

HOUSE BILL 546

C5

6lr2121
CF 6lr1883

By: **Delegates Barkley, Adams, Arentz, Aumann, Brooks, Carey, Clippinger, Davis, Frick, Impallaria, Jameson, Lisanti, Mautz, W. Miller, Valderrama, and Vaughn**

Introduced and read first time: February 3, 2016

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electric and Gas Companies – Rate Regulation – Infrastructure Investments**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain circumstances; requiring an electric company to file certain plan
2 amendments each year with the Commission; requiring an electric company to file a
3 revised base rate schedule with the Commission to subtract certain costs from a
4 surcharge under certain circumstances; authorizing the Commission to take certain
5 actions if it determines that an electric system infrastructure investment no longer
6 meets certain requirements; stating the intent of the General Assembly with regard
7 to the investment; defining certain terms; and generally relating to rate regulation
8 and infrastructure investments.

9 BY repealing and reenacting, without amendments,
10 Article – Public Utilities
11 Section 4–210(d)(1)
12 Annotated Code of Maryland
13 (2010 Replacement Volume and 2015 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Public Utilities
16 Section 4–210(d)(4)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2015 Supplement)

19 BY adding to
20 Article – Public Utilities
21 Section 4–211
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2015 Supplement)

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

26 **Article – Public Utilities**

27 4–210.

28 (d) (1) A gas company may file with the Commission:

29 (i) a plan to invest in eligible infrastructure replacement projects;
30 and

31 (ii) in accordance with paragraph (4) of this subsection, a
32 cost–recovery schedule associated with the plan that includes a fixed annual surcharge on
33 customer bills to recover reasonable and prudent costs of proposed eligible infrastructure
34 replacement projects.

35 (4) For a plan filed under this section:

1 (i) the cost-recovery schedule shall include a fixed annual
2 surcharge that:

3 1. may not exceed [~~\$2~~] \$4 each month on each residential
4 customer account; and

5 2. for each nonresidential customer account, may not be less
6 than the fixed annual surcharge applicable to a residential customer account, but shall be
7 capped under item (ii) of this paragraph; and

8 (ii) to create a surcharge cap for all customer classes, costs shall be
9 allocated to nonresidential and residential customers consistent with the proportions of
10 total distribution revenues that those classes bear in accordance with the most recent base
11 rate proceeding for the gas company.

12 **4-211.**

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (2) "CUSTOMER" MEANS A RETAIL ELECTRIC CUSTOMER.

16 (3) "ELECTRIC SYSTEM INFRASTRUCTURE INVESTMENT" MEANS A
17 CAPITAL INVESTMENT IN THE ELECTRIC SYSTEM INFRASTRUCTURE OF AN
18 ELECTRIC COMPANY THAT:

19 (I) IS MADE ON OR AFTER JUNE 1, 2016;

20 (II) IS DESIGNED TO PROMOTE ECONOMIC GROWTH,
21 ENVIRONMENTAL SUSTAINABILITY, OR CUSTOMER RELIABILITY; AND

22 (III) IS NOT INCLUDED IN THE CURRENT RATE BASE OF THE
23 ELECTRIC COMPANY AS DETERMINED IN THE ELECTRIC COMPANY'S MOST RECENT
24 BASE RATE PROCEEDING.

25 (4) "PLAN" MEANS A PLAN THAT AN ELECTRIC COMPANY FILES
26 UNDER SUBSECTION (D) OF THIS SECTION.

27 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PURPOSE OF
28 THIS SECTION IS TO FINANCE INITIATIVES TO PROMOTE ECONOMIC GROWTH,
29 ENVIRONMENTAL SUSTAINABILITY, AND CUSTOMER RELIABILITY FOR THE BENEFIT
30 OF ELECTRIC SYSTEM CUSTOMERS IN THE STATE BY ESTABLISHING A MECHANISM
31 FOR ELECTRIC COMPANIES TO PROMPTLY RECOVER REASONABLE AND PRUDENT

1 COSTS OF ELECTRIC SYSTEM INFRASTRUCTURE INVESTMENTS SEPARATE FROM
2 BASE RATE PROCEEDINGS.

3 (C) THIS SECTION DOES NOT PROHIBIT AN ELECTRIC COMPANY FROM
4 FILING A RATE PROCEEDING UNDER THIS SUBTITLE FOR THE RECOVERY OF
5 REASONABLE AND PRUDENT COSTS THAT ARE NOT RECOVERED THROUGH A PLAN.

6 (D) (1) AN ELECTRIC COMPANY MAY FILE WITH THE COMMISSION:

7 (I) A PLAN FOR ELECTRIC SYSTEM INFRASTRUCTURE
8 INVESTMENTS; AND

9 (II) IN ACCORDANCE WITH PARAGRAPH (4) OF THIS
10 SUBSECTION, A COST-RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN THAT
11 INCLUDES A FIXED ANNUAL SURCHARGE ON CUSTOMERS' MONTHLY BILLS TO
12 RECOVER REASONABLE AND PRUDENT COSTS OF PROPOSED ELECTRIC SYSTEM
13 INFRASTRUCTURE INVESTMENTS.

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

15 (I) A TIMELINE FOR THE COMPLETION OF THE PLAN;

16 (II) THE ESTIMATED COST OF THE ELECTRIC SYSTEM
17 INFRASTRUCTURE INVESTMENT;

18 (III) A DESCRIPTION OF CUSTOMER BENEFITS UNDER THE PLAN;
19 AND

20 (IV) ANY OTHER INFORMATION THE COMMISSION CONSIDERS
21 NECESSARY TO EVALUATE THE PLAN.

22 (3) (I) WHEN CALCULATING THE ESTIMATED COST OF THE
23 ELECTRIC SYSTEM INFRASTRUCTURE INVESTMENT UNDER PARAGRAPH (2) OF THIS
24 SUBSECTION, AN ELECTRIC COMPANY SHALL INCLUDE:

25 1. THE PRETAX RATE OF RETURN ON THE ELECTRIC
26 SYSTEM INFRASTRUCTURE INVESTMENT;

27 2. DEPRECIATION ASSOCIATED WITH THE ELECTRIC
28 SYSTEM INFRASTRUCTURE INVESTMENT; AND

29 3. PROPERTY TAXES ASSOCIATED WITH THE ELECTRIC
30 SYSTEM INFRASTRUCTURE INVESTMENT.

1 **(II) THE ESTIMATED COSTS OF THE ELECTRIC SYSTEM**
2 **INFRASTRUCTURE INVESTMENT DESCRIBED IN SUBPARAGRAPH (I) OF THIS**
3 **PARAGRAPH ARE COLLECTIBLE AT THE SAME TIME THE ELECTRIC SYSTEM**
4 **INFRASTRUCTURE INVESTMENT IS MADE.**

5 **(III) THE PRETAX RATE OF RETURN UNDER SUBPARAGRAPH (I)1**
6 **OF THIS PARAGRAPH SHALL:**

7 **1. BE CALCULATED USING THE ELECTRIC COMPANY'S**
8 **CAPITAL STRUCTURE AND WEIGHTED AVERAGE COST OF CAPITAL AS THE**
9 **COMMISSION APPROVED IN THE ELECTRIC COMPANY'S MOST RECENT BASE RATE**
10 **PROCEEDING; AND**

11 **2. INCLUDE AN ADJUSTMENT FOR BAD DEBT EXPENSES**
12 **AS THE COMMISSION APPROVED IN THE ELECTRIC COMPANY'S MOST RECENT BASE**
13 **RATE PROCEEDING.**

14 **(4) FOR A PLAN FILED UNDER THIS SECTION:**

15 **(I) THE COST-RECOVERY SCHEDULE SHALL INCLUDE A FIXED**
16 **ANNUAL SURCHARGE THAT:**

17 **1. MAY NOT EXCEED \$4 EACH MONTH ON EACH**
18 **RESIDENTIAL CUSTOMER ACCOUNT; AND**

19 **2. FOR EACH NONRESIDENTIAL CUSTOMER ACCOUNT,**
20 **MAY NOT BE LESS THAN THE FIXED ANNUAL SURCHARGE APPLICABLE TO A**
21 **RESIDENTIAL CUSTOMER ACCOUNT, BUT SHALL BE CAPPED UNDER ITEM (II) OF**
22 **THIS PARAGRAPH; AND**

23 **(II) TO CREATE A SURCHARGE CAP FOR ALL CUSTOMER**
24 **CLASSES, COSTS SHALL BE ALLOCATED TO NONRESIDENTIAL AND RESIDENTIAL**
25 **CUSTOMERS CONSISTENT WITH THE PROPORTIONS OF TOTAL DISTRIBUTION**
26 **REVENUES THAT THOSE CLASSES BEAR IN ACCORDANCE WITH THE MOST RECENT**
27 **BASE RATE PROCEEDING FOR THE ELECTRIC COMPANY.**

28 **(5) IN A BASE RATE PROCEEDING AFTER APPROVAL OF A PLAN, THE**
29 **COMMISSION SHALL, IN ESTABLISHING AN ELECTRIC COMPANY'S REVENUE**
30 **REQUIREMENTS, TAKE INTO ACCOUNT ANY BENEFITS THE ELECTRIC COMPANY**
31 **REALIZED AS A RESULT OF A SURCHARGE APPROVED UNDER THE PLAN.**

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

4 **(E) (1) WITHIN 180 DAYS AFTER AN ELECTRIC COMPANY FILES A PLAN,**
5 **THE COMMISSION:**

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

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

9 **(2) WITHIN 120 DAYS AFTER AN ELECTRIC COMPANY FILES AN**
10 **AMENDMENT TO AN APPROVED PLAN, THE COMMISSION SHALL TAKE FINAL ACTION**
11 **TO APPROVE OR DENY THE AMENDMENT.**

12 **(3) THE COMMISSION MAY APPROVE A PLAN IF IT FINDS THAT THE**
13 **INVESTMENTS AND ESTIMATED COSTS OF THE ELECTRIC SYSTEM INFRASTRUCTURE**
14 **INVESTMENT ARE:**

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

16 **(II) DESIGNED TO DELIVER A BENEFIT TO THE CUSTOMER.**

17 **(4) (I) THE COMMISSION SHALL APPROVE THE COST-RECOVERY**
18 **SCHEDULE ASSOCIATED WITH THE PLAN AT THE SAME TIME THAT IT APPROVES THE**
19 **PLAN.**

20 **(II) COSTS RECOVERED UNDER THE SCHEDULE APPROVED IN**
21 **SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY RELATE ONLY TO THE ELECTRIC**
22 **SYSTEM INFRASTRUCTURE INVESTMENT WITHIN THE PLAN APPROVED BY THE**
23 **COMMISSION.**

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

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

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

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

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

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

12 **A. ELECTRIC SYSTEM INFRASTRUCTURE INVESTMENT**
13 **COSTS INCLUDED IN BASE RATES IN ACCORDANCE WITH A FINAL COMMISSION**
14 **ORDER ON THE BASE RATE CASE SHALL BE REMOVED FROM A SURCHARGE; AND**

15 **B. THE SURCHARGE MECHANISM SHALL CONTINUE FOR**
16 **FUTURE ELECTRIC SYSTEM INFRASTRUCTURE INVESTMENT COSTS THAT ARE NOT**
17 **INCLUDED IN THE BASE RATE CASE.**

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

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

27 **(H) EACH YEAR AN ELECTRIC COMPANY SHALL FILE WITH THE COMMISSION**
28 **A RECONCILIATION TO ADJUST THE AMOUNT OF A SURCHARGE TO ACCOUNT FOR**
29 **ANY DIFFERENCE BETWEEN THE ACTUAL COST OF A PLAN AND THE ACTUAL AMOUNT**
30 **RECOVERED UNDER THE SURCHARGE.**

31 **(I) IF, AFTER APPROVING A SURCHARGE IN A PLAN, THE COMMISSION**
32 **ESTABLISHES NEW BASE RATES FOR THE ELECTRIC COMPANY THAT INCLUDE COSTS**
33 **ON WHICH THE SURCHARGE IS BASED, THE ELECTRIC COMPANY SHALL FILE A**

1 REVISED RATE SCHEDULE WITH THE COMMISSION THAT SUBTRACTS THOSE COSTS
2 FROM THE SURCHARGE.

3 (J) (1) THE COMMISSION MAY REVIEW A PREVIOUSLY APPROVED PLAN.

4 (2) IF THE COMMISSION DETERMINES THAT AN ELECTRIC SYSTEM
5 INFRASTRUCTURE INVESTMENT NO LONGER MEETS THE REQUIREMENTS OF
6 SUBSECTION (E)(3) OF THIS SECTION, THE COMMISSION MAY:

7 (I) REDUCE FUTURE BASE RATES OR SURCHARGES; OR

8 (II) ALTER OR RESCIND APPROVAL OF THAT PART OF THE PLAN.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
10 1, 2016.