

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

ORDER

May 28, 2020

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. 20358

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) opens an inquiry to examine the merits of the Office of the People’s Counsel for the District of Columbia’s (“OPC”) Emergency Petition and Request for Expedited Treatment Requesting an Investigation into the Comprehensive Options Available to the District’s Utility Ratepayers/Consumers in Response to the Negative Financial Impacts of the COVID-19 Public Health Emergency¹ and directs the General Counsel to issue a public notice and convene a technical conference within 45 days of the date of the lifting of the public health emergency by the Mayor for the purposes of examining the impact of the COVID-19 crisis on public utilities and District ratepayers and to address OPC’s Petition.² A final decision on OPC’s Petition is held in abeyance.

II. BACKGROUND

2. On March 11, 2020, the Mayor of the District of Columbia declared both a state of emergency and public health emergency to stem the effects of COVID-19 on vulnerable groups in the District.³ The emergency effectively shut down all non-essential businesses in the District, while also ordering residents to stay home. Subsequently, on March 17, 2020, the Council of the District of Columbia passed the COVID-19 Response Emergency Amendment Act of 2020. This law prohibits electric and gas companies from “disconnect[ing]...service for non-payment of a bill or fees during a public health emergency or for 15 days thereafter.”⁴ Because the District has

¹ *Formal Case No. 1164, Emergency Petition and Request for Expedited Treatment of the Office of the People’s Counsel for the District of Columbia Requesting an Investigation into the Comprehensive Options Available to the District’s Utility Ratepayers/Consumers in Response to the Negative Financial Impacts of the COVID-19 Public Health Emergency*, filed May 4, 2020 (“OPC Petition”).

² We initiate this proceeding to consider the impacts of COVID-19 and we will consider the Office of People’s Counsel’s Petition for an Investigation into Options Available for Public Utility Consumers to Mitigate the Negative Impacts of COVID-19 Public Health Emergency When the Emergency is Lifted, filed May 4, 2020.

³ Mayor’s Order No. 2020-46: Declaration of Public Health Emergency - Coronavirus (COVID-19), issued March 11, 2020.

⁴ D.C. Code §§ 34-1506.02 & 34-1671.06(b) (2020) (“Emergency Act”).

reached a key milestone—a 14-day decline in COVID-19 community spread—the stay-at-home order is slated to end on May 29, 2020, though gatherings of more than ten people are still prohibited, and social distancing and face coverings remain recommended.⁵ The Council of the District of Columbia has recently adopted a new provision that requires utility companies to: (i) make payment plans available to eligible customers with a minimum term of one year, unless the customer requests a shorter term; (ii) waive any fee or penalty arising from the payment plan; (iii) not report to a credit agency that the customer’s account is delinquent; and (iv) notify all customers of the payment plan’s availability.⁶

3. On May 4, 2020, OPC filed its Petition before the Commission to open an investigation into mitigating the adverse impacts of COVID-19 on ratepayers and consumers when the public health emergency is lifted. OPC states that because most District citizens have been ordered to stay home, tens of thousands of unemployment claims have been filed with the Department of Employment Services.⁷ OPC also states that once the public health emergency ends, many ratepayers “will fall behind on their utility bills,” will likely need “continued program assistance and financial help” to return to stability, and that the 15-day grace period embedded in the Council-approved law “will not provide immediate relief” for customers who struggle to pay their utility bills.⁸

4. OPC offers many options to assist consumers in its Petition.⁹ OPC requests that the Commission: (1) establish a moratorium on disconnections beyond the 15-day period; (2) establish a formal payment plan process for those in arrears; (3) revise utility tariffs applicable to disconnections, reconnections, and late-payments to provide consumers more time to pay past due bills; (4) request communication providers to provide additional protections, beyond the Federal Communications Commission’s (“FCC”) Keep Americans Connected Pledge,¹⁰ that would allow consumers extra time to pay arrearages; (5) modify existing eligibility requirements for utility discount programs (e.g., Residential Aid Discount and Residential Essential Service) or forgiveness programs to expand consumer eligibility; (6) consider relief programs offered in other jurisdictions; and (7) conduct a public information campaign, so consumers are aware of utility discount programs applicable to them.¹¹ OPC requests the Commission to explore each option,

⁵ Coronavirus (COVID-19) Situational Update, issued May 27, 2020.

⁶ See B23-0757, Coronavirus Support Emergency Amendment Act of 2020 (“Coronavirus Emergency Amendment Act”), §308, adopted by the Council of the District of Columbia on May 19, 2020.

⁷ OPC Petition at 2. The Commission notes that the Petition is not paginated, so the page numbers are the Commission’s additions.

⁸ OPC Petition at 3.

⁹ OPC Petition at 3-4.

¹⁰ See Press Release, FCC, Chairman Pai Launches Keep Americans Connected Pledge (Mar. 13, 2020), <https://www.fcc.gov/document/chairman-pai-launches-keep-americans-connected-pledge> (*Keep Americans Connected News Release*).

¹¹ OPC Petition at 3-4.

include additional options (if applicable), and conduct an investigation to mitigate the negative impacts of COVID-19 on consumers. OPC also recommends the establishment of a task force to include OPC, the Commission, utility companies, and other interested stakeholders to develop a report within 45 days of the task force's inception that details proposed solutions.¹²

5. On May 14, 2020, the Potomac Electric Power Company ("Pepco") filed an Answer in opposition to OPC's Petition.¹³ Broadly, Pepco's Answer argues that OPC's Petition is unnecessary and duplicative—and that action on the Petition would be premature because future legislation is likely to be passed by the Council.¹⁴ In particular, Pepco argues:

- OPC's seeking of a workgroup to include various stakeholders is inefficient since each utility has different vehicles to address the negative effects of COVID-19 in separate Commission dockets.¹⁵
- While not opposed to OPC's recommendation to expand eligibility for Utility Discount Programs ("UDPs"), a better recommendation would be to strengthen current outreach programs to make consumers aware of the under-enrolled UDPs.¹⁶
- Pepco will proactively address a number of the COVID-19 concerns when surrebuttal testimony is due in its base rate case (in *Formal Case No. 1156*) on May 20, 2020.¹⁷
- The Commission should not act on the Petition because the Council is already considering various schemes to counteract the negative effects of COVID-19 on consumers. And, in the past, the Commission has declined to act when there was uncertainty about whether the Council would act to address the same issue raised by a pleading.¹⁸

Pepco states that to date, it "has suspended all disconnections for non-payment and waived any associated late fees or charges; offered to reconnect customers disconnected prior to the COVID-19 pandemic, reaching out directly to that population to customers; continued outreach and engagement activities through virtual and other means, to provide targeted information to customers about energy assistance programs and availability and encouraged participation and sign-ups; and are working with customers on a case-by-case basis on flexible payment plans, including installment plans."¹⁹ Pepco acknowledges the extraordinary conditions imposed on

¹² OPC Petition at 4.

¹³ *Formal Case No. 1164, Answer of Potomac Electric Power Company to the Office of People's Counsel's Emergency Petition*, filed May 14, 2020 ("Pepco Answer").

¹⁴ Pepco Answer at 6-9.

¹⁵ Pepco Answer at 6-7.

¹⁶ Pepco Answer at 7.

¹⁷ Pepco Answer at 7-8.

¹⁸ Pepco Answer at 8-9 (citing *Formal Case No. 1017*, Order No. 13227, ¶ 11 (June 29, 2004)).

¹⁹ Pepco Answer at 1-2.

consumers in the District because of COVID-19 but argues that it is currently working on options to reduce concerns among District customers—and granting OPC’s Petition is unnecessary and premature at this time.²⁰

6. Also on May 14, 2020, Washington Gas Light Company (“Washington Gas”) filed a Response in opposition to OPC’s Petition.²¹ Washington Gas makes many of the same arguments Pepco makes: that OPC’s Petition is unnecessary (because Washington Gas already makes available generous payment plans to support ratepayers) and premature because of likely Council action requiring Washington Gas to reconnect service to delinquent customers at no fee.²² According to Washington Gas, it is not requiring its customers to provide any proof of financial hardship from the pandemic as a prerequisite to qualifying for a payment arrangement; rather, as it has been Washington Gas’s policy for decades, payment arrangements are tailored to the specific needs of each customer and can extend for twelve (12) or more months.²³ Washington Gas argues that while it takes no position on modifying the eligibility requirements for UDPs, it is concerned that doing so, in addition to implementing the other recommendations OPC puts forward, would increase the cost of service for utility customers.²⁴ Washington Gas also states that establishing a moratorium on disconnections beyond the 15-days contravenes the Emergency Act and Commission Order No. 20329, which allows for utilities to establish a regulatory asset to record incremental losses due to pandemics.²⁵

7. On May 15, 2020, Verizon Washington, DC Inc. (“Verizon DC”) also filed a Response, opposing, in part, OPC’s Petition.²⁶ Verizon DC states that while it does not oppose the creation of a task force to study COVID-19 effects,²⁷ it has already made voluntary commitments to its customers to combat the financial impacts of COVID-19.²⁸ For example, Verizon DC states that it has signed on to the FCC’s Keep Americans Connected Pledge committing that for 60 days (after March 13) it would (i) waive late fees that any residential or

²⁰ Pepco Answer at 9-10.

²¹ *Formal Case No. 1164, Washington Gas Light Company’s Response to the Petition of the Office of the People’s Counsel*, filed May 14, 2020 (“Washington Gas Response”).

²² Washington Gas Response at 2-4.

²³ Washington Gas Response at 4.

²⁴ Washington Gas Response at 5.

²⁵ Washington Gas Response at 6 (citing *GD2020-01, In the Matter of the Establishment of Regulatory Assets for COVID-19 Related Incremental Costs*, Order No. 20329, rel. April 15, 2020 at 1).

²⁶ *Formal Case No. 1164, Verizon Washington, DC Inc.’s Response to OPC’s Petition*, filed May 15, 2020 (“Verizon DC Response”).

²⁷ Verizon DC Response at 2. The Commission notes that the Response is not paginated, so the page numbers are the Commission’s additions.

²⁸ Verizon DC Response at 1-2.

small business customers incur because of their economic circumstances related to the coronavirus, and (ii) not terminate service to any residential or small business customers because of their inability to pay their bills due to disruptions caused by the coronavirus.²⁹ Recently, Verizon DC announced that it would extend that commitment until June 30, 2020.³⁰ Verizon DC states further that it took the unrequired step of making clear that any Verizon DC customer who signs up, or has already signed up, for this relief is automatically enrolled in a deferred bill program to make it easier to get back on track paying off balances after June 30, 2020.³¹ As such, Verizon DC argues that it and other providers are competing to keep their customers more than ever during this difficult time, and it shows in all of the voluntary commitments being made to those customers; consequently, Verizon DC argues, communication services should not be part of any investigation if the Commission decides to grant one.³²

8. On May 19, 2020, the District Government (“DCG”) filed a letter in support of OPC’s Petition.³³ DCG states that, to the extent that it is in the Commission’s statutory authority to do so, “the initiation of new billing assistance programs, and the expansion of existing billing assistance programs is needed.”³⁴ DCG also states that it is uniquely situated to be afforded a place on a task force to evaluate OPC’s recommendations because it is the administrator of low-income UDPs and the District’s Low-Income Home Energy Assistance Program (“LIHEAP”) through the Department of Energy and Environment (“DOEE”).³⁵ In addition, DCG argues that the moratorium of 15 days will not be enough time for struggling households and businesses to either pay their bills or prioritize their bills—since, it is in the realm of possibility that Pepco, Washington Gas, or Verizon DC could implement mass disconnections on the 16th day.³⁶ To bolster that assertion, DCG explains that DC Water has pledged to give direct financial assistance to customers on their water bills for 105 days, beyond the lifting of the public health emergency.³⁷

9. Additionally, DCG states that DOEE has seen a drop in the number of UDP and LIHEAP applications because it has moved to accepting only online applications.³⁸ DCG

²⁹ Verizon DC Response at 1-2.

³⁰ Verizon DC Response at 1-2.

³¹ Verizon DC Response at 2.

³² Verizon DC Response at 2.

³³ *Formal Case No. 1164, Office of Attorney General’s Letter in Support of OPC’s Petition for an Investigation into Options Available for Public Utility Consumers to Mitigate the Negative Impacts of the COVID-19 Public Health Emergency When the Emergency is Lifted*, filed May 19, 2020 (“DCG Letter”).

³⁴ DCG Letter at 2.

³⁵ DCG Letter at 2.

³⁶ DCG Letter at 2.

³⁷ DCG Letter at 2.

³⁸ DCG Letter at 2.

speculates that there may be two reasons for this: (i) ratepayers understand their services will not be disconnected during this health emergency, so they are prioritizing other needs, such as food, medicine, unemployment benefits, or other aid beyond utility assistance; and (ii) the online application is not available to everyone—households without internet services and seniors who are not accustomed to using online technology.³⁹ DCG states that as long as the public health emergency continues, DOEE will only be able to process online applications, which may, in turn, negatively impact the level of participation in those programs.⁴⁰ Therefore, other alternatives must be explored.

III. DISCUSSION

10. To better understand the impact of the COVID-19 crisis on public utilities and District ratepayers, we, therefore, open an inquiry to examine the merits of OPC's Petition, and we direct the General Counsel to issue a public notice and convene a technical conference within 45 days of the date of the lifting of the state of emergency and public health emergency orders issued by the Mayor for the purposes of examining the impact of the COVID-19 crisis on our local utilities and District ratepayers and determine whether additional safeguards and protections should be adopted.

THEREFORE, IT IS ORDERED THAT:

11. The Commission hereby **OPENS** an inquiry to examine the merits of the Office of the People's Counsel for the District of Columbia's Petition and to examine the impact of the COVID-19 crisis on public utilities and District ratepayers;

12. The General Counsel is **DIRECTED** to issue a public notice and convene a technical conference to discuss the matters identified in this Order within 45 days of the date of the lifting of the state of emergency and public health emergency orders issued by the Mayor; and

13. A final decision on the Office of the People's Counsel for the District of Columbia's Petition is held in abeyance.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**

³⁹ DCG Letter at 2.

⁴⁰ DCG Letter at 2.