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August 21, 2026

Andrew S. Johnston, Executive Secretary
Maryland Public Service Commission
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202

Re: Case Nos. 9681/9692 – BGE and DPL 2025 Annual Information Filings

Dear Secretary Johnston:

OPC provides this brief response to Staff's July 29, 2026 comments on the 2025 annual information filings (AIFs) for Delmarva Power & Light Company and Baltimore Gas and Electric Company.[1] These comments address Staff's incorrect view on the application of the Utility RELIEF Act's amendments to PUA 4-213,[2] and demonstrate the inconsistency of Staff's current position with the position Staff took in the 2024 AIF proceeding on the applicability of the Next Generation Energy Act.

As a threshold matter, OPC agrees with Staff's reading of the legislative intent underlying the RELIEF Act amendments to section 4-213. PUA § 4-213 establishes restrictions on utility filings for multi-year rate plan reconciliations. As initially enacted in the NGEA, PUA § 4-213 prohibited utilities from filing reconciliations of multi-year rate plans.[3] However, the Utility RELIEF Act amended section 4-213 to allow for utility reconciliation filings that do not result in increased customer costs.[4] These amendments went into effect on July 1, 2026. As Staff's comments correctly conclude, and as argued in OPC's July 29, 2026 comments, the legislature clearly intended the amended section 4-213 to allow a utility to refund excess revenue collections back to customers.[5]

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[1]Comments of the Staff of the Public Service Commission of Maryland in Response to Annual Informational Filings from Baltimore Gas and Electric Company and Delmarva Power & Light Company ("Staff 2025 AIF Comments"), ML# 332617 (Case Nos. 9692/9681, July 29, 2026).
[2] 2026 Md. Laws, Ch. 353.
[3] 2025 Md. Laws, Ch. 625. OPC maintains that section 4-213 does not apply to AIFs or to requests for MRP rate adjustments submitted by non-utility parties under the MRP framework established in Order No. 89482.
[4] PUA § 4-213(c).
[5] *Id.* at 5; *See* Office of People's Comments on BGE's Rate Year 2 Annual Information Filing ("OPC Comments—BGE RY 2") at 14–15, ML# 332620 (Case No. 9692, July 29, 2026); Office of People's

OPC disagrees, however, with Staff's position on the applicability of the amended statute to the 2025 AIF proceeding. In its comments, Staff takes the position that the RELIEF Act amendments to section 4-213 only "apply to future utility AIF filings."[6] In other words, Staff argues that applying the RELIEF Act amendments to the 2025 AIF proceeding is a retroactive application of the statute and is, therefore, impermissible.[7] Staff's comments, however, confuse the action triggering the application of the statute. Here, OPC's request for a rate adjustment—not the filing of BGE and DPL's AIFs—is the action triggering the application of the amended section 4-213. This action occurred after the effective date of the RELIEF Act. If the Commission agrees that a rate adjustment is warranted, utility compliance filings to effectuate the rate adjustment would also be submitted after the statute's effective date.

In short, applying section 4-213 in light of OPC's request for relief is purely prospective—OPC's request was submitted after the statute's effective date and applies exclusively to future conduct. Staff is correct that the amended 4-213 will also apply in future AIF proceedings. But it is wrong to claim that the amended statute does not apply *at all* to the 2025 AIF proceeding and that the Commission is precluded from ordering customer refunds upon OPC's request.

Further, Staff's view that the amended section 4-213 only applies to future AIFs *is the complete opposite of the position it took last year on this exact issue*. In its comments on DPL's 2024 AIF—filed 11 days before the NGEA took effect—Staff argued that the newly enacted prohibition on utility-filed reconciliations would immediately apply to the 2024 AIF proceeding upon taking effect:

> Here, DPL filed a reconciliation for Rate Year 2 on April 1, 2025, before the new law was passed, and before the new law's effective date. Therefore, if the Commission approves the reconciliation by May 30, 2025, before the law's effective date, DPL will be able to credit ratepayers. If the Commission fails to approve the reconciliation by May 30, 2025, the credit will not be returned to the ratepayers.[8]

Under that same reasoning, the RELIEF Act's amendments to section 4-213 should also apply immediately to the 2025 AIF proceeding as of the statute's July 1, 2026 effective

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Comments on DPL's Rate Year 3 Annual Information Filing ("OPC Comments—DPL RY 3") at 13–14, ML# 332619 (Case No. 9681, July 29, 2026).

[6] Staff 2025 AIF Comments at 4.

[7] *See Johnson v. Mayor of Baltimore*, 430 Md. 368, 382 (2013) (noting the "basic principle" that statutes "are presumed to operate prospectively unless a contrary intent appears"). There is no indication the legislature intended the amendments to section 4-213 to apply retroactively.

[8] Staff's Comments for Delmarva Power & Light, Rate Year 2, Annual Information Filing at 6, ML# 319010 (Case 9681, May 20, 2025).

date. But that is not the position Staff takes in its July 29 comments. Rather, Staff argues the opposite: that the RELIEF Act's amendments revising section 4-213 *do not* apply at all to the 2025 AIF proceeding.

It is impossible to reconcile Staff's two positions. Either Staff erred last year, and its 2024 AIF comments incorrectly argued for a retroactive application of the statute that Staff considers illegal. Or, Staff erred *this year*, and its 2024 AIF comments correctly concluded that the Commission was bound to apply the new law to the AIF proceeding after it went into effect. Both positions cannot be correct.

If the Commission determines that section 4-213 applies at all to OPC's request for customer refunds, then it should apply the amended section 4-213 in effect at the time OPC submitted its July 29, 2026 comments. Given that the amended section 4-213 expressly allows utilities to file reconciliations of overcollections from customers, there is no statute expressly or implicitly barring the Commission from directing BGE and DPL to refund the amounts overcollected in 2025 back to customers.[9]

OPC appreciates the opportunity to submit these comments and asks that the Commission grant the relief requested in OPC's July 29, 2026 comments.

Respectfully submitted,

/electronic signature/
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Assistant People's Counsel

MFS/bl
cc: Service lists for Case Nos. 9681/9692

[9] OPC maintains that there never was any statutory bar to prohibiting the Commission from adjusting a utilities MRP rates in light of a significant revenue disparity shown by a non-utility party. *See* OPC Comments—BGE RY 2 at 8–16; OPC Comments—DPL RY 3 at 7–15.