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IN THIS ISSUE

Ratemaking and shutoff protections for Rhode Island "medically needy" customers

NOTE TO READERS

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Offer of Shutoff Protections to Rhode Island's Medically Needy Customers Need not Trigger Automatic Rate Relief.

Fisher, Sheehan & Colton (FSC) was recently asked to undertake an analysis of the process through which the Narragansett Electric Company (d/b/a National Grid), in its capacity as an investor-owned electric and gas utility in Rhode Island, disconnects electricity and natural gas service to medically-needy customers protected by regulations of the State of Rhode Island. The FSC analysis also encompassed the manner in which the Division of Public Utilities and Carriers administers those state regulations.

The review summarized below was directed toward the objective of assessing the reasonableness of continuing a temporary restraining order on further nonpayment service terminations for this class of protected medically-needy customers.

RESTRICTING THE DISCONNECTION OF SERVICE WILL NOT CAUSE RATEPAYERS OF NATIONAL GRID FINANCIAL HARM.

The Rhode Island Division of Public Utilities and Carriers (hereafter, Division) views the potential disconnection of service for nonpayment as one of the primary collection tools to be exercised against customers who fail to pay their bills. Without the threat that nonpayment might result in the loss of service completely, the Division argues, customers will simply stop paying their bills. As a result, the Division asserts, ratepayers of National Grid will pay noticeably higher rates (and thus bills) as a result of any restraint on service disconnections for nonpayment to medically-needy customers.

California Data.

The available data finds that these concerns are unfounded. Indeed, existing data does not support the conclusion that shutoff restrictions substantially alter customer payment practices. For example, the California Public Utilities Commission (CPUC) has adopted what it calls its "medical baseline" program. Data from PG&E, California's largest utility, demonstrates that medical baseline customers do not represent a substantial threat of nonpayment as represented by an aged arrearage. Moreover, the percentage of medical baseline customers with the older arrearages is remaining flat over time. The data clearly shows that the vast majority of medical baseline customers pay their bill in full (i.e., pay 100%) on a monthly basis. If the Division's concerns about systematic nonpayment were to be based in fact, none of these observations would be correct.

CPUC regulations provide that medical baseline customers:

- May not receive utility communications regarding the potential for disconnections for nonpayment;
- Must have an in-person visit, including by a field person who can provide an opportunity for a payment, prior to a disconnection of service for nonpayment; and
- May not be subject to remote disconnections for nonpayment.

The number of "medical baseline" customers in California is small. Between January 2012 and December 2015 (48 months), for example, Pacific Gas and Electric Company (PG&E), California's largest utility, had an average of 5.379 million residential customers, 169,335 (on average) of whom were medical baseline customers. Just over 3.1% of PG&E's residential customers, in other words, were protected by the California PUC's shutoff restrictions.

The California shutoff restrictions for medical baseline customers do not result in a systematic nonpayment by customers protected by the PUC's regulations. Data on the arrearage patterns of PG&E's medical baseline customers was tracked over a four-year (48 month) period. The age of arrearages tracked include arrearages old enough to represent two missed payments (aged 31 – 60 days) as well as arrearages that are deemed to begin to reach the stage of concern about lack of payment (more than 90-days). This data presented the percentage of all medical baseline customers in each month that carry an arrearage balance of the stated age.[1] The PG&E data supports two conclusions:

- Medical baseline customers do not represent a substantial threat of nonpayment as represented by an aged arrearage; and

[1] The numerator in each percentage is the number of medical baseline accounts with the arrearage by age; the denominator is the total number of medical baseline accounts.

- The percentage of medical baseline customers with the older arrearages is remaining flat over time.

If concerns about systematic nonpayment were based in fact, neither of these observations would be correct. If concerns about shutoff restrictions were well-founded, the percentage of medical baseline customers with arrears over the age of 90 days would be large and they would be increasing. In contrast, the 90-day arrears represent fewer than 10% of the medical baseline customers, while the 31 – 60 days arrears are roughly five percent (5%).

A second perspective looked not at what bills remain *un*paid, but instead looked at the extent to which bills *are* paid. This data, reported to the California PUC, allowed a comparison of the portion of the monthly bill paid each month by residential customers as a whole and the portion of the monthly bill paid by customers protected from shutoffs by the PUC's medical baseline shutoff restrictions.

There is no dispute that residential customers overall performed somewhat better than did medical baseline customers. That, of course, is to be expected given the limited ability-to-pay of the medical baseline customers with which to begin. Nevertheless, several observations are evident from a review of the data. First, the vast majority of medical baseline customers paid their bill in full (i.e., pay 100%) on a monthly basis. Second, there was no long-term divergence between the percentage of medical baseline customers who paid their bills in full and the percentage of total residential customers who paid their bills in full. The medical baseline customers who are protected by restrictions on service disconnections closely mirrored the residential customers who have no such restrictions. Third, there was no seasonal divergence between the total residential population and the medical baseline population. The seasonal variations in bill payment patterns that appeared for the total residential population appeared almost identically for the medical baseline population.[2]

The same observations could be made about both customers who paid less than half of their bill on a monthly basis, as well as about the customers who paid more than half, but less than 100%, of their bills on a monthly basis. The difference between the two populations was small; the trend over the four-year period did not indicate a divergence between the two populations;[3] and the seasonal variations in payments were nearly identical between the two populations.

Pennsylvania Data.

One groundbreaking study of the extent to which customers do (or do not) pay their bills when protected against nonpayment service disconnections was performed by the Bureau of Consumer Services ("BCS") of the Pennsylvania Public Utility Commission.[4] According to the

[2] It should be noted that merely because one does not pay in full before the due date does not mean that the arrears become long-term overdue. A customer who pays two days late (i.e., on Day 22 rather than on Day 20) is, for purposes of this data, nonetheless counted as having paid "less than half" of their bill in that month.

[3] If customers protected by medical baseline regulations regularly failed to pay their bill, an increasing proportion of customers would appear as having paid "less than 50%" of their bill. This would occur because those payments that were made would be applied against arrearages, leaving an increasing proportion of bills for current service unpaid.

[4] Joseph Farrell (1983). *Utility Payment Problems:*

BCS analysis, contrary to the argument by that state's utility companies, the Pennsylvania shutoff restrictions did not result in an increase in the number of unpaid bills, or the amount of unpaid bills, that would have existed in the absence of the restrictions.[5] The Pennsylvania BCS concluded that that state's data "casts substantial doubt on the assertion that PUC winter termination restraints are responsible for willful non-payment and consequent collection problems."

Iowa Data

In addition, FSC undertook a study of Iowa utility bills and payments over a three-year period (June 1998 through May 2001). [6] The analysis of the payment impacts of the Iowa winter moratorium considered a range of metrics testing whether utility bill payments are made in a full and timely fashion. This study found that no substantial change in payment patterns occurs as a result of the shutoff restrictions. Moreover, the Iowa analysis found that customers protected by shutoff restrictions did not make fewer payments.

IMPOSING RESTRICTIONS ON SOME SHUTOFFS DOES NOT PREVENT NATIONAL GRID FROM ENGAGING IN THE USE OF NONPAYMENT DISCONNECTIONS AS A COLLECTION STRATEGY.

Restricting the disconnection of service by policy, particularly when those restrictions are applied to a limited number of customers, will neither harm the financial wherewithal of the utility whose collection activities are so restricted, nor will such restrictions raise rates to customers not subject to the restrictions. A utility such as National Grid does not direct collection activity, including efforts to disconnect service for non-

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The Measurement and Evaluation of Responses to Customer Nonpayment, at 19, Pennsylvania Public Utility Commission: Harrisburg, PA.

[5] The BCS study reported that:

> Average overdue bills are at a low in November and rise to a high point in March or April. The apparent relationship of this pattern to Public Utility Commission regulations is obvious. That is, arrears are greatest at the end of the Commission's winter termination restrictions (December 1 to March 31 of the following year) and have been reduced to their lowest point immediately prior to the introduction of those restrictions for the following year. This pattern is consistent with the assertion put forward by utilities that they would be able to control arrearages if there were no winter termination restraints.
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> However, the seasonal fluctuations are substantial only for heating accounts. Arrearages for non-heating accounts show only minor seasonal fluctuations. A comparison of [the data] suggests a simple explanation for this difference, that is, that the size of arrearages is related to the size of monthly bills. Heating customers' bills grow radically in the winter and so do their arrearages. Non-heating customers' bills change very little seasonally and their arrearages follow suit. In other words, if the assertions that winter termination restraints invite nonpayment were correct, then non-heating arrearages should show the same seasonal pattern of variations as do heating arrearages. That they do not casts substantial doubt on the assertion that PUC winter termination restraints are responsible for willful non-payment and consequent collection problems.

[6] Colton (November 2003). "Winter Weather Payments: The Impact of Iowa's Winter Utility Shutoff Moratorium on Utility Bill Payments by Low-Income Customers." 16(9) ***Electricity Journal*** 59.

payment, to the entire universe of customers that owes the utility money. Even if such widespread use of service disconnections was acceptable from a policy perspective, the utility simply lacks sufficient resources, financial and/or staff, to perform such a broad-based effort to pursue disconnections for nonpayment (sometimes referred to as "DNPs").

This realization has substantive implications for evaluating the financial impacts of restricting the ability to disconnect service to some customers. Rather than reducing the overall collection effort by the utility, the restriction of shutoffs to Customers A, B and C will simply result in National Grid redeploying its collection efforts to Customers X, Y and Z instead. The total number of customers toward whom service terminations will be directed as a collection tool, in other words, should not be reduced.

An examination of data that National Grid files with the Rhode Island Public Utilities Commission each month found that that company does not differ from other utilities in this regard. This data provided insights into the collection efforts in which the Company engages. For example, National Grid reported the number of natural gas disconnection notices that it issued from April 2009 through December 2015 compared to the number of actual disconnections of service for nonpayment. The same Rhode Island National Grid data is also reported for electric service.[7]

The limited nature of the accounts that National Grid actually disconnects relative to those accounts for whom their level of arrears merits a disconnect notice is as dramatic as it is consistent over the years of data reported. The extent to which the number of disconnection notices exceeds the number of actual disconnections indicates the number of accounts each month to which National Grid could redeploy its collection efforts. Each account receiving a disconnect notice has an arrears of sufficient value that the account would merit, in the eyes of the utility, the termination of service for nonpayment.[8] To the extent that the Company is able to redeploy its collection resources amongst its nonpayment population would result in no adverse impact to the Company and, by extension, would not increase rates to its residential customers.

FSC found that National Grid simply could not state that continuing restrictions on shutoffs to medically needy customers would reduce its ability to pursue the disconnection of service for nonpayment. The National Grid data showed that , in three of the six months since November 2015[9] (January, February, March 2016), the company disconnected ***more*** natural gas accounts than it did in the corresponding months in the prior year (during which time no shutoff restrictions had been imposed). The data showed further that, in all six months November 2015 through April 2016, National Grid disconnected more electric customers for nonpayment than it did in the corresponding time period in the prior year (during which time no disconnection restrictions on medically needed customers had been imposed).

[7] National Grid does not report the duplicated or unduplicated nature of this data.

[8] This observation is based on the seemingly self-evident proposition that National Grid would not send a notice of disconnection to an account whose arrears, in the Company's view, did not merit the disconnection of service absent payment.

[9] November 2015 is important in that it is the month in which the shutoff restrictions were imposed by court order.

To the extent that the Company is able to redeploy its collection resources amongst its nonpayment population, shutoff restrictions to medically-needy customers would result in no adverse impact to the Company and, by extension, would not increase rates to its residential customers. The fact that National Grid not only can, but will, redeploy its collection resources is supported by an examination of the extent to which the Company already engages in such redeployment in the normal course of business.

AN OVER-RELIANCE ON NONPAYMENT SERVICE DISCONNECTIONS TO CONTROL WRITE-OFFS IS UNFOUNDED.

Any assertion by the Division that National Grid must rely on the disconnection of service for nonpayment as a means to control write-offs is not well-founded. Empirical evidence exists to support the conclusion that disconnections for nonpayment are not an effective means of controlling either arrears or bad debt. From 2004 to 2008, implementation of a new Pennsylvania statute resulted in an increase in electric disconnections for nonpayment by more than 60%. The Pennsylvania PUC reported in 2008 that despite the increase of more than 60% in the number of disconnections for nonpayment, "the overall collection performance for the electric industry has shown some deterioration. . ."

The Pennsylvania PUC reported that "it does not appear that the electric industry's strategy of terminating a record high number of customers since the passage of Chapter 14 has been successful."

Moreover, the Commission reported that for Philadelphia Gas Works (PGW), which was the only natural gas utility to ***decrease*** the number of disconnections: "The analysis of the various collections data shows a dramatic pattern of improvement for PGW since the passage of Chapter 14. PGW has outperformed its peer companies in terms of the magnitude of this improvement. . .Significantly, PGW stands out for decreasing the number of terminations by 21.1% while improving collections performance since the passage of Chapter 14, including a 27.0% decrease in its gross residential write-offs ratio."

SERVICE DISCONNECTIONS FOR NONPAYMENT OFTEN DO MORE HARM THAN GOOD FROM THE PERSPECTIVE OF PROTECTING THE FINANCIAL INTERESTS OF THE UTILITY AND MINIMIZING RATES TO CUSTOMERS.

A utility cannot assume that the termination of service for nonpayment is the best mechanism available to minimize nonpayment and maximize payment, particularly amongst inability-to-pay customers. Indeed, using the disconnection of service as a collection tool can be counter-productive to the Company's own self-interest (and that of its ratepayers) in a variety of circumstances. In particular, using the disconnection of service as a collection mechanism is counter-productive in those instances where non-payment is attributable to an inability-to-pay rather than to an unwillingness to pay.

A study FSC prepared for the federal fuel assistance (LIHEAP) office (within the U.S. Department of Health and Human Services) found that when a customer is faced with a nonpayment disconnection, all too frequently, the customer is faced with an immediate need (*i.e.*, bill payment by a date certain) with the available constructive responses to an inability-to pay unable to deliver assistance either in the form, the time period, or the magnitude necessary to meet that need. Given the immediate consequences of failing to address the short-term nonpayment crisis, the customer is pushed into negative actions.

Bad choices might include, but are certainly not limited to, borrowing money (thus increasing their future financial burdens, making future nonpayment even more likely), forgoing the payment of one essential service (e.g., rent) to pay another essential service (e.g., utilities) (again, leading to increased future bill payment obligations with an increased likelihood of future default), running from their obligations (which not only leaves the obligation outstanding, but imposes its own series of increased costs), and the like.

The Division's insistence on a reliance on service disconnections as a collection tool ignores these lessons. Rather than helping to resolve the nonpayment problem, the service disconnections place customers in the position where they will time-and-again be faced with similar future problems. The consequences yield not only adverse results to the customer, but yield adverse results to the utility seeking to use disconnections for nonpayment as a collection device.

EVEN IF CHANGES IN WRITE-OFFS AND ARREARS OCCUR, THOSE CHANGES WILL NOT BE CHARGED TO RATEPAYERS WITHOUT CONSIDERING CHANGES IN TOTAL COSTS AND REVENUES.

National Grid cannot appropriately consider changes, if any, in its level of write-offs and/or arrears on a stand-alone basis in considering the financial impact –either to itself or to its ratepayers-- of restrictions on the Company's authority to terminate service for nonpayment. For example, the ban on single-issue ratemaking recognizes that even should one factor increase, other factors may be changing at the same time that mitigate what impact the change might have on whether the Company is earning its allowed rate of return. An increase in the level of one type of expenditure may well be accompanied by a decrease in the level of other expenditures.

The Company's total level of expenses, in other words, cannot be determined by looking simply at the consequences of the activity of shutoffs, but must be determined by looking at the total mix of revenues and expenses experienced by the Company. It is inappropriate to assert that changes in a single line-item of expenses will result in either increased or decreased rates to consumers of National Grid. Utilities are not guaranteed the complete recovery of any particular line-item expense.

A review of the "FERC Form 1s" filed by National Grid (d/b/a Narragansett Electric Company) documents that both revenues and expenses vary –sometimes widely—on a year-to-year basis. Five years of data (2011 through 2015) document the fact that revenues and expenses increase and decrease independently of each other.

The two expenses perhaps most directly related to an inquiry into the impacts of restrictions on disconnections to medically needy customers are the changes in the level of receivables and uncollectible accounts. Receivables for Narragansett Electric show considerable variability. Rather than reporting the absolute level of receivables, the Form 1 reports the change ("net increase")[10] in the level of receivables from the prior year. Narragansett showed an increase in receivables from 2010 to 2011 of nearly $61 million, with annual decreases the following three years totaling nearly $99.5 million. In 2015, net receivables again increased, by roughly $13.5 million. These changes in receivables can be construed to impose differing costs on the utility. If nothing else, when a utility does not collect billed revenue from its customers, it must replace that cash with borrowings. That borrowing has a cost associated with it, called "working capital."[11]

Uncollectibles for Narragansett Electric show such variability as well. Uncollectibles decreased by $2.5 million from 2011 to 2012, before increasing substantially through 2014 ($11.949 million). The amount of written-off revenue recognized by the Company as uncollectibles then decreased again substantially in 2015 ($11.607 million).

Moreover, the National Grid Form 1 reported that changes in expenses were considerable even for line-items that a person might normally think of as not necessarily being substantial.

- Standing alone, for example, "office supplies and equipment" increased by nearly $2.6 million from 2011 to 2012, before decreasing nearly $11.5 million from 2012 to 2013. Expenditures on "office supplies and equipment" then increased by more than $5.3 million from 2013 to 2014, and another $4.9 million from 2014 to 2015.

- Similarly, administrative and general salaries had multi-million dollar changes from year-to-year, not always in the same direction. In three years (2011 to 2012, 2013 to 2014, and 2014 to 2015), administrative and general salaries increased (by $4.3 million, $2.665 million and $1.322 million respectively), while in the other year (2012 to 2013), the same line item decreased (by $5.134 million).

- Even expenses that Narragansett classified simply as "miscellaneous expenses" (distribution and operation) bounced around from year to year. These "miscellaneous expenses" (distribution and operation) decreased $1.4 million and $1.3 million (in 2011 to 2012 and in 2012 to 2013); decreased more than $3.5 million (from 2014 to 2015); and increased $3.3 million (from 2013 to 2014).

- Similarly, "miscellaneous general expenses" for Narragansett Electric decreased by more than $1.5 million from 2011 to 2012, before steadily increasing over the next three years (2012 to 2013: $1.462 million; 2013 to 2014: $654,639; and 2014 to 2015: $904,878 million).

It simply cannot be said that rates to consumers will increase or decrease based on an increase or decrease in any single specific line-item. Different line-items of revenues and expenditures substantially change, both up and down, from

[10] A negative net increase means that receivables have decreased.

[11] Even if the utility does not borrow to replace unpaid revenue, there is a working capital expense because the cash would have been available to invest and generate a return to the Company. Either way, in other words, there is an expense.

year-to-year. Ratemaking involves undertaking a comprehensive review of the *total* expenditures and the *total* revenues to determine whether National Grid is earning a reasonable return.

THE DISCONNECTION OF SERVICE IMPOSES SUBSTANTIAL HUMAN AND COMMUNITY COSTS.

In contrast to the lack of financial harm to the Company and its customers arising from a continuation of the temporary restriction on utility shutoffs to medically-needy customers, considerable human and community costs will arise from failing to continue the restrictions on the disconnection of service as a collection technique. Considerable research indicates that an increase in the number of disconnections for nonpayment will come at the cost of:

- Increasing homelessness;
- Increasing forced household mobility;
- Decreasing educational attainment amongst kids;
- Increasing forced evictions;
- Decreasing the availability of cold weather heating service;
- Increasing property damage, injury and death through fires;
- Increasing the rate and severity of illnesses;
- Increasing the rate and severity of hunger and nutritional inadequacy;
- Increasing employment displacement and lost wages.

These human and community costs should be balanced against the costs, if any, to ratepayers arising from shutoff restrictions protecting medically needy customers.

Summary

For FSC's complete analysis of the ratemaking impact of the Rhode Island cold weather protection rules for medically needy customers, including all of the data presented and analyzed, please write:

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Fisher, Sheehan and Colton, Public Finance and General Economics (FSC) provides economic, financial and regulatory consulting. The areas in which *FSC* has worked include energy law and economics, fair housing, affordable housing development, local planning and zoning, energy efficiency planning, community economic development, poverty and telecommunications policy, regulatory economics, and public welfare policy.