

ORDER NO. 90175

COMPLAINT OF THE MARYLAND	*	BEFORE THE
OFFICE OF PEOPLE’S COUNSEL	*	PUBLIC SERVICE COMMISSION
AGAINST WASHINGTON GAS	*	OF MARYLAND
LIGHT CO., AND WGL ENERGY	*	_____
SERVICES, INC.	*	CASE NO. 9673
_____	*	_____

Issue Date: April 20, 2022

ORDER DENYING REHEARING

1. On November 24, 2021, the Maryland Office of People’s Counsel (“OPC”) filed a complaint against Washington Gas Light Company (“Washington Gas” or “the Company”) and WGL Energy Services, Inc. (“WGL Energy”). The complaint alleged that Washington Gas and WGL Energy violated the Code of Maryland Regulations (“COMAR”) and the Maryland Consumer Protection Act by including the following message on bills to customers of WGL Energy:

“Natural Gas is a clean, efficient, and reliable energy [sic].
Converting an all electric home to natural gas is the equivalent of
planting 2.75 acres of trees or driving 26,520 fewer miles each
year. In addition, natural gas cost [sic] 1/3 less than electric [sic],
which makes it a smart decision for the environment and your
wallet.”

Subsequently, on February 7, 2022, the Commission issued Order No. 90057, dismissing OPC’s complaint. The Commission found that the complaint failed to adequately demonstrate a violation of state law or regulation in support of OPC’s broad allegations regarding the environmental attributes of natural gas. The Commission also dismissed

OPC's complaint against WGL Energy, noting that Washington Gas, not WGL Energy,¹ generated the utility-consolidated bills that gave rise to this complaint. The record unequivocally establishes that Washington Gas did not provide any special benefit to WGL Energy by including the above-quoted message on its customers' bills.

2. Further, the Commission concluded that a complaint against a single utility is an inappropriate forum to address a general debate regarding the use of natural gas and its role in contributing to greenhouse gas emissions. The Commission determined that a company-specific complaint presents an inappropriate forum to address broad environmental policy issues regarding the use of natural gas as an energy source.

3. On March 9, 2022, OPC filed a request for rehearing pursuant to Public Utilities Article ("PUA"), *Annotated Code of Maryland*, § 3-114. In its request, OPC makes allegations similar to those it made in its original complaint.

4. In response, Washington Gas argued that the decision whether or not to rehear a matter is within the sound discretion of the Commission. Washington Gas also clarified that only its automatic payment ("autopay") customers received bills with the message that OPC finds objectionable. Washington Gas explained that since bills for autopay customers do not include remittance instructions, there is additional space on the bill to include a message. Washington Gas also noted that its autopay customers comprise 20.5% of all its Maryland customers.²

¹ At no time during this proceeding has OPC produced any evidence to the contrary.

² On March 21, 2022, OPC filed a "Motion for Leave to File a Reply to Washington Gas Light Company's Opposition to Request for Rehearing." The Commission grants the Motion, and the Commission has reviewed OPC's reply.

Commission Decision

5. The Commission denies OPC's request for rehearing. OPC did not present any new facts or evidence in its request for rehearing, as noted above. As discussed in Order No. 90057, the Commission does not find that this complaint regarding a bill message is the proper forum to address broad environmental and economic issues related to the use of natural gas. Although OPC appears to suggest that edits to the bill message would satisfy at least some of its concerns, any such finding would require an analysis of broader issues involving greenhouse gasses and environmental policy. However, such an analysis is far outside the scope of this narrow complaint, i.e., the inclusion of a message printed on certain customer bills of a single natural gas utility company operating in Maryland.

6. PUA § 3-114(a)(1) states that the Commission "may...consider facts not presented in the original hearing, including facts arising after the date of the original hearing." In this case, there has not been a hearing, but the discretion vested in the Commission to deny a request for rehearing if no new facts are offered in support remains the same.³

7. The Commission finds that OPC did not provide any new or persuasive reason to reconsider Order No. 90057. Pursuant to PUA §3-114, the Commission therefore denies OPC's request for rehearing.

IT IS THEREFORE, this 20th day of April, 2022, by the Public Service Commission of Maryland;

³ *In the Matter of Washington Gas Light Company for Authority to Increase its Existing Rates and Charges and to Revise its Terms and Conditions for Gas Service*, Case No. 9651, Order No. 89893 (2021) ("An application for rehearing is permissive, not mandatory; the filing of such an application does not stay the effect of the Commission's order; and the granting or denial of the application is entirely discretionary with the Commission").

ORDERED: That the Office of People’s Counsel’s Request for Rehearing is denied.

/s/ Jason M. Stanek _____

/s/ Anthony J. O’Donnell _____

/s/ Mindy L. Herman _____

Commissioners⁴

⁴ Commissioner Michael T. Richard filed a Dissenting Opinion in Order No. 90057 and therefore is not participating in this Order Denying Rehearing. Commissioner Linton concurs and writes separately.

Concurring Statement of Commissioner Odogwu O. Linton

I concur with the Majority decision that denial of OPC’s request for rehearing is legally supported, but write separately to note that “only” a certain number of customers (103,934) received the bill message.⁵ According to WGL, these customers received the bill message in a unique manner, one which is not available for the remaining 79% of WGL’s customers. As is well known, not all residential customers are the same, and while they are billed as a whole according to a “residential” tariff, the differences between customer usage patterns, billing preferences or homeowner equipment can be significant, making generalized statements for all customers difficult.

While fuel switching messages by regulated utilities are not new (especially against fuels offered by unregulated companies, like heating oil), it should be noted that the Majority’s decision does not approve, endorse or find that the benefits WGL claims result from fuel switching are appropriate, correct, or reflective of current state policy. I find WGL’s statement to be misleading because of its lack of context or specificity⁶. Therefore, if WGL intends to continue use of **this** bill message, or has other plans to expand its outreach regarding fuel switching, then as is always the case, if and when the Commission is made aware of any harms to customers, WGL alone bears the burden and risk for any negative impacts on customers attributable to this message. This would include situations where a customer does not realize the benefits WGL’s statement claims will result from fuel switching.

With that understanding, I respectfully concur.

⁵ WGL Reply at 2-3. The record does not reflect whether WGL intends on continuing its efforts to the remaining 79% of their customer base or if that has occurred already in some other form.

⁶ For example, during the current economic climate, does natural gas still “cost 1/3 less than electric”? In what context? Over what period of time? Is 1/3 savings for any household type or usage patterns?