

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1325 G STREET, N.W., SUITE 800  
WASHINGTON, DC 20005**

**ORDER**

**October 6, 2022**

**FORMAL CASE NO. 1164, IN THE MATTER OF AN INQUIRY INTO THE IMPACTS OF THE COVID-19 PANDEMIC ON DISTRICT UTILITIES AND CONSUMERS, Order No. 21536**

**I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) addresses several motions and reassesses the temporary safeguards and protections set by the Commission last year due to the COVID-19 pandemic. The Commission grants Washington Gas Light Company’s (“WGL” or “Washington Gas”) Motion for Leave to File Reply and Reply to the District of Columbia’s Department of Energy and Environment’s (“DOEE”) Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program (“AMP”).<sup>1</sup> The Commission grants the Office of the People’s Counsel for the District of Columbia’s (“OPC”) Unopposed Motion for Leave to File Comments Out-of-Time regarding Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program<sup>2</sup> and accepts OPC’s Comments.<sup>3</sup> The Commission also grants Washington Gas Light Company’s Motion for Leave to File Reply and Reply to Comments of the Office of the People’s Counsel for the District of Columbia in Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program.<sup>4</sup> The Commission grants in part and denies in part Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program, consistent with the determinations contained in

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<sup>1</sup> *Formal Case No. 1164, In the Matter of an Inquiry into the Impacts of the COVID-19 Pandemic on District Utilities and Consumers (“Formal Case No. 1164”),* Washington Gas Light Company’s Motion for Leave to File Reply (“WGL’s Reply Motion to DOEE”) and Reply (“WGL’s Reply to DOEE”) to the District of Columbia’s Department of Energy and Environment’s Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program, filed July 26, 2022.

<sup>2</sup> *Formal Case No. 1164,* The Office of the People’s Counsel for the District of Columbia’s Unopposed Motion for Leave to File Comments Out-of-Time regarding Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program (“OPC’s Motion”), filed August 5, 2022.

<sup>3</sup> *Formal Case No. 1164,* Comments of the Office of the People’s Counsel for the District of Columbia in Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program (“OPC’s AMP Comments”), filed August 5, 2022.

<sup>4</sup> *Formal Case No. 1164,* Washington Gas Light Company’s Motion for Leave to File Reply (“WGL’s Reply Motion to OPC”) and Reply (“WGL’s Reply to OPC”) to Comments of the Office of the People’s Counsel for the District of Columbia in Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program, filed August 17, 2022.

this Order.<sup>5</sup> Washington Gas shall continue and enhance its customer outreach, consistent with the directives in this Order. Finally, the Commission, *sua sponte*, amends Order No. 20707 to direct the Potomac Electric Power Company (“Pepco”) and WGL to file semi-annual Deferred Payment Agreement (“DPA”) reports.

## II. BACKGROUND

2. To provide protections for residential consumers who use electric and gas services during the COVID-19 pandemic, the Commission, by Order Nos. 20707 and 20749 adopted several options to assist ratepayers with their utility bills upon the Mayor’s lifting of the public health and public safety emergencies.<sup>6</sup> These actions included: (1) increasing the income eligibility to 80% Area Median Income (“AMI”) for participation in Pepco’s and WGL’s Utility Discount Programs (“UDP”), the Residential Aid Discount (“RAD”),<sup>7</sup> and the Residential Essential Service (“RES”),<sup>8</sup> respectively; (2) requiring utilities to provide DPAs of at least twelve (12) months to residential customers who qualify; (3) directing utilities and DOEE to conduct additional outreach; (4) ordering the utilities to provide additional reporting; and (5) directing WGL to propose an AMP<sup>9</sup> to address unpaid balances of natural gas customers.<sup>10</sup> On April 19, 2021, WGL filed its AMP proposal, which the Commission later approved on August 9, 2021, in Order 20990.<sup>11</sup> As noted in both Order Nos. 20749 and 20990, the Commission intended these

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<sup>5</sup> *Formal Case No. 1164*, Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program (“WGL’s Motion to Modify”), filed July 8, 2022.

<sup>6</sup> *Formal Case No. 1164*, Order No. 20707 (“Order No. 20707”), rel. March 3, 2021; *Formal Case No. 1164*, Order No. 20749 (“Order No. 20749”), rel. May 27, 2021.

<sup>7</sup> RAD is the discount program offered by Pepco and first approved as the Residential Aid Rider (“RAR”) in *Formal Case No. 785, In the Matter of the Application of Potomac Electric Power Company for an Increase in its Retail Rates for the Sale of Electric Energy*, Order No. 7716 at 180, rel. December 29, 1982. The program offers eligible D.C. residential customers a monthly credit – the Residential Aid Credit (“RAC”). The RAC covers the following charges: the full customer charge and energy charge for distribution; and exemption from the following surcharges: the Residential Aid Discount Surcharge, the Sustainable Energy Trust Fund, and the Energy Assistance Trust Fund. Credits for these charges are individually listed on the customers’ bills as “RAC – Distribution” and “RAC Surcharges.” The full RAC is equal to approximately 30% of a typical RAD customer’s bill.

<sup>8</sup> RES is the discount program offered by Washington Gas and was approved in *Formal Case No. 840, In the Matter of the Application of District of Columbia Natural Gas, A Division of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service*, Order No. 8569 at 84, 87, rel. September 5, 1986. This program offers a discount on the distribution portion of the customer’s bill through the winter months from November through April. The discount is achieved through a percentage reduction of the distribution portion of a customer’s bill, resulting in an approximately 100% reduction in that portion of the bill. The RES additionally provides for an automatic short-term increase in the reduction to the distribution portion of the bill when purchased gas prices rise above a specified historic percentage.

<sup>9</sup> Arrearage Management Programs frequently combine energy efficiency offerings, budget billing, and arrearage forgiveness in an effort to assist limited-income customers in arrears.

<sup>10</sup> *Formal Case No. 1164*, Order No. 20707, ¶ 1; Order No. 20749, ¶ 1.

<sup>11</sup> *Formal Case No. 1164*, Order No. 20990, ¶ 1, filed August 9, 2021.

changes to be temporary and in place for one (1) year, but further stated the Commission would access the continued need for these safeguards and protections in the future.<sup>12</sup>

3. With Washington Gas's AMP due to expire on November 1, 2022, WGL filed its Motion to Modify on July 8, 2022, requesting the Commission permit WGL to automatically enroll eligible customers and extend AMP enrollment to November 1, 2023.<sup>13</sup> On July 15, 2022, DOEE responded to WGL's Motion to Modify.<sup>14</sup> WGL filed its Reply Motion and Reply to DOEE on July 26, 2022. On August 5, 2022, OPC filed its Motion and its AMP comments. On August 17, 2022, WGL filed its Reply Motion and Reply to OPC. In an effort to solicit input from stakeholders, the Commission convened a virtual technical conference on August 18, 2022, to discuss Washington Gas's modified AMP proposal, as well as the additional measures set by the Commission last year.<sup>15</sup> We heard directly from WGL and Pepco, with WGL making a formal presentation on its proposed AMP modifications, its cost recovery mechanism for AMP, customer outreach, and DPAs. Participants raised concerns regarding WGL's AMP arrearage cap and the challenge of getting customers to apply for energy assistance programs.<sup>16</sup> On August 29, 2022, Pepco filed supplemental comments in response to the topics included in the Public Notice.<sup>17</sup> DOEE submitted its supplemental comments on August 30, 2022.<sup>18</sup> Finally, on September 8, 2022, WGL filed a response to Pepco's and DOEE's supplemental comments.<sup>19</sup>

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<sup>12</sup> *Formal Case No. 1164*, Order No. 20749, ¶ 15; Order No. 20990, ¶ 21.

<sup>13</sup> WGL's Motion to Modify at 6.

<sup>14</sup> *Formal Case No. 1164*, Department of Energy and Environment's Response to Washington Gas Light Company's Motion to Modify Arrearage Management Program ("DOEE's Motion Response"), filed July 15, 2022.

<sup>15</sup> *Formal Case No. 1164*, Public Notice of August 18, 2022, Reassessment of Impacts of the COVID-19 Pandemic Technical Conference, rel. July 29, 2022 ("Public Notice"). Stakeholders in attendance included: DOEE, Pepco, WGL, and Verizon.

<sup>16</sup> *See Formal Case No. 1164*, Meeting Minutes from the August 18, 2022, Reassessment of Impacts of COVID-19 Pandemic Technical Conference ("Meeting Minutes"), filed September 7, 2022.

<sup>17</sup> *Formal Case No. 1164*, Potomac Electricity Power Company's Comments regarding the August 18, 2022, Technical Conference ("Pepco's Supplemental Comments"), filed August 29, 2022.

<sup>18</sup> *Formal Case No. 1164*, the Department of Energy and Environment's Comments following the August 18, 2022, Technical Conference ("DOEE's Supplemental Comments"), filed August 30, 2022.

<sup>19</sup> *Formal Case No. 1164*, Reply Comments to Pepco and the District of Columbia's Department of Energy and Environment's Comments regarding the August 19, 2022, Reassessment of Impacts of the COVID-19 Pandemic Technical Conference ("WGL's Reply Comments"), filed September 8, 2022. The Commission shall excuse the minor clerical error in WGL's Reply Comments, which indicates an incorrect date for the technical conference.

### III. DISCUSSION

#### A. Washington Gas Light Company's Arrearage Management Program

##### i. *Washington Gas Light Company's Motion to Modify*

4. With the exception of WGL's request for automatic enrollment and program extension, its AMP proposal remains essentially the same as approved in Order No. 20990. To reiterate, after an eligible customer enrolls in the program and timely pays each new monthly amount due, Washington Gas will grant a pro-rated monthly arrearage reduction amount toward the goal of total complete arrearage elimination at the end of the twelve (12) months, with a "grace period" of a couple of months to allow for receipt of late payments. Pursuant to WGL's current AMP:

- a. Washington Gas will forgive one-twelfth (1/12) of the pre-program arrears each month that customers pay their new bill in full and on time.
- b. Customers may miss up to two consecutive full-and-on-time monthly payments and remain in the program, but a third consecutive missed payment would cancel the customer's AMP program.
- c. A customer's AMP will be successfully completed when he or she makes 12 months' worth of bill payments anytime between the 12<sup>th</sup> and 15<sup>th</sup> month after enrollment.<sup>20</sup>

5. An eligible AMP customer is one who is at least sixty (60) days past due, with a maximum arrearage of \$3,000; however, customers with higher arrearages could become eligible after paying or receiving assistance from other eligible sources on the amounts that exceed the cap in the AMP program. In addition, to qualify for the program, a customer must have been approved by DOEE for assistance within twelve (12) months before applying for the AMP program, using an income threshold of 80% AMI, as determined by Order No. 20749.<sup>21</sup> According to the AMP, customers are required to enter Washington Gas's budget billing plan as a condition of enrolling in the AMP and must agree to be offered the benefits of any energy efficiency programs offered by either Washington Gas or the District of Columbia Sustainable Energy Utility ("DCSEU").<sup>22</sup>

6. **Proposed AMP Modifications.** In its Motion to Modify, WGL claims there are numerous eligible residential customers who have not enrolled but would greatly benefit from the program. WGL, therefore, proposes automatic enrollment of eligible customers to increase AMP participation and an extension of the AMP up to November 1, 2023, to give the AMP sufficient time to succeed. According to Washington Gas, customers who have not previously enrolled in its AMP, but have been approved by DOEE for an energy assistance program in either the current

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<sup>20</sup> WGL's Motion to Modify at 3-4.

<sup>21</sup> Order No. 20749, ¶¶ 1, 6-7; WGL's Motion to Modify at 4.

<sup>22</sup> WGL's Motion to Modify at 4-5. See Order No. 20990 for more information on Washington Gas Light Company's current AMP.

or previous enrollment year, will automatically be enrolled unless a customer chooses to opt out of the program.<sup>23</sup> WGL plans to request a list of qualified customers from DOEE for automatic enrollment. Those who would otherwise qualify for automatic enrollment but have not participated in an energy assistance program administered by DOEE must first contact DOEE.<sup>24</sup> As with its current AMP, WGL states that eligible customers with arrearages over \$3000 would need to first bring the past due balances to \$3000 or less by seeking other sources of assistance prior to enrollment.<sup>25</sup>

7. WGL asserts that within fifteen (15) days of automatic enrollment, WGL will notify enrollees and provide them with information on AMP by mail and email. The notification will include an AMP phone number, email address, and mailing address and provide enrollees forty-five (45) days to opt out by phone, email, or mail. WGL states it will develop and distribute AMP education literature to targeted beneficiaries of the AMP in an effort to educate and provide answers to frequently asked questions. WGL also plans to collaborate with DOEE and community-based organizations to publicize its AMP.<sup>26</sup>

8. **DOEE.** In its Motion Response, DOEE, as the administrator of UDP, including RES, generally supports WGL's proposed AMP modifications to continue the program for one more year and automatically enroll all RES customers in arrears into the AMP. However, DOEE expresses concern with WGL's stated need for a list of qualified customers from DOEE for automatic enrollment into the AMP. DOEE argues this information would be duplicative because WGL should have its own RES enrollment file. Therefore, DOEE asserts that if the Commission grants WGL's Motion to Modify, it should do so with the understanding that WGL should use its own RES enrollment file to determine which of its RES customers should be automatically enrolled into its AMP.<sup>27</sup>

9. **WGL's Reply Motion and Reply to DOEE.** WGL seeks leave to file a Reply to DOEE's response to its Motion to Modify, arguing its Reply would create a more accurate and complete record and assist the Commission in its deliberation.<sup>28</sup> The Commission finds that under these circumstances, good cause exists to grant WGL's Reply Motion. The Commission finds that no interested person is prejudiced or harmed by granting this Reply Motion. Accordingly, we grant WGL's Reply Motion, pursuant to 15 DCMR § 105.9,<sup>29</sup> and we accept its Reply to DOEE.

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<sup>23</sup> Washington Gas later clarifies that a customer would qualify for AMP if the customer was approved by DOEE in the 2020, 2021, and 2022 enrollment years. See WGL's Reply Comments at 1.

<sup>24</sup> WGL's Motion to Modify at 6-7.

<sup>25</sup> WGL's Motion to Modify at 7. See Washington Gas Cares at [www.washingtongascare.com](http://www.washingtongascare.com) for more information on assistance programs.

<sup>26</sup> WGL's Motion to Modify at 7-8.

<sup>27</sup> DOEE's Motion Response at 1-2.

<sup>28</sup> WGL's Reply Motion to DOEE at 1.

<sup>29</sup> 15 DCMR § 105.9 (1981).

10. In its Reply, WGL states that under its existing AMP tariff, WGL receives a list of eligible RES customers from DOEE for AMP enrollment and will continue to utilize this list for its proposed program expansion. However, Washington Gas contends that there are eligible customers who are currently not enrolled in AMP but that DOEE may qualify these customers for RES benefits within WGL's proposed AMP expansion window. Therefore, for clarification, WGL states that "it will request a list of qualified customers from DOEE for automatic enrollment into AMP, to create an opportunity for new eligible customers who are not currently enrolled in AMP and whose names are therefore not currently on file with [WGL] to be automatically enrolled in the AMP."<sup>30</sup>

11. **OPC's Motion for Leave to File Comments and Comments.** OPC seeks leave to file out-of-time comments on WGL's Motion to Modify. OPC contends its AMP comments will add information to the record that will aid the Commission in its decision-making and that no party will be prejudiced by this delay. OPC adds that WGL has no objection.<sup>31</sup> Generally, the Commission will grant a request of this nature if good cause is shown.<sup>32</sup> In this instance, OPC has presented good cause, indicating its comments would provide the Commission with valuable input. Additionally, no opposition was filed, and no party or stakeholder would be prejudiced by granting the Motion. Therefore, the Commission grants OPC's Motion, and OPC's late comments are accepted into the record.

12. In its Comments, OPC notes that WGL's total arrearages have increased significantly over the years, a problem not only for the utility but for all ratepayers.<sup>33</sup> For the program to succeed and to reduce arrearages, OPC reasons the Commission should implement rules to enhance the efficacy and efficiency of the program that results in an affordable monthly payment and support network to assist consumers' ability to complete the program.<sup>34</sup> First, OPC submits that Washington Gas does not explain how monthly payments are calculated, nor does WGL provide any indication of whether the amount can be negotiated by consumers based on their circumstances. If consumers cannot afford the monthly payments set by WGL, then OPC claims the program is "an exercise in futility" because consumers will be unable to complete the AMP

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<sup>30</sup> WGL's Reply to DOEE at 2-3 (internal quotation marks omitted).

<sup>31</sup> OPC's Motion at 2.

<sup>32</sup> See, e.g., *Formal Case No. 962, In the Matter of the Implementation of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996*, Order No. 12428, ¶ 13, rel. July 2, 2002. See, e.g., *Formal Case No. 1041, In the Matter of the Investigation into Washington Gas Light's Compliance with its Tariffs*, Order No. 14571 at 3, n. 7, rel. September 12, 2007; *Formal Case No. 712, In the Matter of the Investigation into the Public Service Commission's Rules of Practice and Procedure*, Order No. 15353, ¶ 2, rel. August 10, 2009. See, e.g., *TAC 19, Petition of Verizon Washington DC, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Order No. 13873, rel. February 7, 2006. See also *Gas Tariff-01-1, In the Matter of the Application of Washington Gas Light Company, District of Columbia Division, For Authority to Amend its General Service Provisions*, Order No. 15293, rel. June 4, 2009.

<sup>33</sup> OPC's AMP Comments at 4,7.

<sup>34</sup> OPC's AMP Comments at 2.

and will likely be disconnected. OPC recommends the Commission 1) establish a minimum and maximum amount that can be charged and 2) allow the consumer to negotiate a reasonable amount that fits their financial circumstances or permit them at least one opportunity to renegotiate their payment should their financial circumstances change during the AMP period. In support for its recommendations, OPC asks the Commission to consider rules established in New York and Connecticut, where utilities must negotiate and renegotiate in good faith to provide a payment plan that will not result in a loss of energy assistance benefits to a customer.<sup>35</sup>

13. Second, OPC argues that the Commission should require WGL to provide a financial support platform to assist participants who experience difficulties during the program. Specifically, OPC submits the following rules for Commission consideration:

- (1) Upon the consumer missing the first payment, WGL will provide the consumer with contact information for OPC, in addition to DOEE and other entities that can provide financial resources.
- (2) Once the second payment is missed, but prior to disconnecting the account, WGL will provide the consumer with another opportunity to contact the aforementioned entities to arrange for financial resources to either remain in the AMP or establish a TPA [time payment arrangement].

OPC contends that the sooner consumers begin the process of obtaining financial assistance, the more likely they will successfully complete the program. Finally, OPC asserts that customers in arrears are not the only beneficiaries of a well-designed and implemented AMP. In addition, all ratepayers would benefit as less bad debt is passed on to them.<sup>36</sup>

14. **WGL's Reply Motion and Reply to OPC.** WGL seeks leave to file a Reply to OPC's AMP comments, arguing its Reply would create a more accurate and complete record and assist the Commission in its deliberation.<sup>37</sup> The Commission finds that under these circumstances, good cause exists to grant WGL's Reply Motion. The Commission finds that no interested person is prejudiced or harmed by the granting of this Reply Motion. Accordingly, we grant WGL's Reply Motion, pursuant to 15 DCMR § 105.9,<sup>38</sup> and we accept its Reply to OPC.

15. WGL first notes its efforts to promote its AMP, including sending emails, letters, and flyers and individually calling eligible customers. Despite these efforts, WGL states that only 860 customers are enrolled in the program as of August 15, 2022,<sup>39</sup> and believes automatic

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<sup>35</sup> OPC's AMP Comments at 5-6. See 16 NY Comp Codes Rules and Regs §§ 11.10(1)(i), (ii) and 11.10(5); CT Gen Stat § 16-262c (b)(4) (2015).

<sup>36</sup> OPC's AMP Comments at 7.

<sup>37</sup> WGL's Reply Motion to OPC at 1-2.

<sup>38</sup> 15 DCMR § 105.9 (1981).

<sup>39</sup> At the technical conference, WGL indicated approximately 5800 RES customers are currently eligible for AMP enrollment.

enrollment would help increase customer participation.<sup>40</sup> WGL argues that OPC misunderstood the purpose of the AMP by referencing the New York and Connecticut DPA programs and recommending that the Commission establish a minimum amount WGL could charge customers. According to WGL, a DPA allows a customer to pay the entire arrearage balance over time, while an AMP forgives pre-program arrearages. WGL indicates it already has a DPA program and provides its customers with energy assistance and an opportunity to negotiate a 24-month DPA. WGL explains that because a customer who is eligible for the AMP must also qualify for RES, customers enrolled in the AMP would receive a discount of 100 percent of the distribution service per the RES tariff, which includes relief of the customer and distribution charges and applies to usage by eligible customers during the November to April billing periods. Washington Gas adds that as RES customers, AMP participants are exempt from paying the RES surcharge, Energy Assistance Trust Fund charge, and the Sustainable Energy Trust Fund charge. Moreover, WGL notes that AMP customers are certified by DOEE for the Low-Income Energy Assistance Program (“LIHEAP”), which provides federal funds to help pay outstanding heating costs. As a participant of the AMP, a customer must also agree to WGL’s budget billing plan and agree to be offered the benefits of any energy efficiency programs offered by WGL or DCSEU. WGL argues that with these criteria and the RES and LIHEAP discounts, AMP customers receive significantly reduced monthly bills as well as arrearage forgiveness.<sup>41</sup>

16. Finally, WGL disagrees with OPC’s recommendation that the Commission should establish rules requiring WGL to provide a consumer with contact information for OPC and other entities that provide financial resources after the first missed payment and again after the second missed payment, but prior to canceling the customer’s AMP plan. WGL contends that OPC’s suggested mandates are unnecessary as WGL already has a communication protocol within its billing system that provides similar communication to not only its AMP participants but all its customers who are late with their bills. Washington Gas indicates that after a customer misses a payment, it sends a reminder bill with OPC’s name and telephone number informing the customer that OPC represents District of Columbia (“District”) ratepayers in matters regarding rates and services provided by WGL and other District utilities. WGL further states that after a reminder bill has been sent and payment has not been received, WGL issues a disconnection notice to the customer with both OPC’s and DOEE’s contact information.<sup>42</sup>

*ii. Supplemental Comments*

17. Pepco and DOEE both filed supplemental comments on AMP. In its comments, Pepco indicates that it has enrolled 288 customers in its AMP as of August 29, 2022, and is actively promoting AMP while looking for new approaches to increase AMP participation. Pepco maintains that it is also considering the type of automatic enrollment proposed by WGL and asks that if the Commission accepts WGL’s proposal, in whole or part, Pepco be permitted to align its AMP in a similar fashion through a separate filing. Pepco further notes the importance of customer

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<sup>40</sup> WGL’s Reply to OPC at 2.

<sup>41</sup> WGL’s Reply to OPC at 3-5.

<sup>42</sup> WGL’s Reply to OPC at 5-6.

outreach on this matter and proposes that the Commission increase Pepco's communication budget to increase and sustain customer participation. Pepco argues that the budget increase should be approved regardless of the Commission's approval of its request for automatic enrollment.<sup>43</sup>

18. In its comments, DOEE notes that while the moratorium on utility disconnections was in place, low-to-moderate income households may have prioritized bills according to urgency, resulting in large, accumulated arrearages for these households. To assist these customers with large arrearages, DOEE recommends the Commission approve WGL's proposal to automatically enroll eligible customers and extend the program for one more year. DOEE suggests the Commission direct Pepco to similarly implement automatic enrollment for its RAD customers with arrearages into Pepco's AMP.<sup>44</sup>

## **B. Additional COVID-19 Related Measures**

19. **Pepco.** In addition to its remarks on AMP, Pepco filed supplemental comments on the income eligibility threshold for participation in UDPs, DPAs, reporting requirements, and its RAD Surcharge "Cap." With regard to the Commission's decision to increase the UDP eligibility threshold from 60% State Median Income to 80% AMI, Pepco recommends the Commission maintain the use of 80% AMI as this modification has increased participation in Pepco's RAD program and will help reach higher numbers of customers in need. Pepco further states that it currently offers customers payment arrangements of at least twelve (12) months pursuant to the Commission order and Pepco's own pandemic-related policy and intends to continue offering payment plans of at least twelve (12) months for the foreseeable future. Pepco also argues that the quarterly DPA reporting requirement pursuant to Order No. 20707 is no longer necessary and overly burdensome compared to the value it offers stakeholders and the Commission. Therefore, Pepco supports either annual or semi-annual reporting for the next year and elimination of such reporting thereafter.<sup>45</sup> Finally, Pepco requests the Commission again clarify that there is no "cap" on the annual subsidy provided to RAD customers through the RAD surcharge. Pepco notes that though the Commission has set limits in the past on RAD funding,<sup>46</sup> in the prior two Pepco RAD Surcharge filings, the Commission approved funding over the "cap" of \$5.75 million.<sup>47</sup> Pepco supports removing any cap that would prevent eligible RAD customers from receiving the full benefit of the Residential Aid Credit.<sup>48</sup>

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<sup>43</sup> Pepco's Supplemental Comments at 1.

<sup>44</sup> DOEE's Supplemental Comments at 2.

<sup>45</sup> Pepco's Supplemental Comments at 1-2.

<sup>46</sup> See, e.g., *Formal Case No. 1120, In the Matter of the Investigation into the Structure and Application of Low Income Assistance for Electricity Customers in the District of Columbia*, Order No. 17545, ¶ 27, rel. July 14, 2014.

<sup>47</sup> See, e.g., *PEPRADS-2022-01, Potomac Electric Power Company's Residential Aid Discount Compliance Reports And Filings*, Order No. 21161 ("Order No. 21161"), ¶ 7, rel. June 2, 2022.

<sup>48</sup> Pepco's Supplemental Comments at 1-2.

20. **DOEE.** DOEE also filed supplemental comments on the income eligibility threshold for participation in UDPs and DPAs. DOEE asserts that as the threat of utility disconnection becomes a reality for struggling households, the more likely the interest in UDPs will grow as well. To ensure that UDP assistance is available to a large segment of customers who may need it, DOEE supports maintaining the current 80% AMI threshold for at least the near term. Regarding DPAs, DOEE recommends the Commission modify its directive in Order No. 20707 requiring utilities to offer DPAs of up to twelve (12) months, to now direct utilities to offer DPA terms of up to twenty-four (24) months to accommodate households with high arrearages.<sup>49</sup>

21. WGL, in its response, agrees with Pepco and DOEE's recommendation to maintain the current income eligibility threshold for UDP at 80% AMI. Additionally, WGL clarifies that a customer would be eligible for AMP if DOEE has approved the customer in the 2020, 2021, and 2022 enrollment years. Finally, WGL asserts that with certain qualifiers, it concurs with DOEE's proposal to increase the term on DPAs from twelve (12) months to twenty-four (24) months, provided that the increased term only applies for one additional year and only for low-income customers. WGL asserts that since the COVID-19 pandemic, it has offered 24-month DPAs to low-income customers but cannot support extending such DPAs to non-low-income customers, nor can it indefinitely offer the same to low-income customers beyond November 1, 2023.<sup>50</sup>

#### **IV. DECISION**

##### **A. Washington Gas Light Company's Arrearage Management Program**

22. To begin, the Commission commends the stakeholders who participated in the technical conference and for filing supplemental comments as well as responses to WGL's Motion to Modify. In its Motion to Modify, Washington Gas proposes automatic enrollment of its RES customers into AMP to increase participation and an extension of one year for the program. No stakeholder opposes WGL's request. The Commission agrees with Washington Gas that automatic enrollment can only benefit customers by providing forgiveness of pre-program arrearages to those who are otherwise eligible but fail to apply for enrollment. To ensure eligible customers are knowledgeable about AMP and have a choice in participation, WGL will notify automatically enrolled customers within fifteen (15) days of enrollment, and these customers will have forty-five (45) days to opt out of the program.<sup>51</sup> Once enrolled, a customer who fails to complete the program will not be negatively impacted as there is no retroactive removal for earned AMP credits, and a

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<sup>49</sup> DOEE's Supplemental Comments at 2.

<sup>50</sup> WGL's Reply Comments at 1-2.

<sup>51</sup> WGL's Motion to Modify at 7-8. *See, e.g., D.P.U. 08-4, Investigation by the Department of Public Utilities on Its Own Motion into Expanding Low-Income Consumer Protections & Assistance, Including Standards for Arrearage Management Programs, Discount Rate, Service Termination, & Energy Efficiency Programs*, Order Expanding Low-Income Consumer Protections and Assistance, rel. September 15, 2008 (permitting Massachusetts utilities to choose whether to automatically enroll customers in AMP, while noting the benefit of having knowledgeable customers who self-enroll).

customer will still have an opportunity to enroll in a DPA.<sup>52</sup> Because customers can only benefit from enrollment and shall receive sufficient notice and opportunity to opt out, the Commission approves WGL's request to automatically enroll eligible customers into AMP.

23. The Commission also agrees that the program should be extended. However, given the continued economic fallout from the pandemic, the Commission agrees to extend the program for two years, beginning November 1, 2022, and concluding October 31, 2024. Indeed, the D.C. Council's moratorium on utility disconnection was only recently lifted in June 2022.<sup>53</sup> As noted by DOEE, its Utility Assistance Division has been overwhelmed with assisting residents with their disconnection notices. According to DOEE, these households facing disconnections also have significant arrearages.<sup>54</sup> As the program is intended to benefit the District's most vulnerable customers, the Commission believes automatic enrollment and an extension of two years provide the best opportunity for AMP to succeed, reach a larger segment of struggling ratepayers, and allow for mid-course correction of the program, if needed. To enable the Commission to assess the impact of these program modifications, WGL shall continue to report on AMP as directed in Order No. 20990.

24. Although no stakeholder opposes WGL's requested modifications to its AMP, DOEE and OPC proffer changes as discussed further herein. DOEE questions WGL's need for a list of qualified customers from DOEE in order to implement automatic enrollment for AMP. DOEE argues that WGL should use its own RES enrollment file to determine which RES customers are eligible for automatic enrollment.<sup>55</sup> Though WGL agrees with DOEE that it already receives a list of eligible RES customers from DOEE and indicates WGL plans to continue utilizing this list for automatic enrollment, WGL also contends that there are prospective AMP customers whom DOEE has yet to, but may in the future qualify these customers for RES benefits during WGL's proposed AMP expansion window. Thus, WGL clarifies that it will request a list of qualified RES customers from DOEE to ensure new eligible customers who are not currently on file with WGL are considered during the program's expansion.<sup>56</sup> Because the AMP is now extended for an additional two years, the Commission agrees with WGL that there will likely be new RES customers who are not currently reflected on WGL's list but could qualify for AMP enrollment during the lifetime of the program. Therefore, WGL shall be permitted to request an updated list from DOEE for this purpose.

25. OPC raises concerns that the monthly payment AMP participants must pay to remain in the program may be in excess of what consumers can pay, resulting in the unsuccessful completion of the program. OPC, therefore, recommends that the Commission establish a minimum and maximum amount that can be charged and allow participants to negotiate and

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<sup>52</sup> WGL's Motion to Modify at 4.

<sup>53</sup> DOEE's Supplemental Comments at 1.

<sup>54</sup> DOEE's Supplemental Comments at 1.

<sup>55</sup> DOEE's Motion Response at 1-2.

<sup>56</sup> WGL's Reply to DOEE at 2-3

renegotiate a reasonable amount that fits their financial circumstances. In addition to making monthly AMP payments affordable, OPC proposes that the Commission require WGL to have a financial support platform in place to assist participants who experience financial difficulty during the program. Specifically, OPC asks the Commission to establish rules for WGL to provide consumers who miss the first payment with contact information for OPC, DOEE, and other entities that can offer financial resources, and to again provide this information after the second missed payment to ensure the greatest opportunity for these participants to arrange for financial assistance and either remain in AMP or establish a DPA.<sup>57</sup> WGL opposes OPC's recommendations, arguing that not only are AMP customers getting arrearage forgiveness, but as customers benefiting from RES discounts and LIHEAP assistance, AMP participants will receive manageable monthly bills for service. Washington Gas also maintains that it has a support protocol in place to provide any customer who misses payment with information on OPC after the first missed payment and with information on both OPC and DOEE after a reminder bill has been sent, and still no payment has been received.<sup>58</sup>

26. Though the Commission agrees with OPC that affordable monthly billing is essential to the success of the program, each customer's ability to pay is very subjective, and establishing rules for minimum and maximum monthly charges is a time-consuming task that cannot be effectuated before WGL's current AMP expires on November 1, 2022. Implementing OPC's proposal would also not likely lead to a different outcome than what is already proposed by Washington Gas because it is in the best interest of WGL to ensure customers pay their bills by offering affordable payment plans. For these reasons, the Commission determines not to initiate a rulemaking regarding affordable monthly billing at this time. The Commission does agree with OPC that the sooner consumers begin the process of obtaining financial assistance, the greater they are likely to finish the program. Therefore, in addition to the protocol already in place for all customers, WGL shall provide its AMP and DPA customers with contacts for both OPC and DOEE as well as any additional information on the District's energy assistance programs after the first missed payment and again after the second missed payment, but prior to disconnecting these customers. Likewise, the Commission approves WGL's outreach plans as outlined in paragraph 7 in this Order. Since eligible AMP customers must first qualify for UDP, we encourage DOEE and OPC, as much as practical, to increase awareness of the utilities' AMP and DPAs through their respective media channels, outreach programs, and direct communication with customers. All customer outreach directives in Order 20990 remain in effect.<sup>59</sup>

27. Moreover, the Commission shares OPC's concern regarding WGL's increased level of arrearages, which, if not paid off, becomes bad debt passed on to the general body of ratepayers. Indeed, stakeholders at the technical conference raised the issue of WGL's \$3000 arrearage cap for AMP eligibility and questioned whether the cap should be raised. Pepco indicated at the technical conference that its AMP cap is set at \$3600 but noted otherwise eligible customers with arrearages higher than \$3600 can still qualify for AMP because the balance of

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<sup>57</sup> OPC's AMP Comments at 5-7.

<sup>58</sup> WGL's Reply to OPC at 4-6.

<sup>59</sup> Order No. 20990, ¶¶ 1, 17, 20, 26, 29-31.

arrears above the cap is placed in a DPA.<sup>60</sup> The Commission believes WGL's \$3000 cap for arrearage forgiveness strikes the right balance between assisting consumers who are struggling financially and ensuring District ratepayers are not burdened with paying off WGL's large arrearage balance. Accordingly, the Commission will not modify the cap as approved in Order No. 20990 at this time. Nevertheless, we direct WGL to make every concerted effort to help customers who would otherwise qualify for AMP but for their arrearage balance exceeding \$3000 by providing additional guidance and options, including offering DPAs for arrears in excess of \$3000 and providing information for additional energy assistance.

28. Concerning WGL's cost recovery proposal, WGL is currently permitted to recover AMP costs through the RES surcharge pursuant to Order No. 20990. These AMP costs include the arrearage forgiveness amounts, I.T., billing, charges to implement the AMP, and communication costs for education and promotion of the program. WGL proposes that the current cost recovery mechanism remain the same.<sup>61</sup> No other stakeholder objected to this proposal at the technical conference nor in written comments. The Commission determines not to modify the cost recovery mechanism at this time, though the Commission may reassess cost recovery once we review the costs for implementing the program.

29. In its supplemental comments, Pepco also remarks on AMP, though its comments focus on Pepco's own program. Specifically, Pepco requests that if WGL's proposal for automatic enrollment is approved by the Commission, Pepco be permitted to make a similar proposal by separate filing. Pepco also requests an increase in its communication budget for AMP in an effort to reach more customers.<sup>62</sup> As Pepco's AMP is a merger commitment approved by the Commission in *Formal Case No. 1119*,<sup>63</sup> Pepco is free to request modifications as needed for its program. However, the Commission declines to make determinations on Pepco's proposals, including a request for budgetary changes, until such requests are formally submitted.

## **B. Additional COVID-19 Related Measures**

30. **Threshold for Utility Discount Program Eligibility.** WGL, Pepco, and DOEE all recommend that the income threshold for UDP eligibility remain the same at 80% AMI. The Commission agrees. After input from stakeholders and pursuant to D.C. Code §§ 8-1774.14 and 8-1774.15,<sup>64</sup> the Commission modified the eligibility criteria for the RAD and RES programs in Order No. 20749. At the same time, the Commission intimated that this change was temporary

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<sup>60</sup> Meeting Minutes at 8.

<sup>61</sup> Meeting Minutes at 5.

<sup>62</sup> Pepco's Supplemental Comments at 1.

<sup>63</sup> *Formal Case No. 1119, In the Matter of the Joint Application of Exelon Corporation, Pepco Holdings, Inc., Potomac Electric Power Company, Exelon Energy Delivery Company, LLC and New Special Purpose Entity, LLC for Authorization and Approval of Proposed Merger Transaction*, Order No. 18799, rel. June 15, 2017.

<sup>64</sup> D.C. Code §§ 8-1774.14, 8-1774.15 ("The Commission shall establish, by order, a discount program for low-income electricity [and gas] customers in the District. The Commission shall establish the eligibility, funding, and administrative guidelines for the programs. . .").

and would require reevaluation based on the Commission's future assessment of the impacts of the COVID-19 pandemic.<sup>65</sup> As stakeholders noted, the economic fallout from the pandemic continues to impact District residents, who have experienced job loss and illness, forcing many struggling households to choose between food, housing, and utilities. With vulnerable consumers now facing the threat of disconnection, the Commission's goal to expand utility assistance is no less important today as it was a year ago. Therefore, the threshold shall remain at 80% AMI. As directed in Order No. 16615, DOEE, OPC, and the utilities shall continue to promote and educate the public about the enhanced UDP threshold to increase awareness of RAD and RES and provide people who have never applied the opportunity to seek assistance.<sup>66</sup>

31. **Deferred Payment Agreements and Reporting Requirements.** DOEE argues that the Commission should modify its directive in Order No. 20707 requiring utilities to offer eligible residential customers the opportunity to enter into DPAs of up to twelve (12) months. Instead, DOEE contends that the DPA term should increase to twenty-four (24) months to accommodate all households with high arrearages.<sup>67</sup> However, DOEE fails to note that in Order 20707, the Commission set a minimum, not a maximum, DPA term of twelve (12) months.<sup>68</sup> In their supplemental comments, both Pepco and WGL acknowledge the same.<sup>69</sup> WGL adds that since the COVID-19 pandemic, WGL has offered 24-month DPAs to low-income customers, though it argues it cannot do so indefinitely. Importantly, Commission Rule 306, which addresses DPAs for residential customers, allows utilities, energy suppliers, or telecommunications service providers and residential customers to negotiate and enter into DPAs.<sup>70</sup> Therefore, beyond clarifying that the minimum DPA term of twelve (12) months continues to apply, the Commission does not feel compelled to further constrain the DPA negotiation process between the utilities and residential customers, who are better positioned to determine DPA terms appropriate for individual needs. Moreover, the Commission is persuaded by Pepco that filing reports on DPAs quarterly, as directed in Order No. 20707, is no longer necessary.<sup>71</sup> Accordingly, the Commission *sua sponte* amends Order No. 20707 and directs Pepco and WGL to file these reports semi-annually. The

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<sup>65</sup> Order No. 20749, ¶¶ 6-7, 15.

<sup>66</sup> *Formal Case No. 813, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices* and *Formal Case No. 988, In the Matter of the Development of Universal Service Standards and the Universal Service Trust Fund for the District of Columbia*, Order No. 16615, rel. November 21, 2011.

<sup>67</sup> DOEE's Supplemental Comments at 2.

<sup>68</sup> See Order No. 20707, ¶¶ 1, 6.

<sup>69</sup> Pepco's Supplemental Comments at 1. WGL's Reply Comments at 2.

<sup>70</sup> See 15 DCMR § 306.1-2. While this rule mandates that such agreements must include the account's "past due balance" and be provided to the customer in writing within "ten business days" of its negotiation, the rule does not mandate a specific time period for how long the DPA must last.

<sup>71</sup> Pepco's Supplemental Comments at 2. See Order No. 20707, ¶ 15 (directing Pepco and WGL to file quarterly reports, showing details as of each month of the 12-month Deferred Payment Agreement, including but not limited to: (1) number of customers; (2) customer class; (3) ward location; and (4) deferred payment balances for each customer class).

utilities may petition to change or terminate the reporting requirement after the second semi-annual report.

32. **RAD surcharge.** Finally, Pepco submits that the Commission should again clarify that there is no “cap” on the annual subsidy provided to RAD customers through the RAD Surcharge, maintaining that in the prior two Pepco RAD Surcharge filings, the Commission approved funding over the “cap” of \$5.74 million.<sup>72</sup> As this issue was already clarified in Order No. 21161, the Commission sees no need to make the same pronouncement here.<sup>73</sup>

**THEREFORE, IT IS ORDERED THAT:**

33. Washington Gas Light Company’s Motion for Leave to File Reply and Reply to the District of Columbia’s Department of Energy and Environment’s Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program is **GRANTED**;

34. The Office of the People’s Counsel for the District of Columbia’s Unopposed Motion for Leave to File Comments Out-of-Time regarding Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program is **GRANTED**;

35. Comments of the Office of the People’s Counsel for the District of Columbia in Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program is **ACCEPTED**;

36. Washington Gas Light Company’s Motion for Leave to File Reply and Reply to Comments of the Office of the People’s Counsel for the District of Columbia in Response to Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program is **GRANTED**;

37. Washington Gas Light Company’s Motion to Modify the Company’s Arrearage Management Program is **GRANTED in part** and **DENIED in part**, consistent with the determinations contained in this Order;

38. Washington Gas Light Company **SHALL** continue and enhance its customer outreach, consistent with the directives in this Order; and

39. The Commission, *sua sponte*, **AMENDS** Order No. 20707 to direct the Potomac Electric Power Company and Washington Gas Light Company to file semi-annual Deferred Payment Agreement reports, showing monthly data that includes (1) number of customers; (2) customer class (including residential, low income, etc.); (3) ward location; and (4) deferred payment balances for each customer class.

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<sup>72</sup> Pepco’s Supplemental Comments at 2.

<sup>73</sup> See Order No. 21161, ¶¶ 4, 6.

**A TRUE COPY:**

**BY DIRECTION OF THE COMMISSION:**

A handwritten signature in black ink, reading "Brinda Westbrook-Sedgwick". The signature is written in a cursive style with a large initial 'B' and a long, sweeping underline.

**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**