

SENATE BILL No. 279

By Committee on Utilities

1-16

1 AN ACT concerning utilities; relating to the gas safety reliability
2 surcharge, definitions; amending K.S.A. 2017 Supp. 66-2202, 66-2203
3 and 66-2204 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 66-2202 is hereby amended to read as
7 follows: 66-2202. For the purposes of this act:

8 (a) "GSRs" means gas system reliability surcharge;

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

11 (1) The natural gas public utility's weighted cost of capital *last*
12 *approved by the commission* multiplied by the net original cost of eligible
13 infrastructure system ~~replacements~~ *investments*, including recognition of
14 accumulated deferred income taxes ~~and~~, accumulated depreciation
15 associated with eligible infrastructure system ~~replacements~~ *which*
16 *investments and regulatory assets that* are included in a currently effective
17 GSRs;

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

20 (3) recover depreciation expenses;

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

22 (d) "eligible infrastructure system ~~replacement~~ *investments*" means
23 natural gas public utility plant projects that:

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

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

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

29 (e) "natural gas public utility" shall have the same meaning
30 respectively ascribed thereto by ~~subsection (a) of~~ K.S.A. 66-1,200(a), and
31 amendments thereto;

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

34 (1) Mains, *meters*, valves, service lines, regulator stations, vaults and
35 other pipeline system components installed to *replace, upgrade or*
36 *modernize existing facilities, including, but not limited to, installation to*

1 comply with state or federal safety requirements ~~as replacements for~~
2 *replacing* existing facilities;

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

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

14 (4) *system security costs including allocated corporate costs incurred*
15 *by a natural gas public utility; and*

16 (5) *investments made in accordance with the utility's safety and risk*
17 *management programs;*

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

20 (h) *"regulatory asset" means recorded depreciation expense and*
21 *interest on eligible infrastructure system investments incurred from the*
22 *date such assets are placed in service until those investments are included*
23 *in the natural gas public utility's GSRS or base rates approved by the*
24 *commission at the utility's next rate proceeding. Such expense and interest*
25 *shall be recorded in a designated asset account and included for recovery*
26 *in the natural gas public utility's GSRS, base rate proceeding or other*
27 *commission-approved cost recovery proceeding. Interest shall be based on*
28 *the pretax cost of capital last approved for the utility by the commission.*
29 *This regulatory asset will be calculated only for eligible infrastructure*
30 *systems investments that exceed the cap as specified in K.S.A. 2017 Supp.*
31 *66 - 2204(e)(1), and amendments thereto, and shall be recorded and*
32 *treated as a regulatory asset for recovery in the utility's next GSRS or in a*
33 *rate case. The regulatory asset shall be reduced by the amounts that are*
34 *included in and recovered through rates established in a base rate*
35 *proceeding or other commission-approved recovery mechanism; and*

36 (i) *"system security" shall mean capital expenditures to protect a*
37 *utility's capital assets, including both physical assets and cyber assets,*
38 *such as networks, computers, servers, operating systems, storage,*
39 *programs and data, from attack, damage or unauthorized use and access.*

40 Sec. 2. K.S.A. 2017 Supp. 66-2203 is hereby amended to read as
41 follows: 66-2203. (a) Notwithstanding any other provisions of chapter 66
42 of the Kansas Statutes Annotated, and amendments thereto, beginning July
43 1, 2006, a natural gas public utility providing gas service may file a

1 petition and proposed rate schedules with the commission to establish or
2 change GSRs rate schedules that will allow for the adjustment of the
3 natural gas public utility's rates and charges to provide for the recovery of
4 costs for eligible infrastructure system ~~replacements~~ *investments*. The
5 commission may not approve a GSRs to the extent it would produce total
6 annualized GSRs revenues below the lesser of \$1,000,000 or ½% of the
7 natural gas public utility's base revenue level approved by the commission
8 in the natural gas public utility's most recent general rate proceeding. The
9 commission may not approve a GSRs to the extent it would produce total
10 annualized GSRs revenues exceeding ~~10%~~ 20% of the natural gas public
11 utility's base revenue level approved by the commission in the natural gas
12 public utility's most recent general rate proceeding. A GSRs and any
13 future changes thereto shall be calculated and implemented in accordance
14 with the provisions of K.S.A. 2017 Supp. 66-2202 through 66-2204, and
15 amendments thereto. GSRs revenues shall be subject to a refund based
16 upon a finding and order of the commission to the extent provided in
17 ~~subsections (e) and (h) of~~ K.S.A. 2017 Supp. 66-2204(e) and (h), and
18 amendments thereto.

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

24 (c) In no event shall a natural gas public utility collect a GSRs for a
25 period exceeding 60 months unless the natural gas public utility has filed
26 for or is the subject of a new general rate proceeding; except that the
27 GSRs may be collected until the effective date of new rate schedules
28 established as a result of the new general rate proceeding, or until the
29 subject general rate proceeding is otherwise decided or dismissed by
30 issuance of a commission order without new rates being established.

31 (d) Notwithstanding the 60-month filing deadlines in subsections (b)
32 and (c), upon motion by a natural gas public utility, the commission may
33 extend the 60-month deadline in subsections (b) and (c) for a period of up
34 to 12 months as the commission determines reasonable or necessary.

35 Sec. 3. K.S.A. 2017 Supp. 66-2204 is hereby amended to read as
36 follows: 66-2204. (a) At the time that a natural gas public utility files a
37 petition with the commission seeking to establish or change a GSRs, it
38 shall submit proposed GSRs rate schedules and its supporting
39 documentation regarding the calculation of the proposed GSRs with the
40 petition and shall serve commission staff and the citizens utility ratepayer
41 board with a copy of its petition, its proposed rate schedules and its
42 supporting documentation.

43 (b) (1) When a petition, along with any associated proposed rate

1 schedules, is filed pursuant to the provisions of K.S.A. 2017 Supp. 66-
2 2202 through 66-2204, and amendments thereto, the commission shall
3 conduct an examination of the proposed GSRS;

4 (2) the staff of the commission shall examine information of the
5 natural gas public utility to confirm that the underlying costs are in
6 accordance with the provisions of K.S.A. 2017 Supp. 66-2202 through 66-
7 2204, and amendments thereto, and to confirm proper calculation of the
8 proposed charge. The staff shall submit a report regarding its examination
9 to the commission not later than 60 days after the petition is filed. No other
10 revenue requirement or ratemaking issues may be examined in
11 consideration of the petition or associated proposed rate schedules filed
12 pursuant to the provisions of K.S.A. 2017 Supp. 66-2202 and 66-2204, and
13 amendments thereto;

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

17 (4) if the commission finds that a petition complies with the
18 requirements of K.S.A. 2017 Supp. 66-2202 through 66-2204, and
19 amendments thereto, the commission shall enter an order authorizing the
20 natural gas public utility to impose a GSRS that is sufficient to recover
21 appropriate pretax revenue, as determined by the commission pursuant to
22 the provisions of K.S.A. 2017 Supp. 66-2202 through 66-2204, and
23 amendments thereto.

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

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

28 (1) The net original cost of eligible infrastructure system
29 ~~replacements~~ *investments*. The net original cost shall be defined as the
30 original cost of eligible infrastructure system ~~replacements~~ *investments*
31 less associated retirements of existing infrastructure;

32 (2) the accumulated deferred income taxes associated with the
33 eligible infrastructure system ~~replacements~~ *investments, as adjusted to*
34 *comply with internal revenue service regulations;*

35 (3) the accumulated depreciation associated with the eligible
36 infrastructure system ~~replacements~~ *investments;*

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

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

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

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

4 (8) the current depreciation rates applicable to the eligible
5 infrastructure system ~~replacements~~ *investments*; and

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

15 (e) (1) The monthly GSRS charge shall be allocated among the
16 natural gas public utility's classes of customers in the same manner as
17 costs for the same type of facilities was allocated among classes of
18 customers in the natural gas public utility's most recent general rate
19 proceeding. If that allocation is not available or determinable, the
20 commission shall utilize the average of the recommendations contained in
21 the testimony submitted by the natural gas public utility and the
22 commission staff regarding class allocation of costs. A GSRS shall be
23 charged to customers as a monthly fixed charge and not based on
24 volumetric consumption. Such monthly charge shall not increase more
25 than ~~\$.40~~ *\$.80* per residential customer over the base rates in effect for the
26 initial filing of a GSRS. Thereafter, each filing shall not increase the
27 monthly charge more than ~~\$.40~~ *\$.80* per residential customer over the most
28 recent filing of a GSRS;

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

36 (f) (1) A natural gas public utility that has implemented a GSRS
37 pursuant to the provisions of K.S.A. 2017 Supp. 66-2202 through 66-2204,
38 and amendments thereto, shall file revised rate schedules to reset the
39 GSRS to zero when new base rates and charges become effective for the
40 natural gas public utility following a commission order establishing
41 customer rates in a general rate proceeding that incorporates in the utility's
42 base rates, subject to subsections (h) and (i), eligible costs previously
43 reflected in the currently effective GSRS; *and*

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

7 (g) A natural gas public utility's filing of a petition or change to a
8 GSRS pursuant to the provisions of K.S.A. 2017 Supp. 66-2202 through
9 66-2204, and amendments thereto, shall not be deemed to be a rate
10 increase for purposes of K.S.A. 66-117, and amendments thereto.

11 (h) Commission approval of a petition, and any associated rate
12 schedules, to establish or change a GSRS pursuant to the provisions of
13 K.S.A. 2017 Supp. 66-2202 through 66-2204, and amendments thereto,
14 shall in no way be binding upon the commission in determining the
15 ratemaking treatment to be applied to eligible infrastructure system
16 ~~replacements~~ *investments or regulatory assets* during a subsequent general
17 rate proceeding when the commission may undertake to review the
18 reasonableness and prudence of such costs. In the event the commission
19 disallows, during a subsequent general rate proceeding, recovery of costs
20 associated with eligible infrastructure system ~~replacements~~ *investments*
21 previously included in a GSRS, the natural gas public utility shall offset its
22 GSRS in the future as necessary to recognize and account for any such
23 over collections.

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

29 Sec. 4. K.S.A. 2017 Supp. 66-2202, 66-2203 and 66-2204 are hereby
30 repealed.

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