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ORDER NO. 89682

Impacts of COVID-19 Pandemic on Maryland's Gas and Electric Utility Operations and Customer Experiences	* * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND
		PC53

Issue Date: December 21, 2020

ORDER ON ARREARAGE MANAGEMENT PROGRAMS

1. In Public Conference 53 ("PC53"), the Commission requested information and comment on the impact of the COVID-19 pandemic on ratepayers, utilities, and other interested persons. Based on evidence demonstrating that residential customers were accumulating large unpaid balances -- and advocacy by some of the parties for the consideration of arrearage forgiveness programs paired with energy assistance and partial payment plans -- on September 4, 2020, the Commission issued a Notice and Request for Arrearage Program Proposals (the "Notice"). On October 7, 2020, Baltimore Gas and Electric Company ("BGE"), Potomac Electric Power Company ("Pepco"), Delmarva Power & Light Company ("DPL"), The Potomac Edison Company ("Potomac Edison"), Washington Gas Light Company ("WGL"), and Columbia Gas of Maryland ("Columbia") (collectively, the "Utilities") submitted a joint response and proposal (the "Joint Utility Proposal" or the "Proposal") for the establishment of an Arrearage Management Program ("AMP"). Columbia also filed a separate response, as did UGI Utilities, Inc. ("UGI") and Chesapeake Utilities Corporation ("Chesapeake"). Responses

to the Joint Utility Proposal and the separate utility responses were filed by the Commission's Technical Staff ("Staff"), the Maryland Office of Peoples' Counsel ("OPC"), Prince George's County, and a group of public interest organizations (the "Maryland Public Interest Groups").[1]

2. On November 9, 2020, the Commission convened a public hearing and heard directly from the Utilities and interested stakeholders regarding the AMP proposals. For the reasons stated below, without prejudice to refiling amended versions of these programs in the future, the Commission rejects the AMP proposals filed by the Utilities as well as the modified proposals of Columbia[2] and Chesapeake. The Commission will continue to monitor the customer arrearage data provided by utilities, however, and may revisit this issue in the future.

Background

3. The Commission's Notice provided, in pertinent part:

a) In consultation with Staff, OPC and the Office of Home Energy Programs ("OHEP"), each Maryland gas, electric, and gas and electric investor-owned utility should develop cost-neutral arrearage forgiveness programs and/or Arrearage Management Programs suitable to address potential uncollectible COVID-19 related arrearages and reduce or eliminate COVID-19 arrearage-related terminations within that utility's customer base;

b) Proposals should be filed by October 7, 2020 and should include current arrearage data and any information necessary to evaluate the costs and benefits of the program; and

c) Comments on the proposals should be filed by October 28, 2020.

[1] The Natural Resources Defense Council, the National Housing Trust, the Green and Healthy Homes Initiative, and Maryland Energy Advocates.
[2] The Commission does not object to Columbia's proposal to expand the eligibility criteria for its Heat Share Fuel Fund.

4. The responses to the Notice were as follows:

1. The Joint Utility Proposal

5. The Utilities state in their Proposal that they initiated discussions amongst themselves and stakeholders, including OPC, OHEP, and Commission Staff.[3] They further state that based on those discussions, the Utilities agreed to propose core terms for a short-term AMP, which would provide arrearage relief to residential customers who make timely payments on their current bills.[4]

6. The Utilities propose that for any customer enrolled in the AMP, for each month that the customer pays their current monthly bill on time (not including any pre-enrollment arrearage amounts), the utility will forgive one-twelfth of the pre-enrollment arrearage balance.[5] When the customer completes twelve months of bill payments, the full amount of pre-enrollment arrearage is forgiven.[6] Under the Utilities' Proposal, a customer may miss up to two payments, and if the customer misses a payment but makes it up the next month (in addition to paying that month's bill) the customer receives credit for two payments, each worth one-twelfth of pre-program arrears.[7]

7. The Utilities propose that a customer will be in default of their AMP plan if they fail three times to make a full monthly payment by the billed due date, are disconnected for non-payment of newly incurred charges without making payments required for reconnection, or voluntarily stop service and close their account.[8] However, any

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[3] Proposal at 3.
[4] *Id*..
[5] *Id*. at 4-5.
[6] *Id*.
[7] *Id*.
[8] *Id*. at 8.

customer who experiences a disconnection for nonpayment would be permitted to continue their AMP plan if the customer makes the required payments (not including pre-enrollment arrearages) to restore service before their account is closed under existing utility timelines.[9] Upon default, any remaining pre-program arrears that have not yet been forgiven will come due at that time and be billed to the customer.[10]

8. The Utilities propose that the AMP plan will be open to customers who are at least 60 days past due, with a maximum arrearage of $3,000, though a customer with an arrearage above that limit could become eligible after paying and/or receiving energy assistance grants that bring the amount of arrearage within the eligibility limit.[11] Customers with an active payment plan would be permitted to transfer any remaining balance into the new AMP plan.[12]

9. The Utilities propose that customers must have been approved for assistance from the Maryland Department of Human Services, Office of Home Energy Programs ("OHEP") within the twelve months before enrollment, which is generally limited to households with income not exceeding 175% of the federal poverty level.[13]

10. The Utilities propose that the AMP would apply to both commodity and distribution charges (and related taxes and fees) for customers receiving commodity supply from the utility or for customers receiving supply from a retail supplier that

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[9] *Id.*at 9.
[10] *Id*.
[11] *Id*. at 5.
[12] *Id.*at 8.
[13] *Id*. at 6.

utilizes utility consolidated billing, but that amounts billed separately by retail suppliers would not be included.[14]

11. The Utilities anticipate that they would be able to each launch a streamlined program in the form proposed within 120 days of Commission approval.[15] The Utilities each committed to inform the Commission and stakeholders of any delays.[16]

12. The Utilities propose that each utility AMP would stop enrolling customers six months after the AMP was launched.[17] They also propose that each utility will develop an outreach and communication plan in partnership with other stakeholders.[18]

13. The Utilities have performed an estimate of cost-neutrality that produced a benefit-cost ratio range of between 0.70 (not cost-effective) and 1.36 (cost-effective) without considering estimated startup and operational expenses, which vary by utility.[19] When those expenses are included, the cost-benefit range decreases further to 0.35 to 1.02.[20] At the hearing, BGE representative Mark Case testified that the Utilities expect the AMP to be cost-negative for customers.[21]

14. The Utilities state that they are not aware of any AMP anywhere that is cost-neutral.[22]

15. The Utilities propose to recover costs either through the regulatory asset created

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[14] *Id*. at 5-6.
[15] *Id*. at 7.
[16] *Id*. at 7-8.
[17] *Id*. at 8.
[18] *Id*.
[19] *Id*. at 10-11.
[20] *Id*. at 11.
[21] November 9, 2020 Hr.'g Tr. at 25 (Case).
[22] Proposal at 11, n. 13.

to track incremental COVID-19 costs or a new regulatory asset.[23]

2. Statements by other utilities

16. UGI is not a signatory to the Joint Utility Proposal but states that it does not oppose it and will adopt it -- if it is approved by the Commission -- as its own proposal to address arrearages.[24] UGI states that it currently has 526 customers, but only two of them utilized Maryland Energy Assistance Program ("MEAP"), and neither of them has an arrearage.[25]

17. Chesapeake states that it is a signatory to the Joint Utility Proposal but filed separately to express concerns about the cost-effectiveness of the proposed AMP due to high startup costs, especially for smaller utilities.[26] In order to spread the costs across a larger body of beneficiaries, Chesapeake proposes to expand eligibility to cover all current customers with arrearages.[27] Alternatively, Chesapeake proposes implementing an incentive plan whereby the utility would pay customers in arrears to enter into payment plans.[28]

18. Columbia is a signatory to the Joint Utility Proposal but also filed separately. Columbia proposes that its AMP program will be available for customers who receive a 2020-2021 MEAP grant and have previously received Gas Arrearage Retirement Assistance ("GARA") funding, or for customers whose combined 2020-2021 MEAP and

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[23] *Id*. at 12-14.
[24] UGI at 1.
[25] *Id*. at 1.
[26] Chesapeake at 3-4.
[27] *Id*.at 4.
[28] *Id*.

GARA grants are insufficient to satisfy their entire arrears.[29] Columbia also states that it does not believe that automating the AMP process will be cost-effective and instead proposes to run the program manually.[30]

19. Columbia also proposes to expand its Heat Share Fuel Fund in order to assist those of its customers that are not eligible for the proposed AMP.[31] Columbia estimates that the proposed AMP eligibility rules would exclude over 90 percent of customers currently in arrears because those customers have not been approved for OHEP or MEAP assistance.[32] Columbia proposes to extend income guidelines for its Heat Share Fuel Fund program to include customers with income up to 250 percent of the Federal Poverty Guidelines for the duration of the program year—ending September 30, 2021—or until funds run out.[33]

3. Commission Technical Staff

20. Staff does not object to the Joint Utility Proposal.[34] Staff recommends, however, that customers of combined gas and electric utilities who are dual customers with both gas and electric service on a single account should be subject to a higher arrearage cap for eligibility.[35] Staff also recommends that customers removed from the AMP for a third missed payment should be afforded the opportunity to enter into long term payment plans per the Commission's order on August 31, 2020.[36] Staff also recommends that the

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[29] Columbia at 2-3.
[30] *Id*. at 5.
[31] *Id*. at 1-2.
[32] *Id*. at 4.
[33] *Id*. at 4-5.
[34] Staff at 3.
[35] *Id*.at 5.
[36] *Id*. at 7.

mechanism of any excess cost recovery should be determined in future proceedings, subject to a showing of prudency as to the level of expenditure.[37]

21. Staff also does not object to Columbia's additional proposals.[38] Staff does object to Chesapeake's proposal to expand eligibility to cover all customers.[39] Staff recommends that, given the small number of customers in arrearage, UGI should implement any approved AMP plan on a manual basis.[40]

4. The Maryland Public Interest Groups

22. The Maryland Public Interest Groups criticize the Joint Utility Proposal, which they argue focuses unreasonably on reducing arrearage balances over helping customers suffering hardship as a result of COVID-19 to maintain their utility service.[41]

23. They argue that the Utilities' approach to cost-benefit analysis ignores costs associated with termination (such as costs of notice, disconnection, collection activity, writing off uncollectible debt, and disputes with customers) as well as associated societal costs and benefits.[42] They argue that customers should be able to use OHEP funds to pay current bills, rather than having those funds go to unpaid arrearages.[43] They also argue that utilities should forgive or waive late fees, convenience fees, customer deposits, and reconnection fees to make current bills more affordable.[44]

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[37] *Id*. at 8.
[38] *Id*. at 10.
[39] *Id*. at 10-11.
[40] *Id*. at 11.
[41] MPIG at 4-5.
[42] *Id*. at 10-11.
[43] *Id*. at 7.
[44] *Id*. at 8.

24. They also argue that eligibility should be expanded beyond only those determined to be eligible for OHEP assistance, which they argue excludes many households now having difficulties with expenses due to COVID-19.[45] They also argue against the proposed $3,000 arrearage eligibility cap, which they term arbitrary, and recommend that the Commission impose only a yearly cap rather than an overall cap.[46]

25. They also argue that the Utilities' Proposal fails to address what will happen to customers between now and when the AMP gets up and running in approximately 120 days, and they question whether those customers will be at risk of termination between now and then.[47] They also argue that the proposed six-month timeframe for the AMP is arbitrary and that the AMP may be needed for longer than that amount of time.[48]

26. They recommend that the Commission impose further reporting requirements to allow regulators to assess the impacts and success of the AMP.[49] They also recommend that the Commission should focus the AMP on delivering energy efficiency investments to low-income customers through EmPOWER.[50] Finally, they recommend that the Commission should hold another hearing to hear from organizations attempting to help Maryland residents deal with the economic fall-out from the pandemic as well as impacted individuals.[51]

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[45] *Id*.
[46] MPIG at 9.
[47] *Id*.
[48] *Id*.
[49] *Id*. at 9-10.
[50] *Id*. at 11-15.
[51] *Id*. at 16.

5. Prince George's County

27. Prince George's County supports the Joint Utility Proposal with some modifications.[52] The County recommends that that the AMP eligibility rules permit a customer to pay less than their new monthly bill in order to prevent customers from falling back into arrears.[53] The County also recommends that, in the event of service termination, government agencies be notified in advance in order to protect health and safety interests.[54] Finally, the County recommends that AMPs be available to renters.[55]

6. Maryland Office of People's Counsel

28. OPC states that it supports some of the elements included in the Joint Utility Proposal but has concerns, particularly relating to the eligibility requirements, the timing of payments, and the enrollment windows.[56] OPC recommends that the Commission approve a modified version of the Joint Utility Proposal on a provisional or pilot basis.[57]

29. OPC recommends that the proposed income eligibility limits be raised to 250 percent of the Federal Poverty Limit or 80 percent of Maryland's Area Median Income limits.[58] In order to implement that change, OPC recommends that the Commission modify the Joint Utility Proposal to extend the eligibility criteria to include customers who have been approved for other income-tested and means-tested programs,[59] with the

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[52] Prince George's County at 1.
[53] *Id.*at 2.
[54] *Id*.
[55] *Id*.
[56] OPC at 5.
[57] *Id*. at 6.
[58] *Id*. at 8.
[59] On November 23, 2020, the Utilities provided a supplemental filing with the Commission concerning this proposal by OPC and argued that only four of the eleven programs identified by OPC had eligibility criteria "within range of the income eligibility limits of the proposed AMP."

customer needing only to produce to the utility a document verifying the household's participation in such a program.[60]

30. OPC also questions the Utilities' proposed cap of $3,000 in arrearages and recommends the Commission require utilities to produce information about the distribution of arrearage amounts within their customer base.[61] OPC also recommends that customers receiving both gas and electric service from the same utility should be subject to a higher cap and that the cap should not be a bar to eligibility but merely a limit on the amount of debt forgiveness.[62]

31. OPC questions the details of how customer default is measured under the Joint Utility Proposal.[63] OPC recommends that default and repayment should not focus on the timeliness of payments but merely that the payments were made in full prior to service termination.[64] OPC argues that flexibility for customers is necessary during a period of unpredictable income fluctuations.[65] OPC also recommends that AMP agreements should move with a customer who moves residences within a utility's service territory without further action by the customer.[66]

32. OPC also questions the analysis of cost-neutrality on which the Utilities rely in their Proposal, arguing among other things that the analysis should not have assumed that none of the arrearages would be paid without the AMP.[67] OPC recommends that the

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[60] OPC at 9-10.
[61] *Id*. at 10.
[62] *Id*. at 12-13.
[63] *Id*. at 14.
[64] *Id*. at 15, 18.
[65] *Id*. at 15.
[66] *Id*. at 18.
[67] *Id*. at 16.

Commission form a work group to develop a method for determining the cost-neutrality of COVID-19-related AMPs and to consider the expansion of the income eligibility criteria.[68] OPC recommends the Commission defer making a decision on cost-recovery until after it has reviewed the results of that work group process.[69] OPC also recommends that the Commission establish a proceeding to examine issues related to energy affordability, further customer debt relief, and bill payment capacity.[70]

Commission Decision

33. When the Commission issued its Notice requesting proposals for Arrearage Management Programs, it was with the understanding that many Maryland customers (more than the utilities' seasonal averages) had fallen behind on their utility payments as a result of the COVID-19 pandemic, and that the long-term expectation was that a large share of those arrearages would be ultimately uncollectible. The Commission hoped that AMPs could be developed and implemented that would provide a cost-effective method of reallocating expected future uncollectibles.

34. Although the Commission appreciates the good faith efforts of the parties in developing their proposals on short notice, all of the parties agree that the proposals are not cost effective or cost neutral at best. The Joint Utility Proposal contains large overhead costs and is not projected to be cost-effective. Moreover, there have been substantial concerns raised that the analysis in support of the Utilities' Proposal may overstate certain benefits, thus further reducing cost-effectiveness. There has been no cost-benefit analysis filed for the various proposed expansions of the Joint Utility

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[68] *Id*. at 6.
[69] *Id*.
[70] *Id*.

Proposal, but there has also been no suggestion by any party that the expansions would substantially improve cost-effectiveness.

35. In fact, the Utilities acknowledge in their Proposal that they are not aware of any AMPs in the United States that are cost effective.[71] OPC identifies three AMP programs with a permanent debt forgiveness component (in Connecticut, California, and Massachusetts, of which only the Massachusetts program predates the COVID-19 pandemic), but it made no representation that those programs are currently or projected to be cost effective for utilities or ratepayers.[72]

36. The Commission also notes that, according to the testimony given by OHEP Director Bill Freeman at the August 28, 2020 hearing, OHEP has large amounts of undistributed funds available to assist ratepayers in need through its energy assistance programs.[73] The Utilities also committed at that hearing to work with ratepayers to avoid disconnections, and the subsequent status reports filed by the Utilities indicate that the utilities are working with customers to facilitate payment arrangements that keep customers on service.

37. The Commission therefore rejects, without prejudice, the AMP proposals as presented. The Commission will continue to monitor the status reports filed by the utilities as part of PC53 and may revisit the question of AMPs in the future. The Commission does not object to Columbia's proposal to expand the eligibility criteria for its Heat Share Fuel Fund.

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[71] Proposal at 11, n. 13.
[72] OPC at 23-33.
[73] August 28, 2020 Hr'g Tr. at 387 (Freeman).

IT IS THEREFORE, this 21st day of December, in the year of Two Thousand Twenty, by the Public Service Commission of Maryland;

ORDERED: The Arrearage Management Programs discussed above are rejected, without prejudice.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

/s/ Mindy L. Herman
Commissioners

Dissenting and Concurring Statement of
Commissioner Michael T. Richard

1. I write separately because, while I concur with the Commission's decision to reject the Joint Utility Proposal without prejudice, I believe that the Order stops short of taking the necessary action to develop an appropriate program to address the COVID-19 pandemic and the resulting economic crises surrounding the pandemic. I am persuaded by the testimony at the November 19, 2020 Hearing that this unprecedented health crises calls for Commission action to mitigate the catastrophic financial impacts that government-mandated pandemic response measures have had on many Maryland households. I also am persuaded by the testimony that Arrearage Management Programs are proven, effective tools – already successfully in place in many other states – for providing financial relief to distressed households in order to maintain essential utility services.

2. While this Order dwells on the fact that nearly all the parties that testified at the November 9 Hearing criticized the Utility Joint Proposal to varying degrees, what is missing in the Order is that all these same participants were in support of an AMP— and nearly all testified that such a program is urgently needed.

3. I do concur with the Commission's finding that, "while it is a good faith effort," the program as presented should be rejected as is. But, rather than just focusing on the deficiencies that made the proposed program ill-suited to addressing the specific needs of those impacted by this pandemic, I believe what we heard at the Hearing was a charge to improve it. Rather than simply rejecting the Joint Utility Proposal with a promise to "monitor" the situation, I would have preferred that the Commission had also taken

action to order the utilities to reconvene the parties and continue working to develop a program specifically designed to address the COVID-19 economic crisis, and have it ready for Commission review by the end of the first quarter of 2021.

4. I am further concerned that this decision deviated from its original charge to develop "cost-neutral" programs "*to the extent possible,*"[1] and instead made cost-neutrality an absolute determining factor, and seemingly accepted—without challenge—the Joint Utilities' assertions of program costs or their "two-scenario" analysis of the Program's cost-neutrality.[2] Missing in the Order is a consideration of the utilities' own "[b]eyond a strict cost-benefit calculation" discussion, where the utilities talk about how AMPs can provide an "invaluable service of helping vulnerable customers" who are "facing severe financial challenges imposed upon them by an unprecedented public health crisis" and are facing "consequences as a result of changes in life and work" including customers with "students attending school virtually from their home."[3] I wholeheartedly agree, as the utilities stated in their cost-neutrality discussion, that "[w]hen a utility is able to help customers address these challenges and prevent turnoffs in this way, the outcome inarguably is a far healthier community for everyone, not only those directly impacted by the program."[4]

5. Also, I agree with the Office of People's Counsel that there was insufficient data to truly determine cost-neutrality and that the utilities' analysis excluded factors that undervalued the benefits of AMPs – many of which are, "additional social benefits" not

[1] Notice and Request for Arrearage Program Proposals dated September 4, 2020 at 2.
[2] Proposal at 11.
[3] *Id*.
[4] *Id*.

measured.[5] I support OPC's approach to initiate an AMP on a provisional or pilot basis and concurrently establish a working group to develop an agreed upon method of determining the cost-neutrality of an AMP specifically designed to address COVID-19 pandemic-related financial needs. Again, I would have supported making such a directive in this Order, rather than leaving this as a possibility as some unspecified future date.

6. In conclusion, I believe that the preponderance of the testimony presented showed that the COVID-19 health crisis and the government's response to it have resulted in one of the most catastrophic economic crises of our lifetime. Data shows that many Maryland households that have never needed economic assistance are now facing financial hardships that not only threaten their ability to maintain essential utility services but may create financial stresses for years to come as they recover from this unprecedented event. The overwhelming majority of testimony at the November 9 Hearing supported the establishment of an AMP plan, and the Commission's Staff called it an "effective mechanism in alleviating the financial hardships that have resulted from the pandemic" and "it does achieve the over-arching goal of assisting those ratepayers that need that assistance the most."[6]

7. It is my hope that despite the absence of direction by the Commission in this Order to do so, all the parties will continue to work to develop a COVID-19 pandemic-related Arrearage Management Program and give this Commission another opportunity,

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[5] OPC at 17.
[6] Staff at 6-8.

soon, to consider this urgently needed mechanism to help Maryland families.

/s/ Michael T. Richard

Commissioner