

PUBLIC SERVICE COMMISSION OF MARYLAND

Utility Termination Restrictions during the Winter Heating Season and Extreme Temperatures

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Prepared in response to the 2024 Joint Chairmen's Report from the Senate Budget and Taxation Committee and the House Appropriations Committee addressing utility termination restrictions during the winter heating season and in cases of extreme temperatures.



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Introduction:

The Public Service Commission hereby submits this report in response to the 2024 Joint Chairman's Report (JCR) from the Senate Budget and Taxation Committee and the House Appropriations Committee pertaining to the utility termination restrictions that are currently in place during the winter heating season lasting from November 1 to March 1, and on days when the forecasted temperatures are either below 32 degrees Fahrenheit or above 95 degrees Fahrenheit. The committees requested that the Commission's report include any potential need to adjust these parameters to reflect the impacts of climate change on the frequency and intensity of extreme temperatures. In addition, the committees requested that the report include a discussion of the Commission's authority to adopt additional utility termination restrictions through regulation or to order surrounding terminations occurring during the summer cooling season to protect utility customers from the effects of extreme heat.

Background, Current Statutes, and Existing Regulations:

On March 1, 1988, the Commission issued Order No. 67999 in Case No. 8091 which established the Utility Service Protection Program (USPP) as required by PUA §7-307. PUA §7-307 also provides for the promulgation by the Commission of regulations relating to when and under what conditions there should be a prohibition against, or a limitation upon, the authority of a public service company to terminate, for nonpayment, gas or electric service to low-income residential customers and residential customers during instances of extreme weather.

Specifically, PUA §7-307.1 states:

“(a) A public service company may not terminate electric or gas service to a residential customer in a designated weather station area because of nonpayment on a day for which the forecasted high temperature is 32 degrees Fahrenheit or below in that weather station area.

(b) A public service company may not terminate electric service to a residential customer in a designated weather station area because of nonpayment on a day for which the forecasted temperature is 95 degrees Fahrenheit or above in that weather station area.

(c) The Commission shall require each public service company that provides electric or gas service to designate and file with the Commission designated weather station areas within its service territory for use in administering the restrictions on weather-related terminations under subsections (a) and (b) of this section.

(d) This section may not be construed to limit the authority of the Commission to adopt, by regulation or order, additional limitations and conditions on termination of electric or gas service that are more protective of consumers.

(e) The Commission shall adopt regulations to carry out this section.”

The Commission’s established protections against terminations conducted by a public service company are contained in the Code of Maryland Regulations (COMAR) 20.31. COMAR 20.31.01.01 provides:

“A. This subtitle applies to all electric utilities, gas utilities, and combination electric and gas utilities, as defined in this subtitle, under the jurisdiction of the Public Service Commission.

B. COMAR 20.31.02, 20.31.03, and 20.32.01 govern all terminations of electric service, gas service, or both, as the case may be, where the service, in whole or in part, is for use in a dwelling unit or units, except for those terminations governed by COMAR 20.31.05.

C. If unreasonable hardship to a utility or to a customer results from the application of any of the regulations of this subtitle, applications may be made by the affected person to the Commission for the modification of the regulation or regulations or for a temporary or permanent exemption from its requirements.”

Specifically related to utility termination restrictions that exist during extreme weather periods, COMAR 20.31.01.02 defines an “Extreme Weather Period” as:

“a period of 72 hours beginning at 6 a.m. on any given day comprised of three consecutive 24-hour segments during any one of which the temperature, as forecast, is not expected to exceed 32 degrees Fahrenheit or is expected to be 95 degrees Fahrenheit or above during the segments. Determination of the possible existence of an extreme weather period must be repeated every 24 hours at 6 a.m.”

For winter extreme weather periods, COMAR 20.31.03.03 states that:

“An electric, gas, or electric and gas utility may not terminate gas or electric service to occupants of residential buildings for nonpayment of bills during the period November 1 through and including March 31 of the immediately succeeding calendar year 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.”

Furthermore, for summer extreme weather periods, COMAR 20.31.03.04 states:

“A utility may not terminate, either gas service that is used for cooling if the customer has notified the gas utility of that usage, or electric service, because of nonpayment, for any customer occupying a residential building, for which the temperature forecast 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.”

Case No. 9745 and Petition by the Office of People’s Counsel:

On June 18, 2024, the Maryland Office of People’s Counsel (OPC) petitioned the Commission requesting that it issue an emergency order to protect residential utility customers from extreme heat then-expected to be experienced in the summer of 2024. Specifically, OPC requested that the Commission: (1) prohibit utility companies from disconnecting service between the date of its petition and September 15, 2024, or require that any utility disconnections be accompanied by an affidavit affirming that the shut-off does not pose a threat to health or

safety of the customer, (2) incorporate heat index in addition to temperature when considering “extreme weather period” restrictions on disconnections, and (3) temporarily waive fees and deposits for customers who wish to reconnect service between June 18 and September 15, 2024. OPC noted that hot temperatures are very dangerous to young children, older adults, those with medical conditions, and low-income households because those groups are often disproportionately affected by heat due to poor housing conditions and lack of access to cooling mechanisms during the summer. Furthermore, OPC asserted that current protections under COMAR that restrict utilities from disconnecting service only activate during an “extreme weather period” when the weather is expected to be 95 degrees or above when looking at a three-day forecast. This protection only considers temperature and does not consider the heat index (what temperature ‘feels like’ when combined with humidity). OPC further argued, however, that even if the temperature is below 95 degrees, the temperature combined with the relative humidity can pose a serious health risk. The Commission initiated Case No. 9745 to consider comments on this issue.

The Commission received a number of stakeholder comments. The Commission considered the petition by OPC as well as the comments submitted by the various parties and subsequently issued Order No. 91239 on July 23, 2024. In this Order, the Commission noted that the forecasted record-high heat in summer 2024 represented a risk to public health that justified temporary emergency relief and that the Commission remained mindful of the long-term arrearage risks associated with a termination moratorium (as suggested by OPC and other parties). Therefore, the Commission directed the utilities to temporarily add 16 days to any

termination notice given to electric customers before termination for non-payment with this emergency directive ending on September 1, 2024. In this Order, the Commission stated its “concern 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.” The Commission found that the additional issues raised by OPC in their petition would be better addressed at a rulemaking proceeding addressing service terminations.

Rulemaking 86 (RM 86) on Emergency Weather Terminations:

On October 21, 2024, the Commission issued a notice initiating Rulemaking 86 (RM 86) focused on addressing service termination protections. RM 86 seeks to address the concerns raised by parties in Case No. 9745 as well as other issues related to termination procedures, emergency authorities, payment plans, and protections during both winter and summer extreme weather periods. Within the notice initiating RM 86, the Commission directed parties to file comments in the RM 86 docket by November 18, 2024 and additionally stated that an in-person rulemaking session will be conducted on December 5, 2024 related to the proposed regulations.

Related to extreme weather terminations, the Commission anticipates regulations to further define summer and winter extreme weather periods including the usage of the heat index

for determining the summer extreme weather periods as well as expanding customer protections during these summer and winter extreme weather periods.

Conclusion:

The Commission appreciates the opportunity to provide information regarding utility termination restrictions during the winter heating season and in cases of extreme temperatures. With RM 86, the Commission is exercising its current authority to strengthen protections enumerated in statute by amending regulations regarding utility termination restrictions both in general and specifically those in place during winter and summer extreme weather periods. The Commission notes that, with RM 86 and in the future, the Commission will continue to focus on strengthening customer protections surrounding service terminations.