

**BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION
OF MARYLAND**

**IMPACTS OF COVID-19 PANDEMIC ON
MARYLAND'S GAS AND ELECTRIC UTILITY
OPERATIONS AND CUSTOMER
EXPERIENCES**

PC53

**COMMENTS OF THE OFFICE OF PEOPLE'S COUNSEL - PC 53 IMPACTS
OF COVID-19 PANDEMIC ON MARYLAND'S GAS AND ELECTRIC
UTILITY OPERATIONS AND CUSTOMER EXPERIENCES**

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The Office of People's Counsel (OPC) submits these Comments in response to the July 8, 2020 Notice of the Public Service Commission (Commission) establishing this docket, Public Conference 53, and incorporating the June 26, 2020 OPC Petition proposing the adoption of certain directives to address the impacts of the COVID-19 pandemic on Maryland households. While OPC has reviewed all of the August 10, 2020 responses of the gas and electric utilities to the Commission's July 8 Notice, the focus of these Comments is on the impacts of the pandemic on Maryland households, OPC's proposals, and utility comments related to customer impacts from the COVID-19 pandemic.

I. PROCEDURAL BACKGROUND

On June 26, 2020, the Office of People's Counsel filed with the Commission a Petition¹ requesting that the Commission docket a proceeding and take certain actions in response to the COVID-19 pandemic, and the resulting economic disruptions, business shutdowns and job losses affecting the ability of residential customers to pay utility bills.

¹ OPC "Petition to Docket an Emergency Proceeding Regarding 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, filed on June 26, 2020.

While Governor Hogan's Executive Orders have temporarily suspended late fees, collection activities, and service terminations to residential customers for non-payment of utility bills, OPC sought to establish temporary policies for credit and collection and service termination activities once the moratorium ends, as well as during the State of Emergency and immediately after it ends. OPC submitted that Petition in recognition of this unprecedented COVID-19 health and financial crisis, reflected in both the economic and job losses of many residential customers and the accumulated past-due utility bills due to the continuing effects of the pandemic on the economy.

The Commission docketed Public Conference No. 53, *Impacts of COVID-19 Pandemic on Maryland's Gas and Electric Utility Operations and Customer Experiences* on July 8, 2020, requesting information from the public utilities on a number of operational and financial issues related to the COVID-19 pandemic, including some of the concerns raised in OPC's Petition, due to the pandemic and its economic impacts. The Notice also included OPC's Petition in this docket.² The Commission requested that the utilities file their information, responses and plans on August 11, 2020, while comments of OPC, Staff and other stakeholders are due on August 21, 2020.

II. INTRODUCTION AND BACKGROUND

The COVID-19 pandemic has had a worldwide health and financial impact that is unprecedented in scale and reach, resulting in a continuing health crisis, and widespread and drastic business shutdowns, bankruptcies, and significant unemployment. The duration of the health and economic crisis is unknown. When

² Exhibit 1 of OPC's Petition summarized its proposals 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 service. It is attached as Appendix A to these Comments.

Governor Hogan's State of Emergency order was issued on March 5, 2020, the general expectation was that the crisis would last a few months, with a return to some measure of normalcy by summer. It has become clear since then that recovery will be slow and uncertain.

One of the impacts of the COVID-19 pandemic has been a widespread cessation of normal business activities and the consequent dismissal and long-term layoff of many employees. With income losses, Maryland residents have relied on assistance from the Corona Virus Aid, Relief and Economic Security (CARES) Act, unemployment benefits, savings and other resources to meet day-to-day expenses. Due to the sudden business closings, unemployment benefits, supported until recently by federal enhancements, were delayed due to the volume of applicants overwhelming the State Department of Labor's system during the spring and early summer. The one-time federal stimulus payments also were delayed, and not automatically available to all eligible households through the IRS. In any event, those payments were necessarily needed for numerous financial obligations.

There have been prior periods of severe economic distress and high unemployment, including the Great Depression and periodic recessions.³ More recently, Maryland households were affected by the 2008-2009 recession, with high unemployment rates and mortgage foreclosures. However, a major distinction with the current crisis is that it is a global pandemic; a combination of a major health and financial

³ See, for example, the 1934 Annual Report of the Public Service Commission to the General Assembly, pages 2-3, where the Commission described actions undertaken to lower the price of services by rate reductions as a means to provide relief to customer during the Depression.

crisis, with more pervasive and longer lasting impacts. The duration of the current COVID-19 crisis and its impact on the state's economy, unfortunately, is unknown.

The Maryland Senate Judicial Proceedings Committee Workgroup Report on COVID-19 and Housing in July 2020 issued a report on the impacts of COVID on consumers. The Senate Committee Workgroup found that utility and other services were essential to consumers but that loss of jobs and income from COVID-19 had affected consumers' ability to pay bills. The Workgroup's majority specifically recommended that termination of service protections in the Executive Orders of the Governor be continued until the end of the State of Emergency from COVID-19.⁴

Other Maryland public officials have weighed in on the importance of extraordinary action in the wake of the pandemic. The Attorney General's COVID-19 Access to Justice Task Force, in a letter to the Governor, urged a continuation of the moratorium on termination of service due to the impacts of pandemic on communities of color, the extent of the economic dislocations caused by the pandemic and the uncertainty of further federal assistance.⁵

In order to address the significant financial hurdles Maryland utility customers now face, the Commission has an obligation to act in this proceeding. At a minimum, the Commission's rules and regulations regarding billing, collection and termination of service of residential customers must be revisited and waived temporarily, if necessary, to provide temporary relief to those facing high unpaid bills and limited or scarce

⁴ Maryland Senate Judicial Proceedings Committee Workgroup Report on COVID-19 and Housing, July 2020 pp. 8-9.

⁵ Attorney General's Access to Justice Task Force letter to Gov. Hogan July 28, 2020 pp. 2-3.

financial resources.. The proposals put forward in the OPC’s June 26, 2020 Petition detail the changes and revisions needed to meet the emergency Maryland’s utility customers face. The majority of the August 11th filings of the utilities, however, notwithstanding the long-term economic hardship that many Maryland residents are and will continue to experience, unfortunately suggest that (1) the Commission need not order the utilities to take extraordinary, consistent statewide action to assist customers struggling to afford essential utility service, and (2) they should be trusted to work with customers to address their financial circumstances without further direction from the Commission. Those positions should be rejected by the Commission as insufficient for this moment in time.

Some of the Responses include proposals that, when modified and combined with other worthwhile proposals, can form the basis of a uniform, statewide “best practices” plan worthy of Commission adoption. OPC submits that the Commission’s goal in this proceeding is to craft just that – a single set of required, more flexible credit and collections (“C&C”) protections to be adopted by all utilities to serve the financially troubled customers for whom these flexible protections are being targeted. To do otherwise, as the utilities suggest, would only sow unnecessary confusion for consumers and agencies trying to assist them. This would be unfortunate at a time when consumers are seeking clear guidance as to their options in accessing not just essential utility service, but also food, medical care, transportation, child care, remote learning for their children, rental and mortgage payment assistance, and employment in general during this State of Emergency.

The Commission should use its authority to ensure that utility customers across the State have continued access to essential utility services, particularly during a

worldwide pandemic, through an extension of the existing moratorium on utility shut offs until the COVID-19 health emergency has been addressed. In addition, the Commission should ensure that customers across the State have access to the same, more robust utility C&C protections, regardless of their location and service territory, to ensure continued access to essential utility service. Finally, the Commission should require utility data collection, by zip code, to enable the effectiveness of new C&C protections to be monitored.

III. SUMMARY OF OPC POSITION AND RECOMMENDATIONS

For all of the reasons discussed below, OPC urges the Commission to order the utilities to implement the following practices, which should be considered the minimum requirements in response to the COVID-19 crisis and State of Emergency, with utilities maintaining the ability to implement more flexible and generous practices:

An expanded Moratorium Period definition (30 days after the end of the State of Emergency declared by the Governor) and **Transition Grace Period** (60-day grace period following the end of the Moratorium) that provide time for utilities to reconnect customers who were previously disconnected due to inability to pay, and customers time to apply for OHEP assistance and make arrangements with their utility companies for extended deferred payment arrangements.

Reconnection of all previously disconnected customers, prior to the shut off moratorium, due to inability to pay, with waivers of reconnection fees;

Continued waiver of late fees and penalties after the Moratorium has been lifted;

More flexible DPAs that offer financially struggling customers the following:

- **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, for those who have consented to electronic communications, and posted on the utility website. This information shall be included, too, on all disconnection notices. Targeted communications to previously disconnected customers for nonpayment should also be required.

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.

Consideration of Robust data collection, by zip code, that will enable Commission review and assessment of the new protections

These and other proposals are discussed below and included in Attachment A.

IV. ARGUMENT

A. The Commission Should Approve Uniform, Statewide, Robust Credit and Collections Practices That Are Clearly Identified As Minimum Protections And That Reflect the Gravity of the Economic Crisis That Maryland Residents Face.

In response to the Commission's questions posed to Maryland's electric, gas and water utilities on July 8, 2020 on consumer protections offered to customers in the wake of the COVID-19 pandemic, no two utilities offered the same proposals or plans. While some utilities proposed consumer protections that were more flexible than current Commission rules provide for, others proposed a business-as-usual approach to customer payment practices that fail to acknowledge the extent of the economic difficulties that the COVID-19 pandemic has triggered. *All* of the responses, too, suffer from the same flawed assumption: that life as customers knew it before the pandemic will return once the Governor's Emergency Order imposing a shut off moratorium is lifted.

One of the key realities of the COVID-19 public health emergency is that both the spread of the virus and the economic crisis that have followed remains in flux. That fact is revealed in, for example, the daily numbers of confirmed cases and deaths that are reported by the Maryland Department of Health, the continuous filing of unemployment claims in the state, the continuing limitations on small business operations, especially in

the service industries, and the fluid state educational plan that will rely on local school officials to dictate when and how schools reopen based on regional public health indicators.

In light of these facts, the Commission has a critical role to play in this proceeding if customers – not just utility revenue streams – are to be protected. The varied utility responses highlight, first and foremost, the need for specific Commission action requiring *consistent, statewide* flexible best practices related to Maryland utility credit and collections procedures to address the crisis. Fundamentally, a utility customer’s ability to obtain more flexible payment terms and flexible C&C protections should not vary based on the person’s address or utility service territory.

In fact, the Commission’s existing rules in the Code of Maryland Regulations (COMAR) that established statewide, minimum protections speak directly to the need for uniform protections, and should guide the Commission’s approach to requiring consistent, but more robust consumer protections in response to the crisis. The “Utility Responsibility” provisions of COMAR Subtitle 31 (Terminations of Service) make clear the Commission’s intention that the utilities implementing the rules are to view them as *minimum* protections that can be expanded upon as individual circumstances demand.⁶ For example, under COMAR 20.31.01.04.A., “Utility Responsibilities, ... the utility shall use its discretion in unusual circumstances, including a situation involving a master-metered building, and may not terminate service *if it has or is presented with reasonable*

⁶ See, e.g. “04 Utility Responsibilities. A. “... the utility shall use its discretion in unusual circumstances, including a situation involving a master-metered building, and may not terminate service if it has or is presented with reasonable grounds to believe that termination will endanger human health, life, or safety” and “B. This subtitle contains minimum requirements, and a utility may expand upon these requirements so as to provide further protections for its customers, in a manner best suited to that utility's service area and other factors.

*grounds to believe that termination will endanger human health, life, or safety.”*⁷ In addition, COMAR 20.31.01.04.B. provides that the Utility Responsibilities rule “contains minimum requirements, and a utility may expand upon these requirements so as to provide further protections for its customers...”⁸ in a manner best suited to that utility's service area and other factors.

In this instance, the devastating economic freefall that followed the shutdown of significant portions of the Maryland economy, as evidenced by the number of unemployment claims filed with the state, and the well-documented disproportionate impact on low income customers and communities of color discussed below, supports the adoption of extraordinary, Commission-ordered, robust consumer protections for all of the state's utility customers. It is within this framework that the OPC request for revised, emergency C&C protections should be viewed; that Commission action is needed (1) to require a common set of *minimum* protections to be offered to financially struggling customers throughout the state; and, once established, (2) that the protections approved in this docket should be viewed as minimum protections that can be expanded upon by a utility as it addresses the particular financial circumstances of a customer seeking assistance. The utilities' apparent belief that the Commission need not act to establish more robust provisions, statewide, given the pandemic, and that each utility can be trusted to do what customer service representatives deem is best for a customer, simply ignores the gravity of the economic shutdown that has occurred, the job losses that

⁷ See COMAR 20.31.01.04.A., “Utility Responsibilities.”

⁸ See COMAR 20.31.01.04.B.

followed, and the dire circumstances that a significant number of Maryland utility customers and their households find themselves in at this moment in time.

While the true extent of the financial fallout and the permanent changes to the economy that are coming remain unclear, the Commission's decision in this docket must be informed by what we know today and the recognition that we as a society have not been here before. Publicly available data during this extraordinary global pandemic, both in terms of the number of persons testing positive for COVID-19, and the economic fallout that has resulted from the closing of non-essential businesses within the state, provide a vivid backdrop for the Commission's evaluation of the insufficiency of the utility plans submitted.

Specifically, among the factors and economic indicators to be weighed by the Commission, are the following facts:

- Governor Hogan declared a State of Emergency and catastrophic health emergency on March 5, 2020, and renewed it multiple times, with the latest renewal coming on August 10, 2020.⁹ The most recent order recognized that the “emergency conditions, state of emergency, and catastrophic health emergency continue to exist.” He also issued an order on March 16, 2020, prohibiting the termination of residential services, including utility services, and late fees, with the latest renewal issued on July 31, 2020. Importantly, the Order recognizes that “[t]he spread of COVID-19 is likely to result in loss of work and loss of income for some residents of Maryland, which may impact their ability to pay for residential services, and that “(t)he termination of Marylanders’ residential services as a result of COVID-19 would have serious public health, welfare, and safety consequences.”¹⁰

⁹ See Emergency Proclamation of August 10, 2020, <https://governor.maryland.gov/wp-content/uploads/2020/08/August-10-Proclamation.pdf>

¹⁰ See Emergency Order of Gov. Hogan, July 31, 2020, <https://governor.maryland.gov/wp-content/uploads/2020/07/Utility-Shutoffs-and-Late-Fees-4th-Amended-7.31.20.pdf>

- As of August 21, 2020, the Maryland Department of Health reports 102,229 confirmed cases of COVID-19 and 3,531 confirmed deaths from COVID-19 in the State.¹¹ Communities of color have been especially hard hit by the pandemic. Of the total confirmed deaths, 1,447 were Black residents, accounting for 41% of the total deaths while comprising 31%¹² of the State's population. Latinx Maryland residents comprised 24% of the total confirmed cases while comprising only 10.6% of the State's population.¹³
- Low-income customers, who already face difficulties affording essential utility services¹⁴, will undoubtedly be impacted most by the disruption of the economy that is occurring as they are directed by their employer or public health officials to stay home due to illness, or have lost wages due to the economic shutdown. Federal Reserve Chairman Jerome Powell reported in May, 2020 that around 40% of Americans earning less than \$40,000 a year lost a job in March.¹⁵ According to the Center on Budget and Policy Priorities, most of the jobs lost in the first two months of the sharp economic downturn have occurred in industries that pay low average wages. As a result, the deep downturn has hit hardest at workers who already faced barriers to economic opportunity, including Latinx and Black workers, workers without a bachelor's degree, and immigrants.¹⁶
- Unemployment claims filed with the state have grown significantly since the pandemic hit. The Maryland Department of Labor is currently working through an unparalleled number of unemployment benefit claims and questions, both online and through the call center. As of June 2020, unemployment in Maryland stands at 8% (257,762 workers), which is a slight decrease from 10% in April and May, 2020 but a dramatic increase from 3.3% unemployment in January through March.¹⁷ At its peak, the number of unemployment claims made in Maryland skyrocketed from 2,090 claims filed the week ending March 7, to 108,508 claims filed the week ending April 4 - an increase of about 5,000%. While claims have slowly decreased since

¹¹ See <https://coronavirus.maryland.gov/>

¹² See <https://www.census.gov/quickfacts/fact/table/MD/BZA115218>

¹³ *Id.*

¹⁴ *One in Three U.S. Households Faces A Challenge in Meeting Energy Needs*, Energy Information Administration, September 19, 2018; See <https://www.eia.gov/todayinenergy/detail.php?id=37072>.

¹⁵ See <https://www.federalreserve.gov/newsevents/speech/powell20200513a.htm>

¹⁶ See *People Already Facing Opportunity Barriers Hit Hardest by Massive April Job Losses*, Center on Budget and Policy Priorities, May 12, 2020 <https://www.cbpp.org/blog/people-already-facing-opportunity-barriers-hit-hardest-by-massive-april-job-losses>

¹⁷ Local Area Unemployment Statistics, "Maryland Seasonally Adjusted LAUS Data," Maryland Department of Labor (June 2020), available at <https://www.dllr.state.md.us/lmi/laus/>.

then, 7,626 regular claims and 5,491 federal Pandemic Unemployment Assistance/Pandemic Emergency Unemployment Compensation (PEUC) claims were filed for the week ending August 8, for a total of 13,117 claims (about 365% more than the number in early March). Altogether, 809,829 regular unemployment insurance claims have been filed in Maryland since the start of the pandemic in mid-March.¹⁸

- The Office of Home Energy Programs (OHEP) of the Maryland Department of Human Services provides bill assistance to low-income households in the state whose income falls below 175% of the Federal Poverty Level, with applications required to be processed within 45-days from the receipt of the application.¹⁹ Yet, the economic impact of COVID-19 has created several new realities that will likely impact the pace at which assistance applications can be processed. For example, until recently, OHEP agencies were closed to the public until very recently, and in-person processing is permitted by appointment only in certain local agencies, with agency offices minimally staffed. Baltimore City offices remain closed. While OHEP currently strongly recommends that applicants use its website to apply for benefits, submit changes and to upload any documents that are needed to process the application,²⁰ many low-income households lack access to the internet.²¹ In addition, with the significant rise in unemployment, demand for energy assistance based on income will similarly increase. OHEP recognized the eligibility increase in its FY 2021 Proposed Operation Plan.²² Many financially struggling households will qualify for energy assistance for the first time, and will likely be unfamiliar with the range of energy assistance programs available to them. Moreover, utility customers for some of the assistance programs are eligible for benefits only once every seven years.²³ There simply is no evidence that the assistance dollars available through OHEP will be sufficient to meet the immense financial need once the shut off moratorium is lifted.

¹⁸ See "Unemployment Insurance Initial Claims by County - Unemployment Insurance," Maryland Department of Labor (updated August 2020), available at <https://www.dllr.state.md.us/employment/uicounty.shtml>.

¹⁹ Office of Home Energy Programs 2021 Policy and Procedures Manual, p. 27.

²⁰ See OHEP website, <https://mydhrbenefits.dhr.state.md.us/dashboardClient/#/home>

²¹ According to American Community Survey data, among those households with an annual income below \$20,000, a full 40%—more than double the national average and representing 7 million households -- have no internet subscription through any mechanism. See U.S. Census Bureau American Community Survey, Types of Computers and Internet Subscriptions (2017). In comparison, only 5% of families earning more than \$75,000 are without internet subscriptions. *Id.*

²² Case No. 8903, OHEP FY 2021 Proposed Operations Plan dated May 29 2020, at page 21.

²³ See, e.g., Arrearage Retirement Assistance (EARA) and Gas Arrearage Retirement Assistance (GARA) programs, referenced in OHEP's 2021, Policy and Procedures Manual, p. 22.

- While the federal CARES Act created the Federal Pandemic Unemployment Compensation (FPUC) program that provided an additional \$600 per week for those who receive unemployment benefits, the program expired as of July 25, 2020. Currently, Congress is on summer recess and no new compromise U.S. House and U.S. Senate COVID-19 assistance bill has been drafted.²⁴
- The Maryland Food Bank, which supports 350 network partners statewide that collectively provide more than 1,200 distribution points with needed food for their local communities, reports that six million pounds of food was distributed in June 2020, a 124% increase over June 2019. Nearly \$3.05 million was spent on food in June 2020, compared to \$428,000 in June 2019 - a 613% increase.²⁵
- Housing insecurity data filed by the U.S. Census Bureau highlights a significant rate of Maryland residents who report difficulties in affording housing following the pandemic. Some 860,968 adults or 26% of Maryland residents over the age of 18 reported they had missed last month's rent or mortgage payment, or have slight or no confidence that their household can pay next month's rent or mortgage on time as of week 12 of the pandemic.²⁶
- It is estimated that there are more than 425,000 undocumented immigrants in Maryland²⁷ who face significant hurdles when seeking governmental assistance that are compounded by their non-citizen status. Any immigrant, not just undocumented individuals, who does not have a social security number did not receive a \$1,200 relief check authorized in the CARES Act. On top of that, even if individuals have a social security number, if they filed taxes and listed an undocumented child or family member on the returns, they will not receive a relief check.²⁸ In addition, undocumented workers

²⁴ Governor Hogan recently announced that the Federal Emergency Management Administration (FEMA) approved the State's application to provide unemployed Marylanders with an additional \$300 per week in benefits under the Lost Wages Assistance program. To qualify for the additional \$300 per week, claimants must be eligible for a weekly benefit amount of at least \$100 and must self-certify that they are unemployed or partially unemployed due to "disruptions caused by COVID-19." See <https://governor.maryland.gov/2020/08/20/fema-approves-marylands-application-for-additional-300-per-week-in-federal-unemployment-benefits/>

²⁵ See <https://mdfoodbank.org/maryland-food-banks-covid-19-response/>

²⁶ See U.S. Census Bureau Household Pulse Survey: https://www.census.gov/data-tools/demo/hhp/#/?s_state=00024&measures=HIR

²⁷ Migration Policy Institute Data Hub, See <https://www.migrationpolicy.org/data/state-profiles/state-demographics/MD>

²⁸ See <https://www.congress.gov/bill/116th-congress/senate-bill/3548/text>, Sec. 6428(e)(3).

do not qualify for unemployment assistance.²⁹ Moreover, in order to process an OHEP application for energy assistance benefits, state rules require that there must be at least one person who is a qualified household member, meaning, a US citizen or “qualified alien” as cited in U.S. Code definition 8 U.S.C. §1641(b).

- When utility bills become unaffordable, the likelihood that consumers will seek expensive payday loans significantly increases. Before the COVID-19 pandemic, according to one financial services report, utility bills constituted the number-one reason for consumers to use small-dollar credit (SDC) products, otherwise known as payday loans. The top 3 uses for an SDC product included: utility bills (36%), general living expenses (34%), and rent (18%). Users of very short-term loans were almost twice as likely as users of short-term loans to borrow for routine expenses like utility bills (42% versus 28%) or general living expenses (41% versus 20%).³⁰
- Access to utility service will also be essential for Maryland’s school children. The Maryland State Department of Education determined in July, 2020 that local systems will have the flexibility to determine, in consultation with their local health officers, whether student will learn remotely or in-person. Some systems have begun to lay out a path to begin the year with all-virtual learning, and some plan to move forward with a ‘hybrid’ approach.³¹ Either way, maintenance of essential utility service, including electricity, heat, water and broadband internet access, is a given if children and young adults are to safely remain in their home and continue learning.
- Women with children have been most significantly impacted by stay-at-home orders and remote learning requirements, according to a just-released U.S. Census Bureau report. Working mothers in states with early stay-at-home orders and school closures, like Maryland’s, were 53.2% more likely to take leave from their jobs than working mothers in states where closures happened later.³²

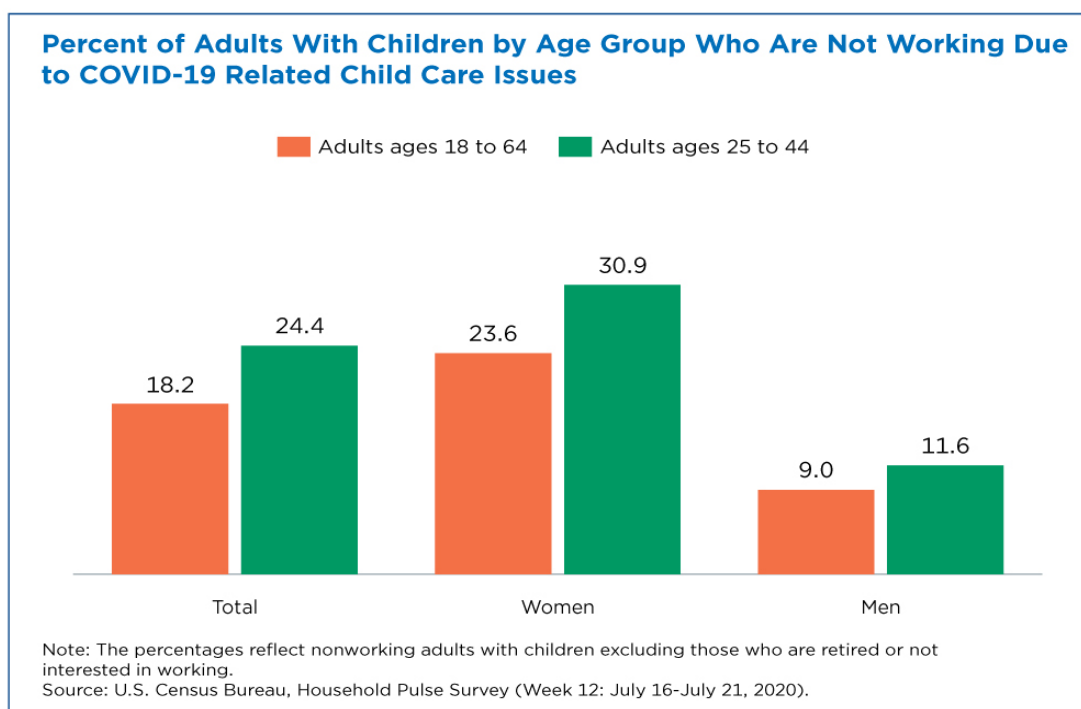
²⁹ See <https://www.dllr.state.md.us/employment/uiissues.shtml>

³⁰ *A Complex Portrait: An Examination of Small-Dollar Credit Consumers*, The Center for Financial Services Innovation, Rob Levy, Manager, Innovation and Research, Joshua Sledge, Analyst, Innovation and Research, August 2012, p. 4.

³¹ See July 22, 2020 Remarks of Karen B. Salmon, State Superintendent of Education.

<http://marylandpublicschools.org/newsroom/Pages/COVID-19/Superintendent.aspx>

³² See *Working Moms Bear Brunt of Home Schooling While Working During COVID-19*, M. Heggeness and J. Fields, August 18, 2020; https://www.census.gov/library/stories/2020/08/parents-juggle-work-and-child-care-during-pandemic.html?utm_campaign=20200818msacos1ccstors&utm_medium=email&utm_source=govdelivery



As shown in the above-figure, the report also noted that around one in five (18.2%) of working-age adults said the reason they were not working was because COVID-19 disrupted their childcare arrangements (Figure 1); and of those not working, women ages 25-44 are almost three times as likely as men to not be working due to childcare demands. About one in three (30.9%) of these women are not working because of childcare, compared to 11.6% of men in the same age group.

- The reopening of the Maryland economy remains fluid. Under Governor Hogan’s “Roadmap to Recovery” (Roadmap) economic reopening plan, with the protocol divided into three stages: Low, Medium and High Risk. Changes will necessarily be made to the plan throughout the implementation, “as warranted by public health and economic conditions.”³³ The Roadmap contemplates offering flexibility to health officers of county and municipal governments, and considering regional differences in COVID conditions, “but within the parameters set forth by the Governor and his Administration for each stage and particular sub-phase.”³⁴ The Roadmap specifically contemplates that county health officers may order local businesses and gathering places to restrict service or close if deemed to be operating in a manner dangerous to the

³³ See Maryland Strong Roadmap to Recovery, p. 25; https://governor.maryland.gov/wp-content/uploads/2020/04/MD_Strong.pdf

³⁴ *Id.*

public health, regardless of whether said business falls within a category generally opened statewide.³⁵

All of these data points and economic indicators, which OPC requests that the Commission take administrative notice of, make clear that Maryland residents have been affected in many ways by the economic fallout resulting from the pandemic – and particularly low-income persons who were already struggling financially before the pandemic. Maryland utilities’ have an obligation to serve *all customers* -- including those who are facing financial difficulties – as a quid pro quo to their status as monopoly providers of essential utility services. Specific Commission action is needed in this proceeding to ensure that utilities adjust to this current reality by implementing consistent, statewide, robust and flexible protections that acknowledge the financial cliff low-income customers, including the newly unemployed and under-employed, are facing as utility, eviction, and mortgage moratoria are lifted.

As OPC noted in its June 26, 2020 Petition to address the COVID-19 State of Emergency, a Commission directive to the utilities to implement temporary measures regarding deferred payment arrangements, reconnection of services, and limits on disconnection of service will assist households in maintaining service, and benefit ratepayers as a whole, by helping to maintain affordable payments by affected utility customers and reducing uncollectible costs.³⁶ That should be the central focus of the Commission’s actions in this proceeding if Maryland residents’ access to essential utility service is to be protected during the pandemic and its economic aftermath.

³⁵ *Id.*

³⁶ OPC Petition, p. 2.

B. The Utilities' Proposals Fall Significantly Short of Ensuring Maintenance of Affordable Utility Service, Post COVID-19 Emergency.

As discussed below, the plans submitted by the utilities, while some better than others, all fail to holistically and consistently protect low-income consumers and families impacted by the COVID-19 emergency and the resulting joblessness and damage to the Maryland and U.S. economies. OPC urges the Commission to adopt the recommendations below, which both recognize the enormity of the financial losses thousands of low-income and newly low-income customers are facing as a result of the pandemic, and a commitment to ensure that Maryland residents are not facing disconnection once the Governor's emergency utility shut off moratorium order is lifted.

1. Moratorium Extension and Transition Grace Period – The Commission should extend the Moratorium on utility shut offs to 30 days after the end of the Governor's state of emergency and catastrophic health emergency Order expires, with a Transition Grace Period that will provide financially strapped customers with the time needed to make payment arrangements and apply for energy assistance.

a. The Commission should use its authority to extend the moratorium on utility shutoffs to align with the end of the Governor's state of emergency and catastrophic health emergency order.

It is unclear to date whether the Governor will renew his utility shut off moratorium order, Executive Order No. 20-07-31-01, before its current September 1, 2020 expiration date. Yet, all of the utilities noted in their Responses to the Commission's July 8, 2020 Order that they seek a return to the normal collections process and a lifting of the existing utility shut off moratorium *before* the expiration of the Governor's separate State of Emergency and catastrophic health emergency proclamation. Each of the Responses

ties the end of the Moratorium to the lifting of the Governor's separate moratorium on shut off of utility services, some faster than others – a position that ignores the current, twin public health and economic emergencies.

Baltimore Gas and Electric Company's (BGE) current plan for residential customers, for example, calls for the collections process, including reminder notices and turn off notices, to re-start after September 1, 2020, and disconnections to re-start after October 1, 2020.³⁷ The Potomac Electric Power Company (PEPCO) and Delmarva Power (Delmarva) (jointly, the PHI Utilities) current plan for residential customers is for the collections process, including reminder notices and turn off notices, to re-start no earlier than September 15, 2020.³⁸ Potomac Edison, too, offers no transition period for customers once the Governor's Emergency Moratorium order is lifted.³⁹ Columbia Gas of Maryland (Columbia Gas) anticipates that it will not expect to be issuing termination notices before October.⁴⁰ Only Southern Maryland Electric Cooperative (SMECO) proposes a 60-day transition period once the moratorium is lifted.⁴¹

Even while acknowledging their interest in ending the Moratorium prior to the public health emergency has ended, at least one utility highlights the need for the Commission to grant a waiver of COMAR 20.31.05.08.C(3), which prevents customers with arrearages over \$400 from seeking assistance from the Maryland Energy Assistance

³⁷ BGE Response, p. 30.

³⁸ PHI Utilities' Response, p. 26.

³⁹ Potomac Edison Response, p. 5.

⁴⁰ Columbia Gas Response at 19.

⁴¹ SMECO Response, p. 7.

Program (“MEAP”) funds.⁴² This, it acknowledges, is necessary in light of the growing average customer arrearages that Maryland residents are facing.⁴³

Information supplied by the utilities in response to OPC data requests paints a troubling picture of energy insecurity among residential customers based on customer arrearages data – particularly for customers designated by the utilities as low-income.⁴⁴ However, specific relief in form of more robust credit and collections proposals or even new bill payment relief programs is largely absent from the utility filings. Potomac Edison notes that “enhanced outreach by the utility is not enough to motivate some customers to make payment arrangements so as to control their arrearages and reduce the amount of uncollectibles expense which other customers would ultimately have to bear.”⁴⁵ The implicit implication here, and the explicit request of other utilities, including BGE and the PHI Utilities, is that unless the Moratorium is ended soon, and until the collections process is begun, with disconnection notices being sent to customers in arrears, the arrearages will grow and the Company’s revenue streams will be negatively impacted, with bad debt numbers growing.

The utilities’ position on the need to restart the disconnection cycle as quickly as possible should be rejected. First and foremost, this position assumes facts not in evidence: namely, that the utility customers throughout the state will swiftly be able to afford these growing arrearages once the moratorium is lifted. The unemployment, economic and

⁴² See, e.g., Potomac Edison Response, p. 19.

⁴³ *Id.*

⁴⁴ See Responses of BGE, PHI Utilities, Washington Gas, Potomac Edison, Columbia Gas and SMECO to OPC Data Request No. 1, Question No. 6. Low-income is defined here as customers identified in the utility systems as recipients of OHEP, Electric Universal Service Program (EUSP) or Maryland Energy Assistance Program (MEAP) assistance.

⁴⁵ *Id.* at 16.

public health data cited earlier in these Comments belie the utilities' unsupported assumption that all bills can and will be paid once disconnection notices are issued. While a disconnection notice may kickstart interest in applying for energy assistance, no utility provides evidence that energy assistance funds alone offered through the state's OHEP will prevent mass disconnections.

Second, the argument that the state's large, investor-owned utilities current decline in revenues requires the Commission to end the shut off moratorium and restart the collections process rings hollow. The argument ignores the fact that several utilities, such as the PHI Utilities, BGE, SMECO and Columbia Gas,⁴⁶ have decoupling or revenue normalization/stabilization mechanisms that assure the recovery of revenues. The PHI Utilities, for example, note that approximately 97% of their revenues are decoupled.⁴⁷ Roughly 80% of BGE's distribution revenues are decoupled.⁴⁸ Columbia Gas notes that while the company "did experience lower cash flows from operations in the second quarter of 2020 in comparison to the second quarter 2019, management believes that NiSource will have sufficient liquidity over the next 12 to 24 months to fund NiSource's ongoing operations."⁴⁹ Similarly, the PHI utilities (Delmarva, Pepco) and BGE are all subsidiaries of the very profitable Exelon Corporation, whose website reports:

BGE's second quarter of 2020 GAAP Net Income and Adjusted (non-GAAP) Operating Earnings remained relatively consistent with the second quarter of 2019. Due to revenue decoupling, BGE's distribution earnings are not affected by actual weather or customer usage patterns.

⁴⁶ Columbia Gas Response at 14.

⁴⁷ PHI Response at 17.

⁴⁸ BGE Response at 20.

⁴⁹ Columbia Gas Response at 14.

Due to revenue decoupling, PHI's distribution earnings related to Pepco Maryland, DPL Maryland and Pepco District of Columbia are not affected by actual weather or customer usage patterns.

Potomac Edison is a subsidiary of First Energy, another parent company that can step in to assist with any needed long-term financial issues. In fact, no investor-owned utility suggests that Commission action is needed now to maintain financial health. Each retains the option to go to the capital markets and seek low-cost financing should the need arise.⁵⁰ Ratepayers, however, have no such options, and are under significant time constraints to seek limited energy assistance funding through OHEP while also juggling eviction and mortgage foreclosure notices. What is clear is that initiating the disconnection process will *not* significantly impact these companies but *will* significantly impact residential customers who are facing extreme financial hardship.

Other public service commissions around the country have taken action to protect customers from disconnection due to inability to pay in light of the pandemic. In California, for example, following the 2017 wildfires in the state, the California Public Utilities Commission adopted a number of "Emergency Consumer Protections" for electric, gas, water, and telecom utility consumers triggered by the Governor's declaration of an emergency that include a prohibition on disconnections for nonpayment. In April of this year, the California Commission extended the same emergency protections in response to the pandemic. The California Commission wrote:

Therefore, due to the COVID-19 pandemic, the Commission extends to California customers the

⁵⁰ In its Response, Washington Gas notes, at page 6, "Washington Gas has had access to adequate sources of financing thus far to address the financial impacts of the pandemic including access to commercial paper markets, available borrowing capacity under its revolving credit facility provided by its syndicate of financial institutions and equity infusions made by its parent company."

emergency customer protections from D.19-07-015 and D.19-08-025, through April 16, 2021, with an option to extend. The Commission takes this action in response to extraordinary circumstances and the state of emergency to ensure continuity of essential service to customers during this health and safety crisis.⁵¹

In Massachusetts, the Department of Public Utilities took action to authorize a number of enhanced consumer protections, including an extension of the existing moratorium on disconnections to November 15, 2020. Given that this date also triggers the winter disconnection prohibition season in the state, Massachusetts customers will effectively be insulated from disconnections due to nonpayment through the Spring of 2021.⁵² Maryland does not have a winter shut-off moratorium, only limited additional notice and utility affidavit requirements; there is no similar protection during the winter months.⁵³

Regardless of when the Governor lifts the utility shut off moratorium order, the Commission has the ability to tie the end of the moratorium to the public health emergency and the recovery of the Maryland economy on the ground. As long as the state of emergency and catastrophic health emergency remains in the state, and the state's economy is restricted by the pandemic, it is clear that utility customers who have experienced a loss of or reduced income will not be able to afford to pay significant arrearages and avoid disconnection within weeks of receiving a disconnection notice

⁵¹ See California PUC Resolution M-4842, *Emergency Authorization and Order Directing Utilities to Implement Emergency Customer Protections to Support California Customers During the Covid-19 Pandemic*, April 16, 2020, <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M331/K355/331355301.PDF>

⁵² See Order on the Customer Assistance Plan From the First Report of the Customer Assistance and Ratemaking Working Group, p. 5; <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/12506975>

⁵³ See COMAR 20.31.03.03 Winter Restrictions

when the COVID-19 crisis persists. The Commission should extend the moratorium to coincide with the extension of the Governor's public health/state of emergency proclamation, with a 30-day cushion that would allow for the utilities' notice process.

While the utilities may assert that a September 1st (or October 1) start of the disconnection process is needed to “motivate some customers to make payment arrangements so as to control their arrearages and reduce the amount of uncollectibles expense which other customers would ultimately have to bear,”⁵⁴ the fact remains that Maryland residents will *not* have returned to a level of employment that enables them to “control arrearages” or suddenly pay rent and mortgage payments or pay medical bills, all of which will be past due on that same date.

On the Maryland Public Service Commission website, the Commission's lists its “vision and mission” as “to ensure safe, reliable, and economic public utility and transportation service to the citizens of Maryland,” and that it will achieve this mission by, among other principles, creating “standards and policies that protect the safety of the public.”⁵⁵ The time is now to act on that vision and follow the lead of other commissions around the country that have stepped up to ensure the health and safety of its residents by extending the shut off moratorium in a way that acknowledges the public health and economic crisis. OPC urges the Commission to extend the utility shut off moratorium to align with the extension of the Governor's state of emergency and catastrophic health emergency order, with an additional 30 days that would allow for the utilities' notice process.

⁵⁴ *Id.* at 16.

⁵⁵ See <https://www.psc.state.md.us/vision-and-mission/>

b. A Transition Grace Period should be enacted, post Moratorium, to provide financially struggling customers time to adjust economically.

As noted above, there are many economic factors, including escalated unemployment numbers and food insecurity, that impact the ability of utility customers within the state to quickly react and comply with the terms of a disconnection notice. The end of a utility shut off moratorium may be accompanied by the end of the Governor's eviction and mortgage foreclosure moratoria. Many children will be engaged in virtual learning from home, triggering additional child care costs.

Putting aside these new economic and societal realities, financially struggling customers must be allowed time to assess their financial commitments and seek available energy assistance, some for the first time in their lives. The well-documented economic impact of COVID-19 has created several new realities that will likely affect the pace at which assistance OHEP applications can be processed. For example, as noted earlier, in-person processing will be limited, with actual agency offices closed or minimally staffed. Accessing online resources in order to apply for benefits and upload documents needed to process the application will be difficult for low-income households that lack access to the internet. In addition, with the significant rise in unemployment, demand for energy assistance will similarly increase, as OHEP has recognized. Many financially struggling households will qualify for energy assistance for the first time, and will likely be unfamiliar with the range of energy assistance programs available to them.

These factors point to the need for the Commission to establish a Transition Grace Period following the lifting of the shut off moratorium. In concept, the Transition Grace Period is similar to the terms of a Medical Payment Arrangement in that it buys a customer

a designated period of time to begin the process of economic recovery and to take the action necessary to ensure continued access to utility service.⁵⁶

In a proceeding initiated by the Commission to establish a shut off moratorium and more flexible credit and collections protections, the Illinois Commerce Commission recently approved a settlement between the investor-owned utilities, consumer advocates and Commission Staff that included a 60-day Transition Grace Period.⁵⁷ Like the proposal offered here, the concept was based on the notion that utility customers will not be immediately prepared financially to respond to the inevitable disconnection notices that will accompany the end of a shut off moratorium given the continued economic uncertainty of these times. The Commission should similarly adopt a 60-day Transition Grace Period to follow the end of the shut off Moratorium. In this instance, the two-month reprieve from disconnection, late fees and other punitive measures designed to trigger customer payments will allow Maryland residents facing record unemployment, food insecurity, and other financial hardships the time needed to accumulate minimum payments demanded by utilities in order to ensure continued access to essential utility service.

⁵⁶ See COMAR 20.31.03.01 Restrictions for Serious Illness and Life-Support Equipment

⁵⁷ See ICC Docket No. 20-0309, Order of June 16, 2020, Appendix 1, p. 2, available at <https://www.icc.illinois.gov/docket/P2020-0309/documents/300566>

2. Reconnections -- The Commission must act quickly to order utilities to reconnect previously disconnected customers due to inability to pay now.

While not ordered to reconnect customers who were previously disconnected for nonpayment prior to the Governor's Emergency moratorium order, some utilities have set the precedent for reconnecting customers and waiving reconnection fees during the State of Emergency, having recognized that no one should be forced to shelter in place in a home without essential utility service. While several Maryland utilities indicated in their August 11, 2020 Responses to the Commission that reconnections of previously disconnected customers due to nonpayment have occurred⁵⁸ some may not have done so. SMECO, Washington Gas and Columbia Gas make no mention of reconnecting previously disconnected customers who are still in arrears.

OPC appreciates those voluntary reconnection efforts and urges the Commission to require *all* utility respondents in this proceeding to do the same by (1) reconnecting customers who were previously disconnected due to inability to pay; (2) sending notices to customers that they should contact the utility for said reconnection; (3) proactively engaging the customer in the arrangement of an affordable DPA (see DPA discussion below), and (4) waiving all reconnection fees.

Reconnection action is needed because access to essential service is vital to public health and safety at all times, but particularly during a pandemic, when Maryland residents are being told to avoid larger social gatherings and unnecessary trips. As the Governor's shut-off moratorium order, renewed on July 31, 2020, states:

⁵⁸ See, e.g., Baltimore Gas & Electric, the PHI Utilities and Potomac Edison Responses.

The spread of COVID-19 is likely to result in loss of work and loss of income for some residents of Maryland, which may impact their ability to pay for residential services, and that “(t)he termination of Marylanders’ residential services as a result of COVID-19 would have serious public health, welfare, and safety consequences.”⁵⁹

Access to lighting, electrical appliances and heat are critical at any time, but especially so during a public health emergency when many Maryland residents are being asked to limit activities outside of the home and engage in virtual learning over the internet, or are at home due to job loss or reduced employment hours.

Access to essential utility service is needed by all, including those unable to afford electric, gas and water bills. The Commission should immediately order all utilities to reconnect any customers who are currently disconnected from utility service due to inability to pay, communicate that directive to customers, proactively arrange an affordable DPA, and waive all reconnection fees.

⁵⁹ See Emergency Order of Gov. Hogan, July 31, 2020, <https://governor.maryland.gov/wp-content/uploads/2020/07/Utility-Shutoffs-and-Late-Fees-4th-Amended-7.31.20.pdf>

3. Deferred Payment Arrangements (DPAs) – The Commission should ensure all customers have access to a default 24-month DPA if they self-certify as low-income, and a default 18-month DPA for non-low-income Customers.

The need for affordable DPAs acknowledges a reality that is critically relevant in this proceeding: an individual's financial circumstances can change in a moment – whether it be due to illness, a resulting medical bill, loss of job (and accompanying loss of medical insurance), loss of child care or, in this instance, a worldwide pandemic that literally shut down the Maryland economy. DPAs also reflect a leap of faith; their successful completion requires customers to pay off not only their existing (unaffordable) monthly bill, but also a significant add-on payment, with the goal of eventually retiring the arrearage.

The Commission's objective in establishing more flexible DPA terms should be to ensure that the additional monthly amounts owed as a result of the DPA are as low and affordable as possible. This will increase the likelihood of payments towards the past due bills. One way to improve the likelihood of the successful completion of a payment arrangement is to extend the length of time that a customer has to pay off the arrearage. This has the effect of lowering the monthly payment needed to complete the DPA and avoid disconnection of essential service by a utility company.

COMAR 20.31.01.08.E requires utilities to take into account the circumstances of customers seeking DPAs. It provides:

E. When devising alternate payment plans, the utility shall consider the circumstances and financial condition of the customer including:

- (1) The size of the delinquent account;
- (2) The customer's ability to pay;
- (3) The customer's payment history;

- (4) The anticipated energy assistance benefits for which the customer may be eligible;
- (5) The length of time that the debt has been outstanding;
- (6) The circumstances which resulted in the past due bills;
- (7) Hardships which may result from the lack of utility service to the customer; and
- (8) Any other relevant factors related to the circumstances of the customer.

Applying these listed criteria to the public health and economic facts at hand, it is reasonable to conclude, based on the Utilities' filed Responses and the economic data cited earlier in these Comments, that (1) the size of customers' delinquent accounts will be significant; (2) customers' ability to pay will be compromised; (3) the circumstances that resulted in past due utility bills were beyond their control in terms of job loss associated with the shutdown of major sectors of the economy and having to shelter in place to avoid widespread transmission of the novel coronavirus; and (4) disconnection will cause significant hardship, including potential death, from the inability to remain in one's home safely during a pandemic. These Commission-enunciated criteria, outlined in COMAR 20.31.01.08.E, if applied broadly to the current statewide situation, support OPC's conclusion that a consistent, statewide directive for affordable payment plans is reasonable and necessary.

Keeping DPA amounts low requires a significant lengthening of DPA terms than typically offered by Maryland utilities. BGE's Response provides the best model for a Commission-approved DPA plan length: 24 months.⁶⁰ Although BGE states that customers can receive these terms by speaking to a customer care representative or through BGE.com starting in August, it is unclear whether verbal declaration of financial difficulty qualifies a person for

⁶⁰ BGE Response at 12-13.

the longer DPAs. The Commission's order should ensure that verbal declaration of financial hardship, without documentation, will qualify a person for these longer DPAs.

Columbia Gas offers only three- to six-month payment plans that “can be self-directed on our company website as an opt-in process or by the customer contacting our customer care center.”⁶¹ The PHI Utilities proposal is similarly less-than-generous in its pronouncement that they “will continue to follow the provisions of COMAR 20.31.01.08 in offering payment plans to limited income and non-limited income customers, and, as required by that provision, take into account any hardships which may result from the lack of utility service to the customer and other relevant personal circumstances.”⁶² Exactly what a utility customer service representative (CSR) will “take into account” or how a CSR defines “hardship” remains unknown to the Commission and customers. For customers with medical needs, the PHI Utilities further note that they “will continue to follow its existing practices to adhere the requirements in COMAR 20.31.03.01 to offer payment plans to retire arrearages for customers submitting medical certifications to the utility.”

OPC is underwhelmed. This business-as-usual approach outlined in most of the utility proposals fails to take into account the current health emergency and its impacts on their customers' medical and financial lives. For the PHI Utilities, it is particularly inexplicable given that an affiliated Exelon utility in Illinois, Commonwealth Edison Company (ComEd), initially proposed a 24-month DPA term for financial hardship customers in response to the Illinois

⁶¹ Columbia Gas Response, p. 21.

⁶² PHI Utilities Response, p. 26.

Commission's request for utility COVID-19 C&C plans.⁶³ More must be expected of Maryland utilities by the Commission.

In addition to inadequate DPA lengths, many major utilities do not rule out requiring onerous down payments and no defaults on monthly payments – terms that are simply unrealistic during the shrinking of the Maryland economy and rampant joblessness. For example, BGE still warns customers that if they miss a payment, along with paying their current bill in full, they will be in default on the payment, owe the entire arrearage and be subject to collection action.⁶⁴ Delmarva and Pepco detail identical DPA requirements.⁶⁵ Columbia Gas similarly requires on-time payment of both the current bill and a three-to-six month arrearage installment payment, with no second-chance flexibility should a customer default one month.⁶⁶ Without a statewide Commission directive, these insufficient pre-pandemic requirements can be applied to customers affected by the pandemic.

Washington Gas, however, has waived its DPA down payment requirement, although it offers a less flexible than BGE 12-month DPA term.⁶⁷ No party references a second-chance option that would enable a customer to “catch-up” on the missed payment and maintain the payment plan, or renegotiate a second payment agreement of the same or longer length.

⁶³ See ICC Docket No. 20-0209, Comments of Commonwealth Edison Company, p. 6: “To support customers who may be impacted by the COVID-19 pandemic, ComEd will extend the maximum length of DPAs offered to eligible customers from 12 months to 24 months during the Moratorium Period and for six months following the expiration of the Moratorium Period. Customers who have previously commenced DPAs may be able to renegotiate for these extended terms.” See <https://www.icc.illinois.gov/docket/P2020-0309/documents/297838>

⁶⁴ See BGE website: “If at any time you do not pay the installment, plus your current month’s charges, you will be in default on the plan and you could be subject to collection actions.” <https://www.bge.com/MyAccount/CustomerSupport/Pages/PaymentArrangements.aspx>

⁶⁵ See Delmarva website:

<https://www.delmarva.com/MyAccount/MyBillUsage/Pages/PaymentArrangement.aspx>

See Pepco website: <https://www.pepco.com/MyAccount/MyBillUsage/Pages/PaymentArrangement.aspx>

⁶⁶ See Columbia Gas website: <https://www.columbiagasmd.com/bills-and-payments/financial-support/payment-plans>

⁶⁷ See Washington Gas Response at 9.

Similarly, no utility provides any detail as to how long any of its more flexible terms will be available to financially struggling customers.

In light of these facts, Commission action is needed to protect customers statewide and provide needed flexibility as customers adjust to job loss, furloughs, reduced hours, new child care arrangements, and required remote learning in some school districts, all tied to the public health emergency – economic factors beyond Maryland residents’ control. The Commission has an obligation to address this unprecedented moment in time and order the utilities to offer minimum DPA terms that provide a realistic chance that customers will be successful in eliminating arrearages and remain connected to essential utility service. More specifically, the Commission should implement DPA terms to 24 months for any utility customer orally claiming financial hardship.

Likewise, requiring unaffordable down payments for people who, by definition of requiring a DPA, are financially struggling is both unrealistic and bound to increase the likelihood of essential utility service disconnections. Utilities should be required to waive any existing DPA down payment requirement. BGE has done just that.⁶⁸ Other utilities should be required to follow suit.

In addition, all parties and the Commission must recognize that expecting perfect payment performance under any DPA during these unprecedented economic times is unrealistic. Currently, as noted above, most utilities as a rule require payment of the full arrearage when a customer defaults on an established DPA. That rule must fall if utilities are expecting customers to successfully complete DPAs. By virtue of a payment default, it is reasonable to assume that the DPA, as established, is at least temporarily unaffordable. As such, the Commission should

⁶⁸ BGE Response at 12-13.

order all utilities to provide a “catch-up” opportunity or second-chance DPAs of the same or greater length to both increase the likelihood that utility bad debt will not grow and ensure that customers will remain connected to essential utility services. For example, the Iowa Utilities Board has a rule that requires a utility to offer a second payment agreement for a term equal to or greater than the first, for a customer who has made at least two consecutive payments.⁶⁹ Consistent with this concept, too, customers with existing DPAs of shorter length, who orally express financial hardship to a utility CSR, should be permitted to enroll in the default 24-month DPAs.

Finally, in order to ease the financial burden on customers and increase the DPA success rate, the Commission should order electric and gas utilities to apply any energy assistance funds as appropriate to the past due bill amount for customers who have qualified for OHEP energy assistance or Fuel Fund assistance, 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.

Other utility commissions have such DPA terms, as noted in OPC’s June 26, 2020 Petition, that promise to increase the likelihood of customers successfully retiring arrearages. The Illinois Commission, in the previously referenced settlement between utilities, Commission Staff and consumer advocates, approved default DPAs of 24 months (unless the customer requests a shorter DPA), zero down payment and a second-chance DPA of the same length, for OHEP customers and any customer who orally claims financial hardship, requiring no

⁶⁹ See Iowa Admin. Code r. 199-19.4(10).

documentation.⁷⁰ For customers not claiming financial hardship, 18-month default DPAs were established.⁷¹ The Commission should follow that example.

In sum, then, OPC urges the Commission to enact consistent, statewide DPA terms as follows:

⁷⁰ See ICC Docket No. 20-0309, Order of June 16, 2020, Appendix 1, pp. 5-6, available at <https://www.icc.illinois.gov/docket/P2020-0309/documents/300566>

⁷¹ *Id.*

OPC's DPA Proposal

- **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. Security deposits, late fees and reconnection fee collection will be prohibited during the proposed time periods, as di.
- **Length of DPAs.** Customers expressing financial hardship or who are eligible for OHEP assistance qualify for DPAs of 24 months in length. Non-financial hardship customers are eligible for DPAs of 18 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.

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4. Enhanced Protections Eligibility -- The Commission should ensure that the utilities permit customers to self-certify financial hardship in order to access enhanced consumer protections outlined in a Commission final order.

After the shut-off moratorium expires, there will likely be thousands of low-income customers and newly unemployed customers eligible for OHEP energy assistance and seeking energy assistance statewide. Given the uncertain Maryland economy and public health crisis, the ability of OHEP agencies to quickly distribute critical energy assistance funding may be compromised. Similarly, customer access to funds may be delayed. Given these realities, relying on a customer's ability to access MEAP, the Electric Universal Service Program (EUSP) Arrearage Retirement Assistance (EARA) or Gas Arrearage Retirement Assistance (GARA) funds as a way to designate eligibility for enhanced C&C protections offered to financially troubled customers may be unreasonable.

Instead, the Commission should order utilities to permit customers to orally self-certify as experiencing financial hardship. A Commission finding that oral, self-certification will enable anyone to access enhanced C&C protections should be included in any final order issued in this proceeding.

5. Security Deposits and Fees – The Commission should require utilities to waive deposit requirements for residential customers in arrears, apply existing deposits to outstanding balances, and continue to waive all late fees and penalties through the Moratorium, a Transition Grace Period and for four months following.

Like other utility C&C proposals, most of the utility responses discussing so-called enhanced consumer protections, to the extent they exist, fall short when it comes to waiving customer deposits and continuing to waive late fees post-moratorium. For its part, BGE asserts that “most residential customers are not being assessed deposits unless

they are starting new service.”⁷² BGE further notes that it “will continue to waive the deposit requirement *upon request if the customer informs the Company that they have been negatively impacted by COVID-19*, with the exception of customers who have had a prior waiver in the last 12 months.”⁷³ In fact, BGE reported that it required 20,356 new deposits of customers during the period of March 16, 2020 through June 30, 2020.⁷⁴ Other utilities failing to offer a waiver of any kind related to deposit requirements include the PHI Utilities, SMECO and Columbia Gas.⁷⁵

To its credit, Potomac Edison ceased assessing security deposits on active accounts, retroactively to March 1.⁷⁶ This best practice should be adopted by the Commission as a requirement for all utilities. The Commission should also reject any waiver approach that places the burden on customers to affirmatively request that they cannot afford a deposit or disqualifies a customer for obtaining a previous waiver. Depending on how a CSR presents bill payment information, a customer will likely be unaware that he or she has the option to seek the waiver. Moreover, such an approach falls short in comprehending the inability of customers who have lost jobs to pay a deposit on top of arrearages and current bills.

In terms of late fees, no utility asserts that it will continue the current moratorium on late fees ordered by the Governor beyond the moratorium. The PHI Utilities go as far

⁷² BGE Response at 13.

⁷³ *Id.*

⁷⁴ BGE August 12, 2020 Response to OPC Data Request 1, Question 3.

⁷⁵ See Responses of PHI Utilities, SMECO and Columbia Gas to OPC Data Request No. 1, Question 3. Pepco reported that it required 10,208 residential customer deposits during the March 16 through July 31, 2020 time period. Delmarva reported that it required 3,995 new deposits during that same time period. SMECO reports that it has added 4,430 deposits for new customer accounts during the same time period. Columbia Gas required 6 new deposits during this same time period.

⁷⁶ Potomac Edison Response, p. 4.

to state that they “hope to resume using these tools (including disconnection) in an effort to help customers get current with their outstanding bills, and to avoid the displacement of large uncollectible costs onto other customers.”⁷⁷ BGE states the same.⁷⁸

The financial fallout of the coronavirus pandemic will leave customers seeking more flexible C&C provisions with little to no discretionary income. Demanding an expensive deposit and late fees/penalties on top of payment of current bills and arrearages is both unnecessary and punitive. OPC urges the Commission to (1) order all utilities to waive deposits through the Moratorium, Transition Grace Period and for four months thereafter. Similarly, the Commission should require the utilities to continue the moratorium on late fees and reconnection charges throughout this same period. Any existing customer deposits should be applied to any outstanding arrearage.

C. Cost Recovery -- No Decision Should Be Made in This Docket As To Whether And How Waived Fees, Bad Debt and COVID-19-Related Expenses Will Be Recovered Unless Consistent, More Robust Consumer Protections Are Likewise Ordered.

In its April 9, 2020 Order authorizing establishment of a regulatory asset for COVID-19 related incremental costs, the Commission limited what should be included by the utilities in the accounting mechanism. The Commission stated:

The Commission acknowledges the potential for significant financial implications that compliance with these emergency orders may have on Maryland Utilities and service providers. Consequently, in light of the extraordinary circumstances and in an effort to minimize adverse financial impacts to Maryland Utilities, the Commission authorizes each Utility to create a regulatory asset to record the incremental costs related to COVID-19 prudently incurred beginning on March 16, 2020, by the Utility to ensure that Maryland residents have essential utility services during this period. *The Commission finds*

⁷⁷ PHI Utilities Response at 28.

⁷⁸ BGE Response at 33.

*that the creation of the regulatory asset for COVID-19-related expenses will facilitate the recovery of those costs prudently incurred by the Utilities in their efforts to serve customers during this period, and the Commission finds that deferral of such costs is appropriate because the current catastrophic health emergency is outside the control of the Utility and a non-recurring event. Such incremental costs shall also include any assistance or benefit received by the Utilities in connection with COVID-19, regardless of form, that would offset any COVID-19-related expenses.*⁷⁹

In the Order, the Commission specifically noted, too, that it will consider “in future proceedings whether each Utility’s request for recovery is just and reasonable pursuant to PUA §§ 4-101, 4-102 and 4-201.”⁸⁰

The Commission’s establishment of a regulatory asset provides the opportunity for utilities to recover reasonable and prudent incremental COVID-19-related costs. The Companies, however, have taken liberties to include incremental bad debt in the regulatory asset, and lost revenues associated with foregone late and reconnection fees.⁸¹ Inclusion of these as “costs” means that a utility has the opportunity to not only recover incremental uncollectible costs, but also earn a profit on those recorded amounts. Such profiting from a pandemic should be rejected by the Commission in any future proceeding to consider recovery of costs included in the regulatory asset.

For example, Columbia Gas’ Response states that as of June 30, 2020, \$312,096 has been included in the COVID-19 regulatory asset, with \$243,006 of that amount

⁷⁹ Order No. 89542, *Order Authorizing Establishment of a Regulatory Asset for COVID-19 Related Incremental Costs*, April 9, 2020, p. 2-3 (footnotes omitted, emphasis added).

⁸⁰ *Id.* at 3.

⁸¹ See, e.g., Responses of BGE, PHI Utilities and Potomac Edison.

constituting incremental bad debt expense.⁸² Columbia, too, included “\$69,090 of incremental COVID-19 related costs, which includes utilizing employee and customer health and mitigation plans, utilizing technology to maximize work-from-home capabilities, securing appropriate personal protective equipment, cleaning and operating facilities, coordinating customer, employee and stakeholder messaging.” It is unclear whether cost reductions (such as employee travel and conference expenses) or governmental assistance received as a result of the pandemic were netted out of the recorded costs.

While the Commission asked the utilities to provide information regarding incremental COVID-19 costs in the regulatory assets, recovery of those costs is not an issue for decision in this Public Conference docket. However, given the variety of costs identified by the utilities, the Commission should establish a process to define allowable incremental COVID-19 costs, subject to prudence reviews, and with the netting of reduced expenses and governmental assistance in any cost recovery mechanism, for application in a separate proceeding or in future individual utility rate case filings.

D. The Commission Should Order Utilities to Provide Specific Notice to All Customers That Describes the New, Flexible C&C Terms, And To Conspicuously Include The Information on All Disconnection Notices.

The Commission could order model practices in the nation for protecting customers during the COVID-19 pandemic, but if customers are unaware of these benefits, their value is limited. To that end, the Commission’s order should include

⁸² Columbia Gas Response, p. 15 (Response to Question No. 5).

specific instructions to all utilities to provide written notice to all residential customers of the enhanced consumer protections approved in this proceeding.

First and foremost, the utilities should be ordered to send notification of reconnection opportunities, with waived reconnection fees, to all customers previously disconnected for nonpayment for up to a year before the Moratorium was issued, and who remain disconnected now. Unless specifically contacted by a utility, these customers will be unlikely to hear of the opportunity to get reconnected without incurring additional costs.

Second, as noted in OPC's June 26, 2020 Petition, each regulated utility shall provide communications to all residential customers with past due balances about flexible payment options, including extended and revised DPA terms, and available energy assistance at local OHEP agencies. These communications should be sent by U.S. Mail and by electronic mail, for those who have consented to electronic communications, and posted on the utility website, along with energy assistance information. All customer communications shall be provided in English, Spanish, and any other language typically used by a utility to communicate important information to its customers. This information shall be included, too, on all disconnection notices.

E. The Commission Should Require the Utilities To Collect and File Data For an Extended Period to Monitor the Effectiveness of Newly Adopted Credit and Collections Protections.

As discussed above and in the utility filings to date, much uncertainty exists in Maryland as the COVID-19 pandemic persists throughout the state, the U.S. and the world. The Commission's regulatory response is needed to ensure that vulnerable

customers facing unprecedented financial hardship can have access to essential utility service during the pandemic and beyond. The Commission will be unable to determine if additional proceedings are needed, or whether more robust C&C protections adopted in any Commission order are effectively preventing disconnections, unless it requires the utilities to track and file publicly certain data points that will reveal both the need for a continuation of the flexible C&C procedures and the success, or lack thereof, of the new payment terms.

There are several key data points that the utilities should be required to gather if the Commission is to determine whether the revised C&C procedures adopted in this proceeding are protecting continued access to essential utility service. Understanding the affordability of utility service relies not only on reviewing utility rates, but also analyzing the effectiveness of credit and collection protocols.

Last year, the National Association of Regulatory Utility Commissions (“NARUC”) and the National Association of State Utility Consumer Advocates (“NASUCA”) issued a joint resolution entitled, “Resolution on Best Practices in Data Collection and Reporting for Utility Services.” The resolution cited the “the value of evidence-based policy making to improve outcomes for both utilities and customers” and the fact that “data collection and sharing play an integral role in providing information for developing evidence-based policies.”⁸³

NCLC Senior Energy Analyst John Howat is a nationally known expert on energy affordability issues and served on both the NARUC/NASUCA Committee that drafted

⁸³ See NARUC/NASUCA Joint Data Collection Resolution, <https://www.nasuca.org/nwp/wp-content/uploads/2018/11/2019-07-NASUCA-Data-Collection-Resolution-Joint-with-NARUC-Final.pdf>

the Resolution and the panel that discussed data collection issues and the Resolution at the November, 2019 NARUC Conference. His NCLC issue brief, “The Need for Utility Reporting of Key Credit and Collections Data Now and After the Covid-19 Crisis” concludes that commissions will need monthly data, by zip code, broken down by both general residential customers and identified low-income residential customers, in order to truly assess the effectiveness of the C&C protections in place. His paper⁸⁴ advises that the following, minimum data protocols should be tracked and reported by utilities:

- number of customers;
- dollar amount billed;
- number of customers charged a late payment fee (if authorized against OPC’s continued waiver request);
- dollar value of late fees collected;
- number of customers with an arrearage balance by vintage;
 - 60 – 90 days
 - 90+ days
- dollar value of arrearages by vintage;
 - 60 – 90 days
 - 90+ days
- number of disconnection notices sent;
- number of disconnections for nonpayment;
- number of service restorations after disconnection for nonpayment;

⁸⁴ <http://bit.ly/brief-covid-19-data>

- average duration of disconnection;
- dollar value of security deposits collected (if authorized, against OPC's waiver request);
- number of security deposits collected;
- number of new DPAs entered into;
- average repayment term of new DPAs; and
- successfully completed DPAs.

It should be noted that reporting by zip code is essential to assess the affordability of utility service for customers within a service territory, and the effectiveness of revised C&C procedures. Tracking data by zip code will permit the Commission, advocates and the utilities to determine whether communities of color, for example, are being disproportionately impacted by disconnections and other important energy security metrics. Disparities raise profound racial justice concerns, and highlight the importance of obtaining utility-specific credit and collections data at the zip code level. In addition, geographically granular data will also assist the utilities, OHEP and other government agencies in targeting of effective energy efficiency and other low-income assistance programming. Utilities should be required to file the information monthly so that the Commission can evaluate the effectiveness of the revised C&C procedures.

Finally, OPC anticipates that some utilities, in their Replies to this request, will balk at the idea of requiring data collection and regular reporting, particularly for an extended period. Claims may be made that data collection recommendations are premature, or that reporting data by zip code is currently not contemplated in utility information technology (IT) systems. The Commission should reject such rebuttal.

Action and data collection are needed *now* to ensure energy affordability in the days ahead, after the utility shut-off moratorium has been lifted and financially and physically vulnerable customers are no longer protected from disconnections. The Commission simply cannot monitor the effectiveness of any credit and collections protections enabled by this proceeding if it lacks the data, by community, that will detail what is occurring on the ground and in the neighborhoods of the state. Too much is at stake for Maryland residents struggling to pay utility bills under current the economic fallout from a pandemic that is still unfolding. The critical data tracking described above should be ordered here and now.

F. OPC Comments to the Utility Responses to Impacts of the COVID-19 Crisis to Operations and Programs.

EmPOWER Programs

OPC is encouraged that BGE will exceed in aggregate both the 2020 EmPOWER annual goals, \$11 million under budget, and the 2018-2020 EmPOWER cycle goals for residential and commercial accounts. The strains on the household budgets of residential customers meeting everyday expenses heightens the importance of energy efficiency through EmPOWER as well as the need for accurate budget forecasting. OPC makes two suggestions to enhance delivery of energy efficiency services during the business restrictions of COVID-19 situation. First, expanding contractor training through virtual/remote training options, to support them while they can not be out in the field. Second, focus on developing and perfecting remote/virtual energy assessments, to avoid contractor downtime and to create a pipeline for projects that can be undertaken when health circumstances permit.

BGE's Prepaid Power pilot program.

BGE reports that the pandemic moratorium has affected its Prepaid Power pilot program—primarily in the number of customers carrying “negative balances.”⁸⁵ That program, approved by the Commission on a pilot basis in Case Number 9453, typically requires participating customers to pay for electric and gas service in advance of actually using the service. Under normal operating circumstances, “negative balances” tend to be relatively small amounts of money because a participating customer may only carry an arrearage for a short period of time before service is terminated.⁸⁶ But as the moratorium on service terminations applies to all customers, BGE has ceased disconnecting Prepaid Power customers⁸⁷ and reports a significant increase in arrearages for program participants. This increase includes both the number of customers with arrearages, as well as the size of the negative balances owed.⁸⁸ Prior to the moratorium (i.e. as of March 9, 2020), BGE states that only 9 customers (2.5% of all participants) had arrearages averaging \$9.60 apiece. As of July 9, 2020, however, 52 customers (15.3% of all participants) held negative balances averaging \$109.76.

For the time being, BGE appears to be treating these prepaid customers the same as its standard service customers, meaning these prepaid customers will be carrying much larger negative balances than the amounts contemplated during the program's design. This could lead to problems when the moratorium is lifted when customers are faced with large balances to pay to avoid a rapid disconnection. In a separate filing BGE made in

⁸⁵ See BGE Response at 25-26.

⁸⁶ Case No. 9453, Ord. No. 88438 at 4 (ML# 217542) (Oct. 25, 2017).

⁸⁷ See Case No. 9453, BGE's Prepaid Mid-Pilot Report at 3 (ML# 231195) (July 20, 2020).

⁸⁸ See BGE Response at 25-26.

Case Number 9453, the Company suggested it may move these negative balances into a customer's "Deferred Balance" and apply 25% of any future payments made to those outstanding balances.⁸⁹ While the Commission did authorize the use of the Deferred Balance mechanism during the prepaid pilot for customers with up to \$1,000 in past arrearages,⁹⁰ it was not intended to address the large balances that have built up during the unique circumstances of the pandemic moratorium, and could result in Prepaid Power pilot customers receiving much less favorable repayment terms than what will be offered to standard service customers. In fact, it essentially requires them to repay the entire outstanding balance in only four payments to avoid disconnection. To avoid this, OPC believes that it would be better to shift these customers back onto standard service terms instead of this Deferred Balance approach.

V. CONCLUSION

As highlighted above, utility customers in Maryland and throughout the country are living through an unprecedented global pandemic that has shut down or significantly hampered portions of the worldwide economy -- and in particular industries, such as restaurant, entertainment and other venues -- that employ millions of low-income and hourly wage workers. While utility and eviction moratoria are currently in place, arrearages and rents will be due once those orders are lifted. State, federal and not-for-profit assistance agencies have shut their doors to in-person visits or altogether in some instances. The financial need for those who were low-income before the COVID-19 pandemic and the newly low income is staggering.

⁸⁹ See Case No. 9453, BGE's Prepaid Mid-Pilot Report at 3 (ML# 231195) (July 20, 2020).

⁹⁰ Case No. 9453, Ord. No. 88438 at 4 (ML# 217542) (Oct. 25, 2017).

This new reality requires bold action on the part of the Commission and utilities not the acceptance of half measures that simply continue existing protections in existing Commission rules, accompanied by utility pleas to pay utility bills that in no way acknowledge the worldwide pandemic and the economic fallout it has triggered. For all of the reasons discussed above, OPC urges the Commission to order the utilities to implement the practices and data collection requirements set forth in Attachment A to these Comments. They should be considered the minimum requirements, with utilities maintaining the ability to implement more flexible and generous practices.

WHEREFORE, the Office of People's Counsel respectfully requests that the Commission reject the varied and insufficient utility proposals for responding to the COVID-19 pandemic and the resulting economic devastation Maryland utility customers are experiencing and instead adopt statewide, more robust consumer protections as outlined above.

Dated: August 21, 2020

Respectfully submitted,

Paula M. Carmody
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/electronic Signature/
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APPENDIX A

OPC Petition of June 26, 2020, 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