

Substitute for HOUSE BILL No. 2435

By Committee on Energy, Utilities and Telecommunications

2-16

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

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

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

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

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

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

(3) recover depreciation expenses;

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

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

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

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

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

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

(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.