# Sullivan-Leshin, Isaac, PRC

From: Sullivan-Leshin, Isaac, PRC Sent: Thursday, March 19, 2020 5:00 PM Records, PRC, PRC To: Subject: 20-00069-UT; Filing Submission Attachments: 20-00069-UT Order Finding Need for the Adoption and Issuance of an Immediate Temporary Emergency Rule Prohibiting the Discontinuation of Residential Customer Utilit.pdf IN THE MATTER OF THE ADOPTION OF AN IMMEDIATE EMERGENCY RULE PROHIBITING THE DISCONTINUATION OF RESIDENTIAL CUSTOMER PUBLIC UTILITY SERVICE DURING THE TIME PERIOD OF THE ) Case No. 20-00069-UT GOVERNOR'S EXECUTIVE ORDERS 2020-004 THROUGH 2020-0010

Please file the attached <u>ORDER FINDING NEED FOR THE ADOPTION AND ISSUANCE OF AN IMMEDIATE TEMPORARY EMERGENCY RULE PROHIBITING THE DISCONTINUATION OF RESIDENTIAL CUSTOMER UTILITY SERVICE into the above captioned case.</u>

Thank you.

# BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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DIS	CONT	INUATION	OF RES	IDENTIAL	CUSTO	MER )	Case No. 20-00069-UT
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OF	THE	GOVERNOR	R'S EXECU	TIVE ORI	DERS 202	0-004 )	
TH	ROUGI	H 2020-0010				)	

# ORDER FINDING NEED FOR THE ADOPTION AND ISSUANCE OF AN IMMEDIATE TEMPORARY EMERGENCY RULE PROHIBITING THE DISCONTINUATION OF RESIDENTIAL CUSTOMER UTILITY SERVICE

THIS MATTER comes before the New Mexico Public Regulation Commission (the "Commission") upon its own Motion to issue an Order finding the need for the adoption and issuance of an immediate temporary emergency rule prohibiting the discontinuation of residential customer public utility service during the time period of the Governor's Executive Orders 2020-004 through 2020-0010 are in effect; whereupon, being duly informed,

## THE COMMISSION FINDS AND CONCLUDES:

- 1. On January 30, 2020, the World Health Organization (WHO) announced the emergence of a novel Coronavirus Disease 2019 (referred to as "COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another.
- 2. On January 31, 2020, the United States Department of Health and Human Services (HHS) Secretary declared a public health emergency as a tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in our nation through its support of state and community-led preparedness and response efforts.
  - 3. On March 11, 2020, and on March 15, 2020, Michelle Lujan Grisham, the

Governor of the State of New Mexico, declared in Executive Order 2020-004<sup>1</sup> and related Executive Order 2020-005, 2020-006, 2020-007, 2020-008, 2020-009, and 2020-010 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments and agencies to comply with the directives of the declaration and the further instructions of the Department of Health due to COVID-19.

- On March 12, 2020, the Secretary of the New Mexico Department of Health issued
   Public Health Emergency Order to Limit Mass Gatherings due to COVID-19.
- 5. As a result of the aforementioned, there has been an immediate negative economic effect upon New Mexico's and the world's economy due to the requirements of social distancing, remote working, and the laying off of workers due to the closure of certain businesses having little or no economic activity. The end result is that certain residential customers may temporarily be without sufficient funds to timely make full payment of their public utility bills during the time period of the COVID-19 public health emergency. Such customers may also experience difficulty transmitting payment without contravening social distancing protocols and placing themselves at increased risk of transmission of the coronavirus-COVID 19.
- 6. The Commission finds that due to the above stated reasons, a state of emergency exists that causes an "imminent peril to the public health, safety or welfare" that requires the adoption and issuance of an immediate temporary emergency rule prohibiting the discontinuation of residential customer utility service during the time period of the Governor's Executive Orders 2020-004 through 2020-0010 are in effect.

Order

<sup>&</sup>lt;sup>1</sup> Executive Order 2020-004 stated it is effective for 30 days from March 11, 2020 and shall remain in effect until further notice.

<sup>&</sup>lt;sup>2</sup> Section 14-4-5.6 NMSA 1978 (2017).

7. The Commission further finds that due to the above stated reasons, the "immediate adoption... of a rule is necessary for the preservation of the public peace, health, safety or general welfare..." and therefore the Commission should immediately adopt and issue an temporary emergency rule prohibiting the discontinuation of residential customer utility service during the time period of the Governor's Executive Orders 2020-004 through 2020-0010 are in effect.

8. The Commission finds that it is authorized, pursuant to NMSA 1978, Section 62-6-4 A,<sup>4</sup> to immediately adopt issue an immediate temporary emergency rule prohibiting utilities from discontinuing residential customer utility service during the time period the Governor's Executive Orders 2020-004 through 2020-0010 are in effect.

9. This Order expressly does not prohibit a public utility from disconnecting a residential customer's service during the time period of the Emergency Executive Orders 2020-004 through 2020-0010 are in effect for the following reasons: a) emergency; b) safety; and c) a residential customer's request to disconnect service.

- 10. This Order temporarily overrides any existing tariffs of public utilities to the extent they conflict.
- 11. This Order applies to public utilities subject to the jurisdiction of the New Mexico Public Regulation Commission, specifically, investor-owned electric, rural electric cooperatives, gas and water and only applies to the residential class of customers.

<sup>&</sup>lt;sup>3</sup> Section 8-8-15 C, NMSA 1978 of the New Mexico Public Regulation Act.

<sup>&</sup>lt;sup>4</sup> Section 62-6-4. Supervision and regulation of utilities. "[t]he commission shall have general and exclusive power and jurisdiction to regulate and supervise every public utility in respect to its rates and service regulations and in respect to its securities, all in accordance with the provisions and subject to the reservations of the Public Utility Act [Chapter 62, Articles 1 to 6 and 8 to 13 NMSA 1978], and to do all things necessary and convenient in the exercise of its power and jurisdiction.

12. The Commission finds that it is consistent for with the Emergency Executive Orders for public utilities to temporarily and immediately close their in-person bill payment locations as long as they provide notice to residential customers regarding the same and notice how to pay electronically or by mail.

13. The Commission finds that in the event of closure of in-person bill payment locations, public utilities should be permitted to continue to collect credit card or bank fees in accordance with their own Commission approved and filed tariffs.

14. The Commission finds that disconnections for non-payment issued on or after March 11, 2020 (the first effective date of the Emergency Executive Orders) should be suspended for the duration of the effectiveness of the Emergency Executive Orders.

15. The Commission finds that medical certificates set to expire should not expire for the duration of the effectiveness of the Emergency Executive Orders and shall automatically be extended for 90 days from the end of the Emergency Executive Orders

16. For these reasons, pursuant to and in compliance with all procedures for the adoption and issuance of emergency rules set forth in Section 8-8-15 C. NMSA 1978 of the New Mexico Public Regulation Act and Section 14-4-5.6 NMSA 1978 (2017) of the State Rules Act, the Commission should adopt and issue the temporary emergency amendments to rules 17.9.560.12.G NMAC, 17.10.650.11.G NMAC and 17.12.760.9 NMAC as described in the Notice of Intent to Issue Emergency Rules which is attached as Exhibit A hereto.

17. In the event the Commission must file any additional Order to allow for the filing and implementation of the temporary emergency amendments to NMPRC rules 17.9.560.12.G NMAC, 17.10.650.11.G NMAC and 17.12.760.9 NMAC, such order may be issued by single signature of any Commissioner.

# IT IS THEREFORE ORDERED:

- A. The immediate temporary emergency rule amendments to NMPRC rules 17.9.560.12.G NMAC, 17.10.650.11.G NMAC and 17.12.760.9 NMAC prohibiting the discontinuation of residential customer utility service during the time period of the Governor's Executive Orders 2020-004 through 2020-0010 are in effect attached as Exhibit A hereto is hereby adopted and issued in compliance with all procedures for the adoption and issuance of emergency rules set forth in Section 8-8-15 C. NMSA 1978 and 14-4-5.6 NMSA 1978 (2017).
  - B. This Order is effective immediately.
- C. A copy of this Order shall be served upon all persons listed on the attached Certificate of Service by e-mail, if e-mail addresses are known, or by regular mail otherwise.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 18<sup>th</sup> day of March, 2020.

## NEW MEXICO PUBLIC REGULATION COMMISSION

CYNTHIA D. HALL COMMISSIONED DIST

JEFFERSON L. BYRD, COMMISSIONER DISTRICT 2

**VOTED YES** 

VALERIE ESPINOZA, COMMISSIONER DISTRICT 3

THERESA BECENTI-AGUILAR, COMMISSIONER DISTRICT 4

**VOTED YES** 

STEPHEN FISCHMANN, COMMISSIONER DISTRICT 5

#### NOTICE OF INTENT TO ISSUE EMERGENCY RULES

Prohibiting public utilities subject to the jurisdiction of the New Mexico Public Regulation Commission specifically, investor-owned electric, rural electric cooperatives, gas and water, from the disconnection of residential utility service during the time period the Emergency Executive Orders 2020-004 Declaring a Public Health Emergency and 2020-005 through 2020-0010 remain in effect

#### SPECIFIC AUTHORITY

Pursuant to Section 8-8-15 (C) NMSA 1978, Section 14-4-5.6 NMSA 1978 and Section 62-6-4 NMSA 1978 and pursuant to the authority granted under Executive Orders 2020-004, 2020-005, 2020-006, 2020-007, 2020-008, 2020-009, and 2020-010 issued by Michelle Lujan Grisham, the Governor of the State of New Mexico, the New Mexico Public Regulation Commission shall issue emergency temporary amendments to Section 12 of 17.9.560 NMAC, Section 11 of 17.10.650 NMAC and Section 9 of 17.12.760 NMAC to become effective immediately upon filing. These amendments shall be temporary in nature and the amended rules will revert to their previous versions by effect of law 180 days after the emergency rule amendments are filed.

#### CONCISE EXPLANATORY STATEMENT

On March 11, 2020, and on March 15, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 and related Executive Order 2020-005, 2020-006, 2020-007, 2020-008, 2020-009, and 2020-010 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments and agencies to comply with the directives of the declaration and the further instructions of the Department of Health due to COVID-19. On March 12, 2020, the Secretary of the New Mexico Department of Health issued Public Health Emergency Order to Limit Mass Gatherings due to COVID-19. As a result of the aforementioned, there has been an immediate negative economic effect upon New Mexico's and the world's economy due to the requirements of social distancing, remote working, and the laying off of workers due to the closure of certain businesses having little or no economic activity. The end result is that certain residential customers may temporarily be without sufficient funds to timely make full payment of their public utility bills during the time period of the COVID-19 public health emergency. Such customers may also experience difficulty transmitting payment without contravening social distancing protocols and placing themselves at increased risk of transmission of the coronavirus-COVID 19.

On March 18, 2020, the Commission issued an Order in Case No. 20-00069-UT, in accordance with Section 8-8-15 C. NMSA 1978 of the New Mexico Public Regulation Act. and Section 14-4-5.6 NMSA 1978 (2017), finding that due to the above stated reasons: a) a state of emergency exists that causes an "imminent peril to the public health, safety or welfare" that requires the adoption and issuance of an immediate temporary emergency rule prohibiting the discontinuation of residential customer utility service during the time period of the Governor's Executive Orders 2020-004 through 2020-0010 are in effect; and b) due to the above stated reasons, the "immediate adoption... of a rule is necessary for the preservation of the public peace, health, safety or general welfare..." Therefore, the Commission issued the March 18, 2020 Order, pursuant to its authority under NMSA 1978, Section 62-6-4 A, immediately adopting and issuing an temporary emergency rule prohibiting the discontinuation of residential customer utility service during the time period of the Governor's Executive Orders 2020-004 through 2020-0010 are in effect;

# DESCRIPTION OF EMERGENCY RULE AMENDMENTS

The emergency temporary amendments to Section 12 (G) of 17.9.560 NMAC, Section 11 (G) of 17.10.650 NMAC and Section 9 of 17.12.760 NMAC shall be immediately and temporarily adopted for the purpose of ensuring that public utilities subject to the jurisdiction of the New Mexico Public Regulation Commission, specifically investor-owned electric utilities, rural electric cooperatives, gas utilities and water utilities, are prohibited from the disconnection of the utility service of residential customers for non-payment during the period of time the Governor of the State of New Mexico's Executive Order 2020-004 declaring a public health emergency under the Public Health Emergency Response Act and under the All Hazards Emergency Act, as well as Executive Orders 2020-005 through 2020-0010 remain in effect. The emergency temporary amendments shall state: Public utilities are prohibited from

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discontinuing residential customer utility service during the time period the Governor's Executive Orders 2020-004 through 2020-0010 are in effect. Disconnections for non-payment issued on or after March 11, 2020 (the effective date of the Emergency Executive Orders) are suspended for the duration of the effectiveness of the Emergency Executive Orders. Late fees related to these bill payments shall be waived. Public utilities are not prohibited from disconnecting service to residential customers due to: a) an emergency; b) safety; or c) a request to disconnect from the residential customer. Public utilities are permitted to temporarily and immediately close in-person bill payment locations as long as they provide notice to residential customers regarding the same and notice how to pay electronically or by mail. In the event of closure of in-person bill payment locations, public utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own Commission approved and filed tariffs. Medical certificates set to expire shall not expire for the duration of the effectiveness of the Emergency Executive Orders and shall automatically be extended for 90 days from the end of the Emergency Executive Orders.

# BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE ADOPTION OF AN IMMEDIATE EMERGENCY RULE PROHIBITING THE	)	
DISCONTINUATION OF RESIDENTIAL CUSTOMER PUBLIC UTILITY SERVICE DURING THE TIME PERIOD		Case No. 20-00069-UT
OF THE GOVERNOR'S EXECUTIVE ORDERS 2020-004 THROUGH 2020-0010	)	

# CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order Finding Need for the Adoption and Issuance of an Immediate Temporary Emergency Rule Prohibiting the Discontinuation of Residential Customer Utility Service issued by the New Mexico Public Regulation Commission on March 18<sup>th</sup>, 2020, was sent via email to the parties indicated below on March 19<sup>th</sup>, 2020:

Joan Drake Perry Robinson Deana M. Bennett John Bogatko Dhiraj Solomon Mark Tupler Milo Chavez John Reynolds Jason Montoya Peggy Martinez-Rael Elizabeth Ramirez Gilbert Fuentes John Reynolds Russell Fisk Judith Amer Michael C. Smith Alicia Armijo Elisha Levba-Tercero Gabriella Dasheno Lisa Henne Craig Johnson Cholla Khoury Gideon Elliot A. Minard Robert Lundin Elaine Heltman Michaelene Kyrala Rikki-Lee Chavez Amy Nerison Greg Ridgley

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Roosevelt County Electric

Antonio Sanchez Sierra Electric Denise Barrera Socorro Electric Joseph Herrera Anne Dorough Ernesto Gonzales Southwestern Electric Travis Sullivan Springer Electric David Spradlin

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# AND VIA USPS FIRST CLASS MAIL TO:

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Farmington, New Mexico 87401

Boles Water System 43 Thistle St

Alamogordo, NM 88311

Caprock Water Company 401 S Bolton Rd Artesia, NM 88210

CBG Maintenance 150 W. Lisa Dr Chaparral, NM 88081

CDS Rainmakers Utilities P.O. Box 1128 Alto, NM 88312

Desertaire Water Company 3004 Dover Rd SE Albuquerque, NM 87105

Echo Valley Water Company P.O. Box 50238 Albuquerque, NM 87181

Eileen Acres Services P.O. Box 100 Alto, NM 88312-0100

Epcor Water New Mexico 1005 Norris St Clovis, NM 88101

Homestead Water Company P.O. Box 1128 Moriarty, NM 87035

Indian Hills Water Works 8616 Menaul Blvd NE Ste C Albuquerque, NM 87112 Monterey Water Company 1512 Camino Cerrito SE Albuquerque, NM 87123

Moongate Water Company P.O. Box 243 Organ, NM 88052-0243

New Mexico Water Service Company 401 Horner St Belen, NM 87002

New Mexico Waterworks P.O. Box 92636 Albuquerque, NM 87199-9263

River Valley View Water System 1006 Cedardale Las Cruces, NM 88005

Sandia Peak Utility #120 Tramway Loop NE Albuquerque, NM 87122

South Hills Water Company 11016 Echo Park Dr NE Albuquerque, NM 87123

Sunlit Hills of Santa Fe P.O. Box 511 Santa Fe, NM 87508-0511

Sunset Acres Water 134 Yucca Dr Portales, NM 88130

Timberon Water and Sanitation District P.O. Box 760 Edgewood, NM 87015

Melody Ranch Water Company P.O. Box 50238 Albuquerque, NM 87181-5023 Lake Section Water Company 301 Paseo Real Drive Chaparral, 88081 G & S Waterworks **TBD** 

Rosa Joint Venture 3626 CR 330 Ignacio, CO 81137

DATED this 19th day of March, 2020.

NEW MEXICO PUBLIC REGULATION COMMISSION

Isaac Sullivan-Leshin, Paralegal