

OPPOSE House Bill 1
Investor-Owned Electric, Gas, and Gas and Electric Companies –
Cost Recovery Limitations
House Environment and Transportation Committee

Columbia Gas of Maryland, Inc. (Columbia Gas) opposes House Bill 1 (HB 1), which prohibits cost recovery by investor-owned electric, gas, and combination gas and electric companies through rates of certain labor costs and costs associated with paying certain levels of compensation and bonuses to employees. Further, HB 1 would require boards of directors to adopt policies to place “reasonable” cost limitations on certain expenditures for recovery through rates by these companies.

The proposed legislation will significantly impact investor-owned utilities’ (IOUs) abilities to attract and retain high-quality talented employees, putting IOUs at high risk of losing talented employees if certain levels of compensation and bonuses are no longer paid because the costs are no longer recoverable in rates. Losing high-quality talent will have a significant financial impact in the form of increased costs associated with employee turnover including recruiting costs and training costs, which are recoverable in rates.

Further, the legislation will not immediately reduce customer utility bills because it requires a utility to go through a rate case¹ in order to implement the change. In fact, the legislation may not reduce utility bills at all. The fiscal and policy note for HB 1 states “Gas and/or electric utility rates **may** decrease – or future rate increases **may** be minimized – as a result of the bill’s prohibitions on rate recovery. **The extent to which the bill results in a decrease in rates cannot be reliably estimated at this time.**”

The proposed legislation is very broad and a significant departure from decades of utility ratemaking principles and processes where the Maryland Public Service Commission (PSC) comprehensively reviews reasonable and prudent utility costs in a base rate or make whole proceeding. This PSC review includes the IOU’s operation and maintenance (O&M) expenses, which include labor costs, as well as incentive/bonus compensation. The PSC and the intervening parties always scrutinize compensation of employees and routinely disallow rate recovery of certain bonus payments.

However, the PSC has approved the recovery of costs it finds to be appropriate and beneficial to customers as it relates to incentive compensation. In prior IOU base rate cases adjudicated with the PSC, incentive compensation/bonuses have been demonstrated to provide ratepayer benefits and therefore have been appropriately and properly recovered in rates. There is no valid justification to remove these items from the PSC’s authority to review and determine the reasonableness of recovery, and the legislation attempts to solve a problem that does not exist.

Columbia Gas submits that implementing a cap on the amount of supervisor compensation that an IOU can recover in rates usurps the PSC’s authority to determine just and reasonable rates. In addition, using an arbitrary moving target, such as PSC salaries, as the limit for recovery is also inappropriate because it drives IOUs to file rate cases in order to recover typical increases in labor expense.

¹ Rate cases are time-consuming and expensive, and rate case expenses are recoverable in rates.

The PSC is the agency with specialized expertise in utility ratemaking. The legislature should allow the PSC to continue reviewing all aspects of an IOU's capital expenditures, O&M, depreciation, tax expense and return in determining just and reasonable rates. To our knowledge, no other state in the country is currently considering a proposal comparable to HB 1. The legislature should not assume the responsibility of utility ratemaking when it established the PSC decades ago to perform this function.

While HB 1 may be targeted to rein in the recovery of executive compensation from utility ratepayers, the impact of HB 1 goes far beyond chief executive compensation and bonuses. The legislation's impact includes any employee considered a "supervisor" which is defined as an individual who is authorized to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employee; directs the work performance of other employees; and is responsible for responding to employee complaints. For Columbia Gas this could include employees like engineers, crew leaders, and meter and regulator specialists all of whom are non-executive positions.

For Columbia Gas, incentive compensation/bonuses are designed to drive and reinforce company goals in occupational health and safety, operational excellence, customer satisfaction, workforce sustainability, cost containment and providing safe and reliable service to customers. It is a critical tool for motivating employees to improve performance, create efficiencies, and promote strong safety and customer service practices. HB 1 undermines these goals, leading to possible material and adverse impacts on the quality and efficiency of service provided to customers.

To remain competitive in the labor market and provide high-quality service to customers, Columbia must offer incentive compensation to employees as part of their total compensation packages. Competitive base pay alone is not sufficient; without incentives, total compensation would fall behind peer utilities, increasing the risk that employees will leave for better-paying opportunities.

Further, the presence of multiple utilities in three neighboring states within 30 miles of Columbia's service territory - states that do not impose similar compensation restrictions - increases the risk of employee migration to utilities to other states for compensation that meets market expectations.

With the challenges facing the energy industry in Maryland, Maryland's utilities need to attract the best and brightest talent to move the state through these challenges. HB 1 will have a chilling effect on attracting high-quality talent to the State of Maryland. In addition, the legislation may create a fractured employee culture at utilities between represented and non-represented employees who may be treated differently on compensation issues due to the requirements of HB 1. The treatment of employees fairly and equally on compensation is foundational to the effective and successful operation of utilities and any other business organization.

Consequently, Columbia Gas cannot support House Bill 1 as appropriately crafted policy for the efficient and effective operations of IOUs and therefore urges an unfavorable report.

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