

**ORDER NO. 76734**

IN THE MATTER OF THE  
COMMISSION'S INQUIRY  
INTO POLICIES OF UTILITIES  
ON SERVICE TERMINATION

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BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND

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CASE NO. 8880

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**I. BACKGROUND**

On January 12, 2001, the Public Service Commission (“Commission”) gave written notice to all Maryland jurisdictional gas and electric utilities of an Emergency Hearing regarding the utilities’ service termination policies for low-income customers. The Commission noted that such a hearing was necessary as a result of the confluence of three factors: very cold winter temperatures; significantly higher costs of natural gas; and difficulties in implementing a new system essential to disbursing low-income energy assistance.

The Hearing occurred on January 17, 2001 and was attended by representatives of Baltimore Gas and Electric Company (“BGE”), Allegheny Power d/b/a Potomac Edison (“PE”), Potomac Electric Power Company (“Pepco”), Southern Maryland Electric Cooperative (“SMECO”), Chesapeake Utilities Corporation (“Chesapeake”), Washington Gas (“WG”), Conectiv, Columbia Gas of Maryland (“Columbia”), Maryland Department of

Human Resources/Office of Home Energy Programs ("DHR/OHEP"), Maryland Office of People's Counsel ("OPC"), and Commission Staff ("Staff").<sup>1</sup>

**A. Energy Assistance Delays**

During the Hearing, DHR/OHEP's representatives shared with the Commission that the agency is continuing to experience significant difficulties in processing applications both for the Electric Universal Service Program (or "EUSP") and the Maryland Energy Assistance Program ("MEAP").<sup>2</sup> According to DHR/OHEP, applications for MEAP assistance have increased by nearly 1,000 additional applications per week compared with the 1999/2000 winter heating season.<sup>3</sup> DHR/OHEP explained that at present it faces the dilemma of attempting to implement State-funded energy assistance programs, particularly the EUSP, which went into effect on July 1, 2000, while at the same time trying to initiate a new automated system to support these programs.<sup>4</sup> The EUSP is intended to benefit low-income electric customers, who are defined as customers with annual incomes at or below 150 percent of the federal poverty level, with bill assistance, weatherization services and pre-July 1, 2000 arrearage retirement.<sup>5</sup>

In its September 15, 2000 Status Report to the Commission, DHR indicated that it intended to serve approximately 90,000 low-income customers under the Electric Universal Service Program. During the Hearing, DHR/OHEP indicated that 47,000 applications for assistance had been received as of the date of the Hearing. Of that number, only 31 percent

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<sup>1</sup> The January 17, 2001 Emergency Hearing represents a continuation of the Commission's active oversight of the Electric Universal Service Program and the Commission's efforts to ensure the availability of gas and electricity services for all Maryland residential customers.

<sup>2</sup> Disbursement of both EUSP and MEAP funds have been delayed.

<sup>3</sup> January 17, 2001 Transcript at 40. ("hereinafter Tr. at").

<sup>4</sup> *Id.* at 11.

<sup>5</sup> *Id.*

have been approved.<sup>6</sup> Indeed, DHR/OHEP indicated that, given its systems problems, the agency has elected not to undertake a massive outreach that would inform low-income customers of this year's available energy assistance funds and encourage participation.<sup>7</sup> Although DHR/OHEP representatives expressed hope that the agency's systems problems might be resolved expeditiously, there was no certainty that when full operations begin that continued difficulties might not hamper its efforts and continue to delay energy assistance processing.

### **B. Colder Than Normal Temperatures**

Both OPC and Staff noted that colder than normal temperatures is another factor contributing to low-income customer payment difficulties this winter. Staff noted that temperatures this winter have been 10 to 20 percent colder than normal.<sup>8</sup> Cold weather hit early this heating season and temperatures were on an average approximately 12 degrees lower during November and December as compared to the same period last year. The combination of more expensive gas prices and greater consumption, due to the unusually cold weather, has had a significant impact on most residential customers, particularly low-income households. Should milder temperatures develop in this region as the season progresses, gas prices on the national market still may not decrease if, on a nation-wide basis, temperatures continue to remain colder than normal.<sup>9</sup>

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<sup>6</sup> Tr. at 24-25. According to DHR/OHEP, as of January 17, 2000, 27,000 families had been approved for payment under the EUSP.

<sup>7</sup> *Id.* at 33.

<sup>8</sup> *Id.* at 185-187.

<sup>9</sup> Data from the National Weather Service shows that in fact this winter's temperatures in December have been 23 percent below temperatures during the same period last year, and nationally has been one of the coldest Decembers on record in more than a century.

### **C. High Natural Gas Prices**

Natural gas commodity prices have reached historic highs this winter. During the Hearing, Staff observed that gas commodity prices have increased in some cases by as much as 90 percent over last year and customer bills have increased by as much as 50 to 60 percent.<sup>10</sup>

None of the utilities refuted these estimates. Indeed, the gas utilities have themselves been warning customers of anticipated increases in gas commodity prices. At the Commission's hearing related to natural gas availability in October 2000, increases were estimated to be 25 to 27 percent. Later notices were issued by the utilities forecasting even higher prices.

### **D. Combined Effects**

While DHR/OHEP hopes it can correct its systems problems soon and begin a massive outreach effort, in the meanwhile the combined effects of lower than average winter temperatures and significantly higher than average natural gas prices have left many residential customers unable to pay their energy bills. In light of these circumstances, both OPC and Staff expressed concerns with regard to whether utilities would refrain from terminating residential customers absent certification of the customers' energy assistance eligibility. OPC urged the Commission to consider instituting a complete moratorium on all residential gas and electric terminations.<sup>11</sup> According to OPC, a complete moratorium for all residential customers is

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<sup>10</sup> Tr. at 185. By comparison to an average BGE gas customer bill for December 1999 of \$88.57, the bill for December 2000 was \$149.68.

<sup>11</sup> *Id.* at 174.

necessary because it has been difficult to determine which customers are low-income and which are not based on current information.<sup>12</sup>

OPC was directed to file a legal memorandum outlining its view of the Commission's authority to implement such a moratorium. The Commission directed that any other party or person wishing to file or submit information relating to OPC's moratorium request do so on an expedited basis. Further, BGE and Pepco were specifically directed to submit financial data regarding the effects a moratorium would have on their companies.<sup>13</sup> Other companies were offered a similar opportunity. The companies were asked to respond on an expedited basis.<sup>14</sup> As of the date of this Order, WG and Columbia have responded directly to the Commission's request. Other utilities, including BGE, PE, and Choptank Electric Cooperative ("Choptank") provided referential information in their memoranda responding to OPC's request for an emergency moratorium.<sup>15</sup>

On January 23, 2001, OPC filed its formal Petition for the adoption of an emergency moratorium.<sup>16</sup> In its Petition, OPC requested that the Commission: suspend the application of Code of Maryland Regulations ("COMAR") 20.31.01.02 and .03 and other relevant regulations; adopt a moratorium on the termination of service to all residential customers for non-payment of their bills by all gas and electric companies from the date of the Commission's Order through March 31, 2001; schedule another hearing within thirty days of the order to

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<sup>12</sup> *Id.*

<sup>13</sup> Tr. at 137-138; 143-144.

<sup>14</sup> *Id.* at 190.

<sup>15</sup> BGE estimated that a total moratorium on all residential service terminations would have as much as a \$16 million annual impact.

<sup>16</sup> Petition of the Office of People's Counsel for Adoption of an Emergency Moratorium on Termination of Residential Gas and Electric Service.

review the facts and circumstances relied upon to impose the moratorium; and, provide notice of the moratorium to all gas and electric companies, DHR/OHEP and all local administering agencies.

Based upon the urgency of this matter and the Commission's previously announced request for expedited filings, the Commission solicited each party by telephone on January 24, 2001 for all responses and further directed that all responses be filed by 12:00 p.m. on January 25, 2001. Responses were filed by BGE, Pepco, Choptank, WG, Conectiv, Columbia, Chesapeake, and Staff.

## **II. UTILITY TERMINATION PRACTICES**

During the Hearing, each of the utilities reported on the number of service terminations occurring in their service areas this heating season. According to WG, it has not terminated any residential customers this winter for nonpayment and hopes to maintain this practice for the remainder of the winter heating season.<sup>17</sup>

Columbia indicated that during this heating season it has terminated seven residential customers. Four accounts have been reconnected, and three remain disconnected.<sup>18</sup> Columbia's policy is to not terminate customers whenever the forecasted temperature is expected to be below 32 degrees.<sup>19</sup> According to Columbia's representative, the Company has tried to identify and protect low-income customers from termination, in light of higher gas

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<sup>17</sup> Tr. at 45. WG would consider terminating some customers for nonpayment if a period of significantly warmer weather occurred before the end of the winter heating season.

<sup>18</sup> *Id.* at 58.

<sup>19</sup> *Id.* at 66.

costs, the colder winter, and the difficulties associated with getting energy assistance funds to customers.<sup>20</sup>

BGE reported that during the current winter season 67 low-income residential customers have been terminated. Of those, 34 customers were reconnected.<sup>21</sup> The Company emphasized that its terminations are down significantly from the same period last year. The Company indicated that the decrease can be explained at least partially by a heightened sensitivity to actual weather projections for this winter.<sup>22</sup>

BGE stated that before service is terminated, energy assistance information is amply provided to potentially affected customers. The record indicates, however, that approximately 10,000 persons in BGE's service territory have applied for energy assistance but have not yet received any.<sup>23</sup> The Company does not know whether the 33 residential accounts that are still disconnected are part of the 10,000 unfunded applicants for energy assistance.<sup>24</sup>

Chesapeake stated that during this winter heating season there have been no terminations of low-income customers on its system.<sup>25</sup> However, the Company applies COMAR standards for termination which currently allow companies to begin termination procedures when customers have arrears in excess of \$50.<sup>26</sup> Terminations are not pursued by Chesapeake when weather forecasts indicate temperatures below 32 degrees.<sup>27</sup> SMECO

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<sup>20</sup> *Id.* at 73.

<sup>21</sup> *Id.* at 73.

<sup>22</sup> *Id.* at 77. According to BGE, the customers terminated this season had an average bill arrearage of \$829. *Id.* at 85.

<sup>23</sup> *Id.* at 80.

<sup>24</sup> *Id.* at 91-92.

<sup>25</sup> Tr. at 129.

<sup>26</sup> *Id.* at 130.

<sup>27</sup> *Id.* at 131.

reported that, uniformly, it does not terminate residential customers during the winter heating season.<sup>28</sup> It noted this policy has been in place for nearly 10 years.

Conectiv also noted that it has not terminated any residential customers this heating season.<sup>29</sup> The Company's representative stated that when customers are at risk, based on non-payment, its representatives offer a variety of payment options.<sup>30</sup> Additionally, Conectiv reported that whenever energy assistance agencies call on behalf of a customer, indicating that the customer is seeking assistance, all collection processing associated with the account is halted until after the energy assistance agency has finalized its efforts on the customer's behalf.<sup>31</sup> Like other utilities, Conectiv utilizes a temperature of 32 degree as a non-termination temperature and allows \$100 in arrears before termination efforts begin in other instances. However, during this heating season, the Company indicated that it does not anticipate threatening termination of any residential customers until after March 2001.

### **III. OPC'S REQUEST FOR MORATORIUM**

#### **A. OPC's Position**

As a follow-up to its moratorium request made at the Hearing, the Commission requested that OPC provide a memorandum of law regarding the Commission's authority on this subject. In its Memorandum in Support of the Petition of the People's Counsel for Order Adopting an Emergency Moratorium on Residential Service Terminations, OPC argued that: (i) the Commission has the authority to impose a moratorium; (ii) the Commission has authority to recognize the special needs of low-income gas and electric customers; and (iii) the Commission

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<sup>28</sup> *Id.* at 132.

<sup>29</sup> *Id.* at 133.

should issue an order for an emergency moratorium based upon existing facts and circumstances.

Citing § 2-112 of the PUC Article, OPC emphasized that the Commission has broad jurisdiction over gas and electric companies that do business in Maryland.<sup>32</sup> It noted that in carrying out its general supervisory authority, the Commission is required to supervise and regulate gas and electric companies to ensure their operation in the interest of the public and to consider the public safety.<sup>33</sup>

Additionally, OPC noted that the Commission has used its authority to regulate the manner in which gas and electric companies provide service to customers by promulgating detailed regulations governing customer deposits, late payment charges, service applications, service denials and terminations.<sup>34</sup>

Moreover, OPC observed that the Commission has previously issued orders preventing winter service terminations for residential customers.<sup>35</sup> As noted, the Commission instituted a moratorium in February 1978 and during the winter of 1979, directing not only that gas and electric companies refrain from terminating customers pending further direction from the Commission, but also directing reconnection of service for customers whose service had been disconnected for non-payment.<sup>36</sup> Staff, DHR, the Maryland Energy Administration and Fuel Fund of Maryland all strongly supported OPC's request.

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> OPC Memorandum at 1.

<sup>33</sup> See § 2-113(a)(I)(1) and (a)(2) of the PUC Article.

<sup>34</sup> OPC Memorandum at 2; see COMAR 20.31.01, .02 and .03.

<sup>35</sup> OPC Memorandum at 2.

<sup>36</sup> See *Re Termination of Residential Gas and Electric Service*, Case No. 7163, 69 Md. PSC 67 (1978).

## **B. Companies' Position**

The utilities unanimously opposed the imposition of a moratorium for all residential customers. The electric utilities specifically opposed OPC's Petition on the grounds that the factors listed by OPC as giving rise to the need for a moratorium do not apply to them. Some electric utilities argued that if a moratorium is to be imposed, it should be directed to gas service only since above average gas prices is one of the primary reasons for residential customers' payment difficulties. The electric utilities noted that, in contrast to gas rates, electricity rates were generally reduced, and are now frozen, pursuant to various restructuring settlements approved by the Commission in 1999 and 2000. Additionally, the utilities in general questioned the Commission's authority to impose a moratorium for all residential customers unless such a directive was coupled with a cost recovery and lost revenue mechanism.

Although the utilities strongly opposed a general moratorium, they were not without concern for the problems faced by both low-income and non-low-income residential customers. In their written comments, as well as during the Hearing, the companies emphasized their collective determination to exercise restraint in terminating customers pending the certification and availability of MEAP and EUSP funds and for other reasons. However, the utilities emphasized the benefits of having the "threat of termination" as a strong incentive for those with the ability to pay.

Paramount among the companies' concerns was the risk of "free ridership," *i.e.*, that under a moratorium, customers otherwise able to pay would take advantage of the opportunity to defer payments until after the moratorium period ends. In that instance, the companies complained that they would face lost revenues and cash working capital shortages of several

orders of magnitude above that which would be expected with the threat of termination available to them, even if it were not exercised. In that vein, the utilities proffered data reflecting their experience with previous moratoria. Choptank, for instance, noted that 75 percent of its revenues come from sales. It indicated further that it is already operating under “very tight financial constraints and will likely have cash flow problems in the immediate and foreseeable future if a moratorium on all residential service terminations is implemented.”<sup>37</sup>

### **B. Alternatives to OPC’s Moratorium Request**

As noted above, the electric companies are patently opposed to any moratorium on electric service terminations unless it is coupled with appropriate lost revenue and cost recovery mechanisms. The companies insisted that any moratorium should be targeted and focused on low-income customers.

Some companies, such as PE urged the Commission to seek voluntary agreement by the utilities to temporarily halt or refrain from terminating low-income customers.<sup>38</sup> PE proposed to voluntarily exempt low-income customers from termination or the threat of termination during the remainder of this heating season.<sup>39</sup> The Company offered the following steps:

- As part of its affidavit process, the Company will determine whether the customer whose service is to be terminated is a low-income customer by first checking the customer’s account records to determine if the customer has ever in the past received assistance from low-income energy assistance programs. If so, the customer will be presumed to be low-income and their service will not be terminated.

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<sup>37</sup> Choptank Response at 1.

<sup>38</sup> PE Response at 4.

<sup>39</sup> PE Response at 4.

- In addition, the company will check the information it has received from DHR/OHEP to determine whether the customer is a MEAP or EUSP participant. If so, the customer's service will not be terminated, even if the Company has not yet received any funding from OHEP for that customer.
- Service will not be terminated to any residential customer during the 2000-2001 winter period without personal contact. During this process, the Company's representatives will make every effort to determine if the customer is low-income, for example, by asking whether they are eligible for energy assistance or other welfare programs. If they are low-income, or if the Company cannot make personal contact with the customer, the customer's service will not be terminated. No residential customer's service will be terminated unless the past-due account balance exceeds \$300.00.
- Service to residential customers will not be terminated if there is a resident in the household whose age exceeds 65 or is less than 5. Service will not be terminated if the outdoor temperature is expected to be below 32 degrees, or if there is a household resident with a serious medical condition.
- As part of its affidavit process, the Company faxes a copy of the affidavit to the local OHEP administering agency. If an agency representative calls with information that the customer is a MEAP or EUSP participant, service to that customer will not be terminated.<sup>40</sup>

Chesapeake also suggested that the Commission urge voluntary deferral of service termination as an alternative to instituting an across-the-board residential moratorium.<sup>41</sup>

In its response to OPC's Motion, Pepco noted that it too has voluntarily stopped service disconnections for low-income customers.<sup>42</sup> Pepco indicated that it is "not waiting for formal certification from the local agency that [a] customer is eligible for assistance before stopping collection action."<sup>43</sup> According to Pepco, this action has been taken by the Company

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<sup>40</sup> *Id.* at 4-5.

<sup>41</sup> Chesapeake Response at 2.

<sup>42</sup> Pepco Response at 6.

<sup>43</sup> *Id.*

“despite the lack of any evidence that its customers are experiencing increased difficulty in paying their electric bill.”<sup>44</sup>

Columbia offered a different, more general, approach.<sup>45</sup> In its response, Columbia suggested that a moratorium on terminations could be limited, to protect low-income customers, by defining such customers as those whose household income falls below 150 percent of the federal poverty level and requiring the companies to determine a customer’s status prior to any termination of service.<sup>46</sup> The Company also indicated that it is willing to ensure that actual contact is made with customers to determine their income status before any termination effort is made.<sup>47</sup> Further, Columbia proposed that it would not terminate any customer who received MEAP assistance during the past 24 months.<sup>48</sup> WG and Conectiv have also instituted voluntary non-termination of low-income customer policies for the remainder of this heating season.

BGE, on the other hand, the State’s largest energy utility with nearly half of the State’s low-income customers, proposed a different approach. BGE proposed a “virtual” grant assistance program that would simulate low-income customers’ entitlement to energy assistance funds.<sup>49</sup>

Under BGE’s proposal, the Company would query its billing system to identify existing low-income customers based on their current participation in the Utility Service Protection Program (USPP).<sup>50</sup> BGE would also retrieve from its archived files lists of MEAP participants

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Columbia Response at 4.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> BGE Response 3-5.

<sup>50</sup> *Id.* at 4.

from the 1999/2000 heating season. The Company expects these exercises would generate a listing of approximately 34,000 customers. BGE would then establish virtual grants for each account, tracking internally a grant assisted account alongside the customer's actual bill. According to BGE, customers would not be terminated based on the “virtual” accounts, and this will allow DHR/OHEP the time needed to complete processing, certification and payment of customer grants before the winter heating season ends. Further, BGE requested that the Commission direct DHR/OHEP to reexamine its current formula for determining EUSP bill assistance grants and increase those grants in light of rising electric usage.<sup>51</sup> According to BGE, if OHEP were to increase grant levels the average low-income customer’s energy assistance grant would increase from \$300 to \$500.

#### **IV. DISCUSSION AND COMMISSION FINDINGS**

The Commission appreciates the input and comments provided by the many participants and interested parties in this matter. The Commission is particularly mindful of the pressures DHR/OHEP faces with the administration of a new program, the EUSP, on relatively short notice and with its monthly budgetary limitations. The Commission also appreciates the enthusiasm demonstrated by OPC and its vigilance and cooperation with DHR/OHEP and the utilities to help prevent unnecessary terminations pending the resolution of the system difficulties presently facing OHEP. Likewise, the Commission believes that the utilities themselves have exhibited substantial cooperation with OHEP and have exercised reasonable restraint to avoid terminating low-income customers who are anticipating energy assistance or who may be eligible.

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<sup>51</sup> *Id.* at 20.

Expectedly, OPC and the utilities sparred vigorously over the Commission's authority to impose a moratorium on all residential gas and electric service terminations. While OPC asserted that the Commission's authority to do so is a direct extension of the Commission's general supervisory powers, the utilities argued that such authority is limited to providing protections to low-income customers only. The utilities also noted the Commission's prior pronouncement that complete moratoria may not always produce favorable results. Nonetheless, the utilities appeared to concede that an appropriately tailored moratorium may be proper in some cases.

The existence of colder than normal temperatures, significantly higher than normal natural gas prices, and difficulties in delivering energy assistance to low-income customers necessitate action being taken by the Commission at this time. The Commission's decision to tailor a response that narrowly addresses the problems at hand is complicated by the fact that at present, OHEP (and therefore the utilities) are unable to distinguish all low-income from non-low-income customers for purposes of applying COMAR and internal termination of service rules. Thus, if the Commission were to attempt to structure or fashion a remedy solely for low-income customers, the risk that some low-income customers might be missed is substantial and the consequences of that error could be severe. The Commission does not believe, as argued by the utilities, that the General Assembly has in any manner constrained the Commission's authority to take steps necessary to ensure the safe and reliable delivery of utility services to customers. Thus, when issuance of a general moratorium to prevent terminations of service is necessary to ensure public safety, the Commission is confident that it may lawfully do so.

In order to fulfill its statutory role in supervising and regulating public service companies, the Commission has the authority, in appropriate cases, to prohibit utilities from terminating services to customers. In addition to its general, supervisory and regulatory powers, “the Commission has the implied and incidental powers needed or proper to carry out its functions . . . .”<sup>52</sup>

However, the Commission is mindful of the financial concerns raised by the utilities. The electric utilities are correct that under existing settlements electricity rates have been reduced and frozen for a period of years. Thus, the Commission believes that moratoria should be limited in scope and duration and carefully fashioned and promulgated in a manner that effectively minimizes the negative impacts on utilities while protecting ratepayers appropriately. Therefore, an across-the-board moratorium for all residential customers will not be implemented at this time. As previously noted, all companies expressed a willingness to defer low-income customer terminations until after the winter heating season. In the spirit of the offers made by the utilities, the Commission hereby implements a moratorium on low-income customer terminations for non-payment of bills through March 31, 2001.

Nothing in this Order should be read or interpreted in a manner that dissuades residential customers who have the ability to pay their utility bills from doing so. However, non-low-income customers having difficulty paying their utility bills should be encouraged to contact their utilities to establish payment arrangements and other appropriate devices to assist them. At the Hearing, each utility expressed its willingness to work with any customer having difficulty and to help avoid service termination whenever possible.

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<sup>52</sup> Section 2-112 (b) (2) of the PUC Article.

**A. Criteria To Be Used To Protect Low-Income Customers From Termination**

In conformance with this Order, each gas and electric company may use its own methodology to insure that no low-income customer's service is terminated for non-payment.

However, at a minimum, the utilities shall comply with the following general provisions:

1. Utilities may not terminate a customer if, upon examining its records, it determines that the customer has ever in the past received assistance from any low-income energy assistance program;
2. Utilities may not terminate a customer if it determines that the customer has applied for MEAP or EUSP assistance during this winter heating season whether the customer has received assistance from any low-income energy assistance program or not;
3. Utilities may not terminate a customer on whose behalf a low-income energy assistance agency has notified the utility that the customer has applied for assistance;
4. Utilities may not terminate a customer without first making **personal contact** with the customer to determine that the customer is not low-income, *i.e.*, at or below 150 percent of the federal poverty level. If personal contact cannot be established, then the customer's service may not be terminated.

The Commission believes that these provisions resolve the dilemma of differentiating between low-income and non-low-income customers.

Additionally, the Commission directs that any customer that has been disconnected for non-payment be identified and contacted forthwith. If it is determined that any such customer who has been terminated is low-income, that customer's service shall be immediately restored.

Each utility is also encouraged to actively cooperate with OHEP to determine the status of customers who may be eligible for energy assistance. DHR has pledged to provide information, on a daily basis, to each utility as to customers who have applied for MEAP and EUSP funds. At a minimum, however, each utility will be required to presume that prior MEAP

and USPP customers are also currently eligible for energy assistance during this heating season. Therefore, such customers shall automatically become part of the pool of customers to whom the benefits of this Order are intended to directly apply. Utilities are also urged to continue to exercise restraint with regard to termination of non-low-income residential customers who also may be experiencing payment difficulties during this period.<sup>53</sup> In implementing steps regarding low-income customer service terminations, the Commission hereby waives any applicable provisions of COMAR that may be inconsistent with the provisions set forth herein.

**B. Application Of Energy Assistance Funds To Customer Accounts**

It goes without saying that customers eligible for energy assistance (MEAP and EUSP) funds should not suffer because of delays in the posting of funds to their accounts. Customers eligible for EUSP and MEAP assistance should not be penalized for the delay in implementing these grant programs. Additionally, the Commission assumes that DHR/OHEP will increase monthly EUSP bill assistance grants if participation does not meet expectations.

In many instances, customers who may have applied for assistance may not as yet have been certified. In the interim, customers may easily have fallen behind in paying their utility bills. The Commission views these lapses as unpaid amounts, not as arrearages. Therefore, at least EUSP bill assistance funds may be applied by OHEP and by utilities to the unpaid amounts that

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<sup>53</sup> Each of the utilities also noted other non-income factors that are applied in electing not to terminate customers. Several companies noted that they do not terminate residential customers when forecasted temperatures are expected to fall below 32 degrees. PE also noted that it will not terminate service to a dwelling if a resident in the household is 65 years of age or older or less than five. Although the Commission has not expressly mandated these limitations in this Order, all other utilities are encouraged to adopt PE's age and health factors in implementing termination of service practices with respect to non-low-income customers.

have accumulated on customer accounts between the date of the customers' application and their certification. Once a customer is certified as eligible for either program, the funds made available should be recorded by the utilities to pay both prospective utility bills and unpaid balances that have accumulated during the period when EUSP or MEAP funds were not available because of the system implementation problems.

## **V. CONCLUSION**

WHEREFORE, for the foregoing reasons, the Commission finds that a moratorium on the termination of gas and electric service for low-income residential customers is in the public interest at this time. The Petition of the Office of People's Counsel for Adoption of an Emergency Moratorium on Termination of Residential Gas and Electric Services is therefore granted, in part, and denied in part.

## **ORDERED PARAGRAPHS**

IT IS, THEREFORE, this 6<sup>th</sup> day of February, in the year Two Thousand One, by the Public Service Commission of Maryland,

ORDERED: 1) That all gas and electric companies subject to the jurisdiction of the Public Service Commission of Maryland be, and the same are hereby, directed, consistent with the criteria set forth in this Order, not to deny service to low-income residential customers for non-payment of bills through March 31, 2001.

2) That gas and electric service to any low-income residential customer that has already been terminated during this heating season due to non-payment shall be immediately restored.

3) That EUSP bill assistance funds shall be applied retroactively to the date of a customer's application and may be used to satisfy unpaid amounts that have accumulated from the date of application.

4) That any provisions of COMAR that may be inconsistent with this Order are hereby waived through March 31, 2001.

5) That the Petition of the Office of People's Counsel for Adoption of an Emergency Moratorium on Termination of Residential Gas and Electric Services is granted, in part, and denied in part.

/s/ CATHERINE I. RILEY

/s/ CLAUDE M. LIGON

/s/ SUSANNE BROGAN

/s/ J. JOSEPH CURRAN, III

COMMISSIONERS