

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 17-4999-INV

Investigation into Commission Rule 3.300, Disconnection of Residential Electric, Gas and Water Service; Commission Rule 3.200, Ratepayer Deposits for Gas, Electric, and Water Service); and Commission Rule 3.400, Disconnection of Cable Television Service and Non-Residential Electric, Gas and Water Service	
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Order entered: 02/05/2024

**ORDER RE AMENDMENTS TO BE FILED WITH
INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES**

I. INTRODUCTION

In this Order, the Vermont Public Utility Commission (“Commission”) notifies the participants that it will begin the formal rulemaking process by filing draft proposed rules with the Vermont Interagency Committee on Administrative Rules for amendments to Commission Rules 3.300 and 3.400. The Commission is also providing the participants with clean and redline copies of the rule amendments.

II. BACKGROUND

This case was initially opened by the Commission on November 22, 2017, with the intent of exploring issues and concerns related to Commission Rule 3.300, which governs the disconnection of residential electric, gas, and water services. The Commission solicited comments from the Vermont Department of Public Service (the “Department”), affected utilities, various non-profit organizations, and other interested parties. The Commission subsequently received numerous rounds of written comments and proposed rule drafts from interested parties and expanded the scope of this proceeding to also include Commission Rule 3.400, which governs the disconnection process for cable television and non-residential electric, gas, and water service. The Commission held multiple workshops leading to the consideration of a draft rule proposed by the Department that would have significantly overhauled Rules 3.300 and 3.400.

However, the onset of the COVID-19 pandemic in early 2020 necessitated an immediate change to the utility disconnection process. The Commission issued a series of emergency orders that affected the requirements and obligations for utility disconnections, including a temporary moratorium on all utility disconnections.¹ The Commission also promulgated a series of emergency rules that temporarily superseded some requirements from Commission Rules 3.300 and 3.400 to reflect the realities of the pandemic response, which resulted in the suspension of this proceeding.

In the fall of 2022, as the Commission's pandemic-related emergency disconnection orders and rules were to expire, the Commission re-initiated this proceeding and solicited comments from the participants about how their experiences of operating under the emergency disconnection rules could provide helpful context and data for permanent revisions to Rules 3.300 and 3.400. The Department submitted an updated draft of the proposed overhaul of Rules 3.300 and 3.400, which led to additional rounds of written comments among the participants.

Then, in the spring of 2023, the Legislature enacted Act 47, which included a requirement that the Commission amend its rules to: (1) allow utilities to disconnect service remotely and (2) require utilities to provide notice to the property owner of residential or non-residential rental property if utility service to the property has been disconnected.²

Following the enactment of Act 47, the Commission held a workshop and solicited additional comments from the participants. The workshop was attended by the Department and representatives of:

- Vermont Gas Systems, Inc.;
- Green Mountain Power Corporation ("GMP");
- Vermont Public Power Supply Authority;
- Vermont Electric Cooperative, Inc. ("VEC");
- Washington Electric Cooperative, Inc. ("WEC");
- City of Burlington Electric Department ("Burlington Electric");
- Village of Hyde Park Electric Department;

¹ See *Vermont Legal Aid request for moratorium on utility and telecommunications shutoffs during State of Emergency*, Case No. 20-0703-PET, Orders of 3/18/20, 4/23/20, 5/28/20, 7/30/20, 9/23/20, 10/8/20, 12/22/20, and 6/4/21.

² Public Act No. 47, § 25a (2023 Vt., Bien. Sess.).

- Swanton Village, Inc. Electric Department;
- Village of Morrisville Water and Light Department;
- Town of Stowe Electric Department;
- Village of Enosburg Falls, Inc. Electric Light Department;
- Barton Village, Inc. Electric Department; and
- Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC.

Following the workshop, on December 15, 2023, the Department filed proposed revisions to Commission Rules 3.300 and 3.400 that would implement the requirements of Act 47. The Department also commented that it “intends these proposals to be interim changes and strongly recommends that further comprehensive revisions to the rules . . . be finalized after those required by Act 47.”³

GMP, VEC, WEC, and Burlington Electric filed comments in response to the Department’s proposed rule amendments. The commenters supported most of the Department’s proposed rule amendments, though they highlighted several areas of disagreement and concern. The Department filed a reply to the utilities’ comments and made additional revisions to its proposed rule amendments.

III. DISCUSSION

We recognize that there is still significant disagreement about whether and how to implement the broader changes to Commission Rules 3.300 and 3.400 that the Department has proposed. Generally, however, the participants in this rulemaking proceeding have come to substantial agreement regarding the changes to Commission Rules 3.300 and 3.400 necessitated by Act 47. As such, we have decided to proceed with interim changes to Commission Rules 3.300 and 3.400 to comply with the directives of Act 47. As part of today’s Order, we circulate our proposed revisions to Commission Rules 3.300 and 3.400 that implement the requirements of Act 47, which will be formally filed with the Vermont Interagency Committee on Administrative Rules to commence the formal rulemaking process under the Vermont Administrative Procedures Act.

³ Department’s December 15, 2023, Comments at 2.

However, we agree with the Department that the Commission should continue to consider the broader, more comprehensive changes to these rules that the participants have discussed throughout this proceeding. Based on feedback from the participants received at the workshop and in their written comments, we understand that the participants desire additional time and more workshops to discuss these broader changes, some of which remain the source of significant disagreement among the participants. Therefore, following the completion of the formal rulemaking process for the adoption of the amendments to Commission Rules 3.300 and 3.400 that are the subject of this Order, we will close this case and open a new rulemaking case in ePUC to address proposals for more comprehensive revisions to Rules 3.300 and 3.400. The remainder of this Order addresses the participants' outstanding disagreements with the Department's proposed rule amendments to implement the Act 47 requirements.

A. Written Notice to Property Owners (Rule 3.302(C))

The Department's proposed rule regarding notice to property owners and landlords of a disconnection involves a two-step process. Property owners would be contacted by 3:00 p.m. on the day of the disconnection and then receive written notice of the disconnection from the utility in the mail following the disconnection. The utilities recommend that the Commission remove the Department's proposal to provide a written notice in the mail after the disconnection has occurred. They argue that this notice will create additional expense and potentially lead to confusion because any notice sent through the mail likely will not be received until several days after service was disconnected, during which time the customer may have been reconnected. In the alternative, the utilities recommend that the property owners be allowed to "opt-in" to receiving written notices and that the utilities be allowed to satisfy this requirement with a phone call or electronic communication.

Having considered the parties' comments, we have decided to partially incorporate the Department's recommendation. We will include a requirement to provide a follow-up written notice of the disconnection to the property owner, but only if such notice is requested by the property owner. In other words, the property owner must opt-in to receive the written notices. The revised rule also makes clear that the follow-up notice requirement can be satisfied with a

telephone call or email. The rule also allows the utility to impose a reasonable fee for the follow-up notice.

B. Receipt of Email or Text Notifications During Winter Disconnection Period (Rule 3.304)

The Department's proposed rule would modernize the oral notice requirements that apply during the winter disconnection period by allowing the utilities to provide notice via SMS text messages or email communications to utility customers. Under the Department's proposal, the use of SMS texts or email would satisfy the notice requirement only if the utility obtains confirmation of receipt of the SMS text message or email from the customer.

The utilities support the use of SMS text and email notice, but they object to the requirement that they must obtain confirmation of delivery of the notice. They argue that it is impractical to obtain such confirmation because confirmation receipts are generally controlled by the users' devices or email settings.

We agree that it is important to update the rule to reflect modern communication technologies. Therefore, we will incorporate the Department's recommendation that the oral notice that has traditionally been required in the winter disconnection period can be satisfied with an SMS text message or email. We also share the Department's concern about ensuring that the electronic message is actually delivered and received by the utility customer. Therefore, we adopt a slightly modified version of the Department's recommendation. Although we will not mandate that the utility receive confirmation of delivery and receipt of an email or SMS text notification, we will require that if the utility is unable to reach the customer orally or does not receive confirmation of receipt of notice sent electronically via email or SMS text, the utility must make three additional attempts to contact the customer.⁴ This approach is consistent with the Department's proposal, provides the utilities with flexibility in providing notice, and largely falls back on the existing rule's notice requirements where text or email notice cannot be confirmed. This approach also creates an incentive for utilities to attempt to obtain delivery confirmation from their customers if they choose to use text or email notifications while still allowing them more flexibility than under the current rule.

⁴ Proposed Commission Rule 3.304(B).

C. Timing of Remote Disconnection (Rule 3.306 and 3.404)

The Department's proposed rule would allow remote disconnections only between 9:00 a.m. and 11:00 a.m. In support of this proposal, the Department asserts that it "specifically kept this window short to afford consumers with as much time as possible to address reconnection and engage with needed support services during the business day."⁵ GMP seeks a broader time period to conduct remote disconnections and requests that the deadline "be extended to 1:00 PM in order to allow utilities to better time scheduled disconnections to spread call volume and account for availability of team members."⁶

We have decided to adopt the Department's proposal to limit remote disconnections to a period between 9:00 a.m. and 11:00 a.m. We agree with the Department that it is important to afford affected customers ample opportunity to address a disconnection during business hours. Allowing for remote disconnections should substantially improve the utilities' efficiency in completing the disconnection process. The benefits of that improved efficiency should also flow through to customers who are affected by the disconnection process. Because this change will significantly streamline the disconnection process, we agree with the Department that it is appropriate to limit remote disconnections to a period between 9:00 a.m. and 11:00 a.m. However, we anticipate revisiting this requirement when we consider broader changes to Rule 3.300 and 3.400 in the near future and have better data on remote disconnections from the utilities.

D. Fees for Remote Disconnections (Rule 3.303 and 3.400)

The Department's proposed rule would prohibit utilities from charging fees for remote disconnections. Burlington Electric, VEC, and WEC oppose this requirement. Burlington Electric asserts that it "will still have administrative expenses associated with such disconnections."⁷ VEC and WEC similarly state that "[r]easonable fees should be allowed to fairly cover the administrative costs involved with managing these processes so that costs are not unnecessarily shifted to other utility members."

⁵ Department's December 29, 2023, Comments at 4.

⁶ GMP's December 22, 2023, Comments at 3.

⁷ Burlington Electric's December 22, 2023, Comments at 1.

We are not persuaded that the utilities should be allowed to charge a fee for remote disconnections. Although we recognize that there will be administrative functions associated with the remote disconnection process, we anticipate that the transition to remote disconnections will result in considerable cost savings in comparison to on-premises disconnections. Removing the cost to have an employee physically travel to a customer's premises and manually shut off service supports eliminating the disconnection fee, which serves as an additional barrier for affected customers to restore service and pay down any outstanding balance. Therefore, we have decided to adopt the Department's recommendation to prohibit fees for remote disconnections.

Although we have adopted the Department's proposed prohibition on remote disconnection fees, we expect to revisit this issue in the follow-up proceeding that considers more substantial changes to Rules 3.300 and 3.400.

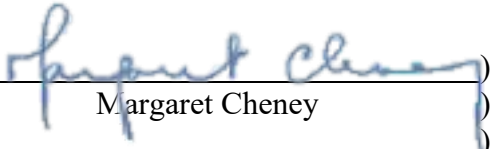
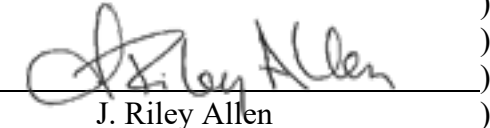
IV. CONCLUSION

The Commission thanks all participants for their thoughtful comments and insights throughout the informal portion of this rule amendment process. The Commission intends to file the attached version of the proposed amendments to Commission Rule 3.300 and 3.400 with the Interagency Committee on Administrative Rules and then the Secretary of State as soon as practicable. Please note that we have also made minor, non-substantive revisions to sections of the rules not addressed by the participants.

Further comments and participation in the proposed amendment of Rules 3.300 and 3.400 will follow the formal rulemaking procedures described in the Vermont Administrative Procedure Act. Upon completion of the formal rulemaking process for the amendments discussed in this Order, the Commission will open a new proceeding to address more comprehensive revisions to Rules 3.300 and 3.400.

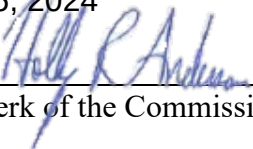
SO ORDERED.

Dated at Montpelier, Vermont, this 5th day of February, 2024.

 Margaret Cheney	)	PUBLIC UTILITY
	)	COMMISSION
	)	OF VERMONT
 J. Riley Allen	)	

OFFICE OF THE CLERK

Filed: February 5, 2024

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

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