



February 14, 2024

Chair Brian J. Feldman
Members of the Senate Education, Energy, and the Environment Committee

Re: Earthjustice **support** of SB 548:
Natural Gas - Strategic Infrastructure Development and Enhancement (Ratepayer Protection Act)

Earthjustice¹ strongly supports the passage of SB 548, the Ratepayer Protection Act. The Ratepayer Protection Act modifies and improves Maryland’s gas pipeline infrastructure replacement program (referred to as Strategic Infrastructure Development and Enhancement or “STRIDE”) to better reflect the State’s changing energy landscape and Maryland’s climate mandates.

In 2013, the Maryland General Assembly enacted the STRIDE statute which authorizes Maryland gas utility companies to file and the Public Service Commission to approve infrastructure investment plans and corresponding cost-recovery schedules. It is important for the Committee to understand that STRIDE is not a safety program, it is a financing mechanism which allows gas utilities to recover a substantial portion of their gas pipeline replacement expenditures through a monthly surcharge rather than wait for a rate proceeding. The STRIDE law did not establish any new or different safety requirements. STRIDE did not change the utility’s obligation to provide safe service, the law simply enables gas utilities to recover funds spent on gas pipeline replacement from ratepayers more quickly.

The Ratepayer Protection Act recognizes that while some spending on gas on infrastructure replacement is certainly necessary and appropriate for safety and reliability, the utilities current wholesale approach to infrastructure replacement is largely unconnected to safety considerations but is instead apparently designed to maximize utility profits. This disconnect was clearly demonstrated in Baltimore Gas & Electric Company’s (“BGE”) most recent rate case.

During BGE’s rate proceeding, BGE’s own testimony established that the Company uses informal, undocumented processes for gas pipeline project selection. Remarkably, BGE has no written documentation regarding how specific projects are selected for inclusion in the STRIDE program. According to BGE’s witness, the Company considers a variety of factors and uses engineering judgement to determine which projects are ultimately considered for replacement. The Company does not have specific documents or procedures directing employees on how to select a project. BGE provided a list of 12 *unprioritized* factors that may be considered. Thus,

¹ Earthjustice is a non-profit public interest environmental law organization that represents other non-profits free of charge. Earthjustice uses the power of law and the strength of partnerships to advance clean energy, combat climate change, protect people’s health and preserve magnificent places and wildlife.

BGE concedes that replacing leaky pipes is not even a priority over other factors. Equally disconcerting, BGE does not identify specific assets for replacement more than a year in advance. This lack of process means that there is no transparency regarding how the selections were made and whether better choices could have and should have been made.

Moreover, BGE seeks to replace all its gas infrastructure assets under the scope of the program, regardless of relative risk and cost comparisons. A goal of the STRIDE program should be to maximize safety, reliability, and environmental benefits for the ratepayer dollars spent. Instead, BGE plans to spend up to a given cap per year on as much pipeline replacement as it can achieve in that timeframe.

Finally, since pipeline replacement is the only action considered by the gas utilities, the companies apparently never seriously contemplate any alternatives to pipeline replacement, such as pipeline repair and non-pipeline alternatives. These alternatives would be more cost-effective and engender less risk of stranded costs. Gas pipeline replacement programs are expensive, install long-lived assets, and are built on the assumption that the gas system's future needs will be the same or very similar to the system's present needs, an assumption that is clearly at odds with the State's changing energy landscape and Maryland's climate mandates.

Cost-effective alternatives can meet safety and reliability needs of ratepayers while reducing stranded cost risk. However, in PSC proceedings gas companies fail to even identify those alternatives—let alone consider pursuing them. This failure means that ratepayers will pay more for improvements in safety and reliability than they would have had the utilities considered options other than replacing pipes. The utilities failure to consider any alternatives to pipeline replacements, which locks in place costly and long-lasting infrastructure, is not in the public interest.

For example, fixing pipes can often be a lower-cost alternative to replacement. But fixing pipes is not profitable for the utilities because fixes are operational costs, not capital investments on which utilities earn a profit. Because STRIDE only allows accelerated cost recovery for replacement projects that earn a return, the law has inadvertently disincentivized utilities from repairing pipes rather than replacing the pipes.

Without significant changes to the STRIDE program, Maryland gas utilities are on track to spend tens of billions of dollars **replacing their entire local distribution systems** and expanding pipeline capacity. BGE is approximately eight years into its gas pipeline replacement plan, which is expected to be completed around 2039. In 2018, BGE received the PSC's approval to spend more than **\$720 million** in infrastructure replacement over the five years from 2019-2023. Through 2100, Maryland's three largest gas utilities are projected to spend \$34.5 billion on capital investments. Based on current regulatory treatment, the utilities' customers would be on the hook for \$125 billion for this spending once the utilities profits are included in the costs. The failure to interpret the STRIDE program as a method to incentivize the replacement of the leakiest, riskiest gas pipes will saddle Maryland ratepayers with millions of dollars in stranded costs that would take decades to repay.

Adoption of the Ratepayer Protection Act will return the STRIDE program to what it was originally intended to achieve, ensuring the safety of the gas system. Moreover, requiring the utilities to compare the costs of proposed replacement projects with alternatives to replacement will ensure that safety and reliability is achieved in the most cost-effective manner and will ensure that the program's operation is consistent with Maryland's climate mandates.

Finally, Earthjustice thanks Senator Sydnor for his leadership on this important issue.

Earthjustice strongly urges a favorable report for SB 548.

Thank you in advance for your support. Should you have any questions, please contact me at smiller@earthjustice.org.

Respectfully submitted,

A handwritten signature in blue ink that reads "Susan Stevens Miller". The signature is written in a cursive style.

Susan Stevens Miller
Senior Attorney, Clean Energy Program
Earthjustice