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REPLY TO:
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July 1, 2020

Via E-Mail and U.S. Mail

The Honorable Bettie J. Parker, Mayor
Mr. Rich Olson, City Manager
City of Elizabeth City
P.O. Box 347
Elizabeth City, NC 27907-0347

Re: Request for Waiver of Executive Order Nos. 124 and 142

Dear Mayor Parker and City Manager Olson:

This letter responds to Elizabeth City's reply to our June 30, 2020 letter. Based on our understanding of Elizabeth City's reply, it appears to describe an effective alternative to Executive Order 142. Described below is our understanding of how the hardship language proposed by Elizabeth City would work in practice. The text below responds to the city's letter by making changes to provisions 3 and 5 in our June 30 letter. We have also made a clerical change to provision 1(a).

The Attorney General, as authorized by the Governor under Section 1(J) of Executive Order No. 124 and Section 2(A) of Executive Order No. 142, grants Elizabeth City a conditional waiver of the provisions of Section 1 of Executive Order No. 124 and Section 2 of Executive Order No. 142.

The executive orders require that if the Attorney General grants a waiver, he shall "order an effective alternative." E.O. 124 § 1(J), as extended by E.O. 142 § 2(A). As a result, the above-listed provisions of Executive Order Nos. 124 and 142 are waived only if Elizabeth City complies with the following conditions:

- 1) Payment plans for customers with an overdue balance.
 - a) Each customer who has an overdue balance will be given the opportunity to sign an individualized payment plan.
 - b) Elizabeth City's customer service representatives will work to develop a repayment plan that would divide amounts in arrears so that, each month, the customer pays less than \$100 plus the current month's bill.

- c) If necessary because of a customer's financial circumstances, Elizabeth City will give customers more than twelve months to repay amounts in arrears.
- d) Any customers who are given the opportunity to sign an individualized payment plan, but refuse, would be put into the standard plan under Executive Order No. 142 that divides the amount in arrears over six months.

2) Referral to community assistance agencies.

- a) Elizabeth City will refer all customers who are eligible to the Low Income Home Energy Assistance Program (LIHEAP), to the Salvation Army, to DSS Crisis Assistance, to the United Way Community Care Collaborative, and to any other agencies that could help pay overdue balances.

3) Hardship exception.

- a) If a customer represents, under penalty of perjury, that he or she:

- (1) Is not employed and unable to receive unemployment benefits; or
- (2) Has contracted COVID-19; or
- (3) Has had an immediate family member contract COVID-19,

then that customer will be exempted from being disconnected for unpaid balances that became due in the time period March 31 to July 29, 2020.

- b) A customer who qualifies under provision (a) will be asked to set up an individualized payment plan, but will not be disconnected for the failure to pay any amounts that became due from March 31 to July 29, 2020 until the earliest of the following three dates:

- (1) 90 days after the person has become employed on a full-time basis or has begun to receive unemployment benefits;
- (2) 30 days after the person has recovered from COVID-19; or
- (3) January 1, 2021.

- c) A customer who qualifies under provision (a) will not be charged late fees for his or her failure to pay overdue balances in the month of July 2020.

4) Late fees.

- a) The city shall not charge late fees for the failure to pay overdue balances in the time period from March 31, 2020 to June 30, 2020. However, the city may charge late fees for the failure to pay overdue balances before March 31 and after June 30.

5) Limitation on general fund transfers.

- a) Until January 1, 2021, Elizabeth City shall make no transfers from the city's electric utility fund into the city's general fund. We understand that you have already temporarily paused these transfers.

Please confirm that Elizabeth City will follow the conditions stated in this letter. This waiver will become effective when you send your confirmation.

Please contact us if you have any questions.

Sincerely,



Blake Thomas
Deputy General Counsel

cc: William H. Morgan, City Attorney, Elizabeth City
William C. McKinney, General Counsel, Office of the Governor
Drew Elliot, ElectriCities
Mike Colo, Poyner Spruill LLP, Counsel for ElectriCities
Swain Wood, General Counsel, N.C. Department of Justice
Kevin Anderson, Director, Consumer Protection Division, N.C. Department of Justice