

CHAPTER 99

SENATE BILL No. 414*

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

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

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

Sec. 2. 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 multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective GSRS;

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

(3) recover depreciation expenses;

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

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

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

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

(3) 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 subsection (a) of K.S.A. 66-1,200, and amendments thereto;

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

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

(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) facility, 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;

(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 amend-

ments 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 subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

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

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

(2) the staff of the commission shall examine information of the natural gas public utility to confirm that the underlying costs are in accordance with the provisions of sections 2 through 4, and amendments thereto, and to confirm proper calculation of the proposed charge. The staff shall submit a report regarding its examination to the commission not later than 60 days after the petition is filed. No other revenue requirement or ratemaking issues may be examined in consideration of the petition or associated proposed rate schedules filed pursuant to the provisions of sections 2 through 4, and amendments thereto;

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

(4) if the commission finds that a petition complies with the requirements of sections 2 through 4, and amendments thereto, the commission shall enter an order authorizing the natural gas public utility to impose a GSRS that is sufficient to recover appropriate pretax revenue, as determined by the commission pursuant to the provisions of sections 2 through 4, and amendments thereto.

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

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

(1) The net original cost of eligible infrastructure system replacements. The net original cost shall be defined as the original cost of eligible infrastructure system replacements less associated retirements of existing infrastructure;

(2) the accumulated deferred income taxes associated with the eligible infrastructure system replacements;

(3) the accumulated depreciation associated with the eligible infrastructure system replacements;

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

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

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

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

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

(9) in the event information pursuant to paragraphs (5), (6) and (7) are unavailable and the commission is not provided with such information on an agreed-upon basis, the commission shall utilize the average of the

recommendations contained in the testimony submitted by the natural gas public utility and commission staff during the most recent general rate proceeding of the natural gas public utility to determine the capital structure, recommended cost rates for debt and preferred stock and recommended cost of common equity to determine the average weighted cost of capital.

(e) (1) The monthly GSRS charge shall be allocated among the natural gas public utility's classes of customers in the same manner as costs for the same type of facilities was allocated among classes of customers in the natural gas public utility's most recent general rate proceeding. If that allocation is not available or determinable, the commission shall utilize the average of the recommendations contained in the testimony submitted by the natural gas public utility and the commission staff regarding class allocation of costs. A GSRS shall be charged to customers as a monthly fixed charge and not based on volumetric consumption. Such monthly charge shall not increase more than \$.40 per residential customer over the base rates in effect for the initial filing of a GSRS. Thereafter, each filing shall not increase the monthly charge more than \$.40 per residential customer over the most recent filing of a GSRS;

(2) at the end of each twelve-month calendar period the GSRS is in effect, the natural gas public utility shall reconcile the differences between the revenues resulting from a GSRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and a proposed GSRS adjustment to the commission for approval to recover or refund the difference, as appropriate, through adjustments of the GSRS charge.

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

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

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

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

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

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