

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSISSIPPI

MISSISSIPPI PUBLIC SERVICE COMMISSION

DOCKET NO. 2018-AD-141

IN RE: MISSISSIPPI PUBLIC SERVICE COMMISSION
OMNIBUS DOCKET

ORDER EXTENDING ORDER TEMPORARILY SUSPENDING
DISCONNECTION OF CERTAIN UTILITY SERVICES

COMES NOW the Mississippi Public Service Commission (“Commission”), *sua sponte*, and hereby extends the Commission’s previously entered Order Temporarily Suspending the Disconnection of Certain Utility Services (“Disconnection Order”), and in support thereof, the Commission finds as follows, to wit:

Course of Prior Proceedings

- 1) On March 14, 2020, the Governor of the State of Mississippi declared a State of Emergency in an effort to stem the transmission of the novel coronavirus that causes COVID-19. In that declaration, the Governor ordered that “[p]ursuant to Miss. Code Ann. § 33-15-11(c)(1) the provisions of state statutes, rules, regulations or orders may be temporarily suspended or modified if compliance with such provisions would prevent, hinder, or delay action necessary to cope with this outbreak.”¹
- 2) On March 9, 2020, prior to the Declaration of a State of Emergency, the Mississippi State Department of Health invoked² the protocols already in place in the State of Mississippi for

¹ Exec. Order No. 1472 (March 15, 2020).

² See electronic mail from Dr. Thomas Dobbs (via Jenny Griffin) to State Agency Directors (March 9, 2020, 3:09:07 PM CDT).

handling an Influenza pandemic.³ Said protocols specifically charge the Commission with the duty to conduct contingency planning with public utilities to ensure continued service during the pandemic.⁴

3) On March 14, 2020, the Mississippi State Department of Health further advised the Commission that it sought the Commission's assistance in maintaining utility services for the citizens of the State of Mississippi based on the rapid spread of the novel coronavirus at issue by limiting the ability of utilities to disconnect utility services when it wrote:

During the state response to COVID-19, it will be important for Mississippians to have access to safe drinking water and electricity. COVID-19 will impact many Mississippians as cases, contacts to cases, through isolation or quarantine, and in employer work practice adjustments. I would ask that if the Governor declares a State of Emergency that provides for regulatory flexibility, the PSC consider issuing an order prohibiting new water or electricity cut-offs for 60 days during the COVID-19 response.⁵

4) Also, on March 14, 2020, the Mississippi Emergency Management Agency requested similar relief from the Commission:

I am reaching out you collectively with a request based on the guidance from Dr. Dobbs with the Mississippi Department of Health, MEMA Executive Director Michel and numerous other concerned stakeholders/partners. With regard to the recommended guidance of social distancing, school closings, work place closures, encouragement of teleworking, and isolation (for potential and confirmed exposures) we recommend messaging be sent to utility providers and water associations to request that disconnects and shutoffs be suspended for a timeframe of 60 days. I believe the timeframe of 60 days has been recommended or requested for situations similar to this one in the past. I appreciate each of you being willing to stay engaged remotely with the response and operational aspects of the COVID-19 Pandemic.⁶

5) On March 15, 2020, in response to the pandemic, and to assist in preventing the spread of COVID-19 in the State of Mississippi, the Commission entered its Disconnection Order.⁷ This order applied to all public utilities in the State of Mississippi, regardless of whether or not any

³ *Mississippi Pandemic Influenza Incident Index* (June 14, 2019).

⁴ *Id.* at p. 6.

⁵ See electronic mail from Jim Craig to the Commission (March 14, 2020 at 10:47:49 AM CDT).

⁶ See electronic mail from Andrew McMillin to the Commission (March 14, 2020 at 4:38:14 PM CDT).

⁷ Order Temporarily Suspending Disconnection of Certain Utility Services, Docket No. 2018-AD-141 (March 15, 2020).

particular public utility, under normal circumstances, would fully fall under the Commission's jurisdiction.⁸

6) On March 17, 2020, in an effort to assist utility customers who were suffering financial hardship during the pendency of the Disconnection Order, the Commission authorized public utilities in the State of Mississippi to seek a temporary exemption from certain Commission Service Rules relative to the use of customer deposits.⁹

7) On April 14, 2020, in order to mitigate the financial burdens unpaid bills placed on public utilities in the State of Mississippi, the Commission entered its order providing that public utilities that are rate regulated by the Commission "be allowed to defer to a regulatory asset account all necessary and reasonable incremental costs or expenses to plan, prepare, stage, or react to protect and keep safe its employees and customers, and to reliably operate its utility system beginning with the date of the Governor's declared State of Emergency."¹⁰

8) On March 26, 2020, the Mississippi State Department of Health announced expanded measures to increase COVID-19 testing, and to identify location-specific restrictions and limitations of movement and social interaction designed to decrease the transmission of COVID-19.¹¹

9) On April 1, 2020, the Governor issued his Shelter in Place order to restrict movement in the State of Mississippi from April 3, 2020 through April 20, 2020 in an effort to "minimize the risk of possible further transmission of COVID-19."¹²

10) On April 17, 2020, the Governor extended said Shelter in Place order, with certain exceptions, until April 27, 2020.¹³ The Governor also relaxed restrictions previously in place by

⁸ Clarification Statement from the Mississippi Public Service Commission's General Counsel Regarding the Order Temporarily Suspending Disconnection of Certain Utility Services, Docket No. 2018-AD-141 (March 19, 2020).

⁹ Order Regarding Use of Customer Deposits, Docket No. 2018-AD-141 (March 17, 2020).

¹⁰ Order Authorizing Utility Response and Accounting for COVID-19, Docket No. 2018-AD-141 (April 14, 2020).

¹¹ See generally https://msdh.ms.gov/msdhsite/_static/14,21866,420.html.

¹² Exec. Order No. 1466 (April 1, 2020).

¹³ Exec. Order No. 1473 (April 17, 2020).

allowing non-essential businesses to resume operations within certain guidelines, and by reopening beaches, state park lakes, state lakes, and reservoirs.¹⁴

11) On April 24, 2020, the Governor issued his Safer at Home order allowing certain additional businesses to resume operation in the State of Mississippi within certain guidelines designed to continue public health advisors' recommendations relative to flattening the curve of the spread of COVID-19.¹⁵ The Safer at Home order was to remain in force until May 11, 2020.¹⁶

12) On May 4, 2020, the Governor revised the Safer at Home order by allowing certain additional businesses in the State of Mississippi to resume operations, and opening state, municipal, and private parks and other recreational activities, again within certain delineated public health guidelines designed to further curb the spread of COVID-19.¹⁷ The revised Safer at Home order was also to remain in force until May 25, 2020.¹⁸

Discussion

13) The Commission finds that this matter is within the Commission's jurisdiction, and that it has the authority to enter this order.

14) The Commission is charged with the duty to "foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of service needed for the protection of public health and safety and for the promotion of the general welfare"¹⁹

15) Cognizant of said duties, the terms of the Governor's Declaration of a State of Emergency and additional executive orders, acutely aware of the continued threat posed by this pandemic,²⁰ but

¹⁴ *Id.*

¹⁵ Exec. Order No. 1477 (April 24, 2020).

¹⁶ *Id.*

¹⁷ Exec. Order No. 1478 (May 4, 2020).

¹⁸ Exec. Order No. 1480 (May 8, 2020).

¹⁹ Miss. Code Ann. § 77-3-2(f).

²⁰ The United States Department of Health and Human services declared a public health emergency on January 31, 2020, based on the spread of COVID-19. The World Health Organization Declared the COVID-19 health emergency a "global pandemic" on March 11, 2020. On March 13, 2020, the President of the United States declared a nationwide state of emergency based on the COVID-19 pandemic.

also aware of the upward rate pressure the economic impact of continued unpaid public utility bills poses utility customers,²¹ the Commission finds that the Disconnection Order should be extended.

16) The Commission further finds that as the State of Mississippi begins reopening business operations, that public utilities must likewise begin taking reasonable and prudent steps to resume normal operations.

17) The Commission further finds that the Centers for Disease Control and Prevention²² and the Mississippi State Department of Health²³ have both outlined appropriate personal hygiene steps and common sense measures that should be utilized in order to prevent transmission of this virus, that utility service is necessary to appropriately carry out those recommendations. Common among those recommendations are frequent hand-washing, sanitizing commonly touched surfaces, and the ability to remain at home should symptoms develop, among others.

18) In order to appropriately carry out said public health directives and personal hygiene measures after the expiration of the Disconnection Order, it is incumbent on public utility customers to take steps in the interim to bring delinquent accounts up-to-date.

19) The Commission hereby finds that the steps ordered herein will assist in protecting the public health of the citizens of the State of Mississippi while balancing the needs of public utilities.

THEREFORE, IT IS ORDERED that the Disconnection Order is hereby extended until and set to expire at **5:00 pm (central time) on Tuesday, May 26, 2020**, and that no utility shall disconnect any water, sewer, gas, or electricity service to any customer unless there exists a threat to public safety unrelated to non-payment for services.

²¹ “[I]t is highly likely that the disconnection moratoria associated with COVID-19 will increase the uncollectible balances for utilities. Absent a remedy in rates, higher uncollectible balances further increase the risk of under-recovery for a utility.” <https://www.hklaw.com/en/insights/publications/2020/03/an-overview-of-potential-solutions-for-electric-utilities>.

²² See <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>.

²³ See <https://msdlh.ms.gov/msdhsite/static/14,0,420.html#prevention>.

IT IS FURTHER ORDERED that the Commission reserves the right to enter additional orders relative to the connection, reconnection, or disconnection of utility services during this State of Emergency.

IT IS FURTHER ORDERED that this order does not eliminate the requirement that utility customers continue to pay utility bills during this temporary suspension. Customers should continue paying their bills and understand that they will ultimately be responsible for utility services accrued during this suspension, and the Commission encourages customers who have past-due balances outstanding with their utility service provider to immediately take steps to negotiate a payment plan of said past-due balances.

IT IS FURTHER ORDERED that all public utilities subject to the Commission's Disconnection Order are encouraged to offer reasonable payment plans to customers who have past-due bills beginning at the time of the entry of the Commission's Disconnection Order. The Commission reserves the right to take reasonable steps to assist in these negotiations.

IT IS FURTHER ORDERED that, if both the customer and the public utility agree, any cash deposit held by the public utility for an individual customer may be used to pay down said customer's past-due amounts.

IT IS FURTHER ORDERED that the Commission will continue to enforce the Rules and Regulations Governing Public Utility Service,²⁴ specifically including, but not limited to, Chapter 8: Discontinuance of Service. Said chapter speaks specifically to the notice required to disconnect utility service, and to prohibiting service disconnections in the event that a customer qualifies for Low Income Home Energy Assistance Program ("LIHEAP") benefits, during a life threatening situation, during excessive heat warnings, and during freeze warnings, among other situations.

²⁴ <https://www.psc.ms.gov/sites/default/files/Documents/Service%20Rules.pdf>.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission establish a portal on the Commission's website containing links to LIHEAP and other economic assistance programs for the benefit of utility customers, including, but not limited to, assistance programs offered by rate regulated public utilities in the State of Mississippi.

IT IS FURTHER ORDERED that investor-owned, rate regulated public utilities in the State of Mississippi shall, no later than five (5) days from the entry of this order, provide to the Executive Secretary, information regarding financial assistance programs said utility offers, contact information for customers to use to negotiate payment plans to pay down past-due utility bills, and a web address where each respective utility's customers can find additional information about any such customer assistance programs offered by the public utility. All other public utilities subject to the Commission's Disconnection Order may provide financial assistance information, contact information and a web address to be included on the portal on the Commission's website.

| | | |
|-------|-------------------------------------|--|
| VOTE: | Chairman Dane Maxwell voted: | AYE <u> X </u> , NAY <u> </u> ; |
| | Commissioner Brent Bailey voted: | AYE <u> X </u> , NAY <u> </u> ; and |
| | Commissioner Brandon Presley voted: | AYE <u> X </u> , NAY <u> </u> . |

SO ORDERED, this the 12th day of May, 2020.

MISSISSIPPI PUBLIC SERVICE COMMISSION

 /s/ Dane Maxwell
Dane Maxwell, Chairman

 /s/ Brent Bailey
Brent Bailey, Commissioner

/s/ Brandon Presley
Brandon Presley, Commissioner

ATTEST: A True Copy

/s/ Katherine Collier
Katherine Collier
Executive Secretary

Effective this the 12th day of May, 2020.