ORDER NO. 90455

Impacts of COVID-19 Pandemic on Maryland's Gas and Electric Utility Operations and Customer Experiences	* * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND __________ PC53 __________

Issue Date: December 28, 2022

ORDER ON COVID-19 EMERGENCY MEASURES

1. On August 31, 2020, the Maryland Public Service Commission adopted several consumer protection measures in response to the COVID-19 coronavirus pandemic.[1] On November 10, 2022, the Commission held a legislative-style hearing to discuss evidence and argument pertaining to the June 1, 2022, request of Baltimore Gas and Electric Company ("BGE"), Potomac Electric Power Company, Delmarva Power & Light Company (together "PHI"), The Potomac Edison Company, Washington Gas Light Company, Columbia Gas of Maryland, and Southern Maryland Electric Cooperative (collectively, the "Utilities") to lift the remaining August 2020 pandemic-related customer protection requirements.

2. After consideration of the arguments and evidence presented, and for the reasons described herein, the Commission directs that the Commission's remaining pandemic-

[1] On its own motion, the Commission adopted measures: extending the moratorium on utility service terminations, invalidating previously sent service termination notices, extending the notice requirement for service termination to 45 days, setting minimum repayment terms, waiving down payment and deposit requirements, and establishing provisions for negotiating payment plans.

related customer protections shall be lifted effective April 1, 2023. The arrearage reporting requirements of PC53 shall continue until further notice.

Background

3. On March 5, 2020, Maryland entered a state of emergency in an effort to control and prevent the spread of COVID-19. On March 16, Maryland Governor Lawrence Hogan, Jr. issued an Executive Order that prohibited Maryland utilities[2] from terminating residential service for Maryland customers and charging late fees (the "Governor's Moratorium").

4. On July 8, 2020, the Commission initiated PC53 to assess the impact of COVID-19 on Maryland utilities and ratepayers – including accumulated arrearages, service terminations, and other financial and administrative challenges – and to explore potential regulatory actions to mitigate those impacts. On August 27 and 28, 2020, the Commission held legislative-style hearings on these topics. The hearings primarily focused on the accumulation of ratepayer arrearages during the disconnection moratorium and due to COVID-19.

5. After multiple extensions, the Governor's Moratorium officially expired on August 31, 2020. Also on August 31, and in order to transition from the Moratorium in a controlled manner, the Commission issued orders from the bench (the "August 2020 Orders") that

> (1) utilities may not engage in service terminations and or charge late fees until October 1, 2020, and any notices of termination for residential accounts sent before October 1, 2020, are invalid;

[2] Including some utilities outside of the Commission's jurisdiction.

(2) a public service company must give notice at least 45 days before terminating service on a residential account;[3]

(3) structured payment plans offered by public service companies to residential customers in arrears or unable to pay must allow a minimum of 12 months to repay, with that period extending to 24 months for customers certified by the Maryland Office of Home Energy Programs ("OHEP") as low-income;

(4) prohibited any public service company from collecting or requiring down payments or deposits as a condition of beginning a payment plan by any residential customer; and

(5) prohibited any public service company from refusing to negotiate or deny a payment plan to a residential customer receiving service because the customer failed to meet the terms and conditions of an alternate payment plan during the past 18 months.

6. On February 15, 2021, the Maryland General Assembly enacted the Recovery for the Economy, Livelihoods, Industries, Entrepreneurs, and Families Act ("the RELIEF Act"), allocating $83 million in utility arrearage forgiveness, to be administered by the Commission. On June 15, 2021, after receiving stakeholder comments and holding a hearing, the Commission issued Order No. 89856, directing the dispersal of the RELIEF Act funds. As part of that Order, the Commission also extended the effective date of the August 2020 Orders indefinitely, except for item 1, which was specifically re-instituted and extended until the latter of November 1, 2021, or 30 days after the date when all RELIEF Act funds have been applied to customer arrearages.

7. On June 1, 2022, the Utilities filed a Joint Request that the Commission lift certain of the August 2020 Orders and end the associated quarterly and monthly reporting requirements.

[3] Except where Commission regulations do not require notice of termination.

8. After receiving comments from stakeholders, on August 25, 2022, the Commission partly granted the Joint Request – modifying the time periods in items 2 and 3, maintaining item 4 unchanged, and ending item 5 – and announced that it would hold a legislative-style hearing on November 10, 2022, in order to consider the remainder of the Joint Request, and directed the Utilities to file additional analyses regarding (1) termination notice periods, (2) payment plan lengths, and (3) the number of permitted defaults. The Utilities – except WGL and Columbia Gas – filed those analyses between September 28-30, 2022. Responsive comments were filed on October 20, 2022, by the Office of People's Counsel ("OPC") and Commission Staff.[4]

9. On November 10, 2022, the Commission held a legislative-style hearing, during which it received commentary from, and asked questions of the Utilities, OPC, Staff, and the Fuel Fund of Maryland.

Stakeholder positions

A. Utilities

10. In their Joint Request, the Utilities ask the Commission to rescind the remaining requirements of the August 2020 Orders and return to the rules for payment and collections that exist under COMAR. In particular, the Utilities argue that Order 5, requiring utilities to negotiate payment plans with customers who previously failed to meet the terms of a payment plan, has led to a significant increase in customer arrearages during the period when it has been in effect. The Utilities included with their filing a data report showing recent patterns of customer defaults and arrearages. The Utilities argue that the return to

[4] Citations to these filings will be as "OPC" and "Staff," respectively.

the pre-pandemic COMAR standards will encourage customers to repay their arrearages and reduce uncollectible costs – costs that will be borne by all ratepayers.

11. Relatedly, the Utilities also ask the Commission to rescind the annual and quarterly reporting requirements from Order No. 89636, covering the COVID-19 regulatory asset and customer service metrics related to payment plans and arrearages. The Utilities argue that those reporting requirements will no longer be necessary if the Commission grants the Utilities' request to resume normal collection efforts. The Utilities also state that the data is already included in other customer service metric reports made by the Utilities to the Commission.

B. Office of People's Counsel

12. OPC recommends that the Commission maintain the provisions of Order No. 90333 in effect. OPC states that the Utility data provided shows that customers continue to have difficulty making payments and that this reflects the continued economic distress experienced by customers due to the lingering effects of the COVID-19 pandemic and recent economic inflation.[5] OPC states that the Energy Information Agency predicts that heating commodity costs will increase by over 25 percent year-over-year and electricity household expenditures are predicted to be more than 10 percent more.[6] OPC argues that the Commission must consider the economic and social circumstances of the affected customers.[7]

[5] OPC at 3.
[6] *Id*. at 5.
[7] *Id*. at 4.

13. OPC also states that, while application rates at the Office of Home Energy Programs ("OHEP") have gone up from last year, staffing levels have not increased at OHEP, resulting in increased processing times.[8] OPC argues that a return to the COMAR termination period of 14 days would not leave sufficient time for OHEP to make determinations, which risks OHEP funds being used to pay reconnection fees.[9]

14. OPC also recommends the Commission maintain the universal minimum 12-month payment plan approved in Order No. 90333 because it assures that customers are treated in a consistent manner and results in payment plans that are realistic and affordable.[10]

15. OPC also recommends that the Commission maintain its prohibition on utilities requiring down payments and deposits as a condition of beginning a residential payment plan.[11] OPC states that deposits and down payments can create a barrier to establishing a payment plan for low-income households and that government energy assistance programs assure the utility of a payment regardless. OPC alternatively suggests that down payments be limited to the lesser of $100 or 10 percent of the total outstanding arrearage.

16. OPC reiterates its recommendation that the Commission establish a Working Group to review and revise utility billing and collection practices.[12]

C. Commission Staff

17. Staff recommends that the Commission continue the 30-day notice requirement for terminations set in Order No. 90333. Staff states that neither BGE nor PHI have updated

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[8] *Id*. at 7.
[9] *Id*. at 8.
[10] *Id*.
[11] *Id*. at 9.
[12] *Id*.

their systems to incorporate the 30-day requirement, making it impossible to evaluate the effect of that requirement as a driver of arrearages or defaults.[13]

18. Staff states that there is currently insufficient data to support a specific repayment term that would be beneficial to all customers and recommends a return to the standard provided by COMAR 20.31.01.08, granting discretion to the Utilities to set individualized payment plan lengths.[14] Staff states that the utility analyses demonstrate evidence of the inefficacy of extended payment plans, highlighting the elevated default rates for customers on plans exceeding five or six months, though this was not uniform across the Utilities.[15]

19. Staff recommends that the prohibition on requiring down payments or deposits be rescinded, though Staff also recommended that those Utilities that did not provide data regarding down payments be required to substantiate their claims before being granted the requested relief.[16] Staff states that the available utility data indicate that some customers prefer to begin their payment plans with a down payment and that those customers tended to pay a larger total percentage of their arrearages than those who did not provide a down payment.[17]

Commission Decision

20. When the Commission issued its August 2020 Orders, it was with the understanding that they would serve not as a new normal but as a transitional device for bringing utilities and customers back from the extraordinary difficulties experienced during the height of the

[13] Staff at 12-13.
[14] *Id*. at 17.
[15] *Id*. at 13-17.
[16] *Id*. at 20.
[17] *Id*. at 18.

COVID-19 pandemic. Over the months and years that followed, the people of Maryland endured disruptive additional waves of COVID-19 variants. The State of Maryland also provided unprecedented levels of financial assistance to Maryland customers who had accumulated unpaid utility arrearages during the economic shutdown necessitated by COVID-19.

21. Since then, infection rates have fallen, the economy has reopened, and Maryland has entered a new, post-COVID, normal. The data provided by Staff ahead of the most recent legislative-style hearing further confirmed that, while many customers continue to have difficulty paying their utility bills, the extraordinary circumstances of the COVID-19 shutdown appear to have faded.[18] In line with the evidence of recovery, the Commission, in Order No. 90333, took its latest step in the process of transitioning Maryland energy customers back from the temporary protections necessary during the COVID-19 pandemic.

22. The parties to the present Utility motion have proposed three distinct approaches: the Utilities propose an immediate lifting of the August 2020 Orders, Staff proposes another gradual lifting of the August 2020 Orders but with some portions left in place indefinitely, and OPC proposes leaving the August 2020 Orders in place indefinitely while a Commission Working Group develops new regulations.

23. The Commission has carefully considered the various approaches provided in the record and finds a measured return to our COMAR protections is in the public interest. An immediate return to COMAR at the beginning of the heating season would risk unnecessary hardship and place undue strain on already-strained agencies and human service

[18] Staff's October 20, 2022, comments at 5-9 address the progress of Maryland's economy, unemployment rate, and inflation.

organizations, which would not have the time necessary to prepare and educate customers. However, an indefinite continuation of the status quo, would also be unjustified given the recovery of the Maryland economy, the widespread availability of vaccines and other COVID-19 treatment options, and the general shift to COVID-19 as an endemic virus. Although the Commission is sympathetic to the argument raised by OPC that Marylanders with low incomes are struggling with economic headwinds and inflation, the Commission has existing statutory and COMAR protections that strike the appropriate balance between the interests of consumer protection and utility financial health. The Commission therefore directs that the remaining protections that were initiated in the August 2020 Orders, and most recently modified in Order No. 90333, shall be lifted as of April 1, 2023. In the interim, the Commission encourages the Utilities to continue working with state agencies and human service organizations to prepare to serve consumers as necessary.

24. The Commission also declines the suggestion of OPC that the Commission direct a Working Group to begin drafting revisions to the customer protection sections of COMAR. The Commission finds that the evidentiary record, thus far, is unclear on either the necessity or the form of long-term changes to COMAR. The Commission is concerned that, absent clear direction from an evidentiary record, a Working Group tasked with reviewing customer protections would have difficulty reaching consensus recommendations and would ultimately be an inefficient use of resources that are currently allocated to other priorities.

25. Notwithstanding the other conclusions of this Order, the reporting requirements that the Commission continued in Order No. 90333 shall remain in place until further notice. That data is a valuable resource for setting future energy assistance policy and

customer protections in Maryland and should be provided in a uniform, easily decipherable format. The Commission has developed the attached draft template for utilities to use in future reporting and is open to suggestions and comments on how to make standardized reporting more useful while minimizing the burden on utilities. The Commission hereby establishes a workgroup under the leadership of Commission Advisors, Molly Knoll and Brett Sproul, to finalize the draft template and provide any feedback on the existing reporting, and additional or alternative metrics, to ensure the usefulness and uniformity of the dataset going forward.

IT IS THEREFORE, this 28th day of December, in the year of Two Thousand Twenty-Two, by the Public Service Commission of Maryland **ORDERED** that:

(1) the August 2020 Orders, as modified in Order No. 90333, shall be lifted effective April 1, 2023; and

(2) to the extent that any Commission regulations, orders, or tariffs conflict with this order, they are suspended until April 1, 2023.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

/s/ Patrice M. Bubar
Commissioners