


Staff Briefing Papers

Meeting Date	October 21, 2021	Agenda Item 6**
Company	All rate-regulated gas and electric utilities	
Docket No.	E,G-999/CI-20-375	
	In the Matter of an Inquiry into Actions by Electric and Natural Gas Utilities in Light of the COVID-19 Pandemic Emergency.	
Issue	What action should the Commission take on Minnesota Housing Finance Agency's clarified request filed on September 23, 2021, to provide disconnection protections for RentHelpMN applicants who have applied for assistance to address utility arrears?	
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 Relevant Documents	Date
Order, Commission	May 26, 2021
Minnesota Housing Finance Agency, Letter	September 9, 2021
Commission, Notice of Comment	September 9, 2021
Dakota Electric, Comments	September 10, 2021
Public Comment, ACER2	September 14, 2021
Public Comment, KRAMER VFMN	September 14, 2021
Community Mediation Minnesota, Comments	September 15, 2021

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

 **Relevant Documents**

	Date
Citizens Utility Board, Energy Cents Coalition, Legal Services Advocacy Project, and Home Line, Comments	September 15, 2021
Joint Utilities, Comments	September 15, 2021
Pillsbury United Communities, Comments	September 16, 2021
Department of Commerce, Division of Energy Resources, Comments	September 17, 2021
Minnesota Housing Finance Agency, Letter	September 23, 2021
Public Comment, Common Bond Communities	September 24, 2021
Public Comment, MN Housing Partnership	September 24, 2021
Public Comment, New Hope Church	September 24, 2021
Commission, Notice of Comment	September 27, 2021
Joint Consumer Advocate, Comments	October 4, 2021
Joint Utilities, Comments	October 4, 2021
Department of Commerce, Division of Energy Resources, Comments	October 4, 2021

I. Statement of the Issue

What action should the Commission take on Minnesota Housing Finance Agency's clarified request filed on September 23, 2021, to provide disconnection protections for RentHelpMN applicants who have applied for assistance to address utility arrears?

RentHelpMN is a federal program administered by the Minnesota Housing Finance Agency that helps tenants who are behind on rent and has a utility bill assistance component.¹

II. Background

The Commission's May 26, 2021 order in this docket established disconnection protections for applicants of specified assistance programs in Order Point 5:

5. The Commission prohibits disconnections of customers with past due balances who have a pending application or have been deemed eligible for LIHEAP/EAP assistance for the duration of the transition period (April 30, 2022).

On September 9, 2021, the MHFA filed a letter requesting that the Commission deem pending and approved RentHelpMN applications the same as LIHEAP (Low-Income Home Energy Assistance Program) applications and prohibit disconnection for these customers.

RentHelpMN is federal assistance administered by the MHFA that makes it possible for eligible renters to catch up on overdue rent and utilities dating back to March 13, 2020. In addition to LIHEAP, some utility customers are taking advantage of RentHelpMN assistance to pay their utility bills; however, without a specific finding by the Commission, customers with RentHelpMN applications for assistance may be subject to utility disconnections even during the Cold Weather Rule period if the utility service does not affect their primary heat source.

On September 9, 2021, the Commission opened a comment notice asking parties to respond to MHFA's proposed solutions and revised request.

On September 15, 2021, comments were filed by Consumer Advocates², Community Mediation Minnesota (CMM), Violence Free Minnesota (VFM), African Career, Education and Resource Inc. (ACER), a group of utilities³ and Dakota Electric Association.

CMM, VFM, and ACER all voiced support for the inclusion of MHFA's RentHelpMN program in the Commission's May 26, 2021 Order for protection of utility disconnection until April 30, 2022. Likewise, the Consumer Advocates and utilities are also supportive of extending disconnection protection to applicants to the RentHelpMN program, but concerns were

¹ RentHelpMN Webpage: <https://www.mnhousing.gov/renthelpmn-dashboard>

² Consumer Advocates include the Citizens Utility Board of Minnesota (CUB), the Legal Services Advocacy Project (LSAP), the EnergyCents Coalition (ECC) and HOME Line.

³ The Joint Utilities include CenterPoint Energy Minnesota Gas, Greater Minnesota Gas, Xcel Energy, Great Plains Natural Gas, Minnesota Energy Resources Corp, Minnesota Power, and Otter Tail Power Company.

highlighted related to the ability of utilities to verify applicants to MHFA's program and timely communication surrounding applications and payments.

On September 16, 2021, Pillsbury United Communities filed public comments in the record supporting MHFA's request.

On September 17, 2021, the Department of Commerce, Division of Energy Resources (the Department), filed a letter generally agreeing that RentHelpMN applicants should be protected from disconnection and requested MHFA to address the extent to which program applicants may already be protected through other avenues and the processes by which it will provide utilities with the information necessary to protect RentHelpMN applicants and participants from disconnection, and how MHFA notifies applicants of other assistance such as LIHEAP and the protections of the Cold Weather Rule (CWR).

On September 23, 2021, MHFA filed a letter to clarify their request, included in part below, and responded to concerns brought forward by the parties and the Department of Commerce. Staff included their short-term solutions as **Attachment A** to the briefing papers.

Minnesota Housing would like to clarify that our request to suspend disconnections is meant to be for RentHelpMN applications where the applicants have applied for assistance to address utility arrears. We also would like to clarify that our request is meant to suspend utility disconnections through April 2022 only while the applicant has a pending RentHelpMN application. If the customer has a RentHelpMN application that has been resolved by either being denied or having the past due balances paid, we do not intend to limit credit activities for that renter through April 2022.

On September 24, 2021, public comments supporting MHFA's request were submitted in the docket by Common Bond Communities, Minnesota Housing Partnership, and New Hope Church.

On September 27, 2021, the Commission issued a comment notice seeking reactions to MHFA's solutions and whether they meet stakeholder and utility needs to provide RentHelpMN disconnection protections.

On October 4, 2021, Comments were filed by Joint Consumer Advocate, Joint Utilities, and the Department of Commerce.

III. Public Comments

On September 24, 2021 public comments were filed by Community Mediation Minnesota (CMM), Violence Free Minnesota (VFM), and African Career Education and Resource Inc. (ACER) that were later followed by Pillsbury United Communities on September 16, 2021 and Common Bond Communities, Minnesota Housing Partnership, and New Hope Church filed on September 24, 2021.

All of the public comments were in support of providing disconnection protection to RentHelpMN applicants. The comments came from organizations, housing providers, and field partners of RentHelpMN that shared their knowledge of the challenges that many renters are currently facing as a result of the COVID-19 pandemic and the effects seen within their communities and “the relief that low-income Minnesotans urgently need during this pandemic.”⁴

“For most [RentHelpMN] applicants, an average of 3 months passes between filing their application and their initial application review. Because of this long waiting period, many applicants have one or more of their utilities disconnected by the time their application review has begun. Applicants who have their utilities disconnected frequently resort to borrowing money from friends, family, or financial lenders who charge exorbitantly high interest rates—leading to an exacerbation of the renter's financial issues. Even more troublesome, the health and safety of the renters [and their children, in some cases] is also jeopardized because without access to electricity or gas, they are unable to do basic functions like cook or protect themselves from harsh weather conditions.”⁵

“Besides such issues, having one's utilities disconnected is demoralizing, frightening, and frustrating.”⁶ In some situations, lack of electricity can also result in a limitation of a victim/survivor's ability to access resources in within their community to keep themselves and their children safe.⁷

IV. Parties' Comments

The Consumer Advocates echoed the consensus expressed among the parties while focusing on the issue that remains before the Commission in their October 4, 2021 comments:⁸

...the primary issue the Commission, MHFA and the utilities must collectively confront is not whether utilities should suspend disconnections for customers with pending or approved RentHELPMN applications (it seems all parties agree suspension of disconnections is warranted under these circumstances), but rather how to facilitate such consumer protections when the utilities cannot easily determine which of their customers have applied for RentHELPMN assistance.

Uncertainty of Program Mechanics

⁴ Comments, Community Mediation Minnesota (September 15, 2021).

⁵ Public Comment, African Career, Education, and Resource Inc (September 14, 2021). Public Comment, New Hope Church (September 24, 2021).

⁶ Public Comment, African Career, Education, and Resource Inc (September 14, 2021).

⁷ Public Comment, Violence Free Minnesota (September 14, 2021).

⁸ Consumer Advocates, Comments at 1 (October 4, 2021).

The Joint Utilities⁹ in their comments filed October 4, 2021, shared concerns “that the program [RentHelpMN] does not have adequate mechanisms in place to ensure exemptions are properly granted. These processes and verifications are still in their infancy, with prospective or aspirational solutions proposed that would take considerable time and resources to put in place.”¹⁰ Similar to the Joint Utilities, the Consumer Advocates shared that “it seems unlikely that MHFA and the utilities will have the time and resources to establish an automated process (similar to processes used to flag LIHEAP applicants) that allows the utilities to quickly identify RentHELPMN applicants and divert those applicants to a different collections or account review process. Though we understand it may be impractical, if not impossible, to establish a more efficient, automated process, we think it is important for MHFA to continue to work with utilities to make that manual process as efficient as possible.”¹¹

The Utilities stated “MHFA’s proposal is not concrete and would take considerable time and effort to define and expedite. If the goal is customer protection from disconnections, these protections already exist for the vast majority of customers via the existing Cold Weather Rule protections, which began on October 1 and continue through April 30, 2022 – the same timeframe MHFA is requesting.”¹²

The Utilities remain “committed to working collaboratively on solutions and methods that will improve the transparency of the program and its delivery of aid to utility customers. However, as mentioned in the Joint Utility filing submitted on September 15, 2021, the MHFA program does not have the same steps, infrastructure, or processes that LIHEAP/EAP has established over time to maximize the program verifications and delivery.”¹³ The Utilities also noted they had lead time to prepare and consider how to comply with the requirements of Order Point 5 before it was in effect, which afforded them the ability to adapt processes and system programming.¹⁴

Believing Order Point 2 and the CWR will provide customer protections during this transition period, the Utilities do not believe the Commission should modify Order Point 5 with the current state of the RentHelpMN program and believe it would be impractical.¹⁵

The Consumer Advocates also noted the uncertainty with MHFA’s solutions given the current reality that they – as well as the Commission’s CAO and the utilities – are providing support to numerous customers so they remain connected. “We continue to receive calls from consumers

⁹ Dakota Electric Association joined the utilities in the second filing made on October 4, 2021. Utilities include Dakota Electric Association, CenterPoint Energy Minnesota Gas, Greater Minnesota Gas, Xcel Energy, Great Plains Natural Gas, Minnesota Energy Resources Corp, Minnesota Power, and Otter Tail Power Company).

¹⁰ Joint Utilities, Comments at 3 (October 3, 2021).

¹¹ Consumer Advocates, Comments at 3-4 (October 4, 2021).

¹² Joint Utilities, Comments at 3 (October 3, 2021).

¹³ Joint Utilities, Comments at 2 (October 3, 2021).

¹⁴ Joint Utilities, Comments at 2 (October 3, 2021).

¹⁵ Joint Utilities, Comments at 3 (October 3, 2021).

facing disconnection, or who have been disconnected for days or weeks already, who are awaiting RentHELPMN assistance. The MFHA should implement its proposed short-term solutions as soon as possible in order to ensure utilities are able to understand which of their overdue customers have applied for and/or been deemed eligible to receive RentHELPMN assistance.”¹⁶

Applications and Payment Disbursements

The Consumer Advocates expressed concerns about how utility payments are being disbursed and the time in processing. “It is our understanding that RentHELPMN payments are currently being delivered to utilities by paper check, with one check issued for each utility customer deemed eligible for RentHELPMN assistance.”¹⁷ To put this into perspective, the Consumer Advocates referenced information from MHFA’s RentHelpMN Dashboard (staff updated to current numbers from October 12, 2021): MNFA has received 49,602 applications requesting \$302.58 million in assistance, \$16.4 million of which was specifically for utility payments.¹⁸ Many applicants will apply for assistance to help pay for several utility bills, which means a very inefficient process of multiple paper checks to be cut, mailed, and processed. The Consumer Advocates recognize the challenge before us and also understand that MHFA did not have time to plan the administration of such a large program.¹⁹ A suggestion offered was to require MHFA to “consider proactively providing a daily report to utilities of customers *approved* for RentHELPMN that day. This will enable utilities to ensure such customers are protected from disconnection while having some certainty that payments for those customers are forthcoming.”²⁰

Reporting

The Utilities suggested MHFA report monthly data in this docket that would include “the number of customers and total utility assistance funds pending and paid until the program ends or reporting under this docket concludes, whichever is earlier.”²¹ This information “provide important visibility into the magnitude and timing of program disbursements and how it correlates with current assistance programs.”²²

Noted in the paragraph above, the Consumer Advocates suggested that MHFA provide daily reports to utilities of customers *approved* for RentHelpMN to enable customer protections from disconnection as there is some certainty that payments for those customers are forthcoming. **(Please See Decision Option 4)**

¹⁶ Consumer Advocates, Comments at 3 (October 4, 2021).

¹⁷ Consumer Advocates, Comments at 4 (October 4, 2021).

¹⁸ MHFA, RentHelpMN Submitted Application, www.mnhousing.gov/renthelpmn-dashboard (October 12, 2021).

¹⁹ Consumer Advocates, Comments at 4 (October 4, 2021).

²⁰ Consumer Advocates, Comments at 4 (October 4, 2021).

²¹ Joint Utilities, Comments at 4 (October 3, 2021).

²² Joint Utilities, Comments at 4 (October 3, 2021).

A side issue that surfaced was how RentHelpMN payments should be recognized as part of existing monthly CWR reporting where utilities must report dollars received by energy assistance programs, such as LIHEAP, and dollars received from other sources.²³ The Utilities noted “more details to work through to ensure Cold Weather Rule reports are updated accordingly going forward.”²⁴

Recommendations: New Order, RentHelpMN Applications, and Next Steps

The Consumer Advocates stated that “all of the MHFA’s plans to communicate with utility companies are prospective, we do not believe that amending or issuing an order will, in and of itself, secure” protections and believe “there are challenges unique to the RentHELPMN application process that are not present in the LIHEAP/EAP application process.”²⁵ “If the Commission determines that an order is appropriate, *we recommend that the Commission issue a new order rather than amending its May 26, 2021 Order...* will provide more flexibility to address issues unique to RentHELPMN applicants that do not necessarily apply to consumers who have a pending application or have been deemed eligible for LIHEAP/EAP assistance” (emphasis added).²⁶

Meanwhile, the Utilities believe the best path forward for those in need may be to focus on outreach efforts and expediting RentHelpMN applications and payments.²⁷ Referring to the May 27, 2021 order²⁸ requiring utilities to notify customers of assistance, the utilities plan to coordinate with RentHelpMN to ensure they have the correct messaging and will further promote RentHelpMN, along with other existing assistance programs.

Related to moving forward, the Consumer Advocates posed a matter to the parties and the Commission: “whether customers who experienced a disconnection prior to applying for RentHELPMN (and prior to the CWR period) should be *reconnected* upon submitting a RentHELPMN application, or upon being deemed eligible to receive RentHELPMN assistance.”²⁹ Based on their experiences, the Consumer Advocates are hearing about customers not being able to make even partial utility payments and therefore not staying current on payment plans,

²³ Joint Utilities, Comments at 4 (October 3, 2021).

²⁴ Joint Utilities, Comments at 4 (October 4, 2021).

²⁵ Consumer Advocates, Comments at 3 (October 4, 2021).

²⁶ Consumer Advocates, Comments at 3 (October 4, 2021).

²⁷ Joint Utilities, Comments at 3 (October 4, 2021).

²⁸ Order Point 7 of the Commissions May 26, 2021 Order:

Utilities shall notify customers of available energy assistance programs and how to apply for assistance, including, but not limited to the Low-Income Home Energy Assistance Program (LIHEAP).

²⁹ Consumer Advocates, Comments at 5 (October 4, 2021).

which means they would lose CWR protections.³⁰ The groups believe “it would be in the public interest to require utilities to reconnect disconnected customers while their RentHELPMN payment is being processed.”³¹

Finally, in its October 4, 2021 comments, the Department provided next steps to sort out some of the issues when it recommended “that the Commission grant MHFA’s request to have applicants to the RentHelpMN Program who are seeking assistance with past due utility bills protected from disconnection through April 30, 2022 conditioned upon MHFA agreeing to do the following:

- Include contact information for the Commission’s Consumer Affairs Office for questions about Cold Weather Rule protections, and the Energy Assistance Program service providers for information about and applications to EAP;
- Work with parties to develop the reporting process and format, and identify how that information will be provided to utilities, and to provide progress reports every 30 days, until the process is fully operational; and
- Designate a contact person(s) to respond to utilities, Consumer Advocates, the Department and the Commission’s Consumer Affairs Office;”³²

The Consumer Advocates shared support on the Department’s first and last recommendations.³³

V. Staff Analysis

As noted above, all parties are supportive of extending disconnection protections to applicants to the RentHelpMN program. However, concerns remain on MHFA’s ability to provide necessary information, communication, program administration, and payment disbursements.

Staff agrees that Cold Weather Rule will protect many customers from disconnection and some could be within RentHelpMN’s applicant pool. However, a utility customer is not protected by CWR and remains vulnerable where they are an electric-only customer and electricity is not their heat source. Or, as shared by the Consumer Advocates, if a ratepayer is delinquent on a CWR payment plan and then applies for RentHelpMN and has back-owed rent. In these instances, there is an opportunity for disconnection. MHFA’s request would protect customers in these and related situations. In other words, as we know, CWR alone has narrower protections when compared to the CWR plus the Commission’s protections set out in the May 26, 2021 order. This is an important consideration for the Commission.

³⁰ Consumer Advocates, Comments at 5 (October 4, 2021).

³¹ Consumer Advocates, Comments at 5 (October 4, 2021). Consumer Advocates noted that RentHelpMN’s utility assistance is only available if the applicant also has back owed rent. If a utility customer focuses on paying their rent, they would be ineligible for the utility assistance.

³² Department of Commerce, Comments at 3 (October 3, 2021).

³³ Consumer Advocates, Comments at 5 (October 4, 2021).

As of the filing of these briefing papers, the record does not show MHFA's response or ability to meet the Department's recommendation. Staff suggests the Commission inquire with MHFA as to whether these are feasible and then consult with the utilities.

Staff is in agreement with the Consumer Advocate's review that the Commission would not modify an existing order but would write a new order. Therefore, staff drafted **Decision Option 1** to offer the protections MHFA is seeking.

Staff appreciates the Joint Utilities highlighting the issue of how RentHelpMN payments should be recognized in monthly CWR reporting. After consulting with the Commission's Consumer Affairs Office (CAO), staff and CAO determined that tracking may not be necessary as utilities did not report similar utility assistance from MHFA's COVID-19 Housing Assistance Program (CHAP). Requiring or including this in CWR reporting would be inconsistent. However, staff and CAO are open to its inclusion and the data it would offer. Given that RentHelpMN is a temporary program and not regarded as a long-term solution to utility assistance, providing a separate data point in the CWR monthly report could have benefit. Utility assistance is estimated at \$16.4 million out of the current applications as of October 13, 2021. Parties, CAO, and the Commission may see indicators and corollaries of the RentHelpMN assistance if filed distinctly. Staff is cognizant that it would require tracking and, in some cases, backtracking another assistance source in an already challenging environment. **(Please See Decision Option 3)**

Finally, there is appreciation for MHFA's efforts in continuing the discussion towards a shared goal among the parties and working together to find solutions. There remain areas where the Commission must hear from MHFA:

1. Whether MHFA is able to communicate and provide information as outlined by the Department (see pages 3-4 of the briefing papers);
2. the timeline of implementing these items;
3. Ability and capacity to report informational items in this docket (please see decision options 5 and 6)

Staff recognizes there are unresolved matters. Though staff provided decision options below, the Commission should not feel obligated to make a decision today. Staff also understands that conversations are continuing and perhaps some of the necessary information will be shared at the October 21, 2021 Agenda Meeting. The hearing provides an opportunity for discussion.

VI. Decision Options

1. Approve Minnesota Housing Finance Agency's request to provide disconnection protections for RentHelpMN applicants who have applied for assistance to address utility arrears conditioned upon MHFA being able to do the following:
 - a) Include contact information for the Commission's Consumer Affairs Office for questions about Cold Weather Rule protections, and the Energy Assistance Program service providers for information about and applications to EAP;

- b) Work with parties to develop the reporting process and format, and identify how that information will be provided to utilities, and to provide progress reports every 30 days, until the process is fully operational; and
 - c) Designate a contact person(s) to respond to utilities, Consumer Advocates, the Department and the Commission's Consumer Affairs Office (*Department*)
2. Determine whether a customer who experienced a disconnection prior to applying for RentHelpMN (and prior to the CWR period) should be:
 - a) reconnected upon submitting a RentHelpMN application
 - OR-
 - b) upon being deemed eligible to receive RentHelpMN assistance
3. Require utilities to record RentHelpMN assistance received in the 'other' category in their monthly CWR reports and provide a narrative or footnote when there are several sources in the same category. (Methods to be discussed and determined in 1b.)
4. Delegate authority to the Executive Secretary to approve the reporting process, format, and other implementation issues.

Other Proposals

5. Request MHFA provide daily reports to utilities of customers *approved* for RentHelpMN to enable customer protections from disconnection. (*Consumer Advocates*)
6. Request Minnesota Housing Finance Agency to file monthly data in Docket No. 20-375 that includes the number of customers and total utility assistance funds pending and paid until the program ends or reporting under this docket concludes, whichever is earlier. (*Joint Utilities*)

m Attachment A: MHFA Addresses Party Concerns

Source: MHFA Comments filed September 23, 2021

Concerns with RentHelpMN Processing of Applications - Long waiting period between RentHelpMN application and utility payment

In the short term, we plan to continue to hire processing staff including more with a specific focus on customer service to help answer questions and potentially troubleshoot specific applications. Over the longer term, we will explore options to work more closely with utility providers to verify pay due bill amounts.

MHFA's Communication with Utilities on Program and Application/Payment Status

In the short term, we plan to increase communication via more regular updates to our website and social media. We also recognize the need for a dedicated pathway for utilities to communicate with RentHelpMN staff. As such we are open to creating a dedicated RentHelpMN utility email address for utilities to use for specific issues. If beneficial, we will also organize a regular check-in call for utilities similar to what the Department of Commerce hosts for the LIHEAP program. Over the longer term, we will consider potential solutions to provide more direct and timely information for utility providers on specific applications.

Lack of an Established Portal or Standardized Process that Utilities can Access for the RentHelpMN Program

In the short-term, Minnesota Housing plans to provide regular data to the utilities including at a minimum: applicant name, customer account number, customer address, RentHelpMN application status, and utility amount request as input by the applicant. This data will be provided to each regulated utility individually every week. Over the longer term, we will consider providing this data more often and to a greater number of utilities including municipal and cooperative utilities throughout the state.

Data Privacy and Data Security Issues

In the short-term, Minnesota Housing will utilize Box.com or a similar secure online platform to share data directly with utilities about their customers. In the longer term, we will consider if and how utilities can provide data back to Minnesota Housing in order to help verify customer bills and expedite application processing and payment. This would likely require data sharing agreements and additional consent of applicants and will likely vary by utility provider.