

ORDER NO. 88343

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

CASE NO. 9430

Issue Date: August 15, 2017

On July 13, 2017, the Public Service Commission (“Commission”) issued Order No. 88297 in this matter vacating Order No. 87855 directing Potomac Electric Power Company (“Pepco”) and Washington Gas Light Company (“WGL”) (“the Utilities”) to show cause why the Commission’s regulations had not been violated due to the manner in which Notice of Utility Service Termination had been issued by the companies on or about October 25, 2016 to Lynnhill Condominium Development, Inc. (“Lynnhill”) and to Lynnhill’s occupants. However, in the event the Utilities intended to proceed with termination in the future, Order No. 88297 directed that Pepco and WGL comply with Code of Maryland Regulations (“COMAR”) 20.31.02.06 *in its entirety* as well as additional requirements accepted by the Utilities in accordance with their presentations to the Commission during the June 21, 2017 Hearing.¹

Subsequently, pursuant to Public Utilities Article, MD. CODE ANN. § 3-114, Pepco and WGL each filed a petition or application for rehearing of Order No. 88297. In their

¹ The additional requirements are listed as bullets on page three of the Order. The Utilities were also directed to submit monthly reports to the Commission’s Staff as to timelines and progress in the event that termination efforts are recommenced. (Hereinafter, Tr. refers to the June 21, 2017 Hearing Transcript.)

rehearing requests, both Pepco and WGL assert that the Commission’s “finding” that the Utilities conceded that they failed to provide proper notice to the occupants of Lynnhill is incorrect; which they insist that they did not concede, and request that the Commission clarify.

In considering the record of this matter, the Commission found that by failing to *at least* comply with COMAR 20.31.02.06G-I, the Utilities failed to provide *proper notice* to Lynnhill and its occupants.² There is no factual dispute that the notices of termination provided to the customer of record, Lynnhill, was incomplete under COMAR, and there is no factual dispute that the Utilities did not post any notice on the doors of occupied condominium units.³ What has been and continues to be in dispute is the legal question of what constitutes “proper” notice to the Lynnhill occupants. As noted in footnote 8 of Order No. 88297, the Commission previously granted the Show Cause Petitions filed by the Maryland Office of People’s Counsel (“OPC”) concerning *other* service termination notices issued by Pepco and WGL.⁴ In delegating those matters to the Public Utility Law Judge Division for further proceedings, the Commission directed that in addition to the specific issues raised by OPC, an inquiry should be conducted regarding whether COMAR 20.31.03.06 requires individual notice to master condominium resident/occupants.

The Commission’s finding that the Utilities failed to comply with COMAR 20.31.02.06G-I does not foreclose (as the Utilities assert) the inquiry as to whether

² Pepco (Tr. at 44) and WGL (Tr. at 69-70) acknowledge that the notices that they posted did not contain all of the information indicated by COMAR 20.31.02.06 – failing to provide the complete notice – the text of the notice of termination pursuant to COMAR 20.31.02.06. The October 2016 Termination of Service Notices were missing provisions G through I, which generally include customer rights and remedies. (Tr. at 22)

³ In some instances, the Utilities indicate that notices were posted in some of the common areas.

⁴ See Case Nos. 9444 and 9445, Order Nos. 88092 and 88093.

COMAR 20.31.03.06 requires individual notice to master condominium resident/occupants. It is a finding that recognizes Staff's view that the Utilities read COMAR too narrowly,⁵ but does not conclude – at least at this stage – just how narrowly the companies reading of COMAR was and whether the Utilities' violation of COMAR was more extensive than the Commission has found thus far. The finding that the Commission made was based on substantial evidence, and therefore is reaffirmed.⁶

IT IS THEREFORE, this 15th day of August, in the year Two Thousand Seventeen by the Public Service Commission of Maryland,

ORDERED; That the Petition for Rehearing of Order No. 88247 filed by Potomac Electric Power Company and the Application for Rehearing filed by Washington Gas Light Company in this matter are hereby denied.

By Direction of the Commission,

/s/ David J. Collins

David J. Collins
Executive Secretary

⁵ See June 21, 2017 Hearing Transcript at 39.

⁶ See e.g., *Mid-Atlantic Power Supply Ass'n v. Maryland Public Service Commission*, 143 Md. App. 419 (2002)