

UPDATED
SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 279

As Amended by Senate Committee on Utilities

Brief*

SB 279, as amended, would amend the Gas Safety Reliability Policy Act (Act). Specifically, the bill would make changes related to definitions used throughout the Act, cost recovery for infrastructure expenses, and gas safety reliability surcharges (GSRS).

Definitions

The bill would make the following changes to existing definitions:

- “Appropriate pretax revenues” would be changed to mean the revenues necessary to produce net operating income equal to the natural gas public utility’s weighted cost of capital of last approved by the Kansas Corporation Commission (KCC) multiplied by the net original cost of eligible infrastructure system investments, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system investments that are included in a currently effective GSRS;
- References to “replacements” would be changed to “investments,” such as in the definition of “eligible infrastructure investments,” which would mean natural gas public utility plant projects that do not increase revenues directly connecting the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

infrastructure investments to new customers; are in service and used and required to be used; and were not included in the natural gas public utility's rate base in its most recent general rate case;

- “Meters” would be added to the list of pipeline system components that could be installed under the definition of “natural gas utility plant projects”; such projects would include infrastructure installed to replace, upgrade, or modernize obsolete facilities, including, but not limited to, installation to comply with state or federal safety requirements replacing existing facilities;
- The definition of “natural gas utility projects” would be clarified to state that projects extending the useful life or enhancing the integrity of pipeline system components would include, but would not be limited to, projects undertaken to comply with state or federal safety requirements; and
- System security costs, including allocated corporate costs incurred by a natural gas public utility, and investments made in accordance with the utility's safety and risk management programs would be added to the definition of “natural gas utility projects.”

The bill would add the following definitions:

- “Obsolete facility” would mean a facility comprised of materials that are no longer produced or supported by the manufacturer, that shows signs of physical deterioration, or does not meet current safety codes or industry standards. The definition also would include the cost-effective replacement of other facilities that are not considered obsolete when the replacement of such is done in conjunction with the replacement of an obsolete facility; and

- “System security” would mean capital expenditures to protect a utility’s capital assets, including both physical assets and cyber assets, such as networks, computers, servers, operating systems, storage, programs, and data, from attack, damage, or unauthorized use and access.

Cost Recovery and GSRS

The bill would allow natural gas public utilities to recover costs for eligible infrastructure system investments; current law allows recovery for eligible infrastructure system replacements. The bill also would change the amount of a GSRS that could be approved by the KCC to an amount that would result in GSRS revenues exceeding 20 percent of the utility’s base revenue as determined in the most recent general rate proceeding; current law allows GSRS revenues to exceed no more than 10 percent of a utility’s base revenue level. In determining a utility’s pretax revenue, the KCC would consider factors involving eligible infrastructure system investments rather than eligible infrastructure system replacements.

The bill would raise the cap on the GSRS monthly charge from \$0.40 to \$0.80 per residential customer over the base rates in effect for the initial filing and each filing thereafter. KCC approval of the GSRS would not be binding on any KCC decision in determining rates to be applied to eligible infrastructure system investments or regulatory assets during a subsequent general rate proceeding reviewing the reasonableness and prudence of such costs. If a natural gas public utility were disallowed to recover costs associated with eligible infrastructure system investments previously included in a GSRS, the utility would be able to offset its GSRS in the future as necessary. Nothing in the bill would be construed as limiting the authority of the KCC to review and consider the costs of infrastructure system investments or regulatory assets during any general rate proceeding of any natural gas public utility.

Effective Date

The bill would become effective on and after January 1, 2019, and upon publication in the statute book.

Background

The bill was introduced by the Senate Committee on Utilities at the request of Senator Petersen. In the Senate Committee hearing, representatives of Atmos Energy, Black Hills Energy, and Kansas Gas Service provided proponent testimony. Proponents generally stated the need for legislation that would balance the goal of investing in the safety and reliability of the natural gas system with affordable rates for customers and providing regulatory certainty in replacing aging and obsolete infrastructure. Representatives of the Citizens' Utility Ratepayer Board and Kansas Industrial Consumers Group provided opponent testimony. Written-only opponent testimony was received by a representative of AARP-Kansas. Opponents generally stated concerns with the scope of cost recovery allowed in the bill and the bill's potential financial impact on customers. A representative of the KCC provided neutral testimony.

The Senate Committee amended the bill by adding the definition of "obsolete facility," deleting the definition of "regulatory asset," replacing "existing" with "obsolete" in the definition of "natural gas utility plant projects," and changing the effective date to January 1, 2019.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the KCC indicates it does not anticipate any fiscal effect from enactment of the bill.