

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 20, 2006 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes' Office
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Others in attendance: See attached list.

Chairman opened for discussion on

SB 414 - Enacting the gas safety and reliability policy act

Kansas Gas Service had offered amendments to **SB 414** which the Chair reviewed, citing each addition or deletion throughout the text of the bill. He opened for discussion and possible action.

Moved by Senator Taddiken, seconded by Senator Reitz, adoption of the amendments to **SB 414** proposed by Kansas Gas Service. Motion carried. (Attachment 1)

KCC answered questions on how the Commission handled rate case requests for recovering unforeseen expenses more quickly. Also questions asked on what advantages did the consumer get. CURB voiced their opposition and referred to their proposed amendments presented at the February 2, 2006 hearing on **SB 414**.

Opposition was voiced on the language regarding GSRS charges and additional language was proposed by Senator Francisco. (Attachment 2)

Moved by Senator Francisco, to amend **SB 414** by including all the amendments proposed by CURB. This motion died for lack of a second.

Moved by Senator Francisco, seconded by Senator Lee, to amend **SB 414**, by inserting the language "enacted or adopted following the filing of the most recent rate case for the natural gas public utility requesting the GSRS" on page 1 line 43 following the word 'facilities' and on page 2, line 5 following the word 'requirements'. Motion failed. (Attachment 2)

Moved by Senator Taddiken, seconded by Senator Reitz, to pass **SB 414** out favorably as amended. Motion carried. "NO" votes recorded for Senators Lee and Francisco. (Attachment 1)

Approval of Minutes

Moved by Senator Apple, seconded by Senator Reitz, approval of the minutes of the meeting of the Senate Utilities Committee held on February 16, 2006. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 2

SENATE BILL No. 414

By Committee on Utilities

1-19

9 AN ACT concerning public utilities; relating to natural gas; enacting the
10 gas safety and reliability policy act.

11

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

13 Section 1. This act may be cited as the gas safety and reliability
14 policy act.

15 Sec. 2. For the purposes of this act:

16 (a) "GSRS" means gas system reliability surcharge;

17 (b) "appropriate pretax revenues" means the revenues necessary to
18 produce net operating income equal to:

19 (1) The natural gas public utility's weighted cost of capital multiplied
20 by the net original cost of eligible infrastructure system replacements,
21 including recognition of accumulated deferred income taxes and accu-
22 mulated depreciation associated with eligible infrastructure system re-
23 placements which are included in a currently effective GSRS;

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

26 (3) recover depreciation expenses;

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

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

30 (1) Do not increase revenues by directly connecting the infrastruc-
31 ture replacement to new customers;

32 (2) are in service and used and required to be used;

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

35 (4) replace or extend the useful life of an existing infrastructure;

36 (e) "natural gas public utility" shall have the same meaning respec-
37 tively ascribed thereto by subsection (a) of K.S.A. 66-1,200, and amend-
38 ments thereto;

39 (f) "natural gas utility plant projects" may consist only of the
40 following:

41 (1) Mains, valves, service lines, regulator stations, vaults and other
42 pipeline system components installed to comply with state or federal
43 safety requirements as replacements for existing facilities that have worn

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1 out or are in deteriorated condition:

2 (2) main relining projects, service line insertion projects, joint encap-
3 sulation projects and other similar projects extending the useful life or
4 enhancing the integrity of pipeline system components undertaken to
5 comply with state or federal safety requirements; and

6 (3) facilities, relocations required due to construction or improve-
7 ment of a highway, road, street, public way or other public work by or on
8 behalf of the United States, this state, a political subdivision of this state
9 or another entity having the power of eminent domain provided that the
10 costs related to such projects have not been reimbursed to the natural
11 gas public utility:

facility

12 (g) "CSRS revenues" means revenues produced through a CSRS ex-
13 clusive of revenues from all other rates and charges.

14 Sec. 3. (a) Notwithstanding any other provisions of chapter 66 of the
15 Kansas Statutes Annotated, and amendments thereto, beginning July 1,
16 2006, a natural gas public utility providing gas service may file a petition
17 and proposed rate schedules with the commission to establish or change
18 CSRS rate schedules that will allow for the adjustment of the natural gas
19 public utility's rates and charges to provide for the recovery of costs for
20 eligible infrastructure system replacements. The commission may not ap-
21 prove a CSRS to the extent it would produce total annualized CSRS
22 revenues below the lesser of \$1,000,000 or 1/2% of the natural gas public
23 utility's base revenue level approved by the commission in the natural gas
24 public utility's most recent general rate proceeding. The commission may
25 not approve a CSRS to the extent it would produce total annualized CSRS
26 revenues exceeding 10% of the natural gas public utility's base revenue
27 level approved by the commission in the natural gas public utility's most
28 recent general rate proceeding. A CSRS and any future changes thereto
29 shall be calculated and implemented in accordance with the provisions of
30 sections 2 through 4, and amendments thereto. CSRS revenues shall be
31 subject to a refund based upon a finding and order of the commission to
32 the extent provided in subsections (e) and (h) of section 4, and amend-
33 ments thereto.

34 (b) The commission shall not approve a CSRS for any natural gas
35 public utility that has not had a general rate proceeding decided or dis-
36 missed by issuance of a commission order within the past 60 months,
37 unless the natural gas public utility has filed for or is the subject of a new
38 general rate proceeding.

39 (c) In no event shall a natural gas public utility collect a CSRS for a
40 period exceeding 60 months unless the natural gas public utility has filed
41 for or is the subject of a new general rate proceeding; except that the
42 CSRS may be collected until the effective date of new rate schedules
43 established as a result of the new general rate proceeding, or until the

1 subject general rate proceeding is otherwise decided or dismissed by is-
2 suance of a commission order without new rates being established.

3 Sec. 4. (a) At the time that a natural gas public utility files a petition
4 with the commission seeking to establish or change a GSRS, it shall sub-
5 mit proposed GSRS rate schedules and its supporting documentation
6 regarding the calculation of the proposed GSRS with the petition and
7 shall serve commission staff and the citizens utility ratepayer board with
8 a copy of its petition, its proposed rate schedules and its supporting
9 documentation.

10 (b) (1) When a petition, along with any associated proposed rate
11 schedules, is filed pursuant to the provisions of sections 2 through 4, and
12 amendments thereto, the commission shall conduct an examination of the
13 proposed GSRS;

shall

14 (2) the staff of the commission may examine information of the nat-
15 ural gas public utility to confirm that the underlying costs are in accord-
16 ance with the provisions of sections 2 through 4, and amendments
17 thereto, and to confirm proper calculation of the proposed charge. The
18 staff may submit a report regarding its examination to the commission
19 not later than 60 days after the petition is filed. No other revenue re-
20 quirement or ratemaking issues may be examined in consideration of the
21 petition or associated proposed rate schedules filed pursuant to the pro-
22 visions of sections 2 through 4, and amendments thereto;

shall

23 (3) the commission may hold a hearing on the petition and any as-
24 sociated rate schedules and shall issue an order to become effective not
25 later than 120 days after the petition is filed; and

26 (4) if the commission finds that a petition complies with the require-
27 ments of sections 2 through 4, and amendments thereto, the commission
28 shall enter an order authorizing the natural gas public utility to impose a
29 GSRS that is sufficient to recover appropriate pretax revenue, as deter-
30 mined by the commission pursuant to the provisions of sections 2 through
31 4, and amendments thereto.

32 (c) A natural gas utility may effectuate a change in its rate pursuant
33 to the provisions of this section no more often than two times every 12
34 months.

once

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

37 (1) The net original cost of eligible infrastructure system replace-
38 ments. The net original cost shall be defined as the original cost of eligible
39 infrastructure system replacements less associated retirements of existing
infrastructure;

40 (2) the accumulated deferred income taxes associated with the eli-
41 gible infrastructure system replacements;

42 (3) the accumulated depreciation associated with the eligible infra-
43

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1 structure system replacements;

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

3 (5) the natural gas public utility's actual regulatory capital structure

4 as determined during the most recent general rate proceeding of the

5 natural gas public utility;

6 (6) the actual cost rates for the natural gas public utility's debt and

7 preferred stock as determined during the most recent general rate pro-

8 ceeding of the natural gas public utility;

9 (7) the natural gas public utility's cost of common equity as deter-

10 mined during the most recent general rate proceeding of the natural gas

11 public utility;

12 (8) the current depreciation rates applicable to the eligible infrastruc-

13 ture system replacements; and

14 (9) in the event information pursuant to paragraphs (5), (6) and (7)

15 are unavailable and the commission is not provided with such information

16 on an agreed-upon basis, the commission shall utilize the average of the

17 recommendations contained in the testimony submitted by the natural

18 gas public utility and commission staff during the most recent general

19 rate proceeding of the natural gas public utility to determine the capital

20 structure, recommended cost rates for debt and preferred stock and rec-

21 ommended cost of common equity to determine the average weighted

22 cost of capital.

23 (e) (1) The monthly GSRS charge shall be allocated among the natu-

24 ral gas public utility's classes of customers in the same manner as costs

25 for the same type of facilities was allocated among classes of customers

26 in the natural gas public utility's most recent general rate proceeding. If

27 that allocation is not available or determinable, the commission shall util-

28 ize the average of the recommendations contained in the testimony sub-

29 mitted by the natural gas public utility and the commission staff regarding

30 class allocation of costs;

31 (2) at the end of each twelve-month calendar period the GSRS is in

32 effect, the natural gas public utility shall reconcile the differences be-

33 tween the revenues resulting from a GSRS and the appropriate pretax

34 revenues as found by the commission for that period and shall submit the

35 reconciliation and a proposed GSRS adjustment to the commission for

36 approval to recover or refund the difference, as appropriate, through ad-

37 justments of the GSRS charge.

38 (f) (1) A natural gas public utility that has implemented a GSRS pur-

39 suant to the provisions of sections 2 through 4, and amendments thereto,

40 shall file revised rate schedules to reset the GSRS to zero when new base

41 rates and charges become effective for the natural gas public utility fol-

42 lowing a commission order establishing customer rates in a general rate

43 proceeding that incorporates in the utility's base rates, subject to subsec-

. A GSRS shall be charged to customers as a monthly fixed charge and not based on volumetric consumption. Such charge shall not increase more than \$.40 per residential customer per month over the base rates in effect for the initial filing of a GSRS. Thereafter, each filing shall not increase more than \$.40 per residential customer per month over the most recent filing of a GSRS

1 tions (h) and (i), eligible costs previously reflected in the currently effective
2 GSRS:

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

9 (g) A natural gas public utility's filing of a petition or change to a
10 GSRS pursuant to the provisions of sections 2 through 4, and amendments
11 thereto, shall not be deemed to be a rate increase for purposes of
12 K.S.A. 66-117, and amendments thereto.

13 (h) Commission approval of a petition, and any associated rate schedules,
14 to establish or change a GSRS pursuant to the provisions of sections
15 2 through 4, and amendments thereto, shall in no way be binding upon
16 the commission in determining the ratemaking treatment to be applied
17 to eligible infrastructure system replacements during a subsequent general
18 rate proceeding when the commission may undertake to review the
19 reasonableness and prudence of such costs. In the event the commission
20 disallows, during a subsequent general rate proceeding, recovery of costs
21 associated with eligible infrastructure system replacements previously included
22 in a GSRS, the natural gas public utility shall offset its GSRS in
23 the future as necessary to recognize and account for any such over
24 collections.

25 (i) Nothing in this section shall be construed as limiting the authority
26 of the commission to review and consider infrastructure system replacement
27 costs along with other costs during any general rate proceeding of
28 any natural gas public utility.

29 Sec. 5. This act shall take effect and be in force from and after its
30 publication in the statute book.

SENATE BILL No. 414

By Committee on Utilities

1-19

Senate Utilities Committee
February 20, 2006
Attachment 2-1

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23 placements which are included in a currently effective CSRS;

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

26 (3) recover depreciation expenses;

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

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

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32 (2) are in service and used and required to be used; and

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

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37 tively ascribed thereto by subsection (a) of K.S.A. 66-1,200, and amend-
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42 pipeline system components installed to comply with state or federal
43 safety requirements as replacements for existing facilities that have worn

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enacted or adopted following the filing of the most recent rate case for the natural gas public utility requesting the GSRS

out or are in deteriorated condition:

(2) main relining projects, service line insertion projects, joint encapsulation projects and other similar projects extending the useful life or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and

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

facility

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

Sec. 3. (a) Notwithstanding any other provisions of chapter 66 of the Kansas Statutes Annotated, and amendments thereto, beginning July 1, 2006, a natural gas public utility providing gas service may file a petition and proposed rate schedules with the commission to establish or change GSRS rate schedules that will allow for the adjustment of the natural gas public utility's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements. The commission may not approve a GSRS to the extent it would produce total annualized GSRS revenues below the lesser of \$1,000,000 or 1/2% of the natural gas public utility's base revenue level approved by the commission in the natural gas public utility's most recent general rate proceeding. The commission may not approve a GSRS to the extent it would produce total annualized GSRS revenues exceeding 10% of the natural gas public utility's base revenue level approved by the commission in the natural gas public utility's most recent general rate proceeding. A GSRS and any future changes thereto shall be calculated and implemented in accordance with the provisions of sections 2 through 4, and amendments thereto. GSRS revenues shall be subject to a refund based upon a finding and order of the commission to the extent provided in subsections (e) and (h) of section 4, and amendments thereto.

(b) The commission shall not approve a GSRS for any natural gas public utility that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past 60 months, unless the natural gas public utility has filed for or is the subject of a new general rate proceeding.

(c) In no event shall a natural gas public utility collect a GSRS for a period exceeding 60 months unless the natural gas public utility has filed for or is the subject of a new general rate proceeding; except that the GSRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the

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