within four business days; except that if a company has available personnel authorized to reconnect service and enter into arrangements on behalf of the utility until 8:00 P.M. of a normal business day, the utility may disconnect service between the hours of 8:00 A.M. and 5:00 P.M.

When service is disconnected or interrupted at the premises of the ratepayer, which shall include disconnection or interruption at a pole at or near the premises of the ratepayer, the

individual making the disconnection shall make reasonable attempts to inform the ratepayer or a responsible adult at the premises immediately, via telephone, that service has been disconnected or interrupted and shall leave on the premises in a conspicuous and secure place a notification advising that service has been disconnected or interrupted and what the ratepayer has to do to have service restored.

Reasonable attempts at telephone notice under this subsection means two phone calls made at least three hours apart to a telephone number provided by the ratepayer for this purpose or, if no such number has been provided, to the ratepayer's number as it appears in the telephone directory or as obtained from directory assistance. A telephone call to a telephone not removed from service that results in a busy signal or in any other condition preventing communication, or an unanswered call that has not been allowed to ring for at least 60 seconds, shall not count toward satisfaction of the requirement of this subsection. The unavailability of a ratepayer's telephone number shall excuse compliance with the requirement to attempt notification by telephone.

The Commission amends Commission Rule 3.406 as follows. Within seven days after the effective date of this rule and prior to issuing any disconnection notice, all electric and gas utilities subject to its provisions shall submit to the Commission for its review and approval a copy of the disconnection notice form described in Section 3.403. Within seven days after the expiration of the state of emergency triggering the prohibition on disconnection in Act 92 of 2020 and prior to issuing any disconnection notice, all water utility companies subject to the Commission's jurisdiction shall submit to the Commission for its review and approval a copy of the disconnection notice form described in Section 3.403.

2.604 Amendments to Commission Rule 7.600 Relating to Telecommunications Carriers of Basic Residential Telephone Service

All cross references in this rule refer to the language of the rule as modified by the emergency rule, if so modified.

The Commission amends Commission Rule 7.620(H) as follows. Form of disconnection notice. A notice of involuntary disconnection shall be in writing and shall clearly and conspicuously contain the following information:

(1) A statement that the customer's account is delinquent and the amount of the delinquency.
(2) A statement describing the service and stating that the carrier plans to disconnect the service on a stated date.
(3) A statement that service will not be disconnected if the delinquency is paid in full by a stated date.
(4) If the carrier's service includes basic telephone service and the carrier offers basic service on a stand-alone basis, that customer may elect to retain basic service only, provided that the customer pays the basic service delinquency or enters into a payment arrangement.

(5) The toll-free phone number of an appropriate customer service representative of the carrier.
(6) The itemized cost that may be charged to the ratepayer for disconnection, collection, and later restoration of service and, if a deposit may be required for restoration of service, an explanation of how the amount will be calculated.
(7) Information regarding the Consumer Affairs Division of the Department of Public Service ("CAPI") and dispute resolution, including:
    (a) A statement that CAPI can provide assistance or advice regarding disputes with utilities and the address, telephone numbers (including the toll-free number), and business hours of CAPI.
    (b) A statement that when CAPI has been unable to resolve a dispute it can provide information on how to submit the dispute for resolution by the Commission.
(8) while the VCAAP is accepting applications, the website and phone number for the VCAAP as well as a notice that customers who have submitted a complete application and are awaiting a determination or are approved and funds have not been disbursed are exempt from disconnection.

The Commission amends Commission Rule 7.622(C) as follows. Restrictions. Notwithstanding paragraph (B), a carrier may not involuntarily disconnect basic telephone service:

(1) Based on a disputed delinquency that has been referred to the Commission by the customer or the company and where the Commission has advised the company not to disconnect service.
(2) Due to a failure to pay for any other service, including but not limited to non-basic services, line extensions, special construction, or other non-recurring charges. However, this exception does not apply to reconnection charges or charges for personal visits to collect delinquent accounts or deposits. This paragraph does not prevent a carrier from disconnecting a bundled package of services that includes basic telephone service when charges for that bundle, considered as a whole, are delinquent.
(3) When prohibited by Section 7.623 relating to medical emergencies.
(4) Where the delinquent bill or charge, or aggregate delinquent bills or charges, for all services, including basic, non-basic, and other services provided by a carrier does not exceed $50.00, provided that this exception is not used more than two billing cycles in a 12-month period.
(5) Disconnection shall not be permitted if the customer has submitted a complete VCAAP application to the Vermont Department of Public Service and the ratepayer is awaiting a determination or has been approved and the funds have not been disbursed.

The Commission amends Commission Rule 7.622(E)(2) as follows. Filing Requirements. Within seven days after the effective date of this rule and prior to issuing any disconnection notice, the carrier shall submit to the Commission for its review and approval a

copy of the disconnection notice form described in Section 7.620(H). The notice form shall be deemed approved unless the Commission states otherwise within 30 days following submission to the Commission and the Department.

The Commission amends Commission Rule 7.622(J) as follows. Abbreviated Disconnection Notice. Where a customer has failed to abide by the terms of a payment plan, or paid by check or other instrument that was subsequently dishonored, the carrier may disconnect service no sooner than 14 days following the delivery of a disconnection notice pursuant to this Section.

The Commission amends Commission Rule 7.623(B)(2) as follows. A customer may not avoid disconnection under this subsection more than six times or for more than four consecutive 30-day periods in any 12-month period.