BEFORE THE
PUBLIC SERVICE COMMISSION OF MARYLAND

Baltimore Gas and Electric Company's Application for an Electric and Gas Multi-Year Plan	CASE NO. 9692

OFFICE OF PEOPLE'S COUNSEL COMMENTS ON BGE'S RATE YEAR 2 ANNUAL INFORMATION FILING

The Commission should adjust Baltimore Gas and Electric Company's ("BGE") gas rates by directing BGE to refund to customers the $28.0 million gas overcollection reported in the company's Rate Year 2 Annual Informational Filing ("AIF").[1] As set forth in Order No. 89482—which establishes the Commission's MRP framework—the Commission may adjust rates where a party, after reviewing a utility's AIF, demonstrates a "significant disparity in revenues or expenses to the detriment of ratepayers."[2] BGE's $28.0 million gas overcollection is such a disparity.[3] The Commission's ability to grant such relief is not impacted by PUA § 4-213's restrictions on certain utility filings for reconciliation.

OPC should not have to litigate this matter. OPC requested that BGE voluntarily refund the amount overcollected back to its customers, as is allowed by PUA § 4-213(c).

[1] Baltimore Gas & Electric Company, 2025 Annual Informational Filing and Operation Pipeline Project Completion and Cost Variance Reports ("BGE RY 2 AIF"), ML# 328517 (Case No. 9692, March 31, 2026).
[2] Order Establishing Multi-Year Rate Plan Pilot, Order No. 89482 at 4, 38, *In the Matter of Alternative Rate Plans or Methodologies to Establish New Base Rates for an Electric Company or Gas Company* (Case No. 9618, Feb. 4, 2020).
[3] OPC is not requesting any Commission action regarding BGE's $34.1 million electric undercollection.

BGE declined.[4] PUA § 4-213 only limits utility-filed reconciliations. PUA § 4-213(c) does not restrict OPC from requesting, and the Commission from requiring, the reconciliation and refund of the amount BGE over collected. Accordingly, OPC is exercising its right under Order No. 89482 to request that the Commission adjust BGE's rates and return the $28 million BGE over collected, plus carrying costs, back to its gas customers. If the Commission does not take action, BGE will retain millions of dollars it is not entitled to keep.

BACKGROUND

BGE's Rate Year 2 AIF details the company's gas and electric MRP performance for the year ending on December 31, 2025. The AIF includes a comparison between the company's actual 2025 electric and gas distribution rate base and operating income and the projected 2025 amounts approved in Oder No. 90948. Since Order No. 90948, BGE's AIF also is required to include certain annual reports about the company's gas infrastructure replacement work, including project completion and cost variances, previously provided in compliance with the Strategic Infrastructure Development and Enhancement ("STRIDE") law.[5]

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[4] The email exchange between OPC and BGE counsel regarding OPC's refund request is provided as Attachment 1.

[5] Order No. 90948 at 130, n. 564 (Case No. 9692, Dec. 14, 2023); *see* Md. Code Ann., Pub. Util. Art. ("PUA") § 4-210 (the STRIDE law).

1. BGE undercollected its electric revenue requirement and overcollected its gas revenue requirement.

For electric distribution, BGE's Rate Year 2 AIF reports an undercollection of $34.1 million. This undercollection is mainly due to a rate base amount that exceeded its forecasts. The company attributes its increased rate base to higher-than-forecasted plant in service, accumulated depreciation and amortization, inclusion of the net operating loss carryforward adjustment, and increased major storm activity.[6] Indeed, BGE notes that its plant additions for 2025 were $121.3 million higher than forecasted.[7] Moreover, BGE reports a 13 percent increase in capital expenditures relative to BGE's 2025 budget, reflecting, among other things, higher volumes of emergent corrective maintenance work and increased new business requests.[8]

For gas, BGE's Rate Year 2 AIF reports an overcollection of $28.0 million. This overcollection reflects operating income 8.6 percent greater than the company's required revenues. BGE states that its overcollection is the result of reduced gas plant placed in service relative to 2025 projections, and gas operating income that is higher than expected mainly due to lower O&M expenses resulting from fewer leaks than anticipated.[9] BGE reports that actual gas capital expenditures were 5.1 percent lower than budgeted expenditures, driven by "lower volumes of new business requests, decreases in gas corrective maintenance work, and permitting delays on certain gas system

[6] BGE Rate Year 2 AIF at 2.
[7] *Id.*, Attachment 2-E (line 1).
[8] *Id.* at 2–3.
[9] *Id.* at 2.

reinforcement projects."[10] BGE's actual gas O&M for 2025 is 6.1 percent lower than budgeted.[11]

2. Order No. 89482 enables the Commission to order customer refunds when a utility over earns its MRP revenue requirement.

The Commission's procedures for reviewing utility AIFs establish an opportunity for immediate customer relief in the event a utility collects more than its authorized revenue requirement. As set forth in Order No. 89482, after a party demonstrates a "significant disparity between revenues and expenses to the detriment of ratepayers, the Commission may hold a hearing to determine whether an adjustment to the utility's revenue requirement and/or rates is appropriate."[12]

The Commission has exercised this authority in two prior instances. First, the Commission directed Delmarva Power & Light Company ("DPL") to return approximately $8.0 million to customers based on the results of DPL's Rate Year 1 AIF.[13] In that AIF, DPL reported operating income 8.57 percent greater than the company's required revenues.[14] The amount the company returned reflected $7.3 million in excess revenues and $0.7 million in carrying costs.[15] Second, the Commission directed DPL to return an $800,000 over collection to customers identified in DPL's Rate Year 2 AIF.[16]

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[10] *Id.* at 3.
[11] *Id.* at 3.
[12] Order No. 89482 at 4 and 38.
[13] Letter order dated July 24, 2024, ML# 311086 (Case No. 9861).
[14] Delmarva Power & Light Co., Replacement Annual Information Filing ("DPL Rate Year 1 AIF") at 1, ML# 309316 (Case No. 9681, April 29, 2024).
[15] *Id.*, Appendix 1, Schedules 6.
[16] Letter order dated May 28, 2025; Delmarva Power & Light Co., Rate Year 2 Annual Information Filing ("DPL Rate Year 2 AIF") ML# 317355 (Case No. 9681, April 1, 2025).

DPL's Rate Year 2 AIF reported operating income 0.3 percent greater than the company's required revenue.[17]

3. The Commission has yet to rule on whether PUA § 4-213 prohibits the return of an MRP revenue requirement over-collection based on an AIF.

In 2025, the General Assembly enacted section 4-213 as part of the Next Generation Energy Act ("NGEA").[18] As initially enacted, the section prohibited utilities from filing "for a reconciliation of cost or revenue variances of the approved revenue component used by the Commission to establish the multi-year rates."[19] BGE and DPL previously invoked PUA § 4-213 as prohibiting the Commission from requiring utilities to refund an overcollection identified in an AIF.[20] OPC disagreed, and the Commission has not endorsed that theory.[21]

The enactment of the NGEA coincided with the review of BGE and DPL's AIFs for the year ending on December 31, 2024 (Rate Year 1 for BGE and Rate Year 2 for DPL). DPL's AIF reported a $757,000 overcollection.[22] BGE AIF reported a $27.9 million undercollection for electric distribution and a $458,000 undercollection for gas distribution.[23] However, both BGE and DPL's AIFs reflected an adjustment to the

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[17] DPL Rate Year 2 AIF at 1.
[18] 2025 Md. Laws, Ch. 625 (codified at PUA § 4-213).
[19] PUA § 4-213(b), (c).
[20] *See* Maryland Exelon Utilities, Response to OPC's Comments on 2024 AIFs at 7–8, ML# 319456 (Case Nos. 9681/9692, June 6, 2025) ("It is a patently wrong interpretation that the Commission can direct a utility to submit a filing to the Commission when it is prohibited by law from doing so.").
[21] *See* Order No. 91768 at 10–11 (Case No. 9692/9681, Aug. 5, 2025).
[22] Delmarva Power & Light Company Rate Year 2 Annual Information Filing, Schedule 1, ML# 317355 (Case No. 9681, April 1, 2025).
[23] Baltimore Gas and Electric Company 2024 Annual Informational Filing, ML# 317299 (Case No. 9692, March 31, 2025).

accounting treatment for net operating loss carryforwards ("NOLC") that substantially increased rate base. OPC challenged that adjustment as premature.[24] Removing the NOLC adjustment increased the amount of DPL's overcollection and, for BGE, changed the reported gas undercollection into an $6.4 million overcollection.[25] In accordance with Order No. 89482, OPC requested the Commission direct BGE and DPL to return the overcollection to customers. Staff, BGE, and DPL each opposed OPC's request arguing, in relevant part, that the NGEA's restrictions on *utility* filings for reconciliation precluded the Commission from ordering a utility to return a revenue requirement over collection to its customers.

The Commission's rulings on BGE and DPL's 2024 AIFs did not address whether the NGEA precluded customer refunds based on an AIF. For both utilities, the Commission held in abeyance the dispute over the NOLC adjustment that resulted in the overcollection.[26] For DPL, the Commission issued a letter order prior to the NGEA's effective date directing the company to refund customers the overcollection identified in the company's AIF.[27]

4. The Utility RELIEF Act's amendments to section 4-213 allow for utilities to reconcile revenue requirement overcollections.

In 2026, the General Assembly amended section 4-213 through the Utility

[24] *See* Office of People's Counsel Comments on Baltimore Gas and Electric Company's Rate Year 1 Annual Information Filing, ML# 319207 (Case No. 9692, May 28, 2025); Office of People's Counsel Comments on Delmarva Power & Light Company's Rate Year 2 Annual Information Filing, ML# 319206 (Case No. 9681, May 28, 2025).
[25] Office of People's Counsel Comments on Baltimore Gas and Electric Company's Rate Year 1 Annual Information Filing, ML# 319207 (Case No. 9692, May 28, 2025).
[26] Order No. 91768 at 10–11 (Case Nos. 9681/9692, Aug. 5, 2025).
[27] Letter order dated May 28, 2025.

RELIEF Act in three significant ways.[28] First, for reconciliations of existing MRPs filed after January 1, 2025, the Act limits the prohibition on utility reconciliation filings to those "that would result in additional charges to customers due to the public service company spending more than the approved revenue component used by the Commission to establish the multiyear rates."[29] Second, the Act prohibits the Commission from approving any new MRPs that allow a utility to file a reconciliation that would result in additional charges to customers.[30] Third, the Act authorizes the Commission to *require* that new MRPs—filed after January 1, 2026—include a mechanism to refund customers any difference between the authorized revenue requirement and the actual revenues.

* * *

Given the substantial overcollection reported in BGE's Rate Year 2 gas AIF, the Commission must now decide whether PUA § 4-213 enables it to refund customers for the amount the company overcollected.

ARGUMENT

There is no dispute that BGE's Rate Year 2 AIF presents a "significant disparity between revenues and expenses to the detriment of ratepayers."[31] BGE's Rate Year 2 AIF identifies a $28.0 million overcollection of its gas revenue requirement. On a percentage basis, this overcollection is roughly equal to DPL's Rate Year 1 overcollection DPL and far greater than DPL's Rate Year 2 overcollection, both of which the Commission directed

[28] 2026 Md. Laws, Ch. 356
[29] PUA § 4-213(c).
[30] PUA § 4-213(b).
[31] Order No. 89482 at 4, 38

DPL to return to customers.[32] Accordingly, the issue raised by these comments is whether the Commission can direct BGE to refund gas customers the amount the utility overcollected under PUA § 4-213, as enacted in the NGEA and amended by the Utility RELIEF Act.[33]

I. PUA § 4-213 does not prohibit the Commission from requiring utilities to refund overcollections identified in an annual information filing.

Section 4-213 did not abrogate the AIF requirement set forth in Order No. 89482 and does not preclude the Commission from directing a utility to refund an overcollection upon a non-utility party's request. An AIF is not a filing for reconciliation within the meaning of PUA § 4-213 and, therefore, is not subject to any of the statute's restrictions on utility filings for reconciliation. Even if AIFs were considered filings for reconciliation, the provisions of section 4-213(c) applicable to existing MRPs contains no language limiting the actions the Commission may take—either *sua sponte* or upon the request of a non-utility party—in light of a revenue disparity demonstrated in an AIF. Rather, the language in section 4-213(c) limits only *what the utility may file*. Moreover, amendments to section 4-213(c), effective as of May 12, 2026, set forth in the Utility RELIEF Act only prohibit reconciliation filings that result in additional charges to

[32] BGE Rate Year 2 AIF at 1.
[33] OPC notes that BGE's Rate Year 2 AIF includes the same NOLC adjustment included in the Rate Year 1 AIF. While OPC continues to oppose the inclusion of this adjustment, OPC recognizes that, with respect to BGE's Annual Informational Filings, the Commission is holding this issue in abeyance until BGE receives a ruling from the Internal Revenue Service on its accounting practices for NOLCs. *See* Order No. 91768 at 10–11 (Case Nos. 9681/9692, Aug. 5, 2025).

customers. In short, section 4-213 has never restricted the Commission's ability to require BGE return the money it overcollected from its customers.

A. Section 4-213's limitation on reconciliation filings does not apply to OPC's requested relief because BGE's AIF is not a utility-filed reconciliation.

When addressing issues of statutory interpretation, this Commission follows the guidance of the State's courts and the "cardinal rule" that the purpose of statutory interpretation "is to ascertain and effectuate the intent of the Legislature."[34] In section 4-213, the legislature intended to establish restrictions on utility filings for reconciliations. Indeed, apart from the multi-year rate plan itself, the only filing referenced in section 4-213(c) is a "reconciliation of cost or revenue variances" filed by a public service company.

Thus, for the Commission to read section 4-213 as applying to an AIF, the Commission would have to treat the AIF itself as a filing for reconciliation.
But AIFs are not filings for reconciliation. Order No. 89482, which established the framework of the Commission's MRP construct, makes this clear.[35] There, the Commission described the AIF as an informational filing "that explains the differences between a utility's MRP forecasted projections for the annual period and what the utility actually spent and collected in that year."[36] Indeed, the Commission intended AIFs to be

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[34] Order No. 87835 at 12 (Case Noss 9387/9392, Oct. 21, 2026).
[35] Order No. 89482 at 1–2 (Case No. 9618, Feb. 4, 2020) ("This Order establishes a framework for a pilot program for the Maryland utility that is first to file an MRP application to serve as a "Pilot Utility" pursuant to the specific instructions in this Order."). BGE is the Pilot Utility. Order No. 89678 at 3 (Case No. 9645, Dec. 16, 2020) ("The Application was submitted by BGE as the Pilot Utility under the MRP Pilot Order.").
[36] Order No. 89482 at 4.

made "*in lieu of* an annual reconciliation."[37] Separately, the Commission established two different reconciliation filings: the "consolidated reconciliation" of Rate Years 1 and 2 as part of the base rate case the utility must file "at least 210 days prior to the end of the . . . MRP," and a "final reconciliation" made "[w]ithin 120 days after the end of the . . . MRP."[38] While AIFs may provide information later used in a reconciliation filing,[39] the AIF is separate and distinct from any filing for reconciliation a utility is required to make.

The distinction between AIFs and reconciliation filings is important. As noted above, section 4-213(c) only limits a utility filing "for a reconciliation of cost or revenue variances." An AIF does not request recovery of a variance, does not seek to impose a surcharge, and does not itself reconcile rates. Rather, it provides the information necessary for the Commission, Staff, OPC, and other parties to evaluate whether the MRP produced a material disparity between approved rates and actual costs or revenues. BGE appears to agree with this distinction. The company states that its filing "no longer serves *as the basis* for any reconciliation amounts," implicitly conceding that the AIF merely provides *information* for use in a reconciliation that may occur in the future, rather than effectuating a reconciliation itself.[40]

The existence of a separate process for adjusting rates based on an AIF further distinguishes such filings from the reconciliation filings subject to section 4-213. Order No. 89482 establishes a separate AIF review process that allows a party to show a

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[37] *Id.* at 3-4 (emphasis added).
[38] *Id.* at 4–5.
[39] *Id.* at 37.
[40] BGE Rate Year 2 AIF at 1.

"significant disparity between revenues and expenses to the detriment of ratepayers" and allows the Commission to determine whether a rate adjustment is appropriate.[41] There would be no need for a separate and distinct opportunity to adjust a utility's rates based on an AIF if the process for requesting the adjustment was intended to be part of a broader reconciliation mechanism. BGE may claim that the enactment of section 4-213 rendered Order No. 89482's "reconciliation regime" unlawful.[42] But the fact that BGE continues to comply with the AIF requirement further demonstrates that the AIF requirement is distinct from the reconciliation procedures governed by section 4-213.

AIFs cannot be considered filings for reconciliation under any reasonable interpretation of PUA § 4-213 and are therefore not subject to any of the restrictions on reconciliations set forth therein.

B. Even if section 4-213 applies, the Commission is not restricted from requiring a utility to refund an overcollection upon a non-utility party's request.

Assuming *arguendo* that the Commission must consider section 4-213 when considering OPC's request, both the version of 4-213 effective when BGE submitted its AIF and the version amended by the Utility RELEF Act allow the Commission to grant OPC's requested relief. As a threshold matter, OPC's request for a rate adjustment is governed by the version of section 4-213(c) amended by the Utility RELIEF Act. BGE may have filed its AIF before the amendments became effective, but OPC submits this request for a rate adjustment *after* the amendments' effective date, as would be any BGE

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[41] Order No. 89482 at 4 ¶ 6.
[42] Attachment 1 (email to OPC counsel dated July 17, 2026).

filing required by the Commission to affect the refund. Thus, in this case, application of the amended section 4-213(c) is prospective and not retroactive.[43]

1. As originally enacted, section 4-213 does not restrict OPC from requesting, or the Commission from requiring, the refund of an MRP overcollection.

The plain language of section 4-213(c) does not prohibit the Commission from ordering the relief that OPC requests. First, section 4-213 applies to "a public service company that is an electric company, gas company, or combination gas and electric company."[44] Non-utility parties are not mentioned, nor are they bound by, this section of the statute. Second, section 4-213(c) refers only to *utility* filings for reconciliation; not filings made by Staff, OPC, or other intervenors. When interpreting and applying section 4-213, the Commission must adhere to the plain language of the statute. The Commission should "neither add nor delete words to a clear and unambiguous statute to give it a meaning not reflected by the words that the General Assembly used or engage in forced or subtle interpretation in an attempt to extend or limit the statute's meaning."[45] No language in section 4-213(c) restricts Staff, OPC, or other stakeholders from requesting

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[43] *Allstate Ins. Co. v. Kim*, 376 Md. 276, 289–90 (2003) (noting that a statute "applied only in legal proceedings subsequent to its effective date" is applied prospectively and that a statute "applied so as to determine the legal significance of acts or events that occurred prior to its effective date" is applied retroactively). Likewise, BGE could have voluntarily requested to reconcile its overcollection through a filing submitted after the amendments went into effect. *See* Attachment 1 (OPC email to BGE counsel dated July 24, 2026).

[44] PUA § 4-213(a).

[45] *Bottini v. Dep't of Fin.*, 450 Md. 177, 188 (2016) (quoting *Wagner v. State*, 445 Md. 404, 417-19 (2015)). *See also Md. Office of People's Counsel v. Md. Pub. Serv. Comm'n*, 246 Md. App. 388, 401 (2020) (judicial review of Commission's statutory interpretation is de novo albeit with "heightened deference").

any form of reconciliation, including a refund of an overcollection identified in a utility's AIF.

Section 4-213 also makes no reference to any action the Commission could take upon receiving a request for a reconciliation from a non-utility party. Had the General Assembly intended to prohibit *the Commission* from approving any form of reconciliation, it could have easily done so.[46] Yet, the text demonstrates an intent to impose limits on what *utilities* operating under MRPs may request. Indeed, section 4-213 addresses three actions, none of which involve the approval of a reconciliation requested by a non-utility party: the Commission's approval of new MRPs that allow utilities to file for reconciliation;[47] *utility* filings for reconciliation made after January 1, 2025;[48] and the Commission's authority to require utilities to include a reconciliation mechanism in MRPs approved after January 1, 2026.[49]

BGE may ask the Commission to extend section 4-213's restriction on reconciliation requests to non-utility parties. But doing so requires the Commission to read language into the statute that does not exist, thereby changing the statute's plain meaning, which the Commission cannot do.[50]

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[46] *E.g.,* PUA § 7-505(4)(ii) ("The Commission may not approve a request for an increase that is based on a forecast test year in a base rate proceeding . . . ").
[47] PUA § 4-213(b).
[48] PUA § 4-213(c).
[49] PUA § 4-213(d).
[50] *Lockshin v. Semsker*, 412 Md. 257, 275 (2010) ("The cardinal rule of statutory instruction is to ascertain and effectual the real and actual intent of the Legislature. . . . A court's primary goal in interpreting statutory language is to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by the statutory provision under scrutiny.") (internal citations omitted).

2. The Utility RELIEF Act clarifies the State's policy that customers should be refunded when a utility overcollects its MRP revenue requirement.

The Utility RELIEF Act cuts short any remaining argument that section 4-213 protects utility windfalls. Indeed, the Act's amendments to section 4-213 establish a State policy favoring refunds of MRP overcollections. In response to arguments that the original version of section 4-213 precluded all forms of reconciliation—including those returning overcollections to customers[51]—the General Assembly amended the statute to clarify that the statutory restriction on reconciliations is intended to prevent utilities from recovering *additional* revenues above the authorized revenue requirement. The Act amended section 4-213(c) to allow for reconciliation filings relating to existing MRPs submitted after January 1, 2025, and to new MRPs, "if the reconciliation would not result in additional charges to customers."[52] And the Act also allows the Commission to require reconciliation mechanisms for new MRPs if the mechanisms would not result in additional charges to customers above "the approved revenue component used to establish just and reasonable rates."[53]

The Utility RELIEF Act's amendments, therefore, establish conclusively that utilities operating under MRPs are not entitled to retain revenues recovered in excess of the company's authorized revenue requirement. The Commission cannot read section 4-213 to produce the opposite result of preventing customers from receiving the benefit

[51] *See*, *e.g.,* Maryland Exelon Utilities, Response to OPC's Comments on 2024 AIFs at 7–8, ML# 319456 (Case Nos. 9681/9692, June 6, 2025).
[52] 2026 Md. Laws, Ch. 353 (codified at PUA § 4-213(b)(2), (c)).
[53] 2026 Md. Laws, Ch. 353 (codified at PUA § 4-213(d)).

of a utility overcollection. Stretching the meaning of the statute to prevent refunds would be especially unjustified because it is also well-established that statutory limitations of remedial relief must be narrowly construed.[54] The amendments to section 4-213(c) clearly allow for a remedial process when a utility overcollects its authorized revenue requirement—as was established in Order No. 89482.[55]

* * *

Section 4-213 is unambiguous in its reach, scope, and intent. It applies only to public utilities, limits the type of reconciliation filings public utilities operating under MRPs may make, and critically, intends to prohibit utilities from recovering *additional* revenues above the authorized revenue requirement. No language in section 4-213 addresses or constrains the Commission's authority to order a utility—upon the request of a non-utility party—to return a revenue requirement overcollection identified in an AIF to customers. Nor does any language in section 4-213 speak to the ability of non-utility parties to request the Commission issue such an order. That is what the law explicitly says and does. Any reading otherwise inserts language into the statute that does not exist, thereby divorcing the statute from its plain meaning and consumer protective intent.[56]

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[54] *Lockett v. Blue Ocean Bristol*, 446 Md. 397, 424 (2016).

[55] *Cathey v. Bd. of Review, Dep't of Health & Mental Hygiene*, 422 Md. 597, 605 (2011) ("Generally, remedial statutes are those which provide a remedy, or improve or facilitate remedies already existing for the enforcement of rights and the redress of injuries.") (quoting *Pak v. Hoang*, 378 Md. 315, 324-25, 835 A.2d 1185, 1190-91 (2003)).

[56] *Md. Office of People's Counsel v. Md. PSC*, 226 Md. App. 483, 506–07 (2016) ("A court may neither add nor subtract words to alter the meaning of statutory terms and must avoid forced or subtle constructions that limit or extend a statute's application."); *Lockshin*, 412 Md. at 275 (2010) ("We neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with 'forced or subtle interpretations' that limit or extend its application."); *Bd. of Educ. v. Zimmer-Rubert*, 409 Md. 200, 215 (2009) ("We avoid a construction of the

The Commission's authority to direct the return of a utility overcollection—within the purview of the MRP construct that BGE has consented to and operated within for than six years—stems from its explicit authority to regulate utilities through alternative forms of regulation and to ensure that utility rates are just and reasonable, as well as the "implied and incidental powers" it may exercise to ensure utilities operate in the public interest.[57] Here, the Commission should exercise that authority to ensure customers are refunded for the amount BGE overcollected.

II. The Commission should direct BGE to return the $28.0 million gas overcollection plus applicable carrying costs to customers.

BGE's AIF identifies a $28.0 million overcollection for Rate Year 2.[58] That overcollection is "a "significant disparity between revenues and expenses to the detriment of ratepayers" under Order No. 89482.[59] The Commission, therefore, may determine whether "an adjustment to the utility's revenue requirement and/or rates is appropriate."[60]

An adjustment is appropriate here. BGE's gas overcollection reflects earned operating income approximately 8.6 percent—$19.7 million—greater than the company's required revenues.[61] BGE's overcollection is similar in proportion to the 8.57 percent overcollection reported by DPL for Rate Year 1 of its MRP, which the Commission

statute that is unreasonable, illogical, or inconsistent with common sense.") (citing *Walzer v. Osborne*, 395 Md. 563, 573 (2006)) (internal quotes omitted).

[57] PUA §§ 2-112(b)(2), 2-113(a)(1)(i), 4-102, 7-505. *See also* PUA § 2-113(b) ("The powers and duties listed in this title do not limit the scope of the general powers and duties of the Commission provided for by this division.").

[58] BGE Rate Year 2 AIF at 1.

[59] Order No. 89482 at 4, 38.

[60] *Id.*

[61] BGE Rate Year 2 AIF, Attachment 1-G. The $28 million amount that would be refunded includes costs related to state and federal income tax, gross receipts tax, the PSC assessment rate, and uncollectibles. *Id.*

ordered the company to refund to customers.[62] The same result afforded to DPL's Rate Year 1 overcollection is warranted here.

Allowing BGE to retain the amount it collected above its authorized revenue requirement turns section 4-213 on its head and contravenes the General Assembly's intent that customers be refunded for MRP overcollections. The Commission should, therefore, direct BGE to return the revenues it overcollected, including any gross up for taxes, assessments, and uncollectibles—$28.0 million in total—to customers, with any applicable carrying costs. To the extent a hearing is required by Order No. 89482, the Commission should consider this matter at an upcoming administrative meeting, just as it did for DPL's Rate Year 1 and 2 overcollections.

CONCLUSION

The Commission should not have to compel BGE to refund the amount that its customers overpaid. Currently effective state law allows BGE to take such action voluntarily. Given BGE's inaction, OPC requests the Commission adjust BGE's rates to refund the $28 million overcollection reported in the company's Rate Year 2 AIF.

OPC's relief is justified here and inherent in the AIF review procedures the Commission established in Order No. 89482. These allow non-utility parties, including OPC, to request an adjustment to rates where there is a "significant disparity" between authorized and actual revenues to the detriment of utility customers. Nothing in the PUA

[62] Letter order dated July 24, 2024, ML# 311086 (Case No. 9861); DPL Rate Year 1 AIF at 1. DPL's Rate Year 1 AIF reported an actual operating income of 8.57 percent, or $5.2 million, greater than the company's required income. *Id.*, Appendix 1, Schedule 1. When grossed up for taxes and uncollectible, the company's reported overcollection totaled $7.3 million. *Id.*

precludes OPC (or any non-utility party) from requesting—and the Commission from granting—such relief. The Utility RELIEF Act makes clear that, as a matter of State policy, utilities operating under MRPs are not entitled to retain revenues recovered in excess of the company's authorized revenue requirement. Granting OPC's requested relief is consistent with that policy.

Respectfully submitted,

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July 29, 2026

Attachment 1

Maryland

Michael Sammartino <michael.sammartino@maryland.gov>

CN 9692 - RY 2 Annual Information Filing - Gas Overcollection

Michael Sammartino <michael.sammartino@maryland.gov> Fri, Jul 24, 2026 at 9:19 AM
To: "Sikora, Beverly A:(BGE)" <Beverly.A.Sikora@bge.com>
Cc: Jacob Ouslander -OPC- <Jacob.ouslander@maryland.gov>

Bev,

Thanks for the email. OPC is disappointed with the company's response. BGE appears to rely on the prior version of section 4-213(c) that was superseded by recent amendments in the Utility RELIEF Act. As amended by the Utility RELIEF Act, section 4-213(c) only restricts utility filings for reconciliation "that would result in *additional charges to customers* due to the public service company spending more than the approved revenue component used by the Commission unless the filing for reconciliation was made on or before January 1, 2025." Also, there is no language anywhere in section 4-213(c) that restricts the Commission from ordering the refund of an overcollection based on a request from an intervening party.

As for PUA section 4-213(d), that provision does not abrogate any existing refund mechanisms that the Commission has already established. Rather, 4-213(d) addresses the inclusion of reconciliation mechanisms in *future* MRPs.

The law clearly allows BGE to request the Commission reconcile its overcollection to the benefit of its customers. Because BGE is unwilling to do so, OPC intends to bring this issue to the Commission and ask that the Commission require BGE to refund customers the money that BGE overcollected.

Best,

Michael

On Fri, Jul 17, 2026 at 11:25 AM Sikora, Beverly A:(BGE) <Beverly.A.Sikora@bge.com> wrote:

> Michael-
>
> Thank you for your email of July 2, 2026, requesting that BGE refund the over collected revenue BGE's RY2 in Case No. 9692. The apparent basis for your request is the recently passed Utility Relief Act and the Maryland Public Service Commission's (Commission) decision in Order No. 89482. Neither of these citations are persuasive nor do these citations support your request.
>
> As you know, BGE filed Case No. 9692 on February 17, 2023, and the Commission issued Order No. 90948 on December 14, 2023, approving BGE's second MYP. The reconciliation regime established for the Pilot Utility in Case No. 9618 cited in your email is no longer lawful. OPC is aware that PUA Section 4-213 was amended to enact subsection (c) that explicitly prevents the Commission from conducting a reconciliation for a multiyear rates for filings that were made on or after January 1, 2025. As you note in your email, BGE filed its annual information filing on March 31, 2026. By operation of law the Commission is prevented from conducting a reconciliation. It is well settled in Maryland that the Commission has only such powers as have been specially given by the Legislature. In this instance, the Legislature has not given the Commission the power to reconcile BGE's RY2 amounts. In fact, the Legislature has expressly forbidden the Commission from following Order No. 89482 when it amended PUA 4-213 adding subsection (c).
>
> Moreover, your citation to the Utility Relief Act (Act) that took effect on May 12, 2026, is equally unpersuasive. In crafting your email, you have left out or ignored important language in the Act. The reconciliation of over recovery for an MYP is for MYPs that are approved after January 1, 2026. (See House Bill 1532 at page 115 adding new section (D) to PUA 4-213) BGE's second MYP was approved December 14, 2023. The Act does not support your assertion. I would note that your email fails to point out any specific language in the Act that supports your claim.
>
> Please let me know if you would like to discuss further.

Beverly A. Sikora

(she, her, hers)

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From: Michael Sammartino <michael.sammartino@maryland.gov>
Sent: Thursday, July 2, 2026 4:01 PM
To: Sikora, Beverly A:(BGE) <Beverly.A.Sikora@bge.com>
Cc: Jacob Ouslander -OPC- <Jacob.ouslander@maryland.gov>
Subject: [EXTERNAL]CN 9692 - RY 2 Annual Information Filing - Gas Overcollection

EXTERNAL MAIL. Do not click links or open attachments from unknown senders or unexpected Email.

Ms. Sikora:

I am writing regarding BGE's Rate Year 2 annual information filing ("AIF") submitted on March 31, 2026. In that filing, the company reported that it overcollected its gas revenue requirement by $28 million for RY 2. In prior AIF proceedings where a utility reported an overcollection, the utility also included proposed tariff pages to return the overcollection to customers subject to the Commission's approval.

Given the company's overcollection for RY 2, OPC believes this amount should be returned to customers. Customers should not pay more than the utility's authorized MRP revenue requirement, especially at a time when customers are concerned about bill affordability. As you are aware, the recently enacted Utility RELIEF Act removed the prohibition on a utility requesting reconciliation of "cost or revenue variances" from the authorized revenue requirement, so long as the reconciliation does not result in additional charges to customers. This provision took effect on May 12, 2026. Accordingly, a utility request to return an MRP overcollection is expressly permitted under Maryland law.

OPC is prepared to invoke its right under Order No. 89482 to request that the Commission direct the company to return the RY 2 overcollection to customers. To avoid unnecessary litigation, OPC is asking whether BGE would be willing to voluntarily return the overcollection to customers. The company could do so through filing revised tariff pages effectuating the refund for the Commission's consideration and approval.

Please let me know by July 16, 2026 whether the company is willing to do so. I am happy to discuss this further if it would be helpful.

Warm regards,

Michael

OPC
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State of Maryland

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 29 day of July 2026, the foregoing Office of People's Counsel Comments on BGE's Rate Year 2 Annual Information Filing was served via e-mail to all parties of record in this proceeding.

/electronic signature/
Michael F. Sammartino
Assistant People's Counsel