Citizens Utility Board of Michigan
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April 30, 2020

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Hwy
Lansing, MI 48917

RE: MPSC Case No. U-20757

Dear Ms. Felice:

Enclosed for filing in the above-referenced matter, please find the comments of the Citizens Utility Board of Michigan. If you have any questions, please do not hesitate to contact me.

Sincerely,

Amy Bandyk
Executive Director
Citizens Utility Board of Michigan

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to	)	Case No. U-20757
review its responses to the novel coronavirus	)	
(COVID-19) pandemic, including the statewide	)	
state of emergency, and provide guidance and	)	
direction to energy and telecommunications	)	
providers and other stakeholders.	/	

COMMENTS

OF

CITIZENS UTILITY BOARD OF MICHIGAN

April 30, 2020

The Citizens Utility Board of Michigan brings these comments in response to the MPSC's request for reply comments in its April 15, 2020 order in U-20757.

Up front, we thank the MPSC for taking quick action in response to the COVID-19 crisis. The order properly recognizes the threat that fallout from the pandemic poses to energy waste reduction programs and programs to ensure affordable access to energy for vulnerable groups. The decisions the commissioners make in this docket will significantly affect the quality of Michigan's utility service for years to come.

We have three main points in these comments – the first making the case that the MPSC should track customer arrearages as a category for which relief can be provided in this docket, the second providing some thoughts on a framework for determining which costs are "extraordinary costs" and which are not, and the third regarding the categories of customers who are subject to the protections laid out in the order.

I. **CUSTOMER DEBT**

Utility customers, particularly low-income customers, are poised to experience a crisis of service like rarely seen before. The MPSC's move to ensure that disconnections for non-payment are suspended for low-income and senior customers through June 1 is certainly necessary to avoid an immediate crisis in this period of mass layoffs, economic retraction and sheltering-in-place. But the problem remains that many customers are unable to pay their bills. After June 1, they will be at a high risk of shutoff due to large arrearage balances built up over the suspension of disconnection period. While, as the order in this docket notes, utilities have payment plans to help customers cope with paying off debts, existing payment plans may prove to be inadequate given that we are in the midst of or at the beginning of an economic recession likely as serious as or more serious than any contraction Michigan utility customers have ever experienced.

As consumers attempt to shoulder the burden of unpaid bills, which will weigh particularly heavy on low-income households along with other expenses, the MPSC should be tracking these arrears and requiring that at least a portion of the debt be forgiven. Consumers Energy's CARE program is a good model for other utilities because it includes the gradual forgiveness of past due balances if customers adhere to the payment plan. A plan for forgiving debt could help avoid the threat of mass shutoffs in the weeks following June 1. For example, the commission could require that any arrearage amount over $200 for a household that was built up before the state's shelter-in-place order ended must be forgiven.

There are multiple examples of regulatory commissions in other states incorporating debt forgiveness into programs for low-income customers. For example, New Jersey has a program called Fresh Start, which forgives participants' arrearages if they pay monthly bills in full and on time for a year. Fresh Start is part of New Jersey's Universal Service Fund, a program funded by the state but administered and designed by the state's equivalent to the MPSC, the New Jersey Board of Public Utilities. NYSEG and other New York utilities also offer arrears forgiveness programs.

II. EXTRAORDINARY COSTS

The order asks for comments on "categories of COVID-19-related extraordinary costs that the Commission should consider authorizing utilities to track," including how to calculate these costs, time periods to track and more. CUB echoes this part of the order and agrees that extraordinary costs should be tracked.

But there needs to be a clear framework as to what costs are truly "extraordinary" in the sense that they are unique to this pandemic and could not be reasonably anticipated, and do not stem from general business risk.

All businesses are suffering in this new economic environment. Utilities are not entitled to special treatment, such as being able to collect the same amount of revenue from customers that it would have had the economy not entered a recession.

As CUB sees it, the bright line between, on one hand, "extraordinary costs" eligible for recovery from increases on ratepayer bills and, on the other, costs stemming from general business risk is one of uniqueness to the pandemic. A utility's costs fluctuate from year to year for many different reasons. But, for example, and to quote from the order, "sequestration of employees to ensure critical operational functions so that provision of service is not interrupted" is not a typical business risk. The pandemic is the direct and necessary cause of this sequestration. In contrast, a decline in electricity sales due to a general economic slowdown, which has many contributing factors, cannot be said to be an "extraordinary" event. It is a risk that is present at all times and does not require an extraordinary circumstance like a pandemic to occur.

CUB understands that the question of which costs should be subject to rate recovery is not at hand, and simply tracking costs does not imply they should all be covered. But having a framework now as to which costs are relevant to this proceeding will inform exactly what figures the MPSC and stakeholders should spend time evaluating, and which they should not.

Under this framework, "extraordinary costs" would include, but not be limited to:

-Portion of increase in O&M attributable to sequestration, delays from reduced workforce, etc.

-Prepayments for assets needed to cope with COVID-19 – protective equipment, etc.

-Increase in uncollectible accounts due to suppliers and/or contractors unable to perform work due to social distancing rules stemming from COVID-19.

III. CUSTOMER CATEGORIES

The order states that "the most vulnerable populations, low-income and senior customers…" should not have their service disconnected. The phrasing indicates that "low-income and senior customers" are the two groups that make up "the most vulnerable populations."

CUB finds it a bit unclear, however, exactly what customers are subject to the order. It also mentions "customers experiencing financial hardship" as a group in addition to low-income and senior customers that should have reconnection fees and deposits waived. Also, utilities have indicated in public statements that disconnection suspensions and other steps may apply to customers beyond low-income and senior customers. For example, certain customers may face "unique situations," DTE told the Energy and Policy Institute in response to a question as to why the utility has not committed to stopping shutoffs for all customers.

Similarly, Consumers Energy formally says it has suspended shutoffs for non-payment for low-income and senior customers, but a statement to the Energy and Policy Institute said that "at this point in time we are working with customers who contact us to say that they are experiencing hardships associated with COVID19."

There also is some ambiguity about what the threshold for "low-income" should be. Several different definitions are used across various policies and proposals in Michigan. The Winter Protection Plan and the aforementioned CARE program are available to households below 150% of federal poverty guidelines. Statute MCL 460.9q, which authorizes the creation of a vulnerable customer household warmth fund, defines "vulnerable" at 60% of the state median income or lower. In addition, recently introduced bills on protection for shutoffs for water consumers (SB 241 and HB 4432) sets income eligibility at below 200% of federal poverty guidelines.

That 200% threshold, the most generous, is appropriate given the unprecedented and extreme nature of this situation.

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It would be helpful if the MPSC could answer:

1. What is the definition of "customers experiencing financial hardship?"

2. In the *Affordability Plans and Shutoff and Payment Protections* section of the April 15 order in U-20757, are the customers in this "hardship" category subject only to the customer Protections in 3-c[1], where they are explicitly mentioned, but not 3-a[2], where "customers experiencing financial hardship" are not mentioned?

3. If applicable, what is the rationale for customers experiencing financial hardship being eligible for 3-c but not 3-a?

4. What uniform standard for income eligibility is the MPSC using (for example, 200% of the federal poverty guidelines)?

CUB applauds the MPSC for launching this proceeding, confronting this crisis head-on. We hope that the questions asked above will help the commission determine how best to enhance utility service for customers through this docket and in this difficult time.

Respectfully submitted,

CITIZENS UTILITY BOARD OF MICHIGAN

John R Liskey

Digitally signed by John R Liskey
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By: John R Liskey (P31580)
Its General Counsel

[1] "Waive deposits and reconnection fees for low-income customers, seniors, and customers experiencing financial hardship related to COVID-19 and seeking restoration of electric or natural gas service."

[2] "Suspend disconnections for Michigan's most vulnerable populations, low-income and senior customers, through June 1, 2020, and waive late fees for eligible low-income customers receiving energy assistance."