

**ORDER NO. 91239**

Office of People’s Counsel’s Petition  
Requesting an Emergency Order to  
Protect Utility Customers from Extreme  
Heat

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BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND

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Case No. 9745  
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**Issue Date: July 23, 2024**

**ORDER ON REQUEST FOR HEAT EMERGENCY MORATORIUM**

On June 18, 2024, the Office of People’s Counsel (“OPC”) filed a Petition with the Commission stating that weather forecasts call for record-breaking heat in summer 2024, and requesting an emergency order prohibiting utility companies from shutting off service to residential customers until September 15, 2024 (or in the alternative, requiring shutoffs be accompanied by an affidavit affirming that the shutoff does not pose a threat to health or safety).<sup>1</sup>

On June 21, 2024, the Commission noted the matter for comment by initiating Case No. 9745. The Commission received comments from the City of Hagerstown Light Department<sup>2</sup> (“Hagerstown”), Columbia Gas of Maryland<sup>3</sup> (“Columbia”), Washington Gas Light Company<sup>4</sup> (“WGL”), Maryland Energy Advocates Coalition<sup>5</sup> (“MEAC”), Southern

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<sup>1</sup> Maillog No. 310339 (OPC “Petition”).

<sup>2</sup> Maillog No. 310495.

<sup>3</sup> Maillog No. 310509.

<sup>4</sup> Maillog No. 310510.

<sup>5</sup> Maillog No. 310517.

Maryland Electric Cooperative<sup>6</sup> (“SMECO”), The Potomac Edison Company<sup>7</sup> (“Potomac Edison”), and Baltimore Gas and Electric Company, Delmarva Power & Light Company, and Potomac Electric Power Company (together, the “Exelon Utilities”).<sup>8</sup> OPC filed reply comments.<sup>9</sup>

### **Stakeholder Comments**

#### **1. OPC’s Initial Petition**

In its Petition, OPC requested that the Commission issue an order prohibiting utility companies from shutting off residential customers’ electricity service from mid-June to September 15, 2024, or in the alternative, require any residential electric customer shutoffs be accompanied by an affidavit stating that the shutoff does not pose a threat to health or safety. OPC additionally requested that “heat index,” in addition to temperature, be incorporated into restrictions on service terminations.<sup>10</sup> OPC also requested that the Commission temporarily require utilities to waive fees and deposits for customers who wish to reconnect between now and September 15, 2024.

In support of its Petition, OPC cited to news articles predicting record heat this summer, which could have serious adverse health risks for Marylanders without access to

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<sup>6</sup> Maillog No. 310519.

<sup>7</sup> Maillog No. 310521.

<sup>8</sup> Maillog No. 310528.

<sup>9</sup> Maillog No. 310615.

<sup>10</sup> “Heat Index” is defined by the National Weather Service as what the temperature feels like to the human body when relative humidity is combined with air temperature.

<https://www.weather.gov/ama/heatindex#:~:text=The%20heat%20index%2C%20also%20known,sweat%20to%20cool%20itself%20off.>

cooling.<sup>11</sup> OPC argued that existing protections<sup>12</sup> are inadequate because they do not account for the impact of humidity when determining the existence of an extreme weather period and because they only look at a 72-hour period and do not account for temperature fluctuation during the summer months.

OPC stated that it is not requesting a change in COMAR requirements but rather an emergency order under the Commission’s general authority to supervise and regulate utilities in the interest of the public.

## **2. The Utilities**

The utilities (Hagerstown, Columbia, WGL, SMECO, PE, and the Exelon Utilities) filed largely identical comments. They opposed the imposition of a moratorium, arguing that it would lead to large unpaid arrearages because customers would be incentivized not to pay their bill at all. They argued that the existing customer protections in COMAR are adequate to protect customers during heat emergencies. In so arguing, some utilities noted the additional 45-day period before termination for customers who have applied for energy assistance funding, and the effects of Order No. 91202,<sup>13</sup> which added 15 days to any termination notice given to customers that were denied energy assistance funds between April 17, 2024 and June 30, 2024. The utilities also argued that, if the Commission issues an order providing a moratorium on disconnections, then the Commission should allow the utilities to utilize a regulatory asset to recover utility costs associated with the moratorium.

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<sup>11</sup> See e.g., OPC Petition at 2, n. 5, citing “Health officials urge Marylanders stay cool this summer; report first 2024 heat death,” Maryland Matters, June 6, 2024, <https://marylandmatters.org/briefs/health-officials-urge-marylanders-stay-cool-this-summer-report-first-2024-heat-death/>.

<sup>12</sup> Particularly Code of Maryland Regulations (“COMAR”) 20.31.01.02, which looks at a 72-hour period for any period of 95 degrees or above.

<sup>13</sup> *Re The Commission’s Request for Comments Related to the Exhaustion of Funding for the Maryland Energy Assistance Program*, slip op. (Jun. 18, 2024).

Although most utility commenters were electric utilities, some gas utilities also commented. WGL argued that it has identified only 15 residential accounts exceeding 100 therms in a summer month, none of which are currently in arrears, and asked that any order not apply to WGL, absent any cause to believe WGL customers are at risk. Columbia similarly requested that any restrictions be limited only to gas service that is used for cooling if the customer has notified the gas utility of that usage.

### **3. MEAC**

MEAC supported OPC's proposal to use heat index in addition to temperature in determining whether there exists a heat emergency. MEAC also supported OPC's proposal to waive all deposits, late fees, and reconnection fees this summer, in order to encourage reconnections.

MEAC recommended that utilities increase their communications with customers ahead of a potential termination, especially for medically vulnerable households.

MEAC opposed the imposition of a moratorium on disconnections. MEAC argued that moratoriums are bad for customers because they encourage customers to simply not pay at all, resulting in large unpaid balances. MEAC instead supported an increase in the notice period before a termination. Currently, COMAR 20.31.02.05C provides: "The utility shall send a notice of termination to the customer at least 14 days before the date on or after which termination will occur." MEAC recommended that this be increased to 45 days, through September 15, 2024.

#### 4. OPC Reply

In its Reply, OPC argued that a limited moratorium, unlike the longer moratorium issued by the Commission in response to the COVID-19 pandemic in PC53, would be too short to build up large arrearages.<sup>14</sup>

OPC requested that the Commission consider, as an alternative to moratorium, MEAC's proposal to extend the termination notice requirement.

OPC argued that, while long term permanent rule changes require rulemaking, a short-term emergency action is within the Commission's broad statutory powers to address public safety and act in the public interest.

OPC argued that regulatory asset treatment of utility costs is not necessary, given the brief moratorium period requested. If the Commission should approve a regulatory asset, OPC requests that the Commission specify that the asset is for tracking purposes only, so that costs can be addressed in the utility's next rate case.

#### **Commission Decision**

Public Utilities Article ("PUA"), *Annotated Code of Maryland*, § 2-112 grants the Commission the specific and incidental powers to carry out its functions.<sup>15</sup> PUA § 2-113 requires the Commission to supervise and regulate public service companies to ensure their operation in the public interest, and in doing so – consider public safety. In consideration of OPC's Petition and the comments filed by the utilities and MEAC, the Commission

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<sup>14</sup> Public Conference 53, *Impacts of COVID-19 Pandemic on Maryland's Gas and Electric Utility Operations and Customer Experiences*.

<sup>15</sup> See e.g., *Md. Ann. Code*, Pub. Util. Art., § 2-112(a)(1), which provides "to the full extent that the Constitution and laws of the United States allow, the Commission has jurisdiction over each public service company that engages in or operates a utility business in the State."

finds that the forecasted record high heat in summer 2024 represents a risk to public health that justifies temporary emergency relief.

In addressing this matter, the Commission is concerned that the existing protections, which were designed to protect utility customers in a historical summer environment, may be inadequate to protect customers during repeated heat waves. Moreover, low-income customers—in particular—should be provided adequate time to avail themselves of available energy assistance, and likely need additional protection to avoid disconnection during periods of prolonged high temperatures.

As discussed in Order No. 91202, the Commission is also mindful of the long-term risks of a termination moratorium.<sup>16</sup> The Commission also appreciates the concerns raised by the utilities regarding the costs of compliance with new procedures – costs that will inevitably fall on ratepayers.

Therefore, as an emergency action incidental to its supervisory authority to ensure the public interest and to consider public safety pursuant to PUA §§ 2-112 and 2-113, the Commission temporarily modifies the “at least” 14-day termination of service notice requirement in COMAR 20.31.02.05C and hereby directs the electric utilities to add an additional 16 days to any termination notice given to electric service customers before termination for non-payment. This emergency directive shall end on September 1, 2024.

The Commission finds that the remaining issues raised by OPC would be better addressed at a rulemaking. Therefore, the Commission will initiate a rulemaking proceeding addressing service terminations, including the possibility of incorporating heat

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<sup>16</sup> Citing the Fuel Fund of Maryland’s comments, the Commission noted that “a moratorium on disconnections can create a barrier for low-to-moderate-income households in their ability to gain control over their bills due to rising arrearages following the conclusion of the moratorium.” Order No. 91202 at 10.

index. The rulemaking notice addressing comprehensive service termination reforms will be forthcoming.

**IT IS, THEREFORE,** this 23<sup>rd</sup> day of July, in the year Two Thousand Twenty-Four, by the Public Service Commission of Maryland, **ORDERED:**

(1) that Maryland electric utilities shall add an additional 16 days to any service termination notice given to customers before termination of service for non-payment; and

(2) that this emergency directive shall end on September 1, 2024.

*/s/ Frederick H. Hoover, Jr.*  
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*/s/ Michael T. Richard*  
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*/s/ Kumar P. Barve*  
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*/s/ Bonnie A. Suchman*  
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Commissioners