

**OPPOSE – Senate Bill 506  
Public Utilities – Regulatory Assets – Prohibitions  
Senate Finance Committee**

Columbia Gas of Maryland, Inc. opposes Senate Bill 506, which prohibits any public service company (“public utility”) from receiving a rate of return on a regulatory asset created as a result of conditions addressed by a State of Emergency declared by the Governor. Columbia Gas opposes this Bill because it is arbitrary, interferes with the Public Service Commission (“PSC”) discretion in matters related to cost recovery for public utilities, and it unreasonably denies a public utility the opportunity to fully recover prudently-incurred costs that relate to a declared State of Emergency.

Public utilities create a regulatory asset to defer costs presently being incurred to a future period for recovery. Regulatory assets are unique to public utilities and *must* be authorized by the PSC. Further, it is the PSC that determines what costs are to be included in the regulatory asset, the time period over which the public utility will recover the costs from its customers (*i.e.*, over how many years), and whether the regulatory asset earns a rate of return (*i.e.*, interest on the deferred costs). Typically, regulatory assets are only authorized for costs that are considered extraordinary, meaning that the costs are unusual, unexpected, and not expected to recur in the ordinary operations of business. For example, regulatory assets have been authorized for costs associated with major storm damage. Most recently, the PSC has authorized public utilities to establish regulatory assets for incremental costs due to the COVID-19 pandemic (See Order No. 89542 entered on April 9, 2020; Case No. 9639).

Senate Bill 506 makes a sweeping prohibition against public utilities earning a rate of return on any regulatory asset created in connection with a declared State of Emergency, and this is unreasonable. As described earlier, regulatory assets are created to address extraordinary costs. Hurricanes, pandemics, and other catastrophes could certainly trigger a public utility to seek PSC authority to create a regulatory asset, and could certainly result in a State of Emergency being declared by the Governor. To deny a public utility the ability to earn a rate of return on the regulatory asset merely because a State of Emergency was declared is arbitrary. To be clear, there is no guarantee that the PSC will authorize a public utility to earn a rate of return on a regulatory asset. The discretion to determine whether a regulatory asset earns a rate of return is properly vested with the PSC, which considers various factors, such as the types of costs making up the regulatory asset, and whether those costs were prudently incurred by the utility. There is no justification for removing the PSC’s discretion in matters relating to regulatory assets. Furthermore, denying public utilities the ability to earn a rate of return on regulatory assets may prevent public utilities from fully recovering its costs, since it is the rate of return that compensates the public utility for such expenses as borrowing costs and the deferral of the costs being recovered over an extended period of time.

For the reasons set forth above, Columbia Gas opposes Senate Bill 506 and urges an unfavorable report.

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