

STATE OF MARYLAND
OFFICE OF PEOPLE’S COUNSEL
David S. Lapp, Acting People’s Counsel
6 St. Paul Street, Suite 2102
Baltimore, Maryland 21202
410-767-8150; 800-207-4055
www.opc.maryland.gov

BILL NO.: House Bill 890
Natural Gas
Strategic Infrastructure Development and Enhancement
Surcharge and Plans

COMMITTEE: Senate Finance

HEARING DATE: March 30, 2021

SPONSOR: Delegate Davis

POSITION: Oppose

House Bill (HB) 890, as amended, would result in a significant change to PUA § 4-210 (the STRIDE law). HB 890 would move “eligible infrastructure project costs collected previously under a surcharge” into base rates at the time of each annual rate change within a multi-year rate plan (“MRP”). This differs from the process described in the current version of the STRIDE law, which provides only that a utility may move “eligible infrastructure project costs” into base rates in a “base rate case.”

The Office of People’s Counsel (OPC) opposes this change to the STRIDE law. It would remove the ability of stakeholders to review STRIDE investments for prudence before they are moved into base rates. It would also weaken the consumer protection that the surcharge cap provides. Finally, HB 890 would reduce the transparency of STRIDE charges.

A. A Brief Overview of the STRIDE Law

Enacted in 2013, the STRIDE law permits Maryland’s gas distribution utilities to submit 5-year infrastructure replacement plans to the Maryland Public Service Commission (Commission). The STRIDE law is intended to incent the replacement of aging gas distribution infrastructure by providing utilities with advance recovery of the

costs of the replacement projects. Specifically, the STRIDE law allows utilities to include a monthly surcharge on customer bills to recover the estimated costs of such projects contemporaneously with, or even before, the execution of the projects. The amount of the monthly surcharge is determined shortly before the beginning of each calendar year and, with some limited exceptions, remains the same for each month in the following calendar year. The amount of the monthly surcharge for a given calendar year is based on the work planned in that year and its estimated cost.

An important feature of the STRIDE law is the transparency it provides to customers with respect to how much they are paying for the program. This transparency is promoted through the surcharge. Rather than simply tracking the expenditures and rolling them into total customer bills, the surcharge informs consumers of the utility's specific expenditures for gas distribution infrastructure replacements.

The STRIDE law provides that the surcharge may not exceed \$2.00/month on residential customer bills. While the STRIDE law does not provide a stated dollar amount for the cap on other customer classes' surcharges (for example, commercial and industrial customers), the law provides "[t]o create a surcharge cap for all customer classes, costs shall be allocated to nonresidential and residential customers consistent with the proportions of total distribution revenues that those classes bear in accordance with the most recent base rate proceeding for the gas company." PUA § 4-210(d)(4)(ii).

When a utility reaches the surcharge cap, that does not mean that the utility will be unable to recover the costs of its STRIDE investments. Rather, it means only that for those costs above the cap, the utility must wait until its next base rate case to begin recovering them.

The STRIDE law provides that within five years of the implementation of a STRIDE plan, a utility must file a base rate case. In a base rate case, all a utility's costs and expenses are adjusted to reflect recent historic cost data, with certain adjustments. When a utility with a STRIDE plan files a base rate case, all the STRIDE investments included in the STRIDE surcharge are reviewed for prudence. If the Commission determines that the investments were prudent, the costs are moved out of the surcharge and into the utility's rate base. This movement of costs from the surcharge to rate base has the effect of reducing the STRIDE surcharge, which makes it less likely that a STRIDE utility will hit the surcharge caps.

At present, three Maryland gas distribution utilities have gas infrastructure replacement plans under STRIDE – Baltimore Gas and Electric Company (BGE), Washington Gas Light Company, and Columbia Gas of Maryland, Inc. A fourth – Elkton Gas Company – presently has a STRIDE application pending before the Commission.

B. HB 890 Would Remove Stakeholders' Ability to Review STRIDE Investments for Prudency Before They Move into Base Rates.

When the Commission approves a multi-year rate plan, it approves up to three years of rates, with the rate levels increasing after each year to reflect projected increased utility spending. HB 890 would automatically move all a utility's STRIDE spending from the STRIDE surcharge to base rates whenever rates change within an MRP. This differs from the process described in the current version of the STRIDE law, which provides only that a utility may move "eligible infrastructure project costs" into base rates in a "base rate case."

In this regard, HB 890 would significantly change the STRIDE regulatory review process. Under the current procedure, the base rate case presents the one opportunity for stakeholders and the Commission to review STRIDE investments for prudency before they move to base rates. HB 890 would automatically move STRIDE investments into base rates each year within an MRP without any quantitative or qualitative review of the spending. HB 890 thus would deprive stakeholders of their only opportunity to review STRIDE costs before they are included in a utility's rate base.

C. HB 890 Would Weaken the Consumer Protection that the Surcharge Cap Provides.

The automatic movement of costs from the STRIDE surcharge to rate base within each year of an MRP would annually zero out the STRIDE surcharge. This makes it less likely that a utility will hit the surcharge caps. However, that does not mean that the cap will be protecting customers as intended under the initial STRIDE legislation.

While the STRIDE spending that remains in the surcharge will be subject to the cap, the STRIDE costs that HB 890 would automatically move to base rates – unreconciled and unreviewed spending – will not be subject to the cap because they will no longer be in the surcharge. The effect is that a utility will be able to collect STRIDE charges in excess of the cap from customers, through a combination of the surcharge and base rates.

D. HB 890 Would Reduce the Transparency of STRIDE Charges.

The Commission has cited "added transparency" as one of the drivers behind its adoption of MRPs. This aspect of HB 890 is inconsistent with that goal.

The Commission explained its transparency objective in BGE's recent MRP case. BGE sought to include all STRIDE costs up to the cap in the surcharge, but then recover any amounts over the cap through base rates. BGE projected that this would be necessary in 2022 and 2023. The Commission rejected this proposal on the basis that it lacked transparency:

The Commission further finds that BGE’s proposal to place some or all of its STRIDE costs in the MRP lacks transparency. The General Assembly required that the surcharge be visible to customers. Placing STRIDE projects directly into the base rate circumvents that transparency by requiring the Commission to approve advanced recovery of STRIDE projects with no visibility to customers, instead mixing STRIDE costs inextricably with all the other elements of BGE’s rates.¹

Like BGE’s proposal in its MRP case, HB 890 is contrary to the goal of transparency. Throughout the course of an MRP, the customers of gas companies with STRIDE programs would have a line item on their bills showing the amount of the STRIDE surcharge. If “eligible infrastructure project costs collected previously under a surcharge” were annually moved to base rates by operation of law, that would mask the total amount of STRIDE costs in rates and prevent customers from knowing how much they were paying for STRIDE costs. In the words of the Commission, STRIDE costs would be mixed “inextricably with all the other elements of BGE’s rates.” HB 890 would remove the “visibility” that the STRIDE surcharge provides.

By amending the STRIDE law to move “eligible infrastructure project costs collected previously under a surcharge” into base rates at the time of each annual rate change within a multi-year rate plan, HB 890 is inconsistent with the Commission’s transparency goals and leaves customers less informed.

E. Conclusion

House Bill 890 is not in the interests of ratepayers. It will weaken consumer protections and reduce transparency. The Office of People’s Counsel opposes House Bill 890.

¹ Maryland Public Service Commission Order 89678 (Case No. 9645) *Application of Baltimore Gas and Electric Company for an Electric and Gas Multi-Year Plan* (December 16, 2020) p. 29, ¶ 60.