

# SENATE BILL 548

C5, M5

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CF 4lr2628

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By: **Senator Sydnor**

Introduced and read first time: January 25, 2024

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Natural Gas – Strategic Infrastructure Development and Enhancement**  
3 **(Ratepayer Protection Act)**

4 FOR the purpose of altering the required contents of a certain plan that a gas company may  
5 file with the Public Service Commission for proposed eligible infrastructure  
6 replacement projects to include certain descriptions, demonstrations, analyses, and  
7 notifications; altering the required findings of the Commission in considering  
8 whether to approve a certain infrastructure replacement plan; and generally relating  
9 to natural gas and infrastructure management.

10 BY repealing and reenacting, with amendments,  
11 Article – Public Utilities  
12 Section 4–210  
13 Annotated Code of Maryland  
14 (2020 Replacement Volume and 2023 Supplement)

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

17 **Article – Public Utilities**

18 4–210.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Customer” means a retail natural gas customer.

21 (3) “Eligible infrastructure replacement” means a replacement or an  
22 improvement in an existing infrastructure of a gas company that:

23 (i) is made on or after June 1, 2013;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) is designed to improve public safety or infrastructure reliability;

2 (iii) does not increase the revenue of a gas company by connecting an  
3 improvement directly to new customers;

4 (iv) reduces or has the potential to reduce greenhouse gas emissions  
5 through a reduction in natural gas system leaks; and

6 (v) is not included in the current rate base of the gas company as  
7 determined in the gas company's most recent base rate proceeding.

8 **(4) "NATURAL GAS" MEANS METHANE GAS PRODUCED FROM A**  
9 **GEOLOGICAL FORMATION BENEATH THE SURFACE OF THE EARTH.**

10 **(5) "NATURAL GAS ALTERNATIVE" MEANS A FUEL THAT CAN BE**  
11 **BURNED IN TANDEM WITH OR IN PLACE OF NATURAL GAS, INCLUDING BIOMETHANE,**  
12 **RECOVERED METHANE, SYNTHETIC METHANE, AND HYDROGEN.**

13 **[(4)] (6)** "Plan" means a plan that a gas company files under subsection  
14 (d) of this section.

15 **[(5)] (7)** "Project" means an eligible infrastructure replacement project  
16 proposed by a gas company in a plan filed under this section.

17 (b) It is the intent of the General Assembly that the purpose of this section is to  
18 **[accelerate] PROMOTE** gas infrastructure improvements in the State, **WHEN NECESSARY**  
19 **AND APPROPRIATE TO ENSURE THE SAFETY OF THE GAS SYSTEM AND TO PROVIDE**  
20 **CONSISTENCY WITH STATE CLIMATE POLICY**, by establishing a mechanism for gas  
21 companies to promptly recover reasonable and prudent costs of investments in eligible  
22 infrastructure replacement projects separate from base rate proceedings.

23 (c) This section does not apply to a gas cooperative.

24 (d) (1) A gas company may file with the Commission:

25 (i) a plan to invest in eligible infrastructure replacement projects;  
26 and

27 (ii) in accordance with paragraph (4) of this subsection, a  
28 cost-recovery schedule associated with the plan that includes a fixed annual surcharge on  
29 customer bills to recover reasonable and prudent costs of proposed eligible infrastructure  
30 replacement projects.

31 (2) A plan under this subsection shall include:

1 (i) A DESCRIPTION OF EACH ELIGIBLE PROJECT, INCLUDING  
2 THE PROJECT'S EXPECTED USEFUL LIFE;

3 (II) a time line for the completion of each eligible project;

4 [(ii)] (III) the estimated cost of each project;

5 [(iii)] (IV) a description of customer benefits under the plan;

6 (V) A DEMONSTRATION THAT THE GAS COMPANY HAS SELECTED  
7 AND GIVEN PRIORITY TO PROJECTS BASED ON RISK TO THE PUBLIC AND  
8 COST-EFFECTIVENESS;

9 (VI) AN ANALYSIS THAT COMPARES THE COSTS OF PROPOSED  
10 REPLACEMENT PROJECTS WITH ALTERNATIVES TO REPLACEMENT, INCLUDING:

11 1. LEAK DETECTION AND REPAIR; AND

12 2. THE TARGETED RETIREMENT OR ABANDONMENT OF  
13 PORTIONS OF THE GAS SYSTEM IN CONJUNCTION WITH ELECTRIFICATION;

14 (VII) A PLAN FOR NOTIFYING CUSTOMERS AFFECTED BY  
15 PROPOSED PROJECTS AT LEAST 2 YEARS IN ADVANCE OF CONSTRUCTION TO ALLOW  
16 CUSTOMERS THE OPPORTUNITY TO ELECTRIFY; and

17 [(iv)] (VIII) any other information the Commission considers  
18 necessary to evaluate the plan.

19 (3) (i) When calculating the estimated cost of a project under paragraph  
20 (2) of this subsection, a gas company shall include:

21 1. the pretax rate of return on the gas company's investment  
22 in the project;

23 2. depreciation associated with the project, based on new  
24 assets less retired plant; and

25 3. property taxes associated with the project, based on new  
26 assets less retired plant.

27 (ii) The estimated project costs described in subparagraph (i) of this  
28 paragraph are collectible at the same time the eligible infrastructure replacement is made.

29 (iii) The pretax rate of return under subparagraph (i)1 of this  
30 paragraph shall:

1                   1.     be calculated using the gas company's capital structure  
2 and weighted average cost of capital as the Commission approved in the gas company's  
3 most recent base rate proceeding; and

4                   2.     include an adjustment for bad debt expenses as the  
5 Commission approved in the gas company's most recent base rate proceeding.

6           (4)     For a plan filed under this section:

7                   (i)     the cost-recovery schedule shall include a fixed annual  
8 surcharge that:

9                   1.     may not exceed \$2 each month on each residential  
10 customer account; and

11                   2.     for each nonresidential customer account, may not be less  
12 than the fixed annual surcharge applicable to a residential customer account, but shall be  
13 capped under item (ii) of this paragraph; and

14                   (ii)    to create a surcharge cap for all customer classes, costs shall be  
15 allocated to nonresidential and residential customers consistent with the proportions of  
16 total distribution revenues that those classes bear in accordance with the most recent base  
17 rate proceeding for the gas company.

18           (5)     In a base rate proceeding after approval of a plan, the Commission  
19 shall, in establishing a gas company's revenue requirements, take into account any benefits  
20 the gas company realized as a result of a surcharge approved under the plan.

21           (6)     Any adjustment for return on equity based on an approved plan only  
22 shall be considered and determined in a subsequently filed base rate case.

23           (e)     (1)     Within 180 days after a gas company files a plan, the Commission:

24                   (i)     may hold a public hearing on the plan; and

25                   (ii)    shall take a final action to approve or deny the plan.

26           (2)     Within 150 days after a gas company files an amendment to an  
27 approved plan, the Commission shall take final action to approve or deny the amendment.

28           (3)     The Commission may approve a plan if it finds that the investments  
29 and estimated costs of eligible infrastructure replacement projects are:

30                   (i)     reasonable and prudent; [and]

31                   (ii)    designed to improve public safety or infrastructure reliability

1 over the short term and long term;

2 **(III) REQUIRED TO IMPROVE THE SAFETY OF THE GAS SYSTEM**  
3 **AFTER CONSIDERATION OF ALTERNATIVES TO REPLACEMENT;**

4 **(IV) CONSISTENT WITH THE NEED TO REDUCE THE USE OF**  
5 **NATURAL GAS IN LIGHT OF STATE CLIMATE POLICY; AND**

6 **(V) CONSISTENT WITH THE PROJECTED AVAILABILITY AND**  
7 **COST-EFFECTIVENESS OF NATURAL GAS ALTERNATIVES.**

8 (4) (i) The Commission shall approve the cost-recovery schedule  
9 associated with the plan at the same time that it approves the plan.

10 (ii) Costs recovered under the schedule approved in subparagraph (i)  
11 of this paragraph may relate only to the projects within the plan approved by the  
12 Commission.

13 (5) The Commission may not consider a revenue requirement or  
14 rate-making issue that is not related to the plan when reviewing a plan for approval or  
15 denial unless the plan is filed in conjunction with a base rate case.

16 (f) (1) Subject to paragraph (2) of this subsection, if the Commission does not  
17 take final action on a plan within the time period required under subsection (e) of this  
18 section, the gas company may implement the plan.

19 (2) If a gas company implements a plan that the Commission has not  
20 approved, the gas company shall refund to customers any amount of the surcharge that the  
21 Commission later determines is not reasonable or prudent, including interest.

22 (g) (1) (i) A surcharge under this section shall be in effect for 5 years from  
23 the date of initial implementation of an approved plan.

24 (ii) 1. Before the end of the 5-year period, the gas company shall  
25 file a base rate case application.

26 2. In a base rate proceeding filed under subparagraph 1  
27 of this subparagraph, if a plan approved by the Commission remains in effect:

28 A. eligible infrastructure project costs included in base rates  
29 in accordance with a final Commission order on the base rate case shall be removed from a  
30 surcharge; and

31 B. the surcharge mechanism shall continue for eligible future  
32 infrastructure project costs that are not included in the base rate case.

1                   (2)   (i)    If the actual cost of a plan is less than the amount collected under  
2 a surcharge, the gas company shall refund to customers the difference on customer bills,  
3 including interest.

4                   (ii)   If the actual cost of a plan is more than the amount collected  
5 under the surcharge and the Commission determines that the higher costs were reasonably  
6 and prudently incurred, the Commission shall authorize the gas company to increase the  
7 surcharge to recover the difference, subject to the rate limit under subsection (d)(4) of this  
8 section.

9                   (h)    Each year a gas company shall file with the Commission a reconciliation to  
10 adjust the amount of a surcharge to account for any difference between the actual cost of a  
11 plan and the actual amount recovered under the surcharge.

12                  (i)    If, after approving a surcharge in a plan, the Commission establishes new base  
13 rates for the gas company that include costs on which the surcharge is based, the gas  
14 company shall file a revised rate schedule with the Commission that subtracts those costs  
15 from the surcharge.

16                  (j)    (1)   The Commission may review a previously approved plan.

17                       (2)   If the Commission determines that an investment of a project or cost of  
18 a project no longer meets the requirements of subsection (e)(3) of this section, the  
19 Commission may:

20                               (i)    reduce future base rates or surcharges; or

21                               (ii)   alter or rescind approval of that part of the plan.

22                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2024.