

ORDER NO. 88438

IN THE MATTER OF THE REQUEST OF
BALTIMORE GAS AND ELECTRIC
COMPANY FOR APPROVAL OF A PREPAID
PILOT PROGRAM AND REQUEST FOR
WAIVERS OF COMAR AND COMMISSION
ORDERS

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9453

Issue Date: October 25, 2017

On April 21, 2017, Baltimore Gas and Electric Company (“BGE”) filed with the Public Service Commission of Maryland (“Commission”) an application to commence a prepaid billing pilot program (“Prepaid Pilot”).¹ The Commission issued a Notice of Hearing and Request for Comments and received and reviewed written comments filed by Baltimore Mayor Catherine Pugh;² Senator Joanne Benson (District 12);³ Delegates Clarence Lam (District 12),⁴ Pamela Beidle (District 32),⁵ and Antonio Hayes (District 40);⁶ Councilman Eric Costello (Baltimore City);⁷ Councilman Peter Smith (Anne Arundel County);⁸ University of Maryland, Baltimore County (“UMBC”);⁹ Community

¹ ML #214777: Request of Baltimore Gas and Electric Company for Approval of a Prepaid Pilot Program and Request for Waivers of COMAR and Commission Orders (“BGE Initial Filing”).

² ML #216047.

³ ML #215246.

⁴ ML #214833.

⁵ ML #215306.

⁶ ML #215315.

⁷ ML #215327.

⁸ ML #215513.

⁹ ML #215165.

College of Baltimore County (“CCBC”);¹⁰ Downtown Partnership of Baltimore (“DPOB”);¹¹ Cancer Support Foundation (“CSF”);¹² Habitat for Humanity;¹³ Oracle Utilities;¹⁴ Fuel Fund of Maryland (“Fuel Fund”);¹⁵ Community Action Council of Howard County (“CACHC”);¹⁶ Retail Energy Supply Association (“RESA”);¹⁷ the Department of Human Services (“DHS”);¹⁸ the Maryland Energy Administration (“MEA”);¹⁹ the Office of People’s Counsel (“OPC”);²⁰ and the Commission’s Technical Staff (“Staff”).²¹ On August 9, 2017, BGE filed reply comments.²²

On August 23, 2017, the Commission held a legislative-style hearing to review BGE’s proposal and accept oral comments from BGE; RESA; DHS; Fuel Fund; OPC; MEA; and Staff. On August 30, 2018, the Commission received additional filings from BGE, MEA and Staff.²³

On September 8, 2017, the Commission received a Petition to Intervene Out of Time from IGS Energy, Just Energy, Direct Energy, and ENGIE Resources.²⁴ Also on September 8, 2017, the Commission received a Motion to Stay²⁵ filed by RESA; IGS Energy; Just Energy Group, Inc.; Direct Energy Services, LLC; and ENGIE Resources,

¹⁰ ML #215566.

¹¹ ML #215307.

¹² ML #215310.

¹³ ML #215518.

¹⁴ ML #215588.

¹⁵ ML #216156 (“Fuel Fund Comments”).

¹⁶ ML #216197.

¹⁷ ML #216147 (“RESA Comments”).

¹⁸ ML #216158 (“DHS Comments”).

¹⁹ ML #216141 (“MEA Initial Comments”).

²⁰ ML #216161 (“OPC Comments”).

²¹ ML #216162 (“Staff Initial Comments”).

²² ML # 216414 (“BGE Reply”).

²³ ML ## 216680 (“MEA Post-Hearing Comments”); 216683 (“BGE Post-Hearing Comments”); 216686 (“Staff Post-Hearing Comments”).

²⁴ ML #216790 (“Petition to Intervene Out of Time”).

²⁵ ML #216791 (“RESA Motion to Stay”).

LLC. MEA responded to the Motion to Stay on September 25, 2017,²⁶ BGE responded on September 27, 2017,²⁷ the Fuel Fund responded on September 29, 2017,²⁸ and UMBC responded on October 2, 2017.²⁹

After review of the written and oral comments, the Commission grants BGE's request for authorization to move forward with the Prepaid Pilot, subject to conditions included herein. We find that the conditions required in this Order will ensure that the Prepaid Pilot will test an innovative option for customers while providing us, BGE and stakeholders with sufficient information about prepaid billing that will help inform whether a wider rollout of prepaid billing by our utilities and/or other providers might be appropriate in the future. We also believe that the Prepaid Pilot could provide helpful information to third-party suppliers about how a third-party prepaid billing program would function in Maryland. We grant the Petition to Intervene Out of Time and deny the Motion to Stay for the reasons stated below.

I. Background

BGE requested authorization to offer a one-year prepaid billing pilot program.³⁰ The Prepaid Pilot proposal would permit 1,000 electric-only and dual-service customers to receive service by submitting a minimum payment of \$40 in advance of consumption. Customers could add money to their account at any time; the first two payments per month would not include a transaction fee. Customers could access and track their prepaid balance and an estimate of "days remaining" before the account balance reaches

²⁶ ML #216989 ("MEA Response to Motion to Stay").

²⁷ ML #217029 ("BGE Response to Motion to Stay").

²⁸ ML #217149 ("Fuel Fund Response to Motion to Stay").

²⁹ ML #217222 (UMBC Response to Motion to Stay").

³⁰ See generally BGE Initial Filing.

\$0.³¹ Customers would receive regular notifications of “days remaining” and account balance via the customer’s choice of email, text, and/or phone call.

A customer would be remotely disconnected from electric service once the account balance reaches \$0. To restore service, a customer would have to fund the account balance to at least \$15. No late or disconnection fees would apply. Alternatively, a customer could switch back to traditional “postpay” billing at any time. Disconnections would occur during business hours only; the winter moratorium (no termination of service when the temperature forecast at 6:00 am is 32 degrees or below) would remain in effect.

Customers with arrearages would be eligible for the program and would pay off the arrearage over time, with 75% of each payment applied to current service and 25% to the arrearage. The Prepaid Pilot would be limited to customers with a maximum arrearage of \$1,000. Current security deposits would be returned to customers after first retiring pre-existing arrearages. Instead of receiving monthly bills, customers would receive monthly statements with many standard billing notices (e.g. listing of tax/surcharges, information about BGE programs).

Retail choice customers would be permitted to participate. Residences with a medical certification on file, and those participating in net metering or community solar, could not participate. Several COMAR provisions, particularly related to terminations, would need to be waived. BGE did not seek cost recovery at this time but would expect to include costs in a future base rate case.

³¹ Although the “days remaining” balance is an estimate, any \$0 balance determination would be based on an actual end-of-day meter read.

II. Summary of Parties' Positions

Several parties supported BGE's Prepaid Pilot proposal, either as filed or with recommended conditions. Those parties include MEA, Staff, Fuel Fund; Mayor Pugh; Senator Benson; Delegates Lam, Beidle, and Hayes; Councilmembers Costello and Smith; UMBC; CCBC; DPOB; CSF; Habitat for Humanity; Oracle Utilities; and CACHC. DHS wrote that the proposal is "a solid foundation for exploring the viability of prepaid utility service".³² OPC and RESA opposed the Prepaid Pilot proposal.

III. Commission Decision

The Commission believes that a Prepaid Pilot proposal provides a good opportunity to learn about the positives and negatives of implementing a prepaid billing program in Maryland. We were pleased that BGE proposed a program of only 1,000 customers, which will limit costs and the number of customers exposed to a new program. BGE concluded that the pilot size is large enough to produce sufficiently reliable data upon which to evaluate the success of the Prepaid Pilot.

Nonetheless, the Commission cannot accept the Prepaid Pilot as filed, as we see several changes necessary to allow it to move forward. Stakeholders provided numerous recommendations to modify it. We address those areas – and our required modifications, if appropriate – in detail below. Overall, we find that the Prepaid Pilot, as modified, will benefit Marylanders.³³

³² DHS Comments at 1.

³³ We acknowledge the significant number of elected officials that support BGE's proposal.

Arrearage Limit (Staff #1)³⁴

BGE proposed limiting Prepaid Pilot participation to customers with less than \$1,000 in arrearages. Staff acknowledged the importance of having customers with arrearages in the program but recommended limiting the maximum arrearage amount to \$500. Staff reasoned that a customer with an average utility bill and an arrearage of \$500 could pay off the entire arrearage within the 12 months of the Prepaid Pilot, and that a \$500 arrearage limit would reduce the likelihood of inducing customers who might be subject to frequent undesired disconnects.³⁵ In response, BGE stated that a \$1,000 limit would test the pilot's ability to assist high-arrearage customers pay down those balances and that these customers might benefit the most from prepaid service.³⁶ In post-hearing comments, Staff noted that the Prepaid Pilot "should seek to minimize customers experiencing frequent undesired disconnections due to the significant hardship these disconnections can cause."³⁷

We acknowledge these viewpoints and the necessary balance between customer protection, providing customers' with potentially beneficial choices, and gathering data during the Prepaid Pilot. In striking that balance, we set the maximum arrearage amount for Prepaid Pilot participants at \$600. This limit would allow a customer who pays \$50/month toward an arrearage to completely eliminate that balance during the 12 month Prepaid Pilot, while also allowing BGE to collect meaningful data on how the Prepaid Pilot impacts customers with considerable amounts of outstanding arrearages.

³⁴ This numbering coincides with Staff's "Recommended Stipulations" list in Staff Initial Comments at 23-30.

³⁵ Staff Initial Comments at 24-25.

³⁶ BGE Reply at 5.

³⁷ Staff Post-Hearing Comments at 2.

Security Deposit (Staff #2)

The Prepaid Pilot would credit any existing security deposit to the participating customers' account. BGE believes that customers deserve a waiver of current rules regarding security deposits because they are voluntarily choosing to limit their risk of uncollectable bills. However, Staff is concerned that this immediate cash influx might be a major incentive for low and moderate income customers to join the pilot when they would not otherwise be inclined to do so and that "there will be a jump in disconnections when the security deposit credits are 'used up'."³⁸ In addition, Staff states that crediting the security deposit upfront would make it more difficult for customers to switch back to traditional postpay service, as they would need to post a new security deposit. BGE acknowledges Staff's concern but suggests that this pilot program is a reasonable time to find out whether these concerns would materialize and need to be addressed in a full deployment.

We agree with Staff and conclude that the Prepaid Pilot may not credit security deposits to the participating customer's prepaid account. In particular, we share Staff's concern about impeding customers' ability to switch back to traditional postpay service and believe that no longer having a security deposit in place could do just that. Therefore, participating customers may not receive a refund of their security deposits simply because they are participating in the Prepaid Pilot and should be required to follow BGE's current rules regarding security deposits.

³⁸ Staff Initial Comments at 25.

Active Checking Account or Credit Card (Staff #3, #7)

Staff recommended a requirement that Prepaid Pilot participants have an active checking account or credit card on file with BGE, reasoning in part that those participants would be more likely to be able to add funds in a timely manner and have funds already available on a real time basis, reducing undesired disconnections.³⁹ BGE disagrees, challenging the presumption that customers who do not register a checking account or credit card cannot benefit from the Prepaid Pilot and urged that customers paying by other means be permitted to participate.⁴⁰

We reject Staff's recommendation and agree with BGE's proposal to allow Prepaid Pilot participants to pay by means other than a checking account or credit card. We are interested in learning about the different ways that customers will choose to pay and participate in the program. Limiting the approved payment methods would restrict that opportunity to gather relevant data. We reiterate that BGE agreed to allow a customer to request a 5-day extension of service termination,⁴¹ which mollifies our concern that customers who attempt to make a payment would have no recourse to avoid a service termination before that payment is credited to their account. Relatedly, as part of the Prepaid Pilot, we require BGE to track the different types of payment methods used and the different clearing timelines associated with each payment type for analysis during the pilot evaluation.

³⁹ Staff Initial Comments at 25-26.

⁴⁰ BGE Reply at 7.

⁴¹ BGE Reply at 5 (responding to Staff #7).

Autopay Option (Staff #4)

Staff recommended that BGE include an autopay option in the Prepaid Pilot, noting that traditional postpay customers have an autopay option and that other irregularly-timed payments systems, such as the Maryland EZ Pass system, can automatically add funds to a customer's account once it falls below a predetermined balance.⁴² BGE stated that it would explore the feasibility of an autopay option, though it noted that autopay was not typically used by prepay customers in other states.⁴³ We believe that an autopay option would be beneficial to the program, but hesitate to mandate it without further information. Therefore, we require BGE to examine the feasibility of implementing an autopay option for the Prepaid Pilot and report back to the Commission within 90 days.

Service Termination Notification & Disconnection Procedure (Staff #5, #9)

Staff recommended that BGE be required to provide a customer with an alert when a customer's balance reaches zero and when a customer is disconnected.⁴⁴ BGE seemingly accepted this condition.⁴⁵ To the extent that the issue is not clear,⁴⁶ we accept Staff's recommended modification and require that BGE provide separate notice to a customer when a customer's balance hits zero and again when the customer is disconnected.⁴⁷

⁴² Staff Initial Comments at 26.

⁴³ Hearing Transcript at 39.

⁴⁴ Staff Initial Comments at 26.

⁴⁵ BGE Reply at 4.

⁴⁶ Staff Post-Hearing Comments at 6.

⁴⁷ Staff #9 expressed concern about BGE's proposed disconnection procedure and asked that BGE share that procedure with Staff and allow Staff an opportunity for comment. We believe that this issue is best discussed in the stakeholder workgroup established in this Order.

OPC' expressed concern about customer safety, and we acknowledge and share those concerns.⁴⁸ Customer safety is of the utmost importance. We believe that the notifications required by this condition – and a customer's voluntary entry into the Prepaid Pilot itself – provide sufficient warning to customers of a potential service termination. Nonetheless, the Commission requires that BGE provide adequate safety notices to potential Prepaid Pilot customers regarding termination and as a precondition of enrolling them in the program.

Pre-Approved Notification Language (Staff #6)

Staff recommended that the Commission require pre-approval of all notifications and alerts, as well as any customer education and promotion materials, that BGE proposes to use.⁴⁹ In response, BGE suggested that it could share the materials with stakeholders prior to customer distribution, similar to the process in the EmPOWER proceeding.⁵⁰ We agree with BGE's approach and instruct BGE to share all proposed notifications and alerts, customer education and promotion materials, and any other similar customer communication with a stakeholder workgroup led by Commission Staff. Sharing proposed customer communications in advance with a stakeholder workgroup has worked well for EmPOWER and strikes the right balance between stakeholder review and program efficiency.

Required Testing of Alert System (Staff #11)

Staff recommended that the Commission require BGE to test the method of customer alerts that the customer has chosen (e.g. text, email, automated phone call) by

⁴⁸ OPC Comments at 18-22.

⁴⁹ Staff Initial Comments at 26.

⁵⁰ BGE Reply at 4.

requiring an affirmative customer response to the test.⁵¹ Staff notes that Georgia Power requires this step for participation in its prepaid program.⁵² BGE stated that it accepted Staff's request and that it had already intended to verify that customer contact methods were functional.⁵³ We accept this modification, including Staff's recommendation that the customer must affirmatively respond to the test alert.

*Post Pilot Study & Analysis Requirements (Staff #12, #16)*⁵⁴

Staff proposed several changes to BGE's proposed pilot evaluation process. First, Staff recommended that any analysis and comparison of energy consumption between pilot participants and traditional postpay customers must exclude time periods when pilot participants are disconnected, reasoning that "disconnection of service is not conservation and must not be treated as such."⁵⁵ Second, Staff recommended that the Prepaid Pilot evaluation provide separate results for pilot participants with and without arrearages. Third, Staff recommended that BGE measure the energy efficiency and conservation effects of the Prepaid Pilot, in cooperation with stakeholders. Fourth, Staff recommended that the customers in the Prepaid Pilot consist of a representative sample of BGE's customer base – for example, that the proportion of pilot participants with arrearages should match the proportion of overall BGE customers with arrearages – and that BGE be required to show the Commission how it will ensure that Prepaid Pilot participants are indeed representative of the entire customer base. In response, BGE agreed to the first three recommendations but stated that the fourth recommendation – requiring a

⁵¹ Staff Initial Comments at 28.

⁵² *Id.*

⁵³ BGE Reply at 5.

⁵⁴ We discuss additional factors for evaluating pilot programs, including this one, *infra* at 18-19.

⁵⁵ Staff Initial Comments at 28.

representative sample – is inappropriate because “prepaid service ultimately will be chosen by a self-selecting segment of all customers.”⁵⁶ BGE did commit to inviting a statistically representative sample of customers to participate in the Prepaid Pilot.

We accept BGE’s agreement to incorporate Staff’s first three recommendations into its Prepaid Pilot evaluation. Regarding Staff’s fourth recommendation that the Prepaid Pilot contain a representative sample of customers, we generally agree that BGE should strive to find a representative sample and are pleased that it has agreed to invite a representative sample. However, we recognize the difficulty in achieving a representative sample – particularly the complexity in determining what customer attributes to include in determining what sample would truly be “representative”. Thus, we do not set required parameters on the actual composition of Prepaid Pilot customers, with one exception – we require that the Prepaid Pilot contain no more than 40% of low-income customers.⁵⁷ We believe that including this limit on low-income customer participation will ensure an adequate mix of Prepaid Pilot participants while acknowledging, and safeguarding against, concerns that the Prepaid Pilot would attract an unreasonably high percentage of low-income customers.⁵⁸

Customer Protection in Case of Company Error or Prepaid System Failure (Staff #13)

Staff requests that BGE guarantee payment to customers for lost property costs, particularly food and perishable items, if the prepaid system fails or the company errors in disconnecting a customer. Staff also requests that BGE agree to provide Prepaid Pilot

⁵⁶ BGE Reply at 5.

⁵⁷ We define “low-income customer” based on COMAR 20.31.05.02 (referencing the Department of Human Services’ income guidelines for establishing income eligibility for a Maryland Energy Assistance Program grant).

⁵⁸ We disagree with OPC’s recommendation that the Prepaid Pilot should bar low-income customers, as that restriction would sharply limit customer choice and the type of data that the Prepaid Pilot could gather on program impact and effectiveness. See OPC Comments at 33.

customers affected by a breach of personal information or privacy three years of identity theft protection.⁵⁹ BGE responded that the Commission and courts have adopted limitations on utility liability and thus reject Staff's recommendation.

We agree with BGE and thus reject Staff's recommendation. Although we are sympathetic to Staff's concerns, we find no reason to revisit the Commission's long-standing precedent on issues of utility liability⁶⁰ and believe that accepting Staff's recommendation would require that.

BGE Cybersecurity Procedures (Staff #14)

BGE's pilot proposal includes the use of certain outside vendors to facilitate participants' payments on their account. Staff recommended that BGE take the following actions related to cybersecurity: develop and document security procedures for itself and each outside vendor; include a full description of the level of access to BGE systems, records or operations that are provided to PayGo or other external vendors; and file a full description of the security procedures in this docket along with an evaluation by a third-party information security firm of the effectiveness of the security plan.⁶¹ BGE responded that Staff's request for a third-party evaluation is unnecessary because the Prepaid Pilot does not include new types of data exchanges than occur with current vendors, and that

⁵⁹ Staff Initial Comments at 29.

⁶⁰ "[T]ariff provisions which limit the liability of electric utilities for damages or losses due to fluctuations in the delivery of electric service are reasonable in limiting the liability of electric utilities for actions of ordinary negligence or reasonably limiting the types of damages, and should be upheld as a reasonable and prudent balancing of customer interests, company interests, and ratepayer interests." Case No. 8263, Order No. 69181 (Apr. 5, 1991).

⁶¹ Staff Initial Comments at 29-30.

PayGo will not have access to remote meter functions.⁶² BGE also stated that the “program will be in full compliance with all cybersecurity standards that exist today.”⁶³

We are willing to accept BGE’s assurance that the Prepaid Pilot will comply with current cybersecurity standards and that a separate third-party evaluation specific to the Prepaid Pilot is unnecessary. Therefore, the Commission rejects Staff’s recommendation.

Retail Supplier Participation (Staff #15)

Staff recommended that BGE should engage retail choice stakeholders to align the Prepaid Pilot design with retail market enhancements, citing recent action of the Delaware Public Service Commission.⁶⁴ BGE responded that it is prepared to engage with retail energy suppliers to explore opportunities for them to learn from the Prepaid Pilot and apply lessons learned to future prepaid billing programs offered by retail energy suppliers.⁶⁵ We agree that stakeholder collaboration on this issue is important and therefore require that BGE discuss with the stakeholder workgroup, led by Commission Staff, how to best ensure that the pilot is producing data that could facilitate lessons learned on this topic. We urge and welcome retail suppliers to be active participants in this workgroup to ensure that the Pilot adequately incorporates features to inform and enhance retail competition and choice in the State. Although this workgroup will (as BGE acknowledged) directly discuss issues related to potential prepaid billing programs offered by retail energy suppliers, we caution that the workgroup’s efforts should *not* be dependent on whether retail energy suppliers *actually* state an intention to offer such programs in the near future.

⁶² BGE Reply at 6.

⁶³ *Id.*

⁶⁴ Staff Initial Comments at 30.

⁶⁵ BGE Post-Hearing Comments at 2.

Waiver Application and Approval (Staff #17)

In its Prepaid Pilot application, BGE requested several waivers⁶⁶ from its tariffs, Commission Orders, and the Code of Maryland Regulations in three categories: Category A (Billing-related);⁶⁷ Category B (Supplier-related)⁶⁸ and Category C (Termination-related).⁶⁹ Staff recommended initially that the Commission approve the Prepaid Pilot only if the Company applies for and is granted the necessary COMAR waivers, and in post-hearing comments that BGE should be required to bring waiver requests to the Commission individually.⁷⁰ However, the nature of the Prepaid Pilot is inconsistent with the current requirements outlined in Category A and Category B, and it would be illogical to proceed further without addressing the waiver requests. The requests are reasonable given the terms of the Prepaid Pilot, and thus we grant BGE's requested waivers in Categories A and B.

We address Category C waivers separately, in the broader context of termination of service. Although we understand the logic and necessity of waiving certain termination-related requirements, we are sufficiently concerned about the Prepaid Pilot's potential impact on service termination that we feel compelled to articulate additional new protections specifically tailored for prepaid customers. The Prepaid Pilot proposes a new – and more rapid – termination process than Maryland utility customers are

⁶⁶ BGE Initial Filing at 7-8.

⁶⁷ Category A requirements are: Retail Electric Service Tariff Sections 7.2, 7.3, 7.7; Electric and Gas Tariffs Section 2.41; Commission Order No. 79535 (Case No. 8738); and COMAR 20.31.05.06.

⁶⁸ Category B requirements are: COMAR 20.53.05.04 and COMAR 20.59.05.04.

⁶⁹ Category C requirements are: COMAR 20.31.01.07, 20.3.02.01B, 20.31.02.05-.06, 20.31.03.02-.03, 20.31.05, Commission Order No. 80307 (Case No. 8919), and a March 12, 2009 Letter Order directing BGE to accept payment at a customer's door.

⁷⁰ Staff Post-Hearing Comments at 14. OPC also opposed waiving “any of the existing consumer protection requirements set forth in the Commission's regulations for participants in BGE's prepaid pilot program.” OPC Comments at 33.

accustomed to, and we want to be certain that customers are afforded every opportunity to avoid utility service termination. Therefore, we require the following to be incorporated into the Prepaid Pilot:

- Ensure an immediate switch⁷¹ (and thus immediate restoration of service) between the Prepaid Pilot and traditional postpay service anytime the customer so requests;⁷²
- If a customer requests to switch to postpay during the 5-day extension period agreed upon by BGE,⁷³ the company cannot require an additional security deposit before service is restored;
- BGE must un-enroll a customer from the Prepaid Pilot if it: receives a new or amended medical certification, learns of a violation of an Prepaid Pilot eligibility criterion, or discovers extenuating circumstances that renders the customer unsuitable for the Prepaid Pilot;

⁷¹ We note that once a pilot participant switches out of the Prepaid Pilot, that customer cannot reenroll during the remainder of the pilot.

⁷² We require BGE to provide, within 90 days, more process details about how this switch from the Prepaid Pilot to postpay would occur, particularly related to billing and termination processes for a customer with an outstanding arrearage. These issues could include how BGE will: restore or revise a customer's payment plan; determine a customer's new billing cycle date; and notify and effectuate an arrearage-related service termination.

⁷³ BGE Reply at 5 ("BGE intends to offer prepay customers up to five days' extension beyond zero balance any time they request one."). To be clear, we reject Staff's recommendation (Staff #10) that a customer should *automatically* be provided a grace period before termination, as we believe that could bias the program results and lead to unexpectedly high account balances. As stated in BGE's response to Staff, a customer must affirmatively request the 5-day grace period.

- BGE must contact the customer within 72 hours of any termination⁷⁴ alerting the customer to the option of returning to postpay with no additional security deposit required;
- A customer's decision to switch from the Prepaid Pilot to postpay may not negatively impact the customer in qualifying for a future payment plan; that is, the switch itself does not count as a failed payment plan or a "strike" against the customer in qualifying for a new payment plan;
- BGE may not report terminations of service of customers enrolled in the Prepaid Pilot to credit reporting agencies; and
- BGE must report, within 90 days, more details about how it will adhere to statutory third-party notification standards⁷⁵ and why waiving third-party notification regulatory requirements is appropriate.⁷⁶

With these protections in place, we hereby grant the remaining waivers for the requirements listed in Category C.⁷⁷

⁷⁴ Staff's initial recommendation (Staff #8) implied that BGE should be required to contact *each* disconnected customer to determine whether the termination has created as hazard to health, life or safety, but its post-hearing comments imply that BGE can wait until five days after termination to contact the customer to ask that question. Staff Post-Hearing Comments at 8. We believe that a customer contact within 72 hours will provide a safeguard to customers while balancing the unique nature of prepaid billing's potential for more frequent disconnections.

⁷⁵ *See, e.g.* Maryland Code, Public Utilities Article § 7-304.3.

⁷⁶ Therefore, we decline to grant BGE's requested waiver of COMAR 20.31.01.07 at this time.

⁷⁷ The Commission denies BGE's request for a blanket waiver of Case No. 8919 (Order No. 80307). The right to waive the "55-day" rule lies with customers and therefore an affirmative decision by each affected customer with regard to that provision is required. For purposes of the Pilot, however, BGE is authorized to notify each customer that the Order 80307's 55-day Rule provision does not apply to customers taking advantage of BGE's Prepaid Pilot, and that to participate in the Pilot an affirmative waiver of the customer's rights under Order No. 80307 is required.

Transaction Fees

BGE proposed to waive the first two credit card or other payment transaction fees incurred each month by a Prepaid Pilot participant.⁷⁸ The Fuel Fund asked that all termination fees be waived, noting that not doing so would increase costs on customers paying more frequently.⁷⁹ In response to Commission questions at the hearing, BGE filed a revised version of its Prepaid Pilot economic analysis.⁸⁰ That document indicates the cost of waiving two payments fees per month is estimated at \$28,800 during the Pilot year; \$662,455 during the first-year of a potential permanent prepaid billing program; and \$1,159,297 during the fourth-year of a potential permanent prepaid billing program.⁸¹

The Commission is concerned about the potential long-term costs of waiving two transaction fees per month. Although these projected costs during the Prepaid Pilot are manageable, they would increase substantially during a potential permanent prepaid billing program. We want the Prepaid Pilot to test and provide data about how a permanent program would impact customers, and we do not want to approve a Prepaid Pilot waiving two transaction fees per month knowing the potential cost impact of that feature in a permanent program. Similarly, if BGE is permitted to waive two transaction fees per month and thus transfer that cost to all ratepayers, it would provide a built-in advantage for BGE's prepaid program compared to a potential offering by a retail energy supplier, which cannot pass transaction fees elsewhere.⁸² However, we note that waiving transaction fees might help ease customers' transition to prepaid billing, and we would

⁷⁸ BGE Initial Filing at 4.

⁷⁹ Fuel Fund Comments at 2.

⁸⁰ BGE Post-Hearing Comments at 3.

⁸¹ *Id.*

⁸² Staff Post-Hearing Comments at 13.

like to see it included in the Prepaid Pilot in some form. Therefore, we authorize BGE to waive *one* transaction fee per month during the Prepaid Pilot.

Additional Recommendations by the Fuel Fund

The Fuel Fund recommended several additional considerations, including that: the Prepaid Pilot should not be marketed as an affordability program; BGE should make clear how energy assistance will be applied;⁸³ BGE should track confirmation of receipt of notifications; and Prepaid Pilot participation should not jeopardize customer Section 8 eligibility.⁸⁴ BGE agreed to the Fuel Fund's marketing restriction, to work with the Office of Home Energy Programs to integrate home energy assistance into the Prepaid Pilot, and to investigate the feasibility of tracking customer receipt of notifications after initial verification of enrollment.⁸⁵ We accept these consensus items and require BGE to report to the Commission within 90 days on the feasibility of tracking customer receipt of notifications. Regarding Section 8 eligibility, we ask that BGE continue to monitor any concerns that enrollment in prepaid billing would impact eligibility. We also note that any customer, including one who develops concerns about the Prepaid Pilot's impact on housing eligibility, is permitted to immediately exit the Prepaid Pilot and return to traditional postpay billing.

Evaluation Parameters

This Prepaid Pilot application requires us to consider the necessary factors for successfully evaluating pilot programs. We find that a systematic approach to developing

⁸³ See also OPC Comments at 34.

⁸⁴ Fuel Fund Comments at 1-2.

⁸⁵ BGE Reply at 8.

and evaluating a pilot program is appropriate.⁸⁶ Consequently, we direct BGE to develop the following guidelines:

- Clear goal(s) established at the beginning of pilot program development;
- Evaluation metrics linked to those goal(s) that will inform whether the goal(s) are achieved;
- An evaluation plan developed before final pilot approval;
- An estimate of pilot program implementation costs;⁸⁷
- Public sharing of key pilot program data after pilot is complete, and at regular intervals during the pilot if appropriate;
- Public review of pilot results by the Commission;
- A clear transition plan for current customers (e.g. customers could remain on the pilot tariff until the Commission evaluates the results and reaches a decision, but enrolling new customers is prohibited);
- A firm sunset date – any extension, amendment or permanent authorization must be affirmatively approved by the Commission. We envision a pilot program proposal setting a firm post-pilot timeline that outlines milestones for stakeholders to: conduct an evaluation of pilot results; present those results to the Commission; and account for a Commission determination how to proceed – leaving time for a smooth transition if pilot enrollees must move to another tariff.

⁸⁶ See generally, MEA Post-Hearing Comments. Although we agree with MEA’s general view that pilots “need to be evaluated so that the learning gained can effectively guide future decisions by the Commission and stakeholders” and we incorporate some of MEA’s suggestions into this Order, we do not necessarily adopt MEA’s specific methodology or approach.

⁸⁷ We reject MEA’s suggestion that Prepaid Pilot costs must be “held separate on the balance sheet” because we are uncertain how that requirement would affect other non-pilot financial requirements. See MEA Initial Comments at 8. Rather, we agree with BGE’s proposal that it will track program costs separately. BGE Reply at 7.

We do not yet see these factors fully addressed in BGE's Prepaid Pilot proposal.⁸⁸ Therefore, BGE should consult with MEA, OPC, Staff, RESA and other interested stakeholders to discuss these guidelines and submit a filing within 90 days specifically addressing these factors for the Prepaid Pilot proposal.

Retail Supplier Concerns with the Prepaid Pilot

RESA expressed its overall opposition to the Prepaid Pilot.⁸⁹ RESA believes that the proposal is anticompetitive, discriminates against retail suppliers and harms customers, and also that “[m]arket innovations like prepay billing should come from the competitive market, not regulated monopoly utilities.”⁹⁰ RESA asks that the Commission reject the Prepaid Pilot and instead require utilities to implement programs and technologies to allow competitive suppliers to deliver prepaid and other billing options to customers.

Although we appreciate and share RESA's overarching concern that the competitive market not suffer irreparable damage from the implementation of the Pilot, we find that the modifications we have made to the proposal as described herein sufficiently mitigate the concerns articulated by RESA. Specifically, because the Prepaid Pilot will remain limited to 1,000 customers unless we take further action, we do not believe that it will cause the lasting damage to competitive markets that was speculated by RESA. Also, we believe that the Prepaid Pilot could provide useful information to

⁸⁸ In its post-hearing filing, BGE did not object to the Commission setting firm reporting deadlines for the Prepaid Pilot and expressed willingness to engage with all stakeholders to develop appropriate evaluation metrics. BGE Post-Hearing Filing at 2.

⁸⁹ RESA Comments.

⁹⁰ *Id.* at 4.

stakeholders, including to market participants, about how a prepaid billing program would work in Maryland. We encourage retail suppliers to join the stakeholder workgroup on that topic.⁹¹

Petition to Intervene Out of Time

Several retail suppliers filed a Petition to Intervene Out of Time.⁹² They argue that the Prepaid Pilot, if implemented, will adversely affect their interests, and that no other party can adequately represent their interests. They ask for permission to participate in this case moving forward as parties and agree to accept the record as it currently stands. No party opposed the Petition.

Although we question whether no other current party can represent their interests, we welcome as much stakeholder feedback as possible during the implementation and evaluation of the Prepaid Pilot. Therefore, we grant the Petition to Intervene Out of Time.

Motion to Stay

Related to RESA's concerns about the Prepaid Pilot, RESA and several retail suppliers filed a Motion to Stay the consideration of BGE's Prepaid Pilot until after a Commission decision on the recent Petition for Implementation of Supplier Consolidated Billing for Electricity and Natural Gas in Maryland ("SCB Petition").⁹³ The Motion to Stay argued that the SCB Petition provides a proposed implementation timeline for supplier consolidated billing, which is deemed a prerequisite for a prepaid billing program provided by a third party. Thus, RESA believes that implementing the Prepaid Pilot would be "unnecessary and duplicative" of the suppliers' efforts to initiate prepaid

⁹¹ See *supra* at 13 (addressing Staff #15).

⁹² See *generally*, Petition to Intervene Out of Time.

⁹³ The SCB Petition was received on September 7, 2017. ML #216788. The Commission docketed the petition as Case 9461 and requested initial comments by November 15, 2017. ML #216892.

billing programs, and that utility ratepayers should not bear costs for a utility-run Prepaid Pilot when private prepaid billing options may be forthcoming.⁹⁴ RESA requested that this proceeding be stayed until the SCB Petition has been addressed and implementation of any resulting actions is complete. MEA agreed that the Motion to Stay should be granted, though it suggested that the Commission could grant the stay until January 31, 2018 or until it issues an Order related to the SCB Petition.⁹⁵ BGE opposed the Motion to Stay, arguing that establishing a framework for implementing the SCB Petition could take two years and that there's no guarantee that a supplier will commence a prepaid billing program even if that framework is in place.⁹⁶ BGE also argues that customers on Standard Offer Service should have the opportunity to participate in prepaid billing, and that retail suppliers could learn about the effectiveness of prepaid programs in Maryland as a result of the Prepaid Pilot. The Fuel Fund opposed the Motion to Stay because it believes that "a pilot for prepaid needs clear public oversight and accountability, which is best accomplished with the regulated utility."⁹⁷ UMBC also opposed the Motion to Stay.⁹⁸

In moving forward and directing additional information from BGE and interested parties, we deny RESA's Motion to Stay. We believe that the Prepaid Pilot, as modified in this Order, provides an opportunity to test an innovative and potentially valuable option for customers. We do not think that a BGE-administered Prepaid Pilot is mutually exclusive to a future prepaid billing program offered by suppliers, and we choose not to

⁹⁴ RESA Motion to Stay at 2.

⁹⁵ MEA Response to Motion to Stay at 3.

⁹⁶ BGE Response to Motion to Stay at 2.

⁹⁷ Fuel Fund Response to Motion to Stay at 1.

⁹⁸ UMBC Response to Motion to Stay.

link our decision in this Order with any potential action in response to the SCB Petition. In that sense, we agree with BGE, which stated, “the presence or lack of S[upplier] C[onsolidated] B[illing] should not inform the Commission’s decision on whether to approve BGE’s proposed Prepaid Pilot.”⁹⁹

IT IS THEREFORE, this 25th day of October, in the year Two Thousand Seventeen, by the Public Service Commission of Maryland,

ORDERED: (1) That the BGE Prepaid Pilot tariff, as filed, is rejected;

(2) That BGE examine the feasibility of implementing an autopay option for the Prepaid Pilot and report back to the Commission within 90 days;

(3) That BGE report to the Commission within 90 days on additional process details about how a switch from the Prepaid Pilot to postpay would occur, particularly related to billing and termination processes for a customer with an outstanding arrearage, including how BGE will: restore or revise a customer’s payment plan; determine a customer’s new billing cycle date; and notify and effectuate an arrearage-related service termination;

(4) That the relevant portions of the following requirements (labeled as “Category A requirements”) are waived for purposes of implementing the Prepaid Pilot: Retail Electric Service Tariff Sections 7.2, 7.3, 7.7; Electric and Gas Tariffs Section 2.41; Commission Order No. 79535 (Case No. 8738); and COMAR 20.31.05.06;

(5) That the relevant portions of the following requirements (labeled as “Category B requirements”) are waived for purposes of implementing the Prepaid Pilot: COMAR 20.53.05.04 and COMAR 20.59.05.04;

⁹⁹ BGE Response to Motion to Stay at 2.

(6) That the relevant portions of the following requirements (labeled as “Category C requirements”) are waived for purposes of implementing the Prepaid Pilot: COMAR; 20.31.02.01B; 20.31.02.05-.06; 20.31.03.02-.03; 20.31.05; and a March 12, 2009 Letter Order directing BGE to accept payment at a customer’s door;

(7) That BGE report to the Commission within 90 days on the feasibility of tracking customer receipt of notifications;

(8) That BGE consult with MEA, OPC, Staff, RESA, DHS, the Fuel Fund and other interested stakeholders to discuss these Evaluation Parameters listed in this Order and submit a filing within 90 days specifically addressing those factors in the context of the Prepaid Pilot proposal;

(9) That BGE may refile a Prepaid Pilot tariff implementing a prepaid billing pilot program under the conditions set forth in this Order, subject to acceptance by the Commission;

(10) That the Petition to Intervene Out of Time is granted; and

(11) That the Motion to Stay filed by RESA is denied for the reasons set forth in this Order.

W. Kevin Hughes

Michael T. Richard

Anthony J. O'Donnell

Odogwu Obi Linton

Commissioners¹⁰⁰

¹⁰⁰ Commissioner Mindy L. Herman did not participate in this decision.