

ORDER NO. 82509

IN THE MATTER OF ARREARAGE,
COLLECTION AND TERMINATION PRACTICES
OF MARYLAND ELECTRIC, GAS, OR ELECTRIC
AND GAS UTILITIES

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9175

**ORDER TEMPORARILY DELAYING TERMINATIONS OF RESIDENTIAL GAS
AND ELECTRIC SERVICE PENDING WORK GROUP ON THE APPROPRIATE
STRUCTURE OF PAYMENT PLANS**

To: All Parties of Record and Interested Persons

On January 30, 2009, the Public Service Commission (“Commission”) initiated this case for the purpose of investigating the collection and termination practices of Maryland’s gas, electric, and gas and electric utilities (individually, “Utility,” and collectively, “Utilities”), in the face of rapidly growing Utility arrearage and uncollectible balances.¹ The Commission expanded the case on February 11, 2009 to investigate the significant increase in the number of complaints to the Commission’s Office of External Relations regarding higher than normal energy bills (both electric and gas), including claims that bills had doubled (or more) from one month to the next.² Complaints to the Commission’s Office of External Relations in January increased 300% over January 2007 and 100% over January 2008’s already-elevated levels. In each Notice, each Utility was directed to submit: data or information addressing arrearage and uncollectible balances; collection and termination practices; the number of complaints the Utility has received about higher than

¹ Notice Initiating Proceeding, Notice of Procedural Schedule and Data Request, Jan. 30, 2009.

² Notice Extending Scope of Proceeding and Modification to Procedural Schedule, Feb. 11, 2009.

normal utility bills; the steps taken to investigate and respond to the complaints; and the reasons for the spikes in energy bills.

As set forth below, the data produced by the Utilities and the evidence produced at hearings on February 26 and March 4 confirm what the Commission suspected and feared: a growing number of Maryland gas and electric customers are having difficulty paying their utility bills, and the higher bills of these winter months will only compound the problem. For example, BGE disclosed that its uncollectibles have nearly doubled between 2007 and 2008 (from \$24 million to \$44 million) and are on pace to exceed 2008 levels. Pepco's uncollectibles increased by nearly 50% between 2007 and 2008. Substantial arrearages resulting from much-higher-than-normal utility bills, coupled with the various financial strains on families brought on by the severe economic downturn gripping our nation, portend a potentially disastrous scenario in which an unacceptably large number of households face termination of their gas and/or electric service in the near future. Based again on the Utilities' own figures, over 80,000 BGE customers and over 40,000 Pepco customers are potentially subject to termination.³ The majority of those at risk of termination by BGE and Pepco are not known low-income customers,⁴ and these figures do not yet take into account the higher-than-usual winter bills. The higher winter bills are likely to increase these numbers, particularly as the national and global recessions evolve.

Although the Commission feels compelled to provide some short-term protection

³ The Code of Maryland Regulations ("COMAR") 20.31.03.03 places winter restrictions on a utility's option to terminate service, which among other things prevent terminations on days when the forecasted temperature is below a certain level. These restrictions end on March 31st of each year.

⁴ For purposes of this Order, "low income" customers are those customers at or below 175% of the federal poverty level who participate either in the Electric Universal Service Program or the Maryland Energy Assistance Program.

for residential customers, it is also acutely aware of the potential impact of these events on the Utilities' financial health. The intent of this Order is to take immediate, shorter-term steps that will give everyone – the Commission, the Utilities, other parties, and customers – an opportunity to work constructively and deliberately toward longer-term solutions. The ultimate goal is to increase the likelihood that customers can pay their bills in a fair and realistic manner and in a fair and realistic time.

To that end, and pursuant to the Commission's statutory authority to "supervise and regulate the public service companies . . . to ensure their operation in the interest of the public," which includes a responsibility to "consider the public safety [and] the economy of the State,"⁵ *the Commission hereby directs all Utilities to refrain immediately from terminating any residential customer's gas and/or electric service for delinquent payment or outstanding balances.*⁶ Effective immediately, the Commission convenes a work group led by its Office of External Relations Director, consisting of all Utilities, Commission Staff, the Office of People's Counsel, the Mayor and City Counsel of Baltimore, the Office of Home Energy Programs of the Department of Human Resources and any other interested parties. This work group shall develop procedures and criteria for payment plans that each Utility will then offer to *all* residential customers *before* the Utility commences termination procedures, not only to low-income customers.⁷ The payment plan criteria shall be flexible and allow residential customers to pay their arrearages over an extended period of time, in a manner consistent with their

⁵ Public Utility Companies Art. § 2-113(a); *see also id.* § 2-112(b)(2) ("The Commission has the implied and incidental powers needed or proper to carry out its functions under this article.").

⁶ This Order does not limit the Utilities' ability to terminate for reasons other than delinquent payment or outstanding balances, including the reasons set forth in COMAR 20.31.02.03 and 20.31.02.04.

⁷ Under COMAR 20.31.01.08.A, Utilities are *required* only to attempt to negotiate alternate payment plans with low-income customers.

other financial obligations. The payment plan procedures shall provide an opportunity for residential customers to object to the proposed payment plans and seek further review with the Commission in accordance with the procedure for complaints set forth in COMAR Title 20, Subtitle 32, Chapter 1. The work group shall file a written report on the new payment plan criteria and procedures with the Commission by April 1, 2009, and shall be prepared to discuss its findings and recommendations at a hearing, set for April 7, 2009 at 10 a.m., to discuss the report and the implementation of reasonable payment plans for those in need of relief. The Commission will determine after the hearing whether to accept, reject or modify the work group's recommendation, whether to end or continue the delay in residential terminations, and whether to take further action or hold additional proceedings in this regard. The Commission recognizes the significant amount of work involved in the task it assigns to the work group in the time allotted, but is mindful as well that a longer-than-necessary delay in terminations could exacerbate at least some elements of the very problems the Commission seeks to solve in this Order.

In the meantime, the Commission's investigation of the issues raised in the January 30 and February 11 notices and addressed in the February 26 and March 4 hearings will continue, and the Utilities should expect further inquiries and data requests as the Commission analyzes the materials produced to date. The evidence submitted by the Utilities so far suggests that higher bills are, in most cases, the result of one or more of several factors, including slightly higher commodity rates for electricity and gas, a colder-than-normal winter following a warmer-than-normal winter, differences in the length of billing cycles, estimated meter readings, failure to take advantage of budget billing, and increased usage. Although the Utilities' average winter electric rates have increased

approximately 5% to 10% over the last year,⁸ and gas rates from approximately 3% to 8%, this factor alone would not account for some of the increases presented to the Commission. One retail gas supplier increased rates by approximately 40% under a contract that renewed automatically in November, but again, this accounts for only a relatively small number of customers. The Commission has seen no evidence so far of wrongdoing or widespread inaccuracies on the part of the Utilities, but without further investigation cannot reach definitive conclusions regarding the causes of the winter's spike in utility bills.

IT IS THEREFORE, this 11th day of March, in the year Two Thousand and Nine, by the Public Service Commission of Maryland,

ORDERED: (1) That Utilities subject to this Commission's jurisdiction shall refrain immediately from terminating any residential customer's gas or electric service for delinquent payment or outstanding balances, until the Commission directs otherwise;

(2) That a work group headed by the Commission's Director of the Office of External Relations and consisting of all Utilities, Commission Staff, the Office of People's Counsel, the Mayor and City Counsel of Baltimore, the Office of Home Energy Programs of the Department of Human Resources and any other interested parties shall be immediately convened for the purpose of developing payment plan procedures and criteria consistent with the text of this Order; and the work group shall file a written report to the Commission by April 1, 2009;

(3) The parties shall appear before the Commission to discuss the results of the Work Group on Tuesday, April 7, 2009 at 10 a.m. at the Commission's 16th

⁸ Allegheny Power's electricity rates are up approximately 19% in light of the expiration of that company's rate caps on January 1, 2009.

Floor Hearing Room, William Donald Schaefer Tower, 6 St. Paul Street, Baltimore, Maryland 21202; and

(4) The Commission will continue its investigation into the many factors contributing to recent increases in residential bills and will issue further orders addressing these issues as promptly as is consistent with a thorough investigation.

/s/ Douglas R.M. Nazarian

Chairman

/s/ Harold D. Williams

Commissioner

/s/ Allen M. Freifeld

Commissioner

/s/ Susanne Brogan

Commissioner

/s/ Lawrence Brenner