

# Balancing Customer and Shareholder Interests: Advocates Are Losing Battles. Are We Losing the War?

**Wired Group**

*Reducing the Cost of the Energy Transition*

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# Storyline

- Ratemaking “innovations” favor shareholder interests over customer interests.
- These innovations are being adopted by more and more states.
- Proof point: Activist investors are targeting utilities and states where rewards exceed risks.
- California PUC: Risk-informed benefit-cost analysis Ordered for safety & reliability spending.
- What can and should consumer advocates be doing, both locally and nationally?

# Ratemaking “Innovations”

- Innovations to reduce regulatory lag practically eliminate cost disallowance risk<sup>1</sup>
  - Future Test Years
  - Multiple Future Test Years (Multi-year Rate Plans)
  - Rider cost recovery
- Annual cost reconciliations: Eliminate utility incentives to reduce O&M spending between rate cases

1) Alvarez, Costello, Ericson and Stephens. *Alternative ratemaking: a prerequisite for grid modernization or a shift in risk from shareholders to customers?* Electricity Journal 35 (2022), 107200.

# Epidemic Adoption of Ratemaking “Innovations” that Shift Risk from Shareholders to Customers

| State or Utility             | Year | Future Test Yrs or Multiple FTYs | Annual Cost Reconciliation |
|------------------------------|------|----------------------------------|----------------------------|
| Maryland                     | 2020 | X                                | X <sup>1</sup>             |
| Pepco (District of Columbia) | 2021 | X                                |                            |
| Florida Power & Light        | 2021 | X                                |                            |
| Washington (legislated)      | 2021 | X                                |                            |
| Illinois (legislated)        | 2022 | X                                | X                          |
| Duke Energy (NC)             | 2023 | X                                |                            |
| Ohio (legislated)            | 2025 | X                                | X                          |
| Missouri (legislated)        | 2025 | X                                |                            |
| ConEd                        | 2025 | Proposed                         |                            |

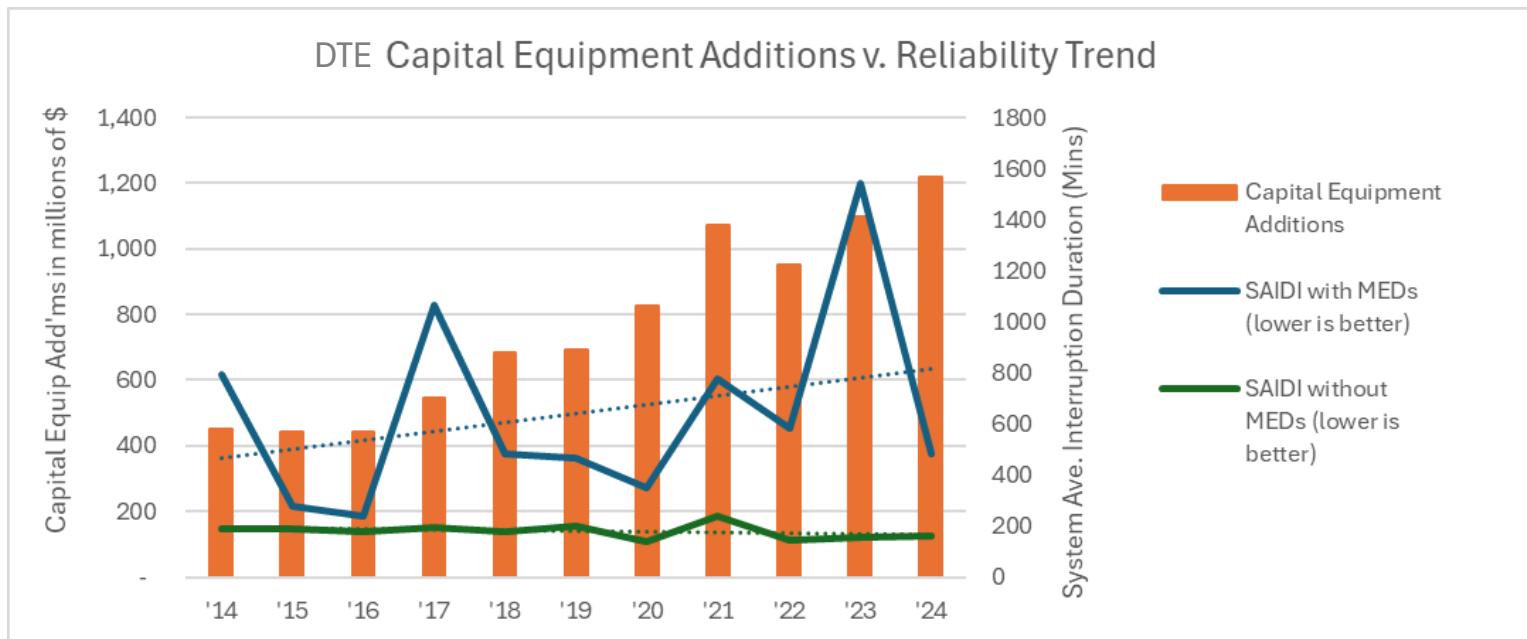
1) Prohibited in law passed by Maryland legislature in 2025

# Utility investment rewards increasingly exceed risks (it's not just our imaginations)

- Ratemaking innovations approved for one utility or commodity are quickly seized by other utilities/commodities as precedents
- Private Equity amassing shares and taking board positions (Example: Elliott Mgmt./Eversource)
- Private Equity buying utilities outright (Example: Blackstone's acquisition of TNMP)
- Multi-state and multi-nation holding co's are on an E, G, & W utility buying spree (National Grid, Iberdrola, Algonquin, Fortis, Enbridge)
- Media and others overstating the need for capital spending increases (Examples: Market monitor and Ohio Manufacturers Association argue capacity risk in MISO and PJM overblown, driving up auction prices)
- Bribery scandals in recent years in Illinois and Ohio legislatures

# Any excuse to spend capital will do . . .

- Natural Gas: Safety/Environmental issues w/leaks
- Electric: Safety issues with wildfires
- Electric: Capacity (EVs, HPs, DER, Data centers)
- Electric: Reliability and Resilience



# Risk-informed Benefit Calculation (CPUC R.20-07-013)\* as Part of Benefit-Cost Analysis

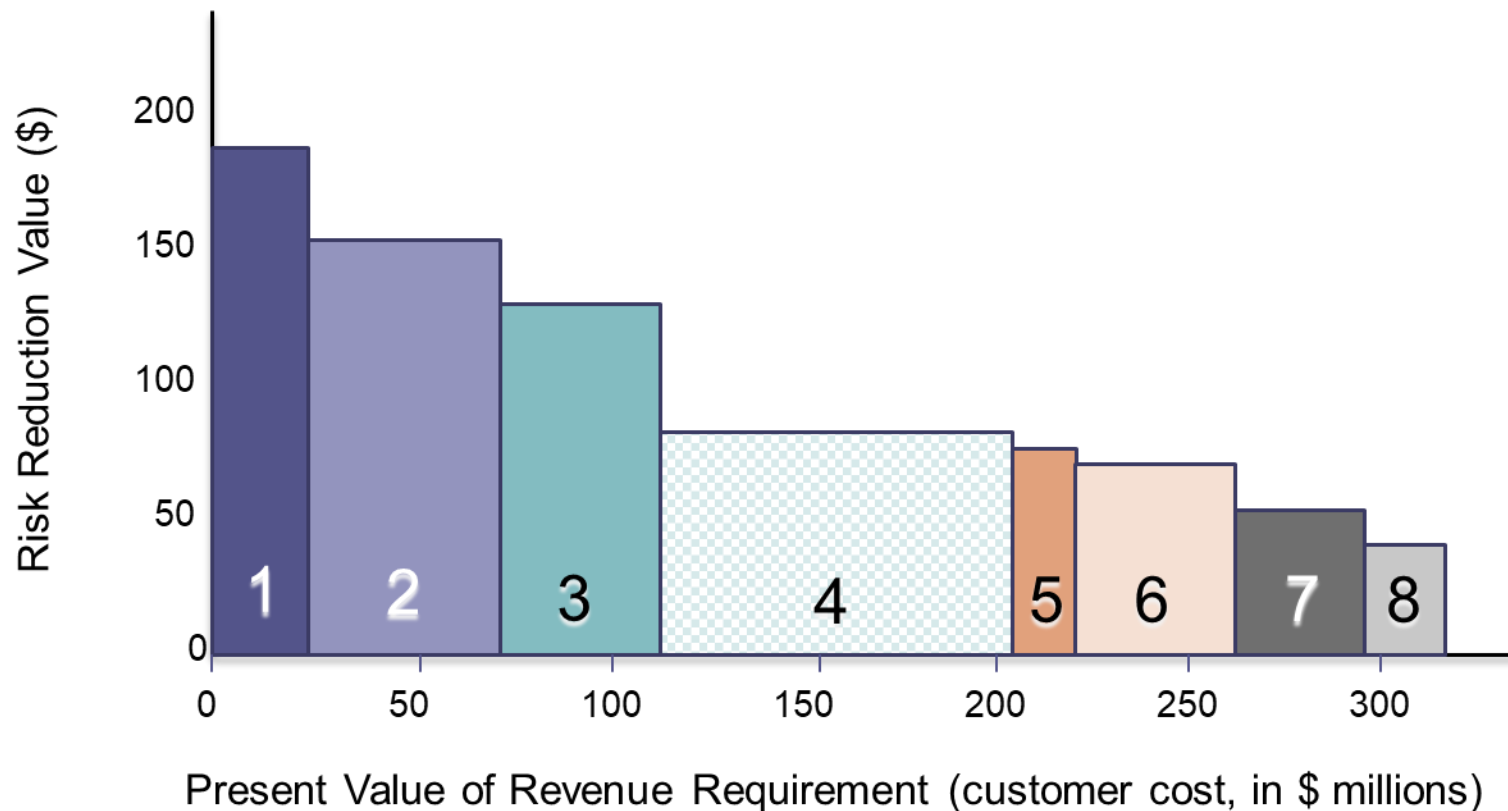
Equation for determining the value (benefit) of a risk reduction in dollars:

$$\begin{array}{ccccccc} \text{Annual} & & \text{Annual} & & \text{Reduction in} & & \text{Consequence} \\ \text{Value of} & & \text{Adverse} & & \text{probability \%} & & \text{of the} \\ \text{Risk} & = & \text{Event} & \times & \text{as a result of} & \times & \text{Adverse} \\ \text{Reduction} & & \text{probability} & & \text{investment} & & \text{Event (in \$)} \\ \text{(in \$)} & & \% & & & & \end{array}$$

\*Decision 22-12-027 dated December 15, 2022. Appendix A, Item 13, page A-13

# Risk-informed Decision-Making

Sample Portfolio Developed via Risk-Informed Decision Support  
(each box represents a potential project or program)



# What should we be doing regarding ratemaking “innovations” that shift risk to customers?

- Federal/National
  - Reinstate PUHCA of 1935?
  - FTC or FERC petitions?
  - NASUCA Resolution or Committee to investigate?
  - NARUC/NASEO/NCSL education?
- State
  - Lobby and educate Staff, regulators and legislators?
  - Leverage the court of public opinion?
  - Increase advocate resources and independence?
  - Relieve restrictions on advocate legislative lobbying?
  - Restrict utility lobbying and rate case cost recovery?
  - Pursue Risk-informed Benefit-Cost Analysis?

Thank You!

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