APARTMENT AND OFFICE BUILDING ASSOCIATION OF METROPOLITAN WASHINGTON

Bill No:	**SB 423— Natural Gas – Strategic Infrastructure Development and Enhancement – Surcharge and Plans (STRIDE Act of 2022)**
Committee:	**Finance**
Date:	**February 15, 2022**
Position:	**Oppose**

The Apartment and Office Building Association of Metropolitan Washington ("AOBA") submits this testimony in **opposition to SB 423.**

SB 423 would amend the current law on the accelerated replacement of aging natural gas infrastructure, how utility companies, including Washington Gas ("the Company") recover their costs, and the regulatory oversight of the STRIDE program by the Public Service Commission ("PSC" or "the Commission").

AOBA's members own or manage approximately 60 million square feet of commercial office space and over 296,000 apartment units in the State of Maryland and receive service from the Washington Gas Light Company ("WGL") under its Group Metered Apartment, Commercial and Industrial and Interruptible rate schedules. AOBA members also receive service from the Potomac Electric Power Company ("Pepco") on several of its commercial rate schedules.

For more than forty-five years, AOBA has activity participated as a party in proceedings before the Public Service Commission ("Commission" or "PSC") involving electric and natural gas energy distribution services representing commercial and multi-family apartment customers of Washington Gas and Pepco. My testimony today in opposition **to SB 423** is based on AOBA's long standing participation in rate cases as well as our participation in STRIDE proceedings in Maryland and the District of Columbia. Further, AOBA's opposition **to SB 423** is based on our recent participation in Pepco proceedings in Maryland and the District of Columbia considering an alternative form of regulation, a Multi-Year Rate Plan (("MYP"), Case No. 9655 in Maryland and Formal Case No. 1156 in the District of Columbia.

Under current law, the STRIDE Program provides several protections for ratepayers. First, the utility surcharge on customer bills is capped at $2.00 per month as a separate line item on residential customer bills. The residential surcharge cap also limits the increases on all commercial and master-metered apartment customers, since the monthly charges are based on the proportions of total distribution revenues for those classes of customers as established in the last base rate case. In other words, the residential STRIDE surcharge cap impacts all commercial and master-metered apartment customers of Washington Gas by limiting and controlling the costs that Washington Gas recovers under the STRIDE program from these ratepayer classes by linking their cap on the STRIDE monthly surcharge to the $2.00 monthly residential cap.

The purpose of the cap is to ensure that ratepayers are not overwhelmed by the costs of utility services provided by Washington Gas, while the Company replaces aging pipeline and timely recovers costs without the need to file multiple rate cases. Secondly, STRIDE surcharge costs can only be placed into base rates after a reconciliation of estimated costs to actual costs and a prudency review by the Commission in a base rate case, important oversight protections for ratepayers.

SB 423 would require that during a multiyear rate plan ("MRP") approved by the Commission, each time during the multiyear rate plan that a gas company's rates are adjusted, eligible STRIDE project costs collected under a STRIDE surcharge shall be included in base rates and the surcharge reset. The surcharge then continues for the following year's eligible infrastructure estimated projects costs. **The effect of SB 423 is to eviscerate the previously established cap for residential users, as well as all classes of customers, and eliminate previously established consumer protections.**

The purpose of an MRP is to permit a utility company to adjust rates within Commission established pre-approved limits without the need for a rate case over a period of three years, while ratepayers receive the benefit of rate certainly and transparency. BGE has a multiyear rate plan (Case No. 9645) in effect and Pepco's proposed MRP was approved by the Commission June 28, 2021 in Case No. 9655 by Order No. 89868. AOBA expects that Washington Gas may file a multiyear rate plan in the relatively near future.

Under **SB 423,** a gas company receives the benefits of an MRP while also being permitted to annually increase STRIDE rates without a Commission reconciliation of estimated costs to actual costs or a prudency review, both of which are now required and are reviewed annually. In short, the current STRIDE consumer protection provisions administered by the Commission, and the rate certainty and transparency under an MRP, would be eliminated. As a result, all ratepayers will experience significant STRIDE rate increases without the benefit of Commission oversight.

AOBA opposes SB 423 because the proposed legislation adversely impacts all Maryland natural gas ratepayers by:

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

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

and placing estimated STRIDE costs in base rates before such costs are reconciled to actual costs by the Commission;

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

(4) virtually eliminating the STRIDE laws monthly cap on surcharges for all gas customers by authorizing the gas utility company to transfer cost recovery from the surcharge to inclusion in base rates automatically during the period of an approved multiyear rate plan before a reconciliation of the estimated costs by the PSC and before a PSC prudency review. Further, **when costs are removed from the surcharge and placed into rate base, the STRIDE surcharge is automatically reduced which makes it unlikely that the Company will hit the surcharge cap at anytime during an MRP;** and

(5) 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.

If SB 423 becomes law, natural gas rates for all customers will rise when rates are adjusted during a multiyear rate plan each time rates change, i.e., annually. Rates for all customers will increase when cost recovery for *estimated* STRIDE project costs are automatically transferred from the STRIDE surcharge and included in rate base without the benefit of a base rate case investigation, Commission reconciliation of estimated costs to actual costs or prudency review. And finally, rates will rise when costs are removed from the surcharge automatically each year and put into rate base, and the STRIDE surcharge is reset, it is unlikely that the Company will hit the surcharge cap at any time during an MRP.

Background

PSC Decision in BGE Case No. 9645, Order No. 89678, issued December 16, 2020

SB 423 would require that when utility base rates are adjusted in a multiyear rate plan ("MRP"), the Public Service Commission ("PSC") shall require costs recovered through the surcharge for completed projects be collected in base rates during the MRP period each time the Company's base rates are adjusted during the MRP period and future costs be recovered through the surcharge. As detailed earlier in this testimony, AOBA believes that **SB 423** is not in the best interests of natural gas ratepayers in Maryland and submits that the PSC's December 16, 2020 Order No. 89678 in BGE Case No. 9645 effectively addresses these issues.

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 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 actual incremental costs of compliance with Covid-19 based restrictions. 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. *Order No. 89678* at 20, ¶43.

As the first approved MRP pilot, the PSC's BGE decision is to serve as a template for consideration of all-natural gas company utility MRP applications now and into the future. The PSC discussed the purpose of the STRIDE program and stated:

> 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 fund 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.

AOBA Supports the Reasoning of the PSC in Rejecting the Argument that Including STRIDE Costs in Base Rates During a MRP is Necessary

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.

The Commission decision to Include STRIDE Cost Recovery from Completed Projects into Base Rates <u>Prior t</u>o an Approved MRP Becoming Effective is Appropriate

In lieu of including STRIDE cost recovery from completed projects into base rates during the period of an approved multiyear 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.

<u>Conclusion</u>

AOBA submits that **SB 423** 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, and in this testimony, AOBA respectfully opposes the 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 SB 423.

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