

HOUSE BILL No. 2435

By Committee on Energy, Utilities and Telecommunications

Requested by Patrick Vogelsberg on behalf of Kansas Gas Service

1-13

1 AN ACT concerning utilities; relating to the state corporation commission;
2 enacting the natural gas infrastructure availability act; authorizing
3 natural gas public utilities to defer to a regulatory asset all depreciation
4 expense and carrying cost for any new plant, facilities or equipment
5 that such utility has put into service; establishing an interim rate
6 adjustment mechanism and authorizing recovery of such regulatory
7 asset through such mechanism.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. (a) Sections 1 through 3, and amendments thereto, shall be
11 known and may be cited as the natural gas infrastructure availability act.

12 (b) As used in the natural gas infrastructure availability act:

13 (1) "Commission" means the state corporation commission.

14 (2) "Natural gas public utility" means the same as defined in K.S.A.
15 66-1,200, and amendments thereto.

16 (3) "Qualifying natural gas plant" means all plant, facilities or
17 equipment that a natural gas public utility has put into service but the costs
18 of which are not yet recovered through rates or deferred as a regulatory
19 asset pursuant to section 2, and amendments thereto, including allocated
20 corporate costs.

21 (4) "Weighted average cost of capital" means the return on rate base
22 used to determine the revenue requirement or that was approved to be used
23 for regulatory accounting purposes in the public utility's most recent
24 general rate proceeding.

25 Sec. 2. (a) (1) Notwithstanding any other provision of law to the
26 contrary, a natural gas public utility shall defer to a regulatory asset all
27 depreciation expense and return associated with qualifying natural gas
28 plant recorded to plant-in-service on the utility's books if the utility has
29 provided notice to the commission of the utility's election to make such
30 deferral pursuant to paragraph (2). Commencing on July 1, 2026, such
31 deferral shall begin by such date or shall begin on the date that such
32 election is made if the utility makes such election after July 1, 2026.

33 (2) A natural gas public utility shall provide notice to the commission
34 of the utility's election to make the deferrals authorized pursuant to this
35 section.

1 (b) (1) A natural gas public utility may recover the balance of a
2 regulatory asset arising pursuant to this section through the interim rate
3 adjustment mechanism established in section 3, and amendments thereto.

4 (2) Except as provided pursuant to subsection (c), in each subsequent
5 general rate proceeding of the natural gas public utility, the balance of any
6 regulatory asset arising pursuant to this section, including any remaining
7 part of a regulatory asset balance that is subject to recovery through an
8 interim rate adjustment mechanism pursuant to section 3, and amendments
9 thereto, shall be included in the public utility's rate base without any offset,
10 reduction or adjustment based upon consideration of any other factor.

11 (c) Any regulatory asset balance arising under this section shall be
12 adjusted to reflect any prudence disallowances ordered by the commission.
13 This section shall not be construed to affect existing law with respect to
14 the burdens of production and persuasion in general rate proceedings for
15 rate base additions.

16 (d) Any part of a regulatory asset balance arising pursuant to this
17 section that is not recovered in rate base or recovered through the interim
18 rate adjustment mechanism established pursuant to section 3, and
19 amendments thereto, shall include carrying costs at the natural gas public
20 utility's weighted average cost of capital, plus applicable federal, state and
21 local income or excise taxes.

22 (e) Regulatory asset balances arising under this section that are
23 recovered in rate base or the interim rate adjustment schedule established
24 pursuant to section 3, and amendments thereto, shall be recovered in rates
25 through a 20-year amortization beginning on the effective date of the new
26 rates reflecting such amortization.

27 (f) (1) Depreciation expense deferred under this section shall account
28 for any qualifying natural gas plant placed into service, less retirements of
29 the plant replaced by such qualifying natural gas plant.

30 (2) Return on any regulatory asset balance arising under this section
31 shall be determined using the weighted average cost of capital applied to
32 the change in plant-related rate base caused by the qualifying natural gas
33 plant, plus applicable federal, state and local income or excise taxes. In
34 determining the return on any such regulatory asset balance, the utility
35 shall account for changes in all plant-related accumulated deferred income
36 taxes and changes in accumulated depreciation, excluding retirements.

37 (g) The provisions of this section shall not be construed to restrict or
38 limit the authority of the commission to authorize a natural gas public
39 utility to use deferral accounting treatment for any other rate base addition
40 or investment recovered pursuant to any other rate schedule.

41 Sec. 3. (a) (1) Notwithstanding any other provision of law to the
42 contrary, a natural gas public utility shall be permitted to recover the cost
43 of qualifying natural gas plant and balance of any regulatory asset deferred

1 pursuant to section 2, and amendments thereto, through an interim rate
2 adjustment mechanism. A utility seeking to implement an interim rate
3 adjustment mechanism pursuant to this section shall file a petition and
4 proposed rate schedules with the commission.

5 (2) A natural gas public utility shall provide prior notice to the
6 commission of the utility's intent to file a petition for recovery by an
7 interim rate adjustment mechanism pursuant to this section. Such notice
8 shall be provided to the commission not less than 30 days prior to the
9 filing of such petition.

10 (3) The commission may hold a hearing on the petition and any
11 associated rate schedules. The commission shall issue an order regarding
12 such petition not later than 120 days after the petition is filed.

13 (b) Any interim rate adjustment mechanism authorized pursuant to
14 this section shall be allocated among the natural gas public utility's
15 customer classes in the same manner that the cost of service is allocated
16 among such classes in the utility's most recent general rate proceeding.

17 (c) The interim rate adjustment mechanism may be reflected in the
18 natural gas public utility's fixed monthly customer charge or as a separate
19 line item on a customer's bill.

20 (d) The commission shall not approve an interim rate adjustment
21 mechanism under this section to the extent that such recovery would
22 produce total annualized revenues that exceed 20% of the natural gas
23 public utility's base revenue level approved by the commission in the
24 utility's most recent general rate proceeding.

25 (e) (1) Except as provided in paragraph (3), the commission shall not
26 approve an interim rate adjustment mechanism pursuant to this section for
27 any natural gas public utility that has not had a general rate proceeding
28 decided or dismissed by issuance of a commission order within the past 60
29 months, unless the utility has filed for or is the subject of a new general
30 rate proceeding.

31 (2) Except as provided in paragraph (3), in no event shall a natural
32 gas public utility recover costs pursuant to the interim rate adjustment
33 authorized pursuant to this section for a period exceeding 60 months
34 unless the utility has filed for or is the subject of a new general rate
35 proceeding. If a utility is the subject of a general rate proceeding, such
36 utility shall be authorized to continue recovering costs pursuant to the
37 interim rate adjustment mechanism until the effective date of new base
38 rates that reflect the utility's investment in the qualifying natural gas plant,
39 including any associated regulatory asset balance arising pursuant to
40 section 2, and amendments thereto, that was reflected and authorized to be
41 recovered pursuant to the utility's interim rate adjustment mechanism.

42 (3) Upon motion by a natural gas public utility, the commission may
43 extend the 60-month general rate proceeding limitation for a period of up

1 to 12 months as the commission determines reasonable or necessary.

2 (f) Nothing in this section shall be construed to limit the authority of
3 the commission to review and consider the costs of qualifying natural gas
4 plant, along with other costs, during a subsequent general rate proceeding
5 of the natural gas public utility. The commission shall review the amounts
6 included in any regulatory asset balance established pursuant to section 2,
7 and amendments thereto, in a subsequent general rate proceeding. Such
8 amounts shall be subject to refund based upon a finding and order of the
9 commission that disallows recovery in the subsequent general rate
10 proceeding of the utility.

11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.