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OFFICE OF PEOPLE'S COUNSEL**

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**BILL NO.:** **Senate Bill 510**  
**Electric and Gas Companies –Rate Regulation**  
**Infrastructure Investments**

**COMMITTEE:** **Finance**

**HEARING DATE:** **February 23, 2016**

**SPONSORS:** **Senators Astle and Middleton**

**POSITION:** **Oppose**

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Senate Bill 510 would increase the current infrastructure investment surcharge cap for residential gas company customers from \$2 to \$4 per month per customer as part of the existing STRIDE law. In addition, it would establish an electric company STRIDE--like law with a comparable \$4 per month per customer cap. In sum, the Office of People's Counsel (People's Counsel or OPC) opposes Senate Bill 510 because:

1. **An increase in the monthly cap for gas service is unnecessary and premature as no gas company has been able to show a need to exceed the \$2 cap in order to make the natural gas infrastructure replacements for *safety* and *reliability* during the mere two years STRIDE has existed.**
2. **The Commission has existing authority to approve an infrastructure surcharge if the Commission determines there is evidence that public safety or reliability will be compromised for a particular electric utility.**
3. **The electric STRIDE framework proposed by this Bill allows surcharge recovery from customers for capital improvements that are not related to the core provision of safe and reliable electric service.**
4. **If all utilities reach the proposed surcharge cap, the impact on residential customers statewide is significant. The maximum monthly residential electric surcharge equates to \$106.5 annually while the maximum monthly residential**

**gas surcharge would be \$51.5 million annually.<sup>1</sup> On an individual customer basis, that is \$48 more each year for either gas or electric service or \$96 more per year for customers who have both gas and electric service.**

## **Background**

In 2013 the General Assembly passed and the Governor signed a bill allowing natural gas companies to submit plans to the Public Service Commission (PSC) to recover the costs of gas distribution infrastructure replacements or improvements through a surcharge mechanism.<sup>2</sup> This is referred to as the STRIDE law.<sup>3</sup> The stated purpose of the law was to “accelerate gas infrastructure improvements in the State.” PUA § 4-210(b). People’s Counsel and other customer representatives had opposed the Bill for a variety of substantive reasons.<sup>4</sup> Subsequent to its effective date, OPC has retained experts in each of the Commission’s STRIDE proceedings, in which the Commission has approved the STRIDE Plans of the three major gas utilities and the accompanying surcharges. In 2013, the Commission also authorized the imposition of certain electric infrastructure surcharges for three electric companies. The surcharges for two of the three gas companies are well below the cap provided for under the current law, and the electric company surcharges are below 20 cents per month.

## **Proposed Electric STRIDE Program**

### **A Statutory Requirement for an Electric STRIDE Program is not Necessary.**

Two things occurred after the series of dramatic summer and winter storms in the 2010-2012 time period, including the Derecho. First, a “Grid Resiliency Task Force” established by former Governor O’Malley recommended (among many things) consideration of electric

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<sup>1</sup> Fiscal and Policy Note, pp. 5 and 7.

<sup>2</sup> Senate Bill 8 (Chapter 161), enrolled on May 2, 2013.

<sup>3</sup> The Strategic Infrastructure Development and Enhancement (STRIDE) law, codified at Public Utilities Article § 4-210.

<sup>4</sup> OPC submitted testimony on Senate Bill 8 on January 23, 2013 to the Senate Finance Committee and on House Bill 89 on January 24, 2013.

reliability surcharges to increase and accelerate reliability of the electric system. The Commission subsequently responded by approving targeted surcharges for three electric companies.

Second, and in our opinion, most importantly, the General Assembly passed a law to establish reliability standards, and the Commission, through an extensive rulemaking process, established the so-called "RM 43" reliability regulations, which included reliability standards, annual reporting requirements and compliance mechanisms.

Primarily as a result of the latter, Maryland has experienced considerable progress in meeting the original reliability standards, and we expect similar progress in meeting the new enhanced reliability standards. In contrast to the electric utility performances in prior years, before the adoption of the standards, there were a limited number of power outages during the January 2016 near-blizzard – a direct result in particular of the substantial vegetation management, feeder hardening and recloser deployment activities under the Commission's regulations, relatively reasonable and frequent increases in base rates<sup>5</sup> and the limited surcharge. The expectation of OPC, and its expert distribution system consultant, is that current spending levels and continued activities will enable that level of reliability to continue. Mandated additional spending and surcharge recovery is not needed to ensure reliability standards are met.<sup>6</sup> However, in the event that public safety or reliability of the system is at risk, the Commission already has acknowledged that it has the ability to approve or increase a surcharge if it determines it is needed.

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<sup>5</sup> Please see Attachment A showing increases in rates along with surcharges since 2013 for the major utilities.

<sup>6</sup> In OPC's most recent review of Pepco's Grid Resiliency Charge (GRC) Annual Report and 2015 feeder program, OPC noted to the Commission that Pepco's spending on feeder reliability improvements, as part of its base rates, had declined, while costs were being collected through the GRC.

**The Electric STRIDE Framework Would Allow Surcharge Recovery From Customers for Capital Investments that are not Related to Core Services of Reliability and Public Safety and that are not Incremental or Accelerated**

The Bill would establish a framework for an Electric Company “STRIDE” Plan and surcharge that are distinct from and go far beyond the stated purpose for the gas STRIDE Program. The focus of the gas STRIDE law is on encouraging gas utilities to engage in accelerated and incremental activities to improve public safety and reliability of the distribution system. In adopting the surcharges for the electric companies, the Commission focused on authorizing a surcharge for accelerated and incremental activities to improve the *reliability* of the electric system. In contrast, the Bill’s provisions on the electric infrastructure Plan and surcharge are much broader; in fact, both the definition (PUA § 4-211(a) (3)) and the stated intent (PUA § 4-211(b)) provisions refer to capital investments and financing of initiatives, respectively, “to promote economic growth, environmental sustainability, and customer reliability.” While economic development and jobs, and environmental policy goals are laudable, they are not the core responsibility of utilities and utility customers. These goals and initiatives have been, and continue to be through this 2016 Session, addressed through other legislative initiatives.<sup>7</sup> They are not the primary or direct responsibility of utility customers. In addition, these categories are so broad that electric companies could easily submit Plans for microgrids, community solar, or other initiatives, to be funded by ratepayers through surcharges. It is not clear whether that is the intention of the Bill, but it could be a very real outcome.

**Surcharge Cap**

The proposed surcharge cap of \$4 per month is neither necessary nor reasonable for residential customers. The Bill doubles the cap on the monthly gas surcharge amount from \$2

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<sup>7</sup> For example, see House Bill 1106, introduced this Session.

per month to \$4 per month for residential customers, and imposes a new surcharge requirement for electric customers.

Based upon current experience with the gas STRIDE law, the increase in the gas surcharge cap is unnecessary and otherwise premature. First, the surcharges of two of the three gas companies are well below the current \$2 cap. If a company does find itself in the position of exceeding the cap, it has the right to file a request for a rate increase; if approved, the surcharge amount can be reset going forward. Second, the Commission is still engaged in refining the STRIDE Program review, approval and evaluation process, which has been in place for two years or less. These proceedings have been time consuming. While OPC is not a supporter of surcharge mechanism, we would hope that the STRIDE Plans and costs would ultimately be subject to a review of their effectiveness in delivering on the stated purpose of the STRIDE law. To significantly raise the monthly costs prior to such initial review would not serve the customers of these gas companies.

Second, assuming the statutory cap was increased and met, the impact on residential customers would be significant: \$48 annual surcharge amounts for a gas or electric utility customer and \$96 per year for a combined gas/electric customer. This amount is in addition to the base rates, including the monthly customer charge, paid by the residential customers.

Using information gleaned from utility annual reports to the Public Service Commission (PSC) (last available information is for year end **2014**) and current base rate cases, if all utilities which qualify under the bill file plans and the plans are accepted by the PSC at the maximum level of \$4 per account per month (\$48 per year), the impact on **RESIDENTIAL GAS**

Customers statewide is approximately **\$51 Million annually**. Under the same assumption, the impact on **RESIDENTIAL ELECTRIC** customers is **\$114.9 million annually**.<sup>8</sup>

OPC focused on the residential accounts; however, the surcharges proposed under the bill would also apply to commercial (including government) and industrial accounts. Therefore, the overall annual impact will be higher if applied to all customer classes.

The Bill's aim to double the monthly surcharge amounts is particularly puzzling as it appears that utilities that currently have infrastructure plans in place have not always been able to spend up to the level of their approved surcharges. For example, during the 2014 reconciliation proceeding for BGE, it was evident that overall spending on gas infrastructure projects decreased from projections. The same was true for BGE for most of 2015, although it expressed an intention to drastically accelerate spending in the fourth quarter of 2015. OPC has not yet been able to verify that BGE did as it proposed for 2015. Likewise, WGL admitted in its reconciliation proceeding that it had not been able to complete many projects on its 2014 project list because it had trouble finding work crews to perform the work. As a result, less than 60% of the money it collected under its plan was used to shore up the safety and reliability of its gas system. For 2015, WGL had only started about 10% of its planned projects by May. The latest information available to OPC has WGL on pace to spend only half of what it is authorized to collect in calendar year 2015.

A utility's core responsibility is to provide safe and reliable service, and to operate and maintain its system accordingly. While OPC and other customer representatives did oppose the original legislation for a number of reasons, we recognize the General Assembly's intention to

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<sup>8</sup> Based on the reports reviewed, the number of residential gas accounts statewide is approximately 1,057,962 and the number of residential electric accounts statewide is 2,392,803. Because of differences in reporting methods among utilities, some information had to be extrapolated from sources other than annual reports. This may also explain the slight difference in impact as calculated by the Department of Legislative Services.

protect public safety in the passage of Senate Bill 8 in 2013. However, Senate Bill 510 goes far beyond that initial targeted objective, and would subject customers to significant bill impacts without the protection that traditional oversight of utility rates provides to customers.

OPC therefore respectfully requests an unfavorable report on Senate Bill 510. If it is the will of the General Assembly to pass this Bill, then OPC recommends that the monthly cap on surcharges be kept at \$2 per month for both gas and electric companies, and that the capital investments for the electric investments be limited to accelerated and incremental public safety and reliability investments.

**Increases in BGE Electric Rates Since 2013**

(\$ Millions)

	2013	2014	2015	2016	Total Through End of 2016
Case No. 9299	80.5 <sup>1</sup> (effective 2/23/13)	80.5	80.5	80.5	253.2
Case No. 9326		33.6 <sup>2</sup> (effective 12/13/13)	33.6	33.6	102.5
ERI		1.7 <sup>3</sup>	4.4 <sup>4</sup>	4.8 <sup>5</sup>	10.9
Case No. 9355			22.0 <sup>6</sup> (effective 12/15/14)	22.0	45.0
Cumulative Total Through End of 2016					<b><u>411.6</u></b>

<sup>1</sup> Order No. 85374, February 22, 2013.

<sup>2</sup> Order No. 86060, December 13, 2013.

<sup>3</sup> "Additional Detail Regarding Commission-Approved Electric Reliability Investment (ERI) Initiative Programs in Compliance with Order No. 86060", Case No. 9326, January 31, 2014, Appendix C, Page 1.

<sup>4</sup> "Annual Electric Reliability Investment Initiative Report," Case No. 9326, November 3, 2014, Appendix H.

<sup>5</sup> "Annual Electric Reliability Investment Initiative Report," Case No. 9326, November 2, 2015, Appendix L.

<sup>6</sup> Order No. 86757, December 12, 2014.

**Increases in BGE Gas Rates Since 2013**

(\$ Millions)

	2013	2014	2015	2016	Total Through End of 2016
Case No. 9299	32.4 <sup>7</sup> (effective 2/23/13)	32.4	32.4	32.4	124.9
STRIDE		1.9 <sup>8</sup>	6.6 <sup>9</sup>	14.4 <sup>10</sup>	22.9
Case No. 9326		12.5 <sup>11</sup> (effective 12/13/13)	12.5	12.5	38.2
Case No. 9355			38.0 <sup>12</sup> (effective 12/15/14)	38.0	77.7
Cumulative Total Through End of 2016					<b><u>263.7</u></b>

<sup>7</sup> Order No. 85374, February 22, 2013.

<sup>8</sup> CN 9331, Dkt. 45, November 17, 2014 STRIDE Reconciliation Filing and Project List at Exhibit D, Page 2.

<sup>9</sup> CN 9331, Dkt. 64, November 16, 2015 STRIDE Reconciliation Filing and Project List at Exhibit D, Page 2.

<sup>10</sup> CN 9331, Dkt. 64, November 16, 2015 STRIDE Reconciliation Filing and Project List at Exhibit D, Page 1.

<sup>11</sup> Order No. 86060, December 13, 2013.

<sup>12</sup> Order No. 86757, December 12, 2014.

**Increases in PHI Utilities' Rates Since 2013 (\$ Millions)**

	2013	2014	2015	2016	Total Through End of 2016
Pepco Case No. 9311	27.9 <sup>13</sup> (effective 7/12/13)	27.9	27.9	27.9	96.9
PEPCO GRC		0.6 <sup>14</sup>	1.6 <sup>15</sup>	???	2.2+
PEPCO Case No. 9336		8.8 <sup>16</sup> (effective 7/4/14)	8.8	8.8	22
DPL Case No. 9317	15.0 <sup>17</sup> (effective 9/15/13)	15.0	15.0	15.0	49.4
DPL GRC		0.1 <sup>18</sup>	0.3 <sup>19</sup>	???	.4+
Cumulative Total Through End of 2016					<b><u>170.9</u></b>

<sup>13</sup> Order No. 85724, July 12, 2013.

<sup>14</sup> Dkt. 165, Case No. 9311, "Revised Tariff Pages," Attachment E, Page 1.

<sup>15</sup> Dkt. 189, Case No.9311, "Revised update to Rider "GRC" - Grid Resiliency Charge (proposed, redlined and supporting documentation) Attachment B," filed July 10, 2015, Schedule 3.

<sup>16</sup> Order No. 86441, July 2, 2014.

<sup>17</sup> Order No.85816, August 30,2013 ( settlement).

<sup>18</sup> Dkt. 28, Case No. 9317, "Joint Motion for Approval of Agreement of Unanimous Stipulation and Settlement," at Exhibit 3, Page 1, filed October 31,2013.

<sup>19</sup> Dkt. 56, Case No.9317, "Revised update to Rider "GRC" - Grid Resiliency Charge (proposed, redlined and supporting documentation) Attachment B," filed July 10, 2015, Schedule 3.

**Increases in Columbia Gas Rates Since 2013**

(\$ Millions)

	2013	2014	2015	2016	Total Through End of 2016
Case No. 9316	3.9 <sup>20</sup> (effective 9/23/13)	3.9	3.9	3.9	12.8
STRIDE		0.3 <sup>21</sup>	1.1 <sup>22</sup>	1.4 <sup>23</sup>	2.8
Case No. 9354		1.1 <sup>24</sup> (effective 9/15/14)	1.1	1.1	2.5
Case No. 9390			0.5 <sup>25</sup> (effective 11/4/15)	0.5	0.6
Cumulative Total Through End of 2016					<b><u>18.7</u></b>

**Increases in Washington Gas Rates Since 2013**

(\$ Millions)

	2013	2014	2015	2016	Total Through End of 2016
Case No. 9322	9.7 <sup>26</sup> (effective 11/22/2013)	9.7	9.7	9.7	30.2
STRIDE		1.7 <sup>27</sup>	3.9 <sup>28</sup>	8.6 <sup>29</sup>	14.2
Cumulative Total Through End of 2016					<b><u>44.4</u></b>

<sup>20</sup> August 9, 2013 Proposed Order of PULJ; Commission Order No. 85858, September 23, 2013.

<sup>21</sup> CN 9332, Dkt. 81, "2014 Reconciliation Filing and 2015 Project List," filed November 17, 2014 at Attachment B-1, Schedule 1, Page 1.

<sup>22</sup> CN 9332, Dkt. 98, "Annual Surcharge Filing and Reconciliation of the Infrastructure Replacement and Improvement Surcharge," filed November 13, 2015 at Attachment B-1, Schedule 2, Page 2.

<sup>23</sup> CN 9332, Dkt. 98, "Annual Surcharge Filing and Reconciliation of the Infrastructure Replacement and Improvement Surcharge," filed November 13, 2015 at Attachment B-1, Schedule 1, Page 1.

<sup>24</sup> September 4, 2014 Proposed Order of PULJ

<sup>25</sup> October 16, 2015 Proposed Order of PULJ; Commission Order No. 87226, November 4, 2015.

<sup>26</sup> October 10, 2013 Proposed Order of PULJ; Commission Order No. 86013, November 22, 2013.

<sup>27</sup> CN 9335, Dkt. 83, "2014 Reconciliation Filing and 2015 Project List," filed November 17, 2014 at Exhibit 1, Page 1.

<sup>28</sup> CN 9335, Dkt. 144, "2015 Reconciliation Filing and 2016 Project List," filed November 16, 2015 at Exhibit 1, Page 1.

<sup>29</sup> CN 9335, Dkt. 144, "2015 Reconciliation Filing and 2016 Project List," filed November 16, 2015 at Exhibit 8, Page 1.