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State Regulators Erred by Allowing Washington Gas to ‘Self-Certify’ Green Marketing Campaign, People’s Counsel Tells Court

BALTIMORE – The Maryland Public Service Commission erred by not addressing Washington Gas’s messages on customer bills claiming that natural gas is “clean” and a “smart decision for the environment and your wallet,” the Office of People’s Counsel said [in a court filing](#) last week. OPC’s filing, in Circuit Court for Montgomery County, was part of its appeal of the Commission’s dismissal earlier this year of OPC’s complaint alleging Washington Gas was engaging in deceptive green marketing—known as “greenwashing.”

“Washington Gas’s marketing deceives customers about the environmental attributes of natural gas and seeks to induce customers into making long-term investments that in many cases are contrary to their own economic interests,” said People’s Counsel David S. Lapp. “Washington Gas has a state-granted monopoly. Its customers must trust state regulators to protect them from misleading messages entering their homes through their utility bills. Unfortunately, in this case, the Public Service Commission has broken that trust.”

OPC’s court filing explains that Washington Gas’s marketing makes broad and unqualified statements regarding the environmental and cost attributes of natural gas—statements that could mislead consumers into making economically significant decisions detrimental to their long-term interests. The marketing message makes a blanket claim, for example, that natural gas “cost[s] 1/3 less than electric”—a statement that is untrue under many circumstances today and even less likely to be

true in the future. Customers making decisions to replace furnaces, stoves, or water heaters—appliances with long service lives—based on this claim, may wind up spending significantly more money in the long run.

Earlier this year, the Commission denied OPC’s complaint about the marketing campaign without ever addressing whether the marketing was consistent with the utility’s obligations under the public utilities law. That law requires utilities to operate in the public interest and directs the Commission to consider state environmental policy, which favors electrification of residential housing. Rather than address Washington Gas’s marketing, the Commission accepted the utility’s argument that it can “self-certify” its marketing claims. The Commission’s decision unlawfully denied OPC—the state’s statutory representative of residential customers—the ability to meaningfully challenge the utility’s marketing as unlawfully deceptive, the filing said.

“The effect of the Commission’s action is to authorize Washington Gas to regulate its own marketing,” Lapp said. “That cannot be—and is not—the law. An important part of the Commission’s job is to make sure utilities are not using customer bills to deceive captive utility customers.”

The Maryland Office of People’s Counsel is an independent state agency that represents Maryland’s residential consumers of electric, natural gas, telecommunications, private water and certain transportation matters before the Public Service Commission, federal regulatory agencies and the courts.

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