



February 13, 2024

HOUSE ECONOMIC MATTERS COMMITTEE
HB 101 – State Highway Projects – Removal, Relocation, and Adjustment of Utility Facilities –
Notification, Work Plans, and Compliance

Statement in Opposition

Chesapeake Utilities Corporation (“Chesapeake Utilities”) respectfully **OPPOSES** certain provisions contained in HB 101. Among other things, HB 101 seeks to require the State Highway Administration (“SHA”) to provide certain notice to the owner or operator of a utility facility for the removal, relocation, or adjustment of the utility facility for a State highway project and the owner or operator of the utility facility must begin to relocate the facility within 60 days after receipt of the notice.

Chesapeake Utilities operates natural gas local distribution companies that serve approximately 32,000 customers on Maryland’s Eastern Shore in Caroline, Cecil, Dorchester, Somerset, Wicomico, and Worcester Counties. These public utilities are regulated by the Maryland Public Service Commission and have provided in the coldest months of the year safe, reliable, resilient, and affordable service in the State for decades. As a company, Chesapeake Utilities serves as a positive and informed resource in the State's ongoing energy discussions.

HB 101 places undue burdens on public utilities. While a public utility may be able to commence removal, relocation or adjustment of a facility within the 60-day time period required by the legislation, approval for the public utility to begin this type of work is determined by the state, county or municipality issuing the permits to proceed. As such, the public utility is not authorized to move forward without approval from the applicable governmental agency for this type of work and not always able to commence construction on its own timeframe or within the 60-day time period. As such, an undue burden is placed on the public utility for conditions precedent that are outside of its control.

HB 101 prevents cost recovery for facility locations. It is a settled principle of utility ratemaking that when government action requires a public utility to remove, relocate, or adjust a utility’s facilities, those relocation costs are appropriately recovered in rates. Yet, HB 101 simply eliminates the ability of utilities to recover these legitimate costs of providing service in instances where, through no fault of its own, a utility is unable to begin work to relocate its facilities within 60 days. The public utility must retain a mechanism to recover the costs incurred for moving facilities.

HB 101 is a solution in search of a problem. As a result of this legislation, Chesapeake Utilities met with the SHA on February 1, 2024 to discuss any concerns they may have with facility relocation projects in Chesapeake Utilities’ service territory. The SHA could not identify any



projects in Chesapeake Utilities' service territory on the Eastern Shore where they had a concern. For Chesapeake Utilities, this is a legislative solution in search of a problem.

HB 101 is vague, one-sided and leaves the determination of any due process up to SHA. The bill requires a utility to "begin the physical removal, relocation, or adjustment" of its facilities within 60 days, without any guidance as to what the term "begin" means. A utility could have a legitimate argument that it in fact began work on a project, but SHA could simply disagree and impose significant fines and costs on the utility due within 45 days (and prohibit rate recovery). Also, there is no duty imposed on SHA to mitigate any costs incurred when it decides to move a utility's facilities on its own. Instead, HB 101 simply authorizes SHA to promulgate regulations imposing "mediation" without any specific guidance from the General Assembly regarding the extent of due process procedures or any requirement on SHA to mitigate damages.

HB 101 could instead create a working group with the SHA and public utilities. Rather than impose undue burdens on public utilities for a problem that does not exist for every public utility in the state, if the Committee deems necessary as an alternative to HB 101, it could create a "Utilities Coordination Working Group", tasked with working with SHA and providing recommendations for improving coordination of utility facility removal, relocation, or adjustment. This solution was implemented in Delaware with great success (see attached Delaware legislation).

On behalf of Chesapeake Utilities Corporation, and our thousands of employees and their families who deliver energy safely and contribute every day in the communities where they live, work and serve, we respectfully request an unfavorable vote on HB 101.

Sincerely,

Chesapeake Utilities Corporation
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