

**BEFORE THE
PUBLIC SERVICE COMMISSION OF MARYLAND**

Investigation into Gas System Inspection
Issues Raised Regarding Baltimore Gas and
Electric Company

BEFORE THE PUBLIC
SERVICE COMMISSION OF
MARYLAND

CASE NO. 9791

**REQUEST FOR CLARIFICATION AND MOTION TO COMPEL OF THE
MARYLAND OFFICE OF PEOPLE’S COUNSEL**

The Office of People’s Counsel files this motion to clarify the scope of the investigation being conducted in Case No. 9791 and to compel BGE’s response to eight data requests (“DRs”) in OPC’s sixth set of DRs to Baltimore Gas and Electric Company (“BGE”). The scope of this safety-centric investigation is, and must be, properly understood to encompass BGE’s entire gas system safety inspection program. As supported by the attached affidavit from OPC’s expert, the evidence gathered so far raises significant concerns regarding BGE’s gas system safety inspection program, necessitating investigation beyond the limited scope BGE is attempting to confine the case to.

Under Commission Order No. 91643, the scope of the investigation in this case includes inquiry into both: (1) whether BGE has adequate gas system safety inspection protocols and practices, and (2) whether BGE is following those protocols and practices. Although this case originated with the malfeasance of a former BGE employee who inspected contractor work in three particular gas infrastructure programs (leak repair, corrosion control, and proactive service replacements), Order No. 91643 does not limit

the scope of the investigation to these programs. Accordingly, OPC's sixth set of DRs included questions that seek information about BGE's inspection protocols and practices for gas capital construction projects undertaken outside of these programs.

BGE, however, objected to OPC's DRs on the grounds (among others) that they seek information outside of the current scope of this investigation.¹ Despite the broad language of Order No. 91643, BGE claims that the scope of this investigation is limited to BGE's inspection protocols and practices for the company's corrosion control, leak repair, and proactive service replacement programs during the period of 2022-2024, as those are the programs and timeframe where the discredited BGE employee at the center of this investigation worked.

In this motion, OPC requests that:

1. The Chief Public Utility Law Judge ("PULJ") issue an order making clear that the current scope of this investigation encompasses all BGE gas infrastructure inspection protocols and practices and procedures, regardless of the BGE program in which they are used, and that the investigation is not limited to BGE's leak repair, corrosion control, and proactive service replacement programs;
2. The Chief PULJ also clarify that the investigation is not limited to the period 2022-2024, and that BGE should provide information going back at least 10 years, when requested;

¹ The relevant BGE responses and objections to OPC's sixth set of DRs are attached as Attachment A.

3. In the alternative, if the Chief PULJ determines that the current scope of this investigation is limited in the manner that BGE argues, the Chief PULJ should issue an order expanding the scope of the proceeding because the facts discovered in the proceeding thus far warrant such an expansion; and

4. The Chief PULJ compel BGE to answer the DRs to which the company has objected in OPC's sixth set because they are relevant and reasonably calculated to lead to evidence that is admissible in this investigation, either based on its current scope or based on an expanded scope.

BACKGROUND

On February 10, 2025, the Commission issued Order No. 91518 in Case No. 9645 requiring the Commission's Engineering Division ("PSCED") to investigate allegations raised by former BGE employees in Case No. 9645 regarding deficiencies in the company's gas system safety inspection program.² Those allegations centered on, but were not limited to, the actions of another former BGE employee whose job had been to inspect gas system construction work by contractors and whom the company had terminated in 2024 for documented failure to perform his duties.

On April 11, 2025, PSCED filed an investigation report that documented concerns related to BGE's oversight and eventual termination of the inspector, concluded that PSCED could not verify whether the physical integrity of the natural gas infrastructure

² See Petition to Intervene of Former BGE Employees, ML # 314476 (Case No. 9645, December 23, 2026).

was compromised, and recommended further investigation by the Commission, including an independent audit of BGE's adherence to its inspection procedures and protocols.³ BGE and OPC submitted comments on Staff's report,⁴ and on April 23, 2025 the Commission held a status conference to hear comments on the filings submitted.

On May 8, 2025, the Commission issued Order No. 91643, initiating Case No. 9791 for the investigation and issuance of a fact-finding report and recommendations regarding BGE's gas system safety inspection program and delegating the matter to the Chief PULJ.⁵

On May 9, 2025, the Chief PULJ issued a notice scheduling an initial conference for May 20, 2025 and stating that this proceeding will "focus on the issues raised in Staff's Investigation Report and Order No. 91643, including the safety of BGE's gas system inspection program."⁶

At the May 20, 2025 conference, the Chief PULJ and the parties discussed, among other things, how the investigation ordered by the Commission in Order No. 91643 should proceed and whether the Chief PULJ should immediately direct an independent third-party audit of BGE's gas system safety inspection protocols. The Chief PULJ stated that the focus of the first stage of the investigation should be whether the safety of BGE's

³ See Engineering Division's Investigation into the Allegations by the Former BGE Employees who Wished to Intervene in Case 9645, ML # 317951 (Case No. 9645, April 11, 2025) at 16.

⁴ See BGE Response to the Engineering Division's Investigation Report, ML # 31810 (Case No. 9645, Apr. 17, 2025) and OPC Response to Engineering Division's Investigation Report, ML # 31912 (Case No. 9645, April 22, 2025).

⁵ Order No. 91643, ML # 318712 (Case No. 9791, May 8, 2025).

⁶ Notice of Initial Conference, ML # 317736 (Case No. 9791, May 9, 2025) at 1.

gas system was compromised by the malfeasance of BGE's discredited employee,⁷ and much of the discussion revolved around the programs in which that employee worked during the supposed period of his malfeasance, i.e., 2022-24.⁸

But while BGE repeatedly sought the imposition of “some definitive guardrails on what this case is about and what it's not,”⁹ asserting that the case should focus narrowly on whether the company's gas safety inspection program “violated any federal, state, local laws, regulations, or standards,”¹⁰ the Chief PULJ declined to establish such limits. The Chief PULJ determined that at the outset of the investigation, it was critical “to understand what [BGE's] inspection and procedures and protocols are”¹¹ and to compare them to documented “industry best practices.”¹² Only after further discovery by Staff and OPC could an informed decision be made on whether a third-party audit of BGE's procedures and protocols should be conducted.¹³ Pending such discovery, “we don't know what we're looking for,” the Chief PULJ stated.¹⁴

Consistent with this reasoning, the Chief PULJ issued a Notice of Procedural Schedule on May 21, 2025 authorizing Staff and OPC to conduct broad discovery concerning BGE's gas system inspection protocols, stating that “[t]he initial stage of this proceeding will focus solely on safety, and all information requests must be related to

⁷ See Transcript of May 20, 2025 conference at 16:13-17.

⁸ See Tr. at 23-24, 29, 33.

⁹ Tr. at 46:10-12.

¹⁰ Tr. at 45:23-46-3.

¹¹ Tr. at 49:17-20.

¹² Tr. at 34-21.

¹³ See Tr. at 49:17-20, 56:9-11.

¹⁴ Tr. at 56:11.

BGE’s gas system safety inspection program.”¹⁵ The goal of discovery was to ensure that “BGE’s inspection procedures/protocols are thoroughly understood.”¹⁶ The notice did not limit discovery to particular BGE gas infrastructure programs or a specific date range.

Since the issuance of the May 21, 2025 notice,¹⁷ OPC and Staff have served numerous data requests on BGE. In addition, pursuant to a supplemental Notice of Procedure issued by the Chief PULJ on August 25, 2025,¹⁸ OPC and Staff have filed bimonthly discovery status updates. On August 6, 2025, Judge Lawrence filed an interim report to Commission summarizing the history of the investigation as of that date and characterizing it as an “investigation into whether BGE has proper internal policies concerning the inspection of gas system infrastructure and whether the company is following those policies.”¹⁹

On February 10, 2026 OPC served its sixth set of DRs on BGE. On February 13, 2026 BGE notified OPC that it objected to the following DRs, primarily on the grounds that they sought information outside the subject scope or time scope of the case²⁰:

- **OPCDR06-01.** BGE’s response to OPCDR05-11 notes that there were no failed pipe fusions for the category of work at issue in this case over the past 5 years. We understand that the company uses the same field oversight process for all natural gas construction activities; therefore, in order to review the effectiveness of the oversight process, we request the following:
 - a. How many failed fusion welds did BGE experience on the system as a whole in the past 5 years?

¹⁵ Public Utility Law Judge’s Notice of Procedural Schedule, ML # 319039 (Case No. 9791, May 21, 2025) at 7.

¹⁶ *Id.*

¹⁷ The Notice also included a series of bench data requests. *See id.* at 3-6.

¹⁸ Notice of Procedure, ML # 321826 (Case No. 9791, August 25, 2025).

¹⁹ Public Utility Law Judge’s Initial Report, ML # 321068 (Case No. 9791, August 6, 2025) at 19, 21.

²⁰ *See* February 13, 2026 email from BGE counsel to OPC counsel attached as Attachment B to this motion.

- b. Please provide a list of all failed leak tests over the past 5 years that required a second pressure test after rework.
- **OPCDR06-02.** Please provide BGE’s full Organizational Chart, including all Operational Departments such as Operations, Engineering, Quality Control, Environmental, Safety, Compliance, Permitting, Mapping (GIS), and support groups. Include management levels, process leads, staff augmentation personnel, contractors, and consultants.
 - **OPCDR06-03.** Please provide a process flowchart for capital construction projects that illustrates the sequence of capitalized work, from start (initiation of work order) to finish (work completed through asset recordkeeping). For each step, specify the department, associated work systems utilized in each process, title of the individuals responsible for completing it (including any third-party services or contractors), and the BGE management level oversight involved at each task.
 - **OPCDR06-11.** BGE’s response to AMCDR03-16.D states that BGE’s random inspection method is a longstanding practice of BGE. What percentage of BGE’s capital improvement program utilizes the random inspection method vs on-site inspectors?
 - **OPCDR06-12.** During BGE’s capital improvement work, who within BGE oversees environmental concerns? Do they complete spot checks as well, or do the UG Inspectors all have the environmental certifications and OQ’s to perform random inspections?

On February 20, 2026 BGE provided responses to OPC’s sixth set of DRs. In addition to maintaining the company’s objections to the DRs identified above, BGE’s responses also included explicit or implicit objections to the following DRs:

- **OPCDR06-04.** With respect to Mastec’s role in BGE’s capital construction work, which the company discussed in response to AMCDR01-02, please respond to the following questions:
 - a. Per BGE’s response to AMCDR-01-2, Mastec initiates the original work orders in Asset Suite 8 and sends them directly to the contractors for execution. Who provides Mastec the direction and authority to perform this function?
 - b. How does BGE monitor or supervise Mastec to ensure the scope of assets they assign contractors to work on remains within the intended scope?

- c. Where does Mastec send the permit applications they initiate?
 - d. Does Mastec perform this work for all capital maintenance work? If not, identify what capital work is excluded.²¹
- **OPCDR06-05.** BGE states in CIR-1-3.a, Attachment 2: “Generally, BGE’s inspection procedures are meant to hold contractors accountable and ensure that contractors satisfy their contractual obligations. BGE inspectors do not directly ensure the safety of BGE’s gas system because they are not responsible for performing any work on BGE’s gas system, and they are not responsible for performing any testing of BGE’s gas system. Those responsibilities belong to BGE’s contractors.”
- ...
- b. At what specific stages or points does BGE provide physical oversight of its capital construction projects and the integrity of the work on those projects, outside of establishing contracts with the contractors?²²
- **OPCDR06-10.** With reference to BGE’s construction process procedures as identified in the flowchart of OPCDR06-03, please provide answers to the following questions.
- ...
- c. At what point in the process are materials and labor charges assigned to a work order? In your response, please identify who has the responsibility to complete the work order charges.²³

OPC and BGE met and conferred twice to discuss BGE’s objections, first on February 19, 2026, following BGE’s notice of objections, and again on March 10, 2026, following BGE’s responses. Those discussions revealed that OPC and BGE have a

²¹ Although BGE did not formally object to OPCDR06-04, the company limited its responses to “the categories of work at issue in this case,” i.e., the corrosion control, leak repair, and pro-active service renewal programs. *See* Attachment A at 4.

²² BGE objected to OPCDR06-05 to “the extent it seeks information that is outside of the scope of this proceeding. The work at issue in this case does not constitute capital construction projects. Instead, it consists of programmatic maintenance work. BGE has provided a comprehensive explanation of the Company’s contractor oversight process in BGE’s response to CIR1-3.a.i.” Attachment A at 5.

²³ BGE objected to OPCDR06-10 “on the grounds that it seeks information that is outside the scope of this proceeding.” BGE also objected to subpart (b) of this data request but provided a response subject to the objection. *See* Attachment A at 6.

fundamental disagreement about the current scope of this investigation. OPC believes that the scope of the investigation encompasses BGE’s entire gas system safety inspection program, while BGE believes that the scope is limited to BGE’s corrosion control, leak repair, and proactive service replacement programs, and temporally to the 2022-24 timeframe.

ARGUMENT

I. The scope of this investigation is properly understood to encompass all of BGE’s gas system safety inspection protocols and practices.

In Order No. 91643, the Commission initiated this docket “for investigation and issuance of a fact-finding report and recommendations regarding [BGE’s] gas system safety inspection program,”²⁴ stated that the Chief PULJ’s initial and final reports should address “all material issues,”²⁵ and directed that this proceeding should focus “on the issues raised in Staff’s Investigation Report and [Order No. 91643], including the safety of BGE’s gas system inspection program.”²⁶ The Chief PULJ’s initial report to the Commission reiterated that this proceeding is focused on “the issues raised in Staff’s Investigation Report and Order No. 91643, including the safety of BGE’s gas system inspection program.”²⁷ When discussing the prospective schedule in the initial report, the Chief PULJ further characterized this proceeding as an “investigation into whether BGE has proper internal policies concerning the inspection of gas system infrastructure and

²⁴ Order No. 91643 at 1.

²⁵ Order No. 91643 at 6.

²⁶ Order No. 91643 at 7.

²⁷ PULJ’s Initial Report at 1.

whether the company is following those policies . . .”²⁸ Thus, the focus of this proceeding is, and always has been, the adequacy of BGE’s protocols and practices for the inspection of its gas system, not just the actions of the discredited employee whose malfeasance was the impetus for the proceeding.

BGE objects to OPC DRs 6-1, 6-2, 6-3, 6-4,²⁹ 6-5(b), 6-10(c), 6-11, and 6-12 as outside the scope of this proceeding³⁰ on the grounds that they seek information regarding capital work conducted outside of BGE’s corrosion control, leak repair, and proactive service renewal programs.³¹ BGE argues that inquiries concerning its inspection protocols and practices should be limited to these programs because its discredited former employee was involved only in these programs during the period of his malfeasance. During discussions with OPC, BGE suggested that various statements made by the Chief PULJ during the May 20, 2025 initial conference support this argument. These include statements that mention the corrosion leak, proactive service renewal program and the years of 2022 through 2024, during which the discredited

²⁸ PULJ’s Initial Report at 21.

²⁹ As footnote 21 explains, BGE did not formally object to OPCDR06-04, but declined to answer the question as stated.

³⁰ BGE also objects to OPCDR06-02 and OPCDR06-03 on the grounds that these requests are not reasonably calculated to lead to the discovery of admissible evidence and seek documents that are not within the Company’s possession, custody, or control. *See* Attachment A at 2-3. To the extent that OPC’s requests are found to be within the scope of this investigation, they are calculated to lead to admissible evidence because they seek information (respectively, a full BGE organizational chart and a process flowchart for capital construction projects) that will show where safety inspectors and the work they perform fit within the company’s structure and operations. To the extent that BGE does not have possession, custody, or control of certain information, OPC does not expect BGE to provide that information.

³¹ OPC understands “capital work” to refer to work that would be capitalized within the context of a rate case.

employee was employed at the company.³² But none of these statements demonstrate an intent to limit the scope of this investigation, as BGE now suggests. In fact, the Chief PULJ’s May 21, 2025 Notice of Procedural Schedule emphasized the “safety-centric” focus of this investigation without limiting discovery to the specific programs and timespan suggested by BGE.³³

BGE’s attempt to limit the scope of discovery to information related to corrosion control, leak repair, and proactive service replacement programs and the years when its discredited employee worked on those programs is inconsistent with the safety-centric focus of this investigation. Since ensuring system safety is the focus of this investigation—as Order No. 91643 and the Chief PULJ’s Notice of Procedural Schedule and Initial Report emphasize—the Chief PULJ should compel BGE to respond to OPC’s data requests and issue a proposed order clarifying that the scope of this investigation already encompasses BGE’s gas system infrastructure inspection practices across the company’s entire range of programs. The Chief PULJ’s order should also clarify that BGE should provide information going back at least 10 years, when requested.

II. The evidence gathered in this investigation so far raises significant concerns with BGE’s gas infrastructure inspection protocols, and warrants expanding the scope of this proceeding to include all of BGE’s gas infrastructure programs.

Whatever determination the Chief PULJ may make concerning the current scope of this investigation, the facts that have been discovered to date raise significant concerns

³² Tr. at 15:11-13, 23:2-20; 24:15-16; 29:11-19; 33:9-12.

³³ Public Utility Law Judge’s Notice of Procedural Schedule, ML # 319039 (Case No. 9791, May 21, 2025) at 7.

with BGE's gas infrastructure inspection program, warranting broad examination of all of BGE's gas inspection practices, not just BGE's practices in the corrosion control, leak repair, and proactive service replacement programs.

OPC's Attachment C to the instant motion is an affidavit from William McAleb, an expert consultant to OPC in this case. In the affidavit, Mr. McAleb states that while BGE appears to have robust standards and expectations for contractors who perform construction work on its gas system, the company's oversight of contractors is inadequate—at least in the corrosion control, leak repair, and proactive service replacement programs, to which BGE has limited the scope of its responses to date.³⁴

Mr. McAleb observes that rather than employ qualified, full-time third-party independent inspectors or company staff to supervise third-party construction firms, BGE allows those contractors to inspect their own work while conducting spot-checks to ensure contract compliance.³⁵ Consequently, BGE's contractor oversight consists primarily of reviewing paperwork or post-work reports instead of physically verifying the work before burial.³⁶

In his more than 45 years of experience related to pipeline, utility, and process pressure piping, Mr. McAleb has never known any pipeline owner or operator to play as limited an on-the-ground role in inspecting the work of construction contractors as BGE plays.³⁷ In his opinion, BGE's approach presents a significant risk of an accident and it is

³⁴ McAleb Affidavit at ¶ 11.

³⁵ *Id.* at ¶ 10(e), 13.

³⁶ *Id.* at ¶ 10(e), 13.

³⁷ *Id.* at ¶ 12.

critical to determine whether BGE is using the same approach on its larger, more complex pipeline projects.³⁸ Due to BGE's refusal to answer questions beyond the limited scope the company envisions, it is currently unclear whether BGE relies on contractor self-inspection throughout its gas infrastructure programs, or only in the corrosion control, leak repair, and proactive service replacement programs.

If the Chief PULJ determines that the scope of this investigation is currently limited to BGE's inspection policies and practices concerning the corrosion control, leak repair, and proactive service replacement programs during the 2022-2024 timeframe, these facts warrant expanding the scope of this proceeding to permit discovery regarding inspection practices throughout BGE's gas infrastructure programs. This is necessary to fully understand BGE's gas inspection protocols and practices.

CONCLUSION

As detailed in this motion and the affidavit of William McAleb, BGE's gas infrastructure inspection protocols and practices raise significant concerns and must be fully examined and understood. The Chief PULJ should issue an order clarifying that the scope of this investigation encompasses all of BGE's gas infrastructure inspection protocols and practices, or in the alternative expand the scope of the investigation to encompass them. For the same reasons, the Chief PULJ should clarify that the scope of this investigation is not limited to the 2022-24 time period and direct BGE to provide information going back at least 10 years, when it is requested. Finally, the Chief PULJ

³⁸ *Id.* at ¶ 15

should require BGE to respond to OPC's discovery requests, as they are within the scope of this case and reasonably calculated to lead to admissible evidence.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of March, 2026, the foregoing Request for Clarification and Motion to Compel of the Maryland Office of People's Counsel was e-mailed to all parties of record in this proceeding.

/electronic signature/

Pauline Rasis

Assistant People's Counsel