

# HOUSE BILL 89

C5  
HB 662/12 – ECM

3lr0441  
CF SB 8

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By: **Delegates Barkley, Barnes, Burns, Clagett, Davis, Feldman, Haddaway–Riccio, Hershey, Impallaria, Ivey, Jameson, Kaiser, Love, Luedtke, McDermott, W. Miller, Minnick, Reznik, S. Robinson, Rudolph, Schulz, Summers, Vaughn, and Zucker**

Introduced and read first time: January 14, 2013

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 4, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Gas Companies – Rate Regulation – Infrastructure Replacement Surcharge**

3 FOR the purpose of authorizing a gas company to recover certain costs associated with  
4 certain gas infrastructure replacement projects through a certain gas  
5 infrastructure replacement surcharge on customer bills; requiring project cost  
6 calculations to include certain elements; specifying when costs shall be  
7 collectible; specifying how the pretax rate of return shall be calculated and  
8 adjusted and what it shall include; prohibiting a certain monthly surcharge  
9 from exceeding a certain amount for certain customers; providing for the  
10 allocation of certain costs among customer classes; providing that certain  
11 adjustments for return on equity shall only be considered and determined in a  
12 certain base rate case; requiring the Public Service Commission to consider  
13 certain factors when establishing revenue requirements; authorizing the  
14 Commission to hold a public hearing on a plan within a certain period of time;  
15 requiring the Commission to take final action on a plan within a certain period  
16 of time; requiring the Commission to take final action on an amendment to ~~a~~ an  
17 approved plan within a certain period of time; authorizing the Commission to  
18 approve a plan under certain circumstances; requiring the Commission to  
19 approve a cost–recovery schedule under certain circumstances; requiring that a  
20 surcharge be in effect for a certain time; requiring a gas company to file base  
21 rate case applications within a certain period of time; specifying costs to be  
22 included in a surcharge when base rate applications are filed; authorizing a gas

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 company to implement a plan under certain circumstances; requiring a gas  
 2 company implementing a plan to make certain refunds under certain  
 3 circumstances; requiring the Commission to authorize the gas company to  
 4 increase a surcharge under certain circumstances; prohibiting the Commission  
 5 from considering certain factors when reviewing a plan except under certain  
 6 circumstances; requiring a gas company to file certain plan amendments each  
 7 year with the Commission; authorizing the Commission to review certain plans  
 8 and take certain actions based on the review; requiring a gas company to file a  
 9 revised base rate schedule with the Commission to subtract certain costs from a  
 10 surcharge under certain circumstances; stating the intent of the General  
 11 Assembly with regard to the surcharge; defining certain terms; and generally  
 12 relating to natural gas rate regulation and gas infrastructure replacement  
 13 surcharges.

14 BY adding to  
 15 Article – Public Utilities  
 16 Section 4–210  
 17 Annotated Code of Maryland  
 18 (2010 Replacement Volume and 2012 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Public Utilities**

22 **4–210.**

23 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
 24 **MEANINGS INDICATED.**

25 **(2) “CUSTOMER” MEANS A RETAIL NATURAL GAS CUSTOMER.**

26 **(3) “ELIGIBLE INFRASTRUCTURE REPLACEMENT” MEANS A**  
 27 **REPLACEMENT OR AN IMPROVEMENT IN AN EXISTING INFRASTRUCTURE OF A**  
 28 **GAS COMPANY THAT:**

29 **(I) IS MADE ON OR AFTER JUNE 1, 2013;**

30 **(II) IS DESIGNED TO IMPROVE PUBLIC SAFETY OR**  
 31 **INFRASTRUCTURE RELIABILITY;**

32 **(III) DOES NOT INCREASE THE REVENUE OF A GAS COMPANY**  
 33 **BY CONNECTING AN IMPROVEMENT DIRECTLY TO NEW CUSTOMERS;**

1                   (IV) REDUCES OR HAS THE POTENTIAL TO REDUCE  
2 GREENHOUSE GAS EMISSIONS THROUGH A REDUCTION IN NATURAL GAS  
3 SYSTEM LEAKS; AND

4                   (V) IS NOT INCLUDED IN THE CURRENT RATE BASE OF THE  
5 GAS COMPANY AS DETERMINED IN THE GAS COMPANY'S MOST RECENT BASE  
6 RATE PROCEEDING.

7                   (4) "PLAN" MEANS A PLAN THAT A GAS COMPANY FILES UNDER  
8 SUBSECTION (D) OF THIS SECTION.

9                   (5) "PROJECT" MEANS AN ELIGIBLE INFRASTRUCTURE  
10 REPLACEMENT PROJECT PROPOSED BY A GAS COMPANY IN A PLAN FILED  
11 UNDER THIS SECTION.

12                   (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PURPOSE  
13 OF THIS SECTION IS TO ACCELERATE GAS INFRASTRUCTURE IMPROVEMENTS IN  
14 THE STATE BY ESTABLISHING A MECHANISM FOR GAS COMPANIES TO  
15 PROMPTLY RECOVER REASONABLE AND PRUDENT COSTS OF INVESTMENTS IN  
16 ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS SEPARATE FROM BASE  
17 RATE PROCEEDINGS.

18                   (C) THIS SECTION DOES NOT APPLY TO A GAS COOPERATIVE.

19                   (D) (1) A GAS COMPANY MAY FILE WITH THE COMMISSION:

20                                 (I) A PLAN TO INVEST IN ELIGIBLE INFRASTRUCTURE  
21 REPLACEMENT PROJECTS; AND

22                                 (II) IN ACCORDANCE WITH PARAGRAPH (4) OF THIS  
23 SUBSECTION, A COST-RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN THAT  
24 INCLUDES A FIXED ANNUAL SURCHARGE ON CUSTOMER BILLS TO RECOVER  
25 REASONABLE AND PRUDENT COSTS OF PROPOSED ELIGIBLE INFRASTRUCTURE  
26 REPLACEMENT PROJECTS.

27                   (2) A PLAN UNDER THIS SUBSECTION SHALL INCLUDE:

28                                 (I) A TIME LINE FOR THE COMPLETION OF EACH ELIGIBLE  
29 PROJECT;

30                                 (II) THE ESTIMATED COST OF EACH PROJECT; ~~AND~~

31                                 (III) A DESCRIPTION OF CUSTOMER BENEFITS UNDER THE  
32 PLAN; AND

1                   **(IV) ANY OTHER INFORMATION THE COMMISSION**  
2 **CONSIDERS NECESSARY TO EVALUATE THE PLAN.**

3                   **(3) (I) WHEN CALCULATING THE ESTIMATED COST OF A**  
4 **PROJECT UNDER PARAGRAPH (2) OF THIS SUBSECTION, A GAS COMPANY SHALL**  
5 **INCLUDE:**

6                               **1. THE PRETAX RATE OF RETURN ON THE GAS**  
7 **COMPANY'S INVESTMENT IN THE PROJECT;**

8                               **2. DEPRECIATION ASSOCIATED WITH THE PROJECT,**  
9 **BASED ON NEW ASSETS LESS RETIRED PLANT; AND**

10                              **3. PROPERTY TAXES ASSOCIATED WITH THE**  
11 **PROJECT, BASED ON NEW ASSETS LESS RETIRED PLANT.**

12                              **(II) THE ESTIMATED PROJECT COSTS DESCRIBED IN**  
13 **SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE COLLECTIBLE AT THE SAME TIME**  
14 **THE ELIGIBLE INFRASTRUCTURE REPLACEMENT IS MADE.**

15                              **(III) THE PRETAX RATE OF RETURN UNDER SUBPARAGRAPH**  
16 **(I)1 OF THIS PARAGRAPH SHALL:**

17                                       **1. BE CALCULATED USING THE GAS COMPANY'S**  
18 **CAPITAL STRUCTURE AND WEIGHTED AVERAGE COST OF CAPITAL AS THE**  
19 **COMMISSION APPROVED IN THE GAS COMPANY'S MOST RECENT BASE RATE**  
20 **PROCEEDING; AND**

21                                       **2. INCLUDE AN ADJUSTMENT FOR BAD DEBT**  
22 **EXPENSES AS THE COMMISSION APPROVED IN THE GAS COMPANY'S MOST**  
23 **RECENT BASE RATE PROCEEDING.**

24                   **(4) FOR A PLAN FILED UNDER THIS SECTION:**

25                              **(I) THE COST-RECOVERY SCHEDULE SHALL INCLUDE ~~ON~~**  
26 **~~EACH RESIDENTIAL CUSTOMER ACCOUNT~~ A FIXED ANNUAL SURCHARGE THAT:**

27                                       **1. MAY NOT EXCEED \$2 EACH MONTH ON EACH**  
28 **RESIDENTIAL CUSTOMER ACCOUNT; AND**

29                                       **2. FOR EACH NONRESIDENTIAL CUSTOMER**  
30 **ACCOUNT, MAY NOT BE LESS THAN THE FIXED ANNUAL SURCHARGE**

1 APPLICABLE TO A RESIDENTIAL CUSTOMER ACCOUNT, BUT SHALL BE CAPPED  
2 UNDER ITEM (II) OF THIS PARAGRAPH; AND

3 (II) TO CREATE A SURCHARGE CAP FOR ALL CUSTOMER  
4 CLASSES, COSTS SHALL BE ALLOCATED TO NONRESIDENTIAL AND RESIDENTIAL  
5 CUSTOMERS CONSISTENT WITH THE PROPORTIONS OF TOTAL DISTRIBUTION  
6 REVENUES THAT THOSE CLASSES BEAR IN ACCORDANCE WITH THE MOST  
7 RECENT BASE RATE PROCEEDING FOR THE GAS COMPANY.

8 (5) IN A BASE RATE PROCEEDING AFTER APPROVAL OF A PLAN,  
9 THE COMMISSION SHALL, IN ESTABLISHING A GAS COMPANY'S REVENUE  
10 REQUIREMENTS, TAKE INTO ACCOUNT ANY BENEFITS THE GAS COMPANY  
11 REALIZED AS A RESULT OF A SURCHARGE APPROVED UNDER THE PLAN.

12 (6) ANY ADJUSTMENT FOR RETURN ON EQUITY BASED ON AN  
13 APPROVED PLAN ONLY SHALL BE CONSIDERED AND DETERMINED IN A  
14 SUBSEQUENTLY FILED BASE RATE CASE.

15 (E) (1) WITHIN 180 DAYS AFTER A GAS COMPANY FILES A PLAN, THE  
16 COMMISSION:

17 (I) MAY HOLD A PUBLIC HEARING ON THE PLAN; AND

18 (II) SHALL TAKE A FINAL ACTION TO APPROVE OR DENY THE  
19 PLAN.

20 (2) WITHIN 120 DAYS AFTER A GAS COMPANY FILES AN  
21 AMENDMENT TO ~~A~~ AN APPROVED PLAN, THE COMMISSION SHALL TAKE FINAL  
22 ACTION TO APPROVE OR DENY THE AMENDMENT.

23 (3) THE COMMISSION MAY APPROVE A PLAN IF IT FINDS THAT  
24 THE INVESTMENTS AND ESTIMATED COSTS OF ELIGIBLE INFRASTRUCTURE  
25 REPLACEMENT PROJECTS ARE:

26 (I) REASONABLE AND PRUDENT; AND

27 (II) DESIGNED TO IMPROVE PUBLIC SAFETY OR  
28 INFRASTRUCTURE RELIABILITY OVER THE SHORT TERM AND LONG TERM.

29 (4) (I) THE COMMISSION SHALL APPROVE THE  
30 COST-RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN AT THE SAME TIME  
31 THAT IT APPROVES THE PLAN.

1                   **(II) COSTS RECOVERED UNDER THE SCHEDULE APPROVED**  
2 **IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY RELATE ONLY TO THE**  
3 **PROJECTS WITHIN THE PLAN APPROVED BY THE COMMISSION.**

4                   **(5) THE COMMISSION MAY NOT CONSIDER A REVENUE**  
5 **REQUIREMENT OR RATE-MAKING ISSUE THAT IS NOT RELATED TO THE PLAN**  
6 **WHEN REVIEWING A PLAN FOR APPROVAL OR DENIAL UNLESS THE PLAN IS**  
7 **FILED IN CONJUNCTION WITH A BASE RATE CASE.**

8                   **(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE**  
9 **COMMISSION DOES NOT TAKE FINAL ACTION ON A PLAN WITHIN THE TIME**  
10 **PERIOD REQUIRED UNDER SUBSECTION (E) OF THIS SECTION, THE GAS**  
11 **COMPANY MAY IMPLEMENT THE PLAN.**

12                   **(2) IF A GAS COMPANY IMPLEMENTS A PLAN THAT THE**  
13 **COMMISSION HAS NOT APPROVED, THE GAS COMPANY SHALL REFUND TO**  
14 **CUSTOMERS ANY AMOUNT OF THE SURCHARGE THAT THE COMMISSION LATER**  
15 **DETERMINES IS ~~UNJUSTIFIED~~ NOT REASONABLE OR PRUDENT, INCLUDING**  
16 **INTEREST.**

17                   **(G) (1) (I) A SURCHARGE UNDER THIS SECTION SHALL BE IN**  
18 **EFFECT FOR 5 YEARS FROM THE DATE OF INITIAL IMPLEMENTATION OF AN**  
19 **APPROVED PLAN.**

20                                   **(II) 1. BEFORE THE END OF THE 5-YEAR PERIOD, THE**  
21 **GAS COMPANY SHALL FILE A BASE RATE CASE APPLICATION.**

22   **2. IN A BASE RATE PROCEEDING FILED UNDER**  
23 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, IF A PLAN APPROVED BY THE**  
24 **COMMISSION REMAINS IN EFFECT:**

25   **A. ELIGIBLE INFRASTRUCTURE PROJECT COSTS**  
26 **INCLUDED IN BASE RATES IN ACCORDANCE WITH A FINAL COMMISSION ORDER**  
27 **ON THE BASE RATE CASE SHALL BE REMOVED FROM A SURCHARGE; AND**

28   **B. THE SURCHARGE MECHANISM SHALL CONTINUE**  
29 **FOR ELIGIBLE FUTURE INFRASTRUCTURE PROJECT COSTS THAT ARE NOT**  
30 **INCLUDED IN THE BASE RATE CASE.**

31                                   **(2) (I) IF THE ACTUAL COST OF ~~A PROJECT IN~~ A PLAN IS LESS**  
32 **THAN THE AMOUNT COLLECTED UNDER A SURCHARGE, THE GAS COMPANY**  
33 **SHALL REFUND TO CUSTOMERS THE DIFFERENCE ON CUSTOMER BILLS,**  
34 **INCLUDING INTEREST.**

1                   **(II) IF THE ACTUAL COST OF ~~A PROJECT IN~~ A PLAN IS MORE**  
2 **THAN THE AMOUNT COLLECTED UNDER THE SURCHARGE AND THE**  
3 **COMMISSION DETERMINES THAT THE HIGHER COSTS WERE REASONABLY AND**  
4 **PRUDENTLY INCURRED, THE COMMISSION SHALL AUTHORIZE THE GAS**  
5 **COMPANY TO INCREASE THE SURCHARGE TO RECOVER THE DIFFERENCE,**  
6 **SUBJECT TO THE RATE LIMIT UNDER SUBSECTION (D)(4) OF THIS SECTION.**

7                   **(H) EACH YEAR A GAS COMPANY SHALL FILE WITH THE COMMISSION ~~AN~~**  
8 **~~AMENDMENT TO A PLAN~~ A RECONCILIATION TO ADJUST THE AMOUNT OF A**  
9 **SURCHARGE TO ACCOUNT FOR ANY DIFFERENCE BETWEEN THE ~~ESTIMATED~~**  
10 **~~COST OF A PROJECT IN~~ ACTUAL COST OF A PLAN AND THE ACTUAL AMOUNT**  
11 **RECOVERED UNDER THE SURCHARGE.**

12                   **(I) IF, AFTER APPROVING A SURCHARGE IN A PLAN, THE COMMISSION**  
13 **ESTABLISHES NEW BASE RATES FOR THE GAS COMPANY THAT INCLUDE COSTS**  
14 **ON WHICH THE SURCHARGE IS BASED, THE GAS COMPANY SHALL FILE A**  
15 **REVISED RATE SCHEDULE WITH THE COMMISSION THAT SUBTRACTS THOSE**  
16 **COSTS FROM THE SURCHARGE.**

17                   **(J) (1) THE COMMISSION MAY REVIEW A PREVIOUSLY APPROVED**  
18 **PLAN.**

19                   **(2) IF THE COMMISSION DETERMINES THAT AN INVESTMENT OF A**  
20 **PROJECT OR COST OF A PROJECT NO LONGER MEETS THE REQUIREMENTS OF**  
21 **SUBSECTION (E)(3) OF THIS SECTION, THE COMMISSION MAY:**

22                               **(I) REDUCE FUTURE BASE RATES OR SURCHARGES; OR**

23                               **(II) ALTER OR RESCIND APPROVAL OF THAT PART OF THE**  
24 **PLAN.**

25                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 June 1, 2013.