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BILL NO.:	Senate Bill 0548 – Natural Gas - Strategic Infrastructure Development and Enhancement (Ratepayer Protection Act)
COMMITTEE:	Education, Energy, and the Environment Committee
HEARING DATE:	February 15, 2024
SPONSOR:	Senator Sydnor
POSITION:	Favorable

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The Office of People's Counsel ("OPC") respectfully requests a favorable Committee report on SB 548, the Ratepayer Protection Act. SB 548 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. This gives the utilities an easier and faster method of recovering the costs of gas infrastructure spending from customers.

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

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

away from natural gas consumption. Technological advances have made electric appliances competitive alternatives to gas appliances,[2] and both the federal government 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 investing so heavily in wholesale replacement of the gas system.

And yet, Maryland's gas utilities continue to spend more than $1.75 million each day—hundreds of millions a year—on gas infrastructure replacement. 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. By 2045, they are projected to spend another nearly $8 billion to complete their programs, and ratepayers will have paid over $14 billion. If allowed 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**

[2] For example, a 2021 study from the Lawrence Berkeley National Laboratory found that, on average nationally, a new gas furnace and AC have a combined installed cost of almost $11,000 for residential retrofits. In contrast, the installed cost of heat pumps 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 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.

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.[3] The recommendation was approved by an overwhelming vote, with broad and universal 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.[4]

As explained below and in the attached fact sheet, SB 548 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 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.

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, the STRIDE statute does not add any safety requirements to the gas utilities' core obligation to provide safe and reliable service.[5] 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.

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[3] 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.
[4] *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.
[5] 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.

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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."[6]

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 PSC, OPC and others have unsuccessfully argued that this should be part of any prudency determination.[7] 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."[8]

Not only does the existing STRIDE law fail to explicitly require utilities to consider less-costly alternatives to replacement, it also incentivizes replacement without consideration of repair. The STRIDE statute 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 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. Utilities finance the spending and collect the costs—plus profit—from customers over many decades. The more money the utilities spend on capital assets, the more profit they stand to earn, which incentivizes full pipe replacement, even if there is a more cost-effective alternative, such as leak detection and repair.

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

[6] *See* §§ 4-210(d)(2)(v) & 4-210(e)(3)(iii).
[7] *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/.
[8] PSC Case No. 9708, PSC Order No. 90941, Full Commission Memorandum on Decision on Stride Appeals, maillog # 307037 (Jan. 10, 2024), at p. 12.

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*." [9]

III. Providing 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. 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, 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 service, meter, regulator, and other associated equipment useless.

To provide customers with ample prior notice to to electrify and turn down the service upgrade, rather than wasting resources on replacing a soon-to-be unused service, 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."

Recommendation

SB548 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. SB 548 simply requires gas utilities, and the PSC, to take common-sense steps to ensure that these costly investments target the greatest safety risks and align with State climate policy. For these reasons, OPC requests a favorable Committee report on SB 548.

[9] *See* § 4-210(d)(2)(vi).