

# SENATE BILL 541

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By: **Senators Astle and Kittleman**

Introduced and read first time: February 3, 2012

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of stating the intent of the General Assembly with regard to a gas  
4 infrastructure replacement surcharge; authorizing a gas company to recover  
5 certain costs associated with certain gas infrastructure replacement projects  
6 through a certain surcharge on customer bills; requiring project cost  
7 calculations to include certain elements; specifying when costs shall be  
8 collectable; specifying how the pre-tax rate of return shall be calculated and  
9 adjusted and what it shall include; prohibiting the monthly surcharge from  
10 exceeding a certain amount; specifying certain criteria for adjustments for  
11 return on equity; requiring the Public Service Commission to consider certain  
12 factors when establishing revenue requirements; authorizing the Commission to  
13 hold a public hearing on a plan within a certain time frame; requiring the  
14 Commission to take final action on a plan within a certain time frame; requiring  
15 the Commission to take final action on an amendment to a plan within a certain  
16 time frame; authorizing the Commission to approve a plan under certain  
17 circumstances; requiring the Commission to approve a cost recovery schedule  
18 under certain circumstances; requiring that a surcharge be in effect for a certain  
19 time; requiring a gas company to file base rate case applications within a  
20 certain time frame; specifying costs to be included in a surcharge when base  
21 rate applications are filed; authorizing a gas company to implement a plan  
22 under certain circumstances; requiring a gas company implementing a plan to  
23 make certain refunds under certain circumstances; requiring the Commission to  
24 authorize the gas company to increase a surcharge under certain circumstances;  
25 prohibiting the Commission from considering certain factors when reviewing a  
26 plan except under certain circumstances; requiring a gas company to file certain  
27 plan amendments each year with the Commission; authorizing the Commission  
28 to review certain plans and take certain actions based on the review; requiring a  
29 gas company to file a revised base rate schedule with the Commission to  
30 subtract certain costs from a surcharge under certain circumstances; defining

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain terms; and generally relating to natural gas rate regulation and gas  
2 infrastructure replacement surcharges.

3 BY adding to  
4 Article – Public Utilities  
5 Section 4–210  
6 Annotated Code of Maryland  
7 (2010 Replacement Volume and 2011 Supplement)

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

10 **Article – Public Utilities**

11 **4–210.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
13 MEANINGS INDICATED.

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

15 (3) “ELIGIBLE INFRASTRUCTURE REPLACEMENT” MEANS A  
16 REPLACEMENT OR IMPROVEMENT IN AN EXISTING INFRASTRUCTURE OF A GAS  
17 COMPANY THAT:

18 (I) IS MADE ON OR AFTER JUNE 1, 2012;

19 (II) IS DESIGNED TO IMPROVE PUBLIC SAFETY OR  
20 INFRASTRUCTURE RELIABILITY;

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

23 (IV) REDUCES OR HAS THE POTENTIAL TO REDUCE  
24 GREENHOUSE GAS EMISSIONS THROUGH A REDUCTION IN NATURAL GAS  
25 SYSTEM LEAKS; AND

26 (V) IS NOT INCLUDED IN THE CURRENT RATE BASE OF THE  
27 GAS COMPANY AS DETERMINED IN THE GAS COMPANY’S MOST RECENT BASE  
28 RATE PROCEEDING.

29 (4) “PLAN” MEANS A PLAN THAT A GAS COMPANY FILES UNDER  
30 SUBSECTION (D) OF THIS SECTION.

1           **(5) “PROJECT” MEANS AN ELIGIBLE INFRASTRUCTURE**  
2 **REPLACEMENT PROJECT PROPOSED BY A GAS COMPANY IN A PLAN FILED**  
3 **UNDER THIS SECTION.**

4           **(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PURPOSE**  
5 **OF THIS SECTION IS TO ACCELERATE GAS INFRASTRUCTURE IMPROVEMENTS IN**  
6 **THE STATE BY ESTABLISHING A MECHANISM FOR GAS COMPANIES TO**  
7 **PROMPTLY RECOVER REASONABLE AND PRUDENT COSTS OF INVESTMENTS IN**  
8 **ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS SEPARATE FROM BASE**  
9 **RATE PROCEEDINGS.**

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

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

12                   **(I) A PLAN TO INVEST IN ELIGIBLE INFRASTRUCTURE**  
13 **REPLACEMENT PROJECTS; AND**

14                   **(II) IN ACCORDANCE WITH PARAGRAPH (4) OF THIS**  
15 **SUBSECTION, A COST RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN THAT**  
16 **INCLUDES A SURCHARGE ON CUSTOMER BILLS TO RECOVER REASONABLE AND**  
17 **PRUDENT COSTS OF PROPOSED ELIGIBLE INFRASTRUCTURE REPLACEMENT**  
18 **PROJECTS.**

19           **(2) A PLAN UNDER THIS SUBSECTION SHALL INCLUDE:**

20                   **(I) A TIME LINE FOR THE COMPLETION OF EACH ELIGIBLE**  
21 **PROJECT;**

22                   **(II) THE ESTIMATED COST OF EACH PROJECT; AND**

23                   **(III) A DESCRIPTION OF CUSTOMER BENEFITS UNDER THE**  
24 **PLAN.**

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

28                           **1. THE PRE-TAX RATE OF RETURN ON THE GAS**  
29 **COMPANY’S INVESTMENT IN THE PROJECT;**

30                           **2. DEPRECIATION ASSOCIATED WITH THE PROJECT;**  
31 **AND**

1                                   **3.   PROPERTY TAXES ASSOCIATED WITH THE**  
2 **PROJECT.**

3                                   **(II) THE ESTIMATED PROJECT COSTS DESCRIBED IN**  
4 **SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE COLLECTABLE AT THE SAME TIME**  
5 **THE ELIGIBLE INFRASTRUCTURE REPLACEMENT IS MADE.**

6                                   **(III) THE PRE-TAX RATE OF RETURN UNDER**  
7 **SUBPARAGRAPH (I)1 OF THIS PARAGRAPH SHALL:**

8                                   **1.   BE CALCULATED USING THE GAS COMPANY'S**  
9 **CAPITAL STRUCTURE AND WEIGHTED AVERAGE COST OF CAPITAL AS APPROVED**  
10 **BY THE COMMISSION IN THE GAS COMPANY'S MOST RECENT BASE RATE**  
11 **PROCEEDING; AND**

12                                   **2.   INCLUDE AN ADJUSTMENT FOR BAD DEBT**  
13 **EXPENSES AS APPROVED BY THE COMMISSION IN THE GAS COMPANY'S MOST**  
14 **RECENT BASE RATE PROCEEDING.**

15                                   **(4) A COST RECOVERY SCHEDULE MAY NOT INCLUDE A MONTHLY**  
16 **SURCHARGE ON CUSTOMERS THAT EXCEEDS \$2.**

17                                   **(5) IN A BASE RATE PROCEEDING SUBSEQUENT TO THE**  
18 **APPROVAL OF A PLAN, THE COMMISSION SHALL, IN ESTABLISHING A GAS**  
19 **COMPANY'S REVENUE REQUIREMENTS, TAKE INTO ACCOUNT ANY BENEFITS**  
20 **REALIZED BY THE GAS COMPANY AS A RESULT OF A SURCHARGE APPROVED**  
21 **UNDER THE PLAN.**

22                                   **(6) ANY ADJUSTMENT FOR RETURN ON EQUITY BASED ON AN**  
23 **APPROVED PLAN:**

24                                   **(I) SHALL BE LIMITED TO THE RETURN ON APPROVED**  
25 **ELIGIBLE INFRASTRUCTURE PROJECTS;**

26                                   **(II) IS ONLY APPLICABLE TO ELIGIBLE INFRASTRUCTURE**  
27 **REPLACEMENT PROJECTS; AND**

28                                   **(III) SHALL ONLY BE CONSIDERED AND DETERMINED IN A**  
29 **SUBSEQUENTLY FILED BASE RATE CASE.**

30                                   **(E) (1) WITHIN 180 DAYS AFTER A GAS COMPANY FILES A PLAN, THE**  
31 **COMMISSION:**

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

2 (II) SHALL TAKE A FINAL ACTION TO APPROVE OR DENY THE  
3 PLAN.

4 (2) WITHIN 120 DAYS AFTER A GAS COMPANY FILES AN  
5 AMENDMENT TO A PLAN, THE COMMISSION SHALL TAKE FINAL ACTION TO  
6 APPROVE OR DENY THE AMENDMENT.

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

10 (I) REASONABLE AND PRUDENT; AND

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

13 (4) THE COMMISSION SHALL APPROVE THE COST RECOVERY  
14 SCHEDULE ASSOCIATED WITH THE PLAN AT THE SAME TIME THAT IT APPROVES  
15 THE PLAN.

16 (5) THE COMMISSION MAY NOT CONSIDER A REVENUE  
17 REQUIREMENT OR RATEMAKING ISSUE THAT IS NOT RELATED TO THE PLAN  
18 WHEN REVIEWING A PLAN FOR APPROVAL OR DENIAL UNLESS THE PLAN IS  
19 FILED IN CONJUNCTION WITH A BASE RATE CASE.

20 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE  
21 COMMISSION DOES NOT TAKE FINAL ACTION ON A PLAN WITHIN THE TIME  
22 PERIOD REQUIRED UNDER SUBSECTION (E) OF THIS SECTION, THE GAS  
23 COMPANY MAY IMPLEMENT THE PLAN.

24 (2) IF A GAS COMPANY IMPLEMENTS A PLAN THAT THE  
25 COMMISSION HAS NOT APPROVED, THE GAS COMPANY SHALL REFUND TO  
26 CUSTOMERS ANY AMOUNT OF THE SURCHARGE THAT THE COMMISSION  
27 SUBSEQUENTLY DETERMINES IS UNJUSTIFIED, INCLUDING INTEREST.

28 (G) (1) (I) A SURCHARGE UNDER THIS SECTION SHALL BE IN  
29 EFFECT FOR 5 YEARS FROM THE DATE OF INITIAL IMPLEMENTATION OF AN  
30 APPROVED PLAN.

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

3                   **2. IN A RATE BASE PROCEEDING FILED UNDER**  
4 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, IF A PLAN APPROVED BY THE**  
5 **COMMISSION REMAINS IN EFFECT, ELIGIBLE INFRASTRUCTURE PROJECT**  
6 **COSTS INCLUDED IN BASE RATES IN ACCORDANCE WITH A FINAL COMMISSION**  
7 **ORDER ON THE BASE RATE CASE SHALL BE REMOVED FROM A SURCHARGE, AND**  
8 **THE SURCHARGE MECHANISM SHALL CONTINUE FOR ELIGIBLE FUTURE**  
9 **INFRASTRUCTURE PROJECT COSTS THAT ARE NOT INCLUDED IN THE BASE RATE**  
10 **CASE.**

11                   **(2) (i) IF THE ACTUAL COST OF A PROJECT IN A PLAN IS LESS**  
12 **THAN THE AMOUNT COLLECTED UNDER A SURCHARGE, THE GAS COMPANY**  
13 **SHALL REFUND TO CUSTOMERS THE DIFFERENCE ON CUSTOMER BILLS,**  
14 **INCLUDING INTEREST.**

15                   **(ii) IF THE ACTUAL COST OF A PROJECT IN A PLAN IS MORE**  
16 **THAN THE AMOUNT COLLECTED UNDER THE SURCHARGE, AND THE**  
17 **COMMISSION DETERMINES THAT THE HIGHER COSTS WERE REASONABLY AND**  
18 **PRUDENTLY INCURRED, THE COMMISSION SHALL AUTHORIZE THE GAS**  
19 **COMPANY TO INCREASE THE SURCHARGE TO RECOVER THE DIFFERENCE,**  
20 **SUBJECT TO THE RATE LIMIT UNDER SUBSECTION (D)(4) OF THIS SECTION.**

21                   **(h) EACH YEAR A GAS COMPANY SHALL FILE WITH THE COMMISSION AN**  
22 **AMENDMENT TO A PLAN TO ADJUST THE AMOUNT OF A SURCHARGE TO**  
23 **ACCOUNT FOR ANY DIFFERENCE BETWEEN THE ESTIMATED COST OF A PROJECT**  
24 **IN A PLAN AND THE AMOUNT RECOVERED UNDER THE SURCHARGE.**

25                   **(i) IF, AFTER APPROVING A SURCHARGE IN A PLAN, THE COMMISSION**  
26 **ESTABLISHES NEW BASE RATES FOR THE GAS COMPANY THAT INCLUDE COSTS**  
27 **ON WHICH THE SURCHARGE IS BASED, THE GAS COMPANY SHALL FILE A**  
28 **REVISED RATE SCHEDULE WITH THE COMMISSION THAT SUBTRACTS THOSE**  
29 **COSTS FROM THE SURCHARGE.**

30                   **(j) (1) THE COMMISSION MAY REVIEW A PREVIOUSLY APPROVED**  
31 **PLAN.**

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

35                   **(i) REDUCE FUTURE BASE RATES OR SURCHARGES; OR**

1                                   **(II) ALTER OR RESCIND APPROVAL OF THAT PART OF THE**  
2 **PLAN.**

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 June 1, 2012.