

DAVID S. LAPP
PEOPLE'S COUNSEL

WILLIAM F. FIELDS
DEPUTY PEOPLE'S COUNSEL

JULIANA BELL
DEPUTY PEOPLE'S COUNSEL

— OPC —
OFFICE OF PEOPLE'S COUNSEL
State of Maryland

6 ST. PAUL STREET, SUITE 2102
BALTIMORE, MARYLAND 21202
WWW.OPC.MARYLAND.GOV

BRANDI NIELAND
DIRECTOR, CONSUMER
ASSISTANCE UNIT

CARISSA RALBOVSKY
CHIEF OPERATING OFFICER

BILL NO.: House Bill 0981 – Investor-Owned Public Service Companies
- Base Rate Proceeding - Equity Market Return

COMMITTEE: Environment and Transportation Committee

HEARING DATE: February 24, 2026 (ENT)

SPONSOR: Delegates A. Johnson, Behler, Bhandari, Boafo, Charkoudian,
Crosby, Embry, Fraser-Hidalgo, Ivey, Lehman, J. Long,
Pruski, Roberson, Rogers, and Vogel

POSITION: Favorable

The Office of People’s Counsel (OPC) respectfully offers the following comments in support of House Bill 0981, Investor-Owned Public Service Companies - Base Rate Proceeding - Equity Market Return. OPC supports HB 0981 with amendments that OPC has discussed with the sponsors because it would help lower utility companies’ returns on equity (ROE) to levels closer to their actual market cost of equity. This is a necessary, if insufficient, step toward reducing Marylanders’ utility rates to more affordable levels and eliminating excessive utility profits.

The Maryland Public Service Commission (PSC) sets utility distribution rates in proceedings known as rate cases. Rates are designed to enable utilities to recover their operational costs and capital investments, and to provide the utility an opportunity to earn a return on the undepreciated portion of its capital investments (also known as the utility’s “rate base”). A utility’s return is the value of its rate base multiplied by a rate of return awarded by the PSC.¹ The PSC establishes the utility’s rate of return by calculating a weighted average of the utility’s cost of debt—the interest rate the utility pays on borrowed funds—and setting an ROE, or the utility’s allowed level of profit. A utility’s cost of debt can be easily determined by looking at the interest rates on all of its

¹ Off. of People’s Couns., *Maryland’s Utility Rates and Charges* at 23 (Mar. 2025 update)
https://opc.maryland.gov/Portals/0/Files/Publications/Reports/Utility%20Rates%20PowerPoint%202025%20updated%203-11-25.pdf?ver=WE3Jb5IAWghiYWH_u9RLrA%3d%3d.

outstanding debt. To set the appropriate ROE, the PSC looks at testimony from the utility and other parties about market conditions and the cost of equity required by the financial markets. ROE and cost of equity are related, but distinct concepts. Cost of equity is the rate of return investors require to invest in the utility, which is not directly observable. ROE is granted to the utility by the PSC, based on testimony and its own subjective judgment. ROEs excessively above cost of equity represent excess profit to utilities, at the expense of utility customers.

When the PSC sets a utility's ROE, it determines a range of reasonableness, within which the appropriate ROE lies. The proposed legislation, with the anticipated amendments, would reduce the subjectivity and increase objectivity in the PSC's setting of the ROE. It would require the Commission, in determining that range, to first determine the current average expected 10-year US equity market return using multiple objective, expert sources. Then, the PSC would further adjust for the reduced risks faced by utilities compared to the broader market and establish the utility's ROE at the lowest end of the range of reasonableness. The equity market return serves as an objective marker for the Commission to set the utility's ROE. The bill does not actually set the ROE at a particular level, which could raise legal issues. The amended legislation would allow the PSC to gradually phase in a lower ROE over four years, to mitigate shock to existing investors.

The PSC should already be limiting utility profits to a reasonable level under current law by setting ROEs near the utility's market cost of equity.² However, numerous studies and papers have indicated that utility ROEs awarded by utility regulatory commissions, in Maryland and nationwide, have been significantly higher than utilities' actual cost of equity, as indicated by market data and investor expectations.³ One analysis shows the average 10-year total US equity market return forecasts from large investment firms in early 2025 was at 6.7 percent.⁴ Because utilities are regulated monopolies that

² See *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Water Works and Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923). (The fair rate of return on equity for a regulated utility should be: (1) comparable to returns investors expect to earn on other investments of similar risk; (2) sufficient to assure confidence in a company's financial integrity; and (3) adequate to maintain and support a company's credit and to attract capital.)

³ See Joe Daniel, Ryan Foelske, Steve Khim, "Rebalancing 'Return on Equity' to Accelerate an Affordable Clean Energy Future", Rocky Mountain Institute (Fed. 2025) <https://rmi.org/rebalancing-return-on-equity-to-accelerate-an-affordable-clean-energy-future/>; Mark Ellis, "Rate of Return Equals Cost of Capital: A Simple, Fair Formula to Stop Investor-Owned Utilities From Overcharging the Public", American Economic Liberties Project (Jan. 2025) <https://www.economicliberties.us/wp-content/uploads/2025/01/20250102-aelp-ror-v5.pdf>; Karl Dunkle Werner and Stephen Jarvis, "Rate of Return Regulation Revisited", Energy Institute, University of California at Berkeley (2022) <https://haas.berkeley.edu/wp-content/uploads/WP329.pdf>; David C. Rode and Paul S. Fischbeck, "Regulated equity returns: A puzzle", *Energy Policy* Vol. 133 (2019) <https://doi.org/10.1016/j.enpol.2019.110891>.

⁴ Ellis, Figure 3 at 7.

face no competition and provide essential services, they are far less risky investments than the stock market at large; accordingly, utilities' returns should logically be lower than 6.7 percent. In fact, however, Maryland utilities' recent authorized ROEs have hovered between 9.45-9.8 percent, typically falling at 9.5 percent.⁵

For illustration, had utility ROEs been set at a level of 6.0 percent rather than the typical 9.5 percent in their most recent rate cases—closer to market expectations for lower-risk investments like utilities—OPC estimates that customers of Maryland's largest investor-owned utilities⁶ would be saving roughly \$179 million a year across all the companies. For BGE specifically, a 6.0 percent ROE for both BGE's gas and electric sides would have saved customers roughly \$94 million a year, or \$282 million over the past three years of BGE's second multi-year rate plan (2024-2026).

OPC appreciates the opportunity to work with the sponsors on amendments to provide clear guidelines for the PSC's use of objective market indices and to account for the relatively low-risk nature of investing in utilities, thus limiting the risk of unnecessary litigation and ensuring that HB 0981 will result in actual savings to customers. With the anticipated amendments, HB 0981 serves as an important step toward reining in excess utility profits and protecting utility customers.

Recommendation: OPC requests a favorable Committee report on HB 0981, with the forthcoming amendments.

⁵ See e.g., Md. Pub. Serv. Comm'n, Order No. 91181, Potomac Electric Power Company's Application for Adjustments to its Retail Rates for the Distribution of Electric Energy (Case No. 9702, Jun. 10, 2024), 2024 Md. PSC LEXIS 41, at *2 (awarding 9.50% ROE); Md. Pub. Serv. Comm'n, Order No. 90943, Washington Gas Light Company's Application for Authority to Increase Rates and Charges for Natural Gas Services (Case No. 9704, Dec. 14, 2023), 2023 MD. PSC LEXIS 68, at *2 (awarding 9.50% ROE); Md. Pub. Serv. Comm'n, Order No. 91621, Columbia Gas of Maryland, Inc.'s Application for Authority to Increase Rates and Charges (Case No. 9754, Mar. 18, 2025), 2025 MD. PSC LEXIS 37, at *3 (awarding 9.80% ROE); Md. Pub. Serv. Comm'n, Order No. 90948, Baltimore Gas and Electric Company's Application for an Electric and Gas Multi-Year Plan (Case No. 9692, Dec. 14, 2023), 2023 MD. PSC LEXIS 69, at *305 (awarding 9.45% ROE for BGE's gas distribution service and 9.50% for BGE's electric distribution service).

⁶ This analysis looks at Baltimore Gas and Electric, Potomac Electric Power Company, Potomac Edison, Delmarva Power, and Washington Gas Light Company.