

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 23<sup>rd</sup> day of May 2016.

CASE NO. 16-0623-W-C	
ROBERT J. GILCHRIST	Complainant,
v.	
TIMBERLINE FOUR SEASONS UTILITIES, INC.	Defendant,

And

CASE NO. 16-0624-E-C	
ROBERT J. GILCHRIST	Complainant,
v.	
MONONGAHELA POWER COMPANY	Defendant,

And

CASE NO. 16-0659-E-C	
TIMBERLINE FOUR SEASONS RESORT MANAGEMENT COMPANY, INC.	Complainant,
v.	
MONONGAHELA POWER COMPANY	Defendant.

**COMMISSION ORDER**

The Commission grants interim relief in these cases.

**BACKGROUND**

Case Nos. 16-0623-W-C and 16-0624-E-C

On May 13, 2016, Robert J. Gilchrist (Mr. Gilchrist) filed a verified formal complaint against Timberline Four Seasons Utilities, Inc. (Timberline Utilities) and Monongahela Power Company (Mon Power). Mr. Gilchrist, who is a customer of Timberline Utilities, explained that he had been advised that Mon Power may terminate electric service to the entity operating Timberline Resort. That termination in turn would likely result in the loss of water to him and to over four hundred other water customers of Timberline Utilities. Mr. Gilchrist believes that either Herz, Herz & Reichle, Inc. (HH&R), a realty company, or Timberline Four Seasons Resort

Management Company, Inc. (Timberline Management Company) may be the customer of record on the electric account with Mon Power.

Mr. Gilchrist, in his complaint, requested that the Commission assess the validity of whether the power to Timberline Utilities can or should be terminated and, if so, whether that termination will affect the power to the water pumps, plant and tanks of Timberline Utilities. Mr. Gilchrist requested that the Commission take action to protect the customers of Timberline Utilities from losing water service.

#### Case No. 16-0659-E-C

On May 19, 2016, Timberline Management Company filed a verified formal complaint against Mon Power. Timberline Management Company acknowledged owing a past due electric bill to Mon Power, although Timberline Management Company asserted it is disputing the account balance amount of \$85,262.01 on its Mon Power electric account. Timberline Management Company explained that its cash reserves are “diminished” because of the poor ski season and bad weather. Mon Power has threatened to terminate service.

Timberline Management Company explained that it tried to reach an agreement with Mon Power to pay back the account balance on a deferred payment arrangement (DPA), but was not successful. Timberline Management Company explained that it operates a public utility company that provides water and/or sewer service to homes in the community. Timberline Management Company asserted that if its electric service is terminated, these water and sewer customers would be without service. That in turn, according to Timberline Management Company, would cause hardship and could have environmental impacts on the Blackwater River & Wildlife Area.

Because of the seasonal nature of the business, Timberline Management Company receives most of its income in the winter, and Timberline Management Company has requested that the Commission “forestall” or prevent the termination of electric service and grant Timberline Management Company a DPA that begins at the end of December 2016, to pay back the amount owed to Mon Power.

#### Combined Cases

On May 20, 2016, Commission Staff filed its Interim Relief Memorandum. In addition to recounting the events in the three cases described above, Staff noted that Canaan Valley Public Service District (Canaan Valley PSD) had filed a fourth complaint case against Timberline Utilities on May 16, 2016. That case has been docketed with the Commission as Case No. 16-0631-S-C.

In Case No. 16-0631-S-C, Canaan Valley PSD stated that Timberline Utilities is its largest customer and currently has an account balance of \$83,906.50 due and owing to Canaan Valley PSD. Among other things, Canaan Valley PSD requested that the Commission conduct an

investigation into Timberline Utilities and compel Timberline Utilities to make timely payments to Canaan Valley PSD under the terms of its tariff.

Staff made a preliminary investigation of the claim for interim relief in Case Nos. 16-0623-W-C, 16-0624-E-C, and 16-0659-E-C, and Staff determined that although Timberline Utilities has an account balance with Mon Power of approximately \$117, the pump operating the water treatment plant is on the account associated with Timberline Management Company, and that Timberline Management Company has a total account balance of \$94,901.32, with a current bill of \$8,639.31 due on June 6, 2016. Staff also reported that Mon Power had not been able to view the Timberline Management Company facilities to determine whether the resort facilities are separate from the utilities operated by Timberline Utilities.

Staff recommended that the Commission grant interim relief for the purpose of giving the parties time to assess whether the Timberline Management Company facilities are separate from the facilities of Timberline Utilities. Staff set forth specific recommendations regarding interim relief in these interconnected cases.

### DISCUSSION

In exchange for the right to operate as a monopoly within its service territory, a public utility in West Virginia is extensively regulated under the provisions of Chapter 24 of the West Virginia Code. Their rates and practices (and many of the activities that non-utility companies take for granted) are subject to extensive supervision and prior approval by the Commission. One thing however that we, as a Commission, are loath to do is to require any utility to deliver its products and services without receiving the compensation to which it is entitled to cover its cost of providing that service.

Looking at the brief recitation of facts set forth in the various complaints filed in these cases, it is difficult at this stage to see what, if anything Mon Power has done to cause or exacerbate the quandary in which Timberline Management Company and Timberline Utilities now find themselves. Frequently, we find that utilities subject to our supervision are treated as a "source of funds" by utility customers and that the money that should be paid for electric service is used for other debts (rather than to pay their just and due electric bills). While we do not know if that is the situation in these cases, the full development of this case will allow us to probe that further.

Further, we note that in these cases the Commission is being asked to take the unusual action of directing Mon Power not to terminate service to Timberline Management Company without requiring the payment of current bills. We are not willing to enter an order to that effect. We will, however, provide the Complainants and Mon Power the limited opportunity to sort quickly through the ownership of the facilities serving utility customers and to develop some sort of alternative, interim or final solution, acceptable to Mon Power, that might enable the Timberline Utilities and Timberline Management Company to secure the continuation of service.

It is unfortunate that the situation has come to this, but we simply cannot cause Mon Power, and ultimately its other customers or shareholders, to be the ones solely at risk for the inability or unwillingness of Timberline to plan for this situation. We hope that Timberline Utilities, HH&R, Timberline Management Company, or any other responsible parties, will take advantage of the respite that we are providing by this Order to rectify this situation.

### **ORDER**

IT IS THEREFORE ORDERED that Monongahela Power not terminate electric service to Timberline Utilities, provided all future current bills of Timberline Utilities are paid on time and in full.

IT IS FURTHER ORDERED that Mon Power make a written filing in these cases at least ten (10) days prior to actually terminating services to Timberline Utilities if Mon Power seeks to terminate electric service to Timberline Utilities.

IT IS FURTHER ORDERED that Timberline Management Company and Timberline Utilities immediately contact Mon Power, by calling Gary Jack, Esq. at 304-534-7409, to set a meeting between Mon Power representatives and Timberline Management Company and Timberline Utility representatives to take place no later than Friday, May 27, 2016, to jointly physically inspect the electric facilities of Timberline Management Company and Timberline Utilities to determine how service to facilities necessary for the continued operation of Timberline Utilities can be maintained in accordance with this Order, and to further discuss the possible resolution of this dispute.

IT IS FURTHER ORDERED that Monongahela Power Company not terminate electric service to Timberline Resort Management Company, Inc., pending those meetings.

IT IS FURTHER ORDERED that Timberline Management Company, Timberline Utilities and Mon Power file a verified report no later than 4:00 p.m., June 4, 2016, summarizing the findings whether electric service necessary for the continued operation of facilities of Timberline Utilities is being provided through a Timberline Management Company meter or account, and, if so, how electric service can be separately provided to facilities necessary for the continued operation of Timberline Utilities.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell  
Executive Secretary

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