

Before the Maryland Public Service Commission

Case No. 9600

Prepared Surrebuttal Testimony of

Robert W. Munley

On Behalf of

Baltimore Gas and Electric Company

January 22, 2020

1 **I. BACKGROUND INFORMATION**

2 **Q. PLEASE STATE YOUR FULL NAME AND BUSINESS ADDRESS.**

3 A. My name is Robert William Munley. My business address is Baltimore Gas and Electric
4 Company (“BGE” or the “Company”), 2900 Lord Baltimore Drive, Windsor Mill,
5 Maryland 21244.

6 **Q. ARE YOU THE SAME MR. MUNLEY WHO PROVIDED DIRECT TESTIMONY**
7 **AND SUPPLEMENTAL DIRECT TESTIMONY IN THIS MATTER**
8 **PREVIOUSLY?**

9 A. Yes, I am.

10 **Q. MR. MUNLEY, WHAT IS THE PURPOSE OF YOUR SURREBUTTAL**
11 **TESTIMONY?**

12 A. My surrebuttal testimony is being offered to respond to the Rebuttal Testimony of Kevin
13 Zhong filed with the Maryland Public Service Commission (the “Commission”) in this
14 proceeding on January 10, 2020 on behalf of the Commission’s Technical Staff (“Staff”).

15 **Q. MR. MUNLEY, HAVE YOU REVIEWED MR. ZHONG’S REBUTTAL**
16 **TESTIMONY IN THIS MATTER?**

17 A. Yes, I have.

18 **Q. WHAT IS THE SUBJECT MATTER OF MR. ZHONG’S REBUTTAL**
19 **TESTIMONY?**

20 A. Staff Witness Zhong focuses his rebuttal testimony on the topic of recovery of cost
21 liabilities associated with the decommissioning of the existing BGE underground cables
22 once the Key Crossing Reliability Initiative Transmission Line (“Key Crossing”) project
23 is completed.

1 **Q. DOES STAFF WITNESS ZHONG MAKE ANY NEW RECOMMENDATIONS IN**
2 **HIS REBUTTAL TESTIMONY REGARDING THIS TOPIC?**

3 A. Yes. Mr. Zhong recommends that the Commission should condition a certificate of public
4 convenience and necessity (“CPCN”) for the Key Crossing project upon a requirement
5 “that BGE should ensure its customers are protected from any potential future cost
6 liabilities associated with any potential risks of BGE's decommissioning plan for the
7 existing submarine Harbor Crossing Cables by agreeing to not seek regulatory recovery of
8 such costs through the Federal Energy Regulatory Commission (“FERC”) or the Maryland
9 Public Service Commission.” BGE asked Mr. Zhong in a data request to explain with more
10 specificity what future potential risks and potential cost liabilities he was envisioning be
11 covered by the recommended additional licensing condition. Mr. Zhong responded that it
12 pertains to a potential environmental incident involving a release of the residual dielectric
13 mineral oil in the abandoned underground cable pipes.¹

14 **Q. MR. MUNLEY, WHAT IS YOUR INITIAL REACTION TO MR. ZHONG’S**
15 **REBUTTAL TESTIMONY?**

16 A. My initial reaction is that I am unsure of what specifically Mr. Zhong is responding to
17 through his rebuttal testimony. In Mr. Zhong’s direct testimony filed with the Commission
18 on December 2, 2019, he noted “Yes” in response to the question “Has BGE provided a
19 decommissioning plan to Staff’s satisfaction?” Mr. Zhong went on to describe the
20 decommissioning plan generally and concluded that he believed BGE’s decommissioning
21 plan “appears to be reasonable.” Now in his “rebuttal” testimony, it seems that Mr. Zhong

¹ Staff responses to BGEDR1-6(b) (attached hereto as Exhibit A).

1 continues to believe that BGE's decommissioning plan is reasonable, yet he requests that
2 the Commission add an entirely new recommended licensing condition that seeks to have
3 BGE provide a blanket indemnity for any potential future liabilities associated with an
4 inadvertent release of the residual mineral oil retained in the abandoned underground cable
5 pipes, no matter how unknown, or how uncertain.

6 **Q. MR. MUNLEY, DO YOU AGREE WITH STAFF WITNESS ZHONG'S NEW**
7 **ADDITIONAL RECOMMENDED LICENSING CONDITION?**

8 A. No, I do not. I don't believe that his additional recommended licensing condition is either
9 necessary or appropriate. I also think that if the Commission accepts the additional
10 licensing condition, it could lead to public policy concerns that could act as a deterrent to
11 utilities including decommissioning plans as part of future projects.

12 **Q. MR. MUNLEY, ARE YOU AWARE OF MR. ZHONG'S ADDITIONAL**
13 **RECOMMENDED LICENSING CONDITION EVER BEING OFFERED BY THE**
14 **COMMISSION STAFF OR BEING IMPOSED BY THE COMMISSION IN ANY**
15 **PRIOR TRANSMISSION LINE CPCN PROCEEDING?**

16 A. No, I am not aware of Staff ever recommending such a licensing condition in a prior
17 transmission line CPCN proceeding, or of the Commission imposing such a condition.
18 BGE asked Mr. Zhong in discovery if he had ever made such a recommendation before or
19 if he was aware of the Commission ever imposing such a condition before. In both cases
20 his response was "No."²

² Staff responses to BGEDR1-6(a) and 1-7(a) (attached hereto as Exhibit B).

1 **Q. MR. MUNLEY, WHY DO YOU THINK THE ADDITIONAL LICENSING**
2 **CONDITION IS UNNECESSARY?**

3 A. The additional licensing condition is unnecessary because BGE has put forth a thoughtful
4 and robust plan for decommissioning the existing underground cables – a plan that removes
5 in a careful and deliberate process well over 90% of the dielectric mineral oil contained in
6 the existing cable pipes. It is important to note that BGE deliberately adopted this
7 decommissioning plan in lieu of removing the underground cables altogether based on
8 initial feedback from state agencies. While removing the underground cables would
9 eliminate Mr. Zhong’s potential “future risk” concerns, it would also be significantly more
10 expensive, and it will impose greater environmental impacts than BGE’s current plan to
11 leave the existing cables in place.

12 For that reason, as BGE detailed in its application materials and supporting
13 testimony, the Company will abandon the existing underground cables in place but first
14 remove at least 90% of the oil from the cable pipes and fill them with demineralized water
15 that is under negative pressure. Negative pressure means that the pressure in the pipes is
16 lower than that of the surrounding Patapsco River water. This means that any leakage
17 associated with potential corrosion of the abandoned cables is likely to be river water
18 leaking into the cable pipes, rather than any residual oil leaking out of the pipes. In the
19 unlikely event that some residual oil did leak into the Patapsco River, however, it would
20 be bioremediated by naturally occurring bacteria present in the ten feet of riverbed covering
21 the underground pipes.³ This plan was designed to ensure that any residual oil is contained

³ For a comprehensive review and analysis of the process by which BGE crafted an oil removal and cable abandonment plan, I refer to Appendix C of the Environmental Review Document attached to the direct

1 in a stable condition and environment, ensuring a very low risk that the oil could leak or
2 otherwise be released into the environment. Accordingly, I see no need for the addition of
3 a licensing condition that precludes BGE from ever seeking cost recovery in the rare event
4 that there is an environmental or other liability associated with the retired underground
5 cables.

6 **Q. IF IT IS SO UNLIKELY THAT ANY LIABILITIES WILL ARISE IN THE**
7 **FUTURE IN CONNECTION WITH THE DECOMMISSIONING PLAN OR THE**
8 **OIL THAT REMAINS IN THE CABLES, WHY SHOULDN'T BGE JUST AGREE**
9 **WITH STAFF WITNESS ZHONG'S ADDITIONAL RECOMMENDED**
10 **LICENSING CONDITION?**

11 A. I am not a proponent of adding licensing conditions to a project just because it is unlikely
12 that the licensing condition will need to be enforced. But more importantly, the additional
13 licensing condition recommended by Mr. Zhong is not appropriate to impose on BGE,
14 which would preclude any possibility of rate recovery. Furthermore, it could lead to public
15 policy concerns going forward with respect to future transmission line CPCN proceedings.

16 **Q. MR. MUNLEY, WHY DO YOU THINK THE ADDITIONAL RECOMMENDED**
17 **LICENSING CONDITION IS NOT APPROPRIATE?**

18 A. The additional recommended licensing condition is not appropriate because it would
19 essentially preclude BGE from any cost recovery of future liabilities associated with a
20 transmission line asset that has been in service for decades and has served customers well.

testimony of BGE Witness Meling (Key Crossing Oil Remediation Study Report). Section 5.4 of that report indicates that BGE observed a more than 98% oil recovery rate from the existing underground cables through experimental and analytical analyses.

1 The existing underground cables and the insulating oil contained in the cable pipes have
2 been in service since the 1970s without incident, ensuring that customers have received
3 electricity in a safe and reliable manner for over forty years. Imposing a condition that
4 would prevent BGE from recovering any future costs associated with such an asset would
5 be inconsistent with the longstanding practice of utilities making necessary system
6 investments and utility customers being responsible for costs associated with those
7 investments that provide those customers with safe and reliable public utility services,
8 subject to regulatory prudence reviews.

9 Additionally, imposing a present condition that precludes BGE from ever
10 recovering costs from customers for potential future unknown liabilities, no matter the
11 circumstance or amount, is inequitable. To be clear, BGE is not asking the Commission
12 as part of the Company's current efforts to obtain a CPCN for expressed authority or
13 approval to recover from customers future unknown cost liabilities. BGE would expect
14 that if such liabilities did arise in the future, BGE would elect to come to the Commission
15 or FERC, as part of a rate case or other proceeding, and make the case at that point in time
16 for why it is appropriate to recover such costs from customers. It is not possible at this
17 point in 2020 to know what future cost liabilities might arise in connection with BGE's
18 decommissioning plan, the retired underground cable assets, or the circumstances that
19 would have led to such costs being incurred. Accordingly, it would not be appropriate to
20 impose at this time a blanket prohibition on BGE seeking to recover such future cost
21 liabilities. The issues of whether costs are eligible for recovery really should be considered
22 in the future, if and when such costs are incurred and/or BGE seeks to recover such costs
23 from customers.

1 **Q. MR. MUNLEY, DID YOU REVIEW THE PRIOR CPCN CASES IMPOSING**
2 **DECOMMISSIONING CONDITIONS UPON APPLICANTS THAT ARE CITED**
3 **BY MR. ZHONG IN SUPPORT OF HIS ADDITIONAL RECOMMENDED**
4 **LICENSING CONDITION?**

5 A. Yes, I briefly reviewed those orders.

6 **Q. DO YOU BELIEVE THOSE PAST CPCN CASE ORDERS SUPPORT THE**
7 **INCLUSION OF THE ADDITIONAL LICENSING CONDITION THAT MR.**
8 **ZHONG IS RECOMMENDING IN THIS PROCEEDING?**

9 A. No, I do not. First, I would note that Mr. Zhong himself recognizes that the cases he cites
10 involve generating stations (not transmission lines), where the applicant was a third-party
11 developer (not an incumbent utility). The recovery of decommissioning costs from a
12 generation facility that is no longer operating is entirely different from an incumbent
13 transmission line facility owner that continues to own and maintain transmission line
14 facilities. I am not aware of any transmission line CPCN's that have been conditioned
15 upon anything involving decommissioning or an agreement not to recover future cost
16 liabilities.

17 But beyond that, the conditions that Mr. Zhong references are entirely unrelated to
18 the condition he now seeks to impose in this proceeding. The decommissioning plan
19 conditions cited by Mr. Zhong in his rebuttal testimony involve protecting taxpayers from
20 a very specific known, identifiable, and defined risk: paying the cost to implement the
21 decommissioning plan at the end of the project's useful life, in the event the developer
22 ceases to be in business or the project is abandoned. The costs are known, and generation
23 facility CPCN applicants are required to secure funding mechanisms to cover those costs

1 so as to protect taxpayers. Here, however, Mr. Zhong seeks a condition that would have
2 BGE shareholders indemnify ratepayers from any and all unknown risks associated with
3 the future existence of the underground transmission cables, even after the
4 decommissioning plan is complete.

5 **Q. CAN YOU PLEASE EXPLAIN HOW ACCEPTANCE OF THE ADDITIONAL**
6 **LICENSING CONDITION COULD LEAD TO PUBLIC POLICY CONCERNS?**

7 A. Certainly. As I explained before, in the event BGE incurred future cost liabilities
8 associated with the decommissioning plan or the retired underground transmission cables,
9 the Company would likely elect to go through the traditional Commission prudency review
10 for recovering those costs. That policy has been in place for decades, and appropriately
11 leaves cost recovery determinations to the Commission or FERC, with all interested
12 stakeholders free to argue for or against recovery at the appropriate time. Requiring BGE
13 to waive its right to that process with regard to retired assets as a condition for a CPCN to
14 construct a new transmission line project – a project that all parties have agreed is necessary
15 to provide safe and reliable service to customers – would be unjust. It could also influence
16 future decisions made by transmission line CPCN applicants so as to avoid a similar result.
17 For example, a transmission line CPCN applicant might choose in the future to not include
18 a decommissioning plan in an application at all – I note that the generation facility CPCN
19 orders cited by Mr. Zhong in his rebuttal testimony conditioned CPCN approval on the
20 future development and submission of a decommissioning plan. Alternatively,
21 transmission line CPCN applicants might elect for decommissioning options that may be
22 more costly for ratepayers now, so as to avoid the possibility of future unknown cost
23 liabilities, no matter the likelihood that such liabilities would be incurred. Both outcomes

1 would be unfortunate from a public policy perspective. Accordingly, I would urge the
2 Commission to resist adopting Mr. Zhong's additional recommended licensing condition
3 – a condition that by his own admission he has never before recommended in any CPCN
4 proceeding and is not aware of the Commission ever imposing on a CPCN applicant.

5 **Q. MR. MUNLEY, DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

6 A. Yes, it does.

Exhibit A

PSC Case No. 9600

BGE DATA REQUEST NO. 1

TO

STAFF OF THE PUBLIC SERVICE COMMISSION OF MARYLAND (“STAFF”)

- 1-6. Please refer to the Rebuttal Testimony of Kevin Zhong filed with the Maryland Public Service Commission on January 10, 2020 in the Case No. 9600 proceeding. Please refer to page 3 of the rebuttal testimony where Mr. Zhong makes the following recommendation to add as an additional licensing condition:

BGE should ensure its customers are protected from any potential future cost liabilities associated with any potential risks of BGE's decommissioning plan for the existing submarine Harbor Crossing Cables by agreeing to not seek regulatory recovery of such costs through the Federal Energy Regulatory Commission (“FERC”) or the Maryland Public Service Commission.

- b) Please provide specific examples of what Mr. Zhong means by “any potential future cost liabilities” and “any potential risks” of BGE's decommissioning plan for the existing submarine Harbor Crossing Cables.

Staff Response: My rebuttal testimony on page 2 of my direct testimony references “an environmental incident or some sort of future interference of the decommissioned cables with other infrastructure or parties.” Since submarine cable infrastructure will be retired in place in perpetuity by BGE with approximately 15000 gallons of oil remaining, the liabilities and risks most concerning, are those associated with “an inadvertent release of the dielectric oil into the Patapsco River once the system has been retired” (BGE’s Alternative Analysis, page 147).

Exhibit B

PSC Case No. 9600

BGE DATA REQUEST NO. 1

TO

STAFF OF THE PUBLIC SERVICE COMMISSION OF MARYLAND (“STAFF”)

- 1-6. Please refer to the Rebuttal Testimony of Kevin Zhong filed with the Maryland Public Service Commission on January 10, 2020 in the Case No. 9600 proceeding. Please refer to page 3 of the rebuttal testimony where Mr. Zhong makes the following recommendation to add as an additional licensing condition:

BGE should ensure its customers are protected from any potential future cost liabilities associated with any potential risks of BGE's decommissioning plan for the existing submarine Harbor Crossing Cables by agreeing to not seek regulatory recovery of such costs through the Federal Energy Regulatory Commission (“FERC”) or the Maryland Public Service Commission.

- a) Is Mr. Zhong aware of a similar licensing condition ever being imposed by the Maryland Public Service Commission on an applicant for a transmission line CPCN in any prior proceeding? If so, please provide details of such proceeding(s) including case number(s).

Staff Response: No.

PSC Case No. 9600

BGE DATA REQUEST NO. 1

TO

STAFF OF THE PUBLIC SERVICE COMMISSION OF MARYLAND (“STAFF”)

- 1-7. Please refer to the Rebuttal Testimony of Kevin Zhong filed with the Maryland Public Service Commission on January 10, 2020 in the Case No. 9600 proceeding. Please refer to page 3 of the rebuttal testimony where Mr. Zhong makes the following recommendation to add as an additional licensing condition:

BGE should ensure its customers are protected from any potential future cost liabilities associated with any potential risks of BGE's decommissioning plan for the existing submarine Harbor Crossing Cables by agreeing to not seek regulatory recovery of such costs through the Federal Energy Regulatory Commission (“FERC”) or the Maryland Public Service Commission.

- a) Prior to this proceeding, has Mr. Zhong ever made such a recommendation for a transmission line CPCN matter during his time with the Staff of the Maryland Public Service Commission? Has he made such a recommendation for a generation CPCN matter? Please provide details of such proceeding(s).

Staff Response: No.