

Dear Commissioners Scripps, Talberg, and Phillips:

Thank you for this opportunity to comment on the Commission's response to the COVID-19 pandemic, particularly with respect to energy affordability for customers with low incomes and the conversations with interested entities and individuals held in October regarding "Collaboration on Customer Protections and Energy Assistance."

Introduction

In opening this case, you noted: "Ensuring customers have access to safe, reliable energy and telecommunications services at reasonable rates is vital during an extended pandemic of this nature."

We agree wholeheartedly with this principle; furthermore, we hold that such access is vital at all times. And, unfortunately, the Commission's mandate is not being met, even in the current crisis. The COVID-19 pandemic has extended much longer than initially expected, weak customer protections have fallen away, and together DTE and Consumers Energy are disconnecting roughly 5,000 customers per week. That these weekly numbers are in fact *lower* than the rate of disconnections in previous years highlights that customers with low incomes chronically endure financial and emotional suffering due to the lack of recognition that what constitutes a "reasonable" rate varies by customer income.

In the present moment, the lack of energy affordability has broad ramifications for the public health of all Michiganders, as new research from Duke University reveals what we may well have expected: increased shut-offs are associated with a higher growth rate of COVID-19 cases.¹ It has particular significance for Black, Indigenous, and People of Color communities, which have been hardest hit by COVID-19 throughout the pandemic, and which are likely to experience exacerbations of COVID-19 spread associated with shut-offs.

Access to affordable utilities is a human right: the Commission has a responsibility to ensure reasonable energy rates for all and to end involuntary shut-offs. This requires the adoption of a comprehensive, holistic approach to addressing energy affordability across topics and dockets going forward. The need for this holistic approach has been evident since far before the COVID-19 crisis began and will continue to be necessary on a permanent basis.

Here we differentiate clearly between the current paradigm of energy *assistance* and the needed paradigm of energy *affordability*. Despite the best efforts of customer service departments and community action agencies, energy assistance programs are inadequate. This is evidenced by the sheer quantity of arrears and the number of annual shut-offs by Michigan's largest utilities, and by the litany of time, energy, and emotional strain endured by customers with low incomes and advocates in seeking assistance dollars that often do not fully meet their needs. This struggle is necessitated by Michigan's unwillingness to adopt

¹ <https://nicholasinstitute.duke.edu/articles/policy-pandemic-housing-security-policies-reduce-us-covid-19-infection-rates>

energy affordability policies that far more expediently and respectfully address the needs of customers with low incomes.

We strongly urge the Commission to seize this moment of crisis and shape Michigan's future by ensuring access to affordable utility service for all the Michigan residents you serve, not only for the current crisis, but as an ongoing and permanent necessity going forward.

Principles

Toward that end, we offer the following principles that the Commission should adopt, institutionalize, and act upon:

- **Utility access is a human right and a public good.** Communities that experience shut-offs collectively experience higher rates of COVID-19 infections, as well as fires and other hazards. The Commission has a responsibility to set stringent standards to prevent involuntary shut-offs, and to design affordable payment systems that enable these standards.
- **Customers should be billed no more than what is affordable** based on their income, where affordable is defined as not more than 6% of income for electricity plus heating fuel. An even lower percentage may be warranted; even among households with low incomes, there are variable abilities to pay energy bills. Additional charges for past-due bills should be income-based and not contribute unreasonably to customers' energy burden.
- **Enrollment in income-eligible programs should be simple, timely, and, where possible, automatic.** There are time, language, emotional, educational, economic, technological barriers, and more that strain households' abilities to navigate the bureaucracy of energy assistance programs and put households at risk of shut-off, while creating other undue burdens. This is an economic injustice that must be rectified.
- **Incomes are fragile and household circumstances change frequently;** therefore, households should be able to renegotiate billing and payment plans at any time.
- **Punitive measures for nonpayment infringe on customers' right to affordable energy and do not remedy the inability to pay.** Households should not be penalized with late fees, mandatory deposits, reconnection fees, or other poverty charges; nor should they be required to make complete and timely payments in order to stay on affordable billing and payment plans.
- **Deep energy retrofits are essential to energy affordability and racial justice.** Large-scale investment far beyond current levels is needed to make income-eligible energy waste reduction programs available to all who need them and to help remedy this country's and state's legacy of discriminatory policies, inequitable investment, and extractive practices in BIPOC homes and communities. Programs should be targeted to BIPOC homes and communities.
- **Racial and economic justice are essential to energy affordability decision-making.** The Commission has a responsibility to consider the impact of decisions regarding rates, PIPPs, and all other programs on racial and economic disparities.

Policies and Practices

We urge the Commission to take the following actions:

- **Adopt a definition of energy affordability** that utilities will be required to meet across all types of future filings. The Commission should require amendments to future filings that do not contribute to achieving this standard of energy affordability.²
- **Require utilities to offer Percentage-of-Income Payment Plans (PIPP)** to all customers below an income threshold defined by the Commission, for example 200% of the Federal Poverty Level. This threshold should be set empirically, based on the income level at which energy bills tend to become unaffordable. The plans should include:
 - Arrearage management, such that payments toward arrears are income-based and do not contribute unreasonably to customers' energy burden
 - Long-term deferred payment options of at least 12-18 months
 - Crisis assistance that recognizes and plans for disruption to fragile incomes
 - Debt forgiveness
- **Require utilities to automatically enroll customers** in the least-cost payment plan and rate plan (e.g. PIPP, time of use rate, etc.) for which they are eligible, rather than to automatically enroll them in less affordable default options, as well as to proactively offer all programs for which they are eligible, in particular energy waste reduction, and the corresponding health and safety precursors to energy waste reduction programs.
- **Require easy eligibility verification** methods for program participants including verification through self-declaration of hardships, cross-eligibility with other income-eligible/hardship programs, and online enrollment.
- **Permanently prohibit credit reporting of customers' utility payments and the sale or assignment of utility debt** to third-party debt collectors.
- **Integrate energy affordability knowledge, responsibilities, and work across all divisions within the Michigan Public Service Commission Staff.** Different MPSC divisions and cases are all interrelated and have energy affordability implications. Therefore, all divisions and cases should explicitly have energy affordability as a *priority*: there should no longer be any case where parties are told that it is the "wrong venue" to discuss energy affordability.
 - Direct MPSC Staff to coordinate and communicate more extensively. For example, the billing division should be in regular communication with the energy waste reduction (EWR) division, and EWR, rate, and IRP cases should be better coordinated.
 - Consider energy affordability holistically across cases. This may include directing utilities to file certain types of information that they are not currently required to file or directing MPSC Staff to provide expertise in cases that lie outside of what has traditionally been considered their area of expertise, among other actions.

² Examples of approaches to defining energy affordability can be found at the links below, though these references are by no means exhaustive:

ACEEE: <https://www.aceee.org/sites/default/files/energy-affordability.pdf>

Fisher, Sheehan, Colton: http://www.homeenergyaffordabilitygap.com/01_whatIsHEAG2.html

- **Properly integrate energy affordability into cost recovery considerations.**
 - Direct utilities themselves to demonstrate that their filings meet the Commission’s energy affordability standards. If energy affordability for customers with low incomes is viewed as essential in setting just and reasonable rates, then the burden of demonstrating affordability should be borne by the utility and evaluating affordability should be an important responsibility of MPSC Staff in rate cases. Intervenors representing customers with low incomes should not bear the full responsibility of addressing this issue.
 - Institute performance-based rate-making that allows utilities to recover costs based on whether they have met stringent energy affordability and shut-off prevention metrics (in addition to other important metrics based on environmental performance and reliability, for example).
 - Base the cost recovery of PIPP program expenses on the actual costs of charging affordable percentage-of-income bills that are *beyond* the costs incurred in utilities’ current billing models, which charge unaffordable bills and rely on funding extensive efforts to chase payments and then write off bad debt. On an annual basis, utilities should file a reconciliation of what they included in rates versus what they actually spent for income-eligible programs; over- and under-collections will be recognized in future rates.
- **Reform EWR cost-effectiveness testing to include additional benefits** to the utility related to minimizing the costs of nonpayment, for example via strategies such as running percentage-of-income-payment plans, as well as benefits to households with low incomes.
- **Require utilities to file the data necessary to show that their proposed plans meet the Commission’s standard of energy affordability.** This applies to all types of cases (e.g. rate cases, integrated resource plans, EWR filings, etc.).
 - For example, require utilities to include in any application for a rate increase: (a) an evaluation of strategies, including PIPPs, to reduce the costs of nonpayment; (b) an estimate of how many customers and in what locations have an energy burden that exceeds the MPSC-defined affordable level; (c) a stand-alone summary of how the requested rate increase will impact affordability for residential customers; (d) an evaluation of alternatives to improve affordability and explanation of the utility’s chosen strategy; (e) and any other necessary data, all in machine-readable formats to enable additional analysis by other involved parties.
 - For example, in integrated resource plan filings, require utilities to provide an affordability impact analysis specifically for customers with low incomes.
 - For example, in energy waste reduction filings, require utilities to include affordability goals, metrics, and reporting.
 - While only three examples are provided here, the MPSC should set energy affordability filing requirements for all types of dockets, cases, and venues.
- **On an ongoing basis, require utilities to publicly report specific metrics and data points related to energy affordability,** including shut-offs. Require reporting by census tract (or ZIP code) and on the race, ethnicity, and income of those participating

in programs, in order to enable assessment of disparities between the level of need and level of program participation across communities.

Emergency Short-Term Actions

In addition to permanent, long-term changes to how the Commission approaches energy affordability, emergency actions are also needed in the short term (which will include many of the items outlined above). Please refer to comments already filed to this docket on this topic by many of the under-signed parties. We support the suggestions Roger Colton filed in this docket on November 20, 2020 on behalf of CUB of Michigan, NRDC, and the National Housing Trust, including, for example, his recommendations to:

- Develop an affordability program that includes income-based rates for bills for current service, arrearage management, crisis assistance, and targeted energy efficiency and usage reduction investments;
- Institute/continue any suspension of nonpayment service disconnections;
- Continue suspension of residential late payment charges; and
- Make available long-term deferred payment arrangements.

Closing

Thank you again for the opportunity to provide comments on the critical topic of energy affordability. The recommendations we have made here are intended to address long standing concerns and needs that transcend the current crisis. They demand immediate attention and a sustained commitment going forward to a holistic, integrated approach with energy affordability—rather than energy assistance—as its core goal.

Please direct any questions to Bridget Vial with the Michigan Environmental Justice Coalition ([REDACTED]) or Annika (Brink) Brindel with the National Housing Trust (abrindel@nhtinc.org). These comments are additionally signed by the organizations listed below.

Michigan Environmental Justice Coalition

National Housing Trust

Ecology Center

Eco Works

Michigan Environmental Council

Michigan Welfare Rights Organization

Natural Resources Defense Council

Sierra Club

Soulardarity

We Want Green Too