

ORDER NO. 88297

IN THE MATTER OF SERVICE TERMINATION TO LYNNHILL CONDOMINIUM DEVELOPMENT, INC. BY POTOMAC ELECTRIC POWER COMPANY AND WASHINGTON GAS LIGHT COMPANY	* * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND <hr style="width: 100%;"/> CASE NO. 9430 <hr style="width: 100%;"/>
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Issue Date: July 13, 2017

In response to a Complaint filed by the Maryland Office of the Attorney General, the Public Service Commission (“Commission”) issued Order No. 87855 (“Show Cause Order”) on October 28, 2016 directing Potomac Electric Power Company (“Pepco”) and Washington Gas Light Company (“WGL”) (“the Utilities”) to explain whether each Utility individually provided *proper notice* to Lynnhill Condominium Development, Inc. and to Lynnhill’s occupants, in accordance with the Code of Maryland Regulations (“COMAR”) prior to termination of utility services on or about October 25, 2016.¹ While contesting the Office of the Attorney General’s assertions, both Utilities state that they have corrected any alleged defects in the Notice of Termination of Service applicable to Lynnhill and/or have prepared corrected notices for use in the event that a subsequent termination effort is required.² Following Notice to all parties, on June 21, 2017 the Commission conducted a legislative-style hearing to address the Utilities’ responses to the Commission’s Show Cause Order and to consider whether the Order

¹ See Order No. 87855, Ex. A (letter dated October 28, 2016 from William D. Gruhn, Chief, Consumer Protection Division to H. Robert Erwin, General Counsel).

² See Pepco’s Answer ((ML 203903) at 10 and WGL’s Response (ML 204546) at 11.

prohibiting service termination at Lynnhill should be vacated.³ At the hearing, the Utilities noted their current billings are still not being paid in full and they requested the Commission vacate Order No. 87855.

In their filings in response to Order 87855, the Utilities conceded that they failed to comply with COMAR 20.31.02.06G-I,⁴ consequently they each failed to provide *proper notice* to Lynnhill and its occupants. The Utilities' failure to provide such proper notice compromised many of Lynnhill's occupants, some of whom were elderly or had special medical needs, to pursue alternative housing and other options in a timely fashion, thus increasing risks that could have been mitigated by more comprehensively notifying Lynnhill and its occupants of the threat of termination of utility services. In response, both Utilities committed to repost the Lynnhill premises in full compliance with COMAR 20.31.02.06, including regulations .06G-I if termination efforts are recommenced in the future.⁵

The Commission accepts the Utilities' commitment to repost future notices in full compliance with COMAR 20.31.02.06. However, since their responses were filed, and

³ Appearances were entered on behalf of Pepco, WGL, the Maryland Office of Attorney General, Office of People's Counsel ("OPC"), Commission Staff, Lynnhill Condominium Development, Inc., Lynnhill unit owners and Prince George's County Office of Law.

⁴ COMAR 20.31.02.06G-I provides as follows: .06G- "A statement of the customer's rights and remedies, which shall include a summary of the dispute procedures, the office address of the utility, and the telephone numbers at which the utility representatives who handle customer complaints may be reached;" 06H- "A statement that it is the responsibility of the customer to notify the utility if he is unable to pay for service in accordance with the requirements of the utility's billing practices;" and .06H- "A statement that it is the responsibility of the customer to notify the utility that he, or an occupant of the premises, is elderly, handicapped, has a serious illness, or relies upon life-support equipment; a brief explanation of the special provisions regarding elderly, handicapped, or persons seriously ill or relying on life-support equipment; and an explanation of notification procedures."

⁵ See Pepco's Answer (ML 203903) at 10 and WGL's Response (ML 204546) at 11. (In its response, Pepco states that it has "voluntarily agreed to post each condominium unit to address the requirements applicable to both condominiums and master-metered apartments." WGL stated that "if the Company proceeds with termination of natural gas service to Lynnhill, the Company will repost Notices of Termination which include all the information required by COMAR 20.31.02.06.")

perhaps in light of the enormity of business and social issues implicated by this case, the Utilities indeed have offered to do even more before any further efforts are made to terminate utility services to Lynnhill and its occupants. The Commission is pleased by the Utilities' responsiveness to these issues.

Specifically, in addition to satisfying the COMAR 20.31.02.06 requirements (including .06G-I), Pepco and WGL also commit to the following:

- To have the condominium association survey occupants in order to identify special needs that should be addressed in the event of termination;
- to share occupant-information with Prince George's County social services agencies, and other parties, in order to assist in addressing occupants needs and relocation issues;
- to inform the Commission and the parties at least one week prior to sending a subsequent **30-day** notice of termination;
- to post on the door of each unit and in the common areas a termination notice providing occupants at least **30 days** advance notice of termination of utility service;
- to coordinate with the Prince George's County Executive and the County's social services agency, the parties to the case, and Commission Staff to complete any subsequent disconnection of utility service in an orderly process.

The Office of Attorney General and OPC do not oppose vacating Order No. 87855, as long as the commitments offered by the Utilities are incorporated in *this order* or otherwise made mandatory by the Commission, albeit OPC insists that the *additional* notification efforts proffered by the Utilities are no more than what is already required. Staff agrees that the Commission should vacate Order No. 87855, and the Prince

George's County Office of Law took no position on the matter.⁶

Based on the record before us, and the Utilities' commitment to comply with COMAR 20.31.02.06 in its entirety and their additional commitments to give at least 30-days prior notice of any further attempt to disconnect utility services to Lynnhill – along with associated outreach both to the occupants, to the Prince George's County Executive, the Prince George's County Department of Social Services, and to the other parties in this case – the Commission hereby vacates Order No. 87855 that requires the Utilities to maintain utility services (or otherwise forebear from terminating utility services) at the Lynnhill premises. If circumstances exist whereby the Utilities again endeavor to terminate utility services at these premises, any posted or reposted notices that have been in place since the issuance of Order No. 87855 must be replaced and notices must be reposted in accordance with this Order.⁷

The Commission defers to the proceedings in Case Nos. 9444 and 9445 the legal question of whether the Utilities have any duty beyond the requirements of COMAR 20.31.02.06 to provide additional notice to residents and occupants of master-metered

⁶ Counsel for the Lynnhill unit owners opposed vacating Order No. 87855, as in his view that Order provided some leverage to unit owners with regard to negotiating a sale of the property. Given the negative payment history of Lynnhill, as discussed throughout this case, the Commission would be remiss in our duties to the Utilities ratepayers at large by not vacating Order No. 87855 in a timely fashion. (A significant percentage of the estimated 220 units at Lynnhill are reported to be unoccupied. The Utilities and Prince George's County both indicate that conditions of questionable habitability exist in both of the condominium buildings; conditions that lead to the building being posted for NON-ENTRY by County officials immediately following utility service disconnections in October 2016.) As precarious as this case may be, the Commission views vacating Order No. 87855 as the only responsible course of action appropriate for this matter, with the expectation that the Utilities and other parties (including Prince George's County) will observe a timeline that avoids the risk of terminating utility services to residents/occupants of Lynnhill as cooler/winter weather approaches.

⁷ The Office of the Attorney General urged that COMAR requires 14-days notice, plus an addition 30 days for individuals with special needs (a total of 44 days) for residents and occupants of master-metered condominiums. The Commission declines to adopt this view unless and until the matter has been more fully addressed in Case Nos. 9444 and 9445. In the interim, the Commission believes that the Utilities' commitment to 30-days notice based on a timeline that involves cooperation with other parties in the case, should provide adequate notice to the customer of record as well as residents and occupants and ensures the opportunity for relocation and other arrangements, if needed.

condominiums.⁸ The Commission also defers to those proceedings consideration of whether fines or civil penalties should be assessed due to the Utilities' failure to provide *proper notice* to Lynnhill and its occupants.

Finally, in connection with the Utilities' coordination efforts with the Prince George's County Executive and the parties in this case, the Utilities individually shall submit monthly reports to the Commission Staff as to timelines and progress in the event that subsequent termination efforts are commenced.⁹

IT IS THEREFORE, this 13th day of July, in the year Two Thousand Seventeen by the Public Service Commission of Maryland,

ORDERED: (1) that Order No. 87855 be, and it is hereby, vacated;

(2) That, in the event Potomac Electric Power Company and/or Washington Gas Light Company proceed with service termination at Lynnhill condominiums, they shall comply with COMAR 20.31.02.06 in its entirety as well as the additional requirements of this Order;

(3) That Potomac Electric Power Company and Washington Gas Light Company shall each submit monthly reports to the Commission Staff as to timelines and progress in the event that termination efforts are recommenced;

⁸ In Order Nos. 88092 and 88093, in Case Nos. 9444 and 9445, the Commission granted two Show Cause Petitions filed by OPC concerning service termination notices issued by Pepco and WGL respectively. On May 16, 2017, these matters were delegated to the Public Utility Law Judge Division to conduct investigation proceedings. In both cases, the Commission directed that in addition to the specific issues raised by OPC be addressed, but also "whether COMAR 20.31.03.06 requires individual notice to master-metered condominium resident/occupants, and whether such notices should have been provided by the companies." This inquiry need not be limited to COMAR 20.31.03.06, but may include consideration of any other statute or regulation bearing upon proper notice requirements for such residents or occupants.

⁹ Reports shall include the schedule and timeline for reposting of properties, number of units (residents and occupants) likely to be affected, extent of outreach efforts to residents with special medical needs, and other relevant information – to the end of utility services at the premises.

(4) That consideration of civil penalties in this matter is deferred to
Case Nos. 9444 and 9445; and

(5) That this matter is hereby closed on the Commission's docket.

By Direction of the Commission,

/s/ David J. Collins

David J. Collins
Executive Secretary