



NEW HAMPSHIRE LEGAL ASSISTANCE

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November 20, 2019

Sent Via E-Mail

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Re: Docket No. DRM 19-156, Puc 1200 Rulemaking

Dear Director Howland:

Pursuant to the Commission's Order of Notice dated September 20, 2019, New Hampshire Legal Assistance (NHLA) submits the following comments via e-mail in the above referenced docket about the proposed amendments to the Puc Chapter 1200 Rules. NHLA is a statewide non-profit law firm. Our attorneys and paralegals represent low-income and elderly clients throughout the state, including in proceedings before the Commission.

NHLA would like to thank the Commission Staff for facilitating several stakeholder discussions about the Chapter 1200 Rules prior to initiating the formal rulemaking process. Several of our concerns have been addressed in the proposed amendments, but we write to offer some additional comments on the document market "Initial Proposal 8-28-19" that was appended to the September 10, 2019 Commission filing in this docket.

Puc 1203.03(i), page 7

The rule addresses when a utility must accept a written guarantee of a responsible party in lieu of a deposit from a customer. The proposed amendment would remove a "social service organization" and a "municipal welfare agency" from the list of responsible parties who could offer a written guarantee. We believe that this change puts our low-income clients at a disadvantage. A low-income customer is less likely to be able to secure a written guarantee from a "bank" or a "customer in good standing." We also believe that these changes could raise concerns under Puc 1203.03(m), which prohibits discrimination based on income in regard to requests for deposits.

While Puc 1203.03(g) states that a deposit shall be waived if a customer provides evidence of financial hardship, there are many low-income customers who do not meet the definition of financial hardship under the rules. The rules currently define financial hardship as enrollment in any "federal, state or local government program or government funded program of any social service agency which provides financial assistance or

subsidy assistance for low income households based upon a written determination of household financial eligibility.” Puc 1202.10. There are many reasons why a low-income household might not be enrolled in a government assistance program. In fact, NHLA’s Public Benefits Project regularly represents clients who have been unlawfully denied benefits or who face barriers to accessing benefits. These ratepayers should still have the option to seek a written guarantee from a social service organization or a municipal welfare agency in lieu of a deposit when they cannot meet the definition of financial hardship. Obtaining a written guarantee from a social service organization or a municipal welfare agency may be the first time some households apply for and receive assistance through a government funded program.

1203.07(c)(6), page 12

This rule governs payment arrangements and lists six factors for determining whether a payment arrangement is reasonable. Liberty Utilities submitted comments at the public hearing and in writing that the sixth factor, a “Customer’s ability to pay,” is too vague. Liberty recommends that “ability to pay” be replaced with “whether the customer has a financial hardship,” which is currently defined in 1202.10.

We share the Consumer Advocate’s concerns that Liberty’s suggestion would define “ability to pay” too narrowly. As stated above, there are many reasons why low-income customers might not meet the definition of financial hardship under the rules. Under Liberty’s suggestion, two similarly situated customers would be treated differently simply because one customer has not enrolled in a government assistance program. This disparity becomes more problematic if the reason the customer is not enrolled is because he or she was unlawfully denied access to an assistance program and has not yet exhausted their appeal rights.

We agree that it could be helpful to better define “ability to pay.” We regularly advise low-income clients who were offered payment arrangements that they could not afford. Frequently, a utility will demand monthly payments that are calculated by dividing the total arrears over a 4-month period without considering the customer’s financial circumstances. Thankfully, the utilities are often willing to negotiate with us when we contact them on behalf of a client. However, we know that we only hear from a fraction of low-income utility customers. We believe that “ability to pay” would be better defined in relation to the customer’s actual income and expenses rather than their enrollment in an assistance program. Perhaps further research could be done to determine how “ability to pay” is defined by other state utility commissions. The Commission could also look to other areas of the law that scrutinize a person’s income and expenses in order to define “ability to pay” with respect to debts or other legal obligations. Until further inquiry can be made and vetted, we believe the rule should remain unchanged.

Puc 1203.12(d)(4) and (h), pages 19-20

The proposed changes limit the right of a tenant to put service in his or her own name only when the utility service benefits that tenant. This new requirement is

problematic for tenants who reside in a multi-unit building that does not have individual meters. We believe that the current rule should remain in place unchanged until a more equitable solution can be developed.

Puc 1203.14(d) and (f), page 21

We note that these subparagraphs continue to reference payment of a customer's "current bill," but the proposed changes to 1203.14(b) reference payment of a customer's "average monthly bill." We think it would be helpful to clarify the reasons for the difference between the subparagraphs.

Puc 1203.17(b), page 24

The rule provides that the PUC Consumer Division shall deny a request for a conference if it decides that there is no violation of a rule or the utility's tariff. However, this is problematic if the main issue is whether the utility's action being complained of is, in fact, a violation of PUC rules or the utility's tariff. At the very least, the Consumer Division should inform the ratepayer that they can still request a hearing before the Commission or file a complaint pursuant to RSA 365:1 if their request for a conference is denied.

Puc 1204.04(c)(1), page 28

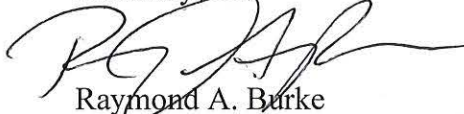
This rule states that the utility shall provide an opportunity for customers with arrearages to enter into a payment arrangement after the winter period. We think it should be made clear that 1204.04(c)(1) does not supersede the new changes in 1204.04(a)(2) that allow customers to choose to enter a *12-month* payment arrangement during the winter period. Otherwise, the two rules could be deemed inconsistent and the 12-month option in 1204.04(a)(2) could be rendered meaningless.

1204.06(f)(2), page 30

When a customer indicates that a household member has a medical emergency in response to the pre-winter letter required by 1204.06(a), a utility should inform the customer of their right to enter into a payment agreement that complies with 1204.04(a) in addition to 1203.07.

Thank you for considering these comments. Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Burke", written over a horizontal line.

Raymond A. Burke
Director, Energy & Utility Justice Project