ML 238335

ORDER NO. 90018

In The Matter of the Merger of AltaGas Ltd., and WGL Holdings, Inc.	* * * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9449

Issue Date: December 23, 2021

ORDER ON MOTION AND REQUEST TO IMPOSE CIVIL PENALTIES

A. Background

1. On April 4, 2018, the Commission issued Order No. 88631, which conditionally approved the merger application of AltaGas Ltd. ("AltaGas"), WGL Holdings, Inc. and Washington Gas Light Company ("Washington Gas" or "the Company") to allow AltaGas to acquire the power to exercise substantial influence over the policies and actions of Washington Gas pursuant to *Annotated Code of Maryland,* Public Utilities Article ("PUA") §6-105. The Commission attached 52 conditions to its approval. Of relevance to this Order is Condition 11, which required AltaGas to "devote resources necessary to maintain current service quality and reliability levels and standards" and "otherwise ensure that Washington Gas will maintain safety and reliability standards and policies that are substantially comparable to, or better than,

those standards and policies maintained by Washington Gas at Merger Closing."[1]

2. Additionally, Condition 11F required Washington Gas to: (1) continue to file Customer Service Quality Reports as required by Case No. 9104 on a quarterly basis; and (2) conduct a root-cause analysis of, and develop an action plan to improve, Washington Gas's customer satisfaction scores. The purpose of these reports was to "allow [the Commission] to review objective data as to whether customer service within Washington Gas is in fact improving post-merger."[2]

3. Shortly before the Commission approved AltaGas' acquisition of Washington Gas, the Company's contract with its third-part customer-service provider, Accenture, expired. Accenture had handled Washington Gas's customer service call centers from 2007 to 2017. In 2014, in anticipation of the expiration of this contract, Washington Gas engaged two consulting firms "to conduct detailed marketing assessments and provide recommendations for a successor call center contractor" and issued a Request for Proposal ("RFP").[3]

4. The RFP process resulted in Faneuil, Inc. ("Faneuil") submitting a final bid significantly below the bids received from any other bidder. Concerned that Faneuil's bid was unusually low, Washington Gas conducted follow-up due diligence, including meeting with Faneuil executives and performing on-site inspections and background investigations.[4] On

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[1] Case No. 9449, Order No. 88631 at A-8. Following the Order, Washington Gas submitted quarterly reports, which described its levels of customer service through eight metrics. Those metrics are: (1) calls answered within 30 seconds; (2) calls abandoned; (3) answer speed; (4) longest wait; (5) received calls answered – peak interval; (6) calls abandoned – peak interval; (7) average speed to answer – peak interval; and (8) longest wait – peak interval.

[2] *Id.* at 57.

[3] Washington Gas's Response at 3.

[4] *Id.* at 4-5.

October 12, 2015, Washington Gas and Faneuil signed a Master Service Agreement ("MSA").[5]

5. The MSA required Faneuil to meet several customer service metrics and imposed credits to Washington Gas in the event of failure. Washington Gas could also require Faneuil to provide an "Action Plan" should Faneuil fail to meet material components of the MSA.

6. Pursuant to Condition 11F, Washington Gas submitted a "root-cause analysis" conducted by Dixon Hughes Goodman, LLP on January 3, 2019.[6] This analysis identified the chief cause of Washington Gas's declining customer service to be Faneuil's lack of sufficient staffing levels. Pursuant to a subsequent Commission order, Washington Gas provided a new quality and customer retention plan to improve staffing levels and comply with Maryland's customer service standards.[7]

7. Despite these intended improvements, Washington Gas's customer service record continued to decline precipitously, and the consequences to the labor market from COVID-19 as of March 2020 only worsened Faneuil's staffing shortages.[8] In late 2020, Washington Gas began to transition to a different vendor. Following an expedited search for a replacement for

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[5] *Id.* at 5. Although the Commission could have included AltaGas in its show cause order because AltaGas agreed to submit to Commission jurisdiction for purposes of enforcing the Merger Order and conditions, including Condition 11, the Commission chose not to do so for two reasons: (1) OPC did not request that AltaGas be included; and (2) the Commission has full jurisdiction over all aspects of Washington Gas's customer service without the need to invoke the jurisdictional language of the Merger Order. Additionally, the record contains no evidence of misconduct by AltaGas. As the timeline above makes clear, Washington Gas had already signed its MSA with Faneuil three years before AltaGas became its new parent company. Therefore, AltaGas inherited a declining customer service situation, and the limited record evidence reflects that AltaGas provided sufficient capital to address Washington Gas's customer service issues if Washington Gas had effectively spent this equity infusion.

[6] Maillog No. 223447; Dixon Hughes Goodman LLP is a certified public accounting firm.

[7] Maillog No. 230040.

[8] *See* Maillog No. 237238 OPC Motion ("OPC Motion") at 6, documenting an alarming decline in eight customer service metrics compared with the industry average.

Faneuil, Washington Gas signed an interim MSA with Sutherland Global Services Inc. ("Sutherland") in March of 2021 and a final MSA with Sutherland in June 2021.

8. Due to the lack of a competitive bid process, Washington Gas retained Information Services Group ("ISG") to complete an independent market survey of outsourcing providers to ensure that Sutherland's bid was market-competitive and consistent with leading practices. ISG affirmed that it was.[9]

9. On September 30, 2021, OPC filed a "Motion to Establish a Corrective Action and Impose Civil Penalties or, Alternatively, to Order Washington Gas Light Company to Show Cause Why the Commission Should Not Impose Civil Penalties". In its Motion, OPC contends that Washington Gas's Customer Service Quarterly Reports demonstrate that "through the second quarter of 2021…almost every metric that was targeted in the initial 2019 root-cause analysis has worsened."[10] OPC describes eight separate customer service metrics that uniformly establish a level of customer service inferior to both Washington Gas's pre-merger levels as well as industry standards.[11] OPC also alleges that Washington Gas's failure to file four timely quarterly reports violated Condition 11F and requests the Commission to impose sanctions for a violation of that merger condition.[12]

10. OPC also contends that Washington Gas's poor customer service violates several provisions of the PUA and COMAR. PUA § 5-303 requires all public service companies to

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[9] Washington Gas's Response at 10.
[10] *Id.* at 5.
[11] *Id.* at 6-9.
[12] *Id.* at 10-11. As a general rule, PUA §13-205 limits civil penalties for late or missing reports to the Commission to $100.00 per day beginning 30 days after the due date. However, the present case requires the Commission to address the potential violation of a merger condition as opposed to an untimely filing of a required report. Nothing in Condition 11 suggests that a violation of its different subsections will invoke different civil penalty provisions of the PUA.

"furnish equipment, services, and facilities that are safe, adequate, just, reasonable, economical and efficient…" COMAR 20.55.04.10 requires Washington Gas to "investigate promptly and thoroughly any complaint concerning its charges, practices, facilities, or service." COMAR 20.55.04.11 requires Washington Gas to "keep such records of customer complaints as will enable it to review and analyze its procedures and actions as an aid in rendering improved service." Finally, COMAR 20.32.01.03 requires Washington Gas to "investigate a customer dispute or inquiry and propose a resolution of the dispute to the customer or report its findings to the customer."

11. OPC claims that Washington Gas has violated all of these provisions and asks the Commission to "implement a corrective action plan for Washington Gas that includes measurable customer service metric levels consistent with industry standards."[13] Additionally, OPC asks the Commission to impose a civil penalty in the amount of $1,500,000.00 pursuant to the Commission's authority under PUA § 13-201.

12. On October 15, 2021, the Commission issued an Order to Show Cause that required Washington Gas to submit "a proposed corrective plan, which addresses the decline in customer service post-merger and allows the Commission to ensure Washington Gas's customer service metrics comply with the goals set forth in Condition 11 of Order No. 88631 as well as COMAR."[14] Additionally, the Commission ordered Washington Gas to "show cause why the Commission should not impose a civil penalty pursuant to Section 13-201 of the Public Utility Article."[15]

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[13] *Id.* at 16.
[14] Order to Show Cause at 4.
[15] *Id.*

13. On October 22, 2021, Washington Gas responded to OPC's motion, setting forth its proposed corrective action plan ("CAP") and denying that its conduct required any civil penalties. Washington Gas conceded that its late filing of four quarterly reports might justify a civil penalty of less than $150,000.00 pursuant to PUA §13-205. The Company also proposed reporting to the Commission on a *monthly* basis going forward until January 1, 2025.[16]

14. OPC, Staff and Montgomery County replied to Washington Gas's filing on November 12, 2021. These parties proposed several amendments and disagreements with Washington Gas that the Commission will address by issue.

B. <u>Potential Violation of COMAR and Condition 11 of the AltaGas Order</u>

15. OPC requests a civil penalty for violations of Condition 11 and 11F of the AltaGas Order as well as COMAR 20.55.04.10, 20.55.04.11 and 20.32.01.03.

<u>Washington Gas</u>

16. Washington Gas denies violating Condition 11 of the AltaGas Order, which provides that "AltaGas will continue to devote resources necessary to maintain current service quality and reliability levels and standards under existing Commission orders and regulations." Washington Gas maintains that AltaGas' significant equity infusions post-merger satisfies this language. The Company notes that AltaGas has provided $627,000,000.00 in capital infusions during the three years post-merger compared with $100,000,000.00 received from WGL

[16] Washington Gas Response at 33-34.

Holdings during the three years pre-merger.[17]

17. Washington Gas argues that its $31 million investment in customer service and call center operations between 2019 and 2021 has been prudent under the circumstances.[18] Additionally, Washington Gas argues that the Commission should include the Company's provision of extra-contractual financial incentives (i.e., waived monthly credits) to Faneuil in evaluating its commitment to customer service. For the first three months of 2021, Washington Gas waived over $81,000 per month in contractual penalties to allow Faneuil to invest in additional staff.[19]

18. Finally, Washington Gas notes that the COVID-19 pandemic has affected the entire call center industry, and therefore requiring strict compliance with customer service commitments under the circumstances would be unfair.[20] Referring to the "Great American Labor Shortage," the Company notes that inadequate staffing has affected multiple Maryland state agencies as well. Within this context, Washington claims its expedited MSA with Sutherland, as well as its supplementation of Sutherland's workforce with its own employees, compares well with other private and public entities' reaction to labor shortages caused by the pandemic.[21]

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[17] Washington Gas Response at 24 (Figure 5). The Company also notes that OPC has elsewhere argued that AltaGas has provided more equity than is reasonable. *In the Matter of the Application 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. 9605, Direct Testimony of OPC Witness Woolridge at 20-25 (July 19, 2019).

[18] Washington Gas Response at 26.

[19] *Id.* at 27.

[20] *Id.* at 27-28.

[21] *Id.*

19. Washington Gas concedes that it failed to file timely quarterly reports (although all reports were eventually filed) as required by Condition 11F,[22] but attributes this failure to a technical issue preventing access to data in the Company's SAP system.[23] This technical issue required a third-party vendor to create a "work-around," causing an unavoidable delay in acquiring the information necessary for the reports. As a result, quarterly reports in 2019 and 2020 were untimely, but the Company states that the Commission received "informal" updates during this period to allow oversight of its customer service.[24]

20. COMAR 20.55.04.10 requires that Washington Gas effectively investigate any complaints regarding its practices. COMAR 20.55.04.11 requires that Washington Gas keep sufficient records to allow a review of its service procedures. COMAR 20.32.01.03 states that Washington Gas shall investigate a customer's complaints and provide a resolution of the complaint.[25]

21. Washington Gas concedes that it violated COMAR 20.55.04.10 and 20.32.01.03.[26] However, it denies that it failed to maintain sufficient records to review its internal customer service procedures pursuant to COMAR 20.55.04.11.[27]

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[22] The Company filed its first two quarterly reports for 2019 on September 4, 2019 (Maillog No. 226663). The Company filed reports for the second two quarters of 2019 and every quarter in 2020 on March 2, 2021 (Maillog No. 234000).
[23] SAP is a resource planning software.
[24] *Id.* at 29.
[25] *Id.* at 28.
[26] *Id.* at 30 ("Washington Gas agrees that, with respect to those customers unable to reach a service center representative, the Company has not been able to investigate non-call center complaints. That is why the Company unilaterally determined to suspend dunning and disconnection activities as well as late fees.")
[27] *Id.*

OPC

22. OPC does not dispute whether AltaGas invested sufficiently in Washington Gas post-merger. However, OPC contends that Condition 11 requires that these investments "maintain" Washington Gas's pre-merger levels of customer service. OPC argues that the documented decline in customer service across all metrics evidences that Washington Gas did not invest AltaGas' capital investments prudently. Both OPC and Staff agree that Condition 11 is not limited to sufficient financial resources. They contend this condition necessarily encompasses all resources (including staffing) necessary to provide the level of customer service anticipated by the merger's approval.

23. Additionally, OPC contends that Washington Gas violated COMAR long before the merger by accepting an unrealistically low bid from Faneuil and not remedying an obviously untenable situation with Faneuil sooner. As far back as 2016, the Commission had observed that "WGL's service quality performance showed marked decline, especially around May 2016, when most call center operations were transferred from Accenture to Faneuil, and January 2017, when additional services were transferred to Faneuil."[28] OPC contends that this noticeable decline belies the Company's current claim that it became aware of staff attrition issues at Faneuil in 2018.[29]

24. OPC further notes that the Company did not require an "Action Plan" from Faneuil as permitted by the then-governing MSA until 2019. Even after these plans proved ineffective,

[28] Case No. 9481, Order No. 88944 at 53 (Dec. 11, 2018).
[29] OPC Reply at 3.

Washington Gas did not finally replace Faneuil until 2020.[30]

25. As for the impacts of COVID-19, OPC notes that the Commission initiated a public conference in July 2020 and directed each utility to address "the impacts to date of the pandemic on utilities and the services they provide."[31] Washington Gas's response did not claim that COVID-19 might affect its ability to monitor Faneuil's performance under the MSA. Essentially, OPC argues that the pandemic only exacerbated pre-existing customer service problems at the Company.

26. OPC further argues that Washington Gas has violated all three relevant COMAR provisions, including COMAR 20.55.04.11. OPC argues that the Company cannot maintain adequate records to review its internal customer service procedures if customers are unable to reach a representative. No record exists of these failed efforts.

27. Based upon these multiple violations, OPC recommends that the Commission impose a civil penalty of $1,500,000 pursuant to PUA §13-201.

Staff

28. Staff essentially agrees with OPC's arguments regarding violations of Condition 11, Condition 11F and COMAR. Staff also believes that Washington Gas violated the spirit of Condition 11 and 11F, despite AltaGas' equity infusions, and the three cited provisions of COMAR.

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30 The Company provided an affidavit by Jon Brock, an Account Director at ISG, to the effect that Washington Gas's replacement of Faneuil with Sutherland in approximately 4 months surpassed the industry average of approximately 7-10 months for such an undertaking. (Exhibit 9). OPC argues that the issue is not that the Company did not move fast enough once motivated, but that years had elapsed prior to initiating this replacement effort.

31 Notice of Public Conference on the Impacts of the COVID-19 Pandemic, PC 53 (July 8, 2020) at 2.

29. However, unlike OPC, Staff believes the Commission should schedule a hearing to determine the appropriate amount of any civil penalties.

Commission Decision

30. The Commission finds that the record reflects an extensive failure to provide adequate customer service within Washington Gas's service territory in Maryland. For example, the percentage of calls that WGL answered within 30 seconds declined from 77% pre-merger to 43% (the industry average is 82%).[32] The percentage of calls abandoned by customers increased from 11% to 28% (the industry average is 8%).[33] The average speed to answer a customer's call (in seconds) increased from 42 to 566 (the industry average is 30).[34] The longest time WGL customers had to wait for their call to be answered increased from 41 minutes to 67 minutes (the industry average is 8 minutes).[35]

31. Based upon these largely undisputed facts, the Commission concludes that the Company violated two provisions of the Merger Order - Conditions 11 and 11F. The Commission also concludes that the Company violated COMAR 20.32.01.03, COMAR 20.55.04.10, and COMAR 20.55.04.11.

32. Prior to June 2018, the merger conditions did not govern Washington Gas. However, those conditions were imposed to ensure at least the same provision of reliable customer service expected by the PUA and COMAR that existed before the merger with Alta Gas. The Commission also imposed the equity infusion and reporting requirements as a condition to the

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[32] OPC Motion at 6-10 documents the decline in customer service performance for all eight metrics.
[33] *Id.*
[34] *Id.*
[35] *Id.*

merger to ensure that Washington Gas's customer service did not decline due to financial indifference by its new parent company.

33. The record reflects that AltaGas provided sufficient equity to Washington Gas post-merger. However, Condition 11 has little value if the quality of the Company's customer service continues to deteriorate. Especially in light of AltaGas' significant increase in capital investment in Washington Gas, the Company's multi-year failure to correct a glaring staffing issue that Faneuil was apparently unable or unwilling to address is concerning.

34. Washington Gas does not deny the significant customer service issues that have existed for several years, citing the difficulties arising from Faneuil's intransigence, and the COVID-19 pandemic may help explain the current situation, but these explanations are irrelevant as to whether violations occurred.

35. Washington Gas concedes that it violated two COMAR provisions so the Commission will not further address those here.[36] The Commission agrees with OPC and Staff that the Company also violated COMAR 20.55.04.11 since Washington Gas cannot maintain records required to evaluate its customer service if a customer is unable to reach a representative at all.

36. The record also clearly establishes that the Company failed to file eight quarterly reports from 2019 and 2020 in a timely fashion as required by Condition 11F of the Merger Order. The Commission notes that Washington Gas's obligation to submit these reports began in 2008, and Condition 11F only continued this obligation. Even in the absence of its acquisition by AltaGas, the Company's failure to submit timely reports would have triggered

[36] Those provisions are COMAR 20.32.01.03 and 20.55.04.10.

potential civil penalties under PUA §13-205. Additionally, the Commission ordered these reports precisely to monitor and prevent the situation that has arisen.

37. Based upon the record, the Commission concludes that Washington Gas has been in violation of the three COMAR provisions cited above from at least 2016 through the present. The Company has also been in violation of Conditions 11 and 11F from June 2018 through the present. In light of the early stage and the slightly positive early results provided by the Company, the Commission will not extend the term of violations beyond June 22, 2021, the date Washington Gas executed its existing MSA with Sutherland.[37]

38. With respect to the assessment of a civil penalty, the Commission agrees with Staff that a hearing is appropriate to determine the appropriate amount of any civil penalty. The Commission will schedule a future hearing to address this issue alone.

C. <u>Washington Gas's Corrective Action Plan</u>

39. To a large extent, Washington Gas mirrors its proposed Corrective Action Plan ("CAP") on the plan submitted to the Public Service Commission of the District of Columbia ("District Commission"). Washington Gas measures its customer service in Maryland, Virginia and the District of Columbia by the Natural Gas Quality of Service Standards ("NGQSS") set forth in the District of Columbia's Municipal Regulations.[38] The Company has incorporated these standards into its MSA with Sutherland. Additionally, Washington Gas

[37] The Company discusses the early results of its proposed CAP for September and October of 2021 in its Response at 22-23. These early results reflect a slight improvement in certain metrics: (1) "Average Speed to Answer" has declined from over three hours to under 50 minutes; (2) Call Abandonment Rate has declined from more than 90% to less than 70%; and (3) Average Handle Time has declined from 20 minutes to approximately 13 minutes.

[38] Company Response at 13.

provides ten "key actions" intended to ensure compliance:

1) Modified hours of operation to maximize staffing during the highest call volume periods;

2) Increased number of agents, both through Sutherland employees and Washington Gas's temporary contractor resources. Washington Gas provides specific hiring targets for the final four months of 2021;

3) Train 25 Washington Gas employees to provide additional staffing through the end of 2021;

4) Add three Resource Managers by October 2021 to manage the real-time shifting of calls to minimize "idle time;"

5) Provide bonuses for staff that meets certain attendance standards;

6) Suspend all dunning letters, disconnections and late fees through December 2021;

7) Provide extended five-week training for new staff to handle more calls per day;

8) Internal analysis of various means of expediting customer responses, including improved scripts or otherwise reducing the average handle time of a customer's inquiry;

9) Re-opening Washington Gas's Anacostia office for 2.5 days per week for customers who prefer an in-person option. Washington Gas also intends to open an office in Frederick, Maryland in the near future; and

10) Enhance various technological resources, such as online self-service and a virtual hold option to allow customers to save their place in the calling order without remaining on-line.[39]

[39] Washington Gas also provided several detailed responses to data requests from the District Commission that describe its intended corrective action at a granular level. The Commission will not address that level of specificity in this order. The Commission expects Washington Gas to accomplish the various targets as described in this Order, but will allow the Company some flexibility to do so.

40. Finally, while acknowledging that the initial results are very preliminary, the Company notes that the early results (September 1 – October 20th) show that customer service has slightly improved.[40]

OPC Reply[41]

41. OPC contends that the CAP is deficient because the Company only addresses the two metrics within the NGQSS, i.e., percentage of calls answered and call abandonment rate.[42] OPC urges the Commission to require Washington Gas to meet all eight metrics that the Company included within its required quarterly reports.[43]

42. OPC also asks the Commission to incentivize Washington Gas's compliance by imposing automatic penalties for failure to meet customer service targets.

Staff Reply

43. Staff recommends the Commission enhance the Company's CAP by requiring Washington Gas employees assisting Sutherland to remain in place until the Company's call centers have "stabilized."[44] Staff also recommends the Commission extend the Company's suspension of dunning letters, disconnections and late fees until Washington Gas sustains compliance with customer service metrics for three months in a row.[45]

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[40] Response at 22-23. As described in FN 32, the early results show improvement in Average Speed to Answer, Call Abandonment Rate, and Average Handle Time.

[41] The recommendations submitted by Montgomery County are consistent with those made by OPC and Staff.

[42] Company Response at 13; OPC Reply at 16.

[43] OPC Motion at 6; OPC Reply at 17. Those eight metrics are: (1) calls answered within 30 seconds; (2) calls abandoned; (3) answer speed; (4) longest wait; (5) received calls answered – peak interval; (6) calls abandoned – peak interval; (7) average speed to answer – peak interval; and (8) longest wait – peak interval.

[44] Staff Reply at 28. Staff does not define what would constitute "stabilized."

[45] Staff Reply at 30. Staff defines "compliance with customer service metrics" as meeting the lesser of: (1) the Company's customer service levels at the end of the quarter in which AltaGas and Washington Gas merged (June 2018); or (2) the industry standards contained within the Company's January 3, 2019 root-cause analysis.

44. Staff also agrees with OPC that the Commission should require Washington Gas to comply with Maryland benchmarks as contained in the Company's January 3, 2019 Customer Service Report (the "root-cause analysis") as well as COMAR 20.50.12, rather than the NGQSS.[46] Staff also requests that the Company conduct an audit of Sutherland at its shareholders expense to ensure it meets industry standards at a competitive price.[47]

45. Finally, Staff recommends the Commission establish a regulatory liability to:

a) Track any costs associated with its previous contract with Faneuil as well as its current contract with Sutherland; and

b) Track all paid and forfeited late fees as well as all uncollectibles and associated costs from January 2020 until compliance with Maryland's customer service metrics.[48]

46. This regulatory liability would allow the Commission to consider disallowance of these costs in a future rate case.[49]

Commission Decision

47. The Commission accepts the CAP submitted by Washington Gas, subject to the following modifications. The Commission agrees with OPC and Staff that Washington Gas's future compliance should be based upon Maryland's eight customer service metrics contained within the quarterly reports that the Company has filed since 2008 pursuant to Case No. 9104, rather than the NGQSS. The Commission accepts Washington Gas's suggestion that these

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[46] Staff Reply at 31.

[47] Staff Reply at 31-32. The Commission does not agree with Staff's recommendation on this issue because the Company has previously retained ISG to perform such an audit, and no obvious benefit would result from requiring a second audit.

[48] Staff Reply at 30-31. Staff also recommends the incorporation of various benchmarks into the MSA between the Company and Sutherland. The Commission lacks the authority to impose changes to a contract executed by a party outside of its jurisdiction and will decline these recommendations with the understanding that the Company will be held accountable for the results outlined in this order.

[49] Staff Reply at 30-31.

reports be filed on a monthly basis and orders the Company to submit these reports until the Company meets the industry standards for customer service metrics contained within its January 3, 2019 Customer Service Report (the “root-cause analysis”) for three consecutive months.[50]

48. Similarly, the Commission orders that Washington Gas shall continue the suspension of dunning letters, disconnections, and late fees until the Company meets the same customer service standards contained within its January 3, 2019 Customer Service Report for three consecutive months. While the Commission will not require specific levels of staffing, the Commission will not accept a lack of sufficient staffing as a mitigating factor should the Company’s future performance fall short of expected improvements.

49. Additionally, while the Commission will not impose automatic penalties as requested by OPC, the Commission retains the discretion to determine any appropriate penalty as future events may warrant. Because the Commission has extended Washington Gas’s suspension of dunning letters, disconnections, and late fees, the Company has an ongoing financial incentive to improve its customer service expeditiously.

50. The Commission agrees with Staff and orders Washington Gas to establish a regulatory liability to:

a) track any costs associated with its previous contract with Faneuil and as well as its current contract with Sutherland; and

b) track all paid and forfeited late fees as well as all uncollectibles and associated costs from January 2020 until compliance with the customer service metrics contained within its January 3, 2019 Customer Service Report for three consecutive months.

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[50] Maillog No. 223447.

51. The Commission will determine the extent to which these costs should be recovered by ratepayers in a future rate case.

52. The Commission agrees with Washington Gas's decision to open a customer service branch in Maryland to give customers the option of an in-person experience. The Company has opened a branch in Frederick, Maryland, and Washington Gas may want to consider opening a branch in a location more accessible to the core of its customer base.

53. Washington Gas shall file with the Commission a revised CAP, incorporating these modifications within 30 days of the date of this order.

D. OPC's Motion to Make Public

54. On November 12, 2021, OPC filed a Motion to Make Public, requesting that the Commission order Washington Gas to de-classify those portions of its October 22 Response designated "confidential". OPC contends that the issues in this case directly affect the Company's customers and all relevant information to decide this matter should therefore be publicly available.

55. In response, Washington Gas expressed a willingness to make public all information except that which reflects proprietary financial information and would result in a potential competitive disadvantage for Sutherland in bidding on future contracts.

56. The Commission grants OPC's motion as modified by Washington Gas's response. Washington Gas's proposed limitation reflects a reasonable balance between the need to keep the public informed of the developing record while protecting confidential business information.

IT IS, THEREFORE, this 23rd day of December, in the year Two Thousand and Twenty-One,

ORDERED: (1) That Washington Gas violated COMAR 20.32.01.03, COMAR 20.55.04.10, and COMAR 2020.55.04.11 from 2016 through June 22, 2021;

(2) That Washington Gas violated Conditions 11 and 11F of the AltaGas Merger Order from June 2018 through June 22, 2021;

(3) That the Commission will schedule a hearing to address whether and to what extent civil penalties are appropriate;

(4) That Washington Gas's proposed Corrective Action Plan is accepted subject to the modifications described in this order;

(5) That Washington Gas shall file a modified Corrective Action Plan consistent with this order within 30 days; and

(6) That OPC's Motion to Make Public is granted as limited by Washington Gas's Response.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

/s/ Mindy L. Herman

Commissioners