

HOUSE BILL 89

C5
HB 662/12 – ECM

3lr0441
CF SB 8

By: **Delegates Barkley, Barnes, Burns, Clagett, Davis, Feldman, Haddaway–Riccio, Hershey, Impallaria, Ivey, Jameson, Kaiser, Love, Luedtke, McDermott, W. Miller, Minnick, Reznik, S. Robinson, Rudolph, Schulz, Summers, Vaughn, and Zucker**

Introduced and read first time: January 14, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Gas Companies – Rate Regulation – Infrastructure Replacement Surcharge**

3 FOR the purpose of authorizing a gas company to recover certain costs associated with
4 certain gas infrastructure replacement projects through a certain gas
5 infrastructure replacement surcharge on customer bills; requiring project cost
6 calculations to include certain elements; specifying when costs shall be
7 collectible; specifying how the pretax rate of return shall be calculated and
8 adjusted and what it shall include; prohibiting a certain monthly surcharge
9 from exceeding a certain amount for certain customers; providing for the
10 allocation of certain costs among customer classes; providing that certain
11 adjustments for return on equity shall only be considered and determined in a
12 certain base rate case; requiring the Public Service Commission to consider
13 certain factors when establishing revenue requirements; authorizing the
14 Commission to hold a public hearing on a plan within a certain period of time;
15 requiring the Commission to take final action on a plan within a certain period
16 of time; requiring the Commission to take final action on an amendment to a
17 plan within a certain period of time; authorizing the Commission to approve a
18 plan under certain circumstances; requiring the Commission to approve a
19 cost–recovery schedule under certain circumstances; requiring that a surcharge
20 be in effect for a certain time; requiring a gas company to file base rate case
21 applications within a certain period of time; specifying costs to be included in a
22 surcharge when base rate applications are filed; authorizing a gas company to
23 implement a plan under certain circumstances; requiring a gas company
24 implementing a plan to make certain refunds under certain circumstances;
25 requiring the Commission to authorize the gas company to increase a surcharge
26 under certain circumstances; prohibiting the Commission from considering
27 certain factors when reviewing a plan except under certain circumstances;
28 requiring a gas company to file certain plan amendments each year with the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Commission; authorizing the Commission to review certain plans and take
2 certain actions based on the review; requiring a gas company to file a revised
3 base rate schedule with the Commission to subtract certain costs from a
4 surcharge under certain circumstances; stating the intent of the General
5 Assembly with regard to the surcharge; defining certain terms; and generally
6 relating to natural gas rate regulation and gas infrastructure replacement
7 surcharges.

8 BY adding to

9 Article – Public Utilities

10 Section 4–210

11 Annotated Code of Maryland

12 (2010 Replacement Volume and 2012 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Public Utilities**

16 **4–210.**

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
18 MEANINGS INDICATED.

19 (2) “CUSTOMER” MEANS A RETAIL NATURAL GAS CUSTOMER.

20 (3) “ELIGIBLE INFRASTRUCTURE REPLACEMENT” MEANS A
21 REPLACEMENT OR AN IMPROVEMENT IN AN EXISTING INFRASTRUCTURE OF A
22 GAS COMPANY THAT:

23 (I) IS MADE ON OR AFTER JUNE 1, 2013;

24 (II) IS DESIGNED TO IMPROVE PUBLIC SAFETY OR
25 INFRASTRUCTURE RELIABILITY;

26 (III) DOES NOT INCREASE THE REVENUE OF A GAS COMPANY
27 BY CONNECTING AN IMPROVEMENT DIRECTLY TO NEW CUSTOMERS;

28 (IV) REDUCES OR HAS THE POTENTIAL TO REDUCE
29 GREENHOUSE GAS EMISSIONS THROUGH A REDUCTION IN NATURAL GAS
30 SYSTEM LEAKS; AND

31 (V) IS NOT INCLUDED IN THE CURRENT RATE BASE OF THE
32 GAS COMPANY AS DETERMINED IN THE GAS COMPANY’S MOST RECENT BASE
33 RATE PROCEEDING.

1 (4) “PLAN” MEANS A PLAN THAT A GAS COMPANY FILES UNDER
2 SUBSECTION (D) OF THIS SECTION.

3 (5) “PROJECT” MEANS AN ELIGIBLE INFRASTRUCTURE
4 REPLACEMENT PROJECT PROPOSED BY A GAS COMPANY IN A PLAN FILED
5 UNDER THIS SECTION.

6 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PURPOSE
7 OF THIS SECTION IS TO ACCELERATE GAS INFRASTRUCTURE IMPROVEMENTS IN
8 THE STATE BY ESTABLISHING A MECHANISM FOR GAS COMPANIES TO
9 PROMPTLY RECOVER REASONABLE AND PRUDENT COSTS OF INVESTMENTS IN
10 ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS SEPARATE FROM BASE
11 RATE PROCEEDINGS.

12 (C) THIS SECTION DOES NOT APPLY TO A GAS COOPERATIVE.

13 (D) (1) A GAS COMPANY MAY FILE WITH THE COMMISSION:

14 (I) A PLAN TO INVEST IN ELIGIBLE INFRASTRUCTURE
15 REPLACEMENT PROJECTS; AND

16 (II) IN ACCORDANCE WITH PARAGRAPH (4) OF THIS
17 SUBSECTION, A COST-RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN THAT
18 INCLUDES A FIXED ANNUAL SURCHARGE ON CUSTOMER BILLS TO RECOVER
19 REASONABLE AND PRUDENT COSTS OF PROPOSED ELIGIBLE INFRASTRUCTURE
20 REPLACEMENT PROJECTS.

21 (2) A PLAN UNDER THIS SUBSECTION SHALL INCLUDE:

22 (I) A TIME LINE FOR THE COMPLETION OF EACH ELIGIBLE
23 PROJECT;

24 (II) THE ESTIMATED COST OF EACH PROJECT; AND

25 (III) A DESCRIPTION OF CUSTOMER BENEFITS UNDER THE
26 PLAN.

27 (3) (1) WHEN CALCULATING THE ESTIMATED COST OF A
28 PROJECT UNDER PARAGRAPH (2) OF THIS SUBSECTION, A GAS COMPANY SHALL
29 INCLUDE:

1 1. THE PRETAX RATE OF RETURN ON THE GAS
2 COMPANY'S INVESTMENT IN THE PROJECT;

3 2. DEPRECIATION ASSOCIATED WITH THE PROJECT;
4 AND

5 3. PROPERTY TAXES ASSOCIATED WITH THE
6 PROJECT.

7 (II) THE ESTIMATED PROJECT COSTS DESCRIBED IN
8 SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE COLLECTIBLE AT THE SAME TIME
9 THE ELIGIBLE INFRASTRUCTURE REPLACEMENT IS MADE.

10 (III) THE PRETAX RATE OF RETURN UNDER SUBPARAGRAPH
11 (I)1 OF THIS PARAGRAPH SHALL:

12 1. BE CALCULATED USING THE GAS COMPANY'S
13 CAPITAL STRUCTURE AND WEIGHTED AVERAGE COST OF CAPITAL AS THE
14 COMMISSION APPROVED IN THE GAS COMPANY'S MOST RECENT BASE RATE
15 PROCEEDING; AND

16 2. INCLUDE AN ADJUSTMENT FOR BAD DEBT
17 EXPENSES AS THE COMMISSION APPROVED IN THE GAS COMPANY'S MOST
18 RECENT BASE RATE PROCEEDING.

19 (4) FOR A PLAN FILED UNDER THIS SECTION:

20 (I) THE COST-RECOVERY SCHEDULE SHALL INCLUDE ON
21 EACH RESIDENTIAL CUSTOMER ACCOUNT A FIXED ANNUAL SURCHARGE THAT:

22 1. MAY NOT EXCEED \$2 EACH MONTH ON EACH
23 RESIDENTIAL CUSTOMER ACCOUNT; AND

24 2. FOR EACH NONRESIDENTIAL CUSTOMER
25 ACCOUNT, MAY NOT BE LESS THAN THE FIXED ANNUAL SURCHARGE
26 APPLICABLE TO A RESIDENTIAL CUSTOMER ACCOUNT; AND

27 (II) COSTS SHALL BE ALLOCATED TO NONRESIDENTIAL AND
28 RESIDENTIAL CUSTOMERS CONSISTENT WITH THE PROPORTIONS OF TOTAL
29 DISTRIBUTION REVENUES THAT THOSE CLASSES BEAR IN ACCORDANCE WITH
30 THE MOST RECENT BASE RATE PROCEEDING FOR THE GAS COMPANY.

1 **(5)** IN A BASE RATE PROCEEDING AFTER APPROVAL OF A PLAN,
2 THE COMMISSION SHALL, IN ESTABLISHING A GAS COMPANY'S REVENUE
3 REQUIREMENTS, TAKE INTO ACCOUNT ANY BENEFITS THE GAS COMPANY
4 REALIZED AS A RESULT OF A SURCHARGE APPROVED UNDER THE PLAN.

5 **(6)** ANY ADJUSTMENT FOR RETURN ON EQUITY BASED ON AN
6 APPROVED PLAN ONLY SHALL BE CONSIDERED AND DETERMINED IN A
7 SUBSEQUENTLY FILED BASE RATE CASE.

8 **(E)** **(1)** WITHIN 180 DAYS AFTER A GAS COMPANY FILES A PLAN, THE
9 COMMISSION:

10 **(I)** MAY HOLD A PUBLIC HEARING ON THE PLAN; AND

11 **(II)** SHALL TAKE A FINAL ACTION TO APPROVE OR DENY THE
12 PLAN.

13 **(2)** WITHIN 120 DAYS AFTER A GAS COMPANY FILES AN
14 AMENDMENT TO A PLAN, THE COMMISSION SHALL TAKE FINAL ACTION TO
15 APPROVE OR DENY THE AMENDMENT.

16 **(3)** THE COMMISSION MAY APPROVE A PLAN IF IT FINDS THAT
17 THE INVESTMENTS AND ESTIMATED COSTS OF ELIGIBLE INFRASTRUCTURE
18 REPLACEMENT PROJECTS ARE:

19 **(I)** REASONABLE AND PRUDENT; AND

20 **(II)** DESIGNED TO IMPROVE PUBLIC SAFETY OR
21 INFRASTRUCTURE RELIABILITY OVER THE SHORT TERM AND LONG TERM.

22 **(4)** THE COMMISSION SHALL APPROVE THE COST-RECOVERY
23 SCHEDULE ASSOCIATED WITH THE PLAN AT THE SAME TIME THAT IT APPROVES
24 THE PLAN.

25 **(5)** THE COMMISSION MAY NOT CONSIDER A REVENUE
26 REQUIREMENT OR RATE-MAKING ISSUE THAT IS NOT RELATED TO THE PLAN
27 WHEN REVIEWING A PLAN FOR APPROVAL OR DENIAL UNLESS THE PLAN IS
28 FILED IN CONJUNCTION WITH A BASE RATE CASE.

29 **(F)** **(1)** SUBJECT TO PARAGRAPH **(2)** OF THIS SUBSECTION, IF THE
30 COMMISSION DOES NOT TAKE FINAL ACTION ON A PLAN WITHIN THE TIME
31 PERIOD REQUIRED UNDER SUBSECTION **(E)** OF THIS SECTION, THE GAS
32 COMPANY MAY IMPLEMENT THE PLAN.

1 **(2) IF A GAS COMPANY IMPLEMENTS A PLAN THAT THE**
2 **COMMISSION HAS NOT APPROVED, THE GAS COMPANY SHALL REFUND TO**
3 **CUSTOMERS ANY AMOUNT OF THE SURCHARGE THAT THE COMMISSION LATER**
4 **DETERMINES IS UNJUSTIFIED, INCLUDING INTEREST.**

5 **(G) (1) (I) A SURCHARGE UNDER THIS SECTION SHALL BE IN**
6 **EFFECT FOR 5 YEARS FROM THE DATE OF INITIAL IMPLEMENTATION OF AN**
7 **APPROVED PLAN.**

8 **(II) 1. BEFORE THE END OF THE 5-YEAR PERIOD, THE**
9 **GAS COMPANY SHALL FILE A BASE RATE CASE APPLICATION.**

10 **2. IN A BASE RATE PROCEEDING FILED UNDER**
11 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, IF A PLAN APPROVED BY THE**
12 **COMMISSION REMAINS IN EFFECT:**

13 **A. ELIGIBLE INFRASTRUCTURE PROJECT COSTS**
14 **INCLUDED IN BASE RATES IN ACCORDANCE WITH A FINAL COMMISSION ORDER**
15 **ON THE BASE RATE CASE SHALL BE REMOVED FROM A SURCHARGE; AND**

16 **B. THE SURCHARGE MECHANISM SHALL CONTINUE**
17 **FOR ELIGIBLE FUTURE INFRASTRUCTURE PROJECT COSTS THAT ARE NOT**
18 **INCLUDED IN THE BASE RATE CASE.**

19 **(2) (I) IF THE ACTUAL COST OF A PROJECT IN A PLAN IS LESS**
20 **THAN THE AMOUNT COLLECTED UNDER A SURCHARGE, THE GAS COMPANY**
21 **SHALL REFUND TO CUSTOMERS THE DIFFERENCE ON CUSTOMER BILLS,**
22 **INCLUDING INTEREST.**

23 **(II) IF THE ACTUAL COST OF A PROJECT IN A PLAN IS MORE**
24 **THAN THE AMOUNT COLLECTED UNDER THE SURCHARGE AND THE**
25 **COMMISSION DETERMINES THAT THE HIGHER COSTS WERE REASONABLY AND**
26 **PRUDENTLY INCURRED, THE COMMISSION SHALL AUTHORIZE THE GAS**
27 **COMPANY TO INCREASE THE SURCHARGE TO RECOVER THE DIFFERENCE,**
28 **SUBJECT TO THE RATE LIMIT UNDER SUBSECTION (D)(4) OF THIS SECTION.**

29 **(H) EACH YEAR A GAS COMPANY SHALL FILE WITH THE COMMISSION AN**
30 **AMENDMENT TO A PLAN TO ADJUST THE AMOUNT OF A SURCHARGE TO**
31 **ACCOUNT FOR ANY DIFFERENCE BETWEEN THE ESTIMATED COST OF A PROJECT**
32 **IN A PLAN AND THE AMOUNT RECOVERED UNDER THE SURCHARGE.**

1 **(I) IF, AFTER APPROVING A SURCHARGE IN A PLAN, THE COMMISSION**
2 **ESTABLISHES NEW BASE RATES FOR THE GAS COMPANY THAT INCLUDE COSTS**
3 **ON WHICH THE SURCHARGE IS BASED, THE GAS COMPANY SHALL FILE A**
4 **REVISED RATE SCHEDULE WITH THE COMMISSION THAT SUBTRACTS THOSE**
5 **COSTS FROM THE SURCHARGE.**

6 **(J) (1) THE COMMISSION MAY REVIEW A PREVIOUSLY APPROVED**
7 **PLAN.**

8 **(2) IF THE COMMISSION DETERMINES THAT AN INVESTMENT OF A**
9 **PROJECT OR COST OF A PROJECT NO LONGER MEETS THE REQUIREMENTS OF**
10 **SUBSECTION (E)(3) OF THIS SECTION, THE COMMISSION MAY:**

11 **(I) REDUCE FUTURE BASE RATES OR SURCHARGES; OR**

12 **(II) ALTER OR RESCIND APPROVAL OF THAT PART OF THE**
13 **PLAN.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 June 1, 2013.