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Joseph Truschelli
Acting Director, Consumer Division
Department of Public Utilities
One South Station, 5th Floor
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Re: Request for Comments Regarding Best Practices During the Resumption of Shutoff Activities

Dear Mr. Truschelli:

On March 24, 2020, the Chairman of the Department of Public Utilities (the “Department”) issued an order prohibiting investor-owned gas, electric, and water distribution companies (collectively, the “Distribution Companies”) from shutting off a customer’s service for failure to pay a bill or any portion of a bill and prohibiting any communications threatening the shutoff of service as a result of a customer’s failure to pay. This March 24, 2020 order remains in effect until the state of emergency in the Commonwealth of Massachusetts is lifted or until further communication is provided by the Department, whichever comes first. On March 31, 2020, the Department issued a request for comments to various stakeholders, including the Office of the Attorney General (“AGO”), asking for input regarding best practices to implement when shutoff activities resume. The AGO hereby submits the following comments.

Given the devastating impact of the COVID-19 pandemic on Massachusetts ratepayers, it is important, now more than ever, that essential services like gas, electric and water remain reliable and affordable. The AGO recommends that the Department adopt a flexible and transparent approach to responding to the COVID-19 crisis. A flexible approach is necessary to tailor the regulatory response to the ongoing, evolving issues surrounding health and the economy that will likely continue to change for the next several months or more. A transparent approach should include regular reporting from the Distribution Companies on the various effects of COVID-19, which reporting should, in turn, help inform the development of policies to respond to the COVID-19 crisis. Overall, the Department’s approach should result in a regulatory environment that provides ample opportunities for ratepayers to maintain their gas,

electric, and water service while also making payment of utility bills, including overdue bills, manageable for ratepayers, especially those ratepayers suffering from significant physical and financial harm as a result of COVID-19. With this approach in mind, the AGO offers the following responses to the specific questions posed by the Department in its request for comments:

1. Whether categories of customers should be treated differently (e.g., customers who suffered hardship because of COVID-19 or the state of emergency, residential customers v. C&I customers, customers notified prior to the Order of a potential shut off for non-payment);

Due to the widespread effects of COVID-19 and the current state of emergency, which have devastated the health and financial well-being of many Massachusetts ratepayers, the AGO proposes that the Department presume that each customer who is unable to pay some or all of his or her utility bills during this period is unable to do so as a result of COVID-19. For residential customers especially, a requirement that each customer make a showing of hardship due to COVID-19 would likely be too burdensome for both customers and the Distribution Companies. For C&I customers, the Department's approach should encourage prompt repayment wherever possible and should be tailored based on the unique hardships experienced by specific C&I customers or, in some cases, classes of C&I customers (e.g., small business C&I customers).

The AGO believes a vast majority of customers should be eligible to participate in a payment plan to repay outstanding amounts owed to their Distribution Company. However, different classes of customers may require different treatment, and residential and C&I customers may require different plans. The AGO recommends that the Department direct the Distribution Companies to report on customers who have been unable to pay some or all of their bills during the state of emergency—including information by rate class, monthly usage, total amount outstanding, and average amount outstanding, by customer, by rate class. The reporting will allow stakeholders and the Department to evaluate the scope of the issue of nonpayment, such as the amounts of outstanding payments and the types of customers who have been unable to pay by rate class. Once the scope of nonpayment is better understood, the Department and stakeholders can develop relief tailored to residential and C&I customers' potentially differing needs.

For customers notified of potential shutoff for non-payment prior to COVID-19, the Department should implement policies that will help as many customers as possible remain on their utility service, independent of rate class, following resumption of shutoff activities. To that end, the Department should direct the Distribution Companies to (1) ensure that any future shutoffs comply with the provisions of 220 CMR § 25.02(3) and (2) conduct aggressive outreach campaigns advising customers at risk of shut-off of the various options available to them to help with utility bill payments.

2. The procedures to notify a customer of a potential shutoff after shutoff activities are allowed to resume;

The AGO recommends that the Department toll all time frames for the shutoff process outlined in 220 CMR § 25.02(3) during the state of emergency. Thus, the shut-off process and

corresponding timelines should not begin until the state of emergency ends, or the Department otherwise directs that shutoff activities may resume.

The AGO further recommends that any notification of potential shutoff should be accompanied by information regarding resources available to help the customer pay his or her bill. The Distribution Companies should also engage in additional outreach to customers at risk of shut-off to discuss bill payment options, including contacting those customers over the phone or by email or text. Several Distribution Companies already have a messaging system in place to notify customers of storm-related outages; the same type of system should be used to notify customers of the risk of losing service due to nonpayment.

Additionally, it may be necessary for the Department to extend the moratorium on shut-offs for certain customers that have been particularly hard-hit by the economic downturn caused by COVID-19 and the state of emergency. The AGO suggests that the Department and stakeholders review the customer payment data at the relevant time to determine whether certain customers or class of customers should be further protected from shutoffs.

3. A potential suspension of late payment fees;

The Department should direct the Distribution Companies to waive late payment fees incurred during the state of emergency that would otherwise be assessed for C&I customers.¹ Late payment fees typically help encourage prompt payment, but due to the economic hardships and uncertainty created by COVID-19 and the state of emergency, it is reasonable to provide accommodations for the C&I customers who struggle to pay their bills on time, or at all.

Additionally, the Department should waive reconnection fees for gas, electric, and water service for residential customers during the state of emergency, and for a period following it, to ensure ratepayers have access to essential services for their own health and safety. Specifically, the AGO recommends waiving reconnect fees for residential customers for up to one year following the resumption of shutoff activities.

Finally, the AGO recommends that the Department collect data from the Distribution Companies on a rolling basis, such as monthly or quarterly, regarding late fees and reconnect fees incurred during the state of emergency and for at least one year following the resumption of shutoff activities. The data should include the number of customers, by rate class, incurring the late fees or the reconnect fees, the amounts of those fees, and the fee amounts that were suspended or waived.

4. The type of payment plans that should be offered to customers;

Residential customers who qualify as low-income—either before or after the state of emergency—should be allowed to participate in the Arrearage Management Programs (“AMPs”)

¹ To the extent that any Distribution Company assesses late fees to its residential customers, the AGO also recommends a waiver of any late payment fees incurred during the state of emergency.

offered by the gas and electric Distribution Companies.² The AMPs will help these customers keep up with their current utility bills, and if a customer completes the AMP, the customer's outstanding arrearage can be forgiven so that the customer is no longer burdened by unmanageable debt. The AMPs provide an avenue for many residential customers hard hit by this pandemic to maintain their gas and electric service without incurring significant debt.

Residential customers who do not qualify as low-income, as well as some C&I customers, should be allowed to pay back, in full, the amounts that were unpaid during the state of emergency over a period of time that will ensure the payment amounts are manageable. The AGO believes that the recommended reporting regarding unpaid amounts, discussed in question #1 above, can help inform the Department's policy in terms of how many months would be reasonable for a repayment term. It is difficult at this time to recommend a reasonable repayment term without a better understanding of how much money the average residential customer and C&I customer may owe.

5. Communications to ensure that customers know they are responsible to pay for the utility services they use while shutoffs are prohibited; and

The Department should release a consumer advisory to urge customers of Distribution Companies to pay their utility bills, or as much of their utility bills as they can, during the state of emergency. The consumer advisory should also include a list of resources available for help with utility bill payments and how to access these resources.

Additionally, the Department should advise customers to check their gas and electric bills to see if they receive their supply from a competitive supplier. The Department advisory should include the current basic service rate, along with a link to the Department's spreadsheet containing historic basic service rates. The Department should inform customers with rates higher than basic service that they can contact their supplier to negotiate a better rate or cancel their service and return to basic service to ensure their bills are as low as possible.

Finally, the Department should issue a public request to all licensed competitive suppliers to voluntarily waive early termination fees for all customers. This will remove a significant financial barrier that may otherwise prevent customers who are struggling to pay their bills from transitioning to a lower supply rate. The Department's request should include a direction for suppliers to send a notice to their customers of the ability to cancel or change plans without an early termination fee.

² Pursuant to G.L. c. 164, § 1F(4) and the Department's regulations at 220 C.M.R. § 11.04(5) and 220 C.M.R. § 14.03(2A), electric and gas distribution companies in Massachusetts provide a low-income discount rate to ratepayers who can demonstrate financial hardship. Eligibility for the discount rates is based upon verification of a low-income customer's receipt of any means-tested public benefit, or verification of eligibility for the low-income home energy assistance program, or its successor program, for which eligibility does not exceed 60 percent of the state median income for the size of the household.

6. The appropriate process to consider ratemaking methodology to consider the Distribution Companies management and collection of associated arrearage dollars and bad debt write offs related the state of emergency.

Without more information, it is difficult to propose, at this time, an appropriate process to consider ratemaking methodology, as requested by question #6. Thus, the AGO recommends that the first step the Department should take in any process is to direct the Distribution Companies to report additional data that will provide a more informed basis to make a decision regarding further process. Additional data should include: (1) whether a Distribution Company incurred any incremental O&M costs during the state of emergency; (2) bad debt incurred during the state of emergency; (3) management's efforts to minimize costs during the state of emergency; (4) actions taken by management to comply with Department orders and orders by the Governor; (5) actions taken by management to assist customers during the state of the emergency; (6) the Distribution Companies' compliance with Service Quality Guidelines during the state of emergency; (7) the number of residential customers successfully enrolled in budget billing or any other bill payment assistance program, both during and following the state of emergency; (8) the number of residential customers successfully enrolled in low-income assistance programs, including the low-income discount rate program and the AMPs, both during and following the state of emergency; and (9) the Distribution Companies' monthly average cost rate of short-term debt.

Conclusion

In addition to the issues discussed above, the economic hardships created by the COVID-19 crisis have created an urgent need for an investigation into the effects of the competitive supply market on low-income households. As detailed in the AGO's request for an investigation on December 17, 2019, attached hereto as Exhibit A, low-income households are charged higher electric rates, on average, by competitive suppliers when compared to non-low-income households. The Department should act quickly to implement protections for low-income households to ensure their bills are as manageable, and low, as possible. Otherwise, bills inflated by high supply rates could lead to further economic hardship, which in turn could lead to more unpaid bills that will have to be paid by other ratepayers.

The AGO appreciates the opportunity to provide comments to the Department on these issues and looks forward to participating in a continuing dialogue between stakeholders regarding best practices when shutoff activities resume.

Respectfully submitted,

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