

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

IMPACTS OF COVID-19 PANDEMIC	*	
ON MARYLAND’S GAS AND ELECTRIC	*	Administrative Docket
UTILITY OPERATIONS AND CUSTOMER	*	PC53
EXPERIENCES	*	

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**THE OFFICE OF PEOPLE’S COUNSEL’S RESPONSE TO
PC 53 JOINT UTILITY REQUEST**

The Office of People’s Counsel files this response to the request filed on June 1, 2022, by Baltimore Gas and Electric Company, Potomac Electric Power Company, Delmarva Power & Light Company, The Potomac Edison Company, Southern Maryland Electric Cooperative, Washington Gas Light Company, and Columbia Gas of Maryland (collectively, the Joint Utilities) to rescind Motions 2 through 5 that the Public Service Commission adopted on August 31, 2020, and allow a return to payment and collection practices as set forth in the relevant Commission regulations. The Joint Utilities also requested that the quarterly and monthly reporting requirements imposed by Commission Order No. 89636, issued on September 22, 2020, be lifted.¹ The Commission should reject the Joint Utilities’ request and open a docket or establish a working group within this Public Conference to allow utilities and interested parties to consider payment and

¹ Joint Request of the Maryland Investor-Owned and Cooperative Utilities, Administrative Docket PC53, June 1, 2022, at 1.

collection practices in light of the continuing effects of the COVID-19 pandemic and current economic conditions.

BACKGROUND

In response to the health and economic emergency created by the COVID-19 pandemic, the Commission established PC 53, Impacts of COVID-19 Pandemic on Maryland's Gas and Electric Gas Utility Operations and Customer Experiences on July 8, 2020. In Order No. 89575, the Commission incorporated into PC 53 concerns about utility payments and collection actions affecting residential customers due to the economic situation caused by the pandemic.² After review of comments by the utilities, Staff, OPC, and other parties, the Commission on August 31, 2020, adopted Motions 1-5 to modify the utilities' billing, payment, and collection policies to address the economic situation confronting customers.

During the 2021 session the General Assembly enacted the RELIEF Act, which for the first time provided State revenues for energy assistance.³ The Commission on June 15, 2021, allocated the funds the General Assembly provided under the RELIEF Act to assist in bill payments and arrearage reductions for qualified customers. In the Commission's order directing the allocation of funds provided under the RELIEF Act, the Commission suspended Motion 1, the moratorium on collection and termination of

² Case No. 9649, Order No. 89575, July 14, 2020.

³ Recovery for Economy, Livelihoods, Industries, Entrepreneurs and Families (RELIEF) Act, Ch. 39 2021.

service of customers. The Commission retained Motions 2-4 as well as the utilities' reporting requirements.⁴ On June 1, 2022, the Joint Utilities filed the request for the rescission of Motions 2-4 and the reporting requirements. The current obligations the Joint Utilities ask the Commission to end include:

- Motion #2 extends to 45 days the notice period for any service termination by a utility on accounts that serve residential customers.
- Motion #3 sets a 12-month minimum repayment term for any utility-offered structured payment plan for any Maryland residential customer in arrears or otherwise unable to pay and a minimum 24-month repayment period for any customer certified by the Maryland Office of Home Energy Programs as low income.
- Motion #4 prohibits utilities from charging a down payment or deposit as a condition of beginning a payment plan for any current or new residential customer.
- Motion #5 prohibits utilities from refusing to negotiate or denying a payment plan to a residential customer because the customer failed to meet the terms and conditions of an alternate payment plan during the past 18 months.⁵
- Commission Order No. 89636, issued on September 22, 2020, requires the Joint Utilities to submit quarterly reports on the COVID regulatory asset and monthly reporting on customer arrearages.⁶

⁴ Order No. 89856, June 15, 2021, at 15.

⁵ Motion adopted by the Commission, August 31, 2020, at 2-6.

⁶ Order No. 89636, September 22, 2020, at 4-5.

ARGUMENT

I. The Commission should reject the Joint Utilities' request and establish a working group on payment and collection policies.

The Commission should reject the request of the Joint Utilities and open a docket or establish a working group within this Public Conference to allow utilities and interested parties to consider payment and collection practices in light of the continuing effects of the COVID-19 pandemic and current economic conditions. The plight of low-income residential customers originally affected by the COVID-19 pandemic has not been eliminated but instead has expanded to include significant inflationary price increases in basic commodities and essential services. Now is not the time to revert back to pre-pandemic payment and collection policies.

A. The ongoing COVID-19 pandemic and economic factors—including inflation and rising commodity prices—demonstrate the need for customer protections.

The Joint Utilities argue that the lifting of the Governor's Emergency Orders and the disbursement of the RELIEF Act funds justify resuming pre-pandemic payment and collection policies.⁷ However, circumstances both concerning the COVID-19 pandemic and other significant economic factors show that the crisis is not over. Variants of COVID-19 regularly occur despite widespread vaccinations. The economic fallout from

⁷ Joint Request of the Maryland Investor-Owned and Cooperative Utilities, Administrative Docket PC53, June 1, 2022, at 1-2.

the pandemic is causing widespread inflationary price increases in basic commodities and essential services that are impacting customers and businesses.

Contrary to viewing COVID-19 as a past event, the Governor recently released a plan for the State to address COVID-19 as an ongoing operation of State government.⁸ The Governor's effort is in response to expected variants which could lead to potential infection surges or waves. Despite expanded vaccinations, the Governor fully expects COVID-19 to remain a public health threat for some time.

The economic headwinds create additional challenges for customers. According to the Mid-Atlantic Information Office of the U.S. Bureau of Labor Statistics, the Consumer Price Index for All Urban Consumers (CPI-U), which measures price increases for all goods and services, rose 9.1% over the last twelve months in this region. Over the same time period, the subset of the index showed food prices increasing by 11.3%. Energy prices rose 30.5%, including gasoline which rose 39.5 %, over the last twelve months.⁹

Low-income customers have no choice but to pay the increased prices to obtain basic commodities like food. Limited transit options mean that traveling to any job often requires the use of an automobile and refilling the tank with gasoline. Electric vehicles—despite governmental efforts to increase deployment—are largely unobtainable by low-income consumers. With limited financial resources, the inflationary price increases for

⁸ Press Release of Governor Hogan, *Governor Hogan Announces COVID Ready Maryland to Guide Long-Term Preparedness Efforts*, June 9, 2022.

⁹ U.S. Bureau of Labor Statistics, April 2022, https://www.bls.gov/regions/mid-atlantic/news-release/ConsumerPriceIndex_Baltimore.htm).

basic life-sustaining commodities and essential services can create extreme circumstances for these customers.

The continuing impact of COVID-19 has been acknowledged by the Commission and at least one of the Joint Utilities. In a Commission Letter Order on December 22, 2021, Baltimore Gas & Electric received approval for tariff revisions to its electric and gas base distribution offset riders. The Letter Order approved a partial offset of 25% of the incremental 2021 and 2022 electric revenue requirement and 50% of the incremental 2021 and 2022 natural gas revenue requirements as well as accelerated the return of certain tax benefits as an offset.¹⁰ The Commission approved the partial offsets in the form OPC recommended, in recognition of the combined impacts on residential customers from COVID-19 and the emerging significant price increases due to inflation.¹¹ While COVID-19 variants have come and gone and reappeared during the intervening months, the pandemic remains, and the economic distress due to inflationary price increases has worsened.

Delmarva Power & Light's recently filed proposed multi-year rate increase request attests to this finding. Delmarva's witness, Jay Ziminsky explains that Delmarva's filing includes partial offsets to the revenue requirement increases proposed in Case No. 9681. Mr. Ziminsky's rationale for seeking the partial offsets to the revenue requirement

¹⁰ Case No. 9645, Letter Order, December 22, 2021.

¹¹ Case No. 9645 – OPC Comments on BGE Base Distribution Offset Rider Filing – Supplements 673 and 481 (ML 237660) For December 22, 2021, Administrative Meeting, December 20, 2022, at 3-4.

increases is the company's recognition that rate increases are challenging to customers, especially due to the effects of the COVID-19 pandemic. He stated that Delmarva sought to mitigate the effect of the proposed rate increase through the partial offsets.¹²

Given the ongoing State Government operational plan for responding to the COVID-19 pandemic, historically inflationary price increases for basic commodities and essential services, and the recognition by at least some of the Joint Utilities, continuing the policies adopted by the Commission in Motions 2-5—as well as the reporting requirements—is the prudent course of action. Reverting to “business as normal” in payment and collection policies could create another emergency situation requiring Commission action in the foreseeable future. Indeed, given the ongoing pandemic and the dire economic situation low and moderate-income customers in the state face, the Joint Utilities' filing comes as a surprise to OPC, especially given that it was made without any prior consultation with OPC, the statutory representative of the residential customer affected by its motion. Instead of granting the utilities' motion, the Commission should undertake a careful review and examination of the payment and collection policies to adapt those policies to current and potential circumstances.

¹² Case No. 9681, Direct Testimony of Jay C. Ziminsky, at 39. May 19, 2022.

B. The Joint Utilities failed to show sufficient financial harm from the continuation of the Commission’s payment and collection policies.

The Joint Utilities’ request alleges that only one of the Motions 2-4 causes a fiscal impact, but they seek to end the enforcement of all of the Commission’s actions regarding billing and collection actions by the utilities.¹³ Specifically, the Joint Utilities contend that Motion 5—which permits a customer to establish a payment plan even if the customer missed a payment of a prior payment plan—has increased uncollected amounts. Even if there are problems by some customers in maintaining regular payments, that situation should not ordain the elimination of all the Commission’s payment and collection policies.

Overtly punitive measures do not to encourage payment from customers of limited economic resources already burdened by inflationary price increases for basic life commodities. As was discussed in the Joint Utilities’ request, the Governor and the General Assembly recognized the economic resource issue in the enactment of the RELIEF Act to provide, for the first time, state revenues to contribute to the bill payment and arrearage issues of low-income Marylanders.¹⁴ The Joint Utilities have provided no evidence that the policies adopted by Motions 2-4 have caused an increase in arrearages. The Joint Utilities discuss the current fiscal situation resulting from customers missing either one or more payments required under a payment plan. From those contentions they

¹³ Joint Request of the Maryland Investor-Owned and Cooperative Utilities, Administrative Docket PC53, June 1, 2022, at 5-6.

¹⁴ *Id.* at 3-4.

conclude: “Returning to the pre-pandemic utility payment and collections practices will encourage residential customers to pay down their arrearages and also reduce the amount that will ultimately become uncollectible, thus reducing cost impacts to all customers.”¹⁵

OPC disagrees that a return to “pre-pandemic utility payment and collection practices” will reduce uncollectibles and the cost impacts to all customers. Instead, the “temporary” policies—apart from being less punitive than the prior requirements—have aided customers in arranging assistance from government, charity, and other sources. Thus, the extra time provided by the longer termination notice requirement (Motion 2) permits the customer to contact, access, and qualify for assistance from agencies and organizations that even now are not fully operational due to continuing COVID-19 concerns and due to many customers lacking easy electronic options. For example, the Community Action Partnership Centers, which serves as the energy assistance intake entity for Baltimore City where a significant number of affected customers reside, recently announced that as of June 1, 2022, applications for energy assistance as well as other assistance programs are now by in-person appointments.¹⁶ But walk-in applications by customers are not permitted in the Baltimore City offices. Due to staffing issues, telephone applications are difficult for customers to complete successfully, and many low-income customers lack the ability to apply online.

¹⁵ *Id.* at 6.

¹⁶ <https://www.bmorechildren.com/cap-center-appointmentse>.

Motions 3 and 4 allow for payment plans that balance the bargaining positions between the customer and the utility while providing a uniform system of payment plans. The motions also eliminated the unnecessary requirement of deposits or down payments as a precondition of a payment agreement between the customer and the utility. In the past, these financial requirements have been barriers to agreements on paying down customer balances. For customers of limited financial resources, marshalling the upfront down payment or deposit is a significant burden. The Commission's proscribed time frames for payment plans, particularly for low-income customers, have created the opportunity for a more realistic timeframe for payment. In sum, the rules established by the Commission in Motions 3 and 4 created the opportunity for payment plans to be fair to both the customer and the utility.

The Joint Utilities' data regarding the payment plan defaults (see Attachment 1 to the utilities' filing) shows a slight majority of the defaults by all residential customers are for customers who have defaulted only once—88,549 out of the total of 168,335 defaults. An even larger segment of the limited-income customers are one-time defaults—7,383 out of the total of 11,115.¹⁷ These numbers put in perspective the perceived problem of repeated missed payments that the utilities use to justify elimination of all the Commission's payment policies. Since most customers who default on payment plans are

¹⁷ *Id.* at Attachment 1.

defaulting only once, allowing them a second chance results in them paying their bills, including the payment plan—which is additional revenue for the utility and allows the customer to continue service. Given the limited resources of customers, especially low-income consumers now under the stress of inflationary price increases for basic commodities and essential services, a one-time default could be anticipated in the current environment. The Joint Utilities’ proposal would subject those customers to collections activity and possibly service termination. The data indicates that the attention should be focused on those customers subject to multiple defaults. With the low-income customer segment, the reason for multiple defaults most likely is the result of inadequate finances to make the agreed payments in the face of more immediate needs not anticipated when the original payment plan was devised between the customer and the utility. This reflects the changed circumstances affecting these customers whose financial resources are not sufficient to handle large price increases.

In a snapshot of the arrearage data before and after the COVID-19 pandemic, OPC has attached a spreadsheet with information from the Commission website looking at data from BGE. In comparing arrearage figures from March 2019 to March 2022, the 2022 numbers are down in most categories with the exception being non-low-income customers.

Rather than restore across-the-board more punitive payment and collection policies—which most likely impact low-income customers more significantly and

quicker than other customers—a more detailed examination is needed to understand the reasons for the increased arrearages. The 2022 data for low-income customers show that the policies in Motions 2-5 have developed the customer payment actions sought by the Commission. (see Attachment).¹⁸ In the categories related to low-income customers, the number of turnoff notices, turnoffs, and the number of low-income customers with arrearages are lower in 2022 than 2019.

II. The Commission should establish a working group to examine payment and collection policies.

The Commission should undertake a process to examine whether the policies established in Motions 2-5 should be incorporated into the billing, collection, and payment procedures of the utilities on a permanent basis. Reverting back to pre-pandemic payment and collection policies will not result in payment of amounts owed if the resources are not there. While termination of service will stop the accumulating arrearage, it will also expose customers and their families to hardships which can be just as threatening to health and safety during the summer hot weather season as it can be in the winter cold weather season. A review of the circumstances of the low-income customers will yield efforts that can be coordinated among government agencies, charities, and the utilities to address the financial resource problem.

¹⁸ <https://webapp.psc.state.md.us/newIntranet/test/Viewreport.cfm>.

This issue is exactly one for which a work group of interested stakeholders either within the parameters of the PC 53 docket or in newly established docket could analyze a solution. The COVID-19 pandemic has incurred effects on the economy and society that are still unfolding and are only beginning to be understood. The significant inflation, affecting basic commodities and essential services today, was not readily apparent when the economy shut down in the early days of the pandemic. At the beginning of the office and business closures as a result of government emergency shutdown orders, the primary concern was widespread and long-term job losses and economic dislocations. Now, instead, unemployment is historically low while the increased demand for products and services, supply chain issues, and commodity shortages have created price inflation not seen since the 1970's. If the COVID-19 situation has taught policymakers anything, it is that a smooth path to pre-pandemic normalcy is overly optimistic.

The Commission's actions in creating the temporary billing, payment, and collection policies under the COVID-19 emergency call for a reexamination and course correction of those policies for the future. Further, it is quite possible that world events or large economic factors will arise in the near term creating different but similar situations as was faced as a result of the COVID-19 pandemic. A reexamination of the billing, payment, and collection policies will provide an opportunity to create mechanisms and procedures to adopt to address the ongoing emergency and in the event of future emergencies that cause significant bill payment problems for customers. These issues can

be reviewed and discussed by all of the relevant parties, utilities, government, private and public organizations to develop future policies.

CONCLUSION

OPC requests that the Commission deny the request of the Joint Utilities to rescind Motions 2-5 adopted on August 31, 2020, due to the continued impact of the COVID-19 pandemic and the increasing inflationary price increases in basic commodities and essential services. The Commission should also deny the request to end reporting requirements. Instead, the Commission should convene a working group of utility, government, private and public stakeholders either within Public Conference 53 or in separate proceeding to review, analyze and proposed payment and collection policies for the utilities and their customers in light of the current and future conditions. The working group's input may provide the basis for new regulations or policies.

Respectfully submitted,

DAVID S. LAPP
PEOPLE'S COUNSEL

William F. Fields
Deputy People's Counsel

/electronic signature/

Frederick H. Hoover
Assistant People's Counsel
Office of People's Counsel
6 St. Paul Street, Suite 2102
Baltimore, Maryland 21202
Frederick.Hoover@maryland.gov

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 17th day of June 2022, the foregoing “The Office of People’s Counsel’s Response to PC 53 Joint Utility Request” was e-mailed to all parties of record.

/electronic signature/

Frederick H. Hoover
Assistant People’s Counsel
Office of People’s Counsel
6 St. Paul Street, Suite 2102
Baltimore, Maryland 21202
(410) 767-8150

OPC ATTACHMENT

BGE

Year	Month	Number of Non-LI Residential Turn-Off Notices	Number of Low Income Turn-off Notices	Number of Non-LI Residential Customer Turn-Offs	Number of Low Income Customer Turn-Offs	Number of Non-LI Residential Reconnections	Number of Low Income Reconnections	Number of Non-LI Residential Customers with Arrearages	Number of Low Income Customers with Arrearages	<u>Gross Amount of Non-LI Residential Customers Arrearages(\$)</u> 1	<u>Gross Amount of Low-Income Customers Arrearages(\$)</u> 1
2019	3	112,437	12,471	3,015	685	2,368	556	116,596	17,063	37,706,634	6,973,096
2022	3	68,095	5,121	2,651	327	1,886	265	125,703	9,523	73,038,646	5,306,942