

HOUSE BILL 662

C5

2lr1689
CF SB 541

By: **Delegates Barkley, Barnes, Burns, Feldman, Gilchrist, Haddaway–Riccio, Harrison, Hershey, Impallaria, Jameson, Love, W. Miller, Minnick, Olszewski, Reznik, S. Robinson, Rudolph, Schulz, Summers, and Vaughn**

Introduced and read first time: February 8, 2012

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Gas Companies – Rate Regulation – Infrastructure Replacement Surcharge**

3 FOR the purpose of stating the intent of the General Assembly with regard to a gas
4 infrastructure replacement surcharge; authorizing a gas company to recover
5 certain costs associated with certain gas infrastructure replacement projects
6 through a certain surcharge on customer bills; requiring project cost
7 calculations to include certain elements; specifying when costs shall be
8 collectable; specifying how the pre-tax rate of return shall be calculated and
9 adjusted and what it shall include; prohibiting the monthly surcharge from
10 exceeding a certain amount; ~~specifying certain criteria for~~ providing that certain
11 adjustments for return on equity shall only be considered and determined in a
12 certain base rate case; requiring the Public Service Commission to consider
13 certain factors when establishing revenue requirements; authorizing the
14 Commission to hold a public hearing on a plan within a certain time frame;
15 requiring the Commission to take final action on a plan within a certain time
16 frame; requiring the Commission to take final action on an amendment to a
17 plan within a certain time frame; authorizing the Commission to approve a plan
18 under certain circumstances; requiring the Commission to approve a cost
19 recovery schedule under certain circumstances; requiring that a surcharge be in
20 effect for a certain time; requiring a gas company to file base rate case
21 applications within a certain time frame; specifying costs to be included in a
22 surcharge when base rate applications are filed; authorizing a gas company to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 implement a plan under certain circumstances; requiring a gas company
2 implementing a plan to make certain refunds under certain circumstances;
3 requiring the Commission to authorize the gas company to increase a surcharge
4 under certain circumstances; prohibiting the Commission from considering
5 certain factors when reviewing a plan except under certain circumstances;
6 requiring a gas company to file certain plan amendments each year with the
7 Commission; authorizing the Commission to review certain plans and take
8 certain actions based on the review; requiring a gas company to file a revised
9 base rate schedule with the Commission to subtract certain costs from a
10 surcharge under certain circumstances; defining certain terms; and generally
11 relating to natural gas rate regulation and gas infrastructure replacement
12 surcharges.

13 BY adding to
14 Article – Public Utilities
15 Section 4–210
16 Annotated Code of Maryland
17 (2010 Replacement Volume and 2011 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Public Utilities**

21 **4–210.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
23 MEANINGS INDICATED.

24 (2) “CUSTOMER” MEANS A RETAIL NATURAL GAS CUSTOMER.

25 (3) “ELIGIBLE INFRASTRUCTURE REPLACEMENT” MEANS A
26 REPLACEMENT OR IMPROVEMENT IN AN EXISTING INFRASTRUCTURE OF A GAS
27 COMPANY THAT:

28 (I) IS MADE ON OR AFTER JUNE 1, 2012;

29 (II) IS DESIGNED TO IMPROVE PUBLIC SAFETY OR
30 INFRASTRUCTURE RELIABILITY;

31 (III) DOES NOT INCREASE THE REVENUE OF A GAS COMPANY
32 BY CONNECTING AN IMPROVEMENT DIRECTLY TO NEW CUSTOMERS;

33 (IV) REDUCES OR HAS THE POTENTIAL TO REDUCE
34 GREENHOUSE GAS EMISSIONS THROUGH A REDUCTION IN NATURAL GAS
35 SYSTEM LEAKS; AND

1 **(V) IS NOT INCLUDED IN THE CURRENT RATE BASE OF THE**
2 **GAS COMPANY AS DETERMINED IN THE GAS COMPANY'S MOST RECENT BASE**
3 **RATE PROCEEDING.**

4 **(4) "PLAN" MEANS A PLAN THAT A GAS COMPANY FILES UNDER**
5 **SUBSECTION (D) OF THIS SECTION.**

6 **(5) "PROJECT" MEANS AN ELIGIBLE INFRASTRUCTURE**
7 **REPLACEMENT PROJECT PROPOSED BY A GAS COMPANY IN A PLAN FILED**
8 **UNDER THIS SECTION.**

9 **(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PURPOSE**
10 **OF THIS SECTION IS TO ACCELERATE GAS INFRASTRUCTURE IMPROVEMENTS IN**
11 **THE STATE BY ESTABLISHING A MECHANISM FOR GAS COMPANIES TO**
12 **PROMPTLY RECOVER REASONABLE AND PRUDENT COSTS OF INVESTMENTS IN**
13 **ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS SEPARATE FROM BASE**
14 **RATE PROCEEDINGS.**

15 **(C) THIS SECTION DOES NOT APPLY TO A GAS COOPERATIVE.**

16 **(D) (1) A GAS COMPANY MAY FILE WITH THE COMMISSION:**

17 **(I) A PLAN TO INVEST IN ELIGIBLE INFRASTRUCTURE**
18 **REPLACEMENT PROJECTS; AND**

19 **(II) IN ACCORDANCE WITH PARAGRAPH (4) OF THIS**
20 **SUBSECTION, A COST RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN THAT**
21 **INCLUDES A SURCHARGE ON CUSTOMER BILLS TO RECOVER REASONABLE AND**
22 **PRUDENT COSTS OF PROPOSED ELIGIBLE INFRASTRUCTURE REPLACEMENT**
23 **PROJECTS.**

24 **(2) A PLAN UNDER THIS SUBSECTION SHALL INCLUDE:**

25 **(I) A TIME LINE FOR THE COMPLETION OF EACH ELIGIBLE**
26 **PROJECT;**

27 **(II) THE ESTIMATED COST OF EACH PROJECT; AND**

28 **(III) A DESCRIPTION OF CUSTOMER BENEFITS UNDER THE**
29 **PLAN.**

1 **(3) (I) WHEN CALCULATING THE ESTIMATED COST OF A**
2 **PROJECT UNDER PARAGRAPH (2) OF THIS SUBSECTION, A GAS COMPANY SHALL**
3 **INCLUDE:**

4 **1. THE PRE-TAX RATE OF RETURN ON THE GAS**
5 **COMPANY'S INVESTMENT IN THE PROJECT;**

6 **2. DEPRECIATION ASSOCIATED WITH THE PROJECT;**
7 **AND**

8 **3. PROPERTY TAXES ASSOCIATED WITH THE**
9 **PROJECT.**

10 **(II) THE ESTIMATED PROJECT COSTS DESCRIBED IN**
11 **SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE COLLECTABLE AT THE SAME TIME**
12 **THE ELIGIBLE INFRASTRUCTURE REPLACEMENT IS MADE.**

13 **(III) THE PRE-TAX RATE OF RETURN UNDER**
14 **SUBPARAGRAPH (I)1 OF THIS PARAGRAPH SHALL:**

15 **1. BE CALCULATED USING THE GAS COMPANY'S**
16 **CAPITAL STRUCTURE AND WEIGHTED AVERAGE COST OF CAPITAL AS APPROVED**
17 **BY THE COMMISSION IN THE GAS COMPANY'S MOST RECENT BASE RATE**
18 **PROCEEDING; AND**

19 **2. INCLUDE AN ADJUSTMENT FOR BAD DEBT**
20 **EXPENSES AS APPROVED BY THE COMMISSION IN THE GAS COMPANY'S MOST**
21 **RECENT BASE RATE PROCEEDING.**

22 **(4) A COST RECOVERY SCHEDULE MAY NOT INCLUDE A MONTHLY**
23 **SURCHARGE ON CUSTOMERS THAT EXCEEDS \$2.**

24 **(5) IN A BASE RATE PROCEEDING SUBSEQUENT TO THE**
25 **APPROVAL OF A PLAN, THE COMMISSION SHALL, IN ESTABLISHING A GAS**
26 **COMPANY'S REVENUE REQUIREMENTS, TAKE INTO ACCOUNT ANY BENEFITS**
27 **REALIZED BY THE GAS COMPANY AS A RESULT OF A SURCHARGE APPROVED**
28 **UNDER THE PLAN.**

29 **(6) ANY ADJUSTMENT FOR RETURN ON EQUITY BASED ON AN**
30 **APPROVED PLAN;**

31 ~~**(I) SHALL BE LIMITED TO THE RETURN ON APPROVED**~~
32 ~~**ELIGIBLE INFRASTRUCTURE PROJECTS;**~~

1 ~~(H) IS ONLY APPLICABLE TO ELIGIBLE INFRASTRUCTURE~~
2 ~~REPLACEMENT PROJECTS; AND~~

3 ~~(H)~~ SHALL ONLY BE CONSIDERED AND DETERMINED IN A
4 SUBSEQUENTLY FILED BASE RATE CASE.

5 (E) (1) WITHIN 180 DAYS AFTER A GAS COMPANY FILES A PLAN, THE
6 COMMISSION:

7 (I) MAY HOLD A PUBLIC HEARING ON THE PLAN; AND

8 (II) SHALL TAKE A FINAL ACTION TO APPROVE OR DENY THE
9 PLAN.

10 (2) WITHIN 120 DAYS AFTER A GAS COMPANY FILES AN
11 AMENDMENT TO A PLAN, THE COMMISSION SHALL TAKE FINAL ACTION TO
12 APPROVE OR DENY THE AMENDMENT.

13 (3) THE COMMISSION MAY APPROVE A PLAN IF IT FINDS THAT
14 THE INVESTMENTS AND ESTIMATED COSTS OF ELIGIBLE INFRASTRUCTURE
15 REPLACEMENT PROJECTS ARE:

16 (I) REASONABLE AND PRUDENT; AND

17 (II) DESIGNED TO IMPROVE PUBLIC SAFETY OR
18 INFRASTRUCTURE RELIABILITY OVER THE SHORT AND LONG TERM.

19 (4) THE COMMISSION SHALL APPROVE THE COST RECOVERY
20 SCHEDULE ASSOCIATED WITH THE PLAN AT THE SAME TIME THAT IT APPROVES
21 THE PLAN.

22 (5) THE COMMISSION MAY NOT CONSIDER A REVENUE
23 REQUIREMENT OR RATEMAKING ISSUE THAT IS NOT RELATED TO THE PLAN
24 WHEN REVIEWING A PLAN FOR APPROVAL OR DENIAL UNLESS THE PLAN IS
25 FILED IN CONJUNCTION WITH A BASE RATE CASE.

26 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE
27 COMMISSION DOES NOT TAKE FINAL ACTION ON A PLAN WITHIN THE TIME
28 PERIOD REQUIRED UNDER SUBSECTION (E) OF THIS SECTION, THE GAS
29 COMPANY MAY IMPLEMENT THE PLAN.

30 (2) IF A GAS COMPANY IMPLEMENTS A PLAN THAT THE
31 COMMISSION HAS NOT APPROVED, THE GAS COMPANY SHALL REFUND TO

1 CUSTOMERS ANY AMOUNT OF THE SURCHARGE THAT THE COMMISSION
2 SUBSEQUENTLY DETERMINES IS UNJUSTIFIED, INCLUDING INTEREST.

3 (G) (1) (I) A SURCHARGE UNDER THIS SECTION SHALL BE IN
4 EFFECT FOR 5 YEARS FROM THE DATE OF INITIAL IMPLEMENTATION OF AN
5 APPROVED PLAN.

6 (II) 1. BEFORE THE END OF THE 5-YEAR PERIOD, THE
7 GAS COMPANY SHALL FILE A BASE RATE CASE APPLICATION.

8 2. IN A RATE BASE PROCEEDING FILED UNDER
9 SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, IF A PLAN APPROVED BY THE
10 COMMISSION REMAINS IN EFFECT, ELIGIBLE INFRASTRUCTURE PROJECT
11 COSTS INCLUDED IN BASE RATES IN ACCORDANCE WITH A FINAL COMMISSION
12 ORDER ON THE BASE RATE CASE SHALL BE REMOVED FROM A SURCHARGE, AND
13 THE SURCHARGE MECHANISM SHALL CONTINUE FOR ELIGIBLE FUTURE
14 INFRASTRUCTURE PROJECT COSTS THAT ARE NOT INCLUDED IN THE BASE RATE
15 CASE.

16 (2) (I) IF THE ACTUAL COST OF A PROJECT IN A PLAN IS LESS
17 THAN THE AMOUNT COLLECTED UNDER A SURCHARGE, THE GAS COMPANY
18 SHALL REFUND TO CUSTOMERS THE DIFFERENCE ON CUSTOMER BILLS,
19 INCLUDING INTEREST.

20 (II) IF THE ACTUAL COST OF A PROJECT IN A PLAN IS MORE
21 THAN THE AMOUNT COLLECTED UNDER THE SURCHARGE, AND THE
22 COMMISSION DETERMINES THAT THE HIGHER COSTS WERE REASONABLY AND
23 PRUDENTLY INCURRED, THE COMMISSION SHALL AUTHORIZE THE GAS
24 COMPANY TO INCREASE THE SURCHARGE TO RECOVER THE DIFFERENCE,
25 SUBJECT TO THE RATE LIMIT UNDER SUBSECTION (D)(4) OF THIS SECTION.

26 (H) EACH YEAR A GAS COMPANY SHALL FILE WITH THE COMMISSION AN
27 AMENDMENT TO A PLAN TO ADJUST THE AMOUNT OF A SURCHARGE TO
28 ACCOUNT FOR ANY DIFFERENCE BETWEEN THE ESTIMATED COST OF A PROJECT
29 IN A PLAN AND THE AMOUNT RECOVERED UNDER THE SURCHARGE.

30 (I) IF, AFTER APPROVING A SURCHARGE IN A PLAN, THE COMMISSION
31 ESTABLISHES NEW BASE RATES FOR THE GAS COMPANY THAT INCLUDE COSTS
32 ON WHICH THE SURCHARGE IS BASED, THE GAS COMPANY SHALL FILE A
33 REVISED RATE SCHEDULE WITH THE COMMISSION THAT SUBTRACTS THOSE
34 COSTS FROM THE SURCHARGE.

35 (J) (1) THE COMMISSION MAY REVIEW A PREVIOUSLY APPROVED
36 PLAN.

1 **(2) IF THE COMMISSION DETERMINES THAT AN INVESTMENT OF A**
2 **PROJECT OR COST OF A PROJECT NO LONGER MEETS THE REQUIREMENTS OF**
3 **SUBSECTION (E)(3) OF THIS SECTION, THE COMMISSION MAY:**

4 **(I) REDUCE FUTURE BASE RATES OR SURCHARGES; OR**

5 **(II) ALTER OR RESCIND APPROVAL OF THAT PART OF THE**
6 **PLAN.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 June 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.