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BILL NO.: **House Bill 345**
 Gas Service Regulator Safety
 (Flower Branch Act)

COMMITTEE: **Economic Matters**

HEARING DATE: **January 14, 2021**

SPONSOR: **Delegate Charkoudian**

POSITION: **Support**

The Office of People’s Counsel (“OPC”) supports House Bill 345. House Bill 345 addresses important safety concerns raised by the gas service regulators of gas distribution utilities. These regulators place residential customers at potential risk of harm. By requiring the Maryland Public Service Commission (the “Commission”) to evaluate and approve gas distribution utility plans to replace and relocate gas service regulators, the bill addresses safety concerns while affording appropriate protections to the potential rate impacts of utility plans for regulator replacement.

Background. Named the “Flower Branch Safety Act,” House Bill 345 is a response to an August 10, 2016 natural gas-fueled explosion that occurred within a multi-family apartment building in the Flower Branch Apartment complex, located in Silver Spring, Maryland. The National Transportation Safety Board (“NTSB”) investigated the Flower Branch incident and concluded that the probable cause of the accident was the combined effect of a failure of a mercury service gas regulator (“MSR”) with an unconnected vent line that allowed natural gas into the meter room where it accumulated and ignited from an unknown ignition source. The NTSB further concluded that

contributing to the accident was the location of the MSRs where leak detection by odor was not readily available. House Bill 345 responds to the NTSB's investigation of the Flower Branch incident.

House Bill 345 responds to the Flower Branch incident by adding a new section to the Public Utilities Article of the Maryland Code – § 7-312. The new section requires gas distribution utilities in the State to locate gas service regulators outside of occupied or multifamily residential structures under certain circumstances. First, House Bill 345 directs gas companies to locate gas service regulators outside of an occupied structure whenever gas service is newly installed. Next, House Bill 345 requires that existing gas service regulators located inside of multifamily residential structures be relocated to outside of the structure whenever the service line or regulator is replaced. Most significantly, House Bill 345 requires that on or before January 1, 2022, a gas company file a plan with the Commission to relocate any gas service regulator that provides service to a multifamily residential structure.

Under House Bill 345, the Commission must approve, disapprove, or approve with modifications a gas company's regulator relocation plan by January 1, 2023, after taking the following factors into consideration:

- The number of gas service regulators designated for relocation in the gas company's service territory;
- The availability of qualified personnel to safely relocate gas service regulators;
- The engineering and permitting challenges within the gas company's service territory;
- A schedule for relocating gas service regulators that is consistent with the public interest;
- Any other gas company programs, innovations, initiatives, priorities, or investments that improve the safety or reliability of the gas system; and
- Any other factor identified by the Commission.

House Bill 345 also allows for an exemption for a gas service regulator if the Commission determines that an exemption is warranted after considering several enumerated factors. The bill further requires that whenever a gas service regulator is located or relocated outside, it must be installed away from any area where it may be damaged by “vehicle traffic or other external forces,” or, if that is not possible, the regulator must be protected by an appropriate guard. Finally, House Bill 345 requires a gas company to report on its regulator replacement plan annually until completed.

Comparison to House Bill 408 (2020 Session). During last year’s legislative session, Delegates Charkoudian, Moon, and Wilkins sponsored an earlier version of House Bill 345, also named the Flower Branch Safety Act (House Bill 408 (2020 Session)). During the 2020 session, OPC filed informational comments on HB 408, stating its support for the safety measures of that bill but expressing concerns over potential impacts on utility rates and utility resources, including sufficient qualified personnel capable of relocating regulators. As an alternative, OPC proposed that the Commission initiate a proceeding involving all of the State’s natural gas distribution utilities, in which each utility provides information on gas service regulators to the Commission.

House Bill 345 reflects several significant changes to last year’s bill that allay OPC’s prior concerns. Under last year’s bill, a “multifamily residential structure” was defined as one with two or more dwelling units. House Bill 345 narrows that definition to a structure with six or more dwelling units. This refined focus on larger multifamily residential structures appropriately addresses the potential rate impacts of the legislation by limiting the number of structures that would be subject to the new requirements.

Next, last year’s bill required an interior gas service regulator in *any occupied structure* to be moved outside whenever a gas service line, meter, or regulator was replaced. Now, House Bill 345 would require that an interior gas service regulator in any *multifamily residential structure* be moved outside whenever a gas service line or regulator is replaced. This too appropriately narrows the applicability of the legislation to multifamily residential structures such as the Flower Branch Apartment complex.

Most significantly, last year’s bill required all regulators inside multifamily residential structures to be moved outside by October 1, 2025. In contrast, House Bill 345

requires each utility to file a utility-specific replacement plan by January 1, 2022. This measured approach will allow the Commission to consider each utility's unique circumstances – including both safety and rate-impact considerations – before accepting, rejecting, or modifying each utility's plan to replace gas service regulators.

Specifically, House Bill 345 requires the Commission to consider “a schedule for relocating gas service regulators that is consistent with the public interest” when reviewing a gas company's regulator replacement plan. OPC interprets this factor to encompass consideration of rate impacts that may result from each plan. Those potential rate impacts were OPC's primary concern with last year's House Bill 408. Another enumerated factor for Commission consideration under House Bill 345 – “the availability of qualified personnel to safely relocate gas service regulators” – addresses OPC's other stated concern with last year's bill.

Moreover, in OPC's view, the 12-month review period that House Bill 345 provides for Commission review of regulator replacement programs will allow the Commission sufficient time to review the plans and to receive stakeholder, including OPC's, feedback on those plans.

Recommendation. OPC recognizes the importance of the safety issues that the Flower Branch incident brought to light and House Bill 345's value in addressing them. The regulatory review process that House Bill 345 provides will guard against undue rate impacts and personnel concerns, the two concerns OPC previously raised with respect to the earlier version of the Flower Branch Safety Act introduced last year. OPC supports House Bill 345.