

Dan Lipschultz, Lipschultz Energy and Communications Consulting
Maryland House of Delegates Economic Matters Committee
HB174: Public Utilities - Investor-Owned Utilities - Prevailing Wage

Position - Favorable
January 21, 2021

Good afternoon Chairman Davis and members of the Committee. My name is Dan Lipschultz, founder of Lipschultz Energy & Communications Consulting.

I have nearly 30 years of experience in utility regulation and energy policy, most recently serving as a member and Vice-Chair of the Minnesota Public Utilities Commission for six years, during which time I also served as lead commissioner on alternative ratemaking and as Minnesota's representative on the National Comprehensive Electricity Planning Task Force.

Before my service on the Commission, I practiced telecommunications and utility law for 25 years, first working as an attorney for the MN Commission, then serving as lead counsel in the Minnesota Attorney General's ratepayer advocate division, and finally working for 12 years in private practice representing gas and electric utilities as well as telecom carriers. All told, I've been involved as legal counsel or regulator in hundreds of utility regulatory proceedings, including dozens of utility rate cases and infrastructure proceedings. Moreover, I've viewed the utility landscape from just about every angle - as a ratepayer advocate, utility counsel and regulator.

Based on my background, LiUNA's Baltimore-Washington Laborers' District Council retained me to examine the public interest implications and rate impact of extending Maryland's Prevailing Wage law to underground public utility construction. My findings and conclusions are detailed in a Report previously submitted to the Committee. In my testimony today, I want to emphasize the following three key points with respect to this legislation:

First, this bill ***applies to underground public utility facilities used to deliver essential utility services***, primarily natural gas service that nearly all Maryland citizens depend on to heat their homes and businesses. Although the utilities impacted by this bill are investor-owned businesses, they are defined in State law as "public utilities." That's because they are responsible for providing services that are essential to the public interest - services delivered over critical infrastructure located primarily in public rights of way. Therefore, applying a prevailing wage floor to public utility infrastructure is a natural and logical extension of Maryland's current prevailing wage law, which as described by Maryland's Department of Legislative Services (DLS) applies to "structures or works ... constructed for public use or benefit...." Public utility infrastructure clearly exists for public use and benefit and is, in fact, essential to the public interest.

Second, this bill ***furtheres the public interest in safe, highly reliable utility services by helping ensure a highly skilled and experienced workforce to construct and maintain the critical infrastructure used to deliver these essential services***. The critical importance of this infrastructure, coupled with the safety concerns associated with gas pipelines in public rights-of-way, leaves little if any margin for error when it comes to the construction and maintenance of these facilities. Studies have shown that higher wages tend to produce higher quality and more cost-effective outcomes by attracting more skilled labor and by encouraging the development of a more skilled labor pool over time.

Finally, it is ***highly unlikely that this bill will increase residential utility bills***, and if it has any impact on rates, that impact will be minimal for at least the following two reasons:

1. ***The overwhelming majority of peer reviewed studies (82%) indicate that prevailing wage laws have little if any impact on project costs*** because of the efficiencies you get from an experienced, highly trained workforce facilitated by a prevailing wage floor. As the DLS noted, “empiric findings over the past 10-15 years by multiple large-scale studies . . . have found no statistically significant effect of prevailing wages on contract costs.”
2. ***Even if the a prevailing wage floor were to increase project costs, any such cost increase would likely have little or no impact on residential utility rates given how rates are set.*** Utility rates are set through rigorous court-like proceedings in which any proposed rate increase receives intense scrutiny by the PSC, including staff experts and sophisticated intervening parties. The rate case process involves multiple factors and layers of analysis. An increase in project costs from a prevailing wage floor would be only one small portion of a utility’s undepreciated rate base and only one of many factors used to determine a utility’s rates.

Nevertheless, I tested the possible rate impact of the prevailing wage law by applying DLS’s estimate of a possible 2-5 percent increase in project costs to a recent 2019 BGE gas rate case, Case No. 9610. I simply added 2 to 5 percent to the approximately \$600M rate-base increase that BGE Gas proposed in that case. I then took the higher rate base hypothetically resulting from the prevailing wage and ran it through BGE’s own methodology for calculating its proposed rates. As a final step, I reduced the overall rate consistent with the PSC’s decision and used the PSC’s rate-allocation method to determine the residential customer share of the increase.

In that case, the PSC ended up approving an average residential monthly rate increase of \$3.53. My analysis shows that a prevailing wage requirement ***might have increased the average residential rate in that case by an additional \$0.09 to \$0.22 (9-22 cents)***, assuming a 2-5 percent increase in project costs. But again, both the peer-reviewed research on prevailing wage impacts and the nature of the utility rate-setting process tell us that ***it’s likely the prevailing wage requirement in HB174 would have had no impact on rates***. Yet, the POSITIVE impact this legislation will have on the quality and safety of this essential infrastructure will probably be substantial.

Accordingly, I urge a favorable report from the Committee on HB174.