

ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF ADMINISTRATIVE)
ORDERS RELATING TO THE COVID-19 STATE) DOCKET NO. 20-012-A
OF EMERGENCY) ORDER NO. 18

ORDER

Order No. 15 in this Docket detailed the Arkansas Public Service Commission’s (Commission) intent to discontinue the moratorium on utility disconnections for non-payment of services that it established in Order No. 1. In anticipation of the lifting of the moratorium, Order No. 15 issued a series of directives to all jurisdictional utilities to effect a uniform procedure for lifting the moratorium and to lessen the shock of an abrupt resumption of disconnections on ratepayers. The Commission also invited comments and feedback from the jurisdictional utilities, the Office of Attorney General Leslie Rutledge (AG), and the General (Staff) of the Commission in Order Nos. 15, 16, and 17.

SUMMARY OF FILINGS

On March 12, 2021, several utilities filed comments on the requirements contained in Order No. 15.

AECC

Arkansas Electric Cooperative Corporation (AECC) filed comments on behalf of its member cooperatives Arkansas Valley Electric Cooperative Corporation; Ashley-Chicot Electric Cooperative, Inc.; C & L Electric Cooperative Corporation; Carroll Electric Cooperative Corporation; Clay County Electric Cooperative; Craighead Electric Cooperative Corporation; Farmers Electric Cooperative Corporation; First Electric

Cooperative Corporation; Mississippi County Electric Cooperative, Incorporated; North Arkansas Electric Cooperative, Incorporated; Ouachita Electric Cooperative Corporation; Ozarks Electric Cooperative Corporation; Petit Jean Electric Cooperative Corporation; Rich Mountain Electric Cooperative, Incorporated; South Central Arkansas Electric Cooperative, Incorporated; Southwest Arkansas Electric Cooperative Corporation; and Woodruff Electric Cooperative Corporation (collectively, the Cooperatives). AECC states that since the moratorium began, the Cooperatives have been in regular communication with their members about the availability of delayed payment arrangements and bill assistance via social media, websites and the like. AECC Comments ¶ 8 (Doc. #144).

AECC provided the total number of member-consumers currently eligible for disconnect as of the date of this filing, the total dollar amount outstanding, and the respective historical arrearage values for comparison in Exhibit AECC-1, and states that the member-consumers currently eligible for disconnection is staggering, and implementing parts of Order No. 15, given the sheer number of member-consumers involved, is at least very challenging. AECC states that it requests flexibility for two primary reasons: (i) Cooperatives value compliance with regulatory directives, yet limited resources and current systems prevent the ability to strictly comply with certain portions of Order No. 15, namely Category D¹ communications; and (ii) continuing to delay disconnections exacerbates the Cooperatives' debt, which will ultimately be recovered through rates by paying member-consumers. *Id.* ¶¶ 9-11.

¹ "Category D" is AECC's reference to page 5 of Order No. 15 which requires the utilities to "contact the customer, either by telephone, in person, email with a read receipt, or with a door hanger, 48 hours in advance of disconnection. The telephone contact shall be to the person responsible for the account and not to a voice messaging system."

AECC states that the Cooperatives request discretion to implement Category D communications using at least one of the following methods: a call to the number on file for the account with the option for leaving a voicemail, if no answer is received; via text, if the member has opted to receive text communication from the cooperative; in person; via door hanger; or with an email to the account file, without having to maintain a read receipt. It states that the requests are made to align with current social norms regarding phone and email usage, *i.e.*, many members will not answer calls from non-contacts and read receipts are often disabled by email users. In addition, AECC explains that the record-keeping for whether the communication was received, rather than provided, has the potential to be quite burdensome, and the Cooperatives will maintain appropriate records regarding whether communication was made by the Cooperative. *Id.* ¶¶ 13-14. AECC also requests that the Commission provide links to any known energy assistance programs applicable to member-consumers on the Commission’s public website. *Id.* ¶ 15.

AOG

Arkansas Oklahoma Gas Corporation (AOG) requests that the Commission change the 48-hour requirement to be “at least 48 hours,” which would give it and the customers more time to make payment arrangements. It also asks the Commission to clarify the anticipated effective dates for the 48-hour advance notice requirement since this notice is additional to disconnect requirements found in Section 6 of the General Service Rules (GSR). In addition, AOG asks the Commission to consider flexibility on the provision of telephone notification to allow a spouse or other person(s) above the age of 18 at the residence as a contact that meets this requirement. Finally, AOG

requests that the Commission clarify expectations for COVID-19 related Delayed Payment Agreements (DPA) and subsequent actions for failure to adhere to the DPA terms and conditions. AOG Comments at 1. (Doc. #145).

BHEA

Black Hills Energy Arkansas, Inc. (BHEA) states that it supports lifting the disconnection moratorium on the May 3, 2021 target date and is committed to continuing to work with customers to address past due balances and to continue their natural gas service once the moratorium is lifted. BHEA states that it plans to use e-mail and text messaging, in addition to 1st class mail and automated phone calls, as the primary methods to contact customers throughout the collections process and prior to executing a disconnection work order, noting that text messaging and e-mail methods of communication are the most effective ways to reach BHEA customers. BHEA adds that it currently has approximately 13,550 customers in arrears, of which about 90 percent have a cell phone number and 73 percent have an e-mail address on their account record. BHEA Comments at 1-2 (Doc. #148).

BHEA states that its phone system used to notify and communicate with customers is an automated outbound calling system that does not have the capability to verify that the person answering the call is the account holder. The automated outbound calling system will leave a voice message when the call is not answered and will make up to three attempts to reach a customer if there is no answer. Additionally, it states that its e-mail and text messaging applications do not have “read receipt” capability and that functionality would require programming changes and testing that would not be ready for production by the target date of May 3. BHEA states that in

addition to complying with the communication requirements in Sections I and II of Order No. 15, it plans to follow up each disconnect notice with an automated reminder phone call and an e-mail and text message for those accounts with that information on the account record and will provide another automated reminder phone call three days before a disconnect and send another e-mail and text message reminder two days prior to scheduling the disconnect work order. *Id.* at 2.

BHEA comments that it does not use door hangers prior to each disconnection and the magnitude of customers that may require a door hanger and then a disconnect order two days later is likely to result in several hundred additional orders per week, resulting in a significant operational challenge to implement. Instead, BHEA requests that the Commission consider the use of text messaging and e-mails without a “read receipt” reply and automated outbound calls as acceptable methods to inform the customer of a pending disconnect order 48 hours in advance of disconnection. *Id.* at 3.

EAL

Entergy Arkansas, LLC (EAL) states that its continued goal is to partner with its customers during the recovery period and supports plans intended to reasonably assist as many customers as possible to maintain service. It adds that several of the Commission’s requirements in Order No. 15 exceed its existing communication channels, training, and processes. EAL Comments at 3 (Doc. #147).

EAL states that its systems are not able currently to accommodate a proposed 48-hour contact requirement without significant and costly changes including potential IT automation or the hiring of a third party to administer them. Further, EAL has concerns that email accounts can be set up by customers to bypass the read receipt functionality

beyond EAL's control. EAL states that although contacting customers by telephone is an existing communications channel with customers, requiring individual outbound calls creates a number of concerns, the most significant of which is that EAL routinely sends messages to its customers that it never calls its customers to request personal information or require payment over the phone. EAL states that it has significant concerns about the confusion outbound calls will cause for customers and about the potential for increased scamming opportunities that may be directed to an already vulnerable customer base and that existing call center processes and resources are not equipped to initiate outbound telephone calls to customers. EAL states that due to the magnitude of customers currently in arrears, it anticipates the need to employ a third-party vendor to implement a requirement relying on door hangers and in-person door-knocking, which also are the most costly and time consuming methods of those listed because they require a truck roll and significant travel time in certain cases. *Id.* at 4-6.

EAL suggests that the 48-hour notification to customers who are facing imminent disconnection may be facilitated through the use of texting and automated calls. *Id.* at 6.

OG&E

Oklahoma Gas and Electric Company (OG&E) requests to be able to rely on its current process for the 48-hour notification prior to disconnection, as it will be required to make significant changes to its current processes in order to fully comply with Order No. 15. For example, OG&E states that it no longer leaves door hangers and its systems are not equipped to require read receipts prior to placing a customer in the disconnection queue. It adds that its current process includes a 48-hour call prior to

disconnection but requiring it to speak directly to the account holder could be problematic in the event the customer elects to avoid the call. OG&E states that it is already engaging in multiple forms of communication regarding the upcoming lifting of the moratorium to make every reasonable effort to communicate to customers the potential of disconnections in the future and will likely use additional social media, its website, bill inserts, direct email, and advertising to share announcements on the lifting of the moratorium. OG&E requests that it be allowed to use its normal processes of communicating with customers 48 hours in advance of disconnection. OG&E Comments at 1. (Doc. #146).

On March 19, 2021, Southwestern Electric Power Company (SWEPCO), the AG, and Staff filed comments responding to the above utility filings.

SWEPCO

SWEPCO states that it agrees with the observations made by AECC, AOG, EAL, BHEA, and OG&E regarding current notification methods and their requests for greater flexibility in meeting the Commission's requirements. SWEPCO states that of the four communication options directed in Order No. 15, SWEPCO currently leaves door hangers and anticipates added costs for this activity in the field once the moratorium is lifted, given the number of customers with significant past due balances. SWEPCO states that its email process does not provide for an email read receipt, and telephone contact is made through automated calling and leaving voicemail. SWEPCO Response ¶ 3 (Doc. #151).

SWEPCO states that it is committed to keeping its customers informed and has communicated information regarding payment options via its website and social and

traditional news media, as well as communication through a bill message now running on bills with a scheduled bill insert. Individual letters to customers, including their outstanding balance and other information required in Order No. 15, are planned for early April. SWEPCO requests that the Commission allow for the use of its current methods of contacting customers facing service disconnections in order to meet the communication requirements of Section III of Order No. 15. *Id.* ¶¶ 4-5.

AG

The AG agrees that allowing the flexibility for notice to customers of at least 48 hours prior to disconnection is reasonable and provides an acceptable timeframe for customers to seek payment plans or to dispute account arrearage amounts. The AG also agrees with the utilities' request for flexibility to allow for significant compliance with regulatory directives within existing utility resources and current utility systems and protocols, shares the utilities' concerns regarding unsolicited direct customer contacts, and agrees with the potential for increased scamming opportunities that may be directed to an already vulnerable customer base. The AG agrees that flexibility regarding unsolicited direct customer contact should be afforded by the Commission. AG Response ¶ 6 (Doc. #150).

Staff

Staff provides a summary of the utilities' March 12, 2021 filings. Staff notes that the information regarding the moratorium end will have been made available to customers for two months prior to the effective date and focused, targeted information will be provided to individual customers beginning 35 days prior to the moratorium end, and each customer with an arrearage will receive a minimum of three notices of

disconnection prior to the 48-hour notice. Staff states that it understands that many individuals do not answer calls from numbers they do not recognize in order to avoid spam calls and agrees that consumers are publicly warned by numerous sources not to give personal information over the phone. Staff states that it does not find it unreasonable to allow the utilities to leave a voice message for customers who do not answer the phone. Staff states that it agrees that email accounts are often set up to bypass the read receipt functionality and that there is no way for the utilities to require a customer to read or review their email on a regular schedule or at all. Staff does not find it unreasonable to allow the utilities to send an email without requiring a read receipt. Staff additionally notes that many utilities no longer visit the premises to connect or disconnect service, read meters, or to collect on past due balances, and therefore with the magnitude of customers with arrearages, it could be more costly to use door hangers as a means of communication with customers. Staff Response at 6-7 (Doc. #152).

Staff states that it supports the following as reasonable means to achieve its understanding of the Commission's objectives in Order No. 15, recognizing differing systems and processes employed by the utilities and still providing customers with one last opportunity to make payment arrangements before being disconnected – in particular given the required 48-hour notice will be the fourth targeted notice the customer will have received prior to disconnect:

- (1) A telephone call to the number on file with the option to leave a voice message if there is no answer; or
- (2) In person; or
- (3) By email to the address on file with no requirement for a read receipt; or

(4) By door hanger; or

(5) By text message.

Id. at 7.

In response to AOG's request that the 48-hour advanced notice requirement be modified to require the notice be provided at least 48-hours prior to a scheduled disconnect, Staff states that it supports that the utilities be required to provide at least 48 hours of notice prior to the scheduled disconnection and that the 48-hour notice applies only to the first scheduled disconnect after the moratorium ends. *Id.* at 8.

Staff notes that Order No. 15 makes no reference to giving customers more than one COVID-related DPA, but notes that GSR Rule 6.13.H requires utilities to renegotiate the terms of the DPA one time during the payment period if the customer can substantiate the loss of a major source of income or a serious medical condition. Staff states that this requirement would continue to apply, noting that where the Commission has not specifically ordered otherwise, the GSRs would be controlling. Staff states that it supports a finding that if the customer enters a COVID DPA and does not keep the terms, the utility should follow GSR 6.13, which allows for the disconnection of service and payment of the balance owed to be reconnected, unless the Commission specifically orders otherwise. *Id.* at 8-9.

FINDINGS AND RULINGS

After review and consideration of the comments received, the imminent expiration of the Governor's COVID-19 emergency declaration, and the state's decreasing COVID-19 positivity rate and increasing vaccination rate, the Commission finds that it is in the public interest to lift the moratorium on disconnections pursuant to

the conditions and requirements set out in Order No. 15 as modified herein. Utilities may resume disconnections for non-payment of services beginning on May 3, 2021².

The Commission finds that it is reasonable and in the public interest to modify the procedures previously ordered in Order No. 15 regarding customer communications.

Section III. Disconnections is amended to read:

III. Disconnections:

In addition to the disconnection requirements found in Section 6 of the GSRs, the utility shall contact the customer 2 days³ in advance of the customer's disconnection, by at least one of the following means:

- (1) A telephone call to the number on file with the option to leave a voice message if there is no answer; or
- (2) In person; or
- (3) By email to the address on file with no requirement for a read receipt; or
- (4) By door hanger; or
- (5) By text message.

The utility shall provide a 14-day postponement for disconnections if a resident is under quarantine for COVID-19 as instructed by the Arkansas Department of Health, physician, or other health care provider. Utilities are encouraged to accept verbal statements for requests based upon COVID-19 related health conditions.

If only one form of communication is used for the GSR-mandated notice, the utility shall use all reasonable efforts to use a different form of communication for the 2 day notice. If the utility uses more than one form of communication for the GSR-mandated disconnection notice (*i.e.* via text and mail), the utility may use the same or

²A utility may start sending the 35-day disconnection notification to customers who are in arrears on March 30, 2021, for a May 3, 2021 disconnection date.

³ Although Order 15 refers to a "48-hour" notice, the Commission will adopt a "2 day" nomenclature herein to better align with the 35 and 5 day notice requirements.

an alternative method of communication (*i.e.* 2 day notification via text is acceptable if both text and mail were employed for the previous GSR-mandated disconnection notice). The Commission is aware that because of the magnitude of customers with past due arrearages, utilities may institute disconnections on a rolling basis. The Commission clarifies that the 2 day notice is required to be given to an individual customer before that individual customer's service is disconnected as opposed to the date when the utility begins general disconnections. The Commission agrees with Staff that the 2 day notice applies only to the first scheduled disconnection for any individual customer after the moratorium ends.

The Commission also agrees with Staff that the utility is required to offer a customer only one COVID-19-related DPA. If a customer enters a COVID-19-related DPA and does not keep the terms, the utility should follow GSR 6.13. As noted in Order No. 15, a utility *may* offer a more generous DPA policy, such as a longer term, or repeated eligibility, especially to avoid the shifting of unpaid arrearages to paying customers, but is not required to outside of Order No. 15 and the GSRs.

BY ORDER OF THE COMMISSION.

This 26th day of March, 2021.



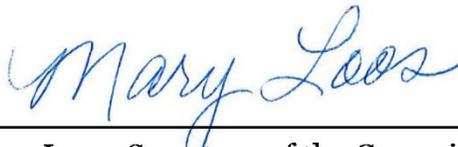
Ted J. Thomas, Chairman



Kimberly A. O'Guinn, Commissioner



Justin Tate, Commissioner



Mary Loos, Secretary of the Commission

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or
 Electronic mail using the email address of each party as indicated in the official docket file.