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STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24-1079-RULE

Proposed revisions to Vermont Public Utility Commission Rule 3.300	

VERMONT DEPARTMENT OF PUBLIC SERVICE COMMENTS REGARDING THE PROPOSED REVISIONS TO PUBLIC UTILITY COMMISSION RULE 3.300

On February 5, 2024, the Vermont Public Utility Commission ("Commission") issued an order notifying stakeholders that it would file draft proposals amending Rules 3.300 and 3.400 (to implement, **An act relating to housing opportunities for everyone**, Vermont Act No. 47 (S.100) of 2023, Sec. 25a. UTILITY DISCONNECTION; LANDLORD NOTIFICATION; PUBLIC UTILITY COMMISSION; RULEMAKING ("ACT 47")) with the Vermont Interagency Committee on Administrative Rules ("ICAR"), and thereby begin a formal rulemaking to effect the requirements of Act 47. The Commission did so on February 8, 2024. After ICAR completed its review, the Commission filed the draft rules with the Vermont Secretary of State on April 12, 2024, per 3 V.S.A. § 838. On May 7, 2024, the Commission issued a memorandum requesting public comment on the proposed rules as part of this process.

The Department of Public Service ("Department") hereby submits its comments and recommendations regarding the draft Rule 3.300.

I. Replace the Proposed Rule 3.301 Definition of "Delinquency"

The Department recommends replacing the draft language of the Commission's definition of 'Delinquency' provided in Section 3.301(C), in its entirety, with the following language:[1]

> Delinquency: failure of the customer to tender payment for a valid bill within thirty days from the verifiable transmittal of the bill. The "due date" must be printed on the bill. Should the utility intend to have failure to tender payment by the "due date" establish delinquency instead, the "due date" must be at least 30 days from transmittal of the bill.

The Department proposes this substitution for several reasons. Chief among these is to bring the definition into closer conformity with the current definition, current practice, and most importantly, the current capabilities of the utilities' billing methods and software. Various utilities have proffered and discussed multiple interpretations of this definition with the Department and this proposal is intended to remove any ambiguity or confusion. The Department understands that at least some utilities are unable to comply with the Commission's proposed definition without time and additional expense to change their present capabilities (for example, some cannot print the transmittal date on the bill, but the transmittal date could be otherwise ascertained and verified – such as with an electronic signature or postmark).

[1] The Department proposes a corresponding replacement for the definition of "Delinquency" in Commission Rule 3.400, as provided in its filings in Case Nos. 24-1080-RULE and 17-4999-INV.

The current definition of "Delinquency" in Section 3.301(B)[2] provides that delinquency is established either by failure to pay within 30 days from a postmark, or by a due date that is scheduled, as provided by the bill, to occur more than 30 days from mailing. In either event, delinquency is never established in less than 30 days from transmission. Thus, the proposed definition further clarifies confusion that stakeholders related to the Department regarding whether the "due date" or "transmission" were operative in establishing delinquency.

Moreover, the proposed definition arguably provides different timelines and treatment for electronic billing than other, more traditional, methods of transmission. Such a difference of treatment was not intended, is not required by Act 47, and could result in inequities. The Department's proposed definition makes no distinction between the methods of transmission, provided that the transmission date is verifiable, per the definition in Section 3.301(H) of the Commission's proposal, and that the due date is printed on the bill.

II. *Clarify Rule 3.304 (A) Winter Disconnection Oral Contact Requirements to Avoid Limitation.*

Next, the Department recommends amending the language proposed for Section 3.304(A), which governs winter disconnections, as reflected in the redline below.

(A) The utility must make a reasonable attempt to orally contact the customer ~~within 72 hours in advance of~~ once the customer has been

[2] VERMONT PUBLIC UTILITY COMMISSION, *Rule 3.300: DISCONNECTION RESIDENTIAL ELECTRIC, GAS, AND WATER SERVICE* at 1, *available at* https://puc.vermont.gov/sites/psbnew/files/doc_library/3300-disconnection-of-residential-service.pdf.

> provided written notice, under this rule, prior to any planned disconnection. The utility may use alternative forms of communication such as text or email to satisfy the notice requirement. An additional contact (phone call, email, or SMS text message) must be made within 24 hours of a pending remote disconnection. One of these contacts must be made outside of typical business hours—for example, after 5:00 p.m. or before 8:00 a.m.

The Department proposes these changes to provide greater clarity and avoid the potential for limiting the days on which disconnection could occur, which is not the intent of this section. Specifically, stakeholders have expressed concern to the Department that the within 72-hour oral contact provisions could limit the number of days where a disconnection could take place (e.g., a disconnection on a Monday could be precluded, depending on the time intended, under certain circumstances). As revised, the timing provisions of the Section 3.301(E) definition of notice ensures that the oral contacts are reasonably proximate to actual disconnection and written notice thereof.

III. *Clarify Rule 3.304 (B) Regarding Winter Disconnection Customer Contacts and Remote Disconnection Provisions*.

The Department recommends modifying Section 3.304(B) of the rule, which also concerns customer contacts prior to winter disconnections, as provided in the redline below:

> (B) 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 beyond the contacts required under subparagraph (A) of this section. These three attempts must be at least three hours apart. One attempt to reach the customer must

be made between the hours of 5:30 p.m. and 9:30 p.m. Unanswered calls must be allowed to ring for at least 60 seconds. Calls resulting in a busy signal do not count as one of the three required attempts. ~~An additional contact (phone call, email, or text) must be made within 24 hours of a pending remote disconnection.~~ One of these contacts must be made outside of typical business hours; for example, after 5:00 p.m. or before 8:00 a.m.

(1) An additional – fourth – contact (phone call, email, or text) must be made within 24 hours of a pending remote disconnection.

(2) If, after complying with the requirements of subparagraph (A), actual oral notification has not been given, then, at least 48 hours before disconnection is to occur, the utility must report to the Department of Public Service, in writing or by telephone, the customer's name, address and, if available, telephone number.

The Department's informal discussions with stakeholders indicated that there is confusion and disagreement amongst stakeholders regarding what, and how much, the notice and customer contact provisions of Section 3.304 require. As such, the Department's recommendations are intended to clarify and emphasize that the contact provisions of Section 3.304(B) are in addition to the oral contact provisions required under Section 3.304(A). The Department also recommends pulling out the language regarding remote disconnections and placing it in a subsection, both to allow 3.304(B) to flow more smoothly and to emphasize the additional requirements for remote disconnection (so, for example, a customer can more readily distinguish a remote disconnection from an outage).

IV. *Clarify Rule 3.304 (C) Regarding Oral Notice of Remote Winter Disconnections*.

Like its recommendations regarding Section 3.304(B), above, the Department recommends placing the Section 3.304(C) language requiring customer contact before remote disconnection, regardless of prior notice previously in that winter disconnection season, into a subsection. Much like its recommendations for Section 3.304(B), above, this revision would improve reader comprehension and emphasize the additional requirements for remote disconnection (so, for example, a customer can more readily distinguish a remote disconnection from an outage). The Department provides a redline depicting this recommendation, below:

> (C) If the customer has been given actual oral notice during the current winter period with respect to a previous delinquency, compliance with subparagraphs (A) and (B) is not required, provided that the utility delivers or mails to the premises at which service is to be disconnected (with a copy mailed to the customer's billing address if different) a notice containing the information required by Section 3.303. Delivery is complete (1) if made by personal service, upon actual delivery to the customer at the customer's premises at least 48 hours before the disconnection, not counting Vermont holidays, and (2) in the case of notice by mail, by deposit of the notice at any United States post office, postage prepaid, at least four days before to disconnection, not counting days when the postal service does not make regular deliveries of mail. ~~An additional contact (phone call, email, or text) must be made within 24 hours of a pending remote disconnection regardless of whether actual oral notice was given previously during the current winter period.~~ One of these contacts must be made outside of typical business hours—for example, after 5:00 p.m. or before 8:00 a.m.
>
> > (1) An additional contact (phone call, email, or text) must be made within 24 hours of a pending remote disconnection regardless of whether actual oral notice was given previously during the current winter period.

V. *Clarify Rule 3.305(B) Regarding Notice Under Repayment Plan as Concerns Remote Disconnection.*

Finally, the Department recommends placing the language concerning notice requirements under repayment plans, per 3.305(B), as specifically regards remote disconnection into a separate subparagraph within the section. Much like the recommendations above, this revision will improve reader comprehension while emphasizing the distinctions between the requirements for remote disconnections. A redline demonstrating these revisions is below:

(B) The manner of notice provided for in subparagraph (A) must be sufficient, even in the case of disconnection by a gas or electric utility in the winter, provided that the utility has given oral notice of the information contained in Section 3.303 at the time the repayment plan was entered into and provided the terms of the repayment plan were reasonable. ~~In addition to the requirements specified above, customers who are pending remote disconnection must be notified in writing via email or text within 48 hours of a pending remote disconnection. If a customer has not provided such contact information, a phone call must be made by utility staff within 48 hours of a pending remote disconnection. An additional contact (phone call, email, or text) must be made within 24 hours of a pending remote disconnection.~~ One of these contacts must be made outside of typical business hours; for example, after 5:00 p.m. or before 8:00 a.m.

> (1) In addition to the requirements specified above, customers who are pending remote disconnection must be notified in writing via email or text within 48 hours of a pending remote disconnection. If a customer has not provided such contact information, a phone call must be made by utility staff within 48 hours of a pending remote disconnection. An additional contact (phone call, email, or text) must be made within 24 hours of a pending remote disconnection.

In sum, the Department's recommended changes to Rule 3.300 will improve readability, remove sources of confusion that were shared with the Department, and effectuate the intent of both Act 47 and the revisions to the Rule in a manner consistent with current practice under the presently effective Rule. Thank you for the opportunity to comment. Please do not hesitate to contact me with any questions or concerns.

Dated at Montpelier, Vermont this 31st day of May 2024.

VERMONT DEPARTMENT OF PUBLIC SERVICE

/s/ Alex Wing
Alexander Wing, Special Counsel
Department of Public Service
112 State Street
Montpelier, VT 05620-2601
(802) 828-4011
alexander.wing@vermont.gov

cc: ePUC Service List