

BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND

**IN THE MATTER OF THE PETITION OF
THE OFFICE OF PEOPLE'S COUNSEL
REQUESTING AN EMERGENCY ORDER
TO PROTECT UTILITY CUSTOMERS
FROM EXTREME HEAT**

CASE NO. _____

**PETITION OF THE OFFICE OF PEOPLE'S COUNSEL REQUESTING
AN EMERGENCY ORDER TO PROTECT UTILITY
CUSTOMERS FROM EXTREME HEAT**

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Dated: June 18, 2024

**PETITION OF THE OFFICE OF PEOPLE’S COUNSEL REQUESTING
AN EMERGENCY ORDER TO PROTECT UTILITY
CUSTOMERS FROM EXTREME HEAT**

Pursuant to Section 2-204 of the Maryland Public Utilities Article (PUA), the Maryland Office of People’s Counsel respectfully requests that the Public Service Commission enter an emergency order that protects residential utility consumers during the expected record-breaking summer 2024 heat.¹

Specifically, OPC requests that the Commission issue an order prohibiting utility companies from shutting off service between now and September 15, 2024, or, in the alternative, that requires any shut offs to be accompanied by an affidavit affirming that the shut off does not pose a threat to health or safety. In addition, OPC requests that heat index, in addition to temperature, be incorporated into restrictions on terminations, and that the Commission require the utility to temporarily waive fees and deposits for customers who wish to reconnect between now and September 15, 2024.

ARGUMENT

This past summer we saw some of the hottest days on record —and yet 2024 is still expected to bring record heat to much of the United States.² It is not even officially summer yet, and a dangerous heat wave is expected to hit parts of Maryland later this week, which is predicted to bring “extreme” heat risks.³ An “extreme” heat risk means

¹ See, for example, Axios, “Sizzling oceans tee up record-shattering summer for U.S.,” May 16, 2024, <https://www.axios.com/2024/05/16/record-hot-summer-2024-us-la-nina>

² *Id.*

³ “A dangerous heat wave is coming. Here’s when and where it’ll be the worst,” *The Baltimore Banner*, June 17, 2024, https://www.thebaltimorebanner.com/community/climate-environment/weather/extreme-heat-maryland-pets-plants-safe-MVNWY7BNOVBYPEQM5H45LF2QOQ/?schk=YES&rchk=YES&utm_source=The+Baltimore+Bann

that the entire population is at risk for adverse effects due to heat—and for those without access to cooling, the heat can be deadly.⁴ Already this year, Maryland has reported its first heat death, and experts are warning Marylanders to take precautions and practice heat safety measures in advance of the hot summer months.⁵

Extreme heat is the leading cause of weather-related deaths.⁶ Hot temperatures are especially dangerous to young children, older adults, and those with a wide range of medical conditions that make them more susceptible to the heat.⁷ In addition, low-income households are often disproportionately affected by heat due to poor housing conditions and lack of access to cooling mechanisms during the summer.⁸ Low-income households are also at the highest risk for utility shut offs during the hot summer months. Access to cooling in the summer is therefore both a health issue and an equity issue.

Current protections for Maryland households against shut offs during the summer months are insufficient, due to both the process utility companies use to determine shut off dates, and by the sole use of temperature—without accounting for humidity—as the

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⁴ *Id.*

⁵ “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/>

⁶ See FEMA, “*Department of Homeland Security Offers Community Leaders New Resources to Prepare for Extreme Temperature Events as 17 States Experience Record-Breaking Heat*,” August 25, 2023, [https://www.fema.gov/press-release/20230825/department-homeland-security-offers-community-leaders-new-resources-](https://www.fema.gov/press-release/20230825/department-homeland-security-offers-community-leaders-new-resources-prepare#:~:text=Heat%20remains%20the%20no.,effects%20threaten%20our%20critical%20infrastructure.)

[prepare#:~:text=Heat%20remains%20the%20no.,effects%20threaten%20our%20critical%20infrastructure.](https://www.fema.gov/press-release/20230825/department-homeland-security-offers-community-leaders-new-resources-prepare#:~:text=Heat%20remains%20the%20no.,effects%20threaten%20our%20critical%20infrastructure.)

⁷ Centers for Disease Control, “*Extreme Heat and Your Health*,” February 15, 2024, <https://www.cdc.gov/extreme-heat/about/index.html>

⁸ World Health Organization, “*Heat and Health*,” May 28, 2024, <https://www.who.int/news-room/factsheets/detail/climate-change-heat-and-health>

determining factor for service termination restrictions. Utility companies are restricted from shutting off a customer’s cooling service when the temperature is 95 degrees Fahrenheit or above during an “extreme weather period.”⁹ An “extreme weather period” is currently defined as a 72-hour period, any time during which the temperature is expected to be 95 degrees or above.¹⁰ Using this definition, utility companies consider a three-day forecast, and if during the next three days, the temperature is expected to reach 95 degrees or above, the utility company cannot terminate on that day. The following example shows that the 3-day forecast is not sufficient.

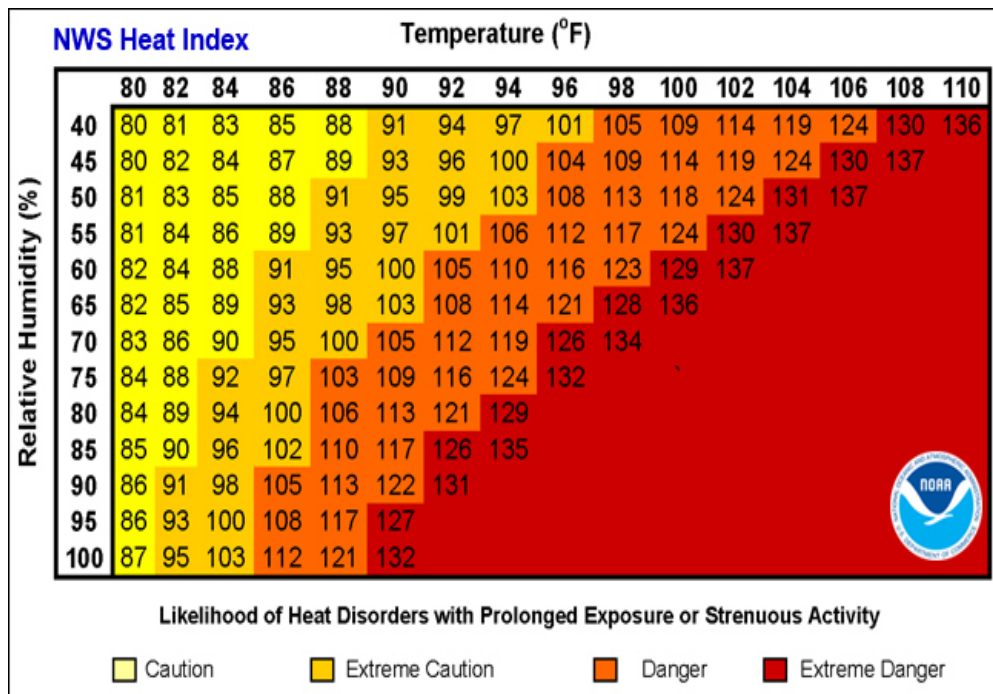
Monday	Tuesday	Wednesday	Thursday	Friday
95	88	94	94	100

In this example, the utility cannot terminate on Monday (looking at M-W), but it can terminate on Tuesday (looking at T-Th). If a household was terminated on Tuesday, those living there will be without access to cooling on Friday when the temperature is expected to be 100 degrees. Clearly, the current system does not provide adequate protection, as it does not consider temperature fluctuation during the summer months.

Current protections are also insufficient because they rely on temperature, not heat index. The heat index, also known as the apparent temperature, is what the temperature feels like when humidity is combined with the air temperature.¹¹ As demonstrated in the

⁹ Md. Code Regs. 20.31.03.04.
¹⁰ Md. Code Regs. 20.31.01.02 (9).
¹¹ National Weather Service, “*What is the Heat Index?*”, <https://www.weather.gov/ama/heatindex#:~:text=%22It's%20not%20the%20heat%2C%20it's,combined%20with%20the%20air%20temperature.>

chart below from the National Weather Service, temperature alone is not sufficient in determining if the weather poses a threat to health.



Even if the temperature is below 95 degrees, the temperature combined with the relative humidity can pose a serious health risk. The National Weather Service warns that a heat index of 90 degrees Fahrenheit or above poses serious risks with prolonged exposure.¹³

In addition to the predicted excessive heat for summer, service terminations have reached astronomical numbers that coincide with substantially rising rates for many of the State’s utility customers. In 2023, BGE shut off service for almost 80,000 residential customers—over 10,000 of whom were identified as low income.¹⁴ The predicted

¹² *Id.*

¹³ National Weather Service, “Heat Index Chart”, <https://www.weather.gov/ffc/hichart>

¹⁴ Maryland Public Service Commission, “Baltimore Gas and Electric Company Residential Termination and Arrearage Report for 2023,” <https://webapp.psc.state.md.us/newIntranet/test/nonreportsat.cfm?Compid=9&year=2023&month=All>

excessive heat of summer 2024, combined with a high number of service terminations, poses serious health and safety risks for thousands of Marylanders.

OPC—separately from this petition—is considering filing a petition for a rulemaking on terminations that would address the risks of extreme heat during the summer in a more permanent way. The present urgency, however, given the projected heat this week and the above-average—potentially record-breaking—temperatures predicted for summer 2024, demands immediate Commission action.

OPC is aware that the Commission cannot change COMAR requirements with an emergency order; OPC therefore is recommending that the Commission issue an emergency order that expands upon the safeguards provided under COMAR and provides customers with additional protections during summer 2024. The Commission has general authority to “supervise and regulate” utilities to ensure their operation “in the interest of the public,” which requires consideration of the “public safety.”¹⁵ Further, public service companies are mandated to furnish service that is “safe.”¹⁶ These provisions provide the Commission with ample authority, based on current weather and predictions for this summer, to provide emergency relief to Maryland utility customers facing potential terminations during these hot summer months.

¹⁵ PUA § 2-113.

¹⁶ PUA § 5-303.

CONCLUSION AND REQUEST FOR RELIEF

Rising temperatures and heat indexes pose a serious threat to the health and safety of residential utility consumers. The Commission should act immediately to increase the protections afforded during the summer months. While current regulations do provide some summer protections (such as the 95-degree temperature threshold), these regulations are a floor, not a ceiling.¹⁷ The Commission may adopt additional restrictions that are more protective of consumers.¹⁸ The Commission can and should act immediately to protect households this summer by limiting the power of utilities to shut off cooling services during the upcoming hot summer weeks. OPC offers the following framework for a Commission emergency order:

1. A utility may not terminate service because of nonpayment, for any customer occupying a residential building, from now until September 15, 2024.

In the alternative, the Commission should issue an order to require:

2. that a utility may not terminate service because of nonpayment until September 15, 2024, unless the utility first certifies to the Commission, by an affidavit filed at least 24 hours before the termination, that the termination does not constitute a threat to the life or health of the residential occupants. The affidavit shall include:

¹⁷ Md. Code Ann., Pub. Util. § 7-307.1 (b).

¹⁸ Md. Code Ann., Pub. Util. § 7-307.1 (d).

- a. The name of the customer whose service is to be terminated and the address of the premises involved;
- b. That the customer has been notified both in writing and by personal contact, if made, of the customer's rights and remedies as stated in COMAR 20.31.02.06G and has been informed of possible sources of financial assistance and the availability of alternate payment plans and the Utility Service Protection Program offered by the utility;
- c. The dates on which contact with the customer or an adult member of the household was made or attempted;
- d. If personal contact was made, that the utility asked the customer or an adult member of the household if the customer or an occupant of the premises is an older adult, person with a disability, seriously ill, or relies upon life-support equipment, and if the response was in the affirmative, that the utility offered the customer a payment plan and notified the customer of the customer's right to submit a medical certification pursuant to COMAR 20.31.03.01;
- e. The reason for the termination;
- f. Whether the customer is a participant in the Utility Service Protection Program, an energy assistance program offered by the Department of Human Resources' Office of Home Energy Programs (OHEP), or is a recipient of benefits under a limited-income mechanism pursuant to MD Code, Public Utilities, § 4-309;

- g. Whether the customer claims an occupant of the dwelling unit is an older adult, person with a disability, seriously ill, or dependent upon the use of life-support equipment and, if so, that the utility has complied with the provisions of COMAR 20.31.03.01 and .02;
- h. That the amount of the arrearage for which termination is sought is greater than \$500 for a single service utility or \$700 for a dual service utility and the total amount due is greater than the amount of the customer's deposit with the utility; and
- i. That a copy of the affidavit has been forwarded to OHEP and the local administering agency, if the customer has been certified to the utility as eligible for OHEP Assistance.

In addition to provision 1 (or 2 in the alternative), OPC requests that the Commission issue an order to require that:

- 3. Utility companies may not, under any circumstance except for those required for safety reasons:
 - a. terminate service for residential customers on a day for which the temperature made for the utility's weather station area for that customer at 6 a.m. is 95 degrees Fahrenheit or above, in that weather station area during an extreme weather period.
 - b. terminate service for residential customers on a day for which the heat index forecast made for the utility's weather station area for that

customer at 6 a.m. is 90 degrees Fahrenheit or above in that weather station area during an extreme weather period; and

4. Utility companies, from now until September 15, 2024, must consider an “extreme weather period” to mean a period of 120 hours beginning at 6 a.m. on any given day composed of five consecutive 24-hour segments during any one of which the temperature or heat index is predicted to reach or exceed the limits noted in 3 a. and b. above; and
5. Utility companies must temporarily waive, until September 15, 2024, reconnection fees and deposits for any residential customer whose service has been terminated and, if service was cancelled due to an outstanding bill, offer the customer a payment plan of up to 12 months in length for the outstanding arrearages.

Respectfully submitted,

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