ORDER NO. 90333

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: August 25, 2022

ORDER ON COVID-19 EMERGENCY MEASURES

1. As part of Public Conference 53 ("PC53"), at the beginning of the COVID-19 coronavirus pandemic, the Commission requested information and comments on the impact of the COVID-19 pandemic on ratepayers, utilities, and other interested persons. The Commission received written filings from 13 utilities, state agencies, and interest groups. On August 27-31, 2020, the Commission held public hearings to discuss the data and recommendations received. Based on that record and the pending expiration of Governor Hogan's Executive Order prohibiting residential utility service termination, on August 31, 2020, the Commission issued emergency orders from the bench: (i) extending the moratorium; (ii) extending the notice period for service terminations; (iii) setting minimum payment terms; (iv) waiving down payment and deposit requirements; and (v) requiring negotiation of payment plans ("August 2020 Orders").

2. On June 1, 2022, the Baltimore Gas and Electric Company, Potomac Electric Power Company, Delmarva Power & Light Company, The Potomac Edison Company, Washington Gas Light Company, Columbia Gas of Maryland, and Southern Maryland Electric

Cooperative (collectively, the "Utilities") filed a Joint Request that the Commission lift certain August 2020 Orders and end the associated quarterly and monthly reporting requirements.

3. On June 17, 2022, the Office of People's Counsel ("OPC") filed a Response, asking the Commission to reject the Utilities' Joint Request and open a docket or establish a working group within PC53 to allow utilities and interested parties to consider payment and collection practices in light of the continuing effects of the COVID-19 pandemic and current economic conditions.

4. On June 30, 2022, the Fuel Fund of Maryland ("Fuel Fund") filed a Response, asking the Commission to reject the Utilities' request to end the requirement to provide a 45-day notice prior to service turnoff.

5. On July 28, 2022, the Commission's Technical Staff ("Staff") filed a Response, which contained several proposals.

6. For the reasons outlined below, the Commission modifies the August 2020 Orders, announces that it will hold a legislative style hearing on November 10, 2022, directs the Utilities to file additional analyses as described below by September 29, 2022, and directs that stakeholders shall file comments for consideration at the hearing by October 20, 2022.

Background

7. On March 5, 2020, Maryland entered a state of emergency in an effort to control and prevent the spread of the coronavirus known as "COVID-19." On March 16, Maryland Governor Lawrence Hogan, Jr. issued an Executive Order that prohibited Maryland utilities[1]

[1] Some of the utilities operate outside of the Commission's jurisdiction.

from terminating residential service for Maryland customers and charging late fees (the "Governor's Moratorium").

8. On July 8, 2020, the Commission initiated Public Conference 53 to assess the impact of COVID-19 on Maryland utilities and ratepayers, including accumulated arrearages, service terminations, and other financial and administrative challenges, and to explore potential regulatory actions to mitigate those impacts. The Commission received written filings from utilities, Staff, OPC, and other interested stakeholders. On August 27 and 28, 2020, the Commission held legislative style hearings on the topics listed above. The hearings primarily focused on the accumulation of ratepayer arrearages during the disconnection moratorium and as a result of COVID-19.

9. After multiple extensions, the Governor's Moratorium officially expired on August 31, 2020. Also on August 31, in order to transition from the Moratorium in a controlled manner, the Commission issued the August 2020 Orders from the bench that:

(1) utilities may not engage in service terminations and or charge late fees until October 1, 2020 and any notices of termination for residential accounts sent before October 1, 2020 are invalid;

(2) a public service company must give notice at least 45 days before terminating service on a residential account;[2]

(3) structured payment plans offered by public service companies to residential customers in arrears or unable to pay must allow a minimum of 12 months to repay, with that period extending to 24 months for customers certified by the Maryland Office of Home Energy Programs ("OHEP") as low income;

(4) prohibited any public service company from collecting or requiring down payments or deposits as a condition of beginning a payment plan by any residential customer; and

(5) prohibited any public service company from refusing to negotiate or denying a payment plan to a residential customer receiving service because the

[2] This does not apply if Commission regulations do not require notice of a termination.

> customer failed to meet the terms and conditions of an alternate payment plan during the past 18 months.

10. On February 15, 2021, the Maryland General Assembly enacted the Recovery for the Economy, Livelihoods, Industries, Entrepreneurs, and Families Act ("the RELIEF Act"), allocating $83 million in utility arrearage forgiveness, to be administered by the Commission. On June 15, 2021, after receiving stakeholder comments and holding a hearing, the Commission issued Order No. 89856, directing the dispersal of the RELIEF Act funds. As part of that Order, the Commission also extended the effective date of the August 31 Orders indefinitely, except for item 1, which was specifically re-instituted and extended until the later of November 1, 2021 or 30 days after the date when all RELIEF Act funds have been applied to customer arrearages.

Stakeholder positions

A. Utilities

11. In their Joint Request, the Utilities ask the Commission to rescind the remaining items of the August 2020 Orders and return to the rules for payment and collections that exist under COMAR. In particular, the Utilities argue that Order 5, requiring utilities to negotiate payment plans with customers who previously failed to meet the terms of a payment plan, has led to a significant increase in customer arrearages during the period when it has been in effect. The Utilities included with their filing a data report showing recent patterns of customer defaults and arrearages. The Utilities argue that the return to the pre-pandemic COMAR standards will encourage customers to repay their arrearages and reduce uncollectible costs – costs that will be borne by all ratepayers.

12. Relatedly, the Utilities also ask the Commission to rescind the annual and quarterly reporting requirements from Order No. 89636, covering the COVID-19 regulatory asset and

customer service metrics related to payment plans and arrearages. The Utilities argue that those reporting requirements will no longer be necessary if the Commission grants the Utilities' request to resume normal collection efforts. The Utilities also state that the data is already included in other customer service metric reports made by the Utilities to the Commission.

B. Office of People's Counsel

13. In its Response, OPC asks the Commission to deny the Utilities' requests and instead open a docket or establish a working group to study utility payment and collection practices in light of the continuing effects of the COVID-19 pandemic and current economic conditions. OPC states that the COVID-19 pandemic is ongoing and that Governor Hogan recently released a plan for the State to address COVID-19 as an ongoing operation of the State government. OPC also points to the Commission's December 22, 2021 approval of BGE's tariff revisions, which included partial revenue offsets and accelerated tax offsets and explicitly recognized the impact of price increases on residential customers. OPC also points to the 2022 multi-year rate case application of Delmarva Power & Light, which also included partial revenue offsets in order to mitigate proposed rate increases in light of the hardships of the COVID-19 pandemic.

14. OPC states that low-income residential customers now face significant inflationary price increases as a result of the ongoing economic pressure caused by the pandemic. OPC argues that inflationary pressure for basic goods creates extreme circumstances for low-income customers.

15. OPC argues that the Utilities have failed to show financial harm from the continuation of the August 2020 Orders, and that concerns with Order 5 are not grounds for eliminating

Orders 2-4, which the Utilities do not claim have caused any increase in arrearages. OPC also argues that there is no evidence that granting the Utilities' request will reduce arrearage totals, or that the protections created by the Commission in the August 2020 Orders have resulted in a fairer playing field between customers and utilities. OPC also states that, based on the Utilities' data filed with their Request, the majority of customer defaults involve customers who have only defaulted once, and not the repeated defaults that concern the Utilities. OPC included with its filing a data report showing declines in turnoff notices, turnoffs, and arrearages among BGE low-income customers from 2019 to 2022.

16. OPC requests that the Commission create a workgroup to study whether the August 2020 Orders should be permanently included in COMAR.

C. Fuel Fund of Maryland

17. The Fuel Fund states that the Utilities' proposal to pull back from 45-day turnoff notices would unfairly impact low and moderate income customers because the U.S. Postal Service has continued to have difficulty delivering mail on a timely basis since the beginning of the COVID-19 pandemic, with the result that many customers do not receive timely notice and are unable to apply for energy assistance or otherwise respond before disconnection. The Fuel Fund further states that many energy assistance organizations are still not accepting in-person applications, slowing the process for many applicants. The Fuel Fund proposes, as an alternative, that the Commission move from 45 days to 30 days notice.

D. Commission Staff

18. Staff recommends that the Commission grant the Utility request to lift the reporting requirements, provided that each Utility is no longer accruing funds into their COVID-19 regulatory assets. Staff recommends that, when a Utility is no longer recording funds into

its regulatory asset, the Utility should make a final filing that combines all the monthly data into one report to the Commission. This report would be evidence in a future rate case when the Company seeks to move the asset into rate base. However, so long as a Utility continues to accrue funds into its regulatory asset, Staff recommends that the monthly data should be reported to the Commission to track the driver of the regulatory asset. Staff also recommends that the Utilities should be required to continue some level of arrearage reporting in order to assess the effects of any continuing restrictions, or the effects of removing the restrictions and returning to the pre-COVID regulatory regime.

19. Staff supports the Fuel Fund's recommendation to adopt a 30-day termination notice requirement for the time being. However, Staff also recommends that the Commission order the Utilities to file an analysis on whether the extension in termination notice period is leading to an increase in collection and other utility costs relative to the number of customers who are able to retain service because of this extension. Once this analysis is provided, Staff suggests the Commission hold a legislative hearing to determine if returning to normal is appropriate or to pursue a rulemaking.

20. Staff recommends that the Commission wait to rule on the Utilities' request to alter payment plan lengths and to require the Utilities to file additional analysis with the Commission demonstrating that extended payment plan windows are leading to increased costs (arrearages, write offs, cash working capital) and to present information regarding their normal practices with respect to alternative payment plans offered to customers, and success rates in bringing the accounts into fully paid status.

21. Staff recommends granting the Utilities' request to begin collecting deposits again, as well as allow the return to normal practices of not allowing multiple payment plans for

customers that fail to meet their agreed payment plan obligations. Staff argues that those changes will reduce the risk of uncollectibles that will be borne by other ratepayers.

22. Staff recommends that the Commission deny OPC's request for a working group and instead convene a legislative style hearing because of the risk that the working group process may be lengthy and require considerable stakeholder resources.

Commission Decision

23. With the passage of time and the changing impact of the COVID-19 pandemic on the State's economy and utility ratepayers, the Commission finds that it is appropriate to review the emergency ratepayer protection measures it implemented in the August 2020 Orders. In so doing, the Commission reminds stakeholders that these protections remain minimum standards and that Utilities are encouraged to work with customers to ensure continued payment and minimize unnecessary disconnections.

24. The Commission finds that Order 2 of the August 2020 Orders, setting the termination notice requirement at 45 days, should be modified to provide a 30-day notice requirement, as recommended by Staff and the Fuel Fund. The Commission is concerned that an immediate return to the 14-day standard would create significant hardship given the ongoing problems that energy assistance organizations are experiencing as a result of COVID-19. Reducing the notice period from 45 to 30 days retains an increased level of customer protections until a thorough review of termination notifications can be examined at the legislative hearing discussed below.

25. The Commission finds that Order 3 of the August 2020 Orders, setting minimum payment plan lengths, should be modified to provide a universal minimum 12-month payment plan length for all customers. The majority of the RELIEF Act funds were provided

to OHEP-qualified customers, and OPC's data shows that these customers now have historically low levels of arrearages. Continuing the 24-month requirement for this population is unlikely to provide significant additional benefit for this group. Lifting this requirement should provide Utilities with a gradual return to normal practices and reduce administrative burdens. The Commission nonetheless agrees with Staff that the Utilities have offered limited analysis to support their contention that extended payment plan periods in general are leading to increased costs.

26. The Commission finds that Order 4 of the August 2020 Orders, prohibiting Utilities from requiring down payments and deposits from customers as a condition of beginning a residential payment plan, should be continued unmodified. The Commission finds that the Utilities' and Staff request to lift Order 4 is insufficiently supported by analysis as to the impact on utility costs or the success rate of customer payment plans. However, the Utilities and Staff may present updated analysis and evidence, which the Commission will consider at the legislative-style hearing discussed below.

27. The Commission finds that Order 5 of the August 2020 Orders, requiring Utilities to offer new payment plans to customers who fail to meet their obligations under prior payment plans, should be lifted. Based on the data and analysis provided, it appears that additional payment plans, beyond the single failure allowed in an 18-month period, do not increase the likelihood that a customer will successfully complete the additional plans. This change should reduce administrative burdens and unnecessary collection delays. As directed in COMAR 20.31.01.01, the Commission expects utilities to negotiate in good faith to offer reasonable payment plans to customers. Utilities retain the authority to work with customers on an individual basis to offer additional or extended plan options.

28. In order to monitor the effect of this Order, the customer service metrics and arrearage reporting will remain in effect until further action of the Commission. The reporting requirements regarding COVID-19 regulatory assets, however, are lifted so long as the utility is no longer assigning costs to that asset. In such a case, the utility shall file, in lieu of its standard monthly report, a final report that combines all the monthly data on asset accrual, after which no additional costs may be assigned to the COVID-19 regulatory asset by that utility.

29. As noted above, the Commission is concerned that the record is inadequate to enable a full and fair review of the remaining requests made by stakeholders. In order to develop that record, the Commission will hold a legislative style hearing on November 10, 2022. The Utilities are directed to file, by September 29, 2022, updated analyses and/or comments regarding three topics: (1) termination notice periods; (2) payment plan lengths; and (3) number of permitted defaults. For each of these topics, the Utilities should address the change in practices before and during the COVID-19 pandemic on both utility collection costs (arrearages, uncollectibles, etc.) and payment challenged customers. At a minimum, the Commission is interested in data showing the frequency of disconnections, length of time customers remains on service after an initial missed payment, and the percentage of arrearages collected.

30. Any stakeholder responses must be filed with the Commission by October 20, 2022. The Commission will hear arguments regarding the request to create a workgroup and develop revised regulations at the hearing.

31. The Utilities and stakeholders may provide any other relevant analysis to help determine the appropriate final recommendation for these collections activities. Utilities and

stakeholders should also include proposals[3] to improve data collection and reporting for customer arrearages, termination notices, payment plans, terminations, and other relevant metrics.

IT IS THEREFORE, this 25th day of August, in the year of Two Thousand Twenty-Two, by the Public Service Commission of Maryland **ORDERED** that:

(1) The August 2020 Orders are modified as described herein;

(2) The Commission will hold a legislative style hearing on November 10, 2022;

(3) Utilities are directed to file updated analysis and/or comments by September 29, 2022;

(4) Stakeholders may file comments by October 20, 2022; and

(5) To the extent any Commission regulations, orders, or tariffs conflict with this order, they are suspended until further direction of the Commission.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

/s/ Patrice M. Bubar
Commissioners

[3] For example, the State of Michigan requires utilities to file monthly reports on arrearages and disconnected service using a template. That data is then published on the Michigan Public Service Commission's website. https://www.michigan.gov/mpsc/regulatory/reports/other/utility-customer-data