UPGRADE MARYLAND

SAFE AND HEALTHY ENERGY FOR EVERY HOME

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IN RE: RM95 - Proposed Redline and Narrative Response to Staff's Proposed Draft Regulations

Introduction

Upgrade Maryland submits the attached redline changes to Maryland Public Service Commission (PSC) Staff's proposed draft regulations implementing the Next Generation Energy Act's (NGEA) amendments to Section 4-210 of the Maryland Public Utilities Act (PUA), and proposes regulations to implement NGEA's changes to Section 4-214 of the PUA. Upgrade Maryland also submits this narrative commentary to explain the rationale for the proposed changes, and identify overarching questions and concerns for both Staff's and the Commissioners' consideration in developing a final draft rule.

The attached redline, and these narrative comments, represent an initial response to the draft regulations shared by PSC Staff on July 22, 2026, with responses due by noon on July 28, 2026. Upgrade Maryland recognizes the tight time window for PSC Staff to review stakeholder responses to the initial draft regulations and incorporate stakeholder feedback into the final draft regulations that Staff will submit to the Commission on July 31, 2026. Upgrade Maryland welcomes the opportunity to respond to PSC Staff's initial draft, but notes that time constraints may preclude full analysis of the substantive matters included in the proposed draft regulations. As such, Upgrade Maryland reserves the right to expand on these redlined changes to the draft regulations and respond to any changes PSC Staff makes to the draft regulations, both prior to submission to the Maryland Register, and during the public comment period should the Commission direct a version of regulations to be printed in the Maryland Register prior to adoption into the COMAR.

Upgrade Maryland also incorporates its previously submitted comments (submitted June 29, 2026), which are attached to this letter, and which reflect broader recommendations for substantive matters that should be included in these regulations in order to fully comply with NGEA's new requirements.

Substantive Recommendations

A. Regulations Must Include Provisions of NGEA That Address All Gas Infrastructure Spending.

The current draft regulations shared by PSC Staff on July 22, 2026 apply only to the provisions of NGEA that specifically address STRIDE programs covered by PUA § 4-210. Although the Commission's order directing Staff to draft regulations *prioritized* codifying regulations for PUA § 4-210, the Commission also directed consideration of PUA § 4-214, noting these two provisions of the NGEA are structurally similar. Multiple stakeholders in this process have submitted comments to PSC Staff regarding the need for these regulations to also address PUA § 4-214, as well as suggestions for how such regulations could support the implementation of that provision. In the RM95 stakeholder meeting held on July 1, 2026, incorporation of PUA § 4-214 was discussed, and *no* stakeholder present objected to its inclusion in the regulations.

In the RM95 stakeholder meeting held on July 22, 2026, PSC Staff indicated that they *might* address promulgating regulations for RM95 in a separate future rulemaking. Notably, there is no framework for such a rulemaking outside of the Commission's Order to consider it within the context of RM95. It is important to keep in mind that NGEA has been the law in the state of Maryland since June 1, 2025, and for nearly 14 months now, the PSC has not required gas utilities to comply with the law. Further delay in taking any steps to apply the law, *which includes* PUA § 4-214, will place ratepayers at a continued risk of shouldering costly gas infrastructure spending that conflicts with State law, thwarting clear legislative intent for gas infrastructure investment to be conducted in such a manner that is consistent with the State's policies, and increasing gas system safety risk by not requiring safety prioritization for all utility infrastructure investments.

Given the substantial similarity between PUA § 4-210 and PUA § 4-214, Upgrade Maryland strongly recommends that the amended draft regulations apply to both portions of the code, as detailed in the attached redlined draft.

B. It Is Inappropriate and Duplicative to Include Federal Standards in the Proposed Regulations.

The draft regulations make reference to federal transmission, distribution, and storage requirements in two separate places—20.55.01 (application of the regulations) and 20.55.03(c)(5) (Risk). Inclusion of these federal standards is inappropriate in the draft regulations. First, NGEA makes no mention of these federal standards, so their inclusion is inconsistent with the letter of the law. Second, Maryland gas utilities are bound to meet these federal standards regardless of their inclusion in the COMAR. Further, these federal regulations represent a regulatory *floor* that the utilities must meet, outside of additional Maryland laws and regulations that the gas utilities must comply with. NGEA's provisions, in both PUA § 4-210 and § 4-214, are requirements *over and above* this federal floor. Inclusion of these federal standards in the COMAR is accordingly not merely inappropriate as being duplicative, but is also inappropriate, as it has the implication of directing utility compliance towards the "floor" of their legal obligations. Especially in the instance of PUA § 4-210, basic compliance with this federal "floor" should not, and cannot, be the basis of accelerated cost recovery.

C. The Regulations Should Require Consideration of a Comprehensive Range of Alternatives to Replacement.

The current draft regulations direct gas utilities to conduct an analysis of cost-effective alternatives to pipeline replacements, including "leak detection and repair." The current draft regulations also require that the option selected must support greenhouse gas reduction policies in a manner that does not reduce the safety and reliability of the gas system. Upgrade Maryland suggests a number of changes to improve the efficacy of this section and more effectively implement NGEA's requirements.

First, considering "alternatives to replacement" should require an evaluation of *all* options to defer, reduce, or remove the need to replace, construct, or upgrade the gas distribution system. Cost-effectiveness analysis should occur only after an initial comprehensive analysis as to which alternatives are possible. By requiring cost-effectiveness analysis before a consideration of the universe of possible alternatives for a project, the door is opened to a utility blanketly rejecting unidentified alternatives due to unverifiable claims about their costs—prior to even evaluating which alternatives are technically possible for a given project.

Second, severely limiting the regulatory language such that the only required alternatives to be analyzed are "leak detection and repair" effectively forecloses the requirement for a utility to evaluate the multitude of currently available alternatives to replacement. In essence, it sets the "floor" for evaluating alternatives incredibly low. While a gas utility *could theoretically* elect to evaluate other alternatives beyond leak detection and repair, under the current proposed regulations, it is not required to. To rectify this, we recommend inclusion of a number of proven alternatives that utilities *must* consider. Further, we recommend the inclusion of the language "but not limited to" to highlight that this evaluation is the "floor" for what a gas utility must consider, and certainly as additional alternatives become available in the future, the Commission should point to this "but not limited to" language to ensure that newly developed alternatives are included in gas utilities' evaluation of alternatives. These amendments are critical for reducing costs for ratepayers by requiring utilities to consider a comprehensive range of alternatives to costly pipeline replacements, which are likely to become stranded assets.

Third, the requirement that any alternative that supports the State's greenhouse gas reduction policies not undermine the safety or reliability of the system should be moved to the section on selection processes, with the requirement related to “safety or reliability” struck. Maintaining system reliability and safety is an absolute requirement for any gas utility in Maryland. Nothing in the requirement to evaluate alternatives obviates this, and as such, this language is superfluous—imposing no new obligation upon the utility. It does, however, have the implicit effect of suggesting that considering an alternative that would reduce greenhouse gas emissions should be coupled with an extra level of safety evaluation, which is inconsistent with the language in NGEA and may have a biasing effect against the election of such alternatives.

D. Gas Utilities Must Consider State Policy, as NGEA Explicitly Requires.

The current draft regulations need to be explicit about the state policies that NGEA requires utilities to consider in planning for pipeline replacements. Upgrade Maryland suggests inclusion of language that state policy must include an evaluation of state laws, regulations, executive orders, and Commission decisions that pertain to greenhouse gas reductions. Such language clearly implements NGEA’s explicit requirement that any infrastructure projects must be “consistent with state policy.” To properly implement NGEA’s provisions, any request for approval of gas infrastructure spending *must* explicitly address how any proposed infrastructure investment is compliant with state policy over the entirety of the project’s expected lifetime.

To fully capture the impact of state policy on proposed infrastructure projects, the regulations should clearly require a utility to evaluate the useful life of any project based on a depreciation study that takes into account these state policies and the risk of any new pipeline becoming a stranded asset as the state continues implementing its policy of decarbonization.

E. NGEA’s Required Evaluation of Customer Benefits Must be Comprehensive.

Upgrade Maryland suggests two revisions to the proposed draft regulations to ensure that a proposed infrastructure project evaluates not only any ostensible benefits of pipeline replacements, but also the benefits of *avoiding* such replacements—including the avoided impacts of nuisance and safety concerns tied to a replacement, as well as the societal benefits (e.g., public health) and environmental benefits of avoiding a pipeline replacement. Such an analysis is both consistent with state policy, and provides a broader accounting for the actual impacts and benefits of any proposed project, which better protects ratepayers.

Upgrade Maryland also requests the elimination of the proposed language allowing for a description of benefits tied to an ostensible reduction or potential reduction in greenhouse gas emissions through a leak reduction. First, counting a “potential reduction” as a benefit is overly speculative, and it would be too difficult for the Commission to verify its veracity. More importantly, such language is inaccurate and disingenuous—any minor short-term decarbonization associated with avoiding gas leaks cannot be deemed a benefit when it contributes to long-term investment in a system that inherently emits significant greenhouse gases through its day-to-day operations and its continuous risk of gas leaks.

F. Risks to the Public Must be Clearly and Accurately Defined.

Upgrade Maryland suggests several additions to the draft regulations to ensure a more robust and transparent risk analysis methodology is required for Maryland's gas utilities. This includes a transparent risk assessment methodology that (i) differentiates amongst pipe type, (ii) is independently verifiable and replicable such that oversight can be applied to project selection and cost-effectiveness analyses, and (iii) shows that any proposed pressure conversion work is prudent and reasonable. In effect, a utility's risk assessment and project justification based on risk must be ultimately verifiable when subject to scrutiny.

To be fully comprehensive, protective of ratepayers, and consistent with the letter of NGEA, utilities' risk evaluation should also include assessments of the risk that a pipeline could become a stranded asset, the risks of explosion or damage either during replacement or subsequent thereto, as well as public health and climate risks from continuing to utilize methane gas. These categories of risk are likely to be lower for alternatives to pipeline replacements, and gas utilities should transparently make that comparison.

G. The Regulations Should Not Apply at the "Programmatic Level."

Currently, the draft regulations allow for a utility to consider alternatives to replacement at the "programmatic level." Notably, the words "programmatic level" do not appear anywhere in NGEA—neither in PUA § 4-210 nor PUA § 4-214. The current draft regulations define programmatic level as occurring as part of gas utilities' capital system planning processes, which deviates substantially from the scope of planning discussed in NGEA and PUA § 4-210, which is on the "project" level. The usage of this broad language about "programmatic" level analysis in the consideration of alternatives would undercut NGEA's intent to require utilities to conduct specific cost analyses for discrete projects that they are considering.

Fundamentally, what these draft regulations would allow for is a continuation of a business as usual model, typified by Washington Gas Light's most recent STRIDE List filing that ultimately gave rise to this rulemaking. Although such an approach *may* have been supported by the 2013 STRIDE law, NGEA represents a clear step away from such blanket approaches to analyzing utility infrastructure spending. NGEA, for instance, requires a project list to contain a "description of *each* eligible replacement *project*," and while NGEA talks about alternative analysis for replacement projects, the overarching dictate to evaluate "each project" in a given list is indicative of the need for evaluation not on a program or systematic level, but on the level of each discrete project being proposed.

Upgrade Maryland is cognizant of challenges and potential costs of evaluating each individual project in a vacuum, and therefore would not oppose modifying this language to address projects on a "group" basis. That is to say, an analysis of alternatives cannot be conducted in a serial manner, *and certainly not in a systematic manner*, but rather in a clustered manner—in which projects in the same region, with substantially similar characteristics (e.g., pipe type, age, risk prioritization, and likelihood of decommissioning) are evaluated, albeit with rigorous project-level analysis that is transparent and replicable by a third party.

H. The Regulations Should Have More Robust Notice Provisions.

Upgrade Maryland recommends that the period for initial publication occur one year prior to the commencement of construction, or in the alternative, at the time a STRIDE plan is approved, whichever occurs earlier. Similarly, secondary notice should occur six months prior to construction. Although NGEA requires only *at least* six months of notice from construction, the language of the law allows for a broader window of notice should the PSC deem it necessary. Such a larger window is necessary, as it will allow customers a more realistic and reasonable time period to evaluate their options, and if they so desire, to take full advantage of Maryland's electrification incentives.

Notice should also include the stranded asset risks of the project to ensure that customers are aware of any financial risks they will face from continued utilization of the gas system, as well as detailed information related to alternatives that customers can pursue—including incentives offered by the gas utility, the relevant electric utility, or state agencies that would support customers' adoption of an alternative to a gas pipeline replacement project.

Conclusion

Upgrade Maryland thanks PSC Staff for their continued effort in advancing these regulations, and the opportunity to submit redlines and commentary on the July 22, 2026 draft regulations. As discussed, these comments, Upgrade Maryland's comments from June 29, and the attached redline collectively reflect an initial response to the draft regulations, and Upgrade Maryland reserves its right to further review and comment on future drafts of these regulations. Upgrade Maryland urges the Commissioners to review these comments and redlines and modify the draft regulations so they are more consistent with NGEA's requirements and state policy, and are more protective of ratepayers.

Sincerely,

On behalf of Upgrade Maryland,

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Attachments:

A: RM95-Draft Regulations 7.28.26 Upgrade Maryland Redline

B: Upgrade Maryland Comments on RM 95 from June 29, 2026