

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF DEFINING "GOOD)
FAITH EFFORT TO MAKE PAYMENTS" FOR)
WATER, GAS, AND ELECTRIC UTILITY) PSC DOCKET NO. 16-0295
CUSTOMERS WITH CERTIFIED MEDICAL)
CONDITIONS)
(FILED MARCH 30, 2016))

ORDER NO. 8930

AND NOW, this 23rd day of August, 2016;

WHEREAS, on March 30, 2016, the Staff of the Public Service Commission ("Commission") of the State of Delaware ("Staff") filed a Petition (the "Petition") requesting that this Commission open a docket to investigate whether to promulgate regulations regarding an appropriate definition of "good faith effort to make payments" as permitted by 26 *Del. C.* § 117(d); and

WHEREAS, during 2012, the 146th General Assembly amended 26 *Del. C.* § 117(d) by passing House Bill 261, as amended by House Amendment No. 1 and Senate Amendment No. 1 ("House Bill 261"), making significant changes regarding how water, gas, and electric regulated utilities may terminate services for non-payment when provided to customers with a certified medical condition; and

WHEREAS, prior to the passage of House Bill 261, 26 *Del. C.* § 117(d) prohibited the termination of water, gas, or electric service to those customers who were properly certified by a medical professional as being so ill that termination of service would

adversely affect their health or recovery - regardless of how much they may have owed for the utility service; and

WHEREAS, House Bill 261 aimed, as noted by its Synopsis, to "clarif[y] the parameters for a utility medical certification" because the "current medical certification law is so broad that it is being used as a method of bill avoidance by numerous customers who do not need to be on the program, which is impacting all customers of the utility." House Bill 261 amended 26 *Del. C.* § 117(d) to allow a customer to renew the medical certification preventing termination after the initial 120-day period "only if a customer makes a good faith effort to make payments towards the utility service being provided"; and

WHEREAS, 26 *Del. C.* § 117(d), as amended by House Bill 261, does not define "a good faith effort to make payments," but permits the Commission to do so by promulgating regulations; and

WHEREAS, the Commission has not yet promulgated any regulations defining a "good faith effort to make payments," and in the absence of such regulations, the application of 26 *Del. C.* § 117(d) by various water, gas, and electric regulated utilities may have resulted in inconsistent treatment; and

WHEREAS, the Office of the Governor has suggested to Staff that the Commission should consider promulgating regulations defining a "good faith effort to make payments" as permitted by 26 *Del. C.* §

117(d) to prevent inconsistent treatment of water, gas, and electric utility customers with a medical certification; and

WHEREAS, the Commission approved Order No. 8873 (April 5, 2016), which opened this docket and directed Staff to investigate the current practices of Delaware water, gas, and electric regulated utilities in applying 26 *Del. C.* § 117(d) and the impact on affected customers and other stakeholders, including other ratepayers; to publish notice of the investigation; to hold two public workshops; and to solicit written comments; and

WHEREAS, Staff has investigated information regarding the current practices of Delaware water, gas, and electric regulated utilities in applying 26 *Del. C.* § 117(d) and the impact on affected customers and other stakeholders, including other ratepayers. Staff held two publicly-noticed workshops on May 12, 2016 and June 15, 2016 soliciting input from affected regulated utilities, customers, and other stakeholders. After assessing that input and surveying the practices of other jurisdictions, Staff finds that the Delaware water, gas, and electric regulated utilities are consistent in their application of the statute in requiring a payment or payment arrangement during the 120 days of certification and recommends that the Commission does not need to promulgate a regulation to define "good faith effort to make payments" at this time. A memorandum, dated August 23, 2016, to the Commission has been prepared further detailing these findings and recommendations;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That under the Commission's authority under 26 *Del. C.* §§ 117(d), 201, and 206, it has the right and responsibility to investigate the current practices of Delaware water, gas, and electric regulated utilities and to solicit input from affected customers and other stakeholders regarding the definition of a "good faith effort to make payments" in the context of procedures for termination of services for non-payment by medically certified customers. Staff has investigated those current practices.

2. That the Commission finds that the issues raised in the original Petition concerning determining an appropriate definition of "good faith effort to make payments" are important issues that were reviewed, that the Delaware water, gas, and electric regulated utilities' current collection policies are consistent and in compliance with 26 *Del. C.* § 117(d), and that the Commission need not promulgate a regulation defining "good faith effort to make payments" as permitted by 26 *Del. C.* § 117(d).

3. That this docket No. 16-0295 shall be closed and no further actions are necessary to investigate the current practices of Delaware water, gas, and electric regulated utilities regarding a definition of "good faith effort to make payments" per 26 *Del. C.* § 117(d).

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary