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AN EXELON COMPANY

September 16, 2024

***Via Electronic Filing***

Andrew S. Johnston, Executive Secretary
Public Service Commission of Maryland
William Donald Schaefer Tower, 16th Floor
6 Saint Paul Street
Baltimore, Maryland 21202-6806

**Re: Case Nos. 9618/9645– Comments of Baltimore Gas and Electric Company**

Dear Mr. Johnston:

Pursuant to the Notice of Public Conference and Opportunity to Comment issued August 15, 2024, in the above-referenced matter, attached please find the Comments of Baltimore Gas and Electric Company.

Pursuant to the Commission's July 12, 2021, Notice of Continued Waiver of Paper Filing Requirements, paper copies of this filing will not be provided.

Respectfully submitted,

*Beverly A. Sikora*

Beverly A. Sikora

BAS:jaw
Attachment

cc: CNs 9618/9645 Service Lists

**BEFORE THE**
**PUBLIC SERVICE COMMISSION**
**OF MARYLAND**

| | | |
|---|---|---|
| In the Matter of Alternative Rate Plans or Methodologies to Establish New Base Rates for an Electric Company or Gas Company | ) ) ) | Case No. 9618 |
| Application of Baltimore Gas and Electric Company for an Electric and Gas Multi-Year Plan | ) ) | Case No. 9645 |

# INITIAL COMMENTS OF BALTIMORE GAS AND ELECTRIC COMPANY


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**Filed: September 16, 2024**

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## TABLE OF CONTENTS

**I. BACKGROUND .......... 1**

**II. INTRODUCTION: MRPS DELIVER VALUE TO MARYLAND AND ARE NECESSARY TO SUCCESSFULLY ACHIEVE MARYLAND'S CLIMATE GOALS .......... 2**

**III. THE PILOT MRP DELIVERED THE BENEFITS SOUGHT BY THE COMMISSION FOR MARYLAND AND CUSTOMERS .......... 7**

***A. MRPs result in more predictable and transparent rate certainty than traditional rate making*** .......... 7

***B. MRPs facilitate proactive collaboration and allow unprecedented transparency into spending plans*** .......... 8

***C. MRPs deliver necessary and valuable tools to plan and execute state policy initiatives*** .......... 13

***D. MRPs increase stakeholder inputs at a fraction of the administrative burden.*** .......... 16

***E. MRPs improve regulatory lag and insight into prudency, providing a balanced risk-reward proposition for all stakeholders.*** .......... 17

***F. MRPs foster innovation with an equitable risk distribution amongst utilities, customers and stakeholders.*** .......... 21

***G. MRPs provide benefits in the public interest that traditional ratemaking does not and are the Predominant Ratemaking Approach Used in States with Aggressive Climate Goals*** .......... 21

**IV. CONCLUSION: MOVING FORWARD WITH MRPS IN A MODIFIED FORM IS THE RIGHT THING FOR CUSTOMERS, UTILITIES, THE STATE, AND ALL STAKEHOLDERS. .......... 25**

# I. BACKGROUND

Baltimore Gas and Electric Company ("BGE" or the "Company") hereby submits comments to the Maryland Public Service Commission (the "Commission") for consideration in response to its August 15, 2024 Notice in Case Nos. 9618 and 9645 (the "Notice") where it indicated that

> Since BGE has completed the first MRP as the Pilot Utility, the Commission initiates this Pilot MRP Lessons Learned proceeding as stipulated in Order No. 89482 to allow the Company, Staff, the Maryland Office of People's Counsel ("OPC"), other stakeholders, and/or interested persons to submit information and comments on how BGE's first MRP has fared relative to the goals and potential benefits discussed in Order No. 89226.[1]

By way of background, and as explained in the Notice, in Order No. 89226, the Commission "found that a properly constructed multi-year rate plan ("MRP" or "MYP") can result in just and reasonable rates and yield several benefits such as shortening the cost recovery period, providing more predictable revenues for utilities and more predictable rates for customers, spreading changes in rates over multiple years, and decreasing administrative burdens on regulators by staggering filings over several years."[2] Subsequently, on February 4, 2020, the Commission issued Order No. 89482, which established a framework for a pilot program for the first Maryland utility to file an MRP application and volunteer to serve as the "Pilot Utility." The Commission found that undertaking a pilot would allow it an opportunity to evaluate the use of MRPs in a controlled manner with minimal administrative burden and limited regulatory uncertainty for the initial utility seeking a Pilot MRP. The Commission further determined in Order No. 89482 that after gaining

[1] On August 20, 2024, the Commission issued an errata to the Notice indicating that a legislative-style hearing would begin on October 15, 2024, instead of an evidentiary hearing.

[2] Before selecting MYPs as the alternative form of ratemaking to pursue, the Commission first acknowledged that "the traditional ratemaking method does have certain perceived drawbacks such as a failure to equitably distribute risk, limited capabilities to monitor costs, limited ability to achieve policy outcomes and potential restrictions on utility innovation, and arguably regulatory lag, which can impede the utilities' ability to earn their authorized ROR." Order No. 89226, p. 51.

valuable experience with implementing the Pilot MRP, the Commission would promulgate regulations to ensure the orderly consideration of MRPs statewide. Thus, in the interest of continuing the Company's support of State policy goals, BGE provides these comments as the Pilot Utility in anticipation that the Commission will agree that it is in the best interest of Maryland, customers, and all stakeholders to take the next step of promulgating the regulations it envisioned to ensure an orderly further use of MRPs statewide. Specifically, BGE's initial comments will demonstrate that the pilot MYP was able to achieve the benefits expected by the Commission, but that changes to the pilot MRP framework, as envisioned and constructed by the Commission in Order No. 89482, could provide the Commission, utilities, and all stakeholders with the opportunity to further realize the benefits of MRPs which the Commission already recognized in Order No. 89226. Additionally, BGE's comments will respond to the Commission's request for opinions on the issues raised by OPC in Case No. 9692 and provide comments or recommendations for any improvements to MRPs.

## II. INTRODUCTION: MRPS DELIVER VALUE TO MARYLAND AND ARE NECESSARY TO SUCCESSFULLY ACHIEVE MARYLAND'S CLIMATE GOALS

As we approach the conclusion of the pilot MRP Final Reconciliation for 2023, it is important to recognize the significant value that BGE's MRP has delivered to Maryland and its residents. The pilot MRP has played a vital role in supporting Maryland's ambitious pursuit of clean energy goals and has proven to be critical for BGE's ability to contribute to the state's policy objectives. Through the MYP pilot, BGE has actively partnered with the Commission and stakeholders, demonstrating proactive leadership and incorporating valuable feedback to enhance the MYP structure for the benefit of all participants.

The Company has leveraged the MYP pilot to partner with the Commission and stakeholders to achieve the State's policy objectives. The Company has also continuously engaged with interested parties to ensure the MYP structure provides the benefits envisioned by the Commission. Through its first MYP filing, a subsequent Lessons Learned workgroup, and a second MYP application, BGE actively provided leadership as part of the MYP process and incorporated feedback, including process improvements, to further support the identified benefits for all participants. The discussions that occurred between parties and BGE through the MYP process were critical and allowed BGE insight into what the Commission and external parties saw as the appropriate pace of investment and project pathways to support our shared goal to achieve net-zero emissions. BGE looks forward to these productive conversations continuing.

The pilot MRP also set rates that allowed the Company to execute the workplans needed to continue executing its primary responsibility – providing safe and reliable service –while enabling BGE to navigate unprecedented challenges, including the pandemic, global supply chain shortages, and unprecedented levels of inflation. The innovative rate offsets proposed and implemented under the MRP construct have minimized the impact on customers during times requiring flexibility, while simultaneously driving critical grid investments essential for laying the foundation for Maryland's decarbonization journey and the future of energy in the state.

Significantly, to supplement BGE's first and second MYP applications, the Company performed economic impact studies of its proposed workplans to inform the Commission, stakeholders, and customers of the economic benefits the MYP proposals would provide the communities it serves. Completing this study at the time the Company filed for its first MYP during the uncertainty of the COVID-19 pandemic allowed BGE the opportunity to both communicate to customers and plan for ways to support its communities through the region's economic recovery. During a time when many industries faced challenging circumstances, BGE was able to propose a plan that would continue to contribute to the communities it serves at a similar pace of investment that it had before the pandemic. The Case No. 9645 pilot MRP economic impact study found that over the 2021-2023 period, the proposed MRP would deliver approximately $5.1 billion per year of total output through BGE's gas and electric distribution services over the Service Area. The $5.1 billion in the Service Area for BGE's pilot MRP proposal is comparable to the total direct output of the entire service industries in Maryland such as the legal services industry and the full-service restaurant industry, and even more than the direct output of the entire nursing and community care industry in Maryland. Importantly, most of the Company's revenues are returned to its nearly 3,000 local employees and more than 900 vendors to reinvest in their Maryland communities. An economic impact study conducted based on the workplan set forth in BGE's second MYP application showed even greater benefits to the State, as shown in Table 1 below.

**Table 1: Proposed BGE MYP Economic Impact**

| | MYP 1<br>2021-2023 | MYP 2<br>2024-2026 |
|---|---|---|
| **Number of Jobs Supported** | 26,700 jobs | 72,000 jobs |
| **Economic Impact** | $15.3 billion | $35.7 billion |
| **Labor Income to Central MD Communities** | $2.8 billion | $8.1 billion |

MYPs have allowed BGE the opportunity to power its communities in many ways. In approving the pilot MYP structure, the Commission itself clearly saw that MYPs could move Maryland and ratemaking in particular forward in a manner that balances the needs of utilities, stakeholders and - most importantly - the customers and citizens who all of this is ultimately meant to benefit. This balance between utilities and customers is critical to keep in mind as changes to the MRP structure are considered. As further elaborated on below, prior changes to Maryland's ratemaking construct have impacted its reputation. As BGE's comments here will show, the pilot

MRP clearly demonstrated that MRPs can deliver on the benefits the Commission envisioned. At the same time, it is also clear to BGE that targeted changes to the initial MRP structure can help further ensure that more benefits are delivered to Maryland and its citizens through future MRPs. As proposed changes are considered in this proceeding, it is important to consider the ways they could impact Maryland and its ability to achieve its ambitious climate goals.

By focusing on long-term resource planning, MYPs can ensure that utilities have the necessary resources to meet future demand and maintain reliability, particularly now as Maryland has lost some generation but has an increasing need for energy resources. MYPs allow for a more comprehensive assessment of resource adequacy. In contrast, traditional one-year rate cases are reactive and based on historical data, which may not reflect future needs and challenges. They can lead to short-term decision-making and frequent rate adjustments, which can be disruptive for both utilities and customers, and they are not flexible enough to address future resource adequacy needs.

MYPs have proven supportive of a healthy State economy and are also important to the financial health of State utilities. As a result, how the investor community views the alignment between the State's pursuit of energy transformation, the utilities' critical role in this transformation, and the utilities' ability to recover its costs in a just, reasonable, and timely manner is significant. For many years, Regulatory Research Associates (RRA), a subsidiary of S&P Global, viewed the Maryland regulatory environment among the worst regulatory climates in the U.S., due largely to reliance on historical test years ("HTY") and test-year-average rate base valuations, a strict stance on mergers and low authorized ROEs that were difficult to even earn. However, RRA raised its ranking of the state within days after the Commission's August 2019 issuance of Order No. 89226 which implemented MYPs as the alternate form of ratemaking to develop for implementation. In support of the upgrade, RRA noted that the adoption of an MYP structure was one example of the progressive ratemaking adopted by the Commission to help address regulatory lag.[3]

However, over the past 15 months, RRA has downgraded Maryland's ranking three times and now views Maryland as having the most restrictive regulatory climate of any state in the U.S.[4] In support of its most recent downgrade, RRA explained that "the commission's decisions have become more restrictive from an investor viewpoint, culminating in a June 2024 decision rejecting a multiyear rate plan proposed by Exelon Corp. subsidiary Potomac Electric Power Co., and raising questions regarding future use of that framework in the state."[5] RRA is a widely-trusted and often-cited source in the utility industry, and the State's ranking contributes to the risk that BGE faces to attract capital. This trend is inconsistent with the State's progressive pace to transform its energy landscape. Thus, while changes to the MRP construct may come out as the Commission promulgates formal MRP regulations, determining those MRP regulations should also foster a regulatory environment that allows Maryland's investor-owned utilities to attract capital at reasonable rates, especially as this directly impacts customer bills.

BGE is fully committed to continuing to partner with the Commission to deliver the tremendous value MRPs provide to customers. BGE is equally dedicated to continuing collaborate with the other state utilities and associated stakeholders to improve the MRP construct in further support of Maryland's clean energy transformation to the benefit of the State's customers, economy, and environment.

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3 August 19, 2019, *RRA Regulatory Focus State Regulatory Evaluations*

4 The ratings downgrades occurred on May 19, 2023; November 30, 2023; and July 31, 2024.

5 August 7, 2024, *RRA is again lowering the ranking for Maryland regulation, this time to Below Average/3 from Below Average/2. This is the third reduction in the jurisdiction's ranking since mid-2023.*

## III. THE PILOT MRP DELIVERED THE BENEFITS SOUGHT BY THE COMMISSION FOR MARYLAND AND CUSTOMERS

### *A. MRPs result in more predictable and transparent rate certainty than traditional rate making.*[6]

The MYP did exactly as it was intended to do. It provided predicable and transparent rate adjustments over the MYP period. This is a key benefit of the MYP construct because it allows the Commission, customers, and parties knowledge in advance when a company will be presenting their next rate case filing for review and when those rates will be effective.[7] Conversely, under a traditional HTY, the Commission and stakeholders have no knowledge of when a company may plan to come in for a rate adjustment; it could be every year, or there could be long, indefinite periods between cases. Because of their defined timeframe over a period of up to three years, the MYP construct also allows parties the opportunity to recommend innovative rate proposals. For example, the pilot MRP allowed BGE to innovatively propose that rates be held flat for part of the Case No. 9645 MYP period while customers, Maryland, and the world were facing and recovering from the COVID-19 pandemic. The pilot MRP made it possible for BGE to achieve this while still executing the workplans needed to continue providing safe and reliable electric and gas service and lay the foundations for Maryland's energy future. Further, MRPs afforded the Commission greater real-time control over when and how electric and gas base rates would increase during the Case No. 9645 MYP period. As the actual experience from Case No. 9645 shows, MRPs provide the Commission with the most flexibility to ensure rates are implemented in a more gradual manner.

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6 Addresses The Notice topic (3) proposed by the Commission: *whether rate predictability was achieved and its impact relative to traditional ratemaking.*

7 Rate information is available in the tariffs listed on bge.com as well as detailed on BGE's MYP informational webpage https://www.bge.com/smart-energy/innovation-technology/multi-year-plan/2024-2026-multi-year-plan.

The Company's first MYP produced transparent and predictable rate adjustments over the 2021 to 2023 period while also giving the Commission flexibility to adapt to changing circumstances. In Order No. 89678, the Commission found it appropriate for customers to see no net increase in their bills during 2021 due to the profound impacts of COVID-19. However, it reserved the right to determine whether to apply additional offsets in 2022 and 2023 at a later point. Prior to the rate effective period beginning January 1, 2022, the Commission evaluated the circumstances at that time and decided to apply additional offsets in 2022 to continue to help customers as impacts of COVID-19 continued.[8] When evaluating circumstances prior to the beginning of 2023, the Commission decided not to apply any offsets to that year. The MRP construct allowed and continues to allow the Commission a level of adaptability to benefit customers that was not previously possible.

### B. *MRPs facilitate proactive collaboration and allow unprecedented transparency into spending plans.*[9]

In Order No. 89226, the Commission recognized that another "key element of an MRP is that it provides more transparency into a utility's planning process. An MRP will require significant detail into utility planning that is not available to interested parties today."[10] By incorporating forecasting into the ratemaking process, it "will provide more transparency into the utility planning process and allow the Commission an opportunity to question the customer benefits of projects in advance of capital commitments."[11] The Pilot MRP proved this true. The Company proactively provided a significant amount of documentation and details regarding the planning process, which is discussed further below.

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[8] *See* Mail Log #238349 for the December 23, 2021, Letter Order approving the MYP base rate offsets for 2022.

[9] Addresses The Notice topic (5) proposed by the Commission: *whether greater transparency into capital spending and improvements in system reliability have been realized compared to standard ratemaking.*

[10] Order No. 89226 at p. 54.

[11] Order No. 89226 at p. 55.

Under historic test year ratemaking, stakeholders do not receive any information about utility investments until after they have been made. Thus, stakeholders have no opportunity to preview proposed work or give feedback prior to the utility making those investments. Additionally, a historic test year primarily focuses on a singular year, while in BGE's case, an MRP application, under the revised 300-day evidentiary period, ends up providing two years of actual costs, a bridge period, and then three fully forecasted years, to total six years of cost information per project.[12] That is a vast difference in available cost and workplan information to understand cost and workplan drivers, trends, and anomalies.

BGE also supplements this information by providing the following project-specific information: (1) Problem Statement – what is being addressed; (2) The Solution Statement – how the problem is being fixed; (3) Benefits – how the solution benefits customers/performance/environment; (4) Weighing of Importance – priority grouping of projects within the Company's portfolio; (5) Available Estimated in Service Date; (6) Project Authorization materials where available – Company documentation detailing project scope, alternatives considered, qualitative and quantitative benefits, cash flows, risk mitigation register, and many other useful pieces of information.[13]

These project details are then further substantiated with detailed testimony provided by the Company operational witnesses, who in the Pilot MYP were all Vice Presidents and sit on BGE's Executive Leadership Team. This unprecedented level of access to high-ranking company leaders, coupled with an immense amount of portfolio and project-specific justification, allowed stakeholders to become deeply familiar the Company's plans, strategy, and goals for providing a

[12] A full six years of cost information is provided if available.
[13] Information was provided if available and applicable. For example, some projects such as vegetation management are managed as an annual program by BGE and thus do not require project-specific authorization materials to be developed and approved each year and would, therefore, not be available.

safe, reliable, and resilient system for its customers in a cost-effective manner. This transparency is valuable to stakeholders to help increase their understanding of utility operations throughout this process, as well as provide feedback regarding where they would recommend the Company make changes to its plan, whether it be addressing specific projects, changing the pace of investments etc.

Table 2 below highlights the change in volume of discovery that BGE has received in its first two MYP cases compared to previous historic rate cases – showcasing the higher levels of engagement in BGE's MYPs. It is important to contrast this against historic test year proceedings where witnesses primarily testified about ROE, the overall revenue requirement, cost of service, and rate design.

**Table 2: Number of Data Requests in MYP Cases vs. Recent HTY Cases**[14]

| | No. Data Requests (excl. subparts) | Average No. Data Requests (excl. subparts) |
|---|---|---|
| CN9692 | 2,230 | |
| CN9645 | 2,286 | |
| MYP Cases | | 2,258 |
| CN9610 | 936 | |
| CN9406 | 853 | |
| CN9326 | 874 | |
| CN9299 | 723 | |
| CN9230 | 941 | |
| Recent HTY Cases | | 865 |

In summary, the MYP structure provided a lens through which parties gain:

- Depth in understanding of how the Company plans its work and corresponding forecasts;

[14] Data provided for BGE's five most recent HTY cases, excluded Case No. 9355, which was settled prior to the filing of rebuttal testimony, which resulted in fewer data requests.

- Details on project prioritization, problem statement, solution, benefits, and other key information in available project authorization materials; and
- An immense amount of information prior to project commencement, as especially seen through increased discovery as shown in Table 2 above.

The Company also provides two annual compliance filings each subsequent year – an Annual Informational Filing which provides the Company's actual expenditures and includes category-level variance explanations and a Project List, which provides a revised forecast for the upcoming year's projects and their associated costs. The ability for stakeholders to see original forecasts, updated forecasts for the prompt year throughout the MYP period, actual costs, and project-level variance explanations for both capital expenditures and O&M provides a level of transparency neither seen nor achievable under the historic test year structure. The Company worked with stakeholders through the lessons learned process following its first MYP application, which led to increased transparency in its second MYP application[15] – and we are open to hearing parties' recommendations to continue to improve what information is provided in future MYP applications.

At the end of the day, the MYP is intended to ensure that the Commission and parties can review and provide feedback on a utility's workplans, including the spending. In fact, in Case No. 9645, the Commission determined to reduce BGE's planned capital spending by $175 million over the 2021-2023 MRP period, and in Case No. 9692 the Commission determined to reduce the planned capital spend by approximately $500 million, reductions that simply would not have been possible without MYPs. MYPs allow the Commission and parties a much greater opportunity to

[15] In Order Nos. 90401 and 90480, the Commission approved updated multi-year plan filing requirements after a Lessons Learned process was held with a filed report by stakeholders including the Company, Staff, OPC, and Montgomery County.

review and comment on utility capital plans in advance, which can only enhance transparency and influence over utility capital spending.

BGE's commitment to transparency is closely tied to its improvements in system reliability. The Company has the ability to propose workplans that will continue to maintain and further enhance the safety, reliability, and resiliency of its distribution systems. After the workplans have been presented, the risk and onus is on the Company to execute its plan in a way that will, in fact, meet the reliability performance our customers expect. And BGE delivered. In fact, 2023 and 2022 saw *historic reliability* for BGE. The number of service interruptions each customer experienced was the third and fourth lowest on record, respectively. "When the power did go out, it was restored in under an hour—that's approximately 36 percent faster than a decade ago."[16] The adoption of the MRP has strengthened BGE's system reliability performance by allowing stakeholders to see the investments necessary to maintaining a safe and reliable system as demonstrated by the Company's performance. It also allows the Commission and other stakeholders the opportunity to opine on the pace of investments the Company recommends in its proposed workplans. For example, in Case No. 9692, the Commission agreed BGE should continue its important cable replacement and 4 kV replacement program; however, to reduce the burden on customers, the Company was directed to reduce its level of investment.[17] Additionally, the flexibility provided through the MRP construct allows the Commission the ability to direct the Company to plan to certain investment levels, and then adjust those levels as new information becomes available. For example, in the Pilot MYP the Commission recommended a slower investment pace for the Company's cable replacement program based upon existing performance

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[16] https://www.bgenow.com/2023/04/26/good-energy-leads-to-reliability/ and Central Maryland Families and Businesses Experienced Improved Reliability in 2023 | BGE - An Exelon Company

[17] Order No. 90948, pp. 58-59.

information.[18] Subsequently, when the Company proposed an adjustment in the program expenditure in its second MYP, the Commission decided to adjust the pace of investment given the latest performance information.[19] This is exactly the kind of dialog that is beneficial to all stakeholders through the MRP construct and has a meaningful impact on maintaining and improving system reliability.

### *C. MRPs deliver necessary and valuable tools to plan and execute state policy initiatives.*[20]

As the State legislature established the direction for Maryland's clean energy transformation through the 2022 Climate Solutions Now Act ("CSNA")[21] and the Zero Emission Vehicle Infrastructure Plan,[22] BGE included targeted initiatives, infrastructure plans, and performance incentive metrics in its second MRP proposal which were specifically designed to meet and advance State policy goals for electrification, safety, reliability, and resiliency. It would have been challenging at best for BGE to move forward with such proposals absent the MRP structure given significant regulatory lag and the after-the-fact review of investment decisions without any prior discussion.

In alignment with the MYP framework, many of the State's policy goals, such as electrification, decarbonization, and grid transformation supporting greater levels of Distributed Energy Resources, will undoubtedly require significantly increased levels of utility investment. The MYP framework is uniquely prepared to support such investment plans and execution. A key factor is that, while it provides immensely improved transparency into the utility's workplans, the

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18 Order No. 89678, p. 102.
19 Order No. 90948, pp. 64-66.
20 Addresses The Notice topic (1) proposed by the Commission: *what, if any, appreciable improvements in state policy objectives have been achieved under the MRP compared to traditional ratemaking*
21 2022 Maryland SB 528 - Climate Solutions Now Act of 2022 (PUA §§ 7-801 - 7-804)
22 Maryland Zero Emissions Vehicle Infrastructure Plan (ZEVIP) | This website presents the stakeholder outreach plan for the development of the ZEVIP.

MYP framework is flexible and provides the utility the ability to appropriately adjust workplans underlying forecasted rates. In other words, if policy or legislation is enacted midstream, the Company is able to adapt and adjust its work plans to support such changes. These updates are communicated in a timely manner through both the annual capital and O&M Project List filings[23] as well as the Annual Informational Filings.[24] Furthermore, stakeholders can review the utility plans and investments in more depth by engaging in discovery and as needed, even engaging the Company in meetings and conversations regarding adjustments to the workplan.

For example, in BGE's second MYP application, the proposed workplan included projects that accelerated the replacement of the 4 kV system in disadvantaged areas of the Company's service territory to support a more equitable distribution system in those areas. The second MYP also proposed programs to support further electric vehicle adaptation and Company-owned fleet electrification plans, as well as a thoughtful resiliency plan, the first customer electrification programs in support of the CSNA, execution of an Infrastructure Investment and Jobs Act ("IIJA") grant, and continued investment in enhancing reliability in underserved communities through the 4 kV replacement program, amongst other programs.[25] Chart 1 below illustrates how the Company foresees the growing need for capital investment to support the State in meeting its ambitious goals as proposed in Case No. 9692.[26] Even though several of the innovative new programs - such as the customer electrification and the resiliency plans - were ultimately not

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[23] The capital and O&M Project List filings serve as an updated preview of the planned projects for the next year.

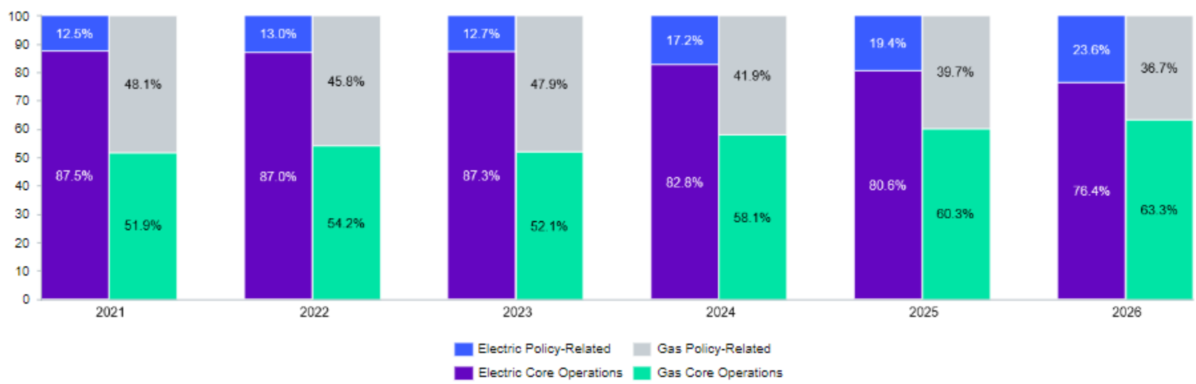
[24] The Annual Informational Filings provide the actual project expenditures in a given MYP year.

[25] The MYP framework allowed for stakeholder input regarding other projects the Company proposed including in its workplan to support CSNA such as the customer electrification plan, rooftop solar, accelerating fleet electrification, tree planting.

[26] Chart 1 depicts BGE's capital expenditure plan proposed in Case No. 9692 as a percentage proposed work that directly supports the State's policy objectives relative to the Company's core business operational expenditures. The customer electrification program is not included in this analysis but would add approximately 270 million of additional investment in policy-related project costs over the 2024-2026 period.

approved, the MYP framework itself made these proposals possible and thus they demonstrate a strong advantage of the MYP construct over traditional historic test-year ratemaking. Important dialogue was had regarding the structure, benefits, timing, and cost of the mentioned programs, and further actions, such as the resiliency work group, have come out of the proposals made in the pilot MYP process.[27]

**Chart 1: State Policy Related Capital**




It is clear that achieving Maryland's decarbonization goals will be challenging and costly, and from the pilot MRP we have learned that MRPs enable utilities to partner with stakeholders to achieve the State's decarbonization goals and the modernization of the grid. There is a lot of work to do, not just on the electric grid but also to determine what the gas system's role will be in a decarbonized energy future and how we should get there. The transparency among the Commission, utilities and other stakeholders that is afforded by MRPs is critical to the success of decarbonization in Maryland. MRPs can, and should, be the alternative ratemaking form in Maryland.

[27] Order No. 90948, pp. 85-86.

### *D. MRPs increase stakeholder inputs at a fraction of the administrative burden.*[28]

The administrative burdens of MYPs should be compared to those inherent in traditional historic test year rate cases, which in the current environment and the foreseeable future BGE would be filing on at least an annual basis. Thus, the level of effort associated with an MYP once every three years *needs to be compared with the alternative of a new rate case filing every year (or more frequently)*. Ultimately, this results in parties deliberating an MYP rate application for only 10 months in a 36-month period, versus deliberating 21 months in a 36-month period under the historic ratemaking construct. Furthermore, even though MYPs in Maryland contain new features such as the MYP reconciliation, reconciliations have been an almost ubiquitous feature of many Maryland rate mechanisms in the past – from the STRIDE, EmPOWER, and Electric Reliability Initiative surcharges to electric Standard Offer Service rates, among many others. This is because a reconciliation process ensures that customers only pay for a utility's actual, prudently incurred costs. Thus, in aggregate the administrative burden imposed by base rate cases on the Commission itself is reduced from what would likely be at least annual rate cases under the traditional ratemaking model to one MRP proceeding, a reduction of at least two full rate case proceedings over the pilot MRP period of 2021-2023, not even withstanding the avoidance of a third STRIDE plan and surcharge.[29]

Parties and the Commission have never been afforded more transparency into utility plans than is provided in MRPs. It should thus not be surprising that with such increases in transparency and proposed investment plans there would naturally be a corresponding effort required to review

[28] Addresses The Notice topic (4) proposed by the Commission: *whether administrative burdens actually decreased on the Commission and other stakeholders.*

[29] BGE did not submit a third STRIDE plan following completion of the plan approved by the Commission in Case No. 9468. Instead, all work previously included in the Company's STRIDE plan was include in the capital and O&M workplans submitted with its MYP application in Case No. 9692.

and comment on a utility's proposals. With that understanding and the goal to make it easier for all parties to review, BGE has offered, organized, and conducted numerous meetings with parties to provide transparency and information regarding utility plans and processes and will continue to do so as we move forward with MRPs. Part of the lessons BGE expects stakeholders will collectively learn as we move forward with MRPs is how to improve the efficiency of the process in order to maintain and enhance benefits while also further alleviating administrative burdens. Additionally, in recognition of the additional focus required to litigate an MRP, the procedural schedule was extended by 90 days to provide parties with additional time to conduct discovery and the Commission with additional time to determine the best outcome for customers.[30] The Company maintains its openness to continuing to enhance its MYP supporting materials to provide the parties further ease in reviewing its workplans.

### *E. MRPs improve regulatory lag and insight into prudency, providing a balanced risk-reward proposition for all stakeholders.*[31]

The nature of historical test year ratemaking creates regulatory lag and uses it as a cost control stick for the utility; by the rate effective period, test year costs are in the past. Regulatory lag has been improved under the pilot MYP as rate base and operating income are based on forecasted values that align with the rate effective periods. The MYP is structured to carefully balance the distribution of risk between utilities and customers – for example, construction work in progress is not included in rate base which means that customers do not begin paying for utility investments until they are used and useful. While some parties believe BGE has earned more than its authorized return on equity (ROE) in an MYP, in actuality during the pilot MYP years of 2021-2023, the Company's earned ROE for electric distribution and gas have, on average, been around

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[30] 2022 Maryland SB 131/ HB 228 – Public Service Commission – Rate Suspension Proceedings.
[31] Addresses The Notice topic (2) proposed by the Commission: *whether the potential shortened cost recovery period was achieved and its impact on customers and other aspects of the ratemaking process such as cost disallowance.*

150 basis points below the authorized ROEs, a percent difference of 15%. In fact, with the inclusion of the reconciliation, the MYP is structured such that the Company will not over earn its authorized ROE. For example, if the Company over-recovers the allowed revenue requirement in a given year, the Company would have to return that over-recovery to customers through the reconciliation rider – including carrying costs. However, this is not necessarily the case in a historic ratemaking model. If the Company earns more than its authorized ROE, it is not required to come in for a rate case and return the over-recovery to customers.[32] Therefore, it is clearly to the benefit of customers to allow the utility to use the MRP construct versus the historic ratemaking construct.

OPC has previously contended that there is essentially no risk to proposing utility investments in an MYP structure, which is simply not true.[33] Over the course of the 300-day MYP proceeding, capital and O&M projects are thoroughly reviewed to establish the investment plan for a three-year cycle, as well as the rates to recover the costs for such plans. After the investments have been made, there is a prudency review in the reconciliation process which ensures that utilities still have the risk of disallowance for work that is deemed imprudent, even after adjustments to the utility's proposed workplan have been made. The prudency review process provides stakeholders an opportunity to propose disallowances as compared to the prudency review used in a historical test year scenario; in the MYP structure, there is more information to review and assess given the additional upfront transparency provided into the authorized workplan. As the Company discusses above, this is closely linked to the additional levels of transparency MYPs require.

[32] However, parties may file a petition requesting that the Commission initiate an investigation into the rates of a utility if the utility is believed to be earning more than its authorized return.
[33] Case No. 9692 OPC Post-Hearing Initial Brief at 9.

Therefore, MYPs improve parties' ability to propose costs disallowances and add additional customer protections through the previously discussed added transparency and the proactive opportunity to review and challenge utility workplans. One might presume that the upfront discussion on the forecasted MYP workplan might result in lower cost disallowances following a prudency review as the Company's proposed workplan has already been significantly reduced as well as the general awareness of the work to be executed. However, basing the initial MYP rates on the Company's forecast (as adjusted by the Commission following a lengthy review and recommendations from stakeholders) gave ample opportunities for parties to review and question the Company's work and investments while ensuring the recovery risk remained with the utility.

In reality, the discussions around the Company's work and investments have become more robust and meaningful. Instead of being focused on the forward-looking adjustments made by the Company to mitigate regulatory lag, which is often the case in a historic test year proceeding, the conversation in an MYP is about what work should customer dollars be spent on, at what pace should the utility be proceeding on a specific type of work, whether the right metrics are in place to evaluate the value delivered to customers, and much more. Largely due to the increased transparency now afforded to parties in MRPs, there are substantially greater proposals to adjust costs and/or curtail proposed investments in MYP proceedings than in historic traditional rate cases. While having these discussions upfront does not eliminate the risk of disallowances during the reconciliation process through the prudency review, it is a more effective use of the Company's and parties' time and resources, and it increases the opportunity for the Company to deploy resources most effectively on the work that stakeholders, and importantly the Commission, agree benefit customers the most. This is especially critical in an environment where State policy is driving a need for additional capital investment to serve customers who are demanding a higher level of reliability given this new era of energy dependance. Despite claims from some stakeholders, it is these items and not the MYP *structure* that is driving up costs. As hypothesized by the Commission and now experienced in the pilot, the MYP structure is the strongest ratemaking method for gaining alignment and planning rates to enable the utility to perform its mandated role.

Simply put, to achieve the decarbonization transformation equitably will require effective planning that is well aligned to and appropriately integrated with our capital programs, as carried forward into our MYP. As MYPs move forward into the future, the enhanced transparency should only serve to further deepen the conversation among stakeholders. Whether it's the Distribution System Planning process,[34] the future of gas proceeding,[35] reliability planning, Public Conference 59 looking at limited income rate mechanisms or other forward-looking proceedings and processes – these should only serve to complement and bolster the benefits of MYPs and the meaningful dialogue about how and where the utility should prioritize its resources and spending. With the energy transition in Maryland underway and a clarity that to get to the future envisioned by policymakers will require a massive amount of investment by anyone's measure, it is imperative that the ratemaking process ensure that utility resources are deployed in the most cost-effective manner. This transition to net-zero is an immense, long-term undertaking for BGE and its workforce, BGE's customers, the state of Maryland, and the wider region at large. A properly constructed MYP has and will continue to contribute significantly to this long-term transition.

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[34] Case No. 9665 – Distribution System Planning for Maryland Electric Utilities.
[35] Case No. 9707 – Petition of the Office of People's Counsel for Near-Term, Priority Actions and Comprehensive, Long-Term Planning for Maryland's Gas Companies.

### *F. MRPs foster innovation with an equitable risk distribution amongst utilities, customers, and stakeholders.*[36]

Without an MYP, BGE would not have had the same ability to put forth as many new and innovative proposals during this pilot MYP period. BGE made numerous innovative proposals in both of its MYP applications including the proposal to offset rate increases during the initial pilot period through the acceleration of certain tax benefits. In Case No. 9692, BGE included a performance incentive mechanism and associated metrics, resiliency plan, blue sky vegetation management pilot program, grid communication/fiber initiative, and customer electrification plan, which were all designed to support and advance State policy goals for electrification, safety, reliability and resiliency. Because under traditional base rate cases utilities do not have the direction, guidance, or support for future plans that MYPs provide, those proposals would likely not have been made in the same manner, or likely at all, absent the MYP.

As noted earlier, the MYP process provides parties with much greater information to assess both actual and proposed investments, including the opportunity to recommend cost disallowances and adjustments to future spending plans, thus increasing risks to utilities. In this way, the MYP structure distributes risk appropriately, with the reconciliation ensuring customers pay no more than a utility's prudently incurred costs and with carrying costs only applying to refunds as a customer benefit.

### *G. MRPs provide benefits in the public interest that traditional ratemaking does not and are the Predominant Ratemaking Approach Used in States with Aggressive Climate Goals*

In the Notice, the Commission also requested responses to issues raised by OPC in Case No. 9692 and directed parties to provide comments and recommendations to improve of MRPs in

[36] Addresses The Notice topic (6) proposed by the Commission: *whether more utility innovation and equitable risk distribution have been achieved relative to traditional ratemaking.*

Maryland.[37] As explained earlier in these comments, it is not the use of MRPs that is driving increased expenditures by BGE or any utility in the State; instead, it is largely due to state and federal policy, including – but certainly not limited to – Maryland's goal to achieve net-zero greenhouse gas emissions by 2045[38] as well as rules and recommendations from the Pipeline and Hazardous Materials Safety Administration.[39]

To begin, it is essential to recognize that MRPs are widely used nationally and are the ratemaking approach of choice for states with aggressive climate goals. In fact, the majority of those states with ambitious climate goals utilize MRPs.[40] Importantly, those states with aggressive climate goals that are not using MRPs use another alternative form of ratemaking – none use historic test year ratemaking. That said, the specific form and structure of MRPs vary from state to state, and that is another benefit of MRPs – they are flexible and allow for structural differences that align the mechanism used with specific state policies and customer needs.

Another similarity between the majority of these states is that their climate mitigation policies and associated MRP recovery mechanisms are viewed favorability by RRA – however, Maryland is not included in that group despite Maryland's leading climate goals. Maryland's RRA ratings have deteriorated in 2023 and 2024 to the lowest possible level as recent decisions by the Commission raising questions about the future use of MRPs in Maryland are viewed by RRA as increasing investor risk.[41] If raising questions about any use of MRPs in the future results in this level of investor concern, an actual move away from MRPs would not only be detrimental to the

[37] The Notice page 4.
[38] *Md. Code Ann.*, Environment Article §2-1201(4).
[39] https://www.phmsa.dot.gov/data-and-statistics/pipeline-replacement/pipeline-replacement-background; Final Rule on Safety of Gas Transmission, 87 FR 52226.
[40] RRA Regulatory Focus Alternative ratemaking plans in the U.S., spglobal.com/marketintelligence (2020) and State Climate Policy tracker, climate-xchange.org (2023)
[41] RRA State Regulatory Evaluations — Energy. August 7, 2024.

State's capabilities to achieving its climate goals but also harmful to the economic health of its utilities as it will likely hinder the Company's ability to obtain capital at reasonable rates.[42] This will have a direct impact on customer bills as this cost will flow through to their bills, as well as impact the Company's ability to invest the appropriate level of capital in its distribution systems at the pace needed to meet the State's goals.

This is in no way to say that improvements could not and should not be made to the MRP structure in Maryland. Rather, it is the specter of not moving forward with MRPs – or even any form or alternative ratemaking - and instead moving backwards to historic test year ratemaking that is the issue. Instead of considering this more restrictive path, the Company refers to the expectations set when MRPs were first created - it was understood that there were benefits from the mechanism, *and there would be opportunities to propose changes to improve the processes and procedures to help all stakeholders involved.*

> Specifically, the Commission found that a properly constructed MRP, based on a historic test year that allows up to three future test years, can produce just and reasonable rates and can be implemented by Maryland electric and natural gas utility companies, **subject to developing the necessary processes and procedures.**[43] (*Emphasis added*.)

In other words, the MRPs can and should continue to be modified and changes adopted as necessary, as opposed to abandoning them all together.

OPC noted that "for more than 100 years, BGE has been able to pursue the investments necessary to meet its service obligations and ensure system safety and reliability through standard, historic-test-year ratemaking."[44] They also recognized that the nature of Maryland and its State policy is rapidly changing; the aggressive climate goals, new technology, and current customer

[42] A two notch decrease to BGE's S&P rating would drop the Company to a speculative-grade investment.
[43] Order No. 89226, p. 56.
[44] Case No. 9692 OPC Initial Brief, p. 13.

expectations are vastly different than they have been the last 100 years or even in the last 10 years. Maryland cannot revert to "business-as-usual" historic-test-year ratemaking as Maryland's horizon rapidly evolves.[45] While it worked in the past, we now live in a world with new, unprecedented changes to how power will be generated, delivered, and used within only a few decades. The ratemaking construct must equally evolve to meet the set goals in the most cost-effective way, including incenting investors to continue financing the energy transformation in Maryland. We must continue to develop and adapt the MRP processes and procedures to fit all stakeholders' needs. This could include implementation of a performance-based mechanism within the MRP construct, as the Commission itself envisioned could happen in Order No. 89226 when it held that "MRPs may be well suited to pair with PBR's [Performance-based Rates]."[46] BGE agrees with the Commission that aligning state policy goals and utility rates is an important objective and even proposed a performance-incentive mechanism in Case No. 9692. While BGE's proposal was not approved, the Company believes this is an important feature of MRPs that can be explored further in future MRPs.

As the utility piloting this process, BGE has identified improvements on its own and is committed to moving ratemaking and MYPs forward in Maryland to the benefit of the State, customers and all stakeholders. To that end, an opportunity to consider modifying the MRP construct is to strengthen the existing cost control measures. In fact, in his Direct Testimony in the Case No. 9645 2023 Final Reconciliation, Staff Witness Valcarenghi proposed consideration of a cap on the MYP reconciliation amounts, which other Staff witnesses agreed with. This proposal stems from a concern about the size of the 2023 reconciliation amount which he believes suggests some form of cap on cost recovery may be warranted. Such concerns about the

45 Case No. 9692 OPC Initial Brief, p. 4.
46 Order No. 89226 at para. 55.

effectiveness of cost controls in the existing MYP structure in Maryland is not new. As an illustrative example of such a cost control, BGE would find a cap on the MYP reconciliation to be a reasonable element within a portfolio of balanced modifications. However, such controls would need to be implemented thoughtfully with consideration to the full suite of influences on the utility's business operations. For example, the Company would recommend that any cap exclude certain categories of costs that are clearly directed by the Commission to be addressed with in reconciliation,[47] are either outside of the utility's control and/or are costs that are clearly incurred to meet State policy goals enacted in legislation or regulatory mandate. These costs include storm restoration costs, new business/customer requests for service, required load growth investments, and legislative or regulatory-required work, new or changed policy or requirements including taxes. Costs excluded from the cap, as well as all other costs included in any reconciliation amount whether they represent an amount owed to the utility or owed to customers, would still be subject to the same prudency review as any other actual cost incurred by the utility in cost of service.

## IV. CONCLUSION: MOVING FORWARD WITH MRPS IN A MODIFIED FORM IS THE RIGHT THING FOR CUSTOMERS, UTILITIES, THE STATE, AND ALL STAKEHOLDERS.

Moving forward with MYPs in a modified form is the right thing for customers, utilities, the State, and all stakeholders. The energy and economic future outlined by the State demand significant efforts and resources, and it is vital that we work together to achieve those goals. Customer affordability and the reality that there are limited resources is always at the forefront of

[47] Case No. 9645, Order No. 89794, page 12: "Finally, the Commission observes that to the extent BGE's actual depreciation during the MRP deviates from the projected amount, the company (or the ratepayer) has a remedy. The Commission has established a process in this MRP pilot to reconcile differences between actual and forecasted revenue requirements over the term of the MRP that will consist of: (i) an annual information filing; (ii) a consolidated reconciliation and prudency review in a subsequent rate case; and (iii) a final reconciliation and prudency review after the conclusion of the pilot MRP rate-effective period. To the extent BGE is correct that its actual depreciation expense will exceed the amount collected through rates during the MRP, BGE will be made whole through the reconciliation process." (footnote omitted)

BGE's mind when deciding what work to include in an MYP, and the Company appreciates its primary responsibility is to provide customers with safe and reliable service.

MYPs add transparency and the opportunity to review and challenge utility workplans for the benefit of customers, and to ensure that ultimately there is alignment between the Commission and a utility as to the work that will be performed while allowing the utility the ability to react to changing circumstances. As evidenced through the pilot, MYPs are the most effective method of ratemaking to reach our future energy goals, as the Commission itself determined in Order Nos. 89226 and 89482. BGE stands ready and willing to work with the Commission and all stakeholders in this process to assess improvements to the MYP structure in Maryland. We are listening and will be responsive to stakeholder concerns expressed and any structural changes proposed. While the reconciliation provides accountability, as recognized by the Commission itself when it put this feature in place and "established an asymmetrical two-way reconciliation for the Pilot MRP in order to encourage cost control and keep risks of forecasting error on the utility."[48] The MYP reconciliation is indeed a customer protection mechanism that ensures rates will never exceed actual utility costs. Thus, MYPs provide an added layer of customer protection by both beginning with "an extensive review process to establish the investment plan for a 3-year cycle" and then also providing annual reviews of the Company's progress against budget with a final "prudency review in the reconciliation process."[49] Customers are protected on both the front-end and the back-end. Only with an MYP will customers and the Commission receive the benefits of discussing the Company's workplans for the next three years ahead of time, providing

48 *Re Delmarva Power and Light Co.*, Case No. 9681, Order No. 90445 at 24-25 (Md. PSC, Dec. 14, 2022).
49 Case No. 9692 BGE Initial Post-Hearing Brief at p. 16.

transparency, rigorous review, accountability, flexibility, and the ability to set more gradual and predictable rates.

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