

## Substitute for HOUSE BILL No. 2435

By Committee on Energy, Utilities and Telecommunications

2-16

1 AN ACT concerning natural gas public utilities; relating to the gas system  
2 reliability surcharge; authorizing natural gas public utilities to recover  
3 certain growth-related investments in plant, facilities or equipment;  
4 raising the cap on the amount that the monthly fixed charge may be  
5 increased each year; requiring the state corporation commission to issue  
6 an order not later than 90 days after a utility files a petition to change  
7 the gas system reliability surcharge; amending K.S.A. 66-2202 and 66-  
8 2204 and repealing the existing sections.  
9

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

11 Section 1. K.S.A. 66-2202 is hereby amended to read as follows: 66-  
12 2202. For the purposes of this act:

13 (a) "GSRS" means gas system reliability surcharge;  
14 (b) "appropriate pretax revenues" means the revenues necessary to  
15 produce net operating income equal to:

16 (1) The natural gas public utility's weighted cost of capital last  
17 approved by the commission multiplied by the net original cost of eligible  
18 infrastructure system investments, including recognition of accumulated  
19 deferred income taxes, accumulated depreciation associated with eligible  
20 infrastructure system investments that are included in a currently effective  
21 GSRS;

22 (2) recover state, federal and local income or excise taxes applicable  
23 to such income; *and*

24 (3) recover depreciation expenses;

25 (c) "commission" means the state corporation commission;

26 (d) "eligible infrastructure system investments" means natural gas  
27 public utility plant projects that:

28 (1) ~~Do not increase revenues by directly connecting the infrastructure~~  
29 ~~investments to new customers;~~

30 (2)(1) Are in service and used and required to be used; and

31 (3)(2) were not included in the natural gas public utility's rate base in  
32 its most recent general rate case;

33 (e) "natural gas public utility"—shall have the same meaning  
34 respectively ascribed thereto by ~~means the same as defined in K.S.A. 66-~~  
35 1,200(a), and amendments thereto;

36 (f) "natural gas public utility plant projects" consist of the following:

1       (1) Mains, meters, valves, service lines, regulator stations, vaults and  
2 other pipeline system components installed to replace, upgrade or  
3 modernize obsolete facilities, including, but not limited to, installation to  
4 comply with state or federal safety requirements *or* replacing existing  
5 facilities;

6       (2) main relining projects, service line insertion projects, joint  
7 encapsulation projects and other similar projects extending the useful life  
8 or enhancing the integrity of pipeline system components, including, but  
9 not limited to, projects undertaken to comply with state or federal safety  
10 requirements;

11       (3) facility relocations required due to construction or improvement  
12 of a highway, road, street, public way or other public work by or on behalf  
13 of the United States, this state, a political subdivision of this state or  
14 another entity having the power of eminent domain provided that the costs  
15 related to such projects have not been reimbursed to the natural gas public  
16 utility;

17       (4) system security costs including allocated corporate costs incurred  
18 by a natural gas public utility; ~~and~~

19       (5) investments made in accordance with the utility's safety and risk  
20 management programs; ~~and~~

21       (6) *any other investment in plant, facilities or equipment, excluding  
22 allocated corporate costs;*

23       (g) "GSRS revenues" means revenues produced through a GSRS  
24 exclusive of revenues from all other rates and charges;

25       (h) "obsolete facility" means a facility *that*: (1) *Is* comprised of  
26 materials that are no longer produced or supported by the manufacturer;  
27 (2)~~that~~ shows signs of physical deterioration; or (3) does not meet current  
28 safety codes or industry standards. "Obsolete facility" includes the cost-  
29 effective replacement of other facilities that are not considered obsolete  
30 when the replacement of such is done in conjunction with the replacement  
31 of an obsolete facility; and

32       (i) "system security"~~shall mean~~ means capital expenditures to protect  
33 a utility's capital assets, including both physical assets and cyber assets,  
34 such as networks, computers, servers, operating systems, storage,  
35 programs and data, from attack, damage or unauthorized use and access.

36       Sec. 2. K.S.A. 66-2204 is hereby amended to read as follows: 66-  
37 2204. (a)~~At the time that~~ *When* a natural gas public utility files a petition  
38 with the commission seeking to establish or change a GSRS, ~~it~~ *such utility*  
39 shall:

40       (1) Submit proposed GSRS rate schedules and ~~its supporting~~  
41 documentation ~~regarding~~ to support the calculation of the proposed GSRS  
42 ~~with the petition;~~ and ~~shall~~

43       (2) serve commission staff and the ~~citizens~~ *citizens'* utility ratepayer

1 board with a copy of ~~its~~ *the* petition, ~~its~~ proposed rate schedules and ~~its~~  
2 supporting documentation.

3 (b) (1) When a petition, along with any associated proposed rate  
4 schedules, is filed pursuant to the provisions of K.S.A. 66-2202 through  
5 66-2204, and amendments thereto, the commission shall conduct an  
6 examination of the proposed GSRS;

7 (2) the staff of the commission shall examine information of the  
8 natural gas public utility to confirm that the underlying costs are in  
9 accordance with the provisions of K.S.A. 66-2202 through 66-2204, and  
10 amendments thereto, and to confirm proper calculation of the proposed  
11 charge. The staff shall submit a report regarding ~~its~~ *such* examination to  
12 the commission not later than 60 days after the petition is filed. No other  
13 revenue requirement or ratemaking issues may be examined in  
14 consideration of the petition or associated proposed rate schedules filed  
15 pursuant to the provisions of K.S.A. 66-2202 and 66-2204, and  
16 amendments thereto;

17 (3) the commission may hold a hearing on the petition and any  
18 associated rate schedules and shall issue an order to become effective not  
19 later than ~~120~~ 90 days after the petition is filed; and

20 (4) if the commission finds that a petition complies with the  
21 requirements of K.S.A. 66-2202 through 66-2204, and amendments  
22 thereto, the commission shall enter an order authorizing the natural gas  
23 public utility to impose a GSRS that is sufficient to recover appropriate  
24 pretax revenue, as determined by the commission pursuant to the  
25 provisions of K.S.A. 66-2202 through 66-2204, and amendments thereto.

26 (c) A natural gas utility may effectuate a change in its rate pursuant to  
27 the provisions of this section ~~no~~ *not* more often than once every ~~12~~ months  
28 *calendar year*.

29 (d) In determining the appropriate pretax revenue, the commission  
30 shall consider only the following factors:

31 (1) The net original cost of eligible infrastructure system investments.  
32 The net original cost shall be defined as the original cost of eligible  
33 infrastructure system investments less associated retirements of existing  
34 infrastructure;

35 (2) the accumulated deferred income taxes associated with the  
36 eligible infrastructure system investments, as adjusted to comply with  
37 internal revenue service regulations;

38 (3) the accumulated depreciation associated with the eligible  
39 infrastructure system investments;

40 (4) the current state, federal and local income tax or excise rates;

41 (5) the natural gas public utility's actual regulatory capital structure as  
42 determined during the most recent general rate proceeding of the natural  
43 gas public utility;

1       (6) the actual cost rates for the natural gas public utility's debt and  
2 preferred stock as determined during the most recent general rate  
3 proceeding of the natural gas public utility;

4       (7) the natural gas public utility's cost of common equity as  
5 determined during the most recent general rate proceeding of the natural  
6 gas public utility;

7       (8) the current depreciation rates applicable to the eligible  
8 infrastructure system investments; and

9       (9) in the event *that* information pursuant to paragraphs (5), (6) and  
10 (7)~~—are~~ *is* unavailable and the commission is not provided with such  
11 information on an agreed-upon basis, the commission shall utilize the  
12 average of the recommendations contained in the testimony submitted by  
13 the natural gas public utility and commission staff during the most recent  
14 general rate proceeding of the natural gas public utility to determine the  
15 capital structure, recommended cost rates for debt and preferred stock and  
16 recommended cost of common equity to determine the average weighted  
17 cost of capital.

18       (e) (1) The monthly GSRS charge shall be allocated among the  
19 natural gas public utility's classes of customers in the same manner as  
20 costs for the same type of facilities was allocated among classes of  
21 customers in the natural gas public utility's most recent general rate  
22 proceeding. If that allocation is not available or determinable, the  
23 commission shall utilize the average of the recommendations contained in  
24 the testimony submitted by the natural gas public utility and the  
25 commission staff regarding class allocation of costs. A GSRS shall be  
26 charged to customers as a monthly fixed charge and not based on  
27 volumetric consumption. Such monthly charge shall not increase more  
28 than ~~\$.80~~ \$1.35 per residential customer over the:

29       (A) Base rates in effect for the initial filing of a GSRS; or

30       (B) *monthly charge established in the most recent filing of a GSRS*  
31 ~~for any subsequent filing of a GSRS. Thereafter, each filing shall not~~  
32 ~~increase the monthly charge more than \$.80 per residential customer over~~  
33 ~~the most recent filing of a GSRS;~~

34       (2) At the end of each ~~twelve-month~~ 12-month calendar period *that*  
35 the GSRS is in effect *or in conjunction with a natural gas public utility's*  
36 *petition to change the GSRS*, the natural gas public utility shall reconcile  
37 the differences between the revenues resulting from a GSRS and the  
38 appropriate pretax revenues as found by the commission for that period  
39 and shall submit the reconciliation and a proposed GSRS adjustment to the  
40 commission for approval to recover or refund the difference, as  
41 appropriate, through adjustments of the GSRS charge.

42       (f) (1) A natural gas public utility that has implemented a GSRS  
43 pursuant to the provisions of K.S.A. 66-2202 through 66-2204, and

1 amendments thereto, shall file revised rate schedules to reset the GSRS to  
2 zero when new base rates and charges become effective for the natural gas  
3 public utility following a commission order establishing customer rates in  
4 a general rate proceeding that incorporates in the utility's base rates,  
5 subject to subsections (h) and (i), eligible costs previously reflected in the  
6 currently effective GSRS; and

7 (2) upon the inclusion in a natural gas public utility's base rates  
8 subject to subsections (h) and (i) of eligible costs previously reflected in a  
9 GSRS, the natural gas public utility shall immediately thereafter reconcile  
10 any previously unreconciled GSRS revenues as necessary to ensure that  
11 revenues resulting from the GSRS match as closely as possible the  
12 appropriate pretax revenues as found by the commission for that period.

13 (g) A natural gas public utility's filing of a petition or change to a  
14 GSRS pursuant to the provisions of K.S.A. 66-2202 through 66-2204, and  
15 amendments thereto, shall not be deemed to be a rate increase for purposes  
16 of K.S.A. 66-117, and amendments thereto.

17 (h) Commission approval of a petition, and any associated rate  
18 schedules, to establish or change a GSRS pursuant to the provisions of  
19 K.S.A. 66-2202 through 66-2204, and amendments thereto, shall in no  
20 way be binding upon the commission in determining the ratemaking  
21 treatment to be applied to eligible infrastructure system investments during  
22 a subsequent general rate proceeding *when in which* the commission may  
23 ~~undertake to~~ review the reasonableness and prudence of such costs. In the  
24 event the commission disallows, during a subsequent general rate  
25 proceeding, recovery of costs associated with eligible infrastructure system  
26 investments previously included in a GSRS, the natural gas public utility  
27 shall offset ~~its~~ *such utility's* GSRS in the future as necessary to recognize  
28 and account for any such over collections.

29 (i) Nothing in this section shall be construed as limiting the authority  
30 of the commission to review and consider the costs of infrastructure  
31 system investments, along with other costs, during any general rate  
32 proceeding of any natural gas public utility.

33 Sec. 3. K.S.A. 66-2202 and 66-2204 are hereby repealed.

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