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June 26, 2020

Andrew T. Johnston
Executive Secretary
Public Service Commission
Of Maryland
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202

Re: OPC Petition – COVID-19 Pandemic and State of Emergency

Dear Mr. Johnston:

Enclosed for filing please find the Petition of the Office of People's Counsel to Docket an Emergency Proceeding Regarding the COVID-19 State of Emergency, the Impact of the COVID-19 Crisis on the Ability to Pay Utility Bills, Temporary Revisions to Credit and Collection and Payment Plan Practices of Utilities, and Data Collection.

A copy has been provided by email to counsel listed in the Certificate of Service attached to the Petition.

Should you have any questions, please do not hesitate to contact me.

Sincerely,
/electronic signature/
Paula M. Carmody
People's Counsel

PMC
Enclosures
cc: Service List

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

IN THE MATTER OF THE FINANCIAL IMPACT	*	
OF THE COVID-19 PANDEMIC AND STATE OF		
EMERGENCY ON ARREARAGES, ABILITY TO	*	Case No.
PAY BILLS, AND MAINTENANCE OF ESSENTIAL		
UTILITY SERVICES OF RESIDENTIAL UTILITY	*	
CUSTOMERS		
* * * * *		

**Petition of the Office of People’s Counsel
To Docket an Emergency Proceeding Regarding the COVID-19
State of Emergency, the Impact Of the COVID-19 Crisis on the Ability to Pay
Utility Bills, Temporary Revisions to Credit and Collection
And Payment Plan Practices of Utilities, and Data Collection**

Pursuant to Section 2-204(a)(3) of the Maryland Public Utilities Article (PUA), the Maryland Office of People’s Counsel (OPC) respectfully requests that the Public Service Commission (Commission) docket an emergency proceeding to address the impacts of the COVID-19 pandemic and State of Emergency on residential utility customers¹, and the consequences for these customers once the Governor’s State of Emergency, and related Orders prohibiting utility service terminations, ends.

Specifically, OPC requests that the Commission issue an order to require regulated utilities to (1) implement temporary credit and collection and service disconnection and reconnection policies to address the unprecedented economic fallout and job losses resulting from the COVID-19 pandemic: and (2) submit monthly data reports to the Commission. OPC proposes that the Commission issue an order consistent with the policy and data collection requirements set forth in Exhibit 1 to this Petition, and with any regulatory waivers required of such action.

¹ OPC makes this request on behalf of Maryland’s residential customers, since the People’s Counsel only has the authority to represent the interests of residential customers. However, we recognize that commercial and industrial customers also have been affected by this crisis, and that the Commission may wish to expand this proceeding to include those customer groups. See PUA §2-204.

Further, OPC recommends that the Commission issue a notice for a public conference for regulated utilities, OPC, Staff and interested parties to provide information related to the impacts of the COVID-19 pandemic and State of Emergency on residential customers' ability to pay utility bills the resulting arrearages, and the status of energy assistance applications and benefits.

OPC requests that the Commission take immediate action to ensure that residential customers have a means to address unpaid utility bills in a measured manner and that customers and communities can avoid the uncertainty or reality of shut offs of essential gas, electric and regulated water bills. Such action will benefit not only individual customers and communities within the utility service territories, but also assist residential utility customers as a whole.

The maintenance of essential utility services is critical to individual households and the community at large during this crisis. While the State of Maryland may be moving through Phase II of the State of Emergency, enabling certain businesses to reopen, at least in part, the financial impact has been severe. Unemployment remains high, and a significant number of households faced a sudden loss of income between March and June. The financial fallout continues even as number of COVID-19 cases have declined in Maryland. This will continue even as the Governor's Executive Order on utility services or the State of Emergency ends. A Commission directive to the utilities to implement temporary measures regarding deferred payment arrangements, reconnection of services, and limits on disconnection of services will assist households in maintaining service, while addressing past-due bills in a measured and reasonable manner. This also will benefit utility ratepayers as a whole, by helping to maintain affordable payments by affected utility customers and reducing uncollectible costs.

A uniform directive by the Commission will ensure consistency of utility practices throughout the State. Consistent practices for all utilities across the State will greatly reduce

confusion among customers, as well as government agencies and non-profit organizations providing critical services to the public during this period of financial difficulty.

OPC also urges the Commission to institute monthly data reporting requirements so that the Commission, OPC and interested parties can identify patterns, and make further recommendations as necessary.

Comments in Support of Request for Temporary Relief

The problem of utility bill affordability is not a new one. However, the sudden economic dislocations and job losses resulting from the pandemic have intensified those concerns. The novel coronavirus has resulted in both health and financial crises, and a threat to maintenance of electricity, gas, and regulated and telecommunications services.² Senior citizens, seriously ill and immune-compromised people, and low-income and newly unemployed residents were at risk as a result of the COVID-19 situation.

Governor Hogan took early action to protect access to these services when he issued Executive Orders prohibiting utility, phone and internet service disconnections and the imposition of late fees during the State of Emergency, and extending to July 1, 2020.³ In addition, many gas, electric, private water, and communication companies voluntarily have suspended service disconnections and imposition of late fees. However, even if the moratoriums are extended by the Governor past July 1, 2020, we know that the problems of sudden income loss and ability to pay past-due bills will continue through 2020 and beyond, and pose a threat to maintaining utility services.

² The COVID-19 crisis also has made clear that cable, wireless and broadband services are essential to Maryland residents. However, the Commission does not regulate these services.

³ Governor Hogan's March 5, 2020 State of Emergency Order; March 16, 2020 Executive Order prohibiting utility shut-offs and imposition of late fees; and April 29, 2020 and May 29, 2020 Executive Orders amending and restating the prohibition on utility shut-offs and imposition of late fees, Order Nos. 20-04-29-02 and 20-05-29-02.

Maryland has been a leader in taking early, and difficult, action to address the COVID-19 pandemic. The Governor's early Executive Orders, beginning in March, were designed to address the looming public health emergency. These actions had the necessary and precipitous consequence of shutting down workplaces, job layoffs and losses. While Maryland is in the process of moving through a phased reopening of businesses, unemployment remains high. At the end of May, the unemployment rate was 9.9%, and during the week of June 20, almost 48,000 new unemployment applications were filed with the Maryland Department of Labor.⁴

OPC recognizes that Congress took early action to assist households that faced the loss of income to pay bills. This assistance was in the form of a single \$1200 payment to eligible individuals, and supplemental unemployment insurance payments of \$600 per week.⁵ Congress also provided \$900 million to help low-income households to pay utility bills. Maryland received \$19 million as a result of the CARES Act, and the Office of Home Energy Programs (OHEP) will distribute those additional funds as of July 1, 2020 during fiscal year 2021. Maryland received \$1.3 billion from the federal Coronavirus Relief Funds (CRF), established by the CARES Act; however, while a portion can be used for rental assistance and eviction prevention, OPC understands that the funds may not be used for additional energy assistance.

On the face of it, these supplemental income and energy assistance funds may seem adequate to address the financial crisis of these households. However, there are a number of factors that affected the ability to keep utility bills current during this period of crisis and afterwards. First, reduced employment and loss of employment was sudden for a significant portion of the population in March, April, and May, with little or no time for planning. Second, while the \$1200

⁴ Maryland Daily Record, June 25, 2020 at www.thedailyrecord.com.

⁵The Coronavirus Affordability Relief and Security (CARES) Act. States can only pay the \$600 supplement through the week ending July 25.

was welcome relief, it took a number of weeks to be delivered; in any event, while the \$1200 payment was helpful, it was needed to address rent, food, and other household expenses for a period of months. Third, Maryland experienced an unprecedented flood of unemployment insurance (UI) applications, including applications from newly eligible categories of unemployed residents, and approvals and payments were delayed for a significant number of applicants.⁶ Rent, mortgage and utility bills were not paid in many instances due to lack of income. By the time the UI benefits arrived in many instances, the bills already were past due.⁷

Fourth, while the eligibility guidelines for COVID-19 related unemployment have become more inclusive in terms of type of prior employment (for example, “GIG” economy workers), there are an unknown number of residents who became unemployed and are not eligible for UI benefits. Finally, while additional funds have been provided for energy assistance (MEAP), there is no change in the income eligibility requirement (175% or less of the federal poverty level) for energy assistance.⁸

Finally, while the novel coronavirus has affected areas of the State differently, it is present in every corner of the State. The economic impact and income loss have affected all areas, including cities, towns, the suburbs of metro areas, and the rural portions of Southern and Western Maryland and the Eastern Shore.

⁶ As of April 2020, Maryland’s total jobs had decreased by 349,000. <https://www.dllr.state.md.us/whatsnews/mlrapril2020.shtml>. The unemployment rate for April 2020 was 10.1%, as revised. <https://www.dllr.state.md.us/whatsnews/mlr.shtml>. By the end of May, the unemployment rate had decreased from 10.1% to 9.9%. The total number of new claims for the week ending June 13 was almost 42,000. Between March 9 and June 20, 2020, the agency had received 571,836 complete claims, and processed benefits to almost 449,000 claimants. See June 25, 2020 Press Release at www.dllr.state.md.us.

⁷ The maximum weekly unemployment benefit is \$430 (with the \$600 federal supplement through the week ending July 25).

⁸ For OHEP energy assistance, the maximum gross monthly income for a 1-person household is \$1861; \$2515 for a 2-person household.

In the face of this health and financial crisis, it is imperative that emergency action is taken to protect the health and safety of individuals and communities by maintaining utility services. The extraordinary circumstances require temporary relief from existing regulations on late fees, security deposits, deferred payment arrangements, reconnection policies, and service disconnections. These modifications, as proposed by OPC, would enable financially distressed customers to make payments towards the past due bills in a measured way and maintain utility service.

OPC's proposals in Exhibit 1 are substantially similar to the terms of a settlement agreement recently approved by the Illinois Commerce Commission,⁹ with regard to its credit and collection, deferred payment arrangement, reconnection and disconnection practices, as well as the data reporting requirements. ComEd, an Exelon utility, was one of the signatories to the agreement, as well as the Illinois Attorney General, the Illinois Citizens Utility Board, and other utilities and stakeholders. As with the approved Illinois settlement, OPC's proposal would ensure access to bill repayment plans that are manageable, increasing the likelihood that the payments can be made and service maintained. Furthermore, the data reporting requirements, particularly with the inclusion of zip code data, will help the Commission and stakeholders to monitor trends, identify patterns, and importantly, identify any disproportionate impacts on communities, particularly communities of color and those that are predominately low-income.

Request for Relief

Therefore, the Office of People's Counsel respectfully requests that, in light of the current COVID-19 pandemic and its health and financial impacts, the significant loss of household

⁹ Illinois Commerce Commission Dkt. No. 20-0309, *In the Matter of the Moratorium on Disconnection of Utility Services During the Public Health Emergency Declared on March 9, 2020 pursuant to Sections 4 and 7 of the Illinois Emergency Management Agency Act*. Order dated June 18, 2020 and Stipulations, at www.icc.illinois.gov.

income and the ability of residential customers to pay utility bills, and the increase in arrearages, the Commission, adopt the proposals set forth in Exhibit 1 to OPC's Petition, waive Commission regulations as necessary, and require Maryland's regulated utilities to comply with the Commission's directives. The Commission should also waive the temporary application of Commission regulations, as appropriate and consistent with the relief requested, including but not limited to COMAR 20.30.02 and .03, 20.31.02, 20.50.04.01-2 and .02 and 20.55.04.01-2 and .02.

In the event that the Governor's Executive Order prohibiting service disconnections by regulated utilities expires prior to consideration of OPC's Petition, OPC requests that the Commission issue a temporary order prohibiting service terminations during consideration of this Petition, the submission of requested comments by Staff, utilities and other interested parties, a hearing, and issuance of an Order.

Conclusion

Economists and government officials have described the unemployment levels experienced during the current crisis as similar to those during the Great Depression of the 1930's. At that time the Commission embarked on a series of negotiated rate reductions by utilities to provide relief for customers suffering during the economic crisis. (Report of the Public Service Commission of Maryland for the Year 1934, December 31, 1934, pp. 2-3). In 2009, in response to the Great Recession, the Commission took action to issue orders to temporarily delay terminations of gas and electric service and impose alternate payment plan requirements.¹⁰ The present economic

¹⁰ PSC Case 9175, *In the Matter of Arrearage, Collection and Termination Practices of Maryland Electric, Gas, or Electric and Gas Utilities, Order Nos. 82509 and 82628*. In those orders, the Commission acknowledged the dual problems of increasing uncollectibles and the impacts of the severe economic situation on customers' ability to pay utility bills. The Commission established certain protocols for alternative payment arrangements, which were welcome, but limitations of that relief were reflected in high default rates. OPC believes that OPC's proposal, with more flexible terms and longer repayment terms substantially similar to the Illinois settlement, will provide for manageable payment plans, increase the ability of customers to handle the past due bills, and ultimately provide a better result for all customers. OPC also notes that the requested relief does not address cost recovery related to these proposed actions, as we expect those issues to be addressed in future proceedings by the Commission.

situation and extensive unemployment requires the Commission to undertake a proportionate response to the economic impacts of this current COVID-19 crisis.

Respectfully submitted,

/electronic signature/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of June, 2020, the foregoing “Petition of the Office of People’s Counsel To Docket an Emergency Proceeding Regarding the COVID-19 State of Emergency, the Impact Of the COVID-19 Crisis on the Ability to Pay Utility Bills, Temporary Revisions to Credit and Collection And Payment Plan Practices of Utilities, and Data Collection” was e-mailed to All Parties of Record.

Leslie Romine, Staff Counsel
John Corse, General Counsel, BGE
Matthew Segers, Esq., Pepco/Delmarva
Jeffrey Trout, Esq., Potomac Edison
John Dodge, Esq., Washington Gas
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Exhibit 1

OPC Proposal for Addressing the Impact of the COVID-19 Pandemic And State of Emergency on the Ability of Residential Customers to Address Arrearages, Pay Utility Bills and Maintain Utility Service

Regulated Utilities Should Be Directed to Implement the Following Practices. These practices should be considered the minimum requirements, and utilities should maintain the ability to implement more flexible practices.

Terms Used:

Moratorium Period. The moratorium period for utilities regulated by the Commission shall extend to 30 days after the end of the State of Emergency declared by the Governor.

Transition Grace Period. There should be a 60-day grace period following the end of the moratorium period.

Deferred Payment Arrangements. This refers to payment plans entered into between a utility and a customer to address past due utility bills as required by Commission order.

A. Residential Customers – Bill Payment and Maintenance of Utility Service

Utility Credit and Collection Procedures. Each regulated utility should be required to adopt on a temporary basis, in response to the COVID-19 crisis and State of Emergency, flexible credit and collection procedures, including the following:

- The utilities shall continue to suspend issuance of notices of service terminations during the Moratorium Period
- The utilities shall suspend disconnections for nonpayment of utility bills and imposition of late fees during the Moratorium Period and the Transition Grace Period.

Reconnections. Each utility shall reconnect previously disconnected customers who request reconnections during the Moratorium Period and the Transition Grace period. The utility may deny requests due to safety or hazardous conditions, proof of theft or tampering by the customer, or if the premises are vacant or unoccupied.

Reconnection Fees. Reconnection fees shall be waived during the Moratorium Period and the Transition Grace Period for all customers and for four (4) months thereafter for customers who qualify for OHEP energy assistance or Fuel Fund assistance and for those customers who express financial hardship.

Deferred Payment Arrangements (DPAs). These requirements will replace the requirements set forth in the Commission's alternate payment plans (APPs) on a temporary basis.

Availability of DPAs. Residential customers will be provided the ability to enroll in a DPA during the Moratorium Period, Transition Grace Period, and for a period of four months thereafter. Customers with an existing alternate payment plan will be offered the ability to renegotiate the terms of the APP in accordance with the flexible terms of the DPAs.

Length of DPAs. Non-financial hardship customers are eligible for DPAs up to 18 months in length, while customers expressing financial hardship are eligible for DPAs up to 24 months in length. For eligibility as a hardship customer, only a verbal expression of hardship is required. A utility may provide a DPA with a longer term than 18 or 24 months or with more flexible terms.

DPA Down payments. Customers who qualify for OHEP energy assistance or verbally express financial hardship will be offered DPAs with no (0%) down payment. For other customers seeking DPAs, the utility may require a down payment up to 10% of the DPA amount.

Energy Assistance Customers. For customers who have qualified for OHEP energy assistance or Fuel Fund assistance, the utility shall apply the assistance funds as appropriate to the past due bill amount, and then calculate the DPA terms for the remaining balance. For customers who qualify for assistance after entering into a DPA, the utility shall offer to recalculate the DPA terms based on the reduced balance.

Missed Payments or Partial Payments. In the event that a customer misses a payment or makes a partial payment on the DPA, the utility must allow the customer the opportunity to pay the remainder of the missed payment(s) (a “catch-up”) and continue with the DPA, without terminating service.

Security Deposits. The utilities shall waive new deposit requirements associated with late payments or non-payments, arrearages or credit-related issues for new or existing customers during the Moratorium Period and Transition Grace Period. For those customers who are qualified to receive OHEP energy assistance or verbally express financial hardship, the waiver period shall extend for an additional four (4) months period.

Customer Communications. Each regulated utility shall provide communications to all residential customers with past due balances about flexible payment options, including deferred payment arrangement (DPA) terms, and available energy assistance. These communications should be sent by U.S. Mail and by electronic mail, with customer consent, and posted on the utility website.

Website Information. The utility shall post information about the availability of deferred payment arrangements and waiver of late fees, how to enroll in DPAs, and the availability of energy assistance programs. The website also shall provide information about reconnection options for previously disconnected customers.

B. Data Collection and Reporting

Each regulated utility shall provide designated credit and collection data on a monthly basis in a docketed case. This data shall be public.

The data shall be provided separately for low-income customers, identified in the utility systems as recipients of OHEP EUSP or MEAP assistance.

The utilities shall submit the data on the 15th day of the month for the month preceding the report. The first report shall be provided 30 days after the Commission order, and shall include data for the months of April, May, and June 2020.

The utilities shall provide the reports through the August 2022, or the 24th month after the Commission order, whichever is later.

Each report shall include the following data for residential customers:

1. The total number of customers;
2. The number of customers disconnected during the period;
3. The number of customers receiving disconnection notices during the period;
4. The number of customers reconnected during the period;
5. The number of customers assessed late payment fees or charges during the period;
6. The number of customers taking service at the beginning of the period under existing deferred payment arrangements (DPA);
7. The number of customers completing DPAs during the period;
8. The number of customers enrolling in new DPAs during the period;
9. The number of customers renegotiating DPAs during the period;
10. The number of customers with required deposits at the beginning of the period;
11. The number of customers required to submit new deposits or increased deposits during the period;
12. The number of customers whose required deposits were reduced in part or foregone during the period;
13. The number of customers whose deposits were returned in full during the period;
14. The number of customers with an arrearage balance of 60 days, 90 days and 90+ days;
15. The gross amount of arrearages; and
16. The average repayment term.

OPC believes that all of the above data should be provided by zip code within 120 days after a Commission order. At a minimum, the utilities shall provide the following data by zip code, and for each month thereafter:

1. The total number of customers;
2. The total number of customers disconnected during the period;
3. The total number of customers on deferred payment arrangements (DPAs)
4. The number of customers with an arrearage balance of 60 days, 90 days, and 90+ days.