

ORDER NO. 91643

Investigation into Gas System Inspection	*	BEFORE THE
Issues Raised Regarding Baltimore Gas	*	PUBLIC SERVICE COMMISSION
and Electric Company	*	OF MARYLAND
	*	
	*	_____
	*	Case No. 9791
	*	_____

Issue Date: May 8, 2025

ORDER INITIATING A PROCEEDING

In this Order, the Commission initiates a new docket, Case No. 9791, and delegates this matter to the incoming Chief Public Utility Judge (“Chief PULJ”)¹ for investigation and issuance of a fact-finding report and recommendations regarding Baltimore Gas and Electric Company’s (“BGE”) gas system safety inspection program. An initial report shall be filed with the Commission within 90 days of this Order.

The initial report shall provide a status update on the progress of the proceeding, including a report on the selection of an independent auditor or a Technical Staff (“Staff”) consultant. The initial report shall also propose the schedule for the final report. Upon receipt of the final report, the Commission shall consider comments and exceptions from the parties and issue its determination on the matter.

¹ In a press release issued May 6, 2025, the Commission announced that beginning July 1, 2025, Judge Kristin Case Lawrence will assume the role of Chief Public Utility Law Judge at the Commission. For purposes of this Order, PULJ and Chief Judge are intended to refer to Judge Lawrence.

I. BACKGROUND

On February 10, 2025, the Commission issued Order No. 91518 in Case No. 9645, requiring the Commission's Engineering Division (“PSCED”) to investigate issues raised by former BGE employees in their Petition to Intervene in the case,² regarding alleged deficiencies involving the Company’s gas system safety inspection program.³ PSCED filed its Investigation Report (“Report”) in this matter on April 11, 2025.⁴ The Report documented concerns related to BGE’s oversight and eventual termination of an inspector employed by the Company. In its Investigation Report, PSCED recommended: (1) the immediate issuance of a Commission order directing BGE to produce a list of all projects “inspected” by the discredited employee,⁵ (2) a mandatory independent audit of BGE’s adherence to its inspection procedures/protocols, (3) the consideration of cost disallowance or refunds to ratepayers where prudence cannot be substantiated, and (4) that the Commission require BGE to develop and file a corrective action plan.

On April 17, 2025, BGE filed its response to the Investigation Report.⁶ On April 22, 2025, the Maryland Office of People’s Counsel (“OPC”) filed its response to the Investigation Report.⁷ On April 18, 2025, the Commission issued a Notice of Hearing, setting April 23, 2025, as the date for a Status Conference in Case No. 9645 to hear comments on the filings submitted by the parties on this issue.⁸

² Maillog No. 314476.

³ Order No. 91518, *Baltimore Gas and Electric Company’s Application for an Electric and Gas Multi-Year Plan*, Case No. 9645 (Maillog No. 315614).

⁴ Maillog No. 317951 at 1.

⁵ This recommendation was later revised as noted below.

⁶ Maillog No. 318107.

⁷ Maillog No. 318192 at 1.

⁸ Maillog No. 318151. This Hearing is also referenced as a Status Conference.

II. PARTY POSITIONS

1. Public Service Commission's Engineering Division's Investigation Report

The PSCED investigated the following: (1) actions BGE took to ensure compliance with all applicable federal and State regulations, municipal codes, and internal safety standards, (2) remediation work performed in response to potential safety issues, (3) whether the safety of the natural gas infrastructure was compromised, and (4) whether BGE included increased gas contracting or internal labor costs related to the misconduct in its 2023 multi-year rate plan reconciliation.⁹ In its Investigation Report, PSCED identified gaps in BGE's compliance oversight, quality assurance of work, and verification of gas distribution records.¹⁰ Furthermore, in reviewing BGE's gas contracting and labor costs related to the misconduct, the PSCED noted that BGE did not provide an itemized report of costs associated with investigating the inspector's misconduct, legal, human resources, or compliance-related costs triggered by the incident, and without disaggregated forensic accounting data, it is difficult to track expenses.¹¹ In conclusion, the PSCED recommendations included establishing an independent audit, disallowing imprudent expenses, and creating a corrective action plan.¹²

2. Baltimore Gas and Electric Company's Response to the Investigation Report

In its Response to the PSCED's Report, BGE emphasized its steadfast commitment to ensuring that its electric and gas infrastructure is well-maintained and asserted that

⁹ The Commission recognizes that BGE has already offered to forgo collection of any funds associated with the alleged malfeasance of the construction inspector who is the subject of the Petition to Intervene.

¹⁰ Investigation Report at 14-16.

¹¹ *Id.* at 15.

¹² *Id.* at 16.

PSCED's Investigation Report contains misstatements and inaccuracies underlying PSCED's conclusions and recommendations.¹³ BGE argued that the characterization of the former inspector's role as a safety inspector is false. Instead, BGE asserted the inspector should be viewed as a contractor compliance auditor.¹⁴ Regarding the termination of the inspector, BGE noted that the Company took appropriate action to address the inspector's underperformance in 2023, and the Company's continued proactive oversight resulted in the inspector's termination.¹⁵ BGE observed that several documents were requested, including project lists, inspection records, falsified reports, and itemized costs related to the inspector's termination.¹⁶ However, BGE asserted that its responses to documentation requests were complete to the extent records existed.¹⁷ Finally, BGE proposed that, to the extent there are concerns with the quality of the inspector's work and possible recovery from ratepayers, the Company has excluded the terminated inspector's entire salary from the Company's multi-year ratemaking proposal.¹⁸

3. Office of People's Counsel's Response to the Investigation Report

In its Comments, OPC noted that PSCED's Investigation Report raises deeply concerning questions regarding BGE's gas infrastructure inspection processes (and the Company's adherence to those processes), the safety of at least parts of BGE's gas distribution system, and the costs and prudence of BGE's related gas infrastructure work. OPC recommended that the Commission "open a separate docket and conduct a full

¹³ Maillog No. 318107.

¹⁴ BGE's Response to Investigation Report at 2.

¹⁵ *Id.* at 4-5.

¹⁶ *Id.* at 6 and 11.

¹⁷ *Id.* at 6 and 12.

¹⁸ *Id.* at 2.

evidentiary process and hearing, allowing any interested parties to intervene and participate” in the review.¹⁹ Furthermore, OPC requested that the Commission direct its Technical Staff to reduce or eliminate the confidentiality designation from the PSCED’s Investigation report.²⁰

4. Status Conference

On April 23, 2025, the Commission held a Status Conference to hear comments on the filings submitted by the parties. Staff began by noting a revision to Recommendation No. 1, amending that recommendation to request “Immediate issuance of a Commission order directing BGE to produce a list of all projects that were assigned to but not ‘inspected’ by the discredited employee that were inspected by other inspectors from the Corrosion, Leak, and Proactive Service Renewal Program for 2022 until his termination.”²¹ Furthermore, Staff articulated concerns that the problems related to the employee’s termination could be systemic and that an independent audit may be necessary to analyze cost allocation.²²

BGE responded that the poor performance was discovered through proactive internal oversight, and the termination is akin to those common among businesses, which had no impact on the safety of the gas distribution system, and the inspector's salary has been excluded from BGE’s multi-year rate plan (the “MRP”).²³ Furthermore, BGE argued that work assigned to the inspector was related to contract compliance rather than gas

¹⁹ OPC Response at 3.

²⁰ *Id.* at 2.

²¹ Apr. 23, 2025, Hearing Transcript ("Tr.") at 6:6-12.

²² *Id.*, Tr. at 9:20-10:4.

²³ *Id.*, Tr. at 16:1-12.

distribution safety.²⁴ OPC asserted that this characterization overlooks the possibility that gas distribution safety responsibilities could be included in other duties as assigned.²⁵ There was consensus among the parties in favor of creating a new docket to investigate the actions of BGE in addressing concerns related to the former terminated inspector and the possible impact on ratepayers.²⁶ The Commission concluded the Status Conference by stating an order would be released to address any further investigation of this matter.²⁷

COMMISSION DECISION

Upon consideration of the matter, the Commission hereby initiates this new docket and delegates the matter to the Chief PULJ for evidentiary and further proceedings for issuance of an initial and final report, consisting of factual findings and recommendations addressing all material issues. During the course of the proceeding, the Chief Judge shall also issue rulings on other matters, including whether an independent audit of BGE's adherence to its inspection procedures/protocols, as recommended in PSCED's Report is warranted, and if so, the parameters of such an audit and how the Company should be directed to proceed.

Based on input from the parties, if the Chief Judge determines that an independent audit is warranted, the Commission hereby directs Staff to recommend a shareholder-funded independent auditing company, pursuant to request for proposals issued by the Company, for selection by the Commission, to investigate BGE's adherence to its inspection procedures and operating protocols pursuant to the auditing parameters agreed

²⁴ *Id.*, Tr. at 10:6-19.

²⁵ *Id.*, Tr. at 14:8-23.

²⁶ *Id.*, Tr. at 8:2-7., 9:5-12.

²⁷ *Id.*, Tr. at 16:20-17:2.

upon by the parties and accepted by the Chief Judge. Upon completion of its investigation, the independent auditor shall submit a final report to Staff for filing in the case.²⁸ If, however, the parties and the Chief Judge conclude that an independent audit is not necessary or is impractical, the Commission hereby directs Staff to retain a shareholder-funded independent consultant to assist PSCED in its investigation of this matter. The selection of a Staff consultant shall be made in the same manner as described herein had the process been used for the selection of an independent auditor.

The Chief PULJ shall also rule on OPC's request to reduce or eliminate BGE's confidentiality designations in the Company's Response in Opposition to the former BGE employees' Petition to Intervene in Case No. 9645 and confidential designations by Staff in PSCED's Investigation Report. This proceeding shall however focus on the issues raised in Staff's Investigation Report and this Order, including the safety of BGE's gas system inspection program. While it bears repeating that the Commission is troubled by accusations that a BGE employee repeatedly failed to conduct proper inspections and submitted false reports, and that allegedly BGE generally neglected to exercise good management judgment regarding gas infrastructure projects,²⁹ this proceeding should not be hampered by extraneous issues that do not directly address the issues raised in PSCED's Report or this Order.

Discovery shall proceed under a procedural schedule established by the Chief PULJ. In discovery, the Commission's Technical Staff shall solicit, among other things, answers to the following questions:

²⁸ Interim reports by the independent auditor or Staff consultant may be directed at the discretion of the PULJ.

²⁹ See, Order No. 91518 at 9-10.

1. In consideration of the inspector's job duties and Operator Qualifications,³⁰ why does BGE maintain that the field audits are part of the contractual oversight function and that the PSCED's attempt to equate these audits to comprehensive safety inspections is improper and without basis?
2. What insights can BGE provide to explain the differences in job duties of a Field Inspector referenced in Case No. 9653 versus those in Case No. 9645?³¹
3. Where is documentation of other inspection records for projects inspected by the terminated inspector or other evidence that other qualified individuals are authenticating "the work with multiple layers of verification" as claimed by BGE?³²
4. Why has BGE not mentioned its Quality Division³³ or otherwise produced detailed audit checklists by this Quality Division for inspections that should have been performed by the terminated inspector to validate the workmanship of construction tasks?

Although the Commission is docketing this matter as a separate proceeding from BGE's MRP rate case (Case No. 9645), which is currently focused on BGE's Year 3 Final Reconciliation, the information revealed in this new proceeding may become relevant to

³⁰ PHMSA OQ, or Operator Qualification, refers to a set of regulations and requirements established by the US Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) to ensure that individuals working on pipelines have the necessary training, experience, and skills to safely perform their tasks and prevent accidents.

³¹ Staff's Report in Case No. 9653 involving investigation into a building explosion in Columbia, Maryland appears to validate Staff's Report that Field Inspector duties include safety related duties. Specifically, BGE's response to Staff's Case No. 9653 Report states that "BGE's current practice is to assign Field Inspectors across the service area to oversee a sample of construction activities conducted by contractor resources to ensure safety and workmanship." (Maillog No. 232617 at 6.)

³² Maillog No. 318107.

³³ See Maillog No. 232617 at 7 of BGE's Response to Staff's Case No. 9653 Report that states, "In January 2020 [...] BGE also created a new quality control department (the "Quality Department"), whose purpose is to ensure that work is constructed according to Company standards. The Quality Department is a standalone organization separate from the other Field Inspectors, described above. The newly developed Quality Department will have inspectors dedicated to audit the workmanship of construction tasks via detailed checklists. The Quality Department will also audit installation work utilizing a risk-based inspection methodology—collecting data based on calculated risk and adequate sample sizes to trend statistically significant data. This department has already begun quality audits this year and will continue to expand its scope over time."

Case No. 9645. To the extent that the new proceeding reveals imprudent BGE expenditures related to the Company's Year 3 Final Reconciliation, the Commission may disallow those expenditures. Accordingly, BGE is directed to establish a regulatory liability account to identify and track any such costs. Any regulatory liability identified in this proceeding may be accounted for as a regulatory asset for customers either in Case No. 9645 or in a future BGE base rate case.

Upon receipt of the Chief Judge's final report, the Commission shall direct further proceedings, allowing the parties to file exceptions and comments on the Chief PULJ's factual findings and recommendations prior to issuing its determination in this matter.

By Direction of the Commission,

/s/Andrew S. Johnston

Andrew S. Johnston
Executive Secretary