In Re: Discussion and possible vote to ratify Executive Order dated March 13, 2020 and adopt Draft Special Order

(Decided at the Commission’s Business and Executive Session held April 29, 2020)

I. OVERVIEW


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.

Consistent with this constitutional grant of rulemaking authority, the Commission adopted the 11/3/05 G.O., which grants the Commission’s Executive Secretary authority, in certain emergency situations, to issue executive orders providing exceptions to Commission regulations. Specifically, the General Order provides the Secretary, limited authority to make temporary exceptions to Commission rules and/or orders during a state of emergency in Louisiana declared by the Governor of the State of Louisiana and/or President of the United States and after approval of the requested action by the Chairman of the Commission, or Vice Chairman of the Commission if the Chairman is unavailable.

The 11/3/05 G.O. further provides that an executive order issued consistent therewith is to be addressed at the next Commission open session.

On March 11, 2020, Governor John Bel Edwards declared a statewide public health
III. TERMINATION OF EXECUTIVE ORDER DATED MARCH 13, 2020 AND ADOPTION OF ADDITIONAL MEASURES

Louisiana remains under the declaration of a statewide health emergency, and many of the associated restrictions that triggered the 3/13/20 E.O. remain in place. Nonetheless, both the State and Federal government have initiated discussions and protocols that provide a path forward, and outline when certain restrictions currently imposed may be relaxed. Specifically, the “Opening Up America Again” guidelines adopt a three-phased approach to removing the restrictions currently in place.¹ Beginning with “Phase II,” many businesses, schools, and other entities will be able to reopen, and assume practices similar to those before the pandemic. Best practices would dictate that the Commission and its jurisdictional-utilities continue to provide relief and assistance opportunities to ratepayers until “Phase II” is achieved in Louisiana; however, the Commission must also acknowledge that continuing these prohibitions will potentially impose financial impacts on the regulated utilities. Accordingly, the Commission adopts the following protocols.

A. March 13, 2020 Executive Order Termination and Extension of Disconnection Prohibition

While the 3/13/20 E.O. is hereby terminated and superseded by this Special Order, the prohibitions against disconnection/suspension of services for non-payment, except when the public health warrants such disconnection, shall remain in place until the State of Louisiana enters “Phase II” of the Opening Up America Again guidelines, or unless terminated earlier by the Commission. Commencing with the first billing cycle following the State of Louisiana entering “Phase II,” all Public Utilities subject to the jurisdiction of the Commission may commence disconnection procedures for non-payment of outstanding principal balances on services rendered after the State enters “Phase II.” Such disconnection procedures shall be according to the protocols outlined in Commission General Orders dated February 20, 1973, July 12, 1976, and October 11, 2019. A utility may not disconnect a customer after entering “Phase II” for non-payment of the arrears accumulated from the time between the 3/13/20 E.O. was put in place and the date the State enters Phase II, until three months after Louisiana enters “Phase II” of the Opening Up America Again guidelines.

Furthermore, no interest shall accrue on arrearages for services rendered to a customer due to the 3/13/20 E.O. disconnection prohibition.

This Order does not eliminate the requirement that ratepayers continue to pay their utility bills during this suspension. Customers should continue paying their bills if they are able, and should understand they will ultimately be responsible for the charges incurred during this suspension of disconnection period.

¹ [https://www.whitehouse.gov/openingamerica/](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.
B. Applicability of Late Payment fees/charges/penalties

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 Order dated July 12, 1976, on outstanding principal balances for services rendered after the Phase II date to customers not timely paying utility bills. Unpaid balances accrued between the 3/13/20 E.O.’s inception and the date “Phase II” is implemented shall not be subject to late fees.

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

Utilities should make reasonable efforts, to personally contact and helpfully educate their delinquent customers on payment options while still encouraging payment. All public utilities subject to the jurisdiction of the Commission shall commence communication with their delinquent customers in the same form as how such customers receive their bill, or in the alternative by mailed letter. Such notification shall at a minimum inform the customer of the following: 1) the termination of the disconnect prohibition when Phase II protocols are implemented; 2) the delinquent customer’s outstanding principal balance and its obligation to pay its 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. If a customer has requested paperless billing, such customers may be contacted via electronic or automated forms of communication.

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 them during this time. Further, all communication should include a way for that customer to connect with a local customer service representative of the utility or a voicemail where said local representative can call the customer back. Communication with a customer regarding arrears accumulated since the 3/13/20 E.O. should not be threatening of disconnection if payment is not received.

Though other payment options may also be offered to each customer, the utility shall discuss and make available to each customer in arrears a levelized billing plan that allows payback of all amounts in arrears by equal, affordable monthly payments over an extended period. 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 this order.

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 arrearages for services rendered to a customer due to the 3/13/20 E.O.

D. 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 to Phase II, and those rendered subsequent to Phase II. While no specific timelines for payment plans are established herein, utilities are encouraged to provide reasonable, customer-specific payment arrangements and options. Utilities will be required to report to the Commission, within sixty (60) days, their efforts and action plans that were implemented to assist their customers during this time. Upon review of those reports, a utility may be asked to discuss their efforts and actions at a following B&E.

E. Utility Recovery of Costs

All public utilities subject to the jurisdiction of the Commission are hereby authorized to record, for accounting purposes, expenses incurred from the suspension of disconnections and collection of late fees imposed by both the 3/13/20 E.O. and this Order.

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 3/13/20 E.O. and this Order, including but not necessarily limited to administrative costs and expenses associated with the customer notification. No recovery of equity returns or profits shall be included in any such request. Such a request will be subject to Commission review and approval, and the Commission is not by this Order authorizing recovery of any such direct costs. A public utility may request the method whereby it seeks such recovery (e.g. rate filing, annual review) and may request such recovery on a dollar for dollar basis as limited by this paragraph and Order.

F. 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 3/13/20 E.O. for a period of three months from the date disconnection prohibitions are lifted as determined by above Section III, Paragraph A.

IV. COMMISSION CONSIDERATION

Commission Special Order No. XX-2020 was presented for consideration by the Commission at the April 29, 2020 Business and Executive Session, with Staff recommending its adoption. On motion of Commissioner __________, seconded by Commissioner __________, and unanimously adopted, the Commission voted to adopt the draft Special Order.

IT IS THEREFORE ORDERED THAT:

1. Louisiana Public Service Commission Executive Order dated March 13, 2020, is hereby terminated as outlined herein.

2. This Special Order No. XX-2020 is hereby adopted by the Commission.

3. This Order shall be effective immediately.
BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
April XX, 2020