

December 20, 2021

MAINE PUBLIC UTILITIES COMMISSION
Amendments to Consumer Protection
Standards for Electric and Gas Transmission
Transmission and Distribution Utilities (Ch. 815)

ORDER AMENDING RULE
AND STATEMENT OF FACTUAL
AND POLICY BASIS

BARTLETT, Chairman; DAVIS and SCULLY, Commissioners

I. SUMMARY

Through this Order, the Commission adopts amendments to the Commission's Chapter 815, Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities rule. The amendments address notice requirements during the winter disconnection period, as directed by An Act To Protect Maine Electricity Customers from Threats of Disconnection in the Wintertime, P.L. 2021, Chapter 347, § 1 (the Act).

II. BACKGROUND

A. Chapter 815

Chapter 815 of the Commission's Rules sets forth standards for the provision of service, billing, credit and collection, deposits and termination of service for residential and non-residential customers of electric transmission and distribution utilities and gas utilities, including provisions that address the issuance of disconnection notices and disconnection procedures during the winter months. The Commission adopted Chapter 815 on August 27, 2007 and the rule became effective on April 16, 2008. Docket No. 2007-00071 Order Adopting Rule and Statement of Factual Policy and Basis (Aug. 27, 2007). The Commission last adopted amendments to Chapter 815 in Docket No. 2019-00186. *Public Utilities Commission, Amendments to Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities (Chapter 815)*, Docket No. 2019-00186, Order Amending Rule and Statement of Factual and Policy Basis (Feb 5, 2020).

B. Legislation

The Act provides that a transmission and distribution (T&D) utility may not send a

disconnection notice during the winter disconnection period¹ to a residential customer that:

- A. Provides for disconnection of the customer's electric service on a specified date or within a specified interval of time during a disconnection prohibition period, unless the utility has received the prior permission of the consumer assistance and safety division to make the disconnection on the specified date or within the specified interval of time; or
- B. Makes any reference to disconnection or involuntary termination of the customer's electric service during a disconnection prohibition period, unless the notice or communication includes a prominent statement that disconnection of a residential customer's electric service during the disconnection prohibition period cannot take place without the advance permission of the consumer assistance and safety division, that the customer will be notified of any request for such permission and that the customer will have the opportunity to be heard by the consumer assistance and safety division.

The Act also provides that a T&D utility that violates the disconnection guidelines is subject to a civil penalty not to exceed \$2,500, payable to the customer to whom the prohibited communication is sent.

The Commission did not propose changes to Chapter 815 to address this penalty provision because the current statutory language is clear regarding the penalty for violations of the statute, and the Commission would be required to open an adjudicatory proceeding to assess such a penalty. The Commission may propose language to address this penalty provision in the subsequent Chapter 815 rulemaking discussed in subsection D below.

C. Notice of Rulemaking

On September 8, 2021, the Commission issued a Notice of Rulemaking (NOR). In its NOR, the Commission set a deadline of October 14, 2021 for interested persons to file comments on the proposed amendments. A public hearing was held on October

¹ The Act defines "disconnection prohibition period" as any time between November 15th and April 15th, or during any other period when, pursuant to rules adopted under 35-A M.R.S. §704, the Commission has prohibited a T&D utility from disconnecting residential customers or prohibited such disconnections without the permission from the Consumer Assistance and Safety Division. Section 2(HH) of Chapter 815 defines "winter disconnection period" as the period beginning November 15 of each year and continuing through April 15 of the following year. The terms "disconnection prohibition period," "winter disconnection period," and "winter period" are used synonymously throughout this Order.

4, 2021. Central Maine Power Company (CMP), Versant Power (Versant), Summit Natural Gas of Maine (Summit), Northern Utilities, Inc. d/b/a Until (Northern) and the Office of Public Advocate (OPA) filed comments.

D. Subsequent Rulemaking

The Commission notes that it plans to initiate another rulemaking within the next few months to more fully examine modifications to Chapter 815 in its entirety. Because of the limited amount of time the Commission had to make the necessary changes to the sections of Chapter 815 that address the winter disconnection process in response to the Act, the Commission narrowly focused this rulemaking on the changes necessitated by the Act for the upcoming winter period. The Commission recognizes that issues raised by the Act deserve a closer and more thorough examination and plans to do so in a follow-on rulemaking to be initiated in early 2022. Thus, many issues raised by commenters that were not addressed in this rulemaking can and will be considered in the follow-on rulemaking.

III. **ADOPTED RULE PROVISIONS**

Section 10 of Chapter 815 contains the guidelines for disconnections of customers by a T&D utility.

A. Period of Effectiveness (Section 10(F))

Section 10(F) of Chapter 815 addresses the timeframe in which a disconnection notice is effective. This section has been amended to remove the extended 20-day effective period for notices that was included in the prior rule. The reason for the extended 20-day period was to provide utilities with the time needed to attempt personal contact with a customer. Because these steps now occur prior to the issuance of a disconnection notice, there is no need for the extended 20-day effective period. Additionally, this change eliminates the need for a distinction between residential and non-residential customers. This section remains unchanged from that in the proposed rule.

B. Winter Disconnection of Residential Customers (Section 10(M))

i. Section 10(M)(1)

The new section 10(M)(1) in the amended rule addresses the notice requirements where a customer has a past due amount and the utility plans to seek permission from the Consumer Assistance and Safety Division (CASD) to disconnect the customer's service during the winter disconnection period. Specifically, Section 10(M)(1) of the amended rule states that the utility must first provide notice to the customer that: 1) states the customer has a past due amount and that the customer should contact the utility to make a payment arrangement; 2) states the customer may be eligible for a "Special Payment Arrangement" during the winter disconnection period

that includes the option of paying less than the full amount of bills as they become due; 3) states that failure to respond to the notice may result in the utility seeking permission to disconnect the customer's service from the CASD; and 4) includes a prominent statement that disconnection of a residential customer's electric service during the winter disconnection period cannot take place without the advance permission of the CASD, that the customer will be notified of any request for such permission, and that the customer will have the opportunity to be heard by the CASD. Section 10(M)(1) of the amended rule remains substantively unchanged from the proposed rule.

ii. Section 10(M)(2)

Section 10(M)(2) of the amended rule addresses notice requirements to occupants where no individual has applied for service. This is an amendment from the proposed rulemaking and is added based on comments by CMP. CMP stated in its comments that the rule should differentiate between a disconnection process for a customer and the disconnection process in situations where there is no customer of record.

This section provides that in situations where utility service is being used but no person has applied for service, and the utility plans to seek permission to disconnect the service during the winter disconnection period, the utility must first provide notice to the occupant that 1) states that the occupant needs to contact the utility to apply for service; 2) states that failure to respond to the notice may result in the utility seeking permission from the CASD to disconnect the occupant's service; 3) and includes a prominent statement that disconnection of a residential occupant's service during the winter disconnection period cannot take place without the advance permission of the CASD, that the occupant will be notified of any request for such permission, and that the occupant will have the opportunity to be heard by the CASD. Section 10(M)(2) of the amended rule also provides that the notice shall be provided to the occupant through a premise visit. If the occupant is not home during the premise visit, the notice shall be left on the door. If, after that, the occupant fails to respond to the notice, the utility may seek permission to disconnect the occupant's service.

iii. Section 10(M)(3)

Section 10(M)(3) of the amended rule (which was Section 10(M)(2) of the proposed rule) requires that the utility attempt to make personal contact with the customer in person or by telephone prior to seeking permission to disconnect the customer's service from the CASD. The OPA recommended in its comments that a utility be required to leave a voicemail if possible, and to make at least three attempts to contact the customer by phone. The Commission agrees that more specificity is required regarding the timing and number of calls to customers. Thus, the amended rule includes language stating that when attempting to contact a customer by telephone, the utility must make at least two attempts, including one before 5:00 p.m. and one after 5:00 p.m. This is consistent with the contact requirements of subsection 10(L)(2) that are used during the non-winter period. The amended rule also states that if the utility

fails to make personal contact with the customer by telephone but reaches the customer's voicemail, the utility must leave the customer a message stating that the customer should attempt to contact the utility as soon as possible to discuss the customer's account.

Additionally, Section 10(M)(3) of the amended rule removes language that stated that after March 31, a utility cannot send a disconnection notice to any customer whose bills issued from November 1 through March 31 indicates an arrearage, unless the utility made a good faith effort to make personal contact with the customer and establish a payment arrangement. Commenters found this section confusing and requested that the Commission clarify the meaning of this provision. The Commission finds this language to be antiquated and unnecessary considering the amendments made to the rule pursuant to the Act.

iv. Section 10(M)(4)

Section 10(M)(4)(b) of the rule has been amended to remove reference to cycle disconnecting a customer when the utility is unable to make personal contact with the customer after at least one visit to the premise and is uncertain after an on-site inspection whether the unit is occupied. In the prior rule, the utility could cycle disconnect a customer, as opposed to seeking permission from the CASD to disconnect a customer, in situations where the utility was unsure from a premise visit if the property was vacant. CMP noted in its comments that because the Act does not provide for the issuance of a disconnection notice to a customer during the winter disconnection period without first obtaining permission from the CASD, a utility could not cycle disconnect without first requesting permission from the CASD, rendering this provision moot. The Commission agrees with CMP and thus amends the rule to require that a utility to seek permission from the CASD to cycle disconnect a customer (now addressed in Section 10(M)(6) of the amended rule).

v. Section 10(M)(5)

Section 10(M)(5) of the amended rule provides that during the winter disconnection period, a utility may not disconnect a customer's or occupant's electric service, unless the utility has received the prior permission of the CASD to make the disconnection. Additionally, this section has been amended to limit when a utility may disconnect a customer to situations when both the utility *and* the CASD are unable to contact the customer (emphasis added). Previously, a utility could disconnect (after receiving permission from the CASD) in situations where it could not make personal contact with the customer.

Section 10(M)(5) of the amended rule also provides that when a utility is seeking permission to disconnect a customer, it shall submit its request, including all supporting reasons in writing, to the CASD and provide a copy to the customer. The request must include copies of the notice(s) required by sections 10(M)(1) and 10(M)(2) that were sent to the customer. The amended rule also provides that, in addition to granting

permission to disconnect a customer, the CASD may also grant a utility permission to cycle disconnect a customer.

CMP and the OPA requested clarification regarding whether the Act would allow for the issuance of a disconnection notice prior to the end of the winter disconnection period, but with a disconnection date that occurs after the winter disconnection period ends on April 15, without permission from the CASD. It is the Commission's interpretation that the Act does allow for the issuance of a disconnection notice during the winter period without permission from the CASD, provided that the disconnection date and effective period of the notice both fall outside the winter disconnection period. The Act states:

Section 717(2) Notice of winter disconnection. During a disconnection prohibition period, a transmission and distribution utility may not send or deliver, orally, on paper or electronically, to any residential customer of the utility any notice or communication that: A. Provides for disconnection of the customer's electric service on a specified date or within a specified interval of time *during a disconnection prohibition period*, unless the utility has received the prior permission of the consumer assistance and safety division to make the disconnection on the specified date or within the specified interval of time (emphasis added).

Based on the language of the Act, it is the Commission's interpretation that its requirements are triggered only when the disconnection date or the effective period of the disconnection notice fall within the winter disconnection prohibition period. If the disconnection date and the effective period of the notice both fall outside of the winter disconnection prohibition period, a utility is not required to seek permission from the CASD prior to issuing the disconnection notice.

Versant recommended in its comments that the Commission clarify that the contact requirements of Section 10(L)(2) have been satisfied if a utility obtains permission to issue a winter disconnection notice from the CASD. The Commission agrees with Versant and other commenters that once a utility receives permission from the CASD to disconnect a customer's or occupant's service, that the utility should not be required to make further attempts at personal contact with the customer or occupant prior to disconnection. When a utility receives permission from the CASD to disconnect a customer's or occupant's service, both the utility and the CASD will have made multiple attempts to contact the customer or occupant, including a premise visit by the utility. Further, the CASD's decision issued in response to a request to disconnect, which will be sent to both the utility and the customer, will clearly identify the prospective steps both the utility and the customer must take with regards to contacting the other in response to the decision. Thus, the amended rule does not require the issuance of a disconnection notice by a utility after the

CASD has provided permission to disconnect, nor does the amended rule require further attempts at personal contact by the utility prior to the disconnection.

vii. Section 10(M)(6)

Finally, Section 10(M)(6) of the amended rule addresses cycle disconnections. The requirements that the utility must comply with to cycle disconnect a customer remain the same as in the previous rule. However, the section has been amended to state that the utility may only cycle disconnect after receiving permission from the CASD.

Accordingly, the Commission

O R D E R S

1. That Chapter 815, Consumer Protection Standards for Electric and Gas Transmission and Distribution Utility Service Standards is hereby amended as described in the body of this Order and as set forth in the amended Rule attached to this Order;
2. That the Administrative Director shall file the amended Rule with the Secretary of State;
3. That the Administrative Director shall notify the following of this amended rule:
 - a. All transmission and distribution utilities in the State
 - b. All persons who have commented in this rulemaking proceeding, Docket No. 2021-00266
 - c. All persons who have filed with the Commission with the past year a request for notice of rulemakings; and
 - d. The Office of the Public Advocate.
4. That the Administrative Director shall send a copy of the amended Rule to the Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine, 04333-0015.

