Bill No:	**HB 890— Natural Gas – Strategic Infrastructure Development and Enhancement – Surcharge and Plans**
Committee:	**Economic Matters**
Date:	**2/18/2021**
Position:	**Oppose**

The Apartment and Office Building Association of Metropolitan Washington ("AOBA") submits this testimony on HB 890. AOBA's members own or manage approximately 23 million square feet of commercial office space and over 133,000 apartment units in the State of Maryland and receive service from Washington Gas under its Group Metered Apartment, Commercial and Industrial and Interruptible rate schedules.

HB 890 would amend existing legislation to increase the monthly residential surcharge for the Strategic Infrastructure Development and Enhancement ("STRIDE") Program by 25% from $2.00 to $2.50 for natural gas pipe replacement, which also results in increases to the monthly charges for all classes of customers, including master-metered apartments and small commercial users, based on the proportions of total distribution revenues that those classes bear.

Additionally, HB 890 would require that when utility base rates are adjusted in a multi-year-rate plan ("MYP"), the Public Service Commission ("PSC") shall require costs recovered through the surcharge for completed projects be collected in base rates during the MYP period each time the Company's base rates are adjusted during the MYP period and future costs be recovered through the surcharge. The purpose of HB 890 is intended to address concerns regarding the on-going costs of STRIDE. As discussed below, AOBA submits that the PSC's December 16, 2020 Order No. 89678 effectively addresses this issue.

AOBA opposes HB 890 because the proposed legislation adversely impacts Maryland natural gas ratepayers by:

(1) increasing the cost of utility company replacement of natural gas infrastructure;

(2) eliminating ratepayer transparency in knowing actual utility costs being recovered;

(3) authorizing the natural gas utility company to transfer the cost recovery from the surcharge mechanism to inclusion in utility base rates during the period of an approved multi-year rate plan which eliminates the rate certainty ratepayers expect from such plans; and

(4) exacerbating the adverse impact of the COVID-19 pandemic on residential ratepayers and businesses confronted by ongoing catastrophic health and economic devastation as mitigation and recovery efforts from the virus continue.

AOBA submits that if HB 890 becomes law natural gas utility ratepayers will see untold increases in their rates, first by an increase in residential utility rates created by the increase in the surcharge from $2.00 to $2.50 for residential users, which also results in increases for all classes of customers. And secondly, when rates are adjusted during a multi-year rate plan rates for all customers will increase when cost recovery for completed STRIDE projects are transferred from the surcharge mechanism and included in rate base without the benefit of a base rate case investigation by the PSC.

Background

The PSC's efforts to offset rate increases through the use of accelerated returns to ratepayers of tax and other utility offsets during the timeframe of an approved multi-year rate plan will be nullified by enactment of these HB 890 changes to existing law and policy. Moreover, there is no evidence that existing STRIDE cost recovery, coupled with the framework adopted by the PSC for investigating an application submitted by a natural gas utility company for approval of a multi-year rate plan, are not sufficient to ensure reasonable and timely STRIDE cost recovery while also balancing the interests of ratepayers in just and reasonable rates.

The PSC has addressed these issues in its December 16, 2020 Order No. 89678, Case No. 9645, in response to BGE's application for approval of a pilot multi-year rate plan. As the first approved MYP pilot, the PSC's BGE decision is to serve as a template for consideration of all-natural gas company utility applications now and into the future.

The PSC addressed the purpose of the STRIDE program stating:

The STRIDE statute was enacted for the purpose of accelerating gas infrastructure improvements in Maryland by establishing a mechanism by which gas companies might promptly recover reasonable and prudent costs of investments in eligible infrastructure replacement projects separate from base rate proceedings. Participation in STRIDE requires a gas company to file a plan for infrastructure replacement that specifies the replacement work to be performed, the cost and timeline for that replacement, and customer benefits under the plan. *Order No*. *89678* at 26, ¶54.

The PSC determined that:

By law, the amount of the surcharge ‘may not exceed $2 each month on each residential customer account’ or a comparable amount for nonresidential customer accounts. Completed STRIDE projects must be removed from the surcharge and transferred into rate base at least every five years, but may only be transferred into rate base during a base rate case.” *Order No*. *98678* at 26-27, ¶56.

The Commission further finds that BGE’s proposal to place some or all of its STRIDE costs in the MRP lacks transparency. The General Assembly required that the surcharge be visible to customers. Placing STRIDE projects directly into the base rates circumvents that transparency by requiring the Commission to approve advanced recovery of STRIDE projects with no visibility to customers, instead mixing STRIDE costs inextricably with all the other elements of BGE’s rates. *Order No*. *89678* at 29, ¶60.

Importantly, the PSC concluded that:

… although the Commission does not find that the STRIDE statute explicitly forbids an MRP and a surcharge from simultaneously imposing an impact in excess of $2 per month, the Commission finds that doing so would likely be contrary to the intent of the General Assembly. *Order No. 89678* at 29, ¶61.

<u>AOBA Supports the Reasoning of the PSC in Rejecting the Argument that Including STRIDE Costs in Base Rates During a MYP is Necessary</u>

AOBA supports the reasoning of the Commission in rejecting the BGE argument that including STRIDE project costs in base rates under a multi-year rate plan was necessary. The PSC concluded that the voluntary filing by BGE of an application for approval of a multi-year rate plan carried certain benefits and limitations that the utility can’t ignore. According to the PSC, “BGE’s arguments that its STRIDE projects will be worse off than other MRP investments unless it is allowed to account for the projects in its MRP base rates are unavailing. BGE chose to file the MRP and, accordingly, it was aware of the three-year stay out requirement contained in the MRP Pilot Order. The utility cannot take advantage of the benefits of the MRP while simultaneously disavowing its disadvantages.” *Order No. 89678* at 30, ¶63.

AOBA submits that the three-year stay out provision of the multi-year rate plan discussed in the PSC Order No. 89678 is intended to protect ratepayers from rate increases while ensuring accelerated cost recovery and predicable revenues for the utility company without the requirement of annual applications for rate increases. **This tradeoff, which the utility company agrees to accept in return for approval of a**

multi-year rate plan, should not be eliminated. The predictability and certainty of rates, coupled with the transparency of utility costs during the effective period of a multi-year rate plan, are benefits ratepayers were promised and must continue to receive as benefits.

<u>The Adverse Effect of the COVID-19 Pandemic Must be Taken into Account</u>

The PSC expressed concern about the escalating costs of utility services and the adverse impact of the COVID-19 pandemic. In response, the PSC resolved that "As a result of the COVID-19 pandemic, the Commission is accelerating the return of certain customer monies to ensure that there is no bill impact to customers during 2021. The Commission will not at this time order the use of accelerated offsets to prevent an increase in customer bills in 2022. However, this Order provides flexibility for the Commission to use additional offsets to reduce the impact of BGE's rate increase in 2022, depending on the state of the economy, the nation's progress in battling COVID-19, and BGE's proposed work plans that will be contained in its 60-day report, discussed below." *Order No. 89678* at 2, ¶3. The PSC elaborated that "The Commission agrees with the parties that it is appropriate, given the profound impacts of COVID-19 on the State's and the nation's economy and the welfare of Maryland ratepayers, that customers see no net increase in their bills in the year 2021. The Commission therefore accepts BGE's proposal to accelerate tax benefits and to make certain additional adjustments to achieve that result. The Commission will not at this time order the use of accelerated offsets to prevent an increase in customer bills in 2022. Instead, the full revenue requirement necessary to effectuate BGE's rate increase will go into effect beginning in January 2021, offsets will be used to prevent an increase in customer bills for that year, and beginning in the year 2022, customers will see an increase in their bills, subject to potential future adjustment …." *Order No. 89678* at 10-11, ¶21.

The PSC further commented on the need for ratepayer relief from the escalating costs of utility services: "Given the severe health and economic impacts of the COVID-19 pandemic, however, the Commission agrees with BGE and the other Parties that it is prudent to use the tax refunds and certain other adjustments to prevent an immediate rise in customer bills for 2021. But the Commission does not find it appropriate at this time to exhaust the majority of the tax refunds by continuing their accelerated return through the year 2022. Doing so would produce an excessively sharp increase in rates in the year 2023 and beyond, raising issues of rate shock and intergenerational equity concerns." *Order No. 89678* at 11-12, ¶23. "Nevertheless, this Order provides flexibility for the Commission to reconsider the use of offsets to reduce the impact of BGE's rate increase in 2022, depending on the state of the economy, the nation's progress in battling COVID-19, and BGE's proposed work plans that will be contained in its 60-day report, as discussed further below. After BGE files that report, stakeholders will have an opportunity to comment on BGE's work plans as well as the use of offsets." *Order No. 89678* at 12, ¶24. The PSC's Order balances the interests of the utility company in timely recovery of its costs, while ratepayers are protected from rate shock during the State's recovery from COVID-19.

The PSC also addressed the impact of BGE recovering the costs of complying with COVID-19 mitigation mandates. The PSC authorized BGE to create a regulatory asset to recover the incremental costs of compliance with Covid-19 based restrictions. AOBA submits that this decision by the PSC ensures that the utility company will timely recover COVID-19 related expenses, net of government assistance, without recovering these costs through adjustments in rate base during the period when a utility company's approved multi-year rate plan is operational.

Including STRIDE Cost Recovery from Completed Projects into Base Rates Prior to an Approved MYP Becoming Effective is Appropriate

In lieu of an increase in the current $2.00 surcharge, or including STRIDE cost recovery from completed projects into base rates during the period of an approved multi-year rate plan, the PSC approved including STRIDE investments into BGE's rate base prior to an approved multi-year rate plan becoming effective. The PSC concluded that "The Commission will, however, approve BGE's proposal to place into MRP rates all STRIDE investments through December 31, 2020. This will allow BGE to set the STRIDE surcharge to zero on the first day of its MRP and mitigate the risk that its infrastructure spending will exceed the $2 cap before its next rate case. At a minimum, BGE will have time to make its case to the General Assembly that the cap should be raised before its MRP ends, should it choose to do so." *Order No. 89678* at 30, ¶64. The PSC's decision preserved the expectation of ratepayers for rate certainty and transparency during the term of an approved multi-year rate plan.

Conclusion

AOBA submits that HB 890 will simply exacerbate the concerns raised and addressed in the PSC's December 16, 2020 Order No. 89678. As the PSC acknowledged, any utility company, including a natural gas utility company, that seeks approval of a multi-year rate plan must accept the benefits and limitations of such plans. For the reasons stated by the PSC in Order No. 89678, AOBA respectfully opposes the increase in the STRIDE surcharge from $2.00 to $2.50, and inclusion of STRIDE cost recovery from the surcharge into base rates during the period of time when an approved multi-year rate plan is in effect. **AOBA requests an unfavorable report on HB 890.**

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