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BILL NO.:	House Bill 0731 – Natural Gas - Strategic Infrastructure Development and Enhancement (Ratepayer Protection Act)
COMMITTEE:	Economic Matters Committee
HEARING DATE:	February 29, 2024
SPONSOR:	Delegates Embry, Qi, Boafo, Charkoudian, Edelson, Grossman, Queen, and Ruth
POSITION:	Favorable

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The Office of People's Counsel ("OPC") respectfully requests a favorable Committee report on HB 731, the Ratepayer Protection Act. HB 731 seeks to enact the modest but important changes to the Strategic Infrastructure Development and Enhancement ("STRIDE") law recommended by the Maryland Commission on Climate Change and the Building Energy Transition Implementation Task Force.

Background

Enacted in 2013, the STRIDE law[1] encourages gas utilities to replace aging gas infrastructure by allowing for accelerated financial recovery of spending on replacement. Through a surcharge on customer bills, gas utilities recover the estimated costs of projects while the company is carrying them out. The surcharge costs are subsequently moved into the utility's base rates and the surcharge is reset. This gives the utilities an

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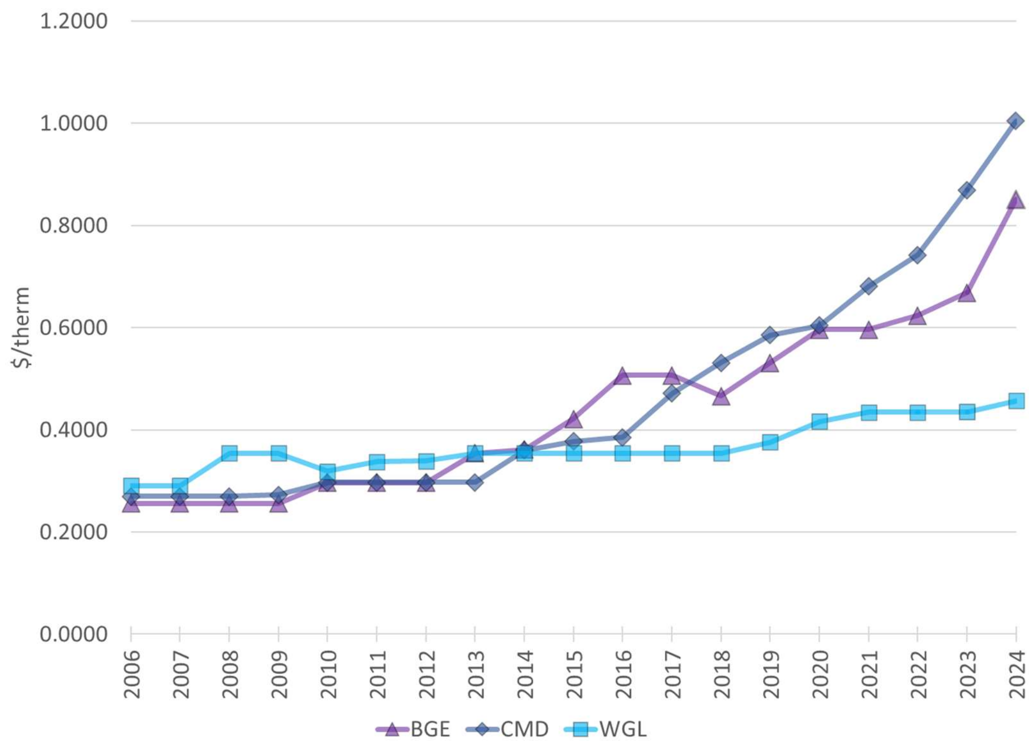
[1] 2013 Md. Laws Ch. 161 (S.B. 8) (codified at Md. Code Ann. Pub. Util. ("PUA") § 4-210).

easier and faster method of recovering the costs of gas infrastructure spending from customers.

The STRIDE law has helped drive significant increases in gas infrastructure spending that has resulted in increases in gas utility distribution rates since its enactment. The following figure shows the increases in the volumetric distribution charge[2]—i.e., the rate that is multiplied by the customer's gas usage—for Maryland's three largest gas utilities: Baltimore Gas and Electric (BGE), Washington Gas Light (WGL), and Columbia Gas of Maryland (CMD).[3]



For many of the years since STRIDE's enactment, the increasing rates for gas distribution infrastructure have not been visible to customers in their total bill because,

[2] Customers' gas bills may include three charges for distribution costs: a volumetric distribution charge, a fixed customer charge, and the STRIDE surcharge. (The commodity cost is a separate passthrough cost.) This figure only represents the volumetric distribution charge. It does not include the fixed monthly customer charge that customers also pay for gas distribution systems, adding to customers' monthly bills. Those charges have also increased since STRIDE's enactment. Nor does it account for amounts included in the monthly STRIDE surcharge, which was added to customer bills in 2014 following enactment of the STRIDE law. After a rate case, the surcharge is moved into the base rates.
[3] The 2024 rates for BGE and WGL are based on initial decisions of the Public Service Commission that are pending rehearing requests.

following the gas fracking boom, gas commodity prices dropped—from a peak of more than $1.00/therm in 2008 to about $0.40/therm in 2020.

Distribution rates rise with additional gas infrastructure spending through the STRIDE law. The spending, once approved, is locked into customer rates for decades, usually more than 50 years. Maryland's gas utilities are currently spending more than $1.75 million each day—hundreds of millions a year—on STRIDE and other gas infrastructure. As the table below shows, to date, Maryland's gas utilities have spent more than $2 billion on new gas infrastructure under the STRIDE program. Yet, overall, Maryland's gas utilities still have about two-thirds of their STRIDE programs to go—programs that will take 20 more years to complete. By 2045, the utilities are projected to spend another nearly $8 billion to complete their programs, and ratepayers will have paid over $14 billion. If the State allows STRIDE programs to continue unchecked, ratepayers will be expected to pay a total of more than $40 billion by 2100.

$ Millions	**Utility Investments**		**Costs to Ratepayers**	
	2014-2023	2014-2043/45	2014-2045	2014-2100
Columbia	$ 171.02	$ 724.70	$ 1,191.76	$ 3,453.54
WGL	$ 598.66	$ 4,766.50	$ 5,574.38	$ 22,064.38
BGE	$ 1,326.67	$ 4,309.76	$ 7,278.31	$ 17,249.88
Total	**$ 2,096.35**	**$ 9,800.97**	**$ 14,044.45**	**$ 42,767.80**

Utilities finance the STRIDE spending and collect the costs—plus profit—from customers over many decades, usually more than 50 years.[4]

Since the STRIDE law was enacted more than ten years ago, advances in technology and climate policy have begun driving the shift toward electrification and away from natural gas consumption. Technological advances have made electric appliances competitive alternatives to gas appliances,[5] and both the federal government

[4] The Commission sets a rate of return of about 7 percent (with slight variation among the utilities), which is grossed up for the utilities' taxes, leaving customers paying an "interest" rate of close to 10 percent on the capital invested.

[5] For example, a 2021 study from the Lawrence Berkeley National Laboratory found that, on average nationally, a new gas furnace and air conditioner have a combined installed cost of almost $11,000 for residential retrofits. In contrast, the installed cost of a heat pump replacing both is substantially less, at just over $8,000. Less, B. D., et al. 2021. *The Cost of Decarbonization and Energy Upgrade Retrofits for US Homes*, Lawrence Berkeley National Laboratory, https://escholarship.org/uc/item/0818n68p. In addition to cheaper up-front costs, heat pumps serve as both the heating and cooling device for a home, requiring a household to only maintain one system. As the Maryland Department of the Environment's recent Climate Pollution Reduction Plan confirmed, there is no need for a backup home heating

and the State of Maryland have adopted policies—such as the Inflation Reduction Act and the Climate Solutions Now Act—that promote building electrification. Together, these forces will lead to a diminished role for natural gas, calling into question the wisdom of spending so heavily on wholesale replacement of the gas system.

Comments

Recognizing the need to modernize the STRIDE program, the Maryland Commission on Climate Change recommended in its 2023 Annual Report that the General Assembly make modest modifications to the law to reduce ratepayer costs and facilitate electrification.[6] The recommendation was approved with overwhelming support, including from cabinet agencies, and opposed only by fossil fuel interests. The Building Energy Transition Implementation Task Force made a similar recommendation in its recent final report.[7]

As explained below and in the attached fact sheet, HB 731 seeks to enact these recommendations by making three modest changes to the STRIDE statute to require:

1. prioritizing replacement of aging pipes based on their risk to the public;
2. using safe alternatives to replacement, including leak detection and repair and targeted retirement in conjunction with electrification, where less costly; and
3. providing sufficient notice to customers affected by proposed projects to allow them the opportunity to electrify to reduce unnecessary spending.

Importantly—and contrary to what bill opponents may suggest—this bill does not seek to stop STRIDE spending altogether. Nor does it address gas system expansion for new customers or prevent gas companies from addressing gas leaks, gas system reliability, or safety. Rather, it focuses on ensuring that STRIDE spending is properly focussed to reduce risks for customers and is cost-effective.

I. Prioritizing replacement based on risk

The intent of the STRIDE program is to accelerate the replacement of aging gas infrastructure in order to improve public safety and reliability, but as currently written,

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source,"[m]odern heat pumps are more than capable of meeting 100% of the heating demand of Maryland buildings." *Maryland's Climate Pollution Reduction Plan* (Dec. 28, 2023), at p. 39.

[6] Md. Comm'n on Climate Change, *2023 Annual Report*, Mitigation Working Group Recommendation #14, at p. 14, *available at* https://mde.maryland.gov/programs/Air/ClimateChange/MCCC/Pages/MCCCReports.aspx.

[7] *The Building Energy Transition Implementation Task Force Final Report* (Jan. 24, 2024) at p. 15, *available at* https://mde.maryland.gov/programs/air/ClimateChange/Pages/BETITF.aspx.

the STRIDE statute does not add any safety requirements to the gas utilities' core, existing obligation to provide safe and reliable service.[8] Although the statute requires that an eligible project be "designed to improve public safety or infrastructure reliability," it includes no requirement for the utilities to target replacing the pipes that pose the greatest safety risk. Under the existing law, gas utilities can determine which work to complete through STRIDE based on non-risk related factors, including annual mileage goals, paving density, location, and government coordination. This allows gas utilities to prioritize broader goals of system replacement over maximizing system risk reduction.

The Ratepayer Protection Act seeks to fulfill the statute's intent by requiring that a gas utility "select[] and give[] priority to projects based on risk to the public and cost-effectiveness."[9]

II. Using alternatives to replacement where less costly

As currently written, the STRIDE statute does not require gas utilities to consider reasonable alternatives to replacement. In recent cases before the Public Service Commission, OPC and others have unsuccessfully argued that this should be part of any prudency determination.[10] While noting the concern that replacement may not be aligned with the likelihood of diminished gas throughput "as the State moves toward greater reliance on renewable energy and away from GHG-generating fuel sources," the PSC has declined to require more in the absence of further legislative action, stating in a recent decision: "Until the General Assembly enacts changes to the STRIDE statute to further refine the allowable investments in the natural gas infrastructure in light of the potential for diminished gas service, the Commission is limited in available options regarding proposed plans."[11]

The existing STRIDE law fails to explicitly require utilities to consider less-costly alternatives to replacement. Rather, it incentivizes replacement without consideration of repair. It allows gas utilities to receive accelerated cost recovery for spending on capital assets such as pipes and other gas infrastructure, but not for spending on operation and

[8] PUA § 5-303. This obligation is part of the extensive regulation companies are subject to in exchange for the government's grant of an exclusive franchise to provide service in a particular area.
[9] *See* §§ 4-210(d)(2)(v) & 4-210(e)(3)(iii).
[10] *See e.g.,* PSC Case No. 9708, OPC Initial Brief at p. 14, maillog # 305654 (Oct. 16, 2023). All PSC filings are available by searching the PSC's website by maillog #, https://webpsc.psc.state.md.us/DMS/.
[11] PSC Case No. 9708, PSC Order No. 90941, Full Commission Memorandum on Decision on Stride Appeals, maillog # 307037 (Jan. 10, 2024), at p. 12.

maintenance such as leak detection and repair. This perverse incentive is exacerbated by the fact that utility profits are directly tied to spending on capital assets.

The Ratepayer Protection Act would require gas utilities to consider alternatives to replacement by requiring that a gas utility include in its STRIDE plan "an analysis that compares the costs of proposed replacement projects with alternatives to replacement, including: (1) leak detection and repair; and (2) the targeted retirement or abandonment of portions of the gas systems in conjunction with electrification;" and providing that to approve a plan, the Commission must find that the projects are "required to improve the safety of the gas system *after consideration of alternatives to replacement*." [12]

III. Notice to customers

At present, the STRIDE statute includes no requirement for a gas utility to provide notice to affected customers before proceeding with costly infrastructure replacements. Given Maryland's climate policy goals and the numerous incentives for customers to electrify, a gas utility should be required to notify customers far enough in advance to allow customers time to consider electrifying their appliances and prevent stranded costs.[13] It can take many months for customers to investigate incentive programs, contact and select contractors, apply for loans, and wait for the contractor to do the work.

The lack of sufficiently advanced notice creates further risk of stranded assets. For example, imagine a current gas customer who is planning to electrify but has not yet started the process, and who receives 30 days' notice of a service upgrade. The customer still needs gas now, so they have to go through with the service upgrade. But the customer electrifies two years later, rendering the installation of the service, meter, regulator, and other associated equipment useless.

To provide customers with ample prior notice to electrify and opt out of the service upgrade, rather than wasting resources on replacing soon-to-be unused infrastructure, the Ratepayer Protection Act would require that a gas utility include in its STRIDE plan "a plan for notifying customers affected by proposed projects at least 2 years in advance of construction to allow customers the opportunity to electrify." Under

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[12] *See* § 4-210(d)(2)(vi)(emphasis added).

[13] Stranded costs can result over time as customers depart the gas system, leaving fewer and fewer customers to pay—through rates—the utilities' infrastructure costs. The departures ultimately can render the pipes uneconomic. A 2021 study by the Brattle Group, "The Future of Gas Utilities Series," estimates that with decarbonization of the energy sector nationwide, "there are approximately $150-180 billion of unrecovered gas distribution infrastructure." *Part 1, Assessing Risk*, at p. 2, *available at* https://www.brattle.com/wp-content/uploads/2022/01/The-Future-of-Gas-Utilities-Series__Part-1.pdf

current law, STRIDE plans must be filed with the Commission every five years. While the Commission's practice requires companies with STRIDE plans to file annual project lists for approval, the Commission could easily accommodate this requirement by requiring project lists further in advance or through another mechanism.

Recommendation

HB 731 does not repeal the STRIDE statute. It does not prevent gas utilities from making necessary capital investments to ensure safety and reliability. It does not prohibit gas utilities from receiving accelerated cost recovery for qualifying investments. HB 731 simply requires gas utilities, and the PSC, to take common-sense steps to ensure that these costly investments target the greatest safety risks, do not impose financial risks on customers, and align with State climate policy. For these reasons, OPC requests a favorable Committee report on HB 731.

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