

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
 PUBLIC UTILITIES COMMISSION) (NON-DOCKETED)
)
 Letter Request from the Consumer)
 Advocate for Commission Suspension)
 of Authority of Regulated Companies)
 to Terminate or Disconnect Services)
 Due to Non-Payment and/or Assess)
 Unreasonable Charges or Fees During)
 the COVID-19 Pandemic.)
 _____)

ORDER NO. 37125

ADDRESSING THE CONSUMER ADVOCATE'S REQUEST
FOR SUSPENSION OF TERMINATION OR DISCONNECTION OF
REGULATED UTILITY SERVICES DUE TO NON-PAYMENT AND/OR
ASSESSMENT OF OTHER CHARGES DURING THE COVID-19 PANDEMIC

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By this Order, the Public Utilities Commission ("commission") addresses the DIVISION OF CONSUMER ADVOCACY's ("Consumer Advocate") letter, filed on April 23, 2020, requesting that the Commission "file an order to temporarily suspend the authority of regulated companies (i.e., electric, gas, telecommunications, water, and wastewater) to: (1) terminate or disconnect services due to non-payment; and (2) assess any charges or fees that might be unreasonably assessed, including the accrual

of interest on outstanding balances, during the ongoing COVID-19 pandemic.”^{1,2}

The Consumer Advocate’s Letter Request to the Commission states that it:

believes that it is in the public interest if the Commission extended the requested relief in this letter to all utility services since those services are even more critical during this period, where telecommunications services are facilitating telework, distance learning, and basic communications; electricity is critical for both residents and businesses; access to clean water for handwashing is crucial in protecting against the spread of COVID-19; wastewater services are a basic necessity during the mandatory stay-at-home period; and gas (both synthetic natural gas and utility propane) services enable cooking and heating water. Access to these essential services are critical and the Consumer Advocate is concerned that customers also could face significant outstanding balances

¹Consumer Advocate Letter re: “Commission Investigation to Address COVID-19 Impacts on Consumers and Regulated Companies,” filed on April 23, 2020 (“CA Letter Request”), at 1.

²Governor Ige issued his Sixth Emergency Proclamation on April 25, 2020, effective through May 31, 2020 (“Sixth Emergency Proclamation”), which amended and restated prior Proclamations, and authorized and invoked a variety of provisions related to the State’s ongoing response to the COVID-19 emergency situation. Governor’s “Sixth Supplementary Proclamation Amending and Restating Prior Proclamations and Executive Orders Related to the COVID-19 Emergency,” available at: <https://governor.hawaii.gov/wp-content/uploads/2020/04/2004144-ATG-Sixth-Supplementary-Proclamation-for-COVID-19-distribution-signed.pdf>. The Governor’s first Emergency Proclamation for COVID-19 was issued on March 5, 2020, available at: <https://governor.hawaii.gov/wp-content/uploads/2020/03/2003020-GOV-EmergencyProclamation-COVID-19.pdf>.

with limited options once the pandemic is deemed under control.³

The Consumer Advocate further states that it "believes it is in the consumers' interest for the Commission to establish guidelines that include, but are not limited to: 1) when it is appropriate for the regulated companies to resume termination of services due to non-payment, assess late fees/charges or any other fees or charges that might be unreasonably assessed during this pandemic; and 2) procedures that will govern how the resumption and collection of such fees and charges will proceed."⁴

The Commission is charged with the duty of ensuring that public utilities provide safe, adequate, and reliable utility service at just and reasonable rates. Additionally, the Commission has general supervisory powers "over all public utilities[,]"⁵ as well as investigatory authority "to examine into the condition of each public utility," including "the fares and rates charged by it."⁶

³CA Letter Request at 2 (footnote omitted).

⁴CA Letter Request at 2.

⁵Hawaii Revised Statutes ("HRS") § 269-6(a).

⁶("HRS") § 269-7(a).

The Commission recognizes that some regulated electric and water utilities have already committed to suspend all disconnections for non-payment during this time.⁷

The Commission further orders:

1. If they have not done so already, all Commission-regulated electric, gas, telecommunications, water, and wastewater public utilities in the State of Hawaii ("Utilities," or "Utility," individually) shall suspend disconnections of electricity, gas, telecommunications, water, and wastewater services during the pendency of the Governor's Emergency Proclamation, and until otherwise ordered by the Commission. The Commission also suspends, pending further orders, any and all rules and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers.⁸

⁷See, e.g., <https://www.hawaiianelectric.com/hawaiian-electrics-response-to-covid-19>, and <https://website.kiuc.coop/> (scroll to "COVID-19" section at the bottom left of the homepage).

⁸The Commission notes that this is consistent with the approach taken in a number of other jurisdictions across the country. See, e.g., Arkansas Public Service Commission, In the Matter of Administrative Orders Relating to the COVID-19 State of Emergency, Docket No. 20-012-A, Order No. 1, filed on April 10, 2020; California Public Utilities Commission Press Release, available at: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M329/K673/329673725.PDF>; Illinois Commerce Commission, In the Matter of the Moratorium on Disconnection of Utility Services During the Public Health Emergency Declared on March 9, 2020 Pursuant to Sections 4 and 7 of the Illinois Emergency Management Agency Act, Docket No. 20-0309, opened on March 18, 2020.

2. The Commission authorizes each of these Utilities to establish regulatory assets to record costs resulting from the suspension of disconnections. In future proceedings, to the extent any of these utilities request recovery of these costs, the Commission will consider whether each Utility's request for recovery of these regulatory assets is reasonable and necessary. The Commission will also consider in a future proceeding other issues, such as the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, any savings directly attributable to suspension of disconnects, and other related matters.

3. The Commission encourages Utilities to offer payment plans or other reasonable arrangements to customers once the suspension of disconnections or terminations of service are lifted.

4. As of the date of this Order, the Commission also prohibits Utilities from charging customers interest on past due payments, or imposing any late payment fees, until otherwise ordered by the Commission.

5. The Commission instructs any Utility that books regulatory assets consistent with the authorization provided in

this Order to file a short (1-2 page) report by May 20, 2020, regarding the Utility's financial condition.⁹

6. Until otherwise ordered by the Commission, the Commission instructs any Utility that books regulatory assets consistent with the authorization provided in this Order, to also file a quarterly report, beginning on July 30, 2020, detailing the amounts of the costs incurred and any savings realized, which have been booked to the regulatory assets. The Commission further directs that these quarterly reports include: a) updated information regarding the Utility's financial condition, and b) a list of the measures the Utility has in place to assist its customers during the COVID-19 emergency situation. A Utility should inform the Commission in its quarterly reports if a previously-reported upon measure the Utility had in place to assist customers has since been terminated, as well as a short description of the Utility's rationale for the termination of that measure.

⁹The Commission will shortly issue a non-docket Protective Order to govern a Utility's filing of any confidential financial or business information included in these reports and the reports detailed in Paragraph 6, below, provided that, consistent with UIPA, all information for which a Utility claims confidentiality is supported by a description that: (1) identifies in reasonable detail the information's source, character, and location; (2) states clearly the basis for the claim of confidentiality; and (3) describes, with particularity, the cognizable harm to the filing party from any misuse or unpermitted public disclosure of the information, which the Commission will review.

7. This Order shall not affect a Utility's ability to disconnect a customer's service for public safety concerns unrelated to non-payment of services.

8. The Commission also emphasizes that customers should continue paying their bills to the extent possible during this time, noting that customers will still ultimately be responsible for paying Utility service billings accrued during this suspension.

9. If a Utility subject to this Order maintains a website, such Utility shall provide notice of this Order's content on such website, and in any other prominent place that the Utility finds will help inform its customers.

THE COMMISSION ORDERS:

1. Based on the extraordinary circumstances related to COVID-19, and on the Commission's expedited investigation into this matter, there is good cause to grant the Consumer Advocate's request as set forth above, until otherwise ordered by the Commission.

2. The Commission will review the 1-2 page reports from the Utilities required by Paragraph 5, above, in its determination of the appropriate length of the suspension of termination/disconnection set forth in Paragraph No.1, and will issue an order updating Utilities regarding length of the suspension prior to May 31, 2020.

DONE at Honolulu, Hawaii MAY 4, 2020.

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OF THE STATE OF HAWAII

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James P. Griffin, Chair

By Jennifer M. Potter
Jennifer M. Potter, Commissioner

By Leodoloff R. Asuncion, Jr.
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APPROVED AS TO FORM:

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Non-Docketed Order.ljk

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Pursuant to Order No. 37043, the foregoing order was served on the date of filing by electronic mail addressed to the following parties:

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