

**STATE OF MARYLAND
OFFICE OF PEOPLE'S COUNSEL**

Paula M. Carmody, 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 408**
Gas Service Regulator Safety
(Flower Branch Act)

COMMITTEE: **Economic Matters**

HEARING DATE: **February 13, 2020**

SPONSOR: **Delegates Charkoudian, Moon, and Wilkins**

POSITION: **Informational**

House Bill 408 would add a new section to the Public Utilities Article of the Maryland Code -- § 7-311 – that would require gas distribution utilities in the State to locate or relocate gas service regulators outside of a structure under three separate circumstances:

- Whenever gas service is newly installed at an occupied structure
- Whenever the service line, meter, or regulator is replaced at an occupied structure
- For a multi-family residential structure, on or before October 1, 2025

House Bill 408 also 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 protected by an appropriate guard if that is not possible.

Named the “Flower Branch Safety Act,” House Bill 408 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.

House Bill 408 will carry out two of the National Transportation Safety Board's ("NTSB") recommendations for avoiding another incident like Flower Branch. The incident, House Bill 408's relationship to it, and the Public Service Commission ("Commission") docket addressing it are described in more detail in the Attachment.

Potential Impacts on Utility Rates and on Utility Resources. While the Office of People's Counsel ("OPC") supports the gas safety measures that House Bill 408 mandates, OPC believes that more information is necessary as to House Bill 408's potential impacts on utility rates, as well as the amount of work necessary for each of the State's gas utilities to comply with the bill's requirements.

Washington Gas Light Company ("Washington Gas") estimates that it will cost \$32 million to carry out its planned response to NTSB's recommendations. However, as Washington Gas noted in an August 16, 2019 letter to the Public Service Commission's Chief Engineer, this amount does not include the costs of "mov[ing] interior regulators outside during routine regulator or meter replacements." In fact, the focus of Washington Gas's plan is on replacing mercury service regulators, not necessarily on moving gas service regulators outside. As such, the costs of Washington Gas's compliance with House Bill 408's requirements are largely unknown.

Additionally, according to the Fiscal Note, Baltimore Gas and Electric Company ("BGE") states that House Bill 408's requirements with respect to multi-family residential structures may apply to as many as 100,000 locations in its service territory. While BGE did not provide a specific cost estimate, it noted a "potentially sizable impact."

Furthermore, as the Fiscal Note suggests, the three natural gas distribution utilities in the State with accelerated gas infrastructure replacement programs under the STRIDE law (PUA § 4-210) – BGE, Washington Gas, and Columbia Gas of Maryland, Inc. – have all cited the availability of contractor resources as a concern in recent years. The amount of resources necessary to meet House Bill 408's requirements, and thus the extent to which House Bill 408 will impact other priority gas infrastructure replacement work is presently unknown.

Recommendation. OPC recognizes the importance of the safety issues that the Flower Branch incident brought to light and House Bill 408's value in addressing them. However, given the potential significant impact of replacing regulators over a 5 year

period specified in the bill, particularly for BGE and its 1.2 million customers, OPC believes that a reasonable alternative is a directive for the Commission to initiate a proceeding involving all of the State's natural gas distribution utilities, in which each utility would provide information relevant to House Bill 408 to the Commission.

Specifically, the gas utilities would provide the number of gas service regulators on its system that would be subject to House Bill 408's requirements, the estimated cost of relocating and guarding them in accordance with House Bill 408, an estimate of the amount of time necessary to complete the required relocations, the availability of contractor resources, and industry standards and best practices concerning gas service regulator relocation.

Due to the need to address the safety issues surrounding gas service regulators with all due speed, OPC recommends that the Commission provide a report containing its findings on those issues to the General Assembly by October 2020.

ATTACHMENT
OPC TESTIMONY ON HOUSE BILL 408
ECONOMIC MATTERS COMMITTEE

The Flower Branch Incident. Named the “Flower Branch Safety Act,” House Bill 408 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 accident resulted in the death of seven residents and required the hospitalization of 65 residents and 3 firefighters. Washington Gas Light Company (“Washington Gas”) provided service to the address where the accident occurred.

After investigating the incident over the course of several years, the National Transportation Safety Board (“NTSB”) released a report containing its findings in April 2019. NTSB’s report 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.

Based on its investigation and findings, NTSB made five recommendations specific to Washington Gas. Most relevant to House Bill 408 are Recommendations P-19-012 and P-19-013, which respectively state “Install all new service regulators outside occupied structures” and “Relocate existing interior service regulators outside occupied structures whenever the gas service line, meter, or regulator is replaced. In addition, multifamily structures should be prioritized over single-family dwellings.”

Commission Case No. 9622. In a 2003 rate proceeding, Washington Gas represented to the Commission that it would replace all MSRs on its system within 10 years, *i.e.* by 2013. Washington Gas received a rate increase based on its projected costs of the MSR replacement program.

In the wake of NTSB’s report on the Flower Branch incident, the Commission established Case No. 9622 in September 2019 and issued a show cause order requiring Washington Gas to provide a response to the NTSB report, and to provide evidence

regarding the status of its MSR replacement program. In the event that Washington Gas had not completed its MSR replacement program, the Commission ordered Washington Gas to show cause why the Commission should not impose a civil penalty.

In response to the Commission's order, Washington Gas revealed that it failed to replace the MSRs on its system by 2013, only replacing 29,000 over that 10 year period. While Washington Gas does not know how many MSRs remain on its system to this day, it estimates that there could be as many as 78,000 MSRs remaining on its system.

Based on the Company's failure to perform the MSR replacements that it represented it would, combined with the fact that the Company received a rate increase based on that representation, the Office of People's Counsel ("OPC") recommended in Case No. 9622 that the costs that Washington Gas incurs to perform such replacements should not be recovered in rates. The Commission has yet to render any decisions in Case No. 9622.