



February 27, 2026

The Honorable Brian J. Feldman
2 West Miller Senate Office Building
Annapolis, Maryland 21401

Chair Feldman and Members of the Education, Energy, and the Environment Committee,

Maryland American Water strongly opposes SB 799 on the grounds that it is unworkable, unconstitutional, and would impair the Maryland Public Service Commission's power and constitutional duty to set just and reasonable utility rates, in violation of Md. Code, Pub. Util. § 4-102. Maryland American Water has served Maryland homes and businesses with safe, clean, reliable and affordable drinking water since the early 1930s. Over the last decade, we have invested approximately \$42 million to upgrade and replace drinking water infrastructure in Maryland, and many Maryland communities are in conversation with us about being a solution to their current and future water and wastewater infrastructure and compliance needs.

SB 799 would create an unworkable and hostile legal and regulatory climate in Maryland and would drive away investment in critical water and wastewater utility infrastructure at a time when Maryland needs to attract, not prevent, investment. As you are likely aware, the latest American Society of Civil Engineers report gave Maryland's water infrastructure a "C" grade and identified a need for almost \$10 billion in investment.

For starters, this legislation will inevitably delay the resolution of water and wastewater company rate cases. To the extent these delays prevent rate increases beyond the PSC's statutory rate suspension period, it will violate the constitutional and statutory right of water and wastewater companies to charge rates that will produce, after reasonable deduction for necessary and proper expenses and reserves, "a reasonable return on the fair value of the public service company's property used and useful in providing service to the public." Md. Code, Pub. Util. § 4-101 (definition of just and reasonable rate); see *id.* § 201 (empowering Commission to set just and reasonable rates).

Furthermore, under this proposal, municipalities and counties would be under intense political pressure to delay rate increases by "indicate[ing] an intent to commence" a condemnation proceeding any time a rate case is filed by a PSC-regulated water or wastewater company. The uncertainty presented by what constitutes the declaration of an intent to commence a condemnation proceeding is exacerbated by uncertainty around when the subsequent freeze on PSC action would end. Would it be when the condemnation proceeding is concluded, if it is filed at all? Or when the county or municipality indicates that it no longer intends to commence the condemnation? In either case, the outcome could be months and even years of delay – if the announced intent was even sincere in the first place and not a political ploy to simply delay a rate increase.

Ironically, this legislation could also force customers to pay higher rates until the entry of the delayed PSC order. If the PSC suspends the new rates upon the filing of a rate case (as it routinely does to provide a thorough review), and this legislation prevents the entry of an order within 270 days (as it inevitably will), the utility's full proposed rate increase will automatically take effect. Md. Code, Pub. Util. § 4-204(b)(3). Customers will thus pay the entire rate increase as filed by the utility pending resolution of the condemnation proceeding. While customers would eventually be entitled to refunds if the PSC ultimately approves a lesser rate increase, that might be years later given the nature of condemnation proceedings.

This legislation would also add a new section 12-105.2 to the eminent domain statute to require the factfinder in a condemnation proceeding involving a water or sewage disposal company to consider (1) "any reasonable upgrades necessary for the water company or sewage disposal company to provide safe and reliable service" and (2) "the value to customers from any potential reductions in water or sewer bills if the water company or sewage disposal company is acquired by a county or municipality through condemnation." This provision is also deeply flawed and raises constitutional concerns.

The proposed legislation would require the factfinder to consider two factors that obviously are intended to reduce the compensation below the fair market value that otherwise would be paid for a condemned water or wastewater system. However, Maryland law provides that the damages for the taking of land is its fair market value. Md. Code, Real Prop. § 12-104. This reflects the constitutional requirement that private property shall not be taken for public use without "just compensation." U.S. Const. amend. 5. Thus, this legislation will contravene provisions of both existing Maryland law and the Fifth Amendment of the U.S Constitution.

Finally, Maryland has specific requirements for a government entity to start and then abandon a condemnation proceeding. See e.g., Md. Code Real Prop. § 12-109(e). The ill-defined "intent to commence" language in this legislation could create a risk to counties and municipalities that could leave them on the hook for the utility's legal and potentially other costs incurred due to their signaling and then abandoning of "intent." At the very least, this legislation would invite expensive litigation over this issue.

For these many reasons, we respectfully request that the committee provide an unfavorable report on SB 799.

Sincerely,

Laura E. Runkle

Laura E. Runkle
President, Maryland American Water